

May 18, 2009

The Hendricks County Board of Zoning Appeals met in the Hendricks County Government Center, in Meeting Rooms 4 & 5, Monday, May 18, 2009. The meeting began at 7:30 p.m. Members present included Jo Ann Groves, Anthony Hession, Rodger Ward and Sam Himsel. Also present were Don Reitz, Secretary, 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 four (4) members present. Ms. Groves asked for an approval of the April 20, 2009 meeting minutes.

Mr. Ward made a motion to approve the April 20, 2009 meeting minutes as submitted.

Mr. Hession seconded the motion.

VOTE: For- 4 Against- 0 Abstained- 0 APPROVED
APRIL 20, 2009 MEETING MINUTES

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.

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

Mr. Brian Richardson, 507 Mill Springs, Coatesville Indiana, 46121 appeared before the Board and stated he had researched the distance permitted between liquor stores and church buildings and they were over the 200 foot minimum distance. Mr. Richardson stated if the liquor store owner moved his business it would be closer than that permitted and the church was willing to give the store owner written permission to locate there. Mr. Richardson stated they had used a decibel meter and the noise levels were within limits and measured 65 dba. Mr. Richardson stated they had added insulation to help block the noise from instruments and they played on Mondays for only 15 minutes.

Ms. Groves asked about the parking situation.

Mr. Richardson stated he had spoke to the Town of Coatesville and they were informed they could use the town lot across the street which was first come first serve. Mr. Richardson stated there was public parking along the road as well as at the store two blocks away. Mr. Richardson stated the store was the only business open on Sunday and they had been given permission to park there.

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Ms. Groves stated Mr. Ward would now participate in the discussion because it was determined he did not have a conflict of interest.

Mr. Ward asked where the church was located before the current location.

Mr. Richardson stated they had at first held services in his home and then moved to the building in New Winchester. Mr. Richardson stated his landlord in New Winchester, as well as himself, was not aware of the approvals needed for the church services to be held in the building.

Ms. Groves asked if there were any questions from the Board and there were none. Ms. Groves stated the public hearing was held last month although there were some individuals signed up to speak tonight.

Mr. Ward moved to reopen the public hearing.

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

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|--------------------|---------------------|-----------------|-------|
| 1. Dave Miller | 7936 Main St. | Coatesville, In | 46121 |
| 2. Michael Reeves | 8000 S. State Rd 75 | Coatesville, In | 46121 |
| 3. Korleen Bledsoe | 8064 S. State Rd 75 | Coatesville, In | 46121 |
| 4. Dave Clark | 7965 Main St. | Coatesville, In | 46121 |

Mr. Dave Miller appeared before the Board and stated he was happy to see Mr. Ward participating in the discussion. Mr. Miller stated he had lived in his home 21 years and had the same concerns as he stated last month. Mr. Miller stated an alarm went off Sunday afternoon and took awhile to be turned off. Mr. Miller stated the lawns had not been kept up and the alley had been partially blocked in the past month.

Mr. Michael Reeves appeared before the Board and stated he was a member and an elder of the Coatesville Christian Church. Mr. Reeves stated he had been a friend of Brian's for some time and felt the church would be a benefit to the community.

Mr. Ward asked who Mr. Reeves was attending the meeting in behalf of.

Mr. Reeves stated he was not sent to the meeting on behalf of his church.

Ms. Korleen Bledsoe appeared before the Board and stated she felt the churches plans at this location would fall through. Ms. Bledsoe stated Mr. Richardson wrote a letter in the past that stated he would not start a church in the Coatesville area.

Mr. Dave Clark appeared before the Board and stated he was the owner of the Still Here Liquor Store in Coatesville and in the future he did plan on moving into the larger building he owned which was closer to the Lighthouse Fellowship Christian Church. Mr. Clark stated he was not against the church being in town and had been at his current location for years. Mr. Clark stated he felt Brian Richardson may try to close him down and move into the buffer zone. Mr.

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Clark stated he did not have to get the churches permission to continue to keep his store open and he had no confidence in what Mr. Richardson had to say.

Ms. Groves closed the public hearing. Ms. Groves stated the Board was looking at the land use only.

Mr. Richardson stated he was not on trial, had been at his current church one year and with the Coatesville Christian Church six and one half years. Mr. Richardson stated he did not intend to put the liquor store out of business. Mr. Richardson stated the church was non denominational and a new pastor could be brought in at a later date.

Mr. Tyler Starkey, Attorney, appeared and stated under Title 7.1 in the Indiana Code governing liquor stores a pre existing liquor store was grandfathered in if they were present before the church and within the 200 foot requirement. Mr. Starkey stated if the church was in existence first they could not give permission to the liquor store, but could to a drug store or a grocery store that wanted to encroach within the 200 feet. Mr. Starkey stated that could depend on the type of license they carry.

Mr. Himsel stated then that if the church special exception was approved the liquor store could not move to the larger building as planned.

Mr. Starkey stated yes, that was correct and this was a legal issue that would not change the land use request.

Mr. Ward asked about the letter Mr. Richardson had written that stated he would not move into another church in the area.

Mr. Richardson stated he did write the letter but did not have a copy of it and had been approached to start up a new church.

Ms. Groves asked if there were any questions from the Board and there were none.

Mr. Himsel made a motion to adopt the negative findings of fact and deny **SE 05/09: THE LIGHTHOUSE FELLOWSHIP, INC. (Brian Richardson)**.

Mr. Ward seconded the motion.

The vote was as follows:

<u>Member</u>	<u>For</u>	<u>Against</u>	<u>Abstained</u>
Jo Ann Groves	0	X	0
Sam Himsel	X	0	0
Rodger Ward	X	0	0
<u>Anthony Hession</u>	<u>X</u>	<u>0</u>	<u>0</u>
Total	3	1	0

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VