

## MINUTES

Chairman Robert Flora called to order the January 13, 2004 meeting of the Marshall County Board of Zoning Appeals at 7:30 p.m. Present were Board Members Foster Davenport, Don Ecker, Sr., Robert Flora, Wayne Neidlinger, Harold Van Vactor Zoning Administrator, Troy Kiefer, Secretary, Leesa Kolter, Planning Assistant, David Rockaway, and interested parties.

The first item of business was the election of officers. Mr. Flora moved and Mr. Ecker seconded a motion to elect Mr. Davenport as Chairman. Mr. Van Vactor moved and Mr. Ecker seconded a motion to close the nominations. The motion passed by acclamation. Mr. Davenport was elected Chairman by acclamation.

Mr. Davenport moved and Mr. Neidlinger seconded a motion to elect Mr. Flora as Vice Chairman. Mr. Neidlinger moved and Mr. Ecker seconded a motion to close the nominations. The motion passed by acclamation. Mr. Flora was elected Vice Chairman by acclamation.

Mr. Davenport moved and Mr. Neidlinger seconded a motion to elect Mr. Van Vactor as Secretary. Mr. Davenport moved and Mr. Ecker seconded a motion to close the nominations. The motion passed by acclamation. Mr. Van Vactor was elected Secretary by acclamation.

The second item of business was review of the minutes of the December 9, 2003 meeting. Mr. Ecker moved and Mr. Neidlinger seconded a motion to approve the minutes as written. The motion carried unanimously by acclamation.

The third item of business, case 04-BZA-01, Blas & Lisa Flores, A request for a Special Exception for a Home Workshop; Woodworking on property located at 580 Juniper Road, in an A-1, Agricultural District, Section 19 of German Township. Mr. & Mrs. Flores were present to represent the request. Mr. Kiefer reviewed the details of the request and presented the Findings of Fact. He stated that the Plan Commission gave the request a favorable recommendation. He stated that Mr. & Mrs. Flores are also requesting a Special Exception to increase the size of the workshop in the next case. He stated the BZA members have been submitted a copy of a petition presented by Mr. Thorton of persons in favor of the request.

Mr. Davenport asked if they would be looking to enlarge the building in the future. Mrs. Flores stated that they did not have any plans to expand the building further in the future. She stated that they do not see a lot of traffic on their road. She stated that they might have a box truck make deliveries maybe once or twice a month. She stated that Mr. Flores brings supplies home on his trailer, they do not receive deliveries by semi truck.

Mr. Ecker asked what type of products they produce. Mr. Flores stated that he makes entertainment centers, libraries, cabinets and fireplaces. He stated that he has been working for the past couple of years for a person in Valparaiso and occasionally for someone in the area. Mrs. Flores stated that the person that he works for in Valparaiso has a remodeling business and her husband builds the products for the remodeling. She stated that they do not have many customers on site. She stated that they do not have plans for a retail shop or employees. Mr. Flores stated that his father-in-law worked in the shop part time and his son who is fourteen also worked in the shop from time to time.

Mr. Ecker asked if they anticipated the shop turning into a factory? Mr. Flores stated that he did not, he was able to make a living with the shop the size that it is.

Mr. Davenport moved and Mr. Ecker seconded a motion to open the public hearing. The motion passed by acclamation.

- Dennis Thorton, spoke in favor of the request. He stated that Mrs. Flores is his daughter and they live on property that has been in the family for generations. He stated that they would like to be in compliance. He stated that this is a small operation and the neighbors have all signed the petition in favor of the request.

There was no one else to speak either for or against the request. Mr. Flora moved and Mr. Neidlinger seconded a motion to close the public hearing. The motion passed by acclamation.

Mr. Neidlinger moved and Mr. Flora seconded a motion to approve the request as a family workshop. The motion passed by a unanimous vote of approval.

