

AGENDA
ELKHART CITY BOARD OF ZONING APPEALS
THURSDAY, OCTOBER 10, 2024 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 **2317 077 1574** as the meeting number and “**BZA2023**” 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 hugo.roblesmadrigal@coei.org prior to the meeting.

1. **ROLL CALL**
2. **APPROVAL OF AGENDA**
3. **APPROVAL OF MINUTES AUGUST 8, 2024**
4. **APPROVAL OF PROOFS OF PUBLICATION**

5. **OLD BUSINESS**

24-UV-04 PETITIONER IS HERG INC
PROPERTY IS LOCATED AT 106 & 108 BOWERS CT
TABLED

6. **NEW BUSINESS**

24-BZA-22 PETITIONER IS REX MARTIN
PROPERTY IS LOCATED AT 2505 GREENLEAF BOULEVARD

To vary from the requirements found in Section 26.1.C.3, Swimming Pools, which states ‘A swimming pool or the yard in which the pool is located, or any part thereof, shall be enclosed with a fence, six (6) feet in height, measured from the natural grade on the exterior side of the fence. All gates within such a fence shall be self-closing and self-locking.’ To allow for a perimeter fence that is four (4) feet in height. The in ground pool will have an automatic pool cover.

24-BZA-24 PETITIONER IS MARIDEAN HAYDON
PROPERTY IS LOCATED AT 1022 STRONG AVENUE

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 (Ward Street frontage) without benefit of permit to remain.

24-BZA-25 PETITIONER IS LAZARD JALADER
PROPERTY IS LOCATED AT 506 WEST LEXINGTON AVENUE

To vary from Section 8.5, Yard Requirements to allow for a property with an established lot size of 5,535 square feet and lot frontage of 45 feet variance to be used as a three family dwelling. The minimum lot size for the conversion to a three family dwelling is 10,000 square feet and a lot frontage of 60 feet, a variance of 4,465 square feet for the lot area and 15 feet for the lot frontage.

The petitioner would like to convert the structure from a one family dwelling to a three family dwelling – this proposed use is permitted.

24-X-08 PETITIONER IS FRANCISCO SESMAS
PROPERTY IS LOCATED AT 2022 BENHAM AVENUE

TABLED

24-UV-11 PETITIONER IS LUMAAN LLC
PROPERTY IS LOCATED AT 707 CHRISTIAN AVENUE

To vary from Section 5.2, Permitted Uses to allow for a two family dwelling. Two family dwellings are not permitted in the R-2 district.

**24-BZA-27 PETITIONER IS COMMUNITY WIDE FEDERAL CREDIT UNION
PROPERTY IS LOCATED AT 2110 CASSOPOLIS STREET**

To vary from Section 26.10.D, Sign Regulations – Table 1, that permits a free standing sign up to 50 square feet in area with up to 50% of the sign area as changeable copy, to allow for a new monument sign that is 32 square feet with a changeable copy (LED screen) that is 27 square feet in area, variance of 11 square feet for the changeable copy. To also vary from Section 26.10.D.4.c.ii, Free Standing Sign Increases, which states in part, ‘The permitted height of a free-standing sign may be increased at the rate of one (1) foot for every two (2) feet the sign is located in excess of the required five (5) feet minimum distance from the right of way,’ to allow for a sign that is 7’11” in height at the minimum five (5) foot setback where six (6) feet is allowed, a variance of 1’11”.

**24-BZA-28 PETITIONER IS CSC PROPERTIES LLC
PROPERTY IS LOCATED AT VACANT LOT NORTH RIVERSIDE DRIVE – 700 BLOCK**

To vary from Section 4.4, Yard Requirements to allow a new residential structure be built with a rear yard setback of thirty-one (31) feet where the established average setback for the block is sixty (60) feet, a variance of twenty-nine (29) feet. The ordinance requires the established setback for the block be calculated to determine the rear yard setback if adjacent to river or creek.

7. ADJOURNMENT

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

BOARD OF ZONING APPEALS

-MINUTES-

**Thursday, August 8, 2024 - Commenced at 6:00 P.M. & adjourned at 7:26 P.M.
City Council Chambers – Municipal Building**

MEMBERS PRESENT

Doug Mulvaney
Ron Davis
Janet Evanega Rieckhoff
Phalene Leichtman (via Web-Ex)

MEMBERS ABSENT

None

REPRESENTING THE PLANNING DEPARTMENT

Eric Trotter, Assistant Director for Planning
Jason Ughetti, Planner II

LEGAL DEPARTMENT

John Espar

RECORDING SECRETARY

Hugo Madrigal

APPROVAL OF AMENDED AGENDA

Mulvaney moves to approve an amended agenda and tabling 24-UV-04.
Davis makes motion to approve; Second by Evanega Rieckhoff. Voice vote carries.

APPROVAL OF MINUTES FOR JUNE 13, 2024

Evanega Rieckhoff makes motion to approve; Second by Davis. Voice vote carries.

APPROVAL OF PROOFS OF PUBLICATION

Davis makes motion to approve; Second by Evanega Rieckhoff. Voice vote carries.

OPENING STATEMENT

Welcome to the August 8, 2024 meeting of the Elkhart City Board of Zoning Appeals. The purpose of this meeting is to review and consider all requests for relief from any standard in the Zoning Ordinance including variances, use variances, special exceptions, conditional use requests, and administrative appeals. All of the cases heard tonight will have a positive, negative, or no decision made by the Board. If no decision is made, the petition will be set for another hearing.

If a decision is made that you disagree with, either as the petitioner or an interested party, you must file for an appeal of the Board's decision in an appropriate court no later than 30 days after the decision is made. If you think you may potentially want to appeal a decision of this Board, you must give this Board a written appearance before the hearing. Alternatives: A sign-in sheet is provided which will act as an appearance. You should sign the sheet if you want to speak, but also if you do not wish to speak but might want to appeal our decision. Forms are provided for this purpose and are available tonight. A written petition that is set for hearing tonight satisfies that requirement for the petitioner. If you file your appeal later than 30 days after the decision of this Board or give no written appearance tonight you may not appeal the Board's decision. Because the rules on appeal are statutory and specific on what you can do, the Board highly suggests you seek legal advice. If you are the petitioner, in addition to filing an appeal, you may first file a motion for rehearing within 14 days of the Board's decision.

OLD BUSINESS

24-BZA-06 PETITIONER IS JFS REAL ESTATE HOLDING LLC PROPERTY IS LOCATED AT 444 NORTH NAPPANEE STREET

To vary from the requirements found in Section 26.10, Sign Regulations, Table 2, to allow a new freestanding sign at a height of 10.25 (ten and twenty five hundredths) feet where maximum sign height at the required minimum five (5) foot setback, is 6 (six) feet in height, a variance of 3.75 (three and seventy five hundredths) feet. To also vary from the maximum allowed message center of 50% of the principal sign which is 22.5 square feet to allow a message center of 32 square feet, a variance of twenty and seventy five hundredths square feet.

Mulvaney calls the petitioner forward.

Lauren Overmyer with Vanadco Signs, located at 10625 State Road 10, appears in person on behalf of the petitioner. Overmyer says the lot is small and cannot be set back. The building was built close to the road, and there is no space as the road has grown. She says the petitioner would like to ensure that the electronic sign is large enough for traffic to see.

Mulvaney asks for questions from the Board.

Mulvaney asks Overmyer if the petitioner would have any issues with the nine conditions consistent with the new proposed ordinance regarding electronic signs that Staff has placed on the request if the Board approves the petition.

Overmyer answers no and says that the conditions are standard and understandable.

Mulvaney states that the conditions will become standard once the new ordinance is in place.

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

STAFF ANALYSIS

The subject property is occupied by the Northern Indiana Hispanic Health Coalition (NIHHC), which provides the community with educational, vaccine, and community health programs. NIHHC is requesting the proposed sign to be at a more readable height for drivers and an EMC to showcase current programs and events at the center.

City staff has been working closely with NIHHC to reach a sign design that the City is comfortable recommending approval. City staff appreciates that this sign is significantly closer to the regulations than most other signs in the area that are nonconforming. The site does pose some practical difficulties due to the building placement at 15 feet from the Nappanee Street property line, where the current required setback is 30 feet, leaving little room for a sign or to set the sign farther back which would allow them a greater height by-right.

Staff recommends approval of the requested variances subject to the recommended conditions that have been placed on other EMC Board of Zoning Appeals approvals.

STAFF 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;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the uses in the area are commercial and industrial uses;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because it allows a measure of relief when uniquely warranted;
4. Special conditions and circumstances do exist that are peculiar to the land involved due to the structure being located only 15 feet from the Nappanee Street right-of-way, leaving little room for a sign. An additional 5 feet is from the edge of pavement exists, giving the sign an effective setback from edge of pavement of 10 feet;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property due to the structure being located so close to this very wide road;

6. The special conditions and circumstances do not result from any action or inaction by the applicant because NIHHC is only the tenant of this building. They have no control on the placement of the building;
7. This property does not lie within a designated flood area.

CONDITIONS

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

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

Trotter states there were eight letters mailed with zero returned.

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

Mulvaney calls for a motion.

Davis makes a motion to approve 24-BZA-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 and adopt all conditions listed in the staff report; Second by Evanega Rieckhoff.

Davis – Yes
Evanega Rieckhoff – Yes
Leichtman – Yes
Mulvaney – Yes

Motion carries.

24-BZA-12 PETITIONER IS SALLIE H. HIMES PROPERTY IS LOCATED AT 1804 OSOLO ROAD

To vary from Section 26.1.B.8.a, Development Standards for Accessory Structures, which states 'Accessory buildings on property occupied by a one or two family residential use shall be limited to a maximum floor area of seven hundred twenty (720) square feet for the largest structure, with a maximum total of eight hundred forty (840) square feet for all accessory buildings combined to allow for the construction of an additional accessory structure with an area of one thousand forty (1040) square feet for a total area of accessory structures of one thousand six hundred sixty four (1664) square feet, a variance of three hundred twenty (320) square feet for one structure and eight hundred twenty four (824) square feet for the combined area.

Mulvaney calls the petitioner forward.

Logan Stevens with Barnes and Thornburg, located at 888 S Harrison Street, appears in person on behalf of the petitioner. Stevens states he has prepared a presentation and will be using it accordingly. Stevens says the request is for the construction of a second garage. He says the property is about 2 ½ acres and has two parcels. The smaller parcel with the house is about ¼ quarters of an acre, and the second accessory structure will be on the smaller parcel. For background on the property, Stevens states that the house was built in the 1870s. The petitioner's son, Craig, currently lives in the property pursuant to a land contract. Stevens says Craig is renovating the house and restoring the property and needs the second garage to store building materials and tools. Stevens says other equipment will also be stored to help maintain the property and restore the garage. Stevens goes to slide three of his presentation, which displays a satellite image of where the property is located. He says the red x on the picture indicates where the garage will be placed, which will be behind the current existing garage.

Stevens states that the property owner's houses with the blue checkmarks on his presentation have signed approval and are satisfied with the proposed plans. The next slide shows the signatures of the neighbors who approve of the request.

Mulvaney asks for questions from the Board.

Mulvaney asks Stevens what the petitioner plans to do with the garage when it is no longer used for building materials.

Stevens answers that the property owner is entering into an agreement with the Planning Department and that the garage will not be used for storing vehicles but solely for storing tools.

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

STAFF ANALYSIS

Petitioner is requesting to build a storage building (accessory structure) that is 1040 square feet in area in order to store building materials while he is remodeling the home at 1804 Osolo Road. The request is specifically to vary from Section 26.1.B.8.a, Development Standards for Accessory Structures, which states 'Accessory buildings on property occupied by a one or two family residential use shall be limited to a maximum floor area of seven hundred twenty (720) square feet for the largest structure, with a maximum total of eight hundred forty (840) square feet for all accessory buildings combined to allow for the construction of an additional accessory structure with an area of one thousand forty (1040) square feet for a total area of accessory structures of one thousand six hundred sixty four (1664) square feet, a variance of three hundred twenty (320) square feet for one structure and eight hundred twenty four (824) square feet for the combined area.

Based on County Assessor records the home was constructed in 1870 – very likely one of the last remaining homes from the mid-1800s. The home owner is remodeling the home and would like to securely store material out of the elements. The current garage does not provide adequate room for all of the storage needs on the property.

The proposed structure would be placed east (behind) of the existing garage, not visible from Osolo Road. Plans call for at least one (1) opening (figure depicts two (2) doors) that is eight (8) foot by ten (10) foot, with an overall height of nine (9) feet. This size structure and door opening area would be large enough to accommodate vehicle storage.

This type of request is not that out of the ordinary. However, typically when this type of variance is requested, staff looks for the site to be brought closer into compliance to slowly eliminate the non-conforming developmental standards. Staff would, normally in this circumstance, look for the drive to be paved as we would require anyone else building a new accessory structure, especially if there are doors that would permit the storage of vehicles. In discussions with the legal representative for the petitioner, he has agreed on behalf of his client, there will be no vehicles stored in the new accessory structure – it will only be used for the storage of materials – therefore staff is not asking for the drive to be paved as a part of this request.

The 2.35 acre total parcel has been divided into two (2) separate parcels in or around 2009. However, staff can find no record of a Minor Subdivision filed with the Planning Department. Staff did raise this issue with the legal representative for the petitioner and they have agreed to file a Minor Subdivision petition after this hearing. They will also expand the boundary by ten (10) feet to provide greater buffer from the adjacent parcel.

STAFF 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 because the accessory structure 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 structure is a common addition to residential homes and if not for the size it would be otherwise permitted;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because it allows a measure of relief when uniquely warranted;
4. Special conditions and circumstances do exist that are peculiar to the land involved because the size of the accessory structure requires that a variance be filed in order to construct it on the property;

5. 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 adequately store materials for the restoration and maintenance of the grounds;
6. The special conditions and circumstances do not result from any action or inaction by the applicant because no construction has begun;
7. This property does not lie within a designated flood area.

CONDITIONS

1. No vehicles shall be stored or parked in the proposed accessory structure. It shall only be used for the storage of personal building materials. This requirement condition shall be memorialized as a written commitment recorded against the property.
2. A Minor Subdivision shall be filed. The parcel with the home shall be expanded by ten (10) feet.
3. Building Department review and approval is required prior to construction.

Trotter states there were 31 letters mailed, with two returned in favor with no comment.

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

Leichtman asks Trotter what happens if the house is sold and if the approval will go on the contract when the home is sold.

Trotter answers yes, that if there is a change of ownership, it will go along with any future owners.

Mulvaney calls for a motion.

Evanega Rieckhoff makes a motion to approve 24-BZA-12 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 Davis.

Davis – Yes

Evanega Rieckhoff – Yes

Leichtman – Yes

Mulvaney – Yes

Motion carries.

NEW BUSINESS

24-BZA-16 PETITIONER IS BLANCA PINA PROPERTY IS LOCATED AT 304 WEST WOLF AVENUE

To vary from the requirement found in Section 26.3.B.9, Permitted Obstructions in Required Front Yards, to allow for an open front porch that is 8.58 (eight and fifty eight hundredths) feet away from the front wall of the structure, where 6 (six) feet is allowed, a variance of 2.58 (two and fifty eight hundredths) feet.

Mulvaney calls the petitioner forward.

Blanca Pina, 304 W. Wolf Ave., appears in person as the petitioner. Pina asks the Board for permission to keep her porch because it had already been built, and she was unaware of city ordinances.

Mulvaney asks for questions from the Board.

Evanega Rieckhoff asks Pina if the picture in the Staff report is her home.

Pina answers yes.

Evanega Rieckhoff says the porch looks nice and then asks if Pina will change anything or if she is solely there because of the porch.

Pina answers that she is only there for the porch.

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

STAFF ANALYSIS

The petitioner wishes to vary from the requirement found in Section 26.3.B.9, Permitted Obstructions in Required Front Yards, to allow for an open front porch that is 8.58 (eight and fifty eight hundredths) feet away from the front wall of the structure, where 6 (six) feet is allowed, a variance of 2.58 (two and fifty eight hundredths) feet.

The petitioner previously had a porch that met the City's requirements. Based on the petitioner's assessment of the previous porch's condition, they felt it was necessary to rebuild and subsequently increased the size of the structure to create a better buffer between the open front porch and the primary entrance to the home. Increasing the open front porch allows a barrier from natural weather conditions between the home entrance and the porch entrance. The petitioner did not seek a building permit or zoning clearance prior to construction. Currently, the petitioner's porch does not meet the City's development standards. Since the discovery of the unpermitted work, the petitioner has submitted a building permit application and a zoning clearance application with sufficient documentation.

This portion of West Wolf Avenue is located in the Benham's First Addition Subdivision approved in 1910 and is a long established residential zone district encompassed by single family residential homes. There are several other properties neighboring the subject property that have similar characteristics, including open front porches that extend out from the front of the homes and are currently legal non-conforming. There are some properties where the open front porch extends closer to the public right of way than the subject property.

STAFF RECOMMENDATION

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

1. The approval will not be to injurious the public health, safety, morals or general welfare of the community as the open porch will not create a visibility obstruction for traveling pedestrians and motorists along West Wolf Avenue;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner as the property will continue its use as residential;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because a measure of relief is allowed when warranted;
4. Special conditions and circumstances do exist which are peculiar to the land involved because at the time the original structure was built, it met City development standards and became legal non-conforming over time;
5. The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property as the property will not differ from the characteristics of neighboring properties and would limit the petitioner the same enjoyment of similar surrounding properties without board action;
6. The special conditions and circumstances do result from an action or inaction by the applicant because the open porch was constructed without the benefit of a building permit and zoning clearance;
7. This property does not lie within a designated flood area.

Ughetti states there were 37 letters mailed with zero returned.

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

Mulvaney calls for a motion.

Davis makes a motion to approve 24-BZA-16 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 Evanega Rieckhoff.

Davis – Yes
Evanega Rieckhoff – Yes
Leichtman – Yes
Mulvaney – Yes

Motion carries.

**24-X-05 PETITIONER IS ELKHART COMMUNITY SCHOOLS
PROPERTY IS LOCATED AT 2608 CALIFORNIA ROAD**

Per Section 4.3, a Special Exception to allow an addition to Elkhart High School. The proposed use is a Health and Wellness Center.

Mulvaney calls the petitioner forward.

Andrew Cunningham with JPR Civil Engineering Consultants, located at 325 S Lafayette Boulevard, appears via WebEx on behalf of the petitioner. Cunningham says he is with a civil engineering firm partnering with Elkhart Community Schools on a Health and Wellness Center. The addition would be on the northeast corner of the high school. He then states that the purpose of the addition is to serve the student population with health and recreation offerings. Cunningham says it will fit well within the campus and the surrounding community.

Mulvaney asks for questions from the Board.

Evanega Rieckhoff says it looks nice, then asks Cunningham how it will affect the partnership between the school and the aquatic center.

Cunningham answers that, from a civil engineering perspective, the addition would mainly benefit students rather than the community.

Tony Gianesi, Chief Operating Officer of Elkhart Community Schools, located at 1135 Kent Street, appears in person on behalf of the petitioner. To answer Evanega Rieckhoff's question, Gianesi says the project is designed to supplement the physical education component of school and different athletics. He says it was part of the overall plan when the schools combined and created the campus. He says it's the educational piece when it comes to physical education.

Evanega Rieckhoff asks Gianesi if it will damage the partnership with the aquatic center.

Gianesi answers that there is no pool component, but it would enable them to have three physical education classes there and host other extracurricular activities.

Mulvaney asks Gianesi if the center will be primarily open during the school day or if there will be after-hours hours when students can access the building to work out late at night.

Gianesi answers that students will only be allowed to use the facility after school hours if adults supervise them.

Mulvaney states it's an excellent addition because the cost is one of the complaints about the Aquatic Center. Not every student can access that because of the expenses, so it will be a great addition to Elkhart High School.

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

STAFF ANALYSIS

The petitioner is requesting a special exception use for an addition to the existing Elkhart High School for a new health and wellness center. Since the consolidation of the school districts within the City of Elkhart, the school has emphasized a focus of bettering the quality of life for its students. The proposed health and wellness center will provide students with new opportunities for fitness and recreation.

Section 4.3(L) of the Elkhart Zoning ordinance requires a special exception use for high schools and is the reason for this request. The health and wellness center will be located on the northeast corner of the existing school, utilizing 1.73 acres of the existing 32.66 acre site. Given this is an addition to the existing facility and located far from the surrounding residential uses, the value and use of surrounding properties will not be affected by this addition.

Staff recommends approval of this special exception.

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 as this use provides an essential community service;
2. The Special Exception will not reduce the values of other properties in its immediate vicinity because it is a minor change to an already approved use;
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.

Trotter states there were 23 letters mailed with zero returned.

Trotter says the petition comes to the Board with a Do-Pass recommendation from the Plan Commission.

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

Mulvaney calls for a motion.

Evanega Rieckhoff makes a motion to approve 24-BZA-16 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 Davis.

- Davis – Yes
- Evanega Rieckhoff – Yes
- Leichtman – Yes
- Mulvaney – Yes

Motion carries.

24-BZA-17 PETITIONER IS HABITAT FOR HUMANITY OF ELKHART COUNTY PROPERTY IS LOCATED AT 3115 HOMER AVENUE

To vary from Section 5.4, Yard Requirements, to allow for a Corner Side Setback of fourteen and eight tenths (14.8) feet where twenty (20) feet is required, a variance of five and four tenths (5.4) feet.

Mulvaney calls the petitioner forward.

Andrew Cunningham with JPR Civil Engineering Consultants, located at 325 S Lafayette Boulevard, appears via WebEx on behalf of the petitioner.

Greg Conrad, President of Habitat for Humanity of Elkhart County, appears in person on behalf of the petitioner. Conrad says he is seeking the variance because it’s a part of a larger project. He states there is an existing home on the parcel, and rather than tear it down, it was decided to rehab the home. Conrad says a road will be built for another nine new homes on the parcel. The need for the setback arises because building a road will create a corner lot that will lead to the back of the home. Conrad says that if the road were moved, the lot would be lost, and there would not be enough room to build on the other side. The site plan for the rehabbed

home has already gone through preliminary approval. He then says that one of the Habitat partner families is working on the house with community volunteers to help the process and build the nine new homes as phase one of the latest development. Conrad says the project fits with the community, and Habitat is building several houses in the area.

Mulvaney asks for questions from the Board.

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

STAFF ANALYSIS

The petitioner wishes to vary from Section 5.4, Yard Requirements, to allow for a Corner Side Setback of fourteen and eight tenths (14.8) feet where twenty (20) feet is required, a variance of five and four tenths (5.4) feet.

This home is part of a new ten (10) lot subdivision on Homer Avenue for Habitat for Humanity that was presented this month to the Plan Commission. This home, built in 1975 on a +/- 3.5 acre parcel, is being incorporated into the new subdivision. Earlier this year Habitat for Humanity purchased the property and is in the process of renovating the home for a new partner family. This request is required because this home does not meet the corner side yard setback requirements for the new project.

The minimum corner side yard setback is twenty (20) feet. Because the subdivision is being developed around the existing structure and in order to meet the other minimum developmental requirements for new right of way widths that include new underground utilities as well as sidewalks, there was only 14.8 feet of side yard remaining. The graphics included in the packet depict the home as proposed in the subdivision (proposed Lot 6) as well as a blow up of the home on the new lot.

Staff supports the variance. This request and the overall proposed subdivision continue to provide much needed housing for the City of Elkhart.

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 home is existing and the variance is required because the new subdivision being developed around the home causing the hardship;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the structure is existing and the hardship is caused again by the new subdivision being developed around the home;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because a measure of relief is allowed when warranted;
4. Special conditions and circumstances do exist which are peculiar to the land involved because the home existed prior to the subdivision being developed;
5. The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property because without board action the property would not otherwise met the developmental requirements for the district;
6. The special conditions and circumstances do result from an action or inaction by the applicant. However, because of the nature of the overall project this variance could not be helped without jeopardizing the entire proposed subdivision. Modifying the other development requirements, to make this structure compliant, i.e. road right of way width, could potentially cause safety issues for other adjacent and future residents;
7. This property does not lie within a designated flood area.

Trotter states there were 30 letters mailed with zero returned.

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

Mulvaney calls for a motion.

Davis makes a motion to approve 24-BZA-17 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 Evanega Rieckhoff.

Davis – Yes
Evanega Rieckhoff – Yes
Leichtman – Yes
Mulvaney – Yes

Motion carries.

**24-BZA-18 PETITIONER IS ADEC INC
PROPERTY IS LOCATED AT 1205 MIDDLETON RUN ROAD**

To vary from the requirements found in Section 26.10, Sign Regulations, Table 1, to allow for an existing freestanding sign that is forty (40) square foot in area to be refaced where the maximum area is thirty two (32) square feet in area a variance of eight (8) square feet. To also vary from the requirements found in Section 26.10, Sign Regulations, Table 1, to allow for a new wall sign that is 79.05 square feet in area where the maximum area allowed is two (2) square feet (name and address only) a variance of 77.05 square feet.

Mulvaney calls the petitioner forward.

Todd Lehman with Signtech Sign Services, located at 1508 Bashor Road, appears in person on behalf of the petitioner. Lehman says that the property previously was the DAV on Middleton Run Road and was, most recently, the Middleton Run Road Community Event Center. He says the building is relatively large and has restrictions because it's zoned R-1. He then states that it's relatively familiar to architects because they like to incorporate coloring and logos. Lehman says ADEC is spending money on the exterior of the building, and part of that is because of the large logo on the building. Given the distance the building is from the road, he says the logo will look small when on Middleton Run Road because of the setback. For ADEC to get the architectural sign, the petitioner must go to the Board because two square feet is insignificant. He says the address on the building is bigger than two square feet.

Mulvaney asks for questions from the Board.

Evanega Rieckhoff asks Layman if the current property sign is the final one.

Layman replies no and that it'll have the same logo as ADEC. He does not believe the petitioner has created the design yet. A reface is not usually allowed, but given its size, it's doable.

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

STAFF ANALYSIS

ADEC Inc., the petitioners, are requesting a sign variance to replace the sign on the former Disabled American Veterans building. ADEC provides essential services to disabled members of the community and worked closely with City staff to locate in the former DAV building. This building allowed ADEC to locate here easily with little modifications to the existing layout.

Due to the site being zoned R-1, the sign regulations are very restrictive and don't align with the current use or the industrial character of this street. The strict application of this ordinance would prohibit ADEC from installing a sign that is consistent with the industrial zoning districts which neighbor the property.

Staff recommends approval of the variances to allow the repurposing of the former DAV site for this essential community service.

STAFF 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;

2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the request will allow for the installation of a sign that is consistent with industrial character of the area;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because it allows a measure of relief when uniquely warranted;
4. Special conditions and circumstances do exist that are peculiar to the land involved as the property is a nonresidential use located in a residential district;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property by depriving ADEC of a sign that is consistent with the character of the area;
6. The special conditions and circumstances do not result from any action or inaction by the applicant because this nonresidential use is located in an R-1 district with strict sign standards not consistent with the character of the area; and
7. This property does not lie within a designated flood area.

Ughetti states there were ten letters mailed, with one returned in favor with no comment.

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

Evanega Rieckhoff asks Trotter why the property is zoned R-1 and if it can be changed.

Trotter answers that the City annexed the property from the county. In the county, the property is an R-1 use in the special exception. When ADEC took over, the petitioner filed for a use variance to allow the use to occur in that building. Trotter says Staff felt that changing the zoning for the particular circumstance was inappropriate. The R-1 zoning special exception that allowed this was more closely similar to the uses than the commercial ones. Trotter says he should have considered the signage implications but was trying to work with them. He says sign regulations are for R-1 residential, but unfortunately, that is the reason for the variance.

Mulvaney states that it's the best use for the property without going industrial.

Trotter states that Staff anticipates the petitioner will be a longtime owner of that property.

Mulvaney calls for a motion.

Evanega Rieckhoff makes a motion to approve 24-BZA-18 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 Davis.

Davis – Yes

Evanega Rieckhoff – Yes

Leichtman – Yes

Mulvaney – Yes

Motion carries.

24-BZA-19 PETITIONER IS DAVID A NUFER LLC
PROPERTY IS LOCATED AT 2101-2111 S MAIN STREET

To vary from Section 13.4, Yard Requirements to allow for a new structure that is 3.60 (three and six tenths) feet from the front property line (Main Street) where 30 feet is required and 2.16 (two and sixteen hundredths) feet from the corner side yard (Lusher Avenue) where 30 feet is required, a variance of 26.4 and 27.84 feet respectively. To also vary from Section 26.7.C.7.1.ii. (b). (2) where 10 (ten) feet is required for a parking lot adjacent to a right of way to allow for 8.66 (eight and sixty six hundredths) feet for the new parking lot. To also vary from Section 26.7.C.7.1.ii. (a). (1) where a 4 (four) foot landscape strip is required to allow for 3.5 (three and five tenths) feet, a variance of .5 (five hundredths) feet. To also vary from Section 26.7.C.7.1.ii. (b). (2) to allow for the landscape strip along the Main Street frontage to be 3.60 (three and six tenths) feet where 10 feet is required and 2.16 (two and sixteen hundredths) feet along the Lusher Avenue frontage where 10 (ten) feet is required a variance of 6.4 (six and four tenths)

feet and 7.84 (seven and eighty four hundredths) feet respectively. To vary from Section 26.7.C.7.1.ii.(b).(2) to allow for the alley landscape strip to be 8.77 (eight and seventy seven hundredths) feet where 10 (ten) feet is required.

Mulvaney calls the petitioner forward.

Deborah Hughes with Surveying and Mapping, located at 2810 Dexter Drive, appears in person on behalf of the petitioner. Hughes says many dimensions are highlighted on the exhibit the Board has of the petitioner. She says there is a list of issues. One is that the building is close to the right-of-way line in an urban-style development similar to the existing buildings on the north side of Lusher Avenue. This is mainly due to the lot's narrow size, which is 121 feet, and the need for a parking lot on the rear. Hughes says there is the parking lot aisle, parking lot, parking space, sidewalk, and landscape strip. All have to fit within the space along with the 54-foot-wide building. So, what has been decided is to keep the parking spaces 20 feet long and the entire drive aisle width while burying the landscaping. There is also a north setback for the parking 8.6 feet, where 10 feet is needed. The landscape variance is all around the building to fit in that width. However, Hughes says that on the south side of the building, there is more than required landscaping to help make up for the shortage. There will be a large 22-foot-long landscape strip, plus additional landscaping on the far south edge of the property adjacent to residential use. Where there is space, there will be additional landscaping and landscape islands in the parking lot, too. She says those are the variances and why they are needed.

Mulvaney asks for questions from the Board.

Mulvaney opens for public comments to speak in favor. Seeing none, he opens for opposition.

Mary Krause appears in person in opposition to the petition. Krause says her concern is mainly traffic because she is a block from Main Street, and vehicles regularly pass her house at 60 MPH. She states that she goes through that intersection multiple times a day, and it's pretty intense. She says her fear is having cars coming and going from the laundromat. She also added that she had not received any information on the request and needed to know how the building would sit on the property or how the entrance and exits would work. Krause states that she knows a neighbor who lives close to her who had written in no, but she does not know about the rest of the neighborhood. She says she is concerned about safety, especially with cars and children entering and leaving the area. She says she saw this happen when she occasionally used the laundromat on the corner of Hively.

Leichtman asks Krause if they are concerned that a new business will increase traffic or are worried about where the building is being placed and whether that will obstruct views.

Krause replies that she is concerned about the increased traffic because she needs to know the view or where the building will be. She states that she grew up in her corner, which is an accident corner. She says she's unsure if anyone has surveyed how many accidents occur on that corner, even though she has lived through several.

