

# **Wabash County Plan Commission**

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## **Wabash County Board of Zoning Appeals**

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

### **Meeting Minutes of Tuesday, August 27, 2024**

Roll call was taken with the following present:

Board Members: Dan Dale, Amanda Lyons, Mark Milam

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

Absent: Joe Vogel, Jerry Younce

Others present: Charles Cable, David Terflinger, Paul Smith, Spencer O'Dell, Chris Wetherford, Scott Hanes, Suzanne Peebles, Tim Suman, Chris Wetherford, Melissa Wetherford, Ronald Penrod, Kristen Brodt, Cody Michel, Spencer O'Dell

The Wabash County Board of Zoning Appeals met on Tuesday, August 27, 2024, in the Commissioner's Meeting Room of the Wabash County Courthouse. Board Chairman, Mark Milam, called the meeting to order at 7:00pm.

Roll Call was taken. A quorum was present so the meeting proceeded.

Mr. Milam asked if there were any additions or deletions to the minutes of the July 23, 2024. No changes were made. Amanda Lyons made a motion to approve the minutes, second by Mark Milam. Roll call vote was taken. The motion did not pass due to lack of majority vote. Dan Dale abstained due to being absent at the July 23, 2024 meeting.

First item on the agenda was Variance #23 – Tim Suman, variance from the development standard to be closer to the minimum roadway setback than required by the ordinance, Noble Township. Brian Campbell read a summary of the variance request. Mr. Suman came to the Plan Commission Office on July 16, 2024 to request a permit for a new garage. Mr. Suman was notified that the proposed structure was too close to the centerline of Old 24, and in order to proceed with the garage, a variance would need to be requested. The measured distance from the closest corner of the proposed garage to the center of the road. Mr. Suman is requesting a 13-foot variance from the setback requirements from a primary roadway. The proposed garage will be placed on an existing foundation.

Mr. Campbell continued by stating that an anonymous letter of opposition was received, he read the letter to the board. The letter stated that the writer was opposed to the approval due to a concern about the intended use. The letter continued by stating Mr. Suman has already done work to the existing foundation despite an uncertain approval. The letter also stated that Mr. Suman's wife operates an "illegal no-kill cat sanctuary" on the premises. The anonymous writer stated they feared that the new building would be used for the "sanctuary" and there would be issues with uncontrolled cats, offensive signage, and potential detriment to the surrounding properties.

Mr. Milam asked to confirm that there was an existing structure in the same location. Mr. Suman confirmed that there was a structure there in the past. Mr. Milam asked if he was building the new garage on the same foundation, using the same footprint. Mr. Milam asked if the former structure deteriorated, fell down, torn down, or burnt. Mr. Suman stated that it was already gone when he purchased the property so he is unaware of the cause of the building being gone. Mr. Milam asked if due to the fact there was a structure there if it fell within the grandfathered buildings. Mr. Campbell stated that it only remains grandfathered if the structure is replaced within a certain amount of time. Mr. Campbell said that he believes that timeline is within 12 months and the cause of the destruction must be from an act of nature, such as a fire or storm damage. If the building is voluntarily torn down, the property owner must apply for a variance based on the new ordinance.

Mr. Milam asked what the intended purpose was for the building. Mr. Suman stated, as a garage. He stated that it isn't going to be any part of the sanctuary at all. Mr. Milam asked to confirm if there was a cat sanctuary on the property. Mr. Suman stated it is not "official," but his wife is running a sanctuary. Mr. Milam asked if the sanctuary is certified through the state or federal governments or anything like that. Mr. Suman stated to his knowledge she has completed part of the process and has to do something else with the state itself, but he is unaware of what that is, he doesn't know much about it because that is his wife's business. Mr. Milam stated that the sanctuary itself is a separate issue.

