

Minutes
WARRICK COUNTY AREA BOARD OF ZONING APPEALS
Regular meeting to be held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana
January 22, 2024 at 6:00 P.M.

PLEDGE OF ALLEGIANCE:

MEMBERS PRESENT: Terry Dayvolt, Chairman; Jeff Valiant, Jeff Willis, Mike Winge, Paul Keller, & Mike Moesner.

Mrs. Barnhill stated we do have a quorum.

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

MEMBERS ABSENT: Dave Goldenberg

ELECTION OF OFFICERS:

Mrs. Barnhill stated the first order of business is to elect a Chairman of the Warrick County Board of Zoning Appeals to serve during 2024. She asked do we have any nominations.

Mike Winge made a motion to nominate Terry Dayvolt. Jeff Valiant seconded the motion and it carried unanimously.

Mrs. Barnhill asked any other nominations.

Mike Moesner made a motion to close nominations. Jeff Willis seconded the motion and it carried unanimously.

Chairman Dayvolt asked for nominations for Vice Chairman.

Mike Moesner stated I nominate Mike Winge.

Mike Winge replied I was going to nominate you.

Board Members laughed.

Jeff Valiant said I will second Mike Moesner's nomination for Mike Winge as Vice Chairman.

Chairman Dayvolt asked anymore nominations.

Jeff Valiant made a motion to close nominations and it carried unanimously.

SET MEETING DATES, TIME, AND PLACE:

Meetings to be held on the 4th Monday at 6:00 PM of each month in Commissioners Meeting Room, Third Floor, Court House, Boonville, Indiana except for May.

Mrs. Barnhill said yes...they were all normal...the fourth Monday of the month, except in May. She continued the fourth Monday is Memorial Day. She said we've got it scheduled for the following day on the 28th at 6:00 pm.

Mike Moesner asked would that be Tuesday then.

Mrs. Barnhill replied yes.

Mike Moesner said okay.

Mrs. Barnhill said the only other one is December...that fourth Monday is the 23rd right before Christmas Eve. She added everyone else keep theirs's the same... the Drainage Board meeting is at 9:00 am that day and the Commissioners meeting is at 10:00 am. She said so they just moved theirs up in the day...so I still have us down for that night at 6:00pm on the 23rd. She asked if anybody would like to change anything, but this is how I have it.

Mike Moesner asked December...

Mrs. Barnhill replied 23rd.

Mike Moesner asked and it's a Monday right.

Mrs. Barnhill replied yes.

Mike Moesner said so Wednesday would be Christmas.

Mrs. Barnhill responded yes.

Mike Moesner said I don't think that there would be problems with that.

Mrs. Barnhill said okay.

Jeff Valiant said so we're saying move the May meeting to the 28th, Tuesday.

Mrs. Barnhill replied yes.

Jeff Valiant made the motion to keep the meetings the fourth Monday of the month, except for May it will be Tuesday the 28th. Mike Winge seconded the motion and it carried unanimously.

ADOPTION OF RULES AND REGULATIONS:

Jeff Valiant asked no changes right.

Mrs. Barnhill replied no changes.

Jeff Valiant made the motion to adopt the Rules and Regulations for 2024. Mike Moesner seconded the motion and it carried unanimously.

MINUTES: To approve the Minutes of the last regular meeting held November 27, 2023 and no meeting held in December.

Chairman Dayvolt asked if everyone got a copy of the minutes from November.

Mike Moesner made a motion to approve the November minutes. Jeff Valiant seconded the motion and it carried unanimously.

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.*

Chairman Dayvolt asked is anybody here.

Mrs. Barnhill stated on this one we did advertise so we had to keep it on the agenda for tonight in case anyone wanted to show up. She added the owner failed to send out his notices though. She said the owner came in and we gave him a new notice for the February meeting and he is asking to continue his application to that meeting....February 26th.

Attorney Doll said so we need a motion.

Jeff Valiant made the motion to table BZA-V-24-01 to the February 26th meeting. Mike Winge seconded the motion and it carried unanimously.

OTHER BUSINESS:

Yellowbanks LLC extension request BZA-SU-22-40

Chairman Dayvolt said and accessory buildings.

Mrs. Barnhill replied nope that's next.

Chairman Dayvolt said oh, I'm sorry okay.

Mrs. Barnhill said so we have attorney Chris Wisner with us tonight.

Attorney Chris Wisner, Legal Representative for Yellowbanks LLC was present

Chris Wisner said right.

Mrs. Barnhill said tell us about this extension. She stated this was the Yellowbanks...for their park area that they are going to try and do upfront, they had their approval dated December 27, 2022 and so they had one year to pull permits and get started. She continues that just passed when they had noticed that it was not enough time to get in before meetings, so that's why they are here today asking to come in to talk to the Board.

