

THE  
AREA BOARD OF ZONING APPEALS  
OF  
TIPPECANOE COUNTY

**NOTICE OF PUBLIC HEARING**

DATE : September 23, 2020  
TIME: 6:00 P.M.  
PLACE: COUNTY OFFICE BUILDING  
20 N. 3RD STREET  
LAFAYETTE, IN 47901

**AGENDA**

Due to the public health emergency, public comment on agenda items may be submitted prior to the meeting at [apc@tippecanoe.in.gov](mailto:apc@tippecanoe.in.gov). Comments must include name and address to be heard. Comments may also be made live on the streaming platforms. Members of the public may watch and comment (*one must have an account to make live comments on Facebook and YouTube*) on the livestream of the meeting on <https://www.facebook.com/TippecanoeCountyIndiana> or <https://www.youtube.com/channel/UCJLeeA9ZQo9EIIgDzTdjurQ>

**I. APPROVAL OF PREVIOUS MEETING MINUTES**

Documents:

[BZA 08.26.2020.PDF](#)

**II. NEW BUSINESS**

**III. PUBLIC HEARING**

1. BZA-2043 RESONS, LLC:

**\*\*Continued\*\***

Petitioner is requesting the following variances to renovate the basement to add a bedroom to the existing nonconforming apartment structure in an R4W zone:

1. To allow a lot width of 50.68 feet from the minimum required 70 feet for a multi-family dwelling; (UZO 2-11-6)
2. To reduce the setback from North Street to 21 feet from the minimum requirement of 25 feet; (UZO 2-11-8)
3. To reduce the setback from N. Chauncey Avenue to 10 feet from the minimum requirement of 25 feet; (UZO 2-11-8) and
4. To reduce the onsite parking to 6 from the minimum requirement of 9 spaces; (UZO 4-6-4)

on property located at 302 N. Chauncey Avenue (commonly known as Chauncey Townhouses Planned Development) in West Lafayette, Wabash 19 (NE) 23-4. *Continued to the December ABZA meeting to add variances. Second continuance.*

#### **IV. ADMINISTRATIVE MATTERS**

#### **V. ADJOURNMENT**

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), the Area Plan Commission of Tippecanoe County will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. For more information visit [www.tippecanoe.in.gov/ada](http://www.tippecanoe.in.gov/ada)

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

DATE..... August 26, 2020  
TIME..... 6:00 P.M.  
PLACE..... COUNTY OFFICE BUILDING  
20 N. 3RD STREET  
LAFAYETTE, IN 47901

*Due to the public health emergency, the meeting was held virtually. Members of the public may watch the livestream of the meeting at <https://www.facebook.com/TippecanoeCountyIndiana>*

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

**STAFF PRESENT**

Sallie Fahey  
Ryan O’Gara  
Kathy Lind  
Larry Aukerman  
Chyna Lynch  
Zach Williams, Atty.

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held virtually on the 26th day of August 2020 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

President Steve Clevenger called the meeting to order. He asked that everyone present mute their microphones until they wished to speak or vote.

Attorney Zach Williams called the roll to establish those members present.

**I. APPROVAL OF MINUTES**

Gary Schroeder moved to approve the minutes from the July 22nd, 2020 BZA public hearing. Jen Dekker seconded and the minutes, as submitted, were approved by unanimous voice vote.

**II. NEW BUSINESS**

Ryan O’Gara said petitioner has requested to continue **BZA-2043 RESONS, LLC** to the September 23, 2020 meeting to add variances. Petitioner has withdrawn **BZA-2038 BILL PHILLIPS**.

**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. Jen Dekker seconded, and the motion carried by voice vote.

Gary Schroeder moved to continue **BZA-2043 RESONS, LLC** to the September 23, 2020 BZA meeting. Carl Griffin seconded and the motion carried by unanimous voice vote.

Steve Clevenger read the meeting procedures.

**BZA-2041 MURTAUGH LAW, LLC:**

Petitioner is requesting the following variance for a proposed RV self-storage warehouse business on a half-acre tract of GB-zoned property:

1. To allow a 1' setback from Old SR 25 N instead of the required 60'; (UZO 2-17-7) and
2. To eliminate the requirement for each required off-street auto space to open directly on an unobstructed maneuvering aisle; (UZO 4-6-15 b) ~~Withdrawn.~~

on property located at 10 Aretz Lane, Fairfield 11 (SW) 23-4. *Continued from the July ABZA meeting because notices were not sent out in time.*

Gary Schroeder moved to hear and vote on **BZA-2041 MURTAUGH LAW, LLC**. Jen Dekker seconded.

