

December 10, 2024
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 7:00 p.m. on Tuesday, December 10, 2024, 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. Miller made a motion to approve the amended October 8, 2024, minutes, seconded by Mr. Hochstetler. Motion carried by acclamation.

The first item of business was 24-BZA-46 WHISMAN, Robert & Pamela - A request for a Variance of Developmental Standard to allow a reduction in density; located at: 19298 2 C Rd. Walkerton, IN 46574 Polk Township, Zoned A-1. Mr. Robert & Pamela Whisman and Zane Whisman of 19298 2C Rd. Walkerton were present to represent their request. Mr. Adley presented the findings of fact.

The applicant owns 8 acres and is seeking to subdivide the property into two 4-acre properties. The ordinance allows for one residential unit per 5 acres of property. Properties can be subdivided down to 1 acre per parcel, but the parent density is required to meet the 1 per 5-acre ratio.

Recommendation:

Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend denial of the proposed variance.

The plan of the applicant is to split the property to allow their son to build a small three-bedroom home on the property with the son owning the driveway back to the property. The proposal for the driveway is for it to be along the eastern property line.

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

The plan director clarified to the board that someone will have to have an easement or own the 50' strip of land that is used for the driveway for the "flag lot".

Mr. Hochstetler made a motion to approve 24-BZA-46 WHISMAN, Robert & Pamela - A request for a Variance of Developmental Standard to allow a reduction in density; located at: 19298 2 C

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Rd. Walkerton, IN 46574 Polk Township, Zoned A-1, seconded by Mr. Kephart. Motion carried with a voice vote 5-0.

The second item of business was 24-BZA-47 BORKHOLDER, Eddie Ray - A request by Matt Troyer for a furniture woodworking shop as a home-based business; located at: 1611 3rd Rd., Bremen, IN German Twp. Zoned A-1. Mr. Matt Troyer of 1611 3rd Rd. Bremen was present to represent his request. Mr. Adley presented the findings of fact.

Mr. Troyer had an approved woodworking business next door. He is now buying the above noted property on land contract from Eddie Ray Borkholder and plans to run the woodworking business and that property.

The applicant had received approval for the same project back in 2024 under case 20-BZA-26 which was granted approval (5-0) on the property to the west with 3 conditions: 2 employees, hours of operation 5a-5p Monday to Friday, and signage to meet local ordinance requirements. They would like to now get approval to put the business on the subject property.

Recommendation:

Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposal with BZA reviewing the business plan for adjacent impacts and setting reasonable hours of operation.

The normal working hours are 5am to 3pm but is okay to leave them to 5am to 5pm. Deliveries are minimal of 1-2 loads of raw goods a week. There is off road loading and unloading.

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

Mr. Miller made a motion to approve 24-BZA-47 BORKHOLDER, Eddie Ray - A request by Matt Troyer for a furniture woodworking shop as a home-based business; located at: 1611 3rd Rd., Bremen, IN German Twp. Zoned A-1, seconded by Mr. Kephart and to keep the stipulations from 20-BZA-26:

- 1. 2 Employees**
- 2. Hours of Operation 5am – 5pm Monday -Friday**
- 3. Sign to meet local ordinance requirements**

Motion carried with a voice vote 5-0.

The third item of business was 24-BZA-48 HOCHSTETLER, Michael - A request for a Special Use to allow an increase of dogs to an approved kennel; located at: 2484 2B Rd. Bremen, IN German Twp. Zoned A-1. Mr. Hochstetler of 2484 2B Rd. Bremen was present to represent his request. Mr. Adley presented the findings of fact.

The applicant was approved for a dog kennel under case 23-BZA-08 which was approved 4-1 with the following conditions: following stipulation: 1. 9 dogs 2. USDA and BOAH certified 3. Once the new facility is up and running the board would welcome you back for more dogs. At that time

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canine care certificate would be required. The applicant is now seeking to expand their amount of dogs to 20 females. They are registered and inspected by BOAH, licensed and inspected by USDA and are a member of ICAW.

Recommendation:

Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposal pending input from the neighbors.

The applicant would like to not have his approval dependent on being Canine Care Certified that was developed through Purdue. This Canine Care Certification is stricter than USDA. It is voluntary and is high standards of breeding dogs. They require you to re-home your dogs and not put them down, which the applicant already does. Mr. Dave Hochstetler said that Canine Care Certification was put in place, because the applicants facilities were not built and the board wanted to make sure all the conditions were met.

The applicant doesn't want to be held to twenty. If he has some pups he doesn't want to be held to twenty. The facility was constructed with sixteen pens that hold two dogs each. The application requested approval for 20 females and the additional paperwork spoke of 25 dogs. The advertisement was prepared off the application request of 20 females. The dogs being raised are golden retrievers and Bernese Mountain dogs.

