

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

DATE..... APRIL 26, 2023
TIME..... 6:00 P.M.
PLACE..... COUNTY OFFICE BUILDING
20 N. 3RD STREET
LAFAYETTE, IN 47901

This meeting was held in-person, with no virtual option.

MEMBERS PRESENT

Steve Clevenger Gary Schroeder
Robert Novak Tom Andrew
Michelle Dennis Ed Butz
Dustin Grove

MEMBERS ABSENT

(none)

STAFF PRESENT

David Hittle
Amanda Esposito
Austin Hammerli
Eric Burns, Attorney

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held in-person on the 26th day of April 2023 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

Steve Clevenger called the meeting to order. Eric Burns called roll to establish members present.

I. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes from the January 25, 2023 BZA public hearing as submitted. Michelle Dennis seconded. The minutes, as submitted, were approved by unanimous voice vote.

II. NEW BUSINESS

- a. A Discussion regarding updates to the BZA Bylaws

David Hittle said staff continues to work on new forms, amendments to the bylaws and a new set of instructions. The desire is to present them together, but staff is still working on the instructions. He asked to have this discussion moved to next month's meeting.

III. 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.

Michelle Dennis seconded, and motion carried by unanimous voice vote.

Gary Schroeder moved to affirm Steve Clevenger's decision to continue the cases from the March ABZA hearing to this evening's public hearing. Michelle Dennis seconded, and the motion carried by unanimous voice vote.

Gary Schroeder moved to continue **BZA-2097 ROBERT & JULIA KOLOUCH** to the May 24, 2023 ABZA meeting. Michelle Dennis seconded, and the motion carried by unanimous voice vote.

Steve Clevenger read the meeting procedures.

Gary Schroeder moved to hear and vote on **BZA-2096 TOMISH DEVELOPERS, LLC**. Michelle Dennis seconded.

BZA-2096 TOMISH DEVELOPERS, LLC

Petitioner is requesting the following variances for a proposed apartment complex in an R4W zone:

1. To reduce the required parking standard from the minimum 352 spaces to 192 parking spaces (or 55% of the total required) (UZO 2-11-12) and
2. To increase the maximum building height from 14' (as measured from the ground to the finished floor of the uppermost level) to 32' (UZO 2-11-11).

The 4.212-acre site is located on the west side of Sagamore Pkwy, just north of its intersection with Northwestern Avenue, specifically 2541 Neil Armstrong Drive in West Lafayette, Wabash 12 (NE) 23-5. *Continued from the March 2023 ABZA hearing at petitioner's request. (First Continuance)*

Amanda Esposito presented the zoning map and aerial photos. She said this case is a follow-up variance request now that the property was recently rezoned to R4W. The property is in West Lafayette, just south of the Wal-Mart, off Sagamore Parkway. There are other apartments in the area. The R4W zone requires a thirty-foot bufferyard between the General Business (GB) zone to the north. It was determined by West Lafayette that Wal-Mart has enough to sufficiently meet their half-width of the bufferyard, so the petitioner is planning to install a fifteen-foot bufferyard on the northern portion of the property. The two variances being requested are for parking and building height. The parking request is completely supportable since the requirements are very outdated for our parking standards, especially in an area like this one, where there is access to transit at the Wal-Mart to the north and a stop further to the south of the property on Northwestern Avenue. The height variance is somewhat of a relic for the R4W zone, back to a time when the West Lafayette Fire Department was not able to service the taller buildings. That has since been fixed, but our zoning ordinance has not been updated to match that. This request is supportable to get the desired density. One of the unique features about this property is the existence of a walking path that the residents of the southern property have created to get to Wal-Mart. As part of the variance request, the petitioner was very amenable to this and they have formalized this path by including it in their site plan, making it a hardscape sidewalk. Amanda Esposito read the staff findings. Staff is recommending approval. The condition stated in the staff report has already been met. The updated site plan includes the bufferyard to the north.

Steve Clevenger called for the petitioner or the petitioner's representative.

Kevin Riley, Reiling Teder & Schrier, 250 Main Street, Lafayette, representing the petitioners, said he agrees with what Amanda presented. These are not use variances, they will not be injurious to public health, safety or welfare and there will be no negative impact on adjacent properties. The fact that there are outdated building height and parking standards, satisfies all other requirements that the petitioner must prove for a variance to be granted. The variances have been discussed with the city and it is his understanding that the city has no issue with the requests.

Steve Clevenger asked if anyone wished to speak in favor of this petition. There were none.

Steve Clevenger asked if anyone wished to speak in opposition of this petition. There were none.

Steve Clevenger asked if the Board had any questions or comments.

Robert Novak commented to staff. He said the Board has heard before about outdated parking regulations. He said they don't have anything to go by. In this situation, the parking reduction is significant. He asked with the layout, where is anyone else to park. There is no street parking as an option. The only thing they could do is go to the neighboring parking lots, which should not be done. He said if there is enough parking for one car for every one and two-bedroom unit and two spaces for every three-bedroom, what about people that are visiting or doing deliveries. Without access to street parking, he asked staff how they determine the amount of parking needed.

Amanda Esposito said the parking regulation minimum is a lot of parking. Developers have repeatedly said there is no need for that many parking spaces, they go unused. The developer in this case has created something that they know they need. Staff has let them dictate how much they know they need and the market dictates that as well. In this case, it is possible that many of the residents will not own a car. In this area, that would likely be easy to do. She said if those residents have guests over, they

would be able to use the spots. She did not know how the development would be handling parking for their tenants or if they would be assigned spots.

David Hittle said he is hoping to update the ordinance soon. Until that time, he recognizes that the parking standards are twenty-five years old and were never in keeping with what is needed. The standards have always dramatically over-parked, and staff is hearing from developers that they need a little over one parking space per unit. That is different when mass transit is nearby and when one can walk or bike to certain places. The Wal-Mart will be the west side mass transit station after City Bus builds the new facility on the west side of the parking lot. He added that there is very little opportunity for a lack of parking. In this instance, staff believes the experience of the developer is more in line with what is practical and truly needed, rather than our ordinance, so staff is listening to them.

Steve Clevenger called for a ballot vote.

Attorney Eric Burns collected the ballots and noted the Board voted 6-Yes to 1-No, to grant Variance #1.

<u>Yes-Vote</u>		<u>No-Vote</u>
Ed Butz	Gary Schroeder	Robert Novak
Tom Andrew	Steve Clevenger	
Dustin Grove	Michelle Dennis	

Attorney Eric Burns collected the ballots and noted the Board voted 7-Yes to 0-No, to grant Variance #2.

<u>Yes-Vote</u>		<u>No-Vote</u>
Steve Clevenger	Gary Schroeder	(none)
Michelle Dennis	Ed Butz	
Tom Andrew	Robert Novak	
Dustin Grove		

Gary Schroeder moved to hear and vote on **BZA-2100 Z-CUBE HOMES LLC.** Michelle Dennis seconded.

BZA-2100 Z-CUBE HOMES LLC

Petitioner is requesting a special exception to allow a transient guest house operating 24 hours per day, 7 days per week, for a maximum of 12 guests in an R1 zone. The 5.005-acre property is located at 1500 Benson Drive, Wabash 23 (NE) 23-5.

