NOTICE OF PUBLIC HEARING

DATE: OCTOBER 23, 2019
TIME: 6:00 P.M.
PLACE: COUNTY OFFICE BUILDING
20 N. 3RD STREET
LAFAYETTE, IN 47901

AGENDA

I. APPROVAL OF PREVIOUS MEETING MINUTES

Documents:

BZA 09.25.2019.PDF

II. NEW BUSINESS

III. PUBLIC HEARING

1. BZA-2024 AMBER D. DILLING:
   Petitioner is requesting a special exception to use the existing duplex as a two-unit Transient Guest House (as defined in the ordinance) in an R2 zone. The proposed hours of operation are 24 hours a day, seven days per week. The property is located at 601 S. 9th Street, Lafayette, Fairfield 28 (NW) 22-4. (UZO 3-2) WITH CONDITION. Continued from the September ABZA meeting to send notice to interested parties.

   Vote Results 6-Yes and 0-No

Documents:

BZA-2024 (SPECIAL EXCEPTION).PDF

2. BZA-2026 PRITHPAL SINGH GOTHRA AND PRADIP KAUR GOTHRA:
   Petitioners are requesting a variance to reduce the rear setback to 22.3’ from the minimum requirement of 25’ to construct a 14’ X 20’ sunroom addition. The existing house is on an R1B-zoned corner lot located at 1328 Roundtable Drive, Wabash 36 (SE) 24-5. (UZO 2-3-8)
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
The Area Board of Zoning Appeals of Tippecanoe County public hearing was held on the 24th day of September 2019 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

Steve Clevenger called the meeting to order.

I. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes from the August 28, 2019 Board of Zoning Appeals public hearing. Carl Griffin seconded and the minutes were approved by unanimous voice vote.

II. NEW BUSINESS

Ryan O’Gara said the petitioners for BZA-2024 AMBER D. DILLING have requested continuance to the October 23, 2019 Area Board of Zoning Appeals meeting.

III. PUBLIC HEARING

Steve Clevenger read the meeting procedures.

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. Carl Griffin seconded and the motion carried by voice vote.

Gary Schroeder moved to continue BZA-2024 AMBER D. DILLING to the October 23, 2019 Board of Zoning Appeals public hearing. Carl Griffin seconded and the motion was approved by unanimous voice vote.
BZA-2025 JOAN KLEMME:
Petitioner is requesting a variance to reduce the street setback to 14'-4" from the minimum requirement of 25' from Avondale Street to construct a 15' X 20’ garage addition. The existing house with attached garage is on an R1-zoned corner lot located at 3028 Covington Street, West Lafayette, Wabash 06 (NE) 23-4. (UZO 2-1-7)

Gary Schroeder moved to hear and vote on BZA-2025 JOAN KLEMME. Carl Griffin seconded.

Rabita Foley presented the zoning map, aerial photos, photos of the site, and site plan. She said this site and the surrounding properties are zoned R1. This site was granted a variance in 2005 to reduce the front setback from Covington Street. The front setback was reduced to 21-feet instead of the required 25-feet for the construction of a porch that has since been completed. In addition to the request of an additional garage, the petitioner's site plan shows an expansion of the driveway from 16-feet to 30-feet. Most houses in the area are of a similar size and lot size; there is nothing unusual about this lot size, shape or topography that would make it different. This site has a two-car garage which is uncommon in this area. An ordinance defined hardship could not be defined for this request. Continued use of this site as a single-family home will not be affected if this variance is denied. Staff is recommending denial because it does not meet the requirements of ballot item four or five.

Helen Klemme, 3028 Covington Street, West Lafayette, IN 47906, representative for the petitioner, thanked the Board for hearing the request. She said the main intent is to build a small garage for her retired brother to safely go in and out during inclement weather. There is room to ask for a larger space, but the small garage is enough for safe winter needs. She said she provided seven signatures of neighbors that are adjacent to the property that have no issue with the request. All the vision triangles and visibility for drivers and pedestrians are still clear and meet the ordinance. She said she would to happy to answer questions.

Steve Clevenger asked if the signed petition is present. He asked if the measurement of the setback is per the right-of-way or if the measurement is per the sidewalk. He asked where the right-of-way is in comparison to the sidewalk.

Ryan O’Gara said the setback measurement is from the sidewalk.

Tom Andrew said this area is where they put the dead-end barrier on Covington Street.

Carl Griffin asked if the City of West Lafayette would need to grant anything to widen the curb-cut.

Chad Spitznagle, 1200 N Salisbury, West Lafayette, IN 47906, said the city specs require a maximum 24-foot wide driveway. He said he spoke with the builder and the drive will be at the 24-foot max; it will not be at the 30-foot called for in the plans. The expansion will loop in for the driveway to meet city specs.

