

AGENDA
CITY OF ELKHART BOARD OF ZONING APPEALS
THURSDAY, AUGUST 13, 2026 AT 6:00 P.M.
COUNCIL CHAMBERS – MUNICIPAL BUILDING

This meeting can also be accessed electronically via Teams.

To join, go to <https://teams.microsoft.com/meet/269580807161884?p=53nFI1h5YZzIHhM3CB> enter **269 580 807 161 884** as the meeting number and **"Xc3qe2gb"** as the password. Attendees may preregister or enter during the meeting. Comments and questions may be submitted to raen.levendoski@cityofelkhart.in.gov prior to the meeting.

1. **ROLL CALL**
2. **ELECTION OF OFFICERS**
3. **APPROVAL OF AGENDA**
4. **APPROVAL OF MINUTES JULY 9, 2026**
5. **APPROVAL OF PROOFS OF PUBLICATION**

6. **OLD BUSINESS**

None.

7. **NEW BUSINESS**

26-UV-18 PETITIONER IS MARY AND PETER GRABER

PROPERTY IS LOCATED AT 3030 BENHAM AVE

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.

26-UV-19 PETITIONER IS BRENT FIFER

PROPERTY IS LOCATED AT 1125 THORNTON ST

To vary from the uses found in Section 19.2, Permitted Uses in the M-2, General Manufacturing District to allow for an existing structure to be used as a single-family dwelling. Single-family dwellings are not a permitted use in the M-2 District.

To vary from the uses found in Section 4.2, Permitted Uses in the M-2, Heavy Manufacturing District to allow for the construction of a one (1) accessory dwelling unit.

To vary from Section 26.1.B.11, which states, 'No accessory structures shall be used for permanent or temporary habitation' to allow the accessory dwelling unit to be used for habitation."

26-BZA-18 PETITIONER IS GRANT STREET LLC

PROPERTY IS LOCATED AT 2223 GRANT ST

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.

8. **STAFF ITEMS**

Reconsideration of case **26-BZA-17** for **12 MELROSE MANOR**.

9. **ADJOURNMENT**

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

BOARD OF ZONING APPEALS MEMBERS

<u>Name</u>	<u>Term</u>	<u>Appointed By</u>
Janet Evanega-Rieckoff, President	February 2, 2024 – January 6, 2028	Mayor
Phalene Leichtman, Vice President	January 1, 2024 – December 31, 2027	Mayor
Ann Linley	January 1, 2026 – December 31, 2027	City Council
Rochali Newbill	January 1, 2026 – December 31, 2030	Plan Commission
Position Vacant	TBD	Mayor

BOARD OF ZONING APPEALS

-MINUTES-

**Thursday, July 9, 2026 - Commenced at 6:00 P.M. & adjourned at 7:55 P.M.
City Council Chambers – Municipal Building**

MEMBERS PRESENT

Janet Evanega Rieckhoff
Ann Linley
Rochali Newbill

MEMBERS ABSENT

Phalene Leichtman

REPRESENTING THE PLANNING DEPARTMENT

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

LEGAL DEPARTMENT

Maggie Marnocha

RECORDING SECRETARY

Raen Levendoski

APPROVAL TO AMEND AGENDA

Evanega Rieckhoff proposes an amendment to the agenda, to table case 26-BZA-10 until August.
Linley makes a motion to approve; Second by Newbill. Voice vote carries.

APPROVAL OF MINUTES FOR JUNE 11, 2026

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

APPROVAL OF PROOFS OF PUBLICATION

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

OPENING STATEMENT

Welcome to the July 9, 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 in an appropriate court. 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 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. 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.

Tonight, we have our minimum quorum of three members present, which may include temporary appointed Members. While we can conduct business with three members, any votes taken must be unanimous. Anything less than a unanimous vote will be considered No Action and the case will be reset for the next month.

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.

DRAFT

OLD BUSINESS

26-UV-11 PETITIONER IS LUIS & MARIA NAVARRETE PROPERTY IS LOCATED AT 2642 S MAIN ST

Eric Trotter, Assistant Director for Planning, presents.

The request is to vary from Section 19.2 Permitted Uses in the M-2, General Manufacturing District to allow for a Food Truck Park.

Evanega Rieckhoff calls the petitioner forward.

Maria Navarrete, 2642 S Main St, appears in person with a translator, Luis Navarrete. She states they want to rent the truck for the food.

Evanega Rieckhoff asks if they are going to own the food trucks or rent them out to all different people. Navarete states all different people and only rent, people are responsible for the food. Translator clarifies that each individual truck will be responsible for their own water, sewage, and electricity - it's a rental for them to park only.

Evanega Rieckhoff asks if they'll get their own permits from the Health Department, which is confirmed.

Evanega Rieckhoff asks for questions from the Board.

Newbill asks where the water and electricity come from. The translator responds it's their own water. Each individual truck has its own standby generator, as well as a freshwater tank and a containment tank for gray water.

Linley verifies that, since there is no proposal for additional lights, this is a dawn-to-dusk operation. Longer in summer, shorter in winter. This is confirmed.

Newbill asks if there will be places for chairs and tables. Translator confirms there will be no tables or chairs - you come and get your food, then leave.

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 the vacant property in the 2600 block of South Main Street to be used for a food truck park. Section 19.2 Permitted Uses in the M-2, General Manufacturing District does not permit food truck parks.

The petitioner would like to use the currently vacant land on S Main Street for a food truck park. The land had previously been used for a dress shop until around 2008 when the building was demolished and has been vacant since that time. The petitioner submitted a site plan for the hearing depicting areas of open space, food truck parking and customer parking.

Currently the city does not have development regulations for food trucks or food truck parks. The State of Indiana (410 IAC 7-24) requires minimum standards to be maintained for basic hygiene, potable water, wastewater, refrigeration, ventilation, where the food is prepared (requires a permitted commissary) and that the food truck must return to the commissary daily. The state also regulates and has criteria for equipment, floors, walls and ceilings within the food truck. These requirements are the minimum food safety standards related to food trucks. It is the obligation of the local municipality to establish more restrictive food safety standards and regulations that speak to where the food truck use is permitted.

There are three (3) parcels (50' x 180') together that make up the area of the request; with two of the three parcels paved. Staff visited the site (May 28, 2026) and based on the site visit; staff has a number of questions and concerns related to the use. The first thing we noticed was there was a food truck operating with a sign that was utilizing a portable generator. It was located on the southern part of the middle parcel on what appeared to be the foundation of the building that was razed a number of years ago. What seeing that food truck did



was to allow staff to understand the actual scale and what a potential number of food trucks that could be placed on the property.

In looking at the diagram submitted by the petitioner, customer parking would be located primarily on the two paved parcels with parking being placed along the sides leaving the middle open for a travel lane. In the pictures taken by staff below, staff parked in the area where parking is to take place. There is only room for two rows of parking spaces and two travel lanes. The petitioner's diagram also shows four (4) food trucks in the rear of the property in a half circle. In staff's opinion, there is sufficient room to accommodate four (4) trucks.

Staff met with the petitioner via a Teams meeting on July 9th to discuss the site plan and have staff questions about the site plan and general operation of the Food Truck park answered. Food trucks will be parked during the week and weekends during the hours of natural light. No tables or chairs will be installed, allowing the food truck to only be used for carryout or to-go service. There were discussions about updating the site plan to remove the 6 parking spaces down the middle of the site to improve traffic flow.



Photos are of the location of proposed parking. Note sufficient room for two rows plus a driving aisle.

The list of questions or additional information needed is as follows (responses *italicized*):

- A scale drawing with the parking and trucks placed so staff can better understand the programming for the proposed use. The plan should also contemplate ingress and egress from the property. Currently there is only one curb cut – located on the northernmost lot. *All parties have agreed that the site plan will still need to be updated to remove the center aisle parking.*
- A plan of how the property owner will monitor the site for security, parking, garbage disposal and how the southern lot that is not paved will be blocked so no parking occurs in that area. *The owners live close and will come by daily.*
- How and where will the garbage be collected? *The individual food truck will be responsible for placing trash cans in front of their food trucks including the removal of trash cans at the end of the day with local family members picking up trash and litter daily.*
- Will there be any additional lighting proposed to be installed? *No additional lighting is proposed.*
- Will there be a request made for connection to municipal utilities for water and sanitary sewer? *No request for connection to water or sanitary sewer is being asked as no underground is being proposed.*
- With the potential for large numbers of people – restrooms are a needed discussion point. The number and density of use will create a destination. *Should not be a necessary as the food is all take-away*
- How will staff know if the food trucks that are placed have met the food service (health department) reporting and inspection requirements? *Staff will request that a copy of the health department report is given for each truck to the Planning department.*
- Where is the commissary that is required to be utilized located? Food must come from a permitted commissary. *All food trucks will go to commissary to cook and unload supplies at the end of the day.*
- All food trucks must have Peddler's license obtained from the City of Elkhart Controller's office.

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 property will only be used during the day;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because this use as a food truck park – this use is less intense than most manufacturing use and is more consistent with the commercial uses across the street;

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 food truck park would not be permitted on this site;
5. The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property because establishing a permitted M use would be challenging given the depth of the property and the need for most modern industrial users to have more area to navigate truck traffic for docks and deliveries;
6. The special conditions and circumstances do not result from an action or inaction by the applicant because the zoning classification has been in place for decades and no food truck park has been established;
7. This property does not lie within a designated flood hazard area.

CONDITIONS

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

1. Submittal of the project for a modified Technical Review – to ensure compliance with developmental standards for the Public Works and Planning Departments.
2. The approval is for a term of one (1) year and must be reheard as a staff item in July 2027.

Trotter states there were 25 letters mailed with 2 responses in favor with no comment.

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

Linley asks if the approval for a term of one year is on the applicant and not the food trucks, even though they are the lessees. Trotter confirms.

Evanega Rieckhoff asks if staff spoke with the applicants about signage – will there be any signage for this? Trotter states they did not, but that will be covered with tech review. They anticipate the menu boards on the food trucks as well as sandwich board signs are what will be utilized. It was the desire of the petitioner, represented by their daughter, that they are not wanting to make improvements to the property. This is just a spot for individuals to park and conduct business. Evanega Rieckhoff clarifies there won't be any signage that says "Food Trucks Here", which Trotter confirms.

Evanega Rieckhoff calls for a motion.

Newbill makes a motion to approve 26-UV-11 and adopt the petitioner's documents and presentation, together with the Staff's finding of fact, as the Board's findings of fact in the present petition and the conditions stated in the Staff Report; Second by Linley.

Linley – Yes

Newbill – Yes

Evanega Rieckhoff – Yes

Motion carries.

NEW BUSINESS

26-X-02 PETITIONER IS NEW LIFE IN CHRIST MINISTRIES PROPERTY IS LOCATED AT 1842 E BRISTOL ST

Kyle Anthony-Petter, Planner II, presents.

The request is per Section 11.3.A, Special Exception Uses in the B-1 Neighborhood Business District to allow for the establishment of a new church at 1842 East Bristol Street.

Evanega Rieckhoff calls the petitioner forward.

Donnie Greathouse, 16746 Donnell Lake St, Vandalia, Michigan, appears in person. Greathouse states that they purchased the old Key Bank at 1842 East Bristol Street. The property has been renovated, so it's a big open room. What they want to do is have church services on Sunday, starting at 10:30am for about an hour and a half, and a Wednesday night service from 6-7pm. They also have prayers on Saturday morning and Tuesday night, from 6-7pm as well. There are a couple things he wants to address – there are 20 parking stalls owned with the property. The old drive-thru area is not being used as parking, and he was told they could probably put 8 more parking stalls there if they needed to. They set chairs up in the big, open facility room, with about 60 chairs set up comfortably. There is an office in the building to the left, and to the right a nursery for young mothers. There are also two restrooms and a small kitchenette. That's their layout and what they're looking to do, to spread the good news of Jesus Christ to the community.

Evanega Rieckhoff asks for questions from the Board, seeing none she opens for public comments to speak in favor.

Carson Greathouse, 16746 Donnell Lake Street, Vandalia, Michigan, appears in person. He states that their ministry has touched a lot of people within and outside this community. If they could use the building for church, it would help not only their family and congregation, but also the community. In Michigan they provide out of school and summer programs for families, and without this church and foundation everything is in void. He hopes the Board considers this proposal.

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

STAFF ANALYSIS

The request is per 11.3, Special Exception Uses, (11.3 A) Churches to allow for the establishment of a new church at 1842 East Bristol Street.

The petitioner has purchased a commercial building with the intent of remodeling the building to use as a church. This building was previously used as a bank, and the applicant is proposing some interior remodeling, which is complete, to open the floor plan (all of that work had been done prior) to accommodate the new use as a place of worship.

