

BOARD OF ZONING APPEALS
-MINUTES-

Thursday, December 11, 2025 - Commenced at 6:00 P.M. & adjourned at 7:14 P.M.
City Council Chambers – Municipal Building

MEMBERS PRESENT

Doug Mulvaney
Janet Evanega Rieckhoff
Phalene Leichtman

MEMBERS ABSENT

None

REPRESENTING THE PLANNING DEPARTMENT

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

LEGAL DEPARTMENT

Kevin Davis

RECORDING SECRETARY

Raen Levendoski

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES FOR OCTOBER 9, 2025

Evanega Rieckhoff states that there's a small change to the October 9th minutes – an addition of “via webex.”
Mulvaney makes motion to approve; Second by Leichtman. Voice vote carries.

APPROVAL OF MINUTES FOR NOVEMBER 13, 2025

Tabled until January 8, 2026.

APPROVAL OF PROOFS OF PUBLICATION

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

APPROVAL OF 2026 BOARD OF ZONING APPEALS CALENDAR

Eric Trotter states that the calendar is the same, the rhythm of the meetings are the same – the file by date and meeting date are approximately 5 weeks apart.

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

OPENING STATEMENT

Welcome to the December 11, 2025 meeting of the Elkhart City Board of Zoning Appeals. 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. Alternatives: 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. Forms are provided for this purpose and are available tonight. 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. We don't have any proxies tonight.

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-UV-12 PETITIONER IS JFS REAL ESTATE HOLDING, LLC, M.A. SPITE PROPERTY IS LOCATED AT 1010 N MAIN ST

Trotter states that this case will remain tabled.

NEW BUSINESS

25-BZA-25 PETITIONER IS GOGO REAL ESTATE/MOUNT NORTH CAPITAL PROPERTY IS LOCATED AT 112 S SECOND ST

Kyle Anthony-Petter presents. The request is to vary from Section 26.10 Sign Regulations, Table 1 Maximum Sign Area, to allow a new integrated message board that is limited to 50% of the area of the principal sign that is 9.875 square feet. The maximum area of the message center is limited to 4.93 square feet where the proposed LED message board is proposed to be 14.895 square feet, a variance of 9.9575 square feet.

Evanega Rieckhoff calls the petitioner forward.

Richard Smith, representative of Brad Norman of the 112 Club, appears in person. They would like to move forward with the digital sign, which occupies the same footprint as the previous sign. It gives a larger margin of safety – it can be changed from a laptop inside of a building, doesn't have loose letters and things blowing in the wind into the road. It enhances the look of the property and provides communication for the community that is going to use the space.

Evanega Rieckhoff asks for questions from the Board.

Mulvaney asks if they are aware of the conditions that staff has recommended, which are consistent with the new regulations for LED signs. Smith confirms.

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

STAFF ANALYSIS

The petitioner is requesting a Developmental Variance to vary from the requirements found in Section 26.10.D – Table 1: Maximum Sign Area in Square Feet (SF), to allow for the installation of an EMC sign and increase the allowable space for signage.

The subject property is occupied by the Elkhart 112 Club and is requesting a proposed EMC sign to showcase current programs and events at the building for the public.

The request comes to us based on a complaint and an investigation by zoning staff starting in 2025, that observed a new sign at the location after the previous changeable message board sign was altered with a new electronic sign. The sign contractor installed the sign without first obtaining a permit. Because no permit was sought prior to installation, this action prevented staff from reviewing the signage requirements for the project and alerting them of the need for the variance.

Staff recommends approval of the requested variances subject to the recommended conditions that have been placed on other Electronic Message Center signs (EMC) by the Board of Zoning Appeals approvals.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental variance to vary from the requirement found in Section 26.10.D – Table 1: Maximum Sign Area in Square Feet (SF), 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 conversion to a digital (LED) face will not be injurious so long as the recommended conditions are required and met;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner because the conversion to a digital (LED) face, if property dimmed, can result in less light trespass onto adjacent properties;
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 as the sign is preexisting and without board action the replacement would not be a legal sign;
5. The strict application of the terms of this Ordinance **will not** result in practical difficulties in the use of the property because the current sign is non-conforming and without board action the replacement is not possible;
6. The special conditions and circumstances **does** result from an action or inaction by the applicant;
7. This property **does not** lie within a designated flood hazard area.

