

September 10, 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, September 10, 2024, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, David Hostetler, Trent Bennett, Jim Kephart, and Michelle Mieras. Also present was Ty Adley, Marshall County Plan Director, Lori Lowry and interested parties.

The minutes approval was deferred to the October 8th 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., Kayla Tharp and Charles Tharp were present to represent their request. Mr. Adley 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 applicants are planning to build on the western property at or near where the old trailer was. There is an existing entrance from 6th Road.

The board discussed the difference of splitting a parcel with the acreage requirement and the density rule.

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

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

Attorney Snider stated that they are only there to dispute the issue of the shrubs/trees and if they are a non-conforming use during the years 1984-1985 when they were planted. There are differing opinions whether it is a tree or a hedge, but they contend that they are trees and follow the arborist's opinion.

Mr. Adley concurred that the planting of the trees took place before the ordinance explicitly said "hedge". Therefore, it would be considered a legal non-conforming use/structure.

Mr. Hochstetler made a motion to approve 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, with a stipulation to designate the hedge as a legal non-conforming use, seconded by Mr. Bennett. Motion carried with a voice vote 4-1 with Ms. Mieras voting against.

Mr. Hochstetler excused himself from the remainder of the meeting.

The fourth item of business was 24-BZA-37 GALLARDO, Jesus & Rosa - A request for a Variance of Use to allow landscaping business equipment to be stored at their family's property; located at: 20985 12th Rd. Plymouth, IN West Twsp., Zoned A-1. Jesus & Rosa Gallardo of 1006 W. Washington St. and Javier Gallardo were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to receive approval of their landscaping company to store materials and equipment on the property with hours being Monday to Friday 7am to 6pm. They currently rent the property but have determined this is the best location for them to store equipment and materials. Typically, similar uses are home based businesses which are run as a special use, but since the owner does not live on the premise, they needed to follow a variance of use.

RECOMMENDATION Based on the information provided, staff and TRC would recommend approval with conditions setting the # of employees, how materials are disposed and extent of the business.

The family has a small family business that they would like to store material for upcoming jobs. This property is used as a rental which is why it requires a Variance of Use rather than a home-based business. The materials being stored are pavers, decking, landscaping timbers and (2) trailers. There will be no trash left on the premises and no sales at this property. All business is done online or at the customer's site.

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

Ms. Mieras made a motion to approve 24-BZA-37 GALLARDO, Jesus & Rosa - A request for a Variance of Use to allow landscaping business equipment to be stored at their family's property; located at: 20985 12th Rd. Plymouth, IN West Twsp., Zoned A-1, seconded by Mr. Kephart. Motion carried with a voice vote 4-0.

The fifth item of business was 24-BZA-38 BORKHOLDER, Vonda - A request for a Variance of Developmental Standard to allow a Confined Feeding Operation - Pullet Barn, that does not meet the 1,320' residential setback for five residences; located at: Beech Rd. Nappanee, IN (50-54-21-000-016-000-005) German Twsp, Zoned A-1. Ms. Vonda Borkholder, Dwight & Kevin Borkholder of 781 Plymouth Laporte Tr., Nappanee were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a CFO (Confined Feeding Operation) double layer barn for poultry within the prescribed 1,320' from the nearest adjacent residence. The proposed structure is too close to 5 residences which have separations of 560', 620', 746', 944', and 1129'. The Double Pullet Barn is proposed to be 52x540' with pasture on the North and South sides of the building. Manure storage would be located in between the two buildings. The 5 residential neighbors (Keith and Mary Borkholder (668 Beech Road), David and Doris Hochstetler (703 Beech Road), Willis and Freida Borkholder (634 Beech Road), Jerry and Alma Helmuth (570 Beech Road), and Jonathan and Sharon Helmuth 536 Beech Road)) have signed in support of the project. *Update: Per the additional information provided by Agronomic Solutions, the operation will not be identified as a CAFO (Concentrated Animal Feeding Operation). A CAFO is identified when there are greater than 125,000 pullets with a solid manure handling system, the proposed project would have 2 layers of 50,000 each for a 100,000 total hens. The applicant will be required to receive IDEM approval prior to a building permit. The project was previously approved in 2023, but did not act on its approval within the allotted time and had to return to the BZA for approval again.

RECOMMENDATION Based on the information provided and review by staff, the staff would recommend approval of the project.

The applicant stated that the type of barn has changed from before to be a pullet barn instead of a layer. The difference is the birds will be changed out every sixteen weeks.

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

1. The following form letters were received in approval.
 - a. Jonathan & Sharon Helmuth 536 Beech Rd.
 - b. Keith & Mary Borkholder 668 Beech Rd.
 - c. David & Doris Hochstetler 703 Beech Rd.
 - d. Willis & Freida Borkholder 634 Beech Rd.
 - e. Jerry & Alma Helmuth 570 Beech Rd.

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

Mr. Bennett made a motion to approve 24-BZA-38 BORKHOLDER, Vonda - A request for a Variance of Developmental Standard to allow a Confined Feeding Operation - Pullet Barn, that does not meet the 1,320' residential setback for five residences; located at: Beech Rd. Nappanee, IN (50-54-21-000-016-000-005) German Twsp, Zoned A-1, seconded by Mr. Kephart. Motion carried with a voice vote 4-0.

The sixth item of business was 24-BZA-39 STEVENS, Sherman & Linda - A request for a Variance of Developmental Standard to allow a reduction in lot density to allow two lots of 2 1/2 acres each; located at: 8th Rd. Bourbon, IN (50-44-32-000-014-000-001) Bourbon Twsp., Zoned A-1. Linda of 2037 8th Rd., Adam 106 S. Washington St. and Matthew Stevens 8122 Cedar Rd. were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to subdivide a 5-acre parcel into 2 pieces for their grandchildren. The lot is approximately 350'x650'. There are no environmental features that make the property unique.

RECOMMENDATION Based on the information provided and review by staff, staff would recommend denial of the proposal.

Due to the applicant's ability to take care of the property they would like the ability to split the property in two and sell it to two grandchildren.

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

1. Sherman Stevens In favor of the request.

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

Ms. Mieras made a motion to approve 24-BZA-39 STEVENS, Sherman & Linda - A request for a Variance of Developmental Standard to allow a reduction in lot density to allow two lots of 2 1/2 acres each; located at: 8th Rd. Bourbon, IN (50-44-32-000-014-000-001) Bourbon Twsp., Zoned A-1, seconded by Mr. Bennett. Motion carried with a voice vote 3-1 with Mr. Gustafson voting against.

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. Mr. John Yutzy of 1899 Beech Rd. was present to represent his request. Mr. Adley 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.

Talked to neighboring property owners except one across the street as they are gone a lot. There wasn't a concern from the neighbors.

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

1. Jolene Binns Neighbor Received an email and would only support a conditional approval. 1. Raising only this breed; 2. He continues to keep the dogs in clean, adequate conditions with good medical care; 3. The dogs are allowed outside exercise without becoming a barking nuisance, 4. His retired breeders are neutered and rehomed 4. The local Humane Society is allowed access to his kennel without prior warning also planning commission requirement.
2. Agreed to the Yutzy's dog kennel at 1899 Beech Rd. Lavern/Rose Yutzy, Lyle/Linda Hochstetler, Nate Miller, and John/Jolene Binns

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

Mr. Bennett 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, seconded by Ms. Mieras. Motion carried with a voice vote 4-0.

Other Business

When making the 2025 calendar the Mr. Gustafson asked that July's meeting be pushed from the 8th to the 15th due to the 4-H Fair.

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

Respectfully submitted,

David Hostetler