

BOARD OF ZONING MINUTES

March 12th, 2019

6:00 P.M.

PRESIDENT BEN WICKER CALLED THE MEETING TO ORDER AT 6:00 P.M.

ROLL CALL: present included President Ben Wicker, Vice-President Sandra Jackson, Dohn Green, Phil Shanahan, and Craig Trent. Also present included Director Gregg Duke and Secretary Linda Ashwill. Attorney Geoff Wesling was not in attendance.

APPROVAL OF MINUTES for January 8th, 2019 and February 12th, 2019. Phil made the motion for approval of the January minutes. Seconded by Dohn. All in favor. Minutes approved. Craig made the motion for approval of February minutes. Seconded by Phil. All in favor. Minutes approved.

Ben gave protocol for the procedure of the meeting to follow as Gregg introducing each agenda item and go through the staff report and Findings of Fact. After that a representative of the application should come to the podium, stating your name and address, and give any additional details or comments they need to make. At that time the Board can ask any additional questions they may have from the applicate. The applicate will have the opportunity to make further comment at that time. After this he will open the public hearing. If you have any public comments tonight, we ask that you come forward to the podium, state your name and address. You will have up to two (2) minutes to address the application. We ask at any comments made, be made pertaining to the application and based on the facts of the application. Once we close the public hearing, the Board will have the opportunity to ask any addition questions from the applicant or any questions that may have been raised in the public comment period. After this the Board will have deliberation and a motion should be made. Ben stated also at this time he would be recusing himself from agenda Item # 2019-3.

NEW BUSINESS:

1. **BZA 2019-1 James Knecht** is requesting development standard variances to 7.10.2 (a & d1) to allow a subdivision at 5267 South Base Road, Rushville, IN 46173. Parcel 70-11-31-200-002.000-001 Gregg gave **Findings of Fact** as follows: Mr. Knecht is requesting variances to allow a subdivision of 2.99 acres from a parent tract of 65.927 acres in an A-3 district, and to allow a front yard housing setback of seventy-eight (78) feet from the County right of way. The lot size of 2.99 acres is nonconforming. The standard requires forty (40) acres in an A-3 district. The housing front yard setback of seventy-eight (78) feet is also nonconforming. The standard requires one-hundred (100) feet from the edge of the public right of way. Planning staff finds no reason to believe the variances would be injurious

to the public health, safety, morals, or welfare of the community. Further the land division should not be damaging to surrounding property values. Notice of this public hearing was locally advertised ten (10) days prior and adjacent property owners were notified. **Staff recommendation** would be to approve the variances. Gregg also stated this was incorrectly advertised for the location even though it had the correct parcel number. He re-advertised with the correct address. This was done prior to the ten (10) day deadline.

Ben asked James Knecht, the representation, if for the record if there was anything else he would like to add. Mr. Knecht stated everything Gregg said was correct and he had nothing further.

Also it was brought to Gregg's attention by Craig that another variance would be needed for the frontage of only 231.20'. In the A-3 District minimum is two hundred fifty feet (250). Gregg stated he didn't catch that and a variance to the 7.10.2.b would be needing a variance as well. Craig asked if this would have to be advertised prior to them granting this additional variance. Gregg stated what we did was the advertising requires to be generally advertised. The general description of what we are doing to night is what is called for. Ben stated he thought we had a situation like this prior. Gregg stated he thought they had done it before also. Ben asked if there were any other questions from the Board or the plaintiff. Hearing none, Ben opens up the public hearing asking for any public comments. Seeing none Ben closes the public hearing. Ben asked if there is any further questions from the Board. Ben asked if the front yard was 7.10.2 b. Gregg stated yes. Sandra asked again if it was ok that this hadn't been advertised for this other variance. Gregg stated he was sorry Geoff wasn't here to clarify. He know the law just requires a general description of what you are doing. He feels we had the general description of what we are doing advertised. Gregg stated he guessed u had to think about of why you are advertising. So would somebody object because of the road frontage or lack of road frontage or if someone would object of making a subdivision right next to your property. Ben stated if no further questions he would retain a motion. Dohn makes the motion to approve all three variances from 7.10.2 a, b, & d1. Seconded by Phil. All in favor. Motion carried.

Ben recluses himself from the next application. Gregg asked Ben if he could ask a favor from him stating why he is excusing himself. Ben stated it was family relation. Gregg stated he knew it was like that, but he wanted to have it on record. Sandra presides over the next agenda.

