

Fortville Board of Zoning Appeals (BZA) Meeting Minutes

THURSDAY, 6/29/2023 – 6:30 PM

1. OPENING OF MEETING

The meeting was called to order at 6:30 p.m. by Amandia Jeschke with the Pledge of Allegiance following.

ROLL CALL

- **BZA Members Present:** Dan Justus, Earl Bolander, Jr., Amandia Jeschke, and Rick Jacobs – Quorum Declared
- **Town Staff Present:** Alex Intermill - Town Attorney (via Zoom), Adam Zaklikowski - Planning & Building Director
- **BZA Members Absent:** Nathan Sturdevant
- **Town Staff Absent:** Andy Williams - Recording Secretary

2. APPROVAL OF MINUTES

Motion to approve the **5/25/2023 Minutes** – E. Bolander, Jr., 2nd – N. Sturdevant. Motion carried 4-0.

OLD BUSINESS:

3. CASE NO. SE-01-2023 – SEC Broadway St. & Ohio St. (Shell Gas Station & Retail/Office)

To consider a petition for a Special Exception to allow a gas station use at the southeast corner of Broadway and Ohio Streets on approximately 1.57 acres. (Parcel No. 30-02-10-300-005.000-017, 30-02-10-300-008.000-017).

Staff Presentation - Continuation from May 25th, 2023, BZA Meeting

On June 22, 2023, the applicant and Adam met with the neighbors regarding the project. 13 attendees including the applicant's attorney, commercial broker, and Adam. Discussion items:

- 4 suites would be rented out for uses like a CPA.
- Not looking to have a traffic study performed.
- Gas station hours 5 am to 11 pm, privacy fence along east.
- Neighbor comments:
 - Traffic not a big problem
 - Visibility looking east is a problem.
 - Lighting concerns, pedestrian connectivity
 - Concerns with use; Not convinced best use for property.
 - Concerned about noise.

Staff presentation information from May 25, 2023 Meeting –

- Location: SE corner of Broadway (US 36 / SR 67) & Ohio Streets, 1.57 acres
- Petitioner: John Cross, Wooten Hoy LLC – on behalf of VR Empire LLC (Ravi Singh)
- Parcel Owner: Eleck Collins Living Trust
- Zoning: Commercial: Community (CC)
- Use of Property: Vacant
- Request: VR Empire LLC would like to develop a Shell gas station. A Special Exception for this use is required from the BZA per the Zoning Ordinance.
- Maps & images of aerial / parcel, oblique, zoning maps; concept site plan for information only, staff review analysis.
- Community response requirements were completed.
- Staff Analysis: Based on all required approval criteria & findings, the recommendation is to approve with conditions.
 - The gas station must open no earlier than 5:00 AM and must close no later than 11:00 PM.
 - An 8' tall opaque fence or wall must be provided along the parcel of 828 ½ E. Ohio St. if a residential structure exists on that parcel.
 - Lighting underneath the gas canopy shall not exceed 12.5 footcandles.

BZA Questions for Staff

Amandia Jeschke – Hours of operation just for the gas station? Adam – yes, but we can change language to make that for all business occupants.

Dan Justus – Four suites were previously stated that would be used for employees of C-Store. That has changed for businesses. Adam – yes.

Petitioner Presentation / Statement

All conditions are agreeable.

BZA Questions for the Petitioner or Staff

Dan Justus asked Adam if a traffic study was required. Adam – No, the Town would defer to INDOT due to it being located on a State Road.

Public Comments

- Randy Escue, Colonial Village resident – Feels the gas station is too close to a residential neighborhood. Asks the Board to be cautious with the Exception.
- Tina Vandembark, listing agent on the property – Doesn't see a gas station as a safety issue. Beneficial to the east side of Fortville.

Government Officials Comments / Remonstrance – None

Petitioner Comments – None

BZA Questions – None

BZA Motion

E. Bolander motions to approve the Variance with the three conditions, 2nd – Rick Jacobs. Motion carried 3-1.

NEW BUSINESS / PUBLIC HEARINGS:

4. Case No. VAR-07-2023 – 533 Swan Dr. (Metal Pole Barn/Garage)

To consider a petition by Jacob Burgess for a Variance to allow a 3,200 SF metal pole barn/garage as an accessory structure at 533 Swan Drive.

Staff Presentation

Adam Zaklikowski gives the staff presentation via slides including plan overview –

- Location: 533 Swan Drive (Old Bridge subdivision)
- Owner/Petitioner: Jacob Burgess
- Zoning: Residential: 2.5 (R2.5)
- Use of Property: Single Family Residential
- Request: Jacob Burgess would like to construct a 3,200 SF metal pole barn/garage as an accessory structure in the side yard of his property. To do so as desired, he is seeking a variety of Variances from the Zoning Ordinance.
- Background on the case
- Maps & images of aerial / parcel, oblique, zoning maps; concept elevations site plan, building dimensions, plot plan, colors of building, staff review analysis.
- The Town does not enforce private restrictive neighborhood covenants. That is a private agreement between the property owner and the neighbors. To the extent that this request may not conform to the private covenants, this is not the purview of the BZA.
- Community response requirements were completed and met.
- Public Remonstrance – Feel the structure is too large and will lower property value.
- Staff Analysis: Based on all required approval criteria (based on Indiana Code), no opinion by staff. Will defer to the BZA. Hoping for a compromise to be reached between owner and neighbors.

BZA Questions for Staff

Earl Bolander, Jr. – Why was the initial building permit issued? Adam – At the time of the review, it met all requirements. The height of the principal structure was not given at that time. Height became an issue. The builder signed and attested that they would comply to the ordinance and covenant but did not. Therefore, the permit was revoked.

