

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

**MINUTES OF A PUBLIC HEARING**

DATE..... December 1, 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  
Ed Butz  
Gary Schroeder  
Michelle Dennis  
Jen Dekker

**MEMBERS ABSENT**

Frank Donaldson  
Tom Andrew

**STAFF PRESENT**

Maureen McNamara  
Ryan O’Gara  
Jennifer Ewen  
David Hittle  
Larry Aukerman  
Eric Burns, Atty.

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held in-person on the 1st day of December 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.

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

**I. APPROVAL OF MINUTES**

Gary Schroeder moved to approve the minutes from the October 27, 2021 BZA public hearing. Jen Dekker 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 stated due to a legal ad issue, **BZA-2067 SCOTT AND LORI WILLIAMS** has requested a continuance to the January 26, 2022 ABZA meeting. All the other cases on the agenda 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. Jen Dekker seconded, and the motion carried by unanimous voice vote.

Steve Clevenger requested to hear the continuance.

Gary Schroeder moved to continue **BZA-2067 SCOTT AND LORI WILLIAMS** to the January 26, 2022 BZA meeting. Jen Dekker seconded, and the motion carried by unanimous voice vote.

Steve Clevenger noted **BZA-2067** will be heard at the January 26, 2022 meeting.

Steve Clevenger read the meeting procedures.

Gary Schroeder moved to hear and vote on **BZA-2062 JAMES M. TYLER AND JENNIFER L. 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~~ 324 square foot (revised 9/22/21) swimming pool in an R1 (Single-Family Residential) zone:

1. To reduce the front setback to ~~4 feet 12 feet~~ 14 feet from the minimum requirement of 25 feet from the Ravinia Road right-of-way line (UZO 2-1-7) (revised 9/22/21 and a second time on 11/18/21) and
2. To reduce the side setback to ~~4 feet 12 feet~~ 14 feet from the minimum requirement of 25 feet from the Bexley Road right-of-way line (UZO 2-1-7) (revised 9/22/21 and a second time on 11/18/21)

on property located at 705 Bexley Road, (Lot 16 in Hills and Dales Addition), West Lafayette, Wabash 18 (SE) 23-4. Continued from the September 2021 ABZA Hearing by inconclusive vote and from the October 2021 ABZA Hearing per petitioner's request.

APC staff Maureen McNamara presented the zoning map, site plan, and aerial photos. She stated the subject's site is in the Hills and Dales Subdivision. It is east of Northwestern Avenue near Purdue University. It is an R1 zoned subdivision which is typical single-family zoning district. This lot is unusually shaped. It has Bexley Road and Ravinia Road that wraps around the site in a curve like fashion, so it is difficult to tell where Bexley Road ends and Ravinia Road begins, and that is why they asked for these two separate setback variances to be sure they cover both the streets. The request has to do with a pool that they would like to build. They are proposing for it to be situated on the east side of the house accompanied by a new deck and a hot tub. A garage addition is also proposed, but it does not require any variances; we will be focusing on the pool tonight. They have amended the request twice. The original request was for a 4-foot setback, and then they adjusted the design to ask for a 12-foot setback, and now they have adjusted it once more to a 14-foot setback. They have made the pool smaller, so it is 14 feet at any point from the pool. She noted there is a fence that is wrapped around, so anything that would be built would not be visible. However, the 14-foot setback is still significantly smaller than the required 25 feet for a pool, and even though it is not visible in any way, the variance requests come down to whether the request meets the findings, so staff believes that the application of the ordinance does not create a hardship. The law is shaped in a way that it makes it difficult to construct within a 25-foot setback, but a pool is not necessarily essential to a single-family dwelling, so the desire for a pool just isn't enough for staff to support the variance request, so we recommend denial for both requests. She stated we did read one letter into the record during the September hearing, but we now have two additional letters to read. She offered to answer any questions.

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

Marianne Owen, Stuart & Branigin LLP, representative for the petitioners, stated she is here to request approval of their variance requests as noted there are two of them. One is 14 feet from Bexley Road, and the other is 14 feet from Ravinia Road for an inground pool that is on the east side of their house that is

enclosed in a fenced-in yard. The staff's report that was just presented describes this request very well; except the petitioner does deserve these variances. At your September meeting, we did review the petitioner's position in regard to this request, and overall, the petitioners look to be respectful of their neighbors. They look to place the pool away from the immediate adjacent landowners' homes in an open part of their lot and in a fenced in area that takes advantage of the location of the adjacent landowners to better handle that sound impact on the neighborhood. These were items that have been raised in the past, and we would like to identify them at this juncture. Now, something that we did not bring-out in September and our clients have been hesitant to put forward, but it is relevant for this discussion, is that an important part of this request is to satisfy the needs of the family, and that in particular is that their son is going to benefit from aquatic therapy due to his Crohn's Disease, and that is generally addressed in private pools rather than public pools, and that is what is driving this request and the size of this pool. As you can see the changes of this request, they have modified it as best they can to increase the size of the setback and still have a viable pool for this aquatic therapy. There are other pools in this area. This is not an unusual situation, but the location of the pool isn't an easy one, as was brought out in the staff report, but we tried to place it in a location that does stay away from the immediate adjacent landowners and take advantage of where sound would be, and that being on the right-of-ways, and with the fencing, this is not going to be an improvement that is visible to passersby. To summarize where we are, very simply this pool is a part of physical therapy for the petitioner's son, and there is also an aging mother who is going to benefit from it as well, but really the focus is on the son. They are being as respectful to the neighbors as they can by placing the pool in a place that is removed from those neighbors and within the area of the fence. You will find in your letters an immediately adjacent landowner supports the move to the proposed location and prefers it over being located near their house. Other neighbors who are across the street, have also provided their support of this particular petition. Also, noted on the overview of this lot, there is a significant mature tree that is on the southern-most line of this property. The pool was specifically made to avoid injuring that tree given its history, and its sheer beauty, so we are simply requesting the approval of these two variances. She offered to answer any questions.

Steve Clevenger requested to hear the letters.

Maureen McNamara read a letter in favor from:

Tyler Ochs attorney for Michael Schuh who is guardian of Sally J. Siegrist who lives at, 715 Bexley Road, West Lafayette, IN 47906.

Maureen McNamara read a letter in favor from:

Johanna Wu, 722 Bexley Road, West Lafayette, IN 47906.

Steve Clevenger asked if anyone wished to speak in favor or in opposition of this petition. There was no response.

Steve Clevenger asked if the board had any questions or comments.

Jen Dekker asked if the Administrative Officer approved the existing fence prior to its construction.

Chad Spitznagle, West Lafayette Building Commissioner, stated he did approve this fence a couple of years ago. We went through the Ordinance Committee, and they said on a side yard setback they could allow a fence to be higher than 42 inches in the side yard, so since it is an odd-shaped lot, the side yard, in this case, was still allowed 42 inches or higher in there.

