

February 9, 2021  
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, February 9, 2021, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, James Berger, David Hostetler, and Matt Miller. Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The minutes from the January 12, 2021, meeting was submitted to the board. Mr. Miller made a motion to approve the minutes as presented, Mr. Kutch seconded the motion. Motion carried by acclamation.

The first item of business was 21-BZA-04 TRIEZENBERG, Megan - A request for a Variance of Developmental Standard to allow a 4' fence on a portion of the northern and southern property lines to maintain dog on the property; located at: 4486 Plum Lane, Bremen, IN German Twsp., Zoned L-1. Ms Megan Triezenberg of 4486 Plum Lane, Bremen was present to represent her request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a fence within the side and rear yards of the property for their dog. The fence proposed is to be 4' in height.

Ms. Triezenberg is proposing to build a fence partially wood and aluminum.

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

1. Jacob & Sherri Triezenberg – 4476 Plum Lane, Bremen - No problem with the request. The fence is to help keep her two dogs maintained on her own property.
2. Greg Cooley – Does not have a problem with the request as long as the applicant gets a survey and keeps the fence on her property.

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

Ms. Triezenberg prefers not to get a survey. The opposite adjacent neighbor has survey pins and Ms. Triezenberg plans to measure from those points. After discussion the board agreed that it wasn't necessary to get a survey, but made clear that the fence must be on the applicant's own property.

**Mr. Hostetler made a motion to approve 21-BZA-04 TRIEZENBERG, Megan - A request for a**

## Marshall County Board of Zoning Appeals

2/9/2021

**Variance of Developmental Standard to allow a 4' fence on a portion of the northern and southern property lines to maintain dog on the property; located at: 4486 Plum Lane, Bremen, IN German Twsp., Zoned L-1, seconded by Mr. Berger. Motion carried with a voice vote 4-0.**

The second item of business was 21-BZA-05 COFFEL, Caleb - A request for a Variance of Development Standard to allow two chicken barns that do not meet the distance requirements of 1,320' from a residence; located at: 3560 Grape Rd., Bremen, German Twsp., Zoned A-1. Mr. Caleb Coffel of 3560 Grape Rd., Bremen was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct two 60'x600' chicken barns in the North East corner of the property. The two barns are seeking to be within the 1,320' setback with the closest structure being 860' to the south. There are two properties that are within the setback at just above 1,000'. Each barn will have 45,000 chickens. AFO to CFO threshold is 30,000 where as CAFO is 125,000.

Mr. Coffel explained a little about the buildings heating and cooling as well as the turning of the manure. There will be a 40x60' manure holding facility until it is spread throughout the year. The states requirements for setbacks of a property line is 100'. Mr. Coffell received an agreement to the north for a setback of 50' from the side yard.

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

1. Andy with Miller Poultry – 30210 Wakarusa – Mr. Coffel has their approval to build the barns. The manure is re-used recycled and composted in the barn. It is a dry manure not a liquid manure. They provide tunnel ventilation with 52" fans at the back that provide a wind tunnel to cool the birds which would face the east. The odor is minimal. Melissa Lehman submitted an odor plan documenting that 95% of the odor does not go past 400'. There is ammonia control in the building through ventilation and manure management. Also uses poultry litter treatment which reduces ammonia as well as strict animal welfare guidelines at their company to keep ammonia under 20 parts per million.
2. David Rader – 6540 Elm Rd. Bremen – Neighboring property owner to the west has no problem with the request.
3. Trend Weldy – Bremen Town Manager – Property is adjacent to Bremen's jurisdiction and the Town is not in favor due to the smell it puts off being that close to the town.
4. Joseph Stoller 3708 Grape Rd., Bremen – Concerned mostly about drainage. It is a very wet area. The area to the east is a flood plain. Wants to make sure there is a drainage plan before anything happens. The property he owns he doesn't live there it's just used as an office.
5. Anthony Wagner – 5413 3<sup>rd</sup> Rd. Bremen – Sent a letter stating his family lives about 4,300' from the northeast corner of the Coffel parcel. Isn't against the use, but concerned about the odor of the operation will be addressed. Seems like the wind is mostly out of the southwest side of the property and will be in the direct path of the odors escaping the facility. The southwest portion of the town is heavily residential and is concerned.
6. Letter (no name) Lives on 4<sup>th</sup> Rd.– Concern for smell, sanitary concerns and is not in

## Marshall County Board of Zoning Appeals

2/9/2021

favor of the request.

