BOARD OF ZONING APPEALS
-MINUTES-
Saturday, February 21, 2026 - Commenced at 9:04 A.M. & adjourned at 11:57 A.M.
City Council Chambers – Municipal Building

MEMBERS PRESENT
Phalene Leichtman
Ann Linley
Rochali Newbill

MEMBERS ABSENT
Janet Evanega Rieckhoff

REPRESENTING THE PLANNING DEPARTMENT
Eric Trotter, Assistant Director for Planning
Kyle Anthony-Petter, Planner II

LEGAL DEPARTMENT
Maggie Marnocha

RECORDING SECRETARY
Raen Levendoski

APPROVAL TO AMEND AGENDA
Eric Trotter, Assistant Director for Planning, proposes an amendment to the agenda to remove case 25-UV-08 as the property was sold subsequent to the original hearing and it is being used as a single family dwelling, so the petition will not need to be heard.
Linley makes a motion to approve the agenda as amended; Second by Newbill. Voice vote carries.

APPROVAL OF PROOFS OF PUBLICATION
Linley makes motion to approve; Second by Newbill. Voice vote carries.

OPENING STATEMENT
Welcome to the February 21, 2026 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 joining by video, please mute your microphone when not speaking. When you begin to speak, speak up and identify yourself before proceeding. If you are speaking, you must have your video on so that you appear on screen.

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 in an appropriate court. 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, 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.

Today, we have our minimum quorum of three members present, which may include temporary appointed 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 temporary appointed members will allow us to take action on all 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.

Maggie Marnocha, Board of Zoning Appeals Attorney, makes an announcement on the reason behind this special meeting. They realized that there was a glitch with the software used to send out notices. They discovered that people hadn't gotten adequate notice on the items on this agenda. Today when they are heard, they will be heard as new petitions.

OLD BUSINESS
None

NEW BUSINESS

25-BZA-22 PETITIONER IS AARON YODER AND CHRISTINA YODER
PROPERTY IS LOCATED AT 1305 CEDAR STREET
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 a material standards (solid privacy) variance to remain for the same fence.

Trotter states that he does not believe the petitioner will be here this morning due to work, so he will go into the staff analysis.

STAFF ANALYSIS
Trotter 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.

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 July 1, 2025. A four (4) foot chain link fence was removed and replaced by the privacy fence. Upon investigation no permit for the fence was found.


Oak Street view from 2023 – shows former chain link fence

The petitioner submitted a fence permit on July 8, 2025, and was denied by staff on July 31 for not meeting the requirements for fencing in the front yard or corner side yard. The petitioner then submitted to the board for a developmental variance on August 8, 2025.

The petitioner is seeking this variance to allow for the now existing fence to remain in its current location.

Staff has no recommendation on the proposed variance. The City of Elkhart is in the process of updating its zoning ordinance, including the fence regulations. The requested condition is consistent with proposed regulations found in the anticipated UDO.

The updated language will allow the six (6) foot privacy one (1) foot from the property line. It is difficult for staff to determine the exact location of the property line – especially with no sidewalks along Oak Street. If the petitioner can find the property corner markers with or without the assistance of a surveyor that confirms the new fence is compliant with the forthcoming ordinance language – staff could support the petitioner's request.

STAFF RECOMMENDATION

Trotter believes that during the *[October]* meeting, Staff had amended the recommendation to approval, so he will read the amended recommendation *(*amended by staff during staff report reading)*. The Staff recommends approval to vary from Section 26.4.B.2, Fences Permitted in Residential and Business Districts, which requires in part that '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 a six (6) foot opaque fence installed in the corner side yard (Oak Street frontage) to remain 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 fence 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 a fence is a typical element found in residential districts. The fences 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 allowed 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 designed 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;
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. Petitioner needs to verify fence is one (1) foot away from the property line on Oak Street frontage.

Trotter states there were 41 letters mailed with none returned.

Leichtman 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 asks for questions from the Board for staff.

Linley states the fence was already installed prior to the hearing, and asks what the timeframe is for confirming with the petitioner.

Trotter states that it will be scheduled as weather permits.

Leichtman calls for a motion.

Newbill makes a motion to approve 25-BZA-22 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 Linley.

Linley – Yes
Newbill – Yes
Leichtman – Yes

Motion carries.

25-UV-09 PETITIONER IS STEVE HILL PROPERTY & BLDG. SERVICES INC.
PROPERTY IS LOCATED AT 1717 CASSOPOLIS STREET

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 1717 Cassopolis Street.

Leichtman calls the petitioner forward.

Steve Hill, 51537 Winding Waters Ln, appears in person. Hill purchased the West View Florist building and turned it into a daycare for infants to about 8th grade kids.

Leichtman asks for questions from the Board.

Linley asks if staff or the petitioner could define what an unlicensed registered ministry is. Trotter states that it is a state title, and that is the license for this type of daycare center. There are a number of them in town, it's just the category for which they are applying for their license.

Leichtman 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

Trotter presents.

The petitioner is requesting a use variance to allow the property at 1717 Cassopolis 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 Center.

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 was formerly West View Florist and is now vacant. On the rear and side of the building is available parking. The building will require remodeling of the area for the kitchen as well as each of the bathrooms.

The petitioner is seeking local permission to operate a day care center at 1717 Cassopolis Street. The City of Elkhart requires, in addition to state approvals, local approval in order to operate a day care center. The City of Elkhart is in the process of updating its zoning ordinance, including new uses allowed in business districts. The requested use is consistent with proposed regulations found in the anticipated UDO.

Based on assessor records, the building was built around 1965 and is approximately 8,293 square feet over two levels. There is approximately 4,149 square feet on the first floor and 3,024 square feet on the second floor.

Staff conducted a site visit of the1717 Cassopolis Street building with the petitioner on September 3, 2025. Off the south side entrance for the building - there will be the sign in/check in area for children. Plus a kitchen and a covered (heated) garage for the center van to load and offload children out of the weather. The first floor is proposed to have three classrooms, each with attached bathrooms, for children ages newborn though four (4) years old. The second floor will have rooms for older children and an area for children coming for after school care. The second floor will also house staff offices and a staff break area.

The outside of the building will have parent and staff parking on the south of the building – closest to the front door. The rear of the property will be used for outdoor activities with the existing green space made usable for children's play equipment as well as additional parking during drop off and pick up times of the day.

The petitioner is also proposing to install a gate in the parking lot on the east of the building - which will be open from 4 am – 9 am during operation. It will be closed at other times to allow the enclosed area to be used as secure outdoor play space.

The peak hours of children's drop off will be 7 am – 9 am. The day care center will be serving children 6 weeks to 12 years old with a potential total of 50 to 70 children along with 10 to 12 staff. Transportation for school will be provided. The hours of operation will be 4 am to 6 pm, Monday through Friday.

The petitioner will be working to gain State approval as an Unlicensed Registered Ministry. The daycare will necessitate a license from the Indiana Family and Social Service Administration (FSSA)

The building has a spacious lot for parking and the placement of a playground along with a two driveways to Cassopolis Street to drop off and pick up children.

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 be no 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 developing a permitted B use could be achieved with both adjacent structures used commercial 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 and fenced-in play area except when arriving and leaving or on supervised walks or outings.
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 September 13, 2027.

Trotter states there were 14 letters mailed with none returned.

Leichtman asks if the new UDO will have stuff for daycares in it. Trotter confirms and says that the language and conditions will carry over into the new.

Leichtman asks if there are questions from the Board for staff.

Newbill asks if the fencing in the area has been done or if it will be done in the future. Trotter states he believes it's already been done.

Leichtman calls for a motion.

Linley makes a motion to approve 25-UV-09 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 Newbill.

Linley – Yes
Newbill – Yes
Leichtman – Yes

Motion carries.

25-X-07 PETITIONER IS ELISSA GARCIA
PROPERTY IS LOCATED AT 721 MAPLE ROW

The request is per Section 5.3, Special Exception Uses, (4.3.F) Day Care Home, to allow for the establishment of a new day care home at 721 Maple Row.

Leichtman calls the petitioner forward.

Elissa Garcia, 721 Maple Row, appears in person. Garcia states that she would like to have a home childcare. There is fencing and parking in front. She received a letter stating that not all people were notified of the change she would like to make. Leichtman asks if and Garcia confirms she signed in.

Leichtman asks for questions from the Board, seeing none she opens for public comments to speak in favor. Seeing none, she opens for opposition.

David Henke, 1752 Crabtree Ln, appears in person. Henke states he is neither in favor or opposed generally. As daycares go, licensed and unlicensed, it's required by the state for the size based on the number of children. He thinks that's important for us to understand. If there's greater than 5 children, it must be in the licensed area, approved with certification by the state for daycare. Secondly, it shows that the state is involved in monitoring the results of children for their safety. That would be another consideration. For the City of Elkhart, it would be important to note if they are 501(c)(3) taxpaying or nonprofit organizations.

Leichtman closes the public portion of the meeting and calls staff forward.

STAFF ANALYSIS

Trotter presents.

The petitioner is submitting an application for a home daycare at 721 Maple Row. The home is located in a neighborhood with ample sidewalks with the ability for some of the children care for to be walked to the location.

According to Elkhart County Assessor records, the house at is 904 square feet and built in 1960, The lot is .15 acres. At the writing of this report, staff had visited the site.

It is anticipated the petitioner will apply for a Class I license with the state's Family and Social Services Administration (FSSA), which allows for up to 12 children. Pick up and drop off for the facility will be handled from in front of the house along Maple Row on the north of the building.

