

BOARD OF ZONING AND APPEALS MINUTES

Tuesday, May 11, 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

Nicole Daily – Zoning Administrator

Andrew Baudendistel – Attorney

Members absent:

Jane Ohlmansiek

C. ACTION ON MINUTES:

Mr. Beiersdorfer made a motion to approve the April 11, 2017 meeting as corrected.

Seconded by Mr. Thatcher. 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
Zoning:	Agriculture (A) Acres: 5.204 AC

Ms. Daily presented the staff report and slide presentation. The case was discussed last meeting and no new information has been brought forth. The property owners are requesting a 20 feet for a side-yard setback for a building addition to the church. The church was under construction when the last aerial shots were taken, therefore the aerials do not show the new attached worship

center. Ms. Daily said the surveyor is having a hard time establishing property line because there are few established control points nearby, so there is not a concrete distance for the closest corner of the proposed addition. The surveyor assumes they would have about 12 feet to the point (no closer than that and not over that measurement). Additional letters were sent out to the adjoining property owners for this meeting.

There were no questions from the Board for Ms. Daily.

Mr. Ron Wesley (head of maintenance for church center), representing the church at this meeting, had nothing additional to add and asked if there were any questions for him.

Mr. Thatcher asked what the church's "Plan B" would be if variance were not granted.

Mr. Wesley wasn't sure what the church would do if variance is not approved. This addition is the second phase of a three phase operation with one more addition in the future.

Mr. Thatcher asked if the church knew what the setbacks were before the layouts were done.

Mr. Wesley stated they did, but believe the property line was further.

Mr. Beiersdorfer asked applicant if they had established a property line and if they were going to put a fence up along the property line.

Mr. Wesley said he hadn't found it and there were no plans to install a fence.

There were no further questions for applicant.

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

Mrs. Terry Sawyers (her parents own adjoining property next to church). She feels that the addition will affect her parents' property. She thinks there will be parking problems, traffic problems, and people from the church trespassing, which her parents would be liable for someone getting hurt. She wants to keep the setback at 30 feet from the property line.

Mr. Thatcher asked how she determined the measurements.

Mrs. Sawyers was told by the pastor what the measurements would be, which were approximately 7 feet.

Mr. Thatcher asked if it was her opinion whether or not the variance would diminish the value of the property.

Mrs. Sawyers said it was just her opinion. She stated that the church went from 20 feet, to 18 feet, to 10 feet and now are approximately to 7 feet from property line.

There were no further discussions from the public.

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

Mr. Beiersdorfer said the church still has not yet determined the property line for the variance and that is a major concern.

Mr. Pope said that the church knew the variance would be needed during the planning stages of the project.

Mr. Darling mentioned that the points are valid and stated he felt if the adjoiner were to sell there adjoining lot, it could increase the value of the property if the church were to buy it. However, Mr. Darling doesn't think the church being there will decrease the value of Mrs. Sawyer's parents' property. The only concern is that it may be too close to the property line. The church has been established for a while and it is continuing to grow. The issue is encroaching because the true property line is not determined. There is no fence there as well, which would make it somewhat dangerous for children if they are close to the property line.

Mr. Pope stated that every property owner has liability insurance and accidents do happen. The church knew they needed a variance but didn't know how much, which is concerning.

Mr. Darling said he didn't feel a variance could be approved because of the property line measurements are still unknown.

Ms. Daily stated the surveyor is working on determining that, but there is no control out there. They may have to have workers dig up the road and control traffic in order to determine the measurements. The process is taking longer than what they had anticipated.

Mr. Thatcher asked if there was a target date.

Ms. Daily said no target date had been given yet.

Mr. Thatcher made motion to re-open public discussion. Seconded by Mr. Beiersdorfer. All in favor. None opposed. Motion carried.

Mr. Billy Sawyers requested to address the Board. His concern is the area for cars to pull up to the door and how close that would be to the property.

