

# *WABASH COUNTY PLAN COMMISSION*

*Wabash County Court House*

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## **BZA MEETING MINUTES**

### **OCTOBER 23, 2018**

#### **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:** Mark Milam, David Schuler, Joe Vogel, Jerry Younce, Larry Thrush, Mike Howard, Libby Cook, Nikola McGinnis, Doyle Slivers, Ileen Silvers, Janet Pattee, Karen Miller, Jared Miller, Brian Thompson, Julie Thompson, Carol McCray, Lisa Strieter, Tim Sparks, Nicky Burnsworth, Brayman Burnsworth

The Wabash County Board of Zoning Appeals met on Tuesday, October 23, 2018 at 7:00 pm. The meeting was called to order by Chairman, Joe Vogel. Mr. Vogel asked if there was a motion to approve the minutes of the September 25<sup>th</sup> meeting. Mark Milam made the motion to approve the minutes as written, this was seconded by David Schuler, motion passed.

Mr. Vogel: The next item on the agenda is TAS Grain & Welding Services, Special Exception #8.

Mike Howard: Tim Sparks is requesting to place a mobile home on his property located at 5489 W Old 24 in Noble Township. The area is zoned agriculture. The mobile home would be used as an employment package.

Mr. Sparks shared photos of the mobile home with the Board members. The septic system has been checked and it would probably pass, but I wouldn't be happy with it. He is working with Eric Bostwick to install a new system on the property. If the Special Exception is approved he will not put the mobile home on the property until the new septic system is completed. Mr. Sparks stated that the mobile home is 14' x 80' and that he has no interest in using it as a rental, it will just be for an employee to live in.

Mr. Vogel: You have your business next to this parcel and you purchased this property to the side and you are wanting to put a mobile home on this property for an employee only.

Mr. Sparks: If my business ever ceases to exist the mobile home will not be turned into a rental, I would just return the lot to private property of mine.

Mr. Vogel asked if there were any questions or comments from the Board or audience.

Mr. Howard reviewed the conditions that the Plan Commission Board talked about and he would recommend placing on the mobile home.

- No unlicensed vehicles parked outside.
- Mobile home is not to become a rental
- If the property is sold, the mobile home must be removed before selling.
- Mobile home shall be removed from property when use ceases to exist.
- Mobile home to be used only as part of employee package as a residence for an employee of TAS Welding and Grain Services.

Mr. Sparks agreed to these conditions. There being no further discussion the Board proceeded to vote, the request was approved.

Mr. Howard told Mr. Sparks to get his septic permit from the Health Department and then we would issue the permit for the mobile home.

Mr. Vogel: The next item on the agenda is Variance #11, Brian Thompson.

Mr. Howard: Mr. Thompson's property is located at 4160 W 1200 S in Waltz Township. The Thompson's are seeking a Variance from the setback requirements for an accessory structure from the road. For an accessory structure the ordinance requires 95 feet from the center of the roadway and they are asking to be 70 feet. The building will be 42 x 80.

Mr. Thompson told the Board that this would be the best location to avoid the geothermal lines on their property.

Lisa Strieter asked Mr. Thompson what the pole building would be used for.

Mr. Thompson stated that for now it would be used for storage of the family's boat. I am building an airplane. Eventually he would like to have a grass air strip on the property and then it would be used for the airplane.

Mr. Vogel: So the building would be for storage, not a residential use or any livestock.

Mr. Thompson: It is for storage only.

Ms. Strieter: My concern is the airstrip. I am concerned about planes flying that close to my home.

Mr. Thompson replied that the airstrip is not why we are here tonight but I will answer your questions. The airstrip will be for my personal use only and will not happen for several years.

Mr. Vogel asked if Mr. Thompson would need any permits from the county for the airstrip. Mr. Howard said that would be FAA jurisdiction.

Ms. Strieter: It does open the door for eventually affecting me. There are lots of questions that I have. I don't have a problem with where you are building it. This is a segway to the rest of it.

Mr. Milam asked about driveway access to the pole building, would there be a new entrance from the road.

Mr. Thompson stated that he would be using the existing drive; there will be no additional access from the road. There being no further discussion the Board members proceeded to vote, the request for the variance was approved.

Mr. Vogel: The next item on the agenda is Tim Eviston, Special Exception #10 to construct a pond in an agricultural zone in Lagro Township.

Mr. Howard: Tim resides at 4471 N 300 E, Urbana. Mr. Howard gave an overview of the property and the plans for the pond. Eads Bulldozing will be the contractor, the pond will cover approximately ¼ acre and be 8 ½ feet in depth, no geothermal feed. Mr. Eviston is also seeking a variance from the setback from a property line to the east and south of his property. This information was provided to the County Drainage Board, we have not received a response from them. Mrs. Slee did state in the Plan Commission Board hearing that it shouldn't be a problem.

Mr. Vogel asked if there were any questions or comments. There being none the Board proceeded to vote on the Variance request, this was approved. The Board then voted on the Special Exception request to construct the pond, this was approved.

Mr. Vogel: The next item on the agenda is Variance #12, for a variance from the property line setbacks, Ileen Silvers (along with her son Doyle Silvers).

Mr. Howard informed the Board that Ms. Silvers is seeking a variance requesting a setback of 3 feet from the property line in the town of LaFontaine. Due to not being in communication with the Town of Lafontaine, they issued an Unsafe Premise Order for the existing structure that was there on Nov. 20, 2017. Our office was not aware of that order being issued, a permit for a new residential or the remodel of the existing structure was issued on 11/27/2017. At that time it was discussed with the Town of Lafontaine to proceed as they saw fit, the Plan Commission office would hold the permit in place for the time. The house has since been torn down a small portion was kept to use as a remodel as opposed to a new home structure. I was contacted by the town when Mr. Silvers started to dig the footers for the property about the setback, the existing garage would be considered nonconforming as the setback requirement for R3 zone is 6 feet on the side. That being the case, Mr. Silvers came in and we discussed it and I explained how the nonconforming part of it worked. He wanted to keep the garage and use it so he is applying for a variance to be within the 3 foot distance based on the old fence line that is there. Mr. Howard reviewed the maps of the property with the Board members.

