

PLYMOUTH BOARD OF ZONING APPEALS

July 5, 2023

The Plymouth Board of Zoning Appeals met in regular session in the Council Chambers of the City Building, 124 North Michigan Street, Plymouth, Indiana on July 5, 2023, at 8:56 p.m. Board President Art Jacobs called the meeting to order for Board Members Mark Gidley, Brandon Richie, Alan Selge and Paul Wendel. Alternates Linda Secor and Fred Webster were in attendance but not needed. Others present were Building Commissioner Dennis Manuwal Jr., City Attorney Sean Surrisi and Plan Consultant Ralph Booker. The public was able to see and hear the meeting through Microsoft Teams.

Gidley explains for the last meeting that it ended up being sixty pages long. He states that is a huge process for this gentleman to have to produce. He states he has printed this out and read the whole thing. He states he does not see any additions or corrections.

Board Members Gidley and Richie moved and seconded to approve the minutes of June 6, 2023. The motion carried.

Surrisi states he wanted to comment on the minutes that they were great. He states he does not have prepared draft findings of fact for BZA 2023-12 at this point but wished to prompt some discussion. He states in reading through the minutes that he believes they were totally accurate and the strong conviction he felt from all the members was that there was a desire to deny the gravel pit operation in the entirety of the property. He explains he was trying to reel you back in to say the law does not allow a full denial but in doing so he neglected to prompt you to address the concerns that the VanVactor family brought up. He adds we were here for many hours that night. He states the actual request in respect to the southern portion wasn't ruled upon and in his vigor in trying to convince you that you couldn't just outright ban it that he neglected to explain the nuance of what you could do there. He explains the State Statute says you can't pass a zoning ordinance that would outright prohibit mining in these areas that are not in the urban areas but you are able to regulate and our zoning ordinance does say in non-urban areas any conditions or limitations may be placed upon mining operations. He states at a minimum that IMI agreed to they were going to comply with the setbacks for instance and there is probably some kind of range that would be reasonable that you might also want to put on that southern part of the property. He states he would like to open that up to discussion perhaps to see where you might be on that decision and then at your next meeting have a draft of written findings of fact that you can review, discuss further and edit some more as you like. He states he wanted to prompt the Board about that and he believes in addition to what was decided last time that you are mandated to grant the special exception with respect to the southern portion that is the non-urban area but you also can put limitations on that as they have the setbacks and the reclamation plan. He explains those things are the minimum but there are some other things that would be open to you.

Richie asks what can they do. He states last time they were told what they couldn't do but what is it that they can do.

Surrisi responds by stating it would be like anything else in accordance to the law. He states it would be a sliding scale of what is reasonable and the State Law says they cannot prohibit it. He states it would be unreasonable in his opinion to put onerous restrictions that would make it unmineable.

Richie asks if they can say you can't go more than two feet into the ground.

PLYMOUTH BOARD OF ZONING APPEALS

July 5, 2023

Surrisi responds by stating he does not believe that would be practical.

Booker states in their zoning ordinance it does have setbacks requirements so they have to be 100 feet away from the property line which he believes they conceded to. He states they need to have a development plan, a reclamation plan in which there is a bond credited certified check to be approved by the Board of Public Works to make sure it happens and then a road maintenance bond and, in this case, it may have to be with the county. He states it does not mention the county here but this is not a city street. He clarifies those are the minimum requirements and he believes those are the standards for a mining operation whether you say anything or not that they have to abide by.

Gidley states they showed pictures themselves and provided evidence that they would put a berm, landscape the berm and put trees on that berm which are all things they have not done at their present location. He states those are things they can add even though they already suggested they may do that. He states what about them not using the north half. He asks what if they said you cannot put a road through the north half up to 11<sup>th</sup> Road and that you have to put your road out to King Road directly across from the Asphalt plant so your traffic across King Road is right there. He states that would be the only spot you can go across. He states he is sure they are going to leave and go out some other direction but not have the drive go up right across from Cardinal Circle where there is a lot of residential traffic which would make that an intersection.

Surrisi responds by stating that would sound reasonable.

Booker states that you could suggest to the county as they would provide a driveway permit that it would have to be directly across from the Asphalt plant.

Gidley asks if you could limit them to not be able to apply for a driveway permit on 11<sup>th</sup> Road.

Booker responds by stating you could try that.

Gidley asks if you could please look into not just this whole section they have all been quoting about what they can and can't do but there is even more before that in this legislation that refers to coal mining, natural gas and oil. He states that is considered mining and asks if gravel is considered a mine. He states someone is shaking their head but he would like to see proof that gravel is because the legislation starts off covering those three things. He states gravel is not mentioned in the beginning.

Surrisi responds by stating there have been cases that VanVactor had mentioned that interpreted it that way in the Indiana Court of Appeals so he is confident it is considered a mine.

Gidley asks him to look into it if he hasn't. Surrisi agrees.

Booker responds by stating he looked into it and unfortunately the way he read it is this trumped it. He states he thought they had something they can control and then they may have this other section that doesn't mention all the others but rather mining so it takes away all those requirements that the others have.

PLYMOUTH BOARD OF ZONING APPEALS

July 5, 2023

Gidley states no offense Booker but he would prefer an attorney to tell him that.

Surrisi states he has heard some of these suggestions such as the King Road entryway and the no access. He states he can write up a draft with a few versions and after you have had that in advance of the meeting to read then they can come prepared at the next meeting to discuss that and you can refine that some more.

Wendel states at the last meeting someone brought up the gross vehicle weight on those roads out there being no more than 26,000 lbs. He states he believes the County Commissioners did that maybe a year or two ago and if that can be enforced then every truck is overweight.

Gidley states that rule needs to be clarified as well because the county does have that gross vehicle weight limit. He states they believe it is for thru trucks and what is the definition of a thru truck.

Surrisi states he has a little bit of direction and he will get something worked up and if you have some suggestions that those can be emailed to him individually so they do not have a quorum of the board talking outside an open meeting. He states he can incorporate some ideas and they can talk through it at the next meeting.

