

MINUTES
DEKALB COUNTY BOARD OF ZONING APPEALS
Monday, April 8, 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, Rory Walker, Larry Williams, and Jason Carnahan

Members absent: Mary Diehl

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

Public in Attendance: Kevin Aldrich, Bill Hartman, Jarrod Aldrich, Frank Nester, and Drew Koeppe.

APPROVAL OF MINUTES:

Motion was made by Rory Walker and Seconded by Jason Carnahan to approve the Minutes of March 11, 2024 as submitted. Motion carried.

OLD BUSINESS: None

NEW BUSINESS:

Petition #24-04 – Frank Nester requesting a Use Variance to allow for a dumping site of “slurry”, which is the result or byproduct of removing soil and other debris with pressurized water. The property is located on the east side of County Road 9, approximately one-third of a mile north of the intersection of County Road 9 and US Highway 6, Corunna, Indiana and is zoned A2, Agricultural.

Chris Gaumer read the proposed petition and staff report. Stating how the process works when the slurry is brought to the site to be dumped.

Larry Williams asked will the soil coming in be able to be reused.

Mr. Gaumer answered this would be a question for Frank Nester to answer not knowing what will happen to the dirt when it's separated.

Frank Nester approached the podium stating that the soil will need to be maintained for how many trucks are coming in. After being dried the solids will need to be dipped out and can be sold for fill or whatever is needed. Anticipated as routine maintenance. Mr. Gaumer asked if the basin is meant to drain and not hold water to go to like a pond. Mr. Nester stated that the intention is to not be a pond but a drying basin, so the water evaporates and absorbs. Adding that any water leftover be maintained to the spillway located to the north. The water being filtered, and rock checked before it reaches the spillway located on Mr. Nester's property.

Frank Pulver asked what the capacity of the basin is.

Mr. Nester stated that the approximate capacity of the basin will be constructed to hold up to 450 trucks including the liquids and solids not accounting for absorption or evaporation. Mr. Pulver asked if there were any other drying basins nearby. Mr. Nester stated that there being none in Dekalb County there is a need to have one located in the county. Having others outside the county that aren't as close. Mr. Gaumer added that once the slurry is excavated it can't be used as fill, which is why a basin is needed to dry it to be reused.

Mr. Williams asked how much paperwork will be needed from the trucks arriving at the dump site.

Mr. Gaumer stated that the IDEM told him that its up to the contractor's or sub-contractors to self-report what there digging in.

Mr. Nester stated that this is a non-hazardous site. Any vendor that comes to this site it will be their responsibility to sign paperwork stating there not bring anything hazardous. If there is anything hazardous, they must go to the site in Indianapolis that takes the hazardous materials.

Rory Walker asked what the deepest amount is before it reaches the overflow.

Mr. Nester stated the capacity of the basin is 5ft from the bottom to the top, and what the change will be to the site located on the maps. Stating that the basin needs to be sizeable to account for rain and whatever, to have a goal of not having an overflow going into the wetlands by maintaining the basin regularly.

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

Kevin Aldridge approached the podium stating that he owns the property adjacent to the proposed basin asking where the adjacent wetland is located. Mr. Gaumer stated that the wetland is north of Mr. Nester's property, located in a wooded area. Mr. Aldridge stated that his property already has flooding problems. The 12-inch county tile located there is not adequate to have any runoff that may come. Having concerns on the spillway if hazardous waste was to enter the tile. And concerns on the condition of the road when additional trucks are on it.

Bill Hartman approached the podium stating that Mr. Nester had bought the ground by contract. The county tile is located one hundred yards south of the proposed site and the spillway will be draining away from the county tile. Being not many sites for dumping like this. He stated what a hydro vac system is and how it works. Mr. Gaumer asked if the road is paved or gravel. Mr. Hartman stated that the road is paved to the cell tower and turns to gravel.

Mr. Gaumer stated that this petition goes through technical review and has been reviewed by the Highway Department for this use. Sometimes Ben Parker will request a designated route for the trucks. Not having any concerns about the need for any upgrades or changes for this project.

