

MINUTES
DEKALB COUNTY BOARD OF ZONING APPEALS
Monday, January 9, 2017

The Regular Meeting of the DeKalb County Board of Zoning Appeals was called to order at 6:00 p.m. in the Commissioner's Court of the DeKalb County Courthouse by Chairperson Ruth Ann McNabb.

ROLL CALL:

Members present: Matt Bechdol, Mike Kaufman, Tim Griffin & Ruth Ann McNabb.

Members absent: James Stahl

Staff Present: BZA Attorney David Kruse, Zoning Administrator Chris Gaumer and BZA Secretary Joyce Shopp

Public in Attendance: Ron Walter, Jerry Teders, Mary Teders, Robert Harrold, Gregory Weller, Marcia Weller, Sandy Harrison, John Harrison, Eddie O'Donnell, John Hackett, Gretel Smith, Julie Williams and David Gerdeman.

ELECTION OF OFFICERS:

Motion was made by Mike Kaufman and seconded by Tim Griffin to retain the current Officers for 2017: Ruth Ann McNabb: Chairperson, James Stahl: Vice Chair, Joyce Shopp: Secretary. Motion carried.

APPROVAL OF MINUTES:

Motion was made by Matt Bechdol and seconded by Mike Kaufman to approve the November 11, 2016 and November 28, 2016 minutes. Motion carried.

NEW BUSINESS:

PETITION NO. 17-01A, filed by Irish Acres Dairy, LLC and Egbert Investments II, LTD, owners, North Point Engineering Corporation, agent, requesting approval of a Special Exception for Confined Feeding Operation – above two (2) times Indiana Department of Environmental Management CAFO numbers. The property location is: part of the Northwest Quarter of the West Half and Southwest Quarter of Section 27, Franklin Township, located at 1867 County Road 59, Butler, Indiana, containing 113.3 acres, more or less. Part of the Southwest Quarter of Section 27, Franklin Township, containing 53 acres, more or less. Part of the Northwest Quarter of Section 34, Franklin Township, containing 30.0 acres, more or less.

Joyce Shopp noted that letters were received from the DeKalb County Health Department dated 12/08/16, DeKalb County Highway Department dated 12/1/16 & DeKalb County Surveyor's Office dated 12/26/16.

The petitioner provided proof of payment for the legal notice and proof of notification to the adjoining landowners.

The Chris Gaumer, Zoning Administrator, read his report into the record.

Eddie O'Donnell, 1867 County Road 59, Butler, Indiana, stated that he is the general manager of Irish Acres and that David Gerdeman is the agent. David Gerdeman, North Point Engineering Corporation, designed the dairy, the technical aspects of the dairy. It has been a Confined Feeding Operation since 1999. They are purposing two new barns, a feeding area and a manure area. They now have 900 cattle and would like to go to 2300 cows. There will be a newer storage pond. All the clear storage water, run off of the barns, production area will be route to the clean storage water area. The pond has been approved by the Drainage Board. All the expansion will be permitted by IDEM and will meet all the operation requirements. The current expansion was approved by IDEM in 2009 and 2014 but construction was never conducted. They have re-applied.

Mrs. McNabb asked how much traffic will be coming and out of the farm.

Mr. O'Donnell said the trucks that come and go are not at full capacity.

Mr. Griffin asked how many cows per truck of milk are going out.

Mr. O'Donnell said is about ten a week, not all the cows would be making milk.

Mr. Griffin said that is what we needed to know, that some of cows would be dry cows.

Mr. O'Donnell said only about 1800 cows would be milking cows. Mr. O'Donnell also agreed to the truck route.

Mr. Gerdeman noted that this operation would be a no-discharge operation by IDEM. All of the contaminated water from the operation is going to be collected and by contaminated water you think of the manure water and also the water from the feed storage pad will be stored and later applied to the fields.

David Kruse asked if the public needs more milk.

Mr. O'Donnell said you have to grow to stay in business.

Matt Bechdol asked how many cows Irish Acres is approved for now.

Mr. O'Donnell said they were approved for 1120 cows now.

