

BOARD OF ZONING APPEALS
OF THE CITY OF DECATUR/MINUTES

March 1, 2022

A meeting of the Board of Zoning Appeals of the City of Decatur, Indiana was called to order by Dave Schnitz on Tuesday, March 1, 2022 at 4:30 PM at City Hall, 172 N 2nd St, Decatur, IN 46733.

Present at the meeting were: Dave Schnitz, Kevin McIntire, Dave Haggard, and Shane Cauble. Also, in attendance were: Anne Razo, City Attorney; Bob Eherenman, City Attorney Special Council; Dan Rickord, Mayor; Curt Witte, Superintendent of Building/Zoning; Les Marckel, Fire Chief; Karey Fuelling, Superintendent of Wastewater; Jeremy Gilbert, Operations Manager; Josh Zimmerman, City Infrastructure Manager; Kevin Hackman, Utilities Auditor; Bill Carpenter, Assistant Superintendent of Water Department; Jeff Sheets, Training Captain of Fire Department; Tony Lothridge, City Fire Marshal; Matt Dyer, City Council At-Large; Wylie Sirk, City Council 1st District; Tyler Fullenkamp, City Council 2nd District; Craig Coshow, City Council 3rd District; Scott Murray, City Council 4th District; and Erin Heyerly, Office Administrator.

Upon motion by Haggard, seconded by Cauble, the minutes of the previous meeting were approved as presented. Motion carried, 3-0.

Upon motion by McIntire, seconded by Cauble, the Proof of Publication was approved as presented. Motion carried, 3-0.

Upon motion by Cauble, seconded by Haggard, the Affidavits of Notice to Adjoining Property Owners for both applicants was made a matter of record. Motion carried, 3-0.

Upon motion by Cauble, seconded by Haggard, the Affidavit submitted by the applicant showing consent from the property owner for the applicant to request special exception of use and a variance for their property was made a matter of record. Motion carried, 3-0.

The application before the board is from I-O Properties an Ohio Limited Liability Company on behalf of DFA Dairy Brands Ice Cream, LLC requesting a special exception of use in an I-2 zoned area, a variance of fence/barrier wall height from 6' up to 14', and a variance to City ordinance 130.02 currently prohibiting the proposed use within the City of Decatur all at 400 Chamber Dr, Decatur, IN 46733.

The applicant requested to withdraw the variance to City ordinance 130.02 currently prohibiting the proposed used within the City of Decatur to be removed from their application from the board as they plan to address at the City Council meeting later this evening. Upon motion from Cauble, seconded by McIntire. Motion carried, 3-0.

Prior to the applicant approaching the board, Eherenman explained the format that would be followed in order to keep the meeting flowing properly. He explained the applicant would have 20 minutes to present their proposal, the board would ask any questions that they may have, the board will ask for comments from the audience to speak in favor of the applicant and they would be given 25 minutes, the board will then ask for comments from the audience to speak in opposition of the applicant, then the applicant will be given 5 minutes for rebuttal. If any of the groups run over the time limits all speaking parties will be given the same time to go over to keep it fair to all involved.

Upon motion by Cauble and seconded by Haggard the flow process for the meeting to be adopted. Motion carried, 3-0.

Tom Trent, an attorney of Rothberg Law Firm, 505 E Washington Blvd, Ft Wayne, IN 46802 and he is representing the applicant I-O Properties headquartered in Coldwater, OH. Trent introduced and asked Brent Doctor, of 7418 Flatrock Rd, Ft Wayne, IN to join him at the table to help with the presentation to the board. Trent started off by thanking the board and all of the employees of the City of Decatur and explained that the seller has given them 45 days start to finish to purchase this property.

Trent went on to explain the applicant is a farming and agricultural organization. They plan to keep all management to the local level and not in other parts of the country. Most if not all investors live within a 50-mile radius from Decatur. The applicant would like to use the location at 400 Chamber Dr, Decatur, IN for livestock harvesting and food manufacturing. In phase one of their business plan they will plan to use plant 1 as the location that will harvest 210 cattle for fresh and frozen beef products will be sold within 200 miles of this location in Decatur. In phase 2 of their business plan they plan to move into other meats and food products.

Trent explained that they were coming before the board for a special exception of use in the I-2 zoned area because the only business that is a permitted use by right is a sexually oriented business and all others needed board approval.

Trent explained that along with the special exception of use they were also requesting a variance for a fence or barrier wall of up to 14' to separate the applicant's business more from the residential area that is just to the south of their location.

