**WARRICK COUNTY AREA BOARD OF ZONING APPEALS**

Regular meeting to be held in the Commissioners Meeting Room,

Third Floor, Historic Courthouse,

Boonville, Indiana

December 23, 2024 at 6:00 P.M.

**PLEDGE OF ALLEGIANCE:**

**MEMBERS PRESENT:** Mike Winge, Vice-Chairman; Mike Moesner, Jeff Willis, Dave Goldenberg, & Shari Sherman

**Members Absen**t: Jeff Valiant & Terry Dayvolt

Also present was Morrie Doll, Molly Barnhill, Executive Director, Kim Kaiser, Assistant Director, & Julie Newton, staff.

**MINUTES:** Upon a motion made by Mike Moesner and seconded by Dave Goldenberg the minutes of the last regular meeting held November 25, 2024 were approved and circulated.

**VARIANCES:**

**BZA-V-24-36:**

**APPLICANT/ OWNER:** Zahoor & Rebecca Ismail

**PREMISES AFFECTED:** Property located on the north side of Jenner Rd. approximately 240’ east of the intersection formed by Jenner Rd. & SR 261. Ohio Twp. 12-6-9. *Complete legal on file. 6288 Jenner Rd.*

**NATURE OF THE CASE:** Requests a Variance, from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an improvement location permit to be issued for a SFD located within the required 25’ front BSL. All in an “A” Agricultural Zoning District. *Advertised in The Standard December 12, 2024.*

Zahoor Ismail was present.

Vice-Chairman Winge asked for a staff report.

Mrs. Barnhill stated we have all the white pay receipts and green cards except for one and we received the entire letter back. She continues the existing land is vacant and the surrounding zoning and land use on the directly adjacent properties all around are zoned “A” Agricultural being Rolling Hills Country Club, single-family dwellings or vacant. She said across SR 261 to the West is zoned “R-2/PUD” Multiple Family Dwelling/ Planned Unit Development being The Enclave at Woodfield Subdivision consisting of single-family dwellings. She stated there is no floodplain and he has access on Jenner Road. She continues Jenner Road is a Rural Major Collector based off the Thoroughfare Standards meaning 40’ of ROW from center line which pushes the BSL further back than normal but I did take this to the County Engineer and he said that the thoroughfare plan is outdated so I had him sign off on the site plan itself. She said he is okay with it being closer to the road.

Vice-Chairman Winge asked do you have anything to add to the report.

Zahoor Ismail replied no.

Vice-Chairman Winge stated since he has nothing to add any questions by the Board.

Attorney Doll asked what is the reason why you need to be closer to the road.

Zahoor Ismail responded there is a cable line that nobody knows who it belongs to. He continues Charter Communications…

Attorney Doll said okay.

Zahoor Ismail continues lost that property and nobody can tell me so when you do the house it will be rubbing on the roof of the home it is so low. He said I can call them and when they answer the phone, they want to sell you…accounts payable…or phone or tv. He said I tried to find out if either Warrick County keeps a list of the cable providers so maybe I could contact them but we have been trying for three months. He stated that is why…if you go the depth of the lot and if you go 65…what was that 65’ that was required before the variance.

Vice-Chairman Winge said I think it was 65.

Mrs. Barnhill responded yes.

Zahoor Ismail stated you have to put the septic tank and field bed in the back yard.

Attorney Doll said so your lot is not big enough…

Zahoor Ismail replied it is deep enough…not with…. Jenner Road is all farm ground that they ain’t going to build…I have another home down the road on the same street and it is only 30’ from the center of Jenner Road.

Vice-Chairman Winge asked so you are saying that the cable…it is not a buried cable it is an overhead cable.

Zahoor Ismail replied yes, an overhead cable not even roof height. He continues the cable is like 11’ or 13’ and they are not going to move it. He stated we have already investigated and there was no easement given to them since I owned the property in 2001 and I don’t know when they ran that when they did the highway work on 261.

Vice-Chairman Winge stated that sounds like a Morrie thing.

Attorney Doll stated they don’t have a legal right to just cross your land unless they have an easement.

Zahoor Ismail responded nobody does.

Dave Goldenberg stated if there is no easement you can take it down.

Attorney Doll stated cut it.

Dave Goldenberg said cut it. He stated I’m telling you that is what we did up in Lynnville because no one was going to tell us who owned one of the wires so we cut them down. He said we find out that way.

Zahoor Ismail stated back in my old days or my younger days I…

Shari Sherman said you would find out really fast.

Dave Goldenberg stated if you cut somebody’s cable off then they are going to call and then that company is going to get out there and fix it.

Attorney Doll stated there will be a truck show up and they are going to have to explain to you why they are crossing your property and why it is dangling so low.

Zahoor Ismail spoke (unintelligible) I’ll be paying for it for 25 years.

Vice-Chairman Winge asked how will you be paying for it if there is no permission to cross your ground.

Zahoor Ismail said I’m sorry.

Vice-Chairman Winge asked if they don’t have permission to cross the ground how are you going to be stuck with paying for taking the wire down.

Zahoor Ismail stated well, I can’t go and cut somebody’s wire off.

Dave Goldenberg said yeah.

Shari Sherman replied yes, you can if it is on your property and you don’t have an easement.

Zahoor Ismail responded yes, I can but I’m not that kind of guy you know. He continues if I can get the variance and it is more money for Warrick County property taxes…I mean the ground is just sitting there…I had an existing home on that property, which is on 15’ from the center of the road but I demolished that.

Vice-Chairman Winge stated Morrie I think this one we are going to have to have some advice from you.

Attorney Doll stated well, I mean…

Zahoor Ismail said well I have the septic issue too.

Attorney Doll asked you are wanting to use the existing from the old home.

Zahoor Ismail replied no sir. He continues I already have a permit in place for a septic.

Vice-Chairman Winge said so, if I am understanding that 15’ you are trying to get away with that is going to keep you to where you can put a septic system in…

Zahoor Ismail said right, right into the septic and the field bed and all of that.

Vice-Chairman Winge continues you need that for the septic. He said so, I think it is a wire and septic both.

Attorney Doll stated it is a question of whether you want to grant the variance. He continues this is a pretty significant variance. He asked the existing requirement is what, Molly.

Mrs. Barnhill said existing right now or do you mean for the thoroughfare.

Attorney Doll replied for the thoroughfare.

Mrs. Barnhill stated the thoroughfare is 40’ to the center of the road.

Vice-Chairman Winge asked well how did this get to be 65’.

Mrs. Barnhill responded well, the 40’ is right-of-way plus 25’ for the building setback.

Attorney Doll replied building line.

Mrs. Barnhill stated 65’ total…

Attorney Doll said from the center of the road. He continues to the center of 261.

Mrs. Barnhill replied umhmm.

Attorney Doll asked and you are asking for it to be reduced to what.

Vice-Chairman Winge replied 50.

Zahoor Ismail responded I’m sorry what.

Attorney Doll asked how much are you asking.

Zahoor Ismail said I am thinking it is about 15 or 10…

Mrs. Barnhill stated we did 45.

Zahoor Ismail said 45’ from the center of the road.

Mrs. Barnhill stated that is what I showed the county engineer.

Zahoor Ismail said that is what they…

Vice-Chairman Winge stated well, if you only need 10’ why are you asking for 20’.

Zahoor Ismail said I’m sorry.

Vice-Chairman Winge asked is he not asking for 20’ for…it is 65’ right now isn’t it.

Zahoor Ismail said no it was…what was that originally 60’.

Vice-Chairman Winge said well if he wants 40’.

Attorney Doll responded 45’.

Mrs. Barnhill said he wants 45’.

Vice-Chairman Winge said 45’.

Mrs. Barnhill replied 45’ would be ideal we discussed 50’ but he would rather have 45’ so that he is not too close to that line.

Vice-Chairman Winge said to make him comfortable.

Mrs. Barnhill replied yes.

Dave Goldenberg stated the line can be removed.

Attorney Doll said but the septic is the problem too.

Dave Goldenberg said but then that becomes an issue.

Attorney Doll asked where was the septic for the old house that used to be on this lot.

Zahoor Ismail replied there is no septic. He said the old probably a 55-gallon drum with a bunch of rocks in there so that is why…I just held onto the lot…

Vice-Chairman Winge said let me ask you a question Molly. He asked let’s just say we pass this and then later on they come back and that wire has to come down and let’s just say that they put (unintelligible) have they got enough easement to go around that to get to…

Attorney Doll said no, may I, go ahead.

Mrs. Barnhill asked the wire.

Vice-Chairman Winge said yeah, if they put it in the ground could they go around the septic…do they have enough between the road and 30 to get it in. He continues that would be the biggest issue I see. He said they would have to go overhead period and then he would have to sign off on it.

Dave Goldenberg stated and it’s not our issue if they don’t have an easement there anyway.

Vice-Chairman Winge responded yeah.

Dave Goldenberg said so, that is a moot point. He asked is Jenner Road ever going to need to be widened. He stated that is my concern is that Jenner Road gets widened all of the way across to Victoria Woods or wherever that is…

Attorney Doll asked may I.

Mrs. Barnhill stated and that is why I asked the county engineer because that is what the thoroughfare plan is for if in case it does need widened. She continues the county engineer is saying that is an outdated plan and he doesn’t see that happening on this section of Jenner.

Attorney Doll asked if it is not a thoroughfare how much right-of-way do, we normally allow.

Mrs. Barnhill replied 25 to center for a total setback of 50’ so he would still be asking for 5’.

Attorney Doll asked so it hasn’t been formally changed from a thoroughfare in the master plan.

Mrs. Barnhill replied no it hasn’t.

Attorney Doll said that is Bobby’s opinion but that doesn’t … if the master plan if it is characterized as a thoroughfare, it is a thoroughfare.

Mrs. Barnhill responded yes.

Dave Goldenberg asked how would you go about changing it, Molly or whoever or however that has to go.

Mrs. Barnhill stated the Commissioner’s would have to change the ordinance.

Attorney Doll stated the Commissioner’s.

Mrs. Barnhill said it is with them.

Dave Goldenberg stated with him that is the first step that needs to be done. He continues this Board needs to be looking at that cable to see if you want to grant that extra 5’ just because of that I don’t think is a valid point…

Mrs. Barnhill said that’s not…

Dave Goldenberg stated and the third point is septic and how does it fit in there and can we make that all work.

Vice-Chairman Winge said I have one more question for Molly. He asked have we done this with anybody else through there

Mrs. Barnhill asked on this section of road.

Vice-Chairman Winge replied yeah.

Mrs. Barnhill responded no, there is not a lot right there.

Vice-Chairman Winge said okay, so this will be the first through there.

Mrs. Barnhill responded yes, right in this area. She said those are older homes on this section of Jenner.

Zahoor Ismail said the existing home up there on the street is not 65’ and then the whole Woodfield on Jenner Road, all of the condos, they’re within 15’ and on that side you have Rolling Hills so, I don’t know if you don’t have a plan to do the whole Jenner Road you are going to have to cut down the Woodfield Subdivision, all of these condos right along the line.

Vice-Chairman Winge asked so, that’s the new standard.

Laughter among Board members.

Vice-Chairman Winge said we are here; we can help you.

Attorney Doll stated you may not want to be here.

Mrs. Barnhill stated let the record show that Terry Dayvolt is here.

Dave Goldenberg asked what is your opinion, Terry.

Laughter throughout the room.

Chairman Dayvolt said well….

Shari Sherman stated I would advise you not to answer and I am not an attorney.

Vice-Chairman Winge said if you want, I can finish this one. He said do you want me to finish the first one.

Chairman Dayvolt replied yes.

Vice-Chairman Winge stated I will go ahead and finish the first one Morrie.

Shari Sherman said I have a question. She asked if he sent a certified letter to…you said it is the cable company is who…

Attorney Doll & Dave Goldenberg stated he doesn’t know.

Shari Sherman said he don’t.

Zahoor Ismail said everything on it is property of a communication charter out of Louisiana, Texas, or somewhere. He continues I tried to call CenterPoint and you can’t get no answer for…

Shari Sherman asked but it’s not…CenterPoint is electric and it is not electric.

Zahoor Ismail said you can try to call them and you will be lucky if somebody will call you back in 10 hours.

Shari Sherman stated but it is not an electric line so CenterPoint isn’t…

Zahoor Ismail responded I understand it is a communication Charter Communication.

Shari Sherman responded okay. She asked so if he sends them a certified letter that said if you don’t remove your line in 10 days it will be cut would that solve his problem.

Zahoor Ismail said it is running across from two properties. He stated my neighbor’s property and mine.

Shari Sherman stated the neighbor might want to encourage them to get it done too.

Attorney Doll asked have you talked to the neighbor.

Zahoor Ismail responded my neighbor doesn’t live there anymore all he has is a garage.

Shari Sherman said so it may be a dead line and nobody is using it.

Zahoor Ismail said huh.

Shari Sherman replied it may be a dead line and nobody is using it.

Zahoor Ismail said the whole Victoria is using it. He said it came across and them came back out and on the Rolling Hills side it goes all of the way to Victoria.

Vice-Chairman Winge stated it is probably being used.

Shari Sherman stated I would say if it goes out at Victoria, they will be on it very quickly to make sure that it gets fixed.

Zahoor Ismail stated we still have the septic issue anyway.

Shari Sherman said yeah, but that might, you know, give you some leeway there.

Zahoor Ismail stated we have to solve two problems not just cable. He said cable I can prop the line up with a pole and let it rub.

Vice-Chairman Winge asked Morrie, what would be your opinion.

Zahoor Ismail said just like the other man suggested I can cut it up.

Attorney Doll responded it may be that the lot is too small for a 2,600 square foot home.

Zahoor Ismail stated it is not 2,600 it is 1,900.

Attorney Doll stated well the drawing…

Zahoor Ismail said the footprint with a garage.

Attorney Doll continues 2,958 square feet is the footprint.

Zahoor Ismail said the footprint.

Attorney Doll replied okay, isn’t the footprint the foundation of the home.

Zahoor Ismail responded we don’t have a problem with the width it is the depth.

Attorney Doll said well, it is the size of the home that is…

Dave Goldenberg asked you haven’t started the home, right. He asked you have not started it.

Zahoor Ismail replied I don’t start without…

Dave Goldenberg said let me ask you this. He asked why didn’t you go wider rather than longer if the lot…

Zahoor Ismail said it is not going longer. He said the lot is this way and the home is this way to give enough septic room. He continues it is 113’ deep.

Vice-Chairman Winge said okay, that answers my question.

Zahoor Ismail stated so it is not the land because the front of the home won’t be on Jenner Road.

Attorney Doll asked are you going to live in this house.

Zahoor Ismail replied yes, sir. He continues if I not able to walk where I live right now on Jenner…I live on Geneva in Fetter Subdivision and in a couple of years I won’t be able to mow the grass and walk in that coal mine so, that is why we are planning this as a retirement home.

Attorney Doll asked how long of a house.

Vice-Chairman Winge asked is it comparable to what is around this.

Attorney Doll stated there is nothing around there. He continues see look at the aerial.

Zahoor Ismail responded oh yeah there is. He continues there is a 4,000 square foot home right next to my property. He said right at Jenner and Anderson and one house before I own that and that is only 35’ off the road and then there is a field next door…he’s got a small home but the barn burned down recently and then I am next to him.

Vice-Chairman Winge well tell…

Zahoor Ismail said and he just separated the home from his parcel of one acre, which is only like 15’ from SR 261. He said there is nothing uniform there.

Vice-Chairman Winge stated well, we have done these so, the only thing that will probably make this different would be the area the road is designated for…the setback…the 65’.

Mrs. Barnhill said umhm.

Vice-Chairman Winge asked have we done any of them.

Mrs. Barnhill asked the variance on the setback on a thoroughfare.

Vice-Chairman Winge replied yeah, on a thoroughfare.

Mrs. Barnhill responded I don’t recall one this close.

Attorney Doll stated I think we did a 5’ or so.

Mrs. Barnhill stated I don’t think we have done one this big.

Vice-Chairman Winge asked but we have never done one with the septic problems.

Mrs. Barnhill replied right.

Vice-Chairman Winge said Morrie…

Zahoor Ismail asked what is the problem can we move it 5’ back.

Attorney Doll responded well, you know we have had septic issues at other sites that we’ve said hey, you know, maybe it is just not developable. He continues I’m trying to think outside of Boonville, north of town here we had a septic system issue. He said they couldn’t find potability, they couldn’t find a place to put the septic system.

Mike Moesner asked isn’t there a requirement that they have to have 2.5 acres for a septic.

Attorney Doll replied yes.

Mrs. Barnhill replied not anymore.

Mike Moesner stated I didn’t know that.

Zahoor Ismail stated I’ll run the sewer line but Chandler…the way that Jenner Road is, the whole Jenner Road is sitting in a valley. He continues Newburgh sewer can’t run it and neither can Chandler, I have already checked. He said I am not too fond of septic systems. He said it is just a valley and either way you go you have to put the lift station, which is like a quarter of a million dollars.

Vice-Chairman Winge asked has the Health Board given him a…

Mrs. Barnhill stated that is what I was going to ask. She asked have you had the soil testing done.

Zahoor Ismail said huh.

Mrs. Barnhill asked has the soil testing been done.

Zahoor Ismail responded the soil testing done…

Vice-Chairman Winge said he has already got his permit for it.

Zahoor Ismail continues permit already issued for the septic.

Mrs. Barnhill replied okay. She asked so are the laterals are so long…

Zahoor Ismail responded it is a presby system and they just take up a short area with SP 3 sand. He said it is not like your regular 600’ and all of that anymore.

Mrs. Barnhill said oh, a presby system.

Zahoor Ismail responded a presby system.

Dave Goldenberg stated I think the first thing we need to do is to get him to go to the County Commissioners and change the road…

Attorney Doll said the designation of the road.

Dave Goldenberg replied that is the first thing that has to be done.

Mrs. Barnhill stated that takes a long time.

Vice-Chairman Winge said that is the first thing.

Zahoor Ismail stated they have been doing that presby all over Warrick County.

