THE AREA BOARD OF ZONING APPEALS OF TIPPECANOE COUNTY

NOTICE OF PUBLIC HEARING

DATE: OCTOBER 27, 2021
TIME: 6:00 P.M.
PLACE: COUNTY OFFICE BUILDING
20 N. 3RD STREET
LAFAYETTE, IN 47901

AGENDA

This meeting will be in person.

Members of the public may choose to watch on the livestream of the meeting on https://www.facebook.com/TippecanoeCountyIndiana or https://www.youtube.com/channel/UCJLeeA9ZQo9E1GdZTdjurQ

I. APPROVAL OF PREVIOUS MEETING MINUTES

Documents:

BZA MINUTES 09.22.2021.PDF

II. NEW BUSINESS

III. PUBLIC HEARING

1. BZA-2062 JAMES M TYLER AND JENNIFER L NEVILLE
   Continued at petitioner’s request to the December 1st public hearing.

   Petitioner is requesting the following setback variances for a proposed 44 x 28 324 square foot (revised 9/22/21) swimming pool in an R1 (Single-Family Residential) zone:

   1. To reduce a front setback to 4 feet 12 feet from the minimum requirement of 25 feet from the front lot line (UZO 2-1-7) (revised 9/22/21) and
2. To reduce a side setback to 12 feet from the minimum requirement of 25 feet from the front lot line (UZO 2-1-7) (revised 9/22/21) on property located at 705 Bexley Road, (Lot 16 in Hills and Dales Addition), West Lafayette, Wabash 18 (SE) 23-4. Continued from the September 2021 ABZA Hearing by inconclusive vote.

2. BZA-2063 REONS, LLC
Continued at petitioner’s request to the December 1st public hearing.

Petitioner is requesting the following 4 variances to legitimize an existing multi-family dwelling (originally constructed as Chauncey Townhomes planned development) and to permit the addition of a bedroom to allow a three-bedroom unit in an R4W (Single-Family, Two-Family, and Multi-Family Residential) zone:

1. To allow a lot width of 50.68 feet instead of the required 70 feet (UZO 4-2-1);
2. To allow a 21-foot front setback instead of the required 25-foot setback (UZO 4-2-2); (revised 10/21/2021; After further review, this variance is unnecessary)
3. To allow a 10-foot side setback instead of the required 25-foot (UZO 4-2-2);
4. To allow 5 parking spaces instead of the required 9 parking spaces (UZO 4-6-4);

on property located at 302 N. Chauncey Avenue, West Lafayette, Wabash 19 (NE) 23-4.

3. BZA-2064 MARK YOUR SPACE, MICHAEL SOBEL
Continued at petitioner’s request to the December 1st public hearing.

Petitioner is requesting the following sign variances for a Freightliner dealership and service center for commercial truck fleets (Truck Country) in an I3 (Industrial) zone:

1. To allow the total signage on the sign-lot to be 701.75 square feet instead of the maximum allowed 260 square feet (UZO 4-8-6);
2. To allow a freestanding sign height of 60 feet instead of the maximum allowed 24 feet (UZO 4-8-6);
3. To allow a freestanding sign measuring 251.75 square feet instead of the maximum allowed 160 square feet (UZO 4-8-6);
4. To allow a different freestanding sign near Hine Drive measuring 80 square feet instead of the maximum allowed 40 square feet (UZO 4-8-6); and
5. To allow a sign setback of 43 feet instead of the required setback of 60 feet (sign setback is equal to sign height) (UZO 4-8-6);

on property located at 6584 Hine Drive, Dayton, Sheffield 5 (S1/2) 22-3.

Documents:
4. BZA-2065 BOARD OF COMMISSIONERS OF TIPPECANOE COUNTY
   WITHDRAWN; After further staff review, this parking variance is unnecessary.

   Petitioner is requesting a variance to allow 125 parking spaces on site rather than the required 210 spaces for an expansion of the county correctional facility located at 2800 N. Ninth Street Road, Fairfield, Longlois Reserve, 23-4 (UZO 4-6-4).

5. BZA-2066 BOARD OF COMMISSIONERS OF TIPPECANOE COUNTY
   Petitioner is requesting a special exception to allow the expansion of the county’s Community Corrections Work Release facility, operating 24 hours per day, seven days per week, at 2800 N. Ninth Street Road, Fairfield, Longlois Reserve, 23-4.

   **Vote Results 7-Yes and 0-No**

   Documents:

   BZA-2066 BOARD OF COMMISSIONERS OF TIPPECANOE COUNTY.PDF

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](http://www.tippecanoe.in.gov/ada)
The Area Board of Zoning Appeals of Tippecanoe County public hearing was held in-person on the 22nd day of September 2021 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

Steve Clevenger called the meeting to order at 6:00 PM.

