

Minutes of the January 12, 2010
Regular Meeting of the
Marshall County Board of Zoning Appeals
112 W. Jefferson St. Room 203
Plymouth, IN 46563

MINUTES

President, Don Ecker, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, January 12, 2010 in Room 203 of the Marshall County Building. Present were: Commission Members Don Ecker, Gary Davis, Deb Griewank, Bob Flora and Foster Davenport, Plan Director Ralph Booker, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes of the November 10, 2009 meeting. Mrs. Griewank moved and Mr. Davenport seconded the motion to approve the minutes as written. Motion carried.

The second item of business was the 2010 Re-organization of the Board of Zoning Appeals.

Mr. Davenport made a motion to retain all current office holders, seconded by Mrs. Griewank. Mr. Flora moved that nominations be closed, seconded by Mrs. Griewank. The 2010 Marshall County Board of Zoning Appeals office holders are Don Ecker, President, Bob Flora, Vice-President, and Deb Griewank, Secretary.

The 2010 Board of Zoning Appeals calendar was presented to the board for their approval. Mrs. Griewank made a motion to approve the 2010 BZA meeting calendar, seconded by Mr. Davis. Motion carried.

The third item of business was 10-BZA-01 DUNN, John – A Variance of Development Standard to reduce the minimum lot width and create a new parcel. Parcel 50-42-06-000-003-000-009, North Twsp., Zoned A-1. The applicant has built a new building to be converted to living quarters. He wishes to create a separate parcel since we do not allow two (2) residents on the same parcel. To accomplish this we need to reduce the width at the building line for the new parcel and the remaining parcel. The applicant built a pole building with sanitary facilities to be used as place to use for entertainment. Upon inspection by the building inspector, it was determined this was built as a residence or dwelling unit. It did have a problem with the egress and ingress windows which did not meet code. The applicant is changing the windows in the

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bedrooms. Our definition of a dwelling unit is a building which contains sleeping quarters, cooking facilities and sanitary facilities. The applicant wants to use this as a dwelling unit.

The applicant stated that the inspector has required that a proper egress window be installed on the dwelling side of the building and they have complied with this request. Along with this window change they are required to put up a firewall between the garage portion and the house portion. They are currently in the process of putting it up.

While the applicants own this property they will use the existing driveway. However, for planning purposes that is why the 50' strip was created.

Their plan is to split the property so the parcel with the house has one acre.

Mr. Davis moved and Mrs. Griewank seconded the motion to open for public hearing. Motion carried. There being no one to speak for or against Mrs. Griewank moved and Mr. Flora seconded the motion to close the public hearing. Motion carried.

Mr. Davenport made a motion to approve the request to allow Variance of Development Standard to reduce the minimum lot width and create a new parcel with the assistance of the plan director on Parcel 50-42-06-000-003-000-009, North Twsp, seconded by Mr. Davis. Motion carried with a voice vote 5-0.

The fourth item of business was 10-BZA-02 YAKAS, Richard – A variance of Use to allow a holding area for recycling on parcel # 50-23-10-000-016-000-015, Walnut Twsp., Zoned A -1. The applicant is requesting the variance of use to operate a scrap metal/recycling holding business in an A-1 District. The applicant wishes to conduct a scrap metal and other recycling holding area on this property. He is presently in violation. He is cleaning up the area and has made some progress (still not finished). He would like to take this property and use it to bring in material and prepare it to be recycled. He is proposing to build a pole building and contain all the activity in it. He would not have any employees outside of the immediate family.

The applicants plan is to build a solid wood fence to hide his material behind it and then store the remainder in the pole building.

The board asked if they burn tires. They said “no”. He turns them in and even has a receipt for them.

The scrapping is a side job. It is only him and sometimes his wife.

Mrs. Griewank moved and Mr. Flora seconded the motion to open for public hearing. The motion passed by acclamation.

- Robert Eley – Sent a letter in opposition. Does not like the visual pollution or the burning smells.

Mrs. Griewank moved and Mr. Flora seconded the motion to close the public hearing. The motion carried.

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Mr. Ecker told the applicant that in order to do our job he needs to keep his word and keep this cleaned up and the more that is kept in the building, the better things will be.

