

**AREA BOARD OF ZONING APPEALS OF TIPPECANOE COUNTY**

**MINUTES OF A PUBLIC HEARING**

DATE.....December 2, 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**

Steve Clevenger  
 Gary Schroeder  
 Frank Donaldson  
 Jen Dekker  
 Ed Butz  
 Tom Andrew  
 Carl Griffin

**MEMBERS ABSENT**

**STAFF PRESENT**

Ryan O'Gara  
 Rabita Foley  
 Larry Aukerman  
 Chyna Lynch  
 Zach Williams, Atty.

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held virtually on the 2nd day of December 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 wished 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 September 23, 2020 BZA public hearing. Carl Griffin seconded and the minutes, as submitted, were approved by unanimous voice vote.

**II. NEW BUSINESS**

Ryan O'Gara said petitioner has withdrawn **BZA-2043 RESONS, LLC**. All other cases are ready to be heard.

**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.

**BZA-2044 MEZZANINE 7, LLC:**

Petitioner is requesting the following variances to raze the existing structure and construct a new three-story student apartment in an R3W zone:

1. To decrease the minimum lot width to 59' from the minimum requirement of 70'; (UZO 2-10-6)
2. To reduce the front setback to 12' from the minimum requirement of 25' along Wood Street; (UZO 2-10-8)
3. To increase the height of the structure to 19' from the maximum allowed 14' at the finished floor of the upper story; (UZO 2-10-11)
4. To reduce the off-street parking to 6 from the minimum requirement of 11 spaces for university proximate residences; (UZO 4-6-4) and
5. To eliminate the requirement of a 5' no parking setback; (UZO 4-4-6)

on property located at 202 Pierce Street, West Lafayette, Wabash 19 (SE) 23-4.

Gary Schroeder moved to hear and vote on **BZA-2044 MEZZANINE 7, LLC**. Jen Dekker seconded.

Ryan O'Gara presented the zoning map, site plan, and aerial photos. He said this site is located in downtown West Lafayette on the corner of Wood and Pierce Street. The lot as well as the majority of the surrounding lots are zoned R3W with some CBW and PD zoning nearby. As far as land use patterns, most of the structures, including this one, used to be single-family structures or duplexes that have been converted into apartments. This neighborhood just south of State Street has no homeowner occupants. All the units are being rented in some degree. The high-rise project called Campus Edge is directly north of the site and there is a mid-rise project farther to the east. There is a lot of multi-family housing in this area whether they be low-rise, mid-rise or even high-rise. Both Wood Street and Pierce Street are urban local roads according to the Thoroughfare Plan. The typical efficiency unit is approximately 344 square feet and require one parking space per unit so this site plan will require 11 spaces. Public utilities are available and the current site has a driveway curb cut off Pierce Street adjacent to a public alley along the southern property boundary. It appears that the petitioner is maintaining the existing curb cut driveway to make it a maneuvering aisle for the proposed parking spaces. In terms of staff comments, the West Lafayette Downtown Plan categorizes this area as the Chauncey Village which calls for mid-rise development and mix of residential and non-residential environments. The plan would support the proposed three-story apartment building.

The findings of fact were read for each of the 5 variance requests with the recommendation of:

Approval for Variance #1;  
Denial for Variance #2;  
Approval for Variance #3;  
Denial for Variance #4; and  
Denial for Variance #5.

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 petitioner is present for any questions. As staff has indicated, we are asking for five variances to build an apartment building on the site. The property is a converted house that was built in 1953. We are allowed five units with ten beds on the site and there are presently four parking spaces. The petitioner plans on razing the existing building and building a three-story apartment building with 11 efficiency units and six parking spaces. Each unit will be 344 square feet of living space plus either a balcony or deck depending on the floor. The building will have a fire rated wall and will also be sprinkled. This is a highly dense part of campus with high-rise developments across the street. To the east there is a building that is two and a half stories that is partially underground. To the south, there are a few planned developments that are anywhere from six stories to three stories.

Staff has recommended denial for three of the five variances. He said in his opinion, staff has disregarded their opinions made with similar properties. In the past, staff has recommended approval for reduction in

lot width, lot height and off-street parking for lots close to campus. This lot is no different. An apartment building of any number of units is required to have a lot width of 70 feet. The narrowness of the lot is causing the hardship for the no parking setback. The UZO's parking space requirement is a hardship at this site. Staff has agreed to this in other cases and it should be the same for this case. He said in his opinion, we meet the requirements of the West Lafayette Downtown Plan which calls for denser student housing in this area. Staff has said to acquire a lot next to this site. There are two properties and a park next to the site. We have tried to work with the city to acquire the neighboring lot but the owner of the middle lot will not respond to any inquiries. The density in this area is only increasing from 10 to 11 beds. Parking is increasing from 4 to 6 spaces. The front setback request is in line with other structures in the area. He respectfully requested approval.

