

**BOARD OF ZONING APPEALS OF
EVANSVILLE AND VANDERBURGH COUNTY**

**Regular Meeting - City Council Chambers - Room 301
Administration Building - Civic Center Complex
Evansville, Indiana**

November 17, 2005

ROLL CALL

Mr. McCarthy: I would like to call the November 17, 2005 meeting of the Board of Zoning Appeals to order. Will the secretary please call the roll?

MEMBERS PRESENT

Derek Dunigan, Alan Groves, Bill Harrison, Roger Herrin, Erika Taylor, Wayne Washington, Burkley McCarthy, Jr.

MEMBERS ABSENT

None

AREA PLAN STAFF PRESENT

Bradley G. Mills, Executive Director; Beverly Behme, Zoning Administrator; Janet Greenwell, Zoning Enforcement Officer; Joe Harrison, Jr., Counsel.

APPROVAL OF MINUTES

Mr. McCarthy: May I have a motion to approve the minutes of the October meeting? (Upon unanimous voice vote, the minutes of the October meeting are approved.)

Mr. McCarthy: I would like to welcome you on behalf of the Board of Zoning Appeals and the staff of the Area Plan Commission. The Board of Zoning Appeals is an appointed seven member Board established by State Legislature. It is given the responsibility to hear and act on all appeals, requests for variances from the zoning code and establishment of special uses. Since there are seven members of the Board of Zoning Appeals, to establish a quorum, we must have four members present in order for a petition to be approved or denied. If you do not have four votes to either approve or deny the request, you have the opportunity to go before the Board the next month and be heard again. The denial of a petition for a variance, special use, or an appeal by the Board of Zoning Appeals or the withdrawal of such a petition by the petitioner shall prohibit the Board of Zoning Appeals from hearing the petition for a variance, special use, or an appeal for the subject property or a part thereof for 12 months from the date of the denial or withdrawal. An exception may be made upon unanimous vote of the Board of Zoning Appeals. In granting a variance or

special use, the Board may set any conditions, requirements or limitations that it deems necessary and which are appropriate to implement the principles and purposes of the zoning ordinance. The Board keeps minutes of official action of its proceedings. These minutes and files are public records and are kept in the Area Plan Commission office in Room 312 of the Civic Center Complex. When you come before us, we ask that you state your name and address into the microphone, since everything is recorded and kept as record. The next meeting of the Board of Zoning Appeals is Thursday, December 15, 2005 at 4:00 p.m. in Room 301 of the Civic Center Complex.

This Board, which by State law, is a quasi judicial body that cannot be contacted by the public prior to the Board of Zoning Appeals hearings, has jurisdiction over two types of petitions. One is special use and the other is variance. Neither of these categories is a rezoning. They are special waivers or special conditions that this Board has authorization to grant to the petitioner. A variance is an application to waive or modify certain requirements of the Zoning Ordinance. It is not a rezoning of the property. In order to receive approval, the following criteria must be satisfied.

The conditions necessary to grant a variance are summarized as follows:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

In our review of variance requests, the Zoning Code [Section 15.153.164(B)] establishes the criteria that must be applied to each petition. The Code specifically requires that these criteria must all be met for a variance to be granted.

The second category that we have before this Board would be special uses. Certain uses are necessary to the life and economic health of the community. But they have characteristics of the operation that do not readily permit classification in the usual residential, commercial or industrial districts. Special uses are secondary classifications. They are not rezonings. In order for a special use to be approved, the following criteria are used:

1. whether the specific site is the appropriate location for the use;
2. whether the use, as developed, will adversely affect the surrounding area;

3. whether there will be a nuisance or a serious hazard to vehicles, pedestrians or residences;
4. whether adequate and appropriate facilities will be provided for proper operation of the use;
5. whether the use is in harmony with the Evansville and Vanderburgh County Comprehensive Plan; and
6. whether the use is essential or desirable to the public convenience and welfare.

The Board of Zoning Appeals approval or modification of a special use classification may include whatever reasonable conditions, limitations, or temporary uses necessary for the protection of the public interest.

To protect public interest and to ensure compliance with requirements to be included in the site plan, the Board of Zoning Appeals may require whatever evidence and guarantees are necessary to assure compliance with conditions, limitations, and temporary uses.

The following petition will not be heard tonight:

Docket No: 2005-80-BZA JoAnne's 929 N. Green River Road
CONTINUED TO THE DEC. MEETING AT THE PETITIONER'S REQUEST.

Mr. McCarthy: We have a petitioner that is requesting a continuance that we will hear first. Is the representative for Romain Automotive present?