Ms. Daily explained the location of the proposed addition would be near the parking area and would meet setbacks.

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

Mr. Thatcher made a motion to table the case for a further meeting when property location has been determined and the exact measurements of the variance can be discussed. Seconded by Mr. Darling. All in favor. None opposed. Motion carried.

E. OLD BUSINESS TO REMAIN TABLED - None

F. NEW BUSINESS --

- 1. Request: A Variance for a side yard setback on an accessory structure**
Applicant Owner: Daniel West
Site Location: 5282 Lutz Road
Legal: Sec. 30, T7, R1 Parcel #15-01-30-400-034.005-018
Township: Logan
Zoning: Agricultural (A) Size: 1.00 acres

Ms. Daily presented the staff report and slide presentation. The owner is requesting a variance for a side yard setback on an accessory structure. The owner is wanting to construct a carport structure next to an existing garage to cover and protect a recreational vehicle. The edge of the carport would be one foot from the property line. The owners cannot place the carport on the other side because all the utilities are along the west side of the house and in the back yard. The owner has also provided a letter from the property owner of the land that would adjoin the proposed carport and their support for the variance request. There were 7 letters mailed out, 6 were delivered, 1 was unclaimed and being returned.

There were no questions by the Board for Ms. Daily.

Mr. Daniel West, property owner, stated he discovered the variance would be needed when he began to ask about permits. He spoke to his neighbors before he submitted for the variance request. The structure will rest on the concrete pad (west side) and on the east side of the carport, the post would be in the grass one foot from the property line. The existing concrete pad is 5 feet from the property line.

There were no further questions for the property owner.

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

There were no comments from the public.

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

Board discussion: Board agrees with granting variance.

Mr. Darling made a motion to grant a variance of 4 feet to construct a carport for a recreational vehicle on a property located in Logan Township, at 5282 Lutz Road. Referencing the application meets the criteria outlined in Article 3, Section 320. Seconded by Mr. Beiersdorfer. All in favor. None opposed. Motion carried.

2. **Request:** A Variance for a driveway width
Applicant Owner: Kevin McCord
Site Location: 22433 Dakota Drive
Legal: Sec. 11, T6, R1 Parcel #15-06-11-300-096.000-020
Township: Miller
Zoning: Residential (R) Size: 0.26 acres

Case withdrawn

3. **Request:** A Conditional Use and Variance for electronic message sign
Applicant: Signarama
Owner: Dearborn Baptist Church
Site Location: 9638 SR 48
Legal: Sec. 33, T6 R2, Parcel #15-05-33-200-005.000-019
Township: Manchester
Zoning: Agriculture (A) Size: 33.89 acres

Ms. Daily presented the staff report and slide presentation. The request is for a conditional use and variances for an electronic message sign. The owner wants to install an electronic message sign in an agricultural district. The electronic portion of the sign measures 2.5 feet by 6.5 feet, which would be less than 50% of the total sign (meeting code). An agriculture district is not listed in the code as a permitted district for an electronic sign therefore a variance is needed to allow an electronic sign in an agriculture district. A variance of 78 SF is required, so in total: 2 variances required and a conditional use is required. The height of the sign would meet the requirements for the district as well. The location of sign is 40 feet from centerline from road therefore meeting the 5 foot setback requirement from the right-of-way. Sign will be about 10 feet from right of way line. If approved, the church needs to follow the requirements for electronic signage as it pertains to graphics and scrolling. If conditional use and variances are approved by Board, a permit will need to be obtained. There were 11 letters mailed out and all 11 were delivered.

Mr. Mike Fogal with Signarama addressed the Board for the owner. Mr. Fogal stated that the size of the sign is ideal so that the lettering would be easily legible from a safe distance and messages will be displayed for viewers passing by. The signs won't be too bright and the message will not be pixilated.

The Board had no questions for the applicant.

