

# STARKE COUNTY BOARD OF ZONING APPEALS

53 EAST MOUND STREET

KNOX, IN 46534

PHONE: 574-772-9176

## MINUTES January 11, 2021

Chairperson Troike opened the meeting at 6:30 p.m.

**I Pledge of Allegiance-** led by Chairperson Troike.

**II Roll Call-** Bob Troike (Chairperson), Zac Binkley (Vice-Chairperson) (Absent), Mark Allen (Executive Secretary), Denise Cultice (Member), Martin Bedrock (Attorney), Terry Stephenson (Planning Commission Administrator) (Absent), and Mary Beever (BZA Recording Secretary). Planning Commission Secretary Pamla Starkey was also present for this meeting.

**III Appointments-**

- ◆ Board discussion on whether to wait on appointments till February.
  - Member Cultice made a motion to table the appointments for the BZA till the February meeting. Executive Secretary Allen seconded that motion. Motion carried 3-0.

**IV Review of the meeting minutes for October 12, 2020** – Member Cultice made a motion to approve the minutes as written. Executive Secretary Allen seconded that motion. Motion carried 3-0.

**V Public Hearing -** to consider a use variance request by Dwayne Hoefrei & Steve Hoefrei, to open a used auto sales business & recycling center business in an agriculture zoned area, on property owned by Crossroad Investments LLC. and described as follows: Ne Cor SE SE, 3.18 acres, S3/T33/R2, Parcel number 75-06-03-400-032.000-003, located at 2125 N. US Hwy 35 Knox, IN 46534

- ◆ Attorney Bedrock read the request listed above.
- ◆ Attorney Bedrock read the use ordinance.
- ◆ All notifications were not in order
  - Secretary Beever explained that multiple notifications had been sent out for this hearing and at one point in time all adjoining neighbors had received and signed for a notice, however for the virtual hearing two notices had yet to come back signed for.
  - Attorney Bedrock asked if any of them had called the office prior to this hearing about it after receiving any of the other notices.
  - Secretary Beever said no and that the only adjoining neighbor that called the office is Mr. Thompson.
  - Chairperson Troike asked if with the hearing being virtual if anyone was online for it.
    - Secretary Beever stated that there was an applicant online on zoom for the hearing.
    - Chairperson Troike asked if anyone from the public was able to be online for the meeting.
    - Secretary Beever stated that the meeting was advertised to wkvi.com, on the county website, and the annex doors, that a virtual meeting was taking place and to contact the office for further instruction on how to attend.
    - Chairperson asked for about the information for zoom where it was.
    - Secretary Beever said that the notices said to contact the office for instructions on how to get on to the virtual meeting.
    - Attorney Bedrock asked who was on the virtual meeting.
    - Secretary Beever stated that there are seven people present on the virtual hearing.
    - Attorney Bedrock asked if they could all hear us.
    - Secretary Beever said that they should be able to hear us.
    - Attorney Bedrock stated that we should then proceed and open the public hearing.
    - Secretary Beever asked if Dwayne could hear the board.
- ◆ Dwayne Hoefrei the applicant explained that the applicant is wanting to open a used car sales and recycling business to the board.
- ◆ Chairperson Troike opened the hearing up for public comments.
- ◆ Audience in favor of request:
  - Dwayne Hoefrei
- ◆ Audience opposed to request:
  - Secretary Beever stated that an adjoining neighbor Harold Thompson had called the office several times opposed to the variance and wrote a letter.

