THE

AREA BOARD OF ZONING APPEALS

OF

TIPPECANOE COUNTY

NOTICE OF PUBLIC HEARING

DATE : August 26, 2020
TIME: 6:00 P.M.
PLACE: COUNTY OFFICE BUILDING
20 N. 3RD STREET
LAFAYETTE, IN 47901

AGENDA

Due to the public health emergency, public comment on agenda items may be submitted prior to the meeting at apc@tippecanoe.in.gov. Comments must include name and address to be heard. Comments may also be made live on the streaming platforms. Members of the public may watch and comment *(one must have an account to make live comments on Facebook and YouTube)* on the livestream of the meeting on https://www.facebook.com/TippecanoeCountyIndiana or https://www.youtube.com/channel/UCJIeeA9ZQo9EllGdZTdjurQ

I. APPROVAL OF PREVIOUS MEETING MINUTES

Documents:

BZA 07.22.2020.PDF

II. NEW BUSINESS

III. PUBLIC HEARING

1. BZA-2038 BILL J. PHILLIPS:
   ****Withdrawn****
   Petitioner is requesting a variance to allow a setback of 15' instead of the required 25' from the (southern) Samola Drive to build a house on 0.82 acres zoned R1, located at the northwest corner of US 231 and Samola Drive, specifically, 36 Samola Drive in the Sam Wilson Subdivision, Wea 29 (SW) 22-4. (UZO 2-1-7) *Continued from the July ABZA meeting by inconclusive vote.*

   Documents:

   BZA-2038.PDF

2. BZA-2041 MURTAUGH LAW, LLC:
   Petitioner is requesting the following variance for a proposed RV self-storage warehouse business on a half-acre tract of GB-zoned property:

1. To allow a 1' setback from Old SR 25 N instead of the required 60'; (UZO 2-17-7) and
~~2. To eliminate the requirement for each required off-street auto space to open directly on an unobstructed maneuvering aisle; (UZO 4-6-15 b)~~ *Withdrawn.*

on property located at 10 Aretz Lane, Fairfield 11 (SW) 23-4. *Continued from the July ABZA meeting because notices were not sent out in time.*

Vote Results 7-Yes and 0-No

Documents:

BZA-2041.PDF

3. BZA-2042 ZERN VESS:
Petitioner is requesting a variance to allow a fascia sign of 63.20 sq. ft. in an integrated center instead of the maximum allowed 40 sq. ft. for a Domino's Pizza on a GB zoned lot. The property is located in Paramount-Lakeshore Subdivision, more specifically at 3504 Paramount Drive, Wabash 2 (NE) 23-5. (UZO 4-8-7)

Vote Results 2-Yes and 5-No

Documents:

BZA-2042.PDF

4. BZA-2043 RESONS, LLC:
**** Continued****
Petitioner is requesting the following variances to renovate the basement to add a bedroom to the existing nonconforming apartment structure in an R4W zone:

1. To allow a lot width of 50.68 feet from the minimum required 70 feet for a multi-family dwelling; (UZO 2-11-6)
2. To reduce the setback from North Street to 21 feet from the minimum requirement of 25 feet; (UZO 2-11-8)
3. To reduce the setback from N. Chauncey Avenue to 10 feet from the minimum requirement of 25 feet; (UZO 2-11-8) and
4. To reduce the onsite parking to 6 from the minimum requirement of 9 spaces; (UZO 4-6-4)

on property located at 302 N. Chauncey Avenue (commonly known as Chauncey Townhouses Planned Development) in West Lafayette, Wabash 19 (NE) 23-4. *Continued to the September ABZA meeting to add variances.*

IV. ADMINISTRATIVE MATTERS

V. ADJOURNMENT

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), the Area Plan Commission of Tippecanoe County will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. For more information visit www.tippecanoe.in.gov/ada

AREA BOARD OF ZONING APPEALS OF TIPPECANOE COUNTY

MINUTES OF A PUBLIC HEARING

DATE.....July 22nd, 2020
TIME.....6:00 P.M.
PLACE.....COUNTY OFFICE BUILDING
20 N. 3RD STREET
LAFAYETTE, IN 47901

Due to the public health emergency, the meeting was held virtually. Members of the public may watch the livestream of the meeting at https://www.facebook.com/TippecanoeCountyIndiana

MEMBERS PRESENT	**MEMBERS ABSENT**	**STAFF PRESENT**
Steve Clevenger	Carl Griffin	Sallie Fahey
Tom Andrew		Ryan O'Gara
Gary Schroeder		Kathy Lind
Frank Donaldson		Larry Aukerman
Jen Dekker		Chyna Lynch
Ed Butz		Zach Williams, Atty.

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held virtually on the 22nd day of July 2020 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

President Steve Clevenger called the meeting to order. He asked that everyone present mute their microphones until they wish to speak or vote.

Attorney Zach Williams called the roll to establish those members present.

I. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes from the May 27, 2020 BZA public hearing. Jen Dekker seconded and the minutes, as submitted, were approved by unanimous voice vote.

II. NEW BUSINESS

None.

III. PUBLIC HEARING

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

Gary Schroeder moved to continue **BZA-2041 MURTAUGH LAW, LLC** to the August 26th, 2020 BZA meeting because notices were not mailed out in time.

Jen Dekker seconded and the motion carried by voice vote.

Steve Clevenger read the meeting procedures.

BZA-1786 JANET & RICHARD W. HARLOW, JR. (previously known as Crider & Crider, Inc.):
Petitioners are requesting a second extension of the previously approved special exception for a mining operation (originally approved December 2009; first extension was approved in July 2015) to modify the expired reclamation plan. The proposed hours of operation are 7am to 7pm, five days a week (Monday through Friday) and 7am to 4pm on Saturdays to complete the proposed reclamation plan. There will be no further mining and the proposed reclamation would be completed no later than December 31, 2030. The 32.8-acre tract is located immediately west of the residence at 4503 E 300 N in Fairfield 12 (NW) 23-4. (UZO 3-2) *With conditions.*

Gary Schroeder moved to hear and vote on **BZA-1786 JANET & RICHARD W. HARLOW, JR. (previously known as Crider & Crider, Inc.)** Jen Dekker seconded.

Kathy Lind presented the zoning map, site plan, and aerial photos. She said this site is south of CR 300N and was rezoned to Agricultural in 2009. The land surrounding the site is zoned R1 except to the north which is also zoned Agricultural. The site was farmed and is now a borrow pit with some water pooling at the bottom. The original reclamation plan for this site was to return the property to a farm field. The new plan remains the same but extends the allotted time to December 2030 and that payments for tickets will be performed at the reclamation site. She showed where the fence and the lights are located on the reclamation site as well as the 100-foot setback. The fill pit will be operated by Fox Hauling because the I -65 project did not provide enough clean fill material to bring the pit back up to its natural elevation. The variances that eliminated the required bufferyard and changed the type of fencing required remain valid. Traffic will just be employees and trucks delivering fill to the site. Outdoor lighting will be the same as what is currently being used. Noise will just be from the trucks delivering to the site; no crushing of concrete or asphalt will occur onsite. Hours of operations will remain the same. Staff recommended approval contingent on the following conditions:

1. All County Surveyor requirements, which includes IDEM approval, must be met;
2. All lighting for the fill pit must be directed away from motorists on CR 300 N and shall be enforceable by the Tippecanoe County Sheriff's Department;
3. All lighting shall be directed down and away from residences in Willowood East Subdivision and the residence to the east;
4. Per 4-11-4 c of the UZO, the reclamation plan must be recorded;
5. Petitioner must obtain an ILP to fill this site from the County Building Commissioner;
6. Petitioner will provide evidence of annual payment of the bond premium or the County Building Commissioner may pull the fill permit at any time if the bond lapses; and
7. A permit or waiver of permit by the County Highway Department for alterations to the site entrance on CR 300 N as discussed in the reclamation plan narrative.

Sallie Fahey said the only other change to the reclamation plan is that a Fox Hauling employee will be onsite to accept material.

Steve Clevenger asked if the petitioner or the representative wanted to make a presentation and if there were any documents to share through GoToMeeting.

Scott Starr, 201 S 3rd Street, Logansport, IN 46947, representative for petitioner, said the conditions are acceptable and the petitioner intends to comply with each of them.

Steve Clevenger said there will be a one-minute pause for citizen comment. After the minute passed, he asked Ryan O'Gara if any citizen comments had been received. There had not. He asked the board to submit their ballots.

Zach Williams said he received the ballots and conducted a roll call vote to confirm each member's vote.

Yes-Vote	No-Vote
Steve Clevenger	

Gary Schroeder
Jen Dekker
Tom Andrew
Ed Butz
Frank Donaldson

The Board voted by ballot 6 yes to 0 no to approve **BZA-1786 JANET & RICHARD W. HARLOW, JR. (previously known as Crider & Crider, Inc.**

BZA-2038 BILL J. PHILLIPS:
Petitioner is requesting a variance to allow a setback of 15' instead of the required 25' from the (southern) Samola Drive to build a house on 0.82 acres zoned R1, located at the northwest corner of US 231 and Samola Drive, specifically, 36 Samola Drive in the Sam Wilson Subdivision, Wea 29 (SW) 22-4. (UZO 2-1-7).

Gary Schroeder moved to hear and vote on **BZA-2038 BILL J. PHILLIPS.** Jen Dekker seconded.

Kathy Lind presented the zoning map, site plan, and aerial photos. She said the site is located on the west side of US 231 South between Samola Drive to the north and the south. The site is zoned R1 as is all the surrounding property to the north, south and west. The Sam Wilson subdivision was created by a plat, signed by the three County Commissioners and recorded in 1953, which predates the current Unified Subdivision Ordinance. This does not meet all the standards required of plats today. For example, the right-of-way for Samola Drive is only 30-feet wide which is short by today's standards. The site plan shows a 15-foot setback from the edge of the right-of-way to the edge of the house. The lots in the subdivision are on individual septic systems and wells. The site does meet the 30,000 square foot requirement for the R1 zone. According to the County Health Department, they have had soil work done on a couple of lots to the front and there is limited space for a septic system. The unusual shape of this lot, and the fact that streets entirely surround it, creates a long but narrow building envelope. With 25-foot building setbacks from the north, west and south and a 60-foot setback from US 231, there is only 50 feet of buildable area between the rights-of-way. This might have been cause for a hardship except houses with a dimension of 50 feet or less are not uncommon. The proposed house is larger than most houses in the neighborhood. The staff report mentions that the house could be turned 90 degrees so that the house would fit in the 50-foot envelope if the roofed patio was replaced with a smaller roofed porch. In staff's opinion, while the situation is unique there is not an ordinance-imposed hardship. A smaller house, one in line with existing homes in the neighborhood, could be built without the need of a variance. She presented more pictures of the site. There are two letters to be read.

Steve Clevenger asked if the petitioner or the representative wanted to make a presentation and if there were any documents to share through GoToMeeting.