I. APPROVAL OF MINUTES

Gary Schroeder moved to approve the minutes from the August 2021 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.

Steve Clevenger read the meeting procedures, and called the first case.

**BZA-2061 QUIKTRIP CORPORATION:**

Petitioner is requesting the following sign variances for a proposed gas station/convenience store in an HB (Highway Business) zone:

1. To allow 132.6 square feet of signage instead of the maximum permitted 40 square feet on a freestanding “monument” sign (UZO 4-8-6) (revised 9/15/21);

2. To allow a sign setback of 20 feet instead of the required setback of 36 feet (sign setback is equal to sign height) on the same freestanding “monument” sign (UZO 4-8-6) (revised 9/15/21); and
To allow a total sign area on site of 334.36 square feet (composed of the freestanding “monument” sign near SR 43, and five fascia signs) instead of the maximum permitted 216 square feet (UZO 4-8-6) (revised 9/15/21);

on property located at 1973-1887 Northgate Court, (lots 1-4 in Gateway Park Commercial Subdivision), Battle Ground, Tippecanoe 28 (NE) 24-4. With condition. CONTINUED FROM THE AUGUST ABZA MEETING AT PETITIONER’S REQUEST. FIRST CONTINUANCE.

Gary Schroeder move to hear and vote on BZA-2061 QUIKTRIP CORPORATION. Jen Dekker seconded.

Maureen McNamara presented the staff report, zoning map, site plan, ground-level photos and aerial photos. She noted that the site is located at the I-65 / SR 43 interchange, and that the subject parcel and surrounding properties are zoned General Business. The site plan shows access from three entrances along Northgate Court, but the site plan has yet to be fully reviewed by all checkpoint agencies, as the property has not yet been platted.

Ms. McNamara noted that grant of the request is not merited, as there exists nothing unique to the site, physically or operationally, which warrants grant of a variance. The site could be served well with a sign program that honors zoning ordinance requirements and restrictions. As the required findings of fact have not been met, staff recommends denial of the three variance requests.

Attorney Kevin Riley, representing the petitioners, spoke in favor of the variance requests. He noted that the location is badly in need of a breath of new life, and that Quiktrip is willing to make that investment. He spoke of the goods and services that the store will make available. He also noted that officials from the Town of Battleground supported the request and were present in the audience tonight.

Mr. Riley asserted that the findings of fact are met by the requests and asked for approval.

J. D. Dudley, Real Estate Project Manager for Quiktrip, spoke in favor of the request. He stated that he’d met with INDOT and resolved concerns about traffic flow into the site off SR 43.

Greg Jones, 102 Tipton Street, Battleground, Indiana, representing the town council, spoke in favor of the request. He noted that Quiktrip has made the changes in the proposed project that the council requested, and so now is in support of it.

James Miller, 131 North Railroad Street, president of Battleground Town Council, spoke in favor of the request. He noted that the town “feels fortunate to have a corporation of this quality and magnitude coming into our area”.

Mr. Clevenger asked if anyone wished to speak in opposition to the request. There was no response. He called for a vote.

Mr. Burns collected the ballots and tallied the votes and noted five votes in favor, and zero votes against all three requests.

Gary Schroeder move to hear and vote on BZA-2062 TYLER & NEVILLE. Jen Dekker seconded.

BZA-2062 JAMES M. TYLER AND JENNIFER L. NEVILLE:
Petitioners are requesting the following setback variances for a proposed 14’ x 28’ swimming pool in an R1 (Single-Family Residential) zone:
1. To reduce a front setback to 4 feet from the minimum requirement of 25 feet from the right-of-way of Ravinia Road; (UZO 2-1-7) and
2. To reduce a side setback to 4 feet from the minimum requirement of 25 feet from the right-of-way of Bexley Road; (UZO 2-1-7)

on property located at 705 Bexley Road, (Lot 16 in Hills and Dales Addition), West Lafayette, Wabash 18 (SE) 23-4.

David Hittle presented the staff report, zoning map, site plan, ground photos and aerial photos. He noted that the subject site is zoned R1 and is located in the Hills and Dales subdivision. The request, if approved, would allow for development of a swimming pool with a 21-foot setback from the public right-of-way. The request, which originally sought a 4-foot setback, was amended just earlier today to request the 12-foot setback.

He noted that the privacy fence goes a long way toward obscuring the pool from surrounding properties and streets, but that the request ultimately is not merited because it fails to meet the required findings of fact. Staff recommends denial.

