

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

DATE..... JULY 24, 2019  
TIME.....6:00 P.M.  
PLACE..... COUNTY OFFICE BUILDING  
20 N. 3RD STREET  
LAFAYETTE, IN 47901

**MEMBERS PRESENT**

Tom Andrew  
Jen Dekker  
Frank Donaldson  
Carl Griffin  
Gary Schroeder  
Ed Butz

**MEMBERS ABSENT**

Steve Clevenger

**STAFF PRESENT**

Ryan O’Gara  
Rabita Foley  
Chyna Lynch  
Zach Williams, Atty.

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held on the 24th day of July 2019 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

In the absence of President Steve Clevenger, Gary Schroeder called the meeting to order.

**I. APPROVAL OF MINUTES**

Jen Dekker moved to approve the minutes from the June 26, 2019 BZA public hearing. Carl Griffin seconded and the minutes were approved by unanimous voice vote.

**II. NEW BUSINESS**

Ryan O’Gara said the petitioners for **BZA-2018 RALPH AND SHIRLEY LINDER, BZA-2019 – TOMISH DEVELOPERS, LLC,** and **BZA-2020 BARRY KNECHTEL-KJG ARCHITECTURE, INC.** have requested continuances to the August 28, 2019 Area Board of Zoning Appeals meeting.

**III. PUBLIC HEARING**

Gary Schroeder read the meeting procedures.

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

Jen Dekker moved to continue **BZA-2018 RALPH AND SHIRLEY LINDER, BZA-2019 – TOMISH DEVELOPERS, LLC,** and **BZA-2020 BARRY KNECHTEL-KJG ARCHITECTURE, INC,** to the August 28, 2019 Board of Zoning Appeals public hearing. Carl Griffin seconded and the motion was approved by unanimous voice vote.

**BZA-2010 BARRY KNECHTEL-KJG ARCHITECTURE, INC.:**

Petitioner is requesting the following variances to construct an 845 sq. ft. addition to the existing Purdue Hillel Jewish Center in an R3W zone:

1. To reduce the number of required parking spaces to 3 from the minimum requirement of 19; (UZO 4-6-3)
2. To reduce the setback from Waldron Street to 13' from the minimum requirement of 25'; (UZO 2-10-8)
3. To reduce the rear setback to 3.5' from the minimum requirement of 25'; (UZO 2-10-9)
4. To increase the building coverage to 42.6% from the maximum allowed 40%; (UZO 2-10-7) and
5. To reduce the average setback from State Street to 19.5' from the minimum requirement of 24'-8" (UZO 2-10-8)

on property located at 912 W. State Street, West Lafayette, Wabash 19 (NW) 23-4.  
*Continued from the June ABZA meeting to add a variance. With Conditions*

Jen Dekker moved to hear and vote on **BZA-2010 BARRY KNECHTEL-KJG ARCHITECTURE, INC.** Carl Griffin seconded.

Rabita Foley presented the zoning map, aerial photos of the site, and site plan. She said the property is zoned R3W and the land use on site is a religious organization. Staff is recommending approval for Variances #1, #3, #4, & #5. Parking is located towards the north of the building next to the alley. Rabita showed the proposed site plan to demonstrate where the addition will go in relation to the current three parking spaces. Hillel is required to have more parking spaces based on the occupancy of the room where religious services are held. Due to the expansion only increasing the size of the kitchen and storage areas, staff feels the current number of spaces is appropriate. The rear setback is also an existing condition. During the State Street expansion project, an 11' strip of land along the front setback was granted as right-of-way. Petitioner is asking for a building coverage variance due to the reduced acreage. This is an unusual circumstance where additional land has been acquired for right-of-way expansion. Staff feels approval is appropriate for this situation. The setback from State Street is an existing condition as the addition is only expanding towards Waldron Street, not State Street. Regarding Variance #2, staff feels the function of the existing building can exist without the expansion, so it does not meet the ordinance defined hardship. Therefore, staff is recommending denial of request #2. Rabita said if the Board approves all requests, staff recommends the following condition:

