January 14, 2020
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 14, 2020, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, James Berger, Dan Voreis, Mark Wickizer and Bob Yoder, Plan Director Ty Adley, and interested parties.

The first item of business was the review of the minutes from the December 10, 2019, meeting. **Mr. Wickizer made a motion to approve the minutes as written, seconded by Mr. Berger. Motion carried by acclamation.**

Election of Officers

- President – Mr. Wickizer made a motion to nominate Jeff Gustafson as President of the Marshall County Board of Zoning Appeals, seconded by Mr. Berger. Motion carried.
- Vice President- Mr. Wickizer made a motion to nominate Matt Miller as Vice-President of the Marshall County Board of Zoning Appeals, seconded by Mr. Berger. Motion carried.
- Secretary- Mr. Berger made a motion to nominate Mark Wickizer for the Secretary of the Marshall County Board of Zoning Appeals, motion carried by Mr. Yoder. Motion carried.

The second item of business was 19-BZA-50 CRUMP, Dezerea – A tabled request for a Special Use to allow a single wide trailer, located at: Parcel # 50-52-95-402-405-000-010, North Twsp., Zoned T-1.

A phone call was received by the property owner and hadn't heard from Ms. Crump in over a month. Mr. Wickizer made a motion to deny for lack of appearance by the application, seconded by Mr. Berger. Motion carried by acclamation.

The third item of business was 19-BZA-55 SCHMUCKER, Eugene & Mary - A tabled request for an existing lawnmower sales/repair home-based business; located at: 3084 Beech Rd., Bremen, German Twsp., Zoned A-1. The applicant recently had their barn burn down and it was discovered that the business had not received special use approval. The applicant currently has a building permit in to rebuild the previous structure that was lost. The applicant

operates a home based business that repairs small engines and sell mowers. The business will operate out of a 49x121' structure. Mr. & Mrs. Eugene Schmucker were present to represent their request. Mr. Adley presented the findings of fact.

Mr. Schmucker explained to the board that a bunch of mowers have already been removed from the property and taken to the junk yard and believes the property looks much better than what the pictures represent.

The plan for future storage is not to be outside, but in the new proposed warehouse.

Mr. Wickizer asked if he would be inclined to put up a privacy fence between, he and his neighbor and Mr. Schmucker didn't have a problem with installing a fence.

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

1. Eddie Ray Borkholder – 1459 E. 3rd Rd. Bremen – Neighbor that is in favor of the request.
2. Sam Schmucker – 3042 Beech Rd. Bremen – Next door neighbor is in favor of the request.
3. Howard Schmucker – 3208 B Rd. Bremen – Does a good job and the community needs this type of business. Is in favor of the request.
4. Delbert Troyer – 6092 Beech Rd. – Is in favor of the request.

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

Mr. Yoder expressed to Mr. Schmucker that if he intents to use the mowers for parts he needs to keep them somewhere where it's not visible to the general public.

Mr. Schmucker stated that the mowers that were used for parts have been parted out already and removed. The mowers that will be fixed and for sale will either be kept inside or in a fence in area.

Mr. Wickizer made a motion to approve 19-BZA-55 SCHMUCKER, Eugene & Mary - A tabled request for an existing lawnmower sales/repair home-based business; located at: 3084 Beech Rd., Bremen, German Twsp., Zoned A-1 with the condition that a privacy fence be installed for outside storage, seconded by Mr. Yoder. Motion carried with a voice vote 5-0.

The fourth item of business was 19-BZA-56 SCHMUCKER, Eugene - A tabled request for a Variance of Development Standard to reduce the north side yard setback to 5' from the required 15' and to allow a storefront for a small engine sales/service business; located at: 3084 Beech Rd., Bremen, IN German Twsp., Zoned A-1. The applicant has recently lost their barn due to a fire. In order to rebuild, they are seeking to place the building in a relative same location of the previous barn. The new is larger. The property is approximately 3.25 acres in size. Mr. &

Mrs. Eugene Schmucker were present to represent their request. Mr. Adley presented the findings of fact.

Many years ago, Schmucker's property and the adjoining property were one parcel. Mr. Schmucker split the parcel before selling to newphew, Eugene Schmucker. There was a survey and survey stakes are still present.

Mr. Delbert Troyer, the builder for the Schmuckers, stated that after measuring they would like change the proposed side yard setback from 5' to 10'. Could try to make 15' work, but prefer 10'.

The Schmucker's are also aware that a Construction Design Release will be required.

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

1. Sam & Lori Schmucker – 3042 Beech Rd. Bremen - Due to the constant state of the property they would like to see denial of the request.

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

The hours of business are Monday through Saturday 8-5 with Saturday sometimes closing at 2. There are no signs and no employees. Will also agree to keeping the property cleaned up.

When asked why 15' wouldn't work Mr. Schmucker stated that moving it over will be in the existing drive back behind the property.

Mr. Wickizer made a motion to approve 19-BZA-56 SCHMUCKER, Eugene - A tabled request for a Variance of Development Standard to reduce the north side yard setback to 5' from the required 15' and to allow a storefront for a small engine sales/service business; located at: 3084 Beech Rd., Bremen, IN German Twsp., Zoned A-1, with the following stipulations:

1. CDR
2. Property must be cleaned up
3. Hours of operation are Monday through Saturday 8-5
4. No signage
5. No employees
6. Privacy fence to be installed for outside storage
7. Setback of 15' not 5'

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

The fifth item of business was 20-BZA-01 DAVENPORT, Foster - A request for a Variance of Developmental Standard to allow a reduction in minimum lot width from the required 210' to 126' and a variance from the 1:3 width to depth ratio 126.34'x2658.93' to allow the neighbor ownership of his existing driveway. Located at: Parcel # 50-51-25-000-014-002-011, Quince Rd., Polk Twsp., Zoned A-1. The applicant is seeking approval in order to sell a portion of their

property to their neighbor in order to correct a construction error. The applicant is seeking to sell a 16' strip of property to the adjacent property owner and this will result in a property that will not meet the minimum standards for width to depth ratio as well as minimum width. The existing parcel is approximately 142.34' across and is proposing to go down to 126.34'. the property depth is already 2,641' approximately. Mr. Foster Davenport and Mr. Hal Patterson were present to represent their request. Mr. Adley presented the findings of fact.

Recommendation: Based on the information provided, staff would recommend approval of the variance, with the condition that the parcel split off be combined with the house and the recommendation that residual parcel be combined with the Northern farm parcel because the use already cross the property line. TRC Recommendation: Recommendation of approval with conditions and recommendations to combine with adjacent parcels.

Mr. Davenport explained to the board that the large partial to the west is in the name of Davenport Land Trust and Davenport Farms purchased the adjacent property from Mr. Patterson. In all actuality it's owned by the same person, but it's different enmities.

Mr. Davenport has no interest in combining the land trust parcel and the Davenport Farms parcel. The intent is just to sell Mr. Patterson enough property to where his property line doesn't run through his driveway. The portion that Mr. Patterson will be purchased will be combined with his residential parcel.

The property line that will be moved to the west will also only go as far back as Mr. Patterson's existing parcel.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Berger. Motion carried by acclamation. There being no one to speak for or against Mr. Wickizer made a motion to close the public hearing, seconded by Mr. Yoder. Motion carried by acclamation.

Mr. Wickizer made a motion to approve 20-BZA-01 DAVENPORT, Foster - A request for a Variance of Developmental Standard to allow a reduction in minimum lot width from the required 210' to 126' and a variance from the 1:3 width to depth ratio 126.34'x2658.93' to allow the neighbor ownership of his existing driveway. Located at: Parcel # 50-51-25-000-014-002-011, Quince Rd., Polk Twsp., Zoned A-1 with the stipulation that the 16' split off for Mr. Sullivan be combined with his residential parcel into one tax parcel, seconded by Mr. Voreis. Motion carried with a voice vote 5-0.

The sixth item of business was 20-BZA-02 SPRIG O MINT GOLF CLUB INC - A request for a Special Use by the Applicant Paul Golden to request a home-based business. The existing clubhouse structure would be converted over to a residence along with a small office to run the applicants existing business, Third Coast Mechanical; located at 9425 US 6, Bremen, IN 46506, North Twsp., Zoned A-1. The applicant is seeking to relocate to the subject portion of property and operate his home-based business on the parcel. He will be converting the club house in to a single-family residence and using the existing shop building for

business and storage purposes. Mr. Paul Golden, the listing agent, and Kurt Zuber. Mr. Adley presented the findings of fact.

The plan is to use the existing building for storage along with a portion to be used as office space. The specific business that will be run out of this location isn't one that will bring traffic. There are no specific hours of business. Employees come and pick up vehicles and leave. Bidding and other office duties normally occur Monday through Friday from 7am – 6pm. Currently there are two employees. In the future if there are additional employees it should not affect the location as they work off site.

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

1. Foster Davenport 14442 1st Rd. – Questioned what was going to happen with the remaining ground and if it's going to be left to overgrow with weeds. As this area will not be the applicants, he is unsure of the exact plans.

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

When asked about the portion of property Mr. Golden is purchasing if he plans to clean it up. Mr. Golden stated that he will clean up his property and keep it maintained.

The maximum number of employees would be from 2-4 with possible temporary help for specific jobs.

Mr. Wickizer made a motion to approve 20-BZA-02 SPRIG O MINT GOLF CLUB INC - A request for a Special Use by the Applicant Paul Golden to request a home-based business. The existing clubhouse structure would be converted over to a residence along with a small office to run the applicants existing business, Third Coast Mechanical; located at 9425 US 6, Bremen, IN 46506, North Twsp., Zoned A-1with the following conditions:

1. Hours of operation be Monday through Friday 7am-6pm
2. 2-4 full time employees; temporary employees are okay
3. No signage on US 6
4. The 10 acres to maintained

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

The February 11th meeting is looking as though it will be cancelled for no business. The board will be notified as such. If so, the next meeting will be March 10, 2020.

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

Respectfully submitted

Mark Wickizer

March 10, 2020
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 10, 2020, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, James Berger, Dan Voreis, Mark Wickizer and Jeff Kutch, Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes from the January 14, 2020, meeting. Mr. Wickizer made a motion to approve the minutes as written, seconded by Mr. Berger. Motion carried by acclamation.

The second item of business was 20-BZA-03 ABAIR, Jeffrey - A request for a Variance of Developmental Standard to reduce the side yard setback from the required 10'/10% to 5' in order to build a 40x30 pole barn; located at 16015 Menominee Dr., Plymouth, IN West Twsp., Zoned L-1. Mr. Jeffrey Abair was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a new 30x40x10' pole barn. Due to the septic system being located at the rear of the home, they are looking to place the accessory structure in the front yard on the east side of the home. The site plan as submitted does not indicate a drive for the proposed structure. The estimated total lot is 27,732 square feet and has an existing coverage estimate of 3,828 square feet and with the proposed 1,200 square foot building. This adds up to 5,028 square feet out of the total permissible impermeable area of 8,319 square feet. This would leave up to approximately 3,300 square feet of available coverage.

During the discussion Mr. Abair stated that with the proposed plan he would be 6’ from the house. In preparation for the project he has removed a couple trees to make this project work. When the board asked if he could move the structure forward so he wouldn’t need the variance he said that he would have to tear down a very large tree and didn’t want to have to do that.

In the back yard the area is covered by a septic system because the septic in the front yard previously failed.

The board asked if Mr. Abair would be willing to cut the width and make the building longer. He said that he could make the building longer, but would prefer to keep it the same size. He said

that he could with a 30x40 building but would like a 30x45. Because of the angle of the house and the proposed garage being parallel it would just be the front corner of the house that would be the closest to the property line.

Mr. Wickizer 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. Wickizer seconded the motion to close the public hearing, seconded by Mr. Berger. Motion carried by acclamation.

The Technical Review Committee requested denial 3-1 and wanted to make sure that property lines be verified. Mr. Abair stated that he doesn't have a survey.

Mr. Wickizer made a motion to approve 20-BZA-03 ABAIR, Jeffrey - A request for a Variance of Developmental Standard to reduce the side yard setback from the required 10'/10% to 5' in order to build a 40x30 pole barn; located at 16015 Menominee Dr., Plymouth, IN West Twsp., Zoned L-1 with the following stipulations:

1. A 30x40 garage to be parallel with existing house no less than 5' from the property line at the closest point.
2. Survey

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

The third item of business was 20-BZA-04 ALBERT, David – A request by Culver Sand Hill Farm to allow multifamily residential as a permitted use for said parcel, located on Parcel # 50-52-95-402-413-000-010 South Michigan St. Lapaz, North Twsp., Zoned C-2. Mr. David Albert and Mr. Kevin Berger was present to represent their request. Mr. Adley presented the findings of fact.

In accordance with the Stellar Initiative, the Quality of Life(QoL) Plan set out a Housing Development in the Town of Lapaz. The proposal is to create a 20-24 unit Low Income Housing Tax Credit apartment building, per the plan. The current proposed site plan has a future commercial building built up to the road and two townhome style structures in the middle of the property with a community building. The drainage would be going to the eastern portion of the property. The proposal has amended slightly in design from the QoL Plan, but the intentions are still the same.

Mr. Berger stated that the reason he is requesting a variance rather than re-zoning is because the project hasn't been approved by the state and didn't want to change the zoning if it doesn't go through.

With the various state programs, they would like to have somewhere between 8-24 units. Since the lot is bigger than needed there may be area along the road to put up a commercial structure.

Ownership of the facility is between the investors and Mr. Berger has only 1% ownership. Maintenance will be done by a facility they've used before.

The proposed facility will be income based.

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

1. Mr. Roger Ecker – Lapaz Town Council President – Is in favor of the request. Would like growth in the town and hopes to score well in the Stellar program.

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

Mr. Kutch made a motion to approve 20-BZA-04 ALBERT, David – A request by Culver Sand Hill Farm to allow multifamily residential as a permitted use for said parcel, located on Parcel # 50-52-95-402-413-000-010 South Michigan St. Lapaz, North Twsp., Zoned C-2, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The fourth item of business was 20-BZA-05 ALBERT, David - A request by Culver Sand Hill Farm to reduce the front yard setback from the required 50' to 20' to allow for a multifamily residential structure, located on Parcel # 50-52-95-402-413-000-010 on S. Michigan St., Lapaz, North Twsp., Zoned C-2. Mr. David Albert and Mr. Kevin Berger was present to represent their request. Mr. Adley presented the findings of fact.

The subject parcel is a corner lot at the intersection of Michigan Street and Troyer Street. The applicant has is seeking to reduce the scale and make the streetscape more walkable. The 50' setback would reduce the buildable space, which makes a difference when the parcel is approximately 200' across.
There being no further business, a motion was made to adjourn and seconded. The Motion was passed by a voice vote.

Mr. Adley clarified that being the lot is on a corner there are two road setbacks one to the north and one to the west which is why a variance is needed from the 50’ setback to 20’. In comparison to downtown where all the storefronts are close to the roadway their plan is similar and hopes to look uniform and be welcoming. When addresses are issued, they will be on Troyer Street.

During the original application pictures were submitted from the Culver Sandhill Project. Since new pictures and plans were proposed at the meeting. The current plan is to have more town homes with porches and patios. When asked about the commercial building, Mr. Berger stated that he can’t see putting in a commercial building until the town gets existing storefronts filled.

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

2. Mr. Roger Ecker – Lapaz Town Council President – Is in favor of the request. Would like growth in the town and would also improve the growth of the schools.

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

Mr. Kutch made a motion to approve 20-BZA-05 ALBERT, David - A request by Culver Sand Hill Farm to reduce the front yard setback from the required 50' to 20' to allow for a multifamily residential structure, located on Parcel # 50-52-95-402-413-000-010 on S. Michigan St., Lapaz, North Twsp., Zoned C-2, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

Mr. Berger invited the board to go to Culver and see Sandhill Farms.

The Board of Zoning Appeals next meeting is scheduled for April 14th at 7:30 pm and there will be six cases.

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

Respectfully submitted

Mark Wickizer

May 12, 2020
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 12, 2020, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, James Berger, Dan Voreis, Matt Miller (via zoom) and Jeff Kutch (via zoom), Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes from the March 10, 2020, meeting. Mr. Berger made a motion to approve the minutes as written, seconded by Mr. Kutch. Motion carried by acclamation.

The second item of business was 20-BZA-06 HEPLER, Charles Devon and Carolyn - A request for a Variance of Developmental Standard to allow two additional parcels to be split out that do not meet the 1:3 width to depth ratio; located at 1772 8th Rd., Bourbon, IN Bourbon Twsp., Zoned A-1. Devon Hepler and Chuck Hepler was present to represent their request. Mr. Adley presented the findings of fact.

The subdivision is currently being held until such time the variance is either approved or the dimensions meet the standards. The entire tract is approximately 160 acres. The northern 80 is be sought to be divided approximately 700' by 2600'.

There is an estate that is trying to be closed and to accomplish that the above was proposed.

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

1. David Stackhouse – 1210 8th Rd., Bourbon No objection to the requested variance.

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

Mr. Kutch made a motion to approve 20-BZA-06 HEPLER, Charles Devon and Carolyn - A request for a Variance of Developmental Standard to allow two additional parcels to be split out that do not meet the 1:3 width to depth ratio; located at 1772 8th Rd., Bourbon, IN Bourbon Twsp., Zoned A-1, seconded by Mr. Voreis. Motion carried with a voice vote 5-0.

The third item of business was 20-BZA-07 VIRGIL, Kaela - A request by Scott Virgil for a Variance of Developmental Standard to reduce the required road right of way setback from 50' to 22' in order to allow for a home addition to home that currently does not meet this standard, located at: 2051 18th Road, Tippecanoe, IN Zoned A-1, Tippecanoe Twsp. Mr. Scott Virgil was present to represent his request. Mr. Adley presented the findings of fact.

The applicant has an existing house that is approximately 22' from the edge of the right of way and they are seeking to build a 2 story 20'x25' addition onto the home for a living room addition, new bathroom, game room, and office upstairs. The proposed addition would not be any closer to the road than what already exists. The addition is also unable to be moved back into the property due to the existing layout of the house.

