

October 12, 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, October 12, 2021, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Dan Voreis, Jeff Kutch, David Hostetler, and Matt Miller. Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The minutes from the September 14, 2021, meeting was submitted to the board. Mr. Miller made a motion to approve the minutes as written, Mr. Hostetler seconded the motion. Motion carried by acclamation.

The first item of business was 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. Hostetler made a motion to deny the request, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The second item of business was 21-BZA-09 DEMIS, Robert - A request for a Variance of Use for a shipping container as he is trying to build a saleable business within a storage/shipping container; located at: 20993 8th Rd., Plymouth, West Twsp., Zoned A-1. Mr. Robert Demis of 20993 8th Rd. Plymouth was present to represent his request. Mr. Adley presented the findings of fact.

There is a proposal to the Plan Commission at the end of the month. While discussing with the Technical Review Committee and other Marshall County Boards, the following drafted conditions, the early draft proposal would be to allow shipping containers within the A-1 zoning district with the conditions that the container be painted to match adjacent structures and must be kept in good repair (no rust, holes or worn paint). Therefore, if this proposal were to be approved and made into an ordinance, this would permit the use of Mr. Demis shipping container for storage only, and would need to meet setbacks on the property. In terms of the business, it would be acceptable to create and design his invention from either the residence or existing accessory structure.

Mr. Demis gave his view of the timeline from the onset of this case. It is his opinion that there is no statute saying shipping containers aren't allowed. Mr. Demis explained that his property corner's two roadways which requires two front yard setbacks. His property is .4 acres and when you add in the setbacks required from all four property lines 88.4% of his lot is setback only

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19.16 % is usable space. The board reminded Mr. Demis that if he had talked to the Plan Commission prior to purchasing and placing the shipping container on his property all of this could have been eliminated. The board also expressed that it is the plan directors responsibility to administer and enforce the zoning and subdivision ordinances.

Mr. Demis believes his shipping container has the permanency of a roll off dumpster or a stalled car. It will be there until someone is called to come and drive away with it.

The board asked Mr. Demis if he would be willing to table this request until after the County Commissioner's make their ruling and Mr. Demis said "yes".

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

1. Jim Demis 111 S. Jefferson St. Hamlet Is a brother to the applicant and is there to support him. He is a veteran who is trying to better himself and do the best he can to make a living. He believes his brother is being penalized for a statute that doesn't exist.
2. Steve Howard ? Letter stating he is in favor of allowing the use of a storage container.
3. Christopher & Margaret Rzepczynski 8054 W. Co. Line Rd. Sent a letter and is against the request. Doesn't believe Mr. Demis is within laws of using such a shipping container for a business. It doesn't meet the setbacks required. Believes the property is too small for all the laws and regulations for this business. Also has a concern about their property values.

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

Mr. Miller made a motion to table the request and to extend the pause for violation another six (6) months for 21-BZA-09 DEMIS, Robert - A request for a Variance of Use for a shipping container as he is trying to build a saleable business within a storage/shipping container; located at: 20993 8th Rd., Plymouth, West Twsp., Zoned A-1, seconded by Mr. Yoder. Motion carried with a voice vote 4-1 with Mr. Gustafson voting against.

The third item of business was 21-BZA-50 ALLEN, Charles - A request for a Variance of Use to allow an existing unattached garage to be turned into an in-law suite; located at: 10501 12th Rd., Argos, Center Twsp., Zoned A-1. Mr. Charles Allen of 10501 12th Rd. Argos was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to turn a detached garage into an in-law suite (accessory dwelling unit or 2nd dwelling unit) in order to help care for grandkids. In a number of years from now, as occupant of the in-law suite gets older, the property owner will be able to in return take care of the aging parent. The ordinance currently does not allow for second residences on the property, but there is a growing need to take care of the older population and providing options to live closer to family can be ideal.

