

MINUTES
DEKALB COUNTY BOARD OF ZONING APPEALS
Monday September 11, 2017

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 Vice Chairman James Stahl.

ROLL CALL:

Members present: Matt Bechdol, James Stahl, Mike Kaufman, Timothy Griffin, and Ruth McNabb

Members absent: None

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

Public in Attendance: Dustin Myers, Fernando Torres, Steve Dunning, Andy Jagoda, Laura Myers, Brian Kolbe, Sandy Harrison, Roger Newcomer, Richard Newcomer, John Harrison, Rich Clauss, Phil Clauss, Amanda Suntken, Trevor Suntken, Chade Sexton, Greg Wolf

ELECTION OF SECRETARY:

Motion was made by Timothy Griffin and seconded by Matt Bechdol to elect Caeli Hixson as Secretary of Board of Zoning Appeals. Motion carried.

APPROVAL OF MINUTES:

Motion was made by Matt Bechdol and seconded by Tim Griffin to approve the minutes of July 10, 2017. Motion carried.

OLD BUSINESS:

None

NEW BUSINESS:

For the information of the member of the public, Vice Chairman James Stahl 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 #17-16 - Steve Dunning requesting a Development Standards Variance to allow for an accessory structure to be built for the storage of personal property without a primary structure. The property is located approximately 200 feet west of the intersection of County Road 9A and County Road 68, Garrett, Indiana and is zoned R2, Medium Density Residential.

Zoning Administrator Chris Gaumer began with a review of Mr. Dunning's petition from November 2016 for a Development Standards Variance that the board had denied at that time. He stated that Mr. Dunning was now petitioning for a similar proposal with the main difference being that the property would not be used for a business with UPS/USPS deliveries and drop-offs. Mr. Dunning is now requesting that he would use the accessory building for personal storage only. Mr. Gaumer briefly explained some definitions outlined in the UDO, he believes that the variance could be permitted since the building would be used for personal storage. One

of the main concerns was the size of the lot, which is .26 acres and therefore does not allow for intended use of a single family residence. Mr. Gaumer cautioned that not allowing this use, in his opinion, might be considered a taking because it results in no allowance for any reasonable use of the land. There was also no surrounding land for Mr. Dunning to purchase in order to comply with standards for other uses of the land. Mr. Gaumer stated that the building would meet all setback standards for the ordinance.

David Kruse asked if the lots were all laid out prior to any Plan Commission. Mr. Gaumer stated that they were laid out a very long time ago before the Zoning Ordinance was enacted.

James Stahl wanted to clarify that none of the lots were big enough for a single family structure by themselves. Mr. Gaumer stated by themselves, no they were not big enough.

Mr. Stahl asked Mr. Dunning if he had anything to add to what has been discussed. Mr. Dunning stated that the only reason he bought the property was because he came to the building department before he purchased the lot to ask what he was able to do and could not do on the land. He stated that he was told he could not build a residence but he could build a building. He explained that he thinks his building would add value to the land and increase taxes for the county.

David Kruse stated that if he can't build the garage then there would be no other use for the land and that it would have to just lay there. Mr. Kruse asked if it would be a nice looking building, compatible with residential use. Mr. Dunning stated that he would have an architectural design, something that will be visually aesthetic.

Mike Kaufman asked who owns land around this property. Mr. Gaumer stated that he believes the gentleman that owns the house to the South, also owns all the lots surrounding it.

Mr. Kaufman asked why the lots were made so small and Mr. Gaumer said that they were created in 1955 which predates the Zoning Ordinance and he doesn't know why they were plotted off so small. He also said that there was no way for the County to go in and replat this area.

Ruth McNabb arrived at 6:15 p.m.

Mr. Dunning asked if the building cannot be put there can he put above ground storage units on skids because it wouldn't be implanted in the ground. Mr. Gaumer said no, he was getting the use approved or denied now so any type of storage would need to get approved. There was discussion about possible conditions that could be put in place such as requiring that no outside storage be allowed to prevent the land from becoming unsightly.

Mr. Stahl asked if any citizens of the public had any questions or concerns.

Mr. Clauss is concerned that if Mr. Dunning is permitted to do this that the dozens of other people who own single lots in this area, some in the middle of the woods, are also going to wish to do this which would require that roads be developed for access. He said that if one is granted permission then they can't deny any one else to do the same.

