

**MINUTES**  
**DEKALB COUNTY BOARD OF ZONING APPEALS**  
**Monday, March 11, 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: James Zehr, Jesse Zehr, Nathan Eicher, Ben Schmucker, Dennis Schmucker, James Eicher, Victor Graber, Willis Graber, Martin Miller, Marlene Miller, Andy Wagner, James Witmer, Landon Roth, Janelle Roth, Dayne Roth, Brandon Wellman, Bettina Wellman, Brian Roth.

**APPROVAL OF MINUTES:**

Motion was made by Jason Carnahan and Seconded by Larry Williams to approve the Minutes of February 12, 2024 as submitted. Motion carried.

**OLD 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 petition continued from the previous meeting. Reviewing the updated site plan with proposed changes. He requested the public portion of the hearing be reopened for comments for or against this petition.

Frank Pulver reopened the public portion of the hearing.

Martin Miller approached the podium stating that he had met with neighbors on site. Having the proposed trees and landscaping agreed on by the neighbors.

Mr. Pulver requested that Jesse Zehr approach the podium. Mr. Zehr stepped forward adding that there meeting with the neighboring landowners was left on good terms. If approved by the board the site plan was agreed on by the neighbors.

Ben Schmucker approached the podium thanking the board for their interest in learning more about Amish Schools. Sharing what the agreements for a school are under state law. He would like to work faithfully with the government and county to come to an agreement.

Rory Walker asked if any neighbors in Allen County came forward with opposition or comment. Mr. Schmucker stated they have not faced a situation like this before in other counties.

Bettina Wellman approached the podium stating that her family was opposed to having this school brought forward. Thanking the board for the extended time regarding this petition. She stated that it is difficult to find appraisers when a meeting is involved. The neighbors, as stated before, had met with the petitioners to propose changes for 10-12 foot barriers and landscaping. Requesting that a barrier be added on the south side extending to the west of the property if approved by the board. The traffic flow on CR 43 will increase with concerns about the road needing to be paved. She also requested that there be an approval for no after-school activities.

Andy Wagner approached the podium stating he has lived in the Amish community and would be supportive of a school. Having concerns about the increased flow of traffic on CR 43 with the road not being paved.

Janelle Roth approached the podium stating her concerns for an Amish school located in Dekalb County. Stating that she doesn't want them coming into her community.

Brandon Wellman approached the podium stating the opposition to where this school is being placed. With the school not being in the Amish community.

Mr. Pulver closed the public portion of the meeting.

Mr. Gaumer stated that conditions of approval can be added to the findings requested from the board. The board has no authority over the roads being paved. Those requesting would need to contact the Highway Department or the Commissioners. As far as no after school activities taking place, was not sure how this would be enforced or addressed. If conditions of approval are to get added it will be stated in the minutes. Stating that he did request the petitioners have a meeting with the neighbors and have something agreed on in writing.

Mr. Carnahan stated that we're looking at this more as a finding of fact vs. paying reasonable regard to as recommended for approval.

Andrew Kruse added that these are just proposed findings from the Zoning Administrator and are not binding. The board doesn't need to use these recommended findings as stated they can state their own opinion.

Rory Walker stated that a 10- 12 foot mound buffer will take too much property to constructed and trees would probably be the better option. Seeing no reasons why hours of operation should be limited.

Mr. Pulver added that if there needs to be barriers what type are we looking at. A mound of that size would be a big undertaking with possible drainage issues. Adding that he needs a better understanding of who is for and who's against.

Larry Williams asked for clarification on the word "typical" or is this "common" for an Amish School and cemetery to be located on the same property.

Mr. Gaumer stated that these changes will need to be approved in the findings. He also asked Mr. Williams if he felt all his questions and concerns were answered.

Mr. Williams stated he was very appreciative that the groups met and discussed their concerns and differences. He added that there will be time needed for the buffer to mature.

Mr. Pulver added that under the conditions of approval there needs to be an agreement on a buffer.

Mr. Kruse stated that everyone agrees there needs to be a barrier as part of the conditions. A discussion on trees said height or size.

