

AGENDA
ELKHART CITY BOARD OF ZONING APPEALS
THURSDAY, APRIL 9, 2026 AT 6:00 P.M.
COUNCIL CHAMBERS – MUNICIPAL BUILDING

THIS MEETING WILL ALSO BE HELD ELECTRONICALLY VIA WEBEX.

This meeting can also be accessed via WebEx. To join, go to <http://coei.webex.com>, enter **2300 762 6417** as the meeting number and “**BZA2026**” as the password. Attendees may preregister or enter during the meeting. Comments and questions may be submitted via the WebEx app during the meeting, or may be submitted to raen.levendoski@cityofelkhartin.gov prior to the meeting.

1. **ROLL CALL**
2. **ELECTION OF OFFICERS**
3. **APPROVAL OF AGENDA**
4. **APPROVAL OF MINUTES FEBRUARY 21, 2026 AND MARCH 12, 2026**
5. **APPROVAL OF PROOFS OF PUBLICATION**

6. **NEW BUSINESS**

26-BZA-06 PETITIONER IS RIVER DISTRICT DEVELOPMENT
PROPERTY IS LOCATED AT 302 E JACKSON

To vary from Section 26.10.D.3 – Table 1, Projecting signs in the CBD, that limits the size to 9 square feet to allow for a projecting sign that is 35 square feet, a variance of 26 square feet.

Also, to vary from Section 26.10.E – Table 2, Projecting Signs in the CBD, that limits the height of the projecting sign to thirty-five (35) feet above the ground to allow for a sign that is thirty-eight (38) feet above ground, a variance of three (3) feet.

26-UV-07 PETITIONER IS NEXINK REALTY LLC
PROPERTY IS LOCATED AT VL 2000 BL SOUTH MAIN STREET

To vary from Section 19.2 Permitted Uses in the M-2, General Manufacturing District, to allow for auto sales.

26-X-01 PETITIONER IS CITY OF ELKHART BOARD OF PUBLIC WORKS AND ERMINE MEADOWS INC
PROPERTY IS LOCATED AT 626 W CLEVELAND AVE

Per Section 5.3, Special Exception Uses, (4.3.O) Parks and Playgrounds to allow for the establishment and expansion of a new park and playground.

26-BZA-07 PETITIONER IS DIOCESE OF FORT WAYNE-SOUTH BEND
PROPERTY IS LOCATED AT 1128 S MAIN ST

To vary from Section 26.4.A.8, Fence Requirements, which states in part, “Fence materials may include treated wood, painted wood, treated split rail, ornamental wrought iron, brick, stone, masonry block, decorative painted or vinyl coated aluminum, or other materials as approved by the Planning and Zoning Office. Scrap lumber, plywood, sheet metal, plastic or fiberglass sheets are specifically prohibited, to allow for a plastic fabric to cover an existing fence to remain.

26-UV-08 PETITIONER IS K&J PROPERTY LLC
PROPERTY IS LOCATED AT 2101 W FRANKLIN

To vary from Section 19.2, Permitted Uses in the M-2, General Manufacturing District, to allow for the construction of a Drive-thru Coffee Shop. Drive-thru Coffee Shop are not a permitted use in the M-2 District.

26-BZA-09 PETITIONER IS CRB4, LLC
PROPERTY IS LOCATED AT 4800 BRISCOLA CT

To vary from Section 26.4.A.6, Fence Requirements, which states in part that, ‘No fences, other than split rail, wrought iron, or open picket fences not to exceed four (4) feet in height, shall be permitted on any front yard or corner side yard’ to allow for a seven (7) foot chain link fence (six (6) foot fence and one (1) foot 3-strand barbless wire fence) in the corner side yard, a variance of three (3) feet.

26-BZA-11 PETITIONER IS IGNACIO PEREZ
PROPERTY IS LOCATED AT 431 MIDDLEBURY

To vary from Section 8.5, Yard Requirements to allow for a parcel with an established lot size of 3,040 square feet and lot frontage of 38 feet variance to be used as a two-family dwelling. The minimum lot size for a two-family dwelling is 7,200 square feet and a lot frontage of 60 feet, a variance of 4,160 square feet for the lot area and 22 feet for the lot frontage.

To vary from Section 8.5, Yard Requirements in the R-5 Urban Residential District, to allow for a five (5) foot side yard setback where seven (7) feet are required, a variance of two (2) feet.

To vary from Section 8.5, Yard Requirements, Rear Yard to allow for a thirteen (13) foot rear setback where thirty (30) feet is required, a variance of seventeen (17) feet.

To vary from Section 8.5, Yard Requirements, for the corner side yard average established setback of thirteen (13) feet, to allow for the construction of a two family dwelling at a corner side yard setback of seven (7) feet, a variance of six (6) feet.

To vary from Section 26.7.D, Schedule of Off-Street Parking Space Requirements, to allow for zero (0) off-street parking spaces where four (4) off-street parking spaces are required, a variance of four (4) off-street parking spaces.

- 7. **STAFF ITEMS**
- 8. **ADJOURNMENT**

**PLEASE REMEMBER TO USE THE MICROPHONE WHEN SPEAKING.
ERRORS IN THE MINUTES MAY RESULT FROM INAUDIBLE VOICES.**

BOARD OF ZONING APPEALS MEMBERS

<u>Name</u>	<u>Term</u>	<u>Appointed By</u>
Janet Evanega-Rieckoff, President	February 2, 2024 – January 6, 2028	Mayor
Phalene Leichtman, Vice President	January 1, 2024 – December 31, 2027	Mayor
Ann Linley	January 1, 2026 – December 31, 2027	City Council
Rochali Newbill	January 1, 2026 – December 31, 2030	Plan Commission
Position Vacant	TBD	Mayor

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 the 1717 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 through 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 current fence placement standards.

Zoning staff cited the property for a zoning violation for the 6-foot solid wood fence installed in the corner side yard prohibited by zoning ordinance on 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 habitation' to allow the accessory dwelling unit to be used for habitation.

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 is 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 on 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 against 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 utilized 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 the 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 blend in.

Chris Johnsen, 1833 Grant Street, appears in person. They live in a home that her parents built in 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.

Mamocha 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. Mamocha 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.

Mamocha 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.

Mamocha 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

BOARD OF ZONING APPEALS

-MINUTES-

**Thursday, March 12, 2026 - Commenced at 6:04 P.M. & adjourned at 8:37 P.M.
City Council Chambers – Municipal Building**

MEMBERS PRESENT

Janet Evanega Rieckhoff
Phalene Leichtman
Ann Linley
Rochali Newbill

MEMBERS ABSENT

None

REPRESENTING THE PLANNING DEPARTMENT

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

LEGAL DEPARTMENT

Maggie Marnocha

RECORDING SECRETARY

Raen Levendoski

ELECTION OF OFFICERS

Evanega Rieckhoff asks if Newbill will be Secretary, Leichtman clarifies whether he still requests a temporary appointment. Newbill confirms. Evanega Rieckhoff asks for a motion.

Leichtman makes a motion for Newbill as Secretary for this meeting only. Second by Linley.

Leichtman – Yes
Linley – Yes
Newbill – Yes
Evanega Rieckhoff - Yes

APPROVAL OF MINUTES FOR FEBRUARY 12, 2026

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

APPROVAL OF AGENDA

Evanega Rieckhoff moves to approve the agenda.
Leichtman makes a motion to approve; Second by Linley. Voice vote carries.

APPROVAL OF PROOFS OF PUBLICATION

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

OPENING STATEMENT

Welcome to the March 12, 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, your microphone will be automatically muted and your video will not be on when you enter the meeting. If you would like to speak, you must click on the “raise hand” action in order to alert our IT attendant to unmute your speaker and turn on your video, which is necessary if you want to take part in the meeting. I will also be keeping a watch on the “raise hand” as well. When you begin to speak, speak up and identify yourself before proceeding. When speaking: Petitioner, Public and Board members, make sure your mic is on and speak into it.

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 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.

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

OLD BUSINESS

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

Maggie Mamocha, Board's Attorney, states that the staff has amended their report, which can be given orally, but in order for the BZA to accept and consider the written document, they'll need to have a motion to waive Article 5.01 of the Board's Rules of Procedure, which mandates that staff reports must be submitted five days prior to the meeting. She offers a written out motion for the Board to read.

Leichtman accepts the document and makes a motion to waive Article 5.01 of Rules of Procedure, which mandates that staff reports must be submitted five days prior to the meeting. Second by Linley.

Leichtman – Yes
Linley – Yes
Newbill – Yes
Evanega Rieckhoff – Yes

Motion carries.

Mamocha lets Trotter know he can now distribute the amended staff report.

Evanega Rieckhoff asks if this new staff report is in addition or a replacement. Trotter confirms it is a replacement.

David Henke comments that there are not enough copies for everyone in the audience; more copies are made.

Eric Trotter, Assistant Director for Planning, presents.

The requests 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 habitation' to allow the accessory dwelling unit to be used for habitation.

Evanega Rieckhoff calls the petitioner forward.

Nichole Hogendobler, 1746 Beardsley Avenue, appears in person. She is the owner and occupant of 1746 E Beardsley Ave. As was presented and approved on October 9, 2025, she petitioned to add a "Mother-in-law" suite to the property. The home is approximately 56' x 13'4" and 748sq ft., will be occupied by only her mother, does not require a separate mailing or street address,

and is hooked up to the existing utilities, as was conditioned in the approval. Nothing has changed since the previous two presentations except for the fact that the home is now placed and hooked up in her backyard as approved by the Board. The home that is placed in her yard is the home that was presented. The floor plan that was presented to the board and has the manufacturer's name in the top corner. There was no misrepresentation of the home to be installed, nor was the type of home ever in question. Before coming to the first board meeting, she did speak to the neighbor on the right of her, and she was all for the home being placed. Hogendobler had no idea that the home would be placed as high as it is. That happened due to regulations the City placed on them to have a cement crawlspace underneath the home. Although the responsibility of informing any neighbors was not hers, that was the City's responsibility, she did consult with her neighbor out of respect before breaking any ground. Failing to inform anyone within 300ft of her property was not her responsibility and she had no clue that it was even part of the process. That mistake has nothing to do with her, though she is the one currently feeling the punishment for that mistake. The people in attendance, including a councilman, have gone to social media and the news falsely calling her a liar and accusing me of duping the Board. This process from the beginning up to this point started with her asking the city questions. Is she allowed to do this, is this even possible, is it legal? All her questions were answered with a "yes" which is why they are at this point. Everything that has been completed has been approved by the city, step by step. She would not have been able to get any kind of permit without first getting approvals. She has done everything she needed to do to be compliant and has gone through all the proper channels. It was expressed in the last meeting that she was trying to make everyone look stupid because the contractors magically showed up to dig the trench, after the letter stating an error in notification had occurred went out. The home was installed on January 21st and 22nd and the trench was not done until February 18th and 19th. This is true. The contractors should have been completely finished with the home in January, but due to the weather, the ground was too frozen for them to proceed. Due to no mistake of hers, the process was delayed. The home has had temporary electricity hooked up since the end of January, and the week the trench was officially dug was the first chance the contractors had to dig without the ground being frozen. It then snowed and temperatures dropped again that weekend. She had no intention of making anyone look stupid or rushing the installation. The contractors came and did their job, as the weather allowed. A lot of the concerns expressed at the last meeting had nothing to do with the three variances before the Board today. The variances before us today are: How many ADUs she is allowed on her property. Section 4.2 allows for only two accessory buildings, and she is asking to keep three. How much square footage the new ADU can occupy. Section 4.2 allows a maximum of 720 square feet for an individual ADU and the installed accessory building currently occupies 748 square feet. That's a difference of 28 square feet. Third, if the ADU can be lived in. Section 4.2 does not allow for habitation of an ADU, and she is asking that her mother be allowed to live in the accessory unit that's in her yard. Strict adherence to the Zoning Ordinance requirements will create an unusual hardship for both her and the occupant, her mother. The home is currently installed due to already receiving approval from the Board. The home is installed on a cement crawlspace, as was required by the inspector, costing an additional \$8,000.00 that was never brought up in the prior approval. Hogendobler's mother has already closed on her current home and is technically a squatter. They have been lucky enough that the people that bought her home are allowing her to stay until her new home is ready, although now she is having to pay rent and a house payment. Her mother has a chronic health condition that will worsen over time and require her to have more assistance as she ages. This was another issue that was called a lie. Never in any of her presentations did she say her mother was already disabled or that she was unable to maintain a job. Hogendobler has repeatedly said that her mother occasionally needs help now, and that her condition will worsen, requiring more and more assistance. Yes, she works a 40-hour week, that's why she needs assistance sometimes – after a 40-hour week it's hard for her to do a whole lot when her condition is flaring. Having her mother live so close to her will allow for her mother to receive timely help when needed, will allow her to be taken care of as she ages, and allow Hogendobler to be able to ensure she is safe, healthy, and happy as she ages. The councilman said that she should have just taken her mother's 100 grand and thrown her in one of his facilities when she reaches the point of needing assistance. Hogendobler doesn't see her mother as something to be thrown away because things are failing. The standards considered for a Use Variance according to Indiana Code 36-7-4-918.4 are all true in this circumstance. The continued approval of her variance is not injurious to the public health, safety, morals and general welfare of the community. Those in attendance are worried about property values and the homes maintenance in the future. Property values constantly fluctuate beyond anyone's control. She takes care of her property. Since moving in, she has made vast improvements to the yard and landscape and has worked on improving the home itself by installing new windows and painting the porch every year. The added unit will be taken care of the same way. Just because it is a manufactured home does not mean it will be allowed to fall into disrepair. Any home is subject to look trashy if not taken care of. The use and value of the area adjacent to the property will not be affected in any substantially adverse manner because the home is solely located on her property away from the boundary lines. Yes, the windows of the home can see over her neighbor's privacy fence, but the windows in her main home can too. The need for the variance arises from a condition peculiar to the property involved and the strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to her property. This is more true now than it was when she received the first approval. Hogendobler's original proposal was that if her mother was not allowed to reside in the home, she may not receive the help and care she needs 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. Because they received approval the home is now already installed, and her mother's home is sold. Around \$100,000 has been spent on this project and the hardship that will be caused by reversing the prior approval is even more substantial than when this process started in October. The approval does not interfere substantially with the comprehensive plan. The addition of the home does not interfere with any type of transportation safety or needs. The city needs housing at every level, and this request helps to promote increases in housing options and will help chip

away at the shortage in this community as outlined in the Zimmerman Volk Housing Study. Hogendobler respectfully asks the Board to keep the objections that are about to be expressed focused on the actual variances before the board: how many ADU's, the square footage of the ADU, and the occupancy of the ADU. She prays the Board stands behind their first approval, because everything that has been done up to this point has been based on that approval.

Evanega Rieckhoff thanks her and thanks her for the pictures *[provided with Petitioner's Exhibit K]*. She states she drove by today and the pictures are a good representation.

Evanega Rieckhoff asks for questions from the Board.

Newbill states that Hogendobler mentioned that they were required to put the unit on a slab – does that have a basement to it? Hogendobler states there is a crawl space, and you can get under the house. Newbill asks if there are skirts, and Hogendobler responds that no, it's a crawlspace, which is why the house is up so high. Newbill asks if that is why there was an additional \$8,000. Hogendobler confirms.

Evanega Rieckhoff asks if they were told to do that by the City. Hogendobler confirms.

Evanega Rieckhoff asks how they are going to finish off the bottom – with aluminum siding? Hogendobler states that the contractor has all that information, and they were told to stop, but she is sure that it's going to be finished off when they are done. Evanega Rieckhoff wants to confirm it won't be skirting. Hogendobler states that if it does, she will pull it off because it is ugly.

Leichtman asks if she has any landscaping planned. Hogendobler confirms that there is a lot she wants to do, and states that she's put a lot into pulling out stumps and poles in her backyard, just got all the grass growing again, and she is gradually year-by-year working on the landscaping. She plans on keeping everything nice and having it look very nice.

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

David Henke, 1752 Crabtree Lane, Councilman for the area, appears in person. Henke states that if you review the last meeting minutes, you can note that he offered that the petitioner's mother had other options, but never was the word 'thrown into a building' ever implied. Henke claims that she embellished and outright lied. He claims there is no slab under the dwelling, that they have videos that have been shared with the City, and that it is on a cement block and four piers to hold the steel structure. Henke claims the petitioner outright lied once again. He claims that in here it also states there would be a tiny house constructed. It was not constructed on site or modular built. It was supposed to face the street, it does not. That was one of the important factors – it does not have a separate address, therefore it does not have trash service. As far as injurious to the area on public safety, it is on a known snow route. Without a curb cut, without extra parking, it's on an emergency snow route of the City, so it is injurious. The area also spoke, and two realtors came in the last meeting and spoke, to the harm to the area as far as AV (the average value of the homes in the area). There are no other mobile homes in that area, there are no other mobile homes with mobile home skirting in the area, there are no other mobile homes with mobile home skirting sitting on blocks in somebody's backyard that does not face the street or have a driveway, or have a walkway. None of that occurs in this district. He would contend that this is, as a city representative, very precedence-setting. Henke states that this area is the one are that has larger than average yards, and claims that by allowing this, any lateral property or person that has an equal amount of square footage of yard can do exactly the same thing and there's nothing that can be done about it. The first meeting was described, by Marnocha, as the first meeting for the neighborhoods because they were not appropriately notified. By law, as the first meeting, the petitioner was able to talk about the background of her mother, and talk about all those things, but wants to hold everybody else back to the three measures that they're allowed. If she is allowed an open mic, so is everyone else. That's Robert Rules of order.

Evanega Rieckhoff states he is speaking to everything, and the Board has not stopped him from doing so.

Henke continues that the stories on both sides are heartfelt. You can talk about the \$100,000 that the family has put out, that's between them and the city, or you can talk about the several hundred thousand dollars that the neighborhood will decline in assessed valuation. Ultimately, the City Council is responsible for the city finances. If the AV goes down, so does their revenue. It has a negative impact all the way through the City that someone else will have to pick up. Again, no address, no split lot, you cannot sell it separately, it doesn't have its own address. No trash service, no separate utilities – they get run to the primary dwelling, no curb cut, the entry does not face the primary street – that was one of the considerations. He objects to having to go through several variances that were just handed out tonight. If you have to go through that, at the 11th hour, and bypass your rules, something is wrong with this process.

Leichtman asks Henke to state what exactly he thinks – Henke states that they just approved to bypass their rules. Leichtman clarifies that it was just for the 5 days notification, not anything on the report. Henke states no one else received it until tonight, Leichtman states that is correct – Henke states there was no time to study it or bring a defense to it, since they just got it.

Henke claims there are many violations. Not only the GPS for lack of, and then they had a second meeting that was really the first meeting, now they're in the third meeting. They have a rental registration, and it violates that law as well. This is a rental property, just put in to a neighborhood that doesn't allow it. The prior presentation was presented, but the outcome was totally different results. Everyone was surprised by the build, that is was mobile, that it's on a steel frame that was pulled over on cement blocks. He claims once again that they have videos that were provided. Surprised that it wasn't a tiny build cute little house, as presented. Led to believe it was going to be site-built. The issue caused harm to the immediate area, and the City as a whole, because it is very precedent-setting. The overall financial impact to the neighborhood will be measurable. Henke claims the city will feel it, too, over the years, as this property will devalue greater than others and will have a lateral effect to all AV, and will impact the City's budget. This neighborhood is very desirable, long-lasting residents will change.

Christine Johnson, 1833 Grant St, appears in person. Johnson states she was at the meeting on Saturday the 21st, so she has heard some of this. Everything that Mr. Henke has said is what she is trying to stress. She asks if the pictures provided in the staff report are what the Board was given, the Board confirms.

Evanega Rieckhoff states that the images are from the original staff report, before the unit was put in. She believes most of the Board members have driven by and have seen what has been put out.

Johnson states that in the October 9th meeting, when those images were presented with the original home and side yard, with no accessory building. She went back to the October meeting and listened to it a few times. During that meeting, the only thing that she heard coming from the petitioner about this is "build a home", "tiny house", "construction", "mother-in-law suite", "built per code", "construction of detached dwelling unit" – there is no mention in that meeting of a trailer rolling in there on its wheels. In fact, there was a gentleman in that meeting, a Mr. Mulvaney, who looked at something and said, "That's real cute. I've seen two of these in the last month. A tiny house." She doesn't know if he was referring to the existing home of the petitioner, but that was the only home that's there. If you want to talk about misrepresentation, she thinks that's pretty expressive. The other thing that she's questioning is why wasn't this stopped in January, when the trailer was delivered. It makes no sense, was the city in the dark on this, were they not following up, or were they condoning it? There are a lot of questions as to why that sat there and no one did anything to stop it. She thinks zoning needs to have more oversight, to be more thorough in their investigation. Their standards have got to be raised on this, especially if they're seeing this change in a community. They need to have high standards. More than just the item that is coming in, or the structure that's coming in, they need to get down to colors. Do they want someone to bring in a purple tiny house? She thinks this needs to expand from just something that sits on the lot to guiding it to assimilate into that neighborhood, that community. That should be done to protect the existing homeowners who have lived there a long time. They have people on their street that have lived in their homes for 50+ years, and now all of the sudden there's disruption, and they keep hearing about housing – needing housing – well, you don't need housing at the expense of the neighborhoods that are right there in front of them. She thinks Elkhart has invested heavily into improving the city – they've got the development downtown, what's going in on the South side, you have other areas, and they've done a great job. But that was upgraded, this isn't upgrading a neighborhood – it's different when you're going in with higher building standards as opposed to lowering standards in an existing area, and that's what's happening. Mr. Henke alluded to that with the appraisal values. This isn't helping these neighborhoods. The neighborhoods are valuable and about a month ago, she and her husband went to a school board meeting and listened to a unanimous school board vote to close five Elkhart schools – this is going to have an impact on the community and if they lower the standards of the zoning ordinances, they're going to see that happen again. If the neighborhoods are sacrificed and they lack stability, these older foundations are going to disintegrate. It might not happen right away, but it's going to happen, and that neighborhood community is going to be torn apart. She asks before they vote, do they want a trailer next to them? She doesn't, and neither do most of the people there.

Leichtman states a reminder that they are only hearing three variances today – the square footage, adding an accessory building to the property, and if that can be inhabited or not. That is all the Board has control over, not anything else.

Kristine Crane, 1733 E Beardsley, appears in person. She lives catty-corner to the property. She spoke at the last meeting, and will cover a lot of that and additional comments. One of the first comments from the last meeting that occurred in February was that the attendees on WebEx were muted. They didn't have a chance to talk. She confirmed that the neighbor the petitioner alluded to getting approval from is on and wanted to talk last time, but could not, because she could not get unmuted. Crane appreciates the clear instructions given this time. As the petitioner alluded, they went around and talked to neighbors and got approval to construct, to build, they did not say, "we're going to bring a mobile home in and put it here for my mother-in-law" – that's not what they said, and that's not what they said in October either. Crane watched the October meeting and knows that the President was there, and was overjoyed because it was going to be a "cute, tiny little house". If it had been a cute, tiny little house, they wouldn't be

here. They wouldn't have this problem – it's not, it's an ugly monstrosity of a mobile home. That is not what the neighbor thought they were going to be doing, that was not what was presented at any time. In fact, she doesn't think that the petitioner has used the word mobile home. She refuses to use the word mobile home, even though that's what it is. As she said, and she thinks they've already covered in some detail, one of the things that she noticed is that even the staff report alluded to the fact that they were told it was going to be built and constructed, and that it would have the appearance of a house from the street. The mobile home doesn't have the appearance of a house, it has the appearance of a mobile home. If they've driven by it, they've seen from the street what it looks like. She wants to bring up that the petitioner were notified that they were no longer approved to work on this site, and they still had work being performed two or three days before the February meeting. They seem to have an excuse that that was the only time they could come do it, because of the weather, but Crane has worked with construction crews and if there is a stop put on a project, you pick up the phone and call them and let them know they need to stop. To blame it on the weather, or on the crew just showing up – that's why they have phones. There is no excuse, it's just basic communication. If they've incurred additional costs because they continued to have the work done, even though they were told it was no longer approved and they had to go through it, that's on them. Crane has a picture that she doesn't think the Board would notice from the street – she shows the pictures to the Recording Secretary and Board. She explains that it is the view from the neighbor's.

Leichtman clarifies that it's not her view, since she's across the street. Crane confirms that it's not her view, but the neighbor's view.

Crane states that the structure is thirteen feet from the neighbor's fence, as measured by her. This was not what was indicated in the original plan – it was supposed to be at least sixteen feet. Also on the original layout of the plot, there were boxes to indicate the placement of where the unit would be. It was supposed to be at least sixteen feet for option two, and there are only squares on there, with no indication on where the front door is. The front door is facing the privacy fence of the neighbor, that's the front door, and the petitioner confirmed in the last meeting that that would be the main door they would be using. That door is approximately 20 feet back towards the middle of the mobile home, with stairs going down, and then there's about seven feet when you get down the stairs. Her question is how is the petitioner taking care of her mom if she can't even see her if she falls down the stairs. Nobody could see her. The neighbor wouldn't see her, because she would be below the privacy fence at that point, but that's the main entrance and there's 20 feet there, it could be slippery. What are they going to do as far as snow between the two homes? Will they be shoveling or putting in a pathway from the primary residence to this residence, that they will keep clean, so that they can get to their mom in an emergency? She's not seeing that. This mobile home has been placed at the furthest point away from the primary residence, almost as if it's really not there to make sure mom's okay, it's there just to put another building on the property. Even the premise, the front door isn't even facing the primary dwelling, what are they going to do when it snows, how are they going to get from one house to another – the public sidewalk? She thinks there are a lot of concern that the only person that would see mom if she fell down those stairs would be a man across the street, so there's a big concern there. This should definitely be addressed, and hopefully will be. She also wanted to mention that she was looking at another section of the zoning code and under 151.050, which is called the Mobile Home Park section, Section D.01.a states it shall be unlawful for any person to park, locate, or permit the parking, placing, or locating, on any occupied mobile home within the City, except in a mobile home park. That is not a mobile home park. It also has another D.01.b which states an unoccupied mobile home needs to be in a mobile home park. Even if they were to approve the variances, what about this one. No one has even addressed this is not a mobile home park, and the City of Elkhart does not allow mobile homes outside of mobile home parks. When Crane spoke with Trotter, everybody keeps trying to refer to the mobile home as an ADU, an Accessory Dwelling Unit. Accessory Dwelling Units are built, they're constructed. Crane claims mobile homes are vehicles, they aren't constructed on-site, they are vehicles. She objects to even the phrasing of ADU and that it even falls under this section of the zoning code, because it is not an ADU, it's a mobile home. She gives her sympathies for this family's circumstances, but states her sympathies diminished after the special meeting in February, when the petitioner tried to confront her for providing input to the meeting. She had been escorting another neighbor out, who had expressed trepidation about leaving because they were gathered outside the front door, so she walked out with them. She started to get yelled at on the sidewalk. She speculates it's because she has a cane and might be seen as easy bait, but she states it was scary and she kept walking and refused to engage. She states that he kept yelling. She was scared when she went home because this person lives catty-corner to her, and she didn't know if he was going to come over and try to continue the conversation that she refused to have with him. She thinks that's another concern that the Board needs to consider. It's great they get to have their public voices, but what happens after, especially when it's something that is this confrontational that so many people are against? If the Board is to approve this, it would tear the neighborhood apart. She doesn't want to feel scared in her house, she just bought it and moved to this area because she loved the houses in the neighborhood and how cute they are. She would have never bought her house if there was a mobile home across the street. Crane claims that is one of the first signs of urban decay.