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Due to the applicants need for additional space outside the home for assistance with a child with medical issues they felt the best option was to renovate the garage into living space to allow their mother to live or if anyone else got sick in the house they could stay their to keep their child safe from getting sick.

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

The board reminded the applicant that the building will have to meet all residential building codes and the septic system be approved by the Marshall County Health Department. In addition, once the mother no longer needs the space for living quarters the space will have to be changed back to non-residential space.

Mr. Hostetler made a motion to approve 21-BZA-50 ALLEN, Charles - A request for a Variance of Use to allow an existing unattached garage to be turned into an in-law suite; located at: 10501 12th Rd., Argos, Center Twsp., Zoned A-1 with the following stipulations:

- 1. Meet residential building code and requirements from MC Health Department**
- 2. Once mother no longer needs space for living quarters the space will have to be changed back to non-residential space.**

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

The fourth item of business was 21-BZA-51 PETERSON, David & Leslie - A request for a Variance of Developmental Standard to reduce the lakeside setback from the required 45' to 20' in order to rebuild a home; located at: 20859 N. Lake Dr., Walkerton, IN Polk Twsp., Zoned L-1. Mr. & David Peterson of 20859 N. Lake Dr. Walkerton and Joseph Knizer, Contractor were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is in the process of tearing down an existing house to replace it with a new one. The proposal is to reduce the rear yard setback from 45' to 20' in order to stay more in line with the previous residence.

Mr. Gustafson explained to everyone that he does work for Mr. Knizner and if anyone has any issues and would like him to step down to speak. There were no concerns.

The Technical Review Committee recommended the house not extend past 75.28' from the waters edge.

The applicant plans to get rid of the travel trailer and expand the size of the house to accommodate their growing family. Both adjoining neighbors have no problem with the proposed plans.

There is currently storage under the deck. Once the new house is built a storage area under the deck will not be necessary.

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

1. Blad, Allen & Tracey – 8 Maple Leaf Drive, Old Forge PA 18518 - Hs no objections to the placement of the house and/or deck.

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

Mr. Voreis made a motion to approve 21-BZA-51 PETERSON, David & Leslie - A request for a Variance of Developmental Standard to reduce the lakeside setback from the required 45' to 20' in order to rebuild a home; located at: 20859 N. Lake Dr., Walkerton, IN Polk Twsp., Zoned L-1 with the requirement that the house not extend past the 75.28' foundation stringline, seconded by Mr. Yoder. Motion carried with a voice vote 5-0.

The fifth item of business was 21-BZA-52 WENNERSTROM, Knight & Emma - A request for a Variance of Developmental Standard to allow a rear yard setback reduction from the required 20' to 3' and a south side yard reduction from the required 10' to 5' in order to add on to his existing building; located at: 5165 Michigan Rd., Plymouth, IN North Twsp., Zoned A-3. Mr. Knight Wennerstrom of 5165 Michigan St. Plymouth was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is looking to construct two lean-to's onto an existing building as well as a 36x40' pole building addition to the south of the same building. With these additions they are looing to get some storage for trucks, wood shop and a working garage. The lean-to's would be on the North and West sides and the new addition would run from the eastern side of the existing barn to the western edge of the addition.

The addition on the north will be used to store the applicants plow truck. The west side he would like to use that area as a woodshop. The proposed building to the south will be used to store four of his eight antique cars. The neighbor to the west doesn't have a problem with his request as long as he stays four feet away from his property line.

The addition to the building can't go any further east due to the septic system. As far as the west property line after discussion Mr. Wennerstrom agreed to withdraw his west yard reduction request. With regards to the south the board agreed to the 5' setback as long as the measurements are accurate and to the true property line.

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

Mr. Adley stated that the applicant will also have to meet the impervious coverage requirement.