Rich Clauss owns several lots in this area. He asked how long Mr. Dunning has owned the lot. Mr. Dunning said he has had it for a little over a year.

Mr. Kruse asked what access there was now, if there was any adequate access to these properties. Mr. Clauss said that the other properties are in the middle of the woods and do not have developed roads.

Mr. Gaumer stated that typically with those types of subdivisions the developer would build the roads and they would be transferred to the county for ownership afterwards.

Brian Kolbe just purchased the house to the South of this lot and he owns the lots surrounding it. He said they bought the property because they wanted country living with scenery and that they

were told when they purchased it that the lot in question could never be built on which is one of the reasons why they bought the house.

Mr. Kruse asked who told them that the lot couldn't be built on. Mr. Kolbe said the realtors and the banks told him nothing could be built. He said that if the building is built there then the view from his kitchen and living room would be looking out to a building.

Mr. Kruse asked if any landscaping would help. Mr. Kolbe said in his opinion no because there would still be a building.

Chade Sexton stated that the 120-125 acres to the North of this property were going to become a nature preserve. He wanted to go over item number 2 of the proposed findings of fact, discussing how the use would affect adjacent properties. He stated that at this time they can't determine what affects the building would have on surrounding property values. He stated that if this is allowed then it has to be allowed anywhere else in the county.

Mr. Gaumer stated that this is something that has to be thought about because the UDO states that there has to be a minimum of 2 acres so if you don't have that then you have to look at what would be a reasonable use for the land. If you don't allow it or even if you do allow it then we are setting a precedence for uses on smaller parcels of land that we may or may not want to see in residential areas.

Matt Bechdol stated that they take each case and the merits that you need in context of that particular case.

Mr. Kaufman asked Mr. Dunning why he bought the property. Mr. Dunning said he saw it advertised on Craigslist, it's 10 miles from his house, and he thought that it looked like an opportunity for him to expand and have a building. He reiterated that he went to the building department before he purchased it and was told that he could construct a building.

Mr. Kruse asked what kind of structure it would be. Mr. Dunning said he would do a metal building with wainscoting and a front porch with some landscaping. He offered to plant trees in the back so that Brian Kolbe, the owner of the home behind the property, wouldn't have to see the building.

Phil Clauss explained that he feels that if this is to pass then they must allow others in the county to do the same. He also stated that he felt like his property would adversely disturb the architecture of everyone else's home. He also said that he doesn't feel that Mr. Dunning did the homework before he bought the lot.

Mr. Kruse asked if there were any covenants. Mr. Gaumer stated there were not.

Mr. Bechdol stated that he feels the concerns were around the related nature of the neighborhood and whether it was consistent with the Comprehensive Plan. He said that he has a hard time, given the nature of this situation, to plug a storage shed in the middle of the neighborhood when nothing like that exists.

Mr. Stahl asked if anyone else wished to be heard. There were none.

Mr. Stahl closed the public hearing.

Mr. Gaumer asked that each board member mark appropriately on their Findings of Fact, if they were in favor or not and list their reasons accordingly.

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 **6/21/17**
2. Legal notice published in The Star on **8/30/17** 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 **8/23/17**
- 5. Letter from the County Highway Department, dated **8/3/17**
- 6. Letter from the County Surveyor or Drainage Board, dated **8/14/17**
- 7. 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)

No harm to the general welfare of the community.

- 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 (x)* No ()

Not able to determine what the structure would look like at this time. The storage next to residential use is a significant departure and inconsistent with The Comprehensive Plan. As a result the variance for storage would substantially effect the value of adjoining real estate.

- 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 ()*

There may be practical difficulty in development of this lot but no practical difficulty exists that could not have been discovered by due diligence. There is alternate use of a garden.


IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS DEVELOPMENT STANDARDS VARIANCE, PETITION #17-16, IS HEREBY DENIED ON THIS 11TH DAY OF SEPTEMBER, 2017.

Matt Bechdol made motion to deny Petition #17-16, seconded by Mike Kaufman.