Bill Phillips, 4315 Commerce Drive, Lafayette, IN 47905, petitioner, said there is a 15-foot setback request on the lower side of the site plan just for the house. The garage has a 25-foot setback. The engineering for the septic tank has been done and there is plenty of room behind the house or by the garage. The well is located in front of the house. The proposed 2,500 square foot home is the same size as other houses in the neighborhood.

Kathy Lind read letters of opposition from the following:

Shirley and Otis Morris, 10 Samola Drive, Lafayette, IN 47909, and

Kenneth Driscol, 60 Samola Drive, Lafayette, IN 47909.

Sherry Bogue, 34 Samola Drive, Lafayette, IN 47909, said there are circumstances around the south side of Samola Drive that need to be shared. Farm equipment travel up and down Samola Drive on a regular basis because the only way the farmer can get to their field is by the bridge behind Samola. The farming equipment is about 20 feet wide. If the farmer is approached by a car on Samola, they must get from the

road. It is important not to block the farmer's right-of-way which includes utilities. There needs to be a 12-foot setback so the farmer can continue to get to the fields. Additionally, Tipmont intends to take all the power lines from the back and bring them to the front in the street. It would be wise to leave a setback for the farmer and the utilities. She said she proposes a 12-foot ditch and another 15 to 25-foot setback.

Jen Dekker asked if the proposed house imposes on any drainage easements or if Tipmont would have to purchase additional right-of-way easement to be able to accommodate what is being discussed.

Kathy Lind said it sounds like Tipmont would have to purchase additional right-of-way. There is only a 30-foot-wide right-of-way at that point and the road may only be 20 feet wide.

Bill Phillips, 4315 Commerce Drive, Lafayette, IN 47905, petitioner, said he spoke with Tipmont on this issue and there is 18 feet from the current pavement. The natural gas line runs about 1 foot from the north edge of the pavement all the way back so no additional right-of-way is needed for gas. The underground fiber optic is generally put into less than a 4-foot area. Tipmont will use the 15-feet of right-of-way to do what they need without imposing on the ditch.

Steve Clevenger asked for Bill's response to the suggestion of turning the house 90 degrees or making the house longer because the larger part of the house is on the narrower portion of the lot.

Bill Phillips, 4315 Commerce Drive, Lafayette, IN 47905, petitioner, said that part of the lot is 5-feet wider. The house would fit without a back porch and a front porch.

Steve Clevenger said if you turned it 90 degrees, the porch could face the garage. This would be a redesign of the inside of the house.

Bill Phillips, 4315 Commerce Drive, Lafayette, IN 47905, petitioner, said we could not have a back porch on the house at all if the house was moved around that way. He said we spend most of our time entertaining in the backyard.

Tom Andrews said the Board has heard that the surrounding houses are larger than 1,300 square feet and that there are only 1,300 square foot houses. He asked what are the sizes of the homes because he has not been to this area.

Bill Phillips, 4315 Commerce Drive, Lafayette, IN 47905, petitioner, said there are approximately 3 homes on the right side of Samola that are around 1,300 square feet then around the curve there are much bigger two-story homes. On the south side, there is a two-story home that is much bigger than 1,300 square feet. The four homes adjacent to the property are 1,300 square feet and the rest of them are larger.

Jen Dekker asked in terms of first floor square footage, if 1,300 square feet would be more accurate.

Bill Phillips, 4315 Commerce Drive, Lafayette, IN 47905, petitioner, said that is highly doubtful. It is more likely about 1,500 to 1,800 square feet.

Jen Dekker asked what the necessity is to construct a 2,500 square foot home. Taking 220 square feet or five feet off to meet the minimum setback to make the depth of the house 44 feet would allow for the same plan. The home would lose minimal square footage per room. She asked if there is something specifically necessary to build this plan.

Bill Phillips, 4315 Commerce Drive, Lafayette, IN 47905, petitioner, said this is a 3-bedroom house with a basic floor plan.

Jen Dekker said there are 10,000 ways to do a split floor plan ranch. She said she was wondering if there is anything specific to this floor plan that required 2,500 square feet set up exactly like this to encroach on the setback or if it was just a preference.

Bill Phillips, 4315 Commerce Drive, Lafayette, IN 47905, petitioner, said the hallways and doorways are 4-feet wide so if anyone should get hurt or need a wheelchair, the house would be accessible for someone that is handicapped without issues.

Steve Clevenger asked if there were any drainage easements along the road.

Bill Phillips, 4315 Commerce Drive, Lafayette, IN 47905, petitioner, said there are 2 drain ditches in the back that have been inspected. One drains to the creek on the south back side that was put in by the County. The other is on the opposite side and drains from the north side of Samola into the back of Samola.

Steve Clevenger asked if there are any drainage easements along the road on this lot.

Kathy Lind said no, there was nothing platted.

Steve Clevenger asked if this needed drainage board approval because there is not much of a drainage ditch.

Bill Phillips, 4315 Commerce Drive, Lafayette, IN 47905, petitioner, said there is drainage there already. After a heavy rain, there is no standing water.

Sallie Fahey said she suspects it does not need approval because there is nothing on the plat and they are not going to be disturbing enough land to require compliance with other drainage requirements.

Steve Clevenger asked Ryan O'Gara if there were any citizen comments. There were none. He asked if the petitioner wished to make a rebuttal.

Bill Phillips, 4315 Commerce Drive, Lafayette, IN 47905, petitioner, said each side of the road is 20-feet wide with plenty of room on the road to not impede traffic. On the south side there is even more room.

Zach Williams said he received the ballots and conducted a roll call vote to confirm each member's vote.

Yes-Vote	No-Vote
Frank Donaldson	Steve Clevenger
Ed Butz	Gary Schroeder
Tom Andrews	Jen Dekker

The Board voted by ballot 3 yes to 3 no for an inconclusive vote on **BZA-2038 BILL J. PHILLIPS.**

Steve Clevenger said this case will be heard again at the August 26, 2020 BZA meeting.

Gary Schroeder recused himself from the last three cases because of a conflict of interest.

Steve Clevenger said the first case will be heard and voted on separately and the last two will be heard together and voted on separately.

BZA-1920 PURDY O'NEALL FARM, LLC:
Petitioner is requesting an extension of a previously approved special exception for a mining operation (BZA-1920 approved in October 2014) which was itself an extension of a previously approved special exception (BZA-1591, approved in October 2001) to extend both mining and reclamation to December 2040. The hours of operation approved in 2001 were "daylight hours only, except for the occasional INDOT or governmental project where aggregate or concrete are needed during nighttime hours." The two tracts included in this request are 180 acres, known as the O'Neall Farm located near the intersection of CR 150 E and CR 510 S and 120 acres

commonly known as 5105 E 500 S, in Wea Township, Section 21, 22-4. (UZO 3-2) *With condition.*

Jen Dekker moved to hear and vote on **BZA-1920 PURDY O'NEALL FARM, LLC.** Tom Andrews seconded.

Ryan O'Gara presented the zoning map, site plan, and aerial photos. He said the 302-acre site in this request is mostly zoned Agricultural with Flood Plain zoning in the northeast section and a small patch of I3 to the north that was established for the purpose of the batch plant. A scale house and a few buildings that serve as an office are located on the site. There is one house on the south side of the road that is adjacent to the site, then more land and agricultural production border the southern property. The site has frontage on CR 150 E where it intersects CR 510 S. The access to the operation will not be changed with this petition renewal. The longstanding commitment attached to the special exception will continue to be enforced relative to vehicles entering and leaving per day. 250 vehicles are allowed to come into the site and 250 vehicles are allowed to exit per day. If the extension is approved, the new mining operation will transport aggregate via conveyor belt to the subject site for processing. The extension would allow mining reclamation to be extended to 2040 as opposed to the current 2036. It is staff's opinion that the development standards for the requested use prescribed by the UZO will be met. Because there have been multiple approved mining operations in this area for at least 25 years, granting this special exception will not subvert the general purposes served by the ordinance. Granting the special exception will not materially and permanently injure other property or uses in the same district because traffic generation is unchanged, work will be done during daylight hours, no additional noise will be produced, and the hours of operation will continue to be from dawn to dusk. Staff recommended approval contingent on the following condition:

1. Evidence that the letter of credit from Union Planters Bank in the amount of $285,000.00 is still in effect, or new surety in the form of a bond or letter of credit supplied to staff.

Steve Clevenger asked if the petitioner or the representative wanted to make a presentation and if there were any documents to share through GoToMeeting.

Daniel Teder, 250 Main Street, Lafayette, IN 47901, representative for petitioner, said petitioner is looking for an extension for a previously approved special exception for mining. This 300-acre tract, which will be referred to as the current pit, started with 180-acres in 2001 and an additional 120-acres were added in 2014. With the previous expansion, the end date was extended to 2036. At this time, we are requesting that this date to end mining and complete the reclamation be extended to December of 2040. The goal is to end the mining and reclamation for the current pit and the new site, which will be heard next, to end at the same time. Since the material for the new site will be transported by conveyor from the current site, the time frame for both pits should be the same. This would be the only change, everything else will remain the same. All the standards of the ordinance have been met and we concur with staff's recommendation. He respectfully requested approval.

Steve Clevenger asked for citizen comments or comments from the Board. He asked if this is being done to move material from the current site to the new site and to make both reclamation plans end in 2040.

Daniel Teder, 250 Main Street, Lafayette, IN 47901, representative for petitioner, said that is correct.

Rodney Cline, 6621 S 200 E, Lafayette, IN 47909, asked how far the current pit is moving.

Daniel Teder, 250 Main Street, Lafayette, IN 47901, representative for petitioner, said nothing is changing at this site. The only thing that is changing is the extension of 4 years to coordinate with the new site that is being discussed next.

