

BOARD OF ZONING AND APPEALS MINUTES

Tuesday, July 26, 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:

Rick Pope

Russell Beiersdorfer

Phil Darling

Jim Thatcher

Jane Ohlmansiek

Nicole Daily – Zoning Administrator

Andrew Baudendistel – Attorney

Members absent:

NONE

C. ACTION ON MINUTES:

Mr. Beiersdorfer made a motion to approve the minutes for the June 13, 2017 meeting as written. Mr. Darling seconded the motion. All in favor. None opposed. Motion carried.

D. OLD BUSINESS SCHEDULED TO BE REOPENED:

1. **Request:** A Variance for building setback
Applicant: Jerry Firestone (Architect)
Owner: Trinity Christian Center
Site Location: 18687 Pribble Road
Legal: Sec. 33, T6, R1 Parcel #15-06-33-200-011.002-012 & 15-06-33-200-012.000-012
Township: Lawrenceburg

Ms. Daily updated the Board on the case which has been tabled over the last several meetings. The survey for the property line has been completed and shows that the variance is going to be 15 feet. There were no questions related to the staff report and slide presentation that has been presented at

past meetings on this case. The Board would be listening to discussion between the Church and the neighboring property owner to the west.

Mr. Darling made a motion to open public discussion. The motion was seconded by Mr. Thatcher. All in favor. None opposed. Motion carried.

Representative for the adjoining property owner to the west, Mrs. Terry Sawyer, stated that she and the pastor of Trinity Christian Church, Corey Potts, have come up with a compromise on the setback variance request along the property line owned by her parents. Ms. Sawyer's handed copies of the compromise to the board members. The corner of the proposed addition will be 15 feet from the property line. The church will install white vinyl fencing and trees comparable to a red sunset maple to be planted along the property line from the parking lot along the western property line a distance of 150 feet. The trees will be planted approximately 30 to 40 feet off center.

The Board had no questions for Mrs. Sawyers.

Mr. Corey Potts, pastor of Trinity Christian Church, stated that this is the agreement which has been meet with the adjainers and he wanted to publicly thanked Mrs. Sawyers for her cooperation. He is satisfied with the proposal.

The Board had no questions for Mr. Potts.

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

Mr. Thatcher made a motion to grant a side yard setback variance of 15 feet for Trinity Christian Church at 18687 Pribble Road with the condition that a white vinyl fence, as pictured in the agreement presented tonight, be installed from the northern area of the proposed building addition, running south along the western property line for 150 feet, and that trees be planted that are comparable to red sunset maples for the same distance of 150 feet and approximately 30 to 40 feet off center. The motion was seconded by Mr. Beiersdorfer. All in favor. None opposed. Motion carried.

E. OLD BUSINESS TO REMAIN TABLED-NONE

F. NEW BUSINESS

- | | | |
|----|-------------------------|---|
| 1. | Request: | A Variance for pond setbacks |
| | Applicant/Owner: | David Metz & Michael Metz |
| | Site Location: | 11399 & 11207 North County Line Road |
| | Legal: | Sec 6, T7, R2 Parcel #15-02-06-100-003.002-009 & #15-02-06-100-003.003-009 |
| | Township: | Jackson |
| | Zoning: | Agriculture (A) Size: 21 & 25 acres |

Ms. Daily presented the staff report and the slide presentation. The property owners are wanting to construct a pond between two adjoining properties. The adjoining properties are owned by brothers and both brothers have built houses on the properties. Since the pond is proposed to cross the property line, it would not meet the side yard requirement of 30 feet and the dam would only be 80 feet from the road right-of-way. Therefore, there are two variances needed. The Board was also given a letter from the County Engineer regarding the variance for the right-of-way setback. Mr. Listerman stated in the letter that the pond dam would need to be higher than the road, which it appears from the topography that this would be achieved.

If the variance is approved, the owners will need to apply for a location improvement permit. Six letters were sent out to the property owner and the adjoining property owners. Five of the letters were delivered and one remained in transit.

The Board had no questions for Ms. Daily.

