

BOARD OF ZONING MEETING MINUTES
JANUARY 7TH, 2020
6:00 P. M.

President Ben Wicker called the meeting to order at 6:00 P.M.

ROLL CALL: Sandra Jackson, Vice President, Craig Trent, Phil Shanahan, Benjamin Wicker, President, Gregg Duke, Director, and Linda Ashwill, Secretary. Dohn Green was not present nor Attorney, Geoff Wesling.

APPROVAL OF MINUTES for November 12th, 2019. Ben stated the meetings were mostly the second Tuesday of each month except January, which was already approved, November and December. November was pushed back a day because of election. Phil made the motion to approve the minutes as written. Seconded by Craig. All in favor. Minutes approved for the November meeting.

NEW BUSINESS: 1. Approve remainder of 2020 BZA schedule. Ben stated the meetings were mostly the second Tuesday of each month except January, which was already approved, November and December. November was pushed back a day because of election. Craig made the motion to approve the calendar schedule as presented. Seconded by Phil. All were in favor. Motion carried for this approval of 2020 calendar.

Ben gave a quick reminder of the rules of process for this evening. Stating he would call each item up and ask for a representative for that agenda item to please come up to the podium. Gregg will read through the Findings of Fact. After reading the Findings of Fact the applicant will have the opportunity to add any additional information that they would like to and also take questions from the Board that they may have at that time. Once we have the initial questions and answers we will open the floor for public comments. Anyone is able to make public comment this evening. We ask that the public comment be limited to two minutes per commenter and that all comments be directly toward the application at hand. Also a reminder that comments need to be directed to the Board not to the crowd or to the applicant. If you have specific questions about the application you can direct those to the Board and the Board can address those if they so wish. Once we close the public hearing then we will have the opportunity for the Board to follow up on any additional questions they may have of the applicant that came up in the public hearing process or through any other discovery and at that point the Board will make their deliberations and make a decision. With that being said Ben opens up the first agenda item.

2. **BZA 2019-35 Robert and Jennifer Winters**, and agent Andy Scholle are requesting development standard variances to 7.0.3, 7.0.4 and 7.0.11 (b) to allow a subdivision at 6 1st/East Street Carthage, IN 46115. Parcel # 70-02-19-139-009.000-009. Gregg said he wanted to point the address out that was kind of odd. It's actually 1st Street but it is also 2nd Street. He read the parcel # into the minutes also. Gregg gives the **Findings of Fact** as follows: The Winters are requesting variances from development standards to allow a subdivision of 4,358 square feet, a lot width of 20.51 feet, and side yards of 6 and 7.8 feet from a parent tract of 13,728 square feet in a Residential (R) District. The remainder of the parent parcel will be 9,370 square feet.

The lot size of 4,358 square feet is nonconforming and will require a variance to development standard 7.0.3. The standard requires a minimum lot size of 8,000 square feet in a Residential District.

The parent parcel will not fall below the 8,000 square foot minimum. Further, the lot width of 20.52 feet is less than development standard 7.0.4 and will require a variance. The standard requires a minimum lot width of 70 feet. Finally, the side yard non-conformity is increased to 6 feet and requires a variance to 7.0.11.1 (b). This standard requires no less than 10 feet of required side yard. Additionally, a garage is located 8.1 feet from the existing property line, and since it was built prior to the 2009 ordinance revision, a variance is also required to 7.0.11.1(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 days prior and adjacent property owners were notified. **Recommendation:** Staff recommendation would be to approve the variances to development standards 7.0.3, 7.0.4, and 7.0.11.1(b) to allow the creation of a 4,358 square foot subdivision, a lot width of 20.52 feet, and side yard setbacks of 6 and 8 feet on parcel # 70-02-19-139-009.000-009 (6 1st/East Street) in a Residential district in Carthage. Gregg stated with the added thought, which was brought up in the APC meeting that this potentially considered a hardship. To enter into the garage, which Gregg points out on the visual, because of a telephone pole it makes it hard. Gregg said this could be construed different ways. He just bought this up so they were aware of it. Ben asked Andy Scholle, representative for the Winters, if he had anything he wanted to add for the record. Andy stated this was Rob Winters CPA office which they have moved to Greenfield. They want to sale the old office but wants to keep the shed or garage because another family member lives directly across the alley. Right where the word Carthage is on the screen. That house facing the garage that is why we have an easement on here too, so they can pull in and out of the garage. Andy said if the alley was ever vacated this could be platted and put back together. Right now other people use this too this is why he didn't want to try to close the alley at this time. Andy asked if they had any question for him. Hearing none, Ben opened floor for public comment. Linda asked Andy about the easement. Andy said they were creating an easement so this way they could cross the lot and be able to pull into the garage easily. Ben asked for any more public comments. There were none. Public hearing was closed. Floor opened for a motion. Phil makes the motion for approval of these variances. Seconded by Craig. All were in favor. Variances for the lot size, lot width, and side yard setback were approved. Andy thanked the Board.

