

May 12, 2020
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, May 12, 2020, in Room 203 of the Marshall County Building. Present were: Commission Members Jeff Gustafson, James Berger, Dan Voreis, Matt Miller (via zoom) and Jeff Kutch (via zoom), Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The first item of business was the review of the minutes from the March 10, 2020, meeting. Mr. Berger made a motion to approve the minutes as written, seconded by Mr. Kutch. Motion carried by acclamation.

The second item of business was 20-BZA-06 HEPLER, Charles Devon and Carolyn - A request for a Variance of Developmental Standard to allow two additional parcels to be split out that do not meet the 1:3 width to depth ratio; located at 1772 8th Rd., Bourbon, IN Bourbon Twsp., Zoned A-1. Devon Hepler and Chuck Hepler was present to represent their request. Mr. Adley presented the findings of fact.

The subdivision is currently being held until such time the variance is either approved or the dimensions meet the standards. The entire tract is approximately 160 acres. The northern 80 is be sought to be divided approximately 700' by 2600'.

There is an estate that is trying to be closed and to accomplish that the above was proposed.

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

1. David Stackhouse – 1210 8th Rd., Bourbon No objection to the requested variance.

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

Mr. Kutch made a motion to approve 20-BZA-06 HEPLER, Charles Devon and Carolyn - A request for a Variance of Developmental Standard to allow two additional parcels to be split out that do not meet the 1:3 width to depth ratio; located at 1772 8th Rd., Bourbon, IN Bourbon Twsp., Zoned A-1, seconded by Mr. Voreis. Motion carried with a voice vote 5-0.

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The third item of business was 20-BZA-07 VIRGIL, Kaela - A request by Scott Virgil for a Variance of Developmental Standard to reduce the required road right of way setback from 50' to 22' in order to allow for a home addition to home that currently does not meet this standard, located at: 2051 18th Road, Tippecanoe, IN Zoned A-1, Tippecanoe Twsp. Mr. Scott Virgil was present to represent his request. Mr. Adley presented the findings of fact.

The applicant has an existing house that is approximately 22' from the edge of the right of way and they are seeking to build a 2 story 20'x25' addition onto the home for a living room addition, new bathroom, game room, and office upstairs. The proposed addition would not be any closer to the road than what already exists. The addition is also unable to be moved back into the property due to the existing layout of the house.

Mr. Miller asked if there was going to be a porch protruding closer to the road. Mr. Virgil said no.

Mr. Berger made a motion to open for public hearing, seconded by Mr. Voreis. Motion carried by acclamation. There being no one to speak for or against Mr. Voreis moved and Mr. Berger seconded the motion to close the public hearing.

Mr. Voreis made a motion to approve 20-BZA-07 VIRGIL, Kaela - A request by Scott Virgil for a Variance of Developmental Standard to reduce the required road right of way setback from 50' to 22' in order to allow for a home addition to home that currently does not meet this standard, located at: 2051 18th Road, Tippecanoe, IN Zoned A-1, Tippecanoe Twsp. , seconded by Mr. Berger. Motion carried with a voice vote 5-0.

The fourth item of business was 20-BZA-08 HATFIELD, Matthew - A request by Demont Construction for a Variance of Developmental Standard to reduce the required right of way standard from 50' to 36.98' to allow an addition to the existing residence, located at: 7313 18th Rd., Argos, IN Walnut Twsp., Zoned A-1. Mr. Matthew Hatfield and contractor, Dan Demont of Demont Construction was present to represent his request. Mr. Adley presented the findings of fact.

Per the application the existing home is located 28.98' from the right of way and the addition will be located 8' further back which will put the new construction at 36.98' from the right of way. The required setback is 50'.

Mr. Demont stated that the addition will not extend past the existing home when asked by the board.

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

Mr. Kutch made a motion to approve 20-BZA-08 HATFIELD, Matthew - A request by Demont Construction for a Variance of Developmental Standard to reduce the required right of way standard from 50' to 36.98' to allow an addition to the existing residence, located at: 7313 18th

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Rd., Argos, IN Walnut Twsp., Zoned A-1, seconded by Mr. Voreis. Motion carried with a voice vote 5-0.

