

# STARKE COUNTY BOARD OF ZONING APPEALS

53 EAST MOUND STREET

KNOX, IN 46534

PHONE: 574-772-9176

## MINUTES

**March 20 , 2019**

Chairperson Troike opened the meeting at 6:34 p.m.

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

**II Roll Call-** Bob Troike (Chairperson), Don White(Vice-Chairperson), Mark Allen(Executive Secretary), Zac Binkley (Member), Don Binkley (Member), Martin Bedrock (Attorney), Terry Stephenson (Planning Commission Administrator), and Mary Beever (BZA Recording Secretary).

**III Review of the meeting minutes for February 20, 2019** – Vice-Chairperson White made a motion to approve the minutes as written. Member Binkley seconded that motion. Motion carried 5-0.

**IV Public hearing** to consider a special exception variance and review of a previous conditional variance granted in 2006 requested by Dean Dunning, to have a new variance granted and/or the stipulations of the previous variance changed or revised, on an agricultural zoned property owned by William E. , Mae J., & Dean B. Dunning and described as follows: Pt Se Se , 1.0 acres, Parcel number 75-07-10-400-041.600-012, located at 9856 E. 100 N. Knox, IN 46534.

- ◆ Attorney Bedrock read the request listed above.
- ◆ Attorney Bedrock went on to explain that a previous variance was applied for back in 2006.
- ◆ All notifications were not in order
  - Secretary Beever explained that one notice for a Gail Tate & Patricia Jagielowicz was not signed for and it had not yet been returned in the mail either.
  - Chairperson Troike explained to the applicant the circumstances of possibly having a rehearing and asked the applicant if he wanted to proceed with the hearing.
  - Mr. Dunning stated that he would like to continue with the hearing.
- ◆ Attorney Bedrock read the previous variance stipulations that were granted in 2006.
- ◆ Attorney Bedrock read the special exception ordinance.
- ◆ Applicant Dean Dunning was present.
- ◆ Applicant Dunning explained to the board that he is asking to keep the home on the property even when his parents are no longer living in it.
  - Secretary Beever explained the situation of the parcels to the board that none of the properties that the Dunning's own have road frontage at all and only have a deeded easement of 30 feet on the west side of the parcel that is separately owned in front of them.
- ◆ Applicant Dunning explained to the board when he got the permit to build his home and then when he got the variance and permit to build the home for his parents.
- ◆ Audience member Cathy Curtis asked if anyone is currently living in the home.
  - Applicant Dunning stated that his mother is deceased and that they have moved his father in with them so his wife can help take care of him better.
- ◆ Secretary Beever showed the board and the audience on the GIS board the situation of the homes and explained the parcels and the easement situation.
- ◆ Chairperson Troike asked if the original variance was included in the packet.
  - Secretary Beever stated that it was.
- ◆ Board discussion
- ◆ Member Z. Binkley asked if they had to get a variance to build the first home.
  - Attorney Bedrock stated that the first house must have just gotten a permit to build and didn't get a variance.

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- Applicant Dunning stated that he did have to get a variance for the first house and that was in 2005. Applicant Dunning explained his process with being permitted to build the two homes.
- Attorney Bedrock stated his understanding of the applicants process, that the applicant got a variance to put up a new house and removed the initial trailer that was there to begin with. Then they got another variance for the second home for his parents to live in.
- ◆ Member D. Binkley asked if it was a manufactured home.
  - Applicant Dunning responded yes.
- ◆ Vice-Chairperson White asked if either parent is living in the home.
  - Applicant Dunning stated that his mother is deceased and that his father has moved into his home.
  - He went on to state that when neither of the parents live at the home the variance shall become null and void.
- ◆ Attorney Bedrock stated that is why he is requesting the special exception to keep the house.
- ◆ Member Z. Binkley asked the applicant what his intention are if the board is to grant the variance.
  - Applicant Dunning responded that he would like to move his granddaughter into the house.
- ◆ Board discussion on how the property was sold initially and the easement/right-of-way.
- ◆ Chairperson Troike asked if anyone in the audience is in favor of allowing Mr. Dunning to keep the home in question on the property.
  - Attorney Bedrock asked if any of the audience is a neighbor of Mr. Dunning.
  - Cathy Curtis stated that she is a neighbor that lives to the east of Mr. Dunning's property.
  - Member D. Binkley asked her if she is opposed to the house staying.
  - Ms. Curtis asked if Mr. Dunning was the one that cut down a tree on her property.
  - Mr. Dunning stated that he didn't believe so but if he did he was sorry.
  - Ms. Curtis asked if he was just going to use the house for his granddaughter.
  - Attorney Bedrock stated that could be a condition if the variance is granted that the home is only to be used by family.
- ◆ Chairperson Troike asked if anyone in the audience is in favor of allowing Mr. Dunning to keep the home in question on the property again.
  - No one in the audience was opposed to the home staying.
- ◆ Mr. Dunning asked if the board could clarify what the issue is with the home staying.
  - Member D. Binkley stated that the property doesn't have 100 feet of road frontage.
  - Chairperson Troike read the original variance of the hardship of the applicants parents no longer residing there the variance becomes null and void.
  - Attorney Bedrock stated that there is two problems. One that there is no road frontage and two that there are two homes on one parcel.
  - Secretary Beever corrected Mr. Bedrock and stated that the homes are now on their own separate parcels and that there are three parcels owned by Mr. Dunning.
  - Board discussion
- ◆ Vice-Chairperson asked if there are two separate addresses for the parcels.
  - Mr. Dunning stated that there are two addresses.
- ◆ Board discussion on the easement associated with the property and on which deeds the easement is included.
- ◆ Attorney Bedrock read the special exception portion of the ordinance.
- ◆ Mr. Dunning asked for some clarification on what Mr. Bedrock had read.

