

NEWTON COUNTY BOARD OF ZONING APPEALS

Tuesday, March 23, 2021

7:00 pm

Newton County Government Center

Agenda

- I. CALL TO ORDER
- II. APPROVAL OF THE JANUARY 26, 2021 MINUTES
- III. BEN IPEMA INVESTMENTS, INC., BZA3-21 DONALD SHELMON LAND USE VARIANCE FOR AG IN A B-2 DISTRICT.
- IV. ANNUAL REVIEW (*Continued from January 26, 2021 meeting*)

Sand Mining

Don Keller

Confined Feeding

- a.) Cambalot Swine Breeders
- b.) Fair Oaks Dairy Farm/Carl Ramsey
- c.) Natural Prairie Dairy/Will DeJong

Mobile Home

Newton County Development Corp.

Special Exception

Cambalot Swine Breeders

Land Use Variance

Lake Village Solar

- V. Other Matters;

NEWTON COUNTY BOARD OF ZONING APPEALS MINUTES

March 23, 2021

7:00 p.m.

Newton County Government Center

Members Present:

Mr. James (Jim) Chamberlain - President
Mr. Russell (Russ) Collins, Jr.
Mr. John Cermak
Mr. Neil Riley
Mrs. Daisy Cicero – Secretary
Mr. Patrick (Pat) Ryan – Attorney

Not present:

Mr. Russell (Russ) Rigby

7:00 PM

CALL TO ORDER

PLEDGE OF ALLEGIANCE

Jim: I'd like to welcome Mr. Neil Riley, the newest board member.

APPROVAL OF JANUARY 26, 2021 MINUTES

Motion to approve

Russ Collins Moved to approve minutes.

Neil Riley Seconded

Motion carried 4-0, Minutes approved

BEN IPEMA INVESTMENTS, INC. BZA 3-21 DONALD SHELMON LAND USE VARIANCE FOR AG IN A B-2 DISTRICT

Donald Shelmon present to provide information for the variance.

Ben Ipema has owned the property for 20+ years through inheritance.

The actual applicant is an entity called Sandlot Investments, LLC., headed by Scott Walstra and his family.

The property is adjacent to "Developed area" with grocery stores and businesses.

Mr. Shelmon states that this property has gained a large "build up" of sand from adjacent properties that have removed sand from those parcels and moved it to the property in question.

Mr. Shelmon presented photos showing 10-12 feet of elevation increased by bringing in sand, with additional trees and brush growing as a result.

Mr. Walstra's father owns storage sheds north of the property in question.

Trees need to be removed, and in essence mine the sand and remove it.

A survey company has surveyed the property to show the differences in elevations on the lot itself. The elevation of the property goes from approximately 692 ft above sea level to 699.8 ft. approx. 8 ft variance is sand that needs removed to make it level with the entrance or SR 10.

It's anticipated to take about a year to remove all the sand, and they still need to find a location for placement.

A contract is present between the two individuals, drafted by Mr. Shelmon, contingent upon getting BZA approval for sand mining.

Mr. Shelmon: What we're requesting is to pass the variance. No adjustment from B2 zoning; we only want to get permission to remove sand.

Russ C.: You'll end up with a level grade, not deeper.

Mr. Shelmon: Yes, it will be level. It will still be above the adjacent property borders. It looks like those properties went in 10-15 feet, which resulted in the sand being moved and put on the west side.

John C: After it's all removed, they're going to sell the property and develop it?

Mr. Shelmon: They are going to be in a state of development, but I don't know exactly what they'll do. Maybe expand storage sheds or develop to more prosperous situation.

Russ C: If we change it, they'll still be B2?

Pat Ryan: Zoning remains the same. Mr. Shelmon is correct—sand permitting ordinance is a bit odd compared to the rest of Northwest Indiana.

Jim: Any board questions?

None.

Jim: Open to public for questions or comments. Seeing none, close to public and open back to board.

Jim: What route of travel will be used to bring sand?

Mr. Shelmon: Ingress and egress, I believe there's an entrance right onto SR 10 so they have access immediately to State Road 10. When it's developed, they may need to get permission from IN to get an access lane, but this purpose is fulfilled with current entrance.

Jim: For that further down the road, we don't care because it doesn't affect the current petition. State Road 10 will be used for main route of travel for sand movement.

John C: Motion to approve variance

Russ C: Seconded

Motion passed 4-0

Daisy Cicero: They'll also need to pay a fee of \$250. It's made out to the treasurer.

Mr. Shelmon: Thank you. We'll close the transaction, and upon closing, we'll pay that.

Jim: That's an annual fee.

Daisy: Yearly, in January, you'll receive a form to renew the permit until it's complete.

ANNUAL REVIEW (CONTINUED FROM JAN 26, 2021 MEETING)

First item is **Don Keller**

Daisy: I think everyone received the letter and petition in regards to this. I have copies if needed.

Jim: You (**Mr. Don Keller**) have a sand mining permit to dig and haul sand.

Mr. Keller: Yes, for the past 5 years. I think the first permit was in March of 2016.

Jim: And he's been current and no complaints up until [recently]?

Daisy: Yes

Jim: Give us a brief history of what you're doing.

Mr. Keller: When I first brought this to the board, the idea was to build pond on piece of 5 acre property I've owned for almost 30 years. Went through all the normal procedures, notified all neighbors, so I think we're still within the scope. It has taken longer than expected only because I use a small contractor out of Highland that is removing sand.

Mr. Keller stated that he's keeping a small group doing the work that he can trust, and that he was shocked to receive the petition because he was never approached by neighbors regarding the issues, and he has invited neighbors via a letter to view the job site and surrounding property.