Mr. Miller asked if there was going to be a porch protruding closer to the road. Mr. Virgil said no.

Mr. Berger made a motion to open for public hearing, seconded by Mr. Voreis. Motion carried by acclamation. There being no one to speak for or against Mr. Voreis moved and Mr. Berger seconded the motion to close the public hearing.

Mr. Voreis made a motion to approve 20-BZA-07 VIRGIL, Kaela - A request by Scott Virgil for a Variance of Developmental Standard to reduce the required road right of way setback from 50' to 22' in order to allow for a home addition to home that currently does not meet this standard, located at: 2051 18th Road, Tippecanoe, IN Zoned A-1, Tippecanoe Twsp. , seconded by Mr. Berger. Motion carried with a voice vote 5-0.

The fourth item of business was 20-BZA-08 HATFIELD, Matthew - A request by Demont Construction for a Variance of Developmental Standard to reduce the required right of way standard from 50' to 36.98' to allow an addition to the existing residence, located at: 7313 18th Rd., Argos, IN Walnut Twsp., Zoned A-1. Mr. Matthew Hatfield and contractor, Dan Demont of Demont Construction was present to represent his request. Mr. Adley presented the findings of fact.

Per the application the existing home is located 28.98' from the right of way and the addition will be located 8' further back which will put the new construction at 36.98' from the right of way. The required setback is 50'.

Mr. Demont stated that the addition will not extend past the existing home when asked by the board.

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

Mr. Kutch made a motion to approve 20-BZA-08 HATFIELD, Matthew - A request by Demont Construction for a Variance of Developmental Standard to reduce the required right of way standard from 50' to 36.98' to allow an addition to the existing residence, located at: 7313 18th

Rd., Argos, IN Walnut Twsp., Zoned A-1, seconded by Mr. Voreis. Motion carried with a voice vote 5-0.

The fifth item of business was 20-BZA-09 COOPER/BORDER-A request for a Variance of Developmental Standard splitting off 19.25 acres that will not meet the 1:3 width to depth ratio; located at: 4655 SR 10, Tippecanoe, IN Tippecanoe Twsp., Zoned A-1. Mr. Brent Cooper was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to subdivide 19.25 acres out of the 80-acre parcel, which would be everything west of the William Horn ditch. The parcel would be approximately 540' by 1800'.

Mr. Cooper stated that the proposal to split will be along the west side of the ditch.

Mr. Berger 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. Voreis moved and Mr. Berger seconded the motion to close the public hearing.

Mr. Voreis made a motion to approve 20-BZA-09 COOPER/BORDER-A request for a Variance of Developmental Standard splitting off 19.25 acres that will not meet the 1:3 width to depth ratio; located at: 4655 SR 10, Tippecanoe, IN Tippecanoe Twsp., Zoned A-1, seconded by Mr. Berger. Motion carried with a voice vote 5-0.

The sixth item of business was 20-BZA-10 HALL/BIERY - A request for a Variance of Development Standard to allow parcel 50-23-20-000-007-000-015 to be split and combined with 18738 Ironwood Rd. which does not meet the 1:3 width to depth ratio, located at: Ironwood Rd., Walnut Twsp., Zoned A-1. Mr. Hall was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to subdivide the parcel of 73 acres approximately in half. The proposed parcel would be an estimated 650x2600'. The applicant is splitting it with their sibling and rather than splitting east/west they are electing to split it north/south and would be combining the tilled ground with their existing 3-acre parcel.

The property was surveyed and going to be split north and south. After meeting with an attorney of a sibling the attorney stated it had to be split east and west. The southern property will be combined with the existing property owner.

Mr. Berger 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. Voreis seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Berger made a motion to approve 20-BZA-10 HALL/BIERY - A request for a Variance of Development Standard to allow parcel 50-23-20-000-007-000-015 to be split and combined with 18738 Ironwood Rd. which does not meet the 1:3 width to depth ratio, located at: Ironwood Rd., Walnut Twsp., Zoned A-1, seconded by Mr. Voreis. Motion carried with a voice vote 5-0.

Marshall County Board of Zoning Appeals
May 12, 2020

The seventh item of business was 20-BZA-11 LEMLER, Todd & Gayla - A request for a Variance of Developmental Standard for two pullet barns that do not meet the distance standards of 1,320' with a CAFO; located at 50-34-04-000-011-000-001, Bourbon Twsp., Zoned A-1. Mr. Todd Lemler and John with Ag Innovations was present to represent their request. Mr. Adley presented the findings of fact.

Based on the information provided, the applicant is seeking to construct 44,000 head pullet barns. CFO's have a 1,320' setback from residences that are not on the subject parcel, and for this particular project that are within that space that range from 491'-1,300'.

When asked why this location Mr. Lemler stated that there is no other location as the only other property he owns already has a pullet barn on it. Then asked if the barn could be moved on this parcel to be further away from residences and Mr. Lemler responded saying that there is such a big drop off on the property that this seemed to be the best location.

Mr. Lemler's residence is located about 3 miles from this location. Mr. Lemler went to a couple of the neighbors and showed them the proposal. At that time, they didn't have a problem with the request.

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

1. Richard Stutsman – 324 9 B Rd. Bourbon – Has a concern about property values and a concern about future rezoning.
2. Jeremy Borkholder – 7414 N 1100 W – Concerned about the smell and property values. Doesn't haven't any difficulties with the applicant. Would like to have it further away from residences. Where he is located the wind comes from the west and knows he will be downwind of the barn.
3. Norman Borkholder – 7206 N 1100 W – The applicant did come and talk to him. He explained he didn't have a problem with it as long as he didn't smell manure. Also has a concern about flies. He has had a business at this property for over 56 years and doesn't want there to be any issues that deter his customers. He has no problems with the applicant. Feels it is just too close. Believes the ordinance should be followed.

   Mr. Lemler replied saying that he wouldn't want there to be a smell their either. He has already contracted with someone to take the manure and will follow all regulations.

4. Skylar Doll – 7426 N 1100 W – Has a concern with the smell. Has driven past the other barn and can smell the manure. The decrease in property values is also a concern. There will also be an increase in traffic. As far as a visual believes it's going to be an eyesore.
5. Greg Eads – 251 9 B Rd – His concern is the smell and the flies. Questions how far these buildings are from the county ditch. Also, doesn't want property values to decrease.

6. Jospeh Borkholder ?– Not in favor of the request as it will be too close the residences. Has a concern about smell and flies. Would also create a hardship for neighboring properties to sell if they wish to do so.
7. David & Barbara Shively – 10537 W Anglin Rd. – Knows the applicant and believe they should be able to build their barns as requested. Believes they will keep the property neat and clean and obey the rules.
8. Richard & Rosanna Stutsman – Has a concern about the smell of the buildings, the close proximity to their property, the sound of the pullets, and property resale value. If they can't meet the ordinance requirements, they wish for the request to be denied.
9. Greg Eads 251 9 B Rd. – Wanted to contest the request as it's too close to their property. Their concern is the noise, fecal contamination and smell, as well as the decrease in property values. Don't wish to see, hear or worry about extreme amount of ammonia near their drinking water. Believe there has to be other options and less invasive.
10. Tony Watkins – Concerned if the barns will be near the drainage tile. Understand that they wanted to install natural gas pipelines to chicken houses this will be a disruption to the landowner's property. Property houses values would decline. Air pollution would be a big problem with these many chickens. There is already a disruption to back forty banquets and shooting. Noise pollution would also be a detriment to the homes near the barns. Where will these chickens go to after they are matured, will they go their other farm? Concern about additional barns. Also worries about the safety of neighboring children with the increase in traffic. Has a concern about increase in electric usage and they've already noticed a decline when the other barn was put in.

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

As far as flies go, they use a parasite at the layer barn. It works very well and they do weekly fly count. It's not only a nuisance to others but would be a nuisance to them as well. They key is to keep the parasites out and start earlier than the fly season starts.

When questioned about the concern with the smell at their residence it would be from the calf barn, not the chicken barn as it's 400' off the road. Chicken's don't have the odor like calf's do.

They do have a plan to plant arborvitae around the buildings to create a screen and contain any possible smell. The ventilation will go through a chimney and will go up instead of out the wall as older buildings do. This is a European ventilation system that is state of the art. This is supposed to be better than any other ventilation systems.

There will be 2-3 trucks per week coming from the northeast. The chickens will be moved 2-3 times per year. Todd is one of the best growers they have. This design is new to them and better than anything they've seen in the area.

A pullet barn is very different from a layer barn in the amount and type of manure generated. The birds are out of the barn 16 weeks of age. There are 100's of audits done on barns a year. This will not have a pit. There will be a building used for storage built with concrete under roof. The requirement is to have a building that will hold 180 days of manure on any CFO. The

buildings will be located at the inside of the L to eliminate the possibility for the smell to go anywhere.

Doesn't believe their will be an issue with smell. Hasn't had one complaint or violation in over 4 years.

Can't build this on the other location because it's in the flood plain. There is a county main tile that runs through the property.

Mr. Gustafson explained that he wants to encourage farming in these A-1 zones. Being so close to all these residences is the biggest concern. Questioned if there is anyway the barns could be relocated on the homestead. Mr. Lemler said no. Water runs through the open area of the property and would disrupt the flow of the water. When asked what IDEM's side yard setback Mr. Lemler stated that the requirement from IDEM is 100'. Mr. Lemler explained to the board that the property where his residence is just became certified organic the beginning of this year.

Mr. Miller made a motion to deny the request 20-BZA-11 LEMLER, Todd & Gayla - A request for a Variance of Developmental Standard for two pullet barns that do not meet the distance standards of 1,320' with a CAFO; located at 50-34-04-000-011-000-001, Bourbon Twsp., Zoned A-1, seconded by Mr. Kutch. Motion carried to deny 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

Mark Wickizer

May 14, 2020
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 14, 2020, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, James Berger, Matt Miller, Mark Wickizer and Jeff Kutch (via zoom), Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The first item of business was 20-BZA-12 SWANSON, Patricia - An Administrative Appeal to allow an extension to grandfather time or public vacation way to allow a rebuild of a garage on an existing foundation that crosses property lines and an alley; located at 18686 SR 331, Tippecanoe, IN Zoned T-1. Ms. Patricia Swanson was present to represent her request. Mr. Adley presented the findings of fact.

TRC recommendation was that they affirm staff's decision.

Ms. Swanson stated that she didn't know she only had one year to rebuild after the fire. If she would have known that she would have pursued building it sooner. In addition, due to finances it has taken awhile to save the money up to re-build. Would also like to rebuild on the existing foundation to save money.

Mr. Adley explained that the structure was built over an alley and over property lines. Assuming it was grandfathered and/or built to regulations at that time. Based on the Marshall County Ordinance the staff interprets that you have a year to reconstruct whatever had been grandfathered due to flood, fire, etc. Once it goes past that time the staff believes it needs to come into conformance with today's regulations. If she were to build it today, she will need to fit it on one of the 9 lots that the applicant owns or she would be able to combine the 9 lots and vacate the alleyway. In the past you could build across a lot line if you signed a Contiguous Lot Form and record it. The definition of a lot has been amended and you cannot build over a property line anymore.

Ms. Swanson wanted to grandfather this so she didn't have to pay for a surveyor. With the fire and divorce it was a lot all at once.

Mr. Wickizer stated, "So you've missed your yearly window or it would have been approved."

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

Mr. Gustafson believes there is a way to do this, but it's through vacating the alleyway and combining the properties.

Mr. Wickizer made a motion to approve the request for Administrative Appeal 20-BZA-12 SWANSON, Patricia - An Administrative Appeal to allow an extension to grandfather time or public vacation way to allow a rebuild of a garage on an existing foundation that crosses property lines and an alley; located at 18686 SR 331, Tippecanoe, IN Zoned T-1, seconded by Mr. Miller. Motion carried with a voice vote 4-1 with Mr. Gustafson voting against.

The second item of business was 20-BZA-13 WHITE, Timothy - A request for a Special Use to run a home-based business with a secured fenced in storage lot behind the residence for towed vehicles to be impounded; located at: 20339 7th Rd., Plymouth, IN West Twsp., Zoned A-1. Mr. Timothy White was present to represent his request. Mr. Adley presented the findings of fact. Mr. Timothy White was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to approve a towing business that had recently started and is wanting to create a 50'x50' storage lot for various towed vehicles.

The plan to prevent fluid from getting to the ground is to lay down black plastic under the gravel along with a chain link fence with black tarp so people can't see in along with 2 strands of barbed wire on the top. Financial institutions are requiring this type of a secured lot to impound their cars. There is no plan to keep cars outside the fenced area. There will be no long term parking at this site. A couple days at the most. He anticipates 5 to 6 cars per week.

When discussing the size Mr. White believes that 20 cars will fit in this size of lot. If additional lot storage is needed, he would look into a more commercial setting.

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

1. Lyle Samuelson - 7009 Queen Rd., - Owns property surrounding his tract and believes he does a good job and is conscientious. As far as the septic his current system is outside the lot area proposed.
2. Michael Samuelson - 20294 7th Rd. - Neighbor and is in favor of the request.
3. Phillip Doolittle – 613-2 N. 70 E Valparaiso - Owns property near and is in favor of the request. Encouraged by young people starting businesses.
4. Stacy White – 20339 7th Rd., - This is his dream and has been doing very even through the current situation of COVID. Questioned the board if 50'x50' was not enough. They explained that they would need to come back before the board.
5. Thomas Feece – 7509 Union Rd. - Not in favor of the request as there is a concern for traffic and safety.

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

When asked what department would know the requirements of the containment of fluids Mr. Adley responded saying that the Marshall County Health Department and IDEM.

Mr. White confirmed to the board that all vehicles will be stored inside the fence. The only vehicles outside the fenced areas will be personal vehicles.

Mr. Wickizer made a motion to approve 20-BZA-13 WHITE, Timothy - A request for a Special Use to run a home-based business with a secured fenced in storage lot behind the residence for towed vehicles to be impounded; located at: 20339 7th Rd., Plymouth, IN West Twsp., Zoned A-1:

1. Vehicles inside the fence
2. Fluids contained as per local and state regulations
3. Proper fence

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

The third item of business was 20-BZA-14 CZAJKOWSKI, Michael & Brandi - A Special Use requesting to build a 112x64 building to store dump trucks trailers and excavating equipment as well as some personal property such as boat, camper etc. for personal business; located at: 6984 Filbert Rd., Bremen, IN Zoned A-1, German Twsp. Mr. Michael Czajkowski was present to represent his request. Mr. Adley was present to represent his request.

The applicant is seeking to construct a 112'x64' shop for their excavation business and some personal storage. The business only has 2 employees year-round.

The equipment and truck and trailer that will enter the building will enter from the overhead doors on the west side of the structure. In order to make this turn to back them in there is actually a pre-existing culvert that is towards the north of the parcel to be built on. That would be the area that would require a right hand turn to align up and back into the building. The 5' would make that adequate as well as to keep the from encroaching on the right of way of the road. There will be no parking outside of the building. All equipment and storage will be inside only. Going from 20' to 15' should allow for adequate maintenance of the building as well as maintenance of piping and water run-off.

There is an approved drainage plan that will route the storm water form the rear (west) side of the building along the south side and will have a small retention space towards the road where it will eventually filter into the roadside ditch heading southbound and then east.

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

1. Glenn Woodward – 6984 Filbert Rd. - Would ask that there be adequate drainage that would release the water slower so that a field tile can handle the water and prevent

flooding of the farm field. In recent years there has been several buildings built that have caused flooding and erosion or crop damage by excessive amounts of water coming from the roofs of these buildings during heavy rainfall.

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

There will be gutters and downspouts that will be routed to the west side of the property. Property owner spoke with Mr. Woodward prior to even applying. Responded saying he didn't have any problems just not to flood the field. Then spoke of some other similar issues. Mr. Czajkowski assured him he would be a good neighbor as they share some of the same drainage tile through other properties and would honor to not flood his fields.

Mr. Berger made a motion to approve 20-BZA-14 CZAJKOWSKI, Michael & Brandi - A Special Use requesting to build a 112x64 building to store dump trucks trailers and excavating equipment as well as some personal property such as boat, camper etc. for personal business; located at: 6984 Filbert Rd., Bremen, IN Zoned A-1, German Twsp, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The fourth item of business was 20-BZA-15 CZAJKOWSKI, Michael & Brandi - A request for a Variance of Developmental Standard to reduce the rear yard setback from the required 20' to 15' to build a pole barn to house personal and business equipment that needs adequate space for maneuvering and backing up of trailers; located at: 6984 Filbert Rd., Bremen, German Twsp., Zoned A-1. Mr. Michael Czajkowski was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a 112'x64' pole barn for their business and are seeking to reduce the rear yard setback from 20' to 15'.

The equipment and truck and trailer that will enter the building will enter from the overhead doors on the west side of the structure. In order to make this turn to back them in there is actually a pre-existing culvert that is towards the north of the parcel to be built on. That would be the area that would require a right hand turn to align up and back into the building. The 5' would make that adequate as well as to keep them from encroaching on the right of way of the road. There will be no parking outside of the building. All equipment and storage will be inside only. Going from 20' to 15' should allow for adequate maintenance of the building as well as maintenance of piping and water run-off.

There is an approved drainage plan that will route the storm water from the rear (west) side of the building along the south side and will have a small retention space towards the road where it will eventually filter into the roadside ditch heading southbound and then east.

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

2. Glenn Woodward – 6984 Filbert Rd. - Would ask that there be adequate drainage that would release the water slower so that a field tile can handle the water and prevent flooding of the farm field. In recent years there has been several buildings built that have caused flooding and erosion or crop damage by excessive amounts of water coming from the roofs of these buildings during heavy rainfall.

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

There will be gutters and downspouts that will be routed to the west side of the property. Property owner spoke with Mr. Woodward prior to even applying. Responded saying he didn't have any problems just not to flood the field. Then spoke of some other similar issues. Mr. Czajkowski assured him he would be a good neighbor as they share some of the same drainage tile through other properties and would honor to not flood his fields.

