

# Wabash County Plan Commission

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## Wabash County Board of Zoning Appeals

Board Members: Dan Dale, Mark Milam, Joe Vogel, Jerry Younce

Staff: Mark Frantz, Board Attorney; Brian Campbell, Plan Director; Amanda Lyons, Administrative Assistant; Jennifer Hicks, Administrative Assistant

## Meeting Minutes of Tuesday, June 25, 2024

Roll call was taken with the following present:

Board Members: Dan Dale, Mark Milam, Joe Vogel

Staff: Mark Frantz, Board Attorney; Brian Campbell, Plan Director; Amanda Lyons, Administrative Assistant; Jennifer Hicks, Administrative Assistant

Absent: Jerry Younce

Others present: Nicky Burnsworth, Bill Burnsworth, Doug Kroft, Mike Keaffaber, Susan Keaffaber, Dan Shockey, Carl Becker, Suzanne Peebles, Cheryl Ross, Keith Dennison, Dawn Dennison

The Wabash County Board of Zoning Appeals met on Tuesday, June 25, 2024, in the Commissioners Meeting Room of the Wabash County Courthouse. Board Chairman, Mark Milam called the meeting to order at 7:00pm. Mr. Milam asked if there were any additions or corrections to the minutes of the March 26, 2024 meeting. There being none, Mr. Milam asked for a motion to approve the minutes as written. Motion by Mr. Vogel, second by Mr. Dale. Board proceeded to roll call vote; motion carried 3-0.

Mr. Milam stated that prior to starting the hearings he would like to recognize Patty Lengel for her years of service to Wabash County on both the Planning Commission Board and the Board of Zoning Appeals. Ms. Lengel was presented with a plaque of appreciation.

Mr. Milam asked if there were any additions or corrections to the minutes of the May 28, 2024 meeting. There being none, Mr. Milam asked for a motion to approve minutes as written. Motion by Mr. Dale, second by Mr. Vogel. Board proceeded to roll call vote; motion carried 3-0.

Mr. Milam stated first on the agenda would be Variance #18, Jones Estates (Salamonie), requesting a variance from the minimum roof pitch. Mr. Campbell stated he did not have anything to present to the board regarding the mobile homes or drawings in the board packets. Mr. Carl Becker, attorney for Jones Estates, stated that a variance was requested by the Jones Estates prior to contacting him. Mr. Becker stated that he was unsure a variance would be required per IC 36-7-4-1019 (d). Mr. Becker distributed a copy of the IC code to the board. Mr. Becker stated that the IC code states that "whenever a legal, nonconforming structure on a piece of real property, used for residential purposes within a mobile home community, which is what we're talking about here...is damaged, destroyed, removed, which is what we have here, all of the mobile homes that were there before have been removed, now we have vacant lots and we want to put new homes in there. The owner shall be permitted to replace the structure without losing the status of the structure as a legal, nonconforming use." Mr. Becker stated