CONDITIONS

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

1. Movement, including video, flashing, and scrolling, is prohibited.
2. Message sequencing, where content on one message is related to content on the next message, is prohibited.
3. The minimum time duration of each message shall be 20 seconds.
4. The sign must be equipped with a sensor and programmed to automatically dim in response to changes in ambient light.
5. The maximum brightness shall not exceed three-tenths (0.3) foot candles over ambient light levels.
6. Light trespass shall not exceed one-tenth (0.1) foot candles as measured at the property line.
7. The sign must either stay fixed on one message or go blank if there is a malfunction that would not permit the sign meeting the above conditions.
8. No sign message may depict, or closely approximate, official traffic control signage.

Anthony-Petter states there were 28 letters mailed with none returned.

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

Evanega Rieckhoff calls for a motion.

Leichtman makes a motion to approve 25-BZA-25 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 Mulvaney.

Mulvaney – Yes

Leichtman – Yes

Evanega Rieckhoff – Yes

Motion carries.

25-UV-15 PETITIONER IS WILLIAM LEE/LEE HOLDINGS LLC

PROPERTY IS LOCATED AT 117 W JACKSON BLVD

Trotter presents. The request is to vary from Section 15.2.Q, Permitted Uses in the Central Business District, specifically to allow residential uses on the first floor of building where multifamily and residential located above a commercial use is required.

Evanega Rieckhoff calls the petitioner forward.

Tuma Underwood, 1719 Boardwalk in Elkhart, appears in person. Underwood states that they purchased to old Crimaldi's building, the downstairs was at one time a restaurant. They cleaned it up and renovated it, and want to turn it into two residential suites. It was put on the market for retail/rental with Endeavour and have received no interest. They're trying to move in a different direction and understand there's a housing crisis, so they would like to turn it into residential suites.

Evanega Rieckhoff states the only questions she has is regarding parking spaces - aware of parking on the side and knows there are also place up above. How many apartments are there total, and how many parking spaces do they have?

Underwood states that the two upstairs are both one bedroom apartments, but they could hold two. They have two girls in one of the apartments, and one gentleman in the other. Three spots are taken. Both downstairs could hold two but will be one-bedrooms, as well. There are eight spots, since they have the concrete pad behind the building and parking on the side.

Evanega Rieckhoff asks if that's enough – a space-and-a-half for every [trails off]. Underwood nods, and states that the spots run 7-9', but the parking spaces in the back are 9' apart.

Evanega Rieckhoff asks for questions from the Board.

Leichtman asks if there are four total apartments in the building. Underwood confirms.

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

STAFF ANALYSIS

The petitioner is requesting a use variance to allow the property at West Jackson Boulevard and South 2nd Street to allow residential dwelling units on the first floor of an existing mixed-use building. 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 a mixed-use commercial building.

The request comes to us as the petitioner is looking to build residential units on the first floor of an existing commercial building which has residential space on the second floor currently. The new residential unit will be on the first floor to front West Jackson Boulevard.

Based on assessor records, the building was built around 1860 over two levels with about 2440 square feet on the first floor and 2440 square feet on the second floor. Over the last several decades the site had been known as Crimaldi's Restaurant and Lounge which closed in November 2023. The building was then renovated with the intent of renting out the lower half for retail or as commercial space. Over the last six months of having the space available for rent, little interest has occurred for potential retail or commercial space.

Staff conducted a site visit of 117 West Jackson Blvd with the property owner on October 21, 2025 to discuss the conversion of the first floor to residential. The building has been recently remodeled and the interior updated. It was during this meeting that staff made the property owner aware that a project to convert to residential would require a use variance.

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.

This request will allow the property to be redeveloped and continue to chip away at the shortage of housing in our community and downtown as outlined in the Zimmerman Volk Housing study. The city needs housing at every level, and this request helps the city in supporting redevelopment of downtown buildings.

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 remodel 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 buildings and is in keeping with the Downtown 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** result in practical difficulties in the use of the property because a viable downtown structure would remain vacant and not developing a permitted CBD use would not provide the activation of the street and not be in keeping with the Downtown Neighborhood 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 Downtown Neighborhood Plan;
7. This property **does not** lie within a designated flood hazard area.

