To reduce the number of required parking spaces to 3 from the minimum requirement
To reduce the side setback from the northern property line to 4
To reduce the rear setback to 3.5
To decrease the minimum lot width to 42.5
To reduce the side setback from the southern property line to 4
To reduce the average setback from State Street to 19.5

- To increase the coverage by all buildings to 11.5% from the maximum allowed 10%
- To reduce the setback from Waldron Street to 13
To eliminate the requirement of a 5
Continued from the June ABZA meeting to add a variance.
To reduce the off
Withdrawn
To reduce the vegetative coverage to 23.4% from the minimum requirement of 30%

To reduce the side setback from the northern property line to 5
To increase the building coverage to 42.6% from the maximum allowed 40%; (UZO 2
To reduce the front setback from CR 350 E to 4
Vote Results:
Request #1 6-Yes and 0-No
Request #2 6-Yes and 0-No
Request #3 6 Yes and 0-No
Request #4 6-Yes and 0-No
Request #5 6-Yes and 0-No

Documents:

BZA-2010.PDF

2. BZA-2018 RALPH AND SHIRLEY LINDER:
Petitioners are requesting the following variances to legitimize their existing single-family house and construct a new front porch in an AW zone:

1. To reduce the front setback from CR 350 E to 4’ from the minimum requirement of 40’; (UZO 2-26-7) and
2. To increase the coverage by all buildings to 11.5% from the maximum allowed 10% (UZO 2-26-6) Withdrawn

on property located at 8507 S 350 E in the unincorporated town of Concord, Lauramie 02 (SE) 21-4. WITH CONDITION
Continued to the August ABZA meeting due to incomplete paperwork.

Documents:

BZA-2018.PDF

3. BZA-2019 TOMISH DEVELOPERS, LLC:
**Continued**
Petitioner is requesting the following variances to raze the existing structure and construct a new two-story student apartment in an R3W zone:

1. To decrease the minimum lot width to 55.16’ from the minimum requirement of 70’; (UZO 2-10-6)
2. To reduce the side setback from the northern property line to 4’-3” instead of the minimum requirement of 6’; (UZO 2-10-10)
3. To reduce the off-street parking to 5 from the minimum requirement of 10 spaces for university-proximate residences; (UZO 4-6-4) and
4. To reduce the side setback from the southern property line to 4’-3” from the minimum requirement of 6’; (UZO 2-10-10)

on property located at 418 S. Grant Street, West Lafayette, Wabash 19 (SE) 23-4.
Continued to the August ABZA meeting to add a variance.

4. BZA-2020 BARRY KNECHTEL-KJG ARCHITECTURE, INC.:
Petitioner is requesting the following variances to raze the existing structure and construct a new two-story student apartment in an R3W zone:

1. To decrease the minimum lot width to 42.5’ from the minimum requirement of 70’; (UZO 2-10-6)
2. To reduce the side setback from the northern property line to 5’1” instead of the minimum requirement of 6’; (UZO 2-10-10)
3. To reduce the side setback from the southern property line to 4’ from the minimum requirement of 6’; (UZO 2-10-10)
4. To eliminate the requirement of a 5’ no parking setback along the south property line; (UZO 4-4-6)
5. To increase the height of the structure to 22’ from the maximum allowed 14’ at the
To reduce the number of required parking spaces to 3 from the minimum requirement.

To reduce the vegetative coverage to 23.4% from the minimum requirement of 30%; (UZO 2-10-7) and

To reduce the side setback from the northern property line to 5'.

Withdrawn

To reduce the average setback from State Street to 19.5' instead of the 24.75' (UZO 2-10-7) and

Continued from the June ABZA meeting to add a variance.

To increase the height of the structure to 22' instead of the 10' (UZO 2-10-7) and

To reduce the side setback from the southern property line to 4' instead of the 11' (UZO 2-10-7) and

To reduce the setback from Waldron Street to 13' instead of the 30' (UZO 2-10-7) and

To increase the coverage by all buildings to 11.5% from the maximum allowed 10%.

To reduce the front setback from CR 350 E to 4' instead of the 10' (UZO 2-10-7) and

Continued to the August ABZA meeting at petitioner's request.

Documents:

BZA-2020 .PDF

5. BZA-2021 MURTAUGH LAW, LLC:

Petitioner is requesting a variance to reduce the side setback to 1' from the minimum requirement of 25' from Garden Street to construct an outbuilding and fence to install a swimming pool. The existing home is on an R1-zoned corner lot located at 1701 Sheridan Road, West Lafayette, Wabash 18 (NW) 23-4 (UZO 2-1-7)

Vote Results  5-Yes and 1-No

Documents:

BZA-2021.PDF

6. BZA-2022 THOMAS L. TAULMAN II:

Petitioner is requesting a variance to eliminate the paving requirement and allow gravel areas for parking and maneuvering of trailer inventory and equipment in an I3 zone. Approximately 30 acres of the subject property was approved for a similar variance in 2013 (BZA-1878). With this request, petitioner plans to add 18 acres of land west of the existing business. The property is located at the northeast corner of CR 450 S and US 52 in Sheffield 18 (NW) 22-3. (UZO 4-6-15(a))

Vote Results  6-Yes and 0-No

Documents:

BZA-2022.PDF

IV. ADMINISTRATIVE MATTERS

V. ADJOURNMENT
AREA BOARD OF ZONING APPEALS OF TIPPECANOE COUNTY

MINUTES OF A PUBLIC HEARING

DATE.........................................................................................................................  JUNE 26, 2019
TIME........................................................................................................................  6:00 P.M.
PLACE....................................................................................................................... CO. OFFICE BLDG.
.................................................................................................................................. 20 N. 3RD STREET
.................................................................................................................................. LAFAYETTE, IN  47901

MEMBERS PRESENT
Tom Andrew
Steve Clevenger
Carl Griffin
Jen Dekker
Gary Schroeder
Ed Butz

MEMBERS ABSENT
Frank Donaldson

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 26th day of June 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

Tom Andrew moved to approve the minutes from the May 22, 2019 BZA public hearing. Ed Butz seconded, and the minutes were approved by unanimous voice vote.

II.  NEW BUSINESS

Ryan O’Gara said that BZA-2014 PURDUE RESEARCH FOUNDATION, BZA-2016 PURDUE RESEARCH FOUNDATION and BZA-2017 KURT BROCK are ready to be heard tonight. Ryan said BZA-2010 BARRY KNECHTEL-KJG ARCHITECTURE, INC. is being continued to the July 24, 2019 Area Board of Zoning Appeals meeting at the petitioner’s request to add a variance.

