

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

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

**June 15, 2006**

**ROLL CALL**

**Mr. McCarthy:** I would like to call the June 15, 2006 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 May meeting? (Upon unanimous voice vote, the minutes of the May 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, July 20, 2006 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 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.

The following petition will not be heard tonight.

Docket No: 14-2006-APC West Side Nut Club 2101 and 2105 W. Franklin Street  
CONTINUED TO THE JULY MEETING BECAUSE OF IMPROPER NOTICE

If you are here on this petition, 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: 2006-29-BZA Applicant: Kim Smith

Common address: (Complete legal on file.) 2166 Morgan Avenue

Nature of Case: Applicant requests relaxation of minimum side yard setback from 10 feet to 0 feet and relaxation of minimum front yard setback from 25 feet to 10 feet for installation of a parking lot.

**Mr. Mills:** Kim Smith is requesting variance approval for her property located at 2166 Morgan Avenue. Currently, Mrs. Smith has an 800 sq ft residence & 280 sq ft detached garage on a 55' x 120' lot. She is proposing to change the existing residence to a retail shop and install required parking for the commercial use of the site. The residence on this site was rezoned from R-1 to C-2 with a use and development commitment on April 10, 2006. Mrs. Smith is proposing to change the use of the existing residence to allow a computer service. The proposed change from residential to commercial requires installation of a (minimum) 4-space paved parking lot. The zoning code requires commercial lots to provide a minimum 10-foot open and unobstructed green space adjacent to residential lots, and requires maintenance of the 25-foot residential green space setback in the front yard of the commercial lot when adjacent to residential. This is a request for relaxation of the minimum side yard setback from 10 feet to 0 feet and relaxation of minimum front yard setback from 25 feet to 10 feet for installation of a parking lot.

**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? (Ms. Smith has been sworn in.)

**Ms. Smith:** My name is Kim Smith, 9200 Farmington Drive.

**Mr. McCarthy:** Do you have anything to add to the comments?

**Ms. Smith:** No. I just have a drainage plan.

**Mr. Mills:** Have you submitted that to the City Engineer?

**Ms. Smith:** I submitted it with my application to Area Plan.

**Mr. Mills:** I think he requested that at the Site Review meeting.

**Ms. Smith:** I don't remember him requesting that. I took it to the Area Plan.

**Mr. Mills:** I don't know if it got forwarded or not. You might want to double check to make sure he gets a copy of it.

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

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

Nays: None

There being 7 affirmative votes, Docket No: 2006-29-BZA is approved.

Docket No: 2006-30-BZA Applicant: Allison and Lucille Watson

Common address: (Complete legal on file.) 1517 S. Garvin Street

Nature of Case: Applicant requests relaxation of maximum lot coverage from 40% to 40.6%; relaxation of minimum side yard setback from the street on a corner lot from 15 feet to 0 feet; relaxation of the distance between the residence and accessory carport from 10 feet to 5 inches; and relaxation of zoning code to allow two driveways in less than 200 feet of frontage for maintenance of a new carport.

**Mr. Mills:** Allison and Lucille Watson are requesting variance approval for their property located at 1517 S. Garvin Street. Currently the Watsons have a 1,248 sq ft residence, a 288 sq ft detached garage, and 252 sq ft carport on a 40' x 110' lot. They are proposing maintenance of the 252 sq ft carport, at its current location on the lot. The Watsons were contacted by APC staff regarding erection of the new carport. The carport extends into the unimproved part of the right-of-way of Covert Avenue, and this encroachment into right-of-way must be addressed to the City Engineer's office. This is a request for relaxation of maximum lot coverage from 40% to 40.6%; relaxation of the minimum side yard setback from the street on a corner lot from 15' to 0'; relaxation of the distance between the residence and accessory carport from 10 feet to 5 inches; and relaxation of the zoning code to allow 2 driveways in less than 200 feet of frontage for maintenance of a new carport.

**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? (Ms. Watson has been sworn in.)

**Ms. Watson:** Lucille Watson, 1517 S. Garvin Street. I am sort of naive when it comes to such things, but I am just here to ask for a variance for my carport to remain as is until the City has use of that property or something to come through. I would be willing to cooperate. As far as the two driveways, I have been at that residence for about 32 years. I have never had any problems from the neighbors. In fact, I got one response from Mr. Fisher who called me and told me he didn't have any problems with my property. As far as the one driveway where the carport is, that is an old coal chute.

**Mr. Dunigan:** Was this carport professionally installed? Did you pay someone to build it?

**Ms. Watson:** Yes. Eagle Carport of Henderson. But they might have been based in Ohio somewhere. But I hear they are no longer there. I didn't know about the permit.

**Mr. Joe Harrison:** When was it put in?

**Ms. Watson:** I believe in 2000.

**Mr. Groves:** Is there a permit process these companies have to go through?

**Mr. Joe Harrison:** Well, they are supposed to get a permit, yes.

**Mr. Mills:** They are required to get a permit from us and then from the Building Commission as well. Obviously, they didn't follow that process.

**Mr. McCarthy:** This doesn't provide any line of sight issues for drivers on the street?

**Ms. Watson:** No. INAUDIBLE

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

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

Nays: None

There being 7 affirmative votes, Docket No: 2006-30-BZA is approved.

Docket No: 2006-31-BZA Applicant: Evansville Pavilion/Alvey's Signs

Common address: (Complete legal on file.) 6401 E. Lloyd Expressway

Nature of Case: Applicant requests relaxation of maximum height limit from 50 feet to 53 feet 10 inches for an addition to an on-premise sign.

