

# *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)

**Wabash County Board of Zoning Appeals**

**Wabash County Court House**

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## **BZA MEETING MINUTES**

### **MARCH 22, 2022**

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

PRESENT: Mark Milam, Dan Dale, Patty Godfroy, Joe Vogel, Mike Howard, Larry Thrush, Libby Cook, Jamie Fry, Charles Pinkerton, Cheryl Shenefield, Sam Figert, Nichole Figert, Albert Dotson, Victor Treska

The Wabash County Board of Zoning Appeals met on Tuesday, March 22, 2022. 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 minutes of the January 25<sup>th</sup> meeting, there being none he asked for a motion to approve the minutes as written. Motion to approve by Mr. Milam, second by Mr. Dale, motion carried.

Mr. Vogel: The first item on the agenda is Special Exception #2, Donald Bittner for construction of a pond in Lagro Township. Mr. Howard stated that the request has received a favorable recommendation from the Plan Commission Board and the Wabash Co. Drainage Board, they have no certified drains in the area and have no objections to it. He then reviewed the specs for the pond: address, 2817 E 250 S, 2 adjoining parcels of land, the 9.88 acre parcel is where the pond is to be built; Treska Bros. Excavating will be the contractor and Victor Treska representing Mr. Bittner tonight; the plan will require a variance to be 80 feet from east side property line instead of the required 100 feet; no floodplain or flowage easement; .75 acres of water surface; dam specs, 120 feet in length, 40 feet wide at the base, 20 feet at the top; 6 inch line for overflow; emergency overflow to the southwest side; 4 ½ - 5 acres of watershed into the pond; no geothermal feed; the closest certified drain or creek is Burr Creek approximately 1250 feet to the south.

Neighboring property owners (Albert Dotson, Cheryl Shenefield, Sam and Nichole Figert) shared their concerns about the drainage problems that already exist in the area and concerns that the pond may worsen the problems. Mr. Dotson stated that he has no problem with the location of the pond, his property gathers water already, I have a drain but where that drain goes to I have no idea. Mr. Dotson stated that the only concern is that with any construction, they say they are going to follow the guidelines but if they get into a tile that my water is flowing through to get water out of my

yard, if the construction company disrupts that tile then I have a problem. Mr. Dotson would like it to be on record that this is his concern that if a tile is disturbed during construction that the contractor will redirect it or replace it. I have some major water problems. Mr. Dotson reviewed with Mr. Treska and the Board aerial photos of his property and where his water problems are located.

Mr. Treska asked where Mr. Dotson lives in relation to the pond. Mr. Dotson shared photos of his property and discussed the drainage. Mr. Treska said that he doesn't want to put Mr. Dotson in a situation where it would cause issues. Mr. Treska said the if they find a tile more than likely he would take it to the pond because he wants all the water he can get for the pond, if it is a tile that would end up backing up on your property I will talk with Don (Bittner) and he might be willing to help out on the price of getting your water that is back here to his pond that will help them in the dry seasons, the more water we can get in there the better.

Mr. Dotson stated that the drain minimizes my water problem, I can feel comfortable that if you find a tile and you know my problem that you will make sure not to bring more problems to me then I am fine with it. Mr. Treska offered to take images of any tile issues and how the repairs are made and show those to Mr. Dotson. Mr. Howard assured Mr. Dotson that his concerns would be on record.

Ms. Cheryl Shenefield lives east of the Bittner property where they are putting the pond in. That area tends to hold water, it is a heavy clay content. When Josh Wilcox put his pond in I started having problems with water in my front yard. When he pumps the water out of his pond or anytime we get a heavy rain, that field where Mr. Bittner lives and the runoff from the Wilcox pond does not go to the creek like it should, it goes into our back yard. The runoff from Wilcox's runs right there and it stays for days. Will the runoff of this pond tie into Josh Wilcox's drainage, if so that is just going to be added runoff into my yard? I just don't want any more water on my property than I already have. Mr. Vogel asked why the Wilcox pond is being drained, she replied that they had to put a liner in. Mr. Howard noted that the Wilcox pond was not permitted through the county like it should have been. Treska Bros. were contracted to make corrections to the construction, he then worked with him on the permitting to make those repairs.