Mulvaney states that the Board has a diagram that shows how the building will be set up. The building is set back, with the parking lot along the alley... (unintelligible, off mic). Here is the building; this is Main Street... (unintelligible, off mic). Most traffic will funnel out... (unintelligible, off mic).

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

STAFF ANALYSIS

The petitioner has recently purchased the parcels at the southwest corner of South Main Street and Lusher Avenue from the City of Elkhart Redevelopment Commission. The sale was conditioned on the petitioner developing a commercial space that follows traditional urban design, including small front setbacks for the main building and parking in the rear. All parcels are currently vacant. Petitioner is requesting variances for the front and corner side setbacks to allow new construction for a laundromat and additional retail space with frontage on South Main Street. Development is proposed with parking at the rear of the newly constructed building, which leaves little room for the building if required to stay within the 30-foot front and corner side setbacks. Approval of the request would allow a front building setback of 3.60 feet where 30 feet is required and a corner side building setback of 2.16 feet where 30 feet is required. The variance would also allow a parking pavement setback of 8.66 feet where 10 feet is required. Petitioner is also requesting variances for landscaping widths on the east (along South Main Street), north (along Lusher Avenue), and west (along the alley) borders of the parcel, and adjacent to the building on the west. Approval of the request would allow landscaping to be installed with the following widths:

- 3.60 feet between the building and right of way on South Main Street (10 feet required)
- 2.16 feet between the building and right of way on Lusher Avenue (10 feet required)
- 8.77 feet between the parking lot and the public alley (10 feet required)

- 3.50 feet between the building and the parking lot (4 feet required)
Staff recommends approval of this variance.

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 proposed uses provide beneficial services to residents and cater to the convenience of pedestrians accessing the site from South Main Street sidewalk;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the proposed development makes use of vacant land to provide new services to area residents;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance;
4. Special conditions and circumstances do exist that are peculiar to the land, since the size of the properties make it difficult to develop the desired uses with adequate interior floor space;
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 of the rights commonly enjoyed by other properties in the same area;
6. The special conditions and circumstances do not result from any action or inaction by the applicant, as the petitioner is proposing to develop the site as desired by the City RDC;
7. This property does not lie within a designated flood area.

Trotter states there were 35 letters mailed, with one returned in favor with no comment and one telephone call not in favor with the comment that the intersection is dangerous. The additional traffic will lead to more accidents.

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

Evanega Rieckhoff asks Trotter if there is ever a worry when a business is so close to the intersection if there are worries about cars jumping the curve, and if it could be done differently to have posted similar to ones in the River District.

Trotter answers that the property is located at a signalized intersection. Traffic volume and speed should not cause undue harm to people driving within reasonable speeds at that intersection.

Leichtman asks Trotter if people will be at risk when they leave the parking lot since the building will be so close to the road.

Trotter says it should not because it's so close to the signalized intersection that would allow people to get out.

Mulvaney calls for a motion.

Davis makes a motion to approve 24-BZA-19 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 Evanega Rieckhoff.

Davis – Yes

Evanega Rieckhoff – Yes

Leichtman – Yes

Mulvaney – Yes

Motion carries.

**24-X-06 PETITIONER IS REPUBLIC SERVICES (BROWNING FERRIS INDUSTRIES)
PROPERTY IS LOCATED AT 3300 CHARLOTTE AVENUE**

Per Section 18.3, Special Exception Uses in the M-1, Limited Manufacturing District, a special exception to allow for the replacement of a 10,000 gallon diesel fuel storage tank.

Mulvaney calls the petitioner forward.

Kathryn Johnson with Republic Services, located at 3300 Charlotte Avenue, appears in person on behalf of the petitioner. Johnson says that Republic Services is just looking for a tank replacement. It would be the same size but double-walled, whereas the current tank is single-walled with a containment area around it so that it would be inherently safer.

Mulvaney asks for questions from the Board.

Evanega Rieckhoff asks Johnson where the tank will be located.

Johnson answers that the tank will be in the same spot, so the old one will be decommissioned when the new one finally operates. The new tank will be 30 feet away from the current one.

Mulvaney asks Johnson how tall the current one that stands is.

Johnson answers that the current tank is vertical, so the new one will be about 20 feet tall. To continue to protect it, the new tank will also have a bollard around it.

Mulvaney asks...(unintelligible, off mic).

Johnson says the old tank will be decommissioned, meaning it will no longer exist.

Leichtman asks Johnson if the old tank will be taken down.

Johnson answers that the old tank will be gone.

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

STAFF ANALYSIS

The petitioner operates as a waste removal services provider throughout the City of Elkhart and occupies the subject parcel. Petitioner desires to replace the existing vertical 10,000 gallon above-ground diesel fuel storage tank that was previously approved by Elkhart County before the parcel was annexed into the City. The existing storage tank is approaching its life expectancy and should be replaced. Petitioner intends to replace the existing storage tank with a horizontal, double wall UL142 10,000 gallon above-ground fuel storage tank. The parcel is currently buffered from residential uses to the east (rear of the parcel) by deciduous trees and shrubs.

Permitted uses in the M-1 Limited Manufacturing District include "outside storage of liquids or gases in one or more tanks, where total volume of the tank(s) does not exceed 2000 gallons." (See Section 18.2.II) Strict adherence to zoning ordinance Section 18.2 would reduce the existing fuel capacity of 10,000 gallons to 2,000 gallons, which would greatly hinder the ability of the service provider to continue its current level of service in the City of Elkhart.

Staff recommends approval of this special exception.

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 it is a minor change to an already approved use;

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.

Ughetti states there were 24 letters mailed, with one returned in favor with no comment, and the request comes with a do-pass recommendation from the Plan Commission.

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

Mulvaney calls for a motion.

Evanega Rieckhoff makes a motion to approve 24-X-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 Davis.**

Davis – Yes

Evanega Rieckhoff – Yes

Leichtman – Yes

Mulvaney – Yes

Motion carries.

**24-UV-08 PETITIONER IS ELKHART COMMUNITY SCHOOLS
PROPERTY IS LOCATED AT 2424 CALIFORNIA ROAD**

To vary from Section 18.2, Permitted Uses in the M-1 District, a use variance to allow for an addition to the Career Center Building, part of the Elkhart High School Campus.

Mulvaney calls the petitioner forward.

Brian Sutanto with JPR Civil Engineering Consultants, located at 325 S Lafayette Boulevard, appears via WebEx on behalf of the petitioner. Sutanto says the petitioner requests permission to add to the Career Center building. The addition will improve the sidewalks in the proposed building, as well as the storm system, water management, and parking lot improvements. A retention basin will also be proposed south of the building, serving as the new addition's stormwater runoff.

Mulvaney asks for questions from the Board.

Mulvaney opens for public comments to speak in favor.

Tony Gianesi, Chief Operating Officer of Elkhart Community Schools, located at 1135 Kent Street, appears in person on behalf of the petitioner. Gianesi says they want to add to what Sutanto has said. He states that there has been an increase in the number of students in their district for students who wish to attend the Career Center. He says they are looking to add 200 additional spaces for students. The expansion will expand the criminal justice program housed inside the existing Career Center. The old space will be for a sports medicine space, and it will also be used for surgical tech. The expansion of the offerings will be similar to the health and strength center.

Seeing none, he opens for opposition. Seeing none, he closes the public portion of the meeting and calls staff forward.

STAFF ANALYSIS

The petitioner is requesting to vary from Section 18.2, Permitted Uses in the M-1 District, a use variance to allow an addition at the southeast corner of the Career Center for additional space serving the technology center. In addition, sidewalk improvements around the proposed building addition have been made along with storm water system management to accommodate parking lot improvements. A retention basin will be proposed to the south of the building addition, which will serve the new additions storm water runoff.

This property has an existing institutional building that serves Elkhart Community Schools as the Elkhart Area Technology Center. According to county records the current building on the property was constructed in 1973, and was built for its current use as a technology center and a local radio station broadcast center. In 2019, a use variance was granted to allow the Elkhart Community Schools Teenage Parent Program as a permitted use located in the technology center as a permitted use in the M-1, Limited Manufacturing District.

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 addition will be constructed to all current applicable building requirements;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the proposed use as additional classrooms for the technology centers activity will occur indoors and would be an asset as this facility serves the greater community school district;
3. The need for the variance does arise from some condition peculiar to the property involved because without board action the use would not be permitted;
4. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the site because the building was constructed for its current use whereon the addition will serve the same purpose;
5. The approval does comply with the Comprehensive Plan which calls for the area to be developed with institutional uses.

Ughetti states there were five letters mailed, with one returned in favor with no comment.

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

Mulvaney calls for a motion.

Davis makes a motion to approve 24-UV-08 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 Evanega Rieckhoff.

Davis – Yes

Evanega Rieckhoff – Yes

Leichtman – Yes

Mulvaney – Yes

Motion carries.

**24-UV-09 PETITIONER IS ELKHART COMMUNITY SCHOOLS
PROPERTY IS LOCATED AT 2411 AND 2439 COUNTY ROAD 10**

To vary from Section 18.2, Permitted Uses in the M-1 District, a use variance to allow for an addition to the Diesel Tech and Building Trades Buildings, part of the Elkhart High School Campus.

Mulvaney calls the petitioner forward.

Brian Sutanto with JPR Civil Engineering Consultants, located at 325 S Lafayette Boulevard, appears in person on behalf of the petitioner. Sutanto says they request an addition and improvements for the Diesel Tech and Building Trade Buildings. This would include a retention basin expansion and an increase in the current stormwater piping to accommodate the proposed development.

Tony Gianesi, Chief Operating Officer of Elkhart Community Schools, located at 1135 Kent Street, appears in person on behalf of the petitioner. Gianesi says they are requesting two additions for diesel tech and building trades because of the additional programming they seek to offer. The diesel tech building would be expanded to double the size of the work base to increase the number of diesel tech students and move auto trades into that building. This would open up room for new programs. This allows Elkhart Community Schools to increase their offerings in that building by creating more space. Currently, there is one small classroom in the construction and trades building. With the addition, there would be two additional classrooms to allow for expanded offerings.

Mulvaney asks for questions from the Board.

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

STAFF ANALYSIS

The petitioner is requesting to vary from Section 18.2, Permitted Uses in the M-1 District, a use variance to allow for an addition and improvements to be made to the Career Center Annex specifically the Diesel Tech and Building Trades. The proposed expansion of the current storm water retention basin and an increase to current storm water piping to the south of the site will accommodate the proposed development.

These properties contain multiple institutional buildings that serve the Elkhart Community School District as training facilities. According to county records these buildings were constructed over time from the 1970's through 2019. In 2020, both properties were annexed into the City of Elkhart – Ordinance 5812.

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 addition will be constructed to all current applicable building requirements;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the proposed development would be an asset for the community and the surrounding school district by increasing the quality of the use of the subject properties;
3. The need for the variance does arise from some condition peculiar to the property involved because without board action the use would not be permitted;
4. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the site because the buildings were constructed for their current use whereon the proposed development will serve the same purpose;
5. The approval does comply with the Comprehensive Plan which calls for the area to be developed with institutional uses.

Ughetti states there were 10 letters mailed with zero returned.

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

Mulvaney calls for a motion.

Evanega Rieckhoff makes a motion to approve 24-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; Second by Davis.

- Davis – Yes
- Evanega Rieckhoff – Yes
- Leichtman – Yes
- Mulvaney – Yes

Motion carries.

ADJOURNMENT

Davis makes motion to adjourn; Second by Evanega Rieckhoff. All are in favor and meeting is adjourned.

Doug Mulvaney, President

Ron Davis, Vice-President

STATE OF INDIANA
 COUNTY OF ELKHART
 In The Elkhart Juvenile Court
 SS:
 CAUSE NUMBER:
 20D06-2408-JC-000152
 IN THE MATTER OF:
 JA' REEM THOMAS
 DOB: 12/7/2023
 (Minor child)
 And
 DAMICIA THOMAS, Mother
 AND ANY UNKNOWN
 ALLEGED FATHERS
 (Parents)
 SUMMONS FOR SERVICE BY
 PUBLICATION & NOTICE OF
 CHILD IN NEED OF SERVICES
 HEARING TO: DAMICIA
 THOMAS AND ANY UN-
 KNOWN ALLEGED FATHERS
 NOTICE IS HEREBY GIVEN TO
 the above noted parent whose
 whereabouts are unknown, that
 the Indiana Department of Child
 Services has filed its Verified Peti-
 tion Alleging the child to be in
 Need of Services, in accordance
 with I.C. 31-34-9-3, and that an
 adjudication hearing has been
 scheduled with the Court. YOU
 ARE HEREBY COMMANDED to
 appear before the Magistrate of
 the Elkhart Juvenile Court, 315
 South Second Street, Elkhart, IN
 46516-3292 - 574-523-2244 for
 an Evidentiary Hearing on
 11/18/2024 at 9:30A.M. At said
 hearing, the Court will consider
 the Petition and evidence there-
 on and will render its decision as
 to whether the above-named
 minor child is a child in need of
 services and shall enter adjudica-
 tion accordingly. Your failure to
 appear after lawful notice will be
 deemed as your default and
 waiver to be present at said
 hearing. UPON ENTRY OF SAID
 ADJUDICATION, A DISPOSI-
 TIONAL HEARING will be held in
 which the Court will consider (1)
 Alternatives for the care, treat-
 ment, or rehabilitation for the
 child; (2) The necessity, nature,
 and extent of your participation in
 the program of care, treatment,
 or rehabilitation for the child; and
 (3) Your financial responsibility
 for any services provided for the
 parent, guardian or custodian of
 the child including child support.
 YOU MUST RESPOND by ap-
 pearing in person or by an attor-
 ney within thirty (30) days after
 the last publication of this notice,
 and in the event you fail to do so,
 an adjudication on said petition
 and a dispositional decree may
 be entered against you without
 further notice. Dated this 17th
 day of September, 2024. Chris-
 topher Anderson Clerk of Elkhart
 County Carrie D. Risner, 35815-
 37 Attorney, Indiana Department
 of Child Services, 1659 Mis-
 sawaka St., Elkhart, IN 46514
 Office: (574) 266-2401

HSPAXLP

STATE OF INDIANA
 COUNTY OF ELKHART
 In The Elkhart Juvenile Court
 SS:
 CAUSE NUMBER:
 20D06-2408-JC-000153
 IN THE MATTER OF:
 SORAYA CRUZ
 DOB: 12/15/2012
 (Minor child)
 And
 VERONICA CRUZ, Mother
 FRANCISCO RODRIGUEZ JR,
 FATHER
 (Parents)
 SUMMONS FOR SERVICE BY
 PUBLICATION & NOTICE OF
 CHILD IN NEED OF SERVICES
 HEARING TO: VERONICA
 CRUZ AND FRANCISCO
 RODRIGUEZ JR NOTICE IS
 HEREBY GIVEN TO the above
 noted parent whose where-
 abouts are unknown, that the In-
 diana Department of Child Ser-
 vices has filed its Verified Peti-
 tion Alleging the child to be in
 Need of Services, in accordance
 with I.C. 31-34-9-3, and that an
 adjudication hearing has been
 scheduled with the Court. YOU
 ARE HEREBY COMMANDED to
 appear before the Magistrate of
 the Elkhart Juvenile Court, 315
 South Second Street, Elkhart, IN
 46516-3292 - 574-523-2244 for
 an Evidentiary Hearing on
 11/18/2024 at 9:30A.M. At said
 hearing, the Court will consider
 the Petition and evidence there-
 on and will render its decision as
 to whether the above-named
 minor child is a child in need of
 services and shall enter adjudica-
 tion accordingly. Your failure to
 appear after lawful notice will be
 deemed as your default and
 waiver to be present at said
 hearing. UPON ENTRY OF SAID
 ADJUDICATION, A DISPOSI-
 TIONAL HEARING will be held in
 which the Court will consider (1)
 Alternatives for the care, treat-
 ment, or rehabilitation for the
 child; (2) The necessity, nature,
 and extent of your participation in
 the program of care, treatment,
 or rehabilitation for the child; and
 (3) Your financial responsibility
 for any services provided for the
 parent, guardian or custodian of
 the child including child support.
 YOU MUST RESPOND by ap-
 pearing in person or by an attor-
 ney within thirty (30) days after
 the last publication of this notice,
 and in the event you fail to do so,
 an adjudication on said petition
 and a dispositional decree may
 be entered against you without
 further notice. Dated this 17th
 day of September, 2024. Chris-
 topher Anderson Clerk of Elkhart
 County Carrie D. Risner, 35815-
 37 Attorney, Indiana Department
 of Child Services, 1659 Mis-
 sawaka St., Elkhart, IN 46514
 Office: (574) 266-2401

HSPAXLP

LEGAL NOTICE #24-BZA-28

Hearing on proposed Developmental Variance #24-BZA-28

NOTICE is hereby given that the City of Elkhart Board of Zoning Ap-
 peals will meet in the Council Chambers on the second floor of the
 Municipal Building, 229 South Second Street, Elkhart, Indiana on
THURSDAY, OCTOBER 10, 2024 at 6:00 P.M. concerning the follow-
 ing request:

A public hearing will be conducted on a Developmental Variance Peti-
 tion #24-BZA-28.

Petitioner: CSC PROPERTIES LLC

Request: To vary from Section 4.4, Yard Requirements to allow a
 new residential structure be built with a rear yard setback of thirty-one
 (31) feet where the established average setback for the block is sixty
 (60) feet, a variance of twenty-nine (29) feet.

The ordinance requires the established setback for the block be cal-
 culated to determine the rear yard setback if adjacent to river or
 creek.

Location: Vacant Lot North Riverside Drive - 700 Block

Zoning: R-1, One Family Dwelling District

This meeting can also be accessed via WebEx. To join, go to
<http://coei.webex.com>, enter 2317 077 1574 as the meeting number
 and "BZA2023" 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 hugo.rob-
 lesmadrigal@coei.org prior to the meeting.

LEGAL DESCRIPTION:
 LOT NUMBER 6 AS THE SAID LOT IS KNOWN AND DESIGNATED
 ON THE RECORDED PLAT OF SUBDIVISION OF THE DAVEN-
 PORT AND BEARDSLEY FLOURING MILL PROPERTY, AN ADDI-
 TION TO THE CITY OF ELKHART, SAID PLAT BEING RECORDED
 IN DEED RECORD 111, PAGE 487 IN THE OFFICE OF THE RE-
 CORDER OF ELKHART COUNTY, INDIANA.

Arguments for and against the granting of the above designated peti-
 tion 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 September, 2024, by the
 City of Elkhart, Board of Zoning Appeals.

Publication Date: September 27, 2024

HSPAXLP

LEGAL NOTICE #24-UV-11

Hearing on proposed Use Variance #24-UV-11

NOTICE is hereby given that the City of Elkhart Board of Zoning Ap-
 peals will meet in the Council Chambers on the second floor of the
 Municipal Building, 229 South Second Street, Elkhart, Indiana on
THURSDAY, OCTOBER 10, 2024 at 6:00 P.M. concerning the follow-
 ing request:

A public hearing will be conducted on a Developmental Variance Peti-
 tion #24-UV-11.

Petitioner: LUMAAN LLC

Request: To vary from Section 5.2, Permitted Uses to allow for a two
 family dwelling. Two family dwellings are not permitted by right in the
 R-2 district.

Location: 707 Christian 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 2317 077 1574 as the meeting number
 and "BZA2023" 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 hugo.rob-
 lesmadrigal@coei.org prior to the meeting.

LEGAL DESCRIPTION:
 Lot Number Two Hundred Twenty-one (221) as the said lot is known
 and designated on the recorded plat of Southdale Sixth, and addition to
 the City of Elkhart, Indiana; said plat being recorded in Plat Book 8,
 page 89 in the Office of the Recorder of Elkhart County, State of Indi-
 ana.

Commonly known as: 707 Christian Avenue, Elkhart, IN 46517-1841

State Parcel Number: 20-06-17-179-013.000-012

Arguments for and against the granting of the above designated peti-
 tion 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 September, 2024, by the
 City of Elkhart, Board of Zoning Appeals.

Publication Date: September 27, 2024

HSPAXLP

LEGAL NOTICE #24-BZA-27

Hearing on proposed Developmental Variance #24-BZA-27

NOTICE is hereby given that the City of Elkhart Board of Zoning Ap-
 peals will meet in the Council Chambers on the second floor of the
 Municipal Building, 229 South Second Street, Elkhart, Indiana on
THURSDAY, OCTOBER 10, 2024 at 6:00 P.M. concerning the follow-
 ing request:

A public hearing will be conducted on a Developmental Variance Peti-
 tion #24-BZA-27.

Petitioner: Community Wide Federal Credit Union

Request: To vary from Section 26.10.D, Sign Regulations - Table 1,
 that permits a free-standing sign up to 50 square feet in area with up
 to 50% of the sign area as changeable copy, to allow for a new monu-
 ment sign that is 32 square feet with a changeable copy (LED screen)
 that is 27 square feet in area, variance of 11 square feet for the
 changeable copy. To also vary from Section 26.10.D.4.c.ii, Free
 Standing Sign Increases, which states in part, "The permitted height of
 a free-standing sign may be increased at the rate of one (1) foot for
 every two (2) feet the sign is located in excess of the required five (5)
 feet minimum distance from the right of way," to allow for a sign that is
 7'11" in height at the minimum five (5) foot setback where six (6) feet
 is allowed, a variance of 1'11".

Location: 2110 Cassopolis Street

Zoning: B-3, Service Business District

This meeting can also be accessed via WebEx. To join, go to
<http://coei.webex.com>, enter 2317 077 1574 as the meeting number
 and "BZA2023" 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 hugo.rob-
 lesmadrigal@coei.org prior to the meeting.

LEGAL DESCRIPTION:
 LOT 2C AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE
 RECORDED PLAT OF THE REPLAT OF LOT 2 AND A PORTION
 OF LOT 1, TUFF MINOR SUBDIVISION, RECORDED IN PLAT
 BOOK 32, PAGE 14, OF THE RECORDS OF ELKHART COUNTY
 RECORDER.

Arguments for and against the granting of the above designated peti-
 tion 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 September, 2024, by the
 City of Elkhart, Board of Zoning Appeals.

Publication Date: September 27, 2024

HSPAXLP

LEGAL NOTICE #24-BZA-24

Hearing on proposed Developmental Variance #24-BZA-24

NOTICE is hereby given that the City of Elkhart Board of Zoning Ap-
 peals will meet in the Council Chambers on the second floor of the
 Municipal Building, 229 South Second Street, Elkhart, Indiana on
THURSDAY, OCTOBER 10, 2024 at 6:00 P.M. concerning the follow-
 ing request:

A public hearing will be conducted on a Developmental Variance Peti-
 tion #24-BZA-24.

Petitioner: Maridean Haydon

Request: To vary from Section 26.4.B.2, Fences Permitted in Resid-
 ential 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 in-
 stalled: 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 (Ward Street frontage) without
 benefit of permit to remain.

Location: 1022 Strong 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 2317 077 1574 as the meeting number
 and "BZA2023" 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 hugo.rob-
 lesmadrigal@coei.org prior to the meeting.

LEGAL DESCRIPTION:
 Lot Numbered Eighty-one (81) and the West Eleven (11) feet of Lot
 Numbered Eighty-two (82) as the said Lot is known and designated on
 the recorded Plat of S.S Strong's Riverside Addition to the city of
 Elkhart; said Plat being recorded in Deed Record 42, page 214 in the
 Office of the Recorder of Elkhart County, Indiana.

ALSO, that part of Ward Street which has been vacated, lying adja-
 cent to and West of Lot Numbered Eighty-one (81) aforesaid.

Arguments for and against the granting of the above designated peti-
 tion 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 September, 2024, by the
 City of Elkhart, Board of Zoning Appeals.

Publication Date: September 27, 2024

HSPAXLP

LEGAL NOTICE #24-X-08

Hearing on proposed Special Exception #24-X-08

NOTICE is hereby given that the City of Elkhart Board of Zoning Ap-
 peals will meet in the Council Chambers on the second floor of the
 Municipal Building, 229 South Second Street, Elkhart, Indiana on
THURSDAY, OCTOBER 10, 2024 at 6:00 P.M. concerning the follow-
 ing request:

A public hearing will be conducted on a Developmental Variance Peti-
 tion #24-X-08.

Petitioner: Francisco Sesmas

Request: A Special Exception per Section 5.3, Special Exception
 Uses in the R-2, One-Family Dwelling District, to allow for a Day Care
 Center.

Location: 2022 Benham 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 2317 077 1574 as the meeting number
 and "BZA2023" 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 hugo.rob-

LEGAL NOTICE #24-BZA-25

Hearing on proposed Developmental Variance #24-BZA-25

NOTICE is hereby given that the City of Elkhart Board of Zoning Ap-
 peals will meet in the Council Chambers on the second floor of the
 Municipal Building, 229 South Second Street, Elkhart, Indiana on
THURSDAY, OCTOBER 10, 2024 at 6:00 P.M. concerning the follow-
 ing request:

A public hearing will be conducted on a Developmental Variance Peti-
 tion #24-BZA-25.

Petitioner: Lazard Jalader

Request: To vary from Section 8.5, Yard Requirements to allow for a
 property with an established lot size of 5,535 square feet and lot front-
 age of 45 feet to be converted to a three family dwelling which does
 not meet minimum development standard for such a conversion. The
 minimum lot size for the conversion to a three family dwelling is
 10,000 square feet and a lot frontage of 60 feet, therefore a variance
 of 4,465 square feet for the lot area and 15 feet for the lot frontage is
 required.

The petitioner would like to convert the structure from a one family
 dwelling to a three family dwelling - the proposed use is permitted.

Location: 506 West Lexington Avenue

Zoning: R-5, Urban Residential District

CAREERS
 ARE MADE IN
 THE CLASSIFIEDS!
 Classifieds
 Work!
 FIND
 ONE
 TODAY!

2000 PROFESSIONAL SERVICE DIRECTORY

#1 BRIAN'S TREE SERVICE
 Tree/Stump Removal,
 Trimming,
 75' bucket
 Free Estimate. Fast Service.
 Insured
 Call 266-8495 or 215-8108

WILLIS TRASH
 Residential & Commercial
 Dumpsters, Bobcat,
 Burn Barrels
 Call 293-2937 or 295-8052

LEGAL NOTICE #23-WT-01 - Rehearing/Reconsideration

Hearing on proposed Wireless Tower #23-WT-01 - Rehearing/Re-
 consideration

NOTICE is hereby given that the City of Elkhart Board of Zoning Ap-
 peals will meet in the Council Chambers on the second floor of the
 Municipal Building, 229 South Second Street, Elkhart, Indiana on
THURSDAY, OCTOBER 10, 2024 at 6:00 P.M. concerning the follow-
 ing request:

A public hearing will be conducted on a Wireless Tower Petition #23-
 WT-01 - Rehearing/Reconsideration.

Petitioner: Heidi Gaskill Trustee of the Heidi Gaskill Revocable Trust

Request: On September 6, 2024, the United States District Court,
 Northern District of Indiana, South Bend Division, has remanded the
 Wireless Tower request at 3424 E. Bristol Street, back to the Elkhart
 City Board of Zoning Appeals for reconsideration. The request is as
 follows: To vary from Section 4.2, Permitted Use in the R-1, One-
 Family Dwelling District to allow for the installation of a new wireless
 communication facility (cellular tower) that is one hundred thirty-five
 foot 135 feet in height.

Location: 3424 EAST BRISTOL STREET

Zoning: R-1, One Family Dwelling District

This meeting can also be accessed via WebEx. To join, go to
<http://coei.webex.com>, enter 2317 077 1574 as the meeting
 number and "BZA2023" 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 hugo.rob-
 lesmadrigal@coei.org prior to the meeting.

LEGAL DESCRIPTION:
 A part of the Northwest Quarter (1/4) of Section 35, Township 38
 North, Range 5 East, more particularly described as follows:
 Commencing at a stone at the Southwest corner of said quarter (1/4)
 Section; thence Eastwardly along the South line of said quarter (1/4)
 with the East line of the West Half (1/2) of said quarter (1/4) section
 200 feet to an iron stake for the beginning point of this description;
 thence Northwardly parallel with the East line of the West Half (1/2)
 of said quarter (1/4) section 100 feet to an iron stake; thence East-
 wardly parallel with the South line of said quarter (1/4) section 350
 feet to an iron stake on the East line of the West Half (1/2) of said
 quarter (1/4) section; thence Southwardly along the East line of the

to whether the above-named minor child is a child in need of services and shall enter adjudication accordingly. Your failure to appear after lawful notice will be deemed as your default and waiver to be present at said hearing. UPON ENTRY OF SAID ADJUDICATION, A DISPOSITIONAL HEARING will be held in which the Court will consider (1) Alternatives for the care, treatment, or rehabilitation for the child; (2) The necessity, nature, and extent of your participation in the program of care, treatment, or rehabilitation for the child; and (3) Your financial responsibility for any services provided for the parent, guardian or custodian of the child including child support. YOU MUST RESPOND by appearing in person or by an attorney within thirty (30) days after the last publication of this notice, and in the event you fail to do so, an adjudication on said petition and a dispositional decree may be entered against you without further notice. Dated this 17th day of September, 2024. Christopher Anderson Clerk of Elkhart County Carrie D. Risner, 35815-37 Attorney, Indiana Department of Child Services, 1659 Mishawaka St., Elkhart, IN 46514 Office: (574) 266-2401

HSPAXLP

to whether the above-named minor child is a child in need of services and shall enter adjudication accordingly. Your failure to appear after lawful notice will be deemed as your default and waiver to be present at said hearing. UPON ENTRY OF SAID ADJUDICATION, A DISPOSITIONAL HEARING will be held in which the Court will consider (1) Alternatives for the care, treatment, or rehabilitation for the child; (2) The necessity, nature, and extent of your participation in the program of care, treatment, or rehabilitation for the child; and (3) Your financial responsibility for any services provided for the parent, guardian or custodian of the child including child support. YOU MUST RESPOND by appearing in person or by an attorney within thirty (30) days after the last publication of this notice, and in the event you fail to do so, an adjudication on said petition and a dispositional decree may be entered against you without further notice. Dated this 17th day of September, 2024. Christopher Anderson Clerk of Elkhart County Carrie D. Risner, 35815-37 Attorney, Indiana Department of Child Services, 1659 Mishawaka St., Elkhart, IN 46514 Office: (574) 266-2401

HSPAXLP

IN DEED RECORD 111, PAGE 487 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 September, 2024, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: September 27, 2024

HSPAXLP

LEGAL NOTICE #24-BZA-27

Hearing on proposed Developmental Variance #24-BZA-27

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, OCTOBER 10, 2024 at 6:00 P.M. concerning the following request:

A public hearing will be conducted on a Developmental Variance Petition #24-BZA-27.

Petitioner: Community Wide Federal Credit Union

Request: To vary from Section 26.10.D, Sign Regulations – Table 1, that permits a free-standing sign up to 50 square feet in area with up to 50% of the sign area as changeable copy, to allow for a new monument sign that is 32 square feet with a changeable copy (LED screen) that is 27 square feet in area, variance of 11 square feet for the changeable copy. To also vary from Section 26.10.D.4.c.ii, Free Standing Sign Increases, which states in part, 'The permitted height of a free-standing sign may be increased at the rate of one (1) foot for every two (2) feet the sign is located in excess of the required five (5) feet minimum distance from the right of way,' to allow for a sign that is 7'11" in height at the minimum five (5) foot setback where six (6) feet is allowed, a variance of 1'11".

Location: 2110 Cassopolis Street

Zoning: B-3, Service Business District

This meeting can also be accessed via WebEx. To join, go to <http://coei.webex.com>, enter 2317 077 1574 as the meeting number and "BZA2023" 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 hugo.roblesmadrigal@coei.org prior to the meeting.

