February 13, 2023
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:00 p.m. on Tuesday, February 13, 2024, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, Jim Kephart, and Matt Miller. Also present was Ty Adley Plan Director, Lori Lowry and interested parties.

Mr. Hostetler made a motion to approve the December 12, 2023, minutes, seconded by Mr. Bennett. Motion carried by acclamation.

Mr. Adley attested Jim Kepler as returning Board of Zoning Appeals member through December 31, 2027.

The first item of business was the election of officers for the Marshall County Board of Zoning Appeals.

- **President** Mr. Miller made a motion to nominate Jeff Gustafson as President of the Marshall County Board of Zoning Appeals, seconded by Mr. Hochstetler. Motion carried by acclamation.
- **Vice President** Mr. Hostetler made a motion to nominate Matt Miller as Vice President of the Marshall County Board of Zoning Appeals, seconded by Mr. Kephart. Motion carried by acclamation.
- **Secretary** Mr. Miller made a motion to nominate Mr. Hochstetler as secretary of the Marshall County Board of Zoning Appeals, seconded by Mr. Bennett. Motion carried by acclamation.

Other Business

The Plan Director presented the 2023 Plan Commission and Board of Zoning Appeals Annual Report. In 2023 there were 1098 permits issued in comparison to 1072 issued in 2022. The valuation of permits for 2023 was $145,320,000 which is more than $94,210,229 in 2022. The coming year the department will continue keep up with the latest changes. Updates will include solar farms, battery storage, communication towers, billboards, carbon sequestration/capture and updating the subdivision ordinance.

The first item of business was 24-BZA-01 MILLER, Myron & Lisa - A request for a Variance of Developmental Standard to allow a layer barn confined feeding operation that doesn't meet the 1,320' residential setback on twelve (12) residences; located at: 121 E. County Line Rd.

(505421000003002005) Nappanee German Twsp., Zoned A-1. Myron & Lisa Miller of 121 E. Marshall County Line Rd. Nappanee were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a layer barn that will be closer than the 1,320' residential setback. There are 12 residences that are within the required radius. 11 of the homeowners have already provided letters. The residences range from 1330- 576 for non-family properties, and there are two residences owned by the project owner/family north on East County Line Road. There are two animal barns to the southwest on an adjoining parcel. The region is familiar to animal production. There have been cases in the past for reduction of the setback and has often depended on the interest of the neighbors, with some cases reducing the setback and some not reducing the setback.

There are twelve property owners within the 1,320' residential setback. Eleven letters were received from the twelve.

Mr. Miller made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

Mr. Adley read the letter from Agronomix and the names of all eleven who sent them.

Mr. Bennet made a motion to close the public hearing, seconded by Mr. Miller. Motion carried by acclamation.

Mr. Kephart made a motion to approve 24-BZA-01 MILLER, Myron & Lisa - A request for a Variance of Developmental Standard to allow a layer barn confined feeding operation that doesn't meet the 1,320' residential setback on twelve (12) residences; located at: 121 E. County Line Rd. (505421000003002005) Nappanee German Twsp., Zoned A-1, seconded by Mr. Hochstetler. Motion carried with a voice vote 5-0.

The second item of business was 24-BZA-02 ANKNEY, Henry - A request for a Special Use to allow small engine repair on the property; located at: 3141 Plymouth Laporte Tr. Walkerton, IN Polk Twps., Zoned A-1. Mr. Henry Ankney of 3141 Plymouth Laporte Tr Walkerton was present to represent his request. Mr. Adley presented the findings of fact.

The applicant has been operating a small engine repair business and would like to continue his operation. Mr. Ankney was turned in for violation of the junk and debris portion of the Zoning Ordinance. There has been some clean up, but there is still room for more progress.

Mr. Ankney rented the property and didn't have control of what the owner brought in. Now that he owns the property, he is working to get the property cleaned up. The plan for the building that is in disrepair is to put a new roof over it.

Mr. Ankey explained that doing the small engine repair is more of a hobby. There won't be customers or signage, he would just like to keep himself busy. Once the property is cleaned up his plan is to keep things all inside.

There has been substantial improvement on the cleanup of the property. The Plan Director stated that staff will continue to stay on top of this until its cleaned up.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation. There being nobody to speak for or against Mr. Hochstetler made a motion to close the public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

Mr. Hochstetler made a motion to approve 24-BZA-02 ANKNEY, Henry - A request for a Special Use to allow small engine repair on the property; located at: 3141 Plymouth Laporte Tr. Walkerton, IN Polk Twps., Zoned A-1 with the following stipulations:

1. **TRC recommendation**
2. **Continue the clean up the property as recommended**

seconded by Mr. Kephart. Motion carried with a voice vote 5-0.

Other

Mr. Adley proposed going through a quick update of the Board of Zoning Appeals Rules and Procedures at March's meeting. The board was all in agreement.

With no further business to come before the board the meeting was adjourned. Motion carried.

Respectfully submitted,

David Hostetler

March 12, 2023
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:00 p.m. on Tuesday, March 12, 2024, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, Michelle Mieras and Christopher Kline. Also present was Ty Adley Plan Director, Lori Lowry and interested parties.

Mr. Hostetler made a motion to approve the amended February 13, 2024, minutes, seconded by Mr. Bennett. Motion carried by acclamation.

The first item of business was 24-BZA-03 INWOOD MHC LLC - A request for a Variance of Use to allow a mobile home community removing old mobile homes with brand new; located at: 10682 Hawthorn Rd. Plymouth, IN Zoned T-1. Mr. Frank Sheppard of 2467 Oak Tree Circle Winamac was present to represent his request. Mr. Adley presented the findings of fact.

The applicant has recently acquired the Inwood Mobile Home Park and is wanting to make some improvements as well as fill empty pads. Because a few slips have been vacant for some time, they are not permitted to be filled due to the conflict with the legal nonconforming standards. The Town Residential Zoning District also does not permit mobile home communities within its list of available uses, which is why the Use Variance is being pursued. There are a few slips that are currently unused and a few more that the homes were recently removed due to condition of the structure. It is the intention of the applicant to update and fill the park back up to the original capacity.

Mr. Sheppard purchased the mobile home park in January. There is currently one well and one septic tank. There were issues with IDEM from the previous owner, but has since been rectified and they are currently in good standing with IDEM.

The trash on the property has been cleaned up and they plan to put down ground asphalt on the roads next week.

The new homes that are brought into the empty lots will be brand new and owned by the tenant. A lot rent fee will be assessed to each property owner. As long as the 11 existing homeowners stay in good standing they can continue to stay at the site.

Mr. Bennett made a motion to open for public hearing, seconded by Ms. Mieras. Motion carried by acclamation.

1. Tiffany Hardy 10801 Hawthorn Road. There have been a lot of problems in the past at the trailer park and has a concern how they will keep up the property with double the amount of trailers.

Mr. Kline made a motion to close the public hearing, seconded by Ms. Mieras. Motion carried by acclamation.

In the past owners have been located out of state. The applicant believes it's important to visit the property regularly to ensure its kept up to his standards. In addition, anybody that moves to this location will have a thorough credit check and will have to qualify for a home loan. The lease for the lot is a one-year term that also has specific guidelines, for instance no fences and no outside storage.

If the owner chooses to discontinue making payments, the park has the right to buy back the trailer and re-sell.

Ms. Mieras made a motion to approve 24-BZA-03 INWOOD MHC LLC - A request for a Variance of Use to allow a mobile home community removing old mobile homes with brand new; located at: 10682 Hawthorn Rd. Plymouth, IN Zoned T-1, seconded by Mr. Hochstetler. Motion carried with a voice vote 5-0.

The second item of business was 24-BZA-04 MALCOLM, Richard & Anne - A request for a Variance of Developmental Standard to reduce the lakeside setback from the required 45' to 8' from the waters edge to allow a small lean to addition to an existing boathouse; located at: 18149 Tahoe Tr. Plymouth, IN Zoned L-1. Paul Herbert 18149 Tahoe Tr. and Richard Malcom of 18149 Tahoe Tr. were present to represent their request. Mr. Adley presented the findings of fact.

The applicant has an existing boat house at their residence where they are able to store a variety of lake items and they are wanting to expand the structure to make room for additional items. The existing structure per the provided drawing is 8' from the waters edge and they would keep it at the same distance. The applicant has recently constructed a lakeside boathouse addition onto an existing deck and is going back to receive necessary approvals. The addition is considered a structure and must meet setbacks or pursue required variance. The district setback is 45' and the applicant is seeking to reduce the setback to 8' from the edge of water. It is unknown when the other boathouse went in and how it had received approval. The discussion at TRC had concern on what this could do for other lakeside setbacks and bringing similar structures up to the lake not only on Lake Latonka, but other lakes around the County.

In April of 2022 the applicant applied for a building permit and the TRC denied the request saying it had to get a variance and a LOMA. This addition was built in December of 2023. Around the same time the lakes homeowner's association changed as well as their opinions on wanting covered structures to store equipment in. The original lakeside structure was there when they bought the house. As soon as they received their violation notice, they came into the office to file for the variance. In addition, the lake association has recently approved the request.

The board shared their concerns and frustrations that the applicant not only built the addition without a permit but built it after they were turned down by the Technical Review Committee.

Mr. Kline made a motion to open for public hearing, seconded by Ms. Mieras. Motion carried by acclamation.

1. David Stayton Talked with Matt Miller president of LLHOA and is in agreement that they approve the shed addition.
2. Matt Miller LLHOA – Their homeowners association met on March 11th and they unanimously agreed that the improvement made to the storage structure was not only beneficial from an aesthetic perspective, but it was also found to beneficial in protecting the waters ecosystem.

Mr. Hostetler made a motion to close the public hearing, seconded by Mr. Bennett. Motion carried.

In addition to the issue of building without a permit the building was also built in the flood plain. This issue will have to be addressed before a permit can be issued.

The board had a lengthy discussion about structures being put up around the lake without permits that don't meet requirements. They would like to see applicants get approval from their lake association first and then come to the Plan Commission office for a permit and/or variance if needed before any construction is done.

Mr. Hostetler made a motion to approve <u>24-BZA-04 MALCOLM, Richard & Anne –</u> A request for a Variance of Developmental Standard to reduce the lakeside setback from the required 45' to 8' from the waters edge to allow a small lean to addition to an existing boathouse; located at: 18149 Tahoe Tr. Plymouth, IN Zoned L-1 with the following stipulation:

1. **Fine to equal three times the current permit fee**

Seconded by Mr. Bennet. Motion carried with a voice vote 3-2 with Mr. Kline and Ms. Mieras voting against.

<u>Group Board of Zoning Appeals Basic Training</u>

The plan director presented to the board a brief training on the powers and duties of the Board of Zoning Appeals that was put together by the American Planning Association that included: General Rules of Thumb, Powers and Duties, Conflict of Interest, Common BZA Activities, Hardship, BZA Contact, Board Determination, Determination Pitfalls, and Final Notes.

With no further business to come before the board the meeting was adjourned. Motion carried.

Respectfully submitted,

David Hostetler

April 9, 2024
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:00 p.m. on Tuesday, April 9, 2024, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, Matt Miller and Jim Kephart. Also present was Ty Adley Plan Director, Lori Lowry and interested parties.

Mr. Hostetler made a motion to approve the March 12, 2024, minutes, seconded by Mr. Bennett. Motion carried by acclamation.

The first item of business was 24-BZA-05 BEHRENS, Deitrick & Mary Ann - A request for a Variance of Developmental Standard to allow a roadside setback reduction from the required 30' to 23', a lakeside setback reduction from the required 45' to 23', a south side yard setback reduction from the required 5' to 3', a north side yard setback reduction from the required 5' to 4', and impervious coverage from the required 45% to 65% to allow a new residence; located at: 4095 Lakeshore Dr. Bremen, IN German Twsp. Zoned L-1. Mr. Deitrick Behrens of 29675 CR 22, Elkhart was present to represent his request. Mr. Adley presented the findings of fact.

RECOMMENDATION Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed variances with the exception of the side yard setback being retained at 5' in accordance with the setback regulation.

The applicant is seeking to allow a roadside setback reduction from the required 30' to 23', a lakeside setback reduction from the required 45' to 23', a south side yard setback reduction from the required 5' to 3', a north side yard setback reduction from the required 5' to 4', and impervious coverage from the required 45% to 65% to allow a new residence.

The goal is to tear down the structure and rebuild by centering it on the property while not any closer to the water, but ten feet closer to the road. The plan is to have a two-story home with a garage on the lower level and living space upstairs. Their proposal is for a deck on the first and second story and will not be enclosed or have a roof.

Mr. Hostetler made a motion to open for public hearing, seconded by Mr. Kepler. Motion carried by acclamation.

1. Robert Steif 16434 Elm Ave Mishawaka Lives on the north adjacent property and is in favor of the proposed.
2. Connie Herman Houin 547 Ballantyne MI Sent a letter and not in favor of the

proposal due to blockage of lake view, reduction in property values, inability to build and maintain on their own property, and utilizing their vacant lot for parking due to roadside setback reduction.

Mr. Hostetler made a motion to close the public hearing, seconded by Mr. Kepler. Motion carried by acclamation.

Mr. Bennett made a motion to approve 24-BZA-05 BEHRENS, Deitrick & Mary Ann - A request for a Variance of Developmental Standard to allow the following reductions for a new residence:

1. Lakeside – from 45' to 23'
2. Roadside – from 30' to 23'
3. South side yard setback 5'
4. North side yard setback from the required 5' to 4'
5. Impervious coverage from the required 45% to 65%

located at: 4095 Lakeshore Dr. Bremen, IN German Twsp. Zoned L-1, seconded by Mr. Kepler. Motion carried with a voice vote of 4-0.

Mr. Miller present at the end of the first case.

The second item of business was 24-BZA-06 SCHWARTZ, Alvin & Laura - A request for a Variance of Developmental Standard to allow a reduction in front yard setback from the required 60' to 40' from the right of way to build a new house; located at: 9005 Jarrah Rd. Plymouth, IN Center Twsp., Zoned A-1. Mr. Alvin Schwartz was present to represent his request.

RECOMMENDATION Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend denial of the proposal unless a hardship can be proven.

The applicant is planning to demolish their existing house to make way for new construction. The location of the existing house is only approximately 16' from the ROW and 27' from the edge of road. Jarrah Road is considered a Collector level road and therefore has a front yard setback of 60'. The proposal is to move the new construction back further than what it is today, but not to the full 60'. There is a portion of the septic system in the middle of the driveway. In order to construct the house as desired, the applicant is seeking a reduction in front yard setback from the required 60' to 40' from the right of way.

The current well is located right behind the existing house. To be able to build a 36' house they have to stay away from the well 5'. The current house is 27' from the road and they would like to be 40' from the right of way.

Mr. Hostetler made a motion to open for public hearing, seconded by Mr. Kepler. Motion carried by acclamation. There being nobody to speak for or against, Mr. Hostetler made a motion to close the public hearing, seconded by Mr. Kepler. Motion carried by acclamation.

Mr. Hochstetler made a motion to approve 24-BZA-06 SCHWARTZ, Alvin & Laura - A request for a Variance of Developmental Standard to allow a reduction in front yard setback from the required 60' to 40' from the right of way to build a new house; located at: 9005 Jarrah Rd. Plymouth, IN Center Twsp., Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The third item of business was 24-BZA-07 RICO, Sergio - A request for a Variance of Developmental Standard to reduce the east side yard setback from the required 15' to 10' to allow an existing 14x14' shed; located at: 20898 US 6 Walkerton, Polk Twsp., Zoned A-1. Mr. Sergio Rico was present to represent his request. Mr. Adley presented the findings of fact.

RECOMMENDATION Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed setback reduction, but would like to get some clarification on the use of the structures.

The applicant applied for a building permit in 2019 but never received permit approval for construction due to needed septic information. While staff was working to close permits out it was discovered that the structure that met setbacks as identified in the permit was relocated to the side property line and did not meet setbacks. They are now seeking to get approval for the setback reduction from 15' to 10'. The structure is meant for cold storage. The structures on the Southeastern property line do need some clarification as to their use.

The applicant stated the 14x14’ shed was an addition to an existing building to store yard equipment in. The existing building that has air conditioning was used by his son to lift weights in. It was not living space.

Mr. Miller made a motion to open for public hearing, seconded by Mr. Hostetler. Motion carried by acclamation. There being nobody to speak for or against Mr. Miller moved and Mr. Hostetler seconded the motion to close the public hearing.

There has been some concern of the building being used as living space. The applicant agreed to allow the building official to go out and check the occupancy of the buildings.

Mr. Hostetler made a motion to approve 24-BZA-07 RICO, Sergio - A request for a Variance of Developmental Standard to reduce the east side yard setback from the required 15' to 10' to allow an existing 14x14' shed; located at: 20898 US 6 Walkerton, Polk Twsp., Zoned A-1 with the condition that the applicant allow the building official to verify the building is only being used for storage, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The fourth item of business was 24-BZA-08 TIBBS, Bryce & Katlin - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 60' from right away to 62' from the edge of road to add on the south side of the house; located at: 3590 King Rd., Bremen North Twsp., Zoned A-1. Bryce & Katlin Tibbs was present to represent their request. Mr. Adley presented the findings of fact.

RECOMMENDATION Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed setback reduction

The applicant is seeking to do a home addition on the south side of the house. The addition is 20x20' and would actually be setback 3' from the existing residence, making it more in compliance than the existing house. The proposal is to reduce the front yard setback from 60' from ROW to 62' from edge

of road. The rear of the property includes the septic system as topographic challenges.

The plan is to bring in the addition 3' further away from the road.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Miller. Motin carried by acclamation. There being nobody to speak for or against Mr. Bennett moved and Mr. Miller seconded the motion to close the public hearing.

Mr. Hostetler made a motion to approve 24-BZA-08 TIBBS, Bryce & Katlin - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 60' from right away to 62' from the edge of road to add on the south side of the house; located at: 3590 King Rd., Bremen North Twsp., Zoned A-1, seconded by Mr. Bennett. Motion carried by acclamation.

The fifth item of business was 24-BZA-09 STONE, James & Sarah - A request for a Variance of Developmental Standard to allow a roadside setback reduction from the required 30' to 20'6" from right of away and an increase in maximum lot coverage from the required 30% to 35% to add a 16'x28' garage addition; located at: 14161 Lawrence Lake Dr. Plymouth, Center Twsp., Zoned L-1. Mr. James Stone was present to represent his request. Mr. Adley presented the findings of fact.

RECOMMENDATION Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed variances

The applicant is seeking to do a garage addition on an existing retaining wall that they are wanting to turn into an over under garage. They are also planning a deck widening which combined with the garage project is leading to the impervious coverage request. The garage is seeking to be in line with the rest of the garage and the lower portion would allow for storage for lake items. The applicant is proposing to allow a roadside setback reduction from the required 30' to 20'6" from right of away and a reduction in maximum lot coverage from the required 30% to 35% to add a 16'x28' garage addition. The two adjacent neighbors are both roughly 17-18' from the ROW line when the applicant is approximately 20' from the ROW line per GIS.

The proposed plan for the garage addition will be to not build any closer to the property line than the inside of the existing retaining wall. The current retaining wall will be replaced with a poured concrete retaining wall back in the same location.

Mr. Hostetler made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

1. Bob Dragani 14147 Lawrence Lake Dr. Asked if the proposed garage will be any closer than the existing retaining wall. Since the addition isn't outside the retaining wall Mr. Dragani didn't have any objections.

Mr. Hostetler made a motion to close the public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

Mr. Kephart made a motion to approve 24-BZA-09 STONE, James & Sarah - A request for a Variance of Developmental Standard to allow a roadside setback reduction from the required 30' to 20'6" from right of away and an increase in maximum lot coverage from the required 30% to 35% to add

a 16'x28' garage addition; located at: 14161 Lawrence Lake Dr. Plymouth, Center Twsp., Zoned L-1, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The sixth item of business was 24-BZA-10 CALHOUN, Brandon & Shanta - A request for a Variance of Developmental Standard to allow a secondary before a primary to build a 32x48' pole barn across from residence; located at: across the street from 15942 Menominee Dr. Plymouth (50-31-24-000-120-000-017), West Twsp., Zoned L-1. Mr. Brandon Calhoun was present to represent his request. Mr. Adley presented the findings of fact.

RECOMMENDATION
Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed variance.

The applicant has a vacant piece of ground across from their residence at 15942 Menominee Trail. They are wanting to construct a pole building to be used for storage and as a workshop. The applicant is seeking to allow a roadside setback reduction from the required 30' to 20'6" from right of way and a reduction in maximum lot coverage from the required 30% to 35% to add a 16'x28' garage addition. Secondary structures are required to be built after the primary structure (residence). Similar requests have been approved in the past when residences were across the street. The subject residence does not have much parking space that doesn't stick out into the right of way. The applicant is in the process of having the property replated together.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation.

1. Hal & Diana Wilkens – 15885 Menominee Tr., Adjacent property owner believes that it won't negatively affect their property. They are in favor.

Mr. Hostetler made a motion to close the public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

Mr. Hostetler made a motion to approve 24-BZA-10 CALHOUN, Brandon & Shanta - A request for a Variance of Developmental Standard to allow a secondary before a primary to build a 32x48' pole barn across from residence; located at: across the street from 15942 Menominee Dr. Plymouth (50-31-24-000-120-000-017), West Twsp., Zoned L-1, seconded by Mr. Kephart. Motion carried with a voice vote 5-0.

The seventh item of business was 24-BZA-11 BODMER, John - A request by A & M Homes Services for a Variance of Developmental Standard to allow a front yard setback reduction from the required 60' to 30' from the right of way to allow an existing deck; located at: 18576 Cedar Rd. Tippecanoe, IN Tippecanoe Twsp., Zoned A-1. Mr. Seth Johnson of A & M Home Services was present to represent Mr. Bodmer. Motion carried by acclamation.

RECOMMENDATION Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed reduction, but would also recommend a fine for construction without approval.

The applicant had recently completed a reconstruction and expansion of a front porch with

wheelchair ramp without permit approval. The permit needed variance approval for the increased nonconformity of structures within the setback area. The deck wasn't going to get any closer to the road but was going to extend to the sides of the residence. The proposed setback reduction is from 60' to 30' from right of way.

Mr. Johnson from A & M said that following through with the permit and variance was a mistake on their part.

Mr. Hostetler made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

Mr. Hostetler made a motion to re-open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

1. Steven Hunsberger 18781 Cedar Rd. Tippecanoe No problem with the request.
2. Fearol Baxter 18781 Cedar Rd. Tippecanoe No problem with the reduction from 60’ to 30’.

Mr. Bennett made a motion to close the public hearing, seconded by Mr. Miller. Motion carried by acclamation.

Fines allowed is up to three times the cost of the permit which is $40.00.

Mr. Hostetler made a motion to approve 24-BZA-11 BODMER, John - A request by A & M Homes Services for a Variance of Developmental Standard to allow a front yard setback reduction from the required 60' to 30' from the right of way to allow an existing deck; located at: 18576 Cedar Rd. Tippecanoe, IN Tippecanoe Twsp., Zoned A-1 with the following requirement: Fine be assessed at three times the cost of the permit; seconded by Mr. Kephart. Motion carried by voice vote 5-0.

The eighth item of business was 24-BZA-12 RIPPY, Adam - A request for a Variance of Developmental Standard to reduce two proposed lot widths from the required 210' to 80' and 160' for a proposed new home; located at: 4860 N. Underwood Rd. Walkerton, IN Polk Twsp., Zoned A-3. Adam Rippy & Sarah Rippy were present to represent their request. Mr. Adley presented the findings of fact.

RECOMMENDATION
Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed variance.

The applicant is seeking to subdivide their property in order to create two lots, but in order to have two residences at the front of the property, the frontage needs to be split. They are seeking to reduce the frontage requirement from 210’ to 80’ and 160’ respectively. Should the property have been zoned L-1, there would have not have been an issue with the lot width, but the property did not abut the Lake, so therefore staff guided the applicant through a more appropriate re-zoning to A-3. The proposed southern lot will then allow for the applicant to move forward with the minor subdivision of property and subsequently the construction of his new home by the building and trades group through John Glenn Schools.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Hochstetler. There being

nobody to speak for or against Mr. Bennett moved and Mr. Miller seconded the motion to close the public hearing.

Mr. Hostetler made a motion to approve 24-BZA-12 RIPPY, Adam - A request for a Variance of Developmental Standard to reduce two proposed lot widths from the required 210' to 80' and 160' for a proposed new home; located at: 4860 N. Underwood Rd. Walkerton, IN Polk Twsp., Zoned A-3, seconded by Mr. Kephart. Motion carried with a voice vote 5-0.

The ninth item of business was 24-BZA-13 FROESCHKE, Kenneth & Stacy - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 50' from right of way to 34' and the south side yard setback from the required 15' to 10' in order to build a storage building; located at: 5080 Venita Dr. Plymouth, IN Polk Twsp., Zoned A-1. Ken & Stacy Froeschke were present to represent their request. Mr. Adley presented the findings of fact.

RECOMMENDATION Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend denial of the proposal unless a hardship can be proven.

The applicant is seeking to construct a pole building for storage adjacent to existing garage and is proposing to keep it in front of an existing fence. The proposal is for a 30x40' building. They are seeking to reduce the front yard setback from 50' to 34' from right of way and a side yard setback reduction from 15'-10'. The applicant also owns a lot to the south with a pole building on the property.

The applicants have a fence they don't want to move and an existing pad they would like to use for the barn. In addition to that if the garage were to be moved back, they would lose the view of the golf course.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Hostetler. Motion carried by acclamation. There being nobody to speak for or against Mr. Hostetler moved and Mr. Hostetler seconded the motion to close the public hearing. Motion carried by acclamation.

The main reason for the need is the view and the existing concrete.

Mr. Hostetler made a motion to approve 24-BZA-13 FROESCHKE, Kenneth & Stacy - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 50' from right of way to 34' and the south side yard setback from the required 15' to 10' in order to build a storage building; located at: 5080 Venita Dr. Plymouth, IN Polk Twsp., Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 4-1 with Mr. Bennett voting against.

The tenth item of business was 24-BZA-14 GOLDSMITH, Ron & Olivia - A request for a Variance of Developmental Standard to allow replacement of an existing secondary before a primary with a 10x16 shed; located at: Lot 4 Hiawatha (across the street from 18415 Hiawatha Trl. Plymouth, IN West Twsp., Zoned L-1. Mr. Goldsmith was present to represent his request. Mr. Adley presented the findings of fact.

RECOMMENDATION Based on the information provided and review by Technical Review Committee, staff and TRC would recommend approval for the proposed variance.