Ryan O'Gara read the comments that were submitted on YouTube:

Ed Queen, 1676 Sandstone Ct W, Lafayette, IN 47909, said thank you for the opportunity to provide public comment as a citizen on the requests that have just been outlined. I'm a resident of Masons Ridge subdivision, which is due north of the mining operation run by Purdy O'Neall Farm, LLC. I respectfully oppose the requests for variance and special exception on tonight's agenda. The petitioner's current operation is a large source of noise pollution for surrounding residential and other zones. For starters, I take issue with the descriptions of when operations are allowed in the associated documentation such as "daylight hours only, except for occasional INDOT or governmental project where aggregate or concrete are needed during nighttime hours" and "the hours of operation will be dawn to dusk, seven days a week". This wording is subject to interpretation and favors the petitioner. The petitioner can essentially do operations 24/7 and claim that they're performing necessary operations for INDOT and other government entities. Because of this, in the 6 years that I've lived in Masons Ridge, I've observed these restrictions are frequently violated, particularly in the late fall, winter, and early spring months when there are fewer daylight hours during which to operate. If these requests are approved, I request that consideration be given to adjusting the language to remove altogether the condition allowing the Petitioner to operate during dark hours, and to further specify "daylight hours" and "dawn until dusk" as "30 minutes after officially recorded sunrise to 30 minutes before officially recorded sunset." I disagree with the staff opinion that: "Noise production: Sources of noise will be from equipment that is not dissimilar to farm equipment used in the area. Berms, setbacks and wooded areas will aid in noise reduction. All processing of aggregate will be done off-site on petitioner's operation adjacent to the north". Farm equipment does not make as much noise as the incessant sounds created by the conveyor belts. On farms, there are not constant sounds of dump trucks beeping as they back up or slamming their tail gates. On farms, I've never known of controlled blasts that are so concussive that they shake nearby residents' windows. These sounds, and more, are heard daily in Masons Ridge which is separated by the wooded area along Wea Creek. The petitioner's request should only be approved on the conditions that they can and will mitigate or eliminate noise produced affecting surrounding areas. Furthermore, I do not think the petitioner should be granted any exceptions that allow any further negative impact on the surrounding natural environment. While the petitioner may be doing the bare minimum as required by law to reclaim the land, any aerial observer of the property can clearly see that the land will be uninhabitable for decades to follow. In summary, I acknowledge that the product of mining operations is valuable to society, and that I myself benefit from their products. However, I do not think that the petitioner should be allowed to "cut corners" so-to-speak just because existing codes and laws are inconvenient. Thank you again for your time and consideration of my comments this evening.

Daniel Teder, 250 Main Street, Lafayette, IN 47901, representative for petitioner, said most of these comments address the next two cases that discuss the new pit. These issues were discussed and worked out in 2001 and 2014. No changes are being made so these are not pertinent at this time. Additionally, we spoke with the adjoining neighbors to the east and they had no objections to this site. He respectfully requested approval.

Steve Clevenger asked for additional comments. He asked the Board to submit their ballots.

Zach Williams said he received the ballots and conducted a roll call vote to confirm each member's vote.

Yes-Vote	No-Vote
Steve Clevenger	
Jen Dekker	
Tom Andrew	
Ed Butz	
Frank Donaldson	

The Board voted by ballot 5 yes to 0 no to approve **BZA-1920 PURDY O'NEALL FARM, LLC.**

Steve Clevenger said if there are any concerns about the hours of operation, please bring them up with the zoning enforcement in the Building Commissioner's office.

BZA-2039 PURDY O'NEALL FARM, LLC:
Petitioner is requesting a special exception for mining and quarrying of nonmetallic minerals, except fuel (SIC 14). The hours of operation would be dawn to dusk, 7 days per week. Both mining and reclamation would be completed by December 2040. The three tracts included in this request are all located south of CR 510 S and east of S. 9th Street and include 3.76 acres in tract B, 76.3 acres in tract C, and 60.1 acres in tract D for a total of 140.16 acres zoned A and FP, located in Wea 28 (E1/2) 22-4. (UZO 3-2) *With conditions.*

Jen Dekker moved to hear together and vote on separately **BZA-2039 and BZA-2040 PURDY O'NEALL FARM, LLC.** Tom Andrews seconded.

Ryan O'Gara presented the zoning map, site plan, and aerial photos. He said there is one letter in opposition to the variance case for request 4. BZA-2039 is to allow mining and quarrying of nonmetallic materials for a 140-acre site that is adjacent to the site that was just heard in BZA-1920. This operation's hours are dawn to dusk seven days a week. In the area zoning patterns in the special exception staff report, there is a reference to petitioner needing to certify out land that is zoned Flood Plain through the flood plain certification process. This has been accomplished by the petitioner and the certification been approved by the APC office. The site is zoned Agricultural and the zoning map presented shows the accurate flood plain certification. There will be no vehicular access in or out of the site. The aggregate will be transported to the adjacent property by way of conveyor belt. The adjacent site has vehicular access with a limit of 250 vehicles in and out each day. The bufferyard, setbacks, fencing and reclamation plan are required for this mining operation. The submitted reclamation plan shows a resulting 30-foot deep pond with slopes that cannot exceed a 3 to 1 ratio. This site, along with the existing operation, is subject to a December 2040 period for reclamation. The aggregate will be transported to the existing site for processing and loading. Any overburden or excavated material that does not suit the operator's need may be moved aside or left in place but, it must be leveled, graded and landscaped to blend into the surrounding area. At the July 1, 2020 meeting, the Executive Committee of the Area Plan Commission voted that granting this request would not substantially adversely affect the Comprehensive Plan. It is staff's opinion that the requirements and development standards for the request will be met. There have been multiple mining operations approved in this vicinity for the last 25 years so granting this special exception will not subvert the general purposes of the ordinance nor will it permanently or materially injure other property or uses in the same district. There will be no additional truck traffic coming into this location because it will all be handled in the adjacent property. Placement of outdoor lighting will be directed away from the areas outside the property limits during early morning hours or early evening hours. Sources of noise will be similar to what has already been experienced in the immediate vicinity. Berms, setbacks and wooded areas will aid in noise reduction. Staff recommended approval contingent on the following conditions:

1. All County Surveyor requirements, including IDEM approval and which may include Drainage Board approval, shall be met;
2. Per 4-11-1 c of the UZO, the reclamation plan must be recorded;
3. Petitioner must provide surety in favor of Tippecanoe County in the amount equal to $3000 per acre of land within the approved setbacks before seeking an Improvement Location Permit.
4. An approved permit from IDNR allowing the removal of the small wetland on-site.

Steve Clevenger asked if the petitioner or the representative wanted to make a presentation and if there were any documents to share through GoToMeeting.

Daniel Teder, 250 Main Street, Lafayette, IN 47901, representative for petitioner, said the request for special exception is for the mining of a 140-acre tract that is adjacent to the south of the current pit. The only equipment on this site will be an excavator and a loader. There will be 2 to 5 employees on this site at a time. The employees and equipment will get to and from the site from the current pit. They will not use any of the exterior roadways in the area. The purpose of the proposed special exception is to dig up the aggregate and place it on a conveyor that will run to the current pit. There will be no processing, loading or sales at this proposed site. The hours for the site will be the same as the current pit. There may

be a rare occasion where there will be lighting, however this does not occur often at the current pit. The noise will be minimal because the processing is not going to be at this site. There has never been any blasting at the current pit; that is not what a gravel pit does. There will be no water use at this new pit because there will be no processing. The mining and reclamation will end in 2040. This petition meets all the standards of the ordinance and the petitioner concurs with staff's recommendation. He respectfully requested approval.

BZA-2040 PURDY O'NEALL FARM, LLC:
Petitioner is requesting the following ~~6 variances~~ 4 variances from the UZO- required standards for mining and quarrying of non-metallic minerals:

1. ~~To allow no bufferyard and no setback on the tract A site along its eastern property line; (UZO 4-9-7c)~~ withdrawn by petitioner July 15, 2020.
2. ~~To allow no bufferyard on the tract B site along its eastern property line; (UZO 4-9-7-c)~~ withdrawn by petitioner July 15, 2020.
3. To allow no bufferyard, no fence, and no setback on the tract C site along its northern property line; (UZO 4-9-7 c and d)
4. To allow no bufferyard and no fence on tract C along its eastern property line (next to property owned by Loren Schroeder); (UZO 4-9-7 c and d)
5. To allow no bufferyard and no fence on tract C for a different portion of its eastern property line (next to property owned by William Brunton); (UZO 4-9-7 c and d) and
6. To allow no bufferyard and no fence on tract D along its northern property line; (UZO 4-9-7 c and d)

on properties located south of CR 510 S and east of S. 9th Street and including a total of 140.16 acres zoned A and FP in Wea 28 (E1/2) 22-4.

Jen Dekker moved to hear together and vote on separately **BZA-2039 and BZA-2040 PURDY O'NEALL FARM, LLC.** Tom Andrews seconded.

Ryan O'Gara presented the zoning map, site plan, and aerial photos. He summarized the 4 requested variances. The Area Plan Commission determined at its July 15, 2020 meeting that the variances requested are not use variances. It is staff's opinion that granting the variances will not be injurious to the public health, safety, and general welfare of the community because these areas abut either an existing mining operation or agricultural fields. The use and value of the area of the adjacent property will not be affected in a substantially adverse manner. No nearby uses would be negatively affected by not having a buffer, setback or fence because of the adjacent mining or agricultural fields. According to the petitioner, the adjacent properties' owners have not expressed concern about having no bufferyard or fence. Regarding variance 3, 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 this area abuts an existing mine that was granted variances for no bufferyard or fence. Having a setback next to an active mine serves little purpose. Regarding variances 4, 5, and 6, the terms of the zoning ordinance are being applied to a situation that is common to other properties in the Agricultural zone. Although adjacent property owners may not be concerned, there is nothing unusual about this site that would prevent petitioner from installing the buffers and fences. For variance 3, strict application of the terms of the zoning ordinance will result in a hardship because the ordinance does not recognize a situation where two mining operations share a lot line. Staff supports the elimination of that bufferyard and fence requirement in that situation. For variances 4, 5, and 6, strict application of the terms of the zoning ordinance will not result in a hardship. It is staff's opinion that variance 3 is not self-imposed because this area abuts another mining site. It is also staff's opinion that there is no hardship involved in variances 4, 5, and 6 because each variance is based on a perceived reduction of or restriction on economic gain. The cost of fencing, buffering and reduced mining areas due to buffering requirements are only financial. Variance 3 does

provide enough relief needed to alleviate the hardship. However, variances 4, 5, and 6 do not provide relief because no hardship is present. Staff recommended the following:

Approval for Variance #3;
Denial for Variance #4;
Denial for Variance #5; and
Denial for Variance #6.

Steve Clevenger asked if the petitioner or the representative wanted to make a presentation and if there were any documents to share through GoToMeeting.

Daniel Teder, 250 Main Street, Lafayette, IN 47901, representative for petitioner, said variance 3 is for no bufferyard, fence or setback along the northern border. This area abuts the existing mining operation to the north. Requiring a bufferyard, fence or setback would not serve a purpose since both sides are in the mining operation. Staff agrees with this in their recommendation for variance 3. For variances 4, 5, and 6, petitioner is asking for no bufferyard or fence. There will always be a 100-foot setback from the adjoining properties. He presented pictures of the property that shows the existing farm fence and tree-lined borders. As for variance 4, Loren Schroeder, the owner, has written a letter. Because Gary Schroeder is on the Board, we felt it was inappropriate to speak with any of the family members. He said it is his understanding that the Schroeder property is a wetland bank that cannot be developed. This site is also covered with grasses, trees and shrubs. The reclamation plan shows how that area is covered so the bufferyard or fence serves no purpose. For variance 5 and 6, petitioner has spoken with the Brunton's and they believe the existing tree line and farm fence is enough. This acreage has been farmed for many years and will continue to be for the foreseeable future. He said it is in his opinion that all the standards of the ordinance are met. This will not be injurious to the health, safety and welfare of the community and the use and value of the adjacent property will not be negatively affected. All of the areas that abut are either wetland, farmland or mining. As a result, the situation is not common to other areas because they can only mine where there is aggregate. There is sufficient bufferyard and fencing in place. A new fence and bufferyard will serve no additional purpose to the wetland and farmland. He respectfully requested approval.