Mr. Berger made a motion to approve 20-BZA-15 CZAJKOWSKI, Michael & Brandi - A request for a Variance of Developmental Standard to reduce the rear yard setback from the required 20' to 15' to build a pole barn to house personal and business equipment that needs adequate space for maneuvering and backing up of trailers; located at: 6984 Filbert Rd., Bremen, German Twsp., Zoned A-1, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The fifth item of business was 20-BZA-16 MARTINDALE, Paul & Kristi - A request for a Variance of Developmental Standard to allow a 9'x10'x8' storage seating area 1' from the water and a 0' south side yard setback on the existing deck, located at: 10255 Pretty Lake Tr., West Twsp., Zoned L-1. Mr. Paul Martindale was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to reduce the rear and side yard setback in order to construct a 9x10 permanent/semi-permanent structure. The proposed structure would be used for seating and storage The property lines appear to be off based on the GIS line sand satellite imagery not quite aligning. The floodplain level also appears to step into the property if only by a foot or two. There is approximately a 12' grade change from the upper deck to the lower deck where the proposed 8' structure will be located.

Would like to have a small (8'x10') structure to store items and use as a little tiki building. The actual people that it would affect has no problems with the request.

When asked in comparison to the proposed building to the existing deck what is the height difference is, he said there's a difference of about 2'.

From the property line to where the proposed building will be it is probably about 2' from the side yard.

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

1. Greg Payne – 10243 Pretty Lake Tr., - Is only speaking against because of the setback. Just built a property that the 45' from BFE was strictly enforced. Pretty Lake is very concerned with the setbacks because of the closeness of the properties. Also, speaking for in case he is approved for this that opens up and allows for others to have storage buildings. Everyone around the lake would love the availability to have storage closer to the lake than the required 45'. If this were approved would it be able to be used by other property owners as leverage for further variances.
2. Chris & Kathleen Flynn Fox – 1021 Pretty Lake Tr., - Wrote letter to oppose the request. Objection falls in 2 categories Ordinance – the ordinance does not provide for any exceptions for storage buildings, sheds, or seating areas within the 45' lakeside setback and Criteria for Approval – believes that practical difficulty has not been met. The other objection is that there is no need or hardship. Having a tiki bar to host is not considered a need or a hardship. Over the years, storage sheds and other structures have been built very close to the shoreline without building permits. They are now grandfathered in. Most are now in disrepair and are falling into the lake.
3. Brad Serf – Pretty Lake Property Owner's Association President – The Pretty lake Property Owner's board of directors opposes any variance of developmental standard in the absence of a practical difficulty in the use of the property as outlined in the ordinance. Believes that the ordinance should be strictly enforced to protect the natural environment of the lake, the shoreline views of neighbors and the overall appearance of the beautiful lake.
4. Tom & Audrey Heneghan – 10265 Pretty Lake Trl – Requests to oppose for the following reasons: structure does not meet the Marshall County Lake Residential Ordinances and the adjacent property value and shorelines views would be impacted.

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

Mr. Martindale understands and didn't want to cause any problems.

Mr. Miller made a motion to deny 20-BZA-16 MARTINDALE, Paul & Kristi - A request for a Variance of Developmental Standard to allow a 9'x10'x8' storage seating area 1' from the water and a 0' south side yard setback on the existing deck, located at: 10255 Pretty Lake Tr., West Twsp., Zoned L-1, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0 to deny.

The sixth item of business was 20-BZA-17 SMITH, Cameron & Amy Pollock - A request for a Variance of Developmental Standard to reduce the lakeside setback from the required 45' from BFE to 20' from the shore in order to install an in ground pool and a retaining wall; located at: 14337 Lawrence Lake Dr., Plymouth, Center Twsp., Zoned L-1. Mr. Cameron Smith and Ms. Amy Pollock were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a in-ground pool behind a retaining wall. The structure is proposed to be 20' from the shore line and will be approximately 10' out of the base flood elevation.

Believes the request isn't out of character for this lake. There are other pools and retaining walls around the lake. If there is a concern about pool chemicals, they will adhere to stopping chemical add in's at least 5 weeks prior to reducing water from the pool and will also make sure the water will be routed to the roadway.

When asked about start of construction Mr. Smith explained that he has a brick laying business and when COVID started he believed this was the safest solution plus it would keep at least half of his employees busy and being paid so he had them start laying bricks on his property.

When asked about the difference between a previous lake residential request and this request Mr. Adley stated that this is an in-ground structure whereas the other was a vertical structure that would go up as well as the reduction in setback was drastically different.

The pump, filtering system and chemicals will be housed inside a concrete room next to the pool with a stairway above it. The pool will be covered in the winter and the water dropped down 6-8 inches as per suggestions from the installer.

The septic system is directly behind the home and has met all the requirements of the Health Department. A second location for an alternate system is a empty lot across the street.

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

1. Dr. John Bernero – 14403 Lawrence Lake Dr., Plymouth – Dr. Bernero spoke and gave a letter of his opposition to the request. Referenced the Marshall County Comprehensive Plan Chapter 3 of the importance that the lakes be protected from overdevelopment and contamination. Concerned about impervious coverage, water quality of the lake, alterations to the shore line can alter the habitat and water quality. Nine people signed the petition.
2. Mitch Lawrence – 14096 Lawrence Lake Dr., Plymouth – Lives in the area and based on his professional and personal experience with Mr. Smith and his masonry improvements he makes to his property will look very professional and could only improve his and his neighbor's property values. In favor of the request.
3. Cameron Smith – Presented a list of names in favor of their request with 21 different names.
4. Patricia Harness – 12667 Nataka Tr., Plymouth – In favor of the request as they see they are increasing their own property values which will in turn increase their property values.
5. Rod & Nancy Kubley – 14365 Lawrence Lake Dr., Plymouth – No objection to the building project of their neighbors. Their intention is to enhance their property, and we feel their addition is not detrimental to the value of our property in any way.
6. John & Barbara Huffman – 14329 Lawrence Lake Dr., Plymouth – In favor of the request. Knows Mr. Smith's quality work. The project will improve the quality and value of their property so they approve it.

Mr. Miller made a motion to close the public hearing, seconded by Mr. Wickizer. Motion

carried by acclamation.

Mr. Gustafson stated that he felt Mr. Smith as a business owner should have known to have a approved permit before starting construction.

Mr. Adley explained that the retaining wall isn't what is being applied for approval it's only the pool. The retaining wall is a topographical element. It's not a structure. At this point in time the wall is just that a wall. If the pool is permitted it will be turned into a pool. If not permitted it will be a retaining wall. Retaining walls don't require a permit.

Mr. Smith has been talking with the Plan Commission office since March. During that time the applicant spoke with each neighbor about the proposed retaining wall and pool and neither of them had a problem with the request.

Security of the pool can be done through fencing or locked covers. The plan for this pool will be a locked cover.

Mr. Berger made a motion to approve 20-BZA-17 SMITH, Cameron & Amy Pollock - A request for a Variance of Developmental Standard to reduce the lakeside setback from the required 45' from BFE to 20' from the shore in order to install an in ground pool and a retaining wall; located at: 14337 Lawrence Lake Dr., Plymouth, Center Twsp., Zoned L-1, seconded by Mr. Wickizer. Motion carried with a voice vote 3-2.

Other business: Wanted clarification (permits must be applied for all associated structures or removed within given time frame established by BZA (See Item 2) 2. Required to get permit for new structures including decks (going forward). There was a new trailer moved near the water before the meeting. There is one interpretation that it should have been moved based on this motion. Staff's interpretation is that everything existing as of that night was approved as it sat and should anything from that date change it would have to fall into the requirements set forth by the TRC by these conditions. If it was outside those it wouldn't be permitted to come back. So, there would be nothing new essentially outside of permittable setbacks etc. Looking for the board's affirmation of the board's interpretation of this. Mr. Wickizer stated that he made the motion and agrees with staff's interpretation. The remaining board agrees with Mr. Wickizer' s interpretation.

Mr. Wickizer made a motion to approve 19-BZA-05 BERG, Timothy & Barbara – A request for a Variance of Use to allow an existing campground which is named Lakeside Campground; located at 16999 12th Rd., Plymouth, IN Zoned L-1 West Twsp. with the following conditions:

1. ***Must meet TRC recommendations*** *- Compliance and approval by state and local departments including but not limited to ISDH, IDNR, and MCHD. All new trailers including the most recent two meeting the setback requirements for the L-1 Lake District (30' from 10'/10% side, and 45' rear). One trailer is located on the lake side on the southwest corner of the property and the other is towards the center of the property.* ~~*Permits must be applied for all associated structures or removed within given time frame established by BZA.*~~*(See Item 2)*
2. ***Required to get permit for new structures including decks (going forward)***
3. ***When existing trailers are moved, they need to meet current setback requirements***

Seconded by Mr. Hostetler. Motion carried with a voice vote 4-0.

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

Respectfully submitted

Mark Wickizer

June 9, 2020
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 9, 2020, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, David Hostetler, Matt Miller, Mark Wickizer and Jeff Kutch, Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The first item of review is the minutes from the May 12, 2020 meeting. Mr. Miller made a motion to approve the minutes as presented, seconded by Mr. Wickizer. Motion carried by acclamation.

The second item of review is the minutes from the May 14, 2020 meeting. Mr. Wickizer made a motion to approve the minutes as presented, seconded by Mr. Wickizer. Motion carried by acclamation.

The third item of business was 20-BZA-18 DAVIS, William - A request for a Variance of Developmental Standard to reduce the lakeside setback from the required 45' to 32' and the north side yard setback from the required 10' 10% to 6' in order to add on a screened in porch; located at: 3681 Lakeshore Dr., Bremen, IN Zoned L-1. Mr. Wm. Davis and contractor Mr. Matt Coffel were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a screened in porch on the lakeside of the property. The proposed construction would be taking place within the rear yard setback and thus is before the Board.

Mr. Coffel stated that he recently heard from the surveyor that the existing property line to the structure is 10'4 to the north property line. Therefore, there is no need for a side yard setback reduction.

Mr. Coffel stated that adjacent property lakeside setbacks range from 27'-32'. Even with the addition the neighboring property owner will not loose view from the lake. There is 20' between the houses.

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

1. Marcia Heintzberger – 3669 Lakeshore Dr. Bremen – Lives two houses away. Didn't understand the north side yard setback. The board explained that the proposal isn't getting any closer to the side yard setback. Questioned how far the proposed addition

will come out. The board explained that the proposed addition will come out 2' further than the existing deck. The existing deck will be replaced, but will be the same size.

2. Casandra Schafer – 3675 Lakeshore Dr., Bremen – Own's the brown house adjacent to the proposed addition. Has a concern about the reduction in view and decrease in property value.
3. James Prast – 3717 E. Lakeshore Dr., Bremen – Concern over lost lake views. Once the addition goes up, he will no longer see the brown house.
4. Sherry Cazangiu Nash – 3675 Lakeshore Dr. Bremen – Does not want to lose the existing view of the lake they have had since 1965. Believes it will also hinder property values.
5. Lesly Cazangiu Brock – 3675 Lakeshore Dr., Bremen - Does not want to lose the existing view of the lake they have had since 1965. Believes it will also hinder property values.

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

Mr. Coffel explained again that there will be no encroaching into the north side yard setback as it already meets the setback requirements. The request will only go out 2' further past the existing deck. It will only be a screened in porch and will be able to see through. It will not be a solid structure.

The board explained that the ordinance is there for a reason and wondered if there was another location, they could put this screened in porch that wouldn't impede the neighbors view.

The applicant stated that by putting the screened in porch where the deck is would limit any sunlight from coming in the house.

Mr. Wickizer asked if the applicant would consider a reduction in addition size to 8' and Mr. Davis said, yes.

Mr. Kutch made a motion to deny <u>20-BZA-18 DAVIS, William -</u> A request for a Variance of Developmental Standard to reduce the lakeside setback from the required 45' to 32' and the north side yard setback from the required 10' 10% to 6' in order to add on a screened in porch; located at: 3681 Lakeshore Dr., Bremen, IN Zoned L-1, seconded by Mr. Wickizer. Motion carried 4-1 to deny the request with Mr. Hostetler voting against.

The fourth item of business was <u>20-BZA-19 KLEESPIE, Isaac -</u> A request for a Special Use by Dennis & Josie Elliot to allow a single wide trailer in a T-1 zoning, located at: 3162 18B Rd., Tippecanoe Twsp., Zoned T-1. Mr. Isaac Kleespie was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to place and live in a single wide mobile home with the T-1 Residential district. The only mobile home type that is permitted within the district is double wide's.

Mr. Kleespie acquired this property after the death of a family member. There was a single wide trailer on the property with a freestanding roof over it. Once it was acquired, he tore down the structures and removed them off the property. He had no understanding that he couldn't

replace what was already there. He had someone interested in the property and they would like to place another side wide on the property.

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

1. Elaine Elliott – 19988 Hickory Rd., Argos – Is the proposed purchaser of the lot that wants to place a single wide on the parcel. The trailer that was purchased is larger than the one that was there. The size is a 16x80 and meets all the requirements of the ordinance. It is a 3 bedroom 2 bathroom trailer. It will also meet the requirements of the existing septic tank that's on the property as she's already checked with the Health Department. The year of the trailer is 1998. Doesn't understand why her family is being considered "riff raff".
2. Lois King – Mother owns the property to the west – Representing their home of over 50 years. Were told 20 years ago at a hearing that once the trailer was moved out that another trailer couldn't be moved back on that property. Doesn't see how a bigger trailer will even fit on the property. The Plan Commission office did receive a call from the King's, but twenty years is a big-time frame to try to find said statements.
3. Noretta – Owns the neighboring property to the west – Requesting that the board doesn't allow another trailer on the property. Also said there is no room for another trailer.
4. Rodney Howell – Mother owns the property to the west – The proposed will decrease the property values of their mother's property.
5. Bonnie Barrett 3195 18 B Rd Tippecanoe – Doesn't want her property values to go down. It's a single wide trailer that they are proposing and single wide's aren't allowed.
6. Walker Barrett 3333 Walker Dr. – There are no other trailers on that section of town until you cross the river. Is against it as it's never been kept up. Has bought several properties in the area to help clean the town up. Is a part of the Tippecanoe Improvement Association trying to clean properties up in their town. Believes because there is no police in their town it brings "riff raff". Trying to improve this town please don't approve this.

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

Mr. Kleespie stated that the Elliott family has been around Tippecanoe for very long period of time. Believes it is wrong for people to say that this family would not take care of the property. He could end up selling the property to someone who puts a double wide on the property that could have no ties to the community and make everything go bad too. Believes that everybody wants green grass next to them. There has been additional cleaned up since these pictures were taken.

The board stated that their decision didn't have anything to do with comments such as "riff raff".

Mr. Kleespie stated that he wants someone who take care of this property and keeps it clean.

Mr. Miller made a motion to deny the request <u>20-BZA-19 KLEESPIE, Isaac -</u> A request for a Special Use by Dennis & Josie Elliot to allow a single wide trailer in a T-1 zoning,

located at: 3162 18B Rd., Tippecanoe Twsp., Zoned T-1, seconded by Mr. Wickizer. Motion carried by voice vote 5-0.

The fourth item of business was 20-BZA-20 MILLER, Marlin - A request for a Special Use to allow a home-based business of tool sharpening; located at: 5649 SR 331, Bremen, IN 46506 Zoned A-1. Mr. Marlin Miller was present to represent his request. Mr. Adley presented the findings of fact.

The applicant has been in operation for over 30 years sharpening tools and from staff records has not been approved previously.

The basic operation is pick up and delivery. The only other person at the site working is the applicant's son. There are no posted hours. There is a drop box at the location if someone drops off something that needs sharpened. There is a port a pot at the site if there was someone that comes to the site other than applicant and son.

The current building is used for production and storage. Everything gets dirty which is why they are proposing a new building to be used for cold storage.

Tools being sharpened are sawblades, carbides, saws tools, routers etc. Most are for industrial use rather than home use.

TRC's didn't necessarily have a concern they just wanted to make sure their septic was located and it wasn't near the proposed site.

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

1. Eddie Ray Borkholder – Is in favor of the request.

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

Mr. Kutch made a motion to approve 20-BZA-20 MILLER, Marlin - A request for a Special Use to allow a home-based business of tool sharpening; located at: 5649 SR 331, Bremen, IN 46506 Zoned A-1, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The fifth item of business was 20-BZA-21 MORIE, Anthony - A request for a Variance of Developmental Standard to reduce the ROW setback from the required 50' to 38' and the east side yard setback from the required 15' to 5' in order to build a garage; located at: 10267 8A Rd., Plymouth, IN Zoned A-1. Mr. Anthony and Mrs. Virginia Morie were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a detached garage in the front and side yards of property. The building is proposed to be 38' from the road and 5' from the eastern property line.

The applicant has three vehicles and would like to have a building they can all be stored in. The tree close to the road will be removed. Derek Dodson will be building the garage.

There is a lane next to the property line that gives access to four different families.

When asked why they didn't attach it to the house they said there is another big maple tree in the way that they didn't want to remove plus there is concrete already there. Also, if they did the addition onto the existing garage it wouldn't allow them enough room to store all three cars in it. The proposed garage will be 30x30.

There is a white I-beam on the property that they believe is the property line.

The board asked if the applicant would consider attaching the structure with a 25' garage. He didn't really want a long looking house and felt this would be the best option for them.

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

1. Nick Payne – Neighbor in favor of the request.

Mr. Wickizer made a motion to approve the request, seconded by Mr. Miller. Motion carried by acclamation.

Has talked with some adjoining neighbors and they have no problem with the request.

Mr. Miller made a motion to approve 20-BZA-21 MORIE, Anthony - A request for a Variance of Developmental Standard to reduce the ROW setback from the required 50' to 38' and the east side yard setback from the required 15' to 5' in order to build a garage; located at: 10267 8A Rd., Plymouth, IN Zoned A-1, with the condition that the applicant meet the 5' setback, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The sixth item of business was 20-BZA-22 FRANGER GAS CO INC - A request for a Special Use to allow the properties 50-24-29-000-011-000-012 and 50-24-28-000-008-000-012 to be used for propane storage; located at 1260 20th Rd., Tippecanoe, Tippecanoe Twsp., Zoned A-1. Mr. Scott Thompson and Mr. Ben Franger of Franger Gas were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to store propane on the property for their storage and distribution needs.