Ryan O'Gara presented the zoning map, site plan, and aerial photos. He said this tract was recently rezoned to GB from R1. This area has a mix of Industrial, Highway Business and Residential zoning. The site is currently unimproved and was once part of the Aretz Airport property. The petitioner is looking to expand a self-storage facility. The leasing office for the storage facility is in the building to the south of the site. The petitioner is proposing 8-12 storage units for the facility. The facility is required to have 3 parking spaces per 200 storage units. The parking options will need to be worked out in the site plan stage. This is an unusually shaped lot and the state right-of-way takes a large portion of the lot. This was done during the Hoosier Heartland construction. There is an existing septic field on the northern part of the property and the building will go on the part of the property with the most room. Staff comments list three points. First, the 60' setback from Old SR 25 takes a large portion of the triangular-shaped property and makes improvement a hardship. Second, the location of the existing septic system limits where improvements could be located. Third, the wide right-of-way location, 73' between the property line and the edge of the shoulder, plus the elevation change within the right-of-way seems more than adequate separation between the roadway and a commercial building. It is staff's opinion that granting the variance will not be injurious to the public health, safety, and general welfare of the community. There is plenty of room from the edge of the property line. Use and value will not be affected in an adverse manner. The adjacent property is owned by the petitioner. Because of the large right-of-way and elevation shift, the highway will not be negatively impacted. The terms of the zoning ordinance are being applied to a situation is not common to the other properties. This is a unique situation given the unusual shape of the site. Strict application of the terms of the zoning ordinance will result in an unnecessary hardship which in this case is the 60' setback on the site. This does not provide a reasonable buildable area. The reason for the setback is to make sure there is plenty of space for the primary arterial. In this case, there is more than enough space. The hardship is not self-imposed or based on a perceived reduction of or restriction on economic gain. The setback on this lot renders it nearly unbuildable. The variance provides only the minimum relief needed to alleviate the hardship. With the hillside and the unusual shape of the property, the variance proposed is needed to build on site. Staff recommended approval.

Steve Clevenger asked if the petitioner or the representative wanted to make a presentation and if there were any documents to share through GoToMeeting.

Reid Murtaugh, 1527 Kossuth Street, Lafayette, IN 47905, representative for petitioner, presented photos of the site to show the elevation and the distance between the site and Old SR 25. Regarding ballot items #2 and #3, there is a significant elevation change. There is adequate distance from Old SR 25. The adjacent property is also owned by the petitioner. Regarding ballot item #4, there is an additional restriction on what can be built on the site because of the septic field and the unusual triangle shape. For ballot item #5, 82% of the tract would be unusable if the 60-foot setback was imposed. He respectfully requested approval.

Steve Clevenger said there will be a one-minute pause for citizen comment. After the minute passed, he asked Ryan O'Gara if any citizen comments had been received. There had not. He asked the Board to submit their ballots.

Zach Williams said he received the ballots and conducted a roll call vote to confirm each member's vote.

Yes-Vote

No-Vote

Steve Clevenger

Gary Schroeder

Jen Dekker

Tom Andrew

Ed Butz

Frank Donaldson

Carl Griffin

The Board voted by ballot 7 yes to 0 no to approve **BZA-2041 MURTAUGH LAW, LLC, Variance #1.**

**BZA-2042 ZERN VESS:**

Petitioner is requesting a variance to allow a fascia sign of 63.20 sq. ft. in an integrated center instead of the maximum allowed 40 sq. ft. for a Domino's Pizza on a GB zoned lot. The property is located in Paramount Lakeshore Subdivision, more specifically at 3504 Paramount Drive, Wabash 2 (NE) 23-5. (UZO 4-8-7).

Gary Schroeder moved to hear and vote on **BZA-2042 ZERN VESS.** Ed Butz seconded.

Rabita Foley presented the zoning map, site plan, and aerial photos. She said the property is zoned GB. Many of the properties along Sagamore Parkway are zoned commercially with pockets of high density residential. The property was rezoned in 2002 from NB to GB. The land to the south across Sagamore Parkway is zoned R3 with GB to the southwest. There is an Old National Bank to the east across Paramount Drive. There are apartments to the west and two apartment complexes farther north. The site is currently being developed. The new building will have three tenant spaces which will make it an integrated center. This request is for Domino's Pizza and they will occupy 1,800 square feet of the building. The signage for an integrated center is calculated for both the building signage and the freestanding sign. For this tenant, they are allowed 40 square feet of fascia signage and 100 square feet freestanding signage with a maximum height of 24 feet. The freestanding sign meets the ordinance requirement. The proposed sign will be at the corner of Paramount Drive and Sagamore Parkway. The building is at a highly visible location and is a prime location for commercial use. Regarding ballot items, the Area Plan Commission determined on August 19, 2020 that the variance requested is not a use variance. It is staff's opinion that granting this variance will not be injurious to the public health, safety and general welfare of the community because increased fascia signage will have no adverse effect on the traveling public. Use and value of the area adjacent to the property included in the variance request will be affected in a substantially adverse manner. Petitioner's proposal is larger than permitted and would put neighboring businesses – who have signage conforming with ordinance requirements – at a disadvantage. Allowing additional signage would encourage these and other businesses in the area to request variances for larger than necessary signs. The terms of the zoning ordinance are being applied to a situation that is common to other properties in the same zoning district. There is nothing unusual regarding this lot's shape, size or topography. Strict application of the zoning ordinance will not result in an unusual or unnecessary hardship as defined in the zoning ordinance because it is only petitioner's desire to have more signage than allowed that is creating a hardship. Because there is no hardship involved, this request is solely based on economic gain. The variance sought does not provide minimum relief to alleviate the hardship because staff can find no ordinance defined hardship in this request. Staff recommended denial.