1. The final plat for Purdue-Hillel Minor Subdivision needs to be recorded before the Building Permit can be issued.

Kelly Good, 527 Sagamore Parkway West, West Lafayette, IN 47906, representing the petitioner, said he will only speak on Variance #2. He said the building was built in 1951 and is roughly 6500 sq. ft. A majority of the 845 sq. ft. addition will be for the kitchen. This is the only kosher kitchen in West Lafayette and Lafayette. In 1951, it met the needs of the student population however, in 2019 it is not able to accommodate the number of students. There is a need of separation for milk, meat, and food products. The primary use of the addition is for storage and maintenance of the kosher kitchen. He said he would be happy to answer any questions or to elaborate on any of the variances.

Erik Carlson, 1200 N Salisbury, West Lafayette, IN 47906, thanked Hillel and Kelly Good for their work on this process. He said he spoke 3 years ago in front of the Board in support of the Campus Christian House with similar setbacks. He appreciates the architects and developers saving the City of West Lafayette and APC time by utilizing the variance process. He has no doubt that if this went through the plan development process, that they would have approved and pushed for council approval. However, given the time and monetary restraints that are associated with the plan development process, petitioner is utilizing the variance process. The City of West Lafayette has met with Hillel over several months and is grateful for Hillel's ease to work with for the State Street project. The front of their building is facing Waldron Street due

to the oddities of the ordinance. This is important to consider because there would be no issue in this scenario if this were a side setback at this level. Per UZO, the front of the building is on Waldron Street because of the shape of the building. The City of West Lafayette would appreciate approval of these variances and thanked Hillel for utilizing this process rather than using the staff time of a plan development.

Carl Griffin asked what would be allowed, per ordinance, if Variance #2 were a side setback.

Rabita Foley said because Waldron Street is a local road, it is required to have a 25' setback. If there were no street there, it would be a 6' side setback.

The Board voted by ballot 6 yes to 0 no to approve **BZA-2010 BARRY KNECHTEL-KJG ARCHITECTURE, INC, Variance #1.**

The Board voted by ballot 6 yes to 0 no to approve **BZA-2010 BARRY KNECHTEL-KJG ARCHITECTURE, INC, Variance #2.**

The Board voted by ballot 6 yes to 0 no to approve **BZA-2010 BARRY KNECHTEL-KJG ARCHITECTURE, INC, Variance #3.**

The Board voted by ballot 6 yes to 0 no to approve **BZA-2010 BARRY KNECHTEL-KJG ARCHITECTURE, INC, Variance #4.**

The Board voted by ballot 6 yes to 0 no to approve **BZA-2010 BARRY KNECHTEL-KJG ARCHITECTURE, INC, Variance #5.**

**BZA-2021 MURTAUGH LAW, LLC:**

Petitioner is requesting a variance to reduce the side setback to 1' from the minimum requirement of 25' from Garden Street to construct an outbuilding and fence to install a swimming pool. The existing home is on an R1-zoned corner lot located at 1701 Sheridan Road, West Lafayette, Wabash 18 (NW) 23-4 (UZO 2-1-7)

The board approved a 5.5' setback variance (BZA-1996) from Garden Street on the subject property in 2018 to build an outbuilding. An Improvement Location Permit was not sought using that granted variance.

Jen Dekker moved to hear and vote on **BZA-2021 MURTAUGH LAW, LLC.** Carl Griffin seconded.

Ryan O'Gara presented the zoning map, aerial photos of the site, and site plan. He said this property recently came in for a setback variance that was never constructed. They are returning to reduce the side setback to 1'. This is not a unique situation in this neighborhood although the backyard narrows to a degree. The plan is similar to what was previously approved. The building footprint for the pool house has grown and is now closer to the street. The closest home to the accessory building is 100' away across Garden Street. It is preferred that the adjacent owners are not impacted by the reduced setback. In staff's opinion, this is not an uncommon situation in the area. Staff is unable to say that this is a hardship that other property owners in proximity do not face. Therefore, staff is recommending denial.

