

BOARD OF ZONING AND APPEALS MINUTES

Tuesday, August 8, 2017

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:

Russell Beiersdorfer

Phil Darling

Jim Thatcher

Jane Ohlmansiek

Nicole Daily – Zoning Administrator

Andrew Baudendistel – Attorney

Members absent:

Rick Pope

C. ACTION ON MINUTES: No action on the minutes.

D. OLD BUSINESS SCHEDULED TO BE REOPENED: None

E. OLD BUSINESS TO REMAIN TABELED: None

F. NEW BUSINESS

- | | | |
|-----------------------|---|--------------------------|
| 1. Request: | A Variance to create a buildable lot that is less than 1 acre. | |
| Applicant: | Bender Rentals, LLC | |
| Site Location: | 4003 North Dearborn Road | |
| Legal: | Sec 29, T7, R1 Parcel #15-01-29-100-009.000-018 | |
| Township: | Logan | |
| Zoning: | Agriculture (A) | Size: 1.149 acres |

Ms. Daily presented the staff report and slide presentation. The request is for a variance to create a buildable lot containing less than an acre in an agriculture district. The property owner is wanting to split

off approximately 0.35 acre tract of ground so that it can be transferred to the adjoining property owner. The existing lot is "L" shaped, with an existing house. A portion of the property is occupied by the dam of the neighboring pond. The property owner would like to split the property and transfer the portion within the pond to the owner of the pond. The 0.35 acre tract would be deemed non-buildable and could not be transferred as a stand-alone lot. The owner would be maintaining ownership of the 0.80 acre remainder as a buildable lot since there is an existing house. The minimum requirements for a buildable lot in an agriculture district is 1.00 acre, therefore a variance would be required of 0.20 acres (approximately). The pond was constructed prior to 1998 and the existing parcels were created in 1998. Research was not conducted any earlier than 1998, since our department does not have permits prior to this date and the pond regulations did not exist prior to 2000. The property owner would like to clean up the encroachment so the issue is resolved prior to selling the house. The neighboring property owner with the pond maintains the pond and the dam. The property is served by public sanitary sewer, therefore relieving the property of the requirement of an acre of ground for a septic system. There are also several lots in the surrounding area that range from 0.50 acre to 1.61 acres. There were 8 letters that were sent out, all 8 were delivered as checked today.

Mr. Darling asked whether another house would be built on the already buildable lot.

Ms. Daily said another house could not be built without an additional split and variance request, but a barn could possibly be built next to the existing home.

There were no further questions for Ms. Daily.

Mr. Dennis Kr. Jr., land surveyor and representative for property owner, addressed the Board on the request. He stated that back in the late 1990's, owner was told he owned a pond dam, but the neighbor has always maintained every aspect related to the pond. The current interested buyer of the house doesn't really want to own the pond or the liability of any part of the dam, is only interested in living in the existing house. Mr. Kraus doesn't see any negative effect this would have on the adjoining property owners and it would be fixing an encroachment issue that has existed for many years.

No further questions for Mr. Kraus.

Mr. Darling moves to open public discussion. Seconded by Mr. Beiersdorfer. All in favor. None opposed. Motion carried.

There were no members of the public wishing to speak.

Mr. Beiersdorfer moves to close public discussion. Seconded by Mr. Darling. All in favor. None opposed. Motion carried.

Mr. Thatcher made a motion to grant the variance of 0.20 acres in order to create a buildable lot that is less than 1 acre, with the proposed acreage being 0.80 acres located at 4003 North Dearborn Road. The approval is based on the request has met the criteria set forth in Article 3, Section 320 of

the Zoning Ordinance and the attached Finding of Facts. Seconded by Mr. Darling. All in favor. None opposed. Motion carried.

