

**WARRICK COUNTY AREA BOARD OF ZONING APPEALS**

Regular meeting to be held in the Commissioners Meeting Room,  
Third Floor, Historic Courthouse,  
Boonville, Indiana  
July 22, 2024 at 6:00 P.M.

**PLEDGE OF ALLEGIANCE:**

Chairman Dayvolt stated if you would I would like to take a moment of silence. He continued we had a Board member that passed away this last month, Mr. Paul Keller, and out of respect for him I would just like a moment of silence.

Chairman Dayvolt asked for a roll call.

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

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

**MEMBERS ABSENT:** Mike Winge and Dave Goldenberg

Mrs. Barnhill stated we do have four but it will take a unanimous vote to pass or deny an application.

**MINUTES:** Upon a motion made by Mike Moesner and seconded by Jeff Valiant the minutes of the last regular meeting held June 24, 2024 were approved as circulated.

Chairman Dayvolt stated when I call your variance or special use please come forward to the podium and sign your name at the podium and then we will have a staff report. He continued you will have 20 minutes to add anything to the staff report and if you are here to object to what is being brought before us you will have the same amount of time, 20 minutes to make your case against it.

**SPECIAL USES:**

**BZA-SU-24-23**

**APPLICANT:** Warrick County Redevelopment Commission, by Steve Roelle, Executive Director

**OWNER:** Margaret Schnur as Trustee of the Schnur Family Trust & Schnur Brothers Farms IV LLC Etal, by Margaret Schnur, Trustee/Owner

**PREMISES AFFECTED:** Property located on the east side of Epworth Road approximately 0' north of the intersection formed by Epworth Rd. and Vann Rd. Ohio Twp. 20-6-9. *Complete legal on file. 3311Epworth Rd.*

**NATURE OF THE CASE:** Applicant requests a Special Use, SU-4 from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow a sports

complex. All in a “C-4” General Commercial Zoning District. *Advertised in The Standard July 11, 2024.*

Jim Morley Jr., Project Engineer with Morley, Steve Roelle, Warrick County Economic Redevelopment, and multiple owners were present.

Chairman Dayvolt asked for a staff report.

Mrs. Barnhill stated on their notice to the adjacent property owners we are missing two green cards but we have all of the white pay receipts showing they were mailed correctly. She said the existing use is a single-family dwelling and unattached accessories that is up off of where this property is. She added it is a large field so that is up in the northwest corner. She stated to the north is zoned is zoned “C-4” General Commercial & “M-2” General Industrial being vacant. She said to the east is zoned “A” Agricultural being vacant farm ground. She continued to the south is zoned “C-4” General Commercial being St. Vincent Hospital and to the west is zoned “C-4” General Commercial and “A” Agricultural being farm ground and a single-family dwelling with unattached accessories. She said there is floodplain on the property, it is an AE, which would require a floodplain development permit prior to any construction including dirt work on this. She added also we will require a certified plot plan or a LOMA-F, which is a LOMA based on fill prior to obtaining permits for any buildings. She stated the existing access will be Epworth Road and Vann Road. She stated the Warrick County Comprehensive Zoning Ordinance states that a person desiring a special use classification must submit an application that must contain a site plan showing the following:

1. The proposed use of the land;
2. The location and size of all buildings and structures, including signs;
3. The location of streets, access drives, and off-street parking and loading facilities;

She stated the site plan in this application does not meet these requirements. She added I advised the engineer of this but he requested to continue with the current application on file.

She stated the proposed area for the Special Use is currently a 21 acre section of a 56 acre field. She said a one lot primary plat has been filed to split this property from the rest of the field with a request for no streets or drainage at this time. She added this is just to get the property in the new owners name to sell it. She said however, the site plan submitted with the Special Use application shows a four lot subdivision, therefore any approval would be subject to approval and the recording of the primary plat on file for the one lot followed up by with a primary plat with the four lots, as shown in the special use with streets and drainage to be approved by the appropriate Boards. She stated based on the fact that their site plan doesn't meet our requirements I would say that the application is not in order.

Chairman Dayvolt asked has it been in front of all of the boards that it needs to be in front of.

Attorney Doll and Mrs. Barnhill replied no.

Jim Morley Jr. stated it doesn't go in front of any boards until this...

Chairman Dayvolt asked is this commercial.

Jim Morley Jr. responded we haven't gone there yet.

Attorney Doll asked did you go to drainage.

Mrs. Barnhill stated streets, drainage, and stuff will come with the primary plat but not with this first one since it is just the one lot and they have asked for no streets or drainage but a commercial site plan does require a commercial site review.

Jim Morley Jr. stated what I have passed out to you tonight...the first one is kind of where in the world are we and we are at the northeast corner of Vann and Epworth Roads. He said if you flip it over this is kind of a simplified version of eventually what will happen. He stated the vertical gray strip over here is Epworth Road and then the horizontal gray stripe across the bottom is Vann Road extended. He continued currently there is no round about here and there is no vertical road here and so this project is part of a larger project being done by the Warrick County Redevelopment Commission in which the intent is to bring a sports complex to this sight but they don't need the whole 21 acres and change. He stated they only need about half of that so the remaining property will be subdivided and create commercial lots on the front of it. He said if you look at this picture here you can kind of see those lines underneath there those are the three commercial lots if you will and the blue is where our lake will be, our borrow pit/retention basin. He continued the yellow area in the back is where the sports complex will be. He stated in your packet the site plan does show the parking spaces and the building location. He added it does not show signage they are just not that far into it yet but what they are seeking is to go ahead and have this special use approved so that they know whether or not they should buy the ground or not buy the ground. He said while I acknowledge that we don't have the signs and stuff showing on the site plan and 100% of everything a normal commercial site plan has...the site plan you all have in your packet is 90% of the way there and without knowing their final layout of where they want signage and stuff like that we don't have that on there. He said I fully admit that. He stated I do believe that the question in front of us tonight is if this an appropriate location for a special use for this type of facility. He asked would this be a good place for an indoor sports complex. He stated I believe it is a good place for an indoor sports complex and Warrick County Redevelopment Commission thinks it is a good place for an indoor sports complex so that is why we asked to go ahead and come forward. He said I recognize like when we did Freidman Park it was a special use also and we had more detail because people wanted to know will there be speakers pointed at my house or is this a baseball field with lights on that are going to be seen in my house so I understood that side of it a little bit more. He stated in this situation the sports complex is a fully enclosed building with a parking lot out in front of it, which is shown on the site plan that was part of your application. He said yeah, you've got it right there. He continued and so the majority of what is missing there is dimension lines and signs...we just haven't got that far in the project. He stated they don't want to buy the property if it isn't a good use of this property to have a special use for athletic facility.

Chairman Dayvolt stated Jim don't even show us where the building is going to be, the dimensions of the building...

Jim Morley Jr. stated the building is on there.

Chairman Dayvolt asked is there a dimension on it.

Jim Morley Jr. stated this is the building right here.

Chairman Dayvolt asked how big is it.

Jim Morley Jr. stated I think it is shown as 100,000 square feet and expandable. He added they are still working through...there is a...the developer of the sports complex...they are working through their financials as to if they should have 10 courts or 12 courts or 8 courts and they are trying to figure that out but that place holder is there for the building.

Chairman Dayvolt stated you have never brought us anything like this before, Jim without dimensions or buildings on it...

Jim Morley Jr. replied there is a building I mean that is the building there.

Jeff Valiant asked but are we 100% sure that is where the building is going.

Jim Morley Jr. replied yes, that is the only place that it can go.

Mrs. Barnhill stated you have mentioned that it might go further towards Epworth Road.

Jim Morley Jr. replied that's ...it won't fit on the other side of the street for Epworth Road...the other side of the internal street and so...I mean yeah that is the only place that can go, that is the only place the parking can go, and so there...because of the site restraints there is not a lot of flexibility to that site plan.

Chairman Dayvolt stated well it is just...you don't show us anything of what we really want...I don't see any road sizes... He asked have you been to Bobby Howard and talked to him about the roads.

Jim Morley Jr. replied yep, Bobby Howard wants the road...this road here is a three lane road, one north, one south, and the center lane is a both way turn. He continued the road from the roundabout towards Epworth is a five lane section with two going east, one going west left turn, and one going west right turn, and one going west through and the road from the roundabout going east is as wide as a four lane road...the center two lanes are in a boulevard that are there, reserved there for turn lanes inserted. He stated I have discussed this with Bobby and it came up...we did go to a sub review meeting for this plat that you are looking at there...we did go to a sub review meeting for that plat and so while we have not gone to a commercial site review for this specific project this plat went to sub review and there was general discussion about the plat, the road, the alignment, where we would do detention, how we would do detention, and all of those things were discussed at our preliminary sub review.

Chairman Dayvolt stated Jim, give me a reason why this is not more detailed.

Jim Morley Jr. asked what's that.

Chairman Dayvolt said give me a reason why this is not more detailed.

Jim Morley Jr. stated because the developer hasn't finished flushing out exactly how their structure will be laid out inside...if they are going to have...what kind of commissary they are going to have as far as, you know, are they going to have food in this area, are they going to have a training room in this area, or whatever. He said and so since they have not finished flushing all of those details out all I can do is create a space to hold that building but there is no other...because of the dimensions of that property there is no other place for that building to go.

