January 9, 2018
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Stan Klotz, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, January 9, 2018, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, Mark Wickizer, Trent Bennett, and Stan Klotz, Plan Director Ralph Booker, Secretary Lori Lowry and interested parties. Member absent was Dan Voreis.

The first item of business was the review of the minutes from the December 12, 2017, meeting. **Mr. Bennett made a motion to approve the minutes as amended, seconded by Mr. Wickizer. Motion carried by acclamation.**

The second item of business was the 2018 Election of Officers. Mr. Wickizer made a motion to retain the same officers as 2017, seconded by Mr. Gustafson. Motion carried by acclamation.

President	Stan Klotz
Vice President	Trent Bennett
Secretary	Jeff Gustafson

The third item of business was 18-BZA-01 COOPER, Brent & Lorie - A reconsideration of 17-BZA-38 a Special Use to allow a Christian Re-treat and Event Center with occasional weddings and receptions, located at 11881 Gumwood Rd., Bourbon, IN Bourbon Twsp., Zoned A-1. Mr. Brent Cooper, Mr. Jeffrey Houin, Attorney, and his associate Ms. Shively were present to represent their request. Mr. Booker presented the findings of fact.

This is a 36.68-acre property with a home and a large hay /implement barn. The home was built in 1997 and the barn in 2010. The rest of the property is being used for a cattle operation. The applicant wishes to use the barn for a Christian retreat and event center with occasional weddings and receptions. The barn is a 40 x 72-foot building with a 20 x 72 and 16 x 72 lean to. It does not have a Construction Design Release (CDR). This building would be served by a private well and septic. There is some parking on the grounds. During the public hearing/reconsideration the applicant supplied some additional information on traffic counts on Lincoln Hwy and other areas of the county. They provided more details on this Christian based re-treat center.

A packet was presented by Mr. Cooper's attorney. Mr. Houin explained that the board has heard the basics of the case in previous hearings. It is their intention to clear up any misconceptions or misrepresentations about the intended use of the property is and what Mr. & Mrs. Cooper have planned. The packet was outlined as follows:

- The primary intent of the property is a re-treat center.
- Aerial view of all three parcels
- The proposed Christian Retreat will be called Mary and Martha
- Mary and Martha will provide a place for people to gather in a peaceful, tranquil, country setting; to find rest and relaxation that promotes healthy family relationships and community
- Mary and Martha retreats include: Women only retreats, men only retreats, premarital and marital retreats and pastoral retreats
- Special events will include: weddings, mother/daughter events, mother/son events, father/daughter events, father/son events and reunions/family gatherings
- Property has been chosen specifically for its peaceful, rural character and will contribute to the rejuvenating character of retreats at Mary and Martha
- The proposed special use complies with the zoning ordinance and should be approved
- Decision Criteria – General Welfare, Development Standards, and Ordinance Intent
- Comprehensive Plan – consistent with the character of the zoning district.

Mr. Bennett questioned the intended use of the residence and the barn. Mr. Houin stated that the retreat center will not use the house for the Mary & Martha Event Center.

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

1. Travis Cooper – 9250 Vasser Ln. – (Son) Therapist in a group home. A majority of kids in his work come from broken homes. His parent's objective is to support family stability.
2. Marla Kreft – 2811 18th Rd. – In favor
3. Mark & Lisa Letsinger – Filbert Rd. – In favor
4. Eugene Cooper (Father)- Supports request. Believes that it is better to have something go in like this rather than someone unknown and not know their plans.
5. Jerry Gates – SR 10-In favor.
6. Annette Ray – Fir Rd. Bourbon – In favor and believes it's a great way to help.
7. Dan Stichter – N. Washington Bourbon – Ideal location that has a developed property with existing buildings and a local family that wants to invest in their community.
8. Jordan – Pastor of Etna Green Church of Christ – Their church would love to use a facility like this.
9. Mike Cook – 9 B Rd. Bourbon – Lives close to New Wine Banquet Center and Back Forty. Occasionally sees an increase in traffic, but hasn't seen any issues.
10. Steve & Pam Barry – Our community is in need of a facility like this.
11. Morris & Kim Riddle – In favor of the intent to improve the community.

12. Benzek – Is a limited request and shouldn't offend the neighbors. Doesn't see a reason why neighbors wouldn't want such a property near as long as the volume is regulated. Believes the quality property of the Speicher's should be put to good use and enjoyed by as many people as possible. It's a value-added property for the whole neighborhood. Interested buyers are local and are transparent of their desire to use the property. This is a major advantage of knowing the intent rather than the unknown.
13. Jenna Speicher – Believes the proposal will be good for Marshall County because the proposal meets the criteria listed in the ordinance. Mara & Martha would enhance the public health in Marshall County. Gumwood Road has been a safe neighborhood over the years and sees nothing in the proposal that would change that fact. Sees nothing detrimental in the request.
14. Mike Delp – 1707 S. Michigan St. – Wants to be on record that he's for the Cooper's request. As a county commissioner he doesn't see any adverse effects on the roadways. Believes the economic vitality and what it can do for the family fabric in the community and what they are trying to accomplish offsets. There may be a little inconvenience to neighbors at times, but no different than farming a few days out of the year. As a Marshall County Commissioner, he is in support.
15. Adam Motz – Gumwood Rd. – Passed out maps of the topography of the area. Several areas that are 4-5 feet below the Speicher property. If they were to put in a parking lot of a hundred cars or so he has a concern of the water run off into the lower lying areas of the field in which he farms which would make farming more difficult and possible loss of crops. The Charles Davis drainage ditch runs right through the Speicher property and onto the Motz property.
16. Delores Doll – 11965 Gumwood Rd. Passed out a copy of a petition that was taken around to neighbors and signed. Lives with son, his wife and three kids. Her residence is directly south of the Speicher property. Speaking in opposition to the request. Doesn't believe that the Back Forty and New Wine Event Center were as unanimously opposed as this request. Feels the existence of the event center and the resulting traffic and noise and safety concerns will damage their property values. Property already has surface water issues. Talked with Tony Watkins who lives near the Back Forty and says the music is disturbing and easily heard from his property.
17. Gwen Fuchs – Gumwood Rd. – Raised in the community and wants kids raised in the same type of community. Not with a commercial business that also devalues their property. Thinks it is a good idea, but in another location.
18. Linda Vallard – 2470 Hillcrest Ave. – Barn is 100' south of the property. Farming is their livelihood and doesn't want to see a devaluation in the farming.
19. Steve Roberts – 11962 Gumwood Rd. – Has talked with area neighbors of the Back Forty and New Wine Event Center and they wouldn't agree to approve now after it's been open.
20. Becky Carswell Gumwood Rd. – There are no trees to block the noise. The barn is not that far off the road. The proposal will be every day, not just weekends.
21. Judy McCollough – 11526 Gumwood Rd. – Believes it is a poor location and has a concern about water runoff and damaging crops.

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

Mr. Booker reminded the Coopers that they will need to follow the ordinance with the parking lot requirements and water runoff. Any deviation will need to be addressed at a different hearing.

The Cooper's do not have a parking plan at this time, because they are away of drainage issues that need addressed before a plan is made.

Mr. Klotz asked what was so special about this property that makes them want to pursue the project with having so many neighbors that are opposing the request.

Mr. Houin commented that in viewing the property it seems to be ideal for this type of facility. Because of the existing barn, being set back so far off the road and such a peaceful and tranquil location.

Mr. Cooper commented that location is everything. It has a convenient access and is close enough where people will want to attend.

Mrs. Cooper, who was in the audience asked to speak and was reminded that the public hearing was closed and that she had her chance to sit in front as an applicant.

Mr. Wickizer questioned the capacity of the existing event centers. Back Forty was approved for 250 people and the New Wine Banquet Center was approved for 100-150 guests.

Mr. Houin clarified that the Cooper's only plan to retain the one parcel not the adjoining two.

It's the Cooper's belief that the concerns are based on a misunderstanding of what's intended for the property. The concerns being drainage that interferes with agricultural use. It's their opinion that their request will not interfere. They have every intention of complying with any drainage requirements. There is no use on the property that will restrict farming on adjoining properties. There also seems to be a concern of the tranquil setting. Which is one of the main reasons why the Cooper's are interested in the property and its peaceful setting. It is their belief that they will uphold the morals and general welfare of the community.

Mr. Bennett made a motion to approve <u>18-BZA-01 COOPER, Brent & Lorie -</u> A reconsideration of 17-BZA-38 a Special Use to allow a Christian Re-treat and Event Center with occasional weddings and receptions, located at 11881 Gumwood Rd., Bourbon, IN Bourbon Twsp., Zoned A-1, with the following stipulations:

1. **An approved Construction Design Release**
2. **Meet all the State and Local requirements**
3. **Hours of operation closed by 11pm; no overnight stays**

4. **Not transferrable to anyone else**
5. **Security – 2 officers per wedding event when alcohol is served**
6. **All events are to be in the barn or in a tent (for the first few months)**

Motion dies for a lack of a second.

Counsel for the Board of Zoning Appeals advised the board that no further action needs to be taken as there was a lack of a second to the motion.

The fourth item of business was 18-BZA-02 FREED, Kent - A request for a Variance of Development Standard to reduce the south side yard setback from the required 15' to 7' in order to allow an existing building, located at 7774 Fir Road, Bourbon, IN Bourbon Twsp., Zoned A-1. Mr. Kent Freed was present to represent his request. Mr. Booker presented the findings of fact.

On July 20, 2016 Mr. Freed obtained a building permit to build a 50 x 108-foot pole barn. He stated on the permit the southern side yard setback would be twenty (20) feet. Once the building was constructed the owners of the property to the south, Brad Stackhouse, questioned the setback of the new building. A survey was completed and it was found the new building is only seven (7) feet from the southern property line and Brad Stackhouse's property. The building was not built according to the building permit.

Mr. Freed had Mr. Stackhouse out to the property before the barn was built and there was a mutual agreement where the property line was. At that time there was no survey. From that point till the completion of the barn there wasn't a problem. After the fact Mr. Stackhouse got a survey and found that the one end of the building was 7' from the property line.

Mr. Booker clarified to the board that you cannot rely on the GIS with property lines.

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

1. Brad Stackhouse – 6808 9 B Rd., Plymouth – Purchased the farm seven years ago. Mr. Stackhouse was the one who ordered and paid for the survey. After the survey it was found that the one end of the building was only 7' from the property line. Mr. Stackhouse remembers that Mr. Freed contacted him in the beginning and said that he would try to be 12' from the property and Mr. Stackhouse's reply was that it wasn't the 15' that was required. Mr. Freed also has not complied with the requirements of the permit by not completing the drainage plan stipulated. There is now water running off the building over onto the driveway of the property which is the only access to the property. Has also noticed that he is running a business from the property as well without approval. It is his opinion that by having this building that close to the property line it devalues his property.

Mr. Gustafson made a motion to close the public hearing, seconded by Mr. Wickizer. Motion carried by acclamation.
Christine Stinson, Marshall County Health Department Administrator confirmed that he is running a business off this property. They received a complaint that he was dumping surface water on the property.

Mr. Booker stated that he would investigate the property and send a violation notice if required.

Mr. Freed commented that none of the materials on the property are in a business name. Mr. Booker explained that what his business is would be considered as a home-based business and would require approval form the BZA.

At the time of the construction Mr. Freed knew where one property marker was and with Mr. Stackhouse saying the line was in the middle of his driveway made him believe he was in compliance.

Mr. Stackhouse was asked if Mr. Freed could buy some property off of him. He explained that if he wanted to buy any ground it had to be the whole farm.

Before the project was completed Mr. Stackhouse sent a letter to the Plan Commission office of his concern.

Mr. Gustafson made a motion to approve the request 18-BZA-02 FREED, Kent - A request for a Variance of Development Standard to reduce the south side yard setback from the required 15' to 7' in order to allow an existing building, located at 7774 Fir Road, Bourbon, IN Bourbon Twsp., Zoned A-1, with the following stipulations:

1. **Fence**
2. **Eaves on the building connected to the tile**
3. **Drainage plan requirements met**
4. **All to be completed within 90 days from the date of the meeting**

Mr. Wickizer seconded the motion. Motion carried with a voice vote 4-0.

The fifth item of business was 18-BZA-03 FILSON, Dennis & Linda - A request for a Variance of Developmental Standard to reduce the west side yard setback from the required 15' to 5' in order to rebuild an attached house and pole barn on an existing foundation, located at 7738 12 B Rd., Plymouth, IN Center Twsp., Zoned A-1. Mr. Dennis Filson was present to represent his request. Mr. Booker presented the findings of fact.

The applicant has removed a home which was built in 1970 on a 1.1-acre property. He would like to replace it with a 28 x 61-foot home. On the west end he wants to attach a 32 x 52 pole barn. The side yard requirement is fifteen (15) feet. The applicant is asking for a five (5) foot setback. The land to the west is presently a farm field with no structures. The septic system is north of the location of the home. There is another pole building east and north of the old home location. The septic location and the pole barn location does prevent the placement of additional structures.

The property has been surveyed and there are posts.

The plan is to build a pole barn that is attached to the house that their motor home can be parked in. The existing foundation will be used for the house and part of the pole barn. With the requirement of having to be 10' from the septic system it made them move the building over and closer to the property line. There is a possibility that the setback could end up 8-10', but they wanted to be safe and follow the guidelines.

After being asked if there was another way to access the rear of the property and the answer was yes on the other side of the parcel.

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

Mr. Wickizer made a motion to approve 18-BZA-03 FILSON, Dennis & Linda - A request for a Variance of Developmental Standard to reduce the west side yard setback from the required 15' to 5' in order to rebuild an attached house and pole barn on an existing foundation, located at 7738 12 B Rd., Plymouth, IN Center Twsp., Zoned A-1, with the following stipulations:

1. **Must be no less than 5'**
2. **This includes future surveys**

seconded by Mr. Gustafson. Motion carried with a voice vote 4-0.

The sixth item of business was 18-BZA-04 BURNS, Doug – A request for a Variance of Developmental Standard to allow a temporary second residence for an elderly parent in an existing structure, located at 285 N. Thorn Rd., Walkerton, IN Polk Twsp., Zoned A-1. Mr. Doug Burns was present to represent his request. Mr. Booker presented the findings of fact.

On December 10, 2001 a building permit was issued for a conventional home at this address. It stated on the permit that the existing pole barn could not continue to be used as a residence. My understanding the new home was built and for a time the pole building was not occupied. A few years ago, the mother in law needed a place to stay and moved in the pole building. This has gone unnoticed since this property is fairly isolated. They recently contacted B & B Roofing for the construction of a new pole building. The contractor asked if they had BZA permission to have two residences on the same property. They are now asking for that approval. This property is at the end of a long lane west of Thorn Road. There are no residences to the north, west and directly south. There is a home along Thorn Road to the south. There is a legal drain, the Jesse McKesson Ditch, to the south. There is also a wetland and 1% flood Hazard Area. The septic was approved for the new home with permit 231-01. It is a pump system which directs the flow to a septic field

north of the new home. I think both homes are connected to the same system. Both homes are served by the same well.

The original structure on the property was built early 2000's. Their plan was to live in that structure until their house was completed. Once the house was completed they were told that no one could live in the original structure anymore. Later Mr. Stratton passed away and Mrs. Stratton no longer wanted the large property and moved away. Family took over the property and finished the home. Now Mrs. Ruby Stratton needs a place to live and they would like to offer her to be able to live in that original structure and care for her until she no longer needs it.

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

There used to be two septic systems on the property awhile back. Then the system at the pole barn started to fail. They contacted a septic company and they felt it could work with one system and have one large holding tank at the bottom and every so often pump it down there.

