

BOARD OF ZONING APPEALS

-MINUTES-

**Thursday, August 13, 2026 - Commenced at 6:01 P.M. & adjourned at 6:47 P.M.
City Council Chambers – Municipal Building**

MEMBERS PRESENT

Janet Evanega Rieckhoff
Phalene Leichtman
Rochali Newbill
Dave Osborne – *temporary appointee*

MEMBERS ABSENT

Ann Linley*

**Ann Linley attempted to join via Teams, but the sound was not working; she was not able to call her attendance or cast any votes.*

REPRESENTING THE PLANNING DEPARTMENT

Eric Trotter, Assistant Director for Planning
Kyle Anthony-Petter, Planner II
Chris Godlewski, Planner I

LEGAL DEPARTMENT

Maggie Marnocha

RECORDING SECRETARY

Raen Levendoski

ELECTION OF OFFICERS

Evanega Rieckhoff nominates Rochali Newbill as Board Secretary and calls for a vote. Voice vote carries.

APPROVAL TO AMEND AGENDA

Eric Trotter, Assistant Director for Planning, states that staff is requesting 26-UV-19 for 1125 Thornton Street be tabled until the September meeting.

Evanega Rieckhoff asks if they have to vote on it. Trotter states that they have to vote on the request to table and on the amended agenda.

Leichtman makes a motion to modify the agenda and Table 26-UV-19; Second by Osborne. Voice vote carries.

Leichtman makes a motion to approve the amended agenda; Second by Newbill. Voice vote carries.

APPROVAL OF MINUTES FOR JULY 9, 2026

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

APPROVAL OF PROOFS OF PUBLICATION

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

OPENING STATEMENT

Welcome to the August 13, 2026 meeting of the Elkhart City Board of Zoning Appeals.

If you are joining by video, your microphone will be automatically muted and your video will not be on when you enter the meeting. Please make sure you use both your first and last name. If you would like to speak, you must click on the “raise hand” action and wait to be called on in order to alert our IT attendant to unmute your speaker and turn on your video, which is necessary if you want to take part in the meeting. When you begin to speak, speak up and identify yourself before proceeding. When speaking: Petitioner, Public and Board members, make sure your mic is on and speak into it.

The purpose of this meeting is to review and consider all requests for relief from any standard in the Zoning Ordinance including variances, use variances, special exceptions, conditional use requests, and administrative appeals. All of the cases heard tonight will have a positive, negative, or no decision made by the board. If no decision is made, the petition will be set for another hearing. If a decision is made that you disagree with, either as the petitioner or an interested party, you must file for an appeal of the Board's decision no later than 30 days after the decision is made. That appeal must be filed in an appropriate court, not with the Board. 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. If you think you may potentially want to appeal a decision of this Board you must give this Board a written

appearance before the hearing. If you are here in person, a sign-in sheet is provided which will act as an appearance. You must sign the sheet if you want to speak and you must sign this sheet want to appeal our decision. A written petition that is set for the hearing tonight satisfies that requirement for the petitioner. Because the rules on appeal are statutory, and specific on what you can do, the Board recommends that you seek legal advice. If you are the petitioner, in addition to filing an appeal, you may first file a motion for rehearing within 14 days of the Board's decision.

With respect to the public comment portion of the meeting, public comments will be taken only on the specific petition being heard before the board. Unlike the City Council meeting, where there is time for anyone to comment on any issue, we do not have that at the BZA and comments will only be taken for or against the petition before the board.

OLD BUSINESS

None.

NEW BUSINESS

26-UV-18 PETITIONER IS MARY AND PETER GRABER PROPERTY IS LOCATED AT 3030 BENHAM AVE

Trotter presents.

The request is to vary from Section 6.2, Permitted Uses in the R-3, Two-Family Dwelling District to allow for the structure at 3030 Benham Avenue to be used for the purpose of providing 24-hour residential care and support for individuals on an ongoing basis – as a single residential unit.

Evanega Rieckhoff calls the petitioner forward.

