

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

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

**February 21, 2008**

**ROLL CALL**

**Mr. Dunigan:** I would like to call the February 21, 2008 meeting of the Board of Zoning Appeals to order. Will the secretary please call the roll?

**MEMBERS PRESENT**

John Briscoe, Roger Herrin, Gregg Utley, Derek Dunigan

**MEMBERS ABSENT**

Nancy Koehler, Mike Rudolph, Erika Taylor

**AREA PLAN STAFF PRESENT**

Bradley G. Mills, Executive Director; Janet Greenwell, Zoning Enforcement Officer; Donna Holderfield, Zoning Enforcement Officer; Joe Harrison, Jr., Counsel.

**APPROVAL OF MINUTES**

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

**Mr. Dunigan:** 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.

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 four 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;
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property;
4. The variance is not a variance of 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.

There will be a ten minute time limit for petitioners and then a 10 minute opportunity for remonstrators. Following that, the petitioner will have five minutes for rebuttal.

The next meeting of the Board of Zoning Appeals is Thursday, March 20, 2008 at 4:00 p.m. in Room 301 of the Civic Center Complex.

The following petitions will not be heard this evening.

Docket No: 2008-5-BZA SCB Townhomes of Evansville 7100 E. Virginia Street  
CONTINUED TO THE MARCH MEETING AT THE PETITIONER'S REQUEST

Docket No: 2008-8-BZA Tin Fish Restaurant 20 Walnut Street  
CONTINUED TO THE MARCH MEETING AT THE PETITIONER'S REQUEST

If you are here on either of these petitions, you may wish to leave at this time. Now, let's move on to the first item on the agenda tonight.

**Mr. Joe Harrison:** Mr. Mills, on the matters before this Board today, do you swear or affirm that the testimony you will give is true and accurate so help you God? (Mr. Mills has been sworn in.)

## **VARIANCES**

Docket No: 2008-3-BZA Applicant: J & L Acoustics

Common Address: (Complete legal on file.) 41 W. Division Street

Nature of Case: Applicant requests relaxation of minimum front yard green setback from 10 feet to 0 feet and relaxation of side yard setback from 5 feet to 0 feet for paved parking, and relaxation of the number of required spaces from 14 to 12 spaces.

**Mr. Mills:** Steve Karger and J & L Acoustics are requesting variance approval for their business located at 41 W Division Street. Currently Mr. Karger has a 6,546 sq ft gross floor area commercial building with a contractor shop and offices on a 0.29 acre lot. He is proposing approval of paved parking spaces within front and side yard setbacks. Mr. Karger is requesting variance approval to allow maintenance of a new paved parking area along the Division Street frontage. J & L Acoustics was granted Site Review approval on December 17, 2007 for remodeling and a revision to parking on this site, subject to Board of Zoning Appeals approval of relaxation of the green space requirement(s). This site is located within the Jacobsville Redevelopment area. The Evansville Redevelopment Commission approved the request at their meeting on January 15, 2008, subject to the following: "Eliminate weeds and broken gravel and replace with concrete. Remove curb cut and replace with sidewalk and landscape around building." This is a request for relaxation of the minimum front yard green setback from 10 feet to 0 feet and relaxation of the side yard setback from 5 feet to 0 feet for paved parking, and relaxation of the number of required spaces from 14 to 12.

**Mr. 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. Schroeder has been sworn in.)

**Mr. Schroeder:** My name is Tom Schroeder, a professional engineer. I am representing Steve Karger. We started with this lot two years ago. There were originally weeds growing up through some gravel area, even though there was a minimum setback. We tried to match the setbacks across the property down on the other side. The amount of setback that was there was zero because of the property line where the actual property line was. The green area was weeds growing up into the gravel area. We tried to shut off and leave green space along Barker. But people kept driving through. So we elected to put the concrete and posts in as barriers to keep people from driving through the area. We wanted to keep some landscaping and, to make the building look okay, we moved the landscaping against the building as it is shown in the diagram.

**Mr. Dunigan:** Will 12 spaces be sufficient for your needs?

**Mr. Schroeder:** It will be more than enough. We also have a 13th space inside the building for the commercial truck they use.

**Mr. Dunigan:** Are there any questions? Are there any remonstrators? (None.) Is there a motion for approval? (Motion was made and seconded.) Call the roll.

