

AREA BOARD OF ZONING APPEALS OF TIPPECANOE COUNTY

MINUTES OF A PUBLIC HEARING

DATE..... May 27, 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
 Carl Griffin
 Ed Butz

MEMBERS ABSENT

Jen Dekker

STAFF PRESENT

Sallie Fahey
 Ryan O’Gara
 Rabita Foley
 Larry Aukerman
 Chyna Lynch
 Zach Williams, Atty.

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held virtually on the 27th day of May 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 wish 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 February 26, 2020 BZA public hearing. Carl Griffin seconded and the minutes, as submitted, were approved by unanimous voice vote.

II. NEW BUSINESS

Sallie Fahey said all cases are 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. Carl Griffin seconded, and the motion carried by voice vote.

Steve Clevenger read the meeting procedures.

BZA-2032 JAMES L. AND SHEILA A. COCHRAN:

Petitioners are requesting the following variances to add a residential unit in an existing apartment building on R3W-zoned land:

1. To decrease the required parking to 5 spaces from the minimum requirement of 11 spaces; (UZO 4-6-3).
2. To reduce the building setback from Vine Street to 7.4' from the minimum requirement of 10' (average setback); (UZO 2-10-8).
3. To remove the no parking setback; (UZO 4-6-14).
4. ~~To reduce the one-way maneuvering aisle to 10.8' from the minimum requirement of 22'; and (UZO 4-6-15)~~ Not required per staff review.
5. To reduce the lot width to 54.11' from the minimum requirement of 60' (for single and two-family dwellings); (UZO 2-10-6).

on property located at the southeast corner of Vine Street and Fowler, more specifically, 229 W. Fowler Avenue in West Lafayette, Wabash 19 (NE) 23-4.

Gary Schroeder moved to hear and vote on **BZA-2032 JAMES L. AND SHEILA A. COCHRAN.** Carl Griffin seconded.

Ryan O'Gara presented the zoning map, site plan, and aerial photos. He said this site is zoned R3W in the middle of R2U, R3U and PDRS zoning. This property's zoning has changed over the years. In 1988, a special exception was granted for a professional office in an R3 zone and a setback variance. The professional office is considered an accessory use under the current standards. The rezone activity in the area has been mostly planned developments. The property contains a 1,100 square foot structure with an apartment unit and leasing office. In the Thoroughfare Plan, Fowler Avenue is classified as a primary arterial road and Vine Street is an urban local road. Five paved parking spaces are needed to meet the parking requirement for university-proximate residences. Because the structure also includes a leasing office, it requires an additional 6 parking spaces. On both the side and rear, paved parking spaces would encroach into the 5' no parking setback. Given the age of the building, staff is sympathetic to approve some of these variances for the non-conforming structure.

Regarding request #1, the parking ratio of the proposed renovation is 2.5, which is significantly higher than the recently approved planned development in the area. The leasing office is an accessory use at the location. Staff feels that reducing the parking may cause an undue burden on the public's on-street parking along Fowler and Vine. He spoke to the ballot items. Staff recommended denial.

Regarding request #2, the R3W zone allows the averaging of setbacks of existing primary use buildings on a blockface but never less than 10'. The plan shows the existing setback of 7'4" to the edge of the roofed porch where the building wall begins at 11.5' from the property line. The average setback equals 9.2' however, the ordinance requires 10'. He spoke to the ballot items. Staff recommended approval.

Regarding request #3, the no parking setback creates some separation between parked cars, sidewalks and adjacent properties. However, the parking lot configuration shown in the plan is existing and has operated without a setback for many years. He spoke to the ballot items. Staff recommended approval.

Regarding request #5, no change is proposed to the existing building footprint. If the proposal were to redevelop the substandard lot, staff would have recommended consolidation of multiple lots in the vicinity to create a conforming denser development. He spoke to the ballot items. 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.