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

The greatest interest the board is voting on is the issue on the 1,320' requirement from residences.

This parcel is Mr. Coffel's only piece of land. He has visited other similar properties and didn't notice a smell. With him living on this parcel it's of great importance to him as well to keep the smell at a minimum. As far as the drainage he will meet all the requirements of IDEM as well as the county.

**Mr. Berger made a motion to approve 21-BZA-05 COFFEL, Caleb - A request for a Variance of Development Standard to allow two chicken barns that do not meet the distance requirements of 1,320' from a residence; located at: 3560 Grape Rd., Bremen, German Twsp., Zoned A-1, seconded by Mr. Hostetler. Motion carried with a voice vote 3-1 with Mr. Miller voting against.**

The third item of business was 21-BZA-06 CARMAN FARMS - A request for a Variance of Use to allow a game reserve; located at: 16641 2B Rd., Walkerton, IN Polk Twsp., Zoned A-1. The applicant is seeking to operate a pay to hunt licensed large game preserve on the property under IC 14-22-31. The property will be primarily be an alfalfa field. The property will be fenced and for aesthetic purposes, will be surrounded by trees. The Shooting preserve license covers items such as animals for hunting, season (September through April), records requirements, and licensing requirements. Mr. Dan Falk was present to represent his request. Mr. Adley presented the findings of fact.

There are approximately 130 acres on the parcel. The type of animals being hunted is regulated by the Animal Board of Health which includes white tail deer, sheep, goats etc. When asked if for instance pheasants were included and Mr. Falk said that he thought that would be a separate license.

Mr. Falk is currently wanting to get approval to put up a fence. In the future he may come back for a request to add cabins to the property. At this time of the meeting Mr. Falk didn't have a site plan. The weapons to be used is whatever is allowed by Indiana law.

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

1. Steven & Cheryl Linback – 17015 2B Rd., Walkerton – Lives 25' from where Mr. Falk has started to install poles that looks like he will then add huge cables that will go off of it. Has grandchildren and small animals and has a concern for their safety. The noise is also a factor as well. Doesn't like the thought of gun shots going off from September through April. Is this every day? Who will be shooting? Also concerned about additional traffic and the decrease of property values.
2. Ellen Hummel – 16374 2B Rd., Walkerton – Lived on her 20 acres there for over 40 years. Some of the ground is farmable and some is wetlands that are spring fed. There

## Marshall County Board of Zoning Appeals

2/9/2021

- are mallard ducks and Canadian geese. Would never want to see any hunting of birds because of the Mallards. Not sure if she is for or against. Doesn't see anything in the ordinance for a game reserve. Came to find out the applicants plans. Has a concern if they are pinning up animals to be hunted. Isn't in favor of all of the gun shots. Is this going to be going on every day? Is there shooting aloud near the roads? Believes there needs to be more of a plan at a minimum.
3. Corey Hawkins – 17091 2B Rd., Walkerton – If Indiana Code is wide open for this and the whole place is going to be operated as a range, he doesn't want bullets flying his way. Where is down and up range going to be? Where is there a safe spot? Have they taken into consideration that neighboring properties have hunters on them? Will they be in tree stands? Are they going to be hunting out of ground blinds? Where is stuff flying? What licensing requirements are going to be had for people coming to hunt? Moved out away from the city to not have to deal with stuff like this. Wants to know more than just approve something and have to deal with it. Is there going to be liability insurance or by the individual hunter if anything happens to their properties. Hoping the board would table the request to get more information.
  4. Caroline & Jim Monroe - 2986 N. Redwood Rd. Has a concern about safety and devaluation of his property values. If he wants to go hunting himself fine. But trapping, caging them, feeding them, and killing them could be right in his back yard. If they are going to be hunting from September through April, they will lose their freedom to be out safely in their own yards. This is for the enjoyment of not someone who lives in the area and has invested in keeping it a nice community.
  5. Jim Duff – 2482 N. Redwood Rd. – Farm butts up to this property. Wants to see their gravel road fixed before they approve something like this. This is a very wet area. There are coyotes and poachers from archery season on in this area. Is not for or against this request.
  6. Donald & Jeanette Allison Trust – 3250 Redwood Rd. – The property is zoned A-1 and needs to stay that way. The area is too small for a game reserve. Too many houses close by and would be affected. There is 3 tile lines for there property to my ditch that has to be maintained is a county ditch. His fence line that borders the property is in bad shape and will only get worse. Full against the changing the zoning.

