

# *WABASH COUNTY PLAN COMMISSION*

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**Wabash County Board of Zoning Appeals**

**Wabash County Court House**

**Wabash IN 46992**

## **BZA MEETING MINUTES**

**APRIL 27, 2021**

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

Present: Joe Vogel, Jerry Younce, Mark Milam, Patty Godfroy, Larry Thrush, Mike Howard, Libby Cook, Doyle Silvers, Ileen L. Silvers, Alvin Lamoine Silvers II, Chris Wetherford, Kristie Bone, Scott Siders, Allison King, Shelley France, Robert Kowalczyk, David Wamsley, Marty Crossland, Mitchell Oetken, Ashley Oetken, Luann Layman, Phil Layman

The Wabash County Board of Zoning Appeals met on Tuesday, April 27<sup>th</sup>. Board Chairman, Joe Vogel called the meeting to order at 7:00 pm. Mr. Vogel asked if there were any additions or corrections to the March 23, 2021 meeting minutes, there were none. He then asked for a motion to approve the minutes, the motion to approve the minutes as written was made by Mark Milam, this was seconded by Jerry Younce. The motion carried unanimously.

Mr. Vogel: The first item on the agenda is Special Exception #4, Luann Layman, request for an event center in Noble Township.

Mrs. Layman presented the Board with the history of the barn that will be used for events. The barn was originally purchased by her grandfather in 1957 and has remained in the family through the years. The barn has served many purposes through the years, a farrowing house, hay and equipment storage and a place for the grandkids to explore. About 2 years ago the Layman's daughter Rachel decided that she wanted to hold her wedding in the barn, which had been neglected for the past 12 years. For the past year we worked on the barn, we scraped, painted, installed new windows, lights, electricity, and new barn doors were made. We also re-roofed the barn using the same tractor design that my dad used in 1988. We are going to call it "Dear John Acres". Mrs. Layman shared photos of the progress in the barn. Although the wedding was postponed from May to August due to Covid we were pleased with how the barn and the wedding turned out. One month later the Layman's son Ryan held his wedding reception in the barn. An outside security light was mounted on the barn to accommodate the parking area. A sign was placed to indicate the entrance/exit to the 1- acre lot. Their son lives directly across from the barn, we also have farmland across from it, there are fields located on both the east and west side of the barn. The Holbrook's live in the house that is to the south of the barn. The property the barn sits on is just less than 9 acres, in honor of Mrs. Layman's parents, John and Ruby Swihart, they are naming the property "Dear John Acres". The Layman's stated that they would like to share

their facility with others to begin their lives together as either a wedding or reception facility. Our goal is to continue to preserve this mortise and tenon barn for future generations.

Mr. Howard asked Mrs. Layman how many guests can the barn accommodate comfortably, she replied 150 – 175 guests. Mr. Howard asked about restroom facilities on the property, Mrs. Layman said that they would have to be rented and that would be the responsibility of the person renting the facility. Mr. Howard asked about tables and chairs, Mrs. Layman said at this time they would have to be rented, but that could change. Mr. Howard asked if they are limiting the number of events held each year. Mrs. Layman said that they are not, but it would only be rented during the warmer months. Mr. Vogel asked if food would have to be catered in and if there were other beverages would there be someone to take care of that. Mrs. Layman said yes.

Mr. Vogel asked if there were any further questions from the Board or audience, there being none the Board proceeded to vote. Mr. Thrush tallied the votes, the request was approved. Mr. Vogel told the Layman's he feels it will be a nice asset to the community.

Mr. Vogel: The second item on the agenda is Special Exception #5, Christopher Wetherford requesting to construct a pond in Lagro Township.

Mr. Wetherford stated that he lives at 829 E 100 N, Wabash on a 2-acre parcel. We would like to put in a pond. The widest spot in the pond would be about 60 feet, it will be just for recreational purposes, it would be approximately 9 feet deep. I do not foresee any kind of fish in it at this time.

Mr. Howard: Eads & Son Bulldozing would be the contractor. It will require a variance from the property line to the south, they would like to be 75 feet from the property line instead of the required 100 feet. There is no floodplain or flowage easement involved. The water surface area of the pond would be approximately 1/8<sup>th</sup> of an acre, the dam would be 60 feet in length, base width of 16 feet, top width of 12 feet. There will be one 4" overflow pipe, the outlet drain would be 4" for 100 feet that will be to the east/northeast to a culvert at the road. The maximum pond depth would be 8 feet. The pond will have geothermal feed. It was reviewed by the Wabash Co. Drainage Board on April 5, 2021 and given a favorable recommendation to the Plan Commission Board.

Mr. Vogel asked if there were any questions or comments from the Board or audience, there being none the Board proceeded to vote on the variance request. Mr. Thrush tallied the votes, the variance was approved. The Board then voted on the Special Exception, Mr. Thrush tallied the votes, this was approved.

Mr. Vogel: Next on the agenda is an update on the Robert Kowalczyk permit for a new home in the town of Lagro.

Mr. Kowalczyk: At your last meeting here, Mr. Barton showed up and made some concerns. Mr. Barton is the new husband of my ex-wife and has absolutely no intention of safety, just to harass me. I wanted to come in and talk with you and explain that situation and go from there and see what you guys wanted being that Mr. Howard did send a letter and you guys had asked about a fence in the front. I have my machine parked across in front of that, between the garage and the dirt pile. Nobody can easily get past that to get into that back area. My foundation about 75% completed, Covid has decimated me this past year between work and finances, what I do have accomplished has been all out of pocket. The bank I was dealing with closed up the purse strings, they said they are not doing any new construction loans. I do have a new bank and am starting that whole process. Hopefully by the end of July the beginning of August the foundation will be completed and then the frame will go up. I do have a brick mason lined up to do the exterior so that we can get that all wrapped up before winter.

