

**AREA BOARD OF ZONING APPEALS  
ST. JOSEPH COUNTY, INDIANA**

**MINUTES**

Wednesday, January 13, 2021  
1:30 p.m.

4th Floor, Council Chambers  
County-City Building, South Bend, IN

**MEMBERS PRESENT:**

Donny Ritsema  
Robert Hawley  
Christine Deutscher  
Sidney Shafer  
Michael Urbanski  
Joe Velleman

**ALSO PRESENT:**

Abby Wiles  
Ryan D. Fellows  
Shawn Klein  
Samantha Keultjes

**EXECUTIVE SESSION:**

1. Appointment of the Chair and Vice Chair

Upon a motion by Mike Urbanski, being seconded by Robert Hawley and unanimously carried, Joe Velleman was elected as Chairman.

Upon a motion by Joe Velleman, being seconded by Mike Urbanski and unanimously carried, Sidney Safer was elected as Vice Chairman.

**PUBLIC HEARINGS:**

2. **The petition of JEFFREY & ANGELA VARGO seeking the following variance(s): 1) from Section 154.092, the required minimum frontage of 600' to 169.07' for a lot in a proposed subdivision, property located at 65505 MULBERRY RD, Union Township. Zoned A: Agricultural District (County).** *(Audio Position: 7:04)*

After careful consideration, the following action was taken:

A petition by JEFFREY & ANGELA VARGO seeking the following variances: 1) from Section 154.092, the required minimum frontage of 600' to 169.07' for a lot in a proposed subdivision was withdrawn as presented upon a request by the petitioner.

1. **The petition of Cassandra Reyes seeking the following variance(s): 1) from Section 154.070 (C)(1)(d)(1)(a), the maximum height of a fence with an open space percentage of less than or equal to 70 percent of 3' to 6' for a fence in a minimum front yard ,**

**property located at 24733 LANCER DR, Portage Township. Zoned R: Single Family District (County).**

*(Audio Position: 7:15)*

PETITIONER

Cassandra Reyes, residing at 24733 Lancer Dr., South Bend, IN presented as the petitioner. She stated "From what you can see here, there is about and 8 or 10 ft high hill from the street to where the house sits. It's a very steep hill so we do not plan to put the fence past the trees up there so there should be no obstruction of vision.

Joe Velleman: So you're going to orient the fence to the top of the hill or will it be partially down the hill?

Cassandra Reyes: It will not be partially down the hill whatsoever. It's going to be at the top of the hill. It just has to be that way because of how to mow the lawn. It's a very steep hill and it poses and issue so that's about what our limit is.

Joe Velleman: So it's going to be at the top of the hill, but it will go past the house itself though correct?

Cassandra Reyes: Yes. Not by too far. I don't think I measured it out but it shouldn't go too far. The line of trees there, it won't go past that.

Joe Velleman: We're looking at two pictures. One has a yellow line around it which I assume is the setbacks.

Ryan Fellows: The property line.

Joe Velleman: The handwritten drawing, is that where you proposed the fence to be?

Cassandra Reyes: Yes, that's the plan.

Joe Velleman: So it will be all the way out to the road?

Cassandra Reyes: No not necessarily. These pictures are very different in comparison. It's not going to go past the trees. That was just the best way for me to draw it.

Joe Velleman: Gotcha, so it's obviously not to scale. You don't have any footages on there. So you're saying that when it extends to the south side of the house, that tree right there at the corner of the house, it's not going to extend past that?

Cassandra Reyes: That is correct. Not the first tree, I guess it would be the second tree or the tree closest to the house.

Sidney Shafer: So it's going to remain in your property line?

Cassandra Reyes: It will, yes.

Donny Ritsema: Why is the fence then being proposed to come all the way up to the front versus just including the rear?

Cassandra Reyes: The front of the house hasn't been exactly determined yet because of the slope of the sides, but yes we might build up to the front of the house, maybe half way. Unsure yet but the limit as to the right side of the house, that will be limited by the trees.

Donny Ritsema: The right hand side is what I understand, just coming up the front of that fence, would that terminate at the back side of the rear of the property or the house or is that coming up basically to the front of the house?

Cassandra Reyes: It will extend as far as that tree limit on the right side.

Donny Ritsema: I understand that it's going to be short of the tree line on the right hand side. So the front of the house that faces Lancer, is the fence coming all the way up to that bottom right hand corner or is it stopping at the rear corner of the house?