LEGAL DESCRIPTION:

LOT 2C AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF THE REPLAT OF LOT 2 AND A PORTION OF LOT 1, TUFF MINOR SUBDIVISION, RECORDED IN PLAT BOOK 32, PAGE 14, OF THE RECORDS OF ELKHART COUNTY RECORDER.

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 September, 2024, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: September 27, 2024

HSPAXLP

LEGAL NOTICE #24-X-08

Hearing on proposed Special Exception #24-X-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, OCTOBER 10, 2024 at 6:00 P.M. concerning the following request:

A public hearing will be conducted on a Developmental Variance Petition #24-X-08.

Petitioner: Francisco Sesmas

Request: A Special Exception per Section 5.3, Special Exception Uses in the R-2, One-Family Dwelling District, to allow for a Day Care Center.

Location: 2022 Benham 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 2317 077 1574 as the meeting number and "BZA2023" 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 hugo.roblesmadrigal@coei.org prior to the meeting.

LEGAL DESCRIPTION:

A PART OF THE SOUTHEAST QUARTER (SE1/4) OF SECTION EIGHT (8), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE FIVE (5) EAST, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT THAT IS TWO HUNDRED THIRTY-NINE (239) FEET SOUTH OF THE SOUTHEAST CORNER OF BENHAM AVE. AND HUBBARD AVENUE IN THE CITY OF ELKHART, INDIANA; THENCE EAST PARALLEL WITH THE SOUTH LINE OF HUBBARD AVE. ONE HUNDRED TWENTY SIX (126) FEET; THENCE SOUTH PARALLEL WITH THE EAST LINE OF BENHAM AVE. SIXTY (60) FEET; THENCE WEST PARALLEL WITH THE SOUTH LINE OF HUBBARD AVENUE,

ONE HUNDRED TWENTY-SIX (126) FEET; THENCE NORTH ALONG THE EAST LINE OF BENHAM AVENUE, SIXTY (60) FEET TO THE PLACE OF BEGINNING.

ALSO KNOWN AS PART OF LOTS NUMBERED EIGHT (8) AND (9) IN WOLF'S SIXTH UNRECORDED ADDITION.

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 September, 2024, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: September 27, 2024

HSPAXLP

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 September, 2024, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: September 27, 2024

HSPAXLP

LEGAL NOTICE #24-BZA-24

Hearing on proposed Developmental Variance #24-BZA-24

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, OCTOBER 10, 2024 at 6:00 P.M. concerning the following request:

A public hearing will be conducted on a Developmental Variance Petition #24-BZA-24.

Petitioner: Maridean Haydon

Request: 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 (Ward Street frontage) without benefit of permit to remain.

Location: 1022 Strong 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 2317 077 1574 as the meeting number and "BZA2023" 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 hugo.roblesmadrigal@coei.org prior to the meeting.

LEGAL DESCRIPTION:

Lot Numbered Eighty-one (81) and the West Eleven (11) feet of Lot Numbered Eighty-two (82) as the said Lot is known and designated on the recorded Plat of S.S Strong's Riverside Addition to the city of Elkhart; said Plat being recorded in Deed Record 42, page 214 in the Office of the Recorder of Elkhart County, Indiana.

ALSO, that part of Ward Street which has been vacated, lying adjacent to and West of Lot Numbered Eighty-one (81) aforesaid.

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 September, 2024, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: September 27, 2024

HSPAXLP

LEGAL NOTICE #24-BZA-25

Hearing on proposed Developmental Variance #24-BZA-25

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, OCTOBER 10, 2024 at 6:00 P.M. concerning the following request:

A public hearing will be conducted on a Developmental Variance Petition #24-BZA-25.

Petitioner: Lazard Jalader

Request: To vary from Section 8.5, Yard Requirements to allow for a property with an established lot size of 5,535 square feet and lot frontage of 45 feet to be converted to a three family dwelling which does not meet minimum development standard for such a conversion. The minimum lot size for the conversion to a three family dwelling is 10,000 square feet and a lot frontage of 60 feet, therefore a variance of 4,465 square feet for the lot area and 15 feet for the lot frontage is required.

The petitioner would like to convert the structure from a one family dwelling to a three family dwelling – the proposed use is permitted.

Location: 506 West Lexington Avenue

Zoning: R-5, Urban Residential District

This meeting can also be accessed via WebEx. To join, go to <http://coei.webex.com>, enter 2317 077 1574 as the meeting number and "BZA2023" 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 hugo.roblesmadrigal@coei.org prior to the meeting.

LEGAL DESCRIPTION:

THE WEST TWENTY-SIX (26) FEET OF LOT NUMBERED ONE HUNDRED SIXTY-TWO (162) AND THE EAST NINETEEN (19) FEET OF LOT NUMBERED ONE HUNDRED SIXTY-THREE (163) AS THE SAID LOTS ARE KNOWN AND DESIGNATED ON THE RECORDED PLAT OF FIELDHOUSE'S FOURTH ADDITION TO THE CITY OF ELKHART; ELKHART COUNTY, INDIANA, SAID PLAT BEING RECORDED IN PLAT BOOK 1, PAGE 129, 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 September, 2024, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: September 27, 2024

HSPAXLP

People Do Read Small Ads. You Did!

CAREERS ARE MADE IN THE CLASSIFIEDS!



Classifieds Work!
FIND ONE TODAY!

2000 PROFESSIONAL SERVICE DIRECTORY

#1 BRIAN'S TREE SERVICE
Tree/Stump Removal,
Trimming,
75' bucket
Free Estimate. Fast Service.
Insured
Call 266-8495 or 215-8108

WILLIS TRASH
Residential & Commercial
Dumpsters, Bobcat,
Burn Barrels
Call 293-2937 or 295-8052

LEGAL NOTICE #23-WT-01 - Rehearing/Reconsideration

Hearing on proposed Wireless Tower #23-WT-01 – Rehearing/Reconsideration

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, OCTOBER 10, 2024 at 6:00 P.M. concerning the following request:

A public hearing will be conducted on a Wireless Tower Petition #23-WT-01 – Rehearing/Reconsideration.

Petitioner: Heidi Gaskill Trustee of the Heidi Gaskill Revocable Trust

Request: On September 6, 2024, the United States District Court, Northern District of Indiana, South Bend Division, has remanded the Wireless Tower request at 3424 E. Bristol Street, back to the Elkhart City Board of Zoning Appeals for reconsideration. The request is as follows: To vary from Section 4.2, Permitted Use in the R-1, One-Family Dwelling District to allow for the installation of a new wireless communication facility (cellular tower) that is one hundred thirty-five foot 135 feet in height.

Location: 3424 EAST BRISTOL STREET

Zoning: R-1, One Family Dwelling District

This meeting can also be accessed via WebEx. To join, go to <http://coei.webex.com>, enter 2317 077 1574 as the meeting number and "BZA2023" 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 hugo.roblesmadrigal@coei.org prior to the meeting.

LEGAL DESCRIPTION:

A part of the Northwest Quarter (1/4) of Section 35, Township 38 North, Range 5 East, more particularly described as follows:

Commencing at a stone at the Southwest corner of said quarter (1/4) Section; thence Eastwardly along the South line of said quarter (1/4) with the East line of the West Half (1/2) of said quarter (1/4) section 200 feet to an iron stake for the beginning point of this description; thence Northwardly parallel with the East line of the West Half (1/2) of said quarter (1/4) section 100 feet to an iron stake; thence Eastwardly parallel with the South line of said quarter (1/4) section 350 feet to an iron stake on the East line of the West Half (1/2) of said quarter (1/4) section; thence Southwardly along the East line of the West Half (1/2) of said quarter (1/4) section 100 feet to an iron stake, thence Westwardly parallel with the South line of said quarter (1/4) section 350 feet to the Place of Beginning; containing 0.8 of an acre, more or less.

ALSO, the right of the grantor, his heirs and assigns to use the following described 50 foot easement as a means of ingress and egress to an [sic] from the above described real estate;

A part of the Northwest Quarter (1/4) of Section 35, Township 38 North, Range 5 East, more particularly described as follows: Commencing at a stone at the southwest corner of said quarter (1/4) section; thence Eastwardly along the South line of said quarter (1/4) section 978.73 feet to a railroad spike for the beginning point of this description; thence Northwardly parallel with the East line of the West Half (1/2) of said quarter (1/4) section 300 feet to an iron stake; thence Westwardly parallel with the South line of said quarter (1/4) section 50.01 feet; thence Southwardly parallel with the East line of the West Half (1/2) of said quarter (1/4) section 300 feet to the South line of said quarter (1/4) section; thence Eastwardly along the South line of said quarter (1/4) section 50.01 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 September, 2024, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: September 27, 2024

HSPAXLP

LEGAL NOTICE #24-FSP-05

Hearing on proposed Final Site Plan #24-FSP-05
NOTICE is hereby given that the City of Elkhart Plan Commission will meet in the Council Chambers on the second floor of the Municipal Building, 229 South Second Street, Elkhart, Indiana on MONDAY, OCTOBER 7, 2024, at 1:45 P.M. concerning the following request:
A public hearing will be conducted on Final Site Plan #24-FSP-05.
Petitioner: 3220 Southview Drive
Request: As required by Section 20.10.B seeking approval for an Amendment to a Final Site Plan for up to an additional twenty-seven (27) parking spaces for a proposed veterinary clinic at 3220 Southview Drive.
Location: 3220 Southview Drive
Zoning: PUD, Planned Unit Development

This meeting can also be accessed via WebEx. Virtual attendance is strongly encouraged but not mandatory; however, City Hall is open for in-person participation. To join, go to https://signin.webex.com/join, enter 2303 497 4702 as the meeting number and "Plan2024" 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 Carla.Lipsey@coei.org prior to the meeting.

LEGAL DESCRIPTION:

LOT TWELVE (12) AS SHOWN ON THE PLAT OF NORTHPOINTE SECOND, AS RECORDED IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY IN PLAT BOOK 19, PAGE 19.

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 Commission, 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 19th day of September 2024, by the City of Elkhart, Plan Commission.

HSPAXLP

LEGAL NOTICE #24-Z-07

Hearing on proposed Rezoning #24-Z-07
NOTICE is hereby given that the City of Elkhart Plan Commission will meet in the Council Chambers on the second floor of the Municipal Building, 229 South Second Street, Elkhart, Indiana on MONDAY, OCTOBER 7, 2024 at 1:45 P.M. concerning the following request:
A public hearing will be conducted on Rezoning #24-Z-07.
Petitioner: R B Realty LLC
Request: Per Section 29.11.B, Map Amendments, a request to rezone 2520 and 2526 Bypass Road (05-01-426-007 and 05-01-401-011) from M-1, Limited Manufacturing District to R-4, Multiple Family Dwelling District.
Location: 2520 and 2526 Bypass Road
Zoning: M-1, Limited Manufacturing District

This meeting can also be accessed via WebEx. Virtual attendance is strongly encouraged but not mandatory; however, City Hall is open for in-person participation. To join, go to https://signin.webex.com/join, enter 2303 497 4702 as the meeting number and "Plan2024" 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 Carla.Lipsey@coei.org prior to the meeting.

LEGAL DESCRIPTION:

TRACT I: A part of Section 1, Township 37 North, Range 4 East, Second Principal Meridian, Cleveland Township, Elkhart County, Indiana, more particularly described as follows:

Commencing at a 1" iron pipe that is 1212.7 feet South and 1.57 chains West (103.62 feet) of the Northwest corner of the Southwest Quarter of the Northeast Quarter of said Section 1; thence South 0 degrees 1 minute 36 seconds West, a distance of 916.80 feet to a point on the centerline of Indiana State Highway 112; thence South 89 degrees 26 minutes 0 seconds East along said centerline, a distance of 509 feet to the point of beginning of this description; thence continuing East along said line, a distance of 400 feet; thence North 0 degrees 0 minutes 36 seconds East, a distance of 50 feet to an iron pipe on the North right-of-way said Indiana State Highway 112; thence South 89 degrees 26 minutes 0 seconds East along said North right-of-way, a distance of 100.40 feet to an iron rebar with cap (Doriot #890028); thence North 0 degrees 54 minutes 22 seconds East, a distance of 768.10 feet to a point on the North line of the Southeast Quarter of said Section 1; continuing North along said line, a distance of 107.31 feet; thence North 89 degrees 55 minutes 2 seconds West, a distance of 514.07 feet to an iron pipe; thence South 0 degrees 0 minutes 36 seconds West, a distance of 107.30 feet to a point on the North line of the Southeast Quarter of said Section 1; thence continuing South along said line, a distance of 813.80 feet to the point of beginning; said described tract containing 10.63 acres, more or less.

EXCEPTING THEREFROM: A part of that tract of land conveyed to Skyline Corporation, as described in Deed Record 97-000017, Elkhart County Recorder, and lying in Section 1, Township 37 North Range 4 East, Cleveland Township, Elkhart County, Indiana, more particularly described as follows:

Commencing at a 1" iron pipe that is 1212.7 feet South and 1.57 chains West (103.62 feet) of the northwest corner of the Southwest Quarter of the Northeast Quarter of said Section 1 (record dimension per said Skyline Corporation land); thence South 0'01'36" West, a distance of 916.80 feet to a point on the centerline of Indiana State Highway 112 (record dimension per said Skyline Corporation land); thence South 89'26'00" East along said centerline, a distance of 509.00 feet (record dimension per said Skyline Corporation land) to the Point of Beginning of this description and being the southwest corner of said Skyline Corporation land; thence North 89'25'06" East along said centerline 400.00 feet; thence North 01'08'18" East 50.00 feet to an iron pipe on the north right-of-way line of said Indiana State Highway 112; thence North 89'25'06" East along said north right-of-way 100.40 feet to an iron rebar with cap (Doriot #890028) marking the southeast corner of said Skyline Corporation land; thence North 00'14'32" West 603.5 feet, passing a rebar with cap (Musser #9700002) at 597.00 feet, to the edge of water; thence northwesterly, along the southerly edge of water, 506 feet to a point lying North 01'08'18" West 925.63 feet and North 89'18'14" East 94.23 feet from the point of beginning and being on a line 107.3 feet northerly of the East-West Half Section line of said Section 1; thence South 89'18'14" West 94.23 feet to a rebar with cap (Musser #9700002) marking the northwest corner of said Skyline Corporation land; thence South 01'08'18" East 925.63 feet to the point of beginning. Containing 9.11 acres more or less.

TRACT II: A part of Section 1, Township 37 North, Range 4 East, Second Principal Meridian, Cleveland Township, Elkhart County, Indiana, more particularly described as follows: Commencing at a 1" iron pipe that is 1212.7 feet South and 1.57 chains West (103.62 feet) of the Northwest corner of the Southwest Quarter of the Northeast Quarter of said Section 1; thence South 0 degrees 1 minute 36 seconds West, a distance of 916.80 feet to a point on the centerline of Indiana State Highway 112; thence South 89 degrees 26 minutes 0 seconds East along said centerline, a distance of 509 feet to the point of beginning of this description; thence continuing East along said line, a distance of 400 feet; thence North 0 degrees 0 minutes 36 seconds East, a distance of 50 feet to an iron pipe on the North right-of-way said Indiana State Highway 112; thence South 89 degrees 26 minutes 0 seconds East along said North right-of-way, a distance of 100.40 feet to an iron rebar with cap (Doriot #890028); thence North 0 degrees 54 minutes 22 seconds East, a distance of 768.10 feet to a point on the North line of the Southeast Quarter of said Section 1; continuing North along said line, a distance of 107.31 feet; thence North 89 degrees 55 minutes 2 seconds West, a distance of 514.07 feet to an iron pipe; thence South 0 degrees 0 minutes 36 seconds West, a distance of 107.30 feet to a point on the North line of the Southeast Quarter of said Section 1; thence continuing South along said line, a distance of 813.80 feet to the point of beginning; said described tract containing 10.63 acres, more or less.

2000 PROFESSIONAL SERVICE DIRECTORY

A-1 Affordable Construction
New Kitchen & Bath Remodels, Interior Trim & Painting, New Room Additions, All Your Home Improvement Needs. Insured. 25+ yrs experience. Call (574) 206-6670

A-1 AFFORDABLE ROOFING
Licensed/insured. Free estimates. 10% senior discount. Call (574) 206-6670

All Around Handyman Services
Pressure Washing Decks, Patios, Exterior Gutter Cleaning & In and Out Repairs. (574) 993-0337 (269) 462-3121

2000 PROFESSIONAL SERVICE DIRECTORY

BALDWIN PAINTING
Family Painting Business looking for opportunities to serve Free Estimates Call (574)294-3348/361-0830

J & A ROOFING
FAMILY OWNED LOCAL, RELIABLE, HONEST 15 YRS+ EXPERIENCE ROOF REPAIR, REPLACEMENT & MORE SR./VETERAN DISCOUNT WE WILL MEET OR BEAT ANY LEGIT OFFER! CALL/TEXT FOR A FREE QUOTE & INSPECTION 574-215-2737

LEGAL NOTICE #24-FSP-06

Hearing on proposed Final Site Plan #24-FSP-06
NOTICE is hereby given that the City of Elkhart Plan Commission will meet in the Council Chambers on the second floor of the Municipal Building, 229 South Second Street, Elkhart, Indiana on MONDAY, October 7, 2024 at 1:45 P.M. concerning the following request:
A public hearing will be conducted on Final Site Plan #24-FSP-06
Petitioner: A and L Properties, Inc. & Kyle Miller Ten Com
Request: As required by Section 20.7.B seeking approval for a Final Site Plan for a new 27,604 sq. ft. commercial building with associated parking on Lot 14 of the Parkway at 17 development.
Location: Lot 14 of Parkway at 17 - currently vacant
Zoning: GPUD, General Planned Unit Development - B-3 standards

This meeting can also be accessed via WebEx. Virtual attendance is strongly encouraged but not mandatory; however, City Hall is open for in-person participation. To join, go to http://coei.webex.com, enter 2303 497 4702 as the meeting number and "Plan2024" 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 Carla.Lipsey@coei.org prior to the meeting.

LEGAL DESCRIPTION:

Lot Numbered Fourteen (14) as shown on the plat of Parkway at 17 DPUD-Phase IV recorded October 23, 2015, in the Office of the Recorder of Elkhart County, Indiana, as Instrument No. 2015-22029 and recorded in Plat Book 36, page 6.

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 Commission, 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 19th day of September, by the City of Elkhart, Plan Commission.

HSPAXLP

NOTICE OF DETERMINATION OF THE ELKHART COMMUNITY SCHOOLS, ELKHART COUNTY, INDIANA, TO ENTER INTO A PROPOSED FIRST AMENDMENT TO LEASE OF CERTAIN FACILITIES OPERATED BY THE SCHOOL CORPORATION (2024B Multi-Facility Renovation and Update and Bus/Vehicle Purchase Project and 2024C Multi-Facility Renovation and Update and Curricular Materials Purchase Project)
The taxpayers of the Elkhart Community Schools, Elkhart County, Indiana (the "School Corporation"), are hereby notified that on September 10, 2024, the Board of School Trustees of the School Corporation (the "Board") did adopt a resolution determining that the School Corporation will take all actions necessary to enter into an amendment to an existing lease (the "First Amendment to Lease"), between the Elkhart Community School Building Corporation (as assignee of the Elkhart Community Schools Building Corporation) (the "Building Corporation"), as lessor, and the School Corporation, as lessee, which in turn will allow the Building Corporation to issue (a) one or more series of first mortgage bonds to pay for all or any portion of the 2024B Multi-Facility Renovation and Update and Bus/Vehicle Purchase Project, as defined in the resolution adopted by the Board on September 10, 2024 (collectively, the "2024B Multi-Facility Renovation and Update and Bus/Vehicle Purchase Project Bonds"), and (b) one or more series of first mortgage bonds to pay for all or any portion of the 2024C Multi-Facility Renovation and Update and Curricular Materials Purchase Project, as defined in the resolution adopted by the Board on September 10, 2024 (collectively, the "2024C Multi-Facility Renovation and Update and Curricular Materials Purchase Project Bonds") (the "2024B&C Bonds"). Each of the 2024B&C Bonds will be payable from the lease rentals received from the School Corporation pursuant to the terms of the proposed First Amendment to Lease. The payments to be made to by the School Corporation under the First Amendment to Lease will be payable from ad valorem property taxes collected by the School Corporation. The 2024B Multi-Facility Renovation and Update and Bus/Vehicle Purchase Project Bonds will be issued for the purpose of procuring funds to pay for a portion of the purchase price to be paid by the Building Corporation in connection with its acquisition from the School Corporation of either the existing Mary Beck Elementary School, the existing Bristol Elementary School or the existing Osolo Elementary School and its respective related outdoor facilities (collectively, the "2024 Existing Structures") and the real property on which the 2024 Existing Structures are located (the "2024 Existing Real Estate") (the "2024 Existing Structures and the 2024 Existing Real Estate", collectively, the "2024 Premises") and all or a portion of the costs of the 2024B Multi-Facility Renovation and Update and Bus/Vehicle Purchase Project, together with the costs of issuance of the 2024B Multi-Facility Renovation and Update and Bus/Vehicle Purchase Project Bonds. The 2024C Multi-Facility Renovation and Update and Curricular Materials Purchase Project Bonds will be issued for the purpose of procuring funds to pay for a portion of the purchase price to be paid by the Building Corporation in connection with its acquisition from the School Corporation of the 2024 Premises and all or a portion of the costs of the 2024C Multi-Facility Renovation and Update and Curricular Materials Purchase Project Bonds.

LEGAL NOTICE #24-Z-06

Hearing on proposed REZONING #24-Z-06
NOTICE is hereby given that the City of Elkhart Plan Commission will meet in the Council Chambers on the second floor of the Municipal Building, 229 South Second Street, Elkhart, Indiana on MONDAY, OCTOBER 7, 2024, at 1:45 P.M. concerning the following request:
A public hearing will be conducted on Rezoning #24-Z-06.
Petitioner: J Arms, LLC c/o Roger Moore
Request: Per Section 29.11.B, Map Amendments, a request to rezone 203 N. Nappanee Street (05-01-427-007) from R 2, One Family Dwelling District to O, Office District.
Location: 203 N. Nappanee St.
Zoning: R-2, One Family Dwelling District

This meeting can also be accessed via WebEx. Virtual attendance is strongly encouraged but not mandatory; however, City Hall is open for in-person participation. To join, go to https://signin.webex.com/join, enter 2303 497 4702 as the meeting number and "Plan2024" 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 Carla.Lipsey@coei.org prior to the meeting.

LEGAL DESCRIPTION:

A PART OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION ONE (1), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE FOUR (4) EAST CLEVELAND TOWNSHIP, ELKHART COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A STONE AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION SIX (6), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE FIVE (5) EAST; THENCE SOUTH ALONG THE EAST LINE OF SAID SECTION ONE (1), FIVE HUNDRED SIXTEEN AND SIXTY-FOUR HUNDREDTHS (516.64) FEET FOR THE BEGINNING POINT OF THIS DESCRIPTION; THENCE SOUTH EIGHTY-EIGHT (88) FEET; THENCE SOUTH EIGHTY-NINE (89) DEGREES THIRTY-EIGHT (38) MINUTES WEST, THREE HUNDRED THIRTY (330) FEET TO AN IRON STAKE; THENCE NORTH EIGHTY-EIGHT (88) FEET TO AN IRON STAKE; THENCE NORTH EIGHTY-NINE (89) DEGREES THIRTY-EIGHT (38) MINUTES EAST, THREE HUNDRED THIRTY (330) FEET TO THE PLACE OF BEGINNING.

EXPECTING THEREFROM THE FOLLOWING:

A PART OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 4 EAST, ELKHART COUNTY INDIANA AND THAT PART OF THE GRANTOR'S LAND LYING WITHIN THE RIGHT OF WAY LINES DEPICTED ON THE ATTACHED RIGHT OF WAY PARCEL PLAT MARKED EXHIBIT "B", DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 37 NORTH, RANGE 5 EAST DESIGNATED AS POINT "20" ON SAID PLAT; THENCE SOUTH 0 DEGREES 17 MINUTES 18 SECONDS WEST 516.64 FEET ALONG THE EAST LINE OF SAID SECTION 1 TO THE PROLONGED NORTH LINE OF THE GRANTOR'S LAND; THENCE NORTH 89 DEGREES 42 MINUTES 42 SECONDS WEST 37.50 FEET ALONG THE PROLONGATION OF SAID NORTH LINE TO THE WEST BOUNDARY OF S.R.19 PER DEED RECORD 218, PAGE 435 (OFFICE OF RECORDER OF ELKHART COUNTY) AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 0 DEGREES 06 MINUTES 48 SECONDS WEST 88.00 FEET ALONG THE BOUNDARY OF SAID S.R.19 TO THE SOUTH LINE OF THE GRANTOR'S LAND; THENCE NORTH 89 DEGREES 42 MINUTES 42 SECONDS WEST 14.90 FEET ALONG SAID SOUTH LINE; THENCE NORTH 0 DEGREES 06 MINUTES 48 SECONDS EAST 77.85 FEET TO THE POINT DESIGNATED AS "297" ON SAID PLAT; THENCE NORTH 13 DEGREES 55 MINUTES 23 SECONDS WEST 10.47 FEET TO THE NORTH LINE OF THE GRANTOR'S LAND THENCE SOUTH 89 DEGREES 42 MINUTES 42 SECONDS EAST 17.44 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING AND CONTAINING 0.030 ACRES, MORE OR LESS.

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

LEGAL NOTICE #24-BZA-22

Hearing on proposed Developmental Variance #24-BZA-22
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, OCTOBER 10, 2024 at 6:00 P.M. concerning the following request:
A public hearing will be conducted on a Developmental Variance Petition #24-BZA-22 .
Petitioner: Rex Martin
Request: To vary from the requirements found in Section 26.1.C.3, Swimming Pools, which states 'A swimming pool or the yard in which the pool is located, or any part thereof, shall be enclosed with a fence, six (6) feet in height, measured from the natural grade on the exterior side of the fence. All gates within such a fence shall be self-closing and self-locking.' To allow for a perimeter fence that is four (4) feet in height. The in ground pool will have an automatic pool cover.
Location: 2505 Greenleaf Boulevard
Zoning: R-1, One Family Dwelling District

This meeting can also be accessed via WebEx. To join, go to http://coei.webex.com, enter 2317 077 1574 as the meeting number and "BZA2023" 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 hugo.roblesmadrigal@coei.org prior to the meeting.

LEGAL DESCRIPTION:

LOT NUMBERED SIXTEEN (16) AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF BROADMOOR, AN ADDITION TO THE CITY OF ELKHART; SAID PLAT BEING RECORDED IN PLAT BOOK 1, PAGE 166, 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 September, 2024, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: September 27, 2024

HSPAXLP

LEGAL NOTICE #24-Z-06

Hearing on proposed REZONING #24-Z-06
NOTICE is hereby given that the City of Elkhart Plan Commission will meet in the Council Chambers on the second floor of the Municipal Building, 229 South Second Street, Elkhart, Indiana on MONDAY, OCTOBER 7, 2024, at 1:45 P.M. concerning the following request:
A public hearing will be conducted on Rezoning #24-Z-06.
Petitioner: J Arms, LLC c/o Roger Moore
Request: Per Section 29.11.B, Map Amendments, a request to rezone 203 N. Nappanee Street (05-01-427-007) from R 2, One Family Dwelling District to O, Office District.
Location: 203 N. Nappanee St.
Zoning: R-2, One Family Dwelling District

This meeting can also be accessed via WebEx. Virtual attendance is strongly encouraged but not mandatory; however, City Hall is open for in-person participation. To join, go to https://signin.webex.com/join, enter 2303 497 4702 as the meeting number and "Plan2024" 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 Carla.Lipsey@coei.org prior to the meeting.

LEGAL DESCRIPTION:

A PART OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION ONE (1), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE FOUR (4) EAST CLEVELAND TOWNSHIP, ELKHART COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A STONE AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION SIX (6), TOWNSHIP THIRTY-SEVEN (37) NORTH, RANGE FIVE (5) EAST; THENCE SOUTH ALONG THE EAST LINE OF SAID SECTION ONE (1), FIVE HUNDRED SIXTEEN AND SIXTY-FOUR HUNDREDTHS (516.64) FEET FOR THE BEGINNING POINT OF THIS DESCRIPTION; THENCE SOUTH EIGHTY-EIGHT (88) FEET; THENCE SOUTH EIGHTY-NINE (89) DEGREES THIRTY-EIGHT (38) MINUTES WEST, THREE HUNDRED THIRTY (330) FEET TO AN IRON STAKE; THENCE NORTH EIGHTY-EIGHT (88) FEET TO AN IRON STAKE; THENCE NORTH EIGHTY-NINE (89) DEGREES THIRTY-EIGHT (38) MINUTES EAST, THREE HUNDRED THIRTY (330) FEET TO THE PLACE OF BEGINNING.

EXPECTING THEREFROM THE FOLLOWING:

A PART OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 4 EAST, ELKHART COUNTY INDIANA AND THAT PART OF THE GRANTOR'S LAND LYING WITHIN THE RIGHT OF WAY LINES DEPICTED ON THE ATTACHED RIGHT OF WAY PARCEL PLAT MARKED EXHIBIT "B", DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 37 NORTH, RANGE 5 EAST DESIGNATED AS POINT "20" ON SAID PLAT; THENCE SOUTH 0 DEGREES 17 MINUTES 18 SECONDS WEST 516.64 FEET ALONG THE EAST LINE OF SAID SECTION 1 TO THE PROLONGED NORTH LINE OF THE GRANTOR'S LAND; THENCE NORTH 89 DEGREES 42 MINUTES 42 SECONDS WEST 37.50 FEET ALONG THE PROLONGATION OF SAID NORTH LINE TO THE WEST BOUNDARY OF S.R.19 PER DEED RECORD 218, PAGE 435 (OFFICE OF RECORDER OF ELKHART COUNTY) AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 0 DEGREES 06 MINUTES 48 SECONDS WEST 88.00 FEET ALONG THE BOUNDARY OF SAID S.R.19 TO THE SOUTH LINE OF THE GRANTOR'S LAND; THENCE NORTH 89 DEGREES 42 MINUTES 42 SECONDS WEST 14.90 FEET ALONG SAID SOUTH LINE; THENCE NORTH 0 DEGREES 06 MINUTES 48 SECONDS EAST 77.85 FEET TO THE POINT DESIGNATED AS "297" ON SAID PLAT; THENCE NORTH 13 DEGREES 55 MINUTES 23 SECONDS WEST 10.47 FEET TO THE NORTH LINE OF THE GRANTOR'S LAND THENCE SOUTH 89 DEGREES 42 MINUTES 42 SECONDS EAST 17.44 FEET ALONG SAID NORTH LINE TO THE POINT OF BEGINNING AND CONTAINING 0.030 ACRES, MORE OR LESS.

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



Staff Report

Planning & Zoning

<u>Petition:</u>	24-BZA-22
<u>Petition Type:</u>	Developmental Variance
<u>Date:</u>	October 10, 2024
<u>Petitioner:</u>	Rex Martin
<u>Site Location:</u>	2505 Greenleaf Blvd.
<u>Request:</u>	To vary from the requirements found in Section 26.1.C.3, Swimming Pools, which states 'A swimming pool or the yard in which the pool is located, or any part thereof, shall be enclosed with a fence, six (6) feet in height, measured from the natural grade on the exterior side of the fence. All gates within such a fence shall be self-closing and self-locking.' To allow for a perimeter fence that is four (4) feet in height. The in ground pool will have an automatic pool cover.
<u>Existing Zoning:</u>	R-1, One-Family Dwelling District
<u>Size:</u>	+/- .494 acres
<u>Thoroughfares:</u>	Greenleaf Boulevard
<u>School District:</u>	Elkhart Community Schools
<u>Utilities:</u>	Available and provided to site

Surrounding Land Use & Zoning:

The subject site is surrounded by residential dwellings zoned R-1, One-Family Dwelling District and is adjacent to the St Joseph River.

