THE
AREA BOARD OF ZONING APPEALS
OF
TIPPECANOE COUNTY

NOTICE OF PUBLIC HEARING

DATE: DECEMBER 4, 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 10.23.2019.PDF

II. NEW BUSINESS

III. PUBLIC HEARING

1. BZA-2027 SCOTT JONES:
   **Continued**
   Petitioner is requesting a special exception to use an existing single-family house as a
   Transient Guest House (as defined in the ordinance). The proposed hours of operation
   are 24 hours a day, seven days per week. The R2-zoned property is located at 107
   Digby Drive, Lafayette, Fairfield 28 (NW) 23-4. (UZO 3-2) Continued to the January
   meeting to publish the legal advertisement. WITH CONDITION.

Documents:

BZA-2027 SCOTT JONES.PDF

2. BZA-2028 DAVE HELTON AND ASSOCIATES, INC.:
   Petitioner is requesting a special exception to allow a primary communications tower
   (SIC 48) in a Select Agricultural (AA) zone. The unmanned cell tower will operate 24
   hours per day, 7 days per week at 7083 W 900 N, Shelby 12 (NE) 24-6. (UZO 3-2)

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
Vote Results 4-Yes and 0-No

Documents:

BZA-2028 DAVE HELTON AND ASSOCIATES.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
The Area Board of Zoning Appeals of Tippecanoe County public hearing was held on the 23rd day of October 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

Jen Dekker moved to approve the minutes from the September 24, 2019 Board of Zoning Appeals public hearing. Carl Griffin seconded and the minutes were approved by unanimous voice vote.

II. NEW BUSINESS

None.

III. PUBLIC HEARING

Jen Dekker 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.

Steve Clevenger read the meeting procedures.

**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
Jen Dekker moved to hear and vote on BZA-2024 AMBER D. DILLING. Carl Griffin seconded.

Rabita Foley presented the zoning map, aerial photos, photos of the site, and site plan. She said this property is at the southeast corner of Elliot and 9th Street in the 9th Street Hill Neighborhood. It currently has a two-unit dwelling structure with a detached garage. The parking standard for a transient rental is two parking spaces per unit which is the same as a dwelling unit. This site meets the required four spaces with two spaces in the garage and two nonconforming spaces in the driveway. The site does not have vehicular access from 9th Street. The site only has vehicular access from Elliot Street. City utilities serve the site. The dwelling unit and the garage were built in 1910, before inception of zoning, resulting in a few non-conformities. For example, the 20-foot front setback despite the UZO required 60-foot setback. These non-conformities are legal because they were established before the adoption of the UZO. Petitioner plans to use both units for transient rentals if the variance is granted. The ordinance allows only one family per unit. One unit has three bedrooms and the other unit has one bedroom. This request meets all ballot items. Staff is recommending approval contingent on the following condition:

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

Amber Dilling, 514 S 10th Street, Lafayette, IN 47905, petitioner, said she requested variances for both units to have the option to use both as a transient guest rental. She said she currently has a long-term tenant in the one-bedroom unit. She said she bought her house a year ago and spent a significant amount of money to make improvements. She would like to see the neighborhood continue to improve which is why she bought this second home in the area. Transient rentals demand a high level of quality and appearance to be successful. She said she has strict requirements on noise and parties detailed in the listings. She lives on the same block and can be there to handle any situation.

Dave Lahr, 822 Kossuth Street, Lafayette, IN 47901, said he is a member of the 9th Street Hill Association. He said his first complaint was about signs regarding the request only posted for two weeks. He is on the Board of Zoning Appeals in Lafayette and they require signs to be posted for longer. He asked that this case be postponed for another month to allow more neighbors to be informed and present at the meeting.

Steve Clevenger said that would be up to the Board and the petitioner. Two weeks is the requirement for ordinance signage. Notice was sent to surrounding property owners so that they can submit letters to be read.

Dave Lahr, 822 Kossuth Street, Lafayette, IN 47901, said he understands that the petitioner has an Airbnb in her home on 10th Street. He asked how many Airbnbs need to be in this neighborhood. He said he did not understand what exactly the petitioner was requesting.

Steve Clevenger said petitioner is requesting for both units to be transient guest rentals which allows the units to rented for less than a month at a time. Petitioner can already rent the unit on a month to month basis long-term.

