

AREA BOARD OF ZONING APPEALS OF TIPPECANOE COUNTY

MINUTES OF A PUBLIC HEARING

DATE..... JANUARY 24, 2018
TIME..... 6:00 P.M.
PLACE..... CO. OFFICE BLDG.
20 N. 3RD STREET
LAFAYETTE, IN 47901

MEMBERS PRESENT

Tom Andrew
Steve Clevenger
Steve Schreckengast
Ed Butz
Gary Schroeder

MEMBERS ABSENT

Carl Griffin

STAFF PRESENT

Ryan O’Gara
Rabita Foley
Linda Underwood
Zach Williams, Atty.

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held on the 24th day of January 2018 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

Attorney Zach Williams called the meeting to order.

I. ELECTION OF OFFICERS

Zach Williams opened the floor for nominations for president.

Gary Schroeder nominated Steve Clevenger for President.
Steve Schreckengast seconded.

Gary Schroeder moved that nominations for President be closed.
Steve Schreckengast seconded and the motion carried by unanimous voice vote.

Gary Schroeder moved that a unanimous ballot be cast for Steve Clevenger for President.
Steve Schreckengast seconded and the motion carried by unanimous voice vote.

Steve Clevenger was seated as President.

Steve Clevenger requested nominations for the office of Vice President.

Gary Schroeder nominated Gary Schroeder for Vice President.
Steve Schreckengast seconded.

Gary Schroeder moved that nominations for Vice President be closed.
Steve Schreckengast seconded and the motion carried by unanimous voice vote.

Gary Schroeder moved that a unanimous ballot be cast for Gary Schroeder for Vice President.
Steve Schreckengast seconded and the motion carried by unanimous voice vote.

Steve Clevenger requested nominations for Secretary.

Gary Schroeder moved that Zach Williams be nominated for Secretary. Steve Schreckengast seconded.

Gary Schroeder moved that nominations for Secretary be closed. Steve Schreckengast seconded and the motion carried by unanimous voice vote.

Gary Schroeder moved that a unanimous ballot be cast for Zach Williams for Secretary. Steve Schreckengast seconded and the motion carried by unanimous voice vote.

II. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes from the October 25, 2017 BZA public hearing. Steve Schreckengast seconded and the minutes were approved by unanimous voice vote.

III. NEW BUSINESS

Ryan O'Gara said the petitioner for **BZA-1967—INDIANA BECKNELL INVESTORS 2011, LLC.** has withdrawn the petition. As of now, the petitioner for **BZA-1973—ART HURTEAU, DOMINO'S** has not turned in the Sign Posting Affidavit, but he has been told it will be here before the case is called. He went on to say all other cases on the agenda are ready to be heard.

IV. PUBLIC HEARING

Gary Schroeder moved that there be incorporated into the public hearing portion of each application to be heard this evening and to become part of the evidence at such hearing, the Unified Zoning Ordinance, the Unified Subdivision Ordinance, the Comprehensive Plan, the By-laws of the Area Board of Zoning Appeals, the application and all documents filed therewith, the staff report and recommendation on the applications to be heard this evening and responses from the checkpoint agencies. Steve Schreckengast seconded and the motion carried by voice vote.

Steve Clevenger read the meeting procedures.

1. BZA-972--DF PROPERTIES, LLP:

Petitioner is requesting a second extension of a previously-approved special exception for a mining operation (approved in August 1989). There will be no further mining, only completion of reclamation. Reclamation will be finished in December 2018. The property is located on the south side of CR 510 S just west of CR 150 E, Wea 21 (SW) 22-4. (UZO 3-2) CONTINUED FROM THE DECEMBER BZA MEETING DUE TO THE LACK OF A QUORUM.

Gary Schroeder moved to hear and vote on BZA-972—DF PROPERTIES, LLP. Steve Schreckengast seconded.

Rabita Foley presented the zoning map, aerial photos of the site, original site plan and the submitted reclamation plan. She explained that the special exception for the sand and gravel mining operation expired in 2009 without reclamation and this request will re-grant the special exception so that reclamation can be completed. She referred to the aerial to highlight another former mining operation in need of reclamation (**BZA-1351**) and other mining operations surrounding this site. She said only 60 acres of the original 200 are included in this request and that is the same area that was granted an extension in 2014. She said the UZO requires all reclamation plans show slopes no steeper than 3:1, surfaces to be grassed or landscaped, installed bufferyards remain, and overburden removed. The reclamation plan for the site meets all the standards. Bufferyards were not required at the time the original special exception was granted so no bufferyards were installed. All reclamation has been completed.