Mr. Miller made a motion to close the public hearing, seconded by Mr. Hostetler.

Mr. Falk agrees he's found poachers in the area as well, but that doesn't really have anything to do with the request.

Mr. Falk answered the following questions:

1. The people shooting on the reserve will have to pay or they will be friends/clients.
2. The fence is currently being installed.
3. In the spring there will be 4,300 trees delivered
4. The parcel is due to be logged. Believes that is how you get other trees to grow.
5. Water/Fowl hunting – There is a season for it and Mr. Falk is a duck and goose hunter and if it's a good spot to hunt duck and geese then he and friends will hunt them. Mr. Gustafson commented that there is a difference between you are your friends hunting on the property and you charging someone to hunt.

## Marshall County Board of Zoning Appeals

2/9/2021

6. Safety is always a concern. Carrying insurance is just something he will have to do to have people come and hunt.
7. The Beagle Club is a fenced in hunting area. Haven't heard complaints of that.
8. There is a deer preserve 1 ½ miles to the south. Guessing he does around 40 hunts a year.
9. Most people just go out and do what they want. Mr. Falk's intention is to be upfront and spell out his intentions.
10. Has a friend in South Whitley that does the same thing on 80 acres and has around 80 people a year.
11. Understands peoples concerns and respects their opinions. But he loves guns while using them safely.
12. The Plan is to have a guide with every hunter whether it be himself or someone that works for him.
13. Would like to run his business-like Lee that is 1 ½ miles to the south.

Mr. Miller explained he felt the concern of the neighbors is not what you and your friends do on your personal property, but having a business of a hunting preserve. Appreciates some of the answers addressed; however, would be more comfortable with a business plan being provided.

Mr. Gustafson expressed that he appreciated him being up front and coming before the board. In addition to that when there was a request to sell firearms the proper procedures were followed and haven't had any complaints.

Mr. Falk addressed that the shooting of wild animals is cleared up by the DNR beforehand and is not an issue.

The board was in agreement that safety with this is a huge concern along with concerns stated by the public. Because of all the unknowns the board felt that a detailed written business plan would assist them in making a proper decision. By tabling this request it would give the applicant time to comply with the request.

**Mr. Hostelter made a motion to table this request 21-BZA-06 CARMAN FARMS - A request for a Variance of Use to allow a game reserve; located at: 16641 2B Rd., Walkerton, IN Polk Twsp., Zoned A-1, seconded by Mr. Berger. Motion carried with a voice vote 4-0.**

The board asked Mr. Falk to come up with a plan showing where you are going to shoot, how you are going to shoot, how many people, season/dates, how many people, which direction you are going to be shooting from, are they all going to be guided, are there specific trails used, tree stands or shooting from the ground including other questions asked by the public.

The fourth item of business was 21-BZA-07 GEHRKE, Roderick - A request for a Variance of Developmental Standard to reduce the side yard setback from the required 10'/10% to 0' to allow for a 12' extension of the existing home for a 12'x17' home addition; located at: 305 Thayer St., Lapaz, IN North Twsp., Zoned T-1. Mr. Roderick Gehrke of 305 Thayer St. Lapaz was present to represent this request. Mr. Adley presented the findings of fact.

## Marshall County Board of Zoning Appeals

2/9/2021

The applicant is seeking to put a 12' addition onto their home, but are needing to reduce their side yard setback from 10'/10% (4') to 0'. The property is made up of 3 parcels or lots from the Thayers Addition; 19, 20 and 21.

Mr. Gehrke restated that with the proposed addition he is not extending past the existing house and not going any closer to the property line.

When asked why he's choosing for a variance over combining the property he said its about the timing and his current health problems.

The length of time it takes to survey, create a replat and record can vary depending on the surveyor and how busy they are.

The board discussed possible options and setting deadlines to have properties combined.

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

1. Regina Jones 11219 1<sup>st</sup> Rd. – Is a family friend and knows his health is a big issue. Her father in law is the neighbor to the south of Mr. Gehrke and has no problem it. Mr. Gehrke's house was in really bad shape and he has fixed it up. The house is very small and they really need an additional bathroom.
2. Marjorie Holderman 208 South St. – Doesn't think they should be allowed to build closer to the property line as it could set a precedence. The standard setback requirement of 10' should be withheld.

