

Minutes of the April 11, 2006  
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 11, 2006 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, Ralph Booker, Secretary, Leesa Kolter and interested parties.

The first item of business was the review of the minutes of the March 14, 2006 meeting. Mr. Ecker moved and Mr. Flora seconded a motion to approve the minutes with correction. The motion passed by acclamation.

Mr. Davenport stated that he would like to deviate from the agenda. The board had some business that it would like to take care of regarding the Reddinger Appeal. Mr. Davenport read the Official Petition for Appeal into the record as well as the official description for the property. Mr. Davenport stated that there would be a hearing for the appeal on April 25, 2006 at 7:00 p.m, Room #203. He stated that the board would be following the Rules and Procedures with specific time allotments for each person to speak. He stated that there would be no public hearing opened during the meeting.

Mr. Lukenbill stated that the rules depict that the matter would need to be handled within 60 days of filing. He stated that by his and Mr. Booker's calculations that would be by May 2, 2006.

Mr. Davenport moved and Mr. Davis seconded a motion to hold a Special Meeting on Tuesday, April 25, 2006 at 7:00 p.m. regarding the Reddinger Appeal. The motion passed by acclamation.

The second item of business was case, 06-BZA-10, Larry & Marilyn Albert, A request for a Special Exception to allow the previously approved mobile home to stay after the death of their mother, so that their disabled sister could live there, located at 11820 1<sup>st</sup> B Road Trail, in an A-1, Agricultural District, North Township. Mr. & Mrs. Albert were present to represent the request. Mr. Booker gave the details and presented the Findings of Fact for the request.

Mrs. Albert stated that her mother had passed away in February and they thought that it would be a good opportunity for their disabled sister to be able to live on her own, yet have someone close by to help out with her care. She stated that her mother also had wanted to pass on her home to the sister so that she would be able to live on her own.

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 for or against the request. Mr. Ecker moved and Mr. Davis 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 a unanimous vote of approval.

The third item of business, case 06-BZA-11, Lawrence & Mary Ann McGwin, A request for a Variance of Use to allow the sale of bagged fertilizers, soil conditioners and possibly loose manures, humus sources and retail sales in their barn and milk house on property located at 20878 1<sup>st</sup> Road, in a A-1, Agricultural District, Polk Township. Mr. & Mrs. McGwin were present to represent the request. Mr. Booker reviewed the details and presented the Findings of Fact.

Mrs. McGwin stated that she was looking for a small business venture to help her raise a little extra money and allow her to be home to watch her grandchildren. She stated that the area was already busy, because they were approximately one mile from Walkerton and because of the apartment buildings. She stated that her interest in this type of business started, when the man who would order her supplies retired.

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

- Mildred Daniels, 759 Ule Trail, spoke in favor of the request.

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

Mr. Flora asked how close the closest neighbor would be to the South. Mrs. McGwin stated that the lady across the street would be the closest. She stated that she had not talked to that neighbor.

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

The fourth item of business, case 06-BZA-12, Albert & Mary Kuhns, A request for a Variance of Use to permit a storage building to be turned into a salvage food store on property located at 1800 5<sup>th</sup> Road, in an A-1, Agricultural District, of German Township. Mr. & Mrs. Kuhns were present to represent the request. Mr. Booker reviewed the details and presented the Findings of Fact. He stated that Mr. & Mrs. Kuhns had applied for a building permit in May of 2005 and now wished to turn the building into a salvage food store.

Mr. Davenport asked if they would expect this store to do the same amount of business as RenTown. Mr. Kuhns stated that it would be different, but did not know the volume. Mr. Flora asked if they would be looking to expand to the type of business as Bailey's. Mrs. Kuhns stated that it would just be salvaged foods; they would be getting the supplies from Ft. Wayne. All of the food would be non-perishable, in cans and boxes.

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

- Lyle Slaybaugh, stated that he was in favor of the request. He stated that he and several others from the audience were there to support the request. He stated that they have large families to feed and the store would be beneficial to them.

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

Mr. Davenport asked if they would have deliveries by semi and if they would be able to accommodate a semi on the property. Mr. Kuhns stated that they had a parking

lot that would accommodate the deliveries. Mr. Flora asked if they had been in contact with the Health Department, and would they need a restroom. Mrs. Kuhns stated that they had been approved by the Health Department and would not need to have a restroom without employees.

Mr. Davis moved and Mr. Van Vactor seconded a motion to approve the request with the condition that if it were to get any larger or require employees they would need to come in to get approval from the board. The motion passed by a unanimous vote of approval.

The fifth item of business was case, 06-BZA-13, Mark Hochstetler, A request for a Variance of Development Standard to reduce the North side yard setback from fifteen feet (15') to five feet (5') in order to construct an accessory structure on property located at 5250 East County Line Road, in an A-1, Agricultural District, in German Township. Mr. Hochstetler was present to represent the request. Mr. Booker gave the details and presented the Findings of Fact. He stated that when he went to the site to take pictures, he found that the barn was already going up in the proposed location.

Mr. Hostetler stated that he had purchased the property to the north; he now owned an additional 135' of property to the north. He stated that he needed the variance because the bank discouraged him to combine the deeds until all of the property was paid for. He stated that the contractor came to put up the building, and since he owned the additional land he allowed him to start construction.

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

Mr. Flora moved and Mr. Davis seconded a motion to approve the request with the condition that in the future the deeds be combined commensurate to building on the property. The motion passed by unanimous vote of approval.

The sixth item of business was case, 06-BZA-14, Marshall County REMC, A request for a Special Exception to permit an Electric Sub-station to be located on King Road, in an A-1, Agricultural District in Center Township. Mr. Wally Sommerset and Mr. John Vialard of REMC were present to represent the request. Mr. Booker gave the details of the request and presented the Findings of Fact.

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Mr. Flora asked how far from the road the sub-station would be constructed. Mr. Sommerset stated that the sub-station had not been designed yet, but it would be at least 50', with enough room for a truck to get in and turn around.

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. Ecker moved and Mr. Davis 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 next item of business was the Violation Report. Mr. Booker presented a written report for the board. He stated that Mr. Plummer's case had been dismissed in Court and would no longer be on the report. He stated that Mr. White was required to remove a few items from his property and his case would be dismissed as well.

The last item of business was Other Business. Mr. Booker stated that Mrs. Kolter had given her notice of resignation as part time secretary for the Plan Commission. He had received permission from the County Council to have Lori Lowry continue as secretary for the Plan Commission/Drainage Board.

Mr. Booker stated that he would be conducting Public Hearings for the Zoning Ordinances in Bremen on April 18, 2006 and in Culver on May 4, 2006.

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

Respectfully submitted,

Gary Davis  
Secretary