

MINUTES
DEKALB COUNTY BOARD OF ZONING APPEALS
Monday November 13, 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 Chairman Ruth McNabb.

ROLL CALL:

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

Members absent: James Stahl, Mike Kaufman

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

Public in Attendance: Matt Knepper, Bridget Knepper, Kyle Branscum, Jeff Barkhaus, Dave Saylor, Ryan Clem, Jon Lane

APPROVAL OF MINUTES:

Motion was made by Tim Griffin and seconded by Matt Bechdol to approve the minutes of September 11, 2017. Motion carried.

OLD BUSINESS:

PETITION #17-18 – Dustin Myers – Withdrawn

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 #17-20 - Jeff Barkhaus requesting a Development Standard Variance to for allow for the subdivision of up to 5 additional lots from the parent parcel of which only 3 splits are allowed by Ordinance. The property is located at 2538 County Road 64, Auburn, Indiana and is zoned A2, Agricultural.

Zoning Administrator Chris Gaumer read the staff report.

Mrs. McNabb asked if Jeff would have to go to Plan Commission if approved tonight at the BZA. Mr. Gaumer confirmed that to be correct.

Mr. Kruse asked if each preliminary lot shown had access from CR 64. Mr. Gaumer said that was correct.

Mr. Kruse asked what the pipe stem that goes to the back was. Mr. Gaumer directed to Jeff Barkhaus for an explanation. Mr. Barkhaus explained that it was an easement that extends across for sewer. He also explained that any sewer would be attached to the city, there would be no septic systems.

Mrs. McNabb asked if everyone would hook into that easement. Mr. Barkhaus said yes.

Mr. Gaumer stated that the lots may not look exactly as what is shown on the site plan included in the staff report. It is just to show that this is the maximum number of lots Mr. Barkhaus could get and still meet lot frontage.

Mr. Kruse asked what the plans were for the middle two parcels not included in Mr. Barkhaus' proposal. Mr. Gaumer stated that one of the parcels was owned by Mr. Clem, who is present, and the other one has a pond. Mr. Barkhaus confirmed that the smaller, odd shaped piece was a pond owned by Ultimate Development which will eventually become a part of Diamond Lake Estates. Mr. Gaumer said there are currently no plans for those parcels.

It was noted that the proposed 5 lots had previously been platted as a part of Diamond Lake Estates but never got secondary approval.

Mr. Gaumer confirmed that there were no objections from Board of Health, Highway Department and Surveyor.

Mrs. McNabb asked if there were any other questions from staff or audience for Mr. Barkhaus. 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 10/9/17
2. Legal notice published in The Star on 10/27/17 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 10/30/17
5. Letter from the County Highway Department, dated 10/11/17
6. Letter from the County Surveyor or Drainage Board, dated 10/11/17
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)

Consistent with adjoining use and Comprehensive Plan to develop near infrastructure. See staff report.

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)

Consistent with existing development in that area. Improvement to the area may increase 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 ()*

Due to high density of residences in the immediate vicinity, the highest and best use for this land would be residential. Alternative uses could have a negative effect on adjoining lots.

CONDITIONS OF APPROVAL:

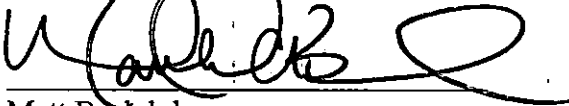
1. The Board retains continuing jurisdiction of this from Development Standards Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. A Variance to allow up to 5 additional lots is approved.
3. Comply with any applicable 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.
6. Lots may not be developed without Plan Commission approval.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS DEVELOPMENT STANDARDS VARIANCE, PETITION #17-20, IS HEREBY GRANTED APPROVAL ON THIS 13TH DAY OF NOVEMBER, 2017.

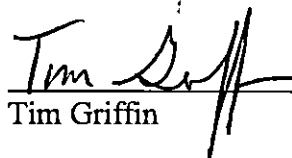
Matt Bechdol made motion to approve Petition #17-20, seconded by Tim Griffin.

Vote tally: Yes: 3

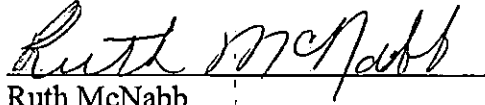
No:



Matt Bechdol



Tim Griffin



Ruth McNabb

Petition #17-21 – Matthew Knepper 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 6274 County Road 31, Auburn, Indiana and is zoned A2, Agricultural. Mr. Gaumer read the staff report and explained the site plan.

Mr. Bechdol asked if there were any history on the lot to the South that appears to have a structure built close to the property line as well. Mr. Gaumer stated that it was built prior to the 2009 Ordinance.

Matt Knepper stated that he would like put up a pole barn and just extend his driveway for access. He stated conflicts with putting it elsewhere on the property due to the septic system, drain, and large trees that he is trying to avoid taking down.

Mr. Griffin asked if it was all brush to the West. Mr. Knepper said it was.

Mr. Bechdol asked if the pole barn would replace the small shed that's there. Mr. Knepper said it would.

Mr. Bechdol asked if there were any other driveways from the South exit of the pole barn. Mr. Knepper said no, it would just be the extension of his driveway.

Mr. Gaumer read a letter from Donald and Karen Grogg, Mr. and Mrs. Knepper's neighbors, encouraging the approval. Stating that, among other things, they feel it would add to the value of the property as well as all others in the neighborhood.

Mrs. McNabb asked if there were any further questions from staff or 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 10/9/17
2. Legal notice published in The Star on 10/27/17 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 10/30/17
5. Letter from the County Highway Department, dated 10/10/17
6. Letter from the County Surveyor or Drainage Board, dated 10/11/17
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)

Will not be injurious to public health. Needed for personal storage. All agency reports were favorable.

