

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 Marnocha, 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.

Marnocha 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 area 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