Applicable Sections of the Zoning Ordinance:

Section 26.1.C, Swimming Pools

Comprehensive Plan:

The subject property is included in an area identified for low density residential use on the future land use map.



Staff Analysis

The existing single-family residence on this property is currently under renovation through city permit #24-0834. Petitioner is requesting a variance to allow a 4-foot fence, where 6-foot is required, on the east, west, and south side of a new swimming pool. A self-closing, automatic pool cover will be provided and installed for the new pool.

Recommendation

The Staff **recommends approval** of the developmental variance to vary from Section 26.1.C.3, Swimming Pools, which states ‘A swimming pool or the yard in which the pool is located, or any part thereof, shall be enclosed with a fence, six (6) feet in height, measured from the natural grade on the exterior side of the fence. All gates within such a fence shall be self-closing and self-locking,’ 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 fence is proposed along with a self-closing, automatic pool cover that will ensure safety;
2. The use and value of the area adjacent to the property **will not be** affected in a substantially adverse manner;
3. Granting the variance **would be** consistent with the intent and purpose of this Ordinance, which is to ensure safety of swimming pools;
4. Special conditions and circumstances **do** exist in that the petitioner will provide the required safety with the automatic pool cover;
5. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the property because the Ordinance does not account for safety measures provided by automatic pool covers;
6. The special conditions and circumstances **do not** result from any action or inaction by the applicant;
7. This property **does not** lie within a designated flood area.

Conditions

Staff does not request any conditions set upon approval of this variance.

Photos

PETITION #: 24-BZA-22

FILING FEE: \$ 200 -

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: DEVELOPMENTAL VARIANCE

Property Owner(s): Rex Martin

Mailing Address: 2505 Greenleaf Blvd, Elkhart, IN 46514

Phone #: _____ Email: _____

Contact Person: Jeff Martin, Martin Brothers Contracting

Mailing Address: 26262 County Road 40, Goshen, IN 46526

Phone #: 574-202-0140 Email: jeff@martinbrocontracting.com

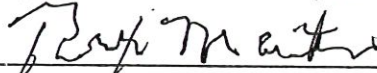
Subject Property Address: 2505 Greenleaf Blvd, Elkhart, IN 46514

Zoning: R-1 Residential

Present Use: Residential 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): Rex Martin

SIGNATURE(S):  DATE: 8/1/24

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: _____

AFFIDAVIT IN SUPPORT OF DEVELOPMENTAL VARIANCE PETITION

I, Rex Martin, 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 2505 GREENLEAF Elkhart, Indiana.
BLVD
4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 1 day of August, 2024.

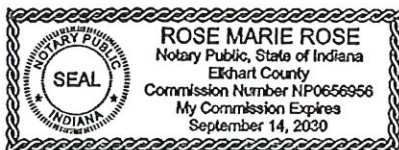
X Rex Martin
Printed: Rex Martin

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.

X Rex Martin
Printed: Rex Martin

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared Rex Martin, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 1st day of August, 2024.



Rose Marie Rose
Printed: Rose Marie Rose

My Commission Expires:

09/14/2030

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

Martin Brothers
CONTRACTING INC.

26262 County Road 40 ▪ Goshen, Indiana 46526
574-862-2142 ▪ Toll Free 1-877-862-2142
Fax 574-862-1333
www.martinbroscontracting.com

August 5, 2024

Re: Designated Agent

To Whom It May Concern:

This letter is to serve notice that Jay Kinney of Jeffrey L Martin Contracting, Inc. DBA Martin Brothers Contracting is an authorized designated agent for my property located at 2505 Greenleaf Blvd, Elkhart, IN 46514

Respectfully,

Rex Martin

A large, stylized handwritten signature in black ink, appearing to read "Rex Martin". The signature is written over the printed name "Rex Martin" and extends significantly to the right.

2011013534

ELKHART CNTY
JERRY L. WEAVER
FILED FOR RECORD
AS PRESENTED

2011 JUL 25 A 10:17

Lawyers Title **QUITCLAIM DEED**

*Steph
galt*

THIS INDENTURE WITNESSETH, That Dawn K. Hoover (Grantor) QUITCLAIMS to Michael Hoover and Dawn K. Hoover, Husband and Wife (Grantee) for the sum of One Dollar (\$1.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following described real estate in Elkhart County, State of Indiana:

LOT NUMBERED SIXTEEN (16) AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF BROADMOOR, AN ADDITION TO THE CITY OF ELKHART; SAID PLAT BEING RECORDED IN PLAT BOOK 1, PAGE 166, IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

Property Address: 2505 Greenleaf Blvd., Elkhart, IN 46514 *Tax ID No.:* 20-02-34-376-013.000-027
Subject to current taxes not delinquent, and all easements, agreements and restrictions of record and all public rights of way.

*15
17*

IN WITNESS WHEREOF, Grantor has executed this deed this 18 day of July, 2011.

Dawn K Hoover
Dawn K. Hoover

STATE OF INDIANA)
COUNTY OF Elkhart) §.

Before me, a Notary Public in and for said County and State, personally appeared Dawn K. Hoover who acknowledged the execution of the foregoing Deed and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and notarial seal on this 18 day of July, 2011.
Vickie L Gray



(Signature of Notary Public)
Printed Name of Notary Public: _____
Resident of _____ County, Indiana
My Commission expires: _____

Prepared by *Edward W. Harris*, Attorney at Law, IN#19199-71/MI# P60319, 401 W. High St., Elkhart, IN 46516

Grantee's Address and Tax Billing Address:
property

I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law *Sharon D. Mitty* File No. 581103213

This conveyance is for no economic consideration and Sales Disclosure form 46021 is not required.

DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER
7-25-2011
Pauline E. Hoff AUDITOR
002364
TRANSFER FEE 5
PARCEL NO. 20-02-34-376-013.000-027
NO SALES DISCLOSURE REQUIRED

DATE: July 26, 2024

TO: Board of Zoning Appeals City of Elkhart, Indiana

RE: Developmental Variance

The undersigned petitioner respectfully shows the Board of Zoning Appeals:

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

***Legal Description: Broadmoor Lot 16. Location Address: 2505 Greenleaf Blvd,
Elkhart, IN 46514***

2. The above-described real estate presently has a zoning classification of **ZO01 Residential** 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: **This is a single-family residence under renovation through city permit #24-0834**
4. Petitioner desires to a fence height to the east, west and south end of the property at a proposed height of four (4) feet.
5. The Zoning Ordinance of the City of Elkhart requires a yard in which a swimming pool is located to be enclosed with a fence, six (6) feet in height. Section 26.1-C
6. We respectfully request approval to install a fence, four (4) feet in height along the east and west of the property. A self-closing, automatic pool cover will be provided and installed for this new swimming pool.
7. Upon review of the standards that must be considered for a developmental variance we feel the approval will not be injurious to the general welfare of the community as an automatic pool cover will ensure safety. Additionally, the renovation will increase the value of the area adjacent to the property. Lastly the variance approval will not create an additional hindrance on the community or neighboring properties.

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

Signature of Property Owner: Rex Martin

Printed Name: Rex Martin

Contact Person: JEFF MARTIN (MARTIN BROTHERS CONTRACTING)

Name: _____

Address: 26262 COUNTY ROAD 40, GOSHEN, IN 46526

Phone Number where you can be reached: 574-202-0140

Email: JEFF@MARTINBROS CONTRACTING.COM



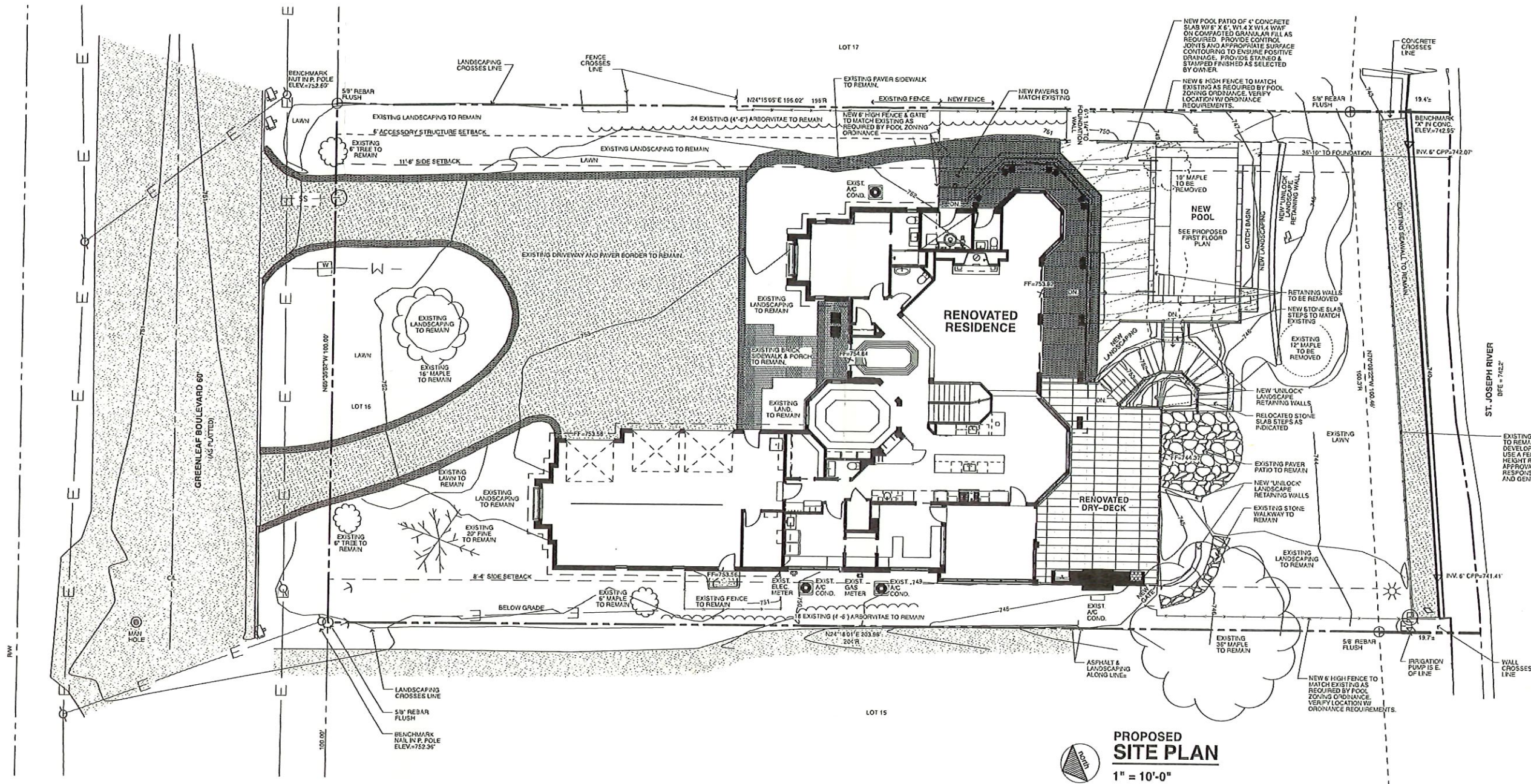
HELMAN SECHRIST ARCHITECTURE

129 NORTH 2ND ST. ELKHART, IN 46516 (574) 294-6674 helmansechrist.com

Date: 14 MAY 2024

Revisions: 23 JULY 2024

© COPYRIGHT 2024 HELMAN SECHRIST ARCHITECTURE... THE DESIGN CONCEPT PLANS, SPECIFICATIONS AND OTHER DOCUMENTS CONTAINED HEREIN OR PROVIDED BY THE ARCHITECT ARE COPYRIGHT PROTECTED AND REMAIN THE PROPERTY OF HELMAN SECHRIST ARCHITECTURE (ARCHITECT), AS PROTECTED BY THE ARCHITECTURAL WORKS COPYRIGHT PROTECTION ACT OF 1990 AND MAY NOT BE REVISED, REPRODUCED, DISTRIBUTED, OR CONSTRUCTED IN ANY PART OR FORM WITHOUT THE WRITTEN CONSENT OF HELMAN SECHRIST ARCHITECTURE. THE ABOVE REFERENCED ELEMENTS ARE CONSIDERED INSTRUMENTS OF SERVICE AND REMAIN THE INTELLECTUAL PROPERTY OF THE ARCHITECT. WHETHER THE PROJECT IS EXECUTED OR NOT, SAID DESIGN, DRAWINGS AND SPECIFICATIONS ARE NOT TO BE USED BY THE OWNER OR OTHERS ON ANY OTHER PROJECT AND USE OF THE SAID DESIGN CONCEPT PLANS, AND SPECIFICATIONS IS STRICTLY NON-TRANSFERABLE TO OTHER USERS WITHOUT THE EXPRESS WRITTEN AGREEMENT AND COMPENSATION TO THE ARCHITECT.



PROPOSED SITE PLAN 1" = 10'-0"

PROJECT MANAGEMENT NOTES:

- 1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTAINING THE PROJECT SITE IN A NEAT AND ORDERLY CONDITION AT ALL TIMES. ALL STAGED MATERIALS SHALL BE NEATLY STOCKPILED AND COVERED AS APPROPRIATE. ALL REFUSE MATERIALS SHALL BE PLACED WITHIN THE PROJECT DUMPSTER OR IN THE APPROPRIATE RECYCLING CONTAINER... 2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DAILY CLEAN UP OF THE PROJECT SITE AT THE END OF EACH WORK DAY... 3. THE CONTRACTOR SHALL TAKE ADVANTAGE OF EVERY OPPORTUNITY TO RECYCLE REFUSE AND SCRAP MATERIALS AND DIRECT ALL SUBCONTRACTORS LIKEWISE... 4. SMOKING IS NOT PERMITTED WITHIN ANY ENCLOSED AREA OF THE PROJECT... 5. TEMPORARY TOILET FACILITIES SHALL BE PROVIDED ON SITE FOR THE DURATION OF THE PROJECT... 6. PARKING OF DELIVERY VEHICLES AND PERSONAL VEHICLES OF WORKMEN SHALL BE ON THE PROJECT SITE AND WITHIN DESIGNATED AREAS... 7. UPON COMPLETION OF THE FINAL PAVING FOR THE DRIVEWAY, ETC., THOSE SURFACES SHALL BE SECURELY CORDED OFF... 8. OFFENSIVE LANGUAGE, LOUD OR INAPPROPRIATE MUSIC AND ATTIRE WHICH IS UNFITTING TO THE JOB SITE WILL NOT BE PERMITTED... 9. THE CONTRACTOR SHALL MAKE EVERY EFFORT TO EDUCATE THE OWNER OF THE PROPER OPERATION AND MAINTENANCE OF THE NEW HOME'S SYSTEM AND EQUIPMENT...

SITE NOTES:

- 1. PLACE STAKES FOR LOCATION OF HOME PRIOR TO EXCAVATION FOR APPROVAL OF LOCATION AND FLOOR ELEVATION BY OWNER AND ARCHITECT... 2. COORDINATE GRADING AND PAVING WITH OWNER AND LANDSCAPE DESIGNER... 3. FIELD VERIFY ALL TREES TO BE REMOVED ON THE SITE WITH THE OWNER AFTER STAKING THE HOUSE AND PRIOR TO EXCAVATION... 4. ALL LANDSCAPE ELEMENTS SHOWN ON THIS SITE PLAN ARE APPROXIMATIONS ONLY. LANDSCAPE DESIGNER SHALL PROVIDE A FINAL LANDSCAPE PLAN... 5. EXISTING ELEVATION CONTOURS ARE SHOWN THIS... 6. PROPOSED ELEVATION CONTOURS ARE NOT INDICATED ON THIS PLAN, AND SHALL BE RESOLVED IN THE FIELD... 7. PROVIDE FILL TO FINAL GRADE AS INDICATED OR AS REQUIRED TO CREATE POSITIVE DRAINAGE AWAY FROM BUILDING AT ALL AREAS. UTILIZE EXCAVATED MATERIAL AND / OR OFF SITE MATERIAL AS REQUIRED... 8. PROVIDE DRAINAGE SWILES OR OTHER APPROPRIATE MEANS AS REQUIRED TO ENSURE THAT STORM WATER IS NOT DIVERTED ON TO ADJACENT PROPERTIES... 9. PROVIDE A MINIMUM OF 4" OF TOPSOIL TO ALL DISTURBED AREAS. UTILIZE ON SITE AND / OR OFF SITE MATERIAL AS REQUIRED... 10. PROVIDE COMPACTED GRANULAR FILL AS A BASE FOR ALL NEW PAVING AS REQUIRED BY EXISTING SOIL CONDITIONS... 11. PROVIDE UNDERGROUND CONNECTION TO GAS AND ELECTRIC POWER. CONFIRM REQUIREMENTS WITH UTILITY PROVIDERS... 12. NEW DOWNSPOUTS SHALL BE CONNECTED TO EXISTING PVC PIPES BELOW GRADE... 13. THIS SITE PLAN HAS BEEN CREATED USING INFORMATION PROVIDED ON A SITE SURVEY PREPARED BY BRUSHBERSON LAND SURVEYING, PROJECT NO. 23059... 14. PROTECT EXISTING TREES TO REMAIN BY PROVIDING A MIN. HIGH TEMPORARY CONSTRUCTION FENCE AT ENTIRE DRILLPIE OF TREE PRIOR TO ANY ACTIVITY ON SITE. NO CONSTRUCTION ACTIVITY OF ANY KIND SHALL TAKE PLACE WITHIN THIS AREA... 15. MODIFY / REPAIR EXISTING IRRIGATION SYSTEM AS REQUIRED TO ACCOMMODATE PROPOSED POOL AND POOL PATIO... 16. PROVIDE AN ALLOWANCE AMOUNT FOR REPAIRING / PROVIDING NEW LAWN, LANDSCAPING AND LANDSCAPE LIGHTING AS REQUIRED. LANDSCAPING DESIGN SHALL BE BY OTHERS... 17. G.C. RESPONSIBLE FOR SITE SECURITY DURING HOME CONSTRUCTION W/ TEMPORARY LOCKING SYSTEMS.

POOL CRITERIA SCHEDULE table with columns: TYPE, SIZE, COVER, POOL EQUIP., ACCESSORIES. Includes details for pool type, size, cover, equipment, and accessories.

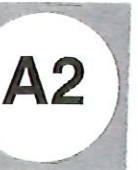
NOTE: POOL CONTRACTOR SHALL BE RESPONSIBLE FOR PROVIDING A FULLY FUNCTIONING SYSTEM TO INCLUDE ALL REQUIRED SYSTEMS, HARDWARE, PLUMBING AND LIKE, EXCEPT FOR ROUGHINS TYPICALLY PROVIDED BY OTHERS.

ADDITIONS RENOVATIONS FOR

THE MARTIN - HARRIS RESIDENCE

2505 GREENLEAF BLVD. ELKHART INDIANA 46514

Project No: 2328





Staff Report

Planning & Zoning

Petition: 24-BZA-24

Petition Type: Developmental Variance

Date: October 10, 2024

Petitioner: Maridean Haydon

Site Location: 1022 Strong Avenue

Request: 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 (Ward Street frontage) without benefit of permit to remain.

Existing Zoning: R-2, One Family District

Size: +/- 0.375 acres

Thoroughfares: Ward Street & Strong Avenue

School District: Elkhart Community Schools

Utilities: Available and provided to site.

Surrounding Land Use & Zoning:

The subject property is located in a neighborhood of single family homes all zoned R-2.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The Comprehensive Plan does not specifically address fences. The subject property is included in an area identified for low density residential uses on the future land use map.



Staff Analysis

Maridean Haydon is the petitioner and resident of the subject property who is requesting a variance to allow a 6 foot privacy fence in a corner yard, when 4 feet is the maximum height. The fence replaced an existing fence that was in poor condition, but was constructed without a permit. Safety is the primary concern of the petitioner, highlighting the need for a fence to secure their pool. Petitioners are seeking this variance to allow for the now existing fence in its current location.

Staff has no recommendation on the proposed variance but is requesting the condition that the fence be moved to a setback that matches the existing garage. 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.

Recommendation

The Staff has **no recommendation** of the developmental variance 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 (Ward Street frontage) without benefit of permit 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 approval of the variance, with the requested condition will soon be with the future City of Elkhart Unified Development Ordinance;
2. The use and value of the area adjacent to the property **will not be** affected in a substantially adverse manner because a fence a typical use of residential districts. The fences location should not affect the use and value of a adjacent property, especially if located per the requested condition;
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 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 result** in practical difficulties in the use of the property because a fence already existing this location and the petitioner was simply replacing it;
6. The special conditions and circumstances **do result** from the applicant because the fence was installed without a permit and in a location inconsistent with current regulations;
7. This property **does not** lie within a designated flood area.

Conditions

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

1. The fence be moved to a setback that matches the existing garage.

Photos

PETITION #: 24-BZA-24

FILING FEE: \$ 200

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: DEVELOPMENTAL VARIANCE

Property Owner(s): Maridean Haydon

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

Contact Person: Maridean Haydon

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: [REDACTED]

Subject Property Address: 1022 Strong Ave Elkhart IN 46514

Zoning: Single family residence

Present Use: primary residence Proposed Use: primary residence

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): Maridean Haydon

SIGNATURE(S): Maridean Haydon DATE: 8/26/24

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: [Signature] DATE: _____

AFFIDAVIT IN SUPPORT OF DEVELOPMENTAL VARIANCE PETITION

I, Maridean Hayden, 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 1022 Strong Ave Elkhart, Indiana.
- 4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 27th day of Aug, 2024.

Maridean Hayden
Printed: Maridean Hayden

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.

Maridean Hayden
Printed: Maridean Hayden

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared Maridean Hayden, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 27 day of August, 2024.



Hugo Robles Madrigal
Printed: Hugo Robles Madrigal

My Commission Expires:
10/31/2031

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

8/26/2024

TO: Board of Zoning Appeals

RE: Developmental Variance

The undersigned petitioner respectfully shows the Board of Zoning Appeals:

I, Maridean Darlene Haydon, am the owner of the following described real estate located within the City of Elkhart, Elkhart Township, Elkhart County, State of Indiana, to-wit:

81,82S S STRONG'S RIVERSIDE ADD; 1022 Strong Avenue, Elkhart IN, 46514

The above described real estate presently has a zoning classification of Single Family Residence, 2nd District under the Zoning Ordinance of the City of Elkhart.

My husband, Dennis Edward Haydon, and I, Maridean Darlene Haydon, occupy the above described property in the following manner:

It is our primary residence.

I would like to receive a Developmental Variance for a 6ft cedar fence that faces Ward St.

The Zoning Ordinance of the City of Elkhart requires:

- 26.1 C3 A swimming pool or the yard in which the swimming pool is located, or any part thereof, shall be enclosed with a fence, six (6) feet in height, measured from the natural grade on the exterior side of the fence.
- 26.4 A6 No fences, other than split rail, wrought iron or open picket fences (with 40% open spacing between pickets) not to exceed four (4) feet in height, shall be permitted in any front yard or corner side yard.
- 26.4 B Fences Permitted in Residential and Business Districts
 - A fence of wall not more than six (6) feet in height may be placed, built or installed in the side and/or rear yards of any lot in a residential or business district, excepting in that portion of any required yard that lies within the corner lot visibility area (Section 26.5) and excepting further 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: (as amended per Ordinance No. 4762, on August 1, 2003).
 1. In the required side yard adjacent to the street; or

2. In any portion of the yard lying closer to said street than the point of the principal building nearest said street

Strict adherence to the Zoning Ordinance requirements would create an unusual hardship due to:

1. There is a pool located in the backyard of the property and according to 26.1.C.3 that requires a six (6) foot fence.
2. The concrete pad, located in the backyard, is a small basketball court with a light pole (the light pole does have underground electrical running to it) and permanent basketball hoop. A basketball court can be considered an attractive nuisance and, according to the attractive nuisance doctrine, open the possibility of litigation being brought upon myself, Maridean Darlene Haydon, as the property owner in the event of an injury due to trespassing by a person or persons.
 - a. To adhere strictly to the Ordinance, the fence would be required to be moved to the East side of the basketball court, which, in turn, would leave an attractive nuisance exposed on a public road.
 - b. An attractive nuisance is, by definition, is:
 - i. *Law.* A doctrine of tort law under which a person who creates or permits to exist on their land a dangerous condition attractive to children, as an unfenced swimming pool, is liable for their resulting injuries, even though the injured are trespassers.
 - ii. A hazardous condition or object a person creates or permits to exist on their land that is attractive to children.
 - c. Examples of attractive nuisances are:
 - i. Swimming pool, outdoor playset, treehouses, power lines.
3. There are irrigation lines running along the eastern side of the basketball court that prevent digging.
4. Fence was built with pool ordinance in mind along where the previous fence and shrubbery were.
5. The prior fence/shrubbery that were in the location were no longer able to contain animals due to deteriorating conditions and could not be repaired due to the size of the shrubbery when the home was purchased.

Standards:

1. No, the approval will not be injurious to the public health, safety, morals and general welfare of the community. That is what was attempting to be avoided by ensuring that all attractive nuisances on the property were fully enclosed.
2. No, the use and value of the area adjacent to the property will not be affected. The fence lines up with where a sidewalk would be able to be constructed in line with the existing sidewalk that is further north on Ward Street.
3. Yes, it would be considered consistent with the intent and purpose of the Zoning Ordinance due to preventing access to two (2) different attractive features on the property.
4. Yes, there are special conditions and circumstances that exist on the property. I cannot say if there are or are not other homes in the district that have the same exact conditions as those that exist on the property located at 1022 Strong Avenue.
5. Yes, I believe that the strict adherence to the Ordinance would deprive me of my rights commonly enjoyed by other properties in the same district under the provisions of this Ordinance. A quick drive on Plum, Vine and Ward show other properties that have the similar variances as what has been placed on the property at 1022 Strong Avenue.
6. No, the conditions and circumstances that are involved do not have anything to do with the applicant. The existing structures, excluding the fence in question, were on location when the property was purchased.
7. No, the variance will not cause any issues in a flood hazard area as the property in question is not located in a designated flood hazard area.

Signature of Property Owner: Maridean Darlene Haydon

Printed Name: Maridean Darlene Haydon

Second Property Owner: Dennis Edward Haydon

Printed Name: Dennis Edward Haydon

Contact Person: Maridean Haydon

Name: Maridean Haydon

Address: [REDACTED]

Phone Number: [REDACTED]

Email Address: [REDACTED]

2021-29277

ELKHART COUNTY RECORDER
JENNIFER L. DORIOT
FILED FOR RECORD ON
10/29/2021 12:32 PM
AS PRESENTED

TAX ID NUMBER(S)
State ID Number Only 20-06-06-436-008.000-012

WARRANTY DEED

THIS INDENTURE WITNESSETH THAT

James Edward Williams and Helen Jane Williams, Husband and Wife

CONVEY(S) AND WARRANT(S) TO

Dennis Edward Haydon and Maridean Darlene Haydon, Husband and Wife, for Ten Dollars and other valuable consideration the receipt whereof is hereby acknowledged, the following described REAL ESTATE in Elkhart County, in the State of Indiana, to wit:

SEE ATTACHED EXHIBIT "A"

Subject to Real Estate taxes now due and payable and thereafter.

Subject to covenants, restrictions and easements of record.

IN WITNESS WHEREOF, the Grantor has executed this Deed this 28th day of October, 2021.

James Edward Williams
James Edward Williams
Helen Jane Williams
Helen Jane Williams

MTC File No.: 21-38267 (UD)

DISCLOSURE FEE PAID
DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER
Oct 29 2021
PATRICIA A. PICKENS, AUDITOR

Page 1 of 3

AL
JM

06524
10.00

State of Indiana, County of Elkhart ss:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named **James Edward Williams and Helen Jane Williams** who acknowledged the execution of the foregoing Deed and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS, my hand and Seal this 28th day of October 2021.

Michelle R. Reed
Signature of Notary Public

My Commission Expires: _____

Commission No. _____

Printed Name of Notary _____

Notary Public County and State of Residence _____



This instrument was prepared by:
Andrew R. Drake, Attorney-at-Law
11711 N. Pennsylvania St., Suite 110, Carmel, IN 46032

Property Address:
1022 Strong Avenue
Elkhart, IN 46514

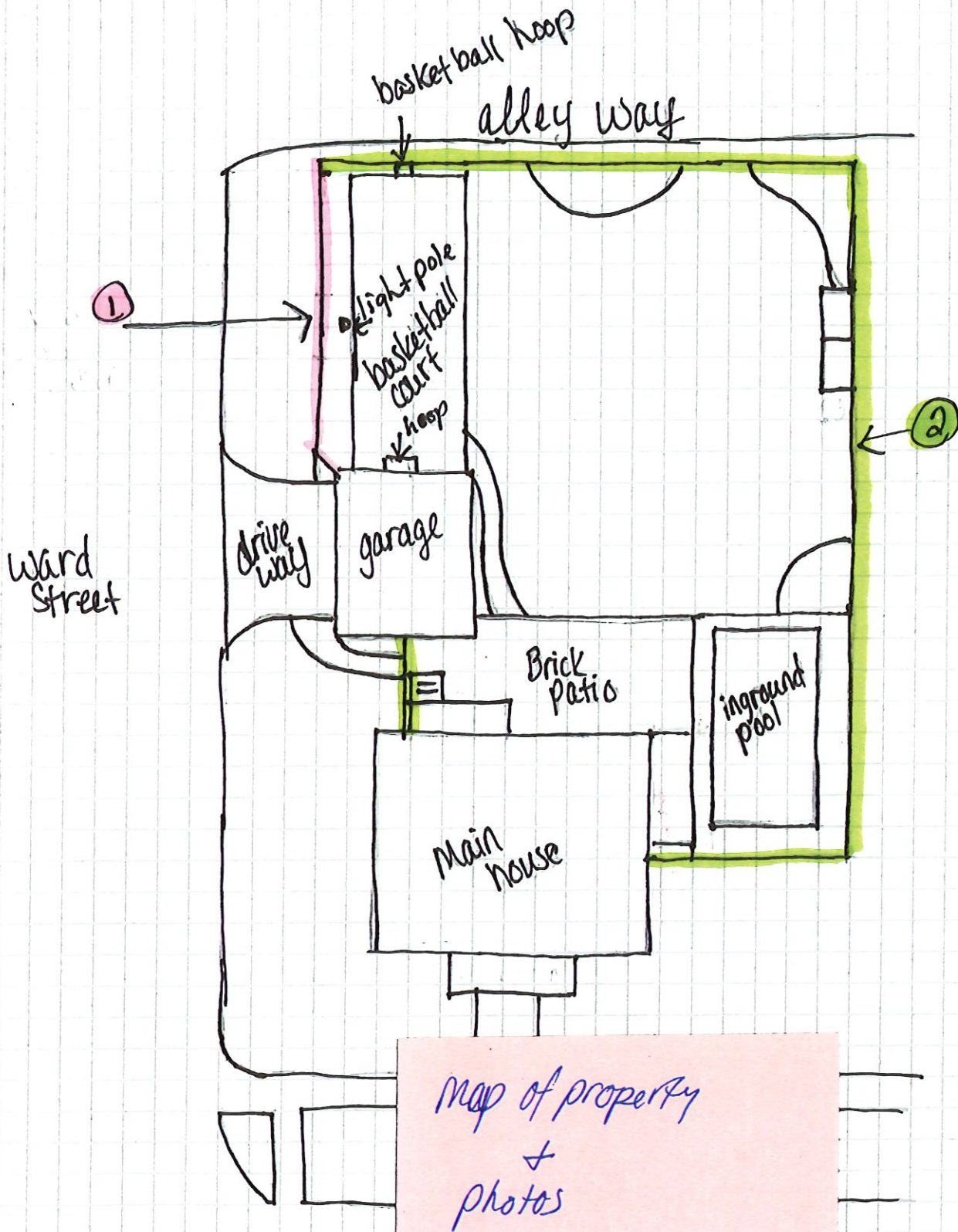
Grantee's Address and Mail Tax Statements To:
Property Address

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law. Andrew R. Drake

EXHIBIT A

Lot Numbered Eighty-one (81) and the West Eleven (11) feet of Lot Numbered Eighty-two (82) as the said Lot is known and designated on the recorded Plat of S.S. Strong's Riverside Addition to the City of Elkhart; said Plat being recorded in Deed Record 42, page 214 in the Office of the Recorder of Elkhart County, Indiana.

