

September 14, 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, September 14, 2021, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, James Berger, Jeff Kutch, Michelle Mieras, and David Hostetler. Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The minutes from the August 14, 2021, meeting was submitted to the board. Mr. Berger made a motion to approve the minutes as corrected, Ms. Mieras seconded the motion. Motion carried by acclamation.

The second item of business was -BZA-41 NOFTSGER, Pete- A tabled 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. Peter Noftsger was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to expand his existing low clearance shed and in order to do so they are seeking to reduce the front yard setback off Illion Street from 30' to 8' and reduce the rear yard setback from 15' 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 standards setbacks because secondary frontage (South side) 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 14' of the ROW on the North side of the road is the applicant's lawn and the improved roadway is about 10' across. The rear property line is adjacent to an alley that is used.

Mr. Noftsger believed he had completed the requests of the board from the business meeting.
1. Tear down the house on the corner
2. Combine both lots. During the meeting staff looked up the property on the GIS to confirm and the properties hadn't been combined either for tax purposes or by a replat.

The current request is for a south and west setback reduction only. If the building were to be tore down the applicant would need to reapply for an additional variance.

Mr. Hostetler 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. Kutch made a motion

Marshall County Board of Zoning Appeals

9/14/2021

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

Ms. Mieras made a motion to approve BZA-41 NOFTSGER, Pete- A tabled 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, with the following condition:

- 1. Combine the two parcels into one by the process of a replat with no middle lot line.**

seconded by Mr. Berger. Motion carried with a voice vote 5-0.

The third item of business was 21-BZA-43 DOLAN, Kevin & Catherine - A tabled 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. James Easterday, Attorney for the applicants, Kevin & Catherine Dolan 10299 Pretty Lake Tr Plymouth were present to represent their request. Mr. Adley presented the findings of fact.

The Applicant is seeking to construct a home addition on the lake side of the residence that will replace a screened in porch with a great room, new bedroom, and sunroom. The addition would widen the existing on both sides and would require reduction in setback from 4' to 2.9 feet on the East side of the property and 3.5' on the West side of the property. There is a concern that the property is currently served by septic system and should be clarified or rectified through the Marshall County Health Department.

The applicant will not be expanding further on the west side as it will be in line with the present structure. The east side they are trying to put in a 3' entrance door and need that extra room. This property is part of the Pretty Lake Sewer Conservancy District. However, there is the old system still on the property. To keep the additions away from the septic and pushing it out closer to the lake this plan is the best option. There is an existing shed on the property will also come down.

To meet the setback requirements it would mean adjustment the measurements by 1'. By adjusting the measurement the applicants said that it would make the bedroom to skinny.

Due to the inconsistency in the drawings there was a difficulty in understanding the request. Mr. Adley felt that the applicant's proposal was to increase the overall width of the structure by 4'. The east side; however, is just a little over one foot request in reduction. Mr. Easterday will go back to the architect and discuss a way to get the east setback to 4'. The applicant then agreed to a 4' setback on the east if the board would allow the west setback of 3.5'.

Ms. Mieras made a motion to open for public hearing. Motion carried by acclamation.

1. Robert Kizer 10369 Pretty Lake Tr.
Doesn't have a problem with this request to be granted. Believes it will be done in a nice way. It's been professionally designed and

Marshall County Board of Zoning Appeals
9/14/2021

- will most definitely increase property values.
2. Jana Oliver
10283 Pretty Lake Tr.,
Owns the property to the west of the Dolan's and her residence is next to that one. The Dolans have cleaned up the property when they bought it. Is completely in favor of their request and doesn't believe it will affect their view of the lake. Mrs. Oliver also submitted a letter of the same and it was read as well.
 3. Jeff Long
10327 Pretty Lake Tr.
Letter saying he approves of the request.

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

Mr. Kutch made a motion to approve 21-BZA-43 DOLAN, Kevin & Catherine - A tabled request for a Variance of Developmental Standard for the west side required 4' to 3.5' and no reduction in setback approved for the east side yard in order to build an addition on the single family residence; located at: 10299 Pretty Lake Tr., Plymouth, West Twsp., Zoned L-1. Motion carried with a voice vote 5-0.