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

**Mr. Miller made a motion to approve 21-BZA-07 GEHRKE, Roderick - A request for a Variance of Developmental Standard to reduce the side yard setback from the required 10'/10% to 0' to allow for a 12' extension of the existing home for a 12'x17' home addition; located at: 305 Thayer St., Lapaz, IN North Twsp., Zoned T-1; with the following condition:**

1. By August 31<sup>st</sup>, 2021 all three parcels need to be officially combined into one.

**Seconded by Mr. Hostetler. Motion carried with a voice vote 4-0.**

The fifth item of business was 21-BZA-08 MILLER, Scott & Christine - A request for a Special Use to allow a 14'x50' single wide mobile in a town residential zoning; located at: 4947 French St., Plymouth, IN Polk Twsp., Zoned T-1. Mr. Scott Miller of 4947 French St. was present to represent his request. Mr. Adley presented the findings of fact.

Mr. Hostetler stated to the board and public that he personally knows Mr. Miller and his property adjoins to Mr. Miller and will abstain from voting.

Mr. Gustafson stated to the board and public that Mr. Miller hired him to do the demolition work as they've been friends for over 30 years. Mr. Gustafson asked the board and public if they have any problems with him voting on this specific case to speak. Nobody commented yah

## Marshall County Board of Zoning Appeals

2/9/2021

or nay.

In November the Miller's home burnt. Due to the cost and them wanting to travel they would like to downsize and thought that a single wide would fit their needs.

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

1. Clarence & Shirley Shively – 18115 5<sup>th</sup> Rd. Plymouth – Has no problem with what they are planning. They've seen pictures and are sincerely trying to do the best they can trying to get back in a home. Impressed with the quality of what they are proposing. Good neighbors and want to keep them.
2. David & Betty Hostetler – Supports them and their request.

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

**Mr. Berger made a motion to approve 21-BZA-08 MILLER, Scott & Christine - A request for a Special Use to allow a 14'x50' single wide mobile in a town residential zoning; located at: 4947 French St., Plymouth, IN Polk Twsp., Zoned T-1, seconded by Mr. Miller. Motion carried with a voice vote 3-0-1 with Mr. Hostetler abstaining.**

The sixth item of business was 21-BZA-09 DEMIS, Robert - A request for a shipping container to be occupied as a saleable business; located at: 20993 8th Rd., Plymouth, West Twsp., Zoned A-1. Mr. Robert Demis of 20993 8<sup>th</sup> Rd. was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to allow the use of a shipping container on the property in order to start a business that he intends to sell. It is staff's interpretation under the Zoning Ordinance that a shipping container falls in line with a semi-trailer and their origin in the transportation industry. Under Article 3 section 110 Unlisted and Questionable Uses dictates "Any use not listed as a permitted use or a special exception is considered not permitted unless the Planning Director makes a determination otherwise. The Planning Director may determine into which category any questionable use be placed if it is not specifically listed but similar to another use that is a permitted use or special exception. This determination may be appealed to the Board of Zoning Appeals." The applicant had previously been heard in late 2019 under case 19-BZA-57 where the case was presented, but they would like to have the case reheard. For additional context as a recent Ordinance amendment proposal, the Plan Commission recommended to clarify and included the verbiage within the Ordinance to make the regulation obvious and apparent, but the Commissioners do not wish to address the subject at this time and would currently rather the Plan Commission/Board of Zoning Appeals address them on a case by case basis which ultimately runs as a violation until the use is approved, which is why the applicant is before the BZA. In a brief synopsis of the previous meetings minutes, the applicant is an inventor with a vision to bring one of his ideas to market. He had run out of room in the existing garage and worked outside his garage for about a year. The applicant looked into portable buildings and found that was suitable for his size and shape, which was a cargo container. Assumed that since the cargo container was temporary to finish the project it would be okay.

## Marshall County Board of Zoning Appeals

2/9/2021

The applicant understood it was too close to the property line, but thought if someone complained about it, he would deal with it then. Went to a business on Highway 30 at the Marshall Starke County Line. The inspectors that came out to the property seemed to be mostly concerned that it was a storage container and is not made to be a habitable workshop. Mr. Demis was an industrial maintenance contractor. That container seemed to him a space that would work for him. The inside has conduit all throughout. There is an electrical panel with different circuits and receptacles on the walls with lighting down the center of the ceiling. Planned on putting in a service door at each end of the container for safety. At the time, the applicant indicated that he hoped to be ready to load up his product and take it to south Florida in a couple months (early to mid 2020). There were two individuals that voiced their support of the applicant to be able to have the shipping container.