Trent explained that the applicant is choosing Decatur, because the building is empty and fit the mold of what they are needing for their business. They also find Decatur to be centrally located as they work with farmers and outlets in Indiana, Ohio, and Michigan. They will be centrally located for their vendors as well as their outlets for their products. They also found the former DFA Dairy Brands, LLC (Deans Foods) building to have a lot of the infrastructure already in place for their needs.

Trent stated that it would be about a \$20,000,000 investment for the new owners of this property and would provide jobs that are more recession proof as everyone needs to eat to survive. They plan to employ 100-105 first shift and 70 second shift full time employees in their phase one business plan. As they grow and enter into their phase two plan they will plan to hire an additional 50-100 employees. For the first three years of their business plan they look too exceed \$4.7 million on salaries and benefits for these employees.

The applicant will plan to unload all live animals in an area within the interior of the facility. No live animals will be unloaded or kept outside of the facility. Once unloaded the applicant will follow many of the Temple Grandin principles for pre-harvest handling of the cattle. These techniques promote calmness which keeps the cattle settled and free from stress, causing them to be quiet while in the holding area of the facility. For the rendering process the applicant will use the Captive Bolt Stunning which is found to be 97% accurate (according to data collected from 66 cattle harvesting facilities) and used in almost all businesses like the one being proposed. There will be at least 4-5 USDA staff on-site at all times to be sure that they are keeping within the guidelines of OSHA as well as any other food processing laws. The building will be cleaned and sanitized floor to ceiling daily. The plant is temperature controlled and sound proofed. They are working on ventilation plans to direct all odors and smells away from the adjacent neighborhoods. They are also working on a plan that will place the safety of all employees first, even before their own profitability.

There is a copy of the companies proposed safety manual under Exhibit E in the manual that was passed out to the board prior to the meeting for review.

The applicant had an appraisal conducted of a property on Deer Run Trail which is located very close to the proposed site. They were asked to give an appraised value of the home as the property is now, and one with the value of the home if the approval was given by the Board, for the use of the property at 400 Chamber Dr as a cattle harvesting facility. The appraised value with and without the cattle harvesting approval both came back at \$190,000 showing this proposed use will not affect the value of homes in the immediate area. There is a full copy in the hearing manual under Exhibit C.

Trent went on to point out to the board that the subdivision, Deer Run, was not in place when the industrial park was developed. In fact, the facility that they are proposing to occupy was built in 1977 and the housing addition went into place in the early 2000's. He explained that based on his experience mixed uses are very common due to dollars and cents. They are able to tie into existing infrastructure to help it work more easy and more conveniently.

Trent invited Doctor to join in on the presentation. Doctor began by saying that he is involved because he is both a farmer and an architect. His family has been farming in the area for about 180 years. He has been involved in designing several food processing plants for the last 23 years as an architect.

Doctor explained the facility was previously an ice cream processing facility and the current owner will not sell to another ice cream processor, so there will have to be huge renovations to the building or another processor such as the applicant will need to use the building. The new facility will have about 14 trucks in and out a day. The ice cream production facility had about 40 a day. They will not have any trucks staged in their yard waiting to be unloaded. They will schedule their trucks and process them as they come in. He explained they will have more than enough parking for employees. He talked about from a fire or flammable standpoint, the materials used by the applicant will be a lot less flammable than the ones that were used by the previous occupant. The flavoring of vanilla and strawberry in ice cream are class one flammable liquids. The previous occupant also used a lot more cardboard and paper products than the proposed use will plan on using.

Doctor stated that all loading would be done on the north side of the building to hopefully cut down on smell and noise on the south side where the residential area is. They are also wanting to put up a barrier wall on the south side of the property to again help with noise and any odors that may escape the building.

Trent entered back in to the presentation and stated that there are three letters in the hearing manual that was presented to the board that are in favor of the process from the Indiana Beef Cattle Association, the Indiana Pork Producers Association, and Indiana Dairy Producers.

Eherenman prompted for any questions from the board.

Cauble questioned the lead time of a cattle truck coming onto the property to exiting the property. Florence Riggs, owner of I-O Properties, of 4260 Burrville Rd, Coldwater, OH 45828 approached the table and explained that they would be scheduled to deliver at a certain time and given a 15-minute grace period. If the truck did not arrive on time and was later than 15 minutes from their scheduled time they would have to wait off-site somewhere to be recalled for their delivery by the guard shack. Riggs explained that due to this policy they tend to arrive on time. He went on to

say that once the truck is on-site they will be directed to the designated drop area inside the facility, they back in, drop the cattle, and leave the property.

