

April 20, 2009

The Hendricks County Board of Zoning Appeals met in the Hendricks County Government Center, in Meeting Rooms 4 & 5, Monday, April 20, 2009. The meeting began at 7:30 p.m. Members present included Jo Ann Groves, C. Richard Whicker, Anthony Hession, Rodger Ward and Sam Himsel. Also present were Don Reitz, Secretary, Tammy Richardson, Zoning Technician, Tyler O. Starkey, Attorney with Steuerwald Zielinski and Witham and Gloria Watts, Recording Secretary.

Everyone stood and recited the Pledge of Allegiance.

Ms. Groves stated there was a quorum with (5) members present. Ms. Groves asked for an approval of the February 17, 2009 meeting minutes.

Mr. Whicker made a motion to approve the February 17, 2009 meeting minutes as submitted.

Mr. Ward seconded the motion.

Mr. Himsel and Mr. Hession had abstained because they were not in attendance for the February 2009 meeting.

**VOTE: For- 3 Against- 0 Abstained- 2 APPROVED**  
**FEBRUARY 17, 2009 MEETING MINUTES**

**SE 02/09: ERNEST C. & D. GALE HUTTE** for a special exception in accordance with Section 4.14 ( C ) to permit a religious place of worship in a NB/Neighborhood Business district, Marion Township, S9-T15N-R2W, located on the south side of U.S. 36, approximately 100 feet east of State Road 75, 6977 West U.S. 36, Danville Indiana, 46122, 0.46 acre.

The Staff made a Power Point presentation of the facts of the case.

Mr. Ernest Hutte, 5439 Carnoustie Circle, Avon Indiana, appeared before the Board and stated he was the owner of the property located at 6977 West U.S. Highway 36, Danville Indiana, 46122. Mr. Hutte stated his renters wanted to have church services at the building which required a special exception approval. Mr. Hutte stated most of the members were local and was a small group. Mr. Hutte stated the area surrounding the building had about twenty seven parking spaces and explained the number of attendees would have to be more than eighty people to require more spaces, with two to three per car. Mr. Hutte stated the building would be too small if there were more than eighty attending services and at this time there were thirty five members. Mr. Hutte stated the use would be temporary, possibly one to two years. Mr. Hutte stated the area had some possible parking if they did have an overflow and also the church would move to a larger building as they grew.

Ms. Groves stated the case would go to the Plan Commission for development plan approval.

April 20, 2009

Mr. Reitz stated the zoning ordinance had parking standards and the parking would be determined during development plan review.

Mr. Hutte stated he was aware of the development plan requirements.

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

Mr. Whicker made a motion to adopt the positive findings of fact with conditions and approve **SE 02/09: ERNEST C. & D. GALE HUTTE.**

Mr. Ward seconded the motion.

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. 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 applicant and not the real estate.
3. 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.
4. The applicant shall receive development plan approval from the Plan Commission.
5. All applicable federal, state, and local approvals are required.
6. Any further expansion of the use shall require BZA approval for a special exception.
7. In the event of future expansions, Plan Commission approval of a development plan for those expansions may be required.
8. The proposed parking must be located on the site and not on adjoining properties unless a signed agreement has been reached with those adjoining property owners.
9. There shall not be any parking permitted along U.S. 36 and/or in the right-of-way.
10. All signage must meet the requirements of the Zoning Ordinance and be approved by the Plan Commission.
11. Any proposed lighting must be approved by the Plan Commission.

**VOTE: For- 5 Against- 0 Abstained- 0 APPROVED**  
**SE 02/09: ERNEST C. & D. GALE HUTTE**

**SE 03/09: CLAYTON ASSEMBLY OF GOD, INC. (Ben Comer)** for a special exception in accordance with Section 4.7 ( C ) to permit a religious place of worship in a AGR/Agricultural Residential district, Liberty Township, S11-T14N-R1W, located on the west side of State Road 39, approximately 0.75 miles south of U.S. Highway 40, 4.98 acres.