Petitioner has re-seeded the east and west sides of the pond, repaired erosion, and removed vegetation on an existing berm on the north side of the property. A final reclamation plan that has been certified by a Registered Land Surveyor showing topography and landscaping was submitted to the ABZA. Even though this extension will be valid through December 2018, the reclamation has already been completed. She concluded with a recommendation of approval.

Ryan Munden, PO Box 280, Lafayette, IN 47902, attorney representing the petitioner, said this request is merely a housekeeping matter. The reclamation has been completed and he hopes to bring it to the Board next month for approval.

The Board voted by ballot 5 yes to 0 no to approve **BZA-972—DF PROPERTIES, LLP.**

2. BZA-1968 TIPPECANOE MEMORY GARDENS:

Petitioner is requesting a variance to remove the required "Type C" bufferyards along the north, west, and south property lines on an I2 zoned lot that abuts R1 zones. Petitioner intends to use this 4.077 acre property for a proposed crematory and chapel located on the east side of Morehouse Road, approximately 1/4 mile north of Kalberer Road (CR 350 N) in Wabash 1 (NW) 23-5. (UZO 4-9-3) *CONTINUED FROM THE DECEMBER BZA MEETING DUE TO THE LACK OF A QUORUM.*

Gary Schroeder moved to hear and vote on **BZA-1968—TIPPECANOE MEMORY GARDENS.** Steve Schreckengast seconded.

Rabita Foley presented the zoning map and aerial photos of the site, explaining that the petitioner owns the adjacent land to the south, west, and north. This lot is platted in the midst of a large 50-acre tract being used for cemetery services. She said the property was rezoned to I2 in August for a crematory and received approval for a one-lot minor subdivision shortly after. The remainder of petitioner's property has been used as a cemetery since the 1960's. The undeveloped property to the east is associated with the Purdue Research Foundation. A bufferyard is required where the I2 zoned lot abuts R1 zoned property but this is an unusual scenario because petitioner owns all the surrounding properties and it is unlikely the adjoining R1 zoned land will be residentially developed. She explained that this unique development scenario was discussed by staff last year and staff decided to include language that would allow the Administrative Officer to review the requirements and types of bufferyards needed where property lines serve as the boundary between zones where the properties are owned by the same entity or individual in the UZO bufferyard amendment. She concluded with a recommendation of approval.

Ryan Munden, PO Box 280, Lafayette, IN 47902, attorney representing the petitioner, said petitioner owns the adjacent land to the north, south, and west that is used for cemetery purposes. The land to the east is not owner by petitioner and is already industrially zoned. There is no need for a bufferyard because petitioner owns all the residentially zoned adjacent land. He requested approval.

The Board voted by ballot 5 yes to 0 no to approve **BZA-1968—TIPPECANOE MEMORY GARDENS**

3. BZA-1969--TERRI WATTS:

Petitioner is requesting a variance to increase the total area of fascia signage for a Starbucks in an integrated center to 77.11 sq. ft. from the maximum allowed 40 sq. ft. in a GB zone. The property is located at 2718 US HWY 52 W (in front of Meijer), Wabash 2 (NW) 23-5. (UZO 4-8-7) *CONTINUED FROM THE DECEMBER BZA MEETING DUE TO THE LACK OF A QUORUM.*

Gary Schroeder moved to hear and vote on **BZA-1969—TERRI WATTS.** Steve Schreckengast seconded.

Ryan O'Gara presented the zoning map, aerial photos of the site, completed building and existing signage, and a rendering of the proposed signage. He summarized the area zoning and land use

patterns. He said this four-unit property was recently developed as part of a larger commercial node at the intersection of US 52 and US 231.

Petitioner feels the additional signage is necessary to overcome the lack of direct access to the Starbucks from US 52 but the larger retailers' deep setbacks allow smaller retailers in the developing integrated centers to locate much closer to US 52, providing them with greater visibility. He cautioned that the other three tenants sharing the same center may request additional signage if this request is approved. He concluded with a recommendation of denial.