Mr. Demis doesn't believe that the statute doesn't disclose that shipping containers are illegal in Marshall County. He is hoping that he isn't forced to remove it. This container isn't just a workshop, but part of the business itself. As soon as there is a buyer the shipping container will be sold and removed right along with the business.

He's been shut down for two years because he couldn't put in two 36" service doors to allow for ingress and egress, and understands it's not safe to hire a helper without these doors.

It's been put off because Mr. Demis felt that he was unfairly treated and singled out because his 2019 materials weren't brought to the meeting and felt that he had an unfair hearing. He's given up fighting to keep the container on the property. He just wants to finish the project without the County telling him he can't work inside of it.

The Plan Director explained that the majority of all violation cases are because a neighbor turns in a complaint. Not because we are out singling out specific people.

When asked why he didn't get a permit before he brought the container on the property, he said that he didn't think it was required because it was a portable building.

Mr. Demis is coming back before the board because one his year time frame is up to re hear in pause of the violation of the shipping container itself. At this time nothing is being pursued for the setback issue. If this is approved, he will have the opportunity to file for a variance tomorrow for the setbacks.

Because of the recent proposals and the Commissioner's rejection to deny all shipping containers Mr. Demis felt his container should be grandfathered.

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

1. Mr. & Mrs. Rzepczynski – 20993 8<sup>TH</sup> Rd. – Doesn't feel that Mr. Demis should be allowed to receive this request due to some issues of the container. If he were to build, he would have to follow building codes and setbacks. So should he. He is just inches away from their property line and believes this is a code violation.

Mr. Hostetler made a motion to close the public hearing, seconded by Mr. Miller. Motion

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**Marshall County Board of Zoning Appeals****2/9/2021**

carried by acclamation.

Mr. Demis stated that the fence that was put up he doesn't know if that is the property line.

The County Commissioners requested to deny the proposed amendment to the ordinance on shipping containers and requested to bring it back at a later date after doing additional research.

After additional discussion the length of time it will take to do additional research, and possibility of an extension of time allowed the board didn't want to approve to keep it there permanently, but possibly an extension of time.

Mr. Adley explained to the board that he originally started off as an inventor in his own shop to a home-based workshop which is a special use approval because it's a business at that point.

The board agreed that re-constructing this shipping container to allow doors isn't going to make the structure safe and meet requirements and is against allowing doors.

**Mr. Miller made a motion to pause pursuing the violation for six (6) months of case 21-BZA-09 DEMIS, Robert - A request for a shipping container to be occupied as a saleable business; located at: 20993 8th Rd., Plymouth, West Twsp., Zoned A-1 and give the Planning Commission and County Commissioners time to come up with a statute, seconded by Mr. Berger. Motion carried with a voice vote 4-0.**

The seventh item of business was 21-BZA-10 YODER, Larry & Barbara - A request for a Special Use to allow a dog kennel for up to thirty (30) French bull dogs for breeding with pups kept on site until eight weeks of age; located at: 1420 Plymouth Goshen Tr., Bremen, German Twsp., Zoned A -1. Attorney, Charlie Zercher of Kindig and Sloat at 102 Heritage Parkway Nappanee and Mr. Larry Yoder of 1420 Plymouth Goshen Tr. were present to represent their request.

Recommendation: Based on the information provided staff would recommend denial due to the size of the kennel. Should the board seek approval then the conditions from the Technical Review Committee should be considered. TRC would recommend to table the proposal for the information pertaining to the following: 1. What is the phosphorous level of the property because the soils can only accept up a certain amount under the regulation of OISC. 2. Is there going to be a composting process and how will it be applied to the ground on a daily basis.