April 20, 2009

The Staff made a Power Point presentation of the facts of the case.

Mr. Ben Comer, 71 West Marion Street, Danville Indiana, appeared before the Board and stated Mr. Wright, Pastor, was also present. Mr. Comer stated the area was mostly agricultural, with a golf course and existing residential homes nearby and an HB/Highway Business district to the south. Mr. Comer stated a development plan review would be necessary. Mr. Comer asked about condition two in the draft findings of fact with regard to the time frame for the start of the project. Mr. Comer stated twenty four months would help the church, instead of twelve months, because the congregation was small and funds may not be readily available. Mr. Comer thanked the Staff for a favorable recommendation.

Mr. Reitz stated twelve months was a standard time given and twenty four months was a reasonable request.

Ms. Groves asked if there were any questions and there were none. Ms. Groves opened the public hearing and no one appeared. Ms. Groves closed the public hearing.

Mr. Himsel asked if the plan was to purchase the property.

Mr. Comer stated yes, they did plan to purchase the property and go forward within twenty four months. Mr. Comer asked if that would be from today's date.

Mr. Reitz stated yes, from the date of this approval, April 20, 2009.

Mr. Himsel made a motion to adopt the positive findings of fact with conditions and approve **SE 03/09: CLAYTON ASSEMBLY OF GOD, INC. (Ben Comer)**.

Mr. Whicker seconded the motion.

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 24 months of the date of this approval.
3. All applicable federal, state, and local approvals are required.
4. Any further expansion of the use shall require BZA approval for a special exception.
5. In the event of future expansions, Plan Commission approval of a development plan for those expansions may be required.
6. All signage must meet the requirements of the Zoning Ordinance and be approved by the Plan Commission.
7. Any proposed lighting must be approved by the Plan Commission.

April 20, 2009

**VOTE: For- 5 Against- 0 Abstained- 0 APPROVED**  
**SE 03/09: CLAYTON ASSEMBLY OF GOD, INC. (Ben Comer)**

**SE 04/09: WEST CENTRAL INDIANA PLUMBING, INC. (Ben Comer)** for a special exception in accordance with Section 4.8 (D) to permit a plumbing contractor business in a GB/General Business district, Center Township, S30-T16N-R1W, located on the north side of State Road 236, approximately 0.50 mile west of 200 West, 2378 State Road 236, Danville Indiana, 46122, 1.55 acres.

The Staff made a Power Point presentation of the facts of the case. Ms. Richardson stated there were multiple buildings on the property.

Mr. Ben Comer, 71 West Marion Street, Danville Indiana, appeared before the Board and stated Justin Dorsey was present and wished to move his Plumbing Business to the site. Mr. Comer stated the site at one time was a communications type business, with two towers on the property. Mr. Comer stated the property was rezoned and an approval was needed to permit contractor services. Mr. Comer stated no outside storage was allowed and any materials would be kept inside. Mr. Comer stated some of the inside would be remodeled, landscape added and striping for parking done.

Ms. Groves asked if there would be any retail at the site.

Mr. Comer stated no there would not.

Ms. Groves asked if there were any questions from the Board and there were none. Ms. Groves opened the public hearing and no one appeared. Ms. Groves closed the public hearing.

Mr. Ward made a motion to adopt the positive findings of fact with conditions and approve **SE 04/09: WEST CENTRAL INDIANA PLUMBING, INC. (Ben Comer)**.

Mr. Himsel seconded the motion.

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. 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 applicant and not the real estate.
3. 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.
4. All applicable federal, state, and local approvals are required.