Amanda Esposito presented zoning and aerial photos of the property. The site is in West Lafayette, outside of city limits, near the roundabout of SR 26 and Newman Road. The property is located on Benson Drive, a private drive, that serves five homes. Most of the properties are heavily wooded, except for the two at the front of Benson Drive that have only a scattering of trees around them. The area is mostly residential. A few row crop production properties are nearby, and the Rolls Royce facility and Purdue Airport are further to the south. Newman Road was improved when the roundabout was created, but the improvement stopped near Allison Road, therefore it is the old rural, two-lane road with no gutters or curbs past Allison Road. The aerial map of the property shows it being heavily wooded and the home sits closer to the east side of the property line. An outdoor terrace patio, garage and parking area are shown on the site plan. The garage accommodates two cars, and the petitioner states four cars could likely fit in the parking area. The driveway is sufficient to handle several cars to park the number of guests that would be approved, if they decide to all drive separately. The special exception is for twelve guests. The commitment that staff is recommending is that guests shall not park on Benson Drive. Photos from the site were displayed. If approved, the maximum occupancy of the Airbnb would be twelve persons. It is not required to be owner occupied, as that is the definition of a transient guest house. Staff is recommending a second commitment that the dwelling only be reserved by a single booking at any given time. Amanda Esposito read the staff findings. Staff is recommending approval with conditions and commitments. Petitioner would need to obtain a permit to operate a transient guest house from the County Building Commissioner's office.

Steve Clevenger asked if the recommended commitments are part of the petition or if the Board would need to vote on those commitments separately.

Amanda Esposito said the Board would need to vote on the commitments. They were not part of the petition.

Steve Clevenger called for the petitioner or the petitioner's representative.

Sarah Zhang, 1500 Benson Drive, West Lafayette, is a member of Z-Cube Homes LLC. She has been in the rental business since 2014 and her management company currently manages 160 local properties. Her team consists of a leasing agent, cleaning crew, maintenance contractors, gardeners, and herself. The rental company and herself have good reputations with all the tenants. She has had no complaints from the neighbors or HOA's. With her experience of management, she is positive that they will be able to handle this new Airbnb property. The company started this Airbnb business about two years ago. The company has made some renovations after purchasing the home. The home had been vacant for a very long time. The previous owner did not live there and used it more like a work studio. The home was listed as a three bedroom, but it had one room that was partially open previously. The home is 2,481 square feet on a five-acre lot. After renovations, it will be four large bedrooms and three full bathrooms. With a master suite, it is more like a family house. The neighborhood is about thirty acres and each property ranges from two acres to twelve acres. The house is far away from the rest of the neighbors and has tall, mature trees surrounding it. She said most of her guests will be parents visiting their kids at Purdue, researchers coming to Purdue for conferences and collaborations, or people visiting relatives at Purdue. The guests are usually very quiet and nice. She reviews each guest's Airbnb profile and will only allow guests with good reviews. They will also install a Ring doorbell camera and a noise detection sensor to ensure noise levels remain normal. She will ask the guests to follow all county rules for noise levels to prevent any disturbances to the neighbors. A significant investment in the house will be made to improve internal and external condition of the home to maintain the high standard of the neighborhood. They are still working on renovations and will soon work on the outside, cleaning it up to look much nicer. She expressed their understanding to their neighbors concerns and they plan to be a good neighbor. She said the company will contribute to the fund that is needed to maintain the private road. She concluded by saying they are very confident that this transient housing will not cause any negative impact to the neighborhood and they will work with the neighbors to ease their concerns.

Steve Clevenger asked if anyone wished to speak in favor of this petition.

Sharon Zhang, 1500 Benson Drive, West Lafayette, said she came to Purdue in 1993 as an international student to study Math and Computer Science. She said the Airbnb business was started about two years ago. She is semi-retired and currently manages other transient guest homes in West Lafayette. They host guests coming to Purdue to visit their sons and daughters, for family reunions and for research at Purdue. She said they fully understand the neighbors' concern. They state very clearly to their guests to be kind to the neighbors; it is their policy. There is no tolerance and no room to negotiate. There is clear and effective communication with our guests, and diligent monitoring, and the neighbors are satisfied with what they are doing. Proactively, they started to talk to the neighbors and introduced themselves. She said the neighbors were happy her company bought the home and started to take care of the house and yard. Most of her guests are checking in by 8:00PM because they come here for business or family. She is a super host with standards, managing as a local resident, not as a remote host. She concluded by saying they want to work hard and manage the properties while contributing to the economic and workforce development.

Amanda Esposito said four letters and a petition with twelve names were included in the packet. One letter was received after the packet had been distributed to the Board members and was passed around for viewing.

Steve Clevenger asked if anyone wished to speak in opposition of this petition.

Josh Klumpe, 1532 Benson Drive, West Lafayette, is representing himself and his family, as well as everyone that lives around 1500 Benson Drive. He was asked to speak on behalf of those that signed the petition and those that submitted letters. They have an enormous concern and oppose the request. This has always been, and should remain, a single-family residence. Priscilla, and her husband George, lived in that home for many years as their primary residence. George passed away and Priscilla moved into

Westminster only a few months prior to the home being sold. There was someone living there, and she was their neighbor, someone they cared for. Children have been raised in this neighborhood and they should continue to be raised here. An increase in transients in and out of the neighborhood, and frequenting the home, increases instability for the neighborhood. Transients are unknown strangers that would be in close contact with the children that live there. As a parent of one of those children, it is a big concern to him. Most of the neighbors have built their home in this neighborhood and have lived there for a long time and never thought of the possibility of living next to a short-term rental facility. He chose this neighborhood for the seclusion, the security, and the calm, quiet nature it provides. Five heavily wooded acres sounds vast and quiet, but sound travels, and neighbors can hear what goes on at each property. He gave examples of roosters crowing and a chainsaw running. They are all neighbors that have no interactions with each other but can hear what each are doing. He said all can understand why the petitioner chose this home; it is close to Purdue, close to the sport complexes and it makes it a desirable area. These types of facilities become party houses, transients come and go, it will be loud, there will be heavier traffic on the private drive and the peace and tranquility will be at risk. He added that he has been in public service and law enforcement for over sixteen years. His position has dealt with many situations that involve landlords of all types. He added that he can tell others, with certainty, that most of them do not have the best interests of the neighborhood in mind; it is simply a pay day for them. The landlords do not live there so their impact on those specific communities is of little concern. The way their tenants obstruct the daily life of the people that reside in the neighborhood has no effect on their lives. A short-term rental property does not go with the congruence of this neighborhood, at all. Aside from the daily and nightly disturbances this would cause, the increased traffic on the private drive is of concern. The neighbors oversee maintaining the drive; the county does not. He and his father plow in the winter, they grade the gravel and fix potholes as needed. The neighbors all pay their fair share of the gravel. He added he is sure the petitioner would pay their share as well, but it is not just money, it is hard work and time. At the end of the day, the neighborhood wants to keep this as a neighborhood. Transients are that, by definition, and are not neighbors. He hopes the Board keeps that in mind. He asked the Board to look at the aerial map of the property. The northern property line of the subject site is his shared property line. He has concerns that some of that property line takes away a bit of their driveway. The property line is very close to the home. He would suggest, or ask, that a proper survey be done on the property lines and if the Board approves this petition, the petitioner will put up no trespassing signs along the property lines to inhibit hikers that would not stay confined to the backyard.

Sarah Zhang, 1500 Benson Drive, West Lafayette, said they will work with their neighbors and guests. They do not allow guests to disturb the neighbors.

Gary Schroeder asked Sarah Zhang if she had any comment on the recommended condition and commitments from staff. He asked if those were agreeable to her.

