

WARRICK COUNTY AREA BOARD OF ZONING APPEALS

Regular meeting to be held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana
June 24, 2024 at 6:00 P.M.

PLEDGE OF ALLEGIANCE:

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

Also present was Morrie Doll, Attorney, Molly Barnhill, Executive Director, Carlie Render & Julie Newton, staff.

MEMBERS ABSENT: Terry Dayvolt, Paul Keller, & Jeff Valiant

MINUTES: Upon a motion made by Jeff Willis and seconded by Dave Goldenberg the minutes of the last regular meeting held May 28, 2024 were approved and circulated.

Vice-Chairman Winge stated first item of business, and by the way once we call your name please come forward to the podium and sign your name at the podium. He continued you will have 20 minutes to speak and if there is any rebuttals we will keep that at 20 minutes as well.

VARIANCES:

BZA-V-24-15

APPLICANT/ OWNER: Steven & Tonya Pardue

PREMISES AFFECTED: Property located on the north side of Barren Fork Road approximately 1200' east of the intersection formed by Folsomville Road and Barren Fork Road. Owen Twp. 14-4-7. *Complete legal on file. 4244 Barren Fork Road.*

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: a single-family dwelling (SFD) to be constructed on property with an existing SFD to be removed. All in an "A" Agricultural Zoning District. *Advertised in The Standard on May 16, 2024. Continued from the May 28,2024 meeting.*

Steven & Tonya Pardue were present.

Vice-Chairman Winge asked for a staff report.

Mrs. Barnhill stated they sent notices to the adjacent properties...we are missing the green cards, but we do have the white paid receipts and they were mailed correctly. She added existing use is a Single-Family Dwelling with unattached accessory...surrounding zoning and land use to the north, east, south and west is all "A" Agricultural being vacant or having a single-family dwelling. She stated there is no floodplain and they have an existing access onto Barren Fork Road. She added this was continued from our May 28, 2024 meeting.

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

Steven Pardue answered no, sounded like everything was right.

Vice-Chairman Winge asked questions by the Board.

Attorney Doll asked I take it you don't have anywhere else to live while the construction is ongoing.

Steven Pardue answered no.

Attorney Doll asked are you building the new home yourself.

Steven Pardue replied we are going to have a contractor, Jason Howard, doing some of it and then we are going to take over from there.

Attorney Doll asked so it's partially being built by you.

Steven Pardue replied yes.

Attorney Doll said okay.

Vice-Chairman Winge asked anymore questions by the Board.

Mike Moesner asked when do you expect to have it finished then.

Steven Pardue replied right now we are still working on some finances...we're trying to get through all the red tape here and stuff like that so...we've got some finances we're going to work out and then we will have to get back with you on a date...finish date.

Jeff Willis asked how long after the first...you going to tear down the existing one when that one is done...correct.

Steven Pardue replied I'm assuming that's what you all are going to make us do...that's what I've been told so...

Attorney Doll replied yes.

Steven Pardue replied yeah.

Jeff Willis asked how long do you think that will take after it's completed.

Steven Pardue replied uh...six months or so. He continued we will get a dumpster out there and a backhoe and...do away with it.

Vice-Chairman Winge asked anymore questions by the Board...any remonstrators for or against this. He continues seeing we have none...we'll need a motion by the Board.

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 that you're living at the current location while your building.
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 existing residence being removed within 6 months from issuance of Certificate of Occupancy.

Motion seconded by Jeff Willis and carried unanimously.

Tonya Pardue said thank you.

Steven Pardue said thank you.

Mrs. Barnhill stated so you have 6 months to get your septic permit and come in and get the location permit.

Steven Pardue said okay.

Tonya Pardue said okay. She asked will you guys send us paperwork in the mail of what happened today, or do we get a copy of everything.

Mrs. Barnhill replied we will go back type minutes and prepare the approval form for you to pick up.

Tonya Pardue said okay...alright...thank you.

Steven Pardue said thanks.

Mrs. Barnhill said you're welcome.

Tonya Pardue said have a good day.