Trotter say 22 letters were mailed with none returned.

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

Mulvaney makes a motion to approve 25-UV-15 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 Leichtman.

Mulvaney – Yes
Leichtman – Yes
Evanega Rieckhoff – Yes

Motion carries.

25-BZA-26 PETITIONER IS RB REALTY LLC
PROPERTY IS LOCATED AT 2432 BYPASS RD

Anthony-Petter presents. The request is to vary from the list of Prohibited Signs found in Section 26.10.B.6, Roof Mounted Signs, to allow for a roof mounted sign that is 90 square feet in area.

Evanega Rieckhoff calls the petitioner forward.

Todd Lehman of Signtech Sign Services, 1508 Bashor Rd in Goshen, appears in person. States he was originally contacted by Dr. Roger Pecina originally about this project, who is working with Dr. Richard Boling, who owns the property. They both would really like to put a classic 50s style diner in this location. They found a closed 50s diner in New York, where they're acquiring all the interiors, and part of the package was this sign that had been mounted to the roof.

Mulvaney asks if it's the original sign.

Lehman confirms and states that what they'd like to do is relocate all this to Elkhart, re-open this diner, and name it the Eddie's Drive In that it was originally in New York.

Evanega Rieckhoff ask if it's going to be a drive-in or diner.

Lehman states that it all depends on whether they get to do this. If they can't get the sign on the roof, they will walk away from some of the aspects they've been leaning towards – it all revolves around whether a variance is granted for the sign to go on the roof.

Evanega Rieckhoff asks for questions from the Board.

Mulvaney wants to make sure the carhops are on roller skates.

Lehman states that it is a stainless steel neon sign, which isn't seen any more, so it would be really cool to see it saved. There will probably be a lot of stainless steel inside, as well, because that's what they did in the day.

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

STAFF ANALYSIS

The petitioner is requesting a Developmental Variance to vary from the list of Prohibited Signs found in Section 26.10.B.6, Roof Mounted Signs, to allow for a roof mounted sign that is 90 square feet in area.

The subject property is proposed to be used for a retro vintage Drive-in diner restaurant due to style of the building built in 1966. Over the last several decades the site has been known as Putnam's VW dealership before becoming Gurley Leep. Both businesses used the large windows along the front for signage. But no verification of a previous roof mounted signage can be confirmed.

The petitioner reached out to staff doing the necessary due diligence in order to determine the signage that would be allowed at the site on September 10, 2025. The petitioner was made aware at that time that Board action would be required to install a roof mounted sign.

The sign ordinance is written to permit wall signage to a max of 40% coverage. The placement requirement for a wall sign is that it does not extend above the wall to which it is attached, and such signs shall be set back from the ends of the building or party wall lines a minimum distance of one (1) foot.

Staff would typically not support this type of request as these types of signs are prohibited in all districts.

Due to the design of the building with the walls being made of glass makes installing wall signage difficult without hanging over or requiring further variances to place a sign.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental variance to vary from Section 26.10.B.6, Roof Mounted Signs, to allow for a roof mounted sign that is 90 square feet in area 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 signage will be 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 the uses in the area are commercial and industrial uses;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because a measure of relief is allowed when warranted;
4. Special conditions and circumstances do exist which are peculiar to the land involved and which are not applicable to other lands or structures in the same district because due to the unique style of the building and without board action a roof mounted sign would not be permitted;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because due to the design of the building placement of signage along the front would be difficult to meet the requirements for signage in the city;
6. The special conditions and circumstances do not result from an action or inaction by the applicant because the building is existing;
7. This property does not lie within a designated flood hazard area.

Anthony-Petters states seven letters were mailed with none returned.

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

Evanega Rieckhoff calls for a motion.

Leichtman makes a motion to approve 25-BZA-26 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 Mulvaney.

Mulvaney – Yes

Leichtman – Yes

Evanega Rieckhoff – Yes

Motion carries.