Terri Watts, 125 Hillside Drive, Greenville, SC 29607, petitioner's representative, said she had a chance to visit the site this afternoon, discussed this request with Starbucks, and everyone agreed that the visibility is much better than was anticipated when the project was designed. She thanked staff for all their work and respectfully withdrew the request.

4. BZA-1970--PURDUE FARMHOUSE ASSOCIATION:

Petitioner is requesting a parking variance to allow 43 spaces instead of the minimum requirement of 56 for the Farm House Fraternity in an R3W zone. (Petitioner was granted a previous variance, BZA-1877, to allow a reduction to 32 spaces instead of the required 42 spaces using a different site plan.) The fraternity house is located at 1028 W. State Street, in the City of West Lafayette, Wabash 19 (NW) 23-4. (UZO 4-6-3) **WITH CONDITION CONTINUED FROM THE DECEMBER BZA MEETING DUE TO THE LACK OF A QUORUM.**

Gary Schroeder moved to hear and vote on BZA-1970—PURDUE FARMHOUSE ASSOCIATION. Steve Schreckengast seconded.

Ryan O'Gara presented the zoning map, aerial photos of the site, and previously approved site plan. He explained the fraternity house was recently rebuilt after receiving several variances (building height, parking, vegetative coverage, and front setback) in 2013 but that a different site plan from the one that was approved was used for the building permit. The fraternity was built without complying with the approved variances, requiring a second filing (signage and vegetative coverage). The previously approved parking variance was for 56 occupants instead of the existing 74 occupants and the additional occupants were added in violation of the ordinance. He highlighted the 13 on-site parking spaces and the location of the additional 31 spaces on a paved, Purdue parking lot, secured by a recorded off-site parking agreement between Purdue and the fraternity. He concluded with a recommendation of denial. If the variance request is approved, the following condition must be met:

1. The off-site parking agreement must be recorded in the Office of the Tippecanoe County Recorder.

Joseph Bumbleburg, PO Box 1535, Lafayette, IN 47902, attorney representing the petitioner, said this project has been going through the system. The previous fraternity house was unsatisfactory and not in keeping with what students want. Through the entire process, he and the petitioner have been in constant dialog with West Lafayette and Purdue University. Even though an illegal building was created, West Lafayette has never indicated that there is a problem. With the new plan, the off-site parking is now adjacent to the subject property, on Purdue-owned land, and closer to the fraternity house while increasing the parking ratio slightly bringing the site closer to being in compliance with the ordinance.

Brent Bible, 7829 Lydia Lane, Lafayette, IN 47909, said he was building chairman for this project because he lives locally. The fraternity house was built to the approved occupancy of 56 residents with plans to build out the 4th floor to accommodate 74 residents when there is a demand for additional housing. No one anticipated that demand within the first six months. He has worked with the University Board of Trustees, the West Lafayette Engineer's Office, and the Joint Board to coordinate that the building conforms to the Purdue Master Plan and the State Street Plan. He concluded by saying that the fraternity house increases student density on campus and increasing student density increases student success. He added that looking back he wished he had used the planned development route because this has been a long process to date.

Gary Schroeder said the petitioner did a good job and constructed a nice building to accommodate students. He plans to support this request.

Steve Schreckengast asked the petitioner if he has received any pushback from the university or West Lafayette.

Brent Bible said he has experienced the opposite and the university has been very cooperative. The fraternity now has a permanent lease on the Purdue land that is being used as a parking lot.

Steve Clevenger said he knows West Lafayette and the Joint Board are check-point agencies and he wondered if staff has heard anything from either of them regarding this request.

Ryan O'Gara replied that they are check-point agencies and staff has not heard from either regarding this request.

Ed Butz asked where the fraternity residents will park their vehicles if the lot is full.

Brent Bible replied that it is the student's responsibility to find other parking. Purdue has some open parking available just south of the frat house. The house discourages freshmen from bringing vehicles to campus. The house is in the center of the 10-minute campus walk circle. He added that many students use bicycles.

Steve Clevenger asked Brent Bible if there is any problem with the condition.

Brent Bible replied that he thought that had already been done. He said he will follow-up to make sure the parking agreement with Purdue is recorded and he will see that it is done if it has not. He will also supply APC with a copy of the recorded parking agreement.

