

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

**MINUTES OF A PUBLIC HEARING**

DATE..... FEBRUARY 27, 2019  
 TIME..... 6:00 P.M.  
 PLACE..... CO. OFFICE BLDG.  
 20 N. 3<sup>RD</sup> STREET  
 LAFAYETTE, IN 47901

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

Carl Griffin

**STAFF PRESENT**

Sallie Fahey  
 Ryan O’Gara  
 Rabita Foley  
 Diana Trader  
 Zach Williams, Atty.

The Area Board of Zoning Appeals of Tippecanoe County public hearing was held on the 27th day of February 2019 at 6:00 P.M., pursuant to notice given and agenda posted as provided by law.

President Steve Clevenger called the meeting to order.

**I. APPROVAL OF MINUTES**

Ed Butz moved to approve the minutes from the January 23, 2019 BZA public hearing. Gary Schroeder seconded, and the minutes were approved by unanimous voice vote.

**II. NEW BUSINESS**

Ryan O’Gara said the following cases are being continued:

**BZA-2000 JOE KEPNER, PRESIDENT, BLACK DAWG ENTERPRISE, LLC** is continued to the April 24, 2019 BZA meeting at petitioner’s request. This is their last continuance.

**BZA-2003 LISA AND STEVE ROBINSON** is continued to the March 27, 2019 BZA meeting for failure to send notice to all interested parties.

**BZA-2005 CUMBERLAND PARTNERS, LLC** is continued to the March 27, 2019 BZA meeting at petitioner’s request. This is their first continuance.

**BZA-2007 and BZA-2008 ROBERT WM. GROSS** are continued to the March 27, 2019 BZA meeting due to failure to provide adequate notice to interested parties.

Ryan said all other cases on the agenda are ready to be heard.

Ryan said **BZA-2002 JON TROY AUSTIN** is missing some check-in items and asked if Mr. Austin was present.

Jon Troy Austin said he was present, and he did have the missing items with him.

### III. PUBLIC HEARING

Ed Butz 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. Gary Schroeder seconded, and the motion carried by voice vote.

Ed Butz moved to continue **BZA-2000 JOE KEPNER, PRESIDENT, BLACK DAWG ENTERPRISE, LLC** to the April 24, 2019 BZA meeting.

Ed Butz moved to continue **BZA-2003 LISA AND STEVE ROBINSON** to the March 27, 2019 BZA meeting.

Ed Butz moved to continue **BZA-2005 CUMBERLAND PARTNERS, LLC** to the March 27, 2019 BZA meeting.

Ed Butz moved to continue **BZA-2007 and BZA-2008 ROBERT WM. GROSS** to the March 27, 2019 BZA meeting.

Gary Schroeder seconded, and the motion passed by unanimous voice vote.

Steve Clevenger read the meeting procedures.

#### 1. **BZA-1999 ISRAEL AVILA GAYTAN AND MARIA DE LA LUZ RAMOS MUNOZ:**

Petitioner is requesting a special exception to allow an Agricultural Rental Hall (SIC 799) on 8.628 acres in the Agricultural zone. The revised, proposed hours of operation are 10:00am to 10:00pm Sunday through Thursday and 10:00am to midnight, Friday and Saturday. The property is located on the east side of Old SR 25, northeast of the Shafers Acres subdivision, Washington 36 (NE) 24-3. (UZO 3-2) Continued from the January ABZA meeting at petitioner's request. (Last continuance)

Ed Butz moved to hear and vote on **BZA-1999 ISRAEL AVILA GAYTAN AND MARIA DE LA LUZ RAMOS MUNOZ**. Gary Schroeder seconded.