The fourth item of business was case, 04-BZA-02, Blas & Lisa Flores, A request for a

Variance of Development Standard to increase the area of a Home Workshop from two thousand (2,000) square feet to thirty-six hundred (3,600) square feet for a Woodworking Business on property on property located at 580 Juniper Road, in an A-1, Agricultural District, Section 19 of German Township. Mr. & Mrs. Flores were present to represent the request. Mr. Kiefer gave the details of the request and presented the Findings of Fact. He stated that currently there is an accessory building on the property that would be expanded to accommodate the large nature of the items built and for additional storage.

Mr. Neidlinger moved and Mr. Ecker seconded a motion to open the public hearing. The motion passed by acclamation.

- Dennis Thorton, spoke in favor of the request. He stated that Mr. Flores wants to expand the building twelve feet to square it up.

There was no one else to speak either for or against the request. Mr. Neidlinger moved and Mr. Ecker seconded a motion to close the public hearing. The motion passed by acclamation.

Mr. Flora moved and Mr. Ecker seconded a motion to approve the request. The motion passed with a unanimous vote of approval.

The fifth item of business, case 04-BZA-03, Alicia Bryant, A request for a Special Exception to allow a Bed & Breakfast on property located at 10907 12 B Road, in an A-1, Agricultural District, Section 16 of Center Township. Ms. Bryant was present to represent the request. Mr. Kiefer gave the details of the request and presented the Findings of Fact. He stated that the Plan Commission had given the request a favorable recommendation. Mr. Kiefer stated that this is an addition to the list of Uses of Special Exceptions, recently approved by the County Commissioner's. Mr. Kiefer read the requirements listed in the Ordinance.

Mr. Bryant stated that she did not have anything further to add.

Mr. Neidlinger moved and Mr. Van Vactor seconded a motion to open the public hearing. The motion passed by acclamation.

- Tom Breeden, 10928 12 B Road, spoke in opposition of the request. He stated that there was no petition and no one contacted him to talk about the request. He stated that he is concerned about what will be taking place on the property.
- Kyle McLochlin, 10490 12 B Road, spoke in opposition of the request. He stated that he was not sure where the Bed & Breakfast would be located. He asked if the property would need to be rezoned. He stated that there are wet grounds on the farm. He stated that there are lots of cattle in the area and he is concerned about the smell being offensive.

Discussion was held on where the Bed & Breakfast would be located. Mr. Kiefer

stated that it would be located 400' from the South property line and 70' from the East property line. Mr. Kiefer stated that according to the site plan it would be located closer to the woods. He stated that it looks to be located farther away from the wet area.

Mr. Davenport asked if Ms. Bryant has done any borings for septic. Ms. Bryant stated that they have not done any preliminary work. Mr. Ecker asked where the entrance would be located. Mr. Bryant stated that it would come out on 12 B Road. Mr. Neildinger stated that she would need to deed off separate property to house the Bed & Breakfast. Mr. Bryant stated that she would like to deed ten acres for the Bed & Breakfast.

- Cecil Wilson, 10796 12 B Road, stated that he would like more information about how large it would be.

Ms. Bryant stated that she submitted a general size, although they are still looking for builders. She stated that she would have a two story home with a finished walkout basement. She stated that it would be four bedrooms for the Bed & Breakfast and they would reside in the basement.

- Tim McLochlin, 11000 12 B Road, asked if the zoning would change? He asked if the property would change from the A-1 zoning, or would there be a possibility of a used car dealership moving there in the future?

Mr. Kiefer stated that it would remain an A-1, Agricultural District with special

permission for the Bed & Breakfast. He stated that no other business use could go there without seeking approval.

There was no one else to speak either for or against the request. Mr. Neidlinger moved and Mr. Ecker seconded a motion to close the public hearing. The motion passed by acclamation.

Mr. Van Vactor asked what type of advertising would be used? Ms. Bryant stated that they would place fliers at some of the local business and she would also send them to different states. Mr. Kiefer stated that she would be allowed one sign on the property that could be limited by the BZA.

Mr. Neidlinger stated that Ms. Bryant has a different situation as she owns the whole corner. He asked if she could also place a sign on US 31? Mr. Kiefer stated that the sign would need to stay on the same deeded property as the Bed & Breakfast.