Ron Walter, Mayor of the City of Butler, Indiana, read his letter dated January 6, 2017 into the record. Mr. Walter wanted to make sure the City's well-head water was protected.

Mr. Gaumer stated that the City of Butler is out of the five year overlay for the well-head protection.

Mr. Griffin asked Mr. Walter how many times has the City of Butler's water run over into the sewer system.

Mr. Walter stated both the rain water and sewer water are on the same system.

There were no other objectors.

The Chairman closed the public testimony.

Motion was made by Matt Bechdol and seconded by Tim Griffin to adopt the following Findings of Fact and grant approval on Petition No. 17-01A with conditions. Motion carried.

1. THAT THE APPLICANT HAS DULY FILED THE APPLICATION FOR A SPECIAL EXCEPTION AND PAID FEES DUE THEREON.

Yes, filed November 28, 2016.

2. THAT PUBLIC NOTICE OF THE HEARING ON SAID APPLICATION WAS MADE AS FOLLOWS:

- a. Legal notice published in The Star on 12/28/16, paid receipt on file.

b. Certified mail notices sent to the adjoining landowners.

3. SPECIAL EXCEPTION CATEGORY DEFINITION IS MET FOR:

Confined Feeding Operation. Going from 900 cows established in 1999 and going to 2300 cows. The zoning district is A3.

4. THERE IS A PUBLIC NECESSITY FOR THE SPECIAL EXCEPTION AT THE PROPOSED LOCATION BECAUSE:

Needed to be reasonable operation, customers are Prairie Farms in Fort Wayne and in Battlecreek, Michigan has increased need for dairy products. This is an expansion of an existing operation. Development in agricultural area that is consistent with the Comprehensive Plan.

5. THE ESTABLISHMENT, MAINTENANCE, OR OPERATION OF THE SPECIAL EXCEPTION WILL NOT BE DETRIMENTAL TO OR ENDANGER THE PUBLIC HEALTH, SAFETY, MORALS, OR GENERAL WELFARE, BECAUSE:

No effect, see DeKalb County Board of Health letter dated December 8, 2016. Conditions for IDEM approval will help protect public health and safety. IDEM has requirements for acreage needed for injection or application. The risk of contamination is minimal. IDEM will have a Nutrient Management Plan.

6. THE SPECIAL EXCEPTION WILL NOT BE INJURIOUS TO THE USE AND ENJOYMENT OF OTHER PROPERTY IN THE IMMEDIATE VICINITY FOR THE PURPOSES ALREADY PERMITTED, NOR WILL IT SUBSTANTIALLY DIMINISH AND IMPAIR PROPERTY VALUES WITHIN THE NEIGHBORHOOD BECAUSE:

The City of Butler expressed concern with Big Run and well-head waters used by Butler. The UDO only protests under five (5) years plan "time to travel" and "clean water" is directed to Big Run. No objectors appeared.

7. THE ESTABLISHMENT OF THE SPECIAL EXCEPTION WILL NOT IMPEDE THE NORMAL AND ORDERLY DEVELOPMENT AND IMPROVEMENT OF SURROUNDING PROPERTY FOR USES PERMITTED IN THE DISTRICT BECAUSE:

See No. #3, #4, #5 and #6.

8. ADEQUATE UTILITIES, ACCESS ROAD, DRAINAGE AND OTHER NECESSARY FACILITIES ARE BEING PROVIDED BECAUSE:

See plan for designated route for use of County 61 North from US Highway 6 and to County Road 16 West to County Road 59 South one-half mile +/-.

9. ADEQUATE MEASURES HAVE BEEN TAKEN TO PROVIDE INGRESS AND EGRESS SO DESIGNED AS TO MINIMIZE TRAFFIC CONGESTION IN THE PUBLIC STREETS BECAUSE:

See traffic route plan set forth in conditions. See No. #8.

10. THE SPECIAL EXCEPTION WILL BE LOCATED IN A DISTRICT WHERE SUCH USE IS PERMITTED AND THAT ALL OTHER REQUIREMENTS SET FORTH IN ARTICLE 5, 5.51; SE-01, A3, HIGH INTENSITY AGRICULTURAL ZONING.