Vote tally: Yes: 4

No: 0

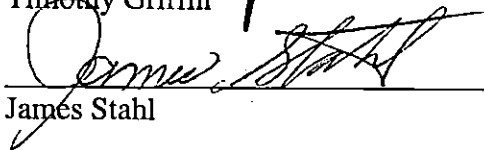
Ruth McNabb abstained



 Timothy Griffin



 Matt Bechdol



 James Stahl

_____ *unable to sign*
 Mike Kaufman

PETITION #17-17 – LINK Investments, LTD. requesting a Use Variance to allow for a telecommunication tower. The property is located at 2010 County Road 61, Butler, Indiana and is zoned A4, Agricultural Business.

Mike Kaufman recused himself from this hearing due to a conflict of interest and left the room.

Ruth McNabb took her place as Chairman for the duration of the meeting.

Mr. Gaumer began with a brief overview of the zoning districts and why a Use Variance was needed to build this telecommunications tower. He also included what the rules and regulations

were per the UDO. They currently have equipment on a grain bin on the property that serves about 50 properties in that vicinity. The property owners will be demolishing those grain bins, with no replacement the service will no longer be available. Mr. Gaumer stated that in this area there is not a Zoning District that permits a telecommunications tower in the general vicinity that they could move to that would give service to these properties. He said that the petitioner was requesting a waiver of requirements for 5.53A1 and 5.53A2. He said that they are meeting all the requirements except for the proposed 2 waivers.

Mr. Kruse asked about federal law, stating that it creates a public policy overriding state zoning that you cannot do local zoning to prevent the completion of telecommunication areas as needed.

Mrs. McNabb asked the petitioner to add any additional information.

Fernando Torres, LINK Investments, gave an overview of the current situation with the grain bins and thus they are proposing a free standing tower to deliver broadband internet.

Mr. Kruse asked who can use that. Mr. Torres stated that residential, business, broad bands economics, etc.

Mr. Kruse asked if they had other telecommunications towers around. Mr. Torres said that they had just finished construction of one in Defiance, OH.

Mr. Gaumer introduced an example of the engineering report.

Mrs. McNabb asked how tall the proposed tower would be. Mr. Torres said they are proposing 195 ft.

Mr. Kruse asked how it would be secured. Mr. Torres said that the engineering drawings showed the base and how that would be.

Mr. Gaumer stated that it has to collapse on itself, per a UDO requirement.

Mr. Torres said that they hire an engineering company that researches and constructs the towers themselves. He said that they also have regulations as far as height, weight, and material type of the antennas.

Mrs. McNabb asked how tall the grain bin that is there now is and Mr. Torres said it is 110 ft.

Mr. Bechdol asked if there were ground generators or auxillary power units. Mr. Torres said they would house a telecom type cabinet that would house batteries for redundant power.

Mr. Bechdol asked if there was specifically a generator or if it was a battery off the grid. Mr. Torres said off the grid, it is not their intent to put a generator, they wish to do a battery system.

Mrs. McNabb asked if there were any more questions from the board. There were none. She asked if there were any questions or concerns from the public.

Robert Harold owns 2 businesses in the general location, one being an aircraft maintenance and corporation. He stated that the proposed tower would interfere in Vector 92, which is an airway that runs from Chicago to Chicago Heights. He was concerned about what kind of power would be used and the lighting they would have.

Mr. Bechdol asked what FAA regulated height was. Mr. Harold was unsure.

Mr. Torres explained that part of their process is to do an FAA study to make sure that they do not interfere with any runway or airport. Mr. Gaumer explained that there were many reports that would have to be submitted, per the UDO, before they would issue any permits.

Mr. Bechdol said that improving rural broadband is clearly in harmony with the Comprehensive Plan as well as national priorities as council has pointed out. Other than the requirements already mentioned thus far he feels that he doesn't have a lot of objections or restrictions.

Mr. Griffin asked how much it would help by going up the extra 80 ft. Mr. Torres said their initial study says they would be able to propagate another 5 mile radius in addition to what is

already covered. However, it depends on what technology is put up there, it could go even further, it is technology driven.

Mr. Kruse questioned the process for co-location and Mr. Torres said that they do allow that and anyone who wishes to co-locate would be required to follow the same standards and regulations that were required of the tower.

Mr. Kruse also wants to add a condition for proof of Liability Insurance of 1 million dollars.

Mr. Bechdol asked about what type of lighting there would be. Mr. Torres said would be determined per an FAA study.