ALSO, that part of Ward Street which has been vacated, lying adjacent to and West of Lot Numbered Eighty-one (81) aforesaid.



- ① location of variance - in
- ② existing fence line - in

listing photo



previous shrubbery + fence



previous shrubbery & fence

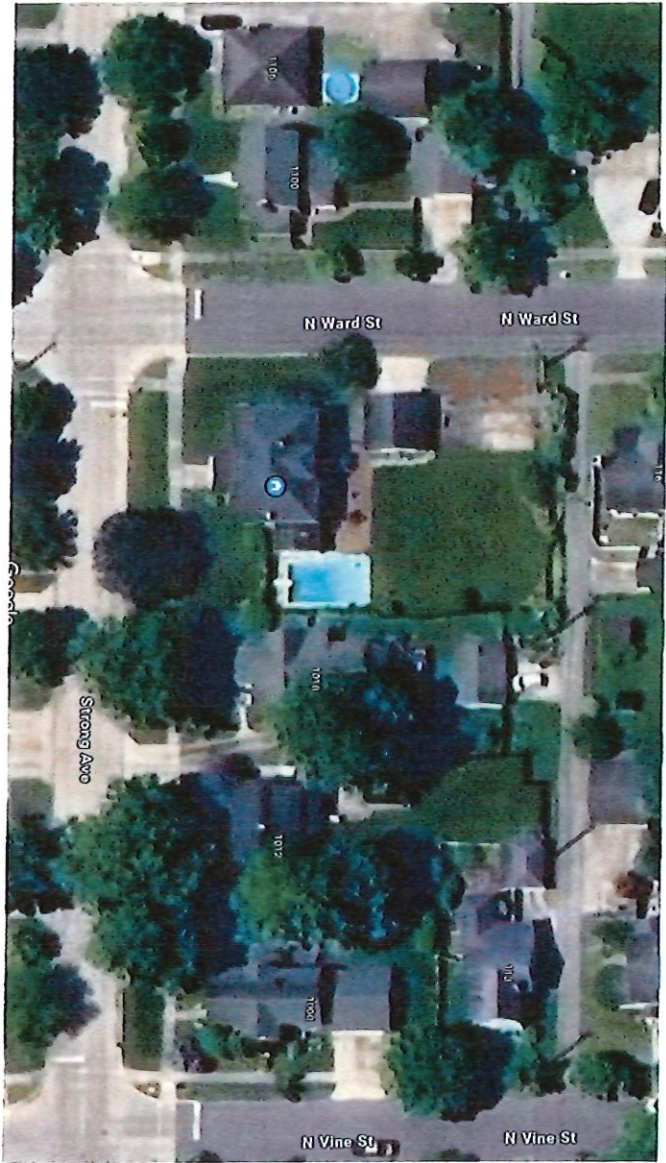


previous shrubbery + fence





Overview of home





*New fence in location
of previous fence + shrubbery*



Staff Report

Planning & Zoning

Petition: 24-BZA-25

Petition Type: Developmental Variance

Date: October 10, 2024

Petitioner: Lazaro Valdez

Site Location: 506 W. Lexington

Request: To vary from Section 8.5, Yard Requirements to allow for a property with an established lot size of 5,535 square feet and lot frontage of 45 feet variance to be used as a three family dwelling. The minimum lot size for the conversion to a three family dwelling is 10,000 square feet and a lot frontage of 60 feet, a variance of 4,465 square feet for the lot area and 15 feet for the lot frontage.

Existing Zoning: R-5, Urban Residential District

Size: +/- 0.13 acres

Thoroughfares: Lexington Avenue & 6th Street

School District: Elkhart Community Schools

Utilities: Available and provided to site.

Surrounding Land Use & Zoning:

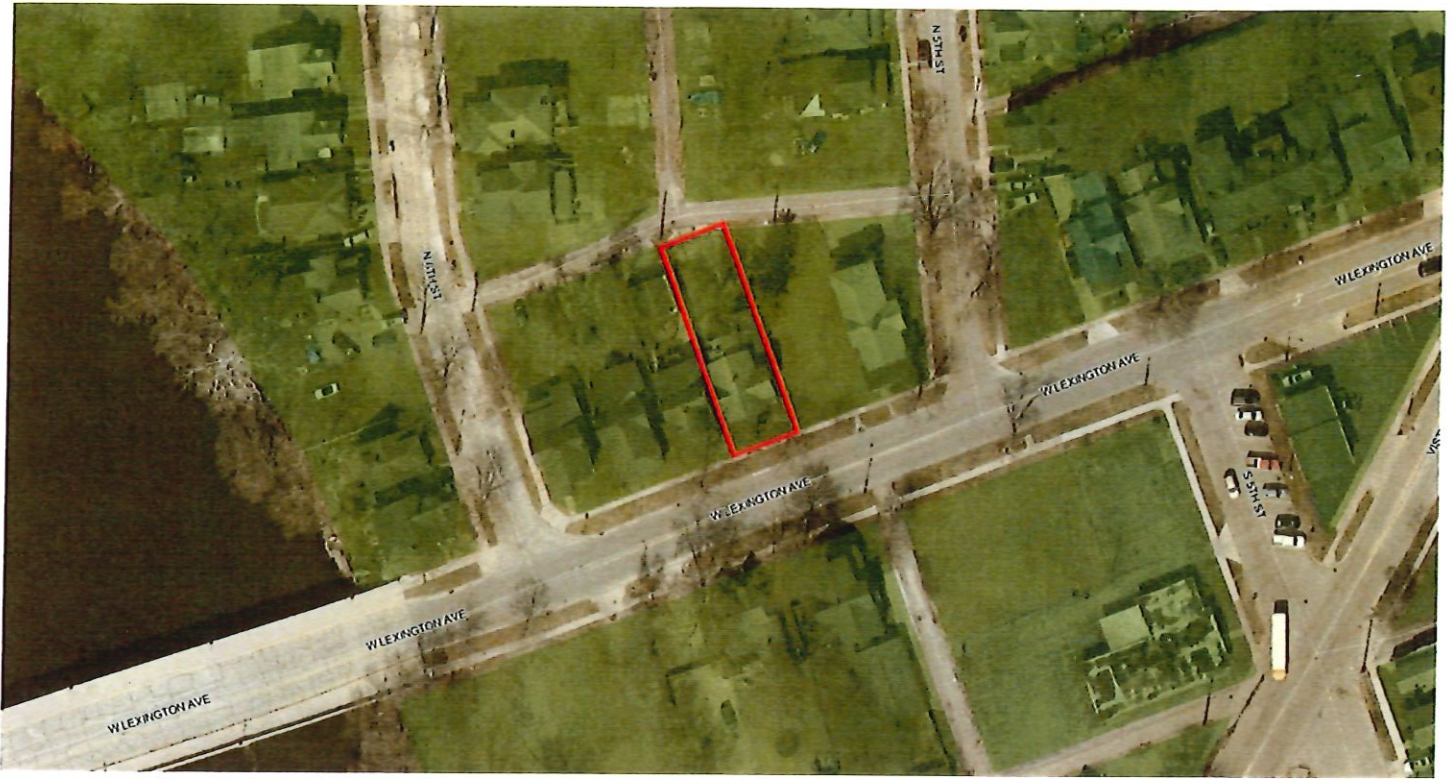
The subject property is located in an urban residential neighborhood, zoned R-5, that includes a mix of multiple housing types including single-family homes, a three-family dwelling across the street, and a six-family residential building on the next block along Lexington to the east.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The subject property is included in an area identified for low density residential uses on the future land use map. A goal of the comprehensive plan states: *“Direct investment, amenities, and new housing development to established residential areas within the City’s boundaries to create additional opportunities for diverse ages, income levels, and stages of life in neighborhoods of choice.”*



Staff Analysis

Lazaro Valdez, the owner of the subject property, is requesting variances to lot size from 10,000 square feet to 5,535 square feet and from 60 feet lot frontage to 45 feet. The petitioner requests to convert the current vacant home to a three-family dwelling. Dwellings of up to 6 units are already permitted by right within this district. The neighborhood currently includes a mix of multiple housing types, including an existing three-family dwelling across the street. Approval of the variance would increase housing choices for the residents of Elkhart, which is consistent with the comprehensive plan.

Recommendation

The Staff **recommends approval** of the developmental variances: To vary from Section 8.5, Yard Requirements to allow for a property with an established lot size of 5,535 square feet and lot frontage of 45 feet variance to be used as a three family dwelling. The minimum lot size for the conversion to a three family dwelling is 10,000 square feet and a lot frontage of 60 feet, a variance of 4,465 square feet for the lot area and 15 feet for the lot frontage 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 approval of the variances would allow for the reinvestment into a currently vacant home;
2. The use and value of the area adjacent to the property **will not be** affected in a substantially adverse manner because a mix of housing types is consistent with the existing neighborhood;
3. Granting the variance **would be** consistent with the intent and purpose of this Ordinance because it would allow for the use of the property on an existing lot.
4. Special conditions and circumstances **do exist** as the subject property is a smaller older lot in one of the oldest parts of the City;
5. The strict application of the terms of this Ordinance **will result** in practical difficulties in the use of the property because denying the variance would prohibit a permitted use of the property due to historic conditions of the lot;
6. The special conditions and circumstances **do not result** from the applicant because the lot was already existing;
7. This property **does not** lie within a designated flood area.

Photos

PETITION #: 24-BZA-25

FILING FEE: \$ 300

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: DEVELOPMENTAL VARIANCE

Property Owner(s): LAZARO VALADER

Mailing Address: _____

Phone #: _____ Email: _____

Contact Person: Martha Molina

Mailing Address: _____

Phone #: _____ Email: _____

Subject Property Address: 506 W Lexington

Zoning: R-5

Present Use: VACANT Proposed Use: MULTY FAMILY DWELLING

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): LAZARO VALADER

SIGNATURE(S): LAZARO VALADER DATE: 8-28-2024

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: _____ DATE: _____

AFFIDAVIT IN SUPPORT OF DEVELOPMENTAL VARIANCE PETITION

I, Lazaro Jalaver, 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 506 W. Lexington Elkhart, Indiana.
4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 28 day of June, 2024.

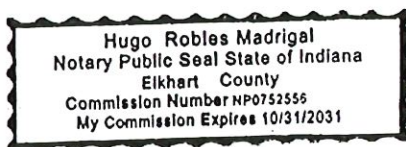
L. Jalaver
Printed: Lazaro Jalaver

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.

L. Jalaver
Printed: Lazaro Jalaver

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared Lazaro Jalaver, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 28 day of August, 2024.



Hugo Robles Madrigal
Printed: Hugo Robles Madrigal

My Commission Expires:
10/31/31

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

DATE:

TO: Board of Zoning Appeals
City of Elkhart, Indiana

RE: Developmental -
variance.

1- I, Lazaro Valadez am the owner of the following-
described real estate located within the
City of Elkhart Concord township Elkhart -
County, state of Indiana to-wit

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:

A vacant house the address is
506 west Lexington AV.

4- Petitioner desires to:

We want remodel this one
for the service of the community it self.

5- Ordinance of city of Elkhart requires:

This same one we want to remodel it
for the service of the community it self.
because Families are looking for an small Apartment
or studios to live more individually.

6- Unusual hardship.

Lot(s) 26' W side Lot 162 19' E side Lot 163
Subdivision: Fieldhouse's 4th APN / Parcel ID(s)
20-06-05-333-027000-012

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

I'm prove the accessibility of housing the great majority of citizens live today with other people, on unknown occasions and however they have to learn to live with them exposing their own children and their marriage avoiding arguments both in the social how in the economically for not to cause problems in the community, but sometime it is not possible to avoid thus resulting in more and more divorces and Delinquency in our children can be educated with two or three family nuclei. Being difficult for parents to control them for that reason we are trying to make lives more accessible for a family parent to be able to in habit it with his family.

First of all; Thank you very much for your contribution to the community and your server.

X LAZARO SALAZAR

7- constructing the new structure on the existing home behind the front of the home would not allow for suitable space between the home and the property boundaries p to best option as it will match the aesthetic appearance of the existing home and visible only to the adjacent neighbors as this lot.

Inside to separate the first floor from the second, building two rooms on the first floor, making a door on the side of the house so that they have their own independence.

QUITCLAIM DEED

Fidelity National Title Company, LLC File No.: 692301055L

THIS INDENTURE WITNESSETH, That Lazaro Valadez (Grantor) QUITCLAIMS to Lazaro Valadez and Martha Molina Carapia, Husband and Wife (Grantee) for no consideration, the following described real estate in Elkhart County, State of Indiana:

For APN/Parcel ID(s): 20-06-05-333-027.000-012

6.) THE WEST TWENTY-SIX (26) FEET OF LOT NUMBERED ONE HUNDRED SIXTY-TWO (162) AND THE EAST NINETEEN (19) FEET OF LOT NUMBERED ONE HUNDRED SIXTY-THREE (163) AS THE SAID LOTS ARE KNOWN AND DESIGNATED ON THE RECORDED PLAT OF FIELDHOUSE'S FOURTH ADDITION TO THE CITY OF ELKHART; ELKHART COUNTY, INDIANA, SAID PLAT BEING RECORDED IN PLAT BOOK 1, PAGE 129, IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

Property: 506 W. Lexington Avenue, Elkhart, IN 46516. Tax bills should be sent to Grantee at such address unless otherwise indicated below.

Subject to current taxes not delinquent, and all easements, agreements and restrictions of record and all public rights of way.

The undersigned person(s) executing this deed on behalf of Grantor represent and certify that he/she/they is/are member(s) of Grantor and has/have been fully empowered, by proper resolution or by the Operating Agreement, to execute and deliver this deed; that Grantor has full capacity to convey the real estate described herein; that the Grantor is a limited liability company in good standing in the State of Indiana and that all necessary action for the making of such conveyance has been taken and done.

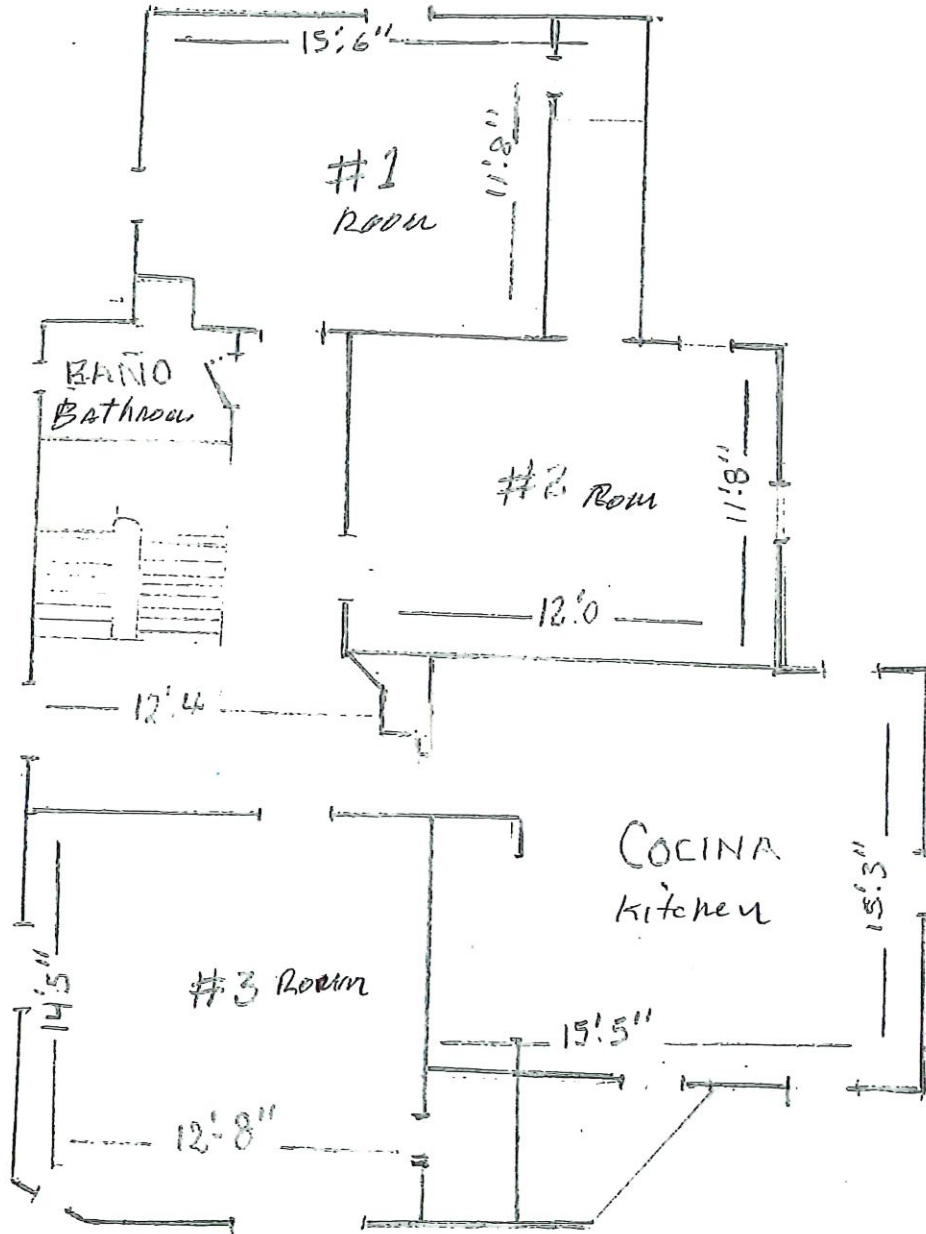
IN WITNESS WHEREOF, Grantor has executed this deed this 6 day of October, 2023.

GRANTOR:

Lazaro Valadez

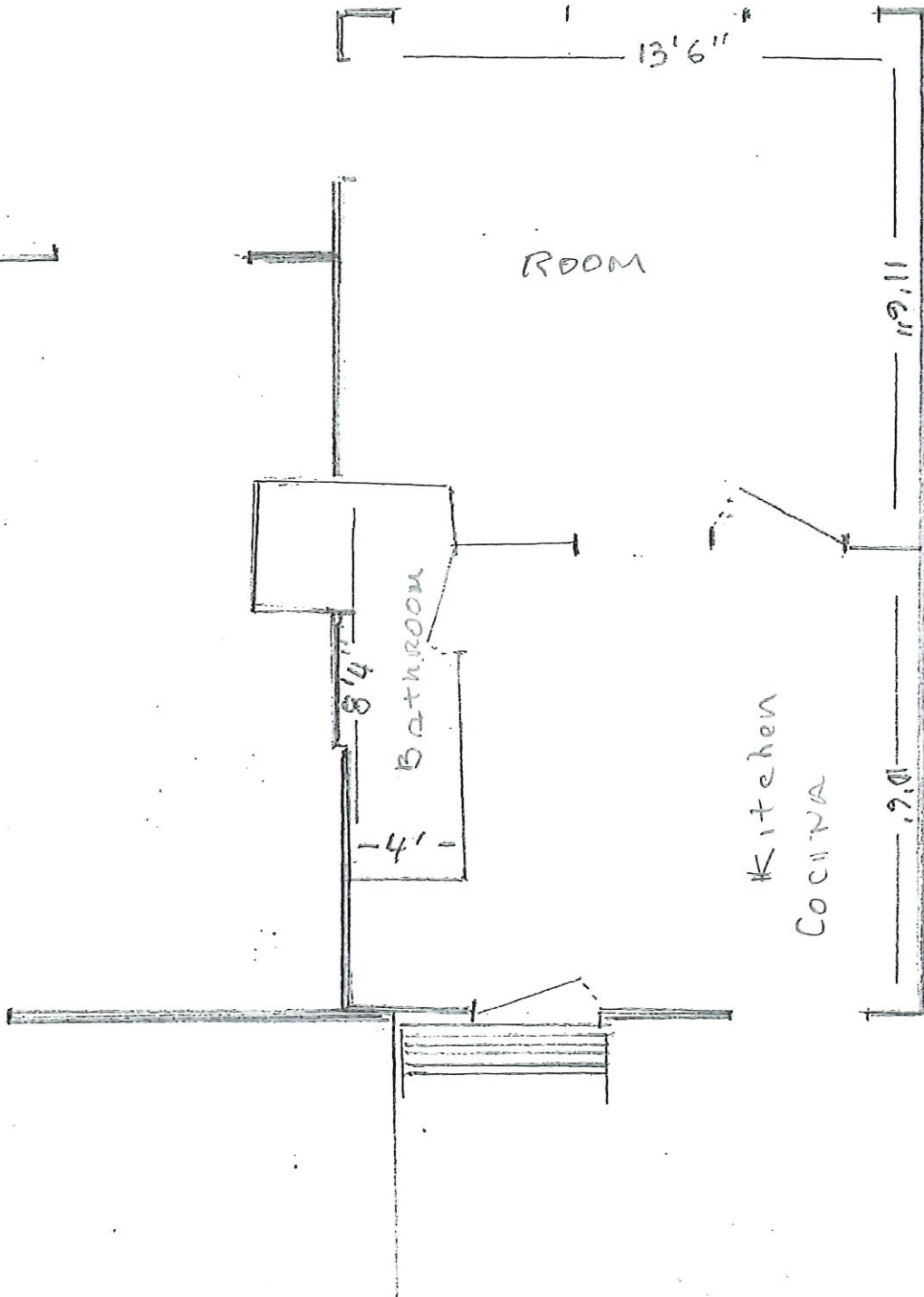
Lazaro Valadez

2.º PISO / FLOOR



506 W. LEXINGTON

Estudio
First Floor, Corner.

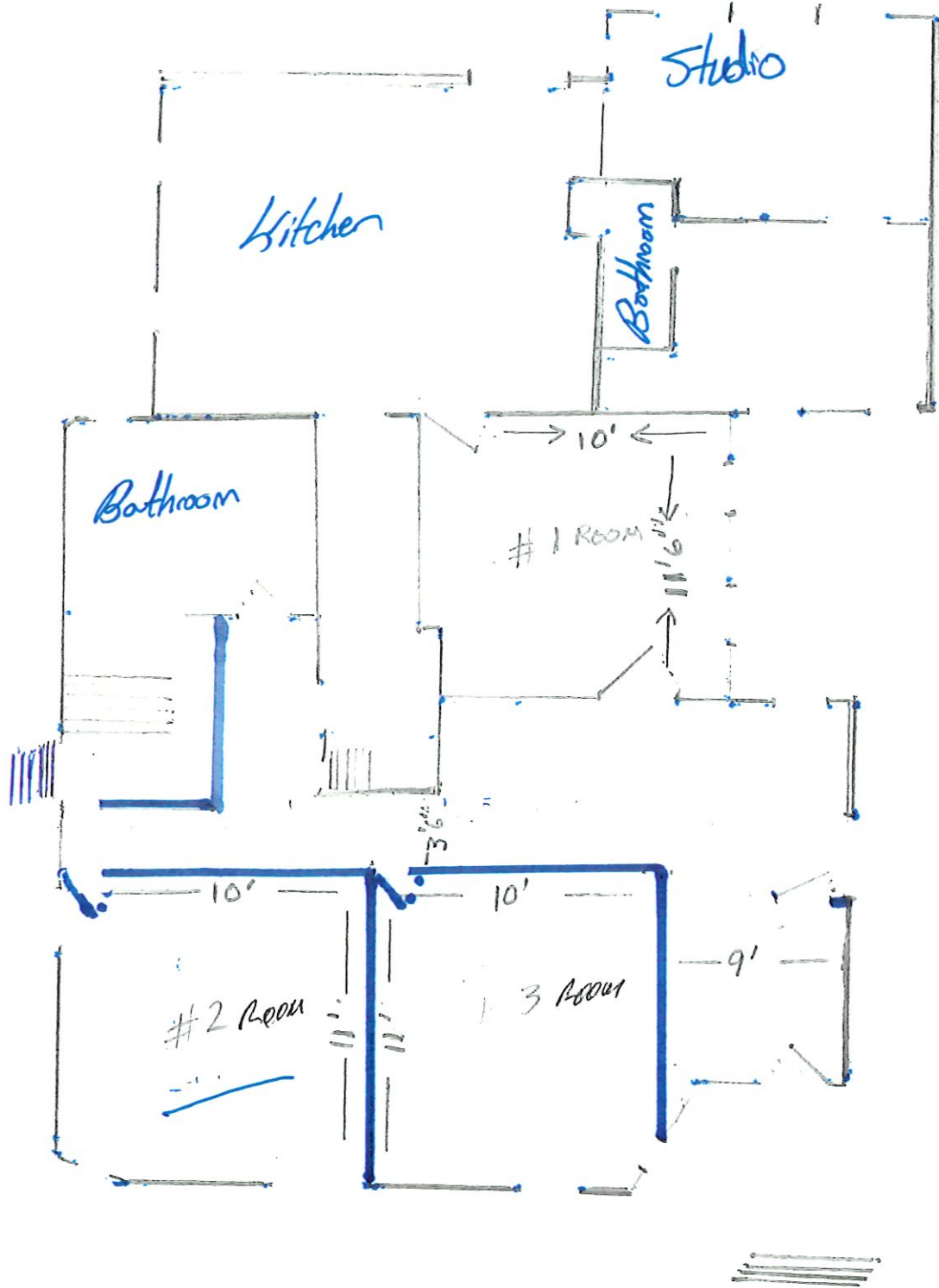


DIVISIONES

1^o Floor

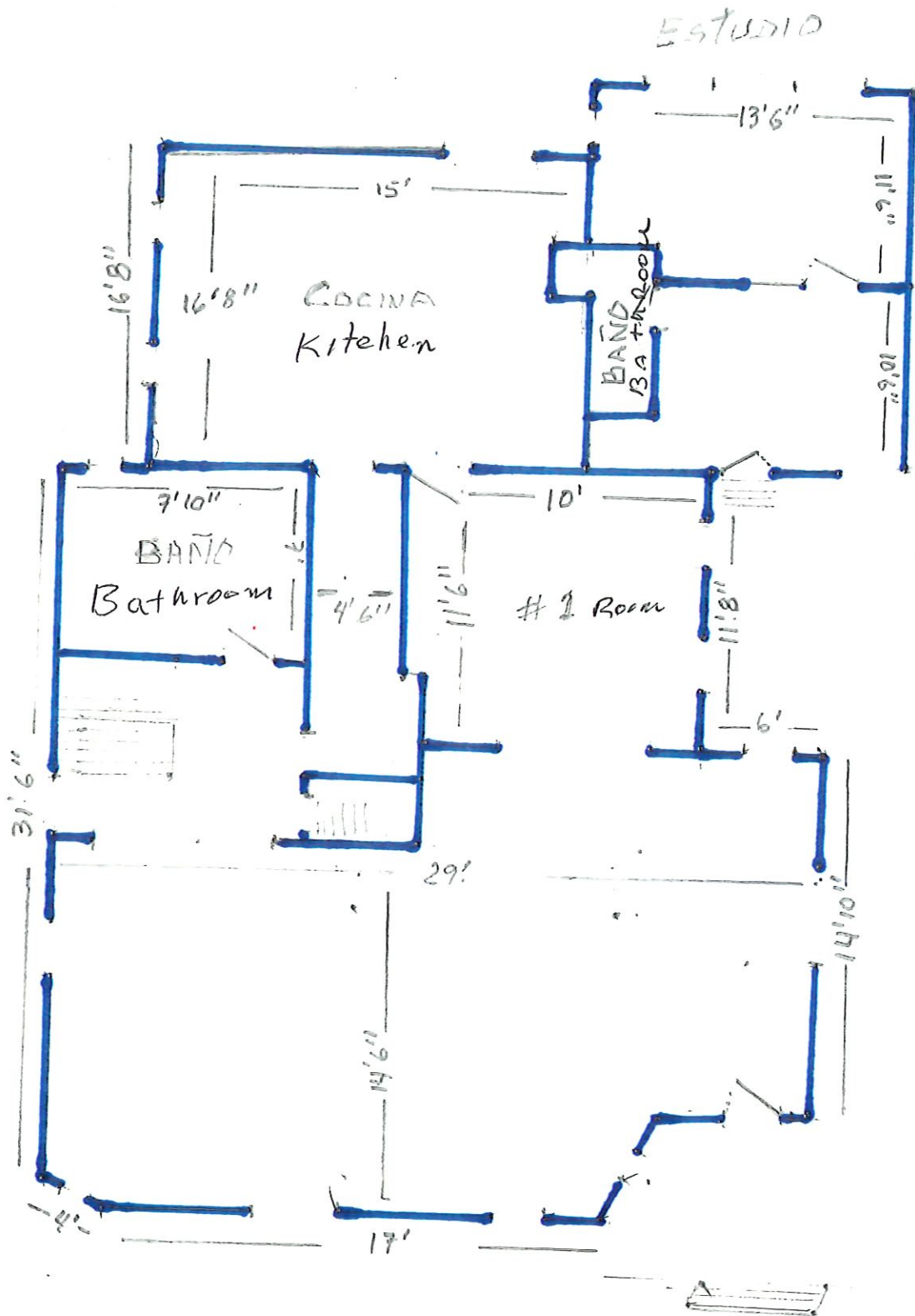
506 W Lexington Av.

ESTUDIO



506 W LEXINGTON

1^{er} Piso/Floor



506 W. LEXINGTON



Staff Report

Planning & Zoning

Petition: 24-UV-11

Petition Type: Use Variance

Date: October 10, 2024

Petitioner: LUMAAN LLC

Request: To vary from Section 5.2, Permitted Uses to allow for a two family dwelling. Two family dwellings are not permitted in the R-2 district.

Site Location: 707 Christian Avenue

Existing Zoning: R-2 One Family Dwelling District

Size: +/- 5 Acres

Thoroughfares: Christian Avenue

School District: Elkhart Community Schools

Utilities: Available and provided to the site.

Surrounding Land Use & Zoning:

The property is located in a single family residential subdivision zoned R-2.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The subject property is included in an area identified for low density residential uses on the future land use map. A goal of the comprehensive plan states: *“Direct investment, amenities, and new housing development to established residential areas within the City’s boundaries to create additional opportunities for diverse ages, income levels, and stages of life in neighborhoods of choice.”*



Staff Analysis

LUMAAN LLC is the owner of the subject property and they are requesting a use variance to allow for a two family dwelling. The property was damaged in a fire and the petitioner is using this opportunity to construct a new housing type for the neighborhood. While the comprehensive plan states the need for new investments in existing neighborhoods and vacant lots, there are no other two family dwellings in the neighborhood. The petitioner states that with out approval of the variances the project becomes unfeasible.