5. Any further expansion of the use shall require BZA approval for a special exception.

**VOTE: For- 5 Against- 0 Abstained- 0 APPROVED**  
**SE 04/09: WEST CENTRAL INDIANA PLUMBING, INC. (Ben Comer)**

**SE 05/09: THE LIGHTHOUSE FELLOWSHIP, INC. (Brian Richardson)** for a special exception in accordance with Section 4.14 (C) to permit a religious place of worship in a NB/Neighborhood Business district, Clay Township, S32-T15N-R2W, located on the southeast corner of Church Street and Cross Street in the Town of Coatesville (Lot 8, Original Town of Coatesville, Block 3), 4951 Milton Street, Coatesville Indiana, 46121, 0.17 acre.

Ms. Groves asked Mr. Ward to explain his position on the case.

Mr. Ward stated he would remove himself from any discussion or motion on this case.

The Staff made a Power Pointe presentation of the facts of the case. Ms. Richardson stated the building being used was the Masonic Lodge.

Mr. Brian Richardson, 507 Mill Springs, Coatesville Indiana, 46121 appeared before the Board and stated he was the pastor for the church. Mr. Richardson stated the church was started a year ago and had grown and needed more space. Mr. Richardson stated the building had become available and they had been told a church would be a use permitted at this location. Mr. Richardson stated he was not aware of the process with the Board of Zoning Appeals for a special exception until he received a letter from Hendricks County. Mr. Richardson stated that some repairs had been made on the building and they did have plans for more improvements.

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

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|--------------------|----------------------|-----------------|-------|
| 1. Dave Miller     | 7936 Main Street     | Coatesville, In | 46121 |
| 2. Kellie Miller   | 7936 Main Street     | Coatesville, In | 46121 |
| 3. Korleen Bledsoe | 8064 S. State Rd. 75 | Coatesville, In | 46121 |
| 4. Jim Sexton      | 5347 S. Milton St.   | Coatesville, In | 46121 |
| 5. David Clarke    | 527 S. State Rd. 75  | Coatesville, In | 46121 |
| 6. Judy Sexton     | 5347 S. Milton St.   | Coatesville, In | 46121 |

Mr. Dave Miller appeared before the Board and stated his property was just to the east and about 90 feet from the building. Mr. Miller stated he did receive a letter from the church listing all the times they would meet for services or band practice. Mr. Miller stated they have had services all along, without the Board of Zoning Appeals approval. Mr. Miller asked about the notification letter that was sent by the pastor and if it needed to be certified. Mr. Miller was concerned about parking as there was very little space available.

Mr. Reitz stated the letter did not have to be certified.

April 20, 2009

Ms. Kellie Miller stated she had decided not to speak.

Ms. Korleen Bledsoe appeared before the Board and stated she was a member of the Christian Church just across the street in Coatesville. Ms. Bledsoe stated there were four churches in the area and they did not need another one. Ms. Bledsoe stated people had parked in the drive of her church and had stopped after they were told not to. Ms. Bledsoe asked if they had the support of the existing businesses in Coatesville.

Mr. Jim Sexton appeared before the Board and stated the petitioner had mailed letters and some of the businesses in the area had not received a letter. Mr. Sexton stated ignorance of the law was no excuse.

Mr. Dave Clarke appeared before the Board and stated he owned two properties in the Town of Coatesville, 7965 Main Street and 4993 Milton Street. Mr. Clarke stated the Main Street location was a liquor store and the Milton Street location was a former craft shop. Mr. Clarke stated he had planned to move his liquor store into the larger building on Milton Street, which would be closer to the Masonic Building. Mr. Clarke was concerned about the distance permitted between a liquor store and a church and if that would be an issue for his business.

Ms. Groves asked what the distances were.

Mr. Clarke stated there was 240 feet from the current liquor store and if he did move it to the larger building it would be approximately 65 feet to the Masonic building. Mr. Clarke stated the larger building was a better location for his business.

Mr. Reitz stated the zoning ordinance had no rules on the distance requirements for these types of businesses.

Ms. Groves stated the Alcoholic Beverage Commission may have more information.

Mr. Tyler Starkey stated he would check into the requirement.