Mr. Bechdol asked what the incoming source was. Mr. Torres said there would be a link that would be wirelessly connected.

Mr. Bechdol asked if that went back to Defiance, OH. Mr. Torres said this source would go out to Edgerton, OH and out fiber optics.

Mrs. McNabb asked if there were any further questions. There were none. Mrs. McNabb closed the public hearing.

Mr. Gaumer recommends approval.

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 **7/31/17**
2. Legal notice published in The Star on **8/30/17** 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 **8/23/17**
5. Letter from the County Highway Department, dated **8/7/17**
6. Letter from the County Surveyor or Drainage Board, dated **8/8/17**
7. 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 ()

There is currently telecommunications equipment on a grain bin will be demolished. This approval will allow for continued service to the property owners in the vicinity.

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 ()

There is currently telecommunications equipment on a grain bin will be demolished. This approval will allow for continued service to the property owners in the vicinity or LINK Technologies will no longer be able to serve the rural customers.

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

There is currently telecommunications equipment on a grain bin that will be demolished. This approval will allow for continued service to the property owners in the vicinity.

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 () No ()*

There is currently telecommunications equipment on a grain bin that will be demolished. This approval will allow for continued service to the property owners in the vicinity. The districts that a tower is permitted in are not located in a close vicinity to the current location that would allow for continued service to the residents.

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

Page 21 of the Comprehensive Plan states that internet access is essential for the County. Additional towers are needed to provide service to the rural community and should be sited to not be offensive to residents. Federal Law favors the development of telecommunication systems.

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 the specific proposed telecommunication tower located at 2010 County Road 61, Butler.
3. Development to be completed within three (3) years. After which this approval expires.
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. No Improvement Location Permits shall be issued without compliance of all conditions herein.
7. 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.
8. The Zoning Administrator has the power to determine when conditions have been met.
9. Provide engineering report for the specific tower that shows compliance with the UDO requirements and for the safety of the tower.
10. Provide engineer's expert study of the compatibility with air flight, especially Vector 92.
11. Provide proof of adequate battery system to keep lights in service.
12. Provide what co-locations may be permitted.

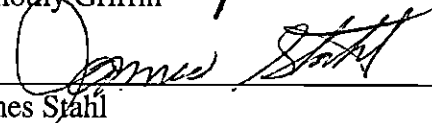
13. Provide proof of Liability Insurance of 1 million dollars or more on an annual basis to the BZA or evidence of continual coverage.

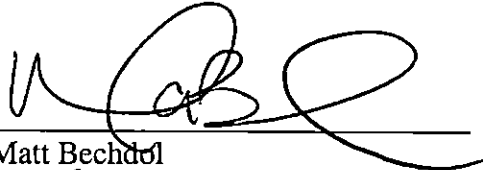
IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS USE VARIANCE, PETITION #17-17 IS HEREBY GRANTED APPROVAL ON THIS 11th DAY OF SEPTEMBER, 2017.

James Stahl made motion to approve Petition #17-17, seconded by Timothy Griffin.

Vote tally: Yes: 4 No: 0


Timothy Griffin


James Stahl


Matt Bechdol


Ruth McNabb

A break was taken at this time, 7:42 p.m., and resumed at 7:47 p.m.

PETITION #17-18 – Dustin Myers requesting a Development Standards Variance to allow for an accessory structure to be located closer to the side yard setback than allowed by Ordinance. The property is located at 5131 State Road 101, St. Joe, Indiana and is zoned A2, Agricultural.

Mr. Gaumer gave an overview of what the petitioner was requesting and the reasoning for the request. The septic system, LP tank, wetlands and the overall terrain allows for this proposed location. Mr. Gaumer introduced pictures of the property and explained where the proposal of the pole barn was.

Mr. Myers stated that he wanted to build the pole barn for personal storage of his boats, jet skis, mower's, etc.

Mrs. McNabb asked if this was the logical place for the building. Mr. Myers said that it was pretty much the only place that he could put it on the property.

Mrs. McNabb asked if this was because of the terrain and the underground septic system. Mr. Myers said the far back of the property is a wetland area, he has a mound system for his septic, 2 other tanks for the septic, and on the other side an LP tank.

Mrs. McNabb asked what was on the North side of the property line. Mr. Myers said that it was an overgrown area and his neighbor's driveway.

