

August 10, 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, August 10, 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 July 13, 2021, meeting was submitted to the board. Mr. Berger made a motion to approve the minutes as presented, Mr. Voreis seconded the motion. Motion carried by acclamation.

The first item of business was 21-BZA-38 YODER, Kevin - A request for a Special Use to allow a home based business of custom welding and repairs; located at: 6840 SR 331, Bremen, IN German Twsp., Zoned A-1. Kevin & Maria Yoder of 6840 SR 331 Bremen were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to operate Hoosier Welding which does a variety of custom welding and repair jobs. They would currently not have any employees, but would like to grow to as a large as 5-10 employees working 40 hour weeks beginning as early as 5:00am. Current deliveries consist of about 1 delivery truck per week and customer traffic is minimal.

Mr. Yoder would like to keep the hours of operation from 5:00 am to 2:30. His operation is for agriculture welding repairs, manufacturing of horse stalls, and general custom welding projects. All stock will be stored inside.

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

The Technical Review Committee recommended to place a maximum of 5 employees. With the building being of commercial nature the board explained to Mr. Yoder if there are employees and public in the building it is required to have a Construction Design Release approved by the State of Indiana. Mr. Yoder was informed that if there is going to be a sign there are sign standards and a permit is required.

With regard to outside storage Mr. Yoder agreed that any storage outside pertaining to the business would be between the new barn and existing barn or behind the barn.

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Mr. Berger made a motion to approve 21-BZA-38 YODER, Kevin - A request for a Special Use to allow a home based business of custom welding and repairs; located at: 6840 SR 331, Bremen, IN German Twsp., Zoned A-1, with the following stipulations;

1. Hours of operation 5am to 2:30pm
2. Maximum of 5 employees
3. Signage to be approved and permitted by the Plan Commission
4. Construction Design Release per Building Department
5. Storage – Restriction of storage between the two buildings and behind the welding shop

Seconded by Mr. Voreis. Motion carried with a voice vote 3-0.

The second item of business was 21-BZA-39 CAROTHERS, William - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 50' to 30' in order to build a home; located at: 14574 5th Rd., Plymouth, North Twsp., Zoned A-1.

The applicant has failed to appear. **Mr. Voreis made a motion to table this request until September, seconded by Mr. Berger. Motion carried by acclamation.**

The third item of business was 21-BZA-40 KUHNS, Enos & Mattie - A request for a Variance of Use to allow a 10x20' shed to be used as a periodic camping shelter; located at: 4279 Beech Rd., Nappanee, IN German Twsp., Zoned A-1. Mr. Enos Kuhns of 4279 Beech Rd., Nappanee was present to represent his request. Mr. Adley presented the findings of fact.

The applicant has several acres of woods at the rear corner of their property and they are seeking to place a camping shelter (10x20' on skids) within the woods. The camping shelter would be used periodically by the owners of the property. A brief and incomplete discussion occurred with the Plan Commission in July regarding these types of structures and the initial consensus was that this would be acceptable provided that they for the use of the owner, and not commercialized for anyone off the property.

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

A concern by the board was that a temporary building used for every now and then camping be turned into residential quarters. This has been a concern of the office as well. This site will have no running water no electric and no sewage system. The Plan Director reminded the board that they have the ability to add conditions to the motion to limit the use as the board wishes.

Mr. Berger made a motion to approve 21-BZA-40 KUHNS, Enos & Mattie - A request for a Variance of Use to allow a 10x20' shed to be used as a periodic camping shelter; located at: 4279 Beech Rd., Nappanee, IN German Twsp., Zoned A-1, with the following stipulations:

1. No permanent residence
2. No commercial use

Seconded by Mr. Voreis. Motion carried with a voice vote 3-0.

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The fourth item of business was 21-BZA-41 NOFTSGER, Pete- A request for a Variance of Developmental Standard to reduce the front yard setback from the required 30' to 8' and the rear yard setback from the required 15' to 0' in order to add on to an existing accessory structure; located at: 18637 SR 331, Tippecanoe, IN Zoned T-1. Mr. Pete Noftsger ... was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to expand this existing low clearance shed and in order to do so they are seeking to reduce the front yard setback off of Illion Street from 30' to 8' and also reduce the rear yard setback from 16' to 0'. The lot is relatively small, measuring approximately 40x120'. The lot is also a corner lot which has a significant impact on their ability to meet standard setbacks because secondary frontage (southside) and side yard setback (north side), significantly inhibit the ability to develop the parcel without having a variance of some nature. The Right of Way of Illion Street is 40' across, but approximately some nature. The Right of Way of Illion Street is 40' across, but approximately is 14' of the ROW on the North side of the road is the applicant's lawn and the improvement roadway is about 10' across.. The rear property line is adjacent to an alley that is used.