Mr. Miller made a motion to approve 21-BZA-52 WENNERSTROM, Knight & Emma - A request for a Variance of Developmental Standard to allow a south side yard reduction from the required 10' to 5' in order to add on to his existing building and the additions to not exceed past the west side of the existing building; located at: 5165 Michigan Rd., Plymouth, IN North

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Twsp., Zoned A-3, seconded by Mr. Yoder. Motion carried with a voice vote 5-0.

The sixth item of business was 21-BZA-53 USMETALS - A request for a Variance of Use to allow a 60x80' building for business cold storage and office space; located at:(50-23-32-000-031-000-015) SR 110, Argos, IN Walnut Twsp., Zoned A-1. Mr. Jamey Green of 411 East Washington St. Culver was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is wanting to put up a 60x80' pole building for a small office and the rest to be used as cold storage for his business. The 10 acre property is currently completely wooded except for the area that has been cleared for the proposed building and is located along state road 110. The applicant is running out of room at their current location just north of Mentone and would like another office space that would provide an environment free of distractions.

The applicant said that he plans to store some trailers in the building from work in addition to his personal vehicles and personal property. There will also be an area that will be used as his personal office.

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

Mr. Hostetler made a motion to approve 21-BZA-53 USMETALS - A request for a Variance of Use to allow a 60x80' building for business cold storage and office space; located at:(50-23-32-000-031-000-015) SR 110, Argos, IN Walnut Twsp., Zoned A-1, seconded by Mr. Miller. Motion carried with a voice vote 5-0.

The seventh item of business was 21-BZA-54 SAGE, Mark & Cathy - A request for a Special Use to allow a private airstrip for a small aircraft; located at: 19329 6B Rd., Plymouth, IN Polk Twsp. Zoned A-1. Mark Sage of 19329 6B Rd was present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to permit a private airstrip on the property for recreational purposes for small aircraft.

Mr. Yoder explained that there is what's called a "bowl affect" around an airstrip. This limits what a person can and can't do around an airstrip.

The applicant is considering a short take off and landing aircraft. It only takes 300' to take off and land. This aircraft is a light sport and low powered. The proposed strip is 1,020 feet by 80 feet in width. The aircraft weighs a max of 1320 pounds. The wings are 24' and are foldable.

Mr. Sage currently has approvals from FAA and Indiana Department of Transportation and is sufficiently insured.

The neighbor to the west has been contacted which is a pilot as well and has no problem with the request and has tried to contact the owner of the farm ground around him and is without

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response.

There are approximately 17 other airstrips, but some are no longer working. In response to questions if his strip could be used for emergency he said yes.

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

1. Diane Eskridge 6299 Plymouth Laporte Tr. Plymouth Researched airstrips and understands that they should be 6,000-8,000 feet in length for a smaller aircraft. Her concern is that an airstrip will drive their property value down. She owns two properties. When asked if it will bother her if it is kept small and not paved if she would be in favor. As long as the airstrip isn't near her property and it doesn't affect her property values she would be okay with it.
2. Allen Blad No address given Is against the request.

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

This has been a dream as most of his family as flown. Now that he is retired, he would like to fly as well as build a plane. There is a freedom of having your airstrip and would be a savings of not having to pay for hanger rent.

Mr. Miller made a motion to approve 21-BZA-54 SAGE, Mark & Cathy - A request for a Special Use to allow a private airstrip for a small aircraft; located at: 19329 6B Rd., Plymouth, IN Polk Twsp. Zoned A-1 with the following stipulation:

1. **This approval is for the applicant Mark Sage ONLY.**

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

The eighth item of business was 21-BZA-55 MCMAHAN-OCONNOR CONSTR - A request for a Special Use to allow the expansion of asphalt plant hours of operation; located at: 11246 King Rd., Plymouth, Center Twsp., Zoned A-1. John Gaden 319 Juniper Lane Plymouth and Kip Chandler 2254 S. 50 W. Peru were present to represent E & B Paving. Mr. Adley presented the findings of fact.

