

PLYMOUTH BOARD OF ZONING APPEALS

April 4, 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 April 4, 2023, at 8:08 p.m. Board President Art Jacobs called the meeting to order for Board Members Mark Gidley, Brandon Richie and Paul Wendel. Board Member Alan Selge was absent. Alternate Fred Webster was in attendance but not needed. Alternate Linda Secor was absent. 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.

Board Members Gidley and Richie moved and seconded to approve the minutes of March 7, 2023. The motion carried.

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

<p>NOTICE OF PUBLIC HEARING</p> <p>The Board of Zoning Appeals of the City of Plymouth, Indiana will hold a public hearing on April 4, 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:</p> <p>BZA 2023-08: Grant and Gina Hierlmeier, 2490 Hillcrest Ave, Plymouth, IN 46563: A Variance of Development Standards to reduce the side yard setback from the required ten (10) feet to five (5) feet to construct an attached garage at 2490 Hillcrest Ave, Plymouth, IN 46563, on parcel 50-32-06-302-176.001-019, zoned R-2 Suburban Residential District.</p>	<p>BZA 2023-09: Matthew and Chelsea Smith, 6661 Michigan RD., Plymouth, IN 46563: A Variance of Developmental Standards request to add up to five (5) additional cows, on parcel, 50-42-20-000-061.000-009 zoned R-1, Rural Residential District.</p> <p>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, please call the ADA Coordinator at 574-936-2948.</p> <p>Kyle Williams, Recording Secretary, Board of Zoning Appeals, March 23, 2023</p> <p>March 23, 2023 PN344482 hspaxlp</p>
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BZA 2023-08: Grant and Gina Hierlmeier, 2490 Hillcrest Ave, Plymouth, IN 46563: A Variance of Development Standards to reduce the side yard setback from the required ten (10) feet to five (5) feet to construct an attached garage at 2490 Hillcrest Ave, Plymouth, IN 46563, on parcel 50-32-06-302-176.001-019, zoned R-2 Suburban 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.

Gidley asks if the red line on the street was made by the applicant or the surveyor.

Booker responds by stating that he cannot answer that question.

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Letter of Intent

Please let this letter serve as notice to request a variance to reduce the side yard setback from the required 10'0" to 5'0" on the east property line. The proposed addition should leave 7' of setback, but until final design drawings are completed, 5' is being requested. If the variance is approved, project will move ahead to complete design drawings.

This variance will permit the construction of a single bay (1) car attached garage to the existing structure on an R2 suburban residential zoned parcel. The addition will be a wood framed type construction and will cosmetically match the existing structures roof lines and appearance on the exterior.

The reason for the request of variance is due to the inability to build an accessory building on our property per property covenant. We explored reconstructing the entire garage to allow for the additional space while leaving the required 10' setback but found that option to be cost prohibitive. The proposed addition has been approved by the overseer of the covenant. We feel this addition will not impose any hardships on the single adjoining property as it sits further than the required 10'0" from the property line.

The main use of the addition will be to store household accessory equipment, vehicles, watercraft and/or trailer.

The addition does not adversely affect the comprehensive plan. This property is serviced by city and public utilities.