that a variance request is not necessary to the extent any structure placing is not a legal, nonconforming use. Mr. Becker stated the variance request is the issue between 5/12 pitch and a 3/12 pitch roof. Due to the agricultural zoning, 5/12 pitch roof is required per county ordinance. Mr. Becker stated that 5/12 pitch roof doesn't make a lot of sense for manufactured housing. Mr. Becker stated that aesthetically 5/12 doesn't work well with manufactured homes and presented pictures of manufactured homes with a 3/12 pitch. Mr. Becker stated that requiring a 5/12 pitch on a manufactured home would add approximately \$8,000-15,000 to the cost of the home and would need to be special ordered. Mr. Becker stated that Jones Estates is trying to provide affordable housing and adding that much to the cost would likely take it out of reach for some. Mr. Becker added that Jones Estates has put a lot of money into the location. Mr. Becker stated that Mr. Shockey has spoken with manufacturer (Clayton Homes) regarding the roof pitch. Clayton Homes stated they will not retool to produce 5/12 pitch. Mr. Becker stated that it is known that there were 3/12 previous at the location because there are no 5/12 pitch manufactured homes. He continued by stating that the only types of roofs on manufactured homes are either 3/12 or flat. Mr. Vogel confirmed the location was near Etna Acres Golf Course. Mr. Shockey confirmed. Mr. Milam asked if they were adding more lots or upgrading the existing lots. Mr. Shockey stated they are not adding new lots, the previous homes have been removed, and they will be placing new homes in the already existing lots. Mr. Shockey stated they do not bring in used units. Mr. Campbell stated that there is a location to the south where there are no existing pads and therefore not part of this variance. Mr. Becker stated that installers must have a license to install manufactured homes and that they now use piers instead of the existing runners. Mr. Campbell stated that anything new in the south section that does not have any existing lots would need to follow setbacks of the new ordinance. Mr. Campbell stated that Mr. Shockey has been active in requesting information regarding needed documentation. Mr. Campbell continued by stating that anything in the future moving south that has not previously had homes will need further discussion regarding setbacks and minimum distance between the homes. Mr. Vogel asked if we have a master plan from the previous owner. Mr. Campbell stated he will look into it as he is not certain. Mr. Milam stated he remembers that previously mobile homes had to had gabled roofs, he asked if the new ordinance specifies mobile homes? Mr. Campbell stated that it specifies the zone you are in, in an Ag1 zone the minimum pitch for residential or accessory structure is 5/12 pitch. Mr. Frantz stated that in regards to what Mr. Becker stated earlier, if what was there was 3/12 previously and they are replacing with 3/12, there would not need to be a variance, if anything just happened to not be industry standard, they would need a variance. Mr. Frantz requested the minutes reflect that to the extent the structures they are replacing are legal, nonconforming use, they are being replaced pursuant to the state statute. The variance being voted on is if, in the case that information is found that the replaced structures were not 3/12, the variance applies to those structures. Mr. Vogel made a motion to approve the variance; second by Mr. Dale. Board proceeded to roll call vote; motion carried 3-0.

Next on the agenda was Variance #19, Keith and Dawn Dennison, requesting a variance from the roadway setback in Liberty Township. Mr. Campbell stated on May 28, 2024, Mr. Dennison came to file a variance with the Planning Commission regarding the roadway setbacks. Mr. Campbell stated the property has approximately 60-65' from the northwest corner of the proposed garage to the center of county road 700 South. The ordinance requires a setback of 65' from the center of the road to any structures on the property. Since the distance is close to the setback requirement without a current survey showing the proposed setback from a licensed surveyor Mr. Campbell requested that Mr. Dennison apply for a variance from the 65' setback of a secondary roadway in an A2 zoning district. Mr.

Campbell showed the house is slightly off angle because it is parallel with county road 390 E which does not run due north and south. The east side of the existing garage seems to be at 63' setback, nearly identical to the northside. Mr. Campbell stated that Mr. Dennison would attempt to place the new garage along the same line as the existing garage. Mr. Campbell stated that the GIS showed the north wall adjacent to the proposed garage is approximately 31' in length and the proposed garage is 28' wide. If measured from the northerly most point with the angle of the structure the distance to the center of the roadway would be measured at around 60-63' depending on exactly where the center of the roadway is located. Mr. Campbell stated with the home being a little off of square, the setback could be affected one way or another depending on exactly how it is measured. Mr. Campbell recommends a 5' variance from the current ordinance of 65' setback from county roads 390 E and 700 S, both secondary roadways with the same setbacks. Mr. Campbell stated he went out to the location and looked around and the structure would not affect any visibility. Mr. Dale asked if the stop sign was on county road 700 S and if there would be good visibility with the proposed structure in place. Mr. Campbell confirmed there would be no concerns with visibility. Mr. Milam asked if there were questions from board members or others in attendance. There being none, he asked for a motion. Mr. Dale made a motion to approve the variance of up to 5' from the required setback; second by Mr. Vogel. Roll call vote was taken; motion passed unanimously.