Cassandra Reyes: I'm going to say the front of the house. It's to be determined but I guess it just depends logistically. Mowing the lawn makes it difficult because of that steep hill so we're going to have to look into that. We were more concerned about the right side of the house.

Donny Ritsema: Correct. So why then would you not just consider fencing off the rear?

Cassandra Reyes: The size of the backyard would be much more limited. I have a large dog and the fence is mostly to contain her, but being a large dog she would like a lot of space.

Ryan Fellows: I'll try to outline the way the application applied for and then if there are any corrections, then we'll have the petitioner state those corrections. This is a road right of way, it shows the street right here but then there's a space between where the pavement ends and where the property starts and when you compare that to the aerial, you can see where the pavement ends there's a stretch of grass before the property starts. There's a slightly blue square which represents the house, then there is a garage back here as well. When you're looking at these black lines, these are where the fence is meant to be. This is closed off because there's the garage right here so it goes up to the eastern edge of the garage leading down to the northwest corner of the house. Ordinarily in this corner lot situation, the area that you could have your fence is in line is the setback from the front, so it's in line with where the eastern side of the front face of the property is and then the southern face along Lancer. The square footage is not all that different than than over here, it just happens to be that the property owner is interested in having the fenced off area not include the back side of the garage. The whole reason why we have the setback limits for fencing is so we don't end up with whole neighborhoods with 6ft tall privacy fences up against the edge of where the property ends and the right of way begins. If some day in the future there's a sidewalk there, you'd end up right up against a 6ft tall fence. It does make a less inviting neighborhood, it changes the character of the neighborhood. If this were allowed here, you'd have to imagine what would it be like if it were allowed throughout the neighborhood. We have three criteria to measure if this is acceptable or not.

Bob Hawley: Why are they requesting a 6ft fence?

Ryan Fellows: This is to have the dog to stay without jumping over the fence.

Cassandra Reyes: That is absolutely correct.

Mike Urbanski: In looking at the north, the house next to it to the north has a driveway. The driveway extends beyond the edge of the road. That area between where the fence is going in and the edge of the road, there's got to be more than 10 ft am I correct?

Ryan Fellows: There might be.

Mike Urbanski: Fences are usually put in from the edge of the road, the back of the curb. There's a 5ft park way and then a 5 ft fence. So from the edge of the road it comes in 10ft. If that's over 10ft it will not be right at the edge of the road. The fence would not be right at the sidewalk.

Ryan Fellows: The right of way here includes not just the space where the road is paved for the vehicles but additional space so that if a sidewalk were put in in the future...

Mike Urbanski: I just explained that if a sidewalk is put in, it's put in 10ft from the edge of the road. It appears to be closer to 20ft, so therefore if a sidewalk is put in, it will not be next to the fence.

Ryan Fellows: I can't quote what the county standard is for a sidewalk location but in other jurisdictions where I've worked the sidewalk has been up against the property line.

Mike Urbanski: I've built many many house in the city and county and what I just described is what I've gone by.

Abby Wiles: Yes, what Mr. Urbanski is saying is correct, there is additional right of way. We don't know what it is exactly here, but no it wouldn't be right up against the street it would be set back a little bit.

Mike Urbanski: Correct, it would be set back a little bit. Just basically use the garage as a scale and look over to the side where you see the edge of the road to the property line. That's how I come up with it in excess of 10ft.

Joe Velleman: They are asking for a 6ft fence instead of 3ft and then instead of having the open space requirement they want a full solid one. But there is no mention of a setback variance on this so that's because they're going up to where they are allowed to is that all they are limited to? Whatever the setback is is where they would have to go correct?

Abby Wiles: The request today is for a height variance. In Ryan's staff report in providing justification for not granting the height variance, he was saying the idea is that you wouldn't want 6ft privacy fences along the property line. The opaqueness is part of our zoning ordinance. It can be basically solid and not transparent if it meets the height requirements but as it gets taller it has to be open.

Mike Urbanski: That is one thing that I'm against. Saying the fence would be right up against the sidewalk is what I was discussing. Yes, I truly believe that we do not need a solid fence along the roadway. I think the people would not want it for safety reasons.

Bob Hawley: Is this fence going to be installed by a professional company?

Cassandra Reyes: It's undetermined yet. We haven't been able to do anything with anyone because of this whole issue. We are unable to determine where the fence can be. It's possible.

Joe Velleman: So you may or you may not have a contractor do it for you?