The floor plans provided show several existing offices that will be removed to create a large gathering/congregation space. Some of the current office space will remain. At this time, no proposals were made for changes to the exterior of the building.

The site also has twenty parking spaces. Based on current parking requirements, the current parking configurations will accommodate around 100 people, which is approximately four seats per one parking spot.

STAFF RECOMMENDATION

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

1. The Special Exception is so defined, located and proposed to be operated that the public health, safety and welfare will be protected;
2. The Special Exception will not reduce the values of other properties in its immediate vicinity because there will be no exterior changes to the existing building;
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. The petitioner shall submit project for a modified staff Technical Review to ensure all developmental requirements have been met.

Anthony-Petter adds that the Plan Commission did provide a Due Pass recommendation.

Anthony-Petter states there were 25 letters mailed and one phone call received, not in favor, with the following comment: Owns the shopping center behind this property and is opposed to the Use Variance. They are concerned about the church having adequate parking and the church's operating hours, which are very different from the previous business.

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

Evanega Rieckhoff asks what kind of signage they will have. Anthony-Petter states that no signage has been proposed, but it is expected to match what would be found in the B-1 district.

Evanega Rieckhoff asks the petitioner to look at sign requirements, because they are very specific.

Greathouse states that they looked into signage, and what was previously there is what they could use, so they were not looking for any petitioning on any type of signage. What was previously there is bigger than what they were considering. Evanega Rieckhoff states that includes temporary signage as well and asks them to look at the rules for that.

Newbill asks if their hours are usually when other businesses are closed. Greathouse confirms and says service starts at 10:30 on Sundays. Saturday morning breakfast is usually small, then they have 6-7 on Wednesday night that's always there. Those businesses are usually closed at those times. There is a strip along the driveway that is privately owned and trying to be sold to them for additional parking space that they don't need. If they outgrow the building or parking, they do have another facility in Michigan if they needed to do something temporary.

Linley asks staff if the special exception stays with the current owners, and if the property sells it goes away. Trotter states that every subsequent user would have to file for special exception, it does not run with the land.

Evanega Rieckhoff calls for a motion.

Newbill makes a motion to approve 26-X-02 and adopt the petitioner's documents and presentation, together with the Staff's finding of fact, as the Board's findings of fact in the present petition and adopt the one condition; Second by Linley.

Linley – Yes

Newbill – Yes

Evanega Rieckhoff – Yes

Motion carries.

**26-UV-17 PETITIONER IS JOHN ROBINIA
PROPERTY IS LOCATED AT 2603 MORTON AVE**

Anthony-Petter presents.

The request is to vary from Section 5.2, Permitted Uses in the R-2, One-Family Dwelling District to allow for a Dog Grooming Salon.

Evanega Rieckhoff calls the petitioner forward.

John and Tracy Robinia, 2603 Morton Ave, appear in person. Tracy Robinia states she has owned a grooming salon since 2026 [sic]. They are currently on Bristol Street in a residential building with a variance. That building has been sold, so they are looking to be able to groom in their home. They would be the only person grooming, no longer having any employees. They have off-street parking, which was one thing they did not state in the petition, but they do have two driveways, including a separate spot for people to drop their dogs off. They book by appointment only, clients are there for maybe 5 minutes – drop off, take the dogs in, groom them, texts when about 15 minutes from being done or they set a time for pickup, and they pick up their dog, then Robinia moves on to the next one. They usually do about 4-5 groomings a day.

Evanega Rieckhoff asks for questions from the Board.

Newbill states he did not see any fencing and asks do the animals stay inside? Robinia responds that yes, they have no kenneling, the animals are not even there long enough to go to the restroom – it's just an hour or two. John Robinia states that they will have crates for them while they're inside. Tracy Robinia responds they don't need to be outside and are not staying for any long period of time.

Evanega Rieckhoff noticed a little portable sign out front. Robinia asks if that has to go. Evanega Rieckhoff states there are restrictions for how long that can stay but does not remember how long it is. John Robinia states that they'll just stick an "Open" sign in the window. Tracy Robinia agrees and said it's not a problem, especially since everyone is by appointment. John states she has had all her clients for a very long time.

Trotter states that the sign regulations are related to the size of the sign, not what is on it. So, if it meets their requirements, they would pull a zoning clearance for the sign.

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 to vary from Section 5.2, Permitted Uses in the R-2, One-Family Dwelling District to allow the property at 2603 Morton Avenue to be used for a Dog Grooming Salon.

The homeowner is requesting board action to use a portion of their home as a dog grooming salon. Dog grooming is not listed by use or definition in the current zoning ordinance. Pet stores, animal hospitals and kennels are found in the B-3 and B-2 districts of the zoning ordinance respectively. Staff looked at the pet grooming request as a service business; less intense than a pet store, kennel, or animal hospital, all of which are located along busier streets and typically a higher volume business. The proposed grooming business is accessory to the primary use, which is a residential structure.

The petitioner is looking to downsize their business at 1227 East Bristol Street and move to their home. Business hours will be during the day with approximately four to five clients per day. Pick up and drop off parking will occur in the two driveways.

The petitioner assures staff that the animals that come to the business will be contained in the interior of the home. There will be no outdoor kenneling, no overnight boarding, and no exterior alterations changes to the residential appearance of the property. Based on assessor records, the house is 1,110 square feet, built around 1952.

The proposed use as dog grooming will be by appointment only. The property is not located on a major thoroughfare and is surrounded by low density residential uses; a Dog Grooming Salon will have little to no impact on the adjacent residential properties.

STAFF RECOMMENDATION

The Staff recommends approval of the use variance for a Dog Grooming Salon based on the following findings of fact:

1. The approval will not be injurious to the public health, safety, morals or general welfare of the community because the proposed use as a dog grooming salon is a low intensity use and will not have an impact to the surrounding neighborhood;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the use is low impact that will not create any noise or odor and will have no substantive exterior changes to the house;
3. The strict application of the terms of this Ordinance will not constitute an unnecessary hardship if applied to the property for which the variance is sought because this use is low intensity and will not be a nuisance for surrounding properties in the form of noise, smoke or odor;
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 the use as a dog grooming salon on this parcel would not be permitted;
5. The strict application of the terms of this Ordinance would not result in practical difficulties in the use of the property because establishing a permitted R-2 use could be established on this site;
6. The special conditions and circumstances do not result from an action or inaction by the applicant as the use does not currently exist;
7. This property does not lie within a designated flood hazard area.

CONDITIONS

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

1. Petitioner shall not board animals/pets overnight or for extended periods of time.
2. Any interior modifications that are required to support the proposed dog grooming salon – the petitioner shall obtain the proper permits from the building department.
3. Any signage shall be limited to a temporary yard sign. Any permanent signage must be heard before this body as a developmental variance.

Anthony-Petter states there were 35 letters mailed with none returned.

Evanega Rieckhoff asks if there are questions from the Board for staff, seeing none she calls for a motion.

Newbill makes a motion to approve 26-UV-17 and adopt the petitioner's documents and presentation, together with the Staff's finding of fact, as the Board's findings of fact in the present petition and adopt the three conditions as stated; Second by Linley.

Linley – Yes

Newbill – Yes

Evanega Rieckhoff – Yes

Motion carries.

**26-BZA-15 PETITIONER IS KENNETH A KNOX AND WANDA L KNOX
PROPERTY IS LOCATED AT 2901 HOMER AVE**

Trotter presents.

The request is to vary from Section 26.1.B.8.a, which states in part, 'Accessory buildings on property occupied by a one or two family residential use shall be limited to a maximum floor area of seven hundred twenty (720) square feet for the largest structure, with a maximum total of eight hundred forty (840) square feet for all accessory buildings combined', to allow for the proposed accessory building at 1152 square feet, where the maximum for any one accessory structure is 720 square feet, a variance of 432 square feet. To also vary from the maximum total area for all accessory structures of 840 square feet to allow for a total area for all accessory structures of 1,568 square feet, a variance of 728 square feet.

Also, to vary from Section 26.1.B.3, which states in part, 'All accessory structures shall not be located closer than three (3) feet to an interior side yard lot line and not closer than five (5) feet to the rear lot line', to allow for variance of three (3) feet to an interior side yard lot line and five (5) feet rear lot line for a zero (0) setback for both.

Evanega Rieckhoff calls the petitioner forward.

Gary Potts, Professional Permits, 58171 Dragonfly Ct, Osceola, appears in person on behalf of Ken and Wanda Knox, who are present if required to answer any questions that Potts cannot answer. The Knox's have a garage that they demolished with the hopes of rebuilding it. The garage had been in place since 1983 and was getting dilapidated to the point where it was no longer safe. They pulled a demolition permit, and had it demolished, then applied for a permit to get the garage rebuilt and were told at that time that it was too large and they would need a variance.

Evanega Rieckhoff asks for questions from the Board.

Evanega Rieckhoff states she drove by and saw where the garage was demolished, but there are two more buildings – a little shed and another building. Potts states that there is another building behind the home. Evanega Rieckhoff asks if that will stay in addition to the garage they're going to build. Potts states that the garage behind the home will stay, and the small shed next to the driveway will be demolished when the new garage is built. Evanega Rieckhoff asks for confirmation that there will be two large garages. Potts confirms there will be two structures. Evanega Rieckhoff asks the property owners if they're aware of only two structures remaining, they confirm off-mic.

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 seeking to vary from Section 26.1.B.8.a, which states in part, 'Accessory buildings on property occupied by a one or two family residential use shall be limited to a maximum floor area of seven hundred twenty (720) square feet for the largest structure, with a maximum total of eight hundred forty (840) square feet for all accessory buildings combined', to allow for the proposed accessory building at 1152 square feet, where the maximum for any one accessory structure is 720 square feet, a variance of 432 square feet. To also vary from the maximum total area for all accessory structures of 840 square feet to allow for a total area for all accessory structures of 1,568 square feet, a variance of 728 square feet.

To also vary from Section 26.1.B.3, which states in part, 'An accessory structure shall not be located closer than three (3) feet to an interior side yard lot line and not closer than five (5) feet to the rear lot line', to allow for variance of three (3) feet to an interior side yard lot line and five (5) feet rear lot line for a zero (0) setback for both.

The petitioner is proposing to rebuild an existing non-conforming garage. Based on conversations and photo evidence provided to staff from the homeowner, the garage structure that was torn down had extensive rot and the only viable option was to demolish the structure and rebuild new. The demolition of the garage structure occurred in January 2026. Permits to rebuild the garage were submitted on April 23, 2026. The following day upon examination of the submitted material, staff let the applicant know the proposed garage did not meet development standards for size. The applicant filed with the board on June 3, 2026.

The petitioner's agent filed the variance material on behalf of the property owner. At the time the petition material was being completed, the agent did not have access to the survey. To err on the side of caution, the petition was filed requesting a 0-foot setback for the side and rear setback. Subsequent to the filing, the homeowner found the survey which indicated a 5.30-foot rear setback and a 10.20-foot side setback. This information will eliminate the need for the setback variance as the new garage structure could be built in the same location and be compliant.

The next part of the variance is the size of the proposed garage structure. What has been requested does not meet the current requirements in terms of area – 1,152 square feet. Staff has been able to locate the original permit for the garage that was torn down – obtained in 1983. The dimensions referenced for the garage were – 24 x 46 = 1,104 square feet. It is reasonable to assume for the property owner that a permitted garage would be eligible for replacement with another permitted garage. Staff understand that thought process. However, regulations do change over time and in this case the size allowances are smaller for garages (accessory structures) currently.

Because the original garage was permitted and has not caused harm to surrounding properties, staff is willing to recommend in favor of replacing the garage structure with an area of 1,104 square feet. And based on the recommendation, the need for the third accessory structure will not be necessary as the petitioner will remove the third accessory structure.

Staff recommends approval of this variance.

Trotter highlights one thing before making the recommendation. On the survey, it was confirmed that the garage that was torn down was 1,152 square feet, so that does change a little bit. The last paragraph was supposed to be amended before sending out the staff report. Staff is fine with the 1,152 square feet because that was what was there before.

STAFF RECOMMENDATION

The Staff recommends approval of the developmental variances to vary from the requirements found in Section 26.1.B.4 Accessory Structures in General Provisions which states in part, 'Accessory buildings on property occupied by a one or two family residential use shall be limited to a maximum floor area of seven hundred twenty (720) square feet for the largest structure, with a maximum total of eight hundred forty (840) square feet for all accessory buildings combined', to allow for the proposed accessory building at 1152 square feet, where the maximum for any one accessory structure is 720 square feet, a variance of 432 square feet. To also vary from Section 26.1.B.3, which states in part, 'An accessory structure shall not be located closer than three (3) feet to an interior side yard lot line and not closer than five (5) feet to the rear lot line', to allow for variance of three (3) feet to an interior side yard lot line and five (5) feet rear lot line for a zero (0) setback 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 garage will be constructed and 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 garage will match the previously removed garage in height and size;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because a measure of relief is allowed when warranted;
4. Special conditions and circumstances do exist which are peculiar to the land involved and which are not applicable to other lands or structures in the same district because the garage is in the same location as the previous garage;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because without some measure of relief the size of the garage would not be permitted;
6. The special conditions and circumstances do not result from any action or inaction by the applicant because the property owner has not started construction;
7. This property does not lie within a designated flood area.

