

MINUTES
DEKALB COUNTY BOARD OF ZONING APPEALS
Monday, July 10, 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, Tim Griffin, Ruth Ann McNabb, James Stahl

Members absent: Mike Kaufman

Staff Present: BZA Attorney David Kruse, Zoning Administrator Chris Gaumer, Assistant Director Dawn Mason and BZA Secretary Karen Bassett

Public in Attendance: Vicki Tennant, Mary Bergner, Kelly Likes, Kevin Likes, Bernard Miller, Lavon Miller, Morgan Suever, Lisa Suever, Patrick Suever, Donald Steward, Evelyn Steward, Michele McGee, James Ely, Mark Bauman, Patti Henry, Charles Henry, Jonas Bontrager, Roman Miller

APPROVAL OF MINUTES:

Motion was made by Matt Bechdol and seconded by Tim Griffin to approve the minutes of May 8, 2017. Motion carried.

NEW BUSINESS:

For the information of the audience, Ruth McNabb introduced the members of the Board and Staff and explained the process of the hearings.

A public hearing was conducted pursuant to proper legal notice

PETITION #17-10 - Michele McGee requesting a Development Standards Variance to allow for a fence to be taller than allowed by the Ordinance. The property is located at 7063 and 7099 County Road 327, Garrett, Indiana and is zoned R-1, Low Density Residential.

Chris Gaumer, Zoning Administrator, read his report into the record and showed the site plan. Ruth McNabb stated from the drawing it appears the gate will not be at the fence line.

Matt Bechdol stated it appears there are two gates.

Mrs. McNabb stated one gate looks like it is at the fence line and one looks like it is back.

Michelle McGee, petitioner, explained one of the two gates is an existing gate and is back off of the road. The gate that is being added is closer to the road.

Mr. Gaumer stated the approximate location of driveway with gate is marked on the map.

Mrs. McGee stated the existing fence is an old chain link fence. We are going to replace and extend it longer than what exists.

Mrs. McNabb stated the fence that is being replaced is 6 ft. and they are replacing with a 6 ft. fence.

Mrs. McNabb asked if there was a previous variance for the current fence.

Mrs. McGee stated they recently purchased the property and the fence was already there.

Mr. Bechdol stated from the drawing it appears there is no fence between the setback gate and the fence. He asked if this area will be open or fenced.

Mrs. McGee stated the fence is at an angle. It will go completely across the front. There will be pillars at the front of that driveway entrance, but no gate. The other gate is just back beyond it. Mrs. McNabb asked for questions or comments from the public.

Donald Steward, neighbor of Mrs. McGee, stated he felt the fence will be an asset to the property. He stated Mr. & Mrs. McGee have his support.

Chuck & Patti Henry, neighbors to the south of the McGee's, stated they sold the McGee's the southern part of the property that will be fenced. Mr. Henry asked if the fence will be a solid fence or farm fence.

Mr. Gaumer stated per our UDO, there is not a definition of what the fence can be made out of, but barbed wire, electric or razor wire cannot be used.

Mr. Henry stated he is in favor of the fence.

Mr. Kruse asked what type of fence will be put up.

Mr. Gaumer stated Mrs. McGee is proposing a rod iron fence.

Tim Griffin stated what the McGee's have done to the property is a vast improvement.

Mrs. McNabb asked if there were further questions from the public. There were none.

The Chairman closed the public testimony.

Mr. Gaumer recommends approval on this petition.

JURISDICTIONAL FINDINGS:

The petitioner has complied with the rules and regulations of the Board of Zoning Appeals in filing appropriate forms and reports.

1. Application completed and filed on **4/18/2017**
2. Legal notice published in The Star on **6/29/2017** and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Board of Health, dated **6/19/2017**
5. Letter from the County Highway Department, dated **6/12/2017**
6. Letter from the County Surveyor or Drainage Board, dated **6/9/2017**
7. Airport Board report, if applicable **N/A**

FINDINGS OF FACT - UDO REQUIREMENTS:

- 1. Will the approval of the variance request be injurious to the public health, safety, morals and general welfare of the community?**

No, it would be an improvement to the site and neighbors support it.