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- ◆ Attorney Bedrock told Mr. Dunning that he probably shouldn't have been granted this variance in the first place but since he had been that the board isn't necessarily inclined to make him tear the home down.
- ◆ Planning Admin. Stephenson stated that the board is trying to figure out a solution to this problem without creating another problem down the line.
- ◆ Member D. Binkley and Chairperson Troike explained the situation a bit more to Mr. Dunning.
- ◆ Mr. Dunning asked what besides the road frontage was causing a problem.
- ◆ The board responded that that is the reason.
- ◆ Planning Admin. Stephenson stated that originally Mr. Dunning was granted temporary housing and the problem is that he has now made it permanent. He went on to say that the board is trying to find a solution for the problem without creating another problem down the line.
- ◆ Mr. Dunning explained why the bank made him split the properties and the reason he initially received the variance.
- ◆ Secretary Beever explained to Mr. Dunning that even if he had split the property before he was granted the variance initially that he would have still needed to get a variance to place a dwelling on the property because there is no road frontage that is attached to the property.
- ◆ Board discussion on frontage, easements, and the previous variance issued to Mr. Dunning.
- ◆ Audience member Curtis stated that she isn't opposed to the home staying there as long as it was to stay occupied by Mr. Dunning's family.
- ◆ Vice-Chairperson White made a motion to extend the original variance and revise the stipulations of the original variance. The home is to only have members of Dean Dunning's family to reside in it, otherwise the variance is null and void. In the future if the family wants to sell the home on the above listed property they will need to come back before the Board of Zoning Appeals to seek permission. Nothing is to be built on the property without proper permitting. Member D. Binkley seconded that motion. Motion carried 5-0.
- ◆ Audience Member Curtis asked the board how to go about making an easement wider.
- ◆ Member D. Binkley stated that they would have to contact the property owner about it.

## V Old/New Business-

- ◆ Secretary Beever stated that she has postponed the McIntosh hearing till April upon the request of Mr. McIntosh.
  - Audience member Martin was present for the McIntosh hearing
  - Secretary Beever told Mr. Martin that the hearing will not take place till he receives a public notice by certified mail.
- ◆ Property owned by Donald & Michael Dalton. Parcel number 75-07-24-100-015.000-012, located at 1000 E-1190 S of Division R. Knox, IN 46534.
  - Secretary Beever stated that this is a hearing the board heard back in 2015 that was denied a variance to build a home on a property with only 20 feet of road frontage. She went onto say that at the previous meeting that the board asked her to request the owner to attend this meeting to resolve the issue of a home being built with out being permitted on the property.
  - Michael Dalton and Jennie Dalton were present.
  - Mr. Dalton stated to the board that he received a permit in the mail and that he assumed that it was good for building the home.
  - Secretary Beever stated that the permit he received was an electrical permit and that he would have received his application also with it that stated it was only an electrical permit.
  - Board discussion with Mr. Dalton regarding the dwelling on the property.

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- Secretary Beever showed Mr. Dalton the application that stated he applied for an electrical permit.
- Board discussion on the road frontage of 20 feet.
- Mr. Dalton told the board that he tried to purchase more road frontage but was unable to.
- Member D. Binkley and Attorney Bedrock asked if Terry had inspected anything at the home.
- Mr. Dalton replied that the electric had been inspected.
- Plan Comm. Admin. Stephenson stated that he had inspected the electric panel. He went on to state that the county cannot afford to tear the home down, so his suggestion is to allow this one to stay even though Mr. Dalton made a mistake building it without proper permitting.
- Member Allen asked if when Mr. Dalton bought the property if anyone told him he wouldn't be allowed to build on it.
- Mr. Dalton responded saying that he was informed that he would be able to build on it.
- Secretary Beever stated that at the first hearing in 2015 she sent Patterson Reality a letter regarding the district restrictions.
- Member D. Binkley stated that he thinks the board should help Mr. Dalton out like they helped out Mr. Dunning earlier.
- Board Discussion regarding easements and restrictions.
- Secretary Beever asked if he needed to come get a permit.
- Chairperson Troike responded that yes he will need to come in and get a permit and have the home inspected.
- Member Z. Binkley made a motion to grant the road frontage at the home of 20 feet. Member Allen seconded the motion. Motion carried 5-0.

**VI** With no further business to come before the board Member Allen made a motion to adjourn, seconded by Member Z. Binkley. Motion carried 5-0. The March 20, 2019 meeting adjourned at 7:36 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 April 17, 2019 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.