BZA-V-24-18

APPLICANT/ OWNER: Christina L. Gresham

PREMISES AFFECTED: Property located on the west side of Elm St. approximately 150' north of the intersection formed by Elm St. and 1st St. Lynnville Twp. Pt. Lt.17 Lynn's 2nd Addition to Lynnville. *Complete legal on file. 209 Elm St.*

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 addition to single-family dwelling in the 25' building setback line. All located in an "R-1A" One Family Dwelling Zoning District. *Advertised in The Standard June 13, 2024.*

Christina Gresham came to the podium.

Vice-Chairman Winge asked for a staff report.

Mrs. Barnhill stated we are missing the green cards, but we have the white paid receipts...

Christina Gresham said I have the green cards.

Mrs. Barnhill said oh, okay...could you hand those to Carlie please. She asked did all of them come back.

Christina Gresham replied yes.

Mrs. Barnhill replied thank you. She stated the existing land use is a single-family dwelling with unattached accessory. She continued surrounding zoning to the north, east, south and west is all "R-1A" Single-Family Dwelling being vacant or having single-family dwellings. She stated there is no floodplain and she has access onto Second Street. She continued they are proposing a 14'x30' addition to the home that would sit 7' into the 25' building setback line...which is the required front yard from the street. She continued they are also asking for an 8'x16' front porch addition which would sit 15' into that same building setback line.

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

Christina Gresham replied umm...I mean I don't know if it matters, but the porch that I'm adding on already has a concrete...my concrete porch. She continued so I will just be adding the porch up...so it's already existing as far as the porch, but I mean other than that...

Mike Moesner asked so the 8x16 is already existing as a concrete pad...

Christina Gresham replied yes, correct...they're just going to add...yeah more of a deck type porch.

Mike Moesner said okay.

Vice-Chairman Winge asked anymore questions by the Board...anymore questions by the Board... seeing we have none, any remonstrators for or against...we've got somebody coming.

Don Williams came to the podium.

Don Williams stated I'm a residence of Warrick County and I live across the street from Mrs. Gresham. He continued what she is doing to her house will not only increase the size of the house, it will not be detrimental in my opinion to anybody in the neighborhood...like I said I'm right across the street and if it adds value in anyway it will add value to property not be a detriment to it.

Vice-Chairman Winge asked anyone else for or against...seeing we have none we'll need a motion.

I, Mike Winge, 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...

Attorney Doll asked well umm...you've lived there for many years...

Christina Gresham replied almost 26.

Attorney Doll said okay, and umm....

Mrs. Barnhill said this house was built in the 1950's before zoning...

Christina Gresham said yeah they said it was grandfathered in, I assume or whatever.

Attorney Doll stated so Mike, it pre-dates zoning restrictions and that's the reason why it encroaches.

Mike Winge said that will be fine.

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 Dave Goldenberg and carried unanimously.

Vice-Chairman Winge said good luck.

BZA-V-24-19

APPLICANT/ OWNER: Phillip E. Arend

PREMISES AFFECTED: Property located on the north side of Jenner Rd. approximately 500' east of the intersection formed by Jenner Rd. and SR 261. Ohio Twp. 12-6-9.
Complete legal on file. 6144 Jenner 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 two existing single-family dwellings on the same parcel. All located in an "A" Agricultural Zoning District. *Advertised in The Standard June 13, 2024.*

Phillip Arend came to the podium.

Vice-Chairman Winge asked for a staff report.

Mrs. Barnhill stated we are missing 6 green cards...we do have all white pay receipts and they were mailed correctly...we received one returned letter. She stated the existing land use consists of two single-family dwellings on the property currently. She stated surrounding zoning and land use to the north, south and west is "A" Agricultural being vacant or having a single-family dwelling...to the east is "R-2" Multiple Family being single-family dwellings. She stated there is no floodplain and they have access onto Jenner Road for his home where he resides and the other home accesses the highway...261. She continued he is asking for a variance to replace an unattached accessory that was burnt in a fire...so the application would be in order.

