

Agenda
GOSHEN BOARD OF ZONING APPEALS
Tuesday, September 23, 2025, 4:00 pm
Council Chambers, 111 E. Jefferson Street, Goshen, Indiana

- I.** Roll Call
- II.** Approval of Minutes from 8/26/25
- III.** Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record
- IV.** Postponements/Withdrawals – any person having business to come before the Board may request postponement or withdrawal at this time.
- V.** **Use Variance** – public hearing items
25-10UV The Board of Commissioners of the County of Elkhart, IN and Elkhart County Community Corrections Advisory Board request a use variance to permanently allow offenders with low- and moderate-level domestic violence convictions to use the work release facility where Variance 22-13UV allowed low-level offenders for a period of three years. The subject property is generally located at 201 N Cottage Avenue and is zoned Industrial M-1 District.
- VI.** Audience Items
- VII.** Staff/Board Items
- VIII.** Adjournment

BZA Members

- James Loewen, Appointed by Mayor, Term 1/31/24 - 12/31/27
- Matthew Fisher, Appointed by Mayor, Term 1/31/24 - 12/31/27
- Tom Holtzinger, Appointed by Mayor, Term 1/1/22 - 12/31/25
- Hesston Lauver, Appointed by Plan Commission, Term 1/18/22 - 12/31/25
- Lee Rohn, Appointed by Council, Term 1/1/25 - 12/31/28

Minutes - Goshen Board of Zoning Appeals
Tuesday, August 26, 2025, 4:00 p.m.
Council Chambers, 111 E. Jefferson Street
Goshen, Indiana

I. The meeting was called to order with the following members present: Lee Rohn, Hesston Lauver, Mathew Fisher, Tom Holtzinger, and James Loewen. Also present were Assistant City Planner Rossa Deegan, Assistant City Attorney Don Shuler, and Youth Advisor, Ezra Tice.

II. Approval of Minutes from 6/24/25: Lauver/Rohn 5-0

III. Filing of Zoning/Subdivision Ordinances and Official Staff Reports into Record: Fisher/Rohn 5-0

IV. Postponements/Withdrawals – None

V. Use & Developmental Variances – public hearing items

25-18DV – Gurpreet (Bobby) Singh and Garden City Church request a developmental variance to allow a church as a conditional use with zero onsite parking spaces where a minimum of 154 spaces are required. The subject property is generally located at 120 N Main Street and is zoned Commercial B-2HD DD.

Staff Report

Mr. Deegan explained this is the former Kline's Building and gave a brief description of past uses, noting that in 2009 a developmental variance was granted to allow a church to operate on the property for a maximum of two years, with zero onsite parking spaces. At that time, it was determined the church needed 34 parking spaces. That variance was not renewed and in 2015 a different church requested a variance to allow zero onsite parking spaces where 101 spaces would be required, but that variance was denied. Today's request is also for a church, which would require 154 spaces with no onsite spaces available. He reminded board members that the use is permitted in this zoning district, and because there is no onsite parking, a variance is required.

Staff recommends denial of the request, noting that church parking will likely impact nearby properties, and the intent of the B-2 District is primarily retail and service businesses. The concern is that the church use might inhibit nearby commercial uses.

He stated public comments were received from First State Bank, stating they support the church use and churchgoers are welcome to use their parking lot. He pointed out that lot has approximately 50 spaces.

A letter was also received from First Church of Christ, Scientist, stating opposition to the request. They voiced concerns that there will not be enough parking for new and existing churches, or for the new restaurant that's just opened in the area. Mr. Deegan noted there are also plans to attract new restaurants in the area where the new restaurant has opened. Inquiries without comments were also received from nearby law firms, including Bill Davis and Yoder Ainlay.

Petitioner Presentation:

Slavic Sagach, 55874 County Road 31, Bristol, spoke on behalf of the petitioner. He provided background information on the church, explaining they currently lease space in Goshen for mid-week youth gatherings. They have become part of 1st Fridays, by opening their space for families and young people and would like to create a safe space where they can serve the community. He stated previous parking studies were done on weekdays, so they did their own study for parking on Sunday mornings. They did the study over three weekends, calculating the number of cars parked in the area. The study includes the neighboring two blocks and does not include the additional parking promised by First State Bank. He explained they also did drone imaging on 3 Sundays (June 8th, June 15th, and June 29th) around 10:00 am. The study found 228 open parking spaces in the area on June 8th, 220 open parking spaces on June 15th, and 218 open spaces on June 29th. (Exhibit 25-18DV: Photos & Study - 7 pages)

He stated they would also like to open a coffee shop in the front of the building, and to be open during normal business hours. Lastly, he noted that staff mentioned that the ordinance requires churches to be a minimum distance from places that serve alcohol. He assured Board members that they are not here to judge anyone, and this is not a concern to the church.

Mr. Holtzinger asked if he would consider temporary approval with review by the BZA in 3 to 5 years. Mr. Sagach stated ideally, they would like permanent approval, but they can discuss temporary approval if necessary.

Mr. Loewen asked what time of day the 3 parking tallies were recorded.

Mr. Sagach stated they were taken around 10:00 am, the time their services generally begin.

Mr. Loewen asked if church services would take place on Wednesday evenings, or if they will only take place on Sunday mornings.

Mr. Sagach stated they may have some evening meetings during the week, but the majority will be on Sunday. He also pointed out they will bring people to the downtown which will help tax revenues.

Mr. Fisher asked if the leased space on S Main Street for youth and other activities will remain if they purchase the property.

Mr. Sagach stated they haven't made a determination regarding that at this time.

Audience Comments:

Stephanie Honderich, 113 & 125 E Lincoln Avenue, spoke in opposition to the petition. She stated she owns a business on Lincoln Avenue and wants the Board to know that Dutch Maid Bakery is planning to move to the neighborhood, and they will likely need more parking than what's available.

Mr. Lowen asked what hours her business is open.

Ms. Honderich stated she's open 7 days per week and customers generally start showing up around 11:00 am. She acknowledged that her parking needs are not generally very high, but with another restaurant coming to the area, she's concerned about parking when Dutch Maid relocates here as well.

Paige Sagach, 55874 County Road 31, Bristol, spoke in support of the request. She clarified that the parking spaces at First State Bank will cover all their mid-week parking needs at this time and that the majority of the parking will take place on Sunday mornings.

Mr. Loewen asked if Ms. Sagach would be open to having a 3–5-year approval.

Ms. Sagach stated this is something they would need to discuss among themselves. She also noted that they have a small space at 134 S Main Street where they occasionally hold 3 services and stated they've never had any trouble with parking. She also pointed out that local business owners have commented that their presence fills up their restaurants and they're bringing awareness to downtown Goshen. She reiterated her husband's comments that they have no concerns about neighboring businesses having alcohol licenses.

The public hearing was closed.

Staff Discussion:

Mr. Loewen asked how much parking is available behind the building.

Mr. Rohn stated the parking behind the building and across 5th Street are both City owned parking lots.

Mr. Holtzinger added that the only private parking lot belongs to the bank.

Mr. Rohn added that parking along Clinton Street should be available on Sunday mornings. He also pointed out that prior to relocating, the owners of the new restaurant were aware that parking is limited in the area.

Mr. Holtzinger pointed out that renovation of the proposed church property is a plus to the area and will be cleaning up an eyesore in the community. He stated at the very least, he feels they deserve a trial period.

Mr. Rohn stated it's his understanding they want to purchase this property and for that reason he's not in favor of approving for a limited period of time.

Mr. Fisher agreed but questioned if there will be enough parking for all the area churches.

Mr. Lauver stated he doesn't like the idea of approving this request for a limited time.

Action:

A motion was made and seconded, Holtzinger/Rohn, to adopt the findings of the Board, that parking is sufficient, and based on these findings, approve 25-18DV. The motion passed unanimously by a vote of 5-0.

25-19DV – The City of Goshen, Indiana requests a developmental variance to allow zero delineated parking spaces and no delineated driving aisles where a minimum of 32 onsite parking spaces are required and where parking and driving aisles shall be designed according to the standards of the Zoning Ordinance for the paving of a police shooting range parking lot. The subject property is generally located at 713 E Lincoln Avenue and is zoned Industrial M-1 District.

Staff Report

Mr. Deegan explained this property was obtained by the City of Goshen in 2018 and the police shooting range and training facility was approved in 2019. The parking lot is being repaved as part of a current city project, along with stormwater improvements on the site. Along with this repaving project, the parking lot needs to be brought into compliance with delineated parking spaces and the minimum number of onsite parking spaces. The applicant has requested the lot remain unstriped, explaining that the facility serves police department only and is not open to the public. They feel they can manage staff parking and maneuvering and when necessary, they'll have the ability to park vehicles more compactly. Staff recommends approval of the request, with a commitment that at such time as the property transfers to a non-police entity, or the use is changed, the parking area shall be striped in accordance with the parking design standards of the zoning ordinance. He also recommended a commitment to limit parking to improved surfaces of the property, and that parking and maneuvering in the right-of-way should be prohibited.

No public comments were received regarding this request.

Petitioner Presentation:

Captain Curtis Weldy, 111 E Jefferson, spoke on behalf of the petitioner. He stated he's the fulltime trainer for the police department and his office is at this location. He noted the packet was self-explanatory, but he's here to answer any questions.

Mr. Rohn asked what the main reason is for not striping the lot, noting that its their property and they can park however they want.

