

BOARD OF ZONING APPEALS

-MINUTES-

**Thursday, May 9, 2024 - Commenced at 6:00 P.M. & adjourned at 6:14 P.M.
City Council Chambers – Municipal Building**

MEMBERS PRESENT

Doug Mulvaney
Ron Davis
Janet Evanega Rieckhoff
Phalene Leichtman

MEMBERS ABSENT

None

REPRESENTING THE PLANNING DEPARTMENT

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

LEGAL DEPARTMENT

Maggie Marnocha via WebEx

RECORDING SECRETARY

Hugo Madrigal

APPROVAL OF AMENDED AGENDA

Mulvaney says that the board is tabling 24-UV-04, 24-BZA-06, and 24-UV-07 until the next meeting.
Evanega Rieckhoff makes motion to amend the agenda; Second by Davis. Voice vote carries.
Davis makes motion to approve the amended agenda; Second by Evanega Rieckhoff

APPROVAL OF MINUTES FOR JANUARY 11, 2024 AND FEBRUARY 8, 2024

Davis makes a motion to approve January 11, 2024 minutes; Second by Evanega Rieckhoff. Voice vote carries.
Davis makes a motion to approve February 8, 2024 minutes; Second by Evanega Rieckhoff. Voice vote carries.

APPROVAL OF PROOFS OF PUBLICATION

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

OPENING STATEMENT

Welcome to the May 9, 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-BZA-07 PETITIONER IS CHRISTOPHER CHADWICK & 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.

Mulvaney calls the petitioner forward.

Jay Rohrer appears in person on behalf of the petitioner. Rohrer says the petitioner would like to build a storage building in front of their property because there is a slope on the back that would not be conducive for structure placement. Rohrer then says that woods incredibly shield the front lot so the building would not be visible. He said that staff would recommend approval to the Board with the condition that a driveway be attached so that the next inhabitants of the home can park a car in there and not have them drive through the yard. Rohrer states that he has amended the plans to remove the nine-foot overhead door and place a double six-foot hinge door, so putting a car in there would be nearly impossible, eliminating the need for a driveway and conditions placed by staff. Rohrer said he has brought revised drawings as EXHIBIT A and can show them to the Board if needed.

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 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.

STAFF 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.

Ughetti states there were 18 letters mailed with one returned in favor with no comment and one returned not in favor with no comment.

Mulvaney asks Jason if conditions will no longer be necessary since the petitioner is no longer installing overhead doors, therefore removing the requirement for the driveway.

Jason answered that the board would need to strike based on the conditions set by staff.

Mulvaney confirms that conditions will not be placed.

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

Mulvaney calls for a motion.


Evanega Rieckhoff makes motion to approve 24-BZA-07, and adopt the petitioner's documents and presentation, together with the Staff's finding of fact, as the Board's findings of fact in the present petition; Second by Davis.

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

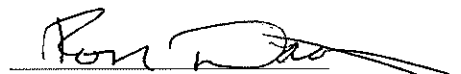
Motion carries.

ADJOURNMENT

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



Doug Mulvaney, President



Ron Davis, Vice-President