

April 19, 2010

The Hendricks County Board of Zoning Appeals met in the Hendricks County Government Center, in Meeting Rooms 4 & 5, Monday, April 19, 2010. The meeting began at 7:30 p.m. Members present included Jo Ann Groves, C. Richard Whicker and Sam Himsel. Also present were Don Reitz, Secretary, Eric Fazzini, Planning Technician, Tyler Starkey, for County Attorney and Gloria Watts, Recording Secretary.

Everyone stood and recited the Pledge of Allegiance.

Ms. Groves stated there was a quorum with three (3) members present and three affirmative votes would be needed for an approval. Ms. Groves asked for an approval of the March 15, 2010 meeting minutes as submitted.

Mr. Whicker made a motion to approve the minutes as submitted.

Mr. Himsel seconded the motion.

VOTE: For- 3 Against- 0 Abstained- 0 APPROVED
MARCH 15, 2010 MEETING MINUTES

SE 05/10: ANGELA WEBB for a special exception in accordance with HCZO Section 4.9 C to permit a home business - portrait studio in an RB/Single Family Residential district, Washington Township, S35-T16N-R1E, located on the southeast corner of State Road 267 and Rudgate Drive, 1593 N. State Road 267, Avon Indiana, 46123, approximately 2.32 acres.

The Staff made a Power Point presentation of the facts of the case. Mr. Fazzini stated the surrounding area was residential.

Ms. Angela Webb appeared before the Board and stated why she wanted the studio in her home. Ms. Webb stated she would like to have up to two clients per day, on Wednesday, Friday and Saturday, for one to two hours and some of the sessions would be off site. Ms. Webb stated she would like a small sign on her mail box to help direct clients to her home. Ms. Webb stated a lot of her sessions were off site, either at a local park or farm. Ms. Webb displayed some of her work to the Board.

Ms. Groves asked where her sample photos were taken.

Ms. Webb stated they were in her back yard although most of the time she work off site.

Ms. Groves opened the public hearing and the following individuals came forward:

- | | | | |
|----------------------|------------------------|----------|-------|
| 1. Reba Phillips | 1598 N. State Road 267 | Avon, In | 46123 |
| 2. W. Larry McDowell | 1613 Rudgate Drive | Avon, In | 46123 |
| 3. Patricia Reynolds | 6958 Connie Drive | Avon, In | 46123 |

April 19, 2010

Ms. Reba Phillips submitted Exhibit A explaining why she and her husband did not want the studio across the street from them. Ms. Phillips stated the street was already congested and the approval may lead to more of these types of home businesses.

Mr. McDowell appeared before the Board and stated his reasons for being concerned about the home business. Mr. McDowell asked if chemicals would be used for developing and mentioned the Wilbur Tague Studios on State Road 267 near Brownsburg. Mr. McDowell stated the studio there had many large props and if Ms. Webb added those to her business they would be in view from his home.

Ms. Patricia Reynolds appeared before the Board and submitted Exhibit B explaining the reasons she along with her husband John did not want the studio approved. Ms. Reynolds stated she had been out of town and just got the notification letter last week. Ms. Reynolds stated the area roads were busy and there have been many accidents there. Ms. Reynolds asked about the sign that would be placed and what size it may be. Ms. Reynolds asked the Board not to approve the special exception for a portrait studio.

Ms. Groves closed the public hearing.

Ms. Webb appeared before the Board and stated she did respect the neighbor's concerns. Ms. Webb stated there would be no billboard placed for the home business, she had asked for a very small sign that would be attached to the mailbox, similar to those with a homeowner's last name. Ms. Webb stated the added traffic should not be an issue as she did a lot of work off site. Ms. Webb stated she did not want to grow the business and wanted to remain small because she had a family. Ms. Webb stated the processing was done at a lab and she did have delivery from UPS. Ms. Webb stated she would not do the same as Wilbur Tague with props. Ms. Webb stated they bought the home six years ago and had improved the property.

Mr. Himsel asked about the days Ms. Webb would be open and the sign.

Ms. Webb stated Wednesday, Friday and Saturday are the days she would operate. Ms. Webb stated the sign would help direct clients to the home.

Ms. Groves asked if Ms. Webb would want to commit to the days and hours of operation.