25-BZA-27 PETITIONER IS HEARTLAND RECREATIONAL VEHICLES, LCC

PROPERTY IS LOCATED AT 2831 DEXTER DR

Trotter presents. The request is to vary from Section 13.2.T, which permits the 'Outside storage of liquids or gases in one or more tanks, where the total volume of the tank(s) does not exceed 2,000 gallons to allow for two (2) 11,000-gallon fuel tanks, a variance of 20,000 gallons.

To also vary from Section 26.7.C.7.b which requires 'All parking areas and drives from commercial, manufacturing, institutional and residential uses shall be paved with concrete, asphalt or decorative concrete, brick or asphalt pavers to allow for gravel around the maintenance facility.'

To also vary from Section 13.2.F which permits 'Contractors' Offices and shop with no on-site fabrication or outside storage' to allow for outside storage of equipment.

To also vary from Section 26.4.B, Fences in Residential and Business Districts which states in part 'In a corner lot no fence, wall or vegetation exceeding four (4) feet in height or a fence, wall or vegetation that is opaque may be placed, built, or installed: 1. In the required side yard adjacent to the street; or 2. In any portion of the rear yard lying closer to said street than the point of the principal building nearest said street' to allow for a non-conforming six (6) foot chain link with barbed wire to be expanded along the Wade Drive frontage in the rear yard closer to street than principal building.

To also vary from Section 26.4.A.1, Fence Requirements, General Provisions which states that 'No fence or wall shall be constructed of or contain barbed wire, broken glass, spikes or sharp and dangerous objects nor be electrically charged, except in manufacturing districts where barbed wire may be used at the top portion of a permitted fence or wall if located more than seven (7) feet above the adjacent ground level. Such permitted barbed wire shall be considered part of a fence and subject to the fence height restrictions to allow for the above mentioned chain link fence with barbed wire to be expanded in the rear yard along Wade Drive.'

Evanega Rieckhoff states that what the Board will do is have the petitioner come up and speak to all of the variances, have staff read the Staff Report for all of them, then vote individually on each variance.

Evanega Rieckhoff calls the petitioner forward.

Thad Bessinger, 53767 County Rd 9 in Elkhart, appears in person. First, around the shop they would like to construct, they want to put gravel. It would tie-in to both the asphalt parking lot around the office and the asphalt parking lot on the other side of the shop. The reason for that is, when they unload the tracked equipment, it destroys the concrete and asphalt, chews it up. It would give them a place to not constantly destroy, that they could keep maintained.

Bessinger states that the fence that is around the perimeter is existing and already at the height they want to maintain, they just would like to fix it up. There is one section out by Wade Drive that is on city property, they spoke with Eric about, that needs to be moved back to the proper property. They like the idea of putting barbed wire because they've had break-ins, and people vandalizing equipment or get hurt on equipment, so it's a protective measure to try to protect the equipment.

Bessinger states that the other one was the tanks. What they do is the equipment comes for storage, then it goes into the shop to be worked on, then it gets fueled up. They go through quite a bit of fuel a month. The advantage with that is that rather than having to load the equipment up and run it across city streets to another location to get it fueled up, then take it to a different location across the city, it saves on fuel, the environment, and damage to city roads. They can just take care of it all at one location, because it has to come back and be serviced and maintained at that one site.

Evanega Rieckhoff checks to make sure that covered all the variances, the outside storage is the only variance not covered.

Bessinger states that the equipment they bring in, they want to be able to park the equipment outside until it can be brought into the shop to be worked on, then it would go back out to be parked. It's typically the area where they park their trucks and trailers. What they're doing is moving their location into the city.

Evanega Rieckhoff asks for questions from the Board.

Mulvaney asks how many pieces of equipment they anticipate storing outside. Bessinger states that it will depend on what needs to be repaired or not. They have a lot of equipment, but winters are typically more than summer, since in the summer they're all out working. There could be 6-8 pieces of equipment in the back yard, then trailers. They'll keep at least as many (8-10) trailers, it just depends. A lot of them will leave and not come back.

Mulvaney asks if most of it goes out to the worksite. Bessinger confirms, and says it's really hard to measure since it varies.

Mulvaney asks if the large parking lot that was being used to store RVs is where they'll store – Bessinger confirms that that's where they'll store the trailers and trucks. He also states a lot of the bigger equipment would be in the gravel lot on the back side, which is where that and the storage tank, between where they want to keep a little buffer of trees and a new building. Bessinger states that eventually they'll talk to the city about putting a lean-to to keep some of the equipment, but that's not a part of this petition.