There has been propane shortage in the past and would like to have a facility to store and have access to it when needed the most. The 30-year plan is to put in a railroad spur. The current request is to put storage tanks on the property to truck in and truck out.

To acquire the property from RVH Trucking the property will need to be subdivided and the property line moved so it is not running through their existing building. Plus, there is a small piece of property that will be included and cleaned up.

The applicant has already obtained a driveway permit and it will be graveled with a circular drive to the tanks that will allow transport trucks of 80,000 pounds. The remainder will be grassy area. The delivery trucks will not be left there. It will only be storage tanks. There will be little bobtails loaded there, but will also load transports to take to the other facilities if there are shortages.

The other facility that has the railroad spur is not owned by Franger Gas. They would like to obtain this location in case something happens in the future and they lose that location. This would give them the opportunity to have their own rail. Right now, there is no intention to do that.

Franger Gas' business is to install tanks. They have built the entire Mentone facility. They have built over 150 tanks themselves. Updated internal valves are used. There are also complete shut off nitrogen system so each valve is connected. If there is any pressure that lets go everything closes. If RVH trucking sees that there is a problem there is a E Stop buttons that can shut down automatically. They have the most advanced safety features that are available to the propane industry today. Also, are regulated by the state and what they have are above and beyond what they require.

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

1. Mike Yeazel – 20503 Birch Rd. – Lives about a half mile from the facility. Is also the fire chief at the Mentone Fire Department. Has several concerns about the proposal. The other operation is set up to hold about a million gallons in storage tanks on the ground and they currently hold 165,000 in their tanks with their safety system. They store about a million gallons in the rail cars. Has a fear that the new site will be the same way. They feel that they do that to negate the cost of safety procedures in setting the safe tanks. It's estimated that they turn about 200,000 gallons of propane a day at the Mentone facility. This equals about 20 trucks a day. Has a concern about the traffic and the amount of traffic and weight on the roads. Isn't against progress only has a concern for safety. Questioned the water supply as well.
2. June Yeazel 20503 Birch Rd. – This area is filled with residential houses. Has a concern for safety.

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

Mr. Thompson stated that they have fire departments in every year for training. The Mentone Rail Facility has four propane tanks not two. There are two 60,000 tanks and two 30,000-gallon tanks. There were eighteen propane tanks put on the original permit for Mentone Propane Company. The Kosciusko County Board suggested that they apply for anything and everything they might need. There are no intentions to add anything to that facility. Could someone get on top of those rail cars, yes. Could someone get propane out of the cars, yes but they would have to know how to do it correctly. The railroad is federated by the Federal Railroad Association who is at the facility every year. Since everything is in line and organized, they went from monthly inspections to quarterly inspections. At the start of applying for this request Franger Gas had no intention of the rail. He wanted to follow what they do in Kosciusko County. The application included not only what they want currently, but what could happen possibly in the future.

The proposed facility will not have anhydrous ammonia it will only have propane. Currently all they are wanting approval for is nine storage tanks that will truck in and truck out when needed.

Maximum truckloads in are 70 loads. Part of the reason this location was chosen was because it was next to a trucking company that already uses the road heavily.

Mr. Thompson stated that because they sell wholesale, they train the fireman in all the surrounding states in which they sell.

The board stated that they have been warned to minimize the amount of businesses that involve heavy traffic on the roads.

Mr. Miller made a motion to approve 20-BZA-22 FRANGER GAS CO INC - A request for a Special Use to allow the properties 50-24-29-000-011-000-012 and 50-24-28-000-008-000-012 to be used for propane storage; located at 1260 20th Rd., Tippecanoe, Tippecanoe Twsp., Zoned A-1, seconded by Mr. Hostetler. The vote was 2-2 and Mr. Gustafson felt that they needed additional information about the roads before making a decision. **Mr. Miller rescinded his motion.**

Due to road concerns **Mr. Miller made a motion to table20-BZA-22 FRANGER GAS CO INC - A request for a Special Use to allow the properties 50-24-29-000-011-000-012 and 50-24-28-000-008-000-012 to be used for propane storage; located at 1260 20th Rd., Tippecanoe, Tippecanoe Twsp., Zoned A-1, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0 to table UNTIL THE July 14, 2020 meeting.**

The seventh item of business was 20-BZA-23 SHEPHERD, Dale - A request for a Variance of Developmental Standard to reduce the ROW setback to 1' from Main St. and allow for additional impervious surface of existing plus a 18' pool, located at: 105 Walnut St. Lapaz, North Twsp., Zoned T-1. Mr. Dale Shepherd was present for his request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct/place an 18’ above ground pool 1’ from t he property line within their yard. The increase of impervious surface coverage from 68.2% to 73.5% when the T-1 maximum coverage is 30%.

Mr. Shepherd had bought a pool for their house and then they decided to move. They are taking care of their grandkids and would like to have this pool for them. Offered even going to a smaller pool if the board would agree.

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

The board understood that even with a smaller size pool they are way over the limitation of impervious surface coverage. As far as storm water Mr. Adley stated that he isn’t aware of storm water drains.

Mr. Kutch made a motion to approve 20-BZA-23 SHEPHERD, Dale - A request for a Variance of Developmental Standard to reduce the ROW setback to 1' from Main St. and allow for additional impervious surface of existing plus a 18' pool, located at: 105 Walnut St. Lapaz, North Twsp., Zoned T-1, seconded by Mr. Hostetler. Motion carried with a voice vote 4-1 with Mr. Gustafson voting against.

Marshall County Board of Zoning Appeals
June 9, 2020

Eddie Ray Borkholder – Cornerstone Moulding

Would like to propose adding on a small addition to the existing business. When looking up previous approvals someone stated that there weren't to be anymore additions. Mr. Borkholder wanted to know if the board would consider hearing their request. There is currently concrete in a notched-out area of southeast corner of the building. They would like to square up that area and not extend out past the concrete area. There will not be a change in the business or increasing employee count.

The board agreed that they would be more than willing to listen to his request.

2021 Board of Zoning Appeals Budget

Mr. Adley present the 2021 Board of Zoning Appeals Budget. There will be no changes to the proposed budget from 2020. **Mr. Wickizer made a motion to approve the proposed 2021 budget, seconded by Mr. Kutch. Motion carried by acclamation.**

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

Respectfully submitted

Mark Wickizer

July 14, 2020
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 14, 2020, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, James Berger, Mark Wickizer, Dan Voreis and Terri Barnhart. Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The first item of review is the minutes from the June 9, 2020 meeting. Mr. Wickizer made a motion to approve the minutes as presented, seconded by Mr. Berger. Motion carried by acclamation.

The third item of business was 20-BZA-31 FRANGER GAS CO INC - A request for a Variance of Use to allow the properties 50-24-29-000-011-000-012 and 50-24-28-000-008-000-012 to be used for propane storage; located at 1260 20th Rd., Tippecanoe, Tippecanoe Twsp., Zoned A-1. Mr. Ben Franger and Mr. Scott Tompkin of Franger Gas were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to create a propane bulk storage facility on the property. The current design of the facility would only be 9 storage tanks. There is the future potential for rail to come into play down the road, but that would be an estimated 15 years down the road and for such approval, would have to return through this process, so there will be no rail associated with this approval. The property is currently zoned industrial and can currently permit a variety of manufacturing, services and transportation industries on the property by-right. The proposed use is currently not listed within the use table for the district but is permitted elsewhere. The south Birch Road bridge over the Yellow Creek identified as structure number 500105 was built in 1974 with an average daily traffic count of 100 (2016) with 5% of truck traffic. The bridge was last inspected in October 2018 (and is reviewed every 24 months) and received a Fair NBI Bridge condition rating. Per the report there is no posting required and it is equal to or above legal loads. The rating is 80,000 pounds. There have been discussions between Franger Gas and the Marshall County Highway Department about the roadways existing and what additional traffic would be generated in comparison to existing traffic. Both parties established the fact that during wet/thaw season is hard on the roads. The existing traffic out of RVH trucking averages 18 trucks per day or 90 trucks per week, which doubled for the number of trips over the road (in and out) is 180 per week. The proposed facility would have 70 trips over 6 months or just under 3 trips per week calculating on 6 four-week months. From a travel or routing review, and throwing out the option to go east due to the railroad, traveling due West on 20th Road you would drive past 13 residences to get to State Road 331

and 9 residences if routed South on Birch to State Road 25. The applicant will have to complete all necessary state approvals prior to approval. The Franger Gas Co. Inc. is a 2020 member in good standing with the National Propane Gas Association. In an adjacent jurisdiction, Franger has been willing to assist the first responders in training, safety practices, hand on exercises with the Hazmat Coordinator and LEPC Chair. The same individual went on to dictate that over the last 28 years have they never known Franger to have shortfall or not comply with NFPA Code 58 Liquefied Petroleum Gas.

In 2013 and 2014 there was a propane shortage. This will allow them to buy and store at their own facility.

The applicant has spoke to the Marshall County Highway Department and their plan has been approved by highway department. Franger Gas estimates 170 trucks runs per year and RVH Trucking runs approximately 4,600 – 8,600 per year. Jason also told them he doesn't see a detriment to the roads because of the low truck count.

Well's aren't required for storage facilities. However, if this request is approved, they will install a well.

Mr. Wickizer made a motion to open for public hearing, seconded by Mrs. Barnhart. Motion carried by acclamation.

1. Emery Ferry – Representing Matthew Pitney Twsp Trustee – Supports this project. The safety and security of their citizens is of upmost concern. Franger Gas has demonstrated more than adequate safety measures will be put in place. Also has offered to provide training to the Tippecanoe Twsp Fire Department and has demonstrated the willingness to put in additional safety measures such as putting in a well.
2. Mike Yeazel – Runs Mentone Fire Department. Raised a flag to him why they would be wanting another facility 5 miles away from the current facility. The current site they did build a 5 wide railroad and stores about a million gallons of propane in tank cars. Stated that the LP is only regulated at the federal level once it's in a tank car. Once that's in place Marshall County will have no jurisdiction over that. Mentone does not have a well on the property. His two greatest concerns are the financial end of this and water supply. Currently there is little to no tax base for the parcel. If there were a hazardous material problem it would cost the county a lot of money. His fire department has never been offered training. Doesn't believe people have a full understanding of this. They have a blast rate of nearly ½ mile plus. Doesn't believe the traffic count is correct. Wants to know the location of the proposed well. Mr. Gustafson asked if there was ever a fire at the Mentone facility and he said "no and never been called for a leak." Mr. Gustafson clarified that this request DOES NOT include a railroad only 9 tanks. Doesn't understand why they would want another facility with the state-of-the-art facility they are in. Commented that the Mentone facility is a great one.
3. June Yeazel – By railroad it is only 2 miles from the existing facility to this one. Feels that they will set up a few tanks at first and will then put in a railroad spur.

Mr. Gustafson stated to everyone in the room that this request has nothing to do with a railroad spur. They are only hearing a request for 9 storage tanks.

4. Ethan Yeazel – Moved away and came home to raise a family, but not next to a facility with explosives. Talked about numerous homes near the facility.
5. Jonathan Schaffer – Lives a half mile east of the property. Questioned if there are any concerns with the area being designed wild life. Is also not happy with the proposed facility being that close.
6. Steve Mellott – Lives about a mile to a mile and a half. Is on the Mentone Fire Department. Doesn't understand why they won't increase at the existing facility that is already setup for it. Believes it is a tax evasion issue.
7. Lori Schaffer – Lives about a mile from the proposed. What is this going to do to their property values, property insurance and roads.
8. Paisley Hansen – Doesn't trust the information in the report that was given regarding the truck county. In her opinion she doesn't feel the existing roads can support the additional truck traffic. Believes their ultimate goal is to put in railroad cars and will get them slipped in without anybody knowing.
9. Troy Craig – Lives a half mile from the facility. Doesn't believe the truck count is correct. Mr. Adley explained that not every road needs to be tubed to receive traffic count. They are able to extrapolate based on calculations and a travel demand modesl.
10. Cody Spencer – Works at the Mentone Facility. Believes the facility is very safe. Also volunteers for the Tippecanoe Fire Department. Understands the concern of the traffic, but believes the company is a class act.
11. Katie Craig – Has a concern with the traffic and safety.
12. Carolyn Shafer – 20015 S. Birch – How will this gas storage affect her wildlife habitat land? Against the request.
13. Delon Furnivall – 19797 Apple Rd – Road is in terrible shape because of the constant truck traffic. Doesn't want additional traffic. Concern about safety. The county would not be collecting much if any taxes for the storage facility. Concern of terrible odors.
14. Steve Mellott – 18567 S. Apple Rd – Against the request done rezone.
15. Kent & Lori Shaffer – 19541 Apple Rd – How will this affect their property value? Will this affect our homeowner's insurance rates? How safe is it to have that many store tanks in one area? More traffic on the roads? Will there be tax hikes? Train traffic and blocked tracks due to arriving shipments?
16. Russell & Margaret Yazel – Doesn't want property rezoned. Don't need another as there is already one 5 miles away. It's a great concern and dangerous. There is no immediate water access if needed. Too many risk factors.
17. Paisley Hansen – 20503 Birch Rd. – Believes she wasn't notified. They already have a facility with capability of additional storage. Wants to take tax advantage by building rail sitings. Doesn't believe the local fire departments are equipped to handle a problem. Doesn't believe it's wise to store this much flammable material unguarded.
18. Troy Craig – Lives a half mile away and is not in favor of rezoning. Doesn't understand why they are wanting an additional facility when there are at less than 25% capacity. Doesn't believe it is right that if they store this in rail tankers that they are not held liable for the contents.

19. Denise Shafer – Believes they have plenty of room at their existing facility for increase. They have at least 20 houses with families within a mile of the proposal and has a concern. A year ago they had their road repaired and with this proposal it will cause greater road disrepair just after being fixed. Currently the railroad crossings already gets blocked and causes a lot of re-routing this will cause even more. What is the fear of contamination?
20. Jonathan Shafer – Doesn't believe there is a need for a another rail road siting this close. Trains currently block this crossing quite frequently. What is the potential for a gas leak? What is the potential for an explosion? There is already a very large amount of traffic. What is the risk of water contamination?
21. Ken & Lisa Hooley – Concerned about the safety and legal issues such as rezoning would cause. Is the company willing to install whatever safety measures are needed to protect the families? Concerns of loss of property values, road repairs, and loss of tax revenue to the county.
22. Elkhart County LEPC – As Hazmat Coordinator and LEPC Chair believes Franger Gas has been more than willing to assist their first responders in training, safety practices, and hands on exercises. They are easy to contact, quick with a response and goes above and beyond to make sure everyone is safe. At no time in the past 28 years has he even known them to have shortfalls or not comply with NFPA Code 58 Liquefied Petroleum Gas.
23. Jerry Lower – Concerned about lowering of property values, safety, and economically isn't a good plan for our county.
24. Bart Middleton – Has worked for Franger gas for the last 3 years as their transporter of propane. Believes they always do things the right way. They are extremely safe and are customer focused. During times of severe weather, they sometimes have to go 3-10 hours one way for one load of propane. Based on "normal volumes", they made do up to 20 loads per day. This will allow them to be more efficient, and eliminate waiting times and availability in times of need. Supports their request.
25. Matthew Solak – Indiana Propane Gas Association – Writing in support of this request. IPGA members play a critical role in ensuring that they can deliver propane safely, quickly, and affordably to Hoosier families, farmers and businesses. To limit the stresses on the infrastructure and logistics the IPGA has encouraged members to adopt winter preparedness plans. A key component of that plan is to add additional propane storage to ensure customer demands during peak months.

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

Mr. Gustafson asked the following questions to the applicant:

- Well size – 8" well 500 gallons per minute
- Insurance premiums gone up – Has built several other locations and never once has this happened.
- What is the cost of this facility? In the millions
- Are you asking for a tax abatement? No Are you going to? No
- If are able to stay at the existing site, will you? Yes 100%

- There will be 8 tanks instead of the original 9.
- What issues have you had at your other facilities? Have you had any leaks or fires? No. All propane they purchase is odorized.
- What else comes down this railway other than propane? If the applicant had to guess a lot worse than propane. There are acids and other chemicals going down that railroad every day.
- Applicant advised that propane dissipates immediately once it hits air. It can't get into the ground or water.

There will be no re-zoning done for this project. It will go in front of the County Commissioner's only for the re-adjustment of property lines. This is only for the 9 tanks as requested. Anything else beyond the 9 tanks will have to be brought back before the board which will require another public hearing.

They will apply for permits for the piers as required.

Franger Gas has 15 years left on their lease and this is merely additional storage as well as a back up plan if contract negotiations don't go well in the future.

Mr. Gustafson stated that the person seemed against it the most agreed and is confident that the facilities are safe. The applicant stated that they believe the truck route is down Birch or 20th out to 331.

Mr. Tompkin shared that they really aren't big business. They have been around for a long time. They take earned money and put it back into the business to continue on. He considers themselves business men and families in the communities that they live in. Believes they have a good if not a great reputation in Akron, Goshen, Elkhart and in Michigan. They don't cut corners and do business the right way.

The well site location hasn't been decided yet. They don't have a problem contacting the fire department prior to find out the best location for them.

Mr. Berger made a motion to approve 20-BZA-31 FRANGER GAS CO INC - A request for a Variance of Use to allow the properties 50-24-29-000-011-000-012 and 50-24-28-000-008-000-012 to be used for propane storage; located at 1260 20th Rd., Tippecanoe, Tippecanoe Twsp., Zoned A-1, seconded by Mrs. Barnhart. Motion carried with a voice vote 3-2 with Mr. Voreis and Mr. Wickizer voting against.

The fourth item of business was 20-BZA-24 WALTER, Marcus & Janette – A request for a front yard setback reduction from the required 30' from the ROW to 2' in order to build a deck on the front of the house, located at: 105 Wood St., Lapaz, IN North Twsp., Zoned T-1. Marcus & Janette Walter were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to put up a deck on the front of his house that will encroach within the front yard setback. Wood Street is a dead-end road on the

North side of the railroad tracks that bisect LaPaz. Many of the homes and properties encroach the required setback.