Christopher Shelmon, 250 Main Street, Suite 590, Lafayette, IN 47901, representative for petitioner, shared his presentation and said the request is to add a 400 square foot unit at the front of the building. Currently, the building is comprised of an office on the first floor and three-bedroom unit on the second floor. This structure was originally a house that was converted into apartments. This request would permit the petitioner to add residential housing to the first floor. The demand on the office space is now significantly less, so petitioner is looking to add a small apartment. This is would be a convenient addition because this unit was previously an apartment, so the plumbing is existing. It is important to note that the proposed

parking ratio is 2.5 spaces per unit. This is significantly greater than the neighboring planned development and would have little impact on the neighborhood. The current residential tenants do not require parking because the location is in the heart of campus and are able to bike and walk. The other variances are a result of the old structure and subdivision from many years ago. The ordinance requires one parking space per 200 square-feet of office space and the existing 400 square-foot unit only requires one parking space. Turning this portion of the structure into an apartment will reduce the parking requirement.

Carl Griffin asked Mr. Shelmon to clarify the lot width variance and the issue of hardship.

Christopher Shelmon, 250 Main Street, Suite 590, Lafayette, IN 47901, representative for petitioner, said this is a platted city lot. It has been this way since the building was purchased. In order to legitimize the lot and get a permit, the lot needs to be the right size. The only way to make the parking requirement meet ordinance standards would be to purchase some of the neighboring lot.

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 for **VARIANCE #1.**

<u>Yes-Vote</u>	<u>No-Vote</u>
Steve Clevenger	Frank Donaldson
Gary Schroeder	
Carl Griffin	
Tom Andrew	
Ed Butz	

The Board voted by ballot 5 yes to 1 no to approve **BZA-2032 JAMES L. AND SHEILA A. COCHRAN, Variance #1.**

Zach Williams said he received the ballots and conducted a roll call vote to confirm each member’s vote for **VARIANCE #2.**

<u>Yes-Vote</u>	<u>No-Vote</u>
Steve Clevenger	
Gary Schroeder	
Carl Griffin	
Tom Andrew	
Ed Butz	
Frank Donaldson	

The Board voted by ballot 6 yes to 0 no to approve **BZA-2032 JAMES L. AND SHEILA A. COCHRAN, Variance #2.**

Zach Williams said he received the ballots and conducted a roll call vote to confirm each member’s vote for **VARIANCE #3.**

<u>Yes-Vote</u>	<u>No-Vote</u>
Steve Clevenger	
Gary Schroeder	
Carl Griffin	
Tom Andrew	
Ed Butz	
Frank Donaldson	

The Board voted by ballot 6 yes to 0 no to approve **BZA-2032 JAMES L. AND SHEILA A. COCHRAN, Variance #3.**

Zach Williams said he received the ballots and conducted a roll call vote to confirm each member's vote for **VARIANCE #5.**

Yes-Vote

Steve Clevenger

Gary Schroeder

Carl Griffin

Tom Andrew

Ed Butz

No-Vote

Frank Donaldson

The Board voted by ballot 5 yes to 1 no to approve **BZA-2032 JAMES L. AND SHEILA A. COCHRAN, Variance #5.**

BZA-2033 THE RIDGE GROUP, INC.:

Petitioner is requesting a parking variance to allow 76 spaces from the minimum requirement of 120 to construct a two-story multi-family building (containing a total of 60 units: 52 one-bedroom and 8 two-bedroom) on R3W-zoned land. The property is located at the southeast corner of Lindberg Road and US 231 in West Lafayette, Wabash 14 (NE) 23-4. (UZO 2-10-12).

Gary Schroeder moved to hear and vote on **BZA-2033 THE RIDGE GROUP, INC.** Carl Griffin seconded.