Mulvaney asks if they anticipate removing any more trees in the area. Bessinger says they would like not to, and that they want to leave the rectangular area of trees.

Leichtman asks if they are aware of the conditions about moving the fence. Bessinger confirms and states that that will probably come down when they take the trees down.

Evanega Rieckhoff opens for public comments to speak in favor.

Ryan White with Pinnacle Properties, 4189 Main St, a commercial real estate broker for the last 22 years, appears in person. States that this transaction is contingent on getting this variance. His company has been tasked with selling the Heartland Campus for Thor Industries. They've had good activity and been very successful with selling the manufacturing facilities, which all sold within a matter of months. This office building, which is the former Heartland Corporate Headquarters, is a beautiful office building and has had very little activity.

Evanega Rieckhoff states it was formerly Coachman.

White confirms, and says then it was Heartland, who redid it, and it's one of the best office buildings they've seen in the area. Nationally and regionally, the office market is really bad. They don't get a lot of users like C&E looking for that much office space. They're thrilled someone from Elkhart, that wants to stay in Elkhart is looking at the property, looking to keep the jobs here in the state let alone in Elkhart. Speaking to the technical things they're looking for, that whole park has barbed wire fence throughout, and there are tanks like that throughout. He understands the zoning is different here from the M-1 zoning, but it goes with the rest of what's in that area there. It'd be great to see C&E move in there, and it'd be a great win for Elkhart.

Evanega Rieckhoff opens for opposition.

Beth Van Galen, 1334 County Rd 6 West, appears via WebEx, but there were technical difficulties – WebEx users could not be heard in the Council Chambers, but could be heard on the recording.

Evanega Rieckhoff ask if Beth is looking to speak in opposition, and Val Galen confirms [unheard by council]. Evanega Rieckhoff asks if she is muted, and she states that she is unmuted. Evanega Rieckhoff states that they still cannot hear Van Galen, and asks if IT can unmute her. IT explains [unintelligible, off mic] that it is an issue with the wiring in the room that they are trying to fix but that will not be fixed immediately.

Evanega Rieckhoff asks if a phone number can be provided for Van Galen to call in, and asks for a thumbs up if that is okay. Van Galen gives a thumbs-up on video.

Ryan White provides his phone number for her to call in. Van Galen disconnects from WebEx in order to call in. There are a few moments of waiting before the call comes through. White puts Van Galen on speakerphone.

Beth Van Galen appears via phone. Van Galen states they just bought the house on the other side about a year ago, and asks if the tree frontage will stay in the back of the building. Evanega Rieckhoff states that yes, it is. Van Galen states that last year a lot of trees were taken out by the really horrendous storm, and it did take out a major part of the fence. When Heartland was confronted about the fence, they refused to take care of it. Van Galen states that that is a concern for the, because they do not want the trees taken down or the gas tanks sitting back there. They do not want that to be the way they take care of the property.

Evanega Rieckhoff asks Bessinger to come speak to Van Galen's concerns.

Bessinger states that a lot of the trees will come down per their plan. He states that in front of the asphalt lot there are nicer trees and a green space that will end up with a 20ft buffer they plan to put trees in. Bessinger states that the trees that are currently there do not look nice, with trees and limb down, and parts of the fence down. Their intent is to fix the fence and they talked about putting slatting in it to give more privacy. They do plan to clean it up and maintain it, and the tanks would be removed to make room for more storage area. The green section on drawing shows that everything along the office would stay as trees.

Van Galen asks if there will be trees that separate between the manufacturing and housing. Bessinger states that there will be some, then asks if she can see the asphalt lot and trees that are there where they stored the RVs. Van Galen says no, they can't, but they can see the lot where the RVs were, but not so much in the summer time. She states that they're in front of the corporate building and over a little more from that lot. Bessinger states that if they're straight in front of the corporate building, those trees will stay and the first 50-75ft of the tree line will stay, kind of where the tower is, then all the rest of the trees will come out to the fence, then they will fix the fence and clean that area up, then plant trees along the residential area to try and shield. They also talked about putting in the green slats in the fence.