**Mr. Mills:** John DeVries of Alvey's Signs is requesting variance approval for signage for Evansville Pavilion shopping center located at 6401 E. Lloyd Expressway. Currently, Evansville Pavilion has one existing 271 sq ft on-premise sign erected atop an off-premise directory sign for the Evansville Pavilion Shopping Center. In 2002, the off-premise directory sign was erected on this site advertising shops on adjacent parcels to the east and south. A permit was issued by Area Plan Commission to allow Evansville Pavilion to erect their on-premise signage atop the off-premise sign. The overall effect of the sign was to appear as a shopping bag, with the "Pavilion" signage at the top, and the "Evansville" spelled down the side of the 4-sided monument sign. Evansville Pavilion is proposing to add a new sign which identifies the name of the shopping center as "Evansville Pavilion" – adding the word

“Evansville” on a sign resembling a handle on the shopping bag. The new handle part of the sign extends 3’10” above the maximum height limit. This is a request for relaxation of the maximum height limit from 50’ to 53’10” for an addition to an on-premise sign.

**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. DeVries has been sworn in.)

**Mr. DeVries:** John DeVries with Alvey’s Sign Company.

**Mr. McCarthy:** 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. Harrison, Mr. Herrin, Ms. Taylor, Mr. Washington, Mr. Dunigan, Mr. Groves, Mr. McCarthy<sup>6</sup>

Nays: None

There being 7 affirmative votes, Docket No: 2006-31-BZA is approved.

Docket No: 2006-32-BZA Applicant: George Phelps

Common address: (Complete legal on file.) 2001 S. New York Avenue

Nature of Case: Applicant requests relaxation of zoning code requirement to allow expansion of a legal non-conforming residence for construction of a carport, and relax distance between residence and carport from 10 feet to 3 feet; and relaxation of front yard setback from 20 feet to 4 feet for the new carport.

**Mr. Mills:** George Phelps is requesting variance approval for his property located at 2001 S. New York Avenue. Currently Mr. Phelps has a 1,002 sq ft residence, a 378 sq ft carport, and a 252 sq ft carport on a 50’ x 129’ (C-4 zoned) lot. He is proposing variance approval to allow him to maintain the two existing carports. Mr. Phelps was contacted by staff regarding erection of the carports without permits. This is a request for relaxation of zoning code requirements to allow expansion of a legal nonconforming residence for construction of a carport, and relax distance between residence and carport from 10 feet to 3 feet; and relaxation of front yard setback from 20 feet to 4 feet for the new carport.

**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. Phelps has been sworn in.)

**Mr. Phelps:** My name is George Phelps, 2001 S. New York Avenue. I called about where

to get permits and they said I didn't have to have one. So this is the first time this ever happened to me.

**Mr. Herrin:** Who was the contractor on this?

**Mr. Phelps:** A contractor in Owensboro.

**Mr. McCarthy:** Are there any other questions? Are there any remonstrators? (None.) Motion for approval? (Motion was made and seconded.) Call the roll.

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

Nays: None

There being 7 affirmative votes, Docket No: 2006-32-BZA is approved.

Docket No: 2006-33-BZA Applicant: Lakeshore Apartment Homes

Common address: (Complete legal on file.) 730 Citadel Circle

Nature of Case: Applicant requests relaxation of the maximum signage from 200 sq. ft. to 232 sq. ft. for erection of a new sign.

**Mr. Mills:** Matt Lutz of Shively and Associates is representative for Lakeshore Apartment Homes and this request for variance approval for their property located at 730 Citadel Circle. Lakeshore apartments has a 224 unit apartment complex, clubhouse, pool, garages, parking all on a 24.6 acre lot. The C-2 district in the county allows 2 signs per frontage totaling 200 sq ft. Lakeshore currently has 2 existing signs totaling 200 sq ft. They are requesting permit approval for a new "now leasing" sign @ 32 sq ft. The apartments have a 176 sq ft monument sign placed at the southern entrance (near Stahl Road) and a 24 sq ft sign located in front of their clubhouse/office building, interior to the complex (on Beachfront Drive). The proposed additional "now leasing" sign is requested for the eastern entrance into the complex (Citadel Drive.) The signs are situated on the 24.6 acre site so that only one sign is visible at any time. This is a request for relaxation of the maximum signage from 200 sq ft to 232 sq ft for a new sign.

**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:** My name is Matthew Lutz with Shively and Associates. I would add that the sign

at the northeast side of the property is not illuminated. The monument sign is illuminated and the sign indicating the office building is illuminated. I would emphasize the fact that only one sign can be seen at any given time on the property.

**Mr. McCarthy:** The signs were already there?

**Mr. Lutz:** Correct.

**Mr. Groves:** Will this be until all your apartments are full?

**Mr. Lutz:** It could stay there permanently. I don't think their plans are to leave this sign there permanently. The problem is that you can't see out of the entrance when you are standing there either. So there isn't a centralized location to advertise the apartments where it would be visible from both entrances.

**Mr. Groves:** Do you have an office?

**Mr. Lutz:** The office is centrally located on the property and also can't be seen from either entrance.

**Mr. Groves:** Do you have a sign directing someone to the office?

**Mr. Lutz:** There are signs that direct to the office, but there is a single road that travels from entrance to entrance. The office is located between those two entrances.

**Mr. Groves:** If I pull in your apartment complex. Is there some signage that says "office" somewhere?

**Mr. Lutz:** Yes, at the office.

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

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

Nays: Mr. Groves

There being 6 affirmative votes and 1 negative vote, Docket No: 2006-33-BZA is approved.

Docket No: 2006-34-BZA Applicant: JimTown Enterprises, LLC

Common address: (Complete legal on file.) 807-811 N. Governor Street

Nature of Case: Applicant requests relaxation of all green space and yard setback requirements from 10 feet to 0 feet for construction of a new laundromat and parking lot.

