

AREA BOARD OF ZONING APPEALS OF TIPPECANOE COUNTY

MINUTES OF A PUBLIC HEARING

DATE..... MARCH 27, 2019
 TIME..... 6:00 P.M.
 PLACE..... CO. OFFICE BLDG.
 20 N. 3RD STREET
 LAFAYETTE, IN 47901

MEMBERS PRESENT

Tom Andrew
 Ed Butz
 Steve Clevenger
 Frank Donaldson

MEMBERS ABSENT

Carl Griffin
 Jen Dekker
 Gary Schroeder

STAFF PRESENT

Ryan O’Gara
 Rabita Foley
 Diana Trader
 Zach Williams, Atty

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held on the 27th day of March 2019 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

President Steve Clevenger called the meeting to order.

I. APPROVAL OF MINUTES

Ed Butz moved to approve the minutes from the February 27, 2019 BZA public hearing. Tom Andrew seconded, and the minutes were approved by unanimous voice vote.

II. NEW BUSINESS

Ryan O’Gara said **BZA-2011 SECOND CIRCLE ACQUISITIONS, LLC** is continued to the April 24, 2019 ABZA meeting.

Ryan O’Gara said **BZA-2009 CUMBERLAND PARTNERS, LLC** must be heard and voted on before **BZA-2005 CUMBERLAND PARTNERS, LLC.**

III. PUBLIC HEARING

Ed Butz moved that there be incorporated into the public hearing portion of each application to be heard this evening and to become part of the evidence at such hearing, the Unified Zoning Ordinance, the Unified Subdivision Ordinance, the Comprehensive Plan, the By-laws of the Area Board of Zoning Appeals, the application and all documents filed therewith, the staff report and recommendation on the applications to be heard this evening and responses from the checkpoint agencies. Tom Andrew seconded, and the motion carried by voice vote.

Ed Butz moved to continue **BZA-2011 SECOND CIRCLE ACQUISITIONS, LLC** to the April 24, 2019 ABZA meeting.

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

Steve Clevenger read the meeting procedures.

1. BZA-2003 LISA AND STEVE ROBINSON:

Petitioner is requesting a variance to reduce the street setback to 36 feet from the minimum requirement of 60 feet from SR 26 E to build an attached garage to an existing single-family home in an R1 zone. The property is located at 1 Pineview Lane, Perry 19 (SE) 23-3. (UZO 2-1-7) Continued from the February ABZA meeting to add and send notice to missing interested parties.

Ed Butz moved to hear and vote on **BZA-2003 LISA AND STEVE ROBINSON.** Tom Andrew seconded.

Ryan O'Gara presented the site plan, the zoning map, and aerial photos. Ryan said there is R1, R1B, AW and FP in the area. Ryan said the property is located on the corner of Pineview Lane and SR 26 East. Ryan said SR 26 E is recommended to be expanded to 4 lanes up to the McCarty Lane intersection according to the 2045 Metropolitan Transportation Plan. He said this improvement was originally identified in the 2006 plan. Ryan said in the Thoroughfare Plan SR 26 is classified as an Urban Primary Arterial and this along with the R1 zoning dictates the setback along SR 26 is 60-ft. He said based on GIS the existing house is 80-ft from the paved road and 60-ft from the property line (which is the right-of-way line). Ryan said the proposal is to extend the nose of the house toward SR 26 which will encroach into the setback area. Ryan said the lot is large enough to place the garage on another part of the property with potential access for another driveway onto Pineview Lane. He said when INDOT improves the road they will probably take some of the right-of-way for their project which will put the structure even closer to the traveling public. Ryan said the petitioners are fortunate they have another street on the side of the lot with potential access for a garage. Ryan said staff recommends denial.

Steve Robinson, 1 Pineview Lane, Lafayette, IN 47905, said he and wife, Lisa, purchased this property with the intention of retiring there. He said because this is an older property, they would like to make some improvements to it such as building a larger garage attached to the house. He said the only way to do that is to put it on end of the house where the existing garage is located. He said they plan to use the existing driveway. Steve said the issue with building the garage on the other end of the house is that is where the bedroom is located. He said there would be no way to access the garage directly from the house. He also said there are several mature trees on that end of the house which he wants to leave in place. He said they would also have to put in a 2nd driveway which he doesn't want to do because he would like to keep the yard nice. Steve said there is 20-feet of right-of-way which he thought would still be far enough away from SR 26 even if INDOT does take some of it for the expansion project.

