

**MINUTES**  
**DEKALB COUNTY BOARD OF ZONING APPEALS**  
**Monday, February 12, 2024**

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: Frank Pulver, Mary Diehl, Rory Walker, Larry Williams, and Jason Carnahan  
Members absent: None.

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

Public in Attendance: Martin Miller, Dennis Schmucker, Brandon Wellman, Bettina Wellman, Angela Wallace, James Zehr, Nathan Eicher, Brandon Zehr, Willis Graber, Chad Seiler, and Brian Roth

**APPROVAL OF MINUTES:**

Motion was made by Jason Carnahan and Seconded by Mary Diehl to approve the Minutes of January 8, 2024 as submitted. Motion carried.

**OLD BUSINESS:**

None

**NEW BUSINESS:**

Petition #24-02 – DeKalb #1 Amish School & Cemetery, Jesse Zehr & Martin Miller requesting a Use Variance to allow for an Amish Parochial School for up to 90 students. The property is located at 4366 County Road 64, Auburn, Indiana and is zoned A2, Agricultural.

Chris Gaumer read the Staff Report.

Frank Pulver asked if there were any questions from the board.

Rory Walker stated his biggest concern was about the septic system and sense the Health Department has already approved we should be okay and asked what recreational activities would go on during school.

Frank Pulver invited the Petitioner to speak.

Martin Miller approached the podium and answered that the recreational activities would be a basketball court, softball field and playground. Being there would be no lighting for activities after school.

Mr. Pulver asked how the school would get their power. Mr. Mill stated they would be using solar power.

Larry Williams asked how the septic system process has been completed. Mr. Miller stated that the Health Department is working with the state to approve how the septic will be designed and soil borings have been done.

Mr. Pulver asked if it will be a conventional or mound system. Mr. Miller stated it must be a mound system due to what was found in the soil.

Mr. Pulver opened the public portion of the hearing to anyone in favor or not in favor.

Brandon Wellman approached the podium to speak against the petition. Asking if this variance should be approved, what provisions will be taken to have a landscape and visual buffer if Mr. Miller has suggestions, will it be amended in the submittal. Mr. Gaumer stated he would like all the questions addressed now and will be answered later. Mr. Wellman asked who is responsible for the planning staff

recommendations. Mr. Gaumer, stating he is preparing the staff report. Mr. Wellman stated what a Use Variance means and being nothing in the UDO or Comprehensive Plan to allow for a school.

Bettina Wellman approached the podium to speak against the petition. To state the proposed cemetery that was approved in March of 2022 by the BZA, adding the board heard from the petitioner to get the cemetery approved than a school would be added in the future. Asking how many buses and/or horse and buggies will be needed to meet the maximum 90 students. Stating questions from the proposed findings of fact. Asking what will be done about the activities listed that are not on the site plan.

Brian Roth approached the podium, having concerns on how the value of his house will be affected and how access to his home will be addressed when a funeral or school is going on. Asking if there had been a road study on the condition of the road.

Mr. Gaumer answered the stated questions. Staff recommendations are made for the board members as a proposal, deciding based on their own findings of fact not having to use what is recommended. The BZA is allowed to deviate from the UDO and explaining how the board hears three types of cases. The petitioner can explain more about a noise buffer and how many horses and buggies or buses will be needed. Answering Mr. Roth's questions about being denied access to his driveway stating that the board has no control over access to your driveway. When the Highway Department viewed the road, they didn't suggest doing a road assessment.

Mr. Pulver asked Mr. Miller to come back to the podium to go over the addressed questions.

Mr. Miller explained what will be added for the landscaping and wants to come to an agreement with the neighbors. Mr. Gaumer asked Mr. Miller how many buses or horses and buggies would be needed. Mr. Miller assumed there would be three vehicles and two yellow school buses, maybe more when the max number of students is met.

Mr. Williams asked if we had any precedents in the county that we could consider for information on something like this, for example County Meadows. Mr. Pulver stated we would have to do some research to see what process was used.