Cauble asked if there was any data to support the effectiveness of the barrier wall curbing the noise and/or smell of the processing facility. Doctor stated that the more solid the wall the more it will absorb and they were planning to put up a concrete type structure.

Cauble asked if the method of harvesting that they were proposing to use is approved by humanely and lawfully. Trent spoke stating that the method is used in many beef processing plants across the country and the most common method. He encouraged the board and all those in attendance to look up Temple Grandin for more information on the process.

Cauble asked if there were any testimonials collected from the other communities that were mentioned in the hearing manual to speak in favor of this type of facility in their community. Trent answered explaining that there is a belief that most if not all are found in communities such as Decatur due to the infrastructure and the necessary things being readily available to them.

Haggard asked what is done with all of the materials left over from the cattle that is not food grade. Florence again spoke stating that most of the parts of the cattle will be used and sold. All materials would be kept in refrigerated storage containers and either sold or hauled off site for disposal. He said that almost all bi-products of animals are sold and are used in human or animal foods. Tim Pierson, 5060 Erastus Durbin Rd, Coldwater Rd, 45828 spoke explaining how some of the bi-products are used.

No further comments from the Board.

Eherenman opened for comments in support of the application.

There were none.

Eherenman opened for comments in opposition of the application.

Greg Mendez, 115 E Oak St, Decatur, IN 46733 spoke stating he has lived in our community and been involved in the community arts developments for over 12 years. He mentioned that the slogan adopted by the City of Decatur is "Artistically Inspired Innovation" which supports the idea of the art or a higher quality of life. This means that they choose to make things beautiful, not depressing. He felt by putting the monetary idea such as a slaughter house in place, that it would go drastically against the ideas behind the adopted slogan.

Tiffany Mendez, 115 E Oak St, Decatur, IN 46733 approached the board stating that she had moved from Ft Wayne five years ago and brought her business to Decatur. She also brought some of her family to Decatur since, because it is such a great place to live. She read several examples that she found on various websites about the detriments that were supported by the slaughtering industry, such as crime, depression and mental health of the employees, inhumanness of the slaughtering ideas, 70% were migrant workers not from here, PTSD for the employees, etc.

Darlene Vassil, 445 S 1st St, Decatur, IN 46733 went in front of the board and stated that she found where it takes 100,000 gallons of water to produce one pound of processed beef and one cow would take about 1,000,000 gallons of water. Major polluter of water. She was concerned that the employees would be making a very low wage for the responsibilities that they would hold. The processing would promote a wet moist area. She was concerned that having to put up a fence or a barrier wall was showing that they have something to hide. She stated that she would be offended by

the City's consideration of allowing such a business to go into that location if she lived in the Deer Run addition.

Kalvin Shaw, 334 N 10th St, Decatur, IN 46733. He lived in Decatur for a long time and then moved to Nebraska. He said that he would still be there had they not brought a slaughter house into their town. He said there was a lot of trash in the town, they were living three or four families in a trailer house, the crime rates went up, etc. He came back to Decatur and really does not want to see this happen here like it did in his small town in Nebraska.

Kevin Lee, 851 W 550 N Decatur, IN 46733. He just was questioning the way the odor was going to be kept from going into their living area when the wind changes direction, because there are times that they do come from that direction.

Kelly Walker, 132 Grey Goose, Decatur IN 46733. She explained that she and her husband own a construction business that does work for a lot of large box stores, so they travel all over the country. They have been to several towns that have slaughter houses in them. She is concerned that it will bring filth, crime, and she is also concerned with where all of the staffing is going to come from. The locations that she has been to, she has seen them bussing in migrant workers. They bus them in and bus them out. They will bring them to town, put them in unfair housing, and then bus them out when their time on their visas are about to expire. Due to so many of the employees not being established here, they are not using our local businesses such as banks, insurance agents, etc. She closed her statement by saying this type of business needs to happen, people eat meat, but she doesn't feel that it should happen in the City limits.

Norma Landis-Geyer of 950 White Tail Dr, Decatur, IN 46733. She read her statement as she was afraid that she would forget something. She said that numerous times the applicant said they would keep quiet, not smell, and not produce nuisances. She would like to know who is going to be sure that this will be enforced so that they are able to enjoy their homes and also their outside property.

