

November 10, 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, November 10, 2020, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, James Berger, Mark Wickizer, Terri Barnhart, and Matt Miller. Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The minutes from the September and October's meeting was presented to the board for their review. Mr. Miller made a motion to approve the September's meeting minutes, seconded by Mr. Wickizer. Motion carried by acclamation. Mr. Miller moved and Mr. Berger seconded the motion to approve the October's meeting minutes, seconded by Mr. Berger. Motion carried by acclamation.

The first item of business was 20-BZA-54 BORKHOLDER, Willis & Freida - A request for a Special Use to allow a slaughter house/processing facility; located at 668 Beech Rd., Nappanee, IN German Twsp., Zoned A-1. Mr. Willis Borkholder & Mr. Keith Borkholder were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to open and operate a meat processing facility from their place of residence in a proposed new structure. The business would typically run from 6a-3:30p Monday through Saturday, receipting of animals would be 3p-7p Monday through Friday, or in emergency, Customer pick up would be 6a-3p Monday through Friday and 8a to 12 noon on Saturday. There will be only 3 workers outside of residents on the parcel. All blood, water, and animal tissue will be collected and disposed of per Indiana State Board of Health and Marshall County Health Department regulations and not in domestic sewage. There will be only 1 unlit sign outside. There will be no outdoor storage other than the holding pen. The proposed structure will be located in the southeastern corner of the property.

The recommendation was based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval as submitted.

Keith Borkholder stated that he plans to butcher beef, hogs and sheep. This will be done as a home business part time. When asked how many he will be butchering he thought around 9 beef a week with some hogs too. It will be all processing no retail. The refrigerator will allow up to 20 carcasses. At this time there are no plans to smoke meats.

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

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1. David Miller – Letter received in favor of the request.

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

The wash water will be drained and contained in a holding tank and hauled away. The USDA regulates the process and is inspected regularly.

Mrs. Barnhart made a motion to approve the request 20-BZA-54 BORKHOLDER, Willis & Freida – A request for a Special Use to allow a slaughter house/processing facility; located at 668 Beech Rd., Nappanee, IN German Twsp., Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The second item of business was 20-BZA-55 KUHNS, Joseph - A request for a Special Use to allow a 27'x114' addition to an existing building that is a preapproved small engine repair business; located at 1319 Plymouth Goshen Tr., Bremen, German Twsp. Zoned A-1. Mr. Joseph Kuhns was present to represent his request. Mr. Adley presented the findings of fact.

The applicant was previously approved for the small engine repair shop in 2015 and is now seeking to do a 27x114' cold storage addition that will run east and west.

The recommendation was based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed addition as requested.

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

1. Ms. Cindy Scott – Received a letter in opposition. Believes in the 2015 meeting he was told that if he wanted to get bigger, he would have to move to town. She thinks this request qualifies as bigger. The business has already extended beyond the lawn mower business as there are many sheds sitting outside for sale. The original special use permit was for a small engine repair shop and says nothing about selling other things. The main concern is flooding and drainage. Last spring, the entire area in front of his business was flooded clear up to his building and down along and clear across the road. This was not just for a day or two, but was for weeks. Not to mention the drainage problem, it also is hazardous for traffic. Apparently, the drain or tile is not able to handle current usage and this will just add to the problem. She doesn't understand why an issue like this has not already been investigated before even considering allowing a permit for a building that would most likely make this problem worse. She would appreciate this being looking into and for the request to be denied.
2. Mr. & Mrs. John & Jolene Binns – Received a letter in opposition. Believes this business is no longer small and should be in a city zoning where there is city water, sewerage and proper facilities for disposal of industrial solvents. Bigger consideration is the lack of drainage that has resulted in flooding of the areas in front of his current business and extends across the road adjacent to the property. The current culverts and tiles do not handle the existing water. Adding an additional 3,078 sq ft building opens the possibility of additional employees and exacerbating the current drainage problem in the north east portion of Marshall County.

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

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by acclamation.

Mr. Kuhns stated during the wet spring there was flooding. At that time nothing could be done. Martin's tiling did come out and give him an estimate of what it would cost to help the issue in the field east of his property that wasn't draining. Most of the water comes from the east property owned by someone else. At that time, they didn't want to put any money into upgrading this tile. The drain was jetted out and there seemed to be no success. Since that specific flooding there hasn't been an issue since.

When asked by the board the Mr. Adley explained that since the building is under 4,000 square feet this request doesn't trigger needing a drainage plan per the ordinance.

There is currently a drainage pond on the property on the west side of the building. If the pond does get full the water usually goes across their driveway or into the field. While discussing drainage the board asked if he could make the drainage pond bigger or put another one in a different location and make it a dedicated retention area. Mr. Kuhns stated that he could on the south side of the building if he had to.

Mr. Adley explained that if the board wishes they could require Mr. Kuhns to come up with a plan to meet the requirements of an approved drainage plan to assist in making what is there today better, but it wouldn't allow it to get worse.