Van Galen states concern about reselling the property with manufacturing right behind their house. Bessinger states that they're not a manufacturing company. He states it's like the rental that's approved but a little bigger, with bigger construction equipment.

Van Galen asks if the tanks will be sitting outside with fuel in them. Bessinger states that it would be diesel fuel, closer to the office and should be hidden by the trees – between the new building they're going to build, and the office and the trees. In that area, more on the North side of the site, in a secondary containment, so that if something happens it would hold it. He states it's diesel fuel, which is a little safer than [unintelligible].

Van Galen talks about an explosion that happened at a carpenter company that has her concerned.

Bessinger states she won't have to worry about an explosion. States that North of there is a brownfield where they run the city water in the area, so city water is available.

Van Galen asks when they will start this. Bessinger responds that they talked about doing tree clearing soon, but as far as the

building it would be later in the summer would be the earliest they could start anything on that. They would mostly just occupy the office, since they're out of office space, which is why this property fit for them.

Evanega Rieckhoff asks if Van Galen has any other questions. Van Galen says yes, but she knows she's a little fish and feels like they're going to lose here. Bessinger states they pride themselves not only on taking care of their customers, but also want to be good neighbors. States they are welcome to reach out to them if they have concerns or need help, or at some point – Bessinger asks if they are on city water. Van Galen states that was another concern because they have a well. Bessinger states that they know they had the Phase 1 and Phase 2 done, and some of that brownfield spilled into the corner of our property, so that was one of our concerns with this property we want to buy. It might be worth looking at city water while you're there, but it's something we're willing to help you out as a neighbor, too, if there's an issue.

Van Galen asks for clarification on the brownfield. Bessinger said yes, it just got into the corner of Dexter and Wade. We were supposed to close in October, but because of what we found, we've done more exploratory... it hasn't been bad, but you know.

Van Galen says okay and yeah, because they are on a well, that is a concern. Bessinger states that they keep track of that and get inspected every year by the county, and now it'll be the city. We'll take good care of that. It'll be a double containment wall. We've been doing this for a long time, and it's diesel fuel, so...

Van Galen asks if they can ask questions at any time. Bessinger confirms.

Evanega Rieckhoff thanks Van Galen for calling in and apologizes for the technical glitch. White tells Van Galen she can call him at any time at his number. Bessinger also says she can contact C&E.

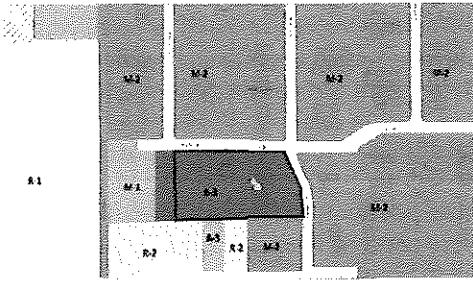
Levendoski asks Van Galen to state her name and address for the record.

Van Galen states that she sent a letter. Trotter replies that the letter has not been received yet, so asks for her name and address.

Evanega Rieckhoff calls staff forward.

STAFF ANALYSIS

The request comes to us from a request from a local company looking to relocate from Elkhart County to the City to expand into a new space that better meets their needs. This move to the city will require several developmental variances. The office building was the former headquarters for Coachman Industries.



Staff have preliminarily reviewed the submitted site plan. The overall project will be required to meet City of Elkhart standards for appropriate buffering and setbacks. That process begins with review at Tech Review for final approval and development from all reviewing bodies. The variances found in this request were based on the enclosed site plan.

The need for many of the variances in this request comes from the fact that the land contained in this petition is zoned commercially. That commercial zoning was intended to be a buffer zone between the manufacturing district to the north and the residential to the south.

The first variance; the petitioner is requesting a developmental variance so they can install two (2) 11,000 gallon above ground fuel tanks. The ordinance standard limits the size of a storage tank to 2,000 gallons, therefore the need for the developmental variance. The two tanks will consist of one for off road and one for on road fuel stored in a two-layer storage container to prevent leakage. The size of the fuel tanks is to ensure adequate storage of fuel is available at all times due to the large amount of fuel consumed by the petitioner's equipment.