Ryan O'Gara read a letter of opposition from the following:

Loren Schroeder, 4773 E 50 N, Lafayette, IN 47905.

Steve Clevenger asked for citizen comments.

Lena Harper, 2024 E 700 S, Lafayette, IN 47909, said this area to the south, though it abuts the existing gravel pit, is primarily residential. The land that is not residential is divided into small parcels of 40-acres or less. She said she does not believe this is an appropriate area for something like this. The noise level is higher than what the petitioner thinks it will be. She said operating from dawn to dusk 7 days a week in a place where people live is ludicrous. She thanked the Board.

Steve Clevenger asked for comments from Facebook or YouTube.

Ryan O'Gara read the comments that were submitted on YouTube:

Ed Queen, 1676 Sandstone Ct W, Lafayette, IN 47909, said the conveyor belts and trucks produce a lot of noise.

Steve Clevenger asked staff to point out the locations of each of the variances on the map.

Kathy Lind showed where each of the variances are located on the map.

Steve Clevenger asked if there is a variance for the other side of the triangle piece.

Kathy Lind said there is no variance for that piece.

Sallie Fahey said that is the same property owner so bufferyards between the same property owner are not necessarily required.

Daniel Teder, 250 Main Street, Lafayette, IN 47901, representative for petitioner, said Kathy helped show where the variances are located. Variance 3 and 4 are on both sides of the mining. The mining will happen over the whole area so there is no need for bufferyard, fencing or setback on variance 3. Variance 4 is on the Schroeder wetland bank. This area cannot be disturbed. This wetland is just one big bufferyard at this point. South of this area is another piece of farmland that Purdy owns. Further south is variance 5 on the Brunton's property. He said at the bottom of the map, where there is a blue line, is the house where the petitioner lives. Regarding the noise, there is a substantial distance between where work is going to be done and where the houses are. There are hundreds of feet and there is the Schroeder property that buffers it. The Purdy farm and the Brunton properties also buffer it. Further south, there is a tree line in front of the petitioner's house that goes north to south. To remove the existing fence and tree line to install a new fence defeats the purpose of the buffering. There is no water available because water will not be used for this process. The likelihood that the new buffer would thrive is poor. In Loren Schroeder's letter he said this area is farm ground. It is not clear if he is talking about this property or another property, but this area is not farm ground; it is a wetland bank. He said if Gary Schroeder were not on the Board, he would have spoken with them to find out what the issue is specifically. At this point, it is not clear what the issue is because it is a large bufferyard. The Brunton's are satisfied with what is happening. There is no reason to have a bufferyard because it will be difficult to maintain. The current pit was granted variances to allow no bufferyards. There are no bufferyards around the new site, the current site or the prior two sites that have been done in this area.

Steve Clevenger said Purdy owns the field between the Schroeder and Brunton properties. He asked if a bufferyard would not be required.

Daniel Teder, 250 Main Street, Lafayette, IN 47901, representative for petitioner, said that is correct. There is a tree line and a farm fence in there.

Steve Clevenger asked if the farm fence spans the property line.

Daniel Teder, 250 Main Street, Lafayette, IN 47901, representative for petitioner, said he believes it goes along the property line, but he is not sure. The bottom will be removed because that is part of the request.

Steve Clevenger asked if the existing farm fence would be removed.

Daniel Teder, 250 Main Street, Lafayette, IN 47901, representative for petitioner, said it would not be coming out. It will stay along with the trees because it has some buffering to it.

Steve Clevenger said especially for the Schroeder property, you would be taking out existing trees and fence in order to put in a new fence.

Daniel Teder, 250 Main Street, Lafayette, IN 47901, representative for petitioner, said they have a large buffering area and to buffer the buffer does not make any sense. There will never be any house in this area; it will always be what it is today.

Opal Kuhl, 316 McCutcheon Drive, Lafayette, IN 47905, said she took the pictures that were shown from around the Schroeder property and along the Brunton property. The fence has been there a long time and it is intertwined with the trees and the brush that is growing there. To put in a new fence, the old fence would need to be torn out and that would tear out the existing buffer that is provided by the vegetation.

Steve Clevenger asked Mr. Teder if he will speak with the Schroeder family after this case is heard.

Daniel Teder, 250 Main Street, Lafayette, IN 47901, representative for petitioner, said he would be more than happy to speak with the family after this case to see what else can be done to satisfy their concerns.

Rodney Cline, 6621 S 200 E, Lafayette, IN 47909, asked if the tree line is from the house over on the two southern properties.

Joanne Purdy, 3633 Old US 231 S, Lafayette, IN 47909, petitioner, said that is correct. She pointed out the tree line on the map.

Rodney Cline, 6621 S 200 E, Lafayette, IN 47909, asked if the tree line would be taken out.

Joanne Purdy, 3633 Old US 231 S, Lafayette, IN 47909, petitioner, said that tree line would remain.

Steve Clevenger said he believes there is a setback of 100-feet from that tree line.

Daniel Teder, 250 Main Street, Lafayette, IN 47901, representative for petitioner, said that is correct. Everything along the eastern border will have a 100-foot setback.

Rodney Cline, 6621 S 200 E, Lafayette, IN 47909, said he lives directly across from the tree line and wanted to make sure that the trees are staying.

Daniel Teder, 250 Main Street, Lafayette, IN 47901, representative for petitioner, said the tree line is staying in and there is a 100-foot setback from the blue line.

Steve Clevenger said the trees can be taken out on the inside of the blue line, but they cannot mine for 100-feet.

Daniel Teder, 250 Main Street, Lafayette, IN 47901, representative for petitioner, said there is no desire to take the trees out because it is an additional buffer.

Patrick Harper, 2024 E 700 S, Lafayette, IN 47909, asked what the green triangle is on the eastern side of the variance. He asked if digging for the aggregate will have any effect on drainage in this area.

Daniel Teder, 250 Main Street, Lafayette, IN 47901, representative for petitioner, said no water will be used in this area so drainage will not be an issue. He believed the green area was wetland that was excluded but would have to ask Joanne Purdy what the green area is on the map.

Sallie Fahey said that may be a bigger wetland that they are avoiding which cannot be mitigated because it is too large. The little wetland that may be able to be mined over is on the south end. The large green area is a wetland and it is to be excluded from the area to be mined.

Tim Balensiefer, 105 N 10th Street, Lafayette, IN 47901, said that is correct. The large wetland has been excluded. The triangle shape is the perimeter of the pit. The wetland that is less than an acre will be permitted is just due east to the point of the triangle.

Steve Clevenger asked if this will go before the Drainage Board.

Tim Balensiefer, 105 N 10th Street, Lafayette, IN 47901, said that is correct. This will go before the Drainage Board because of a legal drain tile and the erosion control.

Steve Clevenger said if there were any further questions about the Drainage Board meeting, APC, the County Commissioners or the Surveyor's office would be able to help. He asked for additional comments. He asked that the Board complete the ballots for the special exception first.

Zach Williams said he received the ballots and conducted a roll call vote to confirm each member's vote.

Yes-Vote	No-Vote
Steve Clevenger	
Jen Dekker	
Tom Andrew	
Ed Butz	
Frank Donaldson	

The Board voted by ballot 5 yes to 0 no to approve **BZA-2039 PURDY O'NEALL FARM, LLC.**

Steve Clevenger asked the Board to fill out the ballots for the variance requests.

Frank Donaldson said he was having technical issues with Variance #5. He said he will abstain from the vote on Variance #5.

Zach Williams said he received the ballots and conducted a roll call vote to confirm each member's vote **Variance #3.**

Yes-Vote	No-Vote
Steve Clevenger	
Jen Dekker	
Tom Andrew	
Ed Butz	
Frank Donaldson	

The Board voted by ballot 5 yes to 0 no to approve **BZA-2040 PURDY O'NEALL FARM, LLC, Variance #3.**

Zach Williams said he received the ballots and conducted a roll call vote to confirm each member's vote **Variance #4.**

Yes-Vote	No-Vote
Steve Clevenger	
Jen Dekker	
Tom Andrew	
Ed Butz	
Frank Donaldson	

The Board voted by ballot 5 yes to 0 no to approve **BZA-2040 PURDY O'NEALL FARM, LLC, Variance #4.**

Zach Williams said he received the ballots and conducted a roll call vote to confirm each member's vote **Variance #5.**

Yes-Vote	No-Vote
Steve Clevenger	
Jen Dekker	
Tom Andrew	
Ed Butz	

The Board voted by ballot 4 yes to 0 no to approve **BZA-2040 PURDY O'NEALL FARM, LLC, Variance #5.**

Zach Williams said he received the ballots and conducted a roll call vote to confirm each member's vote **Variance #6.**

Yes-Vote	No-Vote
Steve Clevenger	
Jen Dekker	
Tom Andrew	
Ed Butz	
Frank Donaldson	

The Board voted by ballot 5 yes to 0 no to approve **BZA-2040 PURDY O'NEALL FARM, LLC, Variance #6.**

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.

IV. ADMINISTRATIVE MATTERS

None.

V. ADJOURNMENT

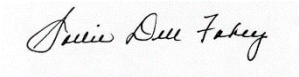
Jen Dekker moved for adjournment.

The meeting adjourned at 8:52 p.m.

