

# *WABASH COUNTY PLAN COMMISSION*

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## **BZA MEETING MINUTES** **JANUARY 26, 2016**

**Wabash County Board of Zoning Appeals  
Wabash County Court House  
Wabash IN 46992**

**BZA Board Members: Mark Milam, Don Roser, David Schuler, Joe Vogel, Jerry Younce, and Attorney Larry Thrush**

Members present: Mark Milam, Don Roser, David Schuler, Joe Vogel, Jerry Younce and Attorney Larry Thrush

Mr. Vogel opened the meeting at 7:00 p.m.

The floor was open for nominations for Board Chairman.

Mark Milam nominated Joe Vogel.

Dave Schuler motioned for nominations to be closed.

Don Roser, Second

Board members voted in favor of Joe Vogel for BZA Chairman.

The floor was open for nominations for Board Co-Chairman.

Jerry Younce nominated Mark Milam.

Dave Schuler motioned for nominations to be closed.

Don Roser, Second.

Board members voted in favor of Mark Milam for BZA Co-Chairman.

With the absence of an Office Administrator, board members agreed to have the duties of the Board Secretary carried out by the Plan Director until the position of Office Administrator is filled.

Mark Milam motioned to approve the December 22, 2015 minutes as written.

David Schuler, second the motion

Motion carried.

Variance # 1 A Variance from the Subdivision Ordinance to make more than one (1) sell of less than twenty (20) acres in a five year period.

Anthony Corso Irrevocable Trust, Deeded Owner.

Section 12, Township 27N, Range 5E, Noble Township, Wabash County  
Mr. Corso owns a 76 acre parcel on the North side of county road 200 S, West of Higley Curve and would like to split out 3 lots to offer as home sites.

Board members reviewed the documents and maps associated to the Variance.

Barry Bunnell presented the survey as currently proposed.

Tract 1 is a 2.9 acre tract with road frontage to county road 200 S.

Tract 2 is 6.0 acres and Tract 3 is 4.25 acres.

Both Tract 2 and Tract 3 would have a shared drive which would be a 50 foot wide easement to access the two tracts.

The layout of the land for tract one has a creek running through it with a suitable location for a residence on the northwest corner of the lot. When you look at the layout of the tract 2 and tract 3 you will see a nice elevated knoll in both tracts which would be an ideal location for a home. Tract 1 was originally considered for access to tract 2 and 3 but it has quite a bit of terrain. You have about a 15 foot of drop to get down to the creek and then back up to get to tract 2.

Milam, So tact 2 and 3 would have a shared drive?

Bunnell, yes.

Mr. Roser inquired about the drive easement as he has concerns about enforcement of an easement agreement.

Bunnell, I would suggest the easement be written by an attorney and cover the development of the easement as well as all future maintenance of the easement. Tract 1 will have its own separate drive.

Vogel, is the area pretty flat around the drives so there is good visibility?

Bunnell the 50 foot drive for tract 2 and 3 has a nice flat area.

Tract 1 has the swale. The drive needs to be raised. Visibility in this area is not as good as the other drive.

Younce, is the road pretty level all the way through there?

Bunnell, the road is pretty level once you get east of the current 4 acre parcel.

Vogel, does Mr. Corso have any requirements on the type or size of homes to be constructed?

Corso, small structures, not very big, probably would average about 2500 sq. ft. per home.

Vogel, board members have letters to read. A total of 9 letters were submitted with concerns and comments. Board members will read them at this time.

Vogel several of these letter suggest they build to the west. Where in relation to these tracts would that be?

Howard. Mr. Corso has property to the east of the 76 acre parcel which has some homes. They are suggesting they build west of those homes which would be east of the proposed tracts and 76 acre parcel.

Vogel, do any of the board members have questions?

Milam, Mr. Corso do you intend to develop homes on the lots and sell them with residential structures in place?

Corso, that is what we plan to do. It will take quite a long time but that is our plan.