Mr. Michael Metz and Mr. David Metz, property owners/applicants, stated that the dam is proposed to be 8 or 10 feet above the roadway, therefore having no issue meeting the requirements of the County Engineer. A contractor will be constructing the pond.

The Board had no questions for the property owners.

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

There were no public comments.

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

The Board members did not have any issues with the request for the construction of the pond.

Ms. Ohlmasiek made a motion to approve the variance for the pond side yard setbacks and the right-of-way setback with the condition the dam be constructed higher than the pavement of the road as required by the County Engineer. The approval is based on the request met the criteria set forth in Article 3, Section 320 of the Zoning Ordinance. Seconded by Mr. Beiersdorfer. All in favor. None opposed. Motion carried.

2.	Request:	A Modification to an approved Conditional Use for fireworks storage in an agricultural district
	Applicant/Owner:	JMKL, LLC
	Site Location:	11628 SR 46

Legal: Sec. 7, T7, R2, Parcel #15-02-07-300-016.002-009 & #15-02-07-300-016.001-009
Township: Jackson
Zoning: Agriculture (A) Size: 25 acres

Ms. Daily presented the staff report and slide presentation. There was a previous conditional use approved for the property to be used for fireworks storage with a modification for additional magazines to be placed on the property without fireworks. The initial conditional use approval was issued on the condition that no magazines be placed closer than 650 feet from the roadway. There was litigation which both parties agreed to allow non-firework storage containers placed closer than the 650 feet. Property owner is requesting to change two of the non-firework storage units, which are closer than 650 feet, to be able to store fireworks. Plus add an additional storage container for non-firework storage. There are two parts to the modification request:

- 1) To allow the two magazines closer than 650 feet to store fireworks which would modify the settlement agreement and the approved major site plan.
- 2) To allow an additional magazine to be placed on the property closer than 650 feet from the centerline of the roadway, but prohibited to non-firework storage.

Because of the conditional use and the type of request, there isn't really a setback requirement for this item. Plan details include 12 magazines (8' X 45'). Each magazine has two containers at that measurement. In total, there will be 16 areas of storage, which would include fireworks and non-fireworks. Currently the two storage areas present are storage for non-fireworks but the applicants would like to begin storing fireworks in them.

The Board had no further questions for Ms. Daily.

Ms. Daily distributed letters of opposition that were received from the public and gives the Board time to review the letters before moving forward with the remainder of the meeting.

Mr. Dennis Lynch, representative for JMKL, LLC, addresses the Board on the request. He is asking for a modification to a previously approved conditional use. He spoke to the neighbor who asked for the 650 foot distance and was told that the neighbor wouldn't have a problem with the proposed change. The reason for the change is that Mr. Lynch's business is growing and he needs more storage. He agreed to the 650 foot distance originally because the business was new and not many people knew of it.

The Board had no questions for the applicant.

Mr. Pope stated that before they open it up for public discussion on this case, he wanted to remind people that this case is to review the modification to the existing conditional use for the storage of fireworks. This meeting is not being heard to discuss issues the neighboring residents may be having on the detonation of fireworks in the area. Those complaints would need to be directed towards the County Commissioners as to the Planning and Zoning Ordinance does not have regulations pertaining the detonation of fireworks.

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

Mr. Tom Sicking, owner of adjacent property to the east along SR 46, states that he and his wife own 9 acres adjacent to the property owner. Their concern is that the storage units will make their lots lose value overtime. They do not want the Board to approve the additional units.

Mr. Dennis Siebert, 28330 Cedar Creek Drive, stated he and his family live in the Cedar Creek Subdivision east of the property. His main concern is the location of the units. The units should meet the requirements set by the ATF (Bureau of Alcohol, Tobacco, Firearms, and Explosives). He feels that the owners have not abided by the requirements set by the ATF and would like for them to begin abiding by them. He doesn't feel like these new magazines will fit within the guidelines.

Ms. Mary Trabel, 11698 SR 46, stated that her and her brother own property next to Mr. Lynch, along the western property line. Her main concern is safety. She doesn't feel the units are safe and she feels that the addition of other units will be detrimental to the safety of the neighbors and their health.

