

**AREA BOARD OF ZONING APPEALS OF TIPPECANOE COUNTY**

**MINUTES OF A PUBLIC HEARING**

DATE..... AUGUST 22, 2018  
TIME..... 6:00 P.M.  
PLACE..... CO. OFFICE BLDG.  
20 N. 3<sup>RD</sup> STREET  
LAFAYETTE, IN 47901

**MEMBERS PRESENT**

Gary Schroeder  
Steve Clevenger  
Steve Schreckengast  
Ed Butz

**MEMBERS ABSENT**

Tom Andrew  
Carl Griffin  
Frank Donaldson

**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 22nd day of August 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**

Steve Schreckengast moved to approve the minutes from the July 25, 2018 BZA public hearing. Ed Butz seconded and the minutes were approved by unanimous voice vote.

**II. NEW BUSINESS**

Ryan O’Gara said **BZA-1992—TBIRD DESIGN SERVICES CORP.** did not turn in all the required paperwork and needs to be continued to the September BZA meeting. The petitioners for **BZA-1986—PURE DEVELOPMENT, INC.** and **BZA-1991—SHERYL S. KENNY** have requested continuances to the October BZA meeting.

**APPROVAL TO RELEASE CLAIM  
BZA-1871—THURMAN R. SANDERS**

Zach Williams said after meeting with the BZA members, former BZA counsel Jay Seeger negotiated a settlement with the Thurman R. Sanders estate. He received notice that the settlement is ready to be paid and he has to execute a document releasing the claim and the BZA’s judgement. He asked the Board to accept the settlement offer of \$8,000.00 as resolution of the claim and have the attorney execute all necessary documents.

Gary Schroeder moved to ACCEPT THE SETTLEMENT OFFER OF \$8,000.00 AND AUTHORIZE COUNSEL TO EXECUTE ALL THE NECESSARY DOCUMENTS TO RELEASE THE BOARD OF ZONING APPEALS CLAIM AGAINST THE ESTATE OF THURMAN R. SANDERS. Ed Butz seconded.

Steve Schreckengast asked if the County Commissioners have weighed in on this claim.

Zach Williams said he learned from talking with Jay Seeger that this is the amount the Board of Zoning Appeals agreed to accept. The \$8,000.00 was the only money available after the estate paid off the other claimants.

The motion was approved by unanimous voice vote.

### III. PUBLIC HEARING

Steve Schreckengast 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. Ed Butz seconded and the motion carried by voice vote.

Steve Schreckengast moved to continue **BZA-1992—TBIRD DESIGN SERVICES CORP.** to the September 26, 2018 Board of Zoning Appeals public hearing and **BZA-1986—PURE DEVELOPMENT, INC.** and **BZA-1991—SHERYL S. KENNY**, to the October 24, 2018 BZA meeting. Ed Butz seconded and the motion was approved by unanimous voice vote.

Steve Clevenger read the meeting procedures.

#### 1. **BZA-1993--COUNTRY SQUIRE ASSOCIATES, LLC:**

Petitioner is requesting a reduction of the rear setback to 15.8 feet from the minimum requirement of 25 feet to legitimize existing apartment buildings in an R3 zone. The property, commonly known as Trailside Flats Apartments, is located in the proposed Lot 2 of Country Squire Subdivision on Morehouse Road, Wabash 01 (NW) 23-5. (UZO 2-8-8)

Steve Schreckengast moved to hear and vote on **BZA-1993—COUNTRY SQUIRE ASSOCIATES, LLC.** Ed Butz seconded.

Rabita Foley presented the zoning map and aerial photos of the site, highlighting the 15 existing duplexes and two maintenance buildings on Lot 1. She then highlighted the neighboring land uses. She said the site plan shows the 181 parking spaces available for Lot 2 but the 195 dwelling units on Lot 1 and Lot 2 are required to have 390 spaces (two per unit). Lot 1 and Lot 2 have a total of 406 parking spaces and a covenant guaranteeing shared parking will be included on the final plat. When the apartments were built in 1976 the ordinance allowed apartments and duplexes by right in the GB zones but when NUZO took effect, all existing multi-family uses in the GB zones became legally nonconforming. APC rezoned this property to R3 in 2013 to address this issue. The duplexes and storage shed on the west side of the development became nonconforming with the R3 rezone because they do not meet the R3 development standards. Petitioner would like to make these legally nonconforming structures conforming so the owner can get insurance for the entire development and staff concurs. She concluded with a recommendation of approval.