Mr. DeLucio: My name is Marco DeLucio. I represent Romain. Romain contacted me yesterday. They were handling these petitions on their own. They became aware that there might be some opposition from adjacent property owners. I just got the file yesterday. We would respectfully request this matter be continued so I have an opportunity to review that, and also to meet with the people we think might remonstrate. Mr. Shively is here tonight. I know the Romain folks met with him on Tuesday. We think we might be able to work it out and narrow the issues and make a better presentation to the Board next month. We would request a continuance for both the variance and special use, as well as a waiver of the continuance fee if we could.

Mr. McCarthy: I will entertain a motion for the continuance and also for the waiver of the continuance fees. (Motion was made and seconded.) Voice vote. (Upon unanimous voice vote, Docket No: 27-2006-APC and Docket No: 2005-83-BZA are continued to the December meeting.

Now, let's move on to the first petition on the agenda.

Mr. Joe Harrison: Mr. Mills, on all petitions tonight, do you swear or affirm that the testimonies you will give are true and accurate so help you God? (Mr. Mills has been sworn in.)

OLD BUSINESS
SPECIAL USE

Docket No: 19-2005-APC Applicant: Herschel and Sandra Bowlds
Common Address: (Complete legal on file.) 1019 St. George Road
Nature of Case: Applicant requests a special use for a one operator beauty shop in the residence.

Mr. Mills: Herschel and Sandra Bowlds are requesting a renewal of their Special Use 18 approval for their residence located at 1019 St. George Road. The Bowlds' were granted SU-18 approval (33-2003-APC) on October 20, 2003 subject to a two-year time limit. They are seeking renewal of SU#18 approval to allow continuance of a one-operator, resident-occupied, resident-operated beauty salon within the residence. The only complaint of record is the testimony we heard at last month's meeting regarding a disputed property line and shared driveway. The meeting was continued from last month to allow time for both parties to assess the situation. The Bowlds' residence is on the south side of St. George Road, immediately east of the curve of North Kentucky into St. George Road. When initially approved for this special use, the Board of Zoning Appeals imposed a time limit on the beauty salon to determine if the use is compliant with traffic and parking concerns. There were no complaints of record regarding the access or parking at this location during the two year period the beauty salon was in operation at this address.

Mr. Joe Harrison: All those who will speak on this petition, raise your right hand. Do you swear or affirm that the testimony you will give is true and accurate so help you God? (Those persons have been sworn in.)

Ms. Bowlds: My name is Sandra Bowlds, 1019 St. George Road.

Mr. McCarthy: Do you have anything to add to Mr. Mills' comments?

Ms. Bowlds: I have been researching for three weeks. First, you said we are supposed to have parking for two spaces, which is our two automobiles and one for a customer. In our front driveway, it is 80 x 25 feet. The side driveway is really not an issue. I talked to a lawyer on that since we spoke. Then we found out that we have five extra feet there. So we have 11.4 feet on that side which should not be a problem. We didn't have a problem for two years that I have been there. Debbie has been there 12 years and we had no

problem with that side drive. My husband asked her if we could buy her side of the driveway when we heard she was going to sell her house. That was in the summer. Until she found out I was coming to the Board, a week before I came to the Board she came up with the letter stating she would sell it for \$2,500 or see me at the Board. Her father called me on the phone and said if I didn't want to buy the land for \$2,500, then he would stop me from having my shop. Well, we have enough room up front. For two years, I have done this. My customers do not pull out backwards on St. George Road. We have other things we could do. I have been at the Civic Center for three days talking to the Assessor, Surveyor, and everything. They showed me where we have the extra five feet. If you look from the back side of the house, we have 11.4 coming out. He has surveyed that land as an angle. It says five feet straight down. So we have no problem. My ladies depend on me. It is my job. He made the statement last time that the problem was she couldn't sell her home because of my beauty shop. Then you asked if there was not a problem with that side drive, would there be a problem with my shop? He said no. So what is it he is saying? I feel like he is trying to get some extra money. I had not had a problem for two years. Up there where the mailbox is, my husband has taken out the stone so they can pull in there and turn around or that black asphalt, they can pull in there. We have no problem. I can get six cars in that driveway. We have 11.4 feet from the corner of my beauty shop over. That is plenty to come around my house. I don't understand why I am having such a problem after two years and they come up with \$2,500 and we are buying our own property? I have a picture to show you where our marker is. He has it cutting me off from five feet to one foot.

Mr. McCarthy: Do you have anything you want to enter into the record, pictures?

Ms. Bowlds: Yes I have some pictures.

Mr. Bill Harrison: These people that are here, are they here to support you, or are they customers?

Ms. Bowlds: Customers. I work three days a week. This week I have had five customers. I space them out so I can take a break in between. The most I have had is 12-13 people. People have more company than I have customers.

Mr. McCarthy: Are there any remonstrators?

Ms. Henneissen: Deborah Henneissen, 1023 St. George Road, adjoining property owner.