The board questioned Mr. Kuhns about the oil and he told them that the oil is used in an oil burner in house.

Mr. Miller made a motion to approve the request 20-BZA-55 KUHNS, Joseph - A request for a Special Use to allow a 27'x114' addition to an existing building that is a preapproved small engine repair business; located at 1319 Plymouth Goshen Tr., Bremen, German Twsp. Zoned A-1 with the requirement that there be a drainage plan to accommodate the new building as well as the existing buildings, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The third item of business was 20-BZA-56 BORKHOLDER, Everett & Loretta - A request for a Variance of Developmental Standard to allow an additional Broiler Barn to a CFO that doesn't meet the 1320 ft residential setback; located at: 5191 Cedar Rd., Bremen German Twsp., Zoned A-1. Mr. Everett Borkholder & Elizabeth of Agronomix were present to represent their request. Mr. Adley presented to findings of fact.

The applicant is seeking to construct a second broiler barn, which will take the existing animal feeding operation to a confined feeding operation, which invokes a series of additional development standards. One of which is the requirement that any part of the facility shall be 1,320' from any residence off the premises. The nearest residence is 854' and ranges up to 1,172', but there will be one additional residence (the subject home residence) because the poultry facility will be separated off from the residual of the parcel.

The recommendation was based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval provided that there are no objections from neighbors.

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The first building was built in 2014. Approximately two years ago Mr. Borkholder began the process of adding another building. Because he milked cows there is a significant issue with having the milk operation meet the same standards as an IDEM CFO permit. It was discussed earlier about separating the milking operation. Three of the signatures that are needed are to a barn that is not on our IDEM permit so it's not a part of the CFO. Therefore, there is only 3 homes that affected by the chicken barns. All of the IDEM approvals were processed and then they found they forgot to get approvals from the three property owners. As of this meeting the three-property owner's have signed off on the approval of this request.

The composting done at Miller Poultry allows them to raise the meat birds in 6-7 weeks' time and when they remove the birds they bring in a machine and turns the manure and shavings into four piles and every time they turn it it heats up and puts oxygen in it and kills disease pathogens, helps to stabilize the nutrients, and burns off the nitrogen. Then they spread it back out and let it cool for 3 or 4 days. They like to keep around 6 inches in the barn. Once it reaches about 8 inches, they will remove one of the piles which will lower the total inches.

Miller poultry has two different types of birds, antibiotic free birds and organic birds. There is a 40' area outside that allows the birds to go outside and roam, but the majority of the time they are inside as they like to be close to the food.

There are exhaust fans in the buildings. They are set up to run on 5-minute intervals for a minute to a minute and a half.

Mr. Wickzier moved and Mr. Miller seconded the motion to close the public hearing. Motion carried by acclamation.

1. John Kuhns - 1860 5th Rd. Bremen – Sent a letter in support of the request.
2. AMMF (Borkholder) – 2060 5th Rd., Bremen – Sent a letter in support of the request.
3. Craig & Rhonda Riffey – 7247 SR 331, Bremen – Sent a letter in support of the request.
4. John & Cara Plank – 5238 Cedar Rd., Bremen – Sent a letter in support of the request.
5. Eli Jr. & Clara Borkholder – 2088 5th Rd., Bremen – Sent a letter in support of the request.
6. Kenneth & Brenda Miller – 1835 5th Rd., Bremen – Sent a letter in support of the request.
7. Laura Bucher -Sent a letter and strong objects to the request. She shares a fifth interest with siblings and mother to the south of the Borkholder farm. Concern of air and water quality, as well as the nuisance of odor, flies, feather and traffic. Also believes there will be a negative impact to the value of their property.
8. Marilyn Haines - Sent a letter and strong objects to the request. She shares a fifth interest with siblings and mother to the south of the Borkholder farm. Concern of air and water quality, as well as the nuisance of odor, flies, feather and traffic. Also believes there will be a negative impact to the value of their property.
9. Sharon Toon - Sent a letter and strong objects to the request. She shares a fifth interest with siblings and mother to the south of the Borkholder farm. Concern of air and water quality, as well as the nuisance of odor, flies, feather and traffic. Also believes there will be a negative impact to the value of their property.
10. Wendy Stanton Haines - Sent a letter and strong objects to the request. She shares a fifth interest with siblings and mother to the south of the Borkholder farm. Concern of air and water quality, as well as the nuisance of odor, flies, feather and traffic. Also believes there will be a negative impact to the value of their property.
11. Robert Haines - Sent a letter and strong objects to the request. She shares a fifth interest with siblings and mother to the south of the Borkholder farm. Concern of air and water

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- quality, as well as the nuisance of odor, flies, feather and traffic. Also believes there will be a negative impact to the value of their property.
12. Linda Wakefield – Sent an email and says her mother is 80 years old and is the owner of the property affected by the proposed change. Believes this would devalue their property for future resale.

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

Elizabeth from Agronomix reminded the board that all area property owners have been notified of the request through the state multiple times and at no time was there anything received against the request.

