

# *WABASH COUNTY PLAN COMMISSION*

*Wabash County Court House*

*One West Hill Street*

*Wabash, IN 46992*

*Telephone 260-563-0661 EXT 1252, 1267*

*Fax 260-563-5895*

[\*plandirector@wabashcounty.IN.gov\*](mailto:plandirector@wabashcounty.IN.gov)

## **BZA MEETING MINUTES**

### **MARCH 26, 2019**

**Wabash County Board of Zoning Appeals**

**Wabash County Court House**

**Wabash IN 46992**

BZA MEMBERS: Dan Dale, Mark Milam, David Schuler, Joe Vogel, Jerry Younce, and Attorney Larry Thrush

PRESENT: Joe Vogel, Mark Milam, Jerry Younce, Dan Dale, Larry Thrush, Plan Director Mike Howard, Secretary Libby Cook, Adam Copeland, Jeff Kamphues

The March 26, 2019 meeting of the Wabash County Board of Zoning Appeals was called to order by chairman, Joe Vogel at 7:00 pm. Mr. Vogel asked if there was a motion to approve the minutes of the February meeting. Mark Milam made the motion to approve the minutes as written; this was seconded by Jerry Younce. The minutes were approved.

The first item on the agenda is Special Exception #2; Adam Copeland is requesting to construct a pond in an Ag zoned area in Noble Township. The pond will be located at the Copeland residence, 5549 W 300 N, Brainard Excavating is the contractor. The pond will cover approximately .25 acres of the property. Mr. Copeland is seeking a variance from the property line setback; the plans meet the road setback requirements. There are no floodplain or flowage easement issues. The pond will have an 8 inch overflow, the maximum depth will be 12 feet, and will be used for geothermal feed. The pond will be approximately 1200 feet from the nearest certified drain. The Drainage Board met on March 18 and has given their approval. Mr. Copeland informed the Board that he has spoken with both neighbors, Mr. Craig Hoppes (his father-in-law), and Mr. Bill Watson and neither have any concerns with the plans. Mr. Vogel asked if there were any further questions from the Board, there being none Board members proceeded to vote on the variance request. Mr. Thrush tallied the votes, the variance was approved. Board members then voted on the Special Exception, Mr. Thrush tallied the votes, the SE was approved.

The next item on the agenda is Variance request #1, Jeff Kamphues is seeking a variance from the required road setback for a residential structure on his property located at 461 E 950 N in Chester Township. The Kamphues family lost their home to a fire; they are wanting to build in the same location as the home that burned using the foundation and basement that were saved. The original structure was built prior to the County Ordinances and the road setback does not meet current requirements. Normal setback would be 65 feet and this will be approximately 45 feet. Mr. Vogel

asked if there were any questions from the Board, there being none the Board members proceeded to vote on the request. Mr. Thrush tallied the votes, Variance #1 was approved.

Mr. Vogel: The next item on the agenda is discussion of the county CFO/CAFO ordinance.

Mr. Howard shared packets of information and reviewed with the BZA member's items that have been discussed at Plan Commission Board meetings and changes that have been suggested for the ordinance. Indiana Code #36-74-616 Zoning Ordinance Ag Nonconforming Use. Items covered included, nonconforming use of facilities, setbacks, grandfathered facilities, IDEM requirements, distance from waterways and wells, satellite manure storage, suggested changes for the CFO/CAFO ordinance. Mr. Howard reminded the Board that these changes are just suggestions and are being reviewed.

Mr. Vogel asked, can they vacate the existing buildings and build new buildings? It might apply with the grandfather clause that he could build a new building 500 feet from the existing building. Mr. Vogel stated that he doesn't see the Grandfathering clause applying very often. If you are raising say 1,000 hogs farrow to finish or even feeder pigs and you want to put a CAFO up wherever you are working with I don't think would let you build a new building for them 500 feet from the old building and maintain hogs in both.

Mr. Dale: For biosecurity, I don't think the contractor would not want it that close.

