

MINUTES

City of Franklin, Indiana BOARD OF ZONING APPEALS

October 5, 2016

Members Present:

Phil Barrow	Vice Chairman
Jim Martin	Secretary
Brian Alsip	Member
Richard Martin	Member

Members Absent:

Tim Holmes	Chairman
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Others Present:

Alex Getchell	Associate Planner
Lynn Gray	Legal Counsel
Julie Spate	Recording Secretary

Call to Order:

Phil Barrow called the meeting to order at 7:00pm.

Approval of Minutes:

Jim Martin made a motion to approve the September 7, 2016 minutes. Brian Alsip seconded the motion. The motion to approve the minutes was unanimously approved.

Swearing In:

Lynn Gray swore in the audience en masse.

Old Business:

None.

New Business

ZB 2016-11 (UV/V) – Continued to November 2, 2016

ZB 2016-12 (V) – Continued to November 2, 2016

Alex Getchell explained the continuance to be due to applicant's request for more time to provide revised site plans to address Technical Review Committee comments. Mr. Getchell also explained that staff was able to approve the continuance request administratively, due to the petitioner requesting it by the Friday prior to the meeting. Ms. Gray asked if they will appear at Board of Works prior to BZA meeting. Mr. Getchell explained with the continuation of the BZA requests and the Board of Works requests, to the November meetings, the requests before the Board of Works would now be heard after the BZA meeting.

ZB 2016-14 (V) – Mardis Farm

Mr. Getchell introduced case ZB 2016-14 (V) as a developmental standards variance request at 4570 E 150 S and 4696 E Greensburg Rd. by CKW Land Surveying to allow a variance from Article 3, Chapter 4 (at 4570 E 150 S) for a front setback less than 50 feet and a variance from Article 7, Chapter 3 (at 4696 E Greensburg Rd.) for a side setback for an accessory structure less than 25 feet. The property is in the agricultural zoning district. A variance is needed as the petitioner is proposing to subdivide two existing home sites off a larger property. Subdivision requires dedication of ROW to the county causing a front setback issue for 4570 E 150 S and the proposed subdivision at 4696 has an accessory structure 24.3 feet from the proposed property line instead of the 25' required. The application is complete. Ms. Gray explained that the petitioner complied with the notice requirements in letter form and certified mailing. The notice sent to the Daily Journal stated date, time, place and it to be a request for a variance but not what type of variance. Ms. Gray's legal opinion is that adequate notice was given to be in compliance in spite of the lack of specifics on the type of variance.

Mr. Barrow asked if they should be considered separately or together. Mr. Getchell advised it could go either way as the Board would wish. Ms. Gray recommended hearing all the evidence and then have two separate motions.

Greg Cantwell, CKW Land Surveying, presented on behalf of the petitioner. Mr. Cantwell introduced the property as being an approximately 174 acre farm tract, with two home sites or farm sites, and a wooded area. Petitioners are selling off the farm ground to the farmer and petitioners are keeping the home sites. Mr. Cantwell explained the first request is for the home on 150 S to be within what would be a new front setback, after dedicating both sides of the 50' ROW to the County, and adding the new setback. He stated the house cannot be moved.

Mr. Getchell provided additional comments to clarify what Mr. Cantwell explained. He stated that when the petitioners subdivide the property, they are required to dedicate a 25' half-ROW. Once they do so, the front setback is measured from the new ROW line. He went on to say, that adding a 50' front setback on to a new 25' ROW line results in the new front setback being about 10' through the front of the house.

Mr. Cantwell then explained the second issue is with the accessory structure at 4696 E. Greensburg Rd, which falls seven-tenths (0.7) of a foot into the side setback. He stated this home site is a very well established tract and fence line. Mr. Cantwell stated the structure is not likely to be around for another generation.

Mr. Cantwell stated they don't believe approval will be injurious to general welfare. He went on to state they do not believe it will affect the use or value of adjacent property. Nothing is changing but ownership. He stated there is a practical difficulty as the house on 150 S can't be moved. He stated the long-time established fence line for 4696 E. Greensburg Rd makes the most sense for the new property line, and that it is not practical to move it 0.7 feet.

Mr. Barrow asked what would be involved in moving the line. Mr. Cantwell said they would have to physically go out and move the pins, but it would put the line on the outside of the fence by 0.7 feet. Mr. Barrow asked if there was a cost involved. Mr. Cantwell stated it would be a few hundred dollars.

Ms. Gray asked if there would then be a fence down one line and a drawn property line 8.4 inches passed that fence line, and if so, when would adverse possession kick in and force going back to the

fence row. Mr. Barrow also mentioned the possibility that the neighbors would disagree forcing the build of a new fence. Ms. Gray briefly summarized the legalities of adverse possession.

Mr. Barrow opened the public hearing, by calling for any comments by anyone in attendance. No one came forward. No further questions were asked by the Board.

Mr. Barrow requested staff's recommendation. Mr. Getchell offered staff's recommendation for approval of both variances with the following conditions:

- a. A front setback line of 50 feet shall be included on the plat, and all new structures in the future shall meet the required front setback of 50 feet.
- b. Additions to or reconstructions of existing structures, within the required 50 foot front setback, shall be permitted; however, those improvements shall be no closer to the front lot line than the structures as they currently exist.

Mr. Cantwell acknowledged and accepted conditions.

Mr. Alsip asked if conditions were for both tracts. Mr. Getchell explained the conditions only applied to the south one. Mr. Getchell stated another condition could be added for the accessory structure that was similar to condition b., but instead referenced a 25 foot side setback. Mr. Martin and Mr. Alsip indicated they would like to add the additional condition for the accessory structure setback. Mr. Cantwell stated the additional condition was acceptable.

Mr. Martin made a motion for approval of both variances with staff recommendations and the additional condition. Mr. Alsip seconded the motion. The motion passed unanimously.

Other:

None.

Adjournment:

There being no further business, the meeting was adjourned at 7:23.

Respectfully submitted this 5th day of October, 2016.

Tim Holmes, Chairman

Jim Martin, Secretary