Mr. Milam asked if Mr. Campbell had visited the site in question. Mr. Campbell stated he has driven by a couple of times. He stated that due to stuff in front of the proposed location so you can barely see it unless you are really looking for it. There are trees in the front as well. Mr. Campbell stated that the ordinance setback is 95 feet from a primary roadway, however in this situation there are items closer to the roadway than that, so the requested 13-foot variance wouldn't be an issue. There is currently a train car and railroad signals on the property. Mr. Campbell stated the only issue he had was the fact that additional foundation was poured prior to the approval onto the backside of the existing pad. Mr. Milam asked about the train items. Mr. Suman stated he collects signals. Mr. Milam confirmed that there would be nothing else added closer to the roadway. Mr. Suman stated no there wouldn't.

Mr. Milam asked if there were any further questions from the board or the public. With none, he asked for the board to fill out the findings forms and for a motion. Mr. Dale made a motion to approve the variance, Ms. Lyons seconded. The motion passed 3-0.

Second agenda item was Variance #24, Chris and Melissa Wetherford, a variance from the development standards to place an accessory structure on a parcel zoned residential prior to a residential structure being erected, Lagro Township. Mr. Campbell read a summarized review of the variance request. Mr. Wetherford came to the Plan Commission Office on July 26, 2024 to request a variance from the ordinance. Mr. Campbell referred to GIS showing Mr. Wetherford has purchased several parcels other than their home site. The parcel they are requesting the accessory structure to be placed on had a residential structure, but it burnt down. The other option other than a variance would be to combine the parcels, however if he ever wanted to sell the additional parcels, or build a homesite in the future, he would have to go through the process to split the parcels again. Mr. Campbell confirmed Mr. Wetherford has no plans to build anything additional on the property any time soon. Mr. Wetherford confirmed there are no plans. Ms. Lyons asked what the side setbacks were. Mr. Campbell stated that based on the aerial information, it is approximately 25 feet. Mr. Campbell stated the location was good on the setback requirements. Mr. Dale asked if the location was far enough back that the neighbor to the West would not have any sightline issues down the roadway. Mr. Wetherford confirmed that there is a tree line that surrounds the property so the storage shed would not cause any issues. Mr. Milam asked if there were any additional questions. With none being asked, Ms. Lyons made a motion to approve the variance, Mr. Dale seconded. The motion passed 3-0.

Variance #25, Ronald and Pamela Penrod, a variance from the zoning ordinance setback requirements for a new residential structure within 1320 feet from a CFO, Chester Township was the next agenda item. Mr. Campbell read a summary regarding the variance request. Ms. Penrod came to the Plan Commission Office on July 29, 2024 to apply for a variance to allow her and her husband to place a residential structure within the minimum required setback of 1320 feet from an active CFO. Additionally, the Penrod's builder came into the office prior to Ms. Penrod regarding obtaining a permit. The builder relayed the information to the property owners. The proposed location of the residential structure is approximately 1000 feet from the closest corner to an existing CFO. Mr. Campbell stated that the current Wabash County Zoning Ordinance states that no residential structures can be built within 1320 feet of any corner of an existing CAFO/CFO. Mr. Campbell did some additional research into the Zoning Ordinance and found that any new structures built on and existing CAFO/CFO site requires a setback of 400 feet, per 11.7.6. Any new CAFO/CFO must also abide by the 1320 feet setback from any existing off-site residential structures. Mr. Dale asked if the ordinance was specific to CAFO or CFO. Mr. Campbell stated the ordinance states existing CFO site, including lagoons, pits, ponds, holding tanks, dry manure, storage waste processing systems, compost buildings and livestock structures must have a minimum separation distance of 400 feet from any existing off-site residential structure. The proposed location of the new residential structure is about 1000 feet from the corner of the current, existing CFO building, well outside of the 400-foot line. Mr. Campbell continued showing that if the existing CFO were to expand, following the 400-foot rule, the new residential structure would still be outside of that requirement. Mr. Campbell stated that the 1320 feet is not cut and dry, and mainly refers to new CFO/CAFO site setbacks. That would also meet all of IDEM requirements as well for a new site. Mr. Dale asked if the property between the existing CFO and the proposed structure was the CFO owner's property. Mr. Campbell confirmed it is the CFO owner's home. Mr. Milam asked as long as the CFO owner is 100 feet off of the roadway and 400 feet from any existing off-site residential structure, they can place anything on the property as long as it meets the setbacks and IDEMs requirements. Mr. Campbell confirmed yes and that he doesn't believe IDEMs requirements aren't as stringent as Wabash County's requirements. Wabash County's requirements are twice what IDEMs are or more, sometimes even three times. Mr. Milam asked if the ownership of the CFO changes hands, does it remain grandfathered. Mr. Campbell stated yes, for the most part, there are guidelines in the ordinance regarding CFO's changing hands. Mr. Milam confirmed that a new owner would be under the same setback requirements as the current owner. Mr. Campbell stated he believed it did as long as it meets IDEMs requirements. Mr. Milam asked if Mr. Penrod currently owns the property that he is wanting to place the residential structure on. Mr. Penrod confirmed he does currently own the property and it is  $70\pm$  a few acres. He also stated there is an existing 60x80 pole barn located on the property and the new home would go behind that because he wants to use the same well. He continued by saying he was told he could move the new home site over 200 feet to be outside the CFO requirements, but if he did that, then he would be behind another property, there is a waterway there and he would not be able to use the same well. The location they chose is perfect due to where a hill is for the basement.