Yes, see Zoning Administrator's Report. A3 zone permits the CFO, but Special Exception is needed when excess two (2) times 700 to 1,400 cows.

11. THE SPECIAL EXCEPTION DOES COMPLY WITH DEKALB COUNTY'S FLOOD PLAIN MANAGEMENT ORDINANCE.

Property is not in a Floodplain.

12. THE BOARD IS NOT AWARE OF ANY VIOLATIONS OF ANY WET LAND LAWS AND REGULATIONS.

No wetlands delineated.

13. Zoning Administrator recommends approval subject to the following conditions:

- a. The Board retains continuing jurisdiction of this Special Exception to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
- b. Must obtain an improvement location permit before commencing operation as well as an occupancy permit.
- c. Conditions need to be met before Occupancy Permit is issued.
- d. Special Exception is not transferable without Board approval.
- e. Special Exception is only for the business testified to and as approved by the Board. Said Special Exception is for Confined Feed Operation.
- f. Comply with all State, Federal and local laws including DeKalb County Drainage Board, and includes IDEM and State and local Board of Health, if needed, and County Highway Department.
- g. Comply with Site Plan as submitted to the Board as required by Article 9. 9.20. See Plans filed.
- h. Comply with any applicable Environmental Standards as required in Article 5, 5.11; EN-01, in Unified Development Ordinance.
- i. No offsite drainage crossing over said real estate should be obstructed by any development on this site.
- j. Applicant needs to have an IDEM written approval of site or development plan and especially the Nutrient Management Plan prior to issuance of any Improvement Location Permit or Occupancy Permit.
- k. Comply with DeKalb County Highway Department proposed traffic route as stated above in No. #F.
- l. Comply with all drainage plans filed and development plans filed.
- m. Zoning Administrator may inspect applicant site at any reasonable time with the BZA jurisdiction.
- n. Applicant shall sign these Findings of Fact tonight and file a "Statement of Conditions" within sixty (60) days.
- o. Zoning Administrator to determine when conditions have been met.

IT IS THEREFORE, THE DECISION OF THE BOARD THAT SPECIAL EXCEPTION FOR PETITION NO. 17-01A FOR IRISH ACRES DAIRY, LLC AND EGBERT INVESTMENTS II, LTD, IS HEREBY GRANTED ON THIS 9TH. DAY OF JANUARY 2017, SUBJECT TO ANY CONDITIONS STATED IN THE MINUTES OF THE BOARD.


Matt Bechdorf


Mike Kaufman


Timothy B. Griffin


Ruth Ann McNabb

PETITION NO. 17-02A, filed by requesting approval of a Variance from Developmental Standards for additional lots in the division of land. The property location is: part of the Southwest Quarter of Section 22, Butler Township, DeKalb County, Indiana, located on County Road 64, containing 3.39 acres, more or less.

Mrs. Shopp noted that letters were received from the DeKalb County Health Department dated 12/06/16, DeKalb County Highway Department dated 12/20/16 & DeKalb County Surveyor's Office dated 1/3/17.

The petitioner provided proof of payment for the legal notice and proof of notification to the adjoining landowners.

The Chris Gaumer, Zoning Administrator, read his report into the record.

Jerry Teders, Tri-County Land Surveying state he is representing Gregory J. Weller who is seeking approval for a Variance from Developmental Standards on the number of splits on a parent tract.

Julie Williams, 6429 County Road 327, Garrett, Indiana, stated that they live north of the purposed lot and want to know if a subdivision with many lots were going into the rest of the land that Mr. Weller owns.

Mr. Gaumer explained that at this time Mr. Weller was only going to do one lot and if they wanted to do more lots, they would have to go before the Board of Zoning Appeals and Plan Commission for approval and that Ms. Williams would be sent a letter indicating what the intent was for the rest of the acreage.

There were no other objectors.

The Chairman closed the public testimony.

Motion was made by Tim Griffin and seconded by Mike Kaufman to adopt the following Findings of Fact and grant approval on Petition No. 17-02A with conditions. Motion carried.