Respectfully submitted,

Chyna Lynch
Recording Secretary

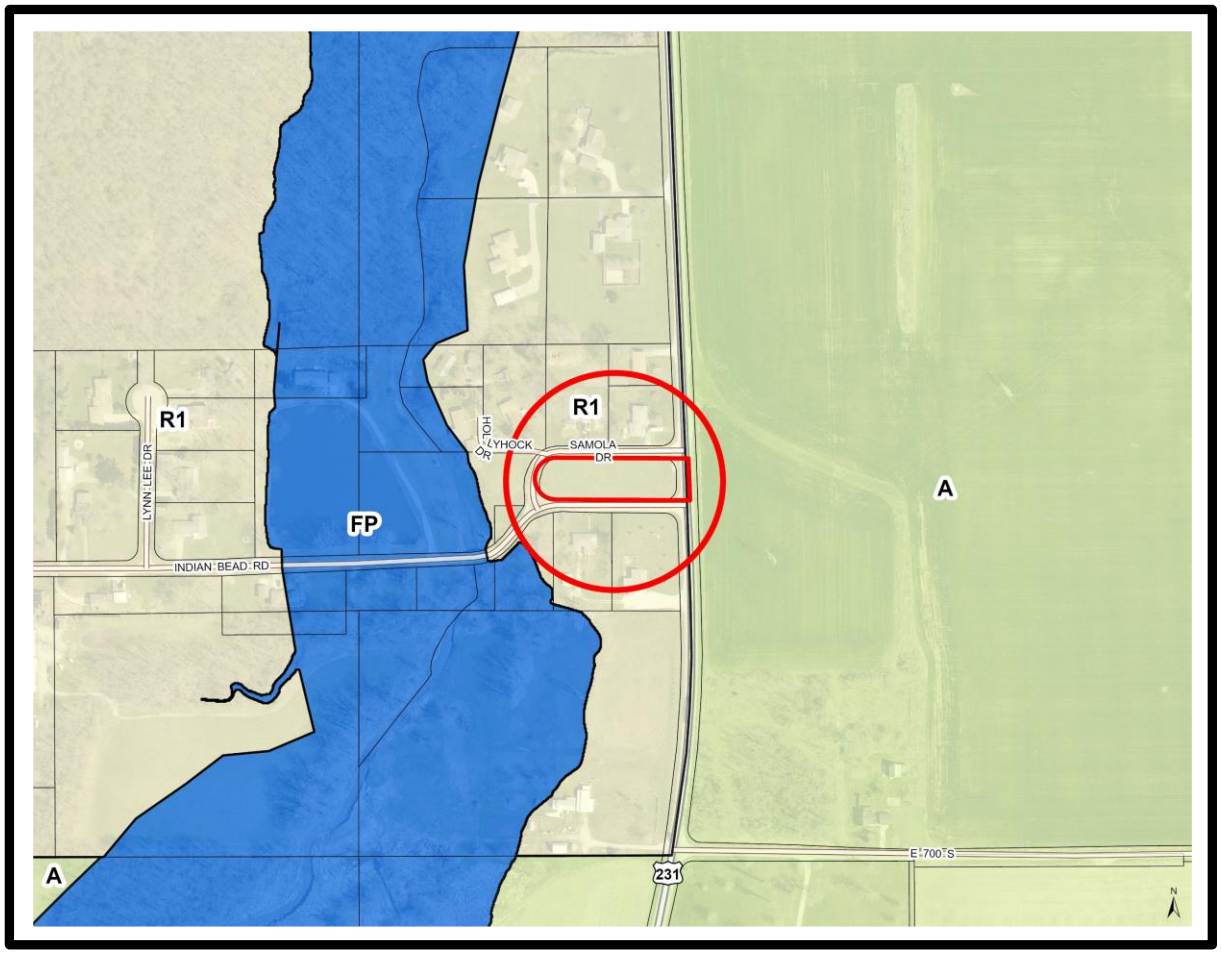
Reviewed by,

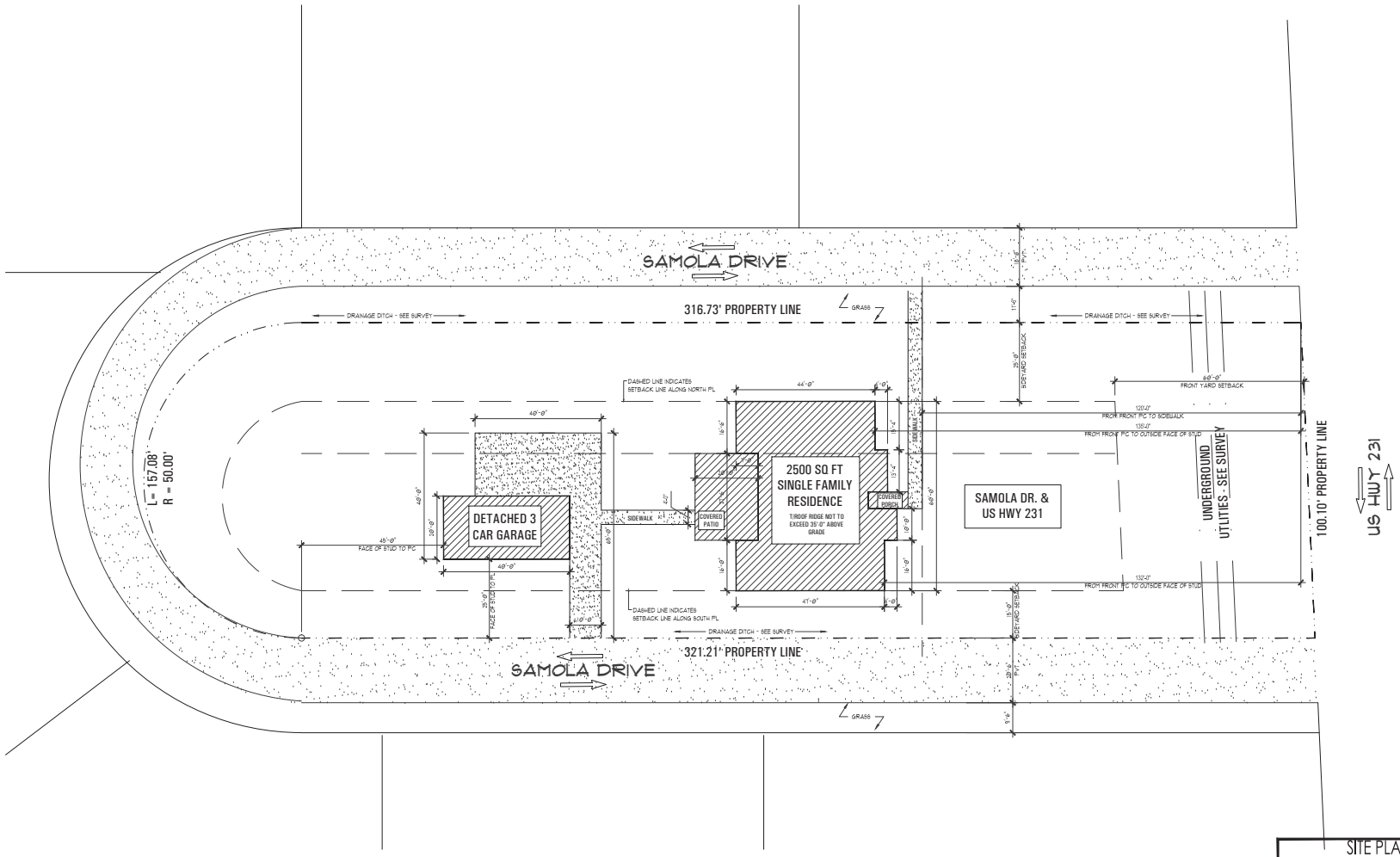


Sallie Dell Fahey
Executive Director

BZA-2038
BILL J. PHILLIPS
(variance)

STAFF REPORT
July 16, 2020





1 PROPOSED SITE PLAN
1/16" = 1'-0"

NORTH

SITE PLAN NOTES

1. GRADE TO SLOPE AWAY FROM BUILDING.
2. REFER TO SURVEY FOR ADDITIONAL SITE INFORMATION.
3. SITE PLAN FOR THE USE OF ZONING/VARIANCE BOARD.
4. ALL DIMENSIONS SHOWN ARE FROM PROPERTY LINES TO OUTSIDE FACE OF STUD.

ELEVATION:
T/SUBFLOOR = +0'-0"

ZAGER
ARCHITECTURE
352 North Marion School Rd.
Rensselaer, IN 47978
ph. (219) 869-4812
fax (219) 866-8667

PHILLIPS RESIDENCE
LAFAYETTE, INDIANA 47909

I HEREBY CERTIFY THAT THESE PLANS WERE PREPARED UNDER MY DIRECTION AND TO THE BEST OF MY KNOWLEDGE AND BELIEF CONFORM TO THE APPLICABLE BUILDING CODES AND ORDINANCES.

NAME: SARAH ZAGER #AR11200076
ITS: PRINCIPAL

	DATE	ISSUED FOR
1	06/22/20	OWNER APPROVAL
2	06/23/20	ISSUE TO OWNER
3	06/24/20	ISSUE TO OWNER
4	07/16/20	ISSUE TO OWNER
5		
6		
7		
8		
9		
10		

DRAWING TITLE:
PROPOSED SITE PLAN

PROJ NO: 2022
PROJ. START : 2020
DN. BY: SZ
CK. BY:
SCALE:

A1.0

BZA-2038
BILL J. PHILLIPS
Setback Variance

Staff Report
July 16, 2020

REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, with consent of the property owner, Sharon Southern, is requesting a variance to allow a setback of 15' instead of the required 25' from the (southern) Samola Drive to build a house on 0.82 acres located at the northwest corner of US 231 and Samola Drive, specifically, 36 Samola Drive in the Sam Wilson subdivision, Wea 29 (SW) 22-4. (UZO 2-1-7)

AREA ZONING PATTERNS:

The site is zoned R1, Single-family Residential as is all surrounding property to the north, west and south. Land to the east across the highway is zoned Agricultural; Flood Plain zoning associated with the Little Wea Creek, as well as a detention pond, exists just to the west.

The Sam Wilson subdivision was created by a plat, signed by the three County Commissioners and recorded in 1953, which predated both the current Unified Subdivision Ordinance (enacted in 1979) as well as the Subdivision Control Ordinance (in effect from 1962). As such, it does not meet all the standards required of plats today. No building setbacks are shown, many of the street rights-of-way are too small to meet current county specifications, some streets, like Hollyhock Drive are actually private driveways. Also, there are places where the word "Excepted" is shown (including the site in question). However, the lots shown on the plat are considered legal building sites. The building site in question, labeled "Excepted" was created by virtue of being surrounded by rights-of-way and cut off from any other piece of land.

AREA LAND USE PATTERNS:

The site in question is undeveloped. Single-family houses are located to the north, and south of the property; more houses exist to the west of the detention pond. Land to the east is farmed. A single-family house and a three-car detached garage are proposed.

TRAFFIC AND TRANSPORTATION:

US 231 S is classified as a primary arterial by the adopted *Thoroughfare Plan*. Samola Drive, a U-shaped county road is a local, paved road within a 30' right-of-way that surrounds the lot in question on three sides. The three-car detached garage shown on the site plan has a 10' wide access from the southern branch of Samola Drive. The garage would be constructed to meet the required 25' front setback.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:
The lots in the subdivision are on individual septic systems and wells. The site in question, at 0.8228 acres (35,841 square feet) meets the 30,000-square foot lot area requirement for an R1-zoned lot with septic and well. According to the county health department, "they have had soil work done on a couple of lots to the front and have limited space" for a septic system.

STAFF COMMENTS:
The unusual shape of this lot, and the fact that streets entirely surround it, creates a long, but narrow building envelope. With 25 foot building setbacks from the north, west and south, and a 60 foot setback from US 231, there is only 50' of buildable area between the right-of-way for Samola Drive to the north and Samola Drive to the south. This might have been cause for a hardship, except houses with a dimension of 50' or less are not uncommon. A smaller house could be constructed here without needing a variance. In fact, the main body of petitioner's proposed house is 47' x 60' in area with the front facing the highway. If the planned house was turned 90 degrees, so that the 47' dimension was running north/south and the front of the house faced the (southern) Samola Drive, the house minus the covered patio, would fit within the building envelope and no variance would be needed. While the situation is definitely unique, there does not appear to be an ordinance-imposed hardship.