Mr. Gustafson verified with Mr. Adley that the proposed deck will be 20' from the edge of the road.

The plan for the porch is for it to be open.

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

1. Vicki Vogt Mack – Does not have a problem with the request. Improvements like this should be applauded.

Mrs. Barnhart moved and Mr. Wickizer seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Wickizer made a motion to approve 20-BZA-24 WALTER, Marcus & Janette – A request for a front yard setback reduction from the required 30' from the ROW to 2' in order to build a deck on the front of the house, located at: 105 Wood St., Lapaz, IN North Twsp., Zoned T-1, seconded by Mrs. Barnhart. Motion carried with a voice vote 5-0.

The fifth item of business was 20-BZA-25 CRACE, Paul & Basilia - A request for a Variance of Development Standard to allow a personal kennel to hold 5 or more dogs; located at: 5620 18th Road, Argos, IN Walnut Twsp., Zoned A-1. Paul & Basilia Crace were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to have a kennel on the property which will include the 6 dogs that they have. The definition of a kennel includes those properties that own 5 or more dogs. The kennels must meet the associated development standards as established within the Zoning Ordinance.

The proposed 11'x17' building will be at least 600' away from any residence. Their plan is to put up a small barn. Their (6) dogs would mostly stay in the house. There is no plan to have a commercial kennel at this time, but if they do, they will definitely comply with the rules and meet with the Plan Commission Office.

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

1. Allen Pijut – Strongly opposes the variance. Believes it will diminish the quality of life for the surrounding neighborhood.
2. Trudy Pijut – Opposes the variance. Doesn't know how many dogs they plan to have. Will this be a breeding operation or a puppy mill? Will the structure be sound proof? Continuous day and night barking? Safety? Fencing? Waste and its disposal and flies?

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

The dogs will mostly stay in the house. Someone will go out with the dogs when the do go out to go potty. There was no plan to put in a fence at this time, but if it was required, they would. They just want a small building to house their dogs when they go outside. When asked if they plan to get more dogs, they both responded no.

Mrs. Barnhart made a motion to approve 20-BZA-25 CRACE, Paul & Basilia - A request for a Variance of Development Standard to allow a personal kennel to hold 5 or more dogs; located at: 5620 18th Road, Argos, IN Walnut Twsp., Zoned A-1 with the condition that the kennel meet the required local standards; seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The sixth item of business was 20-BZA-26 TROYER, Jacob - A request for a home-workshop that will allow a custom furniture woodworking business on property to be ran by son; located at: 1657 3rd Rd., Bremen, IN German Twsp., Zoned A-1. Jacob Troyer was present to represent his request. Mr. Adley presented the findings of fact.

The proposal by the applicant is to allow for him to operate a home based woodworking business on his father's property part time where he will majority wholesale but will on occasion have members of the public there for custom pieces. There is no intention for a showroom or to retail the furniture out of the shop. The business is currently a part time endeavor, but would eventually like to take it full-time in the next 5 to 8 years, but for now it is just a hobby. There is no time for additional employees.

The applicant would like to set up a wholesale business and sell directly to retailers. The plan is to create magazines with price sheets and try to set up dealers. Currently there is no plan for employees. If it grew there is a possibility of having a couple employees. The hours of operation would be 5am – 2pm. In addition, he would like to have a sign in the front yard. Since there is a limitation on signs the applicant was directed to call the Plan Commission Office to verify sign requirements.

Mrs. Barnhart moved to open for public hearing, seconded by Mr. Wickizer. Motion carried by acclamation.

1. Eddie Ray Borkholder – Is in favor of the request and complimented his work.

Mrs. Barnhart moved to close the public hearing, seconded by Mr. Berger. Motion carried by acclamation.

Mr. Wickizer made a motion to approve 20-BZA-26 TROYER, Jacob - A request for a home-workshop that will allow a custom furniture woodworking business on property to be ran by son; located at: 1657 3rd Rd., Bremen, IN German Twsp., Zoned A-1, with the following conditions:

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

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

The seventh item of business was 20-BZA-27 SCHMUCKER, Matthew & Jean - A request for a Variance of Use to allow an extension of the work-shop by constructing a 80'x150' building as well as increasing employee county; located at: 5311 E. County Line Rd., Bremen, IN German Twsp., Zoned A-1. Charlie Zucker, Attorney for the applicant and Matt Schmucker were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct an 80'x150' shipping and receiving building and increase employees to 25. The business was originally approved in 2007 for a 80x110' shop that was subsequently added onto in 2014 with a 40' addition. Per the applicant submission materials, the proposed building will not produce any additional traffic. The building will serve "to provide an indoor area for the loading and offloading described above. Currently, this activity is taking place outdoors on the concrete area east of the building, in the weather, rain, snow or sun." The old chicken barn will be removed from the property and the house near county line road has already been removed.

The existing property is at capacity for expansion for additional production. During the day when they are shipping and receiving a lot of their product is kept outside. They would like to build a building that will house this product, keep it out of the weather, keep forklift noise down and potentially reduce the traffic as it should cut down on the amount of trips in and out. The production of the business hasn't expanded, but they have picked up 6 additional employees. The older house has been removed along with the chicken barn.

The flow of traffic will come in the existing drive and enter into the building and exit out the east side of the building and out the new curb cut on County Line Road. The arborvitae will stay. A drainage plan has been provided to the Plan Commission Office. There is no plan to turn this into mfg down the road.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Voreis. Motion carried by acclamation. There being nobody to speak for or against Mrs. Barnhart moved and Mr. Berger seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Adley stated that the drainage portion of the project will be reviewed during the permit process.

Mr. Wickizer made a motion to approve 20-BZA-27 SCHMUCKER, Matthew & Jean - A request for a Variance of Use to allow an extension of the work-shop by constructing a 80'x150' building as well as increasing employee county; located at: 5311 E. County Line Rd., Bremen, IN German Twsp., Zoned A-1 with the following condition:

1. **Must meet all development standards**

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

The eighth item of business was 20-BZA-28 TIPPECANOE TWSP TRUSTEE - A request for a Variance of Use to all a 195' communication tower for the immediate use of high-speed wireless internet for emergency responders of Marshall County. Also, to enhance the infrastructure for a County wide communication system upgrade; located at: 18325 SR 331, Tippecanoe Zoned C-1. John Grolich was present to represent his request. Mr. Adley presented the findings of fact.

The 195' tower would bring much needed wireless capability to a rural portion of Marshall County. The proposed location though does not permit Communication Towers because the parcel is zoned C-1. The PC has already provided Site Plan approval in June.

This was a project that started in 2000. Dr. Holm was able to get a grant through the Indiana State Health Department to place 9 towers strategically throughout our county to provide high speed wireless internet that would tie all emergency responders together. A tower was moved in Bourbon to facilitate the school system putting their bus radio system on that tower. It's strictly geared towards safety and emergency response communications.

Mr. Wickizer made a motion to open for public hearing; seconded by Mr. Berger. Motion carried by acclamation. There being nobody to speak for or against Mr. Wickizer moved and Mrs. Barnhart seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Berger moved to approve 20-BZA-28 TIPPECANOE TWSP TRUSTEE - A request for a Variance of Use to all a 195' communication tower for the immediate use of high-speed wireless internet for emergency res ponders of Marshall County. Also, to enhance the infrastructure for a County wide communication system upgrade; located at: 18325 SR 331, Tippecanoe Zoned C-1, seconded by Mr. Voreis. Motion carried with a voice vote 5-0.

The ninth item of business was 20-BZA-29 TIPPECANOE TWSP TRUSTEE - A request for a Variance of Developmental Standard to allow a reduction in setback distance from the center of the proposed tower which is less than 60% of the height of the tower at 195', located at: 18325 SR 331, Tippecanoe, IN Zoned C-1. John Grolich was present to represent his request. Mr. Adley presented the findings of fact.

The 195' tower would bring much needed wireless capability to a rural portion of Marshall County. The proposed location though does not permit Communication Towers because the parcel is zoned C-1. The PC has already provided Site Plan approval in June. The proposed tower sits too close to an adjoining Township parcel, which is requiring this variance.

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

Mr. Voreis made a motion to approve20-BZA-29 TIPPECANOE TWSP TRUSTEE - A request for a Variance of Developmental Standard to allow a reduction in setback distance from the center of the proposed tower which is less than 60% of the height of the tower at 195', located at: 18325 SR 331, Tippecanoe, IN Zoned C-1, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The tenth item of business was 20-BZA-30 BORKHOLDER, Eddie Ray - A request for a Variance of Use to allow a facility expansion for storage that will not change anything about the business but expand the structure with a 25'x55' addition; located at: 1602 3rd Rd., Bremen, IN Zoned A-1. Mr. Eddie Ray Borkholder was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to construction a 25'x55' addition on an existing building on top of an existing slab. The business has gone through several approvals over the course of its lifespan.

This request has nothing to do with expanding the business. They would just like to utilize the space for storage. Have 8 employees that live within a ¼ of a mile and 12 employees that live within a ½ of a mile. This is a neighborhood business with little turnover. They will not be creating more surface water. The business provides hardwood moldings to cabinet companies and builders.

Since the expansion will be going over existing concrete it will not create additional impervious surface coverage. The TRC is recommending site location of the existing septic system.

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

1. Matt Troyer – 3144 SR 331 – In favor of the request

Mr. Wickizer moved and Mrs. Barnhart seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Voreis made a motion to approve 20-BZA-30 BORKHOLDER, Eddie Ray - A request for a Variance of Use to allow a facility expansion for storage that will not change anything about the business but expand the structure with a 25'x55' addition; located at: 1602 3rd Rd., Bremen, IN Zoned A-1, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The second item of business was 20-BZA-22 FRANGER GAS CO INC - A **tabled** request for a Special Use to allow the properties 50-24-29-000-011-000-012 and 50-24-28-000-008-000-012 to be used for propane storage; located at 1260 20th Rd., Tippecanoe, Tippecanoe Twsp., Zoned A-1. Mr. Vories made a motion to withdraw this request, seconded by Mr. Berger. Motion carried by acclamation.

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

Respectfully submitted

Mark Wickizer

August 11, 2020
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 11, 2020, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, James Berger, Mark Wickizer, Jeff Kutch, and Matt Miller. Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The first item of review is the minutes from the July 14, 2020 meeting. Mr. Wickizer made a motion to approve the minutes as presented, seconded by Mr. Berger. Motion carried by acclamation.

The second item of business was 20-BZA-32 MEECE, William & Kimberly - A request for a Variance of Developmental Standard to allow a 30x48 garage on a parcel that requires a primary before a secondary, located at: across the street from 17329 Tomahawk Tr., Plymouth, IN West Twsp., Zoned L-1. William and Kimberly Meece were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a 30x48' storage building on the subject parcel. The applicant owns the property across the street on the lake. The applicant is wanting to store many of the items that are already on the property and would like to store some of the items from the primary property here.

The Health Department would like the board to consider a septic system into consideration when locating the proposed building. If there is potential redevelopment of that site not all is lost with the location of it.

The applicant stated that there is currently a septic system on the property. It is unknown whether it works or not. A driveway permit has already been obtained for the proposed building.

Mr. Adley explained that the Health Department's concern is if they place the building in the middle of the property there may not be room for a future septic system if they were to want one.

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

1. Richard Nicks – Neighboring property owner sent a letter and has no problem with the request.

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

Mr. Miller made a recommendation to the applicant to consider moving the building to the rear of the property and leave as much open ground to the front. This might allow for a higher resale value of this lot in the future.

Mr. Wickizer made a motion to approve 20-BZA-32 MEECE, William & Kimberly - A request for a Variance of Developmental Standard to allow a 30x48 garage on a parcel that requires a primary before a secondary, located at: across the street from 17329 Tomahawk Tr., Plymouth, IN West Twsp., Zoned L-1, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The fourth item of business was 20-BZA-34 INGLE, Kevin - A request for a Variance of Developmental Standard to reduce the rear yard required setback of 20' to 10' in order to place a above ground pool and deck on the parcel; located at: 4 Ironwood Rd., Bremen, German Twsp., Zoned A-1. Mr. Kevin Ingle was present to represent his request. Mr. Adley presented the findings of fact.

The applicant installed the pool approximately 3 years ago and is wanting to put a deck around it for ease of access. When he came in to apply for the permit for the deck, he found out he needed a permit for the pool as well. At that time, he was told about the area being in a flood plain and he was surprised. During the recent 100-year flood he noticed no more or less water than any other time. All other setbacks besides the rear yard will be met.

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

Mr. Wickizer made a motion to approve 20-BZA-34 INGLE, Kevin - A request for a Variance of Developmental Standard to reduce the rear yard required setback of 20' to 10' in order to place a above ground pool and deck on the parcel; located at: 4 Ironwood Rd., Bremen, German Twsp., Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The fifth item of business was 20-BZA-35 MILLER, Darrell - A request for a Special Use to allow a saw mill business; located at 8531 Iris Rd., Plymouth, IN 46563, Zoned A-1. Darrell and Rebecca Miller were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to run and operate a sawmill from their home property. A business plan was received from the applicant. The plan includes 3 employees (1 employee an additional 2 and a family member part time for office work), 4 parking spaces, and a sign. The proposed 12’ sign will need to be adjusted to meet the requirement of an 8’square feet.

The generator will be diesel operated and at least 200’ off the road and more if need be. The semi’s will come from the south and drive in along the north property line. The logs that will be brought in will be kept along the rear property line. The proposed hours of business will be 7am – 5pm Monday through Friday. It will consist of pallet lumber, custom lumber and possible railroad ties. The maximum amount of semi’s will be 20 per week.

There is currently a business located in Walkerton that he plans to purchase. Mr. Gustafson was aware of the business and has heard the Detroit motor from his house.

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

1. Benjamin Thompson 8567 Iris Rd. Neighboring property owner to the south. He sits 180' off the road. Has an elderly parent that lives with him and her room is the closest to the neighboring property and will be disrupted by the loudness and excess traffic. Has a concern about the excess garbage from the trees and what they are going to do with it and the dust.
2. Becky Dunkin 8715 Iris Rd. Lives to the south. Has a concern about the noise, dust, truck traffic, air quality property values and wild life.
3. Craig Haines 8522 Iris Rd. Not for or against just have concerns. Within the past 20 years Iris Road was made into a dirt road and then chip and sealed. Lives across the street from the Dunkins. This road is narrow and 15 ½' wide. He cannot even pass the garbage truck at the same time. Has questions whether there will be any upgrades to the road and whether there is going to be a maximum number of truck traffic.
4. Matt Holderbaum 8460 8C Rd. Not for or against has concerns about the noise and truck traffic.

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

The applicants stated that they will not be receiving full trees. Therefore, there won't be remnants from the trees. Just shavings which will be used for animal bedding and possible wood burning stove pellets. The plan is to lease the building and run the business out of the existing location for two years and then move it to the proposed location.

The board expressed to the applicant that the biggest concern seems to be noise and truck traffic. When asked if he could move it all to the rear of the property Mr. Miller said it be difficult getting around the wooded area.

The board is concerned and felt the applicant didn't address the concerns about the noise and traffic concerns. It was discussed that the building could possibly be moved to the rear of the property to distance the sound from residences. As far as truck traffic there didn't seem to be an alternative other than discussion that farms have trucks that go down the roads. Also, to eliminate the problem of wide turns going into the neighbor's property their plan is to widen the entry into their own property.

Mr. Kutch made a motion to deny <u>20-BZA-35 MILLER, Darrell -</u> A request for a Special Use to allow a saw mill business; located at 8531 Iris Rd., Plymouth, IN 46563, Zoned A-1, seconded by Mr. Wickizer. Motion denied with a voice vote 3-2 as the proposed will be injurious to the general welfare of the community and isn't consistent with the Comprehensive Plan. Mr. Miller and Mr. Gustafson voted against.

The sixth item of business was <u>20-BZA-36 UNION NORTH SCHOOL CORP -</u> A request for a Special Use to allow a building addition to serve as additional kindergarten classrooms, located

at: 50-52-94-000-018-000-009 Michigan Rd., Lakeville, IN North Twsp., Zoned A-1. Mr. Adam McCalpine of 1402 Monticello Park Dr. Valparaiso, IN, serving as an engineering consultant to the Union North United School Corporation. Mr. Adley presented the findings of fact.

The Union North United School Corporation is looking to do an addition on the rear of their Elementary School to accommodate three new kindergarten classrooms and replace some temporary mobile classrooms. There are existing footings in place due to the temporary mobile classrooms. The portables have already been removed.

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

Mr. Wickizer moved to approve 20-BZA-36 UNION NORTH SCHOOL CORP - A request for a Special Use to allow a building addition to serve as additional kindergarten classrooms, located at: 50-52-94-000-018-000-009 Michigan Rd., Lakeville, IN North Twsp., Zoned A-1, seconded by Mr. Berger. Motion carried with a voice vote 5-0.

The seventh item of business was 20-BZA-37 COX, Kalum - A request for a Special Use to allow a Tree Trimming business located at: Lincoln Hwy, Plymouth 50-41-30-000-037-000-017, West Twsp., Zoned T-1. Mr. Kalum Cox was present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to build a 60'x64' pole barn to store their equipment in. The applicant is planning to build a home there in the future once the finances are around, but in the meantime, they would like to store their equipment here in the proposed pole barn. There is currently a commercial property and business to the west which is why they are proposing to have their barn to the west end of the property and the residence on the east side.

There have been some issues with tampering of his equipment. They would like to keep the equipment stored inside the proposed building for safety and to keep the property looking neat and clean.

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

1. Phillip Doolittle – Wanted to know where his property was in comparison to the proposal. Mr. Doolittle's property is located on the north side of Hwy 30.
2. Arlen Stack – Owns on the north side of Hwy 30. Neither for or against. Has a concern that they will be burning of the waste products.

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

Mr. Cox stated that he will not be burning. All the brush is made into chips and will be for mulch and/or composted. A lot of it is dropped off as compost to other properties. The wood is used for a wood burner. After the house is built, they have talked about putting arborvitae along the rear of the property that's adjacent to US 30.

