

PLYMOUTH BOARD OF ZONING APPEALS

January 2, 2024

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 January 2, 2024, at 7:30 p.m. Board President Art Jacobs called the meeting to order for Board Members Mark Gidley, Brandon Richie, Paul Wendel and Alternate Linda Secor. Board Member Alan Selge was absent. Alternate Fred Webster was in attendance but not needed. Others present were Building Commissioner Dennis Manuwal Jr., City Attorney Jeff Houin, Mayor Robert Listenberger and Plan Consultant Ralph Booker. The public was able to see and hear the meeting through Microsoft Teams.

Board Members Wendel and Richie moved and seconded to approve the minutes of December 5, 2023. The motion carried.

Board Members Wendel and Richie moved and seconded to retain the current slate of officers. The motion carried.

Current Officers:

Art Jacobs, President

Mark Gidley, Vice President

Alan Selge, Secretary

Plan Consultant Booker states the Plan Commission left their meeting times at the same time of 7:00 pm.

Wendel moves to set their meeting times to 6:00 PM. The motion died due to lack of a second.

Jacobs asks if there is anything else in front of that meeting.

Williams responds by stating there is not.

Jacobs asks the Mayor and the City Attorney if there would be any problems with that time.

Mayor Listenberger responds by stating if you really wanted to move the meeting ahead of the Plan Commission, then he would suggest 6:30 PM, as they are doing 7:00 PM. He explains you would be sitting here a long time between meetings if you were in both meetings.

Jacobs states he wants to be sure we are not creating a ruckus for some reason because he is uncertain if there was a reason they have always went after.

Booker states his thought is because your meetings are usually longer so that is the reason why yours was after. He explains typically the Plan Commission is usually really short and concise so they end fairly early, while the BZA can go an extended period of time.

Jacobs states they have had it where they do not start their meetings until 8:00 – 8:30 PM on several occasions because the Plan Commission has gone longer.

Wendel asks Manuwal what his thoughts were on swapping the meeting times.

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Manuwal responds by stating he was recommending moving the BZA before the Plan Commission for the simple fact of needing approval from both boards.

Jacobs asks if we can table this and keep it the way it is until he has a chance to speak to the President of the Plan Commission. He states he does not want to create a ruckus.

Mayor Listenberger adds that the other board may have conflicts with earlier.

Houin states you could set a time for next month's meeting and not make a decision until then about the rest of the year.

Jacobs states between now and the next meeting, he will reach out to the President of the Plan Commission.

Board Members Richie and Wendel moved and seconded to retain the current schedule of the first Tuesday of each month at 7:30 p.m. or immediately following the Plymouth Plan Commission meeting for February and to table the rest of this discussion until February. The motion carried.

The following legal notice was advertised in the Pilot News on December 21, 2023:

**NOTICE OF
PUBLIC HEARING**

The Board of Zoning Appeals of the City of Plymouth, Indiana will hold a public hearing on January 2, 2024 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:

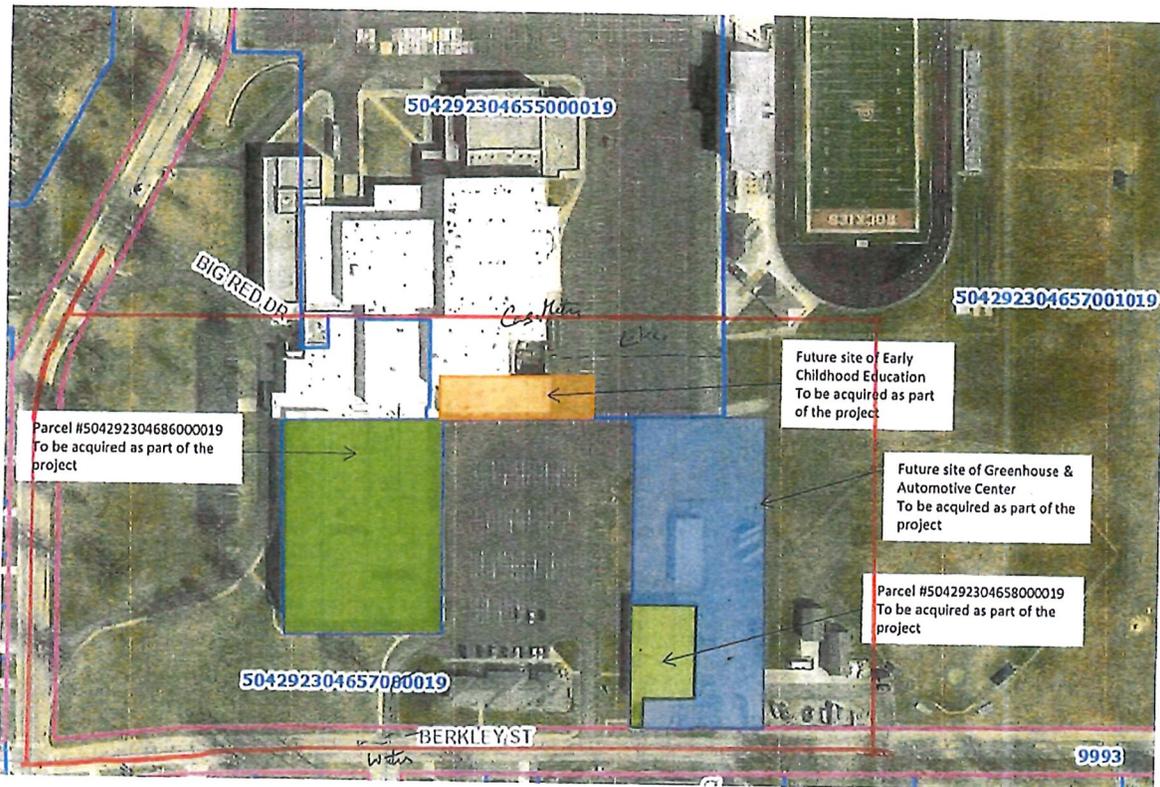
BZA 2024-01: Plymouth Community School Corporation and Plymouth Multischool Building Corp, 611 Berkley St., Plymouth, IN 46563: A Variance of development Standards for a zero (0) side yard setback and a zero (0) rear setback for Lot 2 of a proposed minor subdivision plat on parcels 50-42-92-304-686.000-019, 50-42-92-304-655.000-019 and 50-42-92-304-657.000-019, located at 611 Berkley 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.