Discussion was held on whose responsibility it would be to notify the neighbors of plans for the Bed & Breakfast.

Mr. Ecker moved and Mr. Van Vactor seconded a motion to approve the request with the condition that there be a limit of one 4' x 4' sign to be located at the entrance of the property, pass all County and State regulations, be in compliance with the Marshall County Health Department and build the dwelling as close to the area specified at the time of application. The motion passed by a unanimous vote of approval.

The sixth item of business, case 04-BZA-04, Wayne & Mary Dickerhoff, A request for a Variance of Development Standard to reduce the Lake side setback from forty five (45') feet to thirty five (35') feet on property located on Lots 8 & 9 of Abbott Street, in an L-1, Lake District, Section 6 of German Township. Mr. & Mrs. Dickerhoff were present to represent the request. Mr. Kiefer gave the details of the request and presented the Findings of Fact. He stated that the lots were created before the Zoning Ordinance. Mr. Dickerhoff stated that most of the homes in the area were built before the setbacks and several of the homes are built right on the channel. Mr. Kiefer stated that Mr. & Mrs. Dickerhoff proposed placing the home 35' from the channel. He stated that they would also place a deck closer than the 35', but this would not violate the Zoning Ordinance.

Mr. Ecker moved and Mr. Neidlinger seconded a motion to open the public hearing. The motion passed by acclamation. There was no one to speak either for or against the request. Mr. Flora moved and Mr. Neidlinger seconded a motion to close the public hearing. The motion passed by acclamation.

Mr. Davenport moved and Mr. Flora seconded a motion to approve the request. The motion passed by a unanimous vote of approval.

The seventh item of business, case 04-BZA-05, Ken & Debbie Reiter, A request for a Variance of Development Standard to reduce the South side yard setback from fifteen (15') feet to five (5') feet in order to build an accessory structure on property located at 11805 Sage Road, in an A-1, Agricultural District, Section 16 of West Township. Mr. Reiter was present to represent the request. Mr. Kiefer gave the details of the request and presented the Findings of Fact. He stated that Mr. Reiter proposes placing a structure that will be a part of their heating system at the location. He stated the because of mature trees and the septic system they are limited in where they may place the structure on the property.

Mr. Davenport asked if there was a surveyed property line? Mr. Reiter stated that to his knowledge there was not one. He stated that the property was established in 1948 and there is a fence on all three sides. He stated that he would assume that the fence lines were correct.

Mr. Reiter added to the details of the request. He stated that the proposed building was to house an "aqua-therm", which is boiling heat. He stated that the wood that is along the fence would be housed inside the building, which will be masonry. He stated that the furnace is located at the South side of the home and a water line will be trenched into the house. He stated that if he were to move the building he would have to take out a large tree and it would place the building close to his deck. He stated that if the structure caught fire it would be a hazard to have his deck so close. He stated that his well is directly West of the house, if he were to meet the setbacks he would block access to his well.

Mr. Flora asked if Mr. Reiter had checked with his insurance carrier to be sure that they would approve a 28' setback from his home. Mr. Reiter stated that the system would actually be 44' from his house. He stated that there is no setback from this unit.

Mr. Ecker moved and Mr. Flora seconded a motion to open the public hearing. The motion passed by acclamation.

- Scott Kreft, 18600 12<sup>th</sup> Road, spoke in favor of the request. He stated that Mr. Reiter had asked permission from his to build his building 5' from the fence. He stated that he is in favor of granting the request.

There was no one else to speak either for or against the request. Mr. Ecker moved and Mr. Van Vactor seconded a motion to close the public hearing. The motion passed by acclamation.

Mr. Flora moved and Mr. Neidlinger seconded a motion to approve the request siting Finding of Fact #3. The motion passed with a unanimous vote of approval.