Cassandra Reyes: Ya pretty much. We haven't been able to make any definite decisions because we don't know where it could lay. We did call one company and they said get a variance first.

Mike Urbanski: You understand that the variance is for the height and the fact that it's a solid fence. You have so many unknowns and you're getting some of that information back now. I think that you need to table it until the February meeting and take care of all the things your not sure about now.

Joe Velleman: I have to agree with Mr. Urbanski. Without knowing how far the fence is going to be from the road, how far the fence is going to be from the house, how far to the front of the house is the fence going to extend, that would make a determination of where my vote would be. So without having that data, I would recommend that you request to table to get exact dimensions on where this fence is going to go.

Cassandra Reyes: I keep hearing that this is a solid fence, we're actually looking to do probably a black chainlink fence. We're planning on only building it out to the trees. It's about 20ft from the street.

Joe Velleman: I appreciate that but what I'm trying to guide you towards is that if you were to ask for a vote on what you are requesting today, my feeling is you're likely going to get denied the variance which is going to require you to wait at least 6 months to come back and request it again. If you were to table it and put together dimensions for the board that would be more exact and show where these are going to be at and what kind of fence it's going to be next month, you'll have a better chance of having your variance viewed more favorably.

Mike Urbanski: How long have you lived in the house?

Cassandra Reyes: It was just purchased in September.

Mike Urbanski: In your closing packet that you got from the title company, normally there's a copy of the survey. The survey would have all the dimensions that we are asking for.

Cassandra Reyes: Unfortunately we were told that the survey was not sufficient enough to base a fence off of and the one that would be would cost around \$2,000. So that is another road block that we've hit.

Joe Velleman: It may not have but sufficient enough for I'm not sure, but for this Board if you were to supply something that showed off of the house it's going to extend out 10ft and then another 60ft and all that, that would give us a better insight as what your asking for and where it's going to lay versus the drawings that you have already said is not to scale.

Ryan Fellows: I want to add a moment of clarification, how the staff prepared its report is based off of what was in the petition and it answered questions such as is the fence going to be built by professionals, and in questions 2a it says the fence will be built by professionals. And so, when you are representing your petition, if you represent something different than what your application does in writing, it casts doubt so we don't know if what is written is correct or what is represented is correct.

Cassandra: What do you mean built by professionals? Like, I'm not building the fence, I'm going to hire somebody to do it.

Ryan Fellows: Right, that's what we're talking about.

Joe Velleman: A liscensed contractor.

Cassandra Reyes: Then yes.

Abby Wiles: If this request were to be tabled, we can reach out to Ms. Reyes and work with her on developing a more detailed site sketch of exactly where the fence is going to go, the dimensions from the house going out toward Eastlea Dr. and then we can look at what the approximate right of way is and help provide a little more technical assistance in her preparing the application.

Brandie Ecker: If the board is really united in wanting more information, it can on its own motion can continue to the next meeting.

Joe Velleman: So Ms. Reyes would you like to table this until February to get more information and work with staff on creating a site plan that the board would be more advantageous towards?

Cassandra Reyes: Yes, that's fine.

After careful consideration, the following action was taken:

A petition by Cassandra Reyes seeking the following variances: 1) from Section 154.070 (C)(1)(d)(1)(a), the maximum height of a fence with an open space percentage of less than or

equal to 70 percent of 3' to 6' for a fence in a minimum front yard was tabled upon a request from the petitioner to the February 10, 2021 ABZA meeting.

**3. The petition of JOHN GLENN SCHOOL BUILDING CORP seeking a Special Exception Use for Institutional uses under Section 4.03 to allow a Solar Energy System (SES), property located at 400 SCHOOL DR, Liberty Township. Zoned R1 Single Family Residential (North Liberty).** *(Audio Position: 33:20)*

