

Minutes
WARRICK COUNTY AREA BOARD OF ZONING APPEALS
Regular meeting to be held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana
February 26, 2024 at 6:00 P.M.

PLEDGE OF ALLEGIANCE:

MINUTES: Upon a motion made by Mike Moesner and seconded by Jeff Valiant the Minutes of the last regular meeting held January 22, 2024 were approved as circulated.

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

MEMBERS PRESENT: Jeff Valiant, Dave Goldenberg, Mike Winge, Paul Keller, Mike Moesner, & Jeff Willis.

Members absent Terry Dayvolt, Chairman

Vice Chairman stated now whenever you come up here on your case, you have 20 minutes and that will be your time to explain whatever you have to have or do. He said there will be no time limit on the Board for questions, but there is a 20 minute time limit for the...even including the rebuttal. He continues once we call your name, you will come up and we will expect you to sign in and then we will be ready to start with you. He added all cellphones we would like to make sure you have your cellphones turned down or off either. He asked I guess we are ready to start on that aren't we.

Attorney Doll asked are we going to approve the contract.

Mrs. Barnhill stated we do have an appointment of the attorney for 2024 & 2025.

Vice Chairman Winge said well we need a motion for that.

Attorney Doll said APC did it but BZA did not.

Jeff Valiant made a motion to retain Attorney Doll for 2024 & 2025. Paul Keller seconded the motion and it carried unanimously.

Attorney Doll said thank you....I think.

Board Members laughed.

Vice Chairman Winge stated now I think we are ready.

Mrs. Barnhill replied okay.

VARIANCE:

BZA-V-24-01:

APPLICANT/ OWNER: Cody Tuley

PREMISIS AFFECTED: Property located on the north side of Millersburgh Rd approximately 2,200' west of the intersection formed by Millersburgh Road and Eskew Road. Boon Twp. 21-5-8.

NATURE OF THE CASE: Applicant requests a Variance, as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow: a single family dwelling with an existing single family dwelling to be removed all being in "CON" Recreation & Conservancy Zoning District. *Advertised in The Standard on January 11, 2024. Continued from the January 22, 2024 meeting.*

Vice Chairman Winge said I will have you come forward.

Cody & Summer Tuley came to the podium.

Cody Tuley asked does she need to come up here now too.

Summer Tuley said I'm wife.

Attorney Doll replied sure.

Cody Tuley asked she can sign too.

Vice Chairman Winge asked do we have a staff report.

Mrs. Barnhill replied okay. She continues on their notice to adjacent property owners they did send those and we have all the green cards. She added the existing land use is a single family dwelling, the surrounding land use to the north, east, south and west, all around being "CON" Conservancy with a single family dwelling or vacant property. She stated there is no floodplain and there is existing access onto Millersburgh Road so the application would be in order.

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

Cody Tuley replied no.

Attorney Doll said well Mr. & Mrs. Tuley...for the record why do you need to keep two...why do you...

Cody Tuley stated we don't need to keep the other one.

Attorney Doll said okay.

Cody Tuley stated we are tearing the original...the existing down after we build.

Attorney Doll replied there ya go. He continued you're going to continue to live in the old one while you're building the new one, correct.

Cody Tuley replied correct.

Attorney Doll asked so do you have any place else you could live besides in the old one while you're building the new one.

Cody Tuley replied yeah...we have another house.

Attorney Doll said wrong answer...he asked who's building the new house.

Cody Tuley replied I am.

Attorney Doll said ah okay...he continues and so you want to live in your old house...I'm not going to call it the old house, I'm going to call it the existing house, how's that...does that make sense. He continues while you're building your new house.

Cody Tuley responded correct.

Attorney Doll said okay. He asked is it more convenient for you to live in the existing house while you're building the new one...

Cody Tuley replied absolutely.

Attorney Doll continues versus living someplace else...

Vice Chairman Winge said on site.

Attorney Doll asked do you have to pay rent maybe to live someplace else...but you wouldn't have to pay rent to live in this house.

Vice Chairman Winge said it's much easier if you're on site doing the work.

Cody Tuley replied yeah, I'm right there.

Attorney Doll said when you're done building your new house and you've moved in...how long are you asking the Board of Zoning Appeals before you have to tear down...

Cody Tuley replied I thought it... it was on the paper, I don't remember...

Attorney Doll asked on your application.

Cody Tuley replied yeah. He said I had so many days after.

Mrs. Barnhill said we left that blank. She added so you can request the Board...ask them how much time do you need.

Cody Tuley asked what's the...going...

Jeff Valiant responded 3 months, 6 months...

Cody Tuley stated three is fine.

Jeff Valiant said well it's whatever you think you need.

Cody Tuley said once it's done...I can get it down.

Jeff Valiant asked how long do you anticipate taking to build.

Cody Tuley replied a year...ish

Jeff Valiant said a year.

Vice Chairman Winge said a year to build your house.

Cody Tuley replied mhm.

Vice Chairman Winge said yeah. He asked you're doing most of it yourself.

Cody Tuley replied yeah.

Vice Chairman Winge said I guess we can put that in the motion.

Attorney Doll replied yes. He said it's on the second page of the motion...there's a variable...

Jeff Valiant asked are you going to do the tear down yourself too.

