

AGENDA
ELKHART CITY BOARD OF ZONING APPEALS
THURSDAY, MAY 9, 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 JANUARY 11, 2024 & FEBRUARY 8, 2024**
4. **APPROVAL OF PROOFS OF PUBLICATION**

5. **OLD BUSINESS**

24-UV-04 PETITIONER IS TOM SHOFF
PROPERTY IS LOCATED AT 106 & 108 BOWERS CT
TABLED

24-BZA-06 PETITIONER IS SFS REAL ESTATE HOLDING LLC
PROPERTY IS LOCATED AT 444 N NAPPANEE ST

To vary from Section 26.10.D.4.c.ii, Free Standing Sign Increases, to allow a new freestanding sign that is eight (8) foot in height where a sign six and one half (6.5) feet is permitted, a variance of one and one half (1.5) foot. To also vary from Section 26.10.D, Table 1, which states in part, limits an integrated message board on the same supporting structure to 50% of the sign area of the principal sign, to allow a sign with an integrated message board at an area of 32 square feet where 10 square feet is permitted, a variance of 22 square feet. The primary sign face is 20 square feet. The sign is double faced.

24-UV-07 PETITIONER IS GURPREET SINGH
PROPERTY IS LOCATED AT 1900 & 1904 W FRANKLIN ST

To vary from Section 18.2, Permitted Uses in the M-1, Limited Manufacturing District to allow for the construction of a four family dwelling. Four family dwellings are not a permitted use in the M-1 District.

6. **NEW BUSINESS**

24-BZA-07 PETITIONER IS CHRISTOPHER & PAMELA CHADWICK
PROPERTY IS LOCATED AT 1 EDGEWATER DR

To vary from the requirements found in Section 26.1.B.2, Accessory Structures – General Provisions, which states ‘No portion of an accessory structure may be built closer to the front lot line than the nearest point of the principal structure’, to allow for an accessory structure (shed) to be built in the front yard.

7. **ADJOURNMENT**

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



630-660-0571

0900 LEGALS

ATTENTION:

If you or someone you know worked with Michael Larimer at Consolidated Metal in Elkhart, IN, between 1965-1972 please call Betsy at Simmons Hanly Conroy toll-free at 1-855-988-2537. You can also email Betsy at bwilliams@simmonsfirm.com.

hspaxlp

STATE OF INDIANA IN THE ELKHART COUNTY COURT

COUNTY OF ELKHART 2024 TERM

IN RE THE MATTER OF:

THE PETITION OF

KEY NO. 06-05-181-014-012

NWI RE5, LLC

vs.

ADVERTISEMENT FOR BIDS

BID PACKAGE A - TAXILANE CONSTRUCTION BID PACKAGE B - T-HANGAR CONSTRUCTION

ELKHART MUNICIPAL AIRPORT ELKHART, INDIANA

Sealed proposals will be received by the City of Elkhart Board of Aviation Commissioners, "Owner", at the Office of the Airport Manager, Elkhart Municipal Airport, 1211 County Road 6 W, Elkhart, IN 46514, until 4:00 p.m. (local time), on the 29th day of May, 2024 and then will be publicly opened and read aloud at the Elkhart Municipal Airport. Any bids received later than 4:00 p.m. will be returned unopened.

DESCRIPTION OF WORK: Work for which proposals are to be received is for BID PACKAGE "A" TAXILANE CONSTRUCTION and BID PACKAGE "B" T-HANGAR CONSTRUCTION at the Elkhart Municipal Airport including grading, concrete, structural steel, electrical, asphalt, and necessary incidentals to complete the work as detailed on the Contract Drawings and specified in the Contract Documents titled 10 Unit T-Hangar and Taxilane Construction. The contractor may bid on either package as a standalone or both packages together. Contractors shall provide all design, labor, equipment, and material necessary to complete the work. All work is located at the Elkhart Municipal Airport, 1211 County Road 6 W, Elkhart, IN 46514.

BID DOCUMENTS: Copies of the Specifications and Contract Documents may be obtained at the office of Butler, Fairman, and Seufert, Inc., 8450 Westfield Blvd., Suite 300, Indianapolis, IN 46240, call 317-713-4615 or email LHalloran@BFSEngr.com. Copies of the documents are available for examining at the Elkhart Municipal Airport, BXIndiana Construction League, 1028 Shelby Street, Indianapolis, Indiana; and the online planrooms of Dodge Data and Analytics, iSQFT/ConstructConnect™, BidTool and at the office of Butler, Fairman, and Seufert, Inc., 8450 Westfield Blvd., Suite 300, Indianapolis, IN 46240.

Copies of the bid documents will be made available through one of the following methods: - as digital files made available to the planholder for download at no cost - as hard copies picked up at the office of the Engineer upon remittance of \$125

This remittance is not refundable. Payment shall be by money order or check and shall be made payable to Butler, Fairman, and Seufert, Inc. Bidders are required to be a plan holder of record having obtained the contract documents through the office of the Engineer. Bids not meeting this requirement will be deemed non-responsive.

Bids shall be properly executed and addressed to the address shown above where bids are to be received together with the documents required by the bid forms, specifications, and related legal documents contained in the Contract Documents.

No Bidder may withdraw his proposal within a period of one hundred and twenty (120) days following the date set for the receiving of bids. The Owner reserves the right to retain any and all bids for a period of not more than one hundred and twenty (120) days and said bid shall remain in full force and effect during said time. The Owner further reserves the right to waive informalities and to award the Contract to any Bidder all to the advantage of the Owner or to reject all bids.

BID SECURITY: A bid bond with good and sufficient surety issued by a company licensed to do business in the State of Indiana or a certified check on a solvent bank equal to five percent (5%) of the total bid insuring that if the bid is accepted, a contract will be entered into and the performance of its proposal secured.

BONDS: A Performance Bond and Payment Bond each in the amount of 100 percent of the Contract price will be required.

FEDERAL REQUIREMENTS: The Owner, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4, and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, Disadvantaged Business Enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, or national origin in consideration for an award.

1. The proposed contract is under and subject to Executive Order No. 11246 of September 24, 1965, equal opportunity clause, and to Title VI of the Civil Rights Act of 1964. 2. The Bidder must supply all the information required by the bid or proposal form.

INDIANA REQUIREMENTS: Each bid shall be accompanied by bidder's financial statement, a statement of experience, a proposed plan or plans for performing the public work, and the equipment that bidder has available for the performance of the public work. Such statements shall be submitted on forms prescribed by the State Board of Accounts, including Bid Forms 96, together with the required non-collusion affidavit.

Wage rates on the project shall not be less than the prescribed scale of wages as determined in accordance with the most recent Wage Rate Decision of the Secretary of the U.S. Department of Labor; all acts amendatory thereof and supplemental thereto.

A pre-bid conference will be held in the Terminal Building (1211 County Road 6, Elkhart, IN) at the Elkhart Municipal Airport on May 8, 2024, at 10:30 a.m.

The Owner reserves the right to reject any and/or all bids and to waive any formalities in the bidding procedure.

CITY OF ELKHART BOARD OF AVIATION COMMISSIONERS

Dated: April 11, 2024

Christopher Anderson Clerk, Elkhart Superior 2 Court

Attorneys for Plaintiff: Drayton, Biege, Sirugo & Elliott, LLP Bradley Adamsky, #24070-71 820 Jefferson Avenue LaPorte, Indiana 46350 Telephone: (219) 362-7575

The following manner of service of Summons is hereby designed: XX Service by Publication - THE ELKHART TRUTH hspaxlp

STATE OF INDIANA COUNTY OF ELKHART IN THE ELKHART CIRCUIT/ SUPERIOR COURT 2 2023 TERM

KEY NO. 06-08-379-005-012

CAUSE NO. 20D02-2402-PL-000054

IN RE THE MATTER OF:

and response within thirty (30) days after the last notice of this action is published, or judgment will be entered against you for what the plaintiff has demanded. If you have a claim for relief against the plaintiff arising from the same transaction or occurrence, you must assert it in your written answer.

Dated: April 4, 2024

/s/Christopher Anderson Christopher Anderson Clerk, Elkhart Superior Court No. 2

By: SC Deputy Clerk

Attorneys for Plaintiff: Drayton, Biege, Sirugo & Elliott, LLP Bradley Adamsky, #24070-71 820 Jefferson Avenue LaPorte, Indiana 46350 Telephone: (219) 362-7575

The following manner of service of Summons is hereby designed: XX Service by Publication via The Elkhart Truth hspaxlp

STATE OF INDIANA

IN THE ELKHART SUPERIOR COURT 6 COUNTY OF ELKHART

CAUSE NO.: 20D06-2404-MI-120 IN RE: THE NAME CHANGE OF MINOR:

Eva I. Johnson Name of Minor

Sosha Johnson, Petitioner.

NOTICE OF PETITION FOR CHANGE OF NAME

Notice is hereby given Petitioner, Sosha Johnson, as a self-represented litigant, filed a Verified Petition for Change of Name on Date: 4/5/2024 to change the name of Eva Ileen Johnson to Eva Ileen Wilson.

The Petition is scheduled for hearing in the Elkhart Superior Court.

LEGAL NOTICE #24-UV-07

Hearing on proposed Use Variance #24-UV-07

NOTICE is hereby given that the City of Elkhart Board of Zoning Appeals will meet in the Council Chambers on the second floor of the Municipal Building, 229 South Second Street, Elkhart, Indiana on THURSDAY, May 9, 2024 at 6:00 P.M. concerning the following request:

A public hearing will be conducted on a Use Variance Petition #24-UV-07.

Petitioner: Gurpreet Singh

Request: To vary from Section 18.2, Permitted Uses in the M-1, Limited Manufacturing District to allow for the construction of a two family dwelling. Two family dwellings are not a permitted use in the M-1 District.

