

MORGAN COUNTY BOARD OF ZONING APPEALS
County Administration Building
Martinsville, Indiana
July 26, 2021

MINUTES

MEMBERS PRESENT

John Chappelow - Chair
Bill Rumbaugh - Vice Chair
Fred Roberts - Secretary
Gerard McGrath

OTHERS PRESENT

Laura Parker - Plan Director
Amber York - Planning Staff
Mark Peden - BZA Attorney

CALL TO ORDER

Chair Chappelow called the meeting to order at 6:31 pm.

APPROVAL OF MINUTES AND AGENDA

Chair Chappelow determined a quorum was present. Member Rumbaugh made a motion to approve the minutes as presented. Seconded by member Roberts. Motion passed 4-0. Member Roberts motioned to approve the agenda with member McGrath seconding the motion. Motion passed 4-0.

OLD BUSINESS

<u>U-21-04</u>	<u>Applicant</u>	<u>Use</u>	<u>Existing Zoning</u>
	Dennis & Carrie Pennington 8890 N Pennington Rd Mooresville, IN	Accessory Dwelling	R2

Petitioner Dennis Pennington stepped forward and asked the board for a second continuance because he has not found a septic contractor at this time. Member Roberts asked how much time he was requesting for the continuance. Mr. Pennington stated he would like 60 days. Chair Chappelow asked for a motion on the continuance. Member Roberts made a motion to approve a 60-day continuance to the September 27th meeting. Member McGrath second the motion. Motion passed 4-0.

NEW BUSINESS

<u>D-21-07</u>	<u>Applicant</u>	<u>Dev Standard</u>	<u>Existing Zoning</u>
	Michael Hendershot 2481 E Stafford Place Martinsville, IN	Rear Setback	R2

Chair Chappelow read the petitioner's request for a development standard variance to reduce the rear setback for construction of a room addition and deck. Petitioner Michael Hendershot explained that he wanted to build an addition on to his home but the back of

the addition would only be about 6 inches from the rear property line. He stated that due to the irregular shape of his lot he had to get a variance to build his house a few years ago. Member Roberts asked how big the addition will be. Mr. Hendershot stated it will be 876 square feet. Chair Chappelow asked if Mr. Hendershot had talked with his neighbors. Mr. Hendershot said he send out letters to all of his neighbors and no one had asked him about it. Member Rumbaugh asked if he had gotten HOA okay on the plans. Mr. Hendershot stated that he did and their approval letter was in the board's handouts.

With no one from the public signed up to speak on this request, Chair Chappelow closed the public hearing. Chair Chappelow read the petitioner's findings of fact, staff recommendation, and a letter from Foxcliff HOA. Member Rumbaugh made a motion to approve D-21-07 for the reasons stated in the petitioner's findings of fact. Member Roberts seconded the motion. Motion passed 4-0.

<u>U-21-06</u>	<u>Applicant</u>	<u>Use</u>	<u>Existing Zoning</u>
	Nick Sears 3957 Cramer Road Martinsville, IN	Camper Use	AG

Chair Chappelow read the petitioner's request for a use variance to live in a camper inside a pole barn for at least one year prior to construction of a permanent residence. Petitioner Nick Sears stepped up to the podium. Mr. Sears said he was asking for approval to allow his family to be able to live in a camper inside a pole barn for up to one year while he is building a house. Mr. Sears stated that he has been working with Quinn Whitney to build his home, but Quinn will not be able to start until January or February due to his schedule. Mr. Sears informed the board that the pole barn has a septic that is being finished this week. Member Rumbaugh asked if they were asking for one year to complete construction or one year to start construction of the home. Mr. Sears said he expected one year to complete construction.

Member Rumbaugh asked Mr. Sears if he is running a business out of the pole barn. Mr. Sears stated he is storing things inside the barn for his business. Member Roberts asked for clarification of yes or no on the business? Mr. Sears stated that it is hard to fully answer that question because "it depends on what you mean by running a business". Mr. Sears stated they do use the pole barn address for the business and that the bounce houses are stored in the barn, but no customers ever come to the barn to look at the bounce houses. Member McGrath asked how customers find the business. Mr. Sears said customers ordered online through the website or by phone and then the bounce houses were delivered to their home or site. Member Rumbaugh asked if he was using the pole barn for living as well. Mr. Sears stated that the eight of them are mostly living in the camper not the barn, but the barn does have a bathroom and office that are heated. Chair Chappelow then asked if the board had any other questions. The board indicated they did not.

Chair Chappelow began calling those in support of the request forward to speak. Laci Crosley stated she has been staying in the pole barn with Mr. Sears. Laci stated that they

have been living in the camper for about three months now. Ms. Crosley stated that they are all comfortable living in the camper. Chair Chappelow asked if the board had any questions the board indicated they did not. Chair Chappelow called John Bolin forward. Mr. Bolin stated he is Laci's uncle and was there to support them and does not see anything wrong with them staying in the camper.