Variance #20 DK3, LLC/Doug Kroft, requesting a variance from the factor point system for a split of A1 ground in Lagro Township. Mr. Campbell stated the property in question is located on county road 400 S, midway between county roads 200 E and 300 E. Mr. Keaffaber requested information on a parcel of property he is wanting to purchase from Mr. Kroft. Mr. Campbell informed Mr. Keaffaber that since the sale of the property is to a non-family member and in an A1 zoning district, a factor point system would have to be ran on the proposed parcel to see if the required points necessary to automatically be approved for the split. Mr. Campbell ran the factor point system multiple times, and the most points he could find were 14 of the 15 required. Mr. Campbell notified Mr. Keaffaber of the issue with the factor point system. On May 29, 2024, Mr. Kroft came in to file an application for a variance from the point factor system. The proposed split is along the north side and west side of the existing property owned by Mr. Keaffaber. A portion of the proposed parcel on the west side of Mr. Keaffaber's property currently contains his driveway. The western boundary of Mr. Keaffaber's existing property would not change. The proposed parcel to the west would be used for a new homesite. There would be a 50' road frontage remaining as a portion of Mr. Kroft's property to allow access to his property to the north. Mr. Milam asked if there were questions from board members or others in attendance. There being none, he asked for a motion. Mr. Milam requested a motion to accept the findings of fact. Mr. Vogel made a motion to approve the findings of fact; Mr. Dale seconded. A roll call vote was taken; motion passed unanimously. Mr. Milam requested a motion to accept or deny variance #20 as presented. Mr. Dale made a motion to approve variance #20; second by Mr. Vogel. Roll call vote was taken; motion passed unanimously.

Mr. Campbell shared a complaint update:

- 55 open complaints, including those rolled over from 2023
- 43 rolled over from 2023, with 13 of those 43 being closed so far this year
- 52 new complaints in 2024; of those 26 of those have been closed
- 95 complaints worked in total; 39 have been resolved

Mr. Campbell stated that a new complaint has come up regarding a mowing issue. He has reached out to Mr. Frantz for additional information. Mr. Frantz has reached out to the bank for information, but has not yet received a reply. The property in question is a foreclosure, the complainant stated he mowed the property all last summer, but was unable/unwilling to do so this year. The ordinance in effect does state that we have the ability to do something regarding tall grass; however, there is no funding available for such. The only fund set up is the unsafe premise fund, but it cannot be used for this purpose. Mr. Campbell stated the property is in violation of our ordinance, but we don't have the financial ability to do anything about it at this time. Mr. Campbell stated that he has not had to deal with a situation like this, as there were no similar complaints received last year. He stated the 3-acre property has grass and weeds that are approximately waist high. Mr. Dale asked if we have any recourse to force the property owner to do something. Mr. Campbell stated that we do; however, this particular property is in foreclosure and the owners are deceased. There is no estate set up so the bank is foreclosing on the property. Mr. Frantz stated that if the house goes to sheriff sale, the liens placed for mowing would be stripped off. Mr. Campbell stated that we would not receive reimbursement of funds spent due to a potential sheriff sale. Mr. Dale asked Ms. Lengel if the township trustee would have any ability to pay in a situation like this. Ms. Lengel stated that she thought funds were used from the same fund as razing properties. Mr. Frantz stated that he does not believe we can use the Unsafe Premise Funds for mowing. Mr. Campbell stated he has looked into the situation and the budget cannot currently handle it. He could ask for a fund in the 2025 budget, but that would not take care of the situation now. Mr. Frantz stated the bank would only be responsible if they purchase the property at sheriff sale, other than that they only have a lien on the property and the ability to take it to sheriff sale.

Mr. Milam asked if there was any other business to come before the board.

There being no other business, Mr. Milam asked for a motion to adjourn. Motion to adjourn was made by Mr. Dale; second by Mr. Vogel. Meeting was adjourned at 7:47 p.m.

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