Mr. Keller brought photos to show the distance of the site from tree lines and neighboring property. Removal is currently a rate of one acre per year, and hopefully to be finished late 2022.

Jim inquired for any board questions, and seeing none, opened to any members of the public present. **Barb Swiader** and **Kevin Swanson** were present.

Jim reminded the room that this does not have to be an open floor discussion like a standard board meeting, which was verified by **Pat Ryan**.

Pat stated that this matter was set up for annual review regardless, and it's Ag land granted a special exception for sand mining with no special conditions applied to the granting. The question is whether **Mr. Keller** is complying with the conditions and terms of the special exception that he was granted, and if it's being suggested that he's not following this, those people may speak up regarding these violation, and the conditions of the law will be applied afterwards.

Barb Swiader, 7800 North 200 West.

The project has been going on since 2015, and it's during early hours (6 am) to late, generally 3:30 pm, but at times it has been 7:00 pm.

Mrs. Swiader suggested that the integrity of the road is at stake, and another concern is that the pond will affect wells because of its size.

Jim inquired how long she's lived there.

Mrs. Swiader stated that she's lived there for five years, from the beginning of which time the project has been in action.

She also has written to a former commissioner who suggested she attend the January BZA meeting to voice her concerns at the point of the permit's issuance.

Kevin Swanson, 2063 West 800 North Lake Village

Mr. Swanson has been informed by **Mrs. Swiader** and her husband of the conditions of the project, and signed the petition, but has reconsidered his participation in the petition, barring any affect the project may have on wells, since meeting with **Mr. Keller** and seeing the project in person.

Jim thanked them and suggested closing back to the board, at which time **Mr. Keller** requested a brief response to some of the issues brought forth, granted by **Jim**.

Mr. Keller stated that the trucks are not present at 7:00 pm and that it's very rare for the trucks to leave beyond 3 or 4:00 because their work day ends at 2:30-3:30.

Mr. Keller also discussed the pond's affect on wells/septics with Tom Sheehy, who installed the septic, and Jake Chambers of DNR, who stated that the pond would not affect wells in the area.

Jim stated that the pond does not affect the septics, wells, or the water table.

Jim: You've complied with all the terms of your original petition?

Don: I think I have.

Jim: As far as roadways, that's a county highway issue, not ours correct?

Pat stated that is correct, unless that was stipulated at the time of granting the original special exception [it was not], and that should not be done now.

Russ C. asked if a motion was needed to state that **Mr. Keller** was in compliance, to which **Pat** stated that that matter is for the annual review. Stipulations should be considered at the time of granting the special exception. The Board of Zoning Appeals is to focus on the zoning aspects and nature of a special exception and its conditions. Public nuisance or other issues could in rare cases possibly be handled via the filing of civil injunction. Since the 30 days of appealing has passed, the special exception remains in place unless the terms of the special exception have been violated.

Pat responded to **Mrs. Swiader's** concern about how people not within the neighborhood know about the hearing, and that it is in the newspaper, as required by law.

Jim stated that the petition is set and cannot be changed at this point.

Russ C moved to continue to grant special exception.

John seconded

Motion carries 4-0

ANNUAL REVIEW

CONFINED FEEDING – CAMBALOT SWINE BREEDERS

Jaisy: They want to continue

Jim stated that all the paperwork was received and only a motion is needed.

John: Motion

Neil: Second

Motion carried 4-0

CONFINED FEEDING – FAIR OAKS DAIRY FARM/CARL RAMSEY

Carl Ramsey was present and provided updates for business at Fair Oaks and Prairie's Edge.

Mike Locklowski and Tim are everyday involved, but every day the Voss family has entered into business agreements. Steve Voss and his family will be involved
Daily business actions will not be affected.

Carl described technological advances that allow for fiber bedding as opposed to sand bedding. The fertilizer plant currently is sitting idle but that may change, pending technology advancements.

CONFINED FEEDING – NATURAL PRAIRIE DAIRY/WILL DEJONG

Will DeJong present.

Covid has caused a boost in primary market of grocery sales.
Equipment will be added this year, including chopping and haylage.
Dry fertilizer is being developed to prevent issues with soil.

MOBILE HOME – NEWTON COUNTY DEVELOPMENT CORP.

Daisy stated this is an older mobile home and is known as the Band-Aid Station, and they do not wish to continue. The home has been removed.

Russ C: Motion to discontinue the special exception

John C. Seconded

Motion passed 4-0

SPECIAL EXCEPTION – CAMBALOT SWINE BREEDERS

Daisy: This is for a Communication Tower they've had for a while and they wish to continue.

Russ C: Moved to continue special exception.

Neil: Second

Motion passed 4-0

LAND USE VARIANCE – LAKE VILLAGE SOLAR

Daisy stated the delay in continuation was due to a change in ownership, and Lake Village Solar wishes to continue with the variance.

Russ C. made motion

Neil seconded

Motion carries 4-0

OTHER MATTERS

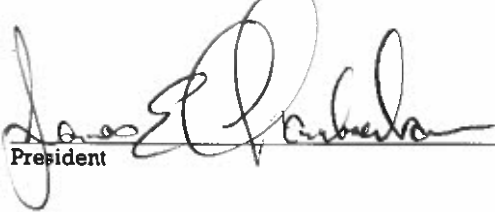
Pat stated that he spoke with Rebecca Goddard and the previous meeting's discussion of Canterbury is on track to resolve the issue.

Pat: It sounds like he's compliant.


John C. stated that he will not be at the next meeting.

Russ C moved to adjourn
Seconded by **John C.**

Adjourned at 8:05 p.m.



President



Secretary