Mr. Tim Bush, 28430 Cedar Creek Drive, stated he would like to see the Board provide no modification. He thinks that the containers that are there are fine, but no more should be added. He feels that the owners should stick to the original agreement and that be the end of it. The original conditional use should be met.

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

Mr. Pope asked how the difference came about between the concept plan that was submitted during the initial hearing and the Major Site Plan that was submitted with additional storage containers.

Mr. Baudendistel stated that a case was filed against JKML in 2013 because of the placement of some of the containers and an agreement was reached in 2014 between both parties, which resulted in the approved Major Site Plan permit staff has on file. Mr. Baudendistel would like the Board to note that the agreement stated that any modifications outside the settlement agreement had to be approved through the process through the Board for approval.

There were no further questions for Mr. Baudendistel from the Board.

Mr. Darling stated that one of the reasons for the 650 feet was so the containers wouldn't be easily seen from the road and help with the protection of trespassers. The logic behind the setback was based on the discussions by the Board members in the initial hearing.

Mr. Beiersdorfer stated that he had a tough time going against the agreement that was originally set by the Board in the original hearing as well as the agreement that was made through litigation by both parties.

Mr. Beiersdorfer made a motion to deny modification request on the existing conditional use and approved Major Site Plan Permit. Seconded by Mr. Darling. All in favor. None opposed. Motion carried. The request has been denied.

3. **Request:** **A Conditional Use to operate & store equipment related to a Landscape Business in an agriculture district**
- Applicant/Owner:** **Joseph & Catherine Rehage**
- Site Location:** **27402 Dog Ridge Road**
- Legal:** **Sec. 15, T7, R2, Parcel #15-02-15-300-036.000-010 & #15-02-15-300-042.000.010**
- Township:** **Kelso**
- Zoning:** **Agriculture (A) Size: 3.2 acres**

Ms. Daily presented the staff report and the slide presentation. The property owner is requesting a conditional use to operate a landscaping business with equipment storage on property located in an agricultural zoning district. The already existing barn, which has not been permitted, meets the setback requirements and could be an accessory structure if the conditional use is not approved. The house on the property is the owner's home. A "Rehage Landscaping," sign is present on the property and would also need permitted through a Minor Site Plan permit process if the conditional use is approved. It meets all setbacks and square footage for existing area. If the request is denied the equipment will need to be removed from the property and the sign will need to be removed as well.

If the conditional use is approved, the owner would have to apply for minor site plan. Staff would also recommend that the driveway be widened because it appears the existing trucks with trailers have a difficult time entering the property without disturbing adjoining grassed area.

There were 8 letters were sent out to the property owner and the adjoining property owners. All eight letters were delivered. There were two letters received from adjoining property owners voicing their concerns. One is from property owner across the street, which discusses the issues with the trucks driving into the yard to make the turn into the driveway. The applicant has already been in contact with this adjoiner and has fixed the grass but the widening of the driveway will fix this problem. The other letter is from the property owners to the north which were concern with the privacy of their backyard. The applicant is proposing to add additional privacy fencing to satisfy this complaint. Ms. Daily stated she conducted an inspection of the property during the time employees were returning at the end of the day, she observed the employees unloading a bobcat, and pallets were being put into a truck. There were noises from the work vehicles but not in extreme. The loudest noise was from the bobcat as it was in reverse with the beeping sounds.

The Board had no questions for Ms. Daily.

Mr. Joseph Rehage and Mrs. Catherine Rehage, applicants and property owners, addressed the Board. The business has been there 20 years on the property and was started by their son. The next-door

neighbor has lived on the adjoining property for 3 months and doesn't want the landscaping business present. The landscaping business has gotten bigger over the years. Mr. and Mrs. Rehage are willing to do whatever they have to do to make adjustments. Their plan is to put a culvert in the driveway to make it more accessible for workers. They have communicated with their neighbors regarding the business and have put in hedges and bushes to maintain privacy for them. They have tried to consider all of their neighbors' suggestions over the years. Mrs. Rehage have planted 3 pine trees and approximately 12 burning bushes along the rear of the property to help with screening of the property for the neighbor to the east. They have also tried to replace trees and plants that have been taken down in the past.