Respectfully,

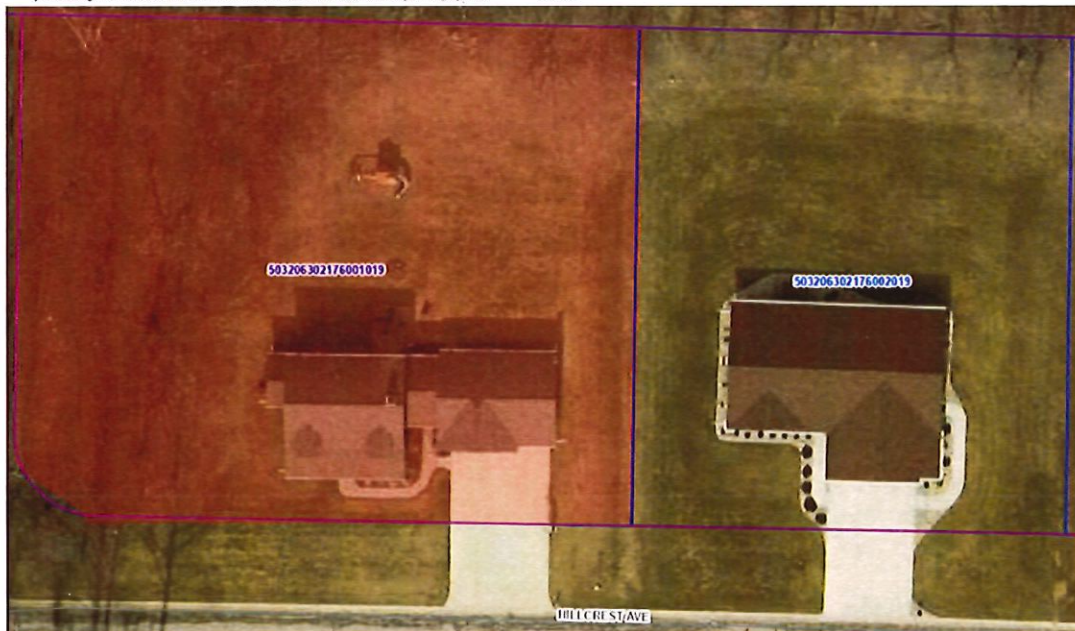
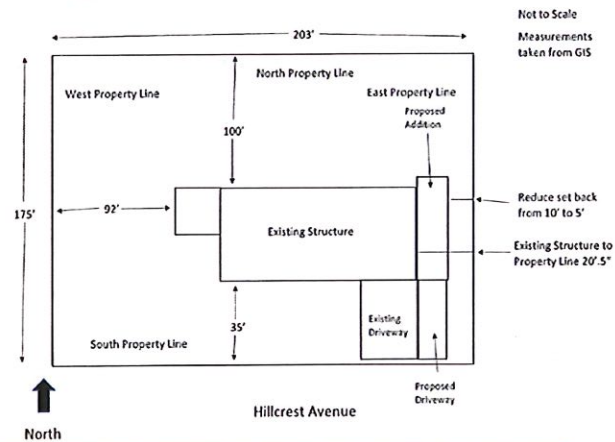
Grant Hiermeier

Petitioner's Proposed Findings of Fact

- Granting of this variance will not be injurious to the public health, safety, morals and general welfare of the community because:
 - The spirit of side yard setback distance will be maintained. If approved, the open setback space on the east property line would be 7 feet.
- The use and value of the area adjacent to the property included in this variance will not be affected in a substantially adverse manner because:
 - adjacent house is roughly 25 feet from the shared property line. In addition, there would still be 7 feet of setback on petitioner's side.
- The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:
 - Desired additional indoor parking may lead to more on street parking or unsightly outdoor parking of vehicles and household equipment. The variance would allow for us to safely park additional vehicles inside out of the street and yard. Neighborhood aesthetics would also benefit from indoor parking space.

Additional Information

- We would like to extend our garage by adding a single door bay. To fit the single door bay onto the existing garage, a variance to set back would be needed. R2 Suburban Residential minimum side yard setback is 10ft. We are asking for a 5ft setback instead of 10. While we are asking for a variance for a 5ft setback, we have discussed adjusting the size of proposed addition to leave an 8ft set back. If variance is approved, we will make the dimensional changes on the plans.
- Strict enforcement of the 10ft set back would prevent us from adding additional indoor vehicle storage. The variance would enable vehicles to be safely parked indoors out of the way and would maintain the aesthetics of the neighborhood.
- The existing house was positioned on the lot 20 feet from the property line due lot being half wooded. The wooded portion was left to maintain the natural vegetation and mature trees on the lot.
- We explored adding a detached accessory building on the lot. While zoning allows for a detached accessory building, restrictive covenants on the property do not allow accessory buildings. We also explored entirely reconstructing the garage to maintain the standard 10ft setback but found it to be cost prohibitive.
- There would be no significant impact to sensitive public resources or adjacent properties by granting the variance. The house on the property sharing the property line is approximately 25 feet from the property line.
- The spirit of setback ordinances would be maintained in this case as there would still be room for access and neighboring structures are approximately 25 feet from the property line.



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Grant Hierlmeier (2490 Hillcrest Ave., Plymouth, IN 46563)

Hierlmeier responds by stating that red line is not the property line but rather an underground electric line. He states that property line is right on the bow between the properties just beyond the light pole there. He states that the property stake is still there but it is just covered up with some ground.

Jacobs asked if all he wants to do is turn his three-car garage into a four-car garage.

Hierlmeier responds by stating that the proposed addition will come out about even to the light pole and will leave 5-7 of the proposed setback as what it would come to.