Carl Griffin asked if would be correct to say that the City of West Lafayette does not have a problem with the driveway.

Chad Spitznagle said that is correct; they have worked close with Helen, Joan, and Father Bob to add this garage.

Carl Griffin asked how the Board will creatively deal with ballot questions four and five.

Gary Schroeder said in his opinion, this is just a small lot as many lots are in this area. The needs expand and sometimes you must encroach in those setbacks. He said it appears this setback will not do any harm as there is not a lot of traffic in this area with the dead end.
Steve Clevenger asked if the houses along Avondale Street are closer together than those on Covington Street.

Rabita Foley said the houses appear to be at a 25-foot setback on Avondale just as they are on Covington.

The board voted by ballot 5-Yes and 0-No to approve BZA-2025 JOAN KLEMME.

IV. 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.

V. ADJOURNMENT

Gary Schroeder moved for adjournment.

The meeting adjourned at 6:16 p.m.

Respectfully submitted,

Chyna Lynch
Recording Secretary

Reviewed by,

Sallie Dell Fahey
Executive Director
REQUEST MADE, PROPOSED USE, LOCATION:
Petitioner, who is also the owner, is requesting a special exception for a Transient Rental House (as defined in the ordinance) on an R2 zoned corner lot in the Ninth Street Hill Neighborhood. The short-term rental business would operate in the existing duplex 24 hours a day, seven days a week. The duplex is located at the southeast corner of Elliot and 9th Streets, more specifically at 601 S. 9th Street, Lafayette, Fairfield 28 (NW) 23-4.

AREA ZONING PATTERNS:
The property in this request along with the adjacent lot to the south and the lot to the north across Elliot Street are zoned R2 (Single-Family and Two-Family Residential). R1B zoning exists to the west across 9th Street. The properties to the east are zoned R2U. Farther to the south, NBU and NB zones exist. In May of 2019, a special exception request for a transient guest house in the Valley Center neighborhood, northeast of the subject property, was approved by the Board (BZA-2013).

AREA LAND USE PATTERNS:
The site has a two-unit dwelling and a detached garage. The subject property is located in the Ninth Street Hill neighborhood. Single-family and two-family residences dominate both Ninth Street Hill and Wallace Triangle neighborhoods (adjacent to the east).

TRAFFIC AND TRANSPORTATION:
This corner lot has two frontages: 9th Street, a primary arterial and Elliot Street, a local road. The access to the site is from Elliot Street; there is no driveway on 9th Street.

The parking standard for a Transient Rental House is 2 spaces per dwelling unit. The site plan shows two parking spaces in the garage and two legally nonconforming parking spaces on the driveway (The existing space does not meet the parking space requirement of 18’ x 9’). No additional parking is required for the transient guest house use because the required parking for a duplex is the same. The operator would have to provide and manage adequate parking (in the garage and on the driveway) on site for two transient rental units.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:
City utilities serve the site.

STAFF COMMENTS:
Petitioner is seeking a special exception to use the existing 3,062 sq. ft. two-unit structure as a Transient Rental House (a type of short-term rental use where the building does not have to be owner-occupied). According to the Assessor’s office, the dwelling units and the detached garage were built in 1910. Petitioner recently purchased the site in the request as an investment property. One of the units is currently used as a long term rental. If approved,
petitioner plans to rent both units (Unit #1 has three bedrooms and Unit #2 has one bedroom) on a short-term basis.

The site plan shows the primary structure (the duplex) with a 20-foot setback from 9th Street and the accessory structure (a detached garage) with a 0-foot rear setback. The UZO requires a 60 feet setback from 9th, a primary arterial and a 4 foot rear setback for an accessory structure (calculated counting ½ the width of an abutting 12 foot wide public alley as part of the required 10 foot setback). Structures like these which entirely or in part do not meet the minimum requirements such as front, rear or side setbacks, and lawfully existed at the time those requirements became effective are defined in the ordinance as nonconforming structures. Petitioner is not proposing any changes to the existing condition on site for the two short-term rental units. However, if this request is approved, the nonconforming structures occupied by a permitted use on the site 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.

The petition does not specify the proposed number of adults in each unit. As per the ordinance a dwelling unit can only house a family which is defined as "one or more persons related by blood, marriage or adoption and not more than two unrelated persons living as a single housekeeping unit." Therefore, each unit in this request must adhere to this "family" definition while in operation.

Two front porch lights, one light at the back door, and a motion activated floodlight outside the garage exist on the site. No additional lighting is proposed for this use. As required by the ordinance, the petitioner is not proposing any signage on site nor any change to the exterior of the dwelling that would lessen its appearance as a residence. If this request is granted, the petitioner is required to apply for a permit from the Administrative Officer (Lafayette City Engineer) to operate two units as a Transient Rental House.