Location: 1900 and 1904 West Franklin Street

Zoning: M-1, Limited Manufacturing 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:

Parcel I The 10.5 foot triangle in Northeast Corner of Lot Numbered 4 in Dinehart's Edgewater Addition to the City of Elkhart, Indiana as per plat thereof recorded in Plat Book 1, page 150 in the Office of the Recorder of Elkhart County, Indiana.

Parcel II Lot Numbered 5 in Dinehart's Edgewater Addition to the City of Elkhart, Indiana as per plat thereof recorded in Plat Book 1, page 150 in the Office of the Recorder of Elkhart County, Indiana.

EXCEPT: All of Lot Numbered 3 and a part of Lots Numbered 4 and 5, as said lots are known and designated on the recorded plat of H.E. Dinehart's Edgewater Addition to Elkhart, Indiana, being more particularly as follows:

Assuming the West line of said Lot Numbered 3, to have a bearing of due North and South, beginning at the Southwest corner of said Lot Numbered 3; thence North 73°01' East along the Southerly line of Lots Numbered 3, 4 and a part of 5, a distance of 93.11 feet to an iron stake; thence North 09°07' West, 120.68 feet to an iron stake located on the Northerly line of Lot Numbered 4; thence South 73°01' West along the Northerly line of Lots Numbered 4 and 3, a distance of 73.10 feet to the Northwest corner of Lot Numbered 3; thence due South along the West line of said Lot Numbered 3, a distance of 125 feet to the place of beginning. (Being 1904 West Franklin St.)

Parcel III: Lot Numbered 6 in H.E. Dinehart's Edgewater Addition to the City of Elkhart as per plat thereof recorded in Plat Book 1, page 150 in the Office of the Recorder of Elkhart County, Indiana. (Being: 1900 West Franklin St.)

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 22nd day of April, 2024, by the City of Elkhart, Board of Zoning Appeals.

Petitioner.

NOTICE OF PETITION FOR CHANGE OF NAME

Notice is hereby given Petitioner, Sosha Johnson, as a self-represented litigant, filed a Verified Petition for Change of Name on Date: 4/3/2024 to change the name of Jayshaun Michael Vardell Johnson to Jayshaun Allen Wilson.

The Petition is scheduled for hearing in the Elkhart Superior Court 6, which is more than thirty (30) days after the third notice of publication. Any person has the right to appear at the hearing and to file written objections on or before the hearing date.

4-5-2024 Date

/s/ Christopher Anderson Clerk RS hspaxlp

MDK # 23-026473 STATE OF INDIANA) IN THE ELKHART SUPERIOR COURT #2

COUNTY OF ELKHART) CAUSE NO. 20D02-2402-MF-000040

U.S. Bank Trust National Association, not in its individual capacity but solely as owner trustee for Legacy Mortgage Asset Trust 2020-SL1 3217 S. Decker Lake Dr. Salt Lake City, Utah 84119

Plaintiff,

vs.

Lisa Culp, AKA Lisa J. Culp Bryan Culp, AKA Bryan J. Culp Elkhart County Farm Bureau Credit Union Department of Treasury, Internal Revenue Service State of Indiana, Department of Revenue

Defendants.

NOTICE OF SUIT SUMMONS BY PUBLICATION

Township, Elkhart County, Indiana, more particularly described as follows:

Beginning at the Northwest corner of the Southwest Quarter (SW ¼) of the Southwest Quarter (SW ¼) of said Section 24 and running thence South 150 feet; thence East approximately 525 feet to the centerline of the Olive Township Ditch; thence North one (1) degree 45 minutes West along the centerline of said ditch approximately 150 feet to the North line of the Southwest Quarter of the Southwest Quarter of said Section 24; thence West 525 feet to the point of beginning and containing 1.80 acres more or less; subject to legal highways.

commonly known as 64740 County Rd 3, Wakarusa, IN 46573.

NOW, THEREFORE, said Defendant is hereby notified of the filing and pendency of said Complaint against them and that unless they appear and answer or otherwise defend thereto within thirty (30) days after the last notice of this action is published, judgment by default may be entered against said Defendant for the relief demanded in the Complaint.

Dated Clerk, Elkhart Superior Court #2

Nicholas M. Smith (31800-15) Stephanie A. Reinhart (25071-06) J. Dustin Smith (29493-06) Chris Wiley (26936-10) Attorneys for Plaintiff MANLEY DEAS KOCHALSKI LLC P.O. Box 165028

Columbus OH 43216-5028 Telephone: 614-220-5611 Facsimile: 614-220-5613 Email: sefnms@manleydeas.com hspaxlp

STATE OF INDIANA

IN THE ELKHART SUPERIOR COURT 6 COUNTY OF ELKHART

CAUSE NO.: 20D06-2404-MI-117 IN RE: THE NAME CHANGE OF:

Sosha Johnson, Petitioner.

NOTICE OF PETITION FOR CHANGE OF NAME

Sosha Johnson, whose mailing address is: 1625 Columbian Ave. Elkhart, IN 46514 and if different, my address is: in the Elkhart County, Indiana, hereby gives notice that Sosha Johnson has filed a petition in the Elkhart Superior Court requesting that her name be changed to Sosha Wilson.

Notice is further given that the hearing will be held on said Petition on.

/s/ Sosha Johnson Petitioner

3-4-2024 Date

/s/ Christopher Anderson Clerk RS hspaxlp

LEGAL NOTICE #24-BZA-07

Hearing on proposed Developmental Variance #24-BZA-07

NOTICE is hereby given that the City of Elkhart Board of Zoning Appeals will meet in the Council Chambers on the second floor of the Municipal Building, 229 South Second Street, Elkhart, Indiana on THURSDAY, MAY 9, 2024 at 6:00 P.M. concerning the following request:

A public hearing will be conducted on a Developmental Variance Petition #24-BZA-07.

Petitioner: Christopher Chadwick and Pamela Chadwick

Request: To vary from the requirements found in Section 26.1.B.2, Accessory Structures - General Provisions, which states 'No portion of an accessory structure may be built closer to the front lot line than the nearest point of the principal structure', to allow for an accessory structure (shed) to be built in the front yard.

Location: 1 Edgewater Drive

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 2 in River Bank Subdivision, a replat of part of Lot 4 in Beckett Park Subdivision and part of Lot 2 Edgewater Place Subdivision in the Southwest Quarter of Section 34, Township 38 North, Range 5 East, Concord Township, Elkhart County, recorded September 9, 2013 as Instrument Number 2013-22187 in Plat Volume 34, Page 73.

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 22nd day of April, 2024, by the City of Elkhart, Board of Zoning Appeals.

Court 6, which is more than thirty (30) days after the third notice of publication. Any person has the right to appear at the hearing and to file written objections on or before the hearing date.

4-5-2024 Date

/s/ Christopher Anderson Clerk RS hspaxlp

1000 HOME SERVICE DIRECTORY

SCHROCK LAWN CARE GARDEN TILLING FREE ESIMATES CALL: 574-825-5099 OR 574-215-7759

2000 PROFESSIONAL SERVICE DIRECTORY

#1 Brian's Tree Service Tree/Stub Removal, Trimming 75' bucket. Free est. Fast Service Insured. 266-8495 or 215-8108

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

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Baldwin Painting. Family Painting Business looking for opportunities to serve Free Estimates (574)294-3348/361-0830

H&B ROOFING AND REPAIR

Shingles-Metal-Rubber Re-roofs and Repairs of all Types.

40 Years Experience, Free Estimates Licensed, Insured, Bonded

Call 574-206-6016

Wanted Barn Pigeons. Call before catching. Lots of 50 to 100. \$5.00 per bird. Call 260-223-5454 or 260-223-8286.

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

Classifieds Make A Cash Connection!

BOARD OF ZONING APPEALS

-MINUTES-

**Thursday, January 11, 2024 - Commenced at 6:00 P.M. & adjourned at 6:48 P.M.
City Council Chambers – Municipal Building**

MEMBERS PRESENT

Doug Mulvaney
Ron Davis
Andy Jones
Evanega Rieckhoff (Proxy)

MEMBERS ABSENT

None

REPRESENTING THE PLANNING DEPARTMENT

Mike Huber, Director of Development Services
Eric Trotter, Assistant Director for Planning
Jason Ughetti, Planner II

LEGAL DEPARTMENT

Maggie Marnocha

RECORDING SECRETARY

Hugo Madrigal

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES FOR NOVEMBER 9, 2023

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

APPROVAL OF PROOFS OF PUBLICATION

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

OPENING STATEMENT

Welcome to the January 11, 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.

ELECTION OF OFFICERS

Trotter announced that the first item on the agenda was the 2024 election of officers. Trotter suggested that since the Board only has three regular members with one proxy and is short two appointments, the Board should elect officers this evening, as required by statute. Trotter proposes that the election of officers would only be for the meeting in January, and the item would stay on the agenda for February with the idea that council appointments will have been set and established for the February meeting.

Mulvaney calls for a motion to nominate officers.

Jones makes a motion to nominate Doug Mulvaney as Board President; Second by Davis. Voice vote carries

Mulvaney calls for a motion to nominate Ron Davis as the Vice President for the meeting.

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

Mulvaney calls for a motion to nominate Andy Jones as the Secretary for the meeting.

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

NEW BUSINESS

24-UV-01 PETITIONER IS FOUNDATIONS CHILD CARE CENTER, INC PROPERTY IS LOCATED AT 320 W HIGH ST

To vary from Section 1.5.2, Permitted Uses in the Central Business District, to allow for the establishment of a day care center at 320 W. High Street. Day care centers are not permitted in the Central Business District.