2. Request: A Conditional Use to expand adjoining storage units and outdoor storage
Applicant/Owner: K Holdings, LLC
Site Location: 23887 Stateline Road
Legal: Sec. 2, T6, R1, Parcel #15-06-02-200-001.001-020
Township: Miller
Zoning: Restricted Business (B1) & Residential (R) Size: 3.5 acres

Ms. Daily presented the staff report and slide presentation. Property owner is wanting to expand an existing storage unit business by adding 6 more buildings for storage units and move the outdoor storage between the existing lot and new lot. A conditional use is required for storage units in a Restricted Business district and the storage units would only be located in the portion of the property that is zoned B1 and not in the property located in the residential district. The application was for a Conditional Use on the Business and a variance for the type of fencing that would be used to secure the property, but the applicant has stated that the existing fencing will change to a wooded privacy fence which will also be used for the expansion area, therefore the variance is no longer needed. There were 8 letters were mailed out and all 8 letters have been delivered.

Ms. Ohlmansiek asked who owns the fields next to the property.

Ms. Daily stated the surrounding fields to the north, east and south are owned by Burger-Ziegler Properties, which the additional 3.50 acres for this expansion proposal was purchased from.

No further questions for Ms. Daily.

Mr. Dennis Kraus Jr., representing the property owners, addressed the Board. He stated the site plan is only conceptual and the building orientations may change based on the topography as they move into the Major Site Plan phase of development. The property has already been bought and needs approval from the Board to continue with expansion plans. Mr. Kraus doesn't feel there would be any negative impact to the surrounding area if this would be approved since the growth is towards open fields.

There were no questions for from the Board.

Mr. Beiersdorfer made a motion to open public discussion. Seconded by Mr. Darling. All in favor. None opposed. Motion carried.

There were no members of the public wishing to speak.

Mr. Beiersdorfer made a motion to close public discussion. Seconded by Mr. Thatcher. All in favor. None opposed. Motion carried.

Mr. Beiersdorfer and Mr. Thatcher each stated that they see no problems with the request as the business already exist and the expansion area is being located next to a farm field.

Mr. Darling made a motion to approve the conditional use for expanding storage units business located at 23887 State Line Road. The approval is based on the request has met the criteria set forth in Article 3, Section 320 of the Zoning Ordinance and the attached Finding of Facts. Seconded by Mr. Beiersdorfer. All in favor. None opposed. Motion carried.

3. Request:	A Conditional Use to operate a public recreational vehicle (ATV/UTV/motocross) track/park in an agriculture district	
Applicant/Owner:	Calvin Davis is applicant, Pamela Davis is owner	
Site Location:	Feller Road	
Legal:	Sec. 7, T7, R2, Parcel #15-02-07-200-002.000-009	
Township:	Jackson	
Zoning:	Agriculture (A)	Size: 22 acres

Ms. Daily presented the staff report and slide presentation. The applicant is proposing to operate a track/park for recreational vehicles such as UTV/ATV motocross, which will be open to the public. There would be three different size tracks deigned for specific off road vehicles. The park/track would be on 22 acres. The request is for a conditional use, located in an agricultural zoning district. The property would be accessed by a shared drive which would be through a panhandle all the way to the rear of the property opening up to 22 acres along the interstate. The driveway would need to be widened to accommodate two way traffic since this would be considered a business. The compound would be open during the spring, summer, and fall and be open Thursday through Sunday. Maximum capacity of riders allowed would be 150. The tracks would only be used for recreational riding or practices, there would be no competition events held on the property. There is a designated parking area and restroom facilities would be included as well. If approved the proposal would still need to go through a Major Site Plan review process before the Technical Review Committee ensuring that all other applicable regulations were followed.

A letter was received from highway engineer today and handed out to the Board members for review. The letter gave conditions of the existing roads and it mentioned the roads that would be used the most to get to the property if board approved the use. The roads are all asphalt and in fair conditions. Most of the vehicles that would be accessing the roads would be truck trailers carrying UTVs. The letter stated that if the use were to be approved, the driveway would need to be widened. Some trees and brush would need to be removed near the driveway in order to obtain proper sight distance. The County Engineer also recommended if the use was approved, the property owner be responsible to improve the deficient intersections so that the radii would be widened. It doesn't appear that the tracks would be near the electric towers that are near the property, but if the use was approved, a letter from the utility company would be required because of portions of the tracks being built within the electric easement.

