

PLAINFIELD BOARD OF ZONING APPEALS
January 16, 2017
7:00 p.m.

CALL TO ORDER

Monnett: I will now call to order the Plainfield Board of Zoning Appeals meeting for January 16, 2017.

SWEARING IN OF NEW MEMBERS

Mr. Monnett: I will now ask our Town Attorney to have our swearing of our new board members please.

Mr. Daniel swore in Richard Philip and Scott Slavens as new members of the Plainfield Board of Zoning Appeals.

ROLL CALL/DETERMINATION OF QUORUM

Mr. Monnett: I will now ask our Board Secretary, Mr. Klinger to have a roll call for determination of a quorum.

Mr. Klinger: Ms. Duffer- here
 Mr. Monnett- here
 Mr. Cavanaugh- here
 Mr. Philip- here
 Mr. Slavens- here

Everyone is present and accounted for.

PLEDGE OF ALLEGIANCE

Mr. Monnett: Please rise for the Pledge of Allegiance.

APPROVAL OF MINUTES (September 19, 2016)

Mr. Monnett: I will now entertain a motion for approval or amendments to our meeting of September 19, 2016.

Ms. Duffer: Motion to approve.

Mr. Cavanaugh: Second.

Mr. Monnett: We have a motion and a second all in favor say aye.

ELECTION OF OFFICERS

Mr. Monnett: I will entertain our election of our officers for 2017.

Mr. Cavanaugh: I move to continue with Mr. Monnett as President of the Board of Zoning Appeals.

Ms. Duffer: I will second.

Mr. Monnett: Have a motion and a second, all in favor say aye, thank you. And I would like to continue Ms. Duffer as our Vice President, I would like to make that motion.

Mr. Cavanaugh: Second.

Mr. Monnett: The motion and a second, all in favor say aye. Thank you.

OATH OF TESTIMONY

Mr. Monnett: I will ask Mr. Daniel to administer the Oath of Testimony to those that are going to testify tonight.

Mr. Daniel administered the Oath of Testimony.

PUBLIC HEARINGS

Mr. Monnett conducted the Guidelines Governing the Conduct of Public Hearings.

PETITIONS FOR PUBLIC HEARING

Mr. Monnett: Our first petition tonight is BZA-16-021, area 51 Ken Alexander.

Mr. Berg: Tonight we are talking about BZA-16-021 area 51, which is a special exception to allow a tattoo parlor in the General Commercial district within the Gateway Corridor. Here is Main, 267, Shady over here would be Perry Crossing, Kroger, and Walmart. It is kind of an old photo this will be in the unit over there, I think this is now a cell phone shop that is there now not a barber shop. I will keep this short, don't expect this to always so short. I saw we did a previous special exception for Concrete Ink back in 2008. That shop closed so I guess the question that comes to mind does this proposed special exception pose any problems or issues that the previous use which was similar did not pose? Of course our typical special exception condition, that approval is only for Area 51 and is non-transferable to another subsequent business, owner, or operator at the same location. Like I said I was going to keep it short. The applicant is here to answer any questions if you have any questions for me I can answer them as well.

Mr. Monnett: I have one for you if that is okay. Are you aware of the other problems that arose at the previous business that was there of the same nature.

Mr. Berg: I do not.

Mr. Monnett: The petitioner is here and would like to come forward please.

Mr. Alexander: My name is Kenneth Alexander, 2326 E. Main Street, Plainfield, 46168.

Mr. Monnett: How long have you been doing this type of business, sir?

Mr. Alexander: Twenty years.

Mr. Monnett: How many locations have you actually had?

Mr. Alexander: This is 5, hopefully this one will be more profitable.

Ms. Duffer: You said in one of your letters to us that you enforce certain health codes which obviously the state enforces as well, how often are you reviewed by those state agencies?

Mr. Alexander: I go above and beyond, I mean typically I think they check on you once a year, but habitually I come from Vigo County which I think has much stricter to the strictest laws I have ever been accounted for. So there we had to check in every 90 days to do an inspection sheet making sure the paperwork is filled out correctly and make sure the needles are being disposed of properly and make sure the site is just comfortably clean, now general inspections are done annually but I mean my paperwork is presentable every 90 days.

Ms. Duffer: I have a follow up question. In those previous inspections did you have any violations?

Mr. Alexander: No, I have never had a violation.

Mr. Monnett: That is strictly state inspection, how about County?

Mr. Alexander: It is always per County.

Mr. Monnett: So Hendricks County could still come in besides that.

Mr. Alexander: Yes and every County is regulated different.

Mr. Monnett: Questions from any of the members?

Mr. Cavanaugh: I have no questions.

Mr. Monnett: Mr. Slavens?

