

BOARD OF ZONING APPEALS

-MINUTES-

**Thursday, November 13, 2025 - Commenced at 6:24 P.M. & adjourned at 7:37 P.M.
City Council Chambers – Municipal Building**

MEMBERS PRESENT

Doug Mulvaney
Janet Evanega Rieckhoff
Diana Lawson

MEMBERS ABSENT

Phalene Leichtman

REPRESENTING THE PLANNING DEPARTMENT

Eric Trotter, Assistant Director for Planning
Kyle Anthony-Petter, Planner II

LEGAL DEPARTMENT

Maggie Marnocha

RECORDING SECRETARY

Carla Lipsey

APPROVAL TO AMEND AGENDA

Amendment to the agenda to table case 25-UV-12 until December 11, 2025.
Mulvaney makes a motion to approve; Second by Lawson. Voice vote carries.

APPROVAL OF MINUTES FOR OCTOBER 9, 2025

Tabled until December 11, 2025.

APPROVAL OF PROOFS OF PUBLICATION

Mulvaney makes motion to approve; Second by Lawson. Voice vote carries.

OPENING STATEMENT

Welcome to the November 13, 2025 meeting of the Elkhart City Board of Zoning Appeals.

The video comments will only be taken on WebEx. You cannot comment on Facebook, you can watch only. If you are on video, please mute your mic when not speaking. Speak up and identify yourself before you begin to speak.

The purpose of this meeting is to review and consider all requests for relief from any standard in the Zoning Ordinance including variances, use variances, special exceptions, conditional use requests, and administrative appeals. All of the cases heard tonight will have a positive, negative, or no decision made by the board. If no decision is made, the petition will be set for another hearing. If a decision is made that you disagree with, either as the petitioner or an interested party, you must file for an appeal of the Board's decision in an appropriate court no later than 30 days after the decision is made. If you think you may potentially want to appeal a decision of this Board, you must give this Board a written appearance before the hearing. If you are here in person, a sign-in sheet is provided which will act as an appearance. You should sign the sheet if you want to speak, but also if you do not wish to speak but might want to appeal our decision. If you are appearing by WebEx or Facebook, please put your name and address in the comment section. A written petition that is set for hearing tonight satisfies that requirement for the petitioner. If you file your appeal later than 30 days after the decision of this Board or give no written appearance tonight you may not appeal the Board's decision. Because the rules on appeal are statutory and specific on what you can do, the Board highly suggests you seek legal advice. If you are the petitioner, in addition to filing an appeal, you may first file a motion for rehearing within 14 days of the Board's decision.

Tonight, we have our minimum quorum of three members present, including proxy members. While we can conduct business with three members, any votes taken must be unanimous. Anything less than a unanimous vote will be considered No Action and the case will be reset for the next month. Our proxies will allow us to take action on most items.

With respect to the public comment portion of the meeting, public comments will be taken only on the specific petition being heard before the board. Unlike the City Council meeting, where there is time for anyone to comment on any issue, we do not have that at the BZA, and comments will only be taken for or against the petition before the board.

OLD BUSINESS

25-BZA-20 PETITIONER IS FIRST PRESBYTERIAN CHURCH OF ELKHART PROPERTY IS LOCATED AT 200 EAST BEARDSLEY AVENUE

Eric Trotter, Assistant Director for Planning presents. This is a revised staff recommendation and negotiation of all parties, in order to find some middle ground in order to recommend in favor of a negotiated, revised petition this evening.

The original request is to vary from Section 26.10.F.5(b)(f), Temporary Signs, which permits two (2) yard signs per street frontage and one (1) additional sign for each 250 feet of frontage for all four (4) street frontages in 'B' zoning districts for a period of thirty (30) days per year and one (1) banner which is not permitted in residentially zoned districts to allow for twelve (12) roadside yard signs and six (6) interior wayfinding signs and one (1) banner for a total of seventy (70) days per year, a variance of six (6) additional yard signs and 40 days per year, where these signs are only permitted in 'B' districts.

STAFF ANALYSIS

The petitioner is requesting a developmental variance to vary from Section 26.10.F.5(b)(f), Temporary Signs, which permits two (2) yard signs per street frontage and one (1) additional sign for each 250 feet of frontage for all four (4) street frontages in 'B' zoning districts for a period of thirty (30) days per year and one (1) banner which is not permitted in residentially zoned districts to allow for twelve (12) roadside yard signs and six (6) interior wayfinding signs and one (1) banner for a total of seventy (70) days per year, a variance of six (6) additional yard signs and 40 days per year, where these signs are only permitted in 'B' districts.

The petitioner is requesting a variance from the temporary sign section of the ordinance to provide notice of activities occurring at the church. The church has several special events they wish to alert the public by using the small temporary signs. Additionally, they are requesting onsite wayfinding signage for the interior of the campus to direct people once they come onto the church property. To also place a banner on the south façade of the building for the same purpose.

