PLAN COMMISSION MINUTES
Tuesday, January 23, 2017
7:00pm

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 provide 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.

A. **ROLL CALL-**
Members present:

Members Absent:

B. **Action on Minutes –**
made a motion to approve the November , 2016, seconded by . All in flavor. None opposed. Motion carried.

C. **Old Business: None**

Request: Vacate the southern unmaintained portion of West Street as well as portion of 2 unnamed alleys within the platted Town of Hardinsburg and a portion of 1 unnamed alley in Findley's Addition.

Applicant: Bayer Becker Owner: 600 Land, Inc.
Site Location: Town of Hardinsburgh; Findley's Addition
Legal: Sec. 2, T5N, R1W, Map 07-02
Township: Lawrenceburg
Zoning: Manufacturing Three (M-3)

Ms. Daily presented the staff report. The applicant is requesting a variance to construct a pond closer to the roadway and property lines than the Code allows. The setback requirement for a pond is 150 feet from any right of way and 30 feet from any property line. There is also a requirement that all proposed ponds need to be constructed no closer than 150 feet to an existing residential structure These proposed ponds need to be constructed no closer than 150 feet to an existing residential structure. These setbacks include any portion of the pond including edge of water, dam, toe of slope related to the dam, etc… Therefore applicant is requesting a variance of 21.5 feet from the side property line and a variance of 150 feet from the road right-of-way and a variance of 86.5 feet from the nearest existing residential structure to the south and a variance of 10 feet for the nearest existing residential structure to the northwest and a variance of 40 feet for the existing residential structure that is located across SR 62.

Ms. Ohlmansiek asked how deep the pond would be. Ms. Daily stated it will be about 10 feet deep.

Ms. Ohlmansiek asked about the dam height near the road (by the culvert.) Ms. Daily reported the water would run through the culvert. It wouldn't spill directly in to the culvert, as the water drains currently. The elevation of 853 for culvert, road is 861 and top of dam is 865. Center of dam is approximately 57 feet from the center of the road and 4 feet higher than the road.

Mr. Darling inquired if anyone call after receiving letters. Ms. Daily advised they did not. All letters were delivered but one was returned. Secondary letters were sent as well. Ms. Daily didn't hear from anyone. The board was told the neighbors actually want to take some of the dirty to level out their areas.

Applicant, Mike Stehlin, stepped forward upon request. Mr. Stehlin had nothing to add to the staff report other than advising the board the closest house would like to level out their yard with the moved dirt (house on the south side.) Horses are in there so a fence is always there. The pond is for horses and fishing.

No further questions of the applicant.

Mr. Phil Darling made a motion to open public discussion which was seconded by Ms. Ohlmansiek. All in favor. None opposed. Motion carried.

Mr. Darling made a motion to close public discussion. Ms. Ohlmansiek seconded motion to close public discussion. All in favor. None opposed. Motion carried.

Mr. Darling stated no one has complained about the plan but his concern is the water's close proximity to the house to the south. Mr. Darling is also concerned how close the pond is to the road but there is a natural barrier there.

Ms. Ohlmansiek expressed concerned about pond being so close to the road. She didn't realize the dam would be much higher than the road. She maintained concerns about the close proximity to house on the south side.

Ms. Daily and Attorney Baudendistel reminded all board members they have to vote unanimously due to only 3 members being present. Any action is not official unless all 3 members agree, per cited Indiana Code.

Board member discussion continued regarding elevations and close proximity to the road. The Board was shown the map of elevations.

Ms. Ohlmansiek asked if there are there any problems with water seepage if there is a basement and a pond built nearby. The board and Ms. Daily advised no as the house is above the pond. The house sits about as high as the dam. It is unknown if the home has a basement. The water will never get to the top of the dam due to the culvert pipe.

Mr. Pope stated the spillway is actually 10 feet below the yard.

The water being so close to the highway is the concern. Concerns were expressed about someone running off the road there.

Ms. Daily asked if the board would consider re-opening public comment to address some of the boards concerns.

Ms. Ohlmansiek re-opened public discussion, seconded by Mr. Darling. All in favor. Motion carried.

Surveyer Rob Seig approached the board. County Engineer, Mr. Listerman's, main concern is to elevate the dam 4 ft above the roadway, look at existing homes and distance from homes to the pond. As cars travel southbound on SR 62, they would have to breach the guardrail, go down an embankment and go back up the dam to reach the pond. There is a lot of space and having to go through the fence. To the south the grade is a little bit higher. There may be a way to add something such as a barricade or trees to slow cars down that may leave the roadway. INDOT had no concerns as long as they are more than 25 feet away and not affecting the culvert. Mr. Listerman wanted it drawn up. Drainage from the spillway was not designed by owner and this can be adjusted. Due to the grade differential, it is unlikely water will get to homes. If there is any potential a car could reach the water, something can be constructed to stop cars. This affects south bend traffic more than north bound. Cars would have to be traveling at a high rate of speed. Seig didn't run any geometry on cars that may run off the road after discussion by the board of angles one would have to drive off of the roadway. Fencing would be there though.

