

BOARD OF ZONING & APPEALS MINUTES

Tuesday, October 11, 2016

7:00 P.M.

- 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:

Phil Darling
Russell Beiersdorfer
Rick Pope
Jim Thatcher
Jane Ohlmansiek
Nicole Daily, Zoning Administrator
Andrew Baudendistel, Attorney

C. Action on Minutes-

Mr. Beiersdorfer made a motion to approve the September 13, 2016 minutes.
Seconded by Mr. Thatcher. All in favor. None opposed. Motion carried.

D. Old Business Scheduled to be Re-opened

- | | |
|-------------------------|---|
| 1. Request: | Requesting a Variance for driveway spacing |
| Applicant/Owner: | Daniel Baitz/Floyd & Kim Osborne |
| Site Location: | 13885 Independence Lane |
| Legal: | Sec. 14 T6 R3, Parcel #15-09-14-300-022.000-021 |
| Township: | Sparta |
| Zoning: | Residential (R) Size: 1.88 Acres |

Ms. Daily presented the staff report. The applicant is requesting the approval of two variances for driveway spacing. The existing driveway located on this property has been in two different locations over the years. This lot as part of the subdivision was to have a shared driveway with the adjoining property according to the record plat that was recorded in 2003. The applicant states the proposed driveway location is a better location based on the topography and

previous disputes on the shared driveway location. The required driveway spacing on a collector road with a speed limit of 45 MPH is 230 feet. Therefore, the first variance request (northern proposed driveway) would be for 123 feet for both the northern and southern closest driveways (the actual spacing would only be 107 feet in both directions). The second variance request (southern proposed driveway) would be for 150 feet from the northern proposed driveway and 0 feet for the existing neighboring southern property (that used to be the shared driveway). The aprons of the driveways will meet up in the right-of-way.

Mr. Thatcher asked which property owner is responsible for the ditch line. Ms. Daily stated that Floyd and Kim Osborne will be responsible to make sure this will be properly sloped from their side of their property.

Ms. Daily went over the Staff comments again for the Board.

No further questions for Ms. Daily from the Board.

Mr. Pope asked the applicant to approach this Board.

Mr. Osborne stated the new driveway is for the use of being able to turn bigger equipment around in this driveway.

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

Mr. Orville Vanover, 13869 Independence Lane, stated that he did not really have anything to add. He is good with the presentation tonight.

Mr. Patrick Holland, 14175 Brown Road, but owns property within the subdivision, had a question with the zoning ordinance. He stated that it is already a high density area and adding another driveway would not be advisable. He has concerns with to why there was no traffic study done and presented to the Board.

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

Mrs. Ohlmansiek made a motion to approve the first variance request (northern proposed driveway) of 123 feet for both the northern and southern closest driveways (the actual spacing would only be 107 feet in both directions) and the second variance request (southern proposed driveway) of 150 feet from the northern proposed driveway and 10 feet for the existing neighboring southern property (that used to be the shared driveway). Also with the stipulation that the Osborne's record a document to vacate the shared driveway easement. This document will also include the signatures of the southern adjoining property owner so that the total easement is vacated. The property is located at 13885 Independence Lane, Parcel # 15-09-14-300-022.000-021 of Sparta Township. The variance arises from Article 24,

Section 2406. Citing the request meets the criteria of Article 3, Section 320 within the Dearborn County Zoning Ordinance. Motion was seconded by Mr. Thatcher. All in favor. None opposed. Motion carried.

E. Old Business to remain tabled- None

F. New Business-

1. Request:	Variance for Pond Setbacks
Owner:	Heather Abreu (Land Contract)
Site Location:	Mt. Pleasant Road
Legal:	Sec. 17 T6 R1, Parcel #15-06-17-900-010.002-020
Township:	Miller
Zoning:	Agricultural (A) Size: 42.115 Acres

(Mr. Pope is stepping down from this case. Mrs. Ohlmansiek is taking position of chairman for this request.)

Ms. Daily presented the staff report. The property owner is requesting a variance for a pond that was constructed on this property without proper permitting. The setback requirement for a pond is 150 feet from any right of way and 30 feet from any property line. These setbacks include any portion of the pond including edge of water, dam, and toe of slope related to the dam. Therefore, applicant is requesting a variance of 30 feet from the north eastern property line and a variance of 122 feet from the road right-of-way of Mt. Pleasant.

Ms. Daily stated that any approval of a barrier of any kind would need to be approved by Todd Listerman, County Highway Engineer. This will need to be outside of the right-of-way on applicant's property.

Ms. Daily stated she did not locate or see an Emergency spillway during her inspection of the property. It was clarified by George Kalkhoff, builder for Heather Abreau, that there is an emergency spillway installed. He explained to Ms. Daily where it is located. Ms. Daily recommends that rip-rap be placed in the area of the spillway to reduce erosion of the dam.

Ms. Daily recommended that there will need to be a final CO from the Building Department and the site will need to be inspected by the Planning & Zoning, and the planting for the berm will need to have taken place as well.

No further questions for Ms. Daily.

Mrs. Ohlmansiek asked the applicant to address the Board.