Captain Weldy remarked that this is police training facility only and the building is not ADA compliant. During training, they sometimes have larger vehicles onsite and more vehicles than would fit in delineated parking spaces. They also have unique training events, such as training in the parking lot, and they can park in an unorthodox manner. He also explained if the lot is striped, it looks bad to the public for a police vehicle to be parked in a handicap spot.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

Mr. Loewen asked Mr. Deegan why a parking lot that's not for public use needs to be striped.

Mr. Holtzinger stated that he feels whether public or not, there needs to be something that will maximize the parking area.

Mr. Rohn stated although it's private, someone will complain about a vehicle parked in a handicap or no parking space.

Mr. Lowen stated he feels they should have the ability to decide how they want to use their lot.

Action:

A motion was made and seconded, Loewen/Fisher, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 25-19DV with the 3 conditions and 4 commitments listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

25-20DV – Juan Fernandez requests a developmental variance to allow a developmental variance to allow open parking in the front yard where parking is prohibited for the expansion of a concrete driveway. The subject property is generally located at 1701 Hickory Place and is zoned Residential R-1 District.

Staff Report:

Mr. Deegan explained the home on the property has a one stall garage and a 10' wide driveway leading to it. The petitioner would like to widen the driveway to 24' in width to allow additional onsite parking requiring a developmental variance for open parking in the front yard setback. Staff recommends approval of the request, explaining there isn't anywhere else to expand the parking and noting that having more than one parking space on a residential property is reasonable. He also pointed out that new homes require a minimum of two spaces.

One public comment was received from Beth Meadows of 1701 West Avenue. She opposes this request, stating concerns that the applicant is running a concrete business at the property and that trailers are often parked here.

Mr. Deegan noted for the record that when photos were taken for the staff report, no trailers were observed. He also commented that large and commercial trailers are not permitted at a residential property.

Petitioner Presentation:

Juan Hernandez, 1701 Hickory Place, spoke on behalf of the petitioner. He stated he currently has three cars and three drivers, and they need more room to park. He said he recently started a concrete business and if he's had a long day, he will sometimes park his truck and trailer on the street instead of going to his off-site storage location.

Mr. Loewen stated he feels this request is warranted.

Audience Comments:

Beth Meadows, 1701 West Avenue, spoke to the petition. She complained that this neighbor has been parking his work vehicles in his yard and along the street and she fears that he will start parking all his work vehicles there once he has widened the driveway. She provided photos (Exhibit 25-20DV – 4 pages) to Board members of work vehicles parked at/near the property.

Mr. Deegan stated if she sees the work vehicles parked in the neighborhood, she should call the City and we can take a look at the parking concerns. He went on to say these are ticket-able offenses and explained to Mr. Hernandez that there is no time when his work trucks are permitted to be parked at the property. He clarified that pickup trucks are ok, but anything with one-ton capacity is not allowed.

Brittany Schroeder, 1611 Glenwood Drive, also spoke to the petition. She stated there are multiple properties in the neighborhood where vehicles are parked in the front and/or backyard.

The public hearing was closed.

Staff Discussion:

None

Action:

A motion was made and seconded, Fisher/Rohn, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 25-20DV with the 5 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

25-21DV – Gregg Burks requests a developmental variance to allow an approximately 1,080 SF detached garage 19' in height where the maximum height permitted for an accessory building shall not exceed the height of the residential dwelling on site. The subject property is generally located at 4313 Midway Road and is zoned Residential R-1 District.

Staff Report

Mr. Deegan explained the petitioner is remodeling the existing home on the property and would like to build an approximately 30' x 36' detached garage. The garage will have a peak height of 19' and the home has a height of 12'. A developmental variance is required because the ordinance does not allow an accessory structure to exceed the height of the primary structure. Although a smaller structure could be built, staff recommends approval of the request. He pointed out the new garage will be approximately 80' from the front property line and the rear is surrounded by trees. There are also some larger buildings on the property behind it. He noted we had a similar request in 2023, and that request was granted approval. No public comments were received regarding this request.

Petitioner Presentation:

Gregg Burks, 3728 West Shore Drive, Breman, spoke on behalf of the petition. He stated he can't change that the home on the property is a manufactured home, so he's trying to enhance the rest of the property by adding to it. He stated this garage will be located well behind the house and the trees surrounding it will help shield it from neighbors behind it. He's also considered dropping the pitch of the roof, to make the overall height 16'.

Mr. Loewen asked for clarification on what height he's requesting.

Mr. Burks stated he's asking for 19' but will likely build at 16'.

Mr. Fisher asked if Mr. Burks would agree with 16' if that's what the BZA decided to approve.

Mr. Burks stated yes, he would be agreeable to 16'.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

None

Action:

A motion was made and seconded, Lauver/Loewen, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 25-21DV with the 4 conditions listed in the Staff Report and amending the approval to allow a maximum height of 17'. The motion passed unanimously by a vote of 5-0.

25-22DV – Landon & Emily Slabaugh request a developmental variance to allow approximately 1,112 Sf of detached accessory structures where the total building footprint area of all such structures shall not exceed the building footprint area of the primary residential dwelling of approximately 948 Sf, for the construction of a 144 private greenhouse. The subject property is generally located at 407 S Greene Road and is zoned Residential R-1 District.

Staff Report

Mr. Deegan explained except for the nearby school; this area is predominately single family. The lot is approximately one-acre in size and contains a 948 SF house and several accessory buildings. The petitioner would like to add a small greenhouse, approximately 144 SF in size, which will bring the total accessory square footage to 1,112 SF. The zoning ordinance requires that the total of all accessory structures be less than the footprint of the home, therefore, a developmental variance is required. Staff recommends approval of the request, noting that at only 948 SF, this is a small home. He also pointed out that the property is quite large, and the additional square footage of the private greenhouse will not upset the character of the neighborhood.

Petitioner Presentation:

Emily Slabaugh, 407 S Greene Road, spoke on behalf of the petition. She stated she has a nice size garden and starts all her plants from seed. She currently uses a small space in her basement, but would like more room to start her plants, plus a place to keep her tropical plants in the winter.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion: None

Action:

A motion was made and seconded, Rohn/Fisher, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 25-22DV with the 3 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

25-07UV – CTK Holding Company, LLC requests a use variance to allow a drive-through restaurant (ice cream sales) where drive-through restaurants are a permitted use in the Commercial B-3 and Industrial M-1 & M-2 districts. The subject property is generally located at 502 W Lincoln Avenue and is zoned Commercial B-2 District.

Staff Report

Mr. Deegan provided background information on this location, noting that the building appears to have been constructed in 1962 and has been used for ice cream sales. Customers have used a walk-up window on the north side of the building, with business limited to warmer months, generally April to September. The petitioners would like to operate year-round and have proposed adding a temporary drive-thru lane to the side of the building which customers can utilize during the colder months, explaining that during warmer months, the drive-thru would be eliminated. He referred to a drawing in the packets, indicating that temporary route signs would guide customers to a drive-thru window. Vehicles would enter from Lincoln Avenue and drive around to a pickup window on the other side of the building. He also pointed out there will still be some parking spaces available for staff and walk-up customers. He explained the B-2 zoning district allows restaurants but does not allow drive-thru restaurants and for that reason, a use variance is required.

Staff recommends a two-year approval for this request, noting that because of the temporary nature of the drive-thru, very little change would be required to revert back to no drive-thru. He also noted the only change to the building will be a new window on the south side of the building and no parking changes are anticipated. Staff has some concerns regarding stacking of cars onto Lincoln Avenue and any issues that might arise from that. Staff recommends a two-year approval with commitments, including that the variance shall be valid until August 31, 2027, at which time a new variance application and public hearing will be required in order to continue. A commitment limiting the drive-thru use during the months of October through April only will also be included. One email was received from Cressy and a copy was provided to Board members prior to the meeting.

Petitioner Presentation:

Tracy Klopfenstein, 60751 Creekstone Court, spoke on behalf of the petitioner. She stated this drive-thru is planned as seasonal and would be open from October through March only. She went on to say they kick off their busy season beginning in April, so the drive-thru would end then. She stated their original plan was to expand their front awning and put up temporary screened walls to allow some indoor seating during the cold months, but it was rejected due to the flood zone policies. She explained that they have good employees, and it's difficult to keep employees when they're only open part of the year. They don't anticipate being as busy in the colder months, but this will give them the ability to keep some key employees fulltime. She confirmed that plans call for the entrance from Lincoln Avenue and exit via Chicago Avenue. She went on to say there will be plenty of temporary signs and cones to direct the traffic. Orders will be taken through a speaker located at the corner on the Chicago side of the building and pickup will be at a new window near the center of the building, also on the Chicago side. She explained if there's an unseasonably warm day and heavier traffic is anticipated, the drive-thru will be easy to shut down. They understand there is no way to operate a typical summer day with a drive-thru, and that is not being requested. The proposed drive-thru route allows stacking for 11 cars and they feel this will be adequate during winter hours.

Mr. Holtzinger asked if there will be any walk-up traffic.

Ms. Klopfenstein commented that there could be because they anticipate having 11 extra parking spaces. There would be directions for anyone wanting to park and use the walk-up window.

Mr. Loewen questioned if cars leaving the pickup window would have enough room to make the turn to Chicago Avenue.

Ms. Klopfenstein commented they are confident there's enough room for vehicles to exit onto Chicago Ave.

Youth Advisor Tice questioned when the proposed drive-thru would be operational.

Ms. Klopfenstein stated they anticipate being open in October of this year.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

None

Action:

A motion was made and seconded, Rohn/Lauver, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 25-07UV with the 4 conditions and 3 commitments listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

25-08UV & 25-23DV – Angela Gingerich requests a use variance to allow a two-family home where only single-family homes are allowed and a developmental variance to allow three onsite parking spaces where a minimum of four are required. The subject property is generally located at 400 Westwood Road and is zoned Residential R-1 District.

