

September 12, 2023  
Regular Meeting of the  
Marshall County Board of Zoning Appeals  
112 W. Jefferson St. Room 203  
Plymouth, IN 46563

## MINUTES

President, Jeff Gustafson, called the Marshall County Board of Zoning Appeals meeting to order at 7:30 p.m. on Tuesday, September 12, 2023, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, and Jim Kephart. Also present was Ty Adley Plan Director, Lori Lowry and interested parties. Member absent was Matt Miller.

Mr. Hostetler made a motion to approve the minutes from the August 8, 2023, Board of Zoning Appeals meeting as presented, seconded by Mr. Bennett. Motion carried by acclamation.

The first item of business was 23-BZA-28 MCCARTNEY, Ronnie - A request by Lirije Asani for a Variance of Developmental Standard to allow a north side yard setback reduction from the required 20' to 5' to allow a 12'x24' portable storage shed for storage of dry goods; located at: 2083 S. Michigan Rd. Plymouth, IN North Twsp., Zoned C-2. Mr. Ronnie McCartney 2083 Michigan Rd. Lapaz and Lirije Asani 2037 Michigan Rd. Lapaz were present to represent their request. Mr. Adley presented the findings of fact.

The applicant wants to place (has already placed) a prebuilt shed on the property. The placement of the shed is to be no less than 5' from the side property line. Ms. Asani operates the restaurant and is in need of additional storage. The subject property and the property are owned by Ronnie R McCartney, whom has no objection to the proposal during his attendance at a recent TRC meeting. The ordinance calls for a 20' setback on all side property lines and due to the odd shape and location of an existing parking island, the desired location of the shed would not meet the setback requirements.

Mr. McCartney explained that his tenant needs the space for storage, and she's placed it in the most practical location. Mr. McCartney owns both properties and he has no problem with the location of the shed.

Mr. Hostetler made a motion to open for public hearing, seconded by Mr. Bennett. Motion carried by acclamation.

1. Ronnie McCartney – Is in agreement with the placement of the building.

Mr. Hostetler moved to close the public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

**Mr. Hostetler made a motion to approve 23-BZA-28 MCCARTNEY, Ronnie - A request by Lirije Asani for a Variance of Developmental Standard to allow a north side yard setback reduction**

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**from the required 20' to 5' to allow a 12'x24' portable storage shed for storage of dry goods; located at: 2083 S. Michigan Rd. Plymouth, IN North Twsp., Zoned C-2, seconded by Mr. Kephart. Motion carried with a voice vote 4-0.**

The second item of business was 23-BZA-29 JOHNSTON, Sarah - A request for a Variance of Developmental Standard to reduce the right of way setback from the required 50' to 32' in order build a 8'x36' open porch; located at: 16732 18B Rd., Culver, IN Union Twsp., Zoned A-1. Ms. Sara Johnson 16732 18B Rd Culver and Josh Ramer 13583 Ironwood Rd. Argos of R Legacy Construction were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to add on an open porch to the front yard side of the residence. The applicant has 2 front yards, one on 18B Road and the other on Queen Road. The proposal is to add a 8x36' open porch that would not be any closer to 18B Road. The porch would be 32' from the ROW rather than the required 50'. The southern portion of the house is perched on a hill that overlooks the roadway that is 14' different than the centerline of the intersection.

Mr. Hostetler made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation. There being nobody to speak for or against Mr. Hostetler moved and Mr. Kephart seconded the motion to close the public hearing. Motion carried by acclamation.

**Mr. Kephart made a motion to approve 23-BZA-29 JOHNSTON, Sarah - A request for a Variance of Developmental Standard to reduce the right of way setback from the required 50' to 32' in order build a 8'x36' open porch; located at: 16732 18B Rd., Culver, IN Union Twsp., Zoned A-1, seconded by Mr. Bennett. Motion carried with a voice vote 4-0.**

The third item of business was 23-BZA-30 JONES, Michael - A request for a Variance of Developmental Standard to reduce the right of way setback from the required 60' to 50' in order to build a 35'x10' deck on the front of the house; located at: 6053 4th Rd., Bremen, IN German Twsp., Zoned A-1. Michael Jones of 6053 4<sup>th</sup> Rd. Bremen was present to represent his request. Mr. Adley presented the findings of fact.

