

Minutes of the June 8, 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

Chairman Foster Davenport called to order the June 8, 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 review of the minutes of the May 11, 2004, meeting. Mr. Neidlinger stated that they would table the minutes to the next meeting in order for the members to review them.

The second 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. There was no one present to represent the request. Mr. Davenport stated that they would continue down the agenda, and see if Mr. Parenti would show during the meeting.

The third item of business, case 04-BZA-14, Paul & Linda Dyer, A request for a Special Exception to permit an eight lot Recreational Vehicle Park on property located at 14273 State Road 17, in an A-1, Agricultural District, Section 33 of Union Township. Ms. Dyer 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. He stated that the flood hazard area is

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noted as being North of the proposed camp site on that side of the river. He stated that in addition to the park it is proposed that there would be canoe rental. He stated that the patrons would be shuttled up the river to 13th Road and they would exit the river at the camp site.

Mrs. Dyer stated that she had applied to the state for a permit and was notified that her proposed camp site would be too small for a state permit. She stated that she did not know what the county would require from her.

Mr. Davenport asked if she would have restroom facilities. Mrs. Dyer stated that it would be primitive camping. She stated that there would be portable privies and stations where water could be drawn. Mr. Davenport asked if she would allow RV's in? Mrs. Dyer stated that they will not have dumping stations or electric, they would be allowed only if they were self contained.

Mr. Ecker asked if it was her intent to keep the camping primitive. Mrs. Dyer stated that it would depend on how successful her camp ground becomes. She stated that it would be hard to speculate. Mr. Davenport stated that it looks like expansion would be limited. She stated that if it were successful, she would consider replacing the mobile homes with cabins.

Mr. Flora asked if the mobile homes were currently being rented. She stated that they live in one and the other two are rented.

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

Mr. Kiefer read correspondence in opposition of the request.

- Gerald Ruthledge and Betty Sills.
- C.R. Bowen.

Mr. Neidlinger asked Mr. Kiefer if there were any changes made, would she have to come before the board to approval? Mr. Kiefer stated that as the ordinance is written, any allowable use would be permitted, unless specific stipulations were placed by the board. Mr. Kiefer read the definition of "Recreational Vehicle Park". He

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stated that there is no definition of a campground. He stated that more permanent structures such as cabins, would require further approval.

Mr. Davenport asked if RV's and trailer homes could be moved in and out easily? Mr. Flora stated that it is right next to the bridge. He asked if Mrs. Dyer had given any consideration to the hazard of people pulling in and out? Mrs. Dyer stated that she has set up the drives for separate entrance and exit points. She stated that with only eight camp sites, she did not envision a traffic problem.

Mr. Flora asked if she had plans for signage? Mrs. Dyer stated that she would like a sign to advertise, she did not know the specifications. Mr. Kiefer stated that it would have to be off of the right-of-way. He stated that he felt that the board should address the size. Mr. Ecker stated that he felt a 4' x 4' sign would be acceptable. Mr. Flora stated that it would not be able to be placed within the state right-of-way. He stated that great care would need to be taken not to block the view.

Mr. Ecker moved to approve the request with condition that a warning sign be placed by the state, allow a 4' x 4' sign be allowed for advertising and a surveyed site plan be submitted for the records.

Mr. Neidlinger asked why a surveyed plan was necessary. Mr. Kiefer stated that they are approving the configuration of the lots. He stated that if it was not important to the board they would not have to require it. Mrs. Dyer stated that the state required an engineered drawing, but since it was so small they decided that it was not necessary.

Mr. Ecker withdrew his motion. Discussion was held regarding past surveying of the property.

Mr. Neidlinger moved and Mr. Van Vactor seconded a motion to approve the request based on the proposed drawing of eight lots and to allow one 4' x 4' sign on the property. The motion passed with a unanimous vote of approval.

The fourth item was case, 04-BZA-18, Costello Bros, Inc., A request for a Variance of Use to permit two houses on one deeded parcel on property located on Michigan Rd, between 2551 Michigan Road and 2597 Michigan Road, in an A-1, Agricultural District, Section MRL 6 of North Township. Mrs. Costello was present to represent the request. Mr. Kiefer gave the details of the request and reviewed the Finding of Fact. Mr. Kiefer stated that last month approval was given to allow a home older than 1981

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to be moved onto the property. He stated that the property has frontage on US 31, and does in fact have enough frontage to split off enough property for the second home. He stated that currently the access for the property is through the mobile home park.

Mrs. Costello stated that the additional home is for Eric Wolf. She stated that Mr. Wolf suffers from seizures as a result of a stroke. She stated that Mr. Wolf's aunt, Gail Sargent lives in the current home and has power of attorney, Ms. Sargent would care for Mr. Wolf.

Mr. Davenport asked why Mrs. Costello would not split the property. Mrs. Costello stated that the bank does not want them to split it at this time. She stated that it would create a hardship for them.

Mr. Flora asked if the home would be located in close proximity to the home that is currently there. Mrs. Costello stated that it would be located within 100' of the current home. She stated that this would be the only home that would go there as they do not want any additional homes.

