

BOARD OF ZONING AND APPEALS MINUTES

Tuesday, June 13, 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.

Mr. Baudendistel explained reasoning for Dearborn County Board of Zoning Appeals Executive Session. The Executive Session has been called pursuant to Indiana Code § 5-14-1.5-6.1(b)(2)(B) and the purpose is to discuss "initiation of litigation or litigation that is either pending or has been threatened specifically in writing. As used in this clause, "litigation" includes any judicial action or administrative law proceeding under federal or state law.

Mr. Beiersdorfer made a motion to accept the motion certifying that those statements made by Mr. Baudendistel were the only matters discuss in the Executive Session. Mr. Darling second. All in favor. None opposed. Motion carried.

Mr. Baudendistel's ask that a motion be made for himself and the Planning Staff to meet with the property owner as discussed in the executive session.

Mr. Beierdorfer made a motion to accept Mr. Baudendistel's motion. Mr. Darling second motion. All in favor. None opposed. Motion carried.

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:

Mr. Beiersdorfer made a motion to approve the May 9, 2017 meeting as presented. 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 the surveyor has since completed his work, it has been determined that the proposed building addition would be 15-ft from the property line, therefore the required setback variance request would be for 15-ft.

Applicant, Jerry Firestone had nothing to add.

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

Mrs. Terry Sawyer, representing her family (owners of the easterly neighboring property) stated that this will be her third time stating her concerns with which the approval of said variance may have on their property value and the church's users' safety since her family's property is used for agriculture.

Mr. Thatcher asked if there was any proof that it would reduce Mrs. Sawyer's property value.

Mrs. Sawyer said they had none.

Mr. Thatcher asked if they had spoken to the Parish about selling the property.

Mrs. Sawyer stated that it would be a disservice to her father to alter the property. But no the family has not had discussions with the church about purchasing additional property in order to make the proposed building need of no variance.

Mr. Thatcher asked if there were cattle on the property to provide reasoning for her concerns with safety.

Mrs. Sawyer said at this time there are not, but that there will be kids on the property and they would be horrified if an injury were to happen on their family's property. Ms. Sawyer stated that tractors are still used to mow and plow the property.

The Board had no further questions for Mrs. Sawyer.

Mr. Firestone asked to speak and stated that he had difficulties getting this survey completed and can now confirm that the property line does not run completely parallel and that there would only be a corner of the building encroaching on the setback line. Mr. Firestone said the Church had met with the Planning Board and had been asked that a tree line be planted along the property line and Mr. Firestone stated that that will happen. Mr. Firestone noted that he believes

the Parrish would do anything necessary to ensure there is adequate safety. He believes the church would be open to purchasing land to ensure the 30-ft. setback is met. Mr. Firestone added that it will not be an ugly building and the church will be maintaining the character along with the other expansions completed within the last 3-5 years. Mr. Firestone does not think that it will be anything that will distract from property owners.

Mrs. Ohlmansiek asked if there will be a 3 phase building plan.

Mr. Firestone said that there are 2 phases that will be phased from a construction standpoint and that members of the church will be constructing phase one themselves since they are funded from membership; and the larger phase will be built by a contractor. The Church has received quotes but do not want to award an offer without approval from the Board of Zoning Appeals.

Ms. Ohlmansiek asked if it's possible to modify their architectural design if they are not granted.

Mr. Firestone said that they can do anything it's just money.

Mr. Thatcher asked if trading land is a possibility.

The Pastor stated that they had discussed it previously, but that their neighbor made it very clear that that wasn't an option.

The Board asked if Mrs. Sawyer could step back up.

Mr. Thatcher asked if they could discuss the option of the church purchasing some property. Mrs. Sawyer stated that she cannot make that decision herself but that they could talk about that with her sister present.

Mrs. Sawyer stated that it's not the aesthetics that worry us, they had been wonderful neighbors and her family purchased the property 50 years ago and that her father has been living there for 41 years by himself and it's his home and he doesn't want the land changed.

