

**AREA BOARD OF ZONING APPEALS
ST. JOSEPH COUNTY, INDIANA**

MINUTES

Wednesday, March 10, 2021
1:30 p.m.

4th Floor, Council Chambers
County-City Building, South Bend, IN

MEMBERS PRESENT:

Christine Deutscher
Donny Ritsema
Michael Urbanski
Jim Moffitt
Joe Velleman

MEMBERS ABSENT:

Robert Hawley
Sidney Shafer

ALSO PRESENT:

Abby Wiles
Ryan D. Fellows
Shawn Klein
Samantha Keultjes
Brandie Ecker

St. Joseph County Commissioner President Andy Kostielney presented Mike Urbanski with a Key to St. Joseph County and thanked him for his commitment to St. Joseph County and the Area Board of Zoning Appeals.

PUBLIC HEARINGS:

1. The petition of DAVID & JANET LEHMAN REVOCABLE TRUST seeking the following variance(s): 1) from Section 154.152 (C)(3), the minimum required rear building setback of 40' to 37' for an existing office building on a lot in a proposed subdivision and 2) from Section 154.152 (D)(3), the minimum required rear parking area setback of 20' to 0' for an existing parking area crossing the lot line in a proposed subdivision, property located at 16085 JACKSON ROAD, Penn Township. Zoned O: Office District (County). (Audio Position: 9:30)

Shawn Klein: There are three criteria found in State law which dictate whether a variance should be granted. A variance petition must meet these three criteria in order for it to be granted. The approval may not be injurious to public health, safety, morals, and general welfare of the community. The use and value of the area adjacent to the property may not be affected in a substantially adverse manner. And the strict application of the terms of the chapter must result in practical difficulties in the use of the property. We find that these three criteria are met. The petitioner is simply seeking to subdivide a lot that currently contains two existing office buildings while retaining those buildings so these rear setback variances are essentially needed just based on the location of the buildings and the fact that the parking area is now going to be shared between the two future lots. This won't affect the use and value of the area adjacent, essentially, it's still the existing use. It's just going to be on two lots rather than one. We find that strict application of the terms of the Zoning Ordinance would not allow for a subdivision of a lot in this existing office park which is potentially beneficial to the use and value of the property and does not adversely affect surrounding properties in any conceivable way.

PETITIONER

Crystal Welsh, of Abonmarche, with offices located at 315 W Jefferson Blvd. South Bend, IN presented on behalf of the petitioner: As mentioned, these are existing buildings being separately used by separate businesses. The subdivision process required this variance request. The shared parking will continue, and the southern building is encroaching into the setback. So those are the two requests.

Joe Velleman: 2, 3, and 4 are already existing lots correct?

Shawn Klein: Correct.

Joe Velleman: So, they're just taking 1 and making it 1a/1b, moving the line and being done with it?

Shawn Klein: Correct.

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Michael Urbanski, being seconded by Donny Ritsema and unanimously carried, a petition by DAVID & JANET LEHMAN REVOCABLE TRUST seeking the following variances: 1) from Section 154.152 (C)(3), the minimum required rear building setback of 40' to 37' for an existing office building on a lot in a proposed subdivision and 2) from Section 154.152 (D)(3), the minimum required rear parking area setback of 20' to 0' for an existing parking area crossing the lot line in a proposed subdivision was approved as presented, and will issue written Findings of Fact.

Christine Deutscher - Yes
Jim Moffitt - Yes

Donny Ritsema - Yes
Joe Velleman - Yes

Michael Urbanski - Yes

2. The petition of Shady Lane Farms; Randall Matthys seeking the following variance(s): 1) from Section 154.515 (G), reducing the first 50' of driveway paved to none, property located at an unaddressed property of 51 acres located south of the southerly terminus of Olive Rd, approximately 1,000' south of the intersection of Olive Rd and Crumstown Hwy., Portage Township. Zoned R: Single Family District (County). (Audio Position: 16:30)