Wendel asks how many homes out there have a four-car garage.

Hierlmeier responds by stating there is at least one. He states you can see one just past the basketball court there and that is the only one off the top of his head.

Gidley asks if he is going to widen the driveway.

Hierlmeier responds by stating that the driveway would be widened to match the proposed addition.

Wendel asks what the space would be from his house to the neighbor's property line.

Jacobs responds by stating 5-7 feet.

Wendel states that he is talking about from the house to the neighbor's house.

Hierlmeier believes that it will be over 20 feet. He states that he had measured it out on the GIS. He states from the proposed addition to the neighbor's house that it will be around 40 feet he thought.

Gidley asks if he is currently storing something in his driveway that he is wanting to put in his garage. He provides the example of a boat.

Hierlmeier responds by stating that it is currently stored off property.

Gidley states that he plans to store it inside then.

Hierlmeier agrees and states that it would be better than in the driveway or in the yard. He states that it will keep it out of the street and out of the yard.

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

John Vialard (2470 Hillcrest Ave., Plymouth, IN 46563)

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Vialard states that they live directly east at the green house next to the property. He states they have absolutely no problem with what Hierlmeier wants to do.

Jacobs asks for clarification that it is his house that he will be building closer to.

Vialard agrees and he states they do not have an issue with that at all.

Larry Fields (2506 Pin Oak Ct., Plymouth, IN 46563)

Booker read the attached letter aloud.

Diana Major Fields
Larry Fields
2506 Pin Oak Ct
Plymouth, IN 46563

March 27, 2023

Plymouth Board of Zoning Appeals
Plymouth City Hall
124 N Michigan St
Plymouth, IN 46563

Dear Members of the Plymouth Board of Zoning Appeals:

RE: BZA 2023-08

Please note Larry Fields is not listed as an owner of the property at 2506 Pin Oak Ct but I do live there with my wife. We were not married when we bought the property and she had a better credit rating than me.

I want to make a comment on this request to change the side yard setback from 10 feet to 5 feet for the construction of an attached garage.

If this request would be granted this property would have the only 4 car garage in this section of Tall Oaks Estates, setting a precedent that others could use to argue that they should be allowed to make changes to their property.

I am not in favor of reducing the side yard setback. If this would be approved the side yard between the two houses would be reduced to 15 feet. This section of Tall Oaks Estates is very open with large lots and space between house that makes it a comfortable place to live. Again, I would argue that this would set a precedent for others to make changes in this section.

I believe that when the zoning regulations were developed this setback for side yards was set for the good reason and should not be changed to allow a resident to have a four car garage. I do not feel a 4 car garage is appropriate for this area.

Sincerely,


Larry Fields

Hierlmeier responds by stating that there is inaccuracy in that letter as there is a four-car garage that he can see from his house.

Gidley asks if they have a homeowner's association.

Hierlmeier responds by stating they do not.

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Gidley asks if the owner is still enforcing the covenants.

Hierlmeier responds by stating that they seem to be mostly.

Gidley states they must have told him that he could not have an outbuilding. Hierlmeier agrees. Hidley states that he used to know who the developer was and asks who it is.

Hierlmeier responds by stating Craig Schoof as he is a co-owner. He states when they looked to adding an accessory building that they got as far as getting a quote for the building and when they called for a permit, found out that the covenants were stricter there then they understood.

Gidley asks if he spoke to Schoof about this addition and if was okay with it.

Hierlmeier responds by stating that he spoke with him and he was fine with it. He adds that he had sent him some renderings.

Gidley asks if the overhang of the roof is included in the dimension. He states that would have to be measured in with the setback. He states if they were to have a foot and a half of overhang then that would eat into the setback.

Hierlmeier responds by stating that even with the overhang that they would still be within the limitations. He states that they were thinking about shrinking the original rendering by making it a foot smaller. He states that Schoof had provided written approval via text message.

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

Wendel asks what the side yard setback is.

Booker responds by stating it is 10 feet.

Gidley asks Jacobs if there are any firefighting issues with that.

Jacobs responds by stating that there are not any issues with the 15 feet versus the 20 feet. He states that five feet is not going to improve anything drastically by any means. He states that his suggestion would be to not have a fire.

Booker adds you could put that in the motion.

Board Members Hidley and Richie moved and seconded to approve BZA 2023-08 as presented. The motion passed by roll call vote.

