

August 13, 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, August 13, 2024, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, David Hostetler, Trent Bennett and Matt Miller. Also present was Lori Lowry representative from the Plan Commission and interested parties. Member Jim Kephart was absent.

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

Mr. Gustafson explained to the audience that since there are only three board members in attendance all three board members will need to vote in favor of the request for it to be approved. There is an option to request the case be tabled until the next meeting.

The first item of business was 24-BZA-28 TINKEL, Sheila –A request by Garrett Tharp to allow a property split that doesn't meet the 1 to 3 width to depth and allow 2 units per 5 acre density, located at: 5981 Quince Rd. Plymouth, IN Polk Twsp., Zoned A-1. Ms. Sheila Tinkel of 5981 Quince Rd. and Garrett Tharp of 901 Ferndale St. was present to represent their request. Mrs. Lowry presented the findings of fact.

The applicant is seeking to subdivide their family property that is 5 acres with a ditch (Emma Mishler) that runs relatively through the middle of it. The plan is to divide the property relatively in line with the ditch. The lots would be more or less 140/180' by 660'+/- and would be at a density of 2 units per 5 acres. The County Ditch and tile both have associated setbacks and will need to meet the other associated development standards. This would include any Drainage Board approval if there is proposed development within the ditch/tile setbacks.

## 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 plans to move into town and has two grandsons that would like to split the property in two. One would retain the existing house and the other to build a new house.

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

1. TJ Hurford 6126 Queen Rd. Is not for or against the request. Only wanted to let everyone know there is a 75' work easement on both sides of the ditch and tile.

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

Mr. Tharp stated that he's looking to build approximately where the trailer is at on the property and plans to abide by the building requirements.

Mr. Bennett made a motion to approve, seconded by Mr. Miller. Mr. Gustafson was not in favor of splitting the parcel that small, but suggested tabling until then next hearing.

**Mr. Bennett made a motion to table the request to September 10<sup>th</sup>, seconded by Mr. Miller. Motion carried by acclamation.**

The second item of business was 24-BZA-33 YUTZY, John -A request for a Special Use to allow a dog kennel; located at: 1899 Beech Rd. Nappanee, IN German Twsp., Zoned A-1. Mr. John Yutzy of 1899 Beech Rd. was present to represent his request. Mrs. Lowry presented the findings of fact.

The applicant has a dog kennel and is seeking to permit the business with 15 females and 2 males. They would estimate 18 litters per year. Per the applicant the written protocol will be in place to have all dogs up to date on all vaccines, wormer, flea and tick control, and will be examined daily by him and yearly by a veterinarian or if any problems come up the veterinarian will be called right away. The facility will be USDA approved.

#### RECOMMENDATION

Based on the information provided and review by the Technical Review Committee, staff and TRC recommended approval.

The applicant said "he got the cart before the horse" and renovated the existing building two and a half years ago, added the dog kennels and then brought in the dogs without approval. He's wanting to make it right to get approval. Currently there are 5 adults and two smaller dogs. The breed of dog is called Dogue De Bordeaux which is a french mastiff. The plan isn't to increase the number of dogs to sell. His desire is to raise good quality dogs while increasing the numbers little by little.

Mr. Yutzy contacted Nancy at the Humane Society, and her opinion was that we didn't need any more kennels.

The people that Mr. Yutzy sells to are from the south and most dogs are kept for pets. His plan is to allow the dogs to have six litters and after that they are re-homed. All retired dogs go to Dr. Cats in Zionsville.

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

1. Joline Binns                      1842 Beech Rd. Nappanee                      Lives across the street. Had a concern about barking; however, believes that Mr. Yutzy takes wonderful care of his dogs and keeps a very tidy kennel. Other kennels have given most kennels a bad reputation.
2. Cindy Scott                      1421 Beech Rd. Nappanee                      Lives a ¼ mile north. Has visited the property and was impressed how spotless it was. Believes he is trying to do things right.

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

The dogs do bark some and sometimes when the horses are out in the pasture, they do bark a little more then. There is another fenced area that the dogs can be put in that could lower the noise and he agreed to do that right away. There is also a possibility of putting up some fencing that would face the neighbors across the street.

His desire isn't to jump to 15 dogs right away and may not ever get to that. He only wants to have a good facility and cared for dogs.

**Mr. Miller made a motion to approve 24-BZA-33 YUTZY, John -A request for a Special Use to allow a dog kennel; located at: 1899 Beech Rd. Nappanee, IN German Twsp., Zoned A-1, allowing seventeen adult dogs seconded by Mr. Bennett. Motion carried with a voice vote 3-0.**

Mr. Hochstetler arrived after the Yutzy case.