Michele Korach, no address given, appears in person. Korach claims she lives in the neighborhood, and feels bad for the petitioner, because she has run into the problem that citizens of this city have run into on numerous occasions - it's a vacuum of leadership. The petitioner has not been communicated to, much like the neighbors have not been communicated to. She asks if that is leadership and how the direction of the city is guided. Her first objection to staying on task is the fact that it's too big. If you're building a mother-in-law suite, you're building a bedroom, a bathroom, a kitchen, and a living space – why does it need two

bedrooms? She finds that very suspicious. She also went back and listened to the October meeting. She wonders if Evanega Rieckhoff is in some sort of relationship with the petitioner, with how she glowed during the meeting. She isn't trying to be disrespectful, but the way the community interprets that is that they think the petitioner is special. At the last meeting, Korach asked two questions and tried to follow up. Her first question is on what specific day the petitioner was notified that the Board and its leadership from the city failed to notify the citizenry of this project. On what day did the petitioner find out that the proper procedure wasn't followed?

Evanega Rieckhoff clarifies that they are a quasi-judicial board, but they do not engage in questions and answering. Leichtman states that she will ask the staff Korach's questions, to get her answers.

Korach states that that is fair. And it's fair to let them know, now, that the petitioner knew. Korach claims she feels bad that the petitioner spent this amount of money, and was miscommunicated to, due to the lack of leadership. The main objection is that – it's too big, and injurious to the neighbor, LeiLoni Lyons. The Board was given a photograph of her yard and how this particular, oversized, two bedroom unit invades her privacy. It doesn't say who is injured, it states how is this injurious to the neighborhood. No privacy – that's an injury. She finds it interesting, and thinks it's fair to ask how many trailer parks are within a three to five mile radius of the petitioner's home? The answer is five, three of which are within a mile and a half. For convenience, that unit could have been put into the proper location. Her next question is also based on precedent. She knows the lawyer said there is no precedent, but every petitioner that comes before the Board after this is going to ask the same things. She asks if you own a property that is large enough to put an ADU on, how will a landlord/tenant situation be prevented? Will they require that when this owner moves, that the unit has to move with? She claims that what will happen is a landlord will look at this and add an ADU trailer to this property that has a big enough lot, and they'll call it a mother-in-law suite. Korach claims it's too big and that it doesn't follow the rules in the new report. Item number two says, "only one entrance is permitted on the front façade, while the second entrance can be on the side or the rear." Then it states that the property needs to face the street. It doesn't face the street. If that was a condition previously, they are already out of compliance. Korach claims they didn't comply with the rules from the beginning. She also thought the timing was really interesting, that Miss Leichtman made a point to say during that meeting that nobody could go over the tree lawn, nobody could drive on the street—

Leichtman clarifies that she did not use the term tree lawn. Korach corrects that Leichtman said curb.

Korach continues that there happens to be a curb, a tree lawn, a sidewalk, all owned by the City and the citizenry. The very next Monday she drove by, and there was snow on the ground and tire tracks on the curb, tree lawn, and sidewalk all the way to the trailer. They didn't even get 48 hours. This is a common sense issue. Face the street – no. Too big – yes. She states that she called Trotter and said that they might want to get people out on Beardsley to take a photograph, because the petitioner held no concern by going against Leichtman's addition to the standard. Not even 48 hours after, they were driving on it again. Before the snow came, someone leveled out the dirt piles and they made it obvious where the driveway is going to go, that they haven't asked for yet. With the trajectory it's at now, the City would have to tear out an old growth tree. Korach states that this is a common sense issue, and is worried about all of the items before them that they have control of in their quasi nature. She is concerned that these boards exist without elected officials, because she has no idea who they, are and feels it's a problem. How she looks at this for this neighborhood is like going to the Midwest Museum of Art with a lovely collection of Normal Rockwell paintings hanging proud and showing what Midwest lifestyle over the ages – all the beauty of what being a community is – and then having a poster of the poop emoji hanging right next to it. That is what this look like to them. They do not want to have trailers in people's back yards. For \$100,000, Hogendobler could have put on a very nice addition, with its own entrance, really cute on that same side. Now they're injuring the neighbors, between \$7,000-\$12,000 per property is what the value decreases with trailers within a neighborhood, per the national housing reports and agendas that you can find online. It's too big – a mother-in-law suite doesn't need two bedrooms or bathrooms. She is worried about the actual intent, and believes that is what the neighborhood is worried about – intent. She is interested in hearing the date she asked about, because if it is prior to installation on January 21st and 22nd and the trenches being done for the sewage, which the City came out and approved even knowing it hadn't met all the criteria. She feels it is important to know, because by February 10 and 11 the petitioner definitely knew, and she thinks it would be fair for the rest of them to know.

Evanega Rieckhoff calls on LeiLoni Lyons.

LeiLoni Lyons appears via WebEx. Lyons states that Hogendobler stated she talked to all the neighbors and told them what she was going to do, but she did not. Hogendobler did not even know neighbors would be notified and was shocked by it. Hogendobler made it sound like she was building a little house for her mom in the backyard, and Lyons agreed to that – a stick build from the ground up. She is asking the Board, since they're only there for three things, is to vote against the inhabitation of the ADU, the mobile home in the backyard. Lyons wants the home moved. She doesn't mind if Hogendobler builds. It wasn't her intention to stop all of that, but it is her intention to protect her privacy, which she has lost 100% in her backyard, and to protect the value of her home and her neighbors homes. She would like the Board to vote against the occupancy of the unit.

Bob Barnes, 205 Witmer Ave, appears in person. Barnes states he drove by this, and he's really against putting mobile homes in established neighborhoods. He looked up how far it is from this property to the nearest mobile home park on Osolo Road, and it's less than a mile – there are two of them, on the West side of Osolo Road. He doesn't understand, and it's like the petitioner has been coached on how to dance around variance or zoning, we're not here to play on people's sympathies. He's an elected official in Elkhart county – they are supposed to protect their citizens, protect their constitutional rights, protect their property rights, and also protect their quality of life. He doesn't understand how someone was allowed to put a mobile home, and it's a mobile home because it's on a steel frame, they say that the state statute says you can't discriminate against manufactured housing, and when he was here on that Saturday morning, he asked the Board if they knew the difference between a manufactured home and a mobile home, and didn't get an answer, so he explained that a mobile home is built and constructed on a steel trailer with axles, a manufactured home is constructed on wood floor joists and is set on a trailer frame, transported to the job site, lifted and set on a foundation. This does not constitute a manufactured home, and he understands the plight and all the sympathies, but as the neighbor right next to the property, he wouldn't want to live in her house – she has no privacy, now. That's an established neighborhood. Why would the City allow this to even happen blows his mind, he can't wrap his head around it. He's giving his opinion, but this will not happen in his neighborhood and if it does, things will be brought to the attention of the city. He would not blame the neighbors for bringing a lawsuit against the City for this, if that was his neighborhood.

Adrian Byers, 1779 E Beardsley Ave, appears in person. Byers clarifies that the meeting on Saturday was all on the record. Evanega Rieckhoff confirms.

Byers continues, stating that they've learned a lot more now than they had before. He had wanted to confirm survey setbacks, and isn't sure that was confirmed. He did notice one of the second things on the approval conditions was that the mobile home would need to be oriented to where the front faces the road, which is going to be additional costs, but that tells him that they recognize they're not adhering to the variances and zoning that is allowed. This is a situation where they just have to do the right thing, make the adjustments – this is new to everyone – so, being able to dial this in, get it right, to where it doesn't happen in this way again. That's the key thing they want to do, not here bashing anyone – he just wants to stick to the facts, and the facts he presented that Saturday. The key concern is not setting a precedent, and he doesn't think this can be undone all throughout the city of Elkhart, that area is a little unique to being able to accept a unit of that size, but he wants to make sure what the city does is to tighten up their processes and procedures and do the right thing, based on all the information that's been provided up to this point.

Leichtman clarifies that they are currently speaking in opposition. Evanega Rieckhoff confirms.

Evanega Rieckhoff closes the public portion of the meeting and calls staff forward.

STAFF ANALYSIS

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. This property has a small, detached garage and two (2) storage sheds. It is not uncommon in pre-war neighborhoods to find more than one detached structures as when the homes were originally constructed, often there was no attached garage.

Based on a review of minutes from the original hearing in October 2025, the petitioner, in her testimony to the board, stated in part that she would 'like to build a new home for her mother as she ages, like a mother-in-law suite'. The key part of that phrase is 'build a new home'. This statement gave the members of the Board of Zoning Appeals, and any other listeners, the impression that the new structure would be built and not be a manufactured unit which was what was placed on the property.

During the public hearing on February 21, 2026, the property owners within the area of notice – strongly objected to the unit that had been placed at the property and cited the petitioner's words from the previous hearing; that she intended to "build a new home" for her mother. The feedback during that public hearing and subsequent interaction with neighbors is that they want the petitioner to do what she initially indicated she was going to do, which was to build the new structure. The new structure should also face the street as other residential structures are required to. The primary objection is the type of structure not the use.

The idea of the accessory dwelling unit is that it should be ancillary to the primary structure and not be harmful to other area adjacent properties. Based on feedback during the February 21 hearing, the overwhelming feeling from the neighbors was they

would be harmed financially, if the unit that was placed were allowed to stay. Additionally, the unit's current placement on the foundation impedes the ability of the adjacent property owner to fully enjoy the use of her property as the unit is located in such a way that its windows and door stand above the neighbor's privacy fence.

The parcel dimensions are 99' by 200' based on Assessor's records. There is adequate room to place a constructed dwelling closer to the center of the rear yard to provide adequate room on side and the rear as buffer from neighboring properties. This would allow her the ability to provide long-term shelter and care for her mother and enough room to place a second drive west of the existing home.

For this request, the orientation of any future accessory dwelling unit would be required to be street facing and of a design that compliments and is harmonious with the existing character of the existing neighborhood. This will allow any future ADU structure to easily meet the conditions for development.

They are as follows –

- 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.

It is anticipated in the forthcoming UDO; accessory dwelling units will be listed as a Special Exception use with conditions. Which means the review process for this use will be heard before the Plan Commission and the Board of Zoning Appeals. The requested conditions are consistent with proposed regulations in the forthcoming UDO.

It is staff's position that the various use and developmental requests should be looked at individually by the Board of Zoning Appeals. The use variance and developmental variances for the maximum number of accessory structures should be approved for up to three (3) accessory structures. The developmental variance for the size of the accessory dwelling unit should not be approved, so that the total allowed remains at 840 square feet. The type of structure placed on site was not what was discussed or alluded to during the initial hearing in October 2025 due to the petitioner's assertion that she would be building a new home for her mother.

STAFF RECOMMENDATION

The Staff recommends **approval** of the use variance (Section 4.2, Permitted Uses) for the accessory dwelling unit, the developmental variance (Section 26.1.B.8.a) for the maximum number of accessory structures and the developmental variance to allow an accessory dwelling unit to be used for habitation (Section 26.1.B.11) 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 a new structure, that meets the conditions outlined in this recommendation, will be built and inspected per all applicable codes;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the predominate 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 is necessary when uniquely warranted;
4. The need for the variance arises from some condition peculiar to the property because without board action use would not be permitted and in pre-war neighborhoods there are often more accessory structures found as most homes of that era do not have attached garages;
5. 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;
6. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because the owner would not be able to place the structure without board action;
7. The special conditions and circumstances do result from an action or inaction by the applicant because the unit that was placed on site in its current location causes the loss of privacy and enjoyment of property by the neighboring homeowner and can be relocated to an area of the property that does not interfere with the neighbors enjoyment of their land;
8. The approval does not interfere substantially with the Comprehensive Plan because the request is still a low density use;
9. This property does not lie within a designated flood hazard area.

The Staff recommends **denial** of the developmental variance (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 based on the following findings of fact:

1. The approval will be injurious to the public health, safety, morals, or general welfare of the community because a new structure, that meets the conditions outlined in this recommendation, can be built on this property;
2. The use and value of the area adjacent to the property will be affected in a substantially adverse manner because a more appropriately sized accessory dwelling unit can be placed on the property;
3. Granting the variance would not be consistent with the intent and purpose of this Ordinance because this body can review development proposals within the City by regulating, in part, the location and area of buildings;
4. Special conditions and circumstances do not exist which are particular to the land involved and which are not applicable to other lands or structures in the same district because an ADU meeting the allowable area can be placed on the property;
5. The strict application of the terms of this Ordinance will not result in practical difficulties in the use of the property because an ADU meeting the terms of the allowable area can be placed on the property;
6. The special conditions and circumstances do not result from an action or inaction by the applicant because a smaller, stick built structure can be accommodated on the property;
7. This property does not lie within a designated flood hazard area.

CONDITIONS

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

1. The primary façade of ADU shall face the street.
2. Only one entrance is permitted on the front facade while the second entrance can be on the side or rear of the building.
3. ADU shall be secondary and accessory to the main dwelling.
4. ADU shall be fully functional as an independent living space and be stick built construction.
5. ADU shall be on the same lot as the primary dwelling and not be split off in the future.
6. Must meet the primary structure setbacks as the minimum for Accessory Structure Setbacks.
7. ADU shall not encroach on the privacy of neighbors.
8. ADU shall be located within the property so as to accommodate the addition of a driveway because on- street parking is not permitted.
9. Primary structure or ADU must be occupied by the property owner of record. A deed restriction shall be recorded with the Elkhart County recorder.
10. Utility connections must connect with the primary dwelling.
11. The removal of one shed from the property to allow for three (3) total accessory structures.

Trotter states that they were provided additional comments. These are in addition to the ones read at the Saturday meeting. Comments were: to not degrade their property, and manufactured single wide homes are not permitted within city limits outside of a manufactured home community. It is not fair to anyone living within the city.

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

Evanega Rieckhoff asks for clarification on what is being approved and what is being denied, in simple terms. Trotter states they are recommending denial of the square footage part of the request.

Evanega Rieckhoff asks if it's the square footage of the ADU itself? Trotter confirms and states they are recommending a total of 840. Evanega Rieckhoff asks if that's 28 feet over – Trotter confirms and states that they would be maxed out at 840 square feet.

Trotter continues that they would recommend the use variance for the ADU itself, the habitation, and the number of accessory structures on the site.

Evanega Rieckhoff asks if it's contradictory. Trotter states they're recommending the approval of the use, but not the size or location, and adding the conditions.

Leichtman confirms that the conditions are for if it's approved.

Korach requests off-mic for the answer to her question on the date. Leichtman states she will get to it.

Leichtman states that currently, for all accessory dwellings combined, 840 square feet is what is allowed, and asks for clarification on if staff is recommending denial of the square footage.

Marnocha states that the total square footage allowed for all accessory units is 840, and Hogendobler requested a variance of 308 square feet with the building. It's two-fold, there's the maximum total and then there's the maximum for one. The maximum for one, she was asking for a variance of 28 square feet.

Evanega Rieckhoff asks if Hogendobler takes down both structures, leaves the garage, and have her ADU, is that what the staff is thinking would be the – Marnocha states that it would give her 504 square feet, for the ADU, is what staff has determined. Evanega Rieckhoff asks if she left up both the garage and – Marnocha says one, because she indicated she was going to take down one. Right now, she has three, you are only allowed two, she already indicated she was going to take one of those down, and that would allow 504 square feet. Evanega Rieckhoff asks what if she took down both of the outbuildings, left the garage – Marnocha responds that would add 64 square feet, but it would still be less than what is there.

Evanega Rieckhoff clarifies that they're suggesting she re-orient so it faces the street, and that it cannot be the size that it is. Marnocha confirms and states that one of the conditions that they're recommending is that it be stick built. The unit as-is would not be able to remain, because it would be too large and a replacement unit, if the board approves, would have to also have all of the listed conditions. It would be eliminated based on the size, but all the other conditions, if the Board finds them appropriate, would have to apply for another ADU.

Marnocha offers to explain how the Board would make the motion. Under recommendation, it lists three of the four variances that were requested by the petitioner. It said, "The Staff recommends approval of..." – she asks if the Board sees that, Evanega Rieckhoff confirms. So, the motion would be to accept the staff's findings of fact as the Board's findings of fact, and approve... and then read exactly how it's written – the use variance section 4.2 permitted uses for the accessory building unit, the developmental variance and the section number for the maximum number of accessory structures, up to three. You have to include that, if it's what the Board wants. Evanega Rieckhoff asks where that is and Marnocha responds that it's the second line – the developmental variance, 26.1.b.8.a, for the maximum number of accessory structures up to three – it's up to the Board, but that's the recommendation, to be approved up to three, and then the developmental variance to allow an accessory dwelling unit to be used for habitation. Other than adding in the three, you're going to be reading right off of the staff report in the motion, but also preceding it with the staff's findings of fact.

Leichtman asks if they need to break them out individually. Marnocha states they can make a motion to include all three of those, as long as they are specific as to what they are, because section 26.1.b.8.a also includes the square footage issue, which if you decide to follow the staff's recommendation, you would be denying that request for a variance. Leichtman asks if they also need to read the bottom where the recommendation is there, also. Marnocha responds that yes, on that one they would also accept the staff's findings of fact as the board's findings of fact and move to deny. Leichtman asks if they could break them apart, and Marnocha states they can if they want, but not to forget to add the conditions if the Board wants to add those conditions, but they wouldn't have to add the conditions if the Board denies.

Marnocha asks the Board if they have any additional questions. Evanega Rieckhoff replies probably.

Leichtman states she has a couple of questions for staff – she wants clarification on what is considered the front façade – that doesn't exactly mean it's front facing, it's the front of the actual building, correct? Trotter responds that it would be the front door facing the street that is the front façade definition.

Leichtman asks who is in charge – city permits and city planning – for the parking lot, and how would that come about? Trotter responds that that request would be permitted and submitted through Public Works.

Leichtman asks about the date that Korach was inquiring about. Marnocha states that, as far as she knows, staff was totally unaware of the notice issue until after the home was placed. They started getting phone calls and then started looking into it, and then legal was asked for advice, and as the Board is aware, the action by the Board was deemed void because of the lack of due process. It had to work its way to legal and then from there. Leichtman clarifies that it was an ongoing issue and not a specific date. Marnocha confirms, and states that yes, after the house was placed. Marnocha asks for clarification on the dates. Leichtman states that, per the petitioner, the home was installed on January 21st and 22nd, the trenches were done on February 18th and 20th. Marnocha states that the petitioner was notified by that time.

An audience member says something off-mic. Leichtman responds that that's not what they're here for, but if they would like to discuss it later, they are welcome to talk to Trotter about it.

Evanega Rieckhoff calls for a motion.

Leichtman asks Marnocha for guidance on reading the motion correctly. Marnocha provides guidance off-mic.

Leichtman makes a motion to approve 25-UV-10 in part, specifically the use variance (Section 4.2, Permitted Uses) for the accessory dwelling unit, the developmental variance (Section 26.1.B.8.a) for the maximum number of accessory structures, up to three, and the developmental variance to allow an accessory dwelling unit to be used for habitation 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;

Marnocha asks for clarification that the Board is not accepting the petitioner's petition as the findings of fact as the Board findings of fact. Leichtman confirms and states they are adopting the staff's.

Second by Newbill.

Leichtman – Yes
Linley – Yes
Newbill – Yes
Evanega Rieckhoff – Yes

Motion carries.

Evanega Rieckhoff asks if it's in favor of the denial. Marnocha confirms.

Linley makes a motion to deny 25-UV-10 in part and adopt the Staff's findings of fact, as the Board's findings of fact in the present petition. Staff has recommended denial of the developmental variance (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 space 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 was required. 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, and move to adopt the Staff's findings of fact as the Board's findings of fact in the present petition; Second by Leichtman.

An audience member asks something off-mic. Marnocha confirms there are no conditions on a denial. The audience member says something else off-mic. Evanega Rieckhoff confirms there were conditions on the first. Leichtman states they are on record.

Leichtman – Yes
Linley – Yes
Newbill – Yes
Evanega Rieckhoff – Yes

Motion carries.

Marnocha asks to take a roll call to clarify that each of the Board member's voted to deny the petition, and whether their vote is based on the Staff's findings that they adopted.

Newbill – Yes
Leichtman – Yes
Evanega Rieckhoff – Yes
Linley – Yes

Evanega Rieckhoff states that cases like this are very difficult for everyone, and thanks everyone for their civility, and urges it to carry out through the evening and on into their lives in the neighborhood. She knows not everyone got everything that they wanted, it's very difficult to do something like this and she thinks they've done the right thing for the City, and she hopes that – and Leichtman asks them to reach out to City Council members that look over all their new UDO items coming out, so it's important for them to hear their voices before it comes before the BZA. She urges them to talk to their City Council members.

Several audience members speak and ask questions off-mic.

Marnocha states that this is not an open forum, the Board has additional business they need to get to.

Evanega Rieckhoff asks if they can clarify very quickly what was done, and receives approval. She states that basically what happened is that ADUs are allowable, but they have to face forward – the front door has to be facing forward – that they have to remain, she forgot how many square feet, but smaller. They have to be new construction of stick and whatever was said.

Linley states they have to have a stick-built house, it has to be much smaller, much closer to the main dwelling, it must be hooked to the main dwelling, and there will be an Elkhart deed that says the yard cannot be divided to make it a standalone property. The particular item that is there no longer complies.

Henke asks if all 11 conditions were voted in. It is confirmed.

Evanega Rieckhoff asks for people to take their discussions to the hallway so that the Board can continue on with their business.

Linley also asks for order in the room, as they have other business ahead of the Board.

NEW BUSINESS

26-BZA-05 PETITIONER IS GATEWAY MILE PROPERTIES, LLC PROPERTY IS LOCATED AT 101 SOUTH MAIN STREET

Kyle Anthony-Petter, Planner II, presents.

The request is to vary from Section 26.10.D – Table 1, Wall signs in the CBD for multiple tenant buildings, that limits the size to 50% of the signable area to a maximum of 25 square feet per store front to allow for wall signs that are:

North – 96 sf, a variance of 71 sf;

East – 96 sf, a variance of 71 sf;

Southeast – 56 sf, a variance of 31sf.

To also vary from Section 26.10.D – Table 1, Projecting signs in the CBD, that limits the size to 9 square feet to allow for a projecting sign that is 12.56 square feet, a variance of 3.56 square feet.

With previous Board action of 24-BZA-26 – Which was to vary from Section 26.10.D – Table 1, Wall signs in the CBD for single tenant buildings, that limits the size to 50% of the signable area to a maximum of 50 square feet to allow for a wall sign that was 115 square feet, a variance of 65 square feet.

Evanega Rieckhoff calls the petitioner forward.

Allen Stenberg, 1828 Moreau Dr Notre Dame, Senior Vice President of marketing at Notre Dame Federal Credit Union, appears in person. He is here representing Gateway Properties, they've been authorized to speak on their behalf in regards to their signage. They are the tenants on the lower level of their building. Their goal with this variance is to make the biggest punch possible in Elkhart, they're super excited to serve members of Elkhart County. Looking at other signage in that general area, they feel it is a reasonable request. These signage, as what has been previously said, the North-facing and East-facing signage are reverse channel lit signage, and they're requesting a variance of 71 square feet on those, the South-facing sign is a 31ft variance, and the blade side, which is going to protrude off the northeast side of the building is a 3.56 square foot variance request. That's what they're asking of the Board today.

Evanega Rieckhoff asks for questions from the Board.

Leichtman asks if they're just trying to match the font size and everything of the sign above, or what was their intent? Stenberg responds that is correct. Looking at the flow of traffic, other signage in the central business district in Elkhart, and other signage on the building, that is how they came to the decision on the sizing of the signage they are requesting.

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

STAFF ANALYSIS

The petitioner is requesting to vary from Section 26.10.D – Table 1, Wall signs in the CBD for multiple tenant buildings, that limits the size to 50% of the signable area to a maximum of 25 square feet per store front to allow for wall signs that are: North – 96 sf, a variance of 71 sf; East – 96 sf, a variance of 71 sf; Southeast – 56 sf, a variance of 31sf. And to also vary from Section 26.10.D – Table 1, Projecting signs in the CBD, that limits the size to 9 square feet to allow for a projecting sign that is 12.56 square feet, a variance of 3.56 square feet.

The Board previously heard and approved a developmental variance in 2024 for similar sized wall signage. At that time, the building was only occupied by one tenant and relief was sought from the part of the ordinance for wall signage for single tenant buildings, which allows up to 50 square feet of sign area per façade. The building now has a second tenant; multi-tenant buildings allow up to 25 square feet. This request is for a similar sign design to the original request.

The petitioner is requesting a variance to allow for a sign that is 96 square feet in area where the maximum allowed is 25 square feet. The requested sign is of similar area as the previous Key Bank sign but is slightly larger due to the longer name of the tenant that is proposed to occupy the building, Notre Dame Federal Credit Union.

There are several important factors to be mindful of when evaluating the specifics of this case. First, this building is a much newer infill type building with much larger areas available for signage. The architecture for this building is not a traditional downtown building with the ornamentation and other elements found on buildings from past decades. This building's facades have smaller windows and more blank space between floors. This building also has at least twice the street frontage as other buildings found in the downtown area, which would allow more potential signable area.

The request is not out of scale for the building. Due to the location downtown, at the intersection of two main thoroughfares (Jackson and Main), this site does not permit other forms of signage as ground or pylon signs are expressly prohibited. This regulation is a part of the design guidelines in the Central Business District, which were approved and adopted in 2017. The small projecting sign is not out of character and should not pose any harm to adjacent property owners if installed as presented.

Staff recommends approval of this variance.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental variances to vary from the three wall signs for area and projecting sign based on the following findings of fact:

1. The approval will not be injurious to the public health, safety, morals, or general welfare of the community as a wall signage scaled appropriately to the building is typically found in central business districts;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the size of the proposed sign is not out of character for the Central Business District as wall signage is the primary form of advertisement in the district;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because a measure of relief is allowed when warranted;
4. Special conditions and circumstances do exist that are peculiar to the land involved as the building façades, on which the signs will be located, are larger than most neighboring buildings in the district;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because other forms of signage are not permitted by ordinance and the design of the infill building lends itself to the size and scale of the proposed signage;
6. The special conditions and circumstances do not result from any action or inaction by the applicant because the current building is existing and the signable area on the building will not change as a result of this request;
7. This property does not lie within a designated flood hazard area.

CONDITIONS

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

1. None

Anthony-Petter states there were 37 letters mailed with one returned in favor with no comments.

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

Evanega Rieckhoff calls for a motion.

Leichtman makes a motion to approve 26-BZA-05 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.

Leichtman – Yes
Linley – Yes
Newbill – Yes
Evanega Rieckhoff – Yes

Motion carries.

**26-UV-05 PETITIONER IS ELKHART SC INC / STEVEN DUCKATT
PROPERTY IS LOCATED AT 1522 CASSOPOLIS STREET**

Trotter presents.

The request is to vary from Section 13.2, Permitted Uses in the B-3, Service Business District, to allow for the property to be used for small scale food production, packaging and accessory on site sales.

Evanega Rieckhoff calls the petitioner forward.

