

ROLL CALL

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

Michael Lautzenheiser, Jr., Secretary

President, Jerry Petzel called the December 17, 2013 meeting for the Board of Zoning Appeals to order at 7:00 p.m. Five members answered roll call.

APPROVAL OF MINUTES:

James Schwarzkopf made a motion to approve the minutes from the November 26, 2013 meeting. Keith Masterson seconded the motion and the minutes were approved by a 5-0 vote.

NEW ITEMS:

B13-12-24 JEFFERSON TWP., NW/4 21-28N-12E Dennis D. Berlin Sr. 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

Dennis Berlin Sr. provided the board with handouts. He stated that he didn't receive the violation notices in the mail and that the mobile home was removed without his permission. He explained that when he purchased the industrial property in 1990, from Parrish, it was with the condition of the special exception for the mobile home. Mr. Berlin stated that the business has never been shut down and that there is inventory shipped in and out of that location. He then read from the minutes of the March 28, 1990 BZA meeting where the special exception for the mobile home was approved. He stated that the mobile home was placed on an existing pad where a previous mobile home was. He advised the board that the original reason for the mobile home was for a residence and security guard for the property. He stated that he didn't believe that there was a time limit on the special exception for the mobile home. Mr. Berlin then commented on his business and what he does along with the reason for the need of a guard on the property. He explained that he had property and machines taken before Bill Hall moved onto the site.

The board discussed the conditions of the special exception stating that in a letter dated February 13, 1991 sent to Fox & Parrish; it explained the special exception for the mobile home was for security purposes for the manufacturing and maintenance of electronic tomato sorters. They also talked about when the property was zoned to I-1 industrial from A-1 agricultural by a petition in 1982. Mr. Berlin stated that he purchased it was the understanding that it was A-1 agriculture. He restated that the business has never been shut down. He advised the board that the focus has expanded from just digital tomato sorters to other digital crop sorters, and he has his inventory shipped to the Ossian location.

Michael Lautzenheiser, Jr. restated the facts of the case. He stated that in 1982 the property was rezoned from A-1 agriculture to I-1 industrial by Mr. Parrish. Then in 1990, Mr. Parrish applied for a special exception for a mobile home because the old mobile home that was previously on the property was not there. He explained that at the time the ordinance allowed a mobile home to be placed on the property for security purposes; however the current ordinance does not allow this. In March of 1990, the BZA approved the special exception petition. He explained that since then the mobile home was damaged in a wind storm and then it was removed. He stated that when the mobile home was still standing that it wasn't in livable condition for a long time. Mr. Lautzenheiser

stated that there was a complaint about the mobile home's condition. When he went out to investigate, the mobile home was partially torn down and found that someone was living in one of the back buildings, which was not approved by the board. Mr. Berlin disputed the fact that people could not live in the back building by stating that when he purchased the property one of the buildings had been used for migrant workers to reside in and he was told by Mr. Parrish that people could continue to live back there. Mr. Lautzenheiser advised Mr. Berlin that having residences in the back building is not approved by the APC or BZA. Mr. Lautzenheiser stated that having people living on an industrial zoned property is still a violation, but if there could be proof that the tomato sorting operation was still in business then there could be a possibility for the mobile home.

Rebecca Hall stated that her and her husband live there and knows that they are in violation, but they can't afford to move elsewhere due to health issues.

Mr. Lautzenheiser restated that in order to possibly put another mobile home on the site and use that special exception that an inspection of the property would need to be done to prove that there is still a tomato sorting operation being run there and has been for at least the last 12 months. He stated that if the business is in operation, then the new mobile home will still need approval through the health department for a new septic or hook in to Ossian's sewer system in order to be compliant with the county's septic rules. Mr. Lautzenheiser reiterated that the mobile home is a special exception for the tomato sorter business, therefore when that business stops, then the mobile home must be removed. He also advised that a mobile home might not be able to be placed back on the property if the special exception terminated due to non-use, but he wants first check on the business activity.

The board and Mr. Berlin discussed the current septic and well situation. He stated that the property was inspected by Roto-Rooter and one of the APC board members, and everything is fine. The board informed him that the neither are an authority and that the Wells County Health Department is the only one that would have say if the septic and well are acceptable and up to code.

Conditions:

Motion to Continue: James Schwarzkopf

Second: Harry Baumgartner, Jr.

Vote: 5-0

B13-12-25 CHESTER TWP., SW/4 10-25N-11E Charles and Linda Harris requests a variance to reduce the rear yard setback from 20ft to 13ft 4in to correct violation V2013-022. The property is located at 2537 W 800 S, Poneto, IN 46781. Property is zoned A-1.

Michael Lautzenheiser, Jr. stated that when the proper was checked due to a permit being issued, it was found that the structure did not to meet the 20ft setback.

Charles Harris stated that he put stakes down where he wanted the building and the contractor missed the area by about 3ft. He also mentioned that there was some dispute over where the survey markers were at due to a family member moving them. He advised the board that they thought that they had enough room and wouldn't need a variance.

Linda Harris stated that the farm ground around their property is owned by her mother and farmed by her brother. She stated that the property is only 1.5 acres and they didn't want the building to be close to the house. She explained that the septic system is on the other side of the house which is why the building needed to be built where it's currently at.

