

BZA MEETING

July 16, 2020

The White County Area Board of Zoning Appeals met Thursday, July 16, 2020, at 6:00 p.m. in the Historical Reynolds Elementary School, 401 W 2nd St, Reynolds, Indiana.

Present: Dennis Sterrett, Abbey Gross, Stan Minnick and Jeff Guingrich

Absent: Randy Conwell

Also attending were Executive Director Joseph W. Rogers, Board Secretary Erika Martinez, and Area Plan Attorney Abigail Diener.

Visitors attending were: Ronnie Davis, Cole Lanigna, Brad Schoeff, Lee McReynolds, Joy McReynolds, Susan Frost, April Hill, Michelle Culver, Ronnie Fields, and Elizabeth Fields.

The meeting was called to order by Chair Abbey Gross at 6:00 p.m.

Note: Executive Director Rogers informed the applicant, before the start of the meeting, that the Board is a five-member Board but that there would only be four-members in attendance. The applicant must obtain 3 votes in favor in order for the request to pass. The applicants have the right, since there is not a full Board, to be continued to next month in hopes for a full Board. The applicant's expressed a desire to proceed with the Four Member Board.

Minutes:

There was a motion by Stan Minnick and a second by Jeff Guingrich to approve the meeting minutes and finding of facts dated March 19, 2020 as written. Motion carried unanimously.

Director Rogers informed the Board Petition #3007 would not be heard. The applicant, Mike Smolek, President of Monticello Little League, requested a continuance after the Board packet was set out and the agendas were posted. Director Rogers informed the Board that this is the applicant's second request for continuance, which is the maximum

number allowed, therefore the petition shall be heard at next Board meeting unless the Board decides they need a continuance.

Director Rogers presented the Board with the meeting minutes and findings of fact from the Hearing Officer meetings that took place on June 8, 2020; June 16, 2020; and June 26, 2020.

Note: At the introduction of Petition #3016, Director Rogers entered all documents provided to the Board in their pre-meeting packets, the Staff Report and all other file documents into the official record of the meeting. All documents entered into the record along with all hearing testimony, hearing exhibits and completed ballots will be used in establishing the Findings of Fact for this hearing.

Variance #3016

Chair Abbey Gross asked the applicant representing the request # 3016 if they would like to be heard since there is not a full Board present. The applicant requested to be heard. Director Rogers stated that Family Express is requesting multiple variances from the White County Indiana Zoning Control Ordinance. The applicant is requesting the following variances;

1. A 9.5' front setback off of Ripley St. and a 2.7' front setback off of 3rd St. vs 30' required to construct a new fuel canopy;
2. A 7.8' front setback off of Prairie St. and a 1.3' front setback off of 3rd St. vs 30' required to bring the existing fuel (east) canopy into compliance;
3. A 10.2' front setback off of Ripley St. vs 30' required to construct a new Regional Convenience Store;
4. A 20' front setback off of Prairie St. vs 30' required to accommodate outdoor seating;
5. Allowance for the parking lot perimeter to be setback only 3.9' off of Ripley St. and 2.3' off of Prairie St. vs 6' required;
6. A driveway width of 105.2' (south) vs 30' at ROW;
7. A driveway width of 73.4' (southwest) vs 30' at ROW;
8. A driveway width of 50.2' (southeast) vs 30' at ROW to bring the existing driveway into compliance;
9. An allowance of five driveways vs one driveway of 40' max or two driveways under 30';
10. A reduction in the stacking space requirement from 8 to 0;
11. To locate a driveway 4.4' from a residential district property line (northwest corner of lot) vs 25' required;
12. To locate a fence in the front yard setback vs the side or rear yard for a dumpster enclosure;
13. A waiver from the requirement for a 45' maneuvering apron;

Director Rogers stated that the subject site will be used as a Regional Convenience Store.