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- ◆ Applicant Dwayne Hoefrei went on to state that the previous business located on the property looked like a junk yard and that he is not like that would like a chance to show the board.
- ◆ Member Cultice made a motion to close the public hearing. Executive Secretary Allen seconded that motion. Motion carried 3-0.
- ◆ Board questions to the applicant.
  - Member Cultice asked the applicant how he is planning on disposing of the recycling.
    - Applicant Hoefrei answered that he would have a service like waste management pick it up.
    - Chairperson Troike asked if he has arranged for someone to empty the dumpsters already.
    - Applicant Hoefrei stated yes that it would be the big metal companies. He went on to state that one would be for copper, one for aluminum cans, and maybe one for lawn mowers.
    - Chairperson Troike asked if he was going to monitor what is going in them.
    - Applicant Hoefrei said correct, that there would be no hazardous waste.
    - Member Cultice asked that as for his type of monitoring if the customers are going to come past a check in station or entry gate.
    - Applicant Hoefrei stated yes, they would need to come into the office to see where to place the materials only during business hours.
    - Chairperson Troike asked if it would be gated after hours.
    - Applicant Hoefrei said absolutely, and he went on to discuss his business hours.
    - Attorney Bedrock asked if there will be any automotive repairs done on the property.
    - Applicant Hoefrei answered no that he believes in using his brain to make a living.
    - Member Cultice asked if he'd be going to the car auctions to buy cars and put them on the lot for sale?
    - Applicant Hoefrei stated yes and that he would also be purchasing them off the internet.
    - Member Cultice asked if he had an estimate of how many cars he plans on keeping on the property.
    - Applicant Hoefrei explained that he plans on probably 40-60 vehicles and nothing would be in operable.
    - Member Cultice asked if he plans on putting up chain link fencing around the whole property.
    - Applicant Hoefrei stated that in the rear of the property it would probably be chain link fencing but up front he'd want something that wouldn't be as easy to see back into the dumpsters.
    - Member Cultice asked if there would be two entrances.
    - Applicant Hoefrei stated there would only be one entrance.
- ◆ Board discussion.
- ◆ Chairperson Troike asked if Mr. Hoefrei had seen the letter from Mr. Thompson.
  - Applicant Hoefrei stated that he has not.
  - Secretary Beever stated she would share it via zoom.
  - Applicant Hoefrei went on to state that he could put in a mound system if needed and that there wouldn't really be any loud noise because the recycling would just be people placing their items in the dumpsters.
  - Member Cultice asked approximately how many people he thinks would be working for him.
  - Applicant Hoefrei stated probably 3-5 people.
  - Member Cultice asked if the applicant lives in Knox.
  - Applicant Hoefrei stated no he does not and his plan is to buy his brother a home down in Knox and he would be the one running the business on site.
- ◆ Member Cultice asked about a sign permit.
  - Secretary Starkey stated that the business license comes with the ability to place a sign.
  - Member Cultice told Mr. Hoefrei he would also need to get a business licenses and that would come with a ability to place a sign.
- ◆ Member Cultice made a motion to grant the request with the following stipulations:
  - The recycling center must be fully fenced in.
  - There must be a secured gated entrance into the recycling center that is always locked at night.
  - No automobile repairs are to be done on the property as part of the business.
  - Hours of operation are to be Monday through Friday 9-5 p.m. and Saturday 9-1p.m. Closed on Sundays and holidays.
  - This variance is only applicable for the Hoefrei's.

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- ◆ Executive Secretary Allen seconded that motion. Motion carried 3-0.
- ◆ Secretary Beever told Mr. Hoefrei he would need to make an appointment to come into the office for his business licenses and that it would be \$100.00.

**VI Public Hearing** - to consider a conditional use variance request by Joseph A. Yozze, to place an accessory type structure on property without a dwelling in an R-2 zoning that is less than 10 acres, on property owned by Joseph A. & Donna M. Yozze and described as follows Orchard Hill Sub Lot 9 Blk 1 S24/T32/R1, 0.44 acres, Parcel number 75-10-24-203-088.000-002, located at Deer Path Dr. adjoining to the south of rear of 5839 S Deer Path Dr. Knox, IN 46534.