**Mr. Mills:** Lonnie Pace is the representative for Jimtown Enterprises and this request for variance for the property located at 807-811 N. Governor Street. Currently this is a vacant 72' x 129' C-4 zoned lot. Mr. Pace is proposing construction of a 3,000 sq ft laundromat and a 10-space parking lot on the site. The site plan submitted by Mr. Pace and reviewed by Site Review Committee on May 22, 2006 indicates a need for variances to relax the (north) side setback from 10 feet to 0 feet for the building and parking adjacent to Mr. Pace's vacant R-2 zoned lots, and to relax the minimum green front yard setback from 10 feet to 0 feet for the parking lot. The plan shows the minimum 10-foot green setback along the south property line adjacent to an apartment building is being maintained in grass, and shows the setback from the alley is planned to be 10 feet. The statement of variance request submitted with this application indicates a request to relax all yard setbacks to Zero feet. If the site plan is altered to reflect the variance request, it must be re-submitted to Site Review Committee for approval before any permits may be granted. The parking lot extends into the right-of-way of Governor Street. An encroachment permit was approved by the City Engineer office on May 11, 2006 which permits the parking to encroach 7 feet into the Governor Street right-of-way. This is a request for relaxation of all green space and yard setback requirements from 10 feet to 0 feet for construction of a new laundromat and parking lot.

**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. Pace has been sworn in.)

**Mr. Pace:** My name is Lonnie Pace. I live at 602 Elmore Road, Bartlett, Tennessee. The primary driving force for the variance is to make sure I provide secure and safe parking for the customers. As a result of an electrical requirement, Vectren is going to have to put a 6 x 6 pad at the rear of the building for a transformer. If we were to shift the property or the building back, it would be right on the edge of the alley. So I am trying to make an aesthetic business appearance by putting all the utilities, a/c, and transformer pad behind the building. But I need to be able to provide safe and convenient parking for my customers. By providing parking on the side or in the rear, I don't believe that would be safe for my customers.

**Mr. McCarthy:** The ten feet of green space between the building and the property line, are you going to maintain that?

**Mr. Pace:** Yes. That was just an incidental number, just 62 x 62 parking, ended up providing 10 parking spots for the laundry. Vectren will extend the gas and City of Evansville will extend the public water down that green space. That is why we put green space there.

**Mr. McCarthy:** I assume the parking lot is going to have a hard and sealed surface?

**Mr Pace:** Yes.

**Mr. Mills:** You are going to keep the green space as shown on the site plan you submitted? So on the south side where you show ten feet, you will have ten feet, and on the back side you are going to keep ten feet there?

**Mr. Pace:** Yes. There is no change in the site plan.

**Mr. McCarthy:** Are there any remonstrators? (None.) Motion for approval? (Motion was made and seconded.) Call the roll.

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

Nays:

There being 7 affirmative votes, Docket No: 2006-33-BZA is approved.

Docket No: 2006-35-BZA Applicant: Capitol Sign/Tony Ahmed

Common address: (Complete legal on file.) 445 Circle Front Drive

Nature of Case: Applicant requests relaxation of the maximum signage from 300 sq. ft. to 802 sq. ft. and relaxation of the number of permitted signs from 4 to 5 for erection of new signs.

**Mr. Mills:** Tony Ahmed of Capitol Sign Company is requesting variance approval for new signage for the Furniture Row Companies located at 445 Circle Front Drive. Furniture Row currently has a new 53,440 sq ft furniture "strip shopping center" under construction on a 4.7 acre C-4 zoned lot. They are proposing erection of 5 signs totaling 802 sq ft for "Furniture Row". The C-4 district in the County allows 2 signs per frontage totaling 300 sq ft. This site has 2 frontages, and is permitted up to 4 signs totaling the 300 sq ft. Mr. Ahmed has submitted application for issuance of a permit for the 195 sq ft (6.5' x 30') "Furniture Row" monument sign to be erected on this site, as well as fascia signs for several of the furniture businesses planned to occupy the strip center. (Each business is entitled to separate signage, not included as part of the "Furniture Row" request.) This is a request to allow additional "Furniture Row" signage.

Furniture Row proposed signage (TOTAL: 5 signs @ 802 sq ft):

6.5' x 30'      195 sq ft      monument                      northeast corner of property

|               |           |                    |                              |
|---------------|-----------|--------------------|------------------------------|
| 6.5' x 28.75' | 187 sq ft | monument/sculpture | northeast corner of property |
| 4' x 35'      | 140 sq ft | fascia             | north face                   |
| 4' x 35'      | 140 sq ft | fascia             | west face                    |
| 4' x 35'      | 140 sq ft | fascia             | south face                   |

This is a request for relaxation of the maximum signage from 300 sq ft to 802 sq ft and relaxation of the number of permitted signs from 4 to 5 for erection of new signs.

**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. Ahmed:** My name is Tony Ahmed from Capitol Sign Company. I had one other photo I would like to pass out. I am representing Furniture Row who is trying to maintain the consistency of our national image. You may have seen our advertising on television showing the monument sign with the chair sculpture and then it pans across our store front signage. This is our typical building with these four brands. We are in the County just outside the City limits. Currently, the total allowed is 300 square feet of signage for each tenant, and the same for the shopping center signs. These limits work well for our tenants. But I am a little short in square footage to accommodate the signs for the center. If we were within the City limits, those maximum amounts would be 500 square feet rather than 300. More often I find that I am at variance meetings to determine if the sculpture sign is a sign or art. It is not branded, and it has no other identification. Our situation is that in the current code, and considering the sculpture as a sign, I am about 82 square feet short to have the sculpture that is always displayed with the monument because that is the part that is branded and has the name. The front of our building and the store fronts are facing I-164. So once the public exits the highway or is trying to find our building, we have no other identification on Circle Front Drive. That is why we feel the additional signs on the two end walls and the back are so important. These three elevations have no other signage. These 4 x 35 foot signs are a good size. They are not overbearing and they compliment the design of our building. The photo shows one we recently installed in Colorado. What we have done in addition to help keep our building attractive is that we have moved those big air conditioner duct work inside our building. So we would like the additional signs on the rear and other two elevations and just trying to maintain our national image. I would be happy to answer any questions.

