AGENDA
ELKHART CITY BOARD OF ZONING APPEALS
THURSDAY, MARCH 10, 2022 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 **157 230 2962** as the meeting number and "**BZA2021**" 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 jennifer.drlich@coei.org prior to the meeting.

1. **ROLL CALL**
2. **APPROVAL OF AGENDA**
3. **APPROVAL OF MINUTES FEBRUARY 10, 2022**
4. **APPROVAL OF PROOFS OF PUBLICATION**

5. **OLD BUSINESS**

22-X-04 PETITIONER IS KNIGHTS OF COLUMBUS / ELKHART COLUMBUS CLUB
PROPERTY IS LOCATED AT 112 E LEXINGTON AVE
A Special Exception per Section 15.3, Special Exception Uses in the CBD Central Business District, to allow for a charitable organization to operate a soup kitchen.

6. **NEW BUSINESS**

22-BZA-09 PETITIONER IS ELKHART CLINIC BUILDING LLC
PROPERTY IS LOCATED AT 303 S NAPPANEE ST
To vary from Section 26.10.D.4 Freestanding Signs, which permits a six (6)-foot tall freestanding sign at a five (5) foot setback to allow a nine (9)- foot two (2)- inch tall freestanding sign, a variance of three (3) feet two (2) inches.

To also vary from Section 26.10.D.4 Freestanding Signs, which permits a freestanding sign to be 50 square feet at the minimum five (5) foot setback, to allow for one sign with an area of 52 square feet and a second sign with an area of 91 square feet, a variance of two (2) square feet and 41 square feet respectively.

22-UV-04 PETITIONER IS BILL & ANN ZIMMERMAN
PROPERTY IS LOCATED AT 329 W FRANKLIN ST
To vary from Section 15.2 permitted uses in the Central Business District to allow an existing structure to be used as a single family dwelling.

22-UV-05 PETITIONER IS FRANK CASSELLA
PROPERTY IS LOCATED AT 221 S THIRD ST
To vary from Section 15.2 permitted uses in the Central Business District to allow an existing structure to be used as a single family dwelling.

22-X-05 PETITIONER IS MARIA TORRES & FRANCISCO SESMAS
PROPERTY IS LOCATED AT 210 W WOLF AVE
A Special Exception per Section 5.3, Special Exception Uses in the R-2, One-Family Dwelling District, to allow for a daycare center

22-BZA-10 PETITIONER IS JIMTOWN CORNER LLC
PROPERTY IS LOCATED AT 3704 S NAPPANEE ST
To vary from Section 26.7.D which requires a convenience store to have 6 parking spaces per 1,000 square feet. To allow the development to have 18 parking spaces a reduction of 7 spaces.

7. **ADJOURNMENT**

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

BOARD OF ZONING APPEALS
-MINUTES-
Thursday, February 10, 2022 - Commenced at 6:00 P.M. & adjourned at 7:35 P.M.
City Council Chambers – Municipal Building

Elkhart City Plan Commission was called to order by Doug Mulvaney at 6:00 P.M.

MEMBERS PRESENT
Doug Mulvaney
Ron Davis
Johnny Thomas
Andy Jones

MEMBERS ABSENT
None

REPRESENTING THE PLANNING DEPARTMENT
Ryan Smith, Planner
Nathan Hooley, Planner

LEGAL DEPARTMENT
None

TECHNOLOGY STAFF
Matt Riggs

RECORDING SECRETARY
Jennifer Drlich

APPROVAL OF AMENDED AGENDA
Davis makes motion to table 22-X-04 until the March 10, 2022 meeting and approve agenda; Second by Jones. Voice vote carries.

APPROVAL OF MINUTES FOR AUGUST 12
Davis makes motion to approve; Second by Thomas. Voice vote carries.

APPROVAL OF PROOFS OF PUBLICATION
Jones makes motion to approve; Second by Davis. Voice vote carries.

OPENING STATEMENT
Welcome to the February 10, 2022 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.

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OLD BUSINESS

22-BZA-02 PETITIONER IS 756 PATRICIA CT – ELKHART LLC
PROPERTY IS LOCATED AT 756 PATRICIA CT

To vary from Section 26.10.D.4.d which requires freestanding signs to be centered on the property line to allow for the installation of a new freestanding sign at the corner of Patricia Court and Middlebury Street.

Mulvaney calls petitioner forward.

Todd Lehman appears in person for Sign-Tech Sign Services for the petitioner. He states that from the aerial view of the property it seems that the building and drive meet the setback requirements, which doesn't allow a lot of room for a sign on Middlebury Street. Moving the sign down to the corner of Patricia and Middlebury allows people to see the sign from Middlebury which is the primary source of truck traffic and commuters. All other criteria for signage are met.

Mulvaney asks for questions from the Board. Hearing none, 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

This property is currently under construction for a new industrial building for Elevations Park Model. They are proposing a new freestanding monument style sign to be located at the intersection of Patricia Court and Middlebury Street. The proposed sign will be internally lit and 45 feet back from the property lines. The variance is needed as the ordinance requires all freestanding signs to be centered on the property line.

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 as the signs location will not affect visibility at the intersection;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner as the property is to be used for industrial uses similar to existing uses in this area;
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 as the business will have only one freestanding sign where two are permitted;
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 as this site is on the corner and will utilizes one freestanding sign as identification on two street frontages;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because it places constraints on identifying the business;
6. The special conditions and circumstances do not result from an action or inaction by the applicant as the property is located at an intersection of two public right of ways;
7. This property does not lie within a designated flood area.

Smith states there were 7 letters mailed, none returned.

Mulvaney asks if there are questions from the Board for staff. Hearing and seeing none, he calls for a motion.

Davis makes motion to approve; Second by Thomas.

Davis – Yes
Thomas – Yes
Jones – Yes
Mulvaney – Yes

Motion carries.

NEW BUSINESS

22-BZA-01 PETITIONER IS KIRSTIN COY & RAFAEL CARDENAS RAMOS
PROPERTY IS LOCATED AT 1328 & 1334 COUNTY ROAD 6 W
To vary from Section 6.4 Yard Requirements in the R-3 Two Family Dwelling District to allow a property line to be placed through the middle of an existing duplex to create a zero-foot side yard setback.

Mulvaney calls petitioner forward.

Rafael Cardenas Ramos appears in person. He states that when they purchased the house it wasn't split legally. He states they found out about this after the purchase of their half of the duplex was completed. They would like to have the split be legal.

Kirstin Coy appears online. She states that she owns the 1334 half of the duplex.

Mulvaney asks if there is an issue with producing a plat as is the condition.

Ramos and Coy have no issue with the condition.

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 petitioners each own part of a property containing a duplex; the units of the duplex are addressed to 1328 and 1334 County Road 6 West. Last year, the former owner of the property had a surveyor supply a survey showing a property split that divided the property into two parcels, splitting the duplex in two, and created an access easement on the driveway. The survey was recorded and both parcels sold to new owners.

The process was done without undergoing the required city processes, and staff holds that it was an illegal division; any property in the city that is subdivided must undergo review by our Plat Committee and Major Subdivisions must also be reviewed by the Plan Commission.

Staff learned of the split prior to the sale of the properties and contacted the owner to notify her that she needed to submit applications. Several months passed without any application being submitted, and during that period the properties were sold. Staff has spent considerable time working with the current and former owners to have the appropriate applications submitted. The application we received was less than we would typically process; however, staff believed it was best to proceed with the process and review their application.

The proposed lots met the minimum requirements for parcels in the R-1 District, and the proposed access easement maintains access for both lots. However, the properties do not meet the minimum setbacks or the minimum frontage for the district, and the survey provided does not qualify as an official plat. Staff does not have an objection to the request, since the physical and functional characteristics of the site will not change, it will simply be under two owners instead of one.

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 physical and functional nature of the site will not change;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the property is not being modified;
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 and which are not applicable to other lands or structures in the same district as this site was developed as a duplex;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because it places constraints;
6. The special conditions and circumstances do not result from an action or inaction by the applicant as the property was developed prior to ownership;
7. This property does not lie within a designated flood area.

CONDITIONS
If the Board chooses to approve the requested variance, staff recommends that the following conditions be placed upon the approval:
1. The applicants must submit an official plat.

Smith states there were 9 letters mailed. One returned in favor with no comment.

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

Jones asks where the plat comes from for the petitioner.

Smith states that there was a survey done for which there is already a drawing which would just need slightly modified with some extra verbiage and signature blocks.

Jones asks if the petitioner could do that or would they need a survey.

Smith states that they would have to have a surveyor do that, to stamp it.

Mulvaney asks if Smith would assist in what is required.

Smith states that he has already spoken to the firm which has provided a quote and a timeframe.

Mulvaney calls for a motion.

Jones makes motion to approve with conditions; Second by Davis.

Davis – Yes
Thomas – Yes
Jones – Yes
Mulvaney – Yes

Motion carries.

22-BZA-04 PETITIONER IS MICHAEL D & SUZANNE M BRUMMEL
PROPERTY IS LOCATED AT 1845 N BAY DR
To vary from Section 26.4.A.6 to allow a 6-foot-tall privacy fence to encroach into a corner side yard and point A.8 to allow the use of welded wire as a fencing material.

Mulvaney calls petitioner forward.

Michael Brummel appears in person. He states they replaced a 4ft welded wire fence and the height violated the height ordinance. Their yard is lower than the road so the top of the fence is only 42" higher than the road itself which is less than the 4' required. The privacy fence does not appear as a large object on the side of the road, but it does help keep his wife and their garden safe.

Mulvaney asks for questions from the Board. Hearing none, he 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 property is at the corner of N Bay Street and Miller Street and has a heavily wooded area to the north. The applicant installed the fence without knowing the ordinance requirements and that a permit was needed. The fence was installed to surround their garden to protect it from deer. They used wire mesh on the house side of the garden also to keep animals out of the garden.

This property is significantly lower than the adjacent roadway where the fenced in area is located. The lower elevation allows the fence to not inhibit visibility at the intersection. The applicant also states that because of traffic along Miller Street the fence will provide some privacy for the garden area.

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

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1. The approval **will not** be injurious to the public health, safety, morals or general welfare of the community as the fence does not create a visual barrier at the intersection;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner as the property will continue to be used residentially;
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 particular to the land involved and which are not applicable to other lands or structures in the same district as the grade change of the property brings the fence lower along the right of way;
5. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the property because it places constraints on the use of a private garden;
6. The special conditions and circumstances **do not** result from an action or inaction by the applicant as the grade change of the property was naturally created;
7. This property does not lie within a designated flood hazard area.

Hooley states there were 15 letters mailed. Two returned in favor with comment: The fence is attractive, well-built, and sits at a lower grade than the house. It does not block visibility when driving.

Mulvaney asks if there are questions from the Board for staff. Hearing none, he calls for a motion.

Davis makes motion to approve; Second by Jones.

Davis – Yes
Thomas – Yes
Jones – Yes
Mulvaney – Yes

Motion carries.

22-X-03 PETITIONER IS NELSON B HOLDINGS LLC
PROPERTY IS LOCATED AT 529 S SECOND ST
A Special Exception per Section 15.3, Special Exception Uses in the Central Business District (CBD), to allow a Bed and Breakfast home and Meeting Hall/Banquet Facility at 529 South Second Street.

No petitioner appears.

Planning requests motion to table until end of meeting in order to contact petitioner.

Davis makes motion to table; Second by Thomas. Voice vote carries.

22-BZA-05 PETITIONER IS JAMES E & MARGARET B CORMICAN
PROPERTY IS LOCATED AT 156 ALFRED ST
To vary from Section 26.4.a.6 to allow a 6-foot privacy fence to encroach into a corner side yard.

Mulvaney calls petitioner forward.

Margaret Cormican appears in person. She states that they had a 4' chain link fence since 1976. They decided to change to a 6' privacy fence after a complaint to the police of their dogs barking. They were hoping the fence would help.

Mulvaney asks for questions from the Board.

Jones asks if anyone needs to access the alley to access their garage.

Cormican states that there is no encroachment to the alley and that the new fence is actually back further than the old one. There is easily room for an emergency vehicle.

Mulvaney opens for public comments to speak in favor.

Steve Warrick states he lives on Wood Street across from this residence. He states the fence has remedied the barking from the dogs. The fence is well-constructed and appealing. They are good neighbors and citizens and he is in favor of the variance.

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

STAFF ANALYSIS
The home is located at the intersection of Alfred and Wood Street. The applicant installed a privacy fence without knowing the ordinance requirements and that a permit was needed. The location of the fence is within the corner side yard between their detached garage and rear property line.

The new fence replaced a preexisting chain-link fence that enclosed the back yard. The new privacy fence runs along the public right of way and along the rear lot line. To the rear of the property is an ally but with the distance from the roadway it places the fence outside the vision clearance. The applicant states the privacy fence was needed to help with the noise from their dogs.

STAFF RECOMMENDATION
The Staff **makes no recommendation** of the developmental variance.

Hooley states there were 44 letters mailed. Seven returned in favor with five comments: Just so it will not impede the sight line of any traffic nearby; They are improving their property. Already had an older fence in exact place. Why would there be any opposition to replacing with a new, attractive, safe functioning fencing?; The fence is very nice. We have no objection at all to the new fence!; The fence doesn't impact anyone around here in a negative way. It's a great idea!; I am the neighbor directly behind the Cormican's property. I think they should be allowed to leave the fence they have put up and not be fined for it. They put this up to comply with someone's complaint about their dogs barking. They are trying to do the right thing. It is a nice privacy fence to contain their dogs. The corners are hard to live on because of the walking route on Wood Street, there is never privacy in our back yards and people rile up our dogs on purpose. Please consider their request and allow their fence with no fine.

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

Jones says that he is surprised that a professional fence company who regularly does installs in the City did not obtain permitting or was unaware of the need for a variance.

Hooley states that often companies work with many different jurisdictions with different rules and it is possible they were unaware.

Mulvaney calls for a motion.

Jones makes motion to approve; Second by Davis.

Davis – Yes
Thomas – Yes
Jones – Yes
Mulvaney – Yes

Motion carries.

22-UV-03 PETITIONER IS JOHN & MARGARETTE FRECHETTE
PROPERTY IS LOCATED AT 315 W LEXINGTON AVE
To vary from Section 15.2 permitted uses in the Central Business District to allow an existing structure to be converted into a single family dwelling.

Mulvaney calls petitioner forward.

Amanda Bender appears in person to represent the petitioners and Joseph Greenlee. She states it will be her family living on the property as a single family residence.

Mulvaney asks for questions from the Board. Hearing none, he 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 property consists of an existing house built in 1924 that has been most recently used as a law office. The applicant would like to convert the structure back into a single family home. The home is considered notable on the Indiana Historic Buildings map and the applicant intends to maintain the exterior appearance.

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 a single family residence will be similar to other nearby properties;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner because the property will be compatible with the neighborhood
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. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the building as it was constructed to be a residential home and the Comprehensive Plan calls for this area to develop with mixed uses;
5. The special conditions and circumstances **do not** result from an action or inaction by the applicant as the structure was built before the creation of the Central Business District;

Smith states there were 42 letters mailed. None returned.

Mulvaney asks if there are questions from the Board for staff. Hearing none, he calls for a motion.

Davis makes motion to approve; Second by Thomas.

Davis – Yes
Thomas – Yes
Jones – Yes
Mulvaney – Yes

Motion carries.

22-BZA-06 PETITIONER IS JESS PROPERTIES LLC
PROPERTY IS LOCATED AT 145 S NAPPANEE ST

To vary from Section 26.10.D.4.d which requires freestanding signs to be centered on the property line to allow for the construction of a freestanding sign at the corner of Roseland Avenue and S Nappanee Street.

Mulvaney calls petitioner forward.

Todd Lehman appears in person for the petitioner. He sates they are working with the dental center as well as DJ construction and they actually had to move the sidewalk to make room to put a sign on the property. He states that the proposal is as tight as they can get the sign in the corner of this property, but there is no room anywhere else on Nappanee Street.
Mulvaney asks for questions from the Board. Hearing none, he 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 property has an existing dental office that is currently undergoing a major expansion. The desire is to locate a freestanding sign at the intersection of Roseland Avenue and Nappanee Street. The existing buildings on this site have over the years become closer to the public right of way with the widening of Nappanee Street. With the location of the buildings there is a limited amount of space along Nappanee Street to locate a sign. The corner would allow the applicant to have a more visible sign that would still be located outside of the vision clearance.

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 as the design will not affect visibility along Nappanee Street;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner as the property will continue to be used as a medical office;
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 particular to the land involved and which are not applicable to other lands or structures in the same district as the property's road frontage has been reduced over the years;
5. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the property because it places constraints on the location of the business's primary sign;

6. The special conditions and circumstances **do not** result from an action or inaction by the applicant as the widening of Nappanee Street has reduced the front yard;
7. This property does not lie within a designated flood hazard area.

Hooley states there were 10 letters mailed. One returned in favor with comment: The Elkhart Clinic is most definitely in favor of this. We feel the sign will not present any safety issues and welcome the upgrade to the neighborhood.

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

Davis makes motion to approve; Second by Jones.

Davis – Yes
Thomas – Yes
Jones – Yes
Mulvaney – Yes

Motion carries.