Ryan O'Gara presented the zoning map, site plan, and aerial photos. He said this site is zoned R3W surrounded to the east by R3W and lower density zoning to the south. This rezone was done for the US 231 Corridor Rezone. The plan supports the use of multi-family apartments. The site is a challenge in terms of access. It has frontage on US 231 which is a limited access highway and no curb cuts would be allowed to come in from the highway. The site would be limited to access from Lindberg Road. Staff is concerned about turning movements in and out of the site. Given the number of units, there will be a large number of people moving in and out regardless of whether they have a vehicle. This is not the university proximate area. It is a suburban environment. The two parking spaces per unit is the standard in this type of development. In staff's opinion, granting the variance will be injurious to the public health, safety and welfare of the community given the proximity to the intersection and the increased number of units. Reducing the parking requirement will not reduce the number of trips to and from the site. Use and value of the area will be adversely affected. The neighboring properties developed in a conforming manner. Staff does not see a compelling reason why this site needs a reduction in parking besides the driveway access. There is nothing unusual about this site and could be easily redesigned to be developed in a conforming manner. Staff is recommending 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.

Christopher Shelmon, 250 Main Street, Suite 590, Lafayette, IN 47901, representative for petitioner, shared his presentation and said petitioner starting meeting with the City of West Lafayette last fall. Throughout the project, the petitioner has worked with the City Development Office. They want this site to serve West Lafayette, not just Purdue. This lot poses a challenge because it is a remnant of the US 231 project and the Blackbird Farms development. This presented an opportunity for the project to maximize greenspace, storm water retention, tree planting and landscaping. The developer has been in communication with the Parks Department to create a pocket park that could potentially connect with the trail system. The parking exceeds the anticipated need and plans to provide 10 guest parking spaces. This development is comprised of 52 one-bedroom units and 8 two-bedroom units. Most of these units will require only one car and exceeds 1.1 space per bed. The Pure development in the Purdue Research Park is a similar development that has

only .7 spaces per bedroom. These facts, along with the location to the trail system and bus route, will meet the transportation needs of the residents. He presented drawings of the proposed development and showed the locations of parking and the possible pocket park. We believe this will be a good edition to the City of West Lafayette. He respectfully requested approval for the parking variance.

Tom Andrews asked about the comments on this development from the City of West Lafayette.

Christopher Shelmon, 250 Main Street, Suite 590, Lafayette, IN 47901, representative for petitioner, said the City supports this project. Petitioner spoke with the Development Department and the Parks Department.

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.

Ryan O’Gara said one comment had been received from Chad Spitznagle from the City of West Lafayette.

Chad Spitznagle said Engineering, Development, and Building Departments have met with the petitioner. Both former City Engineer Ed Garrison and current City Engineer Mitchell Lankford have reviewed and gave guidance on the entrance. They were/are comfortable with the entrance. Density is by-right so parking is still reasonable per the density. The neighbor has had Purdue University Residential Life students occupying those next-door units so parking hasn’t been an issue. Architecture is above standard as well as public amenities.

Steve Clevenger 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 for **VARIANCE #1**.

Yes-Vote

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

No-Vote

The Board voted by ballot 6 yes to 0 no to approve **BZA-2033 THE RIDGE GROUP, INC, Variance #1**.

BZA-2034 DAVE HELTON AND ASSOCIATES, INC.:

Petitioner is requesting a special exception to allow a primary communications tower (SIC 48) in an Agricultural (A) zone. The 198-foot tall unmanned cell tower (including the lighting rod) would operate 24 hours per day, 7 days per week at the southwest corner of CR 500 N and CR 375 W, Wabash 34 (NW) 24-5. (UZO 3-2).

Gary Schroeder moved to hear and vote on **BZA-2034 DAVE HELTON AND ASSOCIATES, INC.** Carl Griffin seconded.

Ryan O’Gara presented the zoning map, site plan, and aerial photos. He said this site and the surrounding properties are zoned agriculture with some residential zoning to the south. The site will be accessed from CR 500N. The tower will be secured by a six-foot fall security fence. There is room for an additional three carriers to co-locate. It is staff’s opinion that the requirements for this tower will be met regarding the ballot items. 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.

a hardship. Staff recommended approval for Variance 1 and Variance 2 contingent on the following conditions:

Conditions:

1. Construction release from the Indiana Department of Homeland security;
2. Approval from the County Highway Department for a commercial driveway;
3. Approval from the Indiana State Department of Health and the Tippecanoe County Health Department for an on-site sewage disposal system;
4. Approval from the Tippecanoe County Surveyor's Office for onsite drainage.