Mr. Vogel: As long as those buildings are continued in use and I don't think we would have a problem with a CAFO size building going in there. Somebody that is farrowing wants to put an addition on or another building beside his building that would be allowed as long as it is not closer to the road or something, as long as he meets his setbacks.

Mr. Dale: You would still have to meet IDEM requirements.

Mr. Dale: Some of these contractors would be okay with that if you are using their hogs. Under the same contractor I don't think they would object to it.

Mr. Howard: In your packet is the ordinance, he went over some changes that have been suggested for the ordinance based on discussion with the Plan Commission Board members.

6:25G (Existing CFO) is one item that we have had a lot of discussion on. Any currently permitted IDEM CAFO established prior to the March 2, 2007 ordinance shall be considered a conforming use that may have nonconforming characteristics. Request for expansion of a CFO with nonconforming characteristics shall complete a Special Exception application. The application must be granted approval by the Wabash County Plan Commission Board, Wabash County Board of Zoning Appeals, and the Wabash County Drainage Board in addition to obtaining the required IDEM permitting.

Mr. Thrush suggested changing the wording from "the application must be granted approval" to "must be approved". Mr. Dale agreed to the change, by changing the wording it won't sound like the Board's hands are tied and they have to grant approval.

Mr. Howard: Any IDEM permitted CAFO structure that existed prior to the date of the Wabash County CFO ordinance established March 2, 2007 and is not otherwise in violation of any Federal, State or Local statute, rule or regulation, shall be eligible to apply for expansion on the existing CAFO site provided the new structure is located within 500 feet. Such expansion meets or exceeds the written setbacks currently required by IDEM. The currently permitted CAFO site and owners have no pending or otherwise unresolved violations. The ownership of the CAFO site applying for expansion of an existing site has not changed since the establishment of the Wabash County CFO Ordinance which is dated March 2, 2007. If it is listed as an LLC or Corporation at least one member of the LLC or Corporation must still be a financially invested member of the board. If it is a generational family farm you may have ownership name change provided that the change is to the next generation of the family farm. Mr. Thrush suggested the wording subsequent generation; this would cover if the operation skipped a generation. Mr. Howard continued, Expansion is limited to a one time expansion plan for the addition to or expansion of one CFO structure. B. Structure alterations, additions or expansions required by law shall complete the Special Exception application process to insure compliance with the law with minimal disruption to the CFO site. Then we go on to a new CFO, all newly constructed CFO structures, lagoons, pits, ponds, holding tanks, dry manure storage, waste processing systems, compost buildings, must be setback a minimum of 300 feet from all neighboring property line. Granting a reduction of the property line setback for a CFO to be from an adjoining property may be considered by the BZA under the Variance Application Process. Reduction of the 300 feet property line setback shall be heavily scrutinized by the Wabash County BZA when an adjoining property owner declines to sign the Declaration of Covenants, Conditions, and Restrictions. The minimum allowable separation distance from a neighboring property line shall be One Hundred (100) feet.

Mr. Howard then discussed Satellite Manure Storage facilities (SMSS) the requirement of screening and/or barriers; IDEM and county permitting of Satellite Manure Storage facilities; and IDEM/county requirements for these structures. One other thing that should be included that we have discussed existing CAFOs we can stipulate that they can build but it can't be closer to the neighboring property; the building has to be located farther away.

Board members discussed the possibility of selling a CAFO or CFO building and how that would affect the purchaser as far as setbacks and IDEM and county requirements. The sale of any CAFO/CFO that was established prior to the 3-02-2007 county ordinance would lose the rights to the grandfather clause; they would not be permitted to expand on that basis. The sale of any CAFO/CFO established after the county ordinance took effect would have to comply with the current county ordinance and IDEM requirements for any expansion.

Mr. Vogel asked if there was any further business, there being none he asked if there was a motion to adjourn. The motion to adjourn was made by Mr. Dale, seconded by Mr. Younce. The meeting adjourned at 8:00 pm.

*Libby Cook, Secretary, Wabash Co. Plan Commission Board*  
*mlh*