Mr. Himsel asked how many clients Ms. Webb may have in a week.

Ms. Webb stated she did want evening sessions to have time for photo selections. Ms. Webb stated she had three sessions last week which were off site.

Mr. Whicker stated he had an issue with precedence being set by approving the request. Mr. Whicker stated the sign was not a problem and traffic should not be either. Mr. Whicker stated he understood the remonstrance concerns.

April 19, 2010

Mr. Himsel stated he agreed with some the concerns Mr. Whicker expressed. Mr. Himsel stated the sessions could continue without BZA approval, either on or off site.

Ms. Groves stated she also did not want to set precedence and many neighbors may not even notice the home business. Ms. Groves stated the only problem she had would be if the business grew. Ms. Groves stated the case may need to be continued because there were only three members to vote on the home business.

Mr. Whicker made a motion to continue **SE 05/10: ANGELA WEBB** to the May 17, 2010 meeting.

Ms. Groves seconded the motion.

VOTE: For- 3 Against- 0 Abstained- 0 CONTINUED
SE 05/10: ANGELA WEBB

SE 06/10: CHRISTOPHER WELLS for a special exception in accordance with HCZO Section 4.15 C to permit motor vehicle repair, major, in a GB/General Business district, Washington Township, S20-T15N-R2E, located southeast of Ronald Reagan Parkway and U.S. Highway 40, 10557 & 10555 East County Road 251 S., Indianapolis Indiana, 46231, approximately 1.64 acres.

The Staff made a Power Point presentation of the facts of the case. Mr. Fazzini stated the zoning in the area was Agricultural and Industrial/Commercial. Mr. Fazzini stated the petitioner leased the property a few years ago and the zoning at that time was not correct for the type of business he operated and it was later rezoned to GB/General Business district.

Mr. Chris Wells appeared before the Board and stated when he signed the lease he did not get correct information on what was permitted at the site. Mr. Wells stated he operated one of six wrecker repair shops in the state. Mr. Wells stated his neighbor did block repair, Jimmy's Motor Block, and had at the same location for forty two years. Mr. Wells stated he did large vehicle repair for the last three and a half years at the site.

Ms. Groves opened the public hearing and no one appeared. Ms. Groves closed the public hearing.

Ms. Groves asked about employees.

Mr. Wells stated he did most of the work and had a stepson who came in on Saturdays. Mr. Wells stated he may have two employees helping at one time and he preferred to do most of the repairs himself.

Mr. Whicker made a motion to adopt the positive findings of fact with conditions and approve **SE 06/10: CHRISTOPHER WELLS**.

Mr. Himsel seconded the motion.

April 19, 2010

VOTE: For- 3 Against- 0 Abstained- 0 APPROVED
SE 06/10: CHRISTOPHER WELLS

Findings of Fact/Law and Conditions of Approval
SE 06/10

An application for the above noted special exception was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to permit major motor vehicle repair in a GB/General Business district. Acting in its role as staff to the Hendricks County Area Board of Zoning Appeals, the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in Room 212 of the Hendricks County Government Center.

In accordance with Indiana Code (IC) 5-3-1 and the Hendricks County Zoning Ordinance (HCZO) Section 12.7(C), the DPB staff published a legal notice in the *Hendricks County Flyer* and the *Danville Republican*. This notice advertised the public hearing scheduled in conformity with IC 36-7-4-920. The public hearing included the above special exception on its agenda.

In accordance with Section 3.07(D)(2) of the Rules of Procedure of the Hendricks County Area Board of Zoning Appeals, the applicant also sent courtesy notices by Certified United States Mail to certain surrounding property owners of record and other interested persons. A copy of this courtesy notice and a list of those receiving them were made a part of the file for this special exception.

The Board conducted the hearing as advertised and heard evidence and testimony on the above noted special exception. Meeting in open session, the Board subsequently considered the above noted request and its relationship to the requirements of IC 36-7-4 and the HCZO. A tape recording of this proceeding has been on file and available to the public in the DPB office since the date of the hearing.

In its deliberations, the Board weighed the evidence associated with the following requirements and made the following findings.

