

AREA BOARD OF ZONING APPEALS OF TIPPECANOE COUNTY

MINUTES OF A PUBLIC HEARING

DATE..... JULY 25, 2018
TIME..... 6:00 P.M.
PLACE..... CO. OFFICE BLDG.
20 N. 3RD STREET
LAFAYETTE, IN 47901

MEMBERS PRESENT

Tom Andrew
Steve Clevenger
Steve Schreckengast
Carl Griffin
Gary Schroeder
Ed Butz
Frank Donaldson

MEMBERS ABSENT

STAFF PRESENT

Ryan O’Gara
Rabita Foley
Linda Underwood
Zach Williams, Atty.

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held on the 25th day of July 2018 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

President Steve Clevenger called the meeting to order.

I. APPROVAL OF MINUTES

Tom Andrew moved to approve the minutes from the June 27, 2018 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-1986—PURE DEVELOPMENT, INC. and BZA-1991—SHERYL S. KENNY have requested continuances to the August BZA meeting. BZA-1992—TBIRD DESIGN SERVICES CORP. will also need to be continued to the August BZA meeting because the meeting notice signs were not posted.

III. PUBLIC HEARING

Tom Andrew 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.

Tom Andrew moved to continue BZA-1986—PURE DEVELOPMENT, INC., BZA-1991—SHERYL S. KENNY and BZA-1992—TBIRD DESIGN SERVICES CORP. to the August 22, 2018 Board of Zoning Appeals public hearing. Carl Griffin seconded and the motion was approved by unanimous voice vote.

Steve Clevenger read the meeting procedures.

**1. BZA-1987--MEZZANINE 7, LLC:**

Petitioner is requesting the following variances to raze the existing structure and construct a new two-story student apartment in an R3W zone:

1. To decrease the minimum lot width to 42.5' from the minimum requirement of 70'; (UZO 2-10-6)
  2. To reduce the side setback from the northern property line to 5'1" instead of the minimum requirement of 6'; (UZO 2-10-10)
  3. To reduce the side setback from the southern property line to 4' from the minimum requirement of 6'; (UZO 2-10-10)
  4. To eliminate the requirement of a 5' no parking setback along the south property line; (UZO 4-4-6) and
  5. To reduce the off-street parking to 5 from the minimum requirement of 10 spaces for university-proximate residences; (UZO 4-6-4)
- on the property located at 234 Marstellar Street, West Lafayette, Wabash 19 (SE) 23-5.

Tom Andrew moved to hear and vote on **BZA-1987—MEZZANINE 7, LLC.** Carl Griffin seconded.

Ryan O'Gara presented the zoning map, aerial photos of the site, and site plan. He summarized the area zoning and land use patterns, highlighting the duplex on site that was built in the 1930's. He referred to the aerial to show this building along with three buildings farther south that are some of the only remaining structures from the traditional single and two-family neighborhood that once occupied the area. The "no-parking setback" creates separation between parking cars, sidewalks, alleys, and adjacent properties and prevents parked cars from overhanging into adjacent property. Because "no parking setback" is a defined term the standard cannot be varied. He said this area of West Lafayette contains almost all student apartments ranging in size from large complexes to converted single-family homes. Staff can support variance #1 because the lot width has been in existence at least since the 1960's. Staff feels request #2 and #3 are only necessary because of the size of the proposed building and a building with fewer units could be built on site without the need for variances. Staff can support the no-parking setback because the required width of the maneuvering aisle plus the required length of a parking space leaves only 2.5' of 42.5' lot width. Staff can also support request #5 because of the location across from campus and the fact that the proposed ratio is slightly more than that for recently approved planned developments in the city. He summarized the ballot items and concluded with a recommendation of:

- Approval for Variance #1;
- Denial for Variance #2;
- Denial for Variance #3;
- Approval for Variance #4; and
- Approval for Variance #5.

Daniel Teder, PO Box 280, Lafayette, IN 47902, attorney representing the petitioner, pointed out that staff is recommending approval of the variances for lot width, no-parking setback, and reduction in off-street parking. He added that not all West Lafayette projects need to be planned developments. This is a small project and it would not be feasible to go through the PD process but believes he would have ended up with a very similar project if he had gone the PD route. He thinks going from two units to ten units is reasonable and the fact that the building will have to be sprinkled with fire walls will protect the health, safety, and general welfare of the neighborhood. He concluded by saying West Lafayette supports all five requests.