Richie asks if we can hear what the VanVactor's are looking for.

**John & Ruth VanVactor (11410 King Road, Plymouth, IN 46563)**

Mrs. VanVactor states what would be of interest to them would be the hours of operation. She states at the asphalt plant IMI owns, just last year, they came before the County BZA because they were requesting to run the asphalt plant 24 hours a day. She states that thankfully the County BZA denied that but they would be looking at the hours of operation that they can't run 24 hours a day. She believes from memory that the asphalt plant runs from 7:00 AM to 7:00 PM just to give you some timeframe of that.

Mr. VanVactor states he believes it is 6 days a week.

Richie states last time they brought in people who brought in pictures of their gutters that showed this stuff filled to the brim and asks if it is affecting you guys the same way.

Mr. VanVactor responds by stating that is the people who live adjacent to the old gravel pit that is not them. He states they are further south.

Richie asks what trouble they are experiencing right now.

Mr. VanVactor responds by stating they are having trouble listening to the asphalt plant currently. He states it sounds like sitting at the end of a runway when that asphalt plant starts up. He states what it is going to be is that they are going to be right across the road from them.

Someone from the audience states they will have the same problem that the Southfield Subdivision has when IMI moves.

PLYMOUTH BOARD OF ZONING APPEALS

July 5, 2023

Richie states the problem is just going to move.

Mr. VanVactor states the prevailing wind is out of the southwest so it is going to come over their way. He states when you say limit the traffic on that road the gentleman here said they were planning on hauling 50-60 loads a day out of there to their other plant on 11<sup>th</sup> road to process that because that is where all their screeners are at for that. He states they are over at their plant on 11<sup>th</sup> Road. He states whether they come off of King Road or 11<sup>th</sup> Road that there will be 50-60 trucks a day going over to the processing plant where the screeners are.

Gidley states it would be going there and then back to the asphalt plant.

Mr. VanVactor states they will take one load there and then head back to grab another road. He states they will then have some going from that pit directly over to the asphalt plant to make asphalt aside from the 50-60 loads they are going to take over to be screened. He states he is aware that is the county's road plan and it is not up to you. He states that is why they are coming to you in the previous meeting stating we need you to support our efforts to try and get this law changed or repealed and to return that back to the local control because you all know what is best for your communities. He states you all took this from agriculture and made it residential. He states you all intended it to become residential and you did not intend for it to become a gravel pit. He explains they never anticipated it to be a gravel pit when they bought their property and sure they knew there was an asphalt plant that didn't run for 10 years two houses up from them when they bought their place. He states now they want to run it 24 hours a day 7 days a week and it is the same company. He explains they said we knew what we had when we moved in there. He states he knew what he had when he moved in across the road as there was a farm field that rotated between corn and beans. He states they had deer and turkey and they never anticipated it to become a gravel pit. He states by the zoning he never thought it should be a gravel pit but then the state comes in and tells you all that they know better than you do in that area. He states they can have a gravel pit there and there is nothing you can say about that because there are not enough houses.

Richie states he is just baffled this can happen.

Gidley states he is baffled it can happen within the two-mile zone. He states honestly out in some other part of the county and he is not discounted those people who live in other parts of the county but inside an area that was permitted by the State to have. He states multiple places throughout the State can have two-mile zones and or extra-territorial jurisdictions but to then turn around and take away those rights and privileges under that it doesn't seem right to him.

Richie states in referencing IMI's own website that states this is cancer causing material they are mining for. He states that is their own admission there as their own workers are wearing badges for dangerous levels. He states dangerous air does not respect 100-foot boundaries and it is blowing all over the place out there.

Surrisi asks for everyone to share their thoughts directly with him and he will get some findings of fact drafted.

PLYMOUTH BOARD OF ZONING APPEALS  
July 5, 2023

The following legal notice was advertised in the Pilot News on June 23, 2023:

<p><b>NOTICE OF PUBLIC HEARING</b> The Board of Zoning Appeals of the City of Plymouth, Indiana will hold a public hearing on July 5, 2023 at 7:30 p.m. in the Council Chambers of the City Building, 124 N. Michigan St. (Garro St. entrance), Plymouth, Indiana on the following matters: <b>BZA 2023-11:</b> Star Plymouth LLC, 900 Linden Ave., Suite 100, Rochester, NY 14625: A reconsideration of a Variance of Use request to repurpose an existing building to have indoor climate controlled self-storage units along with some retail on parcel 50-32-93-202-100.000-019, at 320 N. Kingston RD, Plymouth, IN 46563, zoned C-1, General</p>	<p><b>116 Legals</b> Commercial District. <b>BZA 2023-13:</b> Paul Oviedo, 1118 N. Center Street, Plymouth, IN 46563: A Variance of Use request to have multi-family housing on parcel 50-32-04-402-046.000-019, 1220 Lincolnway E, zoned R-3 Traditional Residential District. <b>BZA 2023-14:</b> Adam and Katherine Foust, 10715 Muckshaw RD., Plymouth, IN 46563: A Variance of Developmental Standards to reduce the side yard setback from ten (10) feet to five (5) feet and to reduce the lot width requirement to fifty (50) feet to build an accessory building before the primary building on parcel 50-32-08-000-133.001-018 located at 10715 Muckshaw RD., zoned R-2 Suburban Residential District.</p>	<p><b>116 Legals</b> <b>BZA 2023-15:</b> Charlie Fox, 10110 Quince RD., Plymouth, IN 46563: A Variance of Use to allow the present residential property to be used for church offices on parcel 50-32-93-101-101.000-019, 627 N. Walnut St., Plymouth, IN 46563, zoned R-3 Traditional Residential District. Information on these matters may be obtained at the office of the Clerk-Treasurer, 124 N. Michigan St., Plymouth, IN, and telephone #574-936-2124. Written objections to the proposal filed at the Clerk-Treasurer's office will be considered and oral comments will be heard. The hearing may be continued from time to time as may be found necessary. If you are disabled and need special accommodations,</p>	<p><b>116 Legals</b> please call the ADA Coordinator at 574-936-2948. Kyle Williams, Recording Secretary, Board of Zoning Appeals, June 23, 2023 June 23, 2023 PN347459 hspash</p>
--	--	---	--

**BZA 2023-11:** Star Plymouth LLC, 900 Linden Ave, Suite 100, Rochester, NY 14625: A reconsideration of a Variance of Use request to repurpose an existing building to have indoor climate controlled self-storage units along with some retail on parcel 50-32-93-202-100.000-019, at 320 N. Kingston RD, Plymouth, IN 46563, zoned C-1, General Commercial District.

