

# STARKE COUNTY BOARD OF ZONING APPEALS

53 EAST MOUND STREET

KNOX, IN 46534

PHONE: 574-772-9176

## MINUTES

September 20<sup>th</sup>, 2012

Chairperson Bartoli opened the meeting at 6:30 pm.

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

**II Roll Call-** Sheri Bartoli (Chairperson), Don White (Vice-Chairperson), Denise Marks (Executive Secretary), Bob Troike (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 July 19<sup>th</sup>, 2012-** Vice-Chairperson White made a motion to approve the minutes as written. Executive Secretary Marks seconded that motion. Motion carried 5-0.

**IV Public hearing** to consider an area variance request by Terry and Jerry Malstaff, to build a house 17.5' from the road, on property owned by Etta Mae Hannon and Clarence W. Hannon Jr. Trust and described as follows: Pt. SW SE, 0.84 acres, Parcel number 75-03-01-403-010.200-009, located at Tippecanoe Drive, Walkerton, IN 46574.

- ◆ Chairperson Bartoli read the request listed above.
- ◆ All notifications were in order.
- ◆ Mr. Williams explained why the applicant was before the board.
  - The applicant wants to build closer to the road than what is allowed by the zoning ordinance.
- ◆ Attorney Dodge read the area variance ordinance.
- ◆ Applicants Terry and Jerry Malstaff were present.
- ◆ Jerry Malstaff explained their intent.
  - He presented, to the board, a drawing that showed where the wetlands are located on the property.
  - They want to build closer to the road to keep the house away from the wetlands.
- ◆ Audience in favor of request: None
- ◆ Audience opposed to request:
  - Michael Sutton
    - Represents the Lake Forest Beach Club
  - George Dotlich
  - Gary Nelson
- ◆ Board questions to the applicant.
  - Chairperson Bartoli asked the applicant what size the house will be.
    - He replied that it will be 24x48 each level.
  - Member Rodgers asked what the property looks like.
    - The applicant explained that the land is 6-8 inches lower than the road right now and flat where the house will be.

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- Member Troike asked what kind of foundation will be used.
  - The applicant replied that he will have 4 blocks high with footings up to 48 inches.
- Executive Secretary Marks asked:
  - If the property is currently vacant.
    - The applicant answered that it is.
  - How long they have owned the property.
    - The applicant replied that from what he understands she inherited it a couple years ago.
  - If it would be a full time residence.
    - The applicant replied that he was not sure but that it would probably be seasonal for now.
- Vice-Chairperson White asked:
  - If there are other houses, close by this property, that are that close to the road.
    - The applicant confirmed that there are.
  - If the other close properties have a garage.
    - The applicant confirmed that they do.
  - If there will be enough room for a vehicle to be parked without it being in the street.
    - The applicant replied that he believes so.
  - If it would be possible to move the house further back.
    - The applicant replied that he would have to make a narrower house.
    - The applicant also expressed the possibility of parking under the deck as well.
- Chairperson Bartoli asked if it would be possible to move the proposed house on the property.
  - The applicant replied that it would not be.
- Member Rodgers asked if the property has city sewer.
  - The applicant replied it does.
- Mr. Williams asked if the 17.5' measurement was from the center or edge of road.
  - The applicant replied that it is from the edge of road.
- Attorney Dodge asked if the setback requirements from the center or edge of the road
  - Mr. Williams replied they are from the center.
- Mr. Williams asked the applicant how far from the wetlands the proposed house will be.
  - The applicant replied that it will be four or five feet from the wetlands.
- ◆ Vice-Chairperson White made a motion to close the public comment portion of the hearing. Member Marks seconded that motion. Motion carried 5-0.
- ◆ Board discussion.
- ◆ Vice-Chairperson White made a motion to grant the request with the following stipulations:

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- The garage must be on the end of the house that must be at least 38 feet from the side property line.
- The house must be at least 19 feet from the edge of the road.
- ◆ Executive Secretary Marks seconded that motion. Motion carried 4-1.

**V Public hearing** to consider a use variance request by Michael Delaney, to build a house on a property that has an existing dwelling and is owned by Michael Delaney and described as follows: N ½ N ½ N ½ NW SW, 5 acres, Parcel number 75-10-10-300-028.000-002, located at 4520 S. 300 E, Knox, Indiana 46534.

- ◆ Chairperson Bartoli read the request listed above.
- ◆ All notifications were in order.
- ◆ Mr. Williams explained why the applicant was before the board.
  - The zoning ordinance only allows one residence on a parcel of land and the applicant wants to have two.
- ◆ Attorney Dodge read the use variance ordinance.
- ◆ Applicant Michael Delaney was present.
- ◆ Mr. Delaney explained his intent:
  - He wants to build a house farther off the road so that there is not as much noise.
  - He wants to possibly rent the house, presently on the property, out or let his disabled brothers live in it or leave it vacant.
- ◆ John Overton stated that he is not either for or against the request but wanted to state concerns:
  - He is concerned about the possibility that the houses may become rentals.
- ◆ Audience in favor of request: None
- ◆ Audience opposed to request:
  - George Dotlich
- ◆ Board questions to the applicant.
  - Member Troike stated that his concern is that there is not enough frontage to have a driveway to it.
  - Executive Secretary Marks asked:
    - How old the house on the property is.
      - The applicant replied that it was built in the 50's.
    - If he is remodeling the house for himself.
      - The applicant replied that he is doing it to keep busy.
    - How many buildings are on the property now.
      - The applicant replied that there are four.
  - Vice-Chairperson White suggested dividing the property.
    - Mr. Williams explained that dividing the property wouldn't work because there would not be 100' of road frontage.
- ◆ Executive Secretary Marks made a motion to close the public comment portion of the hearing. Member Troike seconded that motion. Motion carried 5-0.

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- ◆ Board discussion.
- ◆ Vice-Chairperson White made a motion to deny the request. Member Rodgers seconded that motion. Motion carried 5-0.

## **VI Old Business-**

- ◆ None at this time.

## **VII New Business-** Recommendation for an attorney.

- ◆ Executive Secretary recommended Marty Bedrock to be the BZA attorney for next year as she feels that he would be best for the job.
  - Vice-Chairperson White made a motion to approve the recommendation of Marty Bedrock. Member Troike seconded the motion. Motion carried 5-0.
- ◆ Chairperson Bartoli asked what the status on the C&C Salvage cease and desist order is.
  - Attorney Dodge explained the status.
- ◆ Chairperson Bartoli also brought to Mr. Williams's attention a complaint she received.
- ◆ Attorney Dodge updated the board on the Dotlich vs. BZA hearing that was held September 19, 2012.
  - The judge indicated that he found against the BZA and granted the petition in favor of Dotlich.
  - As of now the attorneys are waiting on the order.

**VIII** With no further business to come before the board Executive Secretary Marks made a motion to adjourn, seconded by Vice-Chairperson White. Motion carried 5-0. The September 20<sup>th</sup>, 2012 meeting adjourned at 7:37 pm 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 October 18<sup>th</sup>, 2012 at 6:30 p.m. local time, in the Starke County Government Building, located in Knox, IN.