Chair Chappelow called Commissioner Kenny Hale forward. Commissioner Hale stated he is here this evening as a family friend and believes there should be no issue with them living in a camper for a year. Commissioner Hale stated that there are multiple places in the county where people are living in campers at this time so one more would not hurt anything. He said Mr. Sears is a great person and he is fully in support of what Mr. Sears is doing. Chair Chappelow asked the board if they had any questions for the supporters. The board indicated they did not.

Chair Chappelow then called for those who were there as interested parties or in opposition. Chair Chappelow called Scott Trout forward. Mr. Trout stated he is the Morgan County building inspector and has been for over 20 years. Mr. Trout stated he has been to the Sears property many times for inspections and if the board was to approve this request to allow living in the camper inside the pole barn, then there needs to be another carbon dioxide detector put in the main living area of the pole barn. Chair Chappelow asked if the pole barn could be considered a residence. Mr. Trout said no it cannot be occupied as a residence for many reasons. There are different codes that must be followed for a residence than for an accessory structure. When Mr. Sears took the living area off the permit, then the building was only inspected as a pole barn. Mr. Trout stated one of the major things that would not pass for a residence is the door that goes between the office being used as a bedroom and the open barn area. To meet code, it must be a 20-minute fire rated door and the current one is not. Also, there needs to be more smoke and carbon dioxide detectors for a residence. Member Roberts asked should there be one put in the camper and the main area? Mr. Trout said that the county does not enforce building codes on campers, so he can not say if there should be one inside of it, but he thinks there needs to be at least one more put in the barn for safety. Chair Chappelow asked if they had any other questions the board indicated they did not.

Chair Chappelow called Mike Snider forward. Mr. Snider stated he is also a Morgan County Building Inspector and had been present at a lot of the inspections that were done on the Sears pole barn and agrees with his coworker that the pole barn is not up to residential dwelling code so it was a matter of public safety. Chair Chappelow asked if the board had any questions. The board stated they had no questions.

Chair Chappelow called David Knoy forward. Mr. Knoy stated that he has no issue with them living in the camper, but he wants to make sure they have done everything they were supposed to do to allow the business to be there in agricultural zoning.

Chair Chappelow then called Robert Christman forward. Mr. Christman stated that he has no issue with them living in the camper, but the operating the business there is causing issues on the roadway with traffic. Member McGrath asked when it is causing the most issues. Mr. Christman stated that it is mostly late afternoon and on the weekends.

Chair Chappelow then called Wynne Deckard forward. Mrs. Deckard stated she is here in support of Mr. Sears and his family and she does not think the business is causing issues with the roadway. Chair Chappelow then called Ron Deckard forward. Mr. Deckard stated he is also in support of Mr. Sears and that the business has not caused him any issues on the roadway.

Chair Chappelow called Nick Sears back to the podium for final comments. Mr. Sears stated that they already have one carbon detector hard-wired into the barn because the inspector made them do it. He said the door to the office does not swing into the garage it swings into the office so that makes the door okay. The stove is the only gas and they do not use it a lot because it is so small when trying to feed a family of eight so they tend to eat out a lot. He went on to say they have passed all inspections on lights. He stated they do have 6-8 seasonal employees who park at the property and then drive the company trucks to the job sites. And lastly, he said they are asking to live in the camper for just one year until they can build their house.

Member Roberts asked if the employees are full time. Mr. Sears stated the employees are not full time. They are just part time seasonal help and they never have customers to the property. Mr. Sears said their season runs from about April thru October and it mostly occurs on the weekends. Member Roberts asked if he wanted the year to start today or in January. Mr. Sears stated either one, but if he had the choice, he would say January just to give them a little more time so the build was not on a time crunch.

Member Rumbaugh said he was concerned about the young children's ability to get out of a camper and pole barn if there was a fire. He was also worried about young children being in and around the pole barn while the inflatables are being moved around. Mr. Sears stated that comes down to his and his girlfriend's parenting and they never leave the kids alone in the camper and his girlfriend is a nurse so safety is their number one concern when it comes to the kids.

Member Roberts stated he believes the business should be ran elsewhere and then he would be okay with the living. Mr. Sears stated that tonight's petition is only about the living not the business. Member Rumbaugh asked Mr. Sears why he revised his original building permit that had living quarters in the pole barn. Mr. Sears stated he did not have the money when he started building the pole barn to build the living inside of it. Member Rumbaugh asked Mr. Sears if he would be willing to relocate the business for the time being. Mr. Sears said it would be hard to find a place to rent to put the business. Chair Chappelow asked if the board had any more questions. The board indicated they did not.

