

BOARD OF ZONING AND APPEALS MINUTES

Tuesday, March 13th, 2018

7:00pm

- A. Andrew Baudendistel's reading of the Voluntary Title VI Public Involvement Survey –**
As a recipient of federal funds, and in support of Dearborn County's efforts to ensure nondiscrimination and equal access to all citizens, the County gathers statistical data regarding participants in county activities. Therefore, we have provided a Voluntary Title VI public Involvement Survey at this meeting. You are not required to complete this survey. However, the form is anonymous and will be used solely for the purpose of monitoring our compliance with Title VI and ADA.
- B. ROLL CALL –**
Members present:
Rick Pope
Russell Beiersdorfer
Phil Darling
Mark Lehmann
Joe Schmeltzer

Nicole Daily – Zoning Administrator
Andrew Baudendistel – Attorney

Members absent: NONE
- C. ACTION ON MINUTES: NONE**
- D. OLD BUSINESS SCHEDULED TO BE REOPENED: NONE**
- E. OLD BUSINESS TO REMAIN TABLED: NONE**
- F. NEW BUSINESS**
- 1. Request: A Variance for front yard setbacks on a barn with living quarters**
Applicant/Owner: Dylan Welty
Site Location: 13005 Knopf Road
Legal: Sec. 11, T7, R3 Parcel #15-04-11-400-010.001-019
Township: Manchester
Zoning: Agriculture (A) Size: 1.58 acres

Ms. Daily presented the staff report and presentation slides for a variance request on a front yard setback. The structure was originally approved as an accessory structure and later converted to include living quarters and be required to meet the setbacks of a principal structure.

The original permit for the structure was issued in 2006 and the land at that time was attached with the adjoining land, allowing it to be permitted in its current location. A septic system was later put in in 2014, at that time it was not checked for permits.

The case later arose because the current property owner came in to file for homestead tax exemptions, which is when it became known to staff that the property was not in compliance with the current zoning code. Therefore, the need for the variance arose, currently the barn is 85 feet from Knopf Road and 80 Feet from Lake Tambo Road, requiring a 15 feet variance from Knopf Road and a 20 feet variance from Lake Tambo Road. The site and surrounding area is all zoned agriculture.

The existing barn is 2,400 square feet, the living area is approximately 1,100 square feet of that and consists of two bedrooms and one bathroom. The septic was approved through the health department with a primary and secondary site available, if the Board approves this request a location improvement permit would be required to recognize the variance and the living quarters being added to the structure. The Building Department would also need to issue a permit to make sure fire and building codes are met for residential standards.

Knopf Road is publicly maintained roadway with a half right-of-way width of 16.5 feet and a pavement width of approximately 17 feet and a 25-m.p.h. speed limit, this residence is one of seven homes accessing this dead-end road, Lake Tambo Road is also publicly maintained with 15.5 feet half right-of-way and a pavement width of approximately 20 feet and a 45-m.p.h. speed limit.

Seven Letters were mailed out, six of which had been received with one remained in transit.

Ms. Daily concluded the staff report with the building address is marked on the building above one of the doors and on the mailbox, which helps avoid confusion for 911 purposes, and through the inspection staff did not see any red flags for the variance requested.

Mr. Pope asked if the Boards decision will have any effect on the building codes.

Ms. Daily stated that it will not, and since a septic permit was issued he would not have to go through that step again, but she did note that the Environmental Health Department required the property owner to record a statement disclosing that the house may only be used as a two-bedroom house.

Mr. Lehmann asked for clarity on the septic permit.

Ms. Daily stated that the applicant purchased the property in 2016, the property had been split in 2014 at which time a permit was issued to allow for a bathroom to be installed in the barn. The permit for the septic should have recognized the barn being a different use and should have been brought to the Board to handle a variance. Sometime between 2014 and the purchase by Mr. Welty in 2016 the living quarters were constructed inside the barn.

The Board had no further questions for Ms. Daily.

Ms. Daily stated that the applicant was unable to make the meeting because of work reasons. He is a member of the union for pipe fitters and is taking classes Tuesday and Thursday nights which are mandatory. Ms. Daily met with Mr. Welty to go over the request and all the details of the barn and living quarters, also discussing the time events for the purchase of the property. Ms. Daily set this meeting up in order to provide the Board with the information from the applicant.

Mr. Pope made a motion to open public discussion. Mr. Beiersdorfer seconded the motion. All in favor. None opposed. Motion carried.

No public discussion.

Mr. Beiersdorfer made a motion to end public discussion. Mr. Pope seconded the motion. All in favor. None opposed. Motion carried.

Mr. Pope stated that not hearing from the applicant himself, it sounds like he may have walked into a can of worms and unfortunately these things happen and the best way to fix it is the approach the applicant is taking as far as obtaining a proper variance. He is in favor of approving the request.

Mr. Beiersdorfer agrees with Mr. Pope's statement.

