

June 21, 2010

The Hendricks County Board of Zoning Appeals met in the Hendricks County Government Center, in Meeting Rooms 4 & 5, Monday, June 21, 2010. The meeting began at 7:30 p.m. Members present included Jo Ann Groves, C. Richard Whicker, Rodger Ward, Sam Himsel and Anthony Hession. Also present were Don Reitz, Secretary, Eric Fazzini, Planning Technician, Greg Steuerwald, County Attorney and Gloria Watts, Recording Secretary.

Everyone stood and recited the Pledge of Allegiance.

Ms. Groves stated there was a quorum with four (4) members present. Ms. Groves asked for an approval of the May 17, 2010 meeting minutes as submitted.

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

Mr. Ward seconded the motion.

Mr. Himsel was now in attendance but did not vote on the meeting minutes.

VOTE: For- 4 Against- 0 Abstained- 0 APPROVED
MAY 17, 2010 MEETING MINUTES

VAR 04/10: LOVE'S TRAVEL STOP (Frank Ille) for a variance from the development standards as required in HCZO Section 9.1 Table Permitted Signs – Aggregate Sign Area, maximum per parcel in a HB Highway Business district, Liberty Township, S25&36-T14N-R1W, located at the northeast corner of State Road 39 And I-70, 2299 Koger Street, Mooresville Indiana, 46158, approximately 11 acres.

VAR 05/10: LOVE'S TRAVEL STOP (Frank Ille) for a variance from the development standards as required in HCZO Section 9.3 A. 3. g. (height) & 9.7 C. 6. b. (height), in a HB Highway Business district, Liberty Township, S25&36-T14N-R1W, located at the northeast corner of State Road 39 and I-70, 2299 Koger Street, Mooresville Indiana, 46158, approximately 11 acres.

VAR 06/10: LOVE'S TRAVEL STOP (Frank Ille) for a variance from the development standards as required in HCZO Section 9.3 A. 3. g. (area) & 9.7 C. 11. d. 3. (area) and 9.7 C. 6. a. (area), in a HB Highway Business district, Liberty Township, S25&36-T14N-R1W, located at the northeast corner of State Road 39 and I-70, 2299 Koger Street, Mooresville Indiana, 46158, approximately 11 acres.

The Staff made a Power Point presentation of the facts of the case. Mr. Fazzini stated the Love's Travel Stop had obtained Plat Development Plan approval in the fall of 2008.

Mr. Frank Ille, Manager of Development, Love's Travel Stop, appeared before the Board and stated the sign approvals were the final step before the construction would start at the site. Mr. Ille stated the plan was for the street to go in and dirt work to start this year. Mr. Ille stated the construction on the building would start in the Spring of 2011. Mr. Ille gave a history of the

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Love's Company and explained the growth planned for the future. Mr. Ille stated there were three businesses under one roof which was one reason for the increased sign square footage being requested. Mr. Ille stated the directional signs were to keep cars and semi trucks separate on the site.

Ms. Groves asked about the sign at I-70 that had been approved two years ago.

Mr. Reitz stated the sign was approved and would be installed.

Ms. Groves asked if the square footage of the pylon sign was included in the approval.

Mr. Ille stated yes, it was included.

Ms. Groves opened the public hearing for all three cases and no one appeared. Ms. Groves closed the public hearing.

Ms. Groves stated the address would need to be on each sign, in six inch letters. Ms. Groves stated the Staff would work with Mr. Ille on this.

Mr. Ille stated that was okay.

Mr. Reitz stated he was impressed with the Love's Company and how well they worked with the Staff.

Ms. Groves stated she agreed.

Mr. Himsel made a motion to adopt the positive findings of fact and approve **VAR 04/10: LOVE'S TRAVEL STOP (Frank Ille)**.

Mr. Ward seconded the motion.

VOTE: For- 5 Against- 0 Abstained- 0 APPROVED
VAR 04/10: LOVE'S TRAVEL STOP (Frank Ille)

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law

VAR 04/10

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 an aggregate sign area of 1,143 square feet in the HB/Highway 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 the DPB office located at the Hendricks County Government Center.

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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.

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 proposed travel center will house multiple intense uses requiring a substantial degree of signage to safely direct travelers to their desired locations. Further, a larger than usual amount of signage on this large parcel is necessary to prevent conflicts between automobiles, pedestrians, and tractor-trailer rigs. Public safety is enhanced with the proposed signage plan.

- (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. Much of the land in the area is zoned HB/Highway Business for the purpose of locating travel-related businesses like the proposed travel center. Other zoning in the area is commercial and light industrial in character, whose planned uses are compatible with a travel center and the scale of the signage.

