

AREA BOARD OF ZONING APPEALS OF TIPPECANOE COUNTY

MINUTES OF A PUBLIC HEARING

DATE..... JANUARY 25, 2017
TIME..... 7:00 P.M.
PLACE..... CO. OFFICE BLDG.
20 N. 3RD STREET
LAFAYETTE, IN 47901

MEMBERS PRESENT

Tom Andrew
Steve Clevenger
Ed Weast
Carl Griffin
Gary Schroeder
Ed Butz

MEMBERS ABSENT

Steve Schreckengast

STAFF PRESENT

Ryan O’Gara
Rabita Foley
Linda Underwood
Jay Seeger, Atty.

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held on the 25th day of January, 2017 at 7:00 P.M., pursuant to notice given and agenda posted as provided by law.

Jay Seeger called the meeting to order.

I. ELECTION OF OFFICERS

Jay Seeger opened the floor for nominations for president.

Gary Schroeder nominated Steve Clevenger for President.
Carl Griffin seconded.

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

Gary Schroeder moved that a unanimous ballot be cast for Steve Clevenger for President.
Carl Griffin 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.
Carl Griffin seconded.

Steve Clevenger moved that nominations for Vice President be closed.
Carl Griffin seconded and the motion carried by unanimous voice vote.

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

Steve Clevenger requested nominations for Secretary.

Gary Schroeder moved that Jay Seeger be nominated for Secretary. Carl Griffin seconded.

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

Gary Schroeder moved that a unanimous ballot be cast for Jay Seeger for Secretary. Carl Griffin seconded and the motion carried by unanimous voice vote.

II. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes from the December 7, 2016 BZA public hearing. Carl Griffin seconded and the minutes were approved by unanimous voice vote.

III. NEW BUSINESS

Ryan O’Gara said both cases listed on the agenda are ready to be heard and added that the cases will be presented together.

IV. PUBLIC HEARING

Steve Clevenger read the meeting procedures.

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. Carl Griffin seconded and the motion carried by voice vote.

1. BZA-1952--TIPPCO INVESTMENTS, LLC:

Petitioner is requesting a variance to reduce the required minimum vegetative coverage from 50% to 34% for a 2.07 acre A (Agricultural) zoned property located at 1003 S 900 E, Lafayette, in Perry 35 (NW) 23-3 (UZO 2-24-6). The subject property is the same as that involved in the special exception case **BZA-1953** (mini-warehouse and self-storage warehousing operation expansion).

2. BZA-1953--TIPPCO INVESTMENTS, LLC:

Petitioner is requesting a special exception to expand an existing mini-warehouse and self-storage warehousing operation (SIC 4225) by adding one additional building with 34 storage units. The hours of operation would be from 8 AM to 8 PM, seven days a week in A (Agricultural) zoning on the property located at 1003 S 900 E, Lafayette, in Perry 35 (NW) 23-3. *WITH CONDITIONS*

Gary Schroeder moved to hear **BZA-1952—TIPPCO INVESTMENTS, LLC** and **BZA-1953—TIPPCO INVESTMENTS LLC** together and vote on separately. Carl Griffin seconded.

Rabita Foley presented the zoning map, aerial photos, and site plan. She then summarized the area land use and zoning patterns, noting that the original special exception for the existing storage facility was granted in 2009. She explained that petitioner plans to add 5,250 sq. ft. to an existing self-storage facility to increase the number of storage units from 92 to 126.

She referred to the aerial to highlight the two existing storage structures that will remain and the single-family home that petitioner plans to demolish on the site. She then displayed the site plan to point out the proposed new storage building just north of the existing buildings, highlighted in red, and the proposed new commercial drive on CR 100 South and gravel lot area, highlighted in yellow. Petitioner plans to vacate the smaller residential drive and keep the existing commercial drive on CR 900 East.