Mr. Hittle read a letter of opposition, co-written by neighbors in the area, sent to APC offices.

Attorney Marianne Owen, representing the petitioner, spoke in favor of the petition. She noted that the petitioner did amend the request earlier in the day, increasing the proposed setback from 4 feet to 12 feet, thus decreasing the intensity of the variance request. She noted that the best location for the swimming pool is the one proposed, and so a variance is necessary and merited.

Tim Bagall, 1007 Ravinia Road, spoke in opposition to the petition. He noted that he was also representing two other neighbors. He stated that the proposed pool would represent a significant deviation from the existing development in the area. He also expressed concern for the fate of a notable oak tree if the swimming pool were to be built in its proposed location.

Tyler Ochs, representing Mike Shue, guardian of an adjoining property owner, spoke against the variance request. He noted that the pool in its proposed location would likely cause a noise issue. He also asserted that no hardship exists which warrants grant of the variance.

Attorney Marianne Owen, representing the petitioner, spoke in rebuttal. She noted that the construction of the pool would not harm the oak tree mentioned earlier, and she asserted her earlier claim that the proposed location of the pool is the best one.

Steve Clevenger asked if there are utilities existing underground near the proposed pool location.

Marianne Owen responded, noting that the pool’s location also takes into consideration the location of existing utilities.

Mr. Clevenger asked for any additional comments or questions. There were none. He called for a vote.

Mr. Burns collected the ballots and tallied the votes and noted three votes in favor, and two votes against both variance request components. Mr. Clevenger noted that the indecisive vote will necessitate an automatic continuance to the next ABZA meeting, October 27, 2021.
IV. ADMINISTRATIVE MATTERS

David Hittle spoke about APC staff’s intention to amend public notification practices, which will include an expanded lead time for mailing public notice and a re-formatted public notice letter intended to be easier to understand by the layperson.

V. ADJOURNMENT

Gary Schroeder moved for adjournment, and Jen Dekker seconded. All agreed to the motion.

The meeting adjourned at 6:16 p.m.

Respectfully submitted,

David Hittle
Executive Director
BZA-2064
MARK YOUR SPACE, MICHAEL SOBEL
(variances)

STAFF REPORT
October 21, 2021
ILLUMINATED PYLON:
Sign Face: 14’ 3” x 17’ 8”
Sign Face Sq. Ft.: 251.75
Overall Height: 60’

NOT TO SCALE

LIGHTED DIMENSIONAL
LOGO WALL SIGN:
24’ x 6.5’
Black lettering should light up
to white at night when lit.

DETROIT/CUMMINS
LIGHTED BOX SIGNS:
4’ x 4’
Cummins sign provided
by Cummins. Detroit sign
to be produced by vendor.
LAFAYETTE, IN - EXTERIOR SIGNAGE - VARIANCE REQUEST

LIGHTED DIMENSIONAL
LOGO WALL SIGN:
28' x 7'
Black lettering should light up
to white at night when lit.

DETROIT/CUMMINS
LIGHTED BOX SIGNS:
4' x 4'
Cummins sign provided
by Cummins. Detroit sign
to be produced by vendor.
REQUEST MADE, PROPOSED USE, LOCATION:
Petitioner, with consent from the owner, Jim Kane, Vice President of Wausau Limited, LLC, is requesting 5 sign variances for Truck Country, a Freightliner dealership and service center for commercial truck fleets. The variances requested are:
1. An overall signage amount of 701.75 square feet instead of the maximum allowed 260 square feet;
2. A freestanding sign height of 60 feet instead of the maximum allowed 24 feet (the I-65 sign);
3. A freestanding sign measuring 251.75 square feet instead of the maximum allowed 160 square feet (the I-65 sign);
4. A freestanding sign measuring 80 square feet instead of the maximum allowed 40 square feet (the Hine Drive sign); and
5. A freestanding sign setback of 43 feet instead of the required 60 foot setback (the I-65 sign).
The property is located in Dayton and is commonly known as 6584 Hine Drive, Sheffield 05 (SW) 22-3.

AREA ZONING PATTERNS:
The site is zoned I3 (Z-2723, May 2018) as is land to the north. Additional I3 zoning is located to the east across the future Yost Drive and west across I-65. Land south across Hine Drive is zoned HB, except for one lot that was rezoned to GB (Z-2749, 2018). The most recent variance heard by the Board in this area was in 2014 for land directly east of the subject property, MacAllister Machinery. This variance allowed a reduction in the parking requirement (BZA-1922). The most recent sign variance heard for property in the area was in 2010 when MacAllister Machinery was denied a request to erect additional signage (BZA-1812).