The Board voted by ballot 5 yes to 0 no to approve **BZA-1970—PURDUE FARMHOUSE ASSOCIATION.**

5. BZA-1971--JOSE VEGA:

Petitioner is requesting the following two setback variances to legitimize an already constructed 6' high fence in a Select Agricultural (AA) zone:

1. To reduce the setback to 7.10' from the minimum required 60' along US 52; and
2. To reduce the setback to 33' from the minimum required 40' along SR 28:

on property located at 10404 State Road 28 E, Lauramie 13(SW) 21-3. (UZO 2-1-7)
CONTINUED FROM THE DECEMBER BZA MEETING DUE TO THE LACK OF A QUORUM.

Gary Schroeder moved to hear and vote on **BZA-1971—JOSE VEGA.** Steve Schreckengast seconded.

Rabita Foley presented the zoning map and aerial photos of the site and fence. She said petitioner said the fence was built to be able to let the three family dogs out in the back yard. She explained that the property was rezoned from HB to AA to make the house on site a conforming use. The house was constructed in the 1920's when US 52 was only two lanes which explained the setback for US 52 at approximately 30' instead of the required 60' and 26' instead of the required 40' from SR 28. The 6' tall fence in question was recently constructed. She said the ordinance allows fencing with a maximum height of 42" within the front setback. Privacy fences (5' or 6' high) are only permitted behind the front setback. The vision setback can be met because of the acute angle of the intersection. The ordinance stipulates that the shorter of two frontages shall be the front lot line. In this case the SR 28 side is shorter so it is the front and the US 52 frontage is the side lot line. Taller fences are allowed on the side of the corner lot with Administrative Officer approval but the approval was not requested nor obtained. A complaint was filed about the fence and staff has visited the site. Staff observed that cars queued on SR 28 waiting to turn onto US 52 may not be able to see around the fence but the lead car would have no problem safely watching for oncoming southbound traffic. Staff is recommending denial for both requests because self-imposed situations cannot be considered hardships.

Jose and Lucy Vega, 10404 State Road 28 East, Clarks Hill, IN 47930, petitioner and his daughter, said before they constructed the fence they asked if a permit was needed. They were told permits are not needed to construct a fence but they were unaware of the height requirements if the fence is built in the setback. They requested approval in order to be able to let their dogs out the back door.

Steve Schreckengast remembers when there was a gas pump in front of the house. He added that he drives by this site several times a month on his way to Indianapolis and has never noticed the fence. He has no problem approving this request if it is not blocking oncoming traffic on US 52.

Tom Andrew asked if staff received a complaint about the fence.

Rabita Foley replied that the Building Commissioner received a complaint about the fence and she thinks the compliant refers to the height of the fence.

Gary Schroeder pointed out that the petitioner had to post a sign on both road frontages notifying the public about this request. If anyone has an issue with the fence they could have attended the hearing to voice their objection.

The Board voted by ballot 5 yes to 0 no to approve **BZA-1971—JOSE VEGA.**

6. BZA-1972--TRES LAGOS DEVELOPMENT LLC:

Petitioner is requesting a variance to reduce the front setback to 25' from the minimum required 60' along Old SR 25 N to construct a new house in an R1 zone. (The area in the request currently has both R1 and FP zoning. Petitioner has provided a Flood Plain certification that accurately delineates the boundary between zones.) The property is located at 2894 Old SR 25 N, Fairfield 11 (NW) 23-4. (UZO 2-25-8) **WITH CONDITION** *CONTINUED FROM THE DECEMBER BZA MEETING DUE TO THE LACK OF A QUORUM.*

Gary Schroeder moved to hear and vote on **BZA-1972—TRES LAGOS DEVELOPMENT LLC.** Steve Schreckengast seconded.

Ryan O'Gara presented the zoning map, and aerial photos of the site, pointing out that only 1.34 acres of the 25+ acre site are buildable because the remainder of the property is in the Flood Plain. He referred to the aerial to show the proposed buildings will be behind a remnant of the original SR 25 that was in place before I-65 was built and is now being used as an access road to additional properties but is still classified as Old SR 25. He highlighted the businesses in the area and the residences to the northeast. There are two septic systems on the property that were built with permits and could be adjusted to meet the proposed gallons-per-day flow needed once the number of bedrooms has been determined. Petitioner submitted a flood certificate with this request that better delineated the Flood Plain on the property. The required setbacks from the FP zone are shown on the site plan. He went on to say staff noticed large chunks of concrete that were placed on the site within the Flood Plain when visiting the site. The Building Commissioner believes numerous truckloads of concrete have been illegally dumped on the site. He then explained that if the frontage road was not part of Old US 25 the setback would be much smaller and the need for this variance would be eliminated. He summarized the ballot items and concluded with a recommendation of approval with the following condition:

1. The concrete and fill illegally dumped on site shall be removed from the Flood Plain prior to the issuance of an Improvement Location Permit (ILP) for the proposed structures.