The applicant is seeking to permit a secondary structure before a primary structure. The applicant owns an adjacent parcel with a residence on it and has used the subject property for some storage as well as for personal use and enjoyment. They are now wanting to place a shed on the property to be able to store some of their items within the structure.

Mr. Kephart made a motion to open for public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

1. Barry Maddox - 18397 Chippewa Path Lives east of his residence and is in favor of the request

Mr. Hostetler made a motion to close the public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

No notification has been received if this request has been approved by the lake association as of this date.

Mr. Kephart made a motion to approve 24-BZA-14 GOLDSMITH, Ron & Olivia - A request for a Variance of Developmental Standard to allow replacement of an existing secondary before a primary with a 10x16 shed; located at: Lot 4 Hiawatha (across the street from 18415 Hiawatha Trl. Plymouth, IN West Twsp., Zoned L-1, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The eleventh item of business was 24-BZA-15 BRADLEY, Walter & Ellen - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 50' from right of way to 44' from the road to install handicap steps with a landing deck; located at: 19009 15th Road, Culver, IN Union Twsp., Zoned A-1. Mr. Jacob Roberts were present to represent his request. Mr. Adley presented the findings of fact.

RECOMMENDATION Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed variance.

The applicant is looking to renovate an existing deck and due to the house's location on the property, the project requires a variance. The setback reduction from 50' from the ROW to 44' from edge of road. The property is skinny and deep, but due to the house's constructed location the property owner could not do much about the front yard setback. The deck renovation would now include handicap steps in order to promote better ingress and egress of the residence.

The plan is to remove the old deck and rebuild just big enough to help the owner maneuver a little easier coming in and out of the house. The existing deck is a 4x6' and the new will be 4x11'.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation. There being nobody to speak for or against Mr. Kephart moved to close the public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

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Mr. Hostetler made a motion to approve24-BZA-15 BRADLEY, Walter & Ellen - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 50' from right of way to 44' from the road to install handicap steps with a landing deck; located at: 19009 15th Road, Culver, IN Union Twsp., Zoned A-1, seconded by Mr. Kephart. Motion carried with a voice vote 5-0.

The twelfth item of business was 24-BZA-16 SCHALLER, Daniel & Stephanie - A request for a Variance of Developmental Standard to allow the creation of a parcel that doesn't meet the 1 to 3 width to depth ratio (442'x2230'); located at: 50-31-19-000-072-000-017 West County Line Rd., Plymouth, IN West Twsp., Zoned A-1. Mr. Dan Schaller was present to represent his request. Mr. Adley presented the findings of fact.

RECOMMENDATION Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed variance.

The proposed parcel is seeking to be subdivided but cannot due to the shape. The proposal is to split the complete distance from front to back with distance measure at 442'x2230', which exceeds the 1 to 3 width to depth ratio. The parcel is a large parcel with more depth than width and is being proposed to be cut along a logical line in the property.

Mr. Schaller plans to split the property and sell off the 19 acre piece of property.

Mr. Hostetler made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation. There being nobody to speak for or against Mr. Hostetler moved and Mr. Bennett seconded the motion to close the public hearing.

Mr. Hostetler made a motion to approve 24-BZA-16 SCHALLER, Daniel & Stephanie - A request for a Variance of Developmental Standard to allow the creation of a parcel that doesn't meet the 1 to 3 width to depth ratio (442'x2230'); located at: 50-31-19-000-072-000-017 West County Line Rd., Plymouth, IN West Twsp., Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

Other Business

Proper procedures and protocols were discussed.

With no further business to come before the board the meeting was adjourned. Motion carried.

Respectfully submitted,

David Hostetler

May 14, 2024
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:00 p.m. on Tuesday, May 14, 2024, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, and Matt Miller. Also present was Ty Adley Plan Director, Lori Lowry and interested parties. Jim Kephart was absent.

Mr. Hostetler made a motion to approve the April 9, 2024, minutes, seconded by Mr. Miller. Motion carried by acclamation.

The first item of business was 24-BZA-17 DAVIS, Steven & Patricia –
The applicant was not present to be heard. Mr. Miller made a motion to table this request until the end of the meeting, seconded by Mr. Bennett. Motion carried by acclamation.

The second item of business was 24-BZA-18 MAST, Ivan - A request for a Variance of Developmental Standard for a side yard setback reduction from the required 15' to 5' to build 40'X60' building for cold storage; located at: 6134 Chestnut Rd. Bremen, IN German Twsp., Zoned A-1. Ivan and Anna Mast were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to reduce the side yard setback from 15' to 5' in order to construct a barn for storage and horses. The proposed setback is desired because it will allow for it to be placed further away from the house and "better utilize the acreage that I have as in more pasture for animals." The Mast property is 1.5 acres and surrounded by agricultural fields owned by a separate entity.

Recommendation:
Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend denial of the proposed setback reduction.

The applicant doesn't see the need to waste the 15' as all he would be able to do is mow it.

Mr. Hostetler made a motion to open for public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

1. Jeff Unsicker 6246 Cedar Rd. Received a letter and is not in favor of the request. He has plenty of room to meet the required setbacks.

Mr. Bennett made a motion to close the public hearing, seconded by Mr. Hostetler. Motion carried by acclamation.

Marshall County Board of Zoning Appeals
5/14/2024

Mr. Bennett made a motion to deny 24-BZA-18 MAST, Ivan - A request for a Variance of Developmental Standard for a side yard setback reduction from the required 15' to 5' to build 40'X60' building for cold storage; located at: 6134 Chestnut Rd. Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Hostetler. Motion carried to deny by a voice vote 4-0.

The third item of business was 24-BZA-19 FIGUEROA, Javier - A request for a Variance of Use to allow additional living residence in garage; located at: 3953 Michigan Rd., Plymouth, IN North Twsp., Zoned A-3. Javier Figueroa of 3953 Michigan Rd. and Ben Oviedo of 800 Lake Ave were present to represent their request.

The applicant is seeking to permit the single-family structure to be used as a duplex and to upfit the garage to be used as an additional living structure. The original house was added onto in order to provide space for the owner's father to live with him. There were no issues with the home addition, but at some point, the wall of connection was filled in and created two separate units. The A-3 Agricultural Residential district does not permit duplex's. The owner has since upfit the garage for his son to live in and based on a violation being turned in to the Plan Commission, the applicant is coming before the Board of Zoning Appeals to seek approval of the duplex and additional third living quarters.

Recommendation
Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend denial of the proposal.

The residence on the property is being used as two rental units and Mr. Figueroa lives in the renovated garage/residence with his son.

Mr. Oviedo explained that back in 2009 Mr. Figueroa got a permit for another residence for his parents to live in. At the same time, they upgraded the existing septic to allow for the new home. Mr. Adley stated that they did get a permit, but only for a home addition not a second home. Nor was there a permit for upgrading the bathroom to the garage.

When asked by the president what would have to happen if this was turned down. Mr. Adley stated that the residence would have to be turned back into a single-family dwelling, like it's taxed by the Assessor's Office.

Mr. Miller made a motion to open for public hearing, seconded by Mr. Hostetler. Motion carried by acclamation.

1. Connie Nichols 3983 Michigan Rd. Lives to the south of the proposed request. Ms. Nichols was at the variance hearing in 2009 for their request to build a house at the back of the lot and was turned down because they didn't allow two residences on one property. This was never for family its always been used as a rental and the garage has always been used by the son. The conditions of the property have been unkept with no garbage service, burning of garbage and plastics and numerous stored vehicles. This neighborhood isn't designed for multi-housing.
2. Connie Nichols 3983 Michigan Rd. Submitted a letter listing concerns as stated above.

Mr. Miller made a motion to close the public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

Mr. Miller made a motion to deny 24-BZA-19 FIGUEROA, Javier - A request for a Variance of Use to allow additional living residence in garage; located at: 3953 Michigan Rd., Plymouth, IN North Twsp., Zoned A-3, seconded by Mr. Hochstetler. Motion carried to deny 4-0.

The fourth item of business was 24-BZA-20 MIDWEST FARM & PET - A request for a Special Use to allow an 80x160' warehouse for seed storage & packaging; located at: 4119 6th Rd. Bremen, IN German Twsp., Zoned A-1. Dennis Miller of 375 4th Rd. Bremen and Gene Burkholder of 438 5th Rd. Bourbon were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking the approval of the special use for the establishment of a business in order to store and package seed. The business falls roughly in line with wholesale trade uses that are identified as special uses in the A-1 Agricultural district. The property lies at the intersection of Elm and 6th Roads that are 1 mile either direction to SR 331 or Fir Road. The proposed business would be housed within a 80x160' building with dual drive access off of 6th Road. There would be a 34x40' office on the North side of the building. The initial location for septic is west of the building and retention space as needed would be towards the intersection. The business will have 2 total employees, one in the office and the other in the warehouse.

RECOMMENDATION
Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposal pending comments from the neighbors.

The plan is to have corn, bean, and clover seed that are brought in the fall in seed boxes. At that point it will be stored until the spring and then bagged before being distributed in March and April. The approximate number of semi's brought in is 17.

The property is currently being farmed. The intent is to build the structure and farm the remaining.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation.

1. Dave Rader 6540 Elm Rd. Bremen Lives about a half mile south of the proposed. This area is wet and susceptible to flooding. The water drains to the Dausman Ditch and is already overloaded with the school and additional schools. Questioned his concerns of the number of employees, hours of operations, powered by generators, driveway and traffic. Questioned why this isn't being proposed on their own properties or community.
2. Dennis Garrett 4119 6th Rd. Bremen Is the property owner to the west. Has a concern of the traffic and doesn't want to see a warehouse next to them.
3. Jerry Dendy 4776 6th Rd. Bremen Lives west of the proposed. Has a concern about drainage, environmental concerns and runoff.

4. Connie Nichols 3983 Michigan Rd. Plymouth Grew up in the area and doesn't understand why a commercial property is proposed in an ag area. Concerned about the runoff and environmental problem.
5. Randy Hawley 6376 SR 331 Bremen Has farmed this area and has a concern how wet it is and the traffic.
6. Evelyn Smith 3875 6th Rd. Bremen Has submitted three letters opposed to the request with concerns about the traffic, water, commercial business in an ag area.
7. Steven Smith 5280 5th Rd. Bremen Submitted letter opposing the request.

Mr. Miller made a motion to close the public hearing, seconded by Mr. Hostetler. Motion carried by acclamation.

The reason the applicants chose a different location rather than their home property was because the business has multi owners. This would allow him to keep the business separate from the home property.

In response to some of the questions the applicants stated that there will be no generators and at this time there will be no treatment of seed at the site. However, the seed will come treated. The excavator commented that if they can do anything to help with drainage, they will work with the planning department on that. The drainage plan would be submitted with the building permit.

The board questioned if warehouses are encouraged in the zoning district/comprehensive plan. Mr. Adley stated that warehouses are not, but agricultural businesses are supported depending on the size and the context of the business.

The long-term plan is to continue bringing in seed and bagging it. There will be no retail. They plan to service independent dealers.

During discussion the board had difficulty on the unknown concerns of drainage, the land use, the proposal isn't a home-based business and could be in a better location.

Mr. Miller made a motion to deny 24-BZA-20 MIDWEST FARM & PET - A request for a Special Use to allow an 80x160' warehouse for seed storage & packaging; located at: 4119 6th Rd. Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Bennett. Motion carried with a voice vote 3-1 with Mr. Hochstetler voting against.

The fifth item of business was 24-BZ-21 SCHMUCKER, Matthew & Jean - A request by Nappanee TLC Care Center for a center that provides respite care, therapy and educational services; located at: East County Line Rd. (50-44-16-000-018-000-005) Bremen, IN German Twsp., Zoned A-1. Mr. Charlie Zercher of Kindig and Sloat and Marlin Borkholder 68152 CR 37 Millersburg was present to represent their request. Mr. Adley presented the findings of fact.

The applicant operates Nappanee TLC Car Center which per the application is a "non-profit corporation that provides a simple structures daily work environment for special needs adults in the local Amish community…". TLC Care Center is a division of the Sunshine Workshop. The facility currently operates approximately 1.5 miles away on the Kosciusko County side of County Line Road. The operation is seeking to relocate because the existing facility cannot expand due to physical

restraints. Operations began in 2021 and currently have 16 children enrolled (ages 3-42) with 13 caregivers.

Recommendation
Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval pending neighbor input.

The applicants are working with the Matt Schmucker at purchasing part of the land for the proposed TLC Care Center. They have outgrown the existing care center in Kosciusko County and wish to expand at this location for possible future expansion.

The facility is for children and adults who are severely disabled and cannot go to school and provides additional care for adults who are able to perform tasks for local businesses. It provides respite care, educational needs, licensed therapy, and meals. Hours of operation are Monday through Friday 8:30-3pm. There are a couple vans that provide transportation to and from along with employees. There is a proposed site plan that includes a future garage.

Neighbors across the street are residential with ag buildings.

Mr. Hochstetler made a motion to open for public hearing, seconded by Mr. Bennett. Motion carried by acclamation. There being nobody to speak for or against Mr. Bennett made a motion to close the public hearing, seconded by Mr. Hochstetler.

Mr. Hochstetler made a motion to approve 24-BZ-21 SCHMUCKER, Matthew & Jean - A request by Nappanee TLC Care Center for a center that provides respite care, therapy and educational services; located at: East County Line Rd. (50-44-16-000-018-000-005) Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 4-0.

The first item of business was 24-BZA-17 DAVIS, Steven & Patricia - A request for a Variance of Developmental Standard to allow a reduction in the front yard setback from the required 60' to 46' from the right of way to allow a wheelchair ramp; located at: 8788 9A Rd., Plymouth, IN Center Twsp., Zoned A-1. Mr. Joshua Sibert of AM Construction was present to represent the request. Mr. Adley presented the findings of fact.

The applicant is seeking to reduce the front yard setback from 50’ to 46’ in order to construct a wheelchair access ramp in order to get in and out of the house. The House is being built and is using the existing foundation. The porch is approximately 50’ from the right of way line, but due to the contour and distance to driveway it is proposed to come off the front of the porch to properly connect with the driveway.

Recommendation:
Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed setback reduction.

After additional measurements the applicant would like to have an additional 4’ for the 4’ ramp. So instead of 46’ they are requesting 42’. Due to the current layout this is the only location for the

proposed wheelchair ramp.

Mr. Hochstetler made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation. There being nobody to speak for or against, Mr. Hochstetler made a motion to close the public hearing, seconded by Mr. Miller. Motion carried by acclamation.

The board explained to the applicant that they are only able to approve what was advertised which was 46'.

Mr. Hochstetler made a motion to approve 24-BZA-17 DAVIS, Steven & Patricia - A request for a Variance of Developmental Standard to allow a reduction in the front yard setback from the required 60' to 46' from the right of way to allow a wheelchair ramp; located at: 8788 9A Rd., Plymouth, IN Center Twsp., Zoned A-1, seconded by Mr. Bennett. Motion carried by acclamation.

Other Business

With no further business to come before the board the meeting was adjourned. Motion carried.

Respectfully submitted,

David Hostetler

June 11, 2024
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:00 p.m. on Tuesday, June 11, 2024, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Jim Kephart, David Hostetler, and Matt Miller. Also present was Ty Adley Plan Director, Lori Lowry and interested parties. Trent Bennett was absent.

Mr. Hostetler made a motion to approve the May 14, 2024, minutes, seconded by Mr. Kephart. Motion carried by acclamation.

The first item of business was 24-BZA-22 - STUTZMAN, Dennis & Becky - A request for a Special Use to allow a home-based roofing business; located at: 5300 Sage Rd., Plymouth, IN Polk Twsp., Zoned A-1. Dennis & Becky Stutzman of 5300 Sage Rd. Plymouth were present to represent their request. Mr. Adley presented the findings of fact.

Energy Efficient Roofing is seeking to approve an existing roofing business at his residence that he and 4 other crew members operate. 3 of which are his sons. They park their trucks and trailers at his property when not in use at the jobsites. They store leftover material from completed jobs within a portion of their pole building. They expect to get 3-6 trucks per year on average to the house with all others being delivered directly to the jobsite. Hours of operation are from 7:00am to 5:00pm and any deliveries would generally be between 1:00 and 3:00pm. Mr. Stutzman and Energy Efficient Roofing has been registered in Marshall County since 2018.

Applicant bought the property in 2016 and had the roofing business before moving to this location. The business had been registered just didn't know he needed additional approval until notified recently.

Mr. Hochstetler made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

1. Wade Salyer 5378 Sage Rd. Is an adjacent property owner. Wasn't aware the applicant's roofing business wasn't already approved. His son went through the proper procedures to get his plumbing business approved they should have to. Since all the traffic for their new chicken barn the road is already tore up and a mess. He is objecting to the proposed business. It should be run out of commercial property. Also questioned whether they've been taxed correctly.
2. Sara Sarber 5242 Sage Rd. Is an adjacent property owner and is against the request. The condition of their road has deteriorated even more since the construction of

their chicken barn. Wouldn't have had a problem with one of the businesses, but now with the added traffic they are not in favor of the request.

3. Julie Spitznagle 5119 Sage Rd. Believes this has been a problem since 2018 and now there are semi's unloading, and you can't even pass without driving off the road. Since 2018 the roads have deteriorated and there's been additional traffic. She assumed there was already a home-based business. Questioned how many home-based businesses are allowed on a property. In addition to the roofing business there is also a deer business. Is not in favor of the request and believes there should be a fine.
4. Schrameyer, Christopher & Jamie – Is not in favor of the above request due to blocking of the road, the semi's parked on the road are a danger to the people that ride the bicycles on Sage Rd, and with the added traffic has caused air and noise pollution and excess wear and tear on their road.
5. A petition was signed against the above request due to excess traffic, and unsafe conditions for children, and a noise nuisance.
    a. Bonnie Salyer 6378 Sage Rd.
    b. Julie Spitznagle 5119 Sage Rd.
    c. Stacey Heying 5099 Sage Rd.
    d. Jamie Schrameyer 5170 Sage Rd.
    e. Chris Schrameyer 5170 Sage Rd.
    f. Fredrick Komon 5023 Sage Rd.
    g. Tena Komon 5023 Sage Rd.
    h. Rod Sarber 4954 Plymouth Laporte Tr.
    i. Rose Goncher 5061 Venita Dr.
    j. Bob Dunn 5061 Venita Dr.
    k. Ken Froechke 5080 Venita Dr.
    l. Sara Sarber 5242 Sage Rd.
    m. Jeff Sarber 5242 Sage Rd.
    n. Joyce Sarber 18568 Sixth Road
    o. Cindy Kaser 18796 5th Rd.
    p. Jake Kaser 18796 5th Rd.
    q. Ron Finchum 17622 Vine St.
    r. Sylvia King 18890 5th Rd.
    s. Chad King 18890 5th Rd.
    t. Rebecca Taberski 505 Venita Dr.
    u. Barbara Klinedinst 19245 5th Rd.
    v. David Klinedinst 19245 5th Rd.
    w. Tara Fulk 18609 5th Rd.
    x. Chad Fulk 18609 5th Rd.
    y. Clay Kobelt 18379 5th Rd.
    z. Kristina Klinedinst 505 Plymouth Laporte Tr
    aa. Wade Salyer 5378 Sage Rd.
6. Nelson, Naomi 18531 5th Rd. Believes the chicken barn that is in the works should be considered a commercial business. She thinks the regulations for A-1 zoned properties needs revised. Does not agree with this commercial business.
7. Klinedinst, David 19245 5th Rd. Their current building is already lowering the property values. This proposal should be in a commercial area. Against the request.

8. Carter, Sue & Ken 18400 5th Rd. After the chicken barn they are against the roofing business.

Mr. Hochstetler made a motion to close the public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

The board asked for more details on the Technical Review Committee's recommendation. This home-based business is small with a couple of employees and the business takes place elsewhere. Which is different than a home workshop.

The building that was built was permitted for storage and the deer business. The portion the barn is used for deer and the other portion is used for left over material storage.

When the violation went out the Stutzman's came into the office in a timely manner after and applied for the variance. Our normal protocol is to not fine unless the homeowner chooses not to come in and file for a variance.

The applicants didn't know they would need to reach out to people that they knew were in favor of their request.

Mr. Kepler made a motion to table the request to allow there to be a full board at the next meeting; seconded by Mr. Hochstetler. Motion carried to table the request.

Mr. Miller arrived at the beginning of case 24-BZA-23.

The second item of business was 24-BZA-23 BORKHOLDER, Eddie Ray & Diana - A request for a Special Use to allow a non-profit private remote control flying field; located at: 3 B Rd. (50-44-05-000-015-000-005) Bremen, IN German Twsp., Zoned A-1. Dennis Miller of Deep Rooted Excavating and Anthony Derosa 827 Greenmont Ct. Mishawaka President of the Green Nights Radio Control Club were present to represent the request of Eddie Ray Borkholder. Mr. Adley presented the findings of fact.

The applicant is seeking to allow you a nonprofit RC flying field that will be for a private RC airplane club. The airplane strip would be 30'x300'. There would be pits, parking and a carport to provide shelter.

The plan for the runway is to run east and west about 90' off the road.

The sky nights radio control club started in the late 60's. The field that was used was no longer available as it changed ownership. They follow FAA & AMA regulations and safety guidelines.

There will be little traffic. They look to have a couple fly ins that will possibly bring in 30'ish people maybe twice a year. There will be no flying on Sunday and the fly times are usually between 8:30-9 am and done before noon. The flight plan will be to fly north and stay within visual site range.

Mr. Hochstetler made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried

by acclamation.

1. Eddie Ray Borkholder 1459 3rd Rd. His sons fly remote-controlled planes, and the club approached him last fall. They have talked to area owners, and none have a problem with the request.

Mr. Hochstetler made a motion to close the public hearing, seconded by Mr. Miller. Motion carried by acclamation.

Mr. Kephart made a motion to approve 24-BZA-23 BORKHOLDER, Eddie Ray & Diana - A request for a Special Use to allow a non-profit private remote control flying field; located at: 3 B Rd. (50-44-05-000-015-000-005) Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 4-0.

The third item of business was 24-BZA-24 TROYER, Jacob & Naomi- A request for a Special Use to allow a 40'x44' residential addition to an existing barn to allow for a temporary second residence on the property; located at: 1657 3rd Rd. Bremen, IN German Twsp., Zoned A-1. Jacob Troyer of 1657 3rd Rd. Bremen was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to do a 40x44' addition onto an existing pole barn in order to take care of their elderly parents. The addition would require the creation of a new septic system and would need to comply with any and all residential codes. The same standards for specific family members should apply to this secondary residential unit.

The existing barn is being used for storage and a hobby shop.

During discussion the topic of splitting the parcel was addressed. Due to the layout of the existing buildings the plan director explained that wasn't an option.

The board expressed their concern about the increase of secondary residences to care for elderly family and how we keep track of them.

Mr. Kephart made a motion to open for public hearing, seconded by Mr. Hochstetler. Motion carried by acclamation.

1. Eddie Ray Borkholder - 1459 3rd Rd. Is in favor of the request and it's a good idea to take care of family.
2. Julie Spitznagle 5119 Sage Rd. Brought up a previous case and would like there to be consistency.

Mr. Miller made a motion to close the public hearing, seconded by Mr. Hostetler. Motion carried by acclamation.

Mr. Hostetler made a motion to approve 24-BZA-24 TROYER, Jacob & Naomi- A request for a Special Use to allow a 40'x44' residential addition to an existing barn to allow for a temporary second residence on the property; located at: 1657 3rd Rd. Bremen, IN German Twsp., Zoned A-1, with the condition that the use of the secondary residence be only used by Jacob & Naomi Troyer and once they no longer reside there that the secondary residence is to revert back to non-living space,

seconded by Mr. Miller. Motion carried with a voice vote 3-1 with Mr. Gustafson voting against.

If anyone different wants to live in the proposed structure they will have to come before this board and apply.

Other Business

2025 Proposed Board of Zoning Appeals Budget

Due to the increase in cost of printing and advertising the plan director proposed to triple that line in the budget.

The board was all in agreement with the proposed budget and increase in the printing and advertising line item.

Other Business

With no further business to come before the board the meeting was adjourned. Motion carried.

Respectfully submitted,

David Hostetler

July 9, 2024
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:00 p.m. on Tuesday, July 9, 2024, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Jim Kephart, David Hostetler, Trent Bennett and Matt Miller. Also present was Ty Adley Plan Director, Lori Lowry and interested parties.

Mr. Miller made a motion to approve the June 11, 2024, minutes, seconded by Mr. Hochstetler. Motion carried by acclamation.

The first item of business was 24-BZA-22 - STUTZMAN, Dennis & Becky - A tabled request for a Special Use to allow a home-based roofing business; located at: 5300 Sage Rd., Plymouth, IN Polk Twsp., Zoned A-1. Dennis & Becky Stutzman of 5300 Sage Rd. Plymouth were present to represent their request. Mr. Adley presented the findings of fact.

Energy Efficient Roofing is seeking to approve an existing roofing business at his residence that he and 4 other crew members operate. 3 of which are his sons. They park their trucks and trailers at his property when not in use at the jobsites. They store leftover material from completed jobs within a portion of their pole building. They expect to get 3-6 trucks per year on average to the house with all others being delivered directly to the jobsite. Hours of operation are from 7:00am to 5:00pm and any deliveries would generally be between 1:00 and 3:00pm. Mr. Stutzman and Energy Efficient Roofing has been registered in Marshall County since 2018.

Recommendation:
Based on the information provided and the scale of the business, Staff and TRC would recommend approval of the proposed home-based business.

Mr. Stutzman gave the background of the start of his roofing business. This business started at his home location in Bremen several years ago. They've been at this address for seven years.

Mr. Miller made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

1. Ryan Stutzman 5284 Sage Rd. Is a son of the applicant. Lives adjacent to this property. Is in favor as it's his way of living.
2. Rod Sarber 4954 Plymouth Laporte Tr Is opposed to the request. Believes ignorance is not an excuse. The road has always been paved and now its turning into a dirt road. Has a concern about trash.
3. Sarah Sarber 5242 Sage Rd Is opposed to the request because of

public safety. Adding a third business to this property increases truck traffic and affects health and safety.

4. Bonnie Salyer 6378 Sage Rd Is opposed to this request because of added traffic. Questioned where all the people were that were in favor.
5. Jamey Schraemyer 5170 Sage Rd Is opposed to this request. Safety concern of the drivers.
6. Julie Spitznagle 5119 Sage Rd Didn't know their business wasn't approved. Believes the road wasn't in this condition until their business started in driving their trucks in and out. How many more businesses will be allowed?

