

Minutes of the July 13, 2004
Regular Meeting of the
Marshall County Board of Zoning Appeals
Second Floor Commissioner's Meeting Room, #203
Marshall County Building
112 West Jefferson Street
Plymouth, IN 46563

MINUTES

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

The first item of business was review of the minutes of the May 11, 2004 meeting. Mr. Ecker moved and Mr. Neidlinger seconded a motion to approve the minutes as written. The motion passed by acclamation.

The second item of business was review of the minutes of the June 8, 2004 meeting. Mr. Neidlinger moved and Mr. Flora seconded a motion to approve the minutes as written. The motion passed by acclamation.

The third item of business, case 04-BZA-13, Jeff Parenti, A tabled request for a Variance of Development Standard to reduce the North front yard setback from thirty feet (30') to five feet (5') and to reduce the South side yard setback from six feet (6') to four feet (4') to permit a house on property located at 3253 Lake Shore Drive, Lake of the Woods, in an L-1, Lake District, Section 6 of German Township. Mr. Parenti and Mr. Brent Lineberry, Realtor, were present the represent the request. Mr. Kiefer gave the details for the request and presented the Findings of Fact. He stated that the lot was located at the corner of Abbott and Lake Shore, which would require two front yard setbacks. He stated that due to the odd shape of the lot and the required setbacks

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there would be some hardship. He stated that Mr. Parenti would not interfere with the drainage swale.

Mr. Kiefer stated that the request had come before the BZA two months previous and the board had requested that the drainage plan be reviewed by Mr. Fisher, the County Surveyor. Mr. Fisher stated, after visiting the site, that he did not see how the request would negatively affect the area.

Mr. Parenti added to the details of the request. He stated that he would like to build a home and is limited to the size home he could build with the current setbacks.

Mr. Lineberry, Realtor, presented two letters in favor of the request from:
Barbara Muncy, 8537 Abbott Street,
Danielle Bowen, 3261 East Shore Drive.

Mr. Lineberry stated that he doesn't feel that there is an issue, as long as it does not hinder someone else's rights.

Mr. Ecker asked why Mr. Parenti could not move the home closer to the lake? He stated that by moving the home he would still be able to do what he would like to do and meet the setbacks. Mr. Parenti stated that there are trees closer to the lake, and he did not want to cut them down. Mr. Ecker stated that if they moved the dwelling 15' closer to the lake it would make a lot of difference in how close he would be to the right-of-way. Mr. Keifer stated that the lake side setback would be forty-five feet.

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

- Polly Mangus, 8626 Abbott St, spoke regarding the request. She stated that she had names of people who signed a petition against the request. She asked to see a copy of the site plan for the dwelling. She stated that she felt that the home he planned to be built was too large. She stated that there only concern not only drainage, although he has been blocking the drainage ditch. She stated that she is concerned with the home blocking the view of the lake.
- Joseph Tote, 3281 Lake Shore Drive, spoke regarding the request. He stated that he has a problem with the contractors that dug the foundation.
- Jack Mangus, 8626 Abbott St, spoke regarding the request. He stated that the home will block the lake view of their home.

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- Joseph Skelton, 3329 Lake Shore Drive, spoke regarding the request. He stated that he did not feel that this was suppose to be two separate lots. He stated that cars can not park on the easements. He stated that if his garage goes down Abbott, people will be parking on the easements. He suggested that the home could be moved forward and would solve many problems.

Mr. Kiefer read correspondence he had received regarding the request from:
Rosemary Pike, in favor,
Billy & Judith Faulkner in opposition, and
Harry & Betty McKee, in opposition.

Mr. Kiefer stated that he received a telephone call from someone, he asked the board if they would allow this as they would not be able to verify the identity. Mr. Neidlinger and Mr. Flora stated that the person would need to put the information in writing.

There was no one else to speak 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. Neidlinger asked where the 3 car garage was going to be located? Mr. Parenti stated that he did not know. Mr. Van Vactor stated that they would need to know exactly where it would be located. Mr. Parenti stated that his plans would be to place it off of Abbott Street. Mr. Neidlinger stated that there would not be enough room to park cars outside of the right-of-way. Mr. Kiefer stated that parking could not take place on the right-of-way, it would have to be on his own property. Mr. Flora stated that he would not be able to park a motor home.

Mr. Flora asked how much frontage would be between the other home he is building and the lake. He stated that it would be about seventy feet.

Mr. Ecker moved and Mr. Neidlinger seconded a motion to approve the request with a fifteen foot (15') North front setback and a five foot (5') South side yard setback. The motion passed with a unanimous vote of approval.

The fourth item of business, case 04-BZA-20, Greg Kline, A request for a Variance of Development Standard to reduce the West side yard setback from ten feet (10') to six feet (6') in order to construct an accessory structure on property located at 8429 Clark Street, Lake of the Woods, in an L-1, Lake District, Section 6 of German

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Township. Mr. Kline was present to represent the request. Mr. Kiefer gave the details of the request and presented the Findings of Fact.

Mr. Flora asked if the measurement was from the eaves or the wall of the building. Mr. Kline stated that the measurement was from the eaves. He stated that it was exactly six feet from his neighbor's home to his property line as well. Mr. Flora asked if it was a storage building. Mr. Kline stated that was correct. Mr. Neidlinger asked if Mr. Kline would be coming off of Clark Street with an additional driveway. Mr. Kline stated that eventually, as he has to bring in fill dirt.

Mr. Flora asked what size building he would propose? Mr. Kline stated that it is 24' x 30', possibly 24' x 32'. Mr. Neidlinger asked if the building could be moved closer to the house. Mr. Kline stated that he could but he had not planned it that way.

