

Minutes of the March 8, 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 March 8, 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, Troy Kiefer, Secretary, Leesa Kolter and interested parties. Absent was member Gary Davis.

The first item of business was the review of the minutes of the February 8, 2005 meeting. Mr. Ecker moved and Mr. Flora seconded a motion to approve the minutes as written. The motion passed by acclamation.

The second item of business, case 05-BZA-02, Mark & Helen Hruban, A request for a Variance of Development Standard to reduce the North side yard setback from three feet five inches (3'5") to two feet six inches (2'6") and to reduce the South side yard setback from three feet five inches (3'5") to two feet six inches (2'6") in order to construct a new dwelling on property located at 3807 Lake Shore Drive, Lake of the Woods, in an L-1, Lake Residential District, Section 6 of German Township. Mr. Hruban was present to represent the request. Mr. Kiefer reviewed the details and presented the Findings of Fact. He stated that there are homes on either side of the property; there does not appear to be an existing view for those across the street.

Mr. Hruban stated that the walls would be almost identical to the walls of the current home, the variance is for the eaves. He stated that they would like to place prefabricated home on the property. Mr. Flora asked if the new home would be

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placed on the current homes footprint. Mr. Hruban stated that the new home would be shorter than the current home, smaller square footage.

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

- Ken Vantrice, 3801 Lake Shore Drive, spoke regarding the request. He stated that there is not a lot of room between the houses. He stated that the lake is full of thirty five foot lots and if this were to be granted for Mr. Hruban, would it also be granted for him in the future? He stated that he is not against the variance as he would also like to be granted one as well. He asked whether the garage would be coming down or stay as is.

Mr. Hruban stated that there are several trees coming down. He stated that the garage would need to come down for access for the new home to be placed. He stated that they have also consider leaving up one side of the garage, so that they may rebuild it at the present location.

Mr. Vantrice stated that there is currently seven feet between houses, if variances were granted for Mr. Hruban and himself there would no room for construction. Mr. Davenport stated that even at the required three and a half feet there is no room for basic maintenance.

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

Mr. Flora asked if a survey had been done to place exact location of property lines. Mr. Hruban stated that they had one done when they purchased the home in 1984 as well as in 1994, they both matched.

Mr. Davenport asked how far it was from the property line to the footing. Mr. Hruban stated that it would be the same as it was now. Mr. Flora asked if he were do maintenance, wouldn't he have to set his ladder on the neighbors property. Mr. Hruban stated that his neighbor is accommodating.

Discussion was held regarding options for placing a new home on the property.

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Mr. Ecker moved to table the request until Mr. Hruban could come back to the board with more information from the manufacturer. The motion died from lack of a second.

Mr. Ecker moved and Mr. Van Vactor seconded a motion to approve the request with a three foot (3') setback on each side. The motion passed with Mr. Ecker, Mr. Flora and Mr. Van Vactor voting in favor and Mr. Davenport voting against.

The third item of business, case 05-BZA-03, William Morgan, A request for a Variance of Use to permit Firearm Repair Shop on property located at 4127 Oakhill Street, Koontz Lake, in an L-1, Lake District, Section 7 of Polk Township. Mr. Morgan was present to represent the request. Mr. Kiefer reviewed the details and presented the Findings of Fact. He stated that there is an accessory building on the property, but there are no residences in the immediate area. He stated that Mr. Morgan has proposed a 20' x 20' building that is current on the property as location for the requested Firearms Repair Shop.

Mr. Morgan stated that he proposed firearm repairs in his garage, with no store front or major activity on the property. He stated that it was his goal to develop a customer base and set up shop in a commercial area. He stated that his main activity would be to get referrals from dealers in the area, which would require him to pick up and drop off. He stated that he has an associate's degree in gun smithing and numerous certificates from firearm armors, which qualifies him for this type of work. He stated that he works full time and this would be a part time activity.

Mr. Davenport asked where Mr. Morgan would propose test firing the guns. Mr. Morgan stated that he has two options, a nearby range, or to install a bullet trap. He stated that he would prefer to install a bullet trap that would be inside, there would be no firing outside.

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

Mr. Kiefer read correspondence from:

Tom & Maureen White, 4044 Farrel Street, Walkerton; raising questions.

John & Barbara Hnatovic, 9020 S 49th Avenue, Oak Lawn, IL 60543; in opposition.

