

Minutes of the May 11, 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 May 11, 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, Planning Assistant, David Rockaway, and interested parties.

The first item of business was review of the minutes of the April 9, 2004, meeting. Mr. Davenport stated that they would table the minutes to the end of the meeting in order for the members to review them.

The second item of business, case 04-BZA-12, Charles Klockow, A request for a Special Exception to allow a Farm Service Center: Retail Tack Shop on property located ¼ mile South of 5th Road on the East side of Fir Road, in an A-1, Agricultural District, Section 14 of German Township. Mr. Klockow was present to represent the request. Mr. Kiefer reviewed the details of the request and presented the Findings of Fact. Mr. Kiefer stated that the Plan Commission gave the request a favorable recommendation. He stated that the request is being presented as a Farm Service Center as opposed to a Home Workshop because Mr. Klockow will not produce anything on the property and he does not live on the property at this time. He stated that Mr. Klockow proposed building a 40' x 60' building, 2/3 of which is proposed for warehouse and storage for internet business. He stated that the remaining third would be used for walk in traffic and on site repair of tack and equipment.

Minutes of the May 11, 2004
Regular Meeting of the
Marshall County Board of Zoning Appeals

Mr. Klockow added to the details of the request. He stated that the focal point of the business would be internet business. He stated that to satisfy his suppliers, he also needed to have a store front. He stated that they will not be advertising for customers outside of the County. He stated that he would require one additional employee, it would probably be a family member.

Mr. Flora asked if he would board horses on the property? Mr. Klockow stated that he intended to raise horses on the property, but would not have a boarding business. Mr. Klockow stated that the lot is 21 acres, and the horses would be for recreational use. Mr. Neidniger stated that horses might come to the property to try on saddles and tack. Mr. Davenport asked if Mr. Klockows' intention was to only sell tack related items. He asked if he intended to fix farm machinery or other items. Mr. Klockow stated that was not his intention. Mr. Van Vactor asked what plans there would be for signage. Mr. Klockow stated that he would be required to have a sign at the road, he planned for a 4' x 4' sign. Mr. Flora asked if that was the requirement from the tack supplier. Mr. Klockow stated that was correct.

Mr. Kiefer apologized for not mentioning this sooner, but Case 04-BZA-15, John Hoover, a request for a Variance of Use to permit two houses on one deeded parcel on property located at 14830 4th Road, in an A-1, Agricultural District, Section 6 of North Township, had been withdrawn. He announced that if anyone in the audience for that case it would not be heard.

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

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

Mr. Davenport advised Mr. Klockow to consult Mr. Kiefer regarding the guidelines for placing his sign.

The third item was case, 04-BZA-13, Jeff Parenti, A 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, owner and Mr.

Minutes of the May 11, 2004
Regular Meeting of the
Marshall County Board of Zoning Appeals

Brent Wineberry of Collins & Collins Realestate, 103 S. Shuemaker St, Bremen, were present to represent the request. Mr. Kiefer gave the details of the request and reviewed the Finding of Fact. He stated that the setbacks are determined from the property lines and not the middle of the road. He stated that currently the home on the property is approximately 10' from the North property line. Mr. Kiefer stated that the side yard setback would be 10' or 10% of lot width. He stated that for pie shaped lots, he would figure the average for the South side yard setback. He stated that the average would be a 6' setback. Mr. Kiefer stated that anything that would happen on the property would not affect the side ditch, as it is in the County right-of-way.

Mr. Flora asked if the measurement would be from the eaves or from the house wall. Mr. Parenti stated that it would be from the house wall. He stated that he was at the site today and some of the neighbors came to inquire about the drainage. He stated that the placement of the new home would not affect the drainage.

Mr. Van Vactor asked if he would be adding on to the existing home or building a new one. Mr. Parenti stated that he would be building a new home. Mr. Davenport asked where the parking space would be. Mr. Parenti stated that the driveway would come off of Abbott street, there would be a culvert and that is where the parking will be with a three car garage. Mr. Parenti stated that he understands there are concerns about drainage, but the house will not interfere with the drainage. He stated that the ditches need to be cleaned out. Mr. Ecker asked if Mr. Parenti owned the adjacent lot as well. Mr. Parenti stated that he did and was currently building a home at that site. Mr. Ecker asked how the setbacks were at the site. Mr. Parenti stated that he had more then made the setbacks. He stated that for the home he is currently building he has 10' from the side, so that if he were granted the variance he would have 14' between the houses.