Other than explaining where I am at, I do have pictures if you would like to see. There are fences along both the east and west sides of the property, always has been since day one. Mr. Vogel asked Mr. Kowalczuk to pass his pictures around. Mr. Kowalczuk said that the property is clearly marked “no trespassing”. Being that I have not received any letter of complaint from Mr. Howard or anybody up until to this point, that is why I wanted to come in and check with you guys before anything is done, to see where you stand and what I need to do for the extension to finish this.

Mrs. Godfroy: is this the piece of equipment that you say is up at the front (referring to photos). Mr. Kowalczuk said yes. Mrs. Godfroy asked how long the machinery would be, Mr. Kowalczuk said 17 feet from the tip of the bucket to the back, he thinks it would weigh about 8 tons. Mrs. Godfroy asked when the pictures were taken. Mr. Kowalczuk said it is a hodge podge, some older stuff from last August/September to some that show the back walls, were I believe last month. The back half of the foundation is 95 % done it is the front main house that I have to finish. Like I said all of this has been done out of pocket and not to mention that I have been dealing with a back injury from work that has kind of slowed things down quite a bit.

Mr. Vogel asked about the garage. Mr. Kowalczuk said that is the garage and the crawler sits between that and the dirt pile.

Mr. Vogel asked Mr. Howard to refresh the Board on the matter. Mr. Howard said that we had a complaint at last months meeting, we sent a letter asking to barricade the work area hole in order to prevent someone from falling into the hole and possibly being impaled on the rebar, and the letter included a reminder of what his time frame is that his permit will expire. Mr. Vogel said that the rebar doesn't look as bad as he had envisioned, I thought it was dug out and rebar was sticking out. Mr. Howard said that was a month ago, and with the block laid at this time there is not as much rebar exposed. Mr. Kowalczuk said what is in the front section of the house, I have not worked on that wall at all this winter, all winter I worked on the back section. Mr. Vogel said what you have done looks nice.

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

Allison King introduced herself and stated that she lives beside the property. She asked when is the year up that he has to have everything on the outside completed. Mr. Howard replied that the one-year permit expires June 24<sup>th</sup>, 2021. Mrs. King said that she was here for that meeting and everything on the exterior was to be 100%, the ground was supposed to be level everything was supposed to be done by then. I can show you pictures on my phone; it is nowhere close and he was supposed to have the whole exterior done. I get Covid and everything, but he truly only started like 4 months ago. On our side where our back porch is there is no fence or anything there. Mr. Kowalczuk said that there has always been a fence there. Mrs. King said that it is just a huge mound of dirt obviously from where he spent 6 months of just digging and that is just in the front yard. That has weeds and will continue to have weeds come out and nothing is going to be done about that. That is my whole concern is that I just hate seeing you guys giving him a chance and just keep extending it. Just imagine if you were in my shoes, living right next to it, beside that mess for 4 or 5 years now. I am just so over it, it is just very, very frustrating now. I get people get chances but like when is enough going to be enough especially when his year is going to be up in June when he was supposed to have everything completed and it is nowhere near.

Kristie Bone introduced herself as the Clerk/Treasurer for the town of Lagro. She said that she and the town superintendent are here on behalf of the town. We have had several complaints still about how the property is looking. We have had several concerns about that and we were asked if we could put a stop to his permit and we were told no that it was something you guys had to do. He came to a meeting in June and stated that he would have everything on the exterior done within one year, I think Mike

you have the meeting minutes on that, I think it was one year, wasn't it? Mr. Kowalczyk said that they asked if I would have it all done and I said I would do my best. Mrs. Bone said that is not what you said. Mr. Kowalczyk said yes, it is. Mrs. Bone said no you did not. Mr. Vogel reminded everyone to address their comments to the board. Mrs. Bone said that we just wanted to know at what point does his permits quit getting re-extended and if he doesn't have things done and it doesn't get re-extended and the property still looks as is or there is not much improvement what happens? Because like I said there are several residents wondering why, me, the older residents, they are afraid to even come to a Board meeting to speak up but they send notes in their water bills about their concerns. At this point the town is just concerned when is this going to look better or are we going to see enough improvement that we can say he is actually working on it, because right now they are not seeing it.

Scott Siders: I understand he had a year to do all of this and then Covid came in. The dirt pile and everything around there needs to be cleaned up. When you drive by, everybody that drives around that hill, she (Ali) lives beside him, all you see is a big dirt pile with rocks and everything in it. I was told by him and another guy that was going to get the dirt that his truck broke down, I have heard a hundred excuses. Get rid of the dirt pile in front of your house, make it look like a construction site, make it look like you are doing something. Right now, from the road you can't see that he is doing anything back in there. Besides this big dirt pile, he does park the dozer across there to keep people from going back in there. But the dirt pile and all the other stuff laying around there needs to be cleaned up. That is what everybody is griping about. I guarantee this summer the dirt pile is going to have weeds on it a mile tall because he isn't going to go up there and cut them down all the time, I wouldn't go up there myself and cut them all down. Make it look like he is doing something. It needs to be cleaned up, that is my main concern is that it is cleaned up.

Mrs. King said that she does have pictures of the dirt pile if the Board wanted to see them.

Mr. Siders said one thing about the permit whatever you do on that, get the property cleaned up, that in the length of time that he was supposed to have this done he needs to have the property cleaned up.

Mrs. Godfroy asked if Mr. Kowalczyk will be using the dirt. Mr. Kowalczyk said that he has had 3 different guys lined up to get the dirt pile out, they were all no shows.

Mr. Vogel: asked Mr. Kowalczyk if he will be using some of the dirt when he gets the basement done. Mr. Kowalczyk said some will be used as backfill what is in the front is mostly to get hauled out, I have had 3 different people lined up to come get it and they never showed. I do have a guy, Jim that works at the Marathon gas station that has been coming up and getting, sporadically truckloads of dirt so I have been trying to get it out of there. I am doing the best I can, I am limited here. Mr. Vogel said you could load it, Mr. Kowalczyk said he would load it for whoever wanted it, anybody that shows up with a dump truck I give it to them. It has just been with my work schedule and his schedule it has been a little hard. Mr. Vogel said he understand with Covid and different things, but you have to try and get it cleaned up. Mr. Kowalczyk said I believe you. Mr. Vogel said that in looking at the pictures you have got some walls up, you are farther along than I was afraid you would be.

