January 11, 2022
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, January 11, 2022, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Dan Voreis, Michelle Mieras, David Hostetler, and Matt Miller. Plan Director Ty Adley and interested parties.

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

- President – Mr. Miller made a motion to retain Jeff Gustafson as President of the Marshall County BZA, seconded by Mr. Hostetler. Motion carried by acclamation.
- Vice President – Mr. Hostetler made a motion to elect Matt Miller as Vice President of the Marshall County BZA, seconded by Mr. Hostetler. Motion carried by acclamation.
- Secretary – Mr. Miller made a motion to elect Michelle Mieras as the Secretary for the Marshall County BZA, seconded by Mr. Hostetler. Motion carried by acclamation.

The minutes from the December 14, 2021, meeting was submitted to the board. Mr. Miller made a motion to approve the minutes as written, Mr. Hostetler seconded the motion. Motion carried by acclamation.

The first item of business was 21-BZA-69 REICHARD, Kevin & Jennifer - A tabled request for a Variance of Developmental Standard to allow a secondary structure before a primary to allow the owners to build a 30x40 garage on the vacant parcel adjacent to their residence; located at: 18213 Hiawatha Tr. (Lot 65), Culver, IN West Twsp., Zoned L-1. Mr. Kevin Reichard was present to represent his request. Mr. Adley presented the findings of fact.

The applicant owns the residence at 18213 Hiawatha Trail and is wanting to construct a detached garage for their vehicle accessing off of Tahoe Trail. Without the properties being combined, the proposal is required to have a variance. The intentions of the property owner at this time is to move to their vacant lot in the future which fronts the lake in the future. The replating of their three lots on Hiawatha and Tahoe Trails would be most ideal in future use and access of the property.

Mr. Reichard would like to keep the two lots separate to allow him to keep this pole barn on a separate lot so when he sells his existing house and moves to the house on the lake he will have this pole barn for personal storage. In the future he would like to take the three lots and combine into two removing the angled piece along Tahoe Tr and creating longer lots from Hiawatha Trl to Tahoe Trl.

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

The board discussed the timing of combining of the pieces. Mr. Adley stated that it would be difficult to impossible without combining them to meet the required setbacks.

Ms. Mieras made a motion to approve 21-BZA-69 REICHARD, Kevin & Jennifer - A tabled request for a Variance of Developmental Standard to allow a secondary structure before a primary to allow the owners to build a 30x40 garage on the vacant parcel adjacent to their residence; located at: 18213 Hiawatha Tr. (Lot 65), Culver, IN West Twsp., Zoned L-1, seconded by Mr. Voreis. Motion carried with voice vote 5-0.

The second item of business was 22-BZA-01 FOREMAN, Kelly & William - A request for a Variance of Development Standard to allow a front yard setback reduction from the required 50' to 12' to allow a carport to be placed adjacent to an existing structure; located at: 6981 Elm Rd. Bremen, IN German Twsp., Zoned A-1. Mr. William Foreman of 6981 Elm Rd. Bremen was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is wanting to assemble a carport on the North side of an existing building. They are wanting to place the structure in line with the existing building thus the reason behind the request for the reduction in setbacks from 50' to 12'.

The TRC recommendation was based on the size of the parcel and the hardship of having to put it in this location or an alternative location.

Mr. Foreman would like to keep it close as it will keep the cost down for having less of a driveway.

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

1. Marvin Houin 3563 Plymouth Goshen Tr. Bremen IN Has the farm to the west of this parcel. He has no problem with the proposal and understands his need for something close. As long as it doesn't get any closer to the road that the existing structure it won't impede visibility.
2. Diane Houin Email The carport may not have sides, but obviously will have something in it which will block the view of oncoming traffic. We have semis and farm equipment which frequently uses the road, as we farm just down the road from the location. We must be able to see clearly down the road and around the intersection of Elm and 7th. Our heavy equipment needs time to avoid accidents. Besides their equipment, there are many Amish buggies which use the road too. There are many pedestrians and bike riders who travel Elm and 7th Road especially with the Amish School close by the location. In addition to the Amish school there is also another business near there that has increased the traffic. Mrs. Houin is not in favor of this carport in this location. Marshall County does not need blind corners creating road

hazards.

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

Ms. Mieras made a motion to approve 22-BZA-01 FOREMAN, Kelly & William - A request for a Variance of Development Standard to allow a front yard setback reduction from the required 50' to 12' to allow a carport to be placed adjacent to an existing structure; located at: 6981 Elm Rd. Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Hostetler. Motion carried with a voice vote 4-1 with Mr. Gustafson voting against.

The third item of business was 22-BZA-02 LARGE, Mikel & Terri - A request for a Variance of Developmental Standard that exceeds the maximum lot width to depth ratio of 170'x1100'; located at: 50-43-22-000-009-000-005 (Behind 6255 Fir Rd.); German Twsp., Zoned A-1. Mikel Large 7165 Hickory Rd., Plymouth, IN was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to cut off a portion of his farm which is partially wooded and selling it to the parcel owner that fronts Fir Road. They would be required to combine the properties together.

Mr. Large doesn't live at this location. The property owner at 6255 Fir Rd. wanted to purchase some extra ground behind him and would extend to the rear property line.

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

1. Bradley Seifer – 6255 Fir Rd. Is the owner who plans to purchase the adjacent ground behind him. Currently has 1 acre with his house. With the additional ground it will be a total of 6 acres.

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

Mr. Hostetler made a motion to approve 22-BZA-02 LARGE, Mikel & Terri - A request for a Variance of Developmental Standard that exceeds the maximum lot width to depth ratio of 170'x1100'; located at: 50-43-22-000-009-000-005 (Behind 6255 Fir Rd.); German Twsp., Zoned A-1, seconded by Ms. Mieras. Motion carried with a voice vote 5-0.

The fourth item of business was 22-BZA-03 MORRIS, Ryan & Anna - A request for a Variance of Use to allow an existing structure to be used as a event venue; located at: 17520 Pine Rd., Culver, IN 46511, Green Twsp., Zoned A-1. **The Morris's requested to table their request until the March meeting.**

The fifth item of business was 22-BZA-04 PRATT, Matthew & Carla - A request for a Variance of Developmental Standard to allow a reduction in front yard setback from the required 50' to 39' in order to allow an enclosed patio; located at: 15644 14th Rd. Plymouth, IN West Twsp., Zoned

A-1. Mr. Pratt of 15644 14th Rd., Plymouth, IN was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is wanting to construct a patio room addition onto the front of the house but needs a setback reduction in order to accomplish the project as desired. The setback reduction is 50' from ROW to 39'. Between the proposed addition and the road there is a 6' drop in elevation.

Mr. Pratt plans to remove the existing porch and replace it with a 4 season room that is 15'x16'.

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

Ms. Mieras made a motion to approve 22-BZA-04 PRATT, Matthew & Carla - A request for a Variance of Developmental Standard to allow a reduction in front yard setback from the required 50' to 39' in order to allow a enclosed patio; located at: 15644 14th Rd. Plymouth, IN West Twsp., Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The sixth item of business was 22-BZA-05 PHILLIPS, George & Kelsey - A request for a Variance of Developmental Standard to allow for a channel lakeside setback of 24' to allow for a covered back deck; located at: 4530 Pleasant Point Lane, Bremen, IN German Twsp., Zoned L-1. Mr. George Phillips of 450 Pleasant Point Lane Bremen was present to represent his request. Mr. Adley presented the findings of fact.

The applicant was previously in under 21-BZA-46 to reduce setbacks in order to construct the desired home. While under construction there was the decision to construct a deck with a roof overtop. The previous variance allowed for a reduction of 45' to 33' and the current proposal is to reduce it from 33' to 24'. The Speth/Teall variance (20-BZA-61) was approved for a reduction from 45' to 24'. The Teall residence is being constructed 28' from the Canal and is not using all of the variance as requested. The rear yard setback requirement is 45' from the Base Flood Elevation with an average of -3' (over 6 structures) from the BFE, with setbacks ranging from 41' to -32'.

When the applicant laid the house out they didn't like how close it was to the road. So, they moved the house back 10' closer to the water what was previously was approved by this board. They are now asking permission to put the deck up that they previously planned in the new location(lakeside). The proposed deck will be a floating deck without a foundation and the posts holding the roof up will be in the ground.

TRC's recommendation was to deny the request due to the possibility of being able to enclose a covered deck with ease which would create a reduction in view.

The homeowner's plan is to never enclose it as it's a floating deck.

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

by acclamation.

1. Diane Houin Email Mrs. Houin expressed her disapproval of the request and asked that it not be approved. They have already received a variance a few months ago. Their house is far from completion. Poor planning on their part should not be allowed to affect their property located just across from West Shore Dr. She believes it will block her view of the lake. Even if not enclosed privacy shades could be put up that would block their view. The deck will be located close to the canal for the dam for Lake of the Woods which is the legal drain for the water shed. The canal does need maintenance periodically which is why there are zoning regulations.

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

From the house to the footer it will be 9'.

When asked about the view from the Houin property Mr. Adley explained the Houin's parcel has a significant area in the flood plain that would potentially be difficult for them to build on.

The neighbor to the south that would be most affected was not present for the meeting nor did he submit a response.

Mr. Hostetler made a motion to approve 22-BZA-05 PHILLIPS, George & Kelsey - A request for a Variance of Developmental Standard to allow for a channel lakeside setback of 24' to allow for a covered back deck; located at: 4530 Pleasant Point Lane, Bremen, IN German Twsp., Zoned L-1 with the comment that there should be no blinds permitted in the covered porch that would limit view; seconded by Ms. Mieras. Motion carried with a voice vote 3-2 with Mr. Voreis and Mr. Miller voting against.

There being no further business, a motion was made to adjourn and seconded. The motion was passed by a voice vote.

Respectfully submitted,

Michelle Mieras

February 8, 2022
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 8, 2022, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, Michelle Mieras, and Matt Miller. Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The minutes from the January 11, 2022, meeting was submitted to the board. Mr. Miller made a motion to approve the minutes as written, Mr. Hostetler seconded the motion. Motion carried by acclamation.

The first item of business was 22-BZA-06 BOLLENBACHER, Greg & Wendy - A request for a Variance of Developmental Standard to allow for a front yard setback reduction from the required 30' from right of way to 0' to allow for approval of the existing steps to create an apartment in the 2nd story of the existing garage; located at: 5046 West Shore Dr. Bremen IN German Twsp., Zoned L-1. Mr. Greg Bollenbacher of 4465 Crane Clove Lane, Bremen IN was present to represent his request. Mr. Adley presented the findings of facts.

The applicant has been under construction of the second story of the garage and has constructed an exterior staircase to the second floor within the 30' front yard setback of Pleasant Pointe Lane. For historical reference the following was found in reference to previous permits. In April 2013 a permit was approved to add a 2nd story addition of the existing garage. Said permit was amended and approved in September 2013 to instead put a modular 3 bed 2 bath home on the property. Between Spring of 2013 and Spring of 2015 there was progress on the 2nd story to the garage. At this time there was no cutout for an entry/exit on the West side of the structure. Between Spring of 2015 and Fall of 2016 a landing, door and overhang were created on the West side of the structure protruding further than the face of the garage. The garage was approved back in 1985 with the condition that the "established line on Pleasant Pt. Dr. set by garage north of this property" and that the garage is to be built in line. The existing garage on the subject property is an estimated 5' closer to Pleasant Pt. Dr. not including stairs and associated landing. Between the Spring of 2017 and the Spring of 2018, the stairs were put in connecting the landing and providing more permanent access to the second floor of the building. On November 1st, 2021, Mr. Bollenbacher applied for a Conventional Home

Mr. Bollenbacher stated that back in 2013 when he got the permit he asked the Plan Director at that time if he could put the steps where he did and he verbally said, "yes" and didn't have anything in writing. Over the years there hasn't been any issue with the steps nor has there been any complaints. At that time, he felt that on a gabled end was the best and only location for the entrance. On the other end of the house is a closet and a wall. The interior is currently unfinished.

Mr. Burkholder has been working on the property himself when he had time. Since it had been awhile he thought he should go into the Plan Commission office to renew his permit. When he came into the office to renew it and he found out there were more issues.

Mr. Adley clarified that the location of the garage he would consider grandfathered. The issue at hand is the addition of the stairway.

The roadway adjacent to the existing stairway is not a legal road, but a private drive that owners jointly own parts of the road.

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

1. Marvin Houin – Understands that maybe there was a mistake about the location. He feels the stairway is too close to the road compared to everything else. With the interior not being finished is it feasible for the stairway to be moved to another location?
2. Brian Teal – Sent a letter stating he is an adjacent property owner and is neither for or against the request. Questioned how the setback could be reduced to 0' if the stairway is already protruding into Pleasant Point Lane? Asked if there were the proper permits and/or variances when the garage was added onto. Has a concern for safety with the stairway being located so close to the roadway?

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

Since Mr. Bollenbacher has owned the property there hasn't been a survey. Since he bought it there was one survey stake that he knows of.

The existing stairs have been there since 2018. The upstairs is currently studded and has rough electric and plumbing done. It will be open concept with a bathroom and a closet. The opposite end of the building has a closet and a wall.

A different view of the property was displayed and it showed an existing sliding glass door to be used with a future deck. The board was in agreement with an existing door the entrance to the upstairs is feasible on that side of the garage. Mr. Bollenbacher said it is feasible but would take a lot of work.

Mr. Miller made a motion to deny 22-BZA-06 BOLLENBACHER, Greg & Wendy - A request for a Variance of Developmental Standard to allow for a front yard setback reduction from the required 30' from right of way to 0' to allow for approval of the existing steps to create an apartment in the 2nd story of the existing garage; located at: 5046 West Shore Dr. Bremen IN German Twsp., Zoned L-1 seconded by Mr. Bennett. Motion carried with a voice vote 5-0 to deny the request as it does not meet all three findings.

The second item of business was 22-BZA-07 HELMUTH, Jonathan - A request for a Special Use to allow a small animal processing facility with no store front; located at: 536 Beech Rd., Nappanee, IN German Twsp., Zoned A-1. Mr. Jonathan Helmuth of 536 Beech Rd. Nappanee IN was present to represent his request. Mr. Adley presented the findings of fact.

The homeowner currently has honeybees and sells the honey. He is wanting to have a 44x40' addition to an existing building. This will allow for storage, cooler/freezer, and smoke room. The existing portion of the building will be used for deer processing. The processing of deer and domestic animals don't need Board of Animal Health or Health Department approval per the applicant. The operation in the future could evolve to include beef or pork in the future. He indicates that he will follow BOAH guidelines for food safety, with goals of having a short lead time for deer meat. The applicant is looking

to relieve the pressure for more local meat processing by beginning operations fall of 2022. Drop off would be available 5:00am to 9:00pm. There is an anticipation of doing 300 deer the first year. Non-edible will go to Darling. The applicant anticipates 1 part time person doing peak season per 100 deer. With 300 anticipated in the first year that would be 3 part time people outside of the applicant and his wife. They anticipate in 5 years to process 500 deer per year which would require 5 part time employees. By this time, they would be applying for custom-except license in order to process beef/hogs. There would be no store front or walk-ins. There would be no kill onsite. There would be a max of 6 beef or 12 hogs per week in 5 years. By year 10 they would anticipate 800 deer, otherwise no difference than year 5.

The proposed building will almost double the size of the existing and it will be taller as well. Besides the proposed business he also has honeybees and sells the honey and has a part time job.

The neighboring previously approved facility decided that it was going to be too costly and the project didn't go any further.

During deer season the proposed hours will be 5am to 5pm and allowing drop off till 9pm Monday through Saturday. He has bought a 8'x23' cooler. The main animals to process will be deer.

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

1. Susan Pletcher CR 17, Goshen Believes we need a processing plant in the area and is for the request.

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

The board discussed whether to have a standard business hours or separate business hours of the butcher shop and hours for allowed drop off times. The consensus of the board was to have separate hours.

Ms. Mieras made a motion to approve 22-BZA-07 HELMUTH, Jonathan - A request for a Special Use to allow a small animal processing facility with no store front; located at: 536 Beech Rd., Nappanee, IN German Twsp., Zoned A-1 with the operating hours of the butcher shop Monday through Saturday 5am to 5pm, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The third item of business was 22-BZA-08 SODERSTROM, Michael & Jean - A request for a Variance of Developmental standard to allow an increase of lot coverage from the required 45% to 56%; located at: 3931 Lakeshore Dr. Bremen, IN German Twsp., Zoned L-1. Mr. Randal Mast, Contractor, was present to represent the applicant's request. Mr. Adley presented the findings of fact.

The applicant had received building permit approval in October 2021. Since that time the property owner wanted add a 16x30' deck and to widen the parking area to the width of the house. The ordinance allows for up to 45% lot coverage while on sewer, but with the additions to construction, this would put the impervious coverage at 56%. The widening of the driveway would provide for an additional vehicle to get off of the roadway, thus resulting in a safer right of way area.