The asphalt plant has been before the board previously in XXX to permit the use of testing trailers and at the same time were given hours of operation to stay within. The applicant is before the board today requesting the expansion/removal of the restrictive hours in order to meet the potential scheduling requirement of INDOT and the safety of the traveling public. Historically a case in 1993 was applied for 2 laboratory or testing trailers because all asphalt plant site for all state and federally funded contract. Referring to the analysis from the above mentioned case there was a comment from the Plan Director of the time that "The Neighbors to the south have phoned our office with complaints that E&B Paving has increased their hours of production. I inspected these complaints and found soot/ashes on lawn furniture, etc., on the neighboring property. I have no way of proving what their hours of operation were before the BZA recently allowed their expansion, but there does appear to be a problem with ashes from the asphalt plant." In 2001 there was an application for INDOT testing trailer due to safety considerations and new INDOT requirements for testing trailer locations at asphalt plants. Under the findings

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of fact from this case, the Plan Director of this time (It had changed between the 90's case and early 00's case), that they had not seen evidence "that this request would adversely affect the neighboring properties. There were concerns at the 1993 hearing that there were obnoxious smells and ash from the plant. I do not believe such is the case now. The plant has been changed and the new plant is cleaner." Later in 2001 there would be a second case in attempt to extend the hours of operation from the set hours of 6:00am to 7:00pm. It is within this analysis by the Plan Director that they detailed the history of the applicant and their legal nonconformance with the code (being in existence prior to 1974). Then detailing the case in 1993 and the earlier case 2001. The second finding from 01-BZA-40 indicated "There has been evidence presented in the past that this use does pose a threat to the use and enjoyment of permitted uses in the area. There are noises of trucks and truck traffic, the noise of the plant, smells and dust all associated with the operation of the plant. IF these uses were undertake at night, there would be the added problem of light son the property. All of these things have the potential of reducing the use, enjoyment, and value of residential property in the area permitting the expansion of hours so that this use could take place at night would greatly increase impacts on the area." The case was ultimately denied for the expansion of the hours in 2001. It is with this historic information that the case needs to be set in place and establishment of what has transpired over the last twenty years of operation and whether or not the improvements warrant the ability to expand the hours. Per the application in an attempt to demonstrate commitment to the community and previous neighbor concerns they have done the following; 1. strict conformance with new trucking route that eliminates through trucks on King Road North of 11th road, 2. the previously required tree planting has full matured helping with noise, emissions and aesthetics, 3. RAP processing is limited to approximately 2x per year limiting the noise emissions at the plant, 4. noise reducing policies that include; a. limited stockpile times 7a-4p, b. no tailgate banging, and c. reverse lights in leu of backup alarms - non daylight hours (dawn to dusk), 5. paved entrance and exit reducing the amount of material tracked onto the public roads. Daily maintenance and cleaning, 6. daylight savings time requires a need to shift starting and stopping times, 7. improved emissions standards and rigorous testing and compliance with INDOT and IDEM, 8. Warm Mix package reducing the amount of energy consumptions and helping compaction efforts, 9. by performance this operation in this way, we can reduce overall noise levels, 10. all plant components meet the previously required setbacks, 11. increased sponsorships, outreach participation in the area. We have many employees in the area and we continue to be proud of our community and company.

The applicants have been looking at trying to make the loader quieter by using light or white noise alarms rather than the beeping. This won't be an immediate thing.

There is a possibility of some corridor projects coming up within eighteen months and some of these might require them to open earlier and stay open later for traveler safety reasons. They believe they have planted trees and did what the board has asked them to do. While looking at the photos the board noticed some trees missing and the plan director said filling that area in would be ideal as it is where the closest neighbors are.

Access to the property was discussed. Travel on King Road must be from the south not north due to a county ordinance.

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With regard to concern of ash the applicants didn't understand as they don't burn anything.

The nearest plants they have are Peru, Huntington and Fort Wayne.

The applicants stated that if this request isn't approved to change the hours they will lose out on those jobs.