Letters

1. Sue Carter Is opposed to the request.
2. Paul Graber Have used and recommend their business. The road was in poor condition when the Stutzman's moved in.
3. A petition in favor of the applicant's request.
    a. Kari Stutzman 5300 Sage Rd.
    b. Christian Deisch 8448 Plymouth Laporte Tr.
    c. Jim Holderread 18738 5th Rd.
    d. Sandy Holderread 18738 5th Rd.
    e. Jeremy Cleveland 18483 5th Rd.
    f. Terry Harris 10360 E. 700 N. Walkerton
    g. Amy Cleveland 18483 5th Rd.
    h. Deat Miller 4947 French St.
    i. Katie Miller 4771 French St.
    j. Christine Miller 4947 French St.
    k. B? 4925 French St.
    l. Ryan Stutzman 5284 Sage Rd.
    m. Sovilla Stutzman 5284 Sage Rd.
    n. Steve Engle 5285 Spruce Tr
    o. Jeffrey Stutzman 5300 Sage Rd
    p. Melissa Stutzman 5300 Sage Rd.
    q. Oscar DeLaTorre 5159 Spruce Tr

Mr. Hochstetler made a motion to close the public hearing, seconded by Mr. Miller. Motion carried by acclamation.

Mr. Hochstetler made a motion to approve 24-BZA-22 - STUTZMAN, Dennis & Becky - A tabled request for a Special Use to allow a home-based roofing business; located at: 5300 Sage Rd., Plymouth, IN Polk Twsp., Zoned A-1 with the following stipulations:

1. **No unloading delivery trucks on the road.**
2. **No burning.**
3. **Move building materials so they aren't visible from the road.**

Motion seconded by Mr. Bennett. Motion carried with a voice vote 5-0.

The second item of business was 24-BZA-25 JORDAN, Jack - A request by Hope Jordan for a Variance of Use to allow property to be used for intermittent markets and events; located at: 10329 3rd Rd. Bremen, IN German Twsp., Zoned A-1. Hope Jordan of 3127 Sea Lane Bremen and Hope Amor 403

E. Plymouth St. Bremen was present to represent their request. Mr. Adley presented the findings of fac.t

The applicant is seeking to establish Thee Barn for use by various events including but not limited to Artisan Market, seasonal markets, and photography location. The use is currently not listed within the use table, so it is being sought under the variance of use category. Parking would be located to the East of the barn. The concern with staff on ADA matters from the outside is the grade change going up the existing mound to get into the upper floor of the barn. There are no permanent restroom facilities planned for the business and will contract port-o-potty facilities on an as needed basis. A one-time event was permitted as a trial and was attended per the applicant by 547 guests, 290 cars, 33 vendors, assisted by 17 volunteers and 1 police officer. Based on dimensions as presented by the applicant, over 40,000 sqft of indoor and outdoor vendor space which can fit approximately 40 vendors. Per the applicant there is sufficient parking for 178-207 parking spaces and for reference the total lot is 2.41 acres.

Recommendation
Based on the information provided and review by the Technical Review Committee, Staff and TRC would recommend approval of the proposed use of the barn provided that the frequency of events is clarified, and concerns of the neighbors are addressed.

The applicant stated that they are following all the requests from the board and believe it was a success. They would like to continue to make a positive impact on the community. Their desire is to have 5 events a year. The board commended the applicant for following the requirements set forth by the board.

Mr. Hochstetler made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

1. Nick Amor 403 E. Plymouth Their goal is to try to develop Marshall County with new opportunities. Has worked on the property and was involved in parking of cars. They have no intention to park cars in ground where they could get stuck.
2. Craig Sink 3896 3rd Rd. Was a volunteer assisting to park cars. Kept cars off the road. This is a good opportunity for the community.
3. Alex Givens 1021 W. Stock St. Worked the entrance. Received a lot of positive comments. The clean up was very fast and had multiple compliments from vendors. Everything was contained on the land.
4. Dawn Amor 67774 ? Lakeville Commented to the parking that if they lot was full they would have asked them to come back another time.
5. Nicole Walsinski 27218 SR 4 People don't normally linger at these events. They shop and go which allows for more open parking.
6. Todd Stuckman 2821 Fir Rd. A good event and found that all the boards requests were well received and helped it run smoothly.
7. Catara Murphy 10328 3rd Rd. Lives directly across the street from the event. This event negatively affected them with the 600 plus people and 300 plus cars. There was a loud generator on the north side of the circle drive right outside their front door. Live music inside the barn. Vehicles stopped along side the road talking to other

people. The traffic was backed up all day. Was an invasion of their privacy.

8. Cody Bartella 10328 3rd Rd. Has a concern for the safety of their animals.
9. Rebecca Mishler 2693 Kenilworth Questioned the difference on this request of markets and events? Is not in favor of the additional traffic. This request is disrupting their way of life. For generations neighbors have owned and farmed this area.
10. Wayne Mishler 2693 Kenilworth Is opposed to the request. He would like this area to be kept agricultural.
11. Kim Mishler 2560 Kenilworth Quoted several areas of the comprehensive plan where it states the county wants to protect its rural characteristics. Is concerned about the commercialization of this proposal and its possibility of growth. Is against the proposed request.
12. Andrew Mishler 2560 Kenilworth Would like to see the historical farmers in this area being defended. They don't want these events in their area.
13. Mark Marsh 2437 Kenilworth Raises hogs, livestock and crops. The proposed events are not part of the landscape of this area. Is opposed to the request because its not the lifestyle he wants.
14. David & Lisa Knepp 10990 5B Rd Doesn't believe this is the right location for these events. Farmers do add to the economic development of this area. Are there going to be any events during harvest time? Wants to protect the farmland.
15. Stan Murphy 1019 3B Rd Are the applicants going to continue to have the same amount of helpers at the events? Farm equipment isn't normally sitting still in the road they are used to move crops.

LETTERS

1. Allen Whittaker 3171 King Rd. Had a list of questions about the proposed events.
2. Kara Costa Email Letter in support of the artisan market. All in favor of supporting local businesses. Lives close to this property and didn't see any issues or disturbances. Supports this request.
3. Kailey Hacha 11242 3B Rd. Offering full support for the artisan market. They are a homeowner and neighbor to this property. Could tell the owners spent a lot of time organizing the event. Great for their community and in favor of these events.
4. Deb Gurtner Email Lives a couple miles away from the event and found it to be a successful event. Attended other events such as this and found it to be one of the best.
5. Benjamin & Courtney Hepler 9879 3rd Rd. East of said property. Is not in favor of the request. Believes that the homeowners will bear the brunt of the proposed changes.
6. Dawn Ullery Email Is opposed to the request. There were food vendors with loud generators and live music. It was unpleasant and loud. The additional traffic is disruptive and a safety hazard.
7. Jan & Mary Lee Gustafson 3440 Lilac Rd. In full support of the event. Impressed with the organization and seemed they went to great lengths to ensure safety for everyone. Events like this should be welcome to the area.
8. Troy & Carla Gurtner Email In support of the event as a local

neighbor. They see no ill repercussions to the event.

Mr. Hochstetler made a motion to close the public hearing, seconded by Mr. Miller. Motion carried by acclamation.

The dates for the proposed events haven't been set, but the plan by the applicant would be to work around fall harvest time and when the weather is not conducive.

Mr. Hochstetler made a motion to approve 24-BZA-25 JORDAN, Jack - A request by Hope Jordan for a Variance of Use to allow property to be used for intermittent markets and events; located at: 10329 3rd Rd. Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Miller with the following stipulations:

1. **Limit of five events per year**
2. **Generator protected and away from the road**
3. **No more than one event per month**

Motion denied with a voice vote 2-3.

Mr. Hochstetler made a motion to approve 24-BZA-25 JORDAN, Jack - A request by Hope Jordan for a Variance of Use to allow property to be used for intermittent markets and events; located at: 10329 3rd Rd. Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Miller with the following stipulations:

1. **Limit of four events per year**
2. **Generator protected and away from the road**
3. **No more than one event per month**

Motion denied with a voice vote 2-3 with Mr. Bennett, Mr. Kephart and Mr. Gustafson all voting against.

Mr. Miller made a motion to approve 24-BZA-25 JORDAN, Jack - A request by Hope Jordan for a Variance of Use to allow property to be used for intermittent markets and events; located at: 10329 3rd Rd. Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Hochstetler with the following stipulations:

1. **Limit of three events per year**
2. **Generator protected and away from the road**
3. **No more than one event per month**

Motion approved with a voice vote 3-2 with Mr. Bennett and Mr. Kephart voting against.

The third item of business was 24-BZA-26 HAYN, Dustin - A request for a Variance of Developmental Standard to reduce the side yard setback from the required 10'/10% to 2' in order to place a 14'x24' shed in the flattest area of the rear yard; located at: 14300 Nataka Trl., Plymouth, IN Center Twsp., Zoned L-1. Mr. Dustin Hayn was present to represent his request. Mr. Adley presented the findings of fact.

Mr. Gustafson shared that the applicant's family farmed his families ground a while ago and if there was any objection he would step down. There was no objection.

The applicant is seeking to place a 14x24' shed on their property and would like to place it 2' from

the property in order to take advantage of the most flat portion of their property. Therefore they are requesting to reduce the side yard setback from 10' to 2'. From the house the property slopes 34' to the lake over a distance of approximately 271'. The closer that structures gets to the property line the harder it gets to be able to maintain.

Recommendation
Based on the information provided and review by Technical Review Committee, Staff and TRC would recommend approval of a reduction of side yard setback from 10’ to 5’ due to the grade of the property.

The plan is to have someone come in and level the ground and bring in the pre-built shed onto the property. The purpose is to have extra room for personal storage. Due to the contours of the land this is the only location without having to bring in a bunch of fill dirt.

Mr. Hochstetler made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

1. Wayne & Diana England Neighbor to the east is in favor of the request

Mr. Kephart made a motion to approve 24-BZA-26 HAYN, Dustin - A request for a Variance of Developmental Standard to reduce the side yard setback from the required 10'/10% to 2' in order to place a 14'x24' shed in the flattest area of the rear yard; located at: 14300 Nataka Trl., Plymouth, IN Center Twsp., Zoned L-1, dies for a lack of a second.

Mr. Kephart made a motion to approve 24-BZA-26 HAYN, Dustin - A request for a Variance of Developmental Standard to reduce the side yard setback from the required 10'/10% to 2' in order to place a 14'x24' shed in the flattest area of the rear yard; located at: 14300 Nataka Trl., Plymouth, IN Center Twsp., Zoned L-1 with a stipulation:

1. **4’ from the side yard setback**

Seconded by Mr. Bennett. Motion carried with a voice vote 4-1 with Mr. Gustafson voting against.

The fourth item of business was 24-BZA-27 BASTARDO, Carlos & Debra - A request for a Variance of Developmental Standard to allow a 10x15' shed as a secondary before a primary, located at: Spear Trl, Culver (50-31-21-000-221-000-017) West Twsp., Zoned L-1. Mr. Carlos Bastardo was present to represent his request. Mr. Adley present the findings of fact.

The applicant is seeking to place a 10x15' shed on their property in order to store kayaks and other lake items out on the property and per the applicant this would "provide better aesthetics and better curb appeal". The applicant lives one parcel away from the subject parcel. There was a note made during the TRC meeting that there is a tile on the east side of the property that they will need to stay away from.

Recommendation
Based on the information provided and review by the Technical Review Committee, Staff and TRC would recommend approval of the proposed variance.

The applicant's house is adjacent to the lake and the vacant parcel is lakeside. The homeowner's association is greatly encouraging people to keep lake toys inside. So, he is wanting this building to keep all the yard supplies and lake toys stored inside.

Mr. Miller made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

1. Matt Pearish 12441 Spear Trl. This is a private subdivision and as of 2008 a secondary building cannot be put on before a primary. Is opposed to the request.
2. John Vandall 18157 Cherokee Trl Sent a letter and is opposed to this request.

Mr. Bennett made a motion to close the public hearing, seconded by Mr. Miller. Motion carried by acclamation.

There can be covenants and restrictions in subdivisions. Covenants and restrictions can be more restrictive than the county, but you cannot be less than. The HOA and county permitting are two separate things. If the board approves a request, then it's up to the HOA to enforce or approve on their end.

The applicant stated the restrictions refer to what Marshall County approves and his plan for his HOA filing is to do it after the Board of Zoning Appeals hearing.

The applicant has stated that he had two adjacent lots where the house is located. He combined those properties to build a stand-alone garage and abided by all the rules to combine them.

Mr. Hochstetler made a motion to approve 24-BZA-27 BASTARDO, Carlos & Debra - A request for a Variance of Developmental Standard to allow a 10x15' shed as a secondary before a primary, located at: Spear Trl, Culver (50-31-21-000-221-000-017) West Twsp., Zoned L-1, seconded by Mr. Kephart. Motion carried with a voice vote 4-1 with Mr. Gustafson voting against.

The fifth item of business was 24-BZA-28 TINKEL, Sheila – (TABLED)A request by Garrett Tharp to allow a property split that doesn't meet the 1 to 3 width to depth and allow 2 units per 5 acre density, located at: 5981 Quince Rd. Plymouth, IN Polk Twsp., Zoned A-1.

The sixth item of business was 24-BZA-29 HOUIN, Kenneth & Janet -A request for a Variance of Use to allow a small living area to be created in the existing barn when they are no longer able to do the stairs in their home and have family reside in the main residence to assist, for now they would like to use the area for friends and family to stay periodically; located at: 17671 13th Rd., West Twsp., Zoned A-1. Ken and Jan Houin 17671 13th Rd. Plymouth were present to represent their request. Mr. Adley presented the finding of fact.

The applicant is seeking to upfit a section of existing barn for residential use. Per the applicant the plan is to prepare for the future where their tri-level house will no longer suit their ability to get around and will need a more accommodating structure. For the time being, they would use it as a guest house for friends and family, until they make the transition into the barn and ideally a

family member or grandchild moves into the larger home. The parcel is 7 acres in size and is mainly wooded.

Recommendation
Based on the information provided and review by the Technical Review Committee, Staff and TRC would recommend approval of the proposal.

The existing barn already had a couple rooms and a bathroom that was heated and air conditioned. The intent is to fix up the existing proposed space and turn it into living space. The plan is to move into it when needed, but in the meantime the space will be used for family and friends.

Mr. Hochstetler made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

1. Christina Wright 16960 13th Rd. In favor of the request.
2. Martina Carillo 2348 Pranston St.S Bend Has a vacant lot on Lake Latonka. Doesn't have a problem with the request.
3. Form letters of approval were received by the following people:
    a. Marian Wynn 12831 Rose Rd.
    b. Jenny Tyler 12847 Rose Rd.
    c. Corey Tyler 12847 Rose Rd.
    d. Dave Underwood 17549 13th Rd.
    e. Tom Langdon 13227 Rose Rd.
    f. Gloria Watts 17599 13th Rd.
    g. Jason Peters 17686 13th Rd.
    h. Donna Wynn 12851 Rose Rd.
    i. Greg Wynn 12851 Rose Rd.
    j. Brenda Burroughs 15169 SR 17
    k. Debra Scott 17690 13th Rd.

Mr. Hochstetler made a motion to close the public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

Mr. Hochstetler made a motion to approve 24-BZA-29 HOUIN, Kenneth & Janet -A request for a Variance of Use to allow a small living area to be created in the existing barn when they are no longer able to do the stairs in their home and have family reside in the main residence to assist, for now they would like to use the area for friends and family to stay periodically; located at: 17671 13th Rd., West Twsp., Zoned A-1 with the following stipulation.

1. The building can be used as a guest house, but residing is for only Ken & Jan Houin. Seconded by Mr. Kephart. Motion carried by a voice vote 5-0.

The seventh item of business was 24-BZA-30 MARTIN, Ivan & Julia - A request for a Variance of Developmental Standard for a reduction of the 1,320' from one adjacent property owner to allow a confined feeding operation; located at: 8247 18th Rd. Argos, IN Walnut Twsp., Zoned A-1. Ivan & Julia Martin 8247 18th Rd. and Mike from Livestock Solutions 2967 S. Honeycreek Rd. Greenwood IN were present to represent their request. Mr. Adley presented the findings of fact.

Marshall County Board of Zoning Appeals
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The applicant is seeking to construct a confined feeding operation on their property at 8247 18th Road for pigs. The setback is set at 1,320' from non-participating residences. There is only one residence within this distance which is the residence to the immediate east at 1,035'. All other neighbors are greater than the minimum setback. Per the applicant the owner of the eastern property (Irvin and Susan Ramer) do not object to the variance being rejected. The barn is set to be 81x201' with a self-contained manure storage beneath the building. They will house up to 2,200 wean to finish pigs for approximately 50 weeks per year. They may also house up to 2,200 nursery pigs for approximately 12-16 weeks per year. The owner has 2 -10 acre properties that total 20.02 acres. Due to the size of the structure a drainage plan will be required.

Recommendation
Based on the information provided and review by the Technical Review Committee, Staff and TRC would recommend approval of the proposed.

What is proposed is a Confined Feeding Operation that does require a IDEM permit which will be submitted later in the week. Included in the permit is also a double stock of baby pigs 0-55 pounds for a portion of the year. This isn't consistent. The proposal is 2,200 wean to finish pigs at 12-15 lbs and finish out at 280-300 lbs. Two groups of pigs per year. It typically takes two weeks to load up and remove and just a couple days to deliver. Feed delivery could run from one every two weeks to twice a week as they get bigger.

Irvin & Susan Ramer lives on the property where the barn will be located. The applicants will be building in the woods which will probably be less than the 1,320. The manure storage will be below the building. The building will be pumped once to twice a year. Most of the manure will be spread within a couple miles of the property. Their industry standard is to have fans on the sides.

Mr. Miller made a motion to open for public hearing, seconded by Mr. Hochstetler. Motion carried by acclamation.

1. Marilyn Calhoun 8599 18th Rd. Is opposed to the request. There is an open ditch that runs through this area. Area property owners have had their water tested and has levels of e-coli. Concerned about the ditch, the water table and the water quality.
2. Patricia Moore 17763 Juniper Rd. Is opposed to the request.
3. Audrey John Reichert 8590 18th Rd. Is opposed to the request. There are several feeding operations in less than a mile. If this request passes this board and goes to IDEM, she stated "Their concerns are dead in the water." Also, doesn't believe they meet the findings of fact, general welfare. Doesn't believe the county setback from a CAFO is enough.
4. Cathy Strycker 8470 19th Rd. Is opposed to the request. Would like to keep the area a small rural community. Doesn't want this commercial operation.
5. Monica Weaver 17511 Hickory Rd. Is opposed to the request. Where is the manure going?
6. John Davis 8451 18th Rd. Is opposed to the request. Is tired of smelling all of the manure.

7. Irvin Ramer 18325 Ironwood Rd. Has lived 300' from a hog barn and when the wind comes from the north they do smell some, but doesn't believe it's a detriment to their quality of life.
8. Angie Thomas 18300 Michigan Rd. Is opposed to the request. Hasn't heard anything about this request before the meeting. Has a child with asthma.
9. Hobert Stevens 17605 Juniper Rd. Is opposed to the request. Is a mile from the request. Currently does smell what's already there. This will affect property values.
10. Irvin Ramer 18325 Ironwood Rd. Sent a letter. In favor or the request and doesn't feel it will have a negative impact on our property.
11. A petition against the request
    a. Lowell Hall
    b. Judy Hall
    c. Statia Scaife
    d. Cody Scaife
    e. Justin Hall
    f. Rhonda Miller
    g. Valerie Moore
    h. Kyle Kreft
    i. Celina Kreft
    j. Michael Biery
    k. Shannan Biery
    l. John Reichart
    m. Audrey Reichart
    n. Allen Earl
    o. Luellen Earl
    p. Rick Hollar
    q. Carl Smith
    r. Marti Smith
    s. Monica Weaver
    t. Bryan Weaver
    u. John ?
    v. Beth Davis

Mr. Miller made a motion to close the public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

The manure will be distributed to David Stultz and will have to be approved by IDEM before a permit is even issued.

Mr. Hochstetler made a motion to deny motion died.

Mr. Hochstetler made a motion to deny<u>24-BZA-30 MARTIN, Ivan & Julia -</u> A request for a Variance of Developmental Standard for a reduction of the 1,320' from one adjacent property owner to allow a confined feeding operation; located at: 8247 18th Rd. Argos, IN Walnut Twsp., Zoned A-1, seconded by Mr. Kephart. Motion carried to deny 3-1 with Mr. Miller voting against.

The eighth item of business was 24-BZA-31 MARK, Dennis - A request for a Special Use to allow a home-based fencing business; located at: 13313 Juniper Rd. Argos, IN Center Twsp. Zoned A-1. Mr. Miller of 13313 Juniper Rd. Argos was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to relocate his existing fencing business to the property and be able to store a few items at his home property. The business is typically 8-5 with generally 3 employees that normally go straight to the job site. There would be approximately 1-4 deliveries per month. A lean to would be for equipment storage to keep it out of the weather. The property is 1 acre.

Recommendation
Based on the information provided and review by the Technical Review, Staff and TRC would permit the proposed setback reduction.

The applicant took over the business from his father. He would now like to run the business from his property to save time a fuel from running back and forth. Talked the neighbor who farms the adjacent property and he didn't have a problem. The plan is to have 3 employees which drive direct to the jobsite. The existing barn will be used for extra supplies needed and the proposed building will be used to keep equipment out of the weather.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation.

1. Tom Wickey Tom Wickey Represents the Bitting property that is adjacent to the property. Had questions about the distance of the proposed barn and how much in and out traffic. Will the property be fenced and will there be delivery trucks?

Mr. Bennett made a motion to close the public hearing, seconded by Mr. Kephart. Motion carried by acclamation

There will be no foot traffic to the property. He goes to the specific property to measure and comes back home. There would be little to no deliveries. If the applicant needs something for a job he goes and picks it up. All other materials are delivered to the jobsite. There is also no plans for new fencing on the property. His plan is to keep the property neat and tidy. He would like to have a fence and will abide by the regulations.

Mr. Miller made a motion to approve 24-BZA-31 MARK, Dennis - A request for a Special Use to allow a home-based fencing business; located at: 13313 Juniper Rd. Argos, IN Center Twsp. Zoned A-1, seconded by Mr. Hochstetler. Motion carried with a voice vote 5-0.

The ninth item of business was 24-BZA-32 MARK, Dennis - A request for a Variance of Development Standard to allow an 18'x42' lean to 5' from the side property line; located at: 13313 Juniper Rd., Argos, IN Center Twsp., Zoned A-1. Mr. Dennis Mark of 13313 Juniper Rd. Argos was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a 18x42' lean to in order to store equipment for home-based business. In order to make the most of the property he is seeking to reduce the side and rear yard

setbacks. The side yard setback requirement is 15' and rear yard setback is 20' and they are both proposed to be reduced to 5'.

Recommendation
Based on the information provided and review by the Technical Review, Staff and TRC would permit the proposed setback reduction.

The applicant stated that if he had to meet the requirements the lean to would be out in the middle of the lot where he needs to turn around and load and unload equipment. In addition his property has been surveyed and there are stakes in the ground showing accurate property lines.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation.

1. Tom Wickey 12990 Ironwood Rd. Represents the Bitting property that is adjacent to the property. Would like to see the setback 7 – 10'.

Mr. Miller made a motion to open for public hearing, seconded by Mr. Hochstetler.

Mr. Miller made a motion to approve 24-BZA-32 MARK, Dennis - A request for a Variance of Development Standard to allow an 18'x42' lean to 7' from the property lines; located at: 13313 Juniper Rd., Argos, IN Center Twsp., Zoned A-1, seconded by Mr. Hochstetler. Motion carried with a voice vote 5-0.

Other Business

With no further business to come before the board the meeting was adjourned. Motion carried.

Respectfully submitted,

David Hostetler

August 13, 2024
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:00 p.m. on Tuesday, August 13, 2024, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, David Hostetler, Trent Bennett and Matt Miller. Also present was Lori Lowry representative from the Plan Commission and interested parties. Member Jim Kephart was absent.

Mr. Miller made a motion to approve the July 9, 2024, minutes, seconded by Mr. Bennett. Motion carried by acclamation.

Mr. Gustafson explained to the audience that since there are only three board members in attendance all three board members will need to vote in favor of the request for it to be approved. There is an option to request the case be tabled until the next meeting.

The first item of business was 24-BZA-28 TINKEL, Sheila –A request by Garrett Tharp to allow a property split that doesn't meet the 1 to 3 width to depth and allow 2 units per 5 acre density, located at: 5981 Quince Rd. Plymouth, IN Polk Twsp., Zoned A-1. Ms. Sheila Tinkel of 5981 Quince Rd. and Garrett Tharp of 901 Ferndale St. was present to represent their request. Mrs. Lowry presented the findings of fact.

The applicant is seeking to subdivide their family property that is 5 acres with a ditch (Emma Mishler) that runs relatively through the middle of it. The plan is to divide the property relatively in line with the ditch. The lots would be more or less 140/180' by 660'+/- and would be at a density of 2 units per 5 acres. The County Ditch and tile both have associated setbacks and will need to meet the other associated development standards. This would include any Drainage Board approval if there is proposed development within the ditch/tile setbacks.

RECOMMENDATION
Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed variance.

The applicant plans to move into town and has two grandsons that would like to split the property in two. One would retain the existing house and the other to build a new house.

Mr. Benett made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation.

1. TJ Hurford 6126 Queen Rd. Is not for or against the request. Only wanted to let everyone know there is a 75' work easement on both sides of the ditch and tile.

Mr. Miller made a motion to close the public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

Mr. Tharp stated that he's looking to build approximately where the trailer is at on the property and plans to abide by the building requirements.

Mr. Bennett made a motion to approve, seconded by Mr. Miller. Mr. Gustafson was not in favor of splitting the parcel that small, but suggested tabling until then next hearing.

Mr. Bennett made a motion to table the request to September 10th, seconded by Mr. Miller. Motion carried by acclamation.

The second item of business was 24-BZA-33 YUTZY, John -A request for a Special Use to allow a dog kennel; located at: 1899 Beech Rd. Nappanee, IN German Twsp., Zoned A-1. Mr. John Yutzy of 1899 Beech Rd. was present to represent his request. Mrs. Lowry presented the findings of fact.

The applicant has a dog kennel and is seeking to permit the business with 15 females and 2 males. They would estimate 18 litters per year. Per the applicant the written protocol will be in place to have all dogs up to date on all vaccines, wormer, flea and tick control, and will be examined daily by him and yearly by a veterinarian or if any problems come up the veterinarian will be called right away. The facility will be USDA approved.