III.  PUBLIC HEARING

Tom Andrew 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. Ed Butz seconded, and the motion carried by voice vote.
Tom Andrew moved to continue **BZA-2010 BARRY KNECHTEL-KJG ARCHITECTURE, INC.** to the July 24, 2019 Area Board of Zoning Appeals meeting. Ed Butz seconded and the motion passed by unanimous voice vote.

Steve Clevenger read the meeting procedures.

1. **BZA-2014 PURDUE RESEARCH FOUNDATION:**
   Petitioner is requesting a special exception to construct a 15,000 sq. ft. daycare and sales/leasing center (child care center/ SIC 835) for Provenance at Discovery Park District in an R3W zone. The proposed hours of operation are Monday through Friday, 7am to 6pm. The property is located at the southwest corner of State Street and Airport Road, West Lafayette, Wabash 24(SE) 23-5. (UZO 3-2) *Continued from the May ABZA meeting at petitioner's request.*

2. **BZA-2016 PURDUE RESEARCH FOUNDATION:**
   Petitioner is requesting the following variances to construct a new daycare and sales/leasing center for Provenance at Discovery Park District in an R3W zone:
   1. **To increase the height of the structure to 30’ from the maximum allowed 14’ at the finished floor of the upper story;** (UZO 2-10-11) Not needed as per staff review.
   2. **To reduce the front setback to 20’ from the minimum requirement of 60’ from State Street;** (UZO 2-10-8) and
   3. **To reduce the number of parking spaces to 47 from the minimum requirement of 48 spaces;** (UZO 4-6-3)

   on property located at the southwest corner of State Street and Airport Road, West Lafayette, Wabash 24(SE) 23-5. *Continued from the May ABZA meeting to add variances.*

Tom Andrew moved to hear and vote on **BZA-2014 PURDUE RESEARCH FOUNDATION (Special Exception).** Ed Butz seconded.

Tom Andrew moved to hear and vote on **BZA-2016 PURDUE RESEARCH FOUNDATION (Variance).** Ed Butz seconded.

Ryan O’Gara presented the zoning map, site plan, and aerial photos. Ryan said the petitioner, represented by attorney Joseph Bumbleburg, is requesting a special exception to construct a child care center in an R3W zone. This 29-acre property is located on the southwest corner of the State Street and Airport Road intersection. Ryan said the proposed 15,000 sq. ft. child care center is expected to be a part of a larger planned development currently under APC review on an approximately 100-acre tract of land. Ryan said the petitioner wanted to start construction on the child care center as quickly as possible, so it was decided that requesting a special exception was the best way to go about that. Ryan said the site plan shows a proposed right-in, right-out street from State Street which will serve as the driveway for the child care center. Ryan said there will be no left turn onto or off of State Street from the site. Ryan said the parking standard for a child care center is one space per twenty children. Ryan said to the west of the site there will be a drainage facility and a public street that will connect to State Street. Ryan said the proposed child care center will have a capacity of 156 children and 24 employees on the largest shift, requiring a total of 48 parking spaces. Ryan said the site plan shows just 47 parking spaces but a request to reduce on-site parking is on the agenda along with this request. Ryan said the proposed hours of operation are 7am-6pm Monday-Friday. Ryan said the maximum sign allowed for this sign-lot is calculated to 40 square feet. Ryan said one free-standing or monument sign is allowed, a maximum of five-feet tall is permitted in an R3W zone. Ryan said in terms of the ballot items for the special exception, all the tests are met and there is no subversion of the general purposes for the ordinance. Ryan said staff recommends approval of the special exception relative to the variances. Ryan said variance #1 to increase the height of the structure from 14-ft to 30-ft has been struck because it was determined it is not required. Ryan said staff is in favor of variance #2 to reduce the front setback to 20-ft from 60-ft. Ryan
said staff needs to look at this project in isolation in the event the planned development is not approved. He said staff has the approved and adopted US 231 comprehensive plan amendment to guide its decision. He said the land use plan talks about having a more urban disposition with buildings that are slightly closer to the street. Ryan said staff is not in favor of variance #3 to reduce the number of parking spaces by one space. Ryan said there is a lot of acreage on the site and there is plenty of room for one more parking space. Ryan said staff recommends approval of the setback variance but denial of the parking variance.

Joseph Bumbleburg, Ball Eggleston PC, 201 Main Street, Suite 810, Lafayette, IN 47901, attorney for the petitioner, said he has representatives of the developer and the petitioner here with him tonight. Joe thanked the board for hearing both petitions tonight. He said they will need to be voted on separately and the special exception needs be voted on first before the variances. Joseph said the request for the special exception is for a child care center in the R3W zone and that is a permitted use. He said it will replace a child care center that is currently in use. He said the reason for requesting the special exception is to get the child care center constructed and operating faster than waiting on the planned development process. He said everything they are doing fits the requirements of the US 231 Corridor Plan. He said the facts in both staff reports are accurate and petitioner accepts those facts as stated. He said as for the ballot items, the development standards will be met, the general purposes will not be subverted, there are no violations of public health, safety, convenience, or general welfare. He said the traffic, lighting, noise and hours of operation will not adversely affect anyone. Joseph said variance #2, the setback reduction is called for and set out in the West Lafayette plan. He said variance #3, the reduction of one parking space is the only issue. He said that the development standards will be met, and the general purposes of the ordinance will not be subverted. He said the real question is do we need a 9-ft x 18-ft piece of asphalt or do we need a 9-ft x 18-ft green space. He respectfully asked that the board grant the petitioner the variance.

The board voted by ballot 6-Yes and 0-No to approve BZA-2014 PURDUE RESEARCH FOUNDATION.

The board voted by ballot 6-Yes and 0-No to approve BZA-2016 PURDUE RESEARCH FOUNDATION
Variance #2 To reduce the front setback to 20' from the minimum requirement of 60' from State Street; (UZO 2-10-8).

The board voted by ballot 6-Yes and 0-No to approve BZA-2016 PURDUE RESEARCH FOUNDATION,
Variance #3 to reduce the number of parking spaces to 47 from the minimum requirement of 48 spaces (UZO 4-6-3).