Ms. Daily discussed locations cars could leave the roadway and distance from the edge of pavement to the pond.

Ms. Ohlmansiek asked if a berm could be put along there to slow cars down. Ms. Daily advised that is up to applicant. The fence will slow you down. If a vehicle is fast enough to go through a fence, they could go through a berm too.

Different barricades were discussed by Ms. Daily, such as trees. There are so many different scenarios. Speed limit is 45 MPH there. The area is a straight away; lack of curves in the immediate area is an advantage.

Criteria was discussed from Article 3, Section 320 of the Dearborn County Zoning Ordinance amongst the board members. Concerns were discussed about the close proximity of the pond to the road and the house to the south.

Ms. Ohlmansiek also inquired if the plan would affect property value.

The board continued to discuss concerns of the close proximity of the pond to the road and homes and also the lack of concern by the county engineer, INDOT and neighbors.

Ms. Daily advised the applicant is willing to table this request to work something out with the county engineer to change the distance from the road to pond to ease the board's concerns. They could look at barriers, barricades and inspection of fencing. They could also get a letter from the property owners or Ms. Daily could get a phone call on their stance. This can be tabled until February.

Mr. Darling made motion to table this request until February. Ms. Ohlmansiek seconded the motion. All in favor. Motion passes.

D. **OLD BUSINESS TO REMAIN TABLED – NONE**

E. **NEW BUSINESS-**

Request: A Variance for side yard setback on an accessary structure
Applicant: Sieg Surveying Owner: Dustin Hoff
Site Location: 29471 Blue Creek Rd.
Legal: Sec. 1, T8, R3 Parcel #15-03-01-200-011.000-009
Township: Jackson
Zoning: Agricultural (A) Size: 19.93 Acres

Ms. Daily presented staff report. The applicant is requesting a setback variance on a barn that is currently under construction. The owner was issued a permit to construct the barn with a minimum side yard setback of 5 feet. During construction it was determined that the footers of the barn were potentially constructed too close to the property line. The owner obtained a land surveyor to stake the location of the property line and it was determined that the structure was too close, therefore requiring a side yard setback variance. The barn is approximately 72 feet by 50 feet. Therefore, the applicant is requesting a side yard setback variance of 0 feet to continue construction on the barn.

The building dept. thought the footers may be too close when they went out there. By the time Ms. Daily got out there, talked to property owner and the owner hired a surveyor, construction had continued. The owner worked with the county to not get too far in to the construction. An adjoining property owner did not have a problem with the barn being close to his property line but he wanted the owner to go through the proper channels to get a variance, per his phone call with Ms. Daily. As long as the barn wasn't on his property, he didn't have concerns with close proximity to the property line. Surveyor Rob Seig also talked to the adjoining property owner. Eleven letters were sent out. Ms. Daily received an e-mail from one property owner and calls from a couple of others (to the west.) E-mail stating an objection was provided to the board. Ms. Daily advised the owner took a barn down to build a bigger one.

No one had any additional questions to ask Ms. Daily.

Applicant Rob Seig approached and spoke on behalf of owner Dustin Hoff. He applied for Mr. Hoff due to making the application timely.

Mr. Seig advised the old building had a foundation and he held that alignment on the front of the building. His goal was to get within 5 feet of the fence assuming it was the property line. The problem is in the SW corner. Mr. Seig and Jeff Stenger (neighbor) talked about how the boundary line was established. The line was where Mr. Stenger said it was. All agree the SW corner was over the line. Mr. Stenger wanted anything over the line removed so it was. It didn't hurt the integrity of the building. Once that occurred, Mr. Stenger had no objections to the variance if proper channels were followed. Once he straps all of the sheeting on, it will all be clear. There will be no overhang present so no invasion of air space.

Mr. Pope asked if you just eyeball down the fence line, would it be closer than 5 feet. Not in the front but in the back.

Mr. Seig stated the fence line is not straight and not square to the road. This all played a factor. Not all fence lines are property lines.

No other questions for applicant.

Ms. Ohlmansiek made a motion to open public discussion. Mr. Darling seconded. All in favor.