Ms. Lyons asked what the property was zoned. Mr. Campbell stated the property is zoned Ag1, but since they are the owners, they automatically get the points on the Point Factor System. Ms. Lyons asked if the Penrod's owned the property prior to the CFO or if the CFO was there first. Mr. Penrod confirmed it was there first.

Mr. Milam asked if there were any comments, concerns or questions from the public. Mr. Terry Harrell, the owner of the CFO, spoke. He stated that as a CFO owner he has rules and regulations he has to go by. He stated he believes that, in his family's best interest, to maintain the setback of 1320 feet. Mr. Milam asked if he understood the portion of the ordinance regarding the 400-foot setback. Mr. Harrell stated, yes that he can't build within 400 feet of any other individual's homes/residential structures. Mr. Milam continued by saying anywhere along the property as long as it is 100 feet from the roadway and 400 feet from any off-site residential structure.

Mr. Harrell questioned the 1320-foot setback for CFOs and that he was present at the meetings for the CAFO/CFO ordinance in 2007. Mr. Milam stated that the 1320 is for new CFO sites and that Mr. Harrell would be regulated to 400 feet since he has an existing site. Mr. Campbell restated the portions of the ordinance regarding the 1320-foot setback and the 400-foot setback requirements. Mr. Harrell stated in 2007 when the CFO ordinance first passed it worked both ways as he understood it. Mr. Milam stated only on new sites, but he is an existing site now since he already has a CFO there. Mr. Harrell asked if that was an amended or new rule because in the initial meetings for CFO ordinances it was 1320 feet no matter what. Mr. Milam stated that is not the way that he understands the ordinance. Mark Frantz stated that it was not written that way and only applies to new CFO sites. Mr. Campbell explained that Mr. Penrod's potential residential site would be a new site so it needs to follow the new site rules of 1320 feet from an existing CFO; however, since Mr. Harrell's CFO is already existing, his required setbacks are 400 feet from residential structures and 100 feet from the roadway.

Ms. Lyons asked where the location of the well Mr. Penrod spoke about because that comes into effect as well when it comes to setbacks. Mr. Campbell confirmed that CFOs are required to be 1000 feet from any off-site water well. Mr. Penrod stated the well is located by the corner of the existing pole barn. Ms. Lyons stated that since the well is located there, Mr. Harrell would not be able to expand any in the direction towards Mr. Penrod's property because of the well location, per ordinance 11.7.3. Mr. Campbell stated that there is a well within 860 feet of the existing CFO buildings so Mr. Harrell would have to apply for a variance to build anything within that direction. Mr. Frantz stated that the well is already there. Ms. Lyons asked if the BZA can approve a variance that puts a hardship on Mr. Harrell if he wanted to expand. Mr. Frantz again stated the well is already there. Ms. Lyons asked if it should be. Mr. Frantz stated that at this point it is grandfathered in. Ms. Lyons stated she didn't want to see the location of the well coming back to be a problem for Mr. Harrell. Mr. Frantz stated that since it is already there, when the Plan Commission changed the ordinance in 2022, anything that was existing that was a non-conforming use, even under the old ordinances, you can't force it to change under the new ordinance. Mr. Harrell asked if it was 2022 when the setback changed from 1320 feet to 400 feet. Mr. Frantz stated he didn't know if the setbacks changed, but the 2007 ordinance was repealed when the new ordinance took effect. Mr. Campbell stated he was unsure what the previous ordinances stated but most of the time the information remained the same, he would have to go back and find the old ordinance to figure out what changes were made in the newest CFO ordinance. However, with the new ordinance in place, the well location is an issue. The 1000 feet would hinder future expansion on the existing CFO. Paul Smith stated that he thought if someone wanted to build within 1320 feet of an existing CFO the builder would have to apply with the CFO owner. If the owner said no, that was it. Mr. Campbell explained that previous ordinances had the ability to sign a waiver in the past, but that the ability to do that is no longer a part of the ordinance. If someone wants to build within the 1320 feet, they have to apply for a variance.

