

April 9, 2024
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 7:00 p.m. on Tuesday, April 9, 2024, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, Matt Miller and Jim Kephart. Also present was Ty Adley Plan Director, Lori Lowry and interested parties.

Mr. Hostetler made a motion to approve the March 12, 2024, minutes, seconded by Mr. Bennett. Motion carried by acclamation.

The first item of business was 24-BZA-05 BEHRENS, Deitrick & Mary Ann - A request for a Variance of Developmental Standard to allow a roadside setback reduction from the required 30' to 23', a lakeside setback reduction from the required 45' to 23', a south side yard setback reduction from the required 5' to 3', a north side yard setback reduction from the required 5' to 4', and impervious coverage from the required 45% to 65% to allow a new residence; located at: 4095 Lakeshore Dr. Bremen, IN German Twsp. Zoned L-1. Mr. Deitrick Behrens of 29675 CR 22, Elkhart was present to represent his request. Mr. Adley presented the findings of fact.

RECOMMENDATION Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed variances with the exception of the side yard setback being retained at 5' in accordance with the setback regulation.

The applicant is seeking to allow a roadside setback reduction from the required 30' to 23', a lakeside setback reduction from the required 45' to 23', a south side yard setback reduction from the required 5' to 3', a north side yard setback reduction from the required 5' to 4', and impervious coverage from the required 45% to 65% to allow a new residence.

The goal is to tear down the structure and rebuild by centering it on the property while not any closer to the water, but ten feet closer to the road. The plan is to have a two-story home with a garage on the lower level and living space upstairs. Their proposal is for a deck on the first and second story and will not be enclosed or have a roof.

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

- | | |
|--|---------------------------------------|
| 1. Robert Steif 16434 Elm Ave Mishawaka | Lives on the north adjacent property |
| and is in favor of the proposed. | |
| 2. Connie Herman Houin 547 Ballantyne MI | Sent a letter and not in favor of the |

Marshall County Board of Zoning Appeals

4/9/2024

proposal due to blockage of lake view, reduction in property values, inability to build and maintain on their own property, and utilizing their vacant lot for parking due to roadside setback reduction.

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

Mr. Bennett made a motion to approve 24-BZA-05 BEHRENS, Deitrick & Mary Ann - A request for a Variance of Developmental Standard to allow the following reductions for a new residence:

1. Lakeside – from 45' to 23'
2. Roadside – from 30' to 23'
3. South side yard setback 5'
4. North side yard setback from the required 5' to 4'
5. Impervious coverage from the required 45% to 65%

located at: 4095 Lakeshore Dr. Bremen, IN German Twsp. Zoned L-1, seconded by Mr. Kepler. Motion carried with a voice vote of 4-0.

Mr. Miller present at the end of the first case.

The second item of business was 24-BZA-06 SCHWARTZ, Alvin & Laura - A request for a Variance of Developmental Standard to allow a reduction in front yard setback from the required 60' to 40' from the right of way to build a new house; located at: 9005 Jarrah Rd. Plymouth, IN Center Twsp., Zoned A-1. Mr. Alvin Schwartz was present to represent his request.

RECOMMENDATION Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend denial of the proposal unless a hardship can be proven.

The applicant is planning to demolish their existing house to make way for new construction. The location of the existing house is only approximately 16' from the ROW and 27' from the edge of road. Jarrah Road is considered a Collector level road and therefore has a front yard setback of 60'. The proposal is to move the new construction back further than what it is today, but not to the full 60'. There is a portion of the septic system in the middle of the driveway. In order to construct the house as desired, the applicant is seeking a reduction in front yard setback from the required 60' to 40' from the right of way.

The current well is located right behind the existing house. To be able to build a 36' house they have to stay away from the well 5'. The current house is 27' from the road and they would like to be 40' from the right of way.

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

Mr. Hochstetler made a motion to approve 24-BZA-06 SCHWARTZ, Alvin & Laura - A request for a Variance of Developmental Standard to allow a reduction in front yard setback from the required 60' to 40' from the right of way to build a new house; located at: 9005 Jarrah Rd. Plymouth, IN Center Twsp., Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

Marshall County Board of Zoning Appeals
4/9/2024

The third item of business was 24-BZA-07 RICO, Sergio - A request for a Variance of Developmental Standard to reduce the east side yard setback from the required 15' to 10' to allow an existing 14x14' shed; located at: 20898 US 6 Walkerton, Polk Twsp., Zoned A-1. Mr. Sergio Rico was present to represent his request. Mr. Adley presented the findings of fact.

RECOMMENDATION Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed setback reduction, but would like to get some clarification on the use of the structures.