Mulvaney calls the petitioner forward.

Jennifer Fisher appears in person on behalf of the petitioner. Fisher introduced Tricia Pendleton as the director of operations and Bobby Ferrari as the general contractor with Fine Line Finishing. Fisher says they bought 320 W High St several years ago for office space and storage programs. They have five locations in Elkhart and St. Joseph County, serving several hundred children and offering significant employment within the community. Fishers says that Foundations Child Care has been in Elkhart for over 14 years and is a proud member of the Chamber of Commerce. They have no outstanding issues with the City of Elkhart, and recently, they filed for a Special Exception for a property they acquired last year. Fishers explained that their original goal with the High Street location was to sell it about a year ago because they had opened a 20,000-square-foot program in South Bend that provided office space and storage. However, the State of Indiana's Department of Family and Social Services came to them to inquire about vacant land they needed to utilize because Elkhart has a deficit in infant and toddler childcare programs. Fisher says Foundations Child Care is nationally accredited and ranked in the country's top eight percent in childcare. They are also a member of an accreditation association called NAEYC, the National Association for the Education of Young Children. Fisher then says that they offer the highest quality program rating that the state of Indiana provides, in which they are four levels past the quality providers. The State of Indiana offered them a grant to support the remediation of the inside of the building on 320 W High St to accommodate additional childcare seats. It was enough money to cover the complete build-out and more than six months of staffing their equipment should the City of Elkhart grant the variance. Fisher then gave insight on how, typically, child daycare programs create noise and traffic, but they are looking at creating 22 spots for children between the ages of six weeks and 23 months old. The facility would not be a school-age playground. They would use an eight-seater stroller to walk children around the block. Fisher says they are looking for 35 square feet of outside space for ten children. Additionally, they found out they own two parcels on High St, and the recent combination of those two parcels grants them the parking and space that allows them to egress out for cribs and playgrounds needed for children. Fisher says they would not increase noise standards or bring down the community in any way. They have recently remodeled the building by re-roofing it, repaving the parking lot, and aesthetically improving the property. Their physical presence five days a week detracts from some of the nuisances that the community and the apartment complex nearby might find. Fishers added that Elkhart is one of only a few cities that do not have a childcare program in their central business district. When you look at other developing cities in the country, almost all of them provide it because there's a strong need to support those working within the community. When you talk about ecological footprints, being on the third block on High St, people at the office work two blocks away. Government, businesses, banks, ministries, and other facilities within the area could quickly drop off their children without creating more of a carbon footprint. Fishers says they believe that Foundations Child Care would only help improve the community with their service and opportunities. They have demonstrated that in over a decade and are committed to staying and being present positively.

Mulvaney asks for questions from the Board.

Jones asks Fisher if they can meet the seven conditions that staff has proposed.

Fisher answers yes, other than needing a larger playground where they must file for a parking variance. However, her director of operations analyzed the one-to-six parking ratio for the different standards, and they concluded that they could meet it with the combined parcels.

Jones asks Fisher if they would be set with the 12 parking spaces.

Fisher says they would be good on that and the other conditions; the only issue was that it was not a preapproved use.

Jones states that the conditions are what staff has recommended to the board to approve the variance.

Evanega Rieckhoff states that the conditions are a typical list for all childcare facilities, and doubts there will be problems.

Fisher answers that there are no problems adhering to the conditions set forth by the board.

Mulvaney asks Fisher, based on the ages of the children from zero to 23 months, if it is safe to say that most of their activities with the children will be indoors, with the kids being taken out on occasion in a stroller or something along those lines.

Fisher responded yes, and that the maximum group size is ten for toddlers, so if anybody were outside at any time, it would be a maximum of ten toddlers between the ages of 12 and 23 months old. Fishers then says that if anybody has had or been around children, outside time is the most enjoyable time for them, and they would love it. Normally, they are not as loud and boisterous as you would find with preschool and school-age children.

Evanega Rieckhoff says she drove by the property address the other day because she was concerned when she saw that the daycare would be located in the Central Business District. However, she says it's a great building; she believes it would be a perfect setting for the petitioner and a wonderful location.

Mulvaney states that he has seen several agencies in and out of the property, so he is glad to see somebody taking it over and using it again.

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

Rosie Mesa appears via WebEx in opposition to the petition. Mesa states that she objects to the zoning change for the petitioner because it is a business district. It currently has attorneys, accountants, and insurance companies and needs to remain professional. Mesa says establishing a childcare center would fundamentally change the nature and character of the business district. She then says that lawyers need quietness to work, which would be harmed if parents dropped off and picked up their children from the daycare center. Mesa added that no increased noise is guaranteed because of the increased traffic and inability to muscle children. She explained that children make noise, and there's nothing wrong with children, but children do make noise. They then say that there is a reason why daycare centers are not permitted in business districts, and that is why. The daycare center would interfere with the quiet enjoyment of Mesa's business property and other lawyers who need quiet work time. Mesa says there could be a potential devaluation of her business property because there were no childcare centers when she bought it.

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

STAFF ANALYSIS

The petitioner is a 501(c)3 nonprofit corporation that operates 5 early childhood education programs, 4 of which are within the City of Elkhart, and has served Elkhart for 14 years. They currently own the property at 320 W. High, and have been primarily using the facility for storage and as a collection site for community donations. The building includes approximately 3,200 sf of finished space on a .235 acre parcel. Petitioner was awarded a grant from the State of Indiana to convert the building from its previous medical office set-up into infant and toddler classrooms that will increase available child care opportunities for Elkhart residents. The building is located within a cluster of primarily professional office uses.

The petitioner anticipates serving 22 children and employing 6-8 staff at the facility. While there are no income limits or restrictions on the families served ab the petitioner's programming, approximately 75% of the families they serve are low-income.

The location of this facility is convenient to a large density of both residents and downtown businesses who would benefit from access to high-quality childcare.

The petitioner is proposing to create an enclosed and fenced outdoor play area to allow for outdoor recreation for the toddlers. Based on the proposed number of employees and children served, the facility will require a total of 12 parking spaces and the proposed plan will meet the parking requirements.

STAFF RECOMMENDATION

The Staff recommends Approval of the use variance based on the following finding of fact;

1. The approval will not be injurious to the public health, safety, morals or general welfare of the community because the day care must successfully pass all required inspections. Additionally, the use is not out of character for the in terms of intensity as compared to other uses permitted with the CBD district and within the immediate surrounding uses;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the because the site was formerly used for commercial (medical office) purposes and it has sufficient play and parking areas;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because the ordinance provides the variance process as relief;
4. Special conditions and circumstances do exist which are peculiar to the land involved because day care centers are not permitted by right in the CBD zoning district;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because the existing building appears to be appropriate to accommodate the proposed use and will add a valuable amenity to the surrounding neighborhood and neighborhood businesses;
6. The special conditions and circumstances do result from any action or inaction by the applicant as the proposed use is a change from the existing storage uses;
7. This property does not lie within a designated flood area.

CONDITIONS

1. The petitioner shall provide a fenced-in play area for children. This area shall be separated from the parking lot.
2. Children will only be outside the building when being dropped off, picked up, or on walks or outings supervised by adult staff.
3. The facility and grounds shall be kept clean at all times.
4. The facility shall be subject to inspection, upon reasonable notice, by the Zoning Administrator during hours of operation.
5. A copy of the day care license shall be submitted by the petitioner to Department of Planning.
6. All building code requirements for the new use shall be met prior to occupancy. Petitioner shall request Certificate of Occupancy prior to opening for business.
7. The affected property must comply with all fire and building code requirements for fire rated construction and opening protection. Petitioner to confer with building officials to determine any required alterations.

Huber states there were 43 letters mailed. One returned in favor with no comment, and one returned not in favor with a comment from Rose Mesa, which echoed her previous statements.

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

Mulvaney calls for a motion.

Evanega Rieckhoff makes motion to approve variance 24-UV-01, and adopt the petitioner’s documents and presentation together with the staff’s finding of facts as the board’s finding of facts in the present petition, and adopt all conditions in the staff report; Second by Davis.

Davis – Yes

Evanega Rieckhoff – Yes

Jones – Yes

Mulvaney – Yes

Motion carries.

24-BZA-01 PETITIONER IS STAR 004 LLC
PROPERTY IS LOCATED AT 1207 W LUSHER AVE

To vary from Section 12.4, Yard requirements in the B-2, Community Business District, to allow for a new convenience store to be constructed ten (10) feet from the rear property line where twenty feet is required with a ten (10) foot landscape area and to also vary from Section 12.4, Yard requirements to allow for the same convenience store to have a corner side setback of 28.44 feet, where 30 feet is required, a variance of one and fifty six (1.56) hundredths feet.

To vary from Section 26.7.D, Schedule of Off-Street Parking, to allow for seven (7) parking spaces where 18 are required, a variance of 11 parking spaces.

Mulvaney calls the petitioner forward.

Deborah Hughes appears in person on behalf of the petitioner. Hughes states there are two setback variances since it is a small site. Hughes says that the south setback variance is 10 feet, where 20 feet is required inside, and 28, where 30 is required. She says they have modified the building and the canopy size to meet the front setback of 15, and the west side setback of 10 feet is only half the requirement. Hughes adds that the existing site has no fence along the south side, with an alley and residential use on the other side. She says the existing site has no fence along the south side, with an alley and residential use on the other side. So the cars and traffic that use the existing facility will be more of a problem for the neighbors. Hughes states that the property will have a six-foot privacy fence on the South property line that will protect the property to the south from headlights and other things related to the vehicles going back and forth. Hughes then states that the parking variance of the city standards requires six parking spaces per 1000 square feet, which is quite a bit of parking. She says the building will be a 3000-square-foot structure requiring 18 parking spaces. She says the petitioner had provided seven, and then there would be an additional six at the fuel dispensers for a total of 13, so the variance would be seven. Hughes states that the property will be a destination for pedestrians from the neighborhood. Hughes added that the traffic to the store would be walking, with little driving traffic. The three variances should be approved, and she will address any questions or concerns.