Rabita Foley said this case was presented last month with a different site plan. She said the petitioner submitted a revised site plan after the January ABZA meeting. She said she would highlight the revisions and give staff's recommendation for the revised site plan. Rabita said the site is zoned Agricultural and is located east of Old State Road 25 and northeast of Shafers Acres and Marimak subdivisions. She said the building remained at the same location on the revised site plan because it was already constructed. She said the revised site plan shows privacy fencing, chain link fencing, evergreen trees, and some berms. Rabita said the privacy fence is shown along the eastern property line which abuts Marimak subdivision. The chain link fence and evergreen trees are shown along the southern and western property lines. She said the revised site plan shows the addition of a berm and privacy fence along the proposed entrance. Rabita said the most significant change is the location of the driveway. According to the revised site plan, an adjacent lot 14 in Marimak subdivision, which is owned by the petitioners, would provide access to the site from Marimak Drive. The revised site plan does not have direct access from Old State Road 25. Rabita said according to the Tippecanoe County Highway Department the 900-ft long gravel driveway will not be approved for a commercial driveway permit.

Rabita summarized the ballot items and said staff recommends denial.

Christopher Shelmon, Gutwien Law, 250 Main Street, Suite 590, Lafayette, IN 47901, attorney for the petitioners, said Israel Avila lives in the house located at the front of the property. Chris said Israel purchased a 7-acre parcel of land behind his property a couple of years ago. He said about a year ago Israel built a barn on the 7-acre parcel to store equipment for his masonry business. He said this was not intended to be an end run around the approval process for the agricultural rental hall. He said the decision to see whether the barn would be acceptable as an agricultural rental hall occurred after the barn was constructed. Chris said Israel's friends and family convinced him this would be a nice location for an ag rental hall and they thought it would be popular among people in the community. He said Israel did hold 2 private parties at the site previously for friends and family, but these were not commercial events. Chris said now they are addressing the question as to whether a commercial event would be appropriate for this site. He said the barn is located in the far corner of the 7-acre parcel, several hundred feet from the closest neighbor. He said other neighbors are over 900 feet away from the barn. He said the petitioner had been working with TBIRD Design Services to install evergreen trees along every border around the barn along with berms and a privacy fence. The fence is intended to be made of wood and be at least 6 feet tall. Chris said that Israel intends to live on the property and keep any eye on it, and he is willing to make several important commitments. Chris said currently the building is not designed for commercial use but, pending approval of the special exception, Israel has engaged Arkor Architects & Engineers to design and install soundproofing insulation along with commercial construction documents. Chris said Israel is going to hire licensed bartenders and security personnel for events of 50 or more people. He said the building will have a maximum occupancy of 300 people, and there will be no outdoor music or other outdoor activities. Chris said the site will be used at most a couple of times a month, mainly during the summer months. He said the site is intended to have minimal impact on the neighbors. He said Israel has done everything in his power to mitigate the impact on the neighborhood as much as possible. He said Israel wants to be a good member of the community. Chris requested approval of the special exception subject to commitments such as the commitment to secure highway approval of the driveway and to install a commercial septic system.

Steve Clevenger asked if anyone wanted to speak in favor of the petition and no one did. He said staff would then read the letters of opposition. Steve reminded the audience that if anyone submitted a letter which was read by staff, that person would not be allowed to speak to the case.

Rabita Foley and Ryan O'Gara read 16 letters of opposition from the following people:

Joseph & Rochelle Greer, 4963 Graymare Lane, Lafayette, IN 47905  
Gloria Fallon, 4830 Old State Road 25 North, Lafayette, IN 47905  
John & Heather Davis, 4901 Graymare Lane, Lafayette, IN 47905  
Sally Dunten, 4739 Marimak Drive, Lafayette, IN 47905  
Marisa Marcussen, 8880 E 800 N, Lafayette, IN 47905  
Ronald & Doina Shane Breeding, 4708 Marimak Drive, Lafayette, IN 47905  
Chris Rees, Technoseeds R&D US, Inc., 4846 E 450 N, Lafayette, IN 47905  
Samuel J. Brown, 9020 Grant Road, Battle Ground, IN 47920  
Michael Young, 4720 Marimak Drive, Lafayette, IN 47905  
Pam Thompson, 4815 E 500 N, Lafayette, IN 47905  
Larry & Carol Haynes, 4730 Marimak Drive, Lafayette, IN 47905  
Shawn & Tammy Hughes, 4915 Graymare Lane, Lafayette, IN 47905  
Nathan & Jessica Kallioinen, 4821 Old State Road 25 N, Lafayette, IN 47905  
Jennifer D. Erwin, 4722 Marimak Drive, Lafayette, IN 47905  
Lauren & Matthew Young, 4455 Lucinda Lane, Lafayette, IN 47905  
Kristin Taylor, 4612 Gertude Lane, Lafayette, IN 47905