- (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. The proposed travel center is a large scale, intense land use with a mix of automobile, pedestrian, and tractor-trailer traffic. To avoid dangerous

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conflicts between these activities, a greater than ordinary amount of signage is required. Strictly applying zoning ordinance signage standards would needlessly put travelers at risk when moving around among the variety of uses at the travel center.

For all the foregoing reasons, the Board approved this request for a development standards variance on the 21st day of June 2010.

Mr. Himsel made a motion to adopt the positive findings of fact with conditions and approve **VAR 05/10: LOVE'S TRAVEL STOP (Frank Ille)**.

Mr. Hession seconded the motion.

VOTE: For-5 Against- 0 Abstained- 0 APPROVED
VAR 05/10: LOVE'S TRAVEL STOP (Frank Ille)

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law

VAR 05/10

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 a directional sign height of seven feet and a monument sign height of 11 feet 11.5 inches in the HB/Highway 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 the DPB office located at 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.

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,

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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 proposed travel center is an intense activity with multiple land uses on the same parcel with a large amount of potentially conflicting vehicle traffic anticipated. Higher than usual directional sign height is necessary to increase the signs' visibility, particularly to tractor-trailer rigs. The proposed monument sign height is actually shorter than that permitted for a pylon sign. By using a monument sign at the proposed height, the applicant is combining necessary visibility in a high traffic area with the improved aesthetic appeal of ground-mounted signage. This consideration is important as the Exit 59 area is considered by both the Plan Commission and Board of Commissioners as a "gateway" to the County and, as such, is subject to enhanced aesthetic standards.

- (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. The zoning in the area is commercial and light industrial in character. The proposed variances will be entirely compatible with the uses permitted in these zoning districts.

- (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. The high traffic volume and intense uses found in the proposed travel center require high visibility signage to allow traffic to safely negotiate the development. Forcing the travel center to meet zoning ordinance sign standards would needlessly endanger travelers when moving about the development.

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

1. The monument sign shall be designed as shown in the elevation stamped "Received" on 27 May 2010.
2. The monument 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.

For all the foregoing reasons, the Board approved this request for a development standards variance on the 21st day of June 2010.

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Mr. Himsel made a motion to adopt the positive findings of fact with conditions and approve **VAR 06/10: LOVE'S TRAVEL STOP (Frank Ille)**.

Mr. Ward seconded the motion.

VOTE: For- 5 Against- 0 Abstained- 0 APPROVED
VAR 06/10: LOVE'S TRAVEL STOP (Frank Ille)

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law

VAR 06/10

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 a directional sign area of 12.5 square feet, a canopy sign area of 23.2 square feet, and a monument sign area of 136 square feet in the HB/Highway 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 the DPB office located at 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.

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:

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(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 proposed travel center will house multiple intense uses requiring a substantial degree of signage to safely direct travelers to their desired locations. Further, a larger than usual amount of signage on this large parcel is necessary to prevent conflicts between automobiles, pedestrians, and tractor-trailer rigs. Public safety is enhanced with the proposed signage plan.

(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. Much of the land in the area is zoned HB/Highway Business for the purpose of locating travel-related businesses like the proposed travel center. Other zoning in the area is commercial and light industrial in character, whose planned uses are compatible with a travel center and the scale of the signage.

(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. The proposed travel center is a large scale, intense land use with a mix of automobile, pedestrian, and tractor-trailer traffic. To avoid dangerous conflicts between these activities, a greater than ordinary amount of signage is required. Strictly applying zoning ordinance signage standards would needlessly put travelers at risk when moving around among the variety of uses at the travel center.

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

1. The monument sign shall be designed as shown in the elevation stamped "Received" on 27 May 2010.
2. The monument 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.

For all the foregoing reasons, the Board approved this request for a development standards variance on the 21st day of June 2010.

VAR 07/10: DAVEY HAMILTON (Dan Keers) for a variance from the development standards as required in HCZO Section 4.7 D to permit the height of a storage building to exceed 24 feet in a AGR/Agricultural Residential district, Union Township, S18-T17N-R1W, located approximately one mile north of the intersection of County Road 1000 N. and 200 W., 10894 N. County Road 200 West, Jamestown Indiana, 46147, approximately 25 acres.

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The Staff made a Power Point presentation of the facts of the case. Mr. Fazzini stated the proposed building would be 90 x 100 feet with a height of 29.5 feet.

