

AREA BOARD OF ZONING APPEALS OF TIPPECANOE COUNTY

MINUTES OF A PUBLIC HEARING

DATE..... AUGUST 24, 2022
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
Ed Butz
Robert Novak
Michelle Dennis
Tom Andrew
Gary Schroeder

MEMBERS ABSENT

Jen Dekker

STAFF PRESENT

Ryan O’Gara
Larry Aukerman
Kristina Lamb
Eric Burns, Attorney

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held in-person on the 24th day of August 2022 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

Steve Clevenger called the meeting to order at 6:00 PM.

Attorney Eric Burns, called the roll to establish members present.

I. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes from the July 27, 2022 BZA public hearing as submitted. Tom Andrew seconded.

Steve Clevenger asked if there were any comments or corrections. There were none. The minutes, as submitted, were approved by unanimous voice vote.

II. NEW BUSINESS

Ryan O’Gara introduced Kristina Lamb as the new Recording Secretary. It was noted **BZA-2086 Cumberland Partner Storage** has withdrawn from the August 24th BZA agenda. The other case on the agenda is ready to be heard.

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.

Tom Andrew seconded, and the motion carried by unanimous voice vote.

Steve Clevenger read the meeting procedures

Gary Schroeder moved to hear and vote on **BZA-2087 TODD & LYNN EDGELL.** Tom Andrew seconded.

BZA-2087 TODD & LYNN EDGELL:

Petitioners are seeking a special exception for an agricultural rental hall, operating 8:00am to 10:00pm Sunday through Thursday, 8:00am to midnight Friday and Saturday, located on two acres at 4951 Swisher Road, Tippecanoe, Burnetts Reserve 5 (SW) 24-4.

APC staff Ryan O’Gara presented the zoning map, site plan, and aerial photos. The site is near Industrial Zoning, connects to the mining that has taken place in this area and acquisitions made by the state park system, IDNR. There are some remnant mixes of zoning, not originally part of the mining operations, however, most of the properties surrounding the site are sites in which Prophetstown aims to acquire. The site currently has several agricultural buildings, but no residential structure. Some of the perimeter is lined with trees and additional smaller trees have been planted. The maximum capacity of the facility is 248 persons. A formula of one parking space per four people is used, calling for 62 spaces, which the site plan shows. There is an area that could potentially have overflow parking, which is also a requirement of the ordinance. Making accommodations for ADA parking would be part of the site plan review before permitting. IDEM approval would be necessary for a well. Commercial septic would be necessary. On this relatively small site, compared to other ag rental hall sites, room is becoming scarce for the septic field. Parking cannot be on top of it if there is an overflow parking situation. There is also no indication of the well location. On a site this size, space is at a premium for these items that have yet to be determined. These items are not necessary for this approval, but it could impact the approval to the extent that the Petitioners may have to come back if the site plan must change due to commercial septic, well location, etc. If these elements come together in their favor, and a change in the site plan is required, then they would return for another Special Exception to amend. Existing building photos were shown. The small barn will be used for storage, not event space. New tree lines were shown, with the intent to provide a more solid buffer over time. APC did reach out to the parks system and they did not have much to say, and they did not object in terms of how this impacts their operation but did indicate this is within the future purchase boundary. The park is not bound to purchase everything within the boundary, but they may want to in the future. UZO standards will be met. We don’t yet have state building approval, State Board of Health for the commercial septic, County Highway for the proposed curb cut, or County Surveyor for drainage. Those items have yet to happen so APC is combining those as conditions of approval if this special exception is approved. It is in APC opinion, this special exception will materially and permanently injure other properties for road traffic generation, particularly the observations regarding people arriving with less than four people to a car. This essentially creates a need for overflow parking, even though they are meeting occupancy standards. Outdoor lighting has been declared as hooded and directed in a manner to not escape the property line. Staff opinion is lighting will likely bleed off the property, given the relatively dark nature of this vicinity. As for noise production, we appreciate their effort to reduce the noise levels, but based on our experience with these uses, the sound seems to get through the walls and travels far. These occurrences have made APC want to review how the ordinance is applied so residents much further away are protected. Given the size limitations on this property, APC staff feel that noise could end up being an issue. Hours of operation are consistent but would be a condition of approval. We do have confirmation from a representative of the petitioner that they agree to the commitments we are asking for. The petition has been amended to reflect maximum occupancy as 248 and amplified music only taking place inside the structure, with non-amplified as implied. Petitioner has agreed to the conditions of approval. APC staff recommend denial because of the size of the site, being the smallest site APC has seen, with not much room to accommodate what APC tries to protect against. Recommendation of denial is out of an abundance of caution relative to the neighbors.