RECOMMENDATION
Based on the information provided and review by the Technical Review Committee, staff and TRC recommended approval.

The applicant said "he got the cart before the horse" and renovated the existing building two and a half years ago, added the dog kennels and then brought in the dogs without approval. He's wanting to make it right to get approval. Currently there are 5 adults and two smaller dogs. The breed of dog is called Dogue De Bordeaux which is a french mastiff. The plan isn't to increase the number of dogs to sell. His desire is to raise good quality dogs while increasing the numbers little by little.

Mr. Yutzy contacted Nancy at the Humane Society, and her opinion was that we didn't need any more kennels.

The people that Mr. Yutzy sells to are from the south and most dogs are kept for pets. His plan is to allow the dogs to have six litters and after that they are re-homed. All retired dogs go to Dr. Cats in Zionsville.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation.

1. Joline Binns 1842 Beech Rd. Nappanee Lives across the street. Had a concern about barking; however, believes that Mr. Yutzy takes wonderful care of his dogs and keeps a very tidy kennel. Other kennels have given most kennels a bad reputation.
2. Cindy Scott 1421 Beech Rd. Nappanee Lives a ¼ mile north. Has visited the property and was impressed how spotless it was. Believes he is trying to do things right.

Mr. Miller made a motion to close the public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

The dogs do bark some and sometimes when the horses are out in the pasture, they do bark a little more then. There is another fenced area that the dogs can be put in that could lower the noise and he agreed to do that right away. There is also a possibility of putting up some fencing that would face the neighbors across the street.

His desire isn't to jump to 15 dogs right away and may not ever get to that. He only wants to have a good facility and cared for dogs.

Mr. Miller made a motion to approve 24-BZA-33 YUTZY, John -A request for a Special Use to allow a dog kennel; located at: 1899 Beech Rd. Nappanee, IN German Twsp., Zoned A-1, allowing seventeen adult dogs seconded by Mr. Bennett. Motion carried with a voice vote 3-0.

Mr. Hochstetler arrived after the Yutzy case.

Mr. Yutzy was informed that his request was only for approval of the kennel. Because he has residences less than 600' from his kennel he will need a variance for that as well.

The third item of business was 24-BZA-34 LAVINE ENTERPRISES LLC - A request for a Variance of Use to allow the expansion of their restoration building; located at: 1351 Beech Rd., Nappanee, IN 46550 German Twsp., Zoned A-1. Mr. Lavern Burkholder of B & B Roofing and Construction was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to expand one of their existing storage buildings in order to store more and create more space for servicing their vehicles. The expansion of the property has already occurred through surveying work and permits are pending application depending on the outcome of this zoning case. The business has been in place for nearly 50 years and has received approval for additional expansion within the last 5 years.

RECOMMENDATION
Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposal.

The applicant restores elite cars from all over the world to be restored. He would like to expand his building to service and store their vehicles.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation.

1. Cindy Scott 1421 Beech Rd. Nappanee Neighbor who is in favor of the request. They keep the property well maintained and doesn't have a problem with their request.

Mr. Miller made a motion to close the public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

Mr. Hochstetler made a motion to approve 24-BZA-34 LAVINE ENTERPRISES LLC - A request for a Variance of Use to allow the expansion of their restoration building; located at: 1351 Beech Rd., Nappanee, IN 46550 German Twsp., Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 4-0.

The fourth item of business was 24-BZA-35 ZIOLA, James - A request for a Variance of Use to allow a one-time small music festival event on their property; located at: Olive Rd. (50-42-07-000-002-004-009), North Twsp., Zoned A-1.

The applicant wasn't present to represent their request. Mr. Hochstetler made a motion table this request until the end of the meeting, seconded by Mr. Miller.

The applicant wasn't present to represent their request. **Mr. Miller made a motion to table the request until September 10th, seconded by Mr. Bennett. Motion carried by acclamation.**

The fifth item of business was 24-BZA-36 PEUQUET, Peter & Vickie - A request for a Variance of Developmental Standard to allow an increase in front yard hedge height from 3 1/2' to 30'; located at: 3295 Lake Shore Dr., Bremen, IN German Twsp., Zoned L-1. Mr. Peter Peuquet of 3295 Lakeshore Dr. was present to represent their request. Mrs. Lowry presented the findings of fact.

The applicant is seeking to permit the existing hedge row that exceeds the fencing standards. Per the applicant, the previous owner planted the hedges in 1980 and have been maintained by the property owner and NIPSCO. The request is before you due to a collection of violations being turned in by neighbors on each other.

RECOMMENDATION
Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of permitting the hedges.

These arborvitae trees were planted 30-40 years ago and have since been maintained by the applicant for the past twenty years and the utility company maintains some of the tops of them, so they don't interfere with their lines.

Several years ago there was a fire lane easement adjacent to him that wasn't kept up. The applicant has taken it upon himself to maintain it for the residents in the area to have access to the lake. This easement is no longer used for a fire lane easement. Just the enjoyment for the residents.

Mr. Hochstetler made a motion to open for public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

1. Terry Holderman and Ashlyn 8606 Addison St. Bremen Lives across the street. He used to have visibility of the lake and no longer does. The shrubs have now grown into the access to the lake by 10' plus. Mr. Miller the original property owner who planted the shrubs stated that those shrubs would never be over 3' tall. Has a concern about the transformer and the shrubs growing into it and fire safety. The shrubs have been overgrown ever since the applicant owned the property. Has talked to the applicant about it and called the county several times and nothing seems to get done. They would like to see the lake again.
2. Fred & Laura Anderson 3291 Lakeshore Dr. Bremen Received an email in support of the applicant. Lives next to the applicant and appreciates the hedge as it is well maintained and it has never been an issue.
3. Tom Evans 3281 Lakeshore Dr. Bremen Received a letter and lives two houses down from the applicant. The shrub is well maintained and does not create a blind spot for traffic. Believes the shrubs add to the curb appeal.

Mr. Miller made a motion to close the public hearing, seconded by Mr. Hochstetler. Motion carried by acclamation.

Mr. Peuquet gave a picture to the board of the layout of his property. When the front line of the shrubs were taken out due to a disease it cost over $10,000. If the ones on the easement were to be taken out it would cost probably $8,000. With the number of arborvitae and maple trees removed it is even more open. He has no desire to remove the arborvitae.

During discussion the board discussed their views and also a concern that they didn't know if there is actually a loss of view.

Mr. Bennett made a motion to table <u>24-BZA-36 PEUQUET, Peter & Vickie -</u> A request for a Variance of Developmental Standard to allow an increase in front yard hedge height

from 3 1/2' to 30'; located at: 3295 Lake Shore Dr., Bremen, IN German Twsp., Zoned L-1 to allow the board time to visit the site, seconded by Mr. Hochstetler. Motion carried by acclamation.

Other Business

With no further business to come before the board the meeting was adjourned. Motion carried.

Respectfully submitted,

David Hostetler

September 10, 2024
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:00 p.m. on Tuesday, September 10, 2024, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, David Hostetler, Trent Bennett, Jim Kephart, and Michelle Mieras. Also present was Ty Adley, Marshall County Plan Director, Lori Lowry and interested parties.

The minutes approval was deferred to the October 8th meeting.

The first item of business was 24-BZA-28 TINKEL, Sheila –A request by Garrett Tharp to allow a property split that doesn't meet the 1 to 3 width to depth and allow 2 units per 5 acre density, located at: 5981 Quince Rd. Plymouth, IN Polk Twsp., Zoned A-1. Ms. Sheila Tinkel of 5981 Quince Rd., Kayla Tharp and Charles Tharp were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to subdivide their family property that is 5 acres with a ditch (Emma Mishler) that runs relatively through the middle of it. The plan is to divide the property relatively in line with the ditch. The lots would be more or less 140/180' by 660'+/- and would be at a density of 2 units per 5 acres. The County Ditch and tile both have associated setbacks and will need to meet the other associated development standards. This would include any Drainage Board approval if there is proposed development within the ditch/tile setbacks.

RECOMMENDATION
Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed variance.

The applicants are planning to build on the western property at or near where the old trailer was. The is an existing entrance from 6th Road.

The board discussed the difference of splitting a parcel with the acreage requirement and the density rule.

Mr. Hochstetler made a motion to open for public hearing, seconded by Ms. Mieras. Motion carried by acclamation.

1. Jan Wagoner 5731 Quince Rd. In favor of the request and feels they the applicants will keep the property well maintained. Appreciate the fact that the property is family owned and would like to keep it in the family.
2. Steve Listenberger 5731 Quince Rd. No complaints with the applicant's request. It is a great family. Other neighbors are in favor as well.
3. Mark Woolever 5825 Quince Rd. Doesn't have a problem with the applicants moving in. They only have a concern with the water and a septic system too close to the property could bring pollution to the water.
4. Tim Swihart 16094 6th Rd. No problems with the neighbors and their request.
5. Andrea Small Has no problem with the request.
6. Elizabeth Woolever 5825 Quince Rd. Don't want to cause any problems, but has a concern about having two septic systems on a small property. It could create problems to the water.

Mr. Hochstetler made a motion to close the public hearing, seconded by Ms. Mieras. Motion carried by acclamation.

Ms. Mieras made a motion to approve 24-BZA-28 TINKEL, Sheila –A request by Garrett Tharp to allow a property split that doesn't meet the 1 to 3 width to depth and allow 2 units per 5 acre density, located at: 5981 Quince Rd. Plymouth, IN Polk Twsp., Zoned A-1, seconded by Mr. Hochstetler. Motion carried with a voice vote 4-1 with Mr. Gustafson voting against.

The second item of business was 24-BZA-35 ZIOLA, James - A request for a Variance of Use to allow a one-time small music festival event on their property; located at: Olive Rd. (50-42-07-000-002-004-009), North Twsp., Zoned A-1.

Due to standing water on the property the applicant has asked to dismiss their request. Motion carried by acclamation.

The third item of business was 24-BZA-36 PEUQUET, Peter & Vickie - A request for a Variance of Developmental Standard to allow an increase in front yard hedge height from 3 1/2' to 30'; located at: 3295 Lake Shore Dr., Bremen, IN German Twsp., Zoned L-1. Mr. Peter Peuquet of 3295 Lakeshore Dr. and Attorney, Steven Snyder were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to permit the existing hedge row that exceeds the fencing standards. Per the applicant, the previous owner planted the hedges in 1980 and have been maintained by the property owner and NIPSCO. The request is before you due to a collection of violations being turned in by neighbors on each other.

RECOMMENDATION
Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of permitting the hedges.

ADDITIONAL INFORMATION The proposal in front of the BZA is solely in relationship to the existing hedge on the east and south sides of the property. The current ordinance in reference to fences hedges and walls reads in part as: "1. No fence, hedge, or wall may exceed three- and one-half feet in height; 2. A fence, hedge, or wall shall have at least 75% of its surface area open to permit visibility." This is different than the original 1974 ordinance that indicated in part "no fence or wall shall exceed3 1/2 feet in height, nor shall it have less than 75% of its surface open to permit visibility". The fencing section remained unchanged until the Zoning Ordinance rewrite in 2007

After reaching out to an arborist at Purdue Extension they believes the difference between shrubs and trees is a grey area. The species that is planted is more towards a tree row.

Attorney Sniders opinion is that this concern is a non-conforming use based on our ordinance. They have a letter from Denny Miller the son of the people that planted the trees in 1984-1985 along with pictures from years ago. The ordinance at that time stated that fences, walls and hedges were allowed in the side and front yard at that time. It also went on to say that they only regulate walls and fences. It didn't say anything about hedges until the 2007 zoning ordinance re-write. Making their trees a non-conforming use. These are trees and not a hedge. Attorney Snider offered sitings from many cases. One being that riparian owners do not have a right to a view of the water.

Mr. Bennett's view is that a hedge isn't a specific type of plant, but a row of shrubs or trees.

Mr. Hochstetler made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

1. Joe Skelton 3329 Lakeshore Dr. Bremen Has no problem with the hedge.
2. Terry & Penny Holderman 8606 Addison St. Bremen They are lifelong residents and for the past 15-20 years have not had a vision of the lake. When they were planting that owner said that he would keep them trimmed and they wouldn't loose vision of the lake. They have asked for years for the shrubs to be cut down. Asking that the shrubs be cut down so that they can see the lake. More trees/shrubs have been planted on the easement is that legal?
3. Tom Evans 3281 Lakeshore Dr. Bremen Doesn't have a problem with this hedge that has probably been there for over 30 years.
4. Fred Anderson 3291 Lakeshore Dr. Bremen Writing in support of the request of the existing hedge height.
5. Tom Evans 3281 Lakeshore Dr. Bremen Writing in support of the hedge. Has no problems with keeping it.

Mr. Hochstetler made a motion to close the public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

Attorney Snider stated that they are only there to dispute the issue of the shrubs/trees and if they are a non-conforming use during the years 1984-1985 when they were planted. There are differing opinions whether it is a tree or a hedge, but they contend that they are trees and follow the arborist's opinion.

Mr. Adley concurred that the planting of the trees took place before the ordinance explicitly said "hedge". Therefore, it would be considered a legal non-conforming use/structure.

Mr. Hochstetler made a motion to approve 24-BZA-36 PEUQUET, Peter & Vickie - A request for a Variance of Developmental Standard to allow an increase in front yard hedge height from 3 1/2' to 30'; located at: 3295 Lake Shore Dr., Bremen, IN German Twsp., Zoned L-1, with a stipulation to designate the hedge as a legal non-conforming use, seconded by Mr. Bennett. Motion carried with a voice vote 4-1 with Ms. Mieras voting against.

Mr. Hochstetler excused himself from the remainder of the meeting.

The fourth item of business was 24-BZA-37 GALLARDO, Jesus & Rosa - A request for a Variance of Use to allow landscaping business equipment to be stored at their family's property; located at: 20985 12th Rd. Plymouth, IN West Twsp., Zoned A-1. Jesus & Rosa Gallardo of 1006 W. Washington St. and Javier Gallardo were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to receive approval of their landscaping company to store materials and equipment on the property with hours being Monday to Friday 7am to 6pm. They currently rent the property but have determined this is the best location for them to store equipment and materials. Typically, similar uses are home based businesses which are run as a special use, but since the owner does not live on the premise, they needed to follow a variance of use.

RECOMMENDATION Based on the information provided, staff and TRC would recommend approval with conditions setting the # of employees, how materials are disposed and extent of the business.

The family has a small family business that they would like to store material for upcoming jobs. This property is used as a rental which is why it requires a Variance of Use rather than a home-based business. The materials being stored are pavers, decking, landscaping timbers and (2) trailers. There will be no trash left on the premises and no sales at this property. All business is done online or at the customer's site.

Ms. Mieras made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation. There being nobody to speak for or against, Ms. Mieras moved and Mr. Kephart seconded the motion to close the public hearing.

Ms. Mieras made a motion to approve 24-BZA-37 GALLARDO, Jesus & Rosa - A request for a Variance of Use to allow landscaping business equipment to be stored at their family's property; located at: 20985 12th Rd. Plymouth, IN West Twsp., Zoned A-1, seconded by Mr. Kephart. Motion carried with a voice vote 4-0.

The fifth item of business was 24-BZA-38 BORKHOLDER, Vonda - A request for a Variance of Developmental Standard to allow a Confined Feeding Operation - Pullet Barn, that does not meet the 1,320' residential setback for five residences; located at: Beech Rd. Nappanee, IN (50-54-21-000-016-000-005) German Twsp, Zoned A-1. Ms. Vonda Borkholder, Dwight & Kevin Borkholder of 781 Plymouth Laporte Tr., Nappanee were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a CFO (Confined Feeding Operation) double layer barn for poultry within the prescribed 1,320' from the nearest adjacent residence. The proposed structure is too close to 5 residences which have separations of 560', 620', 746', 944', and 1129'. The Double Pullet Barn is proposed to be 52x540' with pasture on the North and South sides of the building. Manure storage would be located in between the two buildings. The 5 residential neighbors (Keith and Mary Borkholder (668 Beech Road), David and Doris Hochstetler (703 Beech Road), Willis and Freida Borkholder (634 Beech Road), Jerry and Alma Helmuth (570 Beech Road), and Jonathan and Sharon Helmuth 536 Beech Road)) have signed in support of the project. *Update: Per the additional information provided by Agronomic Solutions, the operation will not be identified as a CAFO (Concentrated Animal Feeding Operation). A CAFO is identified when there are greater than 125,000 pullets with a solid manure handling system, the proposed project would have 2 layers of 50,000 each for a 100,000 total hens. The applicant will be required to receive IDEM approval prior to a building permit. The project was previously approved in 2023, but did not act on its approval within the allotted time and had to return to the BZA for approval again.

RECOMMENDATION Based on the information provided and review by staff, the staff would recommend approval of the project.

The applicant stated that the type of barn has changed from before to be a pullet barn instead of a layer. The difference is the birds will be changed out every sixteen weeks.

Ms. Mieras made a motion to open for public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

1. The following form letters were received in approval.
    a. Jonathan & Sharon Helmuth 536 Beech Rd.
    b. Keith & Mary Borkholder 668 Beech Rd.
    c. David & Doris Hochstetler 703 Beech Rd.
    d. Willis & Freida Borkholder 634 Beech Rd.
    e. Jerry & Alma Helmuth 570 Beech Rd.

Mr. Kephart made a motion to close the public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

Mr. Bennett made a motion to approve 24-BZA-38 BORKHOLDER, Vonda - A request for a Variance of Developmental Standard to allow a Confined Feeding Operation - Pullet Barn, that does not meet the 1,320' residential setback for five residences; located at: Beech Rd. Nappanee, IN (50-54-21-000-016-000-005) German Twsp, Zoned A-1, seconded by Mr. Kephart. Motion carried with a voice vote 4-0.

The sixth item of business was 24-BZA-39 STEVENS, Sherman & Linda - A request for a Variance of Developmental Standard to allow a reduction in lot density to allow two lots of 2 1/2 acres each; located at: 8th Rd. Bourbon, IN (50-44-32-000-014-000-001) Bourbon Twsp., Zoned A-1. Linda of 2037 8th Rd., Adam 106 S. Washington St. and Matthew Stevens 8122 Cedar Rd. were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to subdivide a 5-acre parcel into 2 pieces for their grandchildren. The lot is approximately 350'x650'. There are no environmental features that make the property unique.

RECOMMENDATION Based on the information provided and review by staff, staff would recommend denial of the proposal.

Due to the applicant's ability to take care of the property they would like the ability to split the property in two and sell it to two grandchildren.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

1. Sherman Stevens In favor of the request.

Mr. Bennett made a motion to close the public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

Ms. Mieras made a motion to approve 24-BZA-39 STEVENS, Sherman & Linda - A request for a Variance of Developmental Standard to allow a reduction in lot density to allow two lots of 2 1/2 acres each; located at: 8th Rd. Bourbon, IN (50-44-32-000-014-000-001) Bourbon Twsp., Zoned A-1, seconded by Mr. Bennett. Motion carried with a voice vote 3-1 with Mr. Gustafson voting against.

The second item of business was 24-BZA-33 YUTZY, John - A request for a Special Use to allow a dog kennel; located at: 1899 Beech Rd. Nappanee, IN German Twsp., Zoned A-1. Mr. John Yutzy of 1899 Beech Rd. was present to represent his request. Mr. John Yutzy of 1899 Beech Rd. was present to represent his request. Mr. Adley presented the findings of fact.

The applicant has a dog kennel and is seeking to permit the business with 15 females and 2 males. They would estimate 18 litters per year. Per the applicant the written protocol will be in place to have all dogs up to date on all vaccines, wormer, flea and tick control, and

will be examined daily by him and yearly by a veterinarian or if any problems come up the veterinarian will be called right away. The facility will be USDA approved.

RECOMMENDATION
Based on the information provided and review by the Technical Review Committee, staff and TRC recommended approval.

Talked to neighboring property owners except one across the street as they are gone a lot. There wasn't a concern from the neighbors.

Mr. Kephart made a motion to open for public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

1. Jolene Binns Neighbor Received an email and would only support a conditional approval. 1. Raising only this breed; 2. He continues to keep the dogs in clean, adequate conditions with good medical care; 3. The dogs are allowed outside exercise without becoming a barking nuisance, 4. His retired breeders are neutered and rehomed 4. The local Humane Society is allowed access to his kennel without prior warning also planning commission requirement.
2. Agreed to the Yutzy's dog kennel at 1899 Beech Rd. Lavern/Rose Yutzy, Lyle/Linda Hochstetler, Nate Miller, and John/Jolene Binns

Ms. Mieras made a motion to close the public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

Mr. Bennett made a motion to approve <u>24-BZA-33 YUTZY, John -</u> A request for a Special Use to allow a dog kennel; located at: 1899 Beech Rd. Nappanee, IN German Twsp., Zoned A-1, seconded by Ms. Mieras. Motion carried with a voice vote 4-0.

<u>Other Business</u>

When making the 2025 calendar the Mr. Gustafson asked that July's meeting be pushed from the 8th to the 15th due to the 4-H Fair.

With no further business to come before the board the meeting was adjourned. Motion carried.

Respectfully submitted,

David Hostetler

October 8, 2024
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:00 p.m. on Tuesday, October 8, 2024, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Jim Kephart, and Michelle Mieras. Also present was Ty Adley, Marshall County Plan Director, Lori Lowry and interested parties. Members absent were Dave Hochstetler and Trent Bennett.

Mr. Miller made a motion to re-approve the minutes of the July 9, 2024, meeting, due to the vote count being off on one case, seconded by Mr. Kephart. Motion carried by acclamation.

Mr. Miller made a motion to approve the minutes of the August 13, 2024, meeting, seconded by Mr. Kephart. Motion carried by acclamation.

Mr. Miller made a motion to approve the minutes of the September 10, 2024, meeting, seconded by Mr. Kephart. Motion carried by acclamation.

The first item of business was 24-BZA-41 DENK, Brian & Kathy - A request by WA Zimmer Co for a reduction in lakeside setback from the required 45' to 10' from the flood plain line and a reduction in side yard setback from the required 10'/10% lot width to 6'; located at: 9043 Birch Dr. Bremen, North Twsp., Zoned L-1. Mr. Brian Dink of 9043 Birch Dr. Bremen and Aaron of WA Zimmer was present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct an addition on the rear side of their house on top of an existing concrete patio. The associated building permit is for "13' x 20' patio cover attached to rear house setting on new concrete post and piers". The patio is approximately 45' from the lake/lot line and the majority of that space is encumbered by the floodplain. The improvement would be approximately 10' from the floodplain as requested.

RECOMMENDATION Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval

The plan is to put a roof over the existing patio along with patio screens.

Mr. Miller made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation. There being nobody to speak for or against, Mr. Miller moved and Mr. Kephart seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Miller made a motion to approve 24-BZA-41 DENK, Brian & Kathy - A request by WA Zimmer Co for a reduction in lakeside setback from the required 45' to 10' from the flood plain line and a reduction inside yard setback from the required 10'/10% lot width to 6'; located at: 9043 Birch Dr. Bremen, North Twsp., Zoned L-1, seconded by Mr. Kephart. Motion carried with a voice vote 3-0.

The second item of business was 24-BZA-42 BORKHOLDER, Eddie Ray & Diana - A request for a Variance of Use to allow an existing building to used for a warehouse/office for retail, call-in & mail order company that sells seed, herbicides, trail cameras, scents, and other deer hunting and land management items; located at: 8126 6th Rd. Plymouth, IN German Twsp., Zoned A-1. Mr. Andrew Miller and Mr. ? Burkholder were present to represent their request. Mr. Adley presented the findings of fact.

The applicant has recently been operating a business from the property and is in need of pursuing BZA approval in order to continue operations. The applicant is seeking to permit a commercial land management business that has warehousing and office components. The business retail in the form of call in and mail order. They offer items such as seed, herbicides, trail cameras, scent and other associated hunting and land management items. The business has 4 full time employees and began back in 2018. Over that time they have slowly grown to occupy more and more of the existing building. They are currently in the market for expansion and possibly moving to a new facility location. In the meantime, they would like to seek approval for the existing facility.

RECOMMENDATION:
Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposal with the condition that there are fuel safety measures to keep the tanks from leaking into the adjacent ditch.

The business is growing and their plan is to make this business right first. They plan to find another location that is more suitable for their walk-in customers. The plan is to continue to keep this location as well for storage of items.

Due to the recommendation of the Technical Review Committee the board discussed a second containment system and the possibility of moving the tanks further away from the ditch. The size of the gravity flow tanks is one 500 gallon and three – three-hundred-gallon tanks. The consensus of the board was if they moved the tanks to the east side of the property they would be okay with not having a second containment system.

Mr. Kephart made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation. There being nobody to speak for or against Mr. Miller moved and Mr. Kephart made a motion to close the public hearing. Motion carried by acclamation.

Mr. Miller made a motion to approve 24-BZA-42 BORKHOLDER, Eddie Ray & Diana - A request for a Variance of Use to allow an existing building to used for a warehouse/office for retail, call-in & mail order company that sells seed, herbicides, trail cameras, scents, and other deer hunting and land management items; located at: 8126 6th Rd. Plymouth, IN German Twsp., Zoned A-1, seconded by Kephart, with the stipulation that the gas tanks be moved to the east side of the existing barn which will be further away from the ditch. Motion carried with a voice vote 3-0.

The third item of business was 24-BZA-43 BORKHOLDER, Lavon & Arlene - A request for a Special Use to allow a 12'x28' building to be used to kiln dry lumber on existing business; located at: 492 US 6, Nappanee, IN German Twsp., Zoned A-1. Mr. Arlen Borkholder and Mr. Josh Schwartz were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to build a 12x28' building to be able to house a kiln in order to dry wood for his woodworking business. The business was approved previously. The expansion warrants the need for additional approval and why it is back before the BZA.

RECOMMENDATION: Based on the information provided and review by the Technical Review Committee, Staff and TRC would recommend approval of the proposed business expansion.

The proposed building will be on the north side of the existing building, but it will be free standing and not an addition.

Mr. Miller made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation. There being nobody to speak for or against Mr. Miller moved the close the public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

Mr. Kephart made a motion to approve 24-BZA-43 BORKHOLDER, Lavon & Arlene - A request for a Special Use to allow a 12'x28' building to be used to kiln dry lumber on existing business; located at: 492 US 6, Nappanee, IN German Twsp., Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 3-0.