3. BZA-2017 KURT BROCK:

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 R1 zone. The proposed hours of operation are 24 hours a day, seven days per week. The property is located at 1700 N. River Road, Wabash 17(NW) 23-4. (UZO 3-2) WITH COMMITMENT AND CONDITION.

Tom Andrew moved to hear and vote on BZA-2017 KURT BROCK. Ed Butz seconded.

Rabita Foley presented the zoning map, site plan and aerial photos. Rabita said the property is zoned R1 and located on North River Road. She said the house is currently used as a long-term rental property and the petitioners would like to advertise on Air B-n-B and other short-term rental portals. Rabita said the petitioners would rent the 2-bedroom house to four adults at any given time. She said staff feels that if the definition of family as defined in the ordinance can be met the house can be rented to four adults. Rabita said all the ballot items are being met and staff feels that they can support this request with the following recorded commitment and condition.

Commitment
1. The single-family home shall be rented only to one family as defined in the Unified Zoning Ordinance at any given time.

**Condition**

1. Following the recordation of the commitment, a permit to operate a Transient Guest House must be obtained from the County Building Commission.

Kurt Brock, 1680 North River Road, Lafayette, IN 47906, petitioner, said he owns the property at 1700 North River Road and he appreciates the board taking time to hear his request to change the designation of the property from long-term rental to short-term rental. Kurt said the house was built in the 1950s and is very beautiful with magnificent views of the Wabash River. He said his experience with long-term renters was they did not provide the level of care for the house that he expected. He said he has spent the last several years trying to bring it back from the decay it has fallen into. He said he would like to provide the opportunity for someone to enjoy a beautifully restored and furnished home. He said with the recorded commitment and condition he would like to be able to rent to visiting families or visiting faculty to provide a positive view of the community. He said he is doing everything he can to comply with the requirements set forth by the governing bodies. He said what he intends to do with the property will be an improvement to the property and to the community.

The board voted by ballot 6-Yes and 0-No to approve **BZA-2017 KURT BROCK**.

**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**

Gary Schroeder moved for adjournment.

The meeting adjourned at 6:38 p.m.

Respectfully submitted,

Diana E. Trader
Acting Recording Secretary

Reviewed by,

Sallie Dell Fahey
Executive Director
BZA-2010
BARRY KNECHTEL-KJG ARCHITECTURE, INC
(variance)

STAFF REPORT
July 18, 2019
REQUEST MADE, PROPOSED USE, LOCATION:
Petitioner, representing the property owner Purdue Hillel Jewish Center, is requesting the following variances to construct an 845 sq. ft. addition to the existing structure in the R3W zone:

1. To reduce the number of required parking spaces to 3 from the minimum requirement of 19; (UZO 4-6-3)
2. To reduce the setback from Waldron Street to 13’ from the minimum requirement of 25’; (UZO 2-10-8)
3. To reduce the rear setback to 3.5’ from the minimum requirement of 25’; (UZO 2-10-9)
4. To increase the building coverage to 42.6% from the maximum allowed 40%; (UZO 2-10-7) and
5. To reduce the setback from State Street to 19.5’ from the minimum requirement of 24.75’ based on setback averaging. (UZO 2-10-8)

on property located at 912 W. State Street, West Lafayette, Wabash 19 (NW) 23-4.

AREA ZONING PATTERNS:
This site is zoned R3W, multi-family residential in West Lafayette. Agricultural zoned land owned by Purdue University exists to the south across State Street. Land to the north, east, and west are zoned R3W. All the land in the island, between University Street and Russell Street, is zoned R3W or PDRS.

AREA LAND USE PATTERNS:
This use is classified as a religious organization by the SIC for development standards and has been located here since 1951. The primary uses in this area of West Lafayette are campus related uses; the few non-Purdue owned land uses are religious organizations, Panhellenic organizations and student housing.

The subject property encompasses two platted lots in the original University Park subdivision. Because building over property lines is not permitted in the City of West Lafayette, Hillel has filed a replat, combining the lots into one (S-4850). Purdue-Hillel Minor sketch-plan received preliminary approval at the June 19, 2019 APC meeting. At this point they have not yet filed a final plat for review with the APC.

Over the years there have been 23 BZA cases in the island area. Recently there have been a few requests of a similar nature in the area, but the cases mentioned below were for new structures not for an expansion of an existing structure.

Purdue Christian Campus house received 8 variances in 2016, (BZA-1946). It was granted 4 setback variances, a lot coverage variance, height variance, vegetative coverage, and a parking variance.
Farm House Association, at the corner of Russell and State Street was granted 7 variances through three different cases:
  BZA-1877-height, vegetative coverage, parking and setback;
  BZA-1942-vegetative coverage and signage;
  BZA-1970-parking.

Phi Sigma Kappa in 2016, at the corner of 3rd and Waldron Street was granted six variances to completely redevelop its site with an urban design (BZA-1950).

These variances show a continued pattern of urbanization of this area of West Lafayette.

**TRAFFIC AND TRANSPORTATION:**
The site is located at the northeast corner of Waldron, a one-way northbound street, and West State Street (a primary arterial). This section of State Street was part of a large redevelopment project initiated by the city known as the State Street Redevelopment Project. As part of that plan an 11’ strip of property along State was acquired by the city. The vehicular access to the site’s parking area is from an alley on the east side of the site.

The parking standard for religious organizations (SIC 866) is based on the occupancy of the room where services are held: one parking space per four seats. Occupancy for religious services on site is 75 people; therefore, the parking requirement is 19 spaces. The site has 3 existing spaces. According to the petition, the building addition is not expanding the occupancy of the room where services are held.

**ENVIRONMENTAL AND UTILITY CONSIDERATIONS:**
Sanitary sewer and water serve the site.

If the expansion had been requested prior to the right-of-way being acquired, the building coverage after expansion would be at 38.8%, under the maximum of 40%.

**STAFF COMMENTS:**
Petitioner is proposing to extend the existing structure approximately 13’ to the west toward Waldron Street. Purdue Hillel would like to add additional space to meet the needs of its student population. The petition states that the addition will add space in the fellowship area, create a bigger kitchen, and add storage. The proposed building complements the surrounding environment and will take advantage of the State Street corridor redevelopment.

Based on the site plan submitted staff believes the request along Waldron should be 16’1” not the requested 13’. On the east side or rear of the property the request is for 3’6”, but the site plan shows the foundation of the existing structure at 4’10”. These discrepancies do not change staff’s analysis or recommendations. Petitioner has been unavailable to clarify these questions.