Tim Ehlerding, 1718 W Monroe St, Decatur, IN 46733. He approached the board stating that those before us outlawed this within the City limits for a reason. It is needed but not necessarily in a residential area. When they built their homes there were next to an ice cream facility. Everyone like ice cream and he thought it might even be fun to think he lived so close to a facility of such, but not a meat processing facility. He doesn't want Decatur to settle for second best and that is what he feels would be happening if they allow this applicant to use this location for their proposed use. He also feels that Decatur is looking for higher income scale and not what they are thinking they are going to pay.

Bob Becher, 2411 W Deer Run Trl, Decatur, IN 46733. He spoke that he was concerned when the wind shifts and blows, which is out of anyone's control, how are they going to control the odors and noises from coming into the residential neighborhood just to the south of their location?

John Brown, 1063 W 550 N, Decatur, IN 46733. He said that he does not live in the City limits but the other side of the road from his is City, so he is very close. He is concerned that they are not going to get employees to fill the positions available when the current factories and production facilities in the City are already struggling to fill their workforce and they are talking about growing as well. He is also concerned that the appraisal was not accurate. He said common sense will tell you that he will not be able to sell his home for the same price that he could if it was not just down the road from a slaughter house.

Tiffany Mendez, 115 E Oak St, Decatur, IN 46733 approached the board for the second time and read some more findings from internet articles about how this would negatively impact the community.

Deb Bonnon, 1021 Whitetail Dr, Decatur, IN 46733. She wanted to know what can happen to our neighborhoods if something like this is allowed to come in so closely to them.

Tiffany Mendez, 115 E Oak St, Decatur, IN 46733. She approached the stand for the third time and read more of her findings.

Eherenman explained that the time for the opposing questions was up and it was time for a rebuttal from the applicant.

Trent asked for two minutes to talk with his clients and go over their notes so they were sure to address all comments and answer any questions that were asked by the audience.

Howard Currie, 2636 E 200 N, Liberty, IN spoke stating that he hauls livestock for a living. He said that he understands the concerns of leakage, but unlike the old trailers, the new ones it is virtually impossible for any leakage to get on the roads. They are very well designed and keep this from happening now. He also stated that all drivers for livestock has to go through a program called the Beef Quality Assurance program. This program teaches the driver about the cleanliness and everything they need to know to haul cattle properly.

Trevor Schmitz, 8049 Abigail Dr, Lincoln, NB. He addressed the board and the audience regarding the millions of gallons being consumed. They do not anticipate that the amount of water will be used that was stated by one of the residents of Decatur. This could be if it was start to finish (into hamburger) but they are not going to be taking the process that far. They also have things in place to treat and take care of it properly and will meet the guidelines set forth by the City.

Trent addressed the issue of wages that was brought up. I-O properties is applying for a tax abatement and in that application they stated the wages would range between \$23 and \$24 an hour. He went on to say that the quality of humans that would be employed would be top notch and the expectation would be nothing less. He went on to address the noise and odor concerns. These nuisances will not be allowed to happen and if they step out of line they will be held accountable and could even be shut down. The concern of traffic increasing, is not something that should be a concern. They are anticipating that there will only be 6-7 trucks a day which is far lower than the 40. Trent then addressed the concern of the inaccuracy in the appraisal by saying appraisers are held by law to stand behind what they put forward and cannot be tainted in any way by anyone. He went on to say that they are so sure that this will not be an issue that Florence will be coming to Decatur to live and work daily at this facility. He stated that all manure will be disposed of daily and be kept clean, they will have to haul this off-site.

Eherenman informed Trent that their rebuttal time had expired.

Eherenman closed the public meeting and went on to read the findings of facts for the special exception of use.

The special exception was granted with the special conditions of approval according to a motion by Schnitz, seconded by McIntire. Motion Carried, 4-0.

Eherenman read the findings of facts for the variance of fence/barrier wall height from 6' to 14'.

Variance was granted with the conditions approved with the special exception of use.

No old business to address.

New business for the board – there will be a meeting on March 15th at 4:30 with the applicant requesting a special exception of use in an I-2 zoned area at 2232 Patterson St.

There being no further business to come before the board, upon motion by Haggard, and seconded by Cauble, the meeting was adjourned at 6:02 PM. Motion carried 4-0.

Respectfully Submitted

Erin Heyerly, Recording Secretary