

August 8, 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, August 8, 2023, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, Trent Bennett, David Hostetler, Matt Miller, and Jim Kephart. Also present was Ty Adley Plan Director, Lori Lowry and interested parties.

Mr. Hostetler made a motion to approve the minutes from the July 11, 2023, Board of Zoning Appeals meeting as presented, seconded by Mr. Kephart. Motion carried by acclamation.

The first item of business was 23-BZA-21 PITTMAN, Justin & Kayla - A request for a Variance of Use to allow a second residence on the property to care for a disabled child; located at: 18408 13th Rd., Plymouth, IN West Twsp., Zoned A-1. Justin & Kayla Pittman were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to permit a second accessory residence on the property for a disabled son. Properties are standardly permitted to have one residence per parcel. The proposed residence would be located within the clearing to the east of the house where there appears to be a recreational area set up.

While in the planning stages of building a barn for storage the Pittman's started to think about possibly adding on a living space with a basement for their son who has special needs.

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

1. Donna Hart 18232 Chickasaw Trl. They have a lot of family in the area and doesn't see them moving. In favor.

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

**Mr. Hostetler made a motion approve 23-BZA-21 PITTMAN, Justin & Kayla - A request for a Variance of Use to allow a second residence on the property to care for a disabled child; located at: 18408 13th Rd., Plymouth, IN West Twsp., Zoned A-1 with the following stipulation:**

1. The living space to be used only for Brantly Pittman
2. When Brantly Pittman no longer lives there either the building needs removed, or the living quarters be reverted to a non-residential structure.

Marshall County Board of Zoning Appeals  
8/8/2023

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

The second item of business was 23-BZA-22 YME Enterprises - A request by Yale Moser for a Variance of Developmental Standard to install an aesthetic covering for over the front door that doesn't meet the 25' from ROW and 20' from side yard setback, requesting 4' from the ROW and 0' from the side yard; located at: 106 E. Randolph St. Lapaz, IN North Twsp., Zoned C-1. Yale Moser was present to represent his request. Mr. Adley presented the findings of fact.

The applicant wants to make some façade improvements, but the new overhang would not meet setback requirements. The building currently does not meet setback requirements as it is. The front of the building is set back 10' from the ROW and is proposed to be reduced to 4'. The side of the building is estimated to be 1-2' from the property line and the proposal is to reduce it to 0'. The new overhang will go over a new service door and will provide an aesthetic boost to the building, but also protect customers during the seasonal elements as they come and go from the building.

The building is currently used for boat and RV storage. There is traffic in and out more in the spring and the fall. He has no plans to extend the awning past the end of the building.

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

**Mr. Bennett made a motion to approve 23-BZA-22 YME Enterprises - A request by Yale Moser for a Variance of Developmental Standard to install an aesthetic covering for over the front door that doesn't meet the 25' from ROW and 20' from side yard setback, requesting 4' from the ROW and 0' from the side yard; located at: 106 E. Randolph St. Lapaz, IN North Twsp., Zoned C-1, seconded by Mr. Kephart. Motion carried with a voice vote 5-0.**

The third item of business was 23-BZA-23 GWIZDALSKI,Thomas & Patricia - A request for a Variance of Developmental Standard to allow a secondary before a primary to have a 32'x48' building for storage; located at Underwood Rd.(50-41-07-000-252-000-011) , Walkerton, IN Polk Twsp., Zoned L-1 Off Water. Thomas Gwizdalski was present to represent his request. Mr. Adley presented the findings of fact.

The applicant owns this lot complimentary to their lake lot. They currently store their boat trailers and would like it to store items as well within an enclosure. The pole barn would meet all other development standards for construction. It has been customary for garages/barns like the proposal when property is owned on the opposite side of the road from lakefront property in order to accommodate parking and storage.

The applicant has no intention of having a residence on this lot nor will there be a bathroom as the buildings use is only for storage.

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

## Marshall County Board of Zoning Appeals

8/8/2023

1. Steve Giese                      4503 Underwood Rd.                      In favor as they believe it will be a nice building for their neighborhood.

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

**Mr. Miller made a motion to approve 23-BZA-23 GWIZDALSKI, Thomas & Patricia - A request for a Variance of Developmental Standard to allow a secondary before a primary to have a 32'x48' building for storage; located at Underwood Rd.(50-41-07-000-252-000-011) , Walkerton, IN Polk Twp., Zoned L-1 Off Water, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.**

The fourth item of business was 23-BZA-24 DENNIE, Cory & Teresa - A request for a Variance of Developmental Standard to allow a 12'x16' deck addition lakefront 0' from the lake; located at: 18318 Chickasaw Trl, Culver, West Twp, Zoned L-1. Cory Dennie was present to represent his request. Mr. Adley presented the findings of fact.