The fifth item of business was 20-BZA-09 COOPER/BORDER-A request for a Variance of Developmental Standard splitting off 19.25 acres that will not meet the 1:3 width to depth ratio; located at: 4655 SR 10, Tippecanoe, IN Tippecanoe Twsp., Zoned A-1. Mr. Brent Cooper was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to subdivide 19.25 acres out of the 80-acre parcel, which would be everything west of the William Horn ditch. The parcel would be approximately 540' by 1800'.

Mr. Cooper stated that the proposal to split will be along the west side of the ditch.

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

Mr. Voreis made a motion to approve 20-BZA-09 COOPER/BORDER-A request for a Variance of Developmental Standard splitting off 19.25 acres that will not meet the 1:3 width to depth ratio; located at: 4655 SR 10, Tippecanoe, IN Tippecanoe Twsp., Zoned A-1, seconded by Mr. Berger. Motion carried with a voice vote 5-0.

The sixth item of business was 20-BZA-10 HALL/BIERY - A request for a Variance of Development Standard to allow parcel 50-23-20-000-007-000-015 to be split and combined with 18738 Ironwood Rd. which does not meet the 1:3 width to depth ratio, located at: Ironwood Rd., Walnut Twsp., Zoned A-1. Mr. Hall was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to subdivide the parcel of 73 acres approximately in half. The proposed parcel would be an estimated 650x2600'. The applicant is splitting it with their sibling and rather than splitting east/west they are electing to split it north/south and would be combining the tilled ground with their existing 3-acre parcel.

The property was surveyed and going to be split north and south. After meeting with an attorney of a sibling the attorney stated it had to be split east and west. The southern property will be combined with the existing property owner.

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

Mr. Berger made a motion to approve 20-BZA-10 HALL/BIERY - A request for a Variance of Development Standard to allow parcel 50-23-20-000-007-000-015 to be split and combined with 18738 Ironwood Rd. which does not meet the 1:3 width to depth ratio, located at: Ironwood Rd., Walnut Twsp., Zoned A-1, seconded by Mr. Voreis. Motion carried with a voice vote 5-0.

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The seventh item of business was 20-BZA-11 LEMLER, Todd & Gayla - A request for a Variance of Developmental Standard for two pullet barns that do not meet the distance standards of 1,320' with a CAFO; located at 50-34-04-000-011-000-001, Bourbon Twsp., Zoned A-1. Mr. Todd Lemler and John with Ag Innovations was present to represent their request. Mr. Adley presented the findings of fact.

Based on the information provided, the applicant is seeking to construct 44,000 head pullet barns. CFO's have a 1,320' setback from residences that are not on the subject parcel, and for this particular project that are within that space that range from 491'-1,300'.

When asked why this location Mr. Lemler stated that there is no other location as the only other property he owns already has a pullet barn on it. Then asked if the barn could be moved on this parcel to be further away from residences and Mr. Lemler responded saying that there is such a big drop off on the property that this seemed to be the best location.

Mr. Lemler's residence is located about 3 miles from this location. Mr. Lemler went to a couple of the neighbors and showed them the proposal. At that time, they didn't have a problem with the request.

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

1. Richard Stutsman – 324 9 B Rd. Bourbon – Has a concern about property values and a concern about future rezoning.
2. Jeremy Borkholder – 7414 N 1100 W – Concerned about the smell and property values. Doesn't haven't any difficulties with the applicant. Would like to have it further away from residences. Where he is located the wind comes from the west and knows he will be downwind of the barn.
3. Norman Borkholder – 7206 N 1100 W – The applicant did come and talk to him. He explained he didn't have a problem with it as long as he didn't smell manure. Also has a concern about flies. He has had a business at this property for over 56 years and doesn't want there to be any issues that deter his customers. He has no problems with the applicant. Feels it is just too close. Believes the ordinance should be followed.

Mr. Lemler replied saying that he wouldn't want there to be a smell their either. He has already contracted with someone to take the manure and will follow all regulations.