Staff recognizes that a 60’ and 25’ front setback from State and Waldron Streets respectively are no longer compatible with a pedestrian friendly urban vision for the campus. The development standards for the R3W zone was designed to accommodate multi-family residential dwellings. The ordinance provides an alternate route of Planned Development zones to adequately accommodate unique uses in our community. Staff is not proposing a Planned Development for this site, but feels development in this area of West Lafayette, (the island) is not compatible with current suburban development standards of the R3W. We have seen a few projects in this area that were developed using numerous variances. The R3W development standards are a
suburban design that doesn’t promote urban development.

Variances 1, 3, and 5 are to legitimize existing conditions of the site. Variances 2 and 4 are needed to accommodate the building expansion. If the site still included the 11’ strip along State Street, the building coverage (variance #4) and setback (variance #5) would not be required with the proposed plan.

Regarding the ballot items:

1. The Area Plan Commission July 17, 2019 determined that the variances requested ARE NOT use variances.

And it is staff’s opinion that:

2. Granting all 5 variances WILL NOT be injurious to the public health, safety, and general welfare of the community. By granting these requests the existing building will be extended to the west toward Waldron Street. Variance 1, 3, and 5 are for the existing structure that has been in place since 1951. There is no harm to the community in granting variances to make the existing structure conforming. The building coverage (variance 4) and setback on State Street (variance 5) are only required because the acquisition of right-of-way along State reduces the lot dimensions.

Variance 2, Reducing the setback along Waldron will not pose a problem because Waldron is one-way northbound away from State Street. This pattern of traffic makes visibility a nonissue at the intersection of State and Waldron. (variance #2)

3. Use and value of the area adjacent to the property included in all the variances requested WILL NOT be affected in a substantially adverse manner. The proposed improvement will not diminish the value of any neighboring property. None of the variances will prevent adjacent properties from using their properties in the future.

4. The terms of the zoning ordinance are being applied to a situation that IS NOT common to other properties in the same zoning district. Variance requests 1, 2, and 3 are the result of a single unifying problem: the R3W doesn’t adequately address urban development. All redevelopment or expansion that has recently occurred in this area of West Lafayette has required at least one variance. The R3W development standards promote suburban development standards in a highly urban area of the community.

Variances 4 and 5 are only required due to a recent right-of-way acquisition. These standards would have been met with the original lot dimensions. The State Street design is unique and uncommon.

5. With regard to variance 2: Strict application of the terms of the zoning ordinance WILL NOT result in an unusual or unnecessary hardship as defined in the zoning ordinance. The expansion toward Waldron Street does not meet the definition of hardship and expansion is not required for continued use of the structure.

With regard to variances 1, 3, and 5: Strict application of the terms of the zoning ordinance WILL result in an unusual or unnecessary hardship. These requests are to legitimize existing conditions of the site. This building was in place before the current development standards were created and applicable to the site.
With regard to variance 4: Strict application of the terms of the zoning ordinance **WILL** result in an unusual or unnecessary hardship. The building coverage request would not have been necessary if the city had not acquired additional right-of-way.

**Note:** Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

**5a.** The hardship involved **IS NOT** self-imposed or solely based on a perceived reduction of or restriction on economic gain. The variances to legitimize existing conditions of a site that has been in place since 1951 is not solely based on economic gain or self-imposed (variance #s 1, 3, & 5).

The city acquired land from the Purdue Hillel organization for the State Street project. The standard for building coverage could have been met if they were still in ownership of that land (variance #4) therefore this is not a self-imposed situation.

The hardship involved **IS** self-imposed. This request is self-imposed because the use can continue to operate and it is Hillel’s desire to expand the structure that is the impetus of this request (variance #2).

**5b.** The variances sought **DO** provide only the minimum relief needed to alleviate the hardship. Because they are for an existing condition of the site that was in place prior to the current zoning standards (variance #s 1, 3, & 5).

The variance sought **DOES** provide only the minimum relief needed to alleviate the hardship. The request is considered minimum relief because if the entire site were still available for calculating building coverage, it would be at 38.8% which is less than the required maximum of 40% (variance #4).

The variance sought **DOES NOT** provide only the minimum relief needed to alleviate the hardship. There is no minimum relief because there is no hardship making a variance necessary for the reduced Waldron Street setback. (variance #2).

**STAFF RECOMMENDATION:**

1. Approval (Parking)
2. Denial (Waldron Street setback for expansion)
3. Approval (Alley setback)
4. Approval (Building Coverage)
5. Approval (State Street setback)

Condition: the Final for Purdue-Hillel Minor Subdivision needs to be recorded before the Building Permit can be issued.
REQUEST MADE, PROPOSED USE, LOCATION:
Petitioners and property owners, Ralph & Shirley Linder, are requesting the following variances to legitimize their existing single-family house and construct a new front porch in an AW zone:

1. To reduce the front setback from CR 350 E to 4’ from the minimum requirement of 40’; (UZO 2-26-7) and
2. To increase the coverage by all buildings to 11.5% from the maximum allowed 10% (UZO 2-26-6) (After further review by staff, this request was not needed and has been withdrawn.)

on property located at 8507 S 350 E, in Lauramie 2 (SE) 21-4. Petitioners' property is made up of 2 lots in the unincorporated town of Concord and parts of vacated alleys. The subject property received approval from APC at its July 17th meeting to vacate Lots 3 and 4 (V-51). As per the Vacation of Plats section, paragraph 'e' in the APC bylaws, petitioners have to wait at least 30 days before recording the plat vacation.

AREA ZONING PATTERNS:
The lots are zoned AW, Agricultural Wooded, as is most of the plat of Concord. A small area zoned Flood Plain exists to the west near the banks of Wea Creek.

AREA LAND USE PATTERNS:
Petitioners have a house, detached garage and a couple of outbuildings. “A Plat of the Town of Concord” was recorded in 1832. The plat created 48 lots, seven streets and several alleys. Several of the alleyways and streets have been vacated over the years by action of the County Commissioners. A handful of residences exist within the plat, most of them constructed decades ago with no regard for the platted lot lines or unimproved street rights-of-way.