The applicant has recently constructed a lakeside deck addition onto an existing deck and is going back to receive necessary approvals. The deck is an addition right at the lakeside, and because a deck is considered a structure, must meet setbacks or pursue required variance. The district setback is 45' and the applicant is seeking to reduce the setback to 0' to permit the structure up to the seawall and the edge of water. It is unknown when the other deck went in and how it had received approval. The discussion at TRC had concern on what this could do for other lakeside setbacks and bringing similar structures up to the lake not only on Lake Latonka, but other lakes around the County.

The applicant received approval from Lake Latonka's Homeowners Association and then applied for the building permit 6/26/2023 and had worker's at his house that weekend and went ahead with construction of the deck and pergola without a permit. The existing deck was on the property when he bought the property. He firmly stated that his deck is built to code and if the building commissioner needs to come out and him dig up the post holes he will gladly do that.

The plan director explained that all lake residential properties first go through a Technical Review Committee meeting that is required by the ordinance. Prior to the 4<sup>th</sup> of July the plan director went out and took pictures for that meeting. The TRC then makes their recommendation for that case. Since this request didn't meet the setbacks, it goes in front of the BZA for approval. Once there is approval the permit is issued, and the permit is sent out within a couple days of that meeting. The building permit got stalled because it does not meet setback requirements. The TRC's concern for this project is what type of box this will open up for structures on all the lakes.

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

1. Zubeck, Rita                      18300 Chickasaw Tr.                      As the neighboring property owner, they find no negative impact on their own property or view of the lake. It is found to be ethically pleasing, and it enhances the entire area of their lakefront.

Marshall County Board of Zoning Appeals

8/8/2023

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

**Mr. Hostetler made a motion to approve 23-BZA-24 DENNIE, Cory & Teresa - A request for a Variance of Developmental Standard to allow a 12'x16' deck addition lakefront 0' from the lake; located at: 18318 Chickasaw Trl, Culver, West Twsp, Zoned L-1 with the following stipulation:**

1. Appropriate fine assessed on permit.

**Seconded by Mr. Bennett. Motion carried with a voice vote 4-1 with Mr. Gustafson voting against.**

The board commented that they would like to see no approvals of pergolas lakeside by the water.

The fifth item of business was 23-BZA-25 POTTER, Lisa - A request for a Variance of Developmental Standard to allow a secondary 10'x18' shed before a primary structure; located at: 12th Rd.(50-31-13-000-042-000-017), Plymouth, West Twsp., Zoned L-1. Deborah Scott of 17690 13<sup>th</sup> Rd. was present to represent her request. Mr. Adley presented the findings of fact.

The applicant is seeking to permit a shed on the property for storage prior to the construction of their residence. The applicant is planning to construct in 2024, but do not have the plans ready at this time.

The applicant has a new septic system in place to build in the spring of 2024. The current shed on the property doesn't meet the setbacks and is over 50 years old. They would like to replace that with the proposed new portable 10x18' shed.

All setbacks will be met, the only reason they have to be here is because there's no primary residence on the property.

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

1. Ron Harris                      12080 Peach Rd.                      Been a neighbor of Ms. Potter's parents. Doesn't see the deal with taking away an old shed and putting a new one in.
2. Wendy Holloway              12086 Peach Rd.                      They have been working diligently on the property to improve it which has increased their property values as well.
3. Elizabeth Brown              15590 12<sup>th</sup> Rd.                      In favor of the request.

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

**Mr. Kephart made a motion to approve 23-BZA-25 POTTER, Lisa - A request for a Variance of Developmental Standard to allow a secondary 10'x18' shed before a primary structure; located at: 12th Rd.(50-31-13-000-042-000-017), Plymouth, West Twsp., Zoned L-1, seconded by Mr. Hostetler. Motion carried with a voice vote 5-0.**

Marshall County Board of Zoning Appeals

8/8/2023

The sixth item of business was 23-BZA-26 SNIDER, Guy - A request for a Variance of Use to allow second residence on the property to care for a parent; located at: 18328 14B Rd., Culver, IN Zoned A-1. Guy Snider and Angela Jimenez of 12453 19B Rd. Argos were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to permit a second accessory residence on the property in order to assist in taking care of aging father. Properties are standardly permitted to have one residence per parcel. The proposed residence would be located at the rear of an existing barn. It would require its own septic and conformance with residential code when upfitting the barn.

