

STARKE COUNTY BOARD OF ZONING APPEALS

53 EAST MOUND STREET

KNOX, IN 46534

PHONE: 574-772-9176

MINUTES

November 8, 2021

Chairperson Troike opened the meeting at 6:31 p.m.

I Pledge of Allegiance- led by Chairperson Troike.

II Roll Call- Bob Troike (Chairperson), Mark Allen (Executive Secretary) (Absent), Denise Cultice (Member), Gwen Rentz (Member), Martin Bedrock (Attorney), Wallace Williams (Boz) (Building Commissioner), and Mary Beever (BZA Recording Secretary).

III Review of the meeting minutes for September 13, 2021- Member Cultice made a motion to approve the minutes as written. Member Rentz seconded that motion. Motion carried 3-0.

IV Public Hearing - to consider use variance request by Daniel Junc, to keep a commercial mobile office on his Ag zoned property for storage and hunting purposes on property owned by Daniel Junc and described as follows: Pt SE NW & SW NW S26/T33/R1, 3.94 acres, Parcel number 75-07-26-100-010.000-012, located at SE Corner of 1025 E. & 150 S. Knox, IN 46534 just South and East of 1495 S. 1025 E. Knox, IN 46534.

- ◆ Attorney Bedrock read the request listed above.
- ◆ Attorney Bedrock addressed the board and stated that he knows both the applicant and the audience member Christine Sustaita. He went on to state that he has in the past done work for both of them as an attorney and briefly stated what he has done for them.
 - The board agreed that the work Mr. Bedrock has done for the applicant and audience member does not have any affect on the present matter they are hearing.
 - Applicant Junc & Christine Sustaita both agreed that they also did not have any issue with Mr. Bedrock being the attorney for the board.
- ◆ All notifications were not in order.
 - Secretary Beever advised the board she didn't receive a green card or a returned letter for a Wilson S. Gray of 1420 S. 1025 E. Knox, IN 46534.
 - Chairperson Troike advised the applicant of his options to proceed or not with the hearing.
 - Applicant Junc asked which property didn't receive notice.
 - Secretary Beever showed him on the map the property.
 - Audience member Christine Sustaita proceeded to show Applicant Junc which property we were referring to.
 - Applicant Junc stated that property is his cousin's property. He went on to show the board the property that his cousin owns.
 - Applicant Junc choose to proceed with the hearing.
- ◆ Secretary Beever explained that the applicant was before the board because he had placed a mobile office unit on a piece of property, he owns that did not have a dwelling on it and that it is less than ten acres, without a permit. She went on to state that the majority of the property is also in the floodplain.
- ◆ Audience member Sustaita interjected and added that he had also filled in some of the property.
- ◆ Chairperson Troike addressed Ms. Sustaita and told her there will be a point in the meeting for her comments but it isn't yet.
- ◆ Attorney Bedrock asked Secretary Beever if a house could or couldn't be built on this property.
 - Secretary Beever answered that a house could be built on the property but the applicant would first have to get an elevation certificate on how he would have to build the home.
 - Attorney Bedrock asked how much property someone needs to place a structure that isn't a home.
 - Secretary Beever answered ten acres.
 - Attorney Bedrock stated that the applicant only has about 3.95.
 - Chairperson Troike answered yes.