Mr. Yutzy was informed that his request was only for approval of the kennel. Because he has residences less than 600' from his kennel he will need a variance for that as well.

The third item of business was 24-BZA-34 LAVINE ENTERPRISES LLC - A request for a Variance of Use to allow the expansion of their restoration building; located at: 1351 Beech Rd., Nappanee, IN 46550 German Twsp., Zoned A-1. Mr. Lavern Burkholder of B & B Roofing and Construction was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to expand one of their existing storage buildings in order to store more and create more space for servicing their vehicles. The expansion of the property has already occurred through surveying work and permits are pending application depending on the outcome of this zoning case. The business has been in place for nearly 50 years and has received approval for additional expansion within the last 5 years.

## RECOMMENDATION

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

The applicant restores elite cars from all over the world to be restored. He would like to expand his building to service and store their vehicles.

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

1. Cindy Scott                      1421 Beech Rd. Nappanee                      Neighbor who is in favor of the request. They keep the property well maintained and doesn't have a problem with their request.

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

**Mr. Hochstetler made a motion to approve 24-BZA-34 LAVINE ENTERPRISES LLC - A request for a Variance of Use to allow the expansion of their restoration building; located at: 1351 Beech Rd., Nappanee, IN 46550 German Twsp., Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 4-0.**

The fourth item of business was 24-BZA-35 ZIOLA, James - A request for a Variance of Use to allow a one-time small music festival event on their property; located at: Olive Rd. (50-42-07-000-002-004-009), North Twsp., Zoned A-1.

**The applicant wasn't present to represent their request. Mr. Hochstetler made a motion table this request until the end of the meeting, seconded by Mr. Miller.**

The applicant wasn't present to represent their request. **Mr. Miller made a motion to table the request until September 10<sup>th</sup>, seconded by Mr. Bennett. Motion carried by acclamation.**

The fifth item of business was 24-BZA-36 PEUQUET, Peter & Vickie - A request for a Variance of Developmental Standard to allow an increase in front yard hedge height from 3 1/2' to 30'; located at: 3295 Lake Shore Dr., Bremen, IN German Twsp., Zoned L-1. Mr. Peter Peuquet of 3295 Lakeshore Dr. was present to represent their request. Mrs. Lowry presented the findings of fact.

The applicant is seeking to permit the existing hedge row that exceeds the fencing standards. Per the applicant, the previous owner planted the hedges in 1980 and have been maintained by the property owner and NIPSCO. The request is before you due to a collection of violations being turned in by neighbors on each other.

## RECOMMENDATION

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

These arborvitae trees were planted 30-40 years ago and have since been maintained by the applicant for the past twenty years and the utility company maintains some of the tops of them, so they don't interfere with their lines.

Several years ago there was a fire lane easement adjacent to him that wasn't kept up. The applicant has taken it upon himself to maintain it for the residents in the area to have access to the lake. This easement is no longer used for a fire lane easement. Just the enjoyment for the residents.

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

1. Terry Holderman and Ashlyn      8606 Addison St. Bremen      Lives across the street. He used to have visibility of the lake and no longer does. The shrubs have now grown into the access to the lake by 10' plus. Mr. Miller the original property owner who planted the shrubs stated that those shrubs would never be over 3' tall. Has a concern about the transformer and the shrubs growing into it and fire safety. The shrubs have been overgrown ever since the applicant owned the property. Has talked to the applicant about it and called the county several times and nothing seems to get done. They would like to see the lake again.
2. Fred & Laura Anderson      3291 Lakeshore Dr. Bremen      Received an email in support of the applicant. Lives next to the applicant and appreciates the hedge as it is well maintained and it has never been an issue.
3. Tom Evans      3281 Lakeshore Dr. Bremen      Received a letter and lives two houses down from the applicant. The shrub is well maintained and does not create a blind spot for traffic. Believes the shrubs add to the curb appeal.

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

Mr. Peuquet gave a picture to the board of the layout of his property. When the front line of the shrubs were taken out due to a disease it cost over \$10,000. If the ones on the easement were to be taken out it would cost probably \$8,000. With the number of arborvitae and maple trees removed it is even more open. He has no desire to remove the arborvitae.

During discussion the board discussed their views and also a concern that they didn't know if there is actually a loss of view.

**Mr. Bennett made a motion to table 24-BZA-36 PEUQUET, Peter & Vickie - A request for a Variance of Developmental Standard to allow an increase in front yard hedge height**

**from 3 1/2' to 30'; located at: 3295 Lake Shore Dr., Bremen, IN German Twsp., Zoned L-1 to allow the board time to visit the site, seconded by Mr. Hochstetler. 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