Christine Stinson of the Health Department doesn't have any knowledge of this. Since both the Health Department and the applicant weren't really sure Ms. Stinson asked that he contact the Health Department so they can get this all worked out and into compliance.

Mr. Gustafson made a motion to approve <u>18-BZA-04 BURNS, Doug –</u> A request for a Variance of Developmental Standard to allow a temporary second residence for an elderly parent in an existing structure, located at 285 N. Thorn Rd., Walkerton, IN Polk Twsp., Zoned A-1 with the stipulation that only Ruby Stratton can live there and as soon as she no longer lives there the house portion must be made inhabitable and the septic system into compliance, seconded by Mr. Wickizer. Motion carried with a voice vote 4-0.

The seventh item of business was <u>18-BZA-05 MARSHALL COUNTY OLD ORDER MENNONITE -</u> A request for a Special Use to build a 48x60 church house, two horse sheds and a cemetery, located on current parcel 50-23-25-000-021-000-012 directly north of 19870 Elm Rd., Tippecanoe Twsp., Zoned A-1. Mr. Johnathan Weaver and Ezra Ramer were present to represent his request. Mr. Booker presented the findings of fact.

This is the second location selected by the applicant. They wish to create a 250 by 400-foot parcel which is 2.2696 acres. On this acreage they want to place a church building, two (2) horse sheds, a cemetery, and two (2) privies. This parcel is being created from is ten (10) acres. The area will have Rensselaer soils on the west end, which are rated for severe for septic. The soil to the east, where the privies would be located is Riddles-Oshtemo which are rated slight for septic. The church will be built on the east side of this proposed parcel. This location has a home directly to the south and three (3) homes to the west.

Ms. Stinson, Health Department Administrator, commented that privies are not common but can be approved the State Department of Health once they meet all the qualifications.

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

1. Jewel Golden – 4162 20th Rd. Tippecanoe – Is in favor of the request. Happy that it will kept up nice and doesn't believe it will be offensive.
2. Sandro Sickmiller – No objection to the request.

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

The applicants did talk with the neighbors and place stakes where the building would be and to their knowledge they didn't have a problem with the request.

Mr. Wickizer made a motion to approve <u>18-BZA-05 MARSHALL COUNTY OLD ORDER MENNONITE -</u> A request for a Special Use to build a 48x60 church house, two horse sheds and a cemetery, located on current parcel 50-23-25-000-021-000-012 directly north of 19870 Elm Rd., Tippecanoe Twsp., Zoned A-1 with the following stipulations:

1. **Approved CDR**
2. **Must meet all Marshall County and State Health Departments and rules**
3. **Must meet all cemetery guidelines required by the state.**

Mr. Gustafson seconded the motion. Motion carried with a voice vote 4-0.

<u>Violations</u>

Tolsen	8674 19th Rd – A contract has been sent to Todd Langfeldt and waiting a signed returned contract. Mrs. Tolsen was sent a letter of the County's intent to clean the property with an approximate date and was told if they wanted to keep anything it must be in a building. She called and wasn't happy and stated she didn't want Langfeldt on the property. Mr. Booker explained that she was welcome to come to this BZA meeting and discuss it with the board. There was no one in attendance.
Borton, Tony	2019 Rose Rd. – A letter was sent to him by the attorney. He called the office and was told he could come to this meeting or go to court. Mr. Borton appeared before the board and explained that he does re-cycling. Has brought items on the property to recycle. Has every intent to clean the property up.

	Work's for an apartment complex and brings back appliances to repair. Mr. Borton asked to have until the March, 2018 meeting to clean up the property. Was also told that he cannot have a scrap yard without going to the board and request approval for this business.
Reiss, Tim	15878 Nutmeg Road – Un-plated vehicles and haven't received a response. Mr. Lukenbill hasn't heard anything and will be going to court tomorrow.
Campbell Mike	10369 19th Rd. – Has a towing business with no approval. Has several junk cars stored in sight as well. Will be sending a letter.

Mr. Klotz stated that the Plan Commission is proceeding with the process of hiring a code enforcement officer part time-2 days a week. A job description has been sent to Wagoner Irwin and Sheely. We will await their review and pay level scale. The plan will be to have this person report directly to this board.

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

Respectfully submitted

Trent Bennett

February 13, 2018
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Stan Klotz, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, February 13, 2018, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, Mark Wickizer, Trent Bennett, James Berger and Stan Klotz, Plan Director Ralph Booker, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes from the January 9, 2018, meeting. **Mr. Wickizer made a motion to approve the minutes as amended, seconded by Mr. Gustafson. Motion carried by acclamation.**

The second item of business was 18-BZA-06 LEE, Ronald - A request for a Special Use to allow a roll off dumpster rental business, located at 9564 14th Rd., Argos, IN Zoned A-1, Center Twsp. Mr. Ronald Lee was present to represent his request. Mr. Booker presented the findings of fact.

This is an isolated residential property located on 14th Road. The Building Commissioner noticed the dumpsters while traveling along 14th Road. Upon calling the owner, Ronald Lee, it was found he owns a company called "Bin There Dump There". They are a company which rents out dumpsters. Mr. Lee claims he started storing the dumpsters at his home when he lost a location in Plymouth. His business card states his home is the permanent location for this business. At this time, we have no information on the level of activity of this home-based business. We do not know the hours of operation and number of employees. I have only been on the property twice. On the first visit an employee was taking a dumpster to a new location. On the second visit we did not observe any activity other than several dumpsters were located on the property.

The business is a franchise business in the United States and Canada. It's a family run business that is a residential friendly dumpster. The largest bins are 20 yards. Currently there are 24 on the property. The truck being used to deliver is a 20,000-

pound truck. The hours of operation are 7-5 pm. On an average of 4 – 5 dumpsters are moved from the property daily. This is a family run business.

The dumpsters are used for clean outs, remodeling and such. The majority of the time they are returned to the property empty. From time to time the landfill is closed and they have to bring it back temporarily until they re-open. They are tarped and nothing leaves the container.

Due to a loss of another location is why this location is being used. The bins were brought to the property approximately November of 2017. There is a plan to move the bins to another location at some point. Once the business grows there will be more of a possibility of moving the location. The property has been owned by the current owner for over 20 years.

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

Due to all the regulations of the landfills requirements they are no liquids, TV's or tires allowed.

Mr. Wickizer made a motion to approve 18-BZA-06 LEE, Ronald - A request for a Special Use to allow a roll off dumpster rental business, located at 9564 14th Rd., Argos, IN Zoned A-1, Center Twsp with the following stipulations:

1. **Maximum of 2 employees and owner at this location**
2. **Hours 7am-5pm Monday thru Saturday**
3. **Limit of 4-6 trips per day**
4. **Maximum of 24 dumpsters**
5. **No signage**
6. **Requesting that they search out commercial property**

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

The third item of business was 18-BZA-07 FREED, Kent - A Special Use to allow storage of equipment and inventory for excavating and plumbing home based business, located at 7774 Fir Rd., Bourbon, IN, Bourbon Twp., Zoned A-1. Mr. Freed and attorney, Mr. Dave Holmes was present to represent his request. Mr. Booker presented the findings of fact.

In January 2018 Mr. Freed received a variance to have a 50' x 108' building seven (7) feet from the southern property line. The original application was to be twenty (20) feet from the property line. During the Plan Director's investigation and the BZA hearing it was determined that Mr. Freed was not using this building for equipment

used on the property, but being used in an excavating and plumbing business. Mr. Freed is using this building and property for his business. He uses part of his property to store items used in his business. At this time Mr. Feed is the only employee at this site. He does have another location in which he does have equipment. We think he has at least one employee.

The applicant excavates and bury the pipe. At this location there is no public traffic only a couple of employees who pick up a truck or equipment and return in the evening. There is no signage for the business. The majority of the business is done to the north and east of this property. The goal eventually is to find a location closer to where most of the work is.

There is currently some concrete on the property stored that will be used to grind up for a driveway.

The applicant is of the opinion that the pipe being stored on the property isn't any different than farmers pipe at a farm. It is not offensive.

Currently there are two employees. The hours of operation are usually between 7-5pm Monday through Saturday. There is not a lot of daily traffic. Primarily just leaving in the morning and returning at night. Deliveries of pipe are made on a straight truck that can pull onto the property.

The board discussed the need for a Construction Design Release. Even if the building isn't open to the public there are employees which require it to be a commercial building.

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

1. Brad Stackhouse – Lives adjacent to the property. Is not against the business and is in agreement of the board's decision the previous month regarding the building setback. Biggest concern is the outside storage is not neat and has a concern of decreased land values because of it. Also believes the board needs to look at the drainage and the needs of the watershed.

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

After some of the board members saw the property they expressed how displeased they were with all the outside storage. After a discussion the board felt they weren't

ready to make a motion and would like to give the applicant 90 days to cleanup the property.

Mr. Bennett made a motion to table the hearing until May 8, 2018, seconded by Mr. Wickizer. Motion carried by acclamation.

The fourth item of business was 18-BZA-08 HALVORSEN, William - A request for a Variance of Developmental Standard
to build a secondary 36x48 pole barn before a primary, located on parcel 50-31-11-000-020-000-017, West Twsp., Zoned L-1. Mr. William Halvorsen was present to represent his request. Mr. Booker presented the findings of fact.

The applicant owns property on both sides of Pretty Lake Road on the south side of Pretty Lake. The residence is on the north side and there are two (2) vacant parcels on the south. Each of the southern parcels are each 2.7 acres. In the past these southern parcels have been farmed. Upon investigation they are now pasture or hay fields. There is an old building which is not even on the property record card since it is in such disrepair. It is to be torn down. The applicant would like to improve the soils and fencing to continue its agricultural use. They want to build a 36x48 foot accessory building to house a tractor, other farm equipment, irrigation supplies, and farm supplies. It would be located near the rear of the western property to leave room for a potential home.

Both of these properties have been used for agricultural purposes earlier than the 1950's. The plan is to make use of the property by growing some sort of a special crop as a personal hobby. There is no plan for animals.

The location of the proposed building will be 25' off the western property line. Which will allow enough room for a new home in the future. At this time there is no plans for a septic system on the property.

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

1. Patty Hobbs – 10872 Queen Rd. – Lives directly behind this property. Questions if there were going to be weapons on the property. If you live in Arizona why do you want to farm here?

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

The applicant responded to the shooting comment. He does not do any shooting on the property. It is a residential area where there are close neighbors.

There is a plan to put in hi tinsel fence around the property line.

Mr. Gustafson made a motion to approve 18-BZA-08 HALVORSEN, William - A request for a Variance of Developmental Standardto build a secondary 36x48 pole barn before a primary, located on parcel 50-31-11-000-020-000-017, West Twsp., Zoned L-1 with the following stipulations:

1. **Specialty crops**

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

The fifth item of business was 18-BZA-09 CAMPBELL, Mike & Julie - A request for a Variance of Use to allow anauto repair and towing shop, located at 10369 19th Rd., Argos, IN Green Twsp.,Zoned A-1. Mr. & Mrs. Campbell along with their attorney Derek Jones were present to represent their request. Mr. Booker presented the findings of fact.

Upon a complaint from a neighbor, on January 9, 2018 I investigated the applicant's property for junk cars and an auto repair shop. My investigation found a towing business, an auto repair shop with two (2) auto bays, several employees, and at least two (2) signs. It also had many junk cars in a fenced in area and at least two (2) tow trucks. On March 9, 1999 this property was given a variance of use to have Mike Campbell Construction at this site with the following conditions. 1. Sign must be removed 2. All equipment stored inside 3. No more than one employee must work in the building. 4. No further construction will be permitted on the site. 5. Business activities under this Variance of Use will be limited to constructions purposes. This variance also was given after the fact. Mr. Campbell has a history of starting businesses at this location and then asking permission from the BZA. I know in the past he has been sent several violation notices about signs after the BZA approval. Without reviewing the files, we did approve a 40x40 addition on May 15, 2017. I n ow know this is violation of the BZA approval. This property is located at a very busy intersection of US 31 and west 19th Road. The soils are Crosier which is a level, deep and somewhat poorly drained. The soil is rated severe for septic. I do not think we have a Construction Design Release on the Buildings or if there are restrooms in the buildings. On January 24, 2018 we took photos for the BZA hearing. At that time, they had removed ten (10) junk vehicles and had ten (10) or more to remove. There were at least four (4) cars inside the building and several outside to be repaired.

In agreement that the Campbell's applied for a permit in 1999 for their building construction business. The employee that was referenced in that application was a salesman that is no longer there. There are currently no employees working on behalf of the construction end of things.

The Campbell's own a flatbed truck and in or around 2015 they started to receive calls asking for towing help. Which led into more of these type of calls as well as asking to fix the vehicles. This wasn't a design to do something without approval. They just found a need and expanded quickly.

There are two-full time and two-part time employees. There is liability insurance for the auto shop and also for the towing operation. There are approximately 5 cars towed a week with 2-3 cars being worked on at a time. The hours are 9-5 Monday through Friday. Many photos were passed out to the board.

Response to the findings:

1. This is a rural area with little going on in the area except Highway 31 and agricultural ground surrounding the property. In response to the septic – When you are dropping off or picking up a vehicle you are not spending any time at the facility. Many times, during towing no one is at the facility. All oils and liquids are kept contained.
2. In the past there were several vehicles on the property. As of today, the majority of them have been removed. The remaining vehicles are owned by the Campbell's. The sign that was on the property has been removed. Pointed out fencing on the property. Corey Dennie lives on the other side of US 31 sent a text saying that he doesn't have a problem with the business. Another close neighbor named Tucker also gave a letter to the Campbells offering his blessing of the business.
3. This property is zoned agricultural-1. This property will not be used for agriculture, but is being used residentially. Along with that it has a nice attractive and useful pole building that is entirely suitable for this type of operation.
4. This is a situation that has developed over time and now sees yes there is a violation concerning the repair shop. They've looked at other alternatives, but nothing has been found to suit them like what they have at their current location.
5. This is a relatively small location with two full time and two-part time employees. They are willing to keep things as they are if the board is willing to continue the operation. There doesn't seem to be a violation in the comprehensive plan as it allows for home-based businesses.

The applicant is willing to make any adjustment the board requires. They would like to fulfill a need in the community and provide jobs.

Mr. Campbell was asked if he was buying or selling any of the vehicles and his answer was no.

Mr. Campbell stated there was an issue with a lighted up sign a long time ago on the property, but since then it had been taken care of. Chalked it up to being young and not knowing the rules.

Since then there haven't been any issues and would like the board's approval to keep this business running.

The hours of the shop are 9-5 Monday through Friday and some Saturdays. The towing business is 24 hours a day.

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

1. Steven Braasch – Is a mechanic at the business for the past ten years. It all started small for personal use and then it just grew. Would like for it to continue.
2. Andy? – Has worked in the construction part of the business since 1997. When the weather is bad he is allowed to work in the auto repair business which helps to pay his bills.
3. Anthony Campbell – Is a nephew and believes this business is good as it's the only kind in Argos.
4. Jeff Campbell – This is an important business as it helps to pay the bills.
5. Scott Gaines – Is a full-time employee and needs the job.
6. Jerry Carpenter – Letter having no objection using his knowledge and ability to make a living doing repair work on autos trucks or farm machinery. Sees no harm.
7. C. Joe Dennie – Letter sent stating that the access road should not ever be blocked because it's his only access. Would like for the outside storage to be limited.

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

Cars that are picked up are either repaired or taken for salvage. The board expressed to Mr. Campbell that this cannot turn into a scrap yard which Mr. Campbell agreed.

The access road is maintained by Mr. Campbell and he promised that he will make sure the access road is not blocked.

Mr. Campbell agreed that all of the outside storage got overwhelming, but since it's been cleaned up he wants to keep it that way.

