

## MINUTES

### October 9, 2024

Chairperson Troike opened the meeting at 6:40 p.m.

- ❖ **Pledge of Allegiance-** led by Chairperson Troike.
- ❖ **Roll Call-** Bob Troike (Chairperson), Gwen Rentz (Vice Chairperson), **Denise Cultice \*Absent\* (Executive Secretary)**, Mark Allen (Member), Jason Downs (Member), Justin Schramm (Attorney), Wallace Williams (Boz) (Building Commissioner) & Sabina Landa (BZA Secretary).
- ❖ **Review of the meeting minutes for September 11, 2024** – Vice Chairperson Rentz made a motion to approve the minutes as written. Member Allen seconded that motion. Motion carried 4-0.
- ❖ **Public Hearing– Adam Sworden**  
Public hearing to consider a Developmental Standards request by **Adam Sworden**, to build a second dwelling above a detached garage on one parcel that will be 1 foot from the south side of the property, and per district restrictions there can only have one dwelling per parcel and on an R-3 zoned area you must be 5 feet from the side property line, on property owned by McCarthy Michael D & Vickie A and described as follows G W Tanners S 20' Lot 14 & N 20' Lot 15, 0.30 of acres, Parcel number 75-11-18-104-035.000-008, located at 5373 S Sr 10, Knox, IN 46534.
- ❖ **Secretary Landa read the request listed above.**
- ❖ **All notifications were all in order.**
- ❖ **Agent Sworden was present.**
- ❖ **Agent Sworden explained his intent.**
  - Agent Sworden introduced himself and stated that his client’s property has a very small, narrow lot over on Bass Lake. He stated that they have a blue detached garage with a one-story house behind it. He went on to state what his client is wanting to do will be used as family use only for his client’s large family. He mentioned that they are running into spatial challenges between the house having younger kids there, and so what they wanted to do was put a second floor on the garage. He stated that they had a builder that came out and confirmed that the way the garage was built, the structural foundation there would support the second floor, and went on to state that the board doesn’t have a code section that state to what he commonly calls an accessory dwelling unit. He stated that what they are wanting to put is two bedrooms and a bathroom above that garage so when family comes out for the weekend or for extended stay they would have a place to put the kids. He stated that what they are wanting to do will not be converted into a via rental but will be family use and had made it clear in the application to those concerns. He stated he doesn’t want a rental situation and would be willing to accept it as part of the approval for the variance. He stated that he had spoken with Tom Jordan from the conservancy district at Bass Lake and is aware of the policy with the separate building, separate line, and separate meter. He stated that he will let them connect to the current one because if it were to have a separate line and separate meter then there could be a problem if the property is sold five years down the line, it could potentially be used as a rental to future owners. He stated that he doesn’t want that, and neither does his client. He stated that the one-foot issue of the distance of the garage to the property on the south is what triggers the variance. He stated that he doesn’t agree that it’s a separate dwelling unit because they won’t be putting in a kitchen, instead there will be just two bedrooms and a bathroom.
  - Member Allen stated that it’s not a living area, but it got a kitchen, living room, two bedrooms, closet and hallway.
  - Bldg. Commissioner Boz stated that the board passed an ordinance not too long ago about it having a bedroom and bathroom would consider as living area. He went on to state that Tom Jordan from

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the Bass Lake conservancy talked to them about the sewer and that it's a separate deal that was going under State Road 10. He believes that the foundation of the garage is sitting on a slab. He went on to state that he doesn't know for sure until somebody proves that to him and if it's not supported they will have to go three feet deep with the footers, especially if they are going up with the height. He stated that it looks like it might have been there for a minute and that he doesn't know unless they have somebody to dig it up and allow him and a structural engineer to look at it. He stated that those were his concerns.