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

**Mr. Bill Harrison:** Is there one particular part of your sign request that is eating up the square footage? Is it the chairs that is doing it?

**Mr. Ahmed:** I think so. In a lot of situations, I am more trying to determine whether it is a sign or a sculpture. It is really just a stick frame structure there. I know the City requirement is to square it off from all perimeters. So from the widest point to the top point, if I put that sculpture on draft paper, I could get it down to just over 100 square feet. But with what I need to do here, it is closer to 200.

**Mr. Mills:** We counted that as 187 square feet out of the 802 requested. So it would still be 600+ change without that.

**Mr. Bill Harrison:** That is the fascia signs?

**Mr. Mills:** The three fascias at 140 each then the monument is close to 200.

**Mr. Ahmed:** I know similar neighboring businesses, a couple car dealerships, have done some similar variances and had those approved.

**Mr. McCarthy:** What is the square footage on the monument sign?

**Mr. Ahmed:** The monument sign is 195. In some cities, we actually put a reveal in with a skirt which would separate the sign portion from the pole cover. But in this City, you want to measure all perimeters of these signs. Also, in some situations, for instance the oval, it is 9'6" by almost 16' long. If I took that shape recalculated it, it would get it down to 118 square feet rather than 150. So a lot of these signs that they are looking at rather than squaring off the perimeters, it wouldn't look as excessive as it sounds. The same with the Oak Express. But what I am getting at is the actual square footage of the signs is not as large. For this size of building, the signs are not large or overbearing. I think they compliment the design of our building.

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

**Mr. Morrow:** My name is Dan Morrow, the property manager for Cross Lake Apartments, 7900 Circle Front Court. On the north face, that is our property to the left. I had a couple questions. I hadn't seen what the sign is going to be like. Being it is in my back yard, I was concerned about lighting. I don't want it to be right in my windows.

**Mr. Ahmed:** Actually, the sign has an opaque background which means none of the sign would be lighted. Just the individual letters alone would be lighted at night. The light that would come through would just be through the letters. That is similar with our monument sign as well.

**Mr. McCarthy:** Is there a motion for approval? (Motion was made and seconded.) Call the

roll.

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

Nays: Mr. McCarthy

There being 6 affirmative votes, Docket No: 2006-35-BZA is approved.

Docket No: 2006-36-BZA Applicant: Jagoe Homes, Inc.

Common address: (Complete legal on file.) 4501 Cookman Way

Nature of Case: Applicant requests relaxation of side yard setback from 5 feet to 3.2 feet for the existing residence as-built.

**Mr. Mills:** Marco DeLucio is the representative for Jagoe Land Corporation and this request for variance approval for their property located at 4501 Cookman Way. Currently there is a new 1,773 sq ft residence with attached garage on a 65' x 125' lot at this address. Jagoe Land Corporation is requesting the variance to allow maintenance of the existing residence "as built" on the site. An improvement location permit was issued for construction of the new single-family residence with attached garage on February 23, 2006. A survey of the site prior to the transfer and sale of the residence discovered that the residence was constructed at the wrong location on the lot due to a contractor's error. Jagoe Land Corporation is requesting variance approval to bring the property into compliance with zoning code setback requirements, allowing the residence to legally remain, as is currently situated and constructed on the site, 3.2 feet from the (east) side property line. This is a request for relaxation of the side yard setback from 5 feet to 3.2 feet for the existing residence as-built.

**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. DeLucio has been sworn in.)

**Mr. DeLucio:** My name is Marco DeLucio for Jagoe Homes. We are embarrassed to be back before you. We were here in April and told you that one time in 10 years we had a problem like this. About two weeks later, we had another problem like this. So we are extremely embarrassed to be back here. There was an error at the time the house was laid out based upon running it off the wrong pin. They only ran it off one pin instead of locating all

four. They do have procedures in place now. It is a checklist. They have to locate each of the four pins before they do anything else. Unfortunately, this house had started and was almost done we were here in April. We would like to think there won't be any more of these. This is the second time in 10 years after hundreds of lots have been built. We have had discussions with the adjacent property owner and they have no objection to this and are willing to help us in any way that we can. We would ask for your approval to reduce the side yard setback from five feet to 3.2 feet to address this problem.

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

Nays: None

There being 7 affirmative votes, Docket No: 2006-36-BZA is approved.

Docket No: 2006-37-BZA Applicant: Eulice and Joan Cole

Common address: (Complete legal on file.) 401 N. Second Avenue

Nature of Case: Applicant requests relaxation of the corner side yard setback from 10 feet to 7 feet for construction of a new porch.

**Mr. Mills:** Eulice and Joan Cole are requesting variance approval for their residence located at 401 N Second Avenue. Currently the Coles have a 1,512 sq ft residence and a 480 sq ft detached garage on a 50' x 116' lot. They are proposing construction of a new 96 sq ft porch. This residence is located at the northeast corner of Second Avenue & Michigan Street. The residence faces Michigan Street (the side yard). The Coles are proposing a small front porch addition onto the residence that encroaches 3 feet into the minimum 10-foot corner side yard setback from the right-of-way/property line along Michigan Street. Michigan Street at this location has a total of 80 feet of right-of-way. There is approximately 13 feet of grass unimproved right-of-way along Michigan Street in addition to the proposed 7-foot setback from the property line for this new porch. The proposed porch addition poses no impediment to visibility at this intersection. This is a request for relaxation of the corner side yard setback from 10 feet to 7 feet for construction of a new porch.