Ayes: Mr. Briscoe, Mr. Herrin, Mr. Utley, Mr. Dunigan

Nays: None

There being 4 affirmative votes, Docket No: 2008-3-BZA is approved.

Docket No: 2008-4-BZA Applicant: Henrietta Tenbarga – Comfort Homes  
Common Address: (Complete legal on file.) 2716 Timber Park Drive  
Nature of Case: Applicant requests relaxation of maximum lot coverage from 30% to 32.9% for a sunroom addition to the residence.

**Mr. Mills:** Comfort Homes is requesting variance approval on behalf of Henrietta Tenbarga and her residence located at 2716 Timber Park Drive. Currently Ms. Tenbarga has a 2,277 sq ft single-family residence with attached garage on a 0.17 acre lot. She is proposing construction of a 231 sq ft sunroom addition. This is a 70' x 109' Agriculturally zoned residential lot. The Agricultural district allows maximum 30% lot coverage (structures under roof.) The existing residence and garage cover approximately 29.8% of the lot. The largest addition which could be added on the site without variance approval is 12 sq. ft. Ms. Tenbarga proposes to construct a 231 sq ft sunroom addition to the rear of the residence on this site. The proposed sunroom requires variances to relax lot coverage requirements. This is a request for relaxation of maximum lot coverage from 30% to 32.9% for a sunroom addition to the residence.

**Mr. 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. Whetstine has been sworn in.)

**Mr. Whetstine:** My name is Chris Whetstine with Comfort Homes. I am here with Mrs. Tenbarga. She would like us to build her a sunroom on the back of her home. It is going to be built on top of the patio. It won't be as large as the patio, maybe two-thirds of it, so she will still have a patio outside her sunroom. Behind her property, there is just woods and creek. So it doesn't affect anybody behind her.

**Mr. Dunigan:** Are there any questions? Are there any remonstrators? Is there a motion for approval? (Motion was made and seconded.) Call the roll.

Ayes: Mr. Herrin, Mr. Utley, Mr. Briscoe, Mr. Dunigan

Nays: None

There being 4 affirmative votes, Docket No: 2008-4-BZA is approved.

Docket No: 2008-6-BZA Applicant: Bob & Barbara Keller - Barrington Homes  
Common Address: (Complete legal on file.) 3514 Bellemeade Avenue  
Nature of Case: Applicant requests relaxation of rear yard setback from 25 feet to 6.4 feet for an addition connecting the existing residence and accessory building.

**Mr. Mills:** Barrington Homes is requesting variance approval for the residence located at 3514 Bellemeade Avenue owned by Bob & Barbara Keller. Currently the Kellers have a 2896 sq ft (footprint) residence and 780 sq ft bathhouse/garage on a 0.63 acre lot. They are proposing construction of a 226 sq ft breezeway addition connecting the existing structures on the lot. The zoning code requires that when an accessory building is attached to a residence, the entire resulting structure must meet the minimum setback requirements for the main structure. The Kellers are proposing a new addition to the residence which will connect the existing residence and bathhouse/garage on the site. The existing garage meets setback requirements for a free-standing accessory building. The variance request seeks approval to relax the setback standard for a principal building on the lot. This is a request for relaxation of the rear yard setback from 25 feet to 6.4' for an addition connecting the existing residence and accessory building.

**Mr. 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. McClintock:** My name is Carol McClintock. I here representing Bob and Barbara Keller. They moved here at the end of last summer. They wanted to find a home on the east side of Evansville so they would have easy access for their children to attend schools. They have two daughters at Memorial High School and Evansville Day School, and another daughter who is currently a graduate of the University of North Carolina and is currently working for Rudolph Fine. They have a son who is in college as well. So the Kellers selected the home at 3514 Bellemeade Avenue. The home had been vacant for two years. It was in foreclosure owned by a local bank. When we first looked at the house, I wish you had been able to see it. Most of the fixtures and beautiful things in the home had been removed and it was left in quite a mess. Despite that, the Kellers felt like they had seen a diamond in the rough and decided they would purchase the home. One of the things that

