

Minutes
WARRICK COUNTY AREA BOARD OF ZONING APPEALS
Regular meeting to be held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana
April 22, 2024 at 6:00 P.M.

PLEDGE OF ALLEGIANCE:

MINUTES: Upon a motion made by Mike Winge and seconded by Mike Moesner the minutes of the last regular meeting held March 25, 2024 were approved as circulated.

MEMBERS PRESENT: Terry Dayvolt, Chairman; Jeff Valiant, Mike Winge, Mike Moesner, & Jeff Willis.

MEMBERS ABSENT: Dave Goldenberg & Paul Keller

SPECIAL USES:

BZA-SU-24-09

APPLICANT: Husk Signs, by Kip Husk, President

OWNER: Gateway Baptist Church, by Rodger Rock, Vice Chairman of Deacon

PREMISIS AFFECTED: Property located on the north side of State Road 66 approximately 0' east of the intersection formed by Casey Road and State Road 66. Ohio Twp. 26-6-9.
Complete legal on file. 7564 W SR 66.

NATURE OF THE CASE: Applicant requests a Special Use, SU-8, from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow a 7'x 4' Electronic Message Center in an existing sign. All in a "C-4" General Commercial Zoning District. *Advertised in The Standard April 11, 2024.*

Kip Husk with Husk Signs and Rodger Rock, Vice Chairman of Deacon were both present.

Chairman Dayvolt asked for the staff report.

Mrs. Barnhill stated we are missing 4 green cards but do have white pay receipts showing the notices were mailed correctly; we did receive 1 returned letter. She stated the existing land use is a church. She said the surround zoning and land uses are to the north is zone "A" Agricultural and "M-2" General Industrial being vacant farm land and a commercial business; to the east is zoned "R-2/PUD" Multiple Family District with Planned Unit Development being Ironwood Subdivision; to the south and is zoned "R-2B" Multiple Family Apartment District, "C-4" General Commercial and "M-1" Light Industrial being apartments and commercial business/storage; to the west is zoned "R-1A" One Family Dwelling, "R-2B" Multiple Family Apartment District and "C-4" General Commercial being single family dwellings and commercial businesses. Mrs. Barnhill stated the property does have some A/AE floodplain, however where the proposed sign is going is not in the floodplain. She said they have existing access onto Casey Road. She added that three letters of remonstrations were filed on this project.

Chairman Dayvolt asked if the applicant had anything to add to the staff report.

Kip Husk stated they are wanting to update the existing sign and add the message center to the top of the sign since the sign is lower than the road and would increase visibility.

Mrs. Barnhill asked if this was a new sign location or were they keeping the sign in the same spot.

Kip Husk stated stay in the same place, about 17' from thoroughfare.

Mrs. Barnhill showed Mr. Husk the site plan to verify location of the sign. She stated then it is 20' from the property line along SR 66.

Kip Husk said yes.

Rodger Rock stated they need to update the sign.....

Chairman Dayvolt asked do the letters of remonstrance need to be read into the record.

Attorney Doll replied they need to be made part of the file.

Mrs. Barnhill stated this email was received on March 25th.

Received information on proposed sign for the church behind my property. I can see sign at night from my property, if they install electronic sign it will reflect in my back yard and house windows. Each room at the back of my house can see the sign that is there now. If church wants a new electronic sign, they should put it in front of their church by Casey Road. I'm attaching pictures for you to see the proof of what I am talking about. Information about this matter should have been sent to the Two Condos also affected.

John Ellis

Mrs. Barnhill stated we received this email on March 28th.

To whom all this matter may concern:

We are writing in regard to docket no. BZA-SU-24-09, pertaining to a request by Gateway Baptist Church and Husk Signs to install an electronic message center (EMC) in place of the current roadway sign at Gateway church.

The sign in question is located approximately halfway across Gateway's property and is clearly visible from our back yard as well every room along the back of our home, including two bedrooms, our living room and dining room. While the current sign is illuminated at night, it is conservative in nature and does not present an issue to us.

The proposed EMC is a concern, however. In our experience this form of sign is bright, colorful, flashy and animated. They are visible from long distances and are very distracting. We worry

that flashing light would show through our window treatments and would reflect off of our windows glass. We additionally worry that looking out of our windows, sitting on our patio and using our back yard might be something like watching a cartoon at a drive-in movie theater. We just do not want to see something like this in our back yard, let alone while lying in bed. Please see the attached photos showing our view of the sign from our home.

We believe that this form of sign would be better located nearer the intersection of Highway 66 and Casey Road. An EMC at this location would not be visible to our neighborhood and it would align with the church's only parking lot entrance which is located off of Casey Road. Further, the area at Highway 66 and Casey Road heading west is exclusively commercial.

We hope that you will please consider our request.