The fourth item of business was 24-BZA-44 BORKHOLDER, Lavon & Arlene - A request for a Variance of Developmental Standard to allow a west side yard setback reduction of 4' from the required 15' to build a 12'x28' building for the existing woodworking business; located at: 492 US 6 Nappanee, German Twsp., Zoned A-1. Mr. Arlen Borkholder and Mr. Josh Schwartz were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to expand their business (24-BZA-43) and place the new building 4' from the side property line when the minimum distance is 15'. They want to stay 3' from the existing building.

RECOMMENDATION Based on the information provided and review by the Technical Review Committee, Staff and TRC would recommend approval of a reduction of setback from 15' to 5' and not the 4' as requested. Should the BZA find that there is sufficient evidence to go closer than 5', TRC recommends that a survey be required to site the new building.

The board had a concern about the proposal being so close to the property line. They strongly encouraged the applicants make sure they know where their property line is. A survey could be very beneficial in the long run.

Mr. Kephart made a motion to open for public hearing, seconded by Mr. Miller. Motion carried by acclamation. There being nobody to speak for or against Mr. Miller moved and Mr. Kephart seconded the motion to close the public hearing.

Mr. Miller made a motion to approve 24-BZA-44 BORKHOLDER, Lavon & Arlene - A request for a Variance of Developmental Standard to allow a west side yard setback reduction of 5' from the required 15' to build a 12'x28' building for the existing woodworking business; located at: 492 US 6 Nappanee, German Twsp., Zoned A-1, seconded by Mr. Kephart. Motion carried with a voice vote 3-0.

Other Business

The next scheduled meeting is a special meeting planned for November 7th. As soon as there are more details the Plan Commission office will get that to you. The Rules of Procedure were passed out to the board. The director explained if the board had any questions regarding the procedures to reach out to him anything through next week.

With no further business to come before the board the meeting was adjourned. Motion carried.

Respectfully submitted,

David Hostetler

November 7, 2024
Special Meeting of the
Marshall County Board of Zoning Appeals
Plymouth High School Auditorium
Big Red Drive Unit 1
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 6:00 p.m. on Thursday, November 7, 2024, at the Plymouth High School Auditorium. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hochstetler, Jim Kephart, Matt Miller and extras Michelle Mieras and Joe Allyn. Plan Director Ty Adley, Teena Hunsberger, Administrative Assistant, and Board Attorney, Derek Jones along with interested parties.

The board reviewed the minutes of the October 8, 2024, minutes. Mr. Miller made a motion to approve said minutes, seconded by Mr. Hostetler. Motion carried by acclamation.

Due to the change of location being at the Plymouth High School Auditorium the Plan Director explained that the Auditorium needs to be vacant by 10:00pm; therefore, the meeting will conclude at 9:30 and the board will look to come up with a date and time if a follow-up meeting is needed.

The Rules of Procedure were reviewed. Mr. Bennett amended the rules to as follows: Allow the applicant ten (10) minutes to present and fifteen (15) minutes to rebut and letters are to be read allowed by application, seconded by Mr. Hochstetler. Motion carried by acclamation.

<u>24-BZA-45 TAMARACK SOLAR ENERGY LLC-</u> A request for a Special Use to allow a 150 MW (446 panel acres) Farm Scale Solar Energy System that has 1,435 acres within perimeter fencing in portions of West and Union Townships.

Mr. Ethan Sternberg of 1 South Whacker Chicago IL, representative of Tamarack Solar was present to represent Invenergy.

A request for a Special Use to allow a 150 MW (446 panel acres) Farm Scale Solar Energy System that has 1,435 acres within perimeter fencing in portions of West and Union Townships. The project is spread across several properties. Parcel Number:

1 50-31-20-000-005-000-017 **2** 50-31-20-000-003-000-017 **3** 50-31-20-000-007-000-017
4 50-31-20-000-008-000-017 **5** 50-31-20-000-011-001-017 **6** 50-31-20-000-009-000-017
7 50-31-28-000-001-000-017 **8** 50-31-29-000-004-000-017 **9** 50-31-29-000-005-000-017
10 50-31-29-000-003-000-017 **11** 50-31-29-000-002-000-017 **12** 50-31-29-000-001-000-017
13 50-31-30-000-006-000-017 **14** 50-31-30-000-003-000-017 **15** 50-31-30-000-003-001-017
16 50-31-30-000-035-000-017 **17** 50-31-30-000-029-000-017 **18** 50-31-30-000-011-000-017
19 50-31-30-000-014-000-017 **20** 50-31-31-000-004-000-013 **21** 50-31-31-000-005-000-013

22 50-31-31-000-002-000-013 **23** 50-31-31-000-033-000-013 **24** 50-31-31-000-024-000-013
25 50-31-31-000-014-000-013 **26** 50-31-32-000-011-000-013 **27** 50-31-32-000-013-000-013
28 50-31-32-000-009-000-013 **29** 50-31-32-000-006-000-013 **30** 50-31-32-000-004-000-013
31 50-31-31-000-010-000-013 **32** 50-31-33-000-037-000-013 **33** 50-21-04-000-002-000-013
34 50-21-04-000-003-002-013 **35** 50-21-05-000-008-000-013 **36** 50-21-05-000-007-000-013
37 50-21-04-000-003-003-013 **38** 50-21-04-000-005-000-013 **39** 50-21-04-000-008-000-013
40 50-21-05-000-011-000-013 **41** 50-21-05-000-015-000-013 **45** 50-21-05-000-014-000-013
46 50-21-05-000-010-001-013 **47** 50-21-05-000-026-000-013 **48** 50-21-05-000-012-000-013
49 50-21-05-000-030-000-013 **50** 50-21-05-000-001-000-013

Analysis:

The applicant is seeking to construct a solar farm under the Marshall County Zoning Ordinance which includes 50 project parcels, but only 47 are within the jurisdiction of Marshall County, the remaining 3 are within the jurisdiction of the Town of Culver and would need separate review and approval through their processes. The project is a collective of 2,974 leased acres (2,707 County and 267.23 Culver), 1,435 acres within project fence (1,278 County and 157 Culver) and 446 acres under panel (397 County and 49 Culver). The project encompasses portions of both West and Union Townships outside of Burr Oak. The energy generated will converge on the project substation before following a transmission line to the Burr Oak NIPSCO substation which provides power to the MISO (Midcontinent Independent System Operator) grid that spans from the US/Canada Border to the Gulf of Mexico powering homes and businesses in 15 states.

Per the applicant, the project began securing leases in 2019, pending variance in 2024 would seek target operation in 2028/2029. The panels that will be used on site will be bifacial (able to absorb sunlight on two sides) polysilicon, which are solid panels and do not house liquids. The panels will be mounted on a single axis tracker that will follow the sun's path during the day from East to West. The project area will not host solar in areas which include "wooded lots, wetlands, floodplain, ditches, residential and other setbacks, and areas with significant slope that will either be left vegetated or maintained in their current use."

Within the application there is a request to vary from some of the existing requirements, including the request for extending the expiration of the special use approval from 1 year to 4 years along

with those dates being tolled an equivalent timeframe due to any litigation. The final request is to be able to make changes to the location of the project infrastructure from the preliminary site plan in the special exception application so long as those changes meet the criteria outlined specifically in the application, but are more generally described as; reasonable changes limited to location of panel arrays, collection lines, and access roads, internal to the project fence and does not increase the size/footprint of the project, and are in accordance with the zoning ordinance.

The developer "is committed to ensuring County roads post-construction will be in as good or better condition than prior to construction." During peak construction the applicant is anticipating an average of 250 roundtrips per day with most of them being passenger vehicles. The construction will be set in 8 phases; site preparation and pre-seeding, pile driving, racking system, trenching, install of modules, inverters, post-construction restoration, and operation. Invenergy is committed to providing buffering as required within the zoning ordinance by planting "native evergreens, deciduous trees, and shrubs". There are two screening types with differing densities depending on the adjacent context. Within the project they will plant native and naturalized grasses and forbs for groundcover, which will help with wildlife habitats, increasing water infiltration and through the deep roots help promote microbial activity and soil health.

During the environmental review phase by the developer, they conducted an analysis of the project area to identify whether or not there were species determined by the Endangered Species Act are present. The study established that there are two federally listed species, the Indiana Bat and Northern Long-Eared Bat, listed as potentially present within the project area. The report was reviewed by IDNR (Indiana Department of Natural Resources) and USFWS (United States Fish and Wildlife Services), and plans to avoid impact by minimizing tree clearing, when required, during the inactive season as defined by USFWS. Per the applicant, "the project is committing to utilizing solar perimeter fencing strategies and specification options which have been demonstrated as effective in avoiding or minimizing fence impacts to wildlife, while maintaining adequate facility security." The project will monitor stormwater runoff and compaction testing at a variety of locations. Routine maintenance is to generally include: Daily general site condition inspections, Monthly

substation inspections, Semi-annual inverter inspections and air filter replacements, Annual racking, cable termination and fastener checks, and as need checks of facility security cameras and entrance lighting."

Per the applicant "solar panels are designed to harness energy by absorbing sunlight and therefore produce minimal glare." As indicated within the application, the FAA (Federal Aviation Administration) has in short a policy that regulates glint and glare on personnel working in the air traffic control tower and that there are no airports within 500' of the project. The only recognized airport is Plymouth Municipal Airport, which does not have a tower. As for signal interference, the applicant claims that the panels do no emit electromagnetic interference (EMI), but the inverters are capable of emitting low EMI. Invenergy has indicated that they have worked to carefully site inverters in the middle of the array areas. A sound study was completed and can be found in greater detail within the application, but per the applicant, "no noise receptor exceeded an hourly average sound level greater than 42 weighted decibels", which is less than both Indiana Code (IC) and Marshall County Zoning Ordinance of 50 weighted decibels.

During review of the soils within the project area using the USDA web soil survey, there were 44 individual soil types identified ranging from less than 1 acre to nearly 600 acres spread across the entire 2600 acre project area. Oshtemo sand loam, 0 to 1 percent slopes was the most frequent in area soil type with 587.5 acres amassing 22.43% of the project area. The remaining top ten soil types included a varying slope; Plainfield sand, Elston sandy loam, Newton loamy fine sand, Gilford mucky sand loam, Brems-Morocco loamy sands, Coloma sand, Rensselaer loam, and Gilford sandy loam. The top ten soil types covered 1794 out of 2619.5 (studied acreage) which is 68.49%. The top five soils covered 1403 acres or 53.57%. According to 1980 Soil Survey of Marshall County produced by the USDA the top five soils; Oshtemo series soils consist of deep, well drained soil on moraines and outwash plains where permeability is moderately rapid to very rapid , Plainfield series soils consists of deep, excessively drained, rapidly permeable soils on outwash plains, Elston series soils consists of deep, well drained soils on outwash plains where permeability is moderately to very rapid, and Newton series soils consist of deep very poorly drained, rapidly permeable soils on

moraines and outwash plains. Oshtemo series soils 0-1% slope is suit to corn, soybeans, and small grains, Plainfield series soils 0-2% slope is poorly suited to cultivated crops due to droughtiness being the main limitation, Plainfield series soils 2-6% slope is not suited to cultivated crops because of droughtiness and wind erosion, Elston series soils 0-2% slope is suited to corn, soybeans and small grains with a moderate available water capacity being the main limitation, and Newton series soils 0-1% slope is suited to corn, soybeans, and small grains, but water capacity, wetness and strong acidity are the main limitations.

Per Invenergy the siting of the Tamarack Project was due to a number of factors including; energy demand, existing infrastructure, energy resource, permitting, and land.

The decision criteria that are to be taken into consideration for Special Use cases include: general welfare, development standards, ordinance intent, comprehensive plan and 11 other considerations.

1. General Welfare - The approval will not be injurious to the public health, safety, morals, and general welfare of the community; Based on the application as revised and submitted on September 10th, there should not be injury to public health or safety so long as best practices and safe means of installation and operation are adhered to. There are interests in the long-term health of the subject properties and what may impact adjoining properties and residences including zinc levels from galvanized support structures along with possible impact of inverters on adjacent residences. The general welfare of the community should not be substantially impacted in a negative fashion but will likely impact neighbors perception or view from their property.

2. Development Standards - The requirements and development standards for the requested use as prescribed by this Ordinance will be met; The development standards have been reviewed and the application including clarifications and additional requested information has addressed or made commitments to provide prior to building permit.

3. Ordinance Intent-Granting the special use will not be contrary to the general purposes served by this Ordinance, and will not permanently injure the other property uses in the same zoning district

and vicinity; The intent behind the Marshall County Zoning Ordinance is to layout uses that are permitted by right, uses that require additional approval through the Board of Zoning Appeals (Special Uses which includes this application), and where uses are not permitted unless otherwise left to the discretion of the Planning Director. The Special Uses are identified as uses that are acceptable to a specific zoning district so long as certain conditions and criteria are met including approval of the BZA. The ordinance lays out solar projects like this as special uses within the A-1 (Agricultural District), I-1 (Industrial District) and I-2 (Heavy Industrial District) zoning districts. Therefore, the proposed use would meet the intent of the Zoning Ordinance as amended in 2024.

4. Comprehensive Plan - The proposed use will be consistent with the character of the zoning district in which it is located and the Marshall County Comprehensive Plan (Comp Plan). The Marshall County Comprehensive Plan was adopted in 2004 then amended in 2013. Within the Comp Plan itself there is no direct reference to the terms “solar” or “energy”. Also the Comp Plan does not clearly address uses like solar that are acreage intensive, but are a different level of impact on the land in comparison to “traditional” types of residential, commercial and industrial developments. Much of the development references within the Comp Plan refers to extensions of utilities and services along with locating around vehicular corridors. The project area has a number of Future Land Use designations including; Agricultural, Conservation, and Rural Village. The Comp Plan identifies the Agricultural Land Use as land that is meant to remain largely rural, with uses focusing on farming operations. The Agricultural land use category is intended to allow for some residential development. Agricultural land use areas are found in locations that are viable for farming but may also be feeling growth pressures from nearby urban communities. Urban-type services and infrastructure should not be provided to agricultural areas. Farms and other development should be able to be served by individual well and septic systems. Agricultural uses appropriate for these areas include traditional farming uses, as well as agricultural product storage and distribution facilities (commercial grain elevators), stables, natural preserves, and other animal or food production related activities. The Comp Plan identifies the Conservation Land Use as due to the location of the Yellow River within the project boundaries. The area surrounding the Yellow River has heightened environmental sensitivity which includes floodplains along rivers and streams,

riparian areas, steep slope areas, wetland areas, and significant woodlands. This area is designated as Conservation area to recognize their sensitivity and provide them appropriate protection from development impacts. All of these natural areas provide essential amenities to Marshall County. They serve as wildlife habitats, provide natural filtration of water, recharge underground aquifers. In cases where Conservation designations occur in the context of a larger land use designation, development designs should be sensitive to impacts on the areas to be conserved. Environmentally sensitive land should be conserved in large tracts where possible to prevent the fragmentation of wildlife habitats. The Comp Plan identifies the Rural Village Land Use as a category to preserve and maintain the character of the unincorporated communities. Burr Oak was developed around the intersection of two transportation routes (State Road 17 and the railroad currently owned by NYC & STL RR Company Norfolk & Western (Historically known as the Nickel Plate Road)). Focusing new growth around these rural communities will reduce residential sprawl in the county, maximize public infrastructure expenditures, and protect farms and the environment from residential encroachment.

The Comp Plan can best be described as a community guidebook. It will help guide the Plan Commission in its decision-making process. However, it addresses many other community issues as well. When reviewing development plans, making budgets, or setting priorities this document should be used to help make decisions. Because of its emphasis on public participation this plan gives county leaders knowledge of what the community wants and needs. The Comp Plan: can assist the County when considering infrastructure or economic development decisions, provide civic groups with ideas on how to strengthen and enhance the community, and serves as the legal basis for protection and conservation of sensitive environmental and historic areas. Through the public input process during the creation of the Comprehensive Plan, the public identified 5 key aspects including Farmland and Open Space Preservation, Environmental Protection, Growth Management, Rural Character and Aesthetics, and Economic Development. These 5 topics can be generally summarized with the desire to preserve the natural and agricultural areas of the County, protecting the environment and strategically managing the development of the rural areas of the County to maintain the modern economy which “has been characterized by uncertainty and change” and

quality of life for its residents to live and work. As identified within the Comp Plan, "As growth occurs, more of Marshall County's rural farm and forest land is threatened with conversion to residential, commercial, or other uses. Natural lands such as these can be protected effectively through a combination of growth policies and creative design techniques." According to the Comp Plan, "The growth of Marshall County's employment base should not come at the expense of the natural environment. While state and Federal regulations govern industrial practices with regard to the environment, the county can implement environmental design standards with regard to the development of industrial facilities." The long-term needs of the County comes with not stressing growth into inappropriate areas and such services would include "streets and sewers, but police and fire protection, parks and recreation opportunities, and school facilities". The Comp Plan goes on to indicate that "Economic development can take several forms, and should seek out a diversity of industries. This includes providing opportunities for agricultural, industrial, professional office, and home workshop development in the county. Each type of employer has special needs, and those needs must be accommodated if Marshall County is to attract new businesses."

Outside of the Land Use Map provided by the Comp Plan, there is a Suitability for Agriculture Map that denotes the grounds of Marshall County within four levels; Excellent, Good, Fair, and Poor. Generally, within the Map the ground deemed as excellent are within Bourbon Township, German Township and the Northern portion of North Township. The remaining places vary from good to poor, being the areas around the Yellow River downstream of the City of Plymouth and most of the area around West County Line. The project area is included mostly within the poor designation with some spaces within the good designation.

Other Considerations

1. Topography and other natural site features; There are a number of County Ditches and Tiles along with the Yellow River and multiple points of floodplain and wetlands that traverse the project area. Some of the County Regulated Drains include; Harry Cool, South Arm, Yellow River, Joseph Heiser, John Lichtenberger, and Burl Ballinger. On top of the water based natural and environmental features the area can be categorized as having ground that relatively flat with areas of rolling

terrain.

2. Zoning of the site and surrounding properties; The zoning of subject property is A-1 Agricultural and I-1 Industrial Districts. The surrounding properties are mostly A-1, but the Rural Village of Burr Oak has a mixture of zoning including T-1 Town Residential, I-1 Industrial and C-1 General Commercial. The area is also adjacent to the Culver Zoning Jurisdiction which includes A-1, I-1 and S-1 zoning classifications.

3. Driveway locations, street access and vehicular and pedestrian traffic; There will be several new driveways off County and State roads that will need their associated permits. There will be a significant increase in traffic during construction, but will only result in a few additional trips over existing traffic counts during operation of the facility as the facility will be staffed by "multiple solar technicians".

4. Parking (including amount, location, and design); There is currently one main proposed laydown yard where the majority of parking and storage will take place on 15th Road West of the existing NIPSCO substation. At the main laydown yard, there may be an operation and maintenance building where operational parking and storage would take place. Under the County ordinance passed in 2024, "Construction Parking will not be permitted along public roadways".

5. Landscaping, screening, buffering; There are two proposed buffer plans as outlined in the application. One is used when there is no adjacent screening and the other is implemented when there is some adjacent screening.

6. Open space and other site amenities; Open space is not applicable for this specific application.

7. Noise production and hours of any business operation; A noise study was conducted and provided as a part of the application and confirmed that the County's 2024 addition to the ordinance to include noise regulation has been met.

8. Other Considerations; There are several other conditions reviewed in relationship to the project and can be outlined within the analysis and recommendation sections.

9. Placement, design, intensity, height, and shielding of lights; Per the application, "lighting within array areas will be limited to lights at gate locations for safety and operational purposes. At the Project Substation, a motion-activated security camera system is planned to be installed with lighting to monitor the Project Substation. Lighting will be shielded and directed downwards

towards Project components to limit local light pollution and off-site impacts. Lighting will not extend beyond the perimeter of the Facility and will comply with the Marshall County Zoning Ordinance requirements."

10. Traffic generation; There will be a significant increase in traffic during construction, but will only result in a few additional trips over existing traffic counts during operation of the facility as the facility will be staffed by "multiple solar technicians".

11. General site layout as it relates to its surroundings.; The general site layout can be best shown in the site plan as provided.

RECOMMENDATION

Based on the information provided and review by the Technical Review Committee, TRC provided No recommendation forward to the BZA. The TRC had some of the following concerns as a part of the October 8th comments sent to the applicant: drainage discrepancies, required applications, along with verification of tile locations, emergency plan clarifications and procedures, and an objection to the application being a violation of the Comprehensive Plan.

Staff recognizes the controversy and polarization around the proposed project. There is a balance between the rights of a landowner to do what they want with their property, but a right of the adjacent landowner for potential impacts to their property as well. The review and recommendation itself must be determined on the merits of what is proposed. The recommendation by Staff considers the application as submitted and review of the additional information that was provided or clarification that was made by the applicant and the 5 points of decision Criteria that is supported by Indiana Code and the Marshall County Zoning Ordinance. Those criteria include what was discussed above in this staff report; General Welfare, Development Standards, Ordinance Intent, Comprehensive Plan and Other Considerations (including but not limited to natural features, zoning of site and surrounding properties, and traffic generation).

After review of the application and the supplementary information Staff recommends denial of the proposed Tamarack Solar Farm as submitted and clarified. The proposed project is occupying unique agricultural ground that is key to supporting the specialty crop sector. Not all agricultural

operations in crop production are specifically for traditional crops such as corn and soybeans, but the growing of seed via well drained soils and highly managed practices to support the agricultural crop industry as a whole. Other specialty crops require different types of soils to produce quality and efficient amounts of product that are not as successfully produced elsewhere in the County. This is what makes it difficult to broadly cast what soils are and are not suitable for agriculture. It is through the protection of these agricultural grounds under the guidance of the Marshall County Comprehensive Plan that Staff make this recommendation of denial.

An alternative option for the Board of Zoning Appeals could be to approve the project with conditions. The project as submitted and clarified meets or commits to meet the intentions of the Zoning Ordinance and Comprehensive Plan. There would be no expansion of municipal utilities and the project as proposed is leased and not owned giving the perspective that there is a sunset on the project unlike other industrial, commercial and residential uses because the land could be returned to the highest and best use at the time whether it be agricultural or otherwise desired. Conditions of approval should include but not limited to: 1. The completion and approval of the Emergency Response Plan by Culver and Plymouth Fire Departments, 2. The buffering standards shall be increased where the secondary buffering standards match that of the current primary buffering standards and the primary buffering standards be increased to include a line of at least 6 understory trees per 100 linear feet on the external facing side of the buffer, 3. The existing wildlife corridor between the natural area North of State Road 8 can still traverse South to the Yellow River as it does currently by the creation of a wildlife corridor on project parcel 11 which will require the adjustment of the existing fencing plan to accommodate a wildlife corridor no less than 100’ in width with native planting and varying tree plantings to promote the use of said wildlife corridor, 4. The buffering shall be installed within 18 months of BZA approval to promote growth of the vegetation to have a partially active buffer during construction and an advance on growth for the life of the project, 5. The project has a specific sunset date so that what is suggested as “temporary” land use in fact is actually returned to use by the land owner, 6. Soil grading shall be limited to access drives and inverter locations only, 7. Buffers shall be extended as reviewed by staff, 8. Setbacks adjacent to 15764 Thorn Road shall be not less than 500’ from property line, and 9. The

applicant shall submit a final site plan should the project move forward with the approval and associated conditions and commitments that have been made along with responses that have been provided for the various comment sections from the Plan Commission. The conditions of approval as proposed by the Applicant are acceptable for the 4-year approval period and for any tolling during the litigation, but there would be no permissible expansions of solar panel locations, the panel area as submitted will be considered the largest/furthest extent of development. No invertor should move closer to any residence than was shown in the v2 application. Staff could have alternatively recommended approval with the above conditions because a series of property owners wish to exercise their development potential on their property consistent with what is laid out in the County Zoning Ordinance to what they deem is the highest and best use of their property rather than using it for crop production. The decision boils down to the Comprehensive Plan and whether or not which section applies most directly to this project.

Action Requested:

Not withstanding the information provided by the Applicant, information by TRC, recommendation by Staff and public input, the Board of Zoning Appeals shall rule on this case as it considers the following factors; 1. General Welfare The proposal will not be injurious to the public health, safety, morals, and general welfare of the community; 2. Development Standards The requirements and development standards for the requested use as prescribed by this Ordinance will be met; 3. Ordinance Intent Granting the special use will not be contrary to the general purposes served by this Ordinance, and will not permanently injure other property or uses in the same zoning district and vicinity; and 4. Comprehensive Plan The proposed use will be consistent with the character of the zoning district in which it is located and the Marshall County Comprehensive Plan. Also, Other Considerations When considering a special exception the Board of Zoning Appeals may examine the following items as they relate to the proposed use: 1. Topography and other natural site features; 2. Zoning of the site and surrounding properties; 3. Driveway locations, street access and vehicular and pedestrian traffic; 4. Parking (including amount, location, and design); 5. Landscaping, screening, buffering; 6. Open space and other site amenities; 7. Production and hours of any business operation; 8. Design, placement, architecture, and building material of the structure; 9. Placement, design, intensity, height, and shielding of lights; 10. Traffic generation; and 11. General site layout as it relates to its surroundings.

When making its determination, the BZA may impose such reasonable conditions upon its approval as it deems necessary to find that the criteria for approval. Or the Board may require the owner of the property to make written commitments concerning the use or development of the property as specified under IC 36-7- 4-921 and have such commitments recorded in the Marshall County Recorder's Office.

Mr. Sternberg gave background information of Invenergy. This project wouldn't have been possible without landowners who had made a decision to work with this project. These projects are only possible when there is access to the electrical grid. Marshall County is unique in the fact you have multiple high voltage transmission lines bi-secting the county.

While there isn't a large amount of sun, they do know there is a consistent resource. Currently Indiana is running at an energy deficit with the energy demand growing Invenergy believes there is a need for projects like this. Leases for the project started in 2019. Shortly after leases were signed there was a moratorium placed on solar. This allowed time for a committee to be formed to create and put a solar ordinance in place. In 2021 Invenergy moved forward with the project because their company deemed they could work within. At the end of 2023 increased setbacks became a part of the ordinance. The initial application was applied for on April 3, 2024. Following the recommendation of Plan Commission staff, they amended the application to include the increased setbacks. There are over a dozen participating families. This proposal would give enough energy for probably 30,000 homes. There is no battery component for this application. His company has had an investment of over 3 million dollars planning this. A packet was given to all the board members that included a table of compliance per our ordinance. Their plan for construction will take between 1 to 2 years. The project will be monitored remotely and maintained locally by staff. A decommissioning agreement is part of the project. It obligates Invenergy a well as through the lease agreements with the land owners to decommission the project so the land can go back to its original use. They have a long-term owners mindset and want to be a part of the community. From the beginning Invenergy has talked to over 70 neighbors about the project and has made themselves available for any questions. Their team is available afterwords and contact information for questions or concerns. Invenergy is requesting approval for their application for the Tamarack Solar Project in Marshall County.