Sarah Zhang, 1500 Benson Drive, West Lafayette, agreed.

Gary Schroeder moved to amend the motion, to include the condition that the petitioner receives a transient guest house permit from the building commissioner and to include the commitments of the single-family dwelling may only be reserved by a single booking at any given time and no guests shall park on Benson Drive. Michelle Dennis seconded.

Ed Butz asked if Mr. Klumpe's request for no trespassing signs along the property line to the north could be added in as a condition.

Steve Clevenger asked Sarah Zhang if she would be agreeable to adding no trespassing signs on the northern property line.

Sarah Zhang, 1500 Benson Drive, West Lafayette, agreed.

Ed Butz moved to add a condition to install no trespassing signs on the north side of the property. Robert Novak seconded.

Michelle Dennis said she believes signs should go around the entire property.

Gary Schroeder moved to amend the motion to include identifying the property lines with no trespassing signs along all adjoining properties. Michelle Dennis seconded, and the motion carried by unanimous voice vote.

Tom Andrew asked about the accommodation of the private drive. He asked by voting to approve the request, is the petitioner agreeing to pay any costs.

Steve Clevenger asked Mr. Klumpe if he could explain how the maintenance costs are handled. He asked Mr. Klumpe if the neighborhood had covenants and a homeowner's association.

Josh Klumpe, 1532 Benson Drive, West Lafayette, said they are not part of a homeowner's association. They have fortunately been very close with everyone that has ever lived on this drive and thankfully everyone has pitched in. It is divided among who's property line touches the gravel. He and his father do the maintenance work at a love for the neighborhood. They plow everyone's driveway and Benson Drive, and do not charge for that; they do it as neighbors being neighbors. With transients in and out, gravel can get beat up. There are two 90° angles on the road and people come in fast and throw gravel. It may need graded more often, potholes may grow quicker, and it will become more time consuming.

Tom Andrew said neighbors need to be neighbors. He wanted to make sure his vote was not an okay for blanket invoices to be sent to the petitioner.

Josh Klumpe, 1532 Benson Drive, West Lafayette, said no, it is all divided up on how much of Benson Drive touches the property.

Sharon Zhang, 1500 Benson Drive, West Lafayette, said as the host, she will be messaging with the guests every day. She fully understands Mr. Klumpe's concern. His home was the first house she walked over to and talked to him. She added that this is not a tourist city, it is a destination city for business or family. She said the use of the road will not be more than local regular family use.

Steve Clevenger questioned staff. He said we have a three, unrelated clause in our zoning ordinance and wonders how that applies and how we're able to get around that with the transient guest rentals.

Amanda Esposito said it is in the definition of a single-family dwelling and what constitutes a family. Staff is addressing it with the commitment that one reservation, one family, is making the booking.

Steve Clevenger said twelve people stands out to him, and this type of neighborhood, granted the property is large at five-acres, sound does travel far, even though there is space between the houses. Twelve people is like two large families or three small families, in a house. It seems to be turning it into a multi-family, even though it is one booking. He asked staff what prevents, if the Board approves, from renting twelve unrelated people for a whole semester. It seems to be a way around our three unrelated people in a unit.

Amanda Esposito said that regardless of whether this is approved or not, it could still be used as a longer-term rental and would be required to obtain the necessary permits from the building commissioner to operate as such. The building commissioner would be looking at the building to make sure it could house as many people as they are saying it can house.

Steve Clevenger said correct, but if you have a regulation of per unit, you are only allowed so many unrelated people in a unit. He assumed the booking could last more than thirty days and said there is nothing preventing them from renting it for a longer period.

Amanda Esposito said it would be the entire house that would be rented to one person, but you could have up to twelve people in it.

Steve Clevenger said then it becomes a fraternity or boarding house.

Amanda Esposito said she may be wrong, but in that situation, they would need a different type of zoning district to operate a longer-term rental. It is zoned R1 for single family so they could rent it to a single family, long term.

Steve Clevenger said there is state law that determines how many people that are related can live in a particular unit.

Amanda Esposito said the difference here is living. This is just a temporary dwelling.

David Hittle said the petitioner does not have to use it as a transient guest house. They can use it as any other single-family dwelling. The single point of booking would put a natural cap on how often there would be twelve people, presumably, not very often. The only guard against that is if the petitioner were to advertise renting room A, room B, room C, but that would be going beyond the scope of any approval and would then be a zoning ordinance violation. Enforcement is a bit tricky, but the advertisement would make it clear if they are on Airbnb.

Gary Schroeder said Steve Clevenger brought up a good point. One consideration is they can operate it as a transient guest house with more control, requiring a permit and must abide by the rules or lose the permit. The other option is a long-term rental, and it can be hard to control some tenants. As a long-term rental they could only have three unrelated people in the home. Going from three to twelve is an intense use on a four-bedroom home. He said one could accomplish their goal figuring two people per bedroom, six or eight people, and be more than double what everyone else can have as occupancy and lessen the impact on the neighborhood. He would be more comfortable with a lower number.

Steve Clevenger added that he would be more comfortable with a lower number as well.

Sharon Zhang, 1500 Benson Drive, West Lafayette, said they have never had a booking with more than ten people, and they want to reduce the number to ten. They will set up the bedding for ten guests and theoretically can accommodate four bedrooms for twelve people, but she does not believe they need that. For graduation, you could have parents, grandparents, and siblings and those add up. Two or three colleagues may come to do research and they do not wish to share a room when they are on business.

Gary Schroeder repeated that he cannot support twelve guests. It is a four-bedroom house, and by state law, can house three unrelated people by the zoning ordinance. In a four-bedroom, you would have six to eight people, or two per bedroom. He asked to hear what others were thinking.

Robert Novak said he agrees with twelve being too many. He asked if the Board could change what is in front of them or if they must vote on twelve guests.

Eric Burns said the Board can decide to change the number based on conditions that are found to be reasonable. Whatever number is found to be reasonable, would be passed with that condition.

Amanda Esposito said it would be a commitment.

Steve Clevenger said twelve guests was what was listed on the petition. The Board can add a commitment to limit the number of guests. The petitioner is now proposing ten guests.

Gary Schroeder moved to add a commitment to allow seven guests at one time. Dustin Grove seconded.

Robert Novak said he was in favor of seven guests.

Ed Butz said he was in favor of seven or eight guests, or two per bedroom.

Gary Schroeder moved to amend the motion to add a commitment to allow a maximum of eight guests at one time. Michelle Dennis seconded, and the motion carried by unanimous voice vote.

Eric Burns restated the conditions and commitments that were now part of the vote. There is a commitment to allow a maximum of eight guests. A permit to operate a transient guest house needs to be obtained. The dwelling may only be reserved by a single unit. There is to be no parking on Benson Drive. No trespassing signs will be installed along the entire adjoining property line.

Steve Clevenger called for a voice vote to acknowledge the conditions and commitments. The motion carried by unanimous voice vote.

Steve Clevenger called for a ballot vote.

Attorney Eric Burns collected the ballots and noted the Board voted 5-Yes to 2-No to grant the special exception request.

Yes-Vote

Ed Butz
Dustin Grove
Tom Andrew

Robert Novak
Gary Schroeder

No-Vote

Steve Clevenger
Michelle Dennis

Gary Schroeder moved to hear and vote on BZA-2101 ANTHONY HAAN and BZA-2098 JOHN SCHRADER AND ANTHONY HAAN. Dustin Grove seconded.