The applicant wants to(and has partially completed) enlarge the front deck to create a more useable space. The proposed deck is 35x10'. The deck is going to be 50' away from the ROW line rather than 60'. The construction will be in line with the structures to the east and west.

Mr. Hostetler made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation. There being nobody to speak for or against Mr. Bennett moved and Mr. Kephart seconded the motion to close the public hearing. Motion carried by acclamation.

**Mr. Kephart made a motion to approve 23-BZA-30 JONES, Michael - A request for a Variance of Developmental Standard to reduce the right of way setback from the required 60' to 50' in order to build a 35'x10' deck on the front of the house; located at: 6053 4th Rd., Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Hostetler. Motion carried with a voice vote 4-0.**

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The fourth item of business was 23-BZA-31 CUNNINGHAM, Albert & Susan - A request by Raymond Dillon for a Variance of Developmental Standard to allow a secondary before a primary, reduce the front yard setback from the required 30' to 17.2' and a rear yard setback reduction from the required 20' to 7.5' to allow a 50'x30' storage building; located at: 3510 Lakeshore Dr. Bremen, IN Zoned L-1. Ray & Rose Dillon of 63364 SR 23 North Liberty and Troy Hanyzewski 3768 W. Shore Dr. Bremen PT Builders were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a secondary structure before having a primary and two setback reductions. The structure would allow the applicant to store their belongings including rv and boat storage. The preferred design of the building would have the structure fronting the west property line along Lakeshore Drive for security purposes. The applicant has recently purchased a vacant lot to the north and on the lakeside of the road. The other reason for coming off of Lakeshore Drive is so that they can preserve to full grown trees along Bell Street. The western setback Lakeshore is proposed to be reduced from 30' to 12.2' and the rear setback (east) from 20' to 7.5'.

The Dillon's are in the process of purchasing 3510 Lakeshore Dr. along with the parcel to the south that has a garage. The current plans are to keep the existing garage as is and add the new 50x30' building. While waiting for approval groundwork has started removing old concrete that was there from a previous foundation. The reason for the placement is to give better visibility of the building's doors from the proposed new home and he would also like to keep the trees.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

1. Troy Hanyzewski      3768 W. Shore Dr. Bremen      Is in favor of the proposed as he believes it will improve the area. When asked if the building could be turned and he agreed that it could be, but this site plan will work best for him and will allow him to back his motor home in more effectively.
2. Frank Sabahar      3521 Lakeshore Dr. Bremen      Lives across the street from the proposed building. Previous to Mr. Dillon purchasing the property the property was not kept up and was an eyesore.

Mr. Hostetler moved and Mr. Kephart seconded the motion to close the public hearing. Motion carried by acclamation.

**Mr. Hostetler made a motion to approve 23-BZA-31 CUNNINGHAM, Albert & Susan - A request by Raymond Dillon for a Variance of Developmental Standard to allow a secondary before a primary, reduce the front yard setback from the required 30' to 17.2' and a rear yard setback reduction from the required 20' to 7.5' to allow a 50'x30' storage building; located at: 3510 Lakeshore Dr. Bremen, IN Zoned L-1, seconded by Mr. Kephart. Motion carried with a voice vote 4-0.**

The fifth item of business was 23-BZA-32 DILLON, Raymond - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 30' to 20' and a rear

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yard setback reduction from the required 45' from BFE to 19' from lot line to build a new home; located at: 3513 Lakeshore Dr. Bremen (Lot 32&33), Zoned L-1. Ray & Rose Dillon of 63364 SR 23 North Liberty and Troy Hanyzewski 3768 W. Shore Dr. Bremen PT Builders were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a new residence on a pair of lots that is being replatted into a singular lot. The proposed construction would be located 20' from the right of way line rather than the required 30'. The required setback of 45' from BFE is proposed to be reduced from 19' from property line. The front yard setback is proposed to be reduced slightly more than the average front setback from nearby structures which range from 0' to more than 60'. The lake side setback for many nearby property lines begin at the BFE which is typically at or near the water's edge, but the subject property is different in that it is greater than 10' inland from the shore. The reason to take the setback from the property line rather than BFE is at the recommendation of staff due to the ongoing discussion with the state for clarification on the proper location of the BFE. Pending decision of the BZA, the main attribute held by the state would be the location of the BFE which will make an impact on the FPG (2' above BFE) in whether or not it will raise the height of the building. The setback reduction to the front is reduced in impact by having a side entry garage. The rear yard setback is approximate to the location of adjoining residences, but may stick out slightly further. The matters for the BZA are the setback reduction to front yard and rear yard. The BFE and associated FPG will be matters for the state.