The board heard the request in August. At that time staff had offered a compromise of 36 days versus the petitioner's request of 70 days per year related to the number of signs and the duration of time for the requested signs to be placed. During the discussion, the request was split into two motions. At that time, the BZA approved the wayfinding signs until December of 2026. The other part of the request for the additional temporary signs – the board's vote was tied, therefore that part of the request was held over until the next regular meeting because there was no majority vote for or against the request.

In September, the board heard the request again along with additional public comment. At that meeting only three members were in attendance. Because of the minimum quorum, all votes must be in the affirmative for the request to be approved. The final vote did not produce a majority either in favor or not in favor, so again the matter was continued until the next month.

During the month of October, staff, Assistant City Attorney, and the Administration worked diligently to come up with a compromise for temporary signage for places of worship that met the needs of messaging for individual congregations. And was in line with the Intent and Purpose found in the Zoning Ordinance for signs within the City of Elkhart.

The need for the variance arises from the fact that the temporary signs requested are permitted only in B districts and the number of signs exceeds what is permitted for temporary signs. The church is surrounded by public streets on all four sides of the building with onsite parking lots with at least one aisle of parking on all four sides of the building.

Staff have been working with the church over the past several months to assist them in finding solutions to their signage needs. In the past, the church placed numerous signs and feather flags in the public right of way along Beardsley to alert the passing public of the current church activity. The department had received complaints related to the number, type and duration of time the signs were placed in the right of way for various church activities.

The update to the zoning ordinance, with an anticipated adoption date late summer or early fall, will address some of the temporary signs the church has utilized in the past – feather flags which are not currently on the list of permitted temporary signs, but are being added to the list of temporary signs. Small signs and banners are proposed to be permitted in all districts in the updated ordinance. The ordinance update would permit these signs in any district, up to a total of four (4) signs, for up to 30 days.

The compromise offered was as follows: Places of Worship would be allowed twice the number of temporary signs, specifically yard signs – currently two (2) plus one (1) for the additional 250 feet of street frontage. The proposed would allow four (4) plus two (2) for every 250 feet of frontage. Currently the ordinance does not permit feather flags. The proposed language would allow two (2) feather flags per zoning lot. Currently the ordinance does not permit banners in residentially zoned districts. The proposed language would allow one (1) banner. This proposed compromise will be memorialized in the upcoming UDO. Additionally, there will be no time limit for the above-mentioned temporary signs. However, the temporary signs must be maintained in the manner to which they were originally designed. Temporary signs that are allowed to become tattered and/or dilapidated will be

considered a nuisance and will be treated as a violation of the sign code. In order to address any safety concerns, no signs will be allowed in the right-of-way at any time.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental variance for specific temporary signs. This recommendation comes to the BZA as a compromise between the petitioner and the city. Those signs are as follows - to allow a maximum of four (4) yard signs plus two (2) for every 250 feet of street frontage, to allow two (2) feather flags per zoning lot and to allow one (1) banner. The time allowance for these specific temporary signs will be unlimited based on the following findings of fact:

1. The approval **will not** be injurious to the public health, safety, morals, or general welfare of the community as the requested signs are temporary and will be placed outside of the public right of way;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner as the requested signs are not that uncommon for places of worship;
3. Granting the variance **would be** consistent with the intent and purpose of this Ordinance because a small measure of relief when uniquely warranted;
4. Special conditions and circumstances **do exist** which are particular to the land involved and which are not applicable to other lands or structures in the same district because the needs of this type of use are greater than most other uses permitted in residential districts;
5. The strict application of the terms of this Ordinance **may result** in practical difficulties in the use of the property because the limitations of time and placement temporary signs puts constraints on the ability to notice the public of activities within the building;
6. The special conditions and circumstances **do not** result from an action or inaction by the applicant;
7. This property **does not** lie within a designated flood hazard area.

CONDITIONS

1. The specific temporary signs as mentioned in the recommendation above are to be placed on the private property of the church. They are not to be placed within the public right of way.

Evanega Rieckhoff calls the petitioner forward.

Bruce Carter of 65406 Wade Rd, Cassopolis, Michigan, representative for First Presbyterian Church appears in person. Carter states that the church supports the staff recommendations. They thank the staff for their hard work. It has been a long process, and they have been before the Board three times. They think the City has done well by them, and additionally are very excited that this will be expanded to other churches in the community. The citizens of their community will benefit by having the additional information from the churches all over the City. Thank you.

Evanega Rieckhoff thanks them for participating in this process, and opens for public comments to speak in favor. Hearing none, she opens for opposition. Hearing none, she closes the public portion of the meeting and calls for a motion.

Mulvaney makes a motion to approve 25-BZA-20 and adopt the petitioner's documents and presentation, together with the Staff's finding of fact, as the Board's findings of fact in the present petition and adopt all conditions listed in the staff report; Second by Lawson.

Mulvaney – Yes

Lawson – Yes

Evanega Rieckhoff – Yes

Motion carries.

