

MINUTES
DEKALB COUNTY BOARD OF ZONING APPEALS
Monday May 14, 2018

The Regular 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 Chairman Ruth McNabb.

ROLL CALL:

Members present: Matt Bechdol, Timothy Griffin, Frank Pulver, and Ruth McNabb

Members absent: James Stahl

Staff Present: BZA Attorney David Kruse, Director/Zoning Administrator Chris Gaumer and BZA Secretary Caeli Hixson

Public in Attendance: Brad Baker, Clayton Baker, Jack Bortner, Margie Bortner, Ron Mitchel, Steve Getts, Brian Crager, Dave Rodecap, Nate Noris, Jeremy Lutter, Shalon Getts, W. Crow, Ben Graber, Joseph Graber and Mark Graber

APPROVAL OF MINUTES:

Motion was made by Matt Bechdol and seconded by Tim Griffin to approve the minutes of April 9, 2018. Motion carried.

OLD BUSINESS:

None

NEW BUSINESS:

For the information of the members of the public, Chairman Ruth McNabb introduced the members of the Board and Staff and explained the process of the hearings.

A public hearing was conducted pursuant to proper legal notice.

Petition #18-06 - Steve & Shalon Getts requesting a Development Standards Variance to allow for a reduction in the front yard setback for a new home to be built on the existing foundation. The property is located at 0869 County Road 24, Corunna, Indiana and is zoned A2, Agricultural.

Zoning Administrator Chris Gaumer read the report. He previously was told that the home would be rebuilt on the existing foundation but after speaking with the owner's today it was determined that the foundation was in bad shape and would have to be rebuilt as well.

Nate Noris, representing Mr. and Mrs. Getts, stated that they were needing a variance due to the placement of the septic system. Due to the wetlands and layout of the property, the septic system placement is a sensitive area.

Mr. Bechdol asked if there was an approval letter from the Department of Health.

Mr. Gaumer said that there was.

Mrs. McNabb asked if it were a new septic system being put in. Mr. Noris said yes, the old system has to be crushed and abandoned.

Mr. Pulver asked how big the slab would be. Mr. Noris said the home would be 2,000 sq. ft. ranch on a basement with a 3 car garage.

Mr. Gaumer asked what the size of the existing house is. Mr. Noris said it is around 1,300 or 1,400 sq. ft. with a 2 car garage.

Mrs. McNabb asked if there were any questions or concerns from the audience.
There were none.

Mr. Gaumer recommends approval.

Mrs. McNabb closed the public hearing.

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 **3/29/18**
2. Legal notice published in The Star on **5/1/18** and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff. **YES**
4. Letter from the County Board of Health, dated **4/9/18**
5. Letter from the County Highway Department, dated **3/29/18**
6. Letter from the County Surveyor or Drainage Board, dated **3/29/18**
7. Letter from the County Soil/Water Conservation District, dated **4/2/18**
8. Airport Board report, if applicable **N/A**

FINDINGS OF FACT - UDO REQUIREMENTS:

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 proposed reduction in the front yard setback will not be injurious to the public as the proposed structure will be 71.5' to the edge of the pavement. Also, see DeKalb County Board of Health letter, Highway Dept. letter and County Surveyor letter.

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 proposed reduction of the front yard setback will not impact the property values negatively. In fact, the new structure will likely raise property values. Variance will result in similar setbacks as adjoining properties.

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 proposed reduction in the front yard setback is requested because the petitioner wishes to utilize the existing foundation location which is 41.5' from the front property line. The variance is needed to accommodate the new septic system and wetland areas.

CONDITIONS OF APPROVAL:

1. The Board retains continuing jurisdiction of this from Development Standards Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. This Development Standards Variance to allow this reduction in the front yard setback to 41.5' 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 #18-06 IS HEREBY GRANTED APPROVAL ON THIS 14th DAY OF MAY, 2018.

Tim Griffin made motion to approve Petition #18-06, seconded by Frank Pulver.