The applicant is seeking to operate a dog kennel for up to 30 French bulldogs for breeding with pups kept on site until 8 weeks of age. Please see the site plan for location of proposed kennel building. The nearest residence is to the northeast at approximately 400' from the proposed structure. The applicant shall meet all associated development standards except the following BZA application 21-BZA-11 for the reduction in setback. The proposal is for up to 30 mature dogs on site, 4 males and 26 females. The females will produce 1 to 2 litters per year. the petitioner intends to sell pups to retail customers through on-site pick-ups and ground and air shipping. The hours of operation would be 8a-4p Monday through Saturday. There will be no employees outside of Larry and wife Barbara (property owners). There are an estimated 2-4

## Marshall County Board of Zoning Appeals

2/9/2021

customers per week. Per existing data and extrapolation, the cubic yard generated for 30 dogs is 5.421-6.31 cubic yards. This is below the threshold of 10 cubic yards for state regulation, but the Petitioner is willing to comply with the regulations in spreading any dog manure on his real estate/pasture. There will be a secondary perimeter fence surrounding the primary fencing of the dog runs. Septic system for the kennel will meet all associated Marshall County requirements.

Mr. Zercher understood from the Health Department that they didn't have any objections to the kennel. When asked if there were any additional requirements by the Health Department and the response was that they didn't have any additional requirements for that and wouldn't object to the kennel. He felt that was primarily due to the manure and the spreading of the manure. The 10 cubic yards of waste is the threshold that the state chemist oversees and regulates the application of manure. When they figured out what would be produced it came out to 5.421 of liquid waste per year and if it was dry it would be 6.31 cubic yards per year. Those thresholds fall under the requirements of the state guidelines.

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

1. Sandy Yoder – 1686 Plymouth Goshen Tr., - Has a concern with the noise level, decrease in property values, and that it will be a puppy mill to manufacture dogs. There is already a cited puppy mill two miles from her house. Doesn't believe this will be beneficial to anyone in the neighborhood.
2. Steve Hochstetler – 7108 1<sup>st</sup> Rd. – Has the adjoining property to the west. Has a concern about the drainage. Concerned that this property is illegally dumping waste in the woods. He has put tile and a catch basin in on his own property to take care of the water in the woods. He wants to know where this septic water will drain to. Is it going to be dumped in the woods?
3. Letter stating support for request by Loren Kuhns at 1342 Plymouth Goshen Tr., Joseph Kuhns 1319 Plymouth Goshen Tr., and Leanna Kuhns 1319 Plymouth Goshen Tr.
4. Marshall County Humane Society – Sent a letter and does not agree to add another breeding facility in the area. They already have 1 male and 4 females onsite, that is an average of 32 puppies a year. In most cases French Bulldogs require the puppies to be delivered by cesarean section. If this kennel does pass, they would like to be involved in the process by inspecting at any time and would like to see all vet paperwork that they don't breed dogs that have issues that can be passed onto the offspring.
5. The Humane Society of the United States – Sent a letter requesting the Board to consider the concerns of local citizens to deny the request of this proposed puppy mill.

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

Mr. Gustafson commented that he has a heavy concern that the Marshall County Humane Society is against this request. There have been others she has given favorable recommendation to and this isn't one.

Mr. Kercher said that the Marshall County Zoning Ordinance developmental standards require

## Marshall County Board of Zoning Appeals

2/9/2021

that the kennel be open for inspection by the Zoning Administrator and/or the Humane Society. In the questions there didn't seem to be any questions or concerns about the health of the dogs or their conditions.

During discussion on the location it was brought up that it might help to put a barrier between them and the neighbors to the east. The applicant replied that he already has a row of trees on that eastern property line.

**Mr. Miller made a motion to approve 21-BZA-10 YODER, Larry & Barbara - A request for a Special Use to allow a dog kennel for up to thirty (30) French bull dogs for breeding with pups kept on site until eight weeks of age; located at: 1420 Plymouth Goshen Tr., Bremen, German Twsp., Zoned A -1, seconded by Mr. Hostetler. Motion carried with a voice vote 3-1 with Mr. Gustafson voting against.**

The eighth item of business was 21-BZA-11 YODER, Larry & Barbara - A request for a Variance of Developmental Standard to allow a dog kennel that is 400' from the nearest residence; located at: 1420 Plymouth Goshen Tr. Bremen, IN German Twps. Zoned A-1. Attorney, Charlie Zercher of Kindig and Sloat at 102 Heritage Parkway Nappanee and Mr. Larry Yoder of 1420 Plymouth Goshen Tr. were present to represent their request.

### Recommendation:

Based on the information provided and the distance between the structures and available locations, staff would recommend denial of the proposal. TRC would recommend denial of the setback reduction.