interested them about the home was that there was that there was an existing apartment over the existing garage. It doesn't have a kitchen. It has a bedroom and bathroom, and that would be a great place for their 23 year old daughter to live. Subsequent daughter would want to live there as well. So they hired Barrington Homes to work with on the project. They hired McCullough to do the plans and connect the existing garage. They discovered that once they connected the garage to the house with a permanent structure, and part of it is just a breezeway, they would have to come before the BZA and get approval to have that done. They have talked with all the neighbors. The primary concern of one of the neighbors is that someone is actually going to live over that garage. It is my understanding that if the Kellers do not connect the garage to the existing residence, that Lauren Keller can still have her bedroom and bathroom and live there. They don't need to have the setback. It is the connection that makes the difference. My opinion is that individuals, once they connect the garage, would be very less likely to rent it to someone else. Originally there was concern that there would be a window facing north and there is not a window facing north on the second floor. That is a closet. There won't be window overlooking the neighbor's yard. As you saw from the rezonings, there are some multi family residences very nearby. But they are hoping the improvements they make to the home will be in keeping with the rest of the lovely homes along Lombard Avenue including Steve and Sally Jennings homes, and the other properties there that are very valuable. The Kellers paid \$350,000 for this property and plan to invest between \$450,000 and \$500,000 in this property. So they will have a significant investment and would like to utilize the property for their entire family. We have plans with us.

**Mr. Dunigan:** Are there any questions? It is my understanding that, since this zoned R-1, they would never be able to rent this apartment.

**Ms. McClintock:** They could not rent it. They wouldn't want to. I think the concern is what if Mr. Keller gets a job. We hope he will be here forever. He came here as the new president of Escalade. But if he moves and someone else buys the residence, if those individuals would want to rent this someone else, they would have to come before the Plan Commission and have it rezoned.

**Mr. Dunigan:** Regardless of the connection of the breezeway, they would still need a rezoning to be able to rent the apartment.

**Ms. McClintock:** It is our understanding that as long as it is a family member, they can still live there.

**Mr. Dunigan:** Okay. Are there any remonstrators?

**Mr. Siami:** My name is Paul Siami. We live to the north of the proposed building, 3521 Lincoln. The history of this structure is that the previous owners wanted to improve their

garage and went ahead and did it. The understanding we had from the people who built this addition to the garage was that it was going to be a garage and not a living space. Because of where the building sits, it is about 4-5 feet from our fence line. It looks directly into my back yard and pool. It is not conducive to having people looking directly into my back yard. These are rather large homes there. We would like to see the Kellers there and see them improve the condition of the house. I don't have an objection to the breezeway. But if that changes the code of that building being attached to the house, then there is a problem that the building doesn't meet the code requirements. We were presented with the plans that it was going to be a garage and not a dwelling. At this point, the proposal is for a dwelling which changes the structure completely. So in the future if I wanted to sell my house, I am not sure what the impact of having a dwelling 4-6 feet from my house would have.

**Mr. Dunigan:** What we are being asked to approve is the breezeway connection only. There is already a living space in the garage and an immediate family member could live there already regardless of if the breezeway is approved or not. So that is not going to change with what we do here today.

**Mr. Harrison:** The other thing is, if they wanted to rent it to someone other than family, then it would have to be rezoned. That is a different proceeding and it is not legal right now.

**Mr. Siami:** Our thought at this point is, if this breezeway makes this one big structure next to our house. Then that is a problem. It changes the rules of what the building can be used for.

**Mr. Dunigan:** No, it doesn't. It simply reduces the setback. It doesn't change the rules of the zoning or whether they could rent the property or not have somebody live there. It only changes the setback requirement.

**Mr. Siami:** Then I don't think we have any objection.

**Ms. Siami:** Mary Ann Siami. Have the code laws changed in the last five years? I ask because code inspectors came to us when the garage was built and asked us if we had seen any lights in the structure because it was not to be lived in because it was too close to our property. It has to be within 25 feet of our property line if someone lives in it. So has that been changed?

**Mr. Dunigan:** That is what we are taking a look at here, the setback requirement. They are asking us to reduce that requirement. But as far as the living arrangements go, Joe, how would have been handled during the time of construction?

INAUDIBLE

**Ms. Siami:** We asked them not to be the close to our structure if it was going to be lived in. That is why I asked Mr. Dunigan. Because the previous owners wanted his mother-in-law to live there. That was a family member. So I wondered when that was changed.

**Mr. Dunigan:** When it was originally constructed, it was done as a bath house. That could have lights and electricity and be used in that way.

**Ms. Siami:** We were told six years ago the code was no one could live there, not even a family member because it was not 25 feet from our back property line.