Mr. Pope made a motion to grant both the 15 feet front yard setback variance from Knopf Road and the 20 feet front yard setback from Lake Tambo Road. The approval is based on the request has met the criteria set forth in Article 3, Section 320 of the Dearborn County Zoning Ordinance and the attached Finding of Facts. Mr. Beiersdorfer seconded the motion. All in favor. None opposed. Motion carried.

G. ADMINISTRATIVE

Ms. Daily gave an update on an ordinance amendment that is set to be voted on by the County Commissioners, the Board of Zoning Appeals Findings of Facts are being amended to be more in line with State statute, if no changes are made by the Commissioners, the Board will be acknowledging some different criteria for approval of use variances to be more similar to that of a Conditional Use.

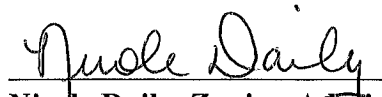
Ms. Daily let the Board know that there are four cases scheduled to be on the April meeting agenda.

Mr. Beiersdorfer made a motion to adjoin the meeting. Seconded by Mr. Lehmann. All in favor. None opposed. Motion carried.

Meeting adjoined at 7:33 p.m.



Phil Daring, Chairman



Nicole Daily, Zoning Administrator



Dearborn County Plan Commission

Board of Zoning Appeals: Findings of Fact

215 B. West High Street
Phone: (812) 537-8821

Lawrenceburg, IN 47025
Fax: (812) 532-2029

www.dearborncounty.org/planning

CASE TITLE: Welty--Front yard setback variance for barn with living quarters

CASE NUMBER: 18BZA0313-001

PROPERTY ADDRESS: 13005 Knopf Road, Sunman, IN 47041

PROJECT DESCRIPTION:

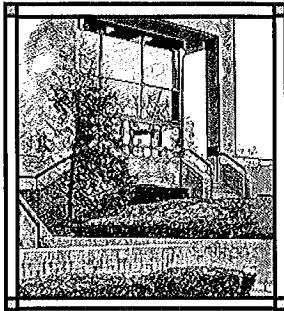
The property owner is wanting to file for tax exemptions, as he lives at the existing location. This can only be achieved by filing a permit to have the existing accessory converted into a residential structure. The residential living quarters was already added to the barn when the owner purchased the property. The permit for the barn was issued in 2006 with the residential structure located to the west of the property. At the time of the permit, the two parcels were one tract of ground. The barn was approved to be located 80 feet from both centerlines as it was an accessory structure. The property was split in February 2014, putting the barn on its own parcel. Between 2014 and 2016, prior to the purchase by Dylan Welty, living quarters was constructed inside the barn. Because the barn does not meet the setbacks of a primary structure, a variance should have been obtained prior to the conversion from an accessory structure to a primary structure. The barn is located 85 feet from Knopf Road and 80 feet from Lake Tambo Road. Therefore, two front yard variances are needed, a variance of 15 feet for the front yard along Knopf Road and a variance of 20 feet for the front yard along Lake Tambo Road.

The Dearborn County Board of Zoning Appeals conducted a hearing regarding the application on **March 13, 2018** (date). After testimony was given and evidence was presented to the Board, a motion was made to **APPROVE** or **DENY** the request for a variance and the motion was carried with a vote of **5 - 0 - 0**.

In its deliberations, the Dearborn County Board of Zoning Appeals weighed the evidence associated with the following criteria and made the following findings in **APPROVING** OR **DENYING** the request for a Variance. Dearborn County Zoning Ordinance Article 3, Section 320 states that a variance may be approved only upon a determination in writing that the following are true:

1. That the approval will not be injurious to the public health, safety, morals, and general welfare of the community:

The proposed setback **WILL NOT** be injurious to the public health, safety, moral and general welfare of the community. The location of the barn on the property does not interfere with site distance of the two roadways. The location does not impede on any safety issues of the surrounding community.



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2. That the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

The structure as a barn was constructed per regulations as it met code for being in front of a primary structure, therefore would not have affected the value of the area. The barn being converted into a residential structure WILL NOT change the value of the adjacent properties as there is no visible exterior change to the structure.

3. That the need for the variance arises from some condition peculiar to the property involved which are not applicable to other lands, structures or buildings in the same district:

The variance DOES arise as the condition peculiar to the property involved is not applicable to other lands in the area, as the violation was created by the prior property owner. Mr. Welty was not the owner who created the living quarters without the proper approvals and permits.

4. That the strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought:

The strict application of the terms of the zoning ordinance WOULD constitute an unnecessary hardship to the applicant, as he purchased the property with the living quarters existing and intended to live in the building. The purchase price was based on the improvements that had been made to the barn.

5. That the special conditions and circumstances do not result from the actions of the applicant:

The special conditions and circumstances IS NOT the result of the applicant as he purchased the property with the living quarters existing and was not at fault for the violation or the improvements without approvals or permits.