Mr. Bennett made a motion to open public hearing, seconded by Mr. Hochstetler.

1. Chris Kowalski 4230 3rd Rd. Has purchased three dogs from Mr. Hochstetler. Currently helps Mr. Hochstetler with the advertising and re-homing process through facebook marketplace and a you tube channel. They take tremendous care of their animals and are extremely careful breeders. When the dogs are termed out, they are given away through the adoption process. Part of that process requires the dogs be spayed or neutered.
2. Nancy Cox 11165 13th Rd. Marshall County Humane Society Administrator. She went out to the facility and inspected the kennel. Has no complaints of the kennel and the dogs are very well taken care of and have great temperaments. She sees by the application he wants 20 females, but doesn't know for sure how many males. It's a very nice kennel, brand new with heated floors. The numbers are important.

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

The applicant plans to have 3-4 males.

Mr. Miller made a motion to approve 24-BZA-48 HOCHSTETLER, Michael - A request for a Special Use to allow an increase of dogs to an approved kennel; located at: 2484 2B Rd. Bremen, IN German Twsp. Zoned A-1, seconded by Mr. Hochstetler with the following conditions:

- 1. Twenty (20) females**

Motion carried with a voice vote 5-0.

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The fourth item of business was 24-BZA-49 COFFEL, Caleb - A request for a Variance of Developmental Standard to allow a reduction in residential setback from the required 1,320' to 493' for a Confined Animal Feeding Operation; located at: 3560 Grape Rd. Bremen, IN Zoned A-1. Mr. Caleb Coffel of 3560 Grape Rd. Bremen was present to represent his request. Mr. Adley presented the findings of fact.

The applicant was approved for a CFO in 2021 under case 21-BZA-05 on a vote of 3-1 to reduce the setback from 1,320'. The applicant is seeking to expand their animal production operation from 2 barns to 4 barns which would then classify the operation as a CAFO. The proposal is to reduce the setback to 493'.

Recommendation:

Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposal pending input from the neighbors.

The applicant would like to extend his operation to the south. The county erosion control ordinance was originally built 450% greater than what was needed due to the barn floors are clay and not concrete. By adding the two barns the pond is still 203% bigger than capacity needed. All manure is dry and kept inside. The litter stack barn proposed is 40x60' with concrete floors and 6' concrete walls. All barns have fans 2/3 of the fans face the east where there are no close residences. The north and south sides of the barns have a couple fans.

The applicant is working with Melissa at Agronomix along with IDEM to meet all requirements. Miller Poultry is involved in the gap program. There are no cages in the buildings and are free range. They have six to seven flocks a year with 6 weeks on 2 weeks off. The manure is composted and scattered back out for recycled bedding. Many of the things that are required for a CAFO the applicant has already implemented in his operation. Going to a CAFO means they will have over 125,000 birds.

If this is approved IDEM has a list of twenty things that the applicant would have to choose one to help with smell. He has already implemented four.

1. The manure is windrowed and composted
2. The manure is dry and stays inside at all times
3. Litter storage
4. Before the flocks arrive a pt pellet type gel is spread on the litter and is melted when the heater is turned on to help kill any bacteria

When the chicken litter is spread on the farm it is incorporated within twenty-four hours. This is a requirement to be a CAFO. There is a minimum of 125 acres per set of barns and currently has 320 acres signed up. In addition to the requirements required for a CAFO they will be putting in shelterbelts on the north and south sides of the barns.

The applicant talked with the property owner to the south and says that he is against the request. The ordinance requirement is from a residence where his structure is a farm and grain set up not

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a residence. At the last meeting the neighbor stated that he has a farm office and grain facility. At that meeting he had a concern with drainage and flood plain.

The other neighbors to the north have signed letters stating that they have no problem with the request.

Mr. Miller asked if there is room where the cattle is to have the shelterbelt. The applicant stated that there is room. The proposed shelterbelt will be 50' from the building.

There have been no complaints or write ups from any government office or poultry facilities. The facility has been populated for three years.

Mr. Gustafson asked if the neighbors to the south would be affected. The applicant said the during the spring and fall there are a few foggy days and there is smell. When the manure is spread there is a little, but the manure is incorporated within 24 hours.

If this is approved a travel plan will also have to set in place.