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

Phillip Arend replied I'm just trying to replace...what I had there has a pad there and all...when I went to the Planning Commission they said I had to have all this other stuff...which what we did. He continued all I know is I'm just trying to replace what I had, ya know, I'm on 18 ½ acres and no one can even see the building it's 200 yards from anybody...others ya know...with the vegetation like it is now no one can even see it. He continued it's like at least 50 feet from my house where I live at. He said I just don't know what else to do I'm just trying to replace it.

Vice-Chairman Winge asked any questions by the Board.

Mrs. Barnhill states so he lives in the house off Jenner. She asked the house off the highway that's a rental right.

Phillip Arend asked say that again.

Mrs. Barnhill asked the house off the highway is a rental property.

Phillip Arend replied yes.

Mrs. Barnhill stated and it was its own separate parcel, but they have since been combined into one parcel ID. She continued so we now have two homes on the one parcel that's where we had to stop issuing the permit in the office and he filed the variance. She continued we asked them about undoing that combination of parcels and they would not do it in the Auditors office.

Mike Moesner said that was a question I had is why we had two residences on the same property...I understand what you're saying now that they were separate at one time...

Mrs. Barnhill replied yes.

Mike Moesner continued but they were combined...did someone buy the property then...

Mrs. Barnhill stated you have to go to the Auditors Office to request a combination of the parcels, and a lot of people like to do it so they only get one tax bill.

Mike Moesner said yeah.

Vice-Chairman Winge asked so being since they put together...it was combined...that they won't separate again...put it back.

Mrs. Barnhill stated they won't undo the combination.

Vice-Chairman Winge asked did they give a reason for that.

Mrs. Barnhill replied nope.

Board Members laughed.

Mrs. Barnhill stated they won't do it.

Phillip Arend said that's my question, why couldn't I do it, I tried to do it...

Mrs. Barnhill said we asked...that would have been the simplest...

Attorney Doll said I can't tell the Auditor what to do.

Mrs. Barnhill said yeah.

Vice-Chairman Winge asked what is our options here.

Attorney Doll replied well I mean, I think, you can either approve it or you can deny it, but if you deny it you're strictly following the rule...the rule says you can only have one residence on a particular parcel, however it seems to me...ya know this is the administrative difficulty that has arisen because you've asked them to separate them again.

Phillip Arend stated well I was going to do that, and I actually had it separated. He continued I paid a surveyor to do it...what not...

Attorney Doll said but the Auditor won't combine it...

Phillip Arend continued but then the surveyor died and they said, the office there, he didn't register it. He continued I thought when you got something surveyed it was automatically turned in, but apparently that's not the case.

Attorney Doll replied supposed to be.

Phillip Arend said but he didn't do it so there's where I'm at...and I had a place there for close to 20 years that side was there for close to 20 years with a structure on it...and there was no problems paying taxes...I mean I don't understand this, I don't try to get aggravating but at the same time it's frustrating for me...trying to replace what I done had and I can't do it.

Vice-Chairman Winge asked Morrie, because the precedence of having one before...I mean, couldn't we not allow him to go ahead and put it back.

Attorney Doll said you could...you could...in the variance...

Vice-Chairman Winge said I mean if they won't act...

Attorney Doll replied in the variance you could site the fact that at one point in time it was a separate parcel...umm he wouldn't need a variance if he was just replacing the building, right. He continued if there was just one house on this parcel...

Mrs. Barnhill replied right.

Attorney Doll continued and he was replacing a burnt building...a burnt barn...he would not need variance...

Mrs. Barnhill replied right.

Attorney Doll continued so the only reason he needs a variance is there's two houses on this one parcel...the only reason there is two houses on this one parcel is the Auditor won't let him separate it.

Vice-Chairman Winge replied well we can't remedy that.

Attorney Doll said I understand that.

Vice-Chairman Winge said okay.

Attorney Doll said I'm answering your question.

Vice-Chairman Winge asked okay, any remonstrators for or against this. He continued seeing we have none how about we make a motion...somebody make 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 there was a building there and the properties have been combined and cannot be separated.
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 Willis and carried unanimously.