Mr. Biggerstaff: Jim Biggerstaff. Basically, this property has been here for some time. They have been trespassing, which was by a working agreement, I mean a handshake. Recently, my daughter decided to sell the property within the last year. At that time, it was surveyed and that's when it was determined where the property line was and there is no

question about the property line. It does run at an angle. So what has happened is, they had a carport and the carport was enclosed, so that blocked off their access to the rear of the property. As you can see, it is on an angle. There is less than five feet at the southeast corner of the property. As you get to the front, it is wider. But there is no adequate room here to turn around on this property without using my daughter's property. So if they could redesign a turn around, whatever, as long as it doesn't encroach on her property. But you have to back out on St. George Road. There is not adequate room to turn around under the present conditions without trespassing. So she intends to sell the property. It is going to be on the market. That is what it is all about. We did offer in writing a proposal either an easement or the purchase. To this date, nothing has happened.

Ms. Taylor: So from the edge of the building to that line, she was saying that is 11.4 feet. That is not 11.4 feet?

Mr. Biggerstaff: See the house is not parallel to the line? As you go further to the north, the line spreads out. But when you get to the back part of the house, it is very narrow. So you have more room at the front. We submitted pictures before that shows the property line. You can see how close it is to the house. You can see the driveway encroaching there. That is what I am talking about. So the only way you can get to the rear of the property is through an encroachment from my daughter's property.

Mr. Bill Harrison: I want to make clear, according to that line, that is your property in the middle and her property is to the left. Then you are saying that when you leave your home, if you are going to the left, you actually encroach on her property?

INAUDIBLE

Mr. Bill Harrison: Did you put that driveway in?

Ms. Henneissen: No.

Mr. McCarthy: The property issues are not our domain. That is a civil matter. We are here to vote on the beauty shop on its own merits. Are there any other questions?

Ms. Bowlds: I forgot to say I tried to contact Debbie twice like you asked me to. She will not answer my phone calls. So we can't even talk about it. We have 80 by 25. You can turn around in 25 feet in an automobile. If you take my shop away now, they might not even sell the house for two years. My customers will not wait for me. I don't know what else to say. I have researched and my deed shows you I have 65 in the front and then it drops back to 60 off my patio. It comes straight down. So I don't know what he is saying.

Mr. McCarthy: Are there any questions of the Board? Is there a motion for approval,

subject to the current owner only? (Motion was made and seconded.) Roll call.

Ayes: Mr. Dunigan, Mr. Groves, Mr. Harrison, Mr. Herrin, Ms. Taylor, Mr. Washington, Mr. McCarthy

Nays: None

There being 7 affirmative votes, Docket No: 19-2005-APC is approved.

NEW BUSINESS
VARIANCES

Docket No: 2005-81-BZA Applicant: Stephen and Doriene Markin

Common address: (Complete legal on file.) 2 Miller Road

Nature of Case: Applicant requests relaxation of front yard setback from 25 feet to 18 feet for a covered porch addition to the residence.

Mr. Mills: Stephen and Doriene Markin are requesting variance approval for their property located at 2 Miller Road. Currently the Markins have a 2,460 sq ft residence and a 864 sq ft detached garage on a 2.25 acre lot. They are proposing a 288 sq ft covered porch addition to the residence. The Markins obtained an improvement location permit and building permit on September 30, 2005 to allow extension of existing decking on the front of the residence. The new deck did not include a roof. Roofed porches and/or decks must meet the minimum setback requirements established in Table A for the main structure. This is a request for variance to relax the front yard setback to allow a roof over the new deck/porch. This is a request for relaxation of the front yard setback from 25 feet to 18 feet for a covered porch addition to the residence.

Mr. Joe Harrison: All those who will speak on this petition, raise your right hand. Do you swear or affirm that the testimony you will give is true and accurate so help you God? (Mr. Markin has been sworn in.)

Mr. Markin: My name is Steve Markin, 2 Miller Road. We just want to put a roof over that so we can sit outside in the rain. There is some acreage and a lake. We bought the house and want to remodel. My wife would like to put a swing on the porch and rock our grandbabies.

Mr. McCarthy: Are there any questions? Are there any remonstrators? (None.) Motion for approval? (Motion was made and seconded.) Roll call.

Ayes: Mr. Groves, Mr. Harrison, Mr. Herrin, Ms. Taylor, Mr. Washington, Mr. Dunigan, Mr. McCarthy

Nays: None

There being 7 affirmative votes, Docket No: 2005-81-BZA is approved.

Docket No: 2005-82-BZA Applicant: Robert W. Brennan

Common address: (Complete legal on file.) 2247 E. Delaware Street

Nature of Case: Applicant requests relaxation of minimum setback between residence and detached accessory building from 10 feet to 2 feet for construction of a new garage.

