

ROLL CALL

Rose Ann Barrick
Jerry Petzel, President
Jerome Markley
James Schwarzkopf
Keith Masterson

Michael Lautzenheiser, Jr., Secretary

Vice-President, Rose Ann Barrick called the December 27, 2011 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 November meeting. Keith Masterson seconded the motion and the minutes were approved by a 4-0 vote.

NEW ITEMS:

B11-12-26 LANCASTER TWP., SW/4 22-27N-12E Almco Steel (James Almdale) requesting a variance to reduce the front yard setback on Oak Street Extended near Hale Street for a proposed 800 sq. ft. addition. The property is located at 0059 N. Oak St. Ext., Bluffton, IN 46714. Property is zoned I-2.

Tim Weist, representing Almco Steel, stated that they are planning on installing addition scrap removal equipment. He said that they looked at other options for the location of the additional equipment. However, the north side was the only choice, which means having an addition to the building that would contain the equipment.

Michael Lautzenheiser Jr. stated that the variance request is for the addition to run perpendicular to the north face of the building rather than running flush with the front. The addition will be closer to North Oak Street Extended than what the rest building is. The setback would be reduced to 13'7" from the corner. The addition would not be in the road right of way and there would be no issue with the sight triangle. Mr. Lautzenheiser advised that the city did not have any concerns with the plans.

Mr. Weist stated that there is 40' 2" from the overhead door to the pavement. Their longest truck is 31'.

Lawrence Clifford, resident on North Oak Street Extended, expressed his concerns with the ability to see traffic at the intersection of Hale Street and North Oak Street Extended. He advised that at the stop on Hale Street, you cannot see cars coming from the south going north. He stated that the main problem is the pine trees on the corner. Mr. Clifford also questioned the noise

Mr. Weist admitted that the trees have long been a problem. However, the addition would not cause sight problems due to the fact that it will set 40'ft back from Hale Street. He stated that

with the addition, the trees could be coming down. Mr. Weist advised that there would be no additional noise, due to the equipment being enclosed in the addition.

Conditions: None

Motion to Approve: James Schwarzkopf

Second: Jerome Markley

Vote: 4-0

B11-12-27 LANCASTER TWP., NW/4 17-27N-12E DeWayne & Kathy Macon requesting a variance to reduce the setback of the pond water's edge to 20'ft instead of 50'ft from the property line. The property is located at 3890 N 100 E, Bluffton, IN 46714. Property is zoned A-1.

John Brickley, excavating contractor for the Macon's, stated that the request for the reduction is because the dirt from the pond is needed to back-fill around the house. They are trying to do a walk-out basement and use the dirt to raise the house up. The current setbacks would not allow for enough dirt for the house. The house had to be moved from the initial location that they were planning, to the south, due to a flowage easement. This change also caused a change to where the pond would be located.

Michael Lautzenheiser Jr. stated that part of the 10 acres is on the other side of the ditch, part in woods, and some in flood plain, along with being in a flowage easement.

Mr. Brickley stated that the pond is mostly at level. There is just a little bit of a bank, so that field run off won't come into the pond. He advised that the septic system is to the west and southwest of the house. He also indicated that there have been no issues with the neighbors.

Mr. Lautzenheiser Jr. explained the reason for the pond setbacks. He stated that 3/10s of an acre, of the farm ground to the south, could not be sprayed on. He also explained that state regulations on spraying chemicals on farmland.

Mr. Brickley stated that the farm to the south is owned by the petitioner's father. The east and south property lines are where the setbacks would be reduced.

DeWayne Macon advised that Kathy's father used to farm his father's land, but now her father has hired someone else to farm the land for him.

Conditions: None

Motion to Approve: Keith Masterson

Second: Jerome Markley

Vote: 4-0

B11-12-28 HARRISON TWP., SE/4 34-26N-12E Trustees of the Merlin A Dunwiddie 2011 Revocable Trust requesting a variance to reduce the minimum minor subdivision site area to 26,136 sq. ft. (0.60 acres) and reduce the minimum road frontage to 100'ft. The property is located on E. State Road 218, Bluffton, IN 46714. Property is zoned A-1.