CONDITIONS

None.

Trotter states there were 36 letters mailed with one returned in favor with the following comment: They are in favor of the zoning variance request. Ken and Wanda have been wonderful neighbors for over 20 years; they have been anchors in the neighborhood. This request to replace the old garage with one of similar size. Other property owners have also received variances for improvements and new construction; they hope this request will be approved.

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

Evanega Rieckhoff clarifies that there are no conditions. Trotter confirms.

Linley asks if she is right in understanding that the recommendation calling for variations from the setbacks isn't necessary. Trotter confirms and states that they can remove that part from their motion – it would be for size only. Linley states it would only be a variance for the current size. Trotter confirms and states it is because they did receive the survey that confirmed that it does meet the setback requirements. Linley asks if it is replacing exact same size. Trotter confirms.

Evanega Rieckhoff asks about the other large structure they have and the square footage for that – in relation to the total square footage. Trotter states that the 1500 is the total of all two accessory structures, with one of the current three structures being removed. Evanega Rieckhoff asks if the structure that is staying is just a few hundred square feet. Trotter confirms and states that it is a small single-car garage.

Evanega Rieckhoff calls for a motion.

Newbill makes a motion to approve 26-BZA-15 and adopt the petitioner's documents and presentation, together with the Staff's finding of fact, as the Board's findings of fact in the present petition; Second by Linley.

Linley – Yes

Newbill – Yes

Evanega Rieckhoff – Yes

Motion carries.

26-BZA-16 PETITIONER IS HMS ELKHART LLC PROPERTY IS LOCATED AT 1514 W LUSHER AVE

Anthony-Petter presents.

The request is the property owner wishes to replace an existing non-conforming six (6) foot fence with a new ten (10) foot fence. The request is to vary from Section 26.4.D.1, Fence Requirements for Fences around Junk Yards, Motor Vehicle Impoundment Yards, Scrap or Recycling Yards or Motor Vehicle Wrecking Yards, which states in part that, 'An opaque fence, a minimum of eight (8) feet in height, constructed of painted or treated wood, painted or textured block or brick, and set back fifteen (15) feet or more inside the lot lines.' And 'In a front or corner side yard the fence shall not project beyond the front façade of buildings located on adjacent lots on the same side of the street', to allow for a chain link fence (at the same location as the existing) beyond the front façade of the structure, at the property line with a zero (0) foot setback. To also vary from Section 26.4.D.3.a, of Fence Requirements for Fences around Junk Yards, Motor Vehicle Impoundment Yards, Scrap or Recycling Yards or Motor Vehicle Wrecking Yards, which states in part, 'A landscape strip shall be maintained between the fence and property line in the following yards: a. All front and corner side yards', to allow for the same replacement fence at a zero (0) foot setback with no landscape strip.

Evanega Rieckhoff calls the petitioner forward.

Crystal Welsh, Abonmarche, 303 River Race Dr, appears in person. Mark Dokey, owner and operator of Heavy Metal Scrap is also present for any questions. Welsh states that this is a long-term business, that has had multiple owners. The Dokey's acquired it in the 2000s after the previous scrapyard went out of business. Dokey inherited a lot of issues with this site, including the non-conforming 6-foot chain link fence. There have been security issues - people are vandalizing and damaging the fence, entering the scrapyard. This new opaque fence will meet the requirements of the zoning ordinance; it will be an aesthetic improvement for the neighborhood, as well. The only issue they run into is that this is an existing operation and those buildings and areas have been there for quite some time. Two major areas of concern that eliminate their ability to move the fence back and install the landscaping have to do with a large concrete area and the stormwater retention area. By pushing the fence into the stormwater retention area, it would complicate and make the system no longer usable. When discussing with the property owner and staff, the best solution was to put the fence in the same location but upgrade the materials to meet the city requirements.

Evanega Rieckhoff states she drove by and it's a big place of business. She feels it is imperative that they keep kids and vandals out of there. Someone is going to get hurt if they get in there, so it will be good to beef up the fence. She also understands why they cannot do the setbacks.

Evanega Rieckhoff asks for questions from the Board. Seeing none, she 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 seeking to vary from Section 26.4.D.1, Fence Requirements for Fences around Junk Yards, Motor Vehicle Impoundment Yards, Scrap or Recycling Yards or Motor Vehicle Wrecking Yards, which states in part that, 'An opaque fence, a minimum of eight (8) feet in height, constructed of painted or treated wood, painted or textured block or brick, and set back fifteen (15) feet or more inside the lot lines.' And 'In a front or corner side yard the fence shall not project beyond the front façade of buildings located on adjacent lots on the same side of the street', to allow for a chain link fence (at the same location as the existing) beyond the front façade of the structure, at the property line with a zero (0) foot setback.

The petitioner has had numerous issues with people gaining entry to the property by cutting through the existing fence and stealing scrap material from inside of the fenced campus. Currently, the petitioner has had to place large shipping containers directly inside the current fence to prevent entry onto the property.

The first part of the variance is for the location – placement at a zero (0) foot setback at the property line. The petitioner is requesting to replace an existing non-conforming 6-foot-tall chain link with a ten (10) foot solid metal fence along 14th Street and West Wolf Avenue. The facility is used as a scrap metal recycling center. A fence has existed on the site in the front yard since at least 1978, but staff was unable to find any previous board action for the fence. A Zoning Clearance was applied for on May 5th and was put on hold by staff on May 7th as it was determined a developmental variance was needed for the fence to be installed matching the request.

The second part of the variance is the requirement of a landscape strip between the property line and the security fence. Fences around Junk Yards, Motor Vehicle Impoundment Yards, Scrap or Recycling Yards or Motor Vehicle Wrecking Yards require that a landscape strip shall be maintained between the fence and property line in the front and corner side yards. This proposal will not allow for the required landscape strip.

The proposed fence will be solid metal; similar in appearance to the fence found along the Oakland Street frontage. The location request is limited by two significant existing conditions. There is a large retention pond just west of the fence location which limits the placement options and there is a large concrete pad which also makes the placement challenging. In light of these conditions existing for some time, that prevent an alternate placement, staff is in agreement with the petitioner's request for the new solid metal fence to be located in the same place, at a zero (0) foot setback, as the existing six (6) foot chain link fence.

STAFF RECOMMENDATION

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

1. The approval will not be injurious to the public health, safety, morals or general welfare of the community because the fence will be built and installed in a workmanlike manner;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because a fence is a typical element found in industrial districts. The fences location should not affect the use and value of an adjacent property;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because a measure of relief is allowed when warranted;
4. Special conditions and circumstances do exist as the proposed fence is to be installed on the subject property at the property line because of the existing retention pond and concrete placed adjacent to the property line;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because without the proposed fence, which provides for some measure of security, the property owner would be limited by what he could store outside; therefore greatly limiting the viability of the property for the intended use;

6. The special conditions and circumstances do not result from an action or inaction by the applicant as the fence has not yet been installed;
7. This property does not lie within a designated flood hazard area.

CONDITIONS

None.

Anthony-Petters states there were 25 letters mailed with zero responses.

Evanega Rieckhoff asks if there are questions from the Board for staff, seeing none she asks staff if they need to do two motions – one for each variance, or if they can do it all on one. Trotter states they can do it all on one, as long as it is clear.

Evanega Rieckhoff calls for a motion.

Newbill makes a motion to approve 26-BZA-16 and adopt the petitioner's documents and presentation, together with the Staff's finding of fact, as the Board's findings of fact in the present petition; Second by Linley.

Trotter states that for clarification, the motion and second is for both 26.4.D.1 and 26.4.D.3.a. As long as it is in the record and everyone agrees, it is good. Linley seconds again.

Linley – Yes

Newbill – Yes

Evanega Rieckhoff – Yes

Motion carries.

**26-BZA-17 PETITIONER IS GARRICK AND TRICIA LANKFORD
PROPERTY IS LOCATED AT 12 MELROSE MANOR**

Trotter presents.

The request is to vary from Section 4.4, Yard Requirements in the R-1, One Family Dwelling District, which requires rear setbacks located along a river or stream to be the established setback. The established setback at this location is 64'9" (current rear setback is 48'6"). The requested setback for the home after an addition is 36'6" feet in the rear, a variance of 28.3 feet.

Evanega Rieckhoff calls the petitioner forward.

Garrick Lankford, 12 Melrose Manor, appears in person. Lankford states has his presentation in Power Point or paper form; the Board requests the paper form. [See Petitioner's Exhibit 26-BZA-17 A] They want to add on to their house, and the way the code is written and the setback is, it looks like they're asking for more than what they are. The addition they're planning on is extending the house itself by two feet on the west side and adding porches on either side, to have a covered exterior place, and a pergola between the two spaces. Page two shows a riverside isometric view, which was submitted with the variance request. Page three has blue squares where the additional part of the house would be added on, and the subsequent pages have additional information and floor plans. Lankford states that there might be confusion or misinformation with the neighbors, and he wanted to clear things up. The established setback is where you measure the houses of the neighborhood and figure the average. Their house is, referencing page 7, already so many feet over the limit with the way it was built in 1955. They're only planning to add two feet to the house and 12 feet total. There are also pages dedicated to sight lines for the neighbors.

Evanega Rieckhoff asks about the 12 feet versus 2 feet.

Lankford states that the living space of the house, the inside and heated part of the house, they only want to move that out two feet. They are fine with leaving it where it is. That's the only part of the house that is extending out that is part of the structure. Because the porches are attached to the house, they are considered part of the main structure, so it looks like they're asking for a lot.

Evanega Rieckhoff clarifies that the porches are structures with a roof. Lankford confirms.

Lankford states that he has some proposed concessions, if they need to dial things back or make revisions, they are open to that. It's not a take it or leave it presentation.

Evanega Rieckhoff states they are already cutting off the sight line for the people to the west of them. She isn't sure 12 feet would make any more difference. It's the nature of Melrose that those houses, because of the curve, they go out further and further; she understands that. The site line page of the presentation is helpful.

Evanega Rieckhoff asks for questions from the Board.

Evanega Rieckhoff opens for public comments to speak in favor. Seeing none, she opens for opposition.

Paula Turk, 10 Melrose Manor, appears in person. Turk is the neighbor to the west. Melrose Manor is a very unique neighborhood, like St. Joe and Gordon Road; they have a cul-de-sac and have built a community there. Many residents have been there decades, there isn't a lot of turnover. Because of the fountain, they meet and have family events and projects, phone lists with children's and pet's names and emails. It's a community, and they were surprised to get the Public Notice in the mail. The Lankfords have worked tirelessly over the last year and a half to improve their house; they've redone the landscaping and gutted the inside. It's awkward, because of the community vibe, to go up against their idea for their dream house. Turk states that the established setback is 65 feet, and their house is seven feet behind that. [Turk does visual presentation of setbacks with tape measure.] She knows it's a porch and a patio, but if you look at the photo provided showing their view from the patio; you can see the Lankford home and a frame from the old porch indicating where they're going to extend the house, which would block the Turk's view. Even though it's a porch, once you put things on a porch, it becomes a solid wall. Where the white bar is is part of the new house, the second level dining room, and the porch will be beyond that 12 more feet. Something will be built to attach the porch, another 2 feet more, which will wrap around.

Evanega Rieckhoff ask for clarification with the image and wants to know if the new construction will go all the way out to the water. Turk states that it doesn't go out to the water, that's just the angle, but it will block an estimated 45% of their view. The thinking was that it wouldn't impact anyone's view, but in fact it will.