Ryan Fellows: This is the first of our solar ordinance being tested at the Area Board of Zoning Appeals level. Originally written, the thought was going to be that solar facilities would be large industrial power level energy plants so the rule was written so that all of the traffic coming and going from like a power plant level, that that would be a part of pavement right before the road so all the dirt and dust would have a chance to settle from the car tires. In this instance, each of these next six petitions all are requesting the same variance and some have setback variances. We've consulted with the County Engineer and he is okay with all of the variances as proposed in the staff report as provided for all of them related to the paved driveway next to the road he's ok with all of these as the traffic is expected to be light and not that much different than the farm traffic that's normally generated. For this particular facility this is just for the farm equipment for the mint still. It is a ways away from the road, at least 1,000' away from the paved road. So, it really doesn't make sense to pave the strip at the edge of the property just to have a dirt path for another 1,000' before the pavement starts back up again.

Joe Velleman: The intent of the ordinance when written was to address situations like the large solar farm going up on Cleveland Rd where they would need regular maintenance, things have to be taken care of, there's probably someone there every day. This is a much smaller operation so there's not as much traffic.

Ryan Fellows: Correct.

PETITIONER

Jim Straeter of AG Technologies, located at 1268 E 100 S, Rochester, IN presented as the petitioner: We are the solar developer and the owner is on the call as well. Thank you to staff.

IN FAVOR

There was one person present to speak in favor of this petition. They were:

Robert Gay, residing at 57644 Olive Rd, South Bend, IN: Is the traffic for construction coming down Olive Rd. to that dead end to build? The size of the road, because coming off of Crumstown is Gordon and then it rounds into Olive. Are they doing any sort of improvement on the road to widen the road? There's trash trucks that come down our road that have problems at the corner. Is the construction going to take place at the end of Olive Rd where it starts a dirt road and what kind of traffic are we looking at and also what type of, is there going to be any impact on property values in the area?

Joe Velleman: So, you want to know about the construction traffic down Olive and then the value of the property after this is taken care of?

Robert Gay: And the time frame as well please.

Joe Velleman: Like start to completion?

Robert Gay: Yes, start to finish please.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

REBUTTAL

Jim Straeter, of AG Technologies: The construction will take at most, two days. The equipment is a skid-steer loader and some tagalong trailers. The solar components would be on a tagalong trailer as well. My equipment is smaller than what is used in a farm operation.

Joe Velleman: You'll be accessing the site directly from Olive Rd?

Jim Straeter: Yes, we'll be going in the normal farm entrance.

Joe Velleman: So, wherever the farmer utilizes for access to that site, you'll be using that same access. You'll be accessing it with pickup trucks and somewhat of a flatbed trailer for your skid-steer and any other applicable products come in there?

Jim Straeter: Correct.

Joe Velleman: No big cement trucks, no other type of things that those have to deal with?

Jim Straeter: That's true. We do not use cement.

Joe Velleman: So, two days for construction. When will it start and when will it be completed?

Jim Straeter: There are a number of sites for R & T Land Holdings and we are to start next week probably on this site.

Joe Velleman: So, these are pretty quick builds. Do you have a timeframe for 6 total sites?

Jim Straeter: A total of two weeks for everything would be normal.

Joe Velleman: And you're not going to be accessing it with big excavators or anything like that?

Jim Straeter: That is correct.

Abby Wiles: There was also a question about property values.

Joe Velleman: I'm not sure. We don't really have a resource for property values in the area.

Abby Wiles: I don't know if the petitioner would be able to speak to that?

Jim Straeter: We've had a number of properties that have solar on them and solar is always a positive impact on property value simply because it generates electricity and that offsets the cost that a business or home might have. We don't do large systems so there's not a visible objection typically to what we do.

Joe Velleman: The location of where the solar panels are going to be going in relation to any homes in the area would be how many feet away?

Jim Straeter: Some distance. I'm not familiar enough with the adjacent properties to offer a better answer. But the solar rays are at most are 13' high and 45' long. The impact on the entire property is minimal.