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)

Adjoining owner to the North has no objections to the variance. Adjoining owner to the South has structure close to the side yard and the variance may increase the values in the area.

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 pole barn location is requested due to the existing sump pump drain line, septic drainage, and well head only allows for this proposed location. Additionally, there is a 60' easement for a gas line running Northwest/Southeast through the front portion of the property.

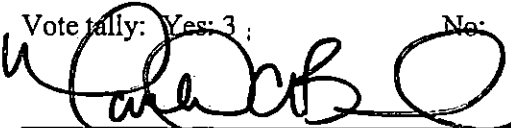
CONDITIONS OF APPROVAL:

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. A Variance to allow this pole barn to be 10 feet from the side yard setback 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.

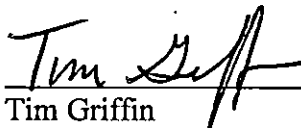
IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS DEVELOPMENT STANDARDS VARIANCE, PETITION #17-21 IS HEREBY GRANTED APPROVAL ON THIS 13TH DAY OF NOVEMBER, 2017.

Tim Griffin made motion to approve Petition #17-21, seconded by Matt Bechdol.

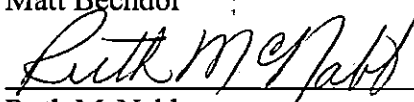
Vote tally: Yes: 3 ; No:



 Matt Bechdol



 Tim Griffin



 Ruth McNabb

Petition #17-22 – David Saylor 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 on County Road 56, approximately 1,300 feet east of the intersection of State Road 327, State Road 205 and County Road 56, Garrett, Indiana and is zoned A1, Conservation Agricultural.

Mr. Gaumer read the staff report. He stated that because this lot is only half an acre, with current standards it could not be built on. Prohibiting this could be considered a takings.

Mr. Saylor stated, that he chose this land because it is the closest ground he could find to his home.

Mr. Kruse stated that this case differs because there are no residential structures in the immediate vicinity and/or surrounding the property.

Mrs. McNabb discussed setting a precedent of having storage buildings out in the country being built at random. Mr. Gaumer said that he feels it should be on a case by case basis and that it's not setting a precedent because that's what you come to the BZA for.

Mr. Branscum, Mr. Saylor's realtor, stated that in this situation the proposed pole barn would be sitting in between two other pole barns and not houses.

Mrs. McNabb asked if it was part of a development. Mr. Branscum said that from what he's been told, a previous owner had cut out that small portion to give to his daughter.

Mr. Griffin stated that this property isn't far from his house and it is currently all weeds and does not get mowed. He would rather see a nice pole barn on the lot than just weeds. He suggested that some of the language of the Ordinance should be changed.

A brief discussion was held about the language of the Ordinance and potential changes.

Mr. Bechdol stated that context is everything and it didn't seem consistent in harmony in other cases where they were trying to put storage right next to houses. However, no red flags come up after hearing the details on this case.

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

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 10/10/17
2. Legal notice published in The Star on 10/27/17 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 10/30/17
5. Letter from the County Highway Department, dated 10/11/17
6. Letter from the County Surveyor or Drainage Board, dated 10/11/17
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)

The proposal is for the accessory structure to be used for personal storage. This use may be the only use a lot of this size could be used for. 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 request be affected in a substantially adverse manner?** Yes ()* No (X)

Allowing the lot to be used for this purpose will increase the value of this property.

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 is no other better or practical use. This lot is .42 acres which may not allow for the intended use of Single Family Residential. Not permitting this use could be considered a taking.

CONDITIONS OF APPROVAL:

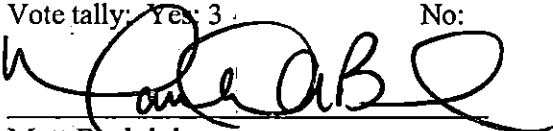
1. The Board retains continuing jurisdiction of this from Development Standards Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. A Variance to allow this accessory structure to be built for the storage of personal property.
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 #17-22 IS HEREBY GRANTED APPROVAL ON THIS 13TH DAY OF NOVEMBER, 2017.

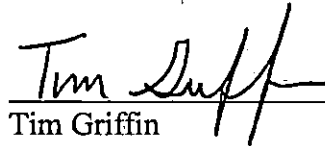
Tim Griffin made motion to approve Petition #17-22, seconded by Matt Bechdol.

Vote tally: Yes: 3

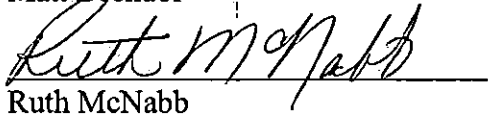
No:



Matt Bechdol



Tim Griffin



Ruth McNabb

Rules – Revisions

Mr. Gaumer went through the revisions that he proposed for the Rules. There was some discussion about changing the time of the meetings as well as proposing that BZA meet monthly. Other changes included cleaning up wording, changing language and clarifying positions and duties.

A discussion was had about the mailings and statutes on notifications.

There was no vote on this, Mr. Gaumer will revise again based on discussion and bring back to the next meeting.

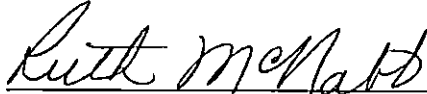
REPORTS OF PLANNING STAFF, OFFICERS AND/OR COMMITTEES:

Proposal of the 2018 Meeting Date Calendar


COMMUNICATIONS:

None

There being no further business to come before the board, the meeting was adjourned at 7:17 P.M.



Ruth McNabb, Chairperson



Caeli Hixson, Secretary