

## PLYMOUTH BOARD OF ZONING APPEALS

July 6, 2021

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 6, 2021 at 7:30 p.m. Board President Art Jacobs called the meeting to order for Board Members Mark Gidley, Alan Selge, Fred Webster and Linda Secor. Board Member Keith Wickens arrived late and traded places with alternate member Webster after BZA 2021-12. Others present were City Attorney Sean Surrisi, Plan Consultant Ralph Booker, Building Commissioner Keith Hammonds. Board member Yadon was absent.

Board Members Webster and Gidley moved and seconded to approve the minutes of last regular meeting of June 1, 2021, as presented. The motion carried.

The following legal notice was advertised in the Pilot News on June 21, 2021:

### NOTICE OF PUBLIC HEARING

The Board of Zoning Appeals of the City of Plymouth, Indiana will hold a public hearing on July 6, 2021 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 2021-12:** Daniel and Regina Marohn, 10811 Nutmeg Meadows DR. Plymouth, IN 46563: A Variance of Use to have up to four (4) hen chickens on parcel 503208000188000018, located at 10811 Nutmeg Meadows DR., Plymouth, IN 46563, zoned R-2 Suburban Residential District.

**BZA 2021-13:** Daniel and Janice Weaver, 9553 Country LN., Plymouth, IN 46563: A Variance of Development Standards to reduce the front yard setback on Country LN. to twenty-five (25) feet instead of the required forty (40) feet on

### 116 Legals

parcel 503208000224000018, at 9553 Country LN., Plymouth, IN 46563, zoned R-2 Suburban 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, please call the ADA Coordinator at 574-936-2948.

Kathryn Hickman, Recording Secretary, Board of Zoning Appeals, June 24, 2021

June 21, 2021 PN325175 hickxla

**BZA 2021-12:** Daniel and Regina Marohn, 10811 Nutmeg Meadows DR. Plymouth, IN 46563: A Variance of Use to have up to four (4) hen chickens on parcel 503208000188000018, located at 10811 Nutmeg Meadows Dr., Plymouth, IN 46563, 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.

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Tuesday, June 15, 2021

**Letter of Intent  
In Support of Request for Variance  
10811 Nutmeg Meadows Drive, Plymouth, IN. 46563**

This Letter of Intent is in support of my request for a variance to raise up to four (4) hen chickens in a back yard within the two-mile Zoning Boundary. The intention is to raise the chickens for the purpose of egg production for personal consumption and as companion pets for our children to teach them responsibilities and life skills.

Our house is located in the back of a smaller neighborhood with larger lot sizes. The backyard, where the chickens are located, is bordered by a tree line with farmland beyond. The chickens are contained within a 30' x 30' existing garden and housed in a shelter matching the style and color of the home and are only allowed to roam our yard while supervised. The geography and location behind the house helps shield the area from view but green-scape provides additional shielding of the shelter from the road and neighbors.

What I would ask the Board to consider is; (1) that the area is kept clean and odor-free; (2) that the shelter, which is within an existing garden and shielded with shrubs, and is consistent with the style and color of the residence, abuts farmland and creates no undue burden on any neighboring residence and; (3) that we are only requesting up to four hens (no roosters), so as not to create a disturbance to the neighbors and are not very much different than the abundant number wild rabbits, turkey and deer that frequent the neighborhood.

Thank you for your consideration.

Respectfully submitted,



Daniel W. Marohn

Booker stated that the four hen chickens were already located on the property. The current pen is located behind the house. At the time that he visited the property the homeowners were working to plant arborvitae plants around the chicken pen.

Applicants Daniel and Regina Marohn were present to discuss their request and answer the questions of the board. Daniel Marohn stated that they wanted to raise the chickens for eggs for the family. Their youngest son had some difficulties early on, and he always responded well to animals. The dog that they had helped, but he had responded the best to these chickens. He would be learning responsibilities with these chickens as well. They are only let loose when their son takes them out and has them follow him around. The chickens and their son are always supervised during this time. He added that they want to be good neighbors and that was why they originally got rid of the roosters they had received and have since tastefully decorated around the pen to keep things nice and tidy. They work to keep the pen clean and free of odors. He also submitted the following letter from his neighbor who was in support of the chickens which was read aloud by Booker.

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Dear Marohn Family,

I so appreciate your kindness in mowing my lawn.

Tim passed away, suddenly and unexpectedly, on June 2 at home.

It is taking me a bit of time to figure out some of the daily tasks he performed.