BZA-2101 ANTHONY HAAN

Petitioner is requesting a variance to increase the maximum gross floor area of the largest building in an A zone for uses falling under SIC 15, 16 and 17, from the required 8,000 square feet to 11,400 square feet. The 7.211-acre property is located at 617 Perry Lane, Tippecanoe 19 (NW) 24-4. (UZO 4-11-17)

BZA-2098 JOHN SCHRADER AND ANTHONY HAAN

Petitioner is requesting a special exception to legitimize an existing special trade contracting business (SIC 17, specifically, a plumbing business) in an A zone, operating during daylight hours from March through October, and 7am to 6pm November through February, every day of the week, on 7.211 acres at 617 Perry Lane, Tippecanoe 19 (NW) 24-4. *Continued from the March ABZA hearing at petitioner's request. (First continuance)*

David Hittle showed zoning and aerial maps of the property at 617 Perry Lane. Two requests are before the Board. The special exception was filed in response to a zoning violation and is intended to rectify the violation. It was discovered that there was a variance required to go along with the special exception so that led to a continuance. The property is a little over seven acres and is zoned agricultural, as is most of the property around it. The only improvement on the site is a barn at approximately 11,400 square feet and is the subject of the variance request. The site plan shows the barn in the corner of the property, a parking area, and an existing driveway along the northern edge. Historical aerial maps were presented to illustrate the development of the area. On the 2016 aerial, the orientation of the barn was pointed out to be associated with the property to the north that includes a house and accessory structure. The driveway from the home approaches the barn's northern side and the activity of the barn is accessed at the north. In the 2022 aerial map, a parcelization is shown and the southern half of the property has been removed from the house and accessory structure site. The barn is no longer associated with that house. The activity now happens on the east side of the barn and there has been a driveway extended to Perry Lane. Perry Lane is a private drive and is the initial stem of the private network that serves the area. Photos of the barn were displayed, showing one open side and three enclosed sides. The owner may know, but it appears at some point the barn may have been fully enclosed and the eastern wall was later removed. There is a utility door on the north side. A relatively new access drive was added. Photos of Perry Lane were shown. The site currently does not meet all zoning ordinance requirements. A grant of the variance request will make it eligible for a vote on the special exception. A neighbor submitted photo was displayed showing how the barn was being used at the end of 2022. A couple of dump trucks, an excavator, some smaller equipment, and a proprietary truck possibly used to do tile maintenance or installation were all shown at the site. A second photo shows a truck leaving the site and going along the private road to get to the county road. An aerial map illustrating the residences in the area was displayed. Each residence was highlighted in red to help visually show the properties ostensibly affected by this property. There are five lots, improved with single-family dwellings, that are impacted by this use. All the dwellings were in place before the use was in place, in several cases, for many decades. Perry Lane was originally built to handle very low, very light residential traffic and would occasionally serve for agricultural tractor traffic, but not daily. The drive is about twelve feet wide, narrow, and ill-equipped to handle the use. The complaint APC received from the neighbors has to do with the traffic of heavy construction vehicles using the route. The reason APC staff is not supportive of the request, regarding the special exception, is because one of the findings says traffic related to the use will not cause injury to neighboring properties. This kind of truck traffic is not common to these larger, rural residential areas. Regarding the variance request, the building was legal when it was built and was an agricultural barn decades ago.

When the site was parceled off and became its own lot, the use changed. It is no longer used as agricultural, no longer residential, but instead became a commercial construction contractor use. The use requires the structure to be on a lot of at least two acres, which it is, at 7.2 acres. The largest building on the lot can have a gross floor area no greater than 8,000 square feet if it is used in conjunction with the construction contractor use, as intended. The barn is 11,400 square feet, so it does not meet that rule. Any hardship is self-imposed, and staff does not support the variance request. The barn was originally intended for agricultural use and was built in accordance with the strictures at the time. It is the fact that the barn was separated and put to a different use, a commercial use, and a relatively heavy construction use, it now requires the variance. Staff is not supportive of either request.

Amanda Esposito said she would pass around three letters of opposition.

Steve Clevenger called for the petitioner or the petitioner's representative.

John Schrader, Ball-Eggleston, 201 Main Street, Lafayette, representing the petitioner, asked for the aerial map with zoning overlay to be displayed on the screen. Tony Haan bought the property two years ago because the barn would be amenable to the use he had in mind, and because a family farming operation was nearby. The barn would house equipment used for both his plumbing operation and his family farm. He said the staff comments characterize this as heavy construction equipment. The family farm uses it to repair drainage tile. When Mr. Haan bought the property, he did not make the distinction between heavy construction equipment and farming equipment. He said members of this board are more versed in the need to monitor farming operations, and they can be quite comprehensive. They do not make distinctions of tractors and combines versus excavators and dump trucks. They are all used as part of the farming operation that his client believed to be permitted under agricultural zoning. The barn is for storage only. There is no electrical or water to the barn. The petitions are to maintain the status quo of the plumbing operation. The barn will stay for storage where Tony and his colleague go once a day to pick up what they need, leave, and then return at the end of the day. The traffic is going to be as minimal as possible, given the nature of his operation. He referred to comments from the staff report. Part of the report reads that despite the agricultural zoning, the property is located within a neighborhood with virtually all the uses along Perry Lane being residential. The zoning slide articulates the point clearly that this is agricultural zoning. It is surrounded far and wide by agricultural zoning and the agricultural use needs to predominate. To the extent that this equipment causes disruption, it is due to the engines that drive these, they are diesel engines and can be loud. That is typical for equipment that operates on an agricultural lot, is appropriate in this circumstance, and what should be reasonably expected for operation on agricultural lots. The staff report notes this will not be injurious to the health, safety, or welfare of the neighbors. The report notes it will not adversely affect the use and value of the property. He agrees with these statements and believes those should weigh in Mr. Haan's favor. The staff report adds that this hardship is self-imposed, and that no minimum relief is needed, because there is no hardship. This would result in Mr. Haan not being able to use this pole barn and constructing one that would meet the minimum qualifications of 8,000 square feet. He contended that this would be a significant hardship. Mr. Haan did not believe this barn would cause an issue; it had been there twenty years. The distinctions of use changed with parcelization, and most people in the county, would not understand this. It was Mr. Haan's act that did it, but it is a bit far to say it was self-imposed. It was an honest mistake. Mr. Haan is present as a proud Hoosier and proud resident of Tippecanoe County and he wants to get this right. The variance and special exception are the minimum relief needed to maintain the status quo of his operation. He respectfully asked the board to approve both. The variance is an increase of 3,400 square feet, an increase of 42%, where the lot is more than triple in size of the two-acre requirement. He feels this is reasonable under the circumstances.

Steve Clevenger asked if anyone wished to speak in favor of this petition.

John Haan, 6314 N 50 W, West Lafayette, said he is the adjoining property owner to the south and to the west. It was made to sound like a high traffic area, but it is a storage building. Tony Haan may go there in the morning and pick up a truck and might not come back that night; it may go to another facility. John said he has equipment stored in the barn. He was back there in January or February, and there was absolutely no heavy truck traffic back there. There might be a dump truck go back there to be put in the

barn, a pickup may come to get the driver and they go away for a couple three days. As far as using it for a business in and out daily, it does not get used that way.