Chairman Dayvolt replied I understand that but I have never seen you bring us anything like this before... I mean it is just....

Jim Morley Jr. stated I apologize if that is my bad I didn't realize...in my head and I apologize because I realize that is just my head. He said in my head I was looking at this as a use for this property...would this property be a good location to put an indoor sports facility.

Chairman Dayvolt responded I understand that and I think the Board would go along with it if we could see something. He said we aren't seeing anything.

Jim Morley, Jr. asked what are you not seeing. He said I don't mean to be arguing...I mean I have shown all of the parking spaces and I am showing the building or where the building will be...

Jeff Willis asked this is drawn to scale correct.

Jim Morley, Jr. replied yes.

Jeff Willis stated so if we took 1" equals 250 feet.

Jim Morley, Jr. stated sure all of the parking spaces are 9x18 and drives are all 24 feet wide...

Mrs. Barnhill asked how many parking spaces do you have there.

Jim Morley, Jr. replied 351 if I remember right. He said I am working off of memory there but I believe that is the right number.

Mrs. Barnhill said 351 and what size is the building.

Jim Morley, Jr. responded 100,000 square feet I think...I am working off memory but I think it was that.

Mrs. Barnhill asked do you remember what that parking requirement is then.

Jim Morley, Jr. replied I don't remember that Molly.

Mrs. Barnhill stated that is one of the things that we do check when you bring in a site plan.

Jim Morley, Jr. stated and they will have to meet whatever standards that they have to meet. He said I am just trying to determine if they should move forward with the purchase of this property if this would be an acceptable use for this property.

Chairman Dayvolt stated so you are asking us if it would be an acceptable use and you want our stamp of approval that it is an acceptable use before you even purchase the property.

Jim Morley, Jr. replied yeah.

Chairman Dayvolt replied that is basically what you are telling me.

Jim Morley, Jr. stated yes, because they don't want to purchase the property if they can't use the property for its intended use.

Chairman Dayvolt responded yeah.

Jeff Willis stated if we approved it, it would have to be this exact size that you have on here right.

Jim Morley, Jr. stated in my mind it has to fall inside that box. He said if it was smaller I don't see why anybody would care if it was smaller.

Chairman Dayvolt asked but what if it was bigger. He said what if you built a 150,000 square foot building.

Jim Morley, Jr. replied in my mind if it was substantially different than that site plan then we would have to come back.

Jeff Willis stated but if you would want to put a sign up you would have to come back since the sign is not on here.

Chairman Dayvolt said you would have to go do that every time.

Jim Morley, Jr. responded I guess if I need to...in the past I always was under the impression if they were substantial changes you come back to the Board of Zoning Appeals but if they were minor changes, so to speak, then they could be approved administratively in the Planning Commission office, but maybe I am wrong about that. He continued I always thought that was the situation. He stated we will be fully in compliance...we'll go to commercial site review, we will have to get a commercial drive permit, we will have to have a sign permit...all that we are asking for this to be approved subject to it meeting all standards when it goes through site review. He said I have no problem with that and if we don't meet a standard...

Mrs. Barnhill stated you could say that about absolutely any project that you bring...any of it and it would have to meet review.

Jim Morley, Jr. replied I know and that is what I am saying and we will meet review.

Jeff Willis stated but if they require something different...is it a separate lot or is it the same lot that has the ...

Jim Morley, Jr. stated it is currently all on 21 acres but eventually it will be in a platted lot. He said the detention basin...it is just like any other subdivision...the detention basin will be in a lake maintenance and storm detention easement and...

Jeff Willis asked but is it currently on the same lot.

Jim Morley, Jr. replied it is currently on the same parcel.

Jeff Willis stated if site review states it has to be moved over or turned a different way or whatever then that would be a significant enough change that you would have to come back.

Jim Morley, Jr. replied then we are coming back.

Chairman Dayvolt asked Mr. Doll what are your feelings on this.

Attorney Doll stated I don't know how we can approve it because it doesn't meet the ordinance...we don't have everything that the ordinance requires.

Chairman Dayvolt stated that is what I am thinking too.

Jim Morley, Jr. asked short of the signs what am I missing.

Attorney Doll stated there is not enough detail if I understand the Board.

Mrs. Barnhill stated the building dimensions, the setbacks...

Jeff Willis stated it is drawn to scale but we could figure out what it is by...if we had a small enough ruler.

Chairman Dayvolt asked but why do we have to figure it out.

Jeff Willis replied well I am sure it is in his program.

Mrs. Barnhill stated and nothing is done this is all just part of a big field right now so there are a ton of things that could change between now and then.

Jeff Willis replied and then he would have to come back in front of us. He said then we would give them their...

Mrs. Barnhill stated a special use is only good for a year. She continued you only have one year to completely establish.

Chairman Dayvolt replied right.

Mrs. Barnhill asked is that enough time.

Jim Morley, Jr. stated I think their concern...oh we will start construction on it within a year.

Mrs. Barnhill stated I think the cart is before the horse...Jim and I have talked about it.

Jim Morley, Jr. said in this situation...I know we are just a little different on it. He said in this situation the County doesn't want to purchase 20 acres for the whole purpose of putting a sports facility here and then the special use not be granted.

Chairman Dayvolt stated I don't think you would have any problems with that.

Mike Moesner said I don't think so either. He said I think if everything meets the requirements we would approve it.

Attorney Doll said yeah but in case it is not granted.

Chairman Dayvolt stated we are just sitting here...

Attorney Doll stated we are having to guess about some things.

Chairman Dayvolt replied yeah.

Attorney Doll asked what kept you from giving the full details of the property.

Jim Morley, Jr. stated I don't know all of the details at this time because the developer has not finished their side of it.

Attorney Doll asked the County.

Jim Morley, Jr. replied no, the sports complex developer.

Chairman Dayvolt asked okay, is this the County's or is this some...

Attorney Doll said some private corporation.

Chairman Dayvolt continued private corporation.

Attorney Doll continued private for profit.

Jim Morley, Jr. stated the sports facility will be developed by a private company. He said the County is purchasing the property and putting infrastructure on the property.

Attorney Doll said sewers and streets.



Jim Morley, Jr. replied yes.

Chairman Dayvolt said okay, let me get that straight. He asked the County is purchasing the property and they are going to hand it over to this developer or is the County getting reimbursed...

Attorney Doll asked is it being leased.

Chairman Dayvolt continued for the purchase of the property.

Attorney Doll continued to the developer.

Jim Morley, Jr. stated I believe the...I would have to ask Steve that question. He said I don't know the findings between the developer and the County.

Steve Roelle stated so one I will give a little bit of clarity to what Jim might be going through. He said what he is saying is correct the developer certainly wants to know that it checks this box as a special use before finalizing and spending the dollars on all of his plans, the facility, the box, pre-manufactured steel building that has a façade on the sides is all done up. He continued it is turf and courts. He stated the County has been working on this project as an attraction development quality of place project for a work force and County growth and development for a while. He said it has moved from a couple of different parcels and it is at the point that is ready to go but the developer doesn't want to get across the finish line until they know it is going to be approved or if they have to start working on a different lot in a different location. He stated so that is maybe the hurdle that Jim is working with. He said this is going through the Redevelopment Commission and there is a County incentive as part of this project to land something like this in our community to put heads in beds for a destination as a...I know as a parent to go into another community at basketball tournaments or volleyball tournament or anything else that they can host in there. He said I have certainly walked through that with both of my kids. He said this is a project that the community, the region has put on its radar that it will be a benefit for us so to answer your question that I came up here for. He said there is going to be a private company developing it for an Economic Development agreement with the Redevelopment Commission. He continued it is being used as an incentive the same way the incentives for manufacturing or housing or something else takes place.

Chairman Dayvolt asked so you already have a signed commitment from this developer.

Steve Roelle replied we are working yes, with a company called Edge Sports Global...

Chairman Dayvolt asked do you have a signed commitment.

Steve Roelle continued out of the east. He said we are waiting on a secondary piece we do from an incentive stand point but until the final square footage and all of that gets penciled into it, so yes, but we haven't put the final numbers into it because of the same battle that Jim is fighting here tonight about getting exact until we have those and Economic Development agreement says you are going to do A or else B. He stated A is filling in the last 10 yards of the details and

putting the timing in, the start date in, and all of those things and so it is ready to go it has been through legal and all of those things but I do not have it here today to provide for you until it is signed.

Chairman Dayvolt asked so you are asking us to do something that you do not have details on yet, no signed contract on yet, and we have no details.

Steve Roelle stated we have a ton of the details of what this facility would be; an indoor gymnasium with concessions, some food and beverages, locker rooms, bathrooms, and it is going to be courts and turf space for basketball, volleyball, and indoor turf during the winter times. He continued things like that we have the approximate details fairly dialed in and close it is going to fit on this parcel, it is going to fit in that box, it is going to have that parking, and all of those things, so...that is 100% that is exactly where we are at.

Chairman Dayvolt asked so he knows more details than you do. He added huh, Jim.

Steve Roelle stated I think Jim has all of the details for showing you the size and all of that at 100,000 square feet. He said is it going to go up or down based on how much concession space they need or something like that...certainly.