- ◆ All notifications were not in order.
  - Secretary Beever went on to state that once again multiple notices were sent out for this hearing as well. At some point in time everyone had been notified of the hearing. Two of the virtual hearing notices had not come back yet. She went on to state that she did have a letter from Jan Szarkowski so she does know a hearing is taking place and that she did not get a virtual notification back for a Linda Sabatini, but she did get a notification for the previous scheduled meeting in December. Secretary Beever also stated that all the virtual hearing for this meeting she personally mailed out the notifications certified for them, due to them being rescheduled.
- ◆ Attorney Bedrock stated that Jan Szarkowski is a client of his and that she did get the notice and he explained to her what the hearing was about. He went on to state that he believes she or her son sent a letter.
- ◆ Attorney Bedrock read the use ordinance.
- ◆ Secretary Beever stated that the applicant is wanting to place a garage on a property that does not have a dwelling on it.
- ◆ Executive Secretary Allen stated that the board has seen this many times and you can't build a building without a dwelling.
- ◆ Attorney Bedrock stated that there is no intent to build a dwelling.
- ◆ Executive Secretary Allen made a motion to open the public hearing. Member Cultice seconded that motion. Motion carried 3-0.
- ◆ Applicant Joseph Yozze explained his intent to place an accessory structure on the property for personal storage use before the board.
- ◆ Chairperson Troike asked if the applicant had any intent on placing a home on this property.
  - Mr. Yozze stated maybe on the one side, and that is why he is wanting to build the garage in the corner.
- ◆ Chairperson Troike explained that the board in the past has not permitted any other structures to be built without a residence being planned or already there.
- ◆ The applicant went on to state that the property next to his has a structure on it without a house on it.
  - Secretary Beever said she believe he is referring to the property just to the south of his on the GIS map. She went on to say that if it does have an accessory structure on it that they didn't get a permit for it, and that re-assessment probably just hasn't caught it yet.
  - Member Cultice stated that the board can't just approve something because the neighbor has one.
  - Attorney Bedrock went on to state that if the neighbor did build something without a permit then it'll have to be removed.
- ◆ Audience in favor of request:
  - Joseph Yozze
- ◆ Audience opposed to request:
  - No one in the virtual audience was opposed to the request.
- ◆ Member Cultice made a motion to close the public hearing. Motion was seconded by Executive Secretary Allen. Motion carried 3-0.
- ◆ Board discussion.
- ◆ Member Cultice made a motion to deny the request as presented. Executive Secretary Allen seconded that motion. Motion carried 3-0.

**VII Public Hearing** - to consider an area variance request by Anthony Cella, to build an accessory structure with a restroom three feet from the rear property line, three feet from the W property line, "on" the E property line, five feet from the existing dwelling, and being twenty feet high, on property owned by Anthony Cella and described as follows: Chitticks Pt off W. side L 1 S7/T32/R1, 0.15 acres, Parcel number 75-11-07-101-048.000-008, located at 4242 S. Cr. 210 Knox, IN 46534.

- ◆ Attorney Bedrock read the request
- ◆ Attorney Bedrock read the area variance