Patrick Mohan, 13 Melrose Manor, appears in person. They are the property to the east. They purchased their house in 2001, an older house, and remodeled it. Before they bought the house, they fell in love with the view, they met with their contractor that would do the work to make sure they could go out as far as they could within the setbacks. That's what they ultimately ended up doing. Mohan respectfully disagrees with some of the staff report statements. In the analysis, 64.9 was the calculated setback, but he isn't sure if the staff did the calculations themselves or went with the petition. Mohan isn't sure the methodology, but will assume they are correct. The analysis states that they are removing an existing deck and want to replace it, which they are doing with living quarters and then adding the 12' deck on top of that. They are already beyond the setback 16 feet, so it would be 28 feet total. In the staff report it states that the method for determining setbacks helps to protect the adjacent property owners views of the river. He thinks the proposed variance would impact their views and shows a picture from their perspective. He did not receive a copy of the sight lines that Lankford provided, but he indicates where he guesses their proposed work would extend to in his sight line. The petitioner's house does not have one house blocking their view, so he doesn't see the need to go out further. Within the staff recommendations, Mohan argues that the use and value would be affected in an adverse manner, that it's not replacing something in kind but creating more home space and then adding a deck, and that the purpose of the ordinance is to protect the neighboring views which the proposal will impact. Mohan also points out that the hardship has to be related to the land, but the property is not unique to the area – it's one of the larger lots in the neighborhood [shows the Board a close-up image of the site plan of the neighborhood]. The property itself isn't unique to the neighborhood, and the lot is already the closest lot. Mohan argues that the proposal doesn't have a hardship, it's seeking a larger structure, and the design of that structure is causing the hardship. There is reference to accessory structures and why they have to do this rather than have a detached structure, but Mohan believes they would need a variance for the size of the accessory structure as well. The ordinance is there to protect the properties, using average calculations, and if you look at Exhibit B of the petitioner's packet, you can see the winding path. Wanting additional space isn't unique, and the ordinance as it is today seems to be working just fine. Granting approval would set precedent.

Evanega Rieckhoff clarifies that the Board of Zoning Appeals does not set precedence.

Newbill asks if they did any improvements to their house when they purchased it. Mohan confirms and states they gutted the house and moved it out six feet towards the river on the east side of the building, which is the furthest point from the river.

Paul Campbell, 14 Melrose Manor, appears via Teams. Just east of the subject property. His wife had a 38-year career as a leader in real estate in Elkhart, Indiana. He also held a license in real estate. It's a fact of the market that you cannot change the view of the property without affecting the property value in a situation like this. The variance would allow the Lankford property to benefit, while the other properties along the shore on Melrose Manor would all suffer from a diminishment of their view, the lines of sight, and the property values which are very strictly tied to the view and the river front view that afforded by the locations. Campbell is concerned that changing the easement to allow construction within 36 feet of the river's edge would eventually allow someone to build a two-story structure there, not just an open patio. The descriptions mentioned an open patio, they have seen

artist renderings of a covered patio, and there is referenced in the variance itself to a two-story home addition. That seems to open up the likelihood that addition would eventually become a two-story enclosed part of the living space at some point. That's why they oppose strongly – diminishment of property values and compromising the lines of sight they all agreed to by buying and retaining the setbacks established over the course of history.

Garrick Lankford states that they are perfectly happy having a restrictive covenant that would run to the subsequent owners that would prevent anyone from enclosing the patios or porches.

Tricia Lankford, 12 Melrose Manor, appears in person. When they were talking about a two-story structure, their house is a walk-out basement, so with two story, they want something off the main level. They are not doing this for better views. The way their house was built, in order to have a dining space - in 1956 it was built with a kitchen and dinette to seat four – so to have a dining room for their family to gather at, this was their options. They want to take what used to be a screen porch that fell apart and turn it into a dining room, and then put a porch off of that 12 feet. It won't improve their view, because there are bushes that are tall enough to hide the water, it's trying to create a space for their family to sit down and have a meal on their main level. They can only let their dog out into the back yard from the back, and have a place to sit and enjoy being outside. The pergola is on the basement level, so the porches look like they're two stories from the river, but it's a basement and then the first floor.

Evanega Rieckhoff calls Garrick Lankford back to the podium and asks if they did just the inside development, how much further out would they be going. Lankford states they could have the two feet or squeeze it into the original footprint of the house, but they wouldn't have any outside spaces. Evanega Rieckhoff asks if that would give them their dining room, if they had the two feet. Lankford states that the two feet isn't the issue. Tricia Lankford states that he's talking about if they took the area with the screen porch, and turning that into a dining room so the living and dining room connected, and they wanted an outdoor area beyond that.

Evanega Rieckhoff asks if the area that had the screened-in porch went out 12 feet. Lankford states it goes out 16 feet from the established setback. The established setback is 64 feet. The existing goes out from 64 feet to 48.5 feet.

Evanega Rieckhoff asks for any more questions.

Paul Campbell speaks again via Teams. Campbell states the real fundamental issue is the porches covered, perhaps with screens, will diminish the lines of sight and the view for all of the other residents east of the subject property.

Newbill asks for clarification that there was already an existing screened porch. Evanega Rieckhoff confirms and states it was blown away.

Evanega Rieckhoff states that their task tonight is to accept or reject their proposal. If they reject, the petitioners need to go back to their neighbors and architects and see what may more acceptable for everything.

Trotter approaches the Board to clarify the request. Clarification made off-mic, indicating where the porch was and the different setbacks.

Evanega Rieckhoff calls staff forward.

STAFF ANALYSIS

The petitioner wishes to vary the requirements of Section 4.4, Yard Requirements in the R-1, One Family Dwelling District, which requires rear setbacks located along a river or stream to be the established setback. The established setback at this location is 64'9" (current rear setback is 48'6"). The requested setback for the home after an addition is 36'6" feet in the rear, a variance of 28.3 feet.

The petitioner is proposing to remove an existing deck and replace with a two-story addition on a river front lot. The proposed addition will extend the existing home 12 feet closer to the river, measuring from the attached deck.

To meet the setback requirements for the river frontage and because of the configuration of the home, a rear yard variance is required. This type of variance is not uncommon for lots in established neighborhoods where older homes are added on and updated to more contemporary layouts.

The lot, by the zoning ordinance development standards has two front yards – the street frontage and the river front side of the property. The ordinance requires the setbacks be calculated for the front and rear (for river front lots) be established by determining the average for that part of the street. This method for determining setbacks helps to protect the adjacent property owners' views of the river. Which is why most people live on the river – the view. Most times, the homeowner will want to maximize the view of the river and in order to also not block the view of other surrounding properties, some sort of variance is required.

The scale of the addition is not out of character for the neighborhood and surrounding properties. Given the constraints of the established setback, it will not allow an addition to be built without some measure of relief.

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 addition will be built in a workmanlike manner;
2. The use and value of the area adjacent to the property will not be affected in a substantially adverse manner because the proposed addition is as far away from the river as possible, and is replacing an existing porch;
3. Granting the variance would be consistent with the intent and purpose of this Ordinance because a measure of relief is allowed when warranted;
4. Special conditions and circumstances do exist which are peculiar to the land involved and which are not applicable to other lands or structures in the same district because the established rear setback would preclude an addition commonly built addition to the original structure located on the property;
5. The strict application of the terms of this Ordinance will result in practical difficulties in the use of the property because the established rear yard setback has existed for decades;
6. The special conditions and circumstances do not result from an action or inaction by the applicant because the setbacks were established by neighboring properties;
7. This property does not lie within a designated flood hazard area.

CONDITIONS

None.

Trotter states there were 22 letters mailed with 6 returned not in favor, three with questions only, with the following comments:

1. Dear Members of the Board of Zoning Appeals, I am writing as an interested party and property owner within the 300-foot notification radius of the subject property. I own and reside at 14 Melrose Manor, which is located approximately 100 ft. upstream from 12 Melrose Manor. I am writing to formally log my objection to the requested developmental variance seeking a reduction of the required rear yard setback along the river/stream from 64 feet 9 inches to 36 feet 6 inches. I respectfully request that the Board deny this petition based on the following concerns:
 - a. Encroachment on the Established Waterway Setback: The existing 64-foot 9-inch setback exists to protect the natural riverfront corridor and ensure uniform property alignment. Allowing a structure to push nearly 28 feet closer to the waterway than permitted disrupts the established aesthetic and visual character of the Melrose Manor Addition.
 - b. Potential Drainage and Environmental Impact: Altering the natural buffer zone near the riverbanks raises severe concerns regarding stormwater runoff, soil erosion, and localized flooding. Increasing the impervious surface area so close to the water could negatively impact neighboring yards and the river ecosystem.
 - c. Impact on Surrounding Property Value and Enjoyment: The open, natural space along the riverway is a primary driver of property values in our neighborhood. Encroaching on this shared buffer zone will negatively impact the sightline/views, privacy, and overall enjoyment of neighboring parcels, likely diminishing surrounding property values and property tax revenues.

A variance is meant to address an extraordinary hardship inherent to the land itself. The petitioners have not demonstrated a unique hardship that justifies infringing upon the protective river setback at the expense of the surrounding neighborhood. Thank you for your time, consideration, and dedication to maintaining the zoning integrity of our community. I urge the Board to vote to deny Petition #26-BZA-17.
2. Variance is substantial – 28.3 feet from established setback, existing home is already a substantial riverfront residence, impact neighboring properties – river views, sight lines, open space, would undermine established setback, would set an undesirable precedent – erodes the protections intended by zoning ordinance.
3. Survey taken and submitted by neighboring property owners, all against.
4. Would lower the property values.

Evanega Rieckhoff calls for a motion.

Newbill makes a motion to approve 26-BZA-17 and adopt the petitioner’s documents and presentation, together with the Staff’s finding of fact, as the Board’s findings of fact in the present petition; Second by Linley.

Linley – No
Newbill – No
Evanega Rieckhoff – No

Motion is denied.

Evanega Rieckhoff states they do not do this lightly, and suggests the petitioner and neighbors get together and come up with something, because they’re a close community; suggests talking with each other about what the community can live with, while keeping the neighbors sight lines intact.

STAFF ITEMS

Trotter announces that another planner has been hired for the department, and they will be taking over as primary staff to the Board of Zoning Appeals.

ADJOURNMENT

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

President or Vice-President

Secretary

LEGAL NOTICE #26-UV-18

Hearing on proposed Use Variance #26-UV-18

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, AUGUST 13, 2026, at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Use Variance Petition **#26-UV-18.**

Petitioner: Mary and Peter Graber

Request: 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.

Location: 3030 Benham Avenue

Zoning: R-3, Two-Family Dwelling District

This meeting can also be accessed via Teams. To join, go to: <https://teams.microsoft.com/meet/269580807161884?p=53nF11h5YZzIHhM3CB>, enter **269 580 807 161 884** as the meeting number and **"Xc3qe2gb"** as the password. Attendees may preregister or enter during the meeting. Comments and questions may be submitted to raen.levendoski@cityofelkhartin.gov prior to the meeting.

LEGAL DESCRIPTION:

Lot Number 15 as the said Lot is known and designated on the recorded Plat of Associated Seminaries Subdivision; said Plat being recorded in Plat Book 7, page 61 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 28th day of July 2026, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: July 31, 2026

LEGAL NOTICE #26-UV-19

Hearing on proposed Use Variance #26-UV-19

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, AUGUST 13, 2026, at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Use Variance Petition #26-UV-19.

Petitioner: Brent Fifer

Request: To vary from the uses found in Section 19.2, Permitted Uses in the M-2, General Manufacturing District to allow for an existing structure to be used as a single-family dwelling. Single-family dwellings are not a permitted use in the M-2 District.

To vary from the uses found in Section 4.2, Permitted Uses in the M-2, Heavy Manufacturing District to allow for the construction of a one (1) accessory dwelling unit.

To vary from Section 26.1.B.11, which states, 'No accessory structures shall be used for permanent or temporary habitation' to allow the accessory dwelling unit to be used for habitation."

Location: 1125 Thornton Street

Zoning: M-2, General Manufacturing District

This meeting can also be accessed via Teams. To join, go to: <https://teams.microsoft.com/meet/269580807161884?p=53nF11h5YZzIHhM3CB>, enter **269 580 807 161 884** as the meeting number and **"Xc3qe2gb"** as the password. Attendees may preregister or enter during the meeting. Comments and questions may be submitted to raen.levendoski@cityofelkhartin.gov prior to the meeting.

LEGAL DESCRIPTION:

LOTS NUMBERED ONE HUNDRED FOUR (104) AND ONE HUNDRED FIVE (105) AS THE SAID LOTS ARE KNOWN AND DESIGNATED ON THE RECORDED PLAT OF GATEWAY, A SUBDIVISION IN THE CITY OF ELKHART, INDIANA; SAID PLAT BEING RECORDED IN PLAT BOOK 4, PAGE 8 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 28th day of July 2026, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: July 31, 2026

LEGAL NOTICE #26-BZA-18

Hearing on proposed Use Variance #26-BZA-18

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, AUGUST 13, 2026, at 6:00 P.M.** concerning the following request:

A public hearing will be conducted on a Use Variance Petition **#26-BZA-18.**

Petitioner: Grant Street LLC

Request: 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.

Location: 2223 Grant Street

Zoning: R-1, One-Family Dwelling District

This meeting can also be accessed via Teams. To join, go to: <https://teams.microsoft.com/join/269580807161884?p=53nFI1h5YZzIHhM3CB>, enter **269 580 807 161 884** as the meeting number and **"Xc3qe2gb"** as the password. Attendees may preregister or enter during the meeting. Comments and questions may be submitted to raen.levendoski@cityofelkhartin.gov prior to the meeting.