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Mr. Morgan stated that with a bullet trap there would be controlled noise from the property that would not be offensive or damaging to the ear. He stated that he would not allow loaded guns on the property and would only load a firearm once it had been inserted into the bullet trap, with dummy ammunition. He stated that he hoped to get started by bringing in business from gun shops. He would then move to a more suitable location for heavy traffic. He stated that in order to get started he needed to get a Federal Firearms License; the BZA would need to approve zoning.

Mr. Van Vactor asked what type of signage he would request. Mr. Morgan stated that he would request a small sign on his gate, stating where the shop was located, no type of advertising. Mr. Flora asked about parking and traffic flow. Mr. Morgan stated that he would open one side of the gate for a walkway to the building, some parking in front of his home and a circle drive located at the extra lot would accommodate traffic. Mr. Flora asked if he could accommodate the traffic. Mr. Morgan stated that if business were so good, he would move as he does not want that type of activity where he lived.

Mr. Flora asked if this was just a side business at this point. Mr. Morgan stated that was correct, if he were to grow he would move his business with better access. Mr. Davenport asked if he planned to sell firearms. Mr. Morgan stated that he would not do retail sells, but if someone left one he would sell it to retrieve monies.

Mr. Flora moved and Mr. Van Vactor seconded a motion to approve the request with conditions: the business be conducted as a hobby business, no retail selling of new guns, no outside firing of guns, no loud noises to come from the property (as determined by the BZA). The motion passed by a unanimous vote of approval.

Mr. Davenport stated that he would be combining items 4 & 6 on the agenda to conserve time. The fourth item of business, case 05-BZA-04, Marshall County Health Department, A request for a Variance of Use to permit a Communication Tower to be constructed on property located at 4836 French Street, Tyner, in an S-1, Suburban District, Section 10 of Polk Township. The sixth item of business, case 05-BZA-06, Marshall County Health Department, A request for a Variance of Development Standard to reduce the rear yard setback from one hundred seventeen feet (117') to sixty-six feet (66') and to reduce the South side yard setback from one hundred seventeen feet (117') to fifty feet (50') in order to construct a Communication Tower on property located at 4836 French Street, Tyner in an S-1, Suburban District, Section 10 of Polk Township. Mr. John Grolich, 411 Franklin Street, Plymouth, County Coroner,

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was present to represent the request. Mr. Kiefer reviewed the details of the request and presented that Findings of Fact. He stated that under the current Zoning Ordinance, towers for government entities do not need approval; since this tower would have a private carrier on it, it would require approval from the BZA. He stated that Communication Towers are not currently permitted uses in S-1, Suburban Residential Districts. He stated that the requirements for setbacks are 60% of the height from property lines.

Mr. Davenport asked how tall the current tower would be at the Tyner Fire station. Someone from the crowd offered eighty feet. Mr. Davenport asked if additional transmitters could be hung from the existing tower. Mr. Grolich stated that, according to Mr. Stull, Polk Township Trustee, the fire station would be expanding and the tower was to be taken down. He stated that if allowed to construct the new tower, the Fire Station would utilize it for their transmitters.

Mr. Grolich stated that three years ago Sheriff Ruff got bids on Communication upgrades for the County, as they were experiencing terrible communication problems. He stated that the bid came in excess of one million dollars. He stated that Dr. Holm was able to apply for a grant through Indiana Department of Health, for an EPECS program. He stated that Marshall County was accepted, with the proposal that high speed wireless internet would be provided to the emergency responders free of charge. He stated that it would incorporate elements such as bio-terroristic events, significant health issues, i.e. small pox, so that communication could be granted at the touch of a button. He stated that after meetings with a local tower provider, they were able to acquire eight 195' and one 220' towers; with the anticipation that it would create emergency abilities as well as the infrastructure for the County wide communications upgrade. He stated that they have developed a verbal relationship with two of the premiere tower erectors in the area; Custom Towers and Tower Erectors. He stated that there would also be a local internet supplier who would be investing a significant amount of money.

He stated that the proposal would incorporate nine towers, placed strategically around the county. He stated that Motorola conducted the survey to state where the best placement around the county would for the best accessibility. The current plan reduces the cost by \$800,000.00 for the communications upgrade, as well as creating an internet service for emergency responders. He stated that a few days ago he was in the area of Hawthorn and 8B Roads and was unable to talk with the EMS base in Plymouth, which is on a 150' tower.

