

AREA BOARD OF ZONING APPEALS OF TIPPECANOE COUNTY
MINUTES OF A PUBLIC HEARING

DATE..... APRIL 25, 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
 Frank Donaldson
 Gary Schroeder
 Ed Butz

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 25th day of April 2018 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

President Steve Clevenger called the meeting to order.

I. APPROVAL OF MINUTES

Ed Butz moved to approve the minutes from the March 28, 2018 BZA public hearing. Tom Andrew seconded and the minutes were approved by unanimous voice vote.

II. NEW BUSINESS

Ryan O’Gara said the petitioners for **BZA-1979—HORVATH TOWERS V, LLC** and **BZA-1982—WEST LAFAYETTE JUNIOR-SENIOR HIGH SCHOOL BUILDING CORPORATION** have requested continuances to the May BZA meeting. All other cases are ready to be heard.

III. PUBLIC HEARING

Ed Butz 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. Tom Andrew seconded and the motion carried by voice vote.

Ed Butz moved to continue **BZA-1979—HORVATH TOWERS V, LLC** and **BZA-1982—WEST LAFAYETTE JUNIOR-SENIOR HIGH SCHOOL BUILDING CORPORATION** to the May 23, 2018 Board of Zoning Appeals public hearing at petitioners’ requests. Tom Andrew seconded and the motion was approved by unanimous voice vote.

Steve Clevenger read the meeting procedures.

1. BZA-972--DF PROPERTIES, LLP

Petitioner is requesting a release of a reclamation plan for a 60-acre gravel-mining site of a previously approved special exception which was originally granted in August 1989. The property is located on the south side of CR 510 S just west of CR150 E, Wea 21 (SW) 22-4. (UZO 3-2) CONTINUED FROM THE FEBRUARY ABZA MEETING IN ORDER TO CONDUCT A PROPER SITE INVESTIGATION.

Ed Butz moved to hear and vote on **BZA-972—DF PROPERTIES, LLP.** Tom Andrew seconded.

Rabita Foley presented the zoning map, aerial photos of the site, approved site plan and approved reclamation plan for the 60-acres of land included in this petition. The remaining 130 acres of the original mining site is still an active gravel pit and will be reclaimed when the mining is finished. She explained that the special exception for the sand and gravel mining operation expired in 2009 without reclamation and a request for a special exception to complete the reclamation was approved by the BZA in February. She said the UZO requires all reclamation plans show slopes no steeper than 3:1, surfaces to be grassed or landscaped, installed bufferyards to remain, and overburden removed. The reclamation plan for the site met all the standards and has been certified by a Registered Land Surveyor. She then presented photos showing the berm removed on the north side of the property, where the east and west sides were reseeded, the view of the site from CR 510 South, and the view of the property from the rear. APC has received the following items certifying that the land was reclaimed in accordance with the above-mentioned plan:

- As-Built reclamation plan showing the site's pond, vegetation and slope along with a certification from a Professional Engineer (PE), Justin R. Frazier, stating that 60 acres of land in the request conforms to the requirements set forth in the approved reclamation plan.
- A letter from the County Surveyor, Zachariah E. Beasley, stating that the side slopes meet or exceed the 3:1 slope requirements per the reclamation plan.

She concluded with a recommendation of approval.

Daniel Teder, PO Box 280, Lafayette, IN 47902, attorney representing the petitioner, said the project engineer is present tonight to answer any technical questions. He thanked Rabita Foley for her help in getting to this point. He concurred with the staff report and requested approval.

The Board voted by ballot 6 yes to 0 no to approve the release of the reclamation plan for **BZA-972—DF PROPERTIES, LLP.**

Ed Butz moved to table **BZA-1974—IMRAN KAZEM** and move it to the last agenda item. Tom Andrew seconded.

Steve Clevenger explained that the Notice of Public Hearing sign for **BZA-1974—IMRAN KAZEM** said the meeting is being held at 7:00pm instead of 6:00pm. The Board cannot hear the case until the posted time so that members of the public have an opportunity to comment on the request.

The motion was approved by unanimous voice vote.

2. BZA-1980--SOLLER BAKER FUNERAL HOMES, INC.:

Petitioner is requesting a special exception to add a crematory (SIC 726) building on the existing funeral home site on a GB-zoned lot. The hours of operation would be seven days a week: 9AM to 5PM Monday - Friday, 9AM to 4PM Saturday and as needed on Sunday. The property is located at 400 Twyckenham Boulevard, Lafayette, Wea 05 (NE) 22-4. (UZO 3-2)

Ed Butz moved to hear and vote on **BZA-1980—SOLLER BAKER FUNERAL HOMES, INC.** Tom Andrew seconded.

Ryan O’Gara presented the zoning map, aerial photos of the site with the location of the proposed crematory shown, and site plan. He highlighted other uses in the area. Petitioner’s site plan shows the proposed crematory screened from the adjoining single-family neighborhoods to the north and west. The manufacturer of the gas-fired crematory rates the noise level outside the building as undetectable and the crematory is equipped with an afterburner to prevent smoke and odor from being released into the surrounding atmosphere. He summarized the ballot items and concluded with a recommendation of approval.

