February 14, 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 7:30 p.m. on Tuesday, February 16, 2023, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, David Hostetler and Trent Bennett. Also present was Ty Adley Plan Director, Lori Lowry and interested parties. Member absent was Matt Miller.

Mr. Adley swore in the returning Board of Zoning Appeals Member Mr. Jeff Gustafson.

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

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

Mr. Hostetler made a motion to approve the December 13, 2022, minutes, seconded by Mr. Bennett. Motion carried by acclamation.

The second item of business was 22-BZA-49 SCHILLIG, Scott. Mr. Schillig has withdrawn his request.

The third item of business was 23-BZA-01 LEMLER, Jeff – A request for a Variance of Use to allow a processing facility; located at: 1471 10B Rd., Bourbon, IN Bourbon Twsp., Zoned A-1. Mr. Jeff Lemler of 1471 10B Rd. Bourbon and Mr. Larry Lemler of 2436 12th Rd. Bourbon was present to represent their request. Mr. Adley presented the findings of fact.

The applicant has historically operated a butcher shop until closing up shop in Downtown Bourbon. During the medical events of 2020, a need arose so the skills were sharpened up and began helping friends and family. They were turned in for not operating under the approval of the state and have subsequently been working with the State Department of Health. This case is a successor to 22-BZA-55 which was withdrawn under the guidance of the State Department of

Health in order to address a couple minor items. Now that all items have been addressed, they are ready to appear before the BZA. The facility will kill, skin, gut, and quarter the beef or hogs. It will then hang in the freezer then be transported to their additional facility in Bourbon that has already received Town approval in order to process and package. The transportation of the cooled meat has been approved by the state to meet their minimal requirements. They will process no more than 7 beef and 20 hogs in a week.

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

1. Tom & Jane Watkins 6698 N. 1100 W. Bourbon The Lemlers have been in the meat processing business for 80 plus years. They have a long standing reputation of doing a good job. They are an asset to the community and surrounding communities.

Mr. Bennett moved and Mr. Hostetler seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Hostetler made a motion to approve 23-BZA-01 LEMLER, Jeff – A request for a Variance of Use to allow a processing facility; located at: 1471 10B Rd., Bourbon, IN Bourbon Twsp., Zoned A-1, seconded by Mr. Bennett. Motion carried with a voice vote 3-0.

The fourth item of business was 23-BZA-02 CRAFT, Stephen – A request for a Variance of Use to allow a 2nd story loft to be used as living quarters for visiting guests; located at: 18700 12th Rd. Plymouth, IN West Twsp., Zoned A-1. Mr. & Mrs. Stephen & Pam Craft of 18700 12th Rd. Plymouth were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is intending to create a second story loft for living accommodations for guests and travelers to Marshall County. The ordinance currently does not permit secondary residences. The ordinance currently does not regulate short-term rentals, but due to the variety of possible users it is appearing before the Board. The property is substantially secluded. The only concern with the location is the invitation to funnel individuals to the joint intersection of SR 17/ 12th Road/Sage Road. The intersection is a known safety hazard with the angle of the intersection interacting with SR 17. Turning an accessory structure into a residential structure will require considerable upgrades to ensure life safety measures are met, but will be regulated under the County Building Commissioner.

Safety was brought up and during discussion they didn't see a concern. Over the year there have been more accidents at SR 8 and SR 117 than at this intersection.

While the proposed use is similar to that of a hotel, this use doesn't come up often in the county. The board discussed that this proposal is minimal and will not create a lot of extra traffic or undue hardship, but a concern the board had was this setting a precedent for future cases. To eliminate the concerns of this turning into a second full time residency there will be no second address issued, the approval is for short term stay only, and this approval is only for current owners Stephen & Pam Craft.

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

nobody to speak for or against Mr. Bennet moved and Mr. Hostetler seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Hostetler made a motion to approve 23-BZA-02 CRAFT, Stephen – A request for a Variance of Use to allow a 2nd story loft to be used as living quarters for visiting guests; located at: 18700 12th Rd. Plymouth, IN West Twsp., Zoned A-1 with the following conditions:

1. **This approval is limited to short term rentals similar to AirBnB.**
2. **This approval is only for current owners Stephen & Pam Craft**

Seconded by Mr. Bennett. Motion carried with a voice vote 3-0.

If there is a change in ownership, the new owners will need to reapply to the Board of Zoning Appeals.

The fifth item of business was 23-BZA-03 ENG, Jeffrey – A request for a Variance of Developmental Standard to allow a home addition that requires a front yard setback reduction from the required 30' to 13' from the ROW and a side yard setback reduction from the required 10'/10% to 2'; located at: 8452 Clark St., Bremen, IN LOW, Zoned L-1. Mr. Jeffrey Eng of 8452 Clark St. Bremen was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to renovate an existing structure and a couple of the proposed additions do not meet the setback requirements. The proposal for the front is to add a 6' front porch. The minimum setback is 30', but with the addition it would be 13' from the street. The side yard reduction is for a 2' box to put in a fireplace. The setback would be a reduction of 10'/10% of lot width (40') to 2'. The front of the house is estimated at 20' from Right of Way, which is in line with the majority of the adjacent structures.

It was clarified that the front yard setback reduction request is 13' from the ROW not the street.

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

During discussion the consensus of the board was the proposal for the side heating unit could be placed elsewhere or inside the house.

The history of the cottage was that it was owned by the house to the west. The water and electric was run from the main house and there was no bathroom only an outhouse. This proposal will have the bedroom and bathroom added to the rear of the house and the front will have a open porch.

Mr. Bennett made a motion 23-BZA-03 ENG, Jeffrey – A request for a Variance of Developmental Standard to allow a home addition that requires a front yard setback reduction from the required 30' to 13' from the ROW and a side yard setback reduction from the required 10'/10% to 2'; located at: 8452 Clark St., Bremen, IN LOW, Zoned L-1 to approve the 13'ROW setback on the ROW and denied the 2' side yard setback,

seconded by Mr. Hostetler. Motion carried with a voice vote 3-0.

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

Respectfully submitted,

David Hostetler

March 14, 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 7:30 p.m. on Tuesday, March 14, 2023, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, Jim Kephart, and Michelle Mieras. Also present was Ty Adley Plan Director, Lori Lowry and interested parties.

Mr. Adley swore in the new member of the Board of Zoning Appeals, Mr. Jim Kephart.

Mr. Hostetler made a motion to approve the minutes from the February 14th, 2023, Board of Zoning Appeals meeting, seconded by Mr. Bennett. Motion carried by acclamation.

The first item of business was 23 BZA-04 MISNER, Harry – A request for a Variance of Development Standard to allow a parcel's depth to increase to 166'x904' which will not meet the 1 to 3 width to depth ratio; located at: 16865 Lincoln Highway, Plymouth, IN West Twsp., Zoned A-1. Mr. Harry Misner of 16865 Lincoln Hwy Plymouth was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to sell a portion of his property to his neighbor and the proposed design would exceed the 1 to 3 width to depth ratio. Mr. Misner is interested in selling Mr. Hasting the property behind his house. This would create a long and skinny property not meeting minimum standards, but is common with properties to the east and west on the South side of Lincoln Highway. The variance is requested for a 166x904' behind the Hastings property to be added to his existing parcel.

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 Ms. Mieras seconded the motion to close the public hearing. Motion carried by acclamation.

Ms. Mieras made a motion to approve 23 BZA-04 MISNER, Harry – A request for a Variance of Development Standard to allow a parcel's depth to increase to 166'x904' which will not meet the 1 to 3 width to depth ratio; located at: 16865 Lincoln Highway, Plymouth, IN West Twsp., Zoned A-1, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The second item of business was 23-BZA-05 WHETSTONE, Ernest- A request by Homer Miller to purchase additional acreage and add to his parcel that will be 281.70' x 1932.94' that does not meet the 1 to 3 width to depth ratio; located at: 2013 and 2141 Beech Rd. Nappanee, IN

German Twsp., Zoned C-2. Mr. Ernest Whetstone OF 2141 Beech Rd. Nappanee and Homer Miller 2616 2B Rd. Nappanee were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to add some additional property from their neighbor but is going to exceed the 1 to 3 width to depth ratio. The parcel at the end of the day is proposed to be 281x1,932'. This would add some additional distance to the existing property to the south, and head west to the nearby the powerline easement.

This parcel is zoned commercial which is why it will have to go in front of the planning commission for a subdivision approval at the end of the month. A couple of years ago the property owner purchased additional acreage and had to do the same procedure. The use of the property hasn't changed.

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

- Jay Dubay 1580 US 6 Wanted to know the plans and if they plan to build anymore buildings.

Mr. Hostetler moved and Mr. Kephart seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Hostetler made a motion to approve <u>23-BZA-05 WHETSTONE, Ernest-</u> A request by Homer Miller to purchase additional acreage and add to his parcel that will be 281.70' x 1932.94' that does not meet the 1 to 3 width to depth ratio; located at: 2013 and 2141 Beech Rd. Nappanee, IN German Twsp., Zoned C-2, seconded by Mr. Kephart. Motion carried with a voice vote 5-0.

The third item of business was <u>23-BZA-06 KNOTT, Dwayne & Melissa -</u> A request by John Mast Construction for a Variance of Developmental Standard to allow a reduction in rear/east side yard setback from the required 45' to 24' to allow construction of a new home; located at: 50-42-12-000-033-000-009, West Shore Dr. Lot 8, North Twsp., Zoned L-1. Mr. Mahlon Hershberger of John Mast Construction was there to represent the Knotts. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a new home and are having siting issues due to the design of the canal and associated setbacks. The setbacks from the canal are 45' which can be met from the north side, but as the canal wraps around the east side, is unable to be met. They are proposing to reduce the 45' setback to 24'. The side yard setback just a little further south is 10', which is substantially different without the canal.

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

- Linda Moser 4017 W. Shore Dr. Bremen Questioned where the property was

compared to her house.

The board brought up discussion where access would be to dredge the canals. Ms. Mieras was unaware of any specific access to dredge.

Mr. Hostetler moved to close the public hearing, seconded by Ms. Mieras. Motion carried by acclamation.

Mr. Bennett made a motion to approve 23-BZA-06 KNOTT, Dwayne & Melissa - A request by John Mast Construction for a Variance of Developmental Standard to allow a reduction in rear/east side yard setback from the required 45' to 24' to allow construction of a new home; located at: 50-42-12-000-033-000-009, West Shore Dr. Lot 8, North Twsp., Zoned L-1, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The fourth item of business was 23-BZA-07 BORKHOLDER, Vonda - 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 five residences; located at: Beech Rd. 50-54-21-000-016-000-005, Nappanee, German Twsp., Zoned A-1. Dwight and Kevin Borkholder of 781 Plymouth Goshen Tr. Nappanee, IN 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 504', 568', 692', 890', and 1,077'. The structure is also separated an estimated 1,800' from a schoolhouse at the intersection of Plymouth-Goshen Trail and Beech Road. The Double Layer Barn is proposed to be 53x548' with pasture on the North and South sides of the building. Manure storage would be located off the rear of the building nearest the low ground at the east end of the property. 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.

The proposed barn will be double layered allowing the bottom layer to be free range. They chose the location for a couple reasons. 1. Due to the contours it would cost them a lot more to bring in dirt if the barn were placed in another location. 2. The future plan would be to split the land to have another home on the farm.

The 1,320 ft from a residence is part of Marshall county's ordinance, but not sure if it was brought in as part of IDEM approvals or if it originated with the writing of the new ordinance.

This request will definitely go through the approval process through IDEM. Marshall County's review tonight is only for the distance from residences within the 1,320 feet. The proposed use is already a permitted use in A-1 zoning.

The manure will be kept in a fully enclosed manure storage building to later be spread on

farmland.

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

- Lonnie Whetstone 228 Plymouth Goshen Tr. In favor of the request. Owns a similar building and is a good farming tradition.
- David Whetstone 232 Plymouth Goshen Tr. In favor of the request.
- Joseph Borkholder 534 Plymouth Goshen Tr. In favor of the request. Might be affected a little by the smell but shouldn't be terrible. Has a little more concern about a tile that runs through that area onto his property in the swamp area. His tile is a private tile.
- Keith & Mary Borkholder 668 Beech Rd. Agronomic approval letter
- David & Doris Hochstetler 703 Beech Rd. Agronomic approval letter
- Willis & Freida Borkholder 634 Beech Rd. Agronomic approval letter
- Jerry & Alma Helmuth 570 Beech Rd. Agronomic approval letter
- Jonathan & Sharon Helmuth 536 Beech Rd. Agronomic approval letter
- Willis Freida Borkholder 634 Beech Rd. The location originally stated doesn't align with the markers that were placed. There is 40 plus acres on that parcel and feels it could be moved to the east which would effect a lot less people. Also has a concern with the manure and flies and decreased property values.
- Keith Mary Borkholder 668 Beech Rd. Wants the Borkholder family to consider moving it closer to the requirement of 1320'. The flags are 95' from the property line which would put the barn 448' from my residence. Also has a concern about water drainage and where the water will go.
- Neal Miller ? Is opposed to the layer barn at the location stated due to the close proximity of neighboring residences. Not opposed to the barn itself if it is located as far as possible from all residences.
- Jonathan Helmuth 536 Beech Rd. Is not for or against. Heard they will be hiring someone to run the day to day operations of the layer barn and don't plan to be doing the work themselves which is different from normal operations. There is also a low spot wetland area behind where the facility and manure storage area is proposed. Can manure runoff be prevented or can it be moved to higher ground or elsewhere on the Borkholder farm?
- Henry Kuhns 1061 Ply Goshen Tr Strongly suggesting that the distance from the north property lines needs to be more than the proposed 150' in order to not be offensive to the residences to the north.

Dwight and Kevin presented to the neighbors before they signed the letters the site plan showing the proposed location. The marker's that were put out were a generalized location not exact.

The ground that is east of the proposed building location is a low area. All manure is stored in a contained facility that is regulated by IDEM and the state chemist.

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

When asked if they could move the building south to put some distance between the building and the neighbors the Burkholder's said the land between would then be useless to them.

The board discussed the contours and distances from the proposed to the schoolhouse and family residences to the south.