Paul Smith stated he had a comment. As a CFO owner himself, he was in all of the meetings years ago. He heard about this request and that is what brought him to the meeting. He was under the impression that the CFO owners have gone through the expense of putting the buildings up, the paperwork and everything else, the way it was explained that as a CFO owner, if you wanted to build a new facility, we would have to be 1,320 feet from anything. If there was even one house at 1,000 feet, the only way he could get a permit was if that residential property owner signed off on the location of the CFO and vice versa. If there was an existing CFO there was no way for anyone to build within 1320 feet of the CFO unless he, as the CFO owner, signed off on it. If the CFO owner said no, it was a done deal. That was the way all of the CFO owners took it. Mr. Campbell stated that the Plan Commission office looked through some old CFO files prior to the meeting and there were waivers in the past that could be signed. There are no waivers in the new ordinance allowing property owners to sign off on anything. Instead, it was replaced with these additional setback requirements, 1320 feet for a new CFO site from any residence and 1320 feet for any new residence to a CFO. Mr. Smith stated that it could open a "can of worms." Mr. Campbell stated that

is why the Plan Commission wants to be diligent about this because before you could just sign a waiver and be done. However, what would that do to any expansion after the fact. Mr. Smith continued by saying that in the original meetings, there was nothing that could be built within the 1320 feet of their CFO unless they, the CFO owner, signed off on the structure. Mr. Campbell stated that now the ordinance allows for a CFO owner to come in and fill out a pre-application prior to building a new structure that reserves the location while they are waiting for IDEM approvals and the exact building locations. While that location is reserved, no one can build anything within that 1320-foot setback of the preapplication site.

Mr. Campbell reiterated the setbacks for the well locations. Mr. Penrod asked about Mr. Harrell's well and its location. Ms. Lyons stated that the same setbacks don't apply because he is the property owner and the CFO owner. Mr. Harrell stated that if you look at the 1320-foot setback requirement, it does leave the Penrod's with additional options on their existing property for the location of their house. Mr. Penrod said they weren't good options. Mr. Harrell once again stated with the amount of acreage there are plenty of options that don't require a variance and are outside of the 1320 feet requirement. Mr. Penrod stated it would be additional cost to him for a longer lane, new well, new survey, etc. He stated he understands Mr. Harrell's concerns. Mr. Harrell stated the 1320-foot setback requirement protects his CFO.

Mr. Neil Tate, a neighbor in the area stated that the existing homestead the acreage, and the decision to stay outside the circle may put the line closer to his property. He stated that he used to be a CFO owner so he understands both sides.

Ms. Lyons asked if there was a county drain in the area. Mr. Campbell was unable to open the program with the drains. Mr. Campbell asked Mr. Penrod to clarify about a statement made about a potential county drain in the area of his property. Mr. Penrod stated no it was just a waterway.