TRAFFIC AND TRANSPORTATION:
*The Thoroughfare Plan* classifies CR 350 E as a rural secondary arterial. Petitioners' detached garage crosses into a platted street (Elm Street) to the south of Lot 4. The site plan shows the current access from CR 350 E. The unimproved platted Elm Street to the south of the property is yet to be vacated.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:
Well and septic serve the site.
STAFF COMMENTS:
The subject property has a 1240 sq. ft. dwelling unit that was at one time a school house, that has existed on site for several decades with no regard, like most houses in Concord, to the lot lines of the recorded plat. Petitioners also have a detached garage, a car shed and three outbuildings in addition to their home (roofed area adds up to 2,668 sq. ft.). Three of the existing accessory structures are fully or partially in the 350 E right-of-way and the platted, but unimproved, Elm Street. Petitioners plan to file a request with the County Commissioners to vacate the unimproved street in the near future.

Because the dwelling unit existed prior to the inception of zoning, 2/3rds of it is constructed within the required 40-foot setback. The ordinance states that “a nonconforming structure occupied by a permitted use may be moved on its lot, altered or enlarged in any way, provided the alteration or enlargement either meets all requirements of this ordinance, or decreases the structure's nonconformity.” With this request, petitioners want to reduce the front setback to expand the current porch from 168 sq. ft. to 300 sq. ft. (an approximately 50% increase). The new porch is proposed with a setback of 4 feet from the property line while the existing porch is about 6’ from the front lot line. The expansion of an existing nonconforming structure to increase its nonconformity does not meet the hardship definition in the UZO. Although unlikely, if in the future the County widens the CR 350 E right-of-way from the existing 66’ to 80 feet (the minimum requirement for a rural secondary arterial) this would impact the dwelling unit at this location.

Regarding the ballot items:

1. The Area Plan Commission on July 17, 2019, determined that the variance requested IS NOT a use variance.

And it is staff’s opinion regarding variance request #1:

2. Granting this variance WILL NOT be injurious to the public health, safety, and general welfare of the community. A four-foot setback will still allow for adequate sight lines for the motoring public and pose no safety hazard. Additionally, there exists an elevation shift of approximately 6 feet from the edge of the pavement to the front porch. Despite the inadequate R-O-W width, the difference between the new and old porch is negligible.

3. Use and value of the area adjacent to the property included in the variance request WILL NOT be affected in a substantially adverse manner. Granting this request does not substantially change the front setback situation that would devalue or inhibit the use of neighbors’ property.

4. The terms of the zoning ordinance are being applied to a situation that IS NOT common to other properties in the same zoning district because it is a nearly 200-year old platted area zoned Agriculture Wooded. Most of our small towns are zoned residentially with standards that fit small platted lots.
5. Strict application of the terms of the zoning ordinance **WILL NOT** result in an unusual or unnecessary hardship as defined in the zoning ordinance. The UZO permits a nonconforming structure occupied by a permitted use like the subject property to be moved on its lot, altered or enlarged in any way, provided the alteration or enlargement meets all requirements of this ordinance. Petitioners’ desire to expand a nonconforming structure to increase its nonconformity is the reason for this request. A self-imposed situation cannot be considered an ordinance-defined hardship.

**Note:** Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved **IS** self-imposed or solely based on a perceived reduction of or restriction on economic gain. The expansion of the nonconforming structure is self-imposed.

5b. The variance sought **DOES NOT** provide only the minimum relief needed to alleviate the hardship. The minimum relief would be the 6-foot setback that is currently in place from the existing smaller porch.

**STAFF RECOMMENDATION:**
Denial

If approved, staff recommends the following condition:

1. The plat vacation (V-51) must be recorded prior to seeking an Improvement Location Permit.
BZA-2020
BARRY KNECHTEL-KJG ARCHITECTURE, INC
(variance)

STAFF REPORT
July 18, 2019
REQUEST MADE, PROPOSED USE, LOCATION:
Petitioner, with consent from the owner Michael Pritscher of Quicksilver Enterprises, LLC, is requesting the following variances in order to construct a student rental apartment building with 9 efficiency units:

1. To decrease the minimum required lot width from 70' to 42.5' for a multi-family building;
2. To decrease the side setback (on the north side) from 6' to 5' 1";
3. To decrease the opposite side setback (on the south side of the lot) from 6' to 4';
4. To eliminate the requirement for a 5’ no-parking setback on the south property line;
5. To allow a maximum building height of 22’ instead of the maximum permitted 14’ as measured from the ground to the uppermost finished floor;
6. To decrease the vegetative coverage from 30% to 23.4%;
7. To decrease the parking standard for a University-Proximate Residence from 10 spaces (1 per efficiency unit) to 9 spaces (0.5 per efficiency unit); (Variance not needed based on site plan review because only 9 spaces are required.)

on property located at 234 Marstellar Street, West Lafayette, Wabash19 (SE) 23-

This property was the subject of BZA-1987, heard and approved on July 25, 2018, for five variances. That project was never built and new variances are required because the current proposal has a different site plan and design with different variances needed.

AREA ZONING PATTERNS:
This property, along with lots to the north, east and south, is zoned R3W, Single-family, Two-family and Multi-family Residential. Land to the west, across Marstellar, is owned by Purdue University and is zoned Agricultural although being state-owned it is not subject to local zoning. There have been no recent rezones in the immediate area. The most recent BZA activity was last year for the same property. Because the project was never built and a new, albeit slightly different design is proposed the subject variances are necessary.

AREA LAND USE PATTERNS:
The site contains a duplex built in 1930, per the County Assessor’s records. This building, along with three farther south, are some of the only remaining structures from the traditional single-family and two-family neighborhood that once occupied this area. Other houses have been replaced with large apartment buildings. West across Marstellar are greenhouses associated with Purdue University’s College of Horticulture and Landscape Architecture. The lot adjacent to the south is owned by PRF and is currently unimproved; it is unknown what
future plans PRF has for this one lot.

TRAFFIC AND TRANSPORTATION:
Marstellar Street is classified as an urban local road in the Thoroughfare Plan. Harrison/Williams Street, just south of the site in question, was recently reconstructed as part of the ring road around campus.

The parking requirement for University-proximate residences is one space per efficiency unit; since 9 efficiencies are proposed and 9 parking spaces are shown, no parking variance is needed. The “no-parking setback” is a defined term in the UZO which requires parking spaces be setback 5’ from side and rear lot lines. This creates some separation between parked cars and sidewalks, alleys, and adjacent properties. It also prevents parked cars from overhanging into adjacent property. Because the dimension of 5’ is only provided in the definition of “no-parking setback” found in Chapter 1, the 5’ standard cannot be varied. (Only standards found in parts of Chapters 2 and 4 can be varied.) So even though petitioner’s site plan shows a 2.5’ no-parking setback along the south side, petitioner cannot provide the full 5’ setback, so a variance to eliminate this standard has been requested.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:
The site is served by public sewer and water.