In the midst of reading the request. It was found that the applicant was not here.

Booker states without the applicant being here the case can be tabled.

Surrisi states he was at the Technical Review Committee last week and said he would be here.

Richie states since it got started so late that maybe he had to go.

Jacobs asks if this should be tabled then.

John Oliver asks since he is not here if the people of Plymouth can't make a judgement on this. He asks if we are going to let them subdivide and not do anything about this.

Gidley responds by stating no action would be taken today.

Oliver asks if they are going to let him subdivide.

Jacobs responds by stating the applicant cannot do anything until they approve it.

Booker states if they wanted to subdivide that they would not come before this board but instead the Plan Commission just like Dollar General did a couple years ago. He states that was not a separate lot and they went and had a minor subdivision in order to separate off that lot.

PLYMOUTH BOARD OF ZONING APPEALS

July 5, 2023

Jacobs reiterates that the applicant cannot do anything until they make a motion.

Dave Morrow states he understands that but he requested to be on the agenda and it is on him to attend the meeting or asked to be removed from the agenda. He states they were notified and it was publicized so you should act on this. He states just because the owner does not show up that it doesn't mean you take them off the agenda.

Surrisi states he does not recall if this is specifically addressed in their procedural rules or not.

Booker states they usually give them one chance and they usually table it once and they have never tabled something twice.

Surrisi states this is normally an extraordinary situation in that they are one hour and 45 minutes past the normally scheduled meeting time and obviously they had a big agenda on the Plan Commission.

Gidley asks if they ever heard him call in. He asks if it records when someone tries to dial in like a missed call.

Robert Listenberger asks if the call was dropped as Paul Wendel was not in the call anymore.

Surrisi responds by stating they may have lost the call but there are three people on currently.

Dave Morrow states from the start the property was going to be pristine and you the board make the demands on what collectively you thought was in the best interest of Plymouth. He states if you are going to make the exception to put a storage facility on that property how it should look at the end and he believes you should stand by that.

Jacobs states they are not saying they are not though and he understands what you guys want to do but to him he wants to be a fair type of person. He states he wants to hear them and give them that opportunity. He explains that does not mean they are going to pass it as they cannot do anything until they come back in front of them. He states he does not know what they can do legally as far as throwing it out. He states they can still resubmit.

Surrisi states if you threw it out that they couldn't as they only have thirty days from the ruling to ask for reconsideration.

Jacobs asks what should be done then.

Surrisi states you can rule on it but they are not here. He states he is in agreeance that in the past you have allowed people to come in the following month given we have unusual circumstances with the length but you can rule on it if you wanted to.

Richie explains he does not want to table it and he wants to go ahead and proceed with the case.

PLYMOUTH BOARD OF ZONING APPEALS

July 5, 2023

Jacobs states he wouldn't know how to do that because it says if they are not here that the motion dies. He states if the representative is not here that the motion dies. He explains if a petitioner or representative is not here the board cannot take action.

Surrisi states that is the way it is stated in our procedural rules.

Jacobs states he cannot take action so as far as he is aware it dies with him not being here.

Booker states they are still committed to what you said in that prior motion then.

Gidley asks if it is a denial and he can come back or a denial and he can't come back.

Jacobs states he could come back a year from now.

Gidley states because he did not show up then what they did last month sticks.

**BZA 2023-13**: Paul Oviedo, 1118 N. Center Street, Plymouth, IN 46563: A Variance of Use request to have multi-family housing on parcel 50-32-04-402-046.000-019, 1220 Lincolnway E, zoned R-3 Traditional Residential District.

Plan Consultant Booker reviewed the findings of fact and the request from the applicant. He read the applicant's letter aloud. See attached letter below.

To the Members of the Board,

The reason I have applied for the variance is to bring the property at 1220 Lincolnway East back to Multit-family 1-4 units as per the purchase agreement with Mr. Erickson. Per the Agreed upon purchase agreement both I and Mr. Erickson's transaction is that the property can be used by Mr. Erickson as a 1-4 unit complex.

With your approval of the variance the agreed upon transaction can close. This variance request is for this transaction only. The goal Mr. Erickson and I have is to bring a positive use of the property to our community and improve the appearance of the property.

Respectfully submitted,

Paul Oviedo

PLYMOUTH BOARD OF ZONING APPEALS  
July 5, 2023



Booker explains you had given approval to turn this home into multi-family residential on December 1, 2020 and some of you were not on this board. He states the BZA had given several extensions to get the building up to code and because it was not you effectively rescinded that. He states he is now back to ask for essentially the same thing. He states going around the building and looking at it that nothing has essentially been done since 2020. He states by health department standards it is safe as things are boarded up but there has not been a whole lot done since then. He states they are asking for reapproval to complete this project.

**Paul Oviedo (1118 N. Center Street, Plymouth, IN 46563):**

Oviedo states he is looking to sell the property. He explains that Gregg Erickson is wanting to purchase the property and he wanted to be sure it was a multi-family property. He states he is in the process where he could not get the project done and he accepted that so now he is at the point where he is getting rid of the property. He states they would like to purchase the property and continue with the project but for that they would need it to be multi-family.