Phillip Arend said thank you, I appreciate it very much.

Vice-Chairman Winge said you're welcome.

Phillip Arend said now I may start doing something...

Board Members laughed.

BZA-V-24-20

APPLICANT: Gerald Beard

OWNER: Gerald M. & Lisa M. Beard

PREMISES AFFECTED: Property located on the north side of Walden Rd. approximately 500' east of the intersection formed by Walden Rd. and Fuquay Rd. Ohio Twp. 14-6-9.

Complete legal on file. 7144 Walden 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 not meeting the 10' requirement between structures. All located in an "R-1A" One Family Dwelling Zoning District.

Gerald & Lisa Beard came to the podium.

Vice Chairman Winge asked for staff report.

Mrs. Barnhill replied on their notices to adjacent property owners we are missing three green cards, but we do have the white pay receipts showing that they were mailed correctly. She continues the existing use is a single-family dwelling with unattached accessory buildings. She stated to the north, east, south and west is zoned "R-1A" One Family Dwelling with single-family dwellings. She added there is no floodplain and they have existing access onto Walden Rd. Lastly she stated we do have a letter from the Building Department granting his variance for the 10' of separation between buildings.

Vice Chairman Winge asked any questions...do you have anything to add.

Gerald Beard responded it's just a pretty simple situation. He said we just want to tear down a building and put another up in the same place. He stated we are going to back it off the property line a little... the property line is not in code today so we will move that forward. He added and I just don't want 10' in between my buildings...I want 5' like it is now.

Vice Chairman Winge asked questions by the Board.

Mike Moesner said I noticed in the drawing here it's like the building sits a little cocked is that...

Gerald Beard replied we can't build onto it because of that.... I couldn't get into the property. He said I would cross of the 3' code on the back. He said I would not have built it that way. He added the structure we want to take down runs parallel to the property.

Lisa Beard stated it's the wooden building...it's a smaller building.

Vice Chairman Winge asked anymore questions by the Board.

Attorney Doll asked the topography of your yard is a problem too...isn't it?

Gerald Beard replied yeah...

Attorney Doll said you can't really relocate because it falls off to the lake.

Gerald Beard responded if I move the building to the other side there is a drainage problem that we just spent tons of money fixing on the other side we would destroy that. He continues and I can't move further to the west because I have a pond in the way...and it's close to the driveway the way we use the building.

Vice Chairman Winge asked anymore questions by the Board.... seeing we have no remonstrators out there we will need a motion.

I, Mike Winge, 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.... Morrie.

Attorney Doll responds well it's the situation of the improvements on the lot. He said there really isn't another place you can put it and the topography of the lot makes it difficult.... I mean you can't get 10' between the buildings.

Gerald Beard said right.

Mike Winge said that will do...

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:
 - f) Subject to Improvement Location Permit being obtained.

- g) Subject to Building Permit being obtained.
- h) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
- i) Subject to all utility easement and facilities in place.
- j) Subject to the variance from Building Commission.

Jeff Willis seconded the motion and it carried unanimously.

Gerald & Lisa Beard said thank you.

Vice Chairman asked any attorney business.

Attorney Doll said no, but there is a definition of a home occupation that is on the agenda before attorney business...but none.

OTHER BUSINESS:

Mrs. Barnhill stated under other business I have added the definition of a home occupation. She stated at our last BZA meeting, we did a variance to allow a home occupation in the accessory building, because the definition only allows for these to be ran in the home. She added several times it has happened they want their salon out in the garage and not in the house and they have their own rules and reasons for needing it to be in a separate building.

Attorney Doll stated so you have made these proposed changes to our ordinance.

Mrs. Barnhill replied yes.

Attorney Doll said and that would be the highlighted or black bold wording...