The applicants' plans are to convert the north end of the barn into a residence and Angela would move into the renovated barn.

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

The plans will be to put in a new septic and a new well.

**Mr. Hostetler made a motion to approve 23-BZA-26 SNIDER, Guy - A request for a Variance of Use to allow second residence on the property to care for a parent; located at: 18328 14B Rd., Culver, IN Zoned A-1 with the following stipulation:**

- 1. The temporary living space in the secondary structure will need to be returned to an accessory structure when Mr. Guy Snider no longer is in need.**

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

The seventh item of business was 23-BZA-27 LOWRY, Matt - A request for a Variance of Developmental Standard on the proposed existing residence parcel to 5' on the west side yard setback from the required 10'/10%, 5' rear yard setback from the required 20' and on the proposed building lot a 20' front yard setback from the required 30'; located at: 9071 N. Shore Dr. Bremen, IN North Twps., Zoned L-1. Matt Lowry was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is considering subdividing the property, but in order to do so in the most orderly fashion would require a certain number of variances due to existing structures and proposed new ones. The new lot line would run along the west side (side yard reduction) and south side (rear yard reduction) of the existing garage, both dimensions would be 5'. The proposed new garage would be 20' from this line rather than the 30' as required. The rear and side yard reductions from 20' and 10'/10% respectively, would allow for the retention of the existing garage so that it could serve the old farmhouse. The front yard setback reduction would allow for the new garage and residence to be tucked closer towards the road. The application is not before the board on whether or not it meets other subdivision requirements as they have been taken into preliminary consideration. The Plan Commission will be the determining body on whether or not the Subdivision itself meets associated regulations.

## Marshall County Board of Zoning Appeals

8/8/2023

Since the existing house is one of the oldest houses on the lake and doesn't meet the current setbacks, the applicant is unable to add on to the property. His plans are to split off the current house, pool and garage and create a new parcel and build a home with an attached garage. He could move the proposed house closer to the lake, but would like to keep and maintain lake purposes and views.

Once the house is built it will block some of the neighbors view which is why they've asked for a 20' front yard setback to help with the disruption of loss of view.

The board questioned the process for subdividing and variances and why the variances always comes first and the plan director explained that during a variance lot lines can change if the board deems necessary which would change the subdivision .

The board questioned the different shape of the lot and if that was allowed or if the shape of the lot would require a variance and Mr. Adley confirmed the shape met the requirements but needed a variance from the setbacks of being too close to the garage.

The board discussed multiple options of removing the existing garage and even the existing house. Discussions were that this proposal was self-imposed.

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

1. Michael & Paula Nate 9087 N. Shore Bremen Lives in the house directly to the west of the proposed. They believe that the proposal will block about 65% of the view of the lake from their house. These lots were created to have one house and one garage, not to be subdivided. If the garage was torn down and the home was built there the limitation of the view wouldn't be an issue. Or if they tore the house down and rebuilt there it wouldn't be an issue either. Knows the history of the house and is very old. There is also a concern about the extra traffic in and out of the property with a shared drive. If there ends up being another house, they believe the original house should have its own driveway.

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

In response to the question regarding the driveway the applicant said that the Nates have 10' and the applicant has 10' of a shared driveway. The proposed plan would be to add an additional 20' to the applicant's portion of the driveway and make their portion 30'.

The applicant has no desire to tear down the house as it's fully renovated on the inside. However, if he sells it and new owners wish to tear down and rebuild, he's tried to accommodate that with his plans.

After a lengthy discussion the board made the following motion.

**Mr. Miller made a motion to approve 23-BZA-27 LOWRY, Matt - A request for a Variance of**

Marshall County Board of Zoning Appeals

8/8/2023

**Developmental Standard on the proposed existing residence parcel to 5' on the west side yard setback from the required 10'/10%, 5' rear yard setback from the required 20' and DENIED the proposed building lot with a 20' front yard setback from the required 30'; located at: 9071 N. Shore Dr. Bremen, IN North Twps., Zoned L-1, seconded by Mr. Kephart. Motion carried 3-2 with Mr. Bennett voting against and Mr. Hostetler voting against.**

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

Respectfully submitted,

David Hostetler