Mulvaney asks for questions from the Board.

Evanega Rieckhoff asks if there are currently any pumps at the property and if they will install the three.

Hughes answers that there will be three islands with six dispensers, with two on each side.

Hughes states that the property was a gas station in the past. However, the pumps and tanks were removed, so all that is left is an old-fashioned gas station with the services. The petitioner will be installing a new store and a new pump island.

Evanega Rieckhoff asks Hughes if they are counting parking at the pump parking space.

Hughes answers yes.

Evanega Rieckhoff asks Hughes if they cannot put any other parking spaces on the other side of the building.

Hughes responds that there would be a dumpster enclosure on the east side, so the access to the dumpster would need to stay open. Hughes adds that it is possible that some of the employees could park there when the dumpster is emptying. She says that the city standards do not allow them to be considered legit parking spaces, but they could be used functionally.

Jones states that trash is everywhere every time he visits a convenience store. He says that people seem to walk out of the store, unwrap something, and throw it to the ground. Jones then says that the property is next to a residential area, and he hopes the petitioner will keep it clean. Jones then explains that it feels like the employees believe it is not their responsibility to clean. He then states that the dollar stores are incredibly awful and extremely dirty.

Hughes says those are legitimate concerns and that the owner, Jason Patel, is online. Additionally, the other owner is present, so they are aware of Jones's concerns, and she will share Jones's concerns about keeping the store clean with them as well.

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 redeveloping the site at 1207 W Lusher Avenue for a new convenience store. The site has a long history of being used as an automotive repair shop and based on the site plan submitted as the plan for redevelopment, there are several variances required for this project. There are two (2) developmental variances for the new building – a rear yard variance of ten (10) feet and a corner side yard variance of one and fifty six hundredths (1.56) feet. The last is for a parking variance, providing relief of 11 spaces.

The characteristic of use for these types of commercial uses are typically of quick transactions and use of parking space is short term. Functionally the six (6) pump spaces serve to accommodate the service station parking requirements of the ordinance. As a result, the site would only lack five (5) spaces for parking to meet the 12 required for the convenience retail use.

The site plan is a fairly standard layout with the building to the rear of the property and the pump islands and fuel canopy in front of the building. The location is at the intersection of heavily trafficked streets in Elkhart that feed commercial and industrial areas in the city. The commercial zoning has been in place since 1957 surrounded by residential neighborhoods.

At the writing of this report, this redevelopment project had not yet been reviewed by the Technical Review Committee. Staff is not anticipating any insurmountable issues with the plan as submitted.

STAFF RECOMMENDATION

The Staff recommends Approval of the developmental variance based on the following finding of fact;

1. The approval will not be injurious to the public health, safety, morals or general welfare of the community because the structure and property will be updated and improved, which would be mandated to meet the current state and local building code requirements. Additionally the tech review process will ensure the development does not create any negative traffic issues; and the appropriate screening of the adjacent residential uses;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the current state of the parcels dilapidated condition will be substantially improved, resulting in an attractive use of the parcel. Additionally the tech review process will ensure the development is appropriately screened from the adjacent residential uses;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because it allows for a measure of relief when warranted;
4. Special conditions and circumstances do exist which are peculiar to the land involved because of the lots small size. Without relief from the current development standards, this commercial project would not be possible;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property as it restricts the development of the desired commercial project on this parcel;
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.

Trotter states there were 33 letters mailed with zero returned.

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

Mulvaney calls for a motion.

Jones makes a motion to approve 24-BZA-01, and adopt the petitioner’s documents and presentation together with the staff’s finding of facts as the board’s finding of facts in the present petition; Second by Davis.

- Davis – Yes
- Evanega Rieckhoff – Yes
- Jones – Yes
- Mulvaney – Yes

Motion carries.

**24-BZA-02 PETITIONER IS KENT MIKEL AND JANINE MIKEL
PROPERTY IS LOCATED AT 119 BANK ST**

To vary from Section 1.10.B.2.a, Regulations for Nonconformities, to allow for an existing single family dwelling's conversion of the attached garage to a master suite in the R-2, One Family Dwelling District. The current structure is one and one tenth (1.1) foot from the side property line, where seven (7) is required, a variance of five and nine tenths (5.9) feet to allow for a three (3) foot addition to the east (front) of the current garage and six (6) foot to the west (rear) of the current garage.

Mulvaney calls the petitioner forward.

Kent Mikel appears in person as the petitioner. Mikel states that he is in a situation because his home is over 100 years old, and the garage attached to the home is insufficient for use. The garage cannot hold any vehicles, so he uses it for storage but wants to utilize it by turning it into a master bedroom with a bath and storage area. Mikel explained that he would need to put a garage on the back of the property so as not to lose any garage space. Mikel then says the problem is that the home was built in the 1920s, so the house is right up on the property line. This would mean that for him to extend the size of the garage to accommodate the changes, he would need it to be running parallel to the property line. Mikel states that his request is not to move the property closer to the property line but to run it parallel to it to allow for the garage extension. This would allow for a little more space on the inside. However, a variance is required to make that adjustment. Mikel says that if he did not have the variance, the property would have to be brought up to code, which means that it would need to be torn down, so he is requesting it. Mikel says that he and his wife have been living at the property for 28 years, he has no intention of going anywhere else, and he wants to make it usable and keep it functional.

Mulvaney asks for questions from the Board.

Jones states that looking at the existing garage door, he is not sure how a vehicle would fit in there.

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 owns a single family residence built in 1901, according to the Elkhart County Assessing information, and is comprised of one thousand four hundred and twenty four (1,424) Sqft on a .25 acre parcel located on the west side of Bank Street, south of East Jackson Boulevard. This property is surrounded by R-2 One Family Dwelling District to the east, west, and south. The properties to the north are zoned R-1 One Family Dwelling District.

The petitioner desires to convert and add on to the existing attached garage into a master suite. Currently the garage is one and one tenth (1.1) foot from the side property line, where seven (7) feet is required by the current zoning ordinance in Section 5.4, yard requirements for R-2 one family dwelling district, a variance of five and nine tenths (5.9) feet.

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 conversion of the garage would be mandated to the current building code therefor will meet all state and local 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 conversion of the garage to livable space would remain as a residential use in a residential zoned neighborhood;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance as a measure of relief is allowed when warranted as this is an older home that was built close to property lines prior to the current zoning development standards;
4. Special conditions and circumstances do exist which are peculiar to the land involved because the unique characteristics of this and surrounding parcels because the development of the site prior to the current zoning standards has resulted in structures that have been built within the current setback requirements for residential zones;

5. The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property because of the structure was built before the standards of the current zoning ordinance that requires greater setbacks;
6. The special conditions and circumstances do not result from any action or inaction by the applicant as the non-conformities have been long established;
7. This property does not lie within a designated flood area.

Ughetti states there were 50 letters mailed with one returned in favor with comment of not having any issues with the petitioner's request.

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

Mulvaney calls for a motion.

Davis makes motion to approve 24-BZA-02, and adopt the petitioner's documents and presentation together with the staff's finding of facts as the boards finding of facts in the present petition; Second by Evanega Rieckhoff.

Davis – Yes
Evanega Rieckhoff – Yes
Jones – Yes
Mulvaney – Yes

Motion carries.

ADJOURNMENT

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

Doug Mulvaney, President

Ron Davis, Vice-President

BOARD OF ZONING APPEALS

-MINUTES-

**Thursday, February 8, 2024 - Commenced at 6:06 P.M. & adjourned at 6:44 P.M.
City Council Chambers – Municipal Building**

MEMBERS PRESENT

Doug Mulvaney
Ron Davis
Phalene Leichtman

MEMBERS ABSENT

Evanega Rieckhoff

REPRESENTING THE PLANNING DEPARTMENT

Mike Huber, Director of Development Services
Jason Ughetti, Planner II

LEGAL DEPARTMENT

Maggie Marnocha

RECORDING SECRETARY

Hugo Madrigal

APPROVAL OF AMENDED AGENDA

Amendment to the agenda to table 24-BZA-03
Davis makes motion to approve; Second by Leichtman. Voice vote carries.

APPROVAL OF MINUTES FOR DECEMBER 14, 2023

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

APPROVAL OF PROOFS OF PUBLICATION

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

OPENING STATEMENT

Welcome to the February 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.

NEW BUSINESS

24-UV-02 PETITIONER IS EOZ BUSINESS LLC

PROPERTY IS LOCATED AT VACANT LOT, EAST JACKSON BLVD (300 BLOCK)

To vary from Section 15.2.Q, Permitted Uses in the CBD, which allows 'Multi-family residential dwellings, including condominiums, townhouses and residences located above commercial uses to allow for residential dwellings located on the first floor, where currently residential dwellings are not a permitted use on the first floor.

To also vary from Section 6.2, which references the minimum size of a residential dwelling unit as seven hundred fifty (750) square feet to allow for the residential units in this development to be as small as five hundred seventy four (574) square feet, a maximum variance of one hundred seventy six (176) square feet.

Mulvaney calls the petitioner forward.

Bob Haden appears in person on behalf of the petitioner. Haden states that the petitioner would like to see the petition approved and that staff has a favorable recommendation for it.

Mulvaney asks for questions from the Board.

Mulvaney asks Haiden if the petitioner is seeking the variance because they want to build smaller one-bedroom apartments.