STAFF COMMENTS:
This area of West Lafayette contains nearly all student apartments ranging from large complexes to converted single-family homes. The lot in question has contained a duplex since 1930 and now a new 3-story apartment building with 9 efficiency units is proposed. According to the submitted site plan, the new building would meet the front and rear setbacks, but the building would be closer to the side property lines than permitted, in part because of the narrow width of this lot, 42.5’. It should be noted that this property, the north half of lot 11 in the Sheetz Addition, has existed in this configuration since at least the 1960’s, per the Assessor’s records. At that time, the south half of lot 11, (also 42.5’ in width and currently a vacant lot owned by PRF), also had a duplex which has since been removed. Ideally, staff would prefer this lot and its southern counterpart (both of which comprised of the original lot 11) be recombined to its original 85’ wide lot configuration.

Requests #2 and 3 (side setback reductions) are both only requested because of the size of the apartment building proposed. A building with fewer units or a more narrow building could be built on site without needing side setback variances.

Request #4 would eliminate the requirement of a 5’ no-parking setback along the southern property line where vehicles would be parked and potentially overhang onto adjacent properties. Even though 2.5’ would be reserved for overhanging vehicles, the parking area could be redesigned to meet the required 5’.

Request #5, to allow a building height of 22’ instead of the maximum 14’ (as measured to the finished floor of the upper story) is supportable. Given the history of approved planned developments and other height variances in West Lafayette, 22’ at the finished floor of the upper story is not out of the ordinary.

Request #6 would allow a vegetative lot coverage of 23.4% instead of the minimum allowed
30%. Petitioner’s site layout provides the required nine parking spaces. As a result, the greenspace requirement cannot be met. (The previous variance request on this site included a parking space variance but met the greenspace standard.)

Regarding the ballot items:

1. The Area Plan Commission at its July 17, 2019 meeting determined that the variances requested ARE NOT use variances.

And it is staff’s opinion regarding Variance #1 (lot width) that:

2. Granting this variance WILL NOT be injurious to the public health, safety, and general welfare of the community. This lot has been in existence since at least the 1960’s, possibly earlier with no concerns.

3. The use and value of the area adjacent to the property included in the request WILL NOT be affected in a substantially adverse manner. Again, this lot has historically been narrow with no ill effect to the neighbors.

4. The terms of the zoning ordinance are being applied to a situation that IS common to other properties in the same zoning district. Some lots in the R3W zone are much larger, but the adjacent lots to the south are all similarly sized to the subject site. Two of those smaller lots support duplexes.

5. Strict application of the terms of the zoning ordinance WILL NOT result in an unusual or unnecessary hardship as defined in the zoning ordinance. While the lot is too narrow to meet the requirements for a multi-family building, the existing structure could be maintained or a single-family dwelling could be built.

   Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

   5a. The hardship involved IS self-imposed or solely based on a perceived reduction of or restriction on economic gain. While a single-family home may not be desirable for this property adjacent to campus, the lot is still buildable and staff can find no ordinance-defined hardship.

   5b. The variance sought DOES NOT provide only the minimum relief needed to alleviate the hardship because there is no ordinance-defined hardship.

And it is staff’s opinion regarding Variances #2 and 3 (side setbacks) that:

2. Granting these variances WILL be injurious to the public health, safety, and general welfare of the community. Reduced side setbacks can create possible fire hazards as well as loss of light and air circulation.

3. The use and value of the area adjacent to the property included in these requests WILL be affected in a substantially adverse manner. While the lot to the south remains vacant there won’t be an issue, but there is no guarantee that the neighboring lot will remain...
unimproved and its development potential could be compromised.

4. The terms of the zoning ordinance are being applied to a situation that IS common to other properties in the same zoning district. While this lot is narrow, an apartment building with a smaller number of units or a smaller footprint could be built without needing side setback variances.

5. Strict application of the terms of the zoning ordinance WILL NOT result in an unusual or unnecessary hardship as defined in the zoning ordinance. Again, a building with a smaller number of units or a smaller footprint could be built within the required setbacks; the ordinance is not causing a hardship.

Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved IS self-imposed or solely based on a perceived reduction of or restriction on economic gain. Because a smaller footprint could be designed to meet setbacks, it is only petitioner's desire for more units that is causing a perceived hardship.

5b. The variance sought DOES NOT provide only the minimum relief needed to alleviate the hardship because there is no hardship.

And it is staff's opinion regarding Variances #4 (eliminating the no-parking setback) that:

2. Granting this variance WILL NOT be injurious to the public health, safety, and general welfare of the community. Based on the submitted site plan, there will still be a partial no-parking setback of 2.5' on the south side. The north and east sides of the property can meet this requirement.

3. The use and value of the area adjacent to the property included in this request WILL NOT be affected in a substantially adverse manner. A smaller no-parking setback would be provided helping to ensure parked vehicles do not project over the property line.

4. The terms of the zoning ordinance are being applied to a situation that IS NOT common to other properties in the same zoning district. The narrowness of this lot makes this an unusual situation.

5. Strict application of the terms of the zoning ordinance WILL NOT result in an unusual or unnecessary hardship as defined in the zoning ordinance. While the lot is narrow, the parking area could be redesigned to include the 5' no-parking setback.

Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved IS self-imposed or solely based on a perceived reduction of or restriction on economic gain. A redesign of the site could be done meeting this 5' no-parking setback.

5b. The variance sought DOES NOT provide only the minimum relief needed to alleviate
the hardship because no ordinance-defined hardship exists.

And it is staff’s opinion regarding Variance #5 (allowing a building height of 22’) that:

2. Granting this variance WILL NOT be injurious to the public health, safety, and general welfare of the community. An upper finished floor level 22’ above grade is in keeping with other multi-family structures in the area, including some of the newer planned developments near campus. This older height standard was originally conceived when the fire department did not have the necessary equipment to fight fires above 2 1/2 story buildings.

3. The use and value of the area adjacent to the property included in this request WILL NOT be affected in a substantially adverse manner. The building height increase is not out of character with surrounding developed properties.