Vote tally: Yes: 4 No: 0


Matt Bechdol


Frank Pulver


Tim Griffin


Ruth McNabb

Petition #18-07 - Country Heritage Winery requesting a Development Standards Variance to allow for a permanent business sign, electronic message sign, and a variance for the height and size of the sign. The property is located at 0185 County Road 68, LaOtto, Indiana and is zoned A2, Agricultural.

Zoning Administrator Chris Gaumer read the report.

Ron Mitchel, representing Country Heritage Winery, said that the sign was so they could express different events and activities since the business has grown over the years. The sign would be on the East side of the property.

Mr. Gaumer asked if the sign would dim at night. Mr. Mitchel said that the sign is preprogrammed to automatically adjust. Mr. Mitchell said that the brightness is measure in nits. During the day they would be at 7,500 nits whereas at night it would be on a lower level, around 500 nits, so that it is not blinding.

Mr. Pulver asked how late the winery is open.

Jeremy Lutter, owner of Country Heritage, said Monday through Thursday they are open 11 a.m. to 7p.m. and Friday and Saturday until 8p.m. There are occasions where they stay open until 9 p.m.

Mr. Kruse asked if the State Highway had any objections.

Mr. Mitchel said they did not.

Mrs. McNabb asked how many feet above the ground the bottom part of the sign would be.

Mr. Mitchel said it will be just a little over 10 feet.

Mr. Kruse asked how close an adjoining land owner would be.

Mr. Gaumer said the only home close is the owner's and he is the only one that will be able to see the sign from home.

Mrs. McNabb asked if there were any questions or concerns from the audience.

There were none.

Mr. Gaumer recommends approval.

Mrs. McNabb closed the public hearing.

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 **4/10/18**
2. Legal notice published in The Star on **5/1/18** and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff. **YES**
4. Letter from the County Board of Health, dated **4/24/18**
5. Letter from the County Highway Department, dated **4/11/18**
6. Letter from the County Surveyor or Drainage Board, dated **4/12/18**
7. Letter from the County Soil/Water Conservation District, dated **4/11/18**
8. Airport Board report, if applicable **N/A**

FINDINGS OF FACT - UDO REQUIREMENTS:

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 proposed signage will not be injurious to the community. Also, See DeKalb County Board of Health letter, Highway Dept. letter and County Surveyor letter. Applicant said the State Highway Dept. had no objections to the sign.

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 proposed use of the property is a winery with the surrounding uses being single-family residential and agricultural. No objectors appeared.

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 ()*

Signage is not allowed for businesses located in an Agricultural Business zoning district. The proposed signage is needed for the business and should be permitted for economic and prudent business reasons.

CONDITIONS OF APPROVAL:

1. The Board retains continuing jurisdiction of this from Development Standards Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. This Development Standards Variance to allow a permanent, double faced pylon sign in the A1 Zoning District on an agricultural business use; the sign to be 290 square feet in size and 20 feet tall; Internal Illumination of cabinet sign; Electronic Message Sign is approved.
3. Sign has automatic dimmer. No strobe light effect is permitted.
4. Comply with any applicable Environmental Standards as required in Article 5, 5.11; EN-01, in the Unified Development Ordinance. 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 #18-07 IS HEREBY GRANTED APPROVAL ON THIS 14TH DAY OF MAY, 2018.

Matt Bechdol made motion to approve Petition #18-07, seconded by Frank Pulver.

Vote tally: Yes: 4 No:

Matt Bechdol

Tim Griffin

Frank Pulver

Ruth McNabb

Petition #18-08 - Cedar Creek Sawmill requesting a Use Variance to allow for a light manufacturing for a sawmill to include wood shop, storage, office space and diesel storage. The property is located at the northwest corner of County Road 59 & County Road 56, Saint Joe, Indiana and is zoned A2, Agricultural.

Zoning Administrator Chris Gaumer read the report. He said that he wasn't very clear as to what the project consisted of until he spoke with the Graber's a little bit more recently. The sawmill is not included with this petition, they will not be taking raw material and making lumber. It will only include the woodshop, storage, office space and diesel storage. It is less intense of a use than originally thought but he still considers it light manufacturing because it is still taking a raw material and creating it into something else.