Mr. Siders: My main concern is, if you give him a permit and that is fine, but make sure by the deadline of June whatever it is, make sure he has the property cleaned up, cleaned up to the town's approval and Mike's and yours. Don't let it keep building up because I know how things happen with buildup you get behind and you don't want to do it. Just get the pile of dirt out of the front yard, I don't care who has to haul it but get it out of there. The pile of rocks right now along my sewer pump get it out of there, get all that stuff cleaned up. You aren't going to use that get it out of there. That is my thing for you guys is make him do that if you are going to do anything else.

Mrs. Godfroy asked Mr. Kowalczyk if he understands where they are coming from, how they feel.

Mr. Kowalczyk replied that he does. Believe me I have been trying to get rid of the dirt pile for 9 months, I have had it on Facebook, I have had it on Craigslist, I am making the effort I am trying to get rid of it. Now that I have this guy Jim there as soon as he gets his dump truck up there, I text him every time I am off, every weekend, I am like I am going to be up there come get some dirt, and he says I'll be there, and then he doesn't show. I can't control that, but I am making the attempt to get it out of there.

Mr. Milam: what if we switch gears a little bit. Mr. Kowalczyk said sure. Mr. Milam continues, the contingency of a new permit being issued would lie on the conditions that the dirt pile is moved, the construction trash and debris is gone and or stacked to an eye appeal of a residential area. Basically, clean up because you are in a community. Mr. Kowalczyk said yes. Mr. Milam said that to be a part of the community instead of against the community or the community against you there has to be some gives and takes. Mr. Kowalczyk said yes. Mr. Milam said it sounds like we are going to have to put a time limit on this to be done before a permit can be re-issued. Mr. Kowalczyk said fine. Mr. Milam asked, would you, I am not going to say your friend is the guy at fault because you pay the taxes on the property, Rob Kowalczyk said yes, it is my property, you need to find the person to get that dirt out of there.

Mr. Kowalczyk said that now that the back of the house is just about done, I have room out there in the back that all that block that I have out there in the front that is stacked on pallets, now I can get it out to the back out of the line of sight. Mr. Milam said not so much that it needs to be out of sight but it needs to be orderly, you know you are in a community. Mr. Kowalczyk said yes. Mr. Milam said your house or your jobsite reflects on the total community. Mr. Kowalczyk replied correct. Mr. Milam stated the time frame issue, there is a little problem there, Covid takes a bad rap for too much stuff, it has caused a lot of heartache, grief, and trouble for everyone but we have got to work through it and make things happen. Mr. Kowalczyk said that is why he wanted to get in here and now and get this addressed so we have some time before the permit runs out that we could.

Mrs. Godfroy: I am a firm believer that when there is a will there is a way. If somebody told you I will give you a hundred thousand dollars to move that dirt by next Friday it would be gone. So, I think trying, trying isn't enough, there is a million ways to get rid of it, I can help you, I can give you ideas. In the minutes from June 8, 2020, town hall Council President, Monce also inquired about the length of time needed to build such a home and Robert stated I would need a year for the outside work to be completed in answer to your question.

Mr. Vogel: I am totally in agreement you have got some time here before the permits runs out, just get the dirt out of there and clean it up as best you can. I know you have got some materials here you are using, but get the concrete out, get it where the neighbors can look out and it starts to look better.

Mr. Kowalczyk: I agree, I don't have a problem as long as the weather works with me this week, I will get that block that is in the front moved to the back. The little brick pile might take a little longer to stack and move. I am not trying to be difficult; I am trying to work with everybody here.

Mrs. Godfroy asked Mr. Kowalczyk, just to be clear what will you have done by June 24, 2021?

Mr. Kowalczyk stated that he will continue to work on the foundation as far as I can. I will get rid of that dirt and get the front straightened out, get those materials moved out of there so the local neighbors are a little happier with it.

Mr. Vogel asked if it is going to take long to do the rest of the foundation.

Mr. Kowalczuk: Like I said I have been doing all of this out of pocket and I am hoping within the next month to be able to pour the rest of the footer and get that big block order in and get that foundation up. Mr. Vogel said that would put you about May 24<sup>th</sup>. Mr. Kowalczuk said I can give you a better idea come June, but I am wanting to have that foundation done by June. Within the next month, I want to have the foundation done by June.

Mr. Vogel asked, when the foundation is done will the house go up pretty quickly

Mr. Kowalczuk replied I am hoping it will go up real fast. As long as I can get through the bank stuff and that has been, because of Covid and everything else going on it has put a hurting on the credit rating and that is all they care about. It has been a fight there too to get things straightened out.

Mr. Milam reviewed the photos of the property and shared his thoughts on what needs to be done with Mr. Kowalczuk. It needs to have an appeal and a safety factor, critters can start getting in that stuff, just a little housekeeping and I know that the work needs to be done also, but putting your tools away when you are done is just part of the job in some people's eyes. But it needs to be in a community setting. Mr. Kowalczuk said yes.

Mrs. King stated, not just the front but the sides, the back, when you are going down 524 you can see there is everything, there is still old foundation, concrete everywhere from his old foundation that he dug up forever. I have pictures of that, it is right outside my window. I wish I had a picture from 524 because that is almost worse than the front yard. It is bad, it's not just the front of the property it's the whole property needs to be cleaned up. I am just scared; I don't know how many more extensions he is going to get. I get it that it is just him but that is not my issue, but when we built our house, we obviously went through banks, contractors, everything, I don't know. I don't know when enough is enough and when it's going to be like hey you are going to have to do this or you are going to get. I just wish there was an answer and I thought a year was the answer. I just want a clear answer on when the time is going to be up for him to stop trying and everything else.