Staff Report

Mr. Deegan explained this property is south of Goshen Hospital and homes in the area are primarily single-family zoning and use. The property contains a single-story home, with a driveway leading to a one-car garage with access from Westwood Road, as well as two parking spaces with access from Mayflower Place. Background information discovered that prior to 2015, the home was a non-conforming, two-family home, with basement and first floor residences. At the time, the owner stated that the home would be converted back to a single-family residence and that approval was granted.

Today's applicant would like to use the home as a duplex, noting that when she purchased the home, the two units were still intact. Because a past owner had been granted approval to convert this back to a single-family home, a developmental variance is now required to return it to a duplex use. Another part of the variance request is to permit 3 parking spaces where the zoning ordinance requires a minimum of 4 spaces for the duplex use. Based on the history of the site, staff recommends approval of the request, noting that parking is likely sufficient. No public comments were received regarding the request.

Petitioner Presentation:

Angie Gingerich, 1910 Mayflower Place, spoke on behalf of the petitioner. She stated the property was being used as a duplex when she purchased it and was unaware of the request to return this to a single-family home and that she's been using it as a duplex since purchasing it three years ago.

Audience Comments: None

The public hearing was closed.

Staff Discussion:

None

Action:

A motion was made and seconded, Fisher/Holtzinger, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 25-08UV & 25-23DV with the 4 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

25-24DV – Bontrager-Singer, LLC requests a developmental variance to allow a fence 6' in height in the front yard along Jackson Street where fences cannot exceed 4' in height. The subject property is generally located at 923 S 7th Street and is zoned Residential R-1 District.

Staff Report

Mr. Deegan explained the petitioner would like to install a 6' privacy fence between the home and the garage, with a majority of the fence located in the front-yard setback along Jackson Street, and where the fence is limited to 4' in

height by the ordinance. Staff recommends approval, noting that the frontage along Jackson Street is similar to a side yard and a 6' fence offers more privacy than a 4' fence. No public comments were received regarding this request.

Petitioner Presentation:

Jamey Bontrager Singer, 919 S 7th Street spoke to the petition. He stated this is a rental property he owns, and they have made many improvements on the house over the past several years. In addition to privacy, the fence will provide security for children and pets.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

None

Action:

A motion was made and seconded, Loewen/Rohn, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 25-24DV with the 4 conditions listed in the Staff Report. The motion passed unanimously by a vote of 5-0.

25-09UV & 25-25DV – HHI Kercher Rd Properties 24, LLC, Lassus Brothers Oil, Inc., Jones Petrie Rafinski, and Yoder, Ainlay, Ulmer & Buckingham, LLP request a use variance to allow a gas station with a convenience store approximately 234' from another gas station along the north side of Kercher Road where gas stations are a conditional use requiring a minimum distance of 500' from other gas stations, and developmental variances to allow two freestanding signs where one is permitted, an illuminated freestanding sign 22' in height and 90 Sf in area where freestanding signs cannot exceed 20' in height and 60 SF in area, a parking and driving aisle setback of 20' along Kercher Road where a minimum of 35' is required, and for the variance to be effective when the secondary subdivision is approved and recorded. The subject property is generally located at the northeast corner of Lincolnway East and Kercher Road, the proposed Lot 1 of HHI Kercher Rd Properties 24 subdivision, and is zoned Industrial M-1 District.

Staff Report

Mr. Deegan explained this property is the proposed Lot 1 of a 2-lot subdivision that has not yet been platted. This lot is approximately 4.4 acres in size and zoned Industrial M-1 District. The proposed use for Lot 1 is a gas station/convenience store, noting that gas stations are a conditional use in the M-1 District and that one of the conditions is that they must be located a minimum of 500' from another gas station or drive-thru on the same side of the road. There is an existing gas station along Kercher Road at a distance of approximately 234' from the subject property, which will require a use variance for this proposed development. Developmental variances are also required to allow two freestanding signs where one freestanding sign is allowed, noting that one of the proposed signs is 22' in height and 90 sf in area, where 20' in height and 60 sf in area is permitted. Also proposed is a reduced setback of 20' where 35' is required for parking and driving along Kercher Road.

Staff recommends approval of the use and developmental variances, pointing out that although the proposed gas station is adjacent to another station along Kercher Road, its approximately 8/10 of a mile away from another station along Lincolnway East which is the busier of the two streets. He went on to say the points of access to this site will be reviewed by both INDOT and Goshen Engineering and both have already looked at a traffic impact study as part of a preliminary review.

Regarding the signs, Mr. Deegan noted that the requirement to have only one freestanding sign per zoning lot is something that staff likes to adhere to as much as possible, but because this property has two frontages with over 200' of frontage, the second sign is reasonable. He also commented that the request for a 22' sign in height and 90 sf in area would be permitted in the B-3 District along this same corridor, so approval of this sign would not be out of character.

Mr. Deegan noted that staff recommends that street trees planted along E Kercher Road and Supreme Court be large species, and the setback to the paving shall be increased if the lawn is inadequately sized to accommodate large species trees. He went on to say its not clear because the design provided shows medium and small size trees in those areas.

He also pointed out there are overhead power lines which could affect the setback.

Public comments were also received regarding this request, including the following:

- Phone call from Don Chiddister, owner of nearby business, RC Tronics, in opposition to the request, stating we have enough gas stations, and this will lead to more traffic.
- An email from Theresa Sailor, 524 Bluegrass Court, in support of the request, noting how well the existing Lassus is being maintained.
- A letter from Thirty-Three Real Estate, LLC, in opposition to the use variance, noting the lack of a 500' separation; citing unfair competition and conflicts that undermine both business investment and neighborhood character.
- A letter with signatures of 6 adjacent property owners in opposition, including a summary of nearby gas stations.

Mr. Deegan pointed out that its important to keep in mind that the Board's decision can't be made using zoning to reduce competition and it's not the purpose of the 500' spacing requirement.

Petitioner Presentation:

Sam Schenkel, 1800 Magnavox Way, Fort Wayne, spoke on behalf of the petitioner. He stated he's joined today by Todd Lassus, President of Lassus Brothers Oil, Matt Schuster of JPR Engineering, and Attorney, Steve Snyder, legal council for Lassus. He provided company background for Lassus Brothers Oil, noting that in 2021, they redeveloped a lot on Pike Street for their first Goshen location. They are now ready to expand their service for customers on the south side of Goshen and have chosen this vacant 4.4 acre site because of its excellent visibility and multiple manufacturing sites in the area. This NE corner quadrant is a vacant manufacturing site, formerly owned and operated by Wabash National. It has set vacant and underutilized for nearly a decade with overgrowth and small trees growing on the site and is considered by some as an eyesore to the community. He remarked that the site will be redeveloped to meet all safety, zoning, and engineering standards, mandated by INDOT, IDEM, and the City of Goshen. This will also include all signage with the new right-of-way, and setback requirements which do not interfere with vehicular vision clearance.

Mr. Schenkel stated that although spacing between gas stations on Kercher Road is insufficient, spacing between gas stations along Lincolnway East is more than adequate, pointing out that if this was not located on a corner lot, this would not be an issue. He also noted that Kercher Road has about half the traffic as Lincolnway.

He stated they recognize the basis for the 500' separation in the ordinance, which was intended primarily to address access and traffic safety concerns. Traffic safety will be thoroughly reviewed by INDOT and Goshen Engineering.

Steve Snyder, 200 W Main Street, Syracuse, IN also spoke on behalf of the petitioner. He stated although the two stations will be on the same side of the street, the intersection between them is highly controlled by traffic lights and feels this eliminates one of the issues that the ordinance addresses regarding the 500' separation.

Mr. Holtzinger asked Mr. Schenkel why the sign at the Pike Street store did not require a variance, but one is required for this store.

Mr. Schenkel stated that the two stores have different zoning, and the two locations are also different sizes. He pointed out that area traffic is moving at a faster pace compared to the existing Lassus station, and the nearby change in zoning allows for a larger sign.

Audience Comments:

Chris Pottratz, Attorney with Warrick & Boyn, 861 Parkway Ave, Elkhart, spoke to the petition. He stated he represents Thirty-Three Real Estate, LLC and is here today to oppose this request. He stated the zoning ordinance is meant to protect property interests and property values and when someone builds a new gas station in Goshen, they do so with the expectation that there will not be another gas station within 500'. He went on to say there is no place in the City of Goshen where two gas stations are directly adjacent to each other and granting this variance would be contrary to the purpose of the zoning laws. Allowing the petitioner to build across the street will greatly diminish the value of the neighboring BP station and by extension, diminish the value of the real estate on which the station is located. He stated Goshen does not need another gas station and definitely does not need one right next to an existing station.

Mr. Pottratz stated there are also legal reasons this gas station should not be approved, explaining that in order to grant a use variance, you must make 5 statutory findings, and all 5 elements must be met in order to grant a variance. He noted the following 3 elements are not met:

- **“You must find that the adjacent area will not be affected in a substantially adverse manner.”** He stated that having another gas station directly across the street will obviously have an adverse effect on the BP station.
- **“You must find that the need for a variance arises from a condition peculiar to the subject property.”** He stated the staff report mentions this property is located on a major arterial street, noting there is nothing peculiar about gas stations on major arterial streets.
- **“Strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the subject property.”** The staff report notes the location of this parcel makes it better suited for a commercial use rather than an industrial use. While this might be true, it does not address putting a gas station adjacent to another gas station. He understands a gas station on this corner may be an enticing economic opportunity for the petitioners but says Indiana law has been established that “economic opportunity or loss cannot enter into the determination of the existence of unnecessary hardship”. He stated to grant this variance, according to Indiana’s court of appeals, it’s necessary for the Board to find the property cannot be reasonably put to a conforming use.