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Mr. Flora asked if the problems with communication were due to dead spots? Mr. Grolich stated that was correct. Mr. Ecker asked if they were unable to talk between Plymouth and Inwood? Mr. Grolich stated that he was unable on his radio. Mr. Ecker asked where a tower would be placed between there that would enable him to be able to communicate? Mr. Grolich stated that there were proposed towers in Bremen, Lapaz, Polk Township, Ancilla, Plymouth, Bourbon, Tippecanoe, Argos and Culver, which would be higher and equipped with repeaters that will distribute the signals at a higher wattage.

Mr. Flora asked whether there would be other entities using the towers for communication. Mr. Grolich stated that they have verbally partnered with a private carrier to provide internet service to the entire county. Mr. Ecker asked who the individual was. Mr. Grolich stated that his name was Roland Houin, Four Way Communications, of Bremen. He stated that they hope they are able to market the towers to provide cellular signal as well. He stated that they towers would be locally made at Pi-Rod Tower. Piron had been more than gracious with the price of the towers. He stated that the cost of the towers would come \$45,000 from grant money and \$45,000 from the County Commissioner's. The long range plan for the towers would be to add tornado warning devices, weather stations, live web cameras. Mr. Ecker asked how much that would cost. Mr. Grolich stated that the majority of the costs would be constructed with grant money or private funds. Mr. Ecker stated that the only cost to the county would be \$200,000.00? Mr. Grolich stated that was correct.

Mr. Flora asked if they were required to get approval from the FAA as well as the FCC? Mr. Grolich stated that they have approval, although they would have to have those renewed.

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

- Jan Williams, 4096 Thorn Road, spoke in opposition of the request. She asked if they could get in writing that only the internet would be located on the towers. She wanted to know what other devices would be located on the towers.
- John Schmidt, 4900 French Street, spoke in opposition of the request. He stated that he owns the property that the variance was supposed to come from on both sides. He stated that he is not in favor because his property would loose value, as no one would want to buy next to a tower. He stated that he spoke with Mike Chiltz, of Purdue University, who advised him of a study done in Germany, where cows were sick when they were next to cellular towers and

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there milk production went down and took a long time to progress again. He stated that if he could get in writing that there would be no cellular things added to the tower he would ok the variance.

Mr. Davenport asked Mr. Schmidt if he would forgo property values if there would be no cellular additions. Mr. Schmidt stated that was correct as he did not want his cows or children getting sick.

- Julious Urley, 467 Sycamore Road, asked what type of study has been made on RF exposure. He stated that the FCC gives him trouble regarding his amateur stuff. He stated that he is four miles away and he is worried about it.
- Chuck Turner, 17900 Walnut Street, spoke in opposition of the request. He stated that his concern is in regard to microwave applications applied to the tower. He stated at if the maintenance is not done properly they start to leak. He stated that he does not want to risk that as he has worked with microwave communications and RF communications over the years. He stated that he knows part of there potential, although there are some health issues that he is not aware of specifically. He stated that he would be hesitant to see a variance granted if there is to be any microwave application to the tower.

Mr. Flora asked what type of work he had done? Mr. Turner stated that he had worked with radar links and communication links in the service. Mr. Flora asked if he would liken this to radon? Mr. Turner stated that he did not, except for microwaves. Mr. Flora asked what health implications was he aware of? Mr. Turner stated that if you are around it you might go blind, unable to reproduce, muscle tissue can be damaged, i.e. heart. He stated that beyond that he is limited in knowledge.

- Zelma Saxton, 4771 French Street, spoke in opposition of the request. She stated that she is concerned about microwaves and the health of those in the community.
- Jan Williams stated that she wanted ask if Mr. Grolich stated that the grant would pay for all nine towers and all communications and devices? She stated that she wanted to ask what devices he was referring to. She asked if they would be taxed in the future? She asked how many health studies have been done on the towers? Have the towers been placed elsewhere besides FrenchLick? What health risks are they facing?
- Tom Andrew, 718 Maple Avenue, of DC Online, spoke in opposition of the request. He stated that the tower project does not have anything to do with two way radio communications. He stated that they are only stipulating the EPECS