Mr. Bennett expressed his concern about the outside lift and the hazards. The Campbells would like to have it inside but the cost kept them from doing it. Because of this business they will now have to get a CDR.

Mr. Bennet made a motion to approve <u>18-BZA-09 CAMPBELL, Mike & Julie -</u> A request for a Variance of Use to allow an auto repair and towing shop, located at 10369 19th Rd., Argos, IN Green Twsp., Zoned A-1 with the following stipulations:

1. **2 junk cars**
2. **No outside lift**
3. **2 full time and 2-part time employees**
4. **No buying or selling of cars**
5. **3 tow vehicles**
6. **Hours of operation 9-5 Monday through Friday 9-noon on Saturday and towing 24/7**
7. **Construction Design Release**
8. **Sign is allowed by the requirements of the ordinance (4x8)**

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

Marshall County Board of Zoning Appeals
February 13, 2018

Violations

Tolsen	8674 19th Rd – A contract has been sent to Todd Langfeldt and waiting a signed returned contract. The conditions haven't been good. Will try to get this done before the next meeting weather permitting.
Reiss, Tim	15878 Nutmeg Road – Filing in court today and found out the property is up for a sheriff sale. The owners will still be responsible for the condition of the property.
Tippecanoe Properties	3162-3319 18 B Rd. Tippecanoe – There was a drug raid at these locations. A warning letter will be sent to clean up.

Mr. Klotz stated that the Plan Commission is proceeding with the process of hiring a code enforcement officer part time-2 day a week. A job description has been sent to Wagoner Irwin and Sheely. It has been received back and will go in front of the council in March.

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

Respectfully submitted

Trent Bennett

March 13, 2018
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Stan Klotz, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, March 13, 2018, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, Mark Wickizer, Trent Bennett, James Berger and Stan Klotz, Plan Director Ralph Booker, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes from the February 13, 2018, meeting. **Mr. Gustafson made a motion to approve the minutes as amended, seconded by Mr. Wickizer. Motion carried by acclamation.**

The second item of business was 18-BZA-10 MILLER, David – A request for a Special Use to allow a storage and repair shop for DM Excavating in an existing building, located at 6757 6 A Rd., Plymouth, IN Zoned A-1, German Twsp. **Due to an applicant not being present Mr. Berger moved and Mr. Gustafson seconded the motion to table the request. Motion carried by acclamation.**

DM Excavating has been a registered contractor at this location since at least 2016. I believe septic installations is a majority of the business. Mr. Miller has never had zoning permission to operate at this location. Now he is asking to have his business at this location. He also wants to construct a 60x120 square foot building for his business. In examining his property, he does have several diggers, tractors, piping, and other supplies in the open. A new building would be helpful in cleaning up this property. In June 2013 a property just north of this applicant was granted approval for a home business to produce low acid foods. Later they received BZA approval to have an apartment in this building. 6 A Road is not a main local road. The only vehicles I encountered were buggy's.

The third item of business was 18-BZA-11 KOONTZ, Michael – A request for a Variance of Use to allow a 100' communication tower, located at 17360 River Ridge Road, Tippecanoe, Twsp., Zoned A-3. Mr. Mike Koontz, Gavin Brookins (son-in-law) and Pat McCalley (Surf Air Wireless, Laporte) were present to represent their request.

The applicant wishes to place a 100-foot tower to gain access to the internet. There is no internet service in the area. The applicant wishes to place this tower just south of his excavating business which was permitted by the BZA. The only home that will be in direct view

is just south of 17 B Rd. The service provider on the tower will be providing internet service to not only the applicant, but to the local residents. The site plan for this tower we still have to approve by the Marshall County Plan Commission. The site plan will be on the March 22, 2018 Plan Commission agenda if you give it your approval. My review of the site plan is that it meets the zoning ordinance requirement.

The neighbor to the south, Mr. Poisel, called the office with concerns. Mr. Booker suggested he go over and talk to Mr. Koontz and send a letter to the board. No correspondence was received from Mr. Poisel at this time.

Mr. Koontz recently found out that there are a few houses at the end of the subdivision that do not have internet and Frontier will not be hooking anyone new up. The proposal isn't for a financial gain for Mr. Koontz its to help service everyone in the housing development plus Mr. Koontz himself and even Mr. Poisel across the street. Per a discussion between Mr. Koontz and Mr. Poisel a security system is not possible on Mr. Poisel's property with the current internet.

Mr. Poisel did come over and talk to Mr. Koontz, but it was before Mr. Poisel talked with Mr. Booker not after. The location of the tower was the biggest concern of Mr. Poisel. Mr. Koontz said that the proposed location was chosen because the towers signal would best reach a broader area. Plus, it wouldn't waste any farm ground. It would also be behind the mound and screening required by the board.

There were 22 letters sent to area residents asking for feedback and there were only a couple calls in regards to the location.

Surf Air Wireless was contacted by Mr. Koontz. After consideration Surf Air Wireless felt there was an opportunity to serve the area. It was said that their technology works best being in the line of site and doesn't work well with walls and really thick trees and brush.
That's why the front of the property works best for Surf Air and Mr. Koontz.

The proposed tower is not like a telephone tower. It is 5 feet at the base and 2 ½ feet at the top. It is a free-standing lattice tower with no guide wires. The FAA has reviewed the plans and no special lighting is required as it's smaller than 200 feet. Their access comes from the water tower in Bourbon with a point to point link. This will feed the tower with internet with sectors that will broadcast signal to the residents.

Mr. Koontz confirmed with the board that he will not be charging anyone any fees. He will be getting free internet. The internet company will charge for those that want the service. The tower will be owned by Surf Air and is a long-term lease. If the applicant chooses to not have service someday Surf Air will enter into a land contract and pay them land rent for keeping the tower there.

If the tower is needing to be decommissioned Surf Air will be responsible.

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

1. Natalie Brookins – Lived in their house for six years and both she and her husband work from home and the lack of internet service has made it very difficult. The children also are required to use the internet for homework. They tried to get their speed upgraded through Frontier but they were denied.

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 18-BZA-11 KOONTZ, Michael – A request for a Variance of Use to allow a 100' communication tower, located at 17360 River Ridge Road, Tippecanoe, Twsp., Zoned A-3, seconded by Mr. Berger. Motion carried with a voice vote 5-0.

The fourth item of business was 18-BZA-12 BARNES, Christian and Laura – A request for a Variance of Development Standards to have a secondary building (a 24x60 boat/misc items storage building) at 4741 W. Shore Dr. Bremen, IN parcel 50-43-07-000-24-000-005, Zoned L-1, Lake Residential, German Twsp. Mr. Christian Barnes was present to represent his request.

The applicant is asking to build a secondary building before a primary building. This will be a 24x60 foot storage building. The applicant lives on the lake at 4628 W. Shore Dr. which is over 600' north of 47441 W. Shore Dr. From the 2013 aerial photography I find a home and a storage shed was on this property. I have also found the storage shed received a five (5) foot side yard variance in May 1997. That applicant had asked for a one-foot side yard variance. The maximum lot coverage on this lot is 45%. This will leave limited space to construct a home in the future. Also, the placement of this building may limit the placement of a home in the future. It might be advisable to set the new building further to the rear.

The lot is approximately 75'x150'. The plan would be to build a 30x60 pole building. There wasn't that much thought into moving the building but would consider suggestions.

There was a discussion about placement of the building to allow for a residence in the future.

The board did advise Mr. Barnes since there are two parcels and if he wanted to build over the property line he would either need to do a minor replat or record a contiguous lot form with the Marshall County Recorder's Office.

Mr. Gustafson moved and Mr. Berger seconded the motion to open for public hearing. Motion carried by acclamation.

1. Mark & Suzi Heminger – In support of the requested variance.

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

Mr. Bennet made a motion to approve 18-BZA-12 BARNES, Christian and Laura – A request for a Variance of Development Standards to have a secondary building (a 24x60 boat/misc items storage building) at 4741 W. Shore Dr. Bremen, IN parcel 50-43-07-000-24-000-005, Zoned L-1, Lake Residential, German Twsp. with the following stipulation: that the building be moved clear to the rear property line with a 10' rear setback and sign and record the Contiguous Lot Form, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

Violations

Borton	The property is looking much better. There are still things that need to be cleaned up. Mr. Borton said that he would like an additional month to finish. The Health Department has also received complaints of junk and debris. The Health Department may contact Mr. Borton as well.
Tolsen	8674 19th Rd – Langfeldt's said that they will go out as soon as the weather breaks.
Reiss, Tim	15878 Nutmeg Road – A certified letter has been sent along with regular mail. The certified letter has been lost. The attorney's office is re-sending the certified letter. The court date will be 30 days after receipt of the certified letter.
Geldner	3345 18 B Rd – Using the container of a port a pit to use as storage on the property. They were told that it was not allowed in Marshall County. Requested information on how to apply for a variance to keep it.
Tippecanoe Properties	3162-3319 18 B Rd. Tippecanoe – There was a drug raid at these locations. A warning letter will be sent to clean up.
?	16415 Cheryl Court, Plymouth – A lot of trash laying around the house. A violation was sent.

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

Respectfully submitted

Trent Bennett

April 10, 2018
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Stan Klotz, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, April 10, 2018, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, Mark Wickizer, Trent Bennett, James Berger and Stan Klotz, Plan Director Ralph Booker, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes from the March 13, 2018, meeting. **Mr. Wickizer made a motion to approve the minutes as amended, seconded by Mr. Berger. Motion carried by acclamation.**

The second item of business was 18-BZA-10 MILLER, David – A request for a Special Use to allow a storage and repair shop for DM Excavating in an existing building, located at 6757 6 A Rd., Plymouth, IN Zoned A-1, German Twsp. Mr. Miller was present to represent his request. Mr. Booker presented the findings of fact.

DM Excavating has been a registered contractor at this location since at least 2016. I believe septic installations is a majority of the business. Mr. Miller has never had zoning permission to operate at this location. Now he is asking to have his business at this location. He also wants to construct a 60x120 square foot building for his business. In examining his property, he does have several diggers, tractors, piping, and other supplies in the open. A new building would be helpful in cleaning up this property. In June 2013 a property just north of this applicant was granted approval for a home business to produce low acid foods. Later they received BZA approval to have an apartment in this building. 6 A Road is not a main local road. The only vehicles I encountered were buggy's.

There are currently 2 parcels: one 6 acre parcel and one 1 acre parcel. The goal has been to build the building on the smaller parcel and meet the required setbacks. Previously Mr. Miller didn't know there needed to be special approvals for a business that is why he's coming before the board now. The proposed building will be used as a storage and repair facility to take care of his own equipment. There will be room for machinery storage inside, but the plans are to keep the existing tile outside.

The proposed business hours are to be 8-5pm. There are no plans for bathrooms in the building. The other barn on the property is used partly for horses and feeding and some business supplies. One sign is allowed on the property that is within the ordinance guidelines.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Berger. There being no one to speak for or against Mr. Gustafson moved and Mr. Wickizer seconded the motion to close the public hearing.

Mr. Gustafson made a motion to approve 18-BZA-10 MILLER, David – A request for a Special Use to allow a storage and repair shop for DM Excavating in an existing building, located at 6757 6 A Rd., Plymouth, IN Zoned A-1, German Twsp with the following stipulations:

1. **Hours of business 7am-5pm Monday thru Saturday**
2. **4 employees not including owner**
3. **Construction Design Release**

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

The third item of business was 18-BZA-11 KOONTZ, Michael – A reconsideration request of a Variance of Use to allow a 100' communication tower, located 17360 River Ridge Road, Tippecanoe, IN Tippecanoe Twsp Zoned A-3 (Withdrawn)

The fourth item of business was 18-BZA-13 NUDO, John & Lori– A request for a Variance of Development Standard to reduce the east side yard setback from the required 10'/10% to 2' in order to put up a 26.30'x10' storage shed; located at 17247 Tomahawk Trl, Plymouth, IN West Twsp., Zoned L-1. Mr. & Mrs. John & Lori Nudo were present to represent his request. Mr. Booker presented the findings of fact.

The applicant wishes to place a 26x30 storage shed two feet away from his east property line. He cannot place it in the front yard due to the septic system. The limitations in the rear yard is the placement of the well (you have to be ten feet from a well) and the neighbors well. There is also the slope to the lake to contend with. Placing it on the west side of the property would limit its access.

The Health Department reviewed this request as there was a TRC meeting planned. It was the administrators opinion that the only way the Health Department would approve the request was if they had a viable second location for a septic permit.

The board discussed the location of the current septic and well as well as the neighbors well.

The homeowner stated that their home is only 3 years old and they had a septic contractor come out and check the system and re-drew up the exact location of the system. The variance is only going to be 2' at one corner of the garage as it will be set on an angle. There will be a survey. The nearest neighbors house is approximately 20' away. The reason for this location is because of the elevation of the land. It will eliminate so much of the foundation being exposed. It's the opinion of the homeowner that it will be further than the 2' they wanted to be safe.

Mr. Gustafson asked if they would be willing to move the building back to at least 5' from the overhang. The applicants said that wouldn't be a problem. It was also a concern about run off onto the neighbor's property and the owners had no problem having a retaining wall and gutters to prevent that from happening.

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

1. Jack Powers – Neighbor to the east has no objection to building a storage shed 2' from the property line.

Mr. Wickizer moved and Mr. Gustafson seconded the motion to close the public hearing.

Mr. Gustafson moved to approve 18-BZA-13 NUDO, John & Lori– A request for a Variance of Development Standard to reduce the east side yard setback from the required 10'/10% to 2' in order to put up a 26.30'x10' storage shed; located at 17247 Tomahawk Trl, Plymouth, IN West Twsp., Zoned L-1 with the following stipulations:

1. **6' setback**
2. **Retaining wall on the side/gutters**

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

The TRC meeting is scheduled for tomorrow at 9am.

The fifth item of business was 18-BZA-14 GELDNER, Rhene & Gabriel – A request for a Variance of Developmental Standard to allow a cargo box to be used as a tool shed, located at 3345 18 B Rd., Tippecanoe, IN Zoned T-1. Mrs. Geldner was present to represent her request. Mr. Booker presented the findings of fact.

This property has been a mess for several years. They received a permit in 2004 to build a second story. In 2010 they received a permit to repair a roof and build a porch. Both of these are various stages of completion. While driving by the property I found an old Nelsons Port a Pit truck cargo box being used for storage. I also found several pickup trucks and junk on the property. The applicant claimed the cargo box was being used to store parts to maintain all of the trucks. I sent them a violation warning to remove the cargo box. Thus, they are asking to have it allowed. The cargo box is setting on cinder blocks of which several are missing. It is also rusting out and in bad condition. The applicants husband is also in jail for producing meth.

Mrs. Geldner stated when her father in law sold his property they had to remove their items off his property. They didn't have the money for a garage so they got this storage box to store his tool benches and odds and ends from the shop. There is no business being ran from the property.

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

1. Jackie Hackworth – In favor doesn't bother them.
2. Gloria Babendrager – Lives across the street. Believes the trailer is being used for more than storing tools.
3. Dinah Gobel – Can't sleep, bullets hitting her trailer in the night.
4. Robert Grigsby – Believes it could be a hazard. Its an eyesore. Concerned that if approved more would be brought onto the property.
5. Marcia Miller – Not in favor. Concerned for safety. Already has 2 shed and too many lawn mowers and trucks.

6. Kenneth Gobel – Not in favor of the storage box believes it's being used illegally.
7. Benjamin Long – Has enough clutter on the property.

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

Wanted it known that she did not approve of her husband's activity. Since he has been incarcerated she has padlocked the cargo box and there hasn't been any extra activity there. Most of the vehicles on the property are not in her name and has tried to clean up some but doesn't know what to do with her husband's things. Not all the vehicles on the property have plates.