Earl Bolander, Jr. – How long has it been sitting like this? Adam – Since August 2022. Before the Town Council adopted new codes.

Amandia Jeschke – ‘Height of accessory structure cannot exceed the principal structure’ was the only requirement when permit was applied for on the list given to BZA. Complies with setbacks. Covenants but no HOA.

Dan Justus – Today’s codes or prior? Adam – Start fresh to be compliant with today’s rules, due to the prior permit being revoked. Resubmitted after January 2023.

Petitioner Presentation / Statement – Jacob Burgess, 533 Swan Drive – gave a history of the project, process, and communication. Stating that other members of the neighborhood have structures not conforming to the covenants.

BZA Questions for the Petitioner

Amandia Stanfield – What is the roof pitch? Adam – 4’-12’ or 3’-12’. Overhang? Windows? Yes. 1x4 Trim? Yes. Set back from the front of the house, less than 15’.

Attorney for J. Burgess, Nicholas Plopper – Appreciates compromise, willing to conform to all codes. Status of Old Bridge covenants, 1972 original development. New ordinances would impact on this project. Would like to avoid deconstructing the structure.

Public Comments

- Dave Fischer, 545 Swan Drive – Look at all conditions enforced now. Reduce the height of the building. Metal siding will stick out like a sore thumb.
- Spencer Wood, 207 W. Ohio St. – Seems to be very targeted towards J. Burgess as he has taken all avenues to do this project right. Others are not in compliance with the covenants. What will happen to them?
- Jessica Warner, 502 Walnut St. – Are there statistics that tell that metal buildings decrease value of properties? Facts or opinion?
- Mike Kilty, 521 Bridge Court – Doesn’t believe it’s Jake’s fault or should be held accountable. Blames the Town of Fortville. Not the right structure for the neighborhood.
- Darlene Seals, 534 Swan Dr. – Would like to see the structure lowered or moved.
- Inaudible name – Read through covenants. Wants to keep high standards in Old Bridge.
- Robert Fox, 118 Sandra Dr., Blossom Trace HOA President - Looks like an airport hangar, opposes the construction.
- Gary Shoulders, 510 Swan Dr. – Type of floor? If it becomes commercial storage or people living in it, what will the BZA do?
- Jared Hiner, 925 Linda Dr. – Previous owner of his property built a pole barn for his business. Property values have skyrocketed ever since, not diminishing value due to structure.
- Zach Burgess, 10836 SR 13 – Questions the intent of the Town Boards/staff and what could happen with investors in the community.

Government Officials Comments / Remonstrance – None

Petitioner Response

Jacob Burgess - No commercial use for structure. Vinyl structure in Old Bridge okayed by covenants. Cold storage, unconditioned building. Concrete floor. No one will live in it.

Earl Bolander, Jr. – Have you looked into lowering the height? J. Burgess – Asked to be able to build a needed storage structure. Relied on Town staff for approval. Here for compromise and a resolution.

Amandia asked Town staff for a hold to come back with a compromise. Alex Intermill – A compromise meeting with J. Burgess and neighbors, Town staff (no BZA members). BZA members may only receive information at the Public Hearing. A compromise needs to be had, then reconvene in front of the BZA. Adopt the recommendations, add, or subtract from the recommendations. Then, staff and legal recommendations may be added. Adam suggests having a neighborhood meeting at Town Hall.

BZA Motion

Rick Jacobs motions for a meeting to be had between neighbors, J. Burgess, and Town staff. Then, continue at the next BZA meeting on Thursday, July 27, 2023. 2nd – E. Bolander, Jr. Motion carried 4-0.

5. **Case No. VAR-08-2023 – 322 E. Broadway St. (Huck’s)**

To consider a petition by Huck’s Convenience Store to amend an existing digital reader pole sign at 322 E. Broadway Street.

Staff Presentation

Adam Zaklikowski gives the staff presentation via slides including plan overview –

- Location: 322 E. Broadway St.
- Owner/Petitioner: Alvey Sign Company on behalf of Huck’s
- Zoning: Commercial: Community (CC)
- Use of Property: Commercial – gas station
- Request: Would like to re-brand their signage to match their newer stores. It includes modifying an existing pole sign to increase the area of an LED sign and to allow blinking. The wall signage would be installed after the store is remodeled.
- Community response requirements were completed.
- Public Remonstrance – Bob Ferrell expressed concern with drivers not being able to see when turning from S. Walnut, turning left onto Broadway.
- Staff Analysis: Based on all required approval criteria (per Indiana Code) the recommendation is to allow wall signage and canopy signs as proposed. However, the pole sign, if modified, could not increase the height of sign, cause blinking, or a larger LED display.

BZA Questions for Staff - None

Petitioner Presentation / Statement – Susie Basham, Alvey Sign Co., Huck’s is re-branding all stores.

BZA Questions for the Petitioner - None

Public Comments – None

Government Officials Comments / Remonstrance – Becky Davis, Town Council – Believes the sign should be moved back away from the road to help drivers’ visibility.


Earl Bolander, Jr. – How wide is the new sidewalk? Adam – 6’ beyond current sidewalk. The sign should not obstruct the view of drivers.

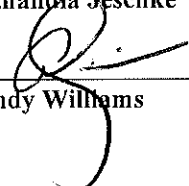
BZA Motion

E. Bolander, Jr. motions to approve staff recommendation of wall signage and canopy signs as proposed but cannot modify the pole height of sign or cause blinking., 2nd – Rick Jacobs. Motion carried 4-0.

6. **ADJOURNMENT**

Motion made to adjourn the meeting at 8:48 p.m. by E. Bolander, Jr., 2nd – Rick Jacobs. Motion carried 4-0.

BZA President: 
Amandia Jeschke

Recording Secretary: 
Andy Williams