Mr. Slavens: No sir.

Mr. Monnett: Thank you Mr. Alexander. If anyone else here would like to speak for or against this petition please come forward.

Ms. Pea: Hi my name is Anna Pea and I am the owner of Village Vehicle Mobile Home Park.

Mr. Monnett: Can I get your address first.

Ms. Pea: It is 98 Yorkshire Boulevard West Drive, Cumberland, Indiana 46229. Anyway I own the mobile home park that sits just behind what would be the tattoo shop to the north. If you turn in where Popeye's is at the park is back in there. I guess my biggest concern is the buffering to adjacent properties and I am reading straight from your ordinance, the Board of Zoning Appeals may grant a special exception only upon making an inaudible determination adopting appropriate findings of fact based upon evidence presented at the Public Hearing. And then the finding of fact and then when reviewing a special exception petition and making determination as to the compliance with the required findings of fact the Board of Zoning Appeals shall give consideration to the particular needs and circumstances of each special exception application as examined the following items as they related

to the proposed use. Then you have 11 listed. Number 7 is landscaping screening and buffering of adjacent properties. I do have a few pictures, there is no buffering and also quite a mess back there. There is a lot of people that cut through into the mobile home park and I know it is just a mobile home park but most everyone in there is 55 and older and it's well maintained and pretty much crime free, you could probably check with your Police Department. There are rarely any issues and I don't tolerate any crime at all. So it is kind of unsightly from the people of the mobile homes that their yards back up to that area and plus people cutting through and plus we are prominent of your ordinance. I have a few pictures with me, I apologize I just had to print them out quickly but you can just kind of pass them around. I am not saying that I am opposed to this I would just like to see the screening done, it probably should have been done when the other special exception was allowed. I know Popeye's, several of the businesses along there have wooden fences for screening.

Ms. Duffer: And these images were taken when ma'am?

Ms. Pea: Those were taken about 2 or 3 weeks ago or so. There are a lot of issues along there not necessarily just right behind that, but just a little ways down there was somebody that had 2 or 3 pit bulls on great big chains and it was really scary and it scared my tenants and I was going to complain to the Town about that but they moved. So there is little shacks back there where people were living for a while too. I'm not sure they are even real houses.

Mr. Monnett: I've got a question for Mr. James or Mr. Berg for this situation. What is front of us is just for the business that is wanting to come in there.

Mr. James: That is correct. As far as the property it is legal non-conforming with regards to a required buffer yard. We would only require that if it was a new development, but I mean the board can take Ms. Pea's request under consideration. We have talked to the owner of the property and he had 2 trash dumpsters back there and so we asked him to get rid of one of the trash dumpsters and instead of doing a trash enclosure to put up a privacy fence across the back of the property.

Ms. Buffer: And he agreed to that?

Mr. James: Yes.

Mr. Monnett: Thank you and thank you Ms. Pea. If there is anyone else that would like to speak for or against this petition please come forward. Seeing none I will close it to the public and I will open it up to the public and I will open it up to the public. Seeing none I will close it to the public and I will open it up to our board for discussion or a possible motion.

Ms. Duffer: Taking into consideration that this is just the special exception for the tattoo business, there was a previous business of the same nature in there before, no issues from Mr. Alexander and no issues from what we have had before, I see no reason to deny. Taking into what Mrs. Pea has presented that like you said Mr. Monnett, a totally different issue and if Joe has talked to the property owner and taking some steps to make that better I think that that is nice.

Mr. Monnett: I agree with that.

5.5 would be required. What they have done is moved some of the landscaping to the south side of Locust Drive. There is an existing fence right here, so they thought the buffer yard would work better over here to block the headlights as people pull out onto Locust Drive. You can see the home sits back in here at the back of the lot, so right there is where the landscaping will be and then you've got the fence right there. This can be approved as an alternative plan. If this does go to the Plan Commission for review of the development plan and that is when the Plan Commission will look at the design of the building and landscaping and the lighting. The lighting will have to comply with the gateway standards to prevent light pollution. So they got to get the front setback variance for Main, Elm, and Locust Drive, and then the second variance is to not have the bypass lane back here. Here is the floor plan of the building, they are only going to have 9 seats and so required parking is only 5 parking spaces and they've got 9, so they will have more parking than what they need. So this won't be, it will be more like just a drive thru restaurant instead of a sit down restaurant. The site is a small lot with 3 street frontages, is this justification for the setback variances? Staff asked for the bypass lane to be moved to the front to allow the internal circulation so staff supports this variance. The proposed egress and ingress Locust Drive will function as the bypass lane, this was recommended instead of vacating Locust Drive. Locust Drive is not heavily used so staff supports this variance. To be used with the existing fence some perimeter landscaping was moved to the south of Locust Drive to provide a better buffer yard. The proposed landscaping exceeds the required level 4. This can be approved as an alternative plan if this goes to the Plan Commission, but it would require either an encroachment agreement if that is right of way or in a landscape easement if it is on the property owner's property. So with that I will have a seat and there are representatives here and I am sure they would be glad to answer your questions.