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

Applicant Darrell Sparts has long-standing establishment with church. Good relationship with local community. Message sign is for the church and community (to make announcements), and advertising the time and temperature will be done as well.

No further questions for applicant.

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

There was no further discussion by the Board

Mr. Thatcher made a motion to approve a Variance to allow an electronic message sign to be installed in an Agriculture District. Referencing the application meets the criteria outlined in Article 3, Section 320. Seconded by Mr. Biersdorfer. All in favor. None opposed. Motion carried.

Mr. Biersdorfer made a motion to approve the Conditional Use for an electronic message sign. Referencing the application meets the criteria outlined in Article 3, Section 315. Seconded by Mr. Thatcher. All in favor. None opposed. Motion carried.

Mr. Thatcher made a motion to approve a Variance of 78 SF to permit the total square footage of the sign to be a total of 128 SF. Referencing the application meets the criteria outlined in Article 3, Section 320. Seconded by Mr. Biersdorfer. All in favor. None opposed. Motion carried.

4. Request:	A variance for a side yard building setback
Applicant:	D.A. Kraus Land Survey
Owner:	Joe Leonard
Site Location:	3179 Harrison Brookville Road
Legal:	Sec. 4, T7, R1, Parcel #15-01-04-400-008.000-006
Township:	Harrison
Zoning:	Highway Interchange (H-1) Size: 17 acres

Ms. Daily presented the staff report and slide presentation. Owner is wanting to construct storage units and a building for office space on the property. The variance would be for all the buildings that would be proposed to be constructed on the western property line. The property is located in the floodplain and will need to have special permits for fill dirt and an elevation certificate for the proposed buildings. According to property owner, the storage unit backs would not be open. The entrances would be accessed from the side to keep buffer between the neighboring property. Owner is also proposing landscape in front of buildings which would need to be approved through Major Site Plan (proposing oak trees). Property owner applied for zone map amendment in 2017 to make all of the property zoned Highway Interchange. The Major Site Plan will need to be approved through the Technical Review Committee and Ms. Daily as she is the County's Floodplain Administrator. There were 10 letters mailed out, 9 letters received, 1 unclaimed.

The Board had no questions for Ms. Daily.

Applicant, Dennis Kraus Jr., land surveyor representing the property owner. Couple reasons for why variances are being requested. 1) To get the buildings closer to property line to keep traffic away from the neighboring property, and 2) Putting up building will help utilize existing fill.

Mr. Pope asked if the property had been used as a landscape business, which were confirmed.

Mr. Kraus stated placing the building close to property line will allow users to keep track of what is going on in the site. The request will not affect the values of the land. The need for variance arises from the existing topography of the land and the location of the floodplain elevation.

Mr. Thatcher asked if there will be a fence.

Mr. Kraus said behind the existing building, there is a chain-linked fence and around the structures for security.

Mr. Darling asked if the fence would be on property line.

Mr. Kraus explained that not much thought has gone into that and he would need to look into different types of fences suited for the building.

There were no other questions for Mr. Kraus.

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

Ms. Karen Schlachter (her parents own the adjoining property to the north) addressed the Board on behalf of her parents. She said that her and her parent's did not want to give anything less than 50 feet for the setback. Her parents do not want the setback to be any closer to their property. Mrs. Schlachter referred to the Commissioners meeting where she mentioned that the owner was filling in dirt on the property but that he was unaware that he wasn't supposed to be doing that. In 2015, a letter was sent to Mr. Leonard saying he would need permits to do any filling on the property. Mrs. Schlachter's biggest concern is that the building being closer could make runoff water go into her parents' fields. The closer the setback is to her parents, the more likely people would be trespassing on the property. At a previous zone map amendment meeting, Mr. McCormick had suggested that the land was relatively flat and that the side setbacks would be 50 feet, but no less than that. The fill has been done so that owner can get out of floodplain in order to put up buildings. Mrs. Schlachter said that there are other places where the building could be placed.

