

**MINUTES**  
**DEKALB COUNTY BOARD OF ZONING APPEALS**  
**Monday, May 24, 2021**

A Meeting of the DeKalb County Board of Zoning Appeals was called to order at 4:00 p.m. in the Commissioner's Court of the DeKalb County Courthouse by Chairman, Frank Pulver

**ROLL CALL:**

Members present: Frank Pulver, Jason Carnahan, Rory Walker and Jeff Barkhaus.

Members absent: Mary Hollabough Diehl

Staff Present: BZA Attorney, Andrew Kruse, and Director/Zoning Administrator, Chris Gaumer and Isabella Mowan

Public in Attendance: Randy Carey

**APPROVAL OF MINUTES:**

Motion was made by Mr. Barkhaus and Seconded by Mr. Carnahan to approve the Minutes of March 8, 2021. Motion carried.

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

For the information of the public, Mr. Pulver introduced members and Staff and explained the process of the public hearing was conducted pursuant to proper legal notice.

Petition #21-04 - Randy Carey on behalf of the owners Aaron & Crystal Grindstaff and Randall & Nicole Carey requesting a Development Standards Variance to allow a pond to be constructed between the property lines of the property owners with zero setbacks between the interior property lines. The required setback is 40 feet from all property lines. The property is located at 6315 County Road 327 and 6313 County Road 327, Garrett, Indiana and is zoned A2, Agricultural.

Mr. Gaumer read the Staff Report and answered questions from the Members.

Mr. Kruse made the suggestion that the document should be recorded so that it lies with the land and Petitioner may need to seek attorney counsel to see if they need to do any other type of official easement.

A discussion was had relative to adding "conditions of approval" the Petitioner will need to follow.

Mr. Pulver inquired if there were any questions from the members.

There were none.

Mr. Pulver invited Randy Carey to the podium.

Mr. Carey approached the podium, and stated his name and address.

Mr. Carey stated that he wants to build a pond and thought that his neighbors and he had the same idea about building the pond together. They would share responsibilities as far as maintenance, etc. He and his neighbor already share go-carts, driveway, etc.

Mr. Pulver inquired if Mr. Carey feels that 20-foot easement is enough.

Mr. Carey replied that he didn't have experience relative to the matter.

Mr. Gaumer stated that 20-feet would be approximately two lanes of traffic.

Mr. Pulver then asked if there were any questions from the audience.

There were none.

Mr. Pulver closed the public hearing.

*These are proposed findings which are not final until adopted by the Board. If any one of your answers below is followed by an asterisk, under State Law (IC 63-7-4-918.5) you must deny the variance request.*

### **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 **March 12, 2021**
2. Legal notice published in The Star on **May 14, 2021** 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 **March 12, 2021**
5. Letter from the County Highway Department, dated **March 15, 2021**
6. Letter from the Soil & Water Conservation District, dated **March 15, 2021**
7. Letter from the County Surveyor or Drainage Board, dated **March 16, 2021**
8. Letter from the DeKalb County Airport Authority, **not applicable**.

### **PROPOSED FINDINGS OF FACT:**

*These Findings of Fact proposed by staff are based off the knowledge and understanding of the proposed project. If any one of **your** answers is followed by an asterisk, under State Law (IC 36-7-4-918.5) and Section 9.09 G(3) of the DeKalb County Unified Development Ordinance you must deny the request.*

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 pond will provide fun and educational development for both property owners' families as well as added value to both properties.*
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 pond will likely increase property 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 property owners wish to share one pond with it being on both properties. With the size of the pond proposed, the setback requirements for each owner to have their own would result in a minimal size pond. The property owners have an agreement that will be recorded if the Variance is approved for the cost/expenses, maintenance fees and responsibilities agreed upon. They have written into the agreement contingencies if there should be a change in ownership, etc.*

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

#### **Conditions of Approval:**

Staff is recommending approval for this Development Standard Variance and recommends the following conditions:

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. A Variance to allow this pond to be created and split between the two properties is approved.



3. Provide proof of the recorded Pond Agreement to the Zoning Administrator prior to the Improvement Location Permit being issued. With addition of the word "use" in the 1<sup>st</sup> sentence of the agreement.
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 crossing over said real estate should be obstructed by any development on this site.
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, 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.


**Commitments of Approval:**


Staff is recommending approval. If the Board assigns commitments, they shall be given, signed and recorded with the DeKalb County Recorder's Office.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS VARIANCE FROM DEVELOPMENTAL STANDARDS, PETITION #21-04 IS HEREBY GRANTED APPROVAL ON THIS 24<sup>TH</sup> DAY OF MAY, 2021.

Motion made by Rory Walker, Seconded by Jeff Barkhaus

Vote tally: Yes: 4 No: 0

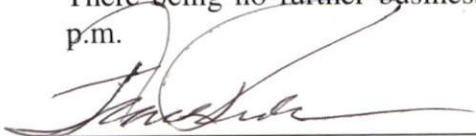
  
 RORY R WALKER

  
 Jeff Barkhaus

  
 Frank Pulver

  
 JASON CAENAHAN

There being no further business to come before the board, the meeting was adjourned at 4:19 p.m.

  
 Frank Pulver, Chairperson

  
 Isabella Mowan, Secretary