

ROME CITY BOARD OF ZONING APPEALS
Regular Meeting
November 16, 2023

The Rome City Board of Zoning Appeals held their regular meeting on Thursday, November 16, 2023 at 7:00 p.m. in the Rome City Town Hall. The meeting was called to order by Vice-Chair Kelly Morris.

Members Present:

Barb Tatman	Christine Coe
Kelly Morris	Leigh A. Pranger-Secretary
Mike Friskney	

Members Absent:

Judy Fox-resigned on October 20, 2023

Rollcall determined a quorum was present.

Interested Parties in attendance: Town Attorney Bill Eberhard, Jr.-by Zoom, Carl and Kathy Ritchie, Amanda Angrisano, Meg and Helen Tulloch, Jim Tuttle, Eric Richards, Nancy Sutton, Kim Angell, Robert Distler, Jr. Miller, Alan Hochstetler, Joel Lambright, Joshua Miller, William Yoder, Tom Clifton, Tina Wilkinson, Reuben Bontrager, Wilbur Hochstetler, Mervin Bontrager, Mark Hochstetler, Joseph Miller, Ernest Hochstetler, Sam Lambright, Jerr Hochstetler, Brian Bontrager, Loren Yoder, Jim Wilkinson, Brad Richards, Allen Rhea. Jim Abbs-by Zoom.

Member Tatman made a motion to waive the reading of the minutes and approve them as presented. Second by Member Coe. All in favor-aye. Motion Carried. The minutes were posted on the bulletin board for everyone to read.

OLD BUSINESS

Variance #2023-16-Removed from the agenda.

~~Kenneth & Meghan & Andrew Cook, 911 Harbor Court, Rome City, IN 46784 are requesting a variance for old Limberlost Golf Course (north side of 900 N), Rome City, IN 46784 relief from Rome City Unified Development Ordinance Section 2.10 Single Family Residential Development Standards Maximum Accessory Structure Height maximum of 16' up to 27' and 5.06 AS-04 Single Family Residential Accessory Structure Standards, C. Quantity and Size Maximum size of 1200 sq. ft. up to 5160 sq. ft and D. Materials exterior materials to be metal siding and roof. This will allow for the construction of a 48'x32' pole building with 12'x72'x8' wrap porch with a two-tone metal siding and roof.~~

Secretary Pranger informed the board that Mr. Borman removed the petition from the agenda. The Cooks are looking into other options for the site.

Use Variance #2023-17 Tabled from August

Linda Tulloch on behalf of Limberlost Ridge School (Amish), located south of 8402 N 175 E, on the east side of 175 E in Wawaka, IN 46794 is requesting a use variance for 6.58 Acres (to be known as Lot 1 in Limberlost Ridge School Subdivision). Requesting relief from the Rome City Unified Development Ordinance, Section 2.05; Agricultural District; to allow an Amish School to be known as Limberlost Ridge School.

Vice-Chair Morris called for Mr. Zeigler to present to the board. Mr. Zeigler informed the board the property had been transferred from Linda Tulloch to the Amish School (Limberlost Ridge School District 22-3). Mr. Zeigler referred the board to the proposed map of future Amish school sites within the Rome City 2-mile jurisdiction. Showing a proposed school in the four corners of the 2-mile jurisdiction map. He noted it is hard to predict as we do not know when land will be available for purchase. He estimated this would be over a fifteen-year period and only if the Amish moved in Rome City's direction. Mr. Zeigler submitted photos taken of the proposed property in all directions. He then submitted three letters in support of the proposed school, two were adjoining owners: Mr. Vernon Wallen (north side) and Linda Tulloch (east and west sides) and one interested party Mr. Paul Nesbitt owner on 150 E., all voiced support of the school. (see attached letters) Mr. Zeigler stated the petitioners are willing to agree to reasonable conditions and will work with the board to set standards.