*Very respectfully,
Matthew & Melanie Custer*

*7146 Ironwood Circle
Newburgh, IN 47630
812-483-9910*

Mrs. Barnhill said this email was received April 2nd.

We received notice that the Gateway Baptist Church is petitioning to have a 7'x4' electronic message center (EMC) placed on top of their existing monument.

The current sign has a low level light that is not bright enough to be a problem at night, shining into both our bedroom windows.

The new sign that is being proposed would appear to be brighter and would be intrusive during the night hours, and if this sign follows other signs of this nature, would be changing colors and flashing when multiple messages change.

We are not in favor of this proposal and would like to offer two alternatives.

- 1) Install the new sign on the Northern side of the church closer to Casey Road.*
- 2) Have a legal document signed by the church's executives that ensures that the sign would be switched off at sunset each night if it was installed in the proposed site.*

Thank you for your time and consideration.

Mike & Tracy Neeley

Mrs. Barnhill stated the last email was received was from John Ellis again. He stated *I looked at the sign they are wanting to remove upper portion and install new sign on. Sign has structural*

issues and is not worth putting any money into it. Church should build new sign in front of their building by Casey Rd. I'll attach photos, Thank you.

Mrs. Barnhill stated all of the pictures submitted are in your packets.

Diane Ellis came to the podium

Diane Ellis stated I just want to thank the Board for allowing our thoughts and concerns to be voiced. She said Lincoln Avenue is a dangerous intersection and I think having a bright flashy sign is going to be more distracting...I know in Vanderburgh County there was a car dealer or something and you needed sunglasses for that thing...someone must have complained about it enough because they got it taken care of.

Kip Husk stated the brightness can be turned down or off by remoting in.

Mrs. Barnhill asked who can remote in and adjust that.

Kip Husk replied we being the manufacturer can and also the church. He stated the sign brightness goes off the ambient light outside. He said for example during high noon when the sun is at its brightest the sign will adjust to just slightly higher so that it is still visible, versus at night time.

Diane Ellis stated from the audience it could be 7-10% and reduced to... She added Gateway Baptist Church has been a great neighbor. She asked is it possible that the sign be moved to Casey Road in front of their building.

Larry James came to the podium

Larry James stated I am a 52-year member of Gateway Baptist Church so I've been there a long time. He said putting the sign at the corner of Casey Road will be worse. He added that where it sits now it's kind of in a valley and putting it by Casey Road, it will just sit up higher and be brighter. He continues we do have lights in the parking lot because we have had invasions at the church before.

Mrs. Barnhill replied Casey Road is also full of easements.

Rodger Rock stated right now they have lights on the bottom of the existing sign this high.

Chairman Dayvolt asked any other questions by this Board...being none I will entertain a motion.

Kip Husk asked may I make a comment.

Board Members said we are in a vote right now.

I, Mike Winge, make a motion finding of fact be made as follows from the testimony and proposed use statement:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
4. The USE as developed will not adversely affect the surrounding area.
5. Adequate and appropriate facilities will be provided for proper operation of the USE.
6. The specific site is appropriate for the USE.

And the Application be approved in accordance to the application and plans on file, subject to the following conditions:

- a) Subject to an Improvement Location Permit being obtained.
- b) Subject to a Building Permit being obtained.
- c) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
- d) Subject to all utility easement and facilities in place.
- e) Subject to no flashing, moving or intermittent lights except white.
- f) Subject to the plot plan on file and not to be altered or expanded.
- g) Subject to no use of the words, “stop”, “danger”, “look”, or any other words which would confuse traffic.
- h) Subject to no rotating or revolving beams of light.

Motion seconded by Mike Moesner and carried unanimously.

Kip Husk stated I did give my contact information to Mrs. Ellis if she has any questions or concerns.

Mrs. Barnhill stated we will have your approval ready Wednesday; you can come and get your permit anytime.

Kip Husk said thank you.

OTHER BUSINESS:

Attorney Doll stated how about we move the agenda around and do Clenera first.

Chairman Dayvolt responded okay.

Clenera Extension Request (BZA-SU-22-30 & BZA-SU-22-31)

Aaron Mendenhall, Senior Development Manager with Clenera Land Management Office was present. Along with Kristina Wheeler, Attorney with Bose, McKinney & Evans LLP out of Indianapolis.

Attorney Doll stated Indiana Code IC 36-7-4-1015 allows the Board of Zoning Appeals to place certain conditions on an approval. He stated your predecessors, as a condition of approval gave this application 24 months to fulfill their obligation under BZA-SU-22-30 and BZA-SU-22-31 and to pull their permits. He continued this Indiana Code gives this Board the authority to amend or extend the previous conditions that were placed on their approvals if they are so inclined. He stated under Indiana Law a decision by the Board of Zoning Appeals must be made at a public hearing after notice of the hearing has been provided under the rules of the Plan Commission or Board of Zoning Appeals, as the case may be.

