

ROLL CALL

Rose Ann Barrick

Keith Masterson
Jerry Petzel, President
Jim Schwarzkopf

Michael Lautzenheiser, Jr., Secretary

The Board of Zoning Appeals meeting, March 24, 2015 was called to order by Board President, Jerry Petzel at 7:00 p.m. Roll call was answered by four members. Harry Baumgartner, Jr. was absent.

APPROVAL OF MINUTES:

Rose Ann Barrick offered a motion to approve the minutes from the January 27, 2015 meeting and Keith Masterson seconded the motion, minutes were approved 4-0.

OLD ITEMS:**NEW ITEM:**

B15-03-04 JEFFERSON TWP., NW/4 15-28N-12E Anna Spalding requests a variance to reduce the side yard setback from 10' to 4' for a deck. The property is located at 602 N. Jefferson St., Ossian, IN 46777. Property is zoned R-1.

Jim Spalding, husband of property owner, said that he constructed the deck before asking for a variance or getting a permit. He showed the board a photo of the deck. Jerry Petzel asked how far the home is from the property line. Michael Lautzenheiser, Jr. said that the house was 4ft and the deck is 1ft. Rose Ann Barrick mentioned how the house was a legal non-conforming use before the deck was built due to the age of the home. She voiced concern about the distance from the deck to the property line. Mr. Spalding said that the neighbors didn't have a problem with the deck being that close to the property line. Mrs. Barrick asked about mowing and if he was able to stay on his property. Mr. Spalding said that sometimes he goes on their property and sometimes they mow on his property. He said that he didn't see the issue if they were both ok with it. Mr. Petzel said that it could cause problems maybe not with the current neighbor but possibly one in the future. Keith Masterson said that the neighbor now might be ok with it but if they sold, the next neighbor may not be ok with it. Mr. Lautzenheiser, Jr. talked about how the shed is also too close if not on the rear property line. He said that it would need to be moved to meet the 5' setbacks for rear and side yards. Mr. Spalding said that it could be moved. Mrs. Barrick asked if he had an updated survey and questioned the way the petition was filled out. Mr. Lautzenheiser, Jr. talked about how some of the answers could be upgraded. He asked Mr. Spalding if he was aware of property lines before building. Mr. Spalding said that he thought it might have been 4 or 5 feet off lines. Mr. Lautzenheiser, Jr. asked when he got the survey. Mr. Spalding mentioned getting survey from Stody's when property was transferred. Mr. Petzel mentioned how there seems to be more and more people asking for forgiveness after a project and not asking what is needed before the project to avoid troubles like this. He said that in his opinion it's too close to the property line. Mr. Spalding said that he understood but he felt it

looked really nice. Mr. Lautzenheiser, Jr. asked why the deck needed to be placed there other than looks and liking the deck the way it is. Mr. Spalding talked about how if it was in line with the house, they would have to move the dryer vent and the electric for the hot tub. Mrs. Barrick talked about how gas meters and electric can be moved. She said that it cost money to move but it's possible. She also agreed that it was too close to the line and 1ft isn't enough room to maintain. Mr. Spalding talked about how it would be a lot of work to move the deck. Mr. Lautzenheiser, Jr. asked if it would be possibly to purchase a few feet of land off neighbor. Mr. Spalding said he didn't understand why it was such a difficult issue.

Jerry Petzel opened the floor to the public and any other board member questions. Michael Lautzenheiser, Jr. talked about how it is a 60' wide lot and the house is pushed to the one side. Keith Masterson asked if the deck would have been in line with the house, would it be ok. Mr. Lautzenheiser, Jr. talked about the different setbacks. Jim Spalding said that he felt asking the board for an approval was option 1 and asking neighbor for land was option 2.

Jerry Petzel asked for a motion. Michael Lautzenheiser, Jr. suggested a condition with an approval. Keith Masterson asked about cutting 3ft off the deck. There was a discussion on what all would be needed to make the deck smaller. Rose Ann Barrick made the motion to approve with a condition of buying additional land. Jim Spalding asked if similar structures were approved in the last. Mr. Lautzenheiser, Jr. said that the Board of Zoning Appeals has approved variances in the past but those do not set standard and that each petition is looked at separately. Mr. Spalding feels that it's the property lines of the land that have caused this. Mrs. Barrick said that is a common thing with city lots and how they are narrow compared to non-city lots.