Chairman Dayvolt said I'm...if you had all of that in front of me right now I would be happy.

Steve Roelle replied I understand.

Jim Morley, Jr. said the purpose...

Chairman Dayvolt stated no, that doesn't get it Jim. He said you are not showing me setbacks off of the property lines. He continued you are not showing me anything but the building in all. He said you are saying this 100,000 square feet well as one of the Board members said can we take ruler...that is not my job. He stated I'm not you I don't get paid for that.

Jeff Valiant asked how long would it take to put that...a more detailed plan...

Chairman Dayvolt said put something together for us.

Jeff Valiant said out of curiosity.

Jim Morley, Jr. said if you are speaking dimensions I can do that tomorrow.

Jeff Valiant said like five inches equals....you see where...I know you understand that.

Jim Morley, Jr. stated there is where my problem is...I don't know what signage to give them.

Chairman Dayvolt responded signage doesn't worry me as much as you are saying this is three lanes with a turn lane in the middle of it, this is going to be a four lane highway down through here...I don't see that do you.

Jim Morley, Jr. responded I don't but that typically wouldn't be on a site plan for a development of a parcel.

Chairman Dayvolt said well...

Jim Morley, Jr. stated actually the three lanes are on the site plan here but that road shows the lanes.

Chairman Dayvolt asked this does.

Jim Morley, Jr. replied it is on there...if I can approach.

Chairman Dayvolt responded sure.

Jim Morley, Jr. stated this shows all of the lanes, the turn lanes, the road here, this road here is 42' back of curb to back of curb, which is a three lane section, there is you can see there is a center turn lane here, one this way one that way, three this way, two that way, and a two lane roundabout.

Steve Roelle stated those details we are going over with the highway department and drainage and stuff with storm water to dial in exactly what they want.

Chairman Dayvolt stated I'm not worried about them but you don't show them there are no details, there are no details here on your yellow sheet as to where the building is.

Jim Morley, Jr. stated that is an exhibit this is the one that was submitted with the package.

Chairman Dayvolt said yeah.

Jim Morley, Jr. continued and that has it on there.

Chairman Dayvolt asked it has detail on it.

Jim Morley, Jr. replied yes.

Chairman Dayvolt asked okay, show me where it does.

Mrs. Barnhill asked is there office space in here, how much of this is stadium, is the square footage of this building broke down because that is required, it is not. She said your entrances...

Jim Morley, Jr. stated it is all...

Chairman Dayvolt said I see all of that.

Jim Morley, Jr. said here is the parking, here is...

Mrs. Barnhill asked are these approved entrances because I believe the County Engineer will have you line them up with the adjacent property.

Jim Morley, Jr. said so it's...

Chairman Dayvolt stated I see all of this Jim.

Jim Morley, Jr. replied okay, I promise I'm not trying to be...

Steve Roelle stated that roundabout is lined up with the orthopedic hospital across the street.

Jim Morley, Jr speaking in the background unintelligible.

Chairman Dayvolt stated I understand that but I have never seen anything like this come to us before from you.

Jim Morley, Jr. replied typically it is a little further into the process than this situation because of the time of the purchase of the property.

Chairman Dayvolt asked why doesn't the County go ahead and purchase the property and then come to us.

Steve Roelle stated because it is a lot of money.

Chairman Dayvolt responded well...

Attorney Doll asked the County isn't going to own it is it.

Chairman Dayvolt replied yeah, the County is purchasing the land.

Attorney Doll said wait a minute. He asked who owns the land.

Steve Roelle stated the County is purchasing it to get this worked up.

Attorney Doll said putting in the infrastructure.

Steve Roelle replied yes.

Attorney Doll asked are they then leasing it to this operating company.

Steve Roelle stated the sports facility will be getting that specific lot on that parcel but that parcel is bigger than that specific lot.

Attorney Doll asked so the sports facility will own the building...

Steve Roelle replied correct.

Attorney Doll asked the parking lot...

Steve Roelle replied yes.

Mrs. Barnhill asked what about the part in blue on the exhibit...is that part of the sports facility.

Jim Morley, Jr. replied that is the lake.

Mrs. Barnhill said green.

Jim Morley, Jr. said that will be commercial lots that the County will retain.

Mrs. Barnhill asked will they be part of this...they are included in your special use area.

Steve Roelle responded they are not going to be a sports use or something that will need a special use.

Mrs. Barnhill asked so what is going...but you are asking to zone it to...

Steve Roelle stated it is zoned...

Jim Morley, Jr. said the special use in that area doesn't preclude a restaurant or something coming there the special use lays on top of a "C-4".

Mrs. Barnhill stated a special use whatever area you have within the description of your special use tells you how it is going to be used. She continued so, no it is not multi-layer like that.

Attorney Doll asked so you are saying you don't want that to be a special use.

Jim Morley, Jr. replied no, but I have never...

Mrs. Barnhill stated it shouldn't be, which is...

Jim Morley, Jr. continued but I have never heard that interpretation before.

Attorney Doll said wait a minute you don't want it to be part of the...

Jim Morley, Jr. stated no I don't want the green area to be in the special use.

Chairman Dayvolt stated well see that is what we are voting on the...we would be voting on the whole thing.

Jim Morley, Jr. said I understand that but I have never heard the interpretation that inside a special use you could only do that one thing. He stated I was always...every interpretation that I have heard you can do...in our case is for a "C-4" zoning you can do whatever a "C-4" zoning plus that special use that was approved for that area.

Mrs. Barnhill stated and I have never seen a special use that was applied for that was actually double in size from what you really need.

Jim Morley, Jr. stated at the time we didn't know where we were...

Mrs. Barnhill said where the building was going...yeah.

Attorney Doll stated why don't you amend the application and bring a new site plan addressable...

Jim Morley, Jr. responded I can address some of it...

Attorney Doll said you don't know because you don't have any instructions.

Chairman Dayvolt said I understand that. He continued I think that would be the best course, Jim.

Attorney Doll asked you could take the three lots out can't you.

Jim Morley, Jr. asked from the...

Attorney Doll said the site plan.

Jim Morley, Jr stated well from the site plan or from the special use boundaries.

Chairman Dayvolt said from the special use boundaries and the site plan.

Attorney Doll said both.

Jim Morley, Jr. replied I can do that.

Attorney Doll stated and...setbacks we don't know the size of the building...the sports building...

Jim Morley, Jr. said it is approximately shown there.

Attorney Doll stated I understand that.

Chairman Doll said approximately.

Attorney Doll stated approximately but we don't know it.

Jim Morley, Jr. stated I know.

Chairman Dayvolt stated we are not against it, okay, we are for it. He said we understand what it is but get everything together for us.

Mike Moesner stated we don't want to set precedence here to go down the road and be facing the same thing as this that we have to deal with.

Jim Morley, Jr. said I can live with that.

Attorney Doll asked so, do you want to withdraw it to amend it.

Jim Morley, Jr. stated I was going to say can I...can we...

Attorney Doll said table it.

Jim Morley, Jr. continued table it and amend it prior to the next meeting.

Attorney Doll said if you table it aren't you tabling it as is and you would want to amend it then at the beginning of the next meeting of the BZA. He asked is that what you are saying.

Jim Morley, Jr. said whatever the proper legal course would be.

Attorney Doll stated if you withdrew it you would have to re-notice it, I think.

Jim Morley, Jr. stated and it would kick me back two months instead of one month so I am asking. He said if we tabled it and brought it back with additional information and if I misunderstood the way a special use works...

Attorney Doll asked you are going to bring it back with a new site plan and you are going to take the three lots out and you are going to have more information as possible...

Jim Morley, Jr. responded I will have as much as I can.

Attorney Doll continued for the building, the sports building.

Mike Moesner stated we are not opposed to...

Steve Roelle stated yeah, that will be on me.

Chairman Dayvolt said that's what said it all.

Jeff Willis stated we don't want to be difficult but...

Steve Roelle responded no, I get that.

Jim Morley, Jr. asked so, is it okay if I table it and bring back an amended site plan...

Attorney Doll said, well...

Jim Morley, Jr. continued and an amended legal description of the special use area.

Attorney Doll stated but there is still vague...missing information. He asked are you going to have any of the missing information.

Steve Roelle said I think what Jim is trying to say is if we have all of that information that was requested by next month what is the procedure.

Attorney Doll responded to ask to substitute a new site plan but the sooner you...

Jim Morley, Jr. said and a new legal description on it.

Attorney Doll continued the sooner Molly gets it the better because the packets need to be made and etcetera so don't wait until the last minute to bring them a new site plan.

Jim Morley, Jr. replied we will put on as much information as I have.

Chairman Dayvolt said if you just give us more than this.

Attorney Doll said sizes.

Chairman Dayvolt stated and stuff like that. He said give us something that we can visibly...

Steve Roelle asked is it at that level or is it down to like how much square footage is the office in size or like how many chairs and desks or...

Attorney Doll stated it is everything that the ordinance requires.

Steve Roelle responded okay.

Mrs. Barnhill stated part of that requirement is for parking. She asked how are we going to calculate parking, which we know what to calculate it based on what is inside the building.

Steve Roelle said or number of employees or...

Attorney Doll replied no...