Steve Clevenger asked for any other questions or comments.

Gary Schroeder stated he was present at the last meeting, and the vote was inconclusive. It looks like they have redesigned that and worked with the neighborhood, and we just don't see the opposition today that we had before, so it looks like they have worked out some of their issues, and I will support this petition.

Steve Clevenger called for a vote on a ballot.

Attorney Eric Burns collected the ballots and noted the board voted 5-Yes to 0-No in favor to approve Variance #1.

| <b>Variance #1</b> | <u>Yes-Vote</u> | <u>No-Vote</u> |
|--------------------|-----------------|----------------|
|                    | Steve Clevenger |                |
|                    | Gary Schroeder  |                |
|                    | Jen Dekker      |                |
|                    | Ed Butz         |                |
|                    | Michelle Dennis |                |

Attorney Eric Burns collected the ballots and noted the board voted 5-Yes to 0-No in favor to approve Variance #2.

| <b>Variance #2</b> | <u>Yes-Vote</u> | <u>No-Vote</u> |
|--------------------|-----------------|----------------|
|                    | Steve Clevenger |                |
|                    | Gary Schroeder  |                |
|                    | Jen Dekker      |                |
|                    | Ed Butz         |                |
|                    | Michelle Dennis |                |

Steve Clevenger noted Variance #1 and Variance #2 have both been approved for **BZA-2062 JAMES M. TYLER AND JENNIFER L. NEVILLE.**

Gary Schroeder moved to hear and vote on **BZA-2063 RESONS, LLC.** Jen Dekker seconded.

**BZA-2063 RESONS, LLC:**

Petitioner is requesting the following variances to legitimize an existing multi-family dwelling (originally constructed as Chauncey Townhomes planned development) and to permit the addition of a third bedroom in each unit which will create a total of 3, three-bedroom units in an R4W (Single-Family, Two-Family, and Multi-Family Residential) zone:

1. To allow a lot width of 50.68 feet instead of the required 70 feet (UZO 4-2-1);
2. ~~To allow a 21-foot front setback instead of the required 25-foot setback (UZO 4-2-2);~~ (revised 10/21/2021; After further review, this variance is unnecessary.)
3. To allow a 10-foot setback instead of the required 25-foot setback from Chauncey (UZO 4-2-2); and
4. To allow 5 parking spaces instead of the required 9 parking spaces (UZO 4-6-4);

on property located at 302 N. Chauncey Avenue, West Lafayette, Wabash 19 (NE) 23-4.  
Continued from the October 2021 ABZA Hearing per petitioner's request.

APC staff Ryan O'Gara presented the zoning map, site plan, and aerial photos. He stated this project is a product of its time. The village has certainly changed since January of 2004. The original plan development was designed to try to look a little bit like a converted single-family home of which there were a lot more in the village at that time. That is what went into that plan development. There was a single-family home there prior, and it had been converted, and its useful life had come to an end, so the original Chauncey Townhomes PD came through to try to responsibly redevelop the site and try to have it fit-in with the village. The PD did restrict the basement of the new building to storage only, so there was no allowance for an increase in residential density for that project, and you can't do a minor modification to a planned development increasing residential density, so they are a bit stuck. They could either rezone it to a new

plan development, renegotiate it, and sort that out or try to find a conventional rezone option that could allow the current building to extend its useful life until such time that perhaps properties adjacent to them might be consolidated for a future denser project. This effort is to try to do just that which is why staff is in favor of these variances. The parking requirements that they are asking for are very much in keeping with a lot of newer projects in the immediate vicinity in terms of this uptick in density, and the allowance of including a handicap space. The building was built to a negotiated standard, so it necessarily runs afoul of some of the R4W requirements, so since the building footprint is not expanding with this project, this is essentially an interior refit. In terms of the ballot items, it is our opinion that there is no injury to the public health, safety, or general welfare with this matter. Use and value is not going to negatively impact neighboring properties; again, the building footprint is what you see; you are not going to see much change from the exterior. This is a situation that is not common. It is rare when a planned development rezones back to a conventional zone, but they are not redeveloping. They want to try to make use of the structure that was negotiated; that is a rare event. This is an unusual situation, but staff is sympathetic, in that, since we have the Downtown Plan and its density policies, increasing density on this block would certainly be supported. This is a very modest increase in density, so it is trending in the right direction. It would certainly support a consolidation and an overall redevelopment with adjacent sites. We don't see this as a self-imposition of trying to achieve some sort of economic gain. This is essentially trying to make an existing structure, extend its useful life until such time as that useful life ends. In our opinion, the variances do provide the minimum relief to achieve this modest expansion, and we recommend approval of Variance #1, Variance #3, and Variance #4. He also noted Variance #2 has been omitted. He offered to answer any questions.

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

Chris Shelmon, Gutwein Law, 250 Main Street, representative for the petitioner, stated he would like to thank the staff for their work on this project, and as Ryan alluded to in the history, this has been a long ongoing project with the O'Neil's. The only thing unique about the plan development was that it was common. Nothing was unique about the actual structure. It has been a long process to get here through the rezones and ultimately here today with the variance. The parking change is to add a fully accessible space which is near and dear to our client's heart, and we think it is important to provide accessibility throughout the community and will extend the life of this project until ultimately it gets a full life cycle one day. He offered to answer any questions and respectfully requested approval.

Steve Clevenger asked if anyone wished to speak in favor or in opposition of this petition. There was no response.

Steve Clevenger asked if the board had any questions or comments. There were none.

Steve Clevenger called for a vote on a ballot.

Attorney Eric Burns collected the ballots and noted the board voted 5-Yes to 0-No in favor to approve Variance #1.

| <b>Variance #1</b> | <u>Yes-Vote</u> | <u>No-Vote</u> |
|--------------------|-----------------|----------------|
|                    | Steve Clevenger |                |
|                    | Gary Schroeder  |                |
|                    | Jen Dekker      |                |
|                    | Ed Butz         |                |
|                    | Michelle Dennis |                |

Eric Burns noted Variance #2 was omitted.

Attorney Eric Burns collected the ballots and noted the board voted 5-Yes to 0-No in favor to approve Variance #3.

| <b>Variance #3</b> | <u>Yes-Vote</u> | <u>No-Vote</u> |
|--------------------|-----------------|----------------|
|                    | Steve Clevenger |                |
|                    | Gary Schroeder  |                |
|                    | Jen Dekker      |                |
|                    | Ed Butz         |                |
|                    | Michelle Dennis |                |

Attorney Eric Burns collected the ballots and noted the board voted 5-Yes to 0-No in favor to approve Variance #4.

| <b>Variance #4</b> | <u>Yes-Vote</u> | <u>No-Vote</u> |
|--------------------|-----------------|----------------|
|                    | Steve Clevenger |                |
|                    | Gary Schroeder  |                |
|                    | Jen Dekker      |                |
|                    | Ed Butz         |                |
|                    | Michelle Dennis |                |

Steve Clevenger noted Variance #1, Variance #3, and Variance #4 have all been approved for **BZA-2063 RESONS, LLC.**

Gary Schroeder moved to hear and vote on **BZA-2064 MARK YOUR SPACE, MICHAEL SOBEL.**  
Jen Dekker seconded.

