

March 14, 2023
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, March 14, 2023, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, Jim Kephart, and Michelle Mieras. Also present was Ty Adley Plan Director, Lori Lowry and interested parties.

Mr. Adley swore in the new member of the Board of Zoning Appeals, Mr. Jim Kephart.

Mr. Hostetler made a motion to approve the minutes from the February 14th, 2023, Board of Zoning Appeals meeting, seconded by Mr. Bennett. Motion carried by acclamation.

The first item of business was 23 BZA-04 MISNER, Harry – A request for a Variance of Development Standard to allow a parcel's depth to increase to 166'x904' which will not meet the 1 to 3 width to depth ratio; located at: 16865 Lincoln Highway, Plymouth, IN West Twsp., Zoned A-1. Mr. Harry Misner of 16865 Lincoln Hwy Plymouth was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to sell a portion of his property to his neighbor and the proposed design would exceed the 1 to 3 width to depth ratio. Mr. Misner is interested in selling Mr. Hasting the property behind his house. This would create a long and skinny property not meeting minimum standards, but is common with properties to the east and west on the South side of Lincoln Highway. The variance is requested for a 166x904' behind the Hastings property to be added to his existing parcel.

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

Ms. Mieras made a motion to approve 23 BZA-04 MISNER, Harry – A request for a Variance of Development Standard to allow a parcel's depth to increase to 166'x904' which will not meet the 1 to 3 width to depth ratio; located at: 16865 Lincoln Highway, Plymouth, IN West Twsp., Zoned A-1, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The second item of business was 23-BZA-05 WHETSTONE, Ernest- A request by Homer Miller to purchase additional acreage and add to his parcel that will be 281.70' x 1932.94' that does not meet the 1 to 3 width to depth ratio; located at: 2013 and 2141 Beech Rd. Nappanee, IN

Marshall County Board of Zoning Appeals

3/14/2023

German Twsp., Zoned C-2. Mr. Ernest Whetstone OF 2141 Beech Rd. Nappanee and Homer Miller 2616 2B Rd. Nappanee were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to add some additional property from their neighbor but is going to exceed the 1 to 3 width to depth ratio. The parcel at the end of the day is proposed to be 281x1,932'. This would add some additional distance to the existing property to the south, and head west to the nearby the powerline easement.

This parcel is zoned commercial which is why it will have to go in front of the planning commission for a subdivision approval at the end of the month. A couple of years ago the property owner purchased additional acreage and had to do the same procedure. The use of the property hasn't changed.

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

- Jay Dubay 1580 US 6 Wanted to know the plans and if they plan to build anymore buildings.

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

Mr. Hostetler made a motion to approve 23-BZA-05 WHETSTONE, Ernest- A request by Homer Miller to purchase additional acreage and add to his parcel that will be 281.70' x 1932.94' that does not meet the 1 to 3 width to depth ratio; located at: 2013 and 2141 Beech Rd. Nappanee, IN German Twsp., Zoned C-2, seconded by Mr. Kephart. Motion carried with a voice vote 5-0.

The third item of business was 23-BZA-06 KNOTT, Dwayne & Melissa - A request by John Mast Construction for a Variance of Developmental Standard to allow a reduction in rear/east side yard setback from the required 45' to 24' to allow construction of a new home; located at: 50-42-12-000-033-000-009, West Shore Dr. Lot 8, North Twsp., Zoned L-1. Mr. Mahlon Hershberger of John Mast Construction was there to represent the Knotts. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a new home and are having siting issues due to the design of the canal and associated setbacks. The setbacks from the canal are 45' which can be met from the north side, but as the canal wraps around the east side, is unable to be met. They are proposing to reduce the 45' setback to 24'. The side yard setback just a little further south is 10', which is substantially different without the canal.

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

- Linda Moser 4017 W. Shore Dr. Bremen Questioned where the property was

Marshall County Board of Zoning Appeals
3/14/2023

compared to her house.

The board brought up discussion where access would be to dredge the canals. Ms. Mieras was unaware of any specific access to dredge.

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

Mr. Bennett made a motion to approve 23-BZA-06 KNOTT, Dwayne & Melissa - A request by John Mast Construction for a Variance of Developmental Standard to allow a reduction in rear/east side yard setback from the required 45' to 24' to allow construction of a new home; located at: 50-42-12-000-033-000-009, West Shore Dr. Lot 8, North Twsp., Zoned L-1, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.