Before the applicants started construction, they weren't sure what they wanted to do about the deck. In addition to that the contactor wasn't aware that Marshall County considers the driveway an impervious area; therefore, with the proposed driveway would throw them over the allowed 45% lot

coverage. Since the house sits back further than the others, they would like to have their deck extend out further to have a better view of the lake.

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

1. Marvin Houin 7563 Plymouth Goshen Tr. Bremen Questioned the site plan and the property lines.

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

Mr. Bennett made a motion to approve 22-BZA-08 SODERSTROM, Michael & Jean - A request for a Variance of Developmental standard to allow an increase of lot coverage from the required 45% to 56%; located at: 3931 Lakeshore Dr. Bremen, IN German Twsp., Zoned L-1, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

There being no further business, a motion was made to adjourn and seconded. The motion was passed by a voice vote.

Respectfully submitted,

Michelle Mieras

March 8, 2022
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 8, 2022, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, Chris Kline, and Matt Miller. Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The minutes from the February 8, 2022, meeting was submitted to the board. Mr. Miller made a motion to approve the minutes as written, Mr. Hostetler seconded the motion. Motion carried by acclamation.

The first item of business was 22-BZA-03 MORRIS, Ryan & Anna - A tabled request for a Variance of Use to allow an existing structure to be used as a event venue; located at: 17520 Pine Rd., Culver, IN 46511, Green Twsp., Zoned A-1. Mr. Ryan Morris was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to start up an event venue out of an existing barn on the property. The would be keeping the number of attendees to 250. Examples of events would be reunions, graduation open houses, small celebrations, or wedding receptions. Events would be weekend events that would go no later than midnight.

Getting the approval for the event center is Morris' first step in the process. Once there is an approval, they will move forward with all other approvals locally and state. The current plan for parking is to park in the grass. In the future their idea is to put down gravel. The existing barn has concrete floor in the front and currently has no bathrooms. The sizes of the building are 40'x64' and a 50'x64' which totals to 5,760 square feet.

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

1. Mike Trump 12869 SR 10 Represents the Maxinkuckee Oddfellow Lodge. They see no problems with the request. Was curious to their proposal and doesn't see any problems.
2. Joann Fraser 13588 15B Known the applicant for a long time and believes he would follow are requirements put before him. Believes there is a need for such an event venue.
3. Tyler Betz 14599 SR 10 The location has a beautiful setting for a venue and has noticed many people stopping to look and take pictures of the site.

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

Mr. Hostetler made a motion to approve 22-BZA-03 MORRIS, Ryan & Anna - A tabled request for a Variance of Use to allow an existing structure to be used as a event venue; located at: 17520 Pine Rd., Culver, IN 46511, Green Twsp., Zoned A-1 with the following stipulations:

1. **CDR as determined by the Building Commissioner**
2. **Septic as required by the MCHD and/or State Department of Health**
3. **Morris business proposal**

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

The second item of business was 22-BZA-09 YODER, Ross & Julie - A request for a Variance of Developmental Standard to allow a home addition that doesn't protrude closer to the rose than the existing that is currently 44' from the right of way: located at: 2365 Beech Rd. Nappanee, IN German Twsp., Zoned A-1. Mr. Ross Yoder was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is looking to add on to the existing residence, even with the existing house. The addition would be no closer to the road, which would match the 44' from the right of way.

The applicant is doing a remodel of the house and wanted to make a small addition as well. Their plan is not to encroach closer to the road than they already are.

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

1. Sara Slabaugh, Seth Schwartz, and Deborah Miller signed a letter stating that they don’t have any issues with the proposal.

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

Mr. Miller made a motion to approve 22-BZA-09 YODER, Ross & Julie - A request for a Variance of Developmental Standard to allow a home addition that doesn't protrude closer to the rose than the existing that is currently 44' from the right of way: located at: 2365 Beech Rd. Nappanee, IN German Twsp., Zoned A-1, seconded by Mr. Bennett. Motion carried with a voice vote 5-0.

The third item of business was 22-BZA-10 GRAHAM, Leslie & Gloria - A request for a Variance of Developmental Standard from the required 30' to 25' to allow a four seasons room addition to the front of the house; located at: 8483 Chicago St., Bremen, IN German Twsp., Zoned L-1. The designer, Matthew Vansoest of 3751 Lakeshore Dr. Bremen and Gloria Graham of 8483 Chicago St. was present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to reduce the front yard setback in order to construct a four seasons room on the front of the house. The building addition per the applicant would allow for them to maximize spatial programming while not interfering with the existing well. The adjoining

neighbors per the applicant currently have setbacks of 25 and 20' respectively. To the west the existing house is within the 30' setback with no known expansions. To the east the neighbor has a pergola set closer to the road than 30' that was placed between 2019 and 2021 aerial photography and never received a building permit.

The existing house was built in 1996. With the applicants needing to be at home more due to health reasons they would like to have a 4 seasons room that would give them a view of the lake. Their design is to have plenty of windows for open site lines. The neighbor to the easter currently does not have windows that allow them view of the lake. If they are in the gazebo in the front it would not limit their view from the lake. The property to the west has a house that has been there since the late 1960's and protrudes closer to the road than the other adjoining properties.

The TRC's recommendation of denial was due to it being self imposed and didn't feel the pergola of the neighbors should be used as a benefit. The existing pergola is in violation as it was never permitted.

The proposal is a stick built 14'x15' addition which would require a setback reduction from 30' to 25'. This addition would also be the entryway into the house.

The parcels to the east is one that is used for storage and the other was the old fire station.

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

Mr. Hostetler made a motion to approve 22-BZA-10 GRAHAM, Leslie & Gloria - A request for a Variance of Developmental Standard from the required 30' to 25' to allow a four seasons room addition to the front of the house; located at: 8483 Chicago St., Bremen, IN German Twsp., Zoned L-1, seconded by Mr. Miller. Motion carried with a voice vote 4-1 with Mr. Gustafson voting against.

The fourth item of business was 22-BZA-11 KOVATCH, Jon & Penny - The applicant Susan Curtis is requesting a Variance of Use to allow a secondary residence on a property by converting a 16'x16' space in an existing barn to be used as a residential space approximately 10 weeks out of the year; located at: 2500 Quince Rd., Walkerton, IN Zoned A-1. Penny Kovatch of 2500 Quince Rd. Walkerton and Susan Curtis 1004 E. Woodside St. South Bend was present to represent their request. Mr. Adley presented the findings of fact.

The applicant is wanting to convert an area of an existing pole barn into a living quarters for a family member that is only in town for 10 weeks a year. The family member is a travel nurse and only spends a few weeks home per year and wanted to be near her sister during appointments or during treatment should her cancer resurface. The ordinance currently does not establish how to handle accessory dwelling units.

Do to the applicants job she is only home 6-12 weeks out of the year. In addition to that with health issues she is in need of assistance and being right there next to her sister would be

extremely helpful.

The board asked if the owner would have any problems with removing the residential area once her sister was no longer in need the space? Mrs. Kovatch said, “yes”.

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

Mr. Miller made a motion to approve 22-BZA-11 KOVATCH, Jon & Penny - The applicant Susan Curtis is requesting a Variance of Use to allow a secondary residence on a property by converting a 16'x16' space in an existing barn to be used as a residential space approximately 10 weeks out of the year; located at: 2500 Quince Rd., Walkerton, IN Zoned A-1, with the following stipulation:

1. **Once Susan Curtis is no longer using this space as a residence it must be returned to its original agricultural use.**

Seconded by Mr. Hostetler. Motion caried with a voice vote 5-0.

The fifth item of business was 22-BZA-12 BORKHOLDER, Lonnie & Amy - A request for a Variance of Use by Beechy Excavating to allow a storage facility across the road from the existing Midwest Farm & Pet; located directly across the road from 457 5B Rd., Bremen, IN Zoned A-1. Mr. John Beechy of 8611 S. 750 N. Etna Green Beechy Excavating was present to represent their request. Mr. Adley presented the findings of fact.

The applicant owns Midwest Farm & Pet and is wanting to construct a 80x100' new warehouse across the street from their existing operation. The existing building is roughly 60'x200' with several items outside. The latest additions were in 2016 on the east side of the building.

Due to an open ditch on the east end of his property on the south side of the road it prohibits him from adding onto his current business location. The south side of his location has a deer pen and isn’t suitable either. The plan is to build this for storage which will allow them to keep everything indoors.

The TRC supported the agriculturally based business; however, the concern is the doubling in size in this area which will be a greater impact on this section of road.

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

1. David Slabaugh In support of the request and finds no reason to hinder their request. It causes no disturbance.

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

Mr. Miller made a motion to approve 22-BZA-12 BORKHOLDER, Lonnie & Amy - A request for

a Variance of Use by Beechy Excavating to allow a storage facility across the road from the existing Midwest Farm & Pet; located directly across the road from 457 5B Rd., Bremen, IN Zoned A-1, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The sixth item of business was 22-BZA-13 MILLER, David - A request for a Variance of Use to allow a secondary home to care for elderly parents; located at: 6757 6A Rd. Plymouth German Twsp., Zoned A-1. Mr. David Miller of 6757 6A Rd. Plymouth was present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to permit a second residence on the property in order to care for elderly parents. The new home post passing of the parents would become the primary residence and the original residence would be demolished.

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

Mr. Bennett made a motion to approve 22-BZA-13 MILLER, David - A request for a Variance of Use to allow a secondary home to care for elderly parents; located at: 6757 6A Rd. Plymouth German Twsp., Zoned A-1 with the following stipulation:

1. **Once Samuel and Katherine Yoder are no longer using the second residence on the property one residence must be removed within 90 days.**

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

The seventh item of business was 22-BZA-14 FRANZ, Jeffrey & Patricia - A request for a Variance of Developmental Standard to allow a right of way setback reduction from 30' to 10' to allow a 14x20 garage; located at: 16377 12B Rd. Plymouth, IN West Twsp., Zoned L-1. Mr. Jeffrey Franz of 16377 12B Rd. Plymouth was present to represent their request. Mr. Adley presented the findings of fact.

The applicant would like to put up a 14x20' garage between the existing mobile home and road. The project was heard previously for a similar request but was withdrawn in 2020. The original proposal was to build a 24x16' garage. The mobile home is 35' from the right of way line and there is approximately 11' between the property line and the edge of pavement. The original proposal was to reduce the setback from 30'to 8' from right of way. The opposite side of the lot has the septic system and is unable to be developed. This proposed setback reduction would leave approximately 21' from edge of road or 10' from right of way.

The applicant will be moving and now has a vehicle that will fit in a 14’x20’ garage. The TRC and applicant both are happy with the proposal.

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

Mr. Franz asked what type of garage is allowed. Mr. Adley explained that it can be portable, frame and post construction as long as he meets the approved setbacks.

Mr. Bennett made a motion to approve 22-BZA-14 FRANZ, Jeffrey & Patricia - A request for a Variance of Developmental Standard to allow a right of way setback reduction from 30' to 10' to allow a 14x20 garage; located at: 16377 12B Rd. Plymouth, IN West Twsp., Zoned L-1 based on staff recommendation; seconded by Mr. Miller. Motion carried with a voice vote 5-0.

2021 Annual Report

The 2021 Annual Report of the Marshall County Plan Commission was presented to the board for their review.

There being no further business, a motion was made to adjourn and seconded. The motion was passed by a voice vote.

Respectfully submitted,

Michelle Mieras

April 12, 2022
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 12, 2022, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, Bob Yoder, and Michelle Mieras. Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The minutes from the February 8, 2022, meeting was submitted to the board. Mr. Bennett made a motion to approve the minutes as written, Mr. Hostetler seconded the motion. Motion carried by acclamation.

The first item of business was 21-BZA-09 DEMIS, Robert - A request for a shipping container as he is trying to build a saleable business within a storage/shipping container; located at: 20993 8th Rd., Plymouth, West Twsp., Zoned A-1. Mr. Robert Demis of 20993 8th Rd. Plymouth was present to represent his request. Mr. Adley presented the findings of fact.

In early 2022 the Marshall County Zoning Ordinance was amended to permit shipping containers with a series of conditions. The main condition of interest for this case is "containers are to only be used for cold storage", which the intention behind the condition is for health and safety purposes because containers are not designed to be occupied. There are modifications that can be made and certified by licensed professionals to meet certain building codes for egress.

Recommendation: Based on the recent Zoning Ordinance amendment and review with the Technical Review Committee, staff and TRC would recommend approval of the shipping container for use as a workshop with the condition that engineered plans for egress be provided and approved.

Mr. Demis explained his view on the backstory of his violation/permit request. With Mr. Demis requesting to have an additional egress Mr. Adley told him that he would need to have an engineer's approval of such request before a permit would be approved. Mr. Demis felt that he was being singled out for such a request. This report will cost him somewhere between $600-$800 and wanted to know if this engineer's approval is actually needed.

Mr. Yoder, member of the TRC Committee, stated that they felt it would take an engineer study to look at the plans (structural and ingress and egress) and verify the integrity of the structure will not be compromised.

Mr. Adley clarified that Mr. Demis has two cases being heard. The first being the occupation of

the shipping container and the second being the setback reduction request. The latest payment received was for the setback request. The first case is a continuance from 2021.

After continued discussion between Mr. Demis and the board Mr. Demis said if the board demands him to hire a structural engineer to do the report for the county then he will not put doors in the container and will use it as "cold storage".

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

1. Kenny Haines – 20967 8th Rd. Has lived at his place for 40 years and in his opinion, he doesn't feel the container looks out of place. It looks better than some other structures. Also feels there would be less chance of a fire in it. With it being near a privacy fence feels it is out of the way.
2. Steve Howard Letter – Stated he was in favor of allowing the use of the storage container.
3. Rzepczynski Mr & Mrs Letter – Stated he doesn't believe he should be allowed the container. As a neighbor he should follow the guidelines like everyone else. He is just inches away from the property line and believes it is a code violation. (2/2/21)
4. Rzepczynski Chris & Margaret Letter – Stated they don't believe Mr. Demis is within laws of using such a shipping container for a business. It is not set in 75' from the roadway. It is only about a foot and a half away from the property line. Most businesses need to have a plan approved septic system. Believes this property is too small for all the laws and regulations to abide by correctly. Also believes it will devalue their property values.

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

When asked if the business is sold will the storage container be sold as well. There was additional discussion and Mr. Demis said if he gets a buyer for the business "yes" the container will go with the business. Later Mr. Demis was asked if he would bring in another container after this one is sold with the business, and he said he has many other invention ideas.

If Mr. Demis is required to use this container for storage only he will have to turn the garage into his work space which would be considered a "home workshop" and is allowed in Marshall County.

Mr. Yoder made a motion to approve <u>21-BZA-09 DEMIS, Robert -</u> A request for a shipping container as he is trying to build a saleable business within a storage/shipping container; located at: 20993 8th Rd., Plymouth, West Twsp., Zoned A-1 with the following stipulation:

1. Engineers' evaluation report of after manufactured doors installed by owner required. Seconded by Mr. Bennett. Motion carried with a voice vote 3-2 with Mr. Hostetler and Mr. Gustafson against.

The second item of business was 22-BZA-15 DEMIS, Robert - A request for a Variance of Developmental Standard requesting a setback reduction of the existing shipping container with a front yard required setback of 50' to 27', a rear yard required setback of 20' to 13' and a side yard required setback of 15' to 2'; located at: 20993 8th Rd., Plymouth, IN West Twsp., Zoned A-1. Mr. Robert Demis of 20993 8th Rd. Plymouth was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking approval to reduce the front yard setback from 50' to 27', rear yard setback from 20' to 13' and the side yard setback from 15' to 2'. The subject property is 100x180' which is approximately .4 of an acre which includes area halfway into W. County Line Road and 8th Road. Once setbacks are applied for this corner lot, developable area is significantly limited. The existing garage is approximately 3' off the rear fence line to the side of the property. The property owner has also submitted an offer provided to the neighbor in order to purchase a 15x100' section of the property to the south in order to maintain a 15' setback for the storage shed.

Mr. Demis made an offer to the neighboring property owner to purchase additional ground to be able to meet the setback required and the neighbors were not in favor of the offer.

The board questioned beacon's accuracy of the location of said property lines. Mr. Adley said the north south line is off and the property line looks close to where the fence is located. Alternate locations have been marked at the site which is between the house and the garage and in the front yard near 8th road.

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

1. Kenny Haines 20967 8th Rd. In favor of the request.
2. Rzepczynski Margaret & Christopher 8054 W. County Line Concerned neighbors were unhappy Mr. Demis came onto their property to hand delivered a offer to buy property from them. They have no intention of selling any property. They are not in favor of the request nor do they believe he should be allowed to place it in the front yard which would cause a line of site issue.