22-BZA-07 PETITIONER IS SAM & ERIC INVESTMENTS LLC, DALJINDER SINGH
PROPERTY IS LOCATED AT 245 W HIVELY AVE
To vary from Section 26.5.C which requires a primary structure be 55 feet from the centerline of a primary street to allow a fuel canopy to be 44 feet from the center line of Benham Avenue and 46 feet from the centerline of Hively Avenue.

To vary from Section 26.7.D to reduce the required number of parking spaces for a convenience retail use from 24 parking spaces to 17 spaces.
To vary from Section 26.C.7.1 which requires a 4-foot landscape strip along a building where it abuts parking to have no landscape area.

Mulvaney calls petitioner forward.
Debra Hughes with Surveying and Mapping appears in person for the petitioner. She states she is the project civil engineer and is accompanied by the owner and general contractor. The ordinance requires 6 spaces for every 1,000 sq. ft. of building. They are proposing 17 spaces for a 4,000 sq. ft. building which is 7 short. The plan includes 12 fuel pumps and a convenience store with gas stations. Many people could park at the pump and go inside to pay for merchandise. So the additional 12 spaces are functionally available. She states that the second item is regarding a landscape strip between the front sidewalk and building. They would like the variance because that are becomes an eyesore with discarded cigarettes, straw wrappers, and napkins, and it is more difficult to keep clean with landscaping. The landscaping plan will provide 10 maple trees, 5 hawthorn trees, 5 honey locust trees, 10 viburnum shrubs and 20 juniper shrubs.

Mulvaney asks for questions from the Board.

Jones asks if the landscape strip is on the Hively side.

Hughes states that the building is on a diagonal. (Speaks off microphone, indicating on a map for the Board.)

Jones asks if there is residential to the south.

Hughes says there are two vacant lots to the south also owned by this owner. They also have a petition for rezoning from multi-family residential to commercial for next month with Plan Commission. South of those two lots, the fifth lot is one residence.

Jones asks about the proposed use for the other two lots.

Hughes states it is also small commercial business.

Mulvaney asks if the denial of the landscape strip would substantially change the plan or make it impossible.

Hughes states that the building would have to be moved because they have the minimum dimensions for the canopy for function and then the minimum for the drive aisle between the canopy (speaks off microphone, indicating on the plan to Board).

Mulvaney asks about the increase in traffic on the corner and how many patrons per day would go to this station and store.

Hughes states that the owner currently operates the Marathon station at the northeast corner of this intersection. He has a lease with the Woodland Crossing owner. The lease involved the Kroger store, so when they installed a gas pump 14 years ago they set a sunset on the Marathon station of 14 years, which is now expired. So that building will now be demolished and he is switching to the southeast corner to maintain his relationship with his customers and to serve the area. Traffic would increase if there were two, he is simply changing from the north side to the south side of the street.

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 property is currently occupied by a muffler shop. The property directly to the south is currently vacant with larger trees providing some screening along the adjacent residential home. The petitioner desires to demolish the existing structure to build a new gas station and convenience store. The gas pumps and canopy would come out towards the intersection of Benham and Hively Avenue. The convenience store will be designed to be placed in the southeast corner of the property facing the intersection.

Because of the size of the lot and the placement of the two buildings certain ordinance requirements will not be met. The request is to reduce the amount of onsite parking spaces from 24 to 17 spaces. The petitioner states that a large portion of the building will not be open to the public. The zoning ordinance does not currently account for the parking under the canopy. This standard is being considered in the future ordinance revision and after further review determined that this request was not needed.

The applicant also requests to not have landscaping between the building and the proposed parking. This request will reduce the overall landscaping on the property. The requests are because of the site design and restraints in the size of the lot.

STAFF RECOMMENDATION

The Staff recommends **approval** of the request for a reduction of onsite parking based on the following findings of fact:

1. The approval **will not** be injurious to the public health, safety, morals or general welfare of the community as the design of the canopy will no cause congestion on the street;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner as the property to the south is vacant;
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** which are particular to the land involved and which are not applicable to other lands or structures in the same district since the parking requirement for gas stations will be addressed in the revised ordinance;
5. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the property as there is limited space for additional parking;
6. The special conditions and circumstances **do not** result from an action or inaction by the applicant as the applicant will clear the entire site of existing infrastructure;
7. This property does not lie within a designated flood hazard area.

The Staff recommends **denial** of the request for the reduction of the landscape strip on the following findings of fact:

1. The approval **will** be injurious to the public health, safety, morals or general welfare of the community as it reduces the spacing between the parking and the sidewalk of the building;
2. The use and value of the area adjacent to the property **will** be affected in a substantially adverse manner as it will reduce the amount of green spaces on the property;
3. Granting the variance **would not be** consistent with the intent and purpose of this Ordinance because it would reduce the amount of landscaping;
4. Special conditions and circumstances **do not exist** which are particular to the land involved and which are not applicable to other lands or structures in the same district as the plans could be redesigned to accommodate the landscaping;
5. The strict application of the terms of this Ordinance **will not** result in practical difficulties in the use of the property as the commercial development could meet all requirements;
6. The special conditions and circumstances **do** result from an action or inaction by the applicant as the applicant will clear the entire site of existing infrastructure;
7. This property does not lie within a designated flood hazard area.

Smith states there were 10 letters mailed. One returned not in favor with comment: We are writing to express our opposition to the granting of zoning variances for the property at 245 W Hively Ave. Our home of over forty years is at 2740 Benham Ave, the first property south of the proposed development. We note that the property is also adjacent to residential apartments to the east. We are concerned about the increased noise, light and traffic which will likely be produced by the activity of a convenience store. We are opposed to reducing the number of parking spaces by nearly 30%. It seems that fewer spaces increases the possibility of spillover

to adjacent properties. It is our wish to be good neighbors to those who live and work near us. In this case, it seems that a larger property would suit this project better if three variances are required to fit the available space.

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

Davis asks if they own the convenience store across the street.

Smith says they are leasing it.

Davis asks if it will be torn down.

Smith states that is his understanding.

Jones asks if they will be required to remove the underground tanks when the building is demolished.
Daljinder Singh appears in person. He states that it is his responsibility to take the pumps and all the equipment inside. He says the fuel company will take all the tanks and canopy from the site. He will have to be done before the 31st of June. In the meantime, they will take the price signs.

Jones asks if he knows if there are plans to develop it.

Singh states that whatever Kroger has is it.

Mulvaney calls for a motion on the parking variance.

Jones makes motion to approve; Second by Thomas.

Davis – Yes
Thomas – Yes
Jones – Yes
Mulvaney – Yes

Motion carries.

Mulvaney calls for a motion on the landscape variance.

Jones makes motion to approve; Second by Davis.

Davis – Yes
Thomas – Yes
Jones – Yes
Mulvaney – Yes

Motion carries.

Mulvaney notes for the record that his Facebook feed had a late comment. Kevin Foy had concerns about the gas station because he owns the property next to it and objects to the parking.

22-BZA-08 PETITIONER IS MCMICHAEL PROPERTIES, LLC (MAX & BECKY YEAKEY)
PROPERTY IS LOCATED AT 3600 S NAPPANEE ST
To vary from Section 26.10.D.4.d which requires freestanding signs to be centered on the property line to allow for a freestanding sign that will be south of the primary drive. Also to allow the sign to be located at 7.5 feet from the property line along South Nappanee Street a reduction of 17.5 feet.

Mulvaney calls petitioner forward.

Todd Lehman appears in person for the petitioner. He states that all of the signage in the area are under the old county ordinances where they are very large and tall structures. They would like to reuse the existing foundations which is concrete and anchor bullets and electricity, which places the sign where it is. The old sign was 18 feet tall and 80 sq. ft. which they could have refaced, but

Max had an idea. They have tried to keep it as narrow as they could but wanted to get the exposure because traffic, especially if not in the right turn lane coming toward Elkhart, needs to see it in advance to be able to turn into the property.

Mulvaney asks for questions from the Board. Hearing none, he 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

This property was formally OmniSource but is now in operation as Premium Concrete. OmniSource had a freestanding sign near the entrance to their property but it has since been removed. The applicant desires to install a freestanding sign near the primary entrance to the business close to the south end of the property. The ordinance requires freestanding signs to be centered along the road frontage.

The proposed sign is 16 feet in height which would require a 25-foot setback from the property line. The request is to reduce the setback from 25 feet to 7.5 feet from the property line. At this distance a 7-foot-tall sign would be permitted and the request is for a 9-foot increase.

The property currently has a tall privacy fence for security and screening along Nappanee Street. This screening leaves approximately 36 feet of land between the public right of way. The property has adequate space to allow the sign to meet setback requirements and the proposed location would set a poor precedence for new signage along our primary roads.

STAFF RECOMMENDATION

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

1. The approval **will** be injurious to the public health, safety, morals or general welfare of the community as the location will be placed closure to the public right of way;
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner as the property has sufficient area to place a sign outside the required front yard;
3. Granting the variance **would not be** consistent with the intent and purpose of this Ordinance because it would allow a 16-foot-tall freestanding sign closer to a primary thoroughfare.;
4. Special conditions and circumstances **do not exist** which are particular to the land involved and which are not applicable to other lands or structures in the same district as there are other business signs located outside the required front yard along Nappanee Street;
5. The strict application of the terms of this Ordinance **will not** result in practical difficulties in the use of the property as there is space along the frontage of their property to meet the front yard requirement;
6. The special conditions and circumstances **do not** result from an action or inaction by the applicant as the previous operator had a freestanding sign;
7. This property does not lie within a designated flood hazard area.

Hooley states there were 20 letters mailed. None returned.

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

Davis makes motion to approve; Second by Jones.

Davis – No
Thomas – No
Jones – No
Mulvaney – No

Motion fails.

Thomas makes motion to deny; Second by Jones.

Davis – Yes
Thomas – Yes
Jones – Yes
Mulvaney – Yes

Motion carries to deny petition.

22-X-03 PETITIONER IS NELSON B HOLDINGS LLC
PROPERTY IS LOCATED AT 529 S SECOND ST

A Special Exception per Section 15.3, Special Exception Uses in the Central Business District (CBD), to allow a Bed and Breakfast home and Meeting Hall/Banquet Facility at 529 South Second Street.

Mulvaney calls petitioner forward.

Phalene Leichtman appears online. She states that they would like to open a bed and breakfast at the Winchester Mansion downtown. They would use the second story for sleeping facilities and then downstairs for an event venue space to host smaller parties such as wedding receptions, baby showers, wine tastings and things like that in the future.
Mulvaney asks for questions from the Board.

Jones asks if it will be residential as well.

Leichtman states that they will be living there. There can only be 5 guest suites and there are 6 to 7 bedrooms upstairs. They would occupy the extra rooms.

Jones states that the building has been used similarly before and should see a lot of use. He would like to see some revitalization in 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 petitioners own the Winchester Mansion, located at the northwest corner of Second and Harrison Streets. The building is an 8,500 square foot facility that has recently been used commercially. The property is currently being used as living quarters; the new owners would like to combine uses at this property, for the second floor to be used as a residence and bed and breakfast, and the first floor to be used as an events center. Both of those uses require a Special Exception in the Central Business District.

The property is suited to the use. There are six bedrooms and three bathrooms on the second floor, and the first floor has been used commercially and can be converted to an events center. The building's context is primarily commercial. Unlike bed and breakfasts in residential districts, the commercial nature of the neighborhood means that concerns about traffic and noise should not become a hardship for neighboring properties. Additionally, the events center will add livelihood to the downtown evenings and weekends, which will be beneficial to the Central Business District. The property has a parking lot in the rear; there is also a large and underutilized parking lot across Harrison Street that can be used by guests.

STAFF RECOMMENDATION

Staff recommends **approval** of the request based on the following findings of fact:

1. The Special Exception is so defined, located and proposed to be operated that the public health, safety and welfare **will be** protected as this use will be compatible with its commercial surroundings;
2. The Special Exception **will not** reduce the values of other properties in its immediate vicinity because there will be little to no physical changes to the property;
3. The Special Exception **shall** conform to the regulations of the zoning district in which it is to be located because it will not generate adverse effects on adjacent properties in the form of noise, smoke, or odor.

Smith states there were 20 letters mailed. None returned.

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

Jones makes motion to approve; Second by Davis.

Davis – Yes
Thomas – Yes
Jones – Yes
Mulvaney – Yes

Motion carries.

ADJOURNMENT

Davis makes motion to adjourn and is seconded by Thomas. Meeting is adjourned and all are in favor.

Doug Mulvaney, President

Ron Davis, Vice-President

DRAFT

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MADISON TOWNSHIP • ST. JOS
LAND AU
Tuesday, March 29
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C

AUCTION LOCATION: The Blue Teal/Nelson Banquet Hall • 128±
607 Nelson Parkway, Wakarusa, IN 46573
PROPERTY LOCATION: 4 miles south of Mishawaka and ¼th mile north of Woodland on West side of State Road 331. • Qualit Madis
INSPECTION DATES:
Wed., Mar. 2nd • 12-2PM & Sat., Mar. 12th • 10AM-12PM
(Meet at the barn on Tract 1) • 2022
OWNERS: Stephen E. Jenks & Jennifer Lemaster (Weigel Farm) • AUCTION MANAGERS
SCHRADER Real Estate and Auction Company, Inc. (800)451-2709
AC63001504, AU01043124, AU10600023 ONLINE BIDDING

LEGAL NOTICE #22-UV-04

Hearing on proposed Use Variance **#22-UV-04**

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, MARCH 10, 2022 at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Use Variance Petition **#22-UV-04.**

Petitioner: Bill & Ann Zimmerman

Request: To vary from Section 15.2 permitted uses in the Central Business District to allow an existing structure to be used as a single family dwelling.

Location: 329 W Franklin Street

Zoning: CBD - Central Business District

This meeting can also be accessed via WebEx. To join, go to http://coei.webex.com, enter **157 230 2962** as the meeting number and **"BZA2021"** 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 jennifer.drlich@coei.org prior to the meeting.

LEGAL DESCRIPTION:
The West Forty-two (42) feet by parallel lines of Lots Numbered Two (2), Three (3), and Four (4) as the said Lots are known and designated on the recorded Plat of M. U. Demarest's Subdivision to the City of Elkhart, Said Plat being Recorded in Deed Record 113, page 301 in the Office of the Recorder of Elkhart County, Indiana.

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

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

Dated at Elkhart, Indiana this 18th day of February, 2022, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: February 26, 2022
hspaxlp

NOTICE TO BIDDERS

The City of Elkhart, Indiana through its Board of Public Works will receive sealed bids for the follow:

BID #22-10: Police Vehicles

Summary: Fleet Police Vehicles meeting minimum specifications listed on attached sheets.

Bids shall be filed with:
Clerk of the Board of Public Works
City of Elkhart
229 South Second St, Third Floor
Elkhart, IN. 46516

Bids will be accepted during the hours of 8:00 A.M. to 5:00 P.M. (ET), up until 9:00 A.M. (ET) Tuesday, March 15th, 2022 (the "Deadline"). All bids received by the Clerk of the Board by the Deadline will be opened and the winning bidder shall be notified not later than Friday, March 15th, 2022. Any bid received after the March 15th Deadline, will be returned to the bidder unopened. After opening the bids, the Board will take all bids under advisement and refer them to City staff for review and tabulation.

All bid documents may be obtained from the following sources:

Bidders may obtain a copy of the bid packet from the following source by paying $10.00 per copy:

City of Elkhart Central Garage
1909 W. Mishawaka Rd. Elkhart IN 46517 Phone: (574) 293-0147

A bid, proposal or quotation submitted by a trust (as defined in IC 30-4-1-1(a) must identify each Beneficiary of the trust and each Settler empowered to revoke or modify the trust.

Bids must be submitted on State Board of Accounts 2013 REVISED BID FORM 96. A certified check or bank draft drawn on a solvent bank in the State of Indiana, payable without condition to the City of Elkhart, or a satisfactory bid bond executed by bidder and surety company in an amount not less than five (5) percent of the bid, shall be submitted with each bid. Any deviation from the bid documents must be explained by bidder.

The Board will award a contract to the lowest responsive and responsible bidder. The Board reserves the right to waive informalities or irregularities, and to reject any and all bids or portions thereof.

BOARD OF PUBLIC WORKS
Michael Machlan, President
hspaxlp

TO
2022 NOTI

PLEASE TAKE NOTICE t
Township Hall, 17049 US
and review the 2022 asse
following dates for the hea
values, poverty exemption
rent year qualified agricult

Tuesday, March 8, 202
Monday, March 14, 202
Friday, March 18, 2022

And on such additional da
given notice of the desire
been revised, corrected a

APPEALS ARE HEARD
Letter appeals will be acc
5:00 pm March 11, 2022

Tentative ratios and es

Agricultural	46.
Commercial	47.
Industrial	47.
Residential	49.
Personal Property	50.

Tentative equalization fac
completion of Board of Re

John Brandt, Supervisor
Kevin Harris, Assessor M

Mason Township Board o
regard to race, color, nati

American with Disabiliti
The township will provide
services, to individuals wi
seven (7) days' notice to
ies requiring auxiliary aids
Township by writing or ca

Janet Dull
Mason Township Clerk
PO Box 386
Union, MI 49130
269-641-5923
hspaxlp

Call 574-295-1905
Email Resume to
dpritt@superiortireaxle.com

LEGAL NOTICE #22-UV-05

Hearing on proposed Use Variance **#22-UV-05**

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, MARCH 10, 2022 at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Use Variance Petition **#22-UV-05.**

Petitioner: Frank Cassella

Request: To vary from Section 15.2 permitted uses in the Central Business District to allow an existing structure to be used as a single family dwelling.