John Downey, 520 S 10th Street, Lafayette, IN 47905, said he currently lives next door to the petitioner. Last month, a transient rental was approved at the Big Brothers and Big Sister Corporation which would make this the fourth transient rental property in the Wallace Triangle. He said the unit on the third floor was converted by a grad student that previously owned the house. He said that no permits were issued with this conversion. The home was then sold, and the new owner reconverted the dwelling into two units without permits as well. The dwelling does not have egress because there is only one stairway. Two sets of the windows do not meet egress. There needs to be another set of stairs or a fire escape. The non-conforming parking is another issue. The four bedrooms could yield up to eight cars. Elliot Street has a
25-foot width; parking on both sides leaves a 12-foot aisleway. During a snow emergency, a plow would not be able to go through. He asked for the case to be continued.

Amber Dilling, 514 S 10th Street, Lafayette, IN 47905, petitioner, said whether this unit is rented to a long-term tenant, a short-term tenant or if the unit is owner occupied, there are going to be vehicles. She thanked the Board for their consideration.

Jen Dekker asked staff if the sign posting has a ten-day requirement.

Rabita Foley said petitioners only need to post signs ten days in advance.

Jen Dekker asked about the dwelling being a conforming structure per zoning requirements but not conforming to building code requirements. She asked if there will be an inspection when petitioner applies for the permits with the City of Lafayette.

Rabita Foley said it is unclear if there will be an additional inspection when the permit is issued. There are some legalities involved in reviewing permits however, inspections for permits for Transient Rental Houses are not typical.

Jen Dekker said in this case, the Board will only be looking at whether the dwelling conforms to zoning ordinance.

Rabita Foley said the property is zoned R2 and can have two units.

Jen Dekker said with the special exception, the use must be established within one year or the exception ceases to be valid. She asked how that will work with the dwelling being a duplex.

Rabita Foley said if the petitioner moves forward with the special exception only for one unit and never acts on the second unit, the special exception will lapse for the second unit.

Carl Griffin asked if petitioner does not establish the use of transient housing in the unit that currently has a long-term tenant, then the special exception would lapse.

Zach Williams said that is a good question however, it depends. He said establishing use becomes a case by case analysis. In this case, it must be assumed that the Board is passing use of transient housing for both units. He said whether the exception is expired would be handled by his office. He said he would then analyze if the use had been established. For now, we must assume that this special exception is for both units.

Steve Clevenger said from looking at the layout of the dwelling, one must go through the first unit to enter the second unit. He asked if this was a legal duplex.

Rabita Foley said there are two staircases; an internal staircase from the three-bedroom unit and a second on the outside from the backdoor.

Amber Dilling, 514 S 10th Street, Lafayette, IN 47905, petitioner, said the staircase from the backdoor allows access to each of the units. She indicated on the photo of the house where the outside staircase is located.

The board voted by ballot 6-Yes and 0-No to approve BZA-2024 AMBER D. DILLING.

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).

Jen Dekker moved to hear and vote on BZA-2026 PRITHPAL SINGH GOTHRA AND PRADIP KAUR GOTHRA. Carl Griffin seconded.

Ryan O’Gara presented the zoning map, aerial photos, photos of the site, and site plan. He said the site is located on a corner lot in the Hadley Moors Subdivision. This is a single-family home with an attached garage and deck. The request is for a 14’ by 20’ sunroom addition on the rear of the home. Given the size and available room, the petitioners desire for that shape does not meet the ordinance. The square footage of the addition might be reconfigured or reduced to meet the setback. Regarding test items, there are similar lots in the same zoning district that have similar a building footprint. The hardship is self-imposed due to where they desire the addition to be built rather than conforming to the ordinance. Staff is recommending denial.

Connie Van Etten, 2540 Plains Drive, Lafayette, IN 47909, representative for petitioner, passed out a letter of support from neighbors. She said the petitioner has a large family that lives in the neighboring homes. She said this space will be used for family gatherings. Petitioner is building the addition where it will be most aesthetically pleasing. Petitioner has done due diligence by getting releases from all utility companies. She said petitioner has full understanding that if any work must be done on a utility line, he would be liable for the damages. The existing deck was built through the permit process.

Carl Griffin asked if the existing deck goes across the length of the home or if it is 14’ by 20’.

Ryan O’Gara said the existing deck crosses into the easement and is 14’ by 20’. This deck was permitted 18 years ago. He said there was no record of permission to go into the easement.

Carl Griffin said petitioner is not causing a problem by extending the coverage area by building this sunroom.

Connie Van Etten 2540 Plains Drive, Lafayette, IN 47909, representative for petitioner, said considering where the deck is existing, the coverage is already there. This is a structure that will sit right next to the deck. The addition will not encroach any further than the existing deck. This is simply a roofed structure rather than an open deck.

Steve Clevenger asked if the Board approves this whether utilities will not ask to tear down the sunroom.