1. THE APPLICANT HAS COMPLIED WITH THE RULES AND REGULATIONS OF THE BOARD OF ZONING APPEALS IN FILING APPROPRIATE FORMS AND REPORTS REQUESTED:

- a. Application completed correctly and filed on 12/12/16.
- b. Legal notice published in The Star on 12/28/16, with paid receipt on file.

c. Certified mail notices sent to the adjoining landowners.

2. THE PROPOSED VARIANCE ADEQUATELY DOES PROVIDE FOR COORDINATION WITH THE COMPREHENSIVE PLAN AND THE UNIFIED DEVELOPMENT ORDINANCE AND IS IN THE PROPER ZONE A2, AGRICULTURAL, ZONING DISTRICT.

Yes, see the Zoning Administrator's Report.

3. THE UNIFIED DEVELOPMENT ORDINANCE STANDARD FROM WHICH THE VARIANCE IS BEING SOUGHT:

Development Standards, Article 9, 9.09 and Article 6, 6.05. Homestead and three lots off of base tract to provide for a home for the owners.

4. THE APPROVAL OF THE VARIANCE WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS AND GENERAL WELFARE OF THE COMMUNITY, BECAUSE:

No effect, see DeKalb County Board of Health letter dated December 6, 2016.
Project is in rural agricultural and residential area. No sidewalks are required.

5. THE USE AND VALUE OF THE AREA ADJACENT TO THE PROPERTY INCLUDED IN THE VARIANCE WILL NOT BE AFFECTED IN A SUBSTANTIALLY ADVERSE MANNER, BECAUSE:

No affect. See No. #2, #3 and #4.

6. THE NEED FOR THE VARIANCE ARISES FROM CONDITIONS PECULIAR TO THE PROPERTY INVOLVED, WHICH ARE:

Lot is needed for owner to build home on his land.

7. THE STRICT APPLICATION OF THE TERMS OF THE UNIFIED DEVELOPMENT ORDINANCE WILL CONSTITUTE A PRACTICAL DIFFICULTY IF APPLIED TO THE PROPERTY FOR WHICH THE VARIANCE IS SOUGHT, BECAUSE:

See #2, #3, #4, #5 and #6.

8. THE APPROVAL OF THE VARIANCE DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN.

Does not interfere. Helps to preserve agricultural land.

9. THERE IS COMPLIANCE WITH THE DEKALB COUNTY FLOOD PLAIN MANAGEMENT ORDINANCE.

Property is not in a Floodplain.

10. THE BOARD OF ZONING APPEALS IS NOT AWARE OF ANY VIOLATION OF THE WET LAND LAWS AND REGULATIONS.

No wetlands delineated.

11. Zoning Administrator recommends approval subject to the following conditions:

- a. The Board retains continuing jurisdiction of this variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
- b. Comply with any applicable Environmental Standards as required in Article 5, 5.11; EN-01, in the Unified Development Ordinance.
- c. No offsite drainage crossing over said real estate should be obstructed by any development on this site.
- d. Comply with requirements of the Health Department, Drainage Board, Surveyor's Office and Highway Department.
- e. Sign commitment to be recorded for no further splits without proper approval.
- f. No further splits without overall Development Plan and proper zoning.
- g. Variance runs with the land.
- h. Zoning Administrator shall determine when the conditions are met.

IT IS THEREFORE, THE DECISION OF THE BOARD THAT VARIANCE NO. 17-02A IS HEREBY GRANTED APPROVAL FOR GREGORY J. WELLER, ON THIS THE 9TH. DAY OF JANUARY, 2017, SUBJECT TO ANY CONDITIONS STATED IN THE MINUTES OF THIS BOARD.

Matt Bechdol

Timothy B. Griffin

Mike Kaufman

Ruth Ann McNabb

Chairperson called for a recess at 7:43 p.m.

Chairperson called the meeting to order at 7:46 p.m.

REPORTS:

The "Rules of the DeKalb County Board of Zoning Appeals" was reviewed and items corrected. The final will be voted on at the March 13, 2017 meeting.

There being no further business to come before the board the meeting was adjourned at 8:28 P.M.

Ruth Ann McNabb, Chairperson

Chris Gaumer, Director