

AREA BOARD OF ZONING APPEALS OF TIPPECANOE COUNTY

MINUTES OF A PUBLIC HEARING

DATE..... MAY 22, 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
Carl Griffin
Jen Dekker
Gary Schroeder

MEMBERS ABSENT

STAFF PRESENT

Ryan O’Gara
Rabita Foley
Diana Trader
Eric Burns, Atty

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held on the 22nd day of May 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 April 24, 2019 BZA public hearing. Jen Dekker seconded, and the minutes were approved by unanimous voice vote.

II. NEW BUSINESS

Ryan O’Gara said that **BZA-2013 ELEVEN EIGHTEEN, LLC and BZA-2015 JESSE AND DESTINY PETERS** are ready to be heard tonight. Ryan **said BZA-2014 PURDUE RESEARCH FOUNDATION and BZA-2016 PURDUE RESEARCH FOUNDATION** are being continued to the June 26, 2019 Area Board of Zoning Appeals meeting at the petitioner’s request to add variances.

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. Jen Dekker seconded, and the motion carried by voice vote.

Ed Butz moved to continue **BZA-2014 PURDUE RESEARCH FOUNDATION** and **BZA-2016 PURDUE RESEARCH FOUNDATION** to the June 26, 2019 Area Board of Zoning Appeals meeting. Jen Dekker seconded and the motion passed by unanimous voice vote.

Steve Clevenger read the meeting procedures.

1. BZA-2013 ELEVEN EIGHTEEN, LLC:

Petitioner is requesting a special exception to use an existing single-family home as a Transient Guest House (as defined in the ordinance) in an R1B zone. The proposed hours of operation are 24 hours a day, seven days per week. The property is located in lot 90 of W.K. Rochester's Southeast subdivision Lafayette, Fairfield 28(NW) 24-4. (UZO 3-2) **WITH CONDITION**

Ed Butz moved to hear and vote on **BZA-2013 ELEVEN EIGHTEEN, LLC.** Jen Dekker seconded.

Rabita Foley presented the zoning map and site plan. Rabita said the property is located in Lafayette. Rabita said the triangle shaped lot was platted in the 1850s with two street frontages (Ada and Congress Streets) and alleys. However, these platted public streets that adjoined the property have been vacated and transferred to the surrounding property owners. Currently, a private driveway (also known as Elmhurst Drive easement according to the petitioner) and alleys connect to both State Street and Valley Street to provide access to the 0.29-acre site. The driveway is shared with United Way of Lafayette located to the west of the site. Group Homes for children is located to the north and the Haan Mansion Museum of Indiana Art is located to the northwest. There is a single-family home located on the site which the petitioner would like to use as a transient rental house. Rabita said the house has 2 bedrooms and 2 bathrooms and is approximately 1,480 square feet total including the basement, first floor, and second floor. She said it could be rented to a maximum of four adults at any given time. The Valley-Center neighborhood has a mix of owner-occupied and rental homes. Rabita said the petitioner hopes that the short-term rental can be used by individuals who desire to utilize some of the activities in downtown Lafayette. Rabita said there are eight parking spots available but 5 of those are contracted out for use by the United Way. Rabita said that still leaves 3 parking spaces which is more than the required amount of parking spaces for a single-family transient rental house. Rabita said staff recommends approval with the following condition:

Condition

1. A permit to operate a transient rental house must be obtained from the Lafayette City Engineer's Office.

Sharon Bollock, 1742 Mill Pond Lane, Lafayette, IN, 47905, petitioner, said she purchased this home thinking it was a perfect spot for individuals traveling from out of town. She said it is located in a historical neighborhood and it is close to many of the arts. It is also close to the action downtown which everyone wants to support, and to Purdue University. Sharon said the parents of Purdue students enjoy having a quiet environment to visit with their children. She said this is a perfect neighborhood that will provide such an experience for out-of-town guests. She thanked the board for considering this special exception.