Mrs. Barnhill said I have added it to the definition, that is really the only place that it talks about it being within the dwelling to include dwelling or accessory structure located on the same parcel, and which the person in charge of conduction said activity is an occupant of such dwelling. She continues the use is incidental and secondary to the dwelling structure which occupies not over twenty-five percent of the first floor of such dwelling, or accessory structure in which it occupies. She added it does not change the character thereof and where there is no display of goods, outside storage of goods or equipment and which does not involve the sale of goods, equipment of commodity on the premises. She stated so that is what I would propose or want to get your all's thoughts.

Attorney Doll said we would publish it and have a public hearing.

Mrs. Barnhill replied yes.

Vice Chairman Winge asked would that be published before...

Attorney Doll answered yes...but she is looking for your consent to this language.

Vice Chairman Winge asked is that language that I gave you. He said it looks like it.

Attorney Doll responded I don't know Mike if it's the language you gave me or not.

Vice Chairman Winge stated I gave it to you or you...it sure looks like it.

Attorney Doll said Molly...

Jeff Willis said one question I do have about the home occupation. He said our home occupation does not allow for Avon, Herbal Life...or any of those kind of...

Attorney Doll asked why.

Jeff Willis replied because you can't sell products out of it and that's what you...

Attorney Doll said well...but Avon.

Vice Chairman Winge said well, yeah, you're going to be able to sell products from...

Jeff Willis said you would strictly have to go to somebody else's house to host a party, you could never host your own under our ordinance.

Vice Chairman Winge said Avon, they deliver their product most the time.

Jeff Willis said well somebody's home based...

Mrs. Barnhill said that's a little bit different.

Jeff Willis continues home based businesses...

Vice Chairman Winge said do what.

Mrs. Barnhill stated Avon is a little different than the applications we see.

Jeff Willis continues we should...the thing is by definition...we could never approve...

Attorney Doll said we've never had them apply.

Vice Chairman Winge said you just have to keep in mind, you're looking at little tiny products that you can carry for fifty customers probably in one box.

Attorney Doll said I'm thinking that a couple of times, we've had munitions or gun repair...

Jeff Willis said right.

Attorney Doll continues things like that that's come into apply for this home occupation. He added we had somebody one time who was shipping Amazon products back or something of that sort. He continues but we have never had anybody that wanted to set up a retail shop in the house like an Avon.

Jeff Willis said I'm not just saying retail, just under our ordinances as they exist...

Vice Chairman Winge said but if they are coming there to buy it it's different.

Jeff Willis said if you're going to host a party once a month, or whatever they call them...

Vice Chairman Winge said they do that anyway.

Jeff Willis continues they do it anyway, that's the thing...nobody cares, but according to our ordinances it's illegal or against the rules or whatever.

Vice Chairman Winge responded well if you're entertaining people to look for possible clients, you're not sitting there selling them stuff in most cases. He added they are coming to see what you have to look at.

Jeff Willis said I pass this little sign that some ladies got some kind of home-based vitamins or supplements that she sells. He added she's got a little yard sign out in her yard and I pass a couple times a week...and I'm like she's not supposed to be doing that.

Attorney Doll said that's right.

Jeff Willis said it's one of those little cardboard square signs that will blow away in the wind.

Mike Moesner stated I think the whole purpose behind not wanting home occupations, is you don't have twenty people coming in everyday...

Jeff Willis said every day I get that.

Mike Moesner continues in somebody's neighborhood.

Vice Chairman Winge said no matter who it is you can put the stipulations that no more than one or two customers at a time. He said it's the same thing as one or two cars being at the place at one time. He added I mean couldn't that be...Morrie.

Attorney Doll said yes. He stated but that doesn't solve Jeff's concerns.

Jeff Willis said I wasn't going to bring it up, but we are adjusting this part of the...

Mrs. Barnhill stated I don't think you want to get into retail from a home period.

Vice Chairman Winge said no.

Mrs. Barnhill said because then you're looking at state building code, entrances...

Vice Chairman Winge asked how many people have come in asking about retail anyways.

Mrs. Barnhill replied zero.

Jeff Willis said you can't have people...subject to no customers coming to your house, or subject to...