Ryan Fellows: This is an application for the Town of North Liberty so we are following their ordinance so when I make reference to it, that's where I am referring to and the town zoning ordinance does outline several criteria for a special use permit. Ultimately we will need to have a recommendation from the board to recommend favorably or unfavorably to the Town of North Liberty's Council. This comes to you with a favorable recommendation from staff and from that we looked at the criteria in the code book. For example the topography layer was checked, there was no topographical issues, fresh water, forested scrubs wetlands exist on the eastern edge of the property but not where the solar energy system project area is located. There's no other natural features to note. The property is surrounded by property that is zoned R1 Single Family District. These solar energy systems do not generate heavy traffic so there should not be any issues to note there. The onsite and offsite accommodations for vehicular and pedestrian circulation patterns are sufficient to meet the needs of the solar energy system. There is a planned trail to the east of the proposed solar energy system along the rear which is shown on the site plan. Criteria 5 is the amount and location and design of parking areas and loading areas. The proposed use is accessory to a school no additional parking or loading areas are needed. Criteria 6, building character including height, intensity, materials and architecture and the proposed system is not a building so it will not apply but the proposed system will not exceed the maximum height and will meet the other criteria for the zoning ordinance regardless. The structures will be located on large parcel behind the existing school building and will be substantial setbacks to the property lines creating a buffer to the adjacent land uses. For Criteria 7 landscaping screening and buffering of adjacent properties, this is substantially setback and already landscaped. The compatibility of the proposed use site design and architecture with the district in which the use is proposed to be located, the proposed site plan shows compatibility with the proposed use. Site design and architecture of the school located in the R1 District. Criteria 9, the extent to which the proposed use site design and architecture comply with the regulations and development standards that would be applicable if this site were zoned to an Office Buffer District, Commercial District or Industrial District of this ordinance which would permit the proposed use as a primary use. For institutional uses as listed as a primary use as listed in the commercial and industrial district that is ok. The institutional use is a listed special exception use in the office buffer district so that's ok. Because the solar energy system does not count as a building, the architectural standards do not apply. Criteria 10, open space and other site amenities which the school does offer plenty of open space and site amenities. Criteria 11, availability and etiquacy of streets, sanitary facilities, potable water, storm water management systems and other systems and other utilities are available and appear to be

adequate to the needs of the proposed solar energy system. Moving on to the four criteria that are found in state law, staff recommends approval of this special exception use and in those 4 criteria the proposed use is not judged to be injurious to the public health, safety, comfort, community moral standards convenience or general welfare. Solar Energy Systems do not generate hazardous elements such as noise, odor, dust, smoke or glare nor do they generate heavy traffic or drain community and utility resources. The proposed special use will not injure or adversely affect the use of the adjacent area. The proposed use will be consistent with the character in the district in which it's located. The solar energy system will be part of the John Glenn School Corporation's curriculum and there is an attachment for the education plan for solar energy. The proposed use is compatible with the recommendations of the Comprehensive Plan of the Town of North Liberty especially section 5.3 Policies for Schools, Public and Government Services. Attached is an agreement approving institutional use.

### PETITIONER

Christopher Winchell, Superintendent of John Glenn School Corporation presented on behalf the the petitioner. With him was Brendan Bleeke of JMS Solutions who is the contractor. He wanted to thank the Town of North Liberty board for their time and effort and engery in supporting this. I don't have additional presentation or information to share. This green energy curriculum project is right in line with the other stellar improvements that the Town of North Liberty has been making over the years.

Joe Velleman: Who is going to be enjoying the benefits of the solar panels?

Christoher Winchell: Bascially, we'll be producing from that field a little bit less than a half a mega wat of electricity. That provides about 90% of what is being used at the school. So we are working on an interconnection agreement with NIPSCO pending the approval. We'll basically produce that energy for NIPSCO as a source of green energy, we'll be able to use what's produced and then obviously we still have to pay for what's not produced, but then they'll be able to provide some additional curriculum at our school. There's been a big push to provide kids with graduation pathways which are vocational tracks that kids get on in the school and can get into employment right out of high school to be an additional opportunity to the traditional fine arts cirriculum of going to a university. So because of our healthy agriculture program and then the opportunity of this solar project it's going to immediately give our high schoolers additional graduation pathways in agriscience renewable energy and green energy. We also have a hope down the road to expand the 9-12 agriculture program into a k-12 or 3-12 agriscience. We already have an outdoor lab and the hope is to expand the outdoor lab and maybe have a small crop on the campus, maybe a small chicken coop and interweave it with this green energy project. There are some operational expenses that we can save and reconstitute to student programming.

Bob Hawley: In your area NIPSCO does provide electricity as well as gas?

Christpher Winchell: Yes, in the Town of North Liberty they provide both the electric and the gas.

Donny Ritsema: What for the consideration of the landscape materials, are there any landscape materials being placed around the solar field?

Brendan Bleeke: It will be grass below and we have a landscape contractor that will also be providing the seed and a straw mat. It will essentially redone to match its existing purpose.