As far as lighting there may be residual indirect light coming from the business, but the lighting isn't facing the neighbors. The current lighting is for security. For nighttime production the plan would be to bring in portable temporary lights to illuminate only the area that is needed. When asked what percentage of work could be after hours they said as a guess it might be two in the next eighteen months. One of which would be between Plymouth and Warsaw.

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

1. Jon VanVactor 11108 12th Rd. Argos Also owns a property at 11410 King Rd. where his son lives and is approximately 600' south of the applicants property line. They purchased that property in 1985. They understand it was at one time an asphalt operation, but at the time they bought it was not in operation at that time and continued that way for several years while they lived there. Originally it was in the name of McMahan O'Connor, but later sold to E&B Paving. They as a homeowner believe they should have some consideration for their quality of life. In 1994 the BZA set the hours of operation from 6 am to 7 pm. In 2001 the BZA denied the request to expand the hours of operation to 24 hours a day 7 days a week in recognition of the concerned neighbors. The petitioner refers to finding 5 that the variance approval does not interfere substantially with the comprehensive plan. The current property is non conforming that was grandfathered into the plan. Within the zoning district the plan states every industrial use should be heavily buffered from adjacent uses and in general should be separated substantially from residential uses. Also read findings of fact and explained that they can't have the windows open with the plant running. He doesn't believe there has been a hardship for the petitioner. Cited a letter from the petitioner that the area has a mixed use footprint and theirs is the only one that has operating restrictions. What the petitioner was referring to was all properties within the City of Plymouth's 2 mile zone of residential 1, residential 2 or commercial 3 and are all allowed as they are grandfathered as long the use is not expanded/changed or they receive a variance of use. He asks the board deny the request and continue with the hours of operation from 6am to 7pm.
2. Ruth VanVactor 11108 12th Rd. Argos Re-stated the hours of operation at the asphalt plant are 6am – 7pm 13 hours a day. Believes this change could change the quality of life negatively to the surrounding residences with noise and emissions of fumes. There is traffic from 12th road on King Road to the plant. Shared photos of the emissions. Along with the pictures it was a representation that the trees don't stop the noise, lighting and emissions from coming through. Daylight savings time has been in existence since 1918 and shouldn't be used as a reason to shift their starting or stopping time. When said that they haven't had any complaints Mrs. VanVactor informed the board that she has informed the business as well as the Planning Department of the disregard of the

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hours of operation. The decision the board will make will affect over one hundred residences. At the very least she hopes the board will stand behind the original ruling of hours from 6am to 7pm. If they still want to expand hours of operation then propose they move to an industrial area.

When asked what noises they hear it's the blast furnace, banging of tail gates and traffic coming and going from the plant. In addition to that it's the diesel smell as well.

3. Lonnie & Connie Nichols 10685 Oriole Ln. Ply Understands the concern of noise as they live in the subdivision next to the gravel pit. Every morning they hear the loader winding up. Each year they take about 25 pounds of sand out of their gutters. They wish there was more restrictions on all the plants. Also can smell the asphalt. Since they bought their property the gravel pit was small and the asphalt plant wasn't running. If they want to increase their hours they believe they should seek out an industrial area.
4. Julia Stockman 10870 12th Rd. Ply Letter against the request as the wildlife needs quiet time as God intended.
5. Jeff Molar Letter in favor of the request as he works for E & B Paving will have a good affect on him and his family.
6. Rick Powell Letter against as there is a high volume of truck traffic on 11th presently between 7:30am-7:00pm everyday except Sunday which takes away their time for quiet time and enjoyment outside. The asphalt smell is an issue as well. Feels that increased hours will also increase the amount of traffic and be a detriment to the county roads.
7. MC REMC Letter in favor stating there is no negative impact to Marshall County REMC or their property.

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

When asked about the burner the explained that it doesn't run non-stop. It works as they are preparing a batch and it has time in between to cool down.