Mr. Wickizer made a motion to deny 18-BZA-14 GELDNER, Rhene & Gabriel – A request for a Variance of Developmental Standard to allow a cargo box to be used as a tool shed, located at 3345 18 B Rd., Tippecanoe, IN Zoned T-1, seconded by Mr. Berger. Motion carried with a voice vote 5-0 to deny.

Violations

Geldner	3345 18 B Rd., Tippecanoe - There have been a few cars removed from the property because they weren't theirs. Some of the vehicles on the property are plated and some are not. She was asked to line the plated and running vehicles up out of site. Doesn't know how to get rid of the vehicles when they aren't in her name. The board explained that if they aren't removed and are still unplaited they can be towed. Will move all plated and running vehicles in an area out of sight. The board asked that she have the cargo box removed within 60 days and have the property cleaned up. Asked her to come back to the June meeting.
Gruwell	16514 Sheryl Court – A letter has been sent to clean up garbage.
Foster, Joann	15171 12th Rd. – Abandoned trailer that has a tree partially on the carport. A letter has been sent.
Tolsen	8674 19th Rd – The contract has been signed, but Langfeldt's hadn't been there yet.
Hutchison	17688 Vine St. Tyner – Has until June to clean up. Neighbor claims they are bringing more stuff in. Nothing has been done.
Reiss, Tim	15878 Nutmeg Road – Believes this property was bought

	on Sheriff's Sale.
Borton	2019 Rose Rd., Walkerton – Was given an additional 30 days to finalize cleaning up. Some things have been removed but there is still trash.
Crum	18177 14B Rd. – Has more than 4 dogs. A letter and fine will be sent.
Ward	10994 Hawthorn Rd. – Junk still not picked up.
Cunningham	8983 Chestnut Rd. – Piles of junk in the yard. A car that is on jack stands.
Listenberger	15959 Yarlett – The roof is starting to fall in and a couple cracked windows. Lawn hasn't been mowed in years. Will be turned over to Unsafe Committee.
Swihart	15760 - Piles of junk and motorcycle stored in the front yard.
Graham	SR 331, Bourbon – RV being used as a residence. Insulated, plated with a lean to for storage. There is electricity.

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

Respectfully submitted

Trent Bennett

May 15, 2018
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Stan Klotz, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, May 15, 2018, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, Mark Wickizer, Trent Bennett, James Berger and Stan Klotz, Plan Director Ralph Booker, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes from the April 10, 2018, meeting. **Mr. Berger made a motion to approve the minutes as amended, seconded by Mr. Wickizer. Motion carried by acclamation.**

The second item of business was 18-BZA-Freed, Kent – A tabled Special Use to allow a storage of equipment and inventory and excavating/plumbing home based business, located at 7774 Fir Rd., Bourbon, IN Bourbon Twsp., Zoned A-1. Mr. Freed and Attorney, Davis Holmes were present to represent the request. Mr. Booker presented the findings of fact.

In January 2018 Mr. Freed received a variance to have 50' x 108' building seven feet from the southern property line. The original application was to be twenty feet from the property line. During the Plan Director's investigation and the BZA hearing it was determined that Mr. Freed was not using this building for equipment used on the property but being used in his business. At that time Mr. Freed was the only employee at this site. He does have another location in which he does have equipment. There is possibility of one employee.

After visiting the property on May 4th. A new fence has been placed on the property line. There has been some minimal clean up, but the property still does not look much different than it was last winter. I have been contacted by the applicant's attorney, David Holmes. Mr. Holmes claims the State said a Construction Design Release (CDR) was not needed since the only employee was his brother. Mr. Holmes said they do not require a (CDR) if only family members are involved. We are trying to collaborate this with the State. There has been a complaint for the applicant's property to the south. He still has piles of concrete. The complaint was the appearance of the concrete. Mr. Freed says he still intends to crush the concrete for his road. Mr. Freed was told our office would be out again before the hearing to see if additional cleanup had been accomplished.

The state was contacted to see if a Construction Design Release was required for the building. The state was told that the applicant only has one employee and it's a family member. With the

information they were told with regard to the employee being a family member and the nature of the business a CDR is not required. In the past 90 days Mr. Holmes believes Mr. Freed has worked to meet the requirements set out by the board. The outsides materials were organized, the parking area was graveled, and the equipment was put on the gravel portion.

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

1. Samuel Gingerich – 8127 Fir Rd. – In favor
2. Paul Doll – 8497 Fir Rd. – Lived at the address for over 20 years. Does not see an issue with the upkeep of the Freed property which would deem the harassment he is receiving from neighbors. Can point out properties in a five-mile radius which has far more things to complain about.
3. Shawn Glingle – 5200 8th Rd. – In favor of the business and doesn't bother them in any way. Never much activity and works normal business hours. Does his best to keep the area around the shop clean and organized.
4. Brad Stackhouse - The Highway Department was contacted to see if there was a driveway permit obtained for the wood access where the lane was put in and they indicated there was only a permit for access to the new pole building. Believes the excess concrete brought in to later be crushed for the drive is still sitting. In addition, scrap wood, steel and other construction materials have been hauled into the access and piled to make it look like a mini landfill. A ditch that was previously constructed by himself and the previous owner has been filled in by the applicant. Because of this being filled in it has caused all the surface water to backlog on his property which hasn't occurred since the construction of the open ditch in the 1990's. The storage of materials outside have affected the value of his property. It was Mr. Freed's responsibility to locate property lines before he builds which he didn't and also didn't obtain a permit for a concrete storage unit that is less than 1 ft from the property line that should require a permit and meet setbacks. Questions the materials in the area and if they could contaminate ground water. Believes Mr. Freed misrepresented his operation at the last board meeting. Doesn't have a problem with a business but would like the board to consider this business be moved to a more conducive area as Mr. Holmes suggested. Would like the area cleaned up to the condition before his arrival. Wishes that the board would give a timeline for a completion of the request.

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

There was an application for the driveway to the wooded line. It was obtained at the same time as the one for the pole building. In reference to a mini landfill there was a pile of brush on the property but since has been burned. There was no construction debris. There are two piles of concrete and three piles of dirt that's going to be used for the ditch. A person will be hired to crush the concrete with a portable machine. There needs to be a minimum of a thousand ton before the contractor will come to crush. He guessed that he has half of that right now.

The ditch area that was dug around the woods has since had a tile put in it and they are going to fill it in with the dirt. It is ran to the tile along the road and through the culvert as required by Jason at the Highway Department when the driveway was put in. Mr. Freed agreed that the cement will be crushed or removed by the end of the year.

There was a suggestion at the last meeting to move the pipe and anything between the building and the road to the back of the property. Mr. Freed didn't feel that suggestion was feasible.

At the last meeting it was said that there were two employees. Since talking to the State that represented a problem so now he's down to one.

Mr. Booker expressed that the request was to operate the business with whatever limitations there were. There is a possibility of being in violation of the zoning ordinance on the other property because they are two separate properties. Unless the other property is being used as part of the business.

The process for business for the day is the applicant leaves the property at 6-6:30am. Ninety percent of the time he is the only one that comes and goes because everyone has a take home truck.

Inside the building there is a horse trailer and equipment that can't sit outside. There is also a horse stall in the building. The horse comes in and out from the rear of the building.

Mr. Wickizer made a motion to approve 18-BZA-Freed, Kent – A tabled Special Use to allow a storage of equipment and inventory and excavating/plumbing home based business, located at 7774 Fir Rd., Bourbon, IN Bourbon Twsp., Zoned A-1 with the following stipulations:

1. **One employee – family member and no CDR is required**
2. **Clean up the property**
3. **Place the pipe and any construction materials behind the building or in the barn; it's not to be seen from the road**
4. **Concrete for the driveway gone in 60 days (July 15th)**

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

The third item of business was 18-BZA-15 WILLIAMS, Glendon, & Linda - A request for a Variance of Development Standard to reduce the side yard setback from the required 15' to 4' in order to put an addition on to the east side of the existing building; located at 17450 W. 9th Rd., Plymouth, West Twsp., Zoned A-1. Mr. & Mrs. Glendon Williams were present to represent their request. Mr. Booker presented the findings of fact.

The applicant wishes to add a twelve-foot addition to the east side of an existing building to store a boat and wood. This will place the structure four feet from the eastern property line. The property to the east is a 9.91 acre wooded vacant parcel. The owner to this wooded parcel owns a 15.09-acre parcel to the east in which is their homestead. On the west side of the property is the William Inbody legal tile. This would prevent some large additions and building on the west side of the property. The septic system has not been located yet, but it would not be near the proposed addition. This is also the applicant's driveway on the west side of the building and where the addition will be placed it will limit a west side addition.

Awhile back Mr. Williams purchased a boat and is using the existing building to store the boat. When he has projects to do in the building he has to move the boat out every time. He would

like to have this lean to in order for him to store the boat during the summer and during the winter he stores the boat elsewhere and can use the lean to for wood for the wood burner.

Several years back the property line was surveyed and Mr. Markley put in a post to mark the property line.

The location was determined because of the driveway on the other side of the building that allows entrance into the existing building. Plus, there is a pretty sufficient drop off as well. With the property being so low in the back it is very wet and wouldn't be conducive to build anything in that area.

The plan is to build a carport style addition. A 4/12 slope roof, 12' wide with a side wall and a rear wall with a 3" overhang. The floor will be made of pea gravel.

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

1. Richard Markley – Lives adjacent to the Williams property. Has no problems with the request. It will not be detrimental to his property because it's a wooded area. Appreciates them keeping their property as neat as it is. Also satisfied with the property line as described with the sealed corner post as per the survey.

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

Mr. Berger made a motion to approve <u>18-BZA-15 WILLIAMS, Glendon, & Linda -</u> A request for a Variance of Development Standard to reduce the side yard setback from the required 15' to 4' in order to put an addition on to the east side of the existing building; located at 17450 W. 9th Rd., Plymouth, West Twsp., Zoned A-1, seconded by Mr. Wickizer. Motion carried by acclamation.

The fourth item of business was <u>18-BZA-16 TRIZENBERG, Jacob & Cheri –</u> A request for a Variance of Development Standard for a home renovation to reduce the lakeside setback from the required 45' to 36', reduce the ROW setback from the required 30' to 14' and reduce the south side yard setback from the required 10'/10% to 3 ½', located at 4476 Plum Lane, Bremen, IN Zoned L-1, German Twsp. Mr. & Mrs. Trizenberg were present to represent their request. Mr. Booker presented the findings of fact.

The applicant wants to replace an existing front deck, increase an existing covered deck and add seven feet to an existing garage. This home is located on Lot 7 of Smith's 2nd Addition at the end of a private drive. There is a private walk to the lake on the west side of the property. The front deck will reduce its setback from the lake to thirty-six feet. The required setback is forty-five feet. The covered deck setback will be fourteen feet from the private walk. If this had been a public road the setback would have been thirty feet. The garage setback will be three and one-half feet from the property line of Lot Number 8. The required setback is ten feet. Lot 8 uses this area to access their home, but we did not find a driveway. They park their

vehicles in this area and walk to their home.

The Plan is to move the living area of the patio from the lakeside to the side yard.

The applicants stated their proposed lake setback will be 48’ and the front yard setback will be 28’. Lake access for all the lots except the applicants are through the channel.

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. Gustafson moved and Mr. Wickizer seconded the motion to close the public hearing.

The applicants heard from neighbors that they don’t have a problem with the request.

Mr. Wickizer made a motion to approve 18-BZA-16 TRIZENBERG, Jacob & Cheri – A request for a Variance of Development Standard for a home renovation to reduce the lakeside setback from the required 45' to 36', reduce the ROW setback from the required 30' to 14' and reduce the south side yard setback from the required 10'/10% to 3 ½', located at 4476 Plum Lane, Bremen, IN Zoned L-1, German Twsp., seconded by Mr. Berger. Motion carried with a voice vote 5-0.

Violations

Gruwell, Virginia	16514 Cheryl Court – Still has junk on the property and the grass isn’t mowed. The owner said that a neighbor offered to bring a dumpster in for them. The board agreed to send a letter with a fine.
Foster, Joann	15149 12th Rd. – The tree has been removed, but the yard hasn’t been mowed. The board agreed to send a letter with a fine.
Tolsen, Jerry	17092 Michigan Rd. - Nothing has been done at this time.
Hutchison, Thomas	17688 Vine St. - June 1st no progress someone will be hired to clean up the property.
Borton, Tony	2019 Rose Rd. Walkerton - The grass isn’t mowed and there is still junk not cleaned up. The 90 days that was given is up. The board agreed to send a letter with a fine.
Cunningham, Keith	8983 Chestnut Rd. - There is still a pile of garbage in the yard. The board agreed to send a letter with a fine then court.
Listenberger, Irene	Didn’t visit

Marshall County Board of Zoning Appeals
May 12, 2018

Swihart, Edna	15760 Menominee – Junk on the property.
Martinez, Linda	9283 4th Rd. – Ownership in the name of 1st National Bank – Junk all over the property. To have attorney send a letter to the bank.

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

Respectfully submitted

Trent Bennett

June 12, 2018
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Stan Klotz, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, June 12, 2018, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, Mark Wickizer, James Berger and Stan Klotz, Plan Director Ralph Booker, Secretary Lori Lowry and interested parties. Member absent was Trent Bennett.

The first item of business was the review of the minutes from the May 15, 2018, meeting. **Mr. Gustafson made a motion to approve the minutes as written, seconded by Mr. Wickizer. Motion carried by acclamation.**

The second item of business was 18-BZA-17 FALK, Daniel – A request for a Special Use to allow the applicant to obtain a Federal Firearms License to be able to go to gun shows and buy and sell, located at 3625 Michigan Rd., Plymouth, North Twsp., Zoned A-1. Attorney, Benjamin Blatt, was present to represent his clients request. Mr. Booker presented the findings of fact.

The applicant has filed with the Alcohol, Tobacco, and Firearms (ATF) to receive a Federal Firearms License (FFL) to be able to store guns and ammunition at this location. These guns and ammunition would be used and sold at gun shows. There would be no retail or wholesale sales at this location. The guns and ammunition would be stored in safes in the applicant's garage. This property is a gated 9.8-acre property surrounded by a 14.313-acre property owned by the applicant. No one can enter the property without permission of the owners. Thus, it is under surveillance and very secure. The owner has just purchased the property to the north.

The reason Mr. Falk needs the exception for retail sales is ATF which regulates firearms licenses requires that there be technically a physical location for retail even if the primary purpose is to sell at gun shows, law enforcement or online. Mr. Falk owns another full-time business this is just something he wants to do part time on the weekends. By having their property as their physical residence it technically allows them to have retail sales at the property which is the reason this variance is necessary.

Any retail sales that would happen on the property would be transfers from his federal firearms licenses to law enforcement agencies or online. By having this license, it will

allow Mr. Falk access to a NICS data base and will be required to call in to verify the person purchasing is not a prohibitive person.

Mr. Falk's operation will have very little traffic impact on the surrounding residential properties. There will be occasional deliveries or pick ups from UPS or Fed Ex but will not result to regular retail traffic. On occasion law enforcement agencies may send a representative to complete a sales transaction. They believe increasing the visible presence of law enforcement in that area will be beneficial.

There will be no significant increase in environmental, audio or visual pollution. The physical property is set so far back from the road and other properties that even a loud phone conversation would be difficult to hear from Michigan Road.

The board asked if they would be okay to have a restriction on retail sales. Mr. Blatt stated that the ATF requires that there be a technical allowance, but he isn't preparing to do that and his business model doesn't account for that. Mr. Falk is a very private person which is the reason he has a lock and gated entrance to his residence. The garage will be the technical location because that is where the secure safes will be.