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

Mr. Hostetler made a motion to approve the request as per the TRC recommendation 22-BZA-15 DEMIS, Robert - A request for a Variance of Developmental Standard requesting a setback reduction of the existing shipping container with a front yard required setback of 50' to 27', a rear yard required setback of 20' to 13' and a side yard required setback of 15' to 5' not 2'; located at: 20993 8th Rd., Plymouth, IN West Twsp., Zoned A-1. Motion carried with a voice vote 3-2 with Ms. Mieras and Mr. Gustafson voting against.

The third item of business was 22-BZA-16 CLAUSS FARMS - A request for a Variance of Developmental Standard to reduce the right of way setback from the required 50' to 44' in order to build a building for equipment storage; located at: 7171 Elm Rd. Bourbon, IN Bourbon Township, Zoned A-1. Mr. Bruce Clauss of 7171 Elm Rd. Bourbon was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a new 64x144' equipment shed in front of an existing barn. They are wanting to reduce the front yard setback from 50' to 42'. Other possible locations for the barn would result in a loss of farm ground and the proposed location is currently underutilized yard grass. There will be no driveways or doors on the roadside of the proposed building.

This location offers easy access to the utilities and doesn't take up farm ground. The proposed building will be 20' from the existing building. It was noted that the residence was closer to the road that the proposed barn.

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

Mr. Bennett made a motion to approve 22-BZA-16 CLAUSS FARMS - A request for a Variance of Developmental Standard to reduce the right of way setback from the required 50' to 44' in order to build a building for equipment storage; located at: 7171 Elm Rd. Bourbon, IN Bourbon Township, Zoned A-1, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The fourth item of business was 22-BZA-17 SLABAUGH, James - A request for a Variance of Developmental Standard to allow a reduction in right of way setback from the required 50' to 34' for a home addition; located at: 18346 Apple Rd., Bourbon, IN Tippecanoe Twsp., Zoned A-1. Mr. James Slabaugh of 18346 Apple Rd. Bourbon was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to construction an addition to their home and are needing to reduce the front yard setback from 50' to 34'. The proposed additions are to the North and West side of the residence. The existing house currently sits on a knoll that is a couple feet above the roadway.

The current porch that is being removed is 36' from the road. This addition will only go out an extra two feet and will only affect the northwest corner of the house since the road is at an angle.

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

1. Tomma Thompson 18201 Apple Rd. Received the notice of hearing in the mail and had a concern that her property would be taken by eminent domain. The board explained the notice she received in the mail was for notification of

the meeting only. She also submitted a letter and she said the letter didn't need to be read.

Ms. Mieras made a motion to approve 22-BZA-17 SLABAUGH, James - A request for a Variance of Developmental Standard to allow a reduction in right of way setback from the required 50' to 34' for a home addition; located at: 18346 Apple Rd., Bourbon, IN Tippecanoe Twsp., Zoned A-1, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The fifth item of business was 22-BZA-19 ROSS, Alexandra - A request by Marshall County Fiber LLC for a Variance of Developmental Standard from the lot standards, setbacks, and impervious coverage to allow for a 60'x60' piece of property to house a small fiber hut; located at: 12785 Sycamore Rd. Plymouth, IN West Twsp., Zoned A-1. Mr. David Fortin, 119 W. Garro St. Plymouth is a representative of Marshall County Fiber was present to represent his request. He had written permission from Alexandra Ross to speak in favor on her behalf. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a fiber hut on a 60x60' parcel to support the expansion of fiber services to the rural areas of Marshall County. The minimum lot size required by ordinance is 1 acre, and the proposal is a 60x60' parcel on Sycamore Road. The proposed size would difficult in order to construct standard buildings, but the utility structure that is going to go in is not a livable structure and will only be used for utility services.

The is 12'x22' poured concrete structure with concrete walls and roof. There is a similar structure on 19th Road in Argos.

The Technical Review Committee's only recommendation was that it be outside of the right of way. Mr. Yoder commented that he appreciates the small size of lot due to the nature of the structure that it will have minimal upkeep.

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

Mr. Yoder made a motion to approve 22-BZA-19 ROSS, Alexandra - A request by Marshall County Fiber LLC for a Variance of Developmental Standard from the lot standards, setbacks, and impervious coverage to allow for a 60'x60' piece of property to house a small fiber hut; located at: 12785 Sycamore Rd. Plymouth, IN West Twsp., Zoned A-1, seconded by Ms. Mieras. Motion carried with a voice vote 5-0.

There being no further business, a motion was made to adjourn and seconded. The motion was passed by a voice vote.

Respectfully submitted,

Michelle Mieras

May 10, 2022
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 10, 2022, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, Chris Kline, and Michelle Mieras. Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The minutes from the April 12, 2022, meeting was submitted to the board. Mr. Bennett made a motion to approve the minutes as written, Mr. Hostetler seconded the motion. Motion carried by acclamation.

The first item of business was 22-BZA-18 FREDERICKSON COMMERCIAL INVESTMENTS - A request for a 4x8' electronic messaging sign; located at: 2162 US Hwy 6, Bremen, IN German Twsp., Zoned A-1. Joey & Danielle Frederickson of 2162 US Hwy 6 Bremen and sign contractor Todd Lehman, Signtech Signs was present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to allow an electronic message sign to be installed in place of a changeable copy board at the entrance of the park campground. The applicant is being allowed to reface an existing sign on the property, but the upgrade of the second sign is not permitted under the ordinance in the A-1 zoning district. The sign would be 8'x4'.

The reason this request had to come before the board is because the property is zoned A-1 agricultural which only allows for certain sign types within it. Since the campground acts like a commercial business the signs associated with this type of business aren't allowed in this zoning. Electronic signs are allowed in Marshall County, but with restrictions.

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

Mr. Hostetler made a motion to approve 22-BZA-18 FREDERICKSON COMMERCIAL INVESTMENTS - A request for a 4x8' electronic messaging sign; located at: 2162 US Hwy 6, Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Kline. Motion carried with a voice vote 5-0.

The second item of business was 22-BZA-20 UNSICKER, Robert - A request by Nathan Kauffman to run a construction company as a home-based business; located at: 5593 Fir Rd. Bremen, IN German Twsp., Zoned A-1. Mr. Nathan Kauffman, new owner of the property 16206 CR 40 Goshen, IN was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to locate his business on the property under the classification of a home-based business for construction. Currently they employ 4 people plus the owner and son. They would look to add 2-3 more employees over the next 5-8 years. The primary location of the business would be away at the other properties under construction.

The applicant has talked with the Marshall County Health Department regarding the proposed bathroom in the building. As far as a Construction Design Release the Plan Commission defers to the Building Commissioner and his requirement.

Mr. Kauffman's business plan is to provide the board with a 5-8 year plan of how they see the business. It's not how they will start, but hope to grow. There is no plan for signage on the property. As a general rule there will be no customers and no showroom.

They plan to update the house and clean it up as well.

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

1. Jenifer Holmes 5888 Fir Rd. Bremen - Isn't necessarily against the request but has a couple questions. Is the neighbor across the road to the south. 20 years ago didn't move there for this to be turned into a commercial property. Has a concern about the visual impact. Will there be outside storage and big work trucks. The owner's plan is to keep it looking like a farm and all their storage would be inside. They are a small residential contractor. The items left out might be a small trailer and a small tella hammer forklift (mostly at job sites). Her immediate reaction to this letter reminded her of the property south on Fir Road is an excavating business that was approved.

   Mr. Kauffman said that there will be no business materials stored outside. He has an existing building that will be used for material storage. The proposed building will be used for office space and parking his truck in at night. He wants to keep the property visually nice and likes to be a good neighbor.

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

Mr. Bennett made a motion to approve 22-BZA-20 UNSICKER, Robert - A request by Nathan Kauffman to run a construction company as a home-based business; located at: 5593 Fir Rd. Bremen, IN German Twsp., Zoned A-1 with the following stipulation:

1. No material stored outside

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

The third item of business was 22-BZA-21 ZUMBAUGH, Leland & Ann - A request for a Variance of Use to allow a second residence in a proposed barn to assist in caring for a special needs grandchild; located at: 16412 SR 10, Culver, IN Union Twsp., Zoned A-1. Leland & Ann Zumbaugh of 16412 SR 10, Culver and builder, Keith Woods was present to represent their request.

The applicant is interested in constructing a barn with a small living quarter inside in order to keep their family member to assist if needed. The property is 39.494 acres.

The proposed building will be 30x80x17 and it will have a half loft and a 30x40 garage area. The living area will be for the daughter and to assist in caring for the granddaughter.

The board asked if they had thought about parceling off area for this house/barndominium? The original thought of the applicants was that they just put in a new double tanked septic system when planning for the new proposed building. With doing a double tank all they would need to do is add a lift station. The owners didn't really consider splitting the parcel as the space would all be their daughters someday.

The board explained to the applicant's that normally when people want to build another house on a large parcel they split the parcel off to allow for room for an additional house. When there isn't a large parcel there are sometimes cases where they allow for a temporary 2nd home and it has to be removed when the person no longer needs it. The applicants didn't have a problem with reverting to storage area when it is no longer needed by the daughter and granddaughter.

The board discussed options for splitting the property and possibilities of the same septic systems being used for both houses.

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

The board discussed due to the size of the property the applicants would have plenty of room to split the property which in turn they would not need a variance.

Mr. Hostetler made a motion to approve 22-BZA-21 ZUMBAUGH, Leland & Ann - A request for a Variance of Use to allow a second residence in a proposed barn to assist in caring for a special needs grandchild; located at: 16412 SR 10, Culver, IN Union Twsp., Zoned A-1 with the following condition:

1. **When the Zumbaugh's daughter and granddaughter no longer reside in the proposed building it is to be returned to an accessory structure.**

Seconded by Ms. Mieras. Motion caried with a voice vote 3-2 with Mr. Bennett and Mr. Gustafson voting against.

The fourth item of business was 22-BZA-22 BURR OAK RESOURCE DEV INC - A request by G & G Hauling & Exc for a Special Use to allow asphalt, concrete, and surface mining; located at: SR 17 (50-21-04-000- 070-000-013), Union Twsp., Zoned A-1. Mr. Kerry Gronninger 6005 W. Schilling Rd. Mentone, IN and Mr. Arlis Chapman 108 Southfield Rd. Winona Lake IN of G & G Hauling were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to operate a surface mining operation under the regulation of MSHA (US Department of Labor's Mine Safety and Health Administration) and to also recycle concrete and asphalt. The property had previously been approved as a material recovery facility in 2019. The facility was approved with the following conditions: 1. ISDH items have been addressed and has received associated approvals. - Business hours are limited to 8a-6p Monday through Saturday provided that the facility is staffed. -Materials that are brought to the property are properly tested to ensure that no harmful products, chemicals, or by-products are released into the environment. - equipment that is on the property will be operational for the business and facility will not become a storage site for junk and debris. Industrial Standards: 1. Smoke and Particulate Matter No use on a property shall release fly ash, dust, smoke, or any other type of particulate matter which violates the air quality standards established by the Indiana Department of Environmental Management. 2. Electrical Disturbance No use on a property shall cause electrical disturbance adversely affecting the operation of radios, televisions, or any other equipment on any other lot in the vicinity. All applicable regulations of the Federal Aviation Administration shall apply to all operations which may adversely affect the navigation or control of aircraft. 3. Fire and Explosive Hazards The storage, utilization, and/or manufacture of all flammables and/or explosive materials shall conform to the applicable requirements of the Indiana Department of Fire and Building Services and the prescribed standards of the National Fire Protection Association. Firefighting equipment and prevention measures shall be subject to the approval of the applicable Fire Department and shall be readily available and apparent when any activity involving the handling and storage of flammable or explosive materials is conducted. 4. Noise No use on a property shall create an objectionable production or operational noise, or combination of noises, detectable at the boundary line of any residential or commercial zoning district. 5. Odor No use on a property shall emit any objectionable odor, or combination of odors, that is detectable at the boundary line of any residential or commercial zoning district. 6. Vibration No use on a property shall cause any objectionable vibrations or concussions that are detectable without the aid of instruments at the property lines of the lot on which the use is located. 7. Glare No use on a property shall produce any glare that is detectable at the property lines of the lot on which the use is located. All outdoor lighting shall be exempt from these Industrial Standards but shall comply with the Outdoor Lighting Standards section of this Article. 8. Noxious or Toxic Materials No use on a property shall accumulate or discharge outside of the building(s) in which production or materials storage occurs any materials generally known to be toxic or noxious. Such uses shall also comply with all applicable regulations of the Marshall County Board of Health, the Indiana State Board of Health, and the Indiana Department of Environmental Management. 9. Waste Materials No use on a property shall accumulate within in the lot, or discharge beyond the lot lines any waste matter in violation of the applicable standards and regulations of the Marshall County Board of Health, the Indiana State Board of Health, and the Indiana Department of Environmental Management. 10. Water Pollutants No use on a property shall discharge any material, whether

liquid or solid, into public waters without any required approvals of the Marshall County Board of Health, Indiana State Board of Health, Indiana Department of Environmental Management, Indiana Department of Natural Resources, the Indiana Stream Pollution Control Board. - Facility shall be open to periodic inspection by Marshall County Zoning Administrator. 2. Allows the Plan Director and/or any representative to inspect the property. 3. Asphalt and concrete crushing only 2-5 days per month (on average) and add water when crushing. 4. No building materials, no steel, and no tires. 5. This variance is for Mr. Hopple only. A new owner would have to re-apply. Motion carried with a voice vote 4-0. G&G Hauling and Excavating would be the operator of the facility. The site is located off a state road relieving the need for the local community to maintain the roadway. The parcel is located off a long lane surround by trees which will help shield and contain noise and light. The drive will receive updates to better accommodate traffic in and out of the property. There is an estimated 1500 loads annually inbound material and outbound material. The development is set up into 2 phases. The first of which is sifting through the existing contents of the parcel and organizing the site for phase 2 which is the mining of the property. The second phase showcases a 100' buffer around the mining location. Once the property has finished its useful contents, the property will be graded to appear back to a natural landscape including vegetative cover.

The company has been doing projects for Culver Academy for the past twenty years and will be continuing to do some sizable projects coming up. They will be needing fill as well as some concrete recycling. G & G Hauling will not have exclusive rights to the property. They will be the main user; however, the owner George Hopple has a few other people hauling other material out. It is a gated facility. They are looking at this as a two stage project. It would start as recycling and mining. The second faze would be the mining of material where a screen is brought in and they will make sand and bedding material. The site wouldn't be a full fledge gravel pit. It would be limited to Mr. Hopple and who he chooses to allow and G & G.

The applicants confirmed that nothing at that site will be moved to Mr. Hopples residence. There is a possibility of up to 20 years worth of mining.

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

1. Kevin Overmyer 15295 SR 17, Culver – In favor of the request. Believes there is a lot of stuff back there to clean up and feels this applicant will do a good job at rejuvenating this property. It's not going to bother him and recommends approval.
2. Lucille Bradley 19009 15th Rd., Culver – With the type of material dumping there makes her wonder the impact of water supply. Doesn't believe this business would benefit our area.

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

When asked if there would be water run off and the applicants explained there is a minimal amount of water, and it is absorbed into the dust and concrete.

G & G Hauling made it clear they not there to clean up the property. They will be cleaning some of the asphalt and concrete.

Ms. Mieras made a motion to approve <u>22-BZA-22 BURR OAK RESOURCE DEV INC -</u> A request by G & G Hauling & Exc for a Special Use to allow asphalt, concrete, and surface mining; located at: SR 17 (50-21-04-000- 070-000-013), Union Twsp., Zoned A-1 with the following stipulation:

1. **Approved for G & G Hauling to be the only operator**

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

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

Respectfully submitted,

Michelle Mieras

May 10, 2022
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 10, 2022, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, Chris Kline, and Michelle Mieras. Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The minutes from the April 12, 2022, meeting was submitted to the board. Mr. Bennett made a motion to approve the minutes as written, Mr. Hostetler seconded the motion. Motion carried by acclamation.

The first item of business was 22-BZA-18 FREDERICKSON COMMERCIAL INVESTMENTS - A request for a 4x8' electronic messaging sign; located at: 2162 US Hwy 6, Bremen, IN German Twsp., Zoned A-1. Joey & Danielle Frederickson of 2162 US Hwy 6 Bremen and sign contractor Todd Lehman, Signtech Signs was present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to allow an electronic message sign to be installed in place of a changeable copy board at the entrance of the park campground. The applicant is being allowed to reface an existing sign on the property, but the upgrade of the second sign is not permitted under the ordinance in the A-1 zoning district. The sign would be 8'x4'.