Mr. Adley re-read a synopsis of each of the letters that were sent in per the boards request. With the five neighbors within the 1,320 feet against the request now the board gave the applicants their options on how to proceed. The options would be continue with the request or to table the request that would give them additional time to come up with a solution that everybody could work with. The applicants agreed that tabling would be the best option.

Mr. Hostetler mad a motion to table the request 23-BZA-07 BORKHOLDER, Vonda - 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 five residences; located at: Beech Rd. 50-54-21-000-016-000-005, Nappanee, German Twsp., Zoned A-1 until April, seconded by Ms. Mieras. Motion carried with a voice vote 5-0.

2022 Annual Report

The 2022 Annual Report was presented to the board. The permit total went down with only a 3% reduction, but valuation increased from the year before.

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

Respectfully submitted,

David Hostetler

April 11, 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 7:30 p.m. on Tuesday, April 11, 2023, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, and Chris Kline. Also present was Ty Adley Plan Director, Lori Lowry and interested parties. Member absent was Matt Miller.

Mr. Hostetler made a motion to approve the minutes from the March 14, 2023, Board of Zoning Appeals meeting, seconded by Mr. Kline. Motion carried by acclamation.

The fourth item of business was 23-BZA-07 BORKHOLDER, Vonda - A tabled 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 five residences; located at: Beech Rd. 50-54-21-000-016-000-005, Nappanee, German Twsp., Zoned A-1. Dwight and Kevin Borkholder of 781 Plymouth Goshen Tr. Nappanee, IN 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 504', 568', 692', 890', and 1,077'. The structure is also separated an estimated 1,800' from a schoolhouse at the intersection of Plymouth-Goshen Trail and Beech Road. The Double Layer Barn is proposed to be 53x548' with pasture on the North and South sides of the building. Manure storage would be located off the rear of the building nearest the low ground at the east end of the property. 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.

After talking with the closest neighbors, the applicants moved the building 50’ to the south and east 55’ to accommodate their requests.

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

1. Arlin Mullett 6859 W. 1300 N. Nappanee, IN Believes the odor of the chicken barn will lower the value of his property. Thinks they should build the barn

south of their house.

2. Chris Borkholder 1707 Beech Rd. Nappanee, IN Received the letter a day after the last hearing. Wish they could move the barn further away from their residence.
3. Keith Borkholder With the location of the new location has been marked they are in favor of their request.
4. Arlen Mullet 6859 130 N. Nappanee, IN The stinky chicken barn will lower the value of the property. Believes it could be moved to a better location.
5. Willis & Freida Borkholder 534 Beech Rd. Nappanee, IN Thanked the applicants for moving the proposed barn. They are in favor of the new location.
6. David Miller 1335 B Rd., Bremen, IN Feels this location is for small family farm not a multi million business community. Questioned whether they would be working in the facility.
7. Jerry & Alma Helmuth, Willis & Freida Borkholder, Keith & Mary Borkholder, and David & Doris Hochstetler signed letters prepared by Agronomic Solutions that they are in favor of the updated request.

Four out of the five residences signed the Agronomic Solution letters. The house furthest away was the one that didn't sign.

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

The applicants talked to the one neighbor who didn't sign. He didn't seem like he was against the barn, but seemed indifferent because they were hiring help. The applicants will be managing the business and their mom will be working in it as well. With the size of the operation, they will hire some help.

Mr. Hostetler made a motion to approve the request 23-BZA-07 BORKHOLDER, Vonda - 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 five residences; located at: Beech Rd. 50-54-21-000-016-000-005, Nappanee, German Twsp., Zoned A-1 until April, seconded by Mr. Bennett. Motion carried with a voice vote 3-1 with Mr. Kline voting against.

The second item of business was 23-BZA-08 AMMF - A request by Michael Hochstetler for a Special Use to allow a dog kennel; located at: 2484 2 B Rd., Bremen, IN German Twsp., Zoned A-1. Mr. & Mrs. Michael Hochstetler of 2484 2 B Rd., Bremen was present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to permit a dog kennel with 25 adult dogs (Golden Retrievers and Bernese Mountain Dogs, but plans to start with about 15. They plan to raise 150-225 puppies per year. The plan is to purchase a 16x48' portable building then set it in place and install in floor heat and ac. The in-floor heat is created by the 6" raised floor with 24" wide full length aluminum heat pads that will be heated with hot water, similar to in-floor heat in concrete.

There will also be ceiling and exhaust/ventilation fans. There will be 14 inside houses with runs that are 5.5' x 16'. The houses will be large enough for 2 adult large breed dogs so that they will not have to be alone. The kennel will be built to USDA specs will be inspected and certified by the USDA. The applicant will also be certified by Canine Care Certified which is a program developed by Purdue University to ensure the health and overall well-being of the adults as well as the puppies. The applicant is also a member of ICAW (Indiana Counsel of Animal Welfare). The dogs will have inside and outside access at all times and will be exercised in a large play yard on a daily basis. The kennel will be dry and spot cleaned daily. It will also be sanitized "by-weekly". The waste from the dogs will be composted with the horse manure and applied to the applicant's fields. The applicant will be working close with Dr. Weldy's Associates to develop a vaccination/deworming schedule and he will be doing his own genetic testing with Paw Prints Genetics to ensure that he is breeding dogs without genetic diseases. The puppies will all be socialized with standards developed by Canine Care Certified/Purdue University and will be sold to brokers at 8 weeks of age.

Mr. Hochstetler provided the board with a letter of consent for the kennel by area neighbors. In addition to what's been presented Mr. Hochstetler will be adding outdoor playground equipment for the dogs.

As far as distance from neighboring property owners Mr. Hochstetler meets all requirements.

Canine Care is a voluntary program. To get their certification it will require the Hochstetler's to build the proposed building. One of their requirements is that you re-home your dogs at 6 years of age. Another requirement they have is if a placed dog isn't working out the applicant is required to take back the dog to rehome it.

Mr. Hochstetler didn't receive a violation notice for the kennel. He started the kennel as a hobby and wasn't aware at that time he needed permission. Prior to building the new building he came in to apply for a permit and found out he needed the board's permission for a kennel. His desire is to be compliant and get all permissions required.

The TRC's recommendation was to propose 9 dogs since it's already in operation with 9 while they get their certifications and get their kennel into compliance. Once that is done then come back to the board for further approval.

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

1. Ernest Bontrager 10031 W. 900 N. Etna Green Has raised dogs for about 23 years. Believes he has a good plan and supports his request. In Kosciusko you have to go through the same approvals.
2. David Slabaugh 420 5 B Rd. Bremen Has an approved kennel that has all the same certifications that Mr. Hochstetler will be getting. A lot of money is spent to have a good facility and he supports the proposed facility. He doesn't support bad breeders.
3. Nancy Cox 14210 Nataka Tr. Plymouth Is in charge of the Humane Society. Is very against selling the puppies through brokers. Currently the humane society is overcrowded. Having 150-200 puppies a year to place is a lot. She has not met the applicant and hasn't been out to his facility. Ms. Cox believes it would be best if they start with 9 and comply with regulations and get inspected with the proposed new

structure. But, not with the facility as it is now. Is willing to go out once the new facility is done and inspect and make a recommendation at that time.

4. Cheryl Rager 9398 3rd Rd. Bremen Is not in favor of this proposal.
5. Letter submitted by Mr. Hochstetler of neighbors who are in favor of the proposed dog kennel: Signed by Lynn Yoder, Adrin Jimenez, Rick Keck, Lamar Reichert, Marilyn Miller and Joas Miller.

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

Mr. Gustafson said to get his vote there are 5 things you need to get his approval:

1. Humane Society approval
2. 24 hr/day 365 days a year clearance to visit the kennel with no advance notice
3. Have a good plan for the adult dogs
4. Provide what the vet does
5. Agree not to take any adult dogs to the vet

The board commended Mr. Hochstetler in that he wants to make his kennel better, but would have liked to had the Humane Society's view on this existing kennel.

The Canine Care's approval could possibility take more than the 6 months and he cannot get their approval with the existing facility.

The applicants intention is to start with 15 dogs and possibly going up in the future.

As far as the non-compliance Mr. Adley said that can be put on hold during the tabling till the next hearing. Compliance for the existing kennel would be our current regulations as well as the 6 month time frame to complete.

Mr. Hostetler asked if his current facility would meet the requirements with the current 9 dogs? Mr. Adley stated that he would have to go back out and through the regulations.

Mr. Hochstetler requested to table this meeting until the May hearing.

Mr. Kline made a motion table the request, seconded by Mr. Hostetler. Motion carried by acclamation.

The third item of business was 23-BZA-09 NELLANS, Kirk & Kathleen - A request for a Variance of Developmental Standard to reduce the side yard setback from the required 15' to 8' in order to build an accessory structure; located at: 11087 20B Rd., Argos, IN Zoned A-1. Mr. Kirk Nellans of 11087 20B Rd. Argos and Ms. Dorothy Nellans of 0737 Linden Rd., Argos were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a pole building for storage on the property. The property was cut off from the farm in 2021 and a residence built later that year. They are no pursuing the

construction of a pole building, but are need to reduce the setback from 15' to 8' due to the spacing of house, lp tank and electrical service with the driveway.

Moving the proposed building location to meet the setback will entail additional expense and complication with the electrical service to the building. Additionally, it's his opinion that having the building too close to the LP and electric wouldn't be safe. The only land that is impacted by it is the family farm that's been in the farming business since 1856.

His objective is for it to be the most aesthetic and cost effective as possible. Mrs. Nellans the owner of the adjacent property doesn't have a problem with the request.

Mr. Hostetler made a motion to open for public hearing, seconded by Mr. Kline. 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 23-BZA-09 NELLANS, Kirk & Kathleen - A request for a Variance of Developmental Standard to reduce the side yard setback from the required 15' to 8' in order to build an accessory structure; located at: 11087 20B Rd., Argos, IN Zoned A-1, seconded by Mr. Kline. Motion tabled due to a 2-2 vote with Mr. Hostetler and Mr. Gustafson voting against.

The fourth item of business was 23-BZA-10 CRIPE, Dennis & Angela - A request for a Variance of Developmental Standard to allow a secondary before a primary for a 30x36' garage on a vacant lot across from his residence; located at: Tahoe Tr. (Lot 55), Plymouth, IN Zoned L-1. Mr. Dennis Cripe of 18139 Tahoe Tr., Culver was present to represent his request. Mr. Adley presented the findings of fact.

Technical Review Committee Recommendation: Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval with the condition that the Lake Latonka Property Owner's Association provide a letter of approval prior to approval of a building permit. The letter shall only be required should the restrictions being referenced are recorded and legally binding.

The applicant owns the lot across the street from the subject parcel which is his primary residence built in 2019. The subject parcel has been cleared in preparation to construct a detached garage on the property that is 30x36'. This construction requires a variance to construct a secondary prior to a primary structure.

Mr. Cripes' home on lot 71 was originally 3 parcels that have since been combined. They are currently landlocked. Since they've had the opportunity to purchase lot 55 across the street. The objective was to clear the overgrown lot and build a custom garage that matches his house. In the future if there is a sale of the house the secondary lot will be sold with the primary lot. There is no plan for living quarters or a bathroom. It is their plan to use it for storage of lake life items that cannot be stored outside.

Last year on lot 65 of Lake Latonka the association approved a 30x40 garage as a secondary before a primary no different than what he is doing.

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

1. David Stayton 18146 Tahoe Tr. Board member of Lake Latonka and a chairman of the building committee. On March 13th the board denied his request to build because his proposed lot is across the street and not adjacent. They've never allowed it and they aren't going to start. The board took a vote and denied the request and no letter was sent.
2. Ellen Stayton 18146 Tahoe Tr. Lives across the street from Dennis and lives next to the proposed building. Believes there has been others who have bought properties across the street to build on and have been turned down for the same reason. Said another property owner is against it as well.
3. Richard & Cathy Perkins 206 Pleasant St. In favor of granting the request.
4. David Stayton 18146 Tahoe Tr. Sent a letter stating Mr. Cripe was Informed in person that his proposed garage was not allowed per the by-laws and restrictions.

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

The board commented that if he had living quarters in it he could also do that.

During discussion the board commented that they don't remember hearing from this association. The last case the board approved for a secondary before a primary there was no response from the association.

Mr. Cripe requested that Mr. & Mrs. Stayton's statements be recused as they are too close to the situation and personally invested.

Mr. Cripe understands that he could build a building for residential purposes, but with the newer requirements for a septic he's not even sure he could fit a septic on the property.

Mr. Hostetler made a motion to approve <u>23-BZA-10 CRIPE, Dennis & Angela -</u> A request for a Variance of Developmental Standard to allow a secondary before a primary for a 30x36' garage on a vacant lot across from his residence; located at: Tahoe Tr. (Lot 55), Plymouth, IN Zoned L-1, with the stipulation it meets the TRC's recommendation: That the Lake Latonka Property Owner's Association provide a letter of approval prior to approval of a building permit. The letter shall only be required should the restrictions being referenced are recorded and legally binding, seconded by Mr. Kline. Motion carried with a voice vote 4-0.

Marshall County Board of Zoning Appeals
4/11/2023

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

Respectfully submitted,

David Hostetler

May 9, 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 7:30 p.m. on Tuesday, May 9, 2023, 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. Bennett made a motion to approve the minutes from the April 11, 2023, Board of Zoning Appeals meeting as corrected, seconded by Mr. Miller. Motion carried by acclamation.