Joe Velleman: We don't really have a great answer on that but as we know, solar is becoming more and more the norm so that is going to be a consideration along the way.

Douglas Matthys of Shady Lane Farms: In terms of traffic going down Olive Rd., the location is our mint distillation building and the reason we are looking at this is to net zero our electric use out there and this was all started through a sustainable grant where we were able to get some funds to provide net zero or more sustainable energy efficient ways to produce the commodity that we grow. So the operation and the building and the construction would all go through the main farm lane through the middle of the property

and we, except for maybe 40 acres we farm to the east of us off of Olive Rd. we really do not access Olive Rd to go to the mint still at any time. We try to use our main farm lane most of the time. Any of the concerns about traffic or vehicles going back there, once the solar arrays are built, unless there's a problem, would be a pickup truck going back to look at it. But there really is no heavy construction equipment or anything that would be going back there, and all traffic would come through our main farm driveway as we have done previously with our mint harvest or any time we access those buildings.

Joe Velleman: Is the array going to be pretty close to those buildings?

Douglas Matthys: Yes, that is correct. The arrays will be going to the east of the existing buildings about 250' in an area that we do not farm, it is not irrigated and we basically allow equipment trailers, trucks and such to sit there. So, the arrays won't be much different than a tractor sitting there which we currently have.

After careful consideration, the following action was taken:

Upon a motion by Donny Ritsema, being seconded by Christine Deutscher and unanimously carried, a petition by R AND T LAND HOLDINGS LLC (Shady Lane Farms) seeking the following variances: 1) from Section 154.515 (G), reducing the first 50' of driveway paved to none was approved as presented, and will issue written Findings of Fact.

Christine Deutscher - Yes
Jim Moffitt - Yes

Donny Ritsema - Yes
Joe Velleman - Yes

Michael Urbanski - Yes

3. The petition of Shady Lane Farms; Randall Matthys seeking the following variance(s): 1) from Section 154.515 (G), reducing the first 50' of driveway paved to none and 2) from Section 154.515 (C), reducing front yard setback from the minimum 75' to 30', property located at an unaddressed property of 113 acres located southeast of the intersection of Johnson Rd and Crumstown Highway, Warren Township. Zoned A: Agricultural District (County). (Audio Position: 32:54)

Ryan Fellows: This property is along Crumstown Hwy just in the southeast corner of where Johnson Rd intersects with Crumstown. This is for two facilities. One is to power the irrigation system and the second is to power their grain bins. They are very close to each other. Crumstown Hwy has a dedicated right of way that already exists, and they are asking for 30' of setback which is a little closer than what we would like to see. We are recommending a compromise of 35' instead of 75'. The 75' rule was construed with the idea that we'd be measuring from the centerline of the road and for many agricultural properties you're starting from the centerline and that's why the 75' was offered for the agricultural district for the frontline setback. In this instance, because Crumstown Hwy has already been dedicated, we're not really starting from the centerline, so it does make sense. If you look at how far it is from centerline to the edge of right of way and then you add in 35' then you get to an equivalent of 75' which meets the intention of the code. We talked with the petitioner before this meeting and they sounded like they were agreeable to it.

PETITIONER

Jim Straeter of AG Technologies, located at 1268 E 100 S, Rochester, IN presented as the petitioner: That is correct. We had a discussion on this, and we can configure the solar system to make the 35' work. I'll let Doug confirm that but that should work.

Joe Velleman: So, the solar array is going to be in that little triangular shaped area to the left of the silos?

Jim Straeter: Yes.

Joe Velleman: So that 35' then gets us past that right of way and into the 75' that we're looking for.

Ryan Fellows: Correct.

Joe Velleman: Then you're also asking to not pave the first 50'.

Doug Matthys: The area there that we're looking at to the left of the grain bins and the building is a flat land area so we have plenty of room to adjust to the 35' variance that was suggested by the staff so we're good.

Donny Ritsema: Is there any language in the County Ordinance for landscaping requirements or consideration for the new pollinator gardens?