Daniel Teder, PO Box 280, Lafayette, IN 47902, attorney representing the petitioner, concurred with the staff report. His client wants the buildings on Lot 2 to conform so they can be rebuilt if there is a catastrophic loss and to obtain an insurance policy for the entire development. The two apartments and maintenance shed that are currently nonconforming are on the west side of the property and have nothing to do with Lot 1 to the north. The three buildings included in this request about a GB zoned mini-storage facility so there will not be a negative impact on the neighbors or the neighborhood. The letters submitted in opposition apply to Lot 1 and have nothing to do with this request. No variance requests have been applied for Lot 1.

Rabita Foley read letters of opposition from:

Rebecca Mansmann, 1510 Brook Mill Court, Carmel, IN 46032 and  
Dana Beck, 1854 Cal Drive, West Lafayette, IN 47906

Steve Clevenger pointed out that the developer can proceed with developing Lot 1 whether this variance request is approved or denied.

Steve Schreckengast clarified by saying the variance is for buildings that are in place and were in place before Colony Pines was built. That means Colony Pines moved in next to these buildings and now they do not like being next to the buildings.

Rabita Foley thinks the letter writers were confused what petitioner is asking for. The remonstrators do not want the new buildings on Lot 1 that will abut Colony Pines to be built any closer than allowed. She then referred to the site plan to highlight where all the trees were removed for utility installation.

Steve Schreckengast thinks this property is next door to the APC Director's home.

The Board voted by ballot 4 yes to 0 no to approve **BZA-1993—COUNTRY SQUIRE ASSOCIATES, LLC.**

**2. BZA-1994--JOHN SCHUMANN:**

Petitioner is requesting a reduction in the side setback for a structural projection from the permitted 2' of projection (leaving a 4' setback) to 3.5' of projection (leaving a 3.5' setback – the existing side setback, foundation to property line, is 7') to legitimize a recently constructed window well on an existing house in an R1U zone. The property is located at 331 Lawn Avenue, West Lafayette, Wabash 08 (SE) 23-5. (UZO 2-4-9)

Steve Schreckengast moved to hear and vote on **BZA-1994—JOHN SCHUMANN.** Ed Butz seconded.

Rabita Foley presented the zoning map, aerial photos of the site, and the site plan and pointed out that this property and all surrounding land is zoned R1U. She said the site contains a single-family home and a detached garage. Most homes in the neighborhood were constructed in the 1920's and generally built close to the side property lines. She explained that a window well was added to the side of the house but it extends 6" into the 2' permitted, 6' side setback. She then displayed a drawing showing the location of the window well and the setback. She explained the window was added for additional light in the laundry area and for safety because an egress window was installed. The preservation commission issued a Certificate of Appropriateness (COA) but the encroachment into the setback was not noticed. The West Lafayette Engineer's Office became aware of the violation and an after-the-fact permit was applied for but not yet granted. She concluded with a recommendation of denial.

Rabita Foley read a letter of support from:

Ryan Kennedy, 313 Columbia Street, Lafayette, IN 47901

John Schumann, 4021 Soldier Home Road, West Lafayette, IN 47906, petitioner, said he started installing

the window and window well when he realized he needed a permit. Initially a permit was issued by the West Lafayette Engineer's Office who notified him that he needed the COA prior to installation. He received the COA and then realized the window well was built into the setback. He said the owner had the window and window well installed to make it safer to use the basement space.

Steve Schreckengast asked if the West Lafayette Building Commissioner has any problem with this request.

Chad Spitznagle, 222 North Chauncey, West Lafayette, IN 47906, West Lafayette Building Commissioner, said he has no issues with this request. He explained that the window well is between two homes and there is no walkway.

The Board voted by ballot 4 yes to 0 no to approve **BZA-1994—JOHN SCHUMANN.**

**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**

Steve Schreckengast moved for adjournment. Ed Butz seconded.

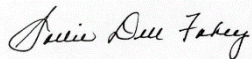
The meeting adjourned at 6:35 p.m.

Respectfully submitted,



Linda Underwood  
Recording Secretary

Reviewed by,



Sallie Dell Fahey  
Executive Director