If the Dillons aren't able to move the residence out of the flood plain they will have to build 2' above BFE. Their proposed house is in line with the houses on both sides of them on the lakeside. On the roadside the neighbors houses are much closer to the road. Their plans are to be 20' from the road.

Mr. Hostetler made a motion to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

1. Frank Sabahar                      3521 Lakeshore Dr. Bremen                      Lives next to this vacant lot for 15 years and is favor of the proposed new house. They've already made improvements by cleaning it up and mowing. This will be a beautiful improvement to the neighborhood.

Mr. Hochstetler made a motion to close the public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

**Mr. Bennett made a motion to approve 23-BZA-32 DILLON, Raymond - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 30' to 20' and a rear yard setback reduction from the required 45' from BFE to 19' from lot line to build a new home; located at: 3513 Lakeshore Dr. Bremen (Lot 32&33), Zoned L-1, seconded by Mr. Kephart. Motion carried with a voice vote 4-0.**

The sixth item of business was 23-BZA-33 BOSE, Julie - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 30' to 3.8', the rear yard setback from the required 45' from BFE to 19.2' from the lot line, side yard setback from the required 5' to 3.5' and a reduction in lot coverage from the required 45% to 67%; located at: 3843 Lakeshore Dr. Bremen, IN Zoned L-1. Dennis and Debra Mitchell 24115 Walden Lane Crete IL, Troy Hanyzewski of

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3768 W. Shore Dr. Bremen and Dan Sellers Plymouth, IN was present to represent the request. Mr. Adley presented the findings of fact.

The applicant is proposing to tear down the existing residence and detached garage in order to construct a new residence. The proposed residence is seeking to reduce the front, rear and side setback along with increasing the amount of impervious coverage from 45% to 67%. The proposed front yard setback reduction from 30' to 3.8' would leave 15' from edge of structure to edge of road. This would be approximately the same distance as the adjacent residence but would not be able to park more than one car off the road. The side yard setback is proposed to be reduced from 5' to 3.5' on both sides. The setback reduction would only leave approximately 5' between the new structure and adjoining detached garage. The rear yard setback is required to be 45' from BFE, but is proposed to be 19.2' from property line. The lake side setback for many nearby property lines begins at the BFE which is typically at or near the water's edge, but the subject property is different that it is a few feet inland from the shore. The reason to take the setback from the property line rather than BFE is at the recommendation of staff due to the ongoing discussion with the state for clarification on the proper location of the BFE. Pending decision of the BZA, the main attribute held by the state would be the location of the BFE which will make an impact on the FPG (2' above BFE) in whether or not it will raise the height of the building. The rear yard setback reduction would keep the proposed residence in line with the adjacent residence so that neither sticks out past the other. The impervious coverage is proposed to be increased from the required 45% to 67%.

The plan director clarified that the front yard is considered roadside, and the applicants are proposing 8.8' from the right of way which is the same as 20' from the roadway.

In 2022 Mitchell's came before the board for setback variances but didn't move forward with the project at that time. The new house will be 28' wide and the lot is 35' wide which will give them a 3.5' on each side. Currently the existing garage is 1' from the neighbors. The new house will be further from the neighbors. The proposal is 3.8' from the ROW or the same as 15' from edge of structure to road. Staff recommended 8.8' from the ROW or the same as 20' from the road.

Mr. Hanyzewski said he would like to stay in line with the neighbor's garage so they don't obstruct any views on the lakeside.

When discussing parking the applicants said that there hasn't ever been room for parking. Across the street there is an empty lot that they and others use for parking.

When discussing the easement that is adjacent to the Bose property Mr. Adly explained that this subdivision has only had one parcel for lake access which is known as Frank Washnocks Addition. The lot adjacent to that is owned by Marshall County not Frank Washnocks Addition.

The BFE is getting worked out with the state and a LOMA has been applied for. The reason for this proposal is that it is a predetermined location. If that floodplain line ends up inside the house they will have to raise the house. If the floodplain line ends up between the house and the lake within the 19.2 feet they don't have to raise the house and can build it as intended.