**BZA-2064 MARK YOUR SPACE, MICHAEL SOBEL:**

Petitioner is requesting the following sign variances for a Freightliner dealership and service center for commercial truck fleets (Truck Country) in an I3 (Industrial) zone:

1. To allow the total signage on the sign-lot to be ~~701.75~~ 400.25 square feet instead of the maximum allowed 260 square feet (UZO 4-8-6);
2. To allow a freestanding sign height of 60 feet instead of the maximum allowed 24 feet (UZO 4-8-6);
3. To allow a freestanding sign measuring 251.75 square feet instead of the maximum allowed 160 square feet (UZO 4-8-6).
4. ~~To allow a different freestanding sign near Hine Drive measuring 80 square feet instead of the maximum allowed 40 square feet (UZO 4-8-6); and (withdrawn by petitioner on 11/19/21.)~~
5. ~~To allow a sign setback of 43 feet instead of the required setback of 60 feet (sign setback is equal to sign height) (UZO 4-8-6); (Withdrawn by petitioner on 11/19/21.)~~

on property located at 6584 Hine Drive, Dayton, Sheffield 5 (S1/2) 22-3.

Continued from the October 2021 ABZA Hearing per petitioner's request.

APC staff David Hittle presented the zoning map, site plan, and aerial photos. He stated this case involves a property that is in the Town of Dayton. It is a 25-acre lot just northeast of the intersection of Interstate 65 and SR 38. It is zoned I3. It is developed; they are putting the finishing touches on the site with a large building to be used by an outfit called Truck Country which does truck sales and service. The building is there, and I believe all that is left is to put the signs in. The site was zoned I3 in 2018. It is a variance of

development standards request. It is a three-pronged request, so it involves a variance of involving height for a free-standing sign. The size for that free standing sign is larger than what is allowed by the ordinance, and the third variance involves overall sign area, so that freestanding sign combined with the Stoops sign is larger than the ordinance allows. There is limited variance history in the area that is pertinent to this case. In 2010, there was a variance denied to MacAllister Machinery which is the neighboring site to the east which would have allowed for additional signage. There was a variance denied or withdrawn at the Battleground exit off Interstate 65 that would have allowed for additional height on a free-standing sign a couple of months ago, so there is not a great history in this area of high-rise signs except for the intersection of Interstate 65 and SR 26 where the City of Lafayette has a history of granting these signs. One thing that is nice about Interstate 65 as it passes through the county, is the refreshing lack of billboards and tall signs which tend to create clutter; I think is a general perception of that. Staff is not recommending support for any of these variances. We urge you to deny these variances for many reasons. First, they are just not needed. There is no signage competition; there is no vertical competition of any sort that might keep you from seeing a 24-foot-tall sign as opposed to a 60-foot-tall sign. There is nothing special about the site that says that the ordinance should not apply to it in the way that it applies to every other site. This is not a destination that would call for impulse stopping. It is not a gas station with a convenience store where your typical motorist may see it and decide to stop; this is a very specialized destination. It is a truck sales and service place where you are probably going to be getting there by GPS or familiarity. Another concern is what has happened at the intersection of SR 26 and Interstate 65 where one variance begets another. It is obviously not a legal precedent, but it is practical precedent. It creates a functional problem for the board to enforce the ordinance down the road, and simply the findings aren't met; there is just no hardship here that says that they should be allowed a sign twice as tall as the ordinance allows everybody else and more sign space than is allowed for everybody else. The findings just simply aren't met. Staff is not supporting the request and recommends the denial of all three components of the variance. He offered to answer any questions.

David Hittle stated he has three letters to read into the record when it is time.

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

Kevin Riley, Reiling Teder & Schrier, representative for the petitioners, stated the petitioners are present as well. As mentioned, we are requesting the three variances that were discussed. We originally filed for five variances involving four different signs, and we have reduced that request to three variances involving two signs. One of the signs that we are talking about is currently affixed to the building façade on the west side of the building, and the second sign is a free-standing pole sign shown on the site plan. I want to mention that we have one more change to our request; the petitioners have indicated that they are willing to reduce the overall site signage by 45 square feet. I just wanted to offer that. I apologize for the late notice, but that is something that was just decided. We have reviewed the staff report, and we do agree with the staff that granting these variances will not be injurious to the public health, safety, morals, or general welfare of the community. I did want to point-out that the petitioner anticipates hundreds of thousands of dollars in revenue from sales tax generated from the site, so I wanted to make sure we pointed that out. With respect to the other elements of the variance, we do disagree. First, we think that the use and value of the area adjacent to the property will not be affected in a substantially adverse manner. The owner of the ground that is the subject of the petition also owns the property adjacent to the east. The owner of the property adjacent to the north and south has submitted a letter in support of this request, and the land immediately adjacent to the west is the interstate, so we don't believe that this is going to have any impact on the value or use of those properties. In addition, the signage is not going to obstruct the view of any property, and it doesn't create an unfair advantage, because there are no similar uses in the area. I did want to point-out the free-standing sign does meet the setback requirements, so it doesn't encroach upon any required setbacks of the ordinance. Secondly, we wanted to mention that the terms of the zoning ordinance, we believe, are being applied to a situation that is not common to other properties in the same district. Truck County is doing business as Stoops, and Stoops is a freightliner franchisee, and a western star franchisee; therefore, it is necessary to identify all three of those businesses with the signage, and we believe that creates a unique situation that is not common to other properties. Additionally, safety is a concern, and

safety renders this situation unique. Truck drivers will need to see the facility in order to timely exit in a safe manner, and the increase in the size and the height of the signage will help provide that additional safety measure. We have handed you a printout, Sign Legibility Rules of Thumb from the United States Sign Council, and I wanted to point out that for multi-lane rights-of-way free standing signs, they recommend need to be between 639 and 850 square feet in size where the speed limit is between 65 and 75 MPH which is what the speed limit on Interstate 65 is in this area, so our request falls well below that recommended standard. I also wanted to point out the site or the building does sit a substantial distance away from the interstate, and we think that makes this a unique property, because as you look at the properties to the north those properties set closer to Interstate 65, so we think that makes this situation unique. Additionally, we think that the strict application of the terms of the ordinance will result in an unusual and unnecessary hardship; again, we pointed out the need to identify all three businesses, and we mentioned safety. I did want to point out that this is not necessarily a destination; it is not someplace that clients plan to make the trip to. The petitioner estimates that 75 percent of its business at the service center is an unplanned visit, so in our opinion, it is not a destination as indicated in the staff report. We do not believe that the hardship involved is self-imposed or solely based on perceived reduction of economic gain. When we talked about safety, we would re-iterate that same point as being a need or one of the reasons for this request, so the request is not solely based on a perceived reduction or restriction of economic gain. Finally, I wanted to point out that the variance requests do provide the minimum relief needed to alleviate our hardship. As I mentioned, we started with several requests for signs, and we have reduced that substantially, and again, reduced it today. We are doing our best to try to minimize what we are asking for. We think that we have satisfied that element. He offered to answer any questions.