Steve Clevenger said there will be a one-minute pause for citizen comment. He asked how parking will be handled at the site.

Daniel Teder, 250 Main Street, Lafayette, IN 47901, representative for petitioner, said he is not sure. There are four spaces there now.

Don Teder, 2110 S 9<sup>th</sup> Street, Lafayette, IN 47905, petitioner, said the renter would be charged for parking.

Steve Clevenger said it is essentially permitted parking. He asked how the handicap spot would work.

Don Teder, 2110 S 9<sup>th</sup> Street, Lafayette, IN 47905, petitioner, said it has been his experience that if someone needs the handicap spot, that spot would be dedicated for them. There would not be any spaces for visitors.

Tom Andrew said Dan had mentioned other buildings that had been previously approved nearby. He asked them to explain how it meets the West Lafayette Downtown Plan.

Daniel Teder, 250 Main Street, Lafayette, IN 47901, representative for petitioner, said we meet the standards of the plan because it calls for two to six story developments. The plan asks for these lots to be consolidated but it cannot be done. The City of West Lafayette would like to expand the park. We would like to acquire the second lot and for the third lot to go to the park. But this may not be possible.

Chad Spitznagle said in a perfect world, we could accomplish the plan with the park expansion. The city is not necessarily for or against this petitioner. Variances that were approved in the past have improved Marstellar and Grant Street. This situation is similar and we are open to the Board's determination on this.

Daniel Teder, 250 Main Street, Lafayette, IN 47901, representative for petitioner, said this site is not going to be developed immediately. We want to get a plan in place and continue to work with the city.

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

The Board voted by ballot 7 yes to 0 no to approve **BZA-2044 MEZZANINE 7, LLC, Variance #1.**

The Board voted by ballot 7 yes to 0 no to approve **BZA-2044 MEZZANINE 7, LLC, Variance #2.**

The Board voted by ballot 7 yes to 0 no to approve **BZA-2044 MEZZANINE 7, LLC, Variance #3.**

The Board voted by ballot 6 yes to 1 no to approve **BZA-2044 MEZZANINE 7, LLC, Variance #4.**

Yes-Vote

Steve Clevenger

Carl Griffin

No-Vote

Frank Donaldson

Jen Dekker  
 Tom Andrew  
 Ed Butz  
 Gary Schroeder

The Board voted by ballot 6 yes to 1 no to approve **BZA-2044 MEZZANINE 7, LLC, Variance #5.**

Yes-Vote

Steve Clevenger  
 Frank Donaldson  
 Jen Dekker  
 Tom Andrew  
 Ed Butz  
 Gary Schroeder

No-Vote

Carl Griffin

**BZA-2045 TIM STEVENS:**

Petitioner is requesting a variance to allow a gateway directory sign with a setback of 20' instead of the minimum requirement of 30' in a business park on a GB zoned lot. The property is in the proposed Sagamore Commons Subdivision, west of Sagamore Parkway W, in West Lafayette, Wabash 1 (S1/2) 23-5. (UZO 4-8-8).

Gary Schroeder moved to hear and vote on **BZA-2045 TIM STEVENS.** Carl Griffin seconded.

Rabita Foley presented the zoning map, site plan, and aerial photos. She said this property was rezoned to GB in 2018. The adjacent land is zoned either OR or GB with Flood Plain. Great Lakes Chemical is adjacent to the north and Ivy Townhomes and Flats is adjacent to the west. So far only three lots have been platted within Sagamore Commons so the proposed gateway sign will be on the proposed Lot 4. The directory sign would be located within the 20-foot by 20-foot sign easement adjacent to the main entrance. Staff and West Lafayette City staff worked for about a year with the owner and developer of Sagamore Commons to amend the existing sign section of the UZO. The result of this collaboration were the newly created standards that were passed by West Lafayette in September. This included standards for signage within a business park and included a new type of sign which is the gateway directory sign. This type of sign is similar to an integrated center sign but serves a business park instead of shopping centers. Based on the user formula for gateway directory sign area and height, the Sagamore Commons property is eligible for a 250 square foot sign with a maximum height of 30 feet as a maximum standard. There is no requirement preventing the directory sign from being shorter. The required setbacks for all freestanding signs are based on the height of the sign. This is for safety and to encourage shorter freestanding signs. The petitioner believes most intersection rights-of-way are not as large as on this property so the lot has extraordinary circumstances. In staff's opinion, the right-of-way along Sagamore Parkway is typical in size and includes a new right turn lane. Staff agrees with petitioner that requiring the full setback would move the sign into the parking and circulation area. Staff would argue that at this stage of development the shape and the size of the lot is not set. It is possible that a new lot configuration could be created or a shorter sign with a smaller required setback could be proposed.