3. BZA-2019-38 Glenjim Corporation and agent Kenny Aulbach are requesting a Special Exception to construct a dwelling at 4400 West 900 North in Carthage, IN. Parcel # 70-02-16-400-007.000-008. Gregg gave **Findings of Fact** as follows: Glenjim Corporation is requesting Special Exceptions to allow the construction of a dwelling in an A-3 Regulated Livestock district on less than forty (40) acres. A-3 zoning only allows a dwelling by Special Exception or score 27 or higher on the Regulated Livestock Housing Scoring System. Glenjim Corp. scored 23 on the Regulated Livestock Housing Scoring System and have signed Appendix "D" Notice of Agricultural Activity. Planning staff finds the following:

1. Ingress/egress should not be a problem since only residential traffic should be generated on a rural road.
2. This Special Exception should have little effect on the surrounding properties (mainly agricultural and rural residential).
3. Refuse and service areas will not be affected.

4. Utilities will not be impacted and no unexpected wastewater or air pollution should be generated. Although most of the tract has unsuitable soil for a building or septic system, many advances might allow an approved septic system.
5. No screening or buffering expected. Nearest house is approximately 1700 feet away.
6. No signs or extra lighting other than usual residential use is expected or requested at this time.
7. The parcel size is 2.6 acres.
8. Housing in the area is sparse. This proposed housing seems compatible to the area.

Notice of this public hearing was locally advertised ten days prior and adjacent property owners were notified. This Special Exception is not expected to be detrimental to the public interest.

Recommendation: Staff recommendation would be to approve the Special Exceptions to allow a dwelling in this A-3 Regulated Livestock district at 4400 West 900 North Carthage.

Ben asked representative, Kenny Aulbach, if he had anything he wanted to add to the record. Kenny did correct Gregg on the distance of the closest house being 1700 feet away. It is actually on about 150 feet away for the property line. Ben said that was from the adjoining property which has a residence on it. Kenny said yes. Just east of this lot created. Gregg thanked Kenny for calling this to his attention. Ben opened the floor for the public hearing. Hearing no comments from the public Ben closed the public hearing. Ben asked if the Board had any further questions. Hearing none he opened the floor for a motion. Craig makes the motion to approve this Special Exception to allow a dwelling on this lot with less than the required score on the Regulated Livestock Housing Scoring System. This was seconded by Phil. Ben stated it had been motioned and seconded to approve this Special Exception for a dwelling at 4400 West 900 North Carthage, IN. He asked if there was any further discussion from the Board. Seeing no further discussion Ben calls for the vote. All were in favor. This Special Exception was approved.

3. BZA 2019-39 Glenjim Corporation and agent Kenny Aulbach are requesting a Special Exception to construct dwellings on two lots at 9001 North 400 West in Carthage. Parcel # 70-02-16-400-008.000-008 and # 70-02-16-009.000-008. Gregg gave the **Finding of Fact** as follows: Glenjim Corp. is requesting Special Exceptions to allow construction of dwellings on two lots in an A-3 Regulated Livestock district on less than forty (40) acres. A-3 zoning only allows a dwelling by Special Exception or score 27 or higher on the Regulated Livestock Housing Scoring System. Both lots scored 23 on the Regulated Livestock Housing Scoring System and have signed Appendix "D" Notice of Agricultural Activity. Planning staff finds the following:

1. Ingress/egress should not be a problem since only residential traffic should be generated on a rural road.
2. This Special Exception should have little effect on the surrounding properties (mainly agricultural and rural residential).
3. Refuse and service areas will not be affected.
4. Utilities will not be impacted and no unexpected wastewater or air pollution should be generated. Although most of the tract has unsuitable soil for a building or septic system, many advances might allow an approved septic system. The lots in question are **not** considered wetlands by the Department of Natural Resources.
5. No screen or buffering expected. Nearest neighbor is 1400 feet away.
6. No signs or extra lighting other than usual residential use is expected or requested at this time.