Steve Clevenger said the board would now hear from those in opposition to the case.

Mark Thompson, 4815 E. 500 N., Lafayette, IN 47905, said he grew up in Lafayette and spent time in the military. He showed a power point presentation of the site and its proximity to his property, which borders Israel's property to the north. Mark showed that there are 32 neighboring houses that are in direct eyeshot or earshot of the site. He said there are several subdivisions that are impacted Graymare,

Eastbrook, Marimak, and Shafers Acres. He said there are 168 homes and families that will be impacted by the agricultural rental hall. Mark pointed out that the building permit was issued a year ago and that several items in the construction of the barn had been red tagged. He said the building did not seem to have been constructed for masonry storage purposes because it had only one overhead door, scissor trusses, multi-stall men's and women's restrooms, non-operable windows, a kitchen prep area, an entry foyer, an elevated entertainment stage, and a built-in bar. Mark pointed out the new driveway on the revised site plan and spoke about the traffic congestion on Old State Road 25. He asked that the board follow the staff's recommendation to deny the special exception.

Barbara Knochel, 7026 E 550 N Lafayette, IN 47905, Washington Township Trustee, said what concerned her is the petitioner works in the construction industry but still claims he did not know he had to have the necessary permits and the commercial septic system. She said the petitioner is now claiming he will soundproof the building after the fact and that he had used the building as an event venue before he had an occupancy permit. She said the petitioners' promises have no credibility because they have not been truthful in the past with the neighbors or the community or the county. She said she hopes the board will follow staff's recommendation to deny the request for special exception.

Robert Fallon, 4830 Old SR 25 N, Lafayette, IN 47905, said his property is directly across from the initial proposed barn entrance on Old State Road 25. He said last year he did not receive official notification of the public hearing. He said he wondered how concerned the petitioner was about the impact of this ag rental hall on the surrounding property owners. Robert said the revised driveway plan had been rejected by the Tippecanoe County Highway Department and he is concerned that the driveway plan will now go back to the initial proposed entrance across from his property. Robert said the highway department wants to do a traffic safety study for the area. He pointed out the safety concerns on Old State Road 25, with a steep hill to the east and a curve to the west. Robert said he is an engineer and has worked in risk management. He said when he leaves his property, he actually pulls parallel to his mailbox so that he can see the oncoming traffic in his rear-view mirror as he pulls away. He said if the driveway for the ag rental hall enters directly onto Old State Road 25 there will be accidents because people leaving the parties are not familiar with the visibility limits of the area. Robert said this is not the right place for an event center. He also questioned Israel's credibility about keeping promises he is making now since he has been indifferent to the required codes up to this point. He said he is confident the board will deny the special exception.