Michael Hill, Invenergy's internal counsel, from 1 South Whacker Dr. Chicago Ill. The question that whether or not to permit solar use in Marshall County has already been made earlier in the year and adopted as part of the zoning ordinance. The Comprehensive Plan is a visionary document that says goals of the community. This plan is implemented within the other documents such as the zoning ordinance and other ordinance within the community. Invenergy submits that they have met all the criteria required for this request. In response to the earlier spoken concern of specialty soils and specialty crop production note that said topic is not a part of the comprehensive plan or zoning ordinance and isn't part of the criteria for approval.

President Gustafson asked the plan director when the staff report states, "staff recommends denial, who is staff?" The plan director said that he is staff.

Mr. Miller made a motion to open for public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

First up for public hearing is those IN FAVOR.

- Ed Reiter 14218 Tulip Rd. Is a landowner that supports the project and supports property rights. It will also have a positive economic impact on the county and secure the future of agricultural operations in the county. Has freely signed up to have their land used as part of the solar project. Believes in protecting private property rights.
- Lisa Dan 1359 Short Dr. Knox With the Center for Energy Education. Believes we need to invest in renewable energy and be more self-reliant. Offered positive educational information on solar farms and encourages the board to vote in favor of the request.
- Kim Reiter 14218 Tulip Rd. Is a landowner that has signed a contract with Invenergy. This project will have a positive economic impact on Marshall County. Will help diversify the county tax base for public benefits. Will help lower taxes for the whole county. This project will preserve agricultural ground for the next generation.
- Benjamin Sharkey 325 W. Walnut Believes we are dealing with where property owners' rights begin and end. Has a concern whether this government will stand up for all property owner's rights who own their land and pay property taxes. There is more to land than just crop production. It's also there for business. This in turn boosts our local economy. With there being a lack of energy resources in Indiana there is a concern of eminent domain. Do we want to take control and do it on our terms or wait for potential control be taken from us.
- Tim McCarthy 20087 SR 10 Solar aligns with our values. It will also help recover from less productive ground. This project helps protect and diversify their family land. This solar request isn't just a personal benefit, but a benefit to the community. Embraces this opportunity.

- Joy McCarthy 20087 SR 10 Is a landowner who believes this solar proposal is renewable, sustainable and abundant. It creates zero harmful emissions while creating a renewable energy resource. As a contracted landowner this proposal for their marginal land will allow funds to reinvest in their operations. This solar farm is a diversification to be added along side corn and soybean farming. It will also provide clean energy. Neighbors shouldn't have the right to dictate what they produce on their farmland.
- Scott Callentine 3190 Cottonwood Ln Representative of the Carpenter's Union is in support of the solar project for Invenergy. Their carpenters are highly trained in projects such as these. This project will provide many jobs for locals. Landowners have right to lease their land. Believes Invenergy has tried to meet all the needs.
- Bonnie Broeker 18760 12 B Rd. They are 5 generation farming landowners that are part of the Tamarack Solar Project. Their decision to sign a contract was for the value that it would bring to landowners, their families, neighboring families and the community. This is an investment in our future. The ground we are discussing is not prime farm ground. This project will bring jobs into our community. If solar is so bad, why are we putting it around our schools and other businesses? These are personal property rights and want the board to vote in favor.
- John Broeker 18760 12B Rd. They are trying to be good stewards of their land. The choices that are made concerning this request will not only affect those who signed contracts but the whole community. They have chosen to be a part of this project because it will benefit everyone including their neighbors. They want to make a positive impact on the entire community. Their land isn't prime farm ground and is in favor of this project.
- Lois Broeker 330 E. Jefferson St. Their family has agreed to lease out their centennial farm to Invenergy. Their intent is to keep this ground in their family. Over the years there has been an enormous change in ground usage over the years. From housing developments, industrial developments, medical buildings and shopping centers. This project should be treated no differently than

other developments. Now you drive up and down county rounds and see new family residences where they were once farmland. They were allowed to buy ground and build houses with no limitations. Those that are a part of the Tamarack Solar Project should have the same rights to buy, sell or lease their land. The leases are long term, but there is an option to revert back to ag farmland. How often do residential housing and businesses ever revert back to agricultural land? Please consider allowing the twelve landowners that are part of this Tamarack Solar Project the same rights to freely exercise their rights that other property owners have had with no encumbrance.

- John Singleton 12700 Upas Rd. Has lived in Marshall County his whole life. He brought his property from his dad. They farmed their own land until the rise of equipment cost when they decided to rent out their ground. Neither of their sons or grandkids are able to takeover at this time which is the reason they decided to lease to Invenergy. They are here not only to support their request, but the other 11 owners' rights as well. They should be able to make the decisions for their own land while following the ordinances in place. They are leasing only a portion of their ground, not selling. They believe Invenergy has been forthcoming and answer all their questions. They also support other property owners' rights to do as they wish on their own property. This project is good for our whole community.
- Glen Miller 17080 9th Rd. Decided to join the Tamarack Solar project because he believes in renewable energy, its extra income for the farm and is his least productive ground. Would like the board's support.
- Paul Amor 20494 14 B Rd. Family member of a participating landowner. They are a small farming family. After much consideration they agreed to put part of their farm into the Tamarack Solar project. This will allow them to make improvements to their operation. This project meets all the county requirements and should be approved. They feel like they should be able to do on their property when it meets the counties requirements.

- Eldon Amor 20650 W. 14 B Rd Is a landowner who can't survive on low paying crops. No money has to be expended to receive a return for this project.
- Rebecca Furry 15882 18 B Rd. Lives on a family farm. Travels for work and sees a lot of solar fields. There should be other options considered over using farm ground for solar fields.
- Gill Stanley 201 N. Ohio St. Has no direct financial interest in this project. It seems as though all criteria has been met.
- Nicholas Kline 1001 N. Michigan St. Represents a union and believes this to be a good tax revenue and bring jobs to the community. In favor of freedom to do what you want on your own property.
- Liliana Turner 16834 7th Rd. Supports the Tamarack Solar project and will eliminate emissions and bring jobs.
- Frank Lucas 22095 Elkhart Previous commissioner from another county that passed a solar farm. They have a large energy deficit. To attract new businesses, they needed to increase energy production. Their board, through many discussions kept coming back to private property rights which led them to their decision of approval.
- Max Warren 12660 Rose Rd Expresses support of Tamarack Solar project as it presents many economic benefits and positive impacts to the economy. The tax revenue will also help fund vital services. Urges the board to support this project as it will benefit the county for years to come.
- Jeff Wojcik 20530 SR 8 The ground next to him is sandy and would prefer to see a solar farm over a big subdivision. If this is going to help lower taxes and help fund fixing their roads, he's all for it.
- Joann Callahan 12750 Tamarack Rd Has built a house near the proposed Tamarack Solar project around the start of this project. In the process to have their forest and prairie designated by DNR. They loved the idea of being surrounded by farm fields. With concerns a call was made to Mr. Sternberg and within 24 hours they had a zoom call addressing concerns. Encourages everyone to reach out to him and his team with questions.

- Tyler Waddle 6719 Michigan Rd Is for the proposed Tamarack Solar project. Believes in rights and freedom.
- Luanna Broeker Singleton Is participating in the Tamarack Solar project. Is for the project and provided 92 letters from others who are for the project.
- John Grolich President of the County Fire Association. The ordinance states that there has been a meeting of fire officials and the applicant. There have been several meetings and Invenergy has also attended one of their fire meetings. An earlier concern was water supply. After talking with a well driller, they assured him there wouldn't be a water supply issue. There is a local golf course that puts a million gallons of water per day on their golf course. Another concern was water runoff. After speaking to a company from Elkhart they said they could come down and handle any situation. They would assess runoff and the PH and neutralize it. Then there was a concern about toxic fumes. Toxic fumes are dealt with on every structure fire. Fire personnel need to train for any situation, so they are ready for any situation.
- Don Fox 301 N. Shore Ln. His comments are personal and believes this project should be approved and several conditions should be dropped. Indiana Law on solar limits what local governments can do. IC provides local government cannot take any action that has the effect of unreasonably restricting the use of solar energy systems. Our considerations for solar are limited. This project covers less than 1% of ground in Marshall County. Has several questions and concerns. How can the BZA require another department of government to provide a report to them? Rights of property owners? The fire departments can handle any circumstances that come up. Does Indiana Law allow us to consider creating a wildlife corridor pertaining to solar approval? How can we require buffering to be completed within 18 months? How can we limit the grading when its not required by the current landowners? The Comprehensive Plan is a good guide, but state statute does limit us. Believes there will be an economic impact if the Tamarack Solar project is allowed.

Next to be heard AGAINST the proposal:

- Julia Baxter 16787 18th Rd Represents the 3rd generation Baxters. Believes this is a "toe in the door" for solar. Doesn't want to see the county turn into a bunch of solar panels. Has a concern that all the promises that are being made by the solar company will be kept. With time there will be better sources of energy than solar. Please deny the application.
- Jason Kuchmay, Atty 4211 Clubview Dr. Represents the concerned citizens against solar. Has been involved in solar issues all across the state of Indiana. Has seen a division of property owners, loss of jobs, the removal of thousands of acres of product farmland. After phase one is completed along will come 2, 3, 4 and so on. The argument of being able to do what you want on your property is not that simple, that's why there is a zoning ordinance. The impact of solar is significant. The criteria for the proposal requires that proposal not be injurious to neighboring properties. Studies do show that neighboring properties values are negatively impacted by industrial solar. In the binder presented statements from brokers with negative impacts are listed. Also, in the binder is from the Indiana Court of Appeals/Pulaski County BZA regarding property values. In the binder MAI appraiser has a study on the impact of industrial solar values.
- Connie Early 217 W. 100 N. Also in the above binder was slides from a recent application in Bartholomew County claims Kirklands report does not paint an accurate view of his studies on property value impacts. Gave examples. Ag land is critical for our food supply. There are also photos of pictures of an industrial solar farm included. Look at the industrial nature of the project. The destruction of the rural nature. These developments don't benefit local communities as suggested. Electricity is sold off the grid and doesn't always stay local. Taking a lot of ag farmland takes away jobs.
- Gale Lambert 3343 N. 700 W. Has several thousand acres of industrial solar 3 miles or less from home. There is a study included in the above binder by a Michigan State Professor on a solar project in Indiana. Shows negative impact on these developments. The project must be consistent with the Marshall

County Comprehensive Plan. This plan serves an important role and is a guide for future development in the county. It tells you what the county wants to see and why. A copy of the staff report is included as well and recommends denial. Has seen other counties deny applications for this exact reason most recently in Decatur and Bartholomew counties. One of the requirements within the solar ordinance is a decommissioning agreement and notes the lawsuit from the Marshall County Council against the Marshall County Commissioners and Tamarack Solar in connection with the decommissioning plan. Believes the application improperly requests variances from the existing ordinance requirements. Such as open-ended deadlines and the ability to make future unspecified changes to the location of the infrastructure different from the site plan. This board cannot grant a variance as a condition on this special exception approval.

- Bonnie Mevis 20364 W. 16th Rd. In continuation even if a variance application was filed the required elements have not been met. An example was given and included where Invenergy fought the regulatory commission to take away a counties rights and lost. Another example was given in Spencer County. Will Invenergy try to go the same routes as they have with other counties with Marshall County? For many of the above reasons they request the board votes no.
- Judy Eck 16161 18th Rd. Encourages the board to review the book provided and vote against the request.
- Jesse Bohannon President of the Marshall County Council and was elected to replace Mr. Overmyer on the Marshall County Commissioners Board. On October 10th the council directed Mr. Bohannon to file suit against the commissioners. They believe an injunction will be upheld against the decommission agreement and the solar ordinance. This could be a real mess if this board grants this variance and building permit and a judge vacates the ordinance and decommissioning agreement. Please reject the application.
- Joe Krozel 20804 SR 8 Lives near the Upas Road array. There's no more green just panels. With the proposed increase in jobs is there a guarantee it will be local people hired? During the operation phase there will be 2

employees. Happy for the few that it will help their families, but not at the expense of his family and his property value. Is against the request.

- Nicole Cox Marshall County Council. Has 18 panels of solar. If she had it to do all over again the answer is no. It does not produce as promised. Within a year the company changed names and filed bankruptcy. All the guarantees and promises were not fulfilled. If we let one in many more will follow. Believes there to be deficiencies in the Decommissioning Agreement, Road Use Agreement and the Economic Development Agreement. The Economic Development Agreement was never discussed in a meeting until it was ready to be signed as a resolution to be passed in one vote. The County Council should have been involved in the Economic Development Agreement as they are the fiscal body. Within the Decommissioning Agreement and the Economic Development Agreement it states they have the right to transfer rights to a public utility company. Table or deny the request.
- Tim Harman 2940 Sycamore Ln Marshall County Council. Guarantees all Marshall County Council Members and Marshall County Commissioners as of 2025 are against solar. Believes Mr. Fox presented the wrong section of Indiana Code earlier. Wants to see a vote of denial or table. Has a concern when subsidies are removed what will happen. The people have spoke. Please deny.
- Paul Levett 16161 18th Rd. Provided a handout with map of Tamarack Solar Project. Believes with the proposed solar project there will be a decrease in property values. Is for 500' from a property line setback and will not affect property values. Shared an ordinance change in South Bend Indiana recently increasing solar setback from non-participating landowners to 500'.
- Gale Lewallen 1100 E. Shore Dr. Read a letter from Adam Faulstich 13720 12th Rd. Currently a member of the Marshall County Council. Requesting the board to table this request until 2025. First, IDEM senate bill 33 just came out. Believes there to be information in it this board needs to take into consideration. Second, there has been injunction filed for a conflict of interest. There is a likely chance that this will nullify your decision. Requesting the board to table.

- Will Patterson 1730 Dogwood Rd. Is a Marshall County Councilman and a science teacher and professor. All the council and a commissioner are against this project. There are multiple conflicts of interest in this matter. We represent the people and believe the people do not want this.
- Colleen Stephenson 8925 SR 10 Lived in Marshall County for 30 years and lives on a small farm. Understands others desires to be able to do what they want on their own property, but how can someone not care how this effect their neighbor. Nobody wants to live next door to a solar panel. This is research that shows it lowers property values. Haven't seen the research that shows these companies putting back into our communities. This all boils down to money.
- Leena Tetzlaff 19814 SR 8 Lived in West Township for 24 years. Has lived across from Bullridge Farms. Their crops have contributed to food supply and local jobs. A decrease in crop production will have an effect on our community. We must weigh the impact industrial solar will have on our community. Requesting this board deny the request.

The board discussed that before a meeting date can be decided the board needs to come up with a date that all members can be present, then a location needs to be decided that can fit the amount of people and is available. After that notification will be sent out again. Mr. Jones stated, "I cant see the next meeting being before two weeks, probably more like three to four weeks."

Ms. Kristine Wheeler, Attorney for Invenergy, had a procedural question about the legality of tabling a public hearing.

Mr. Jones, Attorney for the BZA stated that due to a lack of availability of a venue and the uncertainty of available dates the public hearing and public meeting will be re-noticed.

Mr. Sternberg commented that their desire is for everyone to be heard. They had a concern that this wouldn't be able to all be heard in one night and proposed there be back-to-back

nights. He requested the board pick one of the nights available so that everyone leaves knowing when the meeting will be.

Mr. Jones stated that there were other dates available that the facility wasn't going to be used for other purposes. Those dates were open but not guaranteed to us.

The Plymouth High School Auditorium and the Plymouth LEC holds the largest seating capacity. With the current attendance the county buildings meeting room would not have enough seating room.

Invenergy's request is to tentatively set a date for the next meeting and if the venue is not available then make the necessary arrangements.

Planning staff recommended November 19th. Not all members could be present. Planning staff then recommended December 3rd. All five board members are available for the 3rd of December.

Mr. Hochstetler made a motion to table; after much discussion Mr. Hochstetler withdrew his motion.

Mr. Miller made a motion to recess to December 3rd, 2024, pending this locations availability, seconded by Mr. Hochstetler. Motion carried with a voice vote 4-1 with Mr. Kephart voting against.

Mr. Miller amended his motion to include the meeting time of 6:00pm, seconded by Mr. Hochstetler. Motion carried with a voice vote 4-1 with Mr. Kephart voting against.

Mr. Miller made a motion to adjourn the meeting, seconded by Mr. Bennett. Motion carried by acclamation.

Respectfully submitted.

Secretary

December 3, 2024
Special Meeting of the
Marshall County Board of Zoning Appeals
Plymouth Wesleyan Church
11203 Michigan Rd.
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 6:00 p.m. on Tuesday, December 3, 2024, at Plymouth Wesleyan Church 11203 Michigan Rd., Plymouth, Indiana. Present were Commission Members Jeff Gustafson, David Hostetler, Trent Bennett, Jim Kephart, Matt Miller, and alternate Joe Allyn. Also present was Ty Adley, Marshall County Plan Director, Lori Lowry, Board Attorney Derek Jones and interested parties.

Mr. Hostetler made a motion to re-open the public hearing, seconded by Mr. Bennett. Motion carried.

- Lynn Studebaker 7063 E. 800 S.-43 Lives in Kosciusko County where they have a protective ordinance. They have a farm in Whitley County where there is a 1500 setback to property lines that protects their families. Here to represent stepdad Bill Crow that is a farmer in Marshall County for 67 years and owns 650 acres. It is believed that solar panels leak hazardous chemicals rendering the ground useless. This will bring a food shortage. Please protect the families of Marshall County and the heritage.
- Casey Neidlinger 16682 14B Rd. Read a letter from Katie Lewallen on East Shore Dr. Culver. Talked about the soil analysis done in the spring and has a concern that only part of the data was shown. A more comprehensive analysis was needed. Believes the study that was done shouldn't be compared to a utility scale solar project. The inserting and removing of posts will disrupt a large area of land. Gave a testimony from a farmer in Decatur County. Don't allow our county to be scarred for years to come.
- Janelle Prochno Naylor 16541 Robert Ct. Passed out information to

the board. Believes what is being proposed is a misconception. What is being proposed is a power plant. The value of land is not only appraisal, but desirability. Studies on property values were included in the packet. This board has the right to protect the health, safety and general welfare of the county. This application should be denied or require language to protect the county. Please deny the application.

- Cindy Casper 13805 Jarrah Rd. Good neighbor agreements. These are nothing less than a bribe to keep nonparticipating neighbors silent. The solar company keeps saying no losses to values, noises won't have an effect to your health, EMF won't have an effect on your health and no damage to your water. These agreements sometimes offer money to reduce opposition to solar farms. Shared a portion of a contract from another county. Are there any landowners or county officials who have signed these good neighbor agreements in Marshall County? Is this county willing to hand over Marshall County to these solar companies when the majority of people are against it?
- Mavin Houin 7563 Plymouth Goshen Tr. Representing Marshall County Farm Bureau and wants to propose a two (2) year moratorium on this. This would allow time to sort out all the pros and cons and protect all the property rights of all the people involved. Has a concern how these power companies re-sell and also acquiring property through eminent domain.
- Nancy Miller 16270 Pear Rd. Owns land in Marshall County. They had a test wind energy system on their property years ago when wind energy was first out. Despite the financial gain they chose against. Has several questions on the proposed solar. Has heard that this solar project involves .7% percent of ag ground. Concerned about setting a precedence. No matter the size of land used, it matters. Ag land has decreased by 14% over the years. If ag land is being used for solar, how can we keep up with demand? Don't take away farmland that the majority doesn't want. How much of the power will stay in Marshall County? Where do panels go when they are removed? How do we commit to these solar panels for 35 years when we don't know what will be in 35 years. Safety is a

concern. Requesting denial.

- Debbie Vandemark 14750 Tulip Rd. Lives a mile away from two properties leased for battery storage and surrounded by ground that's leased to solar. Lived in Union Township her whole life and raised on a farm. Wants to protect the value of their property. There are rules and regulations in place that require permission to build. These landowners that have signed contracts will have lost rights to their land for nearly 50 years. Many of the owners with contracts don't even live in the area. Was contacted by Invenergy multiple times to sign a contract. Supposedly Invenergy has spent 3 million dollars and hasn't even started the project. Why wouldn't they have gotten approval before spending the money? A timeline was given. The application should be denied and doesn't follow the Comprehensive Plan. The application should be denied.
- Shannon Lunetta 18929 12th Rd. Real Estate Broeker and purchased new property last October on corner of 12th and Tamarack. Previously lived on 12B & Tamarack lived across from the solar testing site. Was never notified by Invenergy. The installer said it would be in 9-12 months and it was there 2 years with weeds growing all around it. Nothing grew under the panels. Property values will go down when you have less people desiring a property next to a solar farm. The only reason taxes go down is because property values go down. Invenergy won't be the only solar company coming to Marshall County. "You give them an inch and they will take a mile." Mr. Gustafson asked if realtors have to disclose and neighboring solar farm. Ms. Lunetta confirmed with her managing broker that sellers do not have to disclose a solar field not going in.
- Gale Lambert 3343 N. 700 W. Speaking for Randy Hoing from Decatur County. The finding of fact states you have to vote for general welfare and not be injurious to the public health and general welfare of the community. Shared information from a long-time firefighter and his concern of fires at solar facilities.
- Vera Tetzlaff 19814 SR 8 Lives directly north of

Bullbridge Farms. This solar proposal will directly affect their property. The consequences would be reduction in property values, increase in noise level, or a diminishing level of being able to be outside. Their front yard will have solar panels 350' away. Concerns include local wildlife, EMF's, and drinking water quality. Requesting denial.

- Connie Erlic 217 W. 100 N. On behalf of Joan Knoll 9099 S. 200 E. Columbia City. Read a letter on some of IDEM's requirements on decommissioning. Encouraged the board to read these requirements. Requesting denial.
- Robyn Sommers 19416 SR 8 Purchased their home in November 2021 from the Broekers. The Broekers did not disclose to the Sommers of the proposed solar farm that the Broekers had already signed a contract with. The Sommers would have never bought the property if they knew. Concerned about decreased property values, glare, noise level, heat island effect, fence location, drainage issues, health concerns, construction noise, traffic, and the working hours during the week. Please deny this application.
- Sandy Thomas 15473 Thorn Rd. The proposed utility scale solar farm will bring loss of jobs, inconsistencies with the comprehensive plan. Wrong procedures taken by no variances being filed. The community has spoke. This is not a project Marshall County wants. Please deny Tamarack solar application.
- Michelle Jentzen 9916 Pine Rd. Discussed the electric conversion and EMF and EMI. Gave research information on prolonged effects to the cellular level of being around solar farms.
- Collen Stephenson 8925 SR 10 Talking for Ray Trump on EMF. There is research on both sides for solar. It's up to us to do the due diligence to do your own research. Remember DDT was once considered safe along with a lot of medication that have been removed. Will everything really be okay when they remove these panels?

- Dave Stults 2941 CR 28 Bought property early spring. Found out later that there was a solar farm being proposed. Is concerned about loss in property value and who will reimburse this loss? Vote No.
- Kevin Strong 18914 12th Rd. Is against this project. Moved to Marshall County because of its rural nature. Would not have moved to this county if there was a possibility of a solar farm. If I wouldn't have wanted to move here with solar there's probably a lot of others as well. Has a concern about the negative health aspects. A major concern what this solar farm will do to the wildlife.
- Deb Johnson 20707 9th Rd. Is a member of the Planning Commission and TRC. Tamarack's solar project application 2.0 has included in the application has many variances the first one being setbacks. Another variance that is a great concern is the project deadline from one (1) year to four (4) years. This specific issue was won in court by Madison County in both local and Indiana Court of Appeals. Included with this application of Marshall County properties are properties in Culver's jurisdiction. Does state law allow Marshall County to make decisions for Culver's jurisdiction? Is a county councilman for this district. Requesting denial.
- Pam Craft 18700 12th Rd. Is a schoolteacher at Culver who is concerned about the safety from possible fire as they live next to three miles of woods. There has to be better industry to come into our community than this solar farm.
- Albert Labron 14474 W. County Line Rd. Submitted letter to Plan Commission. Moved away from Gary 31 years ago for peace and solitude. Concerned about the safety, water and pollution from the batteries. Personal gain is the only interest. Is opposed to the request.
- Jim Hart 20346 15B Rd. Lives off the land. How are the deer and wildlife going jump over the proposed fencing? This proposal will affect their way of life.

- Jared Sommers 14189 Union Rd. Doesn't want to tell other people what to do with their property, but when it affects his property and value becomes an issue. Purchased this property 6 years ago to raise a family in a rural setting. If this project gets approved his property will be surrounded by solar panels. The financial benefits will be gained outside our county. There is a great concern that the land will not be taken care of. The water quality and wildlife is a concern. The New Carlisle solar facility was discussed. Requesting denial.
- Brandon Schadek 19921 9th Rd. Read an article out of Forbes magazine from 2020 on Invenergy about conflicts of interest. Asking the board to say no.
- Jeff Tetzlaff 19814 SR 8 Agriculture is number one. His job is to haul agricultural products all across the united states. Don't destroy our great state and country. Solar is not the answer.
- Joseph Krozul 20804 SR 8 Hasn't heard the solar company respond saying their panels don't leach into the ground. Who is going to pay for the remediation if this happens? Is against the project.
- Mark Samuelson 14222 Union Rd. If this project gets approved the floodgates of more solar will follow. Once this 1400 acres of ag ground goes into solar field it will probably never go back to agricultural production land. With proper procedures being taken all types of land can be productive.
- Paul Vandemark 14750 Tulip Rd. They purchased 150 acres from the Roy Overmyer farm. After all the years of hard work cleaning the property up it will be in the middle of the proposal industrial solar operation. Hates to see all the time and effort be turned into an industrial farm.
- A person from the audience requested to speak on the side of in favor for the project. After conversation the president stated that she could speak after the petitioner responds.
- Attorney Kuchmay addressed the board saying the previous person possibly had someone read a letter in favor and this would allow someone to speak twice.