Mrs. Barnhill stated square footage of like office space or...

Steve Roelle said broken down, okay.

Chairman Dayvolt stated surely they can give you a good guesstimate of what they want.

Steve Roelle responded yes, but with any big project that is not your project you don't want to...I can get a real good estimate tomorrow but I don't want it to change on you guys and move 2,000 feet or anything else.

Attorney Doll said yeah, we ...



Steve Roelle said so getting it exact for what...we will get some work on it starting tomorrow morning.

Chairman Dayvolt stated okay, I will entertain a...

Steve Roelle said so...

Chairman Dayvolt asked are we tabling it or are we...

Attorney Doll said tabling it....

Chairman Dayvolt continued withdrawing it and then come back with their...

Attorney Doll stated no, you are tabling the motion.

Chairman Dayvolt said tabling the motion.

Attorney Doll stated tabling the application until next month.

Chairman Dayvolt said okay.

Jeff Valiant said I will make that motion.

Mike Moesner responded I will second that.

Chairman Dayvolt stated we have a motion from Mr. Valiant to table and a second from Mr. Moesner all in favor.

The motion carried unanimously.

Steve Roelle said okay, thanks.

**BZA-SU-24-24**

**APPLICANT:** Oakland Holdings LLC, by Jordan Aigner, Member

**OWNER:** Margaret Schnur as Trustee of the Schnur Family Trust & Schnur Brothers Farms IV LLC, Etal., by Margaret Schnur, Trustee/Owner

**PREMISES AFFECTED:** Property located on the east side of Epworth Road approximately 0' south of the intersection formed by Epworth Rd. & Oak Grove Rd. Ohio Twp. 20-6-9. *Complete legal on file. 3100 Epworth Rd.*

**NATURE OF THE CASE:** Applicant 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 driving range within a family entertainment center. All in a "C-4" General Commercial Zoning District. *Advertised in The Standard July 11, 2024.*

Chairman Dayvolt asked are you still here.

Jim Morley, Jr. responded I am. He said you all be nicer to me this time.

Jeff Willis asked is this the other end of the same field.

Jim Morley, Jr. said other end of the same field.

Mrs. Barnhill replied yes, just north of where we just were.

Jim Morley, Jr., Project Engineer and several of the owners are present.

Jim Morley, Jr. stated the last one was right there and this one is a half mile north of there.

Chairman Dayvolt responded okay.

Jim Morley, Jr. said we are seeking a special use for a golf...driving range with family entertainment center. He continued on the back side of that plan is a site plan provided to me.

Mrs. Barnhill stated so my staff report is similar. She stated they sent out notices properly and we are missing a green card. She said it is currently a farmed field. She continued north and east are agricultural with fields, south is "C-4" field and agricultural, "M-2" is to the west and "M-1". She stated is in the floodplain area. She said they are at the intersection of Oak Grove Road and Epworth so they would have access there. She stated it is kind of the same thing except they don't even have a site plan they have a picture in this application, which is what Jim gave so that is what is in the file. She continued any approval would be conditioned upon splitting this off with a primary plat.

Jim Morley, Jr. stated so this is a similar project with a different developer. He said this developer is working with an out of town golf facility and would like to have them come to this location and it requires a special use for a golf facility on this acreage. He stated they also did not want to proceed with final plans and that types of things prior too knowing if they would be able to receive a special use and if this would be an appropriate place for this type of facility so they took a picture of another one of their facilities and placed it on the map to show what that would look like.

Jeff Valiant asked so we are in the same boat on this one.

Jim Morley, Jr. stated it is the same situation in which they are trying to figure out before they commit to putting a lot of work in. He said is this an appropriate location for in this situation a special use number 1. He continued so, they are seeking a special use with admittedly with no signs located on that, the setbacks are not dimensioned on that, but they are the exact same situation as the other one where they are trying not to invest thousands and thousands of dollars if this is the wrong place for this type of project.

Jeff Willis asked do you know if it is going to be two stories, three stories, four stories, or how tall it is going...

Jim Morley, Jr. replied that I do not know. He said I assume multi stories because a lot of those types of things are.

Jeff Valiant asked is it Top Golf or something like that.

Jim Morley, Jr. asked what was that.

Jeff Valiant said like a Top Golf or something like that I guess.

Jim Morley, Jr. replied yeah, maybe.

Jeff Valiant said okay.

Jeff Willis stated from the picture it looks like it is a multi-story fun area.

Jim Morley, Jr. responded maybe. He said I apologize if I have gone way off of the tracks here tonight.

Jeff Valiant responded you have gone rogue on us buddy.

Jim Morley, Jr. said I know I am going rogue. He said my intention was in my mind the special use was is this an appropriate location for a sports facility or was this an appropriate location for golf facility. He stated in my mind that is more about what we were doing and I apologize if I went rogue on you because I didn't mean to. He continued just in my mind the other one was a great location for a sports facility and this is a great location for a golf facility and so in my mind it made sense but the folks either don't have all of their information together yet and or don't want to spend thousands of dollars to prepare a whole site plan to bring for a special use without knowing whether or not it is an acceptable spot.

Chairman Dayvolt stated I think both of them are acceptable spots for the use that you are presenting it is just everybody wants us to give an okay on the what if. He said if this is what it is going to be or is it going to be something similar to this or, you know, I just have never had anything presented this way before.

Jim Morley, Jr. responded I apologize for going rogue. He said I honestly didn't mean any offense by it we just weren't that far along in the process.

Jeff Valiant stated I completely understand what you are doing and Mr. Roelle and everyone else. He continued I mean obviously you want to make sure you can do it before you get the plans rolling but I have been a member of this Board for quite a while I mean this is not how we operate and I know you know that. He stated I can't speak for everybody but both of these are great projects but to do our diligence we have to kind of have all of the pieces in place right. He said I feel like we are missing half of the pieces here.

Mike Moesner stated we don't want to face a lawsuit in the future because we did this and we declined somebody else.

Jeff Valiant said to somebody else.

Jim Morley, Jr. stated fair enough.

Jeff Willis asked what about the 3.4 acres Jim. He said the red hash mark...plus or minus.

Jim Morley, Jr. stated that is just kind of what is left over.

Attorney Doll said I know but what is it going to be used for. He stated it would be in the special use.

Jim Morley, Jr. stated to the best of my knowledge they are buying that entire tract and that was just left over property. He said commercial ground kind of doesn't...it kind of sells in squares if you will so to buy a piece of property on the long angle like that might...I am under the impression they are buying that entire parcel, the square parcel and that is just the ground that is left.

Attorney Doll stated that is fine but you can't tell the Board any intended purpose to be used on the 3.4 acres that there isn't any intended purpose. He asked so why is it in the special use.

Jim Morley, Jr. stated just because that layout hasn't been...

Attorney Doll said finalized.

Jim Morley, Jr. continued finalized.

Attorney Doll and multiple Board members said yeah.

Jim Morley, Jr. stated I can talk to this developer and ask...so I guess it sounds like maybe where we are going is to table this one also and to bring back an amended site plan.

Attorney Doll stated I don't think we have a site plan.

Chairman Dayvolt responded no, this is a picture.

Jeff Willis stated the last one was to scale but this one doesn't even...doesn't even have the scale off to the side of it.

Jim Morley, Jr. said on this one though Attorney Doll I would not plan on changing that...I mean I would do the whole square in the special use...I mean just because that is the piece of property that they are buying. He asked are you suggesting that it should...

Attorney Doll stated it is not up to me I just asked the question because I wanted to know if there was an intended purpose as part of the golf facility.

Jim Morley, Jr. stated as far as I know...

Attorney Doll said that three acres.

Jim Morley, Jr. continued they are mowing but it comes the purchase because they are buying a rectangle.

Chairman Dayvolt stated they may have to use it to build up to get it out of the floodplain too.

Jim Morley, Jr. responded they could be. He continued there could be a barrow pit on there.

Chairman Dayvolt said yeah.

Attorney Doll said detention facility.

Chairman Dayvolt stated that could be something...

Jim Morley, Jr. stated I can put...surely I could put a detention facility inside a special use.

Multiple Board members replied yes.

Jim Morley, Jr. said I mean...

Mrs. Barnhill asked would you want to do that on a site plan a detention facility.

Jim Morley, Jr. responded yes.

Several Board members said yes.

Mike Moesner said because it is in a floodplain.

Mrs. Barnhill stated yes, it is low for sure. She said they will have to fill.

Chairman Dayvolt stated as many years as I have been in Warrick County I have seen water go all of the way to 66 there.

Attorney Doll said I know, we all have.

Jim Morley, Jr. said I guess I would request that project...

Attorney Doll said tabled.

Jim Morley, Jr. continued be tabled for a month and an amended site plan be provided.

Chairman Dayvolt stated I don't think once you get your ducks in a row, Jim, I don't think you will have any problem. He said I don't foresee that I think the Board is with you on it but...

Jim Morley, Jr. stated and perhaps that in itself is worthy of coming here tonight to lend some assurance that it is worth these folks spending thousands of dollars to move forward.

Chairman Dayvolt responded yeah, we would...I mean we are for Warrick County.

Jim Morley, Jr. replied okay.

