

Wabash County Plan Commission

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Wabash County Board of Zoning Appeals – Meeting Minutes

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

Staff: Mark Frantz, Board Attorney; Brian Campbell, Plan Director; Jennifer Hicks, BZA Secretary

Tuesday, March 25, 2025

1. Call To Order

Mark Milam, Chairman, called to order the Board of Zoning Appeals meeting to order at 7:00 pm.

2. Roll Call

Jennifer Hicks, BZA Secretary, called roll:

- ✓ Dan Dale – *Present*
- ✓ Amanda Lyons – *Present*
- ✓ Mark Milam – *Present*
- ✓ Joe Vogel – *Present*

Jennifer Hicks declared a quorum was present.

3. Approval of Meeting Minutes – January 28, 2025

The minutes from the January 28, 2025 meeting were presented. Ms. Amanda Lyons made a motion to approve the minutes as written. Mr. Joe Vogel seconded the motion.

Jennifer Hicks called roll:

- ✓ Dan Dale – *yes*
- ✓ Amanda Lyons – *yes*
- ✓ Mark Milam – *abstain*
- ✓ Joe Vogel – *yes*

4. Approval of Meeting Minutes – February 25, 2025

The minutes from the February 25, 2025 meeting were presented. Mr. Vogel made a motion to approve the minutes as written. Ms. Lyons seconded the motion.

Jennifer Hicks called roll:

- ✓ Dan Dale – *abstain*
- ✓ Amanda Lyons – *yes*
- ✓ Mark Milam – *yes*
- ✓ Joe Vogel – *yes*

5. Old Business

SE-25-001 – Billy & Erica Hite Adams, maintaining livestock in a residentially zoned district, Pleasant Township

- Mr. Brian Campbell informed the BZA that Mrs. Hite Adams contacted the Plan Commission office and requested the Special Exception Petition be dropped due to getting a divorce.
- Mr. Joe Vogel asked if the petition should be continued since the animals are still on the property. Mr. Vogel then made a motion to continue the special exception. Mr. Dan Dale seconded the motion. Prior to taking a roll call vote, there was discussion regarding continuing the request and dismissing the request.
- Mr. Campbell stated that Mrs. Hite Adams said that the animals have been sold and would be off the property within the next couple of weeks, she is no longer living on the property due to the impending divorce.
- Mr. Vogel asked if there was any other livestock on the property other than the horses. Mr. Campbell stated that the neighbor had said there was potentially ducks, but they were not seen by Mr. Campbell when he went to the property to investigate the complaint.
- Mr. Vogel withdrew his initial motion.
- Mr. Campbell asked Mr. Frantz to clarify the process for dropping the petition. Mr. Frantz explained that either continue the hearing and it would fall off the agenda after 180 days or we could dismiss the petition.
- Mr. Campbell stated that if the weather cooperated, he would go out before the next meeting to check on the status of the animals.
- Ms. Lyons made a motion to dismiss the petition, Dan Dale seconded the motion.
Jennifer Hicks called roll:
 - ✓ Dan Dale – yes
 - ✓ Amanda Lyons – yes
 - ✓ Mark Milam – yes
 - ✓ Joe Vogel – yes

6. New Business

VAR-25-006 – Star Luz & Ricardo Luz Nava, variance from the development standards to place the easterly porch less than required setback from a secondary roadway in an A1 zoning district, Waltz Township

VAR-25-007 – Star Luz & Ricardo Luz Nava, variance from the development standards to place the easterly porch less than required setback from a secondary roadway in an A1 zoning district, Waltz Township

- Mr. Campbell gave a summary of both requests from Ms. Luz and Mr. Luz Nava. The petition initiated from a complaint received in 2022 for construction and placement of a mobile home without permits. At the time of the complaint, no permit was given at the time for the front porch (easterly). There is a legal drain that requires a 75-foot setback running in front of the property. Additionally, the property is located on a secondary roadway which requires a front setback of 65 feet from the center of the road. Mr. Campbell continued by stating that Ms. Luz has gone before the Wabash County Drainage Board regarding setbacks from the county regulated drain. Mr. Campbell continued by informing the board that the northerly porch is likely too close to the septic tank, which is a violation of Indiana septic laws. Wabash County Health

Department Sanitarian, Chris Straub, verified the lid to the septic is likely to close to the newly constructed northerly porch. The Wabash County Health Department recommended removing the porch due to the location to the septic or install a new septic system. The BZA does not have the authority to enforce septic laws.