**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? (Ms. Cole has been sworn in.)

**Ms. Cole:** Joan Cole, 401 N. Second Avenue. I just want to have a porch to put a couple

rockers and sit back and rock.

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

Nays: None

There being 7 affirmative votes, Docket No: 2006-37-BZA is approved.

Docket No: 2006-38-BZA Applicant: Professional Consultants, Inc.

Common address: (Complete legal on file.) 4410 Oak Street

Nature of Case: Applicant requests relaxation of the front yard setback from 25 feet to 0 feet for relocation of classrooms.

**Mr. Mills:** Mike Ingram of Professional Consultants is representative for Bethel Temple of Evansville and this request for variance approval for their property located at 4410 Oak Street. They are proposing relocation of two existing portable classroom units onto this site. The classrooms are being relocated from their current location at the rear of the church to this new location on a 100' x 110' lot completely interior to their existing church/school campus site. Currently, Bethel Temple has a 1,525 sq ft classroom on the site. This request was reviewed by Site Review Committee on May 15, 2006, and it was determined that the church needs to either petition to vacate Oak Street at this location or apply for variance approval to relax the front yard setback requirement established by the zoning code along the Oak Street frontage. This is a request for relaxation of the front yard setback from 25 feet to 0 feet for relocation of classrooms.

**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. Brasher has been sworn in.)

**Mr. Brasher:** My name is Jerry Brasher Mike Ingram couldn't be here. I am with Professional Consultants, 112 Ingle Street.

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

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

Nays: None

There being 7 affirmative votes, Docket No: 2006-38-BZA is approved.

### **SPECIAL USES**

Docket No: 10-2006-APC Applicant: University of Evansville/Don Walters

Common address: (Complete legal on file.) 20404 Barton Road

Nature of Case: Applicant requests a special use for a private recreational use (cross country track/race course).

**Mr. Mills:** Don Walters is the representative for University of Evansville and this request for special use 24 private recreational use approval for the property located at 20404 Barton Road. The University proposes to operate a cross country track / race course on the 32.5 acre site located on the west side of Barton Road, between Schroeder Road and I-164. This petition was continued from last month's meeting. The University and the owners of this site were contacted by Area Plan Commission staff after complaints were filed regarding the operation of the U of E cross country track meets on this site for the last two years. Mr. Walters has indicated that the cross country meets require use of this site from the second week in August through the third week of October. The site is used for track meets and for cross country practice during this period. No on-site parking exists and there is no sanitary sewer on this site. No infrastructure improvements are planned on this site to accommodate this proposed use. Barton Road is a rural agricultural & residential road. No access or parking is detailed on the site plan. Inspection of the site indicates that the residence at 20404 Barton Road has an existing single driveway to serve as access to the residence on the site. A short section of gravel has been dumped at the edge of Barton Road, but this is not detailed on the site plan, and it is not of sufficient depth to provide any parking. Staff is unable to determine compliance with minimum setback requirements. The site plan submitted for the Special Use application does not satisfy the requirements for commercial permit review and must be completed prior to submission for required permit approval by the Site Review Committee. The proposed recreational use requires parking in an amount determined by the Board of Zoning Appeals to accommodate patrons and visitors. The university proposes providing no on-site parking lot for this proposed use. The Agricultural district allows on-premise signs 2 sq. ft. or as approved by the Board of Zoning Appeals as part of the special use approval. There is existing signage on this site, erected without required permits.

**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. Worthington:** My name is Maria Worthington. I am a U of E alumni and an attorney representing U of E. We are back from last month on this cross country race course special use permit application. We appeared before you regarding this and I would like to make a couple of clarifications on the staff field. It is correct, but the season runs August, September, and October. But the actual use of the site is not a daily use during that time period. It is primarily so the University can host a couple of home meets a year on Saturday mornings. Also, the University's regular practices are not held at this location. I want to recap a little of what we presented last month. I appeared along with Coach Walters who is here with me today. We also had one of the neighbors with us who is supportive, Mr. Ripple, who is not with us today, but I am sure would like us to consider his favorable comments on the project. We also presented a supportive letter from the Brauns, another neighbor, and an additional supportive letter from Marilee Fowler of the local Convention and Visitors Bureau speaking favorably about the experience for Evansville and Vanderburgh County of having teams from other communities coming in to see the Evansville area and use our facilities. We presented some photos of the property that show the rolling hill appearance of the property and what makes it perfect for this use as a cross country course. You don't find anything like that inside the City limits. The cross country season this year will be two meets, one on a Saturday in September. Another meet will be in October on a Saturday. Coach Walters will give you more details about a request he received from the SIAC since the last time we met asking if we would host a smaller venue on a Thursday night. So we will make sure you have details on that before you make a decision tonight. When Coach Walters speaks, he also wants to give an explanation about one request that the neighbor had that we can't accommodate. Then I will go through a list of requests that the one remonstrator made that we can accommodate. I would say, you asked us to talk with the one remonstrator and they are here today. We had an opportunity last month to get an idea of what their concerns were. Then we had a second meeting with them and got a short list of concerns. I am happy to say there are five concerns we can meet and one concern we can't meet. Coach Walters will detail that. That has to do with moving the start and finish line of the course. He will explain why we can't do that. As for the requests we can accommodate, one was made by the Kissels that we install a ten foot wooden privacy fence. With some discussion, we were able to back that off and they asked if we would extend our temporary fencing farther north than where it is now to deter anyone who might go over onto their property. What we used in the past is a rope type of fencing where you can climb over. What we will do this time, on their property line is use an orange constructing fencing with the rebar material so that you can't misunderstand going beyond that point. We think that will make it clear where the property lines are and deter any trespassers or trash. So we are happy to accommodate that request and provide a better shield to the Kissel property. One of the other requests made was that we try to do something to alleviate the noise from the PA system. What we were able to do there is move the PA system about 400 feet north and away from the Kissel property, which will cut down on the noise. We really