Steve Clevenger asked Eric Burns if the petitioner would need to modify anything on the petition.

Eric Burns stated I just want to make sure the numbers are clear. This is for your overall signage which will be request #1. He asked Kevin Riley if that is correct.

Kevin Riley, Reiling Teder & Schrier, representative for the petitioners, stated that is correct. It would go down from 400.75 square feet to 355.75 square feet total signage.

Eric Burns stated that would be the amendment requested. He asked for staff's position on that.

David Hittle responded nothing changed staff's position.

Kevin Riley, Reiling Teder & Schrier, representative for the petitioners, stated what would be eliminated is the part below the line on the façade sign. There is a Stoops façade sign on the west side of the building, and the wording below that line as what would be eliminated, and that is how we would come up with that 45 feet.

Steve Clevenger thanked Mr. Riley. Mr. Clevenger requested Mr. Hittle to read the letters into the record.

David Hittle read a letter in favor from:  
Guthrie P. Carr, 209 Pawnee Drive, West Lafayette, IN 47906.

David Hittle read a letter in opposition from:  
Ron Koehler, 749 Shady Lane, Dayton, IN.

David Hittle read a letter in opposition from:  
Kay Spires, 620 Clifty Falls Lane, Dayton, IN 47941.

Steve Clevenger asked if anyone wished to speak in favor of this petition. There was no response.

Steve Clevenger asked if anyone wished to speak in opposition.

Jen Manago, 625 Harrison Circle, Dayton, Indiana, stated she is the current President of the Dayton Town Council, and she was surprised to originally learn about this petition for the sign variances from another

Dayton resident. It is unfortunate for both the town and the dealership that I now find myself in a position to be here speaking against the petition of a new business in town. If she had known before, she would have tried to explain how a 60-foot sign at a main interstate exit to Lafayette and Dayton would be exactly opposite of the town's goals for the entrance of our town. I believe it is not the appearance we would want for Dayton or for Lafayette. She would have explained that the UZO sign size limitations were created for a reason, and they should comply with the maximum sizes. Dayton has adopted the Unified Zoning Ordinance, and it offers consistency that should be followed whenever possible. Deviating from it violates the standards that has been set across the county. I think that the variances requested in this petition can't be justified in any way, and it will only set a precedent for the businesses we expect to see in the near future just north of the dealership. I know there was a letter from the Carr family who owns the property north of the dealership, and it makes sense that they would be in favor of it so that when they sell that property, they can say to potential buyers you could have giant signs. I would like to add that we are working to get a comprehensive plan for Dayton, and we have a grant application in the works, and part of that comprehensive plan process will be to create a positive brand envision for our town, and I would really hate for our unique historic small town to be identified by a gigantic sign of a semi dealership. The 60-foot sign and the increased sign sizes are inappropriate and unnecessary, and I hope you will vote to deny these variances.

Cindy Marsh, 749 Shady Lane, Dayton, Indiana, stated she has lived in Dayton for 47 years, and she is the President of the Dayton Area Community Coalition. The Coalition was formed to, among other things, preserve and enhance our small-town aura and the quality of life of our Dayton residents. We also challenge proposals, such as these requests for the sign variances, that run counter to our mission. She stated she has been told that the decision tonight is final, and if you pass it, the only recourse the Town of Dayton will have is to take it to court. It just seems inherently unfair to me to have this issue come up now to where the Town of Dayton wasn't aware that this was going to be part of it until now. Dayton has been very supportive to this point, and it is very uncomfortable to be here speaking against a petition by a new business in town, but we have been put in that position, and I am sorry to have to be here, but here I am. I do have to ask why the town wasn't given the common consideration of just even informing us that they would be asking for this. I think, we found out initially because a resident informed the council president. Eventually, they received notification I have heard from the Area Plan Commission, but somebody had it before the town even knew about it. The variances in particular I agree that the huge sign will only negatively impact the initial impressions of Dayton something that we are working hard to improve and preserve, and it would also substantially change the essential character of our town, and as others have said, set a precedent. While nearby businesses support local traffic and interstate traffic, I think the semi dealership will focus primarily on the interstate traffic, but we still hope that they will be a contributing business in our town. I just ask that you consider the Town of Dayton, its residents, and what we are trying to do for the town and deny these variances.

Al Beaver, 758 Main Street, Dayton, Indiana, stated he is going to speak about his experience as an over-the-road truck driver. With today's technology with GPS and voice activated instrumentation, all that is readily available to the truck driver. It surprised me when I heard that they have a percentage of breakdowns of their product. When a truck driver breaks down on the side of the road, almost everybody gets a call-out. They communicate with each other; they let you know what is going on ahead. As far as the safety values of finding the exit and approaching it and even getting straight to the dealership, that is all on the GPS, so having a glaring note on the side of the highway, I don't see that is something that needs to be there. The ordinance as it stands and the way I read it should be plenty, and we do welcome this operation to be here. We would like it to be fitted into, what the board or the county would think of as fitting it into, a more urban environment including its esthetics. I don't see any reason for such large signage to advertise when all of that will be readily available through the internet and GPS communications; as well as, the truckers communicating amongst themselves.

Steve Clevenger asked Kevin Riley for his rebuttal.

Kevin Riley, Reiling Teder & Schrier, representative for the petitioners, stated you can see here we have identified a 60-foot-high sign which is what we are asking for, and I hardly think that qualifies as an obstruction or an eyesore as indicated. As mentioned by staff, the City of Lafayette has tall signs right off the interstate, and I would not classify those as an eyesore, so just down the road we have a similar size sign being used. When there is a suggestion that they are not supporting the town, they constructed a new building; they currently hire 28 employees, and they plan to hire 10 more next year, so I don't think that classifies as not being supportive of the local community. In terms of being notified, the town was given the 10-day notice prior to this hearing. Was a discussion had with the town, no it was not, because we didn't think it was going to get anywhere based on what we have seen in the past, so we did not have the discussion at the town. The other thing I want to mention is no homeowners are going to be impacted by this. The nearest homes are separated from the sign by multiple I3 properties. In terms of small-town identity, the ground north of our property is zoned I3; those are going to businesses. They are interstate lots; they are going to be larger national type businesses. You don't see a lot of mom-and-pop businesses located on interstate adjacent lots because of the cost of purchasing and developing those lots, so in our opinion, this is in-line with the plan development in that area. He offered to answer any questions.