The second item of business was 23-BZA-08 AMMF - A request by Michael Hochstetler for a Special Use to allow a dog kennel; located at: 2484 2 B Rd., Bremen, IN German Twsp., Zoned A-1. Mr. & Mrs. Michael Hochstetler of 2484 2 B Rd., Bremen was present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to permit a dog kennel with 25 adult dogs (Golden Retrievers and Bernese Mountain Dogs, but plans to start with about 15. They plan to raise 150-225 puppies per year. The plan is to purchase a 16x48' portable building then set it in place and install in floor heat and ac. The in-floor heat is created by the 6" raised floor with 24" wide full length aluminum heat pads that will be heated with hot water, similar to in-floor heat in concrete. There will also be ceiling and exhaust/ventilation fans. There will be 14 inside houses with runs that are 5.5' x 16'. The houses will be large enough for 2 adult large breed dogs so that they will not have to be alone. The kennel will be built to USDA specs will be inspected and certified by the USDA. The applicant will also be certified by Canine Care Certified which is a program developed by Purdue University to ensure the health and overall well-being of the adults as well as the puppies. The applicant is also a member of ICAW (Indiana Counsel of Animal Welfare). The dogs will have inside and outside access at all times and will be exercised in a large play yard on a daily basis. The kennel will be dry and spot cleaned daily. It will also be sanitized "by-weekly". The waste from the dogs will be composted with the horse manure and applied to the applicant's fields. The applicant will be working close with Dr. Weldy's Associates to develop a vaccination/deworming schedule and he will be doing his own genetic testing with Paw Prints Genetics to ensure that he is breeding dogs without genetic diseases. The puppies will all be socialized with standards developed by Canine Care Certified/Purdue University and will be sold to brokers at 8 weeks of age.

Recommendation:
Based on the information provided and review by Technical Review Committee, staff and TRC would recommend approval of the proposal with the conditions:

- The ordinance requirements are met
- Limit of adult dogs to 9
- Requirement that they also have 6 months to come into compliance with the kennel ordinance for the violation of operating a kennel without BZA approval.
- Staff would amend the original recommendation to include the condition that the facility is required to include the condition that the facility is required to be Canine Cares Certified. As a note, should any of the development standards set forth in the zoning ordinance or conditions set by the BZA not be met, a violation may be pursued and result in the kennel be revoked.

Mr. Hochstetler had a signed petition from area property owners in favor of his proposal.

Mr. Hochstetler had three options to propose to the board.

A. 9 dogs – Only having 9 dogs will be an after hours business. With all the paperwork involved in canine care he will NOT have it for 9 dogs. Will follow the principles just not the certifications.
B. 12 dogs - No Canine Care Certification
C. 25 dogs – Will not have 25 dogs right away. He would grow into it as the facility allows. USDA inspected, Canine Care and BOAH Certified. With more than 20 breeding females BOAH certification is required. Voluntary BOAH certification is allowed.

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

1. Nancy Cox 11165 13th Rd. Director of the Humane Society. They handle 1500 animals a year. Ever since COVID people are getting rid of their pets because of the economy and people going back to work. Isn't in favor of another breeder coming into the community where they are going to pump out an additional 200 puppies a year. Agreed to let him have the 9 dogs that he has now because it seemed to be the majority of thoughts of the TRC. This is a puppy mill. As long as animals are dying in the shelter she isn't in favor of this type of business.
2. Brenda Harper City of Plymouth Didn't understand why the applicant had 9 dogs and now he has 12 dogs. Shouldn't that be a violation?
3. Letter submitted by area neighbors in favor of the request.
4. Cheryl Rager 9398 3rd Rd. Lagrange and Elkhart Counties are the worst rated for puppy mills and doesn't want Marshall County to follow suit. Believes puppy mills are terrible as they have little human interaction.
5. Marilyn Rans Email Is not in favor of puppy mills and she believes they are inhumane left in cages and no human interaction.

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

Ms. Cox was invited to the property and there were several conversations over the phone, but Ms. Cox didn't come out to the property.

There is currently a developmental standard within the ordinance that allows the Plan Director

and Humane Society to visit the property anytime unannounced.

Mr. Hochstetler hasn't had to re-home a dog yet. He is familiar with a facility that re-homes and is a veterinarian. He has specific standards and doesn't take all dogs.

The new facility will always have access to the outside. The runs are 6' wide and 16' long and will be assembled with vinyl and washed down daily. There will be a play yard where the dogs will be let out into daily to play.

The dogs cycle twice a year. However, it is recommended that they breed two times and skip once.

With either the 9 or 12 dog limit, Mr. Hochstetler will still have a full-time job.

He still plans to build the facility with hopes to have up to 25 dogs in the future. He would like to have permission now for the 25 dogs and not have to come back. But, would follow the wishes of the board.

Up to this point the applicant has been selling all the dogs wholesale. He would like to get into selling retail to get to know the new owners

The three extra dogs are good quality dogs that he would have to pay $275 to rehome them. He would like to keep them.

Mr. Adley read and explained the definition of a kennel within the ordinance.

Mr. Bennet made a motion to approve <u>23-BZA-08 AMMF -</u> A request by Michael Hochstetler for a Special Use to allow a dog kennel; located at: 2484 2 B Rd., Bremen, IN German Twsp., Zoned A-1 with the following stipulation:

1. **9 dogs**
2. **USDA and BOAH Certified**
3. **Once the new facility is up and running the board would welcome ou back for more dogs. At that time the canine care certificate would be required.**

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

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

Respectfully submitted,

David Hostetler

June 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 7:30 p.m. on Tuesday, June 13, 2023, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, Chris Kline and Jim Kephart. Also present was Ty Adley Plan Director, Lori Lowry and interested parties.

Mr. Bennett made a motion to approve the minutes from the May 9, 2023, Board of Zoning Appeals meeting as corrected, seconded by Mr. Miller. Motion carried by acclamation.

The first item of business was 23-BZA-11 JORDAN, Jack - A request by Hope Jordan for a Variance of Use to allow an existing barn to be used for periodic artisan/seasonal markets; located at: 10328 3rd Rd. Bremen North Twsp., Zoned A-1. Mrs. Hope Jordan was present to represent her request. Mr. Adley presented to finings of fact.

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 West and overflow 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. In regards to ADA access the applicant responded that, "the upstairs is accessible via large garage door and it is open once inside… downstairs there is a large garage door size opening as well that leads to cement and then into the building." There are no permanent restroom facilities planned for the business and will contract port-o-potty facilities on an as needed basis.

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

1. Rick Ullery 10218 3rd Rd. Has been a long time resident in this area. They are continuing the legacy of raising hogs in the area. They don't believe having a market in the area is a good thing. This is a farming community and a artisan market doesn't align with a farming community. If the board does approve this request he would like it to have a set number of days and hours.
2. Tara Murphy & Cody 10328 3rd Rd. Requested that the Jordan property be given a new address as it has the same address as them. The market that they are proposing will be 20' from their front door. They have a concern of consumers parking along the road and wandering onto their private property. Plus the county roads weren't built to handle all this proposed extra traffic. Their privacy will be gone and their property values will depreciate.

3. Benjamin Hepler 9879 3rd Rd. This road is already heavy trafficked by people going to Lake of the Woods. Their easements are already covered in trash people throw out. The bad time of the year is in the summer for people travelling to the lake. Now it's going to be extended with the proposed markets. Also has a concern with traffic.
4. Wayne & Becky Mishler 2693 Kenilworth Rd Lives in the 1st place south of Kenilworth. Their main concern is the increase in traffic. Lake of the Woods already provides additional summer traffic. Is a lifetime resident in the area. He farms and already has a hard time getting equipment up and down the road safely. Additional traffic is not needed. The parking is a concern. There ground is wet where are they going to park? Have been to other markets and understand the space that's needed. Likes that they are maintaining the property they just don't want an artisan market there.
5. Andrew & Kim Mishler 2560 Kenilworth Rd. Believes an artisan market will disrupt the way of country life they've had for many years. Disappointed that they are already advertising when it hasn't been approved. Safety is a big concern as the road is already a drag strip.
6. Lisa Knepp & Mark Seltenright Kenwilworth Rd. The drainage in that area is not set up to handle any substantial changes. Traffic concerns.
7. Allen Whittaker 3171 King Rd. Sent a letter with 11 questions.

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

In response to some of the questions:

- The entrance for parking will be at the corner where the gate is.
- Questions about a stop signed and speed limit change would need to be brought up to the highway superintendent.
- Parking spaces haven't been calculated at this point and it will be left as grass. Roadway parking will not be allowed.
- Vendors would only be outside and it would possibly be 40-50
- The events would be seasonal and she thinks maybe 4
- They will have there own personal get togethers at the site
- There is no plan to rent the space for weddings
- No septic on the property

After a lengthy discussion of items brought up and the board wanting more clarity on the parking area and number of spaces, number of vendors, traffic flow, signage, how many events and a few other items the board recommended this case be tabled until July to allow the applicant time to possibly do a layout to give the board a little more information to go on.

Mr. Hostetler made a motion to table this request, seconded by Mr. Kline. Motion carried by acclamation.

The second item of business was 23-BZA-12 FURGYE, Jack & Helen - A request for a Variance of Developmental Standard to reduce the lakeside setback from the required 45' to 33' to build a covered porch; located at: 20752 South Lake Dr., Walkerton, IN Polk Twsp., Zoned L-1. Mr. & Mrs. Jack Furgye was present to represent their request. Mr. Adley presented the findings of fact.

The applicant wants to reconstruct their deck on the rear/lakeside of their residence. The reconstruction would require a setback reduction from 45' to 33'. The applicant's property is unlike many of the neighbors where the lake side property line is on a severe angle where many of the other properties are much more rectangularly shaped. The properties to the east are more closely constructed to the channel than the proposal. The properties to the west are along the main section of the lake with a more traditional lot shape and provide for greater setback from the lake.

The plan is not to go closer to the water, but just to extend to the outside edge of the house. They have thought about how it could affect their neighbors and they don't believe their proposal will affect them on either side. At this time it will be open with no screen.

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

1. Daniel Sellers 20742 South Lake Dr. Walkerton Is in favor of the proposal and believe it will enhance the neighborhood.

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

Mr. Kephart made a motion to approve 23-BZA-12 FURGYE, Jack & Helen - A request for a Variance of Developmental Standard to reduce the lakeside setback from the required 45' to 33' to build a covered porch; located at: 20752 South Lake Dr., Walkerton, IN Polk Twsp., Zoned L-1, seconded by Mr. Klein. Motion carried with a voice vote 5-0.

The third item of business was 23-BZA-13 TILLMAN, Gary - A request for a Variance of Developmental Standard by Braden & Cindy Main to split a parcel 215'x 2641' that doesn't meet the 1:3 width to depth ratio; located at: Pine Rd. (50-52-31-000-001-000-009), North Twsp., Zoned A-1. Mr. Gary Tillman761 King Rd. and Mr. Braden Main 1920 Sycamore Ln Bremen was present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to subdivide the property and the proposed lot layout is 215x2641' The property is 215' by the road which trips the beginning of the 1:3 width to depth ratio. The property later opens up to its full width to encompass the woods.

The applicant is seeking to subdivide the property and the proposed lot layout is 215x2641' The property is 215' by the road which trips the beginning of the 1:3 width to depth ratio. The property later opens up to its full width to encompass the woods.

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

Mr. Hostetler made a motion to approve 23-BZA-13 TILLMAN, Gary - A request for a Variance of Developmental Standard by Braden & Cindy Main to split a parcel 215'x 2641' that doesn't meet the 1:3 width to depth ratio; located at: Pine Rd. (50-52-31-000-001-000-009), North Twsp., Zoned A-1, seconded by Mr. Bennett. Motion carried with a voice vote 5-0.

The fourth item of business was 23-BZA-14 PRETTY LAKE GOLF CLUB - A request for a Variance of Developmental Standard to allow the replacement of a 38 sq ft pole sign; located at: 10191 Queen Rd., Plymouth, West Twsp., Zoned L-1. Mr. Thomas Flynn 16206 Dogwood Ln Plymouth was present to represent his request. Mr. Adley presented the findings of fact.

The applicant had their sign destroyed by a tree that had fell down on top of it and left only one remaining post. The Lake Residential district does not typically permit for the use of pole signs due to the traditionally residential portion, but due to the property being associated with the Pretty Lake Golf Course and Clubhouse, there is desire to have signage at the road for both the Club and the associated restaurant. The additional signage for the restaurant is cause the increase in height and overall square footage. The maximum area is 25 square feet, 6' tall and the proposal is for 38 square feet and 9'6" tall just below the existing road sign height.

Mr. Flynn explained that there are three independent businesses: the golf course, the pro shop, and the restaurant. They would like to replace the sign adding the restaurants logo to it. The sign will be placed in the exact same location as before. When you look at the sign it's the logo at the bottom that will be added.

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. Kline moved and Mr. Hostetler seconded the motion to close the public hearing.

The question was brought up if the sign would block any view of oncoming traffic. Mr. Adley said that there is an impact but it's taking up very minimal additional space. The trees are actually a bigger issue.

Mr. Kephart made a motion to approve 23-BZA-14 PRETTY LAKE GOLF CLUB - A request for a Variance of Developmental Standard to allow the replacement of a 38 sq ft pole sign; located at: 10191 Queen Rd., Plymouth, West Twsp., Zoned L-1, seconded by Mr. Kline. Motion carried with a voice vote 5-0.

The fifth item of business was 23-BZA-15 SCHMUCKER, Howard & Lisa - A request for a Variance of Developmental Standard to reduce the side yard setback from the required 15' to 1' from an existing building; located at: 20299 Hwy US 6, Walkerton, IN Polk Twsp., Zoned A-1. Mr. Howard Schmucker of 3196 Beech Rd. Bremen was present to represent his request. Mr. Adley presented the findings of fact.

Marshall County Board of Zoning Appeals
6/13/2023

The applicant is seeking to subdivide off the house from the rest of the property adjacent to an existing communication tower parcel. The existing barn is 1' from the existing line and is proposed to be 1' from the extended line in that creates the 1 acre property. The proposed rear setback line meets the 20' requirement. The ordinance would require that the new side property line wrap around the Tower property by 14' in order to meet the 15' side yard setback requirements. It is unclear how the existing fence and barn were permitted to be created in the first place.

The applicant would rather not have to re-do the survey work and is requesting the board allow a 1' side yard setback.

During discussion on the access to the tower Mr. Adley first stated that he is not giving legal opinion, but typically an easement sits on top of the property. The owner of the property owns the ground they have somewhat of a handshake agreement for them to cross over.

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

- Anette Hesters/Tammy McNeil 71880 SR 23 Walkerton Makes no difference to them.

Mr. Hostetler moved to close, seconded by Mr. Kephart. Motion carried by acclamation.

Different option were discussed, but the fact still remains that the applicant doesn't want to re-survey the property.

