

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

**MINUTES OF A PUBLIC HEARING**

DATE.....September 22, 2021  
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  
Tom Andrew  
Gary Schroeder  
Frank Donaldson  
Michelle Dennis

**MEMBERS ABSENT**

Ed Butz  
Jen Dekker

**STAFF PRESENT**

David Hittle  
Ryan O’Gara  
  
Larry Aukerman  
Eric Burns, Atty.

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held in-person on the 22<sup>nd</sup> day of September 2021 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.

**I. APPROVAL OF MINUTES**

Gary Schroeder moved to approve the minutes from the August 2021 BZA public hearing. Jen Dekker seconded and the minutes, as submitted, were approved by unanimous voice vote.

**II. NEW BUSINESS**

None.

**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.

Steve Clevenger read the meeting procedures, and called the first case.

**BZA-2061 QUIKTRIP CORPORATION:**

**Petitioner is requesting the following sign variances for a proposed gas station/convenience store in an HB (Highway Business) zone:**

1. To allow 132.6 square feet of signage instead of the maximum permitted 40 square feet on a freestanding “monument” sign (UZO 4-8-6) (revised 9/15/21);
2. To allow a sign setback of 20 feet instead of the required setback of 36 feet (sign setback is equal to sign height) on the same freestanding “monument” sign (UZO 4-8-6) (revised 9/15/21); and

3. To allow a total sign area on site of 334.36 square feet (composed of the freestanding “monument” sign near SR 43, and five fascia signs) instead of the maximum permitted 216 square feet (UZO 4-8-6) (revised 9/15/21);

on property located at 1973-1887 Northgate Court, (lots 1-4 in Gateway Park Commercial Subdivision), Battle Ground, Tippecanoe 28 (NE) 24-4. With condition. *CONTINUED FROM THE AUGUST ABZA MEETING AT PETITIONER’S REQUEST. FIRST CONTINUANCE.*

Gary Schroeder move to hear and vote on BZA-2061 QUIKTRIP CORPORATION. Jen Dekker seconded.

Maureen McNamara presented the staff report, zoning map, site plan, ground-level photos and aerial photos. She noted that the site is located at the I-65 / SR 43 interchange, and that the subject parcel and surrounding properties are zoned General Business. The site plan shows access from three entrances along Northgate Court, but the site plan has yet to be fully reviewed by all checkpoint agencies, as the property has not yet been platted.

Ms. McNamara noted that grant of the request is not merited, as there exists nothing unique to the site, physically or operationally, which warrants grant of a variance. The site could be served well with a sign program that honors zoning ordinance requirements and restrictions. As the required findings of fact have not been met, staff recommends denial of the three variance requests.

Attorney Kevin Riley, representing the petitioners, spoke in favor of the variance requests. He noted that the location is badly in need of a breath of new life, and that Quiktrip is willing to make that investment. He spoke of the goods and services that the store will make available. He also noted that officials from the Town of Battleground supported the request and were present in the audience tonight.

Mr. Riley asserted that the findings of fact are met by the requests and asked for approval.

J. D. Dudley, Real Estate Project Manager for Quiktrip, spoke in favor of the request. He stated that he’d met with INDOT and resolved concerns about traffic flow into the site off SR 43.

Greg Jones, 102 Tipton Street, Battleground, Indiana, representing the town council, spoke in favor of the request. He noted that Quiktrip has made the changes in the proposed project that the council requested, and so now is in support of it.

James Miller, 131 North Railroad Street, president of Battleground Town Council, spoke in favor of the request. He noted that the town “feels fortunate to have a corporation of this quality and magnitude coming into our area”.

Mr. Clevenger asked if anyone wished to speak in opposition to the request. There was no response. He called for a vote.

Mr. Burns collected the ballots and tallied the votes and noted five votes in favor, and zero votes against all three requests.

Gary Schroeder move to hear and vote on BZA-2062 TYLER & NEVILLE. Jen Dekker seconded.

**BZA-2062 JAMES M. TYLER AND JENNIFER L. NEVILLE:**

**Petitioners are requesting the following setback variances for a proposed 14’ x 28’ swimming pool in an R1 (Single-Family Residential) zone:**

1. **To reduce a front setback to 4 feet from the minimum requirement of 25 feet from the right-of-way of Ravinia Road; (UZO 2-1-7) and**
2. **To reduce a side setback to 4 feet from the minimum requirement of 25 feet from the right-of-way of Bexley Road; (UZO 2-1-7)**

**on property located at 705 Bexley Road, (Lot 16 in Hills and Dales Addition), West Lafayette, Wabash 18 (SE) 23-4.**

David Hittle presented the staff report, zoning map, site plan, ground photos and aerial photos. He noted that the subject site is zoned R1 and is located in the Hills and Dales subdivision. The request, if approved, would allow for development of a swimming pool with a 21-foot setback from the public right-of-way. The request, which originally sought a 4-foot setback, was amended just earlier today to request the 12-foot setback.

He noted that the privacy fence goes a long way toward obscuring the pool from surrounding properties and streets, but that the request ultimately is not merited because it fails to meet the required findings of fact. Staff recommends denial.

Mr. Hittle read a letter of opposition, co-written by neighbors in the area, sent to APC offices.

Attorney Marianne Owen, representing the petitioner, spoke in favor of the petition. She noted that the petitioner did amend the request earlier in the day, increasing the proposed setback from 4 feet to 12 feet, thus decreasing the intensity of the variance request. She noted that the best location for the swimming pool is the one proposed, and so a variance is necessary and merited.

Tim Bagall, 1007 Ravinia Road, spoke in opposition to the petition. He noted that he was also representing two other neighbors. He stated that the proposed pool would represent a significant deviation from the existing development in the area. He also expressed concern for the fate of a notable oak tree if the swimming pool were to be built in its proposed location.

Tyler Ochs, representing Mike Shue, guardian of an adjoining property owner, spoke against the variance request. He noted that the pool in its proposed location would likely cause a noise issue. He also asserted that no hardship exists which warrants grant of the variance.

Attorney Marianne Owen, representing the petitioner, spoke in rebuttal. She noted that the construction of the pool would not harm the oak tree mentioned earlier, and she asserted her earlier claim that the proposed location of the pool is the best one.

Steve Clevenger asked if there are utilities existing underground near the proposed pool location.

Marianne Owen responded, noting that the pool's location also takes into consideration the location of existing utilities.

Mr. Clevenger asked for any additional comments or questions. There were none. He called for a vote.

Mr. Burns collected the ballots and tallied the votes and noted three votes in favor, and two votes against both variance request components. Mr. Clevenger noted that the indecisive vote will necessitate an automatic continuance to the next ABZA meeting, October 27, 2021.

**IV. ADMINISTRATIVE MATTERS**

David Hittle spoke about APC staff's intention to amend public notification practices, which will include an expanded lead time for mailing public notice and a re-formatted public notice letter intended to be easier to understand by the layperson.

**V. ADJOURNMENT**

Gary Schroeder moved for adjournment, and Jen Dekker seconded. All agreed to the motion.

The meeting adjourned at 6:16 p.m.

Respectfully submitted,

David Hittle  
Executive Director