Dave Goldenberg said otherwise we are going to get stuck into changing…

Vice-Chairman Winge stated we’ve done this several times I think in the past so it wouldn’t be treating it fair otherwise. He said I mean we have done it before.

Mrs. Barnhill replied yes.

Attorney Doll responded not nearly this many feet.

Vice-Chairman Winge stated and he has to have all of that but he can get by with 5 less but that’s it he has to have that much.

Mrs. Barnhill responded umhmm.

Vice-Chairman Winge stated well, the only thing I know is to let the Board vote on it and see what they come up with.

Jeff Willis stated someone could make a motion, yeah.

Vice-Chairman Winge said we would need a motion on the Board.

Jeff Willis asked we still have to ask for remonstrators don’t we.

Attorney Doll replied yeah.

Chairman Dayvolt asked is there anybody here for or against this.

Zahoor Ismail said I’m sorry.

Chairman Dayvolt asked is there anybody in the audience that is here for or against this that have something to say.

Vice-Chairman Winge stated everybody that is here is here for something different.

Chairman Dayvolt stated seeing none are there any more questions by the Board.

Jeff Willis asked so, we are getting rid of the front yard requirement but he is not going into the easement, I mean not going into the street.

Vice-Chairman Winge replied you are going to be voting on whether we pass him or we don’t pass him.

Jeff Willis stated I understand but I just want to get clarification…

Attorney Doll said the setback in the front yard is what this is in regards to.

Jeff Willis stated it is the setback that he is moving into he is not moving into the road easement.

Vice-Chairman Winge replied yeah.

Attorney Doll said no.

Zahoor Ismail stated you already have the 25’ just the easement…

Attorney Doll said he is not moving into the road easement at 40’ but at 65’, which is what the road plus what a 25’ setback.

Mrs. Barnhill said the 40 plus the 25…

Zahoor Ismail said it is 45’ actually.

Mrs. Barnhill stated he is into the building setback line with the 40’ thoroughfare from center.

Attorney Doll asked I’m sorry one more time, if it is not a thoroughfare, if it is a lesser used road…

Mrs. Barnhill said umhmm.

Attorney Doll continues what is the right-of-way.

Mrs. Barnhill stated typically 25’ from center.

Vice-Chairman Winge said Morrie I’ve got one second let me ask him one more question. He asked when…your tank for the septic system is that going to be 10’ from the house…the tank.

Zahoor Ismail replied no.

Vice-Chairman Winge asked where is the tank going to be.

Zahoor Ismail replied it is over 20’…

Vice-Chairman Winge said so you could put it….

Zahoor Ismail continues the lateral… gravity fed…

Vice-Chairman Winge said I am talking about the tank…the tank itself.

Zahoor Ismail replied the tank is going to be at 15’ almost…I don’t have that drawing with me.

Vice-Chairman Winge stated what I am saying is I think that is 10’…

Zahoor Ismail said 10’…

Vice-Chairman Winge said what I am saying is maybe we could take…because the line can come out of the house to the side and the tank could set on the side and then run from the tank to the laterals and if it is 10 or 15’ now we could get by with giving him 5’. He asked are you following me.

Zahoor Ismail stated I think you are required 10’ from the house…

Vice-Chairman Winge said it is 10’ on the septic 10’.

Zahoor Ismail continues but I have more than 10’.

Vice-Chairman Winge asked why.

Zahoor Ismail responded I mean it depends on how your laterals…gravity fed…

Vice-Chairman Winge stated you are going to run your septic tank out of the house and it doesn’t matter where you run it out this end, this side, or whatever okay. He continues I’m just saying we might be able to solve most of the problem by where that tank sets and that could be solved with Aaron.

Zahoor Ismail said right.

Vice-Chairman Winge continues and a meeting with you…move the tank.

Attorney Doll said yeah.

Vice-Chairman Winge stated it doesn’t have to be 10’ away from the side we are trying to get the ground from.

Mrs. Barnhill stated it is not Aaron any more.

Vice-Chairman Winge said huh.

Mrs. Barnhill & Attorney Doll both stated it is not Aaron any more.

Vice-Chairman Winge said well, whoever it is they have to talk with now but the bottom line is that needs to be addressed. He stated I think that is probably going to solve the problem. He said a sewer line can come out anywhere on the house it doesn’t have to come out in that spot but I do know that the tank has to be I believe it is 10.

Attorney Doll said yeah.

Vice-Chairman Winge said we have to be able to have area that he can set that Morrie.

Zahoor Ismail stated we took into account that the tank will be 10’ away from the house…

Vice-Chairman Winge said I understand that and I know that is mandatory.

Zahoor Ismail replied right.

Vice-Chairman Winge continues where you are setting it is what I am trying to say. He asked can it be off to the side and you gain 10’ by bringing your laterals closer to the home.

Zahoor Ismail said it can’t be because it can’t be that close to the neighbor’s property line on either side of the house. He continues you have 15’ here and 12’ there…the house sits here and you have 15’ from the neighbor’s property line and…

Vice-Chairman Winge said but my point is your laterals are not there a holding tank is a holding tank and it is not affecting the neighbor.

Zahoor Ismail stated the tank you can’t put it close to the property line…somebody’s property line…it has to go in the back.

Vice-Chairman Winge stated I don’t recall reading that but if that is the case.

Zahoor Ismail responded yes.

Attorney Doll asked so he is wanting to do away with the entire 25’.

Mrs. Barnhill responded he wants to reduce it to 5’ at the edge of the thoroughfare.

Attorney Doll stated so he wants to reduce it from 25’ to …

Mrs. Barnhill stated to 5’.

Jeff Willis asked didn’t we do that with a church north of Lynnville or something. He said I mean there was a highway and they have a 5’ setback to their front…

Mrs. Barnhill asked for that porch addition.

Jeff Willis responded umhmm.

Mrs. Barnhill responded umhmm.

Attorney Doll stated but that was different don’t you remember that.

Vice-Chairman Winge said that was a….

Attorney Doll stated that was a knock down drag out fight too.

Vice-Chairman Winge said that was different.

Attorney Doll asked was that the church.

Mrs. Barnhill replied yes.

Jeff Willis stated there was also a lady that had a house that had a handicap ramp on one side and she wanted to put one on the front.

Attorney Doll replied yeah.

Jeff Willis continues but we also had a church….

Attorney Doll stated Elberfeld.

Jeff Willis said Elberfeld.

Vice-Chairman Winge said I thought that was at Lynnville wasn’t it.

Several Board members replied no that was Elberfeld.

Jeff Willis stated we had a church somewhere that was…that they wanted to add onto the front of theirs and it was like right on the highway.

Mike Moesner stated that was at St. Matthew’s I think at Lynnville.

Jeff Willis said St. Matthew’s.

Mrs. Barnhill replied yeah.

Zahoor Ismail stated that’s not why we are here…

Dave Goldenberg stated that is not really highway there…you know, the highway curved around. He said that is a different road an old county road.

Attorney Doll stated but currently with the 25’ setback it literally runs through your house…

Dave Goldenberg said umhmm.

Attorney Doll continues right.

Zahoor Ismail said I’m sorry.

Attorney Doll asked him is this your drawing.

Zahoor Ismail replied I can’t see that far.

There were several Board members talking at once and it was unintelligible.

Mrs. Barnhill stated he brought it in.

Zahoor Ismail said I brought it in.

Jeff Willis asked that is the front yard setback the 25’.

Mrs. Barnhill replied yes.

Attorney Doll stated that is the building line setback.

Jeff Willis stated so, most of this is garage and a little bit of his house.

Attorney Doll stated well it runs from east to the west clear through the house.

Jeff Willis replied yeah, but he is not going into the road easement any he is still going to be 5’ off away from the maximum road easement that they would have if they make it a highway or when they make it a highway.

Attorney Doll responded yeah. He asked if they would widen the road…

Jeff Willis stated if they would widen it, they would still have 5’ before they get to the house inside their easement.

Attorney Doll stated if the County would reclassify Jenner Road as not a thoroughfare into what an arterial…

Mrs. Barnhill said sure.

Attorney Doll asked is that the next level down…isn’t that an arterial road…

Mrs. Barnhill said the next one down no it is a rural major so the next step down would be a rural minor, which is a 70’ thoroughfare.

Attorney Doll said wait a minute it goes up.

Mrs. Barnhill responded sorry 80 is the total so I keep saying 40…

Jeff Willis stated his side of the road is 40.

Attorney Doll stated half.

Mrs. Barnhill said so then it would go down to 70 total 35 from center.

Attorney Doll stated well that’s not that…

Vice-Chairman Winge said it is 5’.

Attorney Doll stated that is not going to make enough difference. He said he is still going to be needing the variance because we are narrowing the public road right-of-way by 5’…

Mrs. Barnhill said that’s just.

Jeff Willis stated the remainder well how wide is a road 15’ on his side so he has 50’ of front yard because some day in the future we may build a road there.

Attorney Doll stated well the edge of the road could take 10’ off of the 40 then he has 30’ plus…

Jeff Willis said 25.

Attorney Doll said no.

Jeff Willis said no.

Attorney Doll stated it is not 25 it is like 5’…I don’t see a measurement on this drawing for what that actual length is.

Mrs. Barnhill asked what, where…

Attorney Doll replied here.

Jeff Willis stated between the setback line and the front of the house.

Mrs. Barnhill stated 5’.

Zahoor Ismail said it is on the drawing.

Mrs. Barnhill stated 5’.

Attorney Doll asked is it 5’.

Mrs. Barnhill replied yes.

Attorney Doll asked so from the front of the house to the 40’ road right-of-way is 5’.

Mrs. Barnhill responded yes.

Attorney Doll stated that is awful close.

Dave Goldenberg replied yeah.

Vice-Chairman Winge said yeah, if they ever do widen the road, he is going to be right in front of it.

Attorney Doll stated you’ve got to remember, I mean, road right-of-way is not just the road there are utilities that use road right-of-way’s too…sewers.

Vice-Chairman Winge stated if that has to have utilities put in there and it would have to be a lift station it would take a little bit more room.

Attorney Doll said that is not our…they would have to deal with the gentleman if they needed more room…

Zahoor Ismail said I checked the sewer line with Newburgh sewer and Chandler and they have zero plan…

Shari Sherman asked have you checked with Boonville.

Zahoor Ismail continues on that part of Jenner Road period.

Shari Sherman asked have you checked with…

Zahoor Ismail continues I checked with Tyler of Chandler Utilities and I checked with…what is that I forget the name with Newburgh sewer. He said they have a zero plan in the future because this is only three people from one end until you get to the Anderson property owner’s and they are not going to run and there is no land there to build a subdivision.

Chairman Dayvolt asked what is your firm opinion Morrie.

Attorney Doll stated it is awfully close. He said it is a policy decision by the Board but I don’t think we have ever done this much of a relaxation maybe the church….

Zahoor Ismail asked how much do you want to move it back sir.

Attorney Doll said just a minute. He said maybe the church where they had the front steps was it, Mike St. Matthew’s.

Mike Moesner replied yes.

Mrs. Barnhill said yes, we have done a few that are 5’.

Attorney Doll said I’m sorry.

Shari Sherman stated but those were in very rural areas.

Attorney Doll replied yeah.

Mrs. Barnhill stated it’s not different.

Attorney Doll asked it wasn’t a thoroughfare though was it.

Mrs. Barnhill replied no.

Attorney Doll stated thoroughfares are…a definition of a thoroughfare is determined by traffic…how many cars per day, how many vehicles per day, and etcetera and in the master plan for Warrick County Jenner Road is designated as a thoroughfare, which means it could be expanded in the future or widened. He continues there could be utilities that want to use the right-of-way whether it is sewers, water lines, or…do you have public water.

Zahoor Ismail replied yes sir.

Attorney Doll asked where is the water line at.

Zahoor Ismail stated the water line is right there in the street. He said actually I ran with my expense I ran the water line from 6288 Jenner Road all of the way up to Anderson Road to my other property and one more property besides me, which use to be my lot, I sold it. He stated I paid and I ran water lines with Chandler Utilities…

Attorney Doll asked but it is in the road right-of-way the road…

Zahoor Ismail said I’m sorry.

Attorney Doll continues the water line is buried in the road right-of-way.

Zahoor Ismail said not in the road but is only like 3,10, about 12 feet from the center of the road and ran the whole length of Jenner Road.

Vice-Chairman Winge stated it should be right up next to the road.

Zahoor Ismail stated it is right next to the road.

Vice-Chairman Winge replied yep.

Mike Moesner asked if we move this instead of 25’ if we moved the house back 10’ could you still get…

Zahoor Ismail asked I thought the gentleman was worried about 5’ right.

Attorney Doll stated right now what you are asking for…

Zahoor Ismail stated I can move it 5’ back that is not a problem. He continues so we are back at the drawing board 50 right.

Mrs. Barnhill replied yes.

Zahoor Ismail continues from the center of the road 50’.

Mrs. Barnhill said yes.

Zahoor Ismail responded that is not an issue.

Attorney Doll asked that won’t be too close to the overhead line and it will still give you….

Zahoor Ismail stated like the gentleman suggested I can knock it over with a backhoe that line. He asked is that correct sir.

Dave Goldenberg stated what I would do if you can’t track down who owns it and they don’t have any legal right they can’t just run a line through your property.

Zahoor Ismail stated there is not in my deed anywhere…

Attorney Doll asked no, no, no have you went to the Recorder’s office and ran the title to this land.

Zahoor Ismail replied yes, sir. He said I have a deed…

Attorney Doll asked and there was no easement.

Zahoor Ismail stated they don’t…can’t find beyond the years I bought there is no easement beyond. He continues I did all of my homework but if…let’s not worry or concentrate too much on the cable line because I can put up the post and raise it up 15’.

Attorney Doll responded not if it is not yours.

Zahoor Ismail replied well, if I want to, I can raise it up.

Attorney Doll said if you want to…

Zahoor Ismail stated you guys said yes to…

Attorney Doll said the gentleman said to cut it down…

Zahoor Ismail continues exactly cut it down.

Dave Goldenberg said I said cut it down.

Zahoor Ismail said or I can push it up

Attorney Doll asked how far back could you move the house and still install the septic system.

Zahoor Ismail stated it is already laid out on the drawing. He said Angelina does the septic and they have all the records. He continues there the GPS was done with the soil scientist and they found that location, which is suitable for presby and it’s farther back. He said it can go tank and move from back of the house another 20-21 feet.

Vice-Chairman Winge asked then why can’t you be further away from the road then. He continues that should give you more room.

Zahoor Ismail said I’m sorry.

Vice-Chairman Winge asked if you can move that tank 15…

Zahoor Ismail said no, hang on a minute we are talking about the cable. He stated I can move 5’ like the gentleman said because it was going to be on the back sunroom roof is lower than the house.

Vice-Chairman Winge stated I am not worried about the cable you done said you would cut it down...let’s talk about the field bed that’s what the issue is right.

Zahoor Ismail said they have the drawing of the house and so does the…

Vice-Chairman Winge stated I am still trying to find out if that tank can be put elsewhere on that property and gain you that 10’.

Attorney Doll stated so you are not so close to the road.

Zahoor Ismail asked so what are you…

Vice-Chairman Winge asked do you not follow me on that.

Zahoor Ismail responded 50’ from the…are we going back like…

Vice-Chairman Winge said wait a minute let me explain to you this way if that tank is there in front of the house, then that is going to keep your house back further.

Attorney Doll stated not in front of the house.

Zahoor Ismail stated there is no tank. He stated nothing is in front of the house just the ground.

Vice-Chairman Winge responded okay.

Zahoor Ismail stated the tank is behind the house…

Vice-Chairman Winge said it’s all ready they have already put it there…

Attorney Doll stated it hasn’t been installed yet.

Jeff Willis stated proposed location.

Shari Sherman stated but they could move it back if needed.

Zahoor Ismail said I’m sorry.

Shari Sherman stated they could move it back if needed.

Zahoor Ismail said what are you…

Vice-Chairman Winge said I’m just…do you have room for them to move that tank back.

Zahoor Ismail replied not 20’ or 30’.

Attorney Doll said 20’.

Zahoor Ismail stated the original one was 50’ and we requested 45’ and it is to be built at 45’.

Vice-Chairman Winge said Morrie, he is still stuck on that 45 in there and if the tank can be moved back the house can be moved back before started then we don’t have a problem.

Attorney Doll said hold on…I understand that but I don’t know that he is answering that question.

Vice-Chairman Winge stated he is not.

Attorney Doll he stated a few minutes ago you said something about being able to move the house back 20 or 21’ do you remember that.

Zahoor Ismail replied no, I said that the tank can be lateral from the house and then the tank would be 15 to 20’.

Vice-Chairman Winge asked so the tank is going to be on the side of the house. He asked you can move it there.

Zahoor Ismail said it will be behind…

Vice-Chairman Winge asked why can’t you move the house back…I am missing something.

Jeff Willis responded because there is a cable line there and he doesn’t know who it belongs too, but it has been there for 20 years so would they have…how long has the line been over that yard.

Zahoor Ismail said I’m sorry.

Jeff Willis asked how long has that cable line been on that property.

Zahoor Ismail replied nobody knows.

Jeff Willis stated but you said…

Vice-Chairman Winge said I think you’ve got a cable problem is what I think he’s got.

Jeff Willis asked how long have you had the property…since 2001 right.

Zahoor Ismail replied I didn’t do the easement.

Jeff Willis responded right.

Vice-Chairman Winge asked Morrie, didn’t he just say he could raise the cable…

Multiple people talking unintelligible

Vice-Chairman Winge said whoa, whoa, whoa.

Jeff Willis asked has the line been there the entire time you have owned the property.

Vice-Chairman Winge stated that is not important anymore.

Attorney Doll replied yeah.

Jeff Willis asked and you have owned it since 2001.

Zahoor Ismail replied I didn’t even know about the line until I cut down the woods.

Vice-Chairman Winge stated the line…

Jeff Willis asked when did you buy the property.

Zahoor Ismail responded 2001.

Jeff Willis stated 2001 so, the line has been there for at least 24 years.

Zahoor Ismail said maybe 35.

Attorney Doll stated well if it is an easement, it is open.

