

Hamilton County Board of Zoning Appeals – South District  
August 26, 2020

Mr. McMillan called the official meeting of the Hamilton County Board of Zoning Appeals – South District to order at 7:01 p.m.

*Roll call:* Adam Zeller, Charlie McMillan, Jr., Frank Habig, III – alternate, Jim Galloway, and Mike Pugel. Absent: David Musselman. Also present: Charles Kiphart, Director; Aaron Culp, Legal Counsel; and Linda Burdett, Secretary.

*Declaration of Quorum:* Mr. McMillan declared a quorum with four regular members and one alternate member present.

*Guests:* See sign-in sheet.

*Communication or Reports:* Nothing to present.

*Approval of Minutes:* June 24<sup>th</sup> minutes were not included in the informational packets.

*Old Business:* Nothing to present.

*New Business:* Mr. McMillan began with **SBZA-R.V.-0006-08-2020** a requirement variance. This is concerning constructing a 72 ft. by 42 ft. storage building / shop in the 100 year floodplain for agricultural equipment and other items. The zoning ordinance requires a flood protection elevation of 774 ½ ft.; proposed ground elevation is 772 ½ ft. **Location: 20999 Riverwood Avenue, Noblesville, Indiana.** Please step up to the podium, state your name and address and tell us about your petition.

***Tim Nethery stated his name and introduced his wife, Arlene. We live at 20999 Riverwood Avenue.*** Good evening. We've been married 47 years. We are both life-long residents of Hamilton County. We have resided and owned our property at 20999 Riverwood Avenue for over 30 years. We recently tore our barn down which stood for over 130 years. Our home was also built over 130 years ago. They both survived the ten most historical floods of the White River. We have owned the property during seven of the ten worst floods. We have never seen flood water in or through the house or the barn.

We would like to think that we are just replacing the barn which we tore down. The new barn is the same size and basically on the same footprint of our old barn.

We own 31 acres not 19. There are 19+ acres on the west side of Riverwood Avenue and we have 11 acres on the east side. With our acreage we need a barn to keep our equipment, etc. out of the weather. We try to keep our property well maintained. This is our forever home.

We are committed to this rural community and the neighbors are very supportive of this new barn.

Mr. McMillan asked Mr. Nethery if the water had ever come across Riverwood Avenue towards his home. (2) Mr. Kiphart, are the topographical maps absolutely, positively accurate? (3) Have you had a surveyor out to know exactly the elevation of where the barn is going to go?

Mr. Nethery answered, no. (3) Nathan (*Althouse*) over at Millers said there was no sense in doing that until I got the variance okayed. It could cost me three or four hundred dollars and you guys could still say no.

(2) Mr. Kiphart answered, no.

Mr. Zeller stated that it looked like there were plans to raise the new barn 2 ½ ft. higher than the barn that was removed. (2) The ordinance requires 774. Is there a reason you're not going up a couple more feet to meet the requirement?

Mr. Nethery stated that they were planning on raising the barn up to 772 ½. (2) This is just my opinion, but I don't think it's necessary, but I don't think it would look very good and it will still be 2 ½ feet above the old barn. I don't want a real steep approach getting in the barn.

Mr. McMillan asked if the new barn would have a concrete floor. (2) Will there be any drains in it? (3) Is it going to have an upper level in it? (4) Not to be used as a residence or a commercial shop?

Mr. Nethery stated that it will have. (2) I would like to put a drain in it for snow melt. (3) No. (4) Personal use.

Mr. Habig asked Mr. Kiphart if he knew on floodplain insurance if there was going to be a difference whether or not he builds as our ordinance says or if he was allowed to do this 2 ft. shy.

Mr. Kiphart stated that he is sure there will be a different rate.

Mr. Nethery stated that he doesn't plan on putting flood insurance on the building. We don't have flood insurance on our home.

Mr. Pugel asked about the plans. You're showing hand-drawn openings in the walls.

Mr. Kiphart stated that they were equalizer holes so that if it does flood the water goes in and then it automatically goes out as soon as the water goes down. If he builds below the flood elevation plus 2 ft. our ordinances, both a county ordinance and our floodplain ordinance, requires that that be done. This may still have to go through the county drainage board because they control the flood requirements in the county code.

Mr. Kiphart stated that Mr. Nethery is going to take the fill to the northwest most part of the property and he has to take out five times more that he is going to fill in.

Mr. Galloway asked Mr. Nethery if that was what he was going to do. (2) When I looked at the drawing and where you were going to take the dirt it looked like it was higher back there.

Mr. Nethery stated that he was going to create more floodplain. (2) It is. It's actually out of the floodplain.