Mr. Smith stated that Mr. Penrod states he doesn't have an issue with the CFO, but it could eventually cause issues for Mr. Harrell's CFO. Mr. Milam stated that Mr. Harrell is already limited due to the location of off-site wells in the area and that changes the options to expand. Ms. Lyons asked when the pole barn was built. Mr. Campbell pulled up the Beacon Schneider to show the pole barn was built in 2016. Ms. Lyons asked if that was when the well went in as well. Mr. Penrod confirmed it was. Mr. Harrell stated that there is now a well that should have never been able to go in and that now limits him. Ms. Lyons stated that no one in the Plan Commission regulates/permits the wells. Mr. Harrell repeated the fact that they put in this unapproved well that he is unable to expand. Mr. Frantz stated that there was a home to the southwest that has a well as well. Mr. Harrell stated yes, it was built in 1995 prior to the existing ordinances. Mr. Campbell tried to locate the well on the property to the southwest. The well location was unable to be seen on the GIS to get an exact measurement from the CFO location. Mr. Harrell stated that he felt as though the ordinance plays both sides. He doesn't want to hurt Mr. Penrod, but he wants to protect his farm. Mr. Penrod restated that IDEM has the 400 feet setback. Mr. Campbell stated it could be 400 feet for IDEM but our county ordinance has different requirements. Mr. Milam explained the difference between the 1320-foot requirement and the 400-foot requirement regarding new building sites and existing sites. Mr. Milam asked Mr. Penrod to confirm he owns the entire large parcel to the north of the proposed building site. Mr. Penrod confirmed that he does but he prefers the location they chose due to the hillside and doesn't split the yard into multiple pieces. He stated that he doesn't want to maintain a  $\frac{1}{2}$  mile long drive. Mr. Milam asked if the BZA board wanted Mr. Campbell to do additional research regarding IDEM setbacks. Mr. Dale asked if the board could approve it with stipulations. Ms. Lyons stated that she wasn't sure with the addition of IDEM requirements. Mr. Dale stated that potentially a compromise between the property owners. Mr. Frantz stated that the board couldn't put an agreement to agree because it wouldn't be able to be enforced. Mr. Milam stated that tabling the issue might be the best to allow more time to research IDEM's requirements. Mr. Penrod asked what the timeline would be if it was tabled. Mr. Milam stated about 30 days. Mr. Penrod stated that adding an additional 30 days would put him into fall before being able to start building and that he had already waited 5 weeks for the BZA meeting. Ms. Lyons stated that she believed that everyone wanted to make sure that any expansions

in the future are legal and not going to cause Mr. Harrell any issues in the future. Ms. Lyons continued by saying that it was a matter of convenience to the location of Mr. Penrod's well and driveway and Mr. Harrell's convenience of being able to do what he wants to do with his property. Mr. Penrod stated that it sounded like Mr. Harrell couldn't do it anyway because of the location of the wells for surrounding properties. Mr. Penrod again stated the additional costs of moving the home back regarding utilities, drives, and the distance from the barn. Mr. Milam asked again if the board wanted to table the variance and do additional research. Mr. Dale stated that he thought it would be best to table it to make sure the decision is based on the best information. Mr. Milam stated he would also like to know if the 1000 foot offsite well location was an IDEM requirement or a local requirement. Mr. Penrod stated that with the additional 30 days being added if the variance request was tabled, he would prefer the board come to a vote. Mr. Milam asked if there were any additional questions or comments about this variance. Ms. Lyons made a motion to deny the variance, seconded by Mr. Dale. With a vote of 3-0 against approving the variance, the variance was denied.