Vice-Chair Morris called for interested parties on use Variance #2023-17. Mr. Jim Abbs-by Zoom, informed the board a petition was dropped off earlier this week, with signatures from Orange Township and Rome City residents that live in the general area of the proposed school. He stated the school proposal does not meet Rome City's Comprehensive Plan per safety due to the dangerous roadways in the area. The roads are hilly, curvy and traffic travels at high speeds. Mr. Abbs stated he was a member of the Orange Township Fire Department and they responded to multiple accidents, in this area, over the years. Accidents happened on 150 E and 850 N to the east where the creek is located at almost road level and causes flooding. The roads in the 150E/175E/Canal and 850N roads have very little berm area to allow for anyone on bikes to yield to traffic. Mr. Abbs stated the change at the 150 E and Canal Rd intersection to a stop sign on Canal and through traffic on 150 E has resulted in higher speeds of traffic. The slow-moving traffic causes issues as you come up on them quickly when traveling in a vehicle. Making the roadway more unsafe. Mr. Abbs voiced concern regarding 50 students daily using the septic tank, who will maintain the system, and check to make sure it runs properly. Mr. Abbs stated there is only one Amish family one 175 E. He doesn't see a need for a school for one family. Mr. Abbs stated the school will change the neighborhood from a farming community to a more residential use. He noted once the 50-kid rule is met then they will need to build another school and so on and on. The Amish have stated they have no plans when it comes to schools and where they will be located. He noted this is the fourth school in Orange and Elkhart Township, in the last five years, and with the average Amish family having seven kids the number of schools being built will only increase. He stated to the board once you take the step, you set a precedent for any future schools within the 2-mile jurisdiction. Mr. Abbs stated he would rather see the existing schools be added onto than build more and more schools. Mr. Abbs stated the Amish have and do use the public schools and they could use the East Noble school bus system. As East Noble provides transportation for the other parochial schools in Noble County (St. John's and St.

Mary's), or they could provide their own public transportation for their schools. Mr. Abbs stated there are alternatives that have not been looked into.

Helen Tulloch-daughter of Linda Tulloch, stated the parcel will be a total of 6 acres, it is located catty corner from the cemetery. She further stated her mother decided to sell to the Amish because she believes everyone should be able to attend the school that aligns with their beliefs.

Rebuttal:

Mr. Zeigler stated the septic tank will be 1600 gallons comparable to a residential system and the use will be comparable to a household. He further stated that he is not aware of any failed septic systems in the area. The school will have 5+acres more than enough land to install an additional system if necessary. He noted the submitted petition only has signatures and no addresses; therefore, you cannot tell if it is valid. He added the Amish students have been traveling the roads for five years and no safety incidents have been reported. The new school will allow the students to travel less and not have to travel to one of the other schools in the area. Mr. Zeigler stated the Amish could provide transportation for the students and they are willing to discuss this with the board. Mr. Zeigler stated the UDO only provides for private schools in a General Business District and the roads to the GB district are more heavily traveled than the roads for the current school location. Mr. Zeigler added the need for the school is in the rural area near the homes of the Amish. He noted they believe they are meeting all the requirements, and a slight inconvenience is not a substantially adverse manner. He added the school will not be emitting any lighting, odors, glare, heat or vibrations to the surrounding properties. It is a hardship to only allow nonpublic schools in a General Business District by Special Exception as they will still be traveling the roads. Mr. Josh Miller stated the agreement with the State of Indiana is a limit of 50 students per school and then they must build another school. Mr. Junior Miller stated he biked from his house to Mrs. Tulloch's at 3:00 p.m. for the land closing and only met two vehicles. Mr. Josh Miller spoke with Sheriff Weber to see if the Sheriff's Department has had any issues with the Amish schools. Sheriff Weber stated they have not had any problems with the schools.

Attorney Eberhard stated this is a public hearing and all persons need to be present to testify or submit statements in writing. Attorney Eberhard did a summary of the material presented. 1) Effects to property values whether going up or down, there has been nothing submitted by a real estate agent or appraiser to substantiate. 2) the current UDO does not anticipate this use and he would not want to put a school in the General Business District and suggested the Comprehensive Plan be updated to find where the schools should be located. 3) Traffic Safety Plans everything submitted to the board: the petition to the Noble County Commissioners to evaluate the intersection at 150E/175E and Canal Road; the subsequent traffic study shows the roadway to be dangerous.

Mr. Zeigler said there is potential to bring the students in by bus. Attorney Eberhard stated that would have to be offered as the board cannot make the School Board provide transportation. The school board would have to make a voluntary statement that they would provide transportation. Mr. Zeigler asked if the board's decision comes down to bussing would they have to chance to table. Attorney Eberhard stated yes, the school board can ask to table to get transportation in order. Mr. Zeigler asked the school board if they would like to table. The school board stated they would like to continue with the vote.

Attorney Eberhard informed the board the findings of fact will be read so that a yes vote will be in favor of the petition and a no vote will be against the petition.