- 2. Will the use and value of the area adjacent to the property included in the variance request be affected in a substantially adverse manner?**

No, it would be an improvement.

- 3. Will the strict application of the terms of the Unified Development Ordinance result in practical difficulties in the use of the property?**

Yes, a variance is needed to maintain a proper fence line. Fence will replace existing fence which is in poor condition.

CONDITIONS OF APPROVAL:

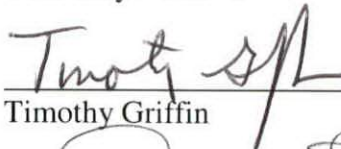
1. The Board retains continuing jurisdiction of this Development Standards Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. Comply with any requirement of the Board of Health, Highway Department or Drainage Board.
3. Comply with any applicable Environmental Standards as required in Article 5, 5.11; EN-01, in the Unified Development Ordinance.
4. No offsite drainage, existing surface water or existing tiled water drainage, crossing over said real estate should be obstructed by any development on this site. The Board of Zoning Appeals may enforce these conditions by injunctive relief with attorney fees.
5. The Variance allows for the front yard fence height to be 6 ft. and this is approved.
6. Zoning Administrator to determine when conditions have been met.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS DEVELOPMENT STANDARDS VARIANCE, PETITION #17-10, IS HEREBY GRANTED APPROVAL ON THIS 10TH DAY OF JULY, 2017.

Motion made by Tim Griffin, Seconded by James Stahl

Vote tally: Yes: 4

No: 0



Timothy Griffin



James Stahl



Matt Bechdol



Ruth McNabb

PETITION #17-11 – Vicki Tennant requesting a Development Standards Variance to allow for the subdivision of additional lots from the parent parcel of which only allows 3 splits are allowed by Ordinance. The property is located approximately 2,300 feet south of the intersection of County Road 28 & County Road 45, Waterloo, Indiana and is zoned A2, Agricultural.

Mr. Gaumer, Zoning Administrator, read his report into the record and showed the site plan. He also read letters from Norman Hart, Tim High and Stan & Jeanne Smith, neighbors of the petitioner. Mr. Gaumer stated he contacted Mr. Smith and advised this is an existing lot that Mrs. Tennant wants to build a single family home on. It is not a subdivision of 3 additional lots. Mr. Smith stated he would recommend the approval and would contact Mr. Hart and Mr. High and let them know what was happening. Mr. Smith stated he felt those 2 home owners would also be fine with this.

Jerry Teders, Tri-County Land Surveying, spoke on behalf of Vicki Tennant. He stated Mrs. Tennant is seeking approval of a variance to create a building lot for a single family home. This is the remaining part of the original base tract.

Mr. Kruse stated there will be no other developments out there, correct.

Mr. Teders stated no.

Vicki Tennant, petitioner, stated her intention is to build a single family dwelling. She said last year, prior to purchasing the property, she checked with the Plan Commission and they gave her verbal approval. She proceeded to receive approval for a septic system and driveway, which she has already installed on the property. Mrs. Tennant stated when she checked with the Plan Commission, she was given the date of 1977 and since it had not been disturbed since that date, she was able to build. This was a verbal approval.

Mrs. McNabb asked if there were questions from the public. There were none.

The Chairman closed the public testimony.

Mr. Gaumer recommends approval on this petition.

JURISDICTIONAL FINDINGS:

The petitioner has complied with the rules and regulations of the Board of Zoning Appeals in filing appropriate forms and reports.

1. Application completed and filed on **5/01/2017**
2. Legal notice published in The Star on **6/29/2017** and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Board of Health, dated **6/19/2017**
5. Letter from the County Highway Department, dated **6/7/2017**
6. Letter from the County Surveyor or Drainage Board, dated **6/6/2017**
7. Airport Board report, if applicable **N/A**

FINDINGS OF FACT - UDO REQUIREMENTS:

1. **Will the approval of the variance request be injurious to the public health, safety, morals and general welfare of the community?**

No, parcel previously existed.

