

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, January 27, 2015 was called to order by Board President, Jerry Petzel at 7:00 p.m. Roll call was answered by all five members.

**ELECTION OF OFFICERS:**

Jim Schwarzkopf said he moves to retain the same slate for this year.

Keith Masterson said he would second that motion.

Vote: 5-0

The officers are as follows:

**President:** Jerry Petzel

**Vice-President:** Rose Ann Barrick

**Secretary:** Michael Lautzenheiser Jr.

**APPROVAL OF MINUTES:**

James Schwarzkopf offered a motion to approve the minutes from the December 23, 2014 meeting and Rose Ann Barrick seconded the motion, minutes were approved 5-0.

**OLD ITEMS:**

**NEW ITEM:**

**B12-01-01 HARRISON TWP., SE/4 08-26N-12E Lawrence W. Ridgway requests a variance to increase the height variance from 20ft to 25ft for a work shop. The property is located at 1927 S Hoosier Hwy., Bluffton, IN 46714. Property is zoned S-1.**

Neal Draper, representative of Lawrence Ridgway, asked for the height variance to be changed from 20' to 25' for storage of a motorhome. Michael Lautzenheiser, Jr. asked if they were taking the one building down to rebuild in that location. Rose Ann Barrick asked if the other building was staying. Jerry Petzel stated that the property line was odd. Mr. Draper said that they were keeping the one building and tearing down one to replace. He also mentioned that the property line was due to the railroad. Mr. Petzel asked about other setback and if the building would be ok in regards to those. Mr. Lautzenheiser, Jr. said that the other setbacks were fine due to it being a larger property. He said that it's zoned S-1, but the size could fit in A-1 zoning. Mr.

Petzel talked about the location of property and the property across the street having a large building as well.

Conditions:

Motion to approve: James Schwarzkopf

Second: Harry Baumgartner, Jr.

Vote: 5-0

**B15-01-02 HARRISON TWP., NW/4 17-26N-12E Kurt & Angie Beer requests a variance to reduce the side yard setback from 20ft to 5ft for a garage addition. The property is located 1284 E 200 S, Bluffton, IN 46714. Property is zoned A-1.**

Kurt Beer asked to expand his garage 20' east and 30' south. He said that it would be attached to the existing garage. Michael Lautzenheiser, Jr. asked if he had verified the distance from the property line. Mr. Beer said he would put a sting up before building. Jerry Petzel asked about neighbors. Mr. Beer said that Chad Captain owned the property on 3 sides of his land. Rose Ann Barrick stated that she was worried about the maintenance factor and being able to maintain the building without going on neighboring property. Mr. Beer said that there shouldn't be anything to maintain on the building. He was concerned about run off but if it's approved he would tie in the down spouts to the tile that runs to the pond.

Jerry Petzel asked if there was anyone to speak on this matter in the audience. Chad Captain, neighbor that owns property on 3 sides, said that he was approached by Mr. Beer this past fall in the field to talk to him about the project he wanted to complete. He told Mr. Beer that they could talk after crops were harvested. Mr. Beer contacted him around thanksgiving when the property lines had already been marked. Mr. Captain said that he asked Mr. Beer to take care of a few things on the property (property maintenance) such as the trees on the property line, decorative rocks, and a drain that was installed on his property. He said then he found out the distance from the property line was going to be 5ft. Mr. Captain said that Mr. Beer wanted to add on to be able to do detail work on trucks that he couldn't fit into his other garage. He objected for the following reasons: variance is for other reasons, worried about distance and possible damage to building from his farm equipment, layout maintained & constructing building while staying on property, how Mr. Beer would mow property and not mow his crops down, and he hasn't made any effort to get items cleaned up.

Jerry Petzel asked about the trees towards the front of the property. Chad Captain said that it was mainly the trees around the pond. Kurt Beer said that they were pine trees and he didn't like them either anymore. He said he had planted them a few feet from the property line years ago. He said that when he talked to Mr. Captain the plan was to pull those trees in the spring time and not middle of winter, which is why nothing has been done yet. Mr. Beer said that he had the survey done because he had a gas line installed from his house to the back of the garage so he needed to know where the property line was. He said that the building addition was for the motorhome which he cannot fit into the garage as it is and he is landlocked due to septic system and pond. Mr. Petzel asked about the pole barn on the other side of property. Mr. Beer responded that it was for his wife and daughter's horses & livestock. Rose Ann Barrick asked if the pole barn could be added on 20' instead. Mr. Beer said that it couldn't because of the septic system and needing to be so many feet from it. Michael Lautzenheiser, Jr. said that it needed to