The Board had no further questions for applicant.

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

Mr. John Rudisell, 27371 Leona Drive, adjacent property owner to the east, addressed the Board. The home that he bought three months ago was his parents' home. He now lives in it with his family. He showed the Board pictures regarding what he sees when he looks out his back window. There are a number of vehicles parked that all have Ohio license plates but he says that no taxes are being paid in the State of Indiana. The business begins operations at 6 a.m. and also operates on Saturdays and Sundays. He also can see the gas tanks from the back of his house. There is always a lot of noise coming from the business. When it rains hard, Mr. Rudisell gets a shiny film of oil on his pond from the oil coming off the barn or some of the equipment. There is debris lying around the property that he has noticed. Mr. Rudisell frequently hears profanity from the workers.

The Board was presented with a video taken by Mr. Rudisell of the landscape trucks operating early in the morning at 7:01 am. Mr. Rudisell moved back to his childhood home because the house is sentimental to him and his family, even though he knew the business was there prior to moving back. Mr. Rudisell would like the Board to deny the request so the business has to move to another location.

Mr. Derek Rehage, son of the applicant and owner of the business, addressed the Board. He stated he will improve on some things regarding the business in order to satisfy the concerns of the neighbors. He will do whatever needs to be done in order to make things right and keep the business at its current location.

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

Mr. Pope asked Ms. Daily if landscaping falls under an agriculture item.

Ms. Daily explained that it is very complicated. The landscaping business provides services for a residential or a commercial lifestyle, as well as an agricultural lifestyle. There are no specific ordinances for whether the landscaping business is really considered agricultural or not. It this type of business does not fall under a specific zoning district. The Board has had various cases regarding landscape

businesses because it is not clearly outlined in the Zoning Ordinance, therefore staff always treats these businesses as conditional uses.

Mr. Pope explained that neither he nor the Board can regulate whether the landscape business is paying Indiana taxes, etc. The Board has to decide whether the Rehage's will be granted a conditional use for their business to continue and if the use is conducive with the surrounding area.

Mrs. Ohlmansiek discussed whether a privacy fence could be put in place around the back portion of the Rehage property so that Mr. Rudisell has more privacy and screening from the outdoor storage and it would cut down on some of the noise that the neighbors hear.

Mr. Beiersdorfer feels that the business is agricultural. The noise from it just happens to be noises associated with an agricultural district and uses. The equipment is loud by design and that is how it works. The area is zoned agricultural and it is part of living in the agricultural district.

Mr. Pope suggested that planting evergreen trees will help soften the noise a little bit. He feels a privacy fence would just resonate the noise.

Mrs. Ohlmansiek made a motion to grant approval for a conditional use to operate and store equipment related to a landscape business in an agricultural district on property located at 27402 Dog Ridge Road, with condition that evergreen trees be planted along the rear property line and the driveway will be made wider so that trucks can get in and out easier, this shall be approved by the County Engineer. Seconded by Mr. Beiersdorfer. All in favor. None opposed. Motion carried.

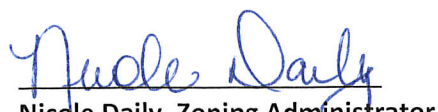
G. ADMINISTRATIVE

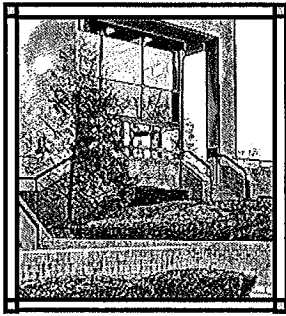
Ms. Daily stated there will be a meeting in August.

Mr. Baudendistel discussed a few legal enforcement cases.

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

Meeting adjourned at 9:45 pm.