Sally Wicks, Pastor of First Presbyterian Church, takes a moment to thank the Board. Wicks speaks for the whole church to say they are so grateful to be able to reach out to the community, and to staff for this compromise.

NEW BUSINESS

25-BZA-24 PETITIONER IS LESLY SANTOS PROPERTY IS LOCATED AT 1101 W GARFIELD AVE

Kyle Anthony-Petter, Planner II presents.

The request is to vary from Section 26.4.A.6 which states in part, 'No fences, other than split rail, wrought iron or open picket fences not to exceed four (4) feet in height, shall be permitted in any front yard or corner side yard' to allow for a six (6) foot privacy fence installed to remain in the corner side yard. A corner side yard height variance of two (2) feet and material standards (solid privacy) variance to remain for the same fence.

Evanega Rieckhoff calls the petitioner forward.

Lesly Santos and daughter, of 1101 W Garfield Avenue, appear in person. Santos states this is their brand new house. They moved from California, like living here, and are more comfortable with the people, community, school, and work. This is their first house, and are happy with the location. The purpose of the fence was for more privacy - the space is for their daughters (ages 12 and 7) who play there, as well as extended family, especially during the summer. It also provides a safe space for family gatherings. They have had issues with someone painting graffiti on their fence. They feel more comfortable with the fence, which they did a lot of work to install. Santos states they understand they made a mistake forgetting where the fence was supposed to go, and while they do feel safe in the neighborhood, the fenced yard provides additional security.

Santos' daughter states that they have a lot of cookouts with their big family who all live here, but they are no trouble and they keep everything inside the yard. They did ask for permission, but did not realize they went too far out. She reiterates their concerns and how the fence allows them to feel more safe on their property.

Evanega Rieckhoff asks staff if the petitioner has been made aware of the conditions. Anthony-Petter approaches the petitioner and informs them of the conditions. Evanega Rieckhoff assures the petitioner that they will not need to buy any more materials, just bring the fence to the back corner of the house instead of the front.

Mulvaney states that the rest of the fence can stay up, it's just the corner that will need to be moved to the back of the house.

Santos asks how long they have to complete the work. Anthony-Petter states six months, due to winter.

Evanega Rieckhoff reiterates that they have 6 months, because of winter. The petitioner asks if they have until summer. Evanega Rieckhoff states April.

Evanega Rieckhoff opens for public comments to speak in favor. Hearing none, she opens for opposition. Hearing none, she closes the public portion of the meeting and calls staff forward.

STAFF ANALYSIS

Anthony-Petter presents.

The petitioner is requesting a developmental variance to allow for a 6-foot privacy fence in a corner yard, when 4 feet is the maximum height and to allow solid material, when non opaque material is allowed.

The petitioner submitted a fence permit on June 20, 2023, and was approved by staff on the same day. The approved permit application depicted the fence even with the home along 11th Street. When the fence was installed, the placement went past the wall of the home along 11th Street, which does not comply with the current fence placement standards.

Zoning staff cited the property for a zoning violation for the 6-foot solid wood fence installed in the corner side yard prohibited by zoning ordinance on August 11, 2025. The petitioner then submitted to the board for a developmental variance on September 26, 2025. The original design met the developmental requirement from the zoning ordinance for corner side lots. The petitioner is seeking this variance to allow for the now existing fence to remain in its current location.

This variance is required because the property owner, after being granted a fence permit, chose not to place the fence in the allowable location. After discovering the violation, staff chose not to fine the property owner for the incorrect placement of the fence. The City of Elkhart is in the process of updating its zoning ordinance, including the fence regulations. The location of the fence is not consistent with proposed regulations found in the anticipated UDO. The UDO would require the fence coming toward the street at the rear corner of the home not the front corner of the home, as the fence in this petition is requesting.

Staff and this board need to be consistent when making recommendations and granting developmental variances. There is nothing about the land or lot that prohibits the petitioner from locating the fence in an approved location that meets the proposed developmental standards forthcoming in the UDO. Staff are making an effort to make sure the recommendation they make for cases similar to this one is consistent with other corner-side-yard fence requests.

Staff is willing to support the request if the new fence is modified to have the projecting portion of the fence come from the rear corner of the home and not the front corner of the home.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental variance based on the following findings of fact:

1. The approval **should not** be injurious to the public health, safety, morals or general welfare of the community because the fence should have been built and installed in a workmanlike manner;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner because a fence is a typical element found in residential districts. The fence's location should not affect the use and value of an adjacent property;
3. Granting the variance **would be** consistent with the intent and purpose of this Ordinance because a measure of relief is allowed when warranted because it is anticipated that this location will soon be permitted in the new UDO;
4. Special conditions and circumstances **do exist** as the subject property is a corner lot;
5. The strict application of the terms of this Ordinance **will not** result in practical difficulties in the use of the property because the fence could be placed so as to meet the requirements for fencing on a corner lot in the city;
6. The special conditions and circumstances **do result** from an action or inaction by the applicant because the approved location of the fence was not followed and placed in an unapproved location;
7. This property **does not** lie within a designated flood hazard area.