Mr. Beiersdorfer personally feels that the owner wouldn't have a problem with the electric towers. One tower is located within the proposed track area and one is located outside of it.

Mr. Thatcher asked what is the reasoning the roads are considered sub-standard.

Ms. Daily stated the sub-standard refers to the radius of the road intersections and if it is wide enough for more than one vehicle to pass through.

A copy of service contract from porterlet company would need to be obtained occurring to the Health Department.

Ms. Daily provided the Board with a copy of a petition from adjoining property owner(s) to review look over. There were 2 signatures that could not be confirmed as far as the address listed for the signatures. Ms. Daily received 16 emails and letters regarding this case from adjoining property owners. A couple of emails Ms. Daily replied to and followed up with recipients.

No further questions for Ms. Daily.

Mr. Calvin Davis, the applicant, addressed the Board on this request. He stated that his parents own the property and he would lease the property from them. Some of the area shown on the map isn't going to be used anymore for the track. The drawings of the tracks are still in rough draft form. The tracks would be flat and no ramps would be built. There would be 150 riders allowed maximum between all three tracks, but there would be spectators as well. The parking area would be about as long as a football field and around twice as wide as one. Currently, there is nothing that exists in this area of the State or Tri-State. The times that the compound would be open are not set in stone and can be flexible. There will be no riding after dark and there will be no lights built. Only dirt bikes and UTVS allowed. Each track will have its own fencing so they are easy to navigate and get to. Property will be maintained and most of it will be a grass area, not much dirt will be showing. There are two companies currently working on the insurance for this type of business.

There were no further questions for applicant.

Prior to opening the meeting to the public on this case, the Board discussed how to review all the new information they were given tonight, all the letters, emails and petitions. They would like to have more time to go over all this information as it could take several hours to read through it. The discussion was to table this case to continue with public discussion at the meeting set for September. This would allow the Board members to have efficient time to review all the new information.

Mr. Baudendistel suggested the Board open up public discussion for any person that was in attendance at this meeting this even who thought they may be unable to make it to the meeting in September. Any person who would be attending the meeting in September would be given the opportunity to speak at that meeting.

Ms. Daily stated that the meeting next month is set for September 9th. She also suggested to the public and applicant that if there was additional information gathered regarding this case that they wish the Board to review to please have it to her no later than August 31st, this would ensure it could be mailed to the Board giving them time to review any other additional information.

Mr. Darling made a motion to open public discussion to any person who thought they would be unable to attend the continuation of this meeting in September. Seconded by Beiersdorfer. All in favor. None opposed. Motion carried.

Mr. Jimmy Manning, 11333 Feller Road, stated he believes the Board needs to really reflect on Article 3, Section 315 item "a" which states the use will not endanger the public health, safety, morals, comfort or general welfare. He feels that this type of use is too dangerous for the surrounding public and does not meet item "a".

Mr. Randy Moore, 14455 Feller Road, stated he was not able to sign the petition against this use because he and his wife were out of the country at that time. He and his wife would both still like to sign it. He stated that Feller Road is a very small road and there is not a lot of room for passing vehicles. Mr. Moore continues currently there is structure on the property that is filled with foam in order to ramp bikes and jump in the container of foam. This doesn't appear to be something that would be safe for the public. Parking is a concern for him, and he doesn't think there will be enough room. Mr. Moore wonders if people will stay overnight especially if they are coming out of town. Another concern is how the sanitation will be monitored. Will fires be built to keep people warm? Mr. Moore said that the Davis family let him use their property for Mr. Moore's daughter's wedding 6 years ago for parking. There was not enough room for all to park. He feels that ATV death rates are too high, especially in the state of Indiana. The noise level would be high and he wonders how the noise and music be controlled. Will there be a PA system?