4. Skylar Doll – 7426 N 1100 W – Has a concern with the smell. Has driven past the other barn and can smell the manure. The decrease in property values is also a concern. There will also be an increase in traffic. As far as a visual believes it's going to be an eyesore.
5. Greg Eads – 251 9 B Rd – His concern is the smell and the flies. Questions how far these buildings are from the county ditch. Also, doesn't want property values to decrease.

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6. Joseph Borkholder – Not in favor of the request as it will be too close the residences. Has a concern about smell and flies. Would also create a hardship for neighboring properties to sell if they wish to do so.
7. David & Barbara Shively – 10537 W Anglin Rd. – Knows the applicant and believe they should be able to build their barns as requested. Believes they will keep the property neat and clean and obey the rules.
8. Richard & Rosanna Stutsman – Has a concern about the smell of the buildings, the close proximity to their property, the sound of the pullets, and property resale value. If they can't meet the ordinance requirements, they wish for the request to be denied.
9. Greg Eads 251 9 B Rd. – Wanted to contest the request as it's too close to their property. Their concern is the noise, fecal contamination and smell, as well as the decrease in property values. Don't wish to see, hear or worry about extreme amount of ammonia near their drinking water. Believe there has to be other options and less invasive.
10. Tony Watkins – Concerned if the barns will be near the drainage tile. Understand that they wanted to install natural gas pipelines to chicken houses this will be a disruption to the landowner's property. Property houses values would decline. Air pollution would be a big problem with these many chickens. There is already a disruption to back forty banquets and shooting. Noise pollution would also be a detriment to the homes near the barns. Where will these chickens go to after they are matured, will they go their other farm? Concern about additional barns. Also worries about the safety of neighboring children with the increase in traffic. Has a concern about increase in electric usage and they've already noticed a decline when the other barn was put in.

Mr. Voreis made a motion the close the public hearing, seconded by Mr. Berger. Motion carried by acclamation.

As far as flies go, they use a parasite at the layer barn. It works very well and they do weekly fly count. It's not only a nuisance to others but would be a nuisance to them as well. They key is to keep the parasites out and start earlier than the fly season starts.

When questioned about the concern with the smell at their residence it would be from the calf barn, not the chicken barn as it's 400' off the road. Chicken's don't have the odor like calf's do.

They do have a plan to plant arborvitae around the buildings to create a screen and contain any possible smell. The ventilation will go through a chimney and will go up instead of out the wall as older buildings do. This is a European ventilation system that is state of the art. This is supposed to be better than any other ventilation systems.

There will be 2-3 trucks per week coming from the northeast. The chickens will be moved 2-3 times per year. Todd is one of the best growers they have. This design is new to them and better than anything they've seen in the area.

A pullet barn is very different from a layer barn in the amount and type of manure generated. The birds are out of the barn 16 weeks of age. There are 100's of audits done on barns a year. This will not have a pit. There will be a building used for storage built with concrete under roof. The requirement is to have a building that will hold 180 days of manure on any CFO. The

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buildings will be located at the inside of the L to eliminate the possibility for the smell to go anywhere.

Doesn't believe there will be an issue with smell. Hasn't had one complaint or violation in over 4 years.

Can't build this on the other location because it's in the flood plain. There is a county main tile that runs through the property.

Mr. Gustafson explained that he wants to encourage farming in these A-1 zones. Being so close to all these residences is the biggest concern. Questioned if there is anyway the barns could be relocated on the homestead. Mr. Lemler said no. Water runs through the open area of the property and would disrupt the flow of the water. When asked what IDEM's side yard setback Mr. Lemler stated that the requirement from IDEM is 100'. Mr. Lemler explained to the board that the property where his residence is just became certified organic the beginning of this year.

Mr. Miller made a motion to deny the request 20-BZA-11 LEMLER, Todd & Gayla - A request for a Variance of Developmental Standard for two pullet barns that do not meet the distance standards of 1,320' with a CAFO; located at 50-34-04-000-011-000-001, Bourbon Twsp., Zoned A-1, seconded by Mr. Kutch. Motion carried to deny with a voice vote 5-0.

There being no further business, a motion was made to adjourn and seconded. The Motion was passed by a voice vote.

Respectfully submitted

Mark Wickizer