be 10ft from the septic system. Mr. Beer said that there is a leach bed and perimeter tile for the septic that go around it. Mrs. Barrick asked about adding on to the pole barn in an area that wouldn't affect the septic. Mr. Beer said that with the water, electric, and heat in the existing garage he can just connect it to the addition if on the garage. He said that if he had to add on to the pole barn then he would need to get another well since he only has a ½ in water line going there now and that there isn't any heat or anything out there. Mr. Lautzenheiser, Jr. said that he didn't seem to see an issue with the septic and that it seemed to be well south of there they are suggesting adding on to the pole barn instead of the garage. Mr. Beer said that he thought it was supposed to be 50' from the septic system. Mr. Lautzenheiser, Jr. said that he believed it to be 10' maybe 20'. Mrs. Barrick mentioned her initial concern with the maintenance of the outside of the building. Mr. Beer said that he didn't understand where the concern was coming from since it would be a metal building with metal siding. Mrs. Barrick said that her brother has a steel building and it needs painted and pressured washed. Mr. Beer said that the current building there is 11 years old and doesn't need any work done. Mrs. Barrick said that it was more down the road that was her concern and if he would be able to replace a piece of metal or pressure wash within the 5' distance between building and property line. Mr. Beer said that he could but he doesn't wash his buildings.

Jerry Petzel talked about the existing mower that Mr. Beer has and that when mowing he could slightly be on Mr. Captain's property. Kurt Beer said that it when the fields are sprayed it will sometimes get on his property and kill the grass but he doesn't get worked up about it. He said that the same goes for when they disc the field, sometimes it gets a little on his property but he understands and knows that they are trying to run a business. He said as far as the pine trees, he doesn't like them and wished he never planted them but they will come out.

Kurt Beer said that the tile they mentioned earlier drains his basement and it was already there when they both bought the properties. Chad Captain said that the riser was added what he thought to be 4 or 5 years ago. Mr. Beer thought it was put in when he built the pond. Jerry Petzel asked if the riser was out in the field. Mr. Beer said it was a 4 inch pipe or plastic field tile and tied into the existing tile. He said that he was always planning on tying in the downspout from the garage and the overflow from the pond to it and hasn't done that so he can plug that off.

James Schwarzkopf asked if it needed to be a 20' addition or would a 15' addition work. Kurt Beer said that he wanted 20' since it will be a motorhome in there and wants to be able to work around it. Chad Captain said that he didn't understand why Mr. Beer said it's a motorhome because when they talked he was told that it was because it was due to not being able to get some trucks in for detailing. Mr. Beer said that he does do some detailing part time but he doesn't do enough of it to consider it a business. He said that he does all detailing out of his existing garage. Mr. Schwarzkopf asked if there would be a wall between the existing garage and the addition. Mr. Beer said that it would have a 36" door that connected the two sides. Mr. Schwarzkopf asked if he had two doors going into his existing garage now which is 32' wide. Mr. Beer said that there are 2 overhead doors currently. Mr. Schwarzkopf said that it would be like have two 16' bays. Mr. Beer said that he wasn't following the 16' comment and that it was 28' deep and 32' wide currently. He said that they are 9' doors and that's pretty narrow with vehicles today. Mr. Schwarzkopf asked how wide the trailer/motorhome is for the addition. Jerry Petzel thought that most new trailers were 8' wide. He asked Mr. Beer if an 18' addition would work instead of

a 20'. Mr. Beer said that he requested 20' and didn't want to skimp. Mr. Petzel said that it would give him approx. 5' on each side of the motorhome going with the 18' addition. Michael Lautzenheiser, Jr. said that with asking for the 20' addition that includes the overhang of the building. Mr. Beer said that he would have to make it a 19' addition to include the overhang or not put an overhang on it since there isn't a function to them. Mr. Schwarzkopf mentioned he was struggling with why it had to be 20'. He said if he went with existing garage measurements and made the addition 16' instead of 20' he'd still have about 4' of room on each side and only then need to ask for the 9' variance instead of 5'. Mr. Lautzenheiser, Jr. said that the setback variance for the pond was 10'. Rose Ann Barrick said that if she felt that there was no alternative or anywhere else on the property then she might consider it, but she felt if there are other options available. Mr. Beer he said that building it were he wants it is convenient and this is what he's worked for all his life. He said that this is his retirement and he felt like he should be able to do what he wants with his property such as be able to go out in the winter time and go to the garage next to the house and be able to work on the motorhome instead of walking to the back of his property. Mrs. Barrick said that convenience had nothing to do with a variance approval. Mr. Lautzenheiser, Jr. said the main point in the case today is that it is an A-1 zoned property and the setback are 40' from the right-of-way for the front yard and 20' from side property line. He said that the building right now is complaint with the ordinance. He said that the request is to take a conforming and make it a non-conforming. Mr. Lautzenheiser, Jr. said that the board needs to look at why are you taking a conforming building and making it non-conforming. Keith Masterson said that unfortunately convenience doesn't make a variance. Mr. Beer said that he isn't following everyone since there is land there that he isn't able to build on. He said that he would understand if it was going on to someone else's property but it isn't. Mr. Schwarzkopf said that he wasn't sure that he wouldn't be going on to someone else's property when it came to mowing and maintenance of the building. Mr. Beer said that he would but a 32" mower and push mow the 20' if that's what it takes. Mr. Schwarzkopf suggested buying land of Mr. Captain. Mr. Beer said that he's tried that before. Mr. Masterson asked if anyone was more willing at 18' instead of 20'. Mrs. Barrick said no but that she was only one vote. Mr. Petzel said that was why he had asked earlier if he'd be willing to go down to 18'. Mr. Beer said he wouldn't go down to 15' because he doesn't know what he wants to do down the road with the building. He said he might want to put shelves up or make it a workshop. Mr. Masterson said that if he was willing to go to 18' he might have a chance but it didn't seem like 20' was going to work. Mr. Beer said he would do 18' if that is what was needed. Mr. Petzel said he would be willing to go with 18'. Chad Captain said that would still leave him open on the liability but it's 2 extra foot added and that would help with not coming over the property line to mow and things like that. Mr. Petzel talked about the liability and the spray from farm ground. Mr. Captain said that he has not sprayed Mr. Beer's yard. Mr. Petzel said that spray can float. Mr. Captain said that accidents do happen. Mr. Beer said that they do and he understands that and that he's not complaining about it. He said that's just the way business is and that Mr. Captain has no control over the spray.