In terms of space, the house is adequate. The state requires for a Class I license, a minimum of 35 square feet per child for indoor space for a total of 420 square feet if the maximum number is reached.

STAFF RECOMMENDATION

Staff recommends approval of the request based on the following findings of fact:

1. The Special Exception is so defined, located and proposed to be operated that the public health, safety and welfare will be protected;
2. The Special Exception will not reduce the values of other properties in its immediate vicinity because there will be no exterior changes to the existing building;
3. The Special Exception shall conform to the regulations of the zoning district in which it is to be located because it will not generate adverse effects on adjacent properties in the form of noise, smoke, or odor.

CONDITIONS

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

1. The petitioner shall submit plans for the building renovations to the building department within 14 days of approval, and obtain permits for any work done there within 45 days of approval.
2. All children shall be restricted to the building and fenced-in play area except when arriving and leaving or on supervised walks or outings.
3. The facility and grounds shall be kept clean at all times.
4. The facility shall be subject to inspection upon reasonable notice, by the zoning administrator during hours of operation.
5. There shall be no exterior display, signs, or other forms of advertising on the premises.
6. A copy of the child care home license shall be submitted to the Department of Planning and Zoning upon receipt from the Indiana Family and Social Services Administration.
7. If the day care ceases to operate for more than one (1) year, or the license is revoked, the Special Exception becomes null and void.
8. Any violation of the terms of this Special Exception as determined by the City Zoning Administrator shall render the Special Exception invalid.
9. There shall be a maximum of twelve (12) children.
10. Pickup and drop off shall be from the street at the front of the property.
11. The Special Exception is for two (2) years and shall be reviewed as a staff item by the Board of Zoning Appeals by October 7, 2027.

Trotter states that the case came from the Plan Commission with a due pass recommendation.

Trotter states there were 46 letters mailed with 1 returned in favor with comments. Comments were: expressing strong support for Elissa Garcia's special exception, they have been neighbors for over 15 years and is confident they would provide a safe, structured, and positive daycare setting for families in the community, the Garcia's are respectful neighbors that contribute positively to the neighborhood atmosphere, and the proposed daycare would be a valuable asset.

Leichtman asks if there are questions from the Board for staff.

Leichtman asks if all of the conditions placed on this petition are part of the updated UDO. Trotter confirms.

Linley asks if the changes to the building have to be done within 45 days of the Board's approval, or of when the building permits are pulled. Trotter states that that is the standard condition for when there are changes, but they do not anticipate any for this property.

Leichtman calls for a motion.

Newbill makes a motion to approve 25-X-07 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 Linley.

Linley – Yes
Newbill – Yes
Leichtman – Yes

Motion carries.

25-BZA-23 PETITIONER IS GAYDUO KORLEWALA
PROPERTY IS LOCATED AT 1034 PRINCETON BLVD

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.

Leichtman calls the petitioner forward.

Gayduo Korlewala, 1034 Princeton St, appears in person. Korlewala believes they were here in July to get approval, they went home and celebrated, and then they received a letter in the mail so they are back here again.

Leichtman asks for questions from the Board. Seeing none, she 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

Trotter 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 for a fence permit on May 5, 2025, and was approved by staff on the same day. The approved permit application depicted the fence even with the home along Williams. A four (4) foot chain link fence was removed and replaced by a six (6) foot privacy fence.
When the fence was installed, the placement went past the wall of the home along Williams Street, which does not comply with the currents 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 July 2, 2025.

The petitioner then submitted to the board for a developmental variance on September 5, 2025.


Williams Street view from 2023 – shows former chain link fence

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.

Staff recommends approval of the proposed variance. The City of Elkhart is in the process of updating its zoning ordinance, including the fence regulations. The requested condition is consistent with proposed regulations found in the anticipated UDO.

The updated language will allow the six (6) foot privacy one (1) foot from the property line. It is difficult for staff to determine the exact location of the property line – especially with no sidewalks along Williams Street. If the petitioner can find the property corner markers with or without the assistance of a surveyor that confirms the new fence is compliant with the forthcoming ordinance language – staff could support the petitioner's request.

STAFF RECOMMENDATION
The Staff recommends approval of the developmental 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 fence 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 a fence is a typical element found in residential districts. The fences 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 allowed 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 designed 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;
7. This property does not lie within a designated flood hazard area.

CONDITIONS
None

Trotter states there were 38 letters mailed with none returned.

Leichtman asks if there are questions from the Board for staff.

Linley asks if she is correct in thinking that the new privacy fence follows the original footprint of the chain link fence, regardless of what was presented earlier in the summer. Trotter states that it was very close.

Leichtman calls for a motion.

Linley makes a motion to approve 25-BZA-23 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 Newbill.

Linley – Yes
Newbill – Yes
Leichtman – Yes

Motion carries.

25-UV-10 PETITIONER IS NICHOLE HOGENDOBLER
PROPERTY IS LOCATED AT 1746 E BEARDSLEY AV

The request is to vary from Section 4.2 Permitted Uses in the R-2, One Family Dwelling District, to allow for one (1) accessory dwelling unit at 1746 E Beardsley Avenue.
To vary from Section 26.1.B.8.a, which states in part, 'Accessory buildings on property occupied by a one or two family residential use shall be limited to a maximum floor area of 720 square feet for the largest structure, with a maximum total of 840 square feet for all accessory buildings combined', to allow for the proposed accessory dwelling unit at 748 square feet, where the maximum for any one accessory structure is 720 square feet, a variance of 28 square feet.
To also vary from the maximum total area for all accessory structures of 840 square feet to allow for a total area for all accessory structures of 1,148 square feet, a variance of 308 square feet.
To vary from Section 26.1.B.8.a, which states in part, 'A maximum of two (2) accessory buildings is allowed on each lot', to allow for a total of four (4) accessory buildings, a variance of two (2) accessory buildings (including the proposed accessory dwelling unit).
To vary from Section 26.1.B.11, which states, 'No accessory structures shall be used for permanent or temporary habituation' to allow the accessory dwelling unit to be used for habituation.

Leichtman calls the petitioner forward.

Nichole Hogendobler, 1746 E Beardsley Avenue, appears in person. Hogendobler states that as was presented and approved on October 9, she petitioned to add a mother-in-law suite to her property. Hogendobler submits Petitioner's Exhibits A-J showing the current state the property is in, so the Board can see how it's going. The home is approximately 56 feet by 13 feet, 4 inches, it is 748 square feet. It is only going to be occupied by Hogendobler's mother. It doesn't require a separate mailing address, and will be hooked to Hogendobler's existing utilities. Adherence to the zoning requirements at this point would be a very unusual hardship for herself and her mother. The home is already installed due to already receiving approval. The home is also installed on a cement crawlspace that was required by the inspector, costing an extra $8,000 that they did not know they would need to do. Her mother has already closed on her current home and is technically a squatter in her own home while they are waiting on this to be resolved. Her mother has chronic health conditions that will worsen over time, and require more assistance as she ages. She already requires assistance keeping up with housework and yardwork. Having her mother living so close will allow Hogendobler to offer help in a timely manner and to take care of her as she ages, to be healthy and happy. Rescinding the prior approval will result in extreme financial hardship due to the home already being bought and installed. More importantly, the denial will place Hogendobler's mother further away and unable to obtain the help she needs in a timely and safe manner. Hogendobler previously worked as a CNA in a retirement home and has made herself the personal promise that her mother will never live in one. The standards considered for the use variance, according to Indiana Code 36-7-4-918.4 are all true in this circumstance. The first standard, that the approval will not be injurious to the public health, safety, morals, and general welfare of the community is true because the addition to the property is not harming anyone, it's not blocking any sightlines for driving. Keeping this structure adds to the morals of the community because it is a daughter's attempt to care for her mother. The City also agreed with this at the last meeting, because the detached dwelling is built per all applicable codes. The next standard, that the use and value of the area adjacent to the property will not be affected in a substantially adverse manner is also true. The addition of this home does not harm either neighbor's properties. It sits on Hogendobler's land and sits back out of the way. The home will be maintained and kept maintained at all times, just as the primary residence is. The City also agreed that this standard is true, stating the surrounding properties will not be adversely affected because the surrounding uses are residential and residential structures. Standard number three that states the need for the variance arises from some condition peculiar to the property involved is also true. Keeping the home as it sits will be an extreme relief to both of them, and again the City agreed with this stating the variance would bring a small measure of relief. Standard four, stating the strict application of the zoning ordinance would constitute an unnecessary hardship if applied to the property requesting the variance is more true now than it was at the first meeting, because the home is already installed. The truth of this standard in the original proposal was that if Hogendobler's mother was not allowed to reside in the home, she may not receive the help and care she needs as she ages, in a timely fashion, which could lead to more serious circumstances such as loss of independence or major health problems that could have been prevented. Now that the home is already installed and paid for, the hardship is even more substantial. Hogendobler's mother's home is sold and all of her finances are tied up in this house. The City is in agreement, stating special circumstances and conditions do exist which are peculiar to the

land involved and which are not applicable to the other lands or structures in this same district, because without board action the adding of the accessory dwelling unit at this current parcel would not be permitted. The last standard stating that the approval does not interfere substantially with the comprehensive plan is also true. The addition of the home is an investment to an existing residential neighborhood. It does not interfere with any type of transportation, safety, or needs. It will also not interfere with any future land use, due to the fact that a regular sized home would never be eligible on the property. At the first approval, conditions were placed on the variance. The first one was only one entrance permitted on front façade, while a second can be on the side or rear of the building. This condition came under scrutiny, because nowhere in the language did it say the front had to actually face the street. They installed the home exactly as was on the proposal, and in the actual meeting last time it was stated on the record that the way they were installing the home would have a cleaner look when it was approved, so she considers this condition met. The second was that it shall be a secondary accessory to the main unit – that's true. Shall be fully functional as an independent living space. That is true, all utilities are now hooked up to the house and it can function on its own. Shall be on the same lot as the primary dwelling and not split off of the frame. That is also true, it is not connected to Hogendobler's house at all. It must meet accessory structure standards setbacks. That is also true. The primary structure or ADU must be occupied by the property owner of record. A deed restriction shall be recorded with the Elkhart County Recorder. Nobody is going to live in the home but Hogendobler's mother. Utility connections must connect with the primary dwelling. That is true and already completed. The removal of one shed from the property to allow for three total structures. This has not been completed due to all the complications they've run into and due to weather, but the shed in the picture closest to the house is coming down. It has to come down anyways, it has holes in it – it's coming down. Hogendobler respectfully asks the Board to stand by the first approval and allow them to continue with the variance.