Location: 221 S Third Street

Zoning: CBD – Central Business District

This meeting can also be accessed via WebEx. To join, go to http://coei.webex.com, enter **157 230 2962** as the meeting number and "**BZA2021**" 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 jennifer.drlich@coei.org prior to the meeting.

LEGAL DESCRIPTION:
Beginning at a point on the East line of Lot Seventy Five (75) of Beardsley's First Addition to the city of Elkhart at a point 54 feet South of the Northeast corner of said Lot Seventy Five (75); thence West on a line parallel with the South line of said Lot, 63.7 feet, thence South on a line parallel with the East line of Lots Seventy Four (74) and Seventy Five (75) in said Addition, 32 feet; thence Easterly parallel with the South line of said Lot Seventy Five (75), 63.7 feet to the East line of Lot Seventy Four (74), thench [sic] Northerly along the East line of Lots Seventy Four (74) and Seventy Five (75), 32 feet to the place of beginning.

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

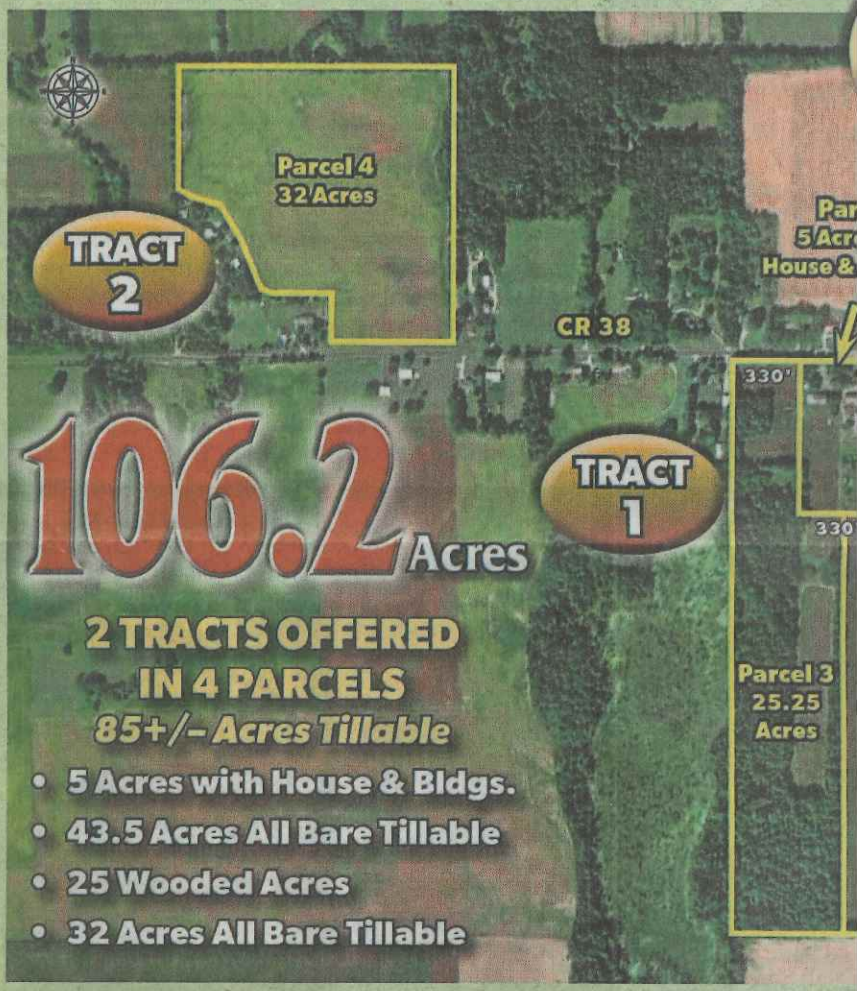
PLEASE NOTE: A copy of this petition is on file in the Planning Office for public examination prior to the hearing. Written objections to this petition which are filed with the Secretary of the Board, located in the Planning Office, prior to the hearing will be considered. The hearing may be continued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

Dated at Elkhart, Indiana this 18th day of February, 2022, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: February 26, 2022
hspaxlp

then south 1 mile to CR 38, then west ¼ mile at **22164 CR 38, Goshen, Ind.** for Parcels 1, 2 & Continue west ¼ mile on CR 38 to Parcel 4 on the north side. Watch for signs.

AUCTION LOCATION: Ramer Mennonite Youth Center - 24717 CR 44, Nappanee, Ind. 46550.



The Former Property of
Raymond K. & Barbara E.
Royer, deceased

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HahnAuct
Phil Hahn - (574) 535-37
IN Lic. #AU01012967
Office (

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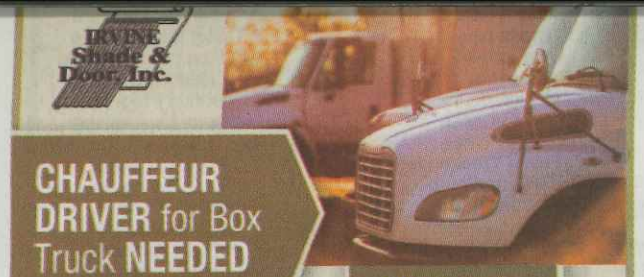


PUBLIC NOTICE

Public Comment on Proposed Brownfield Revolving Loan Fund Subgrant #00E48101-F for Cleanup at the Former Walter Piano Site, 700 W. Beardsley Avenue, Elkhart, Indiana (Brownfields Site #4120904)

The Indiana Brownfields Program (Program), in cooperation with the U.S. Environmental Protection Agency (U.S. EPA), has approved the application from the City of Elkhart for a $832,100 Subgrant using U.S. EPA Brownfields Revolving Loan Fund (RLF) grant funds awarded to the Indiana Finance Authority (IFA) in order to conduct remediation of environmental hazardous substances contamination at the Former Walter Piano Site located at 700 W. Beardsley Avenue, Elkhart, Indiana (Site).

This notice is to publish and seek comment from all interested parties on the following U.S. EPA-required documents related to RLF-funded remediation activities at the Site:

1) **Remediation Work Plan (RWP)** – outlines the cleanup plan for the Site based on Phase II Environmental Site Assessments (ESA) and investigation activities which determined soil and groundwater contamination at the Site. This document is preliminarily approved by the Program and available for public comment from February 15, 2022 to March 5, 2022.

2) **Analysis of Brownfield Cleanup Alternatives (ABCA)** – outlines cleanup and environmental management alternatives and recommended remediation for the Site based on the RWP and Phase II ESA and investigation activities for the Site. This document is preliminarily approved by the Program and U.S. EPA and available for public comment from February 15, 2022 to March 5, 2022.

3) **National Historic Preservation Act (NHPA) Review** – completed by the State Historic Preservation Office (SHPO) based on information provided by the Program in a May 8, 2015, letter regarding proposed remediation activities at the Site. SHPO's finding, dated June 8, 2015, concluded that no historic buildings, structures, or districts or objects listed in or eligible for the National Register of Historic Places are identified on or near the Site to be affected by remedial activities. The State Revolving Fund Loan Program's finding, dated May 11, 2015, concurs with the SHPO finding. These documents are available for public comment from February 15, 2022 to March 5, 2022.

Copies of the above-referenced documents and correspondence are part of the administrative record of the Site and are placed in the public repository that is available at Department of Community Development, 229 S. Second Street, Elkhart, Indiana 46516.

The administrative record for the Site is also available through IDEM's Virtual File Cabinet on the Internet at: http://12.186.81.89/Pages/Member/EnhancedSearch.aspx, searching by Site # 4120904 or the address of the Site.

Comments regarding this notice and the documents referenced herein should be sent within February 15, 2022 to March 5, 2022 (by 5:00 pm on March 5, 2022) to: Paul Gruca, CWP of Weaver Consultants Group, LLC at (312) 478-8972, pgruca@wcgrp.com. Questions can also be directed to Michele Oertel of the Indiana Brownfields Program at (317) 234-0235, moertel@ifa.IN.gov.

hspaxlp

LEGAL NOTICE #22-X-05

Hearing on proposed Special Exception **#22-X-05**

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, MARCH 10, 2022 at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Special Exception Petition **#22-X-05.**

Petitioner: Maria Torres and Francisco Sesmas

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

Location: 210 W Wolf Avenue

Zoning: R-2, One-Family Dwelling District

This meeting can also be accessed via WebEx. To join, go to http://coei.webex.com, enter **157 230 2962** as the meeting number and "**BZA2021**" 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 jennifer.drlich@coei.org prior to the meeting.

LEGAL DESCRIPTION:

A part of the Southeast Quarter of Section 8, Township 37 North, Range 5 East, Concord Township, Elkhart County, Indiana, and more particularly described as follows:
Commencing at an iron pipe marking the Northwest corner of Wolf Avenue and Ashland Avenue; thence West 99.88 feet along the North line of Wolf Avenue, to an iron pipe at the point of beginning of this description; thence South 89 degrees 54 minutes 32 seconds West, 41.2 feet along the last described line, to an iron pipe; thence North 01 degrees 43 minutes West, 165.15 feet to an iron pipe on the South line of an alley; thence South 86 degrees 57 minutes 38 seconds East, 41.07 feet along the South line of said alley, to an iron pipe; thence South 01 degrees 45 minutes 41 seconds East, 165.06 feet to the point of beginning, being also known as part of Lots 218 through 221 of Wolf's 6th unrecorded.

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 18th day of February, 2022, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: February 26, 2022
hspaxlp

AUCTION LOCATION: Lakeville Community Center (The Barn)
214 W Patterson St. Lakeville, IN 46536

DIRECTIONS TO PROPERTY: Turn west off of South Michigan in the town of Lakeville, on to Mangus St, then a quick left on Quinn Rd. 1/4 mile to intersection of Quinn Trail and Quinn Road. Turn right on Quinn Rd to property on the right.

OWNER: Chuck Leuck
AUCTION MANAGER: Lee Beer, (574)518-9109
ONLINE BIDDING AVAILABLE

SCHRADER Real Estate and Auction Company, Inc.
AC63001504, AU01026980
(800)451-2709
SchraderAuction.com

LEGAL NOTICE #22-BZA-10

Hearing on proposed Developmental Variance **#22-BZA-10**

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, MARCH 10, 2022 at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Developmental Variance Petition **#22-BZA-10.**

Petitioner: Jimtown Corner LLC

Request: To vary from Section 26.7.D which requires a convenience store to have 6 parking spaces per 1,000 square feet. To allow the development to have 18 parking spaces a reduction of 7 spaces.

Location: 3704 S Nappanee Street

Zoning: B-2 Community Business District

This meeting can also be accessed via WebEx. To join, go to http://coei.webex.com, enter **157 230 2962** as the meeting number and "**BZA2021**" 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 jennifer.drlich@coei.org prior to the meeting.

LEGAL DESCRIPTION:
TRACT I:
THE NORTH 23 ACRES OF LAND OFF THE NORTH END OF THE WEST FRACTIONAL LOT OF SOUTHWEST QUARTER (SW 1/4) OF SECTION 19, TOWNSHIP 37 NORTH, RANGE 5 EAST.
LESS AND EXCEPTING:
A PART OF THE NORTHWEST FRACTIONAL QUARTER OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION 19, TOWNSHIP 37 NORTH, RANGE 5 EAST, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHWEST CORNER OF SAID QUARTER SECTION, SAID NORTHWEST CORNER BEING THE INTERSECTION OF THE CENTERLINE OF STATE HIGHWAY NUMBER 19 AND THE CENTERLINE OF THAT SECTION OF THE JAMESTOWN ROAD (COUNTY ROAD NUMBER 24) RUNNING EAST FROM SAID STATE HIGHWAY; THENCE SOUTH ALONG THE WEST LINE OF SAID SECTION, 967.63 FEET; THENCE SOUTH 89 DEGREES 27' EAST PARALLEL WITH THE NORTH LINE OF SAID QUARTER SECTION AND ALONG THE SOUTHERLY LINE OF LAND CONVEYED TO SETH A. AND EMMA ROHRER (ELKHART COUNTY DEED RECORD 193, PAGE 611) 1037 FEET TO AN IRON STAKE FOUND ON THE EAST LINE OF THE NORTHWEST FRACTIONAL QUARTER OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION AT THE SOUTHEAST CORNER OF SAID ROHRER LAND FOR THE BEGINNING POINT OF THIS DESCRIPTION; THENCE NORTH 89 DEGREES 27' WEST ALONG THE SOUTHERLY LINE OF SAID ROHRER LAND 564.60 FEET TO AN IRON STAKE; THENCE NORTH 00 DEGREES 11' WEST, PARALLEL WITH THE EAST LINE OF THE NORTHWEST FRACTIONAL QUARTER OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION, 412.97 FEET TO AN IRON STAKE; THENCE NORTH 60 DEGREES 30' EAST 133.84 FEET TO AN IRON STAKE; THENCE SOUTH 89 DEGREES 27' EAST 447.89 FEET TO AN IRON STAKE ON THE EAST LINE OF THE NORTHWEST FRACTIONAL QUARTER OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION; THENCE SOUTH 00 DEGREES 11' EAST ALONG THE EAST LINE OF THE NORTHWEST FRACTIONAL QUARTER OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION, 480.00 FEET TO THE PLACE OF BEGINNING.
ALSO LESS AND EXCEPTING:
COMMENCING AT THE WEST QUARTER CORNER OF SECTION 19, TOWNSHIP 37 NORTH, RANGE 5 EAST; THENCE SOUTH 89 DEGREES 27' 30" EAST 40.0 FEET; THENCE SOUTH 00 DEGREES 02' 43" EAST 25.00 FEET TO THE INTERSECTION OF THE EXISTING SOUTH RIGHT-OF-WAY OF COUNTY ROAD 24 AND THE EXISTING EAST RIGHT-OF-WAY OF STATE ROAD 19 BEING THE PLACE OF BEGINNING; THENCE SOUTH 89 DEGREES 27' 30" EAST ON SAID RIGHT-OF-WAY LINE, 270.01 FEET; THENCE SOUTH 73 DEGREES 48' 07" WEST 52.08 FEET; THENCE NORTH 89 DEGREES 27' 30" WEST 175.01 FEET; THENCE SOUTH 45 DEGREES 17' 37" WEST 63.36 FEET TO SAID EAST RIGHT-OF-WAY LINE OF STATE ROAD 19; THENCE NORTH 00 DEGREES 02' 43" WEST ON SAID EAST RIGHT-OF-WAY LINE, 60.00 FEET TO THE PLACE BEGINNING.
ALSO LESS AND EXCEPTING:
COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 19; THENCE SOUTH 0 DEGREES 02' 27" EAST 294.93 METERS (967.63 FEET) ALONG THE WEST LINE OF SECTION 19; THENCE SOUTH 89 DEGREES 28' 44" EAST 12.192 METERS (40.00 FEET) TO THE EAST BOUNDARY OF STATE ROAD 19 AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE NORTH 0 DEGREES 02' 27" WEST 269.103 METERS (882.88 FEET) TO THE SOUTHWEST CORNER OF THE GRANT OF PERMANENT RIGHT-OF-WAY GRANTED TO THE BOARD OF COMMISSIONERS OF THE COUNTY OF ELKHART AND DESCRIBED AS TRACT A, DEED RECORD 94-018670; THENCE NORTH 44 DEGREES 47' 58" EAST 4.323 METERS (14.18 FEET) ALONG THE SOUTHEAST LINE OF SAID TRACT A TO THE POINT DESIGNATED AS "9020" ON SAID PLAT; THENCE SOUTH 0 DEGREES 02'27" EAST 272.198 METERS (893.04 FEET) TO THE SOUTH LINE OF GRANTOR'S LAND AND THE POINT DESIGNATED AS "9014" ON SAID PLAT; THENCE NORTH 89 DEGREES 28' 44" WEST 3.048 METERS (10.00 FEET) ALONG SAID SOUTH LINE TO THE POINT OF BEGINNING.
ALSO LESS AND EXCEPTING THE FOLLOWING:
THE ENTIRE PLAT OF SOUTH GATE HILLS II DPUD-B-3, PHASE I, A SUBDIVISION IN CONCORD TOWNSHIP, ELKHART COUNTY, INDIANA; SAID PLAT BEING RECORDED IN PLAT BOOK 31, PAGE 52 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.
ALSO LESS AND EXCEPTING THE FOLLOWING:
THE ENTIRE PLAT OF SOUTH GATE HILLS II DPUD-B-3, PHASE II, A SUBDIVISION IN CONCORD TOWNSHIP, ELKHART COUNTY, INDIANA; SAID PLAT BEING RECORDED IN PLAT BOOK 32, PAGE 16 IN THE OFFICE OF THE RECORDER OF ELKHART COUNTY, INDIANA.

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

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

Dated at Elkhart, Indiana this 18th day of February, 2022, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: February 26, 2022
hspaxlp

LEGAL NOTICE #22-BZA-09

Hearing on proposed Developmental Variance **#22-BZA-09**

NOTICE is hereby given that the City of Elkhart Board of Zoning Appeals will meet in the Council Chambers on the second floor of the Municipal Building, 229 South Second Street, Elkhart, Indiana on **THURSDAY, MARCH 10, 2022 at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Developmental Variance Petition **#22-BZA-09.**

Petitioner: Elkhart Clinic Building LLC

Request: To vary from Section 26.10.D.4 Freestanding Signs, which permits a six (6)-foot tall freestanding sign at a five (5) foot setback to allow a nine (9)- foot two (2)- inch tall freestanding sign, a variance of three (3) feet two (2) inches.