Jerry Tapia, 1522 Cassopolis St, appears in person. Tapia states that it's basically tortilla manufacturing, the building used to be a Family Dollar, great building, they fit perfectly. They're not doing anything outside of the building. Everything stays inside – manufacturing, packaging, and selling out of the building.

Evanega Rieckhoff asks for questions from the Board.

Leichtman asks if they'll need a large trash disposal, or big dumpsters. Tapia states that the side already has those, and they will keep them as-is.

Evanega Rieckhoff states she drove by, saw the front doors, and is wondering where the material will be coming in – the East side? Tapia responds it would be the West side, almost on the side of Cassopolis street. There's an entire pathway there where Family Dollar used to park their semis for delivery.

Newbill asks if he means the front. Tapia responds no, on the West side. Evanega Rieckhoff states that is kind of the front. Leichtman clarifies that it would be parallel to the street. Tapia confirms.

Evanega Rieckhoff confirms that it will not be 18-wheelers, it's just going to be vans. Tapia confirms.

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

STAFF ANALYSIS

The petitioner is requesting a use variance to allow the property at 1522 Cassopolis Street to be used for small scale food production, packaging and accessory on-site sales. Section 13.2 Permitted Uses in the B-3, Service Business District does not permit scale food production and packaging.

The property was formerly a Family Dollar. The property is currently vacant and being marketed for lease. There is now interest by a new user for small-scale food production, packaging along with some retail sales. The specific portion of the request requiring the use variance is the food production and packaging. The use is tortilla production. Retail sales is a permitted use in the B-3 district. The former Family Dollar building is free standing within the C Street Center shopping center built around 1987.

Because of the change of use and specifically food preparation – there will be expectations from the Department of Public Works related to the installation of grease interceptors to protect the public sewer infrastructure. The project will be required to be submitted and be approved through Technical Review to ensure compliance will all utility and developmental standards.

Based on material submitted for this case, there will be some interior building renovations required. Included are modified and added wall partitions plus a new entry door that is proposed on the west wall of the building - making the loading of food products in delivery vehicles easier and not mix with retail client traffic. It was also stated in the submittal material that product will be picked up by cargo vans – no box trucks or semis will be used by this business.

The hours of operation for the food production part of the operation are 5:00 am to 2:00 pm. The retail store hours will be 7:00 am to 5:00 pm – seven (7) days per week.

Currently there are approximately 48 parking spaces that surround the shopping complex landscape island, plus seven (7) spaces at the north side of this building. The petitioner indicated in the submittal material, there would be no more than ten (10) employees on site at any one time. Including the retail portion of the business, the existing onsite parking appears to be sufficient. As a part of the Technical Review submittal, staff would like the petitioner to indicate on a site plan where the employees will be asked to park plus delivery truck movements.

Staff supports the request. The property is located in a shopping center that would seemingly benefit from a new business. The hours of operation are similar to those of other businesses in the complex. The proposed use as a should not pose any harm or create any hardship to adjacent uses.

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 not be expanded and any necessary updates will be performed 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 and the proposed use should not cause any nuisance to adjacent uses;
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 this project 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 within the structure as many commercial uses are possible and the site provides for required off-street parking;
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. Submittal of the project for Technical Review – to ensure compliance with developmental standards for the Public Works and Planning Departments. The food service portion of the request will necessitate some form of grease interception.
2. Any and all interior modifications will require plans submitted to the Building Department for review and approval prior to commencing any construction.

Trotter states there were 31 letters mailed with one returned not in favor with no comment.

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

Linley asks how the proposed small scale manufacturing – in that development there are two restaurants already, one is for takeout, one is eat-in – why is there a difference?

Trotter responds that it's the technical difference in the definition in the current ordinance. He looked at this use, and some who are lifers of Elkhart will remember DeBoni's Bakery – they did a lot of the same smaller scale, same form and fashion – make and bake and take away and deliver. That is essentially what is going on here, slightly larger scale, but it's make on-site, they have a retail component, but a portion of their business is to package and take.

Linley asks if that is the difference, and is wondering why this variance is necessary. Trotter confirms that is the difference, and states it's the scale of the impact to surrounding businesses. It's contained in one building, they have a retail component to their operation, and what they're doing is in concert with the retail, but outsourcing as well.

Evanega Rieckhoff calls for a motion.

Newbill makes a motion to approve 26-UV-05 and adopt the petitioner's documents and presentation, together with the Staff's finding of fact, as the Board's findings of fact in the present petition; Second by Leichtman.

Leichtman – Yes
Linley – Yes
Newbill – Yes
Evanega Rieckhoff – Yes

Motion carries.

**26-UV-06 PETITIONER IS VOCATIONAL BUILDING TRADES, INC.
PROPERTY IS LOCATED AT 1425 WEST INDIANA AVENUE**

Anthony-Petter presents.

The request is to vary from Section 11.2, Permitted Uses in the B-1, Neighborhood Business District, to allow for the construction of a single family dwelling. Single-family dwellings are not a permitted use in the B-1 District.

Also:

For the same dwelling above, the proposed area of the dwelling is 864 square feet, the minimum area of any one family dwelling is 950 square feet found in Section 5.2.B in the R-2, One Family Dwelling District, a variance of 86 square feet.

To vary from Section 11.4, Yard Requirements, for the front yard average established setback of twenty one and five tenths (21.5) feet, to allow for the construction of a one family detached dwelling at a front yard setback of seventeen and three tenths (17.3) feet, a variance of four and two tenths (4.2) feet.

To vary from Section 11.4, Yard Requirements, for the corner side yard average established setback of seventeen (17) feet, to allow for the construction of a one family detached dwelling at a corner side yard setback of fifteen (15) feet, a variance of two (2) feet.

To vary from Section 26.3.B. 9, Obstructions Permitted in the Front Yard to allow for an open porch to project eight (8) feet into the front yard when six (6) feet is permitted, a variance of two (2) feet.

Evanega Rieckhoff calls the petitioner forward.

Brandon Eakins, 2424 California Rd, Director of Elkhart area Career Center, appears in person. The Vocational Building Trades program is the entity for Building Trades. They've built homes since the late 1950s, over seventy-two projects across Elkhart county and the city. What they'd like to do is continue to work with the city to revitalize where they have abandoned properties. This property, they'd like to build a single family residence, and that's where they're asking for the variances.

Evanega Rieckhoff asks for questions from the Board.

Leichtman asks if it's not possible to hit the 86 square feet due to the size of the lot. Eakins does not know the definitive answer to that. He does think it could be adjusted, if need be. As the director, he doesn't oversee the site plans.

Evanega Rieckhoff opens for public comments to speak in favor.

Rick Stauffer, 1204 W Garfield, appears in person. He owns a business in the adjoining part of the property. He isn't opposing it. He received his letter today, briefly read it, and it was pretty clear about setbacks, the change in zoning, variances, and the square footage, but the only thing he didn't see addressed was the parking. It's a corner lot, and the reason he is concerned about the parking is he has noticed – he has other properties on corner lots – there is not much room at this home, it's a very small lot, and he doesn't think they get more than two cars in the driveway. They're inclined, if it's a side road, to park on the side road. He has big trucks going in and out all the time, so he can't have the side road blocked. Other than that, he does work for the career center, it's a great organization. They provide kids with a valuable skill. As long as they can be ensured they're not going to be out parking on the side road.

Evanega Rieckhoff states it's a single family dwelling, so there'll only be two cars at the most. Stauffer says supposedly – in that neighborhood, there's people with parking 12 cars in their lawns and everywhere.

Leichtman asks if they're allowed to show him the map, and the proposed garage and driveway on Elliston Avenue. Stauffer asks if the garage and driveway is coming off of Ellison. Leichtman confirms. Stauffer asks if they're going to enter the garage on the side. Evanega Rieckhoff confirms.

Stauffer states they have had problems on Albany, because seven or eight years ago, the City built a bunch of homes down there that he thinks HUD took over. At the time they were built, there was not supposed to be any on-street parking. They provided

parking behind the units, and they don't enforce it. Sometimes they have trouble getting up and down the street. It can be a conflict. The City actually ought to put no parking signs and enforce it. He's just concerned about the parking on Elliston.

Evanega Rieckhoff states that's where they're going to be going into that garage.

Stauffer states turning into the garage is not a big deal, but the neighbor guy to the west of them, he's got his driveway on this property, and once in a while he comes over and parks on the street. They also had a request from a church that was supposed to be built there, and there's absolutely no parking. They park about four cars at the church, which has nothing to do with this meeting, but as long as they're not blocking the street, that's his concern.

Evanega Rieckhoff believes it will be fine, but states that if he finds there are 20 cars, call the police and have them come and take care of the situation.

Stauffer requests signs be put up that say no parking. Evanega Rieckhoff states they have no jurisdiction over that at all.

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

STAFF ANALYSIS

The petitioner is requesting a use variance to allow the property at 1425 West Indiana Avenue to construct a single-family dwelling. Section 11.2 Permitted Uses in the B-1, Neighborhood Business District does not permit single-family dwellings.

The need for the use variance comes from the fact that the B-1 zoning district does not permit single-family dwellings as a permitted use. On the south side of this part of West Indiana Avenue, land is zoned either B-1 or B-2. This commercial zoning acts as a developmental buffer between the residentially zoned properties to the north and the industrially zoned along the south side of West Indiana Avenue which backs up to the railroad.

This request should not impact the surrounding uses or character of the neighborhood as this use is less intense than most commercial users or permitted uses in the B-1 district. Existing residential uses exist all along this segment of West Indiana Avenue.

The petitioner is proposing to build a new one-story single-family dwelling on an infill parcel in the 1400 block of West Indiana Avenue. Due to the size of the parcel, the proposed home does not meet the corner side and front yard setbacks or the minimum square footage for the ground floor requirements. Because of the configuration of the parcel, a front yard, and side yard variances are required. This type of variance is not uncommon for parcels in established neighborhoods where new infill homes are placed on parcels that do not meet the development standards.

The scale of home is not out of character for the neighborhood and may in fact be desirable in terms of property values. Given the constraints of the established setback, it will not allow a home of this scale to be built without some measure of relief.

Staff are supportive of this infill project. Proposals like this one are becoming more common in areas that have seen disinvestment over time and where the need for new housing is needed. Because of the compact construction and being developed where the necessary infrastructure exists - it is more cost effective to construct. This request adds to the inventory of housing in Elkhart.

The calculations for establishing the front yard setback are done by measuring the average established setback of the structures within the same block between two intersecting streets. The front yard setback is based on established setbacks; the next-door neighbor enclosed their porch without permits in 2023. This action would have required a developmental variance for the reducing of the front yard setback which was less than the established setback. As a result, this action has reduced the established setbacks for the block decreasing the distance from the property line where the new home may be placed.

STAFF RECOMMENDATION

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

1. The approval will not be injurious to the public health, safety, morals, or general welfare of the community because the building will be built per all applicable building codes;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because this use is not uncommon along this portion of West Indiana Avenue and should not impact negatively surrounding uses or values;
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 one family dwelling on this parcel would not be permitted;
5. The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property because establishing a permitted B use could be achieved on this site. However, accommodating all necessary storm water storage requirements, buffering and providing for required off-street parking would be challenging and would require developmental variances;
6. The special conditions and circumstances do not result from an action or inaction by the applicant because no construction has started and the zoning for the property has existed for some time;
7. This property does not lie within a designated flood hazard area.

Anthony-Petter states there were 28 letters mailed with no responses.

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

Leichtman asks if, like they witnessed with the very first variance heard today, do they need to define the type of structure that can be built there – does it need to say stick-built, if a mobile home is put in of the same size is that allowed? She would just like some clarification so that doesn't happen again.

Trotter states that what they have proposed to them so far is a stick-built structure.

Evanega Rieckhoff calls for a motion.

Newbill makes a motion to approve 26-UV-06 and adopt the petitioner's documents and presentation, together with the Staff's finding of fact, as the Board's findings of fact in the present petition; Second by Leichtman.

Leichtman – Yes
Linley – Yes
Newbill – Yes
Evanega Rieckhoff – Yes

Motion carries.

ADJOURNMENT

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

President or Vice-President

Secretary

LEGAL NOTICE #26-BZA-06

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16 hrs ago

LEGAL NOTICE #26-BZA-06

Hearing on proposed Developmental Variance **#26-BZA-06**

NOTICE is hereby given that the City of Elkhart Board of Zoning Appeals will meet in the Council Chambers on the second floor of the Municipal Building, 229 South Second Street, Elkhart, Indiana on **THURSDAY, APRIL 9, 2026, at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Developmental Variance

Petition **#26-BZA-06**

Petitioner: River District Development LLC

Request: To vary from Section 26.10.D.3 – Table 1, Projecting signs in the CBD, that limits the size to 9 square feet to allow for a projecting sign that is 35 square feet, a variance of 26 square feet.

Also,

To vary from Section 26.10.E – Table 2, Projecting Signs in the CBD, that limits the height of the projecting sign to thirty-five (35) feet above the ground to allow for a sign that is thirty-eight (38) feet above ground, a variance of three (3) feet.

Location: 302 East Jackson Boulevard

Zoning: CBD, Central Business District

This meeting can also be accessed via WebEx. To join, go to <http://coei.webex.com>, enter **2300 762 6417** as the meeting number and **"BZA2026"** as the password. Attendees may preregister or enter during the meeting. Comments and questions may be submitted via the WebEx app during the meeting or may be submitted to raen.levendoski@cityofelkhartin.gov prior to the meeting.

LEGAL DESCRIPTION:

A PART OF THE NORTHEAST QUARTER OF SECTION 5, TOWNSHIP 37 NORTH, RANGE 5 EAST, CONCORD TOWNSHIP, ELKHART COUNTY, INDIANA AND BEING A REPLAT OF LOTS 3A, 3B, 3C, AND 4B OF RIVER DISTRICT NORTHWEST ADDITION, SECOND REPLAT LOT 1.

Arguments for and against the granting of the above designated petition will be heard at this meeting.

PLEASE NOTE: A copy of this petition is on file in the Planning Office for public examination prior to the hearing. Written objections to this petition which are filed with the Secretary of the Board, located in the Planning Office, prior to the hearing will be considered. The hearing may be continued from time to time as may be found necessary.

Dated at Elkhart, Indiana this 23rd day of March 2026, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: March 27, 2026

LEGAL NOTICE #26-UV-07

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Details for LEGAL NOTICE #26-UV-07

16 hrs ago

LEGAL NOTICE #26-UV-07

Hearing on proposed Use Variance **#26-UV-07**.

NOTICE is hereby given that the City of Elkhart Board of Zoning Appeals will meet in the Council Chambers on the second floor of the Municipal Building, 229 South Second Street, Elkhart, Indiana on **THURSDAY, APRIL 9, 2026, at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Use Variance Petition **#26-UV-07**.

Petitioner: Nexink Realty LLC

Request: To vary from Section 19.2 Permitted Uses in the M-2, General Manufacturing District, to allow for auto sales.

Location: Vacant Lot 2000 Block South Main Street (Parcel: 06-09-454-012-012)

Zoning: M-2, General Manufacturing District

This meeting can also be accessed via WebEx. To join, go to <http://coei.webex.com>, enter **2300 762 6417** as the meeting number and "**BZA2026**" as the password. Attendees may preregister or enter during the meeting. Comments and questions may be submitted via the WebEx app during the meeting or may be submitted to raen.levendoski@cityofelkhartin.gov prior to the meeting.

LEGAL DESCRIPTION:

Lot Numbered 2, as the said Lot is known and designated on the Recorded Plat of Main and Lusher Minor Subdivision, said Plat being recorded in Plat Book 34, page 11, as Instrument No. 2012011413 being a Re-Plat of Lots 45-58 and Vacated Bar Street of Allendale Plat an Addition of the City of Elkhart County, Indiana.

Arguments for and against the granting of the above designated petition will be heard at this meeting.

PLEASE NOTE: A copy of this petition is on file in the Planning Office for public examination prior to the hearing. Written objections to this petition which are filed with the Secretary of the Board, located in the Planning Office, prior to the hearing will be considered. The hearing may be continued from time to time as may be found necessary.

Dated at Elkhart, Indiana this 23rd day of March 2026, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: March 27, 2026

LEGAL NOTICE #26-X-01

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LEGAL NOTICE #26-X-01

Hearing on proposed Special Exception Variance **#26-X-01**

NOTICE is hereby given that the City of Elkhart Board of Zoning Appeals will meet in the Council Chambers on the second floor of the Municipal Building, 229 South Second Street, Elkhart, Indiana on **THURSDAY, APRIL 9, 2026, at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Special Exception Petition **#26-X-01**.

Petitioner: City of Elkhart, Board of Public Works and Ermine Meadows, Inc.

Request: Per Section 5.3, Special Exception Uses, (4.3.O) Parks and Playgrounds to allow for the establishment and expansion of a new park and playground.

Location: 626 West Cleveland Avenue

Zoning: R-2, One-Family Dwelling District

This meeting can also be accessed via WebEx. To join, go to <http://coei.webex.com>, enter **2300 762 6417** as the meeting number and **"BZA2026"** as the password. Attendees may preregister or enter during the meeting. Comments and questions may be submitted via the WebEx app during the meeting or may be submitted to raen.levendoski@cityofelkhartin.gov prior to the meeting.

LEGAL DESCRIPTION:

Lots Numbered One Hundred Twenty-seven (127), One hundred Twenty-eight (128) and One hundred Twenty-nine (129) as the said Lots are known and designated on the recorded Plat of Wolf's Addition to the City of Elkhart; said Plat being recorded in Deed Record 69, page 304 in the Office of the Recorder of Elkhart County, Indiana.

And,

Lots Numbered One Hundred Thirty (130), One hundred Thirty-one (131) and One hundred Thirty-two (132) as the said Lots are known and designated on the recorded Plat of Wolf's Addition to the City of Elkhart.

Arguments for and against the granting of the above designated petition will be heard at this meeting.

PLEASE NOTE: A copy of this petition is on file in the Planning Office for public examination prior to the hearing. Written objections to this petition which are filed with the Secretary of the Board, located in the Planning Office, prior to the hearing will be considered. The hearing may be continued from time to time as may be found necessary.

Dated at Elkhart, Indiana this 23rd day of March 2026, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: March 27, 2026

LEGAL NOTICE #26-BZA-07

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LEGAL NOTICE #26-BZA-07

Hearing on proposed Developmental Variance **#26-BZA-07**

NOTICE is hereby given that the City of Elkhart Board of Zoning Appeals will meet in the Council Chambers on the second floor of the Municipal Building, 229 South Second Street, Elkhart, Indiana on **THURSDAY, APRIL 9, 2026, at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Developmental Variance Petition **#26-BZA-07**.

Petitioner: Diocese Fort Wayne-South Bend / St. Vincent de Paul Catholic Church

Request: To vary from Section 26.4.A.8, Fence

Requirements, which states in part, "Fence materials may include treated wood, painted wood, treated split rail, ornamental wrought iron, brick, stone, masonry block, decorative painted or vinyl coated aluminum, or other materials as approved by the Planning and Zoning Office. Scrap lumber, plywood, sheet metal, plastic or fiberglass sheets are specifically prohibited, to allow for a plastic fabric to cover an existing fence to remain.

Location: 1128 South Main Street

Zoning: R-5, Urban Residential District

This meeting can also be accessed via WebEx. To join, go to <http://coei.webex.com>, enter **2300 762 6417** as the meeting number and "**BZA2026**" as the password. Attendees may preregister or enter during the meeting. Comments and questions may be submitted via the WebEx app during the meeting or may be submitted to raen.levendoski@cityofelkhartin.gov prior to the meeting.

LEGAL DESCRIPTION:

A part of lot number Sixteen (16) in Hall's Kelvin Grove Addition to the Town (now city) of Elkhart, more particularly described as follows; to wit:- Beginning on the south line of said lot sixteen (16), one hundred eighty four (184) feet east of the southwest corner of said lot; thence north at right angles with the south line of said lot to the north line of said lot; thence east, along the north line of said lot, thirty-five (35) feet; thence south at right angles with the north line of said lot to the south line of said lot; thence west, along the south line of said lot, thirty-five (35) feet to the place of beginning.

Arguments for and against the granting of the above designated petition will be heard at this meeting.

PLEASE NOTE: A copy of this petition is on file in the Planning Office for public examination prior to the hearing. Written objections to this petition which are filed with the Secretary of the Board, located in the Planning Office, prior to the hearing will be considered. The hearing may be continued from time to time as may be found necessary.

Dated at Elkhart, Indiana this 23rd day of March 2026, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: March 27, 2026



LEGAL NOTICE #26-UV-08

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Details for LEGAL NOTICE #26-UV-08

16 hrs ago

LEGAL NOTICE #26-UV-08

Hearing on proposed Use Variance **#26-UV-08**

NOTICE is hereby given that the City of Elkhart Board of Zoning Appeals will meet in the Council Chambers on the second floor of the Municipal Building, 229 South Second Street, Elkhart, Indiana on **THURSDAY, APRIL 9, 2026, at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Use Variance Petition **#26-UV-08**.

Petitioner: K&J Property LLC

Request: To vary from Section 19.2, Permitted Uses in the M-2, General Manufacturing District, to allow for the construction of a Drive-thru Coffee Shop. Drive-thru Coffee Shop are not a permitted use in the M-2 District.

Location: 2101 West Franklin Street

Zoning: M-2, General Manufacturing District

This meeting can also be accessed via WebEx. To join, go to <http://coei.webex.com>, enter **2300 762 6417** as the meeting number and **"BZA2026"** as the password. Attendees may preregister or enter during the meeting. Comments and questions may be submitted via the WebEx app during the meeting, or may be submitted to

raen.levendoski@cityofelkhartin.gov prior to the meeting.

LEGAL DESCRIPTION:

A part of the Southwest Quarter of Section 7, Township 37 North, Range 5 East, in the City of Elkhart, Elkhart County, State of Indiana, more particularly described as follows: Commencing at a cross cut in the pavement on the West line of the Southwest Quarter of said Section 7, at the intersection of the centerlines of Nappanee Street and Franklin Street; thence North 73 degrees 00 minutes East along the centerline of said Franklin Street, 80 feet; thence South 17 degrees 00 minutes East, 50 feet to an Indiana State Highway concrete monument on the Southerly right-of-way line of Franklin Street; thence North 73 degrees 00 minutes East, along the Southerly right-of-way line of Franklin Street, 1023.26 feet to an iron stake for the place of beginning of this description; thence South 17 degrees 00 minutes East, 284.13 feet to a point that is 40 feet Northwardly (measured at right angles) from the centerline of the westbound Main Track of the Penn Central Railroad; thence South 72 degrees 53 minutes West parallel with the centerline of said westbound Main Track, 225 feet; thence North 17 degrees 00 minutes West, 284.2 feet to the Southerly right-of-way line of Franklin Street; thence Easterly along the Southerly right-of-way line of Franklin Street, 225 feet to the place of beginning.

Arguments for and against the granting of the above designated petition will be heard at this meeting.

PLEASE NOTE: A copy of this petition is on file in the Planning Office for public examination prior to the hearing. Written objections to this petition which are filed with the Secretary of the Board, located in the Planning Office, prior to the hearing will be considered. The hearing may be continued from time to time as may be found necessary.

Dated at Elkhart, Indiana this 23rd day of March 2026, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: March 27, 2026

LEGAL NOTICE #26-BZA-09

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LEGAL NOTICE #26-BZA-09

Hearing on proposed Developmental Variance **#26-BZA-09**

NOTICE is hereby given that the City of Elkhart Board of Zoning Appeals will meet in the Council Chambers on the second floor of the Municipal Building, 229 South Second Street, Elkhart, Indiana on **THURSDAY, APRIL 9, 2026, at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Developmental Variance Petition **#26-BZA-09**.

Petitioner: CRB4, LLC

Request: To vary from Section 26.4.A.6, Fence

Requirements, which states in part that, 'No fences, other than split rail, wrought iron, or open picket fences not to exceed four (4) feet in height, shall be permitted on any front yard or corner side yard' to allow for a seven (7) foot chain link fence (six (6) foot fence and one (1) foot 3-strand barbless wire fence) in the corner side yard, a variance of three (3) feet.

Location: 4800 Briscola Court

Zoning: M-2, General Manufacturing District

This meeting can also be accessed via WebEx. To join, go to <http://coei.webex.com>, enter **2300 762 6417** as the meeting number and "**BZA2026**" as the password. Attendees may preregister or enter during the meeting. Comments and questions may be submitted via the WebEx app during the meeting or may be submitted to raen.levendoski@cityofelkhartin.gov prior to the meeting.

LEGAL DESCRIPTION:

Lots numbered 8 and 13 in Elkhart East area "A" subdivision, recorded December 6, 2024, in plat book 44, page 38, instrument number 2024-20274, in the office of the recorder of Elkhart County, Indiana.

Arguments for and against the granting of the above designated petition will be heard at this meeting.

PLEASE NOTE: A copy of this petition is on file in the Planning Office for public examination prior to the hearing. Written objections to this petition which are filed with the Secretary of the Board, located in the Planning Office, prior to the hearing will be considered. The hearing may be continued from time to time as may be found necessary.

Dated at Elkhart, Indiana this 23rd day of March 2026, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: March 27, 2026



LEGAL NOTICE #26-BZA-11

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15 hrs ago

LEGAL NOTICE #26-BZA-11

Hearing on proposed Developmental Variance **#26-BZA-11**

NOTICE is hereby given that the City of Elkhart Board of Zoning Appeals will meet in the Council Chambers on the second floor of the Municipal Building, 229 South Second Street, Elkhart, Indiana on **THURSDAY, APRIL 9, 2026**

at 6:00 P.M. concerning the following request:

A public hearing will be conducted on a Developmental Variance Petition **#26-BZA-11**.

Petitioner: Ignacio Perez

Request: To vary from Section 8.5, Yard Requirements to allow for a parcel with an established lot size of 3,040 square feet and lot frontage of 38 feet variance to be used as a two-family dwelling. The minimum lot size for a two-family dwelling is 7,200 square feet and a lot frontage of 60 feet, a variance of 4,160 square feet for the lot area and 22 feet for the lot frontage.

To vary from Section 8.5, Yard Requirements in the R-5 Urban Residential District, to allow for a five (5) foot side yard setback where seven (7) feet are required, a variance of two (2) feet.

To vary from Section 8.5, Yard Requirements, Rear Yard to allow for a thirteen (13) foot rear setback where thirty (30) feet is required, a variance of seventeen (17) feet.

To vary from Section 8.5, Yard Requirements, for the corner side yard average established setback of thirteen (13) feet, to allow for the construction of a two-family dwelling at a corner side yard setback of seven (7) feet, a variance of six (6) feet.

To vary from Section 26.7.D, Schedule of Off-Street Parking Space Requirements, to allow for zero (0) off-street parking spaces where four (4) off-street parking spaces are required, a variance of four (4) off-street parking spaces.

Location: 431 Middlebury Street

Zoning: R-5, Urban Residential District

This meeting can also be accessed via WebEx. To join, go to <http://coei.webex.com>, enter **2300 762 6417** as the meeting number and **"BZA2026"** as the password. Attendees may preregister or enter during the meeting. Comments and questions may be submitted via the WebEx app during the meeting or may be submitted to raen.levendoski@cityofelkhart.in.gov prior to the meeting.