Lisa Robinson, 1 Pineview Lane, Lafayette, IN 47905, said when they purchased the home 5 months ago, they did not realize the setback was so deep. She said they want to modernize the home in the simplest way possible. She said the placement of the well and septic system limits their options.

Steve Robinson agreed and said a new driveway could not go straight onto Pineview Lane because they would have to drive over the septic system.

Frank Donaldson asked what will happen if this structure is built and then the SR 26 expansion project is implemented.

Ryan O'Gara said INDOT will negotiate with the individual property owners when they need to acquire right-of-way for a highway project. He said those are closed proceedings, but he said there is a possibility INDOT may have to buy the entire property in order to expand the road.

Tom Andrew asked if the owner would have a choice in the matter.

Ryan O’Gara said the owner could take legal recourse, but the state has a compelling interest in expanding highways and maintaining them. He said the state can take the property through the eminent domain process. He said the owner would be paid the fair market value for the property. Ryan said he did not know when the SR 26 expansion project would be implemented, he said it may be many years from now.

Ed Butz said he drove out past there and saw the houses on the same side of the road seem to be at about the same setback the Robinson’s property is at now. Ed said there were a couple of houses on the other side of the road that looked like they were closer to the road than this property would be if the variance was granted.

Ryan O’Gara said there is no way to know at this point how much right-of-way INDOT will need to take for the SR 26 expansion. He said sometimes they need more right-of-way for intersections.

Steve Clevenger said they would also need utility corridors. Steve thought INDOT would probably make the road 5-lanes with a center turn lane.

Ed Butz said there was not a center turn lane at Faith Church just up the road.

Ryan O’Gara said there is a dedicated left turn lane at that intersection.

Steve Robinson said there is a 20-ft right-of-way before his property starts and he said he has a full 60-ft from his property line to his house. He said that is quite a bit of distance and he only needs 24-ft to build the garage.

Ed Butz said that from the center of the highway to the Robinson’s house is 100-ft.

Steve Robinson said from his perspective he is not worried about the highway being too close to the garage.

Steve Clevenger asked where the well was located on the Robinson’s property.

Steve Robinson said the well is at the back of the house. He said they had considered putting the driveway there and building the garage back farther, but the wellhead is in the way and they are not able to do that. He said the septic is in the front of the house.

The board voted by ballot 3-Yes and 1-No for an inconclusive vote on **BZA-2003 LISA AND STEVE ROBINSON.**

<u>Yes Votes</u>	<u>No Votes</u>
Ed Butz	Steve Clevenger
Frank Donaldson	
Tom Andrew	

Zach Williams said because there is not a majority vote one way or the other, the vote is inconclusive, and this case will be heard again at the April 24, 2019 ABZA meeting. Zach told the petitioners they will need to come to that meeting and present their case again.

2. BZA-2005 CUMBERLAND PARTNERS, LLC:

Petitioner is requesting a special exception to operate a self-storage warehouse (SIC 4225) in an NB zone. A previously approved special exception request for self-storage at this location expired in 2018 with no action (BZA-1964). The proposed facility would be open Monday-Saturday 7am-6pm and on Sundays from 10am to 5pm. Additionally, gate access

would be seven days a week, 6am to 10pm. The property is located at the southwest corner of US 231 and Cumberland Avenue, West Lafayette, Wabash 11(NE) 23-5. (UZO 3-2) *Continued from the February ABZA meeting at the petitioner's request.*

3. BZA-2009 CUMBERLAND PARTNERS, LLC:

Petitioner is requesting a variance to install a Type B (20 foot wide) bufferyard instead of the required Type C (30 foot wide) along southern and western property lines, where it abuts R1 zone. The NB zoned property is located at the southwest corner of US 231 and Cumberland Avenue West Lafayette, Wabash 11(NE) 23-5. The subject property is the same as that involved in the special exception case BZA- 2005 (Self-Storage Warehouse, SIC 4225) (UZO 4-9-3-a)

Ed Butz moved to hear and vote on **BZA-2005 CUMBERLAND PARTNERS, LLC.** Tom Andrew seconded.

