

December 8, 2020
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, December 8, 2020, in Room 203 of the Marshall County Building. Present were Commission Members Jeff Gustafson, James Berger, Mark Wickizer, Jeff Kutch, and Matt Miller. Plan Director Ty Adley, Secretary Lori Lowry and interested parties.

The minutes from the November 10, 2020 meeting were submitted to the board. Mr. Berger made a motion to approve the minutes as presented, Mr. Wickizer seconded the motion. Motion carried by acclamation.

The first item of business was 20-BZA-61 SPETH, Christopher - A request by Brian Teall for a Variance of Developmental Standard to reduce the right of way setback on both Pleasant Point Ln and W. Shore Dr. from the required 30' to 18' and a rear yard setback from the required 45' to 24'; located at: 5018 W. Shore Dr. Bremen, IN German Twsp., Zoned L-1. Mr. Brian Teal was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a new house on the property and wants to reduce the front yard, second front yard and rear yard setbacks. The front yard for the project is considered Pleasant Point Lane, which has a setback requirement of 30' and is proposed to be reduced to 18'. The secondary frontage is W Shore Drive that is proposed to be reduced from 30' to 20'. The final setback reduction is on the rear against the channel from 45' to 24'. The front setback along Pleasant Point Lane averages to 9' over 9 structures which has a range of 25 to -2'. The front setback along W Shore Drive averages to 40' over 18 structures to the East and West of the subject parcel, ranging from 72' to 9 feet. The rear yard setback requirement is 45' from the Base Flood Elevation with an average of -3' (over 6 structures) from the BFE, with setbacks ranging from 41' to -32'.

Mr. Teall is looking to purchase this property from Mr. Speith. In preparation he talked to many of the neighbors about his request and all seemed to be in favor of the request and would add to the value of properties. While thinking about the safety aspect of ingress and egress they have moved the driveway from W. Shore Dr. to Pleasant Point Lane.

The property on the opposite corner of W. Shore and Pleasant Point Lane exits from W. Shore not Pleasant Point Lane.

Mr. Teall reminded the board that the setback measurements were to the right way. Since Pleasant Point is a private drive they actually own to the middle of the road. In all actuality that

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setback shouldn't be an issue. The north setback meets requirements, the south side is being proposed from 30' to 20' and the west side is being proposed from 45' BFE to 24'. It was agreed by everyone that this lot would be very difficult to build on other than putting a mobile home on. Many of the homes along the channels have homes and outbuildings in the floodplain.

Mr. Kutch asked if there was any discussion with the TRC about the property being on a corner and the safety issues. Mr. Adley and Mr. Teall have already discussed the placement of the home in conjunction with the safety aspects.

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

1. Greg Bollenbacher – Owns the building right across the drive. Asked what the purpose of the setbacks are if we aren't going to obey them. His building did receive fire damage and is awaiting relief. With regard to the utility pole Mr. Bollenbacher has underground electric service to that pole. Greatly concerned about another fire happening and what more would happen to his building. Believes there will be more wear and tear on Pleasant Lane. Why aren't we maintaining the setbacks required by the ordinance. Is opposed to the request.

The board discussed the lot size and with the required setbacks it would only allow him a 25' wide house. The board explained that if Mr. Teall is not approved someone else could come in and put in a small mobile home.

2. Brian Bollenbacher – Owns 4489 W. Shore Dr which is adjacent to the ditch on the other side of the street. Has a concern about the utility easements. Had a truck hit a utility pole on his property and luckily there was no damage because his house is setback further. With his proposed structure being closer to the property lines it allows possible damage to adjacent property owners structures.
3. Marvin & Diane Houin - 7563 Plymouth Goshen Tr. – Owns the lot directly across the street next to the damn. Agrees with Mr. Bollenbacher why have setbacks if we aren't going to keep them. The concrete pad is the size of the previous residence. Believes he is going over the requirements by at least twice what it was designed for. Has no concern with the east setback reduction. The concern is the south setback. Says there is a safety issue with the curve. Says the DNR has a lot of work to do on the damn. The gate is presently open on the damn and needs work done on it. Questions building that close to the damn what sort of problems could happen. If there is a house built on their property it will totally impede the view of the lake. With a proper setback they don't believe there would be a problem seeing the lake. Mrs. Houin stated that the damn is the legal drain for the whole watershed. Thinks a reduction in setback is just asking for trouble. They deserve to have the watershed right of way that is called for. School bus safety is also a concern. He hasn't purchased the lot yet so he won't be out of money.
4. Mary Town – 4507 Pleasant Point Lane – Sent a letter in favor will be a welcome sight to see a home on the lot.
5. Marvin & Diane Houin – Also sent a letter and two pictures restating the above.

