

April 13, 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, April 13, 2021, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, James Berger, David Hostetler, and Bob Yoder. Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The minutes from the March 9, 2021, meeting was submitted to the board. Mr. Berger made a motion to approve the minutes as presented, Mr. Hostetler seconded the motion. Motion carried by acclamation.

The first item of business was 21-BZA-19 CRABB/Mahler - A request for a Variance of Developmental Standard to reduce the rear yard setback from the required 20' to .25' and a side yard setback from the required 15' to 1.6' in order to move property lines so they don't run through a garage; located at 16656 18B Rd., Culver, IN Union Twsp., Zoned A-1. Mr. Alan Mahler and Susa Craab were present to represent their request. Mr. Adley presented the findings of fact.

The main reasoning to adjust the property lines is coming from the subdivision from the property to the west from the agricultural ground behind it and in order to provide access, the driveway is being split between the two property owners. The adjustment of the western property line (side yard) is going to move it closer to the garage from an existing 8.6' to 1.6'. The northern property line (rear yard) is going to move from -12.6' to .25'.

Alan Mahler and Susan Crabb applicants brought a copy of their abstract and were very confused about the process, the surveyed map and why this was not already done because they believe the abstract already shows the property line adjustment done in 1964.

Mr. Gustafson expressed that he does not like the thought of taking a non-compliant parcel and allowing it to stay non-compliant when there is a way for it to meet requirements.

Mr. Mahler's desire is to have usage of the driveway to access to the ground behind when he sells the farmhouse and Ms. Crabb's desire isn't necessarily to have use of the driveway but have ownership of the property where the garage is.

With all the questions of the current abstract and proposed setbacks the board had many concerns. The board suggested that they go back to surveyor discuss their concerns and reconsider the proposed setbacks.

**Mr. Hostetler made a motion to table the request until May, seconded by Mr. Berger. Motion carried by acclamation.**

The second item of business was 21-BZA-20 BORKHOLDER, Floyd & Linda - A Variance of Developmental Standard to allow a reduction in easement requirement from 50' to 49'; located at 6427 Elm Rd., Bremen, IN German Twsp., Zoned A-1 that includes parcels 50-43-23-000-027-000-005, 50-43-23-000-026-000-005 and 50-43-23-000-027-001-005. Floyd & Linda Borkholder of 6720 Elm Rd. Bremen, was present to represent their request. Mr. Adley presented the findings of fact.

The applicant has recently established that they have been accessing the property from the wrong side of a rural school, as well as the school has developed a baseball diamond in a portion of the legal access for the rear property. The applicant and adjacent property owner are land swapping the entrance. In the swap, there is an existing structure on the school property, which does not have enough space to accommodate a side yard setback and minimum lot frontage.

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

**Mr. Hostetler made a motion to approve 21-BZA-20 BORKHOLDER, Floyd & Linda - A Variance of Developmental Standard to allow a reduction in easement requirement from 50' to 49'; located at 6427 Elm Rd., Bremen, IN German Twsp., Zoned A-1 that includes parcels 50-43-23-000-027-000-005, 50-43-23-000-026-000-005 and 50-43-23-000-027-001-005, seconded by Mr. Berger. Motion carried with a voice vote 4-0.**

The third item of business was 21-BZA-21 KLINEDINST, Darrick & Jill - A request for a Variance of Developmental standard to reduce the right of way setback from 50' to 25' to allow for an addition to an existing pole barn to store their travel trailer; located at 17823 W. 4th Rd., Walkerton, IN Polk Twsp., Zoned A-1. Darrick & Jill Klinedinst of 17823 W. 4<sup>th</sup> Rd., Walkerton, IN were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to add onto their existing pole barn in order to store their travel trailer indoors. The applicant indicates that they are unable to put the addition onto the east side of the existing structure due to slope and ability to access and store trailer. The minimum setback requirement is 50' and the proposal is 25'.

Mr. Gustafson shared that he owns a property near the Klinedinst's and sees it regularly and notices it's kept immaculately. When the applicant's purchased the property all that was on the property was the house.