Haden answers yes, and it is being done to meet demand and create an atmosphere for that area.

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, EOZ Business, LLC, is requesting to vary from development standards found in the Central Business District (CBD), for the latest phase of development in the River District. The sites that are part of this request are located along E. Jackson Boulevard and Clark Street, north of Jackson, in the heart of the River District.

The 2018 River District Implementation Plan's vision sought to develop a thriving urban, mixed use, walkable community that is a downtown destination emphasizing the rivers and recreational amenities. To reinforce the Neighborhood Structure, the Plan extends downtown's walkable street grid and establishes building frontages against sidewalk edges and makes walking useful, safe and comfortable. The proposed development represented in this petition supports the vision and spirit of the 2018 Plan.

In Figure 1 below, the buildings that are a part of this request are noted with a letter A, B and C. The proposed buildings are three (3) and four (4) stories in height, cited behind the public sidewalk with associated parking north, out of the street view from E. Jackson Boulevard.

As background, the ordinance currently permits residential (apartment and condominium) uses above commercial uses in the Central Business District. The proposal calls for three (3) mixed use buildings which will have commercial (including restaurant), office and/or residential uses incorporated into each of the buildings. See Figure 1 above. The Clark Street Building A, as shown above in Figure 1, will have retail on the first floor with residential on the upper floors of that building. The building at the intersection of E. Jackson and Clark Street, shown as Building B in Figure 1, will concentrate the commercial and office uses at the west end of the building and have walk up apartments east at the street level fronting E. Jackson Boulevard. Building C in Figure 1, is proposing residential on all three levels.

The second part of the request is to permit the reduction of dwelling unit minimum floor area to 574 square feet where the current minimum floor area is 750 square feet. This reduction in floor area is consistent with what is happening in other communities that are working to address the shortage of housing. The goal is to also help densify downtown and provide residential housing options for all stages of life in order to continue to make Elkhart a vibrant downtown.

It is anticipated that with pending updates for the zoning ordinance, the elements contained within this request will be conforming in the future. The timeline for the updates to the ordinance will be in draft form in the third quarter of this year.

Staff supports the variance request contained in the petition.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental variances 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 new buildings will be built and conform to all applicable building codes. The uses found within the buildings and unit size will be a positive addition to the existing businesses in a mixed use district;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the programming of the building meet the goals of the 2018 River District Plan by incorporating a mix of uses that support the plan's vision;
3. The need for the variance arises from some condition peculiar to the property because of the requirement that residential be allowed only above commercial uses and the reduction of unit size would prevent these buildings from being constructed;
4. The strict application of the terms of this Ordinance will constitute an unnecessary hardship if applied to the property because the varied typology proposed in these buildings are becoming more common in downtowns;
5. The approval does not interfere substantially with the Comprehensive Plan which calls for the area to be developed with mixed use.

Huber states there were 11 letters mailed and 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-UV-02, and adopt the petitioner's documents and presentation together with the staff's finding of facts as the board's finding of facts in the present petition; Second by Leichtman.

Davis – Yes

Leichtman – Yes

Mulvaney – Yes

Motion carries.

**24-BZA-04 PETITIONER IS LOTUS ENTERPRISES
PROPERTY IS LOCATED AT 2101 BYPASS ROAD**

To vary from Section 26.10.F.4.h, which states "Off-premises signs shall be illuminated only by means of continuous reflected light. Internally-illuminated or back-lit billboards are prohibited," to allow for the conversion of an existing billboard to an LED billboard.

Mulvaney calls the petitioner forward.

Robert Miller appears in person on behalf of the petitioner. Miller states that he agrees with the staff report and will transition the current unit from a static unit to an LED.

Mulvaney asks for questions from the Board.

Mulvaney states that the board first came across LED signs... (Unintelligible, off mic). The city was in the process of adopting a new ordinance concerning signs, which is still in the works. Mulvaney says it was an issue beforehand, so some petitions were kicked down the road. However, the proposal that is being presented would be consistent with... (Unintelligible, off mic). Mulvaney says that was one of the issues with what's being proposed... (Unintelligible, off mic).

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

Lamar Advertising leases the subject property and owns a billboard structure that includes both north and south facing signs.

For this sign structure, it is there by action approved by this body in 2016 as the site was being redeveloped after the realignment of ByPass Road as it intersects Nappanee Street. At that time, the site was two separate businesses with two different zoning classification with both oriented toward Nappanee Street. The new building proposed, as it sits today, was oriented to the north toward ByPass Road. In order to have the site be compliant, the site was rezoned and the necessary variances approved in order to construct the billboard that currently exists at the southwest corner of ByPass Road and Nappanee Street. That also included the combination/consolidation of the parcels for the site, which was never completed. This came to light when the case before the board now was filed. As a part of our recommendation and conditions, staff is asking that the combination be completed as required by the previous owner in 2016. Because now, the building may be considered non-conforming.

Lamar is proposing to upgrade the billboard from the current, traditional static sign face to with a new electronic LED billboard. The BZA heard two other requests similar to this action in December 2023 for a site on South Main Street and East Beardsley Avenue. Staff is supportive of the request and understand the technology is changing and feel there are adequate safeguards in place with the proposed conditions to ensure the current proposal meets the future language for the UDO.

The City of Elkhart is in the process of updating its zoning ordinance, including the sign ordinance components. It is anticipated that the new UDO will include allowances for and guidance related to electronic billboards, including standards related to movement, video elements, message sequencing, limits on message duration, and brightness. Accordingly, the proposed guidance will be included in the staff's recommendation related to this request.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental variance to vary from Section 26.10.F.4.h, which states "Off-premises signs shall be illuminated only by means of continuous reflected light. Internally-illuminated or back-lit billboards are prohibited," to allow for the conversion of an existing billboard to an LED billboard 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 off-premises sign already exists at this location;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the conversion of the sign to LED is in keeping with the trends in changing technology for billboard signs;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because a measure of relief is allowed when warranted;
4. Special conditions and circumstances do exist which are peculiar to the land involved and which are not applicable to other lands or structures in the same district because the sign already exists and without board action the conversion to LED would not be permitted;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because it would require the sign to continue to utilize the existing non-LED sign face that is manually changed;
6. The special conditions and circumstances do not result from any action or inaction by the applicant because the sign is pre-existing;
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 10 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

Ughetti states there were 11 letters mailed with zero returned.

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

Mulvaney calls for a motion.

Davis makes motion to approve 24-BZA-04, and adopt the petitioner's documents and presentation together with the staffs finding of fact as the board's finding of facts in the present petition, and adopt all conditions listed in the staff report; Second by Leichtman.

Davis – Yes

Leichtman – Yes

Mulvaney – Yes

Motion carries.

ADJOURNMENT

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

Doug Mulvaney, President

Ron Davis, Vice-President



Staff Report

Planning & Zoning

Petition: 24-BZA-07

Petition Type: Developmental Variance

Date: May 9, 2024

Petitioner: Christopher Chadwick and Pamela Chadwick

Site Location: 1 Edgewater Drive

Request: To vary from the requirements found in Section 26.1.B.2, Accessory Structures – General Provisions, which states ‘No portion of an accessory structure may be built closer to the front lot line than the nearest point of the principal structure’, to allow for an accessory structure (shed) to be built in the front yard.

Existing Zoning: R-1, One Family Dwelling District

Size: +/- .89 acres

Thoroughfares: East Jackson Boulevard

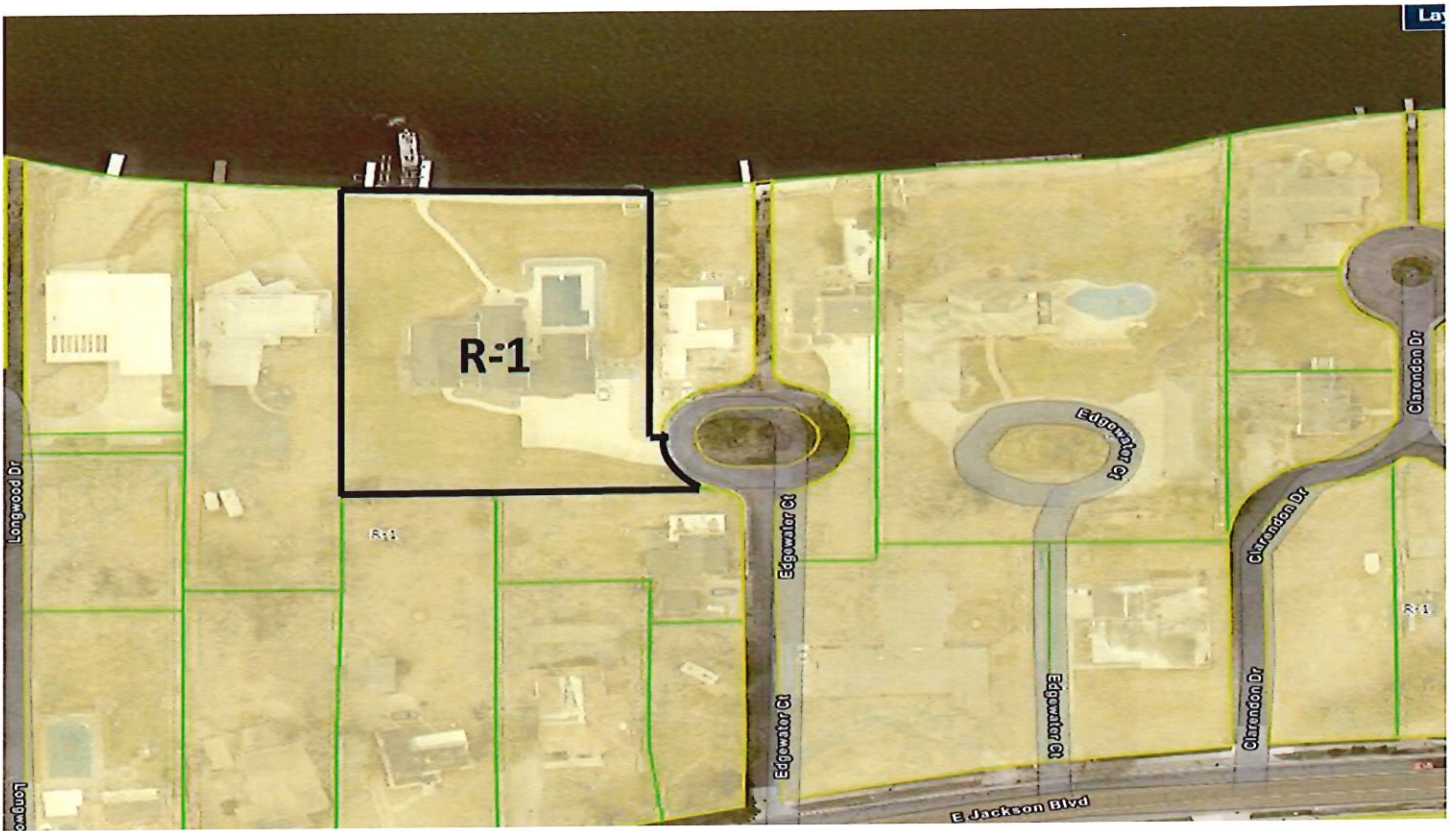
School District: Elkhart Community Schools