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6. Travis Cole 4480 Plum Ln – Sent a letter and does not foresee any issues with the proposed setbacks. Believes it will be a welcome addition to the neighborhood as the property has been unkept for several years.
7. Rick Bollenbacher – 4460 Pleasant Point Ln – Sent a letter and believes the setback standards should be adhered to.
8. Debra McClain 17381 Darden Rd., South Bend – Sent a letter and is against the request. Believes the location near a curve in the road is a safety hazard. Believes the setback to the water needs to be maintained at 45 to have access to maintain the ditch if need be. As her property is across the street from the proposed variance believes they would lose value due to limited inability to view the lake.

Mr. Teal finds it hard to see the relevance of Mr. Greg Bollenbacher's concern when his building is practically abutting the right of way. Their proposal is to move back the residence an additional 10' towards the channel from where the originally residence sat. Understands his concern, but this will not be a mobile home but a home. Plus, with having a home and the property maintained well it will actually increase the values of neighboring property owners.

As far as safety concerns everyone should be happy that the pole is being proposed to be moved to the utility easement. He is the President of the School Board of the Bremen Schools. He understands safety of the buses and safety of the kids. The house is not the problem the trees are the obstruction. The ROW is already at least 10 feet off the road plus an additional 20' beyond that.

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

Mr. Gustafson asked Mr. Teal if he could re-design the house and make it to fit on the lot. Mr. Teal explained to the board that's just not feasible. He would consider reducing the garage size from a 3 car to a 2 ½ car which would increase the setback on West Shore Dr.

Rob Carlson of Carlson Homes was asked to come forward. During discussion between him and the applicant they believe the garage can be moved back 8'.

The board had a lengthy discussion with the applicant trying to see if he can reconfigure the layout to not have to reduce the setbacks. Mr. Carlson explained since the proposed house is pods it would make it very difficult to do what the board is asking.

Mr. Adley explained that we have to treat channels of water setbacks the same as if they were located lakeside. It's been customary in the observation of several channels around lake of the woods that the 45' is not feasible.

Mr. Wickizer made a motion to approve 20-BZA-61 SPETH, Christopher - A request by Brian Teal for a Variance of Developmental Standard to reduce the right of way setback on both Pleasant Point Ln and W. Shore Dr. from the required 30' to 18' and a rear yard setback from the required 45' to 24'; located at: 5018 W. Shore Dr. Bremen, IN German Twsp., Zoned L-1 with the condition that the setback from West Shore Drive shall be no less than 28' from the ROW on the

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½ car garage and all other proposed setbacks are approved; seconded by Mr. Kutch. Motion carried with a voice vote 3-2 with Mr. Berger and Mr. Gustafson voting against.

The second item of business was 20-BZA-62 FLORA, Lynn & Gail - A request for a Variance of Developmental Standard to reduce the Right of Way setback requirement from 50' to 35' in order to build an addition to the front of the house on the south side; located at: 16458 15B Road, Culver, IN Union Twsp., Zoned A-1. Mr. & Mrs. Lynn Flora were present to represent their request. Mr. Adley presented the findings of fact.

The applicant is seeking to construct a 14x16' addition on the Southeastern portion of the house. The ordinance requirement is 50' from the edge of right of way and they are wanting to reduce it to 35'. The reason 35' is because the Northeastern corner of the house is also 35' from the right of way. The reason for the expansion is due to well and septic locations.

The applicants apologized that they jumped the gun. They came in and applied for the permit, but since the other end of the house addition was approved, they didn't think this would be a problem.

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

1. Terry & Carin Clifton – 16960 Pear Rd., Culver – In favor of them to put up an addition on their house. They always keep their property looking nice and see no problem with the addition.
2. Michael & Shari Spaid – 16484 14B Rd., Culver – In favor of the request. They have thru time improved and restored this 100 plus year-old historic farmhouse and property. It's a great asset to our area and county.
3. Bryan Beldon – 16821 15B Rd., Culver – Does not have any issue or concerns with the Floras addition.
4. Scott & Diane Howard – 16625 15th B Rd. Culver – Has no issues with them building on their house.
5. Sally Flora – 16807 15B Rd. Culver – Have been neighbors to the Flora's for 10-15 years and they have continually made improvements to their property. Has no objections.
6. Tom Woodward – 16378 15th B Rd. Culver – Has no concern with the Flora's addition.