Mr. Milam, I guess as long as we see progression and a tidy community accepted fashion is that better than cancelling off the permit and not issuing another one and leave it sit the way it is?

Mrs. King: You know his back history with everything? That is what I am saying that I have dealt with so much with this one neighbor, with the shed issue and all that mess. Yes, I want him to have a new house, I have a brand-new house of course I would want him to have a new house beside me, but when is that going to come, I just don't have faith in him that he will get stuff cleaned up at this point. I have dealt with this for so long that I just personally don't have faith in him that he is going to do it. What will happen if he doesn't have the 360 cleaned up by June 24, what happens, not just the front, like I said the back is just as bad?

Mrs. Bone: we have people in our community now that they are not cleaning up their properties so we are in the process of taking people to court and their properties don't look nothing like his. But we can't do anything with him. We are not picking on him, but we are trying to clean up the town, people are buying houses, redoing them. As a community we need to try to have our properties looking good, how can you expect me to send somebody else to court when his looks like five times worse their property does. That is where my issue is, I feel kind of bad when we can't do anything with him and breaking our town ordinance but we can the other people because they have junk cars or junk in their yard that they don't want to get rid of. We have to take them to court so we can go on their property to clean up but we can't do that with him, we have to go through the county. Mr. Siders said the main thing is just clean the property up. Mrs. Bone said is just needs to look better.

Mr. Howard: The one thing I would ask, as far as in relationship to the permit for the house I agree that the Town of Lagro actually probably has no authority on that part. Mrs. Bone said right. But as far as the clean-up why can't the town of Lagro enforce it? Mrs. Bone said that their attorney said that they had to go through you guys (BZA) because you were already in the process. Mr. Siders said part of the construction, this is all part of the construction, but if you tell us we can go for it then we will go for it. We want the property cleaned up, I want him to build a new house, we have a lot of house being redone, I want him to have a new house, I have nothing against him building a new house. I am just against the way the property looks right now, stuff scattered all through the property, I agree that it just needs to be housekeeping and things cleaned up before the permit gets re-issued. If you guys can make him do that, I am all for it.

Mr. Vogel told Mr. Kowalczuk that he thinks that is our plan, it is going to be hard to get a new permit if you don't get something done. I know it's hard to work in the winter but you've got a lot of nice days here and you've just got to get a buddy to get a truck in there to haul that stuff out. Mr. Kowalczuk said that actually he got most of the basement laid this winter, so yeah, I have been working. Mr. Vogel said you are going to have to get this stuff cleaned up. Mr. Kowalczuk said this is the first he has heard any of these complaints about the property and any of that, I have not received any letters from Lagro, other than the letter Mr. Howard sent me, after last meeting that is the first letter, I have had from the Commission here.

Mrs. Bone: that is because our attorney told us it was already in their hands, let them take care of it. But if we are being told we can enforce our ordinance for the trash then we will be more than happy to start that process.

Mr. Vogel told Mr. Kowalczuk that all you have to do is go out there and clean that up, keep building, but if you don't then you don't have a problem. Mr. Kowalczuk said right. Mr. Vogel asked Mr. Kowalczuk if he understands all of this, Mr. Kowalczuk answered yes. Mr. Vogel said show us how good you can do. Mr. Kowalczuk said a lot of the stuff along the garage will be moved out shortly anyhow because I will have to get in there for a waterline.

Mr. Kowalczuk: So as long as that is all cleaned up then I shouldn't have any issues then with a renewal at the end of June?

Mr. Vogel: You are going to have to keep building and get it done, you can't go off and leave it for two years, you have to show progress. I think you want to move there and get a new house. Mr. Kowalczuk said that he is trying to get custody of his kids and getting that house done is a major factor in that. Mrs. Godfroy said that is a good motivator.

Mrs. Godfroy: I would like to make a motion; the property needs to be cleaned up to the satisfaction of the BZA and the Town of Lagro prior to 6/24/21 to be able to get another permit. Mr. Vogel said he feels that the concrete and dirt need to be out of there in 30 days. Mrs. Godfroy said that is close. He's got about 60 days before his permit expires. Mr. Vogel said, I think it needs to be out of there in 30 days people are going to be out barbequing and things and they don't want to look at that, so it is up to you to get it out of there. Mr. Kowalczuk said ok. Mr. Vogel continued, I might not be as lenient the next time, but I am trying to help you get a house, you have spent the money and you have got the foundation half done, get the rest of it done because you don't want to have to fight us all summer with a lawyer to get another permit. Mr. Kowalczuk said right, I don't want any of that. Get it done, keep the neighbors and the Board happy. Mr. Kowalczuk said absolutely.

Mr. Vogel asked Mrs. Godfroy is her motion would still be worded the same way. Mrs. Godfroy said

Mr. Howard: You are saying, the dirt pile and concrete should be cleaned out within 30 days and the property should be cleaned up by June 24<sup>th</sup>, 2021.

The part of how long this will go on, because we have kind of set a precedent because of what we have done in the past with others we are committed to at least another year. But as far as clean up and stuff like that we can enforce that. Larry said that he would talk with Mr. Eddingfield and I would think that certainly the Town of Largo can enforce clean-up of the property irregardless of whether they are building or not.

Mr. Vogel told Mr. Kowalczuk, you are trying to save money to build a house, you don't want fines and things like that Just get it cleaned up, that is the cheapest way to go. We have a motion; do we have a second?

Mr. Younce seconded the motion. The Board proceeded to vote; the motion carried unanimously. Mr. Vogel told Mr. Kowalczuk that he has 30 days to have it cleaned up Mr. Kowalczuk asked just to be clear in 30 days you want the dirt pile to be gone. Mr. Vogel said the dirt pile, the concrete and trash.

