

ROLL CALL

Rose Ann Barrick
Jerry Petzel, President
Harry Baumgartner, Jr.
James Schwarzkopf
Keith Masterson

Michael Lautzenheiser, Jr., Secretary

Vice-President, Rose Ann Barrick called the March 27, 2012 meeting for the Board of Zoning Appeals to order at 7:00 p.m. Four members answered roll call. Jerry Petzel was absent.

James Schwarzkopf made a motion to approve the minutes from the February meeting. Keith Masterson seconded the motion and the minutes were approved by a 4-0 vote.

OLD ITEMS:

B12-02-04 JEFFERSON TWP., NE/4 15-28N-12E Brian L Donovan requesting a variance for an existing 8' X 12' storage shed on the southeast side of the property, which is currently in the utility easement. The property is located at 702 Heatherwood Ln., Ossian, IN 46777. Property is zoned R-3.

Mr. & Mrs. Brian Donovan stated that, since the last meeting, they had went before the Ossian Town Board to get their permission to allow the shed to remain at its current location within the utility easement. Mr. Donovan said that the Town Council drafted a letter that was sent to the APC office. He also advised that shed was moveable, if necessary. It was built at its current location on three 4x4s. They provided photos of the shed and neighboring properties with sheds. These photos were also shown to the Ossian Town Council.

Mrs. Donovan advised that the utilities were spray painted before construction of the shed started. They used the call before you dig process. To her knowledge, there were no utilities that run under the shed. She stated that United REMC said that they would provide letters to the board, if they needed to, and she further elaborated on the conversation with the utility company. She also said that the shed is 12'ft from the back property line and 8'ft into the utility easement.

Michael Lautzenheiser, Jr. explained the 20'ft easement on the property. He stated why it was 20'ft and not 10'ft as other easements on lots within that addition. He elaborated on the possibility of the land, behind the property, being developed and stated that the Town of Ossian could vacate 10'ft from the current properties and have a 10'ft easement on the newly developed properties, but this would not happen automatically.

Brian Donovan stated that part of the shed is out of the utility easement. He advised that if the shed is moved into the property 8'ft, it would be in the center of their yard. The shed could be turned, if needed.

Mrs. Donovan stated that if the shed is moved further into their property it would look out of place compared to the neighboring properties. She advised that the neighboring property was approved for a variance for a shed to be in the utility easement. She also questioned the difference in moving their shed versus all of the other sheds and fences that are also in the utility easement.

Michael Lautzenheiser, Jr. voiced his concern about the utility easement stating that the easement is there for the legal use of the utility company's equipment. Plus, every time something new were to be put in for utilities, the shed would have to be moved and then moved back.

The board discussed the possibilities and options of moving the shed and also the alignment of the neighboring properties sheds within the easement.

Harry Baumgartner, Jr. made a motion to deny the petition due to the fact that if the shed remains at its current location it would be in a utility easement, which would interfere with the maintenance and installation of utilities in the easement.

Conditions: None

Motion to Deny: Harry Baumgartner, Jr.

Second: Keith Masterson

Vote: 3-1 (James Schwarzkopf)

NEW ITEMS:

B12-03-06 JEFFERSON TWP., NE/4 16-28N-12E Barkley Properties, LLC requesting a variance to split lot 31 and the 8'ft of lot 32 of Crouse's Addition in to two buildable properties. The property is located at 208 W. Mill St., Ossian, IN 46777. Property is zoned R-3.

Randy Barkley, co-owner of Barkley Properties, requesting to split the lot in half and the variance request is due to the fact that the split would cause both parts to be under the required square footage. The lot was purchased in 2009 and then there was a rezoning request, which was approved to change the property to R-3. Also in 2009, Barkley Properties filed a development plan to place a 4-plex on the lot, which was approved. The 4-plex has not been built due to Indiana State code, which requires the building to have a sprinkler system. Mr. Barkley stated the current water taps in Ossian are not big enough to handle a sprinkler system. They are still planning on building 4 apartments, just now in 2 duplexes. The duplexes would not require a sprinkler system. Mr. Barkley advised that all of the other requirements and setbacks would be met, just not the square foot size.