Vice-Chairman Winge said Jeff that is not important he just said he could raise the line…if he can cut it, he can raise it.

Jeff Willis stated he can raise it to get over his sunroom but he can’t raise it to get over his house.

Vice-Chairman Winge said well then, he’s got very few options.

Zahoor Ismail asked what are we talking…

Vice-Chairman Winge said I think we should take a vote on this thing and move along.

Dave Goldenberg replied yeah.

Vice-Chairman Winge said or table it…Morrie can we table this thing and have him…

Attorney Doll asked for what. He said I mean what is the remedy. He said here is the question. He asked how far back, is it Mr. Ismail, am I saying your name correctly.

Zahoor Ismail replied yes, you can call me Jay it is a lot easier.

Attorney Doll asked how far back could you push the house.

Zahoor Ismail said I think we were pretty close at 50’ but they granted 45’…I don’t know if it is approved yet or not.

Vice-Chairman Winge said he means how many feet can you move the house back forget the…

Zahoor Ismail stated about 5 more feet than what I’ve got. He asked how many do I got.

Mrs. Barnhill stated you have 45’ so he said he could go back to 50’ from the center…

Attorney Doll asked so how much of a variance would he need if he moved the house back.

Jeff Willis stated 15’ instead of 20’.

Mrs. Barnhill replied 15’.

Attorney Doll asked he would need a 15’ variance so, there is an option for the Board instead of this variance you could make a motion…I don’t get to vote it is up to you…you could vote on granting a 15’ variance on the building setback line instead of what the current 25’. He continues so it would be a compromise of allegedly the house could be pushed back to the maximum extent possible for this site. He stated I am going to reiterate that I think it is too much house for too little of a site is the problem.

Jeff Willis stated it would be fine if there wasn’t that line there.

Attorney Doll said pardon me.

Jeff Willis stated it would be fine if there wasn’t a line there.

Attorney Doll stated not necessarily because it is filled with septic system is the problem.

Zahoor Ismail stated the septic has nothing to do with where it is going the septic is farther…the field bed…the presby is a totally different GPS soil testing and that is where it will go.

Attorney Doll asked isn’t that the reason why you can’t push the house back is the septic.

Zahoor Ismail responded the septic and the cable were a combination but we decided the cable line according to the gentleman just knock it down so I will push it down. He said I don’t know what else…I thought we had it at 50 is 50 not acceptable from the center of the road.

Jeff Willis stated that is up to the Board; the Board makes that decision.

Chairman Dayvolt asked what is the will of this Board. He asked is there a motion.

I, Jeff Willis, make a motion…

Zahoor Ismail said I mean I’m…

Chairman Dayvolt stated sir.

Jeff Willis continues to approve the Variance Application based upon and including the following findings of fact:

* 1. The grant of the Variance will not be injurious to the public health…I want to change it to 15’ instead of 20’, is there a way to do that or is that later in this.

Mike Moesner stated it comes down under number 3, I think.

Mrs. Barnhill stated that will come in under number 10.

Jeff Willis continues

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is the unknown utility line running through the property.
4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant’s use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance is adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
11. Subject to an Improvement Location Permit being obtained.
12. Subject to a Building Permit being obtained.
13. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
14. Subject to all utility easement and facilities in place.
15. Modified to be 15’…

Attorney Doll stated 15’ from the road right-of-way.

Jeff Willis continues from the road right-of-way.

Mrs. Barnhill asked 15’ or 10’.

Jeff Willis stated he was asking for 15’.

Mrs. Barnhill stated he was asking for 5’.

Jeff Willis said okay so, it is 10’.

Mrs. Barnhill said 10.

Jeff Willis stated move it back 5’ more than what he was asking for.

Vice-Chairman Winge said I thought it was 15.

Attorney Doll said I thought it was 15.

Vice-Chairman Winge stated 15 won’t get it.

Mrs. Barnhill said a 15’ relaxation.

Jeff Willis asked so it was going to be a 10’ front yard requirement instead of the 25’ front yard requirement.

Attorney Doll said okay.

Mike Moesner seconded the motion.

Attorney Doll said it is your motion, yeah.

Chairman Dayvolt stated we have a motion by Jeff Willis and a second by Mike Moesner, any more questions. The motion carries with a vote of 4-6 with Mike Winge and Dave Goldenberg against the petition.

Attorney Doll stated you have six months…

Zahoor Ismail said I’m sorry.

Attorney Dayvolt stated you have six months to get started on building on this.

Zahoor Ismail asked am I good to go.

Attorney Doll replied it just passed but you have a smaller setback.

Vice-Chairman Winge stated be sure you inform the people when they are doing the work that that has to be…

Zahoor Ismail said yeah, I will come see you and you tell me where it is at.

Mrs. Barnhill replied yes, we will.

Zahoor Ismail asked does that sound good.

Mrs. Barnhill replied yes.

Zahoor Ismail said gentlemen and lady you have a Merry Christmas.

Several Board members replied you too.

Zahoor Ismail stated if I would have had time, I would have baked some cookies and brought them in.

Chairman Dayvolt responded that is what I was doing.

**SPECIAL USES:**

**BZA-SU-24-37:**

**APPLICANT:** Evansville Christian School, by Mike Allen, Superintendent

**OWNER:** Evansville Christian School, by Mike Allen, Superintendent; Epworth Community Church, by Danny Barr, Pastor; Crossroads Christian Church, by Ryan King, Executive Director of Operations

**PREMISES AFFECTED:** Property located on the W side of Epworth Road. approximately 600’ north of the intersection formed by Epworth Road & Lincoln Avenue. Ohio Township Part Tract 2 Gateway Minor Amended; Lot 2 Epworth Lincoln II & Lots 1-3 in Epworth Lincoln III. *Complete legal on file. 10644 Lincoln Ave.*

**NATURE OF THE CASE:** Requests a Special Use, SU-15, from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Amendment to BZA-SU-20-18 to allow an addition to a school in a “C-1” Neighborhood Commercial, “A” Agricultural and “R-2B” Multiple Family Zoned Districts. *Advertised in The Standard December 12, 2024.*

Mike Allen was present.

Chairman Dayvolt asked for a staff report.

Mrs. Barnhill stated we are missing 6 green cards, but have all the white pay receipts showing they were mailed correctly. She said the existing use is Evansville Christian School; to the north is “A” Agricultural & “C-1” Neighborhood Commercial being vacant lots and “M-1” Light Industrial with Deaconess Hospital. She continues to the east is zoned “R-1/R-1D” One Family Dwelling being Ashbury Park Subdivision and Schnapf’s Hill Subdivision, and to the south is zoned R-1 One Family Dwelling being Mansfield Subdivision, and to the west is zoned “A” Agricultural & “R-2B” Multiple-Family Dwelling being Crossroads Christian Church & Evansville Christian School second facility. She said there is no floodplain and they have existing access off of Epworth Rd. & Lincoln Ave.

She stated the proposed use for this area includes a two-story 42’ x 153’ addition to the south end of the existing high school for new classrooms and additional parking to the north. She continues the requested special use is an amendment to the previously approved special use BZA-SU-15-15 & BZA-SU-20-18. She stated the existing metal building, church and high school will remain in place. She added so any approval should be subject…actually this came up from the last one that we did. She stated on the exhibit it shows some shaded areas that say vacation is in process, those were easements that were never fully vacated so we are asking for if approved to make that a condition to finish vacating those easements.

Attorney Doll stated which you want to vacate.

Mike Allen replied yes, sir.

Mrs. Barnhill stated they went to drainage they just didn’t do the next step. She added it is in order.

Chairman Dayvolt asked do you have anything else to add Mr. Allen.

Mike Allen replied no, sir. He added we have been in good favor and opportunity to bring more students in so we are trying to make that happen on our property.

Chairman Dayvolt asked any questions.

Attorney Doll asked you are adding classrooms.

Mike Allen replied yes, sir.

Attorney Doll asked what subjects do you anticipate the classrooms to be used for.

Mike Allen stated these eight classrooms will be used for whatever we need them for honestly. He continues we have been using Epworth United Community Church for some classes and we will be able to bring some more over there. He stated what these eight classrooms will allow us to do is to be able to house anyone that enrolls into Pre-K to stay in our school all of the way until their senior year with plenty of space.

Attorney Doll asked but they will also be used to teach religion.

Mike Allen responded they very well could. He stated they could teach bible. He said those bible classes are actually in another building right now. He stated we are hiring social studies, English, and elective class in teachers next year. He said we need about three new teachers going into next year and have no classrooms for them.

Attorney Doll responded okay. He asked and this is the high school.

Mike Allen replied yes, sir.

Attorney Doll stated as you know Senator Orr and Senator Kennedy passed the freedom of religion act in Congress, which said that we lose jurisdiction…you have to go through the permitting process, but if it is a religious institution, we lose jurisdiction to restrict that. He said I am not saying that the Board would turn it down but I am just saying that I don’t think you can. He continues if it is going to be used for religious purposes, I don’t think that you can.

Mike Allen said let the record show that I agree with that. Among a lot of laughter, he added I support that.

Chairman Dayvolt asked are there any more questions by the Board.

Mike Winge stated you don’t need any more questions.

After ascertaining there were no more questions by the Board or any remonstrators for or against Chairman Dayvolt asked for a motion.

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:

1. Subject to the property being in compliance at all times with the applicable zoning

 ordinances of Warrick County.

1. Subject to all public utility easements and facilities in place.
2. Subject to any required Improvement Location Permits being obtained.
3. Subject to any required Building Permits being obtained.
4. Subject to any required State Permits being obtained.
5. Subject to if the special use is abandoned for one year or has not been completely established within one year of the date granted, the special use shall be null and void.
6. Subject to the special use not being altered to become another use nor expanded than that which was approved by the Board of Zoning Appeals. If the special use approval is altered or expanded the approval shall be null and void unless the applicant/owner comes into compliance within forty-five (45) days from the notice of violation.
7. Subject to vacation of drainage easements on lot 2 in Epworth Lincoln Subdivision II.
8. Subject to all of the conditions on BZA-SU-15-15 & BZA-SU-20-18.

Mike Winge asked and we want to include the easements…

Attorney Doll stated you just did. He said it was number…

Mrs. Barnhill said number 8.

Attorney Doll continues Mike it is number 8.

Mike Winge said okay so it is on that part.

Mrs. Barnhill replied yes.

Mike Winge said alright, we’ve got it.

Mrs. Barnhill replied yes.

Chairman Dayvolt stated we have a motion by Mr. Winge…

Mike Moesner said I will second that.

Chairman Dayvolt said and a second by Mr. Moesner…any more questions.

Jeff Willis asked is this completely established within one year.

Mrs. Barnhill replied umhmm.

Jeff Willis asked so they have to be built and being used within one year or does…when are you going to start construction.

Mike Allen responded hopefully February for use starting for completion in July.

Attorney Doll asked use for the academic year.

Mike Allen stated for use in August of 2025.

Attorney Doll stated well you said you are hiring teachers already.

Jeff Willis stated I just wanted to make sure they had enough time to complete it.

Mike Allen replied yes, sir…yes, sir, thank you.

Chairman Dayvolt asked anymore questions.

The motion passed unanimously.

Mike Allen said thank you and Merry Christmas.

Several Board members responded Merry Christmas.

Attorney Doll said now the tough one.

Chairman Dayvolt said we are just getting warmed up.

Attorney Doll asked are you sure you want to come up.

Jim Morley Jr. replied yeah.

Chairman Dayvolt stated before we get started here the applicants have 20 minutes to state their case and the remonstrators will have the same amount of time but we do not want anybody coming up and saying the same thing that the person before you or previously said up here. He stated you can state your case and you can come up and say I agree or whatever else but we are going to hold it to 20 minutes and that is what it is going to be.

Shari Sherman asked they have 20 minutes and then again to respond to.

Attorney Doll replied yeah.

Chairman Dayvolt replied yes.

**BZA-SU-24-38:**

**APPLICANT/ OWNER:** Yellow Banks, LLC, by Charlie Peabody, Managing Member

**PREMISES AFFECTED:** Property located on the west side of Yellow banks Trail approximately 1200’ south of the intersection formed by Yellow Banks Trail and Vincennes Road. Pigeon Township. 31-3-6. *12733 Yellow banks Trail. Complete legal on file.*

**NATURE OF THE CASE:** Requests a Special Use, SU-1, from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow a 73.20-acre commercial recreation area, including but not limited to; primitive camping, recreational vehicle camping, cabin rentals, shower houses, beach access, concessions, restaurants, and a camp store. All in an “A” Agricultural Zoning District. *Advertised in The Standard December 12, 2024.*

Huy Tran and Jim Morley Jr. were present.

Huy Tran stated I am part owner in Yellow Banks, LLC.

Jim Morley, Jr. stated I am Jim Morley, Jr., Project Engineer.

Chairman Dayvolt asked for a staff report.

Mrs. Barnhill stated we have received 62 green cards, 44 white pay receipts and 6 envelopes were returned, unable to forward on their notice to the adjacent property owners. She said the existing land use is a pre-existing, non-conforming recreation area. She continues to the north, east, south, and west are all zoned “A” Agricultural Zoning District being single-family dwellings & vacant. She stated there is no floodplain and they have access on Yellow Banks Trail Road. She stated a commercial driveway permit has been filed & approved for that access. She stated a Special Use for this project was approved December of 2022, which is now expired. They are asking for the same Special Use with a written request asking for five years to complete the project instead of the one-year limitation allowed by ordinance. She stated we have also received three letters of remonstration and concerns. She continues a copy…as we received them, we forwarded them to your emails and you also have copies in your packets. She stated that is all I have for this one. She asked do you want me to read any of these,

Attorney Doll replied yeah, they need to be read into the record if you can.

Chairman Dayvolt responded yeah.

Mrs. Barnhill said okay.

Chairman Dayvolt said yes, please.

Mrs. Barnhill said okay, get ready. She said *I or we disagree with the rezoning. There are other things that need to be filed. We are a community and…*

Attorney Doll stated I think that should be there are other things that need to be fixed.

Mrs. Barnhill said fixed, okay.

Chairman Dayvolt stated I think it is we are a community out here that have…

Mrs. Barnhill said *been ignored.*

Chairman Dayvolt said *been ignored for too long. Even our mail..*.

Attorney Doll said carriers.

Chairman Dayvolt continues *carriers have tried to get ahold of owners with no response. We have never even met the owners. There is probably 40 families out here that are at their mercy. It is time for us to be heard. Will produce pics if you let us speak. Thank you, December 10, 2024 Peggy…*can somebody help me with the last name…

Someone in the seats said Bragg.

Chairman Dayvolt said *sorry…*well, I’m not going to read that.

Mrs. Barnhill stated the rest of them are typed so they will be easier. She said this is a list of questions and concerns dated November 27, 2024. She said *1. Roads: conditions are very poor to becoming dangerous to traverse for residents as well as emergency service vehicles such as Police, Firemen, EMT/Ambulance, Waste Management, and Mail. This issue is especially serious due to the high number of senior citizens in residence. 2. Lake and Beach: Complete lack of management, over population of geese causing a health concern. Weeds proliferate; thus, it is impossible to use large sections of the lake choked out by weeds for the past 2 or 3 years. 3. Mail Boxes: Must be out of USPS compliance. One section is starting to fall over. The boxes are out of order and out of sequence as to either north or south side location. 4. Abandoned Lots, Overgrown Lots, Lots used as Junkyards: Dangerous in regards to health issues, animal, varmints, disease. 5. Zoning Issues: Negative impact of proposed developments on Lot/Homeowners as per increased noise, traffic, road use, resultant deterioration of roads that are already unsafe. 6. Registered Sex Offenders: with criminal records have quietly become Yellowbanks residents without residents being notified. 7. Very sparse patrols from Warrick Sheriff’s Department. 8. Yellowbanks Owners and Management completely unresponsive to all complaints and concerns: from residents after numerous concerns being brought forth to the attention of Management. 9. We respectfully submit the above concerns. The question for numbers 1-8 above: How can we (Residents, Owners, & Warrick Plan Commission) resolve these issues? Signed Paul L. Luttrell Jr. Paula Kochvar, & Joseph Kochvar Jr.* She said okay there is that one.

Someone is the seating is speaking but unintelligible.

Chairman Dayvolt stated sir, we will give you a chance to come up okay.