Donny Ritsema: So the ground cover would only be grass. So there's no thoughts for using low ground covered native vegetation such as flowers or anything like that?

Christopher Winchell: That's an excellent idea and it's our hope that this connection with the agriscience program and we have what's called a landscaping course, high school credited course, it's our hope that the landscape course will use this as an additional project. We went ahead with just the normal grass but appreciate your input there and it's certainly part of the overall grand scheme of things to have that spruced up and beautified through the work of the students.

Abby Wiles: I know MACOG was involved with some of the landscape requirements that were integrated in the St. Joe County Zoning ordinance when we updated our ordinance for unincorporated areas for solar. That pollinator friendly landscaping requirements has not been adopted in the North Liberty Town Zoning Ordinance.

Christopher Winchell: We are willing to give that hands on attention if I could be educated a little bit more about what the St. Joe County expectations are or what the desire is.

Joe Velleman: At this point you don't have to meet those standards but we're just suggesting to you that you try.

Abby Wiles: We would share our ordinance as a resource for pollinator friendly landscaping.

#### IN FAVOR

There was no one present to speak in favor of this petition.

#### REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Robert Hawley, being seconded by Donny Ritsema and unanimously carried 5-0, a petition by JOHN GLENN SCHOOL BUILDING CORP seeking a Special Exception for for Institutional uses under Section 4.03 to allow a Solar Energy System (SES) for property located at 400 SCHOOL DR, Town of North Liberty, is sent to the Town Council with a favorable recommendation, and will issue written Findings of Fact.

Robert Hawley - Yes

Sidney Shafer - Yes

Donny Ritsema - Yes

Christine Deutscher - Yes

Joe Velleman - Yes

#### **4. The petition of Chris & Tina Dennig seeking the following variance(s): 1) from Section 154.070 (A)(3), the provision requiring establishment of a primary use prior to**



**construction of an accessory building, to allow a pole barn to be constructed on a vacant lot prior to construction of a dwelling, property located on the south side of Johnson Road approximately 750' east of the intersection of Johnson Road and Lilac Road , Centre Township. Zoned R: Single Family District (County). (Audio Position: 53:05)**

Shawn Klein: The staff would recommend approval on the condition that a single family dwelling be constructed within three years time. We arrived at this recommendation after assessing the three criteria of state law. We feel that the approval would not be injurious to public health, safety, morals and general welfare. Mainly based on the three year deadline this is going to protect against abuse wherein they end up using that accessory structure for a non-residential purpose which is one of the main justifications for not allowing an accessory structure built prior to a dwelling. We also find that the use and value of the adjacent area will not be substantially affected mainly because it will still need to meet the development standards of the residential district with regard to height and setbacks and within three years it will be returned to a condition that could have been accomplished without a variance either with a dwelling unit on the property or with the accessory unit having been removed. We find that strict application of the terms of this chapter would not allow the petitioner to safely store personal property on the parcel while they finalize construction plans for the house. So this would be a practical difficulty for the property owner.

Joe Velleman: So the three year commitment, is that something that we have to put into our vote or is that something since it's in record is going to automatically be there?

Shawn Klein: It's on the record and will be in the findings of fact that you imposed the condition so.

Brandie Ecker: They would actually have to include that in their motion for that to be the case.

Abby Wiles: In terms of enforcement, Shawn let me know that you he is keeping a record of these.

Shawn Klein: I am. There was a question about that last month. We actually only had two in 2020 but I have started a record and once the timeline lapses we will go out and inspect and ensure that there is a house on the property.

Sidney Shafer: If there's not?

Shawn Klein: Then we will use the full force of the zoning ordinance to get the accessory structure removed in a timely manner.

### PETITIONER

Chris and Tina Dennig, residing at 1604 Byron Dr., South Bend, IN presented as the petitioner.

Christine Deutscher: Does a three year deadline seem doable for you all?

Chris and Tina Dennig: Yes. We plan on it being built this year.

### IN FAVOR

There was no one present to speak in favor of this petition.

### REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Sidney Shafer, being seconded by Robert Hawley and unanimously carried, a petition by Chris & Tina Dennig seeking the following variances: 1) from Section 154.070 (A)(3), the provision requiring establishment of a primary use prior to construction of an accessory building, to allow a pole barn to be constructed on a vacant lot prior to construction of a dwelling was approved subject to a 3 year time limit. A dwelling must be constructed on the parcel by January 13, 2024, or the accessory structure must be removed, and will issue written Findings of Fact.