Ed Butz moved to hear and vote on **BZA-2009 CUMBERLAND PARTNERS, LLC.** Tom Andrew seconded.

Ryan O'Gara presented the site plan, the zoning map, and aerial photos. Ryan said the site is located at the intersection of Cumberland Avenue and US 231 in West Lafayette. He said the petitioner is requesting a special exception to operate a self-storage warehouse in an NB zone. Ryan said there had been preliminary approval for a commercial subdivision for this site which was previously withdrawn. He said the subdivision would have required sanitary sewer to be extended to the site, but the proposed self-storage warehouse can be built with a septic system. Ryan said the facility will have 800 units and will be built in 2 phases with 5 buildings in each phase. Ryan said there is also a variance request to install a Type B (20-ft wide) bufferyard rather than the required Type C (30-ft wide) bufferyard along the southern and western property lines. Ryan said the City of West Lafayette staff agrees that a 20-ft bufferyard is sufficient and there is existing mature vegetation along the southern boundary. Ryan said there are 2 site plans options in the special exception request. Ryan said Interim Site Plan 1 shows a temporary septic system instead of extending the sanitary sewer to the site. He said Future Site Plan 2 shows sanitary sewer being extended to the site as part of a future commercial subdivision. Ryan said at that point the septic system will be removed and re-landscaped. Ryan said Interim Site Plan 1 will be served by a private drive but when the commercial subdivision is brought in with Future Site Plan 2 then that will become a public street. Ryan said staff recommends approval of the special exception with the following conditions and commitment.

The following conditions must be met prior to receiving an Improvement Location Permit:

1. Lighting for the project shall be directed downwards and shielded, subject to the approval of the Administrative Officer.
2. Landscaping details relative to the required landscape buffer, and whether any existing vegetation may count towards the required landscape buffer, shall conform to all Unified Zoning Ordinance and Unified Subdivision Ordinance requirements and be completed to the satisfaction of the Administrative Officer.

Commitment:

1. When sanitary sewer is extended to serve the subject property, the property contained in this special exception shall connect to it and abandon and remove the septic system per "Future Site Plan 2"

Ryan said on the variance side it is staff's opinion that the request does meet all the tests. Ryan said the odd shape of the lot makes the development of the area challenging in terms of the bufferyard. Ryan said staff's opinion is that reducing the bufferyard by 10-ft will not cause any problems for the residential

neighborhood to the south. He said a self-storage facility is a relatively benign use for the property. Ryan said staff recommends approval of the variance request as well.

Steve Clevenger asked if the property crosses the road into Wakerobin subdivision.

Ryan said yes, the legal description does extend into Wakerobin.

Dan Teder, Reiling, Teder & Schrier, LLC, 250 Main Street, Suite 601, Lafayette, IN 47901, representative for the petitioner, said his client obtained a special exception about a year and a half ago for the self-storage warehouse. Dan said his client has since filed for the survey, he has done engineering work, including drainage on the property, he has hired an architect, he has a building plan and a site layout, he has gotten state approval and has submitted plans to the City of West Lafayette. Dan said the City of West Lafayette has approved the plans subject to the new special exception. Dan said the original special exception has expired since more than a year had passed before his client was able to obtain a building permit. Dan said there are 2 changes he wanted to point out. The first change was that there are now 2 site plans, the 1st site plan is for the commercial septic and the 10-acre tract and the 2nd site plan is for when the public sewer and the commercial subdivision come in at a later date. Dan said it is the petitioner's intent to give the small piece of land that extends into Wakerobin subdivision to the HOA. Dan said the second change is for the variance. He said the first special exception had been approved with a 20-ft Class C bufferyard but since then the ordinance has changed and now a Class C bufferyard is 30-ft. Dan said both the City of West Lafayette and staff have approved these changes. He said he concurred with staff's recommendation and asked for approval for the variance and the special exception.

Zach Williams asked if the special exception request is to be voted on with commitment.

Dan Teder concurred.