Ryan O’Gara provided a written petition from residents and landowners in proximity to the property.

Steve Clevenger asked Ryan O’Gara about the conditions in the staff report. APC staff is recommending a condition for hours of operation, but that condition is not listed specifically as number seven in the condition listing.

Ryan O’Gara stated staff supports the hours of operation being added as condition number seven.

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

Burke Richeson, Gutwein Law, 250 Main Street, Lafayette, believes background information will help the Board understand the intent of the project. The petitioners recognize this is a rather small area to have this type of exception granted, but it’s the characteristics that make it unique and places it into a need for the community. This is a family farm that Mr. Edgell grew up on and has been in the family since the 1950’s. It is his desire to try to preserve this family farm to pass it onto his children. This project is a viable means to both renovate and preserve for the future. It’s a benefit to the community if older barns can be preserved and made beneficially useful. Regarding the size of property, the intent is to serve a section of the market that wish to have smaller venues, as opposed to event halls or grand ballrooms. The intent is not to fit people into a smaller spot, but to provide a smaller venue for those that don’t want a big, giant space. They are not aiming to enter a larger market with a smaller property. They wish to serve an area of the market that may not be served now. Petitioners understand the APC questions and concerns in terms of noise and lighting. Anytime light is introduced into a dark space, there will be light created, but can mitigate how far that light travels. There’s plenty of advancements in lighting that help prevent the expansion and pollution from the light. Viewing exterior photos, one can see exterior walls and areas of the barns have been removed. New walls are going to be put in and will be insulated for better sound absorption and prevention of sound escaping, more so than other barns that don’t have the added or updated construction to preserve sound within the building. The petitioners have plenty of subsidies to go through to receive approval. There are plenty of places they will have to meet these requirements and live up to code, and they are ready and willing to do that. The only reason they have not entered that portion of this development is that it would be a waste of time and money if they didn’t have the approval of this Board. That should be commended, as we see many builders that move ahead and start and hope getting far enough down the road that it will lead to an approval by default. The petitioners have done the proper steps in preparing this property to be renovated and ask for your approval to enter this special exception to preserve this farm and use it within the requirements and limitations the APC has provided. It could be beneficial to the area. As the written petition shows, the people who live and operate in the area around the property, welcome it. The Edgell’s went around to the neighbors with their idea and asked for their thoughts. They received a positive response from everyone, so they started this process. The Edgell’s then went back with this petition to show neighbors agree or approve of this type of development. Petitioners hope the Board can see the benefit, see there is remediation that can be taken to appease the concerns of the APC staff, and at this point, there is no objection to the special exception from the public..

Todd & Lynn Edgell, 11629 W Shaffer Road, Monticello, Todd Edgell stated this is where he grew up. It was his grandparents farm since 1956. The family still owns the acreage behind and across the road, and towards the interstate. They have kept the land in the family, even through the expansion of the state park, I-65, and Swisher Road. It is their dream to save this two-acre parcel that has the original barn, from what was a dairy farm, one of the largest self-sustained dairy farms in Indiana, pre-1900’s and served the Lafayette area with milk. The property has gone downhill because of the neglect when his grandparents passed away, but the Edgell’s have obtained the property and the vision is to restore it to its glory. It is an old heritage barn and has been registered as such. It has a lot of historical significance. The barn will be a small event center, completely updated and renovated to code. All new steel siding has gone up and the roof has been redone. Some beams have been replaced with salvaged wood from a savage location in Flora.

