

LOWELL BOARD OF ZONING APPEALS MEETING

June 12, 2008

6:30 PM

Chairman Nicksch called the meeting to order at 6:30 PM. The Pledge of Allegiance was recited. Roll call was taken. Members answering the roll call were Doug Nicksch Jim Konradi, Sean Brady, Richard Kelley, and Jeff Harbrecht. Also present were Attorney Larry Steele, Director of Community Development Wilbur Cox, and Recording Secretary Christine Marbach.

Approval of Minutes:

Chairman Nicksch asked for a motion to approve the May 8, 2008 regular meeting minutes. Mr. Nicksch stated that he had one correction that he opened a motion and he was not at the meeting. Mr. Kelley moved to approve the minutes with the correction being made. Seconded by Mr. Brady. Voting was **all in favor**.

Old Business:

- 1. BZA 08-002, Kouli Enterprises, 1910 E. Commercial, Lowell, IN. Requesting a variance from the provision of 155.077 (C) (1) Commercial Ave Frontage. Purpose: to reduce the 20-ft green belt requirements to 5 ft to allow for more parking spaces, better traffic flow and more building usage.**
- 2. BZA 08-003, Kouli Enterprises, 1910 E. Commercial, Lowell, IN. Requesting a variance from the provision of 155.093 (A) (11) (b) Parking and Loading Requirements. Purpose: to reduce the number of parking spaces to allow for financial and economical benefit.**
- 3. BZA 08-004, Kouli Enterprises, 1910 E. Commercial, Lowell, IN. Requesting a variance from the provision of 155.093 (A) (2) Parking and Loading Requirements. Purpose: to remove the building line to allow parking lot spaces to run from lot 3 to lot 4.**

John Craig, Attorney for Kouli Enterprises was present and explained that the issue with all three of the variances is parking. He stated that the third petition regarding the vacation of the lot line would be addressed at the Plan Commission meeting. Jim Konradi stated that he would have to abstain from discussion or voting because of a conflict of interest. The proposed building would be on lots 3 & 4 and would be 15,600 sq. ft. with parking surrounding the building. The building that is being proposed is required to have 156 spaces for parking. He continued to state that Lowell has very restrictive rules and cited other communities with comparable buildings. They still would like to reduce the green space area and reduce the amount of spaces required for this building. He stated that there are currently 85 spaces in the proposed site area and by conforming to the ordinance, it would cause economic hardship for his client. He stated that they did have an agreement with Tech Federal to use their parking lot after hours. He stated that they have met the five criteria that means that the variance is not causing any public harm, it will increase the value of the neighborhood and the limited space

would not make it feasible to make it profitable for his client. He asks that the third issue of vacating the building line be allowed.

Chairman Niksch **continued the public hearing.** There was no one present to speak for or against the petitioner. Chairman Niksch **closed the public hearing.**

Mr. Harbrecht stated that he would vote for the green space. He wanted to know how many spaces would they have with the green space in place. Attorney Craig stated that there would be 85 spaces. Mr. Cox stated that there is a 20 feet green space along that street and they cannot justify this for economic reasons when everyone else has already conformed. He recommended to the board that the variance for the green space not be allowed. He stated that he told them to go to Tech Federal because the town ordinance encourages that the businesses share parking. He stated that not all of the 15,600 sq ft of the building is going to be used by the public. The town will not know what the building will be used for until the building permits are issued and then it will be determined what the parking will be. After consulting with the Attorney Steele, Item 3 is not something that the BZA should consider, it is a Plan Commission item and it should be removed from the BZA agenda. Chairman Niksch asked if they needed the information for Item 3 to pass Item 2. Mr. Cox stated that they did not. Attorney Craig suggested that the motion to approve could be made contingent to the actions of the Plan Commission.

