

Wabash County Plan Commission

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Wabash County Board of Zoning Appeals

Board Members: Dan Dale, Patty Lengel, Mark Milam, Joe Vogel, Jerry Younce

Staff: Mark Frantz, Board Attorney; Brian Campbell, Plan Director; Amanda Lyons, Administrative Assistant

Meeting Minutes of Tuesday, March 26, 2024

Roll call was taken with the following present:

Board Members: Dan Dale, Mark Milam, Joe Vogel, Jerry Younce

Staff: Mark Frantz, Board Attorney; Brian Campbell, Plan Director; Amanda Lyons, Administrative Assistant

Absent: Patty Lengel

Others present: Chris Kuhn, Andrew Schulenburg, David Terflinger, Angie Driscoll, Matt Driscoll, Eugenia Cicero, Ryan Driscoll, Ryan Winger, Aaron Rosen, Jeremy Warnock, Laura Langebartels, Jared Mobley, Chris Hickman, (Speaking but not signed in: Karen Hathaway, Matthew Hilty)

The Wabash County Board of Zoning Appeals met on Tuesday, March 26, 2024, in the Commissioners Meeting Room of the Wabash County Courthouse. Board Chairman, Mark Milam called the meeting to order at 7:00 pm. Mr. Milam asked if there were any additions or corrections to the minutes of the February 27, 2024 meeting. There being none, Mr. Milam asked for a motion to approve minutes as written. Motion by Mr. Vogel, second by Mr. Younce. Board proceeded to roll call vote; motion carried 4-0.

Special Exception #2, Jeremy & Mikki Warnock, to build a pond with variances from side and road setbacks at 4407 E 500 N in Lagro Township was first on the agenda. Mr. Campbell noted that the newspaper ad incorrectly identified the application as Special Exception #10, but all content was correct. Mr. Campbell stated the Warnock's are requesting approval of a special exception for a pond. The proposed pond is to be approximately 35' from the center of the road and side property line; therefore, they are requesting a 70' variance from each of those 105' setback requirements. The original plan submitted included the overflow outletting onto the adjoining property in a manner that is not natural. Mr. Warnock submitted written permissions from the adjoining land owner. Since then, the plan has been changed and the overflow outlet would have a more natural waterflow onto the Warnock property first. The plan received a favorable recommendation from the Drainage Board and the Plan Commission. Mr. Campbell noted that one neighbor contacted the Plan Commission office with questions; after reviewing the pond plan, they had no concerns. Mr. Campbell reviewed the site on GIS with board members. Mr. Milam asked if there were any questions or concerns from board members or those in attendance. There being none, he asked for a motion on the setback variance. Mr. Vogel made a motion to approve the variance to the side and road setbacks as presented; second by Mr. Dale. The board proceeded to roll call vote; motion passed unanimously. Mr. Milam then asked for a motion on the Special Exception application. Mr. Vogel made a motion to approve Special Exception #2 as presented; second by Mr. Younce. The board proceeded to roll call vote; motion passed unanimously.

Mr. Milam stated next on the agenda was Special Exception #3, Aaron & Amy Rosen, to build a pond with a variance from the side setback at 5171 N 650 E in Lagro Township. Mr. Campbell informed the board the proposed pond would have approximately ½ acre water area with outlets onto the Rosen's property. The plans indicate the pond would be 60' from the north property line and 80' from the south property line; therefore, they need a variance for both. Mr. Campbell noted the pond plan received a favorable recommendation from the

Drainage Board and the Plan Commission. The board then reviewed the property on GIS. Mr. Milam asked if there were any questions or concerns. There being none, he asked for a motion on the setback variances. Mr. Vogel made a motion to approve the variances from side setbacks as presented; second by Mr. Dale. The board proceeded to roll call vote; motion passed unanimously. Mr. Milam then asked for a motion on the Special Exception application. Mr. Vogel made a motion to approve Special Exception #3 as presented; second by Mr. Younce. Roll call vote was taken; motion passed 4-0.