Mrs. McNabb asked if there were any more questions from the board. There were none. She asked if there were any questions or concerns from the public.

Andy Jagoda, the adjoining property owner, said that his house is way back in the woods behind this property and that he has been working to develop the overgrown area so as to stay secluded and that it is that way by design. His concern is that if they build the pole barn where Mr. Myers is proposing then it will obstruct his view of country living. He stated that his view from his house would then be looking at the back drop of a barn. He feels that the Myers have other areas on their property that are viable for the building. He also feels that the pole barn will depreciate his property value and will affect the salability of the property due to looking out at the front yard to see a large pole barn. He is also concerned that because the backside of the barn to the Myers will be the front side of the barn to him, that there will be junk stored in the back which will add more unsightly views from his vantage point. Mr. Jagoda provided several pictures that

he took to show what his views are and other areas that he feels like would be acceptable for the barn to be built on the property that would not obstruct his view.

Mr. Griffin asked how many yards from the front of his house to the proposed pole barn it was. Mr. Jagoda said his driveway from State Road 101 to where it comes to his property line, which is across theirs, is 550 ft. so this is probably a couple hundred feet from his house.

Mrs. McNabb asked if there were any more questions for Mr. Jagoda. There were none.

Mr. Bechdol asked the petitioner what the driveway plan was. Mr. Myers showed his driveway plan to Mr. Bechdol on a picture that was previously provided.

Mrs. McNabb wanted to know why he wanted the building so tall. Mr. Myers stated that the height proposed was the standard size for pole barns and that it would accommodate what he wanted it for.

Mrs. McNabb asked if he would consider one of the other locations that Mr. Jagoda had pointed out. Mr. Myers said that the land grade was too steep in the front. The back right corner has a swale and the other proposed area would block his view which was one of the main reasons they bought the house. He also said that the land grade in the back yard also doesn't offer flat surfaces and he doesn't think he could meet the setbacks.

Mr. Kaufman asked how much dirt he would have to move if he moved it to the South of the current proposed location. Mr. Myers said it is fairly flat there but he would be getting to close to the septic. He was only 25 ft. away from it at the proposed location now.

There was discussion about whether there was middle ground that they could come up with that would suit both parties and if there were other options such as a smaller building or shifting the location, otherwise the board would need to determine if what stands is appropriate or not.

Mr. Kruse asked Mr. Myers to explain why he needed the building to be so large. Mr. Myers said he had boats, cars, etc. that he needed to store; he doesn't want any of that outside.

Mr. Kruse asked where those things were now. Mr. Myers said that they are in the back area of the property.

Mrs. McNabb said that she feels like he should do some more research and see what else can be done.

Mr. Bechdol said they needed clarification on rules regarding the septic setbacks and if there is another viable solution that wouldn't require a variance.

Mrs. McNabb asked if there were any further questions. There were none. Mrs. McNabb closed the public hearing.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS DEVELOPMENT STANDARDS VARIANCE, PETITION #17-18 IS HEREBY CONTINUED ON THIS 11th DAY OF SEPTEMBER, 2017.

Matt Bechdol made motion to continue Petition #17-18, seconded by Timothy Griffin.

Vote tally: Yes: 5 No: 0

Timothy Griffin
Timothy Griffin

Matt Bechdol
Matt Bechdol

James Stahl
James Stahl

Ruth McNabb
Ruth McNabb

Mike Kaufman
Mike Kaufman

unable to sign
ch

PETITION #17-19 – Greg Wolf requesting a modification to a previously approved Use Variance to allow for an entrance drive off County Road 46A and for the removal of a fence requirement. The property is located at 5232 County Road 37, Auburn, Indiana and is zoned R1, Low Density Residential.

Mr. Gaumer began with a brief overview of the petition. Mr. Wolf is seeking to revise some conditions that were on the approval of petition 16-03A. The two conditions Mr. Wolf is wishing to revise were in regards to the driveway coming off of CR 46A and the requirement of building a fence around the property with a control entrance.

Mr. Wolf explained that he would like to have the option to build a fence if he so wishes to do so and not make it a requirement. He also would like the option to do the driveway all the way back to the buildings.