Vice Chairman Winge said we don't need to deal with that because she can take care of that right there in the office say you can't sell the products out of the house.

Mrs. Barnhill said they have to find a commercial spot.

Jeff Willis said but they can go to the neighbor's house and sell it.

Attorney Doll said well that's an interesting question about those home sales...parties. He added once a year or something of that sort, that's one thing, but repetitive. He said I'm thinking...we've all read the news reports about constant yard sales going on in a particular location. He added I don't think that's what we want to encourage.

Jeff Willis responded no. He continues and I'm not saying that's what I want to encourage. He added if you're selling your makeup, vitamins or whatever through the...

Attorney Doll said well here's the question do we have consent to publish this amended ordinance, that Molly has drafted for purposes of a public hearing. He added maybe it gets amended at the public hearing, but is this the starting point...

Jeff Willis said okay.

Attorney Doll continues for the publication of this ordinance.

Mike Moesner asked who has the public hearing.

Attorney Doll responded we do. He said we have the public hearing and then we refer it to the Commissioners. He continues they are the only ones who can adopt an ordinance in the County as the County Commissioners.

Vice Chairman Winge said that sounds not good. He continues it kind of brings to thought the one we just approved the other day up by our place. He said they are putting this retreat with the horse barns and everything in it. He added they are going to be bringing clients in there and they said

probably one hundred at time. He said I don't care how you slice that, that's what they're doing... they are promoting business from there.

Attorney Doll asked was that zoned...it was not zoned residential though it was zoned...

Mrs. Barnhill said agricultural.

Vice Chairman Winge said I thought it was agricultural.

Attorney Doll continues agricultural yeah.

Mrs. Barnhill said with horses.

Vice Chairman Winge said but they put the horses and stuff in there, but you know as well as I do that that company is going to promote that and they are going to..., he said they come out and said that there's going to be as many as one hundred people. He added so I don't know how many times they are going to have that a year or whatever. He said that's going to be a lot more traffic, and that's like five doors down from me...and we passed that.

Jeff Willis said unless the people that do the Avon, vitamins, makeup or the whatever. He said they don't have parties every week, but they do have it. He continues so if they would even come in to get a home-based occupancy permit just to run the business side of it, we would tell them they couldn't do it because they can't have...they could never host a party.

Vice Chairman Winge said it doesn't fit the requirements so she just stops it the office. He said if they are wanting to sell a product...

Attorney Doll said you're right Mike it doesn't fit the definition.

Vice Chairman Winge said right.

Jeff Willis responded but that's what a home-based office traditionally is, is those kinds of businesses.

Vice Chairman Winge said no, a home workshop....

Mrs. Barnhill said no, not anymore.

Vice Chairman said them selling products is different than working out of your home doing something. He said you can display or have whatever.

Attorney Doll said my recommendation is that we publish the article...the amendment and hold the public hearing. He said and if we get a lot of people at the public hearing that want us to expand it...as the Board you can make a decision about expanding it or not.

Mrs. Barnhill asked so it's the BZA who would hold the hearing.

Attorney Doll responded no...APC.

Mrs. Barnhill said APC, yes.

Mike Moesner said that's what I was asking.

Attorney Doll said no.

Mrs. Barnhill said no, the Planning Commission.

Attorney Doll said and they make the recommendation by statute to the Board of Commissioners. He added but if you don't want to publish this...then you can vote against that.

Jeff Willis said no. He continues I think it's a good starting point and it fixes the problem that we have ran into several times.

Attorney Doll said yes.

Mrs. Barnhill said yeah.

Attorney Doll said so we need a motion to tell Molly to publish this for public hearing before the Area Plan Commission.

Vice Chairman Winge asked so we just need a motion for that.

Attorney Doll responded yes.

Vice Chairman Winge made a motion to publish the proposed amended definition of a home occupation to the Area Plan Commission Board. The motion was seconded by Mike Moesner and it carried unanimously.

Mrs. Barnhill said thank you.

ATTORNEY BUSINESS:

Attorney Doll stated no attorney business.