Mrs. Barnhill stated we will give you a chance to come up. She said our last one was dated December 16, 2024. She stated *this is a formal* o*bjection to* *Yellow Banks Lake Proposal for SU-1 Special Use request petitioned by Yellow Banks Lake, LLC (YBL< LLC) to be heard on December 23, 2024 at 6:00 p.m. at the Third Floor, Court House, Boonville, Indiana. This objection is rood in issues that have plagued me and fellow residents of Yellow Banks Lake since BZA-SU-22-40 was granted on December 27, 2022. Referring to the minutes of the hearing, December 27, 2022, where Special Use Approval was previously granted, there was much promised by YBL, LLC that was walked back after BZA-SU-22-40 was approved. These assurances (Minutes, 2022) include maintaining and repairing existing areas (lake and roads) and investing in improvements to the decrepit YBL property that is adjoining (including lots obtained with the residential area). In the December 2022 hearing, the APC made note that there was no master plan or site plan “typically” (Minutes 2022; page 3 of 24) required for approval but rather they would just be providing a list. It was noted the Yellow Banks area was designated non-conforming since 1993 with exception to granting a couple permits for cabins “otherwise that was it” (Minutes 2022). Approval for the YBL, LLC special use permits/projects would now be subject to commercial site reviews as they add to their project list (Minutes, 2022). The special use area map, Exhibit “C”, filed December 7, 2022 was drafted and denoted by a bold black line describing the 73.20 acres of interest that excludes the residential area surrounding the lake and wooded areas formerly use for primitive camping and recreational use but this area is still included as part of Yellow Banks Recreation Area. It is starting to seem like allowing YBL, LLC to carve out only a portion of this whole recreation center as a special use has become a problem for us. As stated by my warranty deed for my property, our residences are part of the Yellow Banks Recreation Center and “subject to the covenants, agreements, easements, restrictions, limitations, and charges and promulgated by the Yellow Banks Recreation Center and they shall be considered a part of the conveyance without being written herein” and we have “right to egress over and across existing roadways from a county road”. Basically, when we purchased our lots, we became residential members and consumers of the Yellow Banks Recreation Center. We are supposed to have a “mutually beneficial relationship: and our existence within this recreation center has long endured and enhance the recreational culture and public interest. Still, despite being non-com, the general public loves to come in to the recreation center and look at out “camps” via the roads and boating within the lake. This public interest also subjects us to such things as more public traffic and more public safety risks. After the December 2022 plan was approved, the relationship between YBL, LLC and the residents started to deteriorate quickly. The biggest issues are the roads and the lake: Roads: YBL, LLC promised gravel for the roads in November 2022 and we never got it. By Spring of 2023, YBL, LLC informed residents that their only area of maintenance responsibility would be within that area designated by the bold black line (See exhibit “C”; December, 2022). Residents would be required to bear the cost and obtain approval by YBL, LLC to provide maintenance/gravel, millings to the roads beyond Lot 1 North and at the end of the dam on the South. However, they haven’t even maintained the roads in their designated area of responsibility. Road deterioration has caused serious public safety risk, especially after the most recent heavy rain. The roads are nearly impassable in some areas. Emergency vehicles may not be able to reach some residents and it won’t be long before delivery and service vehicles will start refusing to service our area. Furthermore, drought conditions this summer brought about more concern regarding wildfire risk and the fact that we only have one entrance/exit to escape such conditions. We also question whether there is a safety plan/evacuation means for a dam breach? When you start to plan for a recreation center, these things should be addressed before the restoration even begins. Plans are important…lists just don’t cut it. Please address the fact that, as a matter of public safety, we should have more than one entrance/exit to this place. The roads belong to YBL, LLC and it is their responsibility to maintain them. Anyone doing their due diligence when they purchase a recreation center should know they must be responsible for this and plan accordingly. We need a plan immediately! Lake: Since the water levels were reduced for dam inspection previously; and no treatment happened when they dropped the levels; and the new overflow was installed dropping the lake level a foot (significantly lower on the west end resulting in access problems for some residents), the lake began to marsh up drastically. This brought about a whole host of problems and the lake became nearly inaccessible in most places due to the insurmountable growth of duck weed and moss and lower water levels. We had problems this summer with the general public trying to access and even swim in it. It is a very dangerous situation and I’ve tried to get kids out of the water several times. The lake stagnation is unsightly, smelly, and the pests and mosquitoes have thrived. YBL, LLC relayed to the residents that weed/moss treatments to the lake would be subject to approval by YBL, LLC and the cost endured by residents. There would be no means to coordinate any of this; and YBL, LLC refused to offer any leadership or support to our efforts. This could potentially cause environmental problems such as a massive aquatic death and health problems due to increased contaminants. The lake belongs to YBL, LLC and it is their responsibility to maintain it. Their lack of due diligence creates adverse impacts on this community in a variety of ways and it is a risk to public safety. We tried several times to form a group of residents to serve as a coalition to meet with the owners. They refused all requests to meet and ordered us to leave messages with their site administrative person. Eventually all attempts to reach the owners regarding any issues became futile. The entire area is in serious decline. They have not maintained well any of the common areas. They did not follow through with county resources to enforce owner lot clean ups. They allowed squatters to camp and trash the lots that they own and have refused to address this. We are being adversely impacted in so many ways…our well being and enjoyment of our homes…and especially our property values. I ask that you acknowledge and grant my objection to any further permitting until YBL, LLC addresses these basic issues and provides your Commission with a set of valid plans and concrete assurances for managing increased public usage of this recreation center. Thank you for your valued time and consideration, Dr. Linda Bailey (812)459-0700 127333 Yellow Banks Trail Lot 18N Dale, IN 47523*

Chairman Dayvolt asked do you gentlemen have anything else to add to the staff report and these letters.

Jim Morley, Jr. stated the first two letters that were read we didn’t get a copy of those until today we don’t have a written response to those. He said we did pass out a written response to the third letter. He said assuming those got passed around…oh they stopped right there.

Jeff Willis stated they didn’t get very far, sorry.

Shari Sherman said I did not do that.

Jeff Willis said we’ll just blame Jeff since he is not hear.

Jim Morley, Jr. stated as those pass around…here tonight is one of the owners of the LLC and then the person who does some work around the LLC is here also. He continues and here also is the onsite administrator for the LLC is here so between the four of us we can answer hopefully whatever questions may come up throughout the conversation. He stated there were several comments about roads and the dam and the lake. He said on the packet that I sent you, just to make sure that everyone knows what we are talking about, on this side is Lynnville and on this side is Dale and Yellow Banks is on the north side of I-64 roughly halfway in between. He stated so Yellow Banks going back in the way back machine…Molly if I say something wrong here…was never permitted or split up or subdivided in an appropriate manor and so over the years pieces of property were sold off using a metes and bounds description that public road right…public roads weren’t granted for public use, right-of-way wasn’t granted, so their property system out there doesn’t meet any kind of Warrick County standards today or reality back then. He said because of that there is not a clear path…they are not public roads out there, there is no easements out there to maintain those roads in, there is no public right-of-way out there, and so it creates a challenge if you address it.

Chairman Dayvolt asked will you speak into the microphone, please.

Jim Morley, Jr. replied sure, can I start from here…

Chairman Dayvolt responded the audience can’t here.

Jim Morley, Jr. said sorry. He continues sorry about that.

Chairman Dayvolt asked is that better.

Someone from the audience said thank you, I couldn’t hear nothing I missed about everything that you said.

Jim Morley, Jr. responded sorry. He asked is it okay to proceed.

Chairman Dayvolt replied yes, sir.

Jim Morley, Jr. said okay, so the second page shows the big pink line is what our special use is on. He said towards the top of the page you will see a large open field. He continues that is where the new campground is proposed to go and down in the middle you can kind of see a beach area and obviously the large lake. He stated this special use started, for lack of terms, a couple of years ago. He said the permitting process has taken quite a bit longer than anyone had planned. He said we worked with Tennyson…we now have water approval from Tennyson, Sewer approval from Tennyson sewer, commercial drive cuts from the County, drainage plan from the County, we went through site review with the site review committee, and we have our plans in with the State Board of Health, and they have been there for a few months, 2 or 3 months and we are waiting to hear back. He said we follow up with them on a regular basis and so renewal of this special use and the Health Department permit are the only two things that I am aware of that stand in our way between today and breaking ground as soon as the weather would turn. He stated the following pages, if you look on the following pages, these are pictures from out in this area is kind of in the pink zone, if you will, you can see pictures of the roads. He said there are several different road pictures showing you the condition that the roads are in and then…I have three road pictures in there for you, I am sorry four road pictures and then the fifth picture back is a picture of the dam…

Mike Winge asked on the map can you show us those pictures that you’ve got…can you show us in the pink on the map where those pictures are at…

Jim Morley, Jr. stated I will call it road one…picture one I’m sorry, is kind of about right as you come into the facility off of the main road. He continues picture two, I believe, is kind of coming around when you are starting to get back into…

Mike Winge asked right as you come in and starting to go around the levy.

Jim Morley, Jr. said into the neighborhood.

Mike Winge said so, those two are near the entrance.

Jim Morley, Jr. said and then picture three is along the dam, you can see the lake on the right-hand side.

Mike Winge asked you took all of those pictures right around here.

Jim Morley, Jr. replied that is where that one is.

Mike Winge asked okay, so where is this.

Jim Morley, Jr. stated picture four is up near the clubhouse…up near the entrance and you can see also in here kind of the string of mailboxes that were referenced in that also. He continues picture five you’ll see is the dam and you can see that it is a well-maintained dam and it has a grass slope and there aren’t a bunch of trees growing into the dam or anything like that, which is the way you want a dam to look. He said you want it to be grassed and not full of trees.

Mike Winge asked so if I am understanding this right with your pictures…you took right here at the entrance right around through here, which according to this photograph that looked much better than all of the rest of them.

Jim Morley, Jr. stated these are in the pink area, which I said a while ago…I mean these are in the pink area.

Mike Winge said right up near the entrance and going around by the lake.

Jim Morley, Jr. stated and then the last picture is a picture of the lake. He said you can see that the lake…

Mike Winge asked where was that picture taken from up here.

Jim Morley, Jr. replied yeah, kind of…

Mike Winge said back that way.

Jim Morley, Jr. said yep, so you can see a picture of the lake there and the lake is in good condition.

Mike Winge asked so, I am understanding you, that everything was basically taken in that front entrance and around the one section.

Jim Morley, Jr. replied yes, and the reason they are taken there is that is the portion that my client has control over, the portion that they own. He stated once you get back…farther back in here they don’t have…

Mike Winge asked who is responsible for those roads.

Jim Morley, Jr. stated that is a great question.

Mike Winge said well, the owners ought to know that shouldn’t they.

Jim Morley, Jr. said well, Molly would you care to weigh in.

Mrs. Barnhill stated I printed off GIS and went to the deed and kind of figured out what they own and what they don’t own. She stated you can see where there are parts of their ownership where it looks like it might have been a road…I mean it is like four feet wide and then it drops off and somebody else owns a hunk where the road is so they don’t own where all of the roads are.

Mike Winge asked so who is selling the lots back there just different people are buying and selling to individuals…and who did they buy the lots from…

Mrs. Barnhill responded yeah.

Mike Winge continues the owners.

Jim Morley, Jr. stated not these people. He said no, no, no these were created…

Attorney Doll said by metes and bounds.

Jim Morley, Jr. continues yes, by metes and bounds a long time ago by someone…is he alive, I don’t even know if he is alive. He stated they have both passed. He said there was a bunch of lots created and sold by metes and bounds process not through the Planning Commission the way it should have been done and to be honest with you they created a real challenge out there because there are…it is…there are pieces of the road that are sometimes the metes and bounds goes across that road, sometimes it doesn’t, sometimes it comes to the edge, and it’s a real unique circumstance.

Mike Winge stated the reason I’m going to be interested in this one is because not too long ago we passed another addition for a primitive site up by Elberfeld if you all remember. He said I think they added another 25 or 55…I can’t remember the amount that was added to it but I live close to that but we passed it and I don’t have a problem with that. He stated what I do have a problem with is the people managing that stuff…these people coming in the primitive sites, we are finding them in our woods with backpacks. He stated that is where I am having a problem. He said if they are going to be at these sites they need to stay in their areas or the public roads…that is why I am having a problem with this thing…we add all of this in here and it is the homeowner that is catching the heat from this.

Jim Morley, Jr. stated that is why we kept the special use towards the front because as you go back in there that is…we didn’t want people back in to your continent so that is why all of the stuff that we have is up along the main road. He stated this is…this is the same…this plan actually has more details on it. He said the site plan that we have for you all today has more…it is the same items but with more detail than what was approved previously and the challenge we have had is through the permitting process the time has elapsed for the special use and that is why because the way the ordinance is set up, we have to come back and reapply verses doing an extension.

Mike Winge stated well, here is where I am having a problem with what I am hearing here tonight. He said this is me personally. He said is the homeowners are sending letters in and they are trying to get communications with you people so that they can figure out what they need to do for this site. He continues I have seen some of what happens if there is not collective working together so that is going to be my biggest concern here. He stated I see you got a little spot and somebody else has is blamed for another little spot and I have a problem with that extending something like that when you don’t even have control of what you have.

Jim Morley, Jr. said I don’t know if you want to speak…if you want to speak, I believe there has been some effort to try to either by this owner or the previous owner to try to figure out a way to work together with as many homeowners as they have out there and no real authority to enforce anybody to do anything it has become a challenge to try to get a homeowners association set up or something like that.

Mike Winge asked why would that be a challenge.

Jim Morley, Jr. stated because this owner doesn’t have the authority to force somebody to do…

Mike Winge stated well, I understand that but we are getting letters from the homeowners that says they want things to change and what I read in the letters is that nobody is responding so I am trying to figure out why we don’t ….

Huy Tran stated we will have our manager come speak to you about that issue.

Heather Stevens said hi.

Chairman Dayvolt said sign in please.

Heather Stevens said okay.

Shari Sherman said while you are signing in the part that you are wanting to deal with is what is in the pink. She asked is that correct.

Jim Morley, Jr. replied yes.

Shari Sherman responded okay. She asked so the stuff that is outside the pink area you don’t have control over you only have control over what is in the pink.

Jim Morley, Jr stated we are seeking a special use for the pink, which is the campground, the beach, and that kind of stuff because that is the area that they have a clear title to and can get to without any question.

Mike Winge said so as far as the lake and around the lake, the beach areas, and everything else if that is in disarray, they can repair that right. He asked you don’t have to deal with anyone else right.

Jim Morley, Jr. responded anything inside the pink they have clear title to, they can get to it, they…

Mike Winge stated that is completely around the lake from what I am looking at here.

Jim Morley, Jr. stated it is the lake but they cannot cross the lots, the metes and bounds lots come up to the…

Mike Winge said I understand that but one of the complaints they had was the geese and the vegetation, and so you’ve got the whole lake I see shore areas all of the way around it.

Jim Morley, Jr. replied yes, I will let them…

Heather Stevens asked which part do you want to…

Mike Winge said pardon.

Heather Stevens asked which part first.

Mike Winge said let’s look at the lake and because of what we are seeing…let’s just deal with the lake to start out with. He said we are getting some of the complaints is the lake is not being maintained so let’s address that.

Heather Stevens stated we are actually maintaining the sides that we can get to and the resident’s side we don’t take care of the weeds on that part.

Mike Winge stated but it is your property along the edges of the lake if that is what they are complaining about.

Huy Tran stated the problem sir is the residents owns the lots right up to the lake so we cannot access through their property. He said we can only access to the property that part that we own.

Mike Winge asked have you attempted to talk with them and get permission to come up and work on these.

Huy Tran stated we have, us and the previous owner, tried to have committee meetings to basically fix the roads, fix the lake…we do realize that we are not going to be able to succeed without the help of the residents of the community. He said there have been multiple attempts to start a group per say to take care of the problem of the roads and the lake.

Mike Winge said let me ask you this. He asked everybody that owns a property on there and nobody has responded to you or willing to work with you at all.

Huy Tran stated there are some people but we do not have the consensus.

Mike Winge asked why do you have to have everybody if you can’t start cleaning it up and show progress.

Huy Tran stated we have tried to clean the lake our maintenance person Mr. Pat here has treated the lake and we tried to get the community to come together to help us fix the roads and fix the lake but so far, no luck. He said Heather can speak more about it.

Heather Stevens said I was actually taken out of the group chat with community leaders August 21, 2023. She stated there has been barely any communication since then.

Huy Tran stated our phone number and our email address, it is out there so that has been no…

Mike Winge stated because I am going to ask the homeowners here if anybody would be willing to allow you to go in and do that. He asked if they have how come you have not done that. He said I used to be the building inspector and I am very familiar with that area I have been up through there several times since and it needs a lot of work. He stated I think they are justified in what they saying.

Huy Tran responded we do understand that and we do understand too that Rome wasn’t built overnight. He said there has been progress.

Mike Winge stated it’s been years.

Huy Tran stated there is progress that has been made since we…I can only speak for since we owned the property the cabins have been fixed up, some of the lots have been cleaned up. He continues a lot of the old trailers we have spent literally thousands and thousands of dollars cleaning up the lots. He said we need the revenue from the campground to continue making progress on the property so that is why we are here today.

Mike Winge said one of the other concerns I would like to ask you about is the concern about the people coming in like the sex offenders and not being notified. He stated you are on the entrance side is that not information that you could have been given and giving to them.

Huy Tran responded we are not aware of sex offenders…

Mike Winge stated it is in the…

Huy Tran stated I don’t know if we can enforce something like that legally.

Heather Stevens stated we can only enforce not having sex offenders on the lots that we own.

Mike Winge stated I am not saying not have them just inform people.

Heather Stevens replied they are informed.

Mike Winge said okay.

Shari Sherman stated anyone can go online and get that information.

Heather Stevens stated and it has been posted.

Jeff Willis stated that is public information.

Shari Sherman said that is public information so it is not anyone’s responsibility for the person who is questioning that.

Mike Winge stated that is all of the questions that I got anybody else have any.

Shari Sherman asked so the areas that are outside of this area the roads and that are not within your jurisdiction at this time.

Huy Tran replied no, ma’am.

Shari Sherman asked so the roads that you can fix are inside the pink line.

Huy Tran replied yes, ma’am.

Shari Sherman asked and those are the ones that you have showed pictures that you have and are doing.

Chairman Dayvolt said as Mr. Morley stated this is not a subdivision, the roads are not County roads, and they have not been approved to be County roads. He said it is a mess and always has been a mess. He stated it is a situation where it is who owns the responsibility for upkeeping the whole thing or which part. He stated the problem is nobody is taking that responsibility.

Mike Winge said Morrie, I have a question for you. He asked is this something that should go…that the Commissioners could deal with to set this up…

Attorney Doll responded no

Mike Winge asked does it have to be dealt with this Board.

Attorney Doll stated I don’t think it is within the jurisdiction of the County Commissioners but I have a question about road right-of-way’s. He asked the only road into the residential area into the back is through your property is that correct.

Jim Morley, Jr. replied that is correct.

Mike Winge replied it is. He asked you’ve got the entrance.

Jim Morley, Jr. stated I think there is another entrance off of Vincennes Road.

Chairman Dayvolt said there is another entrance back there Morrie.

Attorney Doll asked is there another entrance off of Vincennes Road, County Road 1300N.

Several people in the seating responded no.

Mike Winge stated that is still on them.

Attorney Doll stated the crowd is all shaking their heads no.

Someone from the seating stated there is no other entrance.

Attorney Doll asked has there been an easement or right-of-way for the roads through your property to the residents or are they all landlocked.

Jim Morley, Jr. stated there are none of record. He said when we went through this process Bobby Howard said I don’t like those entrances out there for a long time will you do a couple of commercial drives entrances.

Attorney Doll responded right.