Conditions:

Motion to Approve 7ft setback: Keith Masterson

Second: Jerry Petzel

Vote: 2-3 (Rose Ann Barrick, Harry Baumgartner, Jr., and James Schwarzkopf)

## Conditions:

Motion to Deny based on other locations available on property that can conform to setback requirements: Rose Ann Barrick

Second: Harry Baumgartner, Jr.

Vote: 3-2 (Keith Masterson, and Jerry Petzel)

Michael Lautzenheiser, Jr. told Mr. Beer that he has the right to appeal the decision from the Board of Zoning Appeals by filing an appeal in the court jurisdiction of Wells County within 30 days. He said that we will have the findings for the decision available to him within 5 days. Kurt Beer asked if he needed to get a lawyer. Mr. Lautzenheiser, Jr. said would be the case if that's the option he wanted to utilize.

**B15-01-03 JEFFERSON TWP., SW/4 34-28N-12E Walter Neuenschwander requests a variance to reduce the sign setback from 30ft to 2ft and to increase sign size to 10ft x 22ft. The property is located at NE Corner of SR 1 & US 224, Ossian, IN 46777. Property is zoned B-3.**

Joel Hoehn, Stody Associates, requests that the Billboard setback be reduced from 30' to 2'. Jerry Petzel asked where the sign was in the drawing. Rose Ann Barrick asked if there was a sign there now. Michael Lautzenheiser, Jr. said that there wasn't a sign there now and concrete barriers are there now. Mr. Hoehn said that there is a string pole there for a stop light. Mr. Petzel asked if it was the same location as the old filling station. Mrs. Barrick thought it might have been a motel there and the filling station was across the road. Mr. Lautzenheiser, Jr. mentioned that the sign variance constancy is 5' instead of 2'. He asked if that is something that could be changed. Mr. Hoehn said that he didn't think that would make much of a difference. Rob Troxel said that he would gladly move sign back further is 4 lanes would happen to go thru there. Mrs. Barrick said that she liked the idea of moving it back if it's not a problem. Mr. Lautzenheiser, Jr. talked about the state sign permit. Mr. Hoehn said that he has an email and all they need is an affidavit from the APC. Mrs. Barrick asked if it was the Highway Beautification Act. Mr. Hoehn he said the state was happy with location of sign on here. Mrs. Barrick asked if it would be a lighted sign. Mr. Troxel said that it would be a LED lit sign with the light only going towards the sign. He said it would be similar to signs north of Wal-Mart. Mr. Lautzenheiser, Jr. said that it was indirect lighting. Mrs. Barrick said that she would like it if it were a couple more feet back. Mr. Petzel said that he was ok with an additional 3' added to the 2' requested.

## Conditions:

Motion to Approve 5ft setback: Keith Masterson

Second: Rose Ann Barrick

Vote: 5-0

**OTHER BUSINESS:**

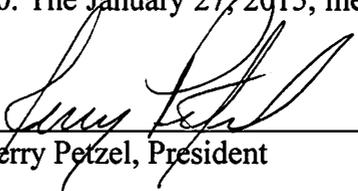
The Board of Zoning Appeals discussed Ordinance Amendments for Article 8 (Board of Zoning Appeals). It was also discussed that there will not be a February 2015 meeting since there 0 petitions on the agenda. They talked about the Ossian Elementary School still having the old sign up. The Berlin and Farabee violations were discussed and the violation was taken care of for Berlin and things are set to be taken care of for Farabee. The board discussed the possible appeal for the Beer Petition heard tonight. They talked about the judgment call needed when

making decisions regarding variances. A question came up regarding the Hoop Building at Nesco and if anything has been done yet.

**ADVISORY:**

**DIRECTOR COMMENTS:**

James Schwarzkopf made a motion to adjourn the meeting. Rose Ann Barrick seconded the motion and the motion passed with a vote of 5-0. The January 27, 2015, meeting of the Board of Zoning Appeals adjourned at 8:12 pm.

  
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Jerry Petzel, President

ATTEST:

  
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Michael Lautzenheiser, Jr.