

Minutes
WARRICK COUNTY AREA BOARD OF ZONING APPEALS
Regular meeting to be held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana
March 27, 2023 at 6:00 P.M.

PLEDGE OF ALLEGIANCE:

MEMBERS PRESENT: Doris Horn, Vice Chairwoman, Paul Keller, Mike Moesner, and Jeff Valiant, Jeff Willis and Mike Winge.

Also present was Morrie Doll, Attorney, Molly Barnhill, Executive Director, Jen Hollander, staff.

MINUTES: Upon a motion made by Mike Winge and seconded by Jeff Valiant the Minutes of the last regular meeting held February 27, 2023 were approved as circulated.

Vice Chairwoman Horn said the first one is a Special Use, when your name is called come up to the stand please and state your name for the record and also sign the sheet there on the podium.

SPECIAL USES:

BZA-SU-23-06

APPLICANT/OWNER: Your Farms, LLC by Craig & Kelli Bohannon, Members

PREMISIS AFFECTED: Property located on the south side of Telephone Road approximately .5 miles east of the intersection formed by Telephone Road and Epworth Road. Ohio Twp. 17-6-9

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: an outdoor vending mall (518'x 349'), corn maze (660'x 349') related outdoor activities, all in an "A" Agricultural Zoning District. (*Advertised in the Standard March 16, 2023*)

Craig and Kelli Bohannon were present.

Vice Chairwoman Horn asked for a staff report.

Mrs. Barnhill said we have all the white pay receipts showing they were mailed correctly. She asked did you get any green cards back.

Kelli Bohannon said I did, I already turned them in.

Mrs. Barnhill said okay, thank you. She continued the existing land use is a field, to the north, south, east and west are zoned "A" Agricultural Zoning District being vacant or farmed fields. She said this does have AE with the nearest BFE of 388', FARA (Floodplain Analysis Regulatory Assessment). She said was done which indicated the approximate ground elevation on this

property to be 383.3', 4.7' below the BFE. If approved a Floodplain Development Permit will be required. She continued the County Engineer said a low volume commercial entrance permit will be required for access on to Telephone Road and they would be subject to the rules and regulations regarding the AE flood plain. Their statement in the application says, *To bring fun fall related activities to Warrick County. A corn maze, hayride, and fall fun with agricultural tourism.* She said everything is in order.

Vice Chairwoman Horn asked do you have anything to add to the staff report.

Craig Bohannon said no, we just think it would be great for the County to get something like this to bring people out and get people to come together and experience farm life. He said it's a great location, we feel like, to have something like that as well.

Paul Keller asked is this crops only, no livestock.

Craig Bohannon said no livestock.

Mike Winge asked what all are you talking about with the outdoor vending.

Craig Bohannon said with the outdoor vendor mall we are just looking at something to possibly get use of the field out of season of corn maze. He said would provide space for people to come and rent out a 20x20 space where they can bring their goods to sell. He said a lot like Traderbakkers but just outdoor, it would just be like a weekend, one weekend a month.

Kelli Bohannon said for local vendors to sell their goods, crafts or what not.

Mike Winge said a variety.

Kelli Bohannon said yeah.

Craig Bohannon said yeah.

Vice Chairwoman Horn said any other questions by Board members.

Mike Moesner said have you had any other experience anywhere else with this or are you just coming up with this.

Craig Bohannon said we have zero experience.

Kelli Bohannon said we just, okay, so really where this idea came from is we have young children and they are always going on field trips out of state to Kentucky, or you know nowhere near by for corn mazes, pumpkins, and apples. She said so we thought why not do something here for our children in Warrick County, that is just kind of where the idea came from and we are rolling with it.

Craig Bohannon said this is an established corn field, I mean it is beans or corn, it's been that way for a long time. He said it's not like it is going to be a huge change, we are just going to cut a path in and have people come out and walk it. He said as far as the parking, it is outlined in the drawing, we are going to lay some gravel into the field to transition off the high way, other than that it is going to be a corn field.

Mike Winge said I'm surprised you all won't have carriage rides there.

Craig Bohannon said yeah, we are just going to see where it goes, if we find success in it we may try to grow this into something that is a larger scale.

Kelli Bohannon said we are going to start with a hayride and see how that goes.

Paul Keller asked is this similar to Mayes.