Radonna Fiorini, 1130 State Street, Lafayette, IN 47905, said she lives just southeast of the property in question. Radonna said she has lived there for over twenty years and she has invested a lot of money in her property. She said this is a beautiful part of Lafayette but that it is also very much in transition. She said she always holds her breath anytime a home in the neighborhood goes up for sale until she finds out if it will be turned into a rental home or not. She said the rental properties near her have caused her incredible grief. Radonna said she would like to see every rental home along State Street turned into a transient rental property. She said with the transient rental properties she knows people will not be there for very long and even if there is an issue for a weekend, she can put up with that. She said she can talk to the property owner if there is a problem and try to work it out. She said the long-term rental properties

that are no longer single-family homes have de-valued her property. She said there is nothing the homeowners in the area can do about that other than to call the police and to try to talk to the owner of the problem property. Radonna said she would encourage this special exception. She said her family has used these types of properties and she appreciated the opportunity to do that. She said it would be a benefit to the neighborhood to have this type of business come in. She also said these types of properties are self-monitored. She said there are reviews online for these properties and if the owner does not live up to what has been advertised those reviews will be negative. She said she feels very positive about this and she encouraged the board to approve the special exception.

Kathy Downey, 520 S. 10th Street, Lafayette, IN 47905, said she is the past president of the Wallace Triangle Neighborhood. She said she is very familiar with the property and she spent 18 years at the United Way building just across the private drive. She said her daughter lives within yards of the property in question. Kathy said she thought the City of Lafayette required Air BnBs to be owner-occupied dwellings. She also thought an Air BnB could only have one bedroom. She said she is against the special exception.

Steve Wien, 619 S. 10th Street, Lafayette, IN 47905, said he and his wife worked for many years to try to make Wallace Triangle R1B zoned. He said it took over two years to make that happen. Steve said he realizes the zoning is not changing but he asked what will happen when the property changes ownership. He said he has worked too hard to turn the Wallace Triangle Neighborhood around. He said the neighborhood still has a long way to go and he can see the transient rental house really hurting his efforts.

Sharon Bollock, 1742 Mill Pond Lane, Lafayette, IN, 47905, petitioner, said in rebuttal that her family has owned many rental properties over the years and she knows how to manage them. She said Air BnBs are typically rented about 50% of the month. Sharon said compared to long-term rental properties Air BnBs typically have less wear and tear on them, and there is less clean-up involved once a tenant leaves. She said her experience with her other Air BnB property is that the tenants take extremely good care of the property and cleanup after themselves. She said her income from the Air BnB is better than from a long-term rental property even though it is occupied for only half the amount of time. Sharon said when the transient rental house is posted on the website, she provides the house rules. She tells the renters what is allowed and what is not allowed in the home. She said the renters must agree to those rules and the rules include having no parties. She feels confident the area will remain quiet and undisturbed with less traffic than if someone lived there, full time.

Rabita Foley said there are three types of transient rentals defined in the ordinance. Rabita said the first two types must be owner-occupied. The third type which is what is being discussed here today does not need to be owner-occupied. She said the intended use is slightly more intense than what is usual for this neighborhood and that is the reason the board is hearing this request.

Carl Griffin asked if the special exception will change when the ownership of the property changes.

Rabita Foley said the special exception does not change with ownership. Rabita said the special exception will no longer be valid if the property is not used as a transient rental house for a period of one year. Rabita said if the property changes ownership and the new owner wishes to continue to use it as a transient rental house the special exception will remain in effect.

Steve Wien, 619 S. 10th Street, Lafayette, IN 47905, said the Haan Mansion was rezoned from R1 to R2 when it became an art museum. Steve said at that time it was decided that if the property was no longer being used as an art museum it would revert back to R1 zoning. Steve asked is something similar could be done for this case.

Eric Burns, Attorney, said it could not be required. He said that option is always available as an agreement between the property owner and neighbors. Eric said the zoning ordinance cannot require it. He said the case with the Haan Mansion was a rezone and once a property is rezoned it has to be used for that specific purpose.

Steve Wien said he realized the difference between the two cases, but he is concerned about what will happen with the property if it is sold.

Rabita Foley said the Haan Museum was rezoned with a commitment stating the zoning would be rezoned back to R1 if it was no longer being used as a museum. Rabita asked Eric Burns whether a commitment could be required by the board in this case in order to restrict a change of use.