Chairman Dayvolt continued we have all, you know, we have lived here quite a few years and we are for seeing things grow and see things like this come in, especially for the kids or. He stated I don't know how much the golf course will be for the kids but maybe you, Jim.

Jim Morley, Jr. said I get it. He continued perhaps if tonight if nothing else it provides them some reassurance that it is worth them investing more time and money into the process.

Chairman Dayvolt said yes, yes.

Jim Morley, Jr. asked fair enough.

Mike Moesner responded yes.

Chairman Dayvolt said yes, that is a fair assumption.

Jim Morley, Jr. replied okay.

Mrs. Barnhill asked so do we want a site plan, a commercial site plan, which requires a commercial site review.

Jim Morley, Jr. replied okay.

Mrs. Barnhill stated so, then we can go over all of that the detention and stuff.

Chairman Dayvolt said we've covered us.

Attorney Doll stated and it takes a motion to table it.

Chairman Dayvolt replied I know.

Jeff Valiant stated I am getting ready to make that whenever...

Chairman Dayvolt said go ahead.

Jeff Valiant stated I make that motion that we table...

Mike Moesner stated I will second it as well.

Chairman Dayvolt stated motion from Mr. Valiant to table and a second from Mr. Moesner.

The motion carried unanimously.

Jim Morley, Jr. asked am I correct that I don't have to re-notify this counts as my re-notification correct.

Mrs. Barnhill replied correct.

Jim Morley, Jr. said I just wanted to confirm. He continued thank you all.

Jeff Valiant said thank you, Jim.

**BZA-SU-24-27**

**APPLICANT:** Elberfeld Fire Department, by Dennis Miller, Fire Chief

**OWNER:** Town of Elberfeld, by Martin Walters, Town Council President

**PREMISES AFFECTED:** Property located on the east side of Front St. approximately 0' north of the intersection formed by Front St. & Main St. Lts.8-11 in Smith's First Addition. Elberfeld Twp. *Complete legal on file. 15 N Front St.*

**NATURE OF THE CASE:** Applicant requests a Special Use, SU-8, from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an 8'x4' Electronic Message Center. All in a "C-4" General Commercial Zoning District.

*Advertised in The Standard July 11, 2024.*

Chairman Dayvolt asked staff report.

Mrs. Barnhill stated on the return receipts we have all the white pay receipts and Dennis just handed me 6 green cards so we are only missing one green card but they were mailed correctly. She stated existing use is Elberfeld Fire Department. She added surrounding zoning and land use is to the north "R-1A" One Family Dwelling being single family dwellings, east and south is "C-4" General Commercial being commercial businesses, west is "M-2" General Industrial being railroad. She stated there is no floodplain and they have an existing access onto Front Street.

Chairman Dayvolt asked state your names please.

Martin Walters, Elberfeld Town Council President and Dennis Miller, Elberfeld Fire Chief were present.

Chairman Dayvolt asked do you have anything to add to the staff report.

Dennis Miller said no, I was a little gun shy at first here but...

Board Members laughed.

Dennis Miller said after the first two rounds here...laughing

Jeff Willis said but was there a picture of the sign there...laughing

Mike Moesner said we don't bite.

Mrs. Barnhill stated they have a site plan...

Jeff Willis said well that makes it easy...laughing

Mrs. Barnhill continued and it is in your packets for your review...and they have a picture of what the sign is going to look like. She added he even took a picture of the yard where their sign will be once it's in there so you can see in the grass where it's going.

Chairman Dayvolt asked any questions by the Board.

Jeff Valiant asked this is going to kinda face that intersection right.

Dennis Miller said yeah.

Chairman Dayvolt asked questions by the Board...is there anybody here for or against this sign...laughing...now's the time to speak up...questions.

Jeff Willis asked ready for a motion or...

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

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

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

- a) Subject to an Improvement Location Permit being obtained.
- b) Subject to a Building Permit being obtained.
- c) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
- d) Subject to all utility easement and facilities in place.
- e) Subject to no flashing, moving or intermittent lights except white.
- f) Subject to the plot plan on file and not to be altered or expanded.



g) Subject to no use of the words, “stop”, “danger”, “look”, or any other words which would confuse traffic.

h) Subject to no rotating or revolving beams of light.

Attorney Doll asked you’re going to give fire messages like if it’s no burn...

Dennis Miller replied it’s going to mainly fire messages...it will be used for community events too, so...

Attorney Doll asked so the word danger...fire departments use that word like umm...

Dennis Miller said yeah...elevated fire dangers...

Attorney Doll said elevated fire dangers...that’s a great example of it, so I would ask...

Jeff Willis said could we remove...

Attorney Doll continued could we strike that word from your motion.

Jeff Willis said I will do that...I will strike that word...I’ll strike danger from the motion.

Attorney Doll said okay, thank you.

Motion seconded by Mike Moesner and carried unanimously.

Dennis Miller said thank you very much.

Martin Walters said thank you.

Mrs. Barnhill said you’re welcome.

**VARIANCES:**

**BZA-V-24-22**

**APPLICANT/ OWNER:** James K. Inkenbrandt

**PREMISES AFFECTED:** Property located on the north side of Jockey Rd. approximately 1380’ west of the intersection formed by Jockey Rd. & Coles Creek Rd. Lane Twp. 11-4-7. *Complete legal on file. 4622 Jockey Rd.*

**NATURE OF THE CASE:** Applicant 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: An unattached accessory on property with existing unattached accessory. All in an “A” Agricultural Zoning District. *Advertised in The Standard July 11, 2024.*

James Inkenbrandt came to the podium.

Chairman Dayvolt said Mr. Inkenbrandt.

James Inkenbrandt yeah uh...the property is umm...what used to...

Chairman Dayvolt said just a moment sign your name in please.

James Inkenbrandt said oh, I'm sorry.

Chairman Dayvolt asked staff report.

Mrs. Barnhill stated we have all the white pay receipts showing that they were mailed correctly. She added Mr. Inkenbrandt just handed me 4 of the green cards back, umm so we are still missing...I don't remember...

James Inkenbrandt said two of them.

Mrs. Barnhill said two.

James Inkenbrandt said yes.

Mrs. Barnhill stated existing land use is an unattached accessory. She added to the north, east, south, and west is all "A" Agricultural being vacant or single family dwellings...some fields out there. She stated the flood zone is there's some A flood zone, but where the unattached accessory is being proposed there is no floodplain. She added they have an existing access onto Jockey Rd. and they are proposing an unattached accessory at 52x40 feet. She added they have an existing 40x40 foot unattached accessory as well...so their application is in order.

Chairman Dayvolt asked now do you have anything to add to her staff report.

James Inkenbrandt said I'm selling this property. He added it used to be my mom's property...and then I'm going to disburse it. He added but the guy buying it, he's got a contract with me to buy it and he's the one wanting me to come down here and do all of this so...laughing. He added umm...he's want...I got a, he's got a bunch of umm equipment, yeah know tractors and stuff he wants to put in this other building. He added right now the one building he's drying wood in there. He said I got small saw mill and he is taking that over too so right now we've got wood in there and he needs a place to put his equipment...two tractors and implements.

Jeff Valiant asked and you can't add to the existing building.

James Inkenbrandt replied no, it goes downhill quite a bit on the other side...ya know if I would have known that ahead of time I would have put it somewhere else...laughing.

Mike Moesner asked you don't live on this property then.

James Inkenbrandt said no, I don't, I live close to it but not you know there's another property between me and that property.

Chairman Dayvolt asked well...do we have a plan of where this new building is going to be.

Mrs. Barnhill said yeah, it's in your packet.

Chairman Dayvolt said I didn't see it.

Mrs. Barnhill said it's there. She added we put an aerial with the floodplain so you could see where that is and then...

Mike Moesner said it's a fold out page here.

Mrs. Barnhill continued it is folded in the back. She added it is about 510 feet off the road.

James Inkenbrandt added he wants to build a duplicate building just north of it ya know.

Mrs. Barnhill stated its 15 feet north of the existing structure.

Mike Moesner asked same width just a little longer.

Mrs. Barnhill replied uh huh.

Jeff Valiant asked so the 40x40 is currently there.

James Inkenbrandt said uh huh.

Jeff Valiant said okay.

Mike Moesner said oh okay.

Mrs. Barnhill stated and it is a large tract of ground.

Jeff Valiant asked how much ground is it.

Mrs. Barnhill asked how much is that.

James Inkenbrandt said 40 acres I think, its 40 acres.

Mrs. Barnhill said I have the deed.

Mike Moesner asked this white, is that like the road leading into it, this white area here.

Attorney Doll said that's whiteout tape.

Mike Moesner said so this looks like a road, I mean like a road coming...driveway...

Attorney Doll said the road's down there.

Mike Moesner said oh down here...okay there I see it, okay.

James Inkenbrandt said yeah the driveway is here.

Jeff Valiant said watch your step going back.

Chairman Dayvolt said yeah watch your step going back there.

James Inkenbrandt said yeah.

Chairman Dayvolt asked anymore questions by the Board...seeing none I'll entertain a motion.

Jeff Valiant asked did you ask for any remonstrators.

Chairman Dayvolt said oh yeah, any remonstrators...well they all left...

Board Members laughed.