Richard Pope, Chairman
Nicole Daily, Zoning Administrator



Dearborn County Plan Commission

Board of Zoning Appeals: Findings of Fact

215 B. West High Street
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CASE TITLE: Trinity Christian Center Side Yard Building Setback Variance

CASE NUMBER: 17BZA0411-003

PROPERTY ADDRESS: 18687 Pribble Road, Lawrenceburg, IN 47025

Trinity Christian Center requested a variance for a side yard building setback for a proposed building addition. The required side yard setback is 30 feet for an agriculture district based on Article 25, Table 25.1.

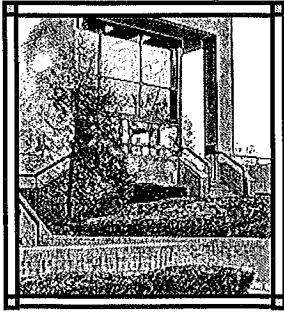
The Dearborn County Board of Zoning Appeals conducted a hearing regarding the application on April 11, 2017. After testimony was given and evidence was presented to the Board, a motion was made to table the item for the next meeting and the motion was carried with a vote of 5-0-0. The Dearborn County Board of Zoning Appeals conducted a continuance hearing regarding the application on May 11, 2017 and after testimony was given the Board made a motion to table the item for the next meeting and the motion was carried with a vote of 4-0-1 (Jane Ohlmansiek was not present at this meeting). The Dearborn County Board of Zoning Appeals conducted a continuance hearing regarding the application on June 13, 2017 and after testimony was given the Board made a motion to table the item for the next meeting and the motion was carried with a vote of 3-1-1 (Rick Pope was not present at the meeting, Mr. Thatcher voted aye, Mrs. Ohlmansiek voted aye, Mr. Beiersdorfer voted aye, and Mr. Darling voted nay). The Dearborn County Board of Zoning Appeals conducted a continuance hearing regarding the application on July 26, 2017 and after testimony was given the Board made a motion to approve the variance request and the motion carried with a vote 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 granting 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 building addition WILL NOT be injurious to public health, safety, morals, and general welfare of the community. The building being closer to the property line poses no risk to health, safety, morals, or general welfare.

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:



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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 requested variance. An agreement was rendered between the property owner and the adjacent property owner to the west for the installation of vinyl fencing and trees, which will approve the appearance of the property to assist in maintaining undisturbed use and value of the adjacent property.

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:

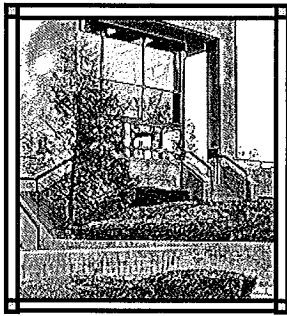
The odd shape of the property lines restricts the expansion of the building addition in a geometric way, because the property lines are not parallel with the existing building, therefore making it difficult to design the building addition to be parallel with the existing structure and parallel with the property line. Therefore the setback is meet on the north side of the building addition but not the southern corner, arising in the need for the variance.

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 setback requirement for the side yard would create an unnecessary hardship to the design of the proposed building addition since the existing building and the property line are not parallel. Buildings designs and the stability of the structure are sounder when the designs can be created parallel or at right angles.

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

The church was constructed in 1990 and only been expanding over the last 3 years. The property owner would have never imagined the growth experienced in only 3 years to provide the need for building additions. The benefit to the variance is to allow for the growth of the church without having the church vacate the existing structure, leaving it vacant and it being a hard to retrofit structure in our community (if the church left the property to go build somewhere else).



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CASE TITLE: Metz Pond Side Yard Setback and Right-of-way Setback Variances

CASE NUMBER: 17BZA0711-001

PROPERTY ADDRESS: 11399 & 11207 North County Line Road, Brookville, IN 47012

David Metz and Michael Metz requested a variance for a side yard setback and right-of-way setback for the proposed construction of a pond. The pond would be constructed over the shared side yard property line between the two parcels. The required side yard setback is 30 feet to a side property line and 150 feet to any road right-of-way, based on Article 25, Section 2554.