Mrs. Bone: So, if he doesn't have done what you want him to in 60 days does your precedence allow you to reissue the permit for another year or what?

Mr. Howard: Mr. Thrush could say if he feels different but I would think that if he doesn't meet the requirements, I think that would give us leverage to hold a permit until he meets those requirements.

Mr. Thrush: I don't know that we are bound by precedence, it is kind of a case-by-case situation, I think he had better do what he is told to do.

Mr. Kowalczuk: I am not asking for a permit at this time, I just want to know that everybody is happy and I can get what is needed to keep going. Clearly, we know what everybody wants done and I have no problem with that. When it does come time for the renewal in June, we should not have an issue. Cause we are all on the same page.

Mr. Vogel: The next item on the agenda is Doyle Silvers, update on permit extension for a new home in the town of LaFontaine.

She asked Mr. Silvers how he feels about what he is hearing here tonight. Mr. Silvers replied that each individual has his own way of doing things. Obviously, there is a difference going on in LaFontaine than there is here. The property I have, the mess is cleaned up, there is no mess. I just got my first load of fill dirt; we are going to start filling the front this week-end.

Mrs. Godfroy reviewed the photos provided and asked Mr. Silvers what is all this stuff.

Mr. Silvers said that is what came out of my old garage and it is underneath the tarps at the back of the house. It is not seen from the road. Mrs. Godfroy said that a person could argue that point though, she then asked about the cement mixer, and windows. Mr. Silvers said all of that will be going out this weekend, I have a dump truck from work.

Mr. Vogel asked how far along Mr. Silvers is with the house.

Mr. Silvers said that everything is enclosed, the doors are all in, the roof is on. I don't have a conventional overhang like everybody thinks. What I am doing is, the wind comes out of the southwest, the house faces the south so the front porch is going to be my draft up into the attic, so it's open. At the back the only thing that will be enclosed is above the French doors those will be shut off and then there will be two fans in the attic at the north end of the gables they will be temperature controlled and humidity and all that, it preserves the structure of the roof.

Mr. Vogel asked Mr. Howard what his thoughts are on the completion of the house. Mr. Howard asked Mr. Silvers if the front porch is done. Mr. Silvers said as far as the structural part yes, I just have to put the baffles inside the rafters. Mrs. Godfroy asked if he will be putting fascia across, Mr. Silvers said there will be a trim around it and that is about it and I have to get that out of Chicago.

Mr. Howard asked, the area across here where I can see the ends of the boards, that is all enclosed? Mr. Silvers said yes, that is all baffles inside the rafters.

Mrs. Godfroy asked how close is the nearest neighbor to the back of the house. Mr. Silvers said about ¼ mile away at the back.

Mr. Vogel asked if there were any questions for Mr. Silvers.

Mr. Howard: His permit expired in December, 2020 so basically, we waited until spring to issue a new permit because of the work outside.

Mr. Silvers: There is about 60 feet of fascia board to run on the patio side and some netting to run underneath, it will be done.

Mr. Vogel asked if he was close to moving in. Mr. Silvers said that he has 3 trailer loads of insulation inside the house right now and another one coming. We are working on the electrical, I was going to run the electrical to it until Mike sent me a letter saying that I couldn't touch the outside. Mr. Vogel then asked if the interior needed to be done too.

Mr. Howard: As long as the shell is done, we don't care how long it takes to finish the inside.

Mr. Silvers said that it is 99 % done on the outside shell.

Mr. Milam asked Mr. Silvers if he could get it done with a 30-day permit. Mr. Silvers replied that he didn't know about 30 days, but was hoping to have most of the summer to get it all done, it is just me now.

Mr. Silvers said just to give you an idea, since we got the last permit, we have poured 23 yards of cement for the patio and the front porch.

Mr. Vogel told Mr. Silvers that he commends him, you have done a lot from where you started. Mr. Vogel asked if he was going to put stucco on everything. Mr. Silvers said yes, I have come up with a way to taper the stucco into the windows so that I don't have to trim them out.

Mr. Vogel clarified the list of requirements and that a 4-month deadline would be 8/24/2021. A copy of the requirements with Mr. Silvers signature is attached. Mr. Vogel then asked if there was a motion on extending the permit until August 24, 2021 with the condition that the requirements are met by that date.

Mrs. Godfroy asked if Mr. Silvers will have to pay for another permit, she was told yes, he would have to pay. Mrs. Godfroy then made the motion to extend the permit to August, 24, 2021. The motion was seconded by Mr. Younce, the motion carried unanimously.

Mr. Vogel: The next item on the agenda is a review of the conditions for tiny homes and shipping container use in the county. Mr. Howard provided Board members with a copy of the regulations for both. Mr. Vogel reminded all present that the tiny homes permitting is exclusively at Prossers Mobile Home Park on State Road 15 south.

Mr. Vogel: the next item on the agenda is Alex Evolga, change of plans for a pond in Pleasant Township. Mr. Howard explained that Mr. Evolga had to change plans due to the soils. Since it is on the same parcel what I have done is ask Mr. Evolga to provide the office with signatures from surrounding property owners that they are satisfied with the revised plans. All signed and notarized approval. No vote is needed, I just wanted the Board to be aware.

Mr. Howard gave the following updates:

- The County Ordinance draft is still with Mr. Downs, nothing new to report.
- Ethan Heagy, we issued a variance to Mr. Heagy to place a pole building on his property before constructing the primary structure. Mr. Heagy is now asking to place a 12'x 16' portable building on the property before the construction of the primary structure. Mr. Vogel stated that the property looks very nice and is an asset to the town of Laketon, I would have no problem with him putting another building in there. Mr. Younce made the motion to approve the placement of the utility building, this was seconded by Mrs. Godfroy. The motion carried.
- The Town of Lafontaine sewer district is working on an expansion, they have received a very large grant to help with the upgrades. The town will be annexing property on the west side of St. Rd. 15. Bunnell Surveying is working with them.
- House Bill 1381, the State of Indiana, the state wanting to take control and develop policy of wind and solar energy. We have our own solar and wind ordinance and their restrictions were very minimal compared to ours, so we were opposed to that. The bill was amended quite a bit and at the end they could not get enough votes for it to pass in the Senate, so it failed in the Senate.
- Imagine One 85 – Kyle May has been requesting more information on how we are determining Ag 1 and Ag 2 ground. He also asked for copies of the proposed zoning, I have been forwarding the information to him.
- The County Commissioners have received notification from IDEM about applications from Gary Treska about two locations for proposed confined feeding buildings. We have no location specifics from Agronomic Solutions, so we will have to wait and see how that comes out.