Leichtman asks how much money has been invested so far, adding this property. Hogendobler asks her mother, who answers off-mic $100,000, which is repeated by Leichtman. Leichtman asks if they think all costs are done at this point, or if there will be more costs coming. Hogendobler states she doesn't know because everything isn't completely done yet, so she isn't sure if they'll run into anything else.

Leichtman asks for questions from the Board.

Newbill asks if the fence is chain link or privacy. Hogendobler responds that their fence is the chain link and the privacy is the neighbor's.

Linley asks where the parking is located. Hogendobler responds that they are planning on having it by the home, but she hasn't asked for approvals or anything for that yet, so for right now it will be in the main property parking. Linley asks if she is envisioning asking for a curb cut at that time, for a second driveway. Hogendobler responds that she will have to propose for that, because there actually isn't a curb there, but she will propose for a new driveway.

Leichtman asks if currently the main entrance is the one facing the fence or the one that is facing into the property. Hogendobler states that they are envisioning the one facing the fence, because if the parking is approved, her mother would be parking right there. She made sure the house was a driveway length away, so her mother could pull the car up to the steps. Leichtman clarifies that the entry facing the fence is the main entrance, and Hogendobler confirms.

Leichtman asks if there are any other questions. Newbill states he has none for the applicant.

Leichtman opens for public comments to speak in favor. Seeing none, she opens for opposition.

David Henke, 1752 Crabtree Lane, City Councilman for the area appears in person. He states that he appreciates the hearing, as the first one had a failed notification. He states there are several things to look at. One, an emotional presentation does not facilitate the three questions before the BZA. There are a simple three questions that must be met for the threshold, but he would also suggest since it was offered, as a licensed health care facility administrator in the state of Indiana, the state of Michigan, a $100,000 has a lot of options for care. Today, being in a brand new apartment on East Jackson would afford $100,000 already expended, 6.9 years, not including current income. Just the $100,000 already expended. In assisted living, which he has building, that would afford, with care staff, and food, and utilities, 4.7 years. That $100,000, not including current income. He just wants that to be known, if looking for care for a senior citizen, there are plenty of options in Elkhart County. The process, as he is noting and he is just stating that he does work with Eric and one of the attorney's, it appears that the process doesn't work for notifications, because this whole docket is filled with projects already in process or completed, and now they come before the BZA. So, notification is a real problem, but it does not negate the rights of the lateral properties. They have property rights, ownership rights, as taxpayers. As he goes through this process, the process did fail them, when there was a known notification problem, a cease and desist should have been issued, it was not, so the project continued. It was on social media that it was a problem, neighbors who had done their homework called into the city to alert them that there was no notification, a couple did receive notification after the meeting. One person had two notifications, but several had zero notification of this process. He's looking at the three areas, and he wants to make

it brief because it's most important that the neighbors speak. Injurious for the following reasons – the breach of resident rights for the following reasons: the nonconforming financial injuries to the area. The safety on a snow route where parking is critical, no parking on the streets because it is a noted snow routes. This is a non-conforming structure in an established neighborhood. That should have raised red flags right away. The Northeast quadrant is where investors want to go and build, like on the end of Calumet, on Greenleaf Boulevard, those are desirable areas because of the stability of the investment. This particular project does the opposite of that. It is a non-conforming use, it is a structure unlike all around it. It does add two livable inhabitable structures on a single property, with no secondary curb cut, no secondary address. It is a one-of-a-kind dissimilar structure as a distraction to lateral houses. It is placed near two property lines that encroaches on neighbor's privacy. Entry steps are too close to the property line, where the step stops, if the walkway is added, it's too close to the property line. There's no curb cut, there's no driveway, there's no parking. So far, there's been yard parking which is illegal. There's no address to the property, which is a problem because after this family, what happens? Is it then a conforming use, can it be used as an actual rental property, in which case it violates rental registration law. The lack of notification to neighbors, the lack of timely notifications, the lack of neighbors public input, no cease and desist was given, so a violation of the rights of the people who are in the audience today and online, and those who have now signed a petition. Value – there are those who will speak to the value, it's a perceived value as well, but if this property is unusual, it might add value to that particular property, but when doing comps as a realtor, that comp cannot be used and it can be seen as a distraction to lateral properties because of the density. The parking and all those things they're talking about. Adds a second livable dwelling to one site, sets a very negative precedence to all. Elkhart established neighborhoods are the ones people want to get to, and this actually picks away at what has become normalized in our housing standard for the area. It also constitutes a rental property with one utility, it interrupts trash collection – now it's collecting trash for two houses, because there's no second address, so trash services will need combined. That's a measure, that should say something. It sets precedence for others for non-conforming property owners. How many landlords will add a property to their site now, and this is a precedence-setting issue. The fact is, whether someone needs healthcare or not is not part of the equation. It allows others a second home on a single lot, the lot has not been subdivided. It creates financial harm to properties in the area. It distracts from city, county, and state property taxes, because it does add density and that's measured into AV (the basis of taxes). It depreciates faster than a site-built structure. It's on a cement slab, it's non-conforming in a lot of way. In five years, it would become an eyesore, it would create financial harm to any resale, and it has an undetermined future as if this family moves out, when mom is no longer in that property, what is the use of that property and how will it be known? Then rental registration and plenty of other laws that no one is going to pay attention to. What happens to the property, are they obligated to remove it when the mom doesn't live there anymore. Again, the biggest harm was the notification, no cease and desist was provided. This should have been stopped before it started, so it didn't get this far. A hundred thousand dollars can go a long way in other areas, just don't put them in our back yards.

Kevin Foy, 30590 North Shore Drive, appears in person. He owns several properties in the City of Elkhart so he is a stakeholder. He has a relative that lives down the street from this house. On the public website, one of the City Councilmen said we can't discriminate. Yes we can, we have been discriminating – he's been in the business 45 years, and has been discriminating on manufactured mobile homes for 45 years because they require them to go in a certain subdivision. It's hammered on the developers that they must be put here, here, or here. It will devalue the neighborhood. He sold a mobile home last year, just got titled to it, the owner paid $146,000 for it in 2002. They sold it for $55,000. There is a reason that it shouldn't be allowed. He drove by the property, he couldn't get out to measure because he didn't want to trespass, but it seems like it's pretty close to both property lines – both front and back. If he remembers correctly, there is a 15 foot or 10 foot sideline and 10 or 15 foot in the rear. Without taking a tape measure and measuring, he can't be sure, but he thinks it's too close to the property lines. If this precedence continues, and he's seen several here today that they went ahead and put it in without prior approval, and he knows they had approval but it should have been stopped when the meeting glitch came up. Everything today has been approved that was put in ahead of time, so that's a dangerous precedence. He guess if this goes in, he's going to buy a house next to each one of the Board members, or Eric, or anybody in the City Council, and put one to take care of his family. His in-laws, he spent over $300,000 to keep them in their homes and take care of them, out of pocket, so they didn't have to put them in the nursing home. He's sorry they spent the money, but it's going to devalue the properties. There's no ifs, ands, or buts – he's been in the business long enough, 45 years, that it will devalue the neighboring properties. When a mobile home goes in, several of these mobile home parks, after so many years, they don't want those mobile homes anymore. He knows they're screaming for housing in this area, but it's their fault for not putting – they've been screaming for houses 30 years ago, but nothing has been done to ramp up the builders. They lost a lot of builders during COVID. He's hoping the Board takes all this into consideration.

Leichtman asks a question of the City – is the current structure placed appropriately for property lines. Trotter responds that the setback for accessory structures if five from the rear and three from the side.

Henke asks if that can be better clarified, because there are setbacks for non-inhabitable, sheds and so on, this is a setback for an inhabitable. The second question is if the main entrance is out the back, the steps may be within that district, but then to step the next foot, it's outside that setback and there's no sidewalk there, it's just grass. It is obligated to have a walkway, so that would violate the setback on the side.

Leichtman states that it's sixteen feet from the side and the back, on their property line map. She asks Hogendobler if she knows the measurement of where it sits on the property. Hogendobler speaks off-mic and states that the contractor did exactly what's on the paper that she gave him, the rest is indecipherable due to being off-mic.

Leichtman asks if she is allowed to have the petitioner come up and point out on a map.

Henke questions why the City didn't have someone go out and do an official measure, knowing this was a problem.

Hogendobler approaches to indicate where the driveway is and confirms there is cement.

Newbill asks if there is enough space for two cars. Hogendobler states that she currently parks in the side yard, but there is room for four cars.

Kristine Crane, 1733 E Beardsley Avenue, appears in person. She lives on Beardsley, catty-corner to the property, unfortunately on the side that doesn't hide the structure by the main house. She presents pictures from her phone to the Board.