The Dearborn County Board of Zoning Appeals conducted a hearing regarding the application on July 26, 2017. After testimony was given and evidence was presented to the Board, a motion was made to approve the variance request and the motion was carried with a vote of 5-0-0.

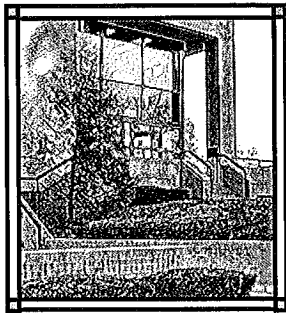
In its deliberations, the Dearborn County Board of Zoning Appeals weighed the evidence associated with the following criteria and made the following findings in granting the request for a Variance. Dearborn County Zoning Ordinance Article 3, Section 320 states that a variance may be approved only upon 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 pond WILL NOT be injurious to public health, safety, morals, and general welfare of the community. The pond being closer to the property line and right-of-way poses no risk to health, safety, morals, or general welfare. The dam is to be constructed higher than the edge of pavement, therefore lowering the risk of errant vehicles entering the pond.

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 requested variance. The two property owners requesting the side yard variance are brothers and the pond will not affect any other adjoiners.



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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:

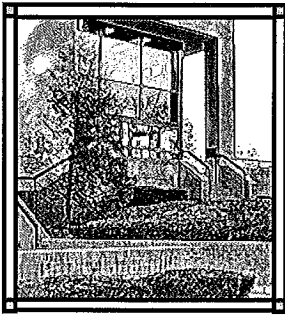
The swale line where the pond will be constructed crosses the property line, therefore the design of the pond would be constructed around the existing topography of the land, therefore crossing the property line. In order to continue with the natural topography of the land the dam location would be closer to the road right-of-way.

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:

If the strict application of the terms of the zoning ordinance were followed would constitute increased disturbance of the nature ground. The less disturbance of the land creates a more stabilized pond construction.

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

The pond construction is being designed around the natural topography of the land therefore no resulting any actions of the applicant.



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CASE TITLE: JMKL, LLC Conditional Use Modification for fireworks storage

CASE NUMBER: 17BZA0711-002

PROPERTY ADDRESS: 11628 SR 46, Sunman, IN 47041

JMKL, LLC (represented by Dennis Lynch) requested a modification for a previously approved conditional use for fireworks storage in an agriculture district. The original conditional use was approved in 2012 with the condition there would be no firework storage closer than 650 feet from the roadway. There was litigation on magazines being placed closer than 650 feet and both parties signed off on a settlement agreement that allowed two magazines (16'x40' and 16'x45') to be placed closer than 650 feet but could not contain firework storage. This modification request is to change the two magazine containers to firework storage and add an additional magazine container (16'x40') with no firework storage.

The Dearborn County Board of Zoning Appeals conducted a hearing regarding the application on July 26, 2017. After testimony was given and evidence was presented to the Board, a motion was made to deny the request of a modification to an existing conditional use and the motion was carried with a vote of 5-0-0.

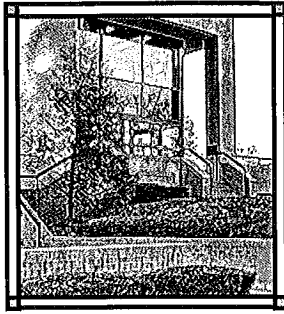
In its deliberations, the Dearborn County Board of Zoning Appeals weighed the evidence associated with the following criteria and made the following findings in denying the request for a Modification to an Existing Conditional Use as the request did not meet all the criteria needed for approval.

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 modification to the existing conditional use could provide a danger to public health, safety, morals, comfort, or general welfare. The initial approval added the condition for no fireworks to be stored closer than 650 feet, which one of the reasons for this was for the safety of residents and travelers on SR 46. This provided a safety buffer in the remote chance the magazines would catch fire and explode, as well as decrease the chance of trespassers of the property causing a safety concern with the storage of fireworks of high explosives.