Steve Clevenger asked for any questions or comments from the board.

Gary Schroeder asked staff regarding the exhibit where it was talking about the bay numbers being incidental signage and the service and parts, are those all calculated into the signage.

David Hittle responded no. The incidental signage, the banner signs, and all of the other signs that you are seeing on those elevations are exempt from the calculation. That calculation only applies to identification signs, so the free-standing sign and the large Stoops wall sign.

Gary Schroeder stated okay, those are the only ones.

David Hittle stated yes.

Steve Clevenger asked for any other questions of comments. There were none. He called for a vote on a ballot.

Attorney Eric Burns collected the ballots and noted the board voted 1-Yes to 4-No to deny Variance #1.

|                    |                 |                 |
|--------------------|-----------------|-----------------|
| <b>Variance #1</b> | <u>Yes-Vote</u> | <u>No-Vote</u>  |
|                    | Gary Schroeder  | Steve Clevenger |
|                    |                 | Jen Dekker      |
|                    |                 | Ed Butz         |
|                    |                 | Michelle Dennis |

Attorney Eric Burns collected the ballots and noted the board voted 2-Yes to 3-No an inconclusive vote for Variance #2.

|                    |                 |                 |
|--------------------|-----------------|-----------------|
| <b>Variance #2</b> | <u>Yes-Vote</u> | <u>No-Vote</u>  |
|                    | Gary Schroeder  | Steve Clevenger |
|                    | Jen Dekker      | Ed Butz         |
|                    |                 | Michelle Dennis |

Attorney Eric Burns collected the ballots and noted the Board voted 1-Yes to 4-No to deny Variance #3.

| <b>Variance #3</b> | <u>Yes-Vote</u> | <u>No-Vote</u>  |
|--------------------|-----------------|---|
|                    | Gary Schroeder  | Steve Clevenger<br>Jen Dekker<br>Ed Butz<br>Michelle Dennis |

Steve Clevenger noted for **BZA-2064 MARK YOUR SPACE, MICHAEL SOBEL**, Variance #1 and Variance #3 have both been denied. He noted Variance #2 was an inconclusive vote, so Variance #2 will be heard at the January 2022 meeting depending on what the petitioner wants to do.

Gary Schroeder moved to hear and vote on **BZA-2068 KOH AND COURTNEY KNOX**.  
Jen Dekker seconded.

**BZA-2068 KOH AND COURTNEY KNOX:**

Petitioners are requesting a special exception to permit an agricultural rental hall in the AW zone with a maximum capacity of 295 people. The proposed hours of operation are Monday through Thursday 8:00 AM to midnight and Friday through Sunday 8:00 AM to 2:00 AM with all outdoor activities ceasing at midnight. The property is located at 5124 Jackson Hwy, Shelby 08 (NE) 23-5 (UZO 3-2).

APC staff Maureen McNamara presented the zoning map, site plan, and aerial photos. She stated this site is zoned AW, agricultural wooded, as is land adjacent to the north, northwest, and south. There is some floodplain zoning associated with an unnamed tributary to Indian Creek lines the western property edge. The land to the east is zoned agricultural. Just a note, there has not been any recent BZA variances or special exceptions in the area. The site plan submitted by the petitioner is not as descriptive as it could be, but it is understood that the idea is to use the site for weddings, parties, and other like events. Noted on the site, there is an existing barn to be part of the new structure they hope to have the parties and such in. The new barn is to be similar in size to the existing barn. Another existing barn is also along the north property line, and an existing guest house which is going to be available for rent; as-well-as, a proposed 79 parking space area. Also noted between the two existing structures, is an outdoor area. This area per GIS we approximated it to be 440 feet from the back of the nearest residence on Thimbleweed Lane. While presenting she pointed out a house that is also owned by the petitioner. Trees border the site to the north and east and partially along the west property line. It appears that the majority of the 12-acre site has been in crop production, and the petitioner also stated that it was a horse farm at one time. As far as traffic and transportation, the proposed agricultural rental hall is reached by a 750-foot-long existing private drive from Jackson Highway classified as a rural secondary arterial by a thoroughfare plan. There was a note on the site plan that they plan to expand the drive to 20 feet wide. There are also light poles indicated along the private drive. A commercial drive permit from the County Highway Department would also be required prior to building permit issuance, so just based on a quick review of the site plan, an e-mail from the County Highway states, "the petitioners would need to show that the existing drive location would satisfy intersection sight distance for the operating speed on Jackson Highway. Auxiliary lines and larger taper sizes may be required and will be determined during the plan review and permitting process based on traffic data." The parking requirements would be met if the proposed 79 spaces were put in, because there are only 74 that are required; however, parking lots in the AW zone do not need to be paved except for the accessible parking spaces; those would need to be paved. Thinking about environmental and utility considerations, IDEM approval will also be necessary for the well on the site. This change in use would require a commercial septic system, so that would need to be approved by the Indiana State Board of Health prior to the County Health Department's issuance of a permit. The site plan doesn't really show anything about drainage or anything like that, so an approval

from the County Drainage Board is also required before an occupancy permit can be issued. Another thing to note is that while an agricultural rental hall is permitted by special exception in the AW zone, the zone does not permit any eating or drinking establishments like a restaurant or a bar, so for this reason, UZO places a limit on food and drink service associated with this use. There can't be any preparation of food on the site, so all the food would have to be brought in by some type of catering licensed caterer. Regarding the ballot items, Section 3.1 of the UZO, does authorize an agricultural rental hall in the AW zone; therefore, staff has two different routes of opinions here. The first route we are recommending denial. There is a combination of things here that we have concerns about. It comes back to the site plan just lacking some information. For example, just writing light poles is not very descriptive. We are not quite sure how many or where the light poles might go. It is just unclear, so we have some concerns about lighting, so we would need more information on that. We are also concerned about the noise production of the site. The petitioner stated there will be outdoor noise which we are assuming it will be music and such. They said it would end by midnight, but we are still not sure about having amplified music outside of the structure in the first place because this could be a big nuisance to the neighboring residences. Staff is also concerned about the hours of operation. We think it is a bit excessive the timeframe they have proposed, so we are thinking maybe if we were to reduce those a bit then that could potentially be more reasonable. As submitted, staff would recommend denial, but if there is an approval we did come up with some commitments and conditions that I will read. If approved, the commitments would be:

1. Limit the number of attendees to 295 people;
2. All amplified music must take place inside of the structure; only nonamplified music shall be permitted in the outside event area.