The applicant is seeking to operate a dog kennel for up to 30 French bulldogs for breeding with pups kept on site until 8 weeks of age. Please see the site plan for location of proposed kennel building. The nearest residence is to the northeast at approximately 400' from the proposed structure. The minimum setback per article 6 is 600' for kennels.

Mr. Kercher reminded the board that the neighboring property owner did sign a paper authorizing his approval of the request.

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

1. Letter stating support for request by Loren Kuhns at 1342 Plymouth Goshen Tr., Joseph Kuhns 1319 Plymouth Goshen Tr., and Leanna Kuhns 1319 Plymouth Goshen Tr.

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

Mr. Miller asked if there was any way they could move back the building to meet the 600'. Mr. Zercher stated that they possibly could, but they would like to line it up with the other building and it would be easier to access.

**Mr. Hostetler made a motion to approve 21-BZA-11 YODER, Larry & Barbara - A request for a**

## Marshall County Board of Zoning Appeals

2/9/2021

Variance of Developmental Standard to allow a dog kennel that is 400' from the nearest residence; located at: 1420 Plymouth Goshen Tr. Bremen, IN German Twps. Zoned A-1, seconded by Mr. Berger. Motion denied 2-2 with Mr. Miller and Mr. Gustafson voting against.

During discussion about noise when asked what type of fencing would be used the applicant responded that it would be a chain link type fence. To limit the visibility and sound the applicant also agreed to put something up between the fencing.

Mr. Miller made a motion to approve 21-BZA-11 YODER, Larry & Barbara - A request for a Variance of Developmental Standard to allow a dog kennel that is 400' from the nearest residence; located at: 1420 Plymouth Goshen Tr. Bremen, IN German Twps. Zoned A-1, seconded by Mr. Hostetler. Motion carried with a voice vote 3-1 with Mr. Gustafson voting against.

The ninth item of business was 21-BZA-12 HOLLAND, Dennis & Linda - A request for a Variance of Developmental Standard to allow a 24'x30' garage 24' from the edge of the road; located at: 20831 N. Lake Dr., Walkerton, IN Polk Twsp., Zoned L-1. Mr. & Mrs. Dennis & Linda Holland of 20831 N. Lake Drive. Mr. Adley presented the findings of fact.

The applicant is wanting to build a garage (24x30') 24' from the edge of right of way. There are several structures nearby that also do not meet the minimum setback requirement.

### Recommendation:

With the information provided, staff would recommend approval of the proposal. TRC would recommend approval of the proposal.

The side yard setback will be met, they just meet the requirement off the road.

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

1. Deb Traversa – 20828 N. Lake Dr., Walkerton – With the property being L-1 and not A-1 as originally written it does make way for the view shed as well as the safety and traffic flow. She understands there are other structures that don't meet the requirements, but standards were developed for a reason. This isn't personal at all. This is a protection of their property. They live directly across the street and have for 18 years. Concerned about their property values along with safety as they are on a curve. Mr. Traversa commented that he would like for them to build what they want as long as they meet the requirements. But still has a concern about safety the blocking of view of the lake.

Mr. Gustafson explained that if they meet all the setbacks they would be allowed to build in that location.

Mrs. Traversa cited from the ordinance Chapter 2 010 E (f) Due to it's relatively high residential density, particular attention should be paid to protecting property line setbacks and view sheds to the lake. Mrs. Traversa also sent a letter for the file restating

Marshall County Board of Zoning Appeals

2/9/2021

the same.

Mr. Adley explained that the majority of the time that this is brought up when a side yard setback reduction is increased, adjacent to one another left or right around the lake, or building in front of or closer to the lake.

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

Mr. Adley reminded the board that administratively he did have the option to do an average of setbacks of adjacent properties and this request would have passed. However, he felt this case should go in front of the board.

During discussion the board all agreed that if they met the setbacks, they would be able to build the building and the view would be affected either way.

**Mr. Hostetler made a motion to approve 21-BZA-12 HOLLAND, Dennis & Linda - A request for a Variance of Developmental Standard to allow a 24'x30' garage 24' from the edge of the road; located at: 20831 N. Lake Dr., Walkerton, IN Polk Twsp., Zoned L-1, seconded by Mr. Miller. Motion carried with a voice vote 4-0.**

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

Respectfully submitted

Matt Miller