Mr. Flora asked how much eave was on the home he proposed to build. Mr. Parenti stated that there was 1' 6". Mr. Flora stated that when they establish setbacks it would be from the eave not the foundation of the home.

Mr. Parenti asked Mr. Kiefer to review the three criteria required. Mr. Kiefer reviewed the Findings of Fact. Discussion was held regarding the property lines. Mr. Davenport asked why Mr. Parenti could not move the home further back on the property to meet the setbacks. Mr. Parenti stated that he could move the home back, he was hoping to create as much front yard as possible.

Minutes of the May 11, 2004
Regular Meeting of the
Marshall County Board of Zoning Appeals

Mr. Ecker stated that he did not see a hardship that would keep Mr. Parenti from meeting the setbacks.

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

- Joseph Tote, 3281 Lake Shore Drive, spoke regarding the request. He stated that his first concern is drainage. He stated that the water flows North and West along Mr. Parenti's property. He stated that he does not want water to back up on his property.
- Polly Mangus, 8626 Abbott Street, spoke regarding the request. She stated that she is concerned about the ditch, when it rains there is standing water, even when the ditches are clear. She stated that the water will stand a foot to a foot and a half deep. She stated that there is so much standing water she would not build anything on the lot. She stated that building on the lot will spoil there recreational area. She stated that she is concerned that all of the land is being taken up with buildings. She presented letters from the neighbors to Mr. Kiefer.
- Darwin McDavin, 8597 Abbott Street, spoke regarding the request. He stated that he has personally cleaned out the ditches all the way to the lake. He stated that the area always floods, even when the ditches are cleared out. He stated that he has lived there at least sixteen years and it has always been a problem.
- Polly Mangus stated that she felt that granting the request would take away from the property values by closing off the view and taking away from the recreational areas.
- Joe Skelton, 3329 Lake Shore Drive, He asked what type of home would be put on the lot.

Mr. Parenti stated that it would be an A-Framed 10/12 pitch with all windows in the back. He stated that the home will be 30' x 64'. Mr. Parenti stated that the homes would be in the \$400,000 range.

- Bob Rockwell, 8688 Abbott Street, spoke regarding the request. He stated that the drainage is non-existent near the lake. He stated that during a heavy rain the whole lot will flood. He stated that he felt that he needs to keep the home within the boundaries and as close to the road as possible.

Minutes of the May 11, 2004
Regular Meeting of the
Marshall County Board of Zoning Appeals

Mr. Kiefer read the letters in opposition of the request from:

- James & Dorothy Miller, 3295 East Lake Shore Drive.
- Robert & Irmgard Rockwell, 8688 Abbott Street.
- Elizabeth Boenne, 3164 Channelwood Lane.
- Bill & Judi Faulkner, 3200 Channelwood Lane.

Mr. Tote stated that he had not received a notice regarding the request. He stated that he would like to reiterate that his concern is the drainage. Mr. Kiefer stated that he wanted to apologize again regarding the lack of notice. He stated that it was a problem out of his control with the GIS System. Mr. Kiefer stated that he has since rectified the problem and it should not happen again. Mr. Tote stated that he appreciated that Mr. Kiefer treated him with kindness.

- Jack Mangus, 8626 Abbott Street, spoke regarding the request. He stated that right now the lake is extra low. He stated that just a couple days ago they received an inch of rain and everything is flooded.

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

Mr. Flora asked if Mr. Parenti or Mr. Wineberry were aware of the flooding problems before the property was purchased, and if so have they addressed the Drainage Board. Mr. Parenti stated that he was not aware. He stated that he has not witnessed the flooding. He stated that his house is not going to affect the drainage. He stated that the drainage was not in fact his problem, but Marshall County's problem. Mr. Flora stated that he would think that the drainage would in fact affect his home. Mr. Ecker asked if he intended to raise the level of the home. Mr. Parenti stated that he intended to raise the home three feet.

