

Minutes of the October 12, 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 October 12, 2004, meeting of the Marshall County Board of Zoning Appeals at 7:30 p.m. Present were Board Members Foster Davenport, Don Ecker, Sr., Wayne Neidlinger, Harold Van Vactor, Zoning Administrator, Troy Kiefer, Planning Assistant, David Rockaway, and interested parties. Absent was member Robert Flora.

The first item of business was review of the minutes of the September 14, 2004 meeting. Mr. Van Vactor moved and Mr. Davenport seconded a motion to approve the minutes as written. The motion passed by acclamation.

Mr. Davenport stated that case 04-BZA-35, Charles Tilleman, A request for a Variance of Use to permit an accessory building to be built on property that does not contain a dwelling on Lot 31 of Lakeview Point Subdivision, Koontz Lake, in an L-1, Lake District, Section 7 of Polk Township, had been withdrawn by the applicant.

The second item of business, case 04-BZA-33, Marlin & Erma Mullet, A request for a Special Exception to expand an existing Home Workshop; Cabinet Doors on property located at 4463 Beech Road in an A-1, Agricultural District, Section 8 of German Township. Mr. & Mrs. Mullet were present to represent the request. Mr. Kiefer gave the details for the request and presented the Findings of Fact. He stated that the Plan Commission forwarded the request with a favorable recommendation. Mr. Kiefer stated that the request was to add a 60' x 60' addition to an existing building housing a workshop. He stated that there would not be an expansion of capacity, but additional inside wood storage.

Mr. Mullet stated that the addition was for inside storage of lumber.

Mr. Neidlinger moved and Mr. Ecker 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.

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

The third item of business, case 04-BZA-34, Dennis Schwartz, A request for a Variance of Use to expand an existing Lawnmower Sales & Service Shop on property located at 586 4B Road, in an A-1, Agricultural District, Section 9 of German Township. Mr. Schwartz was present to represent the request. Mr. Kiefer gave the details of the request and presented the Findings of Fact. He stated that the operation was given a variance for operation in 1998 with conditions that employees be limited to those living on the property and no outside storage. Mr. Kiefer stated that Mr. Schwartz has kept the property clean and has received no complaints.

Mr. Schwartz stated that he would like to have more showroom space.

Mr. Ecker moved and Mr. Van Vactor seconded a motion to open the public hearing. The motion passed by acclamation. There was no one to speak 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. Ecker moved and Mr. Neidlinger seconded a motion to approve the request. The motion passed by a unanimous vote of approval.

The fourth item was case, 04-BZA-36, Tim & Judy Decker, A request for a Variance of Development Standard to reduce the Lake side setback from forty five feet (45') to twenty feet (20') and to reduce the road side setback from thirty feet (30') to seven feet (7') in order to construct a new dwelling on property located at 4139 Lake Shore Drive, Lake of the Woods, in an L-1, Lake Residential District, Section 7 of German Township. Mr. Decker was present to represent the request. Mr. Kiefer gave the details of the request and presented the Findings of Fact. He stated that there is an existing building line for the road side setback. He stated that the lot is small even for a lake district. He stated that the new dwelling would nearly fit the foot print of the existing home. Mr. Decker stated that the new home will actually be a few feet smaller than the existing dwelling. Mr. Kiefer stated that the dwelling would meet the side yard setbacks.

Mr. Davenport asked about the position of the new garage and where guest parking would be. Mr. Decker stated that the garage would be attached and thus

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would be an additional three feet away from the road. He stated that guests park along side the road.

Mr. Neidlinger asked how close the new home would be to the lake. Mr. Decker stated that the new home would be the same distance to the lake as the current home; twenty feet. Mr. Decker stated that he bought the home a couple of years ago to serve as a summer cottage and have enjoyed the lake so much they intend to move to the lake full time.

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. Van Vactor seconded a motion to close the public hearing. The motion passed by acclamation.

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

The fifth item was case, 04-BZA-37, Hop's Power Parachutes, A request for a Variance of Use to permit Power Parachute and related utility trailer sales on property located at 20451 Tyler Road, in an A-1, Agricultural District, Section 19 of Polk Township. Mr. & Mrs. Hochstetler were present to represent the request. Mr. Kiefer gave the details of the request and presented the Findings of Fact. He stated that the request is different in that the Hochstetler's have been in business for many years. He stated that there is nothing on record to state that the business has received approval. He stated that for many years there has been Christmas Tree sales and an air strip. Mr. Kiefer stated that there have been no complaints and he stated that he was not aware that the business existed at the location. Mr. Kiefer stated that there are fifty plus acres.

Mr. Hochstetler stated that the air strip has been in existence since 1952. He stated that a lot of agricultural facilities have used it. He stated that it evolved from there. He stated that the existing buildings are being used for the parachutes. He stated that they would like to expand to selling utility trailers, there would be one on display and they would order on demand.

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

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Mr. Ecker stated that he would move to approve the request as it has been in operation for twenty plus years and there have been no complaints. Mr. Davenport stated that it is a good addition to the community.

