

Minutes of the April 12, 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 April 12, 2005, meeting of the Marshall County Board of Zoning Appeals at 7:30 p.m. Present were Board Members Foster Davenport, Gary Davis, Don Ecker, Robert Flora, Harold Van Vactor, Zoning Administrator, Troy Kiefer, Secretary, Leesa Kolter and interested parties.

The first item of business was the review of the minutes of the March 8, 2005 meeting. Mr. Ecker moved and Mr. Davis seconded a motion to approve the minutes with corrections. The motion passed by acclamation.

The second and third items of business, case 05-BZA-10, Cingular Wireless, A request for a Special Exception to permit a Communication Tower and case 05-BZA-12, A Variance of Development Standard to permit a Communication Tower to be constructed within the airspace of a private airstrip, in an A-1, Agricultural District, Section 24 of Union Township. Mr. James Buttonbaum, 201 N. Illinois Street, Indianapolis, IN, Mr. David Dickson, and Mr. Jeff Kellerman were present to represent the request. Mr. Kiefer reviewed the details and presented the Findings of Fact. He stated that the Plan Commission forwarded the request with a favorable recommendation. He stated that there was a private airstrip to the South of the proposed tower, the tower would infringe upon the protected area of the airstrip. Proposed was a 250' self supporting tower within an 80' x 80' fenced compound.

Mr. Buttonbaum stated that the proposed site would allow cellular service to the County, other companies would be allowed to collocate on the tower. He stated that Mr. Thompson was present and had presented a letter in favor of the tower, although it would be infringing on his private airspace. Federal regulation does not recognize the private airspace. He stated that the tower site would also received FAA and FCC approval.

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

Mr. Flora asked what direction Mr. Thompson's airstrip ran. Mr. Buttonbaum stated that it ran North and South. Mr. Thompson concurred. Mr. Flora asked how in line the tower would be with the airstrip. Mr. Thompson stated that it would be three hundred feet. Mr. Flora asked how long the run way was; does he use all of it? Mr. Thompson stated two thousand feet, he used most of it. He stated that the only baring would be if someone was making a right hand pattern to land to the South. Mr. Flora asked who used the landing strip. Mr. Thompson stated that he was the only one to use it.

Mr. Flora asked if the tower was to be lit? Mr. Buttonbaum stated that typically they receive permission for a strobe during the day and a red beacon at night. Mr. Flora asked if Mr. Thompson thought that it would inhibit him? Mr. Thompson stated that it would not.

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

Mr. Ecker moved and Mr. Davis seconded a motion to approve the Variance of Development Standard. The motion passed by a unanimous vote of approval.

The fourth item of business, case 05-BZA-11, Ernest Miller, A request for a Variance of Use to permit a Stove Manufacturing and Warehouse Facility on property located at 2570 Beech Road, in an A-1, Agricultural District, Section 33 of German Township. Mr. Miller was present to represent the request. Mr. Kiefer reviewed the details and presented the Findings of Fact. He stated that the applicant has stated that the business was primarily retail and has been at the current location for fifteen years. The proposal would be for the addition of a 50' x 104' building with places for loading docks and warehouse. Mr. Kiefer stated that he would question, deliveries and the ability to accommodate trucks on the property safely.

Mr. Miller stated that the new shop would line up with the current barn. The fall and winter is the busiest time of the year, with one to two trucks a week. He

stated that he would like for the trucks to be able to back up to the dock to be unloaded.

Mr. Ecker asked what type of stoves they make. Mr. Miller stated that they were experimenting with coal stoves, they do not manufacture on the property. Mr. Flora asked if they would anticipate manufacturing in the future. Mr. Miller stated that it would take a lot of equipment, he would propose another manufacturer making the product for him to sell. He stated that they have evolved from selling coal to selling stoves. Mr. Flora asked if they manufacture the stove boards. Mr. Miller stated that half of the new building would be for the manufacturing of stove boards, the current building would be for retail.

Mr. Ecker asked if he had received a variance in the past for the current operation. Mr. Miller stated that he had not. Mr. Davenport asked if the deliveries came by semi. Mr. Miller stated that occasionally they would. He stated that they received a lot of deliveries by ABS, which have pup trucks. Mr. Davenport stated that at only 77' off the road, they would have to back in from the road. Mr. Miller stated that they would not be backing off of the road, they could come in front of the new shop and back into the dock. Mr. Davenport asked if 77' would give enough room. Mr. Miller stated that he had asked a truck driver and he stated that as long as he had fifty five foot.

Mr. Eckert, of Lapaz, stated that 70' would be a very common size for a sleeper truck combination. Mr. Flora stated that 77' would be cutting it close. He asked Mr. Eckert what would be adequate for a complete horseshoe drive. Mr. Eckert stated that 80' would be adequate. Mr. Miller asked if that would be from the edge of the road as opposed to the center.

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

Mr. Ecker moved and Mr. Van Vactor seconded a motion to approve the request with conditions: the proposed building be constructed with a one hundred foot setback from the Right-of-Way, limited to one addition employee that is not family. The motion passed by a unanimous vote of approval.

Mr. Kiefer stated that currently the operation is manageable, but any further expansion would need to come before the board for consideration, even to

change the use for the interior of the building. Mr. Miller stated that he understood.

The last item of business was the violation report. Mr. Kiefer stated that representative; Roger Eckert, Town Council President, 206 Walnut St, Donna Listenberger, Town Council, 202 Randolph St, Jane Harris, Clerk Treasure, 105 Walnut St, from Lapaz were present to give a report on violations within Lapaz Town limits. Mr. Kiefer read into the record, a letter to Roger Leed from Attorney Ken Lukenbill, stating that the County was ready to file Court action. He stated that there has been an ongoing violation by Mr. Leed.

Mr. Eckert stated that they do appreciate the letter going to Mr. Leed. He stated that Mr. Leed has three other properties with violations. He stated that previously Mr. Leed has received letters and he moves contamination from one property to another in order to comply. Mr. Eckert stated that they have received correspondence in concern of the constant violations. He presented pictures of Mr. Leed's properties and other properties which are in violation. He stated that Mr. Leed is also polluting properties which do not belong to him.

Mr. Kiefer stated that he would speak to Mr. Lukenbill, they would prepare paperwork that would include all addresses of Mr. Leeds' for Court action. He stated that he would also prepare a letter to the Barclay Co., that they are in violation and will need to clean up their property. He stated that he would present Lapaz with copies of all correspondence and Court action.

Mr. Kiefer presented an Annual Report for 2004.

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