Mr. Ecker asked if Mr. Wineberry knew the property was wet when he sold it. He stated that he had seen the ground a little wet in that area. He stated that he has been in the area for forty-five years. He stated that he did not see any problem with Mr. Parenti enhancing the property. He stated that by moving the house back 20' of view would be lost. He stated that the drainage is a county issue. He stated that by moving the house back it will make it more difficult to work with.

Mr. Ecker asked how it would make it more difficult to move the house towards the lake. Mr. Wineberry stated that not all of the property is insured. Mr.

Minutes of the May 11, 2004
Regular Meeting of the
Marshall County Board of Zoning Appeals

Ecker stated that would not be the boards problem. He stated that if Mr. Parenti raises the level of the house and runs the water off onto the neighbors, it would not be there concern? Mr. Wineberry stated that the water is deepest in the corner. Mr. Davenport stated that it appeared to him that it would help the drainage if Mr. Parenti moved the home towards the lake. Mr. Wineberry stated that he thought that would shove the water towards the lake. He admitted that he has seen water, but not set for any major length of time. He stated that he did not see any harm that could be done by granting the variance, although he acknowledged that it might not be a positive for some of the neighbors, but they are Lake Channel properties.

Mr. Ecker stated that the problem for the board, is that Mr. Parenti is over building the house on a small property. He stated that they have not allowed that in the past. He stated that he did not see why Mr. Parenti could not move the house back and run the water off to the lake.

Mr. Parenti stated that currently with the eaves, they are about 7' 6" from the property line. He asked if he built off of the current home and build on the back side, would he be grandfathered in? Mr. Kiefer stated that any new construction would have to conform to the current ordinance.

Mr. Van Vactor asked if Mr. Parenti had addressed the County regarding the drainage. Mr. Parenti stated that until that evening he did not know there was a drainage problem. Mr. Van Vactor suggested that Mr. Parenti and the neighbors address the Drainage Board to see what could be done.

Mr. Davenport moved and Mr. Ecker seconded a motion to table the request in order for the County to look at the drainage problem in the area.

The fourth items was Case, 04-BZA-16, Kevin & Barb Williams, A request for a Variance of Use to permit two houses on one deeded parcel on property located at 7167 17th Road, in an A-1, Agricultural District, Section 17 of Walnut Township. Mr. & Mrs. Williams were present to represent the request. Mr. Kiefer gave the details of the request and presented the Findings of Fact. He stated that in the past the board has considered cases when there is a hardship situation, approval has been approved for temporary situations. He stated that approval would be contingent upon all requirements for setbacks and septic be met.

Mr. Williams added to the details of the request. He stated that the proposed home would be a 16' x 72' 1995 mobile home with shingled roof and vinyl siding. He stated

Minutes of the May 11, 2004
Regular Meeting of the
Marshall County Board of Zoning Appeals

that it would be for his mother who is a diabetic. He stated that she currently lives in Argos in an apartment above her restaurant. He stated that she has to travel up several flights of stairs. Mr. Williams stated that he has a letter from his mother's doctor's explaining her complications.

Mr. Ecker asked if they planned on separate well and septic systems for the proposed home. Mrs. Williams stated that was correct and they had received approval for both.

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. Kiefer stated that he had received correspondence from Mrs. Howard Tucker stating that she would be in favor of the request. He stated that he had also received correspondence from St. Joseph Regional Medical Center stating that it would be in best interest of Joy Krull to live in a one story dwelling in close proximity to a family member.

Mr. Neidlinger asked what the plans would be for the mobile home when it is no longer needed. Mrs. Williams stated that it would be removed.

Mr. Ecker moved and Mr. Neidlinger 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 with the condition that the home be removed once it is no longer needed.

The fifth item was Case 04-BZA-17, Gail Sargent, A request for a Variance of Use to permit a Type B Manufacture Home (double wide) older then model year 1981 on a lot in Gatewood Mobile Home Park, 2403 Michigan Road, Lot 241, in an A-1, Agricultural District, Section 6 of North Township. Ms. Sargent & Mr. Eric Wolff were present to represent the request. Mr. Kiefer stated that the request was for a home older then 1981 in the mobile park. He stated that after it was advertised it became apparent that the home is not actually in the mobile home park, but rather on a 20 acre parcel that is accessed through the mobile home park. He stated that currently the parcel has a home on it. Mr. Kiefer stated that Ms. Sargent had two options; to apply next month for a Variance of Use to request approval for two homes on one deeded parcel, or to split the property and have a deed for each home site.