2. BZA 2019-3 Doris Hungerford and agents Michael and Carolyn Wicker are requesting a variances from development standard to 7.10.2 (a & b) to allow a subdivision of 1.11 acres from a parent tract of 53.959 acres in an A-3 district, and to allow a combined front lot width of 130 feet at 350 block of West 650 South Rushville, IN 46173. Parcel # 70-14-03-200-001.000-001. Michael Wicker was present as representative. Gregg gives **Finding of Facts** as follows: The lot size of 1.11 acres is nonconforming and will require a variance from 7.10.2 a. The standard requires forty (40) acres in an A-3 district. The combined front lot width of one hundred thirty (130) feet is also nonconforming and will require a variance to development standard 7.10.2 (b). Planning staff finds no reason to believe the variances would be injurious to public health, safety, morals, or welfare of the community. Further, the land division should not be damaging to surrounding property values. Notice of this public hearing was locally advertised ten (10) days prior and adjacent property owners were notified. **Staff recommendation** would be to approve the variances to development standards 7.10.2 (a & b) to allow the creation of a 1.11 acre subdivision with a one hundred thirty (130) foot front lot width in the A-3 district. Gregg stated he would add that there is a replot to this sub-division in the works to add this to

the adjoining Wicker property. Sandra asked Mr. Wicker if for the record he wanted to add anything. Michael stated he & his wife are the ones that have or are going to purchase this subdivision to add to their existing property. This way they will have an additional acre buffer around their property. Sandra asked if the Board members had any questions. None. Sandra opened up public hearing or comments. Hearing none Sandra closed the public hearing. Sandra asked the Board if they had any further questions. None. Floor was opened for a motion. Craig had the motion to approve these variances for this subdivision for the lot size of 1.11 acres and the lot width of one hundred thirty (130) feet. Seconded by Phil. All in favor. Motion carried.

Ben resides over this last partition.

3. BZA 2019-4 William and Sarah Schock are requesting development standard variances from 6.2.6 to allow an accessory structure with a side and rear setback of five (5) feet at 109 East Church Street, Milroy. Parcel #70-14-12-466-002.000-001. William Schock was as representative. Gregg gave **Findings of Fact** as follows: The Schock's are requesting a variance from all districts general restrictions listed in 6.2.6 to allow a pole barn to be built five (5) feet from the side and rear property lines. The general restriction 6.2.6 stating No structure, except fences and sign posts, shall be erected, placed, or moved within ten (10) feet of any lot line. A review of the surrounding area reveals that many structures are built within five (5) feet of the property lines. Planning staff finds no reason to believe the variance would be injurious to public health, safety, morals, or welfare of the community. Further, the land division should not be damaging to surrounding property values. Notice of this public hearing was locally advertised ten days prior and adjacent property owners were notified. **Recommendation:** Staff recommendation would be to approve the variance to general restriction 6.2.6 to allow a new accessory building to build five (5) feet from property lines on the West and South side of the parcel in a Residential district.

Ben asked Mr. Schock if he had anything to add for the record. William stated he had nothing else. Ben asked the Board if they had any questions. Craig asked if that was an alley the property backed up to. Gregg that was someone else's property on the back side. Gregg told William he might tell the Board where the entrance to the garage is going to be. Williams stated the entrance would be the North side facing Church Street. Gregg stated that was his concern if he was going to use the D Brothers Grain property to the west as the entrance. William stated yes.

Ben asked if the Board had any further questions at this time. Dohn asked if the buildings around his property were pretty much commercial. William stated yes. To the south and west is part of the elevator. Ben asked if any further questions. None. Ben opens up public hearing for public comments. None. Ben closed the public hearing. Ben asked the Board if they had any further questions. Hearing none he entertained a motion. Dohn makes a motion to approve this variance. Sandra seconded. Ben asked for roll call vote since there was a nay. Dohn, Sandra, and Phil & Ben voted as aye. Craig voted nay. Ben stated voting passes four (4) to one (1) Majority rules. Variance is approved.

Ben asks if any further New Business this evening. None.

OLD BUSINESS: None

REPORTS:

Attorney – Geoff stated he has none.

Director – Gregg stated he didn't have anything for them today.

Ben asked if there was anything else for the good of the cause. If not he would entertain a motion to adjourn. Sandra makes the motion to adjourn. Seconded by Craig. All in favor. Meeting adjourned. 6:20 P.M.

Ben Wicker
President

Linda Ashwill
Secretary