Special Exception #4, Jared Mobley, to build a pond with a variance from the side setback at 5560 E 1000 N in Chester Township was next on the agenda. Mr. Campbell informed the board Mr. Mobley's pond plan indicates the overflow would outlet to the east adjoiner's property. Mr. Mobley provided permissions from the adjoining land owner and from Halderman Farm Management for the outlet. The proposed pond is approximately 30' from the north, south, and east property lines; thus, a variance from the side setback is required. The pond received a favorable recommendation from the Drainage Board and Plan Commission. Board members reviewed the site on GIS. Mr. Milam then asked if there were any questions or concerns. There being none, he asked for a motion on the variance from setbacks. Mr. Vogel made a motion to approve the variance from the side setbacks as presented; second by Mr. Dale. Roll call vote was taken; motion passed 4-0. Mr. Milam then asked for a motion on the Special Exception application. Mr. Vogel made a motion to approve Special Exception #4 as presented; second by Mr. Dale. Roll call vote was taken; motion passed unanimously.

Mr. Milam stated next on the agenda would be Variance #8, MSD of Wabash County (Northfield High School), requesting a variance from the development standards to place a sign closer to the roadway setback in Noble Township. Mr. Campbell explained to the board that Northfield is located in an AG2 zoning district, at the corner of 200 N (a primary road) and State Road 13. The roadway setback requirements for a sign, which is considered an accessory structure, would be 95' from 200 N and 105' from State Road 13. The plan submitted indicates the sign would be 95' from 200 N, but only 85' from State Road 13 so a variance is being requested. Mr. Campbell informed board members the ordinance has a small section about signs and lighting from signs stating:

6.1.12.f. Direct or Reflected Light. A sign's direct or reflected light shall not create a traffic hazard to motor vehicles. The light shall be shielded or directed such that the light intensity or brightness will not be objectionable to the surrounding properties. No light shall shine directly onto an adjacent property.

Mr. Campbell also reminded the board the ordinance includes the following about signs:

6.1.12.d. Vision of Clearance. No sign shall be permitted to interfere with or obstruct the "Vision of Clearance" of a motorist exiting or entering a private drive, public drive, road intersection, or alley. No sign shall be placed in any right-of-way.

6.1.12.e. Setbacks. All signs shall meet accessory structure side and rear lot line setback requirements for the District in which it is to be located.

Board members reviewed the sign information that was provided and the site on GIS. Mr. Andrew Schulenberg, from The Baldus Company, and Mr. Chris Kuhn, from MSD of Wabash County, were present to answer questions or concerns.

Mr. Vogel asked what the distance from the ground to the bottom of the sign would be? And if there would an impact on visibility with the 3' wide and 18" deep base that was indicated on the plans? Mr. Schulenberg stated the sign would be back several car lengths from the intersection and would auto dim at nighttime. During the day it would operate at full brightness. He also stated the sign and settings would be fully customizable. Mr. Vogel then asked if there was a reason the sign could not be placed an additional 20' back from the road to meet the setbacks and avoid the need for a variance? Mr. Schulenberg stated the location was selected to maximize exposure from both roads and due to fear it would be lost if too far from the corner.

Ms. Karen Hathaway, property owner at 22 E 200 N (across State Road 13 from Northfield), shared concerns with board members. She indicated kids regularly run the stop sign / flashing light at the intersection, stating numerous accidents have happened at the intersection – and that her house had been hit multiple times. She also had

concerns about the amount of light produced. Ms. Hathaway stated she felt Northfield had plenty of property to place the sign back further. Mr. Schulenberg replied to Ms. Hathaway's concerns; explaining that at night time the sign would auto dim to 5% of its output potential and that the school district would be selective of the images and colors displayed as those make a considerable difference in the light. Ms. Hathaway stated she was afraid the sign would be a distraction, particularly to students trying to read the sign at the intersection. Mr. Schulenberg responded that there are a lot of distractions on the road for drivers, explaining some studies are available on these types of signs.

Mr. Chris Hickman stated the brightness is an understandable concern for the neighborhood. He feels some of these signs are really bright, but not all are. Ms. Laura Langebartel indicated she would be training MSD staff on use of the sign and would make sure they were conscientious of colors and graphics used. Mr. Schulenberg urged Ms. Hathaway to communicate with MSD if the brightness was an issue and they could make adjustments. Mr. Dave Terflinger asked if there would be any strobe light type use or concerns. Mr. Schulenberg stated he did not feel the school anticipated using the sign in a manner that would cause those concerns. He added that the variance approval could specify a manner for communicating concerns. He explained that the brightness of the sign would be measured in "nits"; stating that some counties are very strict on the brightness allowed, but that he was uncertain how they measured it. Mr. Milam inquired about the conversion from "nits" to "lumens" for a more universal measure of the brightness. Mr. Schulenberg was uncertain what the conversion would be; Mr. Hickman stated it was 1 to 1 nits to lumens. Mr. Schulenberg did not have the full capacity nits output for the sign, but reminded everyone it would dim to 5% of its output at night.