Jim Morley, Jr. stated so we said yes and so we did commercial drive permits but you are correct there is no easement across the parcel to get to the back parcels.

Attorney Doll stated so literally everybody behind him is landlocked.

Mike Winge asked so why couldn’t you bring them to the Board to talk.

Attorney Doll said now, wait a minute. He asked may I. He asked would you be willing to give them an easement through your property where the roads are, a surveyed easement, to establish that they aren’t landlocked. He said technically how does fire…legally fire, sheriff, and ambulance, how would they get back there…the postal service…

Jim Morley, Jr. stated I would assume at this point in history given the longevity of this project there is probably…

Attorney Doll said easements by right-of-way.

Jim Morley, Jr. stated there is probably some kind of prescriptive easement there already but we could provide an easement a defined easement on the existing road.

Attorney Doll replied okay.

Mrs. Barnhill stated even then you could only do it on where they own where the road is…

Attorney Doll responded yes; they could only do it the area that they own the front of the property

Jim Morley, Jr. stated we can only do it across the pink area so to speak.

Attorney Doll stated within the special use area.

Jim Morley, Jr. responded yeah.

Attorney Doll stated are you committing that you would be willing to give a surveyed ingress/egress easement through the special use area only for the residents to use and the general public to use.

Huy Tran replied yes, sir.

Attorney Doll responded alright. He said the lake. He asked how do we get an easement for the lake. He asked how do we…it looks like part of the lake is now a mud flat.

Mike Winge said Morrie let me ask you something. He asked is there a possibility, since you are talking about them easements across that, could that not be incorporated if they would have an easement that if notified to come and clean the lake around there.

Attorney Doll replied we just got there.

Jim Morley, Jr said I believe in the picture that the lake…they dropped the level of the lake a few years ago….

Attorney Doll stated yeah, that is what somebody said in one of the writings.

Jim Morley, Jr. said to work on the outfall structure and I believe the picture you see is from when the lake was down…

Attorney Doll asked has it come back up.

Jim Morley, Jr. responded yeah, so the last picture that I passed out you see that the lake is back up.

Attorney Doll asked so how do we, how do we maintain the lake. He said you own it but it’s in folks’ backyards. He asked how do you maintain the lake. He said if you can’t get on their private property to maintain the lake from the bank ok, which I understand, I understand, how do we propose to maintain the lake. He stated you own the lake.

Jim Morley, Jr. responded yes, I do. He continues their only ability is to maintain the home side, if you will it would be whatever can be done from a boat or if they could take a row boat or whatever over to the edge but then you would have to work out of a boat because they have no rights to cross the property.

Mike Winge stated what I am thinking about is if you are going to give an easement to them on your part then maybe they can give you an easement with proper notification to come in and keep the lake clean because they have a problem with the lake not being clean.

Attorney Doll asked are you willing to keep the lake clean.

Huy Tran replied yes, we are with the help of the residents of the community.

Attorney Doll asked what does that mean.

Huy Tran said well…

Attorney Doll asked what help are you expecting from the residents.

Huy Tran stated I think the residents would be enjoyment of the lake should contribute a part…I mean we can contribute up to half of the cost of the maintenance of the lake every year and if we can get the residents to help us out because the residents live there, they use the lake too. He said so…

Attorney Doll asked so their boating on your lake.

Huy Tran replied yes, sir.

Attorney Doll asked and you own the water you own the lake.

Huy Tran replied yes.

Attorney Doll stated they don’t have an easement to use the lake.

Someone in the seating stated I do.

Someone else in the seating stated we all do but we (unintelligible)

Attorney Doll stated well, we are going to get there, we are going to get there just a second.

Jim Morley, Jr. stated Morrie we did not find a recorded easement over the water.

Attorney Doll asked so, do you think you can deprive anyone of access to the water. He said I am not saying that you would I am asking if you believe you have the legal right to deprive anyone else from owning…from using your lake.

Huy Tran responded legally we own the lake and we bear the responsibility of maintaining it…

Attorney Doll added liability risk etcetera.

Huy Tran continues so, legally yes but…

Attorney Doll asked so there is you don’t believe there is a recorded easement for the access to the water.

Jim Morley, Jr. stated when the survey was done no recorded easement over the lake was found that I am aware of. He said we didn’t self-perform this it was a company out of…Brosmer Surveying did the survey work but I am 99% sure they did not find that easement. He stated they had already done the survey of this area so instead of paying us to do it again we just used the previous survey. He added as you can imagine it is very complicated survey…

Attorney Doll responded oh yes.

Jim Morley, Jr. continues because nothing was done the way that it was supposed to be done. He said so that the desire, the desire is to inside the pink area the place they have access to, title to, and there is no question about who owns that portion the desire is to rehabilitate that area…I never went to Yellow Banks when I was younger but my understanding is…Kim I think you have been out there…it used to be a good place and people wanted to go out and go to the lake and swim, boat, fish, and camp and the intent is to kind of bring that back so to speak. He said we can only pick the area where we know that we have direct access and control off. He stated we have gone through all of the commissioners for road access, and water, sewer, and utilities and the Drainage Board and site review, and erosion control plan and the only way for us to do that the only way for them to be able to put money into the property is through a development process to create a campground and such so that they get revenue and then that revenue they can bring it back in there. He stated there were some things that I have noticed as they went through this but the roads are the pictures that you saw in the pink area and the area that we control and they keep the roads in good shape. He said I think you can say that those roads are in good shape. He stated the roads in the back area…well, they don’t have a legal right to go in and do that stuff. He said so there is…I admit it there is a challenge here. He added but that challenge predates…that is not a challenge that they created. He asked that is a challenge that was created 40 years ago right Molly. He said back when it was created a long time ago and the problem has existed, to my understanding from the original guy…the person that sold all of this land kind of haphazardly use to kind of work through that area or whatever but he has now passed and his wife has passed…

Multiple people talking

Jim Morley, Jr. asked she is still alive…I’m sorry…I was looking at Kim…I apologize I don’t know the folks and then this property was sold to another person called Jason and then he sold it to my clients and they are trying to do what they can to re-invest in the property. He stated I will say that there are certain things on here that they have no authority over that are discussed in here. He said the roads we touched base on, the lake and beach we touched base on, and the mailboxes…

Attorney Doll asked are they on you…. they look like they are on you.

Jim Morley Jr. replied they’re up there yeah…they are on that property, but it’s a string of mailboxes and I know like my parents had to raise their mailbox because after getting mailed delivered for 15 years, the post office said their mailbox was too low and they had to put a 2’x4’ underneath it to raise it up. He continues but I don’t know… I mean I’m not an attorney, but I don’t know if they have the legal right to go in and tinker with somebody else’s federal mailbox. He added some of this stuff…there may be issues, but I don’t know that my client has any legal rights to deal with that. He said because to the best of my knowledge I can’t go mess with my neighbor’s mailbox… I mean I think that’s right-of-way.

Attorney Doll said federal offense.

Jim Morley Jr. continues a mailbox is a federal deal. He said the abandoned lots on…the abandoned lots that you all have you guys put some work in to try and clean those up. He said my guess is that…I’ve not gone through every abandoned lot, but my guess is that there are probably abandoned lots that they don’t own.

Attorney Doll asked where are the abandoned lots that the applicant owns.

Jim Morley Jr. replied there’s some interspersed back in the back.

Mrs. Barnhill stated what’s in pink is what they own.

Attorney Doll said that’s a lot.

Mrs. Barnhill said right.

Mike Moesner stated I am township trustee and as such, I work with the fire department. He said the fire department is located there in Selvin and the Fire Chief actually lives in Yellowbanks. He continues he has expressed concern to me many times about the ability to get the firetrucks back in… and I understand we are talking about the pink area here, but his concern is the people that are living back in through there, being able to get a firetruck back there if there was a fire. He said I told him I understand and I wish there was something I could do but I don’t think there is in the situation as it is. He said and I think it would be to your benefit if you could work with the community back there…make a partnership of some kind to boost this whole thing up because if you don’t…

Attorney Doll said it looks like they own the roads.

Mike Moesner said it’s…I don’t think it can succeed the way you’d want it to.

Huy Tran replied yes sir. He said we fully understand that. He continues me and my partner talked and were willing to work with the community as far as fixing up the roads as a goodwill if you will…good fate we’re willing to contribute $4,000 towards fixing up the roads and yearly we can work out some agreement where we can match the residents’ contributions dollar for dollar to maintain the roads.

Mike Winge stated why don’t you consider the property they got that goes around the lake…have them keep the lake in decent shape in there and then you work something out on the roads for them. He said that’s sweat equity they can put in. He added some of them might not have the money.

Attorney Doll said Jim…

Jim Morley Jr. replied yeah.

Attorney Doll continues Molly’s got a GIS map that’s colored here in front of us.

Jim Morley Jr. said I saw it earlier when I was in her office.

Attorney Doll said okay. He continues it looks like your client owns a lot of the back.

Jim Morley Jr. replied they have some lots interspersed and then there’s like little…in some places there’s little strips of property sometimes…

Attorney Doll said like a road.

Jim Morley Jr. said ahh sometimes they are 10 feet wide and sometimes it’s 2 feet wide and then sometimes it comes to a dead….

Attorney Doll asked why do you still own… why does your client still own anything in the back.

Jim Morley Jr. replied because it was basically what was left after somebody took a hundred meets and bounds that aren’t tied down together and put them all over the place.

Attorney Doll asked does your client still want to own the ground in the back…any of it in the back or do they just want within your application.

Jim Morley Jr. responded I can’t answer that.

Huy Tran said sir I have to discuss with my partner about that, but that could be a possibility that if its…

Attorney Doll said so my question would be…why don’t you deed the excess to…there’s been something named in here I don’t know whether its home owner’s association or not. He said it’s…I think it was Dr. Bailey.

Jim Morley Jr. said yeah, I don’t know…

Jeff Willis stated the Yellowbanks Recreation Center is what she had titled it.

Attorney Doll said yeah. He asked what is the Yellowbanks…do you know what the Yellowbanks Recreation is.

Jeff Willis said because it looks like they can charge the tenant of the residents according to what she highlighted does what they can quote.

Attorney Doll said I’m just trying to figure out if there’s a way…

Huy Tran said yes sir.

Attorney Doll continues to narrow the issues is what I’m trying to figure out.

Jim Morley Jr. said yeah, if there would be a way to have a home owners association…

Attorney Doll said I know.

Jim Morley Jr. continues in which everybody contributed money to and helped pay for roads and stuff like that…

Attorney Doll said and the home owner’s association owned your excess property in the back so that you don’t have any property back there.

Jim Morley Jr. replied to that one I can’t speak to, but the concept of a neighborhood association would be I mean…

Attorney Doll said take the title to this excess property in the neighborhood association.

Patrick Owens came to the podium.

Patrick Owens said I am just going to speak to history of the site. He said Yellowbanks Recreation Center was created by Jim Marshall in the early 70’s and that’s what their name was for it. He said when they went defunct so to speak…when they quit operating Yellowbanks Recreation Center ceased to be Yellowbanks Recreation Center. He continues after some period of time it was sold to Jason and Jason operated it for what…3 years. He said for about 3 years it did not carry the name Yellowbanks Recreation Center at that time.

Mike Moesner the amount that was sold was that…talking about the pink area here.

Patrick Owens replied it was the entire thing.

Mike Moesner said so that included the properties on back in there then.

Patrick Owens responded yes sir.

Jeff Willis said and the business that was Yellowbanks Recreation Center.

Patrick Owens said it was defunct long before it was ever sold.

Attorney Doll asked to your knowledge there is no home owners association.

Patrick Owens said no sir. He said at one time during Yellowbanks Recreation Center’s life, there was a club called the fishing hole club. He continues they held a responsibility to take care of the roads…they took up funding and had fundraisers, they did certain things in the community to upgrade the community and take care of the roads. He said the fishing hole club didn’t last all that long…just a few years and they quit meeting, quit doing fundraisers, quit everything about it.

Attorney Doll said for the benefit of the Board do you believe that there is any willingness among the home owners in the…I’m going to call it the back of the property to form a home owners association.

Patrick Owens said there has been some interest over the past two years it’s been very lean over the past year from the people I have heard from. He said I still hear from a couple people and they still would be very interested in forming some kind of group to promote growth and beautification so to speak just for general term of the area. He added I think there is a possibility that a home owners association will just use that as a phrase, could be formed to…take care of the residential area.

Mike Winge said it would seem like to me that that would be in your best interest as well as their best interest for you all to sit down and talk…

Huy Tran said yes sir.

Mike Winge continues and figure out if they don’t want to buy why, but you all everybody, owns property there.

Attorney Doll asked well have you had those conversations at all in the past.

Patrick Owens asked when was the meeting that we had…

Female from audience said the very last one that I know of was in August 2023.

Patrick Owens said I met with them one time with a group of people. He continues I believe there was six individuals maybe seven from the residential area. He added met at the camp store…it was…I was strictly there to go over the working on the roads because I do some of…used to do some of the maintenance for the Marshall’s on the roads. He said we were going to go over that and from my knowledge they never met again. He said I keep in contact with one of the men that was there…we talk on the phone every once in a while, and he says he’s not been in contact with any of the folks that were there at that meeting…but there was a meeting at one time of folks that were interested in forming a group. He continues I’m not saying that was everybody that was interested, these were just the folks that showed up at the meeting.

 Mike Winge said oh were going to have to hear from the other sides here in a minute but it seems like to me from what I’ve seen over the years and not just in this case…most people want somebody else to take care of the problem, rather than everybody getting involved and figure out what the problem is…

Huy Tran said yes sir.

Mike Winge continues and that seems to me that that’s your problem on both sides of the fence.

Huy Tran responded yes sir.

Mike Winge said so...

Chairman Dayvolt said well you’ve went over your twenty minutes.

Jeff Willis said well we were asking questions.

Chairman Dayvolt asked is there any more questions with this group here.

Attorney Doll said I guess I’m still trying to understand…Jim, is your client only interested in the property in this special use application.

Jim Morley Jr. replied define interested in. He said what we came tonight…

Attorney Doll said intending to develop. He asked do they care about the property at the back…the meanderings and Molly’s pink sheets.

Chairman Dayvolt asked do they care about back here.

Attorney Doll asked do they care. He asked do they care enough that they want to own it.

Huy Tran said okay so your question is are we interested in giving up the ownership of those properties…

Attorney Doll said well that would be the…. yes.

Huy Tran said okay.

Mike Winge said as a tradeoff depends on what comes up.

Attorney Doll said well it’s some type of step towards a resolution of the uncertainty of Yellowbanks. He said right now it’s a no man’s land.

Mike Winge asked Morrie are you looking at the property it could be sold and money goes into the development…

Attorney Doll said not so much as that as whether the home owners would take it.

Huy Tran said we’re willing to let’s say certain area that the roads that supposedly we legally own. He said we would be willing to give up those roads for the residents and make it into a community owned roads if that is legally possible.

Attorney Doll said well it would be a home owners association.

Huy Tran said into a home owners association, yes sir.

Jim Morley Jr. said Molly check with…. it’s been in a way back machine, but we had talked about when we started would there be an ability to create an outlot…

Attorney Doll said yes.

Jim Morley Jr. continues that basically the little strip…would there be an ability to create an outlot for where those little strips of ground are that are basically the scraps between two meets and bounds descriptions. He added we had talked about that early on

Mrs. Barnhill said mh hmm.

Jim Morley Jr. continues but there was nobody to grant the outlot too, because there was no…

Mike Winge said association.

Jim Morley Jr. continues neighborhood association. He said and so we had talked about that early on. He said Mike you had asked could they sell the ground in the back. He stated the reality of it is under current standards, no they can’t sell the ground in the back because it has it doesn’t…I guess in theory…well it doesn’t meet minimum lot widths all the way back through.

Mike Winge asked why couldn’t they combine these and generate revenues for the roads and the area. He asked why could that not be done if you create a home owners association.

Attorney Doll responded they don’t create the home owners.

Jim Morley Jr. said I mean…I think, I don’t think there is anybody at the podium that is against…I think everybody at the podium loves the idea of a home owners association. He said the challenge everybody at the podium has is that they have no legal right to create a home owners association. He added if there are 100 houses back there for easy numbers…and 95 people say “yeah were in” and they start one, those 95 have no ability to legally compel the last 5 to kick in money.

Attorney Doll responded I don’t know that I agree on that.

Jim Morley Jr. said okay well I’m not an attorney so maybe I’m wrong.

Attorney Doll said there’s a state statue governing home owners’ associations creating them and operating them.

Jim Morley Jr. replied okay.

Attorney Doll continues so you would have to consult with the state statue.

Jim Morley Jr. said fair enough and that’s not me so…

Attorney Doll said and the property section of Indiana Code and counsel would have to look at that specifically. He said we’ve looked at it in the context of a zoning question or two.

Jim Morley Jr. said but there is nobody up here that thinks a home owners association for back in the back to keep stuff nice, everybody up here thinks that’s a great idea. He added we just have no legal right to force anybody to do it. He said most homeowners’ associations are created in a subdivision plat before the plat is recorded and so at that time it’s one person, one developer who says yes, I want a home owners association and here are the rules for the home owner’s association.

Attorney Doll said easy.

Jim Morley Jr. said huh.

Attorney Doll said it’s easy then.

Jim Morley Jr. responded yeah and that’s when they’re normally done. He said they are not normally done…

Dave Goldenberg said I think going back to Morrie’s question of the properties in the back…it sounds like if they don’t plan on doing anything with them, that can be used part of the negotiations while they are forming the home owner’s association saying “hey we’re going to kick this in” and then let them all figure out how they are going to group it so they can get the land and the lakes and all that taken of.

Huy Tran said yes sir, we’re willing to have that discussion.

Dave Goldenberg said it doesn’t have to be much or anything going back and forth, just agreements.

Attorney Doll said right.

Dave Goldenberg stated and their willing to have that agreement so then that puts it on the home owners to either form a home owners association or not.

Attorney Doll said well the home owner’s association would have responsibility for addressing all of these questions.

Dave Goldenberg replied that’s right.

Attorney Doll said and it may have some excess land to Mike’s point that is capable of being cleaned up…legally the description of it being cleaned up and sold for other development, maybe.