Milam, so your intent is to build a structure on these properties and then sell the tract with the structure, never having been lived in, to a new owner.

Corso, that is correct we have had many inquiries about living in the country. After 40 years of living in the area we have finally started to listen to them. We do not want to take up farm land, destroy property or uproot wildlife. I am a component of constructing areas not destroying areas.

Milam, how does this compare to other request we have had for variances? I recall, approving bare lots to be sold and built on, but this sounds like lots being sold with homes already on them.

Howard, any further splits or development in the area would require the subdivision process to be followed. At this time the county's position is that the county will fund no portion of infrastructure, roads etc. that would be required for a subdivision.

This would be handled the same as the property splits approved south of Lagro for 3 parcels.

Vogel, is there good visibility of road traffic where the driveways would enter the road?

Bunnell, Tract 2 and 3 would have good visibility. Tract 1 will need some work for the drive approach to the road because it is much lower than the road at the point of entrance. It will need to be built up.

The 6 and 4.5 acre tracts both have a nice knoll to build a home on. The terrain is such that it really is not suitable for tillable crop land. Mr. Corso asked for a drive through Tract 1 to Tract 2 but because of the terrain and creek I strongly suggested the 50 foot drive be in the plan. Mr. Corso didn't want to use any tillable land.

Vogel, I have a couple of questions from the written comments in reference to waterways and ditches. Those would not be built in correct?

Bunnell, correct, the creek kind of wyes on Tract 1 and the only place to build is in the northwest part of the tract. The grassy swale west of the Corso property drains pretty much the whole northwest field. The water runs down the grassy swale to concrete spill way on the Corso property where it collects then turns and empties into creek.

Vogel, several letters noted the concern of using farm land. The only tillable ground being consumed is the 50 foot drive easement correct?

Bunnell, correct the 50 foot easement with the little triangular corner at Tract 2 takes up 1.42 acres total.

Vogel the floor is open for public comments.

Ben Smith, owner of the 80 acre parcel West of the Corso property. I don't want neighbors right next to my farm land. When we spray we use chemicals, if we deer hunt, if we do anything, we are going to have houses within a matter of feet from my property line. I have concerns about how development of homes on the parcels will affect the drainage of my parcel. I have put a lot of time and money into developing the drainage for our 80 acre parcel as well as the outlet area where the water collects and goes under the road. The location proposed for the driveway for Tract 1 will be just west of where the culvert goes under the road. When it rains, an enormous amount of water flows through that area. You have to have a 4 wheel drive vehicle to get up onto the road because of the slope. The drive entrance would definitely need to be built up since it is probably a good 10 feet below road level.

Mr. Corso has 40 or 50 acres to the east of here that is all grown up and not being farmed. I would have no problem if he built there. You have all the other area to the east of that which was subdivided and has barely been developed. I just don't see the need for an area that has tillable ground on both sides of it to be split up and sold for homes when there is all of the other available ground to the east.

Vogel, anyone else, if not do any of the board member have more questions?

Jerry, have the BZA stipulations for these tract been determined?

Vogel, Mr. Corso if these 3 splits are approved, you are going to build the homes on them and then sell them?

Corso, I would probably sell property to someone to build their own home on. We could help design the home.

Vogel, Mr. Howard can go through the conditions for this variance.

Howard, I would suggest applying conditions to each individual tract since there are differences within the tracts. I recommend the following conditions:

Tract 1 of 2.9 acres: No further splits of the tract. A maximum of one single family dwelling on the tract. A minimum of 2000 square feet above ground living space. The residence must have a 5/12 or greater roof pitch. No unlicensed vehicles parked outside. Buyer must sign "Right to Farm" clause.

Tract 2 of 6.0 acres: No further splits of the tract. A maximum of one single family dwelling on the tract. A minimum of 2000 square feet above ground living space. Residence must have a 5/12 or greater roof pitch. No unlicensed vehicles parked outside. Buyer must sign "Right to Farm" clause. Driveway easement wording must be reviewed and approved by the Wabash County Plan Commission.