My daughter and I think we finally figured out the lawn tractor and how to lower the cutting blade.

Tim's Obit can be found here:

<https://www.johnson-danielson.com/obituaries/timothy-j-opar/>

On behalf of Tim, myself and my family please accept our gratitude for your act of kindness.

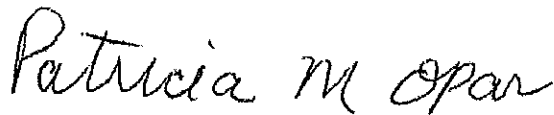
Enclosed also is a note of approval for your "chickens", as Tim and I have/had no objections.

  
Trish Opar

Board of Zoning:

BZA 2021-12

We have no objections to the request filed by Daniel and Regina Marohn 10811 Nutmeg Meadows Dr. Plymouth, IN 46563 for a variance of up to (4) four hen chickens.



Patricia M. Opar on behalf of the estate of Timothy J. Opar

10809 Nutmeg Meadows Dr, Plymouth, IN 46563

Gidley asked if they had any communication with the neighbor to the south. Daniel Marohn stated that they had. Those neighbors keep them informed on if they have any chickens fly the coop, and have come over with their family to play with the chickens. He stated that they did not seem to have any reservations with having chickens next door.

Jacobs asked if the neighborhood had a covenant. Marohn stated that there was a covenant in the neighborhood which may bring about some concern with the neighbors. In talking to his immediate neighbors though, there were no reservations on raising the chickens. He added that there have been multiple things that have been overlooked in the covenant throughout the neighborhood, but that he would be checking into that if this were approved.

Booker stated that the city cannot enforce covenants of a neighborhood, they can only enforce variances or the need for variances.

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

Devin Berger of 10807 Nutmeg Meadows, Plymouth spoke in favor of the proposal. He stated that he was a neighbor to the northeast. He stated that he had no issues with the chickens. He knew about them shortly after moving in, and it took him several weeks to even notice that there were chickens nearby. He added that Daniel and Regina Marohn had a beautiful property and that it had always been maintained. From the covenant aspect, the homeowners association had been going through the covenants recently as they were very outdated. The chickens would just need to be approved by the group after approval of the variance.

Surrisi stated that he had kept his office out at the airport for a little over a year, and that Mr. Marohn had a business close by. He stated that everything that Marohn did was first class, and that he did not believe that the neighbors would have any issues going forward.

There being no other comments, Board Members Selge and Webster moved and seconded to close the public hearing. The motion carried.

Members Gidley and Secor moved and seconded to approve BZA 2021-12 as presented. The motion passed by roll call vote.

Yes:	Gidley, Jacobs, Selge, Secor, Webster
No:	None
Absent:	Yadon
Abstain:	Wickens

**BZA 2021-13:** Daniel and Janice Weaver, 9553 Country Ln., Plymouth, IN 46563: A Variance of Development Standards to reduce the front yard setback on Country Ln to twenty-five (25) feet instead of the required forty (40) feet on parcel 503206000224000018, at 9553 Country Ln., Plymouth, IN 46563, 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.

*When we bought the lot we received  
a septic permit it showed a 25 ft setback  
we now under stand the city of Plymouth  
requires a 40 ft setback which will  
make it impossible to build.*

*Daniel B Weaver*

Booker stated that the original site plan showed where the applicants would like to put the house with the 25-foot setback. Booker added that when he talked to Daniel Weaver that he explained that

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originally, they wanted to build a three-bedroom house, but due to the septic, they would only be able to build a two-bedroom house. In turn, they would be making what use to be the third bedroom into a den. This would not change the format of the house.

Applicants Daniel and Janice Weaver were present to discuss their request and answer the questions of the board. Daniel Weaver stated that the process of building their house was started remotely due to being in Florida for the winter. They had originally changed the style of the house in order to fit in more with the neighborhood.

Gilkey asked if their plan was to still have their house face Country Lane as it was in the original site plan. Mr. Weaver confirmed this.

Gidley asked how close the house would be to the road. Mr. Weaver stated that it would be 40 to 45 feet off of the road due to the setback from the road. He added that with the garage being on the side of the home there would be plenty of room for parking, and would not need to park on the public road.

Jacobs asked if there was any other place for them to move the septic for them to build their home. Mr. Weaver stated that he did not know of any other way to place the septic and build their home. They had gone through a couple of plans originally which all had the legs of the septic going straight out. The designer was kind enough to come out and redesign septic plan in order to improve the septic if it were to fail which is the one that was presented on the site plan.