Lynn Edgell, 11629 W Shaffer Road, Monticello interjected that they used the salvage site to keep the original character of the barn, because it is their dream to make sure it is still a heritage barn.

Todd Edgell, 11629 W Shaffer Road, Monticello stated the barn will be completely insulated and ship lapped inside with old, reclaimed barnwood, to restore and preserve it and keep it in the family forever.

Lynn Edgell, 11629 W Shaffer Road, Monticello added the desire is to pass the barn onto their girls.

Burke Richeson, Gutwein Law, brought up the concern of traffic flow. He indicated the property is not going to have constant commercial traffic coming and going on a regular basis, seven days a week. There will be long portions of no traffic at all. Forty-five minutes to an hour prior to an event, cars will come in and then four - six hours later those sixty-two cars will be leaving. That would be the extent of traffic, other than catering or other deliveries coming in. The Edgell's would love to book it seven days a week with an event running all afternoon, every day, but we know that's not likely to happen.

Patrick Grimes, 302 Ferry Street, Lafayette, construction manager; stated he met with the Edgell's to create a plan, which brought them to this Board first, before moving further. He has engaged ARKOR as the architect and they are ready to work once approval is granted. The building does lend itself well in that they can make it code compliant, and it will be fully ADA compliant. It won't have to go to the state for any building or fire code exceptions, which is unusual. Once ARKOR can begin, photometrics of the site can be run and appropriate lighting can be found to light the areas needed, but not be intrusive to neighbors or areas around there. He is available to answer questions regarding the plan.

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.

Gary Schroeder asked a procedure related question regarding the conditions of commitment. Are those part of the application or does the Board need to amend the motion to hear and vote on?

Eric Burns suggested to amend, as long as the Petitioners indicate the conditions are acceptable.

Steve Clevenger added the seventh condition regarding hours of operation would need to be acceptable.

Burke Richeson, Gutwein Law, pointed out the hours of operation in the condition are the hours of operation that were indicated on the application.

Eric Burns read the staff report hours listed as 8:00AM to 10PM during the week and 8AM to 12AM Friday and Saturday.

Burke Richeson, Gutwein Law, confirmed those to be the hours listed in the application. That is the recommendation the petitioners would be agreeable to.

Eric Burns suggested the Board move to amend the Conditions to add (d.) about hours of operations as an additional Condition number seven, as stated in staff report Section 4d.

Gary Schroeder moved to amend **BZA-2087 TODD & LYNN EDGELL** to include Commitments 1 and 2, as listed in the staff report, and Conditions 1 through 7, with the addition of (d.) Hours of operation 8:00AM to 10PM during the week and 8AM to 12AM Friday and Saturday.

Tom Andrew seconded, and the motion carried by unanimous voice vote.

Steve Clevenger stated the commitments and conditions are now part of the application.

Steve Clevenger said the site plan is small to see details. He asked if there are any new buildings planned or if only existing buildings on the property are included.

Patrick Grimes, 302 Ferry Street, Lafayette, said there was a small modular that sat at the front of the property, but it has been removed. The two barn structures remain with no new construction or buildings being built.

Steve Clevenger asked if there are any outside areas where events or wedding ceremonies would occur.

Lynn Edgell, 11629 W Shaffer Road, Monticello said there will be a small concrete pad between the two barns.

Todd Edgell, 11629 W Shaffer Road, Monticello referred to the site plan to point out the proposed concrete pad behind the little barn.

Lynn Edgell, 11629 W Shaffer Road, Monticello said it is mostly for the safety of people walking out and not having to step right down into the grass.

Steve Clevenger asked if that was included on the site plan.

Todd Edgell, 11629 W Shaffer Road, Monticello confirmed. It reads outdoor ceremony area on the site plan.

Patrick Grimes, 302 Ferry Street, Lafayette provided a larger print copy of the site plan for the Board to refer to.

Steve Clevenger asked if anyone would like to see a larger version. The printout was passed around.