Jake Westfall, 1727 E 650 N, West Lafayette, said it was funny the Constitution is hanging on the wall and never thought he would be sitting here today. He never thought when you buy a piece of property that the County is going to tell you what you will store on the property and then show up to the building to take pictures of it, not knowing they are there, and when they show up, they drive to the neighbor's yard to get there. He said he knows for a fact that Mr. Haan does not drive equipment in and out of there all the time. Mr. Westfall services the equipment and is back there once every three months. If he's a homeowner that wants to buy a skid steer to fix his driveway, or a backhoe to remove trees on the property, he asked where it will stop with what they can put in their buildings. He also asked about staff showing up to take pictures of what's in the building and having to get a lawyer to have a hearing. He said it is not like Mr. Haan intentionally bought this to run a construction company, it was mainly for the farm and for agriculture purposes. Farmers have skid steers, backhoes, excavators, dump trucks, and heavy trailers. He said if people in the community were concerned about the size of the building and how much construction is going on, when they show up to the hearing, like people for the prior case, the board still passed that request, knowing the whole community was opposed to it. These will be the same people that drive through, they know who it is, instead of new people every day to show up to the place.

Dan Haan, 1130 W 750 N, West Lafayette, said Tony Haan is his son and the first guy who spoke is his brother, and they all farm together. In the picture that shows one end of the building with doors that open, he said that is the biggest part of the building. There is not one thing in that part of the building that is not agricultural. He has seven wagons that store corn in there. He has two wagons that hold straw. There is a combine and the units that fit the combine. In that part of the building, there is no construction equipment. He thinks they are blowing this out of proportion of what is going in and out and making a big deal out of this.

Kevin Underwood, 6915 N 225 W, West Lafayette, said he farms and lives to the west through the fields of this particular property. He obviously has quite a bit of experience with our county government and what has been taking place in the county for quite some time. He thinks most would agree that most farmers are understanding of the growth that we see going on in our community. The concern he has is with respect to the fact that the board seems to give quite a few variances to various entities that are coming in, like the two cases previously passed, but then we have a long-standing business in the community that we want to find fault with what is going on in a particular very seldomly used piece of property. That is what he wants to see as a viewpoint on this.

Jim Fields, 4527 E County Line Road, Battle Ground, said he is a current Tippecanoe Township board member and son of a former county commissioner. He believes the intent of this law was to keep people from opening businesses, other than agriculture, all over the county, but that is not what is occurring in this case. Mr. Haan stores stuff here and goes there a few times a week to use it. Also speaking as a farmer, he can assure staff is opening a rather large can of worms, because most farmers own construction equipment. He asked where the line is drawn and where it ends. Anyone could raise a complaint that a guy is running construction if he owns a backhoe. He owns a skid steer, a backhoe, and heavy trucks, as does any farmer. He does not understand what the beef is. The traffic is not constant. In the fall, if they were farming, there would be trucks running out of there constantly for a few weeks out of the year. He does not understand this at all.

Steve Rider, 8624 Harrison Road, Battle Ground, said he has had a contractor business for over forty years. He added that he is also a developer in this town and county and he also farms. This was brought to his attention by Mr. Haan a few weeks ago. The longer he stewed on it, and especially the last two or three days through countless phone calls, conversations, and text he has received from other landowners and business owners in the county, he decided he needed to come to the hearing and say something. He said it is not being discussed whether it is like a single-family residence; it is zoned agricultural, so that comparison is wrong to start with. The previous owner lived there while Mr. Rider grew up a mile and a half down the road. That owner had five or six extractors, all kinds of wagons, and flatbed trucks. There was more traffic that went up and down that lane when the owner lived there and farmed it, than what Mr. Haan is doing now. When someone owns a business, they earn their paycheck. They make their own

living, and they go out and buy something that is legal standing property. Mr. Haan owns the property and decided to put something in it that he owns. Mr. Rider said he strongly believes it is not this board's position to tell Mr. Haan that he can and cannot. He finds it extremely upsetting that a person who has moved to the neighborhood, that was not an original owner back when the farm was ran as a farm, has an ax to grind about someone driving in and out of the driveway. It is upsetting that the neighbor can file a grievance and force Mr. Haan to hire an attorney and put his hard-earned money on the line to come here and fight for his livelihood. He understands the board realizes the value of a business owner in this county, someone who makes a living working for the public in this county. He added they realize the importance of a private person's property rights. Those rights should not be allowed to be stepped on by someone down the road that has a complaint about some trucks driving by. One person should not have the right to put the halt to someone's business. He would appreciate some concern to an honest person's property rights.

Members of the audience applauded.

Steve Kerkhove, 7901 N 300 W, West Lafayette, said he is not sure why they are here. People move out of town and they buy an acre here and there and want to control everything around them. People come over when you are trying to farm, and they don't want the dust or the traffic; they move to the country and want their own utopia. The pole barn has been there a long time. The guy knew it was there and if he wanted control of it, he should have purchased the property.

Steve Clevenger asked if anyone wished to speak in opposition of this petition.

David Hackney, 605 Perry Lane, West Lafayette, said he has a direct view of the image of the barn displayed on the screen. He said there has never been an enclosure on the side of the building in the twenty-six years he has lived there. He was used to the traffic generated by the owner that constructed the pole barn, who was the previous owner to the current owner of the home north of the barn. He brought up the comment that was made about a single person making a complaint. He said it involves eight people, the Perry Subdivision, serviced by Perry Lane. His address is in the southeast corner of Mr. Haan's access lane, that runs along the western portion of his property. He is retired and home many hours of the day. The amount of traffic that has been generated by Mr. Haan has been grossly understated. There is not a comparison to the previous owner's agricultural traffic. When a vehicle goes in to pick up another vehicle in the morning, and to do the reverse at the end of the day, the conversation left out multiple trips that are occurring daily, including Sunday's. The main concern is the degradation of property value. Dating back to the 1970's, the Perry Subdivision has been a low-density residential area with lot sizes 2.5 acres or greater. That ambiance has been the primary reason for people to settle in the subdivision. Prospective buyers desiring this type of ambiance will likely look elsewhere when they find out a business is operating at the south end of it, traversing Perry Lane. There is truck and heavy equipment traffic that increases the dust and noise generated. He has noticed it a lot because he is on the corner of it. The traffic is accelerating the deterioration of the twelve-foot-wide gravel Perry Lane that is maintained by homeowners. Mr. Haan has done a modest amount of improvement on the road, as degradation occurred. Some of the neighbors participated in the Tippecanoe Township town meeting on February 16, 2023, where APC staff received input from current residents regarding the planning for growth over the next ten years. Some of the frequently mentioned concerns were the desire to maintain a low traffic, quiet, rural atmosphere, and low-density housing. These are two primary reasons residents have chosen to reside here. It is his opinion that the approval of these requests will directly conflict with the desires expressed in the town meeting. It appears to him that Mr. Haan and Mr. Taylor want to, and have been, operating a commercial business without being in an area zoned commercial.