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

Jacob Ballah, 11 South Third Street, Suite 200, Lafayette, IN 47901, representative for petitioner, said he would be available for any additional questions and 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 for VARIANCE #1.

Yes-Vote

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

No-Vote

The Board voted by ballot 6 yes to 0 no to approve **BZA-2035 JACOB BALLAH, Variance #1.**

Zach Williams said he received the ballots and conducted a roll call vote to confirm each member's vote for VARIANCE #2.

Yes-Vote

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

No-Vote

The Board voted by ballot 6 yes to 0 no to approve **BZA-2035 JACOB BALLAH, Variance #2.**

BZA-2036/ BZA-1778 HERITAGE LAND COMPANY, LLC:

Petitioner is requesting an extension of the previously approved special exception for a mining operation (originally approved in 2009) to modify the expired reclamation plan. The proposed hours of operation are 7 a.m. until 7 p.m., five days a week (Monday through Friday) and possible random Saturdays to complete the proposed reclamation plan. There will be no further mining and the proposed reclamation would be completed no later than December 31, 2025. The 8.14-acre tract is located north of SR 25 (Hoosier Heartland) and east of CR 500 E at 3619 N 500 E, Perry 6 (NW) 23-3. (UZO 3-2) **WITH CONDITIONS.**

Gary Schroeder moved to hear and vote on BZA-2036/ BZA-1778 HERITAGE LAND COMPANY, LLC. Carl Griffin seconded.

Rabita presented the zoning map, site plan, and aerial photos. She said all the surrounding land is zoned Agricultural with Residential and Industrial zoning to the south along the Hoosier Heartland and I-65. The Board approved the original special exception for the construction of the Hoosier Heartland. The two variances that were approved waived the required bufferyard and permitted a woven-wire fence instead of a security fence. The site currently has a single-family home and an out building. The draft of a proposed parcelization has been submitted to staff for review and would create 4 additional home sites from the larger 21.85-acre tract owned by petitioner. This special exception request is only for the 8.14-acre area. Because the previous special exception has expired, petitioner is asking for an extension to finish the reclamation of this land. The site plan indicates the construction entrance to the north will be removed so the land can be restored to original condition.

The original reclamation plan proposed a 6-acre, 25-foot deep pond with the edges of the pond at a 3:1 slope. The proposed reclamation plan shows the proposed pond to be filled to finished grade with an application of permanent seeding. The original special exception approval allowed mining to begin in 2009 and finish in November 2010; reclamation was to be complete no later than July 2011. The resulting pond would have been 6 acres in size and 25 feet in depth.

Last August, the County Building Commissioner visited the site and observed large pieces of concrete and other construction material being placed in the pit. At the request of the Building Commissioner, the fill was removed and the contractors met with the Building Commissioner and APC staff. Staff learned that after several attempts by the contractor, the pit would not hold water and construction debris was eventually placed in the pit. The contractors were advised to stop all work and request both an extension of their mining operation and permission to alter the approved reclamation plan. The reclamation plan is not clear about what material may be used for reclamation. The ordinance defines suitable fill as material that is organic, stable, compacted, well graded, pervious and generally unaffected by water and frost and is appropriate for the purpose of supporting the intended use. In addition to this, the Building Commissioner will also allow fill to include concrete and asphalt if it is reduced to gravel no greater than 2 inches in diameter. Daily activity logs, fencing and a secured gate will also be required. The zoning ordinance requires the reclamation plan be accompanied with a surety bond in the amount of \$3,000 per acre of land within the approved setbacks. After reclamation is complete, petitioner will need to submit a final reclamation plan to the ABZA indicating compliance. At its meeting on May 6, 2020, the Executive Committee of the Area Plan Commission voted that granting this request would not substantially adversely affect the Comprehensive Plan. Staff is recommending approval contingent on the following conditions:

Conditions:

1. A revised reclamation plan must be submitted that adds all items in the third paragraph of staff comments;
2. The BZA-approved reclamation plan must be recorded;
3. Acquire an Improvement Location Permit/Fill Permit from the County Building Commission;
4. Bonding in the amount of \$3,000 per acre of land within the setbacks must be submitted.