IC 36-7-4-918.2 Exceptions and uses. A board of zoning appeals shall approve or deny all: (1) Special exceptions; ... from the terms of the zoning ordinance, but only in the classes of cases or in the particular situations specified in the zoning ordinance.

HCZO Section 12.7 (A) authorizes the Hendricks County Area Board of Zoning Appeals to approve special exceptions.

HCZO Section 4.15(C) authorizes the approval of motor vehicle repair, major in the GB/General Business zoning district.

HCZO Section 12.7 (D) (1). In addition to the special requirements for permitted Special Exception uses as specified in Section 12.7 (D) (2) ... the Board of Zoning Appeals ... shall find adequate evidence showing that the use at the proposed location:

- A. Is in fact a permitted Special Exception use ... [in] the zoning district involved;

April 19, 2010

The Board finds that the proposal is in fact a permitted Special Exception use in the zoning district involved.

B. Will be harmonious with and in accordance with the general objectives or with any specific objective of the County's Comprehensive Plan and the Zoning Ordinance;

The Board finds that the proposal will be harmonious and in accordance with the general objectives and specific objectives of the County's Comprehensive Plan and Zoning Ordinance. Approval of this proposal would not have an adverse influence on established or proposed development in the area. The character of the parcels will remain commercial, which is consistent with the current zoning and with the land use recommendation of the Comprehensive Plan for the area. Further, conditions of approval are established to minimize any potential conflict with neighboring uses.

C. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;

The Board finds that the proposed use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area. The commercial and industrial character of the area will be preserved. The size, scope, and nature of the business will remain the same and can be accommodated on these commercial parcels without altering the established character of the vicinity. Further, conditions of approval are established to minimize any potential conflict with neighboring uses.

D. Will not be hazardous or disturbing to existing or future neighboring uses;

The Board finds that the proposal will not be hazardous or disturbing to existing or future neighboring uses. The proposed use will be compatible with current and future land use patterns in the area. Moreover, conditions of approval are established to minimize any potential conflict with neighboring uses.

E. Will be served adequately by essential public facilities and services ... or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;

The Board finds that the proposed use will be served adequately by essential public facilities and services, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services. All essential services are provided to the location under consideration.

F. Will not create excessive additional requirements at public cost of public facilities and services and will not be detrimental to the economic welfare of the community;

The Board finds that the proposal will not create excessive additional requirements at public cost of public facilities and services and will be detrimental to the economic welfare of the community. No additional public services are required as a result of this approval. As the proposed use will be compatible with current and future land use patterns in the area, the economic welfare of the community will not be affected.

April 19, 2010

- G. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;

The Board finds that the proposal will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors. Conditions have been attached to this approval that ensures that the proposed use will not be detrimental to persons or property.

- H. Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;

The Board finds that the proposal will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. The proposed use will have no effect on the already established local traffic volume or patterns.

- I. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

The Board finds that the proposal will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance. This approval does not adversely affect any feature of the property under consideration.

HCZO Section 12.7(D) (2) Other Considerations For Special Exceptions. In addition to the above noted findings, the following specific requirements found in HCZO Section 12.9(D) (2) (A) through (K) are found to apply to this special exception:

None

HCZO Section 7.9 Home-Based Businesses. In addition to the above noted findings, the following regulations found in HCZO Chapter 7 are found to apply to this Special Exception:

None

HCZO Section 12.7(D) (3) Additional Development Standards. In granting any Special Exception Use, the Board of Zoning Appeals may prescribe additional development standards on a case by case basis.

None

IC 36-7-4-918.2 Exceptions and uses. [T]he Board may impose reasonable conditions as a part of its approval.

The Board imposed the following conditions in furtherance of the Indiana Code and the Hendricks County Zoning Ordinance:

1. Approval shall be terminated and of no further effect in the event the proposed use is discontinued for a period of twelve months. Upon such termination, no reestablishment

April 19, 2010

- of the use in any form shall occur without favorable action (including new findings of fact/law and conditions of approval) by the Board or any successor agency.
2. To restrict accountability and responsibility for the operation and to make future operations compatible with the surrounding property, this special exception shall run with the applicants and not the real estate.
 3. All applicable federal, state, and local approvals are required.
 4. Any further expansion of the use shall require BZA special exception approval.
 5. In the event of future expansions, Plan Commission approval of a development plan for those expansions may be required.
 6. In addition to meeting the conditions of approval established here, this approval is contingent on the applicants meeting the applicants' commitments documented in the findings of fact of ZA 402/10.