Reid Murtaugh, 3595 Sagamore Parkway, Lafayette, IN 47904, said the petitioners are asking for a variance to allow for the installation of an inground pool and pool house. He said the board had previously approved a 5.5' setback variance for the same project. An Improvement Location Permit was not sought using the granted variance. The project had been slightly redesigned before any work started. The petitioner is now asking for a 1' setback with the modified site plan. The most significant change is the additional 4.5' between the pool and the pool house. He said that staff reports that the terms of the zoning ordinance are applied to a situation that is common to other properties in the same zoning district. The minimum 5.5' setback variance was previously approved by the Board. Staff made the same negative findings in the previous request and the board granted the request. Petitioners contend that the redesign does not deviate enough from the approved variance to justify a different outcome. He said the important thing to note is that despite the petitioners asking for a 1' setback, there will still be 12.9' from the back of the curb to the property line, including the 1' setback. This is only a small difference from the previous total.

Carl Griffin asked if this were a fence, rather than an accessory building, would there be any issues with the zoning ordinance?

Rabita Foley said yes, fences are required to abide by a 25' setback as well along the street frontage.

Chad Spitznagle, 1200 N Salisbury, West Lafayette, IN 47906, said the fence ordinance was changed about a year ago. A side and rear setback are allowed a 6' fence as long as it meets easement and vision triangle standard items. In this case, a fence would be allowed to be right on the property line at 6' or higher.

Rabita said that is at the Administrative Officer's discretion.

The Board voted by ballot 5 yes to 1 no to approve **BZA-2021 MURTAUGH LAW, LLC.**

Yes Votes

Jen Dekker  
Ed Butz  
Gary Schroeder  
Frank Donaldson  
Tom Andrew

No Votes

Carl Griffin

**BZA-2022 THOMAS L. TAULMAN II:**

Petitioner is requesting a variance to eliminate the paving requirement and allow gravel areas for parking and maneuvering of trailer inventory and equipment in an I3 zone. Approximately 30 acres of the subject property was approved for a similar variance in 2013 (BZA-1878). With this request, petitioner plans to add 18 acres of land west of the existing business. The property is located at the northeast corner of CR 450 S and US 52 in Sheffield 18 (NW) 22-3. (UZO 4-6-15(a)).

Jen Dekker moved to hear and vote on **BZA-2022 THOMAS L. TAULMAN II** Carl Griffin seconded.

Ryan O'Gara presented the zoning map, aerial photos of the site, and site plan. The site is located on the southeastern edge of the I3 zoning expansion area in Lafayette. The previous petition in 2013 requested a gravel parking lot, that was approved, as well as a reduction in the bufferyards to the north and east sides of the property line that were denied. Staff's recommendation of denial is based on health, safety and general welfare. Tippecanoe County meets federal air quality standards called attainment. Tippecanoe County has been close to reaching non-attainment levels in recent years based on transportation planning data. If non-attainment levels are met, a reduction in federal funding for road projects occurs. Dust particulates generated by gravel lots contribute to air quality issues and can exacerbate non-attainment status. Tippecanoe County currently has attainment status and hopes to continue to have attainment status to ensure federal road funding. Staff is recommending denial based on the issue pertaining to attainment of air quality standards. Granting this Variance will be injurious to public health, safety, and general welfare because of the dust that would be generated. At a minimum, the petitioner could pave the maneuvering isles to reduce dust being generated. The property is common to industrial sites and the hardship is self-imposed because it is cheaper to gravel a lot instead of pave. Staff is recommending denial.