Vitar Abreu, husband of Heather Abreu, spoke to the Board and stated they hired a pond installer who did not apply for a permit. The toe of the dam was located by surveyor, Seig & Associates. He stated they will do whatever necessary to bring this pond into compliance with the county.

Mr. George Kalkhoff, builder for the Abreus', stated they hired a pond installer and trusted him to get all the permits necessary for the pond and he did not do this. He ensured the Board that they will do all they can to make this pond legal. They will do all they need to do to install the correct barrier for the safety of anyone using the driveway.

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

Mr. Greg Barber, 140 Sunny Drive, stated he was just there to educate himself on this request. He just had a concern with the future installation of a driveway on his property across from the Abreus' property. There seems to be no issues with him being able to do that.

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

Mr. Thatcher made a motion to grant the variance setback request for 0 feet from the northeastern property line, and a variance of 122 feet from the road right-of-way of Mt. Pleasant Road. Included in this motion is a barrier to be constructed from the edge of the pond by the dam/driveway south to the tree line of Mt. Pleasant Road. The property is located along Mt. Pleasant Road, Parcel # 15-06-17-900-010.002-020 of Miller Township. The variance arises from Article 25, Section 2554. Citing the request meets the criteria of Article 3, Section 320 within the Dearborn County Zoning Ordinance. Motion was seconded by Mr. Beiersdorfer. All in favor. None opposed. Motion carried.

(Mr. Pope returns to meeting.)

2. Request:	Variance for off-premise sign in an Agricultural district, Conditional Use for an Off-Premise Sign and Variance for Setbacks for Off-Premise Sign
Applicant/Owner:	JDJ Surveying & Engineering, LLC/Earl J. Stenger Trust
Site Location:	28498 Blue Creek Road
Legal:	Sec. 12 T8 R3, Parcel #15-03-12-100-003.000-009
Township:	Jackson
Zoning:	Agricultural (A) Size: 58.251 Acres

Ms. Daily presented the staff report. The applicant is requesting to install an off premise sign between Blue Creek Road and I-74 for a business located in Batesville. The sign is to be intended to be a billboard sign for the interstate but not as large as the typical billboard signs. The sign is proposed to be approximately 64 square feet in size and approximately 16 feet in height. The sign will be located along the road right-of-way of Blue Creek Road and I-74. An off premise sign is not listed as being permitted in an Agricultural District, therefore requires a variance on the district. An off premise sign also must be 600 feet from interstate right-of-ways and 100 feet from other thoroughfare right-of-ways. Therefore, a conditional use for off-premise sign is needed and a variance for an off-premise sign in an Agricultural district and variance setback of 100 feet from Blue Creek Road and a variance setback of 660 feet from I-74.

Ms. Daily stated the sign must remain 8 x 8 no matter what sign is used for or who rents the space because of the setback issues to the right-of-ways.

Ms. Daily stated that the whole Sign Ordinance does need to be reviewed and changed in the near future.

No further question for Ms. Daily.

Mr. Pope asked the applicant to address the Board.

Mr. Dennis Kraus, Jr. spoke on behalf of JDJ Surveying & Engineering, LLC. He explained that Mr. Stenger was approached by Skyline in Batesville to rent the sign. The height of the sign will be between 16-20 feet. Mr. Kraus thanked the Board.

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

No public discussion.

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

Mr. Beiersdorfer made a first motion to approve the Variance for an off-premise sign in an agricultural district. Seconded by Mr. Darling. All in favor. None opposed. Motion carried.

Mr. Beiersdorfer made a second motion to approve the Conditional Use for an off-premise. Seconded by Mr. Darling. All in favor. None opposed. Motion carried.

Mr. Beiersdorfer made a third motion to approve a Variance setback of 100 feet from Blue Creek Road and a Variance setback of 660 feet from I-74. Seconded by Mr. Darling. All in

favor. None opposed. Motion carried. The property is located at 28498 Blue Creek Road, Parcel # 15-03-12-100-003.000-009 of Jackson Township. The Conditional Use and variances arise from Article 20, Section 2070. Citing the requests meet the criteria's of Article 3, Sections 315 and 320 within the Dearborn County Zoning Ordinance.

ADMINISTRATIVE:

Ms. Daily stated that there will be a Wednesday, November 9th meeting.

Ms. Daily shared with the Board that there could be possible lawsuits files against 3 different properties in Hardintown in Lawrenceburg. She has sent out letters to allow the owners time to get their properties cleaned up and is not getting any response from them. Ms. Daily presented photos to the Board of the sites containing storage and garbage issues. The storage will need proper permitting which the owners do not have. Ms. Daily stated she will be handing the files over to Mr. Baudendistel to begin court proceedings.

Ms. Daily stated there have been no new changes to Marvin Hamon's property. The court date is Friday, October 14th at 9:30 a.m.

Mr. Beiersdorfer made a motion to adjourn. Motion was seconded by Mr. Darling. All in favor. None opposed. Motion carried.

Meeting adjourned at 8:40 p.m.


Rick Pope, Chairman
Nicole Daily, Zoning Administrator