LEGAL DESCRIPTION:

A part of Lot Numbered Forty-three (43) as the said lot is known and designated on the recorded Plat of Hall's Second Kelvin Grove Addition to the Village (now City) of Elkhart; said Plat being recorded in Deed Record 31, Page 437, in the Office of the Recorder of Elkhart County, Indiana, more particularly described as follows: Beginning at the Northeast corner of said Lot Numbered Forty-three (43); thence Southwardly along the East line of said Lot, Eighty (80) feet; thence Westwardly parallel with Middlebury Street; Thirty-eight (38) feet; thence Northwardly Eighty (80) feet; thence Eastwardly Thirty-eight (38) feet to the place of beginning.

Arguments for and against the granting of the above designated petition will be heard at this meeting.

PLEASE NOTE: A copy of this petition is on file in the Planning Office for public examination prior to the hearing. Written objections to this petition which are filed with the Secretary of the Board, located in the Planning Office, prior to the hearing will be considered. The hearing may be continued from time to time as may be found necessary.

Dated at Elkhart, Indiana this 23rd day of March 2026, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: March 27, 2026



City of Elkhart

Staff Report

Planning & Zoning

<u>Petition:</u>	26-BZA-06
<u>Petition Type:</u>	Developmental Variance
<u>Date:</u>	April 9, 2026
<u>Petitioner:</u>	River District Development LLC
<u>Site Location:</u>	302 East Jackson Blvd
<u>Request:</u>	<p>To vary from Section 26.10.D.5, Projecting signs, that no sign is suspended more than thirty-five (35) feet above the ground to allow for a projecting sign to be thirty-eight (38) feet above the ground, a variance of three (3) feet.</p> <p>To also vary from Section 26.10.D – Table 1, Projecting signs in the CBD, that limits the size to 9 square feet to allow for a projecting sign that is 35 square feet, a variance of 26 square feet.</p>
<u>Previous BZA Action:</u>	<p>24-UV-02 – To vary from Section 15.2.Q, Permitted Uses in the CBD, which allows ‘Multi- family residential dwellings, including condominiums, townhouses and residences located above commercial uses to allow for residential dwellings located on the first floor, where currently residential dwellings are not a permitted use on the first floor.</p> <p>To also vary from Section 6.2, which references the minimum size of a residential dwelling unit as seven hundred fifty (750) square feet to allow for the residential units in this development to be as small as five hundred seventy four (574) square feet, a maximum variance of one hundred seventy six (176) square feet.</p>
<u>Existing Zoning:</u>	CBD, Central Business District
<u>Size:</u>	+/- 0.74 Acres
<u>Thoroughfares:</u>	North Clark Street and East Jackson Boulevard
<u>School District:</u>	Elkhart Community Schools

Utilities: Available to site

Surrounding Land Use & Zoning:

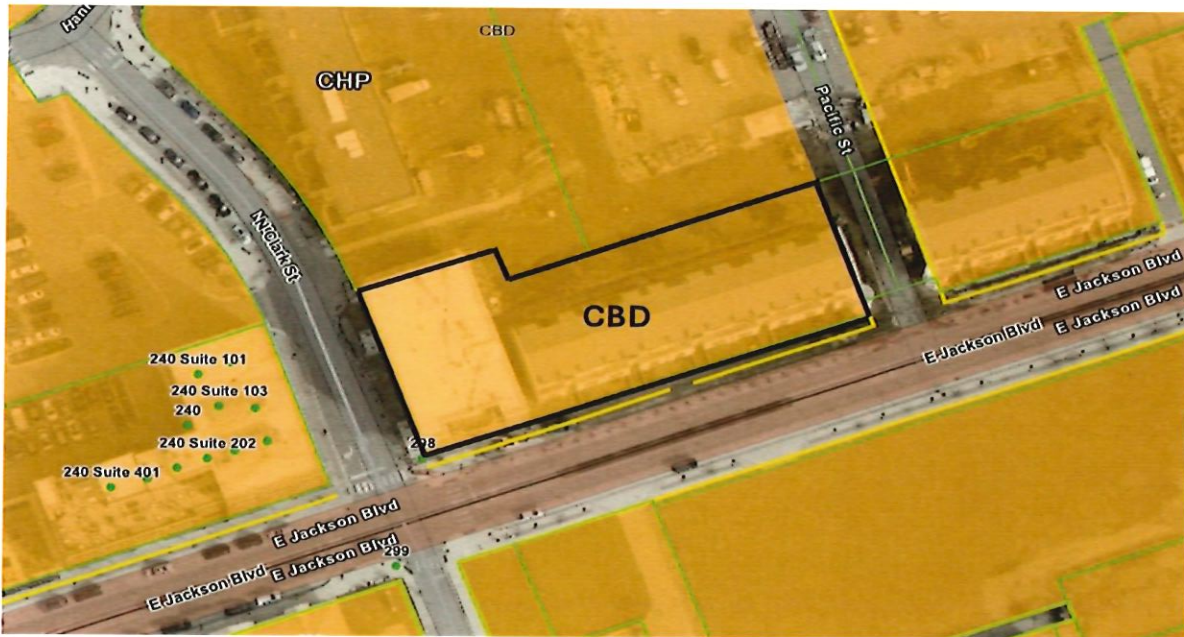
The surrounding properties are CBD Central Business District.

Applicable Sections of the Zoning Ordinance:

See enumerated in request.

Comprehensive Plan:

The Comprehensive calls for this area to be developed office and institutional uses of the downtown mixed use future land use district.



Staff Analysis

The petitioner is requesting to vary from Section 26.10.D.5, Projecting signs, that no sign is suspended more than thirty-five (35) feet above the ground to allow for a projecting sign to be thirty-eight (38) feet above the ground, a variance of three (3) feet. And to also vary from Section 26.10.D – Table 1, Projecting signs in the CBD, that limits the size to 9 square feet to allow for a projecting sign that is 35 square feet, a variance of 26 square feet.

The petitioner is requesting a developmental variance to allow for a sign that is 38 feet above the ground where 35 feet is the maximum. The requested sign will serve to identify the building within the River District from a distance. The petitioners are making efforts to respect the character of the commercial corridor while trying to promote the building.

The request is not out of scale for the building. Due to the location downtown, at the intersection of two throughfares (Jackson and North Clark), this site does not permit other forms of signage as ground or pylon signs are expressly prohibited. Projecting signs are typical within the central business district and would not feel out of place or out of character. The height of the building, at 4 stories tall, reduces the visual impact of a taller projecting sign than typically found within the central business district.

A permit for the sign was submitted on January 23, 2026, with staff letting the applicant know that the sign did not meet development standards for projection signs on February 4, 2026. The applicant then filed with the board on February 18, 2026.

Staff recommends approval of this variance.

Recommendation

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

1. The approval **will not be** injurious to the public health, safety, morals, or general welfare of the community as projecting signs of this size are not out of character and are typically found in the Central Business District;
2. The use and value of the area adjacent to the property **will not be** affected in a substantially adverse manner because the size of the proposed sign is not out of character for the Central Business District as projecting signage is one of the primary form of advertisement in the district;
3. Granting the variance **would be** consistent with the intent and purpose of this Ordinance because a measure of relief is allowed when warranted;
4. Special conditions and circumstances **do exist** that are peculiar to the land involved as the building façade on which the sign will be located is located in a part of downtown with a higher level of signage standards that limit traditional wall signage;
5. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the property by depriving the petitioner the ability to brand the development/building;
6. The special conditions and circumstances **do not** result from any action or inaction by the applicant because the current building is existing and the signable area on the building will not change as a result of this request;
7. This property **does** lie within a designated flood hazard area. However, the building was constructed to meet all applicable development standards and requirements.

Conditions

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

1. None

Photos



Front Elevation facing East Jackson Blvd-Google Maps, August 2025

Attachments

Petition, appeal letter, affidavit, and site plan.

PETITION #: 26-BZA-06

FILING FEE: \$300.⁰⁰

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: DEVELOPMENTAL VARIANCE

Property Owner(s): River District Development LLC

Mailing Address: _____

Phone #: _____

Email: _____

Contact Person: Siantech Sign Services

Mailing Address: _____

Phone #: _____

Email: _____

Subject Property Address: 302 E. Jackson Blvd, Elkhart, IN 46516

Zoning: Commercial

Present Use: Commercial

Proposed Use: Commercial

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): River District Development

SIGNATURE(S): [Signature]

DATE: 2.19.26

STAFF USE ONLY:

Staff Checklist for the applicant's submittal of a complete Petition to the Board of Appeals docket:

- One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.
- A completed Petition form signed by the legal owner of record (or approved representative).
- If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- A full and accurate legal description of the property.
- One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 12 copies must be submitted.
- Optional: any supplementary information the applicant may wish to include.

Ordinance Requirement: Section(s): _____

Map #: _____

Area: _____

RECEIVED BY: Raen Lewendowski

DATE: 2/20/26

AFFIDAVIT IN SUPPORT OF DEVELOPMENTAL VARIANCE PETITION

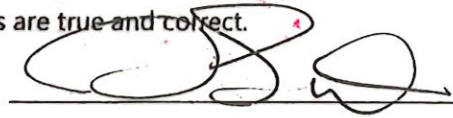
I, David Weaver, being first duly sworn upon his/her oath deposes and says that he/she is familiar with and has personal knowledge of the facts herein and, if called as a witness in this matter, would testify as follows:

1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
2. I make this affidavit in support of my variance petition filed contemporaneously herewith.
3. I am now and at all times relevant herein have been, the owner of record of the property located at 302 E. Jackson Blvd Elkhart, Indiana.
4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 11th day of February, 2026.

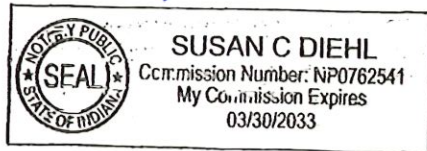

Printed: David Weaver

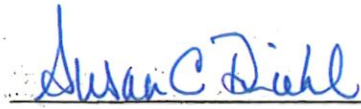
I certify under the penalties for perjury under the laws of the United States of America and the State of Indiana that the foregoing factual statements and representations are true and correct.


Printed: David Weaver

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared David Weaver, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 11th day of February, 2026.




Printed: Susan C Diehl

My Commission Expires:
03/30/2033

Notary Public in and for the State of Indiana
Resident of Cass County, Indiana
Michigan

CITY OF ELKHART VARIANCE APPEAL LETTER

DATE: 2/18/26

TO: BOARD OF ZONING APPEALS

RE: DEVELOPMENTAL VARIANCE

CITY OF ELKHART, INDIANA

The undersigned petitioner respectfully shows the Board of Zoning Appeals:

1. I River District Development Company LLC am the owner of the following described
(Property owners name)

Real estate located within the City of Elkhart, Concord, township,
Elkhart County, State of Indiana, to wit:

302 E. Jackson Blvd, Elkhart IN 46516

(accurate legal description and common address of property)

2. The above described real estate presently has a zoning classification of C.B.D
District under the Zoning Ordinance of the City of Elkhart.

3. Petitioner presently occupies the above, described property in the following
manner: Commercial Use.

4. Petitioner desires to explain how our proposal will vary from the provisions within
the Zoning Ordinance:

- 38 ft from Grade to top of sign. (3ft over what is allowed)
- 35 sqft sign. (26 sqft over allowance)
- Building facade has a 0 ft setback so the sign will extend into the R.O.W, but will NOT affect R.O.W at 35' over grade

5. The Zoning Ordinance of the City of Elkhart requires:

- Projecting signs to be 35' from Grade to top of sign.
- Maximum sqft to be 9 sqft
- Signs to be out of R.O.W.

6. The strict adherence to the Zoning Ordinance requirements would create an
unusual hardship in the following ways:

The sign would not be visible at 9 sqft, and at 35 sqft can easily be seen.

The 38 ft above grade, centers sign on the building.

CITY OF ELKHART VARIANCE APPEAL LETTER

DATE: 2/18/26

TO: BOARD OF ZONING APPEALS

RE: DEVELOPMENTAL VARIANCE

CITY OF ELKHART, INDIANA

The undersigned petitioner respectfully shows the Board of Zoning Appeals:


1. I River District Development Company LLC am the owner of the following described
(Property owners name)

Real estate located within the City of Elkhart, Concord, township,
Elkhart County, State of Indiana, to wit:

A part of the Northeast Quarter of Section 5, Township 37 North, Range 5 East, Concord Township, Elkhart County, Indiana and being a Replat of Lots 3A, 3B, 3C, and 4B of River District Northwest Addition, Second Replat Lot 1.

2. The above described real estate presently has a zoning classification of C.B.D
District under the Zoning Ordinance of the City of Elkhart.
3. Petitioner presently occupies the above, described property in the following
manner: Commercial Use.
4. Petitioner desires to explain how our proposal will vary from the provisions within
the Zoning Ordinance:
- 38 ft from Grade to top of sign. (3ft over what is allowed)
 - 35 sqft sign. (26 sqft over allowance)
 - Building facade has a 0ft setback so the sign will extend into the R.O.W, but will NOT affect R.O.W at 35' over grade
5. The Zoning Ordinance of the City of Elkhart requires:
- Projecting signs to be 35' from Grade to top of sign.
 - Maximum sqft to be 9 sqft
 - Signs to be out of R.O.W.
6. The strict adherence to the Zoning Ordinance requirements would create an
unusual hardship in the following ways:
The sign would not be visible at 9 sqft, and at 35 sqft can easily be seen.
The 38 ft above grade, centers sign on the building.

Wherefore, Petitioner prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested variance.

SIGNATURE OF PROPERTY OWNER: 

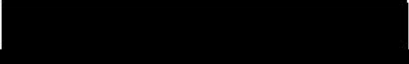
PRINTED NAME: David D. Weaver

To
Represent
at
Variance
Meeting

Contact Person: Signtech Sign Services

Name: Todd C Lehman

Address: 

Phone Number: 

Email: 

STANDARDS THAT MUST BE CONSIDERED FOR A DEVELOPMENTAL VARIANCE ARE AS FOLLOWS:

- 1.) The approval will not be injurious to the public health, safety, morals and general welfare of the community:

The sign will project into the right of way but will NOT obstruct the right of way as it will be installed at a 38' H. above right of way

- 2.) The use and value of the area adjacent to the property will not be affected in a substantially adverse manner:

The sign will be made from high quality materials & will not be illuminated. It will compliment & identify the building it is created for.

- 3.) Granting the variance would be consistent with the intent and purpose of the Zoning Ordinance:

Allowing the building to be identified by the community.

- 4.) Special conditions and circumstances exist which are peculiar to the land involved and which are not applicable to the other lands or structures in the same district:

The building facade is at a 0 ft setback & the sign will project into the right of way but will not obstruct the right of way.

- 5.) The strict application of the terms of this ordinance would deprive the applicant of the rights commonly enjoyed by other properties in the same district under the provisions of this ordinance:

It would prevent the 4 story building from adequately being identified.

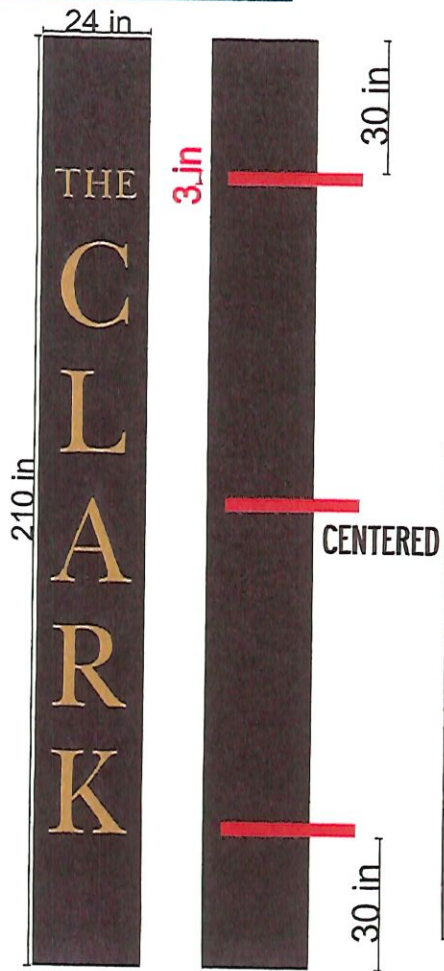
- 6.) The special conditions and circumstances do not result from any action or inaction by the applicant: Correct.

- 7.) In designated flood hazard areas, the variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, or conflict with the existing laws or ordinances:

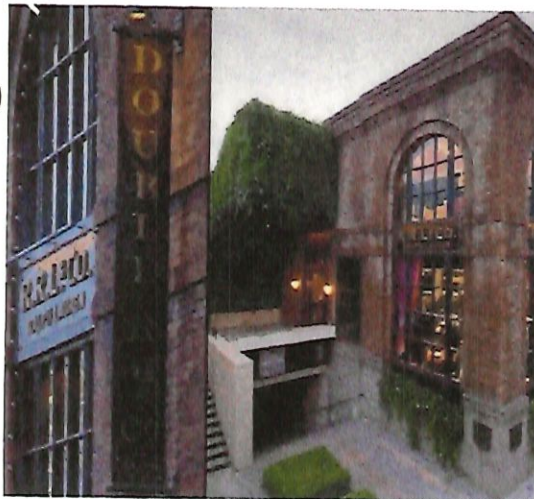
N/A -

* Grade to Top of Sign 38 ft

DJ CONST / A1 LRG BLADE SIGN



4 South Elevation - View From Street



MEDIUM BRONZE COLOR TO MATCH STORE FRONT
TUBELITE BRAND 'MEDIUM BRONZE' ANODIZED ALUMINUM

QT:(1) DOUBLE SIDED, NON-LIT BLADE SIGN FOR CORNER OF BUILDING W/ DIMENSIONAL LETTERING

CONTRACTOR TO SUPPLY (3) 3" SQ STEEL TUBES - 1/4" WALL PROJECTING FROM BUILDING. SIGNTech WILL TACK WELD SIGN TO STEEL

ISSUED: 10/17/25 - QUOTES VALID FOR 30 DAYS
PERMIT AND ACQUISITION FEES ADDITIONAL AND BILLED AT COST IF NEEDED.

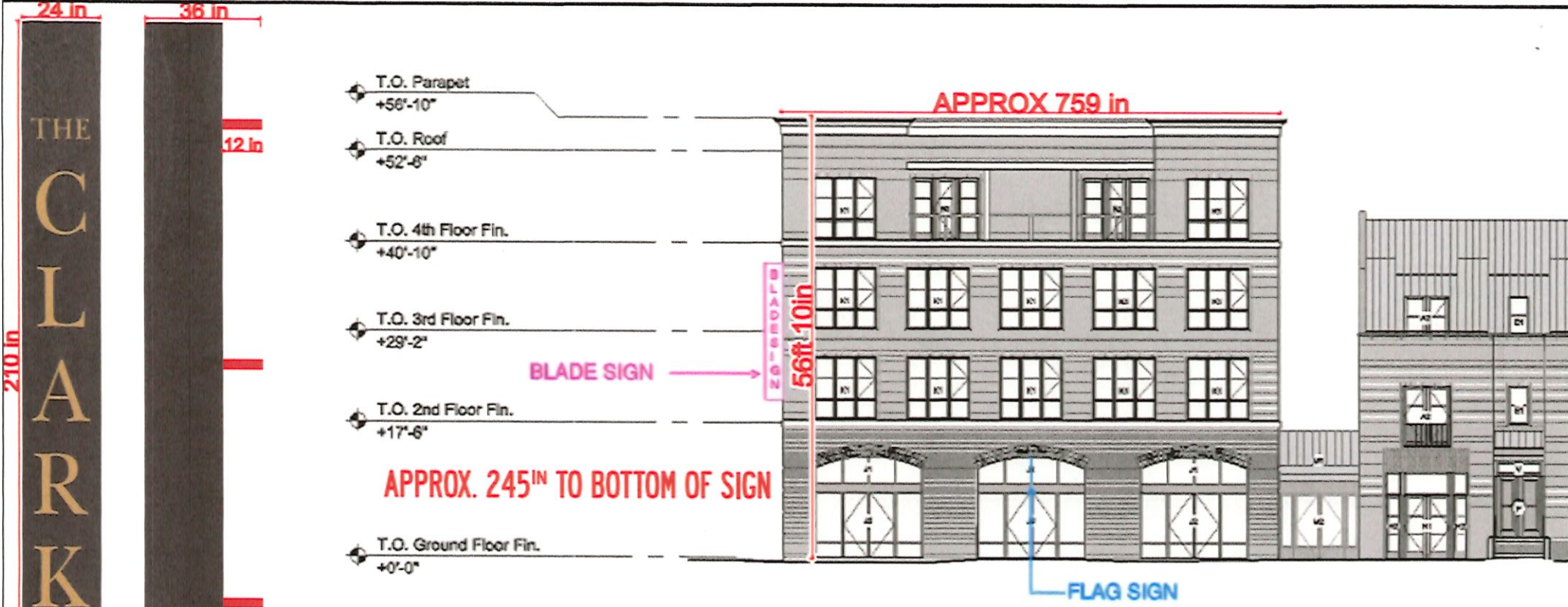


SCOPE OF WORK:

SUPPLY & INSTALL (1) DOUBLE SIDED, LARGE CORNER MOUNTED BLADE SIGN W/ NON-LIT DIMENSIONAL LETTERING

PROJECT COST:

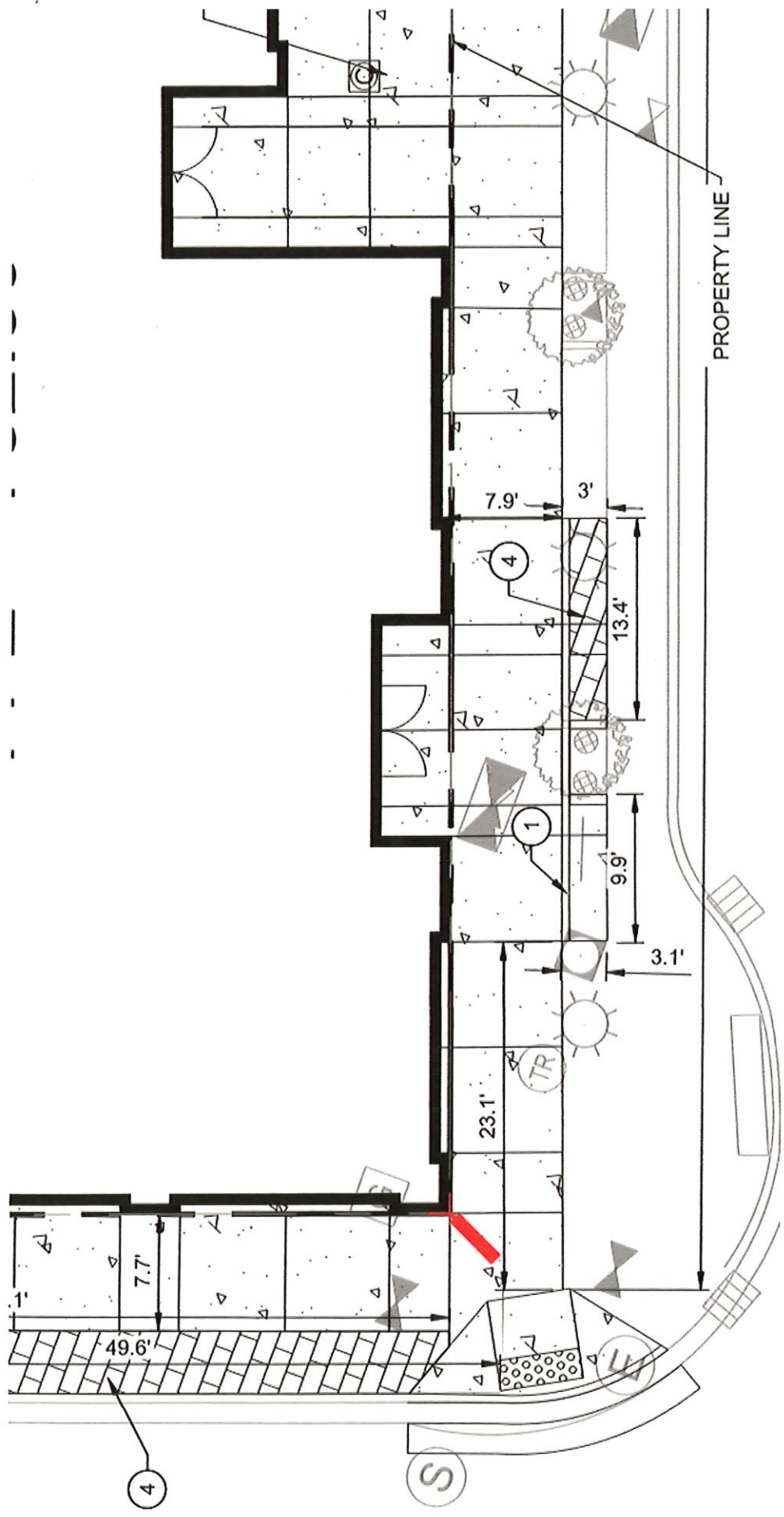
\$11,887.05 WITH TAX



4 South Elevation - View From Street

QT:(1) DOUBLE SIDED, 12" DEEP NON-LIT BLADE SIGN FOR CORNER OF BUILDING W/ DIMENSIONAL LETTERING
 12" STAND OFF = 36" TOTAL PROJECTION FROM BUILDING

* 2' w X 17.5' H = 35 sqft





City of Elkhart

Staff Report

Planning & Zoning

<u>Petition:</u>	26-UV-07
<u>Petition Type:</u>	Use Variance
<u>Date:</u>	April 9, 2026
<u>Petitioner:</u>	Nexink Realty LLC
<u>Site Location:</u>	VL 2000 BL South Main Street
<u>Request:</u>	To vary from Section 19.2, Permitted Uses in the M-2, General Manufacturing District to allow for to allow for Auto Sales.
<u>Existing Zoning:</u>	M-2, General Manufacturing District
<u>Size:</u>	+/- 1.78 Acres
<u>Thoroughfares:</u>	South Main Street
<u>School District:</u>	Elkhart Community Schools
<u>Utilities:</u>	Available and provided to the site.

Surrounding Land Use & Zoning:

The property is surrounded by a mix of residential, commercial and manufacturing uses zoned R-4, Multiple Family Dwelling, B-3, Service Business District, B-2, Community Business District, M-2, General Manufacturing District.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The Comprehensive Plan calls for this area to be developed with mixed land uses.



Staff Analysis

The petitioner is requesting a use variance to allow the vacant property in the 2000 block of South Main Street to be used for auto sales. Section 19.2 Permitted Uses in the M-2, General Manufacturing District does not permit auto sales.

The petitioner would like to use the site for used auto sales. The land had previously been used for manufacturing. The petitioner submitted a site plan for the hearing depicting striped areas for display, customer parking and employee parking. The plan also shows a modular sales office on the far east side of the lot adjacent to the railroad tracks.

The M-2 zoning for this site is a legacy zoning classification when area was used for more intensive uses because of its adjacency to the railroad. Between Lusher and Indiana there are only two parcels remaining that have an industrial zoning classification. Largely because the parcels are shallow and do not support the necessary truck movements required by most modern industrial uses – industrial users are challenging to find.

This section of South Main Street is largely zoned either B-1, B-2 or B-3 with R-4 and R-5 closer to Indiana where the residential uses are more concentrated. The request for a commercial use is in keeping with the overall land use pattern for the area of Main. The commercial zoning along Main Street acts as a developmental buffer between the residentially zoned properties to the west and the more intense uses along this section of Main Street which also backs up to the railroad.