In response to the statement of emissions/smoke they wanted to clarify that it is not smoke. That has been through the bagging process for dust which is steam that people see.

The board asked if it would be cost prohibitive to put up sound retention walls up and they said that it would be.

The board understands that we need these types of businesses and wondered if there was some type of short term approval process. The applicants explained that once they receive a bid they have 21 days which doesn't give them enough time to apply and go to the board. If the board turns down the request E & B Paving will just not be able to bid out certain jobs.

An example was given for the projected US 30 project and they could need between 50-70,000 tons and they can run 2,000 tons a shift and not all of those would be done at night.

Right now you can't even get your equipment up and running and warmed up until the starting

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time which limits the amount of actual work hours. Additional work hours would help on some of the jobs, but not on some of these jobs that require night paving.

The plan is not to run double shifts. All E & B Paving is wanting is to be able to accommodate the requirement that comes to them from the bid. The team that creates the plan/bid has a reason for such requests such as late-night work and it is mainly for safety reasons. A typical day they like to run the business from 10-12 hour days. That would not change. It is just the business hours that could possibly change.

The board had a lengthy discussion of their options. They understand the needs from the applicant, but also understand the neighbors' concerns. With regard to the screening E & B also agreed to fill in the areas that are lacking.

Mr. Yoder made a motion to table this request to allow the board time for research and go out to the site to see and hear the operation running, seconded by Mr. Miller. Motion carried by acclamation.

The ninth item of business was 21-BZA-56 THOMAS, Bryan & Brad- A request for a Special Use to allow the splitting of land on parcels 50-44-09-000-007-000-005, 50-44-16-000-003-000-005, 50-44-16-000-014-000-005, 50-44-16-000-005-000-005 that do not meet the 1 to 3 width to depth ratio; located on 4B Rd., German Twsp., Zoned A-1. Mr. Charlie Zercher of Kingdig & Sloat at 102 Heritage Pkw Nappanee was present to represent the Thomas'. Mr. Adley presented the findings of fact.

The applicant is splitting property with a family member and the proposal would leave the one brother with a parcel that has 650' of frontage and a depth of 2,640'. The ordinance would have only permitted the parcel to be 1,950' in depth if it were to meet the 1 to 3 width to depth ratio. The total area of the parcel if approved would be 42.97 acres.

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

Mr. Yoder made a motion to approve 21-BZA-56 THOMAS, Bryan & Brad- A request for a Special Use to allow the splitting of land on parcels 50-44-09-000-007-000-005, 50-44-16-000-003-000-005, 50-44-16-000-014-000-005, 50-44-16-000-005-000-005 that do not meet the 1 to 3 width to depth ratio; located on 4B Rd., German Twsp., Zoned A-1, seconded by Mr. Voreis. Motion carried with a voice vote 5-0.

The tenth item of business was 21-BZA-57 DRAGANI, Robert & LEEANNE - A request for a Variance of Developmental Standard to allow the following: 1. Front Yard setback reduction from the required 30' to 28' 2. Side yard setback from the required 7.24' to 5.7' 3. To allow a secondary structure (garage) to be built on the lot across the street without a primary structure on the lot; located at: 16168 Dogwood Lane, Plymouth, West Twsp., Zoned L-1.(50-31-11-000-277-000-017 and 50-31-11-000-307-000-017). Robert & LEEANNE Dragani and Bernie Feenie of Plymouth Land Survey was present to represent the Dragani's. Mr. Adley presented the findings of fact.

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The applicant is in the process of designing a new home on the lake lot and a garage across the street. In order to fit the desired house on the property, the front yard setback is needing to be reduced from 30' to 28' and the side yard setback is needing to be reduced from 7.24' to 5.7'. The garage across the street is proposed to, but would need a variance to allow a secondary structure before primary.

A picture was shown where the original house line is as well as a line where the new house will be placed. The east property line to the proposed bay window will be the closest portion of the house to a property line and it will be 5'9".