Jim Morley Jr. replied I think maybe to clarify what we had said, I don’t know…I think what he was talking about is the area where the roads are because they own on that map there’s a couple from…I’m working off memory there’s a couple decent size chunks of property back there also.

Mrs. Barnhill stated yes, they own some large tracts.

Jim Morley Jr. said I don’t wanna put words in your mouth, but I think what he stated was they would be willing to…

Attorney Doll said give up the slivers, but they don’t want to give up…

Jim Morley Jr. said where the road is where the neighborhood association needs the ground. He said but I think there is some large tracts back there that would…there’s no roads on them, there’s no utilities on them.

Dave Goldenberg asked do they have any easements.

Mrs. Barnhill stated but even that’s going to take an agreement from everybody in there because there would be individual property owners that will also have to give up part of the road that the road goes onto. She added so that’s going to be a two-way street.

Mike Moesner asked do we know how many parcels or people are actually living back there. He asked are there any figures on that.

Chairman Dayvolt responded it would have to be the home owners who tell us that.

Shari Sherman said well we’re discussing this part of it now.

Attorney Doll said yeah.

Shari Sherman said so this is what we’re dealing with right now.

Mike Winge replied well right now we’re not going to make anymore grounds off it, but we know what we need to know where they’re at. He said we just need to know from the other side.

Shari Sherman responded yeah there is other grounds, but you’re not…at this point you’re not…

Mike Winge said we will get the information from the other side that we need.

Shari Sherman said yeah.

Mike Winge said we know exactly where you guys are at.

Mrs. Barnhill asked can we make any approval subject to forming a group to meet monthly or…

Attorney Doll replied well you could do that or you could table it.

Chairman Dayvolt said I was thinking that’s what…

Mike Winge said well I’d like to talk through it with Morrie about it…I’d like to see.

Shari Sherman said well let’s hear the other side too.

Mrs. Barnhill replied right.

Mike Winge said pardon.

Shari Sherman said hear the other side and then…there may be some…

Attorney Doll said yeah.

Chairman Dayvolt said okay.

Audience Members said thank you.

Bill Riat came to the podium.

Bill Riat said I’ve been at Yellowbanks since ’71, and I’ve had property since ’81 and I’ve had 4 lots and 3 homes on there so I know all the history. He said I know where all the skeletons…I’m a pastor as well, so hopefully you’ll not think I won’t lie to you so…

Board Members laughed.

Bill Riat continues so whatever you need to know I can tell ya about Yellowbanks. He said I think it would be wonderful they would do something, ya know I think it would be great. He added I also love to fish; I couldn’t even get my 10-year-old grandbaby on the lake because three-quarters of it you couldn’t fish. He said I live back in the back; I have 3 lots back there with homes on all three of them. I sold one to Jason who was the former owner. He said again in ’81, ’71 this was all together, it was a recreation area. He continues all my stuff is surveyed…when you say meets and bounds, I don’t know what he’s talking about. He said there are stakes everywhere in that whole community…as far as I know the roadway are all designated. He added so I want to make sure we are not using fake news here. He said Jim and Pat took care of the roads for years and when they didn’t have the ability to do that, then the home owners or the people there chipped in and paid for road. He said since Jason owned it, and I still talk to Jason…I sold him a piece of my property I live right next to Jason who is the former owner…. he took all the timber out even in our area, the back area, so he claimed that as his. He continues in the residential area he came in and timbered all of that in between the homes and everything. He said he timbered the back in, which is the big areas back there. He continues there is a road going to my area right now if you fall of on it, you could die…it’s about 6 or 8 feet going up the hill. He added then when you get up there you have a couple big holes. He said when I bought my property and I think when everybody else… I have all the original stuff, it said that it’s a recreation area and Jim owned the roads and stuff. He said it wasn’t that it wasn’t owned, they were owned by the recreation… by Selvin Recreational Center. He added and this was platted in the very beginning; there’s a plat I’ve been to the Accessor’s Office or whatever. He said I’ll stop because I know there’s other people, but what’s happened is they picked it apart, they decided to sell this part…they sold the 73 acres, but then that left us out in the cold. He continues just like when they timbered it…there are big logs sitting right in between trailers and stuff, so they kind of cherry picked it and they are cherry picking it now to say “look we don’t care about these roads…you guys have put significant infrastructure back there. He said if you go down Vincennes Road it’s beautiful back there…it’s gorgeous back there…. Fire Chief is my cousin. He added I had five aunts and uncles that all had places up there, I probably had 30 cousins that was raised in Selvin and I want to tell you I have the background… I hope these guys come in here and put Disney World in, but something has to be done or decided when they talk about the sexual predators I heard about them…if that’s a recreational area then obviously they cannot be in there it’s against the law for them to be in them kinds of areas…so now if we zone it commercial does that…I have a lot of issues with trying to figure out what their plan is…and how are we going to take care of the roads and the lake because…like I said in all the years I’ve been there…I probably will end up selling, just because it’s not worth it…I live in Evansville where I live…so I can get away from it but most of these people can’t. He said and they’ve got to be able to get back there and there’s two back ends…there’s not just one back end, there’s two back ends. He continues so and again I believe there was certainly implied if not on record that when all of us bought our properties it was implied that those roads were not owned by us and they have always been maintained by Yellowbanks Corporation with or without putting money into the kit, now… as far as association, if I had to go an add everybody up, we couldn’t get enough money to take care of those roads. He said you might think oh let’s get an association the lots were talking about…they’re selling them, their trying to sell them. He continues so here they now want to take it out, but yet those lots all along there they were trying to sell them, still probably are trying to sell those lots and then it would cost you about $6,000 dollars to access the sewer so that’s why they’ve given up on those.

Chairman Dayvolt said sir I have a question for you. He said you’re the old dog from up there…’71.

Bill Riat replied yeah.

Chairman Dayvolt asked how did it start out. He continues did it start out as renting lots or selling lots.

Bill Riat responded it started out as uh…. renting lots however, my uncles, which is how I got there when I was 13 years old when my uncle bought one of the first lots. He added so it was a combination he had a ya know so he needed to sell lots to get money to continue to build the…

Shari Sherman asked were any of these lots recorded.

Bill Riat replied everything is recorded. He said that’s what I’m saying there’s an original plat…I had mine surveyed. He said one of the properties I had to split I had it surveyed and the guy who did it…. ya know, there’s been 2 or 3 surveys up there in the last 10 years…since in the exchange. He continues I know that it’s tough or difficult because one says “oh that one marker…but that whole place as far as I know is surveyed and the road ways are surveyed, I could go up there and show ya the line and the stakes.

Jeff Willis said I have a question for you to. He said one of the lady’s that wrote a letter.

Shari Sherman said so that doesn’t mean it’s recorded…a survey doesn’t mean that it’s recorded right.

Bill Riat said they did the log cabins, they tried to do some good stuff. He said they’ve kept things mowed, but…

Jeff Willis continues so they could have charges from Yellowbanks Recreation Center. He asked did you have that when you purchased yours…. that they could charge.

Bill Riat replied uh it probably was. He said I would have to look, but yeah it probably is. He added I could go back and dig…I haven’t dug it out, but yeah it probably was. He said we eventually paid him water because he paid for all the water…so we we’re all having to pay him water as well.

Jeff Willis said right.

Bill Riat said so if you have any questions…. I do know and I will tell you the truth.

Chairman Dayvolt said thank you.

Dr. Linda Bailey came to the podium

Dr. Linda Bailey said I wrote the really long letter…very sorry, but I am very upset and I spent a lot of time thinking about this. She continues I was actually in that concerned residents’ group that the coalition of residents that got together and tried to get the owners to talk to us and they sent Pat Owen to us and he read off a statement to us, basically what I said in my letter “we’re going from here to here and the rest of it is on you”. She said but the thing is if the rest of it is on us, why did each of us have to get approval from them to do anything to the road. She said so if you wanted to put some gravel or millings on the road you had to call and ask them permission and explain to them what you were going to do, but you had to come up with the funds and do everything for it…and same thing with the lake. She continues if you want to treat the lake, you have to talk to them about what you want to put in it and they will determine whether or not they want to let you do it, but you gotta pay for it. She added so since I wrote the letter Charlie, his partner has called me…Charlie Peabody and talked to me for about 30-40 minutes the other night, Friday night. She said Charlie was like “well what do you think is feasible” and I explained to Charlie what all happened and how the communication is broke down and how when Pat came and told us that we’re only covering this, this and this and the rest of it’s on you and if you have any questions, I can take them back to the owners. She said well Charlie told me “They’re both remote, they are too far away…they have to fly in to talk to us” so…he could probably maybe do that quarterly, no way monthly absolutely. She responded to Charlie “well it’s kind of hard to manage a place that you can’t come in and be a part of it, you’ve gotta see what’s going on.” She said now I have a picture of the entrance, the main entrance where we all come in everyday as of yesterday and you keep talking about the pink spot here; she said I can show you that about 3/4ths of it is about a 6-inch hole. She added and as we go back it just gets worse, they did millings on the damn on the pond damn, but that’s like washed out concrete. She continues after a while it becomes really really hard, it clunks off, chunks of it comes out and it’s really rough…so we don’t have anything. She said I talked to Charlie and he said “Well why don’t you tell me what you think is fair.” she said “well what about proportion it, since you own all the back, you own a lot of lots inside, you own the front end, you’re going to bring the public in…so what is our proportion in comparison to your proportion.” Charlie replied “Well maybe we ought to talk about that.” She said he asked me…I told him my brother is a contractor my brother knows how to go out and do estimates on the roads and I said “I’ll go out and we will do it the family style…I will give you the bottom dollar what I think it takes to fix the roads” just basically to get us through the winter. She added I mean this is the worst ugliest spot…we come up with $8,500 for gravel and about 60 hours of grading time which he would say at least $100 because of all the equipment…messing with the tires, the fuel and all that. She continues just about $15,000 to get us through the winter and into next year and to something where you could even walk up and say “let’s talk about how we can do this together from there” so Charlie said “get the numbers and get back to me”; she said I did, I followed through… I called him today and crickets once again after I give him that number. She said so when they come up with $4,000 it’s almost a smack in the face and I hate to be like this, I want to be cordial, I want them to have a recreation center, but I also want it to be something we can all enjoy that we are not overwhelmed with the burden…what if we put your roads together and then you open up the back with camping and then everybody’s coming in on the roads, we built…or that we maintain and use the back end. She said what if you decide to do more logging or more equipment down through there after we put these roads back together if it’s all our money. She continues I’m totally frustrated with this we have reached out, I am willing to go around and I’ve told Charlie this and I’ve told him before is to give 4 hours a week of my own professional expertise to try and help get things into code out there…to do code enforcement, to do all the legwork…paperwork. She added I would form a coalition of a non-profit if we had to, I would do all the paperwork for that to put it together to put money into in ways to make things better, so…. I’m going to let everybody else get in now.

Chairman Dayvolt responded okay.

Jeff Willis said thank you.

Bill Riat speaking from audience the lake itself doesn’t need to be accessed…I mean it’s all accessible from the damn, so as far as the residents they, nobody needs to be bothered up from the…

Mike Winge said he’s gotta come up if he’s going to talk.

Chairman Dayvolt stated you need to come up if you’re going to talk.

Bill Riat said huh.

Chairman Dayvolt repeated you need to come back up if you’re going to talk.

Christy Finecy came to the podium.

Christy Finecy said my parents Barbara and Dean Finecy are the actual owners of the property but I live there with them and take care of them, they are both in their 70’s and in bad health. She continues in the last 4 months we’ve had occasion to call 911 and the EMT literally told us “If these roads get any worse, we will not be able to get back here.”; they came through one road that is GPS says you can get there from there but it is…you need four-wheel drive and uh it needs to be a very high vehicle to be able to pass through that road, but I have video on my phone of what the main road the only way to get to my house looks like right at this moment. She said it’s a chasm, running down the middle of the road, on the side of the road…there is no drainage, it’s horrible; they say we have to their permission to do anything permeant to the roads, it has to be something permanent to fix the road. She added getting ahold of them is incredibly frustrating…I’ve left messages, I don’t get responses…thank you very much.

Chairman Dayvolt said you keep bringing up that you have to get ahold of them to put…access to put stuff on the roads.

Christy Finecy yeah, we were told that in order to anything to the roads we have to have their permission.

Chairman Dayvolt said outside of the pink lines…

Christy Finecy said outside of the pink lines.

Chairman Dayvolt continues I don’t think you have to have any access.

Attorney Doll said yeah, they do.

Chairman Dayvolt asked why’s that.

Attorney Doll replied they own it.

Christy Finecy said they own it.

Attorney Doll said they own that there.

Christy Finecy said our deeds say that we don’t own the road…they do.

Attorney Doll said look at Molly’s pink sheet.

Chairman Dayvolt responded I did.

Shari Sherman said this is what they own.

Attorney Doll said they own everything in pink.

Shari Sherman said this is what they are asking at this point to deal with, is this point.

Christy Finecy said they just want to take care of the part that will get them revenue, they don’t wanna have any kind of responsibility for anything that is helpful.

Chairman Dayvolt said okay, thank you.

Christy Finecy said and I can show you more of the video it’s horrible.

Chairman Dayvolt said okay.

Attorney Doll asked does everybody understand that we can’t fix the roads in the back part around the residents…we can’t.

Christy Finecy from audience replied right, but we don’t want you to….to let them do something that they’re just going to say “oh well that’s not part of our concern.”

Mike Winge said Morrie, I’ve got a question for you…Morrie.

Attorney Doll responded yes.

Mike Winge asked if there is any kind of proposal that’s made…could we not halt this unless roads are brought up to condition or are we allowed to do that, or just flat turn this down because they are not bringing them up.

Attorney Doll stated I don’t think you could do off site compel; you can’t condition the approval of the special use upon improvements of unaffected land outside the special use.

Mike Winge asked but we can turn it down…this one.

Attorney Doll replied you’ve got to have a reason.

Chairman Dayvolt said yep.

Shari Sherman said but if they do this inside then they can…and get that up and going, then they can expand further into the areas they will have funds to do that. She said they have to look at return on investment, but they are only asking for this part so this is the only part we can adjust…

Mike Winge asked Morrie can we not make them bring the lake up, because this is what they are wanting.

Attorney Doll said the lake is included within the special use…73.20 acres.

Mike Winge asked so we can start there.

Shari Sherman replied that’s what they’re asking for.

Attorney Doll responded you can start with an easement to gain access across their property to the back.

Chairman Dayvolt said they are really wanting them to fix the roads.

Mike Winge replied I understand that, but Morrie says we can’t mandate that.

Attorney Doll said there’s no compelling.

Mike Winge said so what we can do is we can put restrictions on this, can’t we.

Shari Sherman said if they fix within the area they are asking for.

Attorney Doll replied you can only deal with what’s inside the application here.

Mike Winge responded which is what I’m talking about. He said the home owners are saying the lakes a mess, mosquitos, geese, health hazards…so we can mandate that upon passing that this has to be cleaned and brought back up.

Shari Sherman said the lake.

Attorney Doll said the lake.

Mike Winge responded yes.

Shari Sherman said yes.

Attorney Doll replied but not the roads.

Mike Winge repeated but not the roads.

Mrs. Barnhill asked they had to lower the lake to fix it right.

Mike Winge said pardon.

Mrs. Barnhill repeated they had to lower the lake level to fix it.

Chairman Dayvolt responded yes.

Jeff Willis said to put…

Female from audience inaudible.

Joe Kochvar from audience said that was the previous owners.

Mike Winge said they’ve got to come up here to talk I didn’t.

Joe Kochvar replied it was Jason Powers.

Mrs. Barnhill asked Jason Powers lowered it.

Attorney Doll asked is it back up to normal level…it’s pool height. He said look this is getting out of hand.

Joe Kochvar said it was done, Jason got that done and we got the drainage pipe the overflow pipe replaced and that’s much better, however at the time he didn’t know, he came from Denver, Colorado and he wasn’t familiar with our wet spells and dry spells in the year so he missed it on both ends and we ended up with improved drainage pipe but a very very low lake. He said I live on lot 1 north, the first lot as you go in on the north end…

Mrs. Barnhill asked did you state your name.

Attorney Doll replied no he didn’t.

Chairman Dayvolt said what is your name, sir state your name

Joe Kochvar.

Mrs. Barnhill responded thank you.

Joe Kochvar continues we live up…with a lake on the…with the west end of the lake and my end of the lake, the north wing of the lake was dry, completely dry. He added it was great if you wanted to do some work ya know on the lake bed, but then they missed the fall rains they didn’t get it done until the winter.

Attorney Doll said that’s history…that made history.

Shari Sherman asked that’s Jason the previous owner.

Joe Kochvar replied yeah so that’s when we had what looked like grasslands instead of lake beds.

Attorney Doll asked what do you got today.

Joe Kochvar replied this past year we had an infestation of uh…the people around here call it uh duckweed, but it’s a flowering spreading on the surface vine that is very invasive and very hard to get rid of and that was proliferated everywhere. He continues I estimate three quarters…to 90% of my end of the lake you couldn’t, you had to pretty much dig your way in and out of there with a boat and same way with the west wing. He said the only open end was the deep end of the lake, the main part of the lake close to the damn area running east and west from there but the weeds were creeping way out there. He said obviously you can see it right away you’d have to notice it was totally left for a significant amount of time to get in that shape. He said I don’t want to repeat too much of what was already been said and I appreciate people being before me wanting to get up and contribute. He continues several of us met, including myself, my wife, my neighbors and some of us historically we were in the fishing hole club as members participated so we could tell you all the ins and outs about that, but that’s another story. He said however, since then to bring you up closer to the end of the club we legally got it changed to Yellowbanks Trace Community association and that was officially our organizations name, functionality was no different we still raised funds to maintain roads, we maintained roads we had separate account for that and we maintained lake we had an account for that, we did fundraisers.

Attorney Doll asked does the Trace Association exist today.

Joe Kochvar replied no, it’s uh.