- Agent Sworden stated that those are reasonable conditions to verify. He stated that he had talked to his builders A to Z and that was his first question he had asked them. He stated that he originally thought of looking at the foundation as it gets teared down and rebuilding it back up. He stated that he understands the concerns since there is no structural support.
  - Bldg. Commissioner Boz stated they can't rebuild it back up from it being too close to the property line setback.
  - Member Downs stated that it definitely won't, because of the gas and electricity lines there. He stated that they cannot build over a gas line and there's really nowhere to reroute it. He stated that it would have to go out on the neighbor's property or they would have to swing it all the way out and around the other side.
  - Agent Sworden stated that he had pulled the general concept for the size of the building that has a floor plan which has everything, but not what they are trying to get from the builder with the two bedrooms and one bathroom. He went on to state that the floor plan is a representative of the size and the height and everything that they want to do for the second floor besides the kitchen and laundry room.
  - Member Allen asked Agent Sworden if it's just the one side.
  - Agent Sworden agreed.
  - Member Downs went on to state that the other side is what the board don't want.
  - Agent Sworden stated that Mark Jesse, the builder had been in and out of town. He stated that he had send him a written scope of what he's doing. He told him that he wanted the drawing with the two bedrooms and bathroom. He stated that he knows what they want to do and can subject that to conditions because they don't want to have a kitchen.
  - Bldg. Commissioner Boz stated that they will have to get a variance through Bass Lake conservancy. He went on to state that if the board agrees on it, it will make it contingent that they pass it.
  - Member Allen stated that the Bass Lake conservancy have the final say.
  - Bldg. Commissioner Boz stated that with the ordinance now, it can't come off of a barn or a garage and hook up to the house or to go out. He went on to state that it will have to be done separate if they'll be going to do all of that.
  - Member Downs asked where the ordinance that states what is considered to be a dwelling.
  - Bldg. Commissioner Boz asked Atty. Schramm to remind him on the ordinance about what considers a dwelling.
  - Atty. Schramm nodded and began to look for an updated ordinance.
- ❖ **Member Allen made a motion to open the public comment portion of the hearing. Member Downs seconded that motion. Motion carried 4-0.**
- Member Allen asked the audience members if they are in favor or against it.
  - Audience member G. Boersma stated that he's confused because the packet he had received showed blueprints and drawings of two bedrooms, a bathroom, a laundry room and a living area. He stated that he is also concerned of it being a foot off of his property on the south side. He stated that the garage is five feet away from the property line right now. He went on to state that they now decided to put a second level above the garage, in which he explained that it didn't make sense that it would come down to a foot now.

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- Member Allen asked for his name.
- Audience member G. Boersma stated George Boersma. He added that he wrote a letter.
- Member Allen stated that he wanted to make sure to who was speaking.
- Audience member G. Boersma stated that with it being one foot, any construction and maintenance that takes place in future the owners are going to have to be on his property to do it. He stated that his question is to why the two bedrooms and bathroom going to go right above the current garage and not change to the five foot because the drawing is showing one foot.
- Bldg. Commissioner Boz asked Agent Sworden to why it's one foot.
- Agent Sworden stated that it's five feet from the wall out to the property line. He went on to state that because of the roof has the eaves and all, it then would be around two and a half feet. He stated that he thinks he's concerned about it being a foot off of there so they got two foot overhang. He added on that they will be moving forward with it going straight up which is what they've been planning on doing. He stated that it will have the same roof profile and to that is where they will get into that issue.
- Audience member G. Boersma stated his other concern is the mature trees when it gets built. He asked to whose cost and who's going to dispose of it. He added that there's construction that had been going around the lake and the workers leave their garbage, their lunch and water bottles all along the side of the road. He stated that he would end up having to clean them up after. He asked the board to who can answer about the trees, the trash and the cost.
- Agent Sworden stated he can answer. He stated with the tree trimming issue the way Indiana law works is, if there were trees along his side which he stated that they are shown in the aerial branches overhang he can trim those at any time. He went on to state that for the purposes of what they're going to have to do to have that area cleared where they're not damaging the trees and the trimming would have to be done by them. He added on that it's a good thing he doesn't have a three-foot tree on both sides of the property and so all they have is the branch overhanging. He asked to what other concern does he have else.
- Member Allen stated trash. He added that he's sure that they will have a dumpster there.
- Agent Sworden stated that the builder Mark Jesse is a good guy when it comes to his construction.
- Audience member G. Boersma stated another concern of his was with the kitchen and living area and rentals.
- Member Downs stated that is what most people are doing.
- Agent Sworden stated that he had that written on the application that stated that they are not doing that. He added that he can make it into a condition.
- Applicant McCarthy stated that if he wanted to rent then he would rent the house out. He added that he wouldn't have to build something just to rent.
- Agent Sworden asked the board if the Bass Lake conservancy can do design waivers for that.
- Bldg. Commissioner Boz stated for the conservative.
- Agent Sworden stated for that connection.
- Bldg. Commissioner Boz stated that it's a fairly new ordinance they got.
- Agent Sworden stated that he spoke with Tom and he stated that he was going to wait until the board's decision.
- Bldg. Commissioner Boz stated that it sounds like he will need to get a variance from them. He added that he will have to go in front of the Bass Lake conservancy board and get their permission to hook up. He stated that from what Tom told him, he will have to go under State Road 10 and that's a big ordeal to being a state road to hook up to the sewer on the other side of the road. He stated that there will be questions for the Bass Lake conservancy board.
- Member Allen stated that he can't issue a permit until they get that approval.
- Bldg. Commissioner Boz stated that Tom won't sign off on the building permit.