And the following conditions:

1. Change the hours of operation to 8am to 10:30pm Sunday through Thursday and 8am to midnight Fridays and Saturdays;
2. Approval from the County Highway Department for a commercial driveway;
3. Approval from the County Building Commissioner for building design approval and permit coordination;
4. Approval from the Indiana State Department of Health and the Tippecanoe County Health Department for an on-site sewage disposal system; and
5. Approval from the Tippecanoe County Surveyor's Office for onsite drainage.
6. Submit a revised site plan to show the locations of the proposed lighting along the drive, parking lot and on the buildings and to dimension the buildings and their setbacks. Any revisions to the site plan needed because of any of the above approvals must also be submitted.

Maureen offered to answer any questions.

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

Koh Knox, 6731 Bottlebrush Lane, Naples, Florida, stated he wanted to thank the board for their time, and thank the planners for all the time they have put into reviewing this. He stated he is new at this as a property owner and an entrepreneur, and he is seeing how this works. Since he has started this, the plan commission has been very helpful in helping us understand the steps forward. Some of the details in terms of why our plan is not very descriptive is our value put towards the commission and zoning and wanting to meet requirements of that prior to commencing an endeavor of creating an agricultural rental hall. Our family lived at this property for a handful of years, they hosted many events, Purdue Plant Science Socials and private weddings, that were in excess of the number that is listed. Essentially, we think the property sitting vacant is a waste for what we see as very beautiful part of mid-west Indiana. My wife and I are both born and raised in Indiana, and we never planned on moving; we thought we were going to stay at this property forever, but we got pulled away to Florida, so with these plans and if there is an approval from the commission, we will be much more descriptive with the site plan, drainage, and commercial septic. We will

work with the Department of Health and anybody else that was listed here that is required. I am a contractor; that is my primary job, so working through the permitting process with architects, engineers I am somewhat used to, but not the whole Area Plan Commission process. He offered to answer any questions.

Steve Clevenger asked Koh Knox if the commitments and conditions are acceptable to him.

Koh Knox, 6731 Bottlebrush Lane, Naples, Florida, responded yes. With the lack of knowledge of how this works, we just filled-out the forms and applications as what we thought seemed reasonable. The commitments and conditions that are outlined in here I think are very reasonable, and we would comply to them.

Gary Schroeder asked Steve Clevenger since there are conditions, should we modify the motion to approve this with the conditions.

Eric Burns stated I think by the way staff has set this up, you have the option to vote to deny or you have the option, when you fill out your ballot, to approve with the conditions. Technically you could probably approve them with any conditions you chose, but staff has laid out the conditions and the commitments they believe are important, and the petitioner just indicated that they were agreeable to them, so in my view as a practical matter, you have two choices. Choice one is denial as staff recommended. Choice two is approval with commitment. I don't know that we have to change the motion necessarily because of the way the staff report is structured; you have two options.

Steve Clevenger stated I think we have more than two options. I think the conditions are separate from the approval or denial. Staff recommends denial if without the conditions. What we have done in the past if there are conditions, we usually read that into the motion, so that they are on the record.

Eric Burns agreed that the conditions are separate. He stated they are in the report.

Gary Schroeder stated to Steve Clevenger he would modify his first motion.

Gary Schroeder moved to hear and vote on **BZA-2068 KOH AND COURTNEY KNOX** with the commitments and the conditions as outlined in the staff report. Jen Dekker seconded.

Steve Clevenger noted the motion has been modified. This is with the conditions. We will be voting on this with the conditions as outlined in the staff report.

Steve Clevenger asked if anyone wished to speak in favor of this petition. There was no response.

Steve Clevenger asked if anyone wished to speak in opposition of this petition.

Peter Baker, 2900 Fox Lair Drive, West Lafayette, stated he is on the east property line adjoining the associated property. He just found out about this on Sunday from two neighbors, and as of yet, he has not received official notice of this special exception, so they worked very quickly to try to understand what their neighbors thought about this as well.

Steve Clevenger asked is your property directly adjacent.

Peter Baker, 2900 Fox Lair Drive, West Lafayette, responded yes, it is.

Steve Clevenger asked staff to check if Peter Baker should have received notice.

Peter Baker, 2900 Fox Lair Drive, West Lafayette, stated he has read the staff's report, and that is the only information he had associated with this, and there are several points that he would like to raise. The first point is this area specifically the driveway of this property, is in a very dangerous situation. There have been two fatalities at their driveway in the last 4.5 years. The first occurred February 26, 2017 in the evening when a driver failed to navigate the curve, which is immediately prior to their driveway, went down an embankment, launched into the air, and then crashed into a pole on the property and killing himself. More recently, which you may remember, there was an accident in the morning of September 21<sup>st</sup>; a three-year-old child was killed in the exact same manner. Essentially, what is happening is there is a blind curve, so

as people are coming around they are going faster than the posted speed limit, and they fail to navigate the curve, go down an embankment, launch up, and then crash into that area. Essentially, there is not enough time for people that are navigating through that curve to be able to see traffic coming in and out of the driveway, and if now we have 295 additional people plus caterers plus everybody else trying to enter and exit through that driveway, there are going to be more fatalities and more accidents. The NHTSA (National Highway Traffic Safety Administration) talks about how much braking distance is required for that amount of space; The number from Beacon is approximately 188 feet from the driveway to the curve; per NHTSA, it requires at least 265 feet for the speed that people realistically travel in that area. I mentioned a ditch on the north side of the road, and there is a full wood line on the south side of the road; that leaves no room for error for any of the individuals as they are navigating through this, and that is how both of those fatalities occurred. Additionally, through the spring and fall for a several weeks, it is heavily traveled by semis, from an agricultural standpoint, hauling manure and hauling grain on that stretch of lane, and they also travel very fast. The semi-trucks are going to have a much harder time stopping for traffic that is trying to enter or exit that facility, so we would be very concerned about a sharp increase in vehicle accidents and fatalities if this special exception is approved. In terms of injury to the neighborhood, we calculated there are approximately 38 households within three tenths of a mile of the proposed barn; we then set-out to pole all of the members of this neighborhood, and they overwhelmingly agreed that the special exception would permanently injure them. Actually, 21 of the 38 households we were able to contact in this short period of time from Sunday through today, and 100 percent of them wanted to have this special exception rejected. They cited multiple concerns. First, the Knox family doesn't live in Indiana anymore; they are living in Florida, as they have already mentioned, so why should we as neighbors suffer the consequences of having this barn when they are going to reap the financial rewards and bring the money out of state. A drop in property values is a concern. We personally would not have bought a house or built a house right next to this property if we knew there was a party barn there, and we feel that we would have a much harder time reselling our property. They currently have multiple parties out there. It has been several years since they have lived at that property, but when they have had those parties, we have been up until midnight or one o'clock, and noise is coming through our walls and our kids are staying awake, and that is just them partying. Imagine if it were 7 days a week. It is a very mature residential property; all these properties were there prior to the Knox family moving into that property, and again we feel like we would have to suffer as a result of them wanting to put this party barn in place. In terms of increased sewage and runoff, the barn property does flow down through several adjoining properties which would include mine, so there is the possibility that runoff from the parking lot and other areas would affect our properties. Another concern is increased light pollution from having the barn and the light poles, and a negative impact on the wildlife in the area including the fox, deer, turkey, and even the eastern box turtle which is protected by the State of Indiana which is present on our adjoining properties. From a web search, there are 77 entertainment venues already in the greater Lafayette area, so why should we suffer when there are so many residential properties. He stated basically all of the surrounding neighbors do not want this to happen. Some neighbors we were unable to reach within this short period of time, but everybody who has been contacted does not want this to occur. As for noise, I know you have talked about making the music inside only; however, shouting activities, school dances, and rock concerts, were kind of the things I could use to measure how impactful sound would be. Looking at a website, I could see how loud these particular types of entertainment are, and that results, even at a three-tenths of a mile distance which is where all the surrounding neighbors are at, up to a 60-decibel level, and a normal household level is about 40 decibels, so you are going to be left with a lot of noise even if it is trying to be contained within a property. Lastly, there is an aquifer below this particular property, and per the Indiana Department of Natural Resources, this aquifer is not very productive, and a typical well in the area only produces 15 gallons per minute, so as a result if there were now 295 people on a nightly basis, there could be problems with our well system. We understand that entertainment venues are part of the community, but this is just not the right location for such a facility. There are too many established households already surrounding the property and have been used by people longer that are living in our community, and we just can't count on somebody who is not even living here to be able to worry about how this is going to affect their neighbors. I urge you to reject this exception.