The next agenda item was Variance #26 – Kristen Brodt, variance from the development standards to create a property line closer to a pond than required by the ordinance, Liberty Township. Mr. Campbell read a summary of the variance request. Ms. Brodt came into the Plan Commission office on August 6 asking about the opportunity to split the property so as to keep 2 separate parcels on the property just in 2 more equally sized pieces. A review of the property affords the owner a split if requested, if there have been none in the last 5 years. With no splits located in that timeframe, there was no issue with splitting the parcel. There is an existing pond on the property with a fence row, the owner is requesting to split the property so that the existing fence that has been on the property for years, is now the new property line around the pond. The ordinance states that no pond can be located within 105 feet of any property line and/or roadway. Since the pond and fence are not an equal distance around the pond, it is impossible to put an exact dimension on the variance request. The 2 closest places were approximately 10 feet. Currently the parcels are 5.46- and 24.8-acre parcels would be closer to  $15\pm$  acres each. Mr. Dale asked to confirm if the fence was the current property line. Mr. Campbell clarified no it is the location of the proposed property line. Ms. Lyons asked if Ms. Brodt was planning to build on the other parcel. Ms. Brodt said she did not have any plans at this time. Ms. Lyons asked Brian what other setbacks would there be if someone did want to build. Mr. Campbell stated that it is Ag2 and America Road is a primary roadway which would be a 95-foot setback. There is a small section of flood zone that couldn't be built in, but there is plenty of building room. Ms. Lyons wanted to confirm that there weren't any specific setbacks on building close to the pond. Mr. Campbell stated he did not find any. Mr. Milam asked if there were any other questions from the board or the public. There were none. Findings of facts was completed by the board. Mr. Dale made a motion to approve the variance, Ms. Lyons seconded. The variance passed 3-0.

Next agenda item was Variance #27 – Somerset Relocation & Development, variance from the ordinance setback requirements for a sign on a State Road, Waltz Township. Mr. Campbell read a summary of the variance request. On August 8, 2024, Mr. Campbell stated he contacted a member of the Town of Somerset regarding the replacement of the Town sign on State Road 13. Mr. Campbell was given Mr. Cable's phone number to contact reference the sign. Mr. Campbell continued saying that the Somerset sign had been damaged in a storm a couple years ago and the town wanted to replace it. INDOT requires signs on some state routes to be permitted. Upon doing research, State Road 13 through Somerset is not a "Control Route" through INDOT and therefore only local county ordinances regarding signs apply. The Wabash County Zoning Ordinance requires a setback of 105 feet from the center of the roadway for any accessory structure, in which a sign is considered an accessory structure. While looking at the GIS map, it appears as though the new sign is approximately 47 feet depending on where the exact center of the roadway is. Mr. Campbell stated he believes it is closer to 50-52 feet from the center of the roadway. The

Somerset Relocation and Development Corp is requesting the variance of approximately 58 feet. Charles Cable and Von Moore were present to represent the Development Corp. Ms. Lyons asked to confirm the location of the sign was about halfway in between Old Slocum and Maple Streets. Mr. Cable confirmed it was right in between. Mr. Campbell confirmed that the previous sign was located in pretty much the same location for years. Mr. Campbell asked if the replacement was of similar size. Mr. Moore and Mr. Cable stated that with the way it was damaged the original dimensions are unknown. Ms. Lyons also asked if Mr. Campbell had driven by the location. Mr. Campbell confirmed he had. Ms. Lyons asked if there were any visibility concerns. Mr. Campbell stated that he could see that it could be an issue, but with the way the road has hills it would be difficult to tell for sure, but he didn't believe the sign would cause issues. Mr. Milam asked if there was any additional questions or comments. With there being none, a motion was requested. Ms. Lyons made a motion to approve the variance; Mr. Dale seconded it. The motion passed 3-0