Tyler Ochs, Bose McKinney, 111 Monument Circle, Indianapolis, began by passing out some exhibits to the board members. He is representing Kristin Carnes and Dan Cziczko who reside at 615 Perry Lane, the property to the north of the barn, which we learned today, used to be connected to the pole barn in question. His clients adamantly oppose the special exception. He referred to the last page of his handouts. The Green Goose Plan was for Perry Pines, a development plan that was intended for residences to move in. People move to the area because it is calm, open, and quiet. The Green Goose Plan was what people relied on and are current residences of it now. He said letters have been submitted and his clients have spoken to every person who either lives on Perry Lane or is related to

Perry Lane, and it has been unanimous that all are against the passage of the special exception. That is for a couple of reasons. There is no direct access from this parcel to CR 50. It is all private drive and a twelve-foot width of gravel. It is not built for commercial, at all, it is purely built for residential. He disagrees with the staff report when noise is addressed. Being in the country, in the open, noise travels. When you factor in a gravel road with trucks the size of what has been displayed in pictures, it is going to be loud. Respectfully, he believes noise is a problem and forces the members to not be able to fully enjoy their property as it was granted to them, and they must deal with that. He said they have spoken with multiple appraisers and realtors who are familiar with the area and asked them what affect a business like this would have on homes. The consensus was it is going to cause values to go down. The amount of decrease provided no consensus because this is unprecedented; a subdivision with a residential intent and a business tucked in the back corner. They were not able to provide an accurate depiction of how much property values would rise or fall. Additionally, he addressed safety. Most of the residences have children. There is a bus stop at the end of Perry Lane. There is always a concern of heavy truck traffic coming through that area being respectful to the neighbors. The Tippecanoe zoning ordinance does not define what constitutes outdoor storage and has several rules and regulations that are addressed to it, he would argue that failure to enclose a building would constitute outdoor storage. With that there are bufferyards and setbacks that are required to go along with that and are not being met. This directly abuts the property to the north, and if this were to pass, he and his clients would ask that a need for a bufferyard be met. The petitioner failed to address the special exception would materially and permanently injure property for the neighbors. It will damage them in terms of home value. This is going to damage them in terms of safety, noise, enjoyment of their property and is going to cause damage to the road. Ultimately it is forcing people that moved to the country to not be able to enjoy it. When the petitioner brought this property, he saw the residences were there and chose to do so anyway.

Robert Novak asked Tyler Ochs if his clients were the owners that sold the property to the south.

Tyler Ochs, Bose McKinney, 111 Monument Circle, Indianapolis, said they were not.

Robert Novak asked Tyler Ochs if his clients purchased before Mr. Haan purchased his property.

Tyler Ochs, Bose McKinney, 111 Monument Circle, Indianapolis, said his clients purchased their property before Mr. Haan.

Laura Ingwell, 6648 N 50 W, West Lafayette, said her home butts up to the lot. She wanted to reiterate the concern about property values and increased traffic. She is fairly new to the neighborhood, having lived there three or four years, but the property value concerns her with the use turning into commercial.

John Schrader, Ball-Eggleston, 201 Main Street, Lafayette, was allowed a rebuttal. He said they have heard many concerns about property value. He referred to the staff report finding it would not diminish the property value, a point he agreed with. The great number of people who came to speak in favor reiterated that this is equipment, sights and sounds that is typical to that of farming operations. He raises suspicion to the report of an appraiser saying farming operations will diminish the value of areas nearby. He believes one of the points of disagreement between sides, is how to look at the land. It is all zoned agricultural property. There is a mechanism to have it looked at as residential and this involves getting it rezoned as residential. Single-family homes are a permitted use in agricultural areas. They are called farmhouses for a reason; they must be subordinate to agricultural use. Neighbors want to have all the benefits of a quiet, bucolic area, without having it zoned as residential. The mechanism of farming is a one-hundred-year-old tradition. It has been noisy for all our life and the neighbors are missing the point on that. With specific mention to the property owners represented by Mr. Ochs, he said the pole barn was there before the parcelization. Even though the change in use that has happened since Mr. Haan bought it, was after their purchase of the property, the barn that was used to store farm equipment would have been there prior. He believes the board should take that into consideration and give weight to his comments. He addressed the comparisons of use between the predecessor and Mr. Haan. The neighbors are trying to illustrate that as a change in use between agriculture and Mr. Haan's operation. It is a change between the agriculture to the extent the previous owner used, which might have been on the smaller side of farming operations, which he believes should be considered. This is not being changed to a commercial zone, as that would require a rezone. This is a special exception under which is a use allowed by special exception in agricultural land. In the Unified Zoning Ordinance (UZO), special

contractors, like plumbers, were to some extent contemplated with the UZO was adopted. Calling it a commercial use blows it out of proportion because that is not how the UZO considers it.

Steve Clevenger asked if the Board had any questions or comments.

Gary Schroeder asked for clarification from the staff. He wants to understand that the main concern is that there is a business operating there now and in the past, it was a farm use. He asked if it could continue to be farming use if they just store equipment there for farming.

David Hittle said the property is zoned agricultural and could be used for farming if the farming is being conducted on site. Where the issue comes in place, is that this lot does not have access onto a public right of way. The only finding staff found it does not meet with a special exception is with traffic. It is unusual for a use of this nature to wind through a network of private streets to be able to access public right of way. Arguably, if this was located on the country road, it suddenly would become much more supportable. On-site agricultural use would be permitted, and the equipment associated with it.

Gary Schroeder said it seemed like people that farm also had some farming equipment here. If this was denied, he asked if they could continue to store their farming equipment for their farm operation. He said obviously they have more equipment than would be needed to farm this small parcel but would be part of their larger farming operation.

David Hittle said he thinks that is true, if it is indeed farming, agricultural equipment.

Dustin Grove said it seems to be unusual that you would have agricultural equipment making its way through a private residential drive. It is zoned agricultural and has been used there. He asked staff how they make the determination between what is agricultural and what is commercial and how they know the difference.

David Hittle said staff does not have to determine. They run a plumbing business and they will tell you that. It is a construction contractor, special trade, which is different that agricultural. Per the ordinance, they need a special exception to be able to operate in any agricultural district.

Gary Schroeder recognized David Hackney in the audience and asked him to make a clarification.

David Hackney, 605 Perry Lane, West Lafayette, addressed the chronology of the ownership of the house immediately north of the barn. Jim O'Neal had all that property and subsequently sold the portion north of the barn to another family, who are the current residents. Coincident with that, they sold the remaining forty-six acres, including the ten-acre plot which has now been subdivided into 7.2 acres, for housing development. The current owner is Crimson Six LLC and development is ongoing. The property adjacent to the northern property is parceled into two lots for residences. The field directly behind his property is also parceled for the building of a residence, as are the remaining acreage along the northern extension of Perry Lane.

Steve Clevenger recognized Steve Rider in the audience for additional comment.

Steve Rider, 8624 Harrison Road, Battle Ground, asked for the photo of the barn to be displayed on screen. He addressed the thought that the building was enclosed at one time and is now opened. He said that is not true; the barn is in its original state. He can count four pieces of equipment and one trailer in the barn that Mr. Haan and Mr. Taylor will bring to do field tile work. The argument presented by the neighbors, is that someone is trying to make the distinction of what equipment is used for what. He said each piece of equipment can be tabbed for farm use, drainage, tile, waterway work, surface water work, and all the above. Mr. Haan bought it under a condition that fell under ag and is still ag and is still being used like it was before. He strongly urges the board to look at this as someone cannot buy property and have someone else not like it and want to change it.

Gary Schroeder addressed the staff. He said the board has seen these from time to time in the county, and do approve them, when they have direct access to a county road and are not unreasonably perceived to affect other people. He asked staff if the petitioner could gain access on this property to the county road, would that change the staff's consideration.

David Hittle said typically when referring to direct access, the meaning is that the lot itself extends to and adjoins the county road.

Steve Clevenger said he thinks Gary Schroeder is referring to Exemption E, where a tail would be added to the lot to join to CR 50.