2. **Will the use and value of the area adjacent to the property included in the variance request be affected in a substantially adverse manner?**

No, it is consistent with the current neighboring uses and the Comprehensive Plan.

3. **Will the strict application of the terms of the Unified Development Ordinance result in practical difficulties in the use of the property?**

Yes, the parcel already exists. Best use is for a residence. It is the last lot on the site. Applicant was given verbal approval by prior Plan Commission staff. Board of Health and Highway Department gave permits.

CONDITIONS OF APPROVAL:

1. The Board retains continuing jurisdiction of this Development Standards Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. Comply with any requirement of the Board of Health, Highway Department or Drainage Board.
3. Comply with any applicable Environmental Standards as required in Article 5, 5.11; EN-01, in the Unified Development Ordinance.

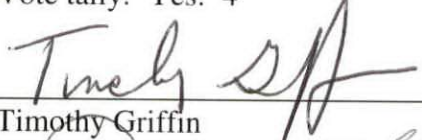
4. No offsite drainage, existing surface water or existing tiled water drainage, crossing over said real estate should be obstructed by any development on this site. The Board of Zoning Appeals may enforce these conditions by injunctive relief with attorney fees.
5. A Variance of a 5th and final lot is approved.
6. Zoning Administrator to determine when conditions have been met.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS DEVELOPMENT STANDARDS VARIANCE, PETITION #17-11 IS HEREBY GRANTED APPROVAL ON THIS 10TH DAY OF JULY, 2017.

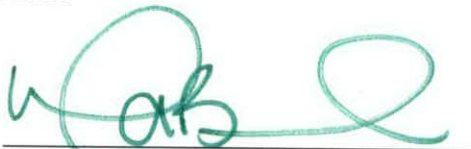
Motion made by James Stahl, Seconded by Matt Bechdol

Vote tally: Yes: 4

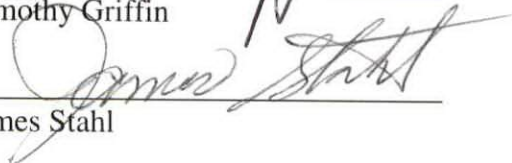
No: 0




 Timothy Griffin



 Matt Bechdol



 James Stahl



 Ruth McNabb

PETITION #17-12 – Patrick Suever requesting a Special Exception to allow for dependent parent housing and a Development Standards Variance to allow for the housing to be for a dependent child. The property is located at 5876 County Road 51, St. Joe, Indiana and is zoned A2, Agricultural.

Mr. Gaumer, Zoning Administrator, read his report into the record and showed the site plan. Mr. Gaumer stated dependent parent housing has typically been a mobile home and once the parent passes, the mobile home can be removed. The proposed structure will be permanent on a foundation. It will never be removed unless someone else purchases the property and demolishes it.

Mr. Kruse stated the issue would be having two residences on the same lot.

James Stahl stated he did not feel two residences on the same lot should be approved.

Mr. Kruse stated dependent parent housing was historically for a temporary residence, such as a mobile home.

Mrs. Mason stated, if this petition is approved, from a 911 standard, they will want 2 separate addresses because there would be 2 separate residences.

Mr. Gaumer read the definition of a primary residence. He advised this could be looked at as it being an accessory structure; it doesn't have to be seen as 2 primary residences on 1 lot.

Patrick Suever, petitioner, here with his wife Lisa and daughter Morgan explained the property was purchased 12 years ago. A photo of the improvements made to the property was passed to the Board Members. They are asking to allow his special needs daughter, Morgan, to become more independent by having her own residence. As for the future of this property; if they would decide to move on, there could be something drawn up stating this dwelling remains a guest house, it is not and never will be a primary residence.

There was continued discussion among the Board Members, Mr. Kruse, Mr. Gaumer and Mrs. Mason regarding the definitions of accessory home, duplex, two-family home or dependent child housing. They also discussed how the residence would or could be used, 911 requirements for address, special site requirements and language on documents to be recorded.

Mrs. McNabb asked if there were any questions from the public. There were none.
 The Chairman closed the public testimony.
 Mr. Gaumer recommends approval on this petition.