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

Mr. Wickizer made a motion to approve 20-BZA-62 FLORA, Lynn & Gail - A request for a Variance of Developmental Standard to reduce the Right of Way setback requirement from 50' to 35' in order to build an addition to the front of the house on the south side; located at: 16458 15B Road, Culver, IN Union Twsp., Zoned A-1, seconded by Mr. Berger. Motion carried with a voice vote 5-0.

The third item of business was 20-BZA-63 STUTZMAN, Herman - A request for a Variance of Developmental Standard to reduce the right of way setback requirement from 75' to 60' in order to build a house on an existing foundation; located at: 14333 US 6, Plymouth, IN North

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Twsp, Zoned A-1. Mr. Ernest Stutzman was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is seeking to reduce the front yard setback from the required 75' to 60'. This is due to an existing foundation on the property. There is no known permit for the foundation found under the GIS tracking software.

When Mr. Stutzman was asked if he could move the foundation back to meet the requirements, he said he probably could, but didn't want to have to tear them down after he spent the money putting them up.

The foundation was existing on the property prior to the Stutzman's purchasing the property. As far as the blocks Mr. Stutzman stated that Mr. DeWitt told his dad that he could put up the bricks, but that is it.

President, Gustafson, asked what was going on with the building being erected now. Mr. Adley stated that the building is currently halted with a stop work order.

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

This request is before the board because the parcel sits adjacent to an arterial road which requires a setback of 75'.

Mr. Wickizer made a motion to approve 20-BZA-63 STUTZMAN, Herman - A request for a Variance of Developmental Standard to reduce the right of way setback requirement from 75' to 60' in order to build a house on an existing foundation; located at: 14333 US 6, Plymouth, IN North Twsp, Zoned A-1, with the condition that there be no building north of the existing foundation, seconded by Mr. Berger. Motion carried with a voice vote 5-0.

The fourth item of business was 20-BZA-64 THOMPSON, Larry - A request for a Special Use to allow a home-based business of car repair and welding; located at: 2781 9B Road, Bourbon, IN Bourbon Twsp., Zoned A-1. Mr. Larry Thompson was present to represent his request. Mr. Adley presented the findings of fact.

The applicant is operating a home-based workshop which historically started as a welding shop and has added car repair over the course of time. The property came in as a violation due to the number of vehicles on the property. The owner has since cleaned up a substantial portion of the property.

Mr. Thompson purchased the property in 1997 and has been doing auto repair, wood working, and refurbishing for 20 years. At this time there are no employees. Every now and then a job requires an additional person to help.

Once Mr. Thompson was notified of the violation, he cleaned up the property and installed a partial fence in addition to the existing pine trees most all excess cars and parts are kept there. Cars that are waiting to be worked on will be near the garage.

Mr. Miller travels this area often and has noticed significant clean up.

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When asked if he would like to consider approval for a couple employees he said yes. Hours of operation are Monday through Friday 8-5pm.

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

1. Janet Trowbridge – 8150 SR 331 Bourbon – Owns a property west of the applicant's parcel. Understands this type of business creates extra outside storage. Believes it can cause a decrease in property values. She doesn't want him to lose his livelihood, but rather the property gets cleaned up. Would like there to be a stipulation that it doesn't get this way again. Would also like waste to be disposed of properly.

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

All waste is disposed of and put in barrels and is picked up. Waste oil is used in a burner. Freon is reclaimed.

Mr. Wickizer made a motion to approve 20-BZA-64 THOMPSON, Larry - A request for a Special Use to allow a home-based business of car repair and welding; located at: 2781 9B Road, Bourbon, IN Bourbon Twsp., Zoned A-1; with the following conditions:

1. **Primary storage to be located behind the building**
2. **Privacy fence (already installed)**
3. **Up to 2 employees**
4. **Hours of business Monday through Friday 8-5**
5. **Waste material disposed in accordance to IDEM's requirements**

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

Other:

Staff wishes Mr. Wickizer well and thanked him for his service on the Board of Zoning Appeals.

There being no further business, a motion was made to adjourn and seconded. The Motion was passed by a voice vote.

Respectfully submitted

Mark Wickizer