The reason this request had to come before the board is because the property is zoned A-1 agricultural which only allows for certain sign types within it. Since the campground acts like a commercial business the signs associated with this type of business aren't allowed in this zoning. Electronic signs are allowed in Marshall County, but with restrictions.

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

Mr. Hostetler made a motion to approve 22-BZA-18 FREDERICKSON COMMERCIAL INVESTMENTS - A request for a 4x8' electronic messaging sign; located at: 2162 US Hwy 6, Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Kline. Motion carried with a voice vote 5-0.

The second item of business was 22-BZA-20 UNSICKER, Robert - A request by Nathan Kauffman to run a construction company as a home-based business; located at: 5593 Fir Rd. Bremen, IN

German Twsp., Zoned A-1. Mr. Nathan Kauffman, new owner of the property 16206 CR 40 Goshen, IN was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to locate his business on the property under the classification of a home-based business for construction. Currently they employ 4 people plus the owner and son. They would look to add 2-3 more employees over the next 5-8 years. The primary location of the business would be away at the other properties under construction.

The applicant has talked with the Marshall County Health Department regarding the proposed bathroom in the building. As far as a Construction Design Release the Plan Commission defers to the Building Commissioner and his requirement is.

Mr. Kauffman's business plan was to provide the board with a 5-8 year plan of how they see the business. It's not how they will start, but hope to grow. There is no plan for signage on the property. As a general rule there will be no customers and no showroom.

They plan to update the house and clean it up as well.

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

1. Jenifer Holmes 5888 Fir Rd. Bremen - Isn't necessarily against the request but has a couple questions. Is the neighbor across the road to the south. 20 years ago didn't move there for there to be turned into a commercial property. Has a concern about the visual impact. Will there be outside storage and big work trucks. The owner's plan is to keep it looking like a farm and all their storage would be inside. They are a small residential contractor. The items left out might be a small trailer and a small tella hammer forklift (mostly at job sites). Her immediate reaction to this letter reminder her of the property south on Fir Road is an excavating business that was approved.

   Mr. Kauffman said that there will be no business materials stored outside. He has an existing building that will be used for material storage. The proposed building will be used for office space and parking his truck in at night. He wants to keep the property visually nice and likes to be a good neighbor.

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

Mr. Bennett made a motion to approve <u>22-BZA-20 UNSICKER, Robert -</u> A request by Nathan Kauffman to run a construction company as a home-based business; located at: 5593 Fir Rd. Bremen, IN German Twsp., Zoned A-1 with the following stipulation:

1. **No material stored outside**

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

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

The third item of business was 22-BZA-21 ZUMBAUGH, Leland & Ann - A request for a Variance of Use to allow a second residence in a proposed barn to assist in caring for a special needs grandchild; located at: 16412 SR 10, Culver, IN Union Twsp., Zoned A-1. Leland & Ann Zumbaugh of 16412 SR 10, Culver and builder, Keith Woods was present to represent their request.

The applicant is interested in constructing a barn with a small living quarter inside in order to keep their family member to assist if needed. The property is 39.494 acres.

The proposed building will be 30x80x17 and it will have a half loft and a 30x40 garage area. The living area will be for the daughter and to assist in caring for the granddaughter.

The board asked if they had thought about parceling off area for this house/bardominium? The original thought was that they just put in a new double tanked septic system and had planned for this space when doing the new septic system. With doing a double take all they would need to do is add a lift station. Also, the owner's didn't really consider that as the space would all be their daughters someday.

The board explained to the applicant's that normally when they want to build another house on a large parcel they split the parcel off to allow for room for an additional house. When there isn't a large parcel there are sometimes cases where they allow for a temporary 2nd home and it has to be removed when the person no longer needs it.

The board discussed options for splitting the property and possibilities of the same septic systems being used for both houses

The fourth item of business was 22-BZA-22 BURR OAK RESOURCE DEV INC - A request by G & G Hauling & Exc for a Special Use to allow asphalt, concrete, and surface mining; located at: SR 17 (50-21-04-000- 070-000-013), Union Twsp., Zoned A-1.

The applicant is seeking to operate a surface mining operation under the regulation of MSHA (US Department of Labor's Mine Safety and Health Administration) and to also recycle concrete and asphalt. The property had previously been approved as a material recovery facility in 2019. The facility was approved with the following conditions: 1. ISDH items have been addressed and has received associated approvals. - Business hours are limited to 8a-6p Monday through Saturday provided that the facility is staffed. -Materials that are brought to

the property are properly tested to ensure that no harmful products, chemicals, or by-products are released into the environment. - equipment that is on the property will be operational for the business and facility will not become a storage site for junk and debris. Industrial Standards: 1. Smoke and Particulate Matter No use on a property shall release fly ash, dust, smoke, or any other type of particulate matter which violates the air quality standards established by the Indiana Department of Environmental Management. 2. Electrical Disturbance No use on a property shall cause electrical disturbance adversely affecting the operation of radios, televisions, or any other equipment on any other lot in the vicinity. All applicable regulations of the Federal Aviation Administration shall apply to all operations which may adversely affect the navigation or control of aircraft. 3. Fire and Explosive Hazards The storage, utilization, and/or manufacture of all flammables and/or explosive materials shall conform to the applicable requirements of the Indiana Department of Fire and Building Services and the prescribed standards of the National Fire Protection Association. Firefighting equipment and prevention measures shall be subject to the approval of the applicable Fire Department and shall be readily available and apparent when any activity involving the handling and storage of flammable or explosive materials is conducted. 4. Noise No use on a property shall create an objectionable production or operational noise, or combination of noises, detectable at the boundary line of any residential or commercial zoning district. 5. Odor No use on a property shall emit any objectionable odor, or combination of odors, that is detectable at the boundary line of any residential or commercial zoning district. 6. Vibration No use on a property shall cause any objectionable vibrations or concussions that are detectable without the aid of instruments at the property lines of the lot on which the use is located. 7. Glare No use on a property shall produce any glare that is detectable at the property lines of the lot on which the use is located. All outdoor lighting shall be exempt from these Industrial Standards but shall comply with the Outdoor Lighting Standards section of this Article. 8. Noxious or Toxic Materials No use on a property shall accumulate or discharge outside of the building(s) in which production or materials storage occurs any materials generally known to be toxic or noxious. Such uses shall also comply with all applicable regulations of the Marshall County Board of Health, the Indiana State Board of Health, and the Indiana Department of Environmental Management. 9. Waste Materials No use on a property shall accumulate within in the lot, or discharge beyond the lot lines any waste matter in violation of the applicable standards and regulations of the Marshall County Board of Health, the Indiana State Board of Health, and the Indiana Department of Environmental Management. 10. Water Pollutants No use on a property shall discharge any material, whether liquid or solid, into public waters without any required approvals of the Marshall County Board of Health, Indiana State Board of Health, Indiana Department of Environmental Management, Indiana Department of Natural Resources, the Indiana Stream Pollution Control Board. - Facility shall be open to periodic inspection by Marshall County Zoning Administrator. 2. Allows the Plan Director and/or any representative to inspect the property. 3. Asphalt and concrete crushing only 2-5 days per month (on average) and add water when crushing. 4. No building materials, no steel, and no tires. 5. This variance is for Mr. Hopple only. A new owner would have to re-apply. Motion carried with a voice vote 4-0. G&G Hauling and Excavating would be the operator of the facility. The site is located off a state road relieving the need for the local community to maintain the roadway. The parcel is located off a long lane surround by trees which will help shield and contain noise and light. The drive will receive updates to better accommodate traffic in and out of the property. There is an estimated 1500 loads annually

inbound material and outbound material. The development is set up into 2 phases. The first of which is sifting through the existing contents of the parcel and organizing the site for phase 2 which is the mining of the property. The second phase showcases a 100' buffer around the mining location. Once the property has finished its useful contents, the property will be graded to appear back to a natural landscape including vegetative cover.

The fifth item of business was 22-BZA-23 FREET, Jenny - A request for a Variance of Developmental Standard to allow a 6' privacy fence with an angled corner to allow for egress visibility; located at 1335 Kimble St. Lapaz, IN North Twsp., Zoned T-1.

The applicant had recently constructed a fence without a permit through their contractor and was turned in under violation. The 6' privacy fence is not permitted in the front yard of a T-1 Town Residential zoned lot. The maximum height under ordinance is 3.5' and 75% see through. The fence was constructed up to if not within the County right-of-way of Kimble Drive and Thumper Trail.

Respectfully submitted,

Michelle Mieras

June 14, 2022
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 14, 2022, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, Matt Miller, and Michelle Mieras. Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

Mr. Hostetler made a motion to table the approval of the April's minutes to July due to incomplete minutes received by the board, seconded by Ms. Mieras. Motion carried by acclamation.

The first item of business was 22-BZA-24 WATSON, John Sr. & Mary - A request for a Variance of Developmental Standard to reduce the right of way setback from the required 30' to 10' for an existing gazebo; located at: 8477 Chicago St., Bremen, IN German Twsp., Zoned L-1.

While the adjacent property was in for a variance, it was discovered that the pergola in question was placed without meeting setbacks. Upon notice to the Watsons, they were more than willing to do what was necessary. The applicant placed a pergola in the front yard and is seeking to reduce the front yard setback from 30' to 10'.

Mr. Miller made a motion to table the request to the end of the meeting, seconded by Mr. Hostetler. Motion carried by acclamation.

At the end of the meeting the board opened up the Watson request one more time and nobody was present for their request. Mr. Miller made a motion to table the request until July, seconded by Ms. Mieras. Motion carried by acclamation.

The second item of business was 22-BZA-25 HELMUTH, Jason & Becky - A request for a Variance of Developmental Standard to allow a rear yard setback reduction from the required 20' to 5' to build a personal use building; located at: 1510 2B Rd., Bremen, German Twsp. Zoned A-1. Mr. Jake Beechy, Beechy Excavating, was present to represent the request. Mr. Adley presented the findings of fact.

The applicant is seeking to reduce the rear yard setback from 20' to 5' in order to construct an accessory structure for the storage and recreational space. The proposed structure will be located behind the house within 5' of the property line. There is a concern based on the lines

of occupation and Beacon projected property lines. The proposed structure is a 50'x80' proposed structure that will have a 20' separation from the existing barn.

The contractor stated that they chose the location to preserve the pasture. The board explained that this request is self imposed as there are other locations on the property for the barn. There was a lengthy discussion of other options other than the request. Mr. Beechy explained that there is a 4-5' drop off on the rear side of the property that also plays into the proposed location.

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. Miller moved and Ms. Mieras seconded the motion to close the public hearing.

Mr. Hostetler made a motion to deny the request 22-BZA-25 HELMUTH, Jason & Becky - A request for a Variance of Developmental Standard to allow a rear yard setback reduction from the required 20' to 5' to build a personal use building; located at: 1510 2B Rd., Bremen, German Twsp. Zoned A-1, seconded by Mr. Bennett. Motion carried to deny with a voice vote 4-1 with Ms. Mieras voting against.

The board verified with the Plan Director that the applicant can re-apply within the year as long as the request is different than what just got denied.

The third item of business was 22-BZA-26 SHIRK, Lawrence & Martha Shirk - A request for a Variance of Use to allow a light manufacturing business of storage sheds; located at: SR 110 50-23-33-000-015-001-015, SR 110, Argos, IN Walnut Twsp., Zoned A-1. Lawrence and Martha Shirk were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to relocate an existing shed manufacturing business from the existing location on SR 110 to the subject property to the west. They are working to separate their business and their residence. They manufacture storage sheds for a network of dealers. The plan would be to put up 3 buildings. The first would be a 10x200' shop, second is a 50x80' maintenance building and a future office. There would also be a concrete pad for mulch. Other than the gravel area around the buildings, the remainder of the property would be hayfield. The business was started in 2008 due to the recession. They are willing to plant a row of pine trees or privacy fence around the neighboring property to screen as they desire.

Access to the property could be from Gumwood; however, the Shirk's would like to access the property from SR 110. INDOT has been contacted and they sent someone out to inspect and based on the proposal INDOT has submitted an initial approval for Shirk's request. No acceleration deceleration lanes were proposed.

The plan is to move the storage shed business to the proposed location and the current location to be used for hay storage. During the transition the office may stay at the current location for a little while.

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

Closest neighbor at the new location was present and is in favor.

Mr. Hostetler made a motion to approve 22-BZA-26 SHIRK, Lawrence & Martha Shirk - A request for a Variance of Use to allow a light manufacturing business of storage sheds; located at: SR 110 50-23-33-000-015-001-015, SR 110, Argos, IN Walnut Twsp., Zoned A-1 with the following stipulation:

1. **TRC Recommendation – the shop should be on the west side shielded from adjoining properties hours of operation and number of employees should be established, access to 110 should be addressed and business operation should be clear when assigning conditions.**

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

The fourth item of business was 22-BZA-27 HECKAMAN, Kim & Jane - A request for a Variance of Developmental Standard to allow a road setback reduction from the required 50' to 37'; located at: 9524 Plymouth Goshen Tr. Plymouth, IN North Twsp. Zoned A-1. Mr. Dan Demont, Demont Construction represented the request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a 24x32' pole barn in order to store their camper and are wanting to reduce their front yard setback from 60' to 37'. The property is unique in its shape as Plymouth Goshen Trail makes a curve around the property. The proposed structure is slated to meet the remained of the setbacks. There is a concern of the western property line due to lines of occupation and location of electrical line.

The layout of the property on a corner has made the proposed garage side yard setback be in question. Getting a survey to verify property lines was in question.

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.

Mr. Miller made a motion to approve 22-BZA-27 HECKAMAN, Kim & Jane - A request for a Variance of Developmental Standard to allow a road setback reduction from the required 50' to 37'; located at: 9524 Plymouth Goshen Tr. Plymouth, IN North Twsp. Zoned A-1 with the stipulation:

1. **A survey to establish the west property line.**

Seconded by Ms. Mieras. Motion carried with a voice vote 5-0.

The fifth item of business was 22-BZA-28 SCHAETZLE, Scott - A request for a Variance of Developmental Standards to allow the combination of two parcels and additional acreage creating a parcel 190'x780'; located at: 7500 SR 331, Bourbon, IN Bourbon Twsp., Zoned A-1. Scott & Jennifer Schaetzle were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to purchase and consolidate property, but is in need of a variance due to the shape of parcel. The total combined area is measured by 190'x780'. The dimension does not meet the 1:3 width to depth ratio.

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

Mr. Hostetler made a motion to approve 22-BZA-28 SCHAETZLE, Scott - A request for a Variance of Developmental Standards to allow the combination of two parcels and additional acreage creating a parcel 190'x780'; located at: 7500 SR 331, Bourbon, IN Bourbon Twsp., Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The sixth item of business was 22-BZA-29 MCGWIN, Lawrence - A request by Parallel Infrastructure to put up a Wireless Telecommunication Facility - 345' guyed tower; located at: Ule Tr. 50-51-19-000-024-000-011, Polk Twsp, Zoned A-1. Bryan Weese, Attorney 2700 Market Tower Indianpolis IN and Mr. Brian Krawiec PBM Wireless 427 H (?) Drive Terra Haute IN were present to represent their request.

The applicant is seeking to permit a 345' guyed telecommunication tower that will be designed for a minimum of 3 carriers. The tower will be set on a leased space. The initial carriers will be AT&T Mobility and First Net. The proposal will meet FAA, FCC, NEPA, SHPO as well as other various approvals prior to construction.

Staff note: 6.220.D.3.e Tower Setback of 50% Guyed Tower Anchors and Typographical error.

Staff did not consider the guyed tower lines to be a part of the structure so; therefore, they didn't need to meet setback requirements. For instance, the front yard setback would have a line that would set down around 30-40' from the road right of way.

Mr. Adley brought up there is a topographical error that would need to be changed. The western property line distance is stated to be 1,527' and the site plan depicts the distance from ROW to tower center is 182.3'.

Mr. Bennett asked since there are multiple adjoining parcels and guyed wires crossing property lines if they would need combined. Mr. Adley stated, "It would be ideal if it were on the same parcel, but as long as it is under easement that structure would be protected in its totality."

There will be 6 guyed wires coming down with 18 total.

Mr. Gustafson shared that he was somewhat related to the property owner and is doing work for the neighbor that is present for the meeting and wished to step down. Ms. Hostetler made a motion to excuse Mr. Gustafson as a member of the board for this case, seconded by Mr. Bennett. Motion carried.

The reason the site plan has notated 182' is because an engineer says the fall zones of the towers is under 50% which is 165-166'. This is state statute, and they will take a look at that FCC regulation ties into this.

This tower will carry ATT and Firstnet which is a dedicated and encrypted wireless for first responders. These new towers will facilitate the installation of those facilities that are not easily adapted to some existing structures.

The owner has indicated that they would prefer not to have additional landscape screening because of the tillable land.

