

STARKE COUNTY BOARD OF ZONING APPEALS
COUNTY GOVERNMENT BUILDING
KNOX, IN 46534
PHONE: 574-772-9176

MINUTES
December 1, 2011

Vice-Chairman White opened the meeting at 6:50 p.m.

I. Pledge of Allegiance was lead by Vice-Chairman White

II. ROLL CALL –Sheri Bartoli(Chairman)**absent**, Don White(Vice-Chairman), Bob Troike(Executive Secretary), Denise Marks(Member), EJ Rodgers(Member), Steve Dodge(Attorney), Bruce Williams(Planning Commission Administrator), and Savannah Simpson(BZA Recording Secretary)

III. Review of the meeting minutes for October 20, 2011–Member Rodgers made a motion to approve the minutes as written, seconded by Member Marks. Motion carried 3-0.

IV. Public hearing to consider an appeal of the Zoning Administrator’s decision, by **BETTY AND GEORGE DOTLICH**, to place a manufactured home, on property owned by **JULIA POVILAITIS** and described as follows: S ½ NW S33 T33 R1 6acres, Parcel number 75-07-06-100-009.301-012, located at 6690 E 250 N, GROVERTOWN, IN 46531.

- All notifications were in order
- Vice-Chairman White read the request listed above.
- Attorney Dodge explained why the applicant was before the board.
 - They want to dispute the decision made by the zoning administrator.
- Applicants George and Betty Dotlich were present.
- Attorney Gerold Stout was also present to represent the applicants.
- Attorney Stout explained their intent.
 - They believe that the permit was issued in error.
 - They believe that this type of structure is not permitted in a residential area.
 - He stated that the permit issued is for a Type 1 MH.
 - He stated that the structure does not have a kitchen, shower, or bedrooms which a Type 1 MH is required to have.
 - He stated that the structure is 13 years old and referred to ordinance 6-12-3-2-3 section F, which states that a MH older than 10 years may only be placed in a MH park or a MH home subdivision.
 - He stated that the structure is not HUD approved therefore HUD is not involved.
 - He referred to Z-I-B section 5 and noted that the structure does not have a kitchen sink or a private place for a shower.
 - He also referred to the following attachments that were provided by the applicants when they applied for the appeal:

- Attachment 9: a letter from the manufacturer general manager stating that the structure was not built under HUD, and that it is a commercial building.
- Attachment 11: email from IBTS stating that the structure was built for business use.
- Attachment 12: A letter from a field representative for HUD stating that HUD will not be involved in this matter since it was not manufactured under HUD guidelines.
- Attachment 19: The bill of sale that shows the structure is a salvage unit.
 - Attorney Stout stated that he does not know what makes it a salvage unit but suggested that it is similar to an automobile having a salvage title.
 - Attorney Dodge objected to that statement because it was Attorney Stout's opinion, of the meaning of a salvage, unit not fact.
- Attachment 18: Starke County Health Department septic approval issued to prior owner in 2003. He stated that it was only valid for one year.
 - Attorney Stout referred to the drawing that was submitted with the permit application. He noted that the septic field is on the south west end of the property and that there have been two structure fires at the location in the past so fire trucks were driven over the septic field. He also noted that there is a shallow trench that causes the applicants concern about the septic field.
- Attachment 8: Data plate, specifically the occupancy and construction type.
 - Attorney Stout submitted to the board a copy of the International Building Code Occupancy Classification which indicates the uses for Occupancy B. Residential use is not included.
 - He also submitted to the board a copy regarding construction type. He noted that the structure is construction type 5B unprotected and that according to the paper it is for small construction projects and is the least restrictive with regard to building materials. He suggested that because of this the structure does not meet fire codes.
- He also referred to the photos that were submitted with the appeal application and noted that it does not conform to other homes in the area.
- He submitted a current photo of the structure and noted that it is now on piers and put together and that there is plywood being used a skirting.
- He stated that there were no plans submitted to convert the structure to a residence and no indication of what licensed set crew set the MH on the piers.
- Attorney Dodge stated that it appears the objection is not to the permit but to what happened after the permit was issued.