Steve Schreckengast asked if there is a covered patio in the Variance #3 area.

Daniel Teder replied that there is a concrete patio in that area with a deck above it and that means the first floor will not be affected.

Steve Clevenger asked if anyone knows the setback for the existing house on the site.

Daniel Teder estimated the house has a 5' setback.

Ed Butz asked how close the proposed apartments will be to neighboring buildings.

Daniel Teder said the house directly north is 8' from the property line.

Steve Clevenger said it appears the side setback will be about the same as it is now if the variance is approved.

Tom Andrew asked Daniel Teder to explain why this project will not be injurious to the health, safety, and general welfare of the community.

Daniel Teder replied that having the building sprinkled and constructed with fire walls will make the building, residents, and neighbors safer.

Steve Clevenger asked if anyone knows what the plans are for the vacant lot to the south.

Daniel Teder said the lot to the south is owned by Purdue. He has reached out to Purdue several times to discuss their plans for the lot to the south but he has not received a response.

The Board voted by ballot 7 yes to 0 no to approve **BZA-1987—MEZZANINE 7, LLC, Variance #1.**

The Board voted by ballot 7 yes to 0 no to approve **BZA-1987—MEZZANINE 7, LLC, Variance #2.**

The Board voted by ballot 7 yes to 0 no to approve **BZA-1987—MEZZANINE 7, LLC, Variance #3.**

The Board voted by ballot 7 yes to 0 no to approve **BZA-1987—MEZZANINE 7, LLC, Variance #4.**

The Board voted by ballot 7 yes to 0 no to approve **BZA-1987—MEZZANINE 7, LLC, Variance #5.**

**2. BZA-1988--NATHANIEL METZ:**

Petitioner is requesting a reduction of the front setback to 6.5 feet from the minimum requirement of 11 feet (using setback averaging in UZO 4-4-1) to legitimize an existing single-family home in an R1U-zoned lot located at 112 Main Street, Battle Ground, Tippecanoe 23 (SE) 24-4. (UZO 2-4-7)

Tom Andrew moved to hear and vote on **BZA-1988—NATHANIEL METZ.** Carl Griffin seconded.

Rabita Foley presented the zoning map, aerial photos of the site, and the site plan. She summarized the area zoning and land use patterns. She explained that petitioner wants to restore his existing, unlivable home that received considerable fire damage in April of this year. The existing detached garage was not affected by the fire. Petitioner would like to use the existing foundation and rebuild the home in the same location. She referred to the aerial photo to highlight the front setbacks of the neighboring homes along Main Street. She said properties in the R1U zones have smaller front setbacks than more suburban-type zones and urban zones reflect the way buildings and houses were constructed historically. Houses were built closer to the sidewalk or street with wide porches. The R1U zones also allows "averaging" of setbacks and that is the reason this request is from an 11' setback instead of from a 15' setback. While petitioner's porch has a 6.5' setback the home is actually closer to having an 11' setback. Staff believes that requiring an 11' setback would be an ordinance-imposed hardship that is unnecessary. She summarized the ballot items and concluded with a recommendation of approval.

Steve Schreckengast asked if petitioner is requesting a variance or a special exception because the request and staff report are for a variance but all the slides say the request is for a special exception.

Rabita Foley said the caption on the slides is incorrect. She apologized and said this request is for a variance.

Dale Metz, 112 Main Street, Battle Ground, IN 47920, petitioner, said he and his wife lost their house and suffered a total loss of their home, with the exception of a detached garage, to a fire on April 30<sup>th</sup>. They

also lost all their possessions because they were in the home. He and his wife would like to bring back the original charm of their 1910's craftsman home using the original foundation. He went on to say he and his wife had insurance but they would be able to make the insurance money go further if they are able to use the existing foundation as currently their funds are a bit short. He said he would be happy to answer any questions and requested approval.

The Board voted by ballot 7 yes to 0 no to approve **BZA-1988—NATHANIEL METZ.**

**3. BZA-1989--LONGARDNER INVESTMENTS, INC:**

Petitioner is requesting a reduction of the rear setback to 17 feet from the minimum requirement of 25 feet from Navajo Street; Hot Box Pizza would like to add a cooler-freezer on the existing integrated center in a GB zone. The property is located at 307 Sagamore Parkway West, West Lafayette, Wabash 07 (SE) 23-4. (UZO 2-17-7) *WITH COMMITMENTS & CONDITIONS*

Tom Andrew moved to hear and vote on **BZA-1989—LONGARDNER INVESTMENTS, INC.** Carl Griffin seconded.