Peter Graber, 6 Swanson Manor, appears in person. They started the process in 2005, when their daughter Emily who has cerebral palsy and other developmental issues, uses a wheelchair. They knew that she would eventually need to live on her own away from them, so they decided to build a home that they could live in with her, that had space for a caregiver to live in the home that later could be used as a home for a number of people like her. The common term is group home; technically it is not a group home, which is a special designation with the Division of Family and Social Services. It's a Supported Living Home, meaning the residents that live there each have a lease in the property, they share as roommates in that lease, and ADEC staff or whatever agency is working with them provides support for them to live independently. So, not quite living independently, but in a supported way where they couldn't live independently if they were by themselves. So that each person doesn't have to have a caregiver living with them, they can share a caregiver by living together in a setting like this. That was the idea when they started out, and they thought they had everything in place with the zoning and the permits and the way it was built, but as it turns out they did not. They are petitioning for allowance to use the property in this format, which is how it is already being used. There are currently seven residents, and there will be an eighth soon. There are eight bedrooms and three common areas in the house. They hope to be able to have this go through. It doesn't increase the number of people living there from the time they lived there, because they had family members, caregivers, and other people living there. The house is built for that, and the only issue is parking, but since none of the residents drive they're okay there.

Evanega Rieckhoff asks for questions from the Board.

Newbill asks about how many cars they can park there. Graber states that there are four garage spaces that are open, and more spaces in the driveway. Right now, Emily's van is parked in the garage and the staff members that come to work there park in the driveway. There is another van that the residents use parked in the garage.

Newbill states he is very familiar with the property, as he lives just around the corner, and it's well kept. Evanega Rieckhoff also states that the property is very nice.

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

STAFF ANALYSIS

The petitioner is requesting a use variance to allow for an existing structure to be used for the purpose of providing 24-hour residential care and support for individuals on an ongoing basis – as a single residential unit. The current living arrangement of 8 people in a sheltered living home type scenario is not a permitted use as referenced in R-3, Two-Family Dwelling District Section 6.2 Permitted Uses.

This request was brought to the attention of the Zoning staff when the landowner applied for rental registration. The home on Benham provides 24-hour care for residents in a permanent living situation. The adult child of the petitioner and seven (7) other individuals share living accommodation as a single-family unit. Care is provided with care providers coordinated through ADEC. The residents also share care givers within the home. This dwelling has and will maintain the appearance of a detached single-family dwelling.

Google street view of 3030 Benham



The dwelling was constructed in 2006. On the main level there are four (4) bedrooms and four (4) bedrooms on the lower level with a total six (6) full bathrooms. The home is equipped with an elevator and two living areas; one on the main and one on the lower level. The property also has a second, smaller kitchen area in the lower level as well.

The dwelling is in a mature neighborhood with adjacent structures ranging in age from 20 to 70 years old. This home, which is sited on the east side of Benham Avenue, shares a parcel size similar to that of its neighboring properties, approximately one-half acre. To the east of the dwelling, is land owned by the Elkhart Water Utility which houses a water tower supplying drinking water to the city. The west side of Benham is occupied by the campus of the Anabaptist Mennonite Biblical Seminary.

The current zoning ordinance does not have a use category that fits this specific type of living situation. The closest current comparison would be a Sheltered Living Home. The definition of Sheltered Living Home emphasizes a third party providing the care for the facility and individuals living in the dwelling rather than just providing support services to the residents living in the home.

This request offered the staff an opportunity to find the best fit in the zoning ordinance for an existing use. The appearance of the dwelling and operation of the home provide for a favorable and continued situation in this neighborhood. This process will allow the petitioner to bring the use into compliance.

Staff supports the request. The board is being asked to approve the use variance associated with this project.

