



# Minutes May 4, 2022 Tipton County Board of Zoning Appeals

The Tipton County Board of Zoning Appeals held its regular meeting on Wednesday, May 4, 2022, at 7:00 pm, at the 4-H Fairgrounds, located at 401 Fairgrounds Road, Tipton, IN 46072.

## Call to Order

Chairman Gary David called the meeting to order at 7:00 p.m.

## Roll Call

Members in attendance: Bob Powell, Scot Gasho, Doug Heron, Weston Nicholson and Gary David.

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) January 5, 2022, Minutes

Bob Powell made a motion to approve the minutes of January 5, 2022, as presented; seconded by Scot Gasho. Motion carried 5-0.

## Public Hearings

a) CO-V-31-21 Sparks development standard variance *\*tabled from November 2021\**

Lisa Sparks came forward to present the petition for a development standard variance to construct a home closer than 75 feet from the right-of-way.

Scot Gasho asked if the home would be located 75 feet from the middle of the road. Lisa Sparks confirmed. Lisa Sparks clarified that it is 78 feet from the middle of the road to the front of the trellis and 97 feet to the front of the garage. Lisa Sparks state that it was her understanding that the house had to be in front of the garage, so she is asking for 78 feet from the middle of the road, which would put her in line with the other houses on the road.

Gary David asked how far in front of the house her garage would be. Lisa Sparks clarified that the garage would be located behind her house.

Bob Powell asked for clarification on the proposed location of the house. Steve Niblick explained the right-of-way is 18 feet from the center of the road and the petitioner has placed a measurement on site plan of 60 feet from the right-of-way, which would be 78 feet from the front of the trellis and the front of the house. Steve Niblick explained that 78 feet minus the 18 feet right-of-way is where the 60 feet comes in.

Scot Gasho clarified that his would be on the east side of the road. Lisa Sparks confirmed.

Gary David asked if the petitioner measured to see how far the other houses are back from the road. Lisa Sparks stated that she did not.

Gary David asked if the petitioner would be tearing the existing house down. Lisa Sparks stated that the old house has already been torn down. Gary David asked how far behind the previous house would the new house be. Lisa Sparks stated that the new house would be started in front of the trellis, which is 78 feet from the center of the road. Lisa Sparks came forward to show Gary David where the house would be on the provided site plan.

Bob Powell asked Steve Niblick to clarify that the petitioner is measuring 60 feet from the road right-of-way. Steve Niblick confirmed and stated that the current ordinance is 75 feet from the road right-of-way.

Discussion ensued between board members concerning the proposed location of the house.

Bob Powell motioned to close the public hearing; seconded by Scot Gasho. Motion carried 4-0.

*\*\*unintelligible\*\**

Bob Powell stated that the concern is the distance between the house and the road right-of-way. Bob Powell state that, with as close as the house is to the intersection, he believes 60 feet from the road right-of-way would be alright.

David Smith clarified that the petitioner is asking to construct a home within the County's minimum 75 feet setback area. Lisa Sparks confirmed. David Smith asked that, if at some point the County decides that it needs to utilize that right-of-way, would the petitioner waive all economic damages that would be required to remove all of the structure that is located in that 75 feet. Lisa Sparks asked what the reason would be that the County would ever need to knock her house down. David Smith stated that they may ever need to, but right now they have a clear area of structures. David Smith stated that it could be that they would want to widen the road or something, but that is one of the reasons they want that area clear of structures. Lisa Sparks stated that she is going to take the chance that they would not have to widen that road.

Bob Powell asked if the petitioner has ever signed a paper giving the county an extra 40 feet of right-of-way. Lisa Sparks stated that she has never signed anything.

*\*\*unintelligible\*\**

Steve Niblick stated that when a minor subdivision is done, additional land is typically dedicated to the county for the purpose of a right-of-way during the minor plat process, however, that was not done in this case because it is a setback variance.

Gary David asked Lisa Sparks if she would be willing to say yes if the county ever needed to tear down her house to construct anything. Lisa Sparks stated that she would but asked the Plan Commission if the county had any plans to widen the road or to do anything. Gary David stated that the chances of that ever happening are slim. Lisa Sparks stated that she would be ok with that.

Bob Powell asked David Smith how long this agreement would follow the property, and would it apply to another person if they were to purchase the property. Bob Powell asked if this would be recorded somewhere and if a new owner would be able to collect any damages. David Smith stated that his request would be for a written commitment that would be recorded and attached to the property for as long as the property exists.

Bob Powell stated that he does not think this is a good idea.

Scot Gasho stated that he is with Bob Powell and does not think this is a good idea.

Discussion ensued about moving the house back and where the minimum building line is located.

Scot Gasho asked Steve Niblick if the petitioner would move her house back to meet the 75 foot set back, would she need to come back for anything else. Steve stated that the petitioner would only need to come back in for a building permit.

Scot Gasho asked how far the garage is from the road. Lisa Sparks stated that it is 97 feet, but there is a pond back there. Lisa Sparks stated that she is trying to stay far enough away from the pond but close enough to the well, septic, driveway and garage.

Bob Powell made a motion to deny the petition; seconded by Gary David. Motion carried 4-1, with Doug Heron casting the dissenting vote.

b) CO-SE-04-22 Wyman special exception

Petitioner asked that the matter be tabled until the June 1, 2022 BZA meeting.

c) CO-A/V-05-22 Hayes administrative appeal and development standard variance

Ryan House came forward to present the petition. Ryan House asked that the variance request be considered first and the administrative appeal second. Ryan House presented the petition for a development standard variance.

