

May 14, 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, May 14, 2024, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, and Matt Miller. Also present was Ty Adley Plan Director, Lori Lowry and interested parties. Jim Kephart was absent.

Mr. Hostetler made a motion to approve the April 9, 2024, minutes, seconded by Mr. Miller. Motion carried by acclamation.

The first item of business was 24-BZA-17 DAVIS, Steven & Patricia –

The applicant was not present to be heard. Mr. Miller made a motion to table this request until the end of the meeting, seconded by Mr. Bennett. Motion carried by acclamation.

The second item of business was 24-BZA-18 MAST, Ivan – A request for a Variance of Developmental Standard for a side yard setback reduction from the required 15' to 5' to build 40'X60' building for cold storage; located at: 6134 Chestnut Rd. Bremen, IN German Twsp., Zoned A-1. Ivan and Anna Mast were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to reduce the side yard setback from 15' to 5' in order to construct a barn for storage and horses. The proposed setback is desired because it will allow for it to be placed further away from the house and "better utilize the acreage that I have as in more pasture for animals." The Mast property is 1.5 acres and surrounded by agricultural fields owned by a separate entity.

Recommendation:

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

The applicant doesn't see the need to waste the 15' as all he would be able to do is mow it.

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

1. Jeff Unsicker 6246 Cedar Rd. Received a letter and is not in favor of the request. He has plenty of room to meet the required setbacks.

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

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Mr. Bennett made a motion to deny 24-BZA-18 MAST, Ivan - A request for a Variance of Developmental Standard for a side yard setback reduction from the required 15' to 5' to build 40'X60' building for cold storage; located at: 6134 Chestnut Rd. Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Hostetler. Motion carried to deny by a voice vote 4-0.

The third item of business was 24-BZA-19 FIGUEROA, Javier - A request for a Variance of Use to allow additional living residence in garage; located at: 3953 Michigan Rd., Plymouth, IN North Twsp., Zoned A-3. Javier Figueroa of 3953 Michigan Rd. and Ben Oviedo of 800 Lake Ave were present to represent their request.

The applicant is seeking to permit the single-family structure to be used as a duplex and to upfit the garage to be used as an additional living structure. The original house was added onto in order to provide space for the owner's father to live with him. There were no issues with the home addition, but at some point, the wall of connection was filled in and created two separate units. The A-3 Agricultural Residential district does not permit duplex's. The owner has since upfit the garage for his son to live in and based on a violation being turned in to the Plan Commission, the applicant is coming before the Board of Zoning Appeals to seek approval of the duplex and additional third living quarters.

Recommendation

Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend denial of the proposal.

The residence on the property is being used as two rental units and Mr. Figueroa lives in the renovated garage/residence with his son.

Mr. Oviedo explained that back in 2009 Mr. Figueroa got a permit for another residence for his parents to live in. At the same time, they upgraded the existing septic to allow for the new home. Mr. Adley stated that they did get a permit, but only for a home addition not a second home. Nor was there a permit for upgrading the bathroom to the garage.

When asked by the president what would have to happen if this was turned down. Mr. Adley stated that the residence would have to be turned back into a single-family dwelling, like it's taxed by the Assessor's Office.

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

1. Connie Nichols 3983 Michigan Rd. Lives to the south of the proposed request. Ms. Nichols was at the variance hearing in 2009 for their request to build a house at the back of the lot and was turned down because they didn't allow two residences on one property. This was never for family its always been used as a rental and the garage has always been used by the son. The conditions of the property have been unkept with no garbage service, burning of garbage and plastics and numerous stored vehicles. This neighborhood isn't designed for multi-housing.
2. Connie Nichols 3983 Michigan Rd. Submitted a letter listing concerns as stated above.

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

Mr. Miller made a motion to deny 24-BZA-19 FIGUEROA, Javier - A request for a Variance of Use to allow additional living residence in garage; located at: 3953 Michigan Rd., Plymouth, IN North Twsp., Zoned A-3, seconded by Mr. Hochstetler. Motion carried to deny 4-0.

The fourth item of business was 24-BZA-20 MIDWEST FARM & PET - A request for a Special Use to allow an 80x160' warehouse for seed storage & packaging; located at: 4119 6th Rd. Bremen, IN German Twsp., Zoned A-1. Dennis Miller of 375 4th Rd. Bremen and Gene Burkholder of 438 5th Rd. Bourbon were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking the approval of the special use for the establishment of a business in order to store and package seed. The business falls roughly in line with wholesale trade uses that are identified as special uses in the A-1 Agricultural district. The property lies at the intersection of Elm and 6th Roads that are 1 mile either direction to SR 331 or Fir Road. The proposed business would be housed within a 80x160' building with dual drive access off of 6th Road. There would be a 34x40' office on the North side of the building. The initial location for septic is west of the building and retention space as needed would be towards the intersection. The business will have 2 total employees, one in the office and the other in the warehouse.

RECOMMENDATION

Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposal pending comments from the neighbors.

The plan is to have corn, bean, and clover seed that are brought in the fall in seed boxes. At that point it will be stored until the spring and then bagged before being distributed in March and April. The approximate number of semi's brought in is 17.

The property is currently being farmed. The intent is to build the structure and farm the remaining.