4. The terms of the zoning ordinance are being applied to a situation that IS NOT common to other properties in the same zoning district. Requiring the developer of this property to use the old height requirement to deal with a fire department problem that has already been solved would create an uncommon situation.

5. Strict application of the terms of the zoning ordinance WILL result in an unusual or unnecessary hardship as defined in the zoning ordinance. Again, requiring the developer of this property to abide by the existing outdated height requirement would create a hardship as this standard has been proven to be no longer relevant.

Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved IS NOT self-imposed or solely based on a perceived reduction of or restriction on economic gain. The hardship is not self-imposed but ordinance-imposed.

5b. The variance sought DOES provide only the minimum relief needed to alleviate the hardship. A total building height (measured to the peak of the roof) of just under 40’ is in character with most of the newer residential projects near campus.

And it is staff’s opinion regarding Variances #6 (allowing a vegetative coverage of 23.4% instead of the minimum required 30%) that:

2. Granting this variance WILL NOT be injurious to the public health, safety, and general welfare of the community. A decreased vegetative coverage from the required 30% to the requested 23.4% will have no adverse effect on the public health, safety and general welfare.

3. The use and value of the area adjacent to the property included in this request WILL NOT be affected in a substantially adverse manner because the reduction is minimal and will have no impact on the use and value of surrounding properties.
4. The terms of the zoning ordinance are being applied to a situation that **IS NOT** common to other properties in the R3W zone because most of the redevelopment that occurs in West Lafayette near campus is done through the planned development process where all development standards are negotiated.

5. Strict application of the terms of the zoning ordinance **WILL** result in an unusual or unnecessary hardship as defined in the zoning ordinance. The greenspace shown on the site plan is about 513 square feet short of the required amount. If petitioner were to remove 4 parking spaces (648 square feet) and replace with greenspace, the vegetative coverage requirement could be met. However, in this instance staff would prefer that required parking of one space per unit be met instead of providing the required greenspace.

**Note:** Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved **IS NOT** self-imposed or solely based on a perceived reduction of or restriction on economic gain. The building proposed for this lot only covers 29% of the lot, which is considerably less than the 40% maximum allowed. This design maximizes the lot’s small size. Providing the ordinance required parking means that the 30% greenspace cannot be met.

5b. The variance sought **DOES** provide only the minimum relief needed to alleviate the hardship. The developer has chosen to meet the parking standard in place of the greenspace requirement.

**STAFF RECOMMENDATION:**

Variance #1 (Lot width): Denial
Variance #2 (Reduced north side setback): Denial
Variance #3 (Reduced south side setback): Denial
Variance #4 (Eliminate the no-parking setback): Denial
Variance #5 (Increased building height): Approval
Variance #6 (Vegetative coverage): Approval
Variance #7 (Parking): Dismissal
BZA-2021
MURTAUGH LAW, LLC
(variance)

STAFF REPORT
July 18, 2019
REQUEST MADE, PROPOSED USE, LOCATION:
Petitioner, with owners’ consent, is requesting a 1’ street setback from Garden Street instead of the minimum required 25’ to allow the construction of a 14’ x 50’ pool house. The Board approved a 5.5’ setback variance for this same property for a smaller pool house (14’ x 35’) from Garden Street on September 26, 2018 but it was never constructed (BZA-1996). This site is located at 1701 Sheridan Road, West Lafayette, Wabash 18 (NW) 23-4.

AREA ZONING PATTERNS:
The site and all surrounding land is zoned R1, single-family residential. The lot is located in the Oakhurst Addition to West Lafayette, which was platted in the early 1950s.

AREA LAND USE PATTERNS:
The corner lot in question supports a new two-story single-family home with an attached garage. Surrounding properties are all single-family homes. The lot adjacent to the west has a home located near its front lot line, which is more than 125’ from the property in question. The lot south across Garden Street is also a corner lot with the home facing Sheridan and a detached garage facing Garden directly opposite the proposed location of the pool house.

TRAFFIC AND TRANSPORTATION:
The site is located at the northwest corner of two urban local roads: Sheridan Road and Garden Street. The driveway for the house accesses Sheridan.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:
Sanitary sewer and water serve the site.

STAFF COMMENTS:
For many years a smaller single-family home with no garage occupied this lot. Around 2015 the structure was razed and a larger home with an attached garage was built the following year. In 2018 a setback variance of 5.5’ from Garden Street for a pool house was approved but never built. Instead, this variance is sought to allow a larger pool house to be even closer to Garden Street (adding 4.5’ more between the pool and the pool house). If approved petitioner plans on building an inground swimming pool (with an automatic pool cover), patio and pool house measuring 700 square feet (the prior variance was for a 490 square foot pool house).

The lot in question is approximately 13,000 square feet, which exceeds the 10,000 square foot minimum for R1 zoned lots. Based on the submitted site plan, maximum lot coverage and minimum vegetative coverage will be met. Because the rear of the lot is narrower than its front, the remaining buildable area in the backyard of this corner lot cannot accommodate all the desired improvements, particularly the 700 square foot (14’ x 50’) pool house.

While the lot may have somewhat of an irregular shape, it can still accommodate a swimming
pool and pool house as designed and approved by the Board with BZA-1996 last year. There is no hardship that would justify this redesign.

Regarding the ballot items:

1. The Area Plan Commission at its July 17, 2019 meeting determined that the variance requested IS NOT a use variance.

And it is staff’s opinion that:

2. Granting this variance WILL NOT be injurious to the public health, safety, and general welfare of the community. The proposed location of the pool house and pool will not obscure the traveling public’s vision nor will it present a fire hazard.

3. Use and value of the area adjacent to the property included in the variance request WILL NOT be affected in a substantially adverse manner. Even though the proposed location of the pool house is only 1’ from the right-of-way of Garden Street, it will not negatively impact any of the adjacent neighbors. The home closest to the site is located more than 100' southeast across Garden Street; the house adjacent to the west is over 125’ away and it is oriented to the west facing Western Drive.

4. The terms of the zoning ordinance are being applied to a situation that IS common to other properties in the same zoning district. Although the irregular shape of this lot means that the backyard narrows considerably, the smaller pool house, as approved last year in BZA-1996, can still be built.