SPECIAL EXCEPTION

JURISDICTIONAL FINDINGS:

The petitioner has complied with the rules and regulations of the Board of Zoning Appeals in filing appropriate forms and reports.

1. Application completed and filed on **5/1/2017**
2. Legal notice published in The Star on **6/29/2017** affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Board of Health, dated **6/19/2017**
5. Letter from the County Highway Department, dated **6/7/2017**
6. Letter from the County Surveyor or Drainage Board, dated **6/6/201**
7. Airport Board report, if applicable **N/A**

FINDINGS OF FACT:

- 1. Is the proposed use consistent with the purpose of the Zoning District and Comprehensive Plan?**

Yes. Purpose is to help family with dependent member.

- 2. Will the approval of this Special Exception request be injurious to the public health, safety, morals, and the general welfare of the community?**

No. The structure will be 600 ft. from the center of the road.

- 3. Is the proposed use in harmony with all adjacent land uses?**

Yes, it's a residential rural area.

- 4. Does the proposed use alter the character of the district?**

No, it's residential.

- 5. Does the proposed use substantially impact the property value in an adverse manner?**

No effect.

CONDITIONS OF APPROVAL:

1. 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.
2. Comply with any requirement of the Board of Health, Highway Department or Drainage Board.
3. Conditions need to be met before Occupancy Permit is issued.
4. Special Exception is not transferable without Board approval.
5. Special Exception is only for the petitioner testified to and as approved by the Board. Said Special Exception is for Dependent Parent Housing.

6. Development to commence within one year and be completed within three (3) years.
7. Comply with all State, Federal and local laws.
8. Must comply with the letters provided by the Health Dept., Highway Dept., & Surveyor/Drainage Board, as required.
9. Comply with any applicable Environmental Standards as required in Article 5, 5.11; EN-01, in Unified Development Ordinance.
10. No offsite drainage crossing over said real estate should be obstructed by any development on this site.
11. Zoning Administrator to determine when conditions have been met.
12. Subject to approval of Variance from Development Standards.
13. Require 5 year reports to ensure the conditions are met.
14. No commercial use.
15. Obtain an address number for the 911 purposes.
16. If the dependent daughter use ceases, then the approval for use as a dwelling ceases.
17. Applicant shall prepare a form to be recorded to show the Special Exception in terms of record.


IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS SPECIAL EXCEPTION, PETITION #17-12 IS HEREBY GRANTED APPROVAL ON THIS 10TH DAY OF JULY, 2017.

Motion made by Matt Bechdol, Seconded by Tim Griffin


Vote tally: Yes: 4 No: 0



 Timothy Griffin



 Matt Bechdol



 James Stahl



 Ruth McNabb

DEVELOPMENT STANDARDS VARIANCE

JURISDICTIONAL FINDINGS:

The petitioner has complied with the rules and regulations of the Board of Zoning Appeals in filing appropriate forms and reports.

1. Application completed and filed on **5/1/2017**
2. Legal notice published in The Star on **6/29/2017** and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Board of Health, dated **6/19/2017**
5. Letter from the County Highway Department, dated **6/7/2017**
6. Letter from the County Surveyor or Drainage Board, dated **6/6/2017**

7. Airport Board report, if applicable N/A

FINDINGS OF FACT - UDO REQUIREMENTS:

1. Will the approval of the variance request be injurious to the public health, safety, morals and general welfare of the community?

No effect.

2. Will the use and value of the area adjacent to the property included in the variance request be affected in a substantially adverse manner?

No effect.

3. Will the strict application of the terms of the Unified Development Ordinance result in practical difficulties in the use of the property?

Yes. The purpose of the Dependent Parent Housing is to help families who have a dependent member. A child dependent on their parent meets this purpose.