Mr. Mills: Robert W. Brennan is requesting variance approval for his property located at 2247 E. Delaware Street. Currently Mr. Brennan has a 1,761 sq ft residence on a 0.16 acre lot. He is proposing construction of a new 352 sq ft detached garage. The proposed 16' x 22' detached garage is planned on the rear of the lot. The zoning code requires a minimum 10-foot distance between accessory and main structures. The proposed new garage is 2' from the rear covered patio of the residence. This is a request to relax the distance between applicant's existing residence and the new proposed garage. This is a request for relaxation of the minimum setback between residence and detached accessory building from 10 feet to 2 feet for construction of a new garage.

Mr. Joe Harrison: All those who will speak on this petition, raise your right hand. Do you swear or affirm that the testimony you will give is true and accurate so help you God? (Mrs. Brennan has been sworn in.)

Mrs. Brennan: I am Mrs. Robert Brennan, 2247 E. Delaware. All the neighbors signed that it is okay with them. We simply would like to have a garage.

Mr. McCarthy: It is purely for personal storage?

Mrs. Brennan: Yes.

Mr. McCarthy: Are there any questions? Are there any remonstrators? (None.) Motion for approval? (Motion was made and seconded.) Roll call.

Ayes: Mr. Harrison, Mr. Herrin, Ms. Taylor, Mr. Washington, Mr. Dungian, Mr. Groves, Mr. McCarthy

Nays: None

There being 7 affirmative votes, Docket No: 2005-82-BZA is approved.

Docket No: 2005-85-BZA Applicant: David Holder

Common Address: (Complete legal on file.) 312 S. Woods Avenue

Nature of Case: Applicant requests relaxation of zoning code requirements to allow expansion of a legal nonconforming residence by the construction of a residential addition.

Mr. Mills: Les Shively is representing David Holder and this request for variance approval to allow expansion of one of the two residences located at 312 S. Woods Avenue. Currently Mr. Holder has a 2,016 sq ft residence and a 1,152 sq ft residence on a 0.39 acre site: lots 34 and 35 in Bumb's Place Subdivision. He is proposing a 1,152 sq ft residential addition to the smaller of the two residences. Mr. Holder currently has two residences on one combined R-1 zoned site. In 1990, Mr. Holder obtained adjacent lots north of his residence, and in 2001 razed all improvements on those lots. This is a request to increase the size and dimension of one of the two residences on the 312 N. Woods site. The proposed residential addition extends into the newly acquired lots north of Mr. Holder's original (2-lot) site. This is a request for relaxation of zoning code requirements to allow expansion of a legal nonconforming residence by the construction of a residential addition.

Mr. Joe Harrison: All those who will speak on this petition, raise your right hand. Do you swear or affirm that the testimony you will give is true and accurate so help you God? (Mr. Lutz has been sworn in.)

Mr. Lutz: Les Shively isn't here. My name is Matt Lutz, Les's associate. We are representing David Holder. The staff field report was accurate. I want to point out a couple highlights. The structures that were in place on the land at the time of the purchase in 1990, those were razed. This addition to the home will expand into that area where the improvements previously existed. There is a six foot privacy fence surrounding the area where the addition will go. I have some additional pictures to show you. We would be happy to answer any questions.

Mr. McCarthy: Are there any questions? Are there any remonstrators? (None.) Motion for approval? (Motion was made and seconded.) Roll call.

Ayes: Mr. Herrin, Ms. Taylor, Mr. Washington, Mr. Dunigan, Mr. Groves, Mr. Harrison, Mr. McCarthy

Nays: None

There being 7 affirmative votes, Docket No: 2005-85-BZA is approved.

Docket No: 2005-86-BZA Applicant: Black Buggy Growth, Inc/Alvey's Signs
Common Address: (Complete legal on file.) 4920 Davis Lant Drive
Nature of Case: Applicant requests relaxation of the number of permitted signs from 4 to 6 and relaxation of the maximum signage from 300 sq. ft. to 622 sq. ft.

Mr. Mills: Alvey's Signs is requesting variance approval on behalf of Black Buggy Growth, Inc. and their property located at 4920 Davis Lant Drive. Currently the 16,538 sq ft Black Buggy restaurant is under construction on a 2.6 acre lot. They are requesting variance approval for signs on the site. This C-4 site in Vanderburgh County is allowed 2 signs per frontage totaling 300 sq ft. The site has two frontages: Davis Lant Drive to the south and Lynch Road to the north. Applicant is requesting that the following signs be permitted on this site:

TYPE OF SIGN	LOCATION	DIMENSION	SQ FT	NUMBER
Free-standing	along Lynch Road	*7.5' x 11.5'	86.25	1
Logo/artwork	West roof	6' x 17'	102	1
Logo/artwork	North roof	6' x 17'	102	1
Fascia/lettering	North wall of building	2.83' x 71.67'	202.8	1
Fascia/lettering	West wall of building	2.83' x 35'4"	100	1
Fascia/logo	entrance	4' x 7' 3"	29	1
TOTAL			622	6

The plans submitted for the free-standing pole sign show a 15' x 11.5' sign. The bottom half of this sign details an off-premise sign advertising a business on the lot to the east of this site. The bottom half of the sign detailed in the drawing is NOT part of this variance request. A separate application is required for the off-premise signage. This is a request for relaxation of the number of permitted on-premise signs from 4 to 6 and relaxation of the maximum signage from 300 sq ft to 622 sq ft.

