

October 11, 2022
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 11, 2022, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, Matt Miller, and Michelle Mieras. Also present was Ty Adley Plan Director, Lori Lowry and interested parties.

Mr. Hostetler made a motion to approve the September 13, 2022, minutes, seconded by Mr. Miller. Motion carried by acclamation.

The first item of business was 22-BZA-42 LEWIS LEVETT, Jeannie - A request by Gary Treat for a reduction in right of way setback from the required 30' to 24' in order to build an attached 24'x28' garage; located at: 16486 Sheryl Ct. Plymouth, West Twsp. Zoned L-1. Ms. Jeannie Lewis Levett of 16486 Sheryl Court Plymouth was present to represent the request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a 24x28' garage addition towards the road. The applicant is in a subdivision on the North side of SR 17 in an L-1 off water property. The Lake Residential District requires a front yard setback of 30' between the structure and the right of way line. The existing structure is an estimated 53' from the Right of way line and the addition is proposing to reduce that down to 24'. The applicant deems that this is the "only available location to expand".

The only other house that would be affected by this proposal is vacant and has been for three years. Since this property is zoned L-1 it has a 30' right of way setback. If it were zoned A-1 it would be a 50' setback. The proposed entrance of the garage will be facing south.

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

Mr. Hostetler made a motion to approve 22-BZA-42 LEWIS LEVETT, Jeannie - A request by Gary Treat for a reduction in right of way setback from the required 30' to 24' in order to build an attached 24'x28' garage; located at: 16486 Sheryl Ct. Plymouth, West Twsp. Zoned L-1, seconded by Ms. Mieras. Motion carried with a voice vote 5-0.

The second item of business was 22-BZA-43 PORTER, Timothy & Vickie - A request for a Variance of Developmental Standard to allow the following set back reductions: 20' from the required 45' lakeside setback, 25' from the required 30' from right of way, and 7.5' from the required 10'

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west side yard setback; located at: 4010 W. Shore Dr. Bremen, IN North Twsp., Zoned L-1. Timothy & Vickie Porter of 410 W. Shore Dr. Bremen were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a new home and an addition onto the existing pole building. The parcel was recently combined together in order to develop the parcel as a new homesite. The proposed parcel is triangular in shape and has water on 2 sides which is accompanied with a 45' setback. Then coupled with a 30' setback from a dead-end road, the parcel is a prime example of a uniquely shaped lot that will benefit from a variance. The pole building addition is proposing to maintain the existing distance from the property line which is where the reduction in side yard setback is coming into play from 10% of lot width to 7.5'. The reduction from the lake side and roadside are for the proposed residence with reductions of 45' to 20' and 30' to 25' respectively.

Due to all the complexities of the parcel the reason the house wasn't moved toward the garage was because of the location of the well. The plan for the existing garage is to reside it, put a new roof on, and install new windows & doors to match the same color as the home.

The flood plain at Lake of the Woods is 805. DNR has given them approval install a natural sea wall and it will be brought up of 805.5 to 806 which will be completely out of the flood plain. Once the house is completed and platted it will be re-surveyed with the elevations showing it is out of the flood plain. When the combination of lots was done there was only about 8' that was within the flood plain at that time. Where the house is situated it will be 3' above flood elevation. The house will be built on a crawl space that is 2' out of the ground. The state has approved all requirements and this variance is the final requirement before the applicants can move forward.

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

1. Roger Porter – 406 N. Indiana St. In favor of the request.

Mr. Hostetler moved to close the public hearing, seconded by Mr. Miller. Motion carried by acclamation.

Ms. Mieras stated that setbacks are made aware at the time of purchase. She has a problem with the amount of setback reduction the applicants are requesting. The property is a buildable piece of property. It's just what they want to do with it requires major changes in the setbacks.

One of the positive factors the TRC discussed was the separation gap between the existing garage and the new house doesn't protrude the house out further.