Utilities: Available and provided to site.

Surrounding Land Use & Zoning:
The surrounding properties are R-1, One Family Dwelling District.

Applicable Sections of the Zoning Ordinance:
Enumerated in request.

Comprehensive Plan:
The Comprehensive calls for this area to be developed as residential. The subject property is included in an area identified for residential use on the future land use map.



Staff Analysis

The petitioner wishes to vary from the requirements found in Section 26.1.B.2, Accessory Structures – General Provisions, which states ‘No portion of an accessory structure may be built closer to the front lot line than the nearest point of the principal structure’, to allow for an accessory structure (shed) to be built in the front yard.

This site is on the St. Joseph River and is a unique lot with just a narrow frontage on Edgewater Drive. There are homes directly in front of this property which effectively blocks the view of the proposed accessory structure from traffic traveling on East Jackson Boulevard.

There is a need for a detached garage for additional storage. Due to the slope of the rear yard, it is not possible to construct a detached accessory structure in the rear yard. Additionally the proposed accessory structure could block views for neighboring properties of the St. Joseph River if it was placed where the zoning ordinance requires it otherwise on this property.

It is not the petitioner’s desire to utilize the proposed detached accessory structure for vehicular storage. However a driveway would be required because the proposed detached accessory structure could accommodate motor vehicles. Because a door is installed large enough for a motor vehicle to be placed inside the structure a driveway is required.

Recommendation

The Staff recommends **approval** of the developmental variance to vary from Section 26.1.B.2, Accessory Structures general provisions, which states “No portion of an accessory structure may be built closer to the front lot line than the nearest point of the principal structure”, to allow for an accessory structure (shed) to be built in the front yard based on the following findings of fact:

1. The approval **will not be** injurious to the public health, safety, morals or general welfare of the community because the detached accessory structure will be built per all applicable current 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 detached accessory structure will be placed in the southwest corner of the property and will not be immediately adjacent to any other structures on the surrounding properties;
3. Granting the variance **would be** consistent with the intent and purpose of this Ordinance because a measure of relief is allowed when warranted;
4. Special conditions and circumstances **do** exist which are peculiar to the land involved and which are not applicable to other lands or structures in the same district because the unique characteristics of the lot having two front yards, neighboring properties view of the St. Joseph river could be blocked;
5. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the property because this property has two front yards and placement in the Southwest corner is the most practical allowing adjacent properties to maintain their view of the St. Joseph River;
6. The special conditions and circumstances **do not** result from any action or inaction by the applicant because the grading of the property is of natural cause along with the shape and characteristics of the lot being unusual;
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. An approved driveway is installed to the proposed accessory structures point of entrance where the overhead garage door will be installed.

Photos







PETITION #: 24-BZA-07 FILING FEE: \$ 200-

PETITION for APPEAL to the BOARD of ZONING APPEALS

PETITION TYPE:

Developmental Variance Appeal from Staff Decision
 Use Variance Special Exception Conditional Use

Property Owner(s): CHRISTOPHER & PAMELA CHADWICK

Mailing Address: 1 EDGEWATER DR. ELKHART IN 46516

Phone #: [REDACTED] Email: [REDACTED]

Contact Person: JAY ROLLER (TEAM CONSTRUCTION)

Mailing Address: [REDACTED]

Phone #: [REDACTED] Email: jroller@teamconstructioninc.com

Subject Property Address: 1 EDGEWATER DR ELKHART IN 46516

Zoning: 2001 RESIDENTIAL

Present Use: FAMILY DWELLING Proposed Use: SAME

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): Christopher P Chadwick

SIGNATURE(S): CP & CA DATE: 4-1-24

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: _____



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Date: 4/1/2024

To: Board of Zoning Appeals
City of Elkhart, IN

RE: Developmental Variance

The undersigned petitioner respectfully shows the Board of Zoning Appeals:

1. I, Chris & Pam Chadwick, am the owner of the following real estate located within the City of Elkhart, Concord Township, Elkhart County, State of Indiana, to-wit:

1 Edgewater Dr. Elkhart, IN 46516 (River Bank Subdivision Lot 1 § 2)

2. The above described real estate presently has a zoning classification of R1 under the Zoning Ordinance of the City of Elkhart.
3. Petitioned presently occupies the above described property as their primary residence.
4. Petitioner desires to add a single stall detached storage outside of the standard City of Elkhart Zoning Ordinance. .
5. The Zoning Ordinance of the City of Elkhart requires, "No portion of an accessory structure may be closer to the front lot line than the nearest point of the principal structure", under section 26.1B (2)
6. Constructing the new structure on the either side of the existing home behind the front of the home would not allow for suitable space between the home and the property boundaries. Placing the new structure in the rear of the property is not suitable due to the grade drop off. Placing the structure in front of the residence seems to be the best option as it will match the aesthetic appearance of the existing home and be visible only to the adjacent neighbors as this lot is secluded by a treeline.

Room Additions • Kitchens • Remodeling • Siding • Roofing • Concrete • Garages • Decks

1849 W. Lincoln Ave. • Goshen, IN 46526
Fax: 574-533-0613



a better way to renovate

Appropriate Standards:

I.C. 36-7-4-918.4 & Section 29.9 A

1. We believe this will not be injurious to the public health, safety, morals or general welfare of the community, due to the land locked nature of the property and very few people will notice the structure or deem it out of place.
2. The use of any adjacent property will not be affected, at all, by this proposed structure as no access to the new structure can be obtained without being on the petitioner's property and existing driveway.
3. Granting this variance will be consistent with the purpose in zoning as it will enhance the existing property without being a distraction or a detriment to the adjacent properties or any other properties.
4. This property is unique in that having the new storage structure being placed in the front the existing home, in lieu of the behind the existing home would be a far better aesthetic than being set back by the river, blocking the view of neighbors up and down the river, as well as, the river travelers view of the beautiful homes on the shore.
5. Depriving the applicants of this variance would negatively affect the adjacent properties in the sense that should the applicants not be able to store misc, pool toys, river toys, yard maintenance equipment tools inside applicants would opt to store these items in the existing attached garage and leave vehicles parked outdoors or on the street.
6. This structure will not affect others or the environment in any way as it sits out of view of 99.99% of Elkhart residents, most will not know it exists.