To also vary from Section 26.10.D.4 Freestanding Signs, which permits a freestanding sign to be 50 square feet at the minimum five (5) foot setback, to allow for one sign with an area of 52 square feet and a second sign with an area of 91 square feet, a variance of two (2) square feet and 41 square feet respectively.

Location: 303 S Nappanee Street

Zoning: O – Office District

This meeting can also be accessed via WebEx. To join, go to http://coei.webex.com, enter **157 230 2962** as the meeting number and "**BZA2021**" 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 jennifer.drlich@coei.org prior to the meeting.

LEGAL DESCRIPTION:
Part of the Southeast Quarter (SE 1/4) of Section 1 and part of the Northeast Quarter (NE 1/4) of Section 12, Township 37 North, Range 4 East, situate in Cleveland Township, Elkhart County, City of Elkhart, State of Indiana, described as follows;

Commencing at the intersection of the east line of the Southeast Quarter {SE 1/4) [sic] of said Section 1, which is in the Nappanee Street Pavement, but is not the centerline of said pavement with the centerline of Lexington Avenue (Old U.S. Highway 20) ; thence North 62°17' West along the centerline of said Lexington Avenue a distance of 449.98 feet to a point; thence South 0°11' West a distance of 33.83 feet to a point on the southerly right-of-way line of said Lexington Avenue, said point being the place of beginning of this description; thence South 62°17' East parallel with and 30 feet southwesterly of the centerline of said avenue and along the southerly right-of-way line of said avenue a distance of 349.38 feet to an angle point in said right-of-way line; thence South 39°13' East along said right-of-way line a distance of 63.38 feet to an angle point in said right-of-way line; thence South 0°11' East parallel with and 50 feet West of the centerline of said Nappanee Street (S.R. 19) and along the westerly right-of-way line a distance of 304.5 feet to a point; thence North 89°44' East along said right-of-way line a distance of 15 feet to a point; thence South 0°11' East parallel with and 35 feet West of the centerline of said street and along the westerly right-of -way line a distance of 24.6 feet to the northeast corner of land conveyed to Omega Healthcare Investors, Inc. in Deed Record 96-022919 (formerly Elkhart Americana, Inc.-Deed Record 328, page 184); thence South 89°44' West parallel with and 226.21 feet North of the north line of Lot 33 as said lot is shown on the recorded plat of Gruber Manor {Plat Book 5, page 41) [sic] and along the North line of said Omega land a distance of 520.05 feet to the northwest corner of said Omega land, said corner being on the former west line of land conveyed to Albert Beck in Deed Record 46, page 211 and the former west line of land conveyed to Fide Corporation in Deed Record 248, page 194; thence South 0° 02' East along the West line of said Omega land, the former west line of said Beck land and said Fide Corporation land and the former east line of land conveyed to Aspin-Gruber Corporation in Deed Record 204 , page 350 a distance of 173.33 feet to the northeast corner of land conveyed to Douglas R. and Deborah L. Stehlin in Deed Record 90-020958, said corner being the northeast corner of Lot 4 1n [sic] the unrecorded Plat of Gruber Manor extended; thence South 89°15' West along the North line of said Stehlin land a distance of 87 feet to a point on the easterly right-of-way line of Gruber Lane as conveyed to the City of Elkhart in Deed Record 378, page 56; thence northwardly, northwestwardly and westwardly along a curve to the left (R = 50 feet) along the right-of-way line of Gruber Lane a distance of 99.59 feet (Chord: North 37° 06' 30" West - 83.92 feet) to the southeast corner of land conveyed to the Wells Trust in Deed Record 92-025334; thence North 4° 17' West along the east line of said trust land being the East line of Lot 2 in the unrecorded Plat of said Gruber Manor extended a distance of 54.22 feet to the southeast corner of land conveyed to Mervin Lung Building Company, Inc. in Deed Record 429, page 310; thence North 0° 04' West along the East line of said Lung land, the West line of said Aspin-Gruber land and the West line of land conveyed to Fide Corporation in Deed Record 335, page 699 a distance of 752.56 feet to a point on the Southerly right-of-way line of said Lexington Avenue; thence South 62°17' East parallel with and 30 feet southwesterly of the centerline of said avenue and along the southerly right-of-way line of said Lexington Avenue a distance of 335.58 feet to the place of beginning of this description.
Containing 8.32 acres of land.

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 18th day of February, 2022, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: February 26, 2022
hspaxlp

Staff Report

Planning & Zoning

Petition: 22-X-04

Petition Type: Special Exception

Date: Plan Commission: February 7, Board of Zoning Appeals: February 10, 2022

Petitioner: Knights of Columbus / Elkhart Columbus Club

Site Location: 112 E Lexington Ave

Request: A Special Exception per Section 15.3, Special Exception Uses in the CBD Central Business District, to allow for a charitable organization to operate a soup kitchen.

Existing Zoning: CBD, Central Business District

Size: +/- .23 Acres

Thoroughfares: East Lexington Avenue

School District: Elkhart Community Schools

Utilities: Available and provided to site.

City of Elkhart | Maxar, Microsoft | Esri Community Maps Contributors, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, INCREMENT P, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA

Surrounding Land Use & Zoning:
Surrounding properties are commercial zoned CBD.

Applicable Sections of the Zoning Ordinance:
Enumerated in request.

Comprehensive Plan:
The Comprehensive Plan calls for areas along S Nappanee Street to be developed with mixed uses.

Staff Analysis

Susanna's Kitchen is a nonprofit soup kitchen that provides free meals to approximately 100 people five days a week. Hours of operation are 11:30 – 1:30. Clientele includes individuals and families who struggle to meet their food needs, including some (but not all) homeless persons.

Until recently, the operation was located at 431 South Third Street, where it had operated for years. The church that hosted the organization did not allow for the renewal of Susanna's Kitchen's lease, which forced them to seek a new location. The Knights of Columbus on East Lexington offered to house the operation on an interim basis. As of now, the planned arrangement is for Susanna's Kitchen to temporarily operate out of Knights of Columbus, to whom they are paying rent. According to the petitioner, the current plan is to operate there until June 30, 2022 while they seek a permanent home elsewhere.

The organization has been working with the Health Department and has addressed all critical issues found during inspection.

The time frame is not certain, however. For example, they may find another location that needs some upgrades in order for them to operate there, may result in delays for construction.

Recommendation

Staff recommends **approval** of the request based on the following findings of fact:

1. The Special Exception is so defined, located and proposed to be operated that the public health, safety and welfare **will be** protected and be compatible with the adjacent commercial properties;

2. The Special Exception **will not** reduce the values of other properties in its immediate vicinity because the change to the use of the property is temporary. It is anticipated the operation will move to another location by June 30;

3. The Special Exception **shall** conform to the regulations of the zoning district in which it is to be located because it will not generate adverse effects on adjacent properties in the form of noise, smoke, or odor.

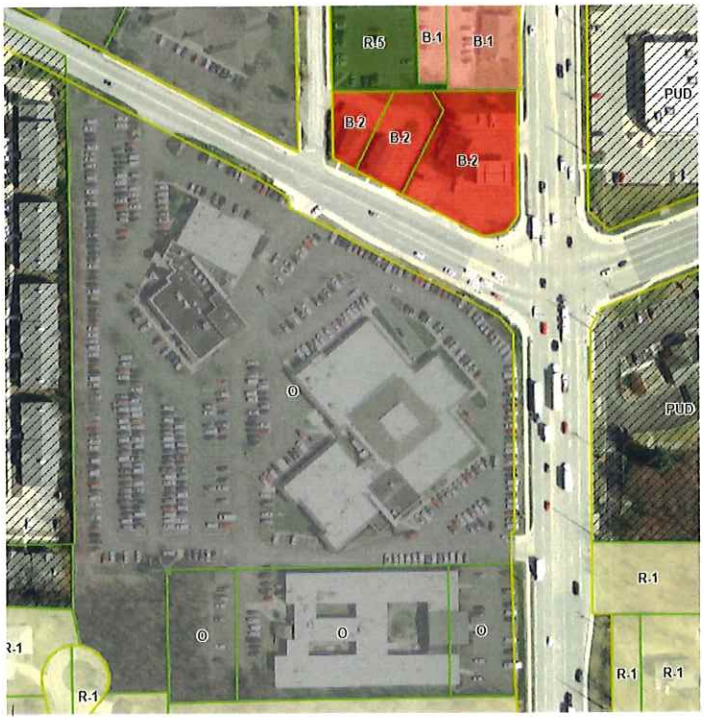
Photos

City of Elkhart

Staff Report

Planning & Zoning

Petition:	22-BZA-09
Petition Type:	Developmental Variance
Date:	March 10, 2022
Petitioner:	Elkhart Clinic Building LLC
Site Location:	303 S Nappanee Street
Request:	To vary from Section 26.10.D.4 Freestanding Signs, which permits a six (6)-foot tall freestanding sign at a five (5) foot setback to allow a nine (9)- foot two (2)- inch tall freestanding sign, a variance of three (3) feet two (2) inches. To also vary from Section 26.10.D.4 Freestanding Signs, which permits a freestanding sign to be 50 square feet at the minimum five (5) foot setback, to allow for one sign with an area of 52 square feet and a second sign with an area of 91 square feet, a variance of two (2) square feet and 41 square feet respectively.
Existing Zoning:	O – Office District
Size:	+/- 8.32 acres
Thoroughfares:	W Lexington Avenue and S Nappanee Street
School District:	Elkhart Community Schools
Utilities:	Available and provided to site.



Surrounding Land Use & Zoning:

The properties to the south are R-1 One Family Dwelling District and O Office District. The properties to the west are PUD Planned Unit Development built to R-4 Multiple Family Dwelling District. To the north the properties are B-2 Service Business District and O Office District. To the east the property is zoned PUD Planned Unit Development.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The Comprehensive Plan calls for this area to develop commercially.

Staff Analysis

The property is at the corner of W Lexington Avenue and S Nappanee Street. The property is currently operating as a medical facility. There are three access points to the property, two on Lexington Avenue and one on Nappanee Street. The facility currently has three freestanding signs. The petitioner proposes to reinstall a freestanding sign at the Nappanee Street entrance and another freestanding sign at the intersection.

The request for the sign at the Nappanee Street entrance is to allow an increase in height and size to allow a 9 foot 2 inches tall 52 square foot sign with an 18 square foot integrated electronic message board. This is an increase of 3 feet 2 inches in height and an increase in size of 2 square feet. The request is to also allow a second integrated electronic message board for this property. For the sign at the intersection the request is to allow a 91 square foot sign an increase of 41 square feet.

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 as the signs will not create a visual barrier;

2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner as the property will continue to be used as an office;

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 particular to the land involved and which are not applicable to other lands or structures in the same district as the signs are preexisting;

5. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the property because it places constraints on the visibility of the clinic;

6. The special conditions and circumstances **do not** result from an action or inaction by the applicant as the signs current exist;

7. This property does not lie within a designated flood hazard area.

Photos

Elkhart Clinic
DAKTRONICS
GALAXY
WALK-IN CLINIC
303 SOUTH NAPPANEE STREET
03/04/2022 11:38

Elkhart Clinic
03/04/2022 11:39

Elkhart
Clinic
Walk-In Clinic
MAIN CAMPUS
03/04/2022 11:38

Elkhart
Clinic
Walk-In Clinic
03/04/2022 11:40

PETITION NUMBER: 22-BZA-09 Date Filed: 02/09/2022

PETITION for APPEAL to the BOARD of ZONING APPEALS

PETITION TYPE:

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

Property Owner(s): Elkhart Clinic Building LLC
Mailing Address: 303 S Nappanee St Elkhart, IN 46514
Phone: 574-296-3985 email: ____

Contact Person: Professional Permits % Garry Potts
Adress: 58171 Dragonfly Court Osceola IN 46561
Phone: 574-229-0635 email: gpotts@professionalpermits.com

Subject Property Address: 303 S Nappanee St Elkhart, IN 46514
Zoning: O Present Use: medical campus
Proposed Use: same

Checklist (√) for submittal of the Variance to the Board of Appeals docket: you must include:

- o One copy of the Appeal Letter signed in ink by the owner of the property.
- o A completed Petition form signed by the legal owner of record.
- o If any other person other than the legal owner or the legal owner's attorney files the appeal, written authorization from the property owner must be supplied.
- o A full and accurate legal description of the property.
- o One to scale drawing of the property, smaller than 11" x 17". If larger than 11" x 17", 12 copies must be submitted.
- o Cash or check made payable to the City of Elkhart.

Optional: any supplementary information you wish to include.

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) (PRINT) Tom Vandergrift CEO by Garry P Potts II, Agent

SIGNATURES ____

RECEIVED BY: ____ DATE: 2/9/22

Remit To:
CITY OF ELKHART –OFFICE OF PLANNING AND DEVELOPMENT - Planning Services Division
Municipal Building, 229 South Second Street, Elkhart, IN 46516

(staff to complete)

Ordinance Requirement: Section(s): ____
MAP #: ____ AREA: ____

February 9, 2022

TO: Board of Zoning Appeals
City of Elkhart, Indiana

RE: Developmental Variance
303 S Nappanee Street

The undersigned appellant respectfully shows the Board:

1. I, Tom Vandergrift, am the CEO of Elkhart Clinic owner of the following described real estate located within the City of Elkhart, Cleveland Township, Elkhart County, State of Indiana, to-wit:

SEE EXHIBIT A

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

3. Appellant presently occupies the above described property in the following manner: medical campus.

4. Appellant desires to remove and replace the freestanding signs, identified as Sign 1 located at the drive entrance along Nappanee Street and Sign 2 on the artwork located at the NE corner of the property. Sign 1 is approximately 9' - 2" in overall height, setback 5' from the property line, with 52 sq. ft. of sign area and includes an 18 sq ft electronic message center. Sign 2 will be 11' – 4" in overall height, setback the same as the existing sign with 90.7 sq ft of sign area. This sign will include a 24 sq ft electronic message center

5. The Zoning Ordinance 26.10(D) (Table 1) of the City of Elkhart allows one free-standing sign per frontage and at 5' setback to be no more than 50 sq ft in size. Sign 1 will require a variance to allow for the Integrated Message Board. A height variance is also required as it is 5' from the right of way and it would be allowed to be 6' at that location. Sign 2 will require a variance for the overall size of the sign at 90.7 sq ft where 50 sq ft is allowed by code.

6. Explain why strict adherence to the Zoning Ordinance requirements would create an unusual hardship. The strict adherence to the zoning ordinance would result in continued reduced safe motorist wayfinding.

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

   1. The approval will not be injurious to the public health, safety, morals and general welfare of the community. *The approval will improve motorist wayfinding and provide important health information resulting in improved public health, safety, morals and general welfare of the community.*
   2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner. *This is a highly traveled commercial corridor and the will assist those traveling Lexington and Nappanee Streets to quickly and safely identify the drive entrance for the campus along Nappanee and obtain essential information through the Integrated Message Centers. The*

integrated message centers allow the petitioner to safely and effectively provide essential public health information.

3. Granting the variance would be consistent with the intent and purpose of the Zoning Ordinance. *The variance request is the minimum relief necessary to allow for sufficient visibility of these freestanding signs.*

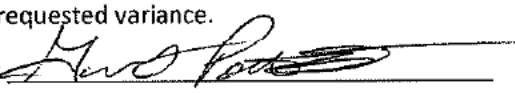
4. Special conditions and circumstances exist which are peculiar to the land involved and which are not applicable to other lands or structures in the same district. *The property is 8.32 acres with campus entrances a great distance from the intersection of Lexington and Nappanee.*

5. The strict application of the terms of this Ordinance would deprive the applicant of the rights commonly enjoyed by other properties in the same district under the provisions of this Ordinance. (Financial considerations do not qualify). *The strict application of the terms of this Ordinance would result in a sign that does not allow for sufficient wayfinding for citizens of the community.*

6. The special conditions and circumstances do not result from any action or inaction by the applicant. *The special conditions of the amount of traffic on Lexington and Nappanee Streets are not the result of inaction by the applicant.*

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

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

Signature of Property Owner: 

Printed Name: Garry P Potts II, Agent

Contact Person: Same

Address: 58171 Dragonfly Court Osceola IN 46561

[redacted]

ELKHART CLINIC

Your Partner for a Healthy Life

January 17, 2022

City of Elkhart
229 South 2nd St
Elkhart, IN 46516

Subject: Letter of Authorization

To whom it may concern,

I authorize Professional Permits to act on Elkhart Clinic's behalf, to sign and submit the necessary documents, and represent Elkhart Clinic for a sign variance.

Sincerely,

Tom Vandergrift
CEO
Elkhart Clinic
574-296-3985

Elkhart Clinic

your partner for a healthy life

303 S Nappanee Street
Elkhart, Indiana

Prepared by:

Burkhart
SIGNSYSTEMS

Please refer to actual vinyl/paint or PMS colors
Colors are close approximations of actual colors.

This Design is the Property of Burkhart Sign Systems, LLC. Any Reproduction or Duplication
Without the Express Written Permission of Burkhart Sign Systems, LLC Is Prohibited.