- Mr. Dan Dale asked if the structures weren't permitted are they permitted now. Mr. Campbell explained that permits could not be issued until there was a variance approval for the setbacks.
- Ms. Lyons asked if the BZA has to take into account the ditch. Mr. Campbell stated that the County Drainage Board has reviewed the property and handled the setbacks from their drain.
- Ms. Luz stated that she was never told she couldn't have a porch. She continued by saying she never lived in the country prior to purchasing this home. She also stated she didn't know the mobile home needed to be moved, but confirmed she was aware it was considered temporary.
- Mr. Dale asked if Ms. Luz had an intention to enclose either porch. Ms. Luz stated they did not. She stated that a few weeks prior to building the northerly porch she had inquired about building an addition to the south, but was told that she would not be able to do that addition, so they just added the porch on the north.
- Ms. Lyons asked for confirmation that the northern porch is not any closer than the easterly porch. Ms. Luz confirmed it is not any closer to the roadway than the front porch. Ms. Luz stated that there was an original porch when they purchased the home and the replacement porch is a little further out, but that she was just trying to make it nicer.
- Mr. Dave Terflinger, a member of the public, asked if the home was a new build or a remodel. Ms. Luz answered that it was a remodel and that she didn't realize that you couldn't build in the county without permits since she had lived in a city her whole life.
- Mr. Campbell pointed out to Ms. Luz that she had received a letter from the Planning Commission Office in 2022 regarding construction without permits and had to come in and obtain permits after the fact and 2 years later, she repeated the same activity by building a porch without a permit. Mr. Dale stated that it is a low population area with limited traffic. Mr. Milam stated that the variances aren't a big issue due to the area, but continuing without first obtaining permits is an issue. Setbacks are related to safety and ensuring that the county is nice and consistent.
- Mr. Terflinger asked if the porches get approved is there room for a new septic. Mr. Milam responded by letting him know that the septic isn't the BZA's area to enforce. Mr. Campbell added that it would be a health department issue to pursue.
- Ms. Lyons brought up that adding fines has been brought up would that be something that could be added at meetings. Mr. Frantz stated that fines can be added through courts, ordinance violation could impose fines at some point. Ms. Lyons asked if there were ongoing issues. Mr. Dale asked if there could be stipulations be added, like not enclosing the porches. Mr. Frantz stated they could be with a motion with restrictions, then vote on it that way. Mr. Campbell stated that they would have to put the restrictions on both variances. Mr. Vogel asked if they are notified where the drain is when buying a house. Ms. Hicks answered by letting Mr. Vogel know the drain was put in after Ms. Luz purchased the home. Mr. Campbell continued by stating that Ms. Luz knew

and part of the permitting process, one reason why permits are required before building, is because of setbacks from things like the county regulated drains.

- Ms. Luz asked if adding screens were an enclosure. Mr. Campbell confirmed that the additions of screening would be considered enclosing the porches.
- Mr. Vogel made a motion to approve the variance for the easterly porch with a restriction of not enclosing the porch and no additional unpermitted construction closer to the roadway. Mr. Dale seconded the motion.

Jennifer Hicks called roll:

- ✓ Dan Dale - yes
- ✓ Amanda Lyons – yes
- ✓ Mark Milam – yes
- ✓ Joe Vogel – yes

The motion passed unanimously.

- Mr. Dale made a motion to approve the variance for the northerly porch with a restriction of not enclosing the porch and no additional unpermitted construction closer to the roadway. Ms. Lyons seconded the motion.

Jennifer Hicks called roll:

- ✓ Dan Dale - yes
- ✓ Amanda Lyons – yes
- ✓ Mark Milam – yes
- ✓ Joe Vogel – yes

The motion passed unanimously.