Zach Williams said if there is not a problem now, there is no need to look into the future to consider that. It would be difficult for a utility company to accomplish. He said since there is no issue now, future problems do not need to be considered at this time.

The board voted by ballot 6-Yes and 0-No to approve BZA-2026 PRITHPAL SINGH GOTHRA AND PRADIP KAUR GOTHRA.

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

Jen Dekker moved for adjournment.

The meeting adjourned at 6:45p.m.

Respectfully submitted,
Chyna Lynch
Recording Secretary

Reviewed by,
Sallie Dell Fahey
Executive Director
BZA-2027
SCOTT JONES
(special exception)

STAFF REPORT
November 27, 2019
REQUEST MADE, PROPOSED USE, LOCATION:
Petitioner, who is the managing member of SW Ventures, LLC (property owner), is requesting a special exception for a Transient Rental House (as defined in the ordinance) on an R2 zoned corner lot in the Valley Center Neighborhood. The short-term rental business would operate in the existing single-family residence, 24 hours a day, seven days a week. The property is located at 107 Digby Drive, Lafayette, Fairfield 28 (NW) 23-4.

AREA ZONING PATTERNS:
The property in this request along with the adjacent lot to the south, east and across Digby Drive to west are zoned R2 (Single-Family and Two-Family Residential). R2U zoning exists to the north. Recently, two special exception requests for a transient guest house, farther south and southwest of the subject property, were approved by the Board (BZA-2013 and BZA-2024).

AREA LAND USE PATTERNS:
The site has a single-family residence with an attached garage. A variety of both single-family and two-family residential uses exist in the Valley Center neighborhood. Various non-residential uses like the Haan Mansion Museum of Indiana Art, the Fowler House Mansion, and the Art Museum of Greater Lafayette are located nearby.

TRAFFIC AND TRANSPORTATION:
The site has frontage only from Digby Drive which is classified as an urban local by the adopted Thoroughfare Plan. A platted, but never improved portion of Alabama Street exists to the north.

The parking standard for a Transient Rental House is 2 spaces per dwelling unit. The site plan shows a 37’ long driveway, which can accommodate 2 parked vehicles. In addition to this, one space is also available in the attached garage.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:
City utilities serve the site.

STAFF COMMENTS:
Petitioner is seeking a special exception to use the existing 1,521 sq. ft. 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 unit, with a one-car attached garage, was built in 1957.

The site plan shows the house with a 31-foot setback from Digby Drive. A 10-foot wide driveway shows access to the attached garage. The existing structure meets the ordinance.
requirements for an R2 zone.

The petition does not specify the proposed number of adults allowed to stay in the dwelling unit. The subject property has three bedrooms. 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, the single-family home in this request must adhere to this "family" definition while in operation.

No outdoor 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 a Transient Rental House.

Predominately residential neighborhoods can be overwhelmed by the increase in the number of transient rental houses which can change the character of the surrounding area significantly. However, with only one transient rental in this neighborhood, and two others several blocks to the south and southwest, staff is not concerned about the drastic change in the residential neighborhood character quite yet.

At its meeting on November 20, 2019, the Area Plan Commission voted that granting this request will 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. The site plan meets the R2 zone requirements for lot coverage, vegetative coverage, parking, building height and building setbacks. Furthermore, no change is proposed to the existing structure for this use.

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.

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 the house 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 one-family 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 residential use in the surrounding neighborhood.

STAFF RECOMMENDATION:
Approval with the following condition:

**Condition**

1. An operational permit must be obtained from the City of Lafayette for the Transient Rental House.

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-2028
DAVE HELTON AND ASSOCIATES, INC.
(special exception)

STAFF REPORT
November 27, 2019
PROJECT: FIRSTNET

SITE INFORMATION

SITE NAME: NW TIPPECANOE COUNTY
SITE ADDRESS: 12726560
COUNTY: TIPPECANOE
PROPERTY OWNER: DAVID R. LIPPS
TOWER OWNER: AT&T MOBILITY
CARRIER/APPLICANT: FIRSTNET
AT&T LOCATION: 231684
PROJECT TEAM

A&E FIRM: FIRST GROUP ENGINEERING
5921 LAKE SHORE BLVD
INDIANAPOLIS, IN 46205
enquiries@firstgroupengineering.com

DHA CONTACTS
DAVE HELTON - PROJECT MANAGER
OFFICE: (317) 786-4655 NO/DR.: (317) 395-3601
T.R.D. - CONSTRUCTION MANAGER
(317) 210-6630