Mr. Joe Harrison: All those who will speak on this petition, raise your right hand. Do you swear or affirm that the testimony you will give is true and accurate so help you God? (Those persons have been sworn in.)

Mr. Distler: My name is Warren Distler with Alvey Sign Company. With me is Jim Vincent.

Mr. Vincent: My name is Jim Vincent with Black Buggy, Inc.

Mr. McCarthy: Do you have anything to add?

Mr. Distler: We are challenged with this building because of the size. I have no documentation. But as far as restaurants go, this one would be considered one of the larger ones in the County. It is going to house a restaurant and general store. They were needing some frontage for the letters you see on the Lynch Road side, and also on the side that faces Green River Road. Green River Road is not considered a road which fronts this because there is acreage in front of it. But right now there is a clear shot to the restaurant. We are also challenged with the menu board in that their menu items are going to be significant and large. They are going to be offering everything that is on their buffet in a drive through window. So we will have a pre-window board to straighten out the issues that have to be dealt with as the menu items change on a daily basis. As they go to the actual menu board to place their orders, the a la carte items can be listed there. We also have a problem because they will be open for breakfast, lunch and dinner, which adds to the significant size of the menu boards. On top of that, they have horse and buggies they have placed on the roof line, which is going to be their trademark. Those have to be considered signs, but they have a different classification.

Mr. McCarthy: Are there any questions?

Mr. Dunigan: Are the horse and buggy calculated in the 622 square feet?

Mr. Mills: Yes. That is the logo art. The horse and buggies are on top.

Mr. Dunigan: How does this request pair up to businesses in the area? Have we granted variances over and above in this area? If this were in the City, we would be looking at 500 square feet, right?

Mr. Mills: That's correct. Schnucks came through and got a variance for a big directory sign they have in front of the building. Then also their lettering and pharmacy. But I think this is consistent with what we have approved in the area.

Mr. Dunigan: But what isn't contemplated in here is the 50 foot off-premise sign?

Mr. Mills: The off-premise sign is a separate matter. If you look in your packet, there was a portion that we X'd out. That would have to be applied for as an off-premise and meet all the requirements for an off-premise sign because the hand-crafted heirlooms portion is on a separate lot to the east of this restaurant.

Mr. Distler: That is currently under construction and we will be on the docket in January for that, at which time that will be addressed. I would add that none of these signs are illuminated. The owners are Amish. They do not believe in lighting their signs. So it is not going to be an intrusive issue with any surrounding businesses because most want to come in and make them as big and bright as they can. This client is just the opposite. The only lighting will be from the parking lot for security reasons. We will be closed on Sundays.

Mr. McCarthy: Are there any remonstrators? (None.) Motion for approval? (Motion was made and seconded.) Roll call.

Ayes: Ms. Taylor, Mr. Washington, Mr. Dunigan, Mr. Groves, Mr. Harrison, Mr. Herrin, Mr. McCarthy

Nays: None

There being 7 affirmative votes, Docket No: 2005-86-BZA is approved.

Docket No: 2005-87-BZA Applicant: Jim and Jennifer Embry/Rowden Construction, Jimmy Jenkins Common Address: (Complete legal on file.) 2224 Marbybeth Avenue
Nature of Case: Applicant requests relaxation of front yard setback from 25 feet to 19 feet for a residential addition.

Mr. Mills: Jimmy Jenkins of Rowden Construction is requesting variance approval on behalf of owners Jim and Jennifer Embry and their property located at 2224 Margybeth Avenue. Currently the Embrys have a 957 sq ft residence and a 400 sq ft detached garage on a 0.16 acre lot. They are proposing construction of a 120 sq ft residential addition. Rowden Construction obtained an improvement location permit on October 7, 2005 for this proposed new residential addition. On October 19, 2005, a "Stop-Work" order was issued by the Building Commission office in response to a complaint that the proposed new addition did not meet the 25-foot minimum front yard setback. Dimensions on the original site plan were obtained by measuring from the street line instead of the actual front property line. There is approximately 16 feet of (unimproved) right-of-way for Margybeth Avenue between the edge of the street and the front property line of the lot. Staff prepared a corrected site plan which details the actual property line and measurements. The corrected measurements indicated that the new addition is only 19 feet from the front property line; it is 35 feet from the edge of the street. This is a request to relax the front setback from 25 feet to 19 feet. This is a request for relaxation of the front yard setback from 25 feet to 19 feet for a residential addition.

