

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

**MINUTES OF A PUBLIC HEARING**

DATE.....January 26, 2022  
TIME..... 6:00 P.M.  
PLACE..... COUNTY OFFICE BUILDING  
20 N. 3RD STREET  
LAFAYETTE, IN 47901

*This meeting was held in-person, with no virtual option.*

**MEMBERS PRESENT**

Steve Clevenger  
Ed Butz  
Jen Dekker  
Frank Donaldson  
Michelle Dennis

**MEMBERS ABSENT**

Gary Schroeder  
Tom Andrew

**STAFF PRESENT**

Maureen McNamara  
David Hittle  
Jennifer Ewen  
Eric Burns, Atty.  
Amanda Esposito  
Larry Aukerman

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held in-person on the 26<sup>th</sup> day of January 2022 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

Attorney, Eric Burns, called the meeting to order at 6:00 PM.

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

**I. ELECTION OF OFFICERS**

Eric Burns stated the first item of business is the election of officers for 2022.  
Eric opened the floor to nominations for the office of president.

Michelle Dennis moved to nominate Steve Clevenger for President.  
Jen Dekker seconded.

Michelle Dennis moved that the nominations for President be closed.  
Jen Dekker seconded, and the motion carried by voice vote.

Michelle Dennis moved to cast a unanimous ballot for Steve Clevenger for President.  
Jen Dekker seconded, and the motion carried by voice vote.

Steve Clevenger was seated as President.  
Steve Clevenger requested nominations for the office of Vice President.

Michelle Dennis moved that Gary Schroeder be nominated for Vice President.  
Jen Dekker seconded.

Michelle Dennis moved that the nominations for Vice President be closed.  
Jen Dekker seconded, and the motion carried by voice vote.

Michelle Dennis moved to cast a unanimous ballot for Gary Schroeder for Vice President. Jen Dekker seconded, and the motion carried by unanimous voice vote.

Steve Clevenger requested nominations for Secretary.

Michelle Dennis moved that Eric Burns be nominated for Secretary. Jen Dekker seconded.

Michelle Dennis moved that the nominations for Secretary be closed. Jen Dekker seconded, and the motion carried by voice vote.

Michelle Dennis moved to cast a unanimous ballot for Eric Burns for Secretary. Jen Dekker seconded, and the motion carried by unanimous voice vote.

## II. APPROVAL OF MINUTES

Michelle Dennis moved to approve the minutes from the December 01, 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.

## III. NEW BUSINESS

None.

## IV. PUBLIC HEARING

Steve Clevenger read the meeting procedures.

Michelle Dennis 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 noted **BZA-2064 MARK YOUR SPACE, MICHAEL SOBEL** has been withdrawn. Several of the variances were denied at the last meeting, and the remaining variance has been withdrawn.

Michelle Dennis moved to hear and vote on **BZA-2067 SCOTT AND LORI WILLIAMS**. Jen Dekker seconded.

### **BZA-2067 SCOTT AND LORI WILLIAMS:**

Petitioners are requesting a variance to reduce a rear setback not along a street frontage to 19' from the minimum required 25' for the construction of a new deck with a roof structure in an A zone. The property is located at 7131 US 231 S, Wea 32 (NW) 22-4 (UZO 2-24-8). *Continued from the December 2021 meeting because public notices were not paid for by petitioners, so they failed to publish at least 10 days prior to the meeting.*