Mr. Kelley moved to deny BZA # 08-002 - variance to reduce the 20 ft green belt to 5 feet to continue with the 20-foot green belt requirements. Seconded by Mr. Brady. Voting was **4 in favor with Mr. Konradi abstaining.**

Mr. Harbrecht moved to grant BZA # 08-003 – to reduce the number of parking spaces from the requirement to approximately 85 spaces as long as the Tech Federal agreement is followed and the findings made by the petitioner are acceptable by the board. Seconded by Mr. Kelley. Voting was **4 in favor with Mr. Konradi abstaining.**

A discussion followed regarding an amendment to the motion that was just made. Chairman Niksch opened BZA # 08-003 for an amendment to the motion. Mr. Harbrecht moved to make his motion contingent to approval by the Plan Commission. Seconded by Mr. Brady. Voting was **4 in favor with Mr. Konradi abstaining.**

The Town Attorney informed the board that BZA #08-004 was a Plan Commission item and the BZA could not act on it.

New Business:

BZA #08-005, Carolyn Anderson – Speedway Super America, LLC, 1691 E. Commercial Ave., Lowell, IN 46356. Requesting a variance from the provision of 155.070 Rear Yard Setback. Purpose: to build a new gas station.

BZA # 08-006, Carolyn Anderson – Speedway Super America, LLC, 1691 E. Commercial Ave., Lowell, IN 46356. Requesting a variance from the provision of 155.077 (C) (1) Commercial Frontage. Purpose: to build a new gas station. Carey Tromley was present on behalf of Carolyn Anderson. He explained that his company has

certain minimum standards that have to be followed with regard to the canopy and the front and the canopy and the building and this is the reason that they are asking for the variance. They need this area for pedestrian traffic so that people can see vehicles and the vehicles can see people. The standard is 47 feet from the front yard to the center of the dispenser islands and 62 feet from the dispenser island to the front of the sidewalk; this also includes the 20-foot long parking spaces. This would leave a 20 ft front yard setback and a 30 ft rear yard setback. They are proposing to move the front yard setback to 10 ft. and move the rear yard setback back 5 ft. They are proposing to add 2 landscaping islands on the front and side yards, also landscaping along the side and an additional landscaping island in the center. They will also be building a 5 ft. fence to screen the neighbors from their property in the back.

Chairman Nicksch **opened the public hearing.** Richard Boer, 1618 Heritage Dr. stated that he was the President of the Eastview Terrace Townhomes Association and had concerns whether or not a car wash would be in this project. Mr. Tromley stated that there was no car wash being proposed at this site. Attorney Steele asked if there ever would be a car wash on the site. Mr. Tromley stated that they couldn't put a car wash there because there is not enough room on the site. Wes Lakaman, District Manager of Speedway stated that there would be no car wash on this site. Chairman Nicksch **closed the public hearing.**

Mr. Nicksch stated that it looked like they were doubling the size of the building and the gas pumps. Mr. Tromley stated that the proposed building would be 3900 sq. ft. Mr. Konradi wanted to know what they would do if they were denied the green space. Mr. Tromley stated that they would ask for a 15 ft variance in the back. He explained that the variance is needed because of the self-imposed standards. There will be no additional retail i.e.; Burger King, McDonalds, etc. Mr. Nicksch expressed concern about bringing in more traffic in an already dangerous intersection. Mr. Tromley stated that this type of gas station relies on passing by traffic. Mr. Lakaman explained that on Rt. 2 there was going to be an insurmountable median put in also which would eliminate that entry and the insurmountable median would be put west of the stop light making an easier transition on and off that property. Mr. Nicksch stated that what he just told them was different than what the board has on their drawing. Mr. Tromley stated that with this insurmountable median traffic would not be able to go eastbound. Mr. Cox stated that the town had to pay \$1500 for the right of way so that this intersection could be made safer. The station has not designated the right in / right out. The improvements that were made were made for the existing station not for the proposed station. A discussion followed regarding the right of ways for the proposed station vs. existing station. Mr. Cox explained that the plans for the existing station were approved by INDOT when the town bought the right of way from them. He stated that now Speedway is coming in and changing the design to have the west entrance accessible to eastbound traffic and that was not the intent. Mr. Cox asked that this petition be tabled until the town has a chance to talk to INDOT. Mr. Konradi moved to table this until further information comes from INDOT. Seconded by Mr. Kelley. Voting was **all in favor.**

Motion to adjourn: Mr. Kelley moved to adjourn at 7:30 PM.

Doug Nicksch, Chairman

Jeff Harbrecht, Secretary

Note: The above-proposed minutes are submitted for review and approval as the official minutes of the Board of Zoning Appeals.

Christine Marbach
Recording Secretary