Tamara Hale, 4990 E. 500 N., Lafayette, IN 47905, said she has lived in the area for 15 years and her property is within ¼ mile of the Avila barn and is in direct site of the barn. She said she is in opposition to the special exception request, and that there are multiple reasons why an ag rental hall is unsuitable for a residential neighborhood. She said the board has heard from other property owners about the detrimental effect on property values, safety, and quality of life for the residents of the area. She said she wanted to address the effect the ag rental hall will have on the children of the surrounding neighborhoods. Tamara said she had contacted the Tippecanoe School Corporation as to how many students they have living within a 2-mile radius of the property. She was told there are 309 Tippecanoe School Corporation students living within 2 miles of the barn. She said the hours of operation will infringe upon the typical hours that families are ending their day and turning in for a good night's rest. She said the parties will cause sleep deprivation for area residents, especially teens. She cited medical studies that show this can contribute to lower grades, a lack of motivation, emotional and behavioral issues, an inability to concentrate, drowsy driving incidents, ADHD, anxiety, depression, thoughts of suicide, and suicide attempts. Tamara asked the board to deny the special exception for the ag rental hall and said to do less could be considered negligent to the health and well-being of the children living in the area.

Barbara Clevenger, 4721 Gertude Lane, Lafayette, IN 47905, said she lives approximately ¼ mile from the ag rental hall. She said there are several rows of houses and mature trees between the ag rental hall and her home, but she still has heard excessive noise from the parties held there. She said planting more trees is not going to solve the noise issue. She asked what her recourse would be if the special exception is approved and there is still too much noise. There is no county ordinance addressing noise, so she is not sure how that issue would be handled. She is also concerned about her teenagers driving on the roads with inebriated party-goers leaving the ag rental hall events. She concurred with the other speakers on the safety of the area roads. She asked that the board deny the special exception.

Tom Murtaugh, Tippecanoe County Commissioner, 20 N. 3<sup>rd</sup> Street, Lafayette, IN 47901, said that this is simply not the right place for an agricultural rental hall. Tom said the Ordinance Committee had tried to address these types of citizens' concerns when they discussed the agricultural rental halls. He said they wanted to protect neighboring property owners and asked that the board keep this in mind. Tom said the biggest concern is the driveway situation. He said the Tippecanoe County Highway Department will not permit a commercial drive at that access point. Tom also agreed that if the special exception were to be approved, it would be unlikely that the petitioner would cooperate with the county or the neighbors, in regard to the issues brought up tonight, in light of his past practices. He strongly encouraged the board to deny the special exception.

Tracy Brown, Tippecanoe County Commissioner and former Tippecanoe County Sheriff, 20 N. 3<sup>rd</sup> Street, Lafayette, IN 47901, said he spent a good part of his law enforcement career responding to the types of nuisance complaints that they are likely to see if this special exception is approved. He said this will put a strain on the limited resources of the Tippecanoe County Sheriff's Office. Tracy said having this type of business so close to a residential neighborhood is not a good idea. He respectfully requested the board deny the special exception.

Dan Dunten, 4739 Marimak Drive, Lafayette, IN 47905, said his bedroom window is right beside the proposed driveway for the ag rental barn on Marimak Drive. He said there would be no way he would be able to sleep with the traffic from the ag rental hall going back and forth all night. He said he has researched mounds for noise reduction and he said they would need to be 10 feet high and 40 feet thick to be effective. He did not think there was enough space to do that. He said a wood fence will not be effective and evergreen trees will take several years to fill in the area. He said so far there have been issues raised with lighting, drainage, sewage, dust, litter, noise, traffic safety, property values, and health concerns. He said he and the other residents of the area moved there to enjoy the peace and quiet. They don't want to have to move away because of this ag rental hall and if they do have to move, he is afraid their property values will be affected. He asked that the board deny the special exception.

Christopher Shelmon, Gutwein Law, 250 Main Street, Suite 590, Lafayette, IN 47901, spoke in rebuttal. Chris said certainly there are a lot of concerns but in summation he said the events held at the ag rental hall would mainly be weddings. He said those events can be compatible with neighbors with children. Chris listed the Tippecanoe Shrine Club, the Lafayette Country Club, and the new Tippecanoe County Fairgrounds facilities as similar venues located near residential areas. He said these types of venues can be done in a way that would mitigate the impact on residential areas.