At its meeting on September 4, 2019 the Executive Committee of the Area Plan Commission voted that granting this request would not substantially adversely affect the Comprehensive Plan.

Regarding the ballot items:

1. Section 3.1 of the Unified Zoning Ordinance DOES authorize the special exception for a Transient Rental House (as defined in the ordinance) in the Single-Family and Two-Family Residential zoning district.

And it is staff’s opinion that:

2. The requirements and development standards for the requested use as prescribed by the Unified Zoning Ordinance WILL be met because the structures on site existed lawfully prior to the inception of zoning. Furthermore, no change is proposed to the existing structure for this use. Part of the existing parking is legally nonconforming.

3. Granting the special exception WILL NOT subvert the general purposes served by the Ordinance because the property would still be used as a rental property for one family per unit.
4. Granting the special exception **WILL NOT** materially and permanently injure other property or uses in the same district and vicinity because of the following:

   a. Traffic generation: The traffic generated due to this use would be no different than other homes in this neighborhood because each unit will be rented to one family at a time;

   b. Placement of outdoor lighting: No additional lighting is proposed;

   c. Noise production: Noise associated with two families renting these units for a short term in a residential neighborhood would be similar to other homes in the area;

   d. Hours of operation: 24 hours a day, 7 days a week is the same as any other two-family use in the surrounding neighborhood.

**STAFF RECOMMENDATION:**
Approval with the following condition:

**Condition**

1. A permit to operate two Transient Rental Houses must be obtained from the City of Lafayette.

Note: A special exception approval ceases to be valid if the use is not established (**open for business**) within one year of the date that the special exception was granted.
BZA-2026
PRITHPAL SINGH GOTHRA AND PRADIP KAUR GOTHRA
(variance)

STAFF REPORT
October 17, 2019
REQUEST MADE, PROPOSED USE, LOCATION:
Petitioners, who are represented by their agent Connie Vanetten, are requesting a rear setback variance of 22.3' instead of the required 25' to allow for a room addition to their home. The site is located on Lot 235 of Hadley Moors Subdivision and is commonly known as 1328 Roundtable Drive, Wabash 36 (SE) 24-5.

AREA ZONING PATTERNS:
The property and all surrounding land is zoned R1B, single-family residential.

AREA LAND USE PATTERNS:
The lot in question supports a two-story single-family home with an attached 2-car garage and an attached deck. All surrounding properties are used similarly.

TRAFFIC AND TRANSPORTATION:
Petitioner’s property is located at the northwest corner of Roundtable Drive and North Candlewick Lane, both classified as rural local roads in The Thoroughfare Plan.

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

STAFF COMMENTS:
This variance is being requested so that petitioners can add a 14’ x 20’ sunroom addition to the rear of their home. The submitted site plan indicates that the existing 14’ x 20’ attached deck (which will remain) is also within the setback and has the same setback as the proposed sunroom: 22.3’. However, based on UZO 4-4-4 (c), an unroofed deck, whether attached to a primary use building or not, is considered an accessory structure and may extend within 4’ of the rear lot line. This means a variance was not needed to build the deck; however, there is also a 25’ wide utility and drainage easement both the deck and the proposed sunroom would encroach by 2.7’. Because of the age of the permit for the deck (2001), staff is unable to determine if an encroachment agreement was granted by the utility companies; the County Surveyor has no record of any type of encroachment agreement for this deck.

Petitioners’ lot was platted with the typical 25’ rear setback for the primary use building that is required for R1B land and a drainage and utility easement. Petitioner has submitted letters to staff from the County Surveyor’s Office and the utility companies who
have a right to use the entire easement (cable TV, phone and fiber/internet) stating that they have no objection to the proposed sunroom addition. Unfortunately, petitioner’s desire for a sunroom of this size and shape does not mean the ordinance is creating an unnecessary hardship. There is nothing peculiar regarding this lot that would justify the need for this request.

Regarding the ballot items:

1. The Area Plan Commission on October 16, 2019 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. If approved, the addition will still be 22.3’ from the rear property line, which would be free and clear of any existing utility use and maintenance of the easement per the utility companies and the Surveyor’s Office.

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. Adequate space will exist between this addition and neighboring homes with a reduced setback of 22.3’ instead of the required 25’.

4. The terms of the zoning ordinance are being applied to a situation that IS common to other properties in the same zoning district. The corner lot in question is not unusual with regard to its shape, size and topography. A slightly smaller sunroom could be built without the need for a variance.

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. Adequate room exists to build an addition that would meet the setbacks; the variance requested would allow an addition of 14’ x 20’ which could be reduced to 11.3’ x 20’ or reconfigured to include a similar square footage.

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. It is only petitioner’s desire to build a larger sunroom that is causing the difficulty, not the ordinance. An addition of the same or similar square footage could be built if reconfigured.

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

STAFF RECOMMENDATION:
Denial