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

Mr. Thatcher said if they are willing to discuss a solution then he didn't believe the Board should act on this yet.

Mr. Beiersdorfer understands the churches willingness to want to move forward and the neighbors' concerns with keeping the property intact, but doesn't personally see the request diminishing the value of the neighboring property and suggests it may do the opposite.

Mr. Darling mentioned that the church will put a tree line up but would still like to see a fence line installed to keep the kids from crossing over because that's not their property and that it would be in the best interest for the safety of the kids.

Ms. Daily stated if the request were to be approved conditions can be placed upon any request made, if the Board were to deny the request and the church changed the building but still needed a variance, the request would have to be different, they can not come back with the same request once it has been denied, or the Board can table the request to give the church and adjoiner time to discuss a solution for both parties.

Mr. Thatcher said if they table it and they discuss it and nothing is agreed upon they could make a decision at the next meeting.

Ms. Ohlmansiek asked Mr. Firestone to come back to the podium and asked how the phasing of growth will be.

Mr. Firestone stated that they've spent a lot of money on this so far and that they need to get going. The proposed additional phasing will be on the other side of the church and would not affect this proposed building addition.

Mr. Thatcher stated that they would prefer to see it tabled and if they don't reach an agreement then they come back in 30 days and make a decision.

Mr. Thatcher made a motion to table the request to see if the parties can resolve this on their own and asked that the request be heard at the next meeting. Mr. Beiersdorfer seconded the motion. Mr. Beiersdorfer, Mr. Thatcher and Ms. Ohlmansiek voted in favor. Mr. Darling opposed the motion. Motion carries with a vote of 3 to 1.

Mrs. Daily stated that the next meeting would be July 11th.

E. OLD BUSINESS TO REMAIN TABLED - None

F. NEW BUSINESS –

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|-----------------------|---|---------------------------|
| 1. Request: | A Variance to create a buildable lot with no road frontage | |
| Applicant: | Jesse Graf | Owner: Diane Reder |
| Site Location: | West County Line Road | |
| Legal: | Sec. 26 & 27, T8, R8 Parcel #15-03-26-200-005.002-009 & 15-03-27-400-003.002-009 | |
| Township: | Jackson | |
| Zoning: | Agricultural (A) Size: 6.50 acres (proposed acreage) | |

Ms. Daily presented the staff report and slide presentation. A variance is requested to create a buildable lot without road frontage off West County Line Road. Applicant is wanting to split an existing 15 acre tract into two buildable lots, one would have road frontage through the existing panhandle and the other would have no road frontage and would need to be accessed by an easement through the other lots panhandle. The variance is in reference to Article 25 Section 2508 Table 25.1, required road frontage in an agriculture district is 150-ft., and therefore the requested variance is 150-ft.

Ms. Daily stated that since the neighboring property has a panhandle and the ordinance only allows for two consecutive panhandle lots and that had they chosen to create a third panhandle lot a waiver request through the Plan Commissioner would have been required.

West County Line Road is approximately 18-ft. wide and publicly maintained. Applicants would need to follow submittal process for certified survey if approved. Five letters were mailed out and all five letters were delivered.

Mrs. Ohlmansiek asked if the applicants plan on sharing driveways, Mrs. Daily said that that was discussed but it would not be required. They could make their own driveway, but would like to discuss an easement with the neighbor's driveway to share maintenance without going through the expenses of building a separate drive.

No further questions for Mrs. Daily.

Mr. Krause Jr. representing Jesse Graf, stated to split this lot an approved variance will be required from the Board of Zoning Appeals or be required to ask the Plan Commission for a waiver since they don't have the option to come in from another access point. An easement would be created upon the panhandle to reach the proposed split. Jesse Graf has reached out to the neighbor about this but no decision has been made. He continued that this has been approved in the past for similar property including Bob Brinkmore on Klein Creek Lane to deed off a 2 acre lot without frontage. Mr. Krause Jr. stated that splitting the lot won't change the character, both lots will have some agriculture value still and don't see how this would affect the value of the neighboring property and suggests that smaller lots tend to bring more value per acre and may actually increase the value.