Sam and Nichole Figert who have property to the south of Mr. Bittner's addressed their concerns about the drainage of the pond and shared that there are already existing drainage problems in the area. Mr. Figert and Mr. Treska reviewed aerial photos of the properties. Mrs. Figert said that best way would be a 12 inch tile down to the creek which is going to get expensive.

Mr. Howard suggested tabling the matter until the April 26<sup>th</sup> BZA meeting, this would give Mr. Treska time to look at the property again and to talk with the Bittner's. Mr. Dale asked if this was already approved by the Drainage Board, Mr. Howard said all they look at is if there is a county regulated drain involved, Mr. Dale said he wonders if this is something that the Drainage Board should get involved with. Board members agreed to continue the request at the April 26<sup>th</sup> meeting. Mr. Dale made a motion to continue this hearing on the pond until we have more information, second by Mrs. Godfroy, the motion carried. The hearing will be continued at the April 26, 2022 BZA meeting.

Mr. Vogel: next on the agenda is Special Exception #3, Keith Shepherd for a wrecker service and impound yard in Noble Township. Mr. Shepherd stated that he had been working with a couple of guys on purchasing a wrecker and a building. The person they were talking with about the purchase has backed out on selling. It would take 5 years for the business to start making money back and the people he was working with had to back out for that reason, so the wrecker part of the request is out. Mr. Shepherd stated that he wants to make a little bit of extra money working on cars, I don't want a junk yard, but I will have a fence up. I have checked with my attorneys, I sent them my information and said I don't want a junk yard, but if I put up a building and have 4 or 5 vehicles sitting outside that I need to take the parts off of before I take it to the scrap yard, he asked me what I would do I told him that I will sell the parts the catalytic converters. I want to teach kids baseball in the building so if I take the vehicles outside, the rules that were stated on me say they only want a couple of cars sitting outside, they would be sitting outside but they would be in a fenced in area where you would never see them. I don't want 20 cars out there even if they are behind the fence I don't want 20 cars out there all that does is invite trouble with people trying to steal. If I have 4 -5 vehicles out there and it is raining for 15 days and I can make money I would like to leave them out because I would like to teach the kids baseball inside the building, that's all I am asking to do. I have called my attorneys and sent them pictures, I drove around for about an hour I found about 30 houses in one section that have 8 cars or more sitting around their houses that have been there for 20 or 30 years, junk cars. He calls that a junk yard, it is not a junk yard I am just selling catalytic converters before I scrap the truck out, if that's a junk yard then that is the poorest junk yard I have ever seen in my life. All I am trying to do is keep up and make payments, and I will be honest with you, my attorneys have said if that is the case they can sue for every house that is like that around the county that has been sitting that way for years and years and is still sitting that way, if I have like 4 or 5 vehicles behind the fence and everything is clean. I don't want to be that kind of person. I have a bulldozer scheduled to come in for 2 weeks to clean all of the stuff up, I have already sold a bunch of stuff I had down below so that I can clean it up, level the ground out a little better and get the trees out. I want it to be really nice, it was a pig sty when I bought it. I want to have 4 – 5 vehicles behind a nice fence, I don't want to use my house garage, I want it to be nice. I want to have another building that if I have 3 or 4 vehicles in there I can pull them out to teach kids in there, I am not going to have kids in the place where you've cars you are working on. I want to be able to give keys to coaches, where if I am not teaching them they can bring them and have practice themselves. My attorney says I am on industrial land and we can take care of that through the state. I don't want to go that route, I want to be nice to everybody and ask your permission.

Mrs. Godfroy asked about the fence. Mr. Shepherd said it will be 8 feet tall, one color of metal siding, the top will have 2 x 6 board on both sides that way the wind can't catch it and rip it loose. I don't have to have a permit for a fence, that is what I will have and it will be a professional fence and it will be nice. Mrs. Godfroy asked how soon would the fence be done, Mr. Shepherd said he is looking at probably in about three weeks. Mrs. Godfroy asked if there have been any other properties in Wabash County where he has been notified that he has to clean up anything, Mr. Shepherd said no, one time when he had a house on Allen St. in Wabash, about mowing and I wasn't living there I was out of the country on vacation and the renters didn't mow. Mr. Shepherd said that the fencing would be 100 feet long x 100 feet deep, he would want to have a barn inside the fenced area and maybe a couple of sheep, the back side of it is up high, a drop off I didn't know

if you wanted me to put a fence on the back side of it the only thing back there is the railroad tracks and between the old factories.

