

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

The minutes from the February 9, 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.

Mr. Adley read the oath stating that the Marshall County Council has appointed Michelle Mieras to the Marshall County Board of Zoning Appeals for the term of 4 years from February 8, 2021 – December 31, 2024.

The first item of business was 21-BZA-06 CARMAN FARMS - A tabled request for a Variance of Use to allow a game reserve; located at: 16641 2B Rd., Walkerton, IN Polk Twsp., Zoned A-1. Marlin Whetstone, Lonnie Whetstone, and David Whetstone were present to represent Carman Farms. Mr. Adley presented the findings of fact.

The applicant is seeking to operate a licensed 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.

- Original Recommendation:

Based on the information provided, staff would recommend tabling the proposal in order to get some questions addressed. Items that need addressed include a site plan for operation, establishment of meeting IC, what animals will be available, what types of guns will be permissible, how will safety of the consumers and adjoining properties be addressed, and hours/dates of operation. TRC would recommend to table and would like to know whether or not there will be rentals.

- Update

No additional information has been provided to the Plan Commission, there for staff and TRC would recommend the applicant pull their proposal or recommends the BZA deny the proposal for lack of sufficient information provided by the applicant.

The Whetstones were present to represent Dan Falk/Carman Farms. They were unsure as to what the variance was even for. Marlin and Lonnie Whetstone questioned the board how is Mr.

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Falk's request any different than people leasing property to hunt. The board explained that this is very different it is a business.

The board requested additional information at the meeting in February as well as a site plan for the proposed operation. There was one months' time for Mr. Falk to call and ask questions and to provide this office with what the board requested. He didn't do that, nor did he inform you as his representatives of the proposed plans.

The Whetstone's offered the following information for the Carman Farms proposal: It's a fenced facility, there are currently 10 stands on the property and in the future, there are plans to put up a overnight facility, there will be trees around the perimeter, there has been no plan made up as to what direction they will be shooting, and there will be a guide with every hunter and it will be safe.

Mr. Gustafson explained to the Whetstones that Mr. Falk was asked to table and come back to this hearing for a purpose. There were a lot of questions and concerns by neighbors. They had hoped additional information would help to calm their fears of bullets flying and hunters in there constantly.

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

1. Jim & Carolyn Monroe 2986 Redwood Rd. Is a neighboring property owner. Major concern is safety. At least half of their property border's the Carman Farms property. Doesn't see how any fence will stop a bullet. There is also a concern for value of the neighborhood lifestyle value or property value.
2. Steve Murray 17851 2B Rd. Does not want to tell Carman Farms how to use their property, but doesn't want this properties use of A-1 to change.
3. Ellen Hummel 16374 2 B Rd. Agrees with the findings of fact that this proposal is injurious to the public health safety and general welfare. The value of adjacent property may be affected depending on the use. The existing ordinance does not have development standards or similar uses for this property. Also doesn't believe this request is a hardship. Wants to know who is governing these facilities. Is it the Board of Animal Health or is the state? How can you approve this without a plan?
4. James Easterday 119 W. Garro St. Attorney representing ?. Feels the frustration of the board in not receiving the documentation that was requested and is required. The Marshall County Zoning Ordinance requires a site plan with specifications, letter of intent to board describing details and meets all the findings of facts and Mr. Easterday believes the applicant doesn't meet any of the findings.
5. Corey Hawkins 17091 2B Rd. Feels everyone is being misled. At the last meet he said he would be do the guides and now these new representatives are saying they are doing the guides.
6. Shawn Vanderveldon 17375 2 B Rd. Lived in the area for 49 years. Believes the biggest thing that is upsetting the neighbors is the not knowing. Is opposed to the request.
7. Letter Steve Murray 17851 2 B Rd. Is concerned about the decrease in property value, safety and lack of knowing what their plans are.