Ryan Fellows: Yes. This is the County Ordinance which was recently adopted and does include the pollinator friendly seed mix and that was discussed with the petitioner beforehand and they are not requesting any variances from that. I did explain that often when we have site improvements where there's structures being built, we would require landscaping which would often be things like shade trees. Obviously, shade trees plus solar panel is not good. So this pollinator friendly seed mix was kind of in leu of that and that made sense to them that if we're not going to ask for shade trees, we could ask for pollinator seed mix and that's what the code requires and they are agreeable to that.

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Donny Ritsema, being seconded by Michael Urbanski and unanimously carried, a petition by R AND T LAND HOLDINGS LLC (Shady Lane Farms) seeking the following variances: 1) from Section 154.515 (G), reducing the first 50' of driveway paved to none and 2) from Section 154.515 (C), reducing front yard setback from the minimum 75' to 35' was approved as amended as suggested by staff and agreed to by the petitioner, and will issue written Findings of Fact.

Christine Deustcher - Yes
Jim Moffitt - Yes

Donny Ritsema - Yes
Joe Velleman - Yes

Michael Urbanski - Yes

4. The petition of Shady Lane Farms; Randall Matthys seeking the following variance(s): 1) from Section 154.515 (G), reducing the first 50' of driveway paved to none, property located at 57706 Crumstown Hwy, Warren Township. Zoned R: Single Family District (County).

(Audio Position: 40:30)

Ryan Fellows: This is the property that's up next to Crumstown Hwy., this is very close to the first petition, Agenda Item #2. There is a short stub of pine and then it turns off to a side road, Gordon which then continues on as Olive Rd and there is already that paved area immediately next to Crumstown Hwy. This is just going to be for the grain dryers, so it's just for farm equipment. It's not meant to be a whole power plant equivalent.

PETITIONER

Jim Straeter of AG Technologies, located at 1268 E 100 S, Rochester, IN presented as the petitioner: Same situation. Nominal impact on the entire property. We'll use very light equipment and in a couple days we're out of there. No traffic issues.

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Donny Ritsema, being seconded by Christine Deutscher and unanimously carried, a petition by R AND T LAND HOLDINGS LLC (Shady Lane Farms) seeking the following variances: 1) from Section 154.515 (G), reducing the first 50' of driveway paved to none was approved as presented, and will issue written Findings of Fact.

Christine Deutscher - Yes
Jim Moffitt - Yes

Donny Ritsema - Yes
Joe Velleman - Yes

Michael Urbanski - Yes

5. The petition of R AND T LAND HOLDINGS LLC (SHADY LANE FARMS) seeking the following variance(s): 1) from Section 154.515 (G), reducing the first 50' of driveway paved to none and 2) from Section 154.515 (C), reducing front yard setback from the minimum 75' to 20', property located at an unaddressed property of 46 acres located on the south side of Jackson Rd immediately southwest of the intersection of Jackson Rd and Quince Rd., Warren Township. Zoned A: Agricultural District (County).

(Audio Position: 44:45)

Ryan Fellows: This is similar to the previous petitions. This is an instance where the property line actually goes through the centerline of the road and there's a dirt track leading to the road. Again, because of the small amount of overall use compared to an industrial scale power plant level this is going to be deemed sufficient by staff and the application was for a 20' setback. 20' from the centerline of the road

isn't very far off from the road. I consulted with the petitioner and explained that sometimes there's a dedicated right of way, sometimes there's not. This is one of those times where there's not and we discussed that if we could get from the centerline of the road 45' back, that would meet the needs of the County and it's been consulted with the County Engineer's Office and it would meet their needs. It was discussed with the petitioner and that compromise was agreeable to them. We are recommending a 45' setback from centerline as meeting our needs and meeting the needs of the code and the intention for any future dedicated right of way.

PETITIONER

Jim Straeter of AG Technologies, located at 1268 E 100 S, Rochester, IN presented as the petitioner: That is correct, we had conversations on this, and we are okay with the recommendation of the staff on this matter.