CONDITIONS OF APPROVAL:

1. The Board retains continuing jurisdiction of this Development Standards Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety. See Conditions in the Special Exception.
2. Comply with any requirement of the Board of Health, Highway Department or Drainage Board.
3. Comply with any applicable Environmental Standards as required in Article 5, 5.11; EN-01, in the Unified Development Ordinance.
4. No offsite drainage, existing surface water or existing tiled water drainage, crossing over said real estate should be obstructed by any development on this site. The Board of Zoning Appeals may enforce these conditions by injunctive relief with attorney fees.
5. A Variance of a dependent daughter to reside in the dependent housing structure.
6. Zoning Administrator to determine when conditions have been met.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS DEVELOPMENT STANDARDS VARIANCE, PETITION #17-12 IS HEREBY GRANTED APPROVAL ON THIS 10TH DAY OF JULY, 2017.


Motion made by James Stahl, Seconded by Matt Bechdol

Vote tally: Yes: 4

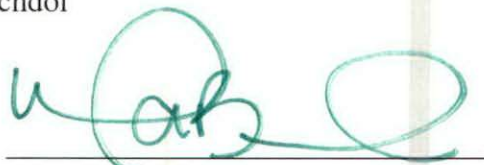
No: 0



Timothy Griffin



James Stahl



Matt Bechdol



Ruth McNabb

PETITION #17-13 – Keith & Kelly Likes requesting a Development Standards Variance to allow an accessory structure to be located within the side yard setback. The property is located at 3568 County Road 59, Butler, Indiana and is zoned A2, Agricultural.

Mr. Gaumer, Zoning Administrator, read his report into the record and showed the site plan.

Mr. Kruse asked if we received any letters from neighbors.

Mr. Gaumer stated no.

Kevin Likes, brother and brother-in-law of the petitioners spoke on their behalf. Mr. Likes provided an aerial view of the property to show the Board Members, explaining the area with the proposed new garage and why they want to build there.

Mr. Kruse stated the most suitable location for the garage is the proposed location, correct.

Mr. Likes stated yes.

Mr. Bechdol asked why it isn't practical to put the structure 20 ft. to the west, as it doesn't appear there is anything in the way.

Kelley Likes, petitioner, stated they want to add on to their house in the future and believe it would interfere with that.

Mrs. McNabb asked for questions from the public.

Bernard & LaVon Miller, owners of the property to the North stated they do not want them closer to them.

Mrs. Miller asked how far from the property line is required.

Mr. Gaumer stated there is a 30 ft. requirement by ordinance and what is being asked is to waive that so they can be 10 ft. from the property line. However, to the North they will be 35 – 40 ft., which does not require a variance.

Mr. Miller stated when they built, they were told they had to be 30 ft. back. Mr. Miller states they could go west of their house, as they have acreage there.

Mr. Miller stated he followed all setbacks and questioned why they wouldn't have to.

Mr. Kruse stated the variance is for practical difficulty.

Mr. Likes stated we already meet the setback requirements for the Miller's property, so it is no closer to their property line.

Mr. Miller was concerned about trees planted near their property lines and asked what the setbacks are. He also asked the setbacks for a fence.

Mr. Gaumer advised there are no setbacks for trees and the ordinance states a fence follows the property line.

Mr. Miller asked if he needs a permit for a fence.

Mr. Gaumer stated if it is over 4 ½ ft.

Mr. Stahl asked for clarification on the small buildings that show on the map.

Mr. Likes stated those would be coming out.

Mr. Gaumer asked if the buildings would be located elsewhere on the property.

Mrs. Likes stated they are getting rid of them.

Mr. Kruse asked if the neighbors to the East are against it.

Mrs. Likes stated no, they are Tim and Carol Wells and they welcome it.

Mrs. McNabb asked if there were any further questions. There were none.

The Chairman closed the public testimony.

Mr. Gaumer recommends approval on this petition.

JURISDICTIONAL FINDINGS:

The petitioner has complied with the rules and regulations of the Board of Zoning Appeals in filing appropriate forms and reports.

1. Application completed and filed on 6/5/17
2. Legal notice published in The Star on 6/29/2017 and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Board of Health, dated 6/19/2017
5. Letter from the County Highway Department, dated 6/7/2017
6. Letter from the County Surveyor or Drainage Board, dated 6/6/2017
7. Airport Board report, if applicable N/A

FINDINGS OF FACT - UDO REQUIREMENTS:

1. Will the approval of the variance request be injurious to the public health, safety, morals and general welfare of the community?