Steve Clevenger asked if the petitioner or the representative wanted to make a presentation and if there were any documents to share through GoToMeeting.

Zern Vess, 334 E Chestnut Street, Springfield, MO 65806, petitioner, said they believe there is a hardship based on the layout of the property. The franchise is building the whole shopping center and the property faces away from the main road. Another Domino's in Tippecanoe County has the original sign package which is 40 square feet on both sides of the building and a 35-foot pole sign. This variance would ensure

visibility from the east and west as people travel on Sagamore Parkway by getting an additional 23 square feet of signage. The Domino's business model directs that people order pizzas and pick them up at a pickup window or by car side pickup. People will be looking for the location. He said all the signage has been sized down to fit this building, but we still feel at a disadvantage with the location of the building and the main drive being on a secondary street.

Tom Andrew asked if the freestanding sign is by the road.

Rabita Foley said the sign is not there yet.

Zern Vess, 334 E Chestnut Street, Springfield, MO 65806, petitioner, said the pole sign will be shared with the other tenants. There will not be a tenant panel for Domino's, there will just be the domino at the top of the pole sign to keep it at the 100 square foot allowance.

Steve Clevenger asked if the middle section is a changeable copy sign.

Zern Vess, 334 E Chestnut Street, Springfield, MO 65806, petitioner, said it is a changeable copy sign for the plaza.

Steve Clevenger said the variance speaks to the fascia signs, not the pole sign. The pole sign is being shown as part of the sign package. It seems that the idea behind an integrated center sign is to get people to the right location and the fascia sign is to get people to the right location in the building. The sign will be in the drive so people will recognize the domino from the pole sign and when people turn in, they can see the sign on the building. It seems like the other two tenants have less signage on the integrated center sign and they don't have the advantage of using the second side of the building.

Zern Vess, 334 E Chestnut Street, Springfield, MO 65806, petitioner, said we have taken the signage down to give the other tenants as much square footage as possible. They will also advertise on the slides that appear on the changeable copy sign. The word "Domino's" has been taken off the integrated center sign and the domino tile is only used to work with the signage allotment. The signage package for the business always has signage on two sides of the building. This is a requirement for the franchise. If a standalone building would have been constructed, there would be more signage allotted.

Steve Clevenger said the freestanding sign has more square footage than the standard 40 square feet.

Jen Dekker asked if the variance is specific to Domino's and if a future tenant would have to get their own variance for more signage.

Steve Clevenger said he believes the variance goes with the site plan.

Zach Williams said the variance will go with the site plan unless the building is abandoned.

Gary Schroeder asked if the allowable 40 square feet of fascia signage is for two 20 square foot signs.

Rabita Foley said they are allowed a total of 40 square feet and it can be divided into three or four locations. If they would have redesigned the proposed signage, they could still have two smaller signs.

Gary Schroeder said the staff report shows a sign on two sides. He asked if that was part of this request.

Steve Clevenger said they have a 40 square foot sign on the front of the building and they are requesting an additional 23 square feet for signage on the side of the building. They could divide the 40 square feet and put 20 on the front and 20 on the other side.

Gary Schroeder said they used their 40 square feet on the front and they are trying to get a sign on the side of the building that faces the road.

Zern Vess, 334 E Chestnut Street, Springfield, MO 65806, petitioner, said the overall objective is to have three tenant signs look similar in size. The sign that is proposed for the side of the building is smaller. There are other businesses that have signage on all sides of the building on Sagamore Parkway, so this is within reason.

Steve Clevenger said there will be a one-minute pause for citizen comment. After the minute passed, he asked Ryan O’Gara if any citizen comments had been received. There had not. He asked the Board to submit their ballots.

Zach Williams said he received the ballots and conducted a roll call vote to confirm each member’s vote.

Yes-Vote

Gary Schroeder  
Jen Dekker

No-Vote

Steve Clevenger  
Tom Andrew  
Ed Butz  
Frank Donaldson  
Carl Griffin

The Board voted by ballot 2 yes to 5 no to deny **BZA-2042 ZERN VESS**.

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.

**IV. ADMINISTRATIVE MATTERS**

None.

**V. ADJOURNMENT**

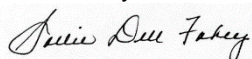
Jen Dekker moved for adjournment.

The meeting adjourned at 6:57 p.m.

Respectfully submitted,

Chyna Lynch  
Recording Secretary

Reviewed by,



Sallie Dell Fahey  
Executive Director