Mr. Miller made a motion to approve 20-BZA-37 COX, Kalum - A request for a Special Use to allow a Tree Trimming business located at: Lincoln Hwy, Plymouth 50-41-30-000-037-000-017, West Twsp., Zoned T-1, seconded by Mr. Jeff Kutch. Motion carried with a voice vote 5-0.

Staff recommended a timeline when we can expect the house in relation to this development standard. The soil analysis has been done and construction should be between 2-4 years.

The eighth item of business was 20-BZA-38 COX, Kalum - A request for a Variance of Developmental Standard to allow a secondary structure before a primary residence. The applicant is proposing a building to store his business equipment; located at: Lincoln Hwy; Parcel No. 50-41-30-000-037-000-017, West Twsp., Zoned T-1. Mr. Kalum Cox was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to build a pole barn to store their equipment in. The applicant is planning to build a home there in the future once the finances are around, but in the meantime, they would like to store their equipment here in the proposed pole barn.

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

Mr. Wickizer made a motion to approve 20-BZA-38 COX, Kalum - A request for a Variance of Developmental Standard to allow a secondary structure before a primary residence. The applicant is proposing a building to store his business equipment; located at: Lincoln Hwy; Parcel No. 50-41-30-000-037-000-017, West Twsp., Zoned T-1, seconded by Mr. Kutch. Motion carried with a voice vote 5-0.

The ninth item of business was 20-BZA-39 MILLER, Lavern & Marla - A request for a Variance of Developmental Standard to allow for a reduction in ROW setback from the required 50' to 35' and side yard reduction from the required 15' to 9' in order to add on to the existing garage to accommodate a garage and laundry area; located at: 6087 4th Rd., Bremen, IN German Twsp., Zoned A-1. Mr. Lavern Miller was present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a 20x16' addition to the northeast corner of the house which will accommodate a garage and laundry area addition. The construction will be 35' from the ROW and will be 9' from the property line. The existing garage will be turned into the laundry and pantry area and the addition will be for the garage.

There was discussion if the addition were placed in the rear yard a new driveway would have to be put in.

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

Mr. Kutch made a motion to approve 20-BZA-39 MILLER, Lavern & Marla - A request for a Variance of Developmental Standard to allow for a reduction in ROW setback from

the required 50' to 35' and side yard reduction from the required 15' to 9' in order to add on to the existing garage to accommodate a garage and laundry area; located at: 6087 4th Rd., Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The tenth item of business was 20-BZA-40 LIDGARD, Tony & Kristin - A request for a Special Use to allow a remote-control racetrack on the rear side of the home on Saturday evenings; located at: 19740 Michigan Rd., Argos, IN Walnut Twsp., Zoned A-1. Tony and Kristin Lidgard were present to represent their request. Mr. Adley presented the findings of fact.

The applicant has relocated his racetrack for RC cars from a previous location to their home residence and has downsized it as well. The proposed track is 54'x82'. The track would be used on Saturday evenings.

This track is the same as the other, but smaller. They never had any complaints at the other location.

When asked how many people attend Mr. Lidgard said that it can run from 15-40 people. There normally isn't 40 cars people carpool. There didn't seem to be much of a concern about parking or thought as to where people would park. Racing normally runs from May through September.

The board asked if there have been any problems with light pollution. Mr. Lidgard stated that they haven't had any problems.

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

1. Bryce Hensley 19736 Michigan Rd. Lives on the north side of the proposed. Not necessarily for or against. Has concerns about the lighting, the late nights, and the loudness of the speakers. Wonders if there could be a barrier that would help with the bright lights and sound reduction.
2. Ronald Hensley 19736 Michigan Rd. Lives on the north side of the proposed. Has a concern with the parking, traffic, amount of people noise and lights? There's been no discussion with neighbors. The biggest concern is the lights and loud speakers.
3. James Poisel Has participated in this raceway fun. There are very few family friendly fun activities for the whole family outside athletics. They do a great job and makes sure it's safe and fair for all involved.

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

Mr. Lidgard explained that the neighbors have a light where their vehicles are and doesn't believe the lights by his racetrack are too bright. Also doesn't think that 11:00pm is too late. In the summer it doesn't get dark till almost 10pm and that's when the lighting is the best for racing.

There is currently a fence between the neighbors and them. Plus, the track is located as far as possible to the south of the property. The events will only be on Saturdays. If there is a rain day it doesn't get postponed to Sunday they wait until the next Saturday.

The board asked if they could limit the loud speaker. Mr. Lidgard said that they have to call out

the crashes. There is music that plays in between.

The consensus of the board seemed to be the concern of the closeness to the neighboring property where sound and light might be offensive and how they could buffer it.

Mr. Wickizer made a motion to approve 20-BZA-40 LIDGARD, Tony & Kristin - A request for a Special Use to allow a remote-control racetrack on the rear side of the home on Saturday evenings; located at: 19740 Michigan Rd., Argos, IN Walnut Twsp., Zoned A-1 with the following stipulations:

1. **Parking must be off the road and on your property.**
2. **Family sport only. No vendors or flea markets**
3. **Hours are Saturday evenings from 4pm – 11pm May – September**
4. **Tall vegetative screen between you and your neighbor preferably arborvitae**

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

The eleventh item of business was 20-BZA-41 BUCHTEL, Scott & Shelley Delee - A request for a Variance of Developmental Standard to reduce the front yard setback to 20' and a 39' edge of road setback; located at 12172 Rose Rd., Plymouth, West Twsp., Zoned L-1. Mr. Jay Buchtel was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to reduce the front yard setback from 30' to 20' from the southern property line and 39' from the edge of the road to the southwest.

Mr. Buchtel's plans are to remove the existing mobile home and replace it. This location was decided because of where the septic system had to be. The plan is to shut off the existing entrance to the landing and make the new entrance directly from Rose Road.

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

1. Rita Strozewski 17743 12th Rd Questioned where the location was and if the septic has been approved.
2. Bernadine Schultz 15918 Cook Lake Tr. Has no problems with the request.

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

Mr. Wickizer made a motion to approve 20-BZA-41 BUCHTEL, Scott & Shelley Delee - A request for a Variance of Developmental Standard to reduce the front yard setback to 20' and a 39' edge of road setback; located at 12172 Rose Rd., Plymouth, West Twsp., Zoned L-1, seconded by Mr. Berger. Motion carried with a voice vote 5-0.

The twelfth item of business was 20-BZA-42 FRANZ, Jeffrey & Patricia - A request for a Variance of Developmental Standard to reduce the ROW setback from the required 30' to 8' from the road; located at: 16377 12B Rd., Plymouth, IN West Twsp., Zoned L-1. Mr. Jeffrey Franz was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to place or construct a new 24x16' garage in between the existing mobile home and the roadway. The mobile home is approximately 35' from the right of way line

and there is approximately 11' between the property line and the edge of pavement. The proposed structure is seeking to reduce the front yard setback from 30' to 8' from the front property line. There would be an estimated 19' from edge of building to edge of roadway.

Due to the location of the leach field Mr. Franz stated that this location is the best possible option for the proposed garage. The existing trailer has runners as a foundation as well as a partial basement.

During the discussion the board's biggest concern was the proposed garage being so close to the road. At that proposed location there will be no way to pull the car out of the garage and the car would be in the roadway before the car is even out of the garage. This wouldn't be safe.

Mr. Wickizer 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. Wickizer moved and Mr. Berger seconded the motion to close the public hearing. Motion carried by acclamation.

The board was in consensus that 8' from the edge of the garage to the edge of the road is not safe and believes the homeowner does have the option to move the trailer further from the road. The board gave Mr. Franz his options.

Mr. Franz stated that he would like to withdraw his request. The board accepted his request.

The thirteenth item of business was 20-BZA-43 COLVIN, Dean - A request for a Variance of Developmental Standard to reduce the ROW setback requirement of 30' to 28' from the edge of the road; located at: 12539 Nataka Trl., Plymouth, IN Center Twsp., Zoned L-1. Mr. Colvin requested to withdraw the request.

Mr. Dean Colvin withdrew his request prior to the meeting.

The third item of business was 20-BZA-33 KUHNS, Jerry - A request for a Variance of Developmental Standard to reduce the side yard setback from the required 15' to 10' in order to add on a 32x60 additional to an existing horse barn; located at: 2641 Beech Rd., Bremen, IN German Twsp., Zoned A-1. **Mr. Wickizer made a motion to table until the end of the meeting, seconded by Mr. Miller. Motion carried by acclamation.** Mr. Jerry Kuhns was present to represent his request. Mr. Adley presented the findings of fact**.**

The applicant is requesting to add a 30'x60' addition to an existing horse barn. They would like to add on to the south side of the existing barn and construct to the rear of an adjacent property. The proposed structure would be approximately 10.43' from the existing fence line and would increase to 12.5'.

Mr. Kuhns explained that the building in the woods is a portable 12'x24' cabin and was probably brought in about two years ago. The board express to Mr. Kuhns that he will need to get a permit for it.

This property was purchased in the same layout as it exists now. The building where the addition is proposed was not built by the applicant. It was there prior to this owner.

Marshall County Board of Zoning Appeals
8/11/2020
The reason the applicant wants the location is because of eye appeal.

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

Mr. Adley explained by allowing this it increases the non-conformity. After trying to come up with an alternative Mr. Kuhns wasn't in favor of adjustment the plans.

Mr. Kutch made a motion to approve <u>20-BZA-33 KUHNS, Jerry -</u> A request for a Variance of Developmental Standard to reduce the side yard setback from the required 15' to 10' in order to add on a 32x60 additional to an existing horse barn; located at: 2641 Beech Rd., Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 4-1 with Mr. Gustafson 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

Mark Wickizer

September 8, 2020
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 8, 2020, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, James Berger, Mark Wickizer, Jeff Kutch, and Matt Miller. Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The minutes of the August 11th meeting were presented and Mr. Berger made the motion to approve the minutes and seconded by Mr. Wickizer. Motion carried by acclamation.

The second item of business was 20-BZA-44 MONTGOMERY, Calvin & Brenda - A request for a Variance of Developmental Standard to allow a 6' chain link fence from the right of way to 1' from the water's edge; located at 15271 12th Rd., West Twsp., Zoned L-1. Cal & Brenda Montgomery were present to represent their request. Mr. Adley presented the findings of fact.

Based on the information as submitted, the applicant is seeking to exceed the front and rear yard-fencing requirements. The applicant is seeking to install a 6' tall chain link fence on their western property line in the front, side and rear yards. The ordinance permits fences to be up to 6' within the side yard, but when the fence moves to the front and rear yards, it exceeds the 3.5' height limitations. There was no explanation as to why the variance is necessary submitted.

There has been animosity between neighbors. The Montgomery's daughter who resides at this residence has a dog and has already jumped a 3 ½' fence. They would like the proposed fence to keep their own animals on their own property as well as there to be a barrier to keep the neighbor on their own property. The proposed fence will start behind the right of way post and will run down to the lake. The fence will not run across the water. The opposite adjoining property is all wooded and they don't see a need to fence that side. When asked how they will keep the animals on their own property with just one side yard fence the applicant stated that he doesn't think it will be a problem.

The Montgomery's have surveyed the property and plan to put the fence up approximately a foot away from the property line.

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

1. Stacy Prather & Rudy - 15323 12th Rd. – After a confrontation the Montgomery's who

don't live their decided they were going to put up a chain link fence the length of the property. Putting up a fence isn't a problem, but they want to put in a chain link fence. They feel it will be hideous and decrease their property values. There are no other properties around the lake that have 6' fences. A couple of homes have 3 ½ foot fences and some that have wood slat fences that are actually eye appealing. No one has 6' chain link fences. They also have put up no trespassing signs facing their houses. Ms. Prather said that she has never went over to their property uninvited. Questioned if the fence is for their dog what is going to keep it from going around the fence. When they started to put up the fence they were concerned why a permit hadn't been obtained first. They believe what is going on should fall under the spite fence law.

Mr. Gustafson asked if fence permits were required. Mr. Adley explained that fence permits are required in all zonings except agricultural. As far as civil disputes between neighbors our office does not get involved.

2. Charles Kozark – 15351 12th Rd. - Received a letter stated that to his knowledge nobody has a fence on Myers Lake. Feels a 6' chain link fence will devalue his lake property. Why do you want to put up a chain link fence? Mr. Adley stated they are 3 houses away from the Montgomery's.

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

Mr. Montgomery stated that they had contacted 3 different fence companies and was told they didn't need a permit. When they started construction and received notification, they were in violation they immediately came in to get a permit.

The board explained the rule for fencing was put in place for a reason. If they make an exception once everyone will be in asking for an exception.

Mr. Kutch stated that the reason for the fence was to keep the dog on the property, but wondered if they have pursued other options to keep the dog on the property like underground fencing.

Mr. Kutch made a motion to deny the request 20-BZA-44 MONTGOMERY, Calvin & Brenda - A request for a Variance of Developmental Standard to allow a 6' chain link fence from the right of way to 1' from the water's edge; located at 15271 12th Rd., West Twsp., Zoned L-1, seconded by Mr. Berger. Motion carried to deny with a voice vote 4-0 for the reasons of general welfare, adjacent property and practical difficulty.

Mr. Adley explained that they can put up a fence, but it will have to meet county guidelines. When asked why they were denied the board explained that there are guidelines in place for a reason and they cannot see a hardship to rule in favor of the request.

The third item of business was 20-BZA-45 MILLER, Steven & Diane - A request for a Variance of Developmental Standard to reduce the side yard setback from the required 15' to 5 for a pre-existing horse shed; located at 6475 Elm Rd., Bremen, IN 46506 German Twsp., Zoned A-1. Steve & Diane Miller were present to represent their request. Mr. Adley presented the findings of fact.

The applicant had recently purchased the property and was made aware that the structure had not been previously permitted nor received the appropriate approval for setback reduction. The permit has since been applied for and is currently under variance review. The structure is a 75'x15' horse shelter that was construct 5' from the side property line while the minimum setback is 15'.

Mr. Miller just bought the property and found out it didn't meet the requirements and wanted to make it right by coming in.

The board questioned if the property had been split to cause the short setback distance. Mr. Miller didn't know. Mr. Miller doesn't live on the parcel as there is no residence.

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

Mr. Wickizer made a motion to approve 20-BZA-45 MILLER, Steven & Diane - A request for a Variance of Developmental Standard to reduce the side yard setback from the required 15' to 5 for a pre-existing horse shed; located at 6475 Elm Rd., Bremen, IN 46506 German Twsp., Zoned A-1, seconded by Mr. Berger. Motion carried with a voice vote 4-0.

The fourth item of business was 20-BZA-46 VANHOUTEN, Joshua - A request for a Variance of Development Standard to allow a secondary before a primary to build a 48'x60' pole barn/garage for personal storage and parking as they live lakeside; located at 16138 12B Rd., Plymouth, IN West Twsp., Zoned L-1. Mr. Josh Vanhouten was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a 48x60' pole building across the street from his existing residence. The ordinance does not permit for a secondary structure to be constructed prior to a primary structure. The applicant indicates that it will be used for parking and storage.

Mr. Vanhouten bought the property with the intent to tear down the mobile home and build a storage building on the parcel as he lives across the street on the lake. With there not being a lot of room for storage they would like to build this building to store things inside to keep things looking neat. They would like to place it near the center of the property to keep the distance in line with adjacent structures.

Mr. Kutch asked what type of materials were going to be used to construct it. Mr. Vanhouten stated that it will have steel pole barn siding. They plan to have a concrete floor in and keep the property neat. There is a well already on the property. As far as bathroom facilities they haven't decided at this point.

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

1. Marilyn Emery – 15178 Happy Acres Tr. – Believes the property is clean and kept neatly.
2. Wendell Fetters – 16199 12 B Rd – No problem with the request. They maintain the property well and notice there are others that have storage buildings on their properties as well.
3. Margaret Bonen – 16187 12 B Rd – In favor of the intent to build a building across the street from his home. They are an asset to the neighborhood.

Mr. Wickizer moved and Mr. Kutch seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Wickizer made a motion to approve 20-BZA-46 VANHOUTEN, Joshua - A request for a Variance of Development Standard to allow a secondary before a primary to build a 48'x60' pole barn/garage for personal storage and parking as they live lakeside; located at 16138 12B Rd., Plymouth, IN West Twsp., Zoned L-1, seconded by Mr. Kutch. Motion carried with a voice vote 4-0.

The fifth item of business was 20-BZA-47 HEAD, Lisa - A request by contractor for a Variance of Developmental Standard to allow for a reduction in Right of Way to 61'3.5" from the edge of the road for an existing 40'x48' pole building; located at: 13947 4th Rd., Plymouth, IN North Twsp., Zoned A-1. Ms. Lisa Head and contractor, Robert Wallace was present to represent his request. Mr. Adley presented the findings of fact.

The applicant had started construction of a 40x48' pole building without permits and constructed within the required 50' front yard setback. Applicant did not obtain permit due to COVID.

Mr. Wallace stated that he's never been registered with the county. When he got the job, it was during covid and thought things were closed down and went ahead and built the building without a permit and without calling the office to ask questions.

When asked how far he was away from the right of way he stated to the front of the telephone pole he is 49.3'.

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

Mr. Wickizer made a motion to approve 20-BZA-47 HEAD, Lisa - A request by contractor for a Variance of Developmental Standard to allow for a reduction in Right of Way to 61'3.5" from the edge of the road for an existing 40'x48' pole building; located at: 13947 4th Rd., Plymouth, IN North Twsp., Zoned A-1, with the following stipulations:

1. Applicable fines established by the Plan Commission for no permit and fines established by the Building Department for no inspections.
2. Meets Marshall County Building Codes.

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

The sixth item of business was 20-BZA-48 ABELS, Connie - A request by contractor for a Variance of Developmental Standard to reduce the ROW setback from 30' to 11' from the right of way and a reduction in east side yard setback from the required 6.2' to 1' to build a 20x28 unattached garage; located at: 15086 Happy Acres Tr., Plymouth, IN West Twsp., Zoned L-1. Ms. Connie Abels and contractor, Eric Scott were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a 20x28' 2 story garage 11' from the ROW and 1' from the side property line. There would be a garage on the first floor and storage on the second floor.