The fourth item of business was 23-BZA-07 BORKHOLDER, Vonda - A request for a Variance of Developmental Standard to allow a layer barn confined feeding operation that doesn't meet the 1,320' residential setback on five residences; located at: Beech Rd. 50-54-21-000-016-000-005, Nappanee, German Twsp., Zoned A-1. Dwight and Kevin Borkholder of 781 Plymouth Goshen Tr. Nappanee, IN were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a CFO (Confined Feeding Operation) double layer barn for poultry within the prescribed 1,320' from the nearest adjacent residence. The proposed structure is too close to 5 residences which have separations of 504', 568', 692', 890', and 1,077'. The structure is also separated an estimated 1,800' from a schoolhouse at the intersection of Plymouth-Goshen Trail and Beech Road. The Double Layer Barn is proposed to be 53x548' with pasture on the North and South sides of the building. Manure storage would be located off the rear of the building nearest the low ground at the east end of the property. The 5 residential neighbors (Keith and Mary Borkholder (668 Beech Road), David and Doris Hochstetler (703 Beech Road), Willis and Freida Borkholder (634 Beech Road), Jerry and Alma Helmuth (570 Beech Road), and Jonathan and Sharon Helmuth 536 Beech Road)) have signed in support of the project.

The proposed barn will be double layered allowing the bottom layer to be free range. They chose the location for a couple reasons. 1. Due to the contours it would cost them a lot more to bring in dirt if the barn were placed in another location. 2. The future plan would be to split the land to have another home on the farm.

The 1,320 ft from a residence is part of Marshall county's ordinance, but not sure if it was brought in as part of IDEM approvals or if it originated with the writing of the new ordinance.

This request will definitely go through the approval process through IDEM. Marshall County's review tonight is only for the distance from residences within the 1,320 feet. The proposed use is already a permitted use in A-1 zoning.

The manure will be kept in a fully enclosed manure storage building to later be spread on

Marshall County Board of Zoning Appeals
3/14/2023
farmland.

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

- Lonnie Whetstone 228 Plymouth Goshen Tr. In favor of the request.
Owns a similar building and is a good farming tradition.
- David Whetstone 232 Plymouth Goshen Tr. In favor of the request.
- Joseph Borkholder 534 Plymouth Goshen Tr. In favor of the request.
Might be affected a little by the smell but shouldn't be terrible. Has a little more concern about a tile that runs through that area onto his property in the swamp area. His tile is a private tile.
- Keith & Mary Borkholder 668 Beech Rd. Agronomic approval letter
- David & Doris Hochstetler 703 Beech Rd. Agronomic approval letter
- Willis & Freida Borkholder 634 Beech Rd. Agronomic approval letter
- Jerry & Alma Helmuth 570 Beech Rd. Agronomic approval letter
- Jonathan & Sharon Helmuth 536 Beech Rd. Agronomic approval letter
- Willis Freida Borkholder 634 Beech Rd. The location originally stated doesn't align with the markers that were placed. There is 40 plus acres on that parcel and feels it could be moved to the east which would effect a lot less people. Also has a concern with the manure and flies and decreased property values.
- Keith Mary Borkholder 668 Beech Rd. Wants the Borkholder family to consider moving it closer to the requirement of 1320'. The flags are 95' from the property line which would put the barn 448' from my residence. Also has a concern about water drainage and where the water will go.
- Neal Miller ? Is opposed to the layer barn at the location stated due to the close proximity of neighboring residences. Not opposed to the barn itself if it is located as far as possible from all residences.
- Jonathan Helmuth 536 Beech Rd. Is not for or against. Heard they will be hiring someone to run the day to day operations of the layer barn and don't plan to be doing the work themselves which is different from normal operations. There is also a low spot wetland area behind where the facility and manure storage area is proposed. Can manure runoff be prevented or can it be moved to higher ground or elsewhere on the Borkholder farm?
- Henry Kuhns 1061 Ply Goshen Tr Strongly suggesting that the distance from the north property lines needs to be more than the proposed 150' in order to not be offensive to the residences to the north.

Dwight and Kevin presented to the neighbors before they signed the letters the site plan showing the proposed location. The marker's that were put out were a generalized location not exact.

The ground that is east of the proposed building location is a low area. All manure is stored in a contained facility that is regulated by IDEM and the state chemist.

Marshall County Board of Zoning Appeals

3/14/2023

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

When asked if they could move the building south to put some distance between the building and the neighbors the Burkholder's said the land between would then be useless to them.

The board discussed the contours and distances from the proposed to the schoolhouse and family residences to the south.

Mr. Adley re-read a synopsis of each of the letters that were sent in per the boards request. With the five neighbors within the 1,320 feet against the request now the board gave the applicants their options on how to proceed. The options would be continue with the request or to table the request that would give them additional time to come up with a solution that everybody could work with. The applicants agreed that tabling would be the best option.

Mr. Hostetler mad a motion to table the request 23-BZA-07 BORKHOLDER, Vonda - A request for a Variance of Developmental Standard to allow a layer barn confined feeding operation that doesn't meet the 1,320' residential setback on five residences; located at: Beech Rd. 50-54-21-000-016-000-005, Nappanee, German Twsp., Zoned A-1 until April, seconded by Ms. Mieras. Motion carried with a voice vote 5-0.

2022 Annual Report

The 2022 Annual Report was presented to the board. The permit total went down with only a 3% reduction, but valuation increased from the year before.

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

Respectfully submitted,

David Hostetler