

**MINUTES**  
**DEKALB COUNTY BOARD OF ZONING APPEALS**  
**Monday March 14<sup>th</sup>, 2022**

A Meeting of the DeKalb County Board of Zoning Appeals was called to order at 5:59 p.m. in the Commissioner's Court of the DeKalb County Courthouse by Chairperson, Frank Pulver.

**ROLL CALL:**

Members present: Frank Pulver, Jason Carnahan, Jeff Barkhaus, and Rory Walker

Members absent: Mary Diehl

Staff Present: BZA Attorney, Andrew Kruse, Director/Zoning Administrator, Chris Gaumer, and Secretary, Alicia Shackelford

Public in Attendance: Jesse Zehr, Victor Zehr, Aaron Lengacher, Mathew Witmer, Jason Carnahan, Tim Land, Maranda Wellman, Brandon Wellman, Logan Yoder, Brian Roth, Landon Roth, Janelle Roth, Bettina Wellman, Gary Wellman, Rick Geybe, Jody Gerke, Tim Fletcher, Jim Dowd, Katie Dowd, Mitch Thompson

**APPROVAL OF MINUTES:**

Motion was made by Jason Carnahan and Seconded by Jeff Barkhaus to approve the Minutes of February 14<sup>th</sup>, 2022. Motion carried.

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

Jason Carnahan recuse himself for Petition #22-03.

Petition #22-03 Jason & Katelee Carnahan, Carnahan Farms LLC, requesting a Development Standards Variance to allow a reduction to the front yard setback for a new home. The property is located at 3362 County Road 57, Butler, Indiana and is zoned A1, Conservation Agricultural.

Chris Gaumer read the Staff Report.

Jason Carnahan present, not as a BZA member, but a petitioner if any questions for him. There were none.

Frank Pulver asked if there were any questions from the board members, audience. There were none. Frank Pulver closed the public hearing.

**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 **February 15, 2022**
2. Legal notice published in The Star on **March 2, 2022** 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 **February 17, 2022**
5. Letter from the County Highway Department, dated **February 16, 2022**
6. Letter from the Soil & Water Conservation District, dated **February 16, 2022**
7. Letter from the County Surveyor or Drainage Board, dated **February 16, 2022**
8. Letter from the DeKalb County Airport Authority, **not applicable**.

**PROPOSED FINDINGS OF FACT:**

*These Findings of Fact proposed by staff are based off the knowledge and understanding of the proposed project. If any one of **your** answers is followed by an asterisk, under State Law (IC 36-7-4-918.5) and Section 9.09 G(3) of the DeKalb County Unified Development Ordinance you must deny the request.*

1. Will the approval of the variance request be injurious to the public health, safety, morals and general welfare of the community? Yes ( )\* No ( X )  
*The proposed reduction in the front yard setback not be injurious to the public. Also see DeKalb County Board of Health letter & Highway Dept. letter.*
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? Yes ( )\* No ( X )  
*The proposed reduction in the front yard setback not adversely affect the neighboring properties as the neighboring properties are agricultural and/or single family homes.*
3. Will the strict application of the terms of the Unified Development Ordinance result in practical difficulties in the use of the property? Yes ( X ) No ( )\*  
*The proposed reduction in the front yard setback is needed to be able to reuse the existing basement.*

**PLANNING STAFF RECOMMENDATIONS/COMMENTS:****Conditions of Approval:**

Staff is recommending approval for this Development Standard Variance and recommends the following conditions:

1. The Board retains continuing jurisdiction of this from Development Standards Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. A Variance to allow for a front yard setback of 65 feet is approved.
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 crossing over said real estate should be obstructed by any development on this site.
5. No Certificate of Occupancy or Certificate of Completion shall be issued until the applicant files written evidence of compliance with any conditions of the DeKalb County Board of Health, DeKalb County Highway Dept., DeKalb County Drainage Board or DeKalb County Surveyor, DeKalb County Airport, DeKalb County Soil & Water Conservation, or other agency as applicable. And further, where applicable, file written evidence of compliance with Federal or State agencies where identified in the findings or conditions. The Zoning Administrator to determine when conditions have been met.

**Commitments of Approval:**

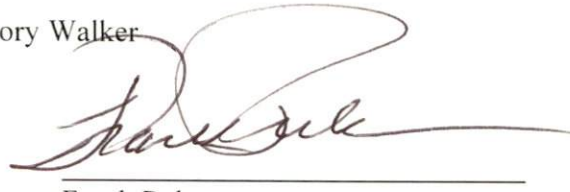
Staff is recommending approval. If the Board assigns commitments, they shall be given, signed and recorded with the DeKalb County Recorder's Office.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS VARIANCE FROM DEVELOPMENTAL STANDARDS, PETITION #22-03 IS HEREBY GRANTED APPROVAL ON THIS 14<sup>th</sup> DAY OF MARCH, 2022.

Motion made by Jeff Barkhaus, Seconded by Rory Walker

Vote tally: Yes: 3 No : 0

  
Jeff Barkhaus

  
Frank Pulver

  
Rory Walker

Jason Carnahan reentered back into the meeting.

Petition #22-04 DeKalb #1 Amish School & Cemetery Inc. requesting a Special Exception to allow for a cemetery. The property is located at the southwest corner of County Road 64 & County Road 43, Auburn, Indiana and is zoned A2, Agricultural.