The builder explained that the proposed location was chosen because the septic system is on the west side of the proposed garage.

When asked if the applicant could attach the garage to the house the applicant stated she would have to re-do the entire house as there has a staircase on that end of the house.

Since there is a steep slope on the east side of the property after talking with the neighbor he has no problem with the request and issued a letter stating his approval.

Ms. Ables has been living in Chicago and plans to re-locate full time to this residence. With the winters and needing extra storage she has tried to choose the best size of building that suits them and the only suitable location on the property.

The boards main concern was no building can be built or maintained one foot off of a property line. When asked what the existing house's nearest corner to the property line it was approximated at three feet.

The septic drawing that the home owner had was very simple with a small box as a notation of the location of the septic. The applicant didn't pursue to find out the exact location of the whole system. The applicant is estimated the current system to the proposed building is 12'-15'.

There was originally a trailer on the property. After it was removed the applicant had Chuck DeWitt build her a house. To her knowledge she believes they were able to use the existing septic system.

Mr. Kutch asked the applicant if there was enough room once they found the septic system if they would agree to a septic no closer to the property line than the existing house and the applicant said yes of course. As far as the right of way setback Mr. Kutch also believes that there could be some adjustments in the size of the building and distance between the garage and the house to

get the proposal a little further off the road. Mr. Scott, the builder, agreed.
The location of the well is lakeside.

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

1. Michael J. Lowry – Neighbor to the east – Has no objections to the request.
2. Allison & Jeff Cress – Has no problem with her request. Also will need variance when they want to build.

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

The applicant has no problem being further from the side yard as long as it doesn't interfere with the septic system requirements. The only reason they based the setback request of 1' is because of the location they thought the septic to be located.

The board explained to the applicant if they make a choice to deny the application they can't reapply for another year. If, however, they choose to table the request to do more factfinding that would give them more time to locate the septic system.

Per the request of the applicant to table Mr. Wickizer made a motion to approve the request to table and seconded by Mr. Miller. Motion carried by acclamation.

The seventh item of business was 20-BZA-49 HOCHSTETLER, Norman - A request for a Special Use to allow an increase of employees from 7 to 10 for their existing approved business; located at: 192 Plymouth Goshen Tr., Nappanee, IN German Twsp., Zoned A-1. Mr. Norman Hochstetler was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is proposing to expand the number of employees under their current special exception business from the approved 7 employees to 10 due to the success and orders that are occurring through their business.

Their business is primarily for the RV business and have had an increase in demand for products. They would like a few part time people to keep up with the demand and shipping late. Currently there are 6 full time people plus the owner with one part time person.

In 2019 there was a small expansion to the business. Other than that, there are no additional shifts just more labor-intensive parts.

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

Mr. Kutch made a motion to approve 20-BZA-49 HOCHSTETLER, Norman - A request for a Special

Use to allow an increase of employees from 7 to 10 for their existing approved business; located at: 192 Plymouth Goshen Tr., Nappanee, IN German Twsp., Zoned A-1, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The eighth item of business was 20-BZA-50 GRAMM HOLDING CO - A request for a Variance of Development Standard to reduce the right of way setback from the required 50' to 42' in order to place a 12' overhang on the front of the building; located at: 12750 US 6, Plymouth, IN North Twsp., Zoned C-2. Mr. Gavin Skiles was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a 12' overhang on the front of the building. The front yard setback is 50' from the edge of right of way in the C-2 district, and the applicant is seeking to reduce it down to 42'.

Their hope is to make the building look more appealing. They are taking the concrete out and replacing it with new and adding new shrubbery making it look more modern. Mr. Skiles owns Skiles Automotive and is in the process of purchasing the property.

Mr. Adley clarified that there is a double line owned by the state between the state right of way and the right of way acquisition process back when US 31 was relocated. So the requested 42' is from the actual right of way. The state hasn't commented about this request and normally they don't.

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

1. Wayne Lamberson – 1518 Lilac Rd. – Owns the adjacent properties and doesn't think it will affect anything. Is in favor of the request.

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

Mr. Wickizer made a motion to approve 20-BZA-50 GRAMM HOLDING CO - A request for a Variance of Development Standard to reduce the right of way setback from the required 50' to 42' in order to place a 12' overhang on the front of the building; located at: 12750 US 6, Plymouth, IN North Twsp., Zoned C-2, seconded by Mr. Berger. 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

Mark Wickizer

October 13, 2020
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 13, 2020, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, James Berger, Mark Wickizer, Jeff Kutch, and Matt Miller. Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The review of September's meeting's minutes will be viewed in November.

The second item of business was 20-BZA-48 ABELS, Connie - A tabled request by contractor for a Variance of Developmental Standard to reduce the ROW setback from 30' to 11' from the right of way and a reduction in east side yard setback from the required 6.2' to 1' to build a 20x28 unattached garage; located at: 15086 Happy Acres Tr., Plymouth, IN West Twsp., Zoned L-1.

After background work on the septic system's location found that additional testing is needed the applicant has requested that they come back before the board in the spring. The board agreed to withdraw the request which will allow the applicant to reapply in the spring. Motion carried by acclamation.

The third item of business was 20-BZA-51 SCHULTZ, Robert & Bernadene - A request for a Variance of Development Standard to reduce the front yard setback from the required 30' from the ROW to 2' from the right of way to install a new awning, located at: 12190 Rose Rd., Plymouth, IN West Twsp., Zoned L-1. Mrs. Bernadene Schultz was present to represent their request. Mr. Adley presented the findings of fact.

The applicant is wanting to construct an awning over their front steps in order to have some coverage from the weather. The structure is currently 5' from the right of way. The initial desire was to construct a home addition to have a foyer, but the applicant has since reduced the request to just an awning. The existing home is currently set entirely within the front yard setback.

Mrs. Schultz would like to update the existing steps and make them level as well as add an awning to cover the steps from the weather. The proposed awning will stick out three (3) feet.

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

Mr. Miller moved to approve 20-BZA-51 SCHULTZ, Robert & Bernadene - A request for a Variance of Development Standard to reduce the front yard setback from the required 30' from the ROW to 2' from the right of way to install a new awning, located at: 12190 Rose Rd., Plymouth, IN West Twsp., Zoned L-1, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The fourth item of business was 20-BZA-52 SCHWARTZ, Joseph & Amy - A request for a Variance of Development Standard as the request does not meet the 1,320 foot residential setback of five residences to build a second barn and make the site a CFO, located at: 235 1st Rd., Nappanee, IN German Twsp., Zoned A-1. Mr. Joseph Schwartz was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to expand their existing AFO to a CFO, but do not meet the setback requirements of 1,320'. They would like to reduce the setback to allow for the construction of their second building which the operation as a whole is too close to 5 surrounding off-site residences. The 5 residences in question range from 619-1,293' from any portion of the operation.

Currently Mr. Schwartz has around 29,000 chickens. By adding another barn, it will classify him as a CFO which as he doesn't meet the 1,320' distance from residences. When asked why he didn't place the original building in the middle of the property to eliminate this problem he stated at that time he didn't know he was going to put up more than one barn.

Mr. Adley explained even if he built the new barn away from all the residences, because the original barn doesn't meet the requirements he would still have to come before this board for a variance.

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

1. Form Letters were received by the following people in full support of the project. Lily Chupp, Marvin Hochstetler, John & Ester Borkholder, Melvin & Emma Kuhns, and Daniel & Ruth Miller.

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

The 1,320' distance from residences is a requirement per the Marshall County Ordinance not IDEM.

Mr. Wickizer made a motion to approve 20-BZA-52 SCHWARTZ, Joseph & Amy - A request for a Variance of Development Standard as the request does not meet the 1,320 foot residential setback of five residences to build a second barn and make the site a CFO, located at: 235 1st Rd., Nappanee, IN German Twsp., Zoned A-1, seconded by Mr. Miller with the condition that a IDEM Permit is required, seconded by Mr. Miller. Motion carried with a voice vote 4-1 with Mr. Gustafson voting against.

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The fifth item of business was 20-BZA-53 SCHWOERER, Paul & Laura - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 30' from ROW to 25' from the edge of the road and the rear yard setback from the required 20' to 10' in order to build a 30'x40' garage; located at: 12428 Choctaw Island Trl, Culver, West Twsp., Zoned L-1. Mr. & Mrs. Paul & Laura Schwoerer were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a 30x40' unattached garage that will replace an existing garage. The narrow lot and proposed structure do not fit the standard requirements and are thus seeking to reduce the setbacks. The front yard on the west side of the property is seeking to be reduced from 30' from Right-of-Way to 25' from edge of road. The rear yard on the east side of the property is seeking to be reduced from 20' to 10'.

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

1. Kenneth & Arlene Shabino – 12344 Chippewa Tr. Culver – Has no objection for them to build a garage at the location they want to build.

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

Mr. Kutch made a motion to approve 20-BZA-53 SCHWOERER, Paul & Laura - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 30' from ROW to 25' from the edge of the road and the rear yard setback from the required 20' to 10' in order to build a 30'x40' garage; located at: 12428 Choctaw Island Trl, Culver, West Twsp., Zoned L-1, seconded by Mr. Wickizer. 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

Mark Wickizer

November 10, 2020
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 10, 2020, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, James Berger, Mark Wickizer, Terri Barnhart, and Matt Miller. Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The minutes from the September and October's meeting was presented to the board for their review. Mr. Miller made a motion to approve the September's meeting minutes, seconded by Mr. Wickizer. Motion carried by acclamation. Mr. Miller moved and Mr. Berger seconded the motion to approve the October's meeting minutes, seconded by Mr. Berger. Motion carried by acclamation.

The first item of business was 20-BZA-54 BORKHOLDER, Willis & Freida - A request for a Special Use to allow a slaughter house/processing facility; located at 668 Beech Rd., Nappanee, IN German Twsp., Zoned A-1. Mr. Willis Borkholder & Mr. Keith Borkholder were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to open and operate a meat processing facility from their place of residence in a proposed new structure. The business would typically run from 6a-3:30p Monday through Saturday, receipting of animals would be 3p-7p Monday through Friday, or in emergency, Customer pick up would be 6a-3p Monday through Friday and 8a to 12 noon on Saturday. There will be only 3 workers outside of residents on the parcel. All blood, water, and animal tissue will be collected and disposed of per Indiana State Board of Health and Marshall County Health Department regulations and not in domestic sewage. There will be only 1 unlit sign outside. There will be no outdoor storage other than the holding pen. The proposed structure will be located in the southeastern corner of the property.

The recommendation was based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval as submitted.

Keith Borkholder stated that he plans to butcher beef, hogs and sheep. This will be done as a home business part time. When asked how many he will be butchering he thought around 9 beef a week with some hogs too. It will be all processing no retail. The refrigerator will allow up to 20 carcasses. At this time there are no plans to smoke meats.

Mr. Wickizer made a motion to open for public hearing, seconded by Mrs. Barnhart. Motion carried by acclamation.

1. David Miller – Letter received in favor of the request.

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

The wash water will be drained and contained in a holding tank and hauled away. The USDA regulates the process and is inspected regularly.

Mrs. Barnhart made a motion to approve the request 20-BZA-54 BORKHOLDER, Willis & Freida - A request for a Special Use to allow a slaughter house/processing facility; located at 668 Beech Rd., Nappanee, IN German Twsp., Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The second item of business was 20-BZA-55 KUHNS, Joseph - A request for a Special Use to allow a 27'x114' addition to an existing building that is a preapproved small engine repair business; located at 1319 Plymouth Goshen Tr., Bremen, German Twsp. Zoned A-1. Mr. Joseph Kuhns was present to represent his request. Mr. Adley presented the findings of fact.

The applicant was previously approved for the small engine repair shop in 2015 and is now seeking to do a 27x114' cold storage addition that will run east and west.

The recommendation was based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed addition as requested.

Mr. Wickizer made a motion to open for public hearing, seconded by Mrs. Barnhart. Motion carried by acclamation.

1. Ms. Cindy Scott – Received a letter in opposition. Believes in the 2015 meeting he was told that if he wanted to get bigger, he would have to move to town. She thinks this request qualifies as bigger. The business has already extended beyond the lawn mower business as there are many sheds sitting outside for sale. The original special use permit was for a small engine repair shop and says nothing about selling other things. The main concern is flooding and drainage. Last spring, the entire area in front of his business was flooded clear up to his building and down along and clear across the road. This was not just for a day or two, but was for weeks. Not to mention the drainage problem, it also is hazardous for traffic. Apparently, the drain or tile is not able to handle current usage and this will just add to the problem. She doesn't understand why an issue like this has not already been investigated before even considering allowing a permit for a building that would most likely make this problem worse. She would appreciate this being looking into and for the request to be denied.
2. Mr. & Mrs. John & Jolene Binns – Received a letter in opposition. Believes this business is no longer small and should be in a city zoning where there is city water, sewerage and proper facilities for disposal of industrial solvents. Bigger consideration is the lack of drainage that has resulted in flooding of the areas in front of his current business and extends across the road adjacent to the property. The current culverts and tiles do not handle the existing water. Adding an additional 3,078 sq ft building opens the possibility of additional employees and exacerbating the current drainage problem in the north east portion of Marshall County.

Mr. Wickizer made a motion to open for public hearing, seconded by Mr. Berger. Motion carried

by acclamation.

Mr. Kuhns stated during the wet spring there was flooding. At that time nothing could be done. Martin's tiling did come out and give him an estimate of what it would cost to help the issue in the field east of his property that wasn't draining. Most of the water comes from the east property owned by someone else. At that time, they didn't want to put any money into upgrading this tile. The drain was jetted out and there seemed to be no success. Since that specific flooding there hasn't been an issue since.

When asked by the board the Mr. Adley explained that since the building is under 4,000 square feet this request doesn't trigger needing a drainage plan per the ordinance.

There is currently a drainage pond on the property on the west side of the building. If the pond does get full the water usually goes across their driveway or into the field. While discussing drainage the board asked if he could make the drainage pond bigger or put another one in a different location and make it a dedicated retention area. Mr. Kuhns stated that he could on the south side of the building if he had to.

Mr. Adley explained that if the board wishes they could require Mr. Kuhns to come up with a plan to meet the requirements of an approved drainage plan to assist in making what is there today better, but it wouldn't allow it to get worse.

The board questioned Mr. Kuhns about the oil and he told them that the oil is used in an oil burner in house.

Mr. Miller made a motion to approve the request 20-BZA-55 KUHNS, Joseph - A request for a Special Use to allow a 27'x114' addition to an existing building that is a preapproved small engine repair business; located at 1319 Plymouth Goshen Tr., Bremen, German Twsp. Zoned A-1with the requirement that there be a drainage plan to accommodate the new building as well as the existing buildings, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The third item of business was 20-BZA-56 BORKHOLDER, Everett & Loretta - A request for a Variance of Developmental Standard to allow an additional Broiler Barn to a CFO that doesn't meet the 1320 ft residential setback; located at: 5191 Cedar Rd., Bremen German Twsp., Zoned A-1. Mr. Everett Borkholder & Elizabeth of Agronomix were present to represent their request. Mr. Adley presented to findings of fact.

The applicant is seeking to construct a second broiler barn, which will take the existing animal feeding operation to a confined feeding operation, which invokes a series of additional development standards. One of which is the requirement that any part of the facility shall be 1,320' from any residence off the premises. The nearest residence is 854' and ranges up to 1,172', but there will be one additional residence (the subject home residence) because the poultry facility will be separated off from the residual of the parcel.

The recommendation was based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval provided that there are no objections from neighbors.

The first building was built in 2014. Approximately two years ago Mr. Borkholder began the process of adding another building. Because he milked cows there is a significant issue with having the milk operation meet the same standards as an IDEM CFO permit. It was discussed earlier about separating the milking operation. Three of the signatures that are needed are to a barn that is not on our IDEM permit so it's not a part of the CFO. Therefore, there is only 3 homes that affected by the chicken barns. All of the IDEM approvals were processed and then they found they forgot to get approvals from the three property owners. As of this meeting the three-property owner's have signed off on the approval of this request.

The composting done at Miller Poultry allows them to raise the meat birds in 6-7 weeks' time and when they remove the birds they bring in a machine and turns the manure and shavings into four piles and every time they turn it it heats up and puts oxygen in it and kills disease pathogens, helps to stabilize the nutrients, and burns off the nitrogen. Then they spread it back out and let it cool for 3 or 4 days. They like to keep around 6 inches in the barn. Once it reaches about 8 inches, they will remove one of the piles which will lower the total inches.

Miller poultry has two different types of birds, antibiotic free birds and organic birds. There is a 40' area outside that allows the birds to go outside and roam, but the majority of the time they are inside as they like to be close to the food.

There are exhaust fans in the buildings. They are set up to run on 5-minute intervals for a minute to a minute an a half.

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

1. John Kuhns - 1860 5th Rd. Bremen – Sent a letter in support of the request.
2. AMMF (Borkholder) – 2060 5th Rd., Bremen – Sent a letter in support of the request.
3. Craig & Rhonda Riffey – 7247 SR 331, Bremen – Sent a letter in support of the request.
4. John & Cara Plank – 5238 Cedar Rd., Bremen – Sent a letter in support of the request.
5. Eli Jr. & Clara Borkholder – 2088 5th Rd., Bremen – Sent a letter in support of the request.
6. Kenneth & Brenda Miller – 1835 5th Rd., Bremen – Sent a letter in support of the request.
7. Laura Bucher -Sent a letter and strong objects to the request. She shares a fifth interest with siblings and mother to the south of the Borkholder farm. Concern of air and water quality, as well as the nuisance of odor, flies, feather and traffic. Also believes there will be a negative impact to the value of their property.
8. Marilyn Haines - Sent a letter and strong objects to the request. She shares a fifth interest with siblings and mother to the south of the Borkholder farm. Concern of air and water quality, as well as the nuisance of odor, flies, feather and traffic. Also believes there will be a negative impact to the value of their property.
9. Sharon Toon - Sent a letter and strong objects to the request. She shares a fifth interest with siblings and mother to the south of the Borkholder farm. Concern of air and water quality, as well as the nuisance of odor, flies, feather and traffic. Also believes there will be a negative impact to the value of their property.
10. Wendy Stanton Haines - Sent a letter and strong objects to the request. She shares a fifth interest with siblings and mother to the south of the Borkholder farm. Concern of air and water quality, as well as the nuisance of odor, flies, feather and traffic. Also believes there will be a negative impact to the value of their property.
11. Robert Haines - Sent a letter and strong objects to the request. She shares a fifth interest with siblings and mother to the south of the Borkholder farm. Concern of air and water

quality, as well as the nuisance of odor, flies, feather and traffic. Also believes there will be a negative impact to the value of their property.

