

**The meeting of the Berne Board of Zoning Appeals was held on June 11, 2018 at 6:00 P.M. in the Conference Room at City Hall, Berne Indiana according to the posted notice.**

**MEMBERS PRESENT**

Jerry Burke Present  
Mike Habegger Present  
Brent Lehman **Absent**

Tony Mellencamp Present  
Linda Steury Present  
Tom Stuber Present

**STAFF PRESENT**

Director, Shannon Smitley

Board Attorney Dave Baumgartner

**Present from the City of Berne**

Mayor Bill McKean

Gary Nussbaum

**GUESTS PRESENT** : Adam Lehman, 5111 S 000 Rd Lehman Feed Mill; Jeff Lehman, 5111 S 000 Rd Lehman Feed Mill; Joseph Schwartz 888 W 700 S Berne; Maryann Schwartz, 888 S 700 S Berne; Russell Keys, 717 Clark Street, Berne.

After Mike Habegger opened with prayer, Tony Mellencamp called the meeting to order and verified a quorum. Notice the hearing was advertised in the Berne Witness according to state statute and an agenda was posted at the door.

**Public Hearing BZA 2018-2** Variance Request filed by Adam Lehman on behalf of Lehman Feed Mill, 511 S 000 Road, Berne Indiana.

Shannon explained that the City of Berne passed a signage ordinance several years ago, and because Lehman Feed Mill is in our fringe, the same rules apply. Because the ordinance does not allow for changeable electric signs, as in past cases, a variance must be granted.

Per Jeff Lehman, the sign will be off the road 35 feet from the center of Parr Road. The sign will be fairly stationary and the only colors available will be amber and red on a black background. Sign will be programmed to dim with increased darkness and it will only be on during the Feed Mill hours of operation.

After additional discussion and hearing all those wishing to be heard and with no further discussions, Tony called for the reading of the Finding of the Facts.

1. Approval **will not** be injurious to the public health, safety, morals and general welfare of the community because: *It is a sign*
2. The use and value of the area adjacent to the property included in the Variance **will not** be affected in a substantially adverse manner because *it is a sign surrounded by farm ground.*

3. The need for the Variance **does** arise from some condition peculiar to the property involved: ***Lehman Feed Mill is in the City of Berne fringe and the sign does not conform to our signage ordinance.***

4. The applicant **did** establish that the strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the Variance Request is sought because: ***Would not be able to have the sign because of the signage ordinance.***

5. The petitioner **has** established that approval **does not** interfere substantially with the comprehensive plan of the City of Berne.

8. If granted, the board prescribes the following conditions: ***Sign can not change any faster than every two minutes.***

(DECISION)

Therefore, on a motion by Mike Habegger and a second by Linda Steury the decision of the Board of Zoning Appeals unanimously approved the variance of BZA 2018-2 as presented.

**Adopted this the 11<sup>th</sup> day of June , 2018 5 years -0 nays**

BERNE BOARD OF ZONING APPEALS

*Tony Mellencamp-yea*

*Jerry Burke- yea*

*Linda Steury-yea*

*Tom Stuber- yea*

*Mike Habegger-yea*

**BZA 2018-3:** a Variance Request filed by Joseph M.R. Schwartz on property he owns on U.S. 27 South; Adams County Parcel Number 01-11-09-100-018.000-017 in City of Berne fringe area.

Shannon explained that the Schwartz's are planning to build a 40x24 square foot barn using 24x24 sq. ft as their residence in the City of Berne's fringe area. The BZA has to hear the request because the barn will be an agricultural barn for housing animals, which is not allowed without a variance. At this time Mr. Schwartz indicated that their plans have changed and there will not be any animals inside the barn. A variance will still need to be granted because it is a barn as well as the 24x24 square foot for their home does not meet the minimum of 900 square feet for a single family dwelling. Shannon said that even though it a house inside of a barn, the portion that will serve as their residence will still need to be properly insulated, have a firewall, basically building it like a house, but inside of the barn.