Mr. Joe Harrison: All those who will speak on this petition, raise your right hand. Do you swear or affirm that the testimony you will give is true and accurate so help you God? (Mr. Jenkins has been sworn in.)

Mr. Jenkins: My name is Jimmy Jenkins, 1906 Shelby Avenue, for Rowden Construction.

Mr. McCarthy: Do you have anything to add?

Mr. Jenkins: Basically, I made a mistake measuring.

Mr. McCarthy: Are there any questions? Are there any remonstrators? (None.) Motion for approval? (Motion was made and seconded.) Roll call.

Ayes: Mr. Washington, Mr. Dunigan, Mr. Groves, Mr. Harrison, Mr Herrin, Ms. Taylor, Mr. McCarthy

Nays: None

There being 7 affirmative votes, Docket No: 2005-87-BZA is approved.

SPECIAL USES

Docket No: 24-2005-APC Applicant: Northwoods Church SBC, Inc.

Common Address: (Complete legal on file.) 9920 N. Green River Road

Nature of Case: Applicant requests a special use for a church and church-operated incidental/accessory facilities.

Mr. Mills: Northwoods Church SBC is requesting special use # 2 approval to establish a church and church-operated incidental/accessory facilities on the property located at 9920 N Green River Road. This is a 12.3 acre site located on the west side of Green River Road, between Huebner Lane and Kansas Road. Northwoods Church special use site plan indicates that a new 15,400 sq ft multi-purpose center and a 160 space parking lot are planned on the site, and a future sanctuary. The existing residence is shown as the parsonage. The site plans also indicate wooded hiking trails and two areas that are identified as camping sites. There is an existing single-lane residential driveway which provides access to the residence on the site. The driveway must be widened to accommodate two-way access for the proposed church use which includes a 160-space parking lot. A church requires .3 parking space for each seat of the seating capacity of the church. The planned 160 space parking lot would accommodate a church with approximately 533 seats. Current seating is 480 per the application. Site Review will

address compliance with access and traffic upon submission of plans for the development of the site. Information submitted by Northwoods indicates that all utilities are available to this site except sewers; this site is served by a septic system. The proposed new church facility will need to extend sewers to the site. Special uses approved in Agricultural districts are permitted signs as approved by the Board of Zoning Appeals at the time of approval of the special use for the site. No information has been submitted regarding any signage proposed for the site.

Mr. Joe Harrison: All those who will speak on this petition, raise your right hand. Do you swear or affirm that the testimony you will give is true and accurate so help you God? (Those persons have been sworn in.)

Mr. Cook: Tim Cook, 1650 Shelton Road, Boonville.

Mr. Pell: Bobby Pell, 1815 Heinlein, Evansville. We have several church members here as well as the owners. This has been a family farm for several years. Where we are going to be located on the property we shouldn't need any variances for parking. We are putting it in the middle of the property. We will maintain trees around the front for the most part.

Mr. McCarthy: Are there any questions?

Mr. Dunigan: No problems with the requirement of widening the drive and extending sewers?

Mr. Pell: No, we are aware we have to do that.

Mr. McCarthy: What are your thoughts on signage?

Mr. Pell: We will be putting a sign down at the road. We will be off the road about 400-500 feet with the building. So we will have a sign in the middle of the property at the road.

Mr. McCarthy: How big?

Mr. Pell: We haven't discussed that yet.

Mr. Mills: Would 10 x 10 be large enough?

Mr. Cook: I am totally clueless.

Mr. Pell: We would want it large enough for folks to see it. I am sure a 10 x 10 would be close to right.

Mr. McCarthy: Are there any remonstrators?

Mr. Shelton: My name is James Shelton, 10801 N. Green River. We just purchased the six acres that lies right north of that for a residence. Now we are going to have a church as our neighbor with lights in the parking lot. We really didn't want it there. That's really all I can say.

Mr. Dunigan: Have you spoken with the church representatives about your concerns?

Mr. Shelton: No.

Mr. Voliva: John Voliva, 0130 N. Green River Road. I am just next north. My only concern would be traffic for when the property is being used with Green River Road becoming more of a major thoroughfare. We just purchased the house and property there about a year and a half ago. That would be my only concern.

Mr. Pell: The time of our services aren't during business hours. We are glad to see all the development out there. Along the north line where we are building, there will be a row of trees maintained along that side to ease his concerns. Our new building will be going where that garage is located.

Mr. McCarthy: How big is the congregation?

Mr. Pell: We run between 200 and 225.

