

MINUTES
DEKALB COUNTY BOARD OF ZONING APPEALS
Monday, October 11, 2021

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 Chairman, Frank Pulver.

ROLL CALL:

Members present: Frank Pulver, Jason Carnahan, Mary Diehl, and Jeff Barkhaus

Members absent: Rory Walker

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

Public in Attendance: Ben Krafft, Kyla Krafft, Judy Krafft and Chris Krafft

APPROVAL OF MINUTES:

Motion was made by Jeff Barkhaus and Seconded by Jason Carnahan to approve the Minutes of August 9, 2021. Motion carried.

OLD BUSINESS:

None.

NEW BUSINESS:

Petition #21-08 – Benjamin Zachariah Krafft and Christopher & Judy Krafft 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 5543 County Road 60 and 5475 County Road 60, St. Joe, Indiana and is zoned A2, Agricultural.

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

Mr. Barkhaus stated that while he was driving past the property he noticed the mound and questioned if it was within the road right-of-way.

Mr. Gaumer replied that it was. He further went on to explain that he had a conversation with Ben Park of the Highway Department and he is okay with where it has been placed. However, he is concerned about the drainage swale and that it has not been properly contoured so it will drain correctly.

Mr. Barkhaus stated that at the tracks there was a lot of debris and he wanted to know if it fell within the railroad right-of-way or is that a part of the Petitioners' property.

Mr. Gaumer stated that it was not really the railroad right-of-way. However, some fill has been put within and covered up. The Petitioners are working with IDEM and DNR to see how much the property was a wetland and if it is a wetland, they Petitioners will have to work with IDEM to get it remediated. There are conditions of approval that any of the man-made debris that has been dumped needs to be removed.

Mr. Pulver confirmed that it will be one of the conditions.

Mr. Gaumer stated that the Petitioners are not in compliance with regard to the pond permit.

Mr. Pulver inquired where the railroad was located.

Mr. Gaumer then referred to the aerial in the Staff Report.

Mr. Pulver inquired if there were any more questions from the Members.

There were none.

Mr. Pulver then invited a representative for the family to approach the podium. Ben Krafft approached the podium, stating his name and address. Mr. Barkhaus inquired if Mr. Krafft could explain the debris. Mr. Krafft replied it was where they dumped the construction debris. Mr. Gaumer inquired if Mr. Krafft had a plan to get the debris cleaned up. Mr. Barkhaus inquired if there was concrete also. Mr. Krafft replied in the affirmative. Mr. Barkhaus inquired if it was from the pond. Mr. Krafft replied in the negative. Mr. Gaumer inquired if Mr. Krafft had a plan to become compliant, in addition to his timeline within which to get it done. Mr. Krafft inquired what man-man made is. Mr. Gaumer replied man-made debris would be any of the concrete. He further stated that there were large amounts of concrete. Mr. Gaumer stated it was fine with the burning of the wood. Mr. Krafft replied that it is in the soil and water's office right now. Mr. Gaumer stated that the wetland determination is not the Soil and Water Conservation District. Kyla Krafft then approached the podium. Mrs. Krafft explained how the Army Corp visited the property to decide if the property was a wetland. They are still waiting to hear from them. Mr. Gaumer explained that the dumping of concrete on anyone's property is illegal by the County's standards. Mr. Krafft then inquired if Mr. Gaumer would give him the code. Mrs. Krafft stated that the berm was moved back and was planted and re-seeded. Mr. Gaumer stated that Ben Parker was more concerned about the swale down to the inlet that is crossing between the properties. Mrs. Diehl inquired if one of the property owners' sold their home, would it be transferable or is it a family agreement. Mr. Gaumer stated that any and all new owners of the properties will resume equally shared expenses, maintenance fees, responsibilities and uses. However, if one of the property owners doesn't want the pond, they would need to figure out what would happen with the pond. There was a discussion by Mike Watson relative to his thoughts on the pond. Mr. Gaumer inquired if the Petitioners had all the permits needed. Ryan from Earth Source stated he had all the pond permits and the site improvement permit filled out and have sent them. Mr. Gaumer inquired if the Petitioner were given a year to have all requirements completed, would it be long enough. Mrs. Krafft stated they had everything completed with the exception of the wetland. Mr. Pulver inquired if there were any more questions. There were none.

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 **August 17, 2021**
2. Legal notice published in The Star on **September 30, 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 **August 27, 2021**
5. Letter from the County Highway Department, dated **August 23, 2021**
6. Letter from the Soil & Water Conservation District, dated **September 30, 2021**
7. Letter from the County Surveyor or Drainage Board, dated **September 9, 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 not be injurious to the public. All items in Condition # 2 shall be addressed and completed.
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. All items in Condition # 2 shall be addressed and completed.
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 connection of the ponds will allow for the pond on 5543 CR 60 to use the outlet on the neighboring property. All items in Condition # 2 shall be addressed and completed.

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 the construction of a pond at 5543 CR 60 that will connect to an existing pond at 5475 CR 60, crossing over the adjoining property line, is approved if the following items are completed on or before September 1, 2022. Sign off that the items have been completed is required by the applicant or representative from the departments listed below.
 - a. An approved Improvement Location Permit is obtained from DeKalb County Development Services.
 - b. Stormwater Pollution Prevention Plan (SWPPP) is approved by the DeKalb County Soil/Water Conservation District.
 - c. The berms created with the excavated soil are removed & roadside ditch reshaped for better flow/drainage from and along the County Highway right-of-way along CR 60 as per the direction of the County Highway Superintendent.
 - d. The Drainage Board and/or County Surveyor review and approve a pond permit that will address constructed pond and the potential obstruction of any offsite drainage.
 - e. The removal of all manmade debris that has been dumped on the property located at the northeast corner of CR 60 & CR 55. A wetland delineation shall also be completed and

results given to the Zoning Administrator. Review and approval shall also be completed by the Drainage Board and/or County Surveyor as to the potential on-site and off-site drainage issues that the natural fill may cause.

3. Provide proof of the recorded Pond Agreement to the Zoning Administrator prior to the Improvement Location Permit being issued.
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 #21-08 IS HEREBY GRANTED APPROVAL/DENIAL ON THIS 11TH DAY OF OCTOBER, 2021.

Motion made by Jeff Barkhaus, Seconded by Jason Carnahan

Vote tally: Yes: 4 No: 0



Frank Pulver



Mary Diel

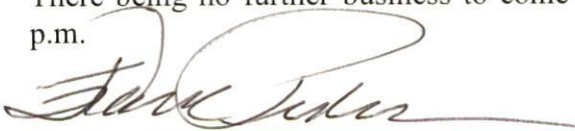


Jason Carnahan



Jeff Barkhaus

There being no further business to come before the board, the meeting was adjourned at 6:38 p.m.



Frank Pulver, Chairperson

unattainable



Isabella Mowan, Secretary