Regarding the ballot items:

1. The Area Plan Commission on July 15th 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 construction of a house and detached garage here will not be a danger to the public health. Sufficient room would exist for motorists to safely exit the proposed garage driveway.

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. A house and detached garage are permitted uses here; sufficient area exists for a septic system and well. The state-owned US 231 is protected by the 60' setback.

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. This lot is peculiar by virtue of its shape and because of the rights-of-way that surround it. This is not a situation one would likely find anywhere else in the R1 zone.

5. However, strict application of the terms of the zoning ordinance **WILL NOT** result in an unusual or unnecessary hardship as defined in the zoning ordinance. A smaller house could be constructed here without the necessity of a variance. In fact, petitioner's proposed house could be constructed here without a variance if it were

turned 90 degrees.

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

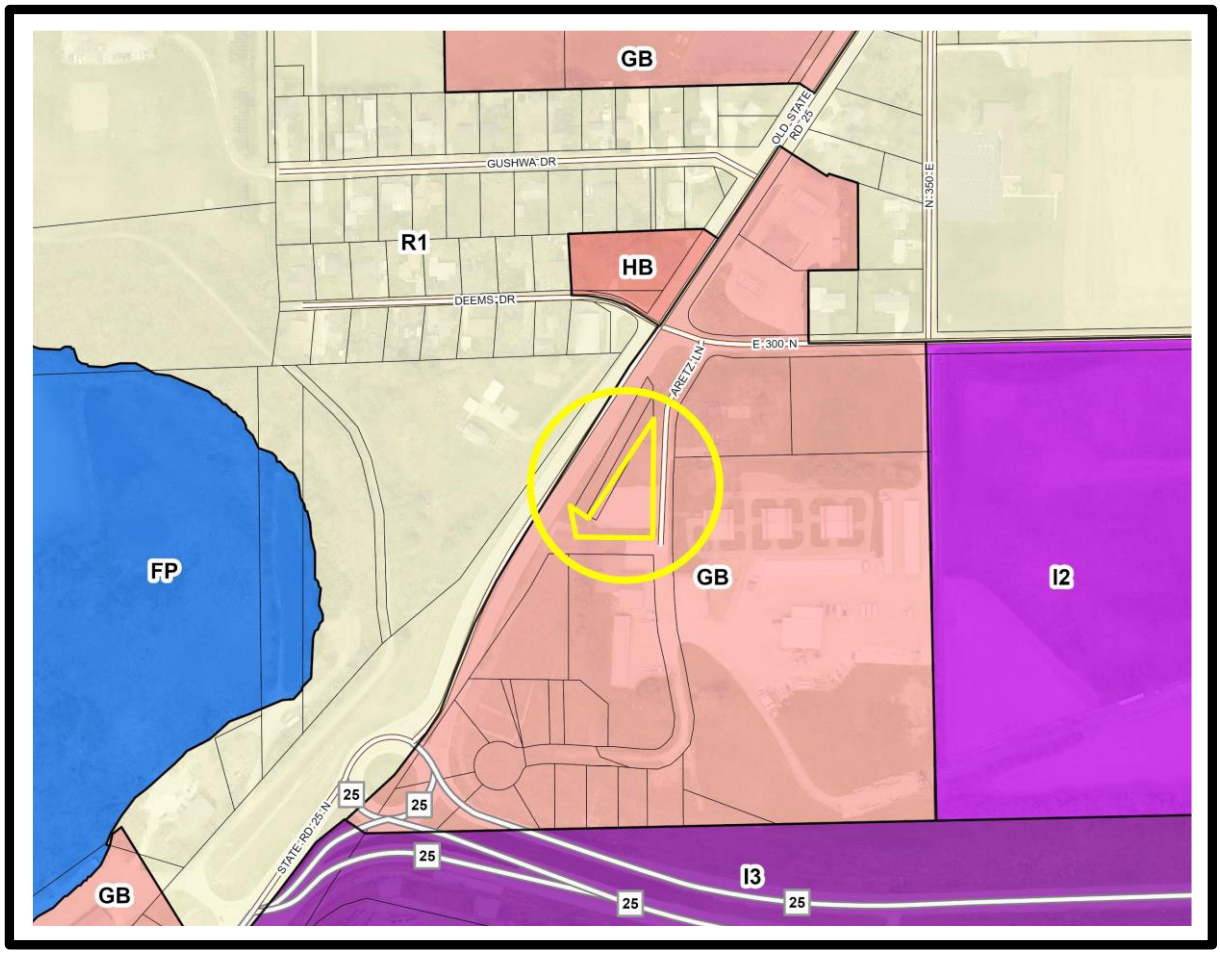
5a. The hardship involved **IS** self-imposed or solely based on a perceived reduction of or restriction on economic gain. A smaller house similar to the ranch style houses in the Sam Wilson subdivision would fit without a variance if they fronted Samola Drive instead of the highway.

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

STAFF RECOMMENDATION:
Denial

BZA-2041
MURTAUGH LAW, LLC
(variances)

STAFF REPORT
August 20, 2020



BZA-2041
MURTAUGH LAW, LLC
Variance

Staff Report
August 20, 2020

REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, attorney Reid Murtaugh, on behalf of the property owner Aretz LLC, is requesting a variance to allow a 1' setback from Old SR 25 N instead of the required 60' (UZO 2-17-7) for a new building on property located at 10 Aretz Lane, Fairfield 11 (SW) 23-4. Petitioner's client has a self-storage warehouse business on the former airport property; the new building would be an expansion of this existing business and would allow the storage of RVs, boats, and travel trailers.

Previously, a second variance request, to eliminate the requirement for each required off-street parking space to open directly onto an unobstructed maneuvering aisle, was part of the petition. After further staff review, it was determined that this request was unnecessary.

AREA ZONING PATTERNS:

This 0.486 acre tract was rezoned from R1 to GB by the county commissioners in June of this year, (Z-2793). The R1 zoning previously associated with this site was a remnant from the oldest zoning maps in Tippecanoe County. More recent rezones in this area occurred in 2013 when 10.89 acres (currently owned by petitioner's client) directly east and south of the subject site were rezoned from A and R1 to GB (Z-2534). A mix of GB, R1, I2 and I3 zoning is found in the area.

AREA LAND USE PATTERNS:

The tract in question is unimproved and triangular; the purchase of right-of-way for Old SR 25 to the west has resulted in an irregularly-shaped lot. Land to the east and south, formerly Aretz Airport, is owned by Aretz, LLC and is used for their self-storage warehousing business. The leasing office for the business is located in the building to the south of the site in question.

Other commercial and industrial users are located nearby with a few older single-family neighborhoods north of CR 300 North. A neighborhood of 9 single-family homes once existed south of the site but the homes were purchased and razed by the State for the Hoosier Heartland highway project.

TRAFFIC AND TRANSPORTATION:

Aretz Lane runs along the eastern and southern property lines of the site in question. This road, that connects to CR 300 N, and once served several houses to the south that are no longer there, would appear to be private based on the ingress-egress easement

information included on the site plan; however, the County GIS mistakenly shows Aretz Lane as public right-of-way. (According to the Highway Department, the county does not maintain this drive.)

A self-storage business is required to provide "3 parking spaces per 200 storage units, with the spaces located adjacent to the leasing office, plus 2 for a live-in manager." Since this proposed addition to the business would be for storing boats and RVs, it's not likely to meet the "200 storage unit" threshold. According to petitioner, between 8 to 12 units would be stored in the proposed building. There are no plans for a "live-in manager". There is an existing gravel parking area near the leasing office across Aretz Lane to the south. Parking in the GB zone is required to be paved and one of the three new required spaces must be handicapped accessible. Petitioner and his client will work out with the Building Commissioner the location of the required parking spaces on the ten-plus acre business site. It is possible an off-site parking agreement will need to be signed and recorded, or a deed combining the triangular tract with the rest of the business's landholdings east of Aretz Lane could be recorded making all the parking "on-site."

The State of Indiana still owns right-of-way along Old State Road 25 that was never officially transferred to the county. Additional right-of-way was acquired to construct the round-about associated with the new Hoosier Heartland. The construction of the road and elevation change required additional land for both embankment and drainage. Currently the total right-of-way width at the northern tip of the site in question is about 130' widening to the southern edge of the property to about 155' across. If measured from the edge of the highway's eastern shoulder (edge of pavement) to the northern tip of the property's triangle, there is 54' of right-of-way; measured from the shoulder to the southwestern tip of the triangle shape, there is about 73' of right-of-way. This is a much larger right-of-way than normal.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:
An on-site septic system was constructed in 2008 to serve a storage building that has since been razed. The owner is planning to utilize the existing system with the proposed structure. The fingers of the system are located north of the planned building and further minimize the buildable area.

STAFF COMMENTS:
Petitioner is requesting a setback of 1' from Old State Road 25 to construct a building to expand their existing personal storage facility. This site has three peculiarities that would suggest an uncommon situation and a hardship:

1. The 60' setback from Old SR 25 takes a huge portion of the triangular-shaped property and makes improving it a challenge.
2. The location of the existing septic system further limits where improvements could be located and
3. The wide right-of-way in this location, 73' between the property line and the edge of the shoulder, plus the elevation change within the right-of-way seems more than adequate separation between the roadway and a commercial building.

Regarding the ballot items:

1. The Area Plan Commission on July 15, 2020 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 setback variance will still provide an adequate distance from the traveling lanes of traffic because of the large right-of-way required to construct and maintain the embankment.

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. Adjacent property is owned by the property owner. Because of the large right-of-way and elevation shift, the highway will not be negatively impacted.

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 location of the septic field and well limit the design of the site as does the unusual shape of the site.

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 hardship in this case is the 60' setback on site does not provide a reasonable buildable area. Based on GIS the area of buildable land without this variance is only approximately 18% of the total lot because of its triangular shape. (The tract has 21,218 square feet / 3,920 square feet of it is within the building envelope making 82% of the tract unusable.)