After additional discussion and hearing all those wishing to be heard and with no further discussions, Tony called for the reading of the Finding of the Facts.

1. Approval **will not** be injurious to the public health, safety, morals and general welfare of the community because:

2. The use and value of the area adjacent to the property included in the Variance **will not** be affected in a substantially adverse manner because:

3. The need for the Variance **does** arise from some condition peculiar to the property involved: ***It is a house inside of a barn and it also will not be the minimum of 900 sq. foot of living space for a single family home.***

4. The applicant **did** establish that the strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the Variance Request is sought because: ***The Schwartz's would not be able to build the house inside of the bar without the variance.*** .

5. The petitioner **has** established that approval **does not** interfere substantially with the comprehensive plan of the City of Berne.

8. If granted, the board prescribes the following conditions: ***An extension of the variance would need to be requested if the house portion of the barn was still being used as a residence in three years from this date.***

(DECISION)

Therefore, on a motion by Mike Habegger and a second by Tom Stuber, the decision of the Board of Zoning Appeals unanimously approved the variance of BZA 2018-3 with the restriction in the finding of the facts.

**Adopted this the 11<sup>th</sup> day of June 5 yeas -0 nays**

BERNE BOARD OF ZONING APPEALS

*Tony Mellencamp-yea*

*Jerry Burke- yea*

*Linda Steury-yea*

*Tom Stuber- yea*

*Mike Habegger-yea*

Shannon asked Mr. Schwartz to let him know when they get approval for the road cut from INDOT so a physical address can be assigned to the property. Mr. Schwartz said that he will advise Shannon accordingly.

**BZA 2018-4:** A Variance Request filed by Russel S Keys on his property at 717 Clark Street Berne.

Tony explained that because Mr. Keys is wanting to build an addition on to the Lane Street side of his house, a variance will have to be granted because it is less than the 10 foot required setback. Shannon added that the different City of Berne departments reviewed Mr. Keys plans and had no issue with his plans and they will not interfere with city infrastructure .

Linda Steruy asked if the being closer to the street than city setbacks allow, would obstruct anyone's view street level. It was agreed that this would not a problem with line of sight.

After additional discussion and hearing all those wishing to be heard and with no further discussions, Tony called for the reading of the Finding of the Facts.

1. Approval **will not** be injurious to the public health, safety, morals and general welfare of the community because:
2. The use and value of the area adjacent to the property included in the Variance **will not** be affected in a substantially adverse manner because: *it will improve the property*
3. The need for the Variance **does** arise from some condition peculiar to the property involved: *The addition did not mean the minimum required setback.*
4. The applicant **did** establish that the strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the Variance Request is sought because: *Could not build the addition without a variance.*
5. The petitioner **has** established that approval **does not** interfere substantially with the comprehensive plan of the City of Berne.
8. If granted, the board prescribes the following conditions: *The overhang of new addition will not extend more than 7 feet from the existing foundation.*

(DECISION)

Therefore, on a motion by Mike Habegger and a second by Jerry Burke, the decision of the Board of Zoning Appeals unanimously approved the variance of BZA 2018-4 with the restriction in the finding of the facts.

**Adopted this the 11<sup>th</sup> day of June 5 yeas -0 nays**

BERNE BOARD OF ZONING APPEALS

*Tony Mellencamp-yea*

*Jerry Burke- yea*

*Linda Steury-yea*

*Tom Stuber- yea*

*Mike Habegger-yea*

## **REGULAR MEETING**

**Approval of Minutes.** On a motion by Linda Steury and a second by Tom Stuber, the minutes of May 14, 2018 were unanimously approved after the correction as noted. **5 yeas -0 nays**

**Old Business-** None

**New Business-** none

**Closing of Meeting.** On a motion by Linda Steury and a second by Tom Stuber, the meeting was adjourned. **5 yeas -0 nays**