Kelli Bohannon said yeah, that is a good place to compare it to, not quite that scale yet, but something similar for sure.

Craig Bohannon said for fall activities, we are looking at doing some pumpkin bowling, corn pit where kids can come out and roll around in the corn have a good time. He said we are going to have an area where people can buy pumpkins, we don't plan on growing the pumpkins our first year, we are probably going to buy them from an outside source and bring them in, but maybe in the future we will get into growing the pumpkins as well. He said we both have full time jobs, we are going to squeeze this in amongst all of our other duties we have in life.

Vice Chairwoman Horn asked any other question by Board members, any one in favor or against. She continued any questions by Board members if not I will entertain a motion.

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

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

Mike Winge asked wouldn't be anything for that would we.

Attorney Doll said no

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

1. Subject to the property being in compliance at all times with the applicable zoning Ordinances of Warrick County.
2. Subject to all public utility easements and facilities in place.
3. Subject to any required Improvement Location Permits being obtained.
4. Subject to any required Building Permits being obtained.
5. Subject to the Low Grade Commercial Drive being completed and certified by their engineer or surety posted.
6. Subject to any required permits from the Health Department.
7. Subject to obtaining a Flood Plain Development Permit.

Motion seconded by Jeff Valiant and carried unanimously.

Craig Bohannon said thank you guys.

Kelli Bohannon said thanks.

Vice Chairwoman Horn said good luck on your endeavors.

Kelli Bohannon said thank you.

Craig Bohannon said thank you very much.

VARIANCES:

BZA-V-23-04

APPLICANT: Jonathan Spindler

OWNER: Matthew P & Mecion Dela Cruz Apodaca

PREMISES AFFECTED: Property located on the north side of State Road 68 approximately 398 feet west of the intersection formed by State Road 68 and Sawmill Road also being Parcel 1 in Rankin Parcelization recorded in Document Number 2020R-003949. Greer Township 5-4-9

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 32'x 48'unattached accessory building not meeting the 10'

minimum requirement between structures, only being 6', all in "A" Agricultural Zoning District.
(Advertised in the Standard March 16, 2023)

Matthew Apodaca was present.

Vice Chairwoman Horn said could we have a staff report please.

Mrs. Barnhill said we have all the white pay receipts showing that the notices to adjacent properties were mailed correctly. She said the existing land use one single-family dwelling and unattached accessory building. She continued the surrounding zoning and land use, to the north, south, east and west are zoned "A" Agricultural Zoning District being single family dwellings. She stated there is no flood plain and they have an existing driveway on to State Road 68. She continued we received a letter from the Warrick County Building Inspector, Dennis Lockhart, granting a variance from their requirements for the unattached accessory to be closer than 10 feet from the existing unattached garage, there is a copy of this in the back of your packet. She said the applicant's statement says, *Need a variance because new pole barn will be 6' from existing garage. Perma-column brackets were put in before owner knew he had to be 10' away from existing structures.* She added the existing unattached garage will be removed once this one is constructed, everything would be in order.

Vice Chairwoman Horn asked do you have anything to add to the staff report.

Matthew Apodaca said no not really that was pretty spot on. He said I didn't know about the 10' rule obviously when I put the holes in and poured my concrete and put the brackets in. He said when I came down to get my permit, I couldn't get it.

Attorney Doll asked you are going to tear down the garage.

Matthew Apodaca said yes, the existing building will be torn down when the new one is up, it's just really being used as storage right now at this moment.

Attorney Doll said and when it is torn down you will not be 6' from an existing building.

Matthew Apodaca said correct.

Attorney Doll said you will be 10' or more.

Matthew Apodaca said yeah, the closest building will be our house and that is probably 50-60' away.

Attorney Doll said so this is a temporary situation.

Matthew Apodaca said that is correct.

Attorney Doll asked how long will it take you to be to a point in time where you can tear down the existing garage.

Matthew Apodaca said well, right now it looks like Truss will be building around May if everything goes well today, and as soon as weather permits and I don't have too much mud in the area I will go ahead and work on ripping the roof off and trying to save that, but then tearing down the foundation and all of that.

Attorney Doll asked you're going to save the roof of the garage to use on your pole barn.

Matthew Apodaca said no, everything is going to be new with the pole barn but I might say the roof and the rafters because they are in decent shape, I might do a separate building later on so I will store those off to the side.