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:



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The modification to the existing conditional use could change the appearance of the intended character of the general vicinity by adding additional magazines/containers to the property. With the existing number of containers, and most being in the rear portion of the property, was deemed to be harmonious because of the spacing on the property. If more containers were placed on the property, and even closer to the road, the character of the area can be affected.

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 existing conditional use is currently being served by the listed public facilities and/or private utilities. It is unlikely the proposed modification will experience any lack in essential public facilities and services, but there are concerns of fire services for any expansion of firework storage on the property.

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

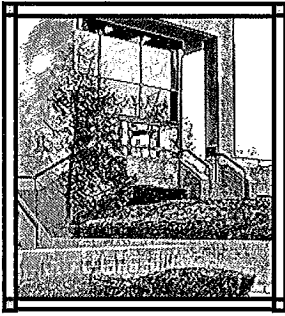
It is unlikely the modification to the existing conditional use will impede on normal development and improvements of the surrounding area for permitted uses in the district.

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:

It is unlikely the modification to the existing conditional use will generate additional traffic on the existing street network.

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:

It is unlikely the modification to the existing conditional uses and its operations will produce excessive traffic to the area.



Dearborn County Plan Commission

Board of Zoning Appeals: Findings of Fact

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Lawrenceburg, IN 47025
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CASE TITLE: Rehage Conditional Use for Landscaping Business

CASE NUMBER: 17BZA0711-003

PROPERTY ADDRESS: 27402 Dog Ridge Road, Brookville, IN 47012

Joseph & Catherine Rehage requested a conditional use to operate and store equipment related to a landscaping business in an agricultural district. The son of the property owner has been running the business from the property for 20 years and recently constructed a barn without permits. The conditional use is to bring the business into compliance and permit the barn and the business sign located on the property.

The Dearborn County Board of Zoning Appeals conducted a hearing regarding the application on July 26, 2017. After testimony was given and evidence was presented to the Board, a motion was made to approve the request for conditional use, with the conditions that evergreen trees be planted along the rear property line and the driveway will be made wider so that trucks can get in and out easier, which shall be approved by the County Engineer and the motion was carried with a vote of 5-0-0.

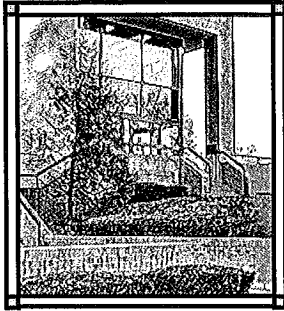
In its deliberations, the Dearborn County Board of Zoning Appeals weighed the evidence associated with the following criteria and made the following findings in granting the request for a Conditional Use. Dearborn County Zoning Ordinance Article 3, Section 315 states that a conditional use determination in writing that the following are true:

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

The proposed landscape business WILL NOT endanger the public health, safety, morals, comfort, or general welfare of the community, as the business has been in operation for 20 years and there have been no records of issues with the business prior to the barn being constructed without permits.

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 barn and equipment are located on the property behind the main residential structure, approximately 400 feet from the centerline of Dog Ridge Road, in a wooded area of the property. The secluded nature of the lot provides screening from adjoining property owners and keeping with the existing character of the general vicinity. The



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applicants will also be planting additional vegetation to provide additional screening of outdoor storage.

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 existing residential structure and barns are currently being served by the listed public facilities and/or private utilities. It is unlikely the conditional use approval will experience any lack in essential public facilities and services, as the business has been in operation for 20 years and the approval of the conditional use will bring the property into compliance.

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

It is unlikely the conditional use will impede on normal development and improvements of the surrounding area for permitted uses in the district, as it has not affected the surrounding property uses in 20 years.

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:

It is unlikely the conditional use will generate additional traffic on the existing street network. The Board has also placed a condition to widen the driveway, which will help the traffic generated by the business provide safer ingress and egress from the property.

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:

It is unlikely the conditional uses and its operations will produce excessive issues as listed, as the landscape work is completed off site at different locations. The property is used primarily for the purpose of equipment storage.