Mr. Hostetler made a motion to deny <u>23-BZA-15 SCHMUCKER, Howard & Lisa -</u> A request for a Variance of Developmental Standard to reduce the side yard setback from the required 15' to 1' from an existing building; located at: 20299 Hwy US 6, Walkerton, IN Polk Twsp., Zoned A-1, seconded by Mr. Bennett. Motion carried to deny with a voice vote 5-0.

<u>2024 Proposed Board of Zoning Appeals Budget</u>

The proposed 2024 Board of Zoning Appeals budget was presented to the board. All line items were kept the same except to increase per diem to allow for the change from $50 per meeting to $75 per meeting.

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

Respectfully submitted,

David Hostetler

July 11, 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 7:30 p.m. on Tuesday, July 11, 2023, 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 minutes from the June 13, 2023, Board of Zoning Appeals meeting as corrected, seconded by Mr. Bennett. Motion carried by acclamation.

The first item of business 23-BZA-11 JORDAN, Jack – A tabled request by Hope Jordan for a Variance of Use to allow an existing barn to be used for periodic artisan/seasonal markets; located at: 10329 3rd Rd. Bremen German Twsp., Zoned A-1. Mrs. Hope Jordan of 3127 Sea Lane, Bremen was present to represent her request. Mr. Adley presented the findings of fact.

In response to the concerns raised the applicant provided the following information. The lot for parking is approximately 62,300 sqft. and when dividing that by 300 sqft for stall and space, there is enough square footage for 207 parking spaces. The space for the event will add up to approximately 26,700 sqft and when dividing that by 100sqft. plus half area for aisles, there is enough space for 133 vendors, but would assume 30-50 vendors. They would also have 2-4 port-o-potty's to service attendee's. The address has been changed and is now known as 10329 3rd Road. The applicant indicates that there will be a sign for the business/property. Some of the other concerns include; trash, wrong direction of travel, and road condition per the applicant are out of their control.

At the last meeting the board had some concerns. Since the last meeting the applicant was able to get the address changed, created a new site plan, and met with the Marshall County Highway Department. The highway department stated that the best location for the entrance for parking was on the corner.

When asked a few questions by the board about parking the applicant responded saying if they run out of parking, they will have a sign that will say “lot is full”. No parking signs can be put up roadside to make sure there is no parking along the roadway. When asked if she was willing to have a limited approval of 4 events a year the applicant said yes. Ms. Jordan is confident that people coming to the event will know the location of the event by the signs.

Being this is a new venue and event. The plan would be to run it on Friday for a couple hours, Saturday all day and possibly Saturday for a few hours.

Marshall County Board of Zoning Appeals
7/11/2023

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

1. Wayne & Becky Mishler 2690 Kenilworth Rd. Does not believe the current road conditions warrant the extra additional traffic. Information was given comparing another artisan market that was on 40 acres. If this is only on 2 acres how will there be enough parking. Many vendors pull trailers taking up more attendee parking. Has a concern where all the people are going to park. Wayne has a concern about the safety of the parking entrance. There is a hill to the west and believes it's an accident waiting to happen.
2. Kim Mishler 2560 Kenilworth Rd. Presented a map to the board pointing out each neighbor that has a concern and present at the meeting. Believes it negatively impacts the general welfare of the community. There isn't a plan other than a sketch drawing, a marketing strategy or a managerial plan. Mr. Mishler has a concern about the safety of the entrance and the buffer that you cannot have parking within 30' from the road which will reduce even more parking spaces.
3. Ben & Courtney Hepler 9879 3rd Rd. Read the description of A-1 zoning and its intention to conserve and protect open land uses … and prevent urban and agricultural land use conflicts. Questions the specifics of the request as it seems to have changed. Would like to make sure that specifics are spelled out to know what will possibly be allowed and what won't so there's no confusion. They've spoken with the police department and will try to patrol the area. There are hundred of acres represented that have a concern about the safety and peace being taken away due to this request. Ben doesn't want the board to be naïve and think that people won't litter and try to park in no parking areas.
4. Rick & Donna Ulery 10328 3rd Rd. They've owned that property for years. When it is wet outside this property and the property adjacent is a wetland and water is going across the road. Also concerned about safety with traffic.
5. Catara Murphy & Cody Bartella 10328 3rd Rd. They live in the house across the street from the proposed event. Their house is 25' from the road and there is no dividing fence which will negatively impact their property. They have a concern about people coming to their property and parking there. Is there going to be security and who will clean up or fix anything that could get damaged. A country community is not meant for retail business. The road is already busy and isn't built for additional traffic. Has a concern about safety in getting in and out of the parking area. The unnecessary hardship would fall heavy on them as they live so close and believe their property would depreciate in value. Safety of her children is also a concern.
6. Stan Murphy 11019 3B Rd. Lives on the road south of proposal. Took care of the property when the Ullery's owned it. Believes you can post all the signs you want people aren't going to pay attention. The embankment along the road is steep and people will get stuck. The road is not made for retail traffic. There is flooding that goes across 3rd and King spring and fall. This will greatly limit the amount of parking available. Believes there is no good or safe entrance to the property for parking. The entrance to the barn could possibly be a good entrance.
7. David & Lisa Knepp 10990 5 B Rd. Showed pictures to the board showing standing water even when were in a drought. Their property receives all the water from the Jordan the property. Questioned if there is going to be anything done to the

parking area. Doesn't believe there is enough room for this type of event. Shiloh church would have fish fry events and the police requested to know about it ahead of time. Recommended this happen to keep control of it.

8. Mark Seltenright 10876 3 B Rd. Has a CDL and understands safety, traffic and roads. With the location of the proposed entrance/exit and the hill on the road he doesn't believe where you enter is safe. The highest and best place to enter would be the entrance at the barn.
9. Kathleen Sheely 10995 3B Rd. Back in early 2000 Stan Murphy was denied for a rezoning of his property because of decreased property values. Is the board considering these events lowering neighboring property values? Has been to other artisan markets in a rural setting that was a parking disaster. This event will be bringing in more traffic on roads that are already deteriorated from back when new 31 came in. Will the bathroom facilities be removed after each event or will they stay the whole time?
10. Todd Stuckman No address Sent a letter offering support of farmers and budding entrepreneurs to coexist.
11. Bill Davis No address Sent a letter and believes the proposed will be a positive addition to German Township. Also sees this as an opportunity to embrace small business start ups.
12. Samantha Martinez No address Sent an email. Is a small business owner and would like the board to consider approving this event.

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

During the discussion about the entrance for the events they chose that location by the recommendation of the Marshall County Highway Department. Plus they wanted to choose an entrance that was the least impactful to the neighbor. However, if the board wants it across from the neighbor they can make that work. As far as keeping the sheriff's department apprised of the event Mrs. Jordan will notify the sheriff's department ahead of the event.

During discussions Mrs. Jordan asked that the board given her a chance for one year and have four (2) day events a year. The board continued discussions with the possibility of doing one event to see how it all goes.

Mr. Kephart made a motion to approve 23-BZA-11 JORDAN, Jack – A tabled request by Hope Jordan for a Variance of Use to allow an existing barn to be used for periodic artisan/seasonal markets; located at: 10329 3rd Rd. Bremen German Twsp., Zoned A-1 with the following stipulations:

1. **One event for Saturday and Sunday and allow Friday as a set up day;**
2. **Parking entrance to be at the barn and not at the corner;**

Seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The second item of business 23-BZA-16 BAIRD, Laura - A Special Use request by ViaSat to construct a satellite node facility for high speed internet; located at: 9 B Rd. (50-33-06-000-041-000-018), Plymouth, In Center Twsp., Zoned A-1. Mr. Randy Jones of Via Sat Englewood, CO was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a satellite node facility for high-speed internet. The node site consists of a fenced area (approx. 28x25') that will have 2 6-8' diameter dishes along with support equipment. The specific use is not identified within the Zoning Ordinance but is similar to that of a Tower so is being requested to go through the same variance procedure. The approx. 700 sqft leased area will be located over 300' from 9B Road.

Viasat is a satellite broadband company. This is a satellite with two antennas that talk to the satellite. They chose this property because there is a fiber splice point just down the road, power to the site, willing landlord, and work within that jurisdictions zoning code. This will provide services to those who normally don't have service to fiber or cable. It is 345' back off the road and only sits 8' in height. The plan is to splice into wind stream for access. There is no signal this service only talks to the satellite. Another reason for this specific location on the site is where the landowner requested. Since this unit works with fiber there is no sound.

This site is projected to be built at the end of this year and operational the first quarter of next year.

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

1. Pat Langfeldt 9870 Iris Rd. Presently has viasat. She wanted to know why this area was chosen and if this proposal will speed up what's currently there.
2. Mark Hestons 8264 9 B Rd. Currently has RTC Fiber. He doesn't see the advantage of the proposal. Questions whether the property is being sold or leased.
3. Eileen Burgess 8398 9B Rd. Questioned the lifespan of the satellites and after that what happens to them. Has done a lot of research and has a concern with radio frequency and electro magnetic hypersensitivity. Currently she doesn't have a problem streaming and doesn't see a need for this proposal.
4. Robert Bachtel 8138 9B Rd. Thought it was a tower at first. Lives directly next to the property and is only 61' from his property. Thinks it is an eyesore and would like possibly trees put up around it.
5. Susan Pasley 8264 9B Rd. Doesn't want to look out in her back yard and see the proposed satellite. Doesn't want any lighting coming from it. She has good satellite service already and doesn't see the need. Doesn't know if there is a risk of the publics health and safety and would like more time to research it before a decision is made.
6. Robert Demis 20993 8th Rd. Do the trees around the proposed site need to be trimmed so it doesn't interfere with satellite directional site. If the facility is going to have chain link fence could it have camouflage strips to make it more appealing?
7. Lee & Connie Motz 8880 Hawthorn Rd. Against the request. There is already another high-speed fiber available in the area. The proposed will not be aesthetically pleasing.
8. Tyler & Allison Motz 8925 Hawthorn Rd. Against the request as it won't be aesthetically please, already has TRC high speed fiber, possible long term health issues, and satellite is less reliable in their area due to intermittent weather which causses more interference and connectivity issues. Not in favor of a satellite tower in the backyard.

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

The life span of these facilities is 25 years. After that time frame the lease agreement states that they have to remove it and put it back to the way they found it minus wear and tear. As far as lighting is concerned there will be none. The plan for this proposal is to provide a service to those who don't already have it. These specific locations are usually 40-50 miles apart. Again, this doesn't provide coverage it talks to the satellite. It gives people who don't have access to the providers. The applicant would be willing to put in trees or put up a vinyl fence.

Mr. Kephart made a motion to approve 23-BZA-16 BAIRD, Laura - A Special Use request by ViaSat to construct a satellite node facility for high-speed internet; located at: 9 B Rd. (50-33-06-000-041-000-018), Plymouth, In Center Twsp., Zoned A-1 with the following recommendation:

1. **Vinyl fencing and trees around site**

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

The third item of business was 23-BZA-17 MILLER, Nathan - A request for a Variance of Use to rebuild their house on a commercial zoned property; located at 2030 Beech Rd., Nappanee, IN German Twsp. Zoned C-2. Mr. Nathan Miller of 2030 Beech Rd. Nappanee was present to represent his request. Mr. Adley presented the findings of fact.

The applicant owns the property including a business and residence. He would like to demolish and build a new house on the property. The C-2 (Highway Commercial District) does not permit single family residences on the property. Per article 8.070 Repairs and Maintenance, b "If a structure becomes unsafe or unlawful due to physical condition and is razed, the structure shall be rebuilt in conformity with the district in which it is located." Since residences are not permitted, they are required to pursue a variance in order to permit the proposed residence.

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

Mr. Miller made a motion to approve 23-BZA-17 MILLER, Nathan - A request for a Variance of Use to rebuild their house on a commercial zoned property; located at 2030 Beech Rd., Nappanee, IN German Twsp. Zoned C-2, seconded by Mr. Bennett. Motion carried with a voice vote 5-0.

The third item of business was 23-BZA-18 MILLER, NATHAN - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 70' to 60' from the property line to rebuild their home; located at: 2030 Beech Rd., Nappanee, IN German Twsp., Zoned C-2. Mr. Nathan Miller of 2030 Beech Rd. Nappanee was present to represent his request. Mr. Adley presented the findings of fact.

The applicant has proposed to build a new house replacing the existing but are requesting to reduce the front yard setback. This BZA case was accompanied by 23-BZA-17. Due to a stand of existing trees the building is desired to move forward towards the road. The proposal indicates property line which is traditionally in rural areas located in the middle of the road, but setback lines

are taken from the road right of way. The full right of way is traditionally 40' and when added to the required setback distance of 50' you get a required setback of 70' from property line/ center of road. The applicant is then seeking to reduce the setback 10' (40' from ROW) or to 60' from property line/ center of road. The existing shop is 60' from center line and the applicant would like to match that. This would provide for a 40x80' house and have a 22' separation from the trees.

All required septic permits will be obtained prior to a permit.

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

Mr. Bennet made a motion to approve 23-BZA-18 MILLER, NATHAN - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 70' to 60' from the property line to rebuild their home; located at: 2030 Beech Rd., Nappanee, IN German Twsp., Zoned C-2, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The fourth item of business was 23-BZA-20 HETTICH, Drew & Tara - A request for a Variance of Developmental Standard to reduce the rear yard setback from the required 30' to 2' for a 10x16' shed; located at: 18153 Latonka Tr. Culver, IN West Twsp. Zoned L-1. Mr. Drew Hettich of 18153 Latonka Tr. Culver was present to represented his request. Mr. Adley presented the findings of fact.

The applicant is seeking to place a new garden shed (10x16') at the rear of the property and would like to reduce the secondary front setback from 30' to 2' from the property line. The property is located within the Indian Hills Subdivision which is bound to the east by Sycamore Road. Sycamore Road is a roughly a 1 lane dirt road, but requires a 30' setback. Should the shed meet the ordinance setbacks, it will place the shed on the existing septic system.

The applicant stated that the best building location would be the northeast corner and the southern corner has a large drop off. The septic is located in the center to the northern side of the property which limits locating the shed further away from the property line. He could make a 5' setback work for the proposed portable building.

The board brought up that there are other sheds that don't meet the requirements.