Mr. Holtzinger states he remembers when gas stations were located on all four corners and competition is competition. He went on to say someone would not invest in this if they didn’t think there was enough business for everyone.

Petitioner Rebuttal:

Mr. Schenkel stated that no one likes to have competition across the street, but their studies confirm that this is a good location for a new gas station and traffic counts show that vehicles traveling on Lincolnway is approximately double the amount of traffic on Kercher Rd.

Mr. Snyder responded to comments regarding Indiana law. He stated the courts have agreed that every piece of real estate is unique. He pointed out that even though there will only be 234’ between the properties, there is a highly controlled intersection which regulates traffic, and they are not placing two stations side-by-side where they each have their own entrance coming off Kercher Road. He stated that the property has been vacant for roughly 10 years and suggests if it were a reasonable manufacturing use, in accordance with the zoning ordinance, it would have been developed a long time ago.

Mr. Fisher asked if a variance would still be required if access was only from Lincolnway East.

Mr. Deegan explained that the zoning lot fronts Kercher Rd so it wouldn’t matter if there was no access from Kercher. Mr. Loewen stated he feels this will add value to the neighborhood and could possibly ease traffic concerns for traffic headed north.

Mr. Rohn questioned what the square footage is of the sign at the existing BP station, explaining that he would like the sign on this property to be the same size.

The public hearing was closed.

Staff Discussion:

None

Action:

A motion was made and seconded, Rohn/Holtzinger, to adopt the findings of the Board and based on those findings, grant amended approval for 25-09UV & 25-25DV with the following conditions:

1. The variance shall be effective when the secondary subdivision is approved and recorded.
2. Required street trees planted along Kercher Road and Supreme Court shall be large species, and the setback to the paving shall be increased if the lawn is inadequately sized to accommodate such species.
3. The pylon sign shall be a maximum of 76 SF in area and 22’ in height

The motion passed unanimously by a vote of 5-0.

Mr. Loewen left the meeting at 6:13 pm.

25-26DV – Artisan Investment Group, LLC requests a developmental variance to allow three on-site parking spaces where a minimum of five parking spaces are required and open parking in the front yard setback along Garden Street where open parking is not permitted, for the remodel of a nonconforming three-unit residential dwelling. The subject property is generally located at 601 N 5th Street and is zoned Residential R-1 District.

Staff Report

Mr. Deegan explained this R-1 property contains a small three-unit home with existing parking on a concrete pad and scattered gravel, mostly located in the Garden Street right-of-way, with some parking partially on the property. Because the petitioners propose a complete remodel of the interior of this house, the property must come into compliance with parking regulations of the zoning ordinance. For a building of this size, 5 parking spaces are required by the ordinance and the petitioners are proposing the addition of a 20' x 30' concrete or asphalt parking area off the alley with a total of 3 parking spaces. Parking will also be located in the front yard setback along Garden Street. Staff recommends approval of these requests, noting that it doesn't change the non-conforming status of the 3-unit, but allows rehab of the property and hard surface for parking in the rear. No public comments were received regarding this request.

Petitioner Presentation:

Marlin Schwartz, 420 N Main Street, Middlebury, spoke on behalf of the petitioner. He stated this use will be the same as before. It's been recommended that street parking be moved onsite so the intent is to install three parking spaces off the alley and remove the gravel and reseed the existing area along Garden Street.

Audience Comments:

There was no one to speak to the petition.

The public hearing was closed.

Staff Discussion:

None

Action:

A motion was made and seconded, Rohn/Fisher, to adopt the Staff recommendations as the findings of the Board and based on these findings, approve 25-26DV with the 7 conditions listed in the Staff Report. The motion passed unanimously by a vote of 4-0.

VI. Audience Items - None

VII. Staff Board Items - None

VIII. Adjournment: 6:20 pm Fisher/Lauver

Respectfully Submitted:

Lori Lipscomb, Recording Secretary

Approved By:

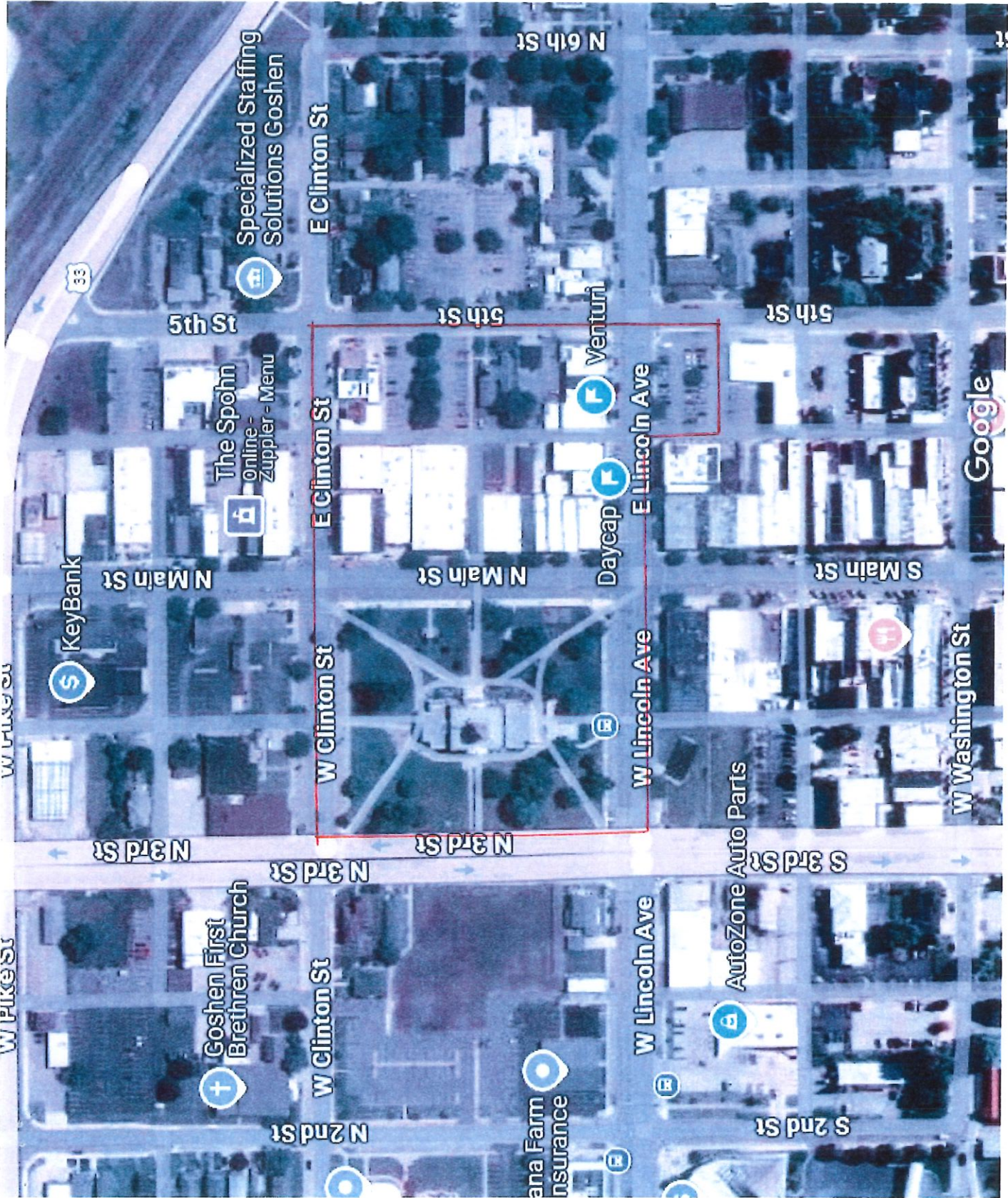
Tom Holtzinger, Chair

Hesston Lauver, Secretary

June 8, 2025
 - 222 open spaces
 June 15, 2025
 - 220 open spaces
 June 29, 2025
 - 218 open spaces