Mr. Dale asked if the sign were approved and concerns arise, could restrictions be placed on it at a later date. Mr. Frantz explained that this hearing is the board's opportunity to place reasonable restrictions on the variance request. Mr. Dale suggested possibly restricting certain colors at night. Mr. Schulenberg stated the signs are designed for comfortable viewing. He added that he understood the concern of brightness, but the reason for the variance hearing was a setback request. There was discussion among Mr. Kuhn and those present about moving the sign to a location that would not require a variance and potential restrictions. Mr. Vogel stated he would like to see the sign placed closer to the school. He stated if the variance was granted and an accident happened the Board would have to carry that with them; if the school chose to go forward by moving the sign back the required amount and something happened it would have been the school's decision. Ms. Langebartels reminded everyone that location was chosen as a sweet spot to be back far enough for safety, but not so far back to lose the audience, and as a place to promote and celebrate our schools. Ms. Hathaway questioned using taxpayer funds for the sign, given the increase in taxes for this year. Ms. Langebartels responded they hoped to attract more students to the school. Mr. Milam reminded those present with concerns that the purpose of the hearing was to insure it would not be injurious to property or people.

Mr. Milam asked for a motion on the variance request. Mr. Dale made a motion to approve Variance #8 with 5% light output guaranteed at night; second by Mr. Vogel. The board proceeded to roll call vote; the motion failed 1-3, with Mr. Milam, Mr. Vogel, and Mr. Younce voting in opposition.

Mr. Milam stated next on the agenda was Variance #9, MSD of Wabash County (Southwood High School), requesting a variance from the development standards to place a sign closer to the roadway setback in Noble Township. Mr. Campbell explained to the board that at this location the school is asking to replace an existing sign with a larger, digital sign. The existing sign is 50' from the center of State Road 124; the proposed new sign would also be 50' from the center of road. The required setback from the state road would be 105' so a variance is required. Mr. Campbell reminded the board the same portions of the ordinance would be involved as was discussed with the Northfield sign request. The plan for the proposed new sign does not utilize the existing brick structure at the current sign. Mr. Schulenberg stated the sign would be 6' tall. Mr. Vogel inquired if there were vision concerns at the entrance / exit. Mr. Kuhn stated during events they have traffic control at the road and at the end of the school day the SRO assists with traffic control. Mr. Dale reviewed the bus traffic pattern with those in attendance and felt the first and second cars in line would not have any issues, not sure about the 3rd or 4th

back trying to see. Board members reviewed the property on GIS, evaluating the proposed location compared to the location if placed 105' from the center of the road. Mr. Schulenberg stated they felt moving the sign back was not a logical choice. Mr. Vogel asked why the Southwood sign was not being elevated similar to the proposed sign at Northfield. Mr. Schulenberg stated they felt it made sense to elevate at Northfield because of the fence, but not at Southwood. Mr. Hickman asked if this sign would also automatically drop to 5% light output at night; that was confirmed. After discussion about restrictions to be placed on the approval, it was agreed upon that the 5% light output would be guaranteed at night. There being no further questions or comments, Mr. Milam asked for a motion. Mr. Vogel made the motion to approve the variance with a 5% light output guaranteed at night; second by Mr. Dale. Roll call vote was taken; motion passed unanimously.

Mr. Milam stated next on the agenda was Variance #10, Matthew Hilty, request for a variance from the development standards to place a residential structure closer to the roadway setback in Lagro Township. Mr. Campbell stated Mr. Hilty owns the property at 2620 S America Road. Mr. Hilty would like to tear down the original, old portion of the house including the front porch and rebuild it in the same location. America Road is a classified a primary road, which has a 95' setback requirement. The current home is 50' from the closest point to the center of the road; Mr. Hilty is asking for a 45' variance. Board members reviewed the property on GIS and Mr. Hilty's plans. Mr. Milam asked if there were any questions or concerns. There being none, he asked for a motion. Mr. Vogel made a motion to approve the variance as presented; second by Mr. Younce. Roll call vote was taken; motion passed unanimously. Mr. Campbell reminded Mr. Hilty to get a building permit from the Plan Commission office prior to construction.