Cody Tuley replied no.

Jeff Valiant said no.

Attorney Doll asked so someone is going to come with a track hoe or...something and tear the old house down.

Cody Tuley replied yeah.

Attorney Doll said okay.

Vice Chairman Winge asked anymore questions by the Board. He said any remonstrates for or against...we have none. He asked anymore questions, being none we 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 the Tuley's will live in the existing home and will be building the new home themselves.
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 3 months from issuance of Certificate of Occupancy.

Jeff Willis seconded the motion and it carried unanimously.

Mrs. Barnhill said okay. She continues you need...this means you have 6 months to come in and get the permit to start building. She added we will also need something for the septic system.

Cody Tuley replied okay.

Mrs. Barnhill said so bring that in, it is \$100 dollars and then we can issue this permit.

Attorney Doll asked are you using the existing septic.

Cody Tuley replied yeah, I was going to try.

Mrs. Barnhill said we will need a sign off from the Health Department that the existing system is adequate for the new home.

Cody Tuley said right.

Attorney Doll said and I don't know who's down there anymore.

Mrs. Barnhill said good luck.

Board Members laughed.

Cody Tuley asked so didn't I pay...was that something different the \$250...

Mrs. Barnhill replied you paid \$200 to file.

Cody Tuley said \$200 okay.

Mrs. Barnhill said yes.

Cody Tuley asked another \$100 to get the permit.

Mrs. Barnhill replied yeah. She said the \$200 was for the variance.

Cody Tuley replied okay. He asked is that it.

Mrs. Barnhill said that's it.

Vice Chairman Winge said that's it.

Jeff Willis said congratulations.

Cody Tuley said thank you.

Mrs. Barnhill replied thank you.

Board Members replied thank you.

Jeff Valiant said good luck.

ATTORNEY BUSINESS:

Vice Chairman Winge asked any attorney business.

Attorney Doll responded none.

OTHER BUSINESS:

Accessory buildings

Mrs. Barnhill said accessory buildings is on the agenda...did you guys have anything you wanted to talk about with those.

Vice Chairman Winge replied man I left...I had a bunch of... on that and I left that at home.

Mrs. Barnhill said okay.

Vice Chairman Winge said lets...

Mrs. Barnhill asked do you want to table.

Vice Chairman Winge said yeah table it. He said I had some suggestions on that.

Mrs. Barnhill said okay.

Vice Chairman replied I did do some homework on that.

Attorney Doll asked was there a motion.

Jeff Valiant made a motion to table accessory buildings to the March meeting. Paul Keller seconded the motion and it carried unanimously.

Mrs. Barnhill said do we want to...March.

Paul Keller said yeah.

Mrs. Barnhill replied March meeting because...

Attorney Doll said Terry will be back by then.

Mrs. Barnhill stated Terry will not be back and our March meeting is going to be very long.

Vice Chairman Winge said well we may move it to April.

Attorney Doll said so you're talking about April.

Mrs. Barnhill said April.

Attorney Doll asked do you want to continue this until April.

Mrs. Barnhill said yeah.

Attorney Doll asked is that the motion.

Jeff Valiant replied my motion will be good with that.

Mike Moesner said I agree.

Mrs. Barnhill said alright. She added and then the only other thing I had is I really need everybody here at the March meeting. She said we have six things going on the agenda. She continues one of them is an Alcoa mine where Liberty mines was. She said they came in front of us in 2018 and it dropped because they got into a lawsuit. She stated the suit has settled and now they are wanting to proceed. She said however...now some of that property that they...that is in their special use application has been sold, and people are building homes on it and....it makes me a little nervous. She continues Chris Wischer is the attorney that filed the application today he was going to try and head that off.

Vice Chairman Winge asked now is that up on...up there towards Elberfeld.

Mrs. Barnhill replied we are just north and west of Boonville...like Millersburgh.

Attorney Doll said Squaw Valley.

Mrs. Barnhill said Squaw Creek.

Attorney Doll said Squaw Creek.

Mrs. Barnhill replied yeah.

Vice Chairman Winge said I know one thing...and I'm close to them up there.

Attorney Doll asked surface mine Molly or underground mine do you know.

Mrs. Barnhill replied it said surface mining.

Vice Chairman Winge stated I'm close to them guys...probably three quarters of a mile away. He said but I'm going to tell you when they say they blast those are controlled...somebody is goofy because I mean them things are violent sometimes. He continues other times you can just barely feel them. He added and I used to know one of the guys that set them charges and stuff in there and they just dump and pour and go at it. He added and I don't understand who's not regulating them.

Attorney Doll replied well they are federal regulations.

Vice Chairman Winge replied well I'm just saying nobody...there something wrong there because I feel sorry for the people that's close to that. He said I'm far enough away and I put everything in heavy duty, but my goodness I would hate to walk into their house and see their drywall.

Mrs. Barnhill said yeah so Terry won't be here at that meeting so you will be running it.

Vice Chairman Winge asked next month.

Mrs. Barnhill replied yeah.

Jeff Valiant made a motion to adjourn the meeting. Paul Keller seconded the motion and it carried unanimously. The meeting adjourned at 6:15pm.

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 February 26, 2024.

Molly Barnhill, Executive Director