



# **Minutes November 3, 2021 Tipton County Board of Zoning Appeals**

The Tipton County Board of Zoning Appeals held its regular meeting on Wednesday, November 3, 2021, at 7:00 pm, in the 1<sup>st</sup> Floor Meeting Room of the Tipton County Courthouse, 101 East Jefferson Street, Tipton, Indiana.

## **Call to Order**

Chairman Joe Mahaney called the meeting to order at 7:00 p.m.

## **Roll Call**

Members in attendance: Joe Mahaney, Gary David, Scot Gasho, Bob Powell and Grant Dunn.

Members absent: None.

Staff in attendance: Steve Niblick, Judy Coker, and David Langolf Smith.

Staff absent: none.

## **Modifications to Agenda / Agenda Summation**

None.

## **Approval of Minutes**

a) October 6, 2021, Minutes

Bob Powell made a motion to approve the minutes of October 6, 2021, as presented; seconded by Gary David. Motion carried 5-0.

## **Public Hearings**

a) CO-V-31-21 Sparks development standard variance

Lisa Sparks came forward to present the petition to rebuild a new house where the previous house was located before it was demolished.

Joe Mahaney asked if the original house was 50' from the road. Lisa Sparks confirmed this to be the case and stated that the new house would be approximately the same size as the previous home.

Gary David asked how large of a home would the petitioner be constructing. Lisa Sparks stated that she would like the new home to be a little smaller than the previous home. Gary David asked how large the previous home was. Lisa Sparks stated that the previous home was a three-bedroom home, but she would like to construct a two-bedroom home.

Gary David how far it would be from the back of the house to the pond. Lisa Sparks responded that it would be approximately 75' and if she went 100', it would put her at the garage.

Bob Powell asked where the property line to the north is located. Lisa Sparks responded that the property line is approximately another acre north of the garden. Lisa Sparks stated that there is a tree and a pole that separates her property from the neighbors.

Bob Powell asked if there was enough land to put the house 100' from the road if the house is located to the north of the pond. Lisa Sparks responded that there is enough room, but she does not want to have to shovel all that. Lisa Sparks stated that she would prefer to have the house near the pond, as she spent \$30,000 on the pond.

Bob Powell asked if the petitioner could move the house north and south. Lisa Sparks responded that she is limited by the location of the septic system, which is located to the north. Bob Powell asked if this is an old septic system. Lisa Sparks responded that this is a new septic system that was installed approximately seven years ago by the previous owners. Lisa Sparks stated that she would have to build so many feet to the north of the septic system, which would place her home approximately where the garden is currently located. Bob Powell asked if the septic system is located between the old house and the garden, approximately 50' – 75' off the road. Lisa Sparks stated that the septic system is approximately 50' off the road and that she would like to place the new house where the previous house was located because she likes the setting, short driveway, and the proximity to the garage.

Scot Gasho asked if we had a picture of the pond or the layout. Steve Niblick responded that on the aerial photo, where the old house was located is where she wants to place the new house.

Lisa Sparks responded that there is a detached garage close to where the old house is located, and she would like to continue to be able to use the garage.

Scot Gasho asked if the pond was permitted. Lisa Sparks responded that the pond was already there, but she spent money to update it and add waterfalls. Lisa Sparks stated that the pond is 4' deep, but she does not know how far it is across. Lisa Sparks stated that she had a company called Aquatic Designs come in and finish what was started, then she had them add waterfalls to the design.

Discussion ensued concerning the pond.

Gary David asked if the old house has already been torn down. Lisa Sparks replied that she has already removed the old house.

Gary David asked if there is anything in the ordinance about putting a house back where the old one was. Steve Niblick responded that there is a clause, but it only applies when a house is torn down due to natural disaster and if the house is rebuilt within a year.

Discussion ensued concerning setbacks and snow removal by both the petitioner and the county.

Scot Gash asked if either of the roads were arterial. Steve Niblick responded that they are both local roads.

Discussion ensued concerning the distances of the other houses in the area to the road. Lisa Sparks stated that she only wants to build the new house in the same location as the previous house.

Scot Gasho asked how much smaller the new house is going to be compared to the old house. Lisa Sparks stated that the old house was a three-bedroom, but she does not know what the size of the old house was. Lisa Sparks stated that the old house was a two-story and she would like the new house to be a single-story home.