Tract 3 of 4.25 acres: No further splits of the tract. A maximum of one single family dwelling on the tract. A minimum of 2000 square feet above ground living space. Residence must have a 5/12 or greater roof pitch. No unlicensed vehicles parked outside. Buyer must sign "Right to Farm" clause. Drive way easement wording must be reviewed and approved by the Wabash County Plan Commission.

Jerry, regarding the drive entrance into Tract 1 how sharp or steep is the approach to road?

Bunnell, it is pretty steep. You would have to put fill in to incline from the road down into the swale. We would need to bring in dirt and level it out to have a longer drive.

Howard, it would have to be built up because there is a slight elevation in the road going west and the drive would need to be at or above road level to have good visibility for traffic.

Bunnell, it would require engineering to determine the size, location, and quantity of culvert pipes needed in order to maintain the current drainage.

Vogel, will any of these tracts have to drive across a creek to get to the residence?

Bunnell, no.

Linden Unger, I have lived in the area 56 years. Not many people are wanting to build out that way. I would like clarification on what Mr. Coro said. He first said he was going to build homes on the tracts and then sell them, later he said he would sell bare lots. Which way is it?

Second there are already plenty of available lots to build on. Look at all the available lots east of this site that aren't developed.

Third, County Road 200 S is going to be a major traffic problem with the rail siding going in for West Plains. I would ask board members to go out and look at the site.

Smith, there is an 8 foot culvert going under the road. I have 40 foot wide parallel waterways going down to the creek. When it rains an awful lot of water passes through there and it is going to take a large culvert to maintain the flow at a level equal to the current flow.

Unger, regarding additional traffic on County Road 200 S. With the anticipated closure of Old 24 and 700 W, during the time needed to install the West Plains rail siding, traffic will use 200 S. The addition of more homes along 200 S will only increase traffic flow, and that road is not in the greatest shape for increased traffic.

You stated you would sell bare lots but earlier you said you would develop the lots with homes then sell them. Which way is it?

Corso, yes, I would like to develop plans for homes.

Howard, I'm not sure Mr. Corso understands exactly what he is being asked, but my take is that he would like to develop a home on the tracts, however if someone wants to buy an undeveloped lot, he is not opposed to sell it that way. Is that a correct statement Mr. Corso?

Corso, yes.

Jerry, my concern is the easement. It should be reviewed by the board before being accepted.

Bunnell, the ingress egress easement should be prepared by an attorney and we can submit that for approval.

Vogel, do board members have any further comments or questions. If not are you ready to vote?

Milam, would you please go over the conditions which will be applied to each tract if approved.

Tract 1 of 2.9 acres: No further splits of the tract. Maximum of one single family dwelling on the tract. Minimum of 2000 square feet above ground living space. Residence must have a 5/12 or greater roof pitch. No unlicensed vehicles parked outside. Buyer must sign "Right to Farm" clause.

Tract 2 of 6.0 acres: No further splits of the tract. Maximum of one single family dwelling on the tract. Minimum of 2000 square feet above ground living space. Residence must have a 5/12 or greater roof pitch. No unlicensed vehicles parked outside. Buyer must sign "Right to Farm" clause. Drive way easement wording must be reviewed and approved by the Wabash County Plan Commission.

Tract 3 of 4.25 acres: No further splits of the tract. Maximum of one single family dwelling on the tract. Minimum of 2000 square feet above ground living space. Residence must have a 5/12 or greater roof pitch. No unlicensed vehicles parked outside. Buyer must sign "Right to Farm" clause. Drive way easement wording must be reviewed and approved by the Wabash County Plan Commission.

Do you agree to these conditions Mr. Corso?

Corso, Yes

Mr. Vogel called for the board members to vote.

Board Members voted 4 to 1 in favor of approval of Variance # 1.