Mr. Hostetler made a motion to approve 22-BZA-43 PORTER, Timothy & Vickie - A request for a Variance of Developmental Standard to allow the following set back reductions: 20' from the required 45' lakeside setback, 25' from the required 30' from right of way, and 7.5' from the required 10' west side yard setback; located at: 4010 W. Shore Dr. Bremen, IN North Twsp., Zoned L-1, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The third item of business was 22-BZA-44 SEITZ, Lindsey & Seth Cassel – A request for a Variance of Use to allow an automotive repair business; located at: 610 12 B Road, Bourbon, Bourbon

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Twsp., Zoned A-1. Seth Cassel & Lindsey Seitz of 610 12B Rd. Bourbon were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to operate an automotive repair business "that offers our local community and surrounding areas with all types of vehicle services ranging from basic maintenance to a complete rebuild in hopes of building trust and loyalty to grow our customer base." The property is located in the A-1 agricultural district and under the listed of permitted or special uses, the automotive repair business is not listed, although it is an available use in the commercial district. The company (12B Automotive) currently has 1 full time and 1 part time employee with potential to expand number of employees in the future. The plan is to operate Monday through Friday 8a-5p with evenings and weekends by appointment only. In order to manage the backlog of the customers "by giving them a 5 day grace period after notification that the job has been completed. If the customer does not take possession of their vehicle within this allotted time frame, the car will be moved to an offsite holding facility and 12B Automotive will file a mechanics lien on the customer's vehicle." They also "currently have trees completely outlining our property to the North, East and West sides to shield the business from our surrounding neighbors."

The business was turned in as a violation. The owners promptly came into the office to discuss their options. Prior to the applicant's purchasing the property it had been a business use of trucking. This is Mr. Cassel's full-time employment. In the future he hopes to have a maximum of 3 full-time employees.

Mr. Bennett made a motion to open for public hearing, seconded by Ms. Mieras. Motion carried by acclamation.

1. Corey Ellinger 12600 Apple Rd. Neighbor to the southeast and doesn't have any problems with them having an automotive shop there.
2. Jeff & Kim Wanemacher 726 12B Rd. They aren't opposing the business request, but would like additional information on the business hours, what is the plan to hide disabled vehicles, will there be a fence in place to hide the vehicles and what is the protocol for disposing of waste material such as oil antifreeze and other hazardous wastes?
3. Tom & Linda Hesler 648 12B Rd. They have no objection to the proposed business but would like there to be no junk vehicles stored in view or located on the property.

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

In response to some of the questions: The vehicles' fluids will be removed by Safety Clean, and the used oil is being sold. With this being their personal home, they have no intention to make the property look junky or be disruptive to neighbors. The goal is to have no more than 3-5 cars at a time in the morning and the customers to come pick them up later that day. If the owner doesn't pick it up right away there is an off-site property that can be used to store those vehicles if needed. The property is lined with large pines for privacy. The planned hours will be 8-5 Monday Through Friday and Saturday 8-noon. Later hours will be by appointment only. There will be no materials stored outside. The building size is 30x48' with 12' ceilings. There is

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currently no bathrooms or waiting area inside.

They would like to have a small sign just so customers know where the property is.

Ms. Mieras made a motion to approve 22-BZA-44 SEITZ, Lindsey & Seth Cassel – A request for a Variance of Use to allow an automotive repair business; located at: 610 12 B Road, Bourbon, Bourbon Twsp., Zoned A-1, with the following stipulations:

- 1. Hours 8-5 Monday through Friday 8-noon Saturdays with evening and weekends by appointment only.**
- 2. No more than 3 employees**
- 3. TRC recommendation**

Seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The fourth item of business was 22-BZA-45 MILLER, Toby – A request for a Special Use by DM Excavating to use this property as storage for tile; located at 6626 6A Rd., Plymouth, IN German Twsp., Zoned A-1. Mr. Toby Miller 6626 6A Rd. and Mr. David Miller 6757 6A Rd. were present to represent their request. Mr. Adley presented the findings of fact.

DM excavating has been operating since their approval in 2018 under 18-BZA-10 which allowed a storage and repair shop in an existing building with the conditions including hours of operation, number of employees and a CDR. The business is looking to expand and relocate the outdoor storage to Toby's property 6626 6A Road. Case 46 that accompanies this proposal is freeing up space for additional outdoor storage of aggregate and other materials. For this case there is a proposed vegetative screen that to shield the contents shielded from view on the road. There are no other proposals to amend the original approval.