APC staff Maureen McNamara presented the zoning map, site plan, and aerial photos. She stated they are requesting to reduce a rear setback not along street frontage to 19 feet from the minimum required 25 feet for the construction of a new deck with a roof structure in an A zone. The property is located at 7131 US Highway 231 South, and the subject lot is zoned A (agricultural) as is all the surrounding property. There is some floodplain here associated with the Little Wea Creek to the west and some R1 zoning to the north, but predominantly, an agricultural zoned area. The subject lot in question currently has a two-story single-family home; as well as, they have constructed a new garage. Bordering to the north and south are also some single-family residences, but the rest in the immediate area is a lot of undeveloped agricultural land. US Highway 231 is classified as a primary arterial per the Thoroughfare Plan. The driveway will remain as is, and it provides well over the required two parking spaces for a single-family home in the A zone. Septic and well also serve the lot per the County Health Department and no complaints of failure to function have been filed, so everything in that regard looks good. Some things that have slightly changed since the original staff report in November; they have removed the non-conforming old garage, and they have created a new one. The new garage is in conformance with all setbacks; there is no variance needed now for this new garage, so they got rid of this old unconfirming structure, but now they are here because they want to construct a new deck roofed structure. This new structure will be 6 feet over the setback line thus the need for the variance, so staff believes the petitioner's desire for a larger deck and roofed structure does not necessarily mean the ordinance is creating an unnecessary hardship; for example, stoops may extend up to 4 feet into a minimum rear setback, so shrinking the size of the deck or removing the roof structure would eliminate the need for the variance. However, staff does recognize that the house is over 100 years old and, it was there well before the UZO, so that is something to consider as well. They want to put the deck on the east side of the house, but considering that lot is so large, we also as staff considered could they put it in another location or have it unroofed. When it comes to the ballot items, the Area Plan Commission on November 17, 2021 determined that the variances requested are not use variances, and looking at the tests, it is staff's opinion regarding the variance request that granting these variances will not be injurious to public health; neighboring will not be affected in any way; however, the terms of the zoning ordinance are being applied to a situation that is not common to other properties. The house has been in this location for over 100 years and predates UZO requirements, so the placement of the house near the back of the lot creates a situation that could make it difficult to put any roofed structure where they are desiring to put it. In the end, it was the last test that we could not find a hardship. A small, uncovered deck could be built, or it could be put in another location, so because of that staff had to recommend denial for this.

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

Scott Williams, 7131 US HWY 231 South, Lafayette, stated he understands everything Maureen has said. The situation he would like to bring up is in the back of the house there is a concrete barrier, and that is the flat area of the house, and that is where the natural property line is. The old structure was encroaching extremely on the building's setback line which we have removed that, so that brings us way more into compliance than we were before. Since the house is so old on the original roof structure, there is a hump in the roof. When we reroofed it years ago with our building permit, we had to put in new rafters and sister them to the old rafters and that created a slight hump, so the new roof line would straighten that out; that is one benefit for the house structurally. As far as trying to move the porch to the south side of the house, we have our well on that side, so that would not be possible to do without drilling a new well and moving it. Putting a back porch deck on there will help segue. There is the door on the back our kitchen is there, and that will allow a nice area to go out with family and enjoy the outside; since we are right on US 231, it is very noisy, and that is the only side of the property that you have any quiet. Also, with the new garage that they added and with the new deck and the roofline, that would marry all that together and make it a straight continuity for easy access to the back of the house.

Dan Harkelroad, North Creek Properties, PO Box 6972, Lafayette, stated the deck if we only go out 6 or 7 feet it becomes pretty narrow and becomes virtually just a walkway, but by making it 12 feet, they can put their grill and furniture on it, and being away from the highway becomes very functional and a much nicer place to be. This does not impede on anyone for miles to the east, north, or south. It would make a lot of sense for them to tie the back of the house together with this nice deck.

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 to grant Variance #1.

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

Steve Clevenger noted the Variance has been granted for **BZA-2067**.

Michelle Dennis moved to hear and vote on **BZA-2069 WABASH LOFTS, LLC**. Jen Dekker seconded.

**BZA-2069 WABASH LOFTS, LLC:**

Petitioners are requesting a variance to allow 357 on-site parking spaces instead of 480 on-site parking spaces for the Wabash Lofts apartments in an R3 zone. The property is located at 3680 Paramount Dr. West Lafayette, Wabash 2 (NE) 23-5 (Lot 7 in Paramount-Lakeshore Subdivision Phase one, Section 5) (UZO 4-6-3).