No questions for the applicant at this time.

Jesse Graf, applicant, came to the podium and added that they had spoken to the neighbor about the driveway but if he doesn't want to share access then they are fine with putting one in, but thought it as silly. The neighbor just asked that if they were to share that Jesse put turnoffs in so they could get around each other easier if they were to meet in the middle of the driveway.

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

Mr. Eric Wilson who lives in the house on corner of the proposed split, (13917 Bear Tree Lane), and wants to know why they want to split the lot.

Mr. Graf stated that they don't have the money to purchase the entire 15 acres but would like to build in the area.

Mr. Wilson stated that he has concerns with additional houses and thinks it would decrease the value of his property and when he purchased the property it was under the understanding that with the existing panhandles it could not be used to build two houses and that he has an issue with this since it is an existing regulation.

Mr. Mike Garvey, lives in the middle house near the split (13900 Bear Tree Lane), and is not opposed to one house being constructed behind him, but is opposed to two houses. On his property, they had to have 50-ft. of frontage and shares the same concerns with Mr. Wilson.

Mr. Dan Sunderman, owns the adjoining property south of the request (25504 West County Line Road). When he purchased the property, he was aware of the rules and regulations and

assumed that the property would eventually get built on, but would ultimately be opposed to building two houses back there and believes the rules should be followed.

Mr. Doug Bamberger, owns the adjoining property with the existing panhandle (25590 West County Line Road). He is not opposed to two houses being back there, and said that nothing is definitive with the driveway but it is a possibility. Mr. Bamberger believes 15 acres divided in two would be 7 acres a lot, and still be pretty large lots and is confused about the neighbors' concerns when each concerned neighbor has similar lots and even smaller acreage.

Mr. Beiersdorfer asked Mr. Krause if they could previously have more than 2 panhandle lots next to each other.

Mr. Krause stated prior to 2002 you could and that was how the subdivision just north of the proposal was set out. Part of the reason the ordinance was implemented was because of particular situations in the county like Lutz Road that had multiple pan handles but all using a common private lane.

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

Mr. Beiersdorfer stated if a pan handle was put in it would be no different than the lots just to the north of this property and he has no problems with this, and with 15 acres being cut in half there would still be plenty of ground.

Mr. Darling would like to see if an agreement can be reached on the existing driveway to save resources on putting in another driveway. But splitting it with so much land he doesn't see an issue with the split and it will not look like a high-density area.

Mr. Beiersdorfer made a motion to grant the variance of 150-ft. to make a buildable lot with no road frontage and referenced the request met the criteria set forth in Article 3 Section 320 of the Zoning Ordinance. Mr. Thatcher seconded. All in favor. None opposed. Motion carried.

2. Request:	A Conditional Use to operate a heating and cooling business in an agriculture district	
Applicant/Owner:	Joseph and Jenny Isadore	
Site Location:	21249 Georgetown Road	
Legal:	Sec. 15, T6 R1, Parcel #15-06-15-400-047.000-020 & #15-06-15-400-051.000-020	
Township:	Miller	
Zoning:	Agriculture (A)	Size: 25 acres