Recommendation

The Staff has **no recommendation** 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 project will redevelop a blighted and damaged home, improving the character of the neighborhood. The use would provide more diverse housing options for the community;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner because two family homes have very similar character to single family homes;
3. The need for the variance arises from some condition peculiar to the property involved because without board action the use would not be permitted;
4. The strict application of the terms of this Ordinance **does not** constitute an unnecessary hardship as this use is allowed in other districts;

5. The approval **does** comply with the Comprehensive Plan which calls for the area to be developed for low density residential uses. It is consistent with the neighborhood goal: *“Direct investment, amenities, and new housing development to established residential areas within the City’s boundaries to create additional opportunities for diverse ages, income levels, and stages of life in neighborhoods of choice.”*

Photos

PETITION #: 24-W-11

FILING FEE: \$ 200

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: USE VARIANCE

Property Owner(s): LUMAAN LLC

Mailing Address: _____

Phone #: _____ Email: _____

Contact Person: Claudia Mariel Rainoldi / Gustavo Jorge Andres

Mailing Address: _____

Phone #: _____ Email: _____

Subject Property Address: 707 Christian Ave.

Zoning: R2

Present Use: Single Family Home Proposed Use: Two Family Home

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): Lumaan LLC (Claudia Rainoldi)

SIGNATURE(S): _____ DATE: 28/08/2024

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: _____ DATE: _____

TO: Board of Zoning Appeals RE: Use Variance
City of Elkhart, Indiana

The undersigned petitioner respectfully shows the Board of Zoning Appeals:

1. I, *Claudia Rainoldi owner of Lumaan LLC*, am the owner of the following described real estate located within the City of Elkhart, Concord Township, Elkhart County, State of Indiana, to-wit: *707 Christian Ave., Elkhart, IN 46517, USA. Lot Number Two Hundred Twenty-one (221) as the said lot is known and designated on the recorded plat of Southdale Sixth, an addition to the City of Elkhart, Indiana, said plat being recorded in Plat Book 8, page 89 in the Office of the Recorder of Elkhart County, State of Indiana.*

2. The above described real estate presently has a zoning classification of R2 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: *(Explain existing use).*
Originally this was a single family residential property but unfortunately it was badly damaged by a fire in November 2023 and we were forced to demolish it in June 2024 to rebuild from scratch.

4. Petitioner desires to *(Explain what is proposed that violates the provisions of the Zoning Ordinance).*
Our project now is to build a modern two-family residential property on the now existing vacant land.

5. The Zoning Ordinance of the City of Elkhart requires *(Explain ordinance requirements and note the Section Number of the Ordinance).*

SECTION 6

R-3, TWO-FAMILY DWELLING DISTRICT

Section

6.1 Purpose

6.2 Permitted Uses

6.3 Special Exception Uses

6.4 Yard Requirements

6.5 Supplemental Regulations

6.1 Purpose

The R-3 District is designed to provide for low to medium density single and two family residential development in urbanized areas.

6.2 Permitted Uses

A. Any use permitted in the R-2 One-Family Dwelling District.

B. Two-Family dwellings, with a minimum width of 24 feet and a minimum of seven hundred fifty (750) square feet of dwelling unit space per dwelling unit. The primary façade of the structure shall face a public street. (as amended per Ordinance No. 4542 dated December 4, 2000 & as amended per Ordinance 4762 on August 1, 2003).

6.3 Special Exception Uses

A. Special Exceptions listed in the R-2, One-Family Dwelling District.

B. Licensed home or facility for substance abuse rehabilitation.

C. Offices of charitable organizations.

No, our project will bring modernity, ecology, energy efficiency and good taste to the current neighborhood and will not harm public health, morale and safety.

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

No, because the project complies with the measures of the new R3 zoning that does not allow negative encroachment on neighboring properties.

3. The need for the variance arises from some condition peculiar to the property involved.

Yes, the new construction will be a two-family dwelling.

4. The strict application of the terms of this Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought. (Financial considerations do not qualify).

Yes, unfortunately the strict application of the ordinance without the variance makes the project unfeasible.

5. The approval does not interfere substantially with the Comprehensive Plan.

No, to the best of my knowledge this approval does not interfere substantially with the Comprehensive Plan.

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

Signature of Property Owner:



CLAUDIA RAINOLDI

Printed Name: Claudia Rainoldi

Second Property Owner:



Printed Name: Gustavo Andres

Contact Person:

Name: Claudia Rainoldi

Address:

Phone Number where you can be reached:

Email:

TO: Board of Zoning Appeals RE: Use Variance
City of Elkhart, Indiana

The undersigned petitioner respectfully shows the Board of Zoning Appeals:

1. I, *Claudia Rainoldi* owner of *Lumaan LLC*, am the owner of the following described real estate located within the City of Elkhart, Concord Township, Elkhart County, State of Indiana, to-wit: *707 Christian Ave., Elkhart, IN 46517, USA. Lot Number Two Hundred Twenty-one (221) as the said lot is known and designated on the recorded plat of Southdale Sixth, an addition to the City of Elkhart, Indiana, said plat being recorded in Plat Book 8, page 89 in the Office of the Recorder of Elkhart County, State of Indiana.*

2. The above described real estate presently has a zoning classification of *R2 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: *(Explain existing use).*

Originally this was a single family residential property but unfortunately it was badly damaged by a fire in November 2023 and we were forced to demolish it in June 2024 to rebuild from scratch.

4. Petitioner desires to *(Explain what is proposed that violates the provisions of the Zoning Ordinance).*

Our project now is to build a modern two-family residential property on the now existing vacant land.

5. The Zoning Ordinance of the City of Elkhart requires *(Explain ordinance requirements and note the Section Number of the Ordinance).*

SECTION 6

R-3, TWO-FAMILY DWELLING DISTRICT

Section

6.1 Purpose

6.2 Permitted Uses

6.3 Special Exception Uses

6.4 Yard Requirements

6.5 Supplemental Regulations

6.1 Purpose

The R-3 District is designed to provide for low to medium density single and two family residential development in urbanized areas.

6.2 Permitted Uses

A. Any use permitted in the R-2 One-Family Dwelling District.

B. Two-Family dwellings, with a minimum width of 24 feet and a minimum of seven hundred fifty (750) square feet of dwelling unit space per dwelling unit. The primary façade of the structure shall face a public street. (as amended per Ordinance No. 4542 dated December 4, 2000 & as amended per Ordinance 4762 on August 1, 2003).

6.3 Special Exception Uses

A. Special Exceptions listed in the R-2, One-Family Dwelling District.

B. Licensed home or facility for substance abuse rehabilitation.

C. Offices of charitable organizations.

6.4 Yard Requirements

The yard requirements for the R-3, Two-Family Dwelling District are as follows: (All standards are minimums except as noted.)

"Corner Side Yard: The Corner Side Yard setback is determined by measuring the average established setback of the structures within the same block between two intersecting streets. This calculation would equal the established front yard setback for the side street."

Use	Lot Size	Frontage	Setbacks			Maximum Structure Height	Maximum Lot Coverage for Structures
			Front Yard	Side Yards	Rear Yard		
One-Family	6,000 square	50 feet	Established setbacks;	15 feet total, 5	10 feet between	30 feet	40% total for all structures
Use	Lot Size	Frontage	Front Yard	Side Yards	Rear Yard	Maximum Structure Height	Maximum Lot Coverage for Structures
	feet		or 20 feet if no established setback.	feet minimum	dwelling units		
Two-Family	7,200 square feet	60 feet	Established setbacks; or 20 feet if no established setback.	15 feet total, 5 feet minimum	10 feet between dwelling units	30 feet **see below	40% total for all structures

** Rear Yard 30 feet or established setbacks if adjacent to a river or creek. (as amended per Ordinance 4762 on August 1, 2003)

6.5 Supplemental Regulations

- A. Special Flood Hazard Area Regulations - Section 21
- B. Wetlands Conservation District Regulations - Section 22
- C. Air Space Control Area Regulations - Section 25
- D. Accessory Structures and Swimming Pool Requirements - Section 26.1
- E. Permitted Obstructions in Required Yards - Section 26.3
- F. Fence Requirements - Section 26.4
- G. Intersection Visibility Area Requirements - Section 26.5
- H. Primary Street Setback Requirements - Section 26.5
- I. Off-Street Parking and Loading Requirements - Section 26.7
- J. Sign Regulations - 26.10

6. Explain why strict adherence to the Zoning Ordinance requirements would create an unusual hardship. (Please note that the Board cannot consider financial hardship. *The Light Co., Inc. v. Houghton et. al.* 226 N.E. 2nd 341 (Ind. Ct. App. 1967).

Our property conforms with the totality of the requirements needed to build our new project if it is recorded to R3 zone. The only drawback is that it is currently zoned R2. That is why we respectfully request you to rezone in order to act in full compliance with the law.

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 not be injurious to the public health, safety, morals and general welfare of the community

No, our project will bring modernity, ecology, energy efficiency and good taste to the current neighborhood and will not harm public health, morale and safety.

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

No, because the project complies with the measures of the new R3 zoning that does not allow negative encroachment on neighboring properties.

3. The need for the variance arises from some condition peculiar to the property involved.

Yes, the new construction will be a two-family dwelling.

4. The strict application of the terms of this Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought. (Financial considerations do not qualify).

Yes, unfortunately the strict application of the ordinance without the variance makes the project unfeasible.

5. The approval does not interfere substantially with the Comprehensive Plan.

No, to the best of my knowledge this approval does not interfere substantially with the Comprehensive Plan.

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

Signature of Property Owner:



CLAUDIA RAINOLDI

Printed Name: Claudia Rainoldi

Second Property Owner:



Printed Name: Gustavo Andres

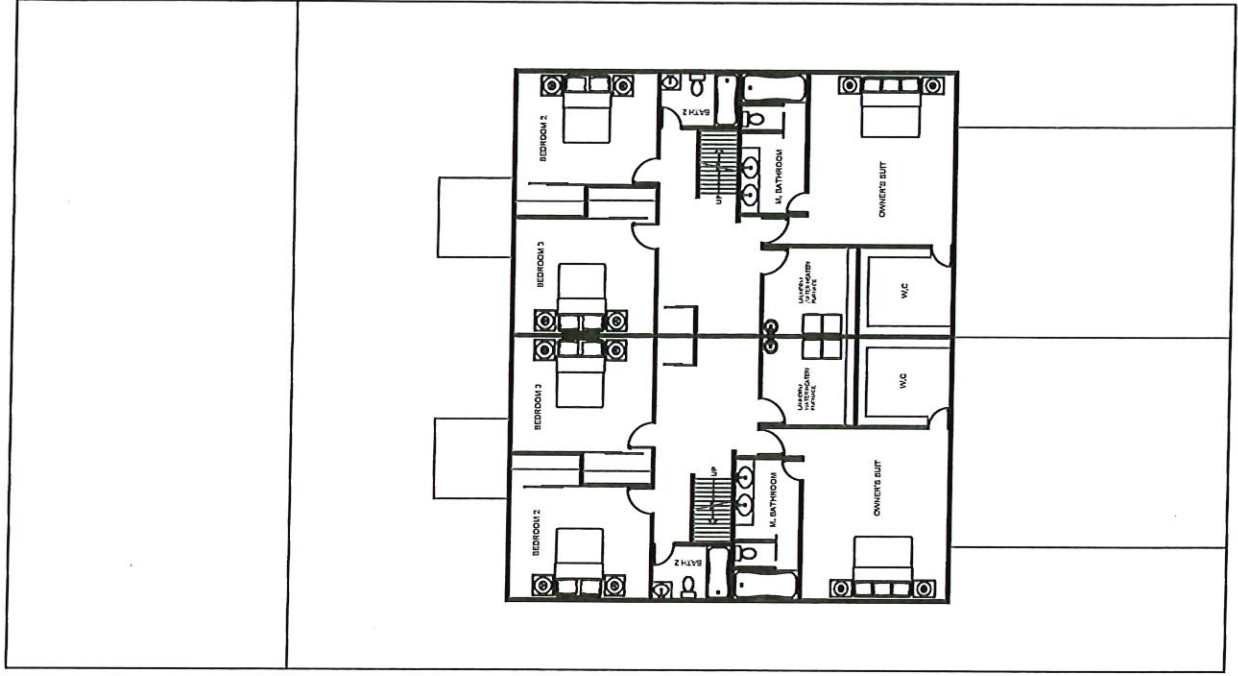
Contact Person:

Name: Claudia Rainoldi

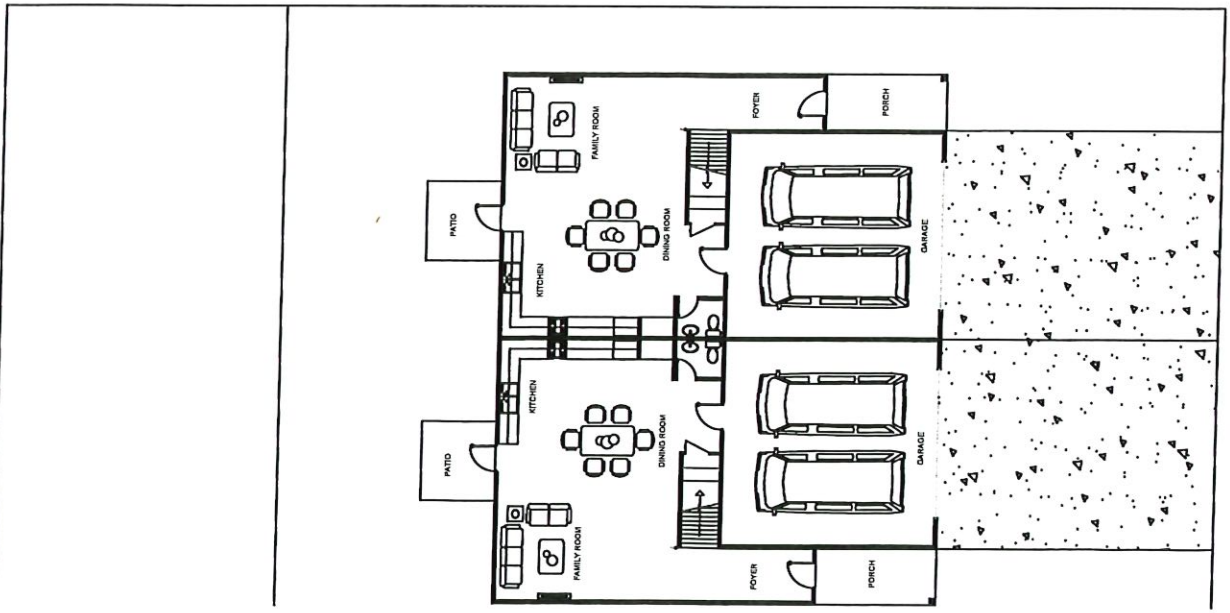
Address: [REDACTED]

Phone Number where you can be reached: [REDACTED]

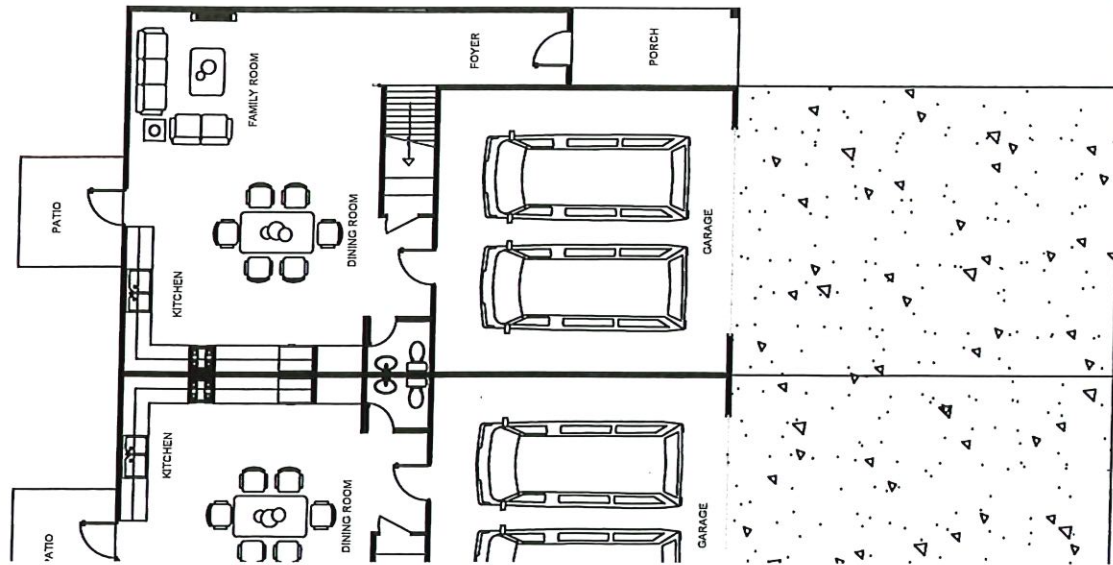
Email: [REDACTED]



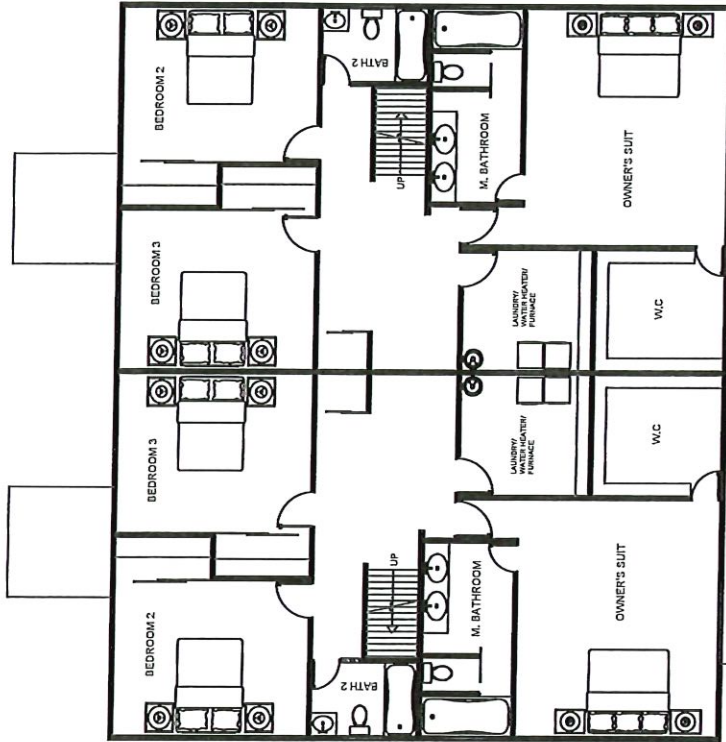
ARCHITECTURAL
2ND FLOOR



ARCHITECTURAL
FLOOR PLAN



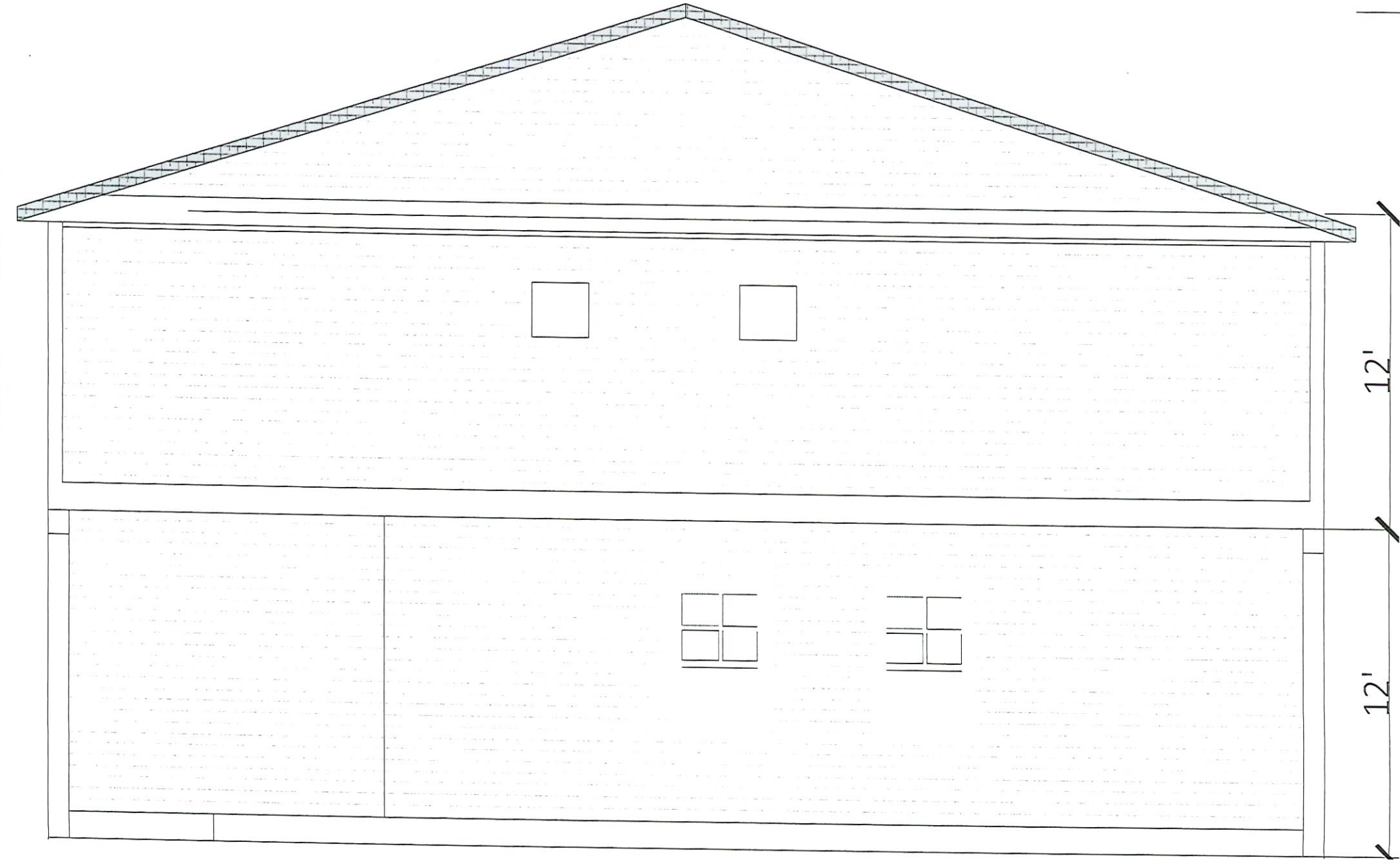
ARCHITECTURAL
FLOOR PLAN



ARCHITECTURAL
2ND FLOOR

7-179-013.000-012

ES
7"



PATIO

-30 YEAR ROOF SHINGLES, COLOR BY OWNER

-5/8" EXTERIOR GRADE OSB SHEATHING
-ROOF FRAMING - REFER TO STRUCTURAL
-R-49 INSULATION, LAPPED ABOVE EXTERIOR WALL

-1/2" DRYWALL WITH SKIM COAT PLASTER

-ALUMINIUM GUTTERS AND DOWNSPOUTS

-30 YEAR ROOF SHINGLES, COLOR BY OWNER

-5/8" EXTERIOR GRADE OSB SHEATHING
-R-49 INSULATION LAPPED ABOVE EXTERIOR WALL

-ALUMINIUM GUTTERS AND DOWNSPOUTS

ROOF CONSTRUCTION

-CONTINUOUS SOFFIT VENT
-ICE + WATER SHIELD
-15LB FELT UNDERLAYMENT

-1x3 STRAPPING @ 16" OC

-PAINT, COLOR BY OWNER
-ALUMINIUM DRIP EDGE

-COMPOSITE FASCIA

EAVE CONSTRUCTION

-ICE + WATER SHIELD
-15LB FELT UNDERLAYMENT

-ALUMINIUM DRIP EDGE

-COMPOSITE FASCIA
-CONTINUOUS SOFFIT VENT

ARCHITECTURAL PLAN GENERAL NOTES

- A. ALL CMU WALLS THAT DO NOT LAY OUT IN FULL OR HALF LENGTHS SHOULD BE BALANCED SO AS NOT TO HAVE ANY PIECES LESS THAN 4" IN SIZE EXPOSED TO VIEW.
- B. WHERE DISSIMILAR FLOOR MATERIALS MEET, THEY SHALL DO SO UNDER THE CENTERLINE OF THE DOOR, UNLESS NOTED OTHERWISE.
- C. THE BASE FLOOR ELEVATION INDICATED FOR THE PROJECT IS 100'-0". REFER TO SITE PLAN FOR CORRELATION TO USGS DATUM.
- D. ALL INTERIOR MASONRY WALLS THAT RUN TO UNDERSIDE OF DECK ABOVE SHALL HAVE A 2" JOINT (U.N.O.) AT THE DECK TO BE FILLED WITH FIRE STOPPING AT RATED WALLS PER PROJECT MANUAL, AND MINERAL WOOL AT THE NON-RATED WALLS, TO ALLOW FOR DEFLECTION.
- E. ALL DIMENSIONS ON FLOOR PLANS ARE TO FINISH FACE OF CMU, CONCRETE, BRICK OR FINISH FACE OF GWB AT METAL/WOOD STUD WALLS, UNLESS NOTED OTHERWISE. EXCEPTION: EXTERIOR METAL STUD WALLS ARE TO FACE OF METAL STUDS.
- F. HINGE SIDE DOOR JAMB AT WALLS WILL TYPICALLY BE LOCATED 4" MINIMUM FROM ADJACENT WALL UNLESS NOTED OTHERWISE.
- G. ALL EXPOSED CONCRETE MASONRY UNITS (CMU) CORNERS ARE TO BE BULLNOSE, EXCEPT AT BULKHEADS, WINDOW AND DOOR HEADS.
- H. PROVIDE WOOD BLOCKING AS REQUIRED, WITHIN METAL STUD WALLS FOR WALL MOUNTED ITEMS.
- I. REFER TO MASTER/CODE PLANS FOR CODE INFORMATION AND FIRE RATED WALL LOCATIONS.
- J. ALL INTERIOR WALLS TO EXTEND UP TO EXISTING/NEW CEILINGS U.N.O
- K. KITCHEN LAYOUT/HOOD SHOWN FOR REFERENCE ONLY. CONTRACTOR/OWNER TO PROVIDE CODE COMPLIANT KITCHEN.
- L. ALL CASEWORK SHOWN FOR REFERENCE ONLY. OWNER TO PROVIDE CODE COMPLIANT CASEWORK.
- M. ALL ARCHITECTURAL ELEMENTS ARE EXISTING U.N.O

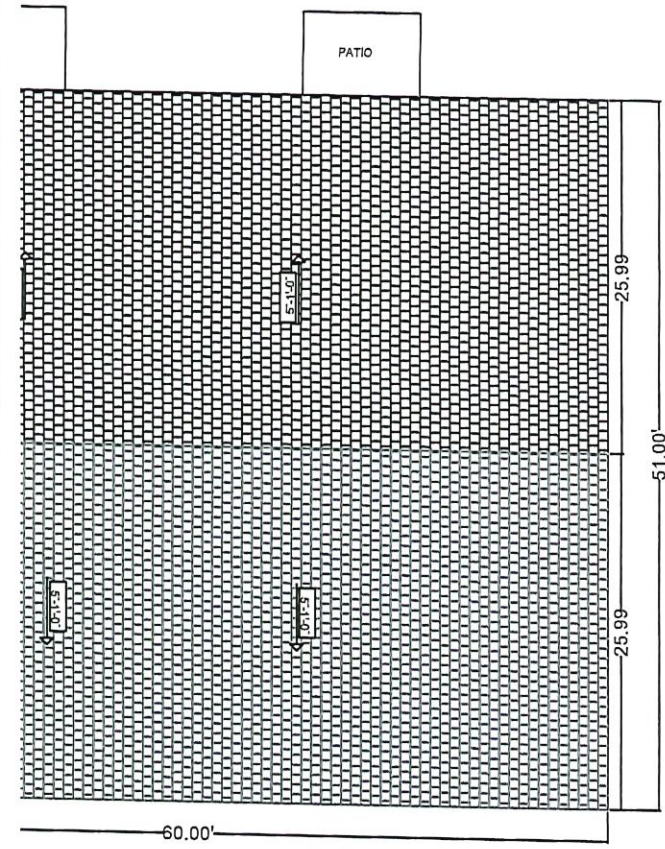
ARCHITECTURAL PLAN NOTES



(ALL NOTES MAY NOT BE INDICATED ON THIS SHEET)

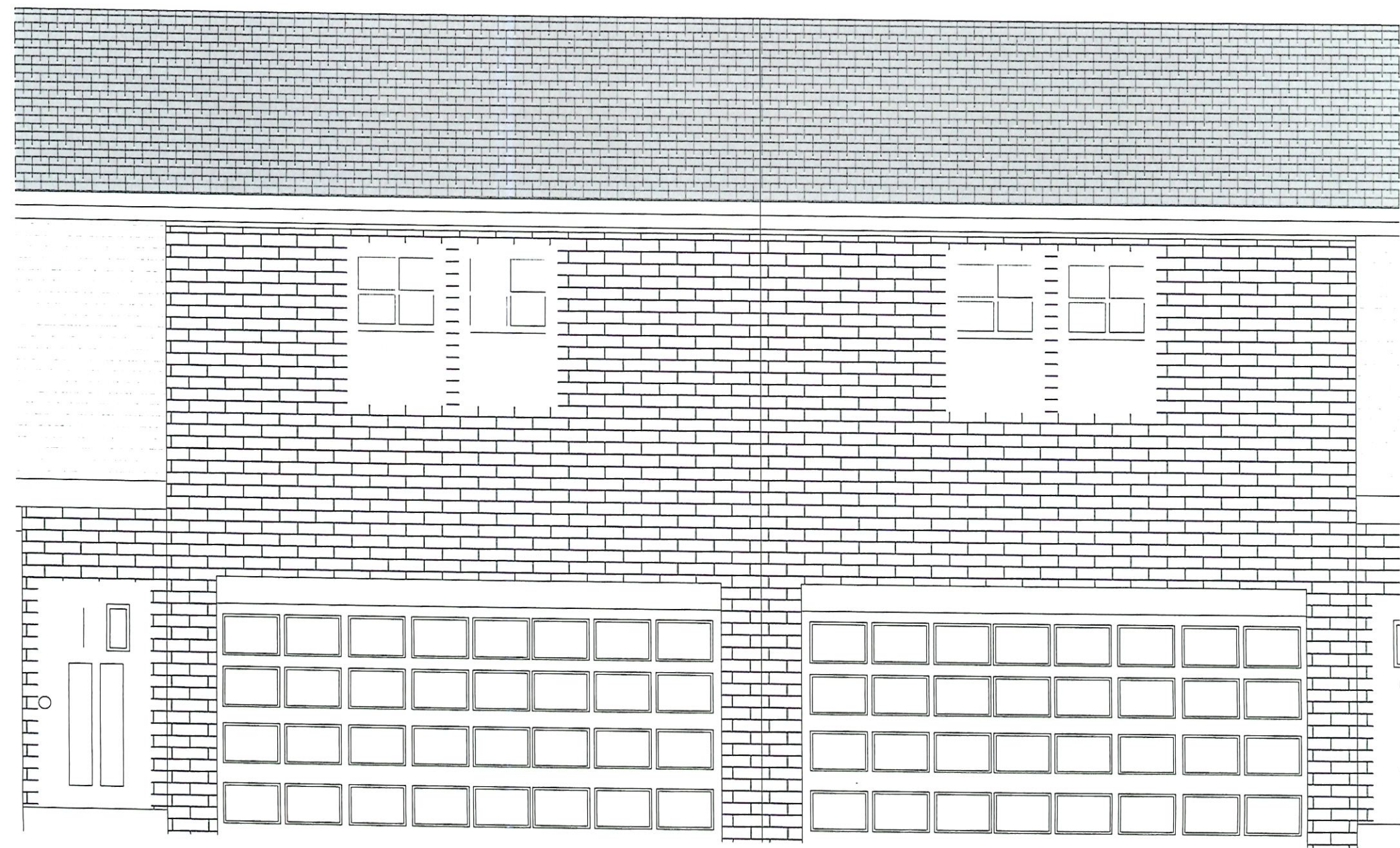
VERIFICATION NOTE

CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CLEARANCES AND ALL EXISTING FIELD CONDITIONS BEFORE STARTING CONSTRUCTION. COMMENCEMENT OF WORK CONSTITUTES ACCEPTANCE OF CONDITIONS.