12. Linda Wakefield – Sent an email and says her mother is 80 years old and is the owner of the property affected by the proposed change. Believes this would devalue their property for future resale.

Mrs. Barnhart made a motion to close the public hearing, seconded by Mr. Wickizer. Motion carried by acclamation.

Elizabeth from Agronomix reminded the board that all area property owners have been notified of the request through the state multiple times and at no time was there anything received against the request.

At this location there was a dairy farm which has now been turned over to beef cows.

Mr. Miller made a motion to approve 20-BZA-56 BORKHOLDER, Everett & Loretta - A request for a Variance of Developmental Standard to allow an additional Broiler Barn to a CFO that doesn't meet the 1320 ft residential setback; located at: 5191 Cedar Rd., Bremen German Twsp., Zoned A-1, seconded by Mrs. Barnhart. Motion carried with a voice vote 5-0.

The fourth item of business was 20-BZA-57 SCHWARTZ, John & Esther - A request for a Special Use to allow an existing molding home workshop shop for cabinetry; located at 2257 3B Road, Bremen, IN German Twsp., Zoned A-1. Mr. John Schwartz was present to represent their request. Mr. Adley presented their findings of fact.

The applicant is seeking to build an addition onto his pre-existing (unapproved)home-based workshop. The addition would be 14x28'. The business makes moldings for cabinets. The hours of operation are 5am to 1pm and will have 1 full-time employee and 2 part time employees.

The recommendation is based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed existing business as requested.

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

Mr. Wickizer made a motion to approve 20-BZA-57 SCHWARTZ, John & Esther - A request for a Special Use to allow an existing molding home workshop shop for cabinetry; located at 2257 3B Road, Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

20-BZA-58 WITHDRAWN

The fifth item of business was 20-BZA-59 WOJDA, Mark & Anita - A request for a Variance of Developmental Standard to reduce the ROW setback from the required 30' to 19.5' in order to add on to the existing garage and add on a 2nd story to the residence; located at: 16258 Dogwood

Rd., Plymouth, IN West Twsp., Zoned L-1. Mr. Mark Wojda and Mr. Bernie Feeney of Plymouth Land Survey was present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to reduce their front yard setback from 30' to 19' in order to accommodate a garage and second story addition for dialysis equipment storage and treatment area.

The recommendation was based on the information provided and the review of the property, staff would recommend denial of the proposed reduction in setbacks, because the situation shall not be self-imposed.

The applicant is seeking to reduce their setback from 5' from the furthest point on the structure to 5' from the foundation.

Mr. Feeney explained that the Wojda's plan to only take the addition to the sides and up, but not any closer to the road. The extra space will be for one car garage as well as storage space for all of the dialysis equipment and supplies. The residence is also accessed to this property is from an easement not a county road.

The Wojda's previously lived in Carmel and this was their vacation home. They've now sold the Carmel residence and this is now their permanent home. The lake house is only 1,300 square feet and the extra room is much needed.

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

1. Anita Wojda – They've tried every option possible to create more space for their needs. This option seemed to be the best possible solution.

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

Mr. Berger made a motion to approve 20-BZA-59 WOJDA, Mark & Anita - A request for a Variance of Developmental Standard to reduce the ROW setback from the required 30' to 19.5' in order to add on to the existing garage and add on a 2nd story to the residence; located at: 16258 Dogwood Rd., Plymouth, IN West Twsp., Zoned L-1, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The sixth item of business was 20-BZA-60 ANDERSON, Fred & Laura - A request for two side yard setback reductions from the required 10'/10% to 5' from the foundation in order to build a new house; located at: 3291 Lakeshore Dr., Bremen, IN German Twsp., Zoned L-1. Mr. Randall Mast of John Mast construction was present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to reduce their side yard setbacks from 10'/10% to 5' from the foundation. The recommendation was based on the information provided and the review of the property by the Technical Review Committee, staff and TRC would recommend denial of the proposed reduction in setbacks, because the situation shall not be self-imposed.

The builder said that the property is already tight and it would drastically reduce the size of the house if they had to come in an extra 12" on each side.

The board commented that around the lake most all lots are small and if they reduce for one, they have to do it for all.

Mrs. Barnhart moved to open for public hearing, seconded by Mr. Wickizer. Motion carried by acclamation. There being nobody to speak for or against Mr. Miller moved and Mr. Berger seconded the motion to close the public hearing. Motion carried by acclamation.

The board asked for clarification of what the request is and Mr. Adley stated the requirement is 5' to the eaves and the applicant is requesting 4'.

Mrs. Barnhart made a motion to deny 20-BZA-60 ANDERSON, Fred & Laura - A request for two side yard setback reductions from the required 10'/10% to 5' from the foundation in order to build a new house; located at: 3291 Lakeshore Dr., Bremen, IN German Twsp., Zoned L-1, seconded by Mr. Berger. Motion carried with a voice vote 5-0 to deny due to practical difficulty and is self-imposed.

Other Business

Proposed 2021 Meeting Calendar & Meeting Times – Mr. Adley explained that the staff has proposed to move the meeting times of both meetings to the same times. Whether the meetings are at 7:00 or 7:30 didn't matter to staff. The majority of the Plan Commission seemed to agree that the 7:30 time slot worked the best.

Mr. Miller made a motion to approve the proposed 2021 BZA meeting schedule, seconded by Mr. Berger. Motion carried by acclamation.

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

Respectfully submitted

Mark Wickizer

December 8, 2020
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 8, 2020, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, James Berger, Mark Wickizer, Jeff Kutch, and Matt Miller. Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The minutes from the November 10, 2020 meeting were submitted to the board. Mr. Berger made a motion to approve the minutes as presented, Mr. Wickizer seconded the motion. Motion carried by acclamation.

The first item of business was 20-BZA-61 SPETH, Christopher - A request by Brian Teall for a Variance of Developmental Standard to reduce the right of way setback on both Pleasant Point Ln and W. Shore Dr. from the required 30' to 18' and a rear yard setback from the required 45' to 24; located at: 5018 W. Shore Dr. Bremen, IN German Twsp., Zoned L-1. Mr. Brian Teal was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a new house on the property and wants to reduce the front yard, second front yard and rear yard setbacks. The front yard for the project is considered Pleasant Point Lane, which has a setback requirement of 30' and is proposed to be reduced to 18'. The secondary frontage is W Shore Drive that is proposed to be reduced from 30' to 20'. The final setback reduction is on the rear against the channel from 45' to 24'. The front setback along Pleasant Point Lane averages to 9' over 9 structures which has a range of 25 to -2'. The front setback along W Shore Drive averages to 40' over 18 structures to the East and West of the subject parcel, ranging from 72' to 9 feet. 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'.

Mr. Teall is looking to purchase this property from Mr. Speith. In preparation he talked to many of the neighbors about his request and all seemed to be in favor of the request and would add to the value of properties. While thinking about the safety aspect of ingress and egress they have moved the driveway from W. Shore Dr. to Pleasant Point Lane.

The property on the opposite corner of W. Shore and Pleasant Point Lane exits from W. Shore not Pleasant Point Lane.

Mr. Teall reminded the board that the setback measurements were to the right way. Since Pleasant Point is a private drive they actually own to the middle of the road. In all actuality that

setback shouldn't be an issue. The north setback meets requirements, the south side is being proposed from 30' to 20' and the west side is being proposed from 45'BFE to 24'. It was agreed by everyone that this lot would be very difficult to build on other than putting a mobile home on. Many of the homes along the channels have homes and outbuildings in the floodplain.

Mr. Kutch asked if there was any discussion with the TRC about the property being on a corner and the safety issues. Mr. Adley and Mr. Teall have already discussed the placement of the home in conjunction with the safety aspects.

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

1. Greg Bollenbacher – Owns the building right across the drive. Asked what the purpose of the setbacks are if we aren't going to obey them. His building did receive fire damage and is awaiting relief. With regard to the utility pole Mr. Bollenbacher has underground electric service to that pole. Greatly concerned about another fire happening and what more would happen to his building. Believes there will be more wear and tear on Pleasant Lane. Why aren't we maintaining the setbacks required by the ordinance. Is opposed to the request.

The board discussed the lot size and with the required setbacks it would only allow him a 25' wide house. The board explained that if Mr. Teall is not approved someone else could come in and put in a small mobile home.

2. Brian Bollenbacher – Owns 4489 W. Shore Dr which is adjacent to the ditch on the other side of the street. Has a concern about the utility easements. Had a truck hit a utility pole on his property and luckily there was no damage because his house is setback further. With his proposed structure being closer to the property lines it allows possible damage to adjacent property owners structures.
3. Marvin & Diane Houin - 7563 Plymouth Goshen Tr. – Owns the lot directly across the street next to the damn. Agrees with Mr. Bollenbacher why have setbacks if we aren't going to keep them. The concrete pad is the size of the previous residence. Believes he is going over the requirements by at least twice what it was designed for. Has no concern with the east setback reduction. The concern is the south setback. Says there is a safety issue with the curve. Says the DNR has a lot of work to do on the damn. The gate is presently open on the damn and needs work done on it. Questions building that close to the damn what sort of problems could happen. If there is a house built on their property it will totally impede the view of the lake. With a proper setback they don't believe there would be a problem seeing the lake. Mrs. Houin stated that the damn is the legal drain for the whole watershed. Thinks a reduction in setback is just asking for trouble. They deserve to have the watershed right of way that is called for. School bus safety is also a concern. He hasn't purchased the lot yet so he won't be out of money.
4. Mary Town – 4507 Pleasant Point Lane – Sent a letter in favor will be a welcome sight to see a home on the lot.
5. Marvin & Diane Houin – Also sent a letter and two pictures restating the above.

6. Travis Cole 4480 Plum Ln – Sent a letter and does not foresee any issues with the proposed setbacks. Believes it will be a welcome addition to the neighborhood as the property has been unkept for several years.
7. Rick Bollenbacher – 4460 Pleasant Point Ln – Sent a letter and believes the setback standards should be adhered to.
8. Debra McClain 17381 Darden Rd., South Bend – Sent a letter and is against the request. Believes the location near a curve in the road is a safety hazard. Believes the setback to the water needs to be maintained at 45 to have access to maintain the ditch if need be. As her property is across the street from the proposed variance believes they would lose value due to limited inability to view the lake.

Mr. Teal finds it hard to see the relevance of Mr. Greg Bollenbacher's concern when his building is practically abutting the right of way. Their proposal is to move back the residence an additional 10' towards the channel from where the originally residence sat. Understands his concern, but this will not be a mobile home but a home. Plus, with having a home and the property maintained well it will actually increase the values of neighboring property owners.

As far as safety concerns everyone should be happy that the pole is being proposed to be moved to the utility easement. He is the President of the School Board of the Bremen Schools. He understands safety of the buses and safety of the kids. The house is not the problem the trees are the obstruction. The ROW is already at least 10 feet off the road plus an additional 20' beyond that.

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

Mr. Gustafson asked Mr. Teal if he could re-design the house and make it to fit on the lot. Mr. Teal explained to the board that's just not feasible. He would consider reducing the garage size from a 3 car to a 2 ½ car which would increase the setback on West Shore Dr.

Rob Carlson of Carlson Homes was asked to come forward. During discussion between him and the applicant they believe the garage can be moved back 8'.

The board had a lengthy discussion with the applicant trying to see if he can reconfigure the layout to not have to reduce the setbacks. Mr. Carlson explained since the proposed house is pods it would make it very difficult to do what the board is asking.

Mr. Adley explained that we have to treat channels of water setbacks the same as if they were located lakeside. It's been customary in the observation of several channels around lake of the woods that the 45' is not feasible.

Mr. Wickizer made a motion to approve 20-BZA-61 SPETH, Christopher - A request by Brian Teal for a Variance of Developmental Standard to reduce the right of way setback on both Pleasant Point Ln and W. Shore Dr. from the required 30' to 18' and a rear yard setback from the required 45' to 24; located at: 5018 W. Shore Dr. Bremen, IN German Twsp., Zoned L-1 with the condition that the setback from West Shore Drive shall be no less than 28' from the ROW on the

½ car garage and all other proposed setbacks are approved; seconded by Mr. Kutch. Motion carried with a voice vote 3-2 with Mr. Berger and Mr. Gustafson voting against.

The second item of business was 20-BZA-62 FLORA, Lynn & Gail - A request for a Variance of Developmental Standard to reduce the Right of Way setback requirement from 50' to 35' in order to build an addition to the front of the house on the south side; located at: 16458 15B Road, Culver, IN Union Twsp., Zoned A-1. Mr. & Mrs. Lynn Flora were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a 14x16' addition on the Southeastern portion of the house. The ordinance requirement is 50' from the edge of right of way and they are wanting to reduce it to 35'. The reason 35' is because the Northeastern corner of the house is also 35' from the right of way. The reason for the expansion is due to well and septic locations.

The applicants apologized that they jumped the gun. They came in and applied for the permit, but since the other end of the house addition was approved, they didn't think this would be a problem.

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

1. Terry & Carin Clifton – 16960 Pear Rd., Culver – In favor of them to put up an addition on their house. They always keep their property looking nice and see no problem with the addition.
2. Michael & Shari Spaid – 16484 14B Rd., Culver – In favor of the request. They have thru time improved and restored this 100 plus year-old historic farmhouse and property. It's a great asset to our area and county.
3. Bryan Beldon – 16821 15B Rd., Culver – Does not have any issue or concerns with the Floras addition.
4. Scott & Diane Howard – 16625 15th B Rd. Culver – Has no issues with them building on their house.
5. Sally Flora – 16807 15B Rd. Culver – Have been neighbors to the Flora's for 10-15 years and they have continually made improvements to their property. Has no objections.
6. Tom Woodward – 16378 15th B Rd. Culver – Has no concern with the Flora's addition.

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

Mr. Wickizer made a motion to approve 20-BZA-62 FLORA, Lynn & Gail - A request for a Variance of Developmental Standard to reduce the Right of Way setback requirement from 50' to 35' in order to build an addition to the front of the house on the south side; located at: 16458 15B Road, Culver, IN Union Twsp., Zoned A-1, seconded by Mr. Berger. Motion carried with a voice vote 5-0.

The third item of business was 20-BZA-63 STUTZMAN, Herman - A request for a Variance of Developmental Standard to reduce the right of way setback requirement from 75' to 60' in order to build a house on an existing foundation; located at: 14333 US 6, Plymouth, IN North

Twsp, Zoned A-1. Mr. Ernest Stutzman was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to reduce the front yard setback from the required 75' to 60'. This is due to an existing foundation on the property. There is no known permit for the foundation found under the GIS tracking software.

When Mr. Stutzman was asked if he could move the foundation back to meet the requirements, he said he probably could, but didn't want to have to tear them down after he spent the money putting them up.

The foundation was existing on the property prior to the Stutzman's purchasing the property. As far as the blocks Mr. Stutzman stated that Mr. DeWitt told his dad that he could put up the bricks, but that is it.

President, Gustafson, asked what was going on with the building being erected now. Mr. Adley stated that the building is currently halted with a stop work order.

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

This request is before the board because the parcel sits adjacent to an arterial road which requires a setback of 75'.

Mr. Wickizer made a motion to approve 20-BZA-63 STUTZMAN, Herman - A request for a Variance of Developmental Standard to reduce the right of way setback requirement from 75' to 60' in order to build a house on an existing foundation; located at: 14333 US 6, Plymouth, IN North Twsp, Zoned A-1, with the condition that there be no building north of the existing foundation, seconded by Mr. Berger. Motion carried with a voice vote 5-0.

The fourth item of business was 20-BZA-64 THOMPSON, Larry - A request for a Special Use to allow a home-based business of car repair and welding; located at: 2781 9B Road, Bourbon, IN Bourbon Twsp., Zoned A-1. Mr. Larry Thompson was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is operating a home-based workshop which historically started as a welding shop and has added car repair over the course of time. The property came in as a violation due to the number of vehicles on the property. The owner has since cleaned up a substantial portion of the property.

Mr. Thompson purchased the property in 1997 and has been doing auto repair, wood working, and refurbishing for 20 years. At this time there are no employees. Every now and then a job requires an additional person to help.

Once Mr. Thompson was notified of the violation, he cleaned up the property and installed a partial fence in addition to the existing pine trees most all excess cars and parts are kept there. Cars that are waiting to be worked on will be near the garage.

Mr. Miller travels this area often and has noticed significant clean up.

When asked if he would like to consider approval for a couple employees he said yes. Hours of operation are Monday through Friday 8-5pm.

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

1. Janet Trowbridge – 8150 SR 331 Bourbon – Owns a property west of the applicant's parcel. Understands this type of business creates extra outside storage. Believes it can cause a decrease in property values. She doesn't want him to lose his livelihood, but rather the property gets cleaned up. Would like there to be a stipulation that it doesn't get this way again. Would also like waste to be disposed of properly.

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

All waste is disposed of and put in barrels and is picked up. Waste oil is used in a burner. Freon is reclaimed.

Mr. Wickizer made a motion to approve 20-BZA-64 THOMPSON, Larry - A request for a Special Use to allow a home-based business of car repair and welding; located at: 2781 9B Road, Bourbon, IN Bourbon Twsp., Zoned A-1; with the following conditions:

1. Primary storage to be located behind the building
2. Privacy fence (already installed)
3. Up to 2 employees
4. Hours of business Monday through Friday 8-5
5. **Waste material disposed in accordance to IDEM's requirements**

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

Other:

Staff wishes Mr. Wickizer well and thanked him for his service on the Board of Zoning Appeals.

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

Respectfully submitted

Mark Wickizer