

**MINUTES  
DEKALB COUNTY BOARD OF ZONING APPEALS  
Monday, December 11, 2023**

A 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, Frank Pulver.

**ROLL CALL:**

Members present: Jason Carnahan, Mary Diehl, Frank Pulver, Rory Walker, and Larry Williams

Members absent:

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

Public in Attendance: Alex Smith, Logan Smith, Jeff Langbehn, Charlie Trapp, Diane Trapp, Ken Wilson, Margaret English, Bill Van Wye, John Hoffelder, Dan Hoffelder, Justing Hoffman, James Schmucker

**APPROVAL OF MINUTES:**

Motion was made by Jason Carnahan and Seconded by Rory Walker to approve the Minutes of October 9, 2023, as submitted. None opposed. Motion carried.

**OLD BUSINESS:**

None

**NEW BUSINESS:**

Petition #23-15 – Copper Creek Rentals LLC, James Schmucker, requesting a Development Standards Variance to allow for a reduction to the required lot acreage for a proposed 1 lot subdivision. The proposed lot will be 0.77 net acres and 2 net acres is required. The property is located at 3920 County Road 46A, Auburn, Indiana and is zoned A2, Agricultural.

Chris Gaumer read the Staff Report.

Frank Pulver inquired on the size of building the petitioner can have on the site. Mr. Gaumer replied that the building will have to meet the setbacks for a personal storage building.

Andrew Kruse questioned what could be built, on that size parcel, between County Road 46A and the railroad. Clarifying if this type of use is appropriate for this property and area. Mr. Gaumer confirmed and agreed with Mr. Kruse.

Mr. Pulver invited the Petitioner to speak.

James Schmucker approached the podium and stated the proposed building size of 40' x 80' to meet the setback requirements. The use will be storage of farm equipment, personal construction equipment and winterization storage.

Rory Walker asked if the building would be heated. Mr. Schmucker confirmed that the building will not be heated.

Mr. Walker asked about drainage from gutters or surface water drainage. Mr. Schmucker stated that the building will have surface water drainage.

Mary Diehl questioned the applicant being under Copper Creek Rentals, LLC being the applicant.

Mr. Schmucker clarified that he has rental houses under Copper Creek Rentals, LLC and put this property under the LLC.

Larry Williams asked for clarification of the driveway location. Mr. Schmucker stated he has a permit for a driveway.

Mr. Pulver determined there were no further questions from board members or the public, so he closed the public portion of the hearing.

Mr. Kruse went through the Findings for this petition with the board.

### **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 **November 1, 2023**
2. Legal notice published in The Star on **December 1, 2023** 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 **November 16, 2023**
5. Letter from the County Highway Department, dated **November 2, 2023**
6. Letter from the Soil & Water Conservation District, dated **November 2, 2023**
7. Letter from the County Surveyor or Drainage Board, dated **November 3, 2023**
8. Letter from the DeKalb County Airport Authority, **not applicable**.

### **FINDINGS OF FACT:**

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 reduction to the lot acreage to be less than 2 acres is not injurious to the public. The property will be used for personal storage only and a condition of approval has been added that states: "There shall be no septic system placed on the property and no water plumbed to or from any structure on the property now or in the future."*

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 reduction to the lot acreage may increase the property values in the area but should not have a negative impact on values.*

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 reduction to the lot frontage will only allow for the lot to be used for a personal storage building. No septic or water plumbed to/from the building will be allowed. Therefore, no single-family residence or use needing a septic system will be permitted on the property.*

### **Conditions of Approval:**

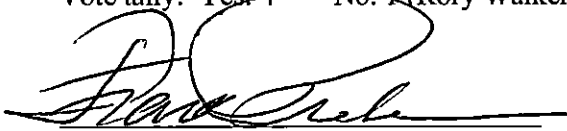
1. The Board retains continuing jurisdiction of this Development Standards Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. A Variance to allow the reduction of lot acreage is approved.
3. There shall be no septic system placed on the property and no water plumbed to or from any structure on the property now or in the future.
4. Comply with any applicable Environmental Standards as required in Article 5, 5.11; EN-01, in the Unified Development Ordinance.


5. No offsite drainage crossing over said real estate should be obstructed by any development on this site.
6. 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.

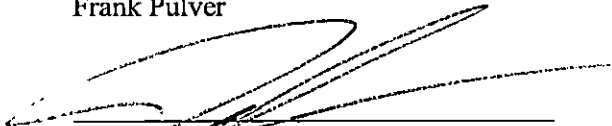
IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS VARIANCE FROM DEVELOPMENTAL STANDARDS, PETITION #23-15 IS HEREBY GRANTED APPROVAL ON THIS 11<sup>th</sup> DAY OF DECEMBER 2023

Motion made by Larry Williams, Seconded by Jason Carnahan.