EXHIBIT

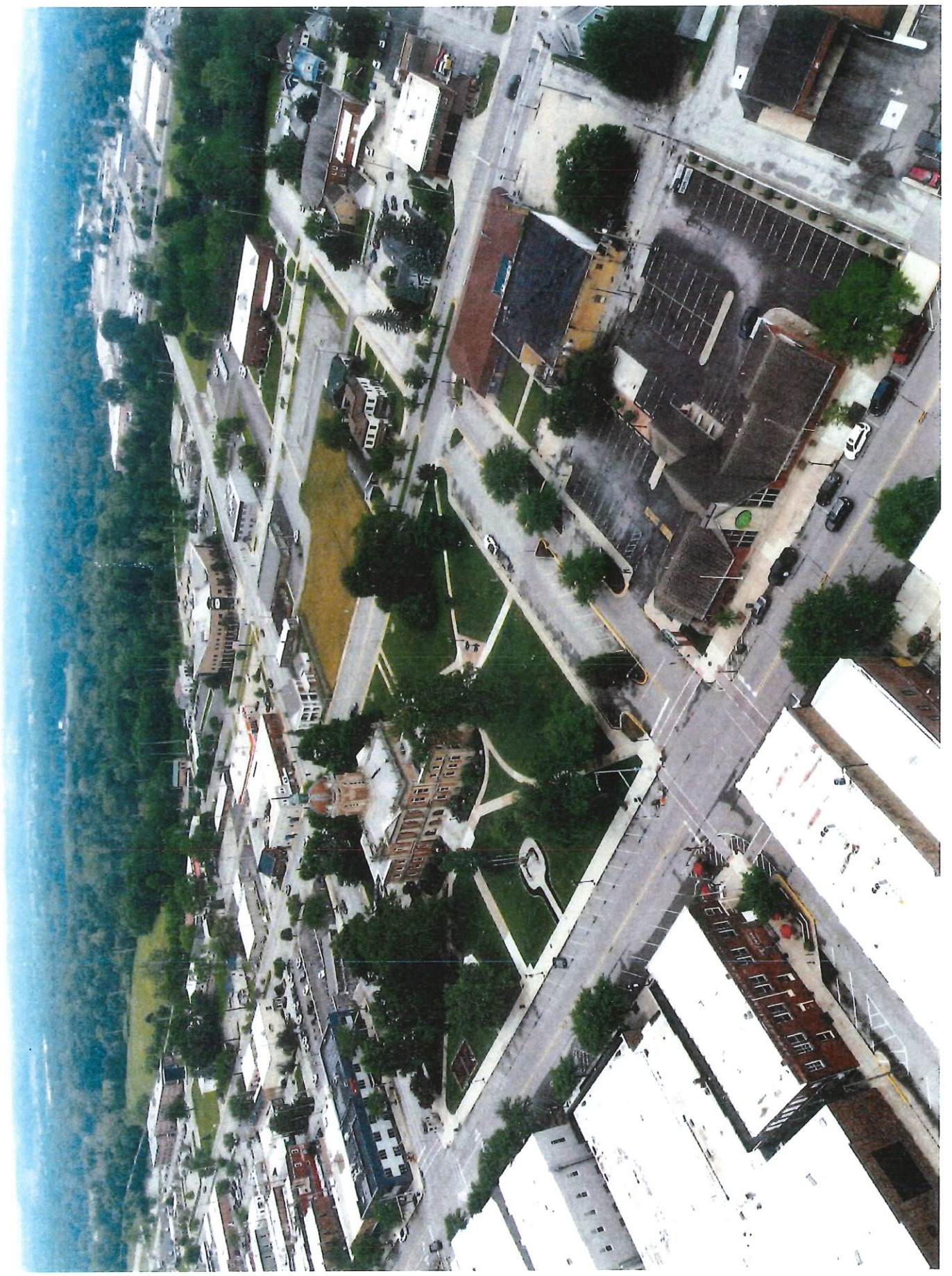
25-18 dv
 7 pages















EXHIBIT

25-2015V

4 Pages









LOCATION: 201 N Cottage Avenue
CASE NUMBER: 25-10UV

DATE: September 23, 2025
PREPARED BY: Rossa Deegan

GENERAL INFORMATION

APPLICANT: The Board of Commissioners of the County of Elkhart, IN (owner); Elkhart County Community Corrections Advisory Board (agent)

REQUEST: The applicants request a use variance to permanently allow offenders with low- and moderate-level domestic violence convictions to use the work release facility where Variance 22-13UV allowed low-level offenders for a period of three years

LOT SIZE: ±6.05 acres; ±363' of frontage; depth varies

APPLICABLE ZONING: Industrial M-1

NOTICES SENT: 51

SPECIAL INFORMATION

PUBLIC UTILITIES: Connected to City Water & Sewer

AREA DEVELOPMENT: Residential, institutional, commercial

NEIGHBORHOOD: Chamberlain

THOROUGHFARES: Cottage Avenue

TOPOGRAPHY: Bounded along north property line by Rock Run Creek; large portions of property are located in Zone AE Floodway and Zone AE Fringe of the regulatory floodplain

VARIANCE OF PREVIOUSLY APPROVED VARIANCES

- ◇ 22-13UV – use variance amending previous variances to allow offenders with low-level domestic violence convictions to use the center where the previous variances limit inmates to those incarcerated for non-violent crimes only
 - Commitment 2: “The variance...is approved for a period of three (3) years from the date of Approval”

ADJACENT PROPERTY OWNERS’ SUPPORT, OPPOSITION, AND INQUIRIES

The Planning office has not been contacted by any adjacent property owners regarding this variance. However, the Planning office may still be contacted with questions and statements of support or opposition to the variance between the time of this report’s delivery and the public hearing.

ANALYSIS

The subject property is an approximately six-acre minimum security work release facility located on N Cottage Avenue, south of Rock Run Creek and north of the Norfolk South Railroad. The property is zoned Industrial M-1 and is located east of a City utilities facility and west of industrial and commercial uses. Residential use and zoning are located to the north in the Chamberlain Neighborhood and to the south in the East Lincoln Crossroads neighborhood. The southernmost entry to the Chamberlain Neighborhood is the Cottage Avenue entrance adjacent to the subject property. Improvements on the property include an approximately 41,000 SF building and an asphalt parking and driving area with over 70 parking spaces. A barbed wire fence encloses the west side of the property with the building.

Site history – Planning records indicate that this site was the location of the Richmond Wholesale Catalog Center which was damaged by a fire in 1988. Subsequent variances led to the property’s current use as a work release facility, and are summarized as follows:

- September 1989 – BZA approved a use variance (89-19UV) allowing a minimum-security prison on an M-1 property. Approval included six conditions and an additional list of eleven restrictions suggested by the petitioner. Condition 3 stated that “no violent criminals may be located in the facility at any one time.”
- May 1999 – BZA approved a use variance (99-4UV) that added over one acre to the site, doubled the size of the building to approximately 42,000 SF from 21,000 SF, and allowed an increase in the number of prisoners to 300 from the 150-maximum allowed in the original variance. This variance reiterated by condition that these prisoners are limited to non-violent offenders.
- October 2005 – BZA approved a use variance (05-16UV) increasing maximum number of prisoners to 340.
- August 2006 – BZA approved a developmental variance (06-37DV) allowing construction of a parking lot in the floodplain with a reduced front yard setback
- October 2014 – BZA approved a 600 SF building addition in the floodplain. The purpose of the addition was to add space for drug and banned substance/materials testing.
- November 2022 – BZA approved an amendment to the previous variances allowing offenders convicted of low-level domestic violence convictions to use the facility. Approval included a list of convictions prohibited in offender profiles. The variance was granted for a period of 3 years.

Current request – The temporary approval for low-level domestic violence convictions will expire on November 22, 2025, so the petitioners are now proposing to make it permanent with approval of a use variance by the BZA. With permanent approval, the petitioners are also requesting changes to the list of prohibited offenses that had been included in the 2022 approval. These changes will enable the facility to house inmates with low-level and some moderate-level domestic violence convictions. These changes include the following:

1. Add “Any crimes that include the use of a deadly weapon (Defined IC 35-31.5-2-86)”
2. Replace “Criminal confinement (IC 34-42-3-3), if the victim is less than 18, and the person who confined or removed the victim is not the victim’s parent or guardian” with “Criminal confinement (IC 35-42-3-3 as a Class B or Level 2, 3, 4, or 5 Felony).
3. Replace “Resisting law enforcement as a felony (IC 35-44.1-3-1)” with “Resisting law enforcement (IC 35-44.1-3-1 as a level 2, 3, 4, or 5 felony)

The proposed changes are shown in the document “Appendix B” and a clean copy is provided in Appendix A, amended September 2025. Together, the three changes will eliminate the possibility of offenders who use deadly weapons from using the facility while allowing Level-6 felony convicts of criminal confinement or resisting law enforcement.

Permanent Approval – As with the 2022 request, Staff recommends approval. Permanent approval of the previous request with the minor changes to the list of prohibited offenses is warranted based on the following:

- There is no record of complaints made to the Planning Department following the November 2022 approval relating to the changes in offender profiles. Planning is unaware of any increases in threats to public safety or welfare or adverse impacts on the use and value of neighboring properties.
- The applicants report that since the 2022 approval, 76 offenders have been admitted to the work release facility with low-level violation convictions and of those 76, 66.78% did not receive a new charge after completing the program.
- The work release facility provides secure housing and supervision of its inmates while allowing them passes for work, religious services, and therapeutic services. Individuals in the work release program can maintain their current jobs during incarceration, where housing them full time at the county jail can result in job loss and lack of treatment. Such individuals are at a greater risk of homelessness and re-offending after release.
- The petitioners contend that offenders with low-level domestic violence convictions are usually not a threat to those other than the specific victims of their crimes
- The property is zoned Industrial M-1, and at approximately six-acres in size, is large enough to be developed for an industrial facility. Such a facility may bring greater harm to the neighborhood in the form of truck traffic and pollutants than the work release facility as proposed
- The property will continue to be bounded by the same natural and human-made barriers, including the creek, railroad, and security fence

- Individuals with convictions of serious offences of a violent or sexual nature would continue to be excluded from use of the property
- The work release facility approval has been in place for over 30 years
- The proposed amendments will not increase the size of the facility

As part of the approval, the applicants should commit to prohibiting offenders with convictions as listed in Appendix A (amended September 2025).