Variance # 2, A Variance from the setback requirements for a CFO

Cory Smith

Section 28, Township 29N, Range 6E, Paw Paw Township, Wabash County. Current parcel size 132 acres.

Board members reviewed the documents and maps associated to the Variance.

Howard, the site is located on the southeast corner of 800 N and 400 W. The property is deeded to Keith Dyson.

The layout is for 4 buildings each being 102 x 205 feet with spacing between buildings of 80 feet, 60 feet, and 80 feet. Total area with all 4 structures is 627 x 205 feet. Each unit will hold 2400 head of grower to finisher hogs for a total of 9600 head with all proposed structures completed.

The initial plan was to run the complex east and west, but the required setback from a residence could not be achieved so the complex was turned to run north and south. The required setback from all residential structures will be met under this layout.

Cory Smith is requesting a Variance from the property line setback between his proposed complex and the Keith Dyson property which surrounds the site. Current county setback is 300 feet. IDEM setback is 100 feet. Minimum county acreage requirement is 10 acres.

The south structures will meet the county required setback from a creek and will meet IDEM stipulations by installing an earthen berm between the structure and creek.

The ground for the CFO will be purchased from Keith Dyson. Mike Dyson is present representing the property. The Dysons have consented to the reduced setback from their property line as they will farm as close to the facilities as possible and utilize the manure for crop fertilizer purpose.

Vogel, the rectangle in the ortho drawing is the area the structures will consume and the setback lines would be a minimum of 100 feet beyond that?

Cory Smith, yes, down to 100 feet , but large enough to contain 10 acres.

Howard, the allowable setback would be a minimum of 100 feet on any one side. The total parcel size with all sides having a 100 foot setback is 7.68 acres, so the setback will have to be greater than that somewhere to achieve the 10 acre parcel requirement.

Vogel, if there are no questions from the board, I will open the floor for public comment or questions.

Randy Griffey, my mother owns property to the west of the proposed site. It is my understand the buildings will meet the setback from the creek. My concern is the number of swine facilities within one mile of our homes, Donaldson just put one in. We never said nothing about nobody. He is within his right. I have no complaints towards the Smith's as I have seen Paul's operation and it is always well maintained. Donaldson just put up one for 4000 head, Mark York has 4 barns, not sure exactly how many but is probably more than 1000 head per barn. Dales have 2, one is a hot nursery north of my moms, probably 3000 head. The other was a cattle facility converted to a hog barn. There are 2 more just north of 300 W 800 N. My question is how many facilities do we have to have in a mile area until we say enough is enough, until it gets in our water. Then who do we point our finger at? I don't blame Paul, things change, but 25 or 30 years ago who would have thought that hog manure was a commodity. I would like to see Paul and Cory find another site. I was there before any of those buildings were built, and never said a word. My father actually signed off for Chamberlains when they converted that facility to swine. At what point do you say enough is enough? There are hardly any facilities south of town. Whether farms just don't want to do it, whatever I don't know. You name me one other spot north of the Wabash River that has 13 facilities within a mile from our mailbox.

Paul, in trying to meet the requirements and work with the right people involved, we are so limited in available sites.

Griffey, I understand, but what are we to do. If we have to start drinking bottled water, who do we blame, do we blame you, the Donaldson's, the York's, the Dale's, the plan commission. Where is it coming from?

Vogel, anyone else?

Billy Brown, I live just west of the proposed facility. I have a letter here for the board members to read. My complaint is about the same thing as Griffey. Property values drop when you are around 13 hog buildings. When is enough, enough? They spread chicken manure over on the other side. How many of you would like to go out there and have a picnic and have all that hog or chicken smell? I don't think anyone of you would.

I worked 41 years at Wabash Alloys and got what I got today, and that is what I am protecting. I don't have anything against anyone here, but we have to protect what is ours. Enough is enough. Paul, I got nothing against you or anybody here.