AREA LAND USE PATTERNS:
The site contains the newly constructed Truck Country, a truck dealership for commercial freightliners. MacAllister Machinery is located to the east. South of the site across Hine Drive is a compressed natural gas station. Land to the north is currently unimproved and the entrance/exit ramps for I-65 border the site to the west.
TRAFFIC AND TRANSPORTATION:
The site is located on the north side of Hine Drive, a local road that dead-ends at the interstate right-of-way. Access to the site from SR 38 is via Yost Drive (another local) and Hine. Traffic counts taken in 2019 indicate that over 46,000 vehicles pass this site daily on I-65.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:
Sewer and water serve the site.

STAFF COMMENTS:
Truck Country is a freightliner dealership and service center, catering to commercial truck fleets. It is not the type of business that receives impulse customers. The newly constructed 37,400 square foot building is nearing completion at the interchange of I-65 and SR 38 on about 25 acres of land. The site has excellent visibility from I-65; State Road 38 provides easy access to the site via Yost Drive.

Variance #1 would allow a total of 701.75 sq. ft. of overall signage, detailed as follows:

1. A freestanding sign of 251.75 sq. ft.;
2. A second freestanding sign of 80 sq. ft.;
3. Fascia signs on the west side of the building totaling 188 sq. ft.; and
4. A fascia sign on the east side of the building of 182 sq. ft.

Staff completed a sign worksheet and the site is permitted 260 sq. ft. of total signage by right, so this variance would permit a 269% increase from the permitted amount of signage.

It should be noted that after this request was filed petitioner applied and received a permit to install the 182 sq. ft. fascia sign on the east side of the building (#4 above), leaving behind 78 sq. ft. of available signage. Additionally, the site plan shows a very large truck display platform directly behind the freestanding sign along the interstate ramp measuring approximately 135 feet by 45 feet. This type of signage (presumably trucks and large vehicles will be parked here) is unregulated and does not count towards allowed signage.

Variances #2, #3 and #5 all have to do with the freestanding sign proposed for the area near the entrance ramp for I-65. Petitioner is asking for an increased size (251.75 instead of 160 sq. ft.), increased height (60 instead of 24 feet) and a reduced setback (43’ instead of the required 60 feet). Staff believes that a 160-sq. ft. sign, 24 feet tall with a setback of 24 feet is of sufficient size and in an excellent location to advertise the business.

According to the application, petitioner states that “truckers will need to see the facility in time to safely exit the highway and safely navigate the standard street.” While staff does not disagree that truckers need to safely navigate to their destinations, staff thinks that a larger, taller, closer sign is simply unnecessary when every truck on the road today uses GPS.
Additionally, due to the nature of the business being a destination for other businesses interested in purchasing a fleet of trucks, not an impulse stop, staff questions the belief that there is a need to advertise to passing motorists who would spontaneously patronize the business.

Outside of Lafayette’s South Street/SR 26 exit, very few high-rise signs exist along the interstate in Tippecanoe County. One such sign proposed the previous month in Battle Ground was removed from the requested sign package prior to hearing…and this for a gas station/convenience store that motorists would need to spontaneously patronize. Once a variance is granted for a high-rise sign at an interchange, it becomes harder to prevent multiple high-rise signs from being erected (See Lafayette’s South Street/SR 26 exit). If absolutely needed, a billboard well before the exit would be preferable to staff.

Variance #4 would allow a freestanding sign on the east side of the property to be 80 sq. ft. instead of the maximum allowed 40 sq. ft. This proposed sign would meet the required setback. Staff believes a sign of 40 sq. ft. is more than adequate for a local street such as Hine Dr. This sign, whether 40 sq. ft. or doubled in size, would not be visible to motorists traveling on the interstate or SR 38, but is rather meant to direct patrons once they are near the site.

Regarding the ballot items:

1. The Area Plan Commission at its October 20, 2021 meeting determined that the variances requested ARE NOT use variances.

And it is staff’s opinion that regarding all 5 variances:

2. Granting these variances WILL NOT be injurious to the public health, safety, and general welfare of the community. The increased signage and decreased setbacks requested will have no negative impact on public safety.

3. Use and value of the area adjacent to the property included in the variance request WILL be affected in a substantially adverse manner. Increased signage, taller signs and decreased setbacks for signs presents an unfair advantage for surrounding properties and future businesses.

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 with these 25 acres relative to its shape, size, or topography. There is no vegetation obscuring the site. In fact, the elevated portion of I-65 at the interchange gives this site very clear visibility.