Mr. Gustafson moved and Mr. Wickizer seconded the motion to open the public hearing, seconded by Mr. Wickizer. Motion carried by acclamation.

1. Sue Goble – 3624 Nutmeg – Concern about the shooting on the property. It looks like they are building a mote around the back of the property. Their property abuts the back of the property and their safety.
2. Tabatha Young – 13025 3rd Rd. – Neighboring property owner hearing a lot more shooting and loud explosive sounds. Has a safety concern and doesn't want any additional traffic.

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

Mr. Blatt commented that shooting on your own property is not related to the actual firearm license for the gun shop. Generally, there are no restrictions on shooting on your own property as long as you are safe about it. If Mr. Falk is erecting a berm then he is being proactive. If there is any shooting that pertains to this business it would be at an approved gun range for law enforcement agencies. Also, doesn't believe the applicant would have a problem prohibiting a commercial gun range. There won't be an increase in traffic as there won't be retail sales. UPS and Fed Ex already go up and down that road on a regular basis.

Again, this isn't his main line of business. This is all for a hobby that needs this boards approval before he can get permission.

The hours of operation would be by invitation only Monday through Friday. The ATF request is for firearms only, it doesn't not include explosives or manufacturing. The ATF requires certain safety measures which include; a security system, securable doors, and the fire alarms must be secured within that. Since he doesn't have a retail business he will

only be required to have them in separate safes within another locked structure. ATF inspects before they are approved, a year after they are approved then after that they are inspected every other year. Besides that, they keep track of all purchases and sales.

Mr. Wickizer made a motion to approve 18-BZA-17 FALK, Daniel – A request for a Special Use to allow the applicant to obtain a Federal Firearms License to be able to go to gun shows and buy and sell, located at 3625 Michigan Rd., Plymouth, North Twsp., Zoned A-1 with the following stipulations:

1. **No business signs**
2. **No onsite demonstration/commercial shooting**
3. **Approval of ATF**
4. **Gun Show sales and police sales only**
5. **Hours of operation Monday through Friday 8-5 for law enforcement officers only**
6. **Firearms and ammunition only, NO explosives**
7. **Notification upon approval to Marshall County Sheriff's Department**

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

The third item of business 18-BZA-18 SHIDLER, Brian & Norva - A request for a Variance of Development Standard from the density rule to allow two parcels to be split into three lots with one lot being buildable; located at 16636 & 16680 Quince Rd., Culver, IN Zoned A-1., Union Twsp. Mr. & Mrs. Brian & Norva Shidler were present to represent their request. Mr. Booker presented the findings of fact.

The applicant owns 5.31 acres just off Quince Road. The applicant wants to split off another parcel to have a relative build a new home. The area is zoned A-1 Agricultural, which allows only one (1) buildable parcel per every five (5) acres. Since this parcel is less than ten (10) acres. This needs the BZA's approval to create this new parcel. To the north is the Little Lake Minor Subdivision. One (1) lot was created in September 1996 to create one (1) lot since the applicant had exceeded the number of splits under the old subdivision ordinance. In April 2009 a replat of Little Lake Minor Subdivision created another parcel. The applicant's family owns a small pond. One solution would have been to expand that parcel to include the new building site. The family chose to keep the pond as an individual parcel for the enjoyment of the family.

There was a lengthy discussion explaining the reasons for the requirement of this variance. Being that the parcel is less than 10 acres and they are wanting to split it to build a residence which doesn't meet the density rule of one house per every 5 acres.

The applicant would like to sell and build a home that is easier to maintain. The plan is to use the existing driveway to access the proposed new home.

It was discussed by the board that the existing driveway is owned by one of the existing property owners and they will have to grant them an easement to this property and it will have to be added to the owner's deed.

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

Mr. Wickizer made a motion to approve 18-BZA-18 SHIDLER, Brian & Norva - A request for a Variance of Development Standard from the density rule to allow two parcels to be split into three lots with one lot being buildable; located at 16636 & 16680 Quince Rd., Culver, IN Zoned A-1., Union Twsp., with the following stipulations:

1. **Septic permit**
2. **Secure an easement from the landowner of the access**

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

2019 PROPOSED BOARD OF ZONING APPEALS BUDGET

Mr. Booker presented the 2019 budget to the board unchanged from 2018. Mr. Wickizer made a motion to approve as proposed, seconded by Mr. Berger.

Violations

Gruwell, Virginia	16514 Cheryl Court – The property has been cleaned up some, but there is still some junk sitting around.
Foster, Joann	15149 12th Rd. – The tree has been removed, but the yard hasn't been mowed. She has had problems with her car to be able to get here to mow and clean up. Has kept in contact with the office.
Tolsen, Jerry	17092 Michigan Rd. – Has made a little progress and asked for another week because he has help to clean it up. Mr. Booker gave him one week.
Hutchison, Thomas	17688 Vine St. – Has been cleaning up the property and has a bin on the property. Will continue to keep an eye on it over the next couple of weeks.
Borton, Tony	2019 Rose Rd. Walkerton – The property still isn't cleaned up. The board requested this be turned over to the attorney.
Cunningham, Keith	8983 Chestnut Rd. - There is still a pile of garbage in the yard. The board agreed to turn over to the attorney.
Bellman, Evelyn	4241 E. Shore Bremen- Property is getting cleaned up slowly.

Marshall County Board of Zoning Appeals
June 12, 2018

Cox's Corner	Lake of the Woods – The RV has been moved, but there is still junk in the front yard.
Geldner, Rhene	3345 18 B Rd. – The box van hasn't been removed. Left a note and she returned a call and said that she has removed 6 cars and is working with someone to get rid of the box van. She asked for another 30 days to get it removed.
Minter, Laura	13321 4th Rd. – Came into the office upset about the violation notice. Asked her to clean the property up and mow the grass.
Swihart, Edna	15760 Menominee – Had a motorcycle in a pile of weeds along with a bunch of pallets. Also, hasn't mowed.
Roman, Finnegan	8th Rd. – Has a portable hunting cabin on the property without a permit and is also in violation because it's not a residence. Sent a violation notice.

The new plan director talked to both Ralph and Stan about possibly being able to come into the office early to shadow Ralph.

Mr. Klotz went before the County Council requesting permission to allow an interim plan director and to set a pay ordinance that would be the same rate as the plan director. The suggested pay would be taken out of part time clerical.

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

Respectfully submitted

Trent Bennett

July 10, 2018
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Stan Klotz, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, July 10, 2018, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, Mark Wickizer, Trent Bennett, James Berger and Stan Klotz, Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes from the June 12, 2018, meeting. **Mr. Wickizer made a motion to approve the minutes as amended, seconded by Mr. Gustafson. Motion carried by acclamation.**

The second item of business was 18-BZA-19 RIFFEY, Craig & Rhonda - A request for a Special Use to allow a dog kennel with a maximum of 20 dogs located at 7247 SR 331, Bourbon, IN Zoned A-1. Mr. & Mrs. Craig Riffey was present to represent their request. Mr. Adley presented the findings of fact.

The applicant has an existing dog kennel in which they are trying to get zoning permission. They want permission to have 20 dogs. The property is located over 500 feet from SR 331. There is to the north a church parking lot. The closet residence is over 800 feet away. The applicant has a registered retail merchant certificate and is a licensed Class A Breeder by USDA.

The applicant concurred that his kennel is at least 600' feet from any residence and also has a double fence as required by the ordinance.

There has been a kennel at this address for approximately five years. When the applicant came in to apply for a generator permit they were unaware that they needed a Special Use approval from the Board of Zoning Appeals. There is hot water to keep the facility clean as well as is air conditioned. The types of dogs that are being bred are Shiatsu's and Mini Dotson's. The kennel was built to only sustain small breeds.

The applicant keeps his breeding stock and sells the pups. This is not a doggie hotel where they keep other dogs overnight. Currently there are 13 females and 7 males which are the breeding stock. In addition to the breeding stock there are 4 litters of pups to be sold. Litters range anywhere from 2-7 pups. There are 6 runs and they meet all of USDA's standards in regard to sq ft of area per dog. Inspections from the USDA and AKC take place yearly and sometimes earlier.

The waste goes in a pit on the property. There are no plans to have any employees. It is all family run. As far as signage there is none. At this time there is no need for one as it sometimes brings unnecessary attention, said Mr. Riffey. If there is a need for a sign the applicant was requested to contact the Plan Commission Office at that time.

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

1. Jerry Pugh 3088 7th Rd. – Came to get information and has no problem with the request as long as they don't get loose and aren't dangerous.

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

All pups are distributed by breeding age. By selling or re-homing them.

Mr. Gustafson moved to approve 18-BZA-19 RIFFEY, Craig & Rhonda - A request for a Special Use to allow a dog kennel with a maximum of 20 dogs located at 7247 SR 331, Bourbon, IN Zoned A-1, seconded by Mr. Wickizer. Motion carried by voice vote 5-0.

The third item of business was 18-BZA-20 COUNTRY CLUB HILLS – A request for a Variance of Development Standard to allow a metal constructed pavilion as a secondary before a primary, located on parcel 50-31-11-00-041-000-017, West Twsp., Zoned L-1. Mr. Greg Frushour was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to place a secondary structure on the subject property prior to the primary structure. The structure will be used as a shelter on the property by the Country Club Hills. The proposed structure is 130' from the nearest residential structure and will be outside of the Wm. Bradley Tile buffer.

As the president and representative of the Country Club Hills Association it's their request to put up this metal pavilion to keep them out of the sun while they use this access. Due to this lot never being able to be built on they would like to have this temporary structure that is approximately a 12x21steel carport that will be affixed to the ground by the manufacturer's instructions.

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

1. Kain Shuppert 10099 Pretty Lake Tr. – Lives at the lot adjacent to this lot. If there are any problems once approved they wouldn't even know who would be responsible. Also feels this request to have a metal pavilion would devalue their property. What would the hours be? Once this is approved what else will automatically appear, such as: A grill, a playground, etc.
2. Dan Shuppert 10099 Pretty Lake Tr. – Will completely change the current use of the property.

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

Mr. Fushour stated that all they want is a place to get out of the sun. If need be they will put up a structure that is less than 120 sq ft and will not need permission from this board.

Mr. Wickizer asked Mr. Frushour if he sees this request growing by having a grill, benches etc. Mr. Frushour's response to that was that none of those items are illegal.

Mr. Frushour was asked how many boat slips are provided to those 45 members and his response was zero. There's enough room for about ten to fifteen boats. It is paid for by each person and if you have a pier you also pay an additional $200 for liability insurance, port a potty and property taxes.

Mr. Wickizer made a motion to approve 18-BZA-20 COUNTRY CLUB HILLS – A request for a Variance of Development Standard to allow a metal constructed pavilion as a secondary before a primary, located on parcel 50-31-11-00-041-000-017, West Twsp., Zoned L-1with the following stipulation: there is no public use; it is for homeowner's and their guests only. Motion carried by voice vote 5-0.

The four item of business was 18-BZA-21 WITMER, Brandi & Brittany -A request for a Variance of Development Standard to reduce the west side yard setback from the required 15' to 5' and the required 50' of road frontage to 25' in order to reconfigure two parcels; located at 18441 and 18453 Lincoln Hwy., West Twsp., Zoned A-1. Ms. Brittany Whitmer and Ms. Michelle Vanlue of Collins and Company were present to represent their request. Mr. Adley presented the findings of fact.

The house is located on one subject lot and the two secondary structures are located on a separate lot. The applicant is seeking to adjust the property lines. The property line adjustment will result in a flag parcel with the Southern lot having approximately 25' lot frontage which is less than the required 50' lot frontage minimum. Currently there is 32' from the edge of the building to the property line. Once this request is approved it will be staked and surveyed and marked where the curb cut will be located.

The parcel along the road will contain the house and the barn (old skating rink) which is approximately 3.5 acres. Currently there is an accepted offer as long as the request is approved. The new buyers plan to use this structure to house their mobile home.

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

1. Tim Griewank – 14914 McGuff Noblesville – Neighboring property owner to the west believes the area between his property line and the building are too tight for their request. A 5' setback from the building to the property line is too close. The board clarified that the 5' is from the building to the Whittmer property line, not his. There would be a minimum of 25' between the Whittmer property line and the Griewank property line. Previous to the Whittmer's there used to be a trailer on

the property and the septic tank is directly behind the current barn. Doesn't feel that driving over a septic area is a good idea.

2. Karen Haug – 18845 Lincoln Hwy. – Has the property directly behind the Griewank property. Didn't have a problem when the Whittmer's put in a temporary home to care for the elderly parent, but understood it was to be removed when this elderly parent no longer needed it. Now they've made it two parcels and are wanting to create a driveway along the fence line and a low area where there is a pond. During the wet and rainy season, you can hardly get through the area in a car. By doing this it will break down the tile even more and will make it even harder to maintain the fence which will cause even more drainage issues. Doesn't believe that the double wide should still be there. It is believed that the variance went through in 1999 or 2000.

There was a lot of unrecognized conversation.

3. Debbie (Brittany Whittmer's mother) – Lafayette- Drives the lane every weekend and doesn't believe there will be a problem. The fence line that is there hasn't been cleaned out on either side in quite a while. To her knowledge she never heard of any ruling saying the MH had to be removed.

The Plan Commission office located a BZA case in 1999-BZA-35 in which they requested a Variance of Use to permit a Type B MH without the required masonry foundation enclosure and instead put metal skirting instead of the concrete block. It was also stated that he would like to have this Type B MH for approximately 10 or so years. A motion was made at that meeting in October of 1999 to deny the request.

Because this request has nothing to do with the hearing from 1999 that portion will be discussed outside this meeting.

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

During the discussion a few of the comments by the board were that the request is self-imposed and for a financial gain.

The applicant was looking to find something feasible and marketable and the best alternative seemed to have the barn on the parcel up front by the house.

It's their contention that the reduction in setback is the only request that's new. The area back by the pond is nothing new and has been in existence since 1999.

Due to the unknown factors about whether the Type B MH was permitted and everything else involving this case Ms. Whittmer requested that this case be tabled until the August hearing.

Marshall County Board of Zoning Appeals
July 10, 2018

Violations

Gruwell, Virginia	16514 Cheryl Court – Still has junk on the property and the grass isn't mowed. The owner said that a neighbor offered to bring a dumpster in for them. The board agreed to send a letter with a fine.
Foster, Joann	15149 12th Rd. – The tree has been removed, but the yard hasn't been mowed. The board agreed to send a letter with a fine.
Tolsen, Jerry	17092 Michigan Rd. – There has been progress in the past couple of weeks. Will have the property 75% cleaned up. The board discussed the fact that there is a judgment against Mr. Tolsen. Mr. Booker gave an extension to allow Mr. Tolsen additional time to get it all cleaned up. Mr. Adley followed Mr. Booker's ruling. The board requested that if it is not cleaned up by the date set to call Mr. Langfeldt and have it immediately cleaned up.
Hutchison, Thomas	17688 Vine St. – He hired someone to clean up the property by July 10th. Yesterday we have found out that additional trailers have been brought onto the property. There is a judgment from Judge Palmer. Will be meeting with the attorney this week to discuss the course of action. Reminded Mr. Adley to make sure Mr. Lukenbill is adding his fees into the court costs.
Borton, Tony	2019 Rose Rd. Walkerton - The grass isn't mowed and there is still junk not cleaned up. The 90 days that was given is up. The board agreed to send a letter with a fine. Scheduled to go to the attorney.
Cunningham, Keith	8983 Chestnut Rd. - There is still a pile of garbage in the yard. The board agreed to send a letter. Scheduled to go to the attorney.
Bellman, Evelyn	4241 E. Shore – Site visit needed
Cox's Corner	Lake of the Woods – Site visit needed
Geldner, Rhene	3345 18 B Rd. – The box van hasn't been removed. Left a note and she returned a call sand said that she has removed 6 cars and is working with someone to get rid of the box van. She asked for another 30 days to get it removed. Ms. Geldner has made some progress, but the

	box truck is still on the property based on site visit Friday, June 29th.
Minter, Laura	13321 4th Rd. – Came into the office upset about the violation notice. Asked her to clean the property up and mow the grass. Site visit needed.
Swihart, Edna	15760 Menominee – Had a motorcycle in a pile of weeks along with a bunch of pallets. Also hasn't mowed. Site visit needed.
Roman, Finnegan	8th Rd., - Has a portable hunting cabin on the property without a permit and is also in violation because its not a residence. Sent a violation notice. Site visit needed.
Feitz, Jon & Daniel (Susan)	140 King Rd. – Notice was sent on Wednesday, June 20th with corrections to be made by Friday July 6th for the unclean property. Susan called Monday, July 2nd and indicated that she had received the notice letter on Friday, June 29th. She asked for more time and received an extension through Tuesday, July 31st with a re-inspection on Wednesday August 1st.