DHA: DAVE HELTON - A&E PROJECT MANAGER
Davehelton@indianastorm.com
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DRAWING INDEX

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LOCATION MAP

SITE PHOTO

APPLICABLE CODES/REFERENCE DOCUMENTS

REFERENCE DOCUMENTS

MOUNT ANALYSIS: COMPLETED BY OGD GROUP, INC.
DATED MARCH 25, 2019 (EPA)
REQUEST MADE, PROPOSED USE, LOCATION:
Petitioner, with consent of property owner David R. Lehe, is requesting a special exception to allow a 195’ tall monopole primary communications tower (SIC 48) in the Select Agricultural (AA) zone. The primary communications tower would operate 24 hours per day, 7 days per week at 7083 W 900 N, Shelby 12 (NE) 24-6. (UZO 3-2)

Petitioner’s site plan shows a 100’ x 100’ special exception area with a proposed 15’ x 24’ equipment shed for AT&T. The site plan also includes space for three additional equipment sheds for future carriers.

AREA ZONING PATTERNS:
The area (100’ x 100’) included in the special exception is part of a larger 2-acre tract of land that is zoned AA. The site is surrounded by AA zoning.

AREA LAND USE PATTERNS:
The 2-acre tract currently has a hog farm built in 2008. The surrounding area is predominantly used for crop production. A seed supplier company (Kerkhoff. LLC) is farther to the west, past 750 W. The Weldon Lachmund Farm is farther to the east across US 231. A private airport called Sutton is farther to the southwest on 750 W. The nearest residence is 0.5 miles away from the subject property.

TRAFFIC AND TRANSPORTATION:
The proposed tower would use the existing driveway access on CR 900 N. The adopted Thoroughfare Plan classifies 900 N as a rural local road. The Highway Traffic Count Map from 2017 shows annual average daily trips of 103 vehicles on this section of 900 N. The site plan shows a 349-foot long driveway access to the area in this request. According to the petition, the proposed tower would be unstaffed with an average of one visit to the site per month per carrier for maintenance and inspections.

ENVIRONMENTAL AND UTILITY CONSIDERATIONS:
Septic and well are available at this location for the hog farm but not needed for the requested use.

STAFF COMMENTS:
A primary communications tower is only permitted by right in industrial zones and by special exception in rural zones. This area of the county is primarily zoned agriculturally limiting the site locations for towers by right. According to the petition, the proposed primary communications tower is “needed to improve AT&T wireless service to the area along with FirstNet cell coverage.”

The 100’ x 100’ area is at the southwest corner on the 2-acre tract and would house a 195’
tall monopole primary communications tower. This tower would primarily be used to support cellular antennas. The submitted site plan shows up to four equipment sheds would be located on site. One equipment shed would be utilized by AT&T, whereas, the remaining three on the site plan would support future carriers. The plans show a 6’ tall chain-link fence with an additional foot of barbed wire on top surrounding the 100’ x 100’ area in the request. The tower setback, 20% of tower height or 39’, would be met on all sides. According to the Federal Aviation Administration (FAA) and the International Civil Aviation Organization (ICAO) tower lighting requirements, all structures exceeding 200 feet above ground level (AGL) must be appropriately marked with tower lights or tower paint. As the proposed tower is 195’ tall including the antenna, no tower lights or tower paint is shown in the plan.

The proposal shows the ability of the tower to support colocation which staff strongly recommends in these cases, since it helps prevent the need for additional towers. If approved, the petitioner must apply and receive a new address for the area in this request before acquiring the Improvement Location Permit (ILP).

At its meeting on November 20, 2019 the Area Plan Commission voted that granting this request will 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 a primary communications tower in the Select Agricultural 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. The site plan complies with all required setbacks and is enclosed by a 7’ tall security barrier.

3. Granting the special exception WILL NOT subvert the general purposes served by the Ordinance. Allowing this tower will not prevent adjacent properties from being used for their existing purposes.

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: Minimal traffic is generated by this use, an average of one trip per carrier per month has been the pattern established; four new carriers would not increase traffic beyond a negligible amount on 900 N.
   b. Placement of outdoor lighting: Security lighting on the sheds and generators is common to other buildings in this area of Shelby township. Because it falls below the 200’ height minimum for FAA and ICAO lighting requirements, there is no required lighting on this tower.
   c. Noise production: No additional noise would be produced other than the sound from the emergency power generators.
   d. Hours of operation: 24 hours per day, seven days per week are typical for this use.

STAFF RECOMMENDATION:
Approval

Note: A special exception approval ceases to be valid if the use is not established within one year of the date that the special exception was granted.