Mr. Clarke stated when he bought the original store two years ago there was no problem with the location of the liquor store on Main Street.

Ms. Judy Sexton appeared before the Board and stated she was the owner and operator of the Bread Basket Café on Main Street and her concern was with parking. Ms. Sexton stated there was not enough parking in the town now and would not want it to become worse.

Ms. Groves closed the public hearing.

Mr. Richardson stated in response the building had been used for public meetings since the 1950's and had 98 members at one time. Mr. Richardson stated the building had been vacant the past few years and would eventually be an eyesore if they did not proceed with plans to repair the building. Mr. Richardson stated parking had not been as much a problem and he would

April 20, 2009

be sure to let his members know where they were not allowed to park. Mr. Richardson stated only the store was open on Sundays when they would have more cars to park and they were told the store parking lot could be used during church services. Mr. Richardson stated some members walk to church and also a van could be used to transport members. Mr. Richardson stated the noise levels for praise worship would be toned down which was usually on Sunday and Monday evenings.

Ms. Groves stated the noise from musical instruments could be quite loud and also the distances required for the liquor store and church needed further investigation.

Mr. Richardson stated in his past experience the law for distances was there for the church and he did realize the liquor store was there before the church. Mr. Richardson stated he spoke to Mr. Clarke about the location of the liquor store.

Mr. Starkey explained the statute for businesses being located near liquor stores. Mr. Starkey stated he would research the statute for the Board.

Mr. Reitz stated a continuation would be best at this time although the case would still need development plan approval. Mr. Reitz stated what the Board was looking at now was the land use.

Mr. Whicker stated most of these issues could be overcome. Mr. Whicker stated he had been to the town and parking had been available and the noise levels could be measured. Mr. Whicker stated the church and any activity in the Town of Coatesville would be welcomed to the area.

There was a discussion about the parking for the church, the noise levels and the proximity of the existing liquor store.

Mr. Miller submitted photographs to the Staff, Exhibit A.

Mr. Whicker made a motion to continue **SE 05/09: THE LIGHTHOUSE FELLOWSHIP, INC. (Brian Richardson)** to the May 18, 2009 meeting.

Mr. Himsel seconded the motion.

Mr. Ward abstained from the motion.

**VOTE: For- 4 Against- 0 Abstained- 1 CONTINUED  
SE 05/09: THE LIGHTHOUSE FELLOWSHIP, INC. (Brian Richardson)**

**VAR 01/09: BRIAN AND DIANA HALL** for a variance from the development standards as required in Section 4.8 (D) to permit a lot with no road frontage in a RA/Single Family Residential district, Washington Township, S22-T15N-R1E, located on the east side of 625 East, approximately 0.25 mile north of 300 South, off a private drive, 1.5 acres.

April 20, 2009

The Staff made a Power Pointe presentation of the facts of the case.

Mr. Brian Hall appeared before the Board and stated his father owned the small parcel he would have to cross to access his land and was given permission to do that. Mr. Hall stated he would be platting the lot next month with the Plan Commission.

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

Mr. Ward made a motion to adopt the positive findings of fact and approve **VAR 01/09: BRIAN AND DIANA HALL.**

Mr. Whicker seconded the motion.

**VOTE: For- 5 Against- 0 Abstained- 0 APPROVED**  
**VAR 01/09: BRIAN AND DIANA HALL**

There was a discussion regarding the placement of wind turbines in the county. Mr. Reitz stated a new case was on the agenda for the May 18, 2009 meeting and the Board may need information on the turbines. Mr. Reitz explained the process, the requirements in the new zoning ordinance and the areas where a turbine would be permitted.

Being no further business, the meeting was adjourned at 9:05 p.m.

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Jo Ann Groves, Chairman

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Don F. Reitz, Secretary

April 20, 2009

April 20, 2009

April 20, 2009

April 20, 2009

April 20, 2009

April 20, 2009