

WABASH COUNTY PLAN COMMISSION

Wabash County Court House

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Wabash County Board of Zoning Appeals

Wabash County Court House

Wabash IN 46992

BZA MEETING MINUTES

TUESDAY, MARCH 28, 2023

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

PRESENT: Mark Milam, Joe Vogel, Dan Dale, Patty Lengel, Jerry Younce, Brian Campbell, Plan Director; Larry Thrush, Board Attorney; Amanda Lyons, Board Secretary;

others present include: Charles Douglass, Allyson Suman, Tim Suman, Austin Shepherd, Cathryn Lyons, Bob Gray, Amber Simpson, Chris Neff, Kari Simpkins, Bill Lyons

The Wabash County Board of Zoning Appeals met on Tuesday, March 28, 2023, in the Commissioners Meeting Room of the Wabash County Courthouse. 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 February 28, 2023 meeting. Mr. Milam made a motion to amend the minutes to reflect race vehicles in place of cars in the discussion of Special Exception #2 for Austin Shepherd. Mr. Thrush and Mr. Campbell discussed the procedure with Board members because the minutes must reflect what was said in the meeting. Mr. Thrush advised that since the matter was being continued to tonight's meeting, it could be changed in the discussion this evening to reflect that. Ms. Lengel asked for a typing error to be corrected from "work" to "word". Motion to amend was withdrawn by Mr. Milam. Motion to approve with typing error being corrected made by Mr. Dale, second by Ms. Lengel. Board proceeded to roll call vote; motion carried unanimously 5-0.

Mr. Vogel reminded the Board that they would begin the meeting with a continuance from February's meeting for Special Exception #2, which was filed by Austin Shepherd. Mr. Campbell informed the Board that since Mr. Younce was not present at the original meeting he would not be voting on this matter this evening. Mr. Campbell shared that Mr. Shepherd has applied for the special exception to allow a non-ag related business in an A2 zone. The business would be located at Mr. Shepherd's residence, 5853 W Old State Road 24 in Noble Township. At the February 28, 2023 meeting the Board voted to continue the matter at the March meeting in order to allow Board members time to view additional information that was provided by Allyson Suman, neighbor. Mr. Milam asked Mr. Shepherd if he had any pictures he would like to share with the Board. Mr. Shepherd shared pictures of his property, indicated to the Board that he had cleaned it up from the previous owner, added a pole building shop with doors that face away from the Suman's property, and that his driveway would allow plenty of room for truck and trailer access. He shared pictures of the vehicles he would be working on, and informed the Board that the pictures they had probably seen of vehicles on his property were autocross and demolition derby vehicles for the Wabash County Fair and Miami County Fair. He stated they did not intend to participate in those events going forward, so those vehicles would not be around. Ms. Lengel asked if he considered these cars or vehicles that he would be

wiring? Mr. Shepherd stated they would be considered race vehicles, none of them are street legal. Ms. Lengel then asked how he would test the wiring if they were not running. Mr. Shepherd replied that he would be able to test the wiring using a power probe. Mr. Milam asked if the probe testing process would be noisy. Mr. Shepherd indicated it would not be noisy and added that the vehicles will be essentially just a chassis when he receives them and that he will only complete the wiring step in the building of the vehicle. Ms. Lengel thanked Mr. Shepherd for the pictures. Mr. Dale inquired about how many vehicles he anticipated would be in and out. Mr. Shepherd said 100-150 hours are spent per vehicle, so it would be 8-12 vehicles per year. Mr. Vogel asked if this would be a full-time job for Mr. Shepherd, he responded that it would. Mr. Vogel then asked if there were any other questions or comments from the public. Ms. Suman stated that the pictures she provided the Board at the last meeting speak for her. Ms. Lengel addressed Ms. Suman, stating that some of the language on the signs in her yard in the pictures was quite offensive. There being no further discussion, Mr. Vogel asked for a motion to approve Special Exception #2, to allow a non-ag business in an A2 zone. Ms. Lengel made the motion, second by Mr. Milam. Roll call vote was taken with 4 members voting in favor and Mr. Younce abstaining. Conditions and Restrictions that were placed include no running vehicles being worked on and no unlicensed vehicles parked outside. Mr. Shepherd indicated to Mr. Campbell that he understood the restrictions. Mr. Vogel wished Mr. Shepherd well with his business and encouraged he and Ms. Suman to both be good neighbors going forward.