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

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BZA 2023-09: Matthew and Chelsea Smith, 6661 Michigan Rd., Plymouth, IN 46563: A Variance of Developmental Standards request to add up to five (5) cows, on parcel, 50-42-20-000-061.000-009 zoned R-1, Rural 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.

Date: February 27, 2023

RE: Letter of Intent for Variance of Use Request

To whom it may concern:

Chelsea and Matthew Smith (H/W) are the owners of 6661 Michigan Rd, Plymouth, IN 46563. We are requesting a Variance of Use for our property to be allowed to have up to 5 cows on our property that will be properly housed, enclosed, and cared for. Our property, being within the 2-mile zone of the City of Plymouth requires this Variance of Use. The desire for the cows is to raise them for consumption. We have the barn, fencing, additional space in the rear of the property for future grazing, experience, and financial capacity to care for the animals. We enjoy raising our own food and being self-sufficient as much as possible.

As of 2/25/23, we are currently in possession of 2 heifers and 1 steer that are 7/8 months old. The opportunity to acquire them fell into our laps and we had to act quickly. With uncertain economic times and rising food prices, we felt we could not pass on the opportunity. We understand this made us not in compliance with the zoning ordinances. While where the cows are housed is not visible from the road, we knew we needed to apply for this variance to ensure no future issues. We likely will never have more than 4 on the property at any given time. However, we are asking for approval for up to 5 in case there is a brief overlap of when calves are born and older stock are taken to butcher.

Enclosed with this packet is the completed Variance of Use application, a site plan, and legal description of the property. Names and addresses of adjoining property owners within 300 ft:

- John I Oliver – 13339 6A Rd, Plymouth, IN 46563
- John C Oliver Jr – 13337 6A Rd, Plymouth, IN 46563
- Miguel & Tabitha Medrano – 6689 Michigan Rd, Plymouth, IN 46563
- Daniel & Melissa Neldig – 6400 Michigan Rd, Plymouth, IN 46563
- Harold and Jane Abair – 6699 Michigan Rd, Plymouth, IN 46563
- Danny Perry – 6720 Michigan Rd, Plymouth, IN 46563

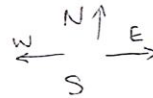
Our family appreciates your consideration of this application.

Site Plan

Overall map of neighboring properties



Close up view with fencing area



- = Property boundaries
- = where animals are housed
- = current fencing
- - - = future fencing
- = future lane leading to future grazing area once fencing is done

No recorded easements

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Booker reminds those who were on the Board that the Smith's came in and got a Variance of Use back in 2021 in order raise up to 6 goats and 20 chickens on this parcel and this was approved. He states they are doing some livestock activity there now. He states that from his understanding that they are going to use the western part of the property as a pasture.

Wendel asks how large the property is.

Booker responds by stating it is 6 acres.

Jacobs asks Booker if they already had cattle on the property before. Booker responds by stating they have not. Jacobs asks for clarification that they have put them on there since they have approved goats and chickens. Booker agrees.

Wendel states that the wording says five additional cows. Booker agrees and states that it should just be five cows.

Jacobs asks if there are cows there currently. Booker agrees and states that she is getting approval for those that are on there.

Wendel asks who she is getting approval from.

Booker responds by stating that she is getting approval from the city.

Wendel states that it should be five cows' period and not five cows additional. Booker agrees.

Jacobs states that they are already there though.

Gidley explains that from the sounds of it that it was an emergency thing.

Booker states that she is just asking to get an approval.

Gidley asks Smith if there are actually five cows.

Chelsea Smith (6661 Michigan RD., Plymouth, IN 46563):

Smith responds by stating there are just three right now.

Gidley asks if that is just in case some new ones are birthed. Smith agrees.

Smith explains that Booker did an excellent job explaining what they want to do aside from the wording of additional five since it wasn't additional. She states that they came across these cows and right now at market a cow goes for a \$1.90/ lb - \$2.15/ lb and they were able to get them at \$1.50/ lb and they felt that was a good opportunity. She states they generally consume a lot more venison than they do beef but they would like to have these cows here and breed the two heifers and take the steer to the butcher sometime this winter.

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Jacobs asks if they have five on there now.

Smith responds by stating they only have three. She states that they are two heifers and one steer. She explains that if they breed the two heifers and depending on when the cows are born, they may go up to five.

