

Minutes of the August 10, 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 August 10, 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 July 13, 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, case 04-BZA-24, Mitchell Adams, A request for Variance of Development Standard to reduce the North rear yard setback from forty five feet (45') to twenty four feet (24') and to reduce the West side yard setback from ten feet (10') to seven feet (7') to permit a home addition on property located at 4398 West Shore Drive, Lake of the Woods, in an L-1, Lake District, Section 7 of German Township. Mr. Adams was present to represent the request. Mr. Kiefer gave the details for the request and presented the Findings of Fact. He stated that there was some confusion as to where Mr. Adams West property line was located. He stated that Mr. Adams proposed an eight foot addition, he stated that it would block a view of the lake.

Mr. Flora asked Mr. Adams if he has surveyed the property. Mr. Anderson, neighbor of Mr. Adams stated that he knew where the property lines were. He showed the property line to the board via the video provided by Mr. Kiefer. He stated

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that the addition would not block his view. Mr. Kiefer asked Mr. Anderson if he felt that Mr. Adams would at least be seven feet from the property line with the addition. Mr. Anderson stated that was correct.

Mr. Davenport stated that on the drawing it appeared that there would be plenty of room for the addition on the East side of the property. He asked if it were possible to build the addition on the opposite side of his home? Mr. Adams stated that it would not be contingent to make the addition to the East side of the home.

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

- Mr. Michael Anderson, 4368 West Shore Drive, stated that he was in favor of the request.

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

Mr. Neidlinger asked if there was a vacant lot between Mr. Anderson and Mr. Adams. Mr. Anderson stated that they split the lot several years ago. Mr. Ecker asked how wide the half lot was. Mr. Anderson stated that it would be thirty seven and ½ feet. Mr. Davenport asked if they could sell any property to make an additional building lot between the homes. Mr. Anderson stated that could not happen.

Mr. Flora asked if the addition would line up with the setbacks of the adjoining property owners. Mr. Adams stated that adjoining property owners are actually closer.

Mr. Neidlinger asked if the seven foot setback was from the eaves or the wall. Mr. Adams stated that it was from the wall. Mr. Adams stated that his over hang was 10 inches. Mr. Flora stated that actually Mr. Adams is asking for a six foot setback. Mr. Adams stated that according to Mr. Anderson it would not be that close. Mr. Davenport asked Mr. Anderson if he was satisfied? Mr. Anderson stated that he did not believe that Mr. Adams would be that close to the property lines at all.

Mr. Davenport asked Mr. Anderson if he would like Mr. Adams to have the property surveyed? Mr. Anderson stated that he did not. Mr. Davenport asked Mr. Kiefer if any correspondence was received regarding the request. Mr. Kiefer stated

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that there was none received. Mr. Flora asked if Mr. Adams was aware that there were findings of fact to answer when dealing with the request. He reread those findings. Mr. Flora stated that it is hard to justify the request when there is no hardship. Mr. Adams stated that that is why he presented the picture of the family room to show that the room is not functional.

Discussion was held regarding the merits of the case. Mr. Flora stated that they do like to make compromises with these types of requests. Mr. Anderson stated that if in fact Mr. Adams is not seven feet from the property line, he would give him a foot of his property to make sure he was in compliance.

Mr. Neidlinger moved and Mr. Davenport seconded a motion to approve the request with a eight foot (8') West side yard setback and a twenty four foot (24') North rear yard setback. The motion passed with Mr. Flora, Mr. Neidlinger, Mr. Van Vactor and Mr. Davenport voting in favor and Mr. Ecker voting against.

The third item of business, case 04-BZA-26, Larry & Marilyn Albert, A request for a Variance of Use to allow two homes on one deeded parcel on property located at 11820 1B Road, in an A-1, Agricultural District, Section 27 of North Township. Mr. & Mrs. Albert were present to represent the request. Mr. Kiefer gave the details of the request and presented the Findings of Fact. He stated that the applicants would like to place an additional home on the West side of the property to care for an elderly parent.

Mrs. Alberts stated that her mother would like to be closer to her family and they would like to help take care of her. She stated that the surrounding neighbors are all family.

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 for or against the request. Mr. Ecker moved and Mr. Davenport seconded a motion to close the public hearing. The motion passed by acclamation.

Mr. Alberts asked how long they would have in order to remove the home once it would no longer be needed. Mr. Kiefer stated that generally they allow 90 days. Mr. Kiefer stated that if they needed more time they could call the office.

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Mr. Ecker moved and Mr. Flora seconded a motion to approve the request with the condition that the additional home be removed within 90 days after it is not longer inhabited. The motion passed by a unanimous vote of approval.

The last item of business was the Violation Report. Discussion was held regarding the progress of Michael Spade. Mr. Flora stated that there has been progress, although he is about to undergo hip replacement and he will have to hire someone to remove the rest of the debris.

Mr. Kiefer stated that there have been 8 cases that have been forwarded for Court action.

Discussion was held regarding the Kerkove property. Mr. Neidlinger stated that he has a problem with the violation for the Kerkove's. He stated that they live in an agricultural area and most of the items on the property are scrap iron that can be used to repair machinery. Mrs. Kerkove was in attendance and she stated that they do use the scrap for machinery repair. Mr. Kiefer stated that he and Mr. Lukenbill have an appointment to meet at the property for discussion. He stated that the members make up the Board of Zoning Appeals and they decide what makes a violation. Mr. Kiefer invited some of the members to attend the meeting at the property to make the decision as to what needs to be removed. He stated that they are meeting at the Kerkove property as well as Mr. Cotton property on Friday, August 17<sup>th</sup>.

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