

**AREA PLAN COMMISSION OF TIPPECANOE COUNTY
ORDINANCE COMMITTEE
MINUTES OF A PUBLIC HEARING**

DATE..... MARCH 02, 2022
TIME..... 4:40 P.M.
PLACE..... COUNTY OFFICE BUILDING
20 N. 3RD STREET
LAFAYETTE, IN 47901

This meeting was held in-person. Members of the public could watch the livestream of the meeting at <https://www.facebook.com/TippecanoeCountyIndiana> or <https://www.youtube.com/channel/UCJleeA9ZQo9E11GdZTdjurQ/featured>

MEMBERS PRESENT

Jackson Bogan
Vicki Pearl
Greg Jones
Kathy Parker
Gary Schroeder
Tom Murtaugh

MEMBERS ABSENT

Larry Leverenz
Jerry Reynolds

STAFF PRESENT

David Hittle
Ryan O’Gara
Kathy Lind
Eric Burns, Atty.
Jennifer Ewen

Jackson Bogan called the meeting to order at 4:40 PM.

I. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes from the January 5, 2022 meeting. Greg Jones seconded, and the minutes, as submitted, were approved by unanimous voice vote.

II. ONE MINOR CHANGE FROM OUR ADMINISTRATIVE OFFICERS

Proposed UZO Amendment 103

Kathy Lind stated we originally discussed this in December, and at the January meeting, we made a motion to go forward with the self-storage warehouse business special exception requirement. For the medical related portion, you requested some additional information, and she sent an email regarding medical professions that require a license in the State of Indiana. It included things like acupuncture, genetic counseling, massage therapists, and dieticians to name a few. She said we want to have these types of businesses be allowed to operate as a home occupation which currently they are prohibited.

Jackson Bogan stated we just wanted to see the list of medical professions that require a license in the State of Indiana to make sure we weren’t passing something where, for example, a tattoo parlor could operate out of their home.

Kathy Lind responded correct.

Jackson Bogan stated he feels very comfortable with this as the wording is here and written down. He asked for any questions or comments.

Kathy Lind added it does include some things like dentists and optometrists, but they have a lot of equipment that they use in their profession, and they are likely not going to want to put that in their home.

Jackson Bogan asked even if they would want to, it allows for only one; is that correct.

Kathy Lind responded correct. It is not a clinic.

Self-Storage Warehousing

Jackson Bogan opened the floor for discussion regarding self-storage warehouses.

Gary Schroeder stated before we spoke about where someone could get a special exception if they wanted to put a self-storage warehouse business on their site and we could have a public hearing to hear that, but he then thought about the existing self-storage warehouse businesses and how they would become non-conforming, and that affects financing and insurance businesses, and he wondered if there is a way to make the existing ones conforming. He spoke with Kathy, and there is one provision in the Ordinance where if you have a conforming use and a highway takes a right-of-way and now your setback does not meet the current setback which would make you non-conforming; the Ordinance says you are still conforming because it was a governmental action that took that land and we are not going to put a burden on you to come and get an exception or not be able to repair your house or add onto your house, so there is some precedent for that, but he is not sure of the mechanism that we can do that.

Eric Burns stated there may be a way, but it is not occurring to him at the moment. He said he likes the condemnation thinking that it can't because it was a governmental action create a nonconforming use.

Kathy Lind stated the difference is that this is not a taking; it's a requirement.

David Hittle stated they spoke with the owner of the storage facility; the one Gary had spoken with, and they suggested to him to find out from his lender if they had problems with the idea of legal non-conforming and what would allay their concerns, and he thought that perhaps they could go ahead and get a special exception if that would be helpful, but that is one route that could be taken.

Eric Burns stated an expedited special exception process, and he said he goes back to when an expedited change needed to be done for a plan development and it became easy; you didn't have to prove anything; you just had to ask for it, and you got it. Maybe that is an approach in this situation since we are imposing it as a governmental entity by making a change.

Gary Schroeder stated another work-around in the Subdivision Ordinance is to attach a date to it, for example, if it is created before this date, you follow these set rules, and if it was created after this date, you follow these rules.

Vicki Pearl stated her concern is if they go to non-conforming and we give them this special exception, the lenders are still sitting in the seat of if something happens to that property, they can't put back what they had. When a lender makes a loan on something, they don't get notified of changes.