FINDINGS OF FACT

1. The Board finds, the proposed variance will not be injurious to the public health, safety, morals and general welfare of the community because: Oak Shores has reported high speed traffic issues at location, Noble County confirmed with a traffic study and many residents complained of safety issues at this location for the students and traffic. Rollcall for vote: Barb Tatman-No, Mike Friskney-No, Christine Coe-No, Kelly Morris-No.
2. The Board finds, that the approval of this Variance will not affect in a substantially adverse manner, the use and value of the area adjacent to the property included in the Variance, because: Many residents complained of diminution in value, filed opposing petition. Rollcall for Vote: Mike Friskney-No, Christine Coe-No, Barb Tatman-Yes, Kelly Morris-Yes. Board-tie vote.
3. The Board finds, the need for the variance arises from some condition peculiar to the property involved because: School not permitted in this zone by Comprehensive Plan and Unified Development Ordinance. Rollcall for Vote: Christine Coe-No, Mike Friskney-No, Barb Tatman-Yes, Kelly Morris-Yes. Board- tie vote.
4. The Board finds, the strict application of the terms of the Zoning Ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the variance is sought, because: The school is better in rural areas than where Comprehensive Plan and Unified Development Ordinance suggests for private School. Rollcall for Vote: Kelly Morris-Yes, Barb Tatman-Yes, Mike Friskney-Yes, Christine Coe-Yes.
5. The Board finds, the approval of the Use Variance does not interfere substantially with the Comprehensive Plan, because: This school is better in rural areas than where Comprehensive Plan and Unified Development ordinance suggest for private schools. Rollcall for Vote: Barb Tatman-Yes, Kelly Morris-Yes, Mike Friskney-Yes, Christine Coe-Yes.

Use Variance Petition failed on #1, #2, and #3.

NEW BUSINESS

Variance #2023-18-Tabled to January meeting.

~~Dale and Robin DeGroff, 340 Bernice Avenue, Rome City, IN are requesting a variance from the Rome City Unified Development Ordinance, Section 2.12; Lake Residential minimum lake yard requirement of twenty five feet down to twenty feet on the southwest side of the house and house addition for a 21' X 8' covered deck with stairwell and a 10'10-1/2" x 6' covered deck.~~

~~Mr. Degroff asked for the variance to be tabled to the January meeting. Member Tatman made a motion to table. Second by Member Coe. All in favor aye. Motion Carried.~~

Variance #2023-22

Anthony and Nancy Sutton, 436 Spring Beach Road, Rome City, IN are requesting a variance from the Rome City Unified Development Ordinance, Section 2.12; Lake Residential minimum street yard requirement of twenty-five feet down to five feet on the east side of the house. And side yard variances both ten feet down to five feet on the north and south sides of the new home. This will allow for a new stick-built home with an attached garage and covered deck.

Vice-Chair Morris called for Variance #2023-22 to present their petition to the board. Mr. Eric Richards-builder for the Sutton's addressed the board with a survey of the property showing the proposed house along with the distance, of the adjoining homes and an overview picture of the existing home showing the side yard setback on the south side to one foot. Mr. Richards stated the lots along the point are all pie shaped fanned wider towards the lake. The road right of way also widens along the backside of the lot. He noted their current parking area is within the ROW and it is 25' along the west side of the ROW. The ROW widens due to the curve in the road. He stated the Sutton's currently have a separate garage across the road and they would like an attached garage on the new home. The request is for a five-foot variance on the roadside and that measurement is taken from the property line not the actual road. Including their parking area, they will have a 25-foot setback. He stated they went with the smallest width on the garage and still be able to have a two-car garage. The width is 21 feet. They are requested a five-foot setback on both the north and south sides of the lot. The current distance between the south neighbors is eleven feet and this will increase to 15 feet. On the north side the current setback is 44 feet, and it will be reduced to 39 feet. He noted they shifted the house more to the north side to relieve the neighbor on the south side. Member Friskney asked what if they moved the house closer to the lake to get more space for the garage. Member Coe asked how much space you would get at the garage if you moved the house forward to the lake to a 20 feet setback. Mr. Richards stated the lot has a hill and the current and the new house will be built into the hill the garage will be built on the existing flat land. Pushing the house forward will possibly get into the void area and have additional structural components to the garage design. He noted they would like to keep the same line of site for the neighboring properties and moving the house forward could impact them. The new house stays within the same sight line. Member Tatman asked about the state fire code and the required fire wall with a five-foot setback. Mr. Richards stated they will most likely move in sidewalls to avoid the requirements.