- Attorney Stout stated that his clients are opposed to the particular structure since it does not conform.
- Vice-Chairman White opened the hearing to public comment.
- John Sorba explained that a MH salvage unit means that the structure was given away and that no money was paid for it. It is not the same as a salvage title for an automobile. He also explained that there is a misconception of the definitions of the types of homes and that the terms are commonly misused.
- George Dotlich asked if the information given to the county was accurate and he repeated some of the points that his attorney noted earlier.
 - Attorney Dodge stated that the public is being asked to present evidence to the board not to ask questions.
- George Dotlich then asked everyone in the audience opposed to the issuing of the permit to stand.
 - Many people stood.
- Betty Dotlich stated that by moving this structure in everyone's properties were devalued.
- Bruce Williams:
 - Stated that this is a structure not a MH therefore everything brought up in the MH ordinance does not apply.
 - He stated that he was told that the structure was a MH but as Mr. Sorba stated descriptions are often confused and used incorrectly.
 - He read IC 16-41-27-32 under C concerning the age of a MH
 - He read IC 36-7-8-4 concerning the conversion of a structure from non-residential to residential. He also stated that there is no ordinance against conversion.
 - He read IC 22-13-4-5 concerning conversion and the economically efficient re use of a structure.
 - He referred to the International Building Code construction type and stated that it is the least restrictive regarding commercial building but more restrictive when compared to residential as residential is not very restrictive when it comes to fire codes and building materials. He also discussed the fire rating in residential.
 - He referred to the data plate and stated that he was supplied with an additional paper that showed that the structure does meet the 90 mph windspeed. He also noted that according to the data plate it meets the roof and floor design requirements and that it was built under codes.
 - He stated that when it is remodeled it will have to be brought up to 2003 IN residential codes.
 - He stated that the state of Indiana does not limit converting any structure into a residence.
 - He read IC 36-7-8-3 regarding private homes and individuals
 - He stated that he believes the meeting is premature as the property owners haven't had a chance to complete their project.
 - He stated that they did not really even have to come in and get a permit but they did because they wanted to do things right.
 - He stated that a certificate of occupancy will not be issued until the project is complete and a final inspection is done.
 - He stated that this home does not apply to HUD or the MH ordinance.

- Vice-Chairman White asked Mr. Williams what does apply to it.
 - Mr. Williams replied that the codes he read concerning converting one structure into another apply.
- Member Marks asked Mr. Williams if the building materials on the structure now meet fire prevention standards.
 - Mr. Williams explained that residences have limited fire ratings and this structure exceeds them.
- Vice-Chairman White asked Mr. Williams if the structure has to be brought up to all standards before receiving an occupancy permit.
 - Mr. Williams explained that yes it will if he (Mr. Ford) chooses to go that route.
 - Attorney Dodge explained that it is the intention of the property owners to bring it up to code.
 - Mr. Williams stated that if he does not bring it up to code he will not receive an occupancy permit.
- Attorney Dodge stated that the project is not complete so the issue is whether the requirements were met to grant the permit not what it will look like when it is done. He also stated that the board is to decide if the permit was properly issued.
- Marsha Bedrock asked about the septic permit being expired
 - Mr. Williams explained that it will be inspected by the health inspector again when they hook up to the septic.
- Kathy Norem stated that she understands that the permit was issued for a Type 1 MH.
 - Mr. Williams agrees that this is what the permit was issued for and that it is an error.
 - Vice-Chairman White asked Mr. Williams if what the permit is issued for is what will need to be followed.
 - Mr. Williams replied that the property owner can withdraw the permit or it can be revoked and another one issued with the correct information.
- Betty Dotlich asked if blueprints from an engineer will be submitted.
 - Mr. Williams replied that this county does not plan review.
- Attorney Stout referred to ordinance 6-12-3-2-7 concerning issuance of a building permit and septic permit. He stated that the current septic permit is expired.
 - Attorney Dodge explained that the issued permit gave one year for the septic to be put in, which it was, and that it will be inspected again before they live in it.
- Betty Dotlich referred to building ordinance 2010-15 Article 2 Item 2B concerning what needs to be submitted when applying for a permit.
 - Mr. Williams stated that this county does not plan review.
- Vice-Chairman White closed the public comment portion of the hearing.
- Board discussion
 - Mr. Williams explained that the standing permit can be amended and corrections made.
- Member Marks made a motion to **grant** the appeal, reason being that the permit was granted in error therefore it is null and void and the property owners will have to reapply.
- Member Rodgers seconded that motion. Motion carried 3-0.

V. Old Business –

- None at this time

VI. New Business –

- None at this time

VII. With no further business to come before the board Executive Secretary Troike made a motion to adjourn, seconded by Member Marks. The December 1, 2011 meeting adjourned at 8:10 p.m. local time. This meeting was recorded for file in the zoning office. The next meeting of the Starke County Board of Zoning Appeals is scheduled for January 19, 2012 at 6:30 p.m. local time, in the Starke County Government Building, located in Knox, IN.