Steve Clevenger asked if anyone wished to speak in opposition of this petition.

Ryan O’Gara stated we did discover proper notice was made, and we have a record of it here.

Ed Zell, 2800 Fox Lair Drive, West Lafayette, stated he lives just south of Mr. Baker, and he can’t say a whole lot more than what he just said; except, one thing is the noise level. We have noticed it when the Knox’s have had parties there, and it was well into the night. They were very loud, but it only happened once in a while which was okay, but they are wanting to have people out there all the time seven days a week disturbing, and we live in the country because we like the peace and quiet and the wildlife. Also, my driveway is to the east of the property in question, and I even have trouble pulling out of my driveway when there is westbound traffic coming; they are going so fast. I will pull-out onto Jackson Highway thinking nobody is coming, and all of a sudden, I have someone right behind me. I can’t imagine what it would be like to have 100 cars going to a venue. I would fear for accidents. We are opposing this; I hope you would consider that. He stated he mailed in a letter, but he is not sure if we received it. I did not get any notice; my property does not abut against the Knox’s property, but it is right next to the Baker’s, so I am as close as anybody.

Maureen McNamara stated his property is more than 400 feet.

Steve Clevenger stated to Ed Zell you are more than 400 feet, so you would not get direct notification, but there would be signage. It follows our guidelines.

Ed Zell, 2800 Fox Lair Drive, West Lafayette, stated he understood, but he would still be affected.

Steve Clevenger asked if anyone wished to speak in opposition of this petition.

Peter Langrish, 2934 Fox Lair Drive, West Lafayette, stated he is speaking in opposition. He stated Mr. Baker has covered mostly everything. He wrote a letter, but it is all the same points. It is a dark peaceful quiet area and sound carries and light carries that is a concern. He is concerned about property values. He stated when I was looking to buy if there was a party barn or a thought of a party barn showing up, I would not have bought. That is the point of buying out there. We are concerned about the noise, the traffic, and there are plenty of other venues, so there is no point in one more venue. They are simply monetizing empty land, and we are going to be the ones that pay for it. I have serious issues with the road safety. We did our own checking into that, and when you go into that blind curve it is well below the required distance you need to stop safely. I think it is approximately 190 feet, and we require more than 200 feet for a safe stop. When I pull out on to that road, that is probably the most dangerous part of my day. Additionally, we only have a volunteer fire department out there, so any response for a fire or an accident will be a slow response. I do not want more fatalities out there. I don’t know if guns are being fired from that land, but there are guns being fired from that direction, and it is loud enough and close enough that I bring the kids inside; that’s a real concern for us. I hope you oppose this.

Steve Clevenger asked if anyone wished to speak in opposition of this petition.

Mike Brzezinski, 4853 Thimbleweed Lane, West Lafayette, stated he lives in a neighborhood nearby; although, it is not within the 400 feet, but I can attest to hearing the noise when there have been parties there. He could not imagine what it would be like if there’s an agricultural rental hall with consistent activities on a daily basis. A significant number of homes in this area are 1 to 2 acre lots. They are designed to create a spacious, tranquil, and private residential living experience. The proposed zoning exception that is being requested to build this hall isn’t congruent with the design, with the intent, and with the atmosphere of the surrounding area and neighborhood. This large facility that can accommodate nearly 300 individuals will add a commercial feel and presence to a neighborhood that is not designed for such a purpose. It will significantly increase the noise level with the planned outdoor area, and if it were revised to indoor, noise travels easily in that area because it is a wide-open space. Perhaps most importantly, is the severe traffic problem on Jackson Highway; that road is not large, and I could not imagine what it would be like if you have numerous vehicles traveling. Our surrounding residential community will suffer if this is approved, I urge you to deny this request. I strongly oppose it.

Steve Clevenger asked if anyone wished to speak in opposition of this petition.

Steve Clevenger stated as a reminder try not to bring up too much of the comments that other people have made.

Frances Gaylord, 2021 Klondike Road, West Lafayette, stated she owns property adjoining Mr. Baker's property at 2901 Fox Lair Drive, and I am here in opposition. I have been in opposition with the growth and expansion for many years; simply because I have owned Klondike Road property for close to 31 years, and it was country. I agree with Mr. Baker and what everyone else has said about expansion of businesses. She stated she has a pole barn business, and it has a pooch and play business in it. I have mature trees, and we have had a roundabout come into that area, so comparing that to the countryside with the covenant to stop growth of community around us that the Fox Lair property is about. We have had drainage issues for over 20 years with the expansion of Klondike Road, the roundabout, Highway 231, and the expansion of SR 26, but the drainage has been a big issue, and that will happen on Fox Lair area to all those properties that are joining this pole barn with this business. She is upset that not a lot of thought has gone into a yes or no vote today to give people such as us owners an opportunity to present a better and stronger non-support for this. This business should not be out in the country, and it is up to you as area planners to make sure you are protecting all property owners. I am against this.

Steve Clevenger asked if anyone wished to speak in opposition of this petition.