Letters

- Albert Lebron 14474 W. County Ln. Rd. A handwritten 6 page letter was submitted not in favor of the request.
- Brian Craft 20700 SR 8 A letter was submitted with multiple objections to the proposed project.
- Brianna Schroeder 8425 Keystone Crossing A letter was submitted in favor of the request for the following reasons: Landowners support private property rights, positive economic impact on Marshall County, designed to secure the future of agricultural operations in Marshall County and reminds the board that they represent the whole county not just a select few.
- Tina Smith & family No address given A letter was submitted and is opposed to the proposal for wildlife and the overall conditions of the area.
- Scott & Robin Sommers 19416 SR 8 A letter was submitted explaining they bought the Robert & Lois Broeker farm. If the project is approved they will be surrounded by solar panels. They have multiple concerns.
- Laura & Robert McMahan 330 E. Jefferson St. A letter was submitted and is in favor of the project as their land has not been high yielding. This project will assist their family and bring an incredible opportunity as they've had many challenges in the past. Believes this project will be a benefit to others as well.
- Bobbi Reinhold 10814 Cardinal Circle A letter was submitted in support of the Tamarack Solar project.
- Edgar Reiter 14218 Tulip Rd. A letter was submitted in favor of the project as it will provide clean energy, increased income for landowners, jobs for construction workers keep taxes low and strengthen Marshall County economy.
- Marcia Cook 810 E. Laporte St. A letter was submitted in favor of the Tamarack Solar project.
- Connie Neinger A letter was submitted in

favor as there are economic benefits to renewable energy.

Mr. Kephart made a motion not to read the remaining letters and take those letters into consideration, seconded by Mr. Miller.

Attorney Jones stated, "At the last meeting on November 7th it was stated that the letters were going to be read outload, but given the amount and volume of letters that are left to read we are sitting here at 9:00pm and Ty has only about 20-30% read. The letters aren't required to be read but considered by the BZA. In other words, they have to be read by you, but not read aloud in the public portion of the meeting."

Mr. Kephart made a motion to amend the previous rule and forego the reading of all the letters for public hearing and review the remainder of the letters and take them into consideration, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The petitioner was given fifteen (15) minutes to rebut.

Invenergy's representative, Ethan Sternberg, thanked everyone for taking everything into consideration. Tamarack Solar continues to take into consideration everyone's concerns. They have developed over fifty (50) solar projects across various communities. They have answers to many of the questions. If the board has questions, please ask.

Mr. Sternberg gave an overview of the project from the beginning to where they are at to today. The project started five (5) years ago signing leases. During that time there was a moratorium put in place to allow a committee time to prepare and update their ordinance. Invenergy felt like the proposed ordinance was something they could live with. The ordinance was approved 3-0. Invenergy moved forward with studies, interconnection, and later into 2021 the application portion was started based on the original ordinance. After four (4) failed attempts during the moratorium process the application was submitted in

2024. The new solar ordinance was implemented and staff recommended reapplying under the new ordinance. Invenergy complied with the request and amended the application and resubmitted. Most of the questions have already been addressed.

Over a thousand letters have gone out. After the county's public meeting notification letter went out Invenergy followed up by sending a letter with their contact information and additional facts and information on the project and only received six (6) responses. During the process they also knocked on doors of houses that could be affected by the projected. There were forty-seven (47) people they spoke with. Twenty (20) people opposed the project, and twenty-seven (27) people were either neutral or for the project.

The meeting on the first night the application was heard and there were twenty-six (26) people who spoke in favor of the request. He encouraged the board to consider those people's future. Mr. Sternberger re-stated a few comments from the people who they have signed contracts with.

Encouraged the board to review information from their packet of a broker from the Clinton County area where Invenergy just installed a solar farm. The conclusion was there was no imperial evidence the solar farm affected property values. The ultimate decision of whether to farm row crops or signing up for solar energy is up to the property owner. There will be changing political environments locally and federally and they commit to working with the elected leaders in this community. Invenergy hopes the board sees their willingness to follow the rules, work with the county and be willing to take feedback from the community. Every single requirement has been met or exceeded the requirements from the solar ordinance. Tamarack and its landowners are willing to meet the conditions as suggested by staff. A table was submitted summarizing the conditions they can meet as written. There are a few they can meet with substantial form with a few edits. If there are any additional commitments the board wants added, Tamarack solar would be happy to consider them. Would encourage an open dialogue to answer all the questions the board

might have.

Allen Townsend, Bose McKinney & Evans, Outside Attorney for Invenergy, 111 Monument Circle Suite 2700, Indianapolis. First, The role of the Board of Zoning Appeals is to determine Tamaracks compliance with the application requirements as set forth in the ordinance. Second, does Tamaracks application satisfy the approval criteria specified by law. Tamarack solar believes that it meets everyone by the materials submitted and testimony given.

Mr. Townsend has reviewed the staff report and the four components that decide whether the request meets the ordinance requirements. The four components include, general welfare, development standards, ordinance intent and comprehensive plan.

One of the options the board has is to approve with conditions. Tamarack is willing to do that. Staff's recommendation on this project was denial due to "its occupying unique agricultural ground that is key to supporting the specialty crop sector." The comp plan is a guideline to future development. Mr. Townsend said there is no mention in the comp plan of soil types for specialty crops using those as a basis to deny a solar project.

There has been discussion about a pending lawsuit between Marshall County Council and the County Commissioners that prohibits the BZA from moving forward. Mr. Townsend stated that he was familiar with the lawsuit as Tamarack was included in the lawsuit. There is no injunction or order from a judge that says the BZA can't move forward with Tamaracks application.

Mr. Townsend concluded by saying, "evaluate this project on its merits and not emotion it is deserving of your support."

After the rebuttal the board members didn't have any additional issues or questions they

needed clarified from the public.

After a question from the board Attorney Jones explained that the consideration of the unread letters are for the board members to read and consider before a decision is made.

Mr. Hostetler made a motion to close the public hearing, seconded by Mr. Kephart. Motion carried with a voice vote 5-0 to close the public hearing.

Following the closure of the public hearing the board began asking questions.
Mr. Kephart asked if the solar ordinance was for commercial, retail or both? Mr. Townsend stated that he cannot comment on retail solar, but commercial for sure specifically what Tamarack has applied for.

Mr. Gustafson asked if they don't like the setbacks, can they make them bigger? Mr. Townsend replied that the board can impose conditions on any improvements and Tamarack would have the authority to accept or reject.

Mr. Gustafson stated that the ordinance allows one (1) year from approval of the variance to completion. Why is the applicant asking for four (4) years and longer if there is litigation? Mr. Sternberg replied that the nature of these types of requests can take from six (6) to nine (9) years.

Mr. Gustafson asked when Tamarack Solar would start construction. Mr. Sternberg replied that if the board approves the application for Tamarack Solar there is a second approval from the Indiana Regulatory Commission. This process usually takes six (6) to nine (9) months. If an extension to four (4) years isn't granted what would you do? Mr. Sternberg replied that Tamarack would not be able to pull a permit in one (1) year. Mr. Gustafson asked for a date of when they would start putting solar panels in the ground. Mr. Sternberg replied that it probably wouldn't start till the late 2020's.

Mr. Gustafson asked what a "que" is? Mr. Sternberg explained that if one project connects to the grid making sure the grid can support it. Mr. Sternberg further explained that we are currently in phase 2 of phase 3. Part of the process also includes an interconnection agreement which allows you to connect to the grid. That process for this project could take two (2) years.

Mr. Gustafson asked why Tamarack Solar didn't come to the board five (5) years ago instead of getting the land first? Mr. Sternberg replied saying they didn't have all the land then. Once they had the land, they initiated all the studies required. Then they prepared a layout which is required for these types of projects. Mr. Sternberg responded saying it's a balance when to say something as a developer, because they don't know any specific details until they find out all the pertinent information. As for the comment on taking advantage of communities without a solar ordinance, Mr. Sternberg stated that is why Tamarack Solar waited to apply until after the county finalized their Solar Ordinance.

Mr. Hostetler made a motion to table the public meeting until December 9th, 2024, at 6pm at the same location, Plymouth Wesleyan Church to continue discussion, seconded by Mr. Miller. Motion carried with a voice vote 4-1 with Mr. Kephart voting against.

With no further business to come before the board the meeting was adjourned. Motion carried.

Respectfully submitted,

Secretary

December 9, 2024
Special Meeting of the
Marshall County Board of Zoning Appeals
Plymouth Wesleyan Church
11203 Michigan Rd.
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the special Marshall County Board of Zoning Appeals meeting to order at 6:00 p.m. on Monday, December 9, 2024, at Plymouth Wesleyan Church Plymouth, Indiana. Present were Commission Members Jeff Gustafson, David Hostetler, Trent Bennett, Jim Kephart, Matt Miller, and alternate Joe Allyn. Also present was Ty Adley, Marshall County Plan Director, Lori Lowry, Board Attorney Derek Jones and interested parties.

Mr. Hostetler made a motion to re-open the public meeting, seconded by Mr. Bennett. Motion carried.

Attorney Jones read into public record notices of the following meetings:

November 7, 2024 Notice of Public Hearing & Notice of Public Meeting was advertised on October 19, 2024 in the Pilot News.

December 3, 2024 Notice of Public Hearing & Notice of Public Meeting was advertised on November 16, 2024 in the Pilot News.

The public hearing portion of the meeting is over and we're now in the component of the public meeting section. This is basically time of deliberation where the board can talk amongst its members and to the applicant.

There is a decision to be made tonight. The decision is to be made in accordance with the Special Use/Exception Findings of Fact. Any motion or decision that is made has to be based on whether you find this project should be approved or denied should be based on general welfare, developmental standards, ordinance intent, comprehensive plan and other considerations spelled out in the ordinance. Any motion made will need to be spelled out in clear terms either for or against based on whether all requirements have been met on all findings for approval or one or

more requirements have not been met for denial. These findings will need to be stated as well as written on the findings. The options the board has are to approve, approve with modifications, denial or to table.

Mr. Adley has resigned his position with the Marshall County Plan Commission as of the end of November. He is now employed as the Plan Director of the City of Plymouth. He had another work obligation tonight but plans to be back around 7:00pm to answer any questions the board might have of him.

Mr. Hochstetler asked Mr. Sternberg to clarify whether its four (4) years to completion or four (4) to start the project. Mr. Sternberg stated that it's four (4) years from the issuance of this special use permit before they pull a building permit. The applicant provided a timeline for the board to see. The process started with three (3) years of signing leases. Once the land was signed up different studies were done. Once the applicant obtains a county permit the applicant applies to the Indiana Utility Regulatory Commission to obtain their approval, which is a six (6) to nine (9) month process. During the process of the projects interconnection is where the project gets bottlenecked and is out of the applicants' control. Tamarack Solar understands that going from one (1) year to four (4) years is a big ask and they are willing to reduce it to a timeline that is measured from when they receive their state level approval. Another additional commitment Tamarack Solar offered was to provide annual updates of what process has been made.

Mr. Hochstetler asked Mr. Sternberg when the clock starts. Mr. Sternberg replied that the clock would start as soon as the board makes their decision. The applicant; however, is asking that the clock wouldn't start until receiving state approvals. After the state approval Mr. Sternberg thought that two (2) years would be an appropriate amount of time for completion.

Mr. Miller has a concern with the wildlife corridors. How many miles of fence are contiguous? Mr. Sternberg commented that this project is split up into an excess of 20 different array areas. Between each area the wildlife is able to traverse around each one.
Mr. Sternberg stated, "One of the staff conditions was to add a wildlife corridor and as I

mentioned at the previous meeting we are prepared to meet generally all of the conditions as recommended by staff including the wildlife corridor." Mr. Miller questioned how far the deer were going to have to walk around the fenced area? The applicant didn't have the exact answer, but he didn't think they would have to significantly go further than they do now.

Mr. Bennett asked when the project is up and going and when the wildlife gets inside the fence area what happens? Mr. Sternberg said that smaller animals isn't usually a concern. If for instance a deer gets in and someone notifies them, they would work at diverting them to leave by way of an open gate.

Mr. Hochstetler questioned that when the project gets sold if the new owners are held to the same constraints or will the county have any say in the sale? Mr. Sternberg said, "Any approval, contract with landowners, other agreements with the county should the project be sold to another party they would all run with the existing agreement. The agreement cannot change because of who is in ownership of the project. Invenergy is a developer, contractor and owner operator where this has led them to long term success for them and community they work in.

Mr. Kephart asked if Tamarack Solar has any minor or half partners that are certified utility companies working on this project? Mr. Sternberg replied, "no not on this project."

Mr. Kephart asked if you get certified for this project, you bring on a partner or you get bought out, public utilities can use eminent domain. Mr. Sternberg stated that when this project gets built and they get their state approvals, that doesn't invalidate their agreements with landowners.

Mr. Kephart asked when the energy is produced does it go to the Midwest grid? Mr. Sternberg stated that they have an interconnection agreement with their que that is with Mid Interconnect System Operator. That is a grid that expands from northern plains from Canada to Louisiana. Invenergy is in the process of getting their agreement and once that agreement is completed they have the access to put it on the grid. The electric then goes to wherever the need is.

Mr. Bennett asked about the facilities that you currently operate do you still own all of them and who have you sold them to? Mr. Sternberg replied in Indiana they are constructing a project for NIPSCO in Sullivan County, built a project in Clinton County, and working AES Indiana. A project like this would likely be desired by Indiana utilities because of the high demand. They own projects in Illinois, Wisconsin and Michigan. Many of the projects get sold.

Mr. Miller was not necessarily happy with the previous wildlife answer. Has seen solar arrays in Michigan Coldwater area where there are large areas with fencing around them leaving primarily roadways for the wildlife to travel. It would make most sense for a wildlife corridor no more than every mile. Have you seen something such as this? Mr. Sternberg stated that Invenergy has learned a lot during construction of these types of projects. Invenergy has found that vegetation management has been critical. They have their own team that specializes in vegetation management. Ben from that team shared their plan of the plantings of evergreens and shrubs and also an extensive corridor along the fence lines that will provide a good habitat for the wildlife to transit in those zones. In the building phase there are plans that will have offsets with natural ways where the habitat will naturally use. They are preserving the same edge habitat that wildlife would use if there was a field that was fully planted. Land management studies are done for every project and they are usually done just before the project. They also use wildlife friendly fencing for this project. Smaller wildlife will be able to travel through, whereas the larger deer will have to travel around.

Mr. Bennett asked for more detail on the buffer areas. Ben continued to reply that there will be two buffer areas. One per the ordinance that requires residential screening. All the residences will have screening either at the fence line or at the property line whichever provides the best screening benefit. In the ordinance it also requires screening at intersection and other roadways which is a secondary screening that softens the view. Mr. Sternberg added that staff had asked for additional screening in areas and they are willing to continue to work with staff.
Mr. Gustafson said that Starke County's solar areas screening is arborvitae and has a hundred (100') between them. What is the distance between the arborvitae of Tamarack Solar's project? Mr. Sternberg said that it would be twelve (12) trees per one hundred (100') feet. The intent for the screening would be a staggered row.

Mr. Bennett commented that the setback is 325'. With adjacent parcels abutting Culvers zoning with residences shouldn't those setback be 325' as well? Mr. Sternberg replied that if they aren't planned for that, they would certainly be following at least that for the homes that are on the line.

Attorney Jones stated, "We have no jurisdiction whatsoever within Culver's zoning jurisdiction. We are not here to approve or deny that is for Culver to determine." They have to abide by Marshall County requirements if the real estate is where the solar array is in Marshall County. They have to abide by the Marshall County Zoning Ordinance, not Culvers.

Mr. Hochstetler commented that the staff report noted the property on Thorn Road's setbacks would be five hundred (500') feet due to panels being on more than one side.

Mr. Sternberg commented that at the end of the second meeting Tamarack Solar was willing to accept the conditions recommended by staff. In addition, there were many comments and concerns by the public. They are willing to address them with an additional list of conditions.

Mr. Sternberg stated that they have made many commitments during the question and answer with staff and in addition to that Tamarack Solar is willing to add conditions. The conditions are as follows:

Buffering and vegetation Matching recommendation that the secondary screening should be upgraded to the primary screen and the primary screening should be updated with an additional second row.

Staff Condition 4 Screening before construction would make it difficult, but would provide a second notification to landowners prior to construction that if they would like screening before construction, they would work with them to install that.

Staff Condition 6 Related to grading across the site. They are committed to minimize grading and maintaining topsoil across the site. The final grading plan.

Staff Condition 7 Buffers shall be extended as reviewed by staff.

Facilities being too close to homes If any resident that is adjacent to panels on greater than one side… after the one side that setback should be increased to 500'. There aren't many of those instances. There are three (3) and they will increase the setbacks in those areas.

Mr. Gustafson asked why Tamarack Solar is coming to the board with this information now after the board hasn't had time to review it?

Mr. Sternberg continued with additional conditions:

Wildlife corridor (site plan) recommendation by staff #3

Staff Condition 9 Comments & commitments made as well as the ones this evening.

No permissible expansions of solar panels beyond current layout.

Inverters not moving any closer to residences in the current layout.

Sunset date of project to be 50 years following the start of construction to match the leases with landowners.

Timeline to pull a building permit and increase it to one year following issuance of state level approvals.

Miscellaneous requirements – Emergency Response Plan

Mr. Kephart asked that solar panels degrade at one percent per year. When will these degregate. Mr. Sternberg replied that they plan to use has a 25 year useful life. At time of construction these panels will be the latest and greatest. If the energy has decreased enough that they feel they can upgrade with new panels and the old panels to possibly be used as residential or components be recycled and used.

Mr. Bennett asked how long the lease agreements could go. Mr. Sternberg responded that it could go up to fifty (50) years.

Mr. Kephart said that EPA says the waste is hazardous. There is a concern for our landfill and recycling isn't cost effective.

Tom Braman, Westwood Senior Environmental Specialist, said as part of the decommissioning agreement, that his office prepared, the primary way is to re-use the solar components which is the most economic viability and secondary recycling. Recycling is done to the closest proximity of the project.

Mr. Gustafson stated that as a part of the decommissioning agreement the approximate cost is $11,673,200 and $77,821/ mgw. The net decommissioning cost after resale and salvage is approximately $10,036,600 in surplus. Mr. Gustafson questioned the process of buying the panel, selling it for 75% of new and that person selling it again to make a profit and stay under new. Mr. Braman stated that this is their standard procedure for doing these calculations for decommissioning. Because of our Decommissioning Agreement Mr. Sternberg said they are required to put up a bond regardless the salvage value. When asked if they could do a Letter of Credit instead of a bond Mr. Sternberg replied, "yes that should be something they could accommodate."

Mr. Miller questioned that due to the newness of solar farms has Invenergy decommissioned any? Mr. Sternberg replied, "no". Mr. Braman said that he was aware of any pv solar being decommissioned at this time. Mr. Miller replied that these numbers are an accepted way to do this, but there is no real world experience to know whether it right. Mr. Braman said that is a fair response, but every future estimate has risk.

Mr. Bennett stated what happens if you sell an electrical utility such as NIPSCO. Mr. Sternberg gave an example of one of their clients. Utility companies like to purchase projects such as these after they are up and running. When the projects are sold Invenergy continues to operate and

maintain. Mr. Bennett wasn't satisfied with the answer.

Attorney Jones spoke that the requirements of that agreement would be assigned to any successor or purchaser whether nipsco or public, they would have the same requirements.

In response to the rules of operation from Mr. Hochstetler Mr. Townsend replied. The conditions and commitments gets recorded and follow the property. So, if someone comes in and purchases they are obligated to the commitments that are recorded. The same rules will follow if there is a bankruptcy.

Michael Kaplan, Invenergy Senior Vice President stated they use their own sponsor equity for funding the project. Once the project is de-risked Invenergy would get a term loan for the project that would have as collateral the lease hold interest and equipment.

Mr. Miller asked if they've ever started a project and it not get completed? Mr. Kaplan said that Invenergy hasn't found itself in that situation, but they have acquired one in that situation. Because of the bond in place before construction there is no liability to the public or landowners.

Mr. Gustafson asked what would happen if all subsidies were taken away from this project? Mr. Kaplan stated that they do not receive any subsidies until the project is brought online.

The Decommissioning Agreement is under the prevue of the County Commissioners, not the BZA. They retained counsel, Attorney Rick Hall from Barnes and Thornburg. The approval of said agreement is subject to the approval of the County Commissioners, not the BZA.

Mr. Gustafson asked why are we building solar farms. Mr. Sternberg replied that there is a demand.

Mr. Gustafson asked how many acres of solar panels would it take to replace all these coal plants? Mr. Sternberg replied that it's not a one for one answer. There is a demand for these types of projects.

Mr. Gustafson asked if the panels attract heat? Mr. Sternberg that they are considered a latent type of heat. A small amount of heat that you are still able to touch.

Mr. Gustafson asked what his company does on the project. Mr. Sternberg replied that Invenergy develops all types of energy projects. They work to obtain land for the projects, conduct preliminary studies, procure project components, and hire a subcontractor to build the project. The panels for this site they hopes to procure from somewhere close but doesn't know for sure where they will come from.

Someone from Mr. Sternberg's team stated that they will work with all suppliers who will provide the right equipment for a given project at a given time. A large amount of Invenergy's projects have been supplied with products that were made in the United States. A company named Illuminate out of Columbus is one of the companies. China has overwhelmingly dominated that mark and many other Asian companies have followed. Some of their modules have been from there. He can't speak to every project. Mr. Gustafson shared his concern how solar is coming to the United States to replace coal fired plants when when coal fired plants are being built in the other countries.

Mr. Gustafson stated when someone has a project and comes to this board they ask first before they start the project and have an investment in it. Why didn't you do that? Mr. Sternberg replied that they wouldn't have been able to meet the burden that's required by your solar ordinance.

Mr. Bennett asked about neighboring agreements. Mr. Sternberg replied that Invenergy doesn't have any neighboring agreements on this project.

Mr. Gustafson questioned when people sign there contract how soon it gets put on their deed? Invenergy's practice is to have it on in a month after the agreement is signed. It is at Invenergy's best interest to have it recorded in case another company comes in to develop in the area.

Mr. Bennett has if this project will grow and Mr. Sternberg replied that it won't.

Mr. Gustafson asked how fast the contracts can be prepared? Mr. Sternberg replied that each case is different especially if there are negotiations.

Mr. Gustafson gave specific examples if you can get out of a contract, and if a husband and wife get a divorce.

Mr. Miller asked about long-term investment in the community. How many employees will be based here? What is the economic benefit to Marshall County? Mr. Sternberg replied that a project of this size will have two (2) or three (3) local operations and maintenance. They plan to contract locally for example: fence repair, ditch re-routes, and mowing. The real benefit is the assessed value for the long term.

Mr. Gustafson asked about the personal property tax and if they will get an abatement. Mr. Sternberg replied that Marshall County's Council has said they aren't interested in an abatement. The taxing is on real property and personal property. The real property that is ag is currently being assessed at $1,500-$2,000. The land being assessed below solar is approximately $13,000 per acre. The personal property 5-10% of the total capital investment of the property. The personal property on this project is projected to be a quarter of a billion dollars. That is new revenue that is coming from a different taxpayer that has the ability to reduce another taxpayers dollars.

Mr. Kephart asked what will happen to the taxes to the properties around the solar? Will it go up or down? Or an example for an existing site.

Mr. Andrew Lines, Principal Valuation Advisory Services, a certified general real estate appraiser in Indiana from Invenergy's team. Generally speaking the assessed values next to a solar farm doesn't change.

Mr. Gustafson asked if all the contract owners are being paid the same? Mr. Sternberg replied

that he wasn't comfortable sharing contract information, but are generally paid the same.

Mr. Gustafson asked once you start construction can the owner be on the property? Mr. Sternberg replied that he has been on sites with a property owner. However, there is a safety component to it.

Mr. Bennett asked about the access after the construction? Mr. Sternberg replied that they generally don't have people roaming inside the fenced area, besides maintenance. If a landowner is wanting to be in a specific area they are willing to work with them as the area is locked. This group has been meeting on a regular basis locally. Its possible that the same group will continue to meet for updates during construction.

The proposed panels are bi-facial that will work in all weather conditions. If we don't have coal fired facilities and we rely on solar what happens at night? Mr. Sternberg replied that there are all types of different markets available.

When asked about batteries from Mr. Gustafson Mr. Sternberg replied that this application does not include batteries. Mr. Sternberg agreed that these project work with batteries. When asked if there will be batteries hook to this project. Mr. Sternberg replied that they would have to have approval with the county. If you have a solar contract with someone can you put battery on their property without their approval? Mr. Sternberg replied that it is a private contract and that he didn't feel comfortable talking about it. Mr. Gustafson discussed specific information from contracts that included the cutting down of trees, and batteries on the properties. Mr. Sternberg replied that there is nothing within this application for a battery.

Mr. Gustafson asked about excavation on he project and the fall that is proposed. Mr. Sternberg replied that moving earth is not a cheap and they want to minimize having to do that. They use specific tubing and materials that assist in not having to disturb ground. If ground is moved they move the top soil first and keep it separate and then replace the top soil once the moving of dirt is done.

Mr. Bennett asked about a retention plan near the substation. Are there not any others. Mr. Sternberg replied that during construction there may be temporary ones, but the only permanent one is near the substation. The land in the solar panel fields is considered an impervious area that doesn't require additional basins or detention in the array area.

Mr. Kephart asked if animals are allowed in the array area. Mr. Sternberg replied that in some areas they have had sheep grazing. Mr. Ben Balskus, Invenergy Vegetation Management, has an area with sheep grazing along and traditional vegetation that gets mowed. Sheep grazing in this fashion would require a lot of planning, but they are interested. During construction their plan is to mow 2-3 times per year. Once the perennial vegetation is established it is monitored to see growth.

Mr. Bennett asked the head height of the solar. Mr. Sternberg replied that it is generally two (2) to three (3) feet from the ground.

Mr. Gustafson asked if all the arrays will be at the same positions throughout the day? Mr. Sternberg replied that is their goal to maximize energy production.

In response to a question on an abatement, Mr. Sternberg stated that the Marshall County Council would have to give the abatement.

Mr. Gustafson asked if there is a tornado and the solar arrays are damaged and pieces land on someone else's property what happens. Mr. Sternberg replied that is why they have insurance to recover. It's no different if it was a home.

Mr. Gustafson asked how many contracted landowners live near the project? Mr. Gustafson listed off contracted owners showing they don't live near the project. Then he asked why the landowners didn't sign near where they live? Mr. Sternberg replied that's it's up to the landowner.

Mr. Gustafson asked how many of the contracted landowners live on the property as compared to

other BZA requests of home-based businesses. Mr. Sternberg replied that about three-quarters of them live in Marshall County. How many of them will see a solar panel from their home? Mr. Sternberg didn't have the information on him. How many of them are going to have to deal with the construction or see the panels? Mr. Sternberg replied again that he didn't have that information and then asked if it's a requirement to live by the project? Mr. Gustafson said, "It's easy to put something like this around your neighbors' homes and not own." Mr. Sternberg replied that they don't have any control over it.