LEGAL DESCRIPTION:

LOTS EIGHTY-THREE (83), EIGHTY-FOUR (84), AND EIGHTY-FIVE (85) OF BAYVIEW LOTS IN OSOLO TOWNSHIP, 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 28th day of July 2026, by the City of Elkhart, Board of Zoning Appeals.

Publication Date: July 31, 2026



Staff Report

Planning & Zoning

<u>Petition:</u>	26-UV-18
<u>Petition Type:</u>	Use Variance
<u>Date:</u>	August 13, 2026
<u>Petitioner:</u>	Mary and Peter Graber
<u>Site Location:</u>	3030 Benham Avenue
<u>Request:</u>	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.
<u>Existing Zoning:</u>	R-3, Two-Family Dwelling District
<u>Size:</u>	+/- 0.52 Acres
<u>Thoroughfares:</u>	Benham Avenue
<u>School District:</u>	Elkhart Community Schools
<u>Utilities:</u>	Available and provided to the site.

Surrounding Land Use & Zoning:

The property is surrounded by a mix of residential uses zoned R-3, Two-Family Dwelling District, R-1, One Family Dwelling, PUD, Planned Unit Development.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

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



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 floor. 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.

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

Photos

Below: Looking East at house



Below: Looking northeast at house from south property owners house



Below: Looking northeast at house



PETITION #: 26-UV-18

FILING FEE: \$ 200.00

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: USE VARIANCE

Property Owner(s): Mary and Peter Graber

Mailing Address: [REDACTED]

Phone #: [REDACTED]

Email: [REDACTED]

Contact Person: Peter Graber

Mailing Address: [REDACTED]

Phone #: [REDACTED]

Email: [REDACTED]

Subject Property Address: 3030 Benham Ave, Elkhart, IN 46517

Zoning: R-3 Two-Family Dwelling District

Present Use: Personal Residence for 8 people

Proposed Use: Personal Residence for 8 people

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): Mary and Peter Graber

SIGNATURE(S): Mary Graber, Peter Graber

DATE: 6-22-26

STAFF USE ONLY:

Staff Checklist for the applicant's submittal of a complete Petition to the Board of Appeals docket:

- ☒ One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.
- ☒ A completed Petition form signed by the legal owner of record (or approved representative).
- ☐ If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- ☒ A full and accurate legal description of the property.
- ☒ One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 12 copies must be submitted.
- ☐ Optional: any supplementary information the applicant may wish to include.

Ordinance Requirement: Section(s): _____

Map #: _____

Area: _____

RECEIVED BY: Rain Levendoski

DATE: 6/25/24

DATE: June 25, 2026

TO: Board of Zoning Appeals
City of Elkhart, Indiana

RE: Use Variance

The undersigned petitioner respectfully shows the Board of Zoning Appeals:

We, Mary and Peter Graber, are the owners of the following described real estate located within the City of Elkhart, Concord Township, Elkhart County, State of Indiana, to-wit: 3030 Benham Ave, ASSOCIATED SEMINARIES SD, LOT 15.

The above described real estate presently has a zoning classification of R-3, Two-Family Dwelling District under the Zoning Ordinance of the City of Elkhart.

Petitioner presently occupies the above described property in the following manner: The petitioner is the owner and provides the home to be used by their daughter and seven other residents, each with their own bedroom. Residents participate in a "supported living" situation supervised by the staff of ADEC, Inc. In this situation, each resident executes a lease with the owner, paying a monthly rent for their living situation including their private and common areas, laundry facilities, all utilities, phone and internet, and cleaning services. They are supported in this arrangement by staff who help them with daily living tasks, but they live as much as possible in the manner they choose and participate in the life and chores of living in the home. The property owner cares for the property, maintaining it in good condition, having regular inspections, and providing maintenance and repairs as needed.

The dwelling was built by the owners in 2006 and was occupied by the owners, their children, other family members, caregivers and friends until 2022. As the owners and their daughter with developmental disabilities aged, it was appropriate for them to live separately and for the daughter, Emily, to participate in a supported living situation supervised by ADEC, Inc. The owners moved to a new home while Emily continued to occupy her room in the house and was joined by other residents in this supported living program. This was the intention at the time the home was built.

Petitioner desires to vary from Section 6.2, Permitted Uses in the R-3, Two-Family Dwelling District to allow for the existing structure to be used for the purpose of providing 24-hour residential care and support for individuals with developmental disabilities on an ongoing basis – as a single residential unit.

residents who live there and any families who have occupied the property in the past or might occupy the property in the future. Past and current residents have maintained good relationships with neighbors and the property is maintained well.

The need for the variance arises from a condition peculiar to this property, in that it was designed to accommodate people with disabilities who need assistance in daily living. There are eight bedrooms, six bathrooms, a special needs tub room, two kitchens, three common living areas, an elevator, and all rooms, doors, entries, and facilities are designed to accommodate the use of a wheelchair and/or people with mobility impairments.

The approval does not interfere substantially with the Comprehensive Plan because the use is similar to the other properties nearby and simply provides an accommodation for people who need support in their daily living situation so that they do not need to live in a residential care institution.

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

Signature of Property Owner:

Peter Graber 6/22/26

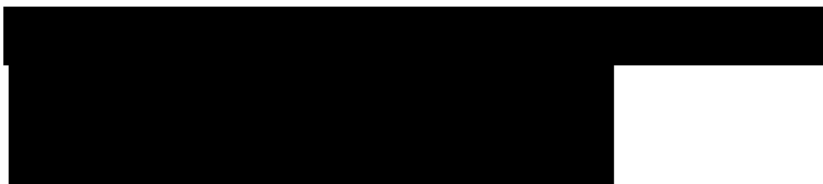
Printed Name: Peter Graber

Second Property Owner:

Mary Graber 6/22/26

Printed Name: Mary Graber

Contact Person: Peter Graber



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

- EXECUTED on the 25TH day of JUNE, 2026.


Printed: Peter Gruber

Printed: Peter Graber

[illegible]

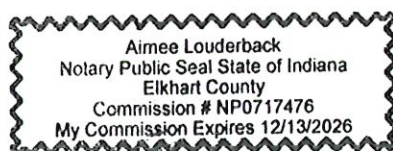
Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared Mary & Peter Graber, and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 25 day of June, 2026.

Aimee Londerback

Printed: Aimee Londerback

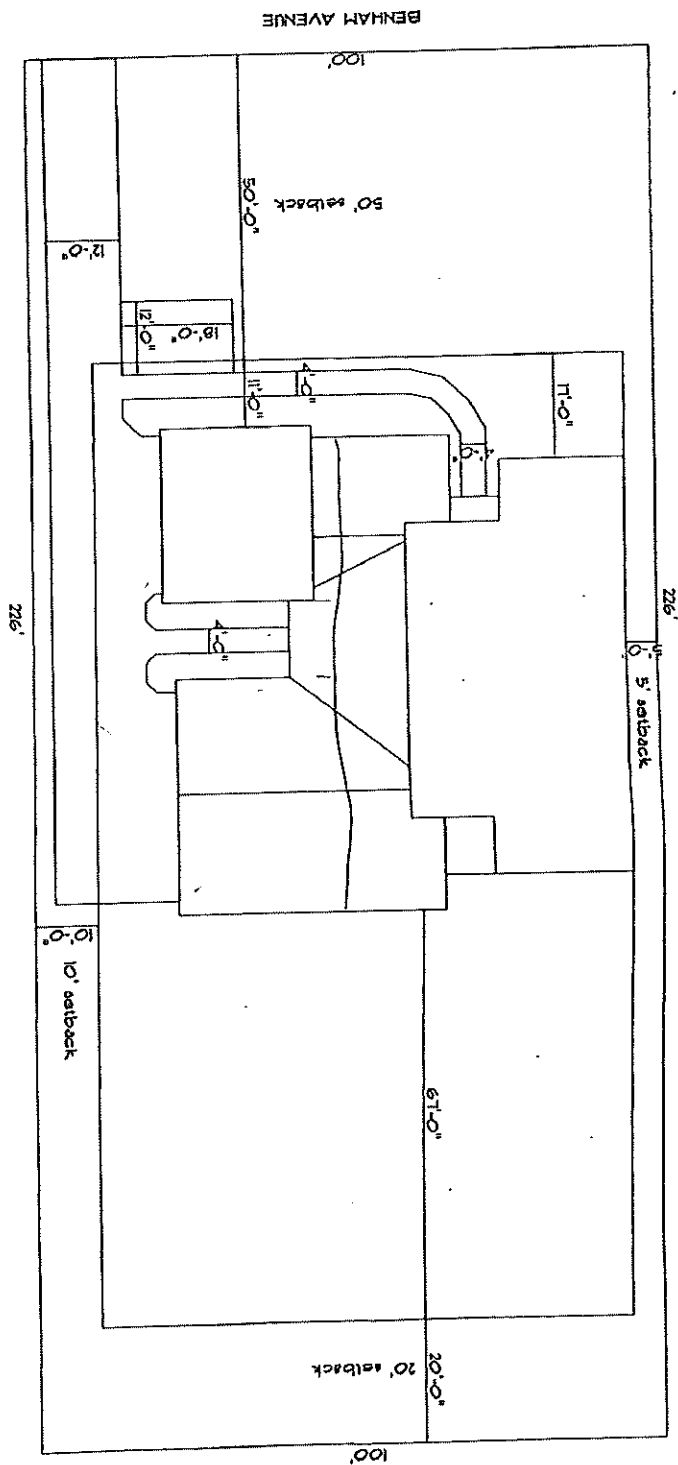
My Commission Expires:

12/13/2026

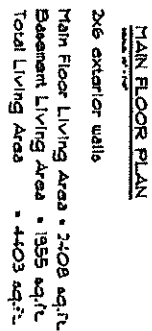


Notary Public in and for the State of Indiana
Resident of Elkhart County, Indiana

Culver Construction
 Graber Residence 2002

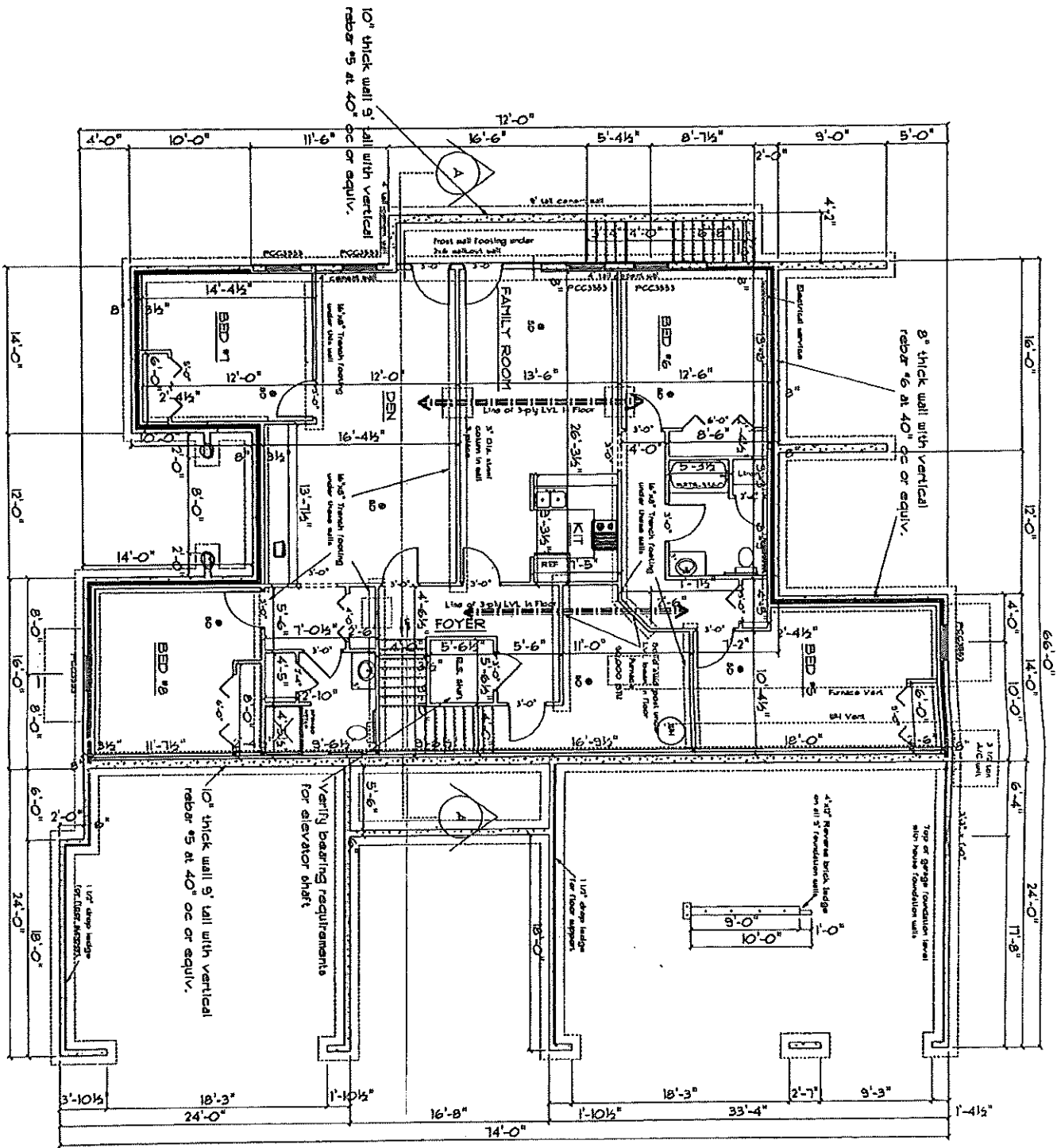


Jim Hamner
 P.E.
 M.D. 10/1/01



Culver Construction
Graber Res. *JDH*
3-31-06 *PA*

3-31-06



Main Floor Living Area = 2403 sq.ft.
 Basement Living Area = 1955 sq.ft.
 Total Living Area = 4403 sq.ft.