Jen Dekker asked for clarification on the driveway plan. She asked if the board could only consider the driveway plan as it was proposed.

Rabita Foley said that was correct.

The board voted by ballot 0-Yes and 6-No to deny **BZA-1999 ISRAEL AVILA GAYTAN AND MARIA DE LA LUZ RAMOS MUNOZ**.

Steve Clevenger called a 5-minute recess at 7:24 pm.  
Steve Clevenger called the meeting back to order at 7:29 pm.

## **2. BZA-2002 JON TROY AUSTIN:**

Petitioner is requesting a special exception to use an existing duplex, a long-term rental property, as a Transient Guest House (SIC 702) in an R2 zone. The proposed hours of operation are 24 hours a day, seven days per week. The property is located at 625 Vineyards Court, Vineyards Subdivision, west of Park East Blvd., Lafayette, Fairfield 26 (NE) 24-4. (UZO 3-2)

Ed Butz moved to hear and vote on **BZA-2002 JON TROY AUSTIN**. Gary Schroeder seconded.

Rabita Foley presented the site plan, the zoning map, and aerial photos. Rabita said the property is zoned R2 and is located in the Vineyards subdivision. She said the subdivision is a 2-family development. She said the property has 2 units, and each unit is about 1,400 square feet. Rabita said the petitioner plans to rent both units as short-term rentals. She said they currently are being rented as long-term rental units but because of the past success of transient rental units in the Lafayette area, the petitioner is interested in listing these in some of the short-term rental platforms. She said this building was reviewed, constructed, and inspected as one-family and two-family building types. Rabita said per the ordinance each 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". Rabita said that for short-term rentals the City of Lafayette assumes at least two of four adults constitute a "family". She said the petitioner is seeking approval for 6 persons per unit, but the city only allows up to 4 adults (not counting children) in each unit. The only way the city would allow 6 persons per unit would be if four adults and two children were to occupy the unit at any given time. Rabita said staff has discussed this proposal with the Administrative Officer and at his recommendation staff recommends the following commitment and condition:

Rabita summarized the ballot items and said staff recommends approval with the following recorded commitment and condition.

**Commitment**

1. Each unit in the duplex shall be rented to a maximum of four adults (not counting children) or any number of persons that meets the definition of family in the ordinance at any given time.

**Condition**

1. Following the recordation of the commitment, a permit to operate a transient rental house must be obtained from the Lafayette City Engineer's office.

Zach Williams advised the board to make a motion to amend the matter on the floor that this is being heard with the proposed commitment and condition. That was not in the original proposal.

Steve Clevenger moved to hear this case with commitment and condition. Gary Schroeder seconded, and the motion passed by unanimous voice vote.

Steve Clevenger asked for clarification of the definition of family. He asked if the 6-person limit could consist of 2 adults and 4 children.

Rabita Foley said there is no limit on the number of people in a family. Rabita said the distinction would be for 6 unrelated persons.

Jen Dekker asked if there could be 6 related adults in one unit.

Rabita Foley said yes, that was correct.

Jon Troy Austin, 6221 Thayer Court, Lafayette, IN 47905, asked that the board move with the times and approve the special exception request for a transient rental house. He said this would be a better alternative for families visiting the area rather than renting a 3<sup>rd</sup> floor hotel room with no kitchen facilities or patio.

Rabita Foley read 1 letter of opposition.