At this location there was a dairy farm which has now been turned over to beef cows.

Mr. Miller made a motion to approve 20-BZA-56 BORKHOLDER, Everett & Loretta - A request for a Variance of Developmental Standard to allow an additional Broiler Barn to a CFO that doesn't meet the 1320 ft residential setback; located at: 5191 Cedar Rd., Bremen German Twsp., Zoned A-1, seconded by Mrs. Barnhart. Motion carried with a voice vote 5-0.

The fourth item of business was 20-BZA-57 SCHWARTZ, John & Esther - A request for a Special Use to allow an existing molding home workshop shop for cabinetry; located at 2257 3B Road, Bremen, IN German Twsp., Zoned A-1. Mr. John Schwartz was present to represent their request. Mr. Adley presented their findings of fact.

The applicant is seeking to build an addition onto his pre-existing (unapproved) home-based workshop. The addition would be 14x28'. The business makes moldings for cabinets. The hours of operation are 5am to 1pm and will have 1 full-time employee and 2 part time employees.

The recommendation is based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposed existing business as requested.

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

Mr. Wickizer made a motion to approve 20-BZA-57 SCHWARTZ, John & Esther - A request for a Special Use to allow an existing molding home workshop shop for cabinetry; located at 2257 3B Road, Bremen, IN German Twsp., Zoned A-1, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

20-BZA-58 WITHDRAWN

The fifth item of business was 20-BZA-59 WOJDA, Mark & Anita - A request for a Variance of Developmental Standard to reduce the ROW setback from the required 30' to 19.5' in order to add on to the existing garage and add on a 2nd story to the residence; located at: 16258 Dogwood

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Rd., Plymouth, IN West Twsp., Zoned L-1. Mr. Mark Wojda and Mr. Bernie Feeney of Plymouth Land Survey was present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to reduce their front yard setback from 30' to 19' in order to accommodate a garage and second story addition for dialysis equipment storage and treatment area.

The recommendation was based on the information provided and the review of the property, staff would recommend denial of the proposed reduction in setbacks, because the situation shall not be self-imposed.

The applicant is seeking to reduce their setback from 5' from the furthest point on the structure to 5' from the foundation.

Mr. Feeney explained that the Wojda's plan to only take the addition to the sides and up, but not any closer to the road. The extra space will be for one car garage as well as storage space for all of the dialysis equipment and supplies. The residence is also accessed to this property is from an easement not a county road.

The Wojda's previously lived in Carmel and this was their vacation home. They've now sold the Carmel residence and this is now their permanent home. The lake house is only 1,300 square feet and the extra room is much needed.

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

1. Anita Wojda – They've tried every option possible to create more space for their needs. This option seemed to be the best possible solution.

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

Mr. Berger made a motion to approve 20-BZA-59 WOJDA, Mark & Anita - A request for a Variance of Developmental Standard to reduce the ROW setback from the required 30' to 19.5' in order to add on to the existing garage and add on a 2nd story to the residence; located at: 16258 Dogwood Rd., Plymouth, IN West Twsp., Zoned L-1, seconded by Mr. Wickizer. Motion carried with a voice vote 5-0.

The sixth item of business was 20-BZA-60 ANDERSON, Fred & Laura - A request for two side yard setback reductions from the required 10'/10% to 5' from the foundation in order to build a new house; located at: 3291 Lakeshore Dr., Bremen, IN German Twsp., Zoned L-1. Mr. Randall Mast of John Mast construction was present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to reduce their side yard setbacks from 10'/10% to 5' from the foundation. The recommendation was based on the information provided and the review of the property by the Technical Review Committee, staff and TRC would recommend denial of the proposed reduction in setbacks, because the situation shall not be self-imposed.

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The builder said that the property is already tight and it would drastically reduce the size of the house if they had to come in an extra 12" on each side.

The board commented that around the lake most all lots are small and if they reduce for one, they have to do it for all.

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

The board asked for clarification of what the request is and Mr. Adley stated the requirement is 5' to the eaves and the applicant is requesting 4'.

Mrs. Barnhart made a motion to deny 20-BZA-60 ANDERSON, Fred & Laura - A request for two side yard setback reductions from the required 10'/10% to 5' from the foundation in order to build a new house; located at: 3291 Lakeshore Dr., Bremen, IN German Twsp., Zoned L-1, seconded by Mr. Berger. Motion carried with a voice vote 5-0 to deny due to practical difficulty and is self-imposed.

Other Business

Proposed 2021 Meeting Calendar & Meeting Times – Mr. Adley explained that the staff has proposed to move the meeting times of both meetings to the same times. Whether the meetings are at 7:00 or 7:30 didn't matter to staff. The majority of the Plan Commission seemed to agree that the 7:30 time slot worked the best.

Mr. Miller made a motion to approve the proposed 2021 BZA meeting schedule, seconded by Mr. Berger. Motion carried by acclamation.

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