Leichtman states that Crane showed a picture that is similar to the packet provided at the beginning of the meeting, page 3 (Petitioner's Exhibit C) – a view of the structure and the main entrance, just to be clear on what they're looking at and talking about.

Crane states they already wrote a letter, but listening to the petitioner felt there was more to be said. After reading some of the information Hogendobler shared on Facebook, they knew in October they were putting a mobile home in. It was presented as if they were going to build, Crane watched the October 9th meeting, it was presented as if they were going to build a cute little house, and the Board at that time even responded back and they assured them they were building a cute little house, it was being constructed. That is definitely not what happened. The plan that was presented, they can see was a mobile home, and that was what was presented. It has 2 bedrooms, and she's never had a mother-in-law suite that has two bedrooms, so I do question that. One other thing she would say, to the previous person's point, this is basically going to be a rental property after mom passes, which is probably why there are two bedrooms in it. It makes it more lucrative to rent a 2-bedroom home. She thinks her letter will be read, so she doesn't want to repeat the property value part of it, but she does feel like the Board was intentionally misled in October and the petitioner has tried to play on some sympathies with the amount of money they have spent and taking care of mom, but she thinks the intent originally was to deceive the Board but also the neighbors. The few neighbors that they did speak to, they talked about building a cute, tiny little house. That is not what got put there, it is a horrible eyesore. She just purchased her house in 2025, and that's a great neighborhood, she was so happy to find a house she could refurbish, and has already put $30k in the house and is now questioning if it's worth refurbishing anymore because she looks across the street and sees that 'horrible monstrosity' and it makes her question – this was going to be where she was hopefully going to live out her life, but now she questions it. Especially with how the whole thing has progressed, and how they have not ceased even though they knew they should have stopped. They've put in the sewer this week, they've been rushing to try and get it done, so she feels the Board will feel like they have no recourse but to allow them to keep it.

Leichtman asks Marnocha if the City has gone out to measure, Marnocha states that is a question for Trotter. Leichtman asks if it would be appropriate to pause and not make a motion today due to not having all the facts, or what does the council suggest.

Marnocha asks for a moment.

Henke asks if, since it's a public hearing, could the rest of the public be allowed to speak before – Leichtman says yes, the meeting is not being closed, she is just asking because it is such a huge question for everyone and she wants to make sure they have the appropriate facts. Henke says it stands to reason that this process should have been investigated before it got this far, before it even got to the original meeting with the BZA, and here they are without factual information for guidance.

Marnocha states that it is her understanding that once it is approved by Planning and Zoning it goes to the Building and Permit Department.

Leichtman clarifies that the BZA is not the final stop in this – Building and Code have to come out and inspect the building and make sure of those things.

Mike Huber, Director of Development Services for City of Elkhart, states that there are two things – once the zoning is approved, the petitioner would have come in to get her clearances and building permits. The building department, prior to the pad and foundation being poured, would have made sure it is in compliance with everything. It is his understanding that the Building Department did their jobs correctly to ensure the pad should be where it's located appropriately.

Joetta Byers, 1779 E Beardsley Avenue, appears in person. They live in the immediate vicinity of the subject property, and have owned the property since February 1994. They are here to formally oppose the requested variance to allow placement of a mobile home of parcel that is already improved with a single family dwelling. This request fails to satisfy the statutory criteria required for the granting of a variance, particularly that the requirement that the approval will not be injurious to the public health, safety, morals, and general welfare and will not alter the essential character of the neighborhood. Number one, inconsistent with the established zoning intent. The subject parcel is zoned for single family residential use, the zoning classification clearly contemplates one principal dwelling per lot. Introducing an additional dwelling unit in the form of a mobile home, constitutes an effective increase in residential density and intensity use that is inconsistent with the underlying zoning scheme. Granting this variance would undermine the purpose and intent of the zoning ordinance, and functionally reclassify the lot without undergoing the proper rezoning process. Number two, injury to the neighborhood because of the essential character. The surrounding area was developed exclusively with site-built single family residences on individual lots. The placement of a mobile home as a second dwelling would substantially alter the established residential character, scale, and uniformity of development patterns. Zoning ordinance is intended to preserve compatibility of land uses and structural types. This proposal introduces a housing type and lot configuration that is incompatible with the prevailing development character. Number three, adverse impact on property values. The injury to neighborhood standard includes protection against unreasonable injurious effects on neighboring property values. Residential property values are strongly influenced by neighborhood consistency, density, and conformity with zoning standards. Allowing multiple dwellings on a single parcel, particularly through variances rather than rezoning, creates uncertainty in land expectations. That uncertainty alone can diminish market confidence and negatively impact resale values of adjacent properties. Homeowners in this neighborhood purchased their homes with the reasonable expectation that zoning regulations limiting parcels to single family use would be enforced. Number four, precedent and cumulative impact. Approval of this variance would establish a precedent for similar requests. The cumulative effect of granting such variances would gradually erode the integrity of the zoning district, resulting in the incremental density increases and incompatibility of housing types. Variance relief is intended to be granted sparingly, only in cases of demonstrated hardship unique to the property. There has been no showing that strict application of the ordinance creates a practical difficulty that cannot otherwise be remedied. Number five, failure to meet the variance standards. To prove a variance, the Board must find that the hardship is unique to the property, and not self-imposed. The variance is the minimum necessary to afford relief. The approval will not alter the central character of the locality, the approval will not be injurious to the neighboring properties. This request does not meet those standards. For these reasons, they respectfully request that the Board deny the variance application and uphold the integrity and zoning ordinance to protect the established character, stability, and property values within their neighborhood. They also went around the neighborhood, and had people sign a petition. It was pretty much 100% of people in opposition. Some people didn't want to sign, but they were still in opposition.

Leichtman asks if it would go to Levendoski or Trotter, and it is confirmed to go to Levendoski.

Byers states that there are also many signatures from online, and she isn't sure if they're allowed, but they have those as well.

Adrian Byers, 1779 E Beardsley Avenue, appears in person. Byers states that it's unfortunate that they're there, and unfortunate for the family that made the investment, but they have to follow the rules. He resides at 1779 East Beardsley, which is within the required notification distance of 1746 East Beardsley Avenue. They were not properly notified for the hearing, which is why they appeared today because the Board has properly re-opened this matter. He respectfully requests a full and fair reconsideration. Their neighborhood position is clear, they oppose this variance and asks that it be revoked. If the Board declines to revoke it, they ask that the record reflect their formal objection to an ADU, any particular manufactured or mobile home, being permitted by variance in an R2 neighborhood, now or in the future, be prohibited. He has several key points. Point number one, as due process was violated – the board has reopened this, specifically because the notification process failed. Proper notification is due to a process requirement under Indiana law, it is not optional. They respectfully ask that the Board treats today's hearing as a fresh proceeding, which they are, weigh all evidence anew, and not defer to the prior vote. The neighbors who stood to be most affected by this decision has never had that day before the Board. Today is that day, and they ask for a decision that reflects a complete and lawful record. Point two, no property specific hardship exists. The record does not reflect a property-specific hardship, as required under Indiana Code 36-7-4-918.4. There is nothing unique about the physical characteristics of this lot in shape, size, topography, or legal history that makes strict application of R2 zoning unusually burdensome compared to neighboring properties. The hardship only exists because of who the current owner is, and what her personal situation is. Under Indiana law, that is not sufficient to support the use of a variance. Byers asks the Board to make explicit written findings on points. If those points cannot be made, the variance must be denied and the structure removed. Point three, HUD code manufactured homes are injurious to the neighborhood. The structure that has been placed on 1746 E Beardsley Avenue is a HUD-manufactured home. This is not a detail, it is essential to their protection. Their neighborhood consists of site-built homes. The residents on this block made their investment decisions based on an R2 zoning designation, and expectations that neighboring structures would be site-built and consistent with the neighborhood's character. A manufactured home, even on a permitted foundation, has a distinct appearance and construction standard that is injurious to the character and to the property values. They further note that the original variance petition did not specify or disclose that the proposed ADU would be a manufactured home. Had the neighbors known this, opposition at the