use that system a couple of times during the event to announce a race starting or finishing and then to announce who won a race. We use trash crews at this event to make sure there is no left over trash or mess. We were asked if those crews would begin at the Kissel property before carrying on to cleaning up the rest of the course. We are happy to accommodate that. The Coach was asked if he would not mow on Sundays during the season, particularly during Nascar time. We are happy to accommodate that. It may be the case that the property owner may find it necessary to mow for her own purposes on a Sunday and we can't promise what the owner might do. But the Coach is agreeable not to do anything loud for the track on Sundays. We also agreed to share the dates the meets will be held so the Kissels can have an idea when to expect the people on the property. I would be happy to answer any questions.

I want to introduce the property owner, Kristy Eckert, who is graciously allowing us to use the property for this purpose. You asked for her to be here today. In addition to the request for approval of this special use, I also want to make sure that we have an understanding if we can leave our small wooden sign out there that says "Home of the Purple Aces Team". It is not a big sign. The staff field report is correct that there is not a paved parking area. There is sufficient space for 200 parking spaces. We do not need that many spaces. The Coach estimates that he uses approximately 70 to 100 spots. If you want to designate a number of spots allowed to be used, we can do overflow parking at the Log Inn down the street. I will ask Coach Walters to explain why it is not feasible to move the start/finish line as well as talk about when this track would be used and he has some additional pictures. I would like to read a note from the Brauns. It just says that they want to have Evansville cross country track here by their property. They enjoy watching the children come out and run and they think it is a good use for the area because of the rolling hills. And they are proud to have the Aces out there. Thank you. I will turn it over to Coach Walters.

#### TAPE CHANGE

**Coach Walters:** I am Don Walters, U of E cross country coach. When we were asked to move the start/finish line, I knew at the time it would probably be difficult to do because of the outlay because it is flat ground. There is hardly any flat ground there. We have to have between 350 and 400 meters before the first turn and that presents a problem. That is the only place we can put it. I tried to move it to another place. But both of those have to be the start and finish and have to be close. I had one place I thought I could move it to, but the result was that when we were running a race, you would have to cross the line, circle back and come back in. That presents a problem because you have the slow runners and the fast runners. Measurements that were set up before, I have pictures of the course from the property line, start line and finish line. The edge of the course to the property line is 51 feet. To the start line is 160 feet. To the finish line is 280 feet. The PA at this time is 300 feet, which we can move that to the 400. These are three shots back to the neighbor. The other thing, we may practice two to three times maximum before school starts. Once school starts, we can't practice up there any more because it takes us so long to get there with Whirlpool and the other traffic out

there. Gibson Southern High School, Memorial, and North have been there to practice. They have asked to practice. We have this listed as private property, no trespassing. Each time they are there, I know they are there and Christy knows they are there. It is just that one team. They like this place because it is quality. Since we were here last time, the Southern Indiana Athletic Conference called and want to use this on a Thursday night for a SIAC meet. We can accommodate that without any problem. I want to put everything forward. I think the things we have done in order to try to get along, I have went a half mile in every direction, Schroeder Road, Barton Road, 1300 S and Warrenton Road, and talked to all but three people that weren't home. Nobody has a problem. They think it is great. I have signatures of some of the closer ones that are on Barton Road that don't have a problem with this. So I find no problems with this in the neighborhood. The sign, I did not know we had to get a permit for the sign. The sign you see is a 3 x 5. I would like to keep that sign there to let people know where it is. The parking issue, the rock you see there is to get across the course. All courses that you go to, you park on the grass. We have this whole hill for parking. We have eight parking attendants to park cars in an orderly fashion. There has never been a problem with traffic tie-ups.

**Mr. Dunigan:** It looks like what you are saying, you have four meets and two to three practices.

**Coach Walters:** Right. Last year we had three meets. The year before we had two meets. This year was going to be two, but now it could be possible four.

**Mr. Dunigan:** So we would be talking approximately seven occurrences of use of the property for U of E. Would that be a fair assessment?

**Coach Walters:** Yes.

**Mr. Joe Harrison:** The University of Evansville is only going to use it themselves for meets I thought two or three times. The SIAC is high school, and semi-state is high school. He said that North uses it to practice. Memorial uses it for practice and Gibson Southern.

**Coach Walters:** I didn't include those in my numbers.

**Mr. Joe Harrison:** We need to know, and the owner is here, it may be that you get approval and nobody else gets approval to ever use it.

**Mr. Dunigan:** I am trying to get an accurate number of when the occurrences will take place because you are saying you will only use it seven times, but the way this is written, you could use it any time for three months.

**Mr. Herrin:** Gibson Southern, Memorial, North cross country teams, 10 people approximately,

maybe there would be five or six cars or maybe they bring their bus out.

**Coach Walters:** They bring their van.

**Mr. Herrin:** So really, we are looking at the large three to four times a year...

**Coach Walters:** Yes. The course is what is drawing the SIAC conference. We don't have a problem with it. But it is greater for the Evansville area to have somewhere that they can go to run besides USI. But that is why they asked me for three years and I said no until this year. They had a vote and it was unanimous. I would like to be able to have it there.