Joe Velleman: Okay, so 50' of road again and from the 20' requested to 45'.

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Michael Urbanski, being seconded by Jim Moffitt and unanimously carried, a petition by R AND T LAND HOLDINGS LLC (Shady Lane Farms) seeking the following variances: 1) from Section 154.515 (G), reducing the first 50' of driveway paved to none and 2) from Section 154.515 (C), reducing front yard setback from the minimum 75' to 45' was approved as amended as suggested by staff and agreed to by the petitioner, and will issue written Findings of Fact.

Christine Deutscher - Yes
Jim Moffitt - Yes

Donny Ritsema - Yes
Joe Velleman - Yes

Michael Urbanski - Yes

6. The petition of R AND T LAND HOLDINGS LLC (SHADY LANE FARMS) seeking the following variance(s): 1) from Section 154.515 (G), reducing the first 50' of driveway paved to none and 2) from Section 154.515 (C), reducing front yard setback from the minimum 75' to 20', property located at 59251 PEACH RD, Warren Township. Zoned A: Agricultural District (County). (Audio Position: 50:15)

Ryan Fellows: Very similar to the previous situation. Same kind of paving conditions and low use as anticipated. The edge of where the right of way ends is right at the end of where the pavement is so the ditch is not in a dedicated right of way. So if it was just 20' from the edge of that, it's just going to take you at the edge of the bank so we are recommending an additional 5' which was discussed with the petitioner and I understand that they are agreeable to that. Instead of 20' back it would be 25' back.,

PETITIONER

Jim Straeter of AG Technologies, located at 1268 E 100 S, Rochester, IN presented as the petitioner: Correct. Minimal different situation and we can comply and appreciate the help of the staff.

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Donny Ritsema, being seconded by Michael Urbanski and unanimously carried, a petition by R AND T LAND HOLDINGS LLC (Shady Lane Farms) seeking the following variances: 1) from Section 154.515 (G), reducing the first 50' of driveway paved to none and 2) from Section 154.515 (C), reducing front yard setback from the minimum 75' to 25' was approved as amended as suggested by staff and agreed to by the petitioner, and will issue written Findings of Fact.

Christine Deutscher - Yes
Jim Moffitt -Yes

Donny Ritsema - Yes
Joe Velleman - Yes

Michael Urbanski -Yes

7. The petition of Shady Lane Farms; Randall Matthys seeking the following variance(s): 1) from Section 154.515 (G), reducing the first 50' of driveway paved to none and 2) from Section 154.515 (C), from the minimum required front setback of 75' to 30' for a solar energy system, property located at 57217 RUSH RD, Olive Township. Zoned A: Agricultural District (County).

(Audio Position: 53:55)

Ryan Fellows: This site is a little further out than some of the other sites. Behind this house is where the energy system is meant to go. There is a driveway/farm lane accessing the road and back to where the improvement will be. It will be a short distance for traffic to go and will be low impact for the number of vehicles to access it since it is a small facility. In this instance, because this is a property line that is parallel to the road and it's nearer to the road than the opposite property line, this counts as a front property line and the front property setback of 75' would push it was back here which is a ways away from the road. If this were a side property line, then it would only be required to be 30' back so the petitioner has asked for 30' so we would be okay with that because if we were to construe it as a side property line, that would be an appropriate distance for the code book. So, we are agreeable to it as presented.

PETITIONER

Jim Straeter of AG Technologies, located at 1268 E 100 S, Rochester, IN presented as the petitioner: We're fine. We appreciate the consideration on all of these and the Committee's consideration of the real issues here and the approvals that have been granted. This one, like the others, will not have an impact on the property. It is a minimal system and we will get in in a day's time and there won't be any traffic issues with construction or post construction.

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Christine Deutscher, being seconded by Donny Ritsema and unanimously carried, a petition by R AND T LAND HOLDINGS LLC (Shady Lane Farms) seeking the following variances: 1) from Section 154.515 (G), reducing the first 50' of driveway paved to none and 2) from reducing front yard setback from the minimum 75' to 30' was approved as presented, and will issue written Findings of Fact.