Chairman Dayvolt asked any remonstrators or people for this project that would like to come forward...seeing none I'll entertain a motion.

I, Mike Moesner, make a motion 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, 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...a necessity for additional...

Attorney Doll said I think it is topography...there's the land falls off...

James Inkenbrandt said yeah.

Attorney Doll continued around the existing building so you can't expand the existing building.

James Inkenbrandt said on the back side it goes downhill quite a bit ya know.

Mike Moesner said okay.

Attorney Doll said so its topography.

Mike Moesner said topography, okay. He continues such condition is the topography of the land.

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 are 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:
  - a. Subject to an Improvement Location Permit being obtained.
  - b. Subject to a Building Permit being obtained.
  - c. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
  - d. Subject to all utility easement and facilities in place.

Motion seconded by Jeff Valiant and carried unanimously.

Mrs. Barnhill stated you have six months to come in and get your permit for the barn.

James Inkenbrandt said alrighty, thank you.

Mrs. Barnhill said okay, you're welcome.

Chairman Dayvolt said you're welcome.

**BZA-V-24-25**

**APPLICANT:** Gary Nook

**OWNER:** Gary & Brenda Nook

**PREMISES AFFECTED:** Property located on the north side of Gough Ave. approximately 260' west of the intersection formed by Gough Ave. & Flint St. Boon Twp. 25-5-8. *Complete legal on file. 500 E Gough Ave.*

**NATURE OF THE CASE:** Applicant 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: An unattached accessory with access by alley only. All in an "R-1A" One Family Dwelling Zoning District. *Advertised in The Standard July 11, 2024.*

Chairman Dayvolt asked state your names please.

Gary Nook & Brenda Nook were present.

Chairman Dayvolt asked staff report please.

Mrs. Barnhill stated so they have two variances that they had to file on one piece of property. She asked do we want to try to do them at the same time.

Attorney Doll said we ought to take the testimony together.

Mrs. Barnhill asked testimony together...so should we read the next one as well.

Chairman Dayvolt said okay.

**BZA-V-24-26**

**APPLICANT:** Gary Nook

**OWNER:** Gary & Brenda Nook

**PREMISES AFFECTED:** Property located on the north side of Gough Ave. approximately 260' west of the intersection formed by Gough Ave. & Flint St. Boon Twp. 25-5-8. *Complete legal on file. 500 E Gough Ave.*

**NATURE OF THE CASE:** Applicant 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: An unattached accessory on property with existing unattached accessory, and prior to SFD. All in an "R-1A" One Family Dwelling Zoning District. *Advertised in The Standard July 11, 2024.*

Mrs. Barnhill stated so the notices were mailed together and we are missing one green card but we have all the white pay receipts. She said they were mailed correctly and we did have one returned letter. She stated the existing use on this parcel is an unattached accessory. She stated the surrounding zoning and land use to the north and west "R-1A" One Family Dwelling, east is "R-2B" Apartment District all being vacant and single family dwellings and then to the south is their single family dwelling being inside Boonville City Limits. She stated so the way this

property sits they have one lot off Gough Avenue, and then they have another lot directly north of this one across the alley that is access by the alley and it's zoned "R-1A". She added so they had to file the variance for the access by alley only because it is its own stand alone parcel in the county and the other one is in the city so that makes it a little more complicated. She added and then the other variance because of the zoning didn't allow multiple accessories.

Mike Moesner asked you currently own all three parcels is that correct.

Gary Nook replied yes.

Mike Moesner stated and the first one is outside the city limits and the other...

Attorney Doll said inside the city...first one is inside the city limits...

Mike Moesner continued okay, alright.

Attorney Doll said it touches Gough Avenue.

Mike Moesner said okay.

Attorney Doll asked and that's your driveway off Gough into your house, right...then there is an alley which Boonville does not claim and doesn't maintain...

Board Members laughing.

Brenda Nook said yeah, why is that...just wondering.

Attorney Doll asked and then there are two parcels behind that and that's the one you want to build this unattached accessory building that is 45x30.

Gary Nook replied yes.

Attorney Doll asked can I ask a legal...have you tried to vacate the alley...nobody uses this alley.

Brenda Nook replied yes they do.

Gary Nook said yeah, there is actually...the alley is actually being used by all the neighbors...

Brenda Nook said I'd like to be able to do that but the mail truck goes down it.

Gary Nook continued the garbage truck goes down it.

Brenda Nook said yeah.

Gary Nook said there is actually a residence adjacent to this property that that's their...there's a residence there on that alley also.

Mike Moesner asked so who maintains it then, anybody.

Brenda Nook replied no, not really.

Gary Nook replied what I know is the neighbor adjacent to this he told me like once a year he'll have somebody spread rock on it.

Attorney Doll asked but you know that the town of Boonville is not maintaining it.

Gary Nook replied exactly, yes.

Attorney Doll asked you've talked to the town of Boonville.

Gary Nook replied I have not talked to the town of Boonville, no.

Mrs. Barnhill stated well technically it's in county, the alley is.

Gary Nook said yeah, I think it's the property line.

Attorney Doll said it's beyond the property limit of the annexation or the boundary lines of the city limits.

Mrs. Barnhill said it sits right on it.

Attorney Doll said so the alley is in the county.

Mike Moesner asked so how far does the alley go, I mean...

Gary Nook replied it goes all the way from Flint, all the way over to umm...

Brenda Nook said Ninth or is it Eighth...

Gary Nook said well I think its Eighth Street I believe.

Mrs. Barnhill said yeah, I've got an aerial but...

Attorney Doll said the aerial photo shows it.

Mrs. Barnhill said it's not super zoomed out to see where it ends.

Attorney Doll asked do you have a structure on one of these back lots.



Gary Nook replied yeah, there is a little storage building there you can see on the drawing it says ex on it.

Attorney Doll said yeah. He asked what's it used for.

Gary Nook replied it's just like a storage barn, just to store like my lawn mower and my tiller and...

Chairman Dayvolt said just your yard equipment.

Attorney Doll said well the problem is it doesn't touch a public right of way and in our ordinance we used to allow in Warrick County improvements on lots that touched a public right of way by easement...okay, but since 2005 I think...that by easement was done away with and so as you remember we say you've got to touch a public right of way with a lot. He continued and that's primarily for fire and safety and access to the premises...umm this doesn't touch a public right of way.

Brenda Nook asked what would be a public right of way...

Attorney Doll said street.

Brenda Nook continued well they call it Flint Street.

Attorney Doll asked they call the alley Flint Street.

Gary Nook replied yeah, the address to...

Brenda Nook replied yes.

Gary Nook continued to this person that lives on the west side of that parcel has a Flint Street address.

Brenda Nook said so Flint Street dead ends into this alley that turns like that and goes behind our house...and it's called Flint Street.

Attorney Doll asked but it's not in the City of Boonville.

Gary Nook replied yeah, as I would understand the city limits...I don't know...

Attorney Doll said to the rear of your property.

Gary Nook continued yeah, to the rear of the property I think it's true.

Attorney Doll said well you don't have the ability to declare it a public street I mean it's outside the scope of your authority to declare it a public street. He asked and it's unapproved it's gravel or...

Gary Nook replied it's a gravel road.

Attorney Doll asked but it's used by the mail...

Gary Nook replied the mailman...

Attorney Doll continued the postal service.

Gary Nook continued the garbage man...the truck goes down that same road.

Attorney Doll asked and people have mailboxes back there.

Brenda Nook replied yes.

Gary Nook replied yes, there is a mailbox on that road.

Attorney Doll asked you don't.

Brenda Nook said no.

Gary Nook replied two of the...the apartment building has a mailbox on that road and then the resident to the west of this has a mailbox on that road.

Mike Moesner asked we're talking east and west of you and then there are mailbox.

Gary Nook replied yes.

Mike Moesner said that looks like a road to me.

Attorney Doll said boy it sure sounds like a public right of way.

Board Members laughing.

Brenda Nook said it sounds like a road.

Attorney Doll said walks like a duck.

Jeff Valiant said that's what I was going to say...laughing.

Jeff Willis said walks like a duck.

Mrs. Barnhill said maintained by the neighbor.

Chairman Dayvolt said must be a duck then.

Attorney Doll said I know, I know, it's not perfect...public roads are maintained by a political authority by a county or...

Mrs. Barnhill stated it's a platted alley way, that's how it was platted a bajillion years ago when they did this. She continued this took a lot of time to find the right stuff to come up with this plot plan...it took some research...and it's definitely a 10 foot alley on the plat.

Attorney Doll said 10 foot.

Mrs. Barnhill said yep.

Attorney Doll said which is there or the public driveway.

Mrs. Barnhill said Flint Street runs...this runs into Flint Street...I was just looking...our aerial just cuts that off. She added Flint Street is a north/south road and this east/west alley runs into it so that's probably where they got a Flint Street address but we don't address that in city limits so I couldn't confirm that.

Chairman Dayvolt asked there are already structures back there correct...on the alley way.

Brenda Nook replied oh yeah, on the alley.

Attorney Doll said others, other peoples.

Gary Nook replied yeah.

Attorney Doll said yeah it's a house...an apartment building...I understand.

Chairman Dayvolt asked how did they get that.

Attorney Doll replied I don't know.