original hearing would likely have been far greater. Byers asks the Board to consider this injury as an independent basis for denial. Next point, unit built during procedurally defective approval. A permanent manufactured home now sits on the foundation at this property. The structure was placed while the original variance was legally incomplete. This very hearing exists because the approval was procedurally defective. Construction that proceeds under a defective approval is done at the applicant's own risk. Byers asks the Board not to allow sunk costs that construction to substitute the legal findings that are required. If the law and the facts do not support the variance, the appropriate remedy is denial and removal, not approval because of its inconvenience. My next point – R2 districting must be protected. Every homeowner on this street purchased their property in an R2 district with the legal assurance that it would remain single family in character. A use variance is not the appropriate vehicle to introduce an ADU, especially a manufactured home, into this neighborhood. The City has acknowledged that the Unified Development Ordinance is being drafted that would address ADUs through a proper legislative process with community input and design standards. That is the right path. Granting the variance today bypasses that process entirely and creates precedent that this Board will be unable to walk back. They ask the Board to protect the integrity of R2 designation and wait for the UDO process to properly address ADUs with appropriate safeguards. Byers next point is final – five simultaneous variances each before the Board. There are five different variances that were approved at once, meaning the ADU permitted use. Varying from the largest accessory structure – the actual size was called out at 720 square feet, they requested 748 square feet, that's an additional 28 square feet. Total overall structure 840 square feet is what is stated, the request was 1148 feet, so that's 308 feet - 37% more than it should have been. Then the number of accessory buildings, code says two max, there are four, he thinks it's down to three which is double the unit. Inhabitation of accessory structures, basically it goes again the R2 zoning as it's prohibited, but it's been permitted for full use and variance. His question is, has the required shed been removed and verified by the City, has the owner occupancy deed restriction been recorded with the Elkhart County Record, has the City Staff confirmed utilities are shared and not independently metered, has the structure been inspected to confirm compliance with accessory structure setbacks, was the HUD code manufacture home specifically disclosed in the petition, and does the variance approval cover this specific structure type, and how will the owner occupancy restriction be enforced for future sales? Before the Board takes any action today, they ask the staff to confirm on record that each of the conditions from the original approval has been independently verified and documented. They also ask that the Board clarifies whether the approval variance specifically authorize a HUD code manufacture home or whether the structure installed differs in type from what was presented to the Board. If the installed structure type was not specifically approved, the variance does not cover it and the petitioner must return with a corrected application. Before he goes into closing, he would like to make the clarification in terms of the legal analysis of the variance. Basically, it's unnecessary hardship in terms of having the structure put in place. They have a lot of issues that have been overlooked, of course Dave touched on some of them, but the fact that Beardsley is a designated high traffic snow route. East Beardsley is designed emergency route, the driveway at 1746 is a single car driveway. Adding the second occupied household to this property creates parking and demands that this driveway and this street cannot safely accommodate. They ask the Board to require a traffic and parking impact review before any approvals proceed. Two, no alley access between Beardsley and Grant. There is no alley access between Beardsley and Grant Street. Every vehicle associated with the ADU household must use the same single width Beardsley driveway at the primary residence. This is not a theoretical concern, it is a physical constraint of this specific site that makes the two household use functionally problematic and potentially unsafe. Three, the ADU is directly visible from Grant Street backyard street residents. There is no alley, no buffer, and the original approval imposed no screening conditions. Grant Street homeowners did not consent to having a permanently occupied second dwelling unit as a backdrop of their private outdoor space. They ask the Board to confirm whether the Grant Street residents were included in the notification list, and if not recognize that as a further defect of the original process. Touching on the element of hardship to this, what the law requires for the element to be satisfied, there must be something about the physical or legal nature of the specific parcel that cause the ordinance to impose a burden greater than the imposed or similarly situated property. Classic examples recognized by Indiana courts include an oddly shaped or unusually narrow lot that cannot physically accommodate or conform structures significant topographical challenges that may limit unusable areas or a parcel legally subdivided in a way that it is left undersized through no fault of the current owner, and unique access limitations for a specific parcel. How does this case fail us? The petitioner stated hardship is that she wants to house her aging mother and the R2 ordinance does not permit a second dwelling unit. The ordinance applies identically to every R2 lot in Elkhart. Nothing in the record documents any physical or legal characteristics on this lot that makes the ADU prohibited more burdensome here than any else in the district. Notably, the infrastructure facts newly identified – single width driveways, no alley, snow emergency routes frontage, actually describes constraints that make this a lot less suitable for a second dwelling unit than an average R2 lot. These are not hardship factors for the petitioner, they are harm factors for the neighborhood. The unique hardship – why this fails? The R2 ordinance prohibits ADUs on every single family lot in the district equally. Not in the record distinguished 1746 East Beardsley from its neighbors with respect to its prohibition. If the petitioner next door wants to house her own aging parent, and file the identical application with the identical personal argument, she would have an equally valid claim under this same logic. Every R2 property owner in Elkhart could make this same argument – precisely what's the uniqueness of this requirement? The hardship basically is if the property is sold, the decision was made based on a personal hardship, which is not where a variance should be used, so the point is if the property is sold to a new owner that hardship doesn't carry over, so therefore that property can be utilizes for who knows – rental, Airbnb, etcetera. He jumps to his closing, because there are a lot of factors that have not been taken into consideration. In closing, their neighborhood's position is clear – they ask the Board to revoke the variance. The legal standard for the use of the variance has not been met, the structure installed is a HUD Code manufactured home that is injurious to

the established character of the site-built R2 neighborhood and to the property values, it was placed on a foundation during a procedurally defective approval process, and five separate zoning deviations have been approved without an independent finding each requires. If the Board declines to revoke, they ask that the record clearly reflects their objection. That this approval be treated as a non-precedential and that the City UDO process specifically addresses whether manufactured homes, ADUs, are ever appropriated in established site-built neighborhoods in Elkhart.

Joetta Byers asks if the Board received their pictures they submitted.

Adrian Byers states that he knows it's a City, State, and National movement for ADUs for various reasons, and if they're done right, they wouldn't be there today. The problem is that East Beardsley is a unique part of the City. It's one of the only areas where everything converges moving East, meaning that the properties become more tight, and that would be an example of Osolo and Beardsley, Beardsley and Greenleaf. Also, it's unique with that he border between Grant and Beardsley there is no alley separating those streets that would typically be seen throughout the city. Just the uniqueness of the area makes this not appropriate to be there.

Leichtman asks if they want the answers to their questions that they were proposing? They confirm. Leichtman states that in the conditions that the petition has itself, a lot of those were answered because they are the conditions on it. She adds that Trotter will read them into record during his staff report, so they should listen closely to that. Leichtman also wants to clarify that the Board is only hearing three variances – the square footage, the maximum allowed accessory building, and the habitation. So there were only three variances, and they had said five, so she wanted to make sure that was clarified.

Joetta Byers asks if the Board was aware this was going to be a manufactured house. Leichtman states that is just said a home, and Trotter will read out, and it will be on record, what the petition actually says for them.

Adrian Byers states that for the majority of people who had the ability to watch the hearing, the narrative was build. Even though it was offsite built, the clarification of whether it was going to be a mobile home brought in should have been mentioned during that time. During the hearing, nothing was mentioned about a mobile home.

Leichtman states that the City of Elkhart is updating the UDO, which is what the Board bases their decision off of, and it will have special exceptions and conditions with that new UDO for R2.

Adrian Byers states that the pictures show that there will be a parking constraint. He asks if they have reviewed the pictures and Linley states that they are looking at them right then. Byers states that this is something they commonly see down Beardsley. They've been there for 34 years, and that violates City ordinance as well. He believes there should be room for three cars with a parking space being 9 feet wide by 18 feet long. As far as a curb cut being put in place, that has yet to be decided upon.

Byers states that as far as the signatures, that was about 6 hours of time, but he's sure if he had put in a little bit more time there would have been plenty more. There are 36 signatures within six hours. There are additional signatures on social media, but is unsure if that is relevant to this. Greenleaf is a high tax area that holds a lot of value in the City, and he didn't make it to that street, but he guarantees if he did, they would have more signatures. So, if the unit was done cohesively, they have a Habitat for Humanity Home that blends in. In this case, it does not bled in.

Chris Johnsen, 1833 Grant Street, appears in person. They live in a home that her parents built I 1956. She is stunned by the fact that this began on October 9th, and they just stumbled into finding out what's going on last week. She cannot imagine why the city, if it's their responsibility, or someone else's, to take an area that is affected by this and notify them in the fall that this was coming, this was going on, and it could have been halted at that point. She knows that has been discussed by the others, but that's important. They've been out of town, and they come back and find this – it's very disturbing. Most of the things she was going to say has already been discussed, and she won't repeat, but she does want to make one point – when they moved into the house a few years ago, just because they hated to let it get out of the family, it has been in the family for 67 years, they did this because they liked the neighborhood. Since they moved in, they've been trying very hard to make sure cars aren't parked on the grass. A semi-truck didn't have a cab parked in the driveway next door. They've been reporting these things to Code, who has been very responsive and gave them their cell phone to call if they needed something. Her point is their reaction hasn't been, oh this is ridiculous, it's been, 'hey, we're here to help you because we're here to protect the neighborhood.' That is what she's heard, and if that's the case, this is not protection of the neighborhood. The other thing that bothers her the most is – would the Board like to have a trailer in the lot next door? She wouldn't, and the guy next to her that has an incredibly deep lot, he could probably get three of these houses in there and if the Board approves this, what they're doing is opening themselves up to more compliance with this. This isn't what these neighborhoods are for. If these people have spent $100,000 so far, they could have put a nice addition on their house. They did that for a family member. There doesn't need to be a trailer in the side yard. So, just some thoughts for consideration.

Bob Barnes, 205 Witmer Avenue, appears in person. He's been doing some digging on this, and has driven by the property. He apologizes for being late, he was late because he was in another meeting discussing House bill 101. Barnes states the problem they have here – he talked to Doug Miller and Aaron Mishler and Christian Small through text – they said that they cannot, through their ADU, cannot discriminate against manufactured homes. He asks if that is a manufactured home or mobile home, and wants to know if the Board needs him to explain the difference to them. A manufactured home is the house comes off the trailer frame and sets on a foundation. He believe the mobile home, they pulled the axles out of it and set it on a foundation. He hasn't seen it, but that trailer is out of place in that neighborhood. If the banks look at manufactured home versus mobile homes, and extra fees and special, other means of financial institutions to finance these projects, there's something wrong with allowing this in the City. He's not against adding onto a house or taking care of family members, but they're going to have problems if they don't cut this out now. His property butts up to Joyce Court, and most of those are rental properties owned by some investment company. What's going to happen when these people move, and they see two houses on there. They're not helping the rent, they're not helping anything. He's asking, just because they don't need their property values dropping in their neighborhoods for projects like this. This is not bringing good neighbors. If driving by, look at it – he doesn't know the road behind that place – everybody's house looks like a golf course out there, everybody takes pride in what they're doing. It doesn't fit the architecture, there's no screening, there's a privacy fence, and it doesn't look to him like it was set any closer to the border than a shed would have been treated. They need to do better, and do better at educating their legislatures. If it's a mobile home and not a manufactured home, they broke state law.