Minutes of the May 11, 2004
Regular Meeting of the
Marshall County Board of Zoning Appeals

Discussion was held on where the proposed home would be located. Mr. Kiefer stated that he was out to the site to look at the home. He stated that it did have copper wiring. He stated that it is a nice older home. Mr. Niedlinger asked if there had been discussion regarding the double wides. Mr. Kiefer stated that nothing was specifically placed in the ordinance. He stated that it was to be taken on a case by case basis. Mr. Neidlinger asked if the home would need a permanent foundation. Ms. Sargent stated that it would have a regular foundation. She stated that it would be for her son who is almost permanently disabled. She presented a picture of the home.

Mr. Van Vactor asked where the home is currently located. Mr. Kiefer stated that it has been dismantled and is sitting at the site waiting for approval. Mr. Neidlinger asked if a building permit would have to be obtained and the electric inspected. Mr. Kiefer stated that was correct. Mr. Neidlinger stated that he could not see any difference between the home and a built home, because of the inspections.

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

- Fern Costello, 13313 2A Road, spoke in favor of the request. She stated that she owned the property. She stated that Ms. Sargent takes good care of the property. She stated that Mr. Wolff needs help since he had his stroke and she is in favor of the request.

Mr. Ecker asked if Ms. Costello owned the property. She stated that was correct. Mr. Ecker asked if she would be willing to deed the property separate for the home. Mr. Kiefer clarified that she would not need to deed the property to Ms. Sargent or Mr. Wolff. She stated that she could not answer until she talked with Mr. Costello.

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

Mr. Ecker asked if this were allowed, how many more would they be asked to allow in this particular area. Mrs. Costello stated that there would be no more requests. Mr. Davenport asked if they had the wrong person as the applicant as they do not own the property. Mr. Kiefer stated that he did not feel that it mattered. Mr. Davenport asked who would pay for the installation. Mrs. Costello stated that she would. Ms. Sargent stated that she would be paying for the home.

Minutes of the May 11, 2004
Regular Meeting of the
Marshall County Board of Zoning Appeals

Mr. Ecker stated that the request was for approval for the 1973 model at the location. Mrs. Costello stated that it was a very nice home. Mr. Kiefer stated that it was very nice. Mr. Flora stated that hopefully she could understand the problem that the board was faced with. Mr. Kiefer stated that it was a lease situation. Mrs. Costello stated that everyone understood the situation. Discussion was held regarding the situation of the land and the home.

Mr. Davenport asked if the home would be hooked up to the sewage line? Mrs. Costello stated that the home has separate septic system as the line does not run that far. Mrs. Costello stated that the well is run from the park.

Mr. Davenport asked if the property would need to be split. Mr. Kiefer stated that it would either need to be split or a request would need to be made for a Variance of Use. Discussion was held regarding ownership of the land and the proposed home.

Mr. Wolff spoke regarding the need for assistance.

Mr. Ecker reiterated that if approved it would be for this home and nothing further. Mr. Neidlinger stated that the only consideration for the board would be the request for the 1973 home.

Mr. Van Vactor moved and Mr. Neidlinger seconded a motion to approve the request since the home has copper wire and because the home was in good condition. The motion passed with Mr. Ecker, Mr. Neidlinger, Mr. Van Vactor and Mr. Davenport voting in favor and Mr. Flora voting against.

Mr. Kiefer explained the options to Mrs. Costello for placing the home on the property.

The sixth item was the approval of the minutes of the April 13, 2004 Minutes. Mr. Ecker moved and Mr. Neidlinger seconded a motion to approve the minutes. The motion passed by acclamation.

Discussion was held regarding violations.

Minutes of the May 11, 2004
Regular Meeting of the
Marshall County Board of Zoning Appeals

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

Respectfully submitted,

Harold Van Vactor
Secretary