Staff appreciate the petitioners' desire to put the property back to use but have concerns related to the aesthetics and maintenance/up-keep of the property. The city has invested a great deal in new infrastructure and public road improvements in the entire South Main Street corridor to improve the gateway into Downtown. Additionally, the Redevelopment Commission owns the adjacent property to the north. Redevelopment staff are in the process of defining the redevelopment vision for their 2.3-acre site and have rezoned the property R-4 for multi-family residential use. As a result, staff will be asking for conditions that require higher levels of screening, enhanced landscaping and condition of vehicles offered for sale. The intent is to prevent a sales lot where the cars do not run or are disabled after an accident and don't move from the site therefore becoming a junk yard for cars that have no home.

Because of the location and desire to maintain a high development standard for the corridor, staff are willing to recommend a two (2) year conditional approval. At the end of the two (2) year period, this request will come back to the board for a review of the site and overall condition of the use. At that time the board can grant the petitioner an additional two (2) year interval, amend the original approval or revoke the use variance for failing to meet the conditions placed on the site.

South Main Street is a main thoroughfare directing traffic downtown to the business district. And because of this, staff would like to have the petitioner look at and incorporate the necessary setbacks, landscape plantings and buffering for the residentially zoned property to the north. Requiring the petitioner to file a revised site plan for Technical Review will ensure the basic aesthetic elements and all development requirements are incorporated into the site for the new use.

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 property will only be used for the display of autos with the grounds meeting the proper buffering requirements;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner because this use as an auto sales lot – all cars will be in proper running condition with the site developed to all required landscape buffering;
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 auto sales would not be permitted on this site;
5. The strict application of the terms of this Ordinance **would** result in practical difficulties in the use of the property because establishing a permitted M use would be challenging given the depth of the property and the need for most modern industrial users to have more area to navigate truck traffic for docks and deliveries;
6. The special conditions and circumstances **do not** result from an action or inaction by the applicant because the zoning classification has been in place for decades and no auto sales have been established;
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. Project shall be submitted for review and approval by the Technical Review committee – this is to ensure compliance with Public Works requirements and developmental standards for the Planning Department as if it were a new development.
2. Any new proposed structures must be connected to Municipal Utility Services.
3. Trash dumpster/receptacles must be properly screened as per Section 26.2.C.6.
4. Of specific concern - compliance with the aesthetic components of the project related to setbacks, buffering and landscaping.
 - a. The landscape buffer to the north – adjacent to the residentially zoned property must be a minimum of twenty-one (21) feet with a solid fence to screen from the residential use. Plantings to meet the standards found in Section 13.5 and 13.4.
 - b. The right of way (Main Street) buffer landscape strip shall meet the minimum requirements of twenty (20) feet, planted with street trees and understory plantings to soften and buffer the public frontage along Main Street. If the petitioner would choose to install a four (4) foot aluminum wrought iron style fence – the staff would permit a reduced front setback to ten (10) feet.
5. Any new signage must comply with the current B-3, Service Business District standards.
6. All cars offered for sale must be in running condition and be operable and street legal.
7. No mechanical work of any kind shall be permitted on-site. This lot is for display only.
8. The approval only applies to the current owner. Should the business close or cease operation for any reason, the approval is null and void.
9. If the business or land is sold the new owner must refile with the Board of Zoning Appeals to acknowledge compliance with the conditions of approval.
10. The approval is for a term of two (2) years and must be reheard as a staff item in April 2028.

Photos



Street view from Google Earth

PETITION #: 26-UV-07

FILING FEE: \$ 300.00

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: USE VARIANCE

Property Owner(s): NEXINK REALTY LLC

Mailing Address: [REDACTED]

Phone #: _____ Email: _____

Contact Person: TERRY LANG

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

Subject Property Address: vacant land northwest and adjacent to 2030 S. Main Street

Zoning: M-2 Manufacturing District

Present Use: vacant lot with asphalt surface **Proposed Use:** used car sales lot

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATION (PRINT): TERANCE D. LANG

SIGNATURE(S): *Terrance D. Lang*

STAFF USE ONLY

Staff Checklist for this application's submittal of a complete Petition to the Board of Zoning Appeals docket:

- One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.
- A completed Application form signed by the legal owner of record (or approved representative).
- If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- A full and accurate legal description of the property.
- One scale drawing of the property, measuring 11"X17" or smaller. If larger than 11" x 17", 12 copies must be submitted.
- Optional: any supplementary information the applicant may wish to include.

Ordinance Requirement: Section(s): _____

Map #: _____ Area: _____

RECEIVED BY: Raen Lewendowski DATE: 2/25/26

DATE: February 20, 2026

TO: Board of Zoning Appeals
City of Elkhart, Indiana

RE: Use Variance

The undersigned appellant respectfully shows the Board:

1. I, Nexink Realty LLC, is the owner of the following described real estate located within the City of Elkhart, Concord Township, Elkhart County, State of Indiana, to-wit:

Lot Numbered 2, as the said Lot is known and designated on the Recorded Plat of Main and Lusher Minor Subdivision, said Plat being recorded in Plat Book 34, page 11, as Instrument No. 2012011413 being a Re-Plat of Lots 45-58 and Vacated Bar Street of Allendale Plat an Addition of the City of Elkhart County, Indiana.

2. The above described real estate presently has a zoning classification of M-2 Manufacturing District under the Zoning Ordinance of the City of Elkhart.
3. Appellant presently occupies (or proposes to occupy) the above described property in the following manner: The Owner wishes to utilize the existing site as a used car sales lot
4. Appellant desires to operate a used sales car lot within the M-2 Manufacturing zone property which is currently not an accepted use within that zoning district.
5. The Zoning Ordinance of the City of Elkhart requires a special use variance to allow a used car sales lot within the M-2 Manufacturing District.
6. Explain why strict adherence to the Zoning Ordinance requirements would create an unusual hardship. Strict adherence to the M-2 Manufacturing District would not allow a used car sale lot at this site, therefore a special use is being requested.
7. Using the appropriate standards developmental or use), from the previous page, address each standard. You cannot answer simply Yes or No; you must state why this is true

a. The approval will not be injurious to the public health, safety, morals, and general welfare of the community: **The area is of mixed use, including residential, commercial and manufacturing. The addition of a used car sales will not be injurious to the public health, safety, morals, and general welfare of the community.**

b. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and: **The addition of a used car sales lot is in the keeping with the surrounding community of mixed uses and will not have an adverse effect on the use or value of the surrounding area.**

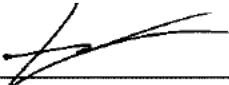
c. The need for the variance arises from some condition peculiar to the property. **Due to the multiple zoning classifications with this area and the property uses, a used car sale lots would be allowable with the granting of the Use Variance for this M-2 Manufacturing parcel.**

d. The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property: **The strict application of the terms of the Zoning Ordinance for M-2 Manufacturing does not allow the Owner the most applicable use of their property within this mixed-use area.**

e. The approval does not interfere substantially with the Comprehensive Plan: **The parcel is currently an empty lot, improvements made to establish a used car lot should better utilize the vacant parcel and help enhance the Comprehensive Plan.**

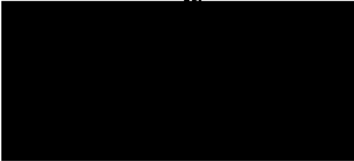
Nexink Realty LLC



Signature of Property Owner: 

Printed Name and title: Viviana Castaneda

Contact
Wightman
Terance D. Lang, PS



Lot Numbered 2, as the said Lot is known and designated on the Recorded Plat of Main and Lusher Minor Subdivision, said Plat being recorded in Plat Book 34, page 11, as Instrument No. 2012011413 being a Re-Plat of Lots 45-58 and Vacated Bar Street of Allendale Plat an Addition of the City of Elkhart County, Indiana.

AFFIDAVIT IN SUPPORT OF VARIANCE PETITION

I, Nexink Realty LLC, being first duly sworn upon their oath deposes and says that they are familiar with and has personal acknowledge of the facts herein and, if called as a witness in this matter, would testify as follows:

1. I am over eighteen (18) years of age and am competent to testify the matters contained herein.
2. I make this affidavit in support of my variance petition filed contemporaneously herewith.
3. I am now and at all times relevant herein have been, the owner of the record of the Property located northwest and adjacent to 2060 S. Main Street (being vacant land) in Elkhart, Indiana.
4. FURTHER AFFIANT SAYETH NOT.

EXECUTED ON THE 24th DAY OF February, 2026.

Nexink Realty LLC

Signature: [Handwritten Signature]

Print Name: Viviana Castaneda

I certify under the penalties for perjury under the law of the United States of America and the State of Indiana that the forgoing factual statements and representations are true and correct.

Signature: [Handwritten Signature]

Print Name: Viviana Castaneda

STATE OF INDIANA)

)SS:

COUNTY OF ST JOSEPH)

Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared Nexink Realty LLC by (print name) Viviana Castaneda, and acknowledge their execution of the forgoing.

Subscribed and sworn to before me this 24th day of February, 2026.

[Handwritten Signature: Donna R. Simon]
 Notary, (print name) DONNA R. SIMON
 My commission expires August 29, 2028
 Notary Public is a resident of St. Joseph County, Indiana.





WIGHTMAN

1402 MISHAWAKA AVE.
SOUTH BEND, IN 46615
574.233.1841

www.gowightman.com

PROJECT NAME:
**USE VARIANCE
PETITION**

LEGAL DESCRIPTION

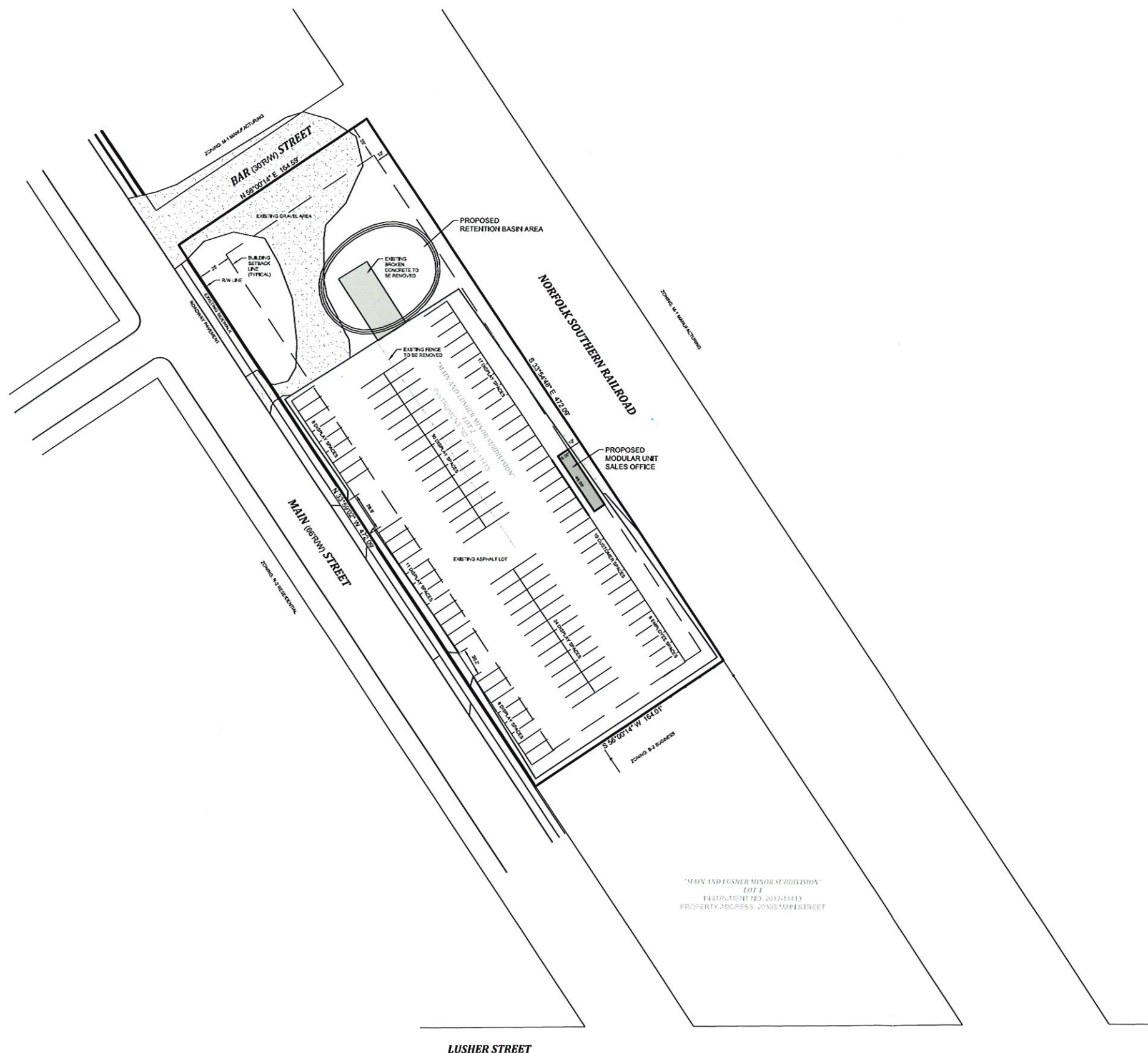
LOT 2, MAIN AND LUSHER MINOR SUBDIVISION, BEING A SUBDIVISION IN THE SOUTH HALF OF SECTION 9, TOWNSHIP 37 NORTH, RANGE 5 EAST, CONCORD TOWNSHIP, ELKHART COUNTY, INDIANA, ACCORDING TO THE PLAT THEREOF RECORDED IN INSTRUMENT NO. 2012-11413, ELKHART COUNTY RECORDS.

SUBJECT TO ANY AND ALL EASEMENTS AND RESTRICTIONS OF RECORD, OR OTHERWISE.

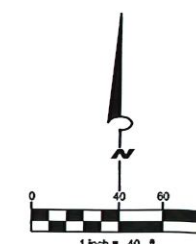
SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED IN A FULL AND ACCURATE TITLE SEARCH.

NOTES

1. PROPERTY TAX KEY NUMBER: 06-09-454-012-012
2. PROPERTY ADDRESS: VACANT LAND LYING NORTHWEST AND ADJACENT TO 2030 S MAIN STREET
3. CURRENT ZONING: M-2 GENERAL MANUFACTURING DISTRICT
4. CURRENT USE: VACANT WITH ASPHALT LOT
5. PROPOSED USE: AUTOMOBILE SALES



"MAIN AND LUSHER MINOR SUBDIVISION"
LOT 1
INSTRUMENT NO. 2012-11413
PROPERTY ADDRESS: 2030 S MAIN STREET



REVISIONS

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DATE: 02/12/2025
SCALE: 1" = 40'

PRELIMINARY
SITE PLAN

JOB No. 260143
Layout1



City of Elkhart

Staff Report

Planning & Zoning

<u>Petition:</u>	26-X-01
<u>Petition Type:</u>	Special Exception
<u>Date:</u>	Plan Commission: April 6, 2026; Board of Zoning Appeals April 9, 2026
<u>Petitioner:</u>	City of Elkhart, Board of Public Works and Ermine Meadows, Inc.
<u>Site Location:</u>	626 West Cleveland Avenue
<u>Request:</u>	Per Section 5.3, Special Exception Uses, (4.3.O) Parks and Playgrounds to allow for the establishment and expansion of a new park and playground.
<u>Existing Zoning:</u>	R-2 One Family Dwelling District
<u>Size:</u>	+/- 1.50 acres
<u>Thoroughfares:</u>	West Cleveland Ave and South 7 th Street and South 6 th Street
<u>School District:</u>	Elkhart Community Schools
<u>Utilities:</u>	Available to site.

Surrounding Land Use & Zoning:

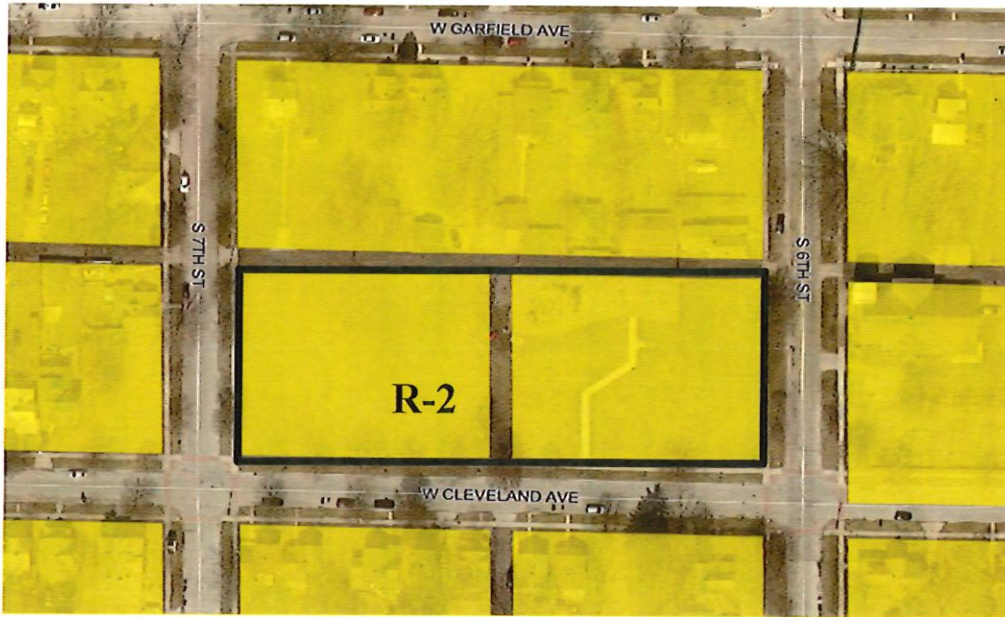
The properties to the north, south, east, and west are all zoned R-2 One Family Dwelling District.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The Comprehensive Plan calls for this area to be developed with low density residential.



Staff Analysis

The request is per Section 5.3, Special Exception Uses, (4.3.O) Parks and Playgrounds to allow for the establishment and expansion of a new park and playground at 626 W. Cleveland Avenue. The request is considered an expansion of the park and therefore a new petition request is required.

The City of Elkhart and Ermine Meadows are submitting a joint special exception request to expand the existing Ullery Park onto land owned by the Ermine Meadows organization. The reimagined park master plan has an emphasis on activating the space and community vision for the amenities at the park.

Based on information provided by the City of Elkhart Parks Superintendent, Jamison Czarnecki, the master plan and vision for the park came from a series of neighborhood meetings, feedback collected in door-to-door survey work and additional outreach conducted in both English and Spanish. The new master plan elements call for an open air pavilion, off street parking, additional landscaping, a new walking path and a splash pad.



- KEY NOTES**
- ① ALLEY
 - ② PORTABLE RESTROOM
 - ③ NEW LANDSCAPE PLANTINGS
 - ④ EXISTING DECORATIVE STREET LIGHTS
 - ⑤ NEW PICNIC TABLE
 - ⑥ EXISTING OVER-HEAD UTILITY
 - ⑦ NEW PICNIC SHELTER (ROOF)
 - ⑧ NEW 4' FENCE
 - ⑨ EXISTING PLAYGROUND TO REHAB
 - ⑩ CONNECT TO WATER AND SANITARY
 - ⑪ EXISTING LAWN
 - ⑫ NEW PARKING
 - ⑬ NEW DINING FOUNTAIN
 - ⑭ EXISTING TREELINE
 - ⑮ NEW LARGE GROUP GULL
 - ⑯ CONNECT TO ELECTRICAL SERVICE
 - ⑰ NEW TRASH RECEPTACLE
 - ⑱ NEW SPLASH PAD
 - ⑲ EXISTING SIGN WITH NEW LANDSCAPE PAINTINGS
 - ⑳ NEW SITE HISTORICAL INTERPRETIVE FEATURE
 - ㉑ LANDSCAPE PLANTINGS, NEW SIGN
 - ㉒ NEW SHADE TREELINE
 - ㉓ NEW SIDEWALK

Ullery Park - Concept 3
Elkhart, Indiana

5/1/2025



Park Master Plan

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; The Ullery Park improvements are being designed to add amenities to make this park a premier park for the City of Elkhart. The improvements to the playground, parking, additional landscape plantings and splash pad will allow for future growth and attendance to increase usage.
2. The Special Exception **will not** reduce the values of other properties in its immediate vicinity because the additional amenities proposed will add to the quality of place for Ullery Park and enhance the city's park system. The park is part of the Mayor's ASPIRE Initiative to enhance the vibrancy and increase usage of the City's parks and greenspaces.
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. The proposed amenities will add to the vibrancy of the neighborhood and allow for more programming for the Parks Department. The open air pavilion will be built to conform to all necessary building construction requirements and have been submitted for Technical Review and addressed all comments raised during the review.

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 project for Technical Review to ensure all developmental requirements have been met.

Photos



Ullery Park - Character Images
Elkhart, Indiana

5/11/2025



Park Design Elements



Images taken from Google Street View
May 2023



The Honorable
Rod Roberson
Mayor

Jamison Czarnecki
Parks Superintendent



Parks & Recreation
229 S. Second St.
Elkhart, IN 46514
574.295.7275

MEMO

To: City of Elkhart, Indiana
Board of Zoning Appeals
c/o Eric Trotter, Assistant Director of Planning

Date: 11-18-2025

Re: Petition for Use Variance at Ullery Park

Mr. Trotter and Members of the Board,

The land known as Ullery Park has a deep and complex history in Elkhart. It was the former site of Southside Elementary and Jacob L. Ullery Elementary from the 1950's until 1978, when it was closed. At one time, it served as the only school in the city where African American children could attend. Afterward, it was hoped the building would serve as a community center, but that did not come to fruition. Half of the land came under ownership of the city and a park was built and the other .75 acre portion was owned by an LLC called Ermine Meadows Inc. Trust had not been established by the City and the group until recently, which has given the city parks department, through the help of the Elkhart Park Foundation, the ability to acquire the additional parcel next to Ullery Park and create a large 1.5 acre park to serve the community in a more intentional and comprehensive way. As part of the donation of the property from Ermine Meadows, the City of Elkhart Board of Parks and Recreation has agreed to change the name of the park to Edith Pasley Park to honor a long time community leader from that neighborhood.

The Parks Department, along with community members and many stakeholders, engaged in a multi-month engagement approach throughout the neighborhood to understand the community's hopes for the park. We went door to door to over 200 nearby homes and left surveys in Spanish and English for input. From that engagement process, it was decided to install a splash pad, open air pavilion, parking lot, walking path, beautification, and lighting into the park. There is already a playground, picnic tables, and benches which were updated in 2021. We have also partnered with a nonprofit called EFERT, which is helping to create a story telling aspect of the history of the site and the stories of the community leaders from the neighborhood that will be celebrated in the park as well.

PETITION #: 26-X-01

FILING FEE: \$ 1/c

PETITION for APPEAL to the BOARD of ZONING APPEALS

PETITION TYPE: SPECIAL EXCEPTION

Property Owner(s): CITY OF EUCLAHAM - Andy Jones

Mailing Address: 229 S. SECOND STREET, EUCLAHAM IN 46514

Phone #: 574 294 5471 Email: _____

Contact Person: WARRISON CZARNECKI - PARK SUPERVISOR

Mailing Address: 229 S. SECOND ST

Phone #: _____ Email: _____

Subject Property Address: 624 W CLEVELAND AVE

Zoning: R-2 ONE FAMILY DWELLING DISTRICT

Present Use: VAC. LAND & PARK Proposed Use: PARK

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): Andy Jones

SIGNATURE(S): Andy Jones DATE: 3-3-2026

STAFF USE ONLY:

Staff Checklist for the applicant's submittal of a complete Petition to the Board of Appeals docket:

- _____ One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.
- _____ A completed Petition form signed by the legal owner of record (or approved representative).
- _____ If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- _____ A full and accurate legal description of the property.
- _____ One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 12 copies must be submitted.
- _____ Optional: any supplementary information the applicant may wish to include.

Ordinance Requirement: Section(s): _____

Map #: _____ Area: _____

RECEIVED BY: _____ DATE: _____

PETITION #: _____

FILING FEE: \$ _____

PETITION for APPEAL to the BOARD of ZONING APPEALS

PETITION TYPE: SPECIAL EXCEPTION

Property Owner(s): Carter Brown Community Center, Inc.

Mailing Address: _____

Phone #: _____ Email: _____

Contact Person: Betty J. Holliday

Mailing Address: _____

Phone #: _____ Email: _____

Subject Property Address: 626 W CLEVELAND AVE

Zoning: _____

Present Use: _____ Proposed Use: _____

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): Betty J. Holliday

SIGNATURE(S): Betty J. Holliday DATE: 3/5/2026

STAFF USE ONLY:

Staff Checklist for the applicant's submittal of a complete Petition to the Board of Appeals docket:

- _____ One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.
- _____ A completed Petition form signed by the legal owner of record (or approved representative).
- _____ If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- _____ A full and accurate legal description of the property.
- _____ One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 12 copies must be submitted.
- _____ Optional: any supplementary information the applicant may wish to include.

Ordinance Requirement: Section(s): _____

Map #: _____ Area: _____

RECEIVED BY: _____ DATE: _____

February 26, 2026

To: Elkhart City Plan Commission and Elkhart City Board of Zoning Appeals

RE: Special Exception Request for Ullery Park

The undersigned petitioner respectfully shows the Plan Commission and Board of Zoning Appeals:


1. I, Jamison Czarnecki, Superintendent, City of Elkhart Parks and Recreation on behalf of the City of Elkhart, am the owner's representative of the following described real estate located within the City of Elkhart, Concord Township, Elkhart County, State of Indiana to wit:

See attached legal description

2. The above-described real estate presently has a zoning classification of R-2, One Family Dwelling District under the Zoning Ordinance of the City of Elkhart.
3. Petitioners presently occupy (or proposes to occupy) the above-described property in the following manner: The land known as Ullery Park at the intersection of W. Cleveland Avenue between South Sixth and Seventh Street will expand to land owned by Ermine Meadows, Inc. With additional land added, along with the new and updated amenities for the park is proposed a new splash pad, picnic shelter, new grilling area, new benches, additional landscaping and signage.
4. Petitioner desires to (Explain the proposed Special Exception in detail) The petitioners wish to expand the park on the adjacent property and construct a new splash pad, picnic shelter as well as amenities including new benches, new grilling area, additional landscaping and some off-street parking.
5. The Zoning Ordinance of the City of Elkhart requires in Section 5.3 (4.3.O), Parks and Playgrounds are special exception uses. The City of Elkhart And Ermine Meadows is requesting the special exception to allow for the expanded amenities for Ullery Park.
6. Explain why this property is suited to the special exception use being requested. The area has been used as a neighborhood park and in coordination with the adjacent property owner, the park will grow with new and updated amenities that serve the neighborhood. During last two years, a public engagement process was undertaken to determine the needs and wants of the neighborhood for the expanded Ullery Park.
7. Using the standards from page 3, address each standard. You cannot answer simply Yes or No; you must state why this is true.
 - 7.1 – The Special Exception is so defined, located and proposed to be operated that the public health, safety and welfare will be protected. The park will be monitored and have city staff and/or park rangers check on the facility at regular intervals.
 - 7.2 – The Special Exception will not reduce the values of other properties in its immediate vicinity. This park project and expansion is part of the Mayor's ASPIRE Initiative to enhance the vibrancy and increase usage of the City's parks and greenspaces. The updated Master Plan that will include a new picnic shelter, benches, updated landscaping and splash pad.