Jay Benner, 7 Wildwood Drive, Lafayette, IN 47905, Compliance Officer for Vineyards Homeowners Association,

Daniel Teder, Reiling Teder & Schrier, LLC, 250 Main Street, Suite 601, Lafayette, IN 47901, attorney for the Vineyards Homeowners Association, presented the board with letters of opposition from the

Vineyards Homeowners Association and from the City of Lafayette. He said the petitioner calls this property a transient housing Air BnB but it will actually be a 2-unit hotel/motel business if the special exception is approved. He said this use is normally permitted in GB, HB and CB but it is permitted in this R2 zone by special exception. Dan Teder said there are 8-10 motels in the immediate area and more along I-65 as well. He said there are at least 20 hotels/motels already and he does not see the need for this request. He said this request does not meet the requirements of the ordinance because granting this special exception will materially and permanently injure the other property owners in the area. Dan said if there is a problem with noise, or lighting or traffic the only way to resolve it will be to call the police. He said this will be an ongoing problem because there will be different tenants staying in the unit every weekend. He said a hotel has security personnel in place to stop this kind of abuse, but a transient rental property does not. He said the problem will never be solved because the police will only be able to stop the tenants renting the property at the time they are called. Dan said there are owner-occupied homes bordering one side of the unit in question and the other units in the subdivision are rented by young families with small children and retirees. Dan said the HOA has worked hard to make this neighborhood one that the city and the residents can be proud of. Dan said this unit is a residence and it is not a hotel or a motel. He respectfully requested that the board deny the petition.

Julia Cserep, 2319 Natalie Lane, Lafayette, IN 47905, said she is an owner in the Vineyards Homeowners Association and she strongly opposes the transient guest house. She feels that this would set a precedent for other homeowners in the neighborhood to allow other transient guest rentals and that it would be a detriment to the neighborhood. She said it would introduce different pools of residents that will have no vested interest in the neighborhood. She said this type of housing is against the covenants and the HOA is truly concerned for the future of the Vineyards neighborhood if this special exception is approved.

Doug Anderson, 1300 Lockwood Drive, Lafayette, IN 47905, said he owns several of the duplexes in the neighborhood. He said a transient guest house is not appropriate for the neighborhood. Doug showed a map of the hotels and motels along I-65 and State Road 26 in proximity to the Vineyards neighborhood. He said a lot of those are extended stay hotels that come with kitchens, living rooms, bedrooms, and other amenities that you would find in a normal house. Doug said he rented an Air BnB in Nashville, TN to see Purdue play in the bowl game this year. He said he had a party the night before the game and invited about 30 friends over to the Air BnB. He said they were conservative and quiet. Doug said he does not want that type of situation to occur in the Vineyards neighborhood. He said those party-goers would be guests of the tenants renting the unit and would be exempt from limit of 6 adults per unit. He thinks this will bring a lot of parties and noise to the neighborhood. Doug said he is also concerned that if the special exception is granted then people will choose not to live in the Vineyards neighborhood. He said that will lead to lower rental rates and lower property values. He said the transient rental house is a bad decision for a neighborhood like the Vineyards where everyone has tried hard to make it a great place to live. He asked that the board deny the special exception.

Jon Troy Austin, 6221 Thayer Court, Lafayette, IN 47905, said in rebuttal that he is meeting all the ordinance requirements for this special exception and this will not hurt any of the surrounding properties. Jon said he has upgraded his property more than the other owners in the area have. He said he has lived in the neighborhood for 10 years, he has owned property there for 14 years, and he is very committed to keeping the neighborhood nice. He said his facility is one of the nicest homes in the area, if not the nicest. He said there are at least 2 new hotels being built in the area and there will probably be more than that, so there is a need for this type of short-term rental housing. He said Lafayette has a growing economy and that Air BnB's are a growing trend. Jon said a party could take place anywhere, at a hotel, a private residence or an Air BnB. He said he is putting restrictions on parties held at his property and he will be installing a camera system which will restrict any extra persons staying at the property. He disagreed that hotels have their own security personnel to deal with parties and noise, and he said that he will have just as much security as any of the hotels in the area. Jon said his rental rates are the highest rates in the neighborhood and he is not bringing down the community at all. He said his main reason for doing this is to help his family financially. He said he does not have the resources required to start a small business, but this is something he is able to do to help his family. He said the transient rental property will provide a comfortable and safe place to stay for elderly people who do not want to climb 3 flights of stairs to get to a hotel room without a kitchen. He also said this will create tax revenue for the city. Jon said he is committed to following all the guidelines and policies for transient rental properties set

out by the city. He said the Vineyards HOA has no guidelines on transient rental properties. He said any of the owners in the neighborhood can rent to someone for 31 days and the only difference with his property is that it would be rented for less than 30 days. He asked the board to please approve this special exception.