Mr. Silvers stated that the new footer would be pinned to the existing garage at the northeast corner and at the southwest corner. The southwest corner is the one we are asking for the variance for. The garage has been there since 1947. I believe back then it was a 3 foot setback.

Mr. Howard: There were no county ordinances in place to govern anything built before 1965. Anything that was built prior to that time that does not meet the setbacks would be considered non-conforming, as such it cannot be added to or altered without a variance.

Mr. Vogel asked if there were any comments from the Board or audience.

Carol McCray, I am not in support of this, I am the property owner to the west. I feel this is too close to the property line. My driveway is along the property line. Ms. McCray reviewed maps of the properties with the Board members.

Ms. Silvers stated that our drives to the properties are close but her house is quite a ways from the drive.

Mr. Howard reviewed distances for structures from drawings of the planned structure. I feel the biggest question would be exactly where the west property line is.

Mr. Vogel asked Ms. McCray if she had her property surveyed when she bought it.

Ms. McCray: The sellers had it surveyed; I was told that the existing fence that was there belonged to me, but it was 1 foot over onto their property.

Mr. Silvers: Our property line is one foot west of the fence. The west property line is in her driveway.

Ileen Silvers: When I had it surveyed many years ago the fence was put up 1 foot in on our property line. There are markers there.

Mr. Silvers: The new driveway will be on the other side of the property.

Ms. McCray: I am concerned about the house being so close to the property line. I have read that setbacks prevent landowners from crowding the property of others. Future work or maintenance on the house, would he have to be in my yard with ladders or scaffolding? What would be the liability for me if someone got hurt? Future owners, if they changed anything could it require a firewall for the west wall? Mr. Howard stated that yes there would have to have a fire rated wall and no windows. Mr. Silvers stated that he was aware of this.

Mr. Milam: This plan that you are showing us is set up for the 3 feet from the existing fence?

Mr. Silvers: The existing garage is 3 feet off the property line. It will be 3 feet from the property line; the fence is 1 foot inside the existing property line.

Ms. McCray: Since it is so close maybe we should have a new survey just to be sure where the property line is so that we get the proper setback. Mr. Howard informed me that the setback is 6 feet. Referred to the on-line draft of the new County Ordinance, which is not in effect at this time, when I looked at R3 zone it shows a 13 foot setback. Mr. Howard reminded her that she was looking at the new draft ordinance which has not been passed at this time. She stated that she is concerned about crowding on the property, referencing another home built in LaFontaine that appears to crowd the property lines. If he builds that close to me I am afraid it will feel that way to me.

Mr. Howard shared with the Board members and Mr. Silvers a letter sent by Nikola McGinnis stating her concerns about the need for a survey of the property, the open hole for the basement and trenches, and the time frame for construction to be completed. Ms. McGinnis is currently present.

Mr. Vogel asked if there were any other comments or questions.

Nicky Burnsworth: My son lives on the other side of the Silvers property. I feel that if you are going to have this big of a project you need to know exactly where you are starting at with a survey.

Mr. Silvers: Your property line was established by the previous owner when they bought property.....

Ms. Silvers: Your driveway actually sits on my property. The house will set back far enough that it will not interfere with visibility for Ms. McCray's driveway.

Mr. Silvers addressed some of the concerns listed in the letter from Ms. McGinnis.

Mr. Vogel asked Mr. Silvers the following questions:

Are you planning to build this house yourself?

**Yes, I will build it myself.**

Will you fill in the basement?

**No it will be used for supports for the new house and a utility room.**

What about the sewer lines?

**I have already put in 28 feet of new sewer lines.**

Do you have an estimated completion date?

**I hope to have this done by the fall of 2019.**

Photos of the old home and garage were provided for review.

Mr. Vogel asked about drainage on the property.

Mr. Silvers explained the layout of the property concerning drainage.

Ms. McCray stated that she has lots of shingles on her property from where the roof is deteriorating.

Mr. Vogel asked if the roof pitch will be the same.

Mr. Silvers stated that it will have a new metal roof with eaves. He shared photos of what the house will look like with the Board members.

Following more discussion on the property lines Mr. Milam told Mr. Silvers “you are going to invest a lot in this project and your neighbors have a lot invested in their properties too.

Mr. Vogel stated that he wants to be fair to both sides; I want to be sure what the lines are. My idea would be to leave the garage where it is and the new structure would need to be 6 feet inside the property line.

Mr. Silvers stated that he would build 6 feet inside the property line, or do you want a new survey?

Mr. Howard suggested that the Silvers find the survey pins, Mr. Silvers said that they would do that. Mr. Milam asked how long it would take for a surveyor. Mr. Howard told him that this matter could probably be continued until the Nov. 27<sup>th</sup> meeting and be ok. Mr. Milam made a motion to continue this matter until the Nov. 27<sup>th</sup> BZA meeting when we could have a completed survey for reference. The motion was seconded by .

Updates were given on the mowing ordinance and future residential development in the county.

There being no further business Mr. Vogel asked for a motion to adjourn. Mr. Younce made the motion, seconded by Mr. Milam. The meeting adjourned at 8:15 pm.

*Libby Cook*  
*Secretary, Wabash Co. Board of Zoning Appeals*  
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