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

The sixth item was case, 04-BZA-38, Howard Nagel, A request for a Variance of Development Standard to reduce the Arrow Head Trail front setback from thirty feet (30') to eighteen feet (18') in order to construct a new dwelling on property located at Lot 43 of Indian Hills Subdivision, Lake Latonka, in an L-1, Lake District, Section 21 of West Township. Mr. Nagel was present the represent the request as well as Ms. Kathryn Ferrantella current property owner. Mr. Kiefer gave the details of the request and presented the Findings of Fact.

Mr. Nagel stated that the size of the house is a minimal size acceptable for Lake Latonka. He stated that he would like to add a two car side load garage to the home. He stated that the septic is best suited to the South side of the lot. He stated that if the variance is not granted the lot is unbuildable. He stated that the Lake Latonka Home Owners Association supports the requested setbacks, as there setbacks are less restrictive.

Ms. Ferrantella stated that she bought the lot twenty four years ago with the intention of placing a home on it. She stated that the lot was designed to be buildable.

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

- Ginger Budzius, 18034 Cherokee Trail, spoke in opposition to the request. She stated that Mr. Nagel will not be living on the property. She stated that it would be too close to the narrow roads.
- Robert Budzius, 18034 Cherokee Trail, spoke in opposition to the request. He stated that the lots are too small. He stated that there is no run off. He stated that the house on the hill have septic problems and he does not want to see that happen at this lot.
- Carol Snyder, 18060 Cherokee Trail, spoke in opposition to the request. She stated that the lot is too small and will have septic problems, lot is too small and

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the lot drains to the lake. She stated that there has also not been a survey done of the property.

- Tom Smith, 18068 Cherokee Trail, spoke in opposition to the request. He stated that he agreed with Ms. Snyder.
- Dorothy Ferrantella, spoke in favor of the request. She stated that they received a variance to place there home on the lot. She stated that it is up to the Health Dept. to approve or deny septic.
- Michael Ferrntella, spoke in favor of the request. He stated that he area is wooded and he does not understand why it would harm anyone. He stated that he does not see a problem.
- Arlene Shabvino, 12344 Chippewa Trail, spoke in favor of the request. She stated that it falls within the setbacks of the Homeowner's Association and should be approved.

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. Kiefer read correspondence:

Lake Latonka Property Owners Association in favor.

Tom & Sharon Spindler, 12431 Arrowhead Trail, in opposition.

Mr. Nagel stated that he will have a full survey of the lot. He stated that septic standards have been raised that will protect the community.

Ms. Anders of WTCA asked if Mr. Nagel intends to live on the property. Mr. Nagel stated that he has a home in the area, but he does intend to construct the home and sell it.

Mr. Van Vactor asked what size was the home? Mr. Nagel stated that is would be two bedroom one bath, 1075 sq ft.

A gentlemen in the audience asked why a variance would be requested before septic approval was received. Discussion was held regarding requirements for square footage of Lake Latonka Home Owner's Association. Mr. Nagel stated that he received a variance to allow the home.

A woman from the audience stated that Mr. Nagel already has the home ordered. Mr. Nagel stated that he already owns the home and it sits on a different site.

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Mr. Kiefer stated that would make no difference to the board. He stated that the board is required to determine a hardship that would require the variance. Mr. Nagel stated that the home would fit on the property without an attached garage, although it would make it more attractive to include a garage.

Mr. Neidlinger stated that the variance was required for the garage. Mr. Nagel stated that he felt that the property would be more attractive with a side load garage.

Mr. Van Vactor moved to approve with the condition that Mr. Nagel receive septic approval. The motion died for lack of a second.

Mr. Ecker stated that he would move to allow the home without the two car garage. The motion died for lack of second.

Mr. Neidlinger moved and Mr. Davenport seconded a motion to deny.

Mr. Nagel asked if he could reduce the amount of variance to twenty seven feet to allow a one car garage. Mr. Kiefer stated legally they would be covered to approve less of a variance. Discussion was held.

Mr. Davenport moved to withdraw his second to the motion. Mr. Neidlinger moved to withdraw his motion.

Mr. Ecker moved and Mr. Van Vactor seconded a motion to approve the request with a twenty seven foot setback on the West side. The motion passed with Mr. Ecker, Mr. Van Vactor and Mr. Davenport voting in favor, and Mr. Neidlinger voting against.

The last item of business was the Violation Report. Mr. Kiefer presented the report. He stated that the Fink case went to Court and received an agreed judgment to be removed. He stated that Ron Plummer is being pursued by Attorney Lukenbill. He stated that he inspected the Ringer property and there has been little change.

Mr. Kiefer stated that he received a call for Connie Miller. She stated that she is unable to remove the mobile home because she would have to trespass on the neighbors property, which they will not allow.

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Mr. Kiefer stated that John & Judy Stull have passed the September 22, 2004 deadline stipulated in the letter that was sent. He stated that he would recommend forwarding the violation to Attorney Mr. Lukenbill.

Mr. Kiefer stated that there is concern regarding a carport Bryan Miller had constructed on the property. He provided a letter to the board that he had written to Mr. Miller granting permission for the carport without a building permit. Mr. Kiefer stated that he felt what had been constructed on the site was different from what was permitted.

Mr. Ecker moved and Mr. Van Vactor seconded a motion to forward the Stull violation to Attorney Ken Lukenbill. The motion passed by acclamation.

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

Respectfully submitted,

Harold Van Vactor
Secretary