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

Mr. Whetstone understands the frustration. The knowledge they have on the proposal is as follows: There will be fencing around the property 35' off the road, 4500 trees will be delivered in the spring (there will be three rows of trees surrounding the entire property), it will be a few years before there are any planned hunts to let the ground mature, and it will be a peaceful natural habitat. He apologized that they didn't have what was requested, but would definitely do so. Some of the property will stay in agriculture and other areas will be in natural habitat for the wildlife. There will be three or four hunting locations. There will be deer born and bred there as well as some brought in. This is all regulated on behalf of the Animal Board of Health. He believes that the Animal Board of Health isn't going to permit this without it being a safe environment.

In the past years there have been up to ten hunting stands on this property. Just recently they have been asked to remove their stands.

Mr. Kutch made a motion to deny 21-BZA-06 CARMAN FARMS - A tabled 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. Miller. Motion carried with a voice vote 5-0 to deny.

The second item of business was 21-BZA-13 BERG, Timothy & Barbara - A request for a Variance of Developmental Standard to allow a 7'x22' deck 37' from the shoreline; located at 16999 12th Rd., West Twsp., Zoned L-1. Timothy and Barbara Berg were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is located within a L-1 zoning district where the setback requirement in the rear of the property is 45' from Base Flood Elevation. Per the attached drawing the applicant is seeking to construct a 7'x22' deck that is adjacent to a camper that will be located 37' from the lake. In early 2019 Mr. Berg was approved for a variance of use "to allow an existing campground which is named Lakeside Campground; located at 16999 12th Rd., Plymouth" with conditions. One of the conditions that was imposed included new structure requiring permits including decks and that setbacks were to be met.

The Berg's are requesting a 7' variance to allow a 7'x22' movable deck to assist in the ingress and egress from the trailer.

As a reminder this campground has been in existence for 50 some years. It was owned by Mr. Berg's family, then a family friend and then Tim and Barb Berg.

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

1. Lori Hoshaw 16945 12th Rd. Neighboring property owner to the east. Believes that the trailer in question still doesn't meet the requirement of 45'. Since the last BZA meeting another trailer has been moved in. Ms. Hoshaw also doesn't believe they have complied with the Indiana Department of Health or DNR. Doesn't believe the

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board should approve this request because past requirement haven't been met.

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

In relationship with those two trailers they could stay in their existing location, but anything else that were to be added to the property would have to meet the setbacks. Due to the topography and layout with all the snow we were unable to take pictures to compare locations of structures.

The TRC and staff recommended denial because of the previous case requiring all structures forward to meet the setbacks.

Mr. Berg stated that the two trailers brought up have not been changed or moved, but once they are moved, they will not be replaced. The trailer that they are asking for a deck setback reduction does meet all the setbacks. When asked by the board if the Berg's could move the trailer to make the deck meet setbacks, he said no that he couldn't or the trailer wouldn't meet setbacks. Currently the owner's only use the front set of steps and for safety they really need a deck to get in and out of both entrances. The proposed deck is movable and sit on post pads.

The Berg's updated the board that the Stones Excavating are working with them and the State of Indiana to resolve their septic issues.

Mr. Kutch made a motion to approve 21-BZA-13 BERG, Timothy & Barbara - A request for a Variance of Developmental Standard to allow a 7'x22' deck 37' from the shoreline; located at 16999 12th Rd., West Twsp., Zoned L-1 with the following stipulations:

- 1. The proposed deck is not a permanent structure**
- 2. The deck will go with the trailer when it is removed.**

Seconded by Mr. Miller. Motion carried with a voice vote 4-1 with Mr. Gustafson voting against.

The third item of business was 21-BZA-14 KEPHART, Leslie & Kathleen - A request for a Variance of Developmental Standard to allow the extension of a parcel to be 300'x1002' that doesn't meet the 1 to 3 width to depth ratio; located at: 10060 7th Rd., Plymouth, IN Center Twsp., Zoned A-1. Mr. Les Kephart was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to buy a portion of property behind their existing ground and are wanting to combine it together, but it will not meet the minimum lot size requirement. They are wanting to purchase a lot of approximately 300x276 which will put them about 102' over the dimensional requirements.