Gidley explains that over the years they have made some requests like this and he doesn't have any farm background but he has learned a couple of things along the way. He states that beef cows smell different from dairy cows and he learned that at this meeting when they let the Belted Galloways south of town. He states that he is going to ask a question and it will not really be directed at her and he asks a lot of these questions so the public knows questions are being asked. He states that it is not to put her on the spot. He asks how much waste five beef cows will produce and can five acres of pasture support that.

Smith responds by stating that it can but it depends how you feed them. She states that you can house in that very tiny L-Shape where they are at now and entirely grain feed them. She states that they would take their skid loader and take the waste out. She states that they also have 40 acres that they are buying from their dad on 6th Road and they can spread that out on that field if they needed to. She states that is why they wanted to extend it out to the back because they are not entirely grain fed type of people and they would like some grass fed in there.

Gidley states that he knew her Dad and that he knew that if there was a problem that her with her six acres that she had a place where she could go with excess waste if there were to be. He states that he knows there are some people who do not have the extra 40 acres to go to with it.

Jacobs asks if she can just spread the manure without a permit.

Smith states that she is unsure.

Booker responds by stating that they can.

Smith thanks Booker because she was uncertain.

Booker explains that you get in trouble when you spread too much manure and you harm the water supply.

Smith states that she does not believe three cows are going to produce that much.

Board Members Wendel and Gidley moved and seconded to open the public hearing. The motion carried.

City Attorney Surrisi wished to add that Mrs. Smith has been gracious enough to serve in the two-mile zone and volunteer on their comprehensive plan committee that is going on right now and come in on this variance.

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

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Board Members Gidley and Richie moved and seconded to approve BZA 2023-09 with the change of wording to “five (5) cows” instead of “five (5) additional cows”. The motion passed by roll call vote.

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

Booker adds that he wrote the additional in their because he believed it was additional to what they already had.

Wendel asks Booker if they are going to have to do anything about the 4-H kids.

Booker responds by stating that it was proposed once to the Plan Commission years ago and if he remembers correctly that Plan Commission meeting had a small quorum and they explained they would just leave that in there and have people go to the BZA. He states that his opinion is in the R-1 District that they should allow those in the 4-H to have limited livestock such as Smith. He states that she has younger kids that he would assume would be in 4-H. He states that every one of these that has come in aside from some limitations that were made had been approved.

Gidley states there was only one he was aware of that was approved but they were unsure it was being followed was out on Jefferson. He states that when they looked out there one time that there were more animals than what was approved.

Jacobs explained they had a ton more.

Gidley states that the only problem he has with it is how to enforce it. He explains that Manuwal can't go out there and count all the time. He explains that he can trust Smith because she has come in each time ahead of time.

Booker argues that he doesn't believe that it is being enforced now anyway. He states that in her particular case when he went out there her neighbor was in violation. He states across from the Wesleyan Church his grandchildren had ducks. He suspects if you were to look around the two-mile zone that other than the people who are already grandfathered in that there are a few farms that had cattle before the ordinance was passed. He states there is a lot of livestock out there.

Wendel asks if there are any 4-H kids that currently cannot have livestock because it is not allowed.

Jacobs responds by stating in town.

Booker adds that is another issue because there are now some cities and towns that are allowing that.

Jacobs asks if he can put a pig farm out on his 30 acres.

Booker swiftly declines.

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Jacobs states that he was asking for a friend.

Booker adds that he could try through the process of course but the max he could put is 30 pigs out there if approved.

Booker explains that they have not discussed agriculture at all on the Comprehensive Plan and he thinks they need to discuss that.

Jacobs believes that it would be nice for Manuwal to state that there is some type of limit to that ordinance where it states in the two-mile zone that they could have whatever the 4-H amount might be instead of having to go through this. He states that it could take a month or two before a meeting and if an opportunity comes up where they can buy something then you would be stuck.

Gidley asks if anyone knows if the Dunkin' Donuts got another curb cut from INDOT or not.

Booker responds by stating they did not.

Surrisi states they have not initiated the process yet. The Mayor and I met with the owner and believe he will be requesting it.

Jacobs asks if the home between there and the Culver's is going to stay.

Booker responds by stating it is another lot and the proposal is to put another facility in there.

Jacobs asks what facility.

Surrisi responds by stating Scooter's Coffee.

Gidley asks about the one near Martin's.

Booker responds by stating the one near Martin's has been approved but he has not heard anything since.

There being no other business, Board Members Wendel and Gidley moved and seconded to adjourn the meeting. The motion carried and the meeting adjourned at 8:10 p.m.



Kyle Williams— Recording Secretary