APC staff David Hittle presented the zoning map, site plan, and aerial photos. This has to do with property off of Sagamore Parkway and a little west of Morehouse Road in West Lafayette. This is a single-issue case. We are asking for one variance, and there is only one component to the variance. The subject site is a little under 11 acres, and it is zoned R3 for multi-family development, and the petitioner does in fact propose to develop an apartment complex with eight buildings total, 240 units. Generally, along Sagamore Parkway, you have commercial activity fronting the road, and then one layer back, you have multi-family residential, and behind that, you have single-family residential. It is kind of a stepped down of intensity. The lot is unimproved here. This is the initial site plan that was provided. The petitioner did provide a new site plan this morning which is one that should be voted on. The difference is the original proposed 357 parking spaces, and the new one proposes 378 parking spaces, so an increase of 21. The ordinance requires, in this case, 480 parking spaces, and that is due to the metric requirement of two spaces per unit in West Lafayette. Our role here as staff with the BZA especially, is to advocate for the zoning ordinance which is intended to provide for the public good, and we do that, but sometimes it can be counter productive to do that uncritically and blindly though. This is one of those instances. Our ordinance requires over parking to a substantial extent, and that is something that we are going to be overhauling. That is one of our front burner goals for 2022, so looking at this matter with nuance, we would like to see not having to put in a lot of unneeded paved surface; the public would be better served, and the petitioner would be better served. What we indicated in the staff report is what we thought would be an agreeable middle ground, and that would be to meet the metric that is required of Lafayette. They have had their own parking standard for a long time. It is a little bit more relaxed than the APC's parking standard; in that for this case, they would need 1.75 parking spaces per unit rather than two parking

spaces per unit which would take the requirement for this particular development down to 376, so we indicated in the staff report that if they would meet that requirement that would represent a good win-win compromise for everybody, and with this new site plan, they did meet that, so 376 required, and 378 provided. With all that, we are comfortable with what is being presented tonight and recommend support for this variance request. He offered to answer any questions.

Steve Clevenger asked Eric Burns if we need a motion to amend this.

Eric Burns responded yes, and he asked if on the report is there going to be an amendment or how would you propose getting the record as straight as it could be.

David Hittle responded it is in the staff report. The language says if they change it, then we will support it, so the staff report already contemplates that. He stated the minutes reflect the fact that these changes have taken place.

Maureen McNamara stated the petitioner submitted an updated petition today with the new numbers with Chris's signature on each number being changed, so that perhaps may work as well.

Eric Burns responded okay.

Michelle Dennis moved to modify the request for **BZA-2069 WABASH LOFTS, LLC** to be for 378 parking spaces instead of 357 parking spaces. Jen Dekker seconded.

Steve Clevenger noted the request is now for 378 parking spaces.

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

Chris Shelmon, Gutwein Law, 250 Main Street, Lafayette, stated this is the Ridge Group's second project in the area. The first project was Two 30 One Flats along the new US 231 in West Lafayette. This project is very near to West Lafayette but just outside in the county in a weird wrapped around area which then leads us in the two per unit parking standard, and that doesn't reflect the size of the units. This project is comprised of studios, one and two bedrooms, and 73 percent of which are studios and one bedroom. That is a stark contrast to the student-housing oriented facilities around it. Campus Suites and Baywater are all three and four bedroom stacked developments. These are not like that; they are geared at a different market. As Mr. Hittle suggested, the Lafayette standard accounts for the size of the unit, so 1.5 for the one bedroom and studio, and 1.75 for the two bedrooms. We do slightly exceed that; we would also note that this project provides for more parking than was provided to Two 30 One Flats. In a developer's experience, this will more than meet the need posed by the site. He offered to answer any questions. He stated he appreciates the staff's input on this project and respectfully requests 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 to grant Variance #1.

<b>Variance #1</b>	<u>Yes-Vote</u>	<u>No-Vote</u>
	Steve Clevenger	
	Frank Donaldson	
	Jen Dekker	

Ed Butz  
Michelle Dennis

Steve Clevenger noted the Variance has been granted for **BZA-2069**.

**V. ADMINISTRATIVE MATTERS**

None.

**VI. ADJOURNMENT**

Steve Clevenger stated unless any member has an objection the chair will order the findings of each member casting a vote for the majority decision of the Board to be the collective findings of the Board in support of the decision of the Board. Hearing none, it is so ordered.

Michelle Dennis moved for adjournment.

The meeting adjourned at 6:31 PM.

Respectfully submitted,

Jennifer Ewen  
Recording Secretary

Reviewed by,

A handwritten signature in dark ink, appearing to read "D. Hittle", with a horizontal line extending to the right.

David Hittle  
Executive Director