FOUNDATION PLAN

Culver Construction
 Graber Res.

3-8-06

J.H. 7/11/06
 P.H.



Staff Report

Planning & Zoning

<u>Petition:</u>	26-BZA-18
<u>Petition Type:</u>	Developmental Variance
<u>Date:</u>	August 13, 2026
<u>Petitioner:</u>	Grant Street LLC
<u>Site Location:</u>	2223 Grant Street
<u>Request:</u>	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.
<u>Existing Zoning:</u>	R-1, One-Family Dwelling District
<u>Size:</u>	+/- 0.61 Acre
<u>Thoroughfares:</u>	Grant Street
<u>School District:</u>	Elkhart Community Schools
<u>Utilities:</u>	Available and provided to the site.

Surrounding Land Use & Zoning:

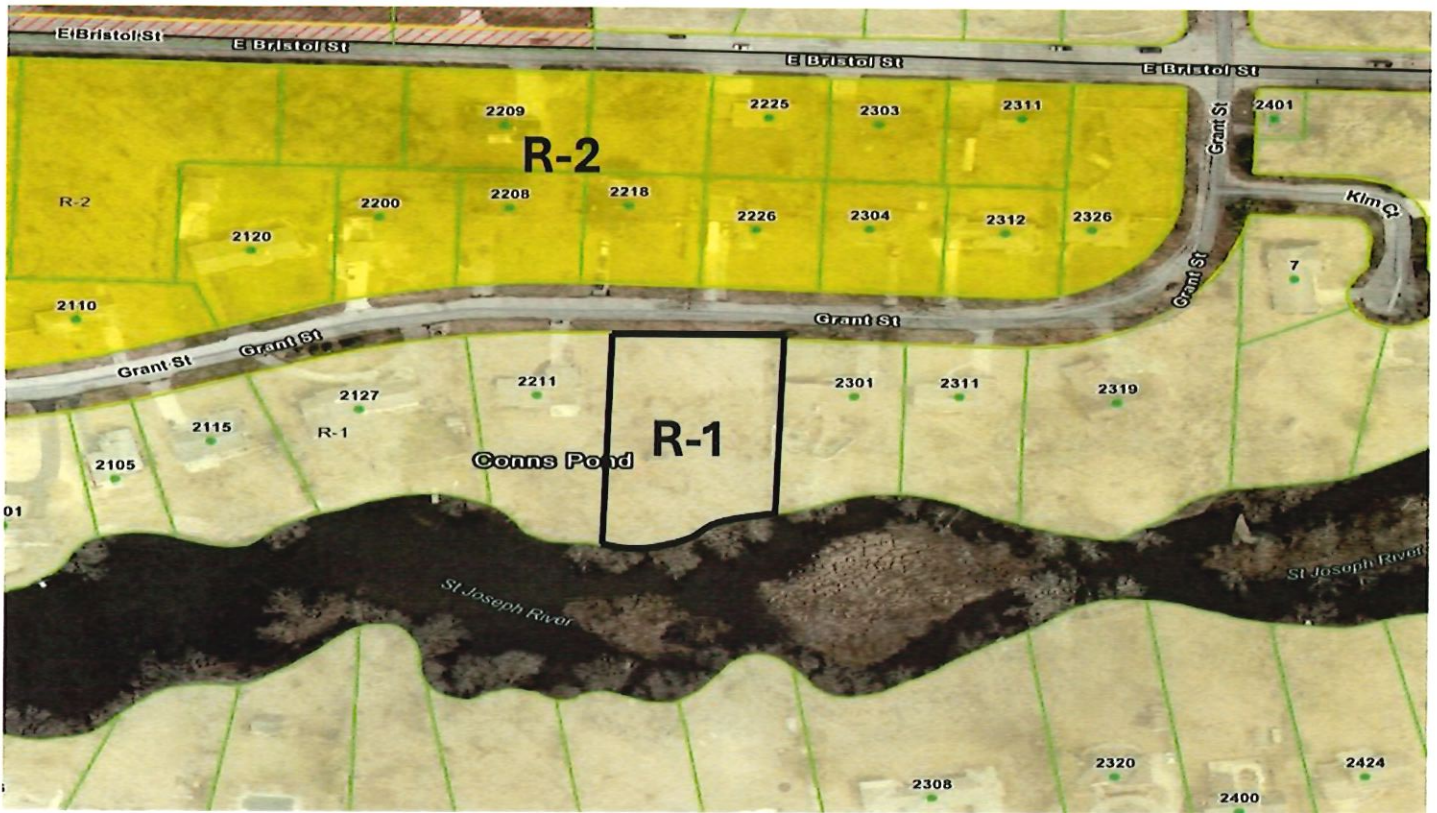
The property is surrounded by residential uses zoned R-1 and R-2 to the north.

Applicable Sections of the Zoning Ordinance:

Enumerated in request.

Comprehensive Plan:

The Comprehensive Plan calls for this area to be developed with a mix of low-density residential uses.



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.

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 area.

Photos

Below: Looking west from front of house



Below: Looking southeast at front of house



Below: Looking east from front of house down Grant St.



Below: Looking South at front of house



PETITION #: 26-BZA-18

FILING FEE: \$ 200-

PETITION to the BOARD of ZONING APPEALS

PETITION TYPE: DEVELOPMENTAL VARIANCE

Property Owner(s): GRANT STREET LLC

Mailing Address: _____

Phone #: _____ Email: _____

Contact Person: MICHAEL J. SHEDIVY, MANAGER

Mailing Address: _____

Phone #: _____ Email: _____

Subject Property Address: 2223 GRANT ST, ELKHART, IN 46514

Zoning: Z001

Present Use: SINGLE FAMILY RESIDENCE Proposed Use: SINGLE FAMILY RES. (No change)

NOTE: The petitioner is the legal property owner of record, or a certified representative, and agrees the above information is accurate. Failure to provide a legal signature or accurate information will make this application null and void.

PROPERTY OWNER(S) OR REPRESENTATIVE (PRINT): MICHAEL J. SHEDIVY

SIGNATURE(S): _____ DATE: 6/24/26

STAFF USE ONLY:

Staff Checklist for the applicant's submittal of a complete Petition to the Board of Appeals docket:

- ☒ One copy of the Appeal Letter signed in ink by the owner (or representative) of the property.
- ☒ A completed Petition form signed by the legal owner of record (or approved representative).
- ☒ If any person other than the legal owner or the legal owner's attorney files the appeal, written and signed authorization from the property owner must be supplied.
- ☒ A full and accurate legal description of the property.
- ☒ One to scale drawing of the property, measuring 11" x 17" or smaller. If larger than 11" x 17", 12 copies must be submitted.
- ☐ Optional: any supplementary information the applicant may wish to include.

Ordinance Requirement: Section(s): _____

Map #: _____ Area: _____

RECEIVED BY: Rain Levendoski DATE: 7/2/26

Grant Street LLC
Michael J. Shedivy, Manager

Wednesday, June 24, 2026

Board of Zoning Appeals
City of Elkhart, Indiana
229 S. Second Street
Elkhart, IN 46516

RE: Petition for Developmental Variance – Sidewalk Waiver

Legal Address: LOTS EIGHTY-THREE (83), EIGHTY-FOUR (84), AND EIGHTY-FIVE (85) OF BAYVIEW LOTS IN OSOLO TOWNSHIP, ELKHART COUNTY, INDIANA

Common / Property Address: 2223 Grant Street, Elkhart, IN 46514

Tax District: District 027 (Osolo Township / Elkhart Community School Corp)

Neighborhood Code: 2751230-027 / Bay View (On Creek)

Zoning Classification: ZO01 Residential

Dear Members of the Board:

The undersigned petitioner, Grant Street LLC, represented by Michael J. Shedivy, Manager, respectfully shows the Board of Zoning Appeals the following grounds for a developmental variance from Section 26.7.C.7.o.ii(a) of the City of Elkhart Zoning Ordinance regarding mandatory public sidewalk and street tree installation for new construction on vacant land. This letter serves as part of our formal application for the public hearing scheduled on August 13, 2026.

1. Property Ownership and Legal Description

Grant Street LLC is the owner of the real estate located within the City of Elkhart, Osolo Township, Elkhart County, State of Indiana, commonly known as 2223 Grant Street, Elkhart, IN 46514. The accurate legal description:

LOTS EIGHTY-THREE (83), EIGHTY-FOUR (84), AND EIGHTY-FIVE (85) OF BAYVIEW LOTS IN OSOLO TOWNSHIP, ELKHART COUNTY, INDIANA

2. Current Zoning Classification

The above-described real estate presently has a zoning classification of ZO01 Residential District under the Zoning Ordinance of the City of Elkhart.

3. Proposed Occupation and Use of Property

The petitioner proposes to occupy and use the described property for a new residential single-family construction project, which is a permitted use within the ZO01 district.

4. Proposed Violation of the Zoning Ordinance

The petitioner desires to waive the requirement to install a public sidewalk, a five-foot landscaped green space (tree lawn), and street trees along the front property line of the lot.

5. Zoning Ordinance Requirements (Section 26.7.C.7.o.ii(a))

Section 26.7.C.7.o.ii(a) of the City of Elkhart Zoning Ordinance (as amended by Ordinance 5044) mandates that for new construction on vacant land where a public sidewalk does not exist, both a public sidewalk as per City standards and designated pedestrian connections must be installed. It further requires a minimum five (5) foot landscaped green space between the curb and the outside edge of the sidewalk, alongside street trees planted at intervals of not less than 40 feet apart.

6. Unusual Physical Hardship (Non-Financial)

Strict adherence to Section 26.7.C.7.o.ii(a) creates an unusual physical hardship unique to the topography and location of this property. This hardship is entirely separate from any financial considerations:

- **Total Absence of Neighborhood Infrastructure:** There are zero existing public sidewalks on either side of the street for the entire block of Grant Street.
- **The "Sidewalk to Nowhere" Dilemma:** Forcing a single 5-foot concrete slab and rigid tree lawn layout onto this lone lot will create an isolated, disconnected patch of pavement. It will lead to no existing municipal pedestrian walkways, parks, or designated school paths.
- **Topographical Inconsistency:** The Bay View (On Creek) neighborhood features an established, unimproved suburban layout utilizing natural terrain. Forcing a curb-and-sidewalk profile onto this single lot disrupts the uniform natural grading and drainage pattern of the surrounding residential block.
- **Creation of an Active Safety Hazard:** Because there are no adjoining walkways, an abrupt sidewalk termination will force pedestrians off a concrete path directly into the path of vehicle traffic on Grant Street, creating an unsafe and unexpected traffic conflict.

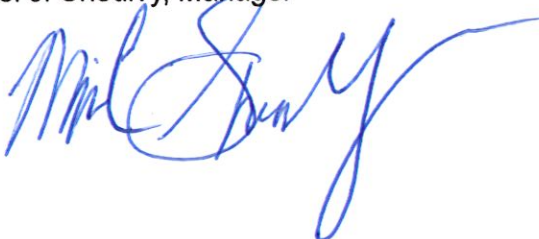
7. Evaluation of Developmental Variance Standards

- **The approval will not be injurious to the public health, safety, morals, and general welfare of the community:** *True.* Waiving the sidewalk prevents an abrupt pedestrian dead-end that would force walkers unexpectedly into the street. It preserves the existing safety profile of the block.
- **The use and value of the area adjacent to the property will not be affected in a substantially adverse manner:** *True.* The finished residential project will conform exactly to the established, unimproved character of the neighboring lots. No adjacent property values or uses will be disrupted because the entire block currently functions without sidewalks.
- **The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property:** *True.* Forcing a localized piece of urban infrastructure onto a single lot in an un-sidewalked, creek-adjacent neighborhood creates an island of concrete that serves no public utility, breaks neighborhood visual continuity, and complicates local lot stormwater shedding.