Mike Winge said Morrie I’d like for you to hold up for just a second. He said this could go on for…what I would like to do is get a motion to table this. He said I’d like to go up there and meet with the people and go in there and take some pictures look where…even the Board can go up.

Attorney Doll stated I don’t think you can.

Mike Winge said huh.

Attorney Doll responded I don’t think you can do that.

Shari Sherman said this is the area…

Mike Winge said if I’m going to pass this I’m going to and look…

Attorney Doll said you can’t meet with them.

Mrs. Barnhill reiterated don’t meet with people.

Mike Winge replied oh okay, I’ll just go up and…

Attorney Doll said it’s against state statute.

Mike Winge said okay.

Shari Sherman said what they’re looking at doing…

Chairman Dayvolt said they’re going to put you in jail.

Shari Sherman continues what they’re looking at doing is what’s in the pink…it’s all that we can look at this point, is the pink.

Mike Winge said I wanna go see it.

Shari Sherman said if they don’t fail with the pink…if the pink part fails then nothing else has a chance to go forward and potential for the rest of the white areas or the green and white to have any chance of succeeding.

Mike Winge said I’ve heard so much back and forth on that lake I wanna go see it.

Shari Sherman said so it’s like…

Joe Kochvar said that is advisable, you’ve got to see it to believe it.

Shari Sherman said they need to have this part of it addressed and that’s what they are asking for is the part in the pink line to be addressed and then once that gets done, they are looking for funds to be able to expand to the areas that are to the north, or that you own that aren’t in this area. She said but until you get this done, you’re not moving forward. She continues if nothing else happens you could be like Jason and walk away and wait for somebody else to…deal with it.

Joe Kochvar replied yeah.

Dave Goldenberg said the lake is owned by the LLC or the Corporation, it’s not owned by any of the property owners.

Shari Sherman said mh hmm.

Mike Winge said I wanna see that lake.

Joe Kochvar said as well as the roads. He asked did we make that determination that the roads…

Shari Sherman said no.

Mike Winge said I’m going up there to look at what they’re coming for.

Joe Kochvar said because I agree with everything that’s been said right from the beginning.

Shari Sherman said we can only address what’s in this pink area.

Mike Winge said this could go on all night so we need to put a stop this…I wanna make a motion that we’re tabling this.

Chairman Dayvolt replied make a motion then.

Attorney Doll said wait a minute, wait a minute…have you exhausted all of the remonstration.

Shari Sherman said no we have not, we have one other person.

Dave Goldenberg said another person back…at least one.

Joe Kochvar said thank you.

Attorney Doll said Jim do you want to respond. He said I’m sensitive to…

Chairman Dayvolt asked do you have new information for us.

Alexandra Hoosier came to the podium.

Alexandra Hoosier said I have a picture of the lake of how bad it gets in the spring; right now, in the winter everything dies, so if you go to look at the lake now, you’re going to think this is pretty it looks great, not, but in the spring when everything grows up you can’t even get across the lake. She continues if somebody got in the lake they would get tangled in those weeds and they would drown. She added if this isn’t going to solve the problem to make them do something about the roads that they do own, what is the next step for us as a community to try and get them to do that.

Mike Winge replied that’s a Morrie question.

Dave Goldenberg said civil.

Alexandra Hoosier asked where do we go to get that in motion, because I think that’s the problem that nobody out here really knows…who do we go to about all these problems that we…this is why we have this now because it’s our only opportunity to speak with somebody that can maybe do something to make them do their part and do what they’re supposed to do.

Attorney Doll replied well they are not public roads.

Chairman Dayvolt said yeah.

Alexandra Hoosier responded well in our deeds it does say that we can have access…

Attorney Doll said don’t care.

Alexandra Hoosier continues that’s what I’m saying who does…what is our next step to…

Attorney Doll said you’re going to have to get a court to rule on the issue…

Dave Goldenberg said it’s a civil case.

Alexandra Hoosier said so everybody needs to open a civil case against them to…

Attorney Doll asked do you want me to answer your question.

Alexandra Hoosier replied yeah.

Attorney Doll responded you’re going to have to get a court to rule on this issue of ownership.

Alexandra Hoosier said okay.

Attorney Doll said alright…you’re saying your deeds have one thing, they are saying they and the records at the courthouse shows all of this pink area on Molly’s print out of the GIS map is owned by them.

Alexandra Hoosier said mmhm.

Attorney Doll said alright; so, you don’t own the lake, you don’t the roads, alright…so you’re going to have to get a court order to determine who’s got certain rights or remedies.

Alexandra Hoosier said okay.

Attorney Doll said and…you should do it as a neighborhood which means a home owners association perhaps is in your best interest. He added but this is a mess that Molly’s predecessor…

Chairman Dayvolt said should have never of been

Attorney Doll continues since it’s a nonconforming use and we haven’t issued a building permit out there for a long time.

Mrs. Barnhill replied ’93.

Alexandra Hoosier said when we asked about a building permit, we were told we didn’t need one out there too. She said we went and we found out if there was easements on our property when we bought it, and there is an easement for Yellowbanks to access the lake part of our property…so we have a dock on the lake and it does say that Yellowbanks has access to that doc and the easements that we looked up and asked the court….

Shari Sherman asked but does Yellowbanks exist. She asked again does Yellowbanks exist now.

Attorney Doll responded don’t know.

Alexandra Hoosier said mhhm.

Attorney Doll asked which Yellowbanks…

Alexandra Hoosier said well not Yellowbanks but the owners of Yellowbanks.

Attorney Doll said it doesn’t work that way.

Shari Sherman said they don’t own all of that.

Attorney Doll said it doesn’t work that way, okay…we have heard about somebody name Jason, we’ve heard about Trace, we’ve heard about fishing hole…who the hell owns what. He added and as a consequence this is just a real mess and you’re going to have to do what’s almost like a quite title action to get somebody to make a decision and I don’t think that’s going to be inexpensive…

Alexandra Hoosier said mmhm, that’s why I’m asking as a community what is our next step.

Attorney Doll continues but it’s nothing this Board can do; all we can do is rule on whether or not the application for special use for 73.21 acres…

Alexandra Hoosier said I acknowledge that, that’s why I’m asking if anybody knows where somebody can go for our community…all of us to get together….

Attorney Doll said hire a lawyer.

Alexandra Hoosier continues and go to that person. She said as a community we need to get together and hire a lawyer and sue them basically.

Attorney Doll said again hire a lawyer.

Shari Sherman stated not necessarily sue them, but work with them.

Alexandra Hoosier said not sue them but take them to court.

Chairman Dayvolt said we would love to be able to waive this and everybody be happy…

Alexandra Hoosier said yeah.

Chairman Dayvolt continues and…

Jeff Willis said fix the problem.

Chairman Dayvolt said fix the problem, but the problem…

Shari Sherman said you’ve got the names of those individuals there I would as a group, or whatever is to sit down and talk with them.

Alexandra Hoosier said our messages get ignored so…

Shari Sherman continues well, now you have to…document that.

Mike Winge said folks from the bottom-line dollar and cent wise, its better if ya’ll sit down and talk…

Attorney Doll said yeah.

Mike Winge continues and it has to be both give and take both ways, otherwise both of you are going to spend money; they hire a lawyer…you’re going to hire a lawyer so somebody is going to lose money both sides.

Chairman Dayvolt said we would…it’s something that started back in ’71 and I can tell you just exactly because I’ve been here since ’63 or ’62 and it started out to be like Lynnville Lake…Lynnville Park and it didn’t wind up going over that way…yes mam.

Peggy Bragg came to the podium.

Peggy Bragg said I live at lot 61 north in Yellowbanks and…it I think a lot of this started out as concern as our mailboxes, cause literally they are leaning. She said we are going to end up having our mail on the ground; I checked with the post master she said it’s their responsibility because it’s their property.

Chairman Dayvolt said it’s their property that the mailboxes are on.

Peggy Bragg replied yes. She said she has tried three times to get ahold of them; I have her name, number and everything with no response. She continues now granted it’s a little thing compared to the roads.

Chairman Dayvolt said I understand what you’re saying it’s not…

Peggy Bragg said at least it’s showing some kind of good faith on their part; cause to them it’s not going to cost them that much…it show’s some kind of good faith.

Mike Winge said it’s not a little thing when it comes to your word.

Peggy Bragg replied right. She continues what she would like to see is all the boxes put all on north side that’s north side and south side that’s south side; right now, you might have 61 north, you might have 52 south, 26 north…and so on. She added nothing is in order whatsoever and probably half of them aren’t even being used, they are empty.

Chairman Dayvolt asked so let me ask you this…. how many residents are up in Yellow Banks.

Peggy Bragg replied I would say about 40.

Chairman Dayvolt asked you think there’s 40.

Peggy Bragg said about 40, because I do know Paul and them are one; I’m 61 north and I know there are empty lots in between but I know Steve is 161 north and this is all north side, that doesn’t include the south side.

Chairman Dayvolt said oh.

Peggy Bragg said so I would say probably at least 40…. wouldn’t you say Paul.

Female from audience replied there is more than 40 people.

Peggy Bragg said I know I’m just saying at least

Female from audience said no it’s probably double that.

Peggy Bragg said oh I don’t see 80 but…I’m just, I know there’s at least 40.

Dave Goldenberg said okay I have a silly question.

Peggy Bragg said okay.

Dave Goldenberg said if you have a box that’s up there that’s not leaning right, it’s too low, whatever and they want to change…can’t you go up there yourself.

Peggy Bragg replied it’s not the box, it’s what they are sitting on the whole stand is falling apart.

Dave Goldenberg said okay you drop a new 4’x4’ in and put a box, like I did to my house across the street.

Mike Winge said she’s saying they are all leashed together.

Peggy Bragg said it’s on his property.

Mike Winge said the whole thing is falling down…everybody’s.

Peggy Bragg said the whole thing is just…

Mike Moesner said it’s not just one box, it’s a whole series of them.

Peggy Bragg said all of these mailboxes are connected to each other.

Attorney Doll said with an easement…it would be fixed with an easement to the road.

Peggy Bragg replied all of these mailboxes are attached to each other in a real long line.

Attorney Doll said right on the road.

Peggy Bragg said well no it’s not on the road anymore; used to be and they moved it inside to Yellowbanks…so it’s inside.

Shari Sherman asked who moved it.

Peggy Bragg said it is right as you come in.

Attorney Doll said but it’s right along the gravel road right.

Male from audience replied yes.

Peggy Bragg said yes, well there’s a…

Male from audience said the gravel road that is in Yellowbanks.

Attorney Doll said if there was an easement given by this corporation to the home owners in the back for that road to access…because right now folks you understand you’re land locked. He continues so if there is an easement and its wide enough to accommodate the road it could also accommodate the mailboxes because the post office wants them right on the road.

Peggy Bragg responded say we go through all this, we go through the lawyers and stuff, we take easements…. there’re two cabins they can’t get to cause it’s on that road.

Attorney Doll said I don’t understand.

Peggy Bragg said they own two cabins on that main road and they own five back behind. She continues you have to go through the main road to get to those two cabins.

Attorney Doll asked well how do you get to them if you don’t…. I mean everybody has to come in the main road to get to their property.

Peggy Bragg replied to get to those two cabins you have to come in the main road there is no other way.

Attorney Doll asked is it off these 72 acres or whatever it is this pink drawing. He asked is that what you’re saying the two cabins are located on the back.

Peggy Bragg said mhm. She continues if we get an easement he can’t get to his cabins.

Attorney Doll said no the easements not exclusive, the easement if for everybody.

Dave Goldenberg said it’s for everybody.

Peggy Bragg replied oh, okay.

Attorney Doll said he could use his own land. He said it just gives you the legal right to access your property across his land. He continues right now you trespass…

Shari Sherman said every time you go in.

Attorney Doll said yeah, every time you go in and out.

Peggy Bragg replied yeah, I understand that.

Attorney Doll said in fact you trespass in the back too because they apparently sort of own the roads… sort of.

Jeff Willis said some times.

Chairman Dayvolt sort of.

Board Members laughed.

Jeff Willis said a foot or two of it.

Attorney Doll said the mailboxes may be fixed.

Peggy Bragg said you know I thought it’s a little thing, not really expensive but we said…I said something about us doing and she said “it’s his responsibility we can’t touch them” and that come from the post…

Attorney Doll said the post office can’t touch it.

Peggy Bragg said no and we can’t either because that’s moving somebody else’s mailbox.

Attorney Doll replied it’s a technicality if there is an easement that’s why I started with the question about the right-of-way. He added that solves two or three of these problems and frankly scares the heck out me because I think everybody in the back is land locked.

Chairman Dayvolt said yeah.

Attorney Doll continues folks…and literally if they wanted to block that road…I think they can. He said they’ve got a prescriptive easement but you want to go to court to fight about it.

Peggy Bragg replied they only have to allow you in and that’s too the mailboxes.

Male in audience inaudible.

Attorney Doll said show me the law that says that.

Male in audience said huh.

Attorney Doll repeated show me the law that says that.

Multiple people in audience talking inaudible.

Attorney Doll said there’s a prescriptive easement at best and…

Male from audience said especially if that…

Attorney Doll continues let me finish, let me finish. He continues there is a prescriptive easement at best and that’s only if you go to court and get it recognized by a court order.

Peggy Bragg said I’ll just add one thing, all I know is where we live we’re pretty dog gone lucky because there’s stuff pretty that starts just about where we’re at but say along the road…talking about the road. She continues you go up half a city block and I’ll almost guarantee you by the winter these people in the back aren’t getting out…I’ll guarantee you that because there are boulders this big around through down in the gulley’s in the middle of the road, and then you have three and a half foot gushes that is three foot deep; and there’s a gas line that is being seen out in the open because it all washed away.

Attorney Doll said you got to get this fixed.

Peggy Bragg said yeah, that’s all I got to say.

Attorney Doll said, I think…

Board Members inaudible.

Attorney Doll asked who owns the gas line.

Jeff Willis replied CenterPoint.

Shari Sherman said it’s a CenterPoint gas line.

Mike Moesner said it’s probably Boonville Natural Gas.

Chairman Dayvolt said I would say so too.

Shari Sherman said it could be Marathon, they don’t…

Jeff Willis said Marathon knows where their pipeline is at.

Mike Moesner said it’s either Boonville Natural Gas or Community Natural Gas out of Dale…it’s one of those two.

Dave Goldenberg said someone needs to contact them and tell them their damn gas lines showing and get them out there to do some stuff too.

Chris Stevens comes to the podium

Chris Stevens said I am a resident in Yellowbanks and I live at lot 6 north on the far east, northeast end of the lake. He said I am also an active member of the Pigeon Township Volunteer Fire Department and in good standing with that Fire Department. He continues as Mr. Moesner addressed the roads are obviously an issue, not only for our residents but also for our fire apparatus to get to these…some of these locations. He said with that being said with the likelihood of this recreational are increasing the number of civilians to the area that would in turn create more possible 911 calls; we’ve seen an uptick in 911 calls over the last few years in our area and so having more people coming and doing recreational activities, I think naturally kind of create more of an uptick. He continues with that being said uh the roads are an excessive safety concern for the fire department to get out apparatus to the potential emergency seen but also for the people that live there. He said I can guarantee you I will make every necessary effort I can to get to your house, but I cannot guarantee that I will get to your house and that is the issue. He added we have had one fatal drowning over the past few years in Yellowbanks lake due to the excess growth of duckweed or whatever you want to call it. He said the records of that can be found both from the fire department and Indiana Department of Natural Resources, Boonville Fire Department’s dive team was there as well as probably the Sheriff’s Office. He said according to Warrick GIS…Yellowbanks LLC owns approximately 75% or more of the roads in Yellowbanks whether we’re talking about the pink area in question for this application or the entirety of the property. He said I don’t think…there’s not much debate in between. He continues I have not personally been contacted about access to the lake for any treatments or what needs to be done nor have any of my adjacent neighbors that attach or that are directly across the road to me. He continues so the other issue to on the…in the regards to the lake is…if you wanted to access this section of lake that is in my back yard you wouldn’t be able to because of the amount of washout that has come from down the hill along the roadside and filled up our cove of the lake with gravel and soil and now has started growing trees and brush and everything else….so even if you had a boat on the lake as one of the gentlemen previously mentioned when the lake was dropped it turned into a grassland and trees and everything else grew-up. He added I’ve spent a better part of 40-60 hours over the past two years, both cleaning the weed out of the lake trying to be able to access it for my two children and myself, but also removing the trees that have grown-up and the brush that way we can still see the lake when we look out of our back window. He said did I trespass to do that…probably…hopefully I don’t go to jail over that but it was kind of one of those things that it’s nice to be able to see the lake that we paid for to be able to see. He continues in the years that we’ve lived there we have since decided to put our home up for sale due to the lack of maintenance to the general area and just not really wanting to be a part of that community just because of the lack of care to the surrounding area. He said our house was up for sale for the better part of a year. He continues we had several people that were very interested in the home, but due to the nature of the roads and the nature of the surrounding area nobody was willing to make an offer…so now I’m stuck with a property that we don’t really want, but we don’t have a way to get rid of because of things that are outside of our control. He said according to Warrick GIS there is a section on the west end of the park that is approximately 24.65 acres that is tied to Yellowbanks Lake, LLC, 53.83 acres on the south end of the property, 9.0087 acres on the north end of the property and 20.29 acres on the northwest end of the property…all of those sections on Warrick GIS maps state that Yellowbanks Lake, LLC owns those sections of the road. He said the majority of the issues with the road are in those sections, both on the north section of the lake and the south section of the lake. He continues as many people have said there are several areas where the wash outs are so deep that we would quite literally burry a firetruck if we get…

Mike Winge said Morrie, I’m going to ask you a question. He asked we can’t do anything about the roads anyway can we. He continued then why do we keep discussing them.

Attorney Doll said they’re not public roads.

Mike Winge said so we’re concerned about what’s…

Attorney Doll said what’s their rights.

Chris Stephens said right and my concern is from both a resident and the fire department. He continued I don’t think it’s a responsible action to approve this sort of variance or special use permit or whatever it is in the event that nothing is being done to help us gain access to someone’s potential emergency, right.