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Legals

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. Kyle Williams, Recording Secretary, Board of Zoning Appeals, December 21, 2023
December 21, 2023 PN352751 hspaxp

BZA 2024-01: Plymouth Community School Corporation and Plymouth Multischool Building Corp, 611 Berkley St., Plymouth, IN 46563: A Variance of Development Standards for a zero (0) side yard setback and a zero (0) rear setback for Lot 2 of a proposed minor subdivision plat on parcels 50-42-92-304-686.000-019, 50-42-92-304-655.000-019 and 50-42-92-304-657.000-019, located at 611 Berkley St., Plymouth, IN 46563, zoned R-3, Traditional Residential District.

Marshall County Career Innovation Center



Booker clarifies that you are not approving the plat tonight but you are approving the zero rear yard and side yard setbacks so they can come back and submit a plat if this is approved at this meeting. He states because these lot lines go through buildings, they will still have to meet code in order to accomplish that.

Jacobs asks for clarification if they already have zero setback right now.

Booker responds by stating it is not a separate lot right now as this is a new lot line. He states he is correct that there are some zero setbacks out there now. He believes the school has done this over the years to do financing for the school several times.

Wendel asks if this is approved tonight, if they have to come back next month for the Plan Commission. Booker agrees. Wendel states this is one of the of the cases where this all could have been done in one night.

Booker responds by stating you could if you had the BZA first. He explains the Plan Commission cannot approve variances and only the BZA can do that.

Bernie Feeney (1405 N. Michigan Street, Plymouth, IN 46563)

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Feeney states he is a Land Surveyor with Wightman Associates. He provides images for the board as seen above. He states the purpose of this request is to create lots out there at the south end of the Plymouth High School property on the north side of Berkley Street. He explains this would allow for funding for them to be created in a much easier fashion instead of trying to follow a legal description around a piece of property. He states in this particular case, the property will be described as Lot 2 or Lot 3. He states the administration building was set on its own lot because it is not going to be a part of this project, but it is surrounded by the property. He explains, as Booker indicated, we will be coming back next month for the plat. He states they have already begun preparation of that because it has to be filed shortly with the City Office. He states they are still in the process of verifying all the easements to ensure they have all the egress and ingress located. He explains they also have to locate some of the hallways inside this wing of the building in order to create egress and ingress between the part of the building that will remain Plymouth Community School Corporation and the part of the building that will be placed in the funding package.

Gidley asks if he has some expectation on where this new building will be located.

Feeney responds by stating there is not so much new building construction, because the green area in the lower right hand side is the former maintenance building for the buses and everything else. He states there is potential for a future site for a greenhouse in the blue, which could be constructed on that piece of property. He states the orange site is the future site of the Early Childhood Education Center. He states the south end of the High School building is part of the funding package there. He states the two uses that are specific to this project are the orange use and the blue area around the transportation building. He states the zero lot line is the north area up at the north end of the wing that is created and runs along the south side of the hallway. He states it then jogs to go around the west and north sides of the orange parcel. He states there is an area of the last page that shows the boundaries of the three lots showing you where the perimeters of where each will be. He states in every instance they made every effort to comply all of the requirements of the R-3 Zoning.

Gidley asks Houin if this is non-taxable unit. Houin agrees. Gidley asks for clarification that it does not matter if there are two entities side by side sharing hallways.

Houin responds by stating he cannot speak to the details of the construction but from his understanding they will not be sharing hallways. He explains there will be dividing walls inside the building to separate the uses into different spaces and that is represented in the same spaces as these lot lines. He states that is at least on the north end. He states on the southwest portion of the high school will all be one lot but it will still be divided for use internally.

Gidley asks if there will be two entities operating inside of there.

Houin responds by stating there will be different entities operating in the building but it will not be different entities owning the real estate.