WHEREFORE, Petitioner prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grants the requested developmental variance to waive the sidewalk, tree lawn, and street tree installation requirements.

Grant Street LLC

Michael J. Shedivy, Manager



AFFIDAVIT IN SUPPORT OF DEVELOPMENTAL VARIANCE PETITION

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

1. I am over eighteen (18) years of age and am competent to testify to the matters contained herein.
2. I make this affidavit in support of my variance petition filed contemporaneously herewith.
3. I am now and at all times relevant herein have been, the owner of record of the property located at 2223 GRANT STREET, Elkhart, Indiana.
4. FURTHER AFFIANT SAYETH NOT.

EXECUTED on the 1 day of July, 2020.



Printed: MICHAEL J. SHEDIVY

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



Printed: Michael Shedivy

STATE OF INDIANA)

) SS:

COUNTY OF ELKHART)

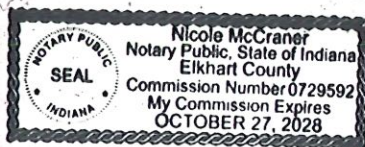
Before me the undersigned, a Notary Public in and for the State of Indiana, personally appeared Mike Shedivy in person and acknowledged his/her execution of the foregoing. Subscribed and sworn to before me this 1 day of July, 2020.



Printed: Nicole McCrane

My Commission Expires:

10.27.28

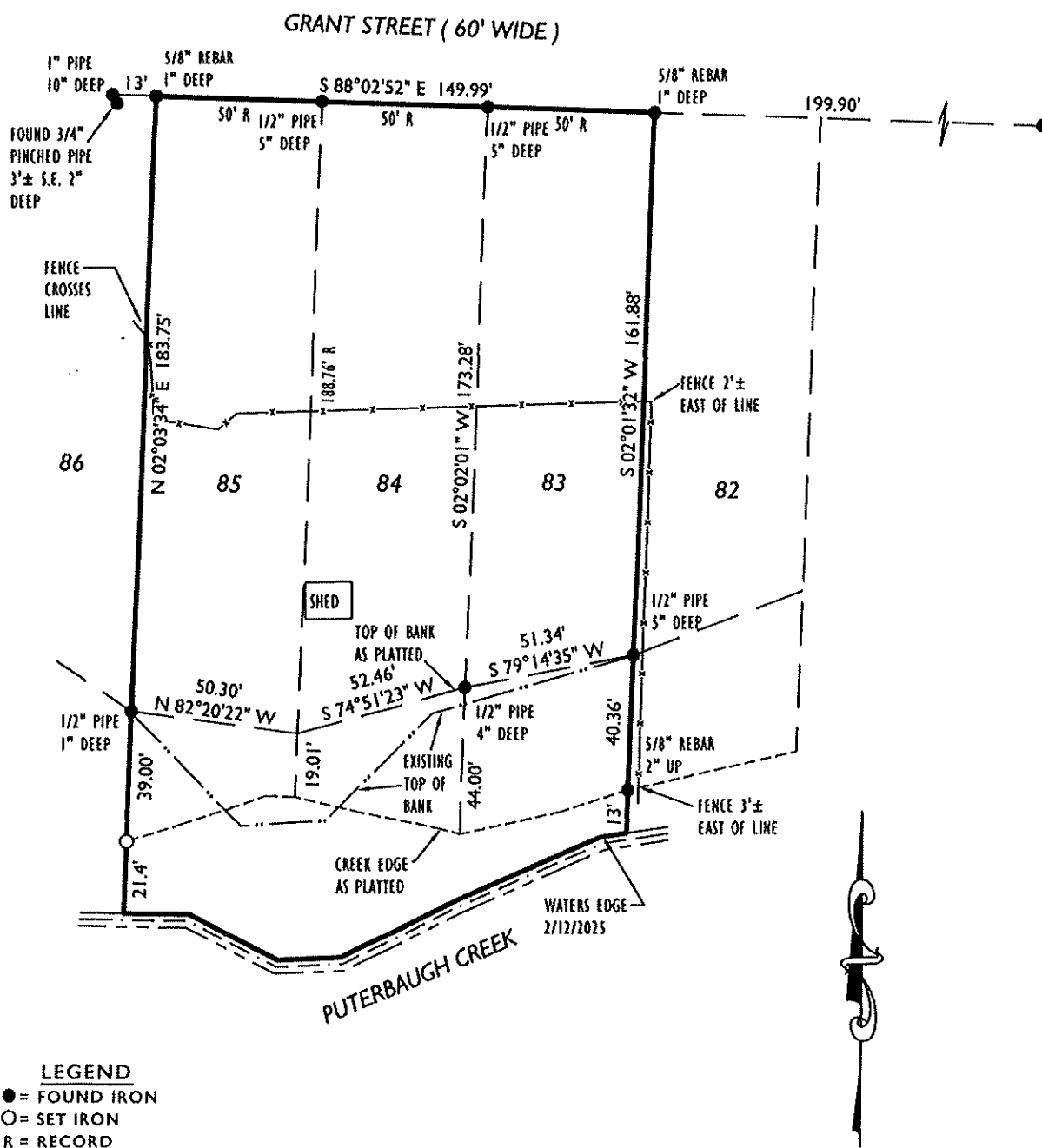


Notary Public in and for the State of Indiana
Resident of Elkhart County, Indiana

SURVEY IN "BAY VIEW" SECTION 34, T38N, R5E, OSOLO TOWNSHIP, ELKHART COUNTY, INDIANA

DESCRIPTION FURNISHED (DOCUMENT 2024-21145):

LOTS EIGHTY - THREE (83), EIGHTY - FOUR (84), AND
EIGHTY - FIVE (85) OF BAY VIEW LOTS IN OSOLO
TOWNSHIP, ELKHART COUNTY, INDIANA.



Levendoski, Raen

From: Trotter, Eric
Sent: Thursday, July 23, 2026 4:04 PM
To: Levendoski, Raen
Subject: FW: EXTERNAL: Petition for Rehearing of BZA Petition #26-BZA-17
Attachments: Petition for rehearing 26-BZA-17.pdf

Raen –

Here is the email. The email suffix was wrong.

Eric Trotter
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From: Garrick T. Lankford <[REDACTED]>
Sent: Wednesday, July 22, 2026 5:47 PM
To: raen.levendoski@cityofelkhartin.gov
Cc: Trotter, Eric <Eric.Trotter@cityofelkhartin.gov>
Subject: EXTERNAL: Petition for Rehearing of BZA Petition #26-BZA-17

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Hello, please see attached. If you have any questions or concerns, please let me know.

Thanks,
Garrick

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July 22, 2026

Elkhart City Board of Zoning Appeals
City of Elkhart, Indiana
229 S. Second Street
Elkhart, IN. 46516

RE: Petition/ Motion for Rehearing of 26-BZA-17

To Whom It May Concern:

Per Section 6.06 of the Elkhart City Board Of Zoning Appeals Rules of Procedure, petitioners Garrick and Tricia Lankford timely and respectfully move the Board of Zoning Appeals for rehearing based on the discovery of factual information made after the close of the public hearing that justifies reconsideration of the petition by the Board. This request is timely because the hearing was on July 9 and the Board made a final decision denying petitioners' variance (26-BZA-17) at that time.

The factual information discovered by petitioners through a Public Record Request is as follows: Information was presented by the neighbors at the July 9 hearing that was not previously seen by petitioners, namely pictures taken from the properties of the neighbors that looked out over the property at issue. These pictures omitted relevant portions of landscaping that were removed for some parts of the construction, and other parts of the house structure that were recently destroyed by natural disaster. Prior to removing the landscaping, the residents of 13 Melrose Manor expressed significant concern that the removal would take away the privacy of their patio. Petitioners verbally agreed to plant a new privacy hedge along the west side of 13 Melrose's patio, following completion of construction to the rear of 12 Melrose Manor. Both the landscaping that was temporarily removed and the parts of the house that were destroyed significantly impacted the views shown in neighbors' photos.

Additionally, there were several relevant inaccuracies in the letter submitted by Paula Turk (10 Melrose Manor) that inaccurately depict the scope of the requested variance and purported impact to her property. These include 12 Melrose Manor already having "one variance of almost 16.3 feet", the number of additional "feet towards the water" the petitioners requested, "a 12 foot porch, essentially all around the upper floor", and pictures that provide a substantially incorrect "example" of the variance requested and how it would negatively impact her property. These pictures show vastly larger additions than proposed, are closed structures as opposed to the open porches that would be visible from that angle, and a completely different aesthetic than what the petitioners are trying to achieve in order to keep the "vibe" of the neighborhood to which Ms. Turk refers to in her letter.

July 22, 2026

Page 2

The below images depict 12 Melrose Manor prior to preparatory construction and storm damage:



Enclosed
Porch

The upper porch structure (before the disaster).



The disaster: the structure was torn off by storms and a significant portion landed on 3 Melrose Manor.

July 22, 2026
Page 3



After the storm destroyed the enclosed porch.



July 22, 2026

Page 4

Arial view of large privacy hedge on east side of 12 Melrose Manor and porch on the west side.



Patio at 13
Melrose
Manor

Arial view showing covered porch and large privacy hedge in relation to 12 Melrose Manor and patio of 13 Melrose Manor.

However, pictures presented at the hearing were without the tall hedge running between 12 and 13 Melrose Manor or the screened porch on the west side of petitioner's home.

July 22, 2026
Page 5



Picture taken before hedge removal showing height of more than 6 feet.



Temporary removal of privacy hedge and A/C unit in anticipation/preparation of construction.

July 22, 2026

Page 6

Presented by 13 Melrose Manor (Mohan):



Picture taken from the kitchen window of 13 Melrose Manor. It looks to the west out over their patio and across the property of 12 Melrose Manor to the river beyond. It was taken recently, during the gap between the old privacy hedge removal and a new privacy hedge to be planted post construction.

July 22, 2026

Page 7

Presented by 10 Melrose Manor (Turk): Picture taken from the patio of 10 Melrose Manor to the east, across the back of 12 Melrose Manor and beyond. It was taken after the natural disaster that ripped the enclosed structure from the home.



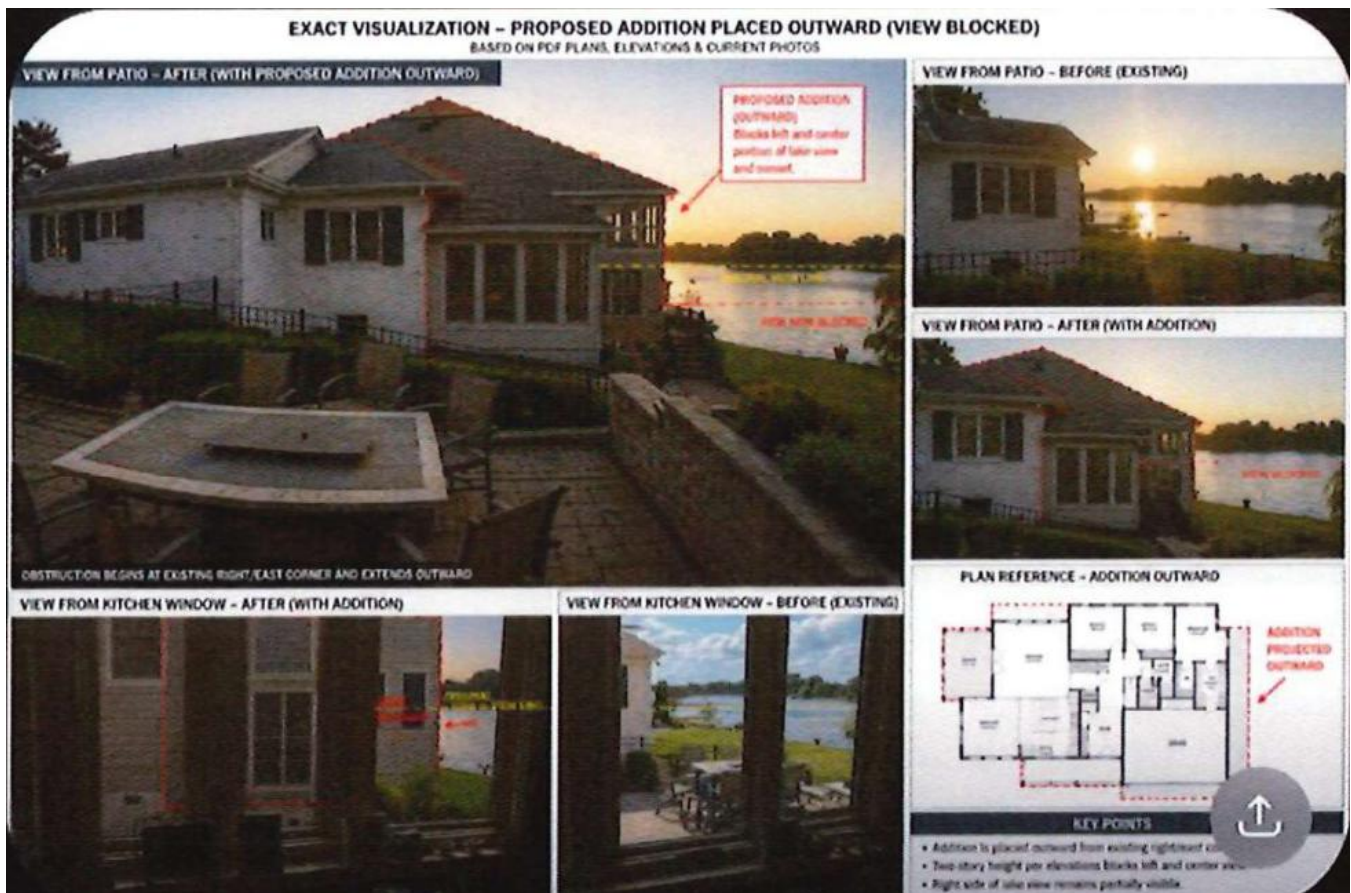
What space the porch occupied before the storm damage:



July 22, 2026

Page 8

Letter to Board of Zoning Appeals by Paula Turk (10 Melrose Manor):



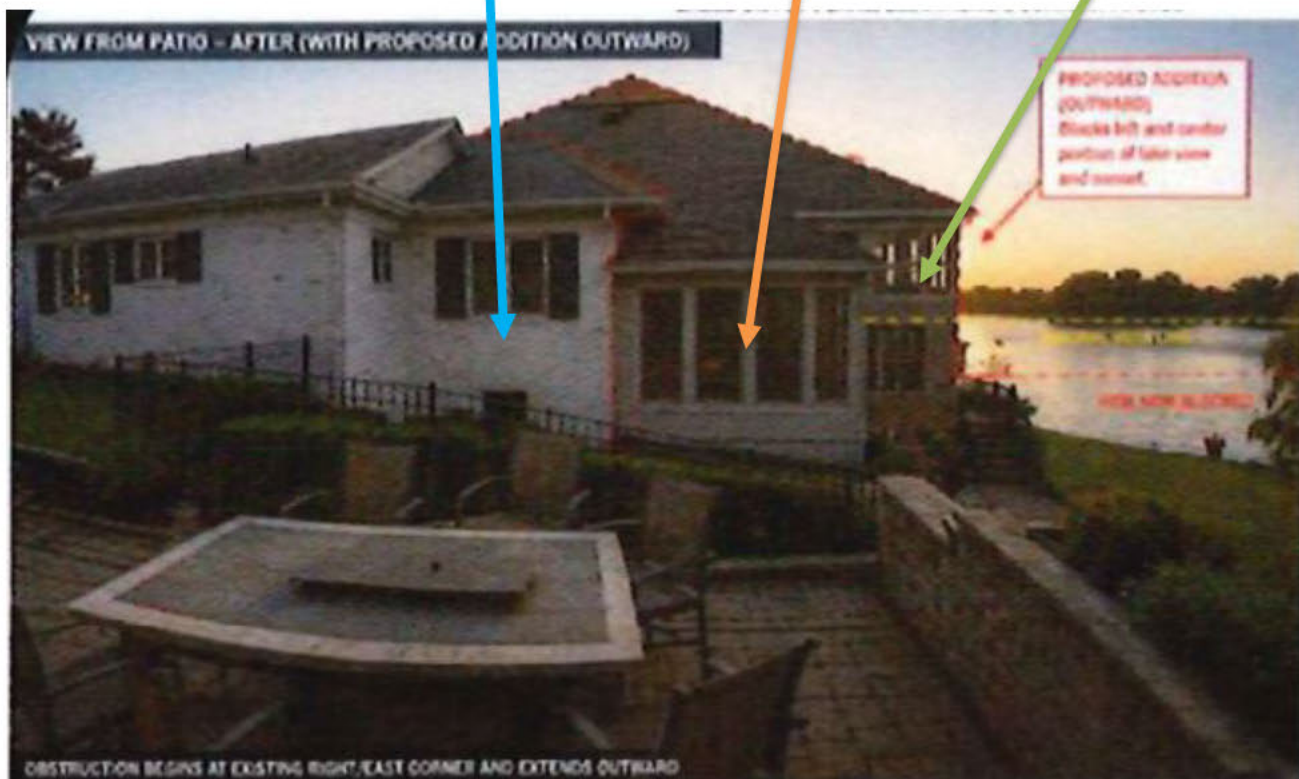
This collage of pictures taken from Paula Turk’s letter to the Board of Zoning Appeals show hypothetical views from the east (Mohan’s home/patio) if petitioner’s variance request was to be granted. Her letter states “this is an example of how the 28 foot extension might inhibit the view.” However, below that states “EXACT VISUALIZATION.” This is incorrect. The structures added to the existing home in these pictures are fully enclosed spaces, unlike the open covered porches requested. They are also substantially larger than proposed. For convenience, each picture in the collage will be addressed separately on the following pages.

July 22, 2026
Page 9

Addition shown here
is about twice as
deep as requested
and should not be
enclosed.

From this view the
addition on the west
would not be visible.

Existing wall roughly 13' wide



For reference of size discrepancies, the short side wall of the existing home (blue arrow) is roughly 13 feet long. The east addition in the photo (orange arrow) looks to be several feet larger. The proposed open porch for this side was originally 10 feet but later modified to 8 feet. The proposed porch for the west side (green arrow) was 12 feet, but as the west side of the current home sits back 3 feet from the current east side of the home, the west addition would not be visible from that vantage point if the variance was granted.

Additionally, the petitioners agreed to plant a new privacy hedge along the west side of 13 Melrose Manor's patio at the homeowner's (Mohan's) request. This is to take place post renovation, so it does not impede construction equipment from accessing the north side of the property.

July 22, 2026

Page 10



This view was previously impeded by a privacy hedge which extended the entire length of the patio at 13 Melrose Manor. They requested petitioners plant another hedge to which petitioners verbally agreed. The angle of this photo is deceptive as to where the patio ends, however based on the angle of the fence, the patio ends around the red line.

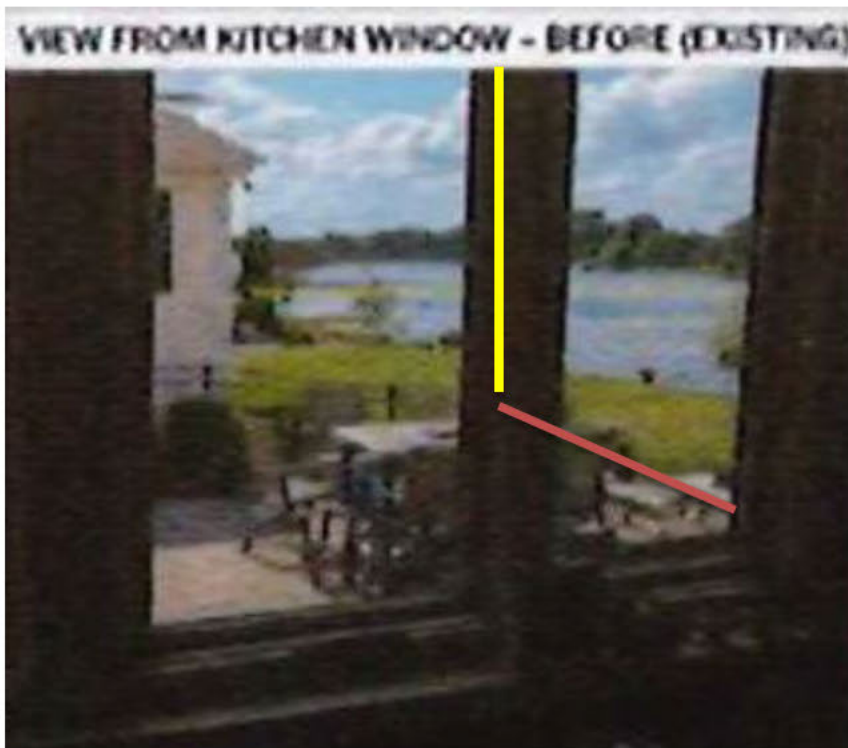


Additions (to the right of the red line) are not at all representative, in size, look, or type of structure, of what petitioners requested in the variance.

July 22, 2026
Page 11

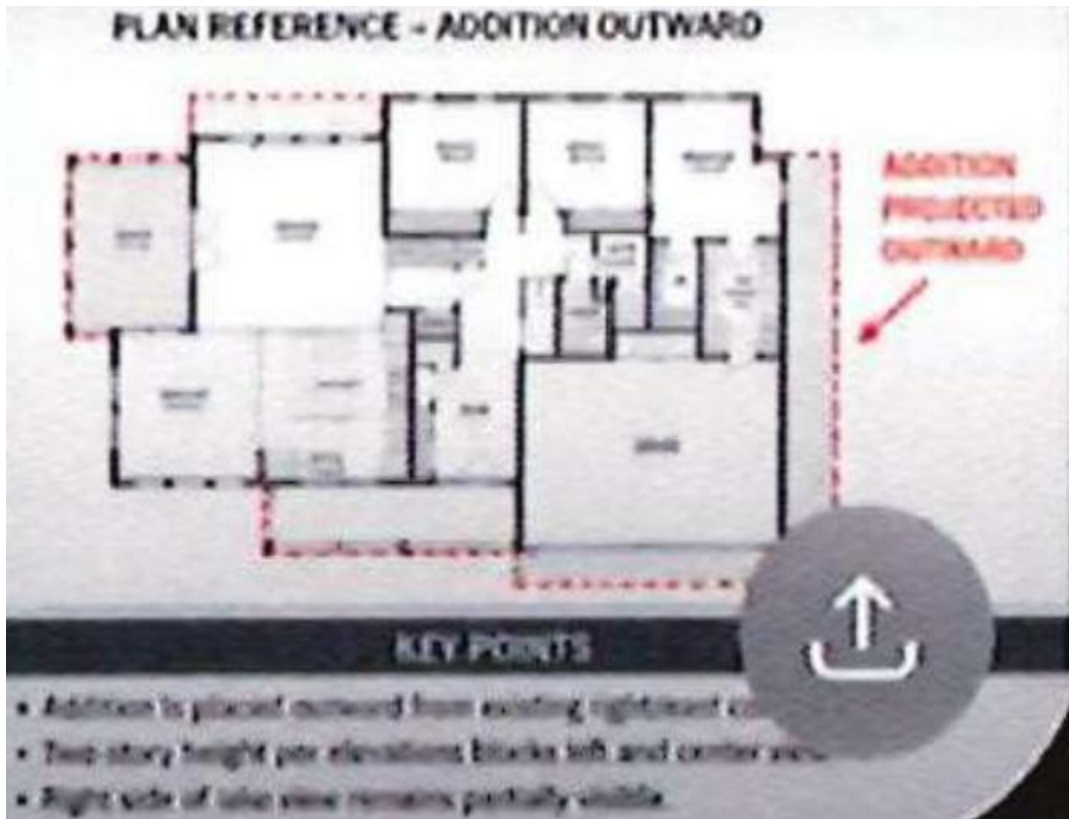


This view was once completely obstructed by a privacy hedge on petitioners' property. 13 Melrose Manor requested a new privacy hedge, which petitioners agreed to plant following construction.



This view shows part of 13 Melrose Manor patio which can be used to see roughly where the privacy hedge they requested will end (red line). The yellow line roughly depicts where privacy hedge would end.

July 22, 2026
Page 12



This floorplan does not resemble any current or proposed floorplan for 12 Melrose.

The dotted line on this floor plan was included on Ms. Turk's photo. Apparently, it is supposed to depict where the addition would protrude if the requested variance was approved, but is likely some form of AI generated image. However, this is not even close to the floor plan of the petitioners' home and petitioners did not request to add on to their home on all sides. This is extremely inaccurate and shows a complete lack of understanding of petitioners' variance request.



This is the part of the petitioners rendering that Ms. Turk's collage is trying to show. The porch here extends 10' but as mentioned previously, the petitioners had modified that to 8'. There are still sight lines through the structure as it is open and petitioners offered to put something in writing that would inhibit anyone from ever enclosing these porches. It provides a good reference for how inaccurate the photos submitted by 10 Melrose Manor are.

July 22, 2026
Page 13

Very truly yours,

SANDERS • PIANOWSKI, LLP



Garrick T. Lankford