Michele Korach, no address given, appears in person. She has served on the Plan Commission and this Board previously. She doesn't envy the Board. She's looking at the sheet and she thinks it's obvious, this is absurd. She has several questions – when, what date, was the petitioner notified that her original petition was heard without the public being notified? She's asking because this trailer – is it on a slab, it is on piers, is it cement – because she lives in the neighborhood and she didn't see that kind of construction and she drives by this area twice a day, every day. She asks about the date because the trailer arrived January 21st, it sat in the yard for a day, then they positioned by tearing up the yard, the sidewalk, and the curb, and the tree lawn. Property owned by citizens was damaged when this trailer was installed on January 21st and 22nd. On February 19 and 20, Thursday and Friday of this past week, that is when all the construction people came. The city came and did their inspections, Moyer electric came, and parked their vehicles in the front of this property. That was on Thursday and Friday of this past week. This [showing images] with the coming spring, and snowmelt, and rain, what a mess that's going to make? It's a giant pile of dirt, and yesterday when she took the pictures, at 2 o'clock in the afternoon, the guy was out there digging the trenches. Korach states that the Board can't tell her the petitioner didn't know the meeting was happening today and this was just magical that it happened yesterday. Korach states that apparently Hogendobler thinks her new neighbors are stupid, because she's only been in this house for maybe two years at this point –

An audience member interrupts off-mic stating that wasn't the thing *[unintelligible, off mic].*

Korach continues, stating that she thinks the neighbors have said that this is the perception that is left to them, the people who have lived in the neighborhood 25 years. It's a trailer, parked on the grass, illegal by zoning code. She would like to know the date of when the petitioner was informed that this didn't meet public comment and notification. The reason she came today is because in 25 years of living in this city, and serving on boards, and being active in the community, this is ridiculous. She brought pictures because part of her concern is the deterioration of all of the community. Not just in their neighborhood, though it does directly affect her, because trailers according to national statistics, drop property values five to seven percent. On average, that's $12,000-$20,000 in loss of value. One of the other things she wants to point out is that the neighbor next door, at the address of 1732 (the neighbor with the fence) – what hasn't been seen is the direction from her front porch. Looking out her front porch, in her nice fenced-in yard, she's looking at this trailer and the windows are above the level of the fence. No matter who is in this home, they have no choice but to look out into her property. The neighbor has zero privacy, now. That's why Korach questions the foundation, because it's higher. She brought pictures because another issue that this will create eventually, because she can prove it by visual aid, every trailer deteriorates faster than the homes around it. *[Korach shows pictures from various trailer parks.]* Korach starts talking about and showing pictures of another location in Elkhart, which was supposed to be a temporary parking for RVs but is now showing signs of more permanent residence. Korach states that these images are what trailers deteriorate to. She compares these situations with the current case. The other thing Korach wants to stress is that any other structure in the City of Elkhart has to hook up to water/sewer supply. This is hooking up to the house – this is a completely separate structure, so how is the plumbing getting out of that structure. Is it right underneath the trailer, going into the sewer line? She doesn't think that is appropriate. How is the water getting in, more lines? If something freezes, where does that water or sewer go? There's no proper curb cut, they've driven over a sidewalk, they've driven over tree lawn, they can't park another car in their driveway that can access that, so until whenever, she's going to park in the dirt. There's no other property that's allowed to do that. It goes against the EPA, it's zoning code. As a neighborhood, everybody on this list [*she holds up the sign-in sheet*], look – it's almost the whole page. Nobody came up to talk about any of the other issues that were on here. Does this indicate the neighborhood cares about their investment and what they've put in. There are people who maintain their yards to the umpteenth, in consideration of the neighbors. Korach states this is ridiculous, and the Board should do everything in their power to not allow this to happen, then poses several rhetorical

questions. A hundred thousand dollars could have built a really nice investment, and there's enough property there that they could have built a very nice addition onto that house. Looking at other trailers in the community, the Board knows that it will look like in five or ten years, Korach states that's the nature of trailers.

Marnocha advises the Board to only hear the opposing comments related to the three variances being requested. Everything else is superfluous. As the acting president, Leichtman can confine the comments.

Leichtman clarifies that those are the variance for square footage use, the variance for a maximum of accessory dwelling, and the variance for habitation versus non-habitation dwelling. Marnocha confirms.

John Cunningham, no address given, appears in person. Cunningham states he is in opposition, generally speaking. He asks if this is a quasi-legislative board. Leichtman confirms. Cunningham continues and asks if the Board's decisions set legal precedent. No verbal answer is given. That's the nature of his opposition to this. Looking back, this came to his attention yesterday from people that do live in the area, so he went and looked at the October 9th board meeting. Perception is reality to him. In October, very little questions were asked about this project, the Board was just happy they were taking care of their mom, and he has been there and done that so he doesn't diminish that. Big picture, when a variance is considered, they have five criteria they are supposed to meet. It appears on all of these, including the ones today, they're subjective in nature. The reasons given by the staff are not objective. In this specific variance request, he thinks there will be unintended results for the community moving forward. Everyone will want to do this. The Zimmerman Volk study was cited, which is a market study, not a judicial or legislative precedent. It follows new development, maybe revitalized or rehabbed properties, what it was intended for, and population migration. Then it was subtly put in that they're looking to modify the Comprehensive Zoning Plan for AU to be dwelling. R2 strictly states they are not to be for dwelling. To him, it should have been over at that point back in October. Going forward, the community should be careful, because there is a bigger picture at play here. They're going to try to change it. There were stipulations that it would be a separate address, had to tie to the house, at the end of the day R2 protected these properties as single use family dwellings and here they are. Cunningham feels this is going to be a problem down the road. It's a conundrum, from October to today, but the community needs to do the right thing because there will be unintended results if this is approved.

Henke approaches to speak again. He states that he appreciates the neighbors that did the homework he thinks the city should have done. He thinks the precedence is scary, when looking at the financial future. He thinks it's concerning for established neighborhoods in Elkhart. They are building apartments on a regular basis, with three new assisted living buildings put up in Elkhart in the last five years. They have what is needed, there are additions that are being put on properties, but the investment can also stop if it's felt the investment is not stable. Henke considers the northeast quadrant of the city the most stable area of Elkhart, and this does the opposite for it. In his opinion, and having viewed the original notes, he is the representative for the area. The first notification he had was from neighbors when the trailer was on the wheels and sitting in the front yard. He called Mike Huber and Eric Trotter, trying to get clarification on how it could happen. The first indication he had that this was a possibility was neighbors immediately started to call, call the City and representatives. They were all involved and yet the project continued. He believes after viewing the documents and hearing the neighbors that misrepresentation of the project did occur. The language was purposeful, the three measures that are most important to the BZA, so all the emotional response had nothing to do with anything. It was just noted to muzzle off some other statements, but was allowed in the original presentation. The lack of transparency and validation brought extra city officials in to this meeting, so they knew there was a problem, when city officials have to step in, staff of the administration, and try to come up with a game plan on the second meeting that the public was now involved with, that's a problem.

Leichtman clarifies that these are the staff that are always at the BZA meetings. Henke continues that this is more than the attendance of the City Council Meeting. Leichtman states that's because the people in attendance have come to speak, also.

Henke continues and states that because of the transparency and lack of validation on city officials, they should know the answers before the meeting. It opens the city to legal recourse, the petition has already started. This is a harmful precedence. Therefore, they are requesting a unanimous denial of this process, with a cease and desist, and then allow the petitioner to re-apply under the now known facts, measures, and application. Protect the process of the BZA, that is critical, the process has to be the process, but it didn't go well, as is now known. Notifications didn't get out to where they needed to go, that's a violation of due process. It's in everyone's best interest, even the petitioner, if there was a unanimous denial, there's enough change that she qualifies to reapply for a variance, under the now known facts, and let the BZA do its job.

Leichtman clarifies again that the only thing the BZA is hearing for variance use is for square footage, the number of building that can be accessory dwellings, and if it can be habitable or not.
Marnocha states that at the very start, she clarified for everyone that these were all being heard as new petitions. She wants to point it out again to address Councilman Henke's comments that there should be a new petition – that's what today is. The facts are

known and the reports were supplemented by staff, by the petitioner, and by a number of people who have come up and spoken. That's what today is, a new petition.

Adrian Byers approaches to speak again. He states that as he was moving around the neighborhood, there were a few neighbors looking to move, not because of what is occurring, but it was their previous plan to move. Without this addition, and of course Nichole and her family had no clue of the impact, but they're here to make sure that any homeowner's property, that's their number one investment, and to maintain equity in that is important. Even though the property value of the 1746 E Beardsley increases, that doesn't necessarily mean the properties around it will. So essentially, as the neighbor across the street who wants to move to St. Louis and she puts her house on the market, she may end up getting less than that. There are three neighbors looking to move, and three houses on Beardsley for sale, so six houses. This is a heads-up that they're just sounding the alarm. It's in their front yard today, but will be in their backyards tomorrow. It is something that needs to be taken into consideration. He has nothing against ADUs if they're done right. He just wants to make sure it's understood that there's no sympathy applied to this, there's the Indiana law in terms of how the variance should be utilized. With that being said, homework has to be done to make sure they don't get ahead of themselves. They are now, this project is pretty much 90% complete, the permits the approvals, it's not completed. It's almost self-inflicted, knowing that there was an issue, neighbors and citizens have complained, there was no cease and desist, that was talked about before. So, this is a self-inflicted situation, and it really isn't between the citizens and the Board and the petitioner - this is between the petitioner and the city, because the Board failed her and maybe the Board was misled in getting to this point. So, he is just sounding the beacon, the warning, so that the next time this comes up there will be more attention paid to the details not only above the ground but below the ground. There is an aging sewer system on the north side of Elkhart. There is more industrial growth on the northeast side from the commercial building. That sewage system can only handle so much, so they keep tapping into old cast pipes and hopefully when someone comes across a pipe from 1932, they know how to connect to it. These are going to cost infrastructure problems that are going to be a cost for the taxpayers. Essentially, putting that in the neighborhood, unbeknownst to her, she just took 10 grand off the neighborhood's property values. It could be more than that, but that's basically the reality of that when it comes to someone coming into the area and wanting to buy a house, and see that structure there.