FINDINGS OF FACT

Staff recommends **approval with conditions and commitments** of a use variance to permanently allow offenders with low- and moderate-level domestic violence convictions to use the work release facility where Variance 22-13UV allowed low-level offenders for a period of three years, based on the following:

- 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.** Following the approximately three-year trial period, the Planning Department is not aware of any instances where low-level domestic violence offenders at the subject facility have caused injury to public health, safety, morals, and the general welfare of the community. The property will continue to be bounded by natural and human-made barriers and continue to be served by a security system that protects public safety. *The standard is confirmed.*
- 2. The use and value of the area adjacent to the subject property will not be affected in a substantially adverse manner.** The petitioners contend that offenders with low- and moderate-level domestic violence convictions are usually not a threat to those other than the specific victims of their crimes. Following the approximately three-year trial period, the Planning Department is not aware of any instances where low-level domestic violence offenders at the subject facility have had a detrimental impact on the use and value of adjacent properties. *The standard is confirmed.*
- 3. The need for the variance arises from a condition peculiar to the subject property.** The subject property has been a work release facility for several decades. The petitioners have identified gaps in their services which, as addressed in this request, will benefit the general welfare. *The standard is confirmed.*
- 4. Strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the subject property.** If approved with the recommended conditions and commitments, the subject property will be allowed to be used at a level that meets the needs of the community corrections services where those needs were not being met by the variances approved prior to 2022. *The standard is confirmed.*
- 5. The approval does not interfere substantially with the Comprehensive Plan.** Approval of the request will allow low- and moderate-level offenders to continue their employment, benefiting both employees and employers, while reducing recidivism and post-incarceration housing issues. The facility will be able to provide step-down services including supervision and therapy so that offenders are less likely to cause harm as they are re-introduced to society. Such outcomes will support Goshen's Comprehensive plan, which seeks to strengthen regional land use by working with county organizations and to "enhance participation in county coalitions to address economic, social, and environmental issues" (Land Use 5-1 & 2). *The standard is confirmed.*

With approval, the following conditions shall apply:

1. The variance shall become null and void unless a zoning clearance has been issued and substantial progress has been made within six (6) months of the date of the BZA approval.
2. Deviation from the requirements and conditions of the variance may result in the cancellation and termination of the approval or permit.
3. An approved zoning clearance form is required.

If approved, the following Commitments shall apply:

1. If the variance is not implemented and expires, this Commitment automatically terminates as well, and the Zoning Administrator may execute and record a Termination of Commitment on behalf of the City of Goshen Board of Zoning Appeals.

2. No individual shall be housed, imprisoned, or treated on the subject real estate who is incarcerated for any offenses listed in “Appendix A: Proposed Elkhart County Community Corrections Prohibited Offenses: Crimes of Violence – IC 35-50-1-2 and Crimes of Domestic or Sexual Violence”, amended September 2025.



Looking west across Cottage Avenue



Looking north along Cottage Avenue



From intersection of Cottage and Bridge streets looking southwest across Rock Run Creek



From south side of parking lot looking northeast



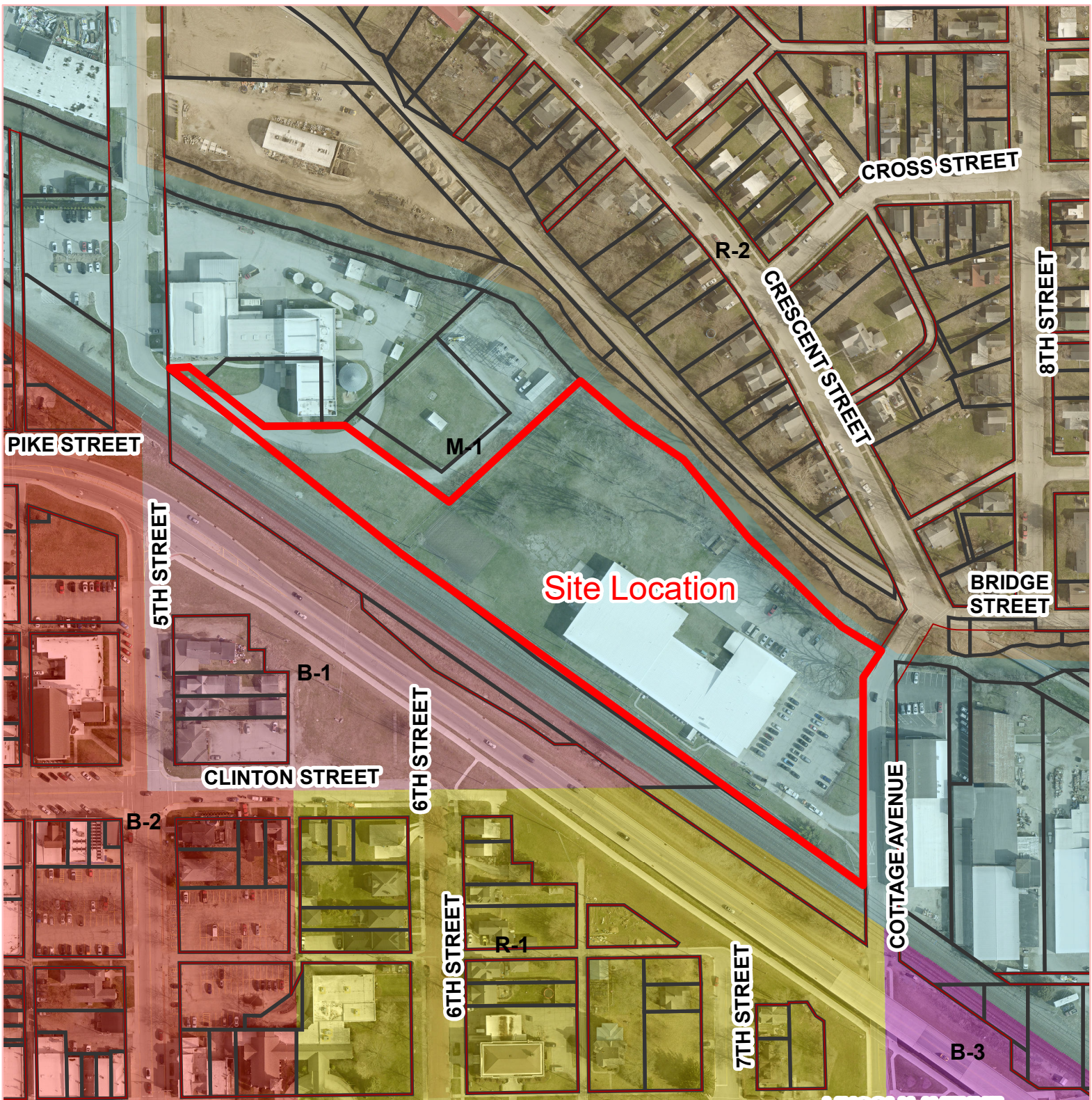
From west side of parking lot looking north; residential properties in background are north across creek



From northwest corner of property looking south



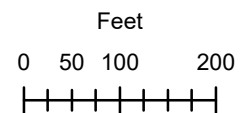
From southwest corner of property looking southeast



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201 N Cottage Ave

2023 Aerial
Printed September 5, 2025



1 inch = 200 feet



The City of Goshen
Department of

Planning & Zoning
204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-8626



ELKHART COUNTY JUDICIARY

1905 Reliance Rd, Goshen, Indiana 46526
(574) 538-3000

Court Administration

Ross Maxwell, Court Administrator
Nathan Tipton, Director of Court Services

Family Division

Elkhart County Superior Courts
David Bonfiglio, Judge Superior Court 6

Magistrates & Referees

Heidi Cintron
James Fox
James Stewart-Brown

Criminal Division

Elkhart County Circuit Court
Michael Christofeno, Judge

Elkhart County Superior Courts

Kristine Osterday, Judge Superior Court 1
Teresa Cataldo, Judge Superior Court 3
Elizabeth Bellin, Judge Superior Court 4

Magistrates

Eric Ditton
Jennifer Munro

Civil Division

Elkhart County Superior Courts
Andrew Hicks, Judge Superior Court 2
Christopher Spataro, Judge Superior Court 5

Magistrates

Dean Burton

Goshen Board of Zoning Appeals
204 E. Jefferson Street, Suite 4,
Goshen, IN 46528

August 26, 2025

Members of the Goshen BZA,

I am writing on behalf of Elkhart County Community Corrections (ECCC) and Elkhart County Community Corrections Advisory Board (CCAB) to request that use Variance 22-13UV, set to expire November 22, 2025, be made permanent with a slight alteration. Variance 22-13UV was approved November 22, 2022, for a period of three years to test amendments to variances 89-19UV and 99-4UV. These amendments allowed the Elkhart County Community Correction's Work Release Facility to admit offenders with low-level domestic violence convictions at the facility.

As the primary goal of Elkhart County Community Corrections, and of the Elkhart County criminal justice system, is to enhance public safety while providing therapeutic interventions to offenders, the need for varying levels of secure supervision in our community is paramount.

The Elkhart County Jail provides secure detention for some offenders. On the other end of the spectrum there are also programs of electronic monitoring, home detention, and probation that provide limited levels of supervision for offenders in the community. In between those two ends of the spectrum, the Elkhart County Community Corrections Work Release facility is available to provide secure housing and supervision, while allowing offenders passes for work, religious services, therapeutic services, and other outings depending on their level of progress and rehabilitation. However, without Variance 22-13UV, previous variances made the work release facility only an option to a **very limited class of offenders**. Outside of the Elkhart County Community Corrections work release facility, Elkhart County has no facility that can provide quasi-secure residential or "step-down" supervision to the larger number of individuals that need the secure housing and mid-level supervision work release can provide, while undergoing therapeutic interventions and building pro-social behaviors such as employment and community skills.