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- ◆ Member Rentz asked if since it's zoned AG, if he wanted to build a house, would he have to come before the board again to have it zoned residential.
 - Secretary Beever clarified that she is getting zoning for land confused with assessment of how land is taxed. She went on to say that you can place a home in any zoning in the county.
- ◆ Attorney Bedrock read the use ordinance.
- ◆ Applicant Junc was present and stated that he is unable to place a home on the property because he doesn't have ten acres and only has about four.
 - Secretary Beever interjected and stated that he misunderstood. She went on to state that the only requirements to build a home is to have one acre of land and at least 100 feet of road frontage. She went on to state that to place an accessory structure without a house you have to have ten acres or more.
 - Applicant Junc went on to state when his cousin bought the property adjacent, he was told that he would have to have at least ten acres to change a wooded area into a residential area. He went on to state that he wasn't wanting to build a home anyways. He went on to state that he contacted the office a few years ago and was told if he wanted to build a tree house or anything that as long as it was 10x10 or smaller and not connected to the ground that he didn't need a permit. He continued on to state that he would like to build a small building for his children eventually maybe 6x8. He also stated that he has cleaned up the property to keep it safe for his kids and that he has planted many chestnuts and bulbs. He continued on to say that in the past he has had some things stolen from his property and he got this office trailer cheap for storage for his things. He went on to state his intent when placing the mobile office is for storing his hunting equipment and gardening tools in. He also stated that he is not camping or living in the unit and has removed the toilet from the unit and is not planning on hooking up water to it. He said it is to keep his stuff safe.
- ◆ Attorney Bedrock asked if his cousins land is ten acres.
 - Applicant Junc answered yes and went on to say that his cousin actually owns the parcel above it too which is approximately 20 acres.
 - Attorney Bedrock asked Bldg. Insp. Boz if the ordinance states you can have a shed or something if you have more than ten acres.
 - Bldg. Insp. Boz answered yes.
 - Attorney Bedrock asked applicant Junc if he could place his structure on his cousin's property next door and that would simplify the matter if his cousin would allow him to.
 - Member Cultice asked (referring to the map) which property is his.
 - Applicant Junc answered yes.
 - Bldg. Insp. Boz asked the applicant if he hauled in dirt.
 - Applicant Junc answered no.
 - Bldg. Insp. Boz stated that there is a water way on both sides of what looks like a driveway.
 - Applicant Junc replied that he had an excavator out there and he moved some dirt around on the property.
 - Bldg. Insp. Boz stated it probably wasn't running water, but asked with it being a floodplain if that is okay.
 - Applicant Junc stated that it isn't there.
 - Bldg. Insp. Boz stated that he may have to take that through the county highway to get a driveway permit to make sure it's okay and to see if he needs a culvert or something.
 - Secretary Beever stated that she checked with the surveyor's office and there are no regulated ditches on his property and that there is only floodplain.
 - Bldg. Insp. Boz asked if the highway dept. looked at it.
 - Secretary Beever stated she didn't know.
 - Applicant Junc stated that he took that into consideration and that there are two tubes under it.
 - Bldg. Insp. Boz stated that the highway department still needs to check that.

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- Applicant Junc went on to state that the soil is very poor there and that is why he just moved the existing property soil and didn't bring in any gravel or anything.
- Member Cultice asked how often he comes here and actually uses it.
 - Applicant Junc stated it's in use 24/7. He went on to state that he comes here probably once a month and sometimes to hunt.
 - Member Cultice asked what he hunts.
 - Applicant Junc answered deer.
 - Member Cultice asked if he comes during the day if he goes home and comes back the next.
 - Applicant Junc responded yes or he has friends and family who live here that he can stay with to stay overnight.
- Member Rentz asked if he is hunting out of the unit or if he is just storing supplies in it.
 - Applicant Junc responded that he is just keeping his hunting supplies in it like his clothing. He went on to state that he also keeps his lawn mower and rake in it.
 - Member Rentz asked if she could see his pictures to better understand.
 - Applicant Junc explained his photos to Member Rentz and Member Cultice.
- ◆ Audience in favor of request:
 - Applicant Daniel Junc
- ◆ Audience opposed to request:
 - Christine Sustaita (attended hearing in person and also submitted a letter prior to the hearing with her concerns)
 - Eric Denny (Submitted a written letter to the board prior to the hearing)
- ◆ Audience Member Sustaita told the board she doesn't agree with the unit being there and that the applicant didn't get any permits for it. She went on to state her concerns about the trailer to the board about the restroom facilities, the river, the ecosystem, movement of dirt, property value, and possibility of him doing business out of it.
 - Attorney Bedrock asked Ms. Sustaita how the ecosystem is being damaged.
 - Ms. Sustaita stated that the property used to be swampy and he has filled it in.
 - Bldg. Insp. Boz stated if the applicant wants to in the future he can build a home there, and when and if that happens, he'll be moving dirt around then and he's allowed to do that.
 - Ms. Sustaita stated that she is concerned it will flood her two properties potentially.
 - Bldg. Insp. Boz stated that the county highway needs to take a look at it.
 - Attorney Bedrock asked where her property is.
 - Ms. Sustaita stated her property is above his on the map and showed where hers is.
 - Applicant Junc stated he doesn't understand why it bothers her when the neighbors aren't here.
 - Ms. Sustaita responded that is why she is here, and that none of them like it.
 - Applicant Junc responded to audience member Sustaita's other concerns and answered all of her concerns.
- ◆ Chairperson Troike asked if the river being referred to is the Yellow River.
 - Applicant Junc answered yes
 - Ms. Sustaita explained that the river bend had ben changed on 200 S.
 - Bldg. Insp. Boz stated that it probably was more like an old river bed.
 - Applicant Junc stated that the river is probably 1/2 a mile away.
 - Secretary Beever stated that if the board looks at the one map in their packet that the dark grey area shown is the floodplain and explained further.
 - Bldg. Insp. Boz stated that it's really not about it being floodplain or not it's more to do with whether or not the board is going to let him keep this because he doesn't have ten acres and there is no dwelling on the property.