For all the foregoing reasons, the Board approved this request for a special exception, subject to the conditions set forth, the 19th day of April 2010.

SE 07/10: FORTUNE ENTERPRISES, LLC for a special exception in accordance with HCZO Table 9.1, Permitted Signs, to permit a pylon sign in a GB/General Business district, Washington Township, S7-T15N-R2E, located southeast of U.S. Highway 36 and Shelton Drive, 9655 East U.S. Highway 36, Avon Indiana, 46123, approximately 1.52 acres.

The Staff made a Power Point presentation of the facts of the case. Mr. Fazzini stated the pylon sign requested would be eighty nine square feet in sign area.

Mr. Jerry Zheng, 5436 Gainesway Drive, Greenwood Indiana, 46142 appeared before the Board requesting an approval of the pylon sign for Fortune Plaza located at U.S. 36 and Shelton Drive.

Mr. Reitz stated the property was not in the corridor district but would be under the same provision for a pylon sign.

Mr. Himsel stated the sign was well under the maximum square footage allowed.

Ms. Groves stated the area had many pylon signs and they were all around the same size, although some older signs were larger. Ms. Groves opened the public hearing and no one appeared. Ms. Groves closed the public hearing.

Mr. Himsel made a motion to adopt the positive findings of fact with conditions and approve **SE 07/10: FORTUNE ENTERPRISES, LLC**.

Mr. Whicker seconded the motion.

VOTE: For- 3 Against- 0 Abstained- 0 APPROVED
SE 07/10: FORTUNE ENTERPRISES, LLC.

April 19, 2010

Findings of Fact/Law and Conditions of Approval
SE 07/10

An application for the above noted special exception was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to permit the expansion of an existing approved home business in an AGR/Agriculture Residential district. Acting in its role as staff to the Hendricks County Area Board of Zoning Appeals, the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in Room 212 of the Hendricks County Government Center.

In accordance with Indiana Code (IC) 5-3-1 and the Hendricks County Zoning Ordinance (HCZO) Section 12.7(C), the DPB staff published a legal notice in the *Hendricks County Flyer* and the *Danville Republican*. This notice advertised the public hearing scheduled in conformity with IC 36-7-4-920. The public hearing included the above special exception on its agenda.

In accordance with Section 3.07(D)(2) of the Rules of Procedure of the Hendricks County Area Board of Zoning Appeals, the applicant also sent courtesy notices by Certified United States Mail to certain surrounding property owners of record and other interested persons. A copy of this courtesy notice and a list of those receiving them were made a part of the file for this special exception.

The Board conducted the hearing as advertised and heard evidence and testimony on the above noted special exception. Meeting in open session, the Board subsequently considered the above noted request and its relationship to the requirements of IC 36-7-4 and the HCZO. A tape recording of this proceeding has been on file and available to the public in the DPB office since the date of the hearing.

In its deliberations, the Board weighed the evidence associated with the following requirements and made the following findings.

IC 36-7-4-918.2 Exceptions and uses. A board of zoning appeals shall approve or deny all: (1) Special exceptions; ... from the terms of the zoning ordinance, but only in the classes of cases or in the particular situations specified in the zoning ordinance.

HCZO Section 12.7 (A) authorizes the Hendricks County Area Board of Zoning Appeals to approve special exceptions.

HCZO Section 4.7(C) authorizes the approval of a special exception for home business in the AGR/Agriculture Residential zoning district.

HCZO Section 12.7 (D) (1). In addition to the special requirements for permitted Special Exception uses as specified in Section 12.7 (D) (2) ... the Board of Zoning Appeals ... shall find adequate evidence showing that the use at the proposed location:

- A. Is in fact a permitted Special Exception use ... [in] the zoning district involved;
The Board finds that the proposal is in fact a permitted Special Exception use in the zoning district involved.