Rabita Foley presented the zoning map, aerial photos of the site, and the site plan, highlighting the location of the proposed cooler-freezer. She summarized the area zoning and referred to the aerial to highlight the integrated center currently with four different uses on the site. Hot Box Pizza would be the 5<sup>th</sup> tenant. She

pointed out that petitioner's planned addition would intrude on the 20' wide utility easement that runs along the property line on Navajo Street. Even if the variance is approved the petitioner will need to acquire encroachment agreements from utility companies and obtain approval from the West Lafayette Board of Public Works and Safety. Petitioner has already received encroachment agreements from Duke Energy, Vectren Gas and Indiana American Water. She added that the West Lafayette Fire Department supports this request with the stipulation that the remaining lane between the cooler-freezer and the grass be designated as a fire lane. Petitioner has agreed to commit to removing the cooler-freezer at their expense if the utility company wants to use their 20' easement or when the cooler is no longer needed. She explained that the proposed remodel for Hot Box Pizza requires the installation of a cooler-freezer toward the rear of the suite and attached to the rear wall of the building because the indoor tenant space is too small to accommodate it. Most of the sales at this location will be delivery or takeout but space to serve 20 people will be provided. Staff believes this situation is self-imposed and cannot be considered a hardship. She summarized the ballot items and concluded with a recommendation of denial.

She added that if the variance request is approved, the following commitments must be recorded, and the conditions must be met prior to issuance of a building permit:

Commitments

1. The petitioner or its successor shall remove the cooler-freezer when it is no longer needed.
2. Petitioner or its successor shall be responsible for any expenses if a utility needs to have the cooler-freezer moved or removed in order to complete its work.

Conditions

1. The remaining lane between the proposed cooler-freezer and the grass shall be designated as a fire lane to be indicated by a sign and paint for the entire rear of the integrated center.
2. Necessary approvals from the West Lafayette Board of Works and Safety shall be obtained to encroach on the platted 20' wide utility easement along Navajo Street.

Mitch Server, 8750 Yardley Court, #100, Indianapolis, IN 46268, planning and zoning consultant representing the petitioner, said the space Hot Box will be occupying is only 1200sq ft when all the other tenant spaces are 3,000 to 4,000sq ft. He added that 70% of the business will be carry-out and/or delivery. The space will suit Hot Box except there is no way to get the freezer-cooler inside the building. Placing the freezer-cooler outside the building has been done in other locations and it is working well. He said he has already received permission to encroach from all the utilities and the West Lafayette Fire Department will sign off once their condition is met. He explained that his client submitted the commitments and was not required to do so. There will be three to eighteen employees per shift and that

number includes delivery drivers. He concluded by pointing out this site has been vacant for over 18 months and it helps the community to have retail space rented.

Daniel Krueger, PO Box 3544, Boardman, OH 44513, said he thinks having unrented retail space should be considered a hardship. He thinks the freezer-cooler will have minimum impact on the back side of the building and is easily removed.

Steve Schreckengast asked if the freezer-cooler will be set on asphalt.

Mitch Server said the freezer-cooler will be placed right on the ground.

Steve Schreckengast asked why a variance is needed to have something in the back of the building when all the other uses have dumpsters in the rear.

Rabita Foley explained that the freezer-cooler will be attached to the building with power lines and a door so it can be accessed from inside the building. That is why a variance is needed.

Mitch Server said the freezer-cooler will be accessed through a door set into the rear wall.

Carl Griffin asked what the freezer-cooler will look like.

Clay Longardner, 4818 Sunview Circle, Indianapolis, IN 46237, petitioner, explained that the cooler will be a gray, metal, walk-in that will come out about 7' from the building.

Carl Griffin then asked if the cooler can remain and be used by the next tenant when this use ends.

Rabita Foley said the freezer-cooler can remain.

Carl Griffin asked what could happen at this location that Hot Box would no longer need the freezer-cooler.

Clay Longardner said Hot Box will always need the freezer-cooler at this location. The freezer-cooler would no longer be needed if the shop closed.

Steve Clevenger asked how deliveries are handled in a fire lane.

Rabita Foley displayed an aerial of the rear of the center and said The Silver Dipper has very few deliveries and all the other uses are offices.