7.3 – The Special Exception shall conform to the regulations of the zoning district in which it is to be located. All built structures will be built to conform to all necessary building construction requirements. The plans will be submitted for Technical Review.

Wherefore, Petitioner prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested special exception.

Signature of Property Owner:  _____

Printed Name: Jamison Czarnecki

Contact Person: _____

Name: Jamison Czarnecki

Address: 229 S Second St.

Phone Number: 574-295-7275

Email: jamison.czarnecki@cityofelkhartin.gov

AFFIDAVIT IN SUPPORT OF SPECIAL EXCEPTION PETITION

I, Betty J. Holliday being first duly sworn upon his/her oath deposes and says that he/she is familiar with and has personal knowledge of the facts herein and, if called as a witness in this matter, would testify as follows:

1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
2. I make this affidavit in support of my special exception petition filed contemporaneously herewith.
3. I am now and at all times relevant herein have been, the owner of record of the property located at 626 W. Cleveland Ave Elkhart, Indiana.
4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 5th day of March, 2026.

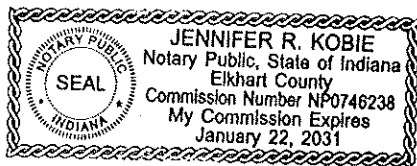
Betty J. Holliday
Printed: Betty J. Holliday

I certify under the penalties for perjury under the laws of the United States of America and the State of Indiana that the foregoing factual statements and representations are true and correct.

Betty J. Holliday
Printed: Betty J. Holliday

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared Betty J. Holliday, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 5 day of March, 2026.



Jennifer R. Kobie
Printed: Jennifer R. Kobie

My Commission Expires:

January 22, 2031

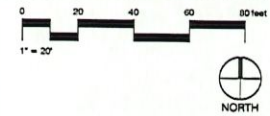
Notary Public in and for the State of Indiana
Resident of Elkhart County, Indiana





KEY NOTES

- | | | | | |
|---------------------------------------|------------------------------|--|--|---------------------------------|
| ① ALLEY | ⑦ PORTABLE RESTROOM | ⑫ NEW LANDSCAPE PLANTINGS | ⑰ EXISTING DECORATIVE STREET LIGHTS | ⑳ NEW PICNIC TABLE |
| ② EXISTING OVERHEAD UTILITY TO REMAIN | ⑧ NEW PICNIC SHELTER (30X50) | ⑬ NEW 4' FENCE | ⑱ EVENT LAWN | ㉑ NEW PARKING |
| ③ EXISTING PLAYGROUND | ⑨ NEW DRINKING FOUNTAIN | ⑭ CONNECT TO WATER AND SANITARY | ㉒ NEW LARGE GROUP GRILL | ㉒ CONNECT TO ELECTRICAL SERVICE |
| ④ NEW BENCHES | ⑩ NEW SPLASH PAD | ⑮ EXISTING TREE, TYP. | ㉓ NEW SITE HISTORICAL INTERPRETIVE FEATURE | ㉓ LANDSCAPE PLANTINGS, NEW SIGN |
| ⑤ NEW TRASH RECEPTACLE | ⑪ NEW SIDEWALK | ⑯ EXISTING SIGN WITH NEW LANDSCAPE PAINTINGS | | |
| ⑥ NEW SHADE TREE, TYP. | | | | |



Ullery Park - Concept 3

Elkhart, Indiana

5/1/2025



The Honorable
Rod Roberson
Mayor

Jamison Czarnecki
Parks Superintendent



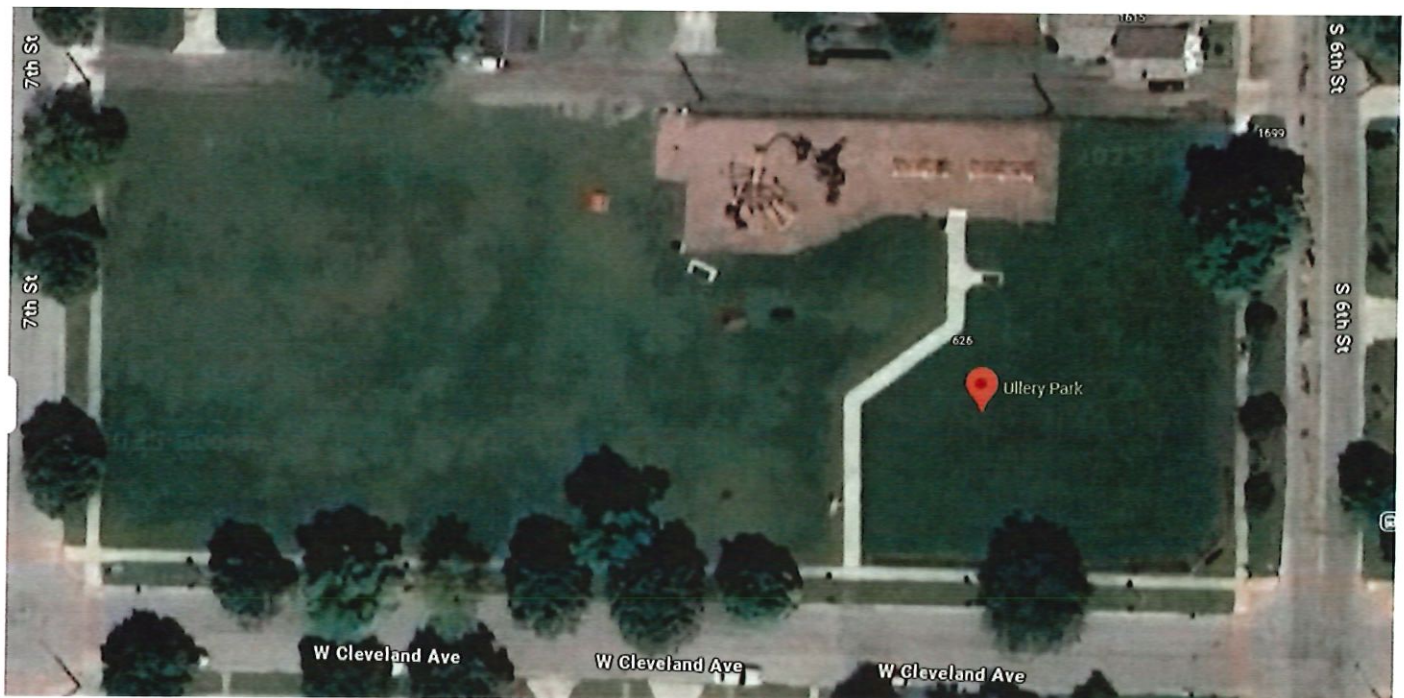
Parks & Recreation
229 S. Second St.
Elkhart, IN 46516

574.295.7275
Fax: 574.522-7808

Ullery Park Engagement

Ullery Park is currently functioning as a traditional park on Elkhart's south side. It has significant local history for the neighborhood, sitting on the site of the former all-black student Jacob L. Ullery School. The Urban League also had a building on the site although it, like the school, has long since been removed. More information is available through the [People's History of Elkhart](#) and the local library's archives.

Ullery Park is remembered as being home to some of the City's best basketball players when they were children, just honing their talents. It has been described as the south side's former "Central Green" where Easter Egg hunts, family reunions and large community events took place regularly.



The west side of the property, all open green space, is owned by Ermine Meadows, Inc. The east side, where all the development is situated, hosts a pathway system, a softball backstop in the south-east corner and a playground assembly of various components on the north side. The park hosts benches, trashcans, a grill station but no drinking fountains or lighting. The open greenspace, both east and west, is used for pick-up soccer and open play by the community. An alleyway lies along the entire north boundary, presenting the garages, trashcans, fences, backyards and the rear of the homes in that direction.

Basketball courts have been removed from the park at the request of the nearest neighbors for the noise and unwanted activity they had previously sustained. At the park's most popular, there were noted parking issues along Cleveland Avenue.

Ullery Community Meeting, November 11th, 2024, 6:00 – 7:30 pm

Partnering with the Fellowship of Hope Church, directly across South 6th Street from Ullery Park, a well-promoted neighborhood meeting was held to discuss possible improvements for Ullery Park. Social Media, delivered leaflets to local homes, locally placed posters and flyers were all used. Attendees included the Mayor of Elkhart, the local Common Council representative, representatives of Ermine Meadows and few nearby members of the Fellowship of Hope Church. No other local neighbors beside the church members attended.

This meeting revealed much of the historical and cultural significance of the property and allowed participants to share the “story of Ullery” that was. There were three key take-aways from this meeting:

- 1) The property need to be handled with respect and delicacy because so many residents have such strong memories and associated ties to the park.
- 2) Most agreed that the park could be greatly improved, specifically for families in the area, but that any improvements would have to be the “right kind of improvements”. The concerns of safety and strengthening neighborhood identity were frequently highlighted.
- 3) Another more direct approach needed to be undertaken to get the input of the neighbors within the immediate vicinity to understand their desires, current uses and desired future uses of the park before any further steps should be taken.

Ullery Neighborhood Canvassing, February 28th, 3:30-5:30 pm.

Targeting every residence withing ½ mile, a 10-minute walking distance, of Ullery Park, walking teams canvassed the homes with a simple survey. For residences where no one was available, a door-hanger with a QR-code to a bilingual version of the survey was left. The walking teams were bi-lingual and the response was better than expected. The summary of the responses to each questions follows below.

A few key points about the current near-by residents:

- 20% of the residents visited the park at least weekly, 50% of the residents visited at least once year, 50% of the residents rarely or never visited the park.
- The lack of the perception of safety was the most frequent comment for why nearby residents didn’t use the park more
- The most popular desired improvements were
 - Community Space for Community Events (85.9%)
 - Covered Shelter (pavilion) 82%
 - A tie between “more tables and benches” and “more plantings and flowers” (81.6%)
 - A splash pad (78%)
 - A toddler play area (75.7%)



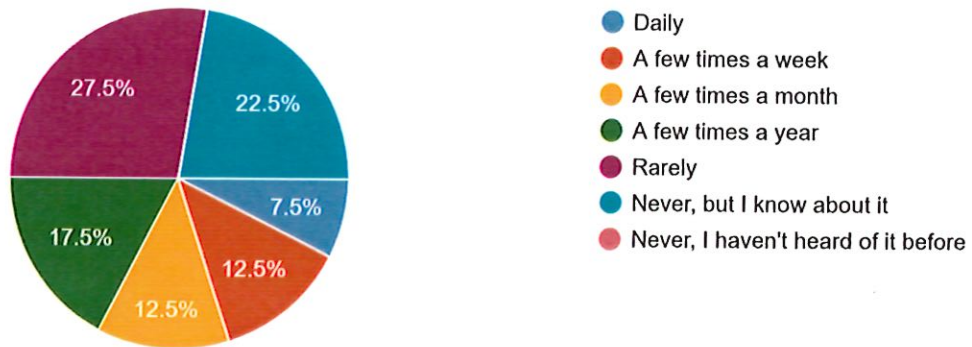
Summary of Ullery Park Survey Responses:

Total Responses:

27	physical canvassing of the neighborhood within ½ mile (10 minute walk) of Ullery Park
8	QR code door-hanger online survey responses (English)
6	QR code door-hanger online survey responses (Spanish)
41	TOTAL

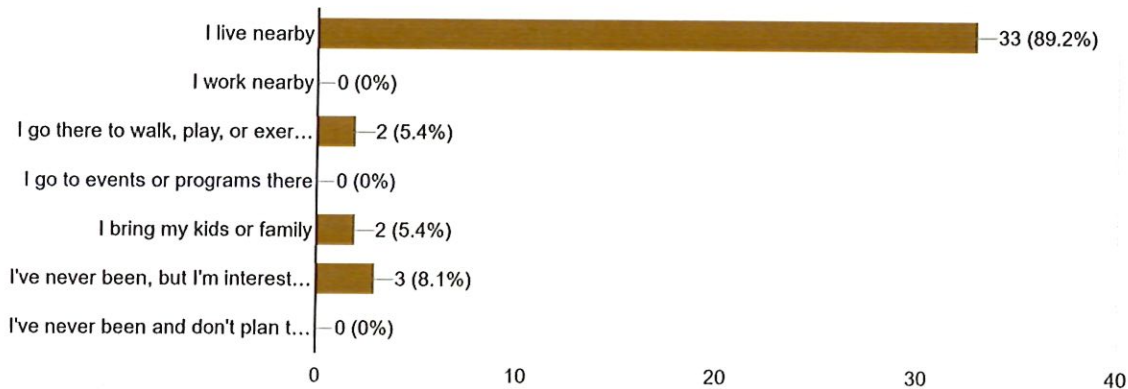
How often do you go to Ullery Park?

40 responses



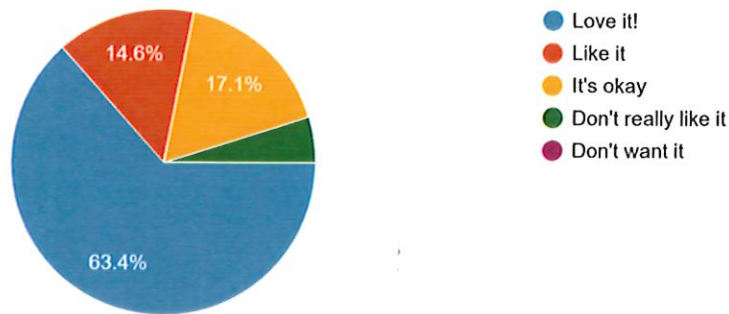
What is your connection to Ullery Park? Please select all that apply.

37 responses



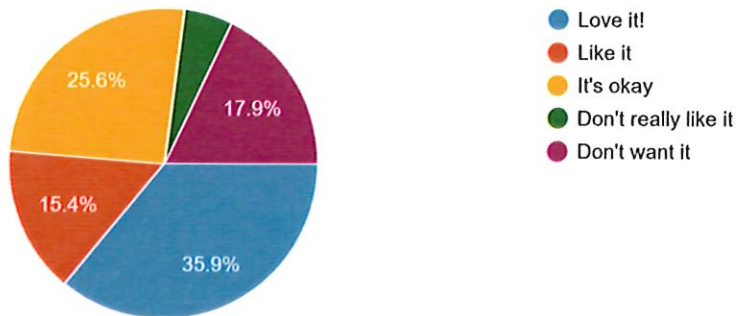
How much do you like the idea of adding a small splash pad?

41 responses



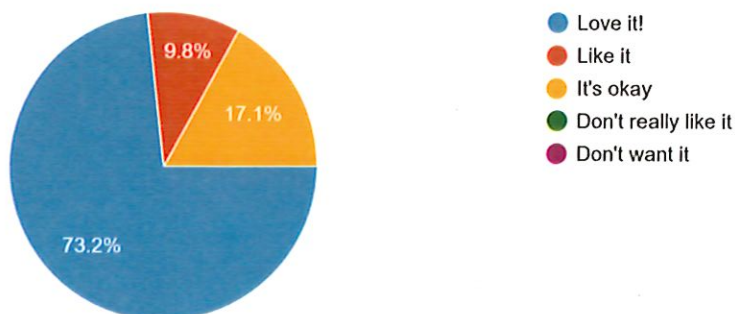
How much do you like the idea of adding a parking lot?

39 responses



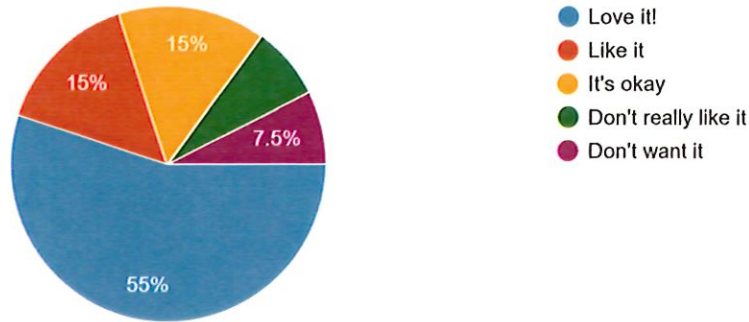
How much do you like the idea of adding an outdoor shelter (a covered space with tables for picnics and events)?

41 responses



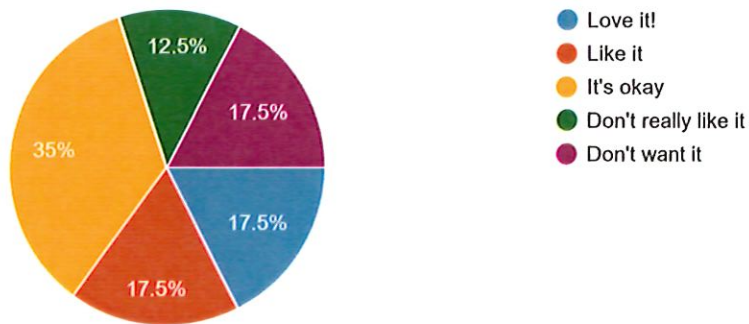
How much do you like the idea of adding a basketball court?

40 responses



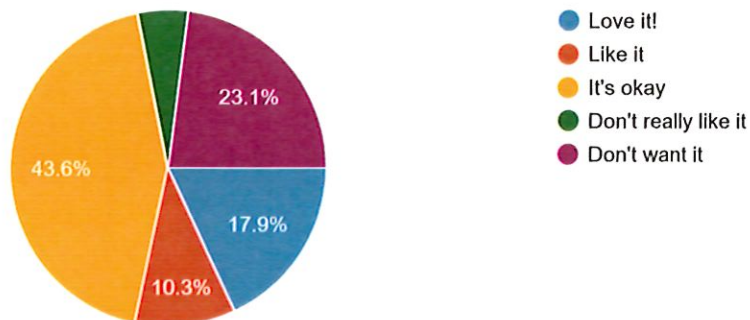
How much do you like the idea of adding a tennis court?

40 responses



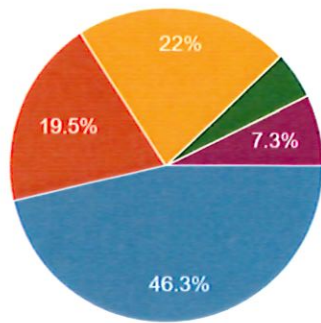
How much do you like the idea of adding a pickleball court?

39 responses



How much do you like the idea of adding a soccer field?

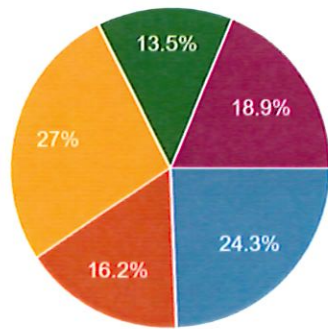
41 responses



- Love it!
- Like it
- It's okay
- Don't really like it
- Don't want it

How much do you like the idea of adding a skate park?

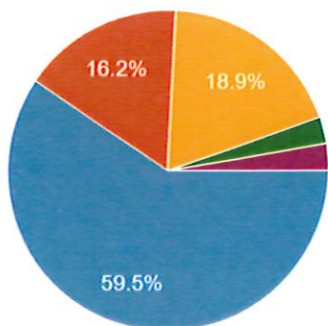
37 responses



- Love it!
- Like it
- It's okay
- Don't really like it
- Don't want it

How much do you like the idea of adding a toddler play area?

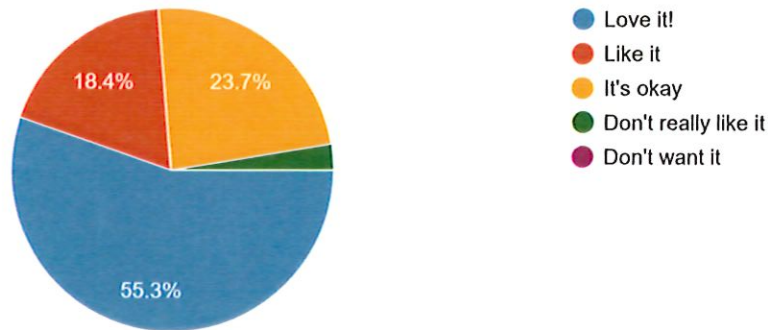
37 responses



- Love it!
- Like it
- It's okay
- Don't really like it
- Don't want it

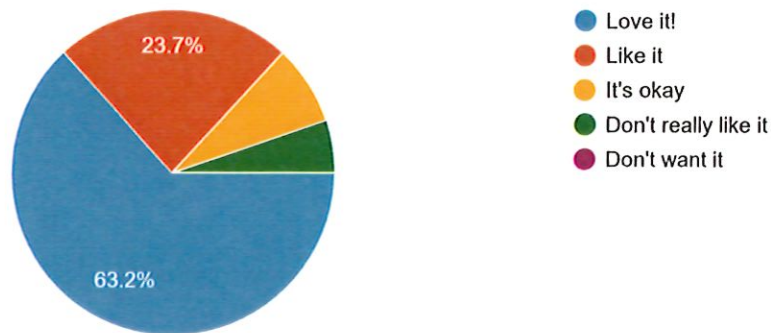
How much do you like the idea of adding a outdoor exercise equipment?

38 responses



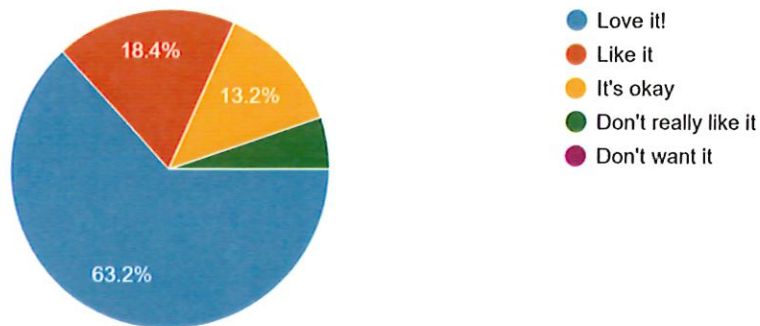
How much do you like the idea of adding a field that could be used for events and gatherings?

38 responses



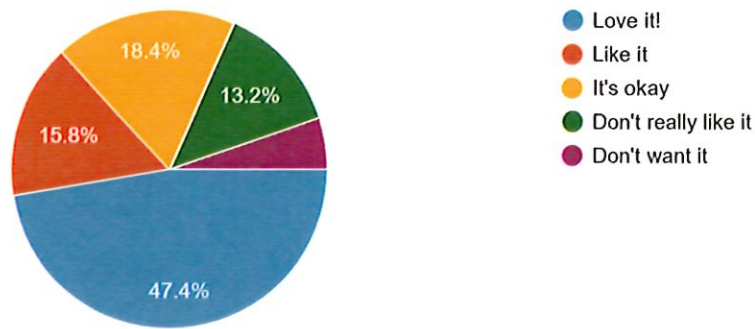
How much do you like the idea of adding more benches and picnic tables?

38 responses



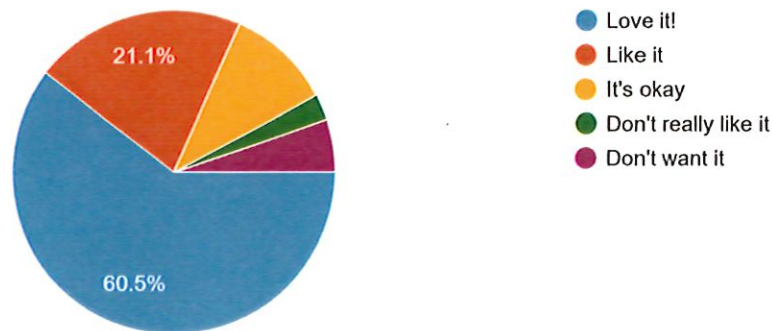
How much do you like the idea of adding more trees?

38 responses



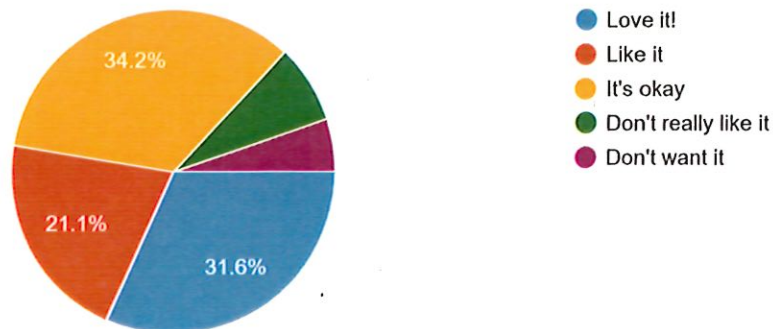
How much do you like the idea of adding more plants and flowers?

38 responses



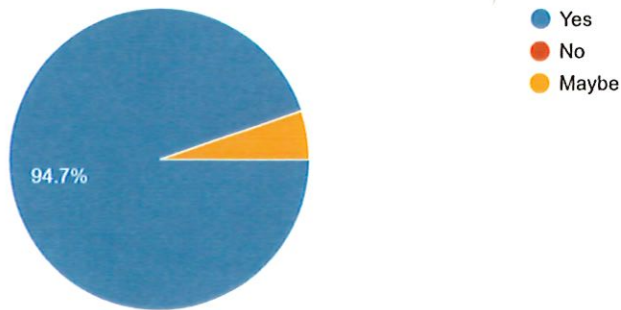
How much do you like the idea of adding public art and statues?

38 responses



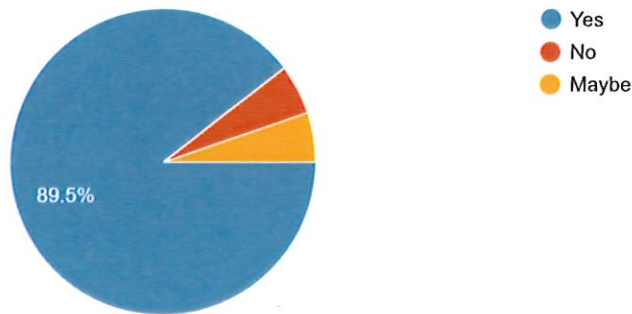
Would you visit Ullery Park more if the playground was better?

38 responses



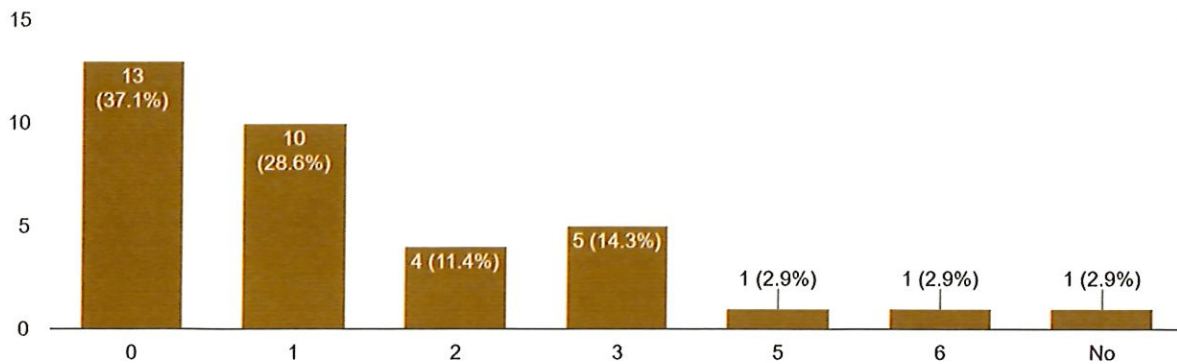
Would you visit Ullery park more if there were more lights at night?