The second variance; the petitioner is seeking relief for the paving requirements for commercial and industrial development to allow gravel around the maintenance facility when all parking areas and drives for all uses are to be paved with concrete, asphalt or decorative concrete, brick or asphalt pavers. Due to the nature of the wheels and weight of the construction equipment the use of pavement would become damaged quickly and would result in frequent replacement and the installation of gravel would reduce this cost of replacement.

The third variance; the petitioner is requesting relief for the prohibition of outdoor storage in the B zoning district. The petitioner will construct a contractors' office building to run daily operations. This is a permitted use. The petitioner is requesting an

allowance for storing equipment outdoors. Outdoor storage is necessary for this type of business where equipment for daily business operations will be stored and made available for year-round use.

The fourth variance; the petitioner is seeking relief from the height requirements in the rear yard. Along Wade Drive, a six (6) foot chain link with barbed wire fence, is requested to be placed in the rear yard closer to the street than the exiting building. This proposed fence will provide security and prevent people from accessing the site, out of harm's way and away from the equipment. The fence will expand the existing chain link with the barbed wire fence currently along Wade Drive.

The fifth and final request is related to the expansion of the above-mentioned fence to allow barbed wire at a height that is not more than seven (7) feet above the adjacent ground level. The petitioner is requesting that the fence have barbed wire that matches the existing fence when it is expanded around the site. The existing fence has barbed wire to secure the equipment and fuel, the petitioner would request that is be allowed to be included.

Additionally, the existing fence along Wade Drive is placed within the city right of way and was likely installed before 2013. No permits could be located for the fence. This fence within the public right of way and shall be required to be moved to just inside the property line. The body cannot approve and not endorse the expansion of an illegally installed fence – even if installation was unintentional. The existing fence and any new fencing will be required to be installed within the property line.

On January 13, 2022, the Board of Zoning Appeals approved a use variance for the western parcel included in this request for a recreational vehicle finished goods storage lot, case number 22-UV-01 - VL Wade Drive. This use variance will need to be revoked as the use requested is not consistent with the current development plan presented with this case. Staff will seek revocation should this request be granted.

STAFF RECOMMENDATION

The Staff recommends approval of the following developmental variances based on the following findings of fact;
To vary from Section 13.2.T, which permits the 'Outside storage of liquids or gases in one or more tanks, where the total volume of the tank(s) does not exceed 2,000 gallons to allow for two (2) 11,000-gallon fuel tanks, a variance of 20,000 gallons;
To also vary from Section 26.7.C.7.b which requires 'All parking areas and drives from commercial, manufacturing, institutional and residential uses shall be paved with concrete, asphalt or decorative concrete, brick or asphalt pavers to allow for gravel around the maintenance facility;
To also vary from Section 13.2.F which permits 'Contractors' Offices and shop with no on-site fabrication or outside storage' to allow for outside storage of equipment;
To also vary from Section 26.4.B, Fences in Residential and Business Districts which states in part 'In a corner lot no fence, wall or vegetation exceeding four (4) feet in height or a fence, wall or vegetation that is opaque may be placed, built, or installed: 1. In the required side yard adjacent to the street; or 2. In any portion of the rear yard lying closer to said street than the point of the principal building nearest said street' to allow for a non-conforming six (6) foot chain link with barbed wire to be expanded along the Wade Drive frontage in the rear yard closer to street than principal building;
To also vary from Section 26.4.A.1, Fence Requirements, General Provisions which states that 'No fence or wall shall be constructed of or contain barbed wire, broken glass, spikes or sharp and dangerous objects nor be electrically charged, except in manufacturing districts where barbed wire may be used at the top portion of a permitted fence or wall if located more than seven (7) feet above the adjacent ground level. Such permitted barbed wire shall be considered part of a fence and subject to the fence height restrictions to allow for the above-mentioned chain-link fence with barbed wire to be expanded in the rear yard along Wade Drive;

1. The approval **should not** be injurious to the public health, safety, morals or general welfare of the community because the project will be built to all appropriate building and zoning codes;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner because the storage area will be properly screened and will be reviewed at Tech Review to ensure proper screening of residential properties;
3. Granting the variance **would** be consistent with the intent and purpose of this Ordinance because it allows for a measure of relief when warranted as the Comprehensive Plan calls for this area to be developed industrially;
4. Special conditions and circumstances **do exist** that are peculiar to the land involved because without board action the development as proposed would not be able to be built;
5. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the property because without some measure of relief the security needs at the facility could not be met;
6. The special conditions and circumstances **do not** result from an action or inaction by the applicant because the work has not started.
7. This property **does not** lie within a designated flood hazard area.

