

The meeting of the Berne Board of Zoning Appeals was held on Monday, December 9, 2019 at 6:30 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 Present

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

Council President Gregg Sprunger

GUESTS PRESENT : Dan Mawhorr, 1017 Dearborn, Berne Indiana.

Tony Mellencamp called the meeting to order and verified a quorum which was followed by the opening prayer. Notice of the hearing was advertised in the Berne Witness according to state statute.

Public Hearing BZA 2019-4 filed by Miller Land Surveying, Inc. on behalf of Daniel and Jodi Mawhorr for Lot 39 in the Claw Court Addition, Berne Indiana. The applicant will be requesting that they be allowed to reduce the building line in their side yard from 20 ft to 10 ft. for the purpose of building a new home.

Shannon Smitley explained that when Claw Court Addition was platted, it was assumed that a home would be built facing east on Black Bear Path. The Mawhorr's have chosen a design that will mean the rear of the lot will now become the side lot and the home will face south. Brett Miller was unable to attend the meeting, but a letter he submitted about the project was reviewed by the board.

Linda Steury asked if lot 38 had been sold and if the property owner has been contacted. Shannon confirmed that the property has been sold and they were notified of the hearing. They have contacted him for an explanation and did not have any problem with it. Dan Mawhorr has also talked to the land owner and they did not express any issues.

After hearing all those wishing to be heard, 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 *If the lot had been platted that way originally, there wouldn't be a need for a variance.*

3. The need for the Variance **does** arise from some condition peculiar to the property involved: *the lot was platted that would have had the house facing east, but the Mawhorr's building plan has the house facing south.*
4. The applicant **did** establish that the strict application of the terms of the Zoning Ordinance constitute an unnecessary hardship if applied to the property for which the Variance Request is sought because: *Without the variance, they could not build the house according to the plan they have chosen.*
5. The petitioner **has** established that approval **does not** interfere substantially with the comprehensive plan of the City of Berne.
6. If granted, the board prescribes the following conditions: *None*

(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 Use request of BZA 2019-4 as presented. **Adopted this the 9th day of December , 2019. 6 yeas -0 nays**

BERNE BOARD OF ZONING APPEALS

Tony Mellencamp-yea

Jerry Burke- yea

Linda Steury-yea

Ton Stuber-yea

Brent Lehman-yea

Mike Habegger-yea

REGULAR MEETING

Approval of Minutes. Linda Steury made a motion to approve the minutes of November 12, 2019 and Brent Lehman made the second. On a vote of 6-0, the minutes were unanimously approved.

Old Business- None

New Business-

Closing of Meeting. On a motion by Mike Habegger and a second by Brent Lehman, the meeting was adjourned. **6 yeas -0 nays**