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program. He stated that the sheriff came out at the County Commissioner's meeting in 2004 and advised that he did not have plans for any radio equipment. Mr. Andrew stated that nothing has been stated in a public meeting since that time. He stated that the EPECS program collapsed in Orange County in 2002 according to the website, which states that they ran out of funding and it has been turned over to a private carrier. He stated that for use in a purely emergency setting a fixed point broad band wireless internet is not the greatest option. He stated that you are only allowed maximum outputs in the different frequency ranges that do not compare with what is normally used. He stated that Mr. Grolich's hand held radio is allowed to put out more power than the radio antenna that he has across the street for compliance with the FCC. He stated that the chance of anyone getting sick or injured from this type of microwave radio band allowed is slim and absolute none. He stated that you would have to stand in front of the antenna for at least a day to have any damage whatsoever, there is not enough power put out. He stated that the wireless internet has the same frequency output as a cordless phone that can be purchased at Wal-mart. He stated that according to the Marshall County Zoning Ordinance, if the project can be completed from an existing tower or structure, no other towers are to be permitted to be put up. He stated that the project could be done from existing structures.

- Jerry Dolph-Turner, 17900 Walnut Street, spoke in opposition of the request. She stated that some are upset that were less than twenty letters sent out, and some people across from the fire department did not get letters. She stated that the letter is vague. She stated that she has called down state and Washington DC to find out stuff on RF and cellular. She stated that she has studies from the US and Canada. She stated that if high enough or not regulated correctly, it will totally screw your body up. She stated that according to the five rules, it is not to hurt anybody. She stated that some of this and the other carriers that they are not telling them about, you are not living there. She stated that there are other people, who she has heard that people who live near it have gotten cancer within one year. She stated that they have found out that the microwaves abort children or they have deformities, kids from one year old end up with cancer, men end up with no genitals and can't have children, as well as woman and the cows. She stated that within the findings of fact they would like to have more say as to the carriers. She stated that in South Bend they have done similar things for the fire department, microwave carriers were placed every three miles in between. She stated that she has contacted over one hundred people and they are having trouble, pace makers, heart attacks, headaches and nausea, when they leave the area they don't have problems. She

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stated that she heard that when they build the tower, that takes care of the tower. She stated that when she called down state, she was told that does not take care of the resisters on top. Does this take care of the resisters and the upkeep as well, where would the money come from? A lot of these issues are not being addressed. She is talking about the microwaves.

- Dean Sarber, 18586 6th Raod, stated he would like to ask a question. He stated that the ordinance states that they are not allowed in residential areas. He stated that he would like to know how many the board has approved to go in residential areas.

Mr. Ecker stated that the board has not approved any. Mr. Davenport stated that the ordinance did not come into effect until a year ago, and this would be the first. Mr. Sarber asked where they would be putting one in Bremen? He stated that he did not think Bremen would allow it.

- Don Feece, 13436 5th Road, spoke in favor of the request. He stated that he had been in the tower business for thirty five years. He stated that there would not be any microwave radiation on any of the towers. He stated that towers do not have resisters. He stated that everyone is concerned about RF, there have been studies made everywhere and anywhere and not one has proven that the towers going into Marshall County will effect anyone or anything. He stated that things do not blow up, you can still use your baby monitors and cows do not stop giving milk. He stated that there will not be RF frequency coming off of cell antenna's, nor would there be microwaves. He stated that he has been working with microwave dishes for thirty five, even in front. He stated that everything is hear say and there is no proof. He stated that he would not want to stand in front of one for six years. He stated that he would like to see proof. He stated that there is no cell antenna proposed for the tower.
- Rick Davenport, 5478 Plymouth-LaPorte Trail, spoke in favor of the request. He stated that there is a lot of people who are in favor of the tower for the emergency purposes, with the written rule that there be no cell phone additions to the tower.
- John Stone, 12477 Muckshaw Road, spoke in favor of the request. He stated that he had been in the tower business for thirty plus years. He stated that it is not any different from the one across the street at the jail, except it would be taller. He stated that it is low powered and would not hurt anyone. He stated that the deputies probably have more exposure from their hand held radios. He stated that he subscribes to magazines and there are studies for and against

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the towers. He stated that he owns a tower that houses two microwave dishes, which he is around. He stated there are not any complaints from the neighbors.