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

- Jeff Brinkman, 8451 Clark Street, spoke in favor of the request. He stated that he is the adjacent property owner. He stated that his house was six feet from the property line and he did not feel that it would be a problem for Mr. Kline to also be six feet from the property line.

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

Discussion was held regarding the need for the variance. It was decided that there was no hardship involved in the request and the applicant desired to build a building that was too large for his lot. A compromise was reached in that the board would allow a two foot deviation from the required setback and Mr. Kline might need to adjust the size of his building accordingly.

Mr. Neidlinger moved and Mr. Ecker seconded a motion to approve the request with an eight foot (8') West side yard setback. The motion passed by a unanimous vote of approval.

Mr. Skelton asked to address the board regarding the amount of requests for variances around the lake for people trying to build too much on the small lots.

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The fifth item was case, 04-BZA-21, Dan & Linda Faro, Inc., A request for a Variance of Development Standard to reduce the West side yard setback from fifteen feet (15') to eight feet (8') to permit an accessory structure on property located at 19682 9th Road, in an A-1, Agricultural District, Section 32 of West Township. Mr. Larry Kreft, of Steelridge was present to represent the request. Mr. Kiefer gave the details of the request and reviewed the Finding of Facts. He stated that there are current buildings on the property that the applicants would like to make an addition to accommodate the current driveway.

Mr. Kreft stated that there is a hardship in the location of the hill. He stated that they would need to add an additional driveway to accommodate the building at a different location.

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

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

The sixth item was case, 04-BZA-22, Verizon, A request for a Variance of Development Standard to reduce the North front yard setback from twenty five feet (25') to twenty feet (20') and to reduce the South rear yard setback from twenty feet (20') to five feet (5') to replace an existing equipment building on property located on Main and West Street, in a B-1, Business District, Section 24 of Tippecanoe Township. Mr. John Sheets was present to represent the request. Mr. Kiefer gave the details of the request and reviewed the Findings of Fact. He stated that there is some flexibility for this type of use in the Zoning Ordinance, but he felt that it should come before the board to allow comment from the neighbors.

Mr. Sheets stated that the building will be similar to the one on the property. He stated that the building that is currently there is in need to repairs. He stated that the service is not for wireless service.

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

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

The seventh item was case, 04-BZA-23, Eugene Hutchinson & Richard Morris, A request for a Variance of Use to permit certain Business Uses at property located at 1010 Michigan Road, Lapaz, in an S-1, Suburban Residential District, Section MRL 4 of North Township. Mr. Hutchinson and Mr. Morris were present to represent the request. Mr. Kiefer gave the details of the request and reviewed the Findings of Fact. He stated that the board had considered a similar request last year for the property. He stated that the request was denied due to the hazardous conditions that existed on Michigan Road. He stated that the board could deem that the hazardous conditions have changed since the installation of the flashing yellow light.

Mr. Kiefer stated that the applicants have listed the following uses in their request: automobile, mobile home camper, boats, sales and service, automobile service stations and repair garages, farm implement sales and service, professional offices, retail stores, such as gift and antique shops, furniture and appliance stores, light manufacturing, engineering or research laboratories, wholesaling and warehousing, packaging, general offices and printing, public utility uses, government services, accessory uses and self storage units.

He stated that the request went before the Plan Commission for a Zoning Map Amendment, and is still pending. He stated that the Plan Commission members were concerned with rezoning the property to a B-2 District because of some of the high traffic uses that would be allowed there. He stated that the request had been tabled for the Board of Zoning Appeals to consider a Variance of Use, which could place restrictions of use to the property.

Mr. Hutchinson stated that he met with Mr. Fisher and the list of uses presented were businesses that Mr. Fisher stated that he would not objection to at the site. He stated that there were a couple of uses on the list that would probably never be at the site because of the size of the lot.

Mr. Flora asked what Mr. Hutchinson and Mr. Morris would specifically be using the site for. Mr. Hutchinson stated that they would like to place a used car lot on the site. He stated that they would also like to see some other uses approved in case they would like to sell the property in the future.

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Mr. Hutchinson stated that there is an island between the road and the lot. He stated that with the island they will not be close to the road nor will they block vision. Mr. Neidlinger stated that at the Plan Commission meeting it was discussed having access to and from only from 1st Road. Mr. Hutchinson stated that they would not have a problem with that. Mr. Morris stated that it seemed to appease the neighbors.

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

- Rex Hummel, 995 Michigan Road, spoke regarding the request. He stated that the islands were placed by the state. He stated that if there was only access from 1st Road he would have no objections. He stated that many people have been killed there and the yellow light has not helped.

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

Mr. Ecker stated that he would be limited to the amount of cars that can be placed on the lot. Mr. Hutchinson stated that he understood that, he stated that he thought they could get fifteen cars on the lot. Mr. Neidlinger stated that he had a problem with some of the items that have not been excluded from the list. Discussion was held. Agreement was reached on which items would remain on the list.

Ms. Anders of WTCA asked if they applicants owned the building. Mr. Hutchinson stated that Swifty Oil still owned the building, but they will be purchasing it in the near future.

Mr. Neidlinger moved and Mr. Ecker seconded a motion to approve for the following uses; automobile, mobile home, camper and boat sales and service, farm implement sales and service, professional offices, gift and antique shops, essential services, public utility uses, buildings for governmental services, all traffic to enter/exit site from 1st Road, all vehicles to be placed behind the island. The motion passed by a unanimous vote of approval.

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The last item of business was the Violation Report.

A motion was made to adjourn and seconded. The motion was passed by voice vote.

Respectfully submitted,

Harold Van Vactor
Secretary