Robert Hawley - Yes

Sidney Shafer - Yes

Donny Ristema -Yes

Christine Deutscher -Yes

Joe Velleman - Yes

- 5. The petition of THOMAS E & KAREN L MCCORMICK seeking the following variance(s): 1) from Section 154.092 (A), the minimum required lot area of 20 acres to 17.32 acres for Lot 1 of a proposed subdivision ; 2) from Section 154.092 (A), the minimum required lot area of 20 acres to 0.77 acres for Lot 2 of a proposed subdivision and 3) from Section 154.092 (D), the minimum required rear setback of 30' to 10' for an existing barn on proposed Lot 2 , property located at 66488 SYCAMORE and 66224 SYCAMORE RD, Liberty Township. Zoned A: Agricultural District (County). (Audio Position: 58:35)**

Shawn Klein: Essentially what the applicant is hoping to accomplish here is to shift the property lines between these two existing parcels so that there's a property line that's narrow around the northern house around the lawn area there and then that sliver of tilled land will be joined to the lot to the south. The staff recommends approval based on the criteria from state law. We find that it would not be injurious to public health, safety, morals, and general welfare. Mainly because there's already a house on both parcels so we're not increasing the number of buildable lots in the agricultural district therefore we're not furthering residential sprawl in the ag district and not undermining the productive use of farmland. The existing parcel is effectively only useful for a residential use as it is so we feel like tillering the lot line more to encompass that residential use will not be detrimental to general welfare. Similarly we feel like the use and value of the are adjacent to the property will not be substantially affected in an adverse manner. The variance isn't really going to change any conditions with regard to properties that are outside the ultimate subdivision. There is the issue of the setback variance that comes into play with this existing barn to the north which will have it a little closer to the neighboring property than is ideal but we feel like allowing the cultivated farmland to be placed on one parcel and the benefits to the value

of that land therefore outweigh the setback from 30' to 10'. We also feel that strict application of the terms of the zoning ordinance would result in practical difficulties in the use of the property as it would not permit a subdivision of land which allows the petitioner to retain the productive farmland which is currently contained in two separate parcels while also enhancing the marketability and therefore the value of the smaller residentially used portion.

### PETITIONER

Terry Lang, of Lang, Feeney & Associates with offices located at 715 S Michigan St., South Bend, IN presented on behalf of the petitioner. He stated “the the McCormicks own both parcels and reconfiguring the line will allow the agricultural portion of the triangular shaped parcel to be added to their existing home which is the southern parcel. With this we’re creating a one acre parcel around the existing house and barn on the triangular area so basically what is tilled will continue to be tilled and what is yard area will be the new lot that we’re creating there.

Joe Velleman: Are they the ones tilling it?

Terry Lang: Mr. McCormick lives on lot 2 and his father owns the property to the north and all of that area is farmed between the two of them.

Tom McCormick: Yes it is tillable through there. We want to maintain it in the future as agricultural land through there.

Sidney Shafer: Why did you make the lot so small?

Tom McCormick: That was the thought process on that because the property line to the north was already set in place, the south was the existing corner post. So when we measured all that off it essentially came to a one acre piece and for most individual homeowners it still allows the big yard to the south and a second future septic field if needed and a beautiful large yard.

Joe Velleman: There is a slight difference between what was petitioned and what the actual acreage is.

Terry Lang: After we filed the petition, Mr. McCormick found the record document from the railroad that relinquished the railroad’s rights to the adjacent property owners so in fact the area, the south half of that right of way will be included with the proposed lot 1. With that documentation we’ve increased the acreage for lot 1 and the petition did not need to be readvertised because of that.

Donny Ritsema: Just to clarify the original intent is to continue to till what is being tilled? No new construction is being proposed?

Tom McCormick: Correct, yes. Continue to farm, no additional construction.

### IN FAVOR

There was no one present to speak in favor of this petition.

### REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Sidney Shafer, being seconded by Robert Hawley and unanimously carried, a petition by THOMAS E & KAREN L MCCORMICK seeking the following variances: 1) from Section 154.092 (A), the minimum required lot area of 20 acres to 17.32 acres for Lot 1 of a proposed subdivision; 2) from Section 154.092 (A), the minimum required lot area of 20 acres to 0.77 acres for Lot 2 of a proposed subdivision and 3) from Section 154.092 (D), the minimum required rear setback of 30' to 10' for an existing barn on proposed Lot 2 was approved as presented, and will issue written Findings of Fact.