Conditions: Purchase 3' of land along property line to extend the setback from 1' to 4' and move shed off property line to be in compliance with 5' setbacks.

Motion to Approve with Conditions: Rose Ann Barrick

Second: Keith Masterson

Vote: 4-0

B15-03-05 HARRISON TWP., NW/4 4-26N-12E Robert D. Sliger requests a variance to reduce side yard setback from 10' to 5' and secondary front yard setback from 23.5' to 5' for home addition. The property is located at 502 E. Central Ave., Bluffton, IN 46714. The property is zoned R-1.

Steve Huffman, representative for Robert Sliger, presented an updated drawing and photos to the board. He described the request for the variance and how he felt it was needed. Michael Lautzenheiser, Jr. said that the closest part of the structure to the property line determines the distance. Mr. Huffman said that it is now including the roof line. He said that the addition would not affect the line of vision or any views on Central Street. He talked about how the proposed addition improves the lot greatly. Mr. Lautzenheiser, Jr. said that the setbacks can't be less than what was advertised. He asked if this would be tearing down the house and rebuilding. Jerry Petzel asked if anything would be done on the front of the house. Mr. Huffman he said that it would have a new roof line and wouldn't be like a lean-to. Mr. Lautzenheiser, Jr. mentioned the waterline running thru the back yard for the neighbor's house and how there shouldn't be any addition to the back of the house. Mr. Huffman confirmed that it was the neighbor's house to the east. Rose Ann Barrick asked if they were on the same tap at one time. Mr. Lautzenheiser, Jr.

explained that it was a dual meter which was standard at the time from when the homes were built. Mr. Huffman asked for a location of the water line. Mrs. Barrick asked about the lower roof line towards the back of the house. Mr. Huffman said that it was the back porch. Mr. Lautzenheiser, Jr. talked about how this variance request had the same issue – Why does it require the need for this variance. Mr. Huffman said that the rooms are very small and the home needs an expansion with updating. Mr. Lautzenheiser, Jr. asked why they need to expand that distance. Mr. Huffman said that the house isn't centered which is the reason for asking for 5' and 3.5' variances. Mr. Lautzenheiser, Jr. asked if a 5' setback on the east and west property lines would be ok instead. Mr. Huffman said that it wouldn't be as much room on the east side where Liberty Street runs along. Mr. Petzel asked for comments from the audience and any additional board member questions. Mrs. Barrick asked to verify the colored lines on the photos. She said that she liked the fact that he wants to add on and improve it. Doug Sundling recommended him calling the City of Bluffton's Water Department.

Conditions:

Motion to Approve 5' setbacks on East and West property lines: James Schwarzkopf

Second: Rose Ann Barrick

Vote: 4-0

B15-03-06 LANCASTER TWP., SE/4 32-27N-12E Private Capital Group Diversified Fund LLC (Bluffton KOA Campground) requests an appeal of violation V2014-027 in regards to the five (5) Type III Manufactured Homes.

Jim Federoff, Carson Boxberger LLP, talked about how there were at the meeting to appeal the violation letter regarding the Park Model Recreation Vehicles (PMRV) at the Bluffton KOA Campground. He described the items under each tab in the presentation binder that was presented to all the board members. He said that the park models should be considered Recreational Vehicles and not Type III Manufactured Homes. Mark Bowersox, Recreation Vehicle Indiana Council & Indiana Manufactured Housing Association, talked about how they are a Park Model RV defined by state standards. He said that no more than 5 primary residences allowed per campground. He also mentioned the use question and explained how he felt they were different from HUD. Ryan Crismore, Bluffton KOA Property Manager, talked about campground and the history of how it came to be the Bluffton KOA. He handed out a brochure to show what the entire campground offered and also a spreadsheet showing the peak season for 2014. He talked about the big drop off during the week and off-season. Mr. Crismore said that the campground has never made a profit. He said that Amos Schwartz, the builder for Forget-Me-Not Acres, said that he would keep building and he wasn't against the PMRV's being there. Tony Crowell, Gordon & Associates, talked about the letter from Tim Ehlerding supporting the PMRV's and how they would benefit the community. He also mentioned that the owners of Apache Propane didn't have an issue with the PMRV's on the campgrounds property. Mr. Crowell talked about the vegetative screen that they are planning on planting to help block the view from the Forget-Me-Not Acres. Mr. Federoff's closing statement was that they need to be allowed for 2 reasons- 1st The PMRV's are Deluxe Cabins and 2nd it would be economic for the campground. He said that the PMRV's are climate controlled and allow for occupancy over the winter months. He talked about how Mr. Crismore struggles over the winter months and how the