Vote tally: Yes: 4 No: 1 (Rory Walker)

  
Frank Pulver

  
Larry Williams

  
Jason Carnahan

  
Rory Walker

  
Mary Diehl

Petition #23-16 – Green Solutions of Northeast Indiana LLC., Wayne & Carol Klink, requesting a Use Variance to allow for compost facility. The properties are located on the north side of County Road 4, approximately one-quarter mile west of the intersection of County Road 4 and County Road 31, Ashley, Indiana and is zoned I1, Industrial/Business Park District.

Mr. Gaumer read the staff report and invited Jeff Langbehn, petitioner representative, to approach the podium and explain the proposal further.

Jeff Langbehn further explained the petition and included information on the process of composting and the Indiana Department of Environmental Management (IDEM) approval and permit. Mr. Langbehn showed an example of the compost that is mixed with paper fibers from Pratt Industries and then the end product of high-grade dirt.

Mr. Langbehn went on to explain that will be the fourth site in Indiana. Mr. Langbehn offered to go on record that nothing from the project will move forward until approvals are received from the DeKalb County Drainage Board and Surveyor and Soil Water Conservation District. This should be done when a contractor is selected.

Rory Walker questioned what other nitrogen source there will be for the composting facility. Mr. Langbehn answered that these facilities have not had to use any other form of nitrogen. But could use manure or liquid nitrogen if needed. Mr. Walker asked about moisture source. Mr. Langbehn stated that the compost holds water so well no other moisture source is needed.

Larry Williams asked about the number of semi-truck loads that will be delivered per week. Mr. Langbehn stated that the site will be phased – from the northeast corner, south, back up to the northwest corner and then south. The site would be considered full in 4+ years. Mr. Williams asked if other paper companies can be part of this project. Mr. Langbehn states IDEM only approved Pratt Industries and would have to go back through IDEM to expand the supplier.

Mr. Walker confirmed that no restroom facilities will be needed. Mr. Langbehn answered in the affirmative.

Andrew Kruse asked about safety and illegal dumping. Mr. Langbehn stated that there will be a provision there to not allow open dumping.

Mr. Walker questioned the weigh station location. Mr. Langbehn answered that it is sold by the semi-truck load and not the tonnage, so a weigh station is not used.

Mart Diehl asked about the zoning that this use would be permitted in. Mr. Gaumer stated that it would be permitted by Special Exception in the A2, Agricultural, Zoning District.

Mr. Pulver invited those to speak for and against the petition to the podium.

Charlie Trapp approached and stated he owns the property to the east. He said he is not for or against the project. He is concerned about the drainage of the property. He stated that his property drains on this property through the County tile. Mr. Trapp stated he talked to Steve Christman and doesn't have a problem with the project. Mr. Walker asked about the size of County Tile and Mr. Trapp stated he dug up about 6" tile. Mr. Gaumer confirmed that the Drainage Board will have to approve the drainage project. Mr. Gaumer stated he can let Bill Van Wye know of the drainage board meeting so they can attend and voice their concerns. Mr. Langbehn stated that he will meet with Mr. Trapp and other property owners to make sure their concerns are answered.

Bill Van Wye stated that most of the County Tile there is 12" and was installed in 1892. The tile by Mr. Trapp may be 6".

Dan Hoffelder stated he is concerned about the drainage and what is in the drainage. Mr. Hoffelder also wanted to go on the record the correct the staff report that the property south of the site is not a wooded lot. There is a residence across County Road 4. Mr. Hoffelder questioned the drainage because there is a lot of water crossing County Road 4 during a heavy rain and not through the County Tile. Mr. Langbehn stated that there is a 12" berm surrounding the site. He confirmed that this compost will soak up most, if not all, the water and if it doesn't, there are 2 retention ponds that can be utilized. Mr. Hoffelder asked about how deep the retention ponds will be and the wetland locations. Asking about the drainage and where the water goes. Mr. Langbehn stated that the wetlands will remain. The retention ponds are there to help with drainage and the wetland would hold any water that may overflow from the retention ponds. He stated that this project is over-engineered, and the drainage should be better than it is now.

Mr. Williams asked about what is being tested, as far as contaminants into wells, etc. Mr. Langbehn stated that the project is designed better than a landfill and will not permeate through. They will have to test the site and submit to IDEM monthly. Mr. Langbehn showed Mr. Williams everything IDEM requires them to test for.