Eric Burns said this case was not setup with a commitment and that staff recommends approval of the special exception without any commitment. Eric said procedurally the board cannot consider this as a discussion point. He said the owner could engage in that conversation if she felt the need to, but tonight the board can only consider the case as it is being presented.

Jen Dekker said the special exception would remain with a new owner however the new owner would still have to apply for a permit with the City of Lafayette. Jen said the permit is carried by the owner and not by the property.

Eric Burns said he was not sure about that.

Gary Schroeder said right now the property could be used as a long-term rental property and the board has heard there are problems with that. Gary said if the property was sold it could become a long-term rental. He said that the use as an Air BnB seems less intense. He said there is more control this way because there is a permit with the city, also if there was a bad tenant, he would only stay at the property for a short time. He said a commitment did not seem necessary.

Tom Andrew said he agreed with Gary Schroeder. He said the owner agrees not to have any parties. Tom asked if the property owner and the neighbor could keep in touch so if the property is ever sold the neighbor would get the right of first refusal.

Gary Schroeder said that was not something for the board to consider.

Steve Clevenger said that would have to be a decision between the owner and the neighbor. Steve said the understanding not to throw any parties at the house is in the house regulations and it is not in any commitment before the board.

Rabita Foley said the only way the board can control the noise at the property is indirectly through the number of people allowed to stay at the location at any given time which is four adults.

Steve Clevenger said the zoning is not the only remedy. Steve said the City of Lafayette does have a noise ordinance. He said the police could be called to the property.

Jen Dekker asked Sharon Bollock about the process of renting the Air BnB property. Jen said it is not just a one-click transaction. She said the owner can review the applicant's profile and monitor their history before they are accepted.

Sharon Bollock agreed.

The board voted by ballot 7-Yes and 0-No to approve **BZA-2013 ELEVEN EIGHTEEN, LLC**

2. BZA-2015 JESSE AND DESTINY PETERS:

Petitioners are requesting a special exception to allow an Agricultural Rental Hall (as defined in the ordinance) on 10 acres in the Agricultural zone. The proposed hours of operation are 11am to 11pm, Friday through Sunday (event hours) and noon to 6pm, Monday through Friday (office hours). The property is located on the east side of CR 900 E, south of CR 500 S, Sheffield 22(NE) 22-3. (UZO 3-2)

Ed Butz moved to hear and vote on **BZA-2015 JESSE AND DESTINY PETERS**. Carl Griffin seconded.

Ryan O’Gara presented the zoning map and site plan. Ryan said the 10-acre site was divided from a larger tract in 2018 when the petitioners purchased it. Ryan said the building was built in 2002 and was originally used as a church retreat. Ryan said the site has approximately 400-ft of road frontage along CR 900 E. and the structure is over 600-ft from the county road. Ryan said a residential driveway was approved for the site in 2017. Ryan said the proposed use as an Agricultural Rental Hall has one parking space per four occupants and the petition states that there can be a maximum of 90 people per event. Ryan said there is an existing septic system on site which has been documented and reviewed by the Indiana Department of Health. Ryan said it has been approved for a capacity of 90 attendees per event with the condition that petitioner must obtain a permit from the County Health Department. It also requires the construction of a new perimeter drain. Ryan said the site plan shows an area for outside events and any outside activities are limited to that area. Ryan said amplified music must take place inside the structure and only non-amplified music is permitted in the outside event area. Ryan said staff recommends approval with the following commitments and conditions:

Approval with the following commitments:

1. Limit the number of attendees to 90 people;
2. All amplified music must take place inside of the structure; only nonamplified music shall be permitted in the outside event area.

Approval with the follow conditions:

1. Approval from the County Highway Department for a commercial driveway;
2. Approval from the County Building Commissioner for building design approval and permit coordination;
3. Approval from the Indiana State Department of Health and the Tippecanoe County Health Department for an on-site sewage disposal system; and
4. Approval from the Tippecanoe County Surveyor’s Office for onsite drainage.