Gidley asks for clarification that all they are doing is applying for multi-family status but he is going to be doing the work by purchasing the property and completing it. Oviedo agrees. Gidley asks when the property was vandalized.

Oviedo responds by stating that was about a month ago.

Gidley states he is aware the windows got broken and the doors got opened.

Oviedo states it was broken into about a month ago and prior to that two months ago and that was just a couple windows. He states this last one was pretty bad.



PLYMOUTH BOARD OF ZONING APPEALS

July 5, 2023

Gidley asks if he had this listed with a realtor and is it now. Oviedo agrees. Gidley states the realtor sign is gone.

Oviedo states she took it down. He states they already had the process where they were going to purchase it and when they went in to do all the paperwork to get it signed off that is when they found out it was no longer multi-family and he had to come here. He states it was listed by the realtor and contracted out to be purchased but when they went in to do the actual title work that is when that was brought up.

Board Members Selge and Richie moved and seconded to open the public hearing. The motion carried.

**Gregory Erickson (12136 Lupine Lane, Plymouth, IN 46563):**

Erickson states when they first looked at the property, they wanted to turn it into four apartments for second phase housing for their David's Courage residents. He states they made a proposal and it got accepted but then they found out it wasn't zoned properly. He explains he said they were not moving forward until it gets rezoned. He states when he saw it got approved in 2020 that the owner had 90 days to comply and bring it up to code. He states that concerns him that he will have to bring it up to code that fast.

Jacobs asks what he believes he will need.

Erickson responds by stating with the last two vandalisms that he has not been inside to see what damage has been done. He states his original idea is to gut everything out of there including the plumbing and electrical to bring everything up to code. He states he doesn't have a timeframe or contractors' timeframes are like. He states he has been trying to get a new roof for David's Courage and that has been scheduled for over two months now and he still does not have a start date.

Surrisi wished to add some context to the discussion and asks Booker to correct him if he knows the timeframes better. He believes this variance was originally granted sometime before 2020 but none of the work had been done on it so the variance was going to elapse because there is a time limit.

Booker adds the board put a time limit on it the first time.

Surrisi states because no work had been started, he was going to lose his existing variance so he came back before and asked for time in 2020 so that is where the 90 days was put on. He believes it is normally two years but if you were to grant this variance you can put any restrictions on it you like but if you just said you were approved the variance without addressing a timeframe then it would be that two-year timeframe.

Gidley asks Booker because of the use of this being secondary housing for their clients from David's Courage if that needs any additional approval.

Booker responds by stating all he is asking for from you is for a multi-family housing use at this location. He states currently they are only allowed single-family housing there.

PLYMOUTH BOARD OF ZONING APPEALS

July 5, 2023

Gidley asks if they are still clients of David's Courage at that point or are they independent of David's Courage when they go there.

Erickson responds by asking what you would mean by still connected to them.

Jacobs clarifies under your control. He asks if this is an extension to David's Courage.

Richie asks if they will just be receiving counseling to acclimate them back into regular life.

Erickson responds by stating that is correct.

Richie clarifies that it is more of a transitional home then.

Erickson states there will be rules and there will be regulations and meetings they have to attend. He explains they have to keep their sobriety and maintain jobs.

Richie asks what happens if they do not meet those terms.

Erickson responds by stating they would be asking to go through the eviction process. He states if they do not continue to work on their sobriety then they will not be any good to that community.

Booker states you could put stipulations that this could only be used by David's Courage then you could stipulate that in the motion if you approve it.

**Christine McIntire (307 Center Street, Argos, IN 46501):**

McIntire explains she is the listing agent and the reason she took the sign down was to discourage any more vandalism to the property. She states she hopes that would think someone already bought it. She states she would like to speak in favor of this. She states unfortunately Oviedo had a vision to make this a better piece of property but covid and materials went beyond his ability to do that. She states now they have Mr. Erickson coming in with a new vision of something positive to continue for what he is already doing for the people in our community and this would be another step in being able to help them. She states this would be taking this piece of property that is now negative as most people look at it and it would turn it into something positive. She states this would be cleaning it up, putting it to code and having it taken care of by somebody. She states the residents would have to help to take care of it so you would be adding something positive to your community instead of something negative. She believes this will be something good.

Richie asks Erickson if this would be permanent housing or if this would merely be transitioning them. He asks if the goal is to get them out from here and back on their own completely.

Erickson responds by stating there is no housing in Plymouth and he has got a guy that has been living at the hotels clean and sober now for 18 months and they cannot get any landlords to open up their property for our guys once they complete 12 months in our place. He states this would be a place where they can go and it would be just like an apartment.

PLYMOUTH BOARD OF ZONING APPEALS  
July 5, 2023

Jacobs asks if the would be renting it like anyone else. Erickson agrees.

Booker reads aloud a letter that was submitted to the board.

**Carol Dulaney (1167 Pennsylvania Avenue, Plymouth, IN 46563):**

June 27-23

In re of:

Parcel # 50-32-04-402-046-000-019  
1220 Lincolnway E. Zoned R-3  
Residential District.

I think its a poor choice for a multifamily apartment. In the six years it sat virtually empty, it has become an eyesore. Its located on a dangerous point. Traffic coming from the East are exiting on to Penn Ave., Ferndale St. or are heading uptown, on Lincolnway. Some are going at pretty good speeds. Then we also have the traffic heading East from Lincolnway, Penn Ave. and Ferndale, towards Bourbon, Warsaw, etc.

It needs major renovations and repair. Safety is a big concern!!

Carol S. Dulaney  
1167 Penn Ave.

Board Members Richie and Selge moved and seconded to close the public hearing. The motion carried.

Wendel states until tonight he was not aware of who the interested buyer was and he has known Erickson for some time and has done some things for his group. He states it is a wonderful thing he has been doing and he believes we need to support him through this endeavor as much as they can.