Christine Deutscher - Yes
Jim Moffitt - Yes

Donny Ritsema - Yes
Joe Velleman - Yes

Michael Urbanski - Yes

8. The petition of HOWARD J AND LYNN ANN HALSTEAD seeking the following variance(s): 1) from Section 154.107 (B), the minimum required lot width of 100' to 21' for a lot in a proposed subdivision, property located at 52600 HICKORY RD, Clay Township. Zoned R: Single Family District (County). (Audio Position: 59:05)

Shawn Klein: This variance will essentially allow the property owner to eliminate the little bump out toward the south along the street. There are multiple reasons why the Zoning Ordinance requires a 100' of lot width, including to provide adequate space for septic, to promote visibility from the street for emergency vehicles and to protect neighborhood character. In this case though, the present situation we find isn't really serving any of those purposes so we find that granting the variance would not be injurious to public health, safety, morals or general welfare. It's not going to affect the use and value of any properties beyond the two that will be parties to the subdivision that will follow this variance being granted. Strict application of the terms of the Zoning Ordinance would not allow for a more logically shaped parcel which would prevent confusion amongst neighbors in the future as to where the property line is.

Abby Wiles: Presently it doesn't meet the terms of the Zoning Ordinance because it isn't the full width back far enough from the property line.

Joe Velleman: Right. They go from the 100' down to like 10' then back out.

Shawn Klein: Correct.

Joe Velleman: This is doing nothing but just moving the lot line? Not adding anything or changing anything, just the way it's structured inside of a plat if somebody came out and surveyed it would be different.

Shawn Klein: Exactly.

Mike Urbanski: So, it's not going to be buildable?

Joe Velleman: It's already got a house on it. This does not create another buildable lot correct?

Shawn Klein: No there's already a house built on both lots.

PETITIONER

Terry Lang, of Lang, Feeney & Associates, with offices located at 715 S Michigan St., South Bend, IN presented on behalf of the petitioner: The staff has indicated exactly correct, the petition is adjusting the property line to follow the existing fence that's located parallel to the driveway.

Mike Urbanski: At 10', will that suffice for firetrucks or large emergency vehicles?

Terry Lang: You can see that the variance we're asking for is 32' is the width of the new lot line which is sufficient roadway are for fire and emergency vehicles to get it.

Joe Velleman: 32'?

Shawn Klein: It's 21' now correct Terry?

Terry Lang: Look on the detail on the bottom. It shows that A will have 32.85' of frontage.

Joe Velleman: I see that in the detail, but the petition shows 21.06' but the detail is 32.85' technically.

Terry Lang: Correct.

Joe Velleman: Okay so do we have to amend the petition to 32.85'?

Brandie Ecker: He's asked for 21'. Does he want to stay at 21' on the petition? He doesn't have to agree....

Terry Lang: Leave it as presented then.

Abby Wiles: This will go through the subdivision process. So, the fire department will have the opportunity to review at that time for fire access.

Joe Velleman: Alright very good.

IN FAVOR

There was one person present to speak in favor of this petition. They were:

Shelly Cowling, residing at 52760 Ravine Dr., Granger, IN: I just wanted to be sure that I understand correctly what this petition is for because I see the word subdivision on this document. So, I just want to clarify, no additional homes are going in here, this is simply adjusting a property line?

Joe Velleman: That is correct, yes. It is already two built on lots that will not create any new lots to be built on. They're just moving the property line.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Michael Urbanski, being seconded by Christine Deutscher and unanimously carried, a petition by HOWARD J AND LYNN ANN HALSTEAD seeking the following variances: 1) from Section 154.107 (B), the minimum required lot width of 100' to 21' for a lot in a proposed subdivision was approved as presented, and will issue written Findings of Fact.