Mr. Mendenhall stated this extension request is the result of unforeseen and continuing delays by MISO in delivering key studies and agreements required for our projects to be able to connect to the electrical grid. He said MISO, the regional transmission organization that coordinates the movement of wholesale electricity and its entity that approves and allows generating sources to connect to the transmission system, has experienced significant and unexpected delays in processing the projects through the Generator Interconnection Process. He continues MISO documentation shows the Interconnection Process taking an estimated 373 days to reach Generator Interconnection Agreement (GIA) execution, which is needed to inject power onto the transmission grid. He stated once the GIA is signed, it will take 18-24 months to build the new switch where the projects will interconnect to the transmission system.

Attorney Doll asked the one thing I want to know, that the Board hasn't asked, in your experience dealing with the Federal Government is two years long enough...

Mr. Mendenhall replied it should be.

Attorney Wheeler stated we are going off what they are telling us.

Attorney Doll asked is that two years with any cushion or...

Mr. Mendenhall replied MISO is working on improving their process and we anticipate future delays to be less impactful. He said granting the full 2- year extension will allow us the

flexibility of dealing with additional delays beyond our control and not have to return to request any additional extensions.

Attorney Doll asked exactly what date were they asking for the extension for. He continued is it 24 months from today; or what date were they looking for.

Aaron Mendenhall stated the approval date on their Special Use is January 23, 2023 which gives them until January 23, 2025. He stated they are asking for 24 months from January 23, 2025 to have until January 23, 2027.

Further discussion ensued regarding the Federal Regulatory Commission and how they do not want to proceed until they have federal approval for the General Interconnection Agreement, which is at the federal government's discretion. There is nothing that could be done at the state or county level to speed that process up.

Attorney Wheeler stated Clenera will end up with a three-party agreement with Hoosier Energy, Centerpoint, themselves and finally MISO. She said once filed with the Federal Regulatory Commission it takes about 30 days to review and get back.

Discussion continued about the timing of federal approval and what should trigger the 24-month extension.

Attorney Doll stated they wanted to make sure they gave them enough time so that they wouldn't have to come back to the Board for another extension. He said we have had that before and it was a mess with the eggs. He said there was something about how they had to file an extension because California wouldn't allow a chicken to be caged so then this company could no longer sell them eggs directly...

Chairman Dayvolt stated that the first thing that would need to happen is condition of the original approval and that is having a survey done with a complete metes and bounds description.

Mr. Mendenhall said yes, they will be doing that.

Mrs. Barnhill stated their current approval gives them until January 23, 2025 to obtain their Improvement Location Permits. She said once they have those, they have another six months to start construction and then two years to finish. She added that until that time they are allowed to do all of the survey work and dirt work...whatever they need to do without any permits. She said they just can't put anything into the ground.

Mike Moesner made a motion to give BZA-SU-22-30 and 31 a two-year extension from the date the Federal Regulatory Commission has approved the Interconnection Agreement. A copy of the executed agreement will be forwarded to the Executive Director who may, if requested, allow a 6-month extension to allow Clenera to obtain their Improvement Location Permits. The motion was seconded by Mike Winge and carried unanimously.

Accessory Buildings

Mrs. Barnhill stated this has been continued from the previous meetings. She said Mike Winge said he had some ideas about this for our ordinance.

Attorney Doll asked how many have you done in the last four years.

Mrs. Barnhill replied four.

Attorney Doll stated so one a year.

Mrs. Barnhill said yes.

Mike Winge said well that's not enough to worry about changing this.

Board Members replied no.

Jeff Valiant said I give you an A for effort Mike.

Mike Winge made a motion to remove Accessory Buildings from the agenda. Motion was seconded by Jeff Valiant and carried unanimously.

ATTORNEY BUSINESS:

Chairman Dayvolt asked Attorney Business.

Attorney Doll replied nothing.

EXECUTIVE DIRECTOR BUSINESS:

John Wilson came to the podium

John Wilson said I need to talk to you.

Chairman Dayvolt asked if he was here to discuss anything that was on tonight's agenda.

John Wilson said no, but I need to get ahead of this.

Attorney Doll asked is this a BZA matter.

John Wilson replied well you know we went for him to rezone for the farm...he shouldn't have been able to do this.

Attorney Doll stated this Board cannot legally discuss any matter that the Area Planning Commission has or hasn't done.

John Wilson replied well he shouldn't have been able to do that...

Attorney Doll said APC... come to the meeting next month and discuss it there.

John Wilson stated well some of you are on that Board...you are aren't you.

Jeff Valiant stated I am, and I will be at the meeting next month and we can discuss it then.

Mike Moesner made a motion to adjourn the meeting. Mike Winge seconded it and the motion carried unanimously. The meeting adjourned at 7:08pm.

Terry Dayvolt, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of the said Board at their monthly meeting held April 22, 2024.

Molly Barnhill, Executive Director