No effect.

2. Will the use and value of the area adjacent to the property included in the variance request be affected in a substantially adverse manner?

No effect. The adjoining land owner to the East has no objection.

3. Will the strict application of the terms of the Unified Development Ordinance result in practical difficulties in the use of the property?

Yes. The most practical and reasonable location of the garage is the proposed location due to the surrounding terrain uses.

CONDITIONS OF APPROVAL:

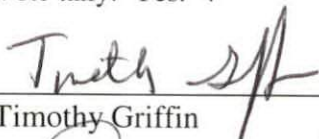
1. The Board retains continuing jurisdiction of this Development Standards Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. Comply with any requirement of the Board of Health, Highway Department or Drainage Board.
3. Comply with any applicable Environmental Standards as required in Article 5, 5.11; EN-01, in the Unified Development Ordinance.
4. No offsite drainage, existing surface water or existing tiled water drainage, crossing over said real estate should be obstructed by any development on this site. The Board of Zoning Appeals may enforce these conditions by injunctive relief with attorney fees.
5. A Variance for 20 ft. from the required 30 ft. side yard set-back, creating a new 10 ft. setback on east property line.
6. Petitioner or Applicant to provide proof of liability insurance, if required.
7. Zoning Administrator to determine when conditions have been met.
8. Applicant needs to get all applicable permits.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS DEVELOPMENT STANDARDS VARIANCE, PETITION #17-13 IS HEREBY GRANTED APPROVAL ON THIS 10TH DAY OF JULY, 2017.

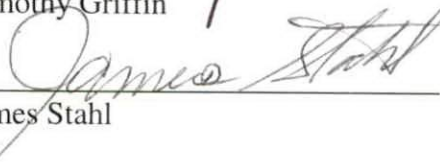
Motion made by Tim Griffin, Seconded by Matt Bechdol

Vote tally: Yes: 4

No: 0



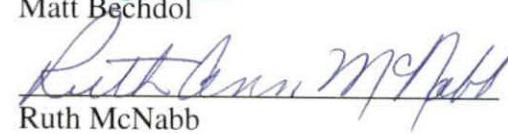
 Timothy Griffin



 James Stahl



 Matt Bechdol



 Ruth McNabb

A short recess was taken at 8:11 p.m.; meeting resumed at 8:17 p.m.

PETITION #17-14 - Jonas & Deloris Bontrager requesting a Development Standards Variance to allow for 1 lot of a proposed 3 lot subdivision to have less lot frontage than allowed by Ordinance. The property is located at 6651 State Road 1, Spencerville, Indiana and is zoned A2, Agricultural.

Mr. Gaumer, Zoning Administrator, read his report into the record and showed the site plan.

Mr. Kruse asked what the required lot frontage is.

Mr. Gaumer stated the requirement is 120 ft. and Mr. Bontrager is requesting his lot have the 50 ft. lot frontage, so the least amount of agricultural land is taken up on the other 2 lots.

Jonas Bontrager, petitioner, stated he is trying to clean up the lots and give the neighbor to the North a portion of the field. The lot in front is currently an empty lot and he wants to add that to Caleb Miller and the other lot to Duane Eicher. Mr. Bontrager said he only needs the 50 ft. he currently has for his driveway and he would like to maintain that minimum 50 ft.

Mr. Kruse stated if this were a new plat there would have to be 120 ft. frontage.

Mr. Gaumer advised he feels there needs to be some leniency when someone wants to preserve the agricultural lands. Mr. Bontrager could split up these properties and sell off to neighboring property owners, however this isn't the best way to divide the land and 50 ft. is plenty of room for a driveway. Our ordinance does not allow for the Plan Commission to approve flag or pole lots, so the Board of Zoning needs to approve as reduction in lot frontage.

Mrs. McNabb asked if there were any questions from the public. There were none.

The Chairman closed the public testimony.

Mr. Gaumer recommends approval on this petition.