For the side yards they are requesting to fall under the 10'/10% instead of the minimum 5' rule.

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Mr. Bennett moved to open for public hearing, seconded by Mr. Kephart. Motion carried by acclamation.

1. Troy Hanyzewski        Speaks in favor of the request. They currently have a house and garage on the property. They are basically building over the same footprint and the lakeside and roadside will be in line with the neighbors. The only real change is that they will have a 2 story now.
2. Mr. Sellers                Stated if they have to move the house further from the neighbors it could cause them to have to remove a tree on the lake access.
3. Could not hear name    Was at the meeting to represent her mother who lives at 8403 Dart Street. Thinks they are overbuilding on the lot. Also doesn't believe they should move the house over to the easement. That easement has been used by many people for years. Here they are trying to take a single dwelling house and make it a multi dwelling house and maybe it's time they look at finding a larger lot if they want to build this big of a house. There is zoning in place for a reason. This isn't just a small zoning request it's a very big one. There's little to no parking. People already use the easement for parking. Plus, there's talk about tearing the trees down. It's not their trees to remove.
4. Mildred Sullivan        8403 Dart St. Bremen She opposes the requested variance as she believes they are way overbuilding for the lot. Enjoys the area and the easement to the lake. Also opposes any tree removal on the easement.

Mr. Kephart moved and Mr. Hostetler seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Adley clarified to the board that the applicant's proposal is that they are either reducing or staying in the same footprint.

When asked if they could put a second story on the existing house; the applicants said that the existing house couldn't support a second story.

The plan for the trees on the lake access lot are to leave the two trees closest to the water and remove the tree that is closest to their existing home. A couple neighboring property owners have said they would like it removed.

**Mr. Hostetler made a motion to approve 23-BZA-33 BOSE, Julie - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 30' to 3.8', the rear yard setback from the required 45' from BFE to 19.2' from the lot line, side yard setback from the required 5' to 3.5' and a reduction in lot coverage from the required 45% to 67%; located at: 3843 Lakeshore Dr. Bremen, IN Zoned L-1, seconded by Mr. Kephart. Motion carried with a voice vote 3-1.**

The seventh item of business was 23-BZA-34 SHERMAN, Dennis & Cindy - A request for a Variance of Developmental Standard to allow a front yard setback reduction from the required 30' to 10.4' in order to build a new house; located at 3649 Lakeshore Dr. Bremen, IN Zoned L-1. Dennis & Cindy

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Sherman 21711 SR 4 Lakeville and Bernie Feeney of Whiteman & Associates 1405 N. Michigan St. Plymouth were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a new residence on the property that was recently replated. The proposed structure is offset to the east due to the setback pushing into the subject property. The proposed setback reduction is in line with the detached garages of the adjacent properties and will be 20.2' from the roadway.

The plan is to move the residence off the property and rebuild a 2 story home with a crawl space on the lot that has recently been replatted from three parcels to one. They are not asking for any side yard or lakeside variances. The only variance under consideration is the front/roadside variance from 30' to 10.4 from the property line which would allow a distance of 20.2' from the road to the front of the garage. This house will sit back off the water and will not impede the view from either the north or south. The LOMA from FEMA has not been applied for yet. Currently FEMA and DNR are not agreeing on the number that is to be used for the flood elevation at Lake of the Woods in Bremen. The plan will be to use FEMA's numbers and as long as this variance is approved the LOMA will be submitted soon after the meeting.

Mr. Hostetler moved and Mr. Kephart seconded the motion to open for public hearing. Motion carried by acclamation. There being nobody to speak for or against Mr. Hostetler moved and Mr. Kephart seconded the motion to close the public hearing. Motion carried by acclamation.

**Mr. Hostetler move to approve 23-BZA-34 SHERMAN, Dennis & Cindy - A request for a Variance of Developmental Standard to allow a front yard setback reduction from the required 30' to 10.4' in order to build a new house; located at 3649 Lakeshore Dr. Bremen, IN Zoned L-1, seconded by Mr. Kephart. Motion carried with a voice vote 4-0.**

With no further business to come before the board the meeting was adjourned. Motion carried.

Respectfully submitted,

David Hostetler