Mr. Dale Kruse, Kruse Consulting, 7384 Business Center Drive, Avon Indiana appeared before the Board and stated he would present the case for Mr. Hamilton. Mr. Kruse stated Mr. Keers was the builder of the project. Mr. Kruse stated the site was on the Boone County line and a twenty five acre parcel. Mr. Kruse stated the petitioner was a race car driver and needed space to store his race cars and trailers. Mr. Kruse stated the height of the sidewall would be 18'3" and a roof pitch of 3x12. Mr. Kruse explained how the garage doors and hardware would increase the height needed. Mr. Kruse stated if the building were an Agricultural structure an approval with the Board of Zoning appeals would not be needed. Mr. Kruse stated the site was mostly tillable land and the building would be kept off that area as much as possible. Mr. Kruse stated the size of the building, 90 x 100 feet, would allow the motor home to turn around inside and a different door would not be needed to exit.

Mr. Himsel asked about the color of the metal siding and the doors.

Mr. Kruse stated the building would have two colors, of metal siding. Mr. Kruse stated there were doors on the north side although the field would not be used for the vehicles to turn around in.

Mr. Hession asked how long Mr. Hamilton had owned the property and what was stored at the site now.

Mr. Kruse stated he had owned the property four years and had storage space in Indianapolis which was very expensive.

Ms. Groves asked if there any questions from the Board.

Mr. Hession asked if there was any other way to install an overhead garage door opener so that the height was not increased to the extent being requested.

Mr. Kruse stated he was not aware of another option.

Ms. Groves stated she was concerned what the building may be used for other than the storage of vehicles and RV's. Ms. Groves stated in the past the race teams had been denied any approval to do the repair, maintenance or building of race cars on a residential property. Ms. Groves stated she felt there was not a hardship in this case.

Mr. Kruse stated the concern had been discussed with Staff and he stated Mr. Hamilton would not bring any business activity to the building. Mr. Kruse stated an affidavit would be signed at the time a building permit was applied for.

Mr. Reitz stated a permit had already been applied for and the form was part of the permit file.

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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 and approve **VAR 07/10: DAVEY HAMILTON (Dan Keers)**.

Mr. Ward seconded the motion.

VOTE: For- 4 Against- 1 Abstained- 0 APPROVED
VAR 07/10: DAVEY HAMILTON (Dan Keers)

The vote was as follows:

<u>Member</u>	<u>For</u>	<u>Against</u>	<u>Abstained</u>
Jo Ann Groves	0	X	0
C. Richard Whicker	X	0	0
Sam Himsel	X	0	0
Rodger Ward	X	0	0
<u>Anthony Hession</u>	X	0	0
Total	4	1	0

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law

VAR 07/10

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 an accessory building height of 29.5 feet 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 the DPB office located at 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.

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

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 proposed outbuilding is located on a 25 acre agricultural parcel. Although larger than the typical outbuilding, its size is not out of scale with the size of the parcel. Furthermore, the size of the structure will allow for the indoor storage of vehicles and other equipment that might otherwise be stored outside.

- (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. The area is characterized by agricultural and rural residential uses with structures similar to the one proposed. The proposed outbuilding will be located on a large agricultural parcel in a location remote from any other structure on another parcel. This approval will have no effect on the use of nearby property.

- (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. The combination of size and the need for a reasonably pitched roof make it impractical to meet the zoning ordinance's maximum accessory building height for the AGR zoning district. Requiring the outbuilding to meet the maximum height standard would force the structure to be smaller, or to have an impractically shallow roof pitch, or a combination of the two.

For all the foregoing reasons, the Board approved this request for a development standards variance on the 21st day of June 2010.

VAR 08/10: BRAD ANGELES & ANITA MAZADI (Amy Comer Elliott) for a variance from the development standards as required in HCZO Section 4.3 C to permit two uses on one parcel in RB/Single Family Residential district, Lincoln Township, S15-T16N-R1E, located approximately 0.5 mile south of County Road 500 North, east of 575 East, 6053 Old Bridge Road, Brownsburg Indiana, 46112, approximately 20 acres.

The Staff made a Power Point presentation of the facts of the case. Mr. Reitz stated Ms. Amy Comer Elliott was not able to attend and had asked for a continuance of the case.

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Ms. Groves stated the representative had requested a 30 day continuance.

Mr. Ward made a motion to continue **VAR 08/10: BRAD ANGELES & ANITA MAZADI (Amy Comer Elliott)** to the July 19, 2010 meeting.

Mr. Hession seconded the motion.

**VOTE: For- 5 Against- 0 Abstained- 0 CONTINUED
VAR 08/10: BRAD ANGELES & ANITA MAZADI (Amy Comer Elliott)**

Being no further business the meeting was adjourned at 8:10 p.m.

Jo Ann Groves, Chairman

Don F. Reitz, Secretary