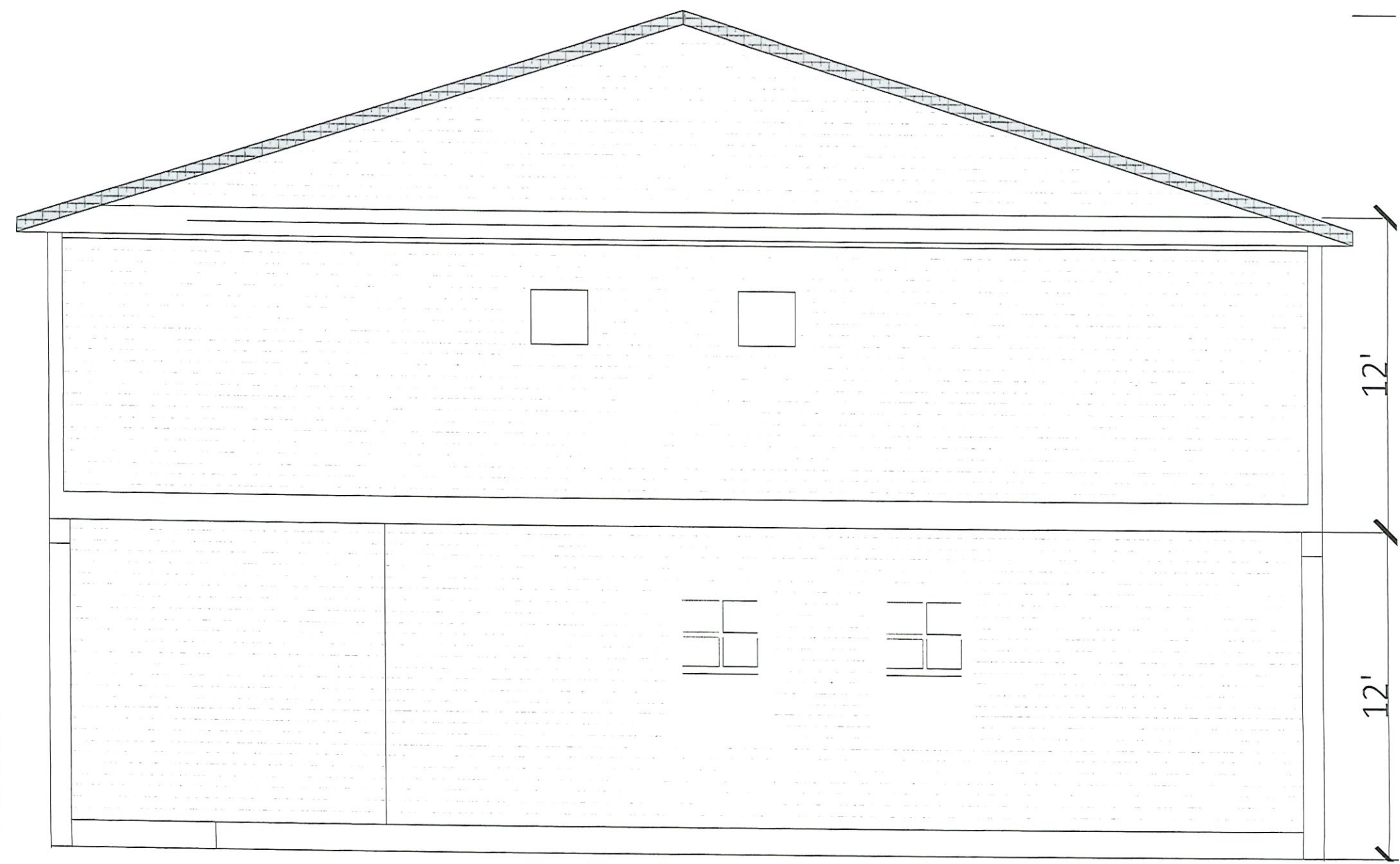
7-179-013.000-012

3S
7"



7-179-013.000-012

ES
7"



SITE PLAN

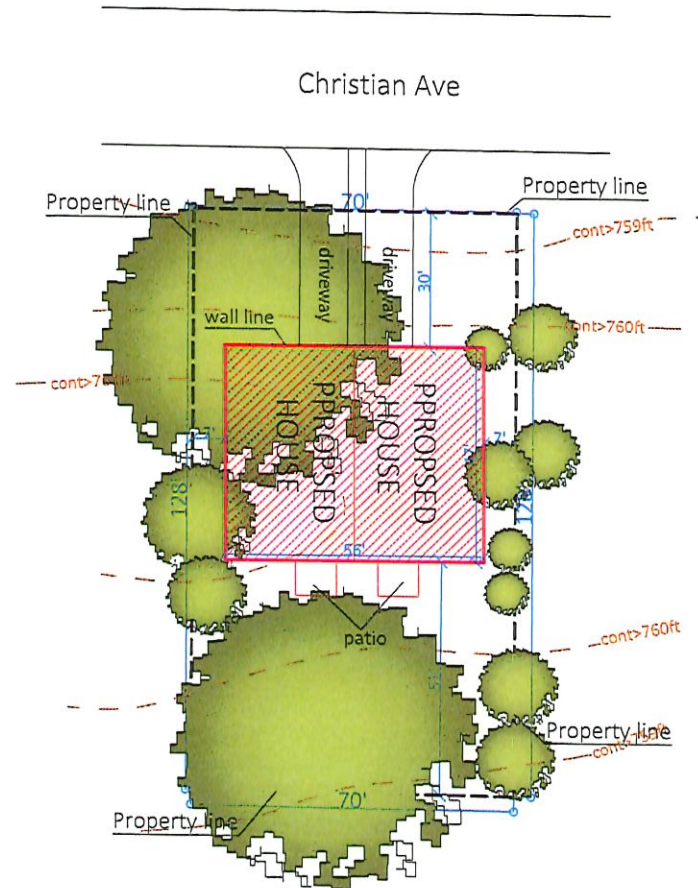
707 Christian Ave

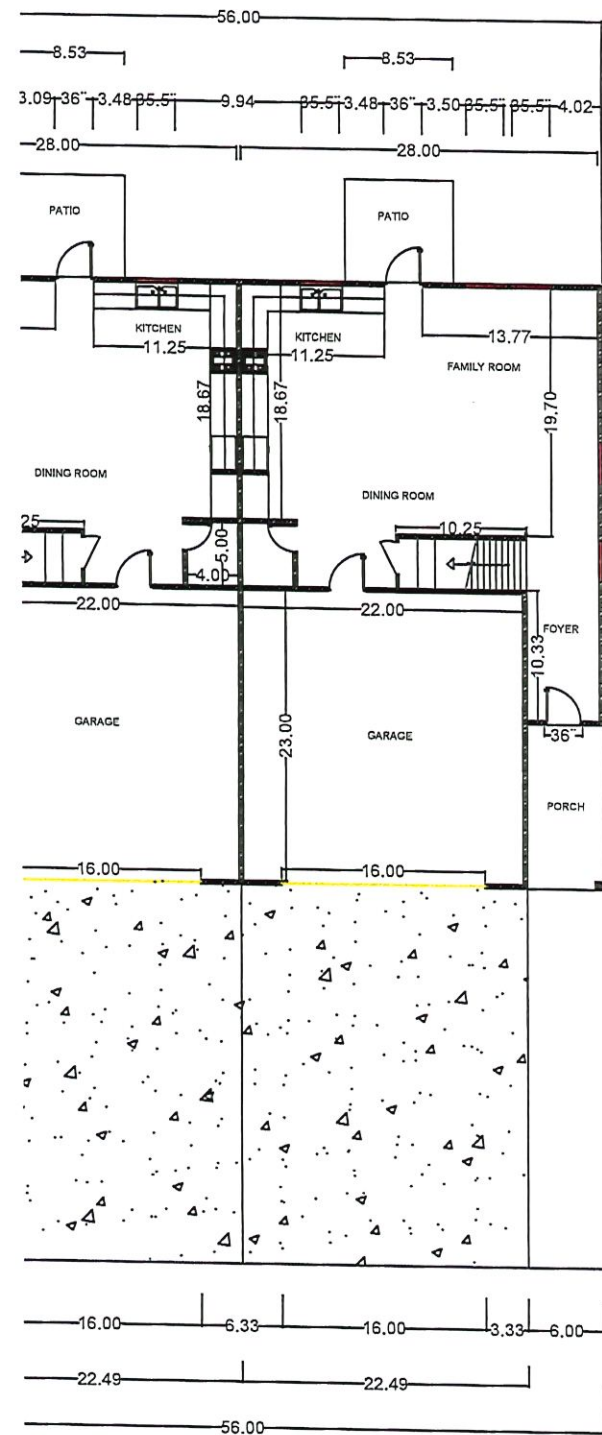
Elkhart, IN 46517

Parcel ID: 20-06-17-179-013.000-012

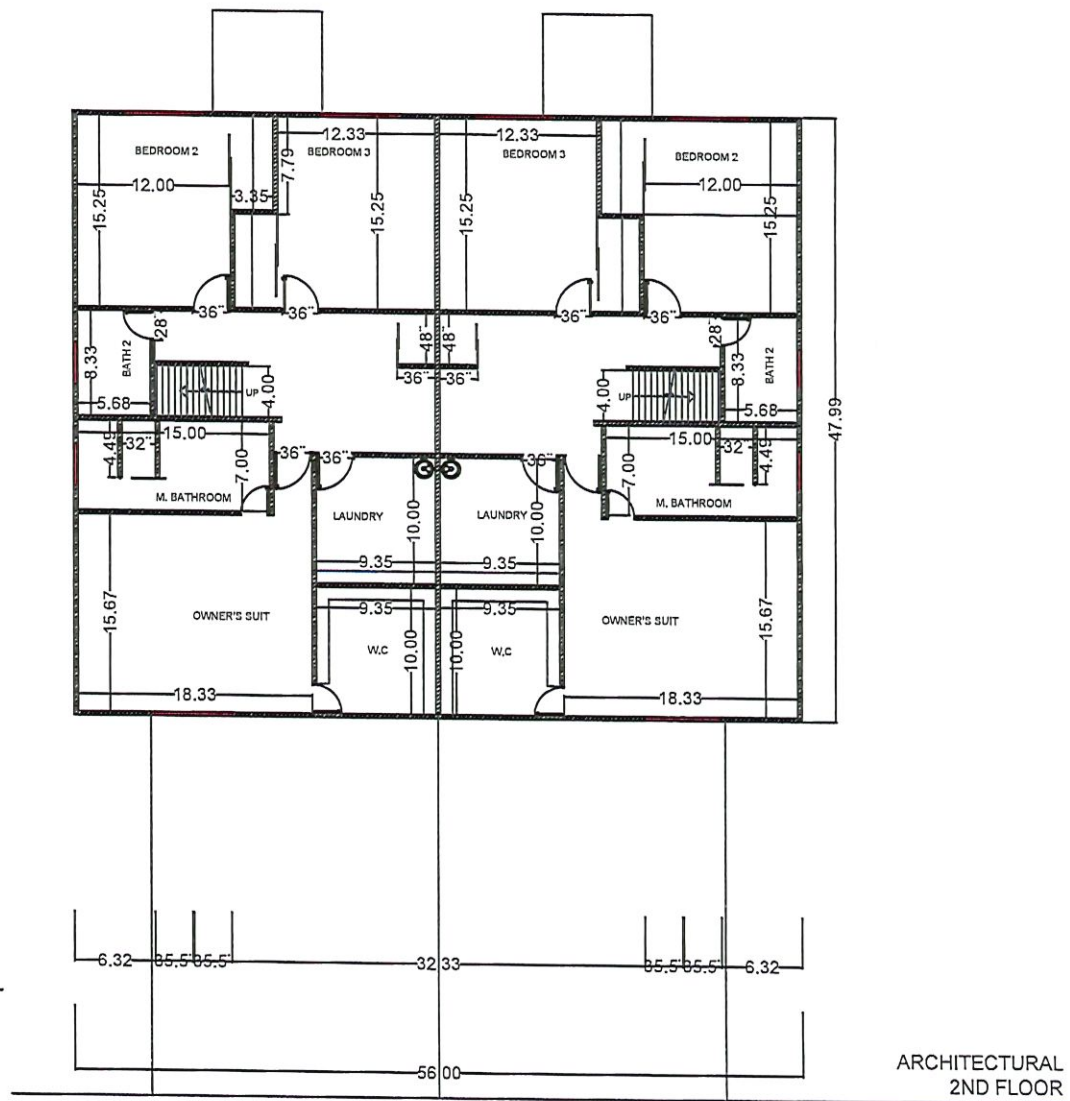
Lot area: 0.21 Acres

Paper Size: 11"x17"

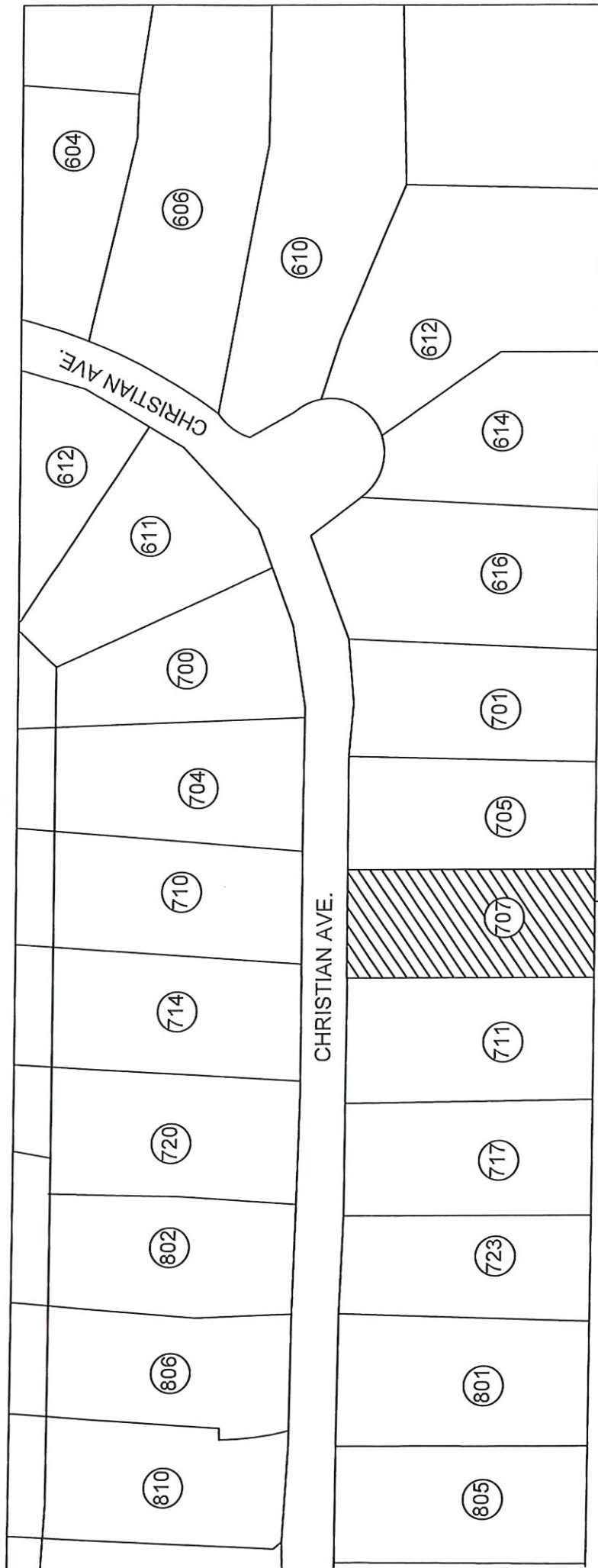




ARCHITECTURAL
FLOOR PLAN



ARCHITECTURAL
2ND FLOOR



707 CHRISTIAN AVE,
ELKHART, IN 46517
PARCEL
ID:20-06-17-179-013-000-012
LOT AREA: 0.21 ACRES



Staff Report

Planning & Zoning

Petition: 24-BZA-27

Petition Type: Developmental Variance

Date: October 10, 2024

Petitioner: CommunityWide Federal Credit Union

Site Location: 2110 Cassopolis Street

Request: To vary from Section 26.10.D, Sign Regulations – Table 1, that permits a free standing sign up to 50 square feet in area with up to 50% of the sign area as changeable copy, to allow for a new monument sign that is 32 square feet with a changeable copy (LED screen) that is 27 square feet in area, variance of 11 square feet for the changeable copy. To also vary from Section 26.10.D.4.c.ii, Free Standing Sign Increases, which states in part, ‘The permitted height of a free-standing sign may be increased at the rate of one (1) foot for every two (2) feet the sign is located in excess of the required five (5) feet minimum distance from the right of way,’ to allow for a sign that is 7’11” in height at the minimum five (5) foot setback where six (6) feet is allowed, a variance of 1’11”.

Existing Zoning: B-3, Service Business District

Size: +/- 1.4 acres

Thoroughfares: State Road 19 / Cassopolis Street

School District: Elkhart Community Schools

Utilities: Available and provided to site

Surrounding Land Use & Zoning:

The subject site is surrounded by a mix of B-3 Service Business District, M-1 Limited Manufacturing District, and R-2 One-Family Dwelling District. Current land uses are commercial, residential, and vacant land.

Applicable Sections of the Zoning Ordinance:

Section 26.10, Sign Regulations

Comprehensive Plan:

The subject property is included in an area identified for commercial use on the future land use map.



Staff Analysis

CommunityWide Federal Credit Union is the owner of the subject property. Present and proposed use is as a Credit Union (no change). The request is for a variance to allow installation of a sign that does not meet developmental standards. The petitioner desires to replace an existing pylon sign that is 17-feet tall and 8-feet wide overall, with a monument style sign that is proposed to be 7-feet, 11-inches tall and 11-feet, 1-inch wide overall. Primary signface is proposed to be 32 square feet, with an integrated message board (LED screen) at 27 square feet mounted on the same supporting structure. The new sign is proposed to be located at the same location as the existing sign to take advantage of existing steel and electric infrastructure.

Variations are requested for the following sections of the Sign Regulations:

- Section 26.10.D, Table 1, Free-Standing Signs in B-3 District, to allow an integrated changeable copy (LED screen) message board to be 84% of the size of the principal sign, where a maximum of 50% is allowed.
- Section 26.10.D.4.c.ii, Free Standing Sign Increases, to allow a sign height of 7-feet, 11-inches, where 6-feet is allowed.

Recommendation

The Staff **recommends approval** of the developmental variances requested to the Sign Regulations, 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 proposed sign will replace a larger, taller existing sign;
2. The use and value of the area adjacent to the property **will not be** affected in a substantially adverse manner;
3. Granting the variance **would be** consistent with the intent and purpose of this Ordinance;
4. Special conditions and circumstances **do** exist which are peculiar to the land involved and which are not applicable to other lands or structures in the same district because the proposed sign will replace an existing sign;
5. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the property;
6. The special conditions and circumstances **do not** result from any action or inaction by the applicant, as the existing sign was installed prior to current ordinance requirements for location to be centered on the property;
7. This property **does not** lie within a designated flood area.

Conditions

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

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

Photos

PETITION #: 24-BZA-27

FILING FEE: \$ 300

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: DEVELOPMENTAL VARIANCE

Property Owner(s): CommunityWide Federal Credit Union

Mailing Address: 1555 Western Ave South Bend, IN 46619

Phone #: [REDACTED] Email: _____

Contact Person: Andrew Burggraf

Mailing Address: 1555 Western Ave South Bend IN 46619

Phone #: [REDACTED] Email: [REDACTED]

Subject Property Address: 2110 Cassopolis St

Zoning: B1

Present Use: Credit Union Proposed Use: Credit Union

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): ANDREW BURGGRAF

SIGNATURE(S): [Signature], CEO CWFCU DATE: 9-4-24

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: _____

AFFIDAVIT IN SUPPORT OF DEVELOPMENTAL VARIANCE PETITION

I, Andrew Burgegar, 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 2110 Cassopolis St Elkhart, Indiana.
4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 4 day of Sept, 2024.

[Signature]

Printed: ANDREW BURGGAR, CEO COFF

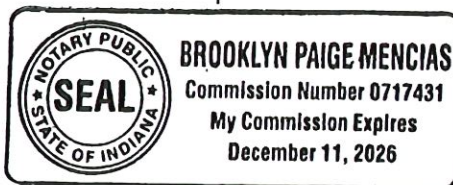
I certify under the penalties for perjury under the laws of the United States of America and the State of Indiana that the foregoing factual statements and representations are true and correct.

[Signature]

Printed: Lauren Overmyer

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared Lauren Overmyer and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 4 day of September, 2024



[Signature]
Printed: Brooklyn Paige Mencias

My Commission Expires:
12/11/2026

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

APPEAL LETTER

To: Board of Zoning Appeals City of Elkhart, Indiana

Re: Developmental Variance

1. I Andy Burggraf am the owner of the following described real estate located within the City of Ekhart, Osolo Township, Elkhart County. State of Indiana.
2. The above described real estate presently has a zoning classification of B1 District under the zoning ordinance of the city of Elkhart.
3. Petitioner presently occupies the above described property in the following manner:

The current location is Community Wide Credit Union, and that is what it will continue to operate as.

4. Petitioner desires to remove existing pylon sign and replace it with a monument. The proposed sign is a total of 7'11" when only 6' is permitted due to the sign being 5' off the right of way. The current sign is located on the corner of the property, the ordinance states new signs shall be centered on the property. The petitioner would like the new sign to be in the same spot to use the existing steel and existing electric. The petitioner would also like to have an electronic display that is more than the 50% of the principal sign area. The principal area of the proposed sign would be 32sq ft and the electronic display would be 27 sq ft.
5. Section 26.10. The ordinance allows 6' in total height. Additional height is allowed per each additional foot off of the right of way. Ordinance also states that signs should be centered in the middle of the property. Electronic displays are permitted but must 50% of the principal sign area.
6. The strict adherence to the zoning ordinance would create an usual hardship. Electric and steel are already in place from the existing sign. If the petitioner had to put their sign in the middle of their lot, they'd have to dig up landscaping and parking lot to run

new electric. They are aiming to not be wasteful. The petitioner wants a lower profile sign, but still wants an electronic display that will be readable to traffic. Due to where the current sign is located, they are not able to put it back farther than 5' off right of way, therefore needing approval for the additional height.

7. Using the standards from page 3 of application:
 1. The approval will not be injurious to the public health, safety, moral and general welfare of the community because there is already a sign there not causing any issues. This sign would be lower to the ground, it will be far enough off the right of way that it would not hinder any visibility.
 2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because this is zoned as a business district, and the surrounding properties are all businesses with their own signs.
 3. Granting the variance would be consistent with the intent and purpose of the zoning ordinance. Community Wide is still abiding by max sq ft of being 60. The height would need to be taller than allowed due to the existing sign only being 5' off the right of way. The branding for Community Wide doesn't require a lot of space, therefore leaving additional scope for an electronic display.
 4. Special Conditions and circumstances exist which are peculiar to the land involved and which are not applicable to other lands or structures in the same district. Because this is not a new build and petitioner wanting to use existing structure the sign would still be located on the corner and 5' off 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 the ordinance (financial considerations do not qualify) Community Wide is rebranding and wanting all signs in Michiana to be uniform. The monument style sign would not be intrusive to the area. The petitioner wants to be sure there is an electronic variable to the sign that would be readable.
 6. The special conditions and circumstances do not result from any action or inaction by the applicant. The petitioner positioned the current sign on the property before the ordinances changed requiring signs centered on the property. This is no fault of the petitioner.
 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 existing laws or ordinances. The granted variance will not increase flood heights or create additional threats to public safety.

THIS IS NOT A FILL-IN FORM.

It is a sample form to be used as a guide when preparing your appeal letter to the Board of Zoning Appeals

DATE: _____

TO: Board of Zoning Appeals
City of Elkhart, Indiana

RE: Developmental Variance

The undersigned petitioner respectfully shows the Board of Zoning Appeals:

1. I, *(insert property owner(s) name(s))*, am the owner of the following described real estate located within the City of Elkhart, _____ Township, Elkhart County, State of Indiana, to-wit:

Attach the accurate legal description and common address - a tax key number is not a legal description.

2. The above described real estate presently has a zoning classification of _____ 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: *(Explain existing use)*.

4. Petitioner desires to *(Explain what is proposed that violates the provisions of the Zoning Ordinance)*.

5. The Zoning Ordinance of the City of Elkhart requires *(Explain ordinance requirements and note the Section Number of the Ordinance)*.

6. Explain why strict adherence to the Zoning Ordinance requirements would create an unusual hardship. *(Please note that the Board cannot consider financial hardship. The Light Co., Inc. v. Houghton et. al. 226 N.E. 2nd 341 (Ind. Ct. App. 1967).*

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).

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

Signature of Property Owner: _____

Printed Name: _____

Andrew Burdick
ANDREW BURDICK, CEO CWECU

Second Property Owner: _____

Printed Name: _____

Contact Person: Lauren Overmyer

Name: Vanadio Signs

Address: 10625 St Rd 10 Argos IN 46501

Phone Number where you can be reached: _____

Email: _____

September 4, 2024

I give Lauren Overmyer from Vanadco signs permission to apply for this variance on behalf of CommunityWide Federal Credit Union.

A handwritten signature in black ink, appearing to read 'Andrew Burggraf', written in a cursive style.

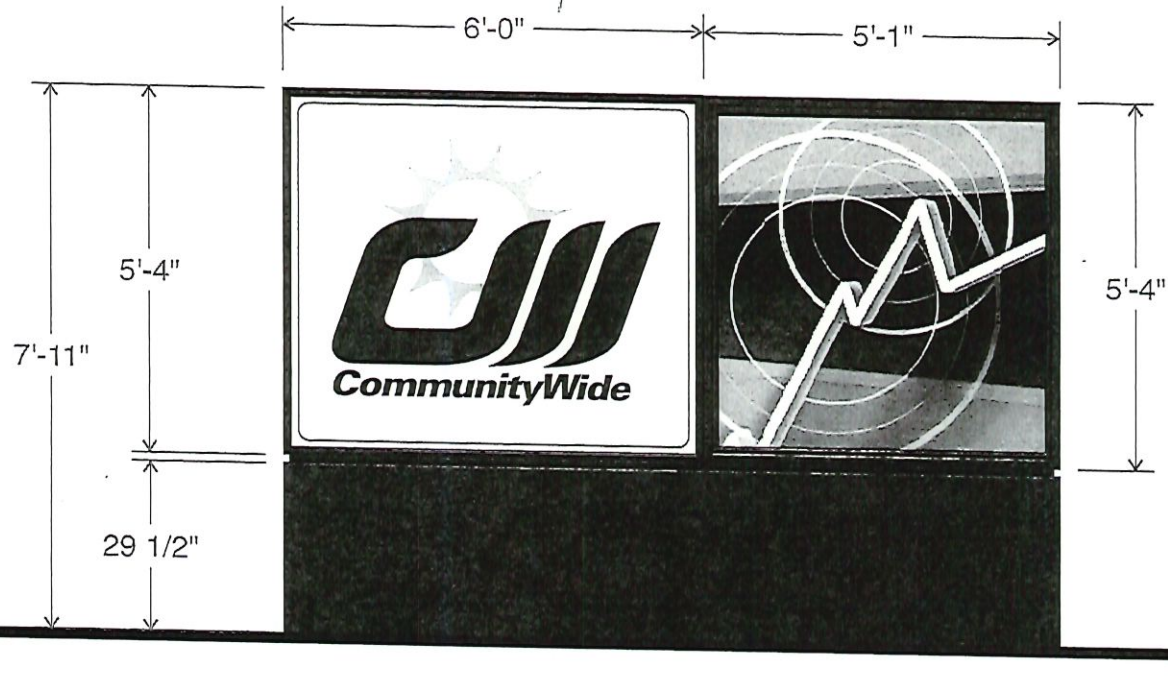
Andrew Burggraf
CEO CommunityWide Federal Credit

ELKHART *New Sign

32A

27A

Revised by RIGHT



- PMS 541 BLUE
3M TRANS. "BLUE"
- PMS 128 YELLOW
3M TRANS. "SUNFLOWER"

Vanadco Signs
10625 STATE RD. 10 • ARGOS, IN • 46501 | vanadco.com

Internally Illuminated Monument Sign
Daktronics Full Color 10mm EMC 144x144 Pixel Matrix

SCALE: 3/8"=1'
DATE: 04-08-24 Rev. 06-12-24
FILE: Elkhart New ID
with EMC 144x144.cdr

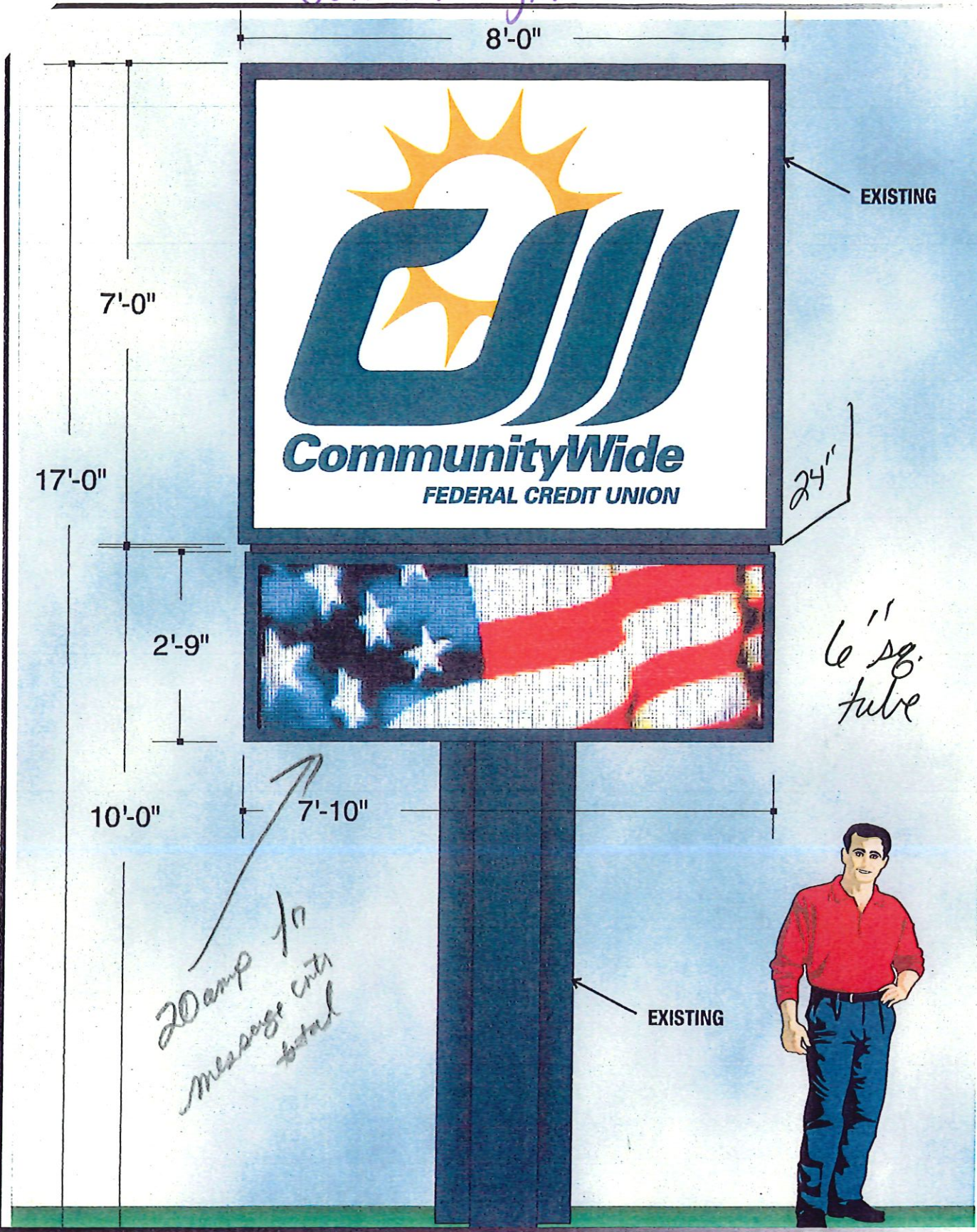
All drawings/designs/derivatives: ©2024, Vanadco Signs, Inc., All Rights Reserved.
Due to the limitations of the printing process, printed colors can vary from actual colors.