Director Rogers asked the Board to consider attaching a condition to the variance requests. This condition was presented to the Board as Exhibit A which states that the subject variance be considered with the condition that, if approved, the applicant must receive written approval from the Brookston Town Council and/or INDOT for the driveway configurations, both number and widths, as well as for any infrastructure improvements planned within the rights-of-way. The written approval must be presented to the Staff prior to the issuance of a building permit. If in agreement, the Board will need to motion, second and by quorum, approve the condition.

Jeff Guingrich asked Director Rogers if the condition would affect only the south driveway or all the driveways at the location. Director Rogers stated that it will affect all the driveways and the Brookston Town Council/INDOT will need to review how the driveways will affect Prairie St, 3rd St, and Ripley St. Director Rogers stated that the Board does not have any authority in the right-of-way. If the Board approves the 105.2' south driveway, the Board is essentially authorizing the applicant to remove the sidewalk located in the public right-of-way. Director Rogers stated that the Brookston Town Council/INDOT will need to be in agreement to allow the driveway configurations, both number and widths.

There was a motion by Jeff Guingrich and a second by Stan Minnick to approve the condition presented to the Board as Exhibit A. Motion carried unanimously.

Director Rogers then displayed for the Board and the audience a series of photos he had taken at the site showing both the area of the site as well as the surrounding area to the property.

Abbey Gross asked Director Rogers for clarification about the site having three fronts. Director Rogers stated that since the site is bordered on three sides by streets, by Ordinance it is declared to have three fronts; Ripley St., 3rd St. and Prairie St.

Cole Lanigan stepped to the podium to represent the variance requests. Mr. Lanigan presented the Board with Exhibit B. Mr. Lanigan stated that Exhibit B shows the interior and exterior of recent Family Express stores. The photographs are real life examples of what the new store will look like. Mr. Lanigan stated that the new facility will provide new services and products as well as an indoor and outdoor dining area.

Brad Schoeff stepped to the podium with additional information regarding Family Express. Mr. Schoeff stated the east fuel canopy is existing and will be brought into compliance with the variance request. The new west fuel canopy will be in line with the east canopy and with the new west fuel canopy the amount of fuel dispensers will double. Mr. Schoeff stated that the parking lot perimeter variance of 3.9' off of Ripley St. and 2.3' off of Prairie St is mainly to provide enough separation from the fuel canopies and the parking spaces. Mr. Schoeff stated that the proposed driveways for the site are going to provide better circulation for traffic coming in and going out. As for the dumpster location, it currently sits in front of the facility and with the new design the dumpster will be located in the back of the new facility, hiding the dumpster away from the public eye. Mr. Schoeff stated that currently there is no outdoor dining area or seating. The proposed outdoor dining area is for the patrons and community to enjoy the site and its amenities. Mr. Schoeff stated that between the existing east canopy and

the current building there is no drive isle and with the new layout the fuel canopies will be roughly 30' to the first parking bay. The building will be situated further back on the site and will be expanded to provide additional services, that, in conjunction with the additional canopy, the drive isles, parking, and providing separation between the canopies and the parking spaces, Family Express will be able to better serve the community.

Jeff Guingrich asked Brad Schoeff about the northeast driveway location and why that additional driveway is needed. Mr. Schoeff responded that the northeast driveway is to get customers out of the facility, that the northeast driveway is an exit lane only. Mr. Schoeff stated that a "Do Not Enter" sign will be posted as well as a stop sign on the northeast driveway and stated it is out of their control if customers enter through that driveway with the "Do Not Enter" signs posted.

{After the above testimony was heard, Jeff Guingrich spoke with Family Express representatives over his concerns with the northeast driveway but the conversation was inaudible}

Abbey Gross asked the applicants about the accessory structure located on the west side of the current facility and what the plans are for this accessory structure. Mr. Schoeff stated that the accessory structure is not part of the current proposal and the accessory structure was permitted, completed and placed on the site prior to Family Express owning the site.