Mr. David Wamsley introduced himself and said we have great interest in what you just mentioned, the information from IDEM.

Mr. Howard said that IDEM sent a letter to the Commissioners for a request for 2 buildings on the Fulford farm and 1 building on the Hegel Farm. Outside of that I don't know the specifics of the locations or anything yet, none of that has been forwarded to us.

Mr. Wamsley asked if it is not the case with the new ordinance that says that on a new build that he is to notify you all to get an Improvement Location Permit first, before he files with IDEM?

Mr. Howard: I don't know if it is required that he do that but the intent of that was to protect the areas where the intent to build is at. That would be so that we don't issue a permit for a residence eliminating that spot. I will need to review the ordinance.

Mr. Wamsley the way the ordinance reads it specifically says that will happen first before he goes to IDEM requesting a permit. Ms. Crossland said it is still a draft and she had read it today. Mr. Wamsley said that they would like to know where he proposes to put it on the Fulford farm for sure, on Schmalzried Road. Mr. Howard replied that he does not know at this time. Mr. Wamsley then stated that the last conversation that most of the people in the room has was that Mr. Treska have environmental violations and I would like to know what you know about those violations. Mr. Howard said that those violations were through the Army Corp of

Engineers and the DNR and we received documentation that those were all resolved. Mr. Wamsley said that he needed a copy of that, Mr. Howard told him that would not be a problem. Mr. Wamsley continued that he has a period of 3 years on the Army Corp of Engineers of monitoring for 3 years for successful outcome of his remediation, are you aware of that? Mr. Howard replied that he is only aware of the documentation that was provided to him by the Army Corp and the DNR. Mr. Wamsley asked if Mr. Howard did a request with the Army for documents. Mr. Howard said I don't recall if it was with them or the DNR but we did work with both when we requested information. Mr. Wamsley said there is a monitoring period of 3 years with tree planting, approximately 1,000 trees were to be planted, do you have verification that those trees were planted? Mr. Howard said no, but that is not my responsibility as far as the trees, I would have to see if that is in their document and I don't recall it being in their document. Like I said that has been a year or two ago, I would have to pull out the information. Mr. Wamsley said that until he has successfully proven to the Army for 3 years that those trees have been planted and that they have successfully survived and matured he still has work to do for the Army and he is still in violation. Mr. Howard said we will have to have Mr. Thrush review that and see. Mr. Wamsley said that in his opinion that until we have very clear proof that he has successfully planted those trees first of all and second that they are surviving, and there is still at least one more year of monitoring his ability to obtain a permit from the county in my opinion should not be there. Mrs. Godfroy asked if the Wamsley's have seen the trees, they replied there are no trees, 0, he has moved no dirt, made no attempt whatsoever. Mr. Vogel said that he is not sure what he did wrong exactly, he pushed some trees out that shouldn't have been pushed out, maybe in a wetland? Mr. Wamsley stated that he bulldozed approximately 15 to 20 acres of wooded wetland as verified by the Army Corp of Engineers. Mr. Vogel asked, they ordered him to put those trees back in that same location, Mr. Wamsley replied correct. Mr. Vogel said sometimes they will let you put them somewhere else. Mr. Wamsley said if you put them somewhere else you have to do multiple times more than what you originally did. Mr. Vogel asked, so to resolve that problem he was going to put them back in that same area? Mr. Wamsley said that is what he and the Army had agreed to, I've seen it. Mrs. Godfroy asked Mr. Wamsley if he has seen the document that says that, he replied that he has seen it. Mr. Vogel asked, if he doesn't need a variance from our rules, he can put a second building up on the Hegel farm? Mr. Howard said that on the Hegel farm he would have to apply for a Special Exception to place a second building, that is the way our ordinance is written now. Mr. Vogel then asked about the Fulford farm. Mr. Howard said it would be a new site location. Mr. Vogel said but if he meets all the boxes that we have on distance from neighbors and things, we still have to have a meeting on that? Mr. Howard said not on the Fulford farm, just a Special Exception on the addition of another facility on an existing site. Mr. Vogel asked why is that needed because he doesn't meet the setbacks? Mr. Howard stated because when we amended the ordinance that is what we stipulated, any addition to an existing facility has to go through the Special Exception application process. Mr. Vogel asked, on a new one he doesn't have to come in for a public meeting? Mr. Howard said he would not have to on a new site if he meets all the requirements.

Mitchell Oetken introduced himself and asked, on the zoning according to GIS, the spillway runs close to my property and is zoned FRS is that for Federal land, is that correct? Mr. Howard said FRC is Forest, Recreation, Conservation. Mr. Oetken asked if that is considered part of Salamonie. Mr. Howard said when I developed the plan and I put those zones in, anything that was United States Government, DNR, those types of things were considered Salamonie. If you look at the spillway land that goes through the Swan farms, any property that is owned by a farmer or a non-government entity, we do not classify that as being part of the Salamonie Reservoir. Mr. Wamsley asked, even the spillway area, I realize those are private property, but I thought the FR zoning was Forest Reserve is that correct or wrong. Mr. Howard you have