Mr. Bechdol stated that in the previous discussion the reasoning for having the fence was because Mr. Wolf was planning to increase the size and scale by building additional units.

There was discussion about other storage facilities in the area and what kind of security they had.

Mr. Wolf stated that the next building was going to be 700 ft. away from the other 2 buildings so it would be almost by itself anyway. There is also two retention ponds in between and two regulated drains as well. Putting a fence around the entire property is a lot and could cause grievances with the county drains if they were to ever need replaced. He is asking to have the option to build a fence or potentially build the fence in stages around his buildings as he continues to build and expand if he feels that the security is necessary.

Mrs. McNabb asked if there were any more questions from the board. There were none. She asked if there were any questions or concerns from the public.

Roger Newcomer stated that he had no problem with the fence and that it makes no difference to him.

Mr. Gaumer said that he feels that it should be up to Mr. Wolf if he feels he needs another driveway.

Mr. Griffin feels that the entrance that already exists off of CR 37 is safer because CR 46A is a fairly well traveled road.

Mrs. McNabb asked if there were any further questions. There were none. Mrs. McNabb closed the public hearing.

Chris Gaumer recommends approval.

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 **8/3/17**
2. Legal notice published in The Star on **8/30/17** and affidavit given to staff. **YES**
3. Certificate of mailing notices sent and receipts given to staff. **YES**
4. Letter from the County Board of Health, dated **8/23/17**
5. Letter from the County Highway Department, dated **8/3/17**
6. Letter from the County Surveyor or Drainage Board, dated **8/30/17**
7. 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)

This is a previously approved Use Variance. The proposed modifications will not be injurious to the community. Also, see DeKalb County Board of Health letter, Highway Dept. letter & County Surveyor letter.

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)

This is a previously approved Use Variance. The proposed modifications will not affect the use or value of adjacent properties. Plus, the adjoining owner testified that he has no objection to modifying conditions d and e.

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

This is a previously approved Use Variance. The proposed modifications have not been needed since 2008 and if become needed the petitioner wants that option and not a requirement of the 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 ()*

This is a previously approved Use Variance. The proposed modifications are not requirements of the Unified Development Ordinance but are requirements of the approval. Conditions d and e make applicant incur unnecessary costs.

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

This is a previously approved Use Variance. The proposed modifications will not interfere with the Comprehensive Plan.

CONDITIONS OF APPROVAL:

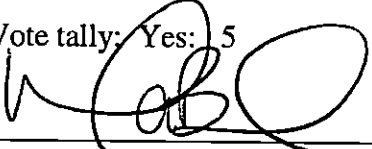
1. The Board retains continuing jurisdiction of this Use Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. These Use Variance modifications are approved for the required entrance drive off County Road 46A to be optional for condition d of petition 16-03A and for the removal of a fence requirement to be optional for condition e of petition 16-03A. All other requirements and conditions of that approval are valid.
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, 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, 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.
- 6. Give applicant option to erect fence or erect fence in stages.
- 7. Give applicant the option to put entrance drive off of CR 46A.


IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS USE VARIANCE REQUEST TO MODIFY CONDITIONS "D" AND "E" FROM PETITION 16-03A, PETITION #17-19 IS HEREBY GRANTED APPROVAL ON THIS 11th DAY OF SEPTEMBER, 2017.

Matt Bechdol made motion to approve Petition #17-19, seconded by James Stahl.

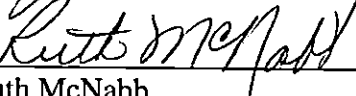
Vote tally: Yes: 5 No: 0




 Matt Bechdol




 James Stahl



 Ruth McNabb


 Mike Kaufman



 Timothy Griffin

*unable to sign
CH*

REPORTS OF PLANNING STAFF, OFFICERS AND/OR COMMITTEES:

Education Session: October 4, 2017: 10:00 AM & 2:00 PM – White Room in Basement of Annex Building – Arin Shaver and Chris Gaumer will present basic information, rules and procedures and case law for members of the Plan Commission & Board of Zoning Appeals

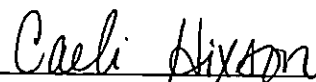
COMMUNICATIONS:

None

There being no further business to come before the board, the meeting was adjourned at 8:57 P.M.



 Ruth McNabb, Chairperson



 Caeli Hixson, Secretary