Mr. Pulver stated he was part of the past petition for the cemetery and a school would come after the cemetery was approved. Jason Carnahan added the petition had been brought forward before as school and cemetery being deeded as #1 Amish School and Cemetery. Mr. Gaumer stated when the cemetery was brought forward there was a label for a future school on the site plan.

Bettina Wellman approached the podium asking what would be added to the school after approved and should these be added to the site plan.

Mr. Gaumer stated that he's hearing about the recreational areas for the first time. Everything needed to be added to the site plan that was being proposed and the board could require them to come back. As far as the landscape and buffer is concerned, Mr. Miller is requesting that he meet with the landowners to come to an agreement. Recommending to the board that if this was to get approved that a landscaping plan come forward with signatures from the neighboring landowners to show that they approved.

Mrs. Wellman asked why no other land can be used for a school but this one can. Mr. Gaumer stated it is up to the board to make the decision. Using the findings of fact to answer if this particular use of land can be used for a school.

Mr. Roth approached the podium with concerns about who pays for the school buses and the drivers from Allen County. Andrew Kruse answering that the public schools provide transportation for students not going to their school with no extra costs, not knowing for sure if that's how it works.

Mr. Pulver determined there were no further questions from the public, so he closed the public portion of the hearing. Asking the board if they had any more discussion.

Mr. Williams stated he is never opposed to considering more time for the proposed findings to add the new plans and are we being consistent with what other schools have done. Mr. Carnahan asked with that information does that constitute it as an incomplete application?

Mr. Gaumer stated that he can say not only because you can make it as a condition of approval. If only it is not going to change the use of the property. Being up to the board to make the decision if proposed additions are added. Recommending that if this is approved that no permitting gets submitted until we receive the plans for the basketball court and softball field. With a landscape plan approved by the neighbors. Not having any concerns if you want this to be continued.

Mr. Kruse stated before he could go through the questions about the proposed findings of fact, I would be interested in finding out whether someone is going to make a motion to postpone having another hearing date or should he proceed with the findings.

Motion was made by Mr. Williams and Seconded by Mrs. Diehl to postpone the meeting till the next meeting March 11. Mr. Kruse clarified that postponing would continue with either side being able to bring further evidence forward. Mr. Gaumer stated we wouldn't be hearing the same proposals brought forward from tonight just continuing with new evidence the board sees fit to bring forward needing to be specific.

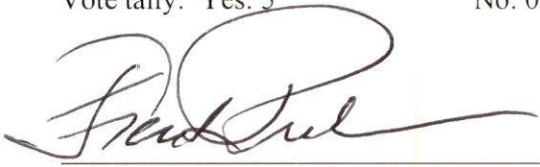
Mr. Williams stated he would hope to see the groups work out their differences by having a landscape plan done or agreed on by the neighbors. Mr. Pulver would like to see plans for the general location of the recreational areas. Having an idea of what will be put in those locations. Mrs. Diehl major concern was the buffer being situations where a buffer wasn't added? Would like to see something in writing for an agreement on a buffer.

Mr. Williams asked when the proposals need to be submitted by. Mr. Gaumer stated the items will be needed by February 28 at minimum March 4 to get everything compiled for the meeting.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS USE VARIANCE, PETITION #24-02 IS HEREBY CONTINUED TO MARCH 11, 2024 ON THIS 12<sup>TH</sup> DAY OF FEB. 2024.

Motion made by Larry Williams, Seconded by Mary Diehl

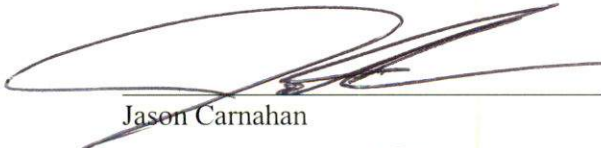
Vote tally: Yes: 5 No: 0



Frank Pulver



Mary Diehl



Jason Carnahan



Rory Walker



Larry Williams

Petition #24-03 – Bret & Dinah Miller 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 1.73 net acres and 2 acres is required. The property is located at 2822 County Road 56, Auburn, Indiana and is zoned A2, Agricultural.