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- Agent Sworden asked Atty. Schramm if this was his first time he had one of these variances with the new ordinance over at the Bass Lake conservancy.
- Atty. Schramm stated that he's not sure if he had an approval from that change. He stated that the last version he had seen is a dwelling should be construed as any building or any portion thereof primarily utilities as a place of abode for one or more persons, and containing a bathroom, living quarters, and a kitchen area with a sink. He added on to state that further down it stated that a dwelling unit denotes a room or a group of rooms situated within a dwelling.
- Bldg. Commissioner stated that back in the day if there wasn't a cooking stove then it wasn't considered as living, but now that there's grills, hot plates, and microwaves then it had all then changed. He stated that there's Airbnb, Vrbo and rentals that all comes in.
- Agent Sworden mentioned an example he had given Tom. He stated that if the lot was 5 acres, and they're building a detached garage and decided putting in a bathroom, it would then be required for them to run a whole separate line. He stated that Tom told him in that situation it's a no. He added that it's kind of like what they are wanting to do here.
- Bldg. Commissioner Boz stated that in the county when a personal use only bathroom gets placed it can then run to the septic system because its no different than going up to the house and using the bathroom. He stated that now that they are wanting to put in bedrooms and bathrooms it would be something different.
- Member Allen stated that Bldg. Commissioner Boz will have to go there to check that out.
- Member Downs stated that he can simply change that. He added that he can sell it tomorrow and remodel it. He asked if he will be moving forward with the dwelling part or not. He mentioned that a dwelling height is 35ft and for a regular barn is 25ft.
- Agent Sworden stated that there isn't an ordinance that fits to what they are wanting to do.
- Member Downs stated that the board has to know if they will be doing two dwellings on once piece of property. He stated that with the easement it can't have the sidewalk connected to a building over top of a gas line that runs through there since the gas and electric both run down through that side of the property. He then mentioned that they should forget about moving the garage and getting rid of the one-foot because of the money that would be spent trying to relocate the utilities. He added on to state that this is exactly what the neighbor said about them needing to maintain it. He went on to state that he works for a utility company and that is one reason to why he is pretty solid with it. He added on that with the insurance part of this, if the property gets sold in a week, they could remodel it and turn it into a rental because it will have almost every utility. He stated that they can't come in and look at it in a year from now. He added that the biggest thing they would need to know is what they are looking at doing here and to see if it will be considered as a dwelling or as an accessory building.
- Agent Sworden stated that if the board were to have a code section on an accessory dwelling unit, whether that meets with the ordinance with having all the components for an example of a granny flat. He stated that whether they have a kitchenette or not, most of them just have a bedroom and a bathroom. He added that an axially housing still uses the main house which is what his client what's to do. He stated that originally when he's dealing with cooperative housing sectors, it considers as an ADU (accessory dwelling unit). He stated to his standpoint he doesn't want that separate connection and separate meter because that to him is a big factor if they sell it down the road and somebody will begin to think they can do that.
- Member Downs stated that if that is the route he would like to go then they would have to have to have a separate address because he can't have 2 meters on the same piece of property at the same address.
- Agent Sworden asked to what category drives to what variance they need to get. He stated that he believes it's an accessory structure where it has two bedrooms and a bathroom. He added that it is a safe route to go and then as far as any other conditions that they can agree to make that more

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conductive to protection from becoming a future rental. He went on to state that they can agree into a conditional approval.