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- ◆ All notifications were not in order. Secretary Beever went on to state that once again multiple notices were sent out for this hearing as well. At some point in time everyone had been notified of the hearing. She went on to say that the only one that she did not receive a virtual notice back from was James and Sheryl Matt.
- ◆ Attorney Bedrock asked if there were any letters.
  - Secretary Beever stated that she received several. One from John Petzold, Lorraine Halford, and several phone calls from Susie Wojdyla. She stated that the Petzold's were very concerned with the drainage of the property due to there being a county ditch/drain next to the property. She went on to say that the property owner would also need to seek out a variance from the drainage board if they are approved for their variance since they will not be able to meet the 75 foot set back from a ditch. She went on to explain that to the board. She went on to explain that Lorraine Halford believes that the Cella Property is already encroaching on to her property.
- ◆ Chairperson Troike opened the hearing up to the public.
- ◆ Applicant Cella explained to the board that there previously used to be a drainage issue there but since the county leaned the ditch out that there hasn't been an issue since. He went on to say that he is wanting to place a garage with a loft on the back of the property for storage and extra living space. Mr. Cella stated that he believes that only the structure being on the east property line would really be the only issue. He went on to state that according to his survey he doesn't believe to be impeding on anyone.
- ◆ Secretary Beever went on to state that the Petzold's were also concerned with the height of the new structure. She went on to state that an accessory structure can only be up to 18 feet tall unless there are 15 foot side yards. And they are wanting to be 20 feet tall.
  - Applicant Cella stated that reasoning for the 20 feet in height is so that it could be a complete full second story with 8 foot ceilings.
- ◆ Attorney Bedrock asked how they would access the garage according to the survey.
  - Applicant Cella responded that it would be accessed from the west side. He went on to say that it is very open on that side of the property and that that the drainage ditch is on that side also which provides more space to access the rear of the property.
- ◆ Audience in favor of request:
  - Anthony Cella
- ◆ Audience opposed to request:
  - Paul Wojdyla stated he sent in a letter with a list of their concerns regarding Mr. Cella building an accessory structure. Mr. Wojdyla read his letter to the board.
  - Lorraine Halford
  - Roy Halford
  - Susan Wojdyla
  - Carol Newcomb
- ◆ Attorney Bedrock stated that what Mr. Wojtyla stated regarding the land coverage was correct but he didn't know what the land coverage was.
  - Secretary Beever stated that according to what she calculated the land coverage is 27% currently and with the new garage it would put them at 37% coverage. She went on to state that what the Wojdyla's are claiming is that the Calla's property is encroaching on to theirs and that the Cella's actually own .03 acres less than what their survey states. She went on to state that this would be a legal issue concerning the property acreage the difference they are claiming on the survey. She went on to state that the bigger issue she believes at hand is the distance from the dwelling and property lines that they are wanting to build.
  - Chairperson Troike stated that he doesn't recall ever allowing anyone to build on the property line, and that access for fire departments and emergency squads always needs to be considered.
- ◆ Executive Secretary Allen made a motion to close the public comment portion of the hearing. Member Cultice seconded that motion. Motion carried 3-0.
- ◆ Board discussion.
  - Member Cultice stated it's just too complicated.
  - Attorney Bedrock asked if it would be injurious to the public health
    - The board agreed it would be.

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- Attorney Bedrock stated that we have no idea whether this would increase the value or not of adjacent property's and whether or not it will be affected substantially in an adverse manner.
  - The board agreed.
- Attorney Bedrock stated that the strict application of the ordinance will constitute practical difficulties because of the uniqueness and circumstances of the property. He went on to state that the request is impractical.
  - The board agreed.
  - Attorney Bedrock went on to discuss the practical difficulties
    - Member Cultice stated that granting the variance would cause practical difficulties.
  - The board agreed.
- Attorney Bedrock asked if the physical condition of the property would prevent a building of reasonable size.
  - The board agreed that it is not a reasonable size.
  - The applicant apologized to the board and stated that he was shooting for the stars.
- ◆ Member Cultice made a motion to deny the request. Executive Secretary Allen seconded that motion. Motion carried 3-0.
- ◆ Chairperson Troike addressed the applicant and informed him to check with Secretary Beever on what possibly could be placed on the property that would be of a reasonable size.

**VIII Public Hearing** - to consider an area variance request by Peter Awald & Matt Awald, to add an accessory garage structure onto the home and be only five feet from the east property line in an R-2 zoned area, on property owned by Peter & Karen Ann Awald Revocable Trust and described as follows: Slip Away Bay Lot 6 Blk 4 S11/T34/R1, 0.47 acres, Parcel number 75-03-11-402-061.000-009, located at 10935 E. Anchor Dr. Walkerton, IN 46574.