Korach approaches to speak again. She wants to be specific – she objects to the variance to allow this larger unit, trailer, to be put. So the specific thing they're hearing today, that it's too big, and that is on the docket for today - they are saying 'no, thank you,' they would like the Board to vote no.

Leichtman closes the public portion of the meeting and calls staff forward.

STAFF ANALYSIS

Trotter presents.

The petitioner is requesting a use variance to allow for the construction of a detached accessory dwelling unit that is 748 square feet in area. Section 4.2 Permitted Uses in R-2, One Family Dwelling District does not permit accessory dwelling units. Plus, the number of accessory structures and square footage.

The request comes to us as the petitioner looking to build a detached accessory dwelling unit (ADU) in the rear of their property for a family member. The parcel is currently used by the petitioner primary residence as a single-family home. The need for the use variance comes from the fact that the R-2 zoning district does not permit accessory dwelling units as a permitted use. The petitioner reached out to staff doing the necessary due diligence in order to establish the use. The petitioner was made aware at that time that Board action would be required.

The number of accessory structures on the property is currently three (3). With the added ADU structures this raises the total number of structures to four (4). Should the BZA approve the request-one of the sheds should be removed.

From the street, this detached dwelling will have the appearance of a house set in the back yard. Only one entrance will be permitted on the front facade while a second entrance can be on the side or rear of the building. The structure will be secondary and accessory to the main dwelling as the ADU will be fully functional as an independent living space from the primary dwelling. All utility connections will connect into the primary dwelling. This ADU will meet the Accessory Structure Setbacks. The ADU will be on the same lot as the primary dwelling and will not be split off in the future. The primary structure or ADU must be occupied by the property owner of record and will be recorded with the Elkhart County recorder with a deed restriction.

This request will allow the property to add housing variety and continue to chip away at the shortage of housing in our community as outlined in the Zimmerman Volk Housing study. The city needs housing at every level, and this request helps the city in promoting incremental increases in housing options within existing neighborhoods throughout the city.

The City of Elkhart is in the process of updating its zoning ordinance, including the accessory dwelling unit regulations. In the anticipated UDO, accessory dwelling unit are listed as a Special Exception with conditions.

The requested condition is consistent with proposed regulations found in the anticipated UDO. Staff anticipate seeing more requests similar to this one following the anticipated UDO being implemented.

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 detached dwelling 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 surrounding uses are residential and are residential structures;
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 adding of an accessory dwelling unit 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 the owner would not be able to place the structure;
6. The special conditions and circumstances do not result from an action or inaction by the applicant because no construction has begun;
7. This property does not lie within a designated flood hazard area.

CONDITIONS

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

1. Only one entrance is permitted on the front facade while the second entrance can be on the side or rear of the building.
2. Shall be secondary and accessory to the main dwelling.
3. Shall be fully functional as an independent living space.
4. Shall be on the same lot as the primary dwelling and not be split off in the future.
5. Must meet Accessory Structure Setbacks.
6. Primary structure or ADU must be occupied by the property owner of record. A deed restriction shall be recorded with the Elkhart County recorder.
7. Utility connection must connect with the primary dwelling.
8. The removal of one shed from the property to allow for a three (3) total structure.
9. Homeowner to provide survey to confirm correct placement of ADU structure *(*amended by staff during staff report reading).*

Additional comments *(*amended by staff during staff report reading)*:

1. The Indiana Association of Realtors is strongly in support of House Bill 101, specifically streamlining the approval of ADUs without public hearing.
2. The BZA is considering the use, not whether the ADU is a manufactured home.
3. We have provided a deed restriction, which will require the property to be maintained as the primary owner of record in either the primary structure or the ADU, and the structure may not be subdivided in the future.

Trotter states there were 39 letters mailed with 11 responses received, all not in favor with the following comments. Trotter adds that actually there were three additional received today. Henke brings up one more.

Leichtman asks if that makes it 12. Trotter responds that it would be 12, plus an additional three.

Raen Levendoski, Board Recording Secretary, clarifies that they included all the comments received today in the total number, so 12 is accurate.

Trotter continues with the received comments. Comments were:

1. They originally talked to the petitioner after receiving the initial public notice, and the petitioner stated that they were going to build a little house for their mother. They agreed, with the impression that it was going to be a small home built based on that conversation. When construction began, a lot of soil was piled up next to the fence, the person performing construction wasn't sure why they had put pylons in since the owner had said it was temporary. The mobile home was delivered and left in the side yard the week of January 19th and placed in the backyard on the 21st. According to the diagrams presented option 2 was chosen, but instead of 16ft as indicated, it was 5ft from the fence. The floorplan submitted shows the 2-bedroom has a window and a bathroom on the other end of the home, 13.4ft wide side has no window, and primary bedroom and living room have a window and an entry door. Included photos shows the end of the home has a window facing the street and two windows and a

door facing the fence. The front of the home is facing west approximately 5 feet. They were told by Aimee Lattimer the code states the front door has to face the street, it does not. The proposal shows it 15 or 16 feet away from the fence, it is not. In paragraph six of the appeal, it stated the occupant already requires assistance at times in keeping up with the housework and yard work. While this may be true, she still works 40hrs a week and has 3 or 4 years to retire. If the structure was moved to a mobile home park in Elkhart, it would be close enough for the petitioner to help her mother until her mother needs assisted living. The petitioner stated in her appeal on number seven that it wouldn't bring hardship to the neighbor. It will in fact lower property values and make it harder to sell the home, and cause the neighborhood to appear less desirable to future home buyers.

2. They did not receive notice and they live down the street. Reaching out in regards to the letter received ahead of the public hearing to address case 25-UV-10. She will not be able to attend in person and hopes the letter voices her stance. She is the homeowner at 1720 E Beardsley, the accessory dwelling is two doors down from her home. While she did not receive notice in the initial hearing last fall, she appreciates the efforts to include this. She finds herself hesitant to write an opinion on her neighbor's land use, but is struggling with the view as of late. As an owner of a larger lot on East Beardsley, she is curious about the future landscape of the block if this item is allowed. In the event she approached the city, as well, to create a second dwelling in her back yard, she could very easily create a mini trailer park. She doesn't foresee her neighbors being enthusiastic about the idea. She is not in favor of the request as it stands, but hopes it will be reconsidered or revised to allow manufactured homes.
3. They recently learned of variance request on February 16, they reviewed the minutes of October 9. They have several questions – Mr. Trotter said 23 letters were mailed, they never received a letter. They request the names and addresses of those who were sent a letter. They are surprised no one in person to hear about the variance request and only two replies to the letter were received. The US Mail and Elkhart Truth are not reliable methods to contact affected people. Petitioner stated she would like to build a new home, currently there's a mobile home sitting in the back corner of their lot, how is that building a new home? This is not a mother-in-law suite, it's a mobile home. Is this area zoned for mobile home? Did the petitioner show pictures of the ADU, as it was a mobile home? Staff recommendation number two states the value of adjacent property will not be affected in a substantially adverse manner, because the surrounding uses are residential and residential structures – the surrounding structures are houses, not mobile homes. This ADU sticks out and is extremely noticeable driving by on East Beardsley, it is a very busy street. Recommendation number four states that 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 without board action, adding the ADU on this parcel would not be permitted. There are at least three other double lots between this one and Osolo Road on East Beardsley. This is setting a precedence for mobile homes to be placed on these lots. In the staff analysis, all connections will connect to the primary dwelling, this includes water, sewer, and electric. Staff analysis, the ADU, the mobile home will be on the same lot as the primary dwelling, it will not be split. The primary structure or ADU must be occupied by the property owner of record and will be recorded with Elkhart County recorded with deed restrictions, so when mom no longer occupies the ADU, what happens to it? When the current primary owner moves, what happens to the ADU? Does it become a rental property, is this zoned for rental property? Are the utilities separated from the primary structure? Has the fourth shed been removed since the ADU is currently on land? Mr. and Mrs. Moore strongly object to the variance of adding the ADU on the second lot for the following reasons: the petitioner has moved a mobile home onto her second lot. Building a small house that would blend with the neighborhood is different than a mobile home. It sets a precedence that encourages other neighbors to ask for the same variance and put a mobile home in their yard. In this area is zoned R2 single family dwelling, adding a habitable ADU to this area emboldens others to add a unit to their land and convert an existing ADU such as a garage, shed, or habitable structure. They disagree with this statement in the staff's recommendation about property values not being affected in a substantially adverse manner. In the past several years, houses have been renovated and approved. Putting mobile homes on the street will decrease property values and desirability to live there. They strongly urge the Board to rescind the decision or deny approving the dwelling unit at 1746 East Beardsley, allowing an accessory dwelling unit to be put on their lot. They strongly urge the Board to rescind or deny the use of the ADU for permanent or temporary habitation.
4. They are opposed to the petition to put a mobile home at 1746 East Beardsley, it will cause harm to the value of their property which they recently purchased in 2025. They would not have purchased the house if there was a mobile home placed on any property nearby. The current placement of this monstrosity is so close to the neighbors fence, and the front door is facing the neighbors fence and not the street. The mockup provided by the petitioner does not indicate where the front door is, and it seems another example of trying to pull a quick one. Most would assume the front door would face the street, but that is not how it's been placed. After reviewing the October 9 Board meeting, it seems the petitioner lied to the Board concerning the accessory building. It was said to be a constructed home – building a cute house for mom is not the same as pulling in a mobile home. The zoning board was misled at the meeting. Also concerned they did not received a letter in September concerning the petition, speaking with their neighbors they did not receive on either. They included a photo of the property and asks would they want this across from their home.
5. They are strongly opposed to the ADU. A short while ago, they saw a mobile home parked on the side of the lot at that address, and they both went ballistic. A day or so later, it was gone and they forgot about it. Now they want to make it permanent? No.