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

1. Janice Holmes ? Does not have any questions or concerns about the proposed.

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

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Mr. Hostetler made a motion to approve 23-BZA-20 HETTICH, Drew & Tara - A request for a Variance of Developmental Standard to reduce the rear yard setback from the required 30' to 5' for a 10x16' shed; located at: 18153 Latonka Tr. Culver, IN West Twsp. Zoned L-1, seconded by Mr. Kephart. Motion carried with a voice vote 4-1 with Mr. Gustafson voting against.

Other Business

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

Respectfully submitted,

David Hostetler

August 8, 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 7:30 p.m. on Tuesday, August 8, 2023, 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 minutes from the July 11, 2023, Board of Zoning Appeals meeting as presented, seconded by Mr. Kephart. Motion carried by acclamation.

The first item of business was 23-BZA-21 PITTMAN, Justin & Kayla - A request for a Variance of Use to allow a second residence on the property to care for a disabled child; located at: 18408 13th Rd., Plymouth, IN West Twsp., Zoned A-1. Justin & Kayla Pittman were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to permit a second accessory residence on the property for a disabled son. Properties are standardly permitted to have one residence per parcel. The proposed residence would be located within the clearing to the east of the house where there appears to be a recreational area set up.

While in the planning stages of building a barn for storage the Pittman's started to think about possibly adding on a living space with a basement for their son who has special needs.

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

1. Donna Hart 18232 Chickasaw Trl. They have a lot of family in the area and doesn't see them moving. 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 approve 23-BZA-21 PITTMAN, Justin & Kayla - A request for a Variance of Use to allow a second residence on the property to care for a disabled child; located at: 18408 13th Rd., Plymouth, IN West Twsp., Zoned A-1 with the following stipulation:

1. **The living space to be used only for Brantly Pittman**
2. **When Brantly Pittman no longer lives there either the building needs removed, or the living quarters be reverted to a non-residential structure.**

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

The second item of business was 23-BZA-22 YME Enterprises - A request by Yale Moser for a Variance of Developmental Standard to install an aesthetic covering for over the front door that doesn't meet the 25' from ROW and 20' from side yard setback, requesting 4' from the ROW and 0' from the side yard; located at: 106 E. Randolph St. Lapaz, IN North Twsp., Zoned C-1. Yale Moser was present to represent his request. Mr. Adley presented the findings of fact.

The applicant wants to make some façade improvements, but the new overhang would not meet setback requirements. The building currently does not meet setback requirements as it is. The front of the building is set back 10' from the ROW and is proposed to be reduced to 4'. The side of the building is estimated to be 1-2' from the property line and the proposal is to reduce it to 0'. The new overhang will go over a new service door and will provide an aesthetic boost to the building, but also protect customers during the seasonal elements as they come and go from the building.

The building is currently used for boat and RV storage. There is traffic in and out more in the spring and the fall. He has no plans to extend the awning past the end of the building.

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

Mr. Bennett made a motion to approve 23-BZA-22 YME Enterprises - A request by Yale Moser for a Variance of Developmental Standard to install an aesthetic covering for over the front door that doesn't meet the 25' from ROW and 20' from side yard setback, requesting 4' from the ROW and 0' from the side yard; located at: 106 E. Randolph St. Lapaz, IN North Twsp., Zoned C-1, seconded by Mr. Kephart. Motion carried with a voice vote 5-0.

The third item of business was 23-BZA-23 GWIZDALSKI,Thomas & Patricia - A request for a Variance of Developmental Standard to allow a secondary before a primary to have a 32'x48' building for storage; located at Underwood Rd.(50-41-07-000-252-000-011) , Walkerton, IN Polk Twsp., Zoned L-1 Off Water. Thomas Gwizdalski was present to represent his request. Mr. Adley presented the findings of fact.

The applicant owns this lot complimentary to their lake lot. They currently store their boat trailers and would like it to store items as well within an enclosure. The pole barn would meet all other development standards for construction. It has been customary for garages/barns like the proposal when property is owned on the opposite side of the road from lakefront property in order to accommodate parking and storage.

The applicant has no intention of having a residence on this lot nor will there be a bathroom as the buildings use is only for storage.

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

1. Steve Giese 4503 Underwood Rd. In favor as they believe it will be a nice building for their neighborhood.

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

Mr. Miller made a motion to approve 23-BZA-23 GWIZDALSKI,Thomas & Patricia - A request for a Variance of Developmental Standard to allow a secondary before a primary to have a 32'x48' building for storage; located at Underwood Rd.(50-41-07-000-252-000-011) , Walkerton, IN Polk Twsp., Zoned L-1 Off Water, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The fourth item of business was 23-BZA-24 DENNIE, Cory & Teresa - A request for a Variance of Developmental Standard to allow a 12'x16' deck addition lakefront 0' from the lake; located at: 18318 Chickasaw Trl, Culver, West Twsp, Zoned L-1. Cory Dennie was present to represent his request. Mr. Adley presented the findings of fact.

The applicant has recently constructed a lakeside deck addition onto an existing deck and is going back to receive necessary approvals. The deck is an addition right at the lakeside, and because a deck is considered a structure, must meet setbacks or pursue required variance. The district setback is 45' and the applicant is seeking to reduce the setback to 0' to permit the structure up to the seawall and the edge of water. It is unknown when the other deck 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.

The applicant received approval from Lake Latonka's Homeowners Association and then applied for the building permit 6/26/2023 and had worker's at his house that weekend and went ahead with construction of the deck and pergola without a permit. The existing deck was on the property when he bought the property. He firmly stated that his deck is built to code and if the building commissioner needs to come out and him dig up the post holes he will gladly do that.

The plan director explained that all lake residential properties first go through a Technical Review Committee meeting that is required by the ordinance. Prior to the 4th of July the plan director went out and took pictures for that meeting. The TRC then makes their recommendation for that case. Since this request didn't meet the setbacks, it goes in front of the BZA for approval. Once there is approval the permit is issued, and the permit is sent out within a couple days of that meeting. The building permit got stalled because it does not meet setback requirements. The TRC's concern for this project is what type of box this will open up for structures on all the lakes.

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

1. Zubeck, Rita 18300 Chickasaw Tr. As the neighboring property owner, they find no negative impact on their own property or view of the lake. It is found to be ethically pleasing, and it enhances the entire area of their lakefront.

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

Mr. Hostetler made a motion to approve 23-BZA-24 DENNIE, Cory & Teresa - A request for a Variance of Developmental Standard to allow a 12'x16' deck addition lakefront 0' from the lake; located at: 18318 Chickasaw Trl, Culver, West Twsp, Zoned L-1 with the following stipulation:

1. **Appropriate fine assessed on permit.**

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

The board commented that they would like to see no approvals of pergolas lakeside by the water.

The fifth item of business was 23-BZA-25 POTTER, Lisa - A request for a Variance of Developmental Standard to allow a secondary 10'x18' shed before a primary structure; located at: 12th Rd.(50-31-13-000-042-000-017), Plymouth, West Twsp., Zoned L-1. Deborah Scott of 17690 13th Rd. was present to represent her request. Mr. Adley presented the findings of fact.

The applicant is seeking to permit a shed on the property for storage prior to the construction of their residence. The applicant is planning to construct in 2024, but do not have the plans ready at this time.

The applicant has a new septic system in place to build in the spring of 2024. The current shed on the property doesn't meet the setbacks and is over 50 years old. They would like to replace that with the proposed new portable 10x18' shed.

All setbacks will be met, the only reason they have to be here is because there's no primary residence on the property.

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

1. Ron Harris 12080 Peach Rd. Been a neighbor of Ms. Potter's parents. Doesn't see the deal with taking away an old shed and putting a new one in.
2. Wendy Holloway 12086 Peach Rd. They have been working diligently on the property to improve it which has increased their property values as well.
3. Elizabeth Brown 15590 12th Rd. In favor of the request.

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 23-BZA-25 POTTER, Lisa - A request for a Variance of Developmental Standard to allow a secondary 10'x18' shed before a primary structure; located at: 12th Rd.(50-31-13-000-042-000-017), Plymouth, West Twsp., Zoned L-1, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The sixth item of business was 23-BZA-26 SNIDER, Guy - A request for a Variance of Use to allow second residence on the property to care for a parent; located at: 18328 14B Rd., Culver, IN Zoned A-1. Guy Snider and Angela Jimenez of 12453 19B Rd. Argos were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to permit a second accessory residence on the property in order to assist in taking care of aging father. Properties are standardly permitted to have one residence per parcel. The proposed residence would be located at the rear of an existing barn. It would require its own septic and conformance with residential code when upfitting the barn.

The applicants' plans are to convert the north end of the barn into a residence and Angela would move into the renovated barn.

Mr. Hostetler 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. Hostetler moved and Mr. Kephart seconded the motion to close the public hearing. Motion carried by acclamation.

The plans will be to put in a new septic and a new well.

Mr. Hostetler made a motion to approve 23-BZA-26 SNIDER, Guy - A request for a Variance of Use to allow second residence on the property to care for a parent; located at: 18328 14B Rd., Culver, IN Zoned A-1 with the following stipulation:

1. **The temporary living space in the secondary structure will need to be returned to an accessory structure when Mr. Guy Snider no longer is in need.**

Seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The seventh item of business was 23-BZA-27 LOWRY, Matt - A request for a Variance of Developmental Standard on the proposed existing residence parcel to 5' on the west side yard setback from the required 10'/10%, 5' rear yard setback from the required 20' and on the proposed building lot a 20' front yard setback from the required 30'; located at: 9071 N. Shore Dr. Bremen, IN North Twps., Zoned L-1. Matt Lowry was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is considering subdividing the property, but in order to do so in the most orderly fashion would require a certain number of variances due to existing structures and proposed new ones. The new lot line would run along the west side (side yard reduction) and south side (rear yard reduction) of the existing garage, both dimensions would be 5'. The proposed new garage would be 20' from this line rather than the 30' as required. The rear and side yard reductions from 20' and 10'/10% respectively, would allow for the retention of the existing garage so that it could serve the old farmhouse. The front yard setback reduction would allow for the new garage and residence to be tucked closer towards the road. The application is not before the board on whether or not it meets other subdivision requirements as they have been taken into preliminary consideration. The Plan Commission will be the determining body on whether or not the Subdivision itself meets associated regulations.

Since the existing house is one of the oldest houses on the lake and doesn't meet the current setbacks, the applicant is unable to add on to the property. His plans are to split off the current house, pool and garage and create a new parcel and build a home with an attached garage. He could move the proposed house closer to the lake, but would like to keep and maintain lake purposes and views.

Once the house is built it will block some of the neighbors view which is why they've asked for a 20' front yard setback to help with the disruption of loss of view.

The board questioned the process for subdividing and variances and why the variances always comes first and the plan director explained that during a variance lot lines can change if the board deems necessary which would change the subdivision .

The board questioned the different shape of the lot and if that was allowed or if the shape of the lot would require a variance and Mr. Adley confirmed the shape met the requirements but needed a variance from the setbacks of being too close to the garage.

The board discussed multiple options of removing the existing garage and even the existing house. Discussions were that this proposal was self-imposed.

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

1. Michael & Paula Nate 9087 N. Shore Bremen Lives in the house directly to the west of the proposed. They believe that the proposal will block about 65% of the view of the lake from their house. These lots were created to have one house and one garage, not to be subdivided. If the garage was torn down and the home was built there the limitation of the view wouldn't be an issue. Or if they tore the house down and rebuilt there it wouldn't be an issue either. Knows the history of the house and is very old. There is also a concern about the extra traffic in and out of the property with a shared drive. If there ends up being another house, they believe the original house should have its own driveway.

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

In response to the question regarding the driveway the applicant said that the Nates have 10' and the applicant has 10' of a shared driveway. The proposed plan would be to add an additional 20' to the applicant's portion of the driveway and make their portion 30'.

The applicant has no desire to tear down the house as it's fully renovated on the inside. However, if he sells it and new owners wish to tear down and rebuild, he's tried to accommodate that with his plans.

After a lengthy discussion the board made the following motion.

Mr. Miller made a motion to approve <u>23-BZA-27 LOWRY, Matt -</u> A request for a Variance of

Developmental Standard on the proposed existing residence parcel to 5' on the west side yard setback from the required 10'/10%, 5' rear yard setback from the required 20' and DENIED the proposed building lot with a 20' front yard setback from the required 30'; located at: 9071 N. Shore Dr. Bremen, IN North Twps., Zoned L-1, seconded by Mr. Kephart. Motion carried 3-2 with Mr. Bennett voting against and Mr. Hostetler voting against.

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

Respectfully submitted,

David Hostetler

September 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 7:30 p.m. on Tuesday, September 12, 2023, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, and Jim Kephart. Also present was Ty Adley Plan Director, Lori Lowry and interested parties. Member absent was Matt Miller.

Mr. Hostetler made a motion to approve the minutes from the August 8, 2023, Board of Zoning Appeals meeting as presented, seconded by Mr. Bennett. Motion carried by acclamation.

The first item of business was 23-BZA-28 MCCARTNEY, Ronnie - A request by Lirije Asani for a Variance of Developmental Standard to allow a north side yard setback reduction from the required 20' to 5' to allow a 12'x24' portable storage shed for storage of dry goods; located at: 2083 S. Michigan Rd. Plymouth, IN North Twsp., Zoned C-2. Mr. Ronnie McCartney 2083 Michigan Rd. Lapaz and Lirije Asani 2037 Michigan Rd. Lapaz were present to represent their request. Mr. Adley presented the findings of fact.

The applicant wants to place (has already placed) a prebuilt shed on the property. The placement of the shed is to be no less than 5' from the side property line. Ms. Asani operates the restaurant and is in need of additional storage. The subject property and the property are owned by Ronnie R McCartney, whom has no objection to the proposal during his attendance at a recent TRC meeting. The ordinance calls for a 20' setback on all side property lines and due to the odd shape and location of an existing parking island, the desired location of the shed would not meet the setback requirements.

Mr. McCartney explained that his tenant needs the space for storage, and shes placed it in the most practical location. Mr. McCartney owns both properties and he has no problem with the location of the shed.