**Mr. Dunigan:** I don't have an issue with who is wanting to use it. I think it is great. It probably brings in folks from out of town. I am just trying to get a feel for how many times we are talking about.

**Coach Walters:** You have to remember, in a practice, they will come in and in an hour, they will be gone. I have some times here. I think one of the issues was the time frame. In our meets, a 5K or 8K race, you are looking at a 5K race, we can get warm-up time in one hour. The race would be 16-22 minutes, 20 minutes in between. The 8K race, 24-32 minutes, and cool down would be an hour. You are still looking at three hours. I am there before to get this thing ready. Somebody has to put the flags up, get the lines painted and get everything ready. Afterwards, there is cleanup. We have an eight man crew there that does nothing but clean up. We have anywhere from 8-12 55 gallon drums out there.

**Mr. Joe Harrison:** I think what you are saying is you think that property would be used for cross country purposes for three months August, September and October?

**Coach Walters:** Yes.

**Mr. Joe Harrison:** So would it ever be used in November?

**Coach Walters:** Not that I can see.

**Mr. Joe Harrison:** Would it ever be used in any other month by high school or anybody?

**Coach Walters:** No.

**Mr. Joe Harrison:** So we are only talking about August, September and October?

**Coach Walters:** Yes.

**Mr. Joe Harrison:** And if high schools use the facility, which they have been using it, are you all out there at all when they are out there?

**Coach Walters:** I am.

**Mr. Joe Harrison:** You are out there for every practice?

**Coach Walters:** I am out there. I will show up, make sure they are parking where they are supposed to park and then I may leave. But I am there. They have to ask me whether they can come out there.

**Ms. Worthington:** I wanted to share a fact I found out while talking to Coach Walters. I asked how he could get out there so quickly when these people call? It turns out he just lives up the road so he is able to make sure things are as they should be.

**Coach Walters:** The coaches from these two schools, and I am in good with a lot of coaches. That is my job. But these three schools in particular know they have to get prior permission. That is why I have all the no trespassing signs out there. I don't want anybody out there or people just to drop off. If somebody is over there, Randy Ripple or one of the neighbors will call me and I will go over there and run them off because that's not what we want there.

UNIDENTIFIED MEMBER: I assume you are going to prohibit on-street parking?

**Coach Walters:** Yes. There is no reason for us to do that. We have ample parking. In most cases, we have a police officer there. We have EMT's there. The three schools I mentioned, before they can come, they have to issue me an insurance policy or they can't come. We have insurance on the place. But still. I try to run this the best way that I can and still have the opportunity out there for the kids to have a place to run.

**Mr. Dunigan:** Do you think parking for 100 vehicles would accommodate the majority of your needs?

**Coach Walters:** Yes. The 200 thing was something that I had laid out. I wanted to know what I could put there. I wanted to know how many I could put on the other side. I have never seen it completely full. All the other stuff, what she mentioned about the Log Inn, that is just a backup plan.

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

**Ms. Kissel:** My name is Mary Ann Kissel, 10250 Barton Road. We attempted to work out a resolution. But Mr. Walters seemed sort of uncooperative on the most crucial point which was the finish line being moved to keep the noise and crowd away from our back door. We considered it a reasonable request. Mr. Walters wasn't bending on this subject. It was the first opportunity to voice an opinion on this public event held in our private neighborhood for the past four years. We are a quiet residential neighborhood and we value our privacy. This is not the appropriate site for this function. This is not good planning. From the lack of communication with the BZA and the neighbors to the improperly policed events, they have shown by past actions, they do not take other people's rights seriously. Spectators have been allowed to sit on our property 37 feet from our kitchen door during these events and leave litter. The PA system is located by the finish line. They have shown no respect for the surrounding residential property. At first it was two meets a year. Two days ago we were informed there would be three meets a year. And the conference would be every eight years. How many events are they going to have this year? Will they allow other schools to practices and hold meets? Mr. Walters said the teams use the course for six hours a year. But in the 10/28/05 issue of the Courier, he stated the first race began at 10:30 and he closed the course at 5:00. That is six and a half hours for one meet. The participants always come early to warm up and check the course out. There are too many cars and people for this site to support. Mr. Walters is already concerned with the parking issue by contacting the Log Inn for permission to use their parking lot for the meet last fall if the weather did not cooperate and they would not be able to park on the field. Mr. Walters estimates 200 cars at a meet and there are also buses there. The Log Inn has a capacity of 120. Our neighborhood consists of long time homeowners who have acreage for peace and privacy. These functions have been a nuisance to our quiet neighborhood. They have no right to do this. Will we be subjected to more of the same? Will restrictions be put in place to prevent the growth? They should not be allowed any permit until these issues of noise and spectator control and parking are addressed. Thank you.

**Mr. Bill Harrison:** Where is it again where you live?

**Ms. Kissel:** On Barton Road.

**Mr. Bill Harrison:** And Mr. Walters, where is the finish line?

**Coach Walters:** INAUDIBLE

**Mr. Bill Harrison:** And where is the PA system?

**Coach Walters:** INAUDIBLE I think the confusion on where the finish line is according to where they think it is, we have a shoot that everybody stays in until they come out.

**Mr. Bill Harrison:** Is the track pretty much what you have in red there?

**Coach Walters:** INAUDIBLE...the course runs right through here 51 feet from the property line. Then at 280 feet is the finish line. The start line is back here.

**Mr. Bill Harrison:** And where did you say they park?

**Coach Walters:** INAUDIBLE

INAUDIBLE CONVERSATION

**Mr. Kissel:** My name is Mike Kissel, 20350 Barton Road. This is a major disturbance. It goes on frequently. We don't know how much more is going to happen. We heard last night that Mr. Walters went around the neighborhood trying to get people to sign papers saying that they were for this. I know two people that declined to sign. This is too much noise, too close to our home.