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

Mr. Miller made a motion to approve 21-BZA-57 DRAGANI, Robert & Leeanne - A request for a Variance of Developmental Standard to allow the following: 1. Front Yard setback reduction from the required 30' to 28' 2. Side yard setback from the required 7.24' to 5.7' 3. To allow a secondary structure (garage) to be built on the lot across the street without a primary structure on the lot; located at: 16168 Dogwood Lane, Plymouth, West Twsp., Zoned L-1.(50-31-11-000-277-000-017 and 50-31-11-000-307-000-017), seconded by Mr. Voreis. Motion carried with a voice vote 5-0.

The eleventh item of business was 21-BZA-58 STILES, Thomas & Rebecca - A request for a Variance of Developmental Standard to allow a reduction in base flood elevation from 45' to the existing 806 contour line; located at: 4670 W. Shore Dr., Bremen, IN German Twsp., Zoned L-1. Burke Richeson, 436 Crimsone Lane, Plymouth representing the Stiles' and CMD to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a new home on a vacant lot, but has run into a unique floodplain on the property. The floodplain follows the contour line 806 which for approximately 80% of the property runs parallel with the shoreline, but the last 20% makes a 90 degree turn to run perpendicular into the property before eventually meandering south parallel with the coastline once again. It is this southern section of the floodline that causes difficulty and in part makes the development of the parcel unique. The request is to continue the floodline setback of 45' for the remaining 20% of the property as it is shown for the northern portion of the property. Thus resulting in a uniform line straight across the property to draw setbacks off of.

Mr. Richeson stated that they have placed the proposed structure at the most level location on the property. If the location were to be moved closer to the road it would result in extensive amounts of retaining walls and other issues. The bottom of the house will be above the 806 mark. (The 806 mark is what was determined by DNR as the base flood elevation) If they tried to move that line the hardship would be that there is no guarantee that FEMA would do. The proposed house is not the exact same footprint, but is very close to the same location as previous.

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

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by acclamation.

1. Mark & Heather Craft 4674 Crimson Ln. Bremen They live to the said of applicants parcel. Due to the lay of the land they already have flooding out by the water. They believe with the building of the house in that location it will only exacerbate the problem. Plus they have a concern about losing their view of the lake. The Crafts also submitted a letter and it was read into record.
2. Kathleen Benke & Others 4678 W. Shore Dr. Bremen Request denial of the proposal and they believe their will be a negative impact to the area. There will be a increase in water runoff and accelerated erosion.

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

Mr. Richeson stated if they would be able to build in the proposed location they don't want to have to bring fill in near to the lake.

During the discussion on line of sight Mr. Richeson said that is not a requirement at Lake of the Woods but if it were you would practically have to be built right next to the roadway or possibly even make the lot unbuildable.

Due to the 806 line not running parallel with the water and taking a 90 degree turn into the property that is what is limiting the property owner If that 806 line didn't turn in the applicant would be able to build exactly where they are proposing.

The Crafts would like to have some sort of a compromise in possibly moving the home closer back towards the road. Mr. Richeson stated that he didn't have the authority to compromise that it would have to be the governing body to make that decision. However, it was restated that Lake of the Woods does not have a line of site requirement.

Mr. Miller makes a motion to approve the request 21-BZA-58 STILES, Thomas & Rebecca - A request for a Variance of Developmental Standard to allow a reduction in base flood elevation to now be 45' from the hook (see attached for reference); located at: 4670 W. Shore Dr., Bremen, IN German Twsp., Zoned L-1, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The twelfth item of business was 21-BZA-59 ALBER, Mitchel & Kaley - A request for a Variance of Developmental Standard to reduce the road setback from the required 60' to 20' in order to build a pole barn; located at: 12964 Muckshaw Rd., Plymouth Center Twsp., Zoned A-1. Mr. Mitchel Alber of 12964 Muckshaw Rd. Plymouth was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to reduce the setback from 60' from right of way to 20' from edge of road in order to construct a 42x60' or 52x60' pole building for storage. The building is placed on top of a large hill that drops 30-40 per the applicant.