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

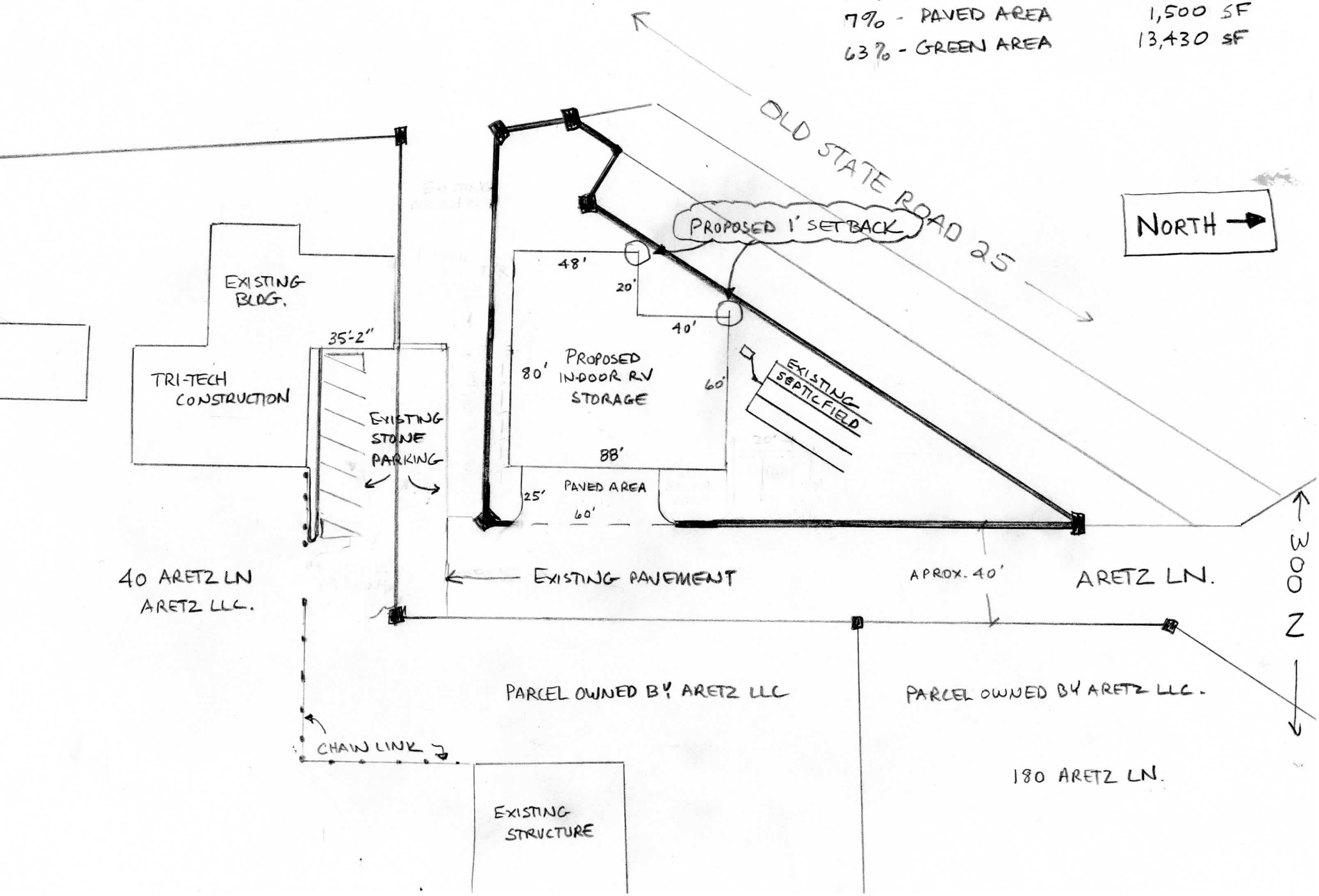
   5a. The hardship involved **IS NOT** self-imposed or solely based on a perceived reduction of or restriction on economic gain. The setback on this lot renders it nearly unbuildable.

   5b. The variance sought **DOES** provide only the minimum relief needed to alleviate the hardship. With the extra wide right-of-way, the hillside, and the unusual shape of the property, the variance proposed is needed to build on site.

STAFF RECOMMENDATION:
Approval

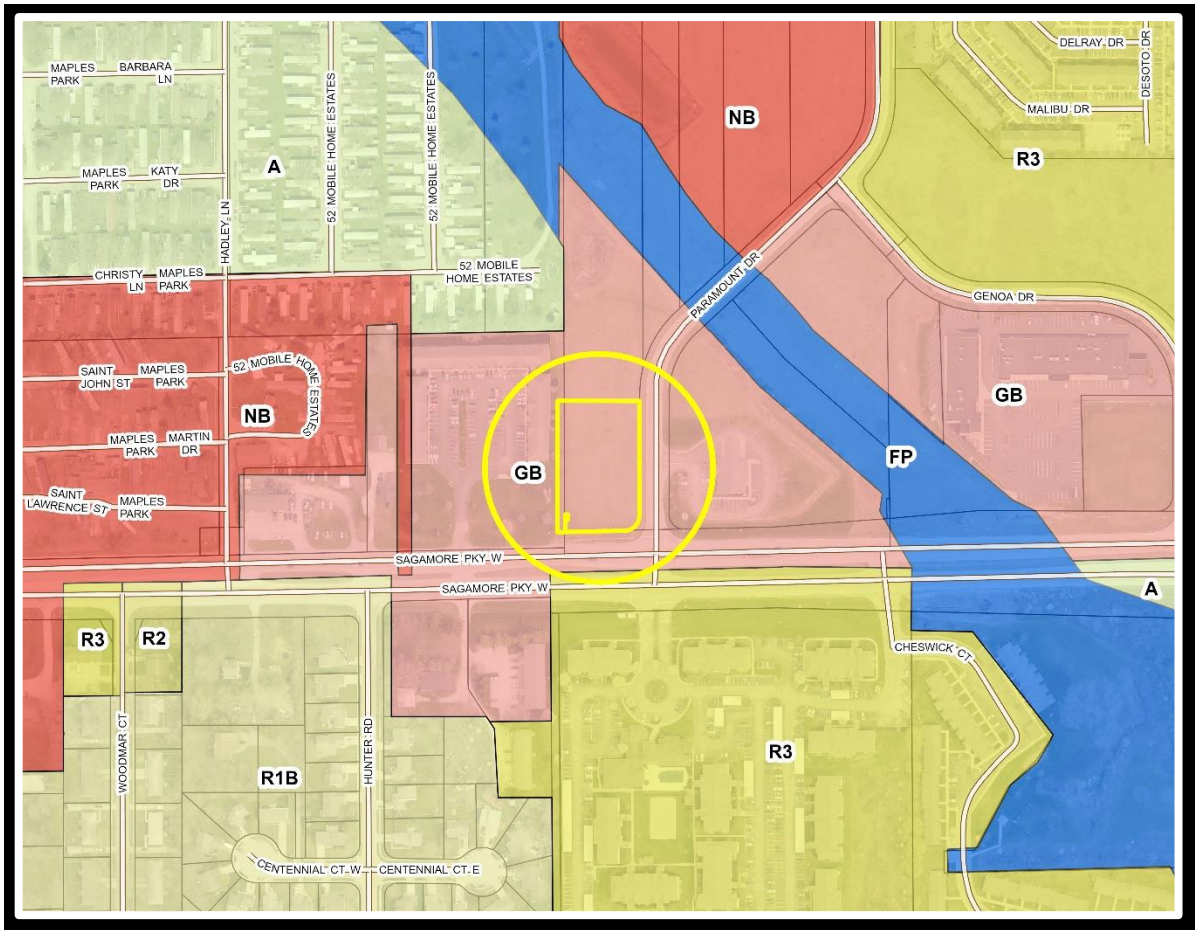
ARETZ LLC. - PROPOSED RV STORAGE

PARCEL AREA	21,170 SF
30% - BUILDING AREA	6,240 SF
7% - PAVED AREA	1,500 SF
63% - GREEN AREA	13,430 SF



BZA-2042
ZERN VESS
(variance)

STAFF REPORT
August 20, 2020



BZA-2042
ZERN NESS
Variance

Staff Report
August 20, 2020

REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, with consent of owner, is requesting a sign variance to allow 63.20 square feet of fascia signage instead of the maximum allowed 40 square feet for a new pizza restaurant. The restaurant would be one of three commercial tenants in a new integrated center located at the northwest corner of Sagamore Parkway West and Paramount Drive, also known as Lot 5 of Paramount-Lakeshore SD, Phase 1, Section 3 (S-4910). The property is commonly known as 3504 Paramount Drive, Wabash 2 (NE) 23-5.

AREA ZONING PATTERNS:

The subject property is zoned GB (General Business) and has been since it was rezoned in 2002 (Z-2026, NB to GB). Land surrounding to the west, north and east (across Paramount Drive) is also zoned GB. Land south across Sagamore Parkway West is zoned R3 with GB to the southwest. No variances or special exceptions have been granted for this land or any adjacent property.

AREA LAND USE PATTERNS:

The site in question is currently under development with the shell of the building nearing completion. A bank is located east across Paramount and an apartment complex is adjacent to the west. Adjacent to the north is undeveloped land. Farther north along Paramount are two apartment complexes; two additional complexes have recently been proposed for land north across the Cuppy McClure Ditch and land northeast of the subject site across Paramount. While some commercial uses can be found along Sagamore, the majority of properties is the area have apartment complexes.

TRAFFIC AND TRANSPORTATION:

The site is located at the northwest corner of Sagamore Parkway West (rural primary arterial) and Paramount Drive (urban local road). Access to the lot in question will be from Paramount. The intersection of Sagamore and Paramount is a fully signalized intersection.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:

Sewer and water serve the site. No bufferyard is required.

STAFF COMMENTS:

The land in this request was platted this past May and a building permit was issued in June for the commercial building Domino's pizza will occupy. The building will have 3

tenant spaces total, making this an Integrated Center (similar to a strip center). Signage for Integrated Centers is calculated for both the building signage and the free-standing sign. Building signage for each tenant is permitted at 5 square feet of signage per 1,000 square feet of gross floor area, with a minimum of 40 square feet guaranteed. (The tenant space for Domino's is only 1,800 square feet, which means they get the 40 square feet sign area minimum.) The freestanding sign size is based on the zoning, gross floor area and the speed limit along the public road. These calculations would allow a free-standing sign of 100 square feet with a maximum height of 24'. Petitioner plans on erecting a free-standing sign that is 98 square feet in size with a height of 24'.

Petitioner, who owns the land and is developing the site, will occupy the corner space closest to Sagamore Parkway. The submitted site plan shows 39.7 square feet of fascia signage oriented towards Paramount and 23.5 square feet of fascia sign oriented towards Sagamore Parkway to the south, thus exceeding the maximum allowed 40 square feet. Staff advised the petitioner that 20 square feet of signage could be placed on each side of the tenant's space without the need of a variance, but a larger sign package was chosen, and a variance was filed.

Regarding this case, the Area Plan Commission unanimously voted that the sign ordinance be strictly adhered to.

Regarding the ballot items:

1. The Area Plan Commission on August 19, 2020 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 because increased building signage oriented towards Paramount Drive will have no adverse effect on the traveling public.

3. Use and value of the area adjacent to the property included in the variance request **WILL** be affected in a substantially adverse manner. Petitioner's proposal is larger than permitted and would put neighboring businesses – who have signage conforming with ordinance requirements- at a disadvantage. Allowing additional signage would encourage these and other businesses in the area to request variances for larger than necessary signs.