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

1. Andy Flickinger 30210 CR 40 Wakarusa Miller Poultry. Has worked with Caleb the past three years and does an outstanding job. He raises his birds and takes care of his property. Supports his request to grow.
2. Matt & Jennifer Coffel 6843 4th Rd. Live a half a mile from the barns and supports the request. Loves to see progress and supports their son.
3. Keith Frain 4424 3rd Rd. Bremen Town Manager. Familiar with his operation and doesn't know a harder working farm family. Part of Bremen's master plan is to build a 250 homes on 3rd Road. With another 120 potential multi family dwellings. They are concerned about what this might do to their project. Isn't saying he is against the project. A lot of the questions he had before coming Caleb answered. Their proposed 70 acre subdivision will be less than a mile away from this CAFO. His office hasn't had one complaint. There are days when it is humid there might be a little smell it's just like Caleb said. His Council has asked him to come and share their concerns.
4. Joe Stoller 3708 Grape Rd. Neighbor to the south. Is not against agriculture, just against this request. At the last meeting he didn't want to hold anything back. Says the smell goes past the 400' stated from the last meeting. When it's rainy the smell is bad. To go from 1,320 to 493' is a big deal. Believes this is an industrial area next to a flood plain. This will put another driveway on the property too. In addition to the farming business, he has a trucking business as well. Flies have increased as well. Has a concern about the drainage. Says the manure is worked in. In the zoning ordinance states that if a new dwelling is built within the 1,320'. "Let's say I built a house in front of my shop..which is my primary address. I do stay there often and use it as an office. I do stay there often and friends stay there as well and files taxes from there." They plan to build a house there sometime. If they build a house next to a CAFO they are required to

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have a separation distance between them 1,320' of a CFO or a CAFO. Just to build a home he would have to get approval from this board. They don't need any more barns that affect others. Says this will affect property values.

Mr. Bennett asked if Mr. Stoller lived at the Gumwood Rd. address and he said no.

5. Geromme Deschpper 6157 4th Rd. Questioned where he was going to draw the line and what's going to stop him from buying more property and putting up more chicken barns? Doesn't have a problem with the smell right now. But if it doubles in size white might the smell be then? He spreads to the field behind me and it only smells for a day or two after. The tree line does help mitigate the smell. What happens if the Coffels move and leaves the smell for everybody else.
6. Jennifer Coffel 6843 4th Rd. Letter supporting the request of this young farmer and his family's growth.
7. Neighbors in favor signed a petition: Caleb Coffel, Mike Leeper and Barb Burg.
8. Marlin Miller 5958 4th Rd. Objects to the chicken barns as they already smell them.
9. Anthony Wagoner 1406 W. Plymouth St. Has never experienced any odor or other disruption to his property due to the current operation. Has a concern about substantially increasing the size of the operation. Believes it will impact the use of the land around the operation rather than impairing the use of the applicants who own land. It unfairly shifts the burden to other landowners. Doesn't speak for the Town of Bremen but for the past 18 months Bremen has been working on a READI program to develop houses. Has a concern that the expanded CAFO will be less than a mile from the Bremen municipal limits.
10. Alan & Breea Nunemaker 5940 3rd Rd As neighbors they are against the additional CAFO's being constructed on his property. Wasn't notified of any request. Has a concern about the pollution to the air and water. Feel this may negatively impact property values due to others not wanting to live near a CAFO with the odor and quality of life. Requests denial.
11. David & Michelle Jones 5734 3rd Rd. The current animal barns are no bother to them or surrounding areas. There is no smell or noise that is causing any issues. Don't see an issue with adding two more barns. Happy to see a farm and family trying to make a living farming. This is great for Marshall County. Is in favor of the request.

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

Mr. Miller asked if there is room on the north side? There is not enough room on the north side of the property, plus the north parcel is in the city's jurisdiction. Mr. Coffel only owns those two parcels.

Mr. Miller asked about the trucking route. The birds go straight north from 106 to Plymouth Goshen Tr.

Mr. Coffel is a full-time farmer and the poultry barns are their primary source of income.

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The applicant stated that since both properties are owned by the same person and they are adjacent if the barns were built on the adjacent parcel it would still be considered a CAFO.

In response to a letter that was received the applicant is required by IDEM to turn in a ground water sample yearly. There is a requirement IDEM requirement that all wells have to be 100' from a populated chicken barn.

Mr. Miller asked if there is any new technology to help with flies. Possibly the PT solution they already use. The applicant would be willing to implement something if it's permitted by Miller Poultry.

Mr. Gustafson was surprised during the first request that there wasn't any negative concerns. Now that the proposed is getting closer to a property owner that is now against it he has concerns. Would love to see this go through, but has a concern being so close to the neighbor to the south. Mr. Gustafson asked if there is another property that they could build the barns? The applicant said no.

The applicant personally went to the properties with residences, and both were in favor.

Each barn has 40,000 birds. There is an expectation of 5% loss. He's only been at a 50% loss of their expectation.

Mr. Miller would love to see Mr. Coffel increase his operation. But he has a concern as well about the neighbor to the south.

Mr. Coffel asked to withdraw his request.

The fifth item of business was 24-BZA-50 STUMP, Laverre - A request for a Variance of Development Standard to allow a 81'4x470' layer barn that doesn't meet the 1,320' residential setback requirement; located on Quince Rd. Culver (50-21-12-000-009-000-013 and 50-21-12-000-013-000-013), Union Township, Zoned A-1. Mr. Laverre Stump of 16424 Quince Rd. Culver was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to reduce the 1,320' setback to non-participating residences to 662'. There are also 5 shown residences within this distance as shown in their supporting documentation.