Mr. Vogel announced next on the agenda would be Special Exception #3. Mr. Campbell shared with the Board that Special Exception #3, with a variance from the road setbacks, is for a pond to be placed at the Treaty Dairy site as a part of the TD LaFontaine Biogas project. Ms. Kari Simpkins was present on behalf of Ag Environmental Systems, LLC. The biogas project is located at 1858 E. 800 S. in Liberty Township. Ms. Simpkins brought the project before the Plan Commission Board on March 2, 2023 and received a favorable recommendation to the Board of Zoning Appeals. Ms. Simpkins reviewed the project with the Board, stating the pond is for storm water only, will be a clean water pond. The pond is designed to have a holding capacity, but also designed to be mowable at all times. Mr. Campbell shared with the Board that the plans show the pond is not very deep. The variance is being requested because the zoning ordinance requires 105' setback from the center of the road, the plans for this project show 50' setback from center of the road to top of slope. Ms. Simpkins also presented the project to the Wabash County Drainage Board on March 6th, 2023. At that meeting Cole Wyatt, County Highway Superintendent, is asking that the spoil pile be used to create a barrier on the southern side of the pond to prevent anyone from going off the road and into the pond. Ms. Simpkins replied that without her engineer at the meeting she is not aware if there will be enough dirt available from the site. She indicated they would work through it, but struggling with it since it is not intended to have standing water. Mr. Campbell reminded the Board and Ms. Simpkins that they would still have to obtain an Improvement Location Permit from the Plan Commission Office as well getting the necessary permits from IDEM. Ms. Simpkins updated the Board that the stormwater permit, erosion permit, and air quality permit are all complete with IDEM, but there are a few others they are still waiting on from IDEM. Mr. Dale asked if this eliminates the lagoons at the dairy currently. Ms. Simpkins responded, no and explained how the system would pull out of the lagoon and pull off the methane, creating a continuous flow. In the event they needed to shut down the digester for maintenance, the dairy can go on without issue. Mr. Vogel then asked if there were any other questions or concerns from Board members or the public. There being none, he asked for a motion to approve Special Exception #3 for a pond to be placed as a part of the biogas project. Motion made by Mr. Dale, second by Ms. Lengel. Board proceeded to roll call vote; motion carried unanimously. Mr. Vogel then asked for a motion to approve the variance from the 105' setback requirements to 50' that they are requesting. Motion by Ms. Lengel, second by Mr. Milam. Board proceeded to roll call vote; motion carried unanimously. Mr. Campbell reviewed the conditions and

restrictions with the Board and Ms. Simpkins. Mr. Vogel stated he was not sure the county highway request was practical. Stating that it would be much easier to maintain without a barrier, that he could understand requiring a barrier if this was a true pond with a depth of water, but not for something of this nature. Ms. Simpkins asked if the Board would consider requiring screening if more than 12" deep, and if less than 12" no screening would be required. The Plan Commission Board agreed. Ms. Simpkins indicated she would send pictures to confirm the depth from their other sites. Mr. Campbell reiterated to the Board and Ms. Simpkins that the restrictions and conditions would then include requiring screening along roadside edge of pond if deeper than 12". Mr. Vogel thanked Ms. Simpkins for teaching the Board about the project.

Mr. Vogel stated next on the agenda is Variance #2, Amber Simpson, for a variance from front and rear setbacks in Liberty Township. Mr. Campbell introduced Ms. Simpson and Mr. Gray. He shared with the Board that Ms. Simpson is looking to rebuild a home at 10982 S. America Road in Liberty Township. Ms. Simpson's previous home at that location burnt in 2011. Mr. Campbell shared GIS pictures of the property. The ordinance required setbacks would be 25' on each side, 105' from State Road 218, and 95' from America Rd, as it is considered a primary road. The plan Ms. Simpson and Mr. Gray have presented would meet the 105' requirement from State Road 218, but not the others. They are asking to be 20' from the west (rear) property line, and 64' from center of America Road on the east side. Ms. Lengel asked if the foundation from the previous home was still there. Ms. Simpson indicated the previous home was on a basement and when the home was demolished it was pushed into the basement. Mr. Milam asked if this would be grandfathered in some way. Mr. Campbell shared that it could be if they rebuilt the exact same footprint, but their plans are slightly bigger. Mr. Vogel asked if the drive would be off of State Road 218 or America Road. Mr. Gray stated they would be using the existing drive off of America Road. Mr. Dale asked how far they would be off of America Road and if there would be any line-of-sight concerns for traffic. Mr. Gray shared their plans are to be 64' off of America Road, so no line-of-sight issues. The home will be a modular home anchored to a 30-40" crawl space, with a mound septic system to the north of the home. Ms. Lengel asked if contacts had been made with neighbors. Mr. Campbell stated the office had sent notice to all landowners within 250' of the parcel as required by law, but had not heard from anyone. Mr. Vogel asked if there were any other questions or concerns from the Board or public. There being none, he asked for a motion to approve Variance #2, a variance from the front and rear setbacks. Motion was made by Ms. Lengel, second by Mr. Dale. Board proceeded to a roll call vote; motion carried unanimously. Mr. Campbell reviewed the conditions and restrictions with the Board, Ms. Simpson, and Mr. Gray. The Board is asking that nothing be attached to the west side of the home extending west of the west edge of the well house, and a maximum of one single family dwelling. Mr. Gray and Ms. Simpson agreed to the conditions and restrictions. Mr. Gray indicated that the current shed on the north side comes out and there would just be a set of steps on that west side, with a larger set of steps and porch on front towards the driveway, still within the setbacks they are requesting. Mr. Campbell reminded Mr. Gray and Ms. Simpson they will need to obtain a building permit from the Plan Commission Office before construction begins.