4. The terms of the zoning ordinance are being applied to a situation that **IS** common to other properties in the same zoning district. There is nothing unusual regarding this lot's shape, size or topography.

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 because it is only petitioner's desire to have more signage than allowed that is creating a "hardship". This newly created lot enjoys a location at a fully signalized intersection with excellent

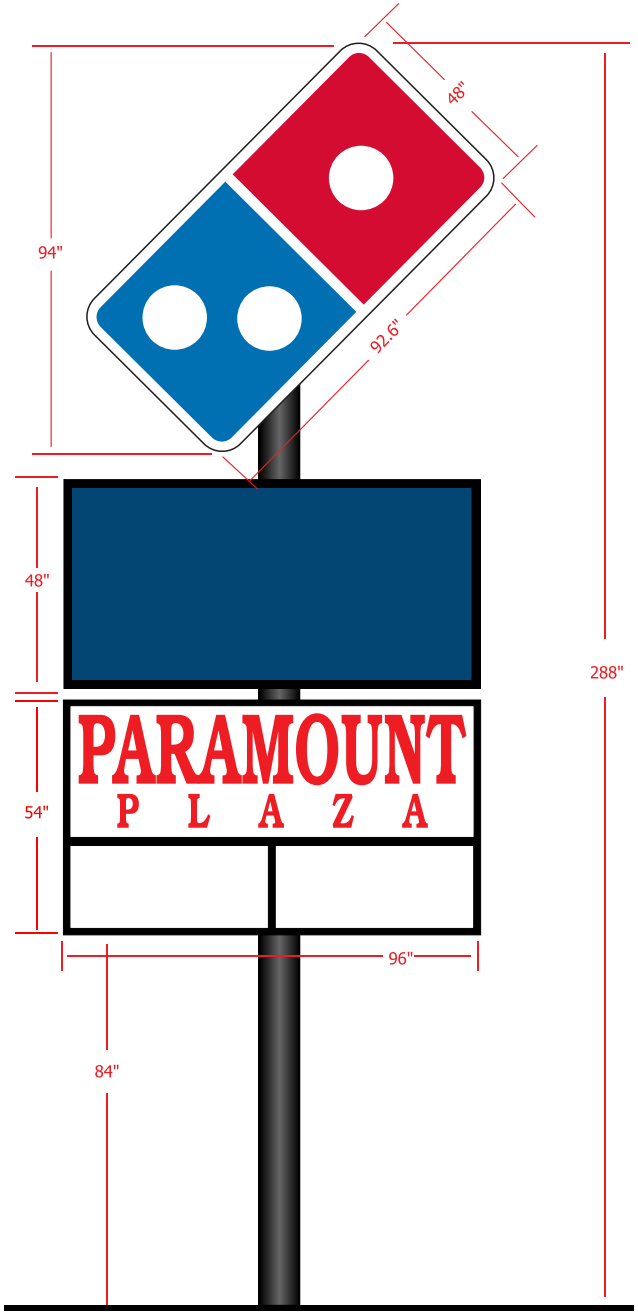
visibility.

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

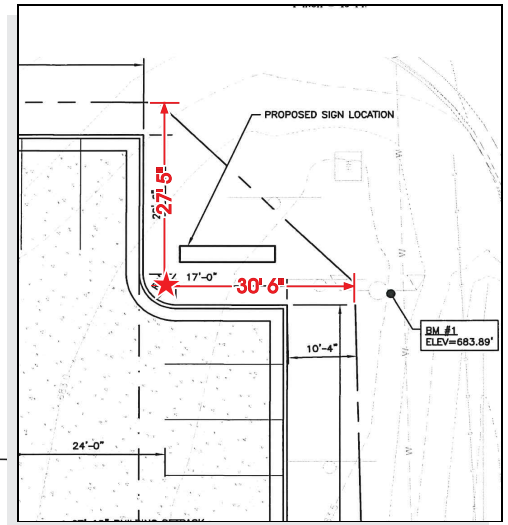
5a. Because there is no hardship involved, this request **IS** solely based on economic gain.

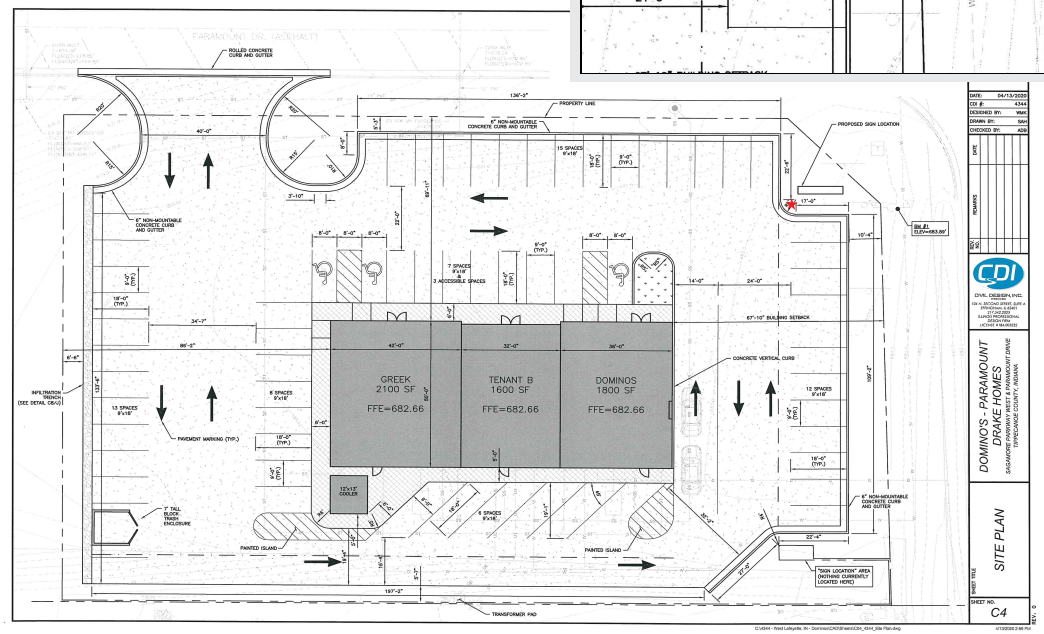
5b. The variance sought **DOES NOT** provide only the minimum relief needed to alleviate the hardship. There is no minimum relief because staff can find no ordinance-defined hardship in this request.

STAFF RECOMMENDATION:
Denial



★ PROPOSED SIGN LOCATION
Set back 27'5" Minimum from property line
on both sides





PROJECT NAME: Domino's
ADDRESS: 3502 Paramount,
CITY / STATE: West Lafayette, In
ZIP CODE: 47904

Designer: JDC
Proof Date: 7.7.20
Revision #: 1

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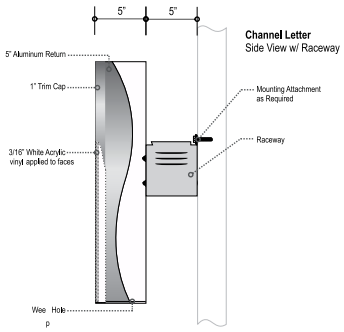
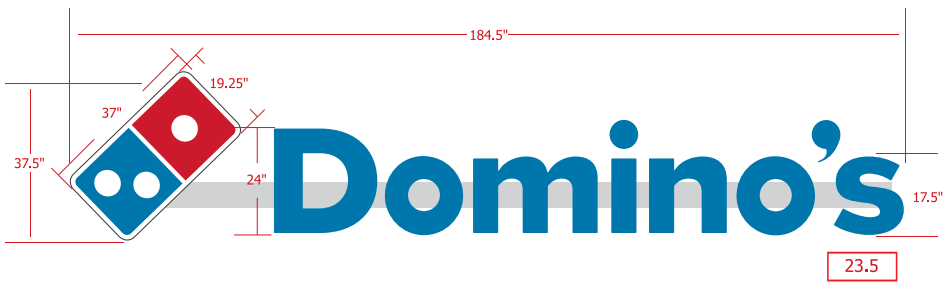
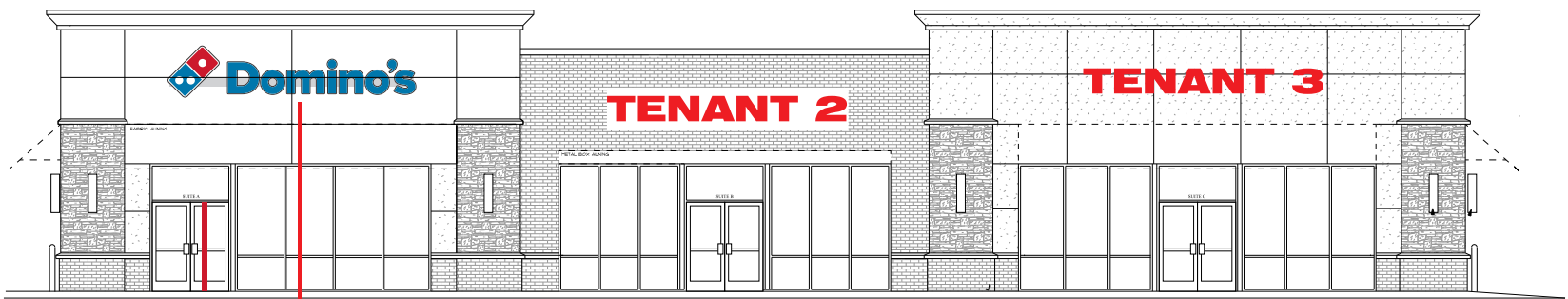
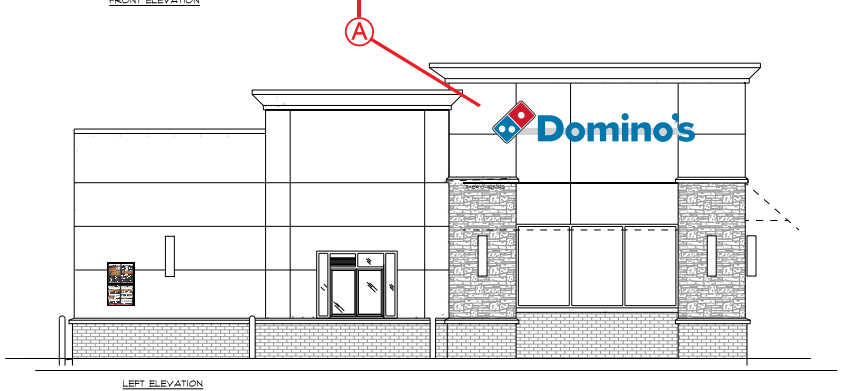
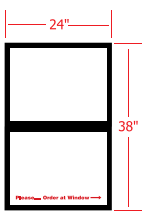




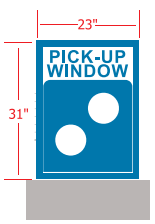
Ⓐ Channel letters mounted on Raceway







Single sided Illuminated Menu board



Double sided Illuminated Directional

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