Attorney Chris Wischer said we got our request in before it...before the year was up. He continues so I represent Yellowbanks LLC...Jim Morley Jr. is actually working in the details of that project. He said as I understand it we are needing to get...still working on utility...gathering all the utility information. He added CenterPoint in particular on the cost of the electrical services before you can go to final design and get things in place. He said so we are asking for an extension of the special use permit to allow time to complete that...as much time as the Board would allow...up to a year I guess. He added I think you know there is a lot that needs to happen out in Yellowbanks to get it square. He continues we've talked about that...and Jim and the client are working on that, we just need more time.

Chairman Dayvolt asked what's the will of the Board.

Mike Moesner said I say we give him a year extension. He continues I'd like to see the project go.

Jeff Valiant asked Mr. Wischer was it...would that fit you...would a year work.

Attorney Chris Wischer replied yeah. He said a year would be fine...plenty.

Jeff Valiant said plenty, okay.

Mike Moesner made a motion to grant a one year extension to BZA-SU-22-40, Yellowbanks LLC. Jeff Valiant seconded the motion and it carried unanimously.

Attorney Chris Wischer said thank you. He asked should I stand here another nine hours.

Board Members laughed.

Jeff Valiant said would you fill up the rest of the time please.

Jeff Willis replied six will probably work...just get it under midnight.

Jeff Valiant said I don't want people looking for us again.

Chairman Dayvolt said Molly handed us a...some paperwork on the accessory buildings that we had questions on awhile...inaudible. He continues for the ones out on Boonville New Harmony...inaudible.

Mrs. Barnhill stated I'm just bringing you information to see if you want to put something together to move forward with it. She continues so I went through our database and I found the ones that had been approved for two accessory dwellings, and those are on the top...so we've had four total for two accessory dwellings in Warrick County. She added the ones at the bottom were a variance to allow an accessory in a residential zoning prior to the home being there.

Chairman Dayvolt asked was this for ones with a prior....was this for two.

Mrs. Barnhill replied no. She said that was for one in the residential zoning. She added so the ones on top...there are four on the top, those are on the "Ag" zonings. She continues I put the lot acreage and then I've included the size of that accessory building. She said I went through and I found some...it's not specific in the ordinance and so Mrs. Rector brought this to the Board and discussed it. She said and it was a Board determination that decided that the accessory intent of the definition...on that next sheet I handed out. She said the intent of that was meant to be singular, but it's not super specific so that is what we've gone with. She said she did that in seventeen.

Chairman Dayvolt asked so how many like...on the top one...on the "Ag" property...

Mrs. Barnhill replied yes.

Chairman Dayvolt continues how many were allowed to have two there.

Mrs. Barnhill replied four.

Chairman Dayvolt said four of these.

Mrs. Barnhill said yeah.

Attorney Doll said just those four.

Mrs. Barnhill restated just those four were allowed...

Chairman Dayvolt said just those four were allowed two there.

Mrs. Barnhill said yes. She added and I looked around at other ordinances and I found one that allows multiple according the acreage requirement, but they're not that big. She continues if you have five to ten acres you can have an 800 square foot accessory building.

Mike Moesner asked what qualifies...like on a farm you've got four or five barns out there. He asked can you have that....or how's that....

Mrs. Barnhill replied yes. She said farmers are exempt...they can have as many...because that's for the farm.

Mike Moesner said right.

Mrs. Barnhill said yeah, they just bring us their schedule F and we help them draw out a site plan.

Mike Moesner said okay, well I saw they were zoned "A" for Ag.

Mrs. Barnhill said yeah.

Mike Moesner said but that doesn't mean that to the farmer.

Mrs. Barnhill replied right because they are agricultural pieces of ground still out in the county. She said I guess prior to 2009 you couldn't have an accessory building prior to the home period. She added they changed in 09 to allow the one.

Mike Winge said well, we want to keep it in the habit of changing.

Mrs. Barnhill said they were allowing multiple for a while and that's when Sherri came in with a question. She added at that point in time somebody was trying to come in and build five...at once.

Jeff Valiant asked so what are you looking for Molly.

Mrs. Barnhill replied I am....do we think this is worth writing an ordinance for or...there's been four in the last four years...is that worth going further with. She added and if so what kind of restrictions.

Jeff Valiant said I don't...I'm...you're talking one a year. He said I don't know if it's worth doing an ordinance...what do you think council.

Attorney Doll said well we don't...we don't adopt the ordinances...

Jeff Valiant said well...I know.

Attorney Doll continues the Commissioners do, but we recommend those to the Commissioners. He said my suggestion would be this...unless Molly has a mean or a quick answer...my suggestion would be that you delay this to February and take a look at the ordinance that we currently have and we look at Molly's greatest's hits here, and decide if we need to fine-tune our ordinance in anyway and put it back on the agenda for February. He continues and then we will be better prepared...I'm not committed...does anybody have this ordinance committed to their memory.