Scott Frankenberger, 2724 North 475 West, West Lafayette, stated he lives about two properties to the east of this. Given the timeframe that we had, we have done some amazing research against this proposal which in my opinion it seems to be cobbled together. He doesn't feel it was a well thought out plan. Mr. Baker touched on a lot of issues, and the other item that is a concern to us is the road issue which has been mentioned many times. Also, the property owners who have signed the petition we are invested in this and living here, and we are at the mercy of a proposal that comes from some people who have chosen not to live in the area. There is nothing wrong with that, but we have made our investments, and we want to be able to enjoy the area that we live in free of this proposal. We feel it is inappropriate for the area.

Steve Clevenger asked if anyone wished to speak in opposition of this petition.

Natalie Baker, 2900 Fox Lair Drive, West Lafayette, stated she has a letter from a neighbor who was unable to be here tonight. Natalie Baker read a letter of opposition from Dale Miller and Vergene Miller, 2728 North 475 West, West Lafayette.

Natalie Baker, 2900 Fox Lair Drive, West Lafayette, stated she spoke with a lot of the neighbors regarding this, and she was fortunate enough to do that. She stated she also wrote a letter, but she will not go over all of it because most of the things have already been said. The one thing that she would like to point out as my husband said we never received notice of this; we were notified by neighbors, and we understand that the Knox's included a letter in with this hearing notice, and something that was in their letter they stated "when they bought the property we had only dreamed," and I quote, "we had only dreamed of living somewhere so beautiful until it became a reality." My husband and I share that exact sentiment when we bought our property. The difference now is that they were able to enjoy the peace and quiet, the beauty of the nature and wildlife, and the privacy that country living affords the entire time that they lived there. Now, they have moved to Naples, Florida, and they want to take that all away from all of us neighbors. I please ask that you consider that when you vote. I would also like to ask you a couple of questions. One, would you want this facility in your backyard, and two, would you purchase a property if you knew this facility was in your backyard. If you are unable to answer yes to either of those questions, then I would ask that you please deny this special exception.

Steve Clevenger asked if anyone wished to speak in opposition of this petition.

Shirley Zell, 2800 Fox Lair Drive, West Lafayette, stated she is neighbors with Natalie Baker. Her property is possibly within 400 feet, but her house is not, so she did not get a notice. The one thing that I don't feel like anybody has brought up is the adverse effects of an operation like this on people. You would have the noise, but what is worse would be when I pull out of my drive now, I can look both ways; I pull-out, and suddenly I have somebody lay on their horn behind me. They just came around that curve laying on the

horn. It is a very volatile situation. You should consider the adverse effects that it could have on somebody's life.

Steve Clevenger asked if anyone wished to speak in opposition of this petition.

Edward Miskunas, 4820 Jackson Highway, West Lafayette, stated he wanted to voice his opposition for a lot of the reasons that have been mentioned already. The safety of the traffic. It can be a very busy thoroughfare, and the proposed entertainment venue would endanger not only myself, but my fellow neighbors and community members. The noise and light pollution can't be understated. Noise travels very far and wide in our area; it is an agricultural area that is home to many people, and that noise and light pollution could affect us all. I respectfully ask you to deny this request.

Steve Clevenger asked if anyone wished to speak in opposition of this petition. There was no response. He stated Koh Knox can now come forward with his rebuttal.

Koh Knox, 6731 Bottlebrush Lane, Naples, Florida, stated he wanted to apologize to all of his neighbors, because although this was slightly cobbled together, there was no malicious intent towards anybody. One clear thing that is really positive from this meeting tonight is we are all in agreement about how horrible the entrance of this property is, and this whole curvature is, but that is beside the point for the purposes tonight. I am going to request that we do a continuance for BZA-2068 until the next meeting if that is possible. I am not sure what the necessary protocols are.

Steve Clevenger stated you just did.

Koh Knox, 6731 Bottlebrush Lane, Naples, Florida, stated he is going to try to reach out to some of the people in opposition to see if they are willing to talk with us, but I appreciate everybody's time. He apologized and stated this was not done with any malicious intent. If we can't figure this whole thing out, we can all work together towards fixing the issue of people dying here. Hopefully, we can figure that out regardless of this situation, but I appreciate everybody's time.

Ryan O'Gara asked Koh Knox just to confirm you would like to continue to the January 26, 2022 meeting. Ryan stated you are essentially allowed two continuances within a six-month timespan, so you could continue to February 2022 if you would like for example. If you think you need more time.

Koh Knox, 6731 Bottlebrush Lane, Naples, Florida, stated yes, let's continue it to February 2022.

Steve Clevenger stated to the audience if you have a question please come up to the podium to speak. He stated he has the right to ask for a continuance.

Frances Gaylord, 2021 Klondike Road, West Lafayette, asked even though you stated there was supposed to be a vote tonight on denying or going forward.

Steve Clevenger responded correct. He has a right to a continuance which means that it will be heard again in February, and we appreciate his effort and reaching out; whether-or-not anything gets resolved, at least you have a chance to air your concerns before it comes back to us to make a decision.

Frances Gaylord, 2021 Klondike Road, West Lafayette, stated this brings back 20 years of history about the Lafayette Venetian Blind and American Suburban Utilities because that was also done just like that. You had another meeting, and had all of these changes, and they then had the opportunity to present it to the board.

Steve Clevenger stated it has to come back before us in order to be approved or denied. He asked if staff could collect names if somebody wants to be notified about it.

Eric Burns stated the fact that it is being held anyone who is here has notification. The rules of the Board of Zoning Appeals are based on State Law, and we are following those rules, so there is a continuance to February.

Frances Gaylord, 2021 Klondike Road, West Lafayette, asked what is the reason for the continuance.

Eric Burns stated he requested a continuance, and that is what the rules provide. We are following the rules.

Gary Schroeder stated he will make a motion.

Frances Gaylord, 2021 Klondike Road, West Lafayette, asked does that mean we have to present the procedures again, and he is going to have a better plan for a highway road, driveway, and utilities.

Steve Clevenger stated let's have you talk to staff about that because we don't know all of the answers for that.

Gary Schroeder moved to continue **BZA-2068 KOH AND COURTNEY KNOX** per the petitioner's request to the February 23, 2022 as requested by the petitioner. Jen Dekker seconded, and the motion was carried by unanimous voice vote.

Shirley Zell, 2800 Fox Lair Drive, West Lafayette, asked will all the same people be here for the February meeting.

Gary Schroeder responded there may be more people in February. This board has seven members, and only five members are present tonight.

Ryan O'Gara stated if there are any other procedural questions regarding how we do business here, please come and talk to me when we are done.

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.

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

None.

#### **V. ADJOURNMENT**

Gary Schroeder moved to adjourn.

The meeting adjourned at 8:04 P.M.

Respectfully submitted,

Jennifer Ewen  
Recording Secretary

Reviewed by,



David Hittle  
Executive Director