Mr. Dunigan: I would suggest, and I'm sure you have every intention of being good neighbors, but can you get with these gentlemen and see if everyone can be happy?

Mr. Pell: Yes.

Mr. McCarthy: Is there a motion for approval? (Motion was made and seconded.) Roll call.

Ayes: Mr. Dunigan, Mr. Groves, Mr. Harrison, Mr. Herrin, Ms. Taylor, Mr. Washington, Mr. McCarthy

Nays: None

There being 7 affirmative votes, Docket No: 24-2005-APC is approved.

Docket No: 25-2005-APC Applicant: Deaconess Health System, Inc.
Common Address: (Complete legal on file.) 716, 718 Baker Avenue
Nature of Case: Applicant requests a special use for a parking lot.

Mr. Mills: Kent Brasseale is representative for Deaconess Health Systems and this request for special use #10 approval to allow construction of a parking lot on their property located at 716 and 718 Baker Avenue. The proposed 20-vehicle parking lot is on the west side of Baker, just south of Columbia Street. A single two-way access is planned onto Baker Avenue and onto the public alley at the rear of the site. The submitted site plan indicates compliance with all setback (green space) and screening requirements. Site Review will address compliance with access and parking requirements upon submission of plans for the development of the site.

Mr. Joe Harrison: All those who will speak on this petition, raise your right hand. Do you swear or affirm that the testimony you will give is true and accurate so help you God? (Mr. Brasseale has been sworn in.)

Mr. Brasseale: Kent Brasseale. I think the report said pretty much everything. I would be happy to answer any questions.

Mr. McCarthy: Are there any questions? Are there any remonstrators?

Mr. Winkler: My name is Matthew Winkler, 710 Baker. When they sent me this plan, the first thing I noticed was the privacy fence. When they built the warehouse, it blocked the view to the rear of our house. This privacy fence is going to block the side view. We have a lot of foot traffic cutting across that field. People sit back there at night and smoke cigarettes and everything. I talked to Mike Carnick? today about moving the fence over to the property line so I could put a fence up and butt it up to it to keep the traffic from going through there next to my house. Then I could put a fence up across the back too. I wasn't sure. Not long ago, we had a guy at our back door and had to call the police. They do have a sign there. Is it lit, and how big is it? I have a concern about, there is an apartment building across the street. They get a lot of police calls. There is some overflow parking. They park on this side. There have been people park where the cut out is. But if they are going to leave the fence there, maybe put it at 90 degree so I could butt up to it, or just move it over to the property line. If I put it on the property line myself, that would be a five foot place for people to hang out. I am not objecting to it. I just wanted to see if they could redo the design a little bit.

Mr. Brasseale: I did hear that Mr. Winkler had talked to Mr. Carnick. It is not a problem. The fence being located where we drew it, we thought we were doing a favor by putting the green space out where other people could see it. As far as the privacy fence being solid or see-through, I don't think anybody has any ideas on it yet. Chain link would be just fine.

Moving it against the property line would be easier for our maintenance people.

Mr. McCarthy: Sounds like they are willing to work with you on that. Is there a motion for approval? (Motion was made and seconded.) Roll call.

Ayes: Mr. Groves, Mr. Harrison, Mr. Herrin, Ms. Taylor, Mr. Washington, Mr. Dunigan, Mr. McCarthy

Nays: None

There being 7 affirmative votes, Docket No: 25-2005-APC is approved.

TAPE CHANGE

Docket No: 26-2005-APC Applicant: Volunteers of America of Indiana, Inc.

Common Address: (Complete legal on file.) 809 E. Franklin Street

Nature of Case: Applicant requests a special use for a community residential facility.

Mr. Mills: Scott Stratman is representative for Volunteers of America of Indiana, Inc. and this request for SU-5 approval to allow expansion the existing special use # 5 community residential facility to include the M-3 zoned property known as 809 E. Franklin Street. This site is located on the south of Franklin Street, between Kentucky Avenue & Morton Street. No site plans have been submitted which detail the number of persons planned for residence in this facility. The application states that there will be 5 employees. Further information is needed to assess parking needs, both for the proposed new residential facility and the remaining office/manufacturing/warehouse space on the site. This site is located midblock in a completely developed industrial area. Access to the interior parking areas is existing. The proposed use as a community residential facility requires parking spaces in an amount determined by the Board of Zoning Appeals to be reasonably adequate to serve the public for customers, patrons, visitors, and employees. Access and parking will be addressed by Site Review Committee upon submission of plans for the development of the residential facility within the building on this site. This site is in an older area of heavy industrial use "blanket-zoned" for heavy industrial use by the City in 1940. All surrounding properties are industrial and warehouse uses. The Volunteers of America of Indiana were granted SU-5 approval in March, 2003 to establish a residential facility utilizing approximately 7,100 sq ft of the 4.5 acre site. That special use approval was granted subject to limitation of the use to the floor area as shown on the submitted site plan that was part of the application. This is a request by the same applicant to expand the floor area of the residential facility to include adjacent warehouse space. There are no complaints of record regarding the residential facility in operation at this location.