Section 29.9 B

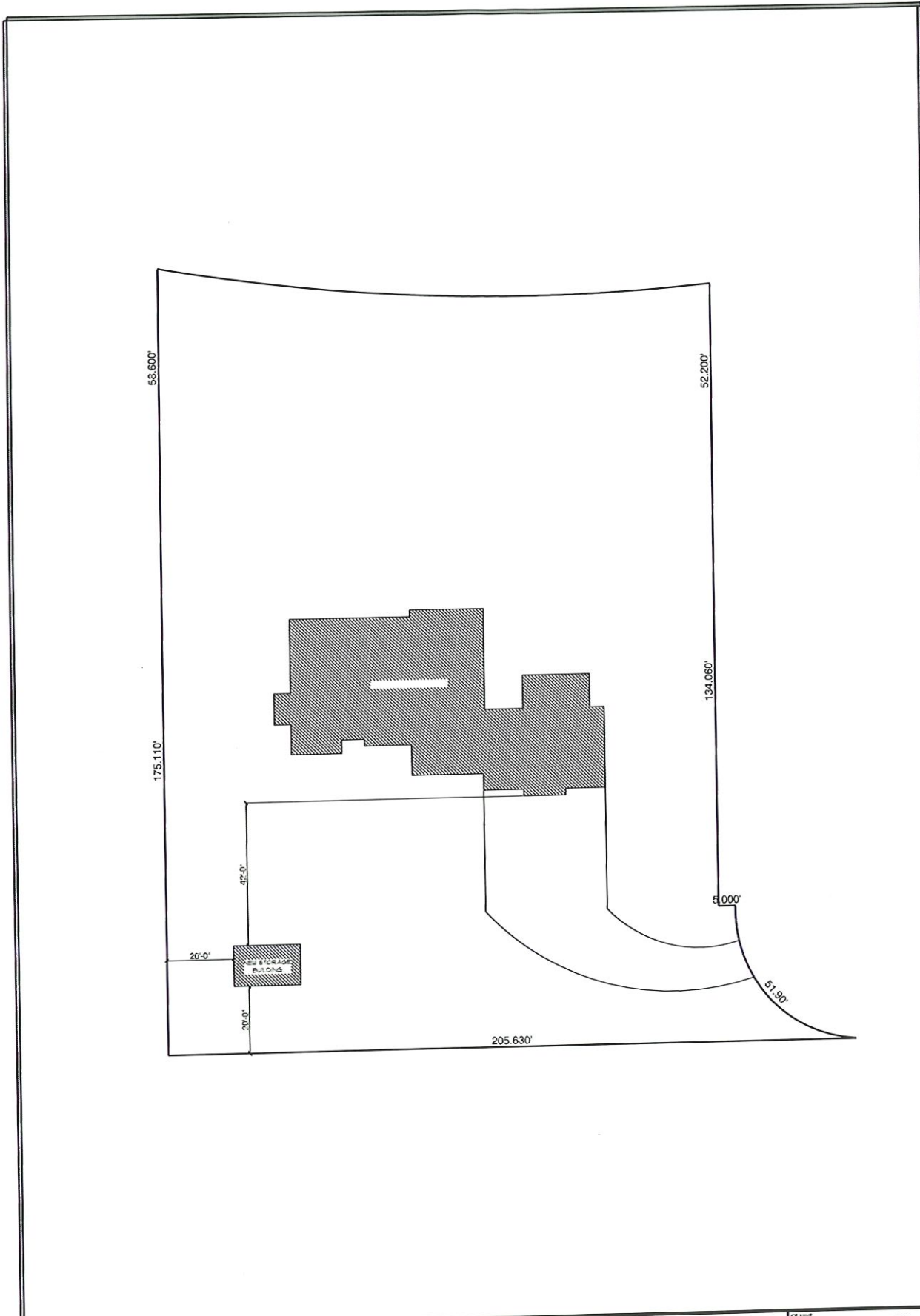
1. We believe this will not be injurious to the public health, safety, morals or general welfare of the community, due to the land locked nature of the property and very few people will notice the structure or deem it out of place.
2. It is our opinion that the variance will not de-value the existing or adjacent properties, but conversely enhance and increase the existing property AND adjacent properties.
3. The need for this variance is due to the fall off in grade in the area behind the home. There is not another place for the storage unit.
4. The strict application of this ordinance would devalue this property and adjacent properties.
5. The approval of this petition does not interfere with the Comprehensive Plan.

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1849 W. Lincoln Ave. • Goshen, IN 46526
Fax: 574-533-0613



WHERE THE
BUILDING WILL GO



1. X
 2. X
 3. X
 1843 J. Lincoln Ave
 Gosport, N.C. 28646
 874-533-3300
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OWNER	CHRIS & PAM CHADWICK
JOB ADDRESS	1 EDGEWATER DR. ELKHART, IN
SCALE	1/8" = 1'-0"
DATE	Saturday, March 30, 2024
DRAWN	SITE PLAN

2017-06321

ELKHART COUNTY RECORDER
JENNIFER L. DORIOT
FILED FOR RECORD ON
AS PRESENTED
03/29/2017 2:13 PM

Special Warranty Deed

STATE OF INDIANA *MICHIGAN*
COUNTY OF HAMILTON *DAKOTA*

HAMILTON TITLE

FOR AND IN CONSIDERATION OF THE SUM OF ten dollars (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged, the undersigned, Chemical Bank, an Indiana corporation, ("Grantor"), does hereby convey, assign and specially warrant unto Christopher P. Chadwick and Pamela J. Chadwick, husband and wife, ("Grantee"), all of its right, title and interest in the real estate in Elkhart County, Indiana, commonly known as 2 Edgewater, Elkhart, IN 46516, and more particularly described as follows, to wit:

Lot Numbered 2 in River Bank Subdivision, a replat of part of Lot 4 in Beckett Park Subdivision and part of Lot 2 Edgewater Place Subdivision in the Southwest Quarter of Section 34, Township 38 North, Range 5 East, Concord Township, Elkhart County, recorded September 9, 2013 as Instrument Number 2013-22187 in Plat Volume 34, Page 73.

Parcel No.: 20-02-34-352-010.000-012

AND THE SAID Grantor will only warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of those persons claiming by, through or under Grantor, but not otherwise.

The Grantee has thoroughly inspected, examined and accepts the parcel along with any existing structures, improvements, and appurtenances thereunto belonging, if any, and is purchasing same in "as is", "where is" condition, without warranty. In addition, Grantee understands that the Grantor, its agents, successors and/or assigns, have not made any representation or warranties, either expressed or implied, regarding this parcel and that Grantee is purchasing same based on the Grantee's sole judgment and diligent inquiry.

By acceptance of this deed, as evidenced by having same recorded, Grantee affirms the content of this document and expressly agrees to indemnify and hold Grantor, its agents, successors or assigns, harmless from any and all claims (whether made by the Grantee, its agents, successors, assigns or any other party) regarding any deficiency as to the condition of the property and/or any existing structures on said parcel.

The above warranty and this conveyance is made subject to any and all reservations, restrictions, easements, exceptions, covenants, and conditions of record, including mineral, oil or gas reservations and any covenants and/or restrictions of record, any and all Power Line Easements, or other Easements or Rights of Way of record.

** Successor by merger to Tallev Bank and Trust*
opw

JD

PP

DISCLOSURE FEE PAID
DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER

Mar 29 2017
PAULINE GRAFF, AUDITOR

001510
5.00

The undersigned person(s) executing this deed on behalf of Grantor represent and certify that they are duly elected officers or representatives of Grantor and have been fully empowered, by proper resolution of the Board of Directors of Grantor, to execute and deliver this deed; that Grantor has full corporate 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.

In Witness Whereof, Grantor has caused this deed to be executed this 22nd day of MARCH, 2017.

Chemical Bank

BY: Randolph French
Randolph French, REO Manager

MICHIGAN
STATE OF INDIANA

COUNTY OF Oakland

Before me, a Notary Public in and for said County and State, personally appeared Chemical Bank by, Randolph French, its REO Manager, who acknowledged the execution of the foregoing Special Warranty Deed, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 22nd day of MARCH, 2017.

Signature: K. Jones, Notary Public

Printed: K. Jones

My Commission Expires: 06/05/22

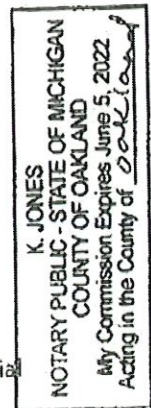
My County Of Residence is: Oakland

IN1702156

Prepared by and return deed to: Jennifer J. Wallander, Esq.
Hamilton National Title LLC, 1001 Parkway Avenue, Suite 1, Elkhart, IN 46516

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, Jennifer J. Wallander.

Grantee mailing address and please send tax statements/notices to:
22924 Stonebrier Dr Elkhart IN 46514





VIEW FROM
E. JACKSON

AFFIDAVIT IN SUPPORT OF VARIANCE PETITION

I, CARLS, 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 1 EDGEWATER DR. Elkhart, Indiana.
4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 1 day of APRIL, 2024.

Chris P Chadwick

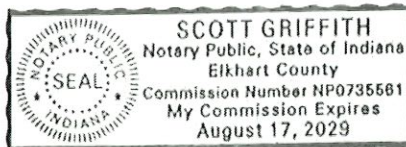
Printed: Christopher P Chadwick

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

Printed: _____

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

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



Scott Griffith

Printed: SCOTT GRIFFITH

My Commission Expires:

August 17, 2029

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



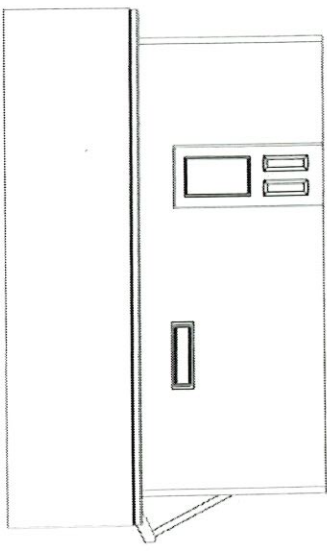
RENDERING



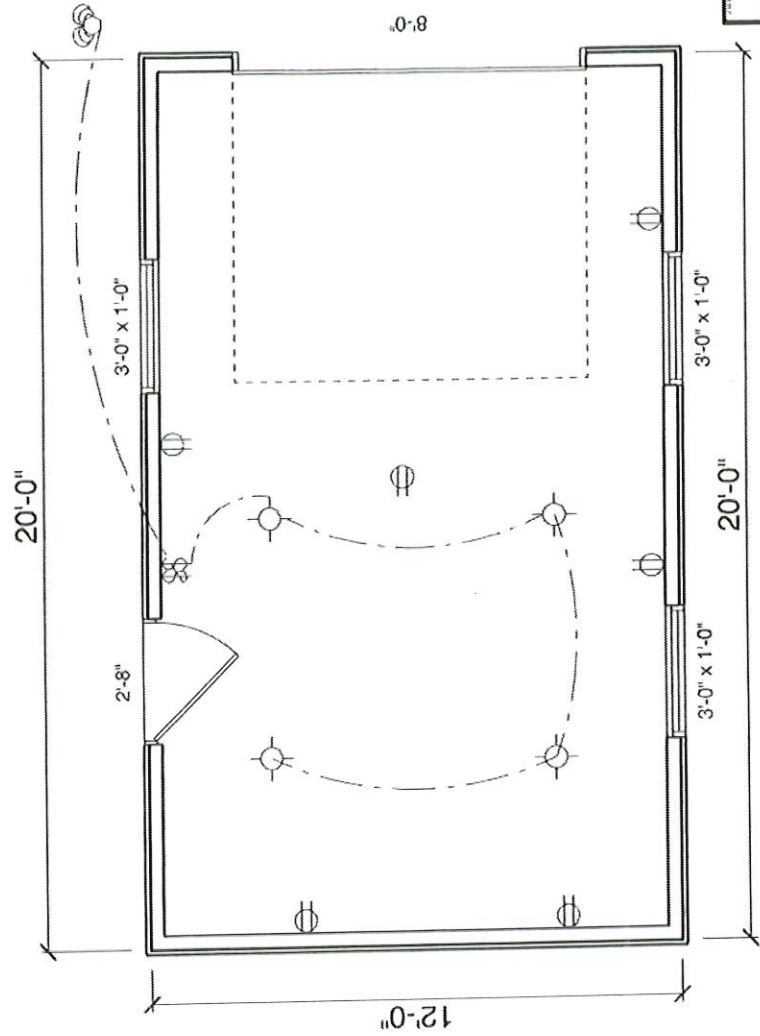
1000 W. LEXINGTON AVENUE
 SUITE 100
 CHICAGO, IL 60614
 (773) 334-1111
 WWW.TEAMREMODELING.COM