money side to any business is very important. He thanked Michael Lautzenheiser, Jr. for keeping an open mind during this whole process.

Keith Masterson asked if there were any more proposed or if it would only be these 5. Jim Federoff said that it was only 5 PMRV's. James Schwarzkopf asked if different families lived in them or if they were more of a year-round rental. Mr. Federoff said that only 2 are being occupied at the current time as the other 3 are not ready yet. He said that they were not meant for a permanent dwelling. Rose Ann Barrick asked if they would still be used for 12 month lease. Mr. Federoff talked about the ad in the paper and how the owners agreed to limit occupancy to 6 months vs 12 months. Mrs. Barrick compared them to a small free standing apartment and how she felt the items making the units mobile need to be put back on the PMRV's. Mr. Federoff agreed that the wheels and tongues need to stay on each unit. Mrs. Barrick asked about safety of units and tie-downs. Ryan Crismore said that the office is a solid structure that would be used in emergency situations. Mr. Federoff talked about how they are not offering 12 month lease anymore. Michael Lautzenheiser, Jr. asked about the install and removal of skirting. Mr. Crismore informed the board how the skirting was attached and removed. Mr. Lautzenheiser, Jr. asked about the equipment required to remove the skirting. Mr. Crismore said that there wasn't any equipment needed to remove it and how it could be down within 15 minutes. Jerry Petzel asked about stabilizers compared to what is on a 5th wheel. Mr. Crismore said that they do not come with a stabilizer so they use wood and concrete. He said that they are solid.

Jerry Petzel asked for any public comments or questions. Mike Shewalter, 10 Memory Lane Resident, asked why he hadn't heard any mention on the rezoning. Michael Lautzenheiser, Jr. talked about how this was a petition isn't about the rezoning and it is to appeal the violation letter the campground had received. Mr. Shewalter mentioned the ad in the paper talking about zoning change. Mr. Lautzenheiser, Jr. talked about how the ad he had mentioned would be part of the APC agenda and that the BZA Board's job is to determine if the violation letter is correct, incorrect, or needs modifications. Mr. Shewalter asked about the APC and what is being done. Mr. Lautzenheiser, Jr. said that tonight's meeting doesn't determine zoning. Doug Williams, co-owner of Forget-Me-Not Acres, said that he was confused after all the speakers and how some items were presented differently. He showed the flyer in the newspaper dated 3/18/15 showing the 12 month lease is still available. He talked about his concern of year round vs temporary and asked what is considered temporary. Mr. Williams also made mention of items in a DNR article that he presented to the board. He asked about tie-downs and the safety of the units. Sandy Williams, co-owner of Forget-Me-Not Acres, discussed items from an article that she handed out to the board showing the decrease in property value. She said that she felt it would be like a mobile home park. She talked about how units like that are normally winterized in the off-season. Mr. Williams said that the PMRV's aren't going to be stable until they are tied down. He said that he also feels that the property values will go down in the addition. Doug Sundling, co-owner of Forget-Me-Not Acres, stated that he was there on behalf of Forget-Me-Not Acres and not the City of Bluffton. He gave a brief history of Forget-Me-Not Acres. He also talked about the handout he provided the board members. Mr. Sundling mentioned all the requirements that would be needed to move one of the PMRV's. He talked about an article the Mark Bowersox had written. Mr. Sundling said that it creates unplanned housing and there is a similar issue in Wisconsin. Mr. Williams handed out a copy of the lots for the subdivision and how some of the lots have an eyesore since the back patio backs up against PMRV's. Bill Archbord,

516 Meadow Lane Resident, mentioned that he was concerned with his property value and how he felt it would decrease due to the PMRV's. Jerry Reinhard, 707 & 709 Lancaster Street Owner, said that it seemed to him that there are lots of people asking for forgiveness instead of permission before they do something. He asked what the county stance was on a variance vs multi-national company. Mr. Williams asked why they had to be placed there. He said that there are over 120 campsites and that he felt the only reason they were placed there was due to easier access for utilities.