**Coach Walters:** This shows you the start and finish. This is satellite pictures. Also, no one objected. There were some that wouldn't sign the petition that stated they did not object and I don't have a problem with that. But they did not object to it being there. Thank you.

**Ms. Worthington:** I had a little trouble understanding why the finish line couldn't be moved. I want to make sure if you have any questions about that, the Coach spent a lot of time trying to see if there was another flat spot with the right number of feet. He has to have a certain number of feet and then that start line has to be a certain distance away from a 90 degree turn. He spent a lot of time trying to redesign the start/finish line. But he doesn't have enough space to do it. Any space that he would try to move it to he couldn't then meet the rules in avoiding the 90 degree turn or having the right size.

**Mr. McCarthy:** INAUDIBLE I will entertain a motion for approval, subject to a two year time limit.

**Mr. Joe Harrison:** Parking, signage, and what about the time frame for the use of the facility?

**Ms. Worthington:** The Coach would like me to clarify he might mow sometime before August. But that would be done anyway by the property owner. We want to accurately represent what he will be doing out there.

**Mr. Mills:** The sign is 15 square feet. The grass parking would be for 150.

**Mr. Joe Harrison:** So the motion would be for a special use for the cross country course for the months of August through October. The sign is for 15 square feet (3 x 5). Parking would be for 150 vehicles. Any extra vehicles would have to be parked in another location off-premise. There would be no on-street parking. This would also be for a period of two years.

**Mr. McCarthy:** We have a motion and second. Call the roll.

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

Nays: None

There being 7 affirmative votes, Docket No: 10-2006-APC is approved.

Docket No: 13-2006-APC Applicant: Jewell Stogsdill

Common address: (Complete legal on file.) 1926 Covert Avenue

Nature of Case: Applicant requests a special use for uses desiring outside storage, displays, or sales.

**Mr. Mills:** Jewell Stogsdill is requesting special use # 27 approval to allow outside sales and displays on the property located at 1926 Covert Avenue. Mr. Stogsdill is operating a produce stand on this C-1 zoned site at the northwest corner of Covert and Weinbach Avenues. The C-1 district requires that sale, display, preparation, or storage must be conducted entirely within a completely enclosed building. SU-27 approval is required to allow outside sales or display within the C-1 district. The commercial structure on this site was constructed as a tavern in the late 40's. In recent years, two different produce markets have occupied the site as a temporary use, with temporary SU-27 approvals. On August 16, 2001, Mr. Stogsdill was granted special use approval for the produce market subject to a two-year time limit and limited to Mr. Stogsdill's use only. At that time, Mr. Stogsdill was notified that any more permanent or extended use of the site may require changes to the curb cuts different from those approved for the temporary use. In May, 2004, a different tenant occupied the site and was granted SU-27 approval to operate "Mayhugh's Market" on the site with a one-year time limit. No changes to access were required for this one-year temporary use. Site Review will address compliance with all code requirements upon submission of plans for the outdoor occupancy of the site. A detailed site plan that includes parking, access, and proposed display/sales area is required. This display must not be placed in any required parking space or within the right-of-way. Temporary signage is included with the issuance of a temporary use permit. If the produce market is to be permanent at this location, all temporary signs must be completely removed from the site, a new permit must be obtained after Site Review Committee review and approval, and the site must comply with all commercial code

requirements for a commercial occupancy permit. All required sign permits must be obtained from Area Plan Commission and Building Commission, and signs must be installed per existing Municipal Code requirements.

**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. Stogsdill has been sworn in.)

**Mr. Stogsdill:** My name is Jewell Stogsdill. I live at 2321 S. Green River Road. I have been doing this off and on for 35 years. I just turned 65 Saturday. When I left that corner over there, why I left it is the rent got too high. They were going to charge me \$1,100 a month. It went from \$200 a month to \$800 a month when I left. You can't make no money when you're paying it all out. I am probably the only one in the area that gives seniors 20% off. But I do this because my income is not big enough to almost pay my rent at home.

**Mr. Dunigan:** So are we looking at a permanent approval or might it be wise to do another two years?

**Mr. Joe Harrison:** We would approve this for two years and then you would have to come back here again.

**Mr. McCarthy:** Make sure you adhere to all the signage requirements.

**Mr. Joe Harrison:** You really shouldn't have all those signs there. You have too many out there now.

**Mr. Stogsdill:** I took the one tomato sign down. I got probably 2000 senior citizens that hunt me up.

**Mr. Joe Harrison:** But there are some regulations.

**Mr. Stogsdill:** INAUDIBLE

**Mr. Joe Harrison:** You need to comply with the requirements for that lot which is 300 square feet. I would like to see you adhere to that.

**Mr. Stogsdill:** I won't be any bigger than that.

**Mr. Joe Harrison:** You will have to talk to Area Plan about that because you may have to get some sign permits for your signs.

**Mr. McCarthy:** We have a motion for approval, subject to a two year time limit and adherence to the sign requirements. Call the roll.

Ayes: Mr. Washington, Mr. Dunigan, Mr. Groves, Mr. Harrison, Mr. McCarthy

Nays: None

There being 5 affirmative votes, Docket No: 13-2006-APC is approved.

**Mr. Stogsdill:** The guy that owns the property, he asked me what it would cost him to rezone that to C-4. I told him to pave the lot. But I don't know.

**Mr. Joe Harrison:** He needs to contact the Area Plan Commission.

Meeting adjourned.

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Burkley McCarthy, 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/Executive Secretary

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Karen Yokel, Transcriber