Mr. Joe Harrison: All those who will speak on this petition, raise your right hand. Do you swear or affirm that the testimony you will give is true and accurate so help you God? (Those persons have been sworn in.)

Mr. Stratman: My name is Scott Stratman. I am here on behalf of Volunteers of America. For those of you who were not on the Board the last time we were here, Volunteers of America is a non-profit corporation who currently runs a residential living center on the opposite side of that where they house residents who have earned the privilege of being released from the Federal Bureau of Prisons who are coming back to our community. They live in this facility, get job skills and basically it is a transition so they don't get plopped back into the community. This request is to expand the facility. I have with me Tim Campbell, Steve Runyon, and Dennis Duvall from Volunteers of America. You might remember we talked about Volunteers of America wanting to establish a community advisory board to receive input from the community. That has been done. By any measure, this facility has been a tremendous success and is now a real asset to our community. In addition to getting persons from the Federal Bureau of Prisons, the existing facility also serves as a site for those who are illegible for alternative sentencing from our local county courts. So instead of sending them up north to a prison, they have the opportunity of living here in this facility. They have not received any complaints. The reason for this new request is to expand the existing floor plan by another 4,300 square feet. That has been done as a result of the Indiana Dept. of Corrections sending out a request and the thinking there is that, as of January 1 of this year, if everything goes as planned with the IN DOC, they are going to try to establish more of a State housing facility. The current number of beds is 40 and they are looking to expand about in that same neighborhood. As for parking concerns, there have not been any problems. The employees come in shifts. That's all I have.

Mr. McCarthy: Are there any questions? What is your current parking capacity?

Mr. Stratman: 25.

Mr. McCarthy: What are you going to need for the expanded facility?

Mr. Stratman: According to Mr. Runyon, the staffing won't increase. I think we put five on our application. They don't anticipate any significant changes in the staffing.

Mr. Mills: What is your highest shift then?

Mr. Stratman: Six or seven.

Mr. Mills: So you have not reached your 25 space capacity at any time. And you have no other vehicles, no transport vehicles?

Mr. Runyon: One company vehicle.

Mr. Bill Harrison: Are there visitors?

Mr. Runyon: On weekends.

INAUDIBLE

Mr. Stratman: The number of residents varies at any given time. Right now they have about 25. Not all of them have vehicles.

Mr. Mills: But you have a bed capacity of 40, and you are going to add another 35 or 40?

Mr. Runyon: Yes.

Mr. Mills: And of those, those people could be driving?

INAUDIBLE

Mr. Runyon: The current agreement we have with the Bureau of Prisons, they believe they will need approximately 12-15 beds. We have been operating around 10 or so beds. In Indianapolis, we have a contract in a much larger area for federal offenders and we have a range of 30-40 offenders. It is unlikely we would ever reach those numbers. We are probably talking about 10-15.

Mr. Mills: Will the space that you extend out to afford you additional parking space in front or behind it? Do you have the opportunity to acquire more parking?

Mr. Runyon: Yes. The landlord has been working with us on the space. There is ample parking there now for what we need. We have ample staff right now. We could handle many more clients with the staffing pattern. But we have a basic level of security we have to have and management staff. We will only be adding two case management staff for these additional clients. Steve Runyon, 927 N. Pennsylvania Street, Indianapolis.

Mr. McCarthy: Are there any remonstrators? (None.)

Mr. Stratman: On the aerial view, on the staff report, it shows the approximate area. It is actually to the left of that.

Mr. McCarthy: Motion was made and seconded. Roll call.

Ayes: Mr. Harrison, Mr. Herrin, Ms. Taylor, Mr. Dunigan, Mr. Groves, Mr. McCarthy

Nays: None

There being 6 affirmative votes, Docket No: 26-2005-APC is approved.

Mr. McCarthy: Is there anyone here to speak on Docket No: 2005-84-BZA, James and Rosemary Hicks of 3001 Harmony Way? (No one present.) Is there a motion to continue this petition to the December meeting and waive the fees? (Motion was made and seconded.) (Voice vote.) Upon unanimous voice vote, Docket No: 2005-84-BZA is continued to the December meeting.

Meeting adjourned.

Burkley McCarthy, Jr., Chairman

Attest:

The undersigned secretary certifies that the foregoing are minutes and not intended to be a verbatim transcript. Audio tapes of the proceedings are on file in the Area Plan Commission office.

Bradley G. Mills, Executive
Director/Executive Secretary

Karen Yokel, Transcriber