Richie states he would like to add that he believes the woman with the letter here is thinking when she hears multi-family that she believes people will be coming in here with little kids and families but he is sure that isn't what Erickson is planning to do here. He states he is familiar with this program and something they say during the Plan Commission meeting is that this is a program that is designed with a start date, end date and a goal to reach. He states it isn't just putting somebody in there and leaving them to their own devices and that is that. He explains this is part of an already established program and it is the next phase in that program to move them forward and he would support this wholeheartedly working with programs similar to this.

PLYMOUTH BOARD OF ZONING APPEALS

July 5, 2023

Wendel states before he knew who the buyer was that he was skeptical at first that it was from somebody out of town coming in trying to make a quick buck but since it is Erickson, he is all in.

Gidley asks Erickson how many vehicles will be parked here.

Erickson responds by stating the requirement is to have two parking spots per apartment. He states with four guys there will probably be four vehicles there at any given time but they will have space for eight as that is the requirement.

Gidley states the last time they granted a variance he believes they required one of those entrances to be closed.

Surrisi believes they talked about the city putting in barricades.

Manuwal believes that was closer to the point as it used to be concrete almost all the way out to the point.

Gidley asks now that it is grass it has been solved with that.

Manuwal responds by stating the city did that.

Gidley asks if Erickson is aware he will not be able to drive along that grass at the point.

Jacobs responds by stating the drive used to be all the way to the point.

Gidley states the city planted grass out by the point but the entrances are still there.

Surrisi states you can add that language or something similar to it in your motion if you are voting to approve.

Manuwal states he went into the building with McIntire as she met him over there. He explains they went inside and unfortunately the night before it had been vandalized and Oviedo padlocked the upstairs so he could not get upstairs. He states he does not know what the upstairs looks like but he informed Erickson it would need to be completely gutted as in one picture you can see the back has a meter base with six sockets. He states he told him he would not allow apartments in the basement which is what someone tried to do years ago. He states with the way it is set up there is no physical egress out of the basement.

Gidley asks between the first and second floor there is enough room for four apartments.

Manuwal responds by stating he believes there is room for four apartments granted he has not been upstairs. He explains there are two apartments on the first floor as there is a small one and a larger one.

Gidley states they might end up granting a variance but then you might not be able to grant a building permit exactly as it may only be three units when you see upstairs.

PLYMOUTH BOARD OF ZONING APPEALS  
July 5, 2023

Manuwal responds by stating it depends how he divides it.

Board Members Richie and Selge moved and seconded to approve BZA 2023-13 with the stipulation to only use the two entranceways and that it has to be up to code in 24 months. The motion passed by roll call vote.

Yes:           Gidley, Richie, Selge, Wendel and Jacobs  
No:           None

**BZA 2023-14:** Adam and Katherine Foust, 10715 Muckshaw RD., Plymouth, IN 46563: A Variance of Developmental Standards to reduce the side yard setback from ten (10) feet to five (5) feet and to reduce the lot width requirement to fifty (50) feet to build an accessory building before the primary building on parcel 50-32-08-000-133.001-018 located at 10715 Muckshaw RD., zoned R-2 Suburban Residential District.

Plan Consultant Booker reviewed the findings of fact and the request from the applicant. He explains this property has been recently subdivided and below is the site diagram submitted by the applicant. He states you can see in the red that this is where they would likely put this building. He explains one of the reasons they are coming here is because where they want to place it is not wide enough where they would normally require a building. He states we did give an approval in 2023 to have this property less than 210 feet. He states it was approved and then it was sent to the Plan Commission who created the lot. He states they are here for setbacks but the other issue is they haven't built the house yet and you are not allowed to build the accessory building before a primary building in this particular district.



PLYMOUTH BOARD OF ZONING APPEALS

July 5, 2023

Gidley asks if the applicant was notified that was not a buildable site at one point.

Booker responds by stating he did not check the minutes but when this was approved, he said there could not be any buildings built in that back portion of the lot. He states the applicant may disagree but one reason why that is there was to get the minimum acreage. He states there was also a question at the time of the placement of the septic system. He states to his understanding now is that the septic is not back there and it is up by the road. He states the issues were to get the lot size to the minimum and a potential area for the septic.

**Joseph Adams (10715 Muckshaw RD., Plymouth, IN 46563):**

Adams states he is here on behalf of his daughter and son-in-law Katherine and Adam Foust. He states they are out of town. He states what Booker said was mostly right. He states they divided off an acre as most people know finding a lot to build a house on out in the country is hard to find unless you live in a subdivision. He states his house with him and his wife sit on six and a half acres so they took off an acre to the south there and got the Plan Commission to approve the it along with the minimum frontage. He explains he is the closest property to the north and to the south there is a fifty-foot easement before the next property so they will not be infringing upon anybody. He states as far as building the house they have a contractor already, Ideal Construction out of Warsaw and they have given them a down payment. He states the trouble is they cannot start until late Summer; early Fall and the pole barn can be put up before then so the idea is if someone is available to get that done first as it would be a nice place to store stuff in while they are building the house. He states before it is all said and done it is probably going to add half a million dollars to the tax roll so that is a plus. He states he would not see where this would cause a problem. He states the only reason with the setback is because the building is 30 foot wide and if you have an overhang, you are past the ten-foot setback so that is why he is asking for the five-foot setback. He clarifies the three things he is asking for is to put a building there, setback to five feet and start the pole barn before they did the basement.

Board Members Selge and Richie moved and seconded to open the public hearing. The motion carried.

There were no comments during the public hearing.

Board Members Richie and Selge moved and seconded to close the public hearing. The motion carried.

Wendel asks if there is a reason it has to be that close to the property line at five feet.

Jacobs responds by stating because the size of that lot narrows down.

Gidley states he believes what Wendel is asking is what is the hardship. He states a building will fit there and comply with the ordinance and setbacks but it can't be thirty feet wide. He asks if he would be willing to build a smaller building and not have to request a variance for the overhangs. He states he knows why they have the rule of building the house before the utility building and that is because in the past, we have let people build utility buildings and they move in them. He states

PLYMOUTH BOARD OF ZONING APPEALS

July 5, 2023

he knows Adams and his family and they are not going to do that. He asks what message they send if they let him do this to other people who might want to move into their utility building.