The eighth item of business, case 04-BZA-06, Mary Kuzma, A request for a Variance of Development Standard to reduce the South front yard setback from thirty (30') feet to eighteen (18') feet in order to build a deck on property located at 18276 Hiawatha Trail, in an L-1, Lake District, Section 21 of West Township. Mr. Ed Marszewski, Mrs. Mary Kuzma husband and wife and Mr. Shane Blackcamp of Tuff Construction were present the represent the request. Mr. Kiefer gave the details of the request and presented the Findings of Fact.

Mr. Marszewski stated that when they decided to build their home, they had to receive permission from the Home Owner's Association, who maintained that need to be 15' from the road ways. He stated that he is confused why they have not met the requirements. Mr. Kiefer stated that when Lake Latonka community was built they recorded deed restrictions and covenants, but the County guidelines would supercede those.

Mr. Blackcamp stated that the lot lines angle, so only a portion of the deck would need to be granted the eighteen foot variance.

Mr. Ecker asked if the area in question would be the front. Mr. Kiefer stated that it would as there are two front setbacks for the property.

Mr. Davenport moved and Mr. Neidlinger seconded a motion to open the public hearing. The motion passed by acclamation.

- Dick Slater, 18253 Tahoe Trail, spoke in favor of the request. He stated that he was in favor of the request and saw the deck as an asset.

Mr. Kiefer read letters in favor and against the request:

Mr. & Mrs. Roland Guilfoyle, 18183 Tahoe Trail, wrote a letter stating they were not in favor of the request being granted.

Mr. Ron Goldsmith, of the Lake Latonka Building Association, wrote a letter in favor of the request.

Mr. & Mrs. Richard Slater, wrote a letter in favor of the request.

There was no one else to speak either for or against the request. Mr. Ecker moved and Mr. Van Vactor seconded a motion to close the public hearing. The motion passed by acclamation.

Mr. Flora moved and Mr. Neidlinger seconded a motion to approve the request siting Finding of Fact #3. The motion passed by a unanimous vote of approval.

The last item was Other Business. Mr. Kiefer stated that he sent a letter to Ms. Connie Miller regarding the Dog Kennel. He stated that he has not received response from her.

Mr. Kiefer stated that he spoke with Jason Richards of 9595 Tyler Road, regarding a Semi repair business at his property. He stated that he will probably apply for a Special Exception in the future.

Mr. Kiefer stated that he has been speaking with the Plan Commission in regards to pursuing an update to the Zoning Ordinance. He stated that he does not foresee any monies being available in the future and has proposed working on it in house. He stated that the Plan Commission would like to put together a subcommittee, which would include a member or representatives from the Plan Commission, County Commissioner's, County Council, Board of Zoning Appeals and citizen appointments.

Mr. Neidlinger stated that he would like to submit Mr. Flora as the representative from the BZA. He stated that it was stipulated during the Plan Commission meeting that the citizen members would only be residents of Marshall County. He stated that there is not a reason to pursue the Zoning Ordinance update until the County Commissioner's approve the Comprehensive

Plan. He stated that he is all for doing the project in house, as opposed to hiring consultants.

Carol Anders of WTCA asked how much it would be anticipated that hiring a consultant would cost. Mr. Kiefer stated that for a project like this you would get prices ranging from \$10,000 and up. He stated that in his opinion to get an ordinance that has the public input process, he suggested that it would cost from \$30,000 to \$40,000. Ms. Anders asked if it was reasonable for the committee to write the ordinances and have legal council proof them. Mr. Kiefer stated that at the Plan Commission meeting they discussed hiring outside legal council to look at the legal aspect of the ordinances.

Ms. Anders asked if it was fair to assume the process would take approximately one year? Mr. Kiefer stated that was correct, the committee would meet monthly. He stated that they would look at the ordinance one section at a time. Mr. Flora asked if there would then be a public hearing after each section. Mr. Kiefer stated that the meetings would be open to the public and the public could give suggestions to individual committee members, but he would prefer to hold a public hearing once the process has been completed. He stated that legally only one public hearing would need to take place.

There was no further business before the board, Mr. Ecker moved and Mr. Davenport seconded a motion to adjourn. The motion passed by acclamation at 9:20 p.m.