

October 13, 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, October 13, 2020, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, James Berger, Mark Wickizer, Jeff Kutch, and Matt Miller. Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The review of September's meeting's minutes will be viewed in November.

The second item of business was 20-BZA-48 ABELS, Connie - A tabled request by contractor for a Variance of Developmental Standard to reduce the ROW setback from 30' to 11' from the right of way and a reduction in east side yard setback from the required 6.2' to 1' to build a 20x28 unattached garage; located at: 15086 Happy Acres Tr., Plymouth, IN West Twsp., Zoned L-1.

**After background work on the septic system's location found that additional testing is needed the applicant has requested that they come back before the board in the spring. The board agreed to withdraw the request which will allow the applicant to reapply in the spring. Motion carried by acclamation.**

The third item of business was 20-BZA-51 SCHULTZ, Robert & Bernadene - A request for a Variance of Development Standard to reduce the front yard setback from the required 30' from the ROW to 2' from the right of way to install a new awning, located at: 12190 Rose Rd., Plymouth, IN West Twsp., Zoned L-1. Mrs. Bernadene Schultz was present to represent their request. Mr. Adley presented the findings of fact.

The applicant is wanting to construct an awning over their front steps in order to have some coverage from the weather. The structure is currently 5' from the right of way. The initial desire was to construct a home addition to have a foyer, but the applicant has since reduced the request to just an awning. The existing home is currently set entirely within the front yard setback.

Mrs. Schultz would like to update the existing steps and make them level as well as add an awning to cover the steps from the weather. The proposed awning will stick out three (3) feet.

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

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**Mr. Miller moved to approve 20-BZA-51 SCHULTZ, Robert & Bernadene - A request for a Variance of Development Standard to reduce the front yard setback from the required 30' from the ROW to 2' from the right of way to install a new awning, located at: 12190 Rose Rd., Plymouth, IN West Twsp., Zoned L-1, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.**

The fourth item of business was 20-BZA-52 SCHWARTZ, Joseph & Amy - A request for a Variance of Development Standard as the request does not meet the 1,320 foot residential setback of five residences to build a second barn and make the site a CFO, located at: 235 1st Rd., Nappanee, IN German Twsp., Zoned A-1. Mr. Joseph Schwartz was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to expand their existing AFO to a CFO, but do not meet the setback requirements of 1,320'. They would like to reduce the setback to allow for the construction of their second building which the operation as a whole is too close to 5 surrounding off-site residences. The 5 residences in question range from 619-1,293' from any portion of the operation.

Currently Mr. Schwartz has around 29,000 chickens. By adding another barn, it will classify him as a CFO which as he doesn't meet the 1,320' distance from residences. When asked why he didn't place the original building in the middle of the property to eliminate this problem he stated at that time he didn't know he was going to put up more than one barn.

Mr. Adley explained even if he built the new barn away from all the residences, because the original barn doesn't meet the requirements he would still have to come before this board for a variance.

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

1. Form Letters were received by the following people in full support of the project. Lily Chupp, Marvin Hochstetler, John & Ester Borkholder, Melvin & Emma Kuhns, and Daniel & Ruth Miller.

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

The 1,320' distance from residences is a requirement per the Marshall County Ordinance not IDEM.

**Mr. Wickizer made a motion to approve 20-BZA-52 SCHWARTZ, Joseph & Amy - A request for a Variance of Development Standard as the request does not meet the 1,320 foot residential setback of five residences to build a second barn and make the site a CFO, located at: 235 1st Rd., Nappanee, IN German Twsp., Zoned A-1, seconded by Mr. Miller with the condition that a IDEM Permit is required, seconded by Mr. Miller. Motion carried with a voice vote 4-1 with Mr. Gustafson voting against.**

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The fifth item of business was 20-BZA-53 SCHWOERER, Paul & Laura - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 30' from ROW to 25' from the edge of the road and the rear yard setback from the required 20' to 10' in order to build a 30'x40' garage; located at: 12428 Choctaw Island Trl, Culver, West Twsp., Zoned L-1. Mr. & Mrs. Paul & Laura Schwoerer were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a 30x40' unattached garage that will replace an existing garage. The narrow lot and proposed structure do not fit the standard requirements and are thus seeking to reduce the setbacks. The front yard on the west side of the property is seeking to be reduced from 30' from Right-of-Way to 25' from edge of road. The rear yard on the east side of the property is seeking to be reduced from 20' to 10'.

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

1. Kenneth & Arlene Shabino – 12344 Chippewa Tr. Culver – Has no objection for them to build a garage at the location they want to build.

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

**Mr. Kutch made a motion to approve 20-BZA-53 SCHWOERER, Paul & Laura - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 30' from ROW to 25' from the edge of the road and the rear yard setback from the required 20' to 10' in order to build a 30'x40' garage; located at: 12428 Choctaw Island Trl, Culver, West Twsp., Zoned L-1, seconded by Mr. Wickizer. Motion carried 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