Mr. Bennett said that he noticed some fingers of the flood plain coming into the areas and asked if they can do that? Mr. Sternberg said they attempt to avoid floodway whenever possible. You can build in the floodway, they ultimately will have to decide whether building in that specific area is a risk worth taking.

Mr. Gustafson asked why the Lauren Hayn property has been pulled. Mr. Sternberg said it's a private agreement he didn't feel comfortable talking about.

Mr. Gustafson asked if Invenergy has done any studies of the leaching of zinc ammonia chloride from the pines in the ground? This is in reference to the study that was done at Ancilla with a slightly higher amount of zinc. Mr. Sternberg said that there are studies out there, but personally haven't studied it. They are planning to follow the EPA requirements.

Mr. Bennett said that he grew up in Burr Oak. In the Comprehensive Plan it states that we should preserve and enhance rural villages in Marshall County. With the proposal there is no room for growth. Many people can't afford houses in Plymouth and in Culver. If houses go up for sale in Burr Oak they sell right away. Mr. Townsend responded saying that in the solar ordinance it says that the comprehensive plan is a consideration and guide. Your staff has stated that Tamarack Solar's project is consistent with the comprehensive plan and the other three components. Mr. Bennett stated, "That is not my interpretation."

Mr. Gustafson stated that they aren't happy with what the commissioners did and what the plan commission did. He believes things will be better next year and will be better protected. Mr.

Sternberg understand there will be a political change, but Tamarack Solar is willing to work with whoever that is. The solar ordinance that Tamarack Solar is working under was passed with an 8-1 vote earlier this year.

Mr. Gustafson believes that Tamarack Solar should withdraw their application and reapply. For the reason that they Tamarack is not ready to apply since you are not building for a couple years. Plus you are wanting to change a lot of the rules. Would you consider withdrawing your request? Mr. Sternberg replied that would significantly impact the project timeline they are to follow. Tamarack Solar has been following the ordinance that is in place, that is the best they can do, said Mr. Sternberg.

The board didn't understand the changes in the last hour and why they weren't proposed from the beginning. Mr. Townsend stated that there were many conditions in the staff report that he felt needed a response. Plus Invenergy listened to responses and wanted to respond to those as well. The intention was to give a response from the staff report. With not having the opportunity to discuss this with the board any other time he felt writing out responses and whether Tamarack is willing to meet the conditions.

Mr. Gustafson stated that this board is here to help protect the neighbors, their quality of life and their value of land. He believes what the county commissioners and plan commission did it did them no favors. If Tamarack Solar would pull their application; that would give the newly elected people the chance to get the rules straight and get them right. Mr. Townsend replied that he is not in a position to do that.

Mr. Gustafson asked Mr. Townsend if it is required by law to notify a new purchaser that there is going to be solar next to them? Mr. Townsend doesn't know of anything on a sales disclosure that would require that. The Sommers transaction wasn't an Invenergy transaction. Since he wasn't a part of it he couldn't comment.

Mr. Sternberg commented that knowing the concern on this subject they added additional setbacks and added an exclusion area on page 8 that they wouldn't instruct panels until after the

ditch to the northwest of the ditch. One page 10 there was a plan to have solar panels west of the transmission line. They are adding an exclusionary until after the right of way of the transmission line to accommodate concerns.

Mr. Gustafson wished they would have put these larger setbacks in from the beginning and not have waited till the last hour.

Mr. Sternberg pointed out on page 11 they have added 500' setbacks on both sides of Thorn Rd. as it was an area of concern.

Mr. Gustafson asked Mr. Jones if the county commissioners can override their vote before they get out of office? Mr. Jones stated this board controls the vote of this special use application. The decommissioning agreement, road use agreement those are agreements are under the prevue of the county commissioners.

Mr. Bennett asked Mr. Jones if there are a couple of variances hidden in this application? Mr. Jones stated that for this application the applicant approached the plan director and talked about additional time that is needed for several reasons.

Mr. Gustafson wasn't willing to extend the time past the one year as it's standard practice. Mr. Sternberg asked if the board would be willing to extend to one year after state approval. Mr. Gustafson said the rule is one year from the approval of the variance. However, Tamarack Solar could come back to the board for an extension if needed. Mr. Sternberg asked for clarification what that process would look like. Attorney Jones confirmed that the applicant would need re-apply, not ask for an extension.

Mr. Townsend asked the president if his position was the same on tolling during litigation? Which means if they approve the project the remonstrators would have 30 days to remonstrate. The trial court could say you made an error and need to be reversed which could take 6-9 months and then appeals court which is 12-24 months. These suits put them in a difficult situation to forge ahead as a different court and possibly reverse the decision. That is why a request for

tolling is in there.

Mr. Gustafson's stance is the same as he's not willing to give more advantages.

Mr. Gustafson played an audio of a recording for 23 seconds of what people are going to hear that live by a solar project.

Mr. Gustafson read a letter from Kenny from Starke County of what it's going to be like at the start of construction of a solar farm.

In addition to the concerns is also zinc and the sound effect their health. There is also going to be a devaluation of properties. People in attendance spoke that they wouldn't have bought their property if they new there was going to be a solar farm near them.

Mr. Gustafson shared concerns of neighbors about the loss of property values and does feel this fits in with the character. Marshall County doesn't have something like this out there.

Attorney Jones reminded the board with their options. They can approve, approve with modifications, deny or table the application. The board needs to follow the findings of fact. When making a motion it's not just sufficient to say to approve or deny. You need to site the basis of your motion.

Mr. Kephart made a motion to deny **24-BZA-45 TAMARACK SOLAR ENERGY LLC-** A request for a Special Use to allow a 150 MW (446 panel acres) Farm Scale Solar Energy System that has 1,435 acres within perimeter fencing in portions of West and Union Townships. The project is spread across the following properties; located at the following parcels: # Parcel Number 1 50-31-20-000-005-000-017 2 50-31-20-000-003-000-017 3 50-31-20-000-007-000-017 4 50-31-20-000-008-000-017 5 50-31-20-000-011-001-017 6 50-31-20-000-009-000-017 7 50-31-28-000-001-000-017 8 50-31-29-000-004-000-017 9 50-31-29-000-005-000-017 10 50-31-29-000-003-000-017 11 50-31-29-000-002-000-017 12 50-31-29-000-001-000-017 13 50-31-30-000-006-000-017 14 50-31-30-000-003-000-017 15 50-31-30-000-003-001-017 16 50-31-30-

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For the following reasons: General welfare, house values, safety, morales and general welfare of the community, staff recommendation of denial, too many variances to change, not good for the neighbors and the health, seconded by Mr. Miller.

Mr. Kephart agreed for Mr. Miller to amend the motion to include the intent of the ordinance, the injury to other properties specifically in value, the general welfare wildlife habitat, wildlife corridor, and general welfare of the community, seconded by Mr. Miller

Mr. Kephart agreed for Mr. Bennett to amend the motion to include farmland, open space, preservation, comprehensive plan, rural character, aesthetics, general welfare are not met, also believes that the sale prices of homes are going to go down, seconded by Mr. Miller.

A voice vote was taken of 4-1 to deny, with Mr. Hostetler voting against. The request was denied.

With no further business to come before the board Mr. Miller made a motion to adjourn the meeting, seconded by Mr. Kephart. Motion carried.

Respectfully submitted,

Secretary

December 10, 2024
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:00 p.m. on Tuesday, December 10, 2024, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, Matt Miller, and Jim Kephart. Also present was Ty Adley Plan Director, Lori Lowry and interested parties.

Mr. Miller made a motion to approve the amended October 8, 2024, minutes, seconded by Mr. Hochstetler. Motion carried by acclamation.

The first item of business was 24-BZA-46 WHISMAN, Robert & Pamela - A request for a Variance of Developmental Standard to allow a reduction in density; located at: 19298 2 C Rd. Walkerton, IN 46574 Polk Township, Zoned A-1. Mr. Robert & Pamela Whisman and Zane Whisman of 19298 2C Rd. Walkerton were present to represent their request. Mr. Adley presented the findings of fact.

The applicant owns 8 acres and is seeking to subdivide the property into two 4-acre properties. The ordinance allows for one residential unit per 5 acres of property. Properties can be subdivided down to 1 acre per parcel, but the parent density is required to meet the 1 per 5-acre ratio.

Recommendation:
Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend denial of the proposed variance.

The plan of the applicant is to split the property to allow their son to build a small three-bedroom home on the property with the son owning the driveway back to the property. The proposal for the driveway is for it to be along the eastern property line.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation. There being nobody to speak for or against, Mr. Hochstetler moved, and Mr. Kephart seconded the motion to close the public hearing.

The plan director clarified to the board that someone will have to have an easement or own the 50' strip of land that is used for the driveway for the "flag lot".

Mr. Hochstetler made a motion to approve 24-BZA-46 WHISMAN, Robert & Pamela - A request for a Variance of Developmental Standard to allow a reduction in density; located at: 19298 2 C

Rd. Walkerton, IN 46574 Polk Township, Zoned A-1, seconded by Mr. Kephart. Motion carried with a voice vote 5-0.

The second item of business was 24-BZA-47 BORKHOLDER, Eddie Ray - A request by Matt Troyer for a furniture woodworking shop as a home-based business; located at: 1611 3rd Rd., Bremen, IN German Twsp. Zoned A-1. Mr. Matt Troyer of 1611 3rd Rd. Bremen was present to represent his request. Mr. Adley presented the findings of fact.

Mr. Troyer had an approved woodworking business next door. He is now buying the above noted property on land contract from Eddie Ray Borkholder and plans to run the woodworking business and that property.

The applicant had received approval for the same project back in 2024 under case 20-BZA-26 which was granted approval (5-0) on the property to the west with 3 conditions: 2 employees, hours of operation 5a-5p Monday to Friday, and signage to meet local ordinance requirements. They would like to now get approval to put the business on the subject property.

Recommendation:
Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposal with BZA reviewing the business plan for adjacent impacts and setting reasonable hours of operation.

The normal working hours are 5am to 3pm but is okay to leave them to 5am to 5pm. Deliveries are minimal of 1-2 loads of raw goods a week. There is off road loading and unloading.

Mr. Hochstetler made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation. There being nobody to speak for or against Mr. Hochstetler made a motion to close the public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

Mr. Miller made a motion to approve 24-BZA-47 BORKHOLDER, Eddie Ray - A request by Matt Troyer for a furniture woodworking shop as a home-based business; located at: 1611 3rd Rd., Bremen, IN German Twsp. Zoned A-1, seconded by Mr. Kephart and to keep the stipulations from 20-BZA-26:

1. **2 Employees**
2. **Hours of Operation 5am – 5pm Monday -Friday**
3. **Sign to meet local ordinance requirements**

Motion carried with a voice vote 5-0.

The third item of business was 24-BZA-48 HOCHSTETLER, Michael - A request for a Special Use to allow an increase of dogs to an approved kennel; located at: 2484 2B Rd. Bremen, IN German Twsp. Zoned A-1. Mr. Hochstetler of 2484 2B Rd. Bremen was present to represent his request. Mr. Adley presented the findings of fact.

The applicant was approved for a dog kennel under case 23-BZA-08 which was approved 4-1 with the following conditions: following stipulation: 1. 9 dogs 2. USDA and BOAH certified 3. Once the new facility is up and running the board would welcome you back for more dogs. At that time

canine care certificate would be required. The applicant is now seeking to expand their amount of dogs to 20 females. They are registered and inspected by BOAH, licensed and inspected by USDA and are a member of ICAW.

Recommendation:

Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposal pending input from the neighbors.

The applicant would like to not have his approval dependent on being Canine Care Certified that was developed through Purdue. This Canine Care Certification is stricter than USDA. It is voluntary and is high standards of breeding dogs. They require you to re-home your dogs and not put them down, which the applicant already does. Mr. Dave Hochstetler said that Canine Care Certification was put in place, because the applicants facilities were not built and the board wanted to make sure all the conditions were met.

The applicant doesn't want to be held to twenty. If he has some pups he doesn't want to be held to twenty. The facility was constructed with sixteen pens that hold two dogs each. The application requested approval for 20 females and the additional paperwork spoke of 25 dogs. The advertisement was prepared off the application request of 20 females. The dogs being raised are golden retrievers and Bernese Mountain dogs.

Mr. Bennett made a motion to open public hearing, seconded by Mr. Hochstetler.

1. Chris Kowalski 4230 3rd Rd. Has purchased three dogs from Mr. Hochstetler. Currently helps Mr. Hochstetler with the advertising and re-homing process through facebook marketplace and a you tube channel. They take tremendous care of their animals and are extremely careful breeders. When the dogs are termed out, they are given away through the adoption process. Part of that process requires the dogs be spayed or neutered.
2. Nancy Cox 11165 13th Rd. Marshall County Humane Society Administrator. She went out to the facility and inspected the kennel. Has no complaints of the kennel and the dogs are very well taken care of and have great temperaments. She sees by the application he wants 20 females, but doesn't know for sure how many males. It's a very nice kennel, brand new with heated floors. The numbers are important.

Mr. Hochstetler made a motion to close the public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

The applicant plans to have 3-4 males.

Mr. Miller made a motion to approve <u>24-BZA-48 HOCHSTETLER, Michael -</u> A request for a Special Use to allow an increase of dogs to an approved kennel; located at: 2484 2B Rd. Bremen, IN German Twsp. Zoned A-1, seconded by Mr. Hochstetler with the following conditions:

1. **Twenty (20) females**

Motion carried with a voice vote 5-0.

The fourth item of business was 24-BZA-49 COFFEL, Caleb - A request for a Variance of Developmental Standard to allow a reduction in residential setback from the required 1,320' to 493' for a Confined Animal Feeding Operation; located at: 3560 Grape Rd. Bremen, IN Zoned A-1. Mr. Caleb Coffel of 3560 Grape Rd. Bremen was present to represent his request. Mr. Adley presented the findings of fact.

The applicant was approved for a CFO in 2021 under case 21-BZA-05 on a vote of 3-1 to reduce the setback from 1,320'. The applicant is seeking to expand their animal production operation from 2 barns to 4 barns which would then classify the operation as a CAFO. The proposal is to reduce the setback to 493'.

Recommendation:
Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposal pending input from the neighbors.

The applicant would like to extend his operation to the south. The county erosion control ordinance was originally built 450% greater than what was needed due to the barn floors are clay and not concrete. By adding the two barns the pond is still 203% bigger than capacity needed. All manure is dry and kept inside. The litter stack barn proposed is 40x60' with concrete floors and 6' concrete walls. All barns have fans 2/3 of the fans face the east where there are no close residences. The north and south sides of the barns have a couple fans.

The applicant is working with Melissa at Agronomix along with IDEM to meet all requirements. Miller Poultry is involved in the gap program. There are no cages in the buildings and are free range. They have six to seven flocks a year with 6 weeks on 2 weeks off. The manure is composted and scattered back out for recycled bedding. Many of the things that are required for a CAFO the applicant has already implemented in his operation. Going to a CAFO means they will have over 125,000 birds.

If this is approved IDEM has a list of twenty things that the applicant would have to choose one to help with smell. He has already implemented four.

1. The manure is windrowed and composted
2. The manure is dry and stays inside at all times
3. Litter storage
4. Before the flocks arrive a pt pellet type gel is spread on the litter and is melted when the heater is turned on to help kill any bacteria

When the chicken litter is spread on the farm it is incorporated within twenty-four hours. This is a requirement to be a CAFO. There is a minimum of 125 acres per set of barns and currently has 320 acres signed up. In addition to the requirements required for a CAFO they will be putting in shelterbelts on the north and south sides of the barns.

The applicant talked with the property owner to the south and says that he is against the request. The ordinance requirement is from a residence where his structure is a farm and grain set up not

a residence. At the last meeting the neighbor stated that he has a farm office and grain facility. At that meeting he had a concern with drainage and flood plain.

The other neighbors to the north have signed letters stating that they have no problem with the request.

Mr. Miller asked if there is room where the cattle is to have the shelterbelt. The applicant stated that there is room. The proposed shelterbelt will be 50' from the building.

There have been no complaints or write ups from any government office or poultry facilities. The facility has been populated for three years.

Mr. Gustafson asked if the neighbors to the south would be affected. The applicant said the during the spring and fall there are a few foggy days and there is smell. When the manure is spread there is a little, but the manure is incorporated within 24 hours.

If this is approved a travel plan will also have to set in place.

Mr. Hochstetler made a motion to open for public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

1. Andy Flickinger 30210 CR 40 Wakarusa Miller Poultry. Has worked with Caleb the past three years and does an outstanding job. He raises his birds and takes care of his property. Supports his request to grow.
2. Matt & Jennifer Coffel 6843 4th Rd. Live a half a mile from the barns and supports the request. Loves to see progress and supports their son.
3. Keith Frain 4424 3rd Rd. Bremen Town Manager. Familiar with his operation and doesn't know a harder working farm family. Part of Bremen's master plan is to build a 250 homes on 3rd Road. With another 120 potential multi family dwellings. They are concerned about what this might do to their project. Isn't saying he is against the project. A lot of the questions he had before coming Caleb answered. Their proposed 70 acre subdivision will be less than a mile away from this CAFO. His office hasn't had one complaint. There are days when it is humid there might be a little smell it's just like Caleb said. His Council has asked him to come and share their concerns.
4. Joe Stoller 3708 Grape Rd. Neighbor to the south. Is not against agriculture, just against this request. At the last meeting he didn't want to hold anything back. Says the smell goes past the 400' stated from the last meeting. When it's rainy the smell is bad. To go from 1,320 to 493' is a big deal. Believes this is an industrial area next to a flood plain. This will put another driveway on the property too. In addition to the farming business, he has a trucking business as well. Flies have increased as well. Has a concern about the drainage. Says the manure is worked in. In the zoning ordinance states that if a new dwelling is built within the 1,320'. "Let's say I built a house in front of my shop..which is my primary address. I do stay there often and use it as an office. I do stay there often and friends stay there as well and files taxes from there." They plan to build a house there sometime. If they build a house next to a CAFO they are required to

have a separation distance between them 1,320' of a CFO or a CAFO. Just to build a home he would have to get approval from this board. They don't need any more barns that affect others. Says this will affect property values.

Mr. Bennett asked if Mr. Stoller lived at the Gumwood Rd. address and he said no.

5. Geromme Deschpper 6157 4th Rd. Questioned where he was going to draw the line and what's going to stop him from buying more property and putting up more chicken barns? Doesn't have a problem with the smell right now. But if it doubles in size white might the smell be then? He spreads to the field behind me and it only smells for a day or two after. The tree line does help mitigate the smell. What happens if the Coffels move and leaves the smell for everybody else.
6. Jennifer Coffel 6843 4th Rd. Letter supporting the request of this young farmer and his family's growth.
7. Neighbors in favor signed a petition: Caleb Coffel, Mike Leeper and Barb Burg.
8. Marlin Miller 5958 4th Rd. Objects to the chicken barns as they already smell them.
9. Anthony Wagoner 1406 W. Plymouth St. Has never experienced any odor or other disruption to his property due to the current operation. Has a concern about substantially increasing the size of the operation. Believes it will impact the use of the land around the operation rather than impairing the use of the applicants who own land. It unfairly shifts the burden to other landowners. Doesn't speak for the Town of Bremen but for the past 18 months Bremen has been working on a READI program to develop houses. Has a concern that the expanded CAFO will be less than a mile from the Bremen municipal limits.
10. Alan & Breea Nunemaker 5940 3rd Rd As neighbors they are against the additional CAFO's being constructed on his property. Wasn't notified of any request. Has a concern about the pollution to the air and water. Feel this may negatively impact property values due to others not wanting to live near a CAFO with the odor and quality of life. Requests denial.
11. David & Michelle Jones 5734 3rd Rd. The current animal barns are no bother to them or surrounding areas. There is no smell or noise that is causing any issues. Don't see an issue with adding two more barns. Happy to see a farm and family trying to make a living farming. This is great for Marshall County. Is in favor of the request.

Mr. Miller made a motion to close the public hearing, seconded by Mr. Hochstetler. Motion carried by acclamation.

Mr. Miller asked if there is room on the north side? There is not enough room on the north side of the property, plus the north parcel is in the city's jurisdiction. Mr. Coffel only owns those two parcels.

Mr. Miller asked about the trucking route. The birds go straight north from 106 to Plymouth Goshen Tr.

Mr. Coffel is a full-time farmer and the poultry barns are their primary source of income.

The applicant stated that since both properties are owned by the same person and they are adjacent if the barns were built on the adjacent parcel it would still be considered a CAFO.

In response to a letter that was received the applicant is required by IDEM to turn in a ground water sample yearly. There is a requirement IDEM requirement that all wells have to be 100' from a populated chicken barn.

Mr. Miller asked if there is any new technology to help with flies. Possibly the PT solution they already use. The applicant would be willing to implement something if it's permitted by Miller Poultry.

Mr. Gustafson was surprised during the first request that there wasn't any negative concerns. Now that the proposed is getting closer to a property owner that is now against it he has concerns. Would love to see this go through, but has a concern being so close to the neighbor to the south. Mr. Gustafson asked if there is another property that they could build the barns? The applicant said no.

The applicant personally went to the properties with residences, and both were in favor.

Each barn has 40,000 birds. There is an expectation of 5% loss. He's only been at a 50% loss of their expectation.

Mr. Miller would love to see Mr. Coffel increase his operation. But he has a concern as well about the neighbor to the south.

Mr. Coffel asked to withdraw his request.

The fifth item of business was 24-BZA-50 STUMP, Lavere - A request for a Variance of Development Standard to allow a 81'4x470' layer barn that doesn't meet the 1,320' residential setback requirement; located on Quince Rd. Culver (50-21-12-000-009-000-013 and 50-21-12-000-013-000-013), Union Township, Zoned A-1. Mr. Lavere Stump of 16424 Quince Rd. Culver was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to reduce the 1,320' setback to non-participating residences to 662'. There are also 5 shown residences within this distance as shown in their supporting documentation.

Recommendation:
Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposal pending input by the neighbors.

The applicant's parents own property on the west side of the road and Mr. Stump owns 41 acres on the east side of the road. He currently drives truck and would like to stay home, and this would allow him to do so. He originally thought of staying below the 30,000 birds so it wouldn't be a problem. During his visits with two other barns and the work it takes he felt it would be better to

do a 50,000 bird operation. This avery system has a belt that carries all the manure to the back of the building to be stored. The manure will be used to fertilize their own families alfalfa. The plan is to work with agronomix for a layer barn. The odor plan states that the smell doesn't go beyond 200'.

The applicant owns three separate parcels. He understands that he will have to combine the parcels prior to being able to build. His desire was to make sure he had the board's approval before moving forward in combing the parcels.

The applicant had all the letters of approval signed from the neighbors to the south. There was one person to the east that wouldn't sign and another person to the north that the applicant didn't hear back from.

Mr. Gustafson asked if this barn could go on his fathers property across the street and meet the 1,320' setbacks from residences. To get that far away he would have to go on the other side of the ditch. The applicant hadn't thought about that option as he was proposing it on his own property.

Mr. Hochsteter made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

1. Terry Anderson/James 3000 E. 101 1st Crownpoint Owns 24 acres to the southwest of the proposal. The plan was when they retire, they would build a house on this property. Is against the proposal due to a decrease in property values, health risks, odor, noise, and increased traffic. Believes this is a commercial operation.
2. Travis Dexter 16705 16C Rd Culver Lives to the east of the proposal that did not sign and is not in favor of the request. Has many questions. Will there be additional layer barns in the future? Could there be requests in the future to add on to the proposed building? This will bring animals, pests, odor and other possible harmful concerns. Concern about property valuation. There is a historical cemetery near this will this request require an approvement plan? There is concern about the future long term impact. His request is to deny or table.
3. Brad Gast Syracuse Lives to the north of the proposed. Appeared to support his neighbors.
4. Julie Thornburg 16473 16 C Rd. Culver Lives west of the proposal. They are zoned agriculture. However, it's been mainly crop farming. Has a concern that there will be additional growth of animal production on this property. Believes the proposal will have a negative impact on property values. They are on top of a hill and has a concern of the odor. How will the applicant dispose of dead animals? The additional traffic is a concern.
5. Crystal Compton 16680 Quince Rd.
   ? Watwood 16620 Quince Rd. Originally there wasn 't an issue with having a few chickens until she found out it was proposed to be thousands of chickens. Has an immune disorder and is concerned about the dander and smell. Likes the applicants as neighbors. Is against the request as well.

6. Patrick Thornburg 16473 16B Rd Is not within the setback, but two parcels over. Doesn't believe the applicant has exhausted all uses available. Believes the request is self-imposed.
7. Brian & Norva Shidler 16636 Quince Rd. Doesn't want a commercial chicken operation. Has a concern about the rodents, smell, and health risk.
8. Debra Smith 15900 16th Rd. Rutland Lives to the east and north of this proposal. Likes them as neighbors. Just doesn't want this commercial chicken barn. Will the waste be piled up? They have health issues and are concerned about it possibly affecting their health.
9. Jeffrey Vogl 15858 16 C Rd. Signed a form letter originally in favor of the request as a manager of the property.
10. Jeffrey Vogl Email Sent an email rescinding the letter he signed. Since he is just a manager of the property. The property owner Bryan Wipperman is not in favor of the proposed facility.
11. Crystal Compton & family 16680 Quince Rd. Signed the form letter and after reconsideration, they have changed their mind and do not want a chicken farm.
12. Stewart & Connie Watwood 16620 Quince Rd. Signed the form letter and after reconsidering this situation they are not okay with this.
13. Charles Garmon, Bldg Commissioner Sent a letter informing the board the two separate stop work orders have been issued on this property. One for starting construction without a building permit and the other was the applicant started a garage addition without a building permit. Both times inspection were missed.

Mr. Miller made a motion to close the public hearing, seconded by Mr. Hochstetler. Motion carried by acclamation.

Mr. Gustafson stated that the applicant's neighbors that are closer than the 1,320' are not going to sign in favor of the proposed and asked Mr. Stump if he wanted the board to move forward with a vote?

Mr. Stump's original thought was that he could build a barn under the CAFO limits without approval, but thought he would like to try to have the additional birds.

Mr. Stump requested to withdraw his request.

2025 Proposed Board of Zoning Appeals Meeting Calendar

Mr. Hochstetler made a motion to approve the proposed meeting calendar for the year 2025, seconded by Mr. Kephart. Motion carried by acclamation.

With no further business to come before the board the meeting was adjourned. Motion carried.

Respectfully submitted,

Secretary