CONDITIONS

1. The projecting portion of the fence should be moved to the rear corner of the home. This will mirror the language in the forthcoming UDO for fences in residential districts on corner lots or parcels. The fence is currently placed at the front corner of the home.
2. The petitioner has 6 months (until May 2026) to complete the work.* [**Amended by staff during meeting.*]

Anthony-Petter says 33 letters were mailed with 0 responses.

Evanega Rieckhoff asks if there are questions from the Board for staff, hearing none she calls for a motion.

Mulvaney makes a motion to approve 25-BZA-24 and adopt the petitioner's documents and presentation, together with the Staff's finding of fact, as the Board's findings of fact in the present petition and adopt all staff conditions in the staff report; Second by Lawson.

Evanega Rieckhoff asks if the motion includes both conditions, including the added second condition. Mulvaney confirms.

Mulvaney – Yes
Lawson – Yes
Evanega Rieckhoff – Yes

Motion carries.

Evanega Rieckhoff summarizes again for Santos, reiterates that they will need to move the fence back by May 2026, and thanks the petitioner.

25-UV-11 PETITIONER IS DAVID A NUFER LLC
PROPERTY IS LOCATED AT 2101 S MAIN ST

Trotter presents.

The request is to vary from Section 13.2, Permitted Uses in the B-3, Service Business District to allow for the establishment of a new day care center at 2101 South Main Street.

Evanega Rieckhoff calls the petitioner forward.

John Piraccini of 633 Windy Cove Court, Mishawaka, from Coldwell Banker Commercial Office, representing David Nufer, Joseph Nufer, as well as the operator of the daycare ministry, appears in person. Piraccini states that the Nufers have constructed the new Burton's Laundry on South Main, and they added on a couple thousand square feet of space to compliment the neighborhood and business. They marketed it and the daycare operator took interest, but they realized they did not have the correct zoning and stopped construction. Piraccini states that Staff was concerned about the outside area for the kids, and they met with Eric to resolve the issue prior to the meeting. The outside area for children will be moved to back side of the building, which staff will elaborate on. They felt this was a good compromise. They feel the daycare center is a good compliment to the neighborhood and would be a nice addition. Piraccini states he is available for any questions.

Evanega Rieckhoff clarifies that the Staff Report will include information about the new play space being proposed, and it is confirmed off-screen/off-mic.

Evanega Rieckhoff asks for questions from the Board. Hearing none, she opens for public comments to speak in favor. Hearing none, she opens for opposition. Hearing none, she closes the public portion of the meeting and calls staff forward.

STAFF ANALYSIS

Trotter presents.

The petitioner is requesting a use variance to allow the property at 2101 South Main Street to be used as a day care center. Section 13.2 Permitted Uses in the B-3, Service Business District does not permit Day Care Centers.

The need for the use variance comes from the fact that the B-3 zoning district does not permit day care centers as a permitted use. The property is currently Burton's Laundry and with a vacant retail space on the north end of the building. On the rear and west side of the building there is available parking. The building has already undergone some indoor remodeling for the build out of the area for classrooms as well as office space for staff. The building was built in 2025 and is approximately 6,766 square feet over one level. There is approximately 2,487 square feet available for the day care center and 4,279 square feet used for laundry services.

The petitioner is seeking local permission to operate a day care center at 2101 South Main Street. The City of Elkhart requires, in addition to state approvals, local approval in order to operate a day care center. The petitioner's tenant will be working to gain State approval as an Unlicensed Registered Child Care Ministry. The daycare center will necessitate a license from the Indiana Family and Social Service Administration (FSSA).



Based on information provided to staff via email, the hours of the center will be 6:00 am to 6:00 pm. The approximate number of children cared for at the site will be between 20 to 22 children with 5 to 6 employees. The operator has over 20 years' experience in childcare and operates 21 centers in South Bend. The petitioner is proposing to install outdoor play space using a planting peninsula in the parking lot.

Staff conducted a site visit at 2101 South Main Street on October 28 - specifically to observe the proposed area allocated for outdoor play. The peninsula area is small – approximately 200 square feet in area. There is no alternate area nor a community park within walking distance for the children to recreate outside.

Staff have reservations related to the size of the outdoor play area. Staff also understands the need for quality childcare and realizes the potential benefit of having a

location like this at the intersection of two thoroughfares which makes the pick-up and drop off easy for working parents. However, this complex wasn't constructed for this type of end use; it was designed for a more typical retail commercial user.

The concern staff is having with this request is the location at S Main Street and E Lusher Avenue has no outdoor play area and no park or alternative area for children to recreate outside.

Trotter states that subsequent to the writing of this staff report, staff met with the petitioner's agent and the petitioner's son, who agreed to relocate the play area from the parking peninsula to the south end of the building, which has a larger, rectangular, grass area that would better accommodate the children outside.