Board Members laughing.

Attorney Doll said been there for a while I guess.

Gary Nook said yeah, I think there may have been another house because between this property and the residence to the west it looks like there's been a house torn down there because there is a gas meter still left there on the roadway or whatever it's called.

Mrs. Barnhill said well the apartment has Flint Street frontage because Flint Street goes up to it.

Chairman Dayvolt said but that still doesn't...

Mrs. Barnhill said that house, I don't know how that house got there on the other side of them just west...

Chairman Dayvolt said yeah.

Mrs. Barnhill continued I don't know. She continued I don't know what year it was built that could probably clue us in.

Attorney Doll asked been there a while...the house.

Gary Nook replied yeah...

Brenda Nook replied I assume so.

Gary Nook continued I'm pretty certain it's been there a while.

Attorney Doll said well you have to have a finding of fact that that is a public right of way.

Chairman Dayvolt said or a hold harmless agreement.

Attorney Doll said and a hold harmless agreement with Warrick County. He added it's great that it's not going to be residential, you're not going to use these...its storage buildings.

Gary Nook said correct.

Attorney Doll said we get really concerned with ambulances and things like that...police and fire having access to properties umm...and the ordinance specifically says it's got to front on at least, what, 50 feet.

Mrs. Barnhill replied yeah, yes.

Attorney Doll asked on a public right of way.

Mrs. Barnhill replied yes.

Jeff Willis asked is that to build on it or is that to make it a plot...make it a lot.

Mrs. Barnhill said to get any sort of permit from our office it has to have frontage.

Attorney Doll asked how wide is this piece of property, Molly.

Mrs. Barnhill replied the total width...

Gary Nook said 75 feet.

Attorney Doll said not the depth but the width.

Mrs. Barnhill stated 76 feet wide.

Attorney Doll replied good.

Mrs. Barnhill said and that house back there, with access by alley, was built in 1953. She added so that was before planning and zoning came.

Attorney Doll said yeah it was.

Mrs. Barnhill said a lot of that area that's how it came to be.

Attorney Doll said really.

Mrs. Barnhill said yep, yeah that's an old...

Attorney Doll asked so if you, if you, approve the variance you've got to make a specific finding that that alley way is a public right of way. He added and it fronts obviously by more than 50 feet on a public alley...public right of way.

Chairman Dayvolt asked how far is it from the...from Flint.

Attorney Doll said its used by the post office...

Chairman Dayvolt said then it has to be.

Mrs. Barnhill said Flint comes up here so it's 222 feet.

Jeff Willis said if it's used by the post office then they got restrictions on alleys all the time.

Chairman Dayvolt said okay.

Jeff Willis said but the post office...

Chairman Dayvolt said the post office you...

Attorney Doll said the post office usually doesn't.

Jeff Willis said right.

Attorney Doll asked school buses...are kids in that house.

Gary Nook replied we haven't seen a school bus.

Brenda Nook said we don't have any school buses that go by...

Jeff Willis said Boonville probably doesn't have school buses.

Brenda Nook continued because we are, ya know, in town we're not actually we're not that far from Loge...

Mrs. Barnhill said yep.

Brenda Nook continued or Oakdale.

Jeff Valiant asked you said there are mailboxes on that street though right.

Gary Nook said yes.

Brenda Nook said yes.

Jeff Valiant said okay.

Mike Moesner said it shows that the mail goes on it.

Attorney Doll said so I think you got to have a finding that that's a public right of way and then you need to decide if you're going to grant a variance or not...and it's two variances.

Chairman Dayvolt asked how do we define that.

Mike Moesner replied I would say first of all you would say that it's used by the U.S. Postal Service. He added and there is an address mailbox on either side of their property.

Jeff Valiant said it's a maintained road way...I mean we don't know by who.

Mike Moesner said we don't say who...but it's maintained.

Jeff Valiant said but it's a maintained thoroughfare.

Jeff Willis asked it was a plotted alley though right.

Mrs. Barnhill replied yes.

Jeff Valiant replied it was originally plotted.

Mrs. Barnhill said yes.

Jeff Willis said so that's not a...

Attorney Doll said I don't know where it was plotted...It's not in the City of Boonville so...

Mike Moesner said it's probably if the house was built what 53 that's probably when all that stuff went down.

Jeff Willis asked if it was an alley then it's public access right...It's not like private to just those people.

Attorney Doll replied no, you would have to vacate it to make it private property...yes.

Mrs. Barnhill said right.

Jeff Willis said so it's public access.

Attorney Doll said it's public...It's a public piece.

Jeff Willis said right.

Attorney Doll said but the question of it is...are you going to recognize it now as a public right of way. He continued one that's used by the United States Postal Service for mail delivery.

Jeff Valiant asked do you need that determination first.

Attorney Doll replied I think it needs to be part of the motion

Jeff Valiant said okay.

Chairman Dayvolt said and a hold harmless agreement as well.

Attorney Doll said and a hold harmless agreement.

Mrs. Barnhill said okay.

Attorney Doll said this is a unique animal...

Jeff Valiant said very...

Attorney Doll continued it straddles the property lines between the City of Boonville and Warrick County and it's on a plotted alley that's used like a road but it's not in the City of Boonville. He continued there's a residence on it and it's used by the United States Postal Service for route delivery...I don't know if you'll ever see this again.

Board Member laughed.

Brenda Nook said yeah we are pretty disturbed about the whole idea too. She added we had to get two variances before we could even start with permits.

Mrs. Barnhill said yeah.

Mike Moesner asked can we combine these two or do we need to make a special motion on each one.

Attorney Doll said I think you make one motion on each one.

Jeff Valiant asked even though they are identical.

Attorney Doll replied well one of them deals with zoning doesn't it, Molly.

Mrs. Barnhill said yeah, only one's for the access by alley which is where your hold harmless would come into play.

Jeff Valiant said right.

Mrs. Barnhill said and the other one is to have a second unattached accessory without a house being on that parcel.

Jeff Willis asked but is the wording the same on the motions or are they different wordings.

Jeff Valiant said everything is the same.

Attorney Doll asked you guys are not going to build a house on this alley.

Brenda Nook replied no.

Gary Nook replied no.

Attorney Doll said thank you.

Mrs. Barnhill said so number 3 you have to describe the condition so I do think that would be different on each one.

Jeff Valiant said okay.

Attorney Doll said I do too.

Jeff Valiant said we will do them twice.

I, Jeff Valiant, make a motion to approve the Variance BZA-V-24-25 based upon and including the following findings of fact:

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 alley being right of way...

Attorney Doll said public right of way obviously was used...

Jeff Valiant said and used by the postal service...

Attorney Doll continued by the 1950...

Jeff Valiant said alley being used as a public right of way...does that work.

Attorney Doll said and recognized by the United States Postal Service for the public right of way for delivery of mail.

Jeff Valiant said I agree with that.

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 are 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:

- a) Subject to an Improvement Location Permit being obtained.
- b) Subject to a Building Permit being obtained.
- c) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
- d) Subject to all utility easement and facilities in place.
- e) Subject to hold harmless agreement.

Attorney Doll said before it is seconded, a question, you bought this property in 2023.

Brenda Nook replied yes.

Attorney Doll asked all three pieces.

Gary Nook replied all three pieces, yes.

Brenda Nook replied yes.

Attorney Doll asked do you know how long it had been in Mr. Gerard's.

Brenda Nook replied yes, Lorie and I guess I think his name is John Gerard, they owned it apparently for 10 years. She added it had been vacant for a year before we purchased it.

Attorney Doll asked the house had been vacant.

Brenda Nook replied the house had been vacant.

Attorney Doll asked but they owned all three lots.

Brenda Nook said they owned all three lots.

Attorney Doll said okay, thank you...I just wanted to make sure you weren't reaching out and combining pieces in the neighborhood.

Brenda Nook said no, we bought all three together.

Attorney Doll said okay.

Motion seconded by Mike Moesner and carried unanimously.

Attorney Doll said one motion now...then you got to do the rezone...a variance from the rezoning.

Mrs. Barnhill said yes.

Attorney Doll said so this takes another motion and it would be a variance from the zoning so that you can have more than one unattached accessory building on the lot.

Mrs. Barnhill added prior to the single family in the “R-1A” zoning.

Attorney Doll said the other option would be to rezone it.

Mrs. Barnhill said we could but they still have one accessory there already.

Attorney Doll said yeah.

Jeff Valiant asked what would the condition for number 3 be...this isn't the same condition.

Attorney Doll replied well it umm...

Jeff Willis asked so you're not going to build a house on this.

Attorney Doll said nobody is going to build a house on this...I mean what's it like, is it wooded, is it hilly, is it...

Gary Nook said well the property is fairly level on the alley side...it has a pretty step bank. He said then the very back of the property is another alley that comes off Eighth Street that ends right at...comes across the back of that same property with a strip cut on the back side of that which is on Eighth Street is where they're just done building the senior citizen...I guess elderly housing complex...two story complex. He added so it's at the very back of the second lot there's a, I guess a berm you would call it from the strip cut...it must be like 40 feet high it's just a big pile of olive trees it's pretty wooded in the very back part.

Attorney Doll asked is that where you're going to build the...