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

1. Adam Vance – Attorney with Dinsmore & Scholl (?) 211 N. Pennsylvania St. Suite 1800 Indianapolis IN - Represents client SBA Communications. SBA currently maintains two towers within a two-mile radius of this proposed site. One that is .8 miles away and the other 1.2 miles away. The applicant claims that they cannot remain on SBA's existing towers which is not true. SBA has offered ATT the opportunity to renegotiate its leases site by site and even new leases at substantiated market rates if they would come back to the negotiating table with them. ATT came back with a re-negotiation for the whole state and if not they feel it's "economically burdensome". A letter has been presented with what they find as deficiencies and issues with the application. First the anchors in the setbacks and two other towers within 2 miles. He believes their towers provide comparable coverage. He believes another tower is unnecessary.
2. Megan Wallar – 4210 N. Sycamore Walkerton, IN - Has purchased the property directly across from the proposed tower to build a house on. Opposes the proposed tower. Their driveway will be close to across the street from the tower. There is also a concern about RF waves through these types of structures. Sickness, nausea and dizziness. They will be within 400 meters of potential health risk as well as livestock. Would prefer this structure not be there.
3. Mike Foster – 781 Ule Tr. – Opposes the proposal due to decrease in property values and negative health effects.

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

The board asked if there were 2 towers within 2 miles of the proposed site. The applicants stated that they knew there was one. As far as the RF waves they haven't seen anything definitive but understands the concern.

The tower is not a by right use which requires said Special Use hearing. Through this hearing if the board deems it does not meet proper setbacks the applicant will need to go back and possibly relocate the tower to meet the setback requirements.

Fencing and setback was in question and Mr. Adley stated that fencing is not a structure and can go right up to the property line. In A-1 Agricultural zoning there is no requirement for permitting a fence. All it requires is that the structural side of the fence be faced inward.

Under co-location requirements E1a in the Marshall County Zoning Ordinance

> ***E. General Wireless Communications Facility Performance Standards***
> *1. Co-Location Requirements All commercial wireless telecommunication towers erected, constructed, or located within the County jurisdiction shall comply with the following requirements: a. A proposal for a new commercial wireless telecommunication service tower shall not be approved unless the Plan Commission Office or a technical consultant finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a two (2) mile search radius (one (1)mile search radius for towers under two hundred (200) feet in height, one half mile search radius for towers under one hundred (100) feet in height) of the proposed tower due to one or more of the following reasons: i. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer,and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost. ii. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building, as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost. iii. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer. iv. Other unforeseen reasons that make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.*

The first remonstrator believes that section iv claims they can be co-located on those towers and the applicant's position is that they can't do so economically. The applicants have submitted a letter with their application stating the reasons why they can't re-negotiate those deals and why its cheaper for them to build a new tower and have the ability to expand and add additional carriers such as First Net without having to go back to negotiate every deal. Over a 20 year term it would be a savings to ATT would be over a million dollars.

When asked if ATT could locate on the existing towers and Mr. Weese said yes but wasn't sure about Firstnet and the expansion capacity for ATT's facilities.

The board asked additional questions as to TRC recommendations. Mr. Adley said at that time there was a brief review but needed additional review to make sure all associated developmental standards were addressed.

Ms. Mieras makes a motion to deny 22-BZA-29 MCGWIN, Lawrence - A request by Parallel Infrastructure to put up a Wireless Telecommunication Facility - 345' guyed tower; located

at: Ule Tr. 50-51-19-000-024-000-011, Polk Twsp, Zoned A-1, seconded by Mr. Hostetler. Motion carried with a voice vote 3-1 with Mr. Bennett voting against.

Mr. Bennett made a motion to have Mr. Gustafson re-join the board, seconded by Mr. Hostetler. Motion carried by acclamation.

2023 Proposed Board of Zoning Appeals Budget

The proposed budget amount has not been changed in four years. Mr. Bennett made a motion to approve the 2023 budget as proposed, seconded by Mr. Hostetler. Motion carried by acclamation.

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

Respectfully submitted,

Michelle Mieras

July 12, 2022
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 12, 2022, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, Matt Miller, and Michelle Mieras. Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

Mr. Hostetler made a motion to approve the May 10, 2022 minutes, seconded by Mr. Miller. Motion carried by acclamation.

Mr. Hostetler made a motion to approve the June 14, 2022 minutes, seconded by Mr. Miller. Motion carried by acclamation.

The first item of business was 22-BZA-24 WATSON, John Sr. & Mary - A request for a Variance of Developmental Standard to reduce the right of way setback from the required 30' to 10' for an existing gazebo; located at: 8477 Chicago St., Bremen, IN German Twsp., Zoned L-1. Mr. & Mrs. John Watson was present to represent his request. Mr. Adley presented the findings of fact.

While the adjacent property was in for a variance, it was discovered that the pergola in question was placed without meeting setbacks. Upon notice to the Watsons, they were more than willing to do what was necessary. The applicant placed a pergola in the front yard and is seeking to reduce the front yard setback from 30' to 10'.

The applicant purchased the pergola used and placed it in the only place suitable in the yard due to the slope of the yard and the well and septic lines coming into the property.

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

Mr. Hostetler moved to approve 22-BZA-24 WATSON, John Sr. & Mary - A request for a Variance of Developmental Standard to reduce the right of way setback from the required 30' to 10' for an existing gazebo; located at: 8477 Chicago St., Bremen, IN German Twsp., Zoned L-1, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

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The second item of business was 22-BZA-30 ASHCOM, Carrie - A request by Jeremy Pennington to allow the selling of guns and ammunition with a federal firearms license; located at: 16412 Redwood Rd., Culver, IN Union Twsp., Zoned A-1. Mr. Jeremy Pennington was present to represent their request. Mr. Adley presented the finding of fact.

The applicant is in the process of applying for their federal firearms license in order to sell guns and ammunition from the property. The applicant applied for and received approval of a building permit for a house in July 2021 and are currently in the construction stage. The house will sit several hundred feet off the road.

When asked if Mr. Pennington would have a shooting range he replied that he would have a small personal shooting range with a backstop for pistols. For a commercial shooting range on the property, it would have to be applied through the ATF. The details on that haven't been worked out yet. Due to a portion of the property being in land management that may present challenges that deter a commercial shooting range. If a commercial shooting range is applied for through the ATF that will also have to go through the Marshall County Board of Zoning Appeals for approval as well.

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

1. Wayne Neidlinger 16323 Redwood Rd. In favor of the proposed small business. Why ship our business out of the county. Lives near this property.
2. Betty Walkefield 16554 Redwood Rd In favor and believes he is a good business man. Would rather give her money to someone local than a big business who she doesn't know. There is already a lot of traffic on the road.
3. Kirk (?) 16554 Redwood Rd In favor of small business. Loves to hunt and fish. Likes the idea of having somewhere local to buy what he needs.
4. Jennifer Talcott 16681 Redwood Rd Believes this is an agriculturally zoned area. Concerned about the proposed firing range. Even with a personal range believes it would be easy to allow customers to go out and test. Questions whether this business will affect their resale value. This should be in a commercial zone. Safety is a concern as well.
5. Jane & Greg Sheets 16410 Redwood Rd Lives on the property nearest to the applicant that co-owns the shared driveway. This is a quiet secluded area safe secure and private. Has concerns with increased potential traffic down the lane, safety and noise. Believes he would be a good businessman, but doesn't feel it's the best location.
6. Peggy & Rod Dawson 16538 Redwood Rd Their property abuts the applicants property to the south. Is against the request as they believe it's a poor location. All for the business and believes that the applicant would do a good job. Just not there.
7. James Caudill 16537 Redwood Rd Doesn't think the location is is good for this. The shooting is loud and will be disturbing. Believes this should be located in a commercial area.
8. Ron VanHorn 16681 Redwood Rd. Is against the request due to traffic, shooting, safety, and decreased property values.

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

There are no plans for a storefront, sign, gun range or advertising. The main reason for Federal Firearm License is to buy ammunition and guns. There is a full concrete room with a 1200 degree vault door on it. His wife works for a security company so there will be a good security system on the house.

He doesn't expect extra traffic. People purchasing will be friends or possibly neighbors that already come to the property. Random deliveries will come by a FedEx truck. With there not being a storefront there are no plans for business hours.

It was the boards request to have Mr. Pennington set business hours. After the discussion he agreed to classify it as "by appointment only".

Mr. Hostetler made a motion to approve 22-BZA-30 ASHCOM, Carrie - A request by Jeremy Pennington to allow the selling of guns and ammunition with a federal firearms license; located at: 16412 Redwood Rd., Culver, IN Union Twsp., Zoned A-1 with the following stipulations:

1. **No commercial shooting range**
2. **Hours – By appointment only no sales to extend beyond 7am – 9pm**
3. **No signs**

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

The third item of business was 22-BZA-31 HELMUTH, Delbert & Martha - A request for a Special Use to allow a home workshop for an existing woodworking business constructing wood cabinetry; located at: 5250 E. County Line Rd., Bremen, IN German Twsp., Zoned A-1. Charlie Zercher of Kindig and Sloat and Mr. Delbert Helmuth was present for his request. Mr. Adley presented the findings of fact.

The applicant is seeking to permit an existing home workshop as well as expand the business through two variances. The first of which is to approve the business that has been full time since 2019. The business runs from 5am to 1:30pm Monday through Friday. They currently receive lumber deliveries every two weeks via semi-trailer and pick up trailer. They ship finished product once a week via pick up trailer or box truck. There is no outdoor storage or signage, and the property provides ample parking. The plan is to expand the business to add two additional outside employees for 4 total outside employees (those that do not live at the residence). The owner also wants to expand the existing barn to the north which would total 5856 sq ft. The petitioner is also committing to combine the properties together due to the expansion going over the lot line into their other property.

The existing shop area does not have a bathroom facility. The plan is to have one in the new expansion.

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

Due to the expanded driveway and deliveries going in and out the board discussed delivery times.

Mr. Miller made a motion to approve 22-BZA-31 HELMUTH, Delbert & Martha - A request for a Special Use to allow a home workshop for an existing woodworking business constructing wood cabinetry; located at: 5250 E. County Line Rd., Bremen, IN German Twsp., Zoned A-1 with the following stipulations;

1. **Follow TRC recommendation, including truck route (Plan Director to work out with applicant) and vegetative screening**

seconded by Ms. Mieras. Motion carried with a voice vote 5-0.

The fourth item of business was 22-BZA-32 HELMUTH, Delbert & Martha - A request for a Variance of Developmental Standard to allow an addition to an existing home workshop that exceeds the allowed square footage; located at: 5250 E. County Line Rd., Bremen, IN German Twsp. Zoned A-1. Mr. Charlie Zercher of Kindig and Sloat and Mr. Delbert Helmuth was present for his request. Mr. Adley presented the findings of fact.

The applicant has operated a home workshop full time since 2019 and are seeking to construct an addition on the north side of their existing shop. The shop expansion would take it over the 4,000 square foot maximum and they are requesting to allow for 5856 square feet across a couple of buildings.

Believes this business isn't going to look like any other business in this area. Part of the building is for personal/agricultural use and the remainder will be for business purposes.

Most deliveries are with a pick up truck and trailer, freight trucks and a few semi's. Due to limited drive area their plan is to back into the parking lot from the road. The board was not in favor of backing in from the roadway as there is sufficient amount of traffic up and down of the road. Semi truck delivery only comes once every two weeks.

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

During discussion of the proposed bathroom the Plan Director stated those requirements will be up to the MCHD and the Building Commissioner.

Mr. Hostetler made a motion to approve 22-BZA-32 HELMUTH, Delbert & Martha - A request for a Variance of Developmental Standard to allow an addition to an existing home workshop that exceeds the allowed square footage; located at: 5250 E. County Line Rd., Bremen, IN German Twsp. Zoned A-1 with the following stipulations:

1. **Follow TRC recommendation, including truck route (Plan Director to work out with applicant) and vegetative screening**

seconded by Ms. Mieras. Motion carried with a voice vote 5-0.

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The second item of business was 22-BZA-33 HELMUTH, Jason & Becky - A request for a Variance of Developmental Standard to allow a rear yard setback reduction from the required 20' to 10' to build a personal use building; located at: 1510 2B Rd., Bremen, German Twsp. Zoned A-1. Mr. Jake Beechy, Beechy Excavating, was present to represent the request. Mr. Adley presented the findings of fact.

The applicant was in previously under 22-BZA-25 which was denied but is back before the Board of Zoning Appeals as anew and updated application providing for greater separation between the rear property line and the proposed new structure. The applicant is seeking to reduce the rear yard setback from 20' to 10' in order to construct an accessory structure for the storage and recreational space. The proposed structure will be located behind the house within 10' of the property line. There is a concern based on the lines of occupation and Beacon projected property lines. The proposed structure is a 50'x80' proposed structure that will have a 15' separation from the existing barn. The original septic drawing when the home was constructed in 2001 was submitted and based on Beacon the house was not sited properly but was still constructed meeting the proper setbacks. The lines of occupation remain a difficulty and property line is under review.

The property owner has found the survey marker's with the caps on them and plan to take all measurements off of those markers. The existing shed will be moved next to the proposed building after construction and will meet the setback requirement.

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

Mr. Hostetler made a motion to approve 22-BZA-33 HELMUTH, Jason & Becky - A request for a Variance of Developmental Standard to allow a rear yard setback reduction from the required 20' to 5' to build a personal use building; located at: 1510 2B Rd., Bremen, German Twsp. Zoned A-1, seconded by Ms. Mieras. Motion carried with a voice vote 5-0.

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

Respectfully submitted,

Michelle Mieras

August 9, 2022
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 9, 2022, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, Matt Miller, and Michelle Mieras. Lori Lowry and interested parties.

Mr. Miller made a motion to approve the July 12, 2022 minutes, seconded by Mr. Hostetler. Motion carried by acclamation.

The first item of business was 22-BZA-29 MCGWIN, Lawrence - A reconsideration by Parallel Infrastructure to put up a Wireless Telecommunication Facility - 345' guyed tower; located at: Ule Tr. 50-51-19-000-024-000-011, Polk Twsp, Zoned A-1. Mr. Matt Price of 10 W. Market St. Indianapolis was present representing Parallel Infrastructure. Ms. Lowry presented the findings of fact.

The applicant is seeking to permit a 345' guyed telecommunication tower that will be designed for a minimum of 3 carriers. The tower will be set on a leased space. The initial carriers will be AT&T Mobility and First Net. The proposal will meet FAA, FCC, NEPA, SHPO as well as other various approvals prior to construction.

Summary: On June 13th, 2022, the Board of Zoning Appeals heard case 22-BZA-29 McGwin/Parallel Infrastructure. A request by Parallel Infrastructure to put up a Wireless Telecommunication Facility - 345' guyed tower; located on Ule Trail identified as parcel 50-51-19-000-024-000-011. The final decision by the Board that evening was a vote of 3-1 to deny the proposal. Since that time, Parallel along with their counsel have filed for reconsideration of the case within the required 30 day timeframe. During the public hearing for reconsideration, the Board shall only consider whether or not sufficient grounds for reconsideration are present, but shall not take any new action on the petition. If sufficient grounds are present, the Board shall place the petition on the agenda for its next regularly scheduled meeting at which time the petition shall be reconsidered, and subsequent action taken. Grounds for reconsideration are as follows: a. The Board may reconsider the application if a finding is made that the entity seeking the reconsideration is able to provided substantial new information or clarified facts that were not known or available at the initial hearing on the petition and such new information or facts is directly related to the decision criteria established by this Ordinance. b. In no instance shall a reconsideration be granted to allow a petitioner to modify their application.

Action Requested: The first point that the reconsideration letter makes reference to is in relationship to the fall zone requirement difference between the Marshall County Zoning

Ordinance and Indiana Code. The Zoning Ordinance requires that the tower be setback 60% the height of the tower. Under Indiana Code, (IC 8-1-32.3-17b) a permit authority may not impose a fall zone requirement that: (2) is larger than the area within which the wireless support structure is designed to collapse, as set forth in the applicant's engineering certification for the wireless support structure. This amendment in Indiana Code was made in 2015, but was never reflected in the local Zoning Ordinance and needs to be adjusted accordingly. The applicability of IC 8-1-32.3 was not fully understood leading up to/during the June 2022 BZA meeting. The second point that the reconsideration letter makes reference to is the economic burden statute under Indiana Code. Under Marshall County Zoning Ordinance, a common requirement for variance review is often how economic burden is not a viable reason for a variance to be approved. Under IC 8-11-32.3-20 though evidence supporting the choice of location for the proposed wireless support structure, including a sworn statement from the individual responsible for the choice of location demonstrating that collocation of wireless facilities on an existing wireless support structure was not a viable option because collocation: a.) would not result in the same wireless service functionality, coverage, and capacity and c.) is an economic burden to the applicant. This portion of Indiana Code would in short address the common matter of BZA cases and economic burden as a valid argument. The applicability of IC 8-11-32.3-20 also amended in 2015, was not fully understood leading up to/during the June 2022 BZA meeting.