Destiny Peters, 9450 E 500 S, Lafayette, IN 47905, petitioner, said the business came about as a calling for her to provide an affordable venue for the people in the area. Destiny said it is a much smaller venue than the other Ag Rental Halls in the area. Destiny said in the past they have hosted funeral dinners, baby showers, bridal showers, and family reunions. She said they have held weddings and receptions as well. She said they have been working with the Tippecanoe Highway Department and Starr Associates will be constructing the driveway plans for a commercial driveway. She said they are working with the Tippecanoe County Surveyor’s Office on the drainage review and Starr Associates will be doing the drainage survey. She said Cheesman, Inc. will be installing the new perimeter drain. She asked the board to grant the special exception.

Ryan read two letters in favor of the special exception from the following people:

Don Miller, 5520 S 900 E, Lafayette, IN 47905

Brandon and Kathryn Brown, 8731 Wyandotte Road, Lafayette, IN 47905

Bernard Smith, 5831 S 900 E, Lafayette, IN 47905, said he has been a resident of Tippecanoe County since 1996. Bernard said he and his wife are the owners of nearby Big Fish N’ Campground. He said they are currently in their 24th season. Bernard said the Big Fish N’ Campground is a beautiful backyard that they open up for people to come and enjoy. He said in total they own 70 acres and 20 acres of that is slated for their retirement homesite. He said the use of the property in question as a church retreat was not noticeable, but the event barn is very much the opposite of that. He said he did not know until recently that the event barn was operating without posting and without receiving a special exception. He said the event barn impacts an area much larger than the 10-acres it consists of. He said his home and campground are very much impacted by this operation. He said he can sit in his home and hear and feel the activities from the barn. He said their deck which they dearly love to sit on is not enjoyable during the barn’s events. He said Big Fish N’ Campground has always operated with a 24-hour per day quiet time and they only play music three times a year on holiday weekends. He said he tells his customers who want to listen to music that if anyone else can hear your radio it is too loud. Bernard said they have made it a priority to sustain the peace and tranquility of the outdoor environment. He said the event barn fills the air with noise nearly every weekend. He said he doubted that keeping the amplified music inside the structure will make much difference given the metal structure of this barn. He said that there was a public

event held just four days ago after being closed by county government and pending public hearing. He said this unlawful event did not even attempt to follow the guidelines or recommendations set forth in the summary.

Destiny Peters, 9450 E 500 S, Lafayette, IN 47905, petitioner, said in rebuttal regarding the event held last weekend that Area Plan and Mike Wolf, the Building Commissioner, were aware of it and that the event was a family event. Destiny said she was told by Mike Wolf that family events can be held at any time but, when it becomes a commercial event the Area Plan needs to be involved. She said all commercial events have been halted and she has cancelled 7 weddings from April through June. She said they have held two family events recently. She said they stop all the noise at 10:30 pm. She said last fall they did have seven commercial events and the adjoining neighbors were informed of all those events. She said they had the County Highway Department come out when they put in the driveway. Destiny said when they purchased the building last year, they were told that it had permits through the State of Indiana and it was zoned for a retreat center. She said they were not aware that it needed to be zoned differently for an event center. She said they hired Pat Grimes, Cube & Company, to come out to do all the coding. She said everything passed and he told them the retreat center and the event center were the same thing. She said they had met with the previous owner and had all the proper permits in hand before operating the event center.

The board voted by ballot 5-Yes and 2-No to approve **BZA-2015 JESSE AND DESTINY PETERS**

<u>Yes Votes</u>	<u>No Votes</u>
Gary Schroeder	Carl Griffin
Ed Butz	Frank Donaldson
Jen Dekker	
Tom Andrew	
Steve Clevenger	

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.

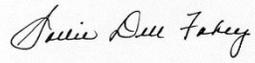
The meeting adjourned at 6:55 p.m.

Respectfully submitted,

Diana E. Trader

Diana E. Trader
Acting Recording Secretary

Reviewed by,

A handwritten signature in cursive script, reading "Sallie Dell Fahey", is displayed on a light gray rectangular background.

Sallie Dell Fahey
Executive Director