Approved By

Client Approval: _____

Approval Date: _____

Burkhart
SIGNSYSTEMS

Site Plan

Job Name- Location
Elkhart Clinic
303 S Nappanee Street
Elkhart, Indiana

Account Rep.
John Moran

Site Plan

Scale
1:1000

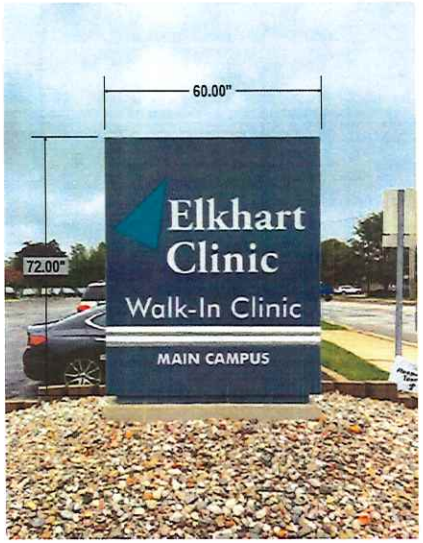
Designer
K. Nykamp

Date: 01-24-2022

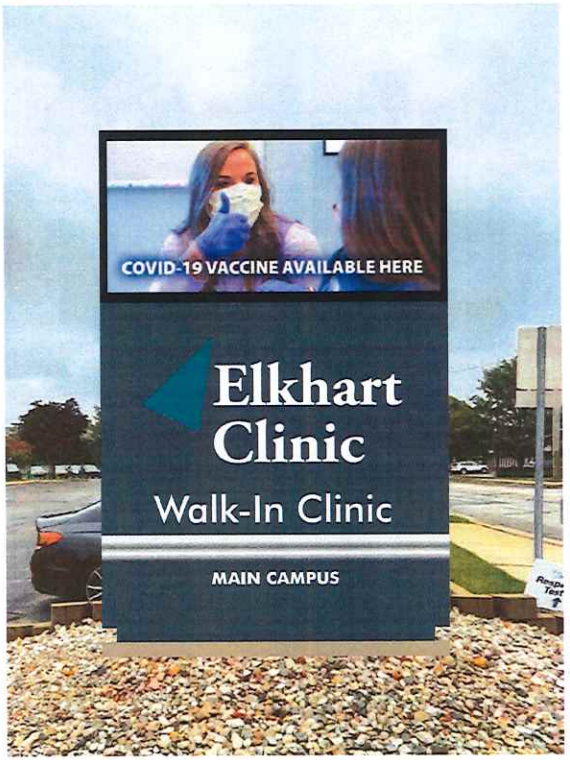
Approved By
Client Approval: _____
Approval Date: _____

Page: 2

Sign #1



Existing Sign



Proposed Sign

Burkhart
SIGNSYSTEMS

Cabinet

Job Name-Location
Elkhart Clinic
303 S Nappanee Street
Elkhart, Indiana

Account Rep.
John Moran

Elevations

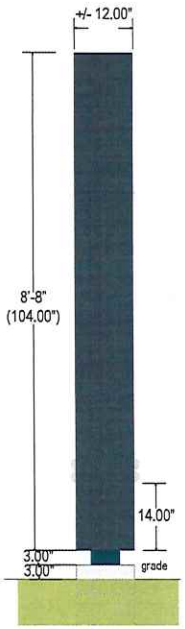
Scale
1/2" = 1'-0"

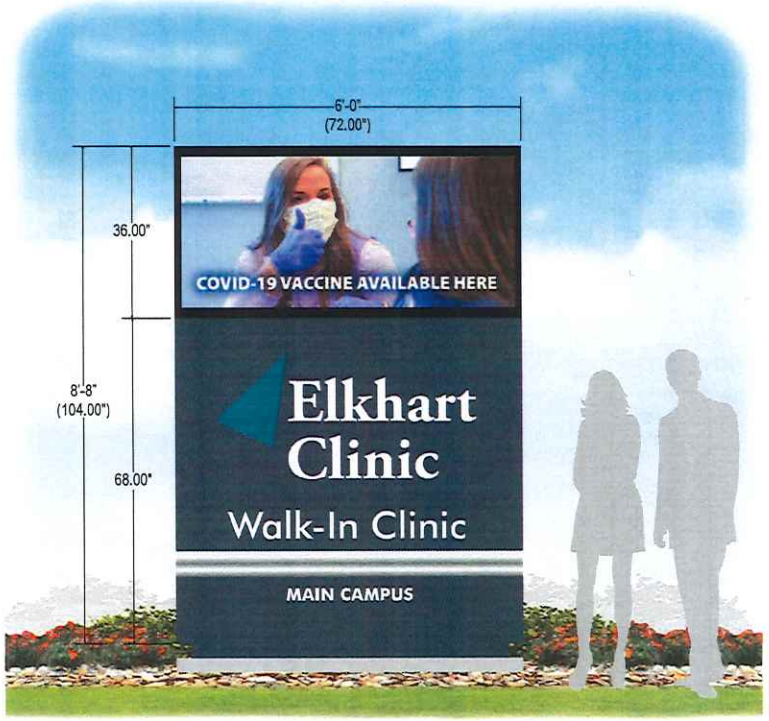
Designer
K. Nykamp

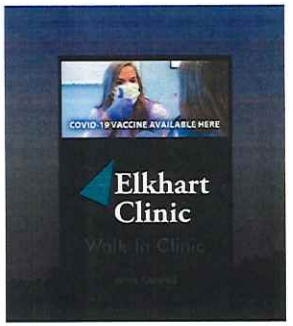
Date: 01-24-2022

Approved By
Client Approval: _____
Approval Date: _____

Sign #1







Night View

Double-faced Illuminated Monument Sign:

- Fabricated aluminum with routed copy and logo. Font: Adobe Garamond Pro Bold
- 36" H X 72" W 10 mm full color EMC
- "Walk-In Clinic" and "Main Campus" surface applied reflective white vinyl. Font: Futura Md BT and Futura MD Bold
- Galvanized metal decorative accents
- Internal Illumination with white LEDs
- Direct bury mounting with 18" concrete footing and 6" concrete slab that extends 3" below grade
- Sign size: 52 sq ft

Pantone 7546C	3650-96 Teal	Reflective white vinyl

Burkhart
SIGNSYSTEMS

Cabinet

Job Name- Location
Elkhart Clinic
303 S Nappanee Street
Elkhart, Indiana

Account Rep.
John Moran

Cabinet:
104" x 72"

Frame:
☐ Angle Alum.:
☐ Extrusion:
☐ Other:
☒ Illuminated ☐ Non illuminated
Lamps: ☐ Vertical ☐ Horizontal
Size: Quantity:
Ballast: Size: Quantity:
Pylon Cover:
Trim:

Faces:
☒ Double Faced ☐ Single
☐ Lexan ☐ Flexable ☐ Pan
☐ Aluminum: .125"
☒ Routed:

Face Decoration:
☐ Paint:
☐ HP:
☐ Translucent:
Copy: ☐ Paint:
☒ HP:
☒ Translucent: White
Graphics: ☐ Paint:
☐ HP:
☐ Translucent : White

Painted Surfaces:
☐ Filler:
☐ Trim:
☐ Cap:
☐ Upright:

Installation
☐ Saddle ☐ Match Plate
☐ External ☐ Roof Brackets
☐ Wall
Steel: ☐ Round ☐ Square:
☒ Direct Burial
☐ Clips
☐ Existing
Foundation:
☐ Pad:
☐ Base:
☐ Conduit in Base

Scale
1/2" = 1'-0"

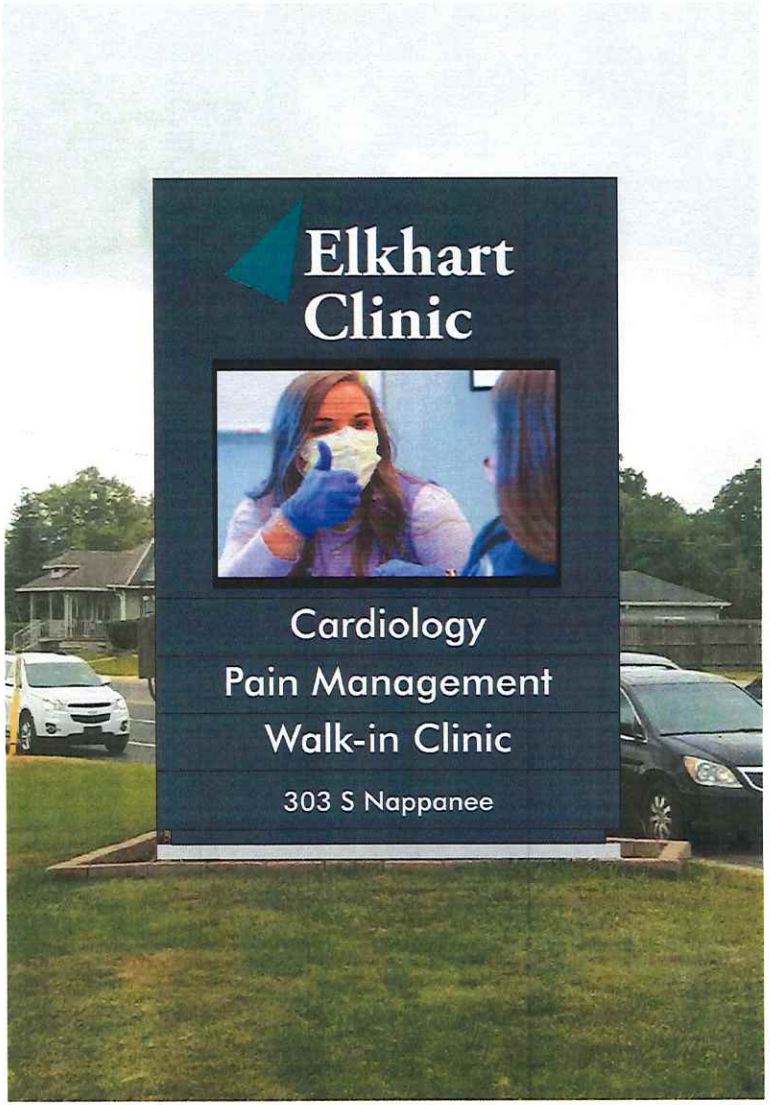
Designer
K. Nykamp

Date: 01-24-2022

Approved By
Client Approval: _____
Approval Date: _____

Sign #2

Existing Sign



Proposed Sign

Burkhart SIGNSYSTEMS

Cabinet

Job Name- Location
Elkhart Clinic
303 S Nappanee Street
Elkhart, Indiana

Account Rep.
John Moran

Elevations

Scale
1/2" = 1'-0"

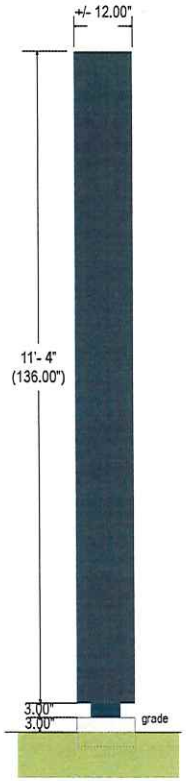
Designer
K. Nykamp

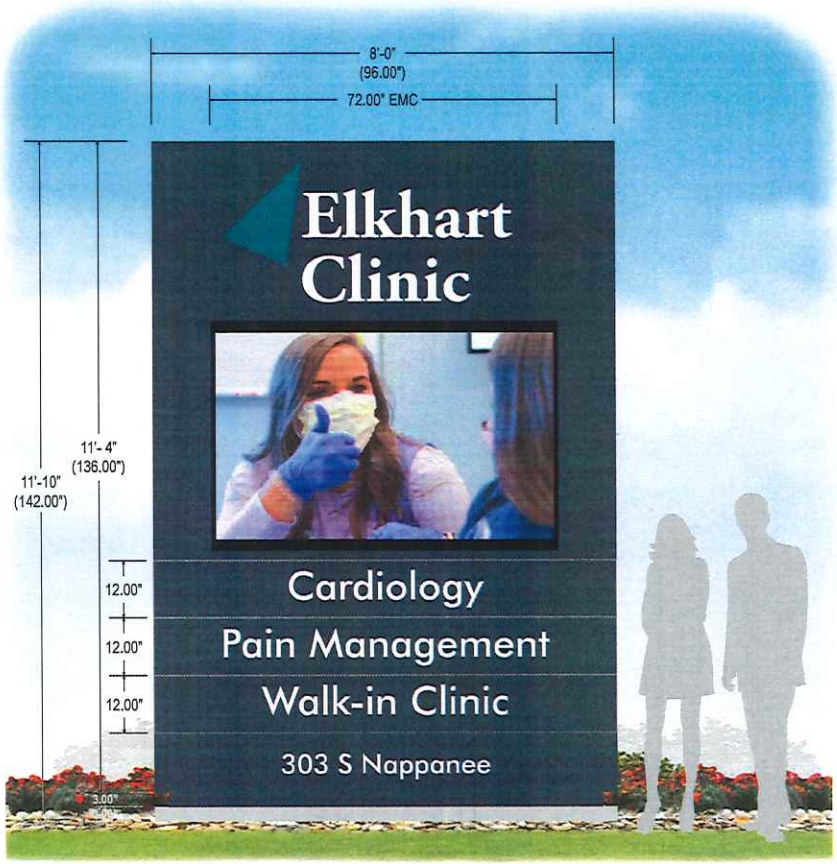
Date: 01-24-2022

Approved By
Client Approval: _____
Approval Date: _____

Page: 5

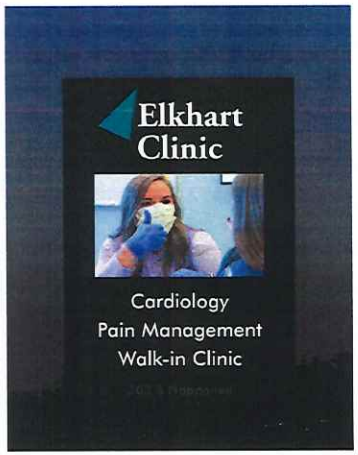
Sign #2





Double-faced Illuminated Monument Sign:

- Fabricated aluminum with routed and pushed through flush copy and logo graphic. Font: Adobe Garamond Pro Bold
- 48" H X 72" W 10 mm full color EMC
- 12" tenant panels (signcomp insert panels or similar) with routed and pushed through flush copy. Font: Futura Md BT
- Internal Illumination with white LEDs
- "303 S Nappanee" address copy surface applied reflective white vinyl. Font: Futura Md BT
- Direct bury mounting with 18" concrete footing and 6" concrete slab that extends 3" below grade
- Sign size: 90.6 sq ft



Night View

Pantone 7546C	3650-96 Teal	Reflective white vinyl

Burkhart SIGNSYSTEMS

Cabinet

Job Name- Location

Elkhart Clinic
303 S Nappanee Street
Elkhart, Indiana

Account Rep.

John Moran

Cabinet:

136" x 96"

Frame:

☐ Angle Alum.:
☐ Extrusion:
☐ Other:
☒ Illuminated ☐ Non Illuminated
Lamps: ☐ Vertical ☐ Horizontal
Size: Quantity:
Ballast: Size: Quantity:
Pylon Cover:
Trim:

Faces:

☒ Double Faced ☐ Single
☐ Lexan ☐ Flexable ☐ Pan
☐ Aluminum: .125"
☒ Routed:

Face Decoration:

☐ Paint:
☐ HP:
☐ Translucent:
Copy: ☐ Paint:
☒ HP:
☒ Translucent: White
Graphics: ☐ Paint:
☐ HP:
☐ Translucent : White

Painted Surfaces:

☐ Filler:
☐ Trim:
☐ Cap:
☐ Upright:

Installation

☐ Saddle ☐ Match Plate
☐ External ☐ Roof Brackets
☐ Wall
Steel: ☐ Round ☐ Square:
☒ Direct Burial
☐ Clips
☐ Existing
Foundation:
☐ Pad:
☐ Base:
☐ Conduit in Base

Scale

1/2" = 1'-0"

Designer

K. Nykamp

Date: 01-24-2022

Approved By

Client Approval: _____
Approval Date: _____

Page: 6

City of Elkhart

Staff Report

Planning & Zoning

Petition: 22-UV-04

Petition Type: Use Variance

Date: March 10, 2022

Petitioner: Bill & Ann Zimmerman

Request: To vary from Section 15.2 permitted uses in the Central Business District to allow an existing structure to be used as a single family dwelling.

Site Location: 329 W Franklin Street

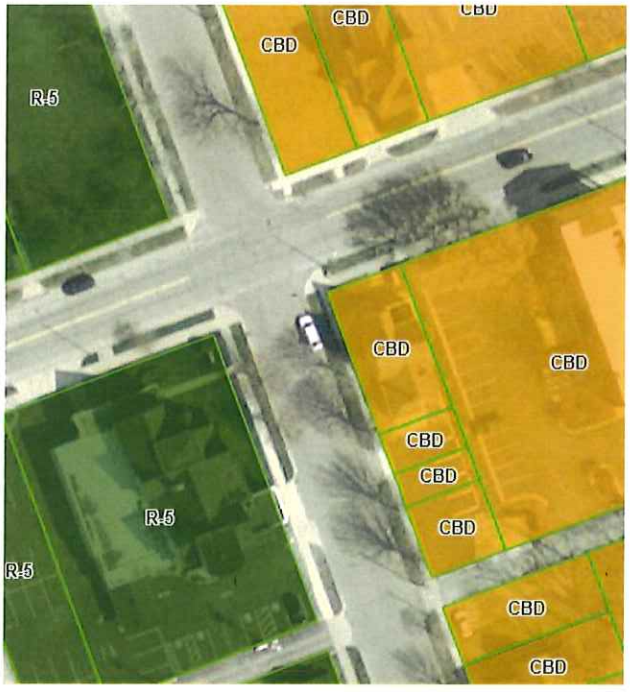
Existing Zoning: CBD, Central Business District

Size: +/- .08 Acres

Thoroughfares: 4th Street and W Franklin Street.