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

Del Wenzel of 9595 Deer Trail, Plymouth spoke in favor of the request. Wenzel spoke of how he created the subdivision in 1991 and that the 40-foot setback requirement did not exist at the time. All of the parcels in the subdivision were originally created with the intention of a 25-foot setback due to the time period of creation. This was also the standard of all of the subdivisions that he had created.

Jacobs asked what setback all of the other houses his subdivisions had. Wenzel stated that most if not all were based on a 25-foot setback from the property line. Some may have used a larger setback.

Booker added that many of the neighboring properties seemed to have a larger setback than the 25-foot setback.

Jacobs asked how close to the property line was the house across Country Lane from the property in question was. Building Commissioner Hammonds stated that according to [Beacon.schneidercorp.com](http://Beacon.schneidercorp.com), the house is 21 feet from the property line, which was about how much the Weavers were asking for.

Michael Stump of 9549 Country Lane, Plymouth spoke in favor of the request. He stated that he and his wife were more than okay with the reduced setback.

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Jacobs asked what their setback was from Country Lane. Stump stated that it was supposed to be the same 25 feet, but in order to make their septic work they had to move the house farther back from the road.

Tim Pletcher of 12488 Meadow Drive, Plymouth spoke in favor of the request. He stated that he had been working with Dan Weaver on the layout of the house. Since his address was a Country Lane address Weaver wanted the house to face that road. The septic approval that was submitted with the application for the request was done with the county prior to the purchase of the property with the 25-foot setback.

Jacobs asked if the county approved the septic because their setback was 25 feet from the property line. Booker stated that the county had a 50-foot setback. Pletcher added that without the 25-foot setback, this property would be considered unbuildable.

Booker read aloud the following letter against the request.

June 28, 2021

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

RE: BZA 2021-13

Members of the Board of Zoning Appeals:

I am in receipt of your letter dated 6/21/2021 regarding request **BZA 2021-13**. The request is specific to parcel 503206000224000018 to reduce the front yard setback to twenty-five (25) feet instead of the required forty (40) feet.

I am the property manager for Oakbrook Homes, Inc. We own and have listed for sale the vacant property contiguous to the property in question. Our parcel ID is: 503206000223000018.

**I am writing to state our position against this request.** There are no less than 25 homes already built along Deer Trail, along with the church at 9645 Deer Trail, that have all been subject to the required 40-foot setback. I am very concerned that if this variance is approved it will allow for a home to be built that is not harmonious with the other homes in the area. I believe that this will make selling our vacant property more difficult.

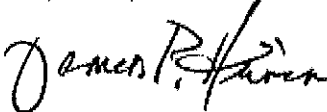
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I assume one reason the request may be before the board is because the property owner wants to build a home and the property is not large enough for the desired home size and required septic size. If this assumption is accurate, I do not believe that I will ever need to make a similar variance request as I have had a soil evaluation completed on our property on January 21, 2021 (see attached) and have received a New Construction Minimum Design Specifications (not a permit) dated January 26, 2021, from the Marshall County Health Department for a 3-bedroom home (see attached).

Thank you for the opportunity to comment. If I can provide any additional information, please contact me at 574-361-9121.

Respectfully submitted,



James P. Heinen  
Property Manager



510 W. Adams Street, Suite GL-30  
Plymouth, IN 46563  
Phone: 574-935-8565  
www.co.marshall.in.us

1/26/2021

Byron Holm, M.D., Health Officer  
Christine Stinson, Administrator

Dear: Soil Solutions - Granger

Re: Property Address:DEER TRL Site Code:SE 2021-011

The soil evaluation conducted on 1/21/2021 by Soil Solutions - Granger has been reviewed by the Health Department. Based on the soil condition and the size of the proposed home, a specification sheet has been included that outlines the components of the system that will need to be met. The following criteria must be embodied in your plans in order to get a permit to construct the onsite sewage disposal system.

GENERAL DESIGN INFORMATION

Legal Description, scale, site location map and north arrow.

Homeowner or client's name, address, phone number and email.

Location of all existing and proposed buildings, mobile homes, existing septic systems etc.

Location of all existing or proposed roads and driveways.

Low point for surface drainage along with indication of drainage slope and direction.

Location of all soil borings.

Description, location, size and depth of proposed subsurface drainage outlet, if required.

A copy of the building plans must be submitted for determination of bedrooms and bedroom equivalents.

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**ELEVATIONS:**

Countour lines.