Laurie Stuckey, neighbor to the east of the property, addressed her concerns about the project. She stated that the advertisement sign for the meeting was removed from the property and questioned whether enough of the public was informed of the meeting. She questioned if this petition could be continued to another meeting so that more people could be made aware of the situation. She also stated her concerns about the apartments decreasing her property value. The apartments would not flow well with the area, esthetically. She also thought that there would be

too much traffic off of the alley and this could cause a safety issue. Mrs. Stuckey also questioned access to the 12'ft platted alley to the north of the property. It is not currently improved, but if there could be access to the alley in the future, would there be an issue with the current building plans. She also questioned the input from the community when the property was rezoned in 2009. She said that she did not purchase her home until 2010.

Randy Barkley stated that he has spoken with the neighbors to the north and west, neither of which had a problem with the proposed variance. He reiterated that in 2009 both the rezoning and the development plan were approved. He also advised that there would be garages on each end of the two buildings. He stated that the proposed buildings are not going to be encroaching on the north platted alley. As far as the surrounding properties, the area is zoned R-1 and R-2 and there are apartments about 2 or 3 houses to the west of the location. Mr. Barkley stated that if there are concerns with the number of parking spots and if the garage spot were to count as a parking space, then they would reduce the number of outside parking spots. They will put in the number of parking spaces that is required by the code.

Marc Gavilanez, neighbor to the northwest of the property, said that he understands both sides of the situation. He stated that Barkley's do quality work and would look for good renters. However, he is concerned with the increased traffic on the alley.

The board discussed the lot size requirements based off of the different residential zoning types. The alleys' sizes and access to them were also discussed.

Michael Lautzenheiser, Jr. presented a question to the board for review, on whether it is proper or not to gain the road frontage access off of an alley for a lot. The north half lot would only have road frontage access or access to a road right of way off of the alley to the west and north of it. He provided definitions from the ordinance for the terms 'road frontage' and 'right of way'.

Conditions:

Motion to Approve: Keith Masterson

Second: Harry Baumgartner, Jr.

Vote: 4-0

B12-03-07 JEFFERSON TWP., NE/4 16-28N-12E Jason Meyer requesting a variance for an existing storage shed, which is currently in the utility easement. The property is located at 428 Bittersweet Ln., Ossian, IN 46777. Property is zoned R-1.

Jason Meyer stated that he had built a shed in the utility easement next to a large tree. The shed is moveable. It was built on runners. However, if it were to be moved it would be in the middle of the yard. There are three neighboring sheds that are also located in the utility easement. He provided the board with photos of the sheds location. He advised that there are no utilities under the shed. He used the call before you dig process to get the utilities marked. The shed is located 9'ft on the 10'ft easement. Mr. Meyer said that he had applied for a building permit, after the

shed was built. He stated that there was a letter of support from the Town of Ossian that was received via email.

Michael Lautzenheiser, Jr. advised the board that the letter that was written for Mr. Meyer was never picked up at Ossian Town Hall and that the Town Board of Ossian has since pulled the letter of support. He also explained to the board that the permit that Mr. Meyer got was to move the shed out of the easement, after he was sent a violation letter. The permit has since been voided, due to the fact that the shed was never moved within the 2 year time frame of the permit.

The board discussed the location of where which utilities run on the property, along with where the boxes are located. They also commented on the Town of Ossian's general letter of support to keep structures out of the utility easement.

James Schwarzkopf made a motion to deny the petition due to the fact of remaining consistent with the town of Ossian's regulations and that if the shed remains at its current location it would be in a utility easement, which would interfere with the maintenance and installation of utilities in the easement.

Conditions:

Motion to Deny: James Schwarzkopf

Second: Harry Baumgartner, Jr.

Vote: 4-0

B12-03-08 UNION TWP., SW/4 16-28N-11E Bradley Kennedy requesting a variance to reduce the front yard setback from 40'ft to 28'ft. The property is located at 3781 W 900 N, Markle, IN 46770. Property is zoned A-1.

Bradley Kennedy stated that he has removed the aluminum awnings off of the house and would like to add a wraparound porch that would be the width of the current concrete; however the porch would be longer than the concrete that is currently there. This porch would add about 8'-9'ft to the front of the home. The existing concrete has been replaced several times.

Michael Lautzenheiser, Jr. advised the reason that the variance needed to be filed was due to the fact that the front yard setback is 60'ft from the center of the road. The house is currently 56'ft from the center of the road. The current concrete patio, which is where the wraparound porch will be, is 48'ft from the center of the road. The road, that the house is on, is a lightly traveled chip and seal, with not many homes on it.