Chad Spitznagle, 222 North Chauncey, West Lafayette, IN 47906, explained that the delivery driver will be active during the delivery. The condition was added to prevent the delivery driver from parking behind/south of the rear of the freezer-cooler. He does not anticipate any delivery issues.

Tom Andrew asked if staff has received permission from the utility companies and the West Lafayette Fire Department.

Rabita Foley replied that petitioner has provided staff with letters allowing encroachment in the utility easement from American Suburban Water, Duke Energy, and Vectren as well as from the West Lafayette Fire Department.

Chad Spitznagle said the last step is to receive permission from the West Lafayette Board of Works and Public Safety. He does not anticipate any problems.

Carl Griffin said the staff report states there is no hardship because there is nothing unusual with this property that is not common to other similar properties. If the Board agrees with staff the request will probably be denied. He asked the petitioner to explain why a hardship exists in this case.

Mitch Server said this is probably the smallest rental unit in the area and it has remained vacant for almost a year and a half. The fact that no one wants to rent this small site makes it different from all other properties in the area because almost all the larger rental spaces are leased.

The Board voted by ballot 7 yes to 0 no to approve **BZA-1989—LONGARDNER INVESTMENTS, INC.**

4. **BZA-1990--WEST LAFAYETTE SCHOOL BUILDING CORPORATION:** Petitioner is requesting the following sign variances for the new West Lafayette Intermediate School building on an R1 zoned property:
1. To increase the total amount of signage to 64 square feet from the maximum allowed 40 square feet; (UZO 4-8-5) and
  2. To increase the freestanding sign's area to 40 square feet from the maximum allowed 20 square feet; (UZO 4-8-6)
- on property located at 1838 Salisbury Street, West Lafayette, Wabash 18 (NE) 23-4.

Tom Andrew moved to hear and vote on **BZA-1990—WEST LAFAYETTE SCHOOL BUILDING CORPORATION.** Carl Griffin seconded.

Rabita Foley presented the zoning map, aerial photos of the site, and the site plan that includes renderings of the signs. She summarized the area zoning and other uses in the area. She explained that this site was the location of the former Burtsfield School that was razed many years ago. Only the gymnasium remains. The property will be accessible from Lindberg Road and Salisbury Street. Petitioner is requesting a fascia sign on the canopy over the main entrance and a one-sided brick monument sign that would face the intersection. The proposed 40sq ft of monument signage will include the name of the school, an insignia at the bottom, and a 28.8sq ft LED sign area. The ordinance states that the message on the LED screen cannot change more often than one time per minute and may not show videos or stream messages that change more often than once per minute. Staff used the sign area worksheet (included in the staff report) to determine the amount of signage allowed. The location of the proposed 40sq ft monument sign is in a residential zone and the ordinance states the sign can only be 20sq ft. Petitioner is requesting twice the allowable amount of signage on an even larger brick structure. She summarized the ballot items and concluded with a recommendation of denial for both requests.

Daniel Teder, PO Box 280, Lafayette, IN 47902, attorney representing the petitioner, said the 24sq ft of fascia signage is over 200' behind the setback. The School Corporation plans to abide by all the regulations regarding the LED monument sign at the corner of Lindberg and Salisbury. He pointed out that the West Lafayette High School, Cumberland School, Happy Hollow Elementary, and many other schools in the county have similar sized signs with some even having larger signs on smaller sites. The school will have 550 students, 26 teachers, and 45 support staff but can accommodate up to 700 students. He went on to say the requested signage would be allowed if the site was zoned NB. He went on to say this is purely an institutional sign and to him good signage is a safety issue. He added that West Lafayette supports this request.

Steve Schreckengast said a monument sign serves no purpose if the message cannot be read traveling down the road at the speed limit.

Steve Clevenger agreed and said he believes readerboard signs should be larger so they can be easily read.

The Board voted by ballot 7 yes to 0 no to approve **BZA-1990—WEST LAFAYETTE SCHOOL BUILDING CORPORATION, Variance #1.**

The Board voted by ballot 7 yes to 0 no to approve **BZA-1990—WEST LAFAYETTE SCHOOL BUILDING CORPORATION, Variance #2.**

**V. ADMINISTRATIVE MATTERS**

None

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

**VI. ADJOURNMENT**

Gary Schroeder moved for adjournment.

The meeting adjourned at 7:30p.m.

Respectfully submitted,



Linda Underwood  
Recording Secretary

Reviewed by,



Sallie Dell Fahey  
Executive Director