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

Respectfully submitted

Trent Bennett

August 14, 2018
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Stan Klotz, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, August 14, 2018, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, Mark Wickizer, Trent Bennett, James Berger and Stan Klotz, Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes from the July 10, 2018, meeting. **Mr. Gustafson made a motion to approve the minutes as written, seconded by Mr. Wickizer. Motion carried by acclamation.**

The second item of business was 18-BZA-21 WITMER, Brandi & Brittany -A tabled request for a Variance of Development Standard to reduce the west side yard setback from the required 15' to 5' and the required 50' of road frontage to 25' in order to reconfigure two parcels; located at 18441 and 18453 Lincoln Hwy., West Twsp., Zoned A-1. Ms. Brittany Whitmer and Mr. Thomas Walls, Attorney for the applicant were present to represent their request. Mr. Adley presented the findings of fact.

The house is located on one subject lot and the two secondary structures are located on a separate lot. The applicant is seeking to adjust the property lines. The property line adjustment will result in a flag parcel with the Southern lot having approximately 25' lot frontage which is less than the required 50' lot frontage minimum. Currently there is 32' from the edge of the building to the property line. Once this request is approved it will be staked and surveyed and marked where the curb cut will be located.

Based on the findings that were discussed in the prior meeting the following items were concluded:

1. In August of 1999 there was a permit for the MH which was applied for.
2. In October of 1999 there was a variance request to build a Type B Mobile Home without a required masonry foundation enclosure for the reason that the structure will be temporary and an approximate time frame of 10 years.
3. Staff's recommendation was denial of the temporary foundation therefore it had to be set on masonry blocks. It was inspected and there is a block foundation.

The property was originally split in late 1998. Which means both parcels were legal parcels.

With regards to practical difficulty if both properties were to be required to be sold as a whole it would limit buyers as it would have to be sold as commercial because of two residences.

As it currently sits there is no legal access to the parcel in the rear. By approving this request, it will allow true legal access to this parcel. During the last meeting there was a question as to why a driveway wouldn't be placed on the north of the parcel which wouldn't require a variance. After an inspection it was found that there is underground electrical lines and there being extreme marshy areas it would not be feasible for a driveway on it. This was confirmed by Stone Excavating.

There has always been one driveway for both parcels. The building permit even shows one parcel.

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

1. Joe Haug – A neighboring property owner against the request as he has a concern with the undersized tile that distributes water on his property. On his side of the property he has an 8" tile and has installed a riser to help with the flow of the water. Believes if the Whitmer's would put some sort of screen on the tile it will help with the backup due to leaves clogging up the tile.

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

Mr. Walls response to the question of economic gain was that the public policy with regard to a piece of property is at risk of it's complete at best and most functional use being inhibited indefinitely. This doesn't mean its an economic issue but rather from an alienation standpoint it's isolated.

Looking at the use standpoint, whether that has economic impact it certainly is not the basis… the basis is the use. Right now, the existing driveway is allowing access to both parcels which the rear parcel depends on that driveway which just isn't feasible.

The practical use now of the way that the ordinance reads imposes a fundamental difficulty in the use of both parcels as independent parcels which is the basis in which this request is made.

Mr. Walls doesn't believe there is any exacerbated issue with regard to drainage of that particular pond. During the construction of the driveway he believes there should be discussion at that time.

Mr. Gustafson asked the applicant if they are willing to put in an 8" tile along with something that will prohibit leaves from getting to the neighbor's tile. After it was suggested that they put in this tile Mr. Walls agreed.

Mr. Gustafson made a motion to approve 18-BZA-21 WITMER, Brandi & Brittany -A tabled request for a Variance of Development Standard to reduce the west side yard setback from the required 15' to 5' and the required 50' of road frontage to 25' in order to reconfigure two parcels; located at 18441 and 18453 Lincoln Hwy., West Twsp., Zoned A-1 with the following stipulation:

1. **Replace the tile with an 8" tile**
2. **Put a wire mesh at the end to prevent leaves getting into neighbors' tile**
3. **New driveway on the west side of the building**

Seconded by Mr. Wickizer. Motion carried with a voice vote 3-1. Mr. Klotz voting against.

The third item of business was 18-BZA-22 CLEVELAND, Edward - A request for a Variance of Development Standard to reduce the north side yard setback from the required 15' to 6' in order to build a garage, located at: 2556 Union Rd., Walkerton, IN , Polk Twsp., Zoned A-1. Mr. Edward Cleveland and James Cleveland were present to represent their request. Mr. Adley presented the findings of fact.

The subject property has a few unique features to it, including the property being located between a local railroad line to the North and a ditch running the South side of the property. The property is surrounded by various agricultural and residential uses.

With the ditch, septic system and contours on the property the proposed location is practically the only location feasible for the request.

Six feet has been measured from the side of the building to the property line and it will have a one-foot overhang, said Mr. Cleveland.

The requested building will only be used for personal use. The applicant races micro 600's and he would like to be able to work on them inside a building.

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

Mr. Gustafson made a motion to approve 18-BZA-22 CLEVELAND, Edward - A request for a Variance of Development Standard to reduce the north side yard setback from the required 15' to 6' in order to build a garage, located at: 2556 Union Rd., Walkerton, IN , Polk Twsp., Zoned A-1 with the following stipulation:

1. **6' from the base and 5' from the overhang**

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

The fourth item of business was 18-BZA-23 RAYCROFT, Patrick & Kathleen - A request for a Variance of Development Standard to allow a 30' x 48' garage prior to the residence, located at : Parcel #50-41-07-000-140-000-011, 20829 S. Lake Drive, Walkerton, IN 46574 Zoned L-1. Mrs. Raycroft was present to represent her request. Mr. Adley presented the findings of fact.

The property is currently vacant and surrounded by residential uses as well as some vacant parcels. The request to place a secondary structure prior to a primary is rather common for lake zoned properties as they transition from part time to full time use. There was a demolition of the previous home in May of 2018.

There is no septic on the property. There is a sewer and it had been capped off when the house was tore down.

The original plan was to purchase the property and for it to be used by the applicant's three adult children's families. Due to the condition of the home they decided to tear it down and rebuild a garage for now. The future plans are to build a house at some point. If they would have known the primary before secondary rule they would have built the garage before the residence was tore down.

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

The reason the garage isn't being centered on the lot is because there is a steep drop off on one side.

Mr. Wickizer made a motion to approve 18-BZA-23 RAYCROFT, Patrick & Kathleen - A request for a Variance of Development Standard to allow a 30' x 48' garage prior to the residence, located at : Parcel #50-41-07-000-140-000-011, 20829 S. Lake Drive, Walkerton, IN 46574 Zoned L-1, seconded by Mr. Gustafson. Motion carried with a voice vote 4-0.

The fifth item of business was 18-BZA-24 SYMON, Terry & Deborah - A request for a Variance of Development Standard to reduce the south setback that was approved in 2017 from 10' to 8' which has now been surveyed and cannot meet that requirement; therefore, requests a reduction from the 8' to 4' to update their house with a home addition, located at: 3987 Lakeshore Dr., Bremen, IN Zoned L-1. Mr. & Mrs. Symon were present to represent their request. Mr. Adley presented the findings of fact.

The applicant had previously submitted a variance request in 2017. They were approved for a side yard reduction from 10' to 8', but upon a revised survey the setback as requested and approved previously was not sufficient.

At the previous meeting the Symon's were unaware that the property lines assumed were incorrect once found out by a survey. The floor plan for the house hasn't changed. The neighboring property is owned by DNR and is a ditch that will never be built on.

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

Mr. Wickizer made a motion to approve 18-BZA-24 SYMON, Terry & Deborah - A request for a Variance of Development Standard to reduce the south setback that was approved in 2017 from 10' to 8' which has now been surveyed and cannot meet that requirement; therefore, requests a reduction from the 8' to 4' to update their house with a home addition, located at: 3987 Lakeshore Dr., Bremen, IN Zoned L-1, seconded by Mr. Bennett. Motion carried 4-0 with a voice vote.

The sixth item of business was 18-BZA-25 MROZINSKI, David & Sandi - A request for a Variance of Development Standard to reduce the lakeside (channel) setback from the required 45' to 13' in order to build a covered porch, located at 3196 Channelwood Ln. Bremen, IN Zoned L-1. Mr. & Mrs. Mrozinski were present to represent their request. Mr. Adley presented the findings of fact.

The Applicant had previously received a variance to reduce the required lakeside setback from 45’ to 24’ in 2003 in order to construct the residence. The house is located approximately 25’ from the edge of the water and is requesting it to be reduced by 12’ for a covered porch and deck. Adjacent properties have various setbacks from the water’s edge, ranging from approximately 20’ to 10’.

To the applicant’s knowledge the proposed covered deck will not impede the neighbors view of the water.

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

The applicant was asked when they received approval to build a garage. They responded saying approximately two years ago. The Plan Director advised the applicant that the variance does time out after one year if the project hasn’t been started.

At the time of building the house they hoped in the future to build this covered porch, but a variance wasn’t applied for at that time.

The applicant’s neighbors don’t have any issues with the request.

At the hearing area properties were looked at and their furthermost distances to the water were estimated between 12-15’.

Mr. Wickizer made a motion to approve 18-BZA-25 MROZINSKI, David & Sandi - A request for a Variance of Development Standard to reduce the lakeside (channel) setback from the required 45' to 13' in order to build a covered porch, located at 3196 Channelwood Ln. Bremen, IN Zoned L-1, seconded by Mr. Bennett. Motion carried with a voice vote 4-0.

The seventh item of business was 18-BZA-26 SHADEK, David W. Jr. - A request for a Variance of Developmental Standard to reduce the ROW setback from the required 30' to 15' in order to

build an attached garage, located at: 18240 Latonka Tr., Culver, IN Zoned A-1, West Twsp. Mr. Schadek was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a garage addition of 28' x 40' that will be 15' from the Right of Way. The subject parcel is nearly a triangle and the front yard setback is restricting two sides of the property. The applicant was previously approved in 2013 for the addition, but due to Section 9.070, B the variance has expired.

This request was approved in the fall of 2013 and within 45 days the applicant was promoted to move out of state for his job which put the construction on hold. They moved and stayed in Texas for a short time and was offered to move back. Because the variance timed out they are back to re-seek the same approval from the board.

Once the board gives approval they will go to the lake association for final approval.

Mr. Bennett moved to open for public hearing, seconded by Mr. Wickizer. Motion carried.
1. Zimmerman – Neighboring property owner is in favor of the request.

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

Mr. Gustafson made a motion to approve 18-BZA-26 SHADEK, David W. Jr. - A request for a Variance of Developmental Standard to reduce the ROW setback from the required 30' to 15' in order to build an attached garage, located at: 18240 Latonka Tr., Culver, IN Zoned A-1, West Twsp. , seconded by Mr. Wickizer. Motion carried with a voice vote 4-0.

The eighth item of business was 18-BZA-27 BAKER, Karen - A request for a Variance from the 1:3 width to depth ratio to allow an 80-acre parcel to be split with one parcel that has the existing house to be approximately 250' wide by over 2,000 ' in length; located at: 6734 4th Rd., Bremen, IN Zoned A-1, German Twsp. Ms. Karen Baker and Ms. Kristen Walker were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to split their 80-acre parcel into approximately 21 and 59-acre pieces. The 21-acre parcel as proposed does not meet the 1:3 width to depth ratio requirement. The parcel is requested to be 250' of frontage and 2600' long to include the wooded area at the rear of the property. The property is surrounded predominately by agriculture properties with a few residential properties.

The applicants would like to sell off the farm ground and are proposing it be kept for agricultural use. The residence will be kept by Ms. Walker as well as the long narrow strip and back to and around the wooded area. This wooded area would never be able to be built upon due to the low ground and it being extremely wet.

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

Mr. Wickizer made a motion to approve 18-BZA-27 BAKER, Karen - A request for a Variance from the 1:3 width to depth ratio to allow an 80-acre parcel to be split with one parcel that has the existing house to be approximately 250' wide by over 2,000 ' in length; located at: 6734 4th Rd., Bremen, IN Zoned A-1, German Twsp, seconded by Mr. Bennett. Motion carried with a voice vote 4-0.

The ninth item of business was 18-BZA-28 STEEL RIDGE BUILDING SUPPLY - A request for a Variance of Development Standard to increase the maximum monument sign size from 32 sq ft to 40 sq ft; located at: 18140 SR 331, Tippecanoe, IN Zoned I-1, Tippecanoe Twsp. Ms. Lauren Overmyer was present to represent the applicant's request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a new sign on the subject property and creating a monument style sign. The sign that is proposed is 40 sq. ft. which exceeds the 32 sq ft maximum.

Due to the applicant not showing Mr. Gustafson made a motion to table this meeting until September 11, 2018 meeting, seconded by Mr. Wickizer. Motion carried by acclamation.

The tenth item of business was 18-BZA-29 Lee, Sangyoung & Esther - A request for a Variance of Development Standard to allow a renovation of an existing garage and living space, located at: 12630 Union Rd., Culver, IN West Twsp., Zoned A-1. Mr. Jim Easterday and Mrs. Lee were present to represent their request. Mr. Adley presented the findings of fact.

The second dwelling unit already exists over a pre-existing garage but did not have a prior approval. The Applicant is seeking to reconstruct the two-story structure as a 1 story building. The demolition permit has already been pulled and structure has been demolished. There is currently a building permit for the proposed 1 story building but must receive BZA approval prior to issuing permit.

Mr. Easterday expressed that this is a single-family use. They are not applying for a use variance. It will never be used as a multi-family use. The garage is attached to the house by way of a deck. Both structures are on the same septic system and same utilities.

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

1. Marilyn Colby- Neighboring property owner there to support the applicant's requests. Appreciates the property being kept up and updated.

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

The board discussed how the two structures were connected and what constitutes a single dwelling.

The living quarters on the garage will not be used full time. The plan is to only use it when their elderly parents come and visit.

When the house was purchased at least 90% of it has been renovated. At that time, they had no idea the additional living quarters were not approved nor did they know they would need approval. Otherwise they would have reconsidered tearing down the whole structure and building new.

It was suggested if the board would consider an Affidavit of Single Family Use that would be recorded.

Mr. Bennett made a motion to approve 18-BZA-29 Lee, Sangyoung & Esther - A request for a Variance of Development Standard to allow a renovation of an existing garage and living space, located at: 12630 Union Rd., Culver, IN West Twsp., Zoned A-1 with the following stipulation:

1. **Affidavit of single family use be recorded**

Seconded by Mr. Wickizer. 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

Trent Bennett

September 11, 2018
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Stan Klotz, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, September 11, 2018, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, Mark Wickizer, Trent Bennett, and Stan Klotz, Plan Director Ty Adley, Secretary Lori Lowry and interested parties. Member absent was James Berger.