Mr. Pulver determined there were no further questions from board members or the public, so he closed the public portion of the hearing.

Jason Carnahan stated he works with IDEM over the years and this project should work as designed.

Mr. Kruse went through the Findings for this petition with the board.

**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 **November 9, 2023**
2. Legal notice published in The Star on **December 1, 2023** and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Health Department, dated **August 3, 2023**
5. Letter from the County Highway Department, dated **November 13, 2023**
6. Letter from the County Surveyor or Drainage Board, dated **November 13, 2023**
7. Letter from the Soil & Water Conservation District, dated **November 14, 2023**
8. Letter from the DeKalb County Airport Authority, if applicable, dated **not applicable**

**FINDINGS OF FACT:**

1. Will the approval be injurious to the public health, safety, morals, and general welfare of the community? Yes ( )\* No ( X )  
*The approval of the compost facility should not be injurious to the public. The site is required to hold only organic materials per the IDEM permit. See letters from County departments and IDEM permit documents.*
2. Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? Yes ( )\* No ( X )  
*The property values adjacent to the property should not be affected negatively. The properties adjacent to the property are agricultural on 3 sides and the Family Dollar Distribution Center to the north & Mr. Hoffelder residence to the south..*
3. Does the need arise from some condition peculiar to the property involved? Yes ( X ) No ( )\*  
*The petitioner states that there is a need for the compost facility and need for high quality organic topsoil for fill. There is also a lack of properties with the zoning required for the use.*
4. Will the strict application of the Unified Development Ordinance result in an unnecessary hardship if applied to the property for which the variance is sought? Yes ( X ) No ( )\*  
*There are no sites in DeKalb County for this type of use.*
5. Will the approval interfere substantially with policies of the Comprehensive Plan? Yes ( )\* No ( X )  
*The proposed use should not interfere with the Comprehensive Plan provided the petitioner meets the rules and regulations of IDEM and DNR. DeKalb County does not have land that is zoned to allow this type of use. This use on I1, Industrial/Business Park Zoning District, property will have to be approved by the BZA for a Use Variance. With the type of use proposed and the limited sites in the County, the need arises by virtue of the limited sites in the County.*

**Conditions of Approval:**

1. The Board retains continuing jurisdiction of this Use Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. Use Variance is approved for a compost facility.
3. The petitioner must acquire local approvals and/or permits from the DeKalb County Surveyors Office or Drainage Board and the DeKalb County Soil Water Conservation District.
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.

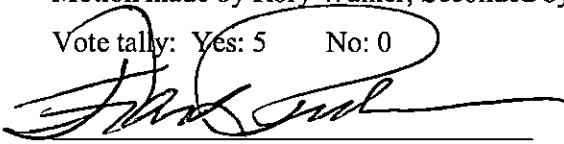
5. No Certificate of Occupancy or Certificate of Completion shall be issued until the applicant files written evidence of compliance with any conditions of the DeKalb County Board of Health, DeKalb County Highway Dept., DeKalb County Drainage Board or DeKalb County Surveyor, DeKalb County Airport, DeKalb County Soil & Water Conservation, or other agency as applicable. And further, where applicable, file written evidence of compliance with Federal or State agencies there were identified in the findings or conditions. The Zoning Administrator to determine when conditions have been met.
6. The applicant agrees to get approval from the neighboring land owners on the Drainage Plan.

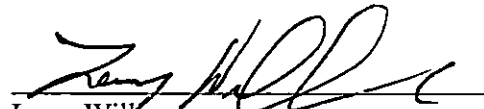
The Board discussed clarification on neighboring owners. Jason Carnahan asked if they should use the same list from IDEM. Rory Walker stated that the tile will have to get fixed and they all should understand. It was agreed to being neighboring land owners.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS USE VARIANCE, PETITION #23-16 IS HEREBY GRANTED APPROVAL ON THIS 11<sup>TH</sup> DAY OF DECEMBER, 2023.

Motion made by Rory Walker, Seconded by Jason Carnahan.

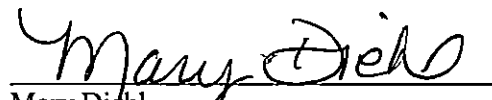
Vote tally: Yes: 5 No: 0

  
Frank Pulver

  
Larry Williams


  
Jason Carnahan

  
Rory Walker

  
Mary Diehl

#### **ADJOURNMENT**

There being no further business to come before the board, the meeting was adjourned at 7:10 p.m.

  
Frank Pulver, Chairperson

  
Chris Gaumer, Zoning Administrator/Acting Secretary