7. The parcel sizes are roughly 5 acres and 4.5 acres.
8. Housing in the area is generally sparse but is present. This proposed housing seems compatible to the area.

Notice of this public hearing was locally advertised ten days prior and adjacent property owners were notified. This Special Exception is not expected to be detrimental to the public interest.

Recommendation: Staff recommendation would be to approve the Special Exceptions to allow two dwellings in this A-3 Regulated Livestock district at 9001 North 400 West Carthage.

Ben asked Kenny Aulbach, representative, if he had any further for the record. Kenny stated the soil tests have been run for these two lots. There is not a problem. Craig asked if what they were looking at is two dwellings on separate lots. Kenny said yes. There are two separate lots. Kenny said since we have had the lots made a gentleman wants to buy both the lots and put just one dwelling between the two lots. Ben said if that representative was here, he would be curious to hear what his plans was. Josh Hoeing, potential buyer of the lots, spoke and stated he was planning on combining these lots back into one lot. He wanted to just build one house and a barn or shed on these. Josh stated he has been though the health department and the soil has been approved for septic. Ben asked if the Board had any further questions. Hearing none he opens the floor for public comments. Ann Reddick spoke stating she was not against the house being built. She just wanted to make sure this Board since this did not quite make the score of 27 that the next time a farmer that wants some kind of building built that the farmers are getting equal exceptions. You've already did an exception on this and you are going to approve this. She knows it. You know it. She just wants equal treatment for all because if you don't, you are looking at problems. Ben thank Ann for speaking and asked if there were any other public comments. Seeing none, Ben closed the public hearing. Ben asked for further discussion from the Board. Craig made a motion to approve these Special Exception for construction on two lots with the condition that the two lots are replotted together as one. Kenny stated they will not replot those lots. He stated this would be up to Josh. The lots until sold will remain as two separate lots. Kenny said if they replotted and for some reason something happen and Josh if he couldn't close with them they would be back to square one. Craig resented his first motion to state as this depends on Josh being able to replot this back as one lot. Kenny asked Josh if he was fine with this. Josh stated yes he was. Ben said and this was contingent up on the house being built. Gregg said if he could add one thing. One of the things Josh will have problems with if he doesn't replot this into one is going to be the setbacks. Where he is wanting to build might be real close to the line. This behooves him to replot this back as one lot. Craig said at the same time the way it is he could build two residences on this if left as two lots. Craig said he wanted to approve one dwelling. Craig said what he was trying to do was to give Josh six months so he would have time to replot as one. If he doesn't do this, the property is not going to have a Special Exception on it. Gregg stated they could grant the Special Exception on one lot and then when it is replotted that parcel would be a lot you can build on. Gregg asked Cathy Pratt how to revert back to the right parcel. Cathy said both lots had different parcel lot numbers anyway. Craig made the motion to state to approve the Special Exception on one lot at 9001 North 400 West with the Executive Director to issue one parcel number. Gregg said if he would want, he could set the parcel number now. Between Cathy and him they could make it what parcel number he wants. Craig said then he is requesting the first Lot, parcel #70-02-16-400-008.000-008 as the parcel to have this Special Exception. Sandra seconded this motion. All were in favor. Motion carried for this Special Exception on the one lot.

5. Election of Officers: Craig made the motion to elect Ben as the President of the Board of Zoning, Sandra as Vice President and Linda Ashwill as secretary. Ben asked Gregg about the role of Secretary that it could either be the Director or an appointee as they had talked before. Gregg said it was usually the Director as Secretary, but in Rush County it's a little different. Ben said in title only. The technically side. Gregg said we work together well. Ben said exactly. Craig said the State Law allows the Board to appoint. Gregg said absolutely. Ben said this came up with the APC also. He just wanted to make sure. Ben asked for a second to Craig's motion. Phil seconded this. All were in favor. Slate of officers were elected as stated and Linda Ashwill as secretary.

OLD BUSINESS: Nothing

Attorney: Not present

Director: Gregg said he had no additions.

Ben asked if there were any reports or anything else that needed to come before the Board.

Phil asked Gregg if he would sent them a new schedule for the meetings. He said he sure would be glad to.

Adjournment: Ben asked for a motion to adjourn. Phil made the motion for adjournment.

Seconded by Sandra. All in favor. Meeting adjourned. 6:30 P.M.

Ben Wicker
President

Linda Ashwill
Secretary