Jeff Guingrich questioned why the existing east canopy did not meet setbacks when it was constructed. Director Rogers answered that at the time the east canopy was constructed there was no building inspector that went out to measure the setbacks. Jeff Guingrich asked that if the variances are granted, if someone would go out and measure the setback, so the same incident wouldn't occur. Director Rogers answered that the building inspector would go out to the site and verify that setbacks are met for the proposed canopy and the proposed facility.

Cole Lanigan stepped back to the podium and stated that this is a great opportunity for Family Express and that it is an Indiana owned company. It's a 3 to 5-million-dollar investment and if given the opportunity, Family Express has already agreed to make a substantial investment into the infrastructure surrounding the location.

Chair Abbey Gross asked if there was anyone attending that wished to speak in supports of the request; no one came forward.

Chair Abbey Gross asked if there was anyone attending that wished to speak against the request. Lee Mc Reynolds, Michelle Culver, Susan Frost, April Hill, Elizabeth Fields, and Ronnie Fields were present at the meeting to express concerns. The public's comments and questions about the variance requests included the following;

- Lee Mc Reynolds stated he lives north of the subject site and he and his wife oppose the variance requests and would like to requests to be denied as the land behind the current Family Express was not acquired honestly;
- Michelle Culvers expressed concerns that there would be development 4.4' away from the neighboring house (property line) and that (traffic) congestion will be

created from the semi's coming from two very busy roads. She also expressed a safety concern for children that walk on Ripley St. in lieu of the traffic the additional driveways will cause;

- Susan Frost stated that the accessory structure was not located on the site before and that the accessory structure was designed to pump air underground to try and disperse the gas that had leaked underground. Ms. Frost stated she does not believe that the accessory structure was there when Family Express purchased that property. Ms. Frost stated that the intersection where Family Express is located is too busy for outdoor dining and will be irrelevant. Ms. Frost also stated that Family Express is wanting to hide the dumpster location from the front of the site to the back, but that the new dumpster location will be visible to the residential properties along Ripley St.
- April Hill stated she is concerned about the safety in the area due to the driveway locations being near the intersections. Ms. Hill believes that these driveways will cause additional traffic issues and that the intersection has already been the location for multiple car accidents. Ms. Hill stated that she has had cars pull out in front of her school bus from the current Family Express location.
- Elizabeth Fields stated that the location of the proposed west canopy is a safety hazard for it to be located so close to 3rd and Ripley St.
- Ronnie Fields stated that a bigger facility will create more congestion at the intersection of Prairie 3rd St.

Brad Schoeff and Cole Lanigna stepped to the microphone to address the concerns of the public. Mr. Schoeff and Mr. Lanigna stated the following;

- Mr. Schoeff stated that the dumpster location is 4.4' from the north property line; not from the north neighboring house;
- Mr. Schoeff stated that the environmental enclosure is related to remediation of an event that was caused from the previous owner. The enclosure is monitored by William Creek, Environmental Consultant Engineering Group out of Indianapolis, Indiana. The enclosure houses equipment necessary to monitor the previous gas leak and is a requirement of the current IDEM permit. At the end of 2019, the permit should have been closed out. The structure will not be needed to continue with the new development.
- Mr. Lanigna stated that the project is a rebuild project not a new ground up project. Mr. Lanigna stated that Family Express is limited to the area that is being used and that's why the requests are being made.

Director Rogers asked Mr. Schoeff if he could address the public's main concern about the location of the driveways to the intersections. Mr. Schoeff stated that the southeast driveway and east gas canopy are already existing and will not be modified. The south driveway is being opened to make it safer for vehicles coming in, currently there is no driveway between the existing canopy and the parking area, the driveway will allow for better circulation and navigation around the site. This is also why the southwest will be opened up; to allow better circulation of two-way traffic. Opening the driveways will give delivery vehicles more room to swing their vehicles around and get parked and be separated from the customers. The northwest exit only drive is needed for customers

that need to depart the site when there is a jam at the light at 3rd and Prairie Street. Customers can exit out the northwest driveway more safely, if the need arises.