Doug Dunwiddie, trustee, would like to put a barn up on a separate selloff to the west of his home. He is wanted it to be on a ½ to 1 acre. He would like the selloff to be just for a barn. He does not want to have the additional acreage added to his home, just in case he chooses to sell the house. He would still have the acreage and barn for storage. Mr. Dunwiddie has no plans on putting up a house on the proposed sell off. He stated that he doesn't want to take anymore farm land out of service than needed for a barn, which is why he doesn't want to split off the 2 acres that would be needed under the current ordinance. Mr. Dunwiddie stated that he received the OK from the other 10 children in the trust. He explained that his property has had several additions over the years but all of his property is only on one deed. He also advised that he would like to take 50'ft off of the property with his house and added it to the sell off to make a better property line.

Michael Lautzenheiser Jr. expressed fear of making a property, which down the road might be sold to a buyer, who wanted to build a home on it and doesn't realize that they can't.

Mr. Dunwiddie advised that he wanted the selloff to be small so that just the barn could be on it, therefore people would know that a house could not be built on the property. He stated the size of the barn would be 56'X32' with a 24' wing on the side and 16' high with 1 or 2 doors and there would be a lean-to on one side. He stated that he would like to use the same driveway that is currently being used for an existing building.

Rose Ann Barrick stated that a restriction could be placed on the deed that stated a house could not be built on the property unless it met the 2 acres and 200 square feet of road frontage. So that there would be no confusion on what could be done to that property when it sells in the future.

Mr. Lautzenheiser Jr. stated that if the petition were approved that night, there would be 30 days before any deed could come in. He explained that the board could use a commitment on the deed. He explained that the board's attorney could put the language together and then send it to the attorney handling the estate. He stated that, for a shared driveway, an ingress/egress easement would be beneficial while both properties are still in Mr. Dunwiddie's name. The easement would not stop him from putting a driveway on the selloff in the future.

Conditions: Must have minimum road frontage of 100'ft. The deed must have a restriction on it about no house being built on the location unless the property meets the regulation of the existing ordinance at that time. Also needed on the deed is an ingress/egress easement for the shared driveway.

Motion to Approve: James Schwarzkopf

Second: Keith Masterson

Vote: 4-0

B11-12-29 ROCK CREEK TWP., NE/4 29-27N-11E Christopher A Harris requesting a variance to reduce the side yard setback to 10'ft and to reduce the rear yard setback to 15'f. The property is located at 1584 N 400 W, Bluffton, IN 46714. Property is zoned A-1.

Christopher Harris stated that he purchased the property 3 years ago and there was an existing concrete slab that he thought that he could build on, based on the advice that he received from other individuals. He spoke with Roger McAfee, the owner of the farmland around his property, about his plans. Mr. McAfee had no problem with the fact that the structure was encroaching on his property. The 10'-15' on the south side of the property is farmed by Mr. McAfee and part of the north drive way is on Mr. McAfee's property, but the two made an agreement.

Michael Lautzenheiser, Jr. explained that the original structure on the slab of the old chicken house, which was the main part of the building, is fine as far as the location is concerned. However, it is the decks and the overhang that are in the setbacks. When the selloff was done, the original building met the setback requirements.

Mr. Harris explained that there was an old septic system for the former house. However, a new system has been put in for the apartment that is in the barn. It is large enough for the house that he would like to build in the future. If he does build the house, then the barn would go back to being used as storage.

Mr. Lautzenheiser explained the violation of building without a building permit and that the variance was part of the solution. He advised that a septic permit was obtained.

Conditions: None

Motion to Approve: Jerome Markley

Second: James Schwarzkopf

Vote: 4-0

Discussion:

Michael Lautzenheiser, Jr. commented on violations and how to fix them. He stated that a variance is the easiest route. He informed the Board of a concern that was brought up in the office by a caller, who questioned the fact that the cost is the same for filling a variance with or without being a violation.

The Board then discussed how violations were general caught, the option of having a violation fee in addition to the filing fee and how much that fee should be. They also conversed on how much knowledge the general public has on when to file a petition or receive a building permit; and if a first time violation fee should be waived, if a violation fee is imposed. The Board agreed that a fee is needed, but would check with other counties to see about how much the fee should be before presenting it to the Area Plan Commission.

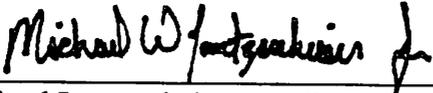
The Board also discussed wind turbines and setbacks. They were advised that there would be a January meeting.

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 December 27, 2011, meeting of the Board of Zoning Appeals adjourned at 8:15pm.



Jerry Petzel, President

ATTEST: 

Michael Lautzenheiser, Jr., Secretary