

ROLL CALL

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

Michael Lautzenheiser, Jr., Secretary

The Board of Zoning Appeals meeting, February 25, 2014 was called to order by Board President, Jerry Petzel at 7:15 p.m. Roll call was answered by all five members.

**APPROVAL OF MINUTES:**

James Schwarzkopf offered a motion to approve the minutes from the January 28, 2014 meeting and Rose Ann Barrick seconded the motion, minutes were approved 5-0.

**OLD ITEMS:**

**B13-12-24 JEFFERSON TWP., NW/4 21-28N-12E Dennis D. Berlin appeal of violation V2013-007 in which a mobile home is no longer being used for the permitted special exception and a residence on an industrial zoned property. The property is located at 2171 E 850 N, Ossian, IN 46777. Property is zoned I-1.**

Michael Lautzenheiser Jr. stated that he went to the property to view the operation. He explained the building set up and that the first building on the left is the one being occupied. The business is set up in the structure that is furthest to the northeast with inventory. The mobile home is no longer there, but the old footers are still on site. He commented that with the inspection there is proof that some form of the business is still occurring at the site, so that may clear up some confusion on the mobile home special exception, but it does not take care of the residence on the site.

Dennis Berlin stated that he purchased the property in March 1990 and commented about Bob Parrish, the former owner, getting the special exception for a mobile home to be placed on the property. He advised the board that he was not aware of the letter sent out in 1991, which explained that the special exception for the mobile home was specifically for the tomato harvester business. He then questioned the property record card and commented on the fact that it has a residence on it. He stated that he was paying taxes for several years for a residence.

Mr. Lautzenheiser explained the property record card and the reason for Mr. Berlin receiving two tax bills. One was for the real property of the site and the other was for personal property, which is the mobile home. He then stated that the mobile home was approved as a residence through the special exception; however the structure in the middle was never supposed to have a residence. Mr. Lautzenheiser stated that the mobile home special exception didn't have a specific time limit, but it was contingent on the tomato sorter business being run on the site and the mobile home being used as security for the business. However, if the business is no longer in operations for a year then the mobile home would need to be removed.

Mr. Berlin explained that he does use the property as a place to store inventory for parts to tomato sorters/harvesters from his California operation. He listed dates that he's shipped parts to the location and the number of parts that were in each shipment.

Mr. Lautzenheiser advised the board that the petition was for the appeal of the violation, which the petitioner was trying to explain that there was no violation. He stated that the board needs to determine if there was a violation of the ordinance or not. Then the board could state what they think should be on the site to resolve the violation if there is one. He restated the two parts of the violation, which were the unpermitted residence in an industrial zoned property and the mobile home that was partially demolished at the time that the violation was issued. Mr. Lautzenheiser explained that since then the mobile home has been completely removed, therefore not in violation. He then stated that the zoning ordinance no longer has the special exception that was used to initially place the mobile home on the property. However, the board could determine that the business is still in operation, which would allow the old mobile home to be replaced with a new one.

The board discussed when the mobile home was occupied and by who. They also talked about when the mobile home was removed from the property. The mobile home was damaged by a wind storm before it was removed. The board questioned whether the mobile home was occupied at the time it was damaged. They also questioned if the people occupying the mobile home were even there for security purposes.

Mr. Berlin stated that Bill Hall has lived on the property since 2005 for security purposes. He explained that he doesn't pay Mr. Hall for this service because he compensates the Halls by allowing them to live there rent free.

Mr. Lautzenheiser explained that a special exception or anything that the BZA grants cannot be grandfathered. He stated that in order for something to be grandfathered it would have to be legal before an ordinance was in effect and then was made illegal by an ordinance change.

Motion to uphold violation: James Schwarzkopf

Second: Rose Ann Barrick

Vote: 5-0

Time frame for violation to be corrected and residents vacated from structure by August 1, 2014.

Motion: Rose Ann Barrick

Second: Keith Masterson

Vote: 5-0

### **NEW ITEM:**

### **OTHER BUSINESS:**

### **ADVISORY:**

### **DIRECTOR COMMENTS:**

Mike Launzenheiser, Jr., advised the board that the APC discussed the possible changes of board membership and will continue to go on in the March meeting. He explained that it would not affect this board. He stated that the next phase of the Comprehensive Plan that would be looked at would be review/update of development plan requirements and land use, which is a majority of what the Comprehensive Plan discusses. He explained that there would potentially be a committee put together to go through the current ordinance and make suggestions for changes to the APC.

Rose Ann Barrick made a motion to adjourn the meeting. Keith Masterson seconded the motion and the motion passed with a vote of 5-0. The February 25, 2014, meeting of the Board of Zoning Appeals adjourned at 8:05pm.

Rose Ann Barrick *Rose Ann Barrick* Vice. Pres.

Jerry Petzel, President

Rose Ann Barrick, VP

ATTEST:

Michael W. Lautzenheiser *Michael W. Lautzenheiser*

Michael Lautzenheiser, Jr.