The first item of business was the review of the minutes from the August 14, 2018, meeting. **Mr. Gustafson made a motion to approve the minutes as amended, seconded by Mr. Wickizer. Motion carried by acclamation.**

The second item of business was 18-BZA-28 STEEL RIDGE BUILDING SUPPLY - A (TABLED) request for a Variance of Development Standard to increase the maximum monument sign size from 32 sq ft to 40 sq ft; located at: 18140 SR 331, Tippecanoe, IN Zoned I-1, Tippecanoe Twsp. Ms. Lauren Overmyer of Vanadco Signs was present to represent the applicants request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a new sign on the subject property and creating a monument style sign. The sign that is proposed is 40 sq ft (4x10) which exceeds the 32 sq ft maximum.

The plan for the sign will be a 4x10 illuminated sign and will be located on the east side of the road. The reason for the size is because the location is so far off the road.

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

1. Linda Simms – Neighboring property owner has no objection.

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

Mr. Gustafson made a motion to approve 18-BZA-28 STEEL RIDGE BUILDING SUPPLY - A (TABLED) request for a Variance of Development Standard to increase the maximum monument sign size from 32 sq ft to 40 sq ft; located at: 18140 SR 331, Tippecanoe, IN Zoned I-1, Tippecanoe Twsp., seconded by Mr. Wickizer. Motion carried with a voice vote 4-0.

The third item of business was 18-BZA-30 ABATE - A request for a five-year (2018-2022) approval of a three (3) day Summers End Event during the month of September, located on a parcel owned by Richard Sommers 10648 Upas Rd., Plymouth, IN Zoned A-1, West Twsp. Ms. Diane Fisher resenting Abate was present for their request. Mr. Adley presented the findings of fact.

The same event was approved in 2014, 2015 and 2016. The BZA approved with the following conditions: property sanitation, notify sheriff of event, amplified music to be turned off at midnight, and EMT and security officials to be on site during the event.

This event will continue to be at this location coming up on four years. Previous years the event was held at a different location. There was an event last year and didn't receive a call back from the Plan Director so they assumed it was okay to proceed.

For the past three years there have been phone calls received by the board at midnight telling them the music is not shut off. Much of the boards thoughts were that until the complaints stop they don't see doing a multi-year approval.

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

1. Lou Ann Falkowski – Neighboring property owner isn't frustrated during the daytime hours just in the evening when they a revving up their engines at 2-3 am.
2. Thomas Sander – Is a good fundraiser and has no objection.

Mr. Wickizer moved and Mr. Gustafson seconded the public hearing to be closed. Motion carried by acclamation.

Ms. Fisher stated that they have multiple security officers around the area the whole weekend and try to do their best to police the area. If anything gets out of hand they immediately take care of it. There is a noise policy where all noise is to be reduced starting at midnight.
At the gate there is a sign and also on an event agenda given out at the gate about the noise policy.

The ABATE monies are disbursed to the ABC Foundation which stands for Abate Bikers Care. Money is disbursed to a foundation called Treasure's for Kids which is an organization within Marshall County. Money is also shared between the Hemminger House and the Neighborhood Center.

The board asked what kind of measures they could take to keep the noise down. Ms. Fisher's comment was that they would have continued security out all night.

The board expressed that abate has done a really good job with this event. Their biggest concern is the noise complaints and would really like to see the noise brought down at midnight.

Ms. Fisher has no intention of trying to upset surrounding neighbors. It's been their practice in the past that if an affected neighbor prefers going to a hotel that night they will help to cover the cost.

Abate would like to do a five-year approval to keep from taking the funds away from the charity.

The hours are the same. Participants come in around noon and depart at noon on Sunday.

Mr. Wickizer made a motion to approve18-BZA-30 ABATE - A request for approval of a three (3) day Summers End Event during the month of September, located on a parcel owned by Richard Sommers 10648 Upas Rd., Plymouth, IN zoned A-1, West Twsp with the following conditions:

1. **EMT**
2. **Sanitation**
3. **County Police Notification**
4. **Music to end at midnight**
5. **One-year approval from Friday at noon through Sunday at noon**
6. **Security**

Motion seconded by Mr. Gustafson. Motion carried with a voice vote 4-0.

The fourth item of business was 18-BZA-31 BORKHOLDER, Eddie Ray - Requesting a Variance of Development Standard to allow a reduction of the minimum lot frontage from the required 50' to 40' to allow access to a proposed parcel without road access, located at: 1656 2 B Road, Bremen, IN German Twsp., Zoned A-1. Mr. Eddie Ray Borkholder was present to represent his request. Mr. Adley presented the findings of fact.

The subject property has an existing Ingress/Egress easement to the cell tower and said easement will be widened to 40' in order to accommodate access to the rear of the parcel.

The son of Mr. Burkholder is purchasing 5 acres where the house sits. Mr. Burkholder would like retain the remaining acreage and not to disrupt any of the buildings on the 5 acres to allow a for a driveway.

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

Mr. Wickizer made a motion to approve 18-BZA-31 BORKHOLDER, Eddie Ray - Requesting a Variance of Development Standard to allow a reduction of the minimum lot frontage from the required 50' to 40' to allow access to a proposed parcel without road access, located at: 1656 2 B Road, Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Gustafson. Motion carried with a voice vote 4-0.

The fifth item of business was 18-BZA-32 VANVACTOR, Stephen & Maria - A request for a Variance of Development Standard to retain existing setbacks for new construction located on Parcel # 50-31-11-000-167-000-017, Pretty Lake Tr. West Twsp., Zoned L-1. Mr. & Mrs.

Stephen VanVactor were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a new home in place of his current one abutting an existing deck.

Based on the ordinance indicating the setbacks for Pretty Lake specifically as: Any addition to, or new construction of a principal structure, including any decks, balconies or raised patio – When adjacent properties have been developed with principal structures on one or both sides, the required setback line may be greater than 45' from the 789 elevation line and shall be determined by a line drawn between the father extension of the adjacent structures, including any decks, balconies or raised patios.

The plan is to tear down the existing home and rebuild it as close to the same footprint as possible to meet the side yard setbacks. When doing that with the string law a small portion of the new home will be within that area. If the variance is not allowed they will lose all the windows on the lower lakeside portion of the house and a large tree would have to be removed.

The proposed plan is to have the home moved back 20' towards the road than the old home. This will provide more view for everyone. From the sea wall the measurement to the deck will be approximately 76 feet which meets the 45-foot requirement.

There is not an exact measurement of what is within that string line. A point of contention with the board was that they didn't have that measurement that was needed plus the home could probably be moved back a few feet and a variance might not even be needed.

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

1. Barb Miller – adjacent property owner is very much in favor of the request as it will give them a better sight line and will greatly improve the property values.
2. Bob Kizer – Is for the request.

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

After a lengthy discussion about the setbacks and the lack of factual information the board had differences of opinions on the request. The home will be slightly moved on an angle east which will move the southwest corner of the house north a little bit, but again there is no exact measurement.

Mr. Bennett made a motion to approve the request <u>18-BZA-32 VANVACTOR, Stephen & Maria -</u> A request for a Variance of Development Standard to retain existing setbacks for new construction located on Parcel # 50-31-11-000-167-000-017, Pretty Lake Tr. West Twsp., Zoned L-1 with the following stipulations:

1. **7' encroachment past the string line**

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

Marshall County Board of Zoning Appeals
September 11, 2018

The sixth item of business 18-BZA-33 STRANC, Edward - A request for a Variance of Development Standard to reduce the Right of Way setback from the required 30' to 10' in order to build a garage, located at 18253 Tahoe Tr., West Twsp., Zoned L-1. Mr. Mike Bubalo, contractor, was present to represent his request. Mr. Adley presented the findings of fact.

Based on the provided information, the applicant indicates that the septic system is on the east side of the house and the topography limits the structure to having to be placed in the proposed position.

The proposed garage will be 28x30 and will be 12 feet away from the house. There is a proposed side yard setback of 6 ½ feet which meets the requirement. The parcel where the garage sits is 60 feet wide.

The house to the west's garage is approximately 14 ½ feet and a garage to the east is approximately 16 feet from the right of way. The boards consensus on the ROW setback request was positive.

The board has a concern with the layout, the angle and the distance away from the garage not being able to meet the required 6 ½ foot side yard setback.

Mr. Bubalo stated that there are some surveyed stakes but doesn't believe there is one down by the lake.

Mr. Gustafson suggested that this be resurveyed to get the proper lines and find out exactly how many feet the proposed structure will actually be from the proposed outermost portion of the structure to the property line.

Without having all the information required Mr. Bubalo requested to table this meeting to bring back the actual setback measurements and possibly the homeowner to the next meeting. Mr. Gustafson made a motion table, seconded by Mr. Wickizer. 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

Trent Bennett

October 9, 2018
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Stan Klotz, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, October 9, 2018, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, James Berger, Trent Bennett, and Stan Klotz, Plan Director Ty Adley, Secretary Lori Lowry and interested parties. Member absent was Mark Wickizer.

The first item of business was the review of the minutes from the September 11, 2018, meeting. **Mr. Gustafson made a motion to approve the minutes as amended, seconded by Mr. Bennett. Motion carried by acclamation.**

The second item of business 18-BZA-33 STRANC, Edward - A request for a Variance of Development Standard to reduce the Right of Way setback from the required 30' to 10' in order to build a garage, located at 18253 Tahoe Tr., West Twsp., Zoned L-1. Due to a lack of payment this case has been cancelled and will need to reapply at a future date.

The third item of business was 18-BZA-34 FURGYE, JACK Jr. - A request for a Variance of Development Standard to reduce the ROW setback from the required 30' to 6' and side yard setback from the required 10' or 10% to 1' to allow an existing shed located at: 20752 South Lake Dr., Walkerton, IN Zoned L-1, Polk Twsp. Mr. Jack Furgye was present to represent his request. Mr. Adley presented the findings of fact.

The applicant has partially completed the construction of a 12'x24' shed that is located 1' from the side property line and 6' from the Right of Way. The applicant indicated that he had discussed with the adjacent property owner prior to construction and indicates that they did not have any objections to the proposed location. The applicant indicates that he took adjacent sidelines and distances between structures into considerations and thus end up with the current location. The project was found partially completed without permit and was advised to come in and address the associate's paperwork. Since the structure was not going to meet the 10' or 10% side yard setback or the 30' front yard setback, he needed to apply for this variance.

Mr. Furgye talked to his neighbor prior to constructing the shed and they didn't have a problem with the location so they went ahead and built the shed without knowing they needed a permit for a shed. This was practically the only location because of the location of the well and not wanting to disturb the lake view.

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Several years ago, Mr. Furgye came before this board requesting a variance to build a garage 14' from the road. With knowing the procedure of setback requirements and the variance process him putting up this storage building wasn't a lack of not knowing. For whatever reason, Mr. Furgye started construction without a permit that didn't meet the setbacks not even close.

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

1. Stacy Flick – Neighboring property owner sent a letter stating that he doesn't have a problem with the request.

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

The applicant was asked if he could move it in his back yard and his biggest concern was it would block the view of the lake for his neighbors.

Mr. Gustafson made a motion to deny 18-BZA-34 FURGYE, JACK Jr. - A request for a Variance of Development Standard to reduce the ROW setback from the required 30' to 6' and side yard setback from the required 10' or 10% to 1' to allow an existing shed located at: 20752 South Lake Dr., Walkerton, IN Zoned L-1, Polk Twsp on Finding #3 Practical Difficulty, seconded by Mr. Bennett. Motion carried with a voice vote 4-0.

The fourth item of business was 18-BZA-35 HAYES, Michael & Pamela - A request for a Variance of Development Standard to reduce the lakeside setback from the required 45' to 36' to allow a roof to extend out over a proposed cement patio, located at 20801 N. Lake Dr., Walkerton, IN Zoned L-1, Polk Twsp. Mr. & Mrs. Michael Hayes were present to represent their request. Mr. Adley presented the findings of fact.

The proposed roof over patio would encroach into the required setback. The adjacent two homes have approximate rear setbacks. The adjacent two homes have approximate rear setbacks of 30-33' which is also below the 45' standard setback, therefore the proposed 36' setback would be flush or behind the neighbor's line of site.

Mr. Hayes expressed to the board that the proposed roof over the patio will not extend past either neighbors' gutters on their homes. After talking with the neighbors, they have no problem with his request. All other setbacks have been met. The roof idea of the patio was an after thought in the building process.

Mr. Gustafson freely told the board that he had worked on this property for this applicant with neither of them knowing he was a part of the board.

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

1. Donna Raspovich – 20815 N. Lake Dr. – Neighboring property owner to the west. In favor of the request.

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

Marshall County Board of Zoning Appeals
October 9, 2018

Mr. Bennet made a motion to approve <u>18-BZA-35 HAYES, Michael & Pamela -</u> A request for a Variance of Development Standard to reduce the lakeside setback from the required 45' to 36' to allow a roof to extend out over a proposed cement patio, located at 20801 N. Lake Dr., Walkerton, IN Zoned L-1, Polk Twsp, seconded by Mr. Berger. Motion carried with a voice vote 4-0.

<u>2019 Board of Zoning Appeals Budget</u>

The budget hearings are over and the Board of Zoning Appeals Budget was approved as presented. The only additional monies approved for the Plan Commission was $10,000 for the code enforcement position.

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

Respectfully submitted

Trent Bennett

November 13, 2018
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Stan Klotz, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, November 13, 2018, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, James Berger, Trent Bennett, Mark Wickizer and Stan Klotz, Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes from the September 11, 2018, 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 18-BZA-36 HUPAC, Theodore & Rebecca – A request for a Variance of Developmental Standard to allow the applicants to rebuild their home on the same foundation after a fire which would allow for the following reduction in standards - South Side yard 7.5' from the required 9', West Front yard 28' from the required 30', East Rear yard 8' from the required 45' as well as the over 45% lot coverage, located at 3536 W. Shore, Bremen, IN Zoned L-1, North Twsp. Mr. & Mrs. Theodore Hupac were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to rebuild a home that was torn down due to a fire using the same footprint. They are seeking to use the setbacks of 27' side, 8' rear, 7.5' side, and 28' front. They are also seeking to exceed the 45% impervious lot coverage.

The previous house was an A Frame Structure which is the reason for the garaging being separate from the home. With it no longer being A Frame, it gives them the ability to have an attached garage. The proposed structure will be a much nicer looking home and should also raise values of properties around.

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

Mr. Wickizer made a motion to approve 18-BZA-36 HUPAC, Theodore & Rebecca – A request for a Variance of Developmental Standard to allow the applicants to rebuild their home on the same foundation after a fire which would allow for the following reduction in standards - South Side yard 7.5' from the required 9', West Front yard 28' from the required 30', East Rear yard 8' from

the required 45' as well as the over 45% lot coverage, located at 3536 W. Shore, Bremen, IN Zoned L-1, North Twsp, seconded by Mr. Berger. Motion carried with a voice vote 5-0.

The third item of business was 18-BZA-37 BUTLER, James & Betty - A request for a Variance of Developmental Standard to reduce the Right of Way Setback from the required 50' to 11' in order to utilize the existing driveway and electric, located at: 18501 13 B Rd, Culver, IN Zoned A-1, West Twsp. Mr. & Mrs. Butler were present to represent their request. Mr. Adley presented the findings of fact.

The applicant prefers to use the existing driveway and will also reduce their cost to run the electric to the proposed building site. This being the reason the Butler's are requesting to construct a 25x29' garage 11' from the right of way for personal storage.

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 moved and Mr. Gustafson seconded the motion to close the meeting. Motion carried by acclamation.