Chair Chappelow closed the public hearing. He read the tech reports and the staff report. Member Rumbaugh stated it would be best to rectify the living and the business all at once. He said based on all the information and the photos, it is hard to support this. Member McGrath said the request might be easier to approve if the business was removed. Member Roberts stated that he was okay with living in the camper, but not with the business and the living together in the same place and it is clear they are doing both. He said it was a safety issue with that many children around. He went on to add that if the

board approved it, Sears should have one year from August 1, 2021. Member Rumbaugh expressed concern about the business operating along with the living in the pole barn.

Chair Chappelow asked BZA attorney, Mark Peden, that if it states on the application they are requesting living in a camper, can the BZA legally put stipulations on the business use since it is not in the petition. Mr. Peden stated that yes the BZA can address the business use since Mr. Sears openly discussed it during the hearing. Chair Chappelow asked County Inspector Scott Trout to come back to the podium. He asked Mr. Trout if the pole barn could be used as a dwelling. Mr. Trout stated it cannot be used as a dwelling because it did not meet building code requirements for a residence. Mr. Trout stated the building codes for residential are different than for an accessory structure like a pole barn. Member Rumbaugh asked Mr. Trout if a check list could be made for Mr. Sears to make the building safe. Mr. Trout stated for an accessory structure it is safe, but for a residence they need to have the 20-minute rated door and a smoke/carbon monoxide detector in the main living area of the structure. Chair Chappelow asked if the board has any other questions for Mr. Trout. The board indicated they did not.

Chair Chappelow stated that he is not in favor of this variance due to the petitioner only meeting one out of the five findings of fact and finger pointing does not help make the case any stronger because this board hears requests on a case-by-case basis. Member Rumbaugh reiterated that he's not okay with the business operating there. Member Roberts stated he would be okay with this request with the condition that the business moves ASAP and they give him one year from August 1, 2021. Member Rumbaugh asked the board if they should have Mr. Sears back up to see if he is okay with the conditions. Chair Chappelow stated no that he is already in violation and asking him if he is okay with it seems like condoning what he is doing already. Chair Chappelow called for a motion. Member Roberts made a motion to deny petition U-21-06 based on not meeting Findings of Fact #1, #3, and #4. Chair Chappelow seconded the motion. Motion to deny passed 4-0.

Chair Chappelow called for a 15-minute recess before the next case.

<u>SE-21-02</u>	<u>Applicant</u>	<u>Special Exception</u>	<u>Existing Zoning</u>
	Jeff Banning o/b/o Echo Lake 825 W Greencastle Road Mooresville, IN		AG

Chair Chappelow read the petitioner's request for a special exception to expand the Echo Lake Mobile Home Park onto 24 acres adjacent to the existing park. Jeff Banning came forward and stated he is representing the owner of Echo Lake who is seeking a special exception to be able to expand the park which, in turn, would allow him to make some updates to the existing park. Mr. Banning distributed a handout to the board members explaining it was the result of his meeting with the Monrovia School Corporation where he learned that kids currently have to cross Greencastle Road when getting off the bus. Mr. Banning said they came up with the plan shown on the handout which creates a drive connecting the two existing entrances and it allows for the bus to pull into the first drive to collect the kids and then the bus will exit out the other drive. This means the kids do

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not have to cross Greencastle Road after getting off the bus. Mr. Banning further explained that they also plan on redoing the club house and the playground areas. He said this expansion of the park is going to allow more housing options for the Morgan County workforce and matches the kind of development the County Comp Plan calls for in that area. Mr. Banning stated with all of the growth that is happening in and around Morgan County this is much needed. He went on to say that the current park and the expansion will both be serviced by the on-site sewer plant and Hill water supply system. Mr. Banning stated that the expansion will look a lot like the current park layout.

Mr. Banning said that he was given the fire chief's comments just before the meeting. After glancing over the listed concerns, he believes they will be able to fix or meet most things on the list, but he will need time to review them with his client. Member McGrath asked if they will have open areas for wildlife. Mr. Banning stated the trees that are currently adjacent to Greencastle Road will remain in addition to the open areas in the back and around the lake. There are power and pipeline easements that must remain open as well. Member McGrath asked if they can label the streets better than what is there now. Mr. Banning agreed saying that signage is on the list of improvements they plan to make. Member Roberts asked if the streets will be widened. Mr. Banning said they would be about the same size as they are now. Member Rumbaugh asked if the waste water treatment plant will be able to accommodate the new homes. Mr. Banning indicated that when the plant was put in, they sized it so there would be room for the mobile home park to expand, but ultimately, IDEM will have to approve the new flow coming into the plant. The expansion will only add about 120 new homes.