Mr. Moore is worried about the size of the location. Will 22 acres be enough for the tracks or will the Davis's want to expand eventually? Where will they expand to? Will alcohol be allowed on the premises? Mr. Moore tells the Board that he did thorough research this type of use. What will the speeds of the vehicles be? Many of the homeowners who currently live on Feller Road moved out that way to have peace and quiet, and they don't want all of that area to become commercialized. How will applicant monitor insurance for this use and the property? Who is the listed cover insurance for each driver? What happens if the riders hit a spectator? Mr. Moore feels the applicant should pursue his dreams but do it in a different area. Mr. Moore feels the Board should really think about all these questions very carefully.

There were no more request to speak at this meeting. All other person who filled out cards to speak stated they would be present at the meeting in September.

Mr. Beiersdorfer made a motion to close public discussion. Seconded by Mr. Darling. All in favor. None opposed. Motion carried.

Mr. Darling made a motion to table the request until the September 12th Board of Zoning Appeals meeting so that the Board members had sufficient time to review all letters, emails and petitions presented at tonight's meeting. Seconded by Mr. Thatcher. All in favor. None opposed. Motion carried.

G. ADMINISTRATIVE

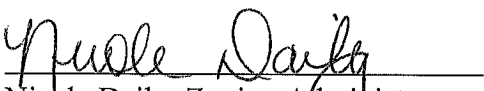
The next meeting is Tuesday Sept. 12th.

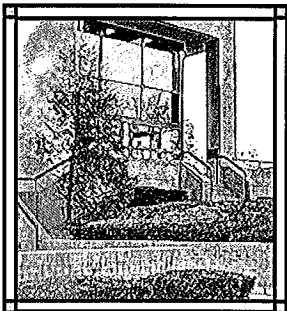
Mr. Baudendistel said that the Wells/Turner issue has not been resolved. No agreement was able to be made. Will be taken to court for judicial review.

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

Meeting adjoined at 8:46 p.m.


Jane Ohlmansiek, Vice-Chairman


Nicole Daily, Zoning Administrator



Dearborn County Plan Commission

Board of Zoning Appeals: Findings of Fact

215 B. West High Street

Lawrenceburg, IN 47025

Phone: (812) 537-8821

Fax: (812) 532-2029

www.dearborncounty.org/planning

CASE TITLE: Bender Rentals create buildable lot less than 1 acre variance

CASE NUMBER: 17BZA0808-001

PROPERTY ADDRESS: 4003 North Dearborn Road, Lawrenceburg, IN 47025

PROJECT DESCRIPTION:

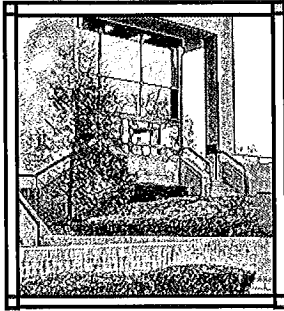
The property owner would like to split the parcel into two tracts, one with the existing house would be 0.80 acres and the second would be 0.35 acres so that it can be transferred to an adjoiner. The neighboring pond dam is partly located on Mr. Benders property and he would like to transfer that property to the owner of the pond so he doesn't have to worry about the liability of the pond. This split would correct an encroachment of the pond that has been there for many years.

The Dearborn County Board of Zoning Appeals conducted a hearing regarding the application on August 8, 2017 (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 4 - 0 - 1. (Mr. Rick Pope was not present at the meeting).

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 split **WILL NOT** be injurious to the public health, safety, moral and general welfare of the community. Although the property is zoned agriculture and one reason for the 1 acre requirement is to be able to provide enough space for septic systems. This property is serviced by public sanitary sewer.



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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:

It is likely that the use and value of real estate adjacent to the subject site WILL NOT be affected in a substantially adverse manner by allowing the request variance. There are many surrounding parcels that are the same size in acreage and even less, because this use to be the Logan area and lots were created smaller.