STAFF RECOMMENDATION

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

1. The approval will not be injurious to the public health, safety, morals, or general welfare of the community because the structure will be inspected to ensure it is built to all applicable code requirements;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the majority of surrounding uses are residential and are residential structures;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because a small measure of relief when uniquely warranted;
4. Special conditions and circumstances do exist which are particular to the land involved and which are not applicable to other lands or structures in the same district because without board action this residential use on this parcel would not be permitted;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because providing for a specific guideline of this use is not easily achieved with both adjacent structures used residentially and an ownership of the dwelling as a private landowner not the managed care organization;

6. The special conditions and circumstances do result from any action or inaction by the applicant because the property owner actively applied for a rental registration in efforts to bring the property into compliance;
7. This property does not lie within a designated flood hazard area.

CONDITIONS

None.

Trotter states there were eight letters mailed with 2 returned in favor with one comment: "This will be an asset to the community."

Evanega Rieckhoff asks if there are questions from the Board for staff.

Leichtman asks about what happens with an ownership change. Trotter states that the use variance would stay with the property.

Evanega Rieckhoff calls for a motion.

Leichtman makes a motion to approve 26-UV-18 and adopt the petitioner's documents and presentation, together with the Staff's finding of fact, as the Board's findings of fact in the present petition, there are no conditions; Second by Newbill.

Leichtman – Yes

Newbill – Yes

Osborne – Yes

Evanega Rieckhoff – Yes

Motion carries.

26-BZA-18 PETITIONER IS GRANT STREET LLC PROPERTY IS LOCATED AT 2223 GRANT ST

Kyle Anthony-Petter, Planner II, presents.

The request is to vary from the requirements found in Section 26.7.C.7.o.ii.(a), Pedestrian Access, which states in part 'For new construction on vacant land, both a public sidewalk as per City standards and the required designated pedestrian connections shall be installed,' to allow for no public sidewalk.

Evanega Rieckhoff calls the petitioner forward.

Mike Shedivy, 2223 Grant St, appears in person. They just finished new construction there, and there's a requirement then to put in a sidewalk. Grant Street is about a half mile long street, and on that half mile long street, no other lots are going to be constructed going forward, so the whole street is built out. There are no sidewalks on any of the other properties on that section of Grant Street, on either side. His property is in the middle, so if he put in a sidewalk it would literally go nowhere. There are large growth trees and utilities that are along the roadway there that he would have to look at relocating. Shedivy asks for a variance to not put in a sidewalk and to match the other 30 properties on that half mile strip of Grant Street.

Evanega Rieckhoff asks for questions from the Board.

Newbill asks why this property wasn't grandfathered in. Leichtman states that she believes it's part of the new UDO stuff.

Evanega Rieckhoff agrees and states that in the new UDO they're looking at having sidewalks, and sidewalks are a great thing.

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

STAFF ANALYSIS

The petitioner wishes to vary from the requirements found in Section 26.7.C.7.o.ii.(a), Pedestrian Access, which states in part 'For new construction on vacant land, both a public sidewalk as per City standards and the required designated pedestrian connections shall be installed,' to allow for no public sidewalk.

The petitioner built a home, which was completed earlier this year, on one of the last remaining vacant tracts of land within the Bay View Subdivision south of East Bristol Street; there are two or three vacant lots remaining throughout the subdivision. This subdivision was established in the 1950's with most of the homes being built in the late 1950's. The site that is part of the request

is along Grant Street where no adjacent sidewalks currently exist. The nearest public sidewalk is along Grant Street on the west side of Osolo Road.

Staff recognize the concerns posed by the petitioner in their submittal material around the lack of sidewalks in the neighborhood and along Grant Street. However, this circumstance is not unlike many other circumstances in the city where development has occurred over time – even this subdivision is evidenced where sidewalks exist in some areas and not others. Sidewalks provide designated places for pedestrians and allow for the separation of pedestrians from automobile traffic. Part of living in a more urban area include the urban elements which include sidewalks.

In building on the work of Aspire Elkhart, the installation of sidewalks in our neighborhood connects with the four pillars of the initiative for Public Safety, Infrastructure, Quality of Place, and Neighborhoods in which the city is working hard to develop across the city among city departments. The connecting neighborhoods with sidewalks is part of a bigger plan of bringing improvement and increasing walkability.