Conditions:

Motion to Approve: James Schwarzkopf

Second: Keith Masterson

Vote: 4-0

B12-03-09 HARRISON TWP., NW/4 5-26N-12E Dallas T Moser II requesting a variance to increase the height of an accessory structure from 20'ft to 26'ft. The property is located at 1526 W. Lancaster, Bluffton, IN 46714. Property is zoned R-1.

Dallas Moser stated that he wants to put a 40'X60' pole building up, with a 24'X24' office and a wraparound porch. The building height would be 26'ft. The property that this would be located on 16 acres and the building would be 100'ft off of the east property line and 300'ft off of the north property line.

Michael Lautzenheiser, Jr. explained the possible reason for the R-1 zoning at that location. He then explained the zoning of the surrounding area. He stated that the area to the west is industrial and tall structures could be built in the future. He advised that the location does still appear to be agricultural.

Conditions:

Motion to Approve: James Schwarzkopf

Second: Keith Masterson

Vote: 4-0

B12-03-10 NOTTINGHAM TWP., NE/4 21-25N-12E Heartland Dairy Holdings, LLC requesting a special exception for 2 temporary mobile homes for employees. The property is located at 9555 S 250 E, Petroleum, IN 46778. Property is zoned A-1.

Tom Menke, representative for Heartland Dairy Holdings, stated that the location is a former dairy farm, which had gone bankrupt. His company purchased it in 2010 and it has been empty since then. His company has leased the property to a second company for 12 months with an option for another 6 months. The two mobile homes are being requested for the manager of the property and his family plus a second manager. The mobile homes would be temporary. The septic system, which was state approved in 2008 or 2009, has been partially constructed and would be finished for the mobile homes.

Michael Lautzenheiser, Jr. stated that the health department is aware of the project and the septic is going to be a State Health Department approval due to the commercial nature of the property. He then explained issues that Jarrod Hahn, Wells County Surveyor, had brought up, via email, about drainage, on that site, that would need to be resolved.

Conditions:

1. The mobile homes must meet the State Health Department's regulations on the septic.
2. The mobile homes can only be there for 18 months for the farm managers and family to live in.
3. During that time frame, the issues that Jarrod Hahn, Wells County Surveyor, brought up need to be taken care of.
 - a. Approximately, 4 or 5 outlet tiles from the detention pond are currently draining to the east, this needs to be limited to 1 outlet within 30 days.

- b. A proper outlet needs to be installed to drain the water to the north, within 120 days, to avoid continuing to overload the neighboring watershed.

Motion to Approve: James Schwarzkopf
 Second: Keith Masterson
 Vote: 4-0

B12-03-11 LANCASTER TWP., NE/4 34-27N-12E Christian Care Retirement Community requesting a variance to reduce the side yard setback to 4’ft. The property is located at 720 E Dustman Rd., Bluffton, IN 46714. Property is zoned R-2.

Mick Cupp, representative for Christian Care Retirement Community, stated that they are requesting a side yard setback reduction to have an addition to a current out building. This would be 4’ft from the west property line. The neighbor to the west is the Apostolic Church and they have no issue with the addition. Mr. Cupp stated that the addition would be for the Boy Scout Troop that Christian Care sponsors and for the residence of Christian Care to use for a wood working shop.

Michael Lautzenheiser, Jr. suggested an easement between the two properties for maintenance of the building, if the petition is approved.

Conditions: A 20’ft maintenance easement needs to be recorded from the Apostolic Church to Christian Care, in order to provide enough room for up keep of the addition.

Motion to Approve: James Schwarzkopf
 Second: Rose Ann Barrick
 Vote: 4-0

Discussion:

Michael Lautzenheiser, Jr. advised the board on the flood plain re-mapping. Initial flood plain map was done in 1983. On May 1st there will be meetings to review the new flood plain maps and what would need to be done to make the map official. The board discussed the areas with the largest changes to the flood plain map and what the board’s role could be with these changes. FEMA regulations and flood insurance rates were also talked about. Mr. Lautzenheiser also advised the board that rewriting the Comprehensive Plan will be discussed at the next couple of APC meetings.

ADVISORY:

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 27, 2012, meeting of the Board of Zoning Appeals adjourned at 9:02pm.

ATTEST: Michael W. Lautzenheiser Jr.
 Michael Lautzenheiser, Jr., Secretary

Jerry Petzel
 Jerry Petzel, President