38 responses



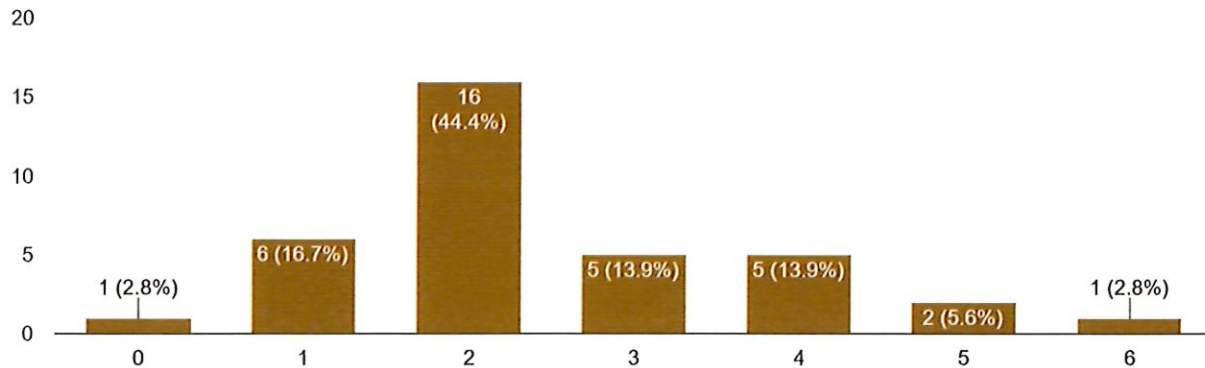
How many kids (under 18) live in your home?

35 responses



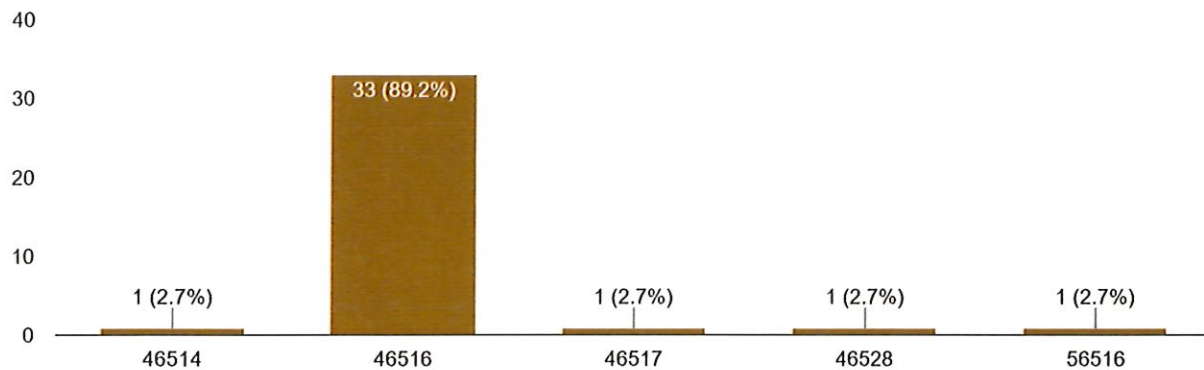
How many adults (18 and older) live in your home?

36 responses



What is your zip code?

37 responses



What would make you, your family, or your neighbors use the park more?

- basketball court
- More safe
- Toddler swings, safety is key, walking path, fenced in
- More activities
- Trees, dog park, water fountain
- Family fun
- Well its just me but anything that would be fun for kids and keep them safe
- If they had electricity or other more fun stuff.
- Swinging benches for teens

Pavilion, small playable water feature, parking lot
safer
More community engagements
When older ones stop coming through to fight. They come from outside neighborhood.
more tables and chairs
more benches and grills, protection, security
Gazebo, splashpad
lighting, benches, trees
More light and security
extra things for kids to play like splash pad
my friends
More creative games. A bit unsafe because it is too dark.
cameras and patrols
More safety, parking
More events, more info online when public events held
Safety, security
Safety, more handicap access, kinds stuff, grills, volleyball net
Soccer Field
Take the kids to play.
More people bringing there pets should have an event with animals
basketball court, lights, water fountain
If they was less violence in the neighborhood
family gatherings
places to sit and grill, pavilion



Staff Report

Planning & Zoning

Petition: 26-BZA-07

Petition Type: Developmental Variance

Date: April 9, 2026

Petitioner: Diocese Fort Wayne-South Bend / St. Vincent de Paul Catholic Church

Site Location: 1128 South Main Street

Request: To vary from Section 26.4.A.8, Fence Requirements, which states in part, “Fence materials may include treated wood, painted wood, treated split rail, ornamental wrought iron, brick, stone, masonry block, decorative painted or vinyl coated aluminum, or other materials as approved by the Planning and Zoning Office. Scrap lumber, plywood, sheet metal, plastic or fiberglass sheets are specifically prohibited, to allow for a plastic fabric to cover an existing fence to remain.

Existing Zoning: R-5, Urban Residential District

Size: +/- 3 Acres

Thoroughfares: Melcher and S. Main Streets

School District: Elkhart Community Schools

Utilities: Available and provided to the site.

Surrounding Land Use & Zoning:

The property is surrounded by residential uses zoned R-5, One Family Dwelling District and B-3, Service Business District plus vacant land zoned CBD, Central Business District.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The Comprehensive Plan calls for this area to be developed with institutional land uses.



Staff Analysis

The petitioner is seeking to vary from Section 26.4.A.8, Fence Requirements, which states in part, “Fence materials may include treated wood, painted wood, treated split rail, ornamental wrought iron, brick, stone, masonry block, decorative painted or vinyl coated aluminum, or other materials as approved by the Planning and Zoning Office. Scrap lumber, plywood, sheet metal, plastic or fiberglass sheets are specifically prohibited, to allow for a plastic fabric to cover an existing fence to remain.

Zoning staff cited the property for a zoning violation for the installation of a fabric screening material on a plastic-coated chain-link fence. The screening material is not included on the approved material list included in the zoning ordinance, which makes the placement of the screening prohibited by zoning ordinance. The school was cited on January 29, 2026.

In discussions with a school representative, the fabric was placed on the fence to prevent people passing on the public sidewalk from talking to or interacting with the children outside playing on the playground. Plus, a gun related incident in close proximity to the campus played an additional part in the decision to place the fabric. The school’s position is that the safety of the students is paramount and this material was necessary.

Staff recommends approval of the proposed variance. Staff views the circumstance at the school as a unique situation. The school has a legally placed fence and now outside circumstances have changed and require a small accommodation for this particular site.

The City of Elkhart is in the process of updating its zoning ordinance, including the fence regulations. The updated UDO will permit fence wraps, like the one referenced in this case. However, the updated ordinance will only permit them around construction sites. Staff feels this requirement is correct and appropriate as most construction sites require temporary screening for security to prevent people from seeing onto an active construction site. Also, to discourage an attractive nuisance where people may want to and cause damage or hurt themselves. And for other circumstances and locales an appropriately opaque fence can be installed to provide privacy for most situations.

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 fabric was placed as an additional means of safety for the children on the playground;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner because the fabric placed on the fence has a similar effect as that of a solid fence which is a common element around outdoor recreation areas that require additional security;
3. Granting the variance **would be** consistent with the intent and purpose of this Ordinance because a measure of relief is allowed when warranted in order to provide the necessary security for the use;
4. Special conditions and circumstances **do exist** as the subject property is located on a main thoroughfare with large numbers of pedestrian traffic;
5. The strict application of the terms of this Ordinance **will not** result in practical difficulties in the use of the property as any number of solutions is possible;
6. The special conditions and circumstances **do** result from an action or inaction by the applicant however, the security for the playground, for this circumstance, is paramount;
7. This property **does not** lie within a designated flood hazard area.

Photos



2019 Google Street view picture

PETITION #: 26BZA01

FILING FEE: \$ 300.⁰⁰

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: DEVELOPMENTAL VARIANCE

Property Owner(s): St. Vincent de Paul Catholic Church/Diocese Fort Wayne-South Ben

Mailing Address: [Redacted]

Phone #: [Redacted]

Contact Person: Rev. Craig Borchard

Mailing Address: [Redacted]

Phone #: [Redacted] Email: [Redacted]

Subject Property Address: 1128 S. Main St. Elkhart, IN 46516

Zoning: _____

Present Use: Catholic School Proposed Use: Catholic School

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): Mark A. Gyrner, Vice President

SIGNATURE(S): [Signature] DATE: 2/23/26

STAFF USE ONLY:

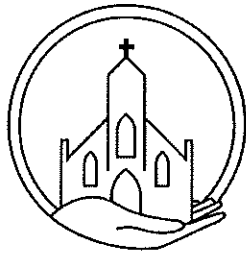
Staff Checklist for the applicant's submittal of a complete Petition to the Board of Appeals docket:

- One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.
- A completed Petition form signed by the legal owner of record (or approved representative).
- If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- A full and accurate legal description of the property.
- One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 12 copies must be submitted.
- Optional: any supplementary information the applicant may wish to include.

Ordinance Requirement: Section(s): _____

Map #: _____ Area: _____

RECEIVED BY: Raen Wondolki DATE: 3/2/26



ST. VINCENT DE PAUL
ELKHART, IN _____

February 26, 2026

To Whom It May Concern,

I hereby authorize Stacy Romero to submit the paperwork to the City of Elkhart for our variance request. Thank you for accepting our application. I look forward to attending the meeting in April to discuss this matter with the city.

Sincerely,

Rev. Craig Borchard
Pastor
St. Vincent de Paul Catholic Church



DIOCESE OF FORT WAYNE-SOUTH BEND

Archbishop Noll Catholic Center
915 South Clinton Street . P.O. Box 390
Fort Wayne, Indiana 46801

Very Rev. Mark A. Gurtner, J.C.D.
Office of the Vicar General/Moderator of the Curia

February 23, 2026

Board of Zoning Appeals

City of Elkhart
229 S. Second Street
Elkhart, IN 46516

Subject: Appeal of Zoning Violation – 1128 S Main Street Parcel#06-09-108-011-012
Dear Members of the Board,

I am writing to formally appeal against the zoning violation notice dated 01/29/2026 and received on 02/05/2026, regarding my property located at 1114 S Main Street & 1128 S. Main Street. I fully respect the City of Elkhart's zoning regulations and the important role they play in maintaining the safety, character, and orderly development of our community.

The notice states that "The fabric screening material installed on the chain link fence surrounding the property does not meet the standards of the zoning ordinance for approved material. In addition, no fence shall be opaque when located in the front yard of a property." I would like to provide additional context and request reconsideration of this determination.

- The use of the fence screen in question has existed since May 2022 and was established as a safety barrier for our young students. This decision was made after there was a shooting two buildings away and to prevent adults from approaching the school playground to talk with our young students.
- The screen around the fence does not negatively impact neighboring properties.
- In the letter it states "no fence shall be opaque when located in the front yard of the property. This is not a residential property; this is an elementary-middle school.
- Further, the screen is not fully opaque but simply reduces visibility for privacy and safety purposes.

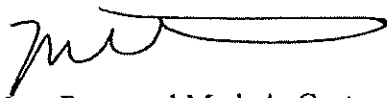
I respectfully request that the Board consider variance special exception, or dismissal of violation based on this screen provides safety for our young students to protect them from being seen and/or approached while on the playground. My goal is to work collaboratively with the City to

ensure the property remains in harmony with community standards while also preserving my ability to keep our students safe.

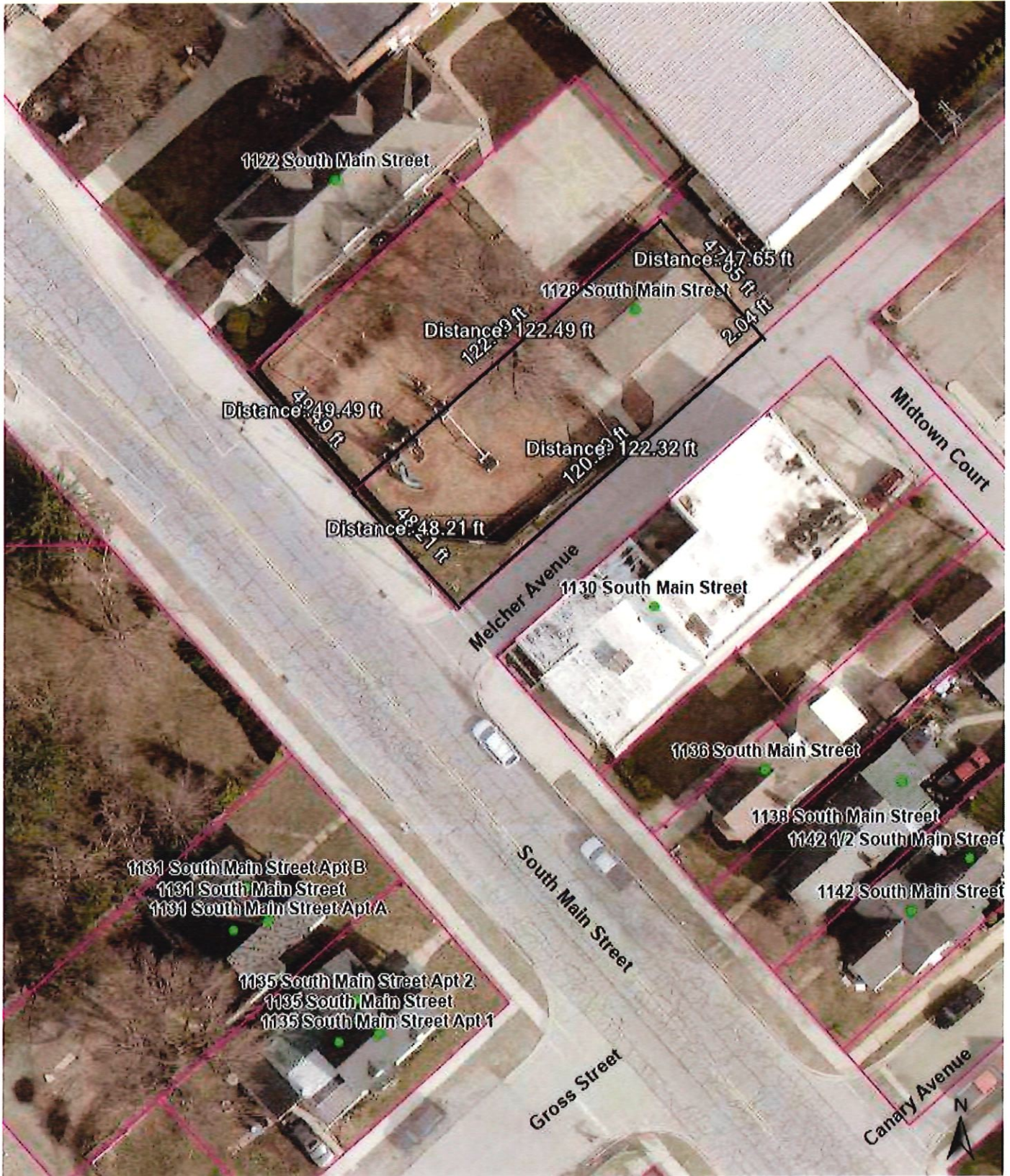
I am prepared to provide photographs, documentation, and testimony at the hearing to support my appeal. **Please let me know the date and time of the hearing so that Father Craig Borchard, pastor of St. Vincent de Paul Catholic Church and legitimate agent of the Diocese of Fort Wayne-South Bend, Inc., can attend and present my case.**

Thank you for your time, understanding, and service to our community. I appreciate your consideration of my request and look forward to the opportunity to resolve this matter constructively.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Gurtner', with a long horizontal flourish extending to the right.

Very Reverend Mark A. Gurtner
Vicar General/Vice President



Elkhart County, IN

Summary

Parcel Number	20-06-09-108-011.000-012
Alt Parcel Number	06-09-108-011-012
Property Address	1128 S MAIN ST ELKHART IN 46516
Property Class Code	685
Property Class	Exempt: Exempt, Religious Organization
Neighborhood	1246033-Commercial-Acre-Rural-Average Rate (012)
Legal Description	KELVIN GROVE ADD 48X124FT SW COR LOT 16 (TIF 136)
Township	CONCORD TOWNSHIP
Corporation	ELKHART COMMUNITY
Taxing District	012 - EC CONCORD

[View Map](#)

Owners

[DIOCESE OF FORT WAYNE SOUTH BEND INC](#)
1103 S Calhoun St
Fort Wayne, IN 46802-3006

Map



No data available for the following modules: Sales, Exterior Features, Special Features, Residential Dwellings, Commercial Buildings, Tax Deductions, 2025 Form 11, Photos.

All the data represented within this application is for public information services only. The data is updated as provided by the county. The data contained within this application should not be used for legal purposes.

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[Contact Us](#)

Developed by
 SCHNEIDER
GEOSPATIAL

Elkhart County, IN

Summary

Parcel Number	20-06-09-108-011.000-012
Alt Parcel Number	06-09-108-011-012
Property Address	1128 S MAIN ST ELKHART IN 46516
Property Class Code	685
Property Class	Exempt: Exempt, Religious Organization
Neighborhood	1246033-Commercial-Acre-Rural-Average Rate (012)
Legal Description	KELVIN GROVE ADD 48X124FT SW COR LOT 16 (TIF 136)
Township	CONCORD TOWNSHIP
Corporation	ELKHART COMMUNITY
Taxing District	012 - EC CONCORD

[View Map](#)

Owners

[DIOCESE OF FORT WAYNE SOUTH BEND INC](#)
1103 S Calhoun St
Fort Wayne, IN 46802-3006

Map



No data available for the following modules: Sales, Exterior Features, Special Features, Residential Dwellings, Commercial Buildings, Tax Deductions, 2025 Form 11, Photos.

All the data represented within this application is for public information services only. The data is updated as provided by the county.
The data contained within this application should not be used for legal purposes.
[User Privacy Policy](#) | [GDPR Privacy Notice](#)
[Last Data Upload: 2/24/2026, 8:08:02 AM](#)

[Contact Us](#)

Developed by
 **SCHNEIDER**
GEOSPATIAL



City of Elkhart

Staff Report

Planning & Zoning

<u>Petition:</u>	26-UV-08
<u>Petition Type:</u>	Use Variance
<u>Date:</u>	April 9, 2026
<u>Petitioner:</u>	K&J Property LLC
<u>Site Location:</u>	2101 West Franklin Street
<u>Request:</u>	To vary from Section 19.2, Permitted Uses in the M-2, General Manufacturing District, to allow for the construction of a Drive-thru Coffee Shop. Drive-thru Coffee Shop are not a permitted use in the M-2 District.
<u>Previous BZA Action:</u>	None found based on search of files
<u>Existing Zoning:</u>	M-2, General Manufacturing District
<u>Size:</u>	+/- 1.47 Acres
<u>Thoroughfares:</u>	West Franklin Street
<u>School District:</u>	Elkhart Community Schools
<u>Utilities:</u>	Available and provided to the site.

Surrounding Land Use & Zoning:

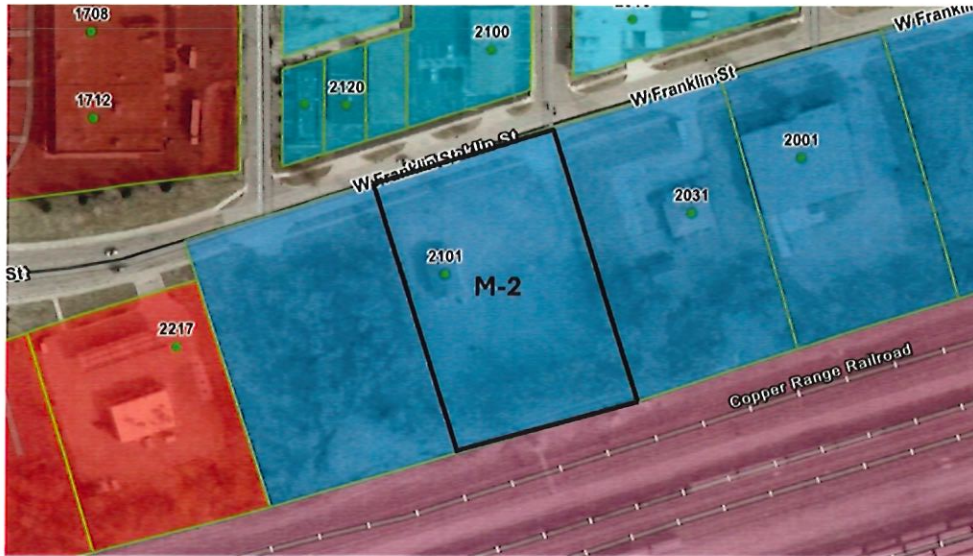
The property is surrounded by a mix of manufacturing uses and commercial uses zoned M-2, General Manufacturing District, M-1, Limited Manufacturing District, B-3, Service Business District and B-2, Community Business District.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The Comprehensive Plan calls for this area to be developed with commercial uses



Staff Analysis

The petitioner is requesting a use variance to allow the property at 2101 West Franklin Street to allow for the construction of a Drive-thru Coffee Shop. Section 19.2, Permitted Uses in the M-2, General Manufacturing District, does not allow Drive-thru Coffee Shops.

The property currently contains a 1,400sq foot building built in 2017 used for cold storage and warehouse purposes. There is an interest from the owner in constructing a second structure on the property for a drive-thru coffee shop.

The property is located along West Franklin Street and is near the South Nappanee Street intersection. With the site being located on the south side of the street, adjacent to the railroad, this type of automobile related use should capture morning commuter traffic. The existing uses along West Franklin Street are a mix of light manufacturing, commercial and residential uses serving as a gateway into the city.

This section of Franklin has historically had manufacturing zoning mixed with various types of residential and commercial uses for almost 70 years. Since the 1950's, this area has been a mix of industrial, commercial and residential uses. Because of its adjacency to the railroad, the uses tended to be more intense along the south side of Franklin and became less intense the farther away one moved to the north from Franklin. Over time, the manufacturing and commercial uses have diminished with smaller industrial development moving to newer industrial areas, often adjacent to major thoroughfares and clustering with similar uses, in other parts of the city.

Based on materials submitted for this case, the building will be 25' by 40' and will use the existing driveway for in and out traffic onto West Franklin Street. With higher levels of activity during the morning and evening hours. It is important for the board to understand this project has not yet been submitted for Technical Review to ensure compliance with developmental standards for the Public Works Department, Fire Department and the Planning Department. This request is for the use only. It is anticipated and expected the petitioner will submit for review and approval civil engineering drawings to be formally reviewed by city staff. It cannot be guaranteed the layout as depicted on the plan for this case will not remain unchanged.

Staff supports the request for use only.

Recommendation

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

1. The approval **will not** be injurious to the public health, safety, morals, or general welfare of the community because the building will be built per all applicable building codes;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner because many of surrounding uses along this part of the W Franklin corridor are commercial uses and are commercial 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 this project on this parcel would not be permitted;
5. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the property because developing a permitted M use could be challenging given that there is an existing use on site;
6. The special conditions and circumstances **do not** result from an action or inaction by the applicant as no additional action has taken place on site;
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. A complete set of civil engineering plans shall be submitted for review and approval at Technical Review – to ensure compliance with developmental standards for the Public Works and Planning Departments.

Photos



May 2023
Images taken from Google street view

PETITION #: 26-UV-08

FILING FEE: \$ 300.⁰⁰

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: USE VARIANCE

Property Owner(s): K & J Properties LLC

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

Contact Person: Jeffery Campbell

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

Subject Property Address: 2101 W. Franklin St., Elkhart, IN 46516

Zoning: M-2 General Manufacturing

Present Use: Cold Storage Warehouse Proposed Use: 2nd Building Drive-Thru Coffee Shop
Briskley Franchise

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): Jeffery Campbell

SIGNATURE(S): Jeffery W Campbell DATE: 3/5/2024

STAFF USE ONLY:

Staff Checklist for the applicant's submittal of a complete Petition to the Board of Appeals docket:

- One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.
- A completed Petition form signed by the legal owner of record (or approved representative).
- If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- A full and accurate legal description of the property.
- One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 12 copies must be submitted.
- Optional: any supplementary information the applicant may wish to include.

Ordinance Requirement: Section(s): _____

Map #: _____ Area: _____

RECEIVED BY: Raen Lewendaski DATE: 3/6/24

Date: March 5, 2026

Board of Zoning Appeals
City of Elkhart, Indiana

RE: Petition for Use Variance – K&J Property LLC

Dear Members of the Board of Zoning Appeals:

Please accept this letter as a formal request for a **Use Variance** on behalf of the property owner, **K&J Property LLC**, for real estate located in the City of Elkhart, Concord Township, Elkhart County, State of Indiana, legally described as follows:

A part of the Southwest Quarter of Section 7, Township 37 North, Range 5 East, in the City of Elkhart, Elkhart County, State of Indiana, more particularly described as follows:

Commencing at a cross cut in the pavement on the West line of the Southwest Quarter of said Section 7, at the intersection of the centerlines of Nappanee Street and Franklin Street; thence North 73 degrees 00 minutes East along the centerline of said Franklin Street, 80 feet; thence South 17 degrees 00 minutes East, 50 feet to an Indiana State Highway concrete monument on the Southerly right-of-way line of Franklin Street; thence North 73 degrees 00 minutes East along the Southerly right-of-way line of Franklin Street, 1023.26 feet to an iron stake for the place of beginning of this description; thence South 17 degrees 00 minutes East, 284.13 feet to a point that is 40 feet Northwardly (measured at right angles) from the centerline of the westbound Main Track of the Penn Central Railroad; thence South 72 degrees 53 minutes West parallel with the centerline of said westbound Main Track, 225 feet; thence North 17 degrees 00 minutes West, 284.2 feet to the Southerly right-of-way line of Franklin Street; thence Easterly along the Southerly right-of-way line of Franklin Street, 225 feet to the point of beginning.

The property is presently zoned **M-2 General Manufacturing District** under the Zoning Ordinance of the City of Elkhart.

The petitioner currently utilizes the property for **cold storage and warehouse purposes**, which is a permitted use within the existing zoning classification. This current building will retain same use.

The petitioner now seeks approval of a **Use Variance** to construct a **second structure on the property that will house a drive-thru coffee shop, Biggby franchise**. The need for the variance arises because the current **M-2 zoning classification restricts the property to industrial and manufacturing uses**, which does not permit the proposed coffee shop use.

The Zoning Ordinance of the City of Elkhart restricts permitted uses within the **M-2 General Manufacturing District** to industrial and manufacturing-related activities. Retail food service establishments and drive-thru restaurants are not permitted uses within this district under Section 19.2 of Zoning Ordinance No. 4370.

Strict adherence to the Zoning Ordinance would create unusual hardship for the petitioner because the subject property is located within a corridor that includes a **mixture of commercial, service, retail, and industrial activity**. While the property is zoned M-2, the surrounding area functions as a transitional corridor supporting a variety of uses. The limitation of the property to strictly industrial or manufacturing uses does not reflect the mixed-use character of the surrounding area.