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

1. Ronnie McCartney – Is in agreement with the placement of the building.

Mr. Hostetler moved to close the public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

Mr. Hostetler made a motion to approve 23-BZA-28 MCCARTNEY, Ronnie - A request by Lirije Asani for a Variance of Developmental Standard to allow a north side yard setback reduction

from the required 20' to 5' to allow a 12'x24' portable storage shed for storage of dry goods; located at: 2083 S. Michigan Rd. Plymouth, IN North Twsp., Zoned C-2, seconded by Mr. Kephart. Motion carried with a voice vote 4-0.

The second item of business was 23-BZA-29 JOHNSTON, Sarah - A request for a Variance of Developmental Standard to reduce the right of way setback from the required 50' to 32' in order build a 8'x36' open porch; located at: 16732 18B Rd., Culver, IN Union Twsp., Zoned A-1. Ms. Sara Johnson 16732 18B Rd Culver and Josh Ramer 13583 Ironwood Rd. Argos of R Legacy Construction were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to add on an open porch to the front yard side of the residence. The applicant has 2 front yards, one on 18B Road and the other on Queen Road. The proposal is to add a 8x36' open porch that would not be any closer to 18B Road. The porch would be 32' from the ROW rather than the required 50'. The southern portion of the house is perched on a hill that overlooks the roadway that is 14' different than the centerline of the intersection.

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. Kephart seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Kephart made a motion to approve 23-BZA-29 JOHNSTON, Sarah - A request for a Variance of Developmental Standard to reduce the right of way setback from the required 50' to 32' in order build a 8'x36' open porch; located at: 16732 18B Rd., Culver, IN Union Twsp., Zoned A-1, seconded by Mr. Bennett. Motion carried with a voice vote 4-0.

The third item of business was 23-BZA-30 JONES, Michael - A request for a Variance of Developmental Standard to reduce the right of way setback from the required 60' to 50' in order to build a 35'x10' deck on the front of the house; located at: 6053 4th Rd., Bremen, IN German Twsp., Zoned A-1. Michael Jones of 6053 4th Rd. Bremen was present to represent his request. Mr. Adley presented the findings of fact.

The applicant wants to(and has partially completed) enlarge the front deck to create a more useable space. The proposed deck is 35x10'. The deck is going to be 50' away from the ROW line rather than 60'. The construction will be in line with the structures to the east and west.

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. Bennett moved and Mr. Kephart seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Kephart made a motion to approve 23-BZA-30 JONES, Michael - A request for a Variance of Developmental Standard to reduce the right of way setback from the required 60' to 50' in order to build a 35'x10' deck on the front of the house; located at: 6053 4th Rd., Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Hostetler. Motion carried with a voice vote 4-0.

The fourth item of business was 23-BZA-31 CUNNINGHAM, Albert & Susan - A request by Raymond Dillon for a Variance of Developmental Standard to allow a secondary before a primary, reduce the front yard setback from the required 30' to 17.2' and a rear yard setback reduction from the required 20' to 7.5' to allow a 50'x30' storage building; located at: 3510 Lakeshore Dr. Bremen, IN Zoned L-1. Ray & Rose Dillon of 63364 SR 23 North Liberty and Troy Hanyzewski 3768 W. Shore Dr. Bremen PT Builders were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a secondary structure before having a primary and two setback reductions. The structure would allow the applicant to store their belongings including rv and boat storage. The preferred design of the building would have the structure fronting the west property line along Lakeshore Drive for security purposes. The applicant has recently purchased a vacant lot to the north and on the lakeside of the road. The other reason for coming off of Lakeshore Drive is so that they can preserve to full grown trees along Bell Street. The western setback Lakeshore is proposed to be reduced from 30' to 12.2' and the rear setback (east) from 20' to 7.5'.

The Dillon's are in the process of purchasing 3510 Lakeshore Dr. along with the parcel to the south that has a garage. The current plans are to keep the existing garage as is and and add the new 50x30' building. While waiting for approval groundwork has started removing old concrete that was there from a previous foundation. The reason for the placement is to give better visibility of the building's doors from the proposed new home and he would also like to keep the trees.

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

1. Troy Hanyzewski 3768 W. Shore Dr. Bremen Is in favor of the proposed as he believes it will improve the area. When asked if the building could be turned and he agreed that it could be, but this site plan will work best for him and will allow him to back his motor home in more effectively.
2. Frank Sabahar 3521 Lakeshore Dr. Bremen Lives across the street from the proposed building. Previous to Mr. Dillon purchasing the property the property was not kept up and was an eyesore.

Mr. Hostetler moved and Mr. Kephart seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Hostetler made a motion to approve 23-BZA-31 CUNNINGHAM, Albert & Susan - A request by Raymond Dillon for a Variance of Developmental Standard to allow a secondary before a primary, reduce the front yard setback from the required 30' to 17.2' and a rear yard setback reduction from the required 20' to 7.5' to allow a 50'x30' storage building; located at: 3510 Lakeshore Dr. Bremen, IN Zoned L-1, seconded by Mr. Kephart. Motion carried with a voice vote 4-0.

The fifth item of business was 23-BZA-32 DILLON, Raymond - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 30' to 20' and a rear

yard setback reduction from the required 45' from BFE to 19' from lot line to build a new home; located at: 3513 Lakeshore Dr. Bremen (Lot 32&33), Zoned L-1. Ray & Rose Dillon of 63364 SR 23 North Liberty and Troy Hanyzewski 3768 W. Shore Dr. Bremen PT Builders were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a new residence on a pair of lots that is being replated into a singular lot. The proposed construction would be located 20' from the right of way line rather than the required 30'. The required setback of 45' from BFE is proposed to be reduced from 19' from property line. The front yard setback is proposed to be reduced slightly more than the average front setback from nearby structures which range from 0' to more than 60'. The lake side setback for many nearby property lines begin at the BFE which is typically at or near the water's edge, but the subject property is different in that it is greater than 10' inland from the shore. The reason to take the setback from the property line rather than BFE is at the recommendation of staff due to the ongoing discussion with the state for clarification on the proper location of the BFE. Pending decision of the BZA, the main attribute held by the state would be the location of the BFE which will make an impact on the FPG (2' above BFE) in whether or not it will raise the height of the building. The setback reduction to the front is reduced in impact by having a side entry garage. The rear yard setback is approximate to the location of adjoining residences, but may stick out slightly further. The matters for the BZA are the setback reduction to front yard and rear yard. The BFE and associated FPG will be matters for the state.

If the Dillons aren't able to move the residence out of the flood plain they will have to build 2' above BFE. Their proposed house is in line with the houses on both sides of them on the lakeside. On the roadside the neighbors houses are much closer to the road. Their plans are to be 20' from the road.

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

1. Frank Sabahar 3521 Lakeshore Dr. Bremen Lives next to this vacant lot for 15 years and is favor of the proposed new house. They've already made improvements by cleaning it up and mowing. This will be a beautiful improvement to the neighborhood.

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

Mr. Bennett made a motion to approve <u>23-BZA-32 DILLON, Raymond -</u> A request for a Variance of Developmental Standard to reduce the front yard setback from the required 30' to 20' and a rear yard setback reduction from the required 45' from BFE to 19' from lot line to build a new home; located at: 3513 Lakeshore Dr. Bremen (Lot 32&33), Zoned L-1, seconded by Mr. Kephart. Motion carried with a voice vote 4-0.

The sixth item of business was <u>23-BZA-33 BOSE, Julie -</u> A request for a Variance of Developmental Standard to reduce the front yard setback from the required 30' to 3.8', the rear yard setback from the required 45' from BFE to 19.2' from the lot line, side yard setback from the required 5' to 3.5' and a reduction in lot coverage from the required 45% to 67%; located at: 3843 Lakeshore Dr. Bremen, IN Zoned L-1. Dennis and Debra Mitchell 24115 Walden Lane Crete IL, Troy Hanyzewski of

3768 W. Shore Dr. Bremen and Dan Sellers Plymouth, IN was present to represent the request. Mr. Adley presented the findings of fact.

The applicant is proposing to tear down the existing residence and detached garage in order to construct a new residence. The proposed residence is seeking to reduce the front, rear and side setback along with increasing the amount of impervious coverage from 45% to 67%. The proposed front yard setback reduction from 30' to 3.8' would leave 15' from edge of structure to edge of road. This would be approximately the same distance as the adjacent residence but would not be able to park more than one car off the road. The side yard setback is proposed to be reduced from 5' to 3.5' on both sides. The setback reduction would only leave approximately 5' between the new structure and adjoining detached garage. The rear yard setback is required to be 45' from BFE, but is proposed to be 19.2' from property line. The lake side setback for many nearby property lines begins at the BFE which is typically at or near the water's edge, but the subject property is different that it is a few feet inland from the shore. The reason to take the setback from the property line rather than BFE is at the recommendation of staff due to the ongoing discussion with the state for clarification on the proper location of the BFE. Pending decision of the BZA, the main attribute held by the state would be the location of the BFE which will make an impact on the FPG (2' above BFE) in whether or not it will raise the height of the building. The rear yard setback reduction would keep the proposed residence in line with the adjacent residence so that neither sticks out past the other. The impervious coverage is proposed to be increased from the required 45% to 67%.

The plan director clarified that the front yard is considered roadside, and the applicants are proposing 8.8' from the right of way which is the same as 20' from the roadway.

In 2022 Mitchell's came before the board for setback variances but didn't move forward with the project at that time. The new house will be 28' wide and the lot is 35' wide which will give them a 3.5' on each side. Currently the existing garage is 1' from the neighbors. The new house will be further from the neighbors. The proposal is 3.8' from the ROW or the same as 15' from edge of structure to road. Staff recommended 8.8' from the ROW or the same as 20' from the road.

Mr. Hanyzewski said he would like to stay in line with the neighbor's garage so they don't obstruct any views on the lakeside.

When discussing parking the applicants said that there hasn't ever been room for parking. Across the street there is an empty lot that they and others use for parking.

When discussing the easement that is adjacent to the Bose property Mr. Adly explained that this subdivision has only had one parcel for lake access which is known as Frank Washnocks Addition. The lot adjacent to that is owned by Marshall County not Frank Washnocks Addition.

The BFE is getting worked out with the state and a LOMA has been applied for. The reason for this proposal is that it is a predetermined location. If that floodplain line ends up inside the house they will have to raise the house. If the floodplain line ends up between the house and the lake within the 19.2 feet they don't have to raise the house and can build it as intended.

For the side yards they are requesting to fall under the 10'/10% instead of the minimum 5' rule.

Mr. Bennett moved to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

1. Troy Hanyzewski Speaks in favor of the request. They currently have a house and garage on the property. They are basically building over the same footprint and the lakeside and roadside will be in line with the neighbors. The only real change is that they will have a 2 story now.
2. Mr. Sellers Stated if they have to move the house further from the neighbors it could cause them to have to remove a tree on the lake access.
3. Could not hear name Was at the meeting to represent her mother who lives at 8403 Dart Street. Thinks they are overbuilding on the lot. Also doesn't believe they should move the house over to the easement. That easement has been used by many people for years. Here they are trying to take a single dwelling house and make it a multi dwelling house and maybe it's time they look at finding a larger lot if they want to build this big of a house. There is zoning in place for a reason. This isn't just a small zoning request it's a very big one. There's little to no parking. People already use the easement for parking. Plus, there's talk about tearing the trees down. It's not their trees to remove.
4. Mildred Sullivan 8403 Dart St. Bremen She opposes the requested variance as she believes they are way overbuilding for the lot. Enjoys the area and the easement to the lake. Also opposes any tree removal on the easement.

Mr. Kephart moved and Mr. Hostetler seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Adley clarified to the board that the applicant's proposal is that they are either reducing or staying in the same footprint.

When asked if they could put a second story on the existing house; the applicants said that the existing house couldn't support a second story.

The plan for the trees on the lake access lot are to leave the two trees closest to the water and remove the tree that is closest to their existing home. A couple neighboring property owners have said they would like it removed.

Mr. Hostetler made a motion to approve 23-BZA-33 BOSE, Julie - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 30' to 3.8', the rear yard setback from the required 45' from BFE to 19.2' from the lot line, side yard setback from the required 5' to 3.5' and a reduction in lot coverage from the required 45% to 67%; located at: 3843 Lakeshore Dr. Bremen, IN Zoned L-1, seconded by Mr. Kephart. Motion carried with a voice vote 3-1.

The seventh item of business was 23-BZA-34 SHERMAN, Dennis & Cindy - A request for a Variance of Developmental Standard to allow a front yard setback reduction from the required 30' to 10.4' in order to build a new house; located at 3649 Lakeshore Dr. Bremen, IN Zoned L-1. Dennis & Cindy

Sherman 21711 SR 4 Lakeville and Bernie Feeney of Whiteman & Associates 1405 N. Michigan St. Plymouth were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a new residence on the property that was recently replated. The proposed structure is offset to the east due to the setback pushing into the subject property. The proposed setback reduction is in line with the detached garages of the adjacent properties and will be 20.2' from the roadway.

The plan is to move the residence off the property and rebuild a 2 story home with a crawl space on the lot that has recently been replatted from three parcels to one. They are not asking for any side yard or lakeside variances. The only variance under consideration is the front/roadside variance from 30’ to 10.4 from the property line which would allow a distance of 20.2’ from the road to the front of the garage. This house will sit back off the water and will not impede the view from either the north or south. The LOMA from FEMA has not been applied for yet. Currently FEMA and DNR are not agreeing on the number that is to be used for the flood elevation at Lake of the Woods in Bremen. The plan will be to use FEMA’s numbers and as long as this variance is approved the LOMA will be submitted soon after the meeting.

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

Mr. Hostetler move to approve <u>23-BZA-34 SHERMAN, Dennis & Cindy -</u> A request for a Variance of Developmental Standard to allow a front yard setback reduction from the required 30' to 10.4' in order to build a new house; located at 3649 Lakeshore Dr. Bremen, IN Zoned L-1, seconded by Mr. Kephart. Motion carried with a voice vote 4-0.

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

Respectfully submitted,

David Hostetler

October 10, 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 7:30 p.m. on Tuesday, September 12, 2023, 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. Member absent was Jim Kephart.

Mr. Hostetler made a motion to approve the minutes from the September 12, 2023, Board of Zoning Appeals meeting as presented, seconded by Mr. Bennett. Motion carried by acclamation.