ARTWORK APPROVED BY:

APPROVAL DATE:

*current sign

Elkhart Office



Vanadco Signs

10625 ST. RD. 10 • ARGOS, IN 46501 • 574-892-5000
www.vanadco.com

• DAKTRONICS® 20mm FullColor LED Display-32x112 Pixel Matrix

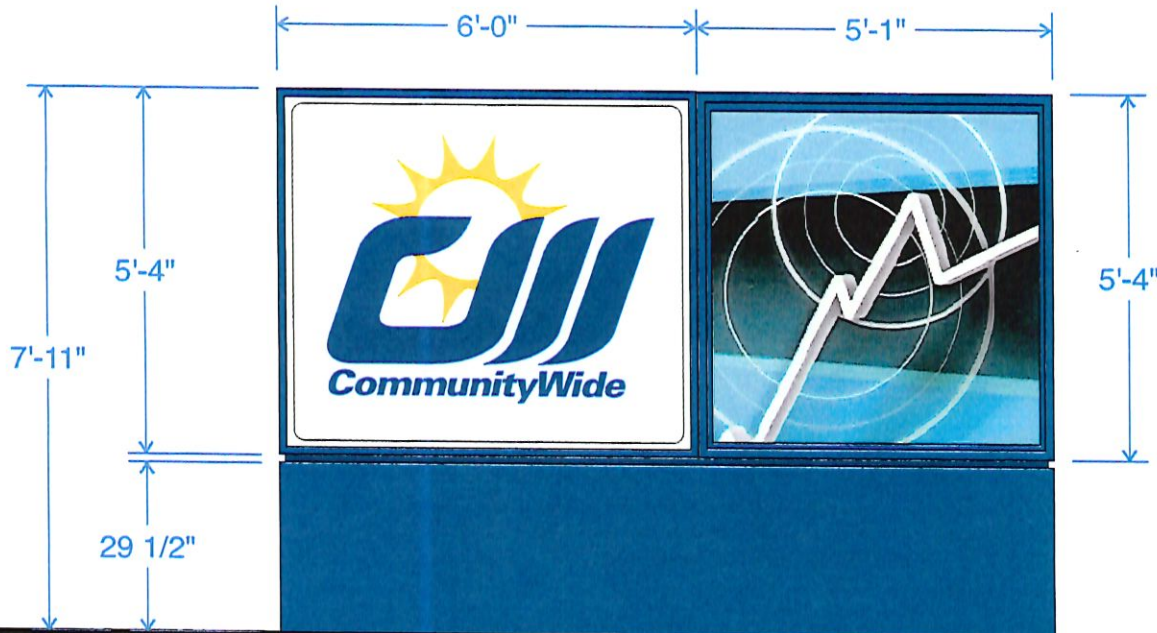
FILE: CommWideElkhart32x112.cdrV11(mac)

SCALE: 1/2"=1'

DATE: 09-21-10

DRAWN BY: CCR

ELKHART *New Sign



- PMS 541 BLUE
3M TRANS. "BLUE"
- PMS 128 YELLOW
3M TRANS. "SUNFLOWER"

Vanadco Signs
10625 STATE RD. 10 • ARGOS, IN • 46501 | vanadco.com

Internally Illuminated Monument Sign
Daktronics Full Color 10mm EMC 144x144 Pixel Matrix

SCALE: 3/8"=1'
DATE: 04-08-24 Rev. 06-12-24
FILE: Elkhart New ID
with EMC 144x144.cdr

All drawings/designs/derivatives: ©2024, Vanadco Signs, Inc., All Rights Reserved.
Due to the limitations of the printing process, printed colors can vary from actual colors.

ARTWORK APPROVED BY:

APPROVAL DATE:



Staff Report

Planning & Zoning

<u>Petition:</u>	24-BZA-28
<u>Petition Type:</u>	Developmental Variance
<u>Date:</u>	October 10, 2024
<u>Petitioner:</u>	CSC Properties LLC
<u>Site Location:</u>	Vacant Lot North Riverside Drive – 700 Block Parcel Number 20-06-05-133-006.000-012
<u>Request:</u>	To vary from Section 4.4, Yard Requirements to allow a new residential structure to be built with a rear yard setback of thirty-one (31) feet where the established average setback for the block is sixty (60) feet, a variance of twenty-nine (29) feet. The ordinance requires the established setback for the block to be calculated to determine the rear yard setback if adjacent to river or creek.
<u>Existing Zoning:</u>	R-1, One-Family Dwelling District
<u>Size:</u>	+/- 0.112 acres
<u>Thoroughfares:</u>	Riverside Drive
<u>School District:</u>	Elkhart Community Schools
<u>Utilities:</u>	Utilities are not currently servicing this property. Sewer and Water utilities are provided to adjacent properties.

Surrounding Land Use & Zoning:

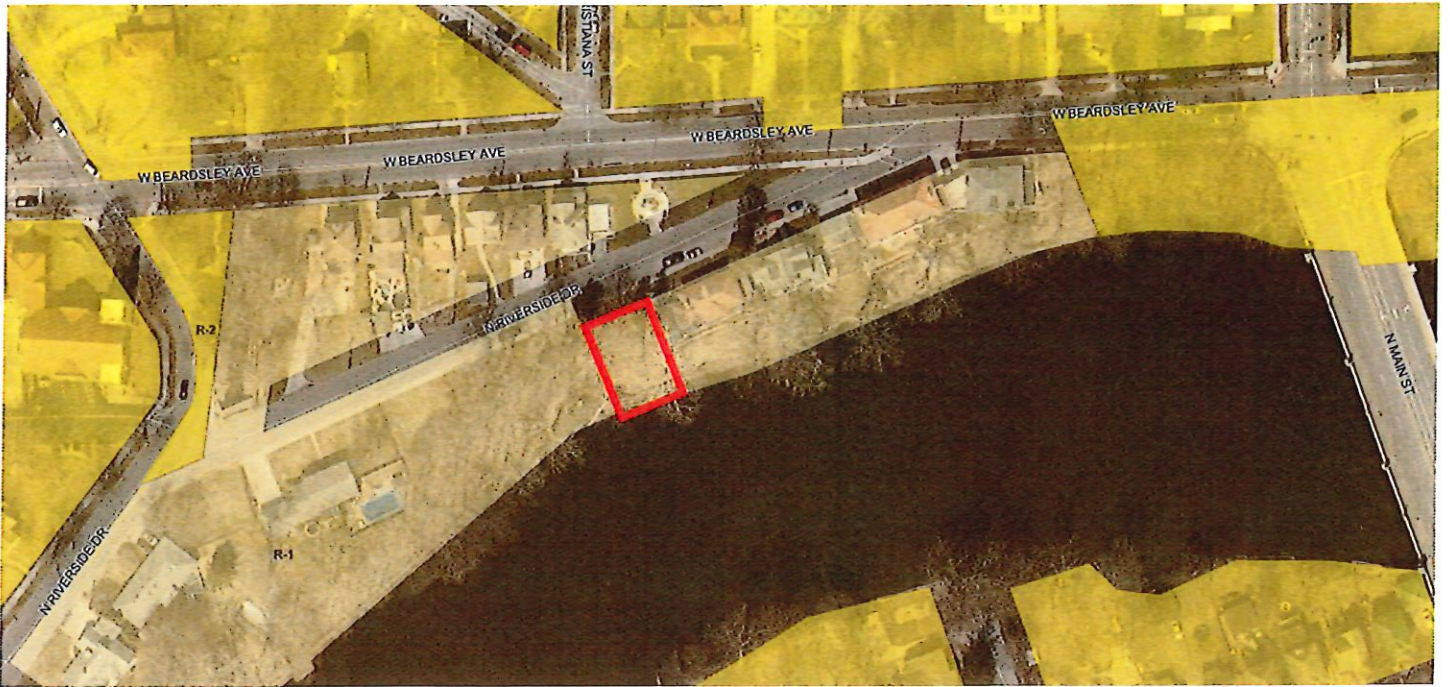
The subject site is surrounded by R-1 One-Family Dwelling District and adjacent to the St Joseph River.

Applicable Sections of the Zoning Ordinance:

Section 4.4, Yard Requirements

Comprehensive Plan:

The subject property is included in an area identified for low-density residential use on the future land use map.



Staff Analysis

CSC Properties, LLC, is the owner of the subject property. The property is un-improved and petitioner would like to build a residential home. The property has frontage of +/- 58.36 feet. Lot depth varies from +/- 81 feet to +/- 89 feet. The established average setback for the block 60 feet. Petitioner is requesting a developmental variance to allow a rear yard setback of 31 feet.

The City of Elkhart Comprehensive Plan supports future single-family, detached residential development to occur in existing residential neighborhoods as “infill” development on vacant lots to complete the neighborhood residential block pattern rather than in undeveloped, “greenfield” areas. The proposed development is consistent with this stated desire.

Recommendation

The Staff **recommends approval** of the developmental variance requested to the Yard Requirements for a residence in the R-1 District, 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 proposed use is consistent with the R-1 District and the surrounding properties;
2. The use and value of the area adjacent to the property **will not be** affected in a substantially adverse manner because the proposed setback still allows visibility of the river from adjacent residences;
3. Granting the variance **would be** consistent with the intent and purpose of this Ordinance because the requested setback is no more than would be allowed on other R-1 properties that are not adjacent to the river;
4. Special conditions and circumstances **do** exist which are peculiar to the land involved and which are not applicable to other lands or structures in the same district because the property was platted before current setback requirements;
5. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the property in that development of the property would be limited to a smaller size than other residences on the block;
6. The special conditions and circumstances **do not** result from any action or inaction by the applicant;
7. A portion of this property **does** lie within a designated flood hazard area; however, the variance **will not** increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, or conflict with existing laws or ordinances, as the proposed residence will be built outside of the flood hazard area.

Conditions

Staff does not request any conditions set upon approval of this variance.

Photos

PETITION #: 24-BZA-28

FILING FEE: \$ 200

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: DEVELOPMENTAL VARIANCE

Property Owner(s): CSC PROPERTIES LLC JOHN WISWELL, OWNER

Mailing Address: 223 W BEARDSLEY

Phone #: _____ Email: _____

Contact Person: Andy Poe

Mailing Address: _____

Phone #: _____ Email: _____

Subject Property Address: N. Riverside Dr., Elkhart, IN. 46514

Zoning: R-2

Present Use: vacant land Proposed Use: single family 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): CSC PROPERTIES LLC / JOHN WISWELL

SIGNATURE(S): [Signature] DATE: 8-30-24

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: _____

AFFIDAVIT IN SUPPORT OF DEVELOPMENTAL VARIANCE PETITION

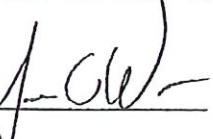
I, _____, being first duly sworn upon his/her oath deposes and says that he/she is familiar with and has personal knowledge of the facts herein and, if called as a witness in this matter, would testify as follows:

- 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 N RIVERSIDE DR. Elkhart, Indiana.
- 4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 30 day of August, 2024.

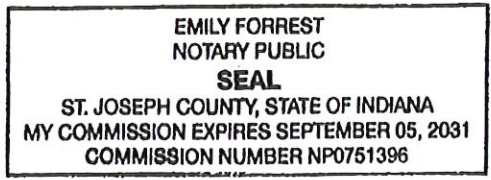
CSC PROPERTIES LLC 
 Printed: JOHN C. WISWELL, OWNER

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.

CSC PROPERTIES LLC 
 Printed: JOHN C WISWELL, OWNER

STATE OF INDIANA)
 COUNTY OF ELKHART)

) SS:



Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared John C. Wiswell, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 30 day of August, 2024.

Emily Forrest
 Printed: Emily Forrest

My Commission Expires:
09/05/2031

Notary Public in and for the State of Indiana
 Resident of St. Joseph County, Indiana

*This Answer
your "Next Done"
Sheet*

Standards for consideration for developmental variance.

1. The approval of this variance should provide no harm to either public health, safety, morals nor general welfare of the community as it is simply to provide the opportunity for a single-family dwelling to be located on a property that was the actual and original intended purpose of the said property.
2. The adjacent property to the west is vacant property that is currently owned and maintained by the city of Elkhart and is not used in any form. The property to the immediate east is 750 N. Riverside and is a single-family residence. The variance should cause no harm to the value or use of the aforementioned property for any foreseeable reason.
3. The zoning of the property is R1 and therefore would aptly describe the intended use of the property.
4. The variance would allow the property to be in line with the current structures on this section of Riverside Dr. and therefore will allow for a contiguous look to the home fronts as one travels down the street.
5. The setback would require this property to have a frontage of the home that would set back from the others in the line and would cause it to look differently from the street view than others in the same block.
6. These conditions were caused by the establishment of the setback requirements established well after the delineation of this property. When this property was demarked, the intended use was to be for a family home at some point within the confines at that time. No action nor inaction has caused this to come about.
7. This property, aside from a small portion that abuts the St Joseph River, sits well above floodable property and as such, should create no threat to public safety or any increase in hazard of flooding to any other properties.

Standards for consideration for developmental variance.

1. The approval of this variance should provide no harm to either public health, safety, morals nor general welfare of the community as it is simply to provide the opportunity for a single-family dwelling to be located on a property that was the actual and original intended purpose of the said property.
2. The adjacent property to the west is vacant property that is currently owned and maintained by the city of Elkhart and is not used in any form. The property to the immediate east is 750 N. Riverside and is a single-family residence. The variance should cause no harm to the value or use of the aforementioned property for any foreseeable reason.
3. The zoning of the property is R1 and therefore would aptly describe the intended use of the property.
4. The variance would allow the property to be in line with the current structures on this section of Riverside Dr. and therefore will allow for a contiguous look to the home fronts as one travels down the street.
5. The setback would require this property to have a frontage of the home that would set back from the others in the line and would cause it to look differently from the street view than others in the same block.
6. These conditions were caused by the establishment of the setback requirements established well after the delineation of this property. When this property was demarked, the intended use was to be for a family home at some point within the confines at that time. No action nor inaction has caused this to come about.
7. This property, aside from a small portion that abuts the St Joseph River, sits well above floodable property and as such, should create no threat to public safety or any increase in hazard of flooding to any other properties.

City
Copies

9/6/2024

To the Board of Zoning

Developmental Variance

- ① I, CSC Properties, LLC John C. Wiswell, Owner am the owner of this property in the city of Ellchart.
- ② This property has a zoning classification of R1.
- ③ Existing use is ~~un~~-improved property. Petitioner would like to build a residential home.
- ④ Petitioner will describe why he would like a variance for the ~~se~~ front set backs.
- ⑤ City will need to provide section number of ordinance, seller nor buyer have access to this info.
- ⑥ The variance is needed because this property would not be buildable otherwise.

Blank piece of paper. Fill out the letter/outline.

THIS IS NOT A FILL-IN FORM.

It is a sample form to be used as a guide when preparing your appeal letter to the Board of Zoning Appeals

Answer all questions

DATE:

TO: Board of Zoning Appeals
City of Elkhart, Indiana

RE: Developmental Variance

The undersigned petitioner respectfully shows the Board of Zoning Appeals:

1. I, *(insert property owner(s) name(s))*, am the owner of the following described real estate located within the City of Elkhart, _____ Township, Elkhart County, State of Indiana, to-wit:

Attach the accurate legal description and common address - a tax key number is not a legal description. - Decd

2. The above described real estate presently has a zoning classification of _____ 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: *(Explain existing use).*

4. Petitioner desires to *(Explain what is proposed that violates the provisions of the Zoning Ordinance).*

5. The Zoning Ordinance of the City of Elkhart requires *(Explain ordinance requirements and note the Section Number of the Ordinance).*

6. Explain why strict adherence to the Zoning Ordinance requirements would create an unusual hardship. *(Please note that the Board cannot consider financial hardship. The Light Co., Inc. v. Houghton et. al. 226 N.E. 2nd 341 (Ind. Ct. App. 1967).*

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).

Flip to page 3.

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

Signature of Property Owner: *[Signature]* OWNER CSC PROPERTIES LLC

Printed Name: *John D. Wisniewski* OWNER CSC PROPERTIES LLC

Second Property Owner: _____

Printed Name: _____

Contact Person: _____

Name: _____

Address: _____

Phone Number where you can be reached: _____

Email: _____

Original
to Submit



COMMITMENT FOR TITLE INSURANCE

Issued By

CHICAGO TITLE INSURANCE COMPANY

Transaction Identification Data, for which the Company assumes no liability as set forth in Commitment Condition 5.e.:

Issuing Agent: Near North Title Group
Issuing Office: 1004 Parkway Ave, Suite D, Elkhart, IN 46516
Issuing Office's ALTA® Registry ID:
Loan ID No.:
Commitment No.: IN2414223
Issuing Office File No.: IN2414223
Property Address: N. Riverside Dr, Elkhart, IN 46514

SCHEDULE A

- 1. Commitment Date: August 27, 2024 at 08:00 AM
- 2. Policy to be issued:
 - a. 2021 ALTA Owner's Policy (07/01/21)
- Proposed Insured: Charles A. Poe
Proposed Amount of Insurance: \$18,000.00
The estate or interest to be insured: fee simple
- 3. The estate or interest in the Land at the Commitment Date is: fee simple.
- 4. The Title is, at the Commitment Date, vested in:
CSC Properties, LLC
- 5. The Land is described as follows:

Lot Number 6 as the said lot is known and designated on the recorded plat of subdivision of The Davenport and Beardsley Flouring Mill Property, an Addition to the City of Elkhart, said plat being recorded in Deed Record 111, Page 487 in the Office of the Recorder of Elkhart County, Indiana.

Near North Title Group

Allison Rabin, Chief Operating Officer

CHICAGO TITLE INSURANCE COMPANY

By:
Michael J. Nolan
President

ATTEST:
Marjorie Nezazura
Secretary

This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by Chicago Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

Copyright 2021 American Land Title Association. All rights reserved.

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.



IN2414223



COMMITMENT FOR TITLE INSURANCE
Issued By
CHICAGO TITLE INSURANCE COMPANY

SCHEDULE B, PART I
Requirements

All of the following Requirements must be met:

1. The Proposed Insured must notify the Company in writing of the name of any party not referred to in this Commitment who will obtain an interest in the Land or who will make a loan on the Land. The Company may then make additional Requirements or Exceptions.
2. Pay the agreed amount for the estate or interest to be insured.
3. Pay the premiums, fees, and charges for the Policy to the Company.
4. Documents satisfactory to the Company that convey the Title or create the Mortgage to be insured, or both, must be properly authorized, executed, delivered, and recorded in the Public Records.
5. The following with regard to CSC Properties, LLC:
 - a. We should be furnished a file stamped copy of the Articles of Organization filed with the Secretary of State.
 - b. We should be furnished a copy of the operating agreement and any amendments thereto.
 - c. We must be furnished proof of the authority and incumbency of the manager to execute the documents necessary for closing. If there is no manager, we must be furnished proof of the authority and incumbency of the member to execute the necessary closing documents.
6. Warranty Deed to be executed by the fee simple title holder shown on Schedule A to the proposed insured on Schedule A.
7. Indiana Sales Disclosure Form completed, executed and filed, all as required by IC 6-1.1-5.5.
8. A search and examination of the insured real estate reveals no open and unpaid mortgage on this land. Due to underwriter requirements, we require the execution of a specific affidavit of the current owners, confirming that there are no open mortgages on the land at the present time.
9. Vendor's affidavit satisfactory to the Company, duly executed.
10. By virtue of IC 27-7-3.6, a fee of \$5.00 will be collected from the purchaser of the policy for each policy issued in conjunction with closing occurring on or after July 1, 2006.
11. Effective July 1, 2009 IC 27-7-3.7 et seq. requires any funds in the amount of \$10,000 or more received, from any party to the transaction, to be in the form of an irrevocable wire transfer.

This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by Chicago Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

Copyright 2021 American Land Title Association. All rights reserved.

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.

ALTA Commitment for Title Insurance (07-01-2021)



IN2414223



COMMITMENT FOR TITLE INSURANCE

Issued By

CHICAGO TITLE INSURANCE COMPANY

SCHEDULE B, PART II

Exceptions

Some historical land records contain Discriminatory Covenants that are illegal and unenforceable by law. This Commitment and the Policy treat any Discriminatory Covenant in a document referenced in Schedule B as if each Discriminatory Covenant is redacted, repudiated, removed, and not republished or recirculated. Only the remaining provisions of the document will be excepted from coverage.

The Policy will not insure against loss or damage resulting from the terms and conditions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Any defect, lien, encumbrance, adverse claim, or other matter that appears for the first time in the Public Records or is created, attaches, or is disclosed between the Commitment Date and the date on which all of the Schedule B, Part I-Requirements are met.
2. Rights or claims of parties in possession not shown by the Public Records.
3. Easements, or claims of easements, not shown by the Public Records.
4. Any encroachments, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land.
5. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records.
6. Taxes or special assessments which are not shown as existing liens by the Public Records.
7. Taxes for the year 2023 payable in 2024 in the name of CSC Properties LLC

Brief Legal: D & B Flouring Mills Lot 6
Taxing Unit: E.C. Concord Parcel No: 06-05-133-006-012
State ID No.: 20-06-05-133-006.000-012

1st installment: \$164.83 PAID
2nd installment: \$164.83 UNPAID

Assessed valuation as of Effective Date (for information only):
Land: \$10,900.00 Improvements: \$0.00
Homestead Exemption \$0.00;
Supplemental Homestead Exemption \$0.00

This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by Chicago Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

Copyright 2021 American Land Title Association. All rights reserved.

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.

ALTA Commitment for Title Insurance (07-01-2021)

AMERICAN
LAND TITLE
ASSOCIATION



IN2414223

8. Taxes for 2024 payable 2025, now a lien, not yet due and payable.
9. Note: The real estate tax information set out above is all that is currently available in Elkhart County Tax computer. Recent computer program changes may have rendered incomplete or inaccurate the available data. THIS INFORMATION MAY NOT BE SUFFICIENT FOR THE PURPOSE OF ESTABLISHING A PROPER REAL ESTATE TAX ESCROW. Neither the Company nor its agent, Near North Title Group, assume or accept any responsibility for loss, damage, cost or expense due to, or arising out of, the present unavailability, or accuracy of tax information.
10. Possible municipal assessments, code enforcement fines, sewer use charges, and/or impact fees levied by Elkhart.
11. Minerals or mineral rights or any other subsurface substances (including, without limitation, oil, gas and coal), and all rights incident thereto, now or previously leased, granted, excepted or reserved.
12. Rights of the United States of America, State of Indiana, the municipality and the public in and to that part of the land lying within the bed of the St. Joseph River; and the rights of other owners of land bordering on the river in respect to the water of said river.
13. Rights of riparian water rights owners to the use and flow of the water of the St. Joseph River.
14. The effect of any change heretofore or hereafter occurring in the location of the boundary line of the lands described herein due to a change in the course of a creek or river and/or location of the banks of said creek or river and any defect in or failure to title resulting therefrom.
15. Near North Title Group, made a judgment search against CSC Properties LLC and found none.

This page is only a part of a 2021 ALTA Commitment for Title Insurance issued by Chicago Title Insurance Company. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a counter-signature by the Company or its issuing agent that may be in electronic form.

Copyright 2021 American Land Title Association. All rights reserved.

The use of this Form (or any derivative thereof) is restricted to ALTA licensees and ALTA members in good standing as of the date of use. All other uses are prohibited. Reprinted under license from the American Land Title Association.

ALTA Commitment for Title Insurance (07-01-2021)



IN2414223

K

Plat of the Subdivision of the
Davenport & Beardsley Flouring-Mill-Property
Elkhart, Indiana

Scale 1"=60'

Sept. 30th 1904.

Lots 1 to 8 inclusive constitute the Subdivision of the Davenport & Beardsley Flouring Mill Property in the City of Elkhart, Indiana and are located as the plat indicates, being a part of the N.W. 1/4 Sec. 5 T.37 N.R. 5 E. All lot distances are given in feet and decimals of a foot. Proprietors:-

Rufus Ray Beardsley
Gertrude S. Beardsley
Susie Ray Beardsley
John W. Beardsley
Florence G. Davenport
Hallie Davenport
Frances B. Davenport
Elizabeth C. Davenport
Carrie R. Howland
William S. Howland.

State of Indiana, Elkhart County, ss:
Before me a Notary public in and for said County and state personally came Rufus Ray Beardsley, Gertrude S. Beardsley, Susie Ray Beardsley, Florence G. Davenport, Hallie Davenport and Frances B. Davenport this thirty first day of October 1904 and acknowledged the execution of the above plat. My commission expires Sept 25 1907. (L S) Otto E. Deal
Notary Public

State of Colorado, City and County of Denver, ss:
Before me a Notary Public in and for said County and state personally came this 5th day of Nov. 1904 Carrie R. Howland and William S. Howland husband and wife and acknowledged the execution of the above plat. My commission expires December 1, 1906. (L S) Edith L. Harris,
Notary Public

State of Illinois, County of Cook, ss:
Before me a notary public in and for said county and state personally came John W. Beardsley and Elizabeth C. Davenport (unmarried) and acknowledged the execution of the above plat. (L S) C.E. Fiegel, Notary Public

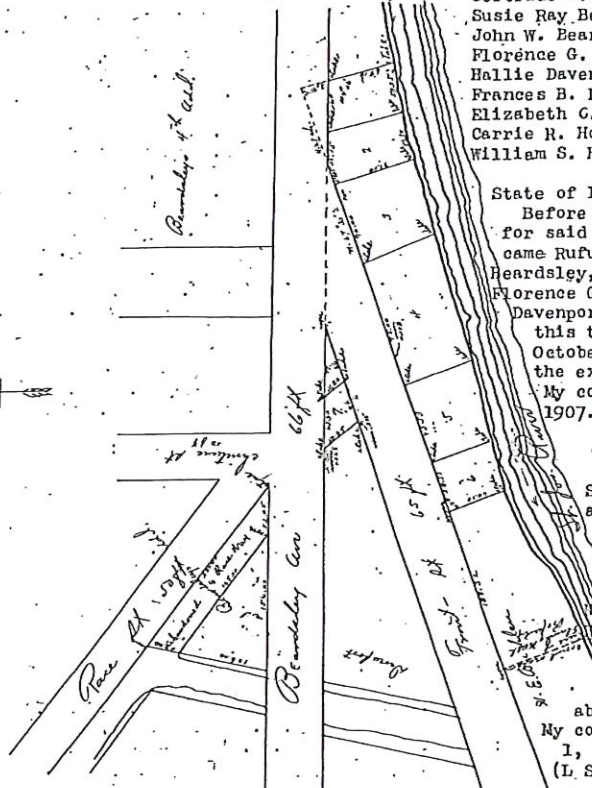
State of Indiana, Elkhart County, ss:
I Emil V. Anderson, Clerk of the City of Elkhart, County and State aforesaid, hereby certify that the annexed plat known as the Davenport and Beardsley Flouring Mill Property has been presented to the Common Council of said City and duly approved by a committee of said council which approval was adopted by said council on the seventeenth day of December, 1904; and the Recorder of said County is hereby authorized to record the same in the records of his office.

In Testimony whereof, I have hereunto set my hand and affixed the seal of the City of Elkhart this tenth day of December 1904.

(L S) Emil V. Anderson
City Clerk.

Recorded December 19th 1904 at 11 A.M.

O. C. Vernon-Recorder.



Andy?

State of Indiana
County of Kosciusko

Before me, a Notary Public in and for said County and State, personally appeared Richard Morris as TRUSTOFFICER of Horizon Bank, N.A., who acknowledged the execution of the foregoing instrument, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 5 day of Oct, 2017

Signature: [Handwritten Signature]
Printed: MARIA E. NUNEZ

Resident of: Kosciusko County

State of: INDIANA

My Commission expires: 8/25/2024



Prepared By: Edward W. Hardig, Jr., Attorney at Law
401 W. High Street, Elkhart, IN 46516
IN19199-71/MIP60319 k/b

Grantee's Address and Tax Billing Address: CSC Properties, LLC
~~Lot 6, N. Riverside Dr.~~ 223 W. Beardsley Ave. ad
Elkhart, IN 46514

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law: Christina Wisniewski

Return To: Fidelity National Title Company, LLC
401 W. High Street, Elkhart, IN 46516

2017-21622

ELKHART COUNTY RECORDER
JENNIFER L. DORIOT
FILED FOR RECORD ON
AS PRESENTED
10/05/2017 2:26 PM

**Fidelity National
Title Company LLC**

SPECIAL WARRANTY DEED

File No.: 691700834

THIS INDENTURE WITNESSETH, That Kosco now by merger, Horizon Bank, N.A. ("Grantor") CONVEY(S) AND SPECIALLY WARRANT(S) to CSC Properties, LLC ("Grantee"), for the sum of Ten And No/100 Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following described real estate in Elkhart County, State of Indiana:

For APN/Parcel ID(s): 20-06-05-133-006.000-012

LOT NUMBER 6 AS THE SAID LOT IS KNOWN AND DESIGNATED ON THE RECORDED PLAT OF SUBDIVISION OF THE DAVENPORT AND BEARDSLEY FLOURING MILL PROPERTY, AN ADDITION TO THE CITY OF ELKHART, SAID PLAT BEING RECORDED IN DEED RECORD 111, PAGE 487 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

Property: Lot 6, N. Riverside Dr., Elkhart, IN 46514

Subject to current taxes not delinquent, and all easements, agreements and restrictions of record and all public rights of way.

It is understood and agreed by the parties hereto that the title to the Real Estate herein conveyed is warranted only insofar as it might be affected by any act of the Grantor during its ownership thereof and not otherwise.

The undersigned person(s) executing this deed on behalf of Grantor represent and certify that he/she/they is/are duly elected officer(s) of Grantor and has/have been fully empowered, by proper resolution of the Board of Directors of Grantor, to execute and deliver this deed; that Grantor has full capacity to convey the real estate described herein; and that all necessary corporate action for the making of such conveyance has been taken and done.

Grantor certifies under penalties of perjury that Kosco Farmers State Bank is one and the same entity as Kosco who took title to the insured real estate.

IN WITNESS WHEREOF, Grantor has executed this deed this 3RD day of OCTOBER, 2017.

Kosco now by merger, Horizon Bank, N.A.

BY: Richard Morris TRUST OFFICER
RICHARD MORRIS, TRUST OFFICER

DISCLOSURE FEE PAID
DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER
Oct 05 2017
PAULINE GRAFF, AUDITOR
05713
5.00

DM

PP

56/4
2/3

面

34	-	12	-	22
21	-	12	-	9
20	-	12	-	8
12.33	-	12	-	.33
12.33	-	12	-	.33
<hr/>				

39.8
<hr/>
7.96

(28)

↑

19.25
<hr/>