Approval of the requested Use Variance **will not be injurious to the public health, safety, morals, or general welfare of the community**, and the proposed use will not affect the surrounding properties in a **substantially adverse manner**. The coffee shop will be a low-impact commercial use that is compatible with the surrounding mix of development

Additionally, the property is located along a **well-traveled thoroughfare serving traffic entering and leaving the downtown area**. The proposed drive-thru coffee shop would provide a convenient service to the traveling public and would enhance the vitality of the corridor.

Furthermore, approval of this variance **will not interfere with the City's Comprehensive Plan**. To the contrary, permitting complementary commercial use in this corridor will **enhance and support the goals of the Comprehensive Plan** by encouraging appropriate development along a major traffic route and supporting local economic activity.

For the reasons stated above, **K&J Property LLC respectfully requests that the Board of Zoning Appeals approve this Use Variance to allow construction of a drive-thru coffee shop, Biggby franchise, on the subject property.**

Thank you for your time and consideration of this request.

Respectfully submitted,

K&J Property LLC

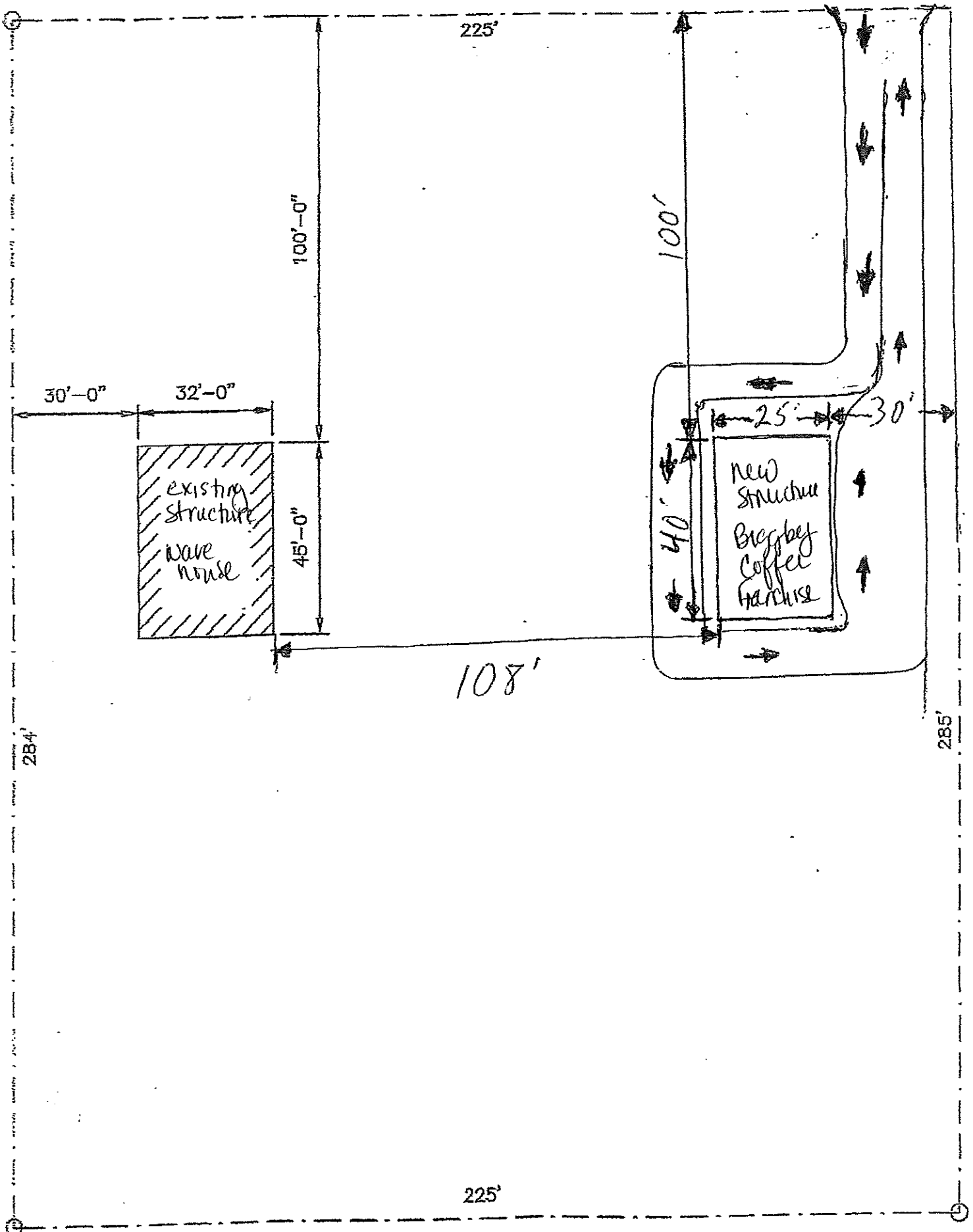
By: Jeffery W Campbell
Name: Jeffery W Campbell
Title: President
Date: 3-5-26

EXHIBIT A

A part of the Southwest Quarter of Section 7, Township 37 North, Range 5 East, in the City of Elkhart, Elkhart County, State of Indiana, more particularly described as follows:

Commencing at a cross cut in the pavement on the West line of the Southwest Quarter of said Section 7, at the intersection of the centerlines of Nappanee Street and Franklin Street; thence North 73 degrees 00 minutes East along the centerline of said Franklin Street, 80 feet; thence South 17 degrees 00 minutes East, 50 feet to an Indiana State Highway concrete monument on the Southerly right-of-way line of Franklin Street; thence North 73 degrees 00 minutes East, along the Southerly right-of-way line of Franklin Street, 1023.26 feet to an iron stake for the place of beginning of this description; thence South 17 degrees 00 minutes East, 284.13 feet to a point that is 40 feet Northwardly (measured at right angles) from the centerline of the westbound Main Track of the Penn Central Railroad; thence South 72 degrees 53 minutes West parallel with the centerline of said westbound Main Track, 225 feet; thence North 17 degrees 00 minutes West, 284.2 feet to the Southerly right-of-way line of Franklin Street; thence Easterly along the Southerly right-of-way line of Franklin Street, 225 feet to the place of beginning.

2101 W FRANKLIN STREET



AFFIDAVIT IN SUPPORT OF USE VARIANCE PETITION

I, Jeff Campbell being first duly sworn upon his/her oath deposes and says that he/she is familiar with and has personal knowledge of the facts herein and, if called as a witness in this matter, would testify as follows:

1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
2. I make this affidavit in support of my variance petition filed contemporaneously herewith.
3. I am now and at all times relevant herein have been, the owner of record of the property located at 2101 W Franklin St Elkhart, Indiana.
4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 6 day of Mar, 2024.

Jeffery W Campbell
Printed: Jeffery W Campbell

I certify under the penalties for perjury under the laws of the United States of America and the State of Indiana that the foregoing factual statements and representations are true and correct.



LUCERO GONZALEZ, Notary Public
Elkhart County, State of Indiana
Commission Number NP0762114
My Commission Expires March 10, 2033

Lucero Gonzalez
Printed: Lucero Gonzalez

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared Jeffery Campbell and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 6 day of March, 2024.

Lucero Gonzalez
Printed: Lucero Gonzalez

My Commission Expires:
3/10/2033

Notary Public in and for the State of Indiana
Resident of Elkhart County, Indiana



City of Elkhart

Staff Report

Planning & Zoning

<u>Petition:</u>	26-BZA-09
<u>Petition Type:</u>	Developmental Variance
<u>Date:</u>	April 9, 2026
<u>Petitioner:</u>	CRB4, LLC
<u>Site Location:</u>	4800 Briscola Court
<u>Request:</u>	To vary from Section 26.4.A.6, Fence Requirements, which states in part that, ‘No fences, other than split rail, wrought iron, or open picket fences not to exceed four (4) feet in height, shall be permitted on any front yard or corner side yard’ to allow for a seven (7) foot chain link fence (six (6) foot fence and one (1) foot 3-strand barbless wire fence) in the corner side yard, a variance of three (3) feet.
<u>Existing Zoning:</u>	M-2, General Manufacturing District
<u>Size:</u>	+/- 46 Acres
<u>Thoroughfares:</u>	Briscola Court and County Road 15
<u>School District:</u>	Elkhart Community Schools
<u>Utilities:</u>	Available and provided to the site.

Surrounding Land Use & Zoning:

The subject property is surrounded by land owned by the Indiana Department of Natural Resources to the north and west and industrial to the south.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The Comprehensive Plan for this area has not yet been adopted for this land but anticipate the land use to be designated as industrial.



Staff Analysis

The petitioner is seeking to vary from Section 26.4.A.6, Fence Requirements, which states in part that, ‘No fences, other than split rail, wrought iron, or open picket fences not to exceed four (4) feet in height, shall be permitted on any front yard or corner side yard’ to allow for a seven (7) foot chain link fence (six (6) foot fence and one (1) foot 3-strand barbless wire fence) in the corner side yard, a variance of three (3) feet.

The petitioner is in the process of building a new 192,000 square foot manufacturing facility in the new industrial development north of County Road 4 (Sanford School Road) and east of County Road 15. The facility will build boats for the marine industry and is proposed to have some inventory in the rear (northwest) portion of their campus. The project went through Technical Review in 2025 and was approved. Plans call for an eventual addition to the current building under construction that would mostly block the storage area from the south and partially from the west.

Plans also call for a buffer mound to be placed east of County Road 15 with landscaping to buffer the outside storage. The tallest portion of the mound will be approximately six (6) feet in height (directly west of the storage area) and should obscure the proposed fence and the inventory stored in the rear part of the campus.

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 industrial 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. Additionally, only a portion of the fence requires the filing of the developmental variance;
4. Special conditions and circumstances **do exist** as the proposed fence is to be installed on the subject property in a corner side yard;
5. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the property because the proposed fence provides for some measure of security and would otherwise greatly limit the amount of outside storage for finished product without the fence;
6. The special conditions and circumstances **do not** result from an action or inaction by the applicant as the fence has not yet been installed;
7. This property **does not** lie within a designated flood hazard area.

Photos

PETITION #: 26-BZA-09

FILING FEE: \$ 300.⁰⁰

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: DEVELOPMENTAL VARIANCE

Property Owner(s): CRB4, LLC ; Ryan Brady

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

Contact Person: Paul Macumber (Patriot Fence LLC)

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

Subject Property Address: 4800 Briscola Court, Elkhart, Indiana 46514

Zoning: SS151.228, Section A, Item 1

Present Use: Manufacturing Proposed Use: Manufacturing

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): Paul Macumber

SIGNATURE(S): [Signature] DATE: MARCH 6, 2020

STAFF USE ONLY:

Staff Checklist for the applicant's submittal of a complete Petition to the Board of Appeals docket:

- One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.
- A completed Petition form signed by the legal owner of record (or approved representative).
- If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- A full and accurate legal description of the property.
- One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 12 copies must be submitted.
- Optional: any supplementary information the applicant may wish to include.

Ordinance Requirement: Section(s): _____

Map #: _____ Area: _____

RECEIVED BY: Rae Wondoski DATE: 3/6/20

CRB4, LLC



February 25, 2026

Subject: **Designation of Representative for CRB4, LLC – Permit Application**



To Whom It May Concern,

Please accept this letter as our official authorization that Paul Macumber is a designated representative to represent CRB4, LLC for the matters pertaining to the fence project developmental variance described in:

Permit Application



Legal property description: Lots numbered 8 and 13 in Elkhart East area "A" subdivision, recorded December 6, 2024 in plat book 44, page 38, instrument number 2024-20274, in the office of the recorder of Elkhart County, Indiana.

CRB4, LLC owners
Coley Brady – 50%
Ryan Brady – 50%

Thank you for your attention to this matter. Should you require further information, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan Brady".

Ryan Brady
Owner
CRB4, LLC

Appeal Letter to the Board of Zoning Appeals

City of Elkhart, IN – Request for Developmental Variance

Board of Zoning Appeals
City of Elkhart
229 S. Second St.
Elkhart, IN 46516

Dear Members of the Board,

I am writing to formally appeal for a developmental variance regarding the property located at 4800 Briscola Court, Elkhart, Indiana 46514 within the city limits of Elkhart, Indiana. Due to unique circumstances affecting the lot, I am requesting relief from certain zoning requirements that present a hardship and prevent reasonable development of the site.

The specific variance I am seeking pertains to SS 151.228 Fence Requirements, Section (A) General Provisions; All Districts. (cited in the denial of Permit Application [REDACTED] Item (1) "No fences, other than split rail, wrought iron or open picket fences (with forty percent (40%) open spacing between pickets) not to exceed four (4) feet in height, shall be permitted in any front yard or corner side yard." The current zoning regulations, while intended to maintain neighborhood standards, impose constraints in this situation due to safety concerns with lack separating the public from entering the potential hazards of active areas of Manufacturing/Shipping operations and Retention Pond unknowingly or intentionally, as well as to Protect the Facilities of Public unauthorized entries into these potentially hazardous situations. Human Safety Being the Main Concern.

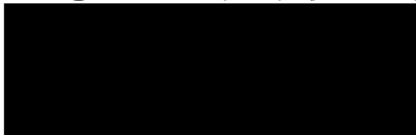
Granting this variance will allow Alera Marine to Erect a 6ft 9 gage Galvanized Chainlink fence plus 1 foot of 3-strand Barbless wire (climb preventative), which will enhance the property's safety to the public and contribute positively to the Safety of the surrounding area and the City of Elkhart, Indiana. This Variance does not have a negative effect on adjacent properties or people, will not cause increase flood Heights. It will create Greater Public safety. And under Good Faith Assumption will not cause additional public expenses, create a nuisance, or conflict with current laws or ordinances.

I respectfully request the board's consideration and approval of this variance application. Please let me know if additional documentation or information is required. I am happy to attend a hearing or answer any questions the board may have.

Thank you for your time and attention to this matter.

Best Regards,

Paul Macumber
Owner Patriot Fence LLC
Designated CRB4, LLC; Ryan Brady Representative



AFFIDAVIT IN SUPPORT OF DEVELOPMENTAL VARIANCE PETITION

I, Ryan Brady, being first duly sworn upon his/her oath deposes and says that he/she is familiar with and has personal knowledge of the facts herein and, if called as a witness in this matter, would testify as follows:

1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
2. I make this affidavit in support of my variance petition filed contemporaneously herewith.
3. I am now and at all times relevant herein have been, the owner of record of the property located at 4800Bnscola Ct Elkhart, Indiana.
4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 5th day of March, 2026.

Ryan Brady

Printed: Ryan Brady

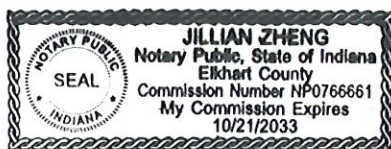
I certify under the penalties for perjury under the laws of the United States of America and the State of Indiana that the foregoing factual statements and representations are true and correct.

Ryan Brady

Printed: Ryan Brady

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared Ryan Brady, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 5th day of March, 2026.



My Commission Expires:
10-21-2033

Jillian Zheng

Printed: Jillian Zheng

Notary Public in and for the State of Indiana
Resident of Elkhart County, Indiana



City of Elkhart

Staff Report

Planning & Zoning

<u>Petition:</u>	26-BZA-11
<u>Petition Type:</u>	Developmental Variance
<u>Date:</u>	April 9, 2026
<u>Petitioner:</u>	Ignacio Perez
<u>Site Location:</u>	431 Middlebury Street
<u>Request:</u>	<p>To vary from Section 8.5, Yard Requirements to allow for a property with an established lot size of 3,040 square feet and lot frontage of 38 feet variance to be used as a two-family dwelling. The minimum lot size for a two-family dwelling is 7,200 square feet and a lot frontage of 60 feet, a variance of 4,160 square feet for the lot area and 22 feet for the lot frontage.</p> <p>To vary from Section 8.5, Yard Requirements in the R-5 Urban Residential District, to allow for a five (5) foot side yard setback where seven (7) feet are required, a variance of two (2) feet.</p> <p>To vary from Section 8.5, Yard Requirements, for the corner side yard average established setback of thirteen (13) feet, to allow for the construction of a two family dwelling at a corner side yard setback of seven (7) feet, a variance of six (6) feet.</p> <p>To vary from Section 8.5, Yard Requirements, Rear Yard to allow for a thirteen (13) foot rear setback where thirty (30) feet is required, a variance of seventeen (17) feet.</p> <p>To vary from Section 26.7.D, Schedule of Off-Street Parking Space Requirements, to allow for zero (0) off-street parking spaces where four (4) off-street parking spaces are required, a variance of four (4) off-street parking spaces.</p>
<u>Existing Zoning:</u>	R-5, Urban Residential District
<u>Size:</u>	+/- 0.07 Acres

Thoroughfares: Middlebury Street and Monroe Street

School District: Elkhart Community Schools

Utilities: Available and provided to the site.

Surrounding Land Use & Zoning:

The property is surrounded by residential uses zoned R-5, Urban Residential District.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The Comprehensive Plan calls for this area to be developed with medium density residential uses.



Staff Analysis

The petitioner is requesting to vary from Section 8.5, Yard Requirements to allow for a property with an established lot size of 3,040 square feet and lot frontage of 38 feet variance to be used as a two-family dwelling. The minimum lot size for a two-family dwelling is 7,200 square feet and a lot frontage of 60 feet, a variance of 4,160 square feet for the lot area and 22 feet for the lot frontage.

To vary from Section 8.5, Yard Requirements in the R-5 Urban Residential District, to allow for a five (5) foot side yard setback where seven (7) feet are required, a variance of two (2) feet; To vary from Section 8.5, Yard Requirements, for the corner side yard average established setback of thirteen (13) feet, to allow for the construction of a two family dwelling at a corner side yard setback of seven (7) feet, a variance of six (6) feet; To vary from Section 8.5, Yard Requirements, Rear Yard to allow for a thirteen (13) foot rear setback where thirty (30) feet is required, a variance of seventeen (17) feet; To vary from Section 26.7.D, Schedule of Off-Street Parking Space Requirements, to allow for zero (0) off-street parking spaces where four (4) off-street parking spaces are required, a variance of four (4) off-street parking spaces.

The petitioner is proposing to build a new one-story two-family dwelling on an infill parcel at 431 Middlebury Street. Due to the size of the parcel, the proposed home requires a number of developmental variance to address the current zoning standards.

This type of variance is not uncommon for parcels in established neighborhoods where new infill homes are placed on parcels that do not meet the current development standards. The scale of the home is not out of character for the neighborhood and may in fact be desirable in terms of property values. Given the constraints of the established setback on the corner side yard, it will not allow a home of this scale to be built without some measure of relief.

Due to the high cost of land development and new structures like the one in this request are being developed where the necessary infrastructure exists - it is then more cost effective to construct. Therefore, those development costs do not have to be passed along to the tenant in the form of higher rent.

This request adds to the inventory of housing in Elkhart. Proposals like this one are becoming more common in areas that have seen disinvestment over time and where the need for new and diverse housing options are needed.

Staff are supportive of the side and corner side yard setbacks. Because of the size of the parcel – these variances are reasonable. Most new construction infill homes will require variances. Therefore, with most new infill proposals, staff would anticipate similar variance requests.

This proposal reflects a development pattern seen in other parts of the city that integrates varying levels of density within a neighborhood. Staff are supportive of this infill project, however, the proposal for a two-family dwelling may be too intense for this site. The fact that there is no room for off-street parking is of great concern for staff. For this specific project, it is the opinion of staff that a revised, one family structure be proposed for this infill parcel – something that reflects a similar footprint to the homes west of this site.

Staff struggles with the request for reducing parking. We don't want to discourage walkability within a neighborhood and encourage other transportation options. However, some off-street parking is necessary. It is important for the petitioner to provide off-street parking.

Staff are aware that some of the neighborhoods surrounding downtown are higher density and some residents may not own cars. The Elkhart East Bus line has a bus stop and a route within walking distance of the project.



The City of Elkhart is in the process of updating its zoning ordinance, including new residential Development Standards. The requested setbacks are consistent with proposed regulations found in the anticipated UDO. This request to the board would have only included relief from parking and potential unit size and lot size requirements if under the new UDO.

In subsequent conversations with the petitioner after filing and by reworking the site plan, the side yard setback request was eliminated by moving the house over two feet.

Because of the multiple developmental variances and the complexity of the request, staff has broken out the request into grouped similar developmental motions.

Recommendation

The Staff recommends **approval** of the developmental variances (corner side setback and lot frontage/area) based on the following findings of fact:

1. The approval **will not** be injurious to the public health, safety, morals, or general welfare of the community because the building will be built per all applicable building codes;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner because the proposed structure will have similar setbacks in both the front and side yards to nearby properties;
3. Granting the variance **would be** consistent with the intent and purpose of this Ordinance because a small measure of relief when uniquely warranted;
4. Special conditions and circumstances **do exist** that are peculiar to the land involved and which are not applicable to other lands or structures in the same district because the size of the parcel makes redevelopment that meets current development standards challenging;
5. The strict application of the terms of this Ordinance **will result** in practical difficulties in the use of the property because the current development standards limit the scale of structure that can be developed on this parcel;

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.

The Staff recommends **denial** of the developmental variance requesting no off street parking based on the following findings of fact:

1. The approval **will** be injurious to the public health, safety, morals, or general welfare of the community because off street parking is possible with a site plan depicting a smaller structure footprint;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner because a structure with a smaller footprint, will have similar setbacks to nearby properties;
3. Granting the variance **would not be** consistent with the intent and purpose of this Ordinance because there is the potential for off street parking if a smaller structure were proposed;
4. Special conditions and circumstances **do not exist** that are peculiar to the land involved and which are not applicable to other lands or structures in the same district because at least one space could be achieved on site;
5. The strict application of the terms of this Ordinance **will not result** in practical difficulties in the use of the property because a structure with a smaller footprint could be constructed to accommodate some room for off street parking;
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.

The Staff recommends **denial** of the developmental variance for reduced rear yard setback based on the following findings of fact:

1. The approval **will** be injurious to the public health, safety, morals, or general welfare of the community because a smaller structure with a smaller footprint can be achieved on this parcel;
2. The use and value of the area adjacent to the property **will** be affected in a substantially adverse manner because the proposed structure with a revised site plan depicting a smaller footprint would be in line with other properties in the neighborhood;
3. Granting the variance **would not be** consistent with the intent and purpose of this Ordinance because there is the potential for a smaller structure that could be achieved on this parcel;
4. Special conditions and circumstances **do not exist** that are peculiar to the land involved and which are not applicable to other lands or structures in the same district because a structure with a smaller footprint could be achieved on site;
5. The strict application of the terms of this Ordinance **will not result** in practical difficulties in the use of the property because a structure with a smaller footprint could be constructed on this parcel;

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 variances, staff recommends that the following conditions be placed upon the approval:

1. A revised plan be submitted that meets the rear yard and off street parking requirements.

Photos



May 2023
Images taken from Google street view



July 2019
Images taken from Google street view

PETITION #: 26-BZA-11

FILING FEE: \$ 200.00

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: DEVELOPMENTAL VARIANCE

Property Owner(s): Tanacio Perez

Mailing Address: _____

Phone #: _____ Email: _____

Contact Person: Jeremy Perez

Mailing Address: _____

Phone #: _____ Email: _____

Subject Property Address: 431 Middlebury St Elkhart IN 46516

Zoning: R2 (R-5)

Present Use: vacant Proposed Use: Residential

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): Jeremy Perez

SIGNATURE(S): [Signature] DATE: 03-06-26

STAFF USE ONLY:

Staff Checklist for the applicant's submittal of a complete Petition to the Board of Appeals docket:

- One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.
- A completed Petition form signed by the legal owner of record (or approved representative).
- If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- A full and accurate legal description of the property.
- One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 12 copies must be submitted.
- Optional: any supplementary information the applicant may wish to include.

Ordinance Requirement: Section(s): _____

Map #: _____ Area: _____

RECEIVED BY: Raen Levendoski DATE: 3/10/26

Date: 03/06/2026

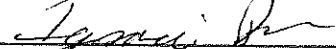
To: City of Elkhart Zoning Department **RE:** Developmental Variance

I, Ignacio Perez, hereby give permission for Jeremy Perez to represent me regarding the zoning petition with the City of Elkhart. Jeremy Perez is authorized to speak and act on my behalf in matters related to this petition.

If you have any questions, please feel free to contact me.

Sincerely,

Ignacio Perez

Signature: 

Date: 3-6-2026

DATE: 03/06/2026

TO: Board of Zoning Appeals

RE: Developmental Variance

City of Elkhart, Indiana

The undersigned petitioner respectfully shows the Board of Zoning Appeals:

1. I, Ignacio Perez, am the owner of the following described real estate located within the City of Elkhart, Concord Township, Elkhart County, State of Indiana, to-wit:

Legal: Description attached see Exhibit A.

Commonly known as: 431 Middlebury St Elkhart, IN 46516

2. The above described real estate presently has a zoning classification of R-5 District under the Zoning Ordinance of the City of Elkhart.

3. Petitioner presently occupies (or proposes to occupy) the above described property in the following manner:

As the property stands as of 03/06/2026, the property is a corner vacant lot as an R-5 zoning

4. Petitioner desires to:

Develop a single story building. Maintain an R-5 zoning. Petition for parking variance and yard variance.

If I were to keep the setbacks required by the city ordinances my building would only be about 16ft wide and only about 39 ft long. I want to make the structure 24 ft wide, and about 52 ft long. This would give me a front yard set back of about 15 ft, a west setback of about 5ft, east setback of about 7ft and a back yard set back of about 13ft. I also would like to propose having street parking and having zero parking on the lot.

5. The Zoning Ordinance of the City of Elkhart requires:

The building that I am wanting to develop, according to current yard variance 805 , must have a west yard set back of 7 ft, an east set back of about 13ft, a backyard set back of 30 ft and a front yard set back of about 11 ft in this instance . The average front yard setbacks of the houses west of the lot are what give me an average of about 11 ft. . The parking variance 26.7-D states I must have at least 2 parking spaces per dwelling. The city ordinance has a minimum of 24ft Wide for a dwelling.

Yard Variance 805, parking variance 26.7-D

6. Explain why strict adherence to the Zoning Ordinance requirements would create an unusual hardship.

If I were to have to build a house using the current setbacks for this particular project, the rooms would be too small for anyone to comfortably live in. Everything would be narrow. I would have to make the structure a 2 story building since it would also not meet the required square footage. It would be almost impossible to also set a driveway for 2 cars in this lot given its size, location and the elevation of the lot..

7. Using the standards from page 3, address each standard. You cannot answer simply 'Yes' or 'No'; you must state why this is true (the reasons for your answer).

1. The approval will create affordable housing to boost the morale of the community.
2. The value of the surrounding properties and lots will increase.

3. The building dwelling will be consistent with the R-5 zoning ordinance.
4. I will only use these variances for this lot.
5. I understand that my rights will be different from other properties.
6. I Understand that the conditions and circumstances are not affected by what I do or don't do.
7. The dwelling will have proper drainage systems to stop from creating any nuisances or conflicting with any ordinances. It will not increase any flooding hazard.

WHEREFORE, Petitioner prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grants the requested developmental variance.

Signature of Property Owner: Ignacio

Printed Name: Ignacio Perez

Second Property Owner: _____

Printed Name: _____

Contact Person: Jeremy Perez - Representative

Name: Jeremy Perez



Middlebury

427 Middlebury St.

80'



40' 38'

Side walk

Parking

MONROE

RECEIVED
MAR 27 2026
BY:

809 Monroe