Vice-Chair Morris called for interested parties on Variance #2023-22.

Secretary Pranger informed the board all adjoining owners were notified and three out of four returned with no comments. Mrs. Kim Angell, adjoining owner on the east side stated she is glad she attended the meeting to find out where the house will be sitting on the lot. She didn't notice the intention to shift the house off the side yard and that the garage will be set back from the parking area. She was concerned the garage would impair the sight distance to road. Understanding the design now doesn't look to be a problem. She stated it would be better to move the house forward to get more sight distance along the back and she stated no opposition to the side yard requests.

Rebuttal:

Mr. Richards stated with the current proposal the parking area is 25' from the road.

Member Tatman asked if we can move forward with changing the petition to include a different lake yard setback? Vice-Chair Morris stated no, we have to vote on the petition request in front of us any changes would have to be notified to the neighbors and the newspaper.

Vice-Chair asked the petitioners if they want to move forward on the presented petition or withdraw and refile. Mr. Richards stated they want to move forward with the current proposal.

Vice-Chair Morris called for a motion on Variance #2023-22.

Member Tatman made a motion to approve Variance #2023-22 as presented per the findings of fact. Second by Member Friskney. Roll call for vote: Barb Tatman-Yes, Kelly Morris-Yes, Mike Friskney-Yes and Christine Coe-No. Motion carried.

Variance #2023-23

Carl and Kathleen Ritchie, 545 Lakeside Court, Rome City, IN are requesting a variance from the Rome City Unified Development Ordinance, Section 2.10: Single Family Residential District standards restricting Accessory structure height to sixteen feet requesting a height of twenty feet. 5.06 AS-04 Single-family residential Accessory Standards subsection D. Materials to allow for an exterior of metal siding and roof. For the construction of a 35' x 28' pole building.

Vice-Chair Morris called for the presentation of Variance #2023-23. Mr. Carl Ritchie presented a drawing of the new roof. He informed the board since Covid the roof he needed is no longer available. They are no longer engineering the trusses for the design he had. The new roof will be taller and will allow for storage in the second story. The roof will be the same as a standard barn roof. He states the garage will be stick-built construction with vinyl siding and a metal roof. Vice-Chair asked where Mr. Ritchie's house is located. He stated he lives on the east side of Lakeside Court. He stated he needs the barn for storage. Member Taman stated she noticed the concrete was already poured and some side walls were built. Mr. Ritchie stated he started the building and then found out the roof was not available and then he found out he needed a variance for the new roof line. So, the construction stopped until he could get approval. He noted the original building met the code.

Vice-Chair Morris called for interested parties on variance #2023-23. Mr. Mike Saunders of 590 Lakeside Drive was present and informed the board he measured the building setback to the road and found it to be 24'5" which does not meet the setback requirement. He stated he wasn't sure if anything could be done now.

Mr. Robert Distler, adjoining owner to the west, just wanted to know more about what the building will look like. Mr. Ritchie stated the building will be 28'x 35' with a one-foot eave the eave will run with the roadway and the gabled end will face Lakeside Court. Member Friskney asked about the height of the new building and how it will be comparable with the other new building to the south. Mr. Ritchie stated the other buildings are taller than his building will be. There being no further discussion Vice-Chair Morris called for a motion on Variance #2023-23. Member Tatman made a motion with the standard restriction of No rental, no business, no exterior stairs and no living area; per the findings of fact. Second by Member Coe. All in favor-aye. Motion Carried.

MISCELLANEOUS BUSINESS

1. Secretary Pranger handed out copies of the new short term rental ordinance for the board members' records, stating the ordinance passed the Town Council at the November meeting.

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2. Working with Region 3A to find grants to update the Comprehensive Plan and Unified Development Ordinance. Last update in 2011.
3. Secretary Pranger introduced new member Tom Clifton to the board, replacing Judy Fox. Secretary Pranger informed the board she had Mr. Clifton sit in the audience to see how the meetings are run. He could not participate in the Use Variance petition since he did not attend the last two hearings on the matter. He will participate at the next meeting.
4. Member Friskney informed the board this would be his last meeting. He will be resigning so he can spend more time in Florida.

Next Meeting: January 18, 2024

There being no further business, Member Tatman made a motion to adjourn the meeting at 9:00 p.m. Second by Member Friskney. All in favor-aye. Motion Carried.



Kelly Morris, Vice-Chair BZA

Attest: 

Leigh A. Pranger, Secretary