Gary Schroeder said he was not referring to Exemption E, but understands what Steve Clevenger is saying. He also understands what David Hittle is saying. The property does not have road frontage and is behind other properties. He addressed the audience comments. He said this is in the county and has been farming and thinks it can continue to be used to farm, but the big difference is now this is a business. This is a public hearing, people cannot take a piece of property and turn it into a business, but the board can hear what the owner and neighbors have to say and consider what is reasonable.

Steve Clevenger said the ordinance has always allowed some type of minor subdivisions and parcelization in ag zoning, for the purpose of residences. The county does have a lot of residential properties in ag zoned districts.

Eric Burns strongly encouraged the board to look at the ballots, to look at the documentation they have before them, and think about what has been heard from both sides. He encouraged notes to be made on the ballot to indicate why they are voting in favor or against.

Steve Clevenger called for a ballot vote for the variance request.

Attorney Eric Burns collected the ballots and noted the Board voted 6-Yes to 0-No to grant **BZA-2101 ANTHONY HAAN**, the Variance request.

Yes-Vote

Robert Novak Steve Clevenger
Dustin Grove Gary Schroeder
Ed Butz Michelle Dennis
Tom Andrew

No-Vote

(none)

Steve Clevenger called for a ballot vote for the special exception request.

Attorney Eric Burns collected the ballots and noted the Board voted 3-Yes to 4-No to deny **BZA-2098 JOHN SCHRADER AND ANTHONY HAAN**, the special exception request.

Yes-Vote

Robert Novak
Michelle Dennis
Dustin Grove

No-Vote

Tom Andrew Steve Clevenger
Ed Butz Gary Schroeder

Gary Schroeder moved to hear and vote on **BZA-2102 KEITH MOORE, CARLSON CONSULTING ENGINEERS**. Michelle Dennis seconded.

BZA-2102 KEITH MOORE, CARLSON CONSULTING ENGINEERS

Petitioner is requesting a variance to reduce the required parking standard in a GB zone from a previously granted variance (BZA-1638) minimum ratio of 0.9 spaces per 200 sq ft of gross floor area to 0.8 spaces per 200 sq ft of gross floor area. The UZO minimum required parking standard is currently 1 space per 200. This request is for the Wal-Mart located on the corner of Sagamore Parkway and Cumberland Ave, specifically, 2801 Northwestern Ave, West Lafayette, Wabash 12 (NW) 23-5. (UZO 4-6-3)

Amanda Esposito referred to the zoning and aerial maps of the West Lafayette Wal-Mart. The site has a large amount of parking and the lot is a hub for CityBus. The current bus stop location was shown on the aerial map. The stop serves four different bus lines. Currently there is only one spot for one bus at a time. Wal-Mart has worked in conjunction with CityBus for a long time to come up with a plan that helps serve the region. On an average day, 465 people board CityBus from this one bus stop location. CityBus needs to expand. To do this, some of the parking spaces will be taken away and that is the purpose of this variance. The proposed improved bus stop will have four bump-outs for four busses, using paint on the pavement, and it is not believed to involve any curbs. The new stop will take away twenty-one

parking spaces from the lot. Amanda Esposito read the staff findings and stated staff recommends approval.

Steve Clevenger called for the petitioner or the petitioner's representative.

Victor Ramirez, Carlson Consulting Engineers, 7068 Ledgestone Commons, Bartlett, TN, is asking for a variance for the parking ratio to be decreased and allow those spaces to be used for the bus stop. There is no history of parking space availability being an issue at the Wal-Mart.

Steve Clevenger asked if anyone wished to speak in favor of this petition.

Bryan Walck, 1250 Canal Road, Lafayette, is the Manager of Operations for CityBus. He said outside of the downtown transfer center, the Wal-Mart bus stop is their busiest stop. The location is serviced by four routes and approximately 500 people board each day. Upgrading the stop with the sawtooth pattern will help them greatly increase safety, designating passengers away from traffic, and will help increase mobility for ADA boarding with aligning wheelchair ramps and access. He would be very appreciative of a vote in favor of the variance request.

Steve Clevenger asked if anyone wished to speak in opposition of this petition. There were none.

Steve Clevenger asked Bryan Walck if there were any plans for a shelter to keep people out of the elements.

Bryan Walck, 1250 Canal Road, Lafayette, said the biggest challenge they have for shelters is the funding. They are costly, especially shelters that are large enough to meet this capacity. This location is on a list of sites to target, but there is no timeline in place.

Steve Clevenger asked if the Board had any questions or comments. There were none.

Steve Clevenger called for a ballot vote.

Attorney Eric Burns collected the ballots and noted the Board voted 7-Yes to 0-No to grant the variance request.

<u>Yes-Vote</u>		<u>No-Vote</u>
Robert Novak	Steve Clevenger	(none)
Dustin Grove	Michelle Dennis	
Ed Butz	Gary Schroeder	
Tom Andrew		

Gary Schroeder moved to hear and vote on **BZA-2103 BUILT TO LAST.** Michelle Dennis seconded.

BZA-2103 BUILT TO LAST

Petitioner is requesting a variance to reduce the rear setback in an R1B zone from the minimum required 25 feet to 13 feet. The property is located at 3348 Shrewsbury Drive in the Arbor Chase Subdivision, West Lafayette, Wabash 06 (NE) 23-4. (UZO 2-3-8)

David Hittle showed the zoning and aerial map of the residential neighborhood. This is a single residential lot zoned R1B, which is a compact, single-family dwelling zoning district, seeking one variance relating to the rear setback for a proposed addition. The aerial photo shows an existing 16'x14' concrete patio, which will be removed, and a proposed room addition, 12'x12', will almost cover the existing concrete patio, and a new 10'x12' patio will go to the left of the addition. With the addition, they would need the variance to allow for a rear setback of thirteen feet. Currently the house meets the rear setback requirement of twenty-five feet. There is a trail that runs in the back of the house and a very wide common area that runs between the subdivision. The width of the common area is about seventy-five feet from property line to property line. A superimposed aerial was displayed to show the proposed room addition and new patio location. Given the open space behind the home, there is no problem with the decreased setback creating a sense of encroachment or unnecessary enclosure. The location is obscured because there is a good deal of landscaping in the area. The proposed addition is about as

modest in size as you can get for a residential addition and is a little smaller than the existing concrete patio. They have room to spare with regards to other requirements met; lot coverage would be 33% and the ordinance allows 35%, minimum green space is 35% and this site plan provides 58%. Staff is supportive of this request. Staff learned that there may be covenants involved that could be broken by this request. He reminded the board that covenants are civil contracts between individual private parties, and they are not enforceable by this body or by the Area Plan Commission. He added that staff hopes that covenants would not be ignored, and there is enforcement that can be done privately that could stop this from happening, but covenants do not play a role in the decision as to whether a variance meets the findings.

Amanda Esposito stated one letter of opposition was included in the packet. There are three letters and one petition with seventeen names, that will be passed around for viewing.

Steve Clevenger called for the petitioner or the petitioner's representative.

Jim Rehwinkel, Built To Last, 2304 Brothers Drive, Lafayette, is present on behalf of Michael Povolotskyi and Olga Povolotska. They are asking for a setback from twenty-five feet to thirteen feet. As shown in the photos, he has done everything to stay within reason. If one was do the measurements, they are within a percent or two of what it was originally. The house still fits under the requirements of square footage and for him, it is cut and dry. The homeowner's association is another battle.

Steve Clevenger asked if anyone wished to speak in favor of this petition.