Jacobs responds by stating from what he understands from the board is they look at entertaining each variance as a separate thing. He states knowing the people and the situation sometimes does help.

Gidley states he understands why they do what they do. He states he had one out on SR 17 that they thought was living in his utility building.

Wendel asks why it has to be so close to the property line.

Adams responds by stating they want to put a 30 x 48 pole building and it is on a 50-foot-wide lot so that is 10 feet on each side which is fine. He states after talking with Booker that it is not the wall of the building but rather the overhang that goes past the 10-foot setback.

Jacobs asks for clarification that you probably wouldn't even be close to five foot as you will probably be a foot over each way.

Adams responds by stating Booker told him as long as you can get a ladder up to your roof without stepping foot on your neighbor's property then you are probably okay.

**Sara Naylor (10771 Muckshaw RD., Plymouth, IN 46563):**

Naylor states she doesn't understand why they couldn't build a barn before the house either before you explained it. She asks what if they build the barn and then decide not to build the house.

Jacobs responds by stating that is a concern they have and that is one reason why they do not like doing this either.

Booker states you could stipulate that the house needs to be built within one year or something to that extent in your motion.

Jacobs believes her question is why that was a rule.

Naylor states she is not for or against this but she was wondering if it is a rule and then they go decide not to build the house then why have all these rules if you go and change them.

Booker responds by stating they would be in violation at that time and they could potentially be taken to court.

Surrisi believes the rule is designed for a couple reasons and one is as Gidley said so you do not have structures where people are not living in a barn or garage. He believes based on the zoning district it changes the character of the neighborhood if you have a subdivision with all these houses and then you got a lot that was designed to have a house and maybe an accessory structure and it just has a barn.

PLYMOUTH BOARD OF ZONING APPEALS

July 5, 2023

Booker states the only place in which that is allowed in is in the county where you have farm ground and then you have an accessory building to store machinery.

Naylor adds or if you own the property next to it and want to store stuff. She states she is not against it but that she just doesn't understand the rule.

Richie asks if her question is why we are about to approve something if there is a rule that says we shouldn't do it then what is the rule for.

Jacobs responds by stating that is what this board is all about.

Surrisi states they had one of these a few years ago and it was a subdivision on the east side of Lilac Road north of the Airport. He states they got a variance to build a pole building saying they were going to build a house later but they never built the house and neighbors were upset about it. He believes the rule is designed to keep the character of surrounding neighborhoods similar to having houses where houses are at. He understands the concern.

Wendel believes we need to have the house built first before the barn. He believes we should follow the rules that are written already. He motions to deny the part about starting the accessory before the home.

Jacobs states we know they are going to be building the house. He states he can understand the reason for wanting to build the barn as he will be in a similar predicament because they are going to store stuff there while they are getting ready to build. He explains it is probably a safety factor for Adams.

Gidley states he knows Adams along with his daughter and son-in-law and he believes they have already made a couple of exceptions there. He states the lot is already smaller than what should be there and he does not think there is anything wrong with saying now is the time to follow the rules. He states they are not even saying follow all the rules but rather they can build the building and have the five-foot setback but you are going to build the house first. He does not agree with granting every single thing as they have already made some pretty big accommodations and he does not object to doing those. He states it is a much smaller lot than it should be and he is going to second Wendel's motion.

Richie asks if it is fully completing the house before the pole barn or breaking the ground.

Jacobs states from his understanding of the motion we are voting on is you have approved everything aside from building the pole barn first.

Board Members Wendel and Gidley moved and seconded to approve BZA 2023-14 except for the portion of building the accessory building before the primary. The motion passed by roll call vote.

Yes: Gidley, Richie, Selge and Wendel

No: Jacobs



PLYMOUTH BOARD OF ZONING APPEALS

July 5, 2023

Adams asks how far along the house has to be built before they can build. He explains it may take 4-5 months to build the house so they have to wait 4-5 months to build a pole barn. He states he was told originally you have to build the basement of the house first and that is how he interpreted it.

Booker responds by stating the way he interprets the motion is the house has to be completed.

Richie asks if that is the rule. He asks if he has to build the basement and then he can build the barn or does he have to complete it with every light switch put in and every door knob put in.

Adams explains the kids got a contractor and they have given them 10% down. He explains they would start tomorrow if they were not building other houses but they cannot get it started before the end of the summer probably after Labor Day.

Surrisi states in his mind it seems like if there is a substantial start. He pauses and asks if the same contractor is going to build both the house and the pole barn.

Adams responds by stating it would be two different contractors.

Booker quotes Article 6, Section 010, Accessory Structures and Use Standards, Subsection B. Where permitted, as seen below.

**B. Where Permitted**

Accessory Uses, Buildings, and Structures shall be permitted in all districts, provided that the primary use which is supported by the accessory use, building, or structure is a permitted use within the district to which a lot is zoned.

He explains it has to be supported by a building or a structure that is a permitted use.

Jacobs asks if it says when it has to be done.

Booker responds by stating it does not provide that clarification.

Jacobs states based off Wendel's motion his house has to be done before it is started and that is his understanding on the motion voted on.

Wendel agrees if that is the way the rule reads.

Gidley states that is the way it has been interpreted in the past.

Richie states just because it was interpreted that way does not mean that it was interpreted correctly.

Wendel wishes to rescind his motion as his audio continues to go in and out. He explains he is having trouble understanding what everyone is saying.

Jacobs responds by stating it has already been voted on.

PLYMOUTH BOARD OF ZONING APPEALS

July 5, 2023

Gidley asks Manuwal if it is two separate permits. Manuwal agrees.

Robert Listenberger asks if this board can say either when the foundation is complete or when a payment to the general contractor for the house has been paid.

