

MINUTES
DEKALB COUNTY BOARD OF ZONING APPEALS
Monday, May 13, 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, and Jason Carnahan

Members absent: Rory Walker

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

Public in Attendance: Vince Sutter, Denise Sutter, Steve Hartz, Devon Werder, James Witmer, John Witmer, Ben Schmucker, Ken Herb, Elmer Wickey, Leroy Schmucker, Neil Eicher, Ervin Graber, Marvin Graber, Lavern Steury, and Noah Eicher

APPROVAL OF MINUTES:

Motion was made by Jason Carnahan and Seconded by Mary Diehl to table the Minutes till the next meeting. None opposed. Motion carried.

OLD BUSINESS: None

NEW BUSINESS:

Petition #24-05 – S.E. DeKalb Amish Parochial School, Ben Schmucker & Jesse Zehr requesting a Use Variance to allow for an Amish Parochial School. The property is located on the west side of County Road 75, just south of the intersection of County Road 75 and County Road 68 Spencerville, Indiana and is zoned A1, Conservation Agricultural.

Chris Gaumer read the proposed petition and staff report.

Frank Pulver asked where the fence would be located that was stated in the staff report.

Mr. Gaumer stated that the fence will be located only on the south of the property proximity to the neighbors.

Mr. Pulver asked the petitioner to approach the podium.

Ben Schmucker approached the podium thanking the board for accepting and allowing this hearing for the proposed school. He stated his involvement with Amish school movements. Stating the articles of agreement for Amish Parochial Schools. Agreeing to place state and county approved wells and septic tanks. He informed the board that there was a morning and evening meeting with the neighbors prior to the hearing. Adding that on a Friday he had met with Vince Sutter. Being on vacation at the time of the meeting. Again, with questions and concerns. He added that it was recommended by Mr. Vince that he would like to see an 8 ft. fence constructed instead of a 6 ft. If the board would like to consider changing.

Mr. Gaumer stated that his only concerns would be the fence height not following the ordinance. That allows for a height of 6ft for a fence. The BZA through the Use Variance could allow the fence to be eight feet. There would need to be a condition of approval added to state what height the fence can be.

Mary Diehl asked to what extent would the fence be located to the south.

Mr. Schmucker stated that the fence would run east to west along the whole south side of Vince's property and back to the Witmer property line. Mrs. Diehl asked about the schools in Grabill if they were still in operation. Mr. Schmucker stated that all ten schools are still in operation at this point.

Mr. Pulver opened the public portion of the hearing up to any comments or questions for or against the proposed petition.

Ken Herb approached the podium to speak for the school. Seeing this as a great place to have children.

Denise Sutter approached the podium stating that she owns the property to the south of the school. Seeing concerns with the traffic on the road. And will the dust be addressed when more traffic picks up. She had concerns about the fire hazard if there were enough volunteers to cover an area of this size. Stating that there is a neighbor questionable to sustain laughing children and additional movement on our road. Wanting everyone to know this could jeopardize the safety of the school. She also stated her concern about the volume from the generators. Hearing Mr. Witmer's generator all the time.

Devon Werder approached the podium having concerns with the school being within the boundaries of DeKalb and Allen County. Would there be any children coming from outside the county? Having a limit on how many children can attend from the south side. Would they be coming from the north and west side.

Mr. Pulver asked what kind of power source would be used if there was a generator or solar powered system.

Mr. Schmucker stated that the property will use solar with a battery pack. Mr. Kruse asked if there would be any generators on the property. Mr. Schmucker stated that they would add more battery packs or solar panels for power. He added that he has spoken to the neighbors about dust control. He would be willing to apply oil or calcium chloride to control the dust.

Mr. Kruse stated that this BZA can't control the dust on the road. Those with concerns can contact the Highway Department or the County Commissioners.

Mr. Pulver closed the public portion of the hearing. He asked the board if they had any further questions.

Mr. Gaumer asked before the findings were read. What are the boards concerns on the height of the fence? Should it stay 6ft or allow a condition to be added for an 8ft fence.

Mr. Pulver stated that he wouldn't be in favor of having an 8ft fence. They could add shrubs or trees keeping the fence at a 6 ft height.

Jason Carnahan stated that he wasn't concerned about the fence. Since the UDO allows for only a 6ft fence he stated that there would need to be another condition of approval to allow for the 8ft.

Mrs. Diehl added that she would like to see some landscaping done. With a choice of fast-growing trees and shrubs that are more appealing.

Mr. Kruse went through the Findings of Fact 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 **April 9, 2024**
2. Legal notice published in The Star on **May 2, 2024** and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Health Department, dated **April 26, 2024**
5. Letter from the County Highway Department, dated **April 23, 2024**
6. Letter from the County Surveyor or Drainage Board, dated **April 22, 2024**
7. Letter from the Soil & Water Conservation District, dated **April 23, 2024**
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 school should not be injurious to the community. The neighborhood meeting on April 1, 2024 appears to ease perceived issues of an Amish Parochial School. 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 ()*
An Amish Parochial School will be needed for the increase of Amish students in DeKalb County and the need for the location to be in close proximity with Amish residents.
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 ()*
Unless the property would go through the Zone Map Amendment process, there are no other locations in the County for this use. Especially in the area needed.
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. The Amish residents are located within the vicinity of the proposed school. Also, see letters from the county departments.

PLANNING STAFF RECOMMENDATIONS/COMMENTS:

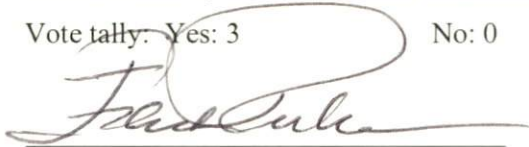
1. The Board retains continuing jurisdiction of this Use Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. Use Variance is approved for the Amish Parochial School.
3. The petitioner must acquire local permits from 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 there were identified in the findings or conditions. The Zoning Administrator to determine when conditions have been met.
6. The six-foot privacy fence to be located on the south side of the property with added landscaping.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS USE VARIANCE, PETITION #24-05 IS HEREBY APPROVED WITH CONDITIONS ON THIS 13TH DAY OF MAY 2024.

Motion made by Jason Carnahan, Seconded by Mary Diehl

Vote tally: Yes: 3

No: 0



Frank Pulver



Jason Carnahan



Mary Diehl

REPORTS OF PLANNING STAFF, OFFICERS, OR COMMITTEES

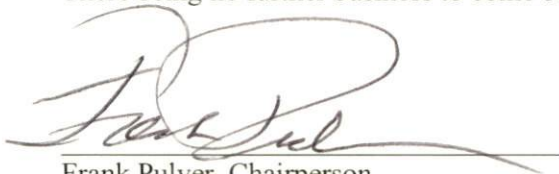
None

COMMENTS FROM PUBLIC IN ATTENDANCE

None

ADJOURNMENT

There being no further business to come before the board, the meeting was adjourned at 6:35 p.m.



Frank Pulver, Chairperson



Meredith Reith, Secretary