Olga Povolotska, 3348 Shrewsbury Drive, West Lafayette, is one of the owners, and wanted to explain why they want to add this room. Her and her husband work from home. The home has three bedrooms. Her husband works in the dining room and she currently works from a bedroom. Her job is partially remote and partially in person. She goes to Purdue one day a week and rest of the days she works from home. The nature of her job works with sensitive information, so she must have a closed room with a door. She sometimes works one-on-one with students. This is a choice. She could invest and buy a bigger house. She and her husband are from Ukraine and they have decided they will support Ukrainian people around the world, instead of investing in a larger house and paying a larger mortgage. Since the war started, they have been supporting a Ukrainian orphanage for fifty kids who were affected by the war. It is their choice to pay \$100 every month to support people who are really in need, instead of investing in a bigger house to have leisure for her family.

Michael Povolotskyi, 3348 Shrewsbury Drive, West Lafayette, owner of the home, wanted to answer those that ask why they choose not to buy a huge house with four bedrooms. He thinks they should be considerate of nature, the ecology aspect, and the warming of the planet. They would like to have a small house that fits them and uses less energy, gas, and water. That is why he and his wife are asking the board to allow them a small addition.

Steve Clevenger asked if anyone wished to speak in opposition of this petition.

Don Schneck, 3622 Cardigan Lane, West Lafayette, is the treasurer of the Arbor Chase Homeowner's Association and the subject property falls within their guidance. The neighbors of Arbor Chase, who will be negatively affected by this request, sincerely appreciate being allowed time to present their concerns. This variance, if granted, will cause injury to the general welfare of the community. If the board approves the variance, the rest of the homeowners of Arbor Chase will be saddled with the additional responsibility of paying the lawyer to defend the HOA rules. These are the same rules that the Povolotskyi's had every reason to know when they built their house. He said they may say they did not know the HOA or Tippecanoe County zoning ordinance rules, but lack of knowledge of the law does not justify violating it. The value of the area around the applicant property will be affected in a substantially adverse manner. The value of all other properties will be decreased. For some property owners, their view of the community open space will be inhibited. The carefully designed esthetics of the community open space and its interaction with the homes around it will be negatively affected. The unsuitable changes allowed will discourage future neighbors and families from being able to buy a home here in confidence. Precedent will be set that will encourage future adverse request to violate the covenants of the homeowner association. Their situation is common to other properties in this subdivision where the

average square footage of property is 6,900 square feet and the average square footage of homes is approximately 1,900 square feet. If they wanted more square footage, they could have built a basement or added space upstairs, as several other homeowners have done. Based on their understanding of an ordinance defined to unusual or unnecessary hardship, the HOA does not believe that the Povolotskyi's situation meets it. Their perceived need for this variance to change the footprint of their home is not caused by their neighbors, not caused by the HOA, or any other external factors; it is solely self-imposed. By denying this variance, from established ordinance, this board will be considering the rights of my homeowners in Arbor Chase and not solely the perceived needs of one homeowner. He respectfully requested the vote reflect the rights of the many homeowners.

Richard Bossung, 3336 Shrewsbury Drive, West Lafayette, lives three houses east of the house in question. He has been requested to speak on behalf of eight houses in the area that are signing the petition against this request and that have forwarded letters. They do not think this is appropriate. The neighbors get a complete packet of what they can and cannot do from the HOA. When he built his home in 2009, he wanted to move the house eighteen inches farther back on the north end. The HOA said no because that would violate the twenty-five-foot line and the request was denied. They want to put something 12'x12' back there because they have a feeling that they need it. They are also concerned that if the board allows this to be acted upon by the Area Plan Commission, everyone can then ignore the HOA. The homeowners appeared before the HOA and were voted down and that is why they are here.

Jim Rehwinkel, Built To Last, 2304 Brothers Drive, Lafayette, was able to rebut. He understands the HOA's concerns of esthetics and making sure the house fits the neighborhood. The sight lines are not going to be obscured because the house already sits further back than the others. He said there is obvious contention and believes that is more on an HOA side than it is this board's side. They are asking for the setback. Staff agrees that there is plenty of green space. They are not going to intrude on anything that is not already there. There is already a 16'x14' pad and the actual structure is four foot smaller than what's already there. The HOA thing is a different matter. The matter that is before the board is to have the setback. From what he has seen in the covenants, there is no mention of no room additions and they will do everything esthetic-wise for the HOA.

Steve Clevenger asked if the Board had any questions or comments.

Steve Clevenger asked if fences are allowed in the neighborhood.

Don Schneck, 3622 Cardigan Lane, West Lafayette, said they are not allowed in this section of the neighborhood.

Gary Schroeder asked a question of APC staff. Speaking to the twenty-five-foot setback that is in the ordinance, he asked if that was for structures or if patios are allowed. He said as he looks at the aerial photo, he sees trees near the property line and landscaping all the way to the property line. He asked what is and is not allowed.

Amanda Esposito said the twenty-five-foot setback is for the primary use structure on the lot. Currently the home is built right up to the setback.

Gary Schroeder recognized an audience member to approach the podium for comment.

Larry Swanson, 3319 Shrewsbury Drive, West Lafayette, presented a drawing of homes highlighted in yellow that represent the people who wish to deny the acceptance of this variance, including homes on the other side of the common area.

Steve Clevenger said this is the first step if the variance was wanted before going before the HOA. Whether the board approves the variance or not, it is ultimately up to the homeowner's association to deny whether they can build this.

Steve Clevenger permitted Olga Povolotska to approach the podium for comment.

Olga Povolotska, 3348 Shrewsbury Drive, West Lafayette, addressed the drawing that was presented showing homes that were against her petition. She spoke with the neighbor on her left and the neighbor said the HOA came to her house and asked her to sign the petition to say she was against the request.

The neighbor said she is not against it. Olga said she would question the drawing. Her house is on the curve and that is why they will not be a distraction for the sunshine for any houses. She is unsure how many houses are in the Arbor Chase subdivision, but seventeen is not a majority. She does not understand what rule they are breaking because the HOA did not point out any actual rule they are going to break.

Steve Clevenger called for a ballot vote.

Attorney Eric Burns collected the ballots and noted the Board voted 6-Yes to 1-No to grant the variance request.

Yes-Vote		No-Vote
Steve Clevenger	Robert Novak	Michelle Dennis
Gary Schroeder	Dustin Grove	
Ed Butz	Tom Andrew	

Steve Clevenger recognized Dr. Steinhardt and his Purdue University land use class in the audience. Dr. Steinhardt said he teaches a soil and land use class. Last week the class attended the Area Plan Commission meeting. He believes it to be very important for their education and understanding of land use and how important these boards are in terms of making decisions. He asked if board members had a few moments after the meeting, to consider visiting with the students.

Steve Clevenger stated 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.

IV. ADMINISTRATIVE MATTERS

Steve Clevenger welcomed Dustin Grove to his first meeting.

Gary Schroder commented that Josh Klumpe submitted a letter and spoke at the hearing. Since the staff is no longer reading letters, he asked if people could do both.

Amanda Esposito said the bylaws were changed in January to take out the restrictions that a letter writer could not speak. The bylaws allow them to speak if they write a letter.

V. ADJOURNMENT

Gary Schroeder moved for adjournment.

The meeting adjourned at 8:44 P.M.

Respectfully submitted,
Kristina Lamb
Recording Secretary

Reviewed by,



David Hittle
Executive Director