Mark Bowersox talked about new standards and how units are being built to RV standards for campgrounds. Jim Federoff responded to the items in question. He said that the property value is an opinion and homes are still being built. He talked about how this would be a positive thing for Wells County and benefit the community. Michael Lautzenheiser, Jr. explained the 2 reasons we were there to discuss tonight.

James Schwarzkopf asked when the violation was sent. Michael Lautzenheiser, Jr. said that it was after they were placed at the campground. Rose Ann Barrick talked about how she felt that wheels and tongues needed to be replaced. She mentioned the season is shown on the graph provided to the board. Mr. Schwarzkopf talked about how they could come back for rezoning and how it looked like a mini-trailer to him. Keith Masterson said it was like a mini mobile home. Lisa Owens, former co-owner of Forget-Me-Not Acres, talked about when she was part owner. Mr. Schwarzkopf said that if they stay they need to be movable at all times. He said that he doesn't know what the number of days should be. Mr. Lautzenheiser, Jr. talked about how the lease needs to stop and a timeline of occupancy would be needed. He mentioned flood hazards and how it defines a season as up to 180 days, ready to move at all times, and permitted like a manufactured home. Mrs. Barrick said that it isn't designed for permanent use as primary residence but rather seasonal. Mr. Schwarzkopf asked what the violation was. Mr. Lautzenheiser, Jr. talked about how the violation was for the units being used at residential purposes. He recommended modifying the use to a time limit. Mr. Masterson asked how it would be enforced. Mr. Lautzenheiser, Jr. said that it could be hard to enforce. He talked about needing a commitment from owners, spot checks, and records needed. Mr. Lautzenheiser, Jr. mentioned units designed for seasonal use and asked when it becomes a type 3 manufactured home. Mrs. Barrick talked about anything more than 6 months is a residency. Mr. Lautzenheiser, Jr. talked about the 3 options the board had in regards to the violation letter – approve as written, turn down violation, or modify violation. Mr. Schwarzkopf, Mrs. Barrick, and Mr. Masterson all agreed that the wheels and tongues needed to be installed and occupancy needed defined. Mr. Lautzenheiser, Jr. asked about the skirting around the units. Mrs. Barrick mentioned that she felt it was a non-issue due to the fact if they had to be moved that the skirting wouldn't prohibit them from moving. Mr. Lautzenheiser, Jr. asked the board how long can it be rented for. Jerry Reinhard mentioned 29 night stays and how that is consider residency in hotels. Mrs. Barrick said she would go with the seasonal aspect for a timeline. Mr. Schwarzkopf asked if 180 days would be too much. Mrs. Barrick said that the graph showed the seasonal range. Mr. Schwarzkopf made a motion to modify the violation so that tongues, wheels are installed so it would be mobile at all times. He also said to limit the use of each PMRV to 180 days in any 12 month period. Mrs. Barrick seconded the motion.

Conditions: Install the tongues and wheels, must remain permanently towable. The PMRV can be rented for a maximum of 180 days within a calendar year

Motion to Modify Violation: James Schwarzkopf

Second: Rose Ann Barrick

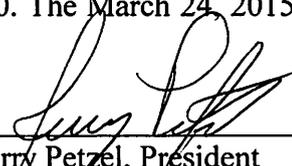
Vote: 4-0

OTHER BUSINESS:

ADVISORY:

DIRECTOR COMMENTS:

James Schwarzkopf made a motion to adjourn the meeting. Keith Masterson seconded the motion and the motion passed with a vote of 4-0. The March 24, 2015, meeting of the Board of Zoning Appeals adjourned at 9:39 pm.



Jerry Petzel, President

ATTEST: 

Michael Lautzenheiser, Jr.