Chair Chappelow asked if they already owned the land where the expansion is planned. Mr. Banning said they have owned it for a while, but the property owner will be speaking next and can answer that. Chair Chappelow asked if they have any idea how many school-aged children are expected and if the school can handle them. Mr. Banning replied that he does not have an exact number of children, but the school did not voice any concerns when they talked to school officials about this expansion. Chair Chappelow asked if the new roads in the park will be paved. Mr. Banning stated yes, they will be paved. Chair Chappelow asked when they plan to start on the new section. Mr. Banning deferred to the property owner for that answer. Member McGrath asked if he knew Chair Chappelow asked the board if they had any other questions. The board indicated they did not.

Rick Roethke came to the podium and stated he is the property owner of Echo Lake. He purchased the current park in 1998 and then the 24-acre expansion area a few years after that (2003). Mr. Roethke stated they plan on doing a lot of renovations to the current park before they start the expansion. There was additional discussion between Mr. Roethke and the board regarding their screening process and zero-tolerance policy when rules are broken. However, Mr. Roethke explained that they are allowing their older residents to age-in-place in their existing trailers, but then after they pass away, the old trailers are updated. Member Rumbaugh asked if they rent the mobile homes or are people allowed to bring in their own trailers. Mr. Roethke explained their unique lease-to-own program that eventually allows the tenant to own the home.

Member Rumbaugh asked how long will it take to fully develop the new expansion. Mr. Roethke said it will take time, but if this gets approved then they will start with the existing side of the park and work west with a goal of selling around five units a month.

Member Roberts asked how many developments Mr. Roethke currently owns. Mr. Roethke said he once owned up to 15 communities, but he's slowly been reducing down to four. Member Roberts asked if they have a standard size of home for the park. Mr. Roethke stated there was no standard size, but most of them are usually 1,200 to 1,800 square feet. Member McGrath asked if they thought about having community store. Mr. Roethke stated there had been one in the past, but he'll see if they have room to put one in the improvement plan. Chair Chappelow asked if the board has any other questions. They indicated they did not.

Chair Chappelow called Commissioner Kenny Hale to the podium. Mr. Hale stated he wanted to support the Echo Lake request because it will bring a much-needed housing option to Morgan County. Chair Chappelow called Doug Baker forward. Mr. Baker told the board that Echo Lake was started by his grandfather and father and he is happy to see what Mr. Roethke is doing with this project. But he would like to see the traffic on Greencastle Road addressed before adding more to it. Chair Chappelow called County Surveyor Terry Brock to the podium. Mr. Brock said he was there on behalf of the Morgan County Economic Development Corporation to show support for this type of housing. Mr. Brock went on to say this is something that area of the county could really use because it provides more housing options for potential warehouse and factory workers who are in high demand, but they need affordable places to live if the county wants to attract more economic development.

There was no one signed up in opposition to the request, so next Chair Chappelow individually called forward Christopher Stevens, Debbie Monts, and Heather Bosanquet who signed in as interested parties. They had the following comments:

- Concerns about the proposal adding more traffic to an already busy area.
- Concerned about entrances and exits for the park because it can be hard to see when people are pulling out.

Chair Chappelow brought Mr. Banning back to the podium for final comments and questions. Mr. Banning acknowledged that traffic is an issue on Greencastle Road, but pointed out that the County's Thoroughfare Plan shows this as a future minor arterial. There is also to be an interchange near this area that will bring more people looking for housing with quick access to get to work. Mr. Banning reminded them that as this area grows, the county will have to grow the road as well, but this is what the Thoroughfare Plan calls for. He asked the board to approve the expansion so they can start fixing up the current park and make this a better asset for Morgan County.

Chair Chappelow closed the public meeting. Chair Chappelow read aloud the tech reports and the staff recommendation. Member Roberts stated he agrees traffic is an issue, but this is good for the County and is needed. Plan Director Laura Parker stated that there will be a meeting with the County Engineer when he returns next month to go over these

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plans and to get his input on the roadway and related improvements. Chair Chappelow thanked everyone who attended the meeting and spoke on the proposal. He then stated he was in support of this special exception and felt the petitioner met the findings of fact for approval. Member Rumbaugh made a motion to approve SE-21-02 because the petitioner satisfied all the findings of fact. Member McGrath seconded the motion. The motion to approve was carried 4-0.

ATTORNEY REPORT

No report given

PLAN DIRECTOR REPORT


Plan Director Laura Parker let the board know petitions had been filed, so there would be a meeting in August.

NEXT MEETING:

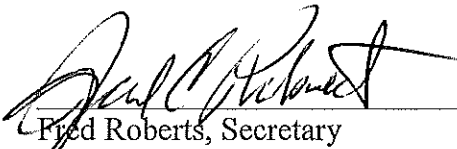
August 23, 2021

ADJOURNMENT

Member McGrath motioned to adjourn the meeting. Seconded by Member Roberts. Motion carried 4-0. Meeting adjourned at 9:44 pm.



John Chappelow, Chair



Fred Roberts, Secretary