EXECUTIVE DIRECTOR BUSINESS:

Mrs. Barnhill said this just popped up today. She continues we gave a variance to build their home while they lived in their other home, and then take down the old home.

Attorney Doll said some time ago.

Mrs. Barnhill continues some time ago...and we check on these periodically to make sure they have gotten their certificate of occupancy, and this one has. She continues they got their certificate in August of last year, and they had six months...

Attorney Doll said so February is when they should have torn down their old residence.

Mrs. Barnhill continues their old home should have been gone. She said we sent them a letter asking them for an update...Carlie tried calling them today and they didn't answer. She added I sent the letter June 13, and they did get it. She continues I was looking for some direction.

Mike Moesner asked what have we done in the past for something like this.

Attorney Doll stated we haven't had this happen.

Mrs. Barnhill said the house is definitely still there. She said I drive by it every day.

Vice Chairman Winge said if they are not going to respond...it's one thing if they can respond and it be a financial difficulty or something came up and created a problem.

Attorney Doll said or they ask for an extension. He said they should have asked for an extension at the time if something happened. He added they should have asked for an extension before the February expiration date. He said I wish they would have done that.

Mike Moesner said if you've sent them a letter and they haven't responded then we may need to send them a second letter saying you need to respond by this date or there will be legal.... filings.

Vice Chairman Winge said or we will get Morrie after you.

Jeff Willis asked when did you send that letter. He said I saw the email.

Attorney Doll stated the 13th.

Mrs. Barnhill said yes, June 13th. She asked would you want me to...

Attorney Doll said 10-11 days.

Mike Moesner said I would think ten days...

Mrs. Barnhill continues tell them they would have to come back to the Board.

Jeff Willis said July's meeting is going to be crazy, so maybe have them come back in August.

Vice Chairman Winge said I don't have a problem if they have a good explanation of what it is. He said it doesn't sound like they are going to have because of what Morrie said. He added they should have responded.

Mike Moesner said they need to respond to you. He said and if you think it's something that needs to come here, we can talk about that.

Mrs. Barnhill said okay.

Mike Moesner said we need to put a time and date on it.

Attorney Doll asked we have a July meeting, but is July busy.

Mrs. Barnhill stated July 22...

Vice Chairman Winge said summons them for that next meeting. He added just put in the letter failure to appear would result in legal actions or whatever.

Attorney Doll asked July's busy.

Mrs. Barnhill replied we had two big special uses...that I'm going to have some discussion about. She added and then one variance.

Attorney Doll asked so do you want it July or August. He added August will be a year from the certificate of occupancy.

Mrs. Barnhill said yeah.

Jeff Willis said that would make it an easy it's been a year...

Mike Moesner asked do you know what they are doing with the old house. He said are they doing anything...is somebody living there...

Mrs. Barnhill replied I don't know.

Mike Moesner said you don't know.

Vice Chairman Winge said it doesn't make any difference.

Attorney Doll asked have you sent the Building Inspector out there. He said do you want the Building Inspector to go look.

Vice Chairman Winge said you can have him go do that and he has the authority to do that.

Mrs. Barnhill said he will go up there.

Vice Chairman Winge stated have him go take pictures of it. He said that's what I used to have to do.

Mrs. Barnhill said okay and for what.

Attorney Doll said to verify it's still standing.

Mrs. Barnhill said it is because I drive by it every day.

Attorney Doll said I know, but we would have photographic proof.

Vice Chairman Winge said if they get a machine in there, they could have it gone in a day.

Mike Moesner stated we need to send them another letter with a final date.

Mrs. Barnhill said I will give them until August.

Vice Chairman Winge said they have to show up for that or otherwise there will be possible legal actions.

Mrs. Barnhill said show up or we're handing it over.

Mike Moesner made a motion to adjourn the June 24, 2024 BZA meeting. The motion was seconded by Dave Goldenberg and it carried unanimously. The meeting adjourned at 6:46pm.

Mike Winge, Vice 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 June 24, 2024.

Molly Barnhill, Executive Director