Accordingly, with variance 22-13UV, over the past three years we have been able to utilize existing assets of the County and have seen great success. From December 22, 2022 to August 1, 2025, ECCC admitted 76 participants with a low-level domestic violence conviction to work release, who previously would not be allowed into the facility. Of those 76 participants, 66.78% did not receive a new charge after completing the program. The Community Corrections Advisory Board is seeking to make variance 22-13UV a permanent change of the previous zoning authorizations currently on file in order to continue to allow individuals that are undergoing community-based treatment, but need a stable and secure living environment, to receive those services at the work release facility.

Variances 89-19UV and 99-4UV contain language approving variances, however, they also contained conditions stating that “no violent criminal may be located in the facility at any one time” and “individuals shall be incarcerated for non-violent offenses.” While these conditions make sense on their face to protect the community, they contained no definitions of what violent criminals and non-violent offenses constituted, and prior to variance 22-13UV, ECCC was forced to turn away less serious offense cases causing a gap in supervision and rehabilitation.

The perfect example of offenses falling into this gap are the lowest level misdemeanor and level 6 felony domestic battery cases. As domestic battery is a “person offense,” i.e. an offense where there is an actual person victim, some would consider this a violent offense; thus, not eligible for placement at work release. However, denying their placement at work release would go against the intended purpose of community safety, as these offenders are normally not a risk to the community at large or those outside of their home. Best practices for these offenders would be to separate them from their victim(s) and order them to complete rehabilitative treatment. By not allowing these offenders to be placed at the work release facility, only two choices remain.

The first option would be to order them to serve their time in the county jail. While placement in the jail would protect their victim(s) by limiting their access to them for a period, they would not receive treatment services at the same level they would in the community. Recently, the Indiana Department of Correction completely cut funding for CY2026’s Justice Reinvestment Grant for Jail Treatment, reducing the programing opportunities in the jail, even further. Additionally, while incarcerated these offenders would likely lose any employment and any other positive connections to the community that provided them stability when in the community. This would result in those offenders being released with no employment, no housing, and having completed minimal treatment, which historically has shown to be a recipe for re-offending.

The Second option would be releasing the offender into the community with services and a lower level of supervision. While the offender remaining in the community with supervision allows the offender to be involved in more intensive and a wider variety of services, as well as allowing them to keep those positive connections to the community like employment, it may put the victim(s) at risk by giving the offender access to victims prior to having completed rehabilitative treatment. Additionally, this option often gives the offender a choice of violating the conditions of their supervision and residing with the victim they are prohibited from having contact with or being homeless. This choice between violating supervision conditions or instability and homelessness is again a recipe for re-offense and more victims.

When the Elkhart County CCAB applied for and was granted variance 22-13UV, we were not seeking a variance that would allow the doors of the work release facility to be thrown open to all offenders. Rather, it was a variance that would allow ECCC to accept offenders who are eligible for community based programming and supervision. Serious violent offenders, as defined in I.C. § 35-50-1-2, crimes of sexual violence, and higher-level crimes of domestic violence continued to not be eligible for housing at the work release facility (see Appendix A). However, all other offenders of less serious crimes, including those against other persons, such as domestic battery as a misdemeanor or Level 6 felony, would be eligible for supervision and treatment at the work release facility, provided the offender otherwise qualified for participation in the community-based programs offered by ECCC. In our quest, to make permanent variance 22-13UV the CCAB would continue to make the safety of the community paramount and not allow these types of offenses into the facility. However, to enhance community safety and provide therapeutic interventions to offenders, ECCC and CCAB wishes to make slight alterations to the prohibited offenses list (see Appendix B).

There are three proposed changes to the list of prohibited offenses. The first change would be adding “Any Crimes that Include the use of a Deadly Weapon” as defined by IC 35-31.5-2-86. This change would disqualify any offense that involves the use of a firearm (loaded or unloaded), destructive device, weapon, taser, chemical substance, animals, biological disease or virus, if they capable of causing serious bodily injury and are used in the commission of a crime. It is our belief that this addition adheres to our mission to only allow the appropriate offenders into ECCC and keep the most violent offenders out of the community.

The next alteration would be to change “Criminal Confinement (IC 35-42-3-3, if the victim is less than 18, and the person who confined or removed the victim is not the victim’s parent or guardian.” to Criminal Confinement (IC 35-42-3-3 as a Class B or Level 2, 3, 4, or 5 Felony).” This change would allow only the lowest level of Criminal Confinement offenders into the facility, while continuing not to allow the higher levels of this offense that involve injuries, use of weapons, and kidnapping. The reason this change is important is because the lowest levels of Criminal Confinement are often seen in domestic violence situations. For example, if during an incident of domestic violence, the perpetrator will not let their victim leave the home, that would be Level 6 Felony Criminal Confinement. Understanding why the use of work release is important for domestic violence cases, also highlights why allowing lower-level criminal confinement cases to also be allowed into the facility is also important.

The final change would be to change “Resisting Law Enforcement (IC 35-44.1-3-1) as a felony” to “Resisting Law Enforcement (IC 35-44.1-3-1) as a Level 2, 3, 4, or 5 Felony.” Currently, Indiana Code states that resisting Law Enforcement is a level 6 felony “if the person uses a vehicle to commit the offense.” Allowing level 6 felony offenses, we could admit offender who run from the police in a vehicle to the facility, but we would continue to not allow offenders who resist police and use a deadly weapon, causes bodily injury to others while resisting, or cause injury to law enforcement officer.

Finally, the administration at ECCC is aware of the effect the presence of the facility has on the local community and neighborhoods. They are also aware that any changes at the facility have

the potential to affect those same neighborhoods. Prior to the last request for a variance the administration of ECCC and the CCAB Executive Committee reached out to the local community to make connections. These efforts included, but are not limited to neighborhood clean-ups and cookouts, a school supply drive for Chamberlain Elementary School, meeting with directors of local organizations addressing questions and concerns, going door to door in surrounding neighborhoods to introduce the administration to residents, and an open neighborhood meeting to speak with residents and address concerns. Since the variance, ECCC has continued to try to have their participants do positive things in the community. As seen in the following list of community services efforts by participants:

June 2022 through December 2022 ECCC Participants Completed:

- 17 hours of community service at The Window.
- 2 hours of community service at the Elkhart County Fairgrounds.
- 7 hours of community service at the Faith Mission Thrift Store.
- 3 hours of community service at Elkhart County Buildings and Grounds.
- 668.32 hours of community service at Elkhart County Community Corrections. (This includes ECCC Seed To Feed Garden, shoveling sidewalks, mowing the grass, pulling weeds, community cleanup, washing windows, and painting.)
- 5 hours of community service at St. Mark's Church.

January 2023 through December 2023 ECCC Participants Completed:

- 18.5 hours of community service at Elkhart County Buildings and Grounds.
- 6 hours of community service at Elkhart County Environmental Services.
- 1,580.1 hours of community service at Elkhart County Community Corrections. (This includes ECCC Seed To Feed Garden, shoveling sidewalks, mowing the grass, pulling weeds, community cleanup, washing windows, and painting.)
- 56 hours of community service at the Elkhart County Fairgrounds.
- 8 hours of community service at the Elkhart County Highway Department.
- 18.75 hours of community service at Goodwill.
- 7 hours of community service at St. Mark's Church.
- 79.98 hours of community service at The Window.

January 2024 through December 2024 ECCC Participants Completed:

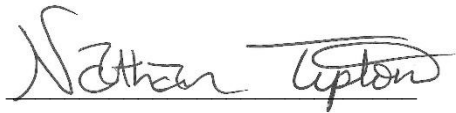
- 7.5 hours of community service at ARK Animal Rescue.
- 65.85 hours of community service at Cora Dale House.
- 12.5 hours of community service at Elkhart County Buildings and Grounds.
- 3 hours of community service at Elkhart County Environmental Services.
- 2 hours of community service at Elkhart County Landfill.
- 1,223.3 hours of community service at Elkhart County Community Corrections. (This includes ECCC Seed To Feed Garden, shoveling sidewalks, mowing the grass, pulling weeds, community cleanup, washing windows, and painting.)
- 45.08 hours of community service at Goodwill.
- 12.5 hours of community service at Middlebury Food Pantry.
- 1 hour of community service at Salvation Army Kroc Center.
- 15.3 hours of community service at St. Mark's Church.
- 496.64 hours of community service at The Window.

January 2025 through August 2025 ECCC Participants Completed:

- 24.5 hours of community service at The Center for Hospice.
- 7.42 hours of community service at Cora Dale House.
- 6 hours of community service at ARK Animal Rescue.
- 3 hours of community service at Elkhart County Environmental Services.
- 886.5 hours of community service at Elkhart County Community Corrections. (This includes ECCC Seed To Feed Garden, shoveling sidewalks, mowing the grass, pulling weeds, community cleanup, washing windows, and painting.)
- 66.41 hours of community service at The Window.

Ultimately, ECCC and CCAB believe that the change in the variance has made the neighborhood and local community safer. The reality is that these offenders are already in our community and neighborhoods but allowing them to be housed in the work release facility would allow these offenders to receive the needed treatment while being supervised at the appropriate level.

Thank you for your consideration,

A handwritten signature in black ink, reading "Nathan Tipton". The signature is written in a cursive style with a horizontal line underneath the name.