Existing elevations at four corners of the SAF.

Invert elevations of all pipes as the exit nand/or dwelling, septic tank, dosing tank and distribution boxes.

Existing grade and invert elevations at both ends and the middle of all absorption field laterals.

Existing and proposed ground elevations at the corners of the subsurface drain.

Indicate Invert elevations of proposed subsurface drainage outlet if a tile is to be utilized.

If an open drain is to be used, a cross sectional detail drawing showing elevations of bank top or ditch bottom should be provided along with seasonal high water flow lines.

**SEPTIC TANK AND ABSORPTION FIELD:**

Specify that the site must be protected from all compacting, grading and/or filling prior to installation or the site may be rendered useless.

Specify the manufacture, type and size of the septic tank and dosing tank.

Specify the type and size of the outlet filter.

Specify the depth of the trenches NOT the range.

Show the cross sectional detailed view of the designed trench. NOT a cross sectional of a typical trench.

MARSHALL COUNTY HEALTH DEPARTMENT		New Construction Minimum Design Specifications	
MARSHALL COUNTY HEALTH DEPARTMENT 510 W. Adams GL-30 ~ Plymouth, IN 46563 574-935-8565			
<b><u>THIS IS NOT A PERMIT</u></b>			
This is specifications/minimum requirements for Contractors to bid on or to design a system.			
OAKBROOK HOMES INC   P O BOX 174   OSCEOLA, IN 46561-0174		Soil Evaluation Application #: SE 2021-011	
Site Address: DEER TRI.		Parcel No: 503206000223000018	
<u>This is preliminary approval; it does not guarantee that the state and county requirements can be met.</u> Alterations or changes to the site, including tree removal, could void these specifications.			
<b>Onsite System Type: <u>Gravity Flow</u></b>			
# of Bedrooms: Three (3)		Design Flow (gals): 450	
# of Jetted Tubs (125 gals): Unknown		Depth of Limiting Layer (inches): 48	
Depth of Water Table (inches): 21			
Subsurface Soil Loading Rate - GPD/Sq. Ft: .3			
Septic Tank Size (gal): 1000		Soil Trench Depth Min (inches): 10	
Soil Absorption Area (square feet): 1500		Soil Trench Depth Max (inches): 18	
Dispersal Area Required: 10 feet			
Perimeter Drain Required: Yes			
Perimeter Drain Depth (inches): 2" into compact till		Perimeter Drain Type: Surround	
Mound Soil Loading Rate - GPD/SQ. FT:			
Mound: Basal Area:		Mound: Agg. Bed:	
<b>NOTES:</b>			
This approval could be invalidated by alterations to the approved area, revisions or changes to sewage disposal code, or changes in the way in which soil properties are understood or interpreted. This approval is good for two years and this approval is for one house.			
Environmentalist: Other 1/26/2021			



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

Mr. Weaver added that the type of home that will be built was an insulated concreted mold home, which is a higher end home. He stated that he doubted that this would devalue any homes nearby.

Gidley asked what they would be siding the home with. Mr. Weaver stated that it would be sided with board and batten siding. They may do the gables with cedar shake or cedar shake vinyl.

Board Members Gidley and Wickens moved and seconded to approve BZA 2021-13 as presented. The motion passed by roll call vote.

Yes:           Gidley, Jacobs, Selge, Secor, Wickens  
No:           None  
Absent:       Yadon

Gidley voiced concern over some of the assumptions made in the letter from the property manager of Oakbrook Homes. He asked Hammonds to watch out in the future for issues that may require a similar variance from them as they look at each of these case by case.

Building Commissioner Hammonds reported on 1220 Lincolnway East. He stated that Paul Oviedo had not done anything with the property since the last meeting other than mowing the grass and moving a trailer. Jacobs stated that the board would just wait and see what happens by the deadline given to Oviedo.

Jacobs asked Hammonds if he had followed up with Bob's Automotive on having them move the post and not just the sign. Hammonds stated that he stopped by the shop earlier in the day, but they were closed and he had tried calling them as well with no answer. He stated that he would follow up as soon as he could get ahold of them.

Gidley asked about how long the trailers would sit in front of the Holiday Inn. Hammonds stated that he was not sure. The manager contacted the owner of the company who contacted the mayor instead of him. In this case, the mayor would have more information about this than him.

There being no other business, Board Members Wickens and Selge moved and seconded to adjourn the meeting. The motion carried and the meeting adjourned at 8:12 p.m.

  
Kathryn Hickman Jung – Recording Secretary

