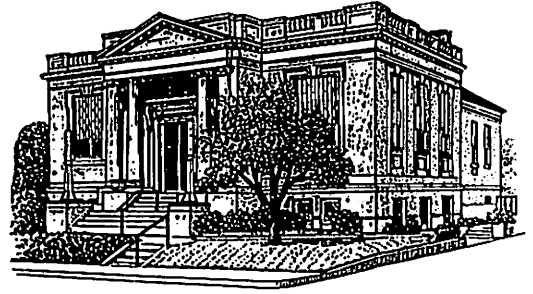


WELLS COUNTY AREA PLAN COMMISSION

WELLS CARNEGIE GOVERNMENT ANNEX

223 W. Washington St.
Bluffton, Indiana 46714-1955
Room 211 PHONE - 824-6407



June 27, 2008

WELLS COUNTY BOARD OF ZONING APPEALS MEETING

TUESDAY, JULY 8, 2008, AT 7:00 P.M.
ROOM 214 (CONFERENCE ROOM) AREA PLAN OFFICE
GOVERNMENT ANNEX BUILDING 223 W. WASHINGTON ST., BLUFFTON, IN

AGENDA:

ROLL CALL

CONTINUED ITEM

B08-06-07 JEFFERSON TWP., NE/4 16-28N-12E Joel Fremion requesting reduction of front yard setback at 102 Bittersweet Lane, Ossian in an R-1 zoning district.

ADVISORY:

DIRECTOR COMMENTS:

ATTORNEY COMMENTS:

ROLL CALL

Rose Ann Barrick
Joe Langel
Jerry Petzel, President
Jim Schwarzkopf
Mark Shaffer

Michael Lautzenheiser, Jr., Secretary

President, Jerry Petzel, called the Special Meeting of the Board of Zoning Appeals meeting, July 8, 2008; to order at 7:00 p.m.; all 5 members answered roll call.

CONTINUED ITEM:

B08-06-07 JEFFERSON TWP., NE/4 16-28N-12E Joel Fremion requesting reduction of front yard setback at 102 Bittersweet Lane, Ossian in an R-1 zoning district.

Joel Fremion came before the board to present his request to reduce the front yard setback in an R-1 district located in Rose Ann Heights 5th Addition.

Mr. Fremion had been approved four years ago for this same variance but had not obtained a permit and started the project within 6-months and completed it in 24-months. An approval by the Board of Zoning Appeals must be carried out in 36-months or it shall become void. Recently work was begun on the garage and he explained he thought he only needed to come in to get a new work permit and didn't believe he should be required to go through the Board of Zoning Appeals that this was just government bureaucracy and he didn't attend the June 24th meeting stating he thought that this was just a rubber stamp procedure.

Mr. Fremion made the accusation that because Rose Ann Barrick is on the board she is making it an APC problem where it shouldn't be and that if he could have just renewed his work permit (which he never had) then she and he could have resolved this once she saw it in the paper. He also maintains his lawyer Greg Waters gave him the approval to proceed with the building and get it under roof and that he didn't need to appear at the June meeting.

Rose Ann Barrick said that 4 years ago she discussed with him that his project would violate the covenants he then asked if it were attached by an arbor and walkway would that suffice. Rose Ann acknowledged that the definition of attached could be debated but that she felt it would satisfy Rose Ann Heights, her brother, Steve Gibson and herself.

Since that time the private covenants and restrictions for the Rose Ann Heights 5th Addition was presented and with that; found that allowing a variance for this size of detached structure would be against the covenants of the housing development.

The drawing that Mr. Fremion presented when he filed the petition did not show that the structure would be attached but since that time he presented a revised drawing showing the structure will be attached.

Mr. Fremion states other properties have detached structures and he has only improved and beautified the property.

The property that Mr. Fremion cites as an example as violating the covenants by having a large detached structure is not in Rose Ann Heights Section 5, according to Rose Ann Barrick. Also pointing out that there are a total of 6 Additions to the development and the covenants and restrictions have some variations. A copy of the covenants should have been attached to the title insurance or abstract when the property was purchased. Rose Ann adds that the restrictions are there for a reason and that is to protect property values.

Rose Ann Barrick pointed out that the covenants allows for one (1) detached structure not to exceed 100' sq. ft. She also pointed out that it does not matter in other counties if permits or BZA approvals do not have time limits, but this is Wells County and counties vary on their ordinances.

Mark Shaffer asked if this copy of the covenants and restrictions was in place when Mr. Fremion bought his property and Rose Ann responded they have been in place since 1977, and added that when she would sell a property a copy of the covenants was attached to the abstract, but she did not sell this property to Mr. Fremion.

Mr. Fremion states he bought the property in 1996.

Jerry Petzel inquired about the size of the gazebo that he built on the property and that at 16' sq. ft. the gazebo violates the 100' sq. ft. restriction for a detached structure.

Joe Langel said that he regrets that the covenants were not brought to light before and that it is difficult to deny what was previously approved. Joe added that he had voted to approve the petition 4 years ago and had no idea at that time of the restrictive covenants. The reason Mr. Fremion is back here is because he did not get the project done if had got it done, this would not be happening. Joe said that the board was absolutely, positively wrong in approving it before; the board should never approve something that is not allowed by the restrictive covenants. Joe said the fact that the board approved it once, makes it pretty difficult to say no the second time.

Jim Schwarzkopf said he feels the question is to determine what the definition of attached is and if the proposed arbor will suffice as attached, or will it take a walkway with roof to call it a breezeway. Jim said he could not vote for it unless there is some way the garage is attached.

Jim Schwarzkopf questioned how can this be avoided from happening again or know how many private restrictions and covenants are out there.

Michael stated they are recorded with the recorders office and can be requested when a variance is filed in the future then the covenants will have to be submitted along with the petition filing.

After records were pulled it was revealed that a permit was issued July 10, 2006 for the gazebo, but a permit had never been issued for the garage. The time expired for the BZA approval January 11, 2007.

Motion by: Jim Schwarzkopf; seconded by Joe Langel

Vote: 3-1 and 1 abstention (Rose Ann Barrick abstained stating it was due to her affiliation with the subdivision)

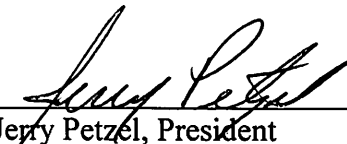
Condition: Detached garage will be attached to the home by a walk and overhead arbor type structure as presented on the revised drawings.

A permit can be issued in 30 days from today and work is to be suspended until that time.

DIRECTORS COMMENTS:

ADVISORY:

The July 8, 2008 meeting of the Board of Zoning Appeals adjourned at 7:50 p.m.



Jerry Petzel, President

ATTEST: 

Michael Lautzenheiser, Jr., Secretary