The fourth item of business was 21-BZA-45 KREFT, Larrie - A request for a Variance of Development Standard to allow a setback reduction from the road right of way from the required 50' to 10' and the side yard from the required 25' to 10'; located at: 18140 SR 331, Tippecanoe, IN Tippecanoe Twsp. Zoned I-1. Mr. Larrie Kreft of 18140 SR 331 Tippecanoe was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a post frame building in the corner of their lot that will be approximately 77x138' 14' tall on the sidewalls. The structure is proposed to be 10' off of the western and southern side property lines. The property to the southwest is zoned T-1 Town Residential and the southern property is zoned Industrial. The Residential property requires there to be 50' setback when constructing on the Industrial zoned subject property. When Industrial abuts Industrial zoned properties the side setback is only 25'. The house that is on the Residential parcel will be less than 100' from the proposed new structure.

The applicant understands that there are other places he could put the building, but doesn't want to waste ground and also wants the doors to face the east. This location seemed to fit their needs the best.

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

1. Fred Jones
Is in favor of the request.

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

The plan director encouraged the applicant to be good neighbors in respect to lighting. Mr. Kreft said that they plan to have minimal lighting with one light at each end of the building and will be

Marshall County Board of Zoning Appeals

9/14/2021

shut off when they leave work.

Drainage has already been discussed with Mr. Sellers and a proposal will be drawn up and submitted with the application.

Mr. Hostetler made a motion to approve 21-BZA-45 KREFT, Larrie - A request for a Variance of Development Standard to allow a setback reduction from the road right of way from the required 50' to 10' and the side yard from the required 25' to 10'; located at: 18140 SR 331, Tippecanoe, IN Tippecanoe Twsp. Zoned I-1, seconded by Mr. Berger. Motion carried with a voice vote 5-0.

The fifth item of business was 21-BZA-46 PHILLIPS, George - A request for a Variance of Developmental Standard to allow a reduction in setbacks of the front yard from 30' to 19', rear yard 45' to 33' and lot coverage from 45% to 55%; located at: 4530 Pleasant Point Lane, Bremen, IN Zoned L-1. Mr. George Phillips was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a new home and is seeking to reduce the front yard setback from 30' to 19', the rear yard setback from 45' to 33', and increase the impervious coverage from 45% to 55%. The buildings along Pleasant Point Lane are closer to the road and the channel of the lake. The front setback along Pleasant Point Lane averages to 9' over 9 structures which has a range of 25 to -2'. The front setback along W Shore Drive averages to 40' over 18 structures to the East and West of the subject parcel, ranging from 72' to 9 feet. The rear yard setback requirement is 45' from the Base Flood Elevation with an average of -3' (over 6 structures) from the BFE, with setbacks ranging from 41' to -32'. In late 2020 there was a BZA case for the lot to the South where there was "a motion to approve 20-BZA-61 SPETH, Christopher - A request by Brian Teal for a Variance of Developmental Standard to reduce the right of way setback on both Pleasant Point Ln and W. Shore Dr. from the required 30' to 18' and a rear yard setback from the required 45' to 24; located at: 5018 W. Shore Dr. Bremen, IN German Twsp., Zoned L-1 with the condition that the setback from West Shore Drive shall be no less than 28' from the ROW."

Due to the floodplain they chose to push the house closer to the road that doesn't meet the setback. The TRC liked the fact of the placement of the garage and the loading of the garage is from the side.

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

1. Brian Teall

313 S. Whitlock St. Bremen

Is here to support Mr. Phillips for his request. If the board approves the 55% green space on this case he will most likely come back before the board for his property as well. They will have the same problem that they do when considering putting in a driveway. Likes the fact that their view won't be obstructed. Asked about where there driveway will be located. The owner said that it will run along the south property line.

Marshall County Board of Zoning Appeals

9/14/2021

2. Rick Bollenbacher 4460 Pleasant Point Ln Bremen
Is against the granting of this request.
3. Diane Ralston Bremen
Is against the approval for the for the following reasons:
The variance will obstruct her view of the lake which in return devalues her property; Residents live at the lake for more green space not less caused by oversized by new buildings; There is a 75' setback for the cleaning of the ditch which is used to control the lake level. The lake is the legal drain for the water shed including her property; there is a flood plain within the vicinity; the zoning rules were established to protect property owners; they should find another lot don't devalue her property.
4. Brian Teall 313 S. Whitlock St. Bremen
Doesn't believe that their stance in blocking a view shouldn't be considered as they don't have a residence on that property.

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

The board re-looked at the other structures up and down Pleasant Point Lane and their proximity to the roadway.