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There has been a lot of dirt moved on the property and are requesting this location to keep the cost down. His house is 60' from the edge of the road and should actually be 60' from the right of way. The building permit stated that it would be 75'.

The board had a discussion and were in agreement that they don't believe it's the best decision to have a building that close to the road in addition to that in the future there could be a widening of that road as it is a heavily trafficked road. The board would like to see the building moved back to no closer to the road than their house.

After the discussion the applicant asked to compromise and allow a 30' from the edge of road setback which is the same location as the building to the north.

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

When asked if he would be required to put it 50' off the edge of the road how wide would his building have to be and he responded with 20'. The doors to the building will be placed on the south side of the building. The south half will be used for a shop and the north would be used for storage. They would put a door on the west side to allow for easy access to pull the boat in and out.

The consensus of the board was the proposed distance is too close for safety of people pulling in and out. There would barely be one car length room from the edge of the road to the edge of the building.

Without seeing the site since there has been so much ground moved the board felt they should table the decision until next month to allow them time to see the site.

Mr. Yoder made a motion to table the request to November, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The thirteenth item of business was 21-BZA-60 ALBERT, David – A request by Culver Sand Hill Farm to allow multifamily residential as a permitted use for said parcel, located on Parcel # 50-52-95-402-413-000-010 South Michigan St. Lapaz, North Twsp., Zoned C-2. Mr. Kevin Berger of 8876 SR 17, Plymouth was present to represent his request. Mr. Adley presented the findings of fact.

In accordance with the Stellar Initiative, the Quality of Life(QoL) Plan set out a Housing Development in the Town of Lapaz. The proposal is to create a 6 townhomes, 2 flats and a communit from Low Income Housing Tax Credits, per the plan. The original proposed site plan had a future commercial building built up to the road and two townhome style structures in the middle of the property with a community building and 20-24 apartments. The drainage would be going to the eastern portion of the property. The proposal has amended slightly in design from the QoL Plan, but the intentions are still the same.

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This request is a re-approval that was done in the beginning of 2020.

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

Mr. Yoder made a motion to approve 21-BZA-60 ALBERT, David – A request by Culver Sand Hill Farm to allow multifamily residential as a permitted use for said parcel, located on Parcel # 50-52-95-402-413-000-010 South Michigan St. Lapaz, North Twsp., Zoned C-2, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The fourteenth item of business was 21-BZA-61 ALBERT, David - A request by Culver Sand Hill Farm to reduce the front yard setback from the required 50' to 20' to allow for a multifamily residential structure, located on Parcel # 50-52-95-402-413-000-010 on S. Michigan St., Lapaz, North Twsp., Zoned C-2. Mr. Kevin Berger of 8876 SR 17 Plymouth was present to represent his request. Mr. Adley presented the findings of fact.

In accordance with the Stellar Initiative, the Quality of Life(QoL) Plan set out a Housing Development in the Town of Lapaz. The proposal is to create a 6 townhomes, 2 flats and a communit from Low Income Housing Tax Credits, per the plan. The original proposed site plan had a future commercial building built up to the road and two townhome style structures in the middle of the property with a community building and 20-24 apartments. The drainage would be going to the eastern portion of the property. The proposal has amended slightly in design from the QoL Plan, but the intentions are still the same.

This request is a re-approval that was done in the beginning of 2020.

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

Mr. Hostetler moved to approve 21-BZA-61 ALBERT, David - A request by Culver Sand Hill Farm to reduce the front yard setback from the required 50' to 20' to allow for a multifamily residential structure, located on Parcel # 50-52-95-402-413-000-010 on S. Michigan St., Lapaz, North Twsp., Zoned C-2, seconded by Mr. Miller. Motion carried with a 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