Gidley asks if Plymouth School Building Corporation will continue to answer the building.

Feeney responds by stating Plymouth Community School Corporation will continue to own the property and the building as they do currently. He states Plymouth Building Corporation, which is a division of the Plymouth Community School Corporation, will own the lots 2 and 3 that we are

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wanting to create here. He states this is no different than any previous funding actions that the school has entered into.

Gidley asks how these entities are going to work side by side. He adds this may not be the place for this question but as a former School Board member, he is trying to get his arms around how they have another entity.

Houin responds by stating the reason he cannot answer your specific question is that he does not know how the funding will be for this particular project. He states he can explain the reason for the different entities. He explains under Indiana Law, School Corporations are not allowed to take on long-term debt so when they do a bond issue, which is a typical way of financing these projects, they transfer title of the real estate to a separate entity. He lists the example of the Plymouth Multischool Building Corporation, which was created as an entity for the purpose of holding title and issuing the bonds for the debt. He states there is a lease agreement then where the School Corporation leases back that real estate for school purposes. He states because it is used for school purposes, you asked if it was a taxable entity, it is not because the use of the property and not what entity owns it. He states there is a structure where the separate entity owns the real estate, leases it to the school corporation, it is that entity that issues the bonds, and so the School Corporation agrees through the lease to make the payments on those bonds. He states that information may not help, as this is a complicated structure.

Gidley states this may not be the place for the question but the question is who becomes the stakeholder that has to service the debt. He asks if it is only Plymouth Community School Corporation, people of Center and West Township, or because it serves multiple school districts, are other people going to have to pay for it.

Houin responds by stating it will be whoever agrees under the contractual lease agreements to make those payments. He states legally, the entity that is ultimately responsible is the entity that owns the real estate and issues the bonds. He lists the example of Plymouth Multischool Building Corporation but that building corporation is not created without a separate lease agreement where the School Corporation signs a lease contract to make those payments on behalf of the Plymouth Multischool Building Corporation.

Gidley asks if the other school districts that have students in that building will be signing a lease.

Houin responds by stating he cannot give you all the details but there are several entities involved in the Career and Technical Education (CTE) Programs and they are all involved through contractual agreements with one another. He states a School Corporation that is sending students to that program might have an agreement to make a payment for that student and it does not obligate them on the debt service, but rather just the contract they signed for the students they are sending for the programs. He states you are peeling back an onion with a lot of layers.

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

There were no comments at this time.

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

Board Members Wendel and Richie moved and seconded to approve BZA 2024-01 as presented. The motion passed by roll call vote.

Yes: Gidley, Secor, Richie, Wendel and Jacobs

No: None

Absent: Selge

Jacobs asks why they have to have zero setbacks to be eligible for funding.

Feeney responds by stating because the property lines will be cutting through the buildings and they wanted to make certain the lot was legal from the standpoint of the zoning ordinance. He states there is a 15-foot rear yard setback and a 10-foot side yard setback they have to contend with and both of those would have been in violation of for the plat so they wanted to be sure they were right.

Other Business:

Gidley asks what they plan on doing for the timing of this meeting.

Jacobs responds by stating that is a good question. He states Wendel suggested 6:00 PM and the Mayor had mentioned 6:30 PM. He explains his concern is pushing the other group back instead of them being back so he wants to meet with the President of the Plan Commission.

Wendel states for this case, it could have all been done in one night but now they have to come back next month.

Gidley believes because of this very situation that the BZA ought to be before the Plan Commission.

Jacobs states he will talk with Feece. He explains they had voted earlier to keep the meeting date and time the same for next month and they will make any changes at that time if Feece does not have any issues with it.

Gidley states this situation has happened before where they happen to go an extra month over a 30-minute difference in timing.

Mayor Listenberger states if this meeting was at 6:00 PM, it did not go very long.

Jacobs responds by stating this is very rare. He states what he is afraid of is if they start at 6:30 PM and then they have a three-hour meeting, so we are pushing them back until 10:00 PM. He states to him it makes no difference, but he would like to get everyone together to agree.

Jacobs ask about the new additions going out off of Nutmeg Road. He asks about the setbacks as a house is about 5 feet away from the house that is already built there. He states it is across from the school and facing it. He states it is about 5-6 yards from the property line there.

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Booker responds by stating we would have to look at the plat.

Jacobs asks if the plat is already done and approved, then they would have nothing to do with that and it would be okay.

Booker responds by stating if the plat was approved, then yes.

Jacobs wants to be sure because it is close.

Manuwal responds by stating if the plat is approved for this certain setback, then yes.

Jacobs asks if a subdivision can have a setback right up against the line.

Booker responds by stating they would have to get variances and they could have in the past if the plat was done a long time ago.

Jacobs states he believes that was platted out long before they started building. He asks if they can check into what the side-yard setback is.

Manuwal and Booker respond by stating they can check.

There being no other business, Board Members Wendel and Richie moved and seconded to adjourn the meeting. The motion carried and the meeting adjourned at 7:57 p.m.



Kyle Williams— Recording Secretary