Mike Winge said you're going to store them.

Matthew Apodaca said because it is older wood, you know it's real 2x6's they look to be in decent shape, but the reason that I am tearing down is because the concrete is all cracked and I would have to get in there and chisel it out and it would need a new roof. He said by the time you factor in all of that cost it just makes more sense to build new.

Mike Winge said the old lumber is better than the new lumber you buy.

Matthew Apodaca said yeah.

Vice Chairwoman Horn said any other questions by Board members, is there anyone for or against this project. She asked any other questions by Board members, if not I will entertain a motion.

I, Jeff Valiant, 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...

Jeff Valiant said I guess the pole...

Attorney Doll said it's temporary in condition, it's going to exist only during the construction of the new building and then it won't be a violation.

Jeff Valiant said due to the pole placement I'm sure.

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 Improvement Location Permits being obtained.
 - b. Subject to Building Permits 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 variance from Building Commission.

Mike Winge said I have one other question, do we have a time frame for tearing down the building, was it mentioned in here.

Attorney Doll said it wasn't mentioned in here, and I was just looking, the application doesn't...I had concerns about this application as Council and I looked at it and you don't disclose that you are tearing down the existing garage. He said you just talk about the building of the new one and it's not 10' away but you don't say in here, hey after the new one is built we are going to tear the old one down.

Mike Winge asked can we put that in as a condition.

Attorney Doll said that would have been helpful, just FYI.

Matthew Apodaca said I'm sorry about that.

Attorney Doll said it is an important point.

Jeff Valiant said so want me to add an F condition to the building.

Attorney Doll said we are going to get to that I think. He asked how long do you need to tear it down after... are you tearing it down yourself.

Matthew Apodaca said yeah, I am tearing it down myself.

Attorney Doll asked how long after the new pole barn is finished will you have the old garage tore down.

Mike Winge said give yourself enough time.

Matthew Apodaca said yeah, pretty much as soon as I get the building.....

Mike Winge said a month, two months, three months.

Matthew Apodaca said well it depend right now I travel a lot for work so I could be gone for a month or two.

Attorney Doll said so six months.

Matthew Apodaca said six months will be plenty of time.

Attorney Doll said that should be added.

Jeff Valiant said so you want me to add that as F. He continued

- f. Subject to the building being removed within six months of completion of the new building.

Jeff Valiant asked sound good.

Attorney Doll said good.

Jeff Valiant said that is my motion.

Motion was seconded by Mike Moesner and carried unanimously.

Matthew Apodaca said thank you gentleman, thank you ladies.

Mrs. Barnhill said we will have an approval that we will have to prepare for you, it will be ready Wednesday and at that point in time you can come in and get the permit for it.

Matthew Apodaca said okay, after Wednesday.

Mrs. Barnhill replied yeah.

Matthew Apodaca said okay, sounds good.

Mrs. Barnhill said thanks.

BZA-V-23-05

APPLICANT/OWNER: Anthony & Christine Probus

PREMISES AFFECTED: Property located on the west side of Russell Road approximately 330 feet north of the intersection formed by Russell Road and Manchester Blvd. Ohio Township 1-6-9

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 an SFD not meeting the 6' side yard requirement, all in "A" Agricultural Zoning District. (*Advertised in the Standard March 16, 2023*)

Anthony & Christine Probus were present.

Vice Chairwoman Horn asked for a staff report.

Mrs. Barnhill said we have all the green cards except for four. She stated the notices sent to Andrew & Candice Carroll, Elizabeth Ison, Pamela Carroll and Jason Jamerson, however we do have the white pay receipts showing they were mailed correctly. She said the existing use is a single-family dwelling and two unattached accessory buildings. She continued the surrounding zoning and land use to the north, east and west are zoned "A" Agricultural being single family dwellings and vacant parcels, to the south is "A" Agricultural and "R-1A" Single Family being Squire Estates Part 1 subdivision with single family dwellings. She said there is no flood plain and they have an existing driveway on to Russell Road. She continued their statement in the

application says *Applicant is requesting a 3' relaxation of the south side easement in order to complete an addition and the connection of the existing 2 car detached garage and carport.*

Vice Chairwoman Horn asked if there was anything to add to the staff report.