The findings of fact were presented with a staff recommendation of denial.

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

Tim Stevens, 6925 E 96<sup>TH</sup> Street, Indianapolis, IN 46250, petitioner, said we appreciate everyone's hard work over the last nine months on the creation of a new sign classification. The gateway sign functions well for what we are asking and that is a gateway as close to the corner of the entryway as possible. This comes down to whether the setback is required for a catastrophic failure of a sign that has steel poles and

brick masonry columns. We cannot conceive of any circumstances other than a hurricane or a tornado that would collapse a structure like that. We disagree that we do not have any unique circumstances. He presented the proposed sign location. He said we had hoped to tuck the sign into the corner of the lot so as to not interfere with parking and circulation. The wide right-of-way opening is unique and there are no other cuts on Sagamore Parkway that are 120 feet wide and the flare requires a larger setback. In most cases, the right-of-way hugs the radius of the roadway entering. He said he has observed numerous signs that were by entries that were not on public streets that were much closer than the one foot for every foot of height. This would avoid placing the sign into the site which could be injurious to the public. The closer we can get the sign to the edge of the property and out of the circulation pattern, the less potential for injury or property damage. There is no reason the parking lot could not be moved to the west but it does not make sense for the value of that real estate to be used just for the directory sign. We are asking for some relief. When we went through the process of creating the gateway directory sign ordinance, we failed to understand the consequences of diagonal cut in the right-of-way. INDOT increased the cuts on this site to accommodate a future possible pedestrian crossing. He said he believes it is in everyone's best interest to have the sign as close to that corner as possible without creating any harm to the public. It is very unlikely that the sign would collapse so for those reasons, we have an extraordinary circumstance for the site. This is a trial run for the gateway directory sign.

Chad Spitznagle said city staff has reviewed the size and sign placement without any issues with it. We agreed when we were working on the ordinance, that this would be the only pole sign in the development. We agree that the right-of-way area limits this.

Steve Clevenger said there will be a one-minute pause for citizen comment. He asked for comments from the Board.

Carl Griffin asked Tim to clarify the possible multi-use trail that required the right-of-way to be wider.

Tim Stevens, 6925 E 96<sup>TH</sup> Street, Indianapolis, IN 46250, petitioner, said we were originally looking at a much narrower opening. After discussions with the West Lafayette City engineering staff and INDOT, there may be some desire to have a pedestrian crossing in this area. They wanted the wider area there to accommodate that. This could be 20 years down the road but the state highway rights-of-way are set in stone. We agreed to the widening for that purpose.

Carl Griffin said this is a new thing and we need to consider seriously that we are already considering granting an exception. These issues are important and they are valid for the reasons Mr. Spitznagle explained.

Steve Clevenger asked if signs are typically 30 feet tall on Sagamore Parkway.

Tim Stevens, 6925 E 96<sup>TH</sup> Street, Indianapolis, IN 46250, petitioner, said the height of a freestanding sign is 24 feet. The idea behind the gateway sign is that it will be the only sign so it is allowed to be 30 feet tall.

Steve Clevenger asked if they could use a 20- or 25-foot sign instead.

Tim Stevens, 6925 E 96<sup>TH</sup> Street, Indianapolis, IN 46250, petitioner, said we have a greater need for identification because it includes the entire property. This would foreclose the opportunity for any other frontage property owners to have a freestanding pole sign. That was the reasoning behind staff's support for the larger height because it has to combine all of the lots. Each lot does not get their own pole sign to announce their presence.

Steve Clevenger asked if Culvers is the exception to this because they have a monument sign.

Tim Stevens, 6925 E 96<sup>TH</sup> Street, Indianapolis, IN 46250, petitioner, said they did not indicate that they wanted signage on the gateway directory and they were not seeking a pole sign of their own. If they wanted to be on there, they could be.

Steve Clevenger asked if Culvers would be allowed on the gateway sign. It looks like they are exempt from this variance.

Chad Spitznagle said that is correct. They are allowed to be on the gateway directory sign since they have agreed to only a monument sign on their lot. They are still allowed their allotted space.

Steve Clevenger asked why the staff report shows the Culver's lot being out of this variance.