Mike Winge said well he has already addressed that several times. He added we don’t have anything to do with that really.

Chris Stephens said and the other thing is this is more of a water management issue than it is a road issue. He continued the roads being washed out and full of pot holes and everything else is a by-product of the water management issue that has not been taken care of for many years, which is also the problem with the cove on the northeast end of the lake being filled with gravel and soil. He continued and I’m assuming that the lake is a part of this application that is being made.

Attorney Doll answered it is.

Chris Stephens continued which is part of my concern as well. He said so it’s a water management issue that is trickling down no pun intended and causing several other issues to be had.

Mike Winge said but the water isn’t coming from the lake it’s coming from the water down to the lake.

Chris Stephens said yeah, yeah the water is coming from the topography surrounding the lake feeding into the lake.

Mike Winge said so that’s still outside of what they’re dealing with. He said they’re dealing with what’s inside the lake.

Chris Stephens said it’s on their property though.

Mike Winge said okay.

Chris Stephens said the water is on property that they own that is feeding into the lake that they own.

Mike Winge asked inside, inside this, inside the red lines.

Chris Stephens said correct.

Mike Winge said okay.

Shari Sherman said okay.

Mike Winge said that’s different.

Shari Sherman said and if this is not approved for the area that they are requesting and they walk away then we’re…

Chris Stephens said then we are in the same boat we were in 3 years ago whenever we forked out tens of thousands of dollars to Jason Powers and he sold the property and walked away and we don’t know what happened to the money.

Shari Sherman asked and you gave him money for what.

Chris Stephens said to maintain the roads.

Chairman Dayvolt asked was that…

Shari Sherman asked do you have a deed…do you have a contract.

Chris Stephens replied probably not.

Chairman Dayvolt asked was some of the deterioration to the roads…was that due to the logging.

Chris Stephens replied I would say some of it is. He added some of it is due to the excessive speed that people drive. He continued some of its due to the trash trucks that come in and out, some of it’s due to just normal wear and tear from people’s vehicles, some of it’s from the delivery vehicles, FedEx, Amazon, what have you.

Chairman Dayvolt said okay.

Chris Stephens continued but the root issue is lack of water management that is causing the road to deteriorate quicker than it should.

Chairman Dayvolt said you see Stephen we can only deal with what’s inside of this.

Chris Stephens replied I understand.

Chairman Dayvolt said that’s where we’re in trouble.

Chris Stephens said right.

Chairman Dayvolt said yeah I know.

Chris Stephens said but there is a significant amount of road inside of that area that is being requested in the application that is very bad.

Shari Sherman said well then if it’s in that area then they are going to be required to fix that area…

Chris Stephens said sure.

Shari Sherman continued if this is approved.

Chairman Dayvolt said sure.

Chris Stephens said and I’m not saying this and I would love to see this recreation area, you know, be restored and money be brought into the County and our community…I would love that, but I don’t want to see the people getting rolled over for the sake of somebody else making a profit and we are left to the wayside to deal with these issues that we have been dealing with.

Chairman Dayvolt said okay.

Mike Winge said what I would just like to simply say, based on what you’re saying, is all of the rest of this talking is not going to do any good. He continued I want to get this, see if we can’t table this and go up and look at the lake area, what the problem is within where they’re at…what they’re wanting. He said I want to go up and see it.

Shari Sherman said alright, they have…

Mike Winge continued because the roads we can’t do anything about. He said this part here, if that lands effecting anything with the roads or whatever and they aren’t maintaining it, that’s a different thing we can deal with. He continued so that’s where I’m at with this.

Chairman Dayvolt said everybody just needs to understand if anyone of us comes up there…

Shari Sherman said don’t talk to us.

Chairman Dayvolt continued don’t talk to us. He said because unless you want to come visit us out here…

Attorney Doll said law enforcement center.

Board Members laughed.

Chairman Dayvolt said yeah, we’re having three hots in a cot.

Shari Sherman said we will be rude and turn around and let us do that. She continued umm they had another…do they get to respond before we do anything.

Chairman Dayvolt said well we’ve got to see if anybody else here, that wants…there’s another gentleman here.

Shari Sherman said that has, it is different from.

Mike Winge stated if it is on the roads stop it.

Chairman Dayvolt said you have to state your name and sign in.

Alan Sprinkle came to the podium. He said I own the 40 acres between cemetery and the dam.

Chairman Dayvolt said I remember you.

Mike Winge asked what is it you want to tell us.

Alan Sprinkle asked am I in the pink area in any place there.

Shari Sherman said we don’t know.

Board Members laughed.

Alan Sprinkle said I own the 40 acres between the dam and the cemetery.

Mrs. Barnhill said no you’re not.

Chairman Dayvolt said you’re not.

Alan Sprinkle asked what about the dam.

Shari Sherman said then you’re not in it.

Alan Sprinkle asked may I see that please.

Chairman Dayvolt said go down to this end and he’ll show it to ya.

Attorney Doll said right there behind you they are shaking their head no.

Mike Winge said after him let’s hear the response.

Shari Sherman said yeah.

Alan Sprinkle said last time I talked with you guys was a year or so ago, and I asked you the one question about we own this cemetery here.

Chairman Dayvolt said you have to talk to us sir, not them.

Alan Sprinkle said okay, okay. He continued three generations there and three generations before we lived there and owned there.

Chairman Dayvolt said yes, sir.

Alan Sprinkle continued all the way from…I know Jim and Kay Marshall even. He said I worked with some of their family and Jim Marshall tried to buy the property that I’m talking about. He continued and I was told that I had a right of way from the highway around the dam and going up to the property I got at the cemetery.

Mike Winge asked that was with the previous owners.

Alan Sprinkle said with the previous owners.

Shari Sherman said and that doesn’t mean anything.

Alan Sprinkle said so that didn’t mean anything.

Shari Sherman said sadly.

Alan Sprinkle asked so does that mean that the only access I’ve got now to that lake…

Chairman Dayvolt replied you’ve got to talk with them.

Alan Sprinkle said okay.

Shari Sherman said not now.

Board Members said not now.

Alan Sprinkle said okay.

Chairman Dayvolt said you’ll have to make a deal with them.

Alan Sprinkle said well I think I have a deal with them, but I don’t know now. (Laughing)

Mike Winge said alright well turn around and talk to us.

Alan Sprinkle said okay.

Shari Sherman asked anything else.

Alan Sprinkle asked what I want to know is, if I don’t have a deal with them, which they’ve already told me, that I, that dam that I could still use…because I pulled out the paper.

Chairman Dayvolt said get it in writing.

Alan Sprinkle asked were either one of you there.

Mike Winge said you’ve got to talk to us.

Dave Goldenberg said if you’ve got it in writing then you’ve got a deal. He continued if you don’t have it in writing you probably don’t have a deal…

Shari Sherman said and it was notarized.

Dave Goldenberg continued and you need to talk to them.

Alan Sprinkle said okay.

Dave Goldenberg said but not here.

Shari Sherman said not now.

Alan Sprinkle said okay, okay.

Chairman Dayvolt said you need to have a meeting with them.

Mike Winge said stay focused.

Alan Sprinkle said well thank you anyway. (laughing)

Chairman Dayvolt said thank you Alan.

Shari Sherman said alright.

Alan Sprinkle said I didn’t get my name down.

Chairman Dayvolt asked is there anyone else here that needs to speak.

Shari Sherman said that’s different.

Someone from the seating area said how did the 73 acres get…

Attorney Doll said no, no, no…

Shari Sherman said no, no…

Dave Goldenberg said that has nothing to do with it.

Attorney Doll continued you don’t get two bites of the apple.

Mike Winge said you were just up here.

Attorney Doll said so something else that is different.

Shari Sherman said different.

Bill Riat said yeah, I was going to ask a question. He continued so if you don’t want me to that’s fine.

Attorney Doll said that’s up to him.

Bill Riat said it’s alright.

Someone from the seating area asked can I answer her question. She continued the questions you asked about…

Attorney Doll said only if she wants you to.

Shari Sherman said I would prefer not. She continued I mean they’re just a general question. She said I think we’re going to get those answers.

Same person from the seating area said whether we wanted to risk our lot with a you know…

Shari Sherman said well that’s a general question, that’s a generalized question.

Same person from the seating area asked was that a rhetorical question or do you really want the truth.

Shari Sherman said well it was a rhetorical question.

Same person from the seating said okay.

Mike Winge said we’ve got to quit talking…

Chairman Dayvolt asked anyone else have anything new to say.

Shari Sherman said let him talk and be done. She continued stop asking that and just move on.

Mike Winge said I’ve been trying to tell him to quit that.

Attorney Doll said applicant.

Chairman Dayvolt said alright…

Shari Sherman said applicant response.

Mike Winge asked do you guys have anything to respond.

Shari Sherman said Jim…

Chairman Dayvolt said Jim you can respond if you want to.

Dave Goldenberg said or you can say no.

Chairman Dayvolt said or you can say no.

Board Members laughing.

Jim Morley Jr. said it’s a long night, sorry. He continued umm so a lot of things discussed tonight…umm some things inside the pink some things my client can’t control. He continued a lot of what was discussed was outside the pink and not something that they 100 percent control. He said I would come to you with maybe a path forward that moves the needle to the benefit of the people that live in the back and allows my client to move forward with the special use which allows them to continue to invest in that area and raise revenue which then can be put back into their facilities which helps maintain the roads on the front end of the property and so forth. He added so if you will bear with me for the moment, I think there’s some win in it for both sides if you all will just bear with me.

Shari Sherman said absolutely.

Chairman Dayvolt said James.

Jim Morley Jr. replied uh-huh.

Chairman Dayvolt asked have you looked into the road situation up there. He added outside of the pink area.

Jim Morley Jr. asked what do you mean have I looked into.

Chairman Dayvolt said have you looked into it, is it…

Mike Winge said we can’t talk…we aren’t dealing with the outside the pink.

Chairman Dayvolt said I understand that.

Jim Morley Jr. said we looked into the roads and it’s been 2 years ago, Molly, I mean when we first came up…when these folks or actually when Jason owned it, he looked at special use, but I don’t think we ever did a special use for Jason. He added when these folks bought it, we met, we had a site review meeting, about, before we ever filed a special use and we talked about all of the challenges with Yellow Banks. He added and we said how do we deal with these challenges. He said and from that meeting and Molly if I say something wrong, please correct me okay I work off memory. He continued from that meeting basically what you see in pink is the area in which had clear title no problem they can work on that property 100 percent…

Chairman Dayvolt said okay.

Jim Morley Jr. continued and then we talked about what would we do in the back where they own its…correct me if I’m wrong Molly, this property was never platted as a subdivision. He said there are lots of surveys done, but it was never platted as a subdivision to create public roads or private roads, right of way, or easements. He added and so when you look at a true survey of that there isn’t a straight path going through there 30 feet wide, yeah know, winding through there that it’s easy to understand where you can do what. He said it is a bunch of lines that kind of run cattywampus next to one another and it kind of meanders its way back there. He added and so when we…uh Bobby Howard, from what I remember right, was in that meeting, Bobby said, “I don’t want those roads. They aren’t public standard roads.” He continued and so the decision made at that time was to go forward with a special use on this area because this is the area that they could control.

Chairman Dayvolt said okay. He said I understand.

Jim Morley Jr. asked does that answer your question.

Chairman Dayvolt replied yes. He said that answers my question.

Jim Morley Jr. said okay.

Attorney Doll asked have you met with them…if it’s tabled are you willing to meet with them to try to have a global resolution of the issues in that neighborhood. He added because you own some of the ground in the back, your client does.

Jim Morley Jr. replied yeah, the umm and so that’s on my list, uh and so…

Attorney Doll asked so why don’t we just table this and give you 30 or 60 days to meet with them and try to resolve.

Jim Morley Jr. asked can I read through this first and if that’s the desire then we will go that direction.

Attorney Doll replied the problem with it is you’re asking us to decide for them and I’m not sure how we can do that.

Jim Morley Jr. replied I don’t want to decide…I don’t want…

Attorney Doll said if we approve something, some resolution so new offer tonight from you, we’re deciding for them aren’t we.

Chairman Dayvolt said they need, they need to…

Attorney Doll said be a participant in the resolution.

Chairman Dayvolt said yes, in their own…

Mike Winge said there’s too many unforeseens here yet and I for one am not voting on anything…I’m going to look.

Jim Morley Jr. said okay. He said can I ask a question, it’s always a loaded question to ask something you don’t know the answer to…

Attorney Doll said never, yeah.

Board Member laughing.

Jim Morley Jr. said yeah, it’s always a loaded question. He continued but can I ask the folks that are here if everybody here wants to sign on to be on a homeowner’s association and contribute financially to the improvements of those areas.

Attorney Doll said I don’t know if they know what that means.

Jim Morley Jr. said I mean, we can…and so we can…if you choose to table it that’s fine and they can have a neighborhood meeting.

Mike Winge asked shouldn’t that be done in private between you and them.

Several Board Members said yeah.

Jim Morley Jr. said we can, we can do that, we can do that. He added I just want everyone to know that we can’t force…

Attorney Doll said no…

Chairman Dayvolt said no.

Jim Morley Jr. continued a resolution…

Attorney Doll continued no you can’t.

Jim Morley Jr. continued we can meet with them, but we can’t force a resolution.

Attorney Doll said no you can’t. He added and they can’t force you to a resolution that they like either, but the group of people in this room…several lawyers will tell you you’re always better off to resolve it in negotiation instead of letting a judge decide something because he doesn’t know crap about the facts.

Board Members laughing.

Attorney Doll said alright.

Mike Winge said and both sides are going to spend money.

Attorney Doll said yeah.

Chairman Dayvolt said yeah.

Attorney Doll said you’re much better off tabling it tonight and inviting everybody in that neighborhood to a meeting and say here we are let’s talk.

Chairman Dayvolt said communicate.

Attorney Doll added and see if you can get some…nobody’s going to get everything they want it’s just not going to happen. He continued but this is a mess and it’s been a mess for 50 years and I don’t know how you fix it without that.

Mike Winge said and here’s the thing if you don’t get it resolved it’s going to cost you both money period both of you.

Attorney Doll said or it’s not going to get fixed.

Mike Moesner said the thing is it’s an excellent project what you guys are wanting to do here. He added I can see as a plus for the whole community, however there’s other things that need to be…

Chairman Dayvolt said addressed.

Mike Moesner continued addressed in order for this all to come together.

Mike Winge said we don’t have control on those things.

Mike Moesner said right we don’t have that…

Attorney Doll said half of them could say half of a pot.

Shari Sherman said and we are still looking at just within this…this is what we can deal with when it comes down to it unless you change and have this wider. She continued but this is what you…

Jim Morley Jr. said our special use is only the pink area.

Shari Sherman said yeah that’s it.

Mike Winge said inside that pink.

Shari Sherman said that’s the only one, that’s the only one that we can deal with so…okay.

Jim Morley Jr. said okay fair enough.

Chairman Dayvolt said I’m going to say a prayer for all of ya.

Board Members laughing.

Mike Winge said I would like to make a motion if it’s possible.

Chairman Dayvolt said I’m listening to ya.

Mike Winge said I would like to make a motion to table this for 60 days. He said at the end of that 60 days whoever on this Board wants to go look at that inside that perimeter that we are dealing with is more than welcome to go but I for one am going to go look.

Shari Sherman asked are there going to be little pink lines so we can see where…

Mike Winge said I know pretty much where that’s at I used to inspect that years and years ago.

Shari Sherman said I was going to spray paint…

Attorney Doll said that was a motion on the table.

Mike Moesner said okay I will second that.

Shari Sherman said okay.

Jeff Willis asked why 60 days. He added they are trying to build a business and they need to build it if…60 is a long time for us to drive 30 miles.

Shari Sherman asked can we do it in 30.

Mike Winge said Jeff, do you see how they are getting along right now. He added they are going to have to have some time to get together.

Jeff Willis said well that’s what they need.

Mike Moesner said see 30 days this has to be published in the paper so much before the next meeting.

Several Board Members answered no.

Shari Sherman said it does not.

Attorney Doll said it’s a continuation of this application from the prior publication.

Mrs. Barnhill said establish the next date now.

Shari Sherman said ask them if 30 days is okay.

Mike Winge said well 30 days, a lot of people work, some people might not be able to be there.

Shari Sherman said I understand, but if everyone wants it to happen…can we ask them if 30 days is…or do they want 30 days or do you want 60 days.

Jim Morley Jr. said we want to be a good neighbor and 60 days is fine.

Shari Sherman said okay.

Mike Winge said okay. He said I think it’s going to take more than 30 days to get it worked out.

Attorney Doll said ya it is.

Mrs. Barnhill said so 60 days…

Chairman Dayvolt said so we had a motion by Mr. Winge and a second by Mr. Moesner.

Shari Sherman asked so are we making a date…a specific date.

Jeff Willis said well it will be the February BZA Meeting.

Shari Sherman said the February meeting.

Mike Moesner said the February meeting.

Jeff Willis said which will be set when…

Attorney Doll said the fourth Monday of the month of February.

Jeff Willis said usually.

Mrs. Barnhill said it is. She stated February 24th is the tentative schedule.

Attorney Doll said there are new Commissioners in this County and so we can’t speak for them and they may change that date. He continued we meet at somewhat their discretion…okay. He said but that’s the date established right now, 4th Monday, February what…

Mrs. Barnhill said 24th.

Attorney Doll continued February 24th, 6:00…okay. He said that’s your deadline.

Chairman Dayvolt said all in favor.

The motion carried unanimously.

Jim Morley Jr. asked all the people before you all leave can I get your name and number so we can try to set a time.

Shari Sherman asked we are not adjourned yet are we.

Chairman Dayvolt said no.

Shari Sherman said okay.

Chairman Dayvolt said I’m getting ready. (laughing)

Shari Sherman said I know. She asked can we have a motion to adjourn.

There is a lot of talking between the Board Members.

Dave Goldenberg made a motion to adjourn the meeting. Mike Winge seconded the motion and it carried unanimously. The meeting adjourned at 9:01 pm.

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 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 December 23, 2024.

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Molly Barnhill, Executive Director