BZA-1952 - Variance

Staff feels the site could be designed in a compact manner to reduce the hardscape/gravel area. The new commercial drive also contributes to the reduction of vegetative cover. The business has merely outgrown the lot and this situation cannot be considered a hardship. She summarized the ballot items and concluded with a recommendation of denial.

BZA-1953 – Special Exception

Petitioner states the new building will have no more than five, 75 watt lights and all lighting will be directed toward the ground. The Highway Department has said traffic created by this expansion will be minimal and not alter traffic. The Drainage Board supports the dry detention basin petitioner is proposing. Based on the site plan, the proposed use passes all the required tests for a special exception except for vegetative coverage and the Drainage Board will need to review and approved the detention basin. The Highway Department will need to approve the drive on CR 100 South and the Health Department will have to approve the abandonment of the septic system. All three needed approvals are conditions of this request. She concluded with a recommendation of approval with the following conditions:

1. Prior to receiving an Improvement Location Permit, evidence needs to be provided to staff that the Drainage Board has reviewed and approved the proposed Dry Detention Basin.
2. Prior to receiving an Improvement Location Permit, evidence needs to be provided to staff that the Highway Department has reviewed and approved the proposed commercial driveway on CR 100 S.
3. Prior to receiving an Improvement Location Permit, evidence needs to be provided to staff that the County Health Department has reviewed and approved an abandonment of the septic system.

Gary Schroeder moved to amend the motion on the floor to read **BZA-1953—TIPPCO INVESTMENTS, LLC with Conditions.** Carl Griffin seconded and the motion was approved by unanimous voice vote.

Zach Williams, PO Box 449, Lafayette, IN 47902, attorney representing the petitioner, thanked staff for its project review on their project and for meeting with him and his client last summer. He agrees with the staff report that states there will be minimal impact but disagrees that there is no hardship. The original proposal was to have two new buildings constructed but after meeting with staff last summer we ran the numbers and were unable to get under the 20% building requirement. When trying to make things as compact as possible, petitioner was able to come up with one additional building. Just adding one building and a pathway around it required the vegetative coverage variance request. The request is for a 16% reduction in vegetative coverage and that is in line with a couple of requests that were granted at last month's meeting. The site is surrounded by agriculture with a subdivision to the west and the impact to the neighborhood will be minimal. He believes this small lot creates a hardship and the hardship is not self-imposed because it becomes a safety issue. When there aren't paths people will be driving on grass and vegetation to reach the buildings. Storage facilities are only allowed in agricultural, industrial, and two business zones.

Robert Ummel, 9250 East 100 South, Lafayette, IN 47905, said his wife owns the property north of this site. His son spoke in objection when the original special exception was granted. His son told the Board what would happen and nobody listened. He informed the Board that the owner raised this low lot 20" or more and he does not understand how he was able to do that. Since the lot was raised CR 100 South and three acres of his field regularly floods. It cost him \$3000.00 to get rid of the water because there are no ditches on either side of CR 100 South. The Drainage people that came out suggested he put a tile from petitioner's property on his side $\frac{3}{4}$ of a mile down the road at a cost of \$10,000.00. He does not understand why it is his problem when he did not cause the flooding in the first place. There are 4" to 6" of water on CR 100 South during the spring rains. All he got out of this was a \$300.00 increase in his property taxes after the Board let the owners flood his property. He does not understand where the water from the new building will go because there will be less vegetation. Petitioner's site used to be drained

until the tile was cut off when a subdivision was built across the road. No one is paying attention to the people it affects.

Perry Fultz, 9536 East 100 South, Lafayette, IN 47905, said he owns the farm ground that surrounds this site and has lived in the area all his life and added that he loves this community. He agrees with staff that this business has outgrown the property. When the special exception request was heard in 2009 he voiced his opinion about the stormwater problem but the petitioner only did the special exception for one acre of the two acre lot. A drainage plan was not required as long as less than one acre was disturbed. The special exception was approved with the promise that the residence was going to be an office, a chain link fence would be put around the property, and other concessions to make sure things ended up as promised. The chain link fence was never put in place so now trash blows onto his property when people are moving things in and out of the storage buildings. He referred to the aerial to show where this use is encroaching on his property now. After the special exception was approved the owner got a fill permit for the other part of the site so in reality over one acre of ground was disturbed. One developed acre that turns into hard surface creates more runoff than 40 acres of farm ground. There is no physical barrier keeping the petitioner from increasing the lot size and he suggested the petitioner contact him to purchase more ground to eliminate the need for a vegetative cover variance.