Richie asks how far we can do.

Jacobs responds by stating we can say he can build the barn right now if we want.

Booker states it is up to you on what standards you want to place.

Surrisi states you had the public hearing which is a requirement and if you want to change your mind and rescind that to do something different then you are free to do so. He explains he cannot tell you how Keith Hammonds who was here for nearly 16 years did this and this may not be a scenario Manuwal has discovered or had discussion with Hammonds before he left but it would certainly seem reasonable to him if you had a foundation or something that shows you are substantially making progress that you will have a primary structure that the accessory building supports. He states he would not necessarily believe you would need to wait for it to get done and get into the weeds of the timing of the contractors and things like that but that would be his opinion.

Manuwal states his opinion is if they are showing intent to build, they put in the foundation and get the framing done that he would be okay with issuing an accessory building permit because then they can start building that. He explains that he said it would be two different contractors with one building the accessory building while the other is finishing up the house.

Jacobs asks why not just the building permit as the building permit is the intent to build it. He asks why make it complicated.

Manuwal responds by stating because there are people who buy a permit and then wait six months without ever using it.

Richie asks if they can do a motion where they have so much time to get the foundation put in.

Jacobs explains this is a motion on this currently and asks if they can make a new motion to override it.

Booker responds by stating you would have to rescind the prior motion to do that.

Board Members Wendel and Gidley moved and seconded to rescind the prior motion on BZA 2023-14. The motion passed by roll call vote.

Yes: Gidley, Richie, Selge, Wendel and Jacobs

No: None

Board Members Richie and Gidley moved and seconded to approve BZA 2023-14 contingent on the fact that there is a building permit for the house and have at least a foundation put in prior to building the accessory building.

PLYMOUTH BOARD OF ZONING APPEALS

July 5, 2023

Yes:           Gidley, Richie, Selge, Wendel and Jacobs  
No:           None

**BZA 2023-15:** Charlie Fox, 10110 Quince RD., Plymouth, IN 46563: A Variance of Use to allow the present residential property to be used for church offices on parcel 50-32-93-101-101.000-019, 627 N. Walnut St., Plymouth, IN 46563, zoned R-3 Traditional Residential District.

Gidley wished to abstain from any vote as he is a registered member of St. Michael's Parish.

Plan Consultant Booker reviewed the findings of fact and the request from the applicant. He read the applicant's letter aloud. See attached letter below.



St. Michael Catholic Church and School  
612 N Walnut St.  
Plymouth, IN 46563

Board of Zoning Appeals  
Plan Consultant Ralph Booker  
Building Commissioner Keith Hammonds  
City of Plymouth  
124 N Michigan St  
Plymouth IN 46563

June 15, 2023

To Whom It May Concern,

Per the Variance of Use application, this letter of intent addresses § 11-020(A)(5)(b), which references §9-040(A).

In requesting a Variance of Use for the property at 627 N. Walnut St., Plymouth, Indiana, for the expansion of parish offices and a place for the youth group to gather, we respectfully submit that the findings of fact addressed in §9-040(A) will be met for the following reasons.

The church office and all of the proposed activities are currently taking place directly across the street from the proposed location, literally 126' from the front door of 612 N. Walnut St to the front door of 627 N Walnut Street. The same number of employees will on site every day; but parking will be improved by having two off-street parking spaces for use.

The same people and number of people will be visiting the parish office to conduct business because the type and amount of business is not being changed; it is simply being moved across the street to the new location.

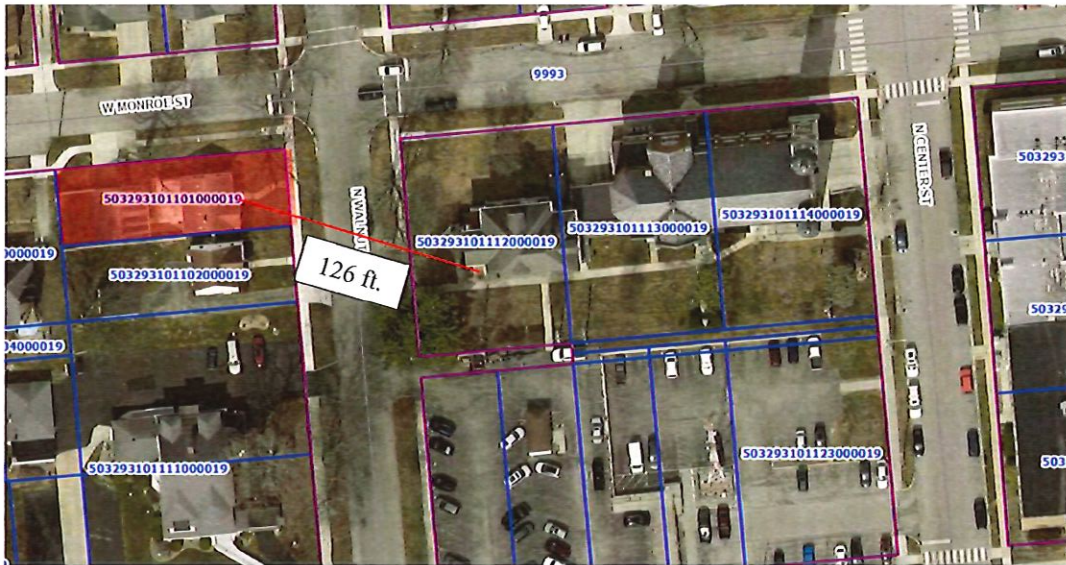
Sincerely,

Handwritten signature of Rev. Fernando Jiménez in black ink.

Rev. Fernando Jiménez  
Pastor  
St. Michael Catholic Church

PLYMOUTH BOARD OF ZONING APPEALS

July 5, 2023



**Charlie Fox (10110 Quince RD., Plymouth, IN 46563):**

Fox states this is his mother's house and he is selling her estate. He explains St. Michael's Parish has approached them in purchasing a house and the purchase is contingent upon them using it as an office for their Parish Offices. He states his mother was very involved with St. Michael and you may have seen her helping with the grounds as his parents helped with the grounds for years. He expresses that St. Michael's was very near and dear to her heart and he believes she would be very pleased to see her house purchased by the Parish.