NOTES

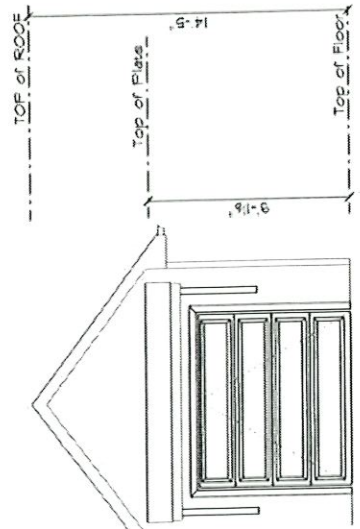
1. 8' TALL GARAGE WALLS
2. VERTICAL BOARD & BATTON SIDING TO MATCH EXISTING HOME
3. MANGROVE POSTS IN EXISTING BEAM
4. ACCENT ROOF OVER END



SIDE ELEVATION
 SCALE: 1/4" = 1'-0"



FLOOR PLAN
 SCALE: 1/4" = 1'-0"



FRONT ELEVATION
 SCALE: 1/4" = 1'-0"

OWNER	CHRIS & PAM CHADWICK
PROJECT	1 EDGEWATER DR. ELKHART, IN
DATE	9-1-10
DESIGNER	MARION GEORGE, P.E., P.E.D.
PROJECT	PROPOSED NEW CUT BUILDING

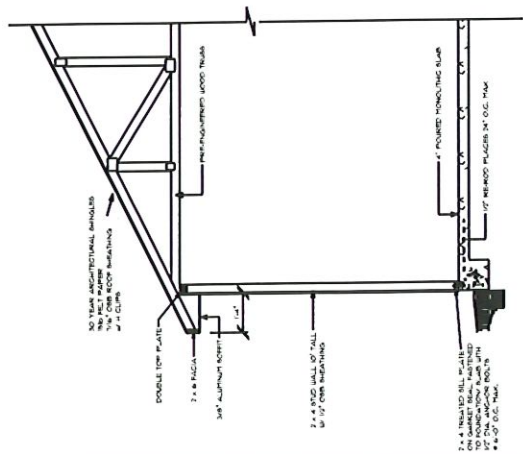
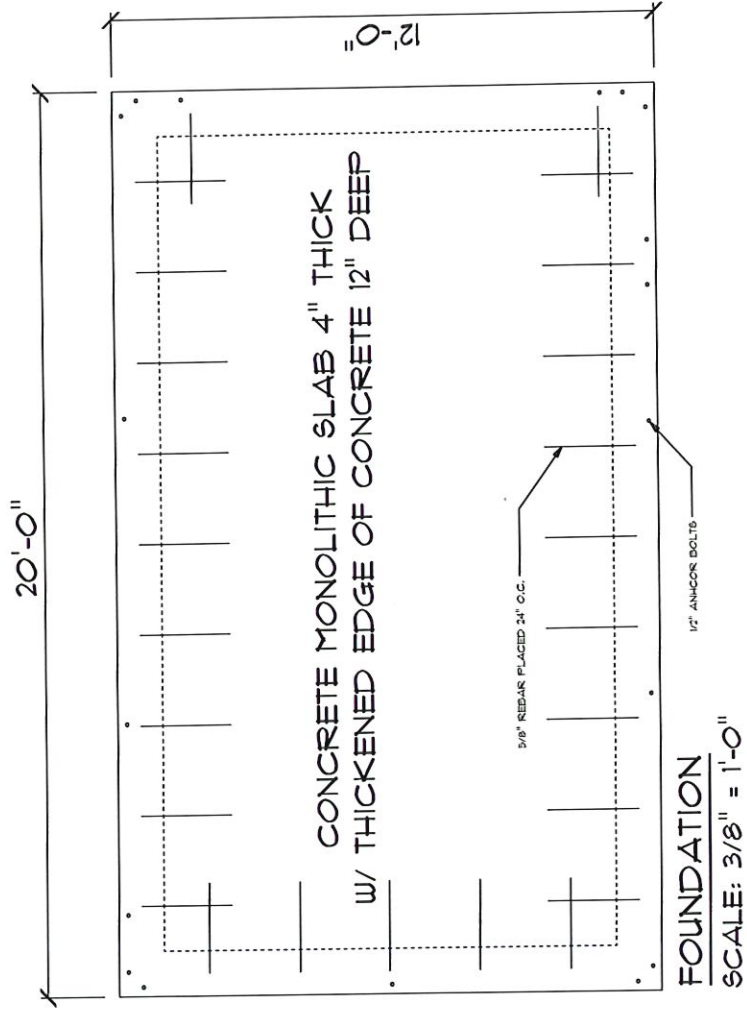


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 Gosport, IN 46036
 574-533-9100

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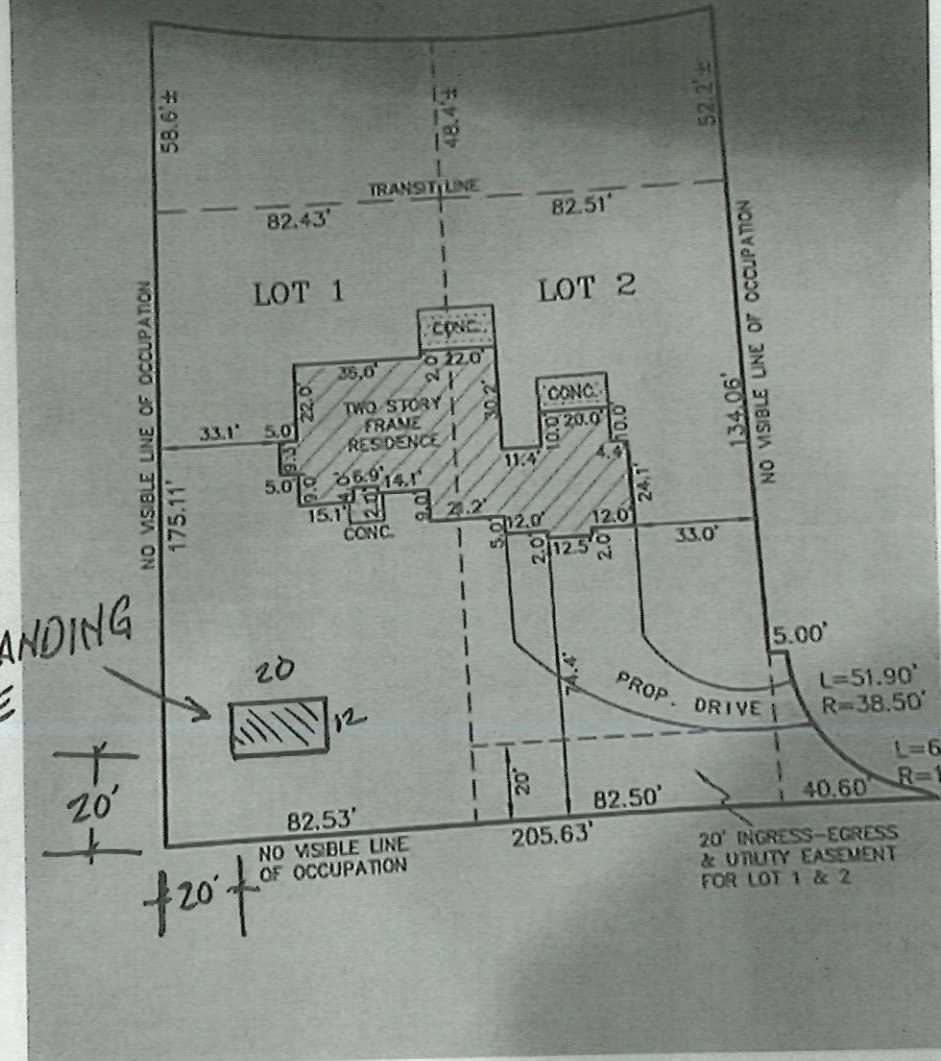
- NOTES
1. X
 2. X
 3. X

JOB NAME	CHRIS & PAM CHADWICK
JOB ADDRESS	EDGEWATER DR., ELKHART, IN
SCALE	3/8" = 1'-0"
DATE	Saturday, March 30, 2024
DRAWING	PROPOSED NEW OUT BUILDING- FOUNDATION



WALL SECTION
 SCALE: 1" = 1'-0"

ST. JOSEPH RIVER



NEW
FREESTANDING
GARAGE