**Mr. Siami:** You can see the area is actually a garden room. I have no objection to a green house being there. But I would have had an objection to a dwelling being next to my house.

**Mr. Mills:** Let me answer that question. The ordinance has not been changed. The setback for the 25 feet is for the principle structure which would be the house. Accessory structures that are not attached are not required to be that. They have to be two feet off the property line. Could there be some other use in that accessory structure? Yes, there could be as long as it is part of the principal use. If it is a bedroom, a green house, whatever it is, it just can't be attached to the house unless it is the 25 feet away from the back property line. So they are asking us to allow them to have that variance to have the setback reduced. That has not changed. That ordinance is still in place. So that is the main question here. If the garage was constructed and not constructed so that it can be habitable, you are not allowed to live in it, that would be a Building Commission question. They would have to come out and inspect the property when any improvements are done. That will have to meet all code requirements for it to be utilized for a bedroom. It can't be rented out to non-family members. It can't have a separate kitchen and all this other stuff to make it a separate dwelling. But any other legal use that is allowed on a residential lot is allowed to be done in the building.

**Mr. Siami:** Also, that changes the landscape of what the future variances would be now that this becomes a part of a principal dwelling that we have allowed a variance. So now if we want to add two more rooms to it, it would be part of the principal dwelling. So I am not sure what the future of what happens to this dwelling that is now labeled instead of a garage/bathhouse, now it is part of the principal residence.

**Mr. Mills:** We have had similar situations come before the Board of Zoning Appeals on numerous occasions and I would have to say 99.9% of the time those are approved unless there is some other objection. So it does affect it, but it is allowing them to basically stay out of the weather to go from one building to the other.

**Mr. Siami:** Good neighbors are okay. It is nice to have neighbors with good intentions. But what the previous neighbors did to the house, they ruined an historic home. So we are delighted to see the Kellers here and what they are doing to the house. But I don't know if the Kellers are going to be here another five years. I hope they are. The future owner, I don't what their intentions are going to be with this bathhouse.

**Mr. Dunigan:** Thank you. Are there any questions?

**Mr. Herrin:** I heard Ms. McClintock say, is the window overlooking your pool?

**Ms. Siami:** No, it is not a window. It has been blocked off. But if someone decides to put a window there, my property is as valuable as this already. We have lived there for 18 years and continue to want to live there. If they decide to put a window there, they are right on tope of my pool.

**Mr. Siami:** Once you change this as the principal dwelling, then I have an objection to a window, and what happens to this thing if in five years from now they want some windows. We have no grounds to object at that point about what can happen to the building.

**Mr. Dunigan:** We are allowed to put conditions on this if we approve it. Would you like for us to make one of those conditions that there couldn't be a window there?

**Mr. Siami:** I would like to talk to Mr. Keller and see what their intentions are and what would be approved for both of us.

**Mr. Dunigan:** Is that a yes or no?

**Mr. Siami:** That is a yes. I would like to talk to him about what we could propose.

**Mr. Mills:** If we put a condition on it that the window can't be in there at this time, that would be for any property owner. So your concern that once they leave, the new guy can come in and put a window in there, if we don't put that condition on there now, then we won't have the opportunity in the future to put that condition in, unless they come forward with another request.

**Mr. Siami:** I was just wondering which conditions, is that something we could help the Commission with?

**Mr. Mills:** The condition the Board is considering is to not allow a window in that bump out you described on the north side of the garage. Is there other conditions?

**Mr. Siami:** We weren't even thinking that a window would pop out of there until something

got popped out. So if we put just a condition of a window, I don't know what future liabilities, that is part of my lack of knowing what could possible happen. This won't happen with a good neighbor.

**Mr. Dunigan:** So are you asking us to delay this for a month while you speak with the petitioner?

**Mr. Siami:** No. We would like to be good neighbors and do what they need to do. But I think just a few conditions would be appropriate such as the window, and expanding the structure just because it is part of the principal structure. The last thing I want to see is another 10 feet of extension of this thing because it is now part of the principal residence and they can continue to expand.

**Mr. Dunigan:** I understand your concerns. It is the fear of the unknown. Are there any other questions?

**Ms. McClintock:** Just reiterate, the Kellers will gladly agree to have the no window in the bump out facing north. There are no windows on that side of the structure. There is a workshop below. So there would be no windows. They are happy to agree to that condition. What we are asking does not change the use of that space. We have all the empathy in the world for the Siamis because of the neighbors that were there before. We are just trying to get this cleaned up and do everything right. But the plans they referred to was not our plans or our clients. That was the previous owners. We have really tried to reach out to these neighbors and make sure they are happy and well informed of this process. With as much money as they are putting into this house, they are not going to be moving for a long time.