Mr. Vogel then introduced Cathryn Lyons, who in conjunction with the Mildred Collins Estate is applying for Variance #3. Ms. Lyons is seeking a variance from the subdivision ordinance for a parcel split creating a parcel less than 1.5 acres. Mr. Campbell shared the property is located at 7836 W. River Road in Paw-Paw Township. A survey was completed on August 16, 2019 to split 0.69 acres from the parcel to the south and add it to the north parcel, which Ms. Lyons owns. The family would like to do this because a memorial for Ms. Lyons' husband has been built on the 0.69-acre parcel, and the family would like to maintain ownership of that. Mildred Collins will sell her piece eventually, but if the split is done and added to the north parcel, the resulting parcel to the south would be less than allowed in the ordinance. Mr. Vogel asked if Ms. Lyons owned the property with her mother. Ms. Lyons shared that her mother's will leaves it to her

and her two brothers upon her mother's passing. Mr. Dale asked if the south piece would be buildable and sellable if this is approved. Mr. Campbell responded that it would be. It currently has a residence on it, the well and septic are currently located within the proposed remaining area of that parcel, but it is a matter of if the Board is willing to approve the 1-acre remaining parcel size because the ordinance specifies a 1.5-acre minimum parcel size. Mr. Vogel asked if there were any other questions from Board members or the public. There being none, he asked for a motion to approve variance #3. Ms. Lengel made the motion to approve variance #3 per the survey that was provided at the meeting. Second by Mr. Milam. Board proceeded to a roll call vote; motion carried unanimously.

Mr. Vogel announced next on the agenda is Variance #4 for Chuck Douglass for a pool forward of the rear of the primary residential structure. Mr. Campbell shared with the Board that Mr. Douglass resides at 113 Ashland Drive, LaFontaine in Liberty Township. He showed the Board a GIS aerial image of the lot, and noted that it is a corner lot. He shared the proposed site plan and explained to the Board that the ordinance stipulates no accessory structure, which includes pools, can be forward of the rear of the primary residential structure. Ms. Lengel asked Mr. Douglass how long he has resided at the address; Mr. Douglass responded since 2016. Mr. Vogel asked if the pool is to be an above ground pool, Mr. Douglass indicated yes. Mr. Dale asked if the town or neighbors had any concerns with the plan. Mr. Campbell explained that the Board of Zoning Appeals and our Zoning Ordinance has authority in the Town of LaFontaine. Notices were mailed to neighbors within 250' of the parcel and a legal ad was placed in the newspaper. A neighbor across the street came to the office to review the plan, but had no objections. Mr. Vogel asked if there were any other questions or concerns from the Board or the public. There being none, he asked for a motion to approve Variance #4. Mr. Dale made the motion to approve, second by Ms. Lengel. Board proceeded to roll call vote and motion passed unanimously. Mr. Campbell thanked Mr. Douglass for attending and reminded him to obtain a permit from the Plan Commission Office prior to construction of the pool.

Mr. Vogel stated Variance #5 had been withdrawn by QC Communications and the land owner. Mr. Campbell explained QC Communications was asking for a split in A1 because they did not reach enough points on the A1 Factor Based Point System. However, they were not able to reach a purchase agreement with the landowners, so request has been withdrawn at this time. QC Communications did pay for the legal ad and mailers that were required to be sent for this request.

Old Business:

Mr. Campbell had Board members sign the findings of fact paperwork that was inadvertently missed at the February meeting:

- Special Exception #1, for Sacha Sare to have poultry in LR1 zone
- Variance #1, for Burcroff Family LLC (Bryan Burcroff), for more than 1 split / sell of less than 20 acres in a 5-year period.
- Note: Mr. Younce abstained from signing as he was not in attendance at the February meeting.

Complaints Update

Mr. Campbell shared with the board:

- Working with Mr. Thrush on Unsafe Premise paperwork for the Linda Trent property and Curt Arnett property.
- Working through other complaints in the office, sending letters to the property owners. If non-compliant after letters are sent, then he will bring to the Board.

Other business:

Mr. Vogel asked if there was any other business to be brought before the Board.

Mr. Campbell shared with the Board that a resident had come to the office to obtain a demolition permit for a house that had burnt. The ordinance requires that taxes be paid current for a permit to be issued. This parcel is not current on taxes. Does the Plan Commission Board feel the permit should still be issued, since demolition of a structure is not adding to the tax burden on the parcel? Mr. Dale made a motion to allow this demolition permit to be issued prior to taxes being current, second by Mr. Younce. Board proceeded to a roll call vote; motion carries unanimously. Mr. Thrush recommended the Board removes demolition permits from the permit fee schedule, but would first need to verify if the ordinance also specifies that a permit is required for demolition.

There being no further business, Mr. Vogel asked for a motion to adjourn. Motion made by Ms. Lengel, second by Mr. Younce. Motion passed 5-0. Meeting adjourned at 8:35 p.m.

Amanda Lyons

Secretary, Wabash Co. Board of Zoning Appeals

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