Tim Stevens, 6925 E 96<sup>TH</sup> Street, Indianapolis, IN 46250, petitioner, said we did not own that property.

Rabita Foley said when Culvers came to get the permit, the gateway sign ordinance had not been adopted yet. They are grandfathered in. Any further development in that area will abide with the gateway sign application.

Steve Clevenger asked if Culvers is allowed to have signage on the gateway sign even though they were not included in the variance.

Rabita Foley said the site plan is only for reference. The gateway sign has no reference to the lot lines. It is primarily only on the easement. The definition of gateway sign explicitly states that it is only in the easement which is highlighted in yellow on the site plan.

Tim Stevens, 6925 E 96<sup>TH</sup> Street, Indianapolis, IN 46250, petitioner, said on the aerial photograph it excludes the Culvers lot because it is not real estate that we own. The gateway sign would apply to the whole business park.

Steve Clevenger asked if Culvers would be allowed on the gateway sign because the gateway sign only applies to the site plan.

Tim Stevens, 6925 E 96<sup>TH</sup> Street, Indianapolis, IN 46250, petitioner, said we don't have authorization to ask for a variance that applies to someone else's property.

Steve Clevenger said it is a legal question for the lawyers.

Zach Williams said it could potentially be an issue but that's not what this variance covers. We cannot create this problem right now and it is not a determinative issue for something that has not happened.

Steve Clevenger asked if there had been any citizen comments. There were none. 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.

The Board voted by ballot 6 yes to 1 no to approve **BZA-2045 TIM STEVENS.**

Yes-Vote

Steve Clevenger  
Frank Donaldson  
Jen Dekker  
Carl Griffin  
Ed Butz  
Gary Schroeder

No-Vote

Tom Andrew

**BZA-2046 DONALD R. VAN DAME:**

Petitioner is requesting a variance to allow a setback of 26' instead of the required 60' from McCarty Lane to build a house on 1.126 acres zoned AW. The property is located at the southwest corner of SR 26 and McCarty Lane, Perry 20 (SE) 23-3. (UZO 2-26-7).

Gary Schroeder moved to hear and vote on **BZA-2046 DONALD R. VAN DAME**. Jen Dekker seconded.

Rabita Foley presented the zoning map, site plan, and aerial photos. She said the site is zoned AW as is neighboring property to the east across McCarty Lane and to the north across SR 26. The site will have to be served by septic and well. The property owner has already initiated a soil study upon the Health Department's recommendation. The site was created when right-of-way was acquired to extend McCarty Lane with the intent to divert heavy traffic off SR 26. Due to the irregular shape of the site, the 60-foot setback from McCarty Lane makes the site unbuildable which is the reason for this request. Staff recognizes that the irregular shape of the lot creates difficulties when attempting to meet those standards, the choice to purchase the substandard land is self-driven. However, the unusual lot was created by the purchase of right-of-way to create McCarty Lane which is why staff's opinion means that the hardship is not solely self-imposed. The staff report states that the minimum relief would be 32 feet not 26 feet. Therefore, the petitioner amended the petition to 32 feet and submitted a revised site plan. Staff was unable to establish a hardship because the right-of-way acquisition created the unbuildable lot. Based on the original site plan, a 26-foot setback could not be considered minimum relief. However, staff can support the revised 32-foot setback. Regarding the ballot items, the request meets the test for ballot items one through five. Staff recommended approval.

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 we amended our variance request to go to 32 feet and now have a favorable staff recommendation. Whether the lot's purchase is self-driven or not, without the variance, this lot is still unbuildable. He respectfully requested approval.

Steve Clevenger said there will be a one-minute pause for citizen comment. He said there is tract A on the cul-de-sac. He asked if that was originally meant for access to this.

Rabita Foley said that may have originally been the intent but it is owned by an individual and is no longer part of the stub from the cul-de-sac.

Donald Van Dame, 908 Blossom Court, Lafayette, IN 47905, petitioner, said the individual that owns that piece of property is not interested in selling it whatsoever.

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.

The Board voted by ballot 6 yes to 1 no to approve **BZA-2046 DONALD R. VAN DAME**.

Yes-Vote

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

No-Vote

Frank Donaldson

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.

**I. ADMINISTRATIVE MATTERS**

None.

**II. ADJOURNMENT**

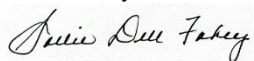
Gary Schroeder moved for adjournment.

The meeting adjourned at 6:57 p.m.

Respectfully submitted,

Chyna Lynch  
Recording Secretary

Reviewed by,



Sallie Dell Fahey  
Executive Director