Chris Gaumer read the Staff Report. Chris Gaumer proceeded with correspondences/petitions received regarding the Amish Cemetery petition and read them into the record (to be found in the file). Andrew Kruse spoke in regards to the petitions received & the ordinances. Chris Gaumer asked if there were any questions. There were none. Frank Pulver asked if there was a representative present that would like to take to the podium. Mitchell Thompson did take to the podium, representing Petition # 22-04, members of the Old Order Amish Church of Dekalb County. Jeff Barkhaus had questions regarding landscaping. Frank Pulver asked if there were any further questions, there were none. Frank Pulver asked if anyone else was present that wanted to speak in favor of Petition# 22-04. There were none. Frank Pulver asked if anyone was present that would like to speak in opposition of Petition #22-04. Branden Wellman took to the podium, after passing out to each member, a paper titled 'To the Members of the DeKalb County Board of Zoning Appeals.'

Battina Wellman took to the podium opposing this Petition, speaking of increased traffic and visual effects of a cemetery across the road from her property.

Brian Roth took to the podium opposing this Petition, speaking about concerns of water/septic contamination from decaying embalmed bodies.

Frank Pulver asked if anyone else has any questions. There were none.

Frank Pulver asked Mitchell Thompson if he had anything further to add, Mitchell Thompson took to the podium.

Frank Pulver asked if there were any further questions from board members. Jeff Barkhaus had questions regarding property values. Andrew Kruse spoke regarding the Special Exception. There was an open discussion among the committee members regarding facts and findings. Frank Pulver asked if there were any further questions. There were none. Frank Pulver closed the public hearing.

#### **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 **September 14, 2021**
2. Legal notice published in The Star on **September 30, 2021** 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 **March 1, 2022**
5. Letter from the County Highway Department, dated **September 15, 2021**
6. Letter from the Soil & Water Conservation District, dated **September 15, 2021**
7. Letter from the County Surveyor or Drainage Board, dated **September 15, 2021**
8. Letter from the DeKalb County Airport Authority, **not applicable**.

#### **PROPOSED FINDINGS OF FACT:**

*These Findings of Fact proposed by staff are based off the knowledge and understanding of the proposed project. If any one of **your** answers is followed by an asterisk, under State Law (IC 36-7-4-918.5) and Section 9.09 G(3) of the DeKalb County Unified Development Ordinance you must deny the request.*

1. Is the proposed use consistent with the purpose of the Zoning District and Comprehensive Plan?  
Yes ( ☒ ) \* No ( ☐ )  
*The purposed cemetery use is permitted by Special Exception approval under the A2 Zoning District. The proposed use is consistent with the goals and objectives of the Comprehensive Plan.*
2. Will the approval of this Special Exception request be injurious to the public health, safety, morals and the general welfare of the community? Yes ( ☐ ) \* No ( ☒ )  
*The proposal will not be injurious to the surrounding community. Local, State and Federal Laws will be followed for the burial of the deceased.*
3. Is the proposed use in harmony with all adjacent land uses? Yes ( ☒ ) \* No ( ☐ )  
*The purposed cemetery and burial space is a necessary aspect of life and harmonious with farm and residential life.*
4. Does the proposed use alter the character of the district? Yes ( ☐ ) \* No ( ☒ )  
*The purposed cemetery will not alter the character of the area or negatively affect the peace and quiet of the properties surrounding.*
5. Does the proposed use substantially impact the property value in an adverse manner?  
Yes ( ☐ ) \* No ( ☒ )  
*The purposed cemetery and burial space should not impact property values negatively. There are many cemeteries in and around single family homes that do not negatively impact property values.*

#### **PLANNING STAFF RECOMMENDATIONS/COMMENTS:**

##### **Conditions of Approval:**

Staff is recommending approval for the Special Exception for Home Enterprise and recommends the following conditions:

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 applicable Environmental Standards as required in Article 5, 5.11; EN-01, in the Unified Development Ordinance.
3. No offsite drainage crossing over said real estate should be obstructed by any development on this site.

4. The Special Exception to allow a cemetery is approved.
5. The cemetery shall comply with any and all local, state and federal laws and regulations.
6. Zoning Administrator to determine when conditions have been met.

**Commitments of Approval:**

Staff is recommending approval. If the Board assigns commitments, they shall be given, signed and recorded with the DeKalb County Recorder's Office.


IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS SPECIAL EXCEPTION, PETITION #22-04 IS HEREBY GRANTED APPROVAL ON THIS 14<sup>th</sup> DAY OF MARCH, 2022.

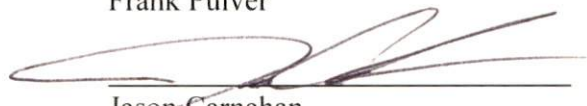
Motion made by Jeff Barkhaus, Seconded by Rory Walker

Vote tally: Yes: 4 No : 0

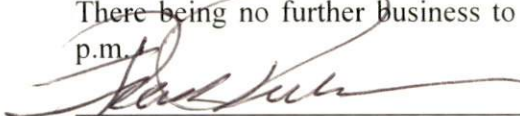
  
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Jeff Barkhaus

  
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Rory Walker

  
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Frank Pulver

  
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Jason Carnahan

There being no further business to come before the board, the meeting was adjourned at 7:35 p.m.

  
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Frank Pulver, Chairperson

  
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Alicia Shackelford, Secretary