The board voted by ballot 2-Yes and 4-No to deny **BZA-2002 JON TROY AUSTIN.**

<u>Yes-Votes</u>	<u>No-Votes</u>
Tom Andrew	Steve Clevenger
Jen Dekker	Ed Butz
	Gary Schroeder
	Frank Donaldson

**3. BZA-2004 CIVIL AND ENVIRONMENTAL CONSULTANTS, INC.:**

Petitioner is requesting a variance to reduce the required number of parking spaces to 75 from the minimum requirement of 93 94 spaces to build a 2005 sq. ft. addition to the existing ALDI grocery store in an NB zone. The property is located at 210 Sagamore Parkway, West Lafayette, Wabash 07 (NE) 23-4. (UZO 4-6-3

Ed Butz moved to hear and vote on **BZA-2004 CIVIL AND ENVIRONMENTAL CONSULTANTS, INC.** Gary Schroeder seconded.

Rabita Foley presented the site plan, the zoning map, and aerial photos. Rabita said the property in question is the Aldi store located in West Lafayette. She said the property is surrounded by commercial zoning on 3 sides and abuts an R1 subdivision to the north. Rabita said the petitioner plans to expand the existing 16,656 sq. ft. commercial building by adding an additional 2,005 sq. ft. to it. Due to the addition the store will lose some of its current parking area and there is no space available to add more parking. Rabita said Aldi purchased an additional .497 acres in 2009 but most of that acreage is being used as a pedestrian trail. There is a greenway easement agreement with the City of West Lafayette which prevents Aldi from using that area for parking spaces. Rabita said Aldi is a relatively small store but it has the same parking requirements as any other general merchandise store. Rabita said the ordinance requires 1 parking space for every 200 sq. ft. of gross floor area. She said staff feels that is fine for bigger stores but that customers would spend less time shopping at a store the size of Aldi and fewer parking spaces would be needed. Rabita said there have been numerous complaints from the neighboring Bar Barry Heights subdivision about an ineffective bufferyard and loading berth screen to the north. Rabita said the proposed building addition does not authorize the Administrative Officer to require new bufferyard standards, but off-street loading section (UZO 4-6-18) does authorize the AO to require and review the noise barrier structure requirement to screen the off-street loading berth when a building is substantially altered. She said the City of West Lafayette could require improvements to the loading berth adjacent to Bar Barry Heights if the proposed addition moves forward.

Rabita summarized the ballot items and said staff recommends approval with the following commitment:

An approval must be obtained from the Administrative Officer for an appropriate noise barrier structure for an off-street loading berth as specified in UZO 4-6-18.

Aaron Hurt, Civil & Environmental Consultants, Inc., 530 E. Ohio Street, Suite G, Indianapolis, IN 46204, civil engineer for Aldi, presented a site plan and photos. Aaron said the Aldi store opened in 2010 and now they want to expand the store by about 2,000 sq. ft. He said currently the store has 85 parking spaces, but they will lose 10 parking spaces due to the expansion. He said Aldi is confident the remaining parking spaces will be sufficient, and he said typically Aldi has between 40-50 cars maximum in the parking lot. Aaron said the improvements will be on the south side of the building and nothing on the north side is going to change. He presented a rendering of what the new expansion will look like and said it will be very similar to the current building. Aaron said Aldi is proposing to install a new 8-ft tall fence

along the north side of the property. He said Aldi is aware that the hours of delivery need to be between 7:00 am and 9:00 pm and they have adjusted their delivery schedules to meet those hours. He said Aldi is trying to be sensitive to the surrounding neighbors.