Gary David asked if the petitioner is sleeping in the recreational vehicle at night. Ryan House stated that the petitioner is sleeping in the RV occasionally, but not every night.

Gary David asked how long the petitioner has been working at clearing out the house. Ryan House stated that Mr. Henshaw died in October of 2021 and Ms. Hayes came back to the property in September of 2021 but has only been working on the property since the beginning of the year.

Gary David asked if six months would be enough time. Ryan House stated he would have to confer with his client.

Gary David asked if there is anyone else the petitioner can stay with. Ryan House stated that it is a fifteen-minute drive to any other location.

Scot Gasho noted that the petitioner stated in the application that she also takes care of her mother. Scot Gasho asked where the petitioner's mother lives. Ryan House stated that the petitioner's mother lives in the city of Tipton.

Gary David noted that the home has a restroom and questioned for what purposes the petitioner is using the recreational vehicle, e.g., eating, napping, or overnight sleeping. Ryan House stated that the recreational vehicle is there as a convenience. Ryan House stated that the house is extremely small, with only a living room, bathroom, kitchen and living room.

Scot Gasho asked David Smith if the variance is approved and a storm comes through, would the board be held liable. Ryan House interjected that this instance would be no different than if a storm came through and caused damages at a campground.

Gary David noted that if the recreational vehicle was only being used to cook in and take the occasional nap, there would be no need for the petition. Gary David stated that he believes the recreational vehicle is being used for more than what is being discussed.

Discussion ensued concerning how the recreational vehicle is being used on the property.

Doug Heron asked how much work has been done on the property over the six months that the petitioner has been staying there. Ryan House stated that there has been some electrical work done on the property, but the electrical is not completed. Kathy Hayes stated that she has had several incidents with rodents, such as squirrels and skunks getting into the house, forcing her to vacate the house for days at a time until the smell dissipates.

Kathy Hayes stated that no one is living in the recreational vehicle.

Gary David asked if the petitioner is not living in the recreational vehicle, then where is she living. Kathy Hayes asked why it matters where she is living.

Discussion ensued concerning the timeline for living in the recreational vehicle.

Stephen Webster came forward to speak in favor of the petition.

Mike Cline came forward to speak in favor of the petition.

Bob Powell made a motion to close the public hearing; seconded by Scot Gasho. Motion carried 5-0.

Bob Powell motioned to approve the variance until December 31, 2022; seconded by Gary David. After discussion amongst the board members, motion carried 5-0.

d) CO-V-08-22 Bruce development standard variance.

David Bruce came forward to present the petition for a development standard variance to allow a second dwelling to be constructed on a parcel of land.

Gary David asked if the garage would be connected to the house. David Bruce state that this would be a detached structure.

Gary David asked if the kids would ever rent out the second dwelling, once it is not needed for the petitioner. David Bruce stated that the kids would never have any interest in renting out the second dwelling.

Gary David asked Steve Niblick if there are any setback requirements from the existing house to the new structure. Steve Niblick state there is nothing in the ordinance that requires any distance or separation from the existing dwelling, only from the property lines.

Gary David note that he remembered the petitioner coming to the Plan Commission for a subdivision in order to construct a new home. Steve Niblick stated that the County Plan Commission did approve a minor plat on this property. David Bruce stated that the original plan was to construct a new, smaller home for he and his wife, then his son would move into the larger main home. David Bruce stated that his wife's health quickly deteriorated to the point where she needed to be placed in a nursing home. David Bruce stated that this much smaller dwelling would be only for himself, and his son would still move into the main home.

Gary David motioned to close the public hearing; seconded by Scot Gasho. Motion carried 5-0.

Discussion ensued amongst the board members concerning the petition.

Bob Powell motioned to approve the variance for David Bruce and his son only, but noted that if the circumstances change, they would need to come back before the BZA; seconded by Gary David. Motion carried 5-0.

e) CO-V-10-22 Bales development standard variance.

Dale Bales came forward to present the petition for a development standard variance to allow a second dwelling to be constructed inside an existing accessory structure.

Gary David asked if both dwellings would share the same driveway. Dale Bales responded that the second dwelling would use the existing driveway.

Brian Harper came forward to speak in favor of the petition.

Bob Powell made a motion to close the public hearing; seconded by Scot Gasho. Motion carried 5-0.

After a brief discussion amongst the board members, Bob Powell made a motion to approve the variance for Dale Bales and his family, but noted that if the circumstances change, they would need to come back before the BZA; seconded by Scot Gasho. Motion carried 5-0.

### **Old Business**

a) CO-V-38-21 Tolle development standard variance Findings of Fact

Bob Powell made a motion to approve the Findings of Fact as presented; seconded by Scot Gasho. Motion carried 5-0.

### **New Business**

None.

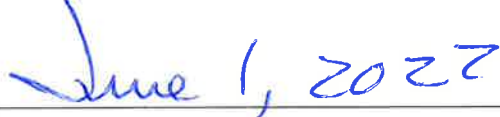
### **Adjournment**

There being no further business, Bob Powell made a motion to adjourn the meeting at 8:29 pm; seconded by Scot Gasho. Motion carried 5-0.

  
Chairman

  
Executive Director

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Date

  
Date