JURISDICTIONAL FINDINGS:

The petitioner has complied with the rules and regulations of the Board of Zoning Appeals in filing appropriate forms and reports.

1. Application completed and filed on **6/6/2017**
2. Legal notice published in The Star on **6/28/2017** and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Board of Health, dated **6/29/2017**
5. Letter from the County Highway Department, dated **6/12/2017**
6. Letter from the County Surveyor or Drainage Board, dated **6/6/2017**
7. Airport Board report, if applicable **N/A**

FINDINGS OF FACT - UDO REQUIREMENTS:

- 1. Will the approval of the variance request be injurious to the public health, safety, morals and general welfare of the community?**

No effect. Helps correct the configuration.

- 2. Will the use and value of the area adjacent to the property included in the variance request be affected in a substantially adverse manner?**

No, may be improvement for property delineations.

- 3. Will the strict application of the terms of the Unified Development Ordinance result in practical difficulties in the use of the property?**

Yes. The relocation of the 50 ft. frontage and access of the southeast lot as proposed is needed for plat vacation and replat. Helps preserve agricultural land. The variance helps avoid undue hardship on applicant. The 50 ft. frontage was legal when first granted.

CONDITIONS OF APPROVAL:

- 1. The Board retains continuing jurisdiction of this Development Standards Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
- 2. Comply with any requirement of the Board of Health, Highway Department or Drainage Board.
- 3. Comply with any applicable Environmental Standards as required in Article 5, 5.11; EN-01, in the Unified Development Ordinance.
- 4. No offsite drainage, existing surface water or existing tiled water drainage, crossing over said real estate should be obstructed by any development on this site. The Board of Zoning Appeals may enforce these conditions by injunctive relief with attorney fees.
- 5. The Variance permits relocation of the 50 ft. frontage and access drive for southeast lots. The variance permits the existing 50 ft. frontage instead of the 120 ft. requirement in the UDO.
- 6. Zoning Administrator to determine when conditions have been met.
- 7. Conditional on Plan Commission approval of vacation and platting of said lots

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS DEVELOPMENT STANDARDS VARIANCE, PETITION #17-14 IS HEREBY GRANTED APPROVAL ON THIS 10TH DAY OF JULY, 2017.


Motion made by Matt Bechdol , Seconded by James Stahl

Vote tally: Yes: 4


No: 0



 Timothy Griffin



 Matt Bechdol



James Stahl



Ruth McNabb

PETITION #17-15 - Mark & Jan Bauman requesting a Development Standards Variance to allow an accessory structure to be located within the side yard setback. The property is located at 2074 County Road 40, Auburn, Indiana and is zoned A2, Agricultural.

Mr. Gaumer, Zoning Administrator, read his report into the record and showed the site plan.

Mark Bauman, petitioner, stated he wants to put up a building to store boat, equipment and have a woodworking shop. When the house was built they had a 10 ft. setback and at that time staked off where they would place the building. Mr. Bauman is ready to add the building and the setbacks have been changed to 30 ft., so he is requesting the 10 ft. as he originally had. Mr. Bauman advised there are three houses to the east of his property that have buildings less than 30 ft., so it would not be outside of the norm for the area.

Mr. Gaumer stated the house directly to the east of Mr. Bauman's, the accessory structure is relatively close to the property line and the two lots to the east have garages close to the property line as well. Staff looked to see if there were standards on the subdivision such as a covenant or restriction on this property, that would allow Mr. Bauman to not have to go through the process, but there were none. When this property was platted, it is assumed there were 10 ft. setbacks, but it was not put on the plat.

Mr. Kruse stated 10 ft. was not put on the plat, but it is what the law was when the house was built.

Mr. Gaumer stated correct.

Mr. Kruse asked Mr. Bauman to confirm the uniform 10 ft. setback on the other surrounding lots. Mr. Bauman stated within the surrounding lots, yes. The one to the west of him is not, as he just put his building up and it is at 30 ft.

Mr. Kruse asked Mr. Bauman if he already has the foundation with the 10 ft. setback.