Mr. Pugel stated that there is a technical difference between the floodplain as a whole and the specific area that's called the floodway. I see you want to build outside the floodway. Mr. Kiphart, is that floodway line confirmed?

Mr. Kiphart answered, yes. It's through the state DNR best available information.

Mr. Galloway stated that many times when you have a surveyor check the flood elevation you will find that it's not quite right and you may not be quite as much in as you think you are.

Mr. Habig asked Mr. Kiphart... if he sat that barn back on top of the same footprint and used a part of the old barn, would he be able to do that without a permit?

Mr. Kiphart answered, no. The old building is gone.

Mr. Zeller asked theoretically if could he have.

Mr. Kiphart stated that he would have to read a little detail on the code. Probably not, unless it was below 50 % of the appraised value ~~{s}~~ of the barn. And of course, this is 100 %.

Mr. Pugel asked Mr. Kiphart about the letter from the surveyor talking about a separate process that has to be gone through with the Hamilton County Drainage Board. That would apply still and that could be done... after the variance is issued or before the variance is issued?

Mr. Kiphart answered, after. This is the harder part.

Mr. Galloway asked Mr. Nethery if he gets the variance would he go to the engineer's office and have a true floodplain definition. (2) No matter how that comes back you still plan on raising that a couple of feet? (3) That might come back 772 now.

Mr. Nethery stated that Greg Filson works just north of him. He said he could survey it. I will get a survey or whatever you guys want me to. (2) Yeah. ~~{Yea-}~~ (3) I was under the impression that it was 770 ft. and I'm going to raise it up just a little bit more than half and get it out of the floodplain.

The engineer is for the fill. He's got to inspect the fill. Nathan (*Althouse*) over at Miller's said that he could do that or I'm sure that Greg Filson could do that.

I'm not going to pour concrete over that fill. I'm gonna have some crushed stone or reclaimed concrete and that's what I'll pour my new floor on.

With no further questions from the board... Mr. McMillan opened the hearing to the public at 7:19 p.m. and invited anyone who wished to speak for or against the petition to please step forward, and state your name and address.

**Brad Beaver, of 20755 Riverwood Avenue**, stated his name and address for the record. My father and I own 20777 Riverwood Avenue. We've been there for over 30 years. The Netherys have always been good neighbors. They've always kept up their property. It's improved since they've owned it. I would stand in favor of you granting this variance so they can build this building.

With no one else stepping forward to address the board... Mr. McMillan closed the public portion of the hearing at 7:19 p.m. You are going to hear us approve this, but it doesn't mean that we're approving it. We need to do this to move forward with this portion of the meeting.

**Mr. Zeller moved to approve SBZA-R.V.-0006-08-2020.**

*Mr. Pugel seconded.*

Mr. Galloway stated it would be nice to have a condition on it that follows the surveyor's guidelines.

Mr. Pugel stated that the two pages from the surveyor's office outlines what has to happen next. I think that has to be conditioned on the approval.

Mr. Culp stated that he was going to suggest that ours is also contingent on him getting the drainage board approval.

Mr. Zeller stated that with the support of his neighbors, and they've been there a long time, and they're still raising the elevation up, and there hasn't been historical flooding according to what he's sharing... I don't have a problem with it with those conditions.

Mr. Habig stated he was the same way when asked that question. I was kind of like... if you're going to bring in fill lets go another two feet and get this up to... but then I didn't take into consideration driving up that steep a... so I see where you were going with that.

Mr. McMillan stated that this area was his neighborhood and he was very familiar with the property and what they've done out there. I've been out there the same amount of time. In front of the power plant water will cross but not where they're at. That's why I questioned if the topographical map was correct. I would like to see what it really is once it's surveyed. I don't see an issue with it.

After some discussion it was decided to add conditions receiving approval from the drainage board and the surveyor's office.

**Mr. Galloway moved to add the conditions to the motion.**

*Mr. Zeller seconded.*

**With no further comments... Mr. McMillan called for the vote on adding the conditions. 5 yes votes... 0 no votes.**

**With no further comments... Mr. McMillan called for the vote on the motion as amended. 5 yes votes... 0 no votes.** Congratulations.

Mr. McMillan continued with **SBZA-R.V.-0007-08-2020**. That has been withdrawn.

*Director's Report:* No report.

*Legal Counsel Report:* No report.

Our next meeting will be Wednesday, September 23, 2020.

With nothing further to come before the board... **Mr. McMillan asked for a motion to adjourn.**

**Mr. Galloway so moved.**

*Mr. Zeller seconded.*

With no further comments... Mr. McMillan called for the vote. **5 yes votes... 0 no votes.**  
Meeting adjourned at 7:29 p.m.

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Charlie McMillan, Jr. Chairman

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Date

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Linda Burdett, Secretary

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Date