The applicant applied for a building permit in 2019 but never received permit approval for construction due to needed septic information. While staff was working to close permits out it was discovered that the structure that met setbacks as identified in the permit was relocated to the side property line and did not meet setbacks. They are now seeking to get approval for the setback reduction from 15' to 10'. The structure is meant for cold storage. The structures on the Southeastern property line do need some clarification as to their use.

The applicant stated the 14x14' shed was an addition to an existing building to store yard equipment in. The existing building that has air conditioning was used by his son to lift weights in. It was not living space.

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

There has been some concern of the building being used as living space. The applicant agreed to allow the building official to go out and check the occupancy of the buildings.

Mr. Hostetler made a motion to approve 24-BZA-07 RICO, Sergio - A request for a Variance of Developmental Standard to reduce the east side yard setback from the required 15' to 10' to allow an existing 14x14' shed; located at: 20898 US 6 Walkerton, Polk Twsp., Zoned A-1 with the condition that the applicant allow the building official to verify the building is only being used for storage, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The fourth item of business was 24-BZA-08 TIBBS, Bryce & Katlin - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 60' from right away to 62' from the edge of road to add on the south side of the house; located at: 3590 King Rd., Bremen North Twsp., Zoned A-1. Bryce & Katlin Tibbs was present to represent their request. Mr. Adley presented the findings of fact.

RECOMMENDATION Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed setback reduction

The applicant is seeking to do a home addition on the south side of the house. The addition is 20x20' and would actually be setback 3' from the existing residence, making it more in compliance than the existing house. The proposal is to reduce the front yard setback from 60' from ROW to 62' from edge

Marshall County Board of Zoning Appeals

4/9/2024

of road. The rear of the property includes the septic system as topographic challenges.

The plan is to bring in the addition 3' further away from the road.

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

Mr. Hostetler made a motion to approve 24-BZA-08 TIBBS, Bryce & Katlin - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 60' from right away to 62' from the edge of road to add on the south side of the house; located at: 3590 King Rd., Bremen North Twsp., Zoned A-1, seconded by Mr. Bennett. Motion carried by acclamation.

The fifth item of business was 24-BZA-09 STONE, James & Sarah - A request for a Variance of Developmental Standard to allow a roadside setback reduction from the required 30' to 20'6" from right of way and an increase in maximum lot coverage from the required 30% to 35% to add a 16'x28' garage addition; located at: 14161 Lawrence Lake Dr. Plymouth, Center Twsp., Zoned L-1. Mr. James Stone was present to represent his request. Mr. Adley presented the findings of fact.

RECOMMENDATION Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed variances

The applicant is seeking to do a garage addition on an existing retaining wall that they are wanting to turn into an over under garage. They are also planning a deck widening which combined with the garage project is leading to the impervious coverage request. The garage is seeking to be in line with the rest of the garage and the lower portion would allow for storage for lake items. The applicant is proposing to allow a roadside setback reduction from the required 30' to 20'6" from right of way and a reduction in maximum lot coverage from the required 30% to 35% to add a 16'x28' garage addition. The two adjacent neighbors are both roughly 17-18' from the ROW line when the applicant is approximately 20' from the ROW line per GIS.

The proposed plan for the garage addition will be to not build any closer to the property line than the inside of the existing retaining wall. The current retaining wall will be replaced with a poured concrete retaining wall back in the same location.

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

1. Bob Dragani 14147 Lawrence Lake Dr. Asked if the proposed garage will be any closer than the existing retaining wall. Since the addition isn't outside the retaining wall Mr. Dragani didn't have any objections.

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

Mr. Kephart made a motion to approve 24-BZA-09 STONE, James & Sarah - A request for a Variance of Developmental Standard to allow a roadside setback reduction from the required 30' to 20'6" from right of way and an increase in maximum lot coverage from the required 30% to 35% to add

Marshall County Board of Zoning Appeals

4/9/2024

a 16'x28' garage addition; located at: 14161 Lawrence Lake Dr. Plymouth, Center Twsp., Zoned L-1, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The sixth item of business was 24-BZA-10 CALHOUN, Brandon & Shanta - A request for a Variance of Developmental Standard to allow a secondary before a primary to build a 32x48' pole barn across from residence; located at: across the street from 15942 Menominee Dr. Plymouth (50-31-24-000-120-000-017), West Twsp., Zoned L-1. Mr. Brandon Calhoun was present to represent his request. Mr. Adley presented the findings of fact.

RECOMMENDATION

Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed variance.

The applicant has a vacant piece of ground across from their residence at 15942 Menominee Trail. They are wanting to construct a pole building to be used for storage and as a workshop. The applicant is seeking to allow a roadside setback reduction from the required 30' to 20'6" from right of way and a reduction in maximum lot coverage from the required 30% to 35% to add a 16'x28' garage addition. Secondary structures are required to be built after the primary structure (residence). Similar requests have been approved in the past when residences were across the street. The subject residence does not have much parking space that doesn't stick out into the right of way. The applicant is in the process of having the property replatted together.