Jeff Valiant responded no.

Attorney Doll continues we would then be better prepared to have a reasonable discussion of well...I sort of like the...take for example Brown county that caught my eye. He continues we've had that happen what five or six times I think in this county...were all those at the bottom of your hit list...these.

Mrs. Barnhill replied those are in the residential zoning.

Attorney Doll said right, and wasn't there a situation where somebody came in and asked to come in and build a building to store construction supplies while they build the house.

Mike Winge said on that one you're just talking about I don't see any kind of time factor...if they put two buildings on there it doesn't say...within a year, two years or twenty years.

Attorney Doll replied I know.

Mike Winge said that could be a problem.

Mrs. Barnhill said I also gave the acreage on the residential request...

Attorney Doll said yeah.

Mrs. Barnhill said to show...the type for those subdivisions...residential subdivisions.

Attorney Doll said one wasn't.

Mrs. Barnhill replied correct.

Mike Winge stated yeah, they're not even an acre.

Mrs. Barnhill replied right. She added it was probably for instances...and I'm pretty sure they all are, where they had a house on one lot and they wanted an accessory on the other lot.

Chairman Dayvolt asked does our ordinance limit the size of the accessory buildings on a lot.

Attorney Doll replied no.

Mrs. Barnhill stated no, we have lot coverage restrictions.

Attorney Doll said and if you look...as Terry said so...Lake County's ordinance. He said they've gone as far as on how big it is, how big it can be and that gets to be pretty complicated.

Chairman Dayvolt said one thing that caught my eye here too...it's in the city of Indianapolis...inaudible.

Mrs. Barnhill replied yeah, that's Vanderburgh County.

Chairman Dayvolt asked is that Vanderburgh.

Mrs. Barnhill replied yes. She said really everywhere you look it seems like they discourage it and they make it hard.

Jeff Willis said well if you look at like Lake County or you look at Indianapolis...I mean those are cities....not got a whole lot of rural area there.

Mrs. Barnhill said they have the best ordinances. She said they were just the easiest ordinances to find and read.

Chairman Dayvolt asked the gentleman we had out on Millersburg Road, he had how many accessory buildings.

Mrs. Barnhill replied two.

Chairman Dayvolt inaudible.

Attorney Doll said that's sort of what I'm saying. He said I don't know that we're educated enough of what the ordinance is here...to say hey we ought to change that or, no it's fine the way it is. He continues I just think we ought to look at it, consider it, bring it back next month and use Molly's list. He said and you may come up with recommendations that aren't on this list.

Jeff Willis asked did the Commissioners approve the in-law suite.

Mrs. Barnhill replied yes.

Attorney Doll said yes.

Jeff Willis said okay. He said so technically that would be an accessory building, but a lot of people want to build those first while they build their main house.

Attorney Doll replied it's actually a second residence.

Mrs. Barnhill said so on the print out that I put together...the top half of this first page is from our ordinance. She said I kind of summarized the minutes. She continues an accessory use or structure that is our definition of the accessory building. She added article 21 section 1C, that's from our ordinance as well. She said and the very last thing and I think it's been highlighted...is the only thing I could think of possibly changing would fit right there. She said it might be an idea. She said if it's zoned "CON" or "Ag" and more than 5 acres.

Paul Keller asked so in residential there's no square footage...

Board Members replied lot coverage.

Attorney Doll stated subdivisions have restricted covenants.

Paul Keller said I'm just looking at the one there its 3/10ths of an acre and its 5,900 square feet...that's a pretty big building there...additional building.

Jeff Willis asked was that the one where they were like building a house inside the barn...or is that different.

Attorney Doll asked was that the horse...the one we did just outside Newburgh off Outer Lincoln. He asked or is that a barn barn.

Mike Winge replied horse barn.

Attorney Doll said we just did that...the doctor and his daughter. He added the neighbor behind it was remonstrating against it.

Jeff Valiant said yeah who was that.

Mrs. Barnhill replied Paxton.

Chairman Dayvolt said no, it's up between Bell and...

Mrs. Barnhill said Johnston.

Attorney Doll replied it's on Outer Lincoln.

Jeff Valiant said yeah.

Paul Keller said where the goats are at.

Mrs. Barnhill replied that is so funny you bring that up...

Attorney Doll said oh no, why.

Mrs. Barnhill replied because they never followed through with anything. She said they received their special use and then they never did anything.

Mike Winge inaudible.

Mrs. Barnhill said they didn't come in.

Attorney Doll said there's a barn back there.

Mrs. Barnhill said we had to revoke their permit for the first one because it wasn't right. She said they then got the approval subject to...their septic, getting a new permit and all these things and then they didn't do anything so it's null and void...but they've started construction again and they are seeing dogs coming and going. She added so it might be coming back...it's interesting you bring that up.