Griffey, we came in and talked with Mr. Howard the other day and he made a comment and I don't think he meant it the way I took it. At least I hope not. He said the plan commission is looking at an ordinance to limit people from town buying 2 acres and building a home in an ag community. If I own a 1000 acres I'm only worried about the two I live on, the smell, where I have my garden, where my wife hangs our clothes out on the line, that is the only two acres I am worried about. Not the other 998. I must take the responsibility that I will have that occasionally but not 13 in one area.

Sara Greer. I own right on 800 N.

My concern is what are you going to do with the manure?

Paul, we have 750 plus acres allotted for the facilities through the state.

We are so tightly governed that the state will be at the door if we have any issues.

Sara, who will take care of the roads with all the extra traffic?

Paul shouldn't be a huge increase in traffic.

Sara, with pigs coming in and out and all the feed trucks, come on now.

Paul, you don't think we will be paying for it with all the property taxes on the building and land we will have to pay.

Mike Dyson, I basically have been given control of the ground. My concern is it looks to me like all my neighbors want to control all of the ground. We got setbacks. I'm friends with every one of them. I know every one of them. County made the setbacks. If you can be within the setbacks, I don't know if there is anything about number of head within 1 mile or 40 miles. It's all the setbacks. I don't try to control their property. I don't know how they can control mine. I told the group we could have a meeting. I told them if they want to pool their money together and buy

the farm then they can control it and I will move on down the road and there won't be any hard feelings.

Kari Weaver, I live right in the area. I just want to say I have heard nothing but good things about these wonderful guys and how clean their operation is. My concern is the water. Although Mike says he can't control my property, when it starts to control the water in my property, I have concerns.

Vogel, county came up with these setbacks and different things. My concern was they were asking for the 100 foot setback from another property line. I like the 300 foot property line setback. The thing is they could have met the requirements, came in, completed the application and been approved and went on to IDEM. What you are basically trying to do is buy 10 acres instead of 23.

I hate these meetings. No one goes out of here happy. Even if we turned this request down you could still buy the additional acreage and proceed. It is a superfluous meeting and we get every body's emotions up and I think these CFO deals need to meet the requirements. It is a venting thing where neighbors can come in and talk with you and you with them and to me it is a waste of time. I think they need to meet the requirements, get their permits and put the building up.

We can't stop this, if it doesn't pass, they just buy more acreage, and farm it or cash rent it.

Paul, What if the farmer isn't willing to sell more ground.

Vogel, then you would have to find another location.  
We are asking to meet the state requirements.

Billy Brown, nobody came to me and said anything. Mr. Dyson came to me last year and asked about Mark York putting up a hog building back there. I told him it was his land and he could do whatever he wanted to. When they came to me with the letter to sign waiving all my rights, I was upset. I'm not going to take any bribe and I'm not going to give up any of my rights.

Discussion amongst the applicant and public continued.

Mr. Milam pointed out that the discussion needs to pertain to the application and comments by all parties need to be addressed to the board.

Hearing to further comments Mr. Vogel called for the vote.

Board members voted 5 to 0 in favor of Variance #2.

Mr. Howard presented the 2015 year-end report to board members.  
Pole Buildings were again the leader with 56 permits issued for pole bldgs.  
Total funds received for 2015: \$20,471.  
\$18,089.92 for Permit Fees  
\$679.00 in collections for Unsafe Premise Suit  
\$1,702.83 reimbursement for Legal Ads and Certified Mailers

It was noted that during the 10 year period from 1996 thru 2005, 2442 permits were issued. During the 10 year period from 2006 thru 2015, 1550 permits were issued. The only positive area of growth between these two time periods has been permits for pole buildings.

A total of 45 new complaints were documented in 2015.  
Seven were un-resolved complaints carried forward from 2014.  
Nine complaints were open at year end.  
36 complaints were resolved.

Hearing no further business Mr. Vogel called for a motion to adjourn.  
Jerry Younce motioned to adjourn.  
Mark Milam second.  
Meeting adjourned. 8:50 PM

Also present were: 29 citizens of the county.