

ROME CITY BOARD OF ZONING APPEALS
Regular Meeting
November 15, 2018

The Rome City Board of Zoning Appeals held their regular meeting on Thursday, November 15, 2018 at 7:00 p.m. p.m. in the Rome City Town Hall. The meeting was called to order by Chair Fox.

Members Present:

Leigh A. Pranger-Secretary	Kelly Morris
Judy Fox	Mike Friskney
Barb Tatman	

Members Absent:

Christine Coe-excused

Roll call determined a quorum was present.

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

Interested parties in attendance: Attorney-Bill Eberhard, Josh, Heather and Trevor Molen, Robert Ulch, Mike Budreau, Cathy Eshelman, Arron Knox, Jr., Zack Smith-Noble County Highway Engineer, David White, Jerry Raber, Karen Parks, Gabby and Dennis Neal.

OLD BUSINESS

Complaints on Tackett/Eshelman, 4898 E 1100 N, Borrow Pit-moved to November 15.

Chair Fox informed the group that the BZA has received complaints regarding the operation of the borrow pit and we are here tonight to address them and check on the road conditions.

Member Barb Tatman stated she was recusing herself from participation as she is an adjoining property owner and felt it would be a conflict of interest.

Attorney Eberhard asked Mr. Josh Mole, Owner of Eshelman Excavating, to address the complaints. Mr. Molen addressed the concerns Mrs. Parks stated in her letter. Mr. Molen stated that Mrs. Parks said trucks were driving down the road every three to three and half minutes while driving too fast on the county road. Mr. Molen stated he doesn't have enough trucks in his company to drive down the road every 3 to 3 ½ minutes all day long. He informed the board he has GPS installed on all his trucks and should a complaint come in -if they get a picture of the truck or have the location. He can check his GPS to pinpoint the location of the truck and the speed. He noted that he believed the speed limit on unposted roads in the county are all 55 mph. he sated he drove one of his trucks on 1100 N and could only get the truck up to 45 mph. As for the request to have the trucks tarped. The State of Indiana does not require hauling trucks be tarped. He admitted they did work one night to 7:00 p.m. in January of 2017. He had the Atz apartment complex and he was on deadline to complete the job-he went ahead and hauled the two final loads for the project.

Mr. Molen then informed the board he is allowed to remove 5 acres he is currently at 4.3-4.4 acres of gravel which has been removed. Mr. Molen stated he has been working with Noble County highway to help supply them with material to fix the roadway when it needs to be done again-he already supplied material a few years back to fix the road. Mr. Molen stated he is not required to supply material to fix the roads he met with Mr. Zack Smith and Mr. Molen agreed to help the Highway department.

Chair Fox asked Secretary Pranger is we have had any other complaints by letter or phone call come in since these have come in this past summer? Secretary Pranger stated, No, no phone calls and letters.

Chair Fox called for interested parties on the Borrow Pit at 4898 E 1100 N.

Secretary Pranger stated she notified all property owners surrounding the borrow pit. Mr. Zack Smith, Noble County Highway Engineer informed the board he and his staff have been monitoring the road closely since 2017 and the road is in pretty good shape. Noble County Highway installed chip and seal using material supplied by Eshelman Excavating, on the road way this summer and it is holding up well. He added there are no load limits on the county road and one of his snowplows loaded with salt and sand would be the same weight as one of the Eshelman trucks hauling a load.

Karen parks-adjoining owner questioned why the speed limit is not set at 40 mph instead of 55 mph. Mr. Smith stated, a request to reduce the speed limit needs to be made and then a traffic study will be performed. He added that Indiana Code stated that urban areas along roads are posted at 30 mph and rural areas are 55 mph -additionally if the road has no posted signage then the speed limit is 55 mph per Indiana Code. Mrs. Parks clarified that the trucks going by every 3-3 ½ minutes were a loaded truck passing an empty truck. She then stated that Mr. Molen does not haul every week, some weeks it is one or two days and others he is hauling every day of the week.

Mr. Dennis Neal stated the Noble County did repair 1100 N and Angling Road recently. Mr. Smith stated that would have been scheduled in our normal maintenance program.

Attorney Eberhard encouraged Mrs. Parks to contact Noble County to have a speed study conducted to see if a lower speed limit is warranted.

Member Friskney asked Mr. Molen how much longer do you think you will be working at Tackett's? Mr. Molen stated it all depends on the amount of work that comes in and how much gravel is needed.

Barb Tatman adjoining owner stated the drivers do not stop when exiting the Tackett's property this is dangerous.