Christopher Shelmon, 250 Main Street, Suite 590, Lafayette, IN 47901, attorney representing the petitioner, thanked Ryan O'Gara and Rabita Foley for their understanding regarding this unique situation. He informed the Board that there will be no problem satisfying the commitment because his client plans to recycle the concrete and use it in the construction of the drive and buildings. His client has already hired the equipment to crush the concrete and plans to start when the weather breaks.

Steve Clevenger asked if crushing the concrete and using it for construction will satisfy the condition.

Ryan O'Gara said crushing the concremented and using it for construction will satisfy the condition.

The Board voted by ballot 5 yes to 0 no to approve **BZA-1972—TRES LAGOS DEVELOPMENT LLC.**

7. BZA-1973--ART HURTEAU, DOMINO'S:

Petitioner is requesting a parking variance to allow 22 spaces instead of the minimum requirement of 148 spaces for three restaurants in an integrated center in the CBW zone. The property is located at 616 – 620 West Stadium Avenue, West Lafayette, Wabash 18 (SE) 23-4. (UZO 4-6-3)

Gary Schroeder moved to hear and vote on BZA-1973—ART HURTEAU, DOMINO'S. Steve Schreckengast seconded.

Rabita Foley presented the zoning map, aerial photos of the site, and site plan. She said petitioner plans to renovate 4,000 sq.ft. in a 10,100 sq.ft. integrated center for a Domino's Pizza restaurant. She summarized the area zoning patterns and said four variances requests were made for this location in the past. Northwestern Avenue is the dividing line between the Purdue campus to the west and commercial and mostly residential rentals to the east. In 1983 the on-site parking requirement was reduced to 25 spaces. Five variance requests with a commitment to record a condition to use the basement area as storage only was approved in 1990 but the commitment was never recorded. In 1995, requests to park in the setback and remove the commitment were denied but a request to grant off-site parking for 15 additional vehicles was approved for the bookstore expansion. The variances granted in 1983 and 1995 no longer apply to the site because the bookstore and office uses no longer exist. She referred to the aerial to highlight the neighboring uses with Purdue University further west across Northwestern. She referred to the site plan to highlight the location of the Yummytime restaurant (A), Domino's (C), and a restaurant to be determined (B) on the site plan. Staff believes that unless the CBW standards are amended to reflect an urban environment, businesses serving the population in West Lafayette will never be able to comply with the current parking requirements. Petitioner claims that 75% of the sales at this location will be done by delivery and would only need three spaces for drivers at any given time. She said petitioner has not provided a comprehensive sign package for this site for staff to review. She summarized the ballot items and concluded with a recommendation of approval.

Bill Butz, 250 East 96th Street, Suite 580, Indianapolis, IN 46240, civil engineer for the project and petitioner's representative, said this property is located in a walkable environment and 75% of his client's business is delivery. He thinks the request is self-explanatory and simple. He requested approval and said he would be happy to answer any questions the Board may have.

Ed Butz said he is not related to Bill Butz and added that he does like Domino's Pizza.

The Board voted by ballot 5 yes to 0 no to approve **BZA-1973— ART HURTEAU, DOMINO'S.**

V. ADMINISTRATIVE MATTERS

None

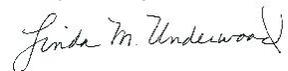
Steve Clevenger stated that unless any member has an objection the chair will order the findings of each member casting a vote for the majority decision of the Board to be the collective findings of the Board in support of the decision of the Board. Hearing none, it is so ordered.

VI. ADJOURNMENT

Gary Schroeder moved for adjournment. Steve Schreckengast seconded.

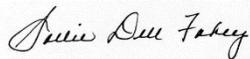
The meeting adjourned at 7:45p.m.

Respectfully submitted,



Linda Underwood
Recording Secretary

Reviewed by,



Sallie Dell Fahey
Executive Director