Mr. Hoff (owner) stated the building was going to be further away than that. The farm has been in his family for a long time. The reason the building went up was he applied for a grant last year from the USDA program for a large feed lot. He owns 83 cattle. There was a driveway to the back of the building and down the side, USDA gave him a grant to take feed down that driveway. Originally, he was going to build the building with a variance right on the property line. He discussed the variance with the USDA. Mr. Hoff used the measurements from the original building. He squared the building off of the original slab. Building is for feeding out live stock. His house is square to all of his buildings. Mr. Stinger told Mr. Hoff he wouldn't have an issue with building on property line as long as variance was sought. Mr. Hoff had no intentions of building it over the line. Mr. Hoff consulted with the building inspector and had him come out. Building inspector said if the inspector didn't call, Mr. Hoff was good to go so Mr. Hoff started construction. Ms. Daily then called him after that about proximity to the property line. Mr. Hoff has a lot of money and time invested in the building. It is beneficial to his neighbor as Mr. Stenger won't have to maintain all of the fence now.

No further questions of the applicant.

Mr. Darling moved to close public discussion. Ms. Ohlmansiek seconded. All in favor.

Ms. Ohlmansiek stated Mr. Hoff is working with the neighbor to make things right.

Mr. Darling stated he has no problem with it and acknowledged finding the property line would be difficult.

Mr. Pope advised he now has no problem with it.

Ms. Ohlmansiek made a motion to grant variance of 5 feet to allow building to be built on the property line for owner Dustin Hoff and applicant Seig Surveying at 29471 Blue Creek Rd. in Jackson township as it appears to satisfy criteria of article 3 , Section 320 of the Dearborn County Zoning Ordinance . Mr. Darling seconded the motion. All in favor. Motion carried.

F. ADMINISTRATIVE:

Ms. Daily discussed the meeting schedule for next year. There will be no meeting in January. February meeting is set to fall on 2/14. All agreed it was OK to keep the meeting on this day.

Attorney Baudendistel updated the board on the Hammond hearing. The hearing was set for Friday morning. Judge Humphrey is still in jury trial. The court wanted to know if we could just file a report with the court due to the court's calendar. The report was filed. Mr. Baudendistel talked to court today and the Judge wants to set it for a hearing but it may be awhile. A lot of items have been pushed back due to the jury trial. Other cases take priority over this case due to statutory time limits. Mr. Hammond did not remove all business items, per court order, like requested. He has focused on getting his barn built instead. Mr. Baudendistel got a call from Attorney Jud McMillan. He has not been retained by Mr. Hammond though. Mr. Baudendistel advised Mr. Hammond needs to get stuff removed from the property, per court order. Mr. Baudendistel is unsure when the court hearing will be scheduled. Other hearings have scheduled for February so it may be February until the hearing is held.

Mr. Darling asked if Ms. Daily has seen the barn. She has. She stated the building dept did an inspection of the footers. She is unsure if they have seen the framing.

Mr. Baudendistel is also going to put together a list of all pending cases for the board due to them being filed in their name so the board knows the status and basis for the cases. Most get resolved but some don't.

Johnny Wright hearing set for the 28th. Attorney Doug Holland was retained. The hearing was continued. Mr. Baudendistel filed a report with the court on that case as well. John Watson was previously retained. Mr. Holland is trying to motivate Johnny to clean up his property and make it look nice.

Mr. Baudendistel advised something will need to be done with Langley Heights also. Mr. Baudendistel would like to talk to the commissioners about setting up a meeting and has considered filing a declaratory judgement with the court to survey the area. Mr. Goddard has been calling Mr. Baudendistel about this as well. There was a suit in Judge Cleary's court that it would be surveyed by Mike Hall but it was never surveyed because no one paid for it. The Judge dismissed with prejudice. The property line is still sitting in the same influx since 2008. Neither of those parties can file again. Someone needs to decide on this. Mr. Baudendistel is unsure who would pay for the cost to survey this. Maybe the cost can be split.

Mr. Goddard has a driveway permit that is blocked by a trailer. Johnny was ordered to remove the trailer. It is not believed to have been removed yet. It would be beneficial to property owners and county to move forward. If an order is obtained, law enforcement would have an order to go by.

Mr. Pope asked if he can read something about keeping cell phones off or on vibrate during meetings. Ms. Daily can create a checklist to read prior to the start of a meeting. Board members, Ms. Daily and Mr. Baudendistel discussed how to handle repeated occurrences of meeting disruptions (cell phones continuing to go off or applicants becoming belligerent.) Mr. Baudendistel recommended the board make a statement about cell phones being on vibrate and give a warning if this were to occur. All agreed if anyone become unruly, they should be asked to leave.

Ms. Daily can send out the staff report quarterly electronically for review.

No meeting will be held in January.

Elections will be held in February.

Ms. Daily provided an update to the board about the pond on Peppertown Rd. He has lowered the dam. Ms. Daily has seen it. The trees have been pulled out of the dam. Ms. Daily will be e-mailing him to ask about further addressing the variance in February. He did not respond back to make the deadline in January.

Mr. Darling made a motion to adjoin. Seconded by Ms. Ohlmansiek. All in Favor.

Meeting adjoined at 8:30pm.

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Rick Pope, Chairman

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Nicole Daily, Zoning Administrator