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 agriculture zoning district requires a minimum of one acres tracts, and one reason for this requirement is to allow enough land to install a septic system, since most areas designated as agriculture are not served by public sanitary sewer. This area is served by sanitary sewer therefore the amount of ground is not needed for septic systems.

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 ought:

The zoning ordinance acreage requirement would create an unnecessary hardship to the property split since the liability of the dam could be damaging to the property owner even though its the neighbors pond.

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

The pond and the parcel layout has been in exists for many years and prior to regulations for pond construction. The current property owner is trying to correct an encroachment that existed prior to the owners involvement.



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CASE TITLE: K Holdings Conditional Use for Storage Unit Business Expansion

CASE NUMBER: 17BZA0808-002

PROPERTY ADDRESS: 23887 Stateline Road, Lawrenceburg, IN 47025

CASE DESCRIPTION:

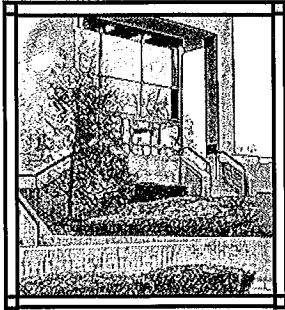
The owner is wanting to expand an existing storage unit business by adding 6 more buildings for storage units and moving the outdoor storage between the existing lot and new lots. They have purchased an additional 3.5 acres which adjoins the existing parcel and business.

The Dearborn County Board of Zoning Appeals conducted a hearing regarding the application on August 8, 2017 (date). After testimony was given and evidence was presented to the Board, a motion was made to **APPROVE or DENY** the request of conditional use and the motion was carried with a vote of 4 - 0 - 1. (Mr. Rick Pope was not present at the meeting.)

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 Conditional Use. Dearborn County Zoning Ordinance Article 3, Section 315 states that a conditional use determination in writing that the following are true or not true:

1. Will not endanger the public health, safety, morals, comfort, or general welfare:

The conditional use **WILL NOT** endanger the public health, safety, morals, comfort, or general welfare as the storage business already exist. The expansion is on acreage that was purchased from a farm field away from any existing development. There will not be any new driveway added for the expansion of the business. The expansion will be fully fenced, therefore protecting the property from trespassers and protecting the public from the use.



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2. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and shall not change the essential character of the same area:

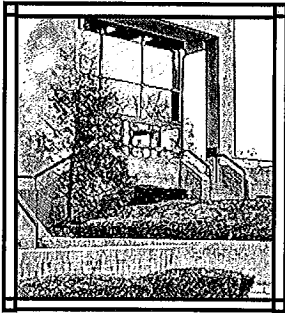
The conditional use WILL BE designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing character of the general vicinity. The expansion will be designed to match the existing business and act as a continuation of the business. It will not appear to be interrupted or a separate business. The conditional use WILL NOT change the essential character of the area as the business already exist.

3. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services:

The business WILL BE served adequately by public facilities and services. Although the expansion of this use will only be utilizing electric for the business of storage units. The business is served by Stateline Road which is a publicly maintained roadway.

4. Will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district:

The conditional use WILL NOT impede on the normal and orderly development and improvement of the surrounding property for uses permitted in the district as the business is already existing and only requesting for an expansion of the same type of business.



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5. Will not generate traffic on the existing street network that will cause congestion or unsafe ingress and egress within the neighborhood as a result of the development, unless evidence is provided that improvements can be made to minimize or relieve the impacts:

The conditional use WILL NOT generate traffic on the existing street that will cause congestion or unsafe ingress and egress as a result of the expansion to the business. The business is for storage units which does not generate a consistent flow of traffic as customers only visit to load the storage units or unload.

6. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person, property, or the general welfare by reason of excessive production or traffic, noise, smoke, dust, fumes, glare or odors:

The conditional use WILL NOT involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person, property, or the general welfare by reason of excessive production or traffic, noise, smoke, dust, fumes, glare or odors as the business expansion is for storage units and no type of production occurs on the property.