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

Mr. Miller made a motion to approve 21-BZA-14 KEPHART, Leslie & Kathleen - A request for a Variance of Developmental Standard to allow the extension of a parcel to be 300'x1002' that doesn't meet the 1 to 3 width to depth ratio; located at: 10060 7th Rd., Plymouth, IN Center

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Twsp., Zoned A-1, seconded by Mr. Kutch. Motion carried with a voice vote 5-0.

The fourth item of business was 21-BZA-16 BORKHOLDER Eli & Clara - A request for a Special Use to allow two (CFO) broiler barns that does not meet the 1,320 ft residential setback for six residences; located at: 1800 5th Rd., Bremen, IN Zoned A-1. Eli Borkholder and Nelson Borkholder were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to put up two 29,990 chicken barns on their property. One of the barns would be classified as an AFO(Animal Feeding Operation), the construction of the second is what pushes the operation from an AFO to a CFO (Confined Feeding Operation). A CFO for permitting approval requires an IDEM permit and to be setback 1,320' from residences not on the subject property.

Recommendation:

Based on the information provided, staff would recommend denial based on the number of individuals that occupy the 1,320' setback requirement. Should approval be considered, residents within that distance should be strongly considered. TRC would recommend approval with the condition that no neighbors within the 1,320' distance object to the proposal.

Mr. Borkholder stated that all but one neighbor signed the statement stating that they are in favor of the request. He talked to the one neighbor and he had lost the paper. He said he had no problem with the proposal, but asked if he would plant trees as a border.

The board asked about notification for cases such as this and Mr. Adley explained to everyone that we follow the states requirements that everyone within 300' or two property owners over get notified of this hearing by mail and is legally published in the paper.

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

1. Andy (Miller Poultry)- 30210 CR 40 Wakarusa Miller Poultry supports Mr. Borkholders proposed barns. They prepared letters to have the applicant go to the neighbors to receive their support and they did.
2. The following letters were received by neighbors to support the request: Kenneth & Brenda Miller, Galen & Emily Lehman, Chester & Tina Borkholder, Nelson & Ruby Borkholder, and Craig & Rhonda Riffey.

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

Mr. Miller made a motion to approve 21-BZA-16 BORKHOLDER Eli & Clara - A request for a Special Use to allow two (CFO) broiler barns that does not meet the 1,320 ft residential setback for six residences; located at: 1800 5th Rd., Bremen, IN Zoned A-1 with the following conditions: receive letters from neighboring property owners and plan a row of trees where the neighbor planted the arborvitaes along with a site plan where there are to go, seconded by Mr. Kutch. Motion carried with a voice 5-0.

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The fifth item of business was 21-BZA-17 MILLER, Earl & Edna - A request for a Variance of Developmental Standard to allow a front yard setback reduction from the required 50' to 40' in order to rebuild a house after a fire; located at 841 10th B Rd., Bourbon, IN Bourbon Twsp., Zoned A-1. Mr. Earl Miller was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to rebuild after a house fire. The previous house was located approximately 25' from the ROW, and with the rebuild they are looking to move the structure back to 40', but they won't be meeting the 50' minimum.

Mr. Miller explained to the board when he figured the measurements for this request he measured from the foundation and forgot to consider the eaves. With the eaves it will probably be somewhere around 38'.

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

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| 1. Dennis Lemler | 10285 S. Beech Rd. | Approves their request to allow them to build on their existing foundation. |
| 2. Tom & Jane Watkins | | Supports Earl & Edna's request to rebuild their home after this devastating fire. |

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

The request is for 40' from the right of way. The plan for the house is to be at grade level, using part of the existing foundation and there will not be any additional extensions past the house. The plan for the eaves is to extend out around 16".

Mr. Adley reminded the board that they cannot approve an amount less than what was advertised. This will require Mr. Borkholder to change the size of the eaves, move the house back or come back next month. The board discussed all of these options with Mr. Borkholder.

Mr. Kutch made a motion to approve 21-BZA-17 MILLER, Earl & Edna - A request for a Variance of Developmental Standard to allow a front yard setback reduction from the required 50' to 40' in order to rebuild a house after a fire; located at 841 10th B Rd., Bourbon, IN Bourbon Twsp., Zoned A-1, seconded by Mr. Miller. Motion carried with 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

Matt Miller