Mr. Monnett: Quick question because I know it is a different ball game whatever happens here goes to Plan Commission. The existing sign that is there now for fuel and whatever else will that be allowed in this new location? Or is that too big, if they would want a ground sign?

Mr. James: No they can only have a 6' tall ground sign.

Ms. Duffer: Joe I have another question for you. Have you talked to the property owners about this easement or the agreement?

Mr. James: No we haven't, I don't know if the representatives have.

Mr. Monnett: Is there somebody that is representing the petitioner or the petitioner himself like to come forward.

Mr. Tursman: Dan Tursman, 4202 Oakgrove Drive, Valparaiso, Indiana 46383. Again as that was pretty well introduced the project we are looking to do is to put a Tim Hortons Café at that address, 1805 E. Main Street and we are excited to bring this new product into the market and we are excited to work in this area and work with the Town of Plainfield on that. We had some challenges with this site, obviously we will do the sides of it but we are excited of the location and I think it does work as a good location for this use and for this product, and so again with some of the challenges we need to kind of work through some of these variances in order to make the site a little more useable for us. I can answer specific questions that you have for us.

Ms. Duffer: I will ask you the same question I asked Mr. James. So have you talked to the property owners about any of the agreements that you would like to make.

Mr. Tursman: We have not spoken with them yet, although we are more than happy to work with the neighbors. We pride ourselves in being good neighbors, we are not trying to upset anybody so certainly we would be more than happy to, we wanted to take this step first to bring it to the Town and to you guys and make sure that was feasible with you and then certainly we will talk to the neighbors and do everything we can to satisfy any of their concerns as well as yours.

Ms. Duffer: And you are purchasing the property is that correct?

Mr. Tursman: That is correct.

Ms. Duffer: And that purchase if everything goes through then you will purchase the property or have you purchased the property already.

Mr. Tursman: It is a conditional purchase.

Ms. Duffer: Is there any environmental issues that you have found on the location?

Mr. Tursman: Not yet, no we did perform a phase 1 environmental and there were no concerns with that and so obviously we will do further investigations to finalize the purchase but at this point there are no concerns.

Ms. Duffer: Thank you.

Mr. Cavanaugh: I don't have any questions right now.

Mr. Monnett: I don't either, Mr. Philip or Mr. Slavens?

Mr. Philip: No.

Mr. Slavens: No.

Mr. Monnett: Thank you. If there is anyone there for or against this petition please come forward.

Mr. Daniel conducted the Oath of Testimony.

Mr. Phares: My name is Michael Phares and my address is 52 Locust Drive. I think my mother and my property was one that was being talked to that is adjacent to the Tim Hortons. We are just kind of hoping if we could get things clarified on exactly on what all is going to happen. From one of the diagrams it looked like it was going to come very close to our fence and bushes at our property. We were just kind of wondering if we could get some clarification on exactly on what all was planned on being done.

Mr. Klinger: It is off the corner of Elm and Locust?

Mr. Phares: Yes that is 52 Locust Drive.

Mr. James: There will be no development here, there could be a menu board right about right there and maybe another menu board right there for the 2

drive thru lanes. The street will is here so you will have some buffer yard created by the street and then the trash enclosure will go right there.

Mr. Klinger: So basically the building will be further away than the existing building now? There will be some landscaping that is required across the back property line, is that correct?

Mr. James: They put in an illegal cooler back here back maybe about 2003 I believe, that will go away. The building will be demolished and canopy will be demolished. This is the footprint, so they will move further away from the road and the property. This will be the drive thru lanes and then they will have landscaping here, landscaping right there and then they want to do landscaping right there and keep your fence right there.

Mr. Phares: What kind of landscaping are they planning on doing right across here?

Mr. Daniel: Joe we are losing our record here with everybody talking all over the place.

Mr. James: Joe James, the Planning Director, responding that the proposed arbor vides, that is your tall thin evergreens. At the time they will be planted will be 4', right up to your fence.

Mr. Phares: Ok, so then other words all of our bushes that we've got out there is gone.

Mr. James: No.

Mr. Monnett: If there is anyone else here that would like to speak for or against this please come forward.

Mr. Klinger: I think just to clarify I am not sure if all of that got on the record or not, but what I heard was that the petitioner understands that the screening and the landscaping, the purpose of that is to serve the neighbors and to screen then essentially from the development and that if there are existing plantings that they prefer to keep that you are going to work with them to make sure that that is done.