Mrs. Schlachter presented the Board with pictures of where the fill has gone. A CD copy of the pictures were presented for the case file.

Mr. Thatcher asked if any runoff issues currently have been happening to Mrs. Schlachter's parents' property.

Mrs. Schlachter stated it is becoming a concern, especially with the amount of rain that has fallen.

Mr. Thatcher asked if the rising water levels in the fields are normal.

Mrs. Schlachter stated that the runoff is increasing in the fields. Mrs. Schlachter said that the property has been in her family for 4 generations and they are not looking to sell. It will continue to be farmed. Her and her parents have no reason to expect that the storage buildings need to be that close when there are other places to put the buildings on his property.

Mr. Pope said that he and board understood her concerns, as well as the concerns of her parents.

There were no other questions for Mrs. Schlachter from the Board.

Mr. Kraus wanted to address some of Mrs. Schlachter's concerns. Mr. Leonard's property is relatively flat. The aerial shots were taken in 2012 and the contours were generated sometime between 2005 and 2008. The site always has had some fill to it. He stated the reason for not addressing fill sooner was because the building and design needed to be done first so that it wouldn't have to be repeated and the permit would contain all fill information that would be needed for development. Mr. Leonard's property is gated and makes it difficult for trespassers to come through. Mr. Leonard keeps his gate locked when he is not on the property. Before anything is designed on site, a surveyor is going to generate more accurate contours of the site. After the placement of the building is designed, the surveyor will figure out how much water comes off the existing site as it is now. That amount will be permitted to leave the site from here on out. The runoff would be addressed through a Major Site Plan Review through the Technical Review Committee. The water can only leave Mr. Leonard's site at the rate and the amount that it is leaving now once the building is built and no more.

There were no further questions for applicant.

Mrs. Schlachter stated her concern is that the applicant has created no additional plans that wouldn't have require variances for the setback. If Mr. Leonard and Mr. Kraus had had an original plan that didn't require variance, there would be no case or objection to the proposed use.

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

Ms. Daily stated that being the floodplain administrator for the County, when reviewing a Major Site Plan for this property, she will want to see the property designed with the least amount of fill possible to have the least amount of effect on the floodplain. Since the one side of the site is already elevated, this area would be the most responsible place for development on this property.

Mr. Beiersdorfer thinks that Mr. Leonard is being smart with wanting to keep people inside.

Mr. Thatcher's concern is water runoff. He stated said that if there is no harm to adjoining property owner in terms of loss, the owner should be able to build. The reduce setback will help keep people away from the adjoiners property by keeping all activities on the inside of the property.

Mr. Beiersdorfer made a motion to approve a Variance of 25 feet for a reduction of the side yard setback for proposed storage units as depicted in the concept plan. Referencing the application meets the criteria outlined in Article 3, Section 320. Seconded by Mr. Thatcher. All in favor. None opposed. Motion carried.

G. ADMINISTRATIVE:

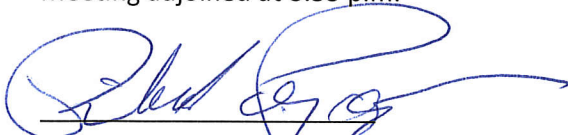
Ms. Daily explained that the next meeting will be held on June with 3 items that will be on the agenda.

Staff is currently working on the sign ordinances and Ms. Daily will be sending information to Board about their opinions regarding the proposed changes.

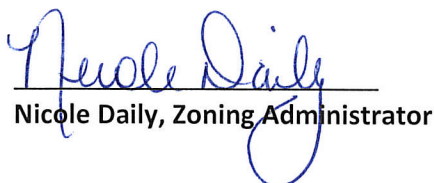
Mr. Baudendistel discussed a current suit against the Board in reference to a case from last month's meeting. An executive session can be set if the Board needs to make a decision in conjunction with the case.

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

Meeting adjoined at 8:53 p.m.



Richard Pope, Chairman



Nicole Daily, Zoning Administrator