The applicant said that he plans to have the building built by June 1st and it will also have a crushed concrete floor.

Mr. Ecker moved to approve the request to allow a variance of Use to allow a holding area for recycling on parcel # 50-23-10-000-016-000-015, Walnut Twsp., with the following restrictions: no employees beyond family, no refrigerators, no tires, no burning of recycling, whatever cannot be kept inside the building is to be kept behind the fence, keep the property cleaned up and the building built by June 1st 2010, seconded by Mrs. Griewank. Motion carried 5-0 by a voice vote.

The fifth item of business was 10-BZA-03 HELTON, Greg – A Request for Special Use for home workshop to allow light manufacturing of sinks. Parcel # 50-24-31-000-011-000-012, Tippecanoe Twsp., Zoned A-1. The applicant wants to have a Home Workshop to fabricate countertops. The applicant has been fabricating countertops in an old rundown barn located on this property and is in violation of the zoning ordinance. Mr. Helton has been buying the property on land contract from Mr. Tackett. There is presently a dispute between both these properties which was taken to Circuit Court. This was decided with Cause No. 50-C01-0906-PL-26 in favor to Mr. Helton. Mr. Tackett is permanently not allowed on the property. He also must give Mr. Helton the deed to the property upon payment of \$32,600. Thus any zoning action on this property will now be directed to Mr. Helton.

The applicant stated that his countertop production is very minimal at this point. It is part time, but would like to make it full time if and when the need rises. The building is currently heated by a salamander. The board had serious concerns about the chemicals haphazardly stored and also the temporary heating with the flammable chemicals.

Under the current conditions the building is not approved as a class #1 structure. Before any outside employees would be allowed this building would need to be state approved as per the Marshall County Building Inspector.

As far as burning Mr. Helton stated that he only burns paper products on the areas that there had already been burn piles.

Mr. Flora asked the applicant if he had legal title to the property. Mr. Helton said, “the judge has ordered me legal possession of the property.” Because the final amount has not been paid it was understood that Mr. Helton does not have legal title to the property, but rather possession.

The board’s concern was to have a home based business there must be a residence. Mr. Helton plans to have a residence, but has several hurdles before that can be done. At this time the two trailer halves are trying to be sold and if they don’t sell there is someone that would take them to scrap.

Mr. Davenport moved and Mr. Flora seconded the motion to open for public hearing. Motion carried.

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- Mr. Tackett – Is a neighboring property owner against the request of the applicant as he believes he is burning things other than paper.
- Sam Kristner – Lives near this property and believes the two uncovered trailers are unsightly and doesn't like the bad smoke smell.

There being no one else to speak Mr. Davenport moved and Mrs. Griewank seconded the motion to close the public hearing. Motion carried.

After a discussion Mr. Davenport moved to deny the request as he does not have clear title to the property, seconded by Mr. Flora. Motion carried with a voice vote 5-0.

Violations:

Granning – Has accumulated cars and junk on property. Sent a violation notice and have received a return call that they will start to clean up the property.

Cochran – Sent a violation letter in regards to junk on the property.

Dan Sharp – Came in before the BZA several years ago about a request for a landscaping business. Was turned down at that time. After a complaint the site was investigated and a letter was sent to the Sharps requesting that they come back before the board.

Paeye – Will work at cleaning up the property. Ralph was directed by the board to have her clean up the property by February 9th.

Hass – He is still making improvements.

Tackett – If Mr. Helton continues to make countertops the board has directed Mr. Booker to turn this over to the attorney.

Eckard – He has exhausted the 90 days to clean up the property. The board recommended that this case be turned over to the attorney.

Samarich – They wanted to attach a single wide to a double wide and was not in compliance. Is in the process of litigation with the seller.

Bellman – Neighbors are complaining of smoke. Could not see any signs of burning.

Pfeiffer – Has a cargo container that needs to be removed.

Cox – They are in the process of removing the trailer. They are to remove the trailer by February 1st.

Scott – They are staying in an RV. They have been advised that they cannot stay in it longer than 8 weeks.

The 2009 Annual Report of the Marshall County Plan Commission and BZA were passed out to the board members.

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

Respectfully submitted,

Deb Griewank