Gary David asked if 25' would make that much of a difference because she is asking to build 50' and the setback is 75'. Lisa Sparks stated that placing the house at 75' would require her to move the pergola and would place her house in the pond.

Clarification was made that the setback is 75' from the right-of-way.

Lisa Sparks stated that, had she known that she wouldn't be able to rebuild a house in the same location as the previous house, she would have kept the previous house and renovated it.

Scot Gasho stated that the old house was only 32' from the edge of the road. Scot Gasho stated that the 50' measurement is the distance from the old house to the center of the road.

Gary David asked the petitioner how close she would be to the pond if she moved the house back to 75'. Lisa Sparks stated that 75' would put her right on top of the pond. Bob Powell stated that the house could be moved to the north, then the south side of the house would face the pond.

Scot Gasho asked if the pond would be in front of the house if the house were set back 75'. Lisa Sparks responded that she would have to knock out the pergola, but the pond would then be in the front yard. Lisa Sparks stated that if she went to the north, she would be on the other side of the septic system and not near the pond.

Scot Gasho asked if the petitioner will be able to use the existing septic system. Lisa Sparks stated that she should be able to use the existing septic system because it is new. Scot Gasho asked if the petitioner has spoken with the Health Department concerning the use of the existing system. Lisa Sparks stated that she has spoken with Brian Shortridge, of the Tipton County Health Department, who stated that he did not see a problem with it. Lisa Sparks stated that she just had dirt brought in to go over the finger system because it was uneven.

Lisa Sparks stated that if she moved her house to the other side of the septic system, that would put her where the garden is, which is no where near the pond. Lisa Sparks stated that this location would also prevent the use of the garage.

Scot Gasho asked if the garage is a part of the house. Lisa Sparks stated that the garage is a detached structure and is located to the south of the house.

Lisa Sparks stated that they were actually thinking about constructing a house on the other side of the property for her mother, who has dementia. Bob Powell cautioned Lisa Sparks to contact the Plan Commission before getting too far on that thinking.

Joe Mahaney asked if there was a possibility to move this to the south and to the east, closer to the garage. Lisa Sparks stated no because there is a barn out there and then she would be too close on the other side. Bob Powell clarified that there is a road to the south of the property. Lisa Sparks also stated that the well is located next to the fence on the south side.

Scot Gasho asked if the petitioner could move the house south of the pergola, then have the pond in the front yard. Lisa Sparks stated that she would be too close to the septic system.

Scot Gasho asked why the petitioner didn't build the house to the east of the pergola, then the pergola and the pond would be in the front yard. Lisa Sparks stated that she would probably be close to the other road. Lisa explained that the fence on the east is not her property line. Lisa Sparks stated that her property does not go all the way to the fence, it only goes approximately 60' west of the fence line.

Joe Mahaney asked Lisa Sparks to come forward and show the board where her property line is on the aerial image.

Discussion ensued concerning where the petitioner's property line is located on the east side.

Discussion ensued concerning where the right of way is located and the distance from the right of way to the new or old house.

Steve Niblick provided an overview of the staff report.

The board discussed giving the petitioner more time to go back and do some measurements to figure out exactly where the property lines are and where the house could be located.

Discussion ensued concerning the timeline for when the petitioner could gather the information requested and come back to the board. Steve Niblick suggested tabling the petition, and staff would work with the petitioner to determine the best time for her to come back to the Board of Zoning Appeals.

After further discussion, Grant Dunn made a motion to table the petition; seconded by Bob Powell. Motion carried 5-0.

b) CO-V-32-21 Devendorf use variance

Melissa Devendorf came forward to present the petition for a use variance to allow a wedding and event center in an AG zoning district.

Bob Powell asked if there would be a drive placed for the west parking area. Melissa Devendorf stated that there would be a drive for all the parking areas.

Bob Powell asked if the drive would go across the front of the house and across the drive that goes to the house and the barn. Melissa Devendorf stated that from the west parking area, there will be a small drive from the road that leads to the west parking area. Bob Powell asked if people would then walk from the parking area to the barn. Melissa Devendorf stated that people would walk the short distance from the parking area to the barn. Bob Powell asked if people

would be walking down the road. Melissa Devendorf stated that people could walk down the road, or they could cut across the lawn. Bob Powell stated that he does not feel that having people walking down the road, in the dark, would be a safe situation.