**Mr. Herrin:** Dr. Siami said something about a condition that this would not be an addition added to this. Are you adding an addition to this garage?

**Ms. McClintock:** No. Just the breezeway.

**Mr. Herrin:** Would that be a condition we could put on it that would satisfy him that the garage would not be expanded any more?

**Ms. McClintock:** They have no problem with that condition being added.

**Mr. Herrin:** The two conditions that that window would not become a window and that the structure would not be expanded externally.

**Mr. Harrison:** And the window is on the second floor.

**Mr. Dunigan:** Are there any other comments? Is there a motion for approval with the conditions of no window being located in the new dormer on the second floor and that the external size of the garage will not be increased? (Motion was made and seconded.) Call the roll.

Ayes: Mr. Utley, Mr. Briscoe, Mr. Herrin, Mr. Dunigan

Nays: None

There being 4 affirmative votes, Docket No: 2008-6-BZA is approved.

Docket No: 2008-7-BZA Applicant: Eric Herrmann

Common Address: (Complete legal on file.) 1830 N. Iroquois Avenue

Nature of Case: Applicant requests relaxation of front yard setback from 25 feet to 19 feet and relaxation of maximum lot coverage from 30% to 31.6% for a front porch addition.

**Mr. Mills:** Eric Herrmann is requesting variance approval for his residence located at 1830 N Iroquois Avenue. Currently Mr. Herrmann has a 1,980 sq ft residence with attached garage on a 0.15 acre lot. He is proposing construction of a 102 sq ft front porch addition. This is a 61' x 108' (6,588 sq ft) R-1 zoned lot. The R-1 districts permit up to 30% lot coverage; 1,976 sq ft is the maximum coverage for structures under roof. Mr. Herrmann proposes to add a new 6' x 17' (102 sq ft) front porch onto the existing residence. With the new addition, overall coverage of the site is 2,082 sq ft (31.6%). The proposed porch roof will extend 6 feet into the minimum 25-foot front yard setback. This is a request for relaxation of the front yard setback from 25 feet to 19' and relaxation of maximum lot coverage from 30% to 31.6% for a front porch addition.

**Mr. 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. Herrmann has been sworn in.)

**Mr. Herrmann:** My name is Eric Herrmann, 1830 N. Iroquois Drive. I wanted to put a front porch on for my retirement years. Heidorn Construction advised me to get a variance for this so that is why I am here.

**Mr. Dunigan:** Are there any questions? Are there any remonstrators? (None.) Is there a motion for approval? (Motion was made and seconded.) Call the roll.

Ayes: Mr. Briscoe, Mr. Herrin, Mr. Utley, Mr. Dunigan

Nays: None

There being 4 affirmative votes, Docket No: 2008-7-BZA is approved.

Docket No: 4-2008-APC Applicant: Benny DeTalente – Benny’s Flooring  
Common Address: (Complete legal on file.) 1035 S. Green River Road  
Nature of Case: Applicant requests a special use for an electronic message sign.

AND

Docket No: 2008-10-BZA Applicant: Benny DeTalente – Benny’s Flooring  
Common Address: (Complete legal on file.) 1035 S. Green River Road  
Nature of Case: Applicant requests relaxation of maximum signage from 500 sq. ft. to 532.15 sq. ft. for erection of a new sign.

**Mr. Mills:** Alvey’s Sign Company and Benny DeTalente of Benny’s Flooring are requesting special use # 13 approval and variance approval for erection of an electronic sign on the property located at 1035 S Green River Road. The existing 7,140 sq ft retail flooring store is located on a half-acre C-4 zoned lot at the northeast corner of Green River Road and Adams. The C-4 district in the city allows 3 signs per frontage, totaling up to 500 sq ft. This lot has 2 frontages (Green River Road & Adams Avenue), allowing 6 signs @ 500 sq ft. Benny’s currently has permits for 3 new signs totaling 482.15 sq ft: a 322.9 sq ft fascia sign, an 84.75 sq ft fascia sign, and a 74.5 sq ft double-pole sign. They are proposing to add a new 50 sq ft electronic message sign on the existing sign structure. This is a request for special use # 13 approval to allow an electronic message sign. The variance is a request to relax the maximum signage from 500 sq ft to 532.15 sq ft. The two petitions require separate votes. The variance should be the first vote.