Anthony Probus replied nope.

Attorney Doll said the garage that is there now, that you are attaching to your home it's a standalone garage.

Anthony Probus yes.

Attorney Doll said it was built many years ago, in the 60's

Anthony Probus said I'm guessing it was built the same time the house was in 61.

Attorney Doll said 1961.

Anthony Probus agreed.

Attorney Doll said okay, and at that time the side yard setback was 3'.

Mrs. Barnhill said in 61.

Attorney Doll said yeah, well actually we didn't have a side yard setback.

Mrs. Barnhill said yeah we didn't, not until 64.

Attorney Doll said we didn't adopt the zoning code until after 61.

Mrs. Barnhill said but the setback right now for an unattached accessory is 3'.

Attorney Doll said okay, so it is an unattached accessory building tonight and you're hooking it to the house.

Anthony Probus said yes sir.

Attorney Doll said okay and that changes the side yard setbacks from 3' to 6'.

Anthony Probus said it does.

Mrs. Barnhill agreed.

Attorney Doll said but that is not your problem, right, you didn't...you're not building this garage.

Christine Probus said no.

Attorney Doll said you are just hooking it to the house.

Anthony Probus said yes.

Attorney Doll said okay.

Anthony Probus said the direction we are going with our addition....

Attorney Doll said out the back.

Anthony Probus said out the back so it is nowhere near the property line that we are talking about.

Attorney Doll said what is on the other side of the property line.

Anthony Probus said there are houses for a subdivision.

Attorney Doll said close....

Anthony Probus said south side.

Attorney Doll asked which one is their house.

Mrs. Barnhill said they are right here, that is the barn that is three feet off, so this is the neighborhood over here.

Attorney Doll said your south property line, that is south right.

Mrs. Barnhill agreed.

Attorney Doll said your south property line is the rear to your neighbors.

Anthony Probus said yes.

Attorney Doll said your neighbors houses don't face that way or the side....you've got their backyard so if that was a fire it is not going to jeopardize your neighbor's property or something, is that right.

Anthony Probus said I don't believe it would.

Attorney Doll said yeah, okay, thanks.

Attorney Doll said do you need to see the picture.

Paul Keller said no, I have the picture.

Mrs. Barnhill said we have a zoomed in aerial in there if you guys are having a hard time.

Anthony Probus said I wish I could zoom the computer in like that.

(Laughing)

Anthony Probus said with three and a half acres you would have thought in 61 when they built this place they have scooted it just a little bit to the north.

Christine Probus said but it's on a hill so they can only do so much.

Mike Winge said sometimes people cause a problem and you don't know it till you get it.

Anthony Probus said exactly.

Attorney Doll said yeah, but that's 80 years ago.

Christine Probus said it's been...

Anthony Probus said golly I hope not man that means I'm older than what I think I am.

(Laughing)

Attorney Doll said no, not quite 80 years ago.

Jeff Valiant said 60.

(Laughing)

Paul Keller said how old are you Morrie.

Attorney Doll said well tonight I feel really old.

(Laughing)

Attorney Doll said it is 60 years ago.

Anthony Probus said yeah, yeah.

Paul Keller said there you go.

Jeff Valiant said recheck some of his bills.

Vice Chairwoman Horn asked any questions by Board members, is there anyone here for against this project, any questions by Board members. She said if not I will 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 that it was built before zoning rules applied.
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 was seconded by Jeff Valiant and carried unanimously.

Christine Probus said I do have these do you want them.

Mrs. Barnhill said yes, could you hand them to Jen right there please. She said we will have your approval ready tomorrow if you want to come in and get your permit.

Christine Probus said okay, thank you.

Mrs. Barnhill said thanks.

ATTORNEY BUSINESS:

Attorney Doll said none.

EXECUTIVE DIRECTOR BUSINESS:

Mrs. Barnhill said we have an opening in the office if you guys know anybody looking for a position. She said that is it.

Attorney Doll asked Planner 1.

Mrs. Barnhill said Planner 1, starts out up to 38 something.

Mike Winge said I will spread the word.

Mike Winge made the motion to dismiss at 6:29p.m. Mike Moesner seconded the motion and it carried unanimously.

Doris Horn, Vice Chairwoman

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 March 27, 2023.

Molly Barnhill, Executive Director