School District: Elkhart Community Schools

Utilities: Available and provided to the site.



Surrounding Land Use & Zoning:

The properties to the north, east and south are zoned CBD Central Business District. The properties to the west across 4th Street are zoned R-5 Urban Residential District.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

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

Staff Analysis

The property consists of an existing house that has been used commercially recently as a funeral arrangement office. The applicant would like to convert the structure back into a single family home. This property is on the outer edge of the Central Business District and there are a mixture of commercial and residential structures in the area. At this time there is no desire to have the building continue as an office use.

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 a single family residence will be similar to other nearby properties;

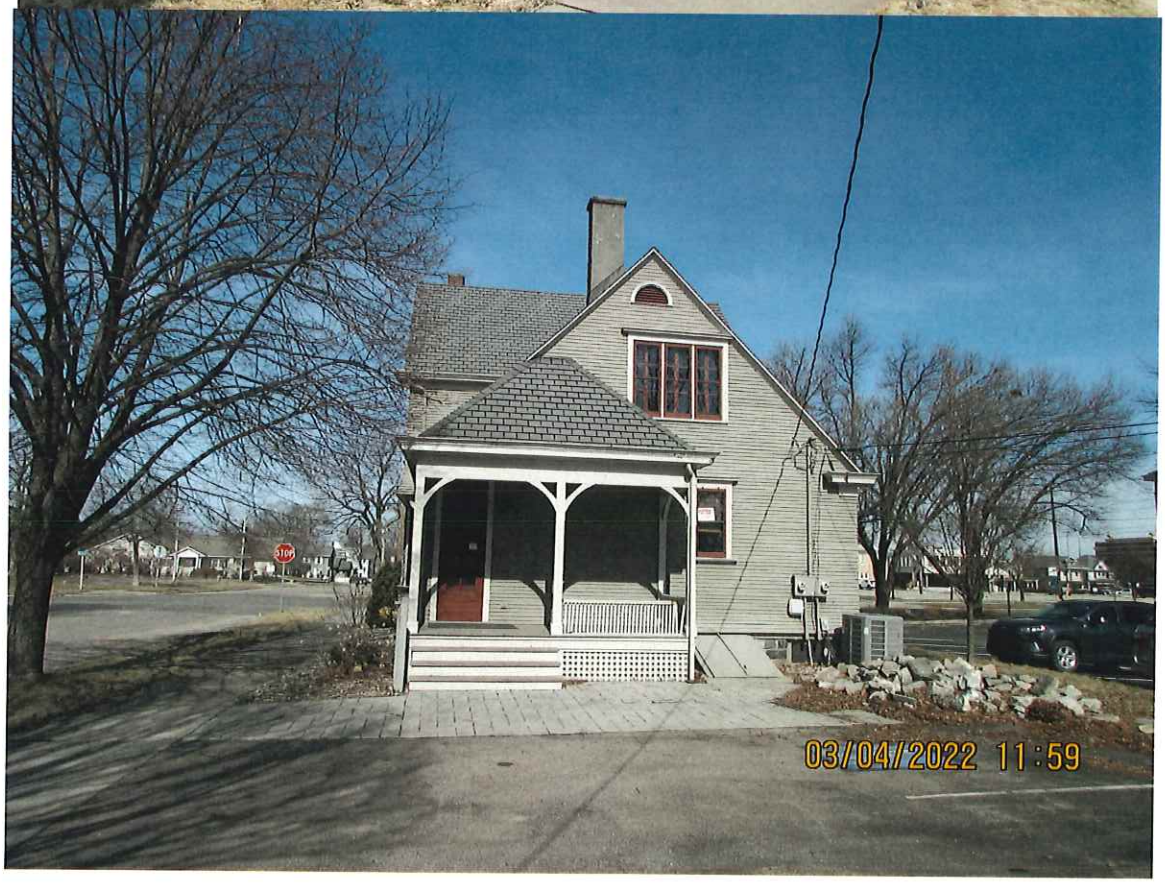
2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner because the property will be compatible with the neighborhood

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. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the building as it was constructed to be a residential home and the Comprehensive Plan calls for this area to develop with mixed uses;

5. The special conditions and circumstances **do not** result from an action or inaction by the applicant as the structure was built before the creation of the Central Business District;

Photos



PETITION NUMBER: 22-UV-04 Date Filed: 2/10/22

PETITION for APPEAL to the BOARD of ZONING APPEALS

PETITION TYPE:

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

Property Owner(s): Bill + Ann Zimmerman
Mailing Address: 54590 Colonial Ridge Dr Bristol IN 46507
[redacted]

Contact Person: Bill Zimmerman
Adress: 54590 Colonial Ridge Dr. Bristol IN 46507
[redacted]

Subject Property Address: 329 W. Franklin Street Elkhart, IN 46516
Zoning: _____ Present Use: commercial Central Business District
Proposed Use: residential

Checklist (√) for submittal of the Variance to the Board of Appeals docket: you must include:

- o One copy of the Appeal Letter signed in ink by the owner of the property.
- o A completed Petition form signed by the legal owner of record.
- o If any other person other than the legal owner or the legal owner's attorney files the appeal, written authorization from the property owner must be supplied.
- o A full and accurate legal description of the property.
- o One to scale drawing of the property, smaller than 11" x 17". If larger than 11" x 17", 12 copies must be submitted. arial photo
- o Cash or check made payable to the City of Elkhart. 200.00

Optional: any supplementary information you wish to include.

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) (PRINT) William + Ann Zimmerman

SIGNATURES William Zimmerman Ann Zimmerman

RECEIVED BY: _____ DATE: _____

Remit To:
CITY OF ELKHART –OFFICE OF PLANNING AND DEVELOPMENT - Planning Services Division
Municipal Building, 229 South Second Street, Elkhart, IN 46516

(staff to complete)

Ordinance Requirement: Section(s): _____
MAP #: _____ AREA: _____

W & A PROPERTIES
54590 COLONIAL RIDGE DRIVE
BRISTOL, IN 46507

February 9, 2022

Board of Zoning Appeals
City of Elkhart, Indiana

We, William & Ann Zimmerman, are the owners of the following described real estate located within the City of Elkhart, Concord Township, Elkhart County, State of Indiana to-wit: see attached legal description for 328 W. Franklin Street, Elkhart, Indiana 46516.

The above real estate presently has a zoning classification of Central Business District under the Zoning Ordinance of the City of Elkhart.

Appellant proposes to occupy the above-described property in the following manner. Wishes to occupy as a single-family dwelling.

Appellant desires to use property as a single-family dwelling. It is currently in the Central Business District, Section 15.2, which was used as an office (subsection R.) This building was originally built as a single-family dwelling and we want to restore as such.

We are not using building as office, and we wish to sell to buyer who wants to use as a single-family dwelling.

The approval will not be injurious to the public health, safety, morals and general welfare of the community because it was originally a single-family dwelling and we would like to have it restored to same. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner, because there are other

single family dwelling and apartments in the adjacent area to the building.

The need for the variance arises because building is in CBD and to change zoning requires this hearing. The strict application of the terms of this ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought. If not for board action it, cannot be used as a single family dwelling.

This approval will not interfere substantially with the comprehensive plan because comprehensive plan calls for mixed use in this area.

This building was at one time used as an office and is currently no longer needed as such. This is the reason for the sale of building and the need for the variance use change so current buyers may use as their personal residence.

Thank you very much for your attention to this matter.

Sincerely,

William and Ann Zimmerman
W & A Properties

William Zimmerman

Ann Zimmerman

Franklin St
750
057
320 W FRANKLIN ST
(1)
(2)
(3)
(4)
(23)
750
05
S 4th St
FRANKLIN S T

City of Elkhart

Staff Report

Planning & Zoning

Petition: 22-UV-05

Petition Type: Use Variance

Date: March 10, 2022

Petitioner: Frank Cassella

Request: To vary from Section 15.2 permitted uses in the Central Business District to allow an existing structure to be used as a single family dwelling.

Site Location: 221 S Third Street

Existing Zoning: CBD, Central Business District

Size: +/- .047 Acres

Thoroughfares: W High and S Third Street.

School District: Elkhart Community Schools

Utilities: Available and provided to the site.

Surrounding Land Use & Zoning:

The surrounding properties are CBD Central Business District.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

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

Staff Analysis

The property consists of an existing structure built around 1925 that was originally built as a residential home. The Indiana Historic Sites and Structures Inventory considers this structure contributing to the historic character of the area. It was previously converted to commercial and used as a law firm.

The applicant would like to convert the structure back into a single family home. This property is in the Central Business District which calls for a mixture of uses. The applicant would like to convert the building to be used by two of his employees as a primary residence. At this time there is no desire to have the building continue as an office use.

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 structure was built as a single family home;

2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner because the exterior appearance of the structure will not change;

3. Granting the variance **would** be consistent with the intent and purpose of this Ordinance because it allows for a measure of relief in allowing the original use of the building;

4. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the building as it was constructed to be a residential home and there is a City need for housing;

5. The special conditions and circumstances **do not** result from an action or inaction by the applicant as the structure was built before the creation of the Central Business District;

PETITION NUMBER: 22-UV-05 Date Filed: 2/10/2022

PETITION for APPEAL to the BOARD of ZONING APPEALS

PETITION TYPE:

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

Property Owner(s): FRANK CASSELLA
Mailing Address: 54470 MEADOWBANK LANE, ELKHART, IN 46514
[redacted]

Contact Person: FRANK CASSELLA
Address: 54470 MEADOWBANK LANE ELKHART IN 46514
[redacted]

Subject Property Address: 221 SOUTH THIRD STREET, ELKHART, IN 46516
Zoning: COMMERCIAL / CBD Present Use: LIVE / WORK
Proposed Use: RESIDENTIAL

Checklist (√) for submittal of the Variance to the Board of Appeals docket: you must include:

- o One copy of the Appeal Letter signed in ink by the owner of the property.
- o A completed Petition form signed by the legal owner of record.
- o If any other person other than the legal owner or the legal owner's attorney files the appeal, written authorization from the property owner must be supplied.
- o A full and accurate legal description of the property.
- o One to scale drawing of the property, smaller than 11" x 17". If larger than 11" x 17", 12 copies must be submitted.
- o Cash or check made payable to the City of Elkhart.

Optional: any supplementary information you wish to include.

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) (PRINT) FRANK CASSELLA

SIGNATURES Frank Cassella

RECEIVED BY: Nathan C Hooley DATE: 2/10/2022

Remit To:
CITY OF ELKHART –OFFICE OF PLANNING AND DEVELOPMENT - Planning Services Division
Municipal Building, 229 South Second Street, Elkhart, IN 46516

(staff to complete)

Ordinance Requirement: Section(s): _____
MAP #: _____ AREA: _____

February 9, 2022

To: Board of Zoning Appeals
City of Elkhart, Indiana

RE: Use Variance

I, Frank Cassella, am the owner of the following described real estate located within the City of Elkhart, Concord Township, Elkhart County, State of Indiana.

Parcel # 06-05-380-013-012
Legal: Beards 1st 28.5 x 63.7 FT SE COR LOT 75 3.5 x 63.7 FT NE COR LOT 74 (Tif 75)
Address: 221 South Third Street, Elkhart, IN 46516

The above described real estate presently has a zoning classification of Commercial – CBD.

The property was a former attorney's office and was vacant from 2013 until 2018 when I purchased it as a second residence and small office. My desire is to ask for a variance to turn the zoning classification to residential, as I wish to sell the home to two of my employees, who work downtown.

Currently, there is a large demand for housing, and as many professional people are working from home, the need for this real estate to remain as potential office space is unnecessary. This variance would not be injurious to any safety issue or public health, and in fact, having a full time residence would actually protect the neighborhood as the homeowners would keep a watchful eye. No adjacent properties would be affected, as the subject property is fully fenced and separated from its neighbors. The variance is needed to procure financing and appraisals for the new, prosepctive buyers. Regarding the hardship standard, it would be impossible to move forward with the sale of the home without the zoning variance, and while it could certainly be listed and sold as a commercial space, there is relatively little demand for such space at this time, but a very large increase exists in the demand for housing. Finally, approval as such would not seem to constitute any interference with the city's current development plan, as efforts are not ongoing along the third street corridor at this time.

As you can tell from the included pictures, this home is a unique and beautiful part of downtown Elkhart. The prosepective buyers are very excited to be a part of the growing and vibrant downtown community. They work three blocks away, and are advocates for the City of Elkhart and the growth of our downtown.

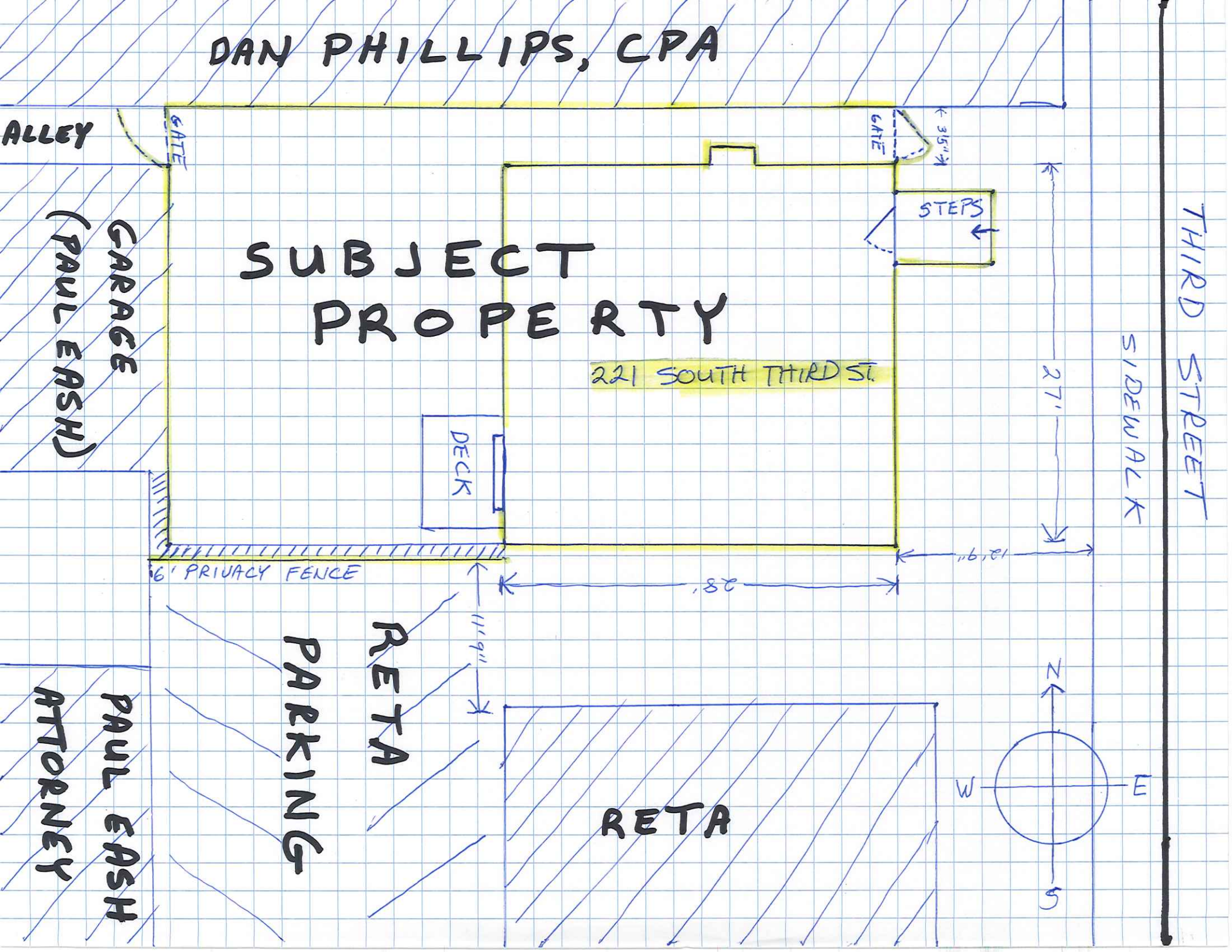
I therefore respectfully ask the Board of Appeals to consider this request, and to grant the variance.

Thank you very much for your consideration.