Mr. Flora asked if Mrs. Costello was aware that she might have to split off a portion of the property. Mrs. Costello stated that she was not.

Mr. Davenport stated that it puts the board in a tough position, as they did not want to start a precedent. Mrs. Costello stated that this is a hardship case, and she stated that they know that if something were to happen to Mr. Wolf, they would not be able to do anything else with it. Mr. Davenport stated that it will be expensive for the Costello's to place the home there, knowing that it will have to be removed at a later date. Mrs. Costello stated that she was aware of that, but they were willing to do it for Mr. Wolf.

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

- Gail Sargent, spoke in favor of the request. She stated that she would like to be able to take care of Mr. Wolf.

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

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Mr. Neidlinger asked if a restriction were placed, how would it be known if Mr. Wolf were no longer living there. Ms. Sargent stated that she would notify them. Mr. Wolf stated that he has a wife and daughter and they would not have any where to go if something happened to him. Mr. Kiefer stated that he could send an annual letter. Mr. Ecker stated that it was already stated that if something happened to Mr. Wolf, his wife and daughter would need to remain there. Mrs. Costello stated that if the board did not allow it, they would do something different.

Discussion was held regarding ownership of the property and the home.

Mr. Neidlinger moved and Mr. Flora seconded a motion to allow the addition of the second home due to the hardship situation that exists with Mr. Wolf, with the stipulation that Mr. Kiefer annually confirm that Mr. Wolf still resides at the home; once Mr. Wolf no longer resides at the residence the home is to be removed or deeded separately. The motion passed with Mr. Flora, Mr. Neidlinger, Mr. Van Vactor and Mr. Davenport voting in favor and Mr. Ecker voting against.

The fifth item was case, 04-BZA-19, April Samuels, A request for a Variance of Development Standard to reduce the East side yard setback from fifteen feet (15') to five feet (5') to permit an accessory structure on property located at 10231 4th Road, in an A-1, Agricultural District, Section 11 of North Township. Ms. Samuels was present to represent the request. Mr. Kiefer gave the details of the request and reviewed the Findings of Fact. Mr. Kiefer stated that there is topography that limits the buildable area of the lot.

Ms. Samuels stated that it is more convenient to place the building in the proposed area, because of the slope of the lot. She stated that she was also in an accident and it makes it difficult for her to climb the hill to access the building.

Mr. Ecker asked if the shed is already there? Ms. Samuels stated that there used to be a shed there, but it was torn down. Mr. Flora asked if Ms. Samuels discussed the shed placement with her neighbor to the South. Ms. Samuels stated that she has, and the neighbor had no problem with her request.

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

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Mr. Flora moved and Mr. Ecker seconded a motion to approve the request due to the hardship of the topography of the lot. The motion passed by a unanimous vote of approval.

Mr. Davenport asked if anyone was present to represent Mr. Parenti? No one was present to represent the request. Mr. Kiefer stated that generally they do not hear cases unless the applicant is present.

Someone in the audience asked what the procedure would be. Mr. Kiefer stated that the matter could be tabled. He stated that the usual procedure is to table the request one time and if the applicant does not appear the board would deny the request at the next meeting.

Mr. Flora stated that if Mr. Parenti did not show up next meeting, the request could be denied and he would not be able to make application for one year. Someone from the audience asked if Mr. Parenti could keep not showing up every month. She stated that she did not want to have sit through more meetings, where no decision was made.

Mr. Davenport moved and Mr. Ecker seconded a motion to table the request until the next meeting. The motion passed by acclamation.

Discussion was held regarding violations. Mr. Kiefer stated that he wanted to highlight a couple of the items. He stated that Mr. Lukenbill has prepared draft paperwork regarding the Fink case and it should be filed in court later in the week.

Mr. Kiefer stated that there are a number of cases he would like to forward to Mr. Lukenbill to make some progress. He stated that Mr. Ron Plummer, 3780 Nutmeg Road, moved a second mobile home onto the property. He stated that he sent two certified violation letters. He stated that neither one was claimed. Mr. Davenport moved and Mr. Ecker seconded a motion to forward the violation to Mr. Lukenbill. The motion passed by acclamation.

Mr. Kiefer stated that James and Dorothy Ringer, 4810 Deborah Lane, property with general scrap and debris. Roger and Wilma Mangus, Lake of the Woods, moved an older mobile home down the street to a vacant lot. He stated that he received a call that it would be removed, last August. He stated that he sent another letter last month stating that it would need to be removed or receive a call from them. He stated that neither has happened. Thomas Cotton, 17046 North Street, Teegarden, property needs

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cleaned up. Stated that Mr. Cotton stated that he would clean up as soon as the weather broke and has made no progress. Randy and Kathleen Bear similar situation, need to clean up property. Maurice and Patricia Kerkove, 548 Queen Road, scrap metal and farm machinery needs to be cleaned up. Mr. Ecker moved and Mr. Davenport seconded a motion to forward all to Mr. Lukenbill for action. The motion passed by acclamation.

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

Respectfully submitted,

Harold Van Vactor
Secretary