Steve Clevenger also stated that APC staff indicate people do not show up four to a car. He asked the petitioners what the plans were for overflow parking. There is area behind the barns, but if that is taken up by well and septic, there may not be much space left.

Patrick Grimes, 302 Ferry Street, Lafayette explained there is an existing well, just past the area of the silo. Someone came out to look at it and thinks it can be used but will need to be evaluated. The same contractor will help with the design and installation of the septic. The well location is on the opposite side of the lot, and the contractor's design idea is to run the finger system, parallel with the property line, getting it far enough away to meet the standard. Then there would be ample room for the overflow parking.

Steve Clevenger asked if the state owns all the property around the site plan, other than the property across the street, which the Edgell's own.

Lynn Edgell, 11629 W Shaffer Road, Monticello, stated her family owns the back acreage.

Todd Edgell, 11629 W Shaffer Road, Monticello, said they own the property directly across the street and the land behind the site plan, all the way to the river. The state owns everything around it. There are six parcels, in the wooded area, and those are the only houses left on this road. They are the people that signed the petition and are excited to see it being restored, because they have been looking at it deteriorate.

Ed Butz referred to the site plan and said there is 226 feet from the back of the barn to the property line in the rear, which is considerable.

Todd Edgell, 11629 W Shaffer Road, Monticello, said the lot behind the barns, even with the septic going in, will be almost the same size as the lot in the front to provide for overflow parking.

Robert Novak asked Eric Burns if the Board approved this, and then if the petitioners must make substantial changes to the plan for septic or drainage or add land to the plan, would they have to come back to the Board?

Eric Burns said yes, the site plan is what the Board is approving. If changes must be made to the site plan, then the petitioners would have to come back.

Michelle Dennis said she understands APC staff recommended denial because of the size of the lot, but if all the approvals go through, those will say the lot is essentially sufficient. Are there other concerns that the approvals wouldn't catch that the lot size would impact?

Ryan O'Gara said it is hard to make a definitive judgement from the APC viewpoint. If the site was forty acres, that would be enough room for everything. Here we are seeing two acres, so it raises some doubts. The denial is more out of an abundance of caution with a lot of open questions still unanswered. It seemed to APC the application was a bit premature, but we understand their intent to see if they can get the use generally approved of, and then take their chances that all the other things they must do will get done. They have complete liberty to do that, and the ordinance does not prohibit them from doing that.

Steve Clevenger clarified that if the Board were to approve it, it may be that the petitioners can't do what they wanted to do because of issues with the state and the size of the lot, is that correct?

Ryan O'Gara confirmed. APC has seen cases where something did not go as planned and they had to come back to the BZA for a re-approval because the site plan changed. That is not unheard of. APC staff might then have a different opinion because by then the petitioners may have gone through a lot of the other steps and may have addressed some of our concerns, particularly if they're engaged with ARKOR and addressed the lighting issues, for example.

Steve Clevenger called for a vote on a ballot.

Attorney Eric Burns collected the ballots and noted the Board voted 6-Yes to 0-No to grant the requested Special Exception with Commitments and Conditions.

Yes-Vote

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

No-Vote

IV. ADMINISTRATIVE MATTERS

Ryan O'Gara stated the APC had none.

Gary Schroeder addressed a prior discussion regarding revisiting the ballots the Board uses. Suggested revisions could include having a check box of per staff report or per testimony of petitioner and still have the option of writing in a statement, to speed up the balloting process, especially when there are multiple ballots. Gary asked if there was anything the Board needed to do to move forward.

Eric Burns said the Board needs to sit down and get it done. There are other matters, in terms of bylaws, that could be addressed as well.

Ryan O'Gara agreed and said he would arrange a meeting.

V. ADJOURNMENT

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.

Gary Schroeder moved for adjournment.

The meeting adjourned at 6:44 P.M.

Respectfully submitted,

Kristina Lamb
Recording Secretary

Reviewed by,

A handwritten signature in black ink, appearing to read "D. Hittle". The signature is stylized with a horizontal line under the letters and a vertical line extending downwards from the end.

David Hittle
Executive Director