The board discussed this case being self-imposed as there are other locations on the property.

Mr. Wickizer made a motion to approve 18-BZA-37 BUTLER, James & Betty - A request for a Variance of Developmental Standard to reduce the Right of Way Setback from the required 50' to 11' in order to utilize the existing driveway and electric, located at: 18501 13 B Rd, Culver, IN Zoned A-1, West Twsp, seconded by Mr. Berger. Motion carried 4-1 with Mr. Gustafson voting against.

The fourth item of business was 18-BZA-38 SYMON, Terry & Deborah - A request for a Variance of Developmental Standard to reduce the North side yard setback from the required 10' to 5' and to also allow an increase in impervious surface area, located at 3987 Lakeshore Dr., Bremen, IN North Twsp., Zoned L-1. Mr. & Mrs. Terry Symon. Mr. Adley presented the findings of fact.

Originally only a portion of the home was to be demolished and rebuilt. Due to the foundation being in total disrepair they were advised to do a total demolish and rebuild. To be in compliance with today's standards the applicant is seeking to reduce the side setback from 10' to 5' and exceed the maximum lot impervious coverage. The percent of overage is 1.3%.

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

Mr. Bennett made a motion to approve 18-BZA-38 SYMON, Terry & Deborah - A request for a Variance of Developmental Standard to reduce the North side yard setback from the required 10' to 5' and to also allow an increase in impervious surface area, located at 3987 Lakeshore Dr., Bremen, IN North Twsp., Zoned L-1, seconded by Mr. Berger. Motion carried with a voice vote 5-0.

The fifth item of business was 18-BZA-39 TIPPECANOE TWSP TRUSTEE - A request for a Special Use to allow a township park with walking trails and a pavilion, located adjacent to 18325 SR 331, Tippecanoe, IN on parcel # 50-23-24-000-075-000-012 Zoned T-1. Matt Pitney, Tippecanoe Twsp. Trustee, was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to create a park within a T-1 district, but a park is not a permitted use within the T-1 district. This was originally the old school and later a park. The existing parking lot is currently in disrepair due to settling in the ground from burying building materials and concrete from the old school. The existing sidewalks on the property were put in by a private community foundation. The township doesn't have funding to put in extensive sidewalks. The proposed work is to be funded by a private community foundation. The current plan is to build a pavilion and some walking trails along with planting appropriate trees for the area.

The planned 2019 township budget is limited which won't allow us to commit extending the sidewalk. They do; however, plan to bring in some loads of gravel to help level out the driveway and parking area.

The private community foundation usually has a couple fish fry's and a few other fundraisers to help support projects such as this, trick or treat night, visit with santa, etc.

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

1. Glenn Widner – 14464 7 B Rd. – In favor of the creation of the park.

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

The walking trails will not be hard surface. Mr. Gustafson encouraged an access for the people to the north.

Mr. Gustafson made a motion to approve 18-BZA-39 TIPPECANOE TWSP TRUSTEE - A request for a Special Use to allow a township park with walking trails and a pavilion, located adjacent to 18325 SR 331, Tippecanoe, IN on parcel # 50-23-24-000-075-000-012 Zoned T-1, seconded by Mr. Berger. Motion carried by a voice vote 5-0.

The sixth item of business was 18-BZA-40 DIETL, Lawrence Jr. - A request for a Variance of Development Standard to reduce the west side yard setback from the required 10'/10% to 5' and the rear yard setback from the required 20' to 4' in order to replace an existing shed, located at: 16370 Pretty Lake Rd., Plymouth, IN West Twsp., Zoned L-1. Mr. Dietl was present to represent his request. Mr. Adley presented the findings of fact.

The property owner is seeking to replace his existing 8x10 shed with a new one that is slightly bigger. The existing shed does not conform to setback standards and is requesting to reduce his side yard setback from 7.5' to 5' and his rear yard

setback from 20' to 4'. The subject property is irregularly shaped North of the house, with a steep grade change immediately off the back of the shed.

The plan is to move the location of the building an additional three feet east and south. The existing well's location prohibits the building from being located within the setbacks.

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

1. Glenn Weider 14464 7 B Rd – Lives across the street from the request and has no objection with the request just clarification.

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

Mr. Gustafson made a motion to approve 18-BZA-40 DIETL, Lawrence Jr. - A request for a Variance of Development Standard to reduce the west side yard setback from the required 10'/10% to 5' and the rear yard setback from the required 20' to 5' in order to replace an existing shed, located at: 16370 Pretty Lake Rd., Plymouth, IN West Twsp., Zoned L-1, with the stipulation that both setbacks be 5' from the property line, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The seventh item of business was 18-BZA-41 FURGYE, Jack Jr. - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 30' to 16' from the ROW, located at: 20752 South Lake Dr., Walkerton, IN 46574 Polk Twsp., Zoned L-1. Mr. Furgye was present to represent his request. Mr. Adley presented the findings of fact.

The property owner has revised their application to build a storage shed that will be 16' from the South property line and will now meet the side yard setback. The new shed will be setback further than the existing garage. The building will not be permanent or anchored down.

This proposal will be 2' from the existing well with a proposal for a new well location that will be further into the property that will meet the Health Departments separation standards. Therefore, the request is being made to allow a 16' ROW setback. While allowing the Building and Health Departments to make sure the requirements are met in regards to the well and other zoning requirements. The TRC's recommendation was the ability to get the truck in to punch the well due to the power lines and the tree.

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

The existing garage was approved by this board a few years ago.

Mr. Gustafson made a motion to approve 18-BZA-41 FURGYE, Jack Jr. - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 30' to 16' from the

ROW, located at: 20752 South Lake Dr., Walkerton, IN 46574 Polk Twsp., Zoned L-1, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The eighth item of business was 18-BZA-42 PARMLEY, David - A request for a Variance of Developmental Standard to allow a secondary before a primary to build a garage, located at: 3728 W. Shore Dr., Bremen, IN North Twsp., Zoned L-1. Mr. Parmley was present to represent his request. Mr. Adley presented the findings of fact.

The property owner is seeking to construct an accessory structure at the rear of the property with the possible intention of putting a home on the property in the future. The applicant owns the property to the South. The plans are to have a gravel driveway to the building. There are also no intentions to put living quarters in the garage. It will be used for personal storage.

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

Mr. Wickizer made a motion to approve 18-BZA-42 PARMLEY, David - A request for a Variance of Developmental Standard to allow a secondary before a primary to build a garage, located at: 3728 W. Shore Dr., Bremen, IN North Twsp., Zoned L-1 with the stipulations that all setbacks are met and built in the southwest corner of the property, seconded by Mr. Bennett. Motion carried with a voice vote 5-0.

The ninth item of business was 18-BZA-43 STRANC, Ed - A request for a Variance of Development Standard to reduce the ROW setback from the required 30' to 10', located at: 18253 Tahoe Tr., Culver, IN West Twsp., Zoned L-1. Mr. Bubalo was present to represent Mr. Stranc's request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a 28 x 28' garage 10' from the front property line and will meet the applicable side yard setback. The septic system is on the opposite side of the house and the topography of the lot limits how far the structure can be pushed towards the lake.

The proposed structure will be 16' from the house. Due to the topography there is a need to locate the garage 10' from the ROW which is also about 20' plus or minus from the edge of the roadway. The garage will be squared up with the house. The property owner owns three parcels and since they aren't combined the building only needs to meet the setbacks of the one 60' wide parcel which requires a 6' side yard setback.

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

1. Carolyn Walsko 4210 Juneau Lane North Plymouth – Not in favor of the request as they see potential change will affect the look of the area.

There is a concern with lining up the garage with the house as it will bring the one corner of the garage closer to the road. Mr. Bubalo explained that this corner being talked about will be 10' away from the ROW and the other corner will be further away from the ROW.

While looking at the GIS it was found that the property to the west is approximately 12' from the road as well as other surrounding structures.

With there only being 18-20 feet from the garage to the road the board has a concern that there will not be enough room to park a car completely off the road. After discussion it is believed that depending on the size of vehicles smaller cars would fit and a larger truck would definitely not.

Mr. Gustafson moved to close public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

The size of the garage is based on pulling a car in and having a workbench at the end. As this is will be their summer home it will also be used for storage the other times they aren't there.

Mr. Wickizer made a motion to approve 18-BZA-43 STRANC, Ed - A request for a Variance of Development Standard to reduce the ROW setback from the required 30' to 10', located at: 18253 Tahoe Tr., Culver, IN West Twsp., Zoned L-1with the following stipulation: the garage is to be built no closer than 24' from the edge of the pavement from the shortest corner seconded by Mr. Gustafson. Motion carried with a voice vote 5-0.

2019 Proposed Board of Zoning Appeals Meeting Schedule

Mr. Gustafson made a motion to approve the proposed 2019 meeting scheduled, seconded by Mr. Bennett. Motion carried by acclamation.

Copies of the meeting schedule were requested.

Site Plan Survey

The Plan Commission is considering the concept that if someone is requesting a reduction in the setbacks that a more detailed site plan or survey be required.

After a discussion all members of the board are in consensus that this is a good idea and supports this proposal.

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

Respectfully submitted

Trent Bennett

December 11, 2018
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Stan Klotz, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, December 11, 2018, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, James Berger, Trent Bennett, Mark Wickizer and Stan Klotz, Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes from the November 13, 2018, 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 18-BZA-44 PITTMAN, Sally - A request for a Variance of Use to allow automotive repair out of the existing garage on the property, located at 3308 E. Shore Dr., Bremen, IN Zoned L-1, German Twsp. Ms. Sally Pittman and Mr. Eric Schmeltzer were present to represent their request. Mr. Adley presented the findings of fact.

The applicant owns the property and rents out to the existing tenant whom is operating the automotive repair business. The property came in due to violation of operating an automotive business within the L-1 zoning district which does not permit automotive repair. The subject property is adjacent to the A-1 Agricultural zoning district. The house and garage are on the North end of the property leaving a large open area on the South side of the property. There are several houses within the vicinity and to the West is Lake of the Woods.

Ms. Pittman had no idea doing this small repair work wasn't allowed. Ms. Pittman lives south of the proposed property. This property is being rented to Mr. Schmeltzer and is living in the home. It is his request to be able to use the garage to conduct small automotive repairs (tune ups and automotive maintenance) part time. The proposal would be to work approximately two evenings per week and off and on over the weekend. He has a full-time job elsewhere. The vehicles that are being stored outside currently are owned by the applicant. There is no intent to have a bunch of vehicles outside. The maximum number of vehicles to be stored outside are two. The previous owner that lived there used the existing garage to work on cards for other people.

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

1. Tracy Balsley – Gumwood Rd. – Not against small businesses, but has a concern about parking and when snow is plowed from this property that it isn't pushed on his property.
2. Brian Denk – Lake of the Woods Association – It's their interest to keep things neat and clean and doesn't think this is a good location for this type of business.
3. Pete ? – Not a good location for a commercial business. Plus, doesn't think the building is built to commercial code.
4. Stephanie Richard – Doesn't see the concern having a few extra cars sitting outside. It's no different than others having at home babysitting businesses in the area.

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

Hasn't plowed snow at this address before. For the future there are several different places on the property where excess snow can be stored. He has no intent to start a full-time business. The plan is to do this to help out his disabled wife.

It was brought up by the board that he can work on family or friends vehicles as long as there's not an exchange of money.

Mr. Wickizer made a motion to deny because of the location and building codes 18-BZA-44 PITTMAN, Sally - A request for a Variance of Use to allow automotive repair out of the existing garage on the property, located at 3308 E. Shore Dr., Bremen, IN Zoned L-1, German Twsp, seconded by Mr. Gustafson. Motion carried 5-0 to deny.

The third item of business was 18-BZA-45 DOWD, Melody - A request for a Variance of Use to allow a temporary (1 year) living in an RV on family members property to be near various doctors for treatment; located at 18555 W. 14 B Rd., Culver, IN Zoned A-1, Union Twsp. Mr. & Mrs. Randy and Melody Dowd were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to use a RV as a temporary residence for someone that requires various doctors' appointments due to not being cleared of cancer. The subject property is zoned A-1 and permits 1 residence per parcel and a density of 1 unit per 5 acres. The ordinance does not currently allow for temporary residential uses.

Approximately one year ago the applicants sold their residence and bought a 2009 travel trailer to travel the country. Soon after Mrs. Dowd was diagnosed with cancer. To be near doctors the applicants need to park their travel trailer at their sister's property until they no longer need to go to doctors' appointments. The property is currently owned by a sister and brother in law. Small LP tanks are used for the natural gas.

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

1. John Baldwin – 18537 W. 14B Rd. – No problem with the request. It is out of sight.

2. Property Owner – They have their own driveway and helps them keep up the property. Doesn't see a problem with the request.

Mr. Gustafson moved and Mr. Wickizer seconded the motion to close the public hearing.

Mr. Gustafson made a motion to approve 18-BZA-45 DOWD, Melody - A request for a Variance of Use to allow a temporary (1 year) living in an RV on family members property to be near various doctors for treatment; located at 18555 W. 14 B Rd., Culver, IN Zoned A-1, Union Twsp with the following stipulations:

1. Health Department approval
2. This approval expires on 12/11/2019 and would need to reapply each year.

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

The fourth item of business was 18-BZA-46 RONK, Bill & Karen - A Variance of Development Standard to allow a reduction in minimum lot area per residential unit to divide off 2 acres and the residence from a 5.25-acre parcel; located at: 17836 12th Rd., Plymouth, IN Zoned A-1, West Twsp. Mr. & Mrs. Bill & Karen Ronk were present to represent their request. Mr. Adley presented the findings of fact.

The applicant owns a 5.25-acre parcel with a house on the western half which they are seeking to subdivide 2 acres and leave a residual 3.25 which will include the two barns. The parent parcel is a 10-acre lot that was subdivided at auction into two +/- acre parcels. The density regulation for A-1 is 1 residential unit per 5 acres. Since each parcel is 5 acres it is perceived that they would each be available for a residential unit. The Ronk's property currently has 1 residence on the property. The subdividing of this property could lead to the potential development of a second residence on the residual property and therefore would not permit the Hayn's to construct a residence on their property. Therefore, the request is to permit the subdivision creating an increase in the possible density of these 10 acres and the residual lot would be able to retain its build-able status.

The plan is to split off the existing residence and keep the barn and acreage to eliminate the possibility of someone building right next to their house.

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

1. Bill Filson 18707 Hiawatha Tr. – Has been neighbors for years and doesn't have a problem with the request.

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

Mr. Gustafson made a motion to approve 18-BZA-46 RONK, Bill & Karen - A Variance of Development Standard to allow a reduction in minimum lot area per residential unit to divide off 2 acres and the residence from a 5.25-acre parcel; located at: 17836 12th Rd., Plymouth, IN Zoned A-1, West Twsp., seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

Marshall County Board of Zoning Appeals
December 11, 2018

Advisory BZA Appointments

Mr. Adley read to the board state requirements for BZA appointments. With Mr. Klotz being a County Commissioner his BZA position will be available for 2019 that will be fulfilled by a 2019 Plan Commission member.

Other

Mr. Gustafson requested an update on some violations.

1. Hutchison – Tyner – Received a bid for the cleanup on the property and will be opened at the Plan Commission on the 20th.
2. Tolson – Argos – Has until the 14th to meet the agreed amount cleaned up or Langfeldt's will be directed to start working.

Unsafe inspections are done by the Building Commissioner and the Health Administrator. There are times when the Plan Director visits as well.

It was discussed whether the Board of Zoning Appeals could get updates on the violations. Mr. Adley explained that it might not be appropriate as this board is the judicial body if someone wants to appeal a decision made.

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

Respectfully submitted

Trent Bennett