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

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**Mr. Yoder made a motion to approve 21-BZA-21 KLINEDINST, Darrick & Jill - A request for a Variance of Developmental standard to reduce the right of way setback from 50' to 25' to allow for an addition to an existing pole barn to store their travel trailer; located at 17823 W. 4th Rd., Walkerton, IN Polk Twsp., Zoned A-1, seconded by Mr. Hostetler. Motion carried with a voice vote 4-0.**

The fourth item of business was 21-BZA-22 HURFORD, Rob & Jennifer - A request for a Variance of Development Standard to allow a hog barn that does not meet the distance requirement of 1,320' from a residence; located at: 7150 12B Rd., Argos, IN Center Twsp., Zoned A-1. Mr. Rob Hurford of 15955 Gumwood Rd. Argos Chris Kenyon of 58052 Crystal Springs Drive of Goshen, IN was present to represent his request.

The applicant is seeking to construct a CFO for hogs. The CFO threshold requires an IDEM permit and a setback of 1,320' residences not on the subject property. There are 4 residences within the setback ranging from 710' to 1,074'.

The Plans are to put in a 2000 head hog barn wean to finish. Mr. Hurford has three letters from neighbors that support the request and knows there is one neighbor present that has questions.

When asked about the smell of a hog barn facility Mr. Kenyon responded with the following:

- Feed ingredient changes.
- Ventilation changes in buildings. (This is a tunnel ventilated barn with ventilation through the deep pit.) These fans run 24/7 they are a minimum/variable speed fan.
- This facility is located near a woods where the winds come from the southwest and these woods will be used as a true bio-filter.

Works at Co-Alliance and is planning to sign a contract with the Hurford's if there is an approval. This is an opportunity for their family to stay in livestock without taking all the necessary risk of ownership of livestock.

This type of operation has two batches a year. He would get them at the age of two weeks and keep them until they are 6 months. Once the building is emptied it is washed and disinfected before the next group is brought in. The truck traffic is primarily twice a year. During that time there are usually 15 semi's in and out during those three weeks. Feed deliveries are averaged at 1 truck a week.

When asked about manure disposition Mr. Kenyon explained that IDEM sets the standards on construction size of the pit. This is an 8' pit that has allows for storage of 360 days. The whole building has a pit underneath it. This pit has 42" above ground and there is backfill brought up to it. With regard to spreading everything in the State of Indiana must be knifed in or incorporated within 24 hours. Mr. Hurford has already received calls on wanting to have the manure. Manure management permits are handled through IDEM. This application is a CFO not a CAFO. Mr. Hurford has no plans to turn this into a CAFO. As soon as you reach 600 head you must obtain a IDEM permit. Then above 2400 head you must obtain a CAFO permit. Mr. Yoder commented with the raise in fertilizer costs more farmers need a source of nutrients for the ground. From an animal science perspective manure is a good fertilizer because it provides more

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than just nitrogen.

This size of operation is the smallest operations in the hog word. Laidig's farms have 2 8,000 count barns and another barn within 4 miles.

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

1. Steve Lemler – 12843 Hickory Rd. – Owns two properties that are next to this request. Both properties are on the east side of Hickory along with one that is owned by the daughter of Mr Lemler. The major concern is water contamination. In the Spring the water level is at 4' and above. With concrete there is no way to keep it from cracking. After conversation with the applicant and how it will be built Mr. Lemler feels from his experience that it will leak from underneath. Once it leaks it will contaminate the ground. His well is only 50' in the ground. For years, the well was 8' and never went dry. There is a huge concern of water contamination. Hears also from the neighbors their concern of water contamination, a decrease in property values, and a worry that request is just the beginning with more to come. Has experienced contamination in the past and neither him nor his daughter is for this. He would like assurances that there will be no water contamination. Also wanted a guarantee that there will be no more houses.