Christine Deutscher - Yes
Jim Moffitt -Yes

Donny Ritsema - Yes
Joe Velleman - Yes

Michael Urbanski -Yes

9. The petition of University of Notre Dame seeking the following variance(s): 1) from Section 154.277 (C)(1) the minimum required front setback of 25' to 22' from the effective Eddy Street right-of-way for a new university building, property located at the northeast corner of Angela Boulevard and Eddy Street , Portage Township. Zoned U: University District (County). (Audio Position: 1:07:45)

Shawn Klein: Just some brief background on how we got here today. In 2019 there was a text amendment to the Zoning Ordinance which applied the front setback requirements to private rights of way that's equivalent to what's applied to a public right of way. When this was done, it was mainly residential subdivisions that were being considered. Staff at the time really didn't consider what this would do when it was applied to these interior private rights of way within the University District. In this case it was going to require a setback which would exceed the setback of all the other building along this section of Eddy St. which is a private right of way so towards that end staff finds that approval of this variance would not be injurious to public health, safety and morals. We see no public purpose in forcing a setback requirement on this property that would be similar to if it fronted and actual public right of way. In fact, we are in the process of drafting a text amendment to correct this oversight as applied to the University District. It will not affect the use and value of any properties outside of the University District and will allow for more consistent development within the campus itself. Strict application would actually not allow them to maintain this consistent setback from the Eddy St. right of way that is currently in place.

Joe Velleman: So unintended consequences?

Shawn Klein: Absolutely.

PETITIONER

Craig Tiller, with the Planning, Design and Construction Department at the University of Notre Dame, located at 200 Facilities Building, Notre Dame, IN presented on behalf of the petitioner: Nothing to add to the petition. Just want to make sure that I do mention gratitude to the Area Plan Commission Staff and specifically to Shawn and Abby for their help in understanding the issue, navigating the issue, and getting to the point of the petition. Greatly appreciate their help.

IN FAVOR

There was no one present to speak in favor of this petition.

REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Michael Urbanski, being seconded by Donny Ritsema and unanimously carried, a petition by University of Notre Dame seeking the following variances: 1) from Section 154.277 (C)(1) the minimum required front setback of 25' to 22' from the effective Eddy Street right-of-way for a new university building was approved as presented, and will issue written Findings of Fact.

Christine Deutscher - Yes
Jim Moffitt - Yes

Donny Ritsema - Yes
Joe Velleman - Yes

Michael Urbanski - Yes

ITEMS NOT REQUIRING A PUBLIC HEARING

1. Findings of Fact (Audio Position: 1:12:30)

A. Approval of the Findings of Fact from the February 10, 2021 ABZA meeting

Upon a motion by Mike Urbanski, being seconded by Donny Ritsema and unanimously carried, the Findings of Fact from the February 10, 2021 ABZA meeting were approved.

2. Minutes (Audio Position: 1:12:53)

A. Approval of the Minutes from the February 10, 2021 ABZA meeting.

Upon a motion by Christine Deutscher, being seconded by Donny Ritsema and unanimously carried, the minutes from the February 10, 2021 ABZA meeting were approved.

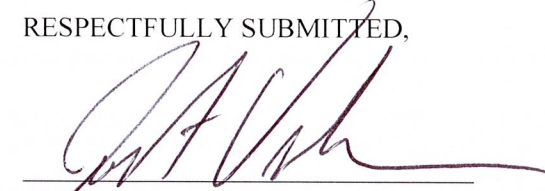
3. Other Business

Joe Velleman thanked Mike Urbanski for his service. Mike Urbanski recommended that Board members go out and visit the petition sites and thanked everyone.

4. Adjournment

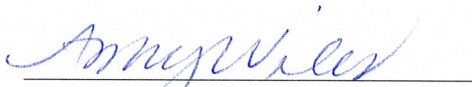
Upon a motion by Joe Velleman and unanimously carried, the March 10, 2021 ABZA meeting adjourned at 2:45 p.m.

RESPECTFULLY SUBMITTED,



JOE VELLEMAN,
Chairman of the Board

ATTEST:



ABBY WILES,
Secretary of the Board