Zach Williams said Mr. Novak, his client, is a subsequent owner and is aware of the drainage problems. His client is working with the Drainage Board and has been for over a year to take care of the drainage issues. Drainage Board approval is also a condition of approval.

Steve Clevenger asked staff if they have any information on the chain link fence.

Rabita Foley replied that the fence was not part of the 2009 special exception approval but the Board added a condition requiring petitioner to work with the Drainage Board to mitigate ponding.

Steve Clevenger pointed out that a previous owner did not get Drainage Board approval on flooding mitigation with the 2009 special exception even though it was a condition of approval. He said this time the petitioner is different and the request is for more than one acre so this plan will be reviewed by the Drainage Board.

Steve Clevenger asked petitioner if he has any comment with regard to the fence.

Zach Williams said his client is open to installing a fence.

Perry Fultz said he can see cars coming and going from the property all hours of the day and night.

Carl Griffin asked petitioner if he would make a commitment that the security fence will be installed.

Zach Williams said his client will make a commitment to install security fencing.

Zach Williams added the following commitment to **BZA-1953—TIPPCO INVESTMENTS, LLC with Conditions:**

1. Provide staff evidence that a minimum 6' high perimeter fence around the property, excluding the area around the storm pond, has been installed prior to receiving an Improvement Location Permit.

Carl Griffin said fencing will help petitioner maintain 8:00am to 8:00pm hours.

Steve Clevenger informed the remonstrators that they can always file a complaint if the flooding is not taken care of, there are traffic issues, or petitioner is not abiding by the approved hours of operation.

Perry Fultz said the original owner planned to build the first building and the second within 12 months but that did not happen. The business changed hands and the second owner constructed the second building but not within the allotted time frame. He called and told APC staff that the owner was not fulfilling the conditions but nothing happened. He feels like there has been one broken promise after another on this

site. He asked the Board to delay approving this request until all the conditions have been met and the fence has been constructed.

The Board voted by ballot 5 yes to 1 no to approve **BZA-1952—TIPPCO INVESTMENTS LLC.**

<u>YES Votes</u>	<u>NO Vote</u>
Steve Clevenger	Carl Griffin
Gary Schroeder	
Ed Butz	
Ed Weast	
Tom Andrew	

The Board voted by ballot 5 yes to 1 no to approve **BZA-1953—TIPPCO INVESTMENTS LLC with Conditions & Commitment.**

<u>YES Votes</u>	<u>NO Vote</u>
Steve Clevenger	Carl Griffin
Gary Schroeder	
Ed Butz	
Ed Weast	
Tom Andrew	

Jay Seeger advised the remonstrators to follow up by expressing their drainage concerns to the Drainage Board or County Surveyor. No permits will be issued without Drainage Board approval.

V. ADMINISTRATIVE MATTERS

None

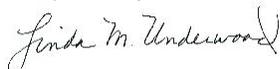
Steve Clevenger stated that unless any member has an objection the chair will order the findings of each member casting a vote for the majority decision of the Board to be the collective findings of the Board in support of the decision of the Board. Hearing none, it is so ordered.

VI. ADJOURNMENT

Gary Schroeder moved for adjournment. Carl Griffin seconded.

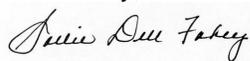
The meeting adjourned at 7:55p.m.

Respectfully submitted,



Linda Underwood
Recording Secretary

Reviewed by,



Sallie Dell Fahey
Executive Director