Staff recommend denial of this variance.

STAFF RECOMMENDATION

The Staff recommends denial of the developmental variance to vary from the requirements found in Section 26.7.C.7.o.ii.(a), Pedestrian Access, which states in part ‘For new construction on vacant land, both a public sidewalk as per City standards and the required designated pedestrian connections shall be installed,’ to allow for no public sidewalk based on the following findings of fact:

1. The approval will be injurious to the public health, safety, morals or general welfare of the community because it is necessary to establish standards regulating off street parking, pedestrian movement and in part for the enhancement of the community;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the public sidewalk is part of the public infrastructure within the City;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because a measure of relief is allowed when warranted;
4. Special conditions and circumstances do not exist which are peculiar to the land involved and which are not applicable to other lands or structures in the same district because the public sidewalk in question could have been installed at the time of construction;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because the public sidewalk in question could have been installed at the time of construction;
6. The special conditions and circumstances do result from any action or inaction by the applicant because the petitioner chose not to install the sidewalk and file for relief from the requirement;
7. This property does not lie within a designated flood hazard area.

CONDITIONS

Board condition added.

Anthony-Petter states there were 26 letters mailed with 2 mailed responses in favor with comments.

Evanega Rieckhoff asks for clarification on if they were in favor of the petitioner. Anthony-Petter confirms.

The mailed comments were: “I am in favor of no sidewalks. The installation of a sidewalk would interfere with the trees next to the road and would also cut into the landscape hedges and water supply connection and sewer at our property. We do not wish to have a sidewalk installed on our side of the street,” and “There are no other sidewalks on the street between Osolo Road and Bristol Street. It would look out of place to add them to this one area only.”

There were also two phone calls received in favor with the following comments: “The rest of the block does not have sidewalks, it would look weird for one of the houses only to have one,” and “Does not want a sidewalk, it would have to remove trees and landscaping, the water line may be affected.”

Evanega Rieckhoff confirms that she drove through the area and there were no other sidewalks, and it is a beautiful green area. She asks the property owner if their property is close to the eagles nest in that area, and he states that their property is that property.

Leichtman asks if there are any plans set in motion for sidewalks to go in from the City right now. Anthony-Petter says that he is currently not aware of anything in that area at this moment.

Leichtman asks in the past when they've had these variance requests come to the Board, don't they put conditions in where the property owners are financially responsible when City installs a sidewalk. Evanega Rieckhoff states she doesn't think that's accurate.

Trotter states that the condition was that the property owners would not object when the City put in a sidewalk. Evanega Rieckhoff agrees.

Newbill asks if the property owner pays for the material and the City pays for the labor. Trotter states that in that circumstance, it would be a municipal project.

Newbill asks how many other vacant lots are close to this lot. Anthony-Petter states that the vacant lots are on East Bristol, not Grant Street. Evanega Rieckhoff asks Shedivy if they're the last ones to build there. Shedivy confirms off-mic.

Evanega Rieckhoff states the last time they did this, what they said was that the petitioners would not object if the City was going to pay for and put in sidewalks. Staff confirms. Evanega Rieckhoff isn't sure why they would need to do that, and asks staff if they would feel more comfortable if they did.

Trotter states that the reality is that they'll see more of these month by month. Evanega Rieckhoff acknowledges and states they will take them case-by-case, but her question still stands – does staff feel more comfortable with a condition if the Board agrees with the petitioner. Trotter states it doesn't make him feel better, but it is one way to address the situation that when the time comes that the municipality decides to do a public infrastructure project, that this homeowner would not object to that activity going through their public right-of-way.

Evanega Rieckhoff calls for a motion.

Osborne makes a motion to approve 26-BZA-18 and adopt the petitioner's documents and presentation as the Board's findings of fact in the present petition with no conditions; Second by Newbill.

The Board asks how they would bring it up for another vote if they want the condition.