Attorney Doll replied sorry.

Paul Keller said they were going to put bathrooms and everything in that thing.

Board Members replied yeah.

Paul Keller said yeah okay.

Mrs. Barnhill replied yeah Roy Paxton was the neighbor...he's called again.

Attorney Doll said okay, good to know.

Mrs. Barnhill said that one had a house.

Chairman Dayvolt replied yeah.

Attorney Doll said yeah there's a house in the front.

Mrs. Barnhill replied yes.

Chairman Dayvolt said the barns right on top of the house...

Attorney Doll said well the barns a lot bigger than the house.

Board Members replied yeah.

Attorney Doll said it's huge.

Paul Keller said I wonder if it's the people...back up that lane up there are the ones complaining.

Attorney Doll replied they are.

Jeff Willis asked if somebody doesn't build a home, and doesn't plan to build a home on a lot...it wouldn't be an accessory structure then would it because...

Attorney Doll said exactly. He said that's why the question gets to be....what comes first, the chicken or the egg.

Jeff Willis replied right.

Attorney Doll said the question has to be do you have to have a residence before you can have the accessory building. He added and in some county's...like Brown, you've got to have a residence first. He said and we've had...

Jeff Willis replied but like if somebody's...you've got your house on one lot and you're going to build what would be an accessory building if it was on the same lot, but if it was on a different lot...and that's the only building that's going on that lot...

Attorney Doll said well...

Jeff Willis said by our definition that's not an accessory building.

Attorney Doll said well that may not be proper either. He said you know we've had people do lot line adjustments or merge two lots together so they could have an accessory building.

Mrs. Barnhill replied mhmm.

Attorney Doll said I'm trying to remember back.

Mrs. Barnhill said we've done several on them.

Jeff Willis said we've done...yeah.

Mrs. Barnhill said they just had to replat.

Attorney Doll said they had to replat to put it together to have enough space to have an accessory building next to their house.

Jeff Willis replied right.

Attorney Doll said because they own two separate lots.

Jeff Willis responded right.

Attorney Doll said a great many of subdivision have restricted covenants that prohibit anything other than a residence being constructed on that lot.

Jeff Willis said right.

Attorney Doll said the subdivision I live in we cannot have accessory buildings. He added it's not allowed.

Chairman Dayvolt asked how long are those covenants good for.

Attorney Doll replied ever...forever. He added unless they are amended by the residents of the subdivision.

Paul Keller said yeah I live in a pretty big subdivision and you can't have out buildings like that at all...zero.

Attorney Doll replied no, it's very common.

Chairman Dayvolt said most of the subdivisions around here have covenants where you cannot park on the street.

Attorney Doll said we do too.

Chairman Dayvolt said and people park on the street all the time.

Attorney Doll said well...no our neighborhood they pretty much know.

Paul Keller said mine either.

Chairman Dayvolt said it's because they've got you out there.

Board Members laughed.

Attorney Doll said no, I keep my mouth shut.

Jeff Valiant asked so do we want to just...

Attorney Doll asked do you want to table this.

Jeff Valiant continues table this, review....

Attorney Doll said February and then...

Jeff Valiant said review the current one and then...

Attorney Doll asked do you have much on the agenda so far for February.

Mrs. Barnhill replied no. She said just this one continuance.

Attorney Doll said okay, so we would have enough time at the February meeting to have a reasonable conversation. He said we could read our ordinance and it's obviously....

Mrs. Barnhill said article 21.

Attorney Doll continues article 21 in the code...in the subdivision or zoning.

Mrs. Barnhill responded zoning.

Attorney Doll said the zoning code article 21 and then we can talk about this, the existing language and anything else you think is wrong that we want to make a recommendation to....Molly's staff can make the recommendation to the Commissioners about the ordinance.

Mike Winge asked do we have to make a vote today...she just brought us in...

Attorney Doll said no...well no I don't think so. He said it's not a... application or anything else. He added it doesn't need to be a motion.

ATTORNEY BUSINESS:

Chairman Dayvolt asked Attorney Business.

Attorney Doll replied nothing.

EXECUTIVE DIRECTOR BUSINESS:

Chairman Dayvolt asked Executive Director Business.

Mrs. Barnhill replied nothing.

Attorney Doll said accessory buildings.

Board Members laughed.

Mrs. Barnhill said we're back to a full office today. She said that's about it but nothing new.

Chairman Dayvolt asked is this one of your new ones.

Mrs. Barnhill replied no, she's an old one.

Attorney Doll asked what are the two names of the new employees.

Mrs. Barnhill replied Julie Newton and Shelli Clark.

Jeff Valiant made a motion to adjourn the January Board of Zoning Appeals meeting at 6:26 pm. Mike Winge seconded the motion and it carried unanimously.

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 January 22, 2024.

Molly Barnhill, Executive Director