He said that they have 3 parcels totaling about 146 acres.

Mr. Bechdol said that he sees on the original application it is listed as calf barn and fish pond. He wants to clear that up that this is purely for use for he business.

Mr. Gaumer said that the remaining land will be used for agriculture. The calf barn and fish pond will be for residence on one of the other parcels and is not a part of this petition.

Ben Graber said that they have Special Exceptions from Allen County at their homes for businesses and that they are looking for the same thing here. He said that their way of life is different and at age 15 the children are finished with school and they go out and learn their trades. This is the way that they sustain and support their families. The farm does not produce enough income alone. He said that the runner-up bidder on this property wanted to subdivide it into many lots and build houses. He said that they would be making specialty crates, mostly made out of pine and hunting blinds. They get their lumber from Canada and it is brought in on trucks. There will be no wood chippers or tree grinders on the property and no vehicles with back-up beepers. Everything they do will be inside one of the proposed buildings so there will be no dust. It will be insulated as well to minimize any noise. There is a landscaping buffer that will also aide in noise reduction but also hide the outside storage of lumber. They have no objections to applying treatments to the driveway to reduce any dust from the stone drive.

Mr. Kruse asked if this would be for Amish family workers.

Mr. Graber said yes, they have English drivers but the rest of the work would be done by Amish/family.

Mr. Bechdol asked if this would be ran on a generator.

Mr. Graber said yes.

Mr. Bechdol asked what protections were in place against the noise of the generator.

Mr. Graber said that they have an engine with silencers on them as well as in an insulated enclosure.

Mr. Gaumer said that there is concern for safety with the driveway coming off of County Road 59 as it is busy and the speed limit is 55 mph with the trucks pulling in and out. There is an additional option to have the driveway be off of County Road 56 instead but he couldn't reach Ben Parker, Highway Superintendent, before the meeting to see if he would have any objections with the driveway being on CR 56.

Mr. Gaumer asked how many trucks a day they would have.

Mr. Graber said some days they have none and other days they might have 7 or 8. It varies.

Mrs. McNabb asked if there were any questions or concerns from the audience.

Clayton Baker said that he lives directly across from the property. His questions and concerns have already been addressed during the discussion and previous discussions with the Graber's except that he is concerned with the driveway and that it will be a safety issue. He said that the hours of operation starting at 6 a.m is a little early but since the noise shouldn't be an issue he thinks it will be ok.

Brian Crager said that his questions have been answered during the discussion thus far. He is now concerned that if this isn't approved they would be facing other issues if the land is then sold and a housing addition is put in. He also said that he feels that the driveway being on CR 56 is a better and safer option because of the speed and the hill on CR 59.

Dave Rodecap said that he owns property to the west. He purchased the property as a secondary property where they camp and essentially it is a playground for him and his family. He wanted to know if the Graber's would have hours of operation on the weekends.

Mr. Graber said they never work on Sunday's and they try their best not to work on Saturday's and if they do it is usually only until noon.

Mr. Rodecap said he also does not like the idea of the alternative with a subdivision there as well. It is nice and quiet and he wants it to stay that way. He also said that he is a former truck driver and there is no way that using an entrance on CR 59 is feasible especially with the railroad tracks.

Jack Bortner said that his concern is the driveway on CR 59 because of the speed and the hill, he feels that it is a dangerous area.

Mr. Graber said that they have no problem moving the driveway from CR 59 to CR 56 provided they get approval from the Highway Dept.

Mr. Gaumer said that he had a letter from Mr. and Mrs. Crager but since Mr. Crager spoke tonight at the hearing he just wanted to make note that the letter referenced their comments and questions.

Mrs. McNabb asked if there were any further questions or concerns from the audience.

There were none.

Mr. Gaumer has no recommendation. It is hard for him to say what the hardship is for this property to not allow it. He doesn't see that it can't be used for agricultural or single-family homes as that is the underlying intent of the A2 zoning district. However, he understands their livelihood and how the families and the faith interact as that this is something they need to make their family be sustainable. It is hard to say not to allow it but he also sees the underlying use of that zone.