Chris Gaumer read the Staff Report.

Frank Pulver invited the petitioner to speak.

Angela Wallace approached the podium and stated the request to allow for a reduction to the required lot acreage for a proposed 1 lot subdivision. Stating that she has a sketch to show how the property will have to be 5 acres to meet the requirements.

Frank Pulver questioned the address sign posted.

Mrs. Wallace stating that the address is still part of the other property until it gets split.

Mr. Pulver asked if there were any further questions for the petitioner.

Larry Williams questioned the two septic sites being approved. Mr. Pulver asking if they had been approved.

Mrs. Wallace stating that they have been approved.

Rory Walker asked if lots can be downsized against the UDO, and what if someone had this two-acre lot and wanted to build a pond, what's the difference between the wetlands being there.

Mr. Gaumer asked if the wetland had been delineated. Mrs. Wallace stated they had already delineated the wetland.

Mr. Walker asked by approving this were granting them financial benefit to section the property off without being able to build in the wetland.

Mr. Gaumer stated that financial benefit is not the reason. It is what makes the most sense for the landowner to be able to use the land.

Mr. Pulver asked are the borings for the well or the septic.

Mrs. Wallace stated that there for the septic having not moved forward on how the septic will be done.

Mr. Gaumer stated that the Health Department doesn't want to move forward till the project site has been approved by the BZA.

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 **January 10, 2024**
2. Legal notice published in The Star on **February 2, 2024** 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 **January 16, 2024**
5. Letter from the County Highway Department, dated **January 12, 2024**
6. Letter from the Soil & Water Conservation District, dated **January 11, 2024**

7. Letter from the County Surveyor or Drainage Board, dated **January 23, 2024**
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 a new single-family home and the petitioner has found 2 sites for a septic system per the rules of the Health Department.*

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 allow for the construction of a new single-family home to be built. With the lot being out of the delineated wetlands and regulated drain, the net lot acreage cannot meet the 2 acre requirement. The petitioner has found 2 sites for a septic system per the rules of the Health Department.*

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

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. 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.

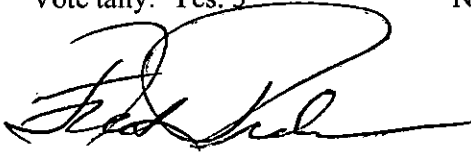
IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS DEVELOPMENT STANDARDS VARIANCE, PETITION #24-03 IS HEREBY GRANTED APPROVAL ON THIS 12<sup>th</sup> DAY OF FEBRUARY 2024.

Motion made by : Larry Williams

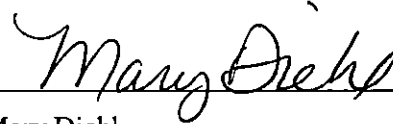
Seconded by: Jason Carnahan

Vote tally: Yes: 5

No: 0



Frank Pulver



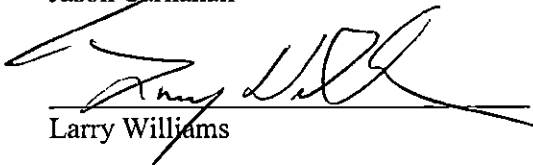
Mary Diehl



Jason Carnahan



Rory Walker



Larry Williams

**REPORTS OF PLANNING STAFF, OFFICERS, OR COMMITTEES**

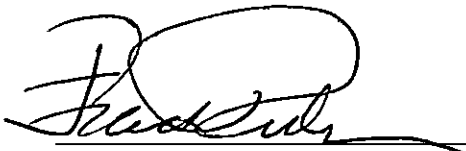
None

**COMMENTS FROM PUBLIC IN ATTENDANCE**

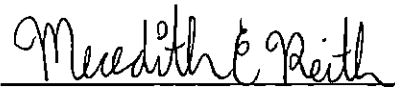
None

**ADJOURNMENT**

There being no further business to come before the board, the meeting was adjourned at 7:30 p.m.



Frank Pulver, Chairperson



Meredith Reith, Secretary