The next agenda item was Variance #28 – Cody Michel, variance from the subdivision ordinance to make more than one (1) split of less than twenty (20) acres within a five (5) year period, Chester Township. Mr. Campbell read the summary on the variance. On August 9, 2024, Mr. Michel came into the office requesting a variance in the subdivision ordinance to make more than one split of less than 20 acres within a 5 year period. Mr. Michel is planning on building a CFO on the 2 parcels with his brother, similar to the brother's other CFO site. Mr. Michel did complete a CFO pre-application as well to reserve his site while he is working on approvals from IDEM. CFOs require a minimum of 10 acres so a split variance was needed regardless due to being less than 20 acres. The exact locations of the property lines are not known yet, but tentative ones were drawn in to assure that 2 parcels with a minimum of 10 acres could be made keeping in mind the CFO setback requirements. Mr. Milam asked to confirm which property lines were being discussed. Mr. Campbell explained which lines in the board packets were the tentative proposed property lines. Ms. Lyons asked to confirm that the vote was not regarding anything with the CFO, just the property split. Mr. Campbell confirmed that the vote was only regarding the split, and that to actually put the CFO in the proposed locations Mr. Michel will have to request a variance due to an existing residential structure. Mr. Michel and his brother are both aware of the need of a variance for the actual CFO buildings. Mr. Campbell did confirm that the ditch that runs through the property is not a county regulated drain through Cheri Slee, County Surveyor, but that it is potentially "Waters of the State of Indiana" so IDEM rules regarding the waterway will need to be reviewed and the setback is 100 feet from the waterway. Mr. Michel is aware of the requirement and the IDEM requirement of the berm for the ditch. Mr. Dale confirmed the property lines located in the board packet are not set in stone. Mr. Campbell confirmed they are tentative, but they still need a variance because it is two splits on the property of less than 20 acres. Mr. Dale asked if the variance approved there is nothing that would prevent them from being able to place the CFO on another location on the property. Mr. Campbell confirmed that yes, they would be able to move around on the property to meet the requirements necessary. Mr. Campbell said there was still a long road for the CFO with the requirements of IDEM of CFOs. Mr. Milam asked if there were any additional questions regarding the variance. With there being none, a motion was requested. Mr. Dale made a motion to approve the variance, Ms. Lyons seconded the motion. The variance passed 3-0.

Next agenda item was Variance #29 – Eel River Enterprises/AR Engineering, variance from the ordinance setback requirements from a feeder street to a sign and a variance from the setback requirements for a pond, lake, or earthen structure 400 square feet or larger, Paw Paw Township. Mr. Campbell read a summary of the variance requests. On August 9, 2024, AR Engineering (who are representatives for Eel River Enterprises) applied for a variance for a sign setback and a detention pond setback. The Plan Commission Advisory Board waived the ordinance requirements for a Planned Development which

waived the requirement for a special exception for the detention pond with the understanding that the Wabash County Drainage Board approves the pond at their next scheduled meeting. The Drainage Board did approve the pond with the contingency that they receive a letter from the Town of Roann, which this property is within the corporate limits, stating that they are ok with the pond using the Town's storm drain. The Town of Roann did send the Plan Commission a letter stating they approved the project and the building in the Town. The property was also recently rezoned from industrial to general business. Based on the submitted plans, the sign is located 5 foot behind the current right of way or 25 from the center of the road to the northerly side of the site. State Road 16 is not an INDOT control route, so a permit is not required from INDOT. Within the Town of Roann, State Road 16 is considered a feeder street so the setback requirements are 35 feet from the center of the roadway. The Sign is approximately 10 foot long by 2 foot wide. Spencer, from AR Engineering was present to represent Eel River Enterprises for the variance. Mr. Campbell asked if he had anything to add regarding the sign. Spencer did not. The proposed pond will be approximately 31.25 feet from the center of the roadway and approximately 10 feet from the westerly property line. The ordinance requires ponds have a minimum of 105-foot setback from the side and rear property line and from the center of the roadway. Based on the size of the parcel, there is no where else on the property that the pond could have been placed and meet the setback requirements. The top of bank of the proposed pond is only 2 feet above the proposed bottom of the pond, so it is virtually flat. The detention pond was designed so they can mow right through it without any problems. The design also greatly reduces the possibility of anyone driving into the detention pond and drowning. At the maximum it would only have 2 feet of water. Mr. Dale asked to confirm it would be mowed most of the year. Spencer confirmed that it would be as there is a drain in the bottom and designed to be dry most of the time. Mr. Milam asked if there was any additional questions or comments. Ms. Lyons made a motion to approve the variance for the sign and detention pond variances, Mr. Dale seconded the motion. The variance passed 3-0.

Mr. Campbell provided the BZA with an update on complaints through the county. There are currently 58 open complaints, including those rolled over from 2023. 43 were rolled over from 2023, 15 of the rolled over complaints have been closed so far this year. 56 complaints have been received in 2024; of those 25 have been closed. There have been a total of 98 complaints worked in 2024 with 40 being resolved.

Mr. Milam asked if there was any other business to be brought before the Board. With there being none, Mr. Dale made a motion to adjourn, second by Ms. Lyons. The meeting adjourned at 8:39pm.

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