Evanega Rieckhoff asks if staff knows the square footage of the new recreation space.

Trotter states he does not, but from observing the area, it looked to be two to three times the size of the original play area.

Evanega Rieckhoff asks if the daycare operator feels comfortable, as a professional, with the size of the new play area.

Canisha Taylor, daycare operator, appears in person. She states that she does feel comfortable. Evanega Rieckhoff asks whether the 20-22 kids will be outside at the same time, and if they will split the recreation time up. Canisha responds no that they will not be all outside at the same time, and will split up the time to make it work. Evanega Rieckhoff asks if the city feels comfortable with that, and Trotter nods in the affirmative.

STAFF RECOMMENDATION

The Staff recommends approval of the use variance based on the following findings of fact:

1. The approval **will not** be injurious to the public health, safety, morals, or general welfare of the community because the building will be updated per all applicable building codes;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner because there will only be minor exterior changes to the existing building;
3. Granting the variance **would be** consistent with the intent and purpose of this Ordinance because a small measure of relief when uniquely warranted;
4. Special conditions and circumstances **do exist** which are particular to the land involved and which are not applicable to other lands or structures in the same district because without board action a day care center on this parcel would not be permitted;
5. The strict application of the terms of this Ordinance **will not** result in practical difficulties in the use of the property because establishing a permitted B use could be achieved on this site and providing for required off-street parking would be possible;
6. The special conditions and circumstances **do not** result from an action or inaction by the applicant as the zoning for the property has existed for some time;
7. This property **does not** lie within a designated flood hazard area.

CONDITIONS

If the Board chooses to approve the requested use variance, staff recommends that the following conditions be placed upon the approval:

1. All children shall be restricted to the building or fenced-in play area (parking island shall be fenced – now updated to area south of the building*) except when arriving and leaving or on supervised walks or outings. [**Amended by staff during meeting.*]
2. The facility and grounds shall be kept clean at all times.
3. The facility shall be subject to inspection upon reasonable notice, by the zoning administrator during hours of operation.
4. A copy of the child care center license shall be submitted to the Department of Planning and Zoning upon receipt from the Indiana Family and Social Services Administration.
5. If the day care ceases to operate for more than one (1) year, or the license is revoked, the Use Variance becomes null and void.
6. Any violation of the terms of this Use Variance as determined by the City Zoning Administrator shall render the Use Variance invalid.
7. The maximum number of children will be determined by the State's Child/Staff Ratio.

8. A renewal for the use variance will need to be submitted is for two (2) years and shall be reviewed as a staff item by the Board of Zoning Appeals by November 9, 2027.

Trotter says 20 letters were mailed with 0 returned.

Evanega Rieckhoff asks if the petitioner and associated parties are familiar with the conditions, as laid out by staff. She states they're all standard conditions for all daycares, except for number one. Number one will be rewritten in the parenthetical area to say, "area south of the building shall be fenced." Piraccini confirms that they have read and understand the conditions.

Evanega Rieckhoff asks if there are questions from the Board for staff, hearing none she calls for a motion.

Mulvaney makes a motion to approve 25-UV-11 and adopt the petitioner's documents and presentation, together with the Staff's finding of fact, as the Board's findings of fact in the present petition and adopt all conditions listed in the staff report; Second by Lawson.

Mulvaney – Yes

Lawson – Yes

Evanega Rieckhoff – Yes

Motion carries.

25-UV-13 PETITIONER IS SANDRA SCHREIBER, ELKHART CITY REDEVELOPMENT COMMISSION PROPERTY IS LOCATED AT VL 100 BL. FREIGHT STREET

Anthony-Petter presents in conjunction with following case.

Request is to vary from Section 15.2.Q, Permitted Uses in the CBD, Central Business District to allow for residential dwelling units on the first floor of the mixed use commercial buildings.

Evanega Rieckhoff calls the petitioner forward.

Mike Huber, Director of Developmental Services for the City of Elkhart and representing Sandra Schreiber and the Redevelopment Commission, appears in person. Huber states his comments apply for both 25-UV-13 and 25-UV-14. In 2023 and 2024, the City assembled multiple parcels along Freight Street and South Main Street, demolishing some buildings there, in the hopes of redeveloping those properties. They put them out for an RFP and the developer Garrison Frazier submitted an RFP for both projects. Their intent is to invest \$50 million to create new mixed-use development projects at both of the locations, two separate projects totaling about 210-215 new housing units. Huber states that this is the first significant investment in this corridor and this part of the city in some time, following on the heels of the Benham Neighborhood planning process that was led by the Chamber and the City. It incorporated many of the objectives and design guidelines that were identified in the plan. One of the issues, which will be addressed in the upcoming new UDO, is that currently the proposed development calls for residential development on the first floor. There isn't the capacity to have that much new commercial development on that entire stretch of Main Street and both those projects. Current zoning ordinance does not permit residential on the first floor, so that is the purpose of these variances. The developer does have a representative present to speak and answer any questions.