The applicant owns the property on the corner and his wife owns the adjacent property. The plan is to tear down his house on the corner and join the properties together as one and have his name included on the property after combined. In the meantime he would like to increase the size of the existing shed to store some of his belongings inside. When asked if he would like to tear down the house why doesn't he want to also tear down the shed and build new he said it was financial.

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

The board expressed that they would have a better feeling of approving the request once the house is tore down and the properties be combined. The rear yard setback required is 15' and the roadside setback is 30'. The board explained if all this was done and he tears down the shed he would be able to build a new shed and not need the variance.

After discussion the applicant requested to table the request till September.

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

The fifth item of business was 21-BZA-42 HENDRICKS, Staci - A request for a Variance from the 1:3 width to depth ratio tallow for wooded property to be split off; located at: 6th Rd. Bremen Parcel #'s, 50-43-22-000-001-000-005, 50-43-21-000-021-000-005, German Twsp., Zoned A-1. Mr. Corky Hendricks was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to cut off an estimated 25 acres of property on the East side of the Yellow River for a new property owner to enjoy recreationally. The current property owner was made

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aware of the significant floodplain area in which encompasses the subject property. The property would run from 6th road to the Southern edge of the property.

The property width at the road will be approximately 100' in width and when the property widens it will go out to about 210' in width. With the significant wet area there is little chance this property could be built on. The property would be best used recreationally.

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

Mr. Berger made a motion to approve 21-BZA-42 HENDRICKS, Staci - A request for a Variance from the 1:3 width to depth ratio tallow for wooded property to be split off; located at: 6th Rd. Bremen Parcel #'s, 50-43-22-000-001-000-005, 50-43-21-000-021-000-005, German Twsp., Zoned A-1, seconded by Mr. Voreis. Motion carried with a voice vote 3-0.

The sixth item of business was 21-BZA-43 DOLAN, Kevin & Catherine - A request for a Variance of Developmental Standard from the required side yard setback east side required 4' to 2.9' and the west side required 4' to 3.5' in order to build an addition on the single family residence; located at: 10299 Pretty Lake Tr., Plymouth, West Twsp., Zoned L-1.

The applicants along with their attorney, James Easterday, they requested to table the request until September.

Mr. Voreis made a motion to table this request until September 14, 2021, seconded by Mr. Berger. Motion carried by acclamation.

The seventh item of business was 21-BZA-44 PETERSON, Thomas & Patricia - A request for a Variance of Development Standard to exceed a portion of the fence height requirement of 3 1/2' to 4'; located at: 12346 Chippewa Tr., Culver, IN West Twsp., Zoned L-1. Mr. Ross Holderbaum of 7869 Plymouth Goshen Tr. Plymouth was present to represent the applicants. Mr. Adley presented the findings of fact.

The applicant is seeking to put in a fence around the side and rear of the residence (lake side). The rear yard of the property only allows for a 3.5' fence, but the applicant is seeking to construct a 4' fence. The side yard allows for up to 6' of fence on the property.

Mr. Holderbaum stated that working in a lake residential area it can be difficult as all counties requirements are different. With the placement of the owners house on the lot it's making part of the proposed fence to not be compliant. The size of the dogs requires the higher fence and 42" would be an odd size to get aluminum fencing. The proposed fencing meets all other requirements. In addition this fence won't impede anyones view. The fence will be going along the corner of the deck to the shed and runs parallel with the house.

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

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seconded the motion to close the public hearing. Motion carried by acclamation.

Mr. Voreis made a motion to approve 21-BZA-44 PETERSON, Thomas & Patricia - A request for a Variance of Development Standard to exceed a portion of the fence height requirement of 3 1/2' to 4'; located at: 12346 Chippewa Tr., Culver, IN West Twsp., Zoned L-1, seconded by Mr. Berger. Motion carried with a voice vote 3-0.

The second item of business was 21-BZA-39 CAROTHERS, William - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 50' to 30' in order to build a home; located at: 14574 5th Rd., Plymouth, North Twsp., Zoned A-1.

The applicant has failed to appear. William Carothers and Randy Mathews of Rochester Homes was present to represent their request.

The applicant is seeking to construct a new home on the property, but due to the location of a high power gas line and its easement on the property, the developable ability is hindered.

The UG utility lines run southeast on the west corner of the property. From the line there is a 75' easement one way and with that coming into the property it pushes the house south into the front yard setback.

The pipeline has been marked and the owner and Rochester Homes has been working off of those markings. The well is on the west front side of the pole barn and the septic is on the northeast side of the polebarn. With there being neighboring properties with houses closer to the road than the required 50' they don't see a reason why this can't be approved.

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

The best position of the home turned out to be east and west. The size of the home will be a smaller 1100 sq ft home.

Mr. Berger made a motion to approve 21-BZA-39 CAROTHERS, William - A request for a Variance of Developmental Standard to reduce the front yard setback from the required 50' to 30' in order to build a home; located at: 14574 5th Rd., Plymouth, North Twsp., Zoned A-1, seconded by Mr. Voreis. Motion carried with a voice vote 3-0.

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