Mrs. McNabb closed the public hearing.

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 **4/9/18**
2. Legal notice published in The Star on **5/4/18** and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff. **YES**
4. Letter from the County Board of Health, dated **4/24/18**
5. Letter from the County Highway Department, dated **4/11/18**
6. Letter from the County Surveyor or Drainage Board, dated **4/9/18**
7. Letter from the County Soil/Water Conservation District, dated **4/10/18**
8. Airport Board report, if applicable **N/A**

FINDINGS OF FACT – UDO REQUIREMENTS:

1. **Will the approval be injurious to the public health, safety, morals, and general welfare of the community?** Yes ()* No (X)

See conditions of approval.

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)

Adjoining land owner's did not object to the Use Variance but recommend CR 56 for driveway. Use Variance compatible with surrounding uses. Use Variance preferable to alternate development. See conditions of approval.

3. **Does the need arise from some condition peculiar to the property involved?** Yes (X) No ()*

Use Variance is needed for reasonable use of the property for Amish family projects including woodworking, for example: wood crate shop, hunter's blind or similar products. Wood working uses natural resources compatible with rural area. All work to be done inside the building. Use of engines with sound control to reduce noises. See conditions of approval.

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 ()*

Use Variance is needed for reasonable use of the property for Amish family projects including woodworking, for example: wood crates, hunter's blind or similar products. Wood working uses natural resources compatible with rural area. All work to be done inside the building. Use of engines with sound control to reduce noises. See conditions of approval.

5. **Will the approval interfere substantially with policies of the Comprehensive Plan?** Yes ()* No (X)

See findings 1, 2, 3, and 4 above. See conditions of approval.

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 light manufacturing to include a wood shop, storage, office space and diesel storage located at the northeast corner of County Road 59 & County Road 56, Saint Joe. Not to include a sawmill. Not to include fish ponds or calf barns.

3. All development be completed within three (3) years - including the landscape buffers (5' mounds & pine trees as indicated by the Site Plan). After which this approval expires. Subject to request for a 1 year extension with Zoning Administrator approval.
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, 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. For Amish family workers. Drivers may be English.
7. All woodworking to be done within a building.
8. Sound control generator or engine to reduce noise level. Zoning Administrator to determine reasonable noise buffer control.
9. Use slag or surface coating to control dust level on driveway as approved by the County.
10. Use to be as described at the hearing.
11. Lumber storage screened by landscape buffer. Some finished product could be outside also screened. All wood production work to be inside building.
12. Comply with Development plan including signs, hours. Truck delivery from 7 a.m. to 3 p.m.
13. Avoid truck use when SDI workers going to or from work on CR 59.
14. No use of back up beepers.
15. Developer to use driveway off of CR 56 if approval received from County Highway Dept. This is to be done within a reasonable time not to exceed 60 days subject to Zoning Administrators discretion. Re-hearing of this issue if access off CR 56 is not available.
16. No Sunday operations.
17. No external lighting.
18. No overnight delivery truck parking.
19. Any dispute to be taken back to the BZA for a hearing.
20. 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 USE VARIANCE, PETITION #18-08 IS HEREBY GRANTED APPROVAL ON THIS 14th DAY OF MAY, 2018.

Matt Bechdol made motion to approve Petition #18-08, seconded by Frank Pulver.

Vote tally: Yes: 4


No:

Matt Bechdol

Tim Griffin



Frank Pulver



Ruth McNabb

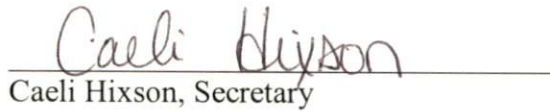
REPORTS OF PLANNING STAFF, OFFICERS AND/OR COMMITTEES:

None

COMMUNICATIONS:

None

There being no further business to come before the board, the meeting was adjourned at 7:48 P.M.


Ruth McNabb, Chairperson
Caeli Hixson, Secretary