Next on the agenda was Variance #11, Kirk & Danielle Winger, requesting a variance from the minimum road frontage for a parcel, minimum acreage for a parcel, and side setbacks for a residence in Liberty Township. Mr. Campbell explained to the board that Mr. Ryan Winger was present for the hearing regarding making a parcel split on his son and daughter-in-law's property to construct a residence. The property is located at 10250 S America Road, is a 10.68-acre parcel, and is zoned Ag2. Board members reviewed the property on GIS and the drawings that were presented to them. There was discussion about the location of a cemetery beside the property, as well as the flood area, creek, and dense woods that makes the building site options limited. Mr. Winger is asking to create a parcel with 150' road frontage rather than 200' as required by ordinance. The location selected for construction of a home is 10' from the side property line; this requires a 15' variance from the 25' setback requirement. At the time of application, Mr. Winger thought the parcel would be under the 1.5-acre parcel size; however, some modifications have been made and he is withdrawing that portion of the variance request. Mr. Campbell informed the board one neighbor had contacted the Plan Commission Office with questions about the request. After reviewing the plans, the neighbor had no concerns. Mr. Milam asked if there were any further questions or concerns. There being none, he asked for a motion on the side setback variance. Mr. Vogel made a motion to approve the side setback variance as presented; second by Mr. Dale. Roll call vote was taken; motion passed 4-0. Mr. Milam then asked for a motion on the road frontage variance. Mr. Vogel made a motion to approve the variance from the minimum road frontage as presented; second by Mr. Younce. Roll call vote was taken; motion passed unanimously.

Variance #12, Eugenia Cicero (Matt & Ryan Driscoll), requesting a variance of use from the Factor Point System to split a parcel out of Ag1 for a residential structure in Lagro Township was next on the agenda. Mr. Campbell informed the board the property was an 80-acre parcel, zoned Ag1, located at the corner of 300 E and 400 N in Lagro Township. The intent is for Ryan Driscoll to split a 2-acre parcel out to build a residence. Mr. Campbell stated he had reviewed the parcel with the factor point system with 3 different potential splits, the maximum points achieved was 9 and 15 are required. Mr. Campbell noted that Ryan is Ms. Cicero's nephew, however, that is not considered a direct family member on the factor point system. It was also noted that Ryan signed a contract to purchase the 80-acre parcel in 2022, with the intent to keep the ground as a part of the family farm with a residence on it. Board members reviewed the parcel on GIS and the location of the proposed split. Mr. Milam asked if there were any questions or concerns. There being none, he asked for a motion. Mr. Vogel made the

motion to approve Variance #12, a variance from the factor point system, for the split as presented; second by Mr. Dale. Roll call vote was taken; motion passed unanimously.

Mr. Campbell shared a complaint update:

- 66 open complaints
- 43 complaints rolled over from 2023
- 14 complaints resolved
- 38 new complaints worked in 2024

Mr. Milam asked if there was any other business to come before the board.

- Mr. Terflinger expressed concerns with the property located at 32 N Lakeview Drive at Sandy Beach Estates. The property owner appeared before the BZA in February and agreed to remove all but one accessory structure from the lot and to move the chain link dog kennel to an area that would not be forward of the front of the residence within 30 days. Mr. Terflinger stated there is still a number of structures remaining. Mr. Campbell informed the Board and Mr. Terflinger he has been monitoring the progress. He reviewed pictures he had taken of the property on 03/20/2024 and stated that he asked the owner to appear at the next meeting to address the concerns. Mr. Terflinger is requesting the board begin the process of fining the property owner each day after the agreed upon 30 days until the property is compliant with the requests of the board. Mr. Frantz reviewed the process of assessing fines, stating it would need to be filed through the court system and the amount requested may not be the amount granted. Mr. Frantz and Mr. Campbell reviewed what concerns were addressed in the notice of violation the owner received; Mr. Frantz asked that a new notice of violation be issued for the dog kennel fencing as it has been relocated on the property but is still in violation of the ordinance. Mr. Frantz explained fines assessed would be a judgement to the property and owner; stating if the owner sold the property, the fines against the property could be released and only remain on the owner. Mr. Frantz stated he could file the necessary documents with the court, but advised it is sometimes a lengthy process. Mr. Campbell stated he would check the property the next day and attempt to meet with the owner.

There being no other business, Mr. Milam asked for a motion to adjourn. Motion to adjourn was made by Mr. Vogel; second by Mr. Dale. Meeting adjourned at 9:30 p.m.

Amanda Lyons
Secretary, Board of Zoning Appeals

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