Mr. Bauman stated it was staked out for future build.

Mr. Bechdol asked if the area to the south has room for a back-up septic. Are you giving up a potential back-up site?

Mr. Kruse asked how many acres Mr. Bauman has.

Mr. Bauman stated 1.4 acres. He advised he has 15 ft. behind the building and could move the perimeter tile and put a run there if needed.

Mr. Gaumer stated Cathy Manual, Health Department, has stated there is a way to put new fingers between the old fingers. There is language in the new ordinance to help with that, so they should be okay.

Mrs. McNabb asked if there were any further questions. There were none.

The Chairman closed the public testimony.

Mr. Gaumer recommends approval on this petition.

JURISDICTIONAL FINDINGS:

The petitioner has complied with the rules and regulations of the Board of Zoning Appeals in filing appropriate forms and reports.

1. Application completed and filed on **6/7/2017**
2. Legal notice published in The Star on **6/29/2017** and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Board of Health, dated **6/29/2017**

- 5. Letter from the County Highway Department, dated 6/20/2017
- 6. Letter from the County Surveyor or Drainage Board, dated 6/21/2017
- 7. Airport Board report, if applicable N/A

FINDINGS OF FACT - UDO REQUIREMENTS:

- 1. Will the approval of the variance request be injurious to the public health, safety, morals and general welfare of the community?**

No effect.

- 2. Will the use and value of the area adjacent to the property included in the variance request be affected in a substantially adverse manner?**

No effect. Adjoining land owner to the east has no objections.

- 3. Will the strict application of the terms of the Unified Development Ordinance result in practical difficulties in the use of the property?**

Yes, at the time the owner purchased the lot, there was a 10 ft. side yard set-back per the Zoning Ordinance. The owner relied on this when purchasing the land. Most surrounding lots have a building that is setback 10 ft. side yard. The proposed location of the accessory building is best due to surrounding terrain and uses.

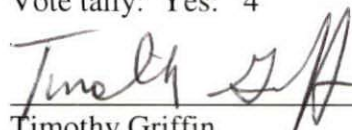
CONDITIONS OF APPROVAL:

- 1. The Board retains continuing jurisdiction of this Development Standards Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
- 2. Comply with any requirement of the Board of Health, Highway Department or Drainage Board.
- 3. Comply with any applicable Environmental Standards as required in Article 5, 5.11; EN-01, in the Unified Development Ordinance.
- 4. No offsite drainage, existing surface water or existing tiled water drainage, crossing over said real estate should be obstructed by any development on this site. The Board of Zoning Appeals may enforce these conditions by injunctive relief with attorney fees.
- 5. A Variance of a 20 ft. from the required 30 ft. is approved for a 10 ft. east side yard setback.
- 6. Zoning Administrator to determine when conditions have been met.


IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS DEVELOPMENT STANDARDS VARIANCE, PETITION #17-15 IS HEREBY GRANTED APPROVAL ON THIS 10TH DAY OF JULY, 2017.

Motion made by Tim Griffin, Seconded by Matt Bechdol

Vote tally: Yes: 4 No: 0

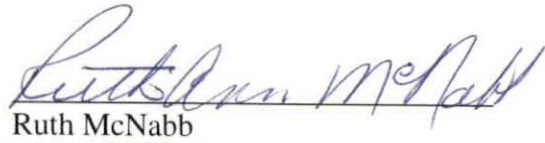


 Timothy Griffin



 Matt Bechdol


James Stahl


Ruth McNabb

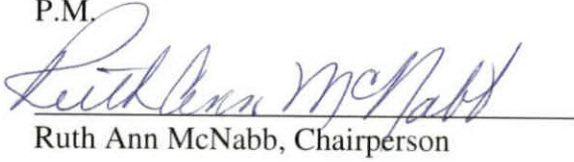
REPORTS OF PLANNING STAFF, OFFICERS AND/OR COMMITTEES:

None

COMMUNICATIONS:

None

There being no further business to come before the board, the meeting was adjourned at 8:55 P.M.


Ruth Ann McNabb, Chairperson

Karen J. Bassett, Secretary