Frank Cassella 2/10/2022

By: Frank Cassella, Property Owner

Contact: Frank Cassella
54470 Meadowbank Lane
Elkhart, IN 46516
([redacted]


DAN PHILLIPS, CPA
ALLEY
GATE
GATE
3'5"
STEPS
SUBJECT PROPERTY
221 SOUTH THIRD ST.
GARAGE (PAUL EASH)
DECK
27'
SIDEWALK
THIRD STREET
6' PRIVACY FENCE
28'
12'9"
11'9"
RETA PARKING
PAUL EASH ATTORNEY
RETA
N
W
E
S

Michiana Regional GIS Website

txtSubTitle

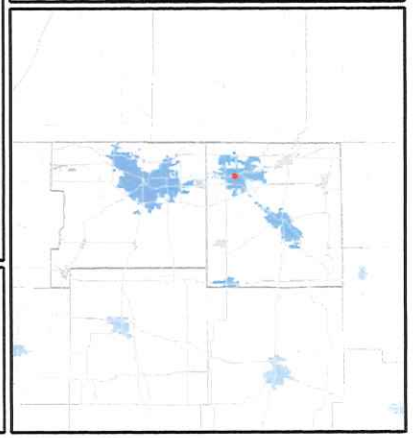
Legend

- SJC Parcel Dimensions
- SJC Parcels
- ELK Parcels
- SJC Street
- ELK Street
- Building Footprint
- Railroad
  - Railroad
  - Abandoned Railroad
- Road Centerline
- Railroad Bridge
- Roadway Bridge
- Major Roads
  - 1
  - 10
- Primary Roads
- Secondary Roads
- Local Roads
- Rivers
- Local Roads
- SJC Street
- ELK Street
- Building Footprint
- SJC 2014 Parcel
- ELK 2014 Parcel
- Railroad

N

1 inch = 49.92 feet

0 0.00 0.00 0.01 Miles



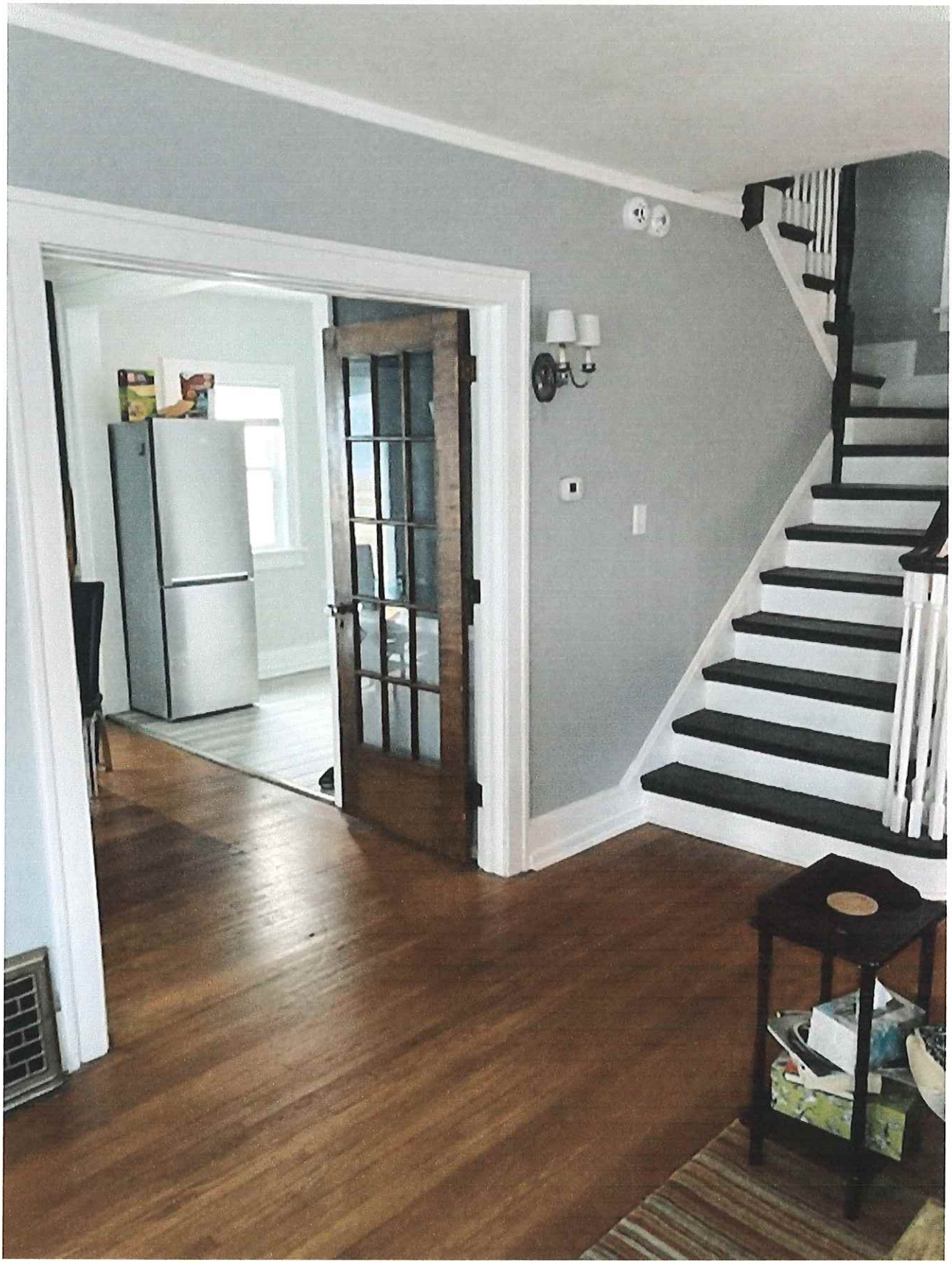
Date Printed: 1/27/2022

Map Generated By: Public

Coordinate grid is based on Indiana East State Plane Coordinate System 1983 North American Datum.

Information shown on this map is not warranted for accuracy or merchantability. Reproduction or distribution of this material is not authorized without the express written permission of MACOG.

221



City of Elkhart

Staff Report

Planning & Zoning

Petition: 22-X-05

Petition Type: Special Exception

Date: Plan Commission: March 7, Board of Zoning Appeals: March 10, 2022

Petitioner: Francisco Sesmas and Maria Torres

Site Location: 210 West Wolf Avenue

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

Existing Zoning: R-2, Single Family Dwelling District

Size: +/- .16 Acres

Thoroughfares: Wolf Avenue

School District: Elkhart Community Schools

Utilities: Available and provided to site.

City of Elkhart | Maxar, Microsoft | Esri Community Maps Contributors, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc., METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA

Surrounding Land Use & Zoning:
Surrounding properties are residential and institutional zoned R-2.

Applicable Sections of the Zoning Ordinance:
Enumerated in request.

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

Staff Analysis

The petitioners recently closed on a property at 210 W. Wolf Ave. that they intend to use as a Class II Daycare; the Indiana State Family and Social Services Administration (FSSA) allows for up to 16 children under a Class II license. The house was built in 1950 and comprises 672 square feet on a .16-acre parcel with an ample backyard. The property is adjacent to Agape Church and across the street from Roosevelt Elementary School.

Initially, staff had some concerns regarding the size of the building, and how staff parking, pickup and drop-off would work. The state requires 560 square feet of usable area for a Class II home. Staff inspected the house on 2/17/22. The house has a very small kitchen, bathroom, and utility area. The petitioners claim they measured the house and will meet the requirement; this will need to be certified by a professional, which the state also requires. Staff believes they may meet the requirement, but that should be confirmed by an architect or engineer.

Past owners have had an informal agreement with the church allowing them to use the edge of its parking lot as a driveway/parking area. The petitioners state they have verbal approval from the church to do so for both employee parking and drop off/pick-up. Additionally, there is considerable congestion on Wolf Avenue for drop off and pickup at Roosevelt, and parents of children at the school often use the church parking lot. Staff is concerned about conflict between the two uses and the utilization of the lot for parking.

The drop-off/pick-up arrangement is acceptable if they receive written approval from the church to use it for that purpose; the Board may contemplate requiring a formal agreement as well. Staff believes employee parking should be handled on-site and kept outside of the church parking lot. The daycare standards for parking are 1 space per employee plus 1 space per 6 students. The lot is 45 feet wide; a parking pad for up to four vehicles could be provided given the width of the lot. Additionally, the petitioners should structure their hours so that drop off and pick up do not conflict with peak times for Roosevelt Elementary.

Recommendation

Staff recommends **approval** of the request based on the following findings of fact:

1. The Special Exception is so defined, located and proposed to be operated that the public health, safety and welfare **will be** protected if the conditions are followed;

2. The Special Exception **will not** reduce the values of other properties in its immediate vicinity because it will be a small operation and no significant changes to the property are planned;

3. The Special Exception **shall** conform to the regulations of the zoning district in which it is to be located because it will not generate adverse effects on adjacent properties in the form of noise, smoke, or odor.

Conditions

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

1. All children shall be restricted to the building and fenced-in play area except when arriving and leaving or on supervised walks or outings.
2. The facility and grounds shall be kept clean at all times.
3. The facility shall be subject to inspection upon reasonable notice, by the zoning administrator during hours of operation.
4. There shall be no exterior display, signs, or other forms of advertising on the premises.
5. A copy of the child care home license shall be submitted to the Department of Planning and Zoning upon receipt from the Indiana Family and Social Services Administration.
6. If the day care ceases to operate for more than one (1) year, or the license is revoked, the Special Exception becomes null and void.
7. Any violation of the terms of this Special Exception as determined by the City Zoning Administrator shall render the Special Exception invalid.
8. There shall be a maximum sixteen (16) children, including those of the petitioner.
9. The operator of the day care center shall live on the premises.
10. Written approval shall be obtained from the adjacent church to allow them to use the church's parking lot for drop-off and pick-up.
11. The Special Exception is for two (2) years and shall be reviewed as a staff item by the Board of Zoning Appeals by March 14, 2024.
12. Drop-off and pick-up times for the daycare shall be outside of peak times for Roosevelt Elementary traffic.
13. Petitioners shall provide four (4) paved parking spaces adjacent to the rear alley.
14. The usable child care space must meet the state minimum based on the class of license obtained, to be verified by a qualified professional.

Photos

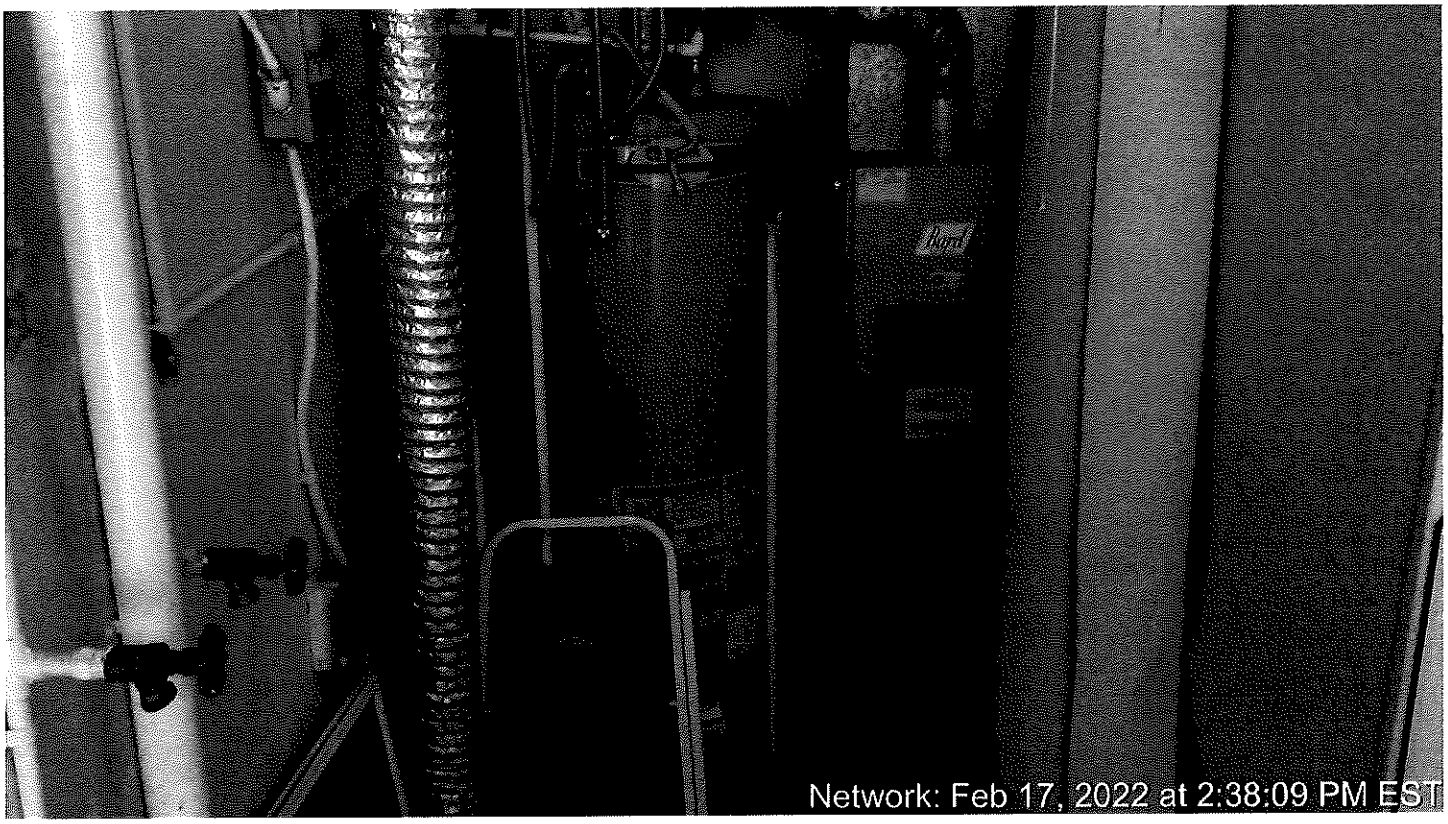
Network:Feb 17, 2022 at 2:29:28 PM EST

Network: Feb 17, 2022 at 2:38:38 PM EST

Network: Feb 17, 2022 at 2:39:08 PM EST

Network: Feb 17, 2022 at 2:39:26 PM EST

Network: Feb 17, 2022 at 2:41:49 PM EST


Network: Feb 17, 2022 at 2:38:09 PM EST

Network: Feb 17, 2022 at 2:38:26 PM EST

PETITION #: _____ **FILING FEE: $**_____

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): Francisco Sesmas/Maria Torres

Mailing Address: 2018 Benham Av. Elkhart IN 46516

[redacted]

Contact Person: _____

Mailing Address: _____

Phone #: _____ Email: _____

Subject Property Address: 210 West Wolf Avenue, Elkhart IN 46516

Zoning: _____

Present Use: Residential Proposed Use: Day Care

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) (PRINT): Francisco Sesmas/Maria Torres

SIGNATURE(S): Francisco Sesmas Maria Torres DATE: 2/10/22

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 of the property.

_____ A completed Petition form signed by the legal owner of record.

_____ 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: 2/11/22

February 10, 2022

TO: Plan Commission & Board of Zoning Appeals
City of Elkhart, Indiana

RE: Special Exception Request

Francisco Sesmas and Maria Torres, are the owners of the following described real estate located within the City of Elkhart, Township 37-North, Elkhart County, State of Indiana.

LEGAL DESCRIPTION ATTACHED TO THIS LETTER

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

Petitioner presently occupies the above-described property in the following manner:
VACANT.

Petitioner desires: to provide daycare services on a daily basis from Monday to Friday from 05:00 a.m. to 04:00 p.m. We will work to achieve level 4 on Paths of Quality I. We will get a daycare license class II following all the standards, requirements, and procedures from Family Social Services Administration (FSSA) and Early Learning Indiana (ELI). We will be enrolled in the Child and Adult CareFood Program (CACFP) and provide healthy meals. We will become members of The National Association for Family Child Care (NAFCC).

Section 5.3 Special Exception uses in the R-2 District. The Zoning ordinance requires a Special Exception for a daycare home in the R-2 District.

This property is suited to the special exception use being requested because We have a parking space in the rear of the property on a nonbusy alley to have a safe pick up and drop off.

In addition to that, the location of this property is very convenient for the community in need of daycare services in this area.

1. The Special Exception is so defined, located, and proposed to be operated that the public health, safety, and welfare will be protected; **Yes** this daycare will provide healthy meals under the supervision and sponsorship of the Child and Adult Care Food Program. We will follow guidelines from the local Health Department and CDC. We will notify the Fire Department of the daycare and they will inspect alarms and extinguishers. The property is fenced in to provide a safe play area. Parking and drop-off will be in the back of the

property in a non-busy alley. Staff will meet the requirements such as National Criminal History, drug test, CPR, TB test, Physical exam, child abuse, and neglect courses, and safe sleep practices.

2. The special exception will not reduce the values of other properties in its immediate vicinity; **NO,** this property is well maintained and will continue to be maintained and in very good shape with no changes to its residential appearance.

3. The special exception shall conform to the regulation of the zoning district in which it is to be located; **Yes,** the property will continue to have its original residential appearance.