- ◆ Attorney Bedrock read the request listed above.
- ◆ Attorney Bedrock stated that the previous hearing was over an area variance and the same ordinance.
- ◆ Executive Secretary Allen asked if any one complained about this variance.
  - Secretary Beever stated that the neighbor to the East actually called and was in favor of the Awald constructing their accessory garage.
- ◆ Member Cultice made mention of the Koontz Lake Fire Dept. notice coming back returned to sender
  - Attorney Bedrock asked Executive Secretary Allen if he is the recipient of the fire departments mail due to him being the trustee of the township.
  - Secretary Beever stated that the tax roll has it being addressed in care of Mark Allen.
  - Executive Secretary Allen went on to state that the fire department is actually owned by their own entity. He went on to state that he did talk to the fire dept. and that they did not seem to care about the Awald's variance.
- ◆ All notifications were not in order.
  - Secretary Beever went on to state that once again multiple notices were sent out for this hearing as well. At some point in time everyone had been notified of the hearing. She went on to state that the Koontz Lake Fire Dept. notice was returned to sender and the Rose Simpson green card had not been returned yet.
- ◆ Executive Secretary Allen asked if they had ran natural gas to the house
  - Applicant Awald answered yes.
- ◆ Executive Secretary Allen made a motion to open the public hearing. Member Cultice Seconded that motion. Motion carried 3-0.
- ◆ Secretary Beever stated that they are wanting to basically add on an attached garage to their existing home, that will be closer to the east property line.
- ◆ Applicant Awald explained intent on how he plans to build the structure. He went on to state that it will look and blend in with the existing home.
- ◆ Secretary Beever stated that the applicant changed their mind several times on the size and position of the building, and why the applicant was here before the board.
- ◆ Executive Secretary Allen asked what size they had decided on.
  - Applicant Awald stated that they are wanting to build a 24x20 and be 5 feet from the property line.
  - Secretary Beever asked if it's going to be 5 feet from the building or from the eve.
    - Applicant Awald answered the eve.
- ◆ Audience in favor of request:
  - Peter Awald
  - Karen Awald

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- Matt Awald
- Don Heichel
- ♦ Audience opposed to request:
  - No one was opposed to the request.
- ♦ Executive Secretary Allen made a motion to close the public comment portion of the hearing. Member Cultice seconded that motion. Motion carried 3-0.
- ♦ Board discussion.
- ♦ Executive Secretary Allen made a motion to grant the variance as presented. Member Cultice seconded that motion. Motion carried 3-0.

## **IX Old/New Business-**

- ♦ Secretary Beever asked the board about David J. Paulson regarding use variance at 8489 S. Spruce St. Monterey, IN 46960. Permit #s 20190221 and 20180629. He was wanting to know if he needed to re-apply for another variance.
  - The board agreed that he would only need to re-apply for another permit in the planning commission office.
- ♦ Secretary Beever updated the board on the Dudlo variance from 2020. She stated that Mr. Dudlo had provided her with pictures of the finished project and it was completed in the time frame that the board had given him.
- ♦ Executive Secretary Allen brought up the business selling containers on Toto Rd. and Hwy. 35.
  - Secretary Beever told the board that she had spoken with Pam and that business has been informed of the ordinance for storage containers.
- ♦ Secretary Beever read the Annual Report for 2020.
  - Secretary Beever stated that a correction needed to be made to regarding which month the meeting that was canceled in 2020.
  - Member Cultice made a motion to approve the Annual report with the correction made. Executive Secretary Allen seconded that motion. Motion carried. 3-0.

- X** With no further business to come before the board Member Cultice made a motion to adjourn, seconded by Executive Secretary Allen. Motion carried 3-0. The January 11, 2020 meeting adjourned at 8:11 p.m. local time. This meeting was recorded and will be on file in the zoning office. The next meeting of the Starke County Board of Zoning Appeals is scheduled for February 8, 2020 the latter of 6:30 p.m. or the conclusion of the Planning Commission Meeting, in the Starke County Government Building, located in Knox, IN.