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- Applicant Junc stated that he was just looking for something cheap to put there for storage.
- Ms. Sustaita asked Bldg. Insp. Boz if he's seen it.
- Bldg. Insp. Boz stated that he did go out and look at it and took some pictures of it but forgot his computer. He went on to state that it isn't a residence and it is in the floodplain. He went on to ask if it could be in floodplain.
- Secretary Beever stated that in previous years that previous inspectors have allowed certain accessory structures in the floodplain if the applicant could afford to lose it or to not be of great value. She went on to state that also since FEMA redid the flood maps some areas are now in flood zoning that never before were.
- ◆ Attorney Bedrock asked Ms. Sustaita if it is visible from her home.
 - Ms. Sustaita answered no not from her's but from her son's it is.
 - Attorney Bedrock asked if there is a place on that property where it could be placed where it wouldn't be visible or to where someone wouldn't be opposed to it.
 - Ms. Sustaita stated it looks tacky.
 - Attorney Bedrock said that's because you can see it and asked what if you can't see it.
 - Ms. Sustaita stated that it would still be there.
 - Member Cultice asked it could be seen from the road.
 - Ms. Sustaita replied yes and she can see it from her son and grandson's house.
 - Applicant Junc asked if Ms. Sustaita's son complained when her grandson built his house because he could see it.
 - Attorney Bedrock stated that couldn't be complained about because it's a house.
 - Applicant Junc continued to have conversation with Ms. Sustaita on regards to when and if he is to build a house on the property and the current condition of his property.
 - Bldg. Insp. Boz interrupted and asked if her son and grandson have a problem then where are they.
 - Ms. Sustaita replied stating her son is working.
 - Bldg. Insp. Boz stated they could have put a letter in but they didn't and went on to say that she did. He went on to state that when he talked with her on the phone that she seemed upset that she was not able to purchase the land herself.
 - Ms. Sustaita agreed that 20 years ago she did want to buy it, but she was told she couldn't build on it.
 - Bldg. Insp. Boz went on to state that he doesn't know why anyone would have told her that.
 - Ms. Sustaita agreed and said she understands that it can be built on from her conversation with Secretary Beever on the phone.
 - Bldg. Insp. Boz went on to state that in floodplain they usually let you put campers and parks and things that aren't a risk. He continued on to state that FEMA has redone a lot of things and that things can be built there but another thing to consider then is insurance costs of building in a floodplain. He went on to state that it can cost thousands of dollars to build on that property.
 - Member Rentz asked if there is another location on that property that the trailer could be moved to that isn't so visible from the road.
 - Applicant Junc responded that there really isn't and explained to the board why.
- ◆ Member Cultice made a motion to close the public comment portion of the hearing. Member Rentz seconded that motion. Motion carried 3-0.
- ◆ Board discussion.
- ◆ Member Cultice made a motion to grant the request with the following stipulations;
 - Proper permit must be obtained for the unit
 - A flat fine of \$250.00 is to be paid by the applicant for failure to obtain a location improvement permit.
 - No living quarters of any kind are to be added to the unit.
 - No septic system is to be hooked up to the unit ever.

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- The applicant must check with the highway department for status on the driveway.
- The variance is non-transferable upon sale or transfer of the property and the unit must be removed.
- Member Rentz seconded that motion. Motion carried 3-0.

V Old/New Business-

- ◆ Secretary Beever informed the board that the Moynihan's from the September meeting have filed in court.
 - Attorney Bedrock went on to state that a date has not been set yet but a complete copy of the file has been filed and a copy sent to their attorney.
 - Bldg. Insp. Boz asked who all would have to be at the court hearing.
 - Attorney Bedrock said probably Bldg. Insp. Boz, Secretary Beever, and himself.
- ◆ Attorney Bedrock asked Audience member Michelle Nabor if she was wanting to discuss anything with the board.
 - Ms. Nabor stated that she was just observing and that she wanted to thank Bldg. Insp. Boz for coming out and talking to her back in June.
 - Bldg. Insp. Boz asked if it's the same property that has the sink hole or pipe on it.
 - She responded yes.
 - Bldg. Insp. Boz said there isn't much of anything his office can do about that. He went on to state that he did ask the health department about a septic permit and they sent the information to Kenny Jones about it.

VI With no further business to come before the board Member Cultice made a motion to adjourn, seconded by Member Rentz. Motion carried 3-0. The November 8, 2021 meeting adjourned at 7:34p.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 January 10, 2022 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.