Joseph Bumbleburg, PO Box 1535, Lafayette, IN 47902, attorney representing the petitioner, said the petitioners and a representative from the crematory supplier are present tonight to answer any questions. He said the crematory will be located as far away as possible from the neighboring residences. He explained that the funeral home has operated in this area since the 1990’s and there have never been any complaints from the neighbors. The proposed crematory will be well-screened by the building and the various tree lines. The crematory will not have an environmental impact on the area and there will be no discernable noise outside the building.

The Board voted by ballot 6 yes to 0 no to approve **BZA-1980—SOLLER BAKER FUNERAL HOMES, INC.**

3. BZA-1981--SECOND CIRCLE ACQUISITIONS, LLC:

Petitioner is requesting a parking variance to reduce the number of parking spaces to 34 from the minimum requirement of 46 spaces for a proposed Dollar General store on GB-zoned land. The site in question, proposed Lot 1 in SCI Dayton First Addition Subdivision, has been filed for preliminary approval at the April APC meeting. The property is located at the southeast corner of SR 38 (Walnut Street) and Yost Drive in the Town of Dayton, Sheffield 8 (NE) 22-3. (UZO 4-6-8)

Ed Butz moved to hear and vote on **BZA-1981—SECOND CIRCLE ACQUISITIONS, LLC.** Tom Andrew seconded.

Ryan O’Gara presented the zoning map, aerial photos of the site, and site plan. He highlighted other uses in the area. This proposed Dollar General is the same size as the one that was built in Romney but the Romney site was issued a permit in error allowing a building that did not meet the parking standards to be constructed. A parking variance was sought two years after the building was constructed. In this case petitioner plans to build on a lot he knows cannot meet the ordinance standards without a variance. Dollar General’s standard is 30 parking places per location but in this case they are proposing 34 parking spaces. Dollar General states it has supportive data regarding the necessary parking to support the facility but has not provided the data to staff to date. Staff cannot support a request that would not be needed if petitioner/developer either made the proposed lot slightly larger or reconfigured the pavement markings. He summarized the ballot items and concluded with a recommendation of denial.

Mike Thompson, 11988 Fishers Crossing Drive, Suite 154, Fishers, IN 46038, engineer representing the petitioner, distributed a packet of information pertinent to this request that was not available at the time of filing. He met with staff on March 5th and was told staff will not be able to support this request without additional information regarding the traffic and parking demand. A traffic study was done for a store exactly the same size with approximately the same anticipated sales in Pendleton IN. The Pendleton store has the same number of entrances and is set-up the same as this store will be. The company determined that 42 cars visited the site during the peak morning hour and 52 during the peak evening hour. The average shopper spends about 10 minutes in the store and using that data collected nine spaces are needed during the evening peak and seven spaces are needed during the morning peak. Using the same data we determined that a shopper would need to spend 40 minutes in the store to fill all the available parking spaces. He explained that Dollar General is a stop-by store and not a drive-to store. Dollar General is a quick turnover store and people generally stop in on the way to or back from somewhere else. He thinks this is a unique situation because the company has supporting documentation to show the ordinance required number of parking spaces for this use are not needed. Dollar General usually puts in 30 parking spaces but made accommodations for 34 to be closer to ordinance compliance.

Ryan O’Gara read a letter of opposition from:

Mallory Deardorff-Dawson, PO Box 280, Lafayette, IN 47902, attorney representing Mac’s Convenience Stores

Mike Thompson apologized for not having the traffic data available sooner. Dollar General is putting in a curb on Yost Drive at Dayton’s request and indicated that if the curb was put in the Town Board would support the parking variance request. He said a letter from the Town of Dayton was included in his handout.

Steve Schreckengast asked Mike Thompson if he does a lot of Dollar General Stores.

Mike Thompson replied that he does.

Steve Schreckengast pointed out that the Dayton store will be 9,000 sq. ft. and asked typically how much parking is needed.

Mike Thompson said he has done 10 stores in the last 12 months and each one has 27 to 32 parking spaces.

Steve Schreckengast asked Mike Thompson if he actually made a presentation to the Dayton Town Board because the letter he referred to earlier is actually from the Town Clerk and not the Town Board.

Mike Thompson said he went to the Town Board to talk about the preliminary plat and that is when the town asked for the curb. At that time he talked to the Board about the parking variance and asked for a letter indicating the town’s position on the variance request.

Mike Thompson replied that he reached out to Board Member Tyrone Taylor and he created the letter and asked the Town Clerk to mail it.

Steve Schreckengast want to be sure Mike Thompson is saying he does a lot of Dollar General’s and even if the variance is approved, this store will have the most parking.