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

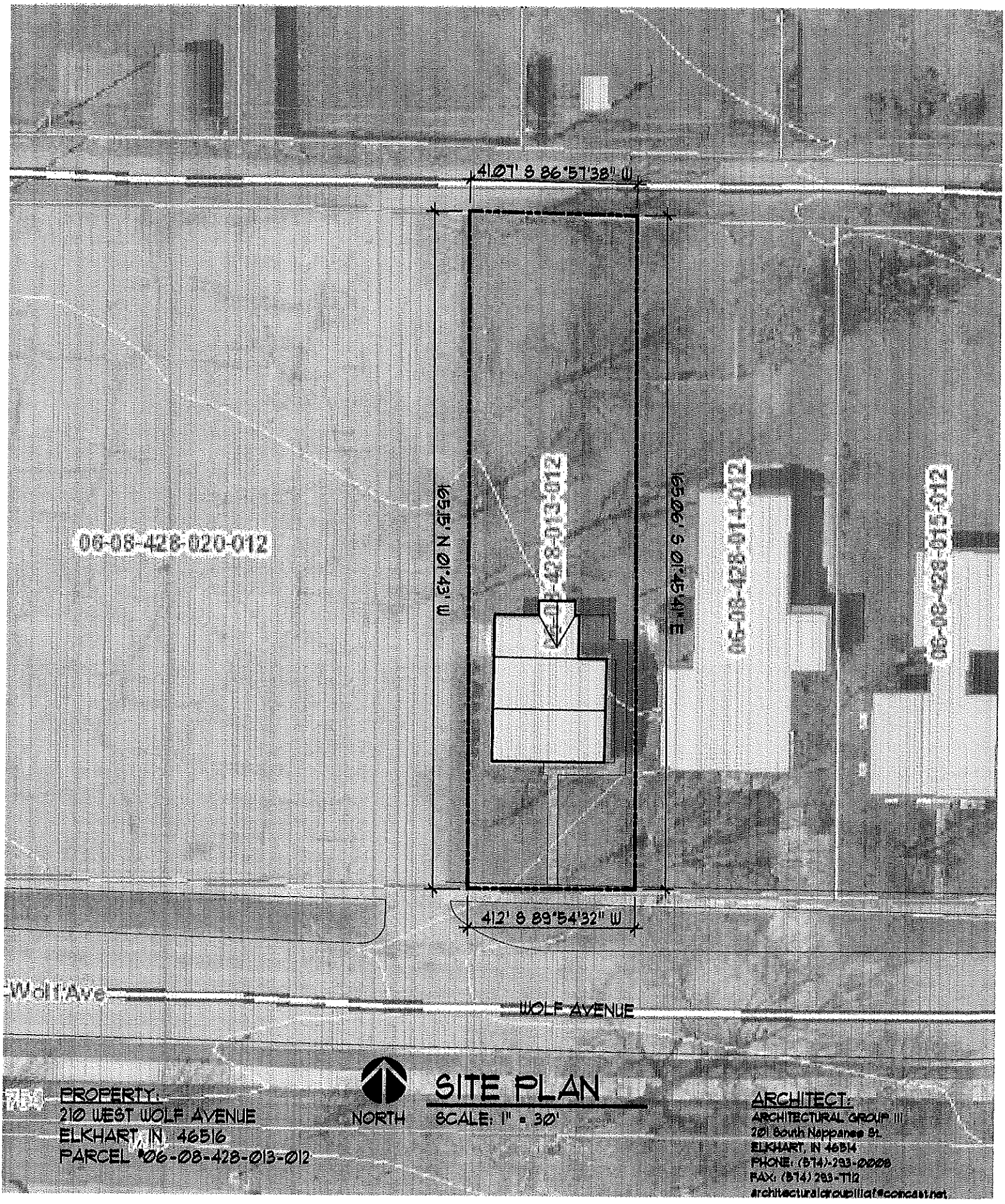
Signature of Property Owner Francisco S/ Maria Torres

Printed Name: Francisco Segura Maria Torres

Second Property Owner Maria Torres

Printed Name: Maria Torres

Contact Person: _____
Name: _____
Address: _____
Phone number where you can be reached: _____



SITE PLAN

SCALE: 1" = 30'

PROPERTY:
210 WEST WOLF AVENUE
ELKHART, IN 46516
PARCEL #06-08-428-013-012

ARCHITECT:
ARCHITECTURAL GROUP III
201 South Nappanee St.
ELKHART, IN 46514
PHONE: (574)293-0008
FAX: (574)293-7712
architecturalgroupiii@comcast.net

City of Elkhart

Staff Report

Planning & Zoning

Petition: 22-BZA-10

Petition Type: Developmental Variance

Date: March 10, 2022

Petitioner: Jimtown Corner LLC

Site Location: 3704 S Nappanee Street

Request: To vary from Section 26.7.D which requires a convenience store to have 6 parking spaces per 1,000 square feet. To allow the development to have 18 parking spaces a reduction of 7 spaces.

Existing Zoning: B-2 Community Business District

Size: +/- 1.9 acres

Thoroughfares: County Road 24 and S Nappanee Street

School District: Concord Community Schools

Utilities: Available and provided to site.

Surrounding Land Use & Zoning:

The properties to the south are zoned B-2 Community Business District. The properties to the east are outside the City limits. The properties to the north are zoned PUD Planned Unit Development built to the B-2 Community Business District standards. The property to the west across Nappanee Street is R-1 One Family Dwelling District.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The Comprehensive Plan calls for this area to develop commercially.

Staff Analysis

This property is proposed to develop as a Casey's gas station with a 4,300 convenience store and a 3,100 gas canopy. The proposed site plan shows the gas canopy running parallel with S Nappanee Street. Per the plan the applicant is proposing to have 18 parking spaces.

Per the zoning ordinance 6 parking spaces are required per 1,000 square feet of convenience retail. The ordinance would require 26 parking spaces and the request is for a reduction of 8 spaces. The petitioner states that a large portion of the building will not be open to the public. The zoning ordinance does not currently account for the parking under the canopy. The gas canopy allows for an additional 10 fueling spaces.

Recommendation

The Staff recommends **approval** of the request for the reduction of the landscape strip on the following findings of fact:

1. The approval **will not** be injurious to the public health, safety, morals or general welfare of the community as the site design will no cause congestion on the street;

2. The use and value of the area adjacent to the property **will not** be affected in a substantially adverse manner as the businesses along S Nappanee Street are developing commercially;

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 particular to the land involved and which are not applicable to other lands or structures in the same district as gas canopies provide additional parking areas;

5. The strict application of the terms of this Ordinance **will** result in practical difficulties in the use of the property as it would restrict the design of the site and require an excess of parking;

6. The special conditions and circumstances **do not** result from an action or inaction by the applicant as the zoning ordinance does not address canopy parking standards;

7. This property does not lie within a designated flood hazard area.

Photos

PETITION NUMBER: 22-BZA-10 Date Filed: 2/11/22

PETITION for APPEAL
to the BOARD of ZONING APPEALS

PETITION TYPE:

X Developmental Variance	____Special Exception	____Appeal from Staff Decision
____Use Variance	____Conditional Use	

Property Owner(s): Jimtown Corner LLC
Mailing Address: 23393 Shorelane, Elkhart, Indiana 46514
Phone: _____ email: [redacted]

Contact Person: Robert Sweet, McBride Dale Clarion - Agent for Casey's
Adress: 5721 Dragon Way, Suite 300, Cincinnati, OH 45227
Phone: (513) 441-7747 email: rsweet@mcbridedale.com

Subject Property Address: 3704 South Nappanee Street, Elkhart, Indiana 46514
Zoning: "B-2" Community Business District Present Use: Vacant
Proposed Use: Commercial - Convenience store and fuel sales

Checklist (√) for submittal of the Variance to the Board of Appeals docket: you must include:

- o One copy of the Appeal Letter signed in Ink by the owner of the property.
- o A completed Petition form signed by the legal owner of record.
- o If any other person other than the legal owner or the legal owner's attorney files the appeal, written authorization from the property owner must be supplied.
- o A full and accurate legal description of the property.
- o One to scale drawing of the property, smaller than 11" x 17". If larger than 11" x 17", 12 copies must be submitted.
- o Cash or check made payable to the City of Elkhart.

Optional: any supplementary information you wish to include.

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) (PRINT) ~~PROPERTY OWNER(S) (PRINT)~~ Robert Sweet - McBride Dale Clarion - Agent - Property Owner's Casey's

SIGNATURES _____

RECEIVED BY: _____ DATE: 2/11/22

Remit To:
CITY OF ELKHART –OFFICE OF PLANNING AND DEVELOPMENT - Planning Services Division
Municipal Building, 229 South Second Street, Elkhart, IN 46516

(staff to complete)

Ordinance Requirement: Section(s): _____
MAP #: _____ AREA: _____

McBride DALE CLARION

February 10, 2022

Mr. Ryan Smith, AICP
Planner I
City of Elkhart
229 South Second Street
Elkhart, Indiana 46516

Via Email & Overnight Delivery

RE: Casey's – 3704 South Nappanee Street – Parking Reduction Variance Request

Dear Ryan,

I am transmitting this letter and enclosed materials related to the proposed Casey's facility at 3704 South Nappanee Street, Elkhart, Indiana. As you are aware, Casey's proposes to develop the 1.9+/- acre property with a convenience store and fuel sales facility. Our team is working to address comments from the December 9, 2021 TRC review.

The proposed development is providing a total of 18 striped parking spaces for the project. The parking spaces are immediately adjacent to the western elevation of the convenience store and provide customer and employee parking for the use. Per Section 26.7.D, convenience retail uses are required to provide 6 parking spaces for 1,000 square feet of floor area of the use. The proposed convenience store is approximately 4,319 square feet in size and a total of 26 parking spaces are necessary. Casey's is requesting a variance to address the deficiency in the number of parking spaces.

To initiate the variance request, the following items are included for your review:

- A completed "Petition for Appeal to the Board of Zoning Appeals" form;
- A prepared appeal letter describing the request and addressing the applicable standards for the request;
- A legal description of the subject property;
- Twelve (12) full size and one (1) reduced site plan of the proposed development; and
- A filing fee in the amount of $300.00.

It is our understanding the application and supporting materials received by February 11, 2022 are eligible for the March 10, 2022 Board of Zoning Appeals meeting. Once the materials are reviewed, please confirm the project will be on the upcoming meeting agenda. For your information, the authorization letter and the appeal letter were signed by the property owner and the original documents were delivered to the City by Dan Brekke on February 10, 2022.

Our team appreciates your continued assistance with our project. Please review the enclosed materials and contact me immediately if additional information is needed.

Sincerely,

Robert C. Sweet

cc: Erik Nikkel – Casey's
Jeff Lonchor – CESO
MDC #4565

February 8, 2022

Ryan Smith, AICP
Planner I
City of Elkhart
229 South Second Street
Elkhart, Indiana 46516

RE: Authorization of Casey's Team

Dear Ryan:

Jimtown Corner, LLC currently owns the property at the southeast corner of Indiana 19 and County Road 24. Casey's has a contract to purchase approximately 1.9 acres of property from Parcel #20-06-19-301-020.000-09 with an address of 3704 South Nappanee Street. Casey's proposes to construct a convenience store and fueling facility on the property under contract. It is my understanding a variance is being requested to reduce the overall required number of parking spaces for the project.

I am authorizing Casey's and their design team consisting of McBride Dale Clarion and CESO to represent them in obtaining the necessary variances, developmental approvals, and permits associated with the proposed convenience store and fuel sales facility.

Please contact me immediately if additional information is necessary. I can be reached at ___-___-____ (office) or [redacted] (mobile). Jimtown Corner, LLC and Casey's are looking forward to working with the City of Elkhart on this project.

Sincerely,

Jimtown Corner, LLC

cc: Erik Nikkel / Jim Skoda, Casey's
Robert Sweet, McBride Dale Clarion
Jeff Lonchor, CESO

McBride DALE CLARION

To: Board of Zoning Appeals
City of Elkhart, Indiana

Date: February 9, 2022

Re: Casey's – 3704 Nappanee Street, Elkhart, IN – Parking Variance Request

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The undersigned appellant respectfully shows the Board:

1. I, Robert Sweet, am the authorized agent for Casey's, the prospective purchaser of the following described real estate located within the City of Elkhart, Elkhart County, State of Indiana, to-wit:
   - Property Address: 3704 South Nappanee Street, Elkhart, Indiana 46514
   - Parcel ID: Portion of 20-06-19-301-020.000-009 (Described as Part of Tract I)
   - Legal Description attached.

2. The above-described real estate presently has a zoning classification of "B-2" Community Business District under the Zoning Ordinance of the City of Elkhart.

3. Casey's proposes to develop the described property as follows: a 4,300 +/- square foot convenience store and a 3,100+/- square foot automobile fueling canopy over 5 double sided dispensers on site. A total of 18 striped parking spaces are proposed with the development. Access to the facility is proposed on the north and south sides of the property. Along CR-24 (Charlotte Avenue), a right-in/right-out driveway is proposed. A full access driveway is proposed onto the southern access road. Direct access from the site onto Indiana 19 (Nappanee Street) is not proposed. Landscaping, lighting, and signage is proposed with the development. Non-vehicular mobility improvements include sidewalk installation around the site, a sidewalk connection from the store to the main sidewalk, and a bicycle parking area for 10 bikes.

4. Casey's proposes to provide a total of 18 striped parking spaces for the project. Parking spaces are located along the front (western) elevation of the proposed convenience store. One ADA accessible space is provided near the main guest entrance. Striped parking spaces are measured at 9' x 20' and utilize bollards along the front of the convenience store for crash protection. The proposed development has 5 doubled sided fueling dispensers, which provide 10 fueling positions. The fueling positions are approximately the same size as striped parking spaces. A total of 28 combined vehicle spaces are provided for the development.

5. Section 26.7.D of the City of Elkhart Zoning Ordinance requires "convenience retail" uses to provide 6 parking spaces per 1,000 square feet. Per code requirements, Casey's is required to provide 26 parking spaces for the convenience store. Section 26.7.C.2.g allows bicycle parking spaces to be substituted for automobile spaces at a rate of 10

bicycle spaces for every 1 automobile space. The development proposes 10 bicycle spaces which reduces the overall requirement to 25 parking spaces.

6. Adherence to the requirement creates a unique hardship for the type of use. The proposed facility provides enough parking areas to accommodate 28 vehicles (18 striped spaces and 10 fueling positions). In Casey's experience, they have found guests utilize the fueling positions as parking spaces rather than use a striped space. Guests typically utilize these spaces, whether they are fueling or not, since they are closer to the main entrance. Guests feel that parking at fuel positions is more convenient as they do not have to back out of or into a space. Because Casey's has no seating, the amount of time guests spend parked at the property is very short which also results in less need for parking. In addition to the guest's parking habits, the overall square footage of the convenience store is 4,319 square feet. Approximately, 15% of the interior of the convenience store is utilized for coolers, storage, back house kitchen operations, hallways, and other non-public areas. Due to these reasons, Casey's is requesting the City consider the dispenser spaces as parking spaces.

7. The following statements are in support of the developmental variance:

   a. **The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**
   The overall reduction in the number of required parking spaces does not impact the public health, safety, morals, and welfare of the community. The number of proposed parking spaces is consistent with existing Casey's facilities in/around the City of Elkhart and in Elkhart County. These facilities function with sufficient on-site parking, even at peak times.

   b. **The use and value of the area adjacent to the property will not be affected in a substantially adverse manner.**
   The requested variance will not impact the value of the area or adjacent properties. The proposed development is located on a lot that will eventually be surrounded by commercial developments. Additionally, there are other competitors adjoining the property and along the IN-19/Nappanee Street corridor, where similar parking counts are found.

   c. **Granting the variance would be consistent with the intent and purpose of the Zoning Ordinance.**
   The Zoning Ordinance intends to allow the use of the property for its proposed use as a fueling station. Due to the existence of fueling pumps and a canopy required by such use, adding additional parking spaces to meet a minimum based on building square footage is much more challenging than non-fueling location. We believe the intent and purpose of the Zoning Ordinance is met by not reducing green spaces to add unnecessary parking spaces.

d. **Special conditions and circumstances exist which are peculiar to the land involved and which are not applicable other lands or structures in the same district.**
Guest's utilizing fueling positions as parking spaces is a peculiar issue that happens at these types of uses on a frequent basis. The proposed use is unique as it has a gas canopy in addition to the building, reducing the space and need for striped parking spaces as under canopy spaces tend to be used as parking spaces either after the guests completes the fueling transaction or if preferred spaces are unavailable. While these spaces are not striped, they do act as parking areas for guests.

e. **The strict application of the terms of the ordinance would deprive the applicant of the rights commonly enjoyed by other properties in the same district under the provisions of the Ordinance.**
The construction of additional parking spaces requires adjustments to the overall stormwater system and detention basin. The additional parking spaces will consume greenspace around the building and require the installation additional pavement. If parallel parking spaces are proposed, these spaces could block the underground storage tanks and cause hardship for refilling operations.

f. **The special conditions and circumstances do not result from any action or inaction by the applicant.**
The applicant operates over 4,000 stores throughout 9 states. Each of their facilities provide a similar parking count to the proposed development. The location is not located at an interstate interchange, which has the potential to generate more guest parking rather than refueling. The proposed number of parking spaces is consistent with similar uses along the corridor. Given the size of the facility, usable space of the convenience store, the location of the facility, and the available competition, Casey's feels the proposed number of parking spaces is adequate for the development.

g. **In designated flood hazard areas, the variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, or conflict with existing laws or ordinances.**
The proposed facility is not located in a flood hazard area.

WHEREFORE, Casey's respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested variance.

Signature of Property Owner: _____
Printed Name: Erik Nikkel, Casey's – Site Development Manager

Contact Person: Robert Sweet, McBride Dale Clarion – Agent for Casey's
Name: Robert Sweet
Address: 5721 Dragon Way, Suite 300, Cincinnati, OH 45227
Phone Number: (513) 441-7747
Fax Number: (513) 561-1615