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

1. Hal & Diana Wilkens – 15885 Menominee Tr., Adjacent property owner believes that it won't negatively affect their property. They are in favor.

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

Mr. Hostetler made a motion to approve 24-BZA-10 CALHOUN, Brandon & Shanta - A request for a Variance of Developmental Standard to allow a secondary before a primary to build a 32x48' pole barn across from residence; located at: across the street from 15942 Menominee Dr. Plymouth (50-31-24-000-120-000-017), West Twsp., Zoned L-1, seconded by Mr. Kephart. Motion carried with a voice vote 5-0.

The seventh item of business was 24-BZA-11 BODMER, John - A request by A & M Homes Services for a Variance of Developmental Standard to allow a front yard setback reduction from the required 60' to 30' from the right of way to allow an existing deck; located at: 18576 Cedar Rd. Tippecanoe, IN Tippecanoe Twsp., Zoned A-1. Mr. Seth Johnson of A & M Home Services was present to represent Mr. Bodmer. Motion carried by acclamation.

RECOMMENDATION Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed reduction, but would also recommend a fine for construction without approval.

The applicant had recently completed a reconstruction and expansion of a front porch with

Marshall County Board of Zoning Appeals

4/9/2024

wheelchair ramp without permit approval. The permit needed variance approval for the increased nonconformity of structures within the setback area. The deck wasn't going to get any closer to the road but was going to extend to the sides of the residence. The proposed setback reduction is from 60' to 30' from right of way.

Mr. Johnson from A & M said that following through with the permit and variance was a mistake on their part.

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

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

- | | | |
|----------------------|----------------------------|--|
| 1. Steven Hunsberger | 18781 Cedar Rd. Tippecanoe | No problem with the request. |
| 2. Fearol Baxter | 18781 Cedar Rd. Tippecanoe | No problem with the reduction from 60' to 30'. |

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

Fines allowed is up to three times the cost of the permit which is \$40.00.

Mr. Hostetler made a motion to approve 24-BZA-11 BODMER, John - A request by A & M Homes Services for a Variance of Developmental Standard to allow a front yard setback reduction from the required 60' to 30' from the right of way to allow an existing deck; located at: 18576 Cedar Rd. Tippecanoe, IN Tippecanoe Twsp., Zoned A-1 with the following requirement: Fine be assessed at three times the cost of the permit; seconded by Mr. Kephart. Motion carried by voice vote 5-0.

The eighth item of business was 24-BZA-12 RIPPY, Adam - A request for a Variance of Developmental Standard to reduce two proposed lot widths from the required 210' to 80' and 160' for a proposed new home; located at: 4860 N. Underwood Rd. Walkerton, IN Polk Twsp., Zoned A-3. Adam Rippy & Sarah Rippy were present to represent their request. Mr. Adley presented the findings of fact.

RECOMMENDATION

Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed variance.

The applicant is seeking to subdivide their property in order to create two lots, but in order to have two residences at the front of the property, the frontage needs to be split. They are seeking to reduce the frontage requirement from 210' to 80' and 160' respectively. Should the property have been zoned L-1, there would have not have been an issue with the lot width, but the property did not abut the Lake, so therefore staff guided the applicant through a more appropriate re-zoning to A-3. The proposed southern lot will then allow for the applicant to move forward with the minor subdivision of property and subsequently the construction of his new home by the building and trades group through John Glenn Schools.

Mr. Bennett made a motion to open for public hearing, seconded by Mr. Hochstetler. There being

Marshall County Board of Zoning Appeals**4/9/2024**

nobody to speak for or against Mr. Bennett moved and Mr. Miller seconded the motion to close the public hearing.

Mr. Hostetler made a motion to approve 24-BZA-12 RIPPY, Adam - A request for a Variance of Developmental Standard to reduce two proposed lot widths from the required 210' to 80' and 160' for a proposed new home; located at: 4860 N. Underwood Rd. Walkerton, IN Polk Twsp., Zoned A-3, seconded by Mr. Kephart. Motion carried with a voice vote 5-0.

The ninth item of business was 24-BZA-13 FROESCHKE, Kenneth & Stacy - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 50' from right of way to 34' and the south side yard setback from the required 15' to 10' in order to build a storage building; located at: 5080 Venita Dr. Plymouth, IN Polk Twsp., Zoned A-1. Ken & Stacy Froeschke were present to represent their request. Mr. Adley presented the findings of fact.

RECOMMENDATION Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend denial of the proposal unless a hardship can be proven.