6. They are writing to share their concern regarding the recently installed single-wide mobile home styled ADU in their neighborhood. They want to acknowledge the clear and compassionate intent behind this decision by their neighbor. Providing care and proximity for an aging parent is admirable and reflects strong family values. Their concern is not with the motive, but with the long term implications for the neighborhood. They have lived in an established area of homes, built primarily in the 1930s through the 1960s. The architectural consistency, lot usage, and overall character of the neighborhood are part of what protect its identity and long-term property values. Introducing detached, single-wide ADUs represents a significant departure from that pattern. Their concerns are threefold: Precedent: Allowing the structure sets a precedent for future installations, once established it becomes increasingly difficult to deny similar requests regardless of circumstances. Neighborhood Character: A mobile home-style ADU materially changes the visual and structural consistency of the neighborhood. Over time, incremental changes can significantly alter the feel and desirability of the neighborhood. Property Values: While a single instance may not create immediate impact, broader adoption could influence buyer perception and long-term house values. Established neighborhoods derive value in part from stability and predictability. They respectfully urge the Board to carefully evaluate its installation and any future requests for similar structures, if ADUs are to be considered, they would strongly recommend clear architectural and structural standards that align with the existing character of the neighborhood rather than allowing mobile or manufacture home style units. This recommendation includes this latest structure if it continues to be allowed. Their intent is not to criticize the neighbor's personal decision, but to advocate for the long-term sustainability and integrity of their community.
7. They are writing to formally express their opposition to the proposed placement of the mobile home on a property that already contains a single family dwelling within their neighborhood. Based on the Board of Zoning Appeals injury to neighborhood standard, a variance or special exception should not negatively alter the area's established character, create hazards, or cause unreasonable injurious effects on neighboring properties, including property values and enjoyment. They believe this proposal conflicts with those standards for several important reasons. Alteration of essential character – their neighborhood is composed of traditional single family homes on individual lots. Introducing a second dwelling in the form of a mobile home on a lot designed and zoned for single family residential use would substantially alter the established character of the area. The placement of an additional structure of a different housing type changes the residential density and visual consistency that homeowners relied upon when purchasing their properties. Physical and aesthetic impact – the addition of a mobile home to a lot already containing a primary residence increases structural density and may create visual overcrowding. This type of modification can dominate surrounding properties and disrupt the cohesive appearance of the neighborhood. Lot configuration, spacing, and scale are important factors in maintaining neighborhood integrity. Impact on property values – homeowners in this neighborhood have made significant financial investments based on existing zoning and development patterns. The addition of a mobile home on a lot with an existing residence may create uncertainty for future buyers and could negatively influence comparable sales values. Perception plays a significant role in residential real estate markets, and deviations from established neighborhood standards can result in decreased demand and reduced property values. Precedent concerns – approving this request may set precedent for similar future requests, gradually transforming neighborhood in a way that was not originally intended under the current zoning classification. For these reasons, they respectfully request that the Board deny the variance in order to preserve the integrity, stability, and property values.
8. ADUs are prohibited in the R1-R2 districts, meant for one-family dwellings. Doesn't suit the characteristics of the neighborhood. Sets a bad precedent for future home development. May diminish surrounding property values. Could discourage proper house development in the area. No pathway leading to ADU, driveway to ADU, or privacy fence surrounding the backyard. If there is an affordable housing crisis in Elkhart, this is not a prudent way of resolving that issue.

Leichtman asks if there are questions from the Board for staff.

Newbill states that a lot of information that has been provided to the Board, and asks if this can be moved. He is not comfortable making a decision at this time, based on the fact that they have just received all the necessary information and he would like to scrutinize that to the Board, to see if this could be moved to another time since this is the first time going through.

Trotter asks for clarification on what he is asking. Newbill asks if it can be moved to another date. Trotter asks if he means to table. Newbill confirms and says he does not want to approve or deny it at this time. Trotter states that as a Board member that is his prerogative.

Leichtman asks if they can ask some questions that will help to decide either way at this time.

Marnocha states that she thinks there is a misconception based on a number of comments and some of the letters. The BZA serves a quasi-judicial role, they do not set precedence. If the Board denies this one, it does not mean that they have to deny every ADU; if they approve, they do not have to approve every ADU. The BZA hears things on a case-by-case basis, and are supposed to weigh the evidence and merits on individual cases. They are not setting precedence. The expectation might be to generally follow, but do not feel that however they make the decision in this case is shutting or opening the door on future cases.

Leichtman has questions about parking and driveway, and how that's going to work with the structure, if approved.

Trotter states that in the interim they will use the driveway that is there, and if they chose to submit for a second curb cut, that would be theirs and would be looked at by Public Works department and Planning and Zoning at the same time.

Leichtman asks if they are currently not allowed to drive over the grass and sidewalk, Trotter confirms. Leichtman asks if that needs to be added as a condition or will be enforced by the city. Trotter states that it would be enforced by the city but if the Board wanted to place it as a condition, they could.

Leichtman asks Mike Huber if he can speak to the structure of the building, if it's been inspected and if it is within code, etcetera.

Huber believes they will probably do some verification on the actual inspections that have taken place by the building department. Again, zoning clearance is one part of the building permit process. They would have come in, they would have applied for and provided all the relevant information to receive their building permits, and that would have triggered the relevant and necessary building inspections all along the way. But they can definitely verify and provide the Board with the additional information that they can get from the building department related to those pieces.

Leichtman states that she believes that will help with the additional 16ft that was proposed—

Huber states that to address that, he believes the only developmental variances that were given today were related to the number and size and square footages. There were no setback developmental variances that were requested, so if the structure was placed encroaching on a setback, that is something that from an enforcement standpoint could be remedied. Potentially, the structure may have to be moved.

Leichtman states that she thinks that is why Trotter proposed the condition of having the survey done. Trotter and Huber confirm.

An audience member speaks unintelligible and off-mic.

In response, Leichtman states that the public meeting has been closed at this time, and reiterates that the Board is there to approve the square footage, also to allow an additional building, accessory dwelling, to be placed in the yard, and the habitation. Those are the only things the Board is dealing with today. Otherwise, the City will do their due diligence in making sure other concerns are up to code.

There is another question from the audience spoken off-mic and unintelligible. Leichtman states she cannot speak to that, and these are the only three things they have the ability to grant a variance use on today.

Leichtman calls for a motion.

Leichtman requests Trotter restate the added conditions for the Board.

Trotter states that there were 8 conditions in the staff report, and they added a ninth that the homeowner shall provide a survey to confirm the correct placement.

Leichtman adds a condition regarding parking and a driveway - she believes those need to follow city code. Driving over the sidewalk is hazardous, so she wants to make sure that is handled correctly with the City. The added condition would be to make sure parking is within zoning ordinances.

Leichtman requests to add another item to the condition number eight – the removal of one shed on the property to allow for three total structures, within 60 days.

Marnocha wants to add some additional information, due to some concerns. Because the Board only has minimum quorum, if they do not reach a unanimous decision, the case stays tabled for the next regular meeting.

Korach requests the statement is repeated. Leichtman responds that all three present Board members have to agree unanimously whether the case is approved or denied. If they do not all agree, the case will be tabled until the next meeting where they have four people or a quorum, which is standard practice.

Korach ask for clarification on if the residents that spoke today would have to come again. Leichtman responds that if the Board doesn't decide on the same vote. Korach asks the Board to vote to their conscience.

An audience member begins to speak off-mic – Leichtman requests the Board takes a vote first, then they can discuss anything else.

Linley makes a motion to deny 25-UV-10 stating the following conditions have not been met: the use variance requires that the approval will not be injurious to the public health, safety, morals, and general welfare of the community. The use and value of the area adjacent property will not be affected by a substantially adverse manner. In both cases, the petition before us does not meet those standards. Therefore, she is moving that variance 25-UV-10 be denied; Second by Newbill.

Linley – Yes
Newbill – Yes
Leichtman – No

Motion does not pass. Petition is Tabled until March.

An audience member asks if the project will stop then, or continue. Marnocha confirms that the City will be contacting the Building Department about ceasing moving forward.

An audience member asks when the next meeting will be. Leichtman asks Trotter if they are having their normal Thursday meeting. Trotter confirms and states the meeting will be March 12.

ADJOURNMENT
Linley makes motion to adjourn; Second by Newbill. All are in favor and meeting is adjourned.

President or Vice-President

Secretary