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

1. Dave Rader 6540 Elm Rd. Bremen Lives about a half mile south of the proposed. This area is wet and susceptible to flooding. The water drains to the Dausman Ditch and is already overloaded with the school and additional schools. Questioned his concerns of the number of employees, hours of operations, powered by generators, driveway and traffic. Questioned why this isn't being proposed on their own properties or community.
2. Dennis Garrett 4119 6th Rd. Bremen Is the property owner to the west. Has a concern of the traffic and doesn't want to see a warehouse next to them.
3. Jerry Dendy 4776 6th Rd. Bremen Lives west of the proposed. Has a concern about drainage, environmental concerns and runoff.

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4. Connie Nichols 3983 Michigan Rd. Plymouth Grew up in the area and doesn't understand why a commercial property is proposed in an ag area. Concerned about the runoff and environmental problem.
5. Randy Hawley 6376 SR 331 Bremen Has farmed this area and has a concern how wet it is and the traffic.
6. Evelyn Smith 3875 6th Rd. Bremen Has submitted three letters opposed to the request with concerns about the traffic, water, commercial business in an ag area.
7. Steven Smith 5280 5th Rd. Bremen Submitted letter opposing the request.

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

The reason the applicants chose a different location rather than their home property was because the business has multi owners. This would allow him to keep the business separate from the home property.

In response to some of the questions the applicants stated that there will be no generators and at this time there will be no treatment of seed at the site. However, the seed will come treated. The excavator commented that if they can do anything to help with drainage, they will work with the planning department on that. The drainage plan would be submitted with the building permit.

The board questioned if warehouses are encouraged in the zoning district/comprehensive plan. Mr. Adley stated that warehouses are not, but agricultural businesses are supported depending on the size and the context of the business.

The long-term plan is to continue bringing in seed and bagging it. There will be no retail. They plan to service independent dealers.

During discussion the board had difficulty on the unknown concerns of drainage, the land use, the proposal isn't a home-based business and could be in a better location.

Mr. Miller made a motion to deny 24-BZA-20 MIDWEST FARM & PET - A request for a Special Use to allow an 80x160' warehouse for seed storage & packaging; located at: 4119 6th Rd. Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Bennett. Motion carried with a voice vote 3-1 with Mr. Hochstetler voting against.

The fifth item of business was 24-BZ-21 SCHMUCKER, Matthew & Jean - A request by Nappanee TLC Care Center for a center that provides respite care, therapy and educational services; located at: East County Line Rd. (50-44-16-000-018-000-005) Bremen, IN German Twsp., Zoned A-1. Mr. Charlie Zercher of Kindig and Sloat and Marlin Borkholder 68152 CR 37 Millersburg was present to represent their request. Mr. Adley presented the findings of fact.

The applicant operates Nappanee TLC Car Center which per the application is a "non-profit corporation that provides a simple structures daily work environment for special needs adults in the local Amish community...". TLC Care Center is a division of the Sunshine Workshop. The facility currently operates approximately 1.5 miles away on the Kosciusko County side of County Line Road. The operation is seeking to relocate because the existing facility cannot expand due to physical

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restraints. Operations began in 2021 and currently have 16 children enrolled (ages 3-42) with 13 caregivers.

Recommendation

Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval pending neighbor input.

The applicants are working with the Matt Schmucker at purchasing part of the land for the proposed TLC Care Center. They have outgrown the existing care center in Kosciusko County and wish to expand at this location for possible future expansion.

The facility is for children and adults who are severely disabled and cannot go to school and provides additional care for adults who are able to perform tasks for local businesses. It provides respite care, educational needs, licensed therapy, and meals. Hours of operation are Monday through Friday 8:30-3pm. There are a couple vans that provide transportation to and from along with employees. There is a proposed site plan that includes a future garage.

Neighbors across the street are residential with ag buildings.

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

Mr. Hochstetler made a motion to approve 24-BZ-21 SCHMUCKER, Matthew & Jean - A request by Nappanee TLC Care Center for a center that provides respite care, therapy and educational services; located at: East County Line Rd. (50-44-16-000-018-000-005) Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 4-0.

The first item of business was 24-BZA-17 DAVIS, Steven & Patricia - A request for a Variance of Developmental Standard to allow a reduction in the front yard setback from the required 60' to 46' from the right of way to allow a wheelchair ramp; located at: 8788 9A Rd., Plymouth, IN Center Twsp., Zoned A-1. Mr. Joshua Sibert of AM Construction was present to represent the request. Mr. Adley presented the findings of fact.

The applicant is seeking to reduce the front yard setback from 50' to 46' in order to construct a wheelchair access ramp in order to get in and out of the house. The House is being built and is using the existing foundation. The porch is approximately 50' from the right of way line, but due to the contour and distance to driveway it is proposed to come off the front of the porch to properly connect with the driveway.

Recommendation:

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

After additional measurements the applicant would like to have an additional 4' for the 4' ramp. So instead of 46' they are requesting 42'. Due to the current layout this is the only location for the

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proposed wheelchair ramp.

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

The board explained to the applicant that they are only able to approve what was advertised which was 46'.

Mr. Hochstetler made a motion to approve 24-BZA-17 DAVIS, Steven & Patricia - A request for a Variance of Developmental Standard to allow a reduction in the front yard setback from the required 60' to 46' from the right of way to allow a wheelchair ramp; located at: 8788 9A Rd., Plymouth, IN Center Twsp., Zoned A-1, seconded by Mr. Bennett. Motion carried by acclamation.

Other Business

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

Respectfully submitted,

David Hostetler