The applicant is seeking to construct a pole building for storage adjacent to existing garage and is proposing to keep it in front of an existing fence. The proposal is for a 30x40' building. They are seeking to reduce the front yard setback from 50' to 34' from right of way and a side yard setback reduction from 15'-10'. The applicant also owns a lot to the south with a pole building on the property.

The applicants have a fence they don't want to move and an existing pad they would like to use for the barn. In addition to that if the garage were to be moved back, they would lose the view of the golf course.

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

The main reason for the need is the view and the existing concrete.

Mr. Hostetler made a motion to approve 24-BZA-13 FROESCHKE, Kenneth & Stacy - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 50' from right of way to 34' and the south side yard setback from the required 15' to 10' in order to build a storage building; located at: 5080 Venita Dr. Plymouth, IN Polk Twsp., Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 4-1 with Mr. Bennett voting against.

The tenth item of business was 24-BZA-14 GOLDSMITH, Ron & Olivia - A request for a Variance of Developmental Standard to allow replacement of an existing secondary before a primary with a 10x16 shed; located at: Lot 4 Hiawatha (across the street from 18415 Hiawatha Trl. Plymouth, IN West Twsp., Zoned L-1. Mr. Goldsmith was present to represent his request. Mr. Adley presented the findings of fact.

Marshall County Board of Zoning Appeals

4/9/2024

RECOMMENDATION Based on the information provided and review by Technical Review Committee, staff and TRC would recommend approval for the proposed variance.

The applicant is seeking to permit a secondary structure before a primary structure. The applicant owns an adjacent parcel with a residence on it and has used the subject property for some storage as well as for personal use and enjoyment. They are now wanting to place a shed on the property to be able to store some of their items within the structure.

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

1. Barry Maddox - 18397 Chippewa Path Lives east of his residence and is in favor of the request

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

No notification has been received if this request has been approved by the lake association as of this date.

Mr. Kephart made a motion to approve 24-BZA-14 GOLDSMITH, Ron & Olivia - A request for a Variance of Developmental Standard to allow replacement of an existing secondary before a primary with a 10x16 shed; located at: Lot 4 Hiawatha (across the street from 18415 Hiawatha Trl. Plymouth, IN West Twsp., Zoned L-1, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The eleventh item of business was 24-BZA-15 BRADLEY, Walter & Ellen - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 50' from right of way to 44' from the road to install handicap steps with a landing deck; located at: 19009 15th Road, Culver, IN Union Twsp., Zoned A-1. Mr. Jacob Roberts were present to represent his request. Mr. Adley presented the findings of fact.

RECOMMENDATION Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed variance.

The applicant is looking to renovate an existing deck and due to the house's location on the property, the project requires a variance. The setback reduction from 50' from the ROW to 44' from edge of road. The property is skinny and deep, but due to the house's constructed location the property owner could not do much about the front yard setback. The deck renovation would now include handicap steps in order to promote better ingress and egress of the residence.

The plan is to remove the old deck and rebuild just big enough to help the owner maneuver a little easier coming in and out of the house. The existing deck is a 4x6' and the new will be 4x11'.

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

Marshall County Board of Zoning Appeals

4/9/2024

Mr. Hostetler made a motion to approve 24-BZA-15 BRADLEY, Walter & Ellen - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 50' from right of way to 44' from the road to install handicap steps with a landing deck; located at: 19009 15th Road, Culver, IN Union Twsp., Zoned A-1, seconded by Mr. Kephart. Motion carried with a voice vote 5-0.

The twelfth item of business was 24-BZA-16 SCHALLER, Daniel & Stephanie - A request for a Variance of Developmental Standard to allow the creation of a parcel that doesn't meet the 1 to 3 width to depth ratio (442'x2230'); located at: 50-31-19-000-072-000-017 West County Line Rd., Plymouth, IN West Twsp., Zoned A-1. Mr. Dan Schaller was present to represent his request. Mr. Adley presented the findings of fact.

RECOMMENDATION Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed variance.

The proposed parcel is seeking to be subdivided but cannot due to the shape. The proposal is to split the complete distance from front to back with distance measure at 442'x2230', which exceeds the 1 to 3 width to depth ratio. The parcel is a large parcel with more depth than width and is being proposed to be cut along a logical line in the property.

Mr. Schaller plans to split the property and sell off the 19 acre piece of property.

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. Bennett seconded the motion to close the public hearing.

Mr. Hostetler made a motion to approve 24-BZA-16 SCHALLER, Daniel & Stephanie - A request for a Variance of Developmental Standard to allow the creation of a parcel that doesn't meet the 1 to 3 width to depth ratio (442'x2230'); located at: 50-31-19-000-072-000-017 West County Line Rd., Plymouth, IN West Twsp., Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

Other Business

Proper procedures and protocols were discussed.

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

Respectfully submitted,

David Hostetler