VAR-25-008 – Brian & Christa Crabill, variance from the development standards to place garage addition, pool, patio, fire pit, and pool house less than the required setback from a stream or water body identified by the Wabash County Zoning Ordinance Chapter 19, Paw Paw Township

- Mr. Campbell provided a summary of the variance request. Mr. Campbell noted the 75-foot setback requirement from waters of the State of Indiana. Mr. Campbell noted the Drainage Board did approve a reduced setback of 35-feet for the county regulated ditch. Mr. Campbell also addressed potential flood hazard zone implications when and if the state continues their flood study along the waterbody.
- Mr. Milam asked for clarification as to the location of the proposed construction. Mr. Campbell provided the clarification and showed the BZA members an aerial photograph of the property to help explain the location. Mr. Crabill also provided some clarification as to where the proposed construction is in relation to the existing structure and the waterbody.
- Ms. Lyons asked about impervious coverage. Mr. Campbell stated he had done some quick calculations when the plans were first brought to the PC Office and they were under the maximum impervious coverage. Mr. Crabill also explained that some of the items in the original plans have been taken out such as the walkway to the waterbody and the firepit. Mr. Campbell further explained that for an in-depth calculation, he would need more detailed dimensions but the existing home and patio was approximately 16% impervious coverage. Mr. Crabill again added that if the impervious coverage did get too high there was an option to purchase additional land from his wife's family who owns the property surrounding his.
- Mr. Milam asked if the drainage board reviewed the plans. Mr. Campbell explained that the drainage board has reviewed it and denied the structures and patio close to their

drain. They did reduce the setback, but that has caused some of the original plans to change. Mr. Crabill stated that there is a perimeter drain around the house that drains into the creek and they have an open loop geothermal that also outlets into the ditch.

- Mr. Campbell explained to Mr. Crabill the required distances between the new construction and the existing septic.
- Mr. Terflinger asked if Mr. Crabill thought about leaving room for additional fingers if ever necessary. Mr. Crabill appreciated the thought and that he has talked about it.
- Mr. Milam asked for any additional questions. Mr. Crabill was reminded that he would need to come back for a permit when he was ready to start the construction.
- Mr. Vogel made a motion to approve the variance, Mr. Dale seconded the motion.

Jennifer Hicks called roll:

- ✓ Dan Dale - yes
- ✓ Amanda Lyons – yes
- ✓ Mark Milam – yes
- ✓ Joe Vogel – yes

The motion passed unanimously.

7. Other Business

- **Countywide Complaint Update**

There are currently 37 open complaints, including those rolled over from 2024. 14 of those are with legal counsel. 31 complaints were rolled over from 2024. 10 complaints have been closed so far this year.

Any other business to be brought before the Board of Zoning Appeals

- Mr. Terflinger asked to speak to the BZA regarding a property in Sandy Beach that was granted a variance approximately a year ago. The petitioner stated they would be starting construction on the property by June 1, 2024 and to date there has been nothing done. There are holes in the roof where animals have been going in and out. Mr. Terflinger continued by saying they found out the structure in question was not on a foundation but on the frames of 3 mobile homes. Mr. Campbell let the board know that communication has been sent to the property owner requesting updates. Mr. Terflinger wanted to make the BZA aware that people say what needs to be said to get what they want but they don't follow through. Mr. Milam asked what the variance was for. Mr. Campbell answered the variance was for aggregate distance to the neighbor's garage. Mr. Milam asked if permits were granted. Mr. Campbell stated, no just the variance. Mr. Frantz said that depending on what the pictures show, it could be deemed an unsafe premise. Mr. Campbell stated the original complaint was from the neighbors. Mr. Terflinger stated the neighbors believe that the owner only applied for the variance to get the PC Office off his back. Mr. Campbell stated that nothing has been done and the minutes do reflect the property owner giving June 1 as the start date. Mr. Terflinger asked the BZA to take into consideration when working on the ordinance updates that having a timeline would be helpful. Mr. Campbell added that the addition of the staff reports and additional information to put restrictions in place would help. For each variance request, there is a conditions and restrictions page created and brought to the meeting to note anything additional added to the variance request.
- Mr. Vogel asked if the County Council had talked about the appointment of a new member to the BZA to fill the open position. Mr. Campbell stated the

President of the Council has been provided with some names, but that we need to wait for the Council meeting to vote. The PC Office has also been working to assure the BZA has the proper member make-up. Mr. Vogel stated he wasn't sure why the Council wasn't talking about it and Mr. Campbell stated there were other issues that were being addressed.

8. Motion for Adjournment

- Mr. Vogel made a motion to adjourn, Ms. Lyons seconded the motion.
- The BZA Meeting adjourned at 8:19 pm.

Also Present: Dave Terflinger, Brian Crabill, Star Luz, Rhett Mast

(bac)