Mr. Hostetler made a motion to approve 21-BZA-46 PHILLIPS, George - A request for a Variance of Developmental Standard to allow a reduction in setbacks of the front yard from 30' to 19', rear yard 45' to 33' and lot coverage from 45% to 55%; located at: 4530 Pleasant Point Lane, Bremen, IN Zoned L-1, seconded by Ms. Mieras. Motion carried with a voice vote 5-0.

The sixth item of business was 21-BZA-47 SWIHART, Stephen - A request for a Variance of Developmental Standard to reduce the Right of Way setback required from 50' to 30' in order to build an attached garage; located at: 7651 Rose Rd., West Twsp., Zoned A-1. Steven H Swihart and Steven A Swihart were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is in the process of designing a new garage that will be 22' wide and 36' deep. The proposed addition is in need of the setback being reduced from 50' to 35'. The house is located on Rose Road just North of US 30 adjacent to Yogi Bear Campground. A unique topographic aspect of this property is that it is the first house just south of the hill on Rose Road, and the existing drive is approximately 700' from the crest of the hill. The intersection with Rose Road and US 30 is notorious for having drainage and silting issues due to sediment washing down the road and settling just North of the stop sign which is a safety concern.

Where the existing bump out is on the house it will be removed and the addition will fit from the adjacent corner and one foot from the lamp by the front door. The plan for the driveway will be to put in a chip and seal "U" shaped driveway which should eliminate any concerns for

Marshall County Board of Zoning Appeals

9/14/2021

safety and backing out. When questioned about drainage concerns the applicant stated that the silt and drainage stays on the other side of the road. The reason for the extra deep garage is to add a ramp to care for his parents.

Mr. Kutch understands the “U” turn they proposed with the safety issue there in addition to the extra deep garage space he doesn’t see the need even with a ramp.

To make the garage wider it would require running new electrical on one side and changing out a door that was just replaced not long ago.

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

Mr. Hostetler made a motion to approve 21-BZA-47 SWIHART, Stephen - A request for a Variance of Developmental Standard to reduce the Right of Way setback required from 50' to 30' in order to build an attached garage; located at: 7651 Rose Rd., West Twsp., Zoned A-1, seconded by Ms. Mieras. Motion carried with a voice vote 4-1 with Mr. Kutch voting against.

The seventh item of business was 21-BZA-48 MAST, Henry - A request for a Special Use to allow for construction of a 36x48' building with a 10' partially enclosed overhang for temporary housing to care for an elderly; located on parcels 418 and 474 3 B Rd., Nappanee, IN 46550, Zoned A-1. Mr. Levi Mast was present to represent Mr. Henry Mast. Mr. Adley presented the findings of fact.

The applicant currently owns the large parcel of ground, and his father owns the adjacent smaller property. The applicant would like to add approximately 1.3-1.5 acres to his father’s parcel so that the applicant could build a pole barn with a living quarter in it. The reason that this is coming about is that the son of the applicant is interested in moving back to the farm and the applicant will take over the father’s house once he passes, but for the time being living in a pole barn with living quarters would be of interest of the applicant.

One of Levi’s sons are willing to take the farm on. To allow Henry to stay at the house until he passes they would like to add additional acreage onto his property and build a 36x48’ building with a 10’ partially enclosed overhang for temporary housing. When he passes this building will not be used for housing any longer and he would move the existing home.

There will be no new parcels only extending the current rear property line north. At that time all setbacks will need to be met before the split is approved.

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

- | | |
|------------------|---|
| 1. Henry Mast | Letter submitted by Levi Mast giving his son permission to represent him. |
| 2. Martin Miller | In favor of the request. |

Marshall County Board of Zoning Appeals

9/14/2021

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

Mr. Hostetler made a motion to approve 21-BZA-48 MAST, Henry - A request for a Special Use to allow for construction of a 36x48' building with a 10' partially enclosed overhang for temporary housing to care for an elderly; located on parcels 418 and 474 3 B Rd., Nappanee, IN 46550, Zoned A-1 with the following stipulations:

- 1. When Henry Mast no longer resides in the residence the pole structure will no longer be used as a residence.**
- 2. The additional property that is to be divided and combined with Henry Mast's property will need to be completed prior to a building permit being issued.**

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

The eighth 21-BZA-49 KEARBY, Shawn - A request for a Special Use to allow a home-based business of offsite demolition work; located at: 13725 5th Rd. Plymouth, IN North Twsp. Zoned A-1.

Due to the applicant not being present Mr. Kutch made a motion to table the request until October, seconded by Mr. Hostetler. Motion carried by acclamation.

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