The first item of business was 23-BZA-35 OGINSKY, Christopher - A request for a Variance of Developmental Standard to allow a reduction in right of way setback from the required 50' to 20' in order to re-build a 8'x29' covered front porch; located at: 18616 6B Rd. Plymouth, IN Zoned A-1. The applicant Chris Oginsky, 18616 6B Rd. Plymouth was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to rebuild and replace a failing and unsafe front porch. The previous porch was 14' by 18' at the largest points and is being proposed to be adjusted to an 8'x29' porch with roof. The house sits approximately 30' from the ROW line and 40' from roadway. The proposal is to reduce the front yard setback from 50' to 20' to allow for the reconstruction and expansion of the new porch. The proposed construction would reduce the distance from ROW to porch by 6'.

Mr. Hostetler 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. Miller moved and Mr. Hostetler seconded the motion to close the public hearing. Motion carried by acclamation.

The board did not have a problem with the request also stating the proposal will be further back than what was there.

Mr. Hostetler made a motion to approve 23-BZA-35 OGINSKY, Christopher - A request for a Variance of Developmental Standard to allow a reduction in right of way setback from the required 50' to 20' in order to re-build a 8'x29' covered front porch; located at: 18616 6B Rd. Plymouth, IN Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 4-0.

Other Business – 2024 Proposed Meeting Calendar

The board discussed the possibility of moving up the meeting times to the meetings. The plan

director requested that if there was a meeting time change, he would like it to be consistent with the Planning Commission. One member requested to stay the same and the others didn't care whether it was 7:00pm or 7:30pm.

The calendar will be back before the board for approval in November.

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

Respectfully submitted,

David Hostetler

November 14, 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 7:30 p.m. on Tuesday, November 14, 2023, 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 minutes from the October 10, 2023, Board of Zoning Appeals meeting as presented, seconded by Mr. Miller. Motion carried by acclamation.

The first item of business was 23-BZA-36 BORKHOLDER, Eddie Ray - A request for a Variance of Developmental Standard to reduce the rear yard setback from the required 45' from BFE to 60' from the lake in order to build a new house; located at: E. Shore Dr. Bremen (50-43-07-000-281-000-005), Zoned L-1. Mr. Eddie Ray Borkholder of 1439 E. 3rd Rd. Bremen was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is interested in constructing a new house on the lake and due to natural features, the rear property line protrudes substantially into the property. The applicant is seeking to reduce the rear yard setback from the required 45' from base flood elevation to 50' from the lake. There is a swale that runs perpendicular to the shoreline approximately 120' into the property. The property is 1.09 acres in size, but the property is also bisected by the sewer line that services lake of the woods that runs along Lakeshore Drive. Due to the lack of alignment of the road, the sewer line runs at an angle taking up even more property which is forcing the property to be developed further west.

The total square footage of the property allows for the property to be subdivided. When asked if that's the reason for the variance Mr. Borkholder stated, "he wants to stay away from the sewage and the plan for that would be to build closer to the lake."

While comparing adjacent neighbors' setbacks off the water; the plan director explained that a portion of the properties to the north are set back further off the water to almost 100' east due to Frank Washnocks private park that runs adjacent to the lake. The properties to the south are built closer to the water.

The site plan was discussed in addition to the man-made ditch on the property. Mr. Borkholder plans are to run tile from that ditch down to the lake. There is also a pipe under the road that will also be ran to that ditch. Mr. Borkholder has no intention of building another house on the property. However, for investment reasons Mr. Borkholder doesn't want to ruin it for that purpose.

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

Marshall County Board of Zoning Appeals
11/14/2023

1. Mike Jones 3969 Lakeshore Lives two houses north of the proposed. Advised that there is a man hole in the middle of the woods. Has a concern about location of the house and how close the house will be to the lake. The president stated that it will be 60' from the water. Mr. Jones doesn't have a problem with a house being built on the property, but they are concerned about the loss of view to the lake.

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

Without having accurate mapping of the sewer lines available for the board along with required setbacks from the sewer the board felt it was difficult to make a decision.

Mr. Kephart made a motion to table the request to allow the applicant time to bring back to the board a revised site plan that notates where the sewer line is along with the required setbacks, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0 to table.

Mr. Borkholder requested that the board go out to the property and do a site visit.

The second item of business was 23-BZA-37 HARTER, Roy - A request for a Special Use to allow a small home-based business of part-time small engine repair; located at: 14553 3rd Rd., Plymouth, IN Zoned A-1. Mr. Roy Harter of 14553 3rd Rd. was present to represent his request. Mr. Adley presented the findings of fact.

The applicant has been operating a small engine shop from his residence and is seeking approval now to do so. The applicant indicates that he tinkers on them with no set hours and does it on an as needed basis. He is willing to put up a fence to shield the projects from the public or the road and has reduced the amount of material that is on the property. He will also be meeting all associated home-based business development standards for Storage, Employees, Customers, Signs and Parking.

Due to a zoning violation the Plan Commission requested a fence be put up and Mr. Harter will have it up and completed before the end of the week.

Mr. Harter has a health condition that has caused him to be disabled and unable to work full time so he does small jobs (small engine repair) to help him financially. There is no signage on the property. People bring items to be fixed or he buys items to re-sell. There are no employees. From here forward he will do a better job at keeping things picked up.

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

Mr. Kephart made a motion to approve 23-BZA-37 HARTER, Roy - A request for a Special Use to allow a small home-based business of part-time small engine repair; located at: 14553 3rd Rd., Plymouth, IN Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

Marshall County Board of Zoning Appeals
11/14/2023

The third item of business was 23-BZA-38 MULLET, Marlin - A request for a Special Use to allow the addition of a new 150'x125' building to his home workshop for warehouse and shipping room; located at: 4463 Beech Rd., Bremen, IN Zoned A-1. Mr. Marlin Mullett Mr. Bernie Feeney of Plymouth Land Survey and Mr. Charlie Zercher Attorney were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a 150x125' building to house the warehouse and shipping room behind the existing facilities. The new facility is desired to keep goods out of the weather. The applicant has received approval for the existing workshop over a number of phases in: 2019 (100x200' and 60x82') 2013 (48x72'), 2004 (60x100'). The development over time has had the following conditions; 1. Commercial Design Release 2. Combination of new tract with parcel 50-44-08-000-018-001-005 3. No new linear footage in access (restricting it to 250') 4. Meeting State Department of Health's requirements 5. Meet development standards of the A-1 zone 6. Hours of operation 5am to 3pm Monday thru Friday 7. 55 employees 8. A drainage plan The Development standards for the ordinance include: A. Definition A Home Workshop is an accessory use to a residential property carried out for gain by one or more residents of the property, which is clearly incidental and secondary to the use of the property for residential purposes. Home Workshop uses may include light fabricating, light manufacturing or processing activities, or related storage facilities. B. Area Requirements Home Workshop uses shall not occupy an area in excess of four thousand (4,000) square feet of gross area. C. Outside Storage Outside storage of goods and equipment is permitted subject to Board of Zoning Appeals conditions and approval. The Board of Zoning Appeals may pay particular attention to use, enjoyment, and value of adjacent properties. D. Employees not residing on the property are permitted subject to Board of Zoning Appeals conditions and approval. The Board of Zoning Appeals may pay particular attention to available on-site parking and the condition and traffic on local roads. E. Signs The size of on-site signs are limited to an aggregate area of eight (8) square feet. Onsite signs may only advertise goods or products sold on the property. Off-site advertising signs must conform to all provisions of Article 6-200, Signs of this Ordinance. F. Parking Sufficient off-street parking shall be provided on the property to prevent customers from parking in County rights-of-way. There is concern of the act of loading and unloading on the road, overall size of the operation over the maximum 4,000 sqft () and the impervious coverage of the property.

Recommendation: Based on the information provided and review by the Technical Review Committee, Staff and TRC recommend denial until such time that loading and unloading and impervious coverage can be addressed:
Update from Site Meeting: A loading and unloading diagram has been provided and was observed in use while on site during week of November 6th, 2023. Impervious Coverage is being addressed through expansion of property (50-44-08-000-018-001-005) by adding additional acreage from neighboring parcel (50-44-08-000-018-003-005). Previous estimate on 7.07 acres (100,000/307,969 sq ft 32.5%)

The proposal is to add a 150'x125' onto the back of the existing building. There is no plan to increase employees or production. It is solely for the storage of products of materials and loading/unloading. Where products had been stored outside during the day and then put back inside the building at night; now with the new building all products will be kept inside. In addition to all the loading and unloading it will all be done off road. The few incidents that happened will no longer happen due to the new loading and unloading docks in the new building.

The issue with impervious coverage not being met the plan will be to add additional acreage from surrounding ground to total 10 acres.

A list of area property owners signed a petition in favor of the request and passed it around the board.

The drainage plan was developed based on the 2004 approval for Mr. Mullet's last expansion. At that time the tile was re-routed and moved to the west of the proposed building construction. That tile is now in the way and Mr. Mullet was earlier at the drainage board meeting a couple of months ago and got approval again from them to move the tile once again at his expense. The plans have now been re-submitted to the Marshall County Surveyor to be approved once this plan with the Board of Zoning Appeals is approved. The retention area has been expanded considerably in order to accommodate the additional roof area. The roof drains will be directed to the retention basin and the basin will not continually hold water, but will have a small drain that will allow the water out of the bottom of the basin and into the tile as soon as the tile is capable of accepting it. The soil conservation service approval for the erosion control plan has been approved as well. There is a 4" tile coming into the inlet in the basin, but a 12" tile that will tie into the county drain tile. This basin is designed to hold a 100 year storm which is over 6" of rain in a 24 hour time frame. That basin will hold all of the water that comes off the ground and roof area.

There are currently 52 employees. Mr. Miller stated that he drives by in regularly and said that he keeps it neat and clean. The business makes doors and trim.

The board discussed the size of Mr. Mullet's growing business and how our ordinance encourages small businesses and believes that his business is quickly approaching not being a small business. The board asked Mr. Mullet if he had any intention of increasing the size of his business anymore after this proposal. Mr. Mullet stated that he doesn't have any intention of adding on anymore after this expansion.

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

1. Letter in support of the Marlin Mullet expansion includes signatures from: Enos Kuhns, Melvin Lemler, David Garl, John Kuhns, Lavern Miller, Nelson Borkholder, Lisle Slabaugh, Jeffrey Schmucker, Ferne Mullet and Carol Thomas.

Mr. Miller moved to close the public hearing, seconded by Mr. Kepler. Motion carried by acclamation.

Mr. Hostetler made a motion to approve 23-BZA-38 MULLET, Marlin - A request for a Special Use to allow an addition of a new 150'x125' building to his home workshop for warehouse and shipping room; located at: 4463 Beech Rd., Bremen, IN Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The fourth item of business was 23-BZA-39 PITTMAN, Sally- A request for a Special Use to allow a home-based business of parking concrete equipment and vehicles on the property; located at: 3308 E. Shore Dr. Bremen, IN Zoned L-1. Mr. Tony Richard 410 N. Baltimore St. Bremen and Ms. Sally Pittman of 3385 East Shore Dr. Bremen was present to represent their request. Mr. Adley presented the findings of fact.

Mr. Gustafson stated that he has done work for Tony and if there is anyone that has any concerns to state their concerns. Nobody came forward. Mr. Gustafson said that he can make an impartial decision.

The applicant is seeking to permit her sons concrete business on the property to park their equipment and the parking of employee vehicles while on jobsites elsewhere. He desires to build a house in the future and live there down the road. An accessory structure was recently approved for the property and will become the residence down the road. There is currently a house on the property, but is rented out to a third party that is neither the owner or business operator.

Recommendation: Based on the Information provided and review by the Technical Review Committee, Staff and TRC would recommend denial of the proposal.

The plan is to build a pole barn on the south side of the property to store the equipment for now and later to convert it to residential living space. The business has one form truck, two trailers and another truck. The existing house on the north side of the property is a rental house.

The board's reason for denial was because of the amount of material and equipment outside. When asked what his plans were for the building, he said everything will be kept inside except for the form truck. He will also not have any busted up concrete at this address. Eventually, the plan will be to have the business at another site and have the residence on this parcel after the parcel is split into two parcels.

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

1. Jack & Polly Manges 88885 Sycamore Dr. As an owner of several properties at Lake of the Woods they oppose allowing this property to be used for a home-based business for parking cement equipment at 3308 E. Shore Dr. This is residential and should stay that way. It has been an eyesore. This would lower the aesthetics of the community and bring down property values.
2. No name and no address There deed says that there will be no businesses on East Shore Drive. This is a residential area and would rather keep it so. Against this request.
3. Julie Reese no address There has been a business running from this property for over a year. They have several big trucks and trailers parked on the lot. They run the trucks with their headlights pointing into their house for 30 minutes or more every morning. Would like this residential area to stay residential. Is against the request.
4. Janelle Reese 8549 Addison St. Is against the proposal. The equipment and amount of vehicles they run out of that place I feel is dangerous to the lake residents and very disruptive. They have back up beeping that you hear in the morning and at night. The vehicles run for long periods of time in the morning. This is a residential area where people ride their bikes, walkers and people ride golf carts. Large equipment is not safe in this area. This business is too disruptive and doesn't belong in this area. If this is deemed for the best interest of the lake residents, please limit the amount of equipment and personal vehicles at the property at one time.

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

There was discussion with the applicant when he thinks he will be able to remove the business off the property and convert it too residential. Mr. Richard is hoping it will be in a couple years. Currently his business doesn't make enough money to afford another location.

The applicant has applied for a building permit for a pole barn and he's looking to start it within a month and should have it up within three months. At that time, he will be able to store everything inside the barn except the form truck and forms.

With the property being zoned lake residential the board had concerns with this type of business. There was discussion about a temporary one-year approval until the business could be moved to a better location.

The boom truck is not always at the property. Most of the time it is usually at the jobsite. As far as the vehicle lights on, the applicant stated that he would do his best to keep them off when loading and unloading on the property. There was talk about proposing a fence and Mr. Adley explained that there are restrictions on fences in a lake residential zone. Putting up a screening fence along the roadside would require a variance.