April 19, 2010

- B. Will be harmonious with and in accordance with the general objectives or with any specific objective of the County's Comprehensive Plan and the Zoning Ordinance;**
The Board finds that the proposal will be harmonious and in accordance with the general objectives and specific objectives of the County's Comprehensive Plan and Zoning Ordinance. Approval of this proposal will not have an adverse influence on established or proposed development in the area. Further, conditions of approval are established to minimize any potential conflict with neighboring uses.
- C. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;**
The Board finds that the proposed pylon sign will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area. Further, conditions of approval are established to minimize any potential conflict with neighboring uses.
- D. Will not be hazardous or disturbing to existing or future neighboring uses;**
The Board finds that the proposal will not be hazardous or disturbing to existing or future neighboring uses. The proposed use will be compatible with current and future land use patterns in the area. Moreover, conditions of approval are established to minimize any potential conflict with neighboring uses.
- E. Will be served adequately by essential public facilities and services ... or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;**
The Board finds that the commercial use of the property will be served adequately by essential public facilities and services, or that the persons or agencies responsible for the establishment of the commercial use shall be able to provide adequately any such services. All essential services are provided to the location under consideration.
- F. Will not create excessive additional requirements at public cost of public facilities and services and will not be detrimental to the economic welfare of the community;**
The Board finds that the proposal will not create excessive additional requirements at public cost of public facilities and services and will be detrimental to the economic welfare of the community. No additional public services are required as a result of this approval. As the proposed use will be compatible with current and future land use patterns in the area, the economic welfare of the community will not be affected.
- G. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;**
The Board finds that the proposal will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.

April 19, 2010

Conditions have been attached to this approval that ensures that the proposed use will not be detrimental to persons or property.

H. Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;

The Board finds that the commercial use will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. The proposed pylon sign will have a negligible effect on the already established local traffic volume or patterns.

I. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

The Board finds that the proposal will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance. This approval does not adversely affect any feature of the property under consideration.

HCZO Section 12.7(D) (2) Other Considerations For Special Exceptions. In addition to the above noted findings, the following specific requirements found in HCZO Section 12.9(D) (2) (A) through (K) are found to apply to this special exception:

None

HCZO Section 7.9 Home-Based Businesses. In addition to the above noted findings, the following regulations found in HCZO Chapter 7 are found to apply to this Special Exception:

The Board finds that the application meets the minimum requirements for a home-based business specified in HCZO Section 7.9.

HCZO Section 12.7(D) (3) Additional Development Standards. In granting any Special Exception Use, the Board of Zoning Appeals may prescribe additional development standards on a case by case basis.

None

IC 36-7-4-918.2 Exceptions and uses. [T]he Board may impose reasonable conditions as a part of its approval.

The Board imposed the following conditions in furtherance of the Indiana Code and the Hendricks County Zoning Ordinance:

1. Approval shall be terminated and of no further effect in the event the proposed use is discontinued for a period of twelve months. Upon such termination, no reestablishment of the use in any form shall occur without favorable action (including new findings of fact/law and conditions of approval) by the Board or any successor agency.
2. Approval shall be valid only if the petitioner demonstrates clear and convincing progress on establishing the proposed use within 12 months of the date of this approval.
3. All applicable federal, state, and local approvals are required.

April 19, 2010

4. The pylon sign shall be limited to 89 square feet in size and 20 feet in height.
5. The pylon sign shall be designed as shown in the elevation stamped "Received" on 7 April 2010.
6. The pylon sign shall have an address plate with characters being a minimum of six (6) inches in height and shall be clearly visible from the public right-of-way day and night.
7. The pylon sign shall meet all applicable requirements of the zoning ordinance.
8. Landscaping for the sign shall match the plan stamped "Received" on 22 March 2010.

For all the foregoing reasons, the Board approved this request for a special exception, subject to the conditions set forth, the 19th day of April 2010.

VAR 02/10: ERIC B. YORK for a variance from the development standards as required in HCZO Section 4.3 C to permit two principal uses in a AGR/Agricultural Residential district, Franklin Township, S7-T14N-R2W, located approximately 400 feet west of State Road 75, on the north side of 700 South, 8088 West County Road 700 S., Coatesville Indiana, 46121, approximately 1.16 acres.