Gary Nook replied no, on the very front part. He added we've cleaned up the brush and stuff and it's pretty unkept for a while so...

Attorney Doll said so you're saying this lot is not suitable for a home to be built on it...is that what you're saying.

Brenda Nook said well a person could...

Gary Nook said well you could, you could put a home but I wouldn't. He added I don't think we want to as opposed to variance one.

Attorney Doll said no, I understand you don't want to but we are trying to figure out the justification...

Brenda Nook said well...

Attorney Doll continued for this permission to build more than one unattached accessory building in a residential zoning.

Chairman Dayvolt asked how big is the other building on the lot.

Gary Nook replied the building would be 30x45...

Brenda Nook said no, no, no hunny...the little shed

Chairman Dayvolt said no...

Gary Nook said oh I'm sorry.

Attorney Doll said the one, the one you're...

Gary Nook said oh the little shed...it is like 15x12.

Brenda Nook said it's a yard shed.

Gary Nook added it looks like a yard barn only it's got a concrete floor in it...but it was there, it was existing when we purchased the property it was already there.

Attorney Doll asked how old is it.

Gary Nook replied that building is probably...

Brenda Nook said 20 years maybe.

Gary Nook continued my guess is maybe 20 years old.

Attorney Doll asked are you sure you don't want just one accessory building.

Brenda Nook asked you mean you want us to tear the lot down...or the barn down.

Attorney Doll replied I'm just asking.

Brenda Nook said because it would be easier...laughing.

Attorney Doll said yeah.

Mrs. Barnhill said they would still have to get a variance.

Attorney Doll said yeah but it would be a lot easier if you have a variance for just one building. He added I mean it commonsensically it would be easier to get a variance for them legally. He said a variance is a variance.

Jeff Valiant said yeah.

Attorney Doll said I'm just, I don't know what, I don't know what the justification is. He said I don't know what the peculiar condition is.

Jeff Valiant said so...we couldn't go with...

Jeff Willis said because even the public access wouldn't be big enough to build a residence on that lot right.

Attorney Doll said there is one there.

Mike Moesner asked if that yard barn could be moved onto the other property would that make a difference.

Attorney Doll replied no, because it's got a concrete floor so it really can't be moved.

Mrs. Barnhill said so what's peculiar in my mind, is this is their backyard and it's cut off by that 10 foot alley. She added so if they didn't have that alley cutting off their backyard from where their house sits it would be one lot and they wouldn't need anything.

Attorney Doll said I understand that.

Jeff Willis said and they wouldn't...there is no street on the other side of it to say it's...

Mrs. Barnhill asked but wouldn't that be their...their peculiarness.

Attorney Doll said the only way you can get rid of that lot...that alley is a petition to vacate.

Jeff Valiant asked could your condition be the fact that it was a preexisting structure that is not big enough to meet their needs.

Chairman Dayvolt said that's what I think.

Attorney Doll said boy that fits everything now don't it Terry.

Chairman Dayvolt said well it fits this one.

Brenda Nook said it's true...

Board Members laughing.

Brenda Nook continued I want his woodworking equipment out of my basement. She said our house is only 1000 square foot...with a basement. She added we downsized considerably that's why we really need a basement...or pole barn,

Attorney Doll said you can make the motion.

Jeff Valiant said I'm waiting for Brenda...Mrs. Nook to finish talking.

Brenda Nook said thank you.

Jeff Valiant said you're welcome.

I, Jeff Valiant, make a motion to approve the Variance BZA-V-24-26 based upon and including the following findings of fact:

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 previously built structure is not large enough to suit their storage needs.
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 are 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:

- a) Subject to an Improvement Location Permit being obtained.
- b) Subject to a Building Permit being obtained.
- c) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
- d) Subject to all utility easement and facilities in place.

Jeff Willis asked did we ask for remonstrators on this one...not that I see anyone that is going to remonstrate.

Chairman Dayvolt said we've got two upfront.

Board Members laughing.

Chairman Dayvolt said and there is one in the back.

Jeff Willis said but I didn't know if we needed to ask for the records.

Motion seconded by Mike Moesner and carried unanimously.

Attorney Doll asked but are there any remonstrators.

Chairman Dayvolt asked are there any remonstrators...people against it. He said seeing none, motion carried unanimously.

Mrs. Barnhill said so we are going to need some time to type up these minutes and...

Board Members laughing.

Mrs. Barnhill continues we will have them up and ready after we get that done so...

Chairman Dayvolt asked what about the hold harmless.

Mrs. Barnhill said we'll get you a copy...I'm glad you said that...a copy of the hold harmless that needs to be executed and recorded and then we will want a copy of that when we do the permit for the structure. She added and then if you'll...

Attorney Doll said it says you're not going to sue Warrick County in some violation in the future of your rights because they can't get a fire truck back there or they can't get an ambulance back there or something to that sort.

Mrs. Barnhill said so we can email you that because we will have to go back and prepare it specific to you. She added or we can have a copy for you to pick up.

Gary Nook said just email them that will be fine.

Mrs. Barnhill said email it...so we will email that when that's ready and then if you could give us till the 31<sup>st</sup> to get the approvals ready and we can proceed with the permits.

Gary Nook said okay.

Mrs. Barnhill said okay.

Brenda Nook said thank you so much.

Gary Nook said thank you.

**ATTORNEY BUSINESS:**

Chairman Dayvolt asked Attorney Business.

Attorney Doll replied nothing.

**EXECUTIVE DIRECTOR BUSINESS:**

Chairman Dayvolt asked Executive Director Business.

Mrs. Barnhill said I just have a question about an application that came in and I'm not sure where to put it.

Jeff Valiant asked does it have a site plan...laughing.

Mrs. Barnhill said they will and it's a really cute idea. She said it's a tree farm and it's Ag. Zoning but she also wants to make popcorn balls to sell at her tree farm and maybe grow blueberries...so like a you pick thing and then maybe some flowers. She said so it's all Ag. uses but I wasn't sure...because the popcorn balls does she need a special use for that.

Attorney Doll asked so she's going to have a kitchen there that she makes the popcorn balls.

Mrs. Barnhill replied yes, she'll have to have a little kitchen.

Mike Moesner asked is she living on the property then.

Mrs. Barnhill replied she lives on the property and then she's building...she wants to...hopefully this grows and then build another structure maybe.

Mike Moesner said so at this point it would be like a home occupation then.

Chairman Dayvolt said that's what it sounds like to me.

Mrs. Barnhill asked what about if she does like the berries and flowers and stuff.

Attorney Doll said I think the trees, the berries, and the flowers are all agricultural endeavors.



Mrs. Barnhill asked even if people are coming out to the property.

Attorney Doll replied I don't think that is a limitation.

Mrs. Barnhill said okay.

Chairman Dayvolt asked what about the berry farm over on Anderson Road.

Mrs. Barnhill replied we've done a similar one, it was a wild flower you pick farm...

Chairman Dayvolt asked was that the corner of...

Mrs. Barnhill said out north of Tennyson.

Chairman Dayvolt said okay.

Mrs. Barnhill said on Lincoln Trail.

Chairman Dayvolt said there's one down on Oak Grove.

Mrs. Barnhill said and they got...they did a roadside stand. She said they did come in and get a special use because they wanted to look at a commercial type entrance for people coming...roadside stand it says temporary location for sell of agricultural products.

Attorney Doll asked is the popcorn ball an agricultural product.

Mrs. Barnhill replied no, but when you're out there picking out a tree you can buy popcorn balls that she makes on the property. She added she did say some people will come to her property to buy the popcorn balls.

Attorney Doll said she hopes.

Mrs. Barnhill said she is doing those now but she said even that is seasonal...everything she does is seasonal. She added that is more of a fall thing it's not very profitable throughout the year.

Attorney Doll asked so she is operating some kind of a food vendor now.

Mr. Barnhill replied yeah, out of her home.

Attorney Doll asked in an agricultural zoned district.

Mrs. Barnhill replied yes.

Chairman Dayvolt asked would that be like selling...

Mrs. Barnhill said I know a lot of people are doing it but huh...

Chairman Dayvolt asked would that be like selling tomatoes...or selling corn.

Mrs. Barnhill said I don't know, she...

Attorney Doll said yeah but you are processing the corn, you're making, you're making popcorn balls.

Jeff Willis asked what if it pops in August on its own. He added just put mirrors up and it pops outside she gathers it.

Mrs. Barnhill said we definitely want to keep it in the Ag category. She added I didn't know if roadside stand was enough to encompass all of that.

Attorney Doll said I think it probably is.

Mrs. Barnhill said yeah.

Attorney Doll said it's not perfect but it's probably as close as you're going to get.

Mrs. Barnhill said okay. She said she wants to follow the rules...

Attorney Doll said good.

Mrs. Barnhill continued so I figured I would find out.

Jeff Valiant said that's good.

Chairman Dayvolt said we appreciate that.

Mrs. Barnhill said okay that's all I had. She said thank you I will let her know.

Chairman Dayvolt said I entertain a motion to adjourn.

Mike Moesner made a motion to adjourn the meeting. Jeff Valiant seconded the motion and it carried unanimously. The meeting adjourned at 7:38 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 July 22, 2024.

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Molly Barnhill, Executive Director