two things, in the new zoning map it is FRC which is Forestry, Recreation, Conservation, probably on the old maps it was listed as Forest Reserve. Mr. Wamsley said that is what it shows on the website today. Mr. Wamsley said it says there is a 2640-foot setback in the Salamonie area, that is 2640 the way it reads it is difficult to interpret, what was the intent first of all? Mr. Howard said the intent would be 2640 from anything that is deeded to the United States of America or DNR or something like that. Mr. Wamsley said ok the way it reads 2640, Dr. Oetken said from the Salamonie Reservoir, Mr. Wamsley said not what it says, it says 2640 in the Salamonie area allowed it doesn't say allowable but it implies in Ag1 and Ag2 would be acceptable. It implies the way I interpret it that it is 2640 from anything other than Ag1 and Ag2, in other words 2640 away from the Forest Reserve. Mr. Howard said that the Ag1 and Ag 2 don't even exist at this time, so that clause out of the ordinance is not correct because that is how it would be if the new zoning were in place. Mr. Howard said he would go back to reiterate the intent is that anything that is deeded to the United States of America is part of the Salamonie or Mississinewa Reservoir, private farmland even though the spillways go through that might be zoned that but the reason it is zoned that way is that is the way it was on the 1965 map when it was created. That is not my intent, if it is private farmground, it is not part of the Salamonie. Mr. Wamsley said alright. Mr. Howard said the Fulford farm is east of Lagro between the Schmalzried Road and the river, the other thing you may not be considering is that they have to be 2640 feet from the corporate boundary of Lagro. I would have to look at it, but I think it would take out a huge chunk of that. Mr. Wamsley said we have looked at it very closely as to where you can put 10 acres in the middle of a bunch of ¼ mile radiuses, around houses and the town of Lagro, does it fit, have you looked at it? Mr. Howard said I don't mean to be discouraging but there is no use for me to look at it until I know where he is proposing to locate the buildings. Dr. Oetken said we can tell you right now that there is no place, he can put those buildings. Mr. Wamsley said that they have looked at it very, very closely and verified it on 3 different mapping pieces of software, it would be virtually not doable unless you all would do some kind of variance that we would be very unhappy with. Mr. Howard said no, if I understood one of you stated that it would have to be 10 acres, Dr. Oetken said correct, Mr. Howard continued if he's got 100 acres, Mr. Wamsley said he's got hundreds. Mr. Howard said if he puts that building in, he is within the 10 acres so I am not sure. Dr. Oetken said if you are looking at all of the zones of all of the homes with all their boundaries, so the 2640 from Lagro, a quarter mile from Thrailkill's area, he's got small plots of land where he can do it, so to be out of everybody's zone to put any type, he wants to put 8,000 head is that right? Mr. Howard said that is what is on the IDEM notification. Dr. Oetken said it is virtually impossible. Mr. Howard explained that the 10 acres doesn't apply, if he has a hundred (+/-) field, and he puts that building in there as long as he doesn't go in there and cut less than 10 acres out, it is in that 100 acre field and it fits the 10 acres doesn't apply. Dr. Oetken said right. Mr. Wamsley said that the way he read the document is that he has to have a 10-acre contiguous piece in order to be able to do something. Mr. Howard said that if he has a 100-acre field, just because of all these setbacks if he goes out in that 100-acre field and it fits he is still reaching the maximum parcel size. Mr. Wamsley said I am with you, but looking at it from the large view, you put two quad barns, 8,000 head near Lagro where you have 450 people affected by it is that something that really an intended consequence? Mr. Howard said I don't know that it is an intended consequence, but if he meets the requirements, he meets the requirements, whether we agree with it being right or not. We spent 6 months going through this ordinance the last time, Mr. Wamsley said I know you did. Mr. Howard said every time a building comes up, we can't spend 6 months on it, we have to look at where we are and see if we determine that this is an issue, we would have to address it. Mrs. Oetken said it is going to be a major issue for us. Dr. Oetken said it is impossible on Schmalzried Road so I don't think we have to worry about that. Mr. Wamsley said just to confirm one aspect of the Largo corporate limits in looking at the Wabash County GIS, the purple boundary if you click on cities and towns what

comes up and shows on that is the boundary? Mr. Howard said as far as I know. Mr. Wamsley said you and I had this chat 2 years ago, because that is a determining factor, if you pull it up on one website on somebody else's besides the county's it will show the town of Lagro a different way in other words the extension to the southeast of the town basically encompasses about a 40-acre piece of Treska's land and it is zoned R1 and that is in fact part of Lagro corporate limits. We are all together on that, Mr. Howard replied yes, that would be the mark to start marking out the 2640 feet. Mr. Wamsley asked if it is 2640 feet from the entire edge of Lagro no matter which way you go, right no matter how contorted it is it is 2,640? Mr. Howard said right. Mr. Wamsley said he is going to have a hard time doing it, fitting it in.

Mr. Vogel asked, on the Hegel Farm does it fit.

Dr. Oetken: If it doesn't encompass the Federal Reserve land with the 2640 rule, then it would probably fit in there.

Mr. Howard: It depends on where he is going with the building in relationship to the existing building. If he goes north then he is moving away from the closest houses which are to the south of the property so he would be ok from that perspective. Dr. Oetken said however he is encroaching on the floodplain and he has to be 300 feet from that. Mr. Howard said we will have to see where that line is at because the Wabash River is to the north of him.

Mr. Vogel asked Dr. Oetken if he lives east of that building. Dr. Oetken replied that he lives north of that building, across the river. We got the letter on Friday, (April 23, 2021) about the expansion of one building, 2,000 head on the Hegel farm. We are outside of the zone for notification for the Fulford Farm. We were just going through the terms of what is the Federal ground, what is Salamonie Federal verses that in the spillway and having those setbacks. Having those setbacks now it would be virtually impossible to, that again is up to your interpretation of what is Salamonie.