Recommendation: Based on the information provided and review by the Technical Review Committee, Staff and TRC would recommend that the Board of Zoning Appeals grant the request for reconsideration of case 22-BZA-29 for the September BZA meeting. We believe that further clarified facts have been provided based on the original application submitted for initial hearing and such clarified facts are directly related to the decision criteria established by the Zoning Ordinance.

Mr. Price agrees with the staff report. There have been several revisions to Indiana Code that hasn't been updated in the local ordinance. The code in Marshall County states if there is another tower to co-locate on or not is to be made by the Plan Commission staff or a technical advisor. Parallel arrived at the hearing and believed they wouldn't be able to be at the last meeting for a special use application unless it had already been determined that co-location was not a viable option to them based on the economic infeasibility of their existing situation with SBA. They don't believe this should have been discussed at the BZA hearing. That alone they believe should be a basis for a reconsideration the matter. In fairness to the applicant and public they believe the request should be reconsidered and set for a new hearing.

It's Parallel's view that they have met the development standards per Plan Commission staff. Therefore, there shouldn't be discussion with the BZA about developmental standards just if they meet the criteria for a special use.

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

1. Katelyn Klingler Leveque Attorney for Dinsmore & Shohl at 211 N. Pennsylvania Suite 1800 Indianapolis, IN on behalf of SBA Communications – SBA Communications is a remonstrator of this request for reconsideration. It is SBA's position that Parallel's request failed to meet the standard required per the Marshall County Zoning Ordinance. The reasons for objection are as follows: Fall Zone Requirements,

Economic Burden, and Reconsideration Standard of Review all of which was explained in the letter that was provided to the Plan Director.

2. Mr. Price re-explained to the board that it is the staff's position to decide whether they can co-locate or not. Not the Board of Zoning of Appeals. Which is reason this request for re-consideration should be allowed.
3. Megan & Chris Wallace – 4210 N. Sycamore Rd. Walkerton – Is building a new home directly across the street from the proposed tower and is against the request. Has done a lot of research and due to the closeness of the tower there could be emissions and can disrupt animal patterns.
4. Carolyn Kelley – 13225 US 6 Plymouth – Opposes the above request. The opposition at the last meeting when it was denied should be enough that the request does not need further consideration.

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

Mr. Price clarified that this is a request to reconsider due to a misapplication of law and procedure during the initial hearing. It's not a decision on the merit.

Due to the Plan Director not being present for this meeting the board discussed their options.

Mr. Miller made a motion to table this request to the September 13th meeting, seconded by Mr. Bennett. Motion carried by acclamation.

SBA's attorney confirmed that they would be present at the September's meeting.

The second item of business was 22-BZA-34 ALOI, Robert - A request for a Variance of Developmental Standard to allow a secondary before a primary; located at: 50-41-07-000-230-000-011on South Lake Dr., Walkerton, Polk Twsp., Zoned L-1. Mr. Robert Aloi of 20948 S. Lake Dr. Walkerton was present to represent his request. Ms. Lowry presented the findings of fact.

Within the L-1 Lake Residential zoning district, the ordinance requires that a primary structure such as a house be constructed prior to an accessory structure being built. The applicant owns an existing residence across the street. They have space and plans to build a new residence on the subject parcel. There have been several variances approved in the past for similar projects, and one of which is a neighbor further east closer to Underwood Road.

The petitioner made sure there would be enough room for a house in the future in case that was ever a desire. This area is also serviced by the Koontz Lake Sewer District and all setbacks will be met.

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

Mr. Bennett made a motion to approve 22-BZA-34 ALOI, Robert - A request for a Variance of Developmental Standard to allow a secondary before a primary; located at: 50-41-07-000-

230-000-011on South Lake Dr., Walkerton, Polk Twsp., Zoned L-1, seconded by Ms. Mieras. Motion caried with a voice vote 5-0.

The third item of business was 22-BZA-35 MCLOCHLIN, Shawn & Valerie- A request for a Variance of Developmental Standard to allow the building of a 30x36' detached garage as a secondary structure before a primary; located at: 50-31-02-000-035-000-017 adjacent to 16544 sunset Dr. Plymouth; West Twsp., Zoned L-1. Mr. & Mrs. McLochlin of 16544 Sunset Dr. Plymouth were present to represent their request. Ms. Lowry presented the findings of fact.

Within the L-1 Lake Residential zoning district, the ordinance requires that a primary structure such as a house be constructed prior to an accessory structure being built. The applicant owns an existing residence next door. They have space, but no plans to build a new residence on the subject parcel at this time. The plan is to possibly subdivide off a portion of the property and sell if and when sewer services the neighborhood. There have been several variances approved in the past for similar projects.

Mr. McLochlin stated that he plans to build 10' from the property line no matter if the line is different than shows on GIS.

Mr. Bennett expressed that the applicants wouldn't need a variance if they would combine both lots.

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

1. Sally Holl – 16454 Robert Ct Is not in favor of the request. The picked this location because outbuildings are not allowed. Her last neighborhood people put up buildings and after time and deterioration it lowered property values. Would not want that to happen. Questioned the use of the building. Also doesn't like the idea if one person puts one up there will be more going up.
2. Cynthia Dannon – 16488 Sunset Dr Chose this location due to the aesthetic and felt like it would hold its value. Believes this will set a precedent. Is not in agreement to the request. Sent a letter as well and was read.
3. James Damon - Does not approve of this request due to the rules and laws of Golf View Estates restrictions and covenants.
4. Jack Kinney - 16483 Robert Ct. Believes that McLochlins are fine people and would maintain the proposed building. What happens when someone else purchases their property or just the lot and the proposed building? Does a building of this size end up being a business? We have restrictions against this. Restrictions are in place for a reason. Wants properties to be well kept and properties to increase in value not decrease. Is against the request.

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

The applicants father owns the subdivision. The subdivision was built in three different sections. The first section had covenants that were recorded and the other two sections

covenants were never recorded. Everyone in their specific section signed a petition in favor of their request.

The plan is for the siding to match the same color as the house. The building to be constructed will be pole style not conventional.

Mr. Miller expressed to the applicants that this board isn't to decide anything with regard to the covenants. They are only there to discuss permission for a secondary before a primary. And if you combined the lots we wouldn't even be here.

During a lengthy conversation the applicants misunderstood the process and thought this process combined the parcels.

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

Ms. Mieras made a motion to table the request to allow the applicants to decide which route they want to take after meeting with the Plan Director, seconded by Mr. Hostetler. Motion carried by acclamation to table this request.

The fourth item of business was 22-BZA-36 HOCHSTETLER, Rosa - A request by D&J Roofing to reduce the front yard setback from the required 50' from right of way to 37' to allow a 6'x40' addition to the front of the house; located at: 1535 3rd Rd., Bremen, IN German Twsp. Zoned A-1. Ms. Rosa Hochstetler of 5353 3rd Rd. and Delbert Troyer of 6092 B Rd. were present to represent their request. Ms. Lowry presented the findings of fact.

The applicant is seeking to remove and enlarge a front porch at the residence. The existing porch is falling down and the owner would like to extend from the existing width to 40'. The ordinance requirement for front yard setback on the property is 50'. The applicant would like to reduce that down to 37' from ROW. The existing porch is approximately 5' in depth, but previously was 6' until it was reduced due to rot. 16' of the addition will be enclosed in order to accommodate for additional living room area.

It was noted that the building to the east is closer to the road than what they are requesting.

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

Mr. Hostetler made a motion to approve 22-BZA-36 HOCHSTETLER, Rosa - A request by D&J Roofing to reduce the front yard setback from the required 50' from right of way to 37' to allow a 6'x40' addition to the front of the house; located at: 1535 3rd Rd., Bremen, IN German Twsp. Zoned A-1, seconded by Ms. Mieras. Motion carried with a voice vote 5-0.

The fifth item of business was 22-BZA-37 PARSONS, Diann - A request for a Variance of Developmental Standard to allow a 12'x16' storage shed in the rear yard 35' from Base Flood

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Elevation; located at: 12410 Queen Rd., Plymouth, West Twsp., Zoned L-1. Ms. Diann Parsons of 12410 Queen Rd. and Gary Tucker of the same address were present to represent their request. Ms. Lowry presented the findings of fact.

The applicant is in the process of wanting to place a shed on the property and desires to reduce the rear yard setback from 45' to 35' in relationship to the base flood elevation. The property is incredibly unique in the fact that not many parcels throughout the county will have 3 sides of the property affected by floodplain and their associated setbacks. A LOMA has been done on the property to establish where the flood plain is (elevation 770). Some of the most flat ground is where the applicant is proposing to place the shed, which is Southeast of the residence. The proposal would locate the shed approximately 67' from the Southern property line and 59' from the eastern property line.

With over an acre of ground this location is the best area of flat ground and is one feet above base flood elevation.

The proposed is a pre-built storage shed that will be anchored to the ground.

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

Ms. Mieras made a motion to approve 22-BZA-37 PARSONS, Diann - A request for a Variance of Developmental Standard to allow a 12'x16' storage shed in the rear yard 35' from Base Flood Elevation; located at: 12410 Queen Rd., Plymouth, West Twsp., Zoned L-1, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

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

Respectfully submitted,

Michelle Mieras

September 13, 2022
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 13, 2022, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, Christopher Kline, and Michelle Mieras. Also present was Ty Adley Plan Director, Lori Lowry and interested parties.

Mr. Hostetler made a motion to approve the August 9, 2022 minutes, seconded by Mr.Bennett. Motion carried by acclamation.

The first item of business was 22-BZA-29 MCGWIN, Lawrence - A reconsideration by Parallel Infrastructure to put up a Wireless Telecommunication Facility - 345' guyed tower; located at: Ule Tr. 50-51-19-000-024-000-011, Polk Twsp, Zoned A-1. Mr. Matt Price of 10 W. Market St. Indianapolis was present representing Parallel Infrastructure. Ms. Lowry presented the findings of fact.

The applicant has submitted an email to withdraw their request.

The second item of business was 22-BZA-35 MCLOCHLIN, Shawn & Valerie- A request for a Variance of Developmental Standard to allow the building of a 30x36' detached garage as a secondary structure before a primary; located at: 50-31-02-000-035-000-017 adjacent to 16544 sunset Dr. Plymouth; West Twsp., Zoned L-1. Mr. & Mrs. McLochlin of 16544 Sunset Dr. Plymouth were present to represent their request. Ms. Lowry presented the findings of fact.

The applicant has submitted an email to withdraw their request.

The third item of business was 22-BZA-38 ROBERTS, Tommy & Alesia - A request for a Variance of Developmental Standard from the 5 acre density rule to allow a 6 acre parcel into two parcels; located at: 2805 17B Tr. Tippecanoe IN Zoned A-1.

The applicant has submitted an email to withdraw their request.

The fourth item of business was 22-BZA-39 SOMMERS, Richard - Abate of Marshall County Indiana would like to extend their approval of their Summers End Event at the same location: Richard Sommers, 10648 Upas Rd., Plymouth, IN West Twsp., Zoned A-1. Michael and Diane Fisher were present to represent their request. Mr. Adley present the findings of fact.

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The Summers End event is a fundraiser for Marshal County ABATE was approved in 2014-2016, 2018, and 2019-2021. The BZA approved with a series of conditions: 1. One-year approval from Friday at noon through Sunday at noon. 2. That proper sanitation be met and in conformance with applicable Department of Health standards. 3. Shall Notify sheriff of event. 4. There will be no parking within the right of way. 5. Amplified music to be turned off at midnight. 6. Event officials shall minimize the amount of light cast onto adjacent properties. 7. EMT and security officials to be on site during the event. 8. Three-year approval. 9. This approval can be revoked for non-compliance, disorderly conduct reports, or high-level noise reports. During the three year approval for 2019-2021, there were no known issues or problems reported to the Plan Commission.

Recommendation:
Based on the information provided, study of past applications and review by the Technical Review Committee, staff and TRC would recommend approval of the event with the following conditions:

- Another 3 year period including 2022, 2023, and 2024
- Traffic control plan, security plan and sanitation plan remain in affect from the 2019 approval unless updated with the Plan Director;
- The event shall be from Friday at noon to Sunday at noon;
- Shall notify the sheriff; no marking within the right of way;
- Amplified music to be turned off at midnight;
- Event officials shall minimize the amount of light cast onto the adjacent properties;
- This approval can be revoked for con-compliance, disorderly conduct reports; or high level noise reports

A detailed security plan was presented to the board.

The event gate will be closed at 8pm to control any confusion once the concert starts.

At the last meeting there was discussion about moving the required meeting reviews from every three years to five years as long as there aren't any concerns. The Fisher's would like to move it five years which would save them time as well as the boards. Their three-year expiration date kind of crept up on them fast and they apologized to the board for it being so close to the event. It was also requested that the board extend there being no fee for the request since it's a fundraising event.

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

1. Holly Bridgman – Fulton County - Is a part of the ABATE organization. They do these events so they can train in addition to being charitable. This abate event has been in existence for 42 years. These events get motorcyclists to show up, participate and learn about the organization so these types of training can continue.
2. Shirley Penrod – 10850 Upas Rd. Lives down the road. They would prefer they find another location for the event. They have called the police due to noise and Harley's running up and down the road. Since there isn't a noise ordinance, there is nothing the sheriff's department can do.

3. Steve Penrod – 10790 Upas Rd. There is an increase of traffic. There have been bikes racing down the road. The noise carries that they can hear it inside their homes. During the time of the event there always seems to be excess garbage along the road.
4. Tom Sanders- 19766 10 B Rd. Received a letter from Mr. Sanders. Believes it is in a good location and is surrounded by trees blocking it from the road and it's getting better and better every year.

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

The Fisher's have done their best to make this a fun event yet make it safe and there be minimal disruptions to the area. The bands play 3 ½ hours on Friday and Saturday night and they shut down by midnight. He's been given orders to shut down at midnight and that's what he'll do. As far as bikes riding up and down the road, he said there will be bikes.

They will have a 40'x80' tent for the band and it's all approved and inspected by Homeland Security. In response to the garbage the Fishers responded that all their events are always left cleaner than when they started. Mr. Gustafson asked if they could clean up along the road to the Penrods and Mr. Fisher said he would see to it that it gets done. The RV's that are there before and after the event are mainly for security of the location.

Summer's End has been going on for over 40 years. It's difficult to find a location that works and keeps everyone happy. This location has worked and each year they keep working to make it better. They've listened to the neighbors and have done everything that can if something needs changed.

Mr. Kline made a motion to approve 22-BZA-39 SOMMERS, Richard - Abate of Marshall County Indiana would like to extend their approval of their Summers End Event at the same location: Richard Sommers, 10648 Upas Rd., Plymouth, IN West Twsp., Zoned A-1 including the recommendation as follows:

- **Another 3 year period including 2022, 2023, and 2024**
- **Traffic control plan, security plan and sanitation plan remain in affect from the 2019 approval unless updated with the Plan Director;**
- **The event shall be from Friday at noon to Sunday at noon;**
- **Shall notify the sheriff; no marking within the right of way;**
- **Amplified music to be turned off at midnight;**
- **Event officials shall minimize the amount of light cast onto the adjacent properties;**
- **This approval can be revoked for con-compliance, disorderly conduct reports; or high level noise reports**

seconded by Ms. Mieras. Motion carried with a voice vote 5-0.

The fifth item of business was 22-BZA-40 MEISTER, Donald - A request for a Variance of Developmental Standard to allow a parcel 145'x615' that doesn't meet the developmental standard of the minimum lot width of 210' and the width to depth ratio of 1:3; located at: Elm

Rd. 50-43-11-000-022-000-005, German Twsp., Zoned A-1. Mr. Phillip Meister of 3346 SR 331 Bremen was present to represent their request. Mr. Adley presented the findings of fact.

The applicant is purchasing a section of woods from a family member. The applicant also owns the property immediately East of the proposed parcel. The size and dimensions of property are below the minimum requirements under the zoning ordinance. The parcel is 145' across and 615' deep. This does not meet the minimum lots size width of 210' and the width to depth maximum of 1:3.

Recommendation:
Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval, but the preference would be that it be combined with the property to the East.

When the property was surveyed there was a miscommunication, and the piece Mr. Meister is buying wasn't combined with the current acreage owned by Phillip Meister. The current plans are to build a house on the 6-acre parcel. The future plans are to buy additional acreage. At that time, he would combine it all together.

There is an easement at Elm Road that would allow this proposal to be a new parcel if approved by the board. Mr. Meister doesn't have an intention to build on it though.

