

Minutes of the October 11, 2005
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 11, 2005, meeting of the Marshall County Board of Zoning Appeals at 7:30 p.m. Present were Board Members Foster Davenport, Don Ecker, Robert Flora, Harold Van Vactor, Zoning Administrator, Ralph Booker, Secretary, Leesa Kolter and interested parties. Absent was member Gary Davis.

The first item of business was the review of the minutes of the September 13, 2005 meeting. Mr. Ecker moved and Mr. Flora seconded a motion to approve the minutes as written. The motion passed by acclamation.

Mr. Davenport stated that item 05-BZA-35, Jim & Deborah Hostetler, A request for a Special Exception to permit a Pool Supply Business to be conducted on property located at 4293 Breezy Point, Koontz Lake, in an L-1, Lake Residential District, Section 7 of Polk Township. Mr. Hostetler was present to represent the request. Mr. Booker gave the details of the request and presented the Findings of Fact. He stated that Special Exception are given a recommendation from the Plan Commission and the Board of Zoning Appeals makes the final decision. The Plan Commission gave the request a favorable recommendation. He stated that the nature of the neighborhood was residential.

Mr. Hochstetler stated that it would be a small business with no outside storage. He stated that they might be a small sign on the mailbox. There was a petition signed

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by 28 of the neighbors who had no objections. Mr. Hochstetler stated that he did not want to change the character of the neighborhood.

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

- Steve Geise, spoke in favor of the request.
- Jeff Pearish, 4434 Breezy Point Lane, spoke in favor of the request.

There was no one to speak either for or against the request. Mr. Flora moved and Mr. Van Vactor 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.

The third item of business, case 05-BZA-36, Ancilla Domini Sisters, A request for a Special Exception to permit an Assisted Living Addition to be constructed on property located at 9601 Union Road, Donaldson, in an A-1, Agricultural District, Section 6 of West Township. Mr. Michael Strang of Strang & Associates and Mr. Dale Law of Ancilla Domini were present to represent the request. Mr. Booker reviewed the details and presented the Findings of Fact. He stated that the Plan Commission forwarded the request with a favorable recommendation. The addition would house thirteen additional residents. The drainage plan had been approved.

Mr. Strang stated that there were two proposed addition; one to be built immediately and the second to be build in the future. The original home was placed before 1974, this would be the first addition since that original structure. Mr. Law stated that the addition would be a 8,000 sq ft for convent housing.

Questions were raised about the time limit for starting the second home. Mr. Booker stated that a time limit could be placed by the BZA. Mr. Strang gave the details for utilities. Mr. Ecker asked about additional parking. Mr. Strang stated that there would be a dozen spaces added.

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

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

The fourth item of business, case 05-BZA-37, Interstate Forestry, A request for a Special Exception to permit a Sawmill Operation to be constructed on property located on County Line Road, in an A-1, Agricultural District, Section 6 of West Township. Mr. Carpenter and Mr. Messer were present to represent the request. Mr. Booker gave the details of the request and presented the Findings of Fact. He stated that they were currently operating the sawmill down the road on a properties to the South of the proposed location.

Mr. Carpenter stated that they would be moving the machinery to a new building that would be constructed to be more conducive to streamlining the operation. The current buildings would be used for storage.

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

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

The fifth item of business was, case 05-BZA-38, Ray Halsey, A request for a Variance of Development Standard to reduce the front yard setback from twenty five feet (25') to twenty feet (20') in order to construct a porch addition on property located at 17834 Main Street, Tyner, in a B-1, Business District, Section 10 of Polk Township. Mr. Halsey was present to represent the request. Mr. Booker gave the details of the request and presented the Findings of Fact.

Mr. Halsey stated that he would like to tear down the current front porch and add an addition that would be 17' x 12.

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

Mr. Davenport moved and Mr. Ecker seconded a motion to approve the request. The motion passed by acclamation.

The sixth item of business was case, 05-BZA-39, David Good, A request for a Variance of Development Standard to reduce the front yard setback from thirty feet (30') to fifteen feet (15') in order to construct a new dwelling on property located on Spear Trail, Lake Latonka, in an L-1, Lake Residential District, Section 21 of West Township. Mr. Bernard Feeney, of Lange Feeney, was present to represent the request. Mr. Booker gave the details of the request and presented the Findings of Fact. He stated that the property was an unimproved lot.