Christopher Shelmon, 250 Main Street, Suite 590, Lafayette, 47901, attorney for the petitioner, said this is a proposed expansion. The site is an industrial area that has been growing with GE, Nanshan, and Wabash National. The petitioner, TKO Graphix, works with Wabash National to provide custom and large-scale wraps for trailers. If TKO is unable to take inventory, Wabash National must slow production. This is an important facet of Wabash National and Greater Lafayette. He said the current zoning code allows storage of materials on gravel in I3 zoning. What makes this situation unique is the material being stored; a trailer with an axel categorizes the trailer as a vehicle. In turn, the storage lot becomes a parking lot and a maneuvering aisle. Christopher said that if the site were zoned Agricultural, gravel would be acceptable. The farms operating across the street are permitted to have gravel maneuvering aisles. He emphasized that the trailers are being stored on site, not constantly being moved around, for pre and post installation of

wraps. Trailers sit on site anywhere from a couple of weeks to a year based on Wabash National's demand. Ultimately, petitioner is requesting to be treated like the neighboring sites in the I3 zone to allow storage of trailers on gravel. This is not a truck stop; the trailers sit for long periods of time before being transported into the proposed facility that is paved. Dust from gravel is mitigated twice a year with a soybean treatment in addition to asphalt shavings that have been applied. If there is dust in the area, it is already there; TKO Graphix will continue to operate as is. Neighbors and surrounding sites will not be impacted. Petitioner thanked the Board.

Frank Donaldson said it sounds like the maneuvering areas are paved. He asked what is paved and not paved.

Christopher Shelmon referenced the site map saying that the lines where the trucks will be parked, and the aisles in between, will not be paved. The area near the proposed building, where trucks will move trailers in and out quickly for graphics installation, will be paved. The long-term storage area will not be paved. The proposed storage area is enormous at 58 acres. The petitioner would argue that the practice of using soybean and asphalt shavings is the best practice for this type of industrial zone.

Carl Griffin asked what is the daily average turnover of trailers to and from the storage facility.

Christopher Shelmon said approximately 15-20 trailers are moved from the storage area.

Carl Griffin asked staff about attainment and non-attainment numbers. He asked if there is a criterion that the county is being held to.

Ryan O'Gara responded that metropolitan areas have air quality standards based on size, industry, and pollutant sources. Based on that community's criteria, there is a certain threshold that cannot be passed. If the non-attainment boundary is crossed, federal road funds start being reduced proportionally.

Carl Griffin asked about air quality measures and how close the county is to getting to non-attainment level.

Ryan O'Gara apologized and said staff was not prepared with facts and figures.

Jen Dekker asked what the county is doing in other aspects to meet attainment levels.

Ryan O'Gara said local ordinances have a direct effect whereas zoning ordinances can be weak in addressing attainment directly. Municipal codes can add layers to reduce certain pollutants. City codes would have a more direct impact on other pollutant sources.

Jen Dekker asked if the county is looking at similar gravel roads to pave.

Ryan O'Gara said that attainment is a factor considered when rural roads are paved. Some roads are paved because there are a certain number of trips occurring each day. There will be a dust reduction level that will be factored into when rural roads will be paved. If a road does not have very many trips each day, it is not likely going to be paved. There are already things in place to address other pollutant issues. In terms of zoning, dust particulates are an area where staff has a little bit of say-so because there are requirements to pave.

Tom Andrew asked if the trucks will be low speed when maneuvering on the gravel.

Ryan O'Gara said yes.

Gary Schroeder said he lives in the county and drives by the site at least twice a day. He has never seen dust come off the site and sees more dust due to farming operations or gravel roads. He felt that putting asphalt on 58 acres would have a larger impact on the environment than crushed stone. He said he was in favor.

Christopher Shelmon said the neighbors nearby are not present to speak against the proposed site.

The Board voted by ballot 6 yes to 0 no to approve **BZA-2022 THOMAS L. TAULMAN II.**

IV. ADMINISTRATIVE MATTERS

None.

V. ADJOURNMENT

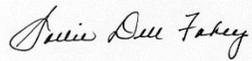
Jen Dekker moved for adjournment.

The meeting adjourned at 7:04p.m.

Respectfully submitted,

Chyna Lynch  
Recording Secretary

Reviewed by,



Sallie Dell Fahey  
Executive Director