Bob Powell expressed concerns over the parking situation. George Devendorf came forward to clarify the parking plan. George Devendorf stated that there is lighting across the back of the house, and they would be willing to construct a path along the back of the house to the barn, so as to keep people from walking in the road. George Devendorf stated that they would definitely be willing to take measures to mitigate the possibility of people walking in the road to the barn.

Discussion ensued concerning parking and how to direct people away from the road.

Joe Mahaney asked if the parking plan provided would allow enough parking for the events. George Devendorf stated that the parking plan does provide enough parking without having to park people on the lawn. George Devendorf stated that part of the parking on the provided map is an overflow area. George Devendorf stated that there is more parking available around the barn, but they would prefer to not park too many cars there for the aesthetics of the venue.

Robert Powell asked what the maximum number of people would be. George Devendorf stated that they would have a maximum of 100 people.

Joe Mahaney asked if they could put all the parking to the west. George Devendorf stated that they could not put all the parking to the west, but they do have more parking in that area than they initially thought.

Scot Gasho asked if the parking would be gravel or if they would leave it grass. George Devendorf stated that the drive to the parking would be gravel, but the parking itself would be left grass.

Scot Gasho expressed that his real concern is safety, due to the traffic along the road. Scot Gasho stated that even if there is a path provided from the grass parking area to the barn, if it is raining, people will still walk in the road.

Steve Niblick provided the staff report for the use variance request.

Scot Gasho stated that there needs to be a barrier along the road to keep people/children from going in the road.

Joe Mahaney asked how much parking would be provided along the east and the south. George Devendorf stated that there would be 10-14 spaces in the south parking and 11 spaces in the east parking area, for a total of 25. Joe Mahaney stated that they would need one parking space per three people, plus one per employee. Joe Mahaney stated that they would need 33 or 34 spaces. George Devendorf stated that employee parking would not be an issue because employees would be able to park in the house parking, and employees outside of the family would be able to park in the east lot, and that they have 8-14 spaces available on the east side for overflow. George Devendorf stated that they also have more spaces in the southeast corner that they plan to use for overflow, but this area was not placed on the diagram. George Devendorf stated that there are approximately 30 spaces on the east side of the barn. This area, combined with the east parking

area would provide approximately 40 parking spaces, in the event that they would not be allowed to use the west lot for parking.

Joe Mahaney asked what they have behind the house. George Devendorf stated that there are trees, including some mature apple trees.

Scot Gasho asked where the septic system is located. George Devendorf stated that the septic system is just west of the house but is not far enough out to get into the west parking area.

Discussion ensued concerning parking and the drive locations.

Bob Powell stated that there is enough space between the fence and the road for people to pull off the road and parallel park. Bob Powell asked how the petitioner planned to prevent people from doing that. Melissa Devendorf stated that they could have people at the event to police the parking and place no parking signs.

Alan Johnson came forward to speak in favor of the petition.

David Smith asked if the residents of the property would be conducting the events. Melissa Devendorf stated that they will continue to live in the home, and it will not be a rental.

After further discussion, Scot Gasho made a motion to approve the use variance with the following conditions: 1) There is no parking on the west side of the property. 2) There is no parking on the north side of the fence. 3) The no parking areas are clearly marked. 4) There is a maximum of 100 people and 40 parking spaces per event. 5) There is one drive in and one drive out; seconded by Grant Dunn. Motion carried 5-0.

### **Old Business**

a) CO-V-30-21 Summitt use and development variance fee refund

Steve Niblick explained that after the October meeting, Mr. Summitt agreed to simply have the variance fee applied to the Improvement Location Permit for the new building when applied for. Steve Niblick wanted this decision in the minutes.

b) CO-V-29-21 Bailey Signs development standard and use variance finding of fact

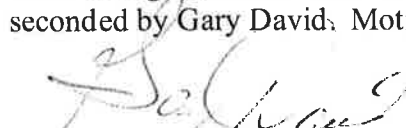
Bob Powell made a motion to approve the findings of fact as presented; seconded by Grant Dunn. Motion carried 5-0.

### **New Business**

None.

### **Adjournment**

There being no further business, Bob Powell made a motion to adjourn the meeting at 8:24 pm; seconded by Gary David. Motion carried 5-0.

  
Chairman

  
Executive Director

  
Date

JANUARY 5, 2022  
Date