Nathan C. Tipton
Director of Court Services
Elkhart County Judiciary

2022 BZA Approval

ELKHART COUNTY RECORDER
JENNIFER L. DORIOT
FILED FOR RECORD ON
12/08/2022 11:36 AM
AS PRESENTED



Result Letter/Commitment
Case #: 22-13UV

Date: November 22, 2022

Grantor:

The Board of Commissioners of the County of Elkhart, Indiana
County Administrative Building
117 N Second Street
Goshen, IN 46526

Grantee:

City of Goshen Board of Zoning Appeals
204 E Jefferson Street, Suite 4
Goshen, IN 46528

The following shall be referred to as "the Real Estate":

Common Address: 201 N Cottage Avenue
Current Tax Code #: 20-11-09-280-012.000-015
Legal Description: See Attachment A

The request for a use variance to permit offenders with low-level domestic violence convictions to use the center where the previous variances limit inmates to those incarcerated for non-violent crimes only for the Real Estate, zoned Industrial M-1 District, was heard at the meeting of the City of Goshen Board of Zoning Appeals on November 22, 2022, and was acted upon as follows:

APPROVED XX DENIED _____ TABLED _____ WITHDRAWN _____

When the Board's action is one of approval, the authorization is granted contingent upon any conditions and commitments placed on the petition by the Board. Deviation from said conditions and commitments may result in the City of Goshen Board of Zoning Appeals rescinding the approval or permit.

The Grantor, jointly and severally, agree to abide by these conditions:

1. The variance shall become null and void unless a zoning clearance has been issued and substantial progress has been made within six (6) months of the date of the BZA approval.
2. Deviation from the requirements and conditions of the variance may result in the cancellation and termination of the approval or permit.
3. The BZA approval shall be effective when the executed and recorded Result Letter/Commitment form has been returned to the City of Goshen Board of Zoning Appeals staff and when all conditions of approval have been met.
4. No zoning clearance form will be issued until the executed and recorded Result Letter/Commitment form has been returned to the City of Goshen Board of Zoning Appeals staff and until all conditions of approval have been met.

The Grantor, jointly and severally, agree to abide by these commitments concerning the use and/or development of the Real Estate:

1. If the variance is not implemented and expires, this Commitment automatically terminates as well, and the Zoning Administrator may execute and record a Termination of Commitment on behalf of the City of Goshen Board of Zoning Appeals.
2. The variance allowing an amendment to variances 89-19UV & 99-4UV to allow offenders with low-level domestic violence convictions to use the center is approved for a period of three (3) years from the date of approval; at the time the variance expires, it must be reheard by the City of Goshen Board of Zoning Appeals following a new application and a new public hearing.
3. No individual shall be housed, imprisoned, or treated on the subject real estate who is incarcerated for any offenses listed in "Appendix A: Elkhart County Community Corrections Prohibited Offenses: Crimes of Violence – IC 35-50-1-2 and Crimes of Domestic or Sexual Violence".

Further, the Grantor, jointly and severally, agree to the following concerning the procedures associated with maintenance and enforcement of this Commitment:

1. That this Result Letter/Commitment form shall be recorded in the Elkhart County Recorder's Office.
2. That the Grantor shall give notice of this Commitment, whether recorded or unrecorded, to any subsequent owner and/or any other person or persons acquiring an interest in any portion of the Real Estate.
3. That any subsequent owner and/or any other person or persons acquiring an interest in any portion of the Real Estate shall be bound by the terms of this Commitment even if it is unrecorded.
4. That the City of Goshen Board of Zoning Appeals and/or the City of Goshen Zoning Administrator are authorized to enforce the terms of this Commitment.
5. That any property owner adjacent to the Real Estate or any specifically affected persons listed below are entitled to enforce the

Appendix B:

**Proposed Elkhart County Community Corrections Prohibited Offenses:
Crimes of Violence – IC 35-50-1-2 and Crimes of Domestic or Sexual Violence**

- **Aggravated Battery** (IC 35-42-2-1.5)
- **Any Crimes that Include the use of a Deadly Weapon** (Defined IC 35-31.5-2-86)
- **Attempted Murder** (IC 35-41-5-1)
- **Battery** (IC 35-42-2-1) as a: Level 2,3,4, or 5 Felony
- **Burglary** (IC 35-43-2-1) as a: Level 1,2,3 or 4 Felony
- **Child Exploitation** (IC 35-42-4-4(b)) or (IC 35-42-4-4(c))
- **Child Molesting** (IC 35-42-4-3).
- **Child Seduction** (IC 35-42-4-7)
- **Child Sex Trafficking** (IC 35-42-3.5-1.3)
- **Child Solicitation** (IC 35-42-4-6)
- ~~**Criminal Confinement** (IC 35-42-3-3, if the victim is less than 18, and the person who confined or removed the victim is not the victim's parent or guardian.~~
- **Criminal Confinement** (IC 35-42-3-3 as a Class B or Level 2, 3, 4, or 5 Felony)
- **Criminal Deviate Conduct** (IC 35-42-4-2) (before its repeal).
- **Domestic Battery** (IC 35-42-2-1.3) as a: Level 2,3,4, or 5 Felony
- **Human Trafficking** under IC 35-42-3.5-1.4 if the victim is less than 18
- **Incest** (IC 35-46-1-3)
- **Involuntary manslaughter** (IC 35-42-1-4).
- **Kidnapping** (IC 35-42-3-2).
- **Murder** (IC 35-42-1-1).
- **Operating a vehicle while intoxicated causing death or catastrophic injury** (IC 9-30-5-5).
- **Operating a vehicle while intoxicated causing serious bodily injury to another person** (IC 9-30-5-4).
- **Possession of Child Pornography** (IC 35-42-4-4(d) or (e))
- **Promoting Prostitution** (IC 35-45-4-4) as a: Class B or Level 4 Felony
- **Promotion of Child Sex Trafficking** (IC 35-42-3.5-1.2(a) or (c))
- **Rape** (IC 35-42-4-1).
- **Reckless Homicide** (IC 35-42-1-5).
- ~~**Resisting Law Enforcement as a Felony** (IC 35-44.1-3-1).~~
- **Resisting Law Enforcement** (IC 35-44.1-3-1 as a Level 2, 3, 4, or 5 Felony)
- **Robbery** as a Level 2 felony or a Level 3 felony (IC 35-42-5-1)
- **Sexual Battery** (IC 35-42-4-8)
- **Sexual Misconduct by a Service Provider** (IC35-44-1.3-10(c))
- **Sexual Misconduct with a Minor** (IC 35-42-4-9) as a Class A,B, or C or a Level 1,2,3,4 or 5 Felony
- **Strangulation** (IC 35-42-2-9) as a Level 5 felony.
- **Unlawful Possession of a Firearm by a Serious Violent Felon** (IC 35-47-4-5).
- **Vicarious Sexual Gratification** (including preforming sexual conduct in the presence of a minor) (IC 35-42-4-5)
- **Voluntary Manslaughter** (IC 35-42-1-3).

Appendix A:

**Proposed Elkhart County Community Corrections Prohibited Offenses:
Crimes of Violence – IC 35-50-1-2 and Crimes of Domestic or Sexual Violence**

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- **Any Crimes that Include the use of a Deadly Weapon** (Defined IC 35-31.5-2-86)
- **Attempted Murder** (IC 35-41-5-1)
- **Battery** (IC 35-42-2-1) as a: Level 2,3,4, or 5 Felony
- **Burglary** (IC 35-43-2-1) as a: Level 1,2,3 or 4 Felony
- **Child Exploitation** (IC 35-42-4-4(b)) or (IC 35-42-4-4(c))
- **Child Molesting** (IC 35-42-4-3).
- **Child Seduction** (IC 35-42-4-7)
- **Child Sex Trafficking** (IC 35-42-3.5-1.3)
- **Child Solicitation** (IC 35-42-4-6)
- **Criminal Confinement** (IC 35-42-3-3 as a Class B or Level 2, 3, 4, or 5 Felony)
- **Criminal Deviate Conduct** (IC 35-42-4-2) (before its repeal).
- **Domestic Battery** (IC 35-42-2-1.3) as a: Level 2,3,4, or 5 Felony
- **Human Trafficking** under IC 35-42-3.5-1.4 if the victim is less than 18
- **Incest** (IC 35-46-1-3)
- **Involuntary manslaughter** (IC 35-42-1-4).
- **Kidnapping** (IC 35-42-3-2).
- **Murder** (IC 35-42-1-1).
- **Operating a vehicle while intoxicated causing death or catastrophic injury** (IC 9-30-5-5).
- **Operating a vehicle while intoxicated causing serious bodily injury to another person** (IC 9-30-5-4).
- **Possession of Child Pornography** (IC 35-42-4-4(d) or (e))
- **Promoting Prostitution** (IC 35-45-4-4) as a: Class B or Level 4 Felony
- **Promotion of Child Sex Trafficking** (IC 35-42-3.5-1.2(a) or (c))
- **Rape** (IC 35-42-4-1).
- **Reckless Homicide** (IC 35-42-1-5).
- **Resisting Law Enforcement** (IC 35-44.1-3-1 as a Level 2, 3, 4, or 5 Felony)
- **Robbery** as a Level 2 felony or a Level 3 felony (IC 35-42-5-1)
- **Sexual Battery** (IC 35-42-4-8)
- **Sexual Misconduct by a Service Provider** (IC35-44-1.3-10(c))
- **Sexual Misconduct with a Minor** (IC 35-42-4-9) as a Class A,B, or C or a Level 1,2,3,4 or 5 Felony
- **Strangulation** (IC 35-42-2-9) as a Level 5 felony.
- **Unlawful Possession of a Firearm by a Serious Violent Felon** (IC 35-47-4-5).
- **Vicarious Sexual Gratification** (including preforming sexual conduct in the presence of a minor) (IC 35-42-4-5)
- **Voluntary Manslaughter** (IC 35-42-1-3).