Mr. Howard: When I worked on those maps, one of the things I looked at that I used as a determining factor, for example the Swans have tillable ground there, they have dairy, it shouldn't hinder them from being a family farm after all these years. I felt like if it is not government ground it should not be considered as part of the Salamonie. Dr. Oetken said that he totally understands that aspect. It's just that we have a neighborhood bully that we have to keep addressing every 2 years and we are kind of just getting sick of it. We are trying to grow, I am part of this One 85 stuff, constantly trying to build Wabash Marketplace, I am putting a lot of time and effort into it, David is part of that now as well as part of the economic vitality stuff. I know Lagro is working hard, there is a lot stuff. We have one of the most scenic drives around on Schmalzried Road, the last thing you want to do is drive by 8000 head of pigs.

Mr. Wamsley: To the best of my knowledge Gary has not put up the shelterbelt trees at any of the barns that he is in possession of. While we are at it, we will discuss the barn that is right across the street from us, I've got pictures going back 2 years of a caved in roof, there are old cars. I've let it all go, I figured that as long as he is going to stay out of our neck of the woods I wouldn't raise a fuss but if he is going to try to put his biggest establishment next to the town of Lagro and we're trying to have trails and scenic things and people are putting in things like restaurants, Lagro has got a chance right now to maybe come out of the doldrums and to put 8,000 head, I don't care how lucky you are with the wind on what day the wind is going to effect, there are going to be stagnant days where it stays in that entire valley.

Dr. Oetken: It is great that you are building new homes in Lagro, we want you to do that, awesome, but nobody is going to want to do that when they smell. That's going to be a problem for the Town of Lagro in the long term. You talk about economics, you are going to make more economy out of new homes, new jobs in Lagro than a minimal operation.

Mr. Wamsley: The CAFO is going to benefit one family. Whereas the expansion of neighborhoods, restaurants, and speakeasy's, and Air B&B's that are being built and that town being rehabbed there is no comparison. Mr. Wamsley said the truck traffic would have to go through the Town of Lagro to get on Schmalzried or down 600 and backtrack that way and the rail crossing at 600 is very steep, the clearance for semis is questionable especially for lowboys for pigs being hauled. It is not a good recipe guys and ladies. Dr. Oetken said we are concerned for our neighborhood and our investment in the area, we have put a lot of time and money into this place and the last thing we want is that to be nullified by somebody's ambition who is clearly an environmental violator. Where the rehab has taken place that is to be determined.

Marty Crossland: You are looking at two families that have moved here in the last 10 years from big cities, California and Indianapolis. Mr. Wamsley said Marty and I came here to retire in peace and stay out of everybody's way and be left alone, that is all we wanted, to buy 80 some acres and sit back and enjoy some years and it was that way for quite a while. Mitch & Ashely came here from California, he is an orthopedic surgeon, he could have gone to work anywhere, Wabash recruited him very hard to come to Parkview to open the hospital. Wabash Hospital is greatly understaffed because it is very hard to recruit new doctors to come to this community for a number of reasons one of which we are discussing this evening.

Marty Crossland introduced herself and stated that she would like to make one very positive comment the only good thing that has come out of this Treska mess is that we have met more neighbors and more wonderful people in the Lagro area. Now tonight is a little different, we didn't know about any of this stuff going on.

Dr. Oetken said, because of Covid 19 you are seeing people wanting to leave the city, so why would we stifle growth in a place that is the country. You've got people already that are interested that are from Carmel, they are the ones looking me up saying are you guys leaving any time soon because we would like to buy your house, they are from Geist. That is what we want, but if someone says we are going to build a CAFO next to you, why? That is not what we want in our community, I hope when it comes to when he submits plans that you really look at our ordinances and think about the actions. We want to thank you guys a lot that last go around, that was huge, we really appreciate that. Mr. Wamsley agreed. Dr. Oetken continued that he thinks it is going to go forward as far as growth and health. Mr. Wamsley added when we finished up what we did a year and half or two years ago I had begun work on studying comparing animal units and their manure in Wabash County to the entire state of Iowa because it had come to my attention that there are many, many poisoned water wells in the state of Iowa that are directly attributable to the CAFO population and the amount of animal waste there is, the net of it is Wabash County based on animal units that are presently here right now we equal the state of Iowa in density of manure. In Iowa it is more than 40% but less than 60% of the water wells in the state are poisoned and unusable for humans. The soil types are rather similar, I have some science but it is rather in depth as well.

Dr. Oetken: My family owns lots of land in Iowa and they invested in a CAFO that was 2/3 of a mile from them. That place they piled up their animals, lit it on fire which I'm sure is illegal, they ruined that entire home they had to rip it down to the studs. Their daughter got lymphoma, 8 years later she got thyroid cancer, she had to have everything removed and can't have kids

anymore. That CAFO finally went down this last fall, it went bankrupt. This is my cousin who literally invested hundreds of thousands of dollars in this CAFO and he went over there and drank a glass of champagne because that thing ruined his family and his life. This is coming from a farmer who owns like 3,000 acres. I am for people making money, people thriving, but we have to do it responsibly. It is profiting one person's paycheck, and yes that goes on to a factory, but at the same time the health of everybody in that county and everywhere downstream is important to us.

Mrs. Oetken said we have little children, a 5-year-old and a 3-year-old. I have sat at his bedside with and I wouldn't wish it on anyone, he has been through cancer. Dr. Oetken said he asked his Dr. why did we create this treatment for this cancer, the Dr. replied that we have so much of this type of cancer in Indiana, you just growing up in Indiana is one of the reasons you got this cancer and that freaks me out, something is wrong. We all know personally people who have been touched by cancer in this county. We have got to start somewhere and I feel like you guys have done a great job and me and David have tried to make a difference. Thank you and I hope you guys are all in with us on this fight and have our backs and look out for the people.

There being no further business, Mr. Vogel asked for motion to adjourn. Mrs. Godfroy made the motion to adjourn, this was seconded by Mr. Milam. The meeting adjourned at 8:48 pm.

*Libby Cook*

*Secretary, Wabash County Board of Zoning Appeals*

*MTH*