**Mr. 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. DeVries:** John DeVries with Alvey’s Signs.

**Mr. Reiplinger:** My name is John Reiplinger with Alvey’s Signs.

**Mr. Dunigan:** Do you have anything to add? Are there any questions? Are there any remonstrators? (None.) Is there a motion for approval on the variance? (Motion was made and seconded.) Call the roll.

Ayes: Mr. Herrin, Mr. Utley, Mr. Briscoe, Mr. Dunigan

Nays: None

There being 4 affirmative votes, Docket No: 2008-10-BZA is approved.

**Mr. Dunigan:** Now for the special use. Are there any remonstrators? (None.) Is there a motion for approval? (Motion was made and seconded.) Call the roll.

Ayes: Mr. Utley, Mr. Briscoe, Mr. Herrin, Mr. Dunigan

Nays: None

There being 4 affirmative votes, Docket No: 4-2008-APC is approved.

### **SPECIAL USE**

Docket No: 3-2008-APC Applicant: Ozanam Family Shelter

Common Address: (Complete legal on file.) 1104 Read Street

Nature of Case: Applicant requests a special use for a parking lot and a private recreational use.

**Mr. Mills:** Ozanam Family Shelter is requesting special use # 10 and # 24 approval to allow establishment of a parking lot and a playground on the property located at 1104 Read Street. This is a vacant R-2 zoned lot on the west side of Read Street, just north of Missouri Street. Ozanam is proposing construction of a parking lot on the front part of this residential lot, with a single access onto Read Street. The submitted site plan does not work. The parking area must be redesigned to eliminate vehicles backing out into Read Street or the parking lot must not be constructed. Site Review will address compliance with all code requirements upon submission of plans for the development of the site. This site is immediately adjacent north of the Ozanam Shelter. Ozanam established its homeless shelter at the northwest corner of Read Street and Missouri after purchase of the site in 1992. The building previously housed a nursing home. The nursing home existed on the site without provision of any off-street parking, and the absence of parking is/was considered a legal nonconforming characteristic of the use of the site. Ozanam proposes to install some off-street parking on the lot adjacent to the building. The parking must be redesigned to eliminate vehicles backing out into Read Street.

**Mr. 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. Camp has been sworn in.)

**Mr. Kemp:** My name is Kenneth Kemp, contractor representing the family shelter. On the proposed parking lot and playground area, I believe the concern was backing out on to Read Street. If you look at the plan drawn here, there is adequate turn around at the west

end of the parking area, then pull straight out onto Read Street.

**Mr. Mills:** There is not adequate, I am a civil engineer and it will not meet our requirements to it will have to be redesigned.

**Mr. Kemp:** Okay. Would you suggest then....

**Mr. Mills:** Based on the proposal that you have here, the only options that I can see with the narrowness of the lot would be for you to have a one-way and continue through to the alley. So I know that would reduce your playground area. Other than that, we would have to come up with another design. But you would have to be able to pull in to a 90 degree parking off to the side and then back out. Your travel way has to be 24 feet wide. So, in order for you to do that, you would have to have a total of 42 feet wide lot and your lot is not 42 feet wide.

**Mr. Kemp:** Okay. Since they are showing like 33.5, you are saying we need to be 40?

**Mr. Mills:** It would have to be 42 feet in order for you to be able to pull in and back out and go out on the same street. Other than that, it will have to be designed as a one way road where you would go completely through the site and then have the angled parking. If you would like to come and talk to us at the office, we would be happy to go over some designs and give you some other ideas to see what might work for you.

**Mr. Kemp:** Okay. We can do that then.

**Mr. Dunigan:** We can go forward with our approval because Site Review will make sure the parking lot meets the requirements. Are there any questions? Are there any remonstrators? (None.) Is there a motion for approval? (Motion was made and seconded.) Call the roll.

Ayes: Mr. Briscoe, Mr. Herrin, Mr. Utley, Mr. Dunigan

Nays: None

There being 4 affirmative votes, Docket No: 3-2008-APC is approved.

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Meeting adjourned.

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Derek Dunigan, 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.

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Bradley G. Mills, Executive Director

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Karen Yokel, Transcriber