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

1. Joseph & Bonita Dani 3845 4th Rd. Bremen Had some concerns what they were planning to build and if they are looking to create multiple small lots.

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

Mr. Hostetler made a motion to approve 22-BZA-40 MEISTER, Donald - A request for a Variance of Developmental Standard to allow a parcel 145'x615' that doesn't meet the developmental standard of the minimum lot width of 210' and the width to depth ratio of 1:3; located at: Elm Rd. 50-43-11-000-022-000-005, German Twsp., Zoned A-1 with the following condition:

1. **When additional acreage is purchased all the acreage will be required to be combined.**

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

The sixth item of business was 22-BZA-41 HELMUTH, Gary - A request for a Variance of Use to allow a manufacturing shop on the property; located at: 431 Plymouth Goshen Tr. Nappanee, IN Zoned A-1. Mr. Bernie Feeney, Plymouth Land Survey, Part of the Whiteman Group and Gary Helmuth of 431 Plymouth Goshen Tr. Nappanee was present to represent their request. Mr. Adley presented the findings of fact.

Recommendation:

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Based on the information provided and review by staff, there is a recommendation of approval provided there are no objections by neighbors, with the conditions that the business is limited to 5 employees, hours of operation from 5am – 2 pm, Monday through Saturday, traffic is to stick to collector roads in order to limit wear on local roads, and outside storage should be screened from the road.

The applicant is seeking to relocate an existing business on B Road of about 2,500 square feet to his new property where he wishes to construct a 10,000 square foot facility. Edgewood Metal Fab makes production parts for the rv industry, custom parts for the agricultural industry and perform local repairs on farm equipment. The hours of operation are from 5am to 2:15pm Monday through Friday with the exception being open on Saturdays during harvest and planting for emergencies. They currently have 2 full time and 1 part time employees, but with the proposed relocation and expansion of the business, they would like to expand to as many as 5 full time and 1 part time employee.

They are looking to relocate their fabricating business to the west of his house. The drainage plan has been submitted and approved by the Marshall County Surveyor. The erosion control has been submitted to NRCS and has been approved. They are awaiting proof of publication which allows for submittal to IDEM and then construction shortly after. This will allow them to move from a 2,500 sq ft building to a 10,000 sq ft building. The original building will be used for storage only.

During discussions on hours of business the applicant would like to help people out in need. He would like to have extended hours from 5am to 6 pm Monday through Saturday. His normal work hours would normally be 5 am to 2pm, but this would give him the opportunity to help others when needed. Anything of personal use there is no limit on the time.

The number of employees were recommended to be five. Due to there being a co-owner and family working at the business the applicant asked for an explanation of who is included in that number. Mr. Adley explained that those who live on the property would not be considered part of that count. Those living off the property and getting paid to do work would be in that count. The applicant asked if they could increase 5 to 10.

The business is a combination of tool and die, welding and fabrication.

Mr. Helmuth understood there would need to be a CDR and the contractor is taking care of that.

Typically, there might be some large pieces of metal and equipment waiting to be fixed.

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

Mr. Hostetler made a motion to approve the request <u>22-BZA-41 HELMUTH, Gary -</u> A request for a Variance of Use to allow a manufacturing shop on the property; located at: 431 Plymouth Goshen Tr. Nappanee, IN Zoned A-1 with the following requirements:

1. **CDR**
2. **Hours of operation from 5am to 6pm Monday through Saturday**

3. **Up to 10 employees**
4. **Includes part of the previous recommendation: traffic is to stick to collector roads in order to limit wear on local roads, and outside storage should be screened from the road**

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

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

Respectfully submitted,

Michelle Mieras

October 11, 2022
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, October 11, 2022, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, Matt Miller, and Michelle Mieras. Also present was Ty Adley Plan Director, Lori Lowry and interested parties.

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

The first item of business was 22-BZA-42 LEWIS LEVETT, Jeannie - A request by Gary Treat for a reduction in right of way setback from the required 30' to 24' in order to build an attached 24'x28' garage; located at: 16486 Sheryl Ct. Plymouth, West Twsp. Zoned L-1. Ms. Jeannie Lewis Levett of 16486 Sheryl Court Plymouth was present to represent the request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a 24x28' garage addition towards the road. The applicant is in a subdivision on the North side of SR 17 in an L-1 off water property. The Lake Residential District requires a front yard setback of 30' between the structure and the right of way line. The existing structure is an estimated 53' from the Right of way line and the addition is proposing to reduce that down to 24'. The applicant deems that this is the "only available location to expand".

The only other house that would be affected by this proposal is vacant and has been for three years. Since this property is zoned L-1 it has a 30’ right of way setback. If it were zoned A-1 it would be a 50’ setback. The proposed entrance of the garage will be facing south.

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

Mr. Hostetler made a motion to approve 22-BZA-42 LEWIS LEVETT, Jeannie - A request by Gary Treat for a reduction in right of way setback from the required 30' to 24' in order to build an attached 24'x28' garage; located at: 16486 Sheryl Ct. Plymouth, West Twsp. Zoned L-1, seconded by Ms. Mieras. Motion carried with a voice vote 5-0.

The second item of business was 22-BZA-43 PORTER, Timothy & Vickie - A request for a Variance of Developmental Standard to allow the following set back reductions: 20' from the required 45' lakeside setback, 25' from the required 30’ from right of way, and 7.5' from the required 10'

west side yard setback; located at: 4010 W. Shore Dr. Bremen, IN North Twsp., Zoned L-1. Timothy & Vickie Porter of 410 W. Shore Dr. Bremen were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a new home and an addition onto the existing pole building. The parcel was recently combined together in order to develop the parcel as a new homesite. The proposed parcel is triangular in shape and has water on 2 sides which is accompanied with a 45' setback. Then coupled with a 30' setback from a dead-end road, the parcel is a prime example of a uniquely shaped lot that will benefit from a variance. The pole building addition is proposing to maintain the existing distance from the property line which is where the reduction in side yard setback is coming into play from 10% of lot width to 7.5'. The reduction from the lake side and roadside are for the proposed residence with reductions of 45' to 20' and 30' to 25' respectively.

Due to all the complexities of the parcel the reason the house wasn't moved toward the garage was because of the location of the well. The plan for the existing garage is to reside it, put a new roof on, and install new windows & doors to match the same color as the home.

The flood plain at Lake of the Woods is 805. DNR has given them approval install a natural sea wall and it will be brought up of 805.5 to 806 which will be completely out of the flood plain. Once the house is completed and platted it will be re-surveyed with the elevations showing it is out of the flood plain. When the combination of lots was done there was only about 8' that was within the flood plain at that time. Where the house is situated it will be 3' above flood elevation. The house will be built on a crawl space that is 2' out of the ground. The state has approved all requirements and this variance is the final requirement before the applicants can move forward.

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

1. Roger Porter – 406 N. Indiana St. In favor of the request.

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

Ms. Mieras stated that setbacks are made aware at the time of purchase. She has a problem with the amount of setback reduction the applicants are requesting. The property is a buildable piece of property. It's just what they want to do with it requires major changes in the setbacks.

One of the positive factors the TRC discussed was the separation gap between the existing garage and the new house doesn't protrude the house out further.

Mr. Hostetler made a motion to approve 22-BZA-43 PORTER, Timothy & Vickie - A request for a Variance of Developmental Standard to allow the following set back reductions: 20' from the required 45' lakeside setback, 25' from the required 30' from right of way, and 7.5' from the required 10' west side yard setback; located at: 4010 W. Shore Dr. Bremen, IN North Twsp., Zoned L-1, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The third item of business was 22-BZA-44 SEITZ, Lindsey & Seth Cassel – A request for a Variance of Use to allow an automotive repair business; located at: 610 12 B Road, Bourbon, Bourbon

Twsp., Zoned A-1. Seth Cassel & Lindsey Seitz of 610 12B Rd. Bourbon were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to operate an automotive repair business "that offers our local community and surrounding areas with all types of vehicle services ranging from basic maintenance to a complete rebuild in hopes of building trust and loyalty to grow our customer base." The property is located in the A-1 agricultural district and under the listed of permitted or special uses, the automotive repair business is not listed, although it is an available use in the commercial district. The company (12B Automotive) currently has 1 full time and 1 part time employee with potential to expand number of employees in the future. The plan is to operate Monday through Friday 8a-5p with evenings and weekends by appointment only. In order to manage the backlog of the customers "by giving them a 5 day grace period after notification that the job has been completed. If the customer does not take possession of their vehicle within this allotted time frame, the car will be moved to an offsite holding facility and 12B Automotive will file a mechanics lien on the customer's vehicle." They also "currently have trees completely outlining our property to the North, East and West sides to shield the business from our surrounding neighbors."

The business was turned in as a violation. The owners promptly came into the office to discuss their options. Prior to the applicant's purchasing the property it had been a business use of trucking. This is Mr. Cassel's full-time employment. In the future he hopes to have a maximum of 3 full-time employees.

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

1. Corey Ellinger 12600 Apple Rd. Neighbor to the southeast and doesn't have any problems with them having an automotive shop there.
2. Jeff & Kim Wanemacher 726 12B Rd. They aren't opposing the business request, but would like additional information on the business hours, what is the plan to hide disabled vehicles, will there be a fence in place to hide the vehicles and what is the protocol for disposing of waste material such as oil antifreeze and other hazardous wastes?
3. Tom & Linda Hesler 648 12B Rd. They have no objection to the proposed business but would like there to be no junk vehicles stored in view or located on the property.

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

In response to some of the questions: The vehicles' fluids will be removed by Safety Clean, and the used oil is being sold. With this being their personal home, they have no intention to make the property look junky or be disruptive to neighbors. The goal is to have no more than 3-5 cars at a time in the morning and the customers to come pick them up later that day. If the owner doesn't pick it up right away there is an off-site property that can be used to store those vehicles if needed. The property is lined with large pines for privacy. The planned hours will be 8-5 Monday Through Friday and Saturday 8-noon. Later hours will be by appointment only. There will be no materials stored outside. The building size is 30x48' with 12' ceilings. There is

currently no bathrooms or waiting area inside.

They would like to have a small sign just so customers know where the property is.

Ms. Mieras made a motion to approve 22-BZA-44 SEITZ, Lindsey & Seth Cassel – A request for a Variance of Use to allow an automotive repair business; located at: 610 12 B Road, Bourbon, Bourbon Twsp., Zoned A-1, with the following stipulations:

1. **Hours 8-5 Monday through Friday 8-noon Saturdays with evening and weekends by appointment only.**
2. **No more than 3 employees**
3. **TRC recommendation**

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

The fourth item of business was 22-BZA-45 MILLER, Toby – A request for a Special Use by DM Excavating to use this property as storage for tile; located at 6626 6A Rd., Plymouth, IN German Twsp., Zoned A-1. Mr. Toby Miller 6626 6A Rd. and Mr. David Miller 6757 6A Rd. were present to represent their request. Mr. Adley presented the findings of fact.

DM excavating has been operating since their approval in 2018 under 18-BZA-10 which allowed a storage and repair shop in an existing building with the conditions including hours of operation, number of employees and a CDR. The business is looking to expand and relocate the outdoor storage to Toby's property 6626 6A Road. Case 46 that accompanies this proposal is freeing up space for additional outdoor storage of aggregate and other materials. For this case there is a proposed vegetative screen that to shield the contents shielded from view on the road. There are no other proposals to amend the original approval.

This variance is required as the applicants are expanding their business to a second location.

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

1. Toby Miller 6626 6 A Rd. Is okay with DM Excavating moving the tile onto his property which will include putting in a driveway and fence in.

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

Currently there isn't enough area to store and keep the area organized. Their plan is to organize and keep the area clean to allow others to come and pick out what tile they are wanting. The tile is used and installed by DM Excavating and others just come to purchase tile.

The plan is to put down gravel where the semi's come in and unload the material. The other areas will be left in grass.

Ms. Mieras made a motion to approve 22-BZA-45 MILLER, Toby – A request for a Special Use by DM Excavating to use this property as storage for tile; located at 6626 6A Rd., Plymouth, IN German Twsp., Zoned A-1, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The fifth item of business was 22-BZA-46 MILLER, David – A request for a Special Use to amend existing business to include storage of topsoil, gravel, and limestone; located at: 6757 6A Rd., Plymouth, IN German Twsp., Zoned A-1. Mr. David Miller 6757 6A Rd. and Mr. Toby Miller 6626 6A Rd. were present to represent their request. Mr. Adley presented the findings of fact.

The applicant has proposed to relocate the existing tile storage under BZA 45 to the brothers parcel to the immediate northwest. The relocation of material is creating the space for the new proposed aggregate and topsoil storage area. The business has been operating since 2018 under 18-BZA-10 which allowed a storage and repair shop in an existing building with the conditions including hours of operation, number of employees and a CDR. There are no other proposals to to amend the original approval.

The area proposed is exactly where the tile is currently located that was approved in 2018. By replacing it and not making it any bigger it will not exceed what was planned for drainage.

The storage area is more than 300' off the road. The existing barn also helps screen the area.

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

Ms. Mieras made a motion to approve22-BZA-46 MILLER, David – A request for a Special Use to amend existing business to include storage of topsoil, gravel, and limestone; located at: 6757 6A Rd., Plymouth, IN German Twsp., Zoned A-1, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The sixth item of business was 22-BZA-47 HALVORSEN, William Jr. – A request for a Variance of Developmental Standard to allow a reduction in lakeside setback from the required 45' to 45' from elevation 789'; located at: lot east of 16440 Pretty Lake Rd. (50-31-11-000-230-005-017), West Twsp. Zoned L-1. Mr. Halvorsen 16440 Pretty Lake Rd. and Mr. James Easterday, attorney 192 Garro St. for the applicant was present to represent their request. Mr. Adley presented the findings of fact.

The applicant has an interest in developing a home and detached garage on their property, but their property is geographically unique. The new home site is at conflict because the Zoning Ordinance requires the rear/lake side setback to be 45' from 789' or meet what is known as the string line that is established from adjacent parcels that have already been developed and their furthest protrusions towards the lake, whichever is greater. In this case since the adjacent parcels are developed, it is needing to meet this string line requirement which would nearly double the proposed setback from 45' to nearly 100' from the elevation mark 789. What makes this parcel unique is the fact that it is only 1 of two peninsula parcels on all of Pretty Lake. Standard lake properties are nearly inline from left to right as incremental progress is made around the lake, but this parcel as it can be seen is entirely different.

In Marshall County's zoning Pretty Lake is the only lake that sought out to apply the string line theory. If there wasn't a string line theory on Pretty Lake, the Halvorsen's wouldn't require a

variance.

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

Mr. Bennett made a motion to approve <u>22-BZA-47 HALVORSEN, William Jr. –</u> A request for a Variance of Developmental Standard to allow a reduction in lakeside setback from the required 45' to 45' from elevation 789'; located at: lot east of 16440 Pretty Lake Rd. (50-31-11-000-230-005-017), West Twsp. Zoned L-1, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

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

Respectfully submitted,

Michelle Mieras

November 15, 2022
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 15, 2022, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, and Michelle Mieras. 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 October 11, 2022, minutes, seconded by Ms. Mieras. Motion carried by acclamation.

The first item of business was 22-BZA-49 SCHILLIG, Scott – A request for a Variance of Use to allow an aquaculture business; located at: 5790 Redwood Rd. Plymouth, IN Polk Twsp., Zoned A-1. Mr. Scott Schillig of 5790 Redwood Rd. Plymouth was present to represent his request. Mr. Adley presented the findings of fact.

The applicant runs an aquaculture business and is wanting to expand his operation to his residential parcel to include several newly constructed ponds in order to raise and distribute fish. The use "Aquaculture" is currently not listed within the ordinance and thusly brings the proposal before the BZA. The operation will encompass 17 newly constructed ponds of various sizes. Hoosier Pond Pros are seeking to provide locally raised fish due to a lack of hatcheries in the region. The fish will be raised on the subject property and will sell them out of their Starke County property.

Mr. Schillig explained that the two larger ponds will be 7' deep and the remaining will be 4'with a 3 to 1 walkout. As the holes are dug the spoils will be put on top and compacted down. The bottom of the ponds will be compacted as well and sealed. Currently the water flows to the north. Whatever water flows from the neighbor to the south Mr. Schillig plans to trap a lot of the water and keep it from moving to the north.

Mr. Schillig has a property in Starke County with a pond that has a couple holding tanks. He has not been able to grow enough fish and is having to run to Arkansas every two weeks to get fish. These aren't fish to eat only to stock ponds. Most people want bigger fish and over the past couple years he can only get fish about 4 inches long.

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

1. Richard Moore 5668 Redwood Rd. Was unaware of the amount of

ponds that Mr. Schillig was proposing. There is such a concern because his whole parcel drains onto his property. In addition to that there is a concern with mosquitos, trucking traffic, pumping water out of the Aquaphor, and believes there is better use of that land than the proposed ponds. There is no objection to a person making a living off his property, but this will affect others.