Vice Chair Dennis Sterrett asked Mr. Schoeff what the crosshatch area on the east side of the property is for. Mr. Schoeff answered that the crosshatch area is the loading zone for delivery vehicles. Vice Chair Dennis Sterrett asked if the fuel tankers would be using the crosshatch area. Mr. Schoeff answered that it depends on the driver, the existing filler decks are back south of the hatch area and there will be new remote fills for the new west canopy over by the exiting canopy, which is currently located in the inbound lane of the southeast driveway. Mr. Schoeff stated that Family Express is trying to keep the filler decks clustered by the existing conditions to not add to the problem and to avoid congestion.

Vice Chair Dennis Sterrett and Jeff Guingrich both had concerns about truck drivers being able to exit out the northeast driveway with only an 18' opening. Mr. Schoeff answered that Family Express can put together exhibits from a design program and provide the Board with examples of every type of delivery service vehicle that would use the northeast driveway exit.

Jeff Guingrich suggested to eliminate the northeast driveway. Jeff Guingrich stated that delivery trucks could back into the crosshatch area and that there is no need for vehicles to be over in the northeast part of the parking lot, as the parking spaces located on the northeast are for employees only.

Ronnie Davis stepped to the podium to address the issue with the northeast driveway. Mr. Davis stated that Family Express has a truck turn movement program that is used on every design project. The program is able to tell if a truck will be able to make a certain turn or not. Mr. Davis stated that there would be more of a safety hazard on the site if a truck is required to back up. The truck would be pulling into the street and then backing into the site, creating a safety hazard.

Director Rogers stated that if the Board wants to see the engineered drawing Family Express has offered to provide, the Board can continue the hearing until next month.

A general discuss between Jeff Guingrich, Director Rogers, Vice Chair Dennis Sterrett, and Chair Abbey Gross pursued on the number of parking spaces Family Express is required to have. Director Rogers stated that Family Express is classified as a Regional Convenience Store which allows Family Express to have both an indoor or outdoor seating area and that the square footage of the Reginal Convenience Store determines how many parking spaces are required. Director Rogers then stated that Family Express has met the required parking spaces, but that would no longer be true if any of the parking spaces shown on the site plan were eliminated.

Elizabeth Fields stepped to the podium to ask why there is no stop sign located on the corner of 3rd St and Ripley St on the Family Express blue prints. Chair Abbey Gross stated that the Board has no authority to make the applicant put up a stop sign. Chair Abbey Gross suggested that if the public has a concern over a stop sign than it should be directed to the Brookston Town Council.

Ronnie Fields stepped to the podium to express his concerns. Mr. Fields stated that the corner of 3rd St and Ripley St will be a safety issue with the south and southwest driveways being widened and the stop sign being located on the island in the corner. Mr. Fields believes that customers are not going to stop at the stop sign on the corner of 3rd St and Ripley St when entering the Family Express parking lot.

Being there were no further questions and no one wished to speak further on the matter, Attorney Diener provided each Board Member with a written ballot.


After tabulating the ballots, Chair Abbey Gross read the following results into the record:

Variance #3016 – 4 votes cast; 1 to grant; 3 to deny;

Petition DENIED

There being no further business, Jeff Guingrich motioned to adjourn the meeting, with a second from Stan Minnick. Motion was passed and meeting adjourned at 7:43 p.m.

Respectfully submitted,



Joseph W. Rogers, Executive Director
White County Area Plan Commission



Prepared by: Erika Martinez, Secretary

Document Prepared By: White County Area Plan Executive Director Joseph W. Rogers,
"I AFFIRM, UNDER THE PENALTIES FOR PERJURY THAT I HAVE TAKEN
REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS
DOCUMENT, UNLESS REQUIRED BY LAW."