Mr. Nester approached and added that the road is not maintained like it should. Knowing there will be more traffic on the road, with there already being a lot of traffic. With doing his diligence to make sure no water comes to the neighboring landowner.

Mr. Walker asked if it was an honor system when the trucks come to dump.

Mr. Nester answered that they fill out a ticket stating where they did the excavation, what day it was on, and then they fill out a ticket. The business would get billed monthly on how many dumps they do, so we can keep track if something doesn't look right and can go back and see who was there.

Mr. Pulver closed the public portion of the hearing.

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 **February 28, 2024**
2. Legal notice published in The Star on **March 29, 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 **March 18, 2024**
5. Letter from the County Highway Department, dated **March 19, 2024**
6. Letter from the County Surveyor or Drainage Board, dated **March 14, 2024, April 2, 2024**

7. Letter from the Soil & Water Conservation District, dated **March 14, 2024**
8. Permit from Indiana Department of Environmental Management, dated **February 21, 2024**
9. 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 dump site and drying basin should not be injurious to the community. The drying basin has been designed and engineered to safely unload the slurry with property overflow if necessary and approved/permited by Indiana Department of Environmental Management.
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 surrounding uses are farm ground.
3. Does the need arise from some condition peculiar to the property involved?
 Yes (X) No () *
The drying basin has been designed and engineered to safely unload the slurry with property overflow if necessary and approved/permited by Indiana Department of Environmental Management. The DeKalb County UDO does not have a use for this type of project, thus, there is no site in the County. The hardship comes with the lack of locations available in the region for this 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 () *
The DeKalb County UDO does not have a use for this type of project, thus, no site in the County. The hardship comes with the lack of locations available in the region 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 Indiana Department of Environmental Management.

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 a dumping site of "slurry", which is the result or byproduct of removing soil and other debris with pressurized water.
3. That the proper Drainage Plan, if required, be submitted to and approved by the DeKalb County Surveyor and Drainage Board prior to the start of construction for the project.
4. No permanent structures, including trees, will be installed within the John Potts Lateral 2 Spur 3 Branch 1 Regulated Tile Drain No. 39-02-3 75-foot right of way without first getting a variance from the DeKalb County Drainage Board.
5. 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.
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 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.

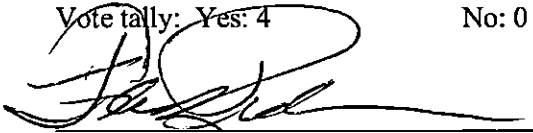
7. An "ingress/egress, maintenance and use easement" be written and recorded that allows the owner of the property with the drying basin to access the northern property for maintenance of the spillway. The easement shall also not allow any structures to be built within the wetland area that IDEM is allowing the spillway to flow into. Should the easement no longer be needed, it shall have written consent from the Zoning Administrator to dissolve the easement.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS USE VARIANCE, PETITION #24-04 IS HEREBY APPROVED WITH CONDITIONS ON THIS 8TH DAY OF APRIL 2024.

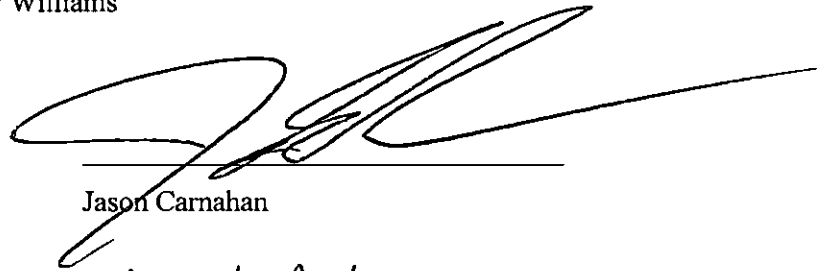
Motion made by Rory Walker, Seconded by Larry Williams

Vote tally: Yes: 4

No: 0



Frank Pulver



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 6:41 p.m.



Frank Pulver, Chairperson



Meredith Reith, Secretary