CONDITIONS

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

1. The existing fence within the right of way along Wade Drive shall be relocated out of the right of way just inside the property line.
2. The use variance, 22-UV-01 for recreational vehicle storage will be revoked. Staff will facilitate the revocation petition to the BZA for this request.

Trotter states 15 letters were mailed with 1 returned not in favor with no comment, and another was a phone call not in favor from a residence at 1400 County Rd 6. Comments were: the residential houses of the area are on well water, not city, and she would appreciate a good faith effort from Heartland to provide yearly water testing to ensure that no fuel or contaminants are leeching into the ground water.

Leichtman asks who regulates the gas on the property – does the state, does the city? Who watches over that. Trotter states he believes that is a function of the state and the county health department. Leichtman asks how often it is inspected. Bessinger states that it's once a year, minimum.

[Bessinger speaks more off mic, unintelligible] Bessinger asks if one of the addresses was 1400. Trotter states the property was around the corner on Dexter, on Dexter adjacent. [off mic, unintelligible]

Evanega Rieckhoff asks if Condition one goes with 26.4.B or 26.4.A.1. Trotter replies that it goes with 26.4.B.

Evanega Rieckhoff asks for clarification on condition two, revoking. Trotter clarifies that staff will initiate that revocation. Evanega Rieckhoff states the Board will not do anything with that tonight and Trotter confirms. He did not want to put that on the same agenda and muddy the water.

Mulvaney asks if extending city water to the residents along County Rd 6 on the radar for the City at some point. Trotter states that right now it's his understanding that there is no water service along that section of County Rd 6. What would have to happen is the water would have to come from the industrial part south. There is an easement along the south side of the petitioners property, where there could be the potential for the installation of a service line that could potentially serve then the residents along County Rd 6 from their rear yard, coming south to the homes. The utility would have to work with the petitioner to loop that water, because you can't have a dead end line, so it would be looped around the perimeter of their property. I understand there is an easement along the South side of the property for general utilities.

Evanega Rieckhoff asks if each motion should be called by their sections. Trotter confirms.

Evanega Rieckhoff calls for a motion to vary section 13.2.T.

Mulvaney makes a motion to approve 25-BZA-27, with respect to varying from section 13.2.T dealing with outside storage of liquids or gases; Second by Leichtman.

Mulvaney – Yes

Leichtman – Yes

Evanega Rieckhoff – Yes

Motion carries.

Evanega Rieckhoff calls for a motion.

Mulvaney makes a motion to approve 25-BZA-27, with respect to varying from section 26.7.C.7.b with respect to parking areas and drives being gravel; Second by Leichtman.

Mulvaney – Yes

Leichtman – Yes

Evanega Rieckhoff – Yes

Motion carries.

Mulvaney makes a motion to approve 25-BZA-27, with respect to varying from section 13.2.F regarding outside storage; Second by Leichtman.

Mulvaney – Yes

Leichtman – Yes

Evanega Rieckhoff – Yes

Motion carries.

Mulvaney makes a motion to approve 25-BZA-27, with respect to varying from section 26.4.B regarding fences and also adopting the conditions in the staff report with respect to the existing fence in the right-of-way; Second by Leichtman.

Mulvaney – Yes

Leichtman – Yes

Evanega Rieckhoff – Yes

Motion carries.

Mulvaney makes a motion to approve 25-BZA-27, with respect to varying from section 26.4.A.1 with respects to the fence requirements; Second by Leichtman.

Mulvaney – Yes

Leichtman – Yes

Evanega Rieckhoff – Yes

Motion carries

Evanega Rieckhoff asks if there are any other staff items. Trotter reminds the Board of training on Thursday, December 18 at 2pm in the Council Chambers Conference Room.

ADJOURNMENT

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



Janet Evanega Rieckhoff, President



Phalene Leichtman, Vice-President