The Staff made a Power Point presentation of the facts of the case. Mr. Fazzini stated the petitioner had purchased the property with two residences. Mr. Fazzini stated a previous owner had converted a garage to a beauty shop with BZA approval and that was the building that was now a residence.

Mr. Eric York, 8537 W. County Road 700 S., Coatesville Indiana, appeared before the Board and stated he purchased the property after it had gone through foreclosure, in May 2006. Mr. York soon rented out both properties and later found out he was in violation. Mr. York stated the two rental incomes could make the mortgage payment but with only one he could not. Mr. York stated the home was listed for sale as two residences with two addresses.

Ms. Groves asked how this matter came to the planning department.

Mr. York stated a complaint had been made to the Department of Health regarding his septic draining into a ditch and then to a lake close by. Mr. York stated an approved septic was on both homes.

Mr. Himsel asked about the tax bill for the property.

Mr. York stated the corrections had been made to the tax bill and mail had been delivered to both homes.

Ms. Groves asked about the addresses.

April 19, 2010

Mr. Reitz stated the addressing coordinator, Les Rice, had been informed of the situation. Mr. Reitz stated the property did have a use variance approved for the beauty shop in 1982.

Ms. Groves opened the public hearing and no one appeared. Ms. Groves closed the public hearing. Ms. Groves stated she did feel this was a true hardship.

Mr. Whicker stated he did agree and was in support for approval of the variance.

Mr. Himsel asked what would happen when the property may be sold in the future.

Ms. Groves stated because of the size of the lot the property could not be divided.

Mr. Whicker made a motion to adopt the positive of fact and approve **VAR 02/10: ERIC YORK.**

Mr. Himsel seconded the motion.

VOTE: For-3 Against-0 Abstained-0 APPROVED
VAR 02/10: ERIC YORK

Findings of Fact/Law
VAR 02/10

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to vary development standards to permit two principal uses on one lot in the AGR/Agriculture Residential district. Acting in its role as staff to the Hendricks County Area Board of Zoning Appeals, the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in Room 212 of the Hendricks County Government Center.

In accordance with Indiana Code (IC) 5-3-1 and the Hendricks County Zoning Ordinance (HCZO) Section 12.6(C), the DPB staff published a legal notice in the *Hendricks County Flyer* and the *Danville Republican*. This notice advertised the public hearing scheduled in conformity with IC 36-7-4-920. The public hearing included the above variance on its agenda.

In accordance with Section 3.07(D)(2) of the Rules of Procedure of the Hendricks County Area Board of Zoning Appeals, the applicant also sent courtesy notices to certain surrounding property owners of record and other interested persons. A copy of this courtesy notice and a list of those receiving them were made a part of the file for this variance.

The Board conducted the hearing as advertised and heard evidence and testimony on the above noted variance. Meeting in open session, the Board subsequently considered the above noted request and its relationship to the requirements of IC 36-7-4 and HCZO. A tape recording of this proceeding has been on file and available to the public in the DPB office since the date of the hearing.

In its deliberations, the Board weighed the evidence associated with the following requirements and made the following findings.

April 19, 2010

IC 36-7-4-918.5 Variance from the development standards of the zoning ordinance. A board of zoning appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. A variance may be approved under this section only upon a determination in writing that:

- (1) **The approval will not be injurious to the public health, safety, morals, and general welfare of the community;**

The Board finds that an approval will not be injurious to the public health, safety, morals and general welfare of the community. The rural nature of the area can accommodate the extra residence with no crowding of property or any apparent increase in residential density.

- (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;**

The Board finds that the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. This approval will not result in crowding of adjacent property as the area is rural and agricultural in nature. Further, the number of structures on the property is not unusual when compared to other lots in the neighborhood. Additionally, the second residential structure has been located on the property since 1982 and is well established as part of the rural land use pattern of the area.

- (3) **The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.**

The Board finds that the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. It is not economically feasible to own the property without renting both residences. Strict application of the zoning ordinance would result in the applicant defaulting on the mortgage and the property having to be sold.

For all the foregoing reasons, the Board approved this request for a development standards variance on the 19th day of April 2010.

Being no further business the meeting was adjourned at 8:20 p.m.

Jo Ann Groves, Chairman

Don F. Reitz, Secretary

April 19, 2010