The board voted by ballot 6-Yes to 0-No to approve **BZA-2004 CIVIL AND ENVIRONMENTAL CONSULTANTS, INC.**

**4. BZA-2006 PRAVEEN SAXENA:**

Petitioner is requesting the following setback variances to expand and legitimize the existing single-family house in an R1B zone:

1. To reduce the street setback to 10' from the minimum required 25' along Kingston Drive; and (UZO 2-3-7)
2. To reduce the side setback to 4.5 inches from the minimum requirement of 5' from the northern property line; (UZO 2-3-9)

on property located at 1111 Riverton Drive, West Lafayette, Wabash 17 (SW) 23-4.

Ed Butz moved to hear and vote on BZA-2006 PRAVEEN SAXENA. Gary Schroeder seconded.

Ryan O'Gara presented the site plan and aerial photos. Ryan said the property is located in West Lafayette in the New Chauncey Neighborhood. He said it is outside of the local historic district, so it will not be required to get the proposed expansion approved by the historic district committee. Ryan said the house was built in 1954 prior to the construction of Kingston Road. Ryan said the setback requirement for both Riverton and Kingston Drives is 25 feet, however the house was built before those setback requirements existed. He said that the house is non-complying because of this, and because of the lack of 2 onsite parking spaces.

Ryan said this will be fixed with the current expansion plan. He said after this subdivision was platted an "amendment" was made to dedicate additional right-of-way for a proposed cul-de-sac on Riverton. A cul-de-sac was built as a turn-around for traffic. This cul-de-sac was removed when Kingston Drive was constructed and the turn-around was no longer needed, but the right-of-way was never vacated. The home meets the setback from the cul-de-sac even though the cul-de-sac is no longer a part of the road. Ryan said the petitioner is having difficulty trying to expand the property given these constraints. He said that granting these 2 variances will meet the standards of the ordinance. Ryan said the 25-foot building setback, created through no fault of the property owner, was put in place after the construction of the house when Kingston Drive was built. The 1<sup>st</sup> variance to adjust the setback along Kingston Road to 10-feet from 25-feet will correct this. The 2<sup>nd</sup> variance is to legitimize the southern setback of 4.5 inches from the southern property line. Ryan said this is not a self-imposed hardship on the part of the petitioner because of the very unusual circumstance with a new street coming in, and the very old, un-conforming home.

Ryan summarized the ballot items and said staff recommends approval for variance #1 and variance #2.

Praveen Saxena, 1111 Riverton Drive, West Lafayette, IN 47906, said he bought the home 6 or 7 years ago. He said at the time it was just he and his wife and they thought they would probably move on in time. He said they ended up staying in the home and their family has expanded since then. He said they would like to add on to their home but there is only so much room to maneuver on that lot. He said they need the setback variance on Kingston Drive before they can build on to their home. He said because Kingston Drive was constructed after the home was built, they need a setback variance to 10-feet from the required 25-feet. Praveen said the southern property line is just 4.5 inches from their neighbor, but that neighbor is here tonight supporting them. Again, the house was built before the setback requirements were put in place. He said he would be very grateful if the variances were approved.

Angela Mukuru, 1105 Riverton Drive, West Lafayette, IN 47906, said she is Praveen Saxena's neighbor and she is fine with the variance requests. She said she supports both variances.

The board voted by ballot 6-Yes and 0-No to approve Variance #1 and 6-Yes and 0-No to approve Variance #2 of **BZA-2006 PRAVEEN SAXENA**.

#### V. ADMINISTRATIVE MATTERS

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.

#### VI. ADJOURNMENT

Gary Schroeder moved for adjournment.

The meeting adjourned at 8:25 p.m.

Respectfully submitted,



Diana E. Trader  
Acting Recording Secretary

Reviewed by,



Sallie Dell Fahey  
Executive Director