- Ralph Booker, 9110 Suter Road, spoke in favor of the request. He stated that this would be a unique opportunity for a public private partnership. He stated that there are lots of underserved communities that can not have the internet. He stated that there are new opportunities for internet, but people should have choices as it becomes more important for day to day living. He stated that he looked for studies for Mr. Schmidt and was unable to find one for one way or another. He stated that he does not think they would hurt his cows. Good for the county/good for the economic development.
- Mike Irons, 3801 17th Road, spoke in favor of the request. He stated that he has worked as a paramedic in two different hospitals in South Bend. He stated that he has never had a Dr. state that this brain tumor came from microwaves or migraines etc. He stated that everyone carries cellphones and there is literature stating that they will give you brain tumors, still everyone has them. He stated that in St. Joseph County if an officer goes down they have a system where they can talk to a dispatcher to let them know someone is in need. He stated that in Marshall County he has been on the fire department and EMS for twenty years, he can not get more then twelve miles from the dispatcher before he can not hear. He stated that the radio system will be better to help them do there job of saving lives and property. He stated that they have a repeater in Tippecanoe and it is inadequate.
- Jerry Dolph-Turner, stated that they are not against the tower or the ems, but the possibility that something could be placed there to harm them.
- Dr. Holm 9066 State Road 17, spoke in favor of the request. He stated that he wanted to state that they have only started to scratch the surface of the benefits to those in the community. He stated that as a Health Officer and Dr. he is not trying to promote something that will harm those in the community. He stated that they have enormous responsibility to protect the citizens of Marshall County, and that is the aim of the project. He stated that he understands the concerns, while not an expert himself, he has to listen to what the experts tell him. He stated that from a health standpoint and emergency response standpoint, this can only be better for the community. He stated that it is a huge savings to the county, which will join all the responses of emergency management.

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

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Mr. Grolich addressed some of the comments made during the public hearing. He stated that he felt that some very good issues were brought up during the public hearing. From the towers inception, the first item to go up would be the high speed wireless internet. He stated that the contracts read to the property owners, who would have the right to place any communication antenna's they have. He stated that when Tyner adds there fire bay they would want to move there tower and place their communication antenna's. Polk Township could also add antenna's as a government entity. He stated that private citizens could also add to the tower as a renter. Mr. Ecker asked what was going on the tower. Mr. Grolich stated that it is marketable, the money would go to maintain the tower and the site. He stated that there has been a line item added for the County to receive the money. Mr. Van Vactor stated that he would assume that there would be insurance on the towers. Mr. Grolich stated that has been taken care of by the County.

Mr. Davenport asked why Motorola set up the towers to be placed in there proposed locations. Why could they not be moved to where there would not be so many people involved? There are towers already constructed, could they work off of those? Mr. Grolich stated that they would have to rent. Mr. Davenport asked why they could not be moved to a less dense area. Mr. Grolich stated that Motorola did the initial plans. Mr. Ecker stated that the ground is free. Mr. Grolich concurred. Mr. Van Vactor asked where the additionally proposed towers would be located. Mr. Grolich stated that the one in Culver has been approved and will be placed behind the street dept. garage behind Walker Manufacturing. He stated that the one in Argos will be located downtown by the water tower. Tippecanoe is proposed to be located at the Fire Station on Tippecanoe property. Bourbon will be located at the well site. Plymouth originally was proposed for the waste water facility, but was moved to accommodate the new jail construction. He stated that Ancilla is going to accept a site. Lapaz would be located on the South side of the Fire station, and will also require a variance from the BZA. Bremen will be located by the Street Department, the new tower will be replacing one that is to be removed.

Mr. Stone stated that he and Mr. Feece helped determine the location of the towers. He stated that criteria that they were looking for was property that they did not have to purchase or rent and emergency stand by power. He stated that if electric were to go down they could utilize standby without the county having to purchase a generator.

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Ms. Williams asked why, if these towers were to be located on property already owned by the county why would they need to add carriers when the tax monies already maintain the property? Mr. Grolich stated that the money would be to maintain the sites, mow the grass and add equipment. Someone from the crowd asked if someone from Polk Township would volunteer to maintain the site for the county? Mr. Van Vactor stated that it might be ok for a year, but the next could be a different story.

Mr. Andrews asked how they could consider it when the ordinance states new towers are not to be erected if one can be used that is currently available. He stated that there was currently one available.