Maggie Marnocha, Board Attorney, states that they have a motion and a second, they vote on that, and if it does not pass, they can have another motion with a condition.

Leichtman – No
Newbill – No
Osborne – Yes
Evanega Rieckhoff – No

Motion rejected.

Leichtman makes a motion to approve 26-BZA-18 and adopt the petitioner's documents and presentation as the Board's findings of fact in the present petition with the following conditions: if the municipality ever wants to do a sidewalk project there will be no objection from the owner; Second by Newbill.

Leichtman – Yes
Newbill – Yes
Osborne – Yes
Evanega Rieckhoff – Yes

Motion carries.

Leichtman asks if they need to have the petitioner agree to the terms. Evanega Rieckhoff states she doesn't think so.

STAFF ITEMS

Marnocha presents a request for reconsideration of a petition the Board heard at the last meeting. Marnocha would like to bring to the Board's attention that in the rules of procedure and the explanation that is given at the very beginning of the meeting. A petitioner can file a motion for a rehearing in two cases – first, if they want to allege that the Board's action was illegal, or second, if they are alleging that they discovered additional material following the hearing. This is the second reason that the petitioner addressed in their motion.

As they may remember, the people who came and spoke against the petition brought a number of pictures, diagrams, all of that. The petitioner was not privy to those items; the Board had them but the petitioner did not. After the hearing, the petitioner filed a Public Records Request, received those items, and that's when they discovered that they had actual photographs and diagrams that dispute what was presented. They're asking for a rehearing, they have to present the same petition, staff will have to go through and make a recommendation or any conditions, and they would be able at that time to present the additional information that they realized after the hearing. If the people who were opposed, they could have filed a petition opposing it and the petitioner would have had all of that information ahead of time, but they didn't.

Mr. Lankford, one of the petitioners, provided a number of things in his motion. Those can only be considered as far as if the Board is willing to grant the motion for the rehearing. None of those things are going to apply to the vote if the Board does give them a rehearing, unless the petitioners then present those documents. Those were sent to the Board only with regard to will the Board agree to the rehearing or not. No one is allowed to speak on it here. The only decision the Board will be making is yes they will rehear or no they will not.

Leichtman asks if it will be added on next month or today. Marnocha states it will not be heard today, it will be scheduled for the next meeting. Evanega Rieckhoff states it will have to be public. Marnocha confirms it will be Noticed exactly the same, the publication and everything.

Evanega Rieckhoff asks if what they get next month will include the rehearing documents. Marnocha says no, what they get next month will be the exact same petition as was submitted before, but at the hearing they can present all of these things. They will know what's being presented against them and be able to present their rebuttal.

Newbill states it sounds like they're starting all over. Marnocha confirms that it will be a totally new rehearing of the same petition.

Evanega Rieckhoff asks Staff to meet with Lankford before the meeting and try to get them to come up with something that the neighbors are going to agree with. Marnocha states that yes, they can.

Marnocha states they are not going to discuss the petition, the Board just needs to vote on the rehearing.

Newbill makes a motion to grant the rehearing of 26-BZA-17 for 12 Melrose Manor; Second by Leichtman.

Leichtman – Yes

Newbill – Yes

Osborne – Yes

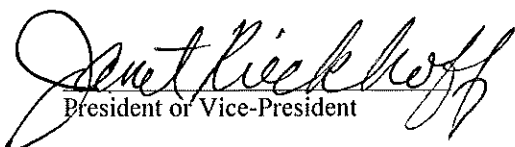
Evanega Rieckhoff – Yes

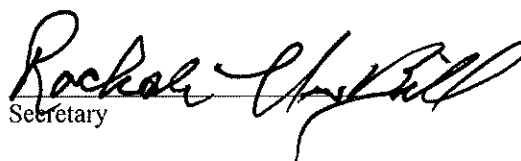
Motion carries.

Trotter introduces the new planner, Chris Godlewski and states the Board will be seeing him more often in the future than they see Trotter. The Board welcomes Godlewski.

ADJOURNMENT

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


President or Vice-President


Secretary