Ryan O'Gara stated he disagrees that it is non-conforming. It is permitted in the zone by a special exception.

Vicki Pearl stated under the current rules they can expand or change. It is allowed.

David Hittle responded correct until the Ordinance changes.

Vicki Pearl stated it feels like we are going to paint this picture, and then we are going to have to change a lot of things, and that is concerning to her.

Ryan O'Gara stated the City of Lafayette does not want these in the core areas of their city, and that is what they asked us to look into. By giving them a special exception option, that gives the public, city staff, and city officials a chance to have their say. He said he disagrees that it is non-conforming to the zone because it is not. They just got in before special exceptions were required, and so if they choose to expand then they would have to get a special exception for the expansion.

Kathy Lind reminded everyone this is only in the Urbanized Sewered Area. The location is more the core central city area.

David Hittle stated it is a legitimate change. The idea is that this is old town, and you don't want to locate something that doesn't employ anyone, only serves a few people, and takes a lot of land. It is a low desirability especially being in an old town. You want those located in suburbia that is surrounding us. You don't want them located downtown or near downtown.

Kathy Lind stated most of them are located around the edges of town.

Gary Schroeder stated we don't disagree, and we approved that we think this is a good idea, but he disagrees that we are putting a burden on the storage units that are already there.

Jackson Bogan asked why not attach a date to it.

Gary Schroeder stated he personally likes the date idea.

Jackson Bogan stated attach a date so that the self-storage warehouses that have come prior to the selected date and were already operating are considered conforming and should something happen would be able to rebuild under the normal standards that they were able to build in the first place.

David Hittle responded the only mechanism that would allow for that is to give them a special exception.

Jackson Bogan stated we are saying what if we make it conforming if it was already in existence prior to the selected date.

David Hittle responded there is no legal mechanism to do that. You can't say this zoning code is frozen to this property as it was until this selected date, and this zoning code applies to everything else in the city going forward.

Eric Burns asked are there any situations where we use a date.

David Hittle responded you can attach a date as a condition or a commitment to something, but you can't override it.

Eric Burns stated he is thinking there is something else that may be out there. He said another thought is how do we solve Lafayette's problem in another manner.

Ryan O'Gara stated you are saying they should be allowed to continue and expand as-is, and Lafayette is saying they are not interested in these uses there. He doesn't think those two positions are reconcilable.

Eric Burns stated he is talking about solving their problem in a different manner other than a special exception.

Ryan O'Gara stated they are interested in these uses going away.

Vicki Pearl stated the other concern is people whose properties will change aren't being notified, so they don't even know to come forward until it is too late.

Ryan O'Gara stated we have zoning administrator decisions on non-conforming uses that would be thrown out if this goes, where it goes. It erases the point of non-conformities; especially, when the locality is making a calculated decision that there are certain uses they do not want in certain places. You are essentially removing that option and really the fundamentals of what a non-conformity is.

Gary Schroeder moved to have staff work on any solutions to try to make the existing self-storage warehouses in the Urbanized Sewered Area conforming without going through a special exception. Vicki Pearl seconded, and the motion carried by unanimous voice vote.

Gary Schroeder moved to have the medical related piece with the described items in the memo on the Ordinance defining state-licensed medical professionals be included to the full APC for consideration. Greg Jones seconded, and the motion carried by unanimous voice vote.

III. CITIZEN COMMENT

Tom Murtaugh stated the Isaiah House rezone that they heard at their last meeting has been pulled, and that did result in conversations about perhaps allowing that particular type of use to be defined and allowed in Residential Zoning, so that in this case, NB zoning would not be necessary, and they could go for Residential Zoning with a special exception. He said he is asking this committee to have staff look into wording on that and bringing it back to a future Ordinance Committee meeting.

Tom Murtaugh moved to have staff look into wording for the above stated type of use be defined and allowed in Residential Zoning with a special exception, and then bring it back to a future Ordinance Committee meeting. Gary Schroeder seconded, and the motion carried by unanimous voice vote.

IV. ADJOURNMENT

Gary Schroeder moved to adjourn.

The meeting adjourned at 5:08 p.m.

Respectfully Submitted,

Jennifer Ewen
Recording Secretary

Reviewed By,

A handwritten signature in black ink, appearing to read "D. Hittle", with a horizontal line extending to the right from the end of the signature.

David Hittle
Executive Director