Ms. Daily presented the staff report and slide presentation. The property owner/applicant operates a one man heating and cooling business on the property and a majority of the business is operated at the job site and not at this property. One barn is on the property for storage of equipment. The request could run under a home occupation permit, but signage is not allowed and because no customers are coming in and out it could work but to put the sign on the property a conditional use must be attained

regardless. The property owners chose to request a conditional use in order to keep the sign on the property advertising the business. The property is located in low density residential. One of the Isadore's lots is a plot in the northern subdivision but is not accessed off the subdivision. The barn on a separate lot and in the back of the property is used for the storage of their equipment. Ms. Daily mentioned that this arose from an enforcement case resulting from an unpermitted sign. The sign is approximately 15 square feet and is much smaller than the 32 square feet allowed and meets all other requirements of a sign permitted in an agriculture district. Georgetown Road is publicly maintained with a 33-ft. right of way, 19-ft. pavement width, and 35 mph speed limit. If the Conditional Use is approved the applicant would be required to file for minor site plan review, which is staff approved and could be permitted as such. The sign does meet the standards for signs permitted in an agriculture district. There were 8 letters that were sent, 6 delivered and 2 were still in transit.

The Board had no questions for Ms. Daily.

Mr. Joe Isadore, owner of Isadore Mechanical, states that his property is not used as a business and is simply used to store equipment and all material is delivered to site and only miscellaneous parts are left in the barn. Two trucks are stored on the property. Mr. Isadore started the business in 1993 and has done many advertising via parks, festivals, and concessions, but has done more business in the area from the sign than anything else. Mr. Isadore stated he would love to add some landscaping to help the sign fit in but was awaiting approval before putting more money into the sign.

Mr. Darling asked if he had an office in Cincinnati. Mr. Isadore stated that he does not only has his van and barn.

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

Mr. Robert Hallas, neighbor to south (21245 Georgetown Road), stated that the Isadore's' built a beautiful home and take immaculate care of their property and that Joe has helped the neighborhood out tremendously and even pulled a friend's car out of an icy pond. The business has no effect on his property or himself. He moved to the area in 1990 and it was agriculture in nature and Georgetown Road was gravel. He moved out here because he did not want to run his own business with neighbors being close. He had moved his fabrication business because of the traffic and noise it generated, but still supports Joe's business. He does have concerns if the conditional use is transferable to future property owners if Joe were to move, and the future owners were to run a similar business of a higher intensity.

Ms. Daily stated that if it is approved it is based on the type of business and amount of business he is running at this time and that it can be transferrable at the same rate. If he grows and wants to add on to his building and adding employees he would have to go through the same process.

Mr. Isadore stated he is fine with any restrictions on growth and has no intentions to grow just wants to have his sign up.

Mrs. Ohlmansiek asked if the sign meets all requirement.

Ms. Daily stated that it does meet all requirements.

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

Mr. Thatcher asked if they could put a restriction on a conditional use that if the property is sold that they would need to come back to us without a permit.

Ms. Daily stated that if they were to change the approved use they would have to come back to the Board for permission even if there wasn't a condition on the approval. The Conditional Use is based on the size of the business as presented and with no additional storage or growth.

Ms. Ohlmansiek asked Ms. Daily if she felt that a transfer of ownership on the property could be an issue.

Ms. Daily stated that it is controlled through site plan review and also if the sign changed businesses, we would send a letter to the new owner to ensure any type of new business meet the approved conditional use.

Mr. Darling felt like the small business is good for the neighborhood and community.

Mr. Thatcher made a motion to grant the approval of the Conditional Use to operate a heating and cooling business on the property. The motion references that request meets the criteria set forth in Article 3 Section 315 of the Zoning Ordinance. Mr. Beiersdorfer seconded. All in favor. None opposed. Motion carried.

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| 3. Request: | A variance for building setback on two proposed lots |
| Applicant/ Owner: | GMT Enterprises, LLC |
| Site Location: | Lot 156 in the Villages of Sugar Ridge off Augusta Drive |
| Legal: | Sec. 13, T6, R2, Parcel #15-06-13-400-037.000-020 |
| Township: | Miller |
| Zoning: | Planned Unit Development-Residential (PURD-R) Size: 7.013 acres |