Mr. Monnett: Would anyone else like to speak for or against? I will close it to the public and open it to our board for discussion or a motion.

Mr. Philip: Joe could you explain to me the bail out lane issue. So I understand first of all for sure what it is and second of all how it is being addressed.

Mr. James: The ordinance requires that you have a bail out lane when you have a drive through lane in case someone is in line and they decide they don't want anything so they can literally bail out. Or if someone doesn't want to go in the drive through lane.

Mr. Philip: And the room for that was made in the front?

Mr. James: Yes it has to move to the front so they wouldn't have to go back out on Main Street. If they came in this way or if they went around and decided well maybe they did want something.

Mr. Klinger: So typically this would be another lane outside of the drive thru lane but because of the cramped space here essentially the bail out lane is Locust Drive, they can get out on Locust and come back in and come around the front of the store.

Mr. Monnett: Correct me, in further discussion as far as the plantings and all that can go through the Plan Commission once the final site plans?

Mr. James: Yes. If the variances are granted then their next step is to go to the Plan Commission for review of the development plan and that is when we will look at the site plan the building design, materials, landscaping, lighting, and a signage plan.

Mr. Klinger: So the petitioner needs to work with the neighbors to work on the landscaping plan prior to Plan Commission.

Mr. James: Yes.

Mr. Monnett: I forgot one more question for the petitioner. For hours of operation.

Mr. Tursman: 5:00 a.m. to 9:00 p.m.

Mr. Monnett: Seven days?

Mr. Tursman: Weekend probably would be 6 a.m. to 9:00 p.m.

Mr. Monnett: Okay, thank you. Questions or concerns?

Mr. Cavanaugh: I don't have particular questions. I have to admit when I first saw what the request was for the variance for the no bail out lane I was pretty reserved about that but actually looking at the site plan considering the size and limitations I think it is a pretty creative solution and changed my opinion and I think it works pretty well. they are thinking adequate provisions for landscaping and have certainly to work with the neighbors and they have other approvals to obtain, but I think through the nature of 3 street frontages certainly creates the hardship and as I said I think this is a creative solution to that. If there are no further questions I would be prepared to make a motion. I move that the Board of Zoning Appeals approve BZA-16-023, as filed by Butkus Development, requesting approval of variances to reduce the required front setbacks from Main Street, Elm Drive, and Locust Drive and to allow drive-thru lanes without a bail out lane for a proposed 1340 square foot drive-thru restaurant at 1805 E. Main Street, subject to the following conditions.

1. Substantial compliance with the landscaping plan file dated January 10, 2017 and the site plan file dated January 11, 2017.
2. An Encroachment Agreement granted by the Town, or a landscaping easement granted by the property owner, shall be acquired before an Improvement Location Permit (ILP is granted for Tim Horton's).

Ms. Duffer: I will second.

Mr. Monnett: Motion by Mr. Cavanaugh and a second by Ms. Duffer. Mr. Klinger would you please poll the board?

Mr. Klinger: Ms. Duffer- yes
Mr. Monnett- yes

Mr. Cavanaugh- yes
Mr. Philip- yes
Mr. Slavens- yes

BZA-16-023 is approved 5-0.

OLD BUSINESS/NEW BUSINESS

Mr. Monnett: Old business or new business Mr. James?

Mr. James: No, that is all we have for tonight.

Mr. Monnett: I have a quick question that we approved something awhile back. What is going to happen with Scotty's Brewhouse?

Mr. James: The Architect said that the new owner wanted to scale back on the construction costs so he sent me some new elevations and we are going to review that at the design review committee tomorrow. Then I am going to take it back to the Plan Commission in February under old business.

Mr. Monnett: Then it will have to come back to us for a variance for a use of alcohol.

Mr. Klinger: I was going to ask that question because we also know that Carmike has changed hands and purchased by AMC and I am not sure if that purchase has been closed, but they also need to come back to renew a special exception for alcohol sales.

Mr. James: Okay I will check on those 2 conditions and see if that is the case.

ADJOURNMENT

Mr. Monnett: Welcome our new 2 members.

Mr. Klinger: One other real quick thing. We were talking about special exceptions for alcohol sales. I read recently that Starbucks is no longer going to be offering alcohol at any of their stores from what I understand.

Mr. James: They never filed.

Mr. Klinger: Oh that is right there was talk about it but I guess they never actually filed. But apparently they decided that that didn't work out of them so they are not selling them at all anymore.

Mr. Monnett: If that is motion for adjournment.

Ms. Duffer: So moved.

Mr. Monnett: Thank you.