Mr. Gustafson asked the applicants what the plans were to keep from having leakage. There is a continuous slab pour. When the walls are poured there is a 4" rubber water stop that those join together on. IDEM will do a soil boring where the building sits to make sure they are above the season water table. On top of that there is a perimeter tile around the base of the pit that goes to a sump that has a pump that is pumped out onto a rock wash. This will be monitored for all discharge. Mr. Hurford stated that slab goes over the top of the footer so there is no flat butt joint it will be a S shaped joint where the slab is poured over the footer abutted to the wall.

2. Form letters received in support of the proposal by: Andrew Slabaugh, Carl Barnhart, and Michael Weissert.

Mr. Hostetler moved and Mr. Berger seconded the motion to close the public hearing. Motion carried by acclamation.

In response to the concern of lowering property values. Mr. Hurford stated that he purchased the property 3 to 4 years ago and the house was caving in on itself and the county had it listed as no value. He rebuilt and remodeled the house and now appraises at \$300,000. In addition to that if this is approved there will be a \$600,000 barn there as well. Doesn't believe this is a detriment to property values.

Mr. Yoder commented that he would like to have the information on the seasonal water table to make a more informed decision. During the meeting NRCS was pulled up and reviewed. From this website it is showing the seasonal water would tend to be high. The only way though to get an accurate reading is to pull soil borings.

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IDEM oversees the construction of the manure storage structure and the surface rock wash. IDEM also monitors the application of the manure very thoroughly. When asked about the state setback requirements the applicant replied that IDEM has a 100' property line setback requirement for a CFO and 200' for a CAFO.

Looking at all the properties owned by Mr. Hurford and taking everything into consideration, this property seemed to be the best fit. No matter which property they picked none would meet the 1320' from a residence.

The applicants reminded the board that this step in the process is the very first of many. If the soil borings do not pass, they are done. IDEM will not allow this building to be built without good borings.

As a point of clarification if the numbers of hogs increase to over the CAFO limit the requirements to have a facility like that will drastically increase.

The field to the north of this property was tiled last year. As far as county tiles there are none.

Part of the approval process will also be a drainage plan. The applicant will have an engineer draw up a drainage plan and it will be reviewed by the County Surveyor as well as the Plan Director.

**Mr. David Hostetler made a motion to approve 21-BZA-22 HURFORD, Rob & Jennifer - A request for a Variance of Development Standard to allow a hog barn that does not meet the distance requirement of 1,320' from a residence; located at: 7150 12B Rd., Argos, IN Center Twsp., zoned A-1 with the following condition: a row of evergreens to screen the property on the east side of Hickory Rd.; seconded by Mr. Yoder. Motion approved 3-1 with Mr. Berger voting against.**

The fifth item of business was 21-BZA-23 MILLER, Earl & Edna - A request for a Variance of Developmental Standard to reduce the right of way setback from the required 50' from ROW to 36' from ROW in order to rebuild home after fire; located at: 841 10B Rd., Bourbon, IN Bourbon Twsp., Zoned A-1. Mr. Earl Miller of 841 10B Rd. was present to represent his request. Mr. Adley presented the findings of fact.

The applicant had previously come in under 21-BZA-17 to reduce the front yard setback from 50' to 40'. The problem though was that the measurement was going to be from the foundation rather than from the eave. They have since applied for this subject variance to accommodate the full structure within the indicated setback of 36'.

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

1. Dennis Lemler – 1285 South Beech Rd. Bourbon – Gives permission for the applicant to build their home.

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

**Mr. Hostetler made a motion to approve 21-BZA-23 MILLER, Earl & Edna - A request for a Variance of Developmental Standard to reduce the right of way setback from the required 50' from ROW to 36' from ROW to rebuild their home after fire; located at: 841 10B Rd., Bourbon, IN Bourbon Twsp., Zoned A-1, seconded by Mr. Berger. Motion carried with a voice vote 4-0.**

2020 Annual Report

Mr. Adley presented high points of the 2020 Plan Commission & Building Department Annual Report. Showing an increase in permit count as well as valuation. In addition to permits BZA and Planning Commission also had an increase in cases heard.

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