Mr. Vogel asked if he is not operating a wrecker service where would he get the vehicles from. Mr. Shepherd said that he would purchase them from individuals. Mr. Vogel asked, you would put the vehicle inside the building and take the parts off of it, the parts would be kept inside the building and you would haul the remainder of the car away. Mr. Shepherd said that he has to have the title to the vehicle transferred to his name and that can take anywhere from 1 month to 6 weeks to get a title. He explained the procedure on the police inspections of the vin numbers. Individuals can sell a car with a bill of sale; I have to get the Vin # to check to make sure there are no liens on the vehicle. Mr. Vogel asked if the building is on the property now, Mr. Shepherd said no. The building would need to be 60 feet long by 40 feet wide to accommodate a couple of batting cages he would like to have for kids and coaches to use for practices. The vehicles stored in the building would have to be taken outside when the building was being used for practices, Mr. Vogel asked how often he thought he would have coaches and kids in, Mr. Shepherd said probably 3 times per week. He would use a skid loader to move the vehicles outside and back into the building. My attorney says he can

Mr. Howard stated that the County Ordinance does permit junk yards through the Special Exception application, it requires 10 acres of property and has to be 1320 feet from residential zoning or a residence.

Mr. Shepherd said I don't have to have a permit to put a fence up, so I am going to put a fence up.

Mr. Milam said slowly but surely we are getting things cleaned up in the county. Mr. Shepherd said if he was on the Board he would push to get them cleaned up, if you want I will put up a building and keep them inside. Mr. Vogel said I don't think we would have a problem if he puts up a building and works on cars inside, we don't want a lot of junk cars sitting around. Mr. Howard said we aren't going to have a lot full of vehicles. Mr. Shepherd said if you see a bunch of cars sitting, fine me. Mr. Thrush said we would shut you down, what you describe fits the county definition of a junk yard. Mr. Shepherd said he would be a mechanic. Mr. Milam said a mechanic works on cars and repairs them to be returned to the owner, taking parts off a vehicle and selling them is not a mechanic, there are rules and regulations to a business. Mr. Shepherd said I will abide by the rules. Mr. Vogel asked Mr. Shepherd if he has withdrawn his original request to do the wrecker service

Mr. Shepherd walked out of the meeting; Mr. Howard reminded him that he still owes \$77.42 for the Special Exception application process.

Jamie Fry and Charles Pinkerton, neighboring property owners stated that their concern is they are thinking about selling their property and are wondering what this will do to their property value.

Mr. Howard gave the Board the following updates:

- The Plan Commission Board meeting of March 3<sup>rd</sup> will reconvene on Thursday, March 24<sup>th</sup> to continue discussing the solar ordinance. At this time there will be a representative from Indiana Farm Bureau to talk to the Board.

- County Ordinance draft, working with Mr. Downs on the parcel splits portion, Mr. Downs feels that multiple people from various offices should be reviewing the splits to assure that they are done correctly.
- Imagine One 85 comprehensive plan, the draft is out for review. If anyone has any questions or concerns please let me know and I will forward those to Mr. Keith Gillenwater.
- Complaints:
  - The Kowalczyk property in Lagro Corp. will be addressed at the April 7<sup>th</sup> PCB meeting.
  - Two properties in Servia owned by David Francis are scheduled to be torn down.
  - Call from a realtor about property owned by James Moore, he would like to do another split of the property, there are already several splits done on the parcel.  
Items noted by the Board: it could require a variance for a subdivision that would be decided by the BZA. There would have to be something in writing on the easement to access the new splits and on the maintenance of the drive. Are these rentals on the parcel. There would need to be a drive that emergency vehicles could easily access.

There being no further business Mr. Vogel asked for a motion to adjourn. Mrs. Godfroy motioned to adjourn, seconded by Mr. Dale. The meeting adjourned at 8:30 pm.

Libby Cook  
Secretary, Wabash County Plan Commission Board  
mth