Board Members Selge and Richie moved and seconded to open the public hearing. The motion carried.

**Rev. Fernando Jimenez (612 N. Walnut Street, Plymouth, IN 46563):**

Jimenez states one of the first needs he saw for the community was the space to serve the church in a better way. He states specifically the offices where they have room for the secretary and bookkeeper. He states sometimes they have people who have some business regarding the school and they have to be in the same place as everyone else. He states the Father's office is right across from that room and his is on the other side and sometimes they have people that have personal matters to discuss with them. He explains it is sometimes inconvenient to provide those services to them so when the opportunity came to purchase this property that they saw this as a very good opportunity to provide a better service in our community. He states in that way they can conserve the space but also, they have an aged community in our Parish and it is difficult for them to get to the office as they have steps to get up there. He states this property will provide them with opportunity to provide a handicap access to those who have more physical conditions. He states they see this as a good opportunity to provide a better service for everyone, especially those that are working in there but most importantly to those they are serving.

Booker reads aloud a letter that was submitted to the board.

PLYMOUTH BOARD OF ZONING APPEALS

July 5, 2023

**Kyle Reese (1906 N. Oak Drive, Plymouth, IN 46563):**

Kyle Reese  
Karr Capital LLC  
1906 N Oak Dr  
Plymouth, IN 46563

To: Board of Zoning Appeals

RE: BZA 2023-15: Charlie Fox Variance

Subject: Support for Variance Request for Church Office Use of Residential Property

Dear, Members of the Board of Zoning Appeals

I am writing to express my support for the variance request made by St Michael Catholic Church for the utilization of a residential property as an office space. As the property owner of neighboring 302 W Monroe St and a believer in the valuable services and ministry provided by this church, I firmly believe that granting this variance will have numerous positive impacts on both the congregation and the surrounding neighborhood.

St Michael has been an integral part of our community for many years. The church has been committed to enhancing the lives of its members and the community at large through various initiatives, including educational programs, charity work, ministry to the people and social support. By allowing the church to establish an office in a nearby residential property, it would greatly enhance their capacity to administer and coordinate these activities effectively.

I also wish to highlight that the proposed office use would not create any significant negative impact on the surrounding residential properties. The church has been a responsible member of our community, consistently demonstrating a commitment to being a good neighbor. Their activities and operations have been conducted in a manner that is respectful and considerate towards the surrounding properties, ensuring minimal noise, traffic, and other disturbances. With their focus primarily on administrative functions, the proposed office use would not introduce any undesirable effects, and it would be compatible with the existing residential character of the area.

Granting the variance for the church to use a house as an office would be a testament to the board's understanding and appreciation for the positive contributions that St Michael has made to our community. It would allow them to continue their invaluable work while maintaining the harmonious nature of the neighborhood.

Thank you for your time and consideration of this matter. I trust that you will make a fair and informed decision that upholds the best interests of our community. additional information or have any questions, please do not hesitate to contact me at your convenience.

Yours sincerely,

*Kyle Reese*  
Karr Capital LLC  
Property Owner 302 W Monroe St, Plymouth IN 46563

**Kurt Feece (4720 Redwood Road, Plymouth, IN 46563):**

Feece would like to note that this needs to be emphasized. He states the current parking on the street to get to offices at St. Michael's is right there between the house they are talking about and the Parish. He states that parking is right on the street and to reiterate what was in their letter that much of the parking would get moved for people trying to get into the office by going into the driveway of Mrs. Fox's house. He states the other thing is St. Michaels has been around in this community since 1860 and since that time it has been a beacon love, Christ and mercy to this entire community. He states this is a wonderful opportunity to actually have a thriving church grow in a world where it is pretty rare to have those things happen. He states this is their opportunity to get our business offices out of the house of our priests and allow them to conduct their pastoral work.

PLYMOUTH BOARD OF ZONING APPEALS  
July 5, 2023

**Father Keith Lockwood (612 N. Walnut Street, Plymouth, IN 46563):**

Lockwood states he is Father Jimenez's associate and he has lived here for a year. He states he came from Fort Wayne initially but it has been great being here at St. Michaels. He states we have enjoyed a wonderful relationship with the city and the courthouse sharing our parking lots and allowing us to work together. He states all we are doing is moving offices across the street. He states the cars, the traffic and everything else will stay the same. He states we get more courthouse parking on our street then we do for us at our Church but this will be a greater service to the people who do come to St. Michaels. He explains like Jimenez said it is also about having the handicap access and more rooms within that house to actually conduct business/ personal meetings to provide services to our community. He believes this is a wonderful idea plus it will help add to the services that St Michael's will keep providing to help enrich our city and make it wonderful place for people to come to.

Board Members Selge and Richie moved and seconded to close the public hearing. The motion carried.

Richie states he understands how it feels to get ministry out of your home and into an office. He states it is a blessing and he knows that firsthand.

Board Members Richie and Jacobs moved and seconded to approve BZA 2023-15 as presented. The motion passed by roll call vote.

Yes:           Richie, Selge, Wendel and Jacobs  
No:            None  
Abstain:       Gidley

Gidley states there are three houses on Lincoln Highway just as you come into town from the east going west with one having an abandoned car and others having abandoned boats, trash and garbage everywhere. He believes a code inspection needs to be done on each of those homes.

Wendel states these meetings are becoming increasingly longer and he wants to put a thought out there that maybe they should Board of Zoning Appeals one night and Plan Commission the other. He states he is just wishes to throw that out there.

There being no other business, Board Members Selge and Richie moved and seconded to adjourn the meeting. The motion carried and the meeting adjourned at 10:28 p.m.

  
\_\_\_\_\_  
Kyle Williams – Recording Secretary