

FEBRUARY 17, 2009

The Hendricks County Board of Zoning Appeals met in the Hendricks County Government Center, in Meeting Rooms 4 & 5, Tuesday, February 17, 2009. The meeting began at 7:30 p.m. Members present included Jo Ann Groves, C. Richard Whicker, and Rodger Ward. Also present were Don Reitz, Secretary, Tammy Richardson, Zoning Technician, 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. Ms. Groves asked for an approval of the December 15, 2008 meeting minutes.

Mr. Ward made a motion to approve the December 15, 2008 meeting minutes as submitted.

Mr. Whicker seconded the motion.

VOTE: For-3 Against-0 Abstained-0 APPROVED
DECEMBER 15, 2008 MEETING MINUTES

Ms. Groves stated the Election of Officers for the Board of Zoning Appeals for 2009 was the next order of business.

Mr. Whicker made a motion to approve the election of officers for 2009, with those being Jo Ann Groves as Chairman, Rodger Ward as Vice-Chairman, Greg Steuerwald as County Attorney and Don F. Reitz appointed as Secretary.

Mr. Ward seconded the motion.

VOTE: For-3 Against-0 Abstained-0 APPROVED
ELECTION OF OFFICERS 2009

SE 01/09: RANDY L. AND LORA L. DENNEY LIVING TRUST (Andrew Kult, Comer Law Office) for a special exception in accordance with Section 4.7 (C) to permit a dwelling, manufactured house (single unit) in a AGR/Agricultural Residential district, Liberty Township, S36-T15N-R1W, located on the south side of 400 South, approximately 900 feet west of Ann Street, just west of the Town of Cartersburg, 2785 East County Road 400 S., Clayton Indiana, 46118, 26.68 acres.

The Staff made a Power Point presentation of the facts of the case. Ms. Richardson stated an existing home was being remodeled and the single wide mobile home was being used during the construction on the home.

Mr. Andrew Kult, Comer Law Office, 71 West Marion, Danville Indiana, appeared before the Board and stated the property had been owned by the Denney's for over ten years. Mr. Kult stated Mr. Denney's grandmother lived in the home until 2004 when she was moved to a

FEBRUARY 17, 2009

nursing home. Mr. Kult stated the following winter the furnace went out while the home was vacant and pipes burst causing water damage. Mr. Kult stated mold had been a problem and that had since been remediated. Mr. Kult stated in 2006 Mr. Denney's father moved into the trailer while some repairs were being made on the home, including the front porch. Mr. Kult stated Mr. Denney Sr. had since become ill and had not been able to work on the home. Mr. Kult stated Mr. Denney had spoke to the Planning Office and had been informed on the temporary placement of a single wide trailer approximately October 2006. Mr. Kult stated Mr. Randy Denney had been supplying all the materials for the work on the home which has since ceased. Mr. Kult stated the Denney's would like to move forward and take care of any approvals and permits required to finish the project. Mr. Kult stated the project should be finished within the time frame given in the conditions of approval.

Mr. Whicker asked who lived in the home and the single wide trailer.

Mr. Kult stated the home had not been lived in since Mr. Denney's grandmother and Mr. Denney's father currently lived in the single wide trailer along with a caregiver.

Mr. Whicker asked how the home would be finished if Mr. Denney's father was ill.

Mr. Kult stated the repairs would be made by Randy and Lora Denney.

Ms. Groves asked for clarification of condition six (6) and seven (7) in the draft findings of fact.

Ms. Richardson stated the removal shall be within thirty (30) days of occupancy, or August 31, 2010, whichever came first.

Ms. Groves opened the public hearing and the following individuals appeared.

Mr. Herbert Hale, 2688 E. County Road 400 S., Clayton Indiana, 46118 appeared before the Board and stated he lived across the street from the farm house and had full view of the trailer that was placed without approval. Mr. Hale stated he was retired and had a number of reasons he was against the trailer placement. Mr. Hale stated his property value may be lowered by the trailer being in the area and had been advised by a realtor that his home value could be lowered from 5-15 percent. Mr. Hale gave a history of the past ownership at the farm house and stated he had lived in the area over twenty five (25) years. Mr. Hale stated the trailer had been placed without approval and therefore no offices with the county had any idea it was there, so the taxes had not been paid on the trailer.

Mr. Harold Hill, 2772 E. County Road 400 S., Clayton Indiana 46118 appeared before the Board and stated Mr. Hale had covered most of the concerns he also had. Mr. Hill stated he would retire soon and was concerned of his property value. Mr. Hill stated a petition was submitted with eight signatures from concerned neighbors.

Ms. Richardson stated Exhibit A had been submitted for the case **SE 01/09: RANDY L. AND LORA L. DENNEY LIVING TRUST (Andrew Kult, Comer Law Office)**.

FEBRUARY 17, 2009

Ms. Groves closed the public hearing.

Mr. Kult stated the project had not been ongoing for ten years, as the pipes burst in 2004. Mr. Kult stated at that time the floors were replaced, followed by the roof and the foundation was repaired. Mr. Kult stated the insurance company had covered repairs on the water damage and the trailer that had been placed looked better than the farm house. Mr. Kult stated mold remediation had been done and took about a year. Mr. Kult stated they had checked with the county offices on the personal property taxes that may be due on the trailer, and the Auditor would be assessing the trailer back two years. Mr. Kult stated the trailer would be removed as soon as the repairs were finished on the farm house.

Mr. Whicker asked what the current condition was on the home.

Mr. Kult stated the exterior would be painted and the interior still had some items that needed repair.

Ms. Lora Denney stated the items inside the home that needed repair or replacement would be the drywall, plumbing, appliances, furnace, paint and carpet.

Ms. Groves asked if the Environmental Health Department had been contacted regarding the septic and well.

Mr. Kult stated he planned to meet with Cathy Grindstaff from the Health Dept.

Mr. Ward asked why eighteen months was needed to make the repairs and would they be willing to make the changes in a year instead.

Mr. Kult stated the work would be done outside of the Denney's work schedule and also as funds were available.

Ms. Groves stated the well and septic installation may be very expensive and asked if those costs would be available to the Denney's within the year, if the Board made that a condition.

Mr. Reitz stated the home did need a functioning septic system and the new trailer at the property would be seen as new construction.

Ms. Richardson stated a remodel project, to the home, could make an upgrade to the septic necessary.

Mr. Ward made a motion to adopt the findings of fact with conditions 6 and 7 amended to state the petitioner had one year to complete the project, by February 17, 2010 and approve **SE 01/09: RANDY L. AND LORA L. DENNEY LIVING TRUST (Andrew Kult, Comer Law Office)**.

FEBRUARY 17, 2009

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. 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. All applicable federal, state, and local approvals are required.
4. The applicant shall receive approval from the Hendricks County Health Department for the water and sewage systems for the mobile home.
5. Occupancy of the mobile home shall be limited to the applicant's father.
6. During the approval period of this special exception, upon issuance of a certificate of occupancy for a permanent residence on the property, the mobile home shall be removed within 30 days. In no case shall the mobile home remain on the property after 17 February 2010.
7. This approval shall terminate on 17 February 2010.

VOTE: For-3 Against-0 Abstained-0
SE 01/09: RANDY L. AND LORA L. DENNEY LIVING TRUST (Andrew Kult, Comer Law Office)

Mr. Reitz stated there would not be a meeting in March as there were no cases filed.

Being no further business the meeting was adjourned at 8:25 p.m.

Jo Ann Groves, Chairman

Don F. Reitz, Secretary