Recommendation:

Based on the information provided and review by the Technical Review Committee, staff and TRC would recommend approval of the proposal pending input by the neighbors.

The applicant's parents own property on the west side of the road and Mr. Stump owns 41 acres on the east side of the road. He currently drives truck and would like to stay home, and this would allow him to do so. He originally thought of staying below the 30,000 birds so it wouldn't be a problem. During his visits with two other barns and the work it takes he felt it would be better to

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do a 50,000 bird operation. This avery system has a belt that carries all the manure to the back of the building to be stored. The manure will be used to fertilize their own families alfalfa. The plan is to work with agronomix for a layer barn. The odor plan states that the smell doesn't go beyond 200'.

The applicant owns three separate parcels. He understands that he will have to combine the parcels prior to being able to build. His desire was to make sure he had the board's approval before moving forward in combing the parcels.

The applicant had all the letters of approval signed from the neighbors to the south. There was one person to the east that wouldn't sign and another person to the north that the applicant didn't hear back from.

Mr. Gustafson asked if this barn could go on his fathers property across the street and meet the 1,320' setbacks from residences. To get that far away he would have to go on the other side of the ditch. The applicant hadn't thought about that option as he was proposing it on his own property.

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

1. Terry Anderson/James 3000 E. 101 1st Crownpoint Owns 24 acres to the southwest of the proposal. The plan was when they retire, they would build a house on this property. Is against the proposal due to a decrease in property values, health risks, odor, noise, and increased traffic. Believes this is a commercial operation.
2. Travis Dexter 16705 16C Rd Culver Lives to the east of the proposal that did not sign and is not in favor of the request. Has many questions. Will there be additional layer barns in the future? Could there be requests in the future to add on to the proposed building? This will bring animals, pests, odor and other possible harmful concerns. Concern about property valuation. There is a historical cemetery near this will this request require an appromement plan? There is concern about the future long term impact. His request is to deny or table.
3. Brad Gast Syracuse Lives to the north of the proposed. Appeared to support his neighbors.
4. Julie Thornburg 16473 16 C Rd. Culver Lives west of the proposal. They are zoned agriculture. However, it's been mainly crop farming. Has a concern that there will be additional growth of animal production on this property. Believes the proposal will have a negative impact on property values. They are on top of a hill and has a concern of the odor. How will the applicant dispose of dead animals? The additional traffic is a concern.
5. Crystal Compton 16680 Quince Rd. Originally there wasn't an issue with having a few chickens until she found out it was proposed to be thousands of chickens. Has an immune disorder and is concerned about the dander and smell. Likes the applicants as neighbors. Is against the request as well.

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6. Patrick Thornburg 16473 16B Rd Is not within the setback, but two parcels over. Doesn't believe the applicant has exhausted all uses available. Believes the request is self-imposed.
7. Brian & Norva Shidler 16636 Quince Rd. Doesn't want a commercial chicken operation. Has a concern about the rodents, smell, and health risk.
8. Debra Smith 15900 16th Rd. Rutland Lives to the east and north of this proposal. Likes them as neighbors. Just doesn't want this commercial chicken barn. Will the waste be piled up? They have health issues and are concerned about it possibly affecting their health.
9. Jeffrey Vogl 15858 16 C Rd. Signed a form letter originally in favor of the request as a manager of the property.
10. Jeffrey Vogl Email Sent an email rescinding the letter he signed. Since he is just a manager of the property. The property owner Bryan Wipperman is not in favor of the proposed facility.
11. Crystal Compton & family 16680 Quince Rd. Signed the form letter and after reconsideration, they have changed their mind and do not want a chicken farm.
12. Stewart & Connie Watwood 16620 Quince Rd. Signed the form letter and after reconsidering this situation they are not okay with this.
13. Charles Garmon, Bldg Commissioner Sent a letter informing the board the two separate stop work orders have been issued on this property. One for starting construction without a building permit and the other was the applicant started a garage addition without a building permit. Both times inspection were missed.

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

Mr. Gustafson stated that the applicant's neighbors that are closer than the 1,320' are not going to sign in favor of the proposed and asked Mr. Stump if he wanted the board to move forward with a vote?

Mr. Stump's original thought was that he could build a barn under the CAFO limits without approval, but thought he would like to try to have the additional birds.

Mr. Stump requested to withdraw his request.

2025 Proposed Board of Zoning Appeals Meeting Calendar

Mr. Hochstetler made a motion to approve the proposed meeting calendar for the year 2025, seconded by Mr. Kephart. Motion carried by acclamation.

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

Respectfully submitted,

Secretary