- Bldg. Commissioner stated that if there is an ordinance, he would want to throw this out that if they want to run the electric and plumbing from the house is one thing, but it can't override Bass Lake conservancy.
  - Vice Chairperson Rentz asked Secretary Landa if there is anything she was going to tell the board. She asked if she was going to say that it falls under a dwelling.
  - Secretary Landa answered that it does. She stated that what they are wanting to do follows under a dwelling, if approved it will be considered as two dwellings on one parcel.
  - Atty. Schramm asked if the picture that was presented with the kitchen in the living room area will be removed.
  - Agent Sworden answered yes. He stated there will be no kitchen.
  - Atty. Schramm stated that the last version of the dwelling ordinance he has is from June of 2023 that specifically states kitchen area and living room.
  - Bldg. Commissioner Boz stated that he thought it was one or any bedroom, living room, kitchen and bathroom that considers a dwelling. He stated that it can be used for personal use for a bathroom and a sink then it is one thing. He mentioned about having a bathroom in his pole barn but stated that when it comes to adding bedrooms and living then it's something else. He mentioned a previous case about a guy that didn't want bedrooms but wanted to put up cots. He went on to state that it ended up being a process of making it some sort of living and the board told him no and it didn't go any further. He stated that he can have Mary look into that more since he's unsure of it ever got passed as an ordinance.
  - Member Allen asked if there is anybody who is against this.
  - Secretary Landa answered yes. She stated that she had received an opposed letter from the couple who had came to the meeting and as well an in-favor letter from the neighbor on the north side of the property.
- ❖ **Member Allen made a motion to close the public comment portion of the hearing. Vice Chairperson Rentz seconded that motion. Motion carried 4-0.**
- Member Downs stated that he doesn't have an answer right now to give because he would want little more information. He stated that he would like to find out, number one, if there's been an updated ordinance or not since that would be crucial. Second, he would like to see if they can get that foundation checked out just to see if it will be needed to get teared down or if it's okay to get built on from the existing structure.
  - Member Allen asked how often does the Bass Lake conservancy meetings go for what he's going to need to do to a hook up.
  - Bldg. Commissioner stated a week after this one.
  - Member Allen stated that he would like to get the Bass Lake conservancy opinion with this since he doesn't want to move forward with it and then it ends up going nowhere.
  - Member Downs continued to state the third thing he would like to see from them is contacting with the Bass Lake conservancy. He stated that the fourth thing he would like to see is an updated layout floor plan that is accurate to what they are wanting to do so it can get stored in file.
  - Agent Sworden asked the board if they would want something back in writing from Tom.
  - Bldg. Commissioner stated that anything from Tom would help just to show to where its going.
  - Member Downs stated that if the Bass Lake conservancy are wanting to approve a dwelling then the board will be approving a second dwelling. He added on that it has a lot to do with the ordinance.
  - Bldg. Commissioner Boz stated that if Agent Sworden came in and spent all that money for a building permit and then Tom from the Bass Lake conservancy doesn't sign off on it then it's not a valid building permit. He stated that it would be best if Tom gets on board.

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- Agent Sworden stated that if he had realized it was going to be an issue with Tom then he would have asked Tom to send some writing over to him.
- Bldg. Commissioner Boz stated that he had asked Tom to attend the meeting but had been told that he had already spoke with Agent Sworden. He added on that Tom gave him notes to bring up about having a variance and all that stuff through the Bass Lake conservancy.
- ❖ **Board discussion.**
- ❖ **Member Allen made a motion to table the request, as presented to the board. Vice Chairperson Rentz seconded that motion. Motion carried 4-0.**
- ❖ **Old/New Business- Brenda Varga**
  - Secretary Landa presented the board with an updated picture of Varga's property that is shown with the containers that are remaining on her property. She stated that the picture was taken by Robby Blodgett, the Cone Enforcement officer, on October 7<sup>th</sup>, 2024. She went on to state that her variance was granted with a few stipulations, and one of them is to obtain a permit within 30 days, and to those 30 days have already passed. She added on that Varga still has those two units that the board made a stipulation for her to remove from the property.
- ❖ **Board discussion.**
  - The board stated that they will give Brenda Varga an 60-days extension and if not completed, then it will be discussed at the January 8, 2025 BZA meeting.
- ❖ **Member Allen made a motion to grant a 60-day extension as presented to the board. Vice Chairperson Rentz seconded that motion. Motion carried 4-0.**
- ❖ **With no further business to come before the board Member Allen made a motion to adjourn, seconded by Vice Chairperson Rentz. Motion carried 4-0. The October 9, 2024 meeting adjourned at 7:33 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 November 13, 2024 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.**