Mr. Davenport asked Mr. Kiefer if the board could limit what could be placed on the tower. Mr. Kiefer stated that if you look at the Telecommunications Act of 1996, it is specific in that local government can not regulate what goes on the tower, only regulate where it can be located, although the county has to provide for tower areas. He stated it is very specific that health affects is not something that they can make a decision on. He stated that when the County Zoning Ordinance discusses the health and safety of the community, it is not so much as what goes on the tower, as the federal government regulates that, but to make sure that the tower is not in a vicinity where it could cause other safety problems i.e. falling. Site obstruction or aircraft flight path.

Mr. Van Vactor moved and Mr. Flora seconded a motion to approve the request for a Variance of Use. The motion passed with Mr. Flora, Mr. Van Vactor and Mr. Davenport voting in favor, and Mr. Ecker voting against.

Mr. Davenport stated that the next motion would need to address the variance of development standard. Mr. Grolich stated that in doing research he found that Valmount (formerly Pi-Rod Towers) were the only ones that withstood Hurricane Hugo. Mr. Davenport asked if the tower were to come down to the South would it take out his shed. Mr. Schmidt stated that it would take everything out. Mr. Kiefer stated that while they did not want to reopen the public hearing, the board might want to consider comments from either Mr. Feece or Mr. Stone, as the towers are designed to fall within themselves and not straight down.

Mr. Stone stated that they had documentation stating that a tower does not typically fall more than 50% of its height. He stated that if a tower is to fall, there would be nothing for it to hit as the homes and barns would already be destroyed.

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Mr. Ecker stated that he would have to agree with Mr. Stone, as if the tower is coming down Mr. Schmidt would not have buildings for it to hit.

Mr. Schmidt stated that there is a tower already at the fire station, and there is nothing wrong with it. He stated that they should continue to use it. Mr. Grolich stated that he was told that it was going to come down to accommodate the construction of the new fire bay. Mr. Schmidt stated that if it was working it should not have to come down.

Mr. Flora asked if there was a reason why they could not move the tower to comply. Mr. Grolich stated that he is complying with what Mr. Stull the Township Trustee, stated he would like to have done. Mr. Ecker stated that it is not practical, as the tower would need to be fenced and they use the other area for parking. Mr. Grolich stated that he was told the tennis court was coming out anyway. Mr. Flora asked how much distance would be between where the tower is proposed and Mr. Schmidt's building. Mr. Kiefer stated approximately 100'.

Mr. Davenport moved and Mr. Van Vactor seconded a motion to approve the request for a Variance of Development Standard. The motion failed with Mr. Van Vactor and Mr. Davenport voting in favor, and Mr. Ecker and Mr. Flora voting against.

Mr. Kiefer stated that if the board is set they will need wait for an additional member, otherwise they should discuss the issues they might have. Mr. Flora stated that he had concern about Mr. Schmidt's building which would be in peril. Mr. Ecker stated that the fire department building would be in contention as well. Mr. Van Vactor stated that from past experience, he did not think the tower coming down would be issue. Mr. Ecker stated that the tower will stand, that is not an issue.

Mr. Grolich stated that he would like to address any issues that Mr. Ecker had with the project, he stated that they are not trying to shield anything. Mr. Ecker stated that he did not feel that he had addressed any of the questions. He stated that there a lot of "ifs" associated with the project. He stated that the commissioner's need big money, and he wondered how much they would be selling the county out for. Mr. Grolich stated that tower rental will not bail out the county. Mr. Flora asked if there was a possibility that the tower could be moved seventeen feet. Mr. Grolich stated that he couldn't commit without talking to Mr. Stull. Mr. Andrews stated that they could not move the tower without involving the approval from the FAA/FCC. Mr. Stone stated that it is hard to say what the potential uses for the tower would be. He stated that he

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felt that the towers would mainly be used for county use, with the exception of Culver, because of its location. He stated that certainly it would not be enough to pay for a jail.

Mr. Davenport moved and Mr. Van Vactor seconded a motion to approve the request for a Variance of Development Standard. The motion passed with Mr. Flora, Mr. Van Vactor and Mr. Davenport voting in favor, and Mr. Ecker voting against.