The board voted by ballot 4-Yes and 0-No to approve **BZA-2009 CUMBERLAND PARTNERS, LLC.**

The board voted by ballot 4-Yes and 0-No to approve **BZA-2005 CUMBERLAND PARTNERS, LLC.**

4. BZA-2007 ROBERT WM. GROSS:

Petitioner is requesting a variance to reduce a side setback to 0' from the minimum requirement of 6' to build 24 additional apartments in an MR zone. The property is located at 1008 Cumberland Avenue, West Lafayette, Wabash 06 (SW) 23-4. (UZO 2-15-9) *Continued from the February ABZA meeting at the petitioner's request.*

5. BZA-2008 ROBERT WM. GROSS:

Petitioner is requesting the following variances to build 24 additional apartments and a community room at Friendship House in an MR zone:

1. To reduce the rear setback to 0' from the minimum required 25'; and (UZO 2-15-8)
2. To increase the height of the building to 47 feet from the maximum allowed 35 feet (UZO 2-15-10)

on property located at 1010 Cumberland Avenue, West Lafayette, Wabash 06 (SW) 23-4. (This request, along with BZA-2007 above, would allow the Friendship House to expand across a property line. The two properties involved have different owners.) *Continued from the February ABZA meeting at the petitioner's request.*

Ed Butz moved to hear and vote on **BZA-2007 ROBERT WM. GROSS.** Tom Andrew seconded.

Ed Butz moved to hear and vote on **BZA-2008 ROBERT WM GROSS**. Tom Andrew seconded.

Rabita Foley presented the site plan, the zoning map, and aerial photos. Rabita said both properties are zoned Medical Related. Rabita said the two properties are under different ownership and they utilize two different federal funds. They provide supportive housing for the elderly and some below market rate apartments as well. Rabita said the properties in question are two independent apartment buildings connected by a covered walkway. Rabita said the petitioner plans to convert the covered walkway into a 3-story structure which will contain a community room and 24 apartment units. Rabita said in BZA-2007 the petitioner is proposing the transfer of .566 acres from the northern property to the southern property. This will reduce the side setback to 0-ft for the existing building rather than the required 6-ft on the northern lot and the new addition will be built on the southern lot. The two buildings are required to be on separate lots due to the type of federal funding this operation receives. Rabita said in BZA-2008 the petitioner is seeking a 0-ft rear setback for the proposed new addition rather than the required 25-ft., also the proposed new addition is planned to be 47-ft tall, which is taller than the maximum permitted height in an MR zone of 35-ft. UZO 4-5-1(c) allows buildings to exceed this limitation if their setbacks exceed the minimum requirements, but the proposed addition is shown with 0-ft side and rear setbacks. Rabita said staff recommends approval of all 3 variances with the condition that a deed transferring the .566 acres of land from the northern lot to the southern lot be recorded using Exemption E language from the Unified Subdivision Ordinance.

Condition #1: A deed must be recorded transferring land from the southern parcel to the northern parcel using 'Exemption E' language from the Unified Subdivision Ordinance.

Bob Gross, R.W. Gross & Associates, 420 Columbia Street, Suite 100, Lafayette, IN 47901, Petitioner, said he is the Vice-President of the board for Friendship House, Inc. and Friendship House North Two, Inc. Bob Gross said the initial project was to build a community room where the residents of both houses could come together. He said upon working through that they investigated providing 24 more apartments and a new elevator which will serve both the north and south buildings. He said in order to accomplish this the property line will need to be moved and the 2 setback variances and the height variance need to be granted. He asked for approval for all 3 variances.

Tom Andrew asked if the owner was fine with the condition to change the lot line.

Bob Gross concurred.

The board voted by ballot 4-Yes and 0-No to approve **BZA-2007 ROBERT WM. GROSS**.

The board voted by ballot 4-Yes and 0-No to approve Variance #1 and 4-Yes and 0-No to approve Variance #2 of **BZA-2008 ROBERT WM. GROSS**.

V. ADMINISTRATIVE MATTERS

None

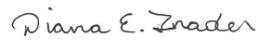
Steve Clevenger stated that unless any member has an objection the chair will order the findings of each member casting a vote for the majority decision of the Board to be the collective findings of the Board in support of the decision of the Board. Hearing none, it is so ordered.

VI. ADJOURNMENT

Ed Butz moved for adjournment.

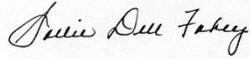
The meeting adjourned at 7:05 p.m.

Respectfully submitted,



Diana E. Trader
Acting Recording Secretary

Reviewed by,



Sallie Dell Fahey
Executive Director