Mr. Hostetler made a motion to approve 23-BZA-39 PITTMAN, Sally- A request for a Special Use to allow a home-based business of parking concrete equipment and vehicles on the property; located at: 3308 E. Shore Dr. Bremen, IN Zoned L-1 with the stipulation that this approval be for a one year period and after that one year period the work equipment is to be removed off the property and during the one year store everything in the building except the trucks and trailer with forms and to keep the truck and trailer with forms behind the proposed building, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The fifth item of business was 23-BZA-40 WALLACE, Vincent - A request for a Special Use to allow the installation of a 225' self support tower with antennas at 194' and 218'; located at: 1739 Lilac Rd. Plymouth, IN Zoned A-1.

The applicant withdrew his request.

The sixth item of business was 23-BZA-41 SCHMUCKER, Aaron & Margaret - A request for a dog kennel for breeding; located at: 4500 Grape Rd. Bremen, IN Zoned A-1. Mr. & Mrs. Aaron Schmucker of 4500 Grape Rd. Bremen were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to permit an existing kennel that has 12 females currently but is interested in expanding to 24 females. A kennel is required to receive approval from the Board of Zoning Appeals when either; 1. An establishment wherein any person engages in the business of boarding, breeding, buying, keeping, letting for hire, training for a fee, or selling three (3) or more dogs, cats, or other small domesticated pets; or 2. Any premises on which five (5) or more dogs, cats, and/or other small domesticated pets over four (4) months of age are kept. Kennels are required to meet the following development standards: C. Noise Setbacks Noise produced by the animals and/or operation of the Kennel shall not interfere with the use and enjoyment of neighboring properties.

Kennels, including shelters and fenced areas, shall be set back six hundred (600) feet from the nearest residence in which the operator of the Kennel does not reside. D. Shelter Sufficient shelter shall be provided to protect the animals from extremes of moisture and hot and cold weather. Animals shall be housed in a noise suppressing shelter between the hours of 9:00 pm and 6:00 am. E. Fencing Sufficient fencing in and around the Kennel shall be provided to secure animals. Fencing shall: 1. Be secure enough to house the species and breed being kept; and 2. Be comprised of a primary enclosure for normal operations of the Kennel and a secondary enclosure to prevent total escape in the event of escape from the primary enclosure. F. Sanitary Waste Disposal Proper sanitary disposal of animal waste shall be provided in accordance with all Marshall County Health Department regulations G. Inspections Kennels shall be open to periodic inspection by Marshall County Zoning Administrator and/or the Marshall County Humane Society. The applicant has indicated that they should not be affecting others due to over 500' of separation from the road and other neighbors. They also indicate that they are willing to meet the development standards of the ordinance. Based on their business plan, they started up in 2013 with only one female and male and have slowly progressed to 12 today. The kennel is made of non porous materials that can be "disinfected and sanitized...regularly". The kennels are heated and cooled with outdoor runs as well as access to an outdoor fenced area that allows for exercise. The dogs are vaccinated through Bourbon Animal Clinic with Dr. Collins. There is though no mention of common standards/groups including: USDA, BOAH, Canine Cares.

Recommendation: Based on the information provided and review by the Technical Review Committee, Staff and TRC would recommend denial of the proposed kennel as submitted.

Mr. Schmucker stated that they are currently set up for twelve and they really don't have a desire to grow and would like to change the request to keep what they currently have.

This request was turned in through the violation process. After talking with the applicant, they willingly came in and applied for this approval process.

The kennel is part of the white pole barn, and the area is fully enclosed by a wooden fence that prevents anyone from seeing the dogs. The origination of the kennel started with one dog, and they continued to add dogs. They had no knowledge of needing approval for the kennel.

The dogs being bred are Pomski's, Pomeranians and Husky's.

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

1. Nancy Cox, Marshall County Humane Society 14210 Nataka Tr. Plymouth Nancy is the director at the Marshall County Humane Society. This was brought to her attention by a complaint from someone that tried to buy a puppy. When she looked at their website and saw the number of dogs for sale Nancy reached out to Ty Adley, the Plan Director. This year has been the worst year for the facility in the years she worked there. After reaching out to the vet Dr. Collins she commended this dog breeder. Out of all the breeders and talking with the vet they gave her a good report. She takes care of the dogs; they are appropriately vaccinated and does dental. Ms. Cox doesn't believe they need to be breeding 24 dogs. There's no need to get rid of any of the dogs they have, but don't allow them grow. If there

are 12 females how many males are there? She's not against approving this kennel as long as doesn't grow.

2. Maria Benedek — Sent a letter explaining her interaction with the applicants in full detail.

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

The applicants are set up to have 12 females and 4 males for breeding.

With not having pictures or anybody seeing the interior of the kennel the board had a concern about moving forward. There was discussion about if Ms. Cox of the Humane Society could go out to this kennel and report back to the board of her findings as it would help the board make a more informed decision.

Mr. Kephart made a motion to table the request until Ms. Cox of the Humane Society has time to inspect the kennel. Motion died for a lack of a second.

Mr. Miller made a motion to approve 23-BZA-41 SCHMUCKER, Aaron & Margaret - A request for a dog kennel for breeding; located at: 4500 Grape Rd. Bremen, IN Zoned A-1 with the following stipulation:

1. **Limit of 12 females**

Seconded by Mr. Hostetler.

Before the vote the plan director explained to the applicants the voting process and if they don't get majority vote.

Mr. Schmucker asked that they table the request until the December meeting to allow the Humane Society to come out and see the kennel.

Mr. Miller rescinded the motion on the floor.

2024 Board of Zoning Appeals Meeting Calendar

After earlier discussion about changing meeting times from 7:30 to 7:00 it was said that since it was just an incremental change to move forward with the proposed calendar with the same meeting time of 7:30 and look at it again next year.

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

Respectfully submitted,

David Hostetler

December 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 7:30 p.m. on Tuesday, December 12, 2023, 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 minutes from the October 10, 2023, Board of Zoning Appeals meeting as presented, seconded by Mr. Miller. Motion carried by acclamation.

The first item of business was 23-BZA-36 BORKHOLDER, Eddie Ray - A tabled request for a Variance of Developmental Standard to reduce the rear yard setback from the required 45' from BFE to 60' from the lake in order to build a new house; located at: E. Shore Dr. Bremen (50-43-07-000-281-000-005), Zoned L-1. Mr. Eddie Ray Borkholder of 1439 E. 3rd Rd. Bremen was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is interested in constructing a new house on the lake and due to natural features, the rear property line protrudes substantially into the property. The applicant is seeking to reduce the rear yard setback from the required 45' from base flood elevation to 50' from the lake. There is a swale that runs perpendicular to the shoreline approximately 120' into the property. The property is 1.09 acres in size, but the property is also bisected by the sewer line that services lake of the woods that runs along Lakeshore Drive. Due to the lack of alignment of the road, the sewer line runs at an angle taking up even more property which is forcing the property to be developed further west.

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

Since the last meeting the applicant has moved the house 15’ back further from the lake. The sewer easement discussed at the last meeting has been confirmed to be a total of 20’, but they may want it 30’ to maintain it.

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

1. Mike Jones 3969 Lakeshore Dr. Bremen Lives on the third lot north of the woods. Is not opposed to what he’s wanting to do, but with his proposed house so close to the water it will be closer to the water by at least 30’ that the others near him.

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

Mr. Borkholder plans to be 15' from the sewer line as noted on the plot plan.

Mr. Miller made a motion to approve 23-BZA-36 BORKHOLDER, Eddie Ray - A request for a Variance of Developmental Standard to reduce the rear yard setback from the required 45' from BFE to 60' from the lake in order to build a new house; located at: E. Shore Dr. Bremen (50-43-07-000-281-000-005), Zoned L-1, seconded by Mr. Bennett. Motion carried with a voice vote 5-0.

The sixth item of business was 23-BZA-41 SCHMUCKER, Aaron & Margaret - A tabled request for a dog kennel for breeding; located at: 4500 Grape Rd. Bremen, IN Zoned A-1. Mr. & Mrs. Aaron Schmucker of 4500 Grape Rd. Bremen were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to permit an existing kennel that has 12 females currently but is interested in expanding to 24 females. A kennel is required to receive approval from the Board of Zoning Appeals when either; 1. An establishment wherein any person engages in the business of boarding, breeding, buying, keeping, letting for hire, training for a fee, or selling three (3) or more dogs, cats, or other small domesticated pets; or 2. Any premises on which five (5) or more dogs, cats, and/or other small domesticated pets over four (4) months of age are kept. Kennels are required to meet the following development standards: C. Noise Setbacks Noise produced by the animals and/or operation of the Kennel shall not interfere with the use and enjoyment of neighboring properties. Kennels, including shelters and fenced areas, shall be set back six hundred (600) feet from the nearest residence in which the operator of the Kennel does not reside. D. Shelter Sufficient shelter shall be provided to protect the animals from extremes of moisture and hot and cold weather. Animals shall be housed in a noise suppressing shelter between the hours of 9:00 pm and 6:00 am. E. Fencing Sufficient fencing in and around the Kennel shall be provided to secure animals. Fencing shall: 1. Be secure enough to house the species and breed being kept; and 2. Be comprised of a primary enclosure for normal operations of the Kennel and a secondary enclosure to prevent total escape in the event of escape from the primary enclosure. F. Sanitary Waste Disposal Proper sanitary disposal of animal waste shall be provided in accordance with all Marshall County Health Department regulations G. Inspections Kennels shall be open to periodic inspection by Marshall County Zoning Administrator and/or the Marshall County Humane Society. The applicant has indicated that they should not be affecting others due to over 500' of separation from the road and other neighbors. They also indicate that they are willing to meet the development standards of the ordinance. Based on their business plan, they started up in 2013 with only one female and male and have slowly progressed to 12 today. The kennel is made of non-porous materials that can be "disinfected and sanitized...regularly". The kennels are heated and cooled with outdoor runs as well as access to an outdoor fenced area that allows for exercise. The dogs are vaccinated through Bourbon Animal Clinic with Dr. Collins. There is though no mention of common standards/groups including: USDA, BOAH, Canine Cares.

RECOMMENDATION:_Based on the information provided and review by the Technical Review Committee, Staff and TRC would recommend denial of the proposed kennel as submitted.

Reminded the board that they are not interested in the 24 females as they are fine with the 12 females and the males they have.

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

1. Marshall County Humane Society - Went out to the facility and found it welcoming and had full access. The facility is pristine, and the dogs looked to be well taken care of. Would recommend approval of their current 12 dogs.

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

Mr. Schmucker would like to clarify what they currently have is 12 breeding females and 5 males and they would like to be able to keep that number ratio of dogs.

Mr. Hostetler made a motion to approve 23-BZA-41 SCHMUCKER, Aaron & Margaret - A tabled request for a dog kennel for breeding; located at: 4500 Grape Rd. Bremen, IN Zoned A-1 with the following stipulations:

1. **Maximum number of breeding dogs is 17 total, 12 female and 5 males.**

Seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The third item of business was 23-BZA-42 HANSELMAN, Albert – A request for a Special Use to allow a landscape home based business and for storage of equipment; located at: 15987 Pear Rd. Plymouth, IN Zoned T-1. Albert Hanselman of 15987 Pear Rd was present to represent his request. Mr. Adley presented the findings of fact.

The applicant has been operating a landscape business part time for several years but has recently gone full time. They were unaware of the requirement for special use approval. The business currently has 3 employees but are planning for 5. The business runs Monday to Friday 8:00-5:00 and Saturday as needed. Equipment is stored in the shop except for the trucks and occasional trailers. They are committed to meeting all of the associated development standards and would like permission to keep their business sign on his mother's property at the head of the road.

Albert spoke up and said that his son Lucas is his partner. This business is being set up for him.

RECOMMENDATION: Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposal provided that there are no objections by the neighbors.

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

1. Debra Smith 15900 16th Rd. Lives three houses down the road. Is all for small business. He is a courteous neighbor.
2. Ruth Hanselman 15985 Pear Rd. Albert lives approximately ¼ behind my house. He keeps his property neat and orderly. He cares for my property well. Granted him permission to put up his business sign on my property.

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

The sign measures out as 4'x6' and is 15'1" from the road which is outside the right of way. Mr. Adley recommended approving the location and if the sign is too big, we can discuss the options later.

Mr. Kephart made a motion to approve23-BZA-42 HANSELMAN, Albert – A request for a Special Use to allow a landscape home based business and for storage of equipment; located at: 15987 Pear Rd. Plymouth, IN Zoned T-1 as submitted, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The fourth item of business was 23-BZA-43 WILSON, Ira - A request by Ronald Davis for a Variance Use to temporarily allow small landscape and construction business; located at: 13730 4th Rd. Plymouth, IN 46563 Zoned A-3. Ron Davis of 13730 4th Rd. Plymouth was present to represent his request. Mr. Adley presented the findings of fact.

The applicant had recently relocated to the property and was unaware of the requirement to receive BZA approval for the business. They have removed many of the larger items from the property to a separate location. There are a couple of trailers and trucks that remain on the property for the operation of the business. The applicant uniquely though is only seeking a 2-year approval for the business on the property before he relocates to a new location to live and operate the business.

RECOMMENDATION Based on the information provided and review by the Technical Review Committee they recommend approval as submitted.

Mr. Ira Wilson is the owner of the property and Mr. Davis rents the property. When relocating Mr. Davis was unaware of there being an issue of storing his business equipment on the property. Once he was notified, he cleaned up the property and moved the equipment off the property. On the property is a dump trailer and a semi-trailer that holds personal property.

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

1. Karen Bowling 3956 Nutmeg Rd Is a neighboring property owner. Doesn't want a business with vehicles coming and going. If it's only going to be temporary, she's okay with it. She's happy they've cleaned it up.

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

Mr. Hostetler made a motion to approve 23-BZA-43 WILSON, Ira - A request by Ronald Davis for a Variance Use to temporarily allow small landscape and construction business; located at: 13730 4th Rd. Plymouth, IN 46563 Zoned A-3 as submitted for two (2) years, seconded by Mr. Kephart. Motion carried with a voice vote 5-0.

2024 Board of Zoning Appeals Meeting Calendar

Mr. Hostetler made a motion to move the meeting times for the 2024 Board of Zoning Appeals meetings from 7:30pm to 7:00 pm. Motion carried by acclamation with one naye.

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

Respectfully submitted,

David Hostetler