Mr. Davenport stated that he would be combining items 5 & 7 on the agenda to conserve time. The fifth item of business, case 05-BZA-05, Marshall County health Department, A request for a Variance of Use to permit a Communication Tower to be constructed on property located at 18327 State Road 331, Tippecanoe, in an S-1, Suburban District, Section 24 of Tippecanoe Township. The seventh item of business, case 05-BZA-07, Marshall County Health Department, A request for a Variance of Development Standard to reduce the rear yard setback from one hundred seventeen feet (117') to thirty-eight feet (38') and to reduce the North side yard setback from one hundred seventeen feet (117') to fifty feet (50') in order to construct a Communication Tower on property located at 18327 State Road 331, Tippecanoe in an S-1, Suburban District, Section 24 of Tippecanoe Township. Mr. John Grolich, County Coroner, was present to represent the request.

Mr. Kiefer stated that he had received a letter from Mr. James Bates, Jr., Tippecanoe Township Trustee, asking that the matter be tabled until contractual matters had been taken care of between the Township and the County. Mr. Grolich stated that he had promised a contract, but when he found out he had to apply for the variances' he decided to wait until they had received approval before moving forward with the contract. Mr. Davenport stated that since this case was similar he would like to open public hearing.

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

- Mike Irons, 3801 17th Road, spoke in favor of the request. He stated that he has been a fireman for 28 years. He stated that he talked to Mr. Bates, who stated that once he received the contract he would approve it. He stated that he agreed with Mr. Grolich that the approval should come before the contract.

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There was no one else 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.

Mr. Davenport moved and Mr. Van Vactor seconded a motion to approve the request for a Variance of Use with the condition that the County have a signed contract with Tippecanoe Township. The motion passed with Mr. Flora, Mr. Van Vactor and Mr. Davenport voting in favor, and Mr. Ecker voting against.

Mr. Davenport moved and Mr. Van Vactor seconded a motion to approve the Variance of Development Standard with the condition that the County have a signed contract with Tippecanoe Township. The motion passed with Mr. Flora, Mr. Van Vactor and Mr. Davenport voting in favor, and Mr. Ecker voting against.

The eighth and ninth items of business, cases 05-BZA-08 & 05-BZA-09, G&S Corvette Restoration, A request for a Variance of Use to permit an Auto Sales and Restoration Shop, and a Variance of Development Standard to reduce the North front yard setback from fifty feet (50') to thirty six feet (36') in order to construct an addition to an existing Class #1 Structure on property located at 7809 Redwood Road, in an A-1, Agricultural District, Section 27 of West Township. Mr. Fred Jones, Attorney, was representing the request. Mr. Kiefer gave the details of the request and presented the Findings of Fact. He stated that the building was grandfathered into the ordinance, as a tool & die shop that has set empty for at least a year. He stated that there are a set of buildings on the property of limited use within the Agricultural district.

Mr. Jones stated that the current owners of the building, Mr. & Mrs. Sahlhoff, were present and in favor of the request. He stated that the sale of the building was contingent upon approval of the request; the buildings have been without use for more than a year. He stated that the proposed restoration business would be dealing with more mechanical work, rather than body work. He stated that the hours would be 8:00 a.m. to 6:00 p.m. The lighting would be directed towards the building and would have no adverse effect on the neighbors. The entire property would be fenced and the showroom would be lit internally. He stated that the prior use was light industrial and the new use would be for general business, a less severe use of the property.

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 either for or

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

Mr. Van Vactor asked about body work/painting done on the property. Mr. Jones stated that they do not have plans for more than 2 to 4 cars to be painted a year. Mr. Davenport asked if they would subcontract the painting, would they put a paint room in? Mr. Schultz stated they would follow state codes.

Mr. Ecker moved and Mr. Flora seconded a motion to approve request for a Variance of Use with the stipulation that if painting is done on the property, state codes would be followed. The motion passed by a unanimous vote of approval.

Mr. Davenport moved and Mr. Flora seconded a motion to approve the request for a Variance of Development Standard with a forty foot North front yard setback. The motion passed by a unanimous vote of approval.

The last item of business was the Violation Report. Mr. Kiefer stated that they would be going to court with Connie Miller later in the month. He stated that she has agreed to remove the mobile home. He stated that she is fighting to keep the dogs. He stated that Mr. Plummer on Nutmeg has agreed to remove his mobile home.

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