

BOARD OF ZONING MEETINGS MINUTES

MAY 11TH, 2021

6:00 P.M.

Sandra Jackson, President, called the meeting to order at 6:00 P.M.

**ROLL CALL:** Kenny Aulbach, Virgil Bremmer, Vice President, Denny Corn, Dohn Green, Sandra Jackson, President. Also present was Geoff Wesling, Attorney, Gregg Duke, Director, and Linda Ashwill, Secretary.

**APPROVAL OF MINUTES:** for April 13th, 2021 meeting. Virgil made the motion for approval of minutes as written. Seconded by Dohn. All were in favor. Minutes were approved.

**NEW BUSINESS:**

**1. BZA-2021-5 Norman Voiles** and agent Scott Brett are requesting a variance to 7.10.2(a,c,g4) to allow a subdivision with a lot size less than two acres, and zero lot frontage abutting a public right of way, at 1065 South Airport Road, Rushville, IN Parcel 70-11-08-228-007.000-010. This subdivision will combine with the 1051 South Airport road parcel to allow the installation of new septic system to replace a failing system. Planning staff finds no reason to believe the variances would be injurious to public health, safety, morals, or welfare of the community. The variances requested could be damaging to surrounding property values if not granted. After discussion Virgil made the motion for approval for these variances contingent upon the replotting of this subdivision with existing plot. Seconded by Dohn. All were in favor. Variances were approved.

**2. BZA 2021-6 William Degelow** is requesting a variance to 7.10.2 (e1) to allow a dwelling within sixty feet of the County right of way at 10453 South Degelow Road, Milroy, IN. Parcel # 7-13-26-200-006.000-005. This variances to allow a dwelling to be built closer than one hundred feet from the County right of way. The proposed setback of sixty is non-conforming and requires a variance to 7.10.2 (e1). Development standard requires a housing front yard setback of 100 feet to be measured from the edge of the public right of way. Points of consideration are as follows:

1. This property is on a bend of Degelow road which is considered a minor collector road. Speeds can be faster on minor collectors than rural roads. According to the National Highway Traffic Safety Administration, stopping distance at speeds of 40 mph is 164 feet on dry pavement. This puts the house within range of an errant driver. Although potentially dangerous to inhabitants of the property the general welfare of the community should not be affected.

2. The variance requested should not be considered damaging to surrounding property values if granted.

3. The topology of the parcel falls away toward Mill Creek and is peculiar to the property where the applicant wishes to build.

4. The strict application potential poses a hardship on the property being subdivided. There is an elevation difference of roughly fifteen feet to the back of the property. The dwelling is being put to the

edge. This could be considered a hardship except the dwelling could potentially be moved to the South side of the existing barn.

Gregg showed the visuals of this parcel. Pointing out the flood plain. He pointed out the difference between a minor collector and a rural road. Virgil asked the question "So why the house in this particular spot." Mr. Degelow stated this is where he would like to locate. His neighbor's house and every house on this road is less than one hundred feet. The next house down is only about ten foot off the road. The old house that was torn down was only seventy feet off the road. Mr. Degelow stated they have had the soil testing done and the septic has been approved to go west of this building site. This partition was brought to a roll call vote. There were three ayes and two nay votes. Variance was approved.

#### **OLD BUSINESS:**

**Attorney:** Geoff stated he had nothing at this time.

**Director:** Gregg said it would come before this Board at some point and time for a Decommissioning Plan, Road Use Agreement, and the Drainage Agreement with the Solar Ordinance Group. Geoff said he thought not only this Board and County should be in on the Decommissioning Plan but the property owners also. This Board has the ability to say they don't want a plan and leave this up to the property owners and the solar company. Geoff said the main reason we would have a Decommissioning Agreement would be to protect the adjoining landowners. He also he would like the Board to be educated the drainage within the area. The Road Use Agreement would have to be approved by the Highway Department. The drainage would be approved by the Drainage Board. The Decommissioning Plan is up to this Board. You are the last line of defense. Gregg stated the solar ordinance is not predicated on financial gain but on land use and what they will do for us in the future. Virgil asked what sections of the Ordinance they needed to review. Geoff said one thing he thought they ought to know is this can't be underestimated. This is going to be extensive for Mr. Duke's office. It is like building a building that is on two hundred acres.

#### **ADJOURNMENT:**

Sandra asked for a motion to adjourn. Dohn made the motion which was seconded by Virgil. All were in favor. Meeting was adjourned 6:40 P.M.