Robert Hawley - Yes  
Christine Deutscher -Yes

Sidney Shafer - Yes  
Joe Velleman - Yes

Donny Ritsema -Yes

- 6. The petition of MICHAEL J & SUSAN D INGLE seeking the following variance(s): 1) from Section 154.092 (A), the minimum required lot area of 20 acres to 5 acres for Lot 1 of a proposed subdivision , property located at 67751 OAK RD and 67729 OAK RD, Liberty Township. Zoned A: Agricultural District (County). (Audio Position: 1:07:49)**

#### PETITIONER

Terry Lang, of Lang, Feeney & Associates with offices located at 715 S Michigan St., South Bend, IN presented on behalf of the petitioner. He stated “there are currently two parcels and the green area where the house is located extends to the north onto the second parcel. The total acreage for the parcels here amounts to about 17 acres and what they’re doing is a little estate planning. In that area north of the red line is where the septic system is located for the home. What they would like to do is reconfigure it in a fashion so that the septic system would be on that parcel for the future. The balance of the property then would be an outlot. The house parcel for the home and large garage building would be a five acre parcel so that if anybody would in the future would be able to sell the house separately from the ag ground. This way it would be protected as ag ground also creating it as an outlot with our future subdivision that’s being done. It gives a couple of options to them and their estate planning for the future with regards to the home and the agricultural property. They have lived out there for over 40 years and are adamant that the balance of the property should remain agricultural and that’s why we’ve created it as an outlot.

Brandie Ecker: The petition looks like three variance requests but the agenda only has one?

Shawn Klein: That’s correct. We recently revised the subdivision ordinance such that outlots no longer require variances from the acreage or the frontage requirements of the zoning ordinance. Essentially they’re no longer treated as lots therefore that variance was not needed. When we refer to an outlot, that’s essentially a non-buildable lot. A building permit could never be issued for this lot after the subdivision goes through. Therefore it’s kind of left with few other uses other than to continue to be cultivated so in situations like this where they want to break off the

residential area, we typically will allow that as long as the tilled acreage remains in an outlot thereby they're not creating an additional buildable lot in the agricultural district so it has a benefit of not leading to any additional residential sprawl while protecting that agricultural acreage for additional agricultural use.

### IN FAVOR

There was no one present to speak in favor of this petition.

### REMONSTRANCE

There was no one present to speak in remonstrance of this petition.

After careful consideration, the following action was taken:

Upon a motion by Robert Hawley, being seconded by Donny Ritsema and unanimously carried, a petition by MICHAEL J & SUSAN D INGLE seeking the following variances: 1) from Section 154.092 (A), the minimum required lot area of 20 acres to 5 acres for Lot 1 of a proposed subdivision was approved as presented, and will issue written Findings of Fact.

Robert Hawley - Yes

Sidney Shafer - Yes

Donny Ristema -Yes

Christine Deutscher -Yes

Joe Velleman - Yes

### ITEMS NOT REQUIRING A PUBLIC HEARING

#### 1. Findings of Fact

A. Approval of the Findings of Fact from the December 2, 2020 ABZA meeting *(Audio Position: 1:13:00)*

Upon a motion by Robert Hawley, being seconded by Sidney Shafer and unanimously carried, the Findings of Fact from the December 2, 2020 ABZA meeting were approved.

#### 2. Minutes

A. Approval of the minutes from the December 2, 2020 ABZA meeting *(Audio Position: 1:13:55)*

Upon a motion by Joe Velleman, being seconded by Robert Hawley and unanimously carried, the minutes from the December 2, 2020 ABZA meeting were approved.

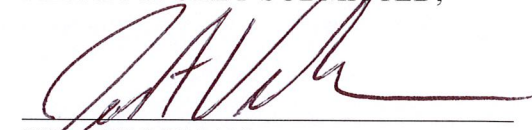
#### 3. Other Business

None at this time.


4. Adjournment

Upon a motion by Sidney Shafer, being seconded by Robert Hawley and unanimously carried, the January 13, 2021 ABZA meeting adjourned at 2:48 p.m.

RESPECTFULLY SUBMITTED,

  
\_\_\_\_\_  
JOE VELLEMAN,  
Chairman of the Board

ATTEST:

  
\_\_\_\_\_  
ABBY WILES,  
Secretary of the Board