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

Daniel Teder, PO Box 280, Lafayette, IN 47902, representative for petitioner, said the mining of this site was completed several years ago. The petitioner has made multiple attempts to try to create a pond on site, but the pond will not hold water. As a result, the petitioner is bringing in suitable fill to bring the site to original grade. This is a request to amend the petition to show a new reclamation plan and extend the date of the

parking areas would increase existing drainage challenges. Typically, schools in a rural setting can acquire land to accommodate growth. This is not the case because most of the surrounding site has been developed. If Variance 1 is approved, the need of Variance 2 will be negated. Staff recommended approval of Variance 1 and denial of Variance 2.

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

Mark DeYoung, 300 Main Street, Suite 900, Lafayette, IN 47901, representative for petitioner, said we are supportive of the staff recommendation on Variance 1. He thanked staff for their assistance during this process. Regarding Variance 2, petitioner is prepared to withdraw that this request is Variance 1 is approved. The off-site parking proposal would only be a back up plan for the for school. The approval of Variance 2 would not require any approval by the Administrative Officer, but it would allow him to do so by eliminating the distance issue caused by the ordinance. This site is large at about 75 acres. Some of the existing parking spaces are located by the softball field and soccer field about 900 feet northwest from the main building. Whereas the Burnett Creek off-site parking is about 750 feet away from the main building. These spaces are only used during special events. The daily attendance of the school is supported by parking closer to the main building. Petitioner is adding classrooms and replacing the parking that the addition is building on. With the expansion of building requires more parking spaces but the school will not require more spaces. He respectfully requested approval for Variance 1.

Steve Clevenger said there will be a one-minute pause for citizen comment. He asked staff if Variance 2 would apply to the current site plan and not allow further expansion.

Rabita Foley said Variance 2 gives the Administrative Officer permission to allow 410 feet off-site parking. It does not grant the petitioner permission.

Steve Clevenger said there is currently nothing that stops people from parking at Burnett Creek during special events that would not be affected by the withdraw of Variance 2.

Rabita Foley said that is correct. TSC may be interested in different options for crossing but it is not something staff can require.

Mark DeYoung, 300 Main Street, Suite 900, Lafayette, IN 47901, representative for petitioner, said TSC will occasionally see patrons crossing the road which can be a safety concern. TSC and the Administrative Officers are welcoming a plan near McCutcheon for crossing a county highway. This site does not have that option now, but it is a possibility in the future.

Steve Clevenger asked Zach Williams if the Board should first vote on Variance 1 to allow petitioner to withdraw the second request if approved.

Zach Williams said the Board should vote on Variance 1 first.

Ryan O'Gara said there were no citizen comments.

Zach Williams said he received the ballots and conducted a roll call vote to confirm each member's vote for VARIANCE #1.

Yes-Vote

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

No-Vote

The Board voted by ballot 6 yes to 0 no to approve **BZA-2037 TIPPECANOE COUNTY NSE08 SCHOOL BUILDING CORPORATION, Variance #1.**

Mark DeYoung, 300 Main Street, Suite 900, Lafayette, IN 47901, representative for petitioner, respectfully withdrew Variance 2 on behalf of the petitioner.

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

Steve Clevenger thanked staff and the Board for their support in preparing and holding the virtual meeting.

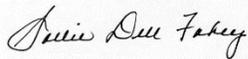
Gary Schroeder moved for adjournment.

The meeting adjourned at 8:21 p.m.

Respectfully submitted,

Chyna Lynch
Recording Secretary

Reviewed by,



Sallie Dell Fahey
Executive Director