Mrs. Neal stated it appears Mr. Molen has already reached the 5acre mark from the amount of material that has been removed. She added that they have worked past 5:00 p.m. several times. She stated concern for her property and whether it might start to erode due to the close proximity of the borrow pit. Mr. Neal stated he would like to purchase some property from Mrs. Tackett to make sure they don't compromise his property with the excavation. He further asked how close they can excavate to his home. Mr. Molen stated the restriction is 150' from adjoining properties. Mr. Molen stated he can encourage his drivers to slow down and stop when exiting but he cannot control how they drive when he is not around. He stated the neighbors should

contact the police if they see a driver not stopping or speeding. Mr. Molen stated on average his is running 6 to 7 loads per day and they have worked out of the pit 195 days this year. Member Friskney stated he worked in the trucking business for over 40 years and was in charge of 16 drivers he encouraged Mr. Molen to have a safety meeting to discuss how to operate on 1100N when hauling. Mr. Molen stated he does have safety meetings. Attorney Eberhard encouraged the neighbors to get the truck number, write down the date and time of the violation and possibly even take a video and report the incident. Mrs. Parks clarified the GPS system Mr. Molen installed; is it similar to what is on school buses, you have the ability to look up and find out whether they stopped or not. Mr. Molen stated, no the feed refreshes every 6-7 minutes. Mrs. Molen stated there are people speeding on every road. She added we are giving Mrs. Tackett and her family an income much more than they would be able to get by farming land. Mr. Tatman, adjoining owner, stated a speeding truck is more dangerous than a speeding car. Mrs. Gabby Neal, stated the noise from the hauling is annoying day in and day out.

There being no further input, Attorney Eberhard requested the board take the matter under advisement until a future meeting, as we have gathered all the information we can from the neighbor and now we need to work on coordinating everything to make this operation work for all. He noted, to the neighbors and violations such as trucks speeding or not stopping should be reported to the police and/or Mr. Molen. Mr. Friskney suggested the neighbors definitely try to get stop video of the violators. He further suggested Mr. Molen insert a safety memo into the driver's checks or hand out a safety memo with their checks, as a show of good faith.

Member Morris made a motion to table this matter to the February 7, 2019 7:00 p.m. meeting. Second by Member Friskney. All in favor-aye. Motion Carried

NEW BUSINESS

Variance #2018-26

Jerry Raber/Raber's Discount Groceries, Inc. 11365 N State Road 9-57, Wolcottville, IN 46795 is requesting relief from Rome City Unified Development Code; Section 2.22 General Business District Development Standards; Primary structure rear yard setback requirement of seven feet down to six inches and Primary Structure Side Yard setback requirement of seven feet down to six inches on the Northwest corner of the lot. This will allow for the construction of a 1296 sq. ft. freezer expansion outside the building to retain the existing store floor plane and storage area. The petition, legal description, plot plan and drawing of the proposed building are on file and may be examined at the Rome city Town Hall. All interested parties should attend to voice their opinion or they may file written comments with the Town Hall prior to or at the meeting.

Chair Fox called for Mr. Raber to present his petition to the board. Mr. Raber apologized to the board for having to come back in front of them. Mr. Raber stated he found out the walk-in freezer needed to have a 5" freezer wall along with a 1" air barrier, and then a 2"x 4" wall installed on the exterior of the freezer to protect it from the weather. Mr. Raber stated he will then install a fence along the back to differentiate the property line and to protect the freezer. Mr. Raber informed the board he has spoken with the Freewill Liberty Baptist Church as they are the adjoining property owner and they have no problem with the new setback of 6". Member Friskney stated a concern with long term maintenance and how Mr. Raber will be able to access the building to do any work. Mr. Raber stated he will put gravel down around the outside of the freezer, so he will not have to mow. Member Friskney stated he owns a building within five feet

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of the property line and disputes have come up since a new owner has purchased the building next door.

Chair Fox called for interested parties on Variance #2018-26. Secretary Pranger stated she notified all adjoining owners and all returned with no comments.

Attorney Eberhard suggested a letter from Freewill Liberty Baptist Church stating they will allow Mr. Raber a maintenance agreement across their property to maintain his freezer. The board agreed. Member Tatman made a motion to approve Variance #2018-26 upon the recording of the maintenance easement by Mr. Raber at the Noble County Recorder and a recorded copy to be placed on file in the Rome City Town Hall. Second by Member Morris. All in favor-aye. Motion Carried.

MISCELLANEOUS BUSINESS

1. Attorney Eberhard informed the board, they need to look at increasing the allowable free-standing sign along the State Road 9 corridor. Due to the speed limits and the necessary setbacks from a state highway the signs are requiring variances for larger signage. This will be brought to the Plan Commission for review. Jerry Raber of Raber's Groceries, stated for visibility and for traffic to be able to read the signs they should be at least 8'x 8' with a 10' height allowance.

Next meeting: December 11, 2018 at 7:00 p.m. to hear the White complaint on Williams/Angel.


Attorney Eberhard asked the board to move the January and February meeting to better accommodate his schedule. Member Tatman made a motion to move the meetings to January 10th and February 7 at 7:00 p.m. Second by Member Morris. All in favor-aye. Motion Carried.

There being no further business Member Tatman made a motion to adjourn the meeting at 8:37 p.m. Second by Member Morris. All in favor-aye. Motion Carried.



Judy Fox, Chair

Attest:



Leigh A. Pranger, Secretary