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. This site could have a freestanding sign along I-65 up to 160 sq. ft. and 24’ tall which would be large enough and tall enough to be seen from the interstate by passing motorists. Petitioner could rent space on a billboard at a safe location away from the interchange.
Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. The hardship involved IS self-imposed or solely based on a perceived reduction of or restriction on economic gain. The overall amount of signage allowed by the ordinance is appropriate for this area with such good visibility from the highway. It is only petitioner’s belief that increased signage will result in an economic gain.

5b. The variance sought DOES NOT provide only the minimum relief needed to alleviate the hardship. Staff can find no hardship as defined in the zoning ordinance.

STAFF RECOMMENDATION:

Variance #1: Denial
Variance #2: Denial
Variance #3: Denial
Variance #4: Denial
Variance #5: Denial
REQUEST MADE, PROPOSED USE, LOCATION:
Petitioner, by Board President Thomas P. Murtaugh, is requesting a special exception to expand the county’s Community Corrections Work Release facility (SIC 9223 – Correctional Institutions) permitted under a previous special exception (BZA-1473) approved by the ABZA in July of 1998. The proposed expansion would not change the number of occupants (168 persons), but would increase the number of employees on site by eight people. The facility, which operates 24 hours per day, seven days per week, is located on a 15.95-acre tract at 2800 N. 9th Street Rd., Fairfield, Longlois Reserve (W1/2) 23-4.

AREA ZONING PATTERNS:
The site is zoned I3 and FP; a floodplain certification was filed during the previous special exception request, so the area outside of the Flood Plain zone, which is zoned I3, is 9.432 acres in area. The total acreage of the site remains unchanged. The existing building as well as the proposed addition are more than the required 25-foot building setback from the FP. Because the proposed addition will be within 100’ of the FP boundary, the construction is required to, and will easily meet, the flood protection grade (which means the lowest floor of the building will be at least 2’ higher than the elevation of the floodplain.)

The floodplain of the Wabash River and the Wildcat Creek surrounds this site on three sides; small areas zoned I3 exist to the north and to the south with GB, General Business zoning both further to the south and in a tiny sliver of land to the east. A rezone (Z-2834) to the R1 district for a small, historic building across Ninth Street was approved by the Commissioners in August.

AREA LAND USE PATTERNS:
The area can be generally characterized as a mix of industrial and agricultural uses. A few homes and a mobile carwash business are the exceptions. North and west, land is farmed. To the south are located the county’s trash transfer station, the Wildcat Creek Solid Waste Management District office, and the former site of Purdue’s surplus and salvage warehouses. The capped landfill lies to the east across North Ninth Street Road and a railroad track abutment.

TRAFFIC AND TRANSPORTATION:
North Ninth Street Road is classified by the adopted Thoroughfare Plan as a secondary arterial. Required parking for this use is one space per ten inmates plus 1 space per employee on the largest shift. The largest shift will have 45 employees, so the required
number of parking spaces on site will be 62; the current site has 94 parking spaces. While the proposed addition will take some of these spaces, a new parking lot to the north of the addition would add the same number of spaces to the site; meaning 94 parking spaces will be available after the addition is completed which exceeds the parking requirement. (Because of this, BZA-2065 has been withdrawn from this agenda.)

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

STAFF COMMENTS:
The proposed two-story, approximately 110 x 120’ addition will allow a reconfiguration of the current facility. The existing office space will be relocated to the new addition freeing up needed space in the original building for the occupants. A lighting plan shows lights along the perimeter of the site and near doorways into the addition for parking and security purposes.

At its meeting on October 6th, 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 a special exception for the expansion of this use in the I3 zoning district.

And it is staff’s opinion that:

2. The requirements and development standards for the expansion of this use as prescribed by the Unified Zoning Ordinance WILL be met. The site plan shows more than the required amount of parking and all setbacks will be met;

3. Granting the special exception WILL NOT subvert the general purposes served by the Ordinance. This facility has been in operation for over twenty years; the building provides a needed community benefit in a location that is not disruptive;

4. Granting the special exception WILL NOT materially and permanently injure other property or uses in the same district and vicinity because of:
   a. Traffic generation: The amount of new traffic generated because of the proposed expansion will be negligible;
   b. Placement of outdoor lighting: Lights at the perimeter of the parking lots and at the doors into the building should pose no problem;
   c. Noise production: There will be no noise production other than mechanical equipment standard for all large buildings, the sounds of vehicles entering and leaving the site, and a small existing outdoor recreational area;
   d. Hours of operation: Like any other residential facility, it has and will continue to operate 24 hours per day.

STAFF RECOMMENDATION:
Approval