5. Strict application of the terms of the zoning ordinance WILL NOT result in an unusual or unnecessary hardship as defined in the zoning ordinance. The addition of a swimming pool, a common sight in residential neighborhoods, could be accommodated on this lot. In fact a variance has already been approved to allow a pool and pool house on site. The owners simply want more space between the pool and the pool house than the previously approved 5.5’

Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved IS self-imposed or solely based on a perceived reduction of or restriction on economic gain. Petitioner’s desire to construct a 14’ x 50’ pool house (700 square feet) one foot from the right-of-way of Garden is causing the difficulty, not the zoning ordinance.

5b. The variance sought DOES NOT provide only the minimum relief needed to alleviate the hardship. If there is minimum relief it would be the 5.5’ setback variance approved by the Board last year.

STAFF RECOMMENDATION:
Denial
REQUEST MADE, PROPOSED USE, LOCATION:
Petitioner, who is the owner, represented by attorney Chris Shelmon, is requesting a variance to eliminate the paving requirement and allow gravel areas for parking and maneuvering of trailer inventory and equipment in an I3 zone. The business, TKO Graphix, is located at the northeast corner of CR 450 S and US 52 and includes 58 acres in Sheffield 18 (NW) 22-3.

This request is an expansion of a previously approved variance: approximately 30 acres adjacent to the east of the subject property received a similar variance in 2013 (BZA-1878 Andrew Gutwein for TKO Graphix). If approved, the non-paved area will encompass 88 acres.

AREA ZONING PATTERNS:
In 1997 this site was part of a large overall industrial rezone expansion to the southeast of Lafayette (Z-1715). This expansion took place in four rezones between 1996 and 2001 (Z-1640, -1714, -1715, & -2040) and resulted in the current I3 (Industrial) zoning of this site. Agricultural zoning (A) is adjacent to the northeast and south of this property. Land directly to the east and west was also part of the industrial expansion area rezoned in 1997 and is also zoned I3.

This business was granted a variance to allow gravel parking and maneuvering aisles for the trailers on the land to the east, (BZA-1878). The business was also denied two variances to reduce the bufferyards on the east and north property lines of the site (BZA1916).

The only other BZA activity in the area was two variance requests: in 2006 a variance for increased signage was denied and in 2009 a setback variance was approved. Both requests were for businesses located along Dale Drive, a small industrial subdivision north of CR 400 South.

AREA LAND USE PATTERNS:
This company buys trailers from Wabash National Corporation and finishes them with decals and graphics. The company has expanded since construction began at this location in 2013. This site is the farthest south that industrial development currently extends. The surrounding properties are being used in agricultural row crop production.
TRAFFIC AND TRANSPORTATION:
The expanded site has frontage on three roads: US 52, CR 450 South and 500 East. Currently its only access is from CR 450 S; however, the site plan shows potential new access points on 450 S and CR 500 E. These entrances are under review by the County Highway Department.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:
The petitioner received Drainage Board approval earlier this month (July 2019) for the proposed expansion. The site plan submitted shows a drainage pond on the northeast corner of the site; if this request is not approved and the area is paved as required, the developer will need to adjust its drainage plans to account for a different impervious surface. The site plans submitted show a compacted subgrade below 12” of compacted aggregate.

A buffer is required where I3 abuts A zoned land. The Administrative Officer for the county determined that the existing foliage on the northern property line meets the requirement for half of a type C buffer yard when the site was originally developed.

STAFF COMMENTS:
TKO Graphix purchases trailers from Wabash National Corporation, finishes and then resells trailers to an end user. The company is proposing to use crushed stone on approximately 58 additional acres for midterm parking and maneuvering of trailer inventory and other equipment. The site indicates that when the entire site is developed, there will be 1,792 truck-trailer parking spaces. All required parking for employees and customers will be paved and striped. The site plan shows a 6’ security fence around the site that creates a visual buffer from the parking area and enhances security of the site. The site plan also includes a 10,700 sq. ft. commercial building for additional work of graphic services.

Tippecanoe County currently meets federal air quality standards called “attainment”. Gravel parking lots, because of the dust and other fine particles they send into the air, can contribute to air pollution nonattainment. The county has been close to reaching the nonattainment level in recent years. If the county does not meet attainment, part of our transportation funding would need to be diverted away from road projects to projects like public transportation that promote attainment levels. Staff believes, at a minimum petitioner could pave the maneuvering aisles, which sends the most dust into the air, leaving the parking spaces unpaved, which would help to prevent nonattainment.

Regarding the ballot items:

1. The Area Plan Commission on July 17, 2019 determined that the variance requested IS NOT a use variance.

And it is staff’s opinion that:

2. Granting this variance WILL be injurious to the public health, safety, and general welfare of the community. Allowing the use to have gravel driving aisles and parking
negatively impacts the county’s air quality by increasing particulate matter and potentially jeopardizing our air quality attainment designation.

3. Use and value of the area adjacent to the property included in the variance request WILL NOT be affected in a substantially adverse manner. The gravel has the potential to affect neighbors in the future but only when adjacent sites are redeveloped. Adjacent land uses of row crop production will not be affected by this request.

4. The terms of the zoning ordinance are being applied to a situation that IS common to other properties in the same zoning district. All maneuvering aisles and parking spaces in the I3 zone must be paved regardless of the use. Petitioner makes an argument that the trailers are storage equipment instead of parked vehicles; the ordinance considers trailers to be vehicles and the use on this lot is parking of vehicles. Paving is a requirement that is met by most businesses and all new development in the I3 zone.

5. Strict application of the terms of the zoning ordinance WILL NOT result in an unusual or unnecessary hardship as defined in the zoning ordinance. The variance application states that storage of trailers is an unusual situation. The ordinance states any user in an I3 zone storing items outside requires paved maneuvering aisles. Examples of this requirement being met is the Subaru plant, Nanshan Aluminum, the recent developments on Dale Drive and CR 400 South. Additionally, maneuvering aprons for loading berths for truck trailers are required to be paved.

Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved IS self-imposed and solely based on a perceived reduction of or restriction on economic gain. Because the property in question is an unimproved, blank slate, the petitioner can develop the site to ordinance standards. Petitioner has presented no evidence to support any hardship or site irregularity leading staff to believe that the only reason for this request is the cost associated with paving.

5b. The variance sought DOES NOT provide only the minimum relief needed to alleviate the hardship. If the board can find that a hardship exists on this undeveloped site, the minimum relief would be to pave the maneuvering aisles.

STAFF RECOMMENDATION:
Denial