Jonah Butler, 520 E Washington St, Indianapolis, representative from Garrison Frazier and Milhaus, appears in person. They are the co-developers that received the RFP award to fulfill the City's vision for the South Main Street and Freight Street parcels. Butler states that Mike covered most of what he wanted to talk about, but did want to add that they are very excited about this project and he is able to answer any questions. When they were looking at how best to achieve the City's vision for revitalization of the South Main Street corridors and redevelopment of their city-owned parcels, they realized that having ground-floor residential units made the most sense in various places, as well as offering mixed-use and a public plaza as part of this development. They're excited, and Butler thanks the Board.

Evanega Rieckhoff asks for questions from the Board for both 25-UV-13 or 25-UV-14.

Mulvaney asks if Freight Street will be a walking arcade with no parking or driving.

Huber responds that they haven't gotten to the complete design for that, but it's likely there will be the ability for some vehicular traffic. The intent is to make it feel as pedestrian-friendly as they can. There will be some parking and access to the residential development from Freight Street, as well.

Mulvaney states that they're surrounding Bowly's on three sides, and asks where their parking will be. Huber states they're incorporating parking for all of the potential retail and businesses.

Evanega Rieckhoff clarifies there will be enough parking for the apartments and the businesses. Huber confirms. She asks if the first floor apartments, being so close to the sidewalk, will be safe.

Huber states that yes, and they'll be very similar to the new Ivy Road development in the River District which are also first floor on the sidewalk on Jackson Boulevard. He states that these will model that in some ways. Evanega Rieckhoff asks if there will be a buffer, and Huber confirms.

Evanega Rieckhoff opens for public comments to speak in favor.

Nekeisha Alayna Alexis of 1052 South Second Street appears in person. Alexis states that they have been following this project very closely and is also a resident of the Benham East Neighborhood. Alexis states that it is a welcome addition to that part of town, and is very excited that the city is committed to not only housing, but shared housing all across the city, citing the need for housing and apartments in that area. Being a New Yorker, they assure the Board that first floor apartments are safe and there are ways to make sure there is some comfort between residents and people passing by. Alexis is a strong advocate of affordable housing and has an understanding that Garrison supports affordability, and hopes they are factoring that into the planning. *[Interference from staff fixing mic issues.]* Alexis also appreciates that Kelby Love's mural will be honored as part of this project, as it was a big loss but this will be a big gain, and it is their understanding that Kelby's mother, Glenda Love, is also in favor. Alexis asks the Board to hold them to the affordability part.

Evanega Rieckhoff asks Mike Huber if the apartments will be for the middle area the City needs so badly. Huber confirms that is his understanding, and the development was presented as a marker aid development, much like was seen at the County Road 17 with the Holliday project out there, the Flats at Pine Creek, this is likely targeting more of a workforce-attainable housing rent rate.

Evanega Rieckhoff states that the Board will hold them to that.

Evanega Rieckhoff opens for opposition. Hearing none, she closes the public portion of the meeting and calls staff forward to present both 25-UV-13 and 25-UV-14.

STAFF ANALYSIS

Anthony-Petter and Trotter present.

The petitioner is requesting a use variance to allow the property at Freight Street and South Main Street to build residential dwelling units on the first floor of a multi-family residential dwelling unit. To vary from Section 15.2.Q, Permitted Uses in the CBD, Central Business District to allow for residential dwelling units on the first floor of the mixed-use commercial buildings.



In 2024, The Elkhart Restoration, Regeneration and Reconnection of the Benham Neighborhood Master Plan was finalized after a 12 month process to identify successful places within the city's fabric, note opportunities to continue current growth and activity, provide specific strategies to celebrate and expand upon the best parts of Benham. The master plan looks to activate the public realm at street level, making it easier and safer to walk in the neighborhood while defining public gathering places.

The figure to the left is a snapshot of the east end of the Benham Master Plan area that incorporates both use variance cases before the Board of Zoning Appeals this evening. Specifically, it depicts the massing of existing and proposed infill structures within the neighborhood with the goal of reactivating the streets and public areas.

The Development Services team has been working with Garrison Frazier as the Benham Neighborhood Master Plan was being developed in 2023 and 2024. In July 2024, Garrison Frazier responded to a Request for Proposal (RFP) put out by the Elkhart Redevelopment Commission with the goal and purpose to transform the southern gateway to downtown Elkhart. That area included the Freight Street neighborhood. The RFP submittal was to support and follow the elements found in the Benham Plan.

The project, referred to as the Freight Street District, will have two (2) buildings with 144 dwelling units and over 9,000 square feet of retail and amenity spaces. The first building facing South Main Street will be four (4) stories and have 3,300 square feet of leasable retail space. The second building facing Freight Street will also be four (4) floors with 104 residential units with 2,000 square feet of amenity space.