This variance is required as the applicants are expanding their business to a second location.

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

1. Toby Miller 6626 6 A Rd. Is okay with DM Excavating moving the tile onto his property which will include putting in a driveway and fence in.

Mr. Hostetler moved to close the public hearing, seconded by Ms. Mieras. Motion carried by acclamation.

Currently there isn't enough area to store and keep the area organized. Their plan is to organize and keep the area clean to allow others to come and pick out what tile they are wanting. The tile is used and installed by DM Excavating and others just come to purchase tile.

The plan is to put down gravel where the semi's come in and unload the material. The other areas will be left in grass.

Ms. Mieras made a motion to approve 22-BZA-45 MILLER, Toby – A request for a Special Use by DM Excavating to use this property as storage for tile; located at 6626 6A Rd., Plymouth, IN German Twsp., Zoned A-1, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

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The fifth item of business was 22-BZA-46 MILLER, David – A request for a Special Use to amend existing business to include storage of topsoil, gravel, and limestone; located at: 6757 6A Rd., Plymouth, IN German Twsp., Zoned A-1. Mr. David Miller 6757 6A Rd. and Mr. Toby Miller 6626 6A Rd. were present to represent their request. Mr. Adley presented the findings of fact.

The applicant has proposed to relocate the existing tile storage under BZA 45 to the brothers parcel to the immediate northwest. The relocation of material is creating the space for the new proposed aggregate and topsoil storage area. The business has been operating since 2018 under 18-BZA-10 which allowed a storage and repair shop in an existing building with the conditions including hours of operation, number of employees and a CDR. There are no other proposals to amend the original approval.

The area proposed is exactly where the tile is currently located that was approved in 2018. By replacing it and not making it any bigger it will not exceed what was planned for drainage.

The storage area is more than 300' off the road. The existing barn also helps screen the area.

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

Ms. Mieras made a motion to approve 22-BZA-46 MILLER, David – A request for a Special Use to amend existing business to include storage of topsoil, gravel, and limestone; located at: 6757 6A Rd., Plymouth, IN German Twsp., Zoned A-1, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The sixth item of business was 22-BZA-47 HALVORSEN, William Jr. – A request for a Variance of Developmental Standard to allow a reduction in lakeside setback from the required 45' to 45' from elevation 789'; located at: lot east of 16440 Pretty Lake Rd. (50-31-11-000-230-005-017), West Twsp. Zoned L-1. Mr. Halvorsen 16440 Pretty Lake Rd. and Mr. James Easterday, attorney 192 Garro St. for the applicant was present to represent their request. Mr. Adley presented the findings of fact.

The applicant has an interest in developing a home and detached garage on their property, but their property is geographically unique. The new home site is at conflict because the Zoning Ordinance requires the rear/lake side setback to be 45' from 789' or meet what is known as the string line that is established from adjacent parcels that have already been developed and their furthest protrusions towards the lake, whichever is greater. In this case since the adjacent parcels are developed, it is needing to meet this string line requirement which would nearly double the proposed setback from 45' to nearly 100' from the elevation mark 789. What makes this parcel unique is the fact that it is only 1 of two peninsula parcels on all of Pretty Lake. Standard lake properties are nearly inline from left to right as incremental progress is made around the lake, but this parcel as it can be seen is entirely different.

In Marshall County's zoning Pretty Lake is the only lake that sought out to apply the string line theory. If there wasn't a string line theory on Pretty Lake, the Halvorsen's wouldn't require a

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variance.

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

Mr. Bennett made a motion to approve 22-BZA-47 HALVORSEN, William Jr. – A request for a Variance of Developmental Standard to allow a reduction in lakeside setback from the required 45' to 45' from elevation 789'; located at: lot east of 16440 Pretty Lake Rd. (50-31-11-000-230-005-017), West Twsp. Zoned L-1, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

With no further business to come before the board the meeting was adjourned. Motion carried.

Respectfully submitted,

Michelle Mieras