2. Melinda Reed 5499 Redwood Rd. Owns the property closest to the railroad track on both sides of the road. Questioned if these ponds leak how it will affect the run off on their property. Is this water going to be treated? Will this affect the wildlife? We are currently in a drought. If he's going to be pulling from the water levels it's going to take away from the surroundings.
3. Robert Keenum 5700 Redwood Rd. Property to the north of Mr. Schillig. Doesn't understand the need of 17 ponds. Has dug down and found water at 2 feet. He has a major concern with run off onto his property.
4. Michael Reed 5499 Redwood Rd. Objects. Where will all the insecticide and feces go? How big is it going to get? Has a pond on his property and doesn't want it ruined due to run off chemicals.
5. George Kruyer 5842 Queen Rd. Has a concern with how it's going to affect the water supply and the Aquaphor.
6. Jack Brink 5757 Redwood Rd. Letter – After speaking with Mr. Schillig they are in favor of the request.

Mr. Schillig plans to live on the property once the inside of the house is remodeled. He currently resides in Starke County.

In response to some of the questions Mr. Schillig stated that there won't be anymore of a smell than any other pond. The traffic would consist of a pickup truck and trailer one every week or every two weeks. There would be no picking up from customers at this property. If there is any leakage from the pond it will be money out of his pocket as he has to pay to fill them up.

Mr. Schillig designs ponds for a living. In preparation of this submittal, he went to NRCS and discussed the soils. They believe it's marginal, but doable. There will be no insecticides or chemicals.

After an in-depth discussion on the digging of ponds, the excess dirt and runoff the board was in consensus that they would like Mr. Schillig to contact a engineer and bring back to the board a blueprint that includes how he is getting the water to fill them.

Mr. Schillig requested that this case be tabled until the January, 2023 meeting.

Mr. Hostetler made a motion to table until January 2023, seconded by Ms. Mieras. Motion carried by acclamation.

The second item of business was 22-BZA-50 YOUNG, Robert Jr. – A request for a Variance of Developmental Standard to allow a property split of 250'x1320' that doesn't meet the 1 to 3 width to depth ratio; located at: 5778 Grape Rd. Bremen, IN German Twsp., Zoned A-1. Mr. Robert Young of 5778 Grape Rd. was present to represent his request. Mr. Adley presented the

findings of fact.

The applicant is seeking to split his property with the neighbor. The approximate size of the property would be 250' by 1320'. The shape of the property can be more accurately shown in the diagram provided. The ordinance does not permit parcels to exceed a width to depth ratio of 1 to 3.

The plan would be for the neighbor to the north to combine with his property the ground directly to the east of his. Mr. Young would retain all the property to the east of him.

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, Ms. Mieras moved, and Mr. Hostetler seconded the motion to close the public hearing.

Mr. Hostetler made a motion to approve 22-BZA-50 YOUNG, Robert Jr. – A request for a Variance of Developmental Standard to allow a property split of 250'x1320' that doesn't meet the 1 to 3 width to depth ratio; located at: 5778 Grape Rd. Bremen, IN German Twsp., Zoned A-1, seconded by Ms. Mieras. Motion carried with a voice vote 4-0.

The third item of business was 22-BZA-51 BORKHOLDER, Eddie Ray – A request for a Variance of Developmental Standard to allow a reduction in front yard setback from 50' to 30' from the edge of road; located at: 1611 3rd Rd. Bremen, IN German Twsp., Zoned A-1. Mr. Matt Troyer of 1611 3rd Rd. Bremen was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to build a home addition for a wraparound porch. The addition requires the reduction of the front setback to build as designed. The ordinance requires a setback of 50' on local roads and the proposed construction is to reduce that to 30' from edge of road. The porch will stick out 10'.

This house is currently non-conforming with its right of way setback. Many of the neighboring properties do not meet that setback.

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

Ms. Mieras made a motion to approve 22-BZA-51 BORKHOLDER, Eddie Ray – A request for a Variance of Developmental Standard to allow a reduction in front yard setback from 50- to 30' from the edge of road; located at: 1611 3rd Rd. Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Hostetler. Motion carried with a voice vote 4-0.

The third item of business was 22-BZA-52 FLYNN/Plumlee – A request for a Variance of Developmental Standard to allow a secondary structure before a primary, 47% lot coverage from the required 45% and a 23' rear yard setback from the required 30' to build a 44x56' accessory structure; located at: 50-31-11-00-304-0000-017 Dogwood Lane, Plymouth West Twsp., Zoned L-1. Mr. Louis Plumlee of 16214 Dogwood Lane and Mr. Thomas Flynn of 16206 Dogwood Lane

was present to represent his request. Mr. Adley presented the findings of fact.

The applicant jointly owns a parcel with a neighbor, and they are seeking to construct an accessory structure to manage their storage. The building will have two separate sides. They are in need of a variance to allow for a secondary structure to be built prior to a primary structure. They also needing to increase the maximum lot coverage from 45% to 47% in order to accommodate the new structure and associated driveway. The final aspect is reducing the front setback from 30' to 27'.

There will be no living quarters in the proposed building. They have just decided they are ready to occupy the ground with a facility to store their belongings.

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. Motion carried by acclamation.

Mr. Hostetler made a motion to approve 22-BZA-52 FLYNN/Plumlee – A request for a Variance of Developmental Standard to allow a secondary structure before a primary, 47% lot coverage from the required 45% and a 23' rear yard setback from the required 30' to build a 44x56' accessory structure; located at: 50-31-11-00-304-0000-017 Dogwood Lane, Plymouth West Twsp., Zoned L-1, seconded by Mr. Bennett. Motion carried with a voice vote 4-0.

The fourth item of business was 22-BZA-53 MPB Property Group - A request for a Variance of Use to allow a lay down yard for aggregates; located at: 11690 US 6 Plymouth, IN North Twsp., Zoned A-1. Mr. & Mrs. Michael Bettcher of 23481 Tyler Rd. Lakeville were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to use a previous truck stop property for use as a laydown yard. The Plan Director has previously talked with the property owner about the use of property back in 2018/19 about a laydown yard. The property for a period of time up to recently, spent concrete has been brought to the property for use to be crushed after a certain minimum is reached and the property has grown up and is in need of clean-up. Since 2018/19, staff has adjusted the use of material laydown yards to fall under a variance of use when in the agricultural district. The applicant is looking to laydown multiple types of aggregate to service Marshall County and the greater region. The most impactful portion of the operation would be the recycling of the concrete which would be once a year for an approximate 2 week period. The layout of the facility in a drawing provided with the application. The owner has committed to continue his clean-up efforts on the property due to the trash and debris that has been dumped on the property. The access directly to US 6 provides immediate access to a state maintained roadway thus limiting additional wear and tear on the existing county highway infrastructure. The applicant has already received authorization from INDOT and IDEM.

The plan for the property is to put in 4' high concrete barriers to hold landscape rock, mulch and aggregates. This would be for personal jobs and to sell. Currently he's accepting concrete that will later be crushed. Crushing would happen two or maybe three times a year. The concrete that's being brought in is from his jobs only.

The east end of the property will continue to stay wooded. The west side of the property used to have access on Lilac Rd., which has now been blocked off due to people dumping.

Mr. Bettcher employees 25 employees. The past couple of years have been busy with highway work through the county and state. As things are slowing down a bit, he plans to devote some time to clean up and organize better. There are no plans for this property to be a concrete plant or a fixed crushing facility. All traffic in and out will be done off of US Hwy 6 and has been approved by INDOT. In addition to that IDEM has given their blessing.

At this time there will be no business hours it will be by appointment only. If there is concrete delivered it will be during normal business hours. There is no plan to have a building or restroom on site. Eventually there will be a gated entrance.

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

1. Jack Garner & Cindy 11500 US 6 Believes this property is an eyesore. Little has been done to the property in the last two years. Mr. Bettcher has used his own property for storage and has recently cleaned it up. Why can't his property be used for storage instead of this one? Mr. Garner has planted hundreds of trees to protect his property. He also wanted to clarify that Mr. Bettcher is dumping in the field when he said he wasn't. This is also decreasing the property values. The noise of the trucks has also been bothersome.
2. Judy Davis 1863 Lilac Rd. Doesn't like all that's going on in the neighborhood.
3. Robert Davenport 2247 Lilac Rd. Sent a letter stating that he is against this property being used for anything which involves heavy traffic until INDOT makes the intersection safe. Has observed many accidents and near accidents at this intersection and is against this request.

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

In response to questions Mr. Bettcher said that his brother's property is for his use not his. He did use his property for some storage from the school, but later used the millings for some driveways. He purchased this property and pays taxes on it to use it. He has made improvements of a waterway that goes through the property through IDEM that is now cleaned up from previous owners. People can now drink their water safely. The field to the east of the driveway where the trees are next to the eastern property line Mr. Bettcher has no intent on disturbing the barrier between the properties. To keep the noise down Mr. Bettcher agreed to tell his employees not to slam the tail gates of the trucks. The hours of operation would be approximately 8-5 Monday through Friday and till noon on Saturday and mostly by appointment only.

The Bettcher's took ownership in the 2020's and started using the property during that year.

When it was purchased, it was used as a dumping site. It has been cleaned up since, but agrees it needs more cleaning. He would like to get some of it broken up and piled up neatly and get prepared to crush.

Ms. Mieras made a motion to approve 22-BZA-53 MPB Property Group - A request for a Variance of Use to allow a lay down yard for aggregates; located at: 11690 US 6 Plymouth, IN North Twsp., Zoned A-1 with the following stipulations:

1. **Hours 8-5 Monday – Friday till noon Saturday by appointment only.**

Seconded by Mr. Hostetler. Motion carried with a voice vote 3-1 with Mr. Bennett voting against.

The fifth item of business was 22-BZA-54 HOLLAND, Dennis & Linda - A request for a Variance of Developmental Standard to allow a 22'x29' attached garage 24' from the edge of the road; located at: 20831 N. Lake Dr., Walkerton, IN Polk Twsp., Zoned L-1. Mrs. Linda Holland of 20831 N. Lake Dr. Walkerton was present to represent her request. Mr. Adley presented the findings of fact.

The applicant wants to build a garage (24x30') 24' from the edge of right of way. There are several structures nearby that also do not meet the minimum setback requirement. Previously the case was heard under 21-BZA-12 and was approved by a vote of 4-0. This case is coming back due to expiration in Spring of 2022. Measures are currently being put in place to assist in future prevention of cases unknowingly expiring prior to construction.

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

1. Michael & Cynthia McKenna 20825 N. Lake Dr. Walkerton They don't object or oppose the request for variance.
2. Deb & Tom Traversa 20828 N. Lake Dr. Walkerton They oppose the request for the preservation of the space and community in which they purchased and reside, safety along the roadway as well as alignment with the developmental standards. In addition to the safety of the setback concern, construction of the garage would directly impact the view shed from the property significantly diminishing, essentially eliminating the lake view from the property that they have lived at for 19 years.

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

Mrs. Holland explained that they had trouble acquiring a contractor. In addition to that they were unaware that there was expiration. She expressed her desire that the board from here forward notify applicants that there is an expiration date.

Mr. Hostetler made a motion to approve 22-BZA-54 HOLLAND, Dennis & Linda - A request for a Variance of Developmental Standard to allow a 22'x29' attached garage 24' from the edge of the road; located at: 20831 N. Lake Dr., Walkerton, IN Polk Twsp., Zoned L-1, seconded by

Ms. Mieras. Motion carried with a voice vote 4-0.

2023 Proposed Meeting Calendar

The proposed 2023 meeting calendar for the Board of Zoning Appeals was presented. Mr. Bennett made a motion to approve as presented, seconded by Ms. Mieras. Motion carried by acclamation.

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

Respectfully submitted,

Michelle Mieras

December 13, 2022
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 13, 2022, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, David Hostetler, Matt Miller and Michelle Mieras. Also present was Ty Adley Plan Director, Lori Lowry and interested parties. Member absent was Trent Bennett.

Mr. Hostetler made a motion to approve the November 15, 2022, minutes, seconded by Mr. Miller. Motion carried by acclamation.

The first item of business was 22-BZA-55 LEMLER, Jeff - A request for a Variance of Use to allow a processing facility; located at: 1471 10B Rd. Bourbon, IN Bourbon Township, Zoned A-1. **The applicant Jeff Lemler came into the office and asked this request to be withdrawn. Motion carried by acclamation**

The second item of business was 22-BZA-56 BOSE, Julie - A request for Variance of Developmental Standard to allow a reduction in lot coverage from the required 45% to 66%, front yard setback reduction from the required 30' to 0' and east/west side yard setbacks from the required 10'/10% to 0'; located at: 3843 Lake Shore Dr. Bremen, IN German Twsp., Zoned L-1. Ms. Julie Bose and Dennis Mitchell of 3843 Lakeshore Dr. Bremen were present to represent their request. Mr. Adley

TRC Recommendation: Approval of the increased impervious coverage to 66%, Approval to reduce the Southeast side setback to1' in order to keep in line with the existing home and garage, Approval to reduce the front yard setback to 1', denial to reduce northwest side setback to 0' and a survey to be done prior to construction in order to ensure all development will take place on the subject property.

The applicant wants to do a home addition to attach their house to the garage as well as construct a carport adjacent to the garage. The expansion would require 4 variance approvals. They are proposing to reduce the front yard setback from 30' to 0'. They are proposing to reduce the Northwest side yard setback from 10'/10% to 0'. They are proposing to reduce the Southeast side yard setback from 10'10% to 0'. Finally, they are requesting to exceed the 45% maximum impervious coverage by going to 55%. The average front yard setback is significantly less than the required 30' required. The southeastern setback is proposed to 0' with construction taking place at 1' from the property line, in line with the existing house and garage. The Northwestern setback is proposed to be 0' and have the carport set 3'6" from the property line. The existing development on the property along with the proposed construction

would exceed the maximum impervious coverage and then cover 66% of the lot in residence, driveway, or parking space.

The area where the applicant is proposing to build already has a patio between the house and garage and a driveway where they are proposing to build a carport with living space over it. Where they believe the property line is they are proposing to put the carport 3'6" from the property line. They have noticed a rebar by the mailbox, but are unsure whether that is the line. During the discussion with the board, it was their feeling that due to the unsurity of the property line and the proposed setbacks that a required survey was appropriate.

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

1. Debra Mitchell – 3843 Lakeshore Dr. Bremen - In favor of the request. Still plan to build within 3.5' of the property line.

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

The plan will be to have a second story on the existing garage and living space above the carport.

Mr. Miller made a motion to approve <u>22-BZA-56 BOSE, Julie -</u> A request for Variance of Developmental Standard to allow a reduction in lot coverage from the required 45% to 66%, front yard setback reduction from the required 30' to 0' and east/west side yard setbacks from the required 10'/10% to 0'; located at: 3843 Lake Shore Dr. Bremen, IN German Twsp., Zoned L-1:

1. **66% impervious coverage**
2. **1' southeast sideyard setback**
3. **1' front yard setback**
4. **and deny the 0' northwest side yard setback**
5. **Survey be completed to establish survey lines**

Seconded by Ms. Mieras. Motion carried with a voice vote 4-0.

The third item of business was <u>22-BZA-57 IMHOFF, Allen & Eddie -</u>A request by Kenlyn Imhoff for a Special Use to allow a poultry processing facility; located at: 6589 E. 18th Rd. Argos, IN Walnut Twsp., Zoned A-1. Allen Imhoff of 6536 19th Rd., Eddie Imhoff 6382 19th Rd. and Kenlyn Imhoff 6589 18th Rd. were present to represent their request. Mr. Adley presented the findings of fact.

Technical Review Committee Recommendation:
Recommended approval with the condition that state and federal requirements are met.

The applicant has recently purchased a closing processing facility in desire of opening up their own business. The Applicant has begun the approval process with the State Board of Animal Health (Boah). The operation would be 6 days a week with hours of business from 7:00am to 6:00pm. There would be no animals retain on the property and the estimated quantity would be

1,000 animals/bird per week. The scale of the operation should be managed in order to manage the impact on adjoining properties.

Their plan is to do custom butchering. Where the owner would bring in the chickens and take them home the same day. Hiatt's of Rochester will no longer be in business and the Imhoff's will be taking over. There are no plans to have retail sales.

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

The plan is to keep this a family run and small scale. At this time they have no desire to be work this job full time 6 days a week.

Mr. Hostetler made a motion to approve 22-BZA-57 IMHOFF, Allen & Eddie -A request by Kenlyn Imhoff for a Special Use to allow a poultry processing facility; located at: 6589 E. 18th Rd. Argos, IN Walnut Twsp., Zoned A-1, seconded by Mr. Miller. 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,

Michelle Mieras