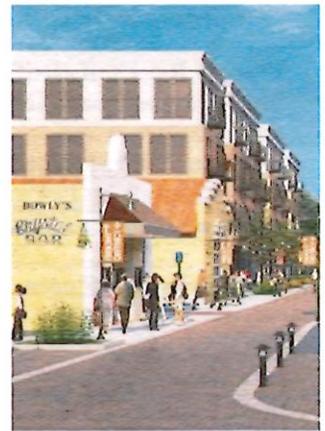
The Freight Street District will highlight existing community assets like the brick streets, the National New York Central Railroad Museum and the neighborhood Bowly's Crystal Bar. Historically the buildings that were constructed along South Main were cited close to or at the front property line – this redevelopment project is in keeping with the historic development pattern along South Main Street.

The request comes to us as the petitioner is looking to build one multi-family building with residential on the first floor and a second building with commercial space and residential on the first floor fronting South Main Street.

The City of Elkhart is in the process of updating its zoning ordinance, including new uses allowed in Central Business District. The requested use is consistent with proposed regulations found in the anticipated UDO.

Trotter states that as it relates to the other request, the differential with this project, 25-UV-14, referred to as the South Main Mixed-Use Development, will have one (1) mixed-use building with 81 dwelling units and over 15,150 square feet of retail and amenity spaces. The building facing South Main Street will be four (4) stories and have 3,300 square feet of leasable retail space.

[Separate Staff Report, Recommendations, case-specific questions, and the motion for 25-UV-14 follow this case.]



STAFF RECOMMENDATION

Anthony-Petter continues.

The Staff recommends approval of the use variance based on the following findings of fact:

1. The approval **will not** be injurious to the public health, safety, morals, or general welfare of the community because the building will be built per all applicable building codes;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner because the proposed development activates vacant land and is in keeping with the Benham Neighborhood Plan;
3. Granting the variance **would be** consistent with the intent and purpose of this Ordinance because a small measure of relief when uniquely warranted;
4. Special conditions and circumstances **do exist** which are particular to the land involved and which are not applicable to other lands or structures in the same district because without board action the building proposed with residential on the first floor would not be permitted;
5. The strict application of the terms of this Ordinance **will not** result in practical difficulties in the use of the property because developing a permitted CBD use would not provide the activation of the street and not be in keeping with the Benham Plan;
6. The special conditions and circumstances **do not** result from any action or inaction by the applicant, as the project is being developed in keeping with the Benham Neighborhood Plan;
7. This property **does not** lie within a designated flood hazard area.

Anthony-Petter states 36 letters were sent with none returned.

Evanega Rieckhoff asks if there are questions from the Board for staff.

Lawson asks about the timing of the project. Staff directs the question to Mike Huber.

Huber states that they do have timing, the City has a number of approvals that need to be initiated and completed in order to provide the incentives being provided to the developer. One being the receipt of state incentive dollars through the Lilly Endowment initiative. The developer is negotiating with the IEDC, and they expect that contract to be signed in December. There is a meeting the following day to create and finalize their approvals calendar. The developer hopes to break ground in September of 2026.

Lawson asks if there is an official name for the neighborhood, and whether there will be a gateway or signage announcing the neighborhoods similar to the River District.

Huber is unsure, since it falls within the Benham Neighborhood, if they will rename the whole area, but does know the developer's intent along Freight Street is to rename it the Freight Street District. It is unsure if the South Main Street at the gateway of Prairie and Main Street area would also fall into or be branded as the Freight Street District or not. There is a significant public plaza green space being proposed as part of the South Main Street development, at the corner of Prairie and Main, that will be named Love Plaza in honor of Kelby Love. There will be a 3D replication of the original mural. There's a lot of great care being taken in providing elements of public art and making the entry and gateway into the community special. The buildings they have branded "South Main Street" and "Freight Street District" have not necessarily been renamed these things.

Evanega Rieckhoff asks if they've talked with anyone about branding. She states that Dave Weaver did a lot with an advertising agency on branding, and she is unsure if it's something they are doing.

Huber does not believe it's happening yet, maybe with Freight Street District, but is unsure how it applies to South Main Street yet, but said it might be a question for the developer's representative.

Lawson states that these neighborhoods bordering the central business district deserve to be special. Huber agrees.

Butler states that it's a little early in the process to flesh out the marketing schemes and exact names of the community, stating that Milhaus and Garrison have strict naming conventions for their developments, but it will be announced when the time comes.

Lawson states that it's an important thing for the City and neighborhoods, that people that live there want to be proud of where they live and be recognized when they're mentioned. Lawson states they are so excited, that it's a wonderful addition, and asks that the developer takes extra steps to think of working with the community and come up with a name and gateway enhancement there so it looks like you're going into a special place. Butler states they understand.

Evanega Rieckhoff calls for a motion.

Mulvaney makes a motion to approve 25-UV-13 and adopt the petitioner's documents and presentation, together with the Staff's finding of fact, as the Board's findings of fact in the present petition; Second by Lawson.

Mulvaney – Yes

Lawson – Yes

Evanega Rieckhoff – Yes

Motion carries.