Ms. Daily presented the staff report and slide presentation. The Primary Plat for the overall proposed subdivision went before the Plan Commission last night and was approved, so now the lot numbers are different, so when 212 and 213 are mentioned it was 22 and 23 last night and the auditors have since updated the lot numbers. The primary plat was approved last night to construct 22 buildable lots. Variance is composed of what was approved last night and setbacks for Sugar Ridge Subdivision as a PUD. Two lots would need further variances because of the PUD setbacks that were outlined in the initial approval of Sugar Ridge as a PUD, which typically have different setback requirements from the Zoning Ordinance. For lot 212 the required front yard setback is 20-ft. and proposed is 10-ft. Lot 213 is restrictive with access to Augusta Drive, so the rear yard setback is dropped and now has 3 front yards. One of the front yards need a 20-ft. variance on Muirfield Point as measured from the right-of-way line.

Mr. Darling asked how far from the actual edge of road will the house be.

Ms. Daily stated approximately 23-ft. from the edge of pavement. Lot 212 has two front yards and is restricted to access off of Muirfield Point through the prior Plan Commission case. The request is a 20-ft. variance along the easement / front yard setback. The Plan commission did approve the subdivision

and the access road will not be curb and gutter but will have trail and/or a walkway of sorts. The next step in the review process will be improvement plans.

Mr. Darling asked if it will be walkable.

Ms. Daily said in some fashion it will. She continued, Muirfield Point will be a public right-of-way with a 50-ft. right-of-way. Augusta Drive is existing with a 60-ft. right-of-way.

The Board had no further questions for Ms. Daily.

Ms. Christine Harlan, with Hrezo Engineering, representing the owner, stated that for lot 212 it is just a private access road and they are not wishing to make it county road, and will simply be an access road and will allow considerable distance between property lines. Lot 213 is a different story and cannot move the structure in any shape or form and are not able to make it a double frontage lot, and is the hardship with this lot in general, and is why they are requesting the 10-ft. variance. Lot 54 in Sugar Ridge is platted the same way, on the corner of August and Oakmont and must face Augusta just like the proposal in order to keep uniformity.

Mr. Thatcher is stated that lot 213 is 50-ft. x 47-ft.

Ms. Harlan stated because of the sanitary sewer easement this one has to be 3-ft. smaller on each side.

Mr. Thatcher asked what the square footage of the proposed house would be on these lots.

Ms. Harlan stated that the applicant is looking at maximizing square footage and will probably be around 3,000 SF and is not looking to do anything less than what is currently out there now.

The Board had no further questions for the applicant.

Mr. Beiersdorfer made a motion to open public discussion. Mr. Thatcher seconded. All in favor. None opposed. Motion carried.

There were no comments from the public.

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

Mr. Darling had problems with consistency with others having larger setbacks, but the other lot he is ok with.

The other Board members did not have issues with the setbacks for these two lots.

Mr. Beiersdorfer made a motion to grant the 20-ft. variance for lot 213 along Muirfield Point and referenced the request met the criteria set forth in Article 3, Section 320 of the Zoning Ordinance. Mr. Darling seconded the motion. All in favor. None opposed. Motion carried.

Mr. Beiersdorfer made a motion to grant a 20-ft. variance for lot 212 along the private access easement and referenced the request met the criteria set forth in Article 3, Section 320 of the Zoning Ordinance. Mr. Darling seconded the motion. All in favor. None opposed. Motion carried.

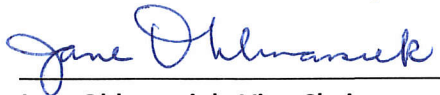
G. ADMINISTRATIVE:

Ms. Daily asked that they please review the sign ordinance amendments for the next meeting.

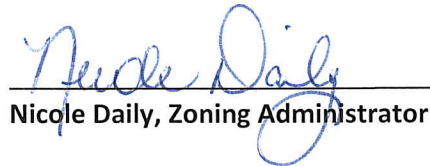
Next meeting is July 11th with 4 cases on the agenda including the church that was tabled.

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

Meeting adjourned at 8:56 p.m.



Jane Ohlmansiek, Vice-Chairman



Nicole Daily, Zoning Administrator