Mary Diehl stated that she lives in Concord Township being surrounded by Amish and have been easy to work with. Knowing a buffer will be the answer. She stated that the east side of the county is dirt roads and has been for quite some time. This will need to be addressed by the Highway Department or Commissioners if the road could be paved.

Mr. Carnahan stated if they agree on a landscape buffer this plan will need to go to the Drainage Board for approval. Not knowing what level of buffer can be required.

Mr. Kruse added that just planting the trees and shrubs will not require Drainage Board approval.

Mr. Gaumer suggested wrapping up the conditions that the landscape buffer on the south side be extended to the west edge of the softball field. Wanting the trees located on the east side to be reviewed by the Highway Department for right of way requirements. The landscape buffer on the east and south side be

planted at 8 foot minimum height and spaced per the site plan and the north side be planted at 10 foot minimum height. Adding that any landscape buffer must be maintained for the life of the project.

Mr. Kruse went through the Findings for this petition with the board. Stating the board can respond with their changes or opinion when read.

### **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 5, 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 11, 2024**
6. Letter from the Soil & Water Conservation District, dated **January 12, 2024**
7. Letter from the County Surveyor or Drainage Board, dated **January 11, 2024**
8. Letter from the DeKalb County Airport Authority, **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 school should not be injurious to the community. The cemetery was approved in March 2022 and it is typical and or common for an Amish Parochial School and cemetery on the same property. See letters from the county departments.*
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 school year runs similar to English schools. Traffic will be minimal with only 90 students.*
3. Does the need arise from some condition peculiar to the property involved? Yes ( X )  
 No ( ) \*  
*The cemetery was approved in March 2022 and it is typical and or common for an Amish Parochial School and cemetery on the same property.*
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 ( ) \*  
*The cemetery was approved in March 2022 and it is typical and or common for an Amish Parochial School and cemetery on the same property. Unless the property would be approved for a Zone Map Amendment, there are no other locations in the County for this 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 for the County Health Department and Surveyor. Additionally, the Comprehensive Plan promotes compatible uses be near each other. For the Amish community, it is typical and or common for an Amish Parochial School and cemetery to be located on the same property. See letters from the county departments.*

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



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 the Amish Parochial School.
3. The petitioner must acquire local permits from the Health Department for a septic system and the County Surveyor or Drainage Board for a drainage plan.
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 District, or other agency as applicable. And further, where applicable, file written evidence of compliance with Federal or State agencies that were identified in the findings or conditions. The Zoning Administrator to determine when conditions have been met.
6. The landscape buffer on the East and South side is planted at 8 foot minimum height and spaced per the site plan. The landscape buffer on the North side is planted at 10 foot minimum and spaced per the site plan.
7. Maintain for the life of the project all trees and shrubs on North, East and South side.
8. Location of landscaping on the East side to be approved by the Highway Department.
9. Shrubs to be extended to the West edge of softball field.

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

Motion made by Larry Williams, Seconded by Mary Diehl

Vote tally: Yes: 5

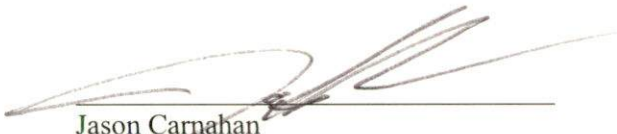
No: 0



Frank Pulver



Mary Diehl



Jason Carnahan



Rory Walker



Larry Williams

**NEW BUSINESS:** None

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

None

**COMMENTS FROM PUBLIC IN ATTENDANCE**

Bettina Wellman approached the podium stating clarification on the east side buffer setbacks.

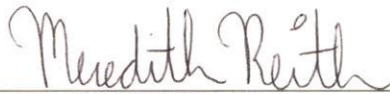
Mr. Gaumer stated that the site plan was revised based on what was given at the last meeting.

**ADJOURNMENT**

There being no further business to come before the board, the meeting was adjourned at 7:07 p.m.



Frank Pulver, Chairperson



Meredith Reith, Secretary