**25-UV-14 PETITIONER IS SANDRA SCHREIBER, ELKHART CITY REDEVELOPMENT COMMISSION
PROPERTY IS LOCATED AT VL 1000 BL. S MAIN ST**

Trotter presented with previous case.

The request is to vary from Section 15.2.Q, Permitted Uses in the CBD, Central Business District to allow for residential dwelling units on the first floor of the rear buildings.

STAFF ANALYSIS

The petitioner is requesting a use variance to allow the property at South Main Street to build residential dwelling units on the first floor of the rear residential buildings. To vary from Section 15.2.Q, Permitted Uses in the CBD, Central Business District to allow for residential dwelling units on the first floor of the rear buildings.

In 2024, The Elkhart Restoration, Regeneration and Reconnection of the Benham Neighborhood Master Plan was finalized after a 12-month process to identify successful places within the city's fabric, note opportunities to continue current growth and activity, provide specific strategies to celebrate and expand upon the best parts of Benham. The master plan looks to activate the public realm at street level, making it easier and safer to walk in the neighborhood while defining public gathering places.



The figure to the left is a snapshot of the east end of the Benham Master Plan area that incorporates both use variance cases before the Board of Zoning Appeals this evening. Specifically, it depicts the massing of existing and proposed infill structures within the neighborhood with the goal of reactivating the streets and public areas.

The Development Services team has been working with Garrison Frazier as the Benham Neighborhood Master Plan was being developed in 2023 and 2024. In May 2024, Garrison Frazier responded to a Request for Proposal (RFP) put out by the Elkhart Redevelopment Commission with the goal and purpose to transform the southern gateway to downtown Elkhart. That area included the South Main Street neighborhood. The RFP submittal was to support and follow the elements found in the Benham Plan.

The project, referred to as the South Main Mixed-Use Development, will have one (1) mixed-use building with 81 dwelling units and over 15,150 square feet of retail and amenity spaces. The

building facing South Main Street will be four (4) stories and have 3,300 square feet of leasable retail space. The South Main Mixed-Use Development will highlight community assets like the re-imaged Kelby Love mural as the centerpiece of the Love Plaza to be located near the intersection of Prairie and South Main Street. This mural will serve as a focal point for the project as identified in the Benham Neighborhood Plan to act as a gateway from downtown Elkhart to the Benham neighborhood. Historically the buildings that were constructed along South Main were cited close to or at the front property line – this redevelopment project is in keeping with the historic development pattern along South Main Street.



The City of Elkhart is in the process of updating its zoning ordinance, including new uses allowed in Central Business District. The requested use is consistent with proposed regulations found in the anticipated UDO. As the allowed residential use will be expanded to include more types previous not listed.

STAFF RECOMMENDATION

The Staff recommends approval of the use variance based on the following findings of fact:

1. The approval **will not** be injurious to the public health, safety, morals, or general welfare of the community because the building will be built per all applicable building codes;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner because the proposed development activates vacant land and is in keeping with the Benham Neighborhood Plan;
3. Granting the variance **would be** consistent with the intent and purpose of this Ordinance because a small measure of relief when uniquely warranted;
4. Special conditions and circumstances **do exist** which are particular to the land involved and which are not applicable to other lands or structures in the same district because without board action main floor residential units on this parcel would not be permitted;
5. The strict application of the terms of this Ordinance **will not*** result in practical difficulties in the use of the property because without the requested use variance, the project would not be in keeping with the Benham neighborhood plan; [**Amended by staff during meeting.*]
6. The special conditions and circumstances **do not** result from any action or inaction by the applicant, because the construction has not started and the project is being developed in keeping with the Benham Neighborhood Plan;

7. This property **does not** lie within a designated flood hazard area.

Trotter states that 74 letters mailed with 1 returned, not in favor.

Evanega Rieckhoff asks about a discrepancy on Staff Recommendation number five – whether it is **will** or **will not**. Trotter states that it was a typo he will correct on record, and should be **will not** result.

Evanega Rieckhoff calls for a motion.

Mulvaney makes a motion to approve 25-UV-14 and adopt the petitioner's documents and presentation, together with the Staff's finding of fact, as the Board's findings of fact in the present petition; Second by Lawson.

Mulvaney – Yes

Lawson – Yes

Evanega Rieckhoff – Yes

Motion carries.

STAFF ITEMS

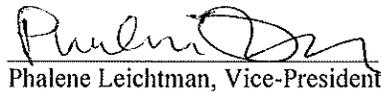
Trotter states that scheduling for training will happen in the next week or so. The Board needs to watch their emails, so a time can be found that works for everyone.

Evanega Rieckhoff asks if it will be after Thanksgiving, Trotter confirms.

ADJOURNMENT

Mulvaney makes motion to adjourn; Second by Lawson. All are in favor and meeting is adjourned.


Janet Evanega Rieckhoff, President


Phalene Leichtman, Vice-President