Conditions:

Motion to Approve: James Schwarzkopf

Second: Keith Masterson

Vote: 5-0

B13-12-26 HARRISON TWP., NE/4 05-26N-12E Norman E. and Bonnie J. Wall requests a variance to reduce the front yard setback from 30ft to 15ft for a proposed building and to 0ft for a proposed sign. The property is located at the Northwest corner of Beth & Wiley Ave., Bluffton, IN 46714. Property is currently zoned M-1 with a request to rezone to B-3.

Joel Hoehn, Stoodly & Associates, stated that the Wall's are requesting to move the building up to the 15ft setback so that there would be more space on the north end and the west side in order to put a detention basin in. He explained that the doors for the U-store units will be on the east side of the structure. He stated that the sign setback request was for better visibility for people come down Wiley Ave due to trees on the property and surrounding properties. Mr. Hoehn stated that with the 15ft setback, the building would be closer to the street than the first mobile home on the east side and closer than the building to the west. He stated that if the detention basin isn't needed, then it could be moved back and meet the 30ft setback. He advised that there are 20 units that are 10ft wide and the height of the structure is about 16 or 17ft. He explained that the structure would be 30.5ft from the edge of the pavement

Thomas Wall, the petitioners' son, stated that the 32' x 30' front part of the structure is going to be used for personal storage for his father.

Michael Lautzenheiser, Jr. questioned if the overhead door would be on the front of the building facing the street. He stated that there is a 20ft setback requirement for an overhead door or entrance from any garage like structure to the property line. He advised the board that there are properties further to the east and south that are of similar distances from the street. He explained to the board that a 15ft setback would be too close, but 20ft would be acceptable as it would comply with the ordinance.

Mr. Hoehn stated that the sign would be a monument style 6' x 6' sign. It is currently proposed to be in the center of the property. He advised the board that the sign could be moved off to the west side if need be due to any potential sight angle concerns. He stated that from the front of the sign to the back of the curb would be about 16.5ft.

Conditions:

Motion to Approve 20ft setback for building due to overhead door and 0ft for sign: Rose Ann Barrick

Second: James Schwarzkopf

Vote: 5-0

B13-12-27 UNION TWP., SE/4 09-28N-11E Peter L. and Doby L. Confer requests a variance to reduce the side yard setback from 20ft to 10ft. The property is located at 10254 N 300 W, Markle, IN 46770. Property is zoned A-1.

Peter Confer explained that they have expanded a barn and added a porch on to it as well but the existing barn was too close to the property line and the 20ft setback cannot be meet.

Michael Lautzenheiser, Jr. stated that the home was split off from the outbuildings and excess acreage. The property line was put exactly 20ft from the north side of the existing building. The porch is 10ft wide and then there would be 10ft to the property line.

Mr. Confer stated that the well is on the southwest side of the house close to the pole barn. Mr. Lautzenheiser then explained that was one of the reasons that the property line needed to be located where it currently is due to the regulation that a well must be 50ft from a property line.

Conditions:

Motion to Approve: James Schwarzkopf

Second: Harry Baumgartner, Jr.

Vote: 5-0

End of Year Report 2013

Mr. Lautzenheiser stated that between the three boards there were 57 total meetings held during this year, and no meetings were missed due to lack of petitions on the agenda. He explained the four items that were in judicial review and whether they are still active or not. He stated that permits were up for the first time in several years and 317 were issued as of December 5, 2013. He commented on the number of violations and the fact that 20 are still active due to one more violation that was just issued. Mr. Lautzenheiser addressed the number of petitions heard by each of the three boards. He went over the two office budgets. He commented on the completion of the comprehensive plan. He addressed some of the projects done through GIS. He commented on the continuing education for the office and his maintenance of credit hours for the AICP.

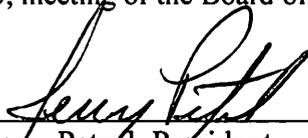
Plan of Operation 2014

Mr. Lautzenheiser advised the board that the 2014 approved budget was for \$108,323.00. He then noted a couple of major purchases of a new copier and camera. He then commented on the fact that there might not be enough money in the legal services line item due to the continuing judicial review of Wells County Wind II. He commented on continuing education and stated that he is looking into becoming a certified flood manager. Mr. Lautzenheiser explained the comprehensive plan implementation and what potential impact it would have on the BZA, which would start with the rules of procedure being updated. He advised that changing the zoning and subdivision control ordinances over to a unified development ordinance will be looked into so that it will all be one book rather than two separate sections in one book. He stated that the board packets will remain the same, but binders will be made that will have the rules of procedure, ordinances, the comprehensive plan, and other pertinent information for the board to have at each meeting. Next, Mr. Lautzenheiser stated that at some point there needs to be some clarifications on the legal non-conforming section of the ordinance. Finally, he went on to talk about the GIS budget, purchases, and projects that will be addressed during the upcoming year.

ADVISORY:

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 December 17, 2013, meeting of the Board of Zoning Appeals adjourned at 8:46pm.

ATTEST: 
Michael Lautzenheiser, Jr., Secretary


Jerry Petzel, President