Mike Thompson said that is correct because this will be the most parking provided for the last 10 stores and all 10 stores are 9,100 sq.ft. like this one will be.

Steve Clevenger wants to be sure the variance goes with the land and not with the use.

Ryan O’Gara said the parking goes with the land for a general merchandise store. He went on to say a different use might have a different parking standard.

Steve Clevenger said the staff report indicates there are places on site for additional parking. He asked to see where staff is recommending the petitioner add additional parking.

Rabita Foley displayed the site plan and said additional parking could be located in the gray area on the east side of the site. She went on to say petitioner indicated that the space staff is suggesting additional parking be located will be used as the loading dock.

Steve Clevenger thinks it would be a hardship for the petitioner to put parking in space to be used as a loading dock.

Frank Donaldson said he is unclear about the answer given on the letter from Dayton. He asked if one Town Board Member supports this request and wrote the letter or if the entire Board supports it.

Mike Thompson said he does not want to mislead this Board by saying the entire Town Board wrote the letter. Tyrone Taylor supports this request and asked Dayton staff to write the letter. He added that at the Town Board meeting there was no talk of not supporting this request and all Board Members seemed okay with the proposal.

The Board voted by ballot 6 yes to 0 no to approve **BZA-1981—SECOND CIRCLE ACQUISITIONS, LLC.**

Steve Clevenger welcomed Gary Steinhardt's Agronomy 585 – Soils and Land Use class attending tonight's Board meeting. He said usually the Members stay a while after the meeting for one-on-one time and to answer any questions but he thinks it would be a good time for one-on-one during the recess.

4. BZA-1974--IMRAN KAZEM

Petitioner is requesting a variance to reduce the side setback from Tuckaho Court to 13.5 feet from the minimum requirement of 25 ft to construct a new single-family residence on an R1 zoned corner lot. The property is located at 750 Northridge Drive, West Lafayette, Wabash 18 (SW) 22-4. (UZO 2-1-7)

Ed Butz moved to hear and vote on **BZA-1974—IMRAN KAZEM.** Tom Andrew seconded.

Rabita Foley presented the zoning map, aerial photos of the site, and site plan with no photos of the completed house. Petitioner states that he plans to raze the existing home and construct a new home on site. The existing home is setback 12.5' from Tuckaho Court and 53' from Northridge. The proposed home will be nearly twice as large as the existing home. Petitioner's proposal will bring the new home closer to conformity and added that most homes on Tuckaho do not meet the 25' required setback. Staff believes a smaller house could be built in a more conforming location and the 25' setback could be met by moving the house 12' to the southwest. She summarized the ballot items and concluded with a recommendation of denial.

Jamison Redmond, 1200 Northwestern Avenue, West Lafayette, IN 47906, petitioner's representative, said he lives next door to this property and mostly agrees with the staff report. He referred to the aerial to point out the location of his home with "the sidewalk to nowhere" and said he prefers petitioner's home not be moved any closer to his house. Imran Kazem is a radiologist and he learned through discussions that Dr. Kazem wants to improve the entire area. It is evident the existing home on the site needs extensive work and he supports this request. He concluded by saying he talked to six neighbors and all support approval of this request.

Rabita Foley read a letter of opposition from:

James Klatch, 1415 Woodland Avenue, West Lafayette, IN 47906

Steve Schreckengast asked why the citizens in the audience are here if they do not want to speak for or against this request.

Several citizens in the audience replied that they live in the neighborhood and are present at the meeting tonight to see the plans and hear about petitioner's plans.

Ryan Kennedy, 612 Northridge Drive, West Lafayette, IN 47906, said he lives in the neighborhood and is a local builder. He said he is not for or against the request but he would like to see some elevation drawings or plan view to see what will replace the existing structure to make sure the new home is appropriate for the neighborhood.

Steve Schreckengast said the Board does not consider appropriateness of the structure but rather whether the variance requested should be granted or not.

Steve Clevenger added that petitioner must conform to the site plan if the variance is granted. He went on to say the opposition letter referred to the Hills & Dales Neighborhood being on the National Register of Historic Places and asked if this house is on the list.

Rabita Foley replied that according to the letter this house and 950 other homes in two neighborhoods were placed in the National Register of Historic Places. She is not sure how the National Register applies to this request because the site plan is not reviewed by local jurisdictions.

Zach Williams said the previous discussion has no bearing on what the Board is asked to vote on.

Steve Schreckengast strongly disagrees with James Klatch where he states there are plenty of bigger houses in West Lafayette and the prices are going down. He is a local builder and said there is no validity to that statement.

The Board voted by ballot 6 yes to 0 no to approve **BZA-1974—IMRAN KAZEM.**

V. ADMINISTRATIVE MATTERS

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

Ed Butz moved for adjournment. Tom Andrew seconded.

The meeting adjourned at 7:20p.m.

Respectfully submitted,



Linda Underwood
Recording Secretary

Reviewed by,



Sallie Dell Fahey
Executive Director