Mr. Feeney stated that the property was unique in that the lot was wooded and required special consideration for the placement of the well and septic. He stated that the lots were not platted to allow for a thirty foot setback, and the lake covenants stated the front setback requirement to be fifteen feet.

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

- Don Hinds, 12604 Miramichi Trail, spoke in opposition of the request. He stated that he had to build his home with the thirty foot setback as is the requirement. He stated that all lots are about the same size.
- Dan Butt, 12604 Spear Trail, spoke in opposition of the request. He stated that he is concerned about the drainage
- Jim Gier, 12643 Spear Trail, spoke in opposition of the request. He stated that the area has water problems. He has concern with sewage and drainage problems.
- Jim Shay, 12464 Spear Trail, spoke in opposition of the request. He stated that the association setbacks are offset. He stated that there is not enough off street parking with a fifteen foot setback.

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

Mr. Feeney stated that they have received a septic permit for a standard septic. He stated that the planned garage would be a 2 car garage and a car could be parked in front of the garage. The drainage problems could be contributed to the recent paving of Spear Trail. The water was being trapped on the East side of the street, a swale could be constructed on the property to move it to the North to help Mr. Hinds. The property currently drained to the West towards Mr. Hinds. They would be willing to make the swale a stipulation of approval.

Mr. Ecker asked how far back the septic was from the road. Mr. Feeney stated that the septic was placed behind the home. The fingers were placed through the trees, approximately 10' from the rear property line. Mr. Davenport asked if the lot was lower than the surrounding lots. Mr. Butt stated that the lot was higher than the surrounding, what they do with the dirt would determine where the water would go. He stated that Collin's just finished a home in the area which left the area with water issues, and septic smell.

Discussion was held regarding the existing drainage problems in the area. Mr. Davenport asked Mr. Butt if he felt that the lot was a buildable lot? Mr. Butt stated that the lot was too small, but it could be done. Mr. Van Vactor stated that he would like to see the County Surveyor approve the drainage before they make a decision. Discussion was held regarding the placement of the home. Mr. Feeney stated that the home was located to allow proper setback from the septic and the well. Mr. Flora stated that he would like to see the home moved further back. Mr. Flora stated that he would like to see a meeting and have the County Surveyor assess the situation.

Mr. Flora moved and Mr. Ecker seconded a motion to table the request until next month in order to address the drainage issues. The motion passed by acclamation.

The last item of business was the violation report. Mr. Booker gave a report on the current violations. Mr. Leed was the first violation. Mr. Booker stated that he had attended the Lapaz Town Board meeting to receive guidance. It had been requested that he write a letter to Mr. Leed addressing the scrap metal on the property. The Town had an abandoned vehicle ordinance to address the unlicensed vehicles on the property.

The next violation was Mr. Zehner. Mr. Booker stated that DNR has been addressing the situation. Mr. Booker stated that The Finks would be receiving a letter regarding the inactivity on there part to cooperation in removing a junk trailer from their property. Mr. Booker stated that Mr. Plummer has been living in a tent on his property. There were items on the property that would need to be disposed of to be in compliance. There would be a follow-up hearing on November 4, 2005.

Mr. Booker stated that he appeared for Court for Connie Miller, her attorney did not show up. The case had been continued until December. Mr. Booker stated that he was not sure that anyone was living on the property. He stated that he did talk with Mr. Black, her attorney, who stated that the dogs had been removed from the property.

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Mr. Booker stated that he wanted guidance on Mr. Stull's property. He showed video of the property. The board stated that the property had been greatly improved. Mr. Ecker stated that he wondered if a building permit had been issued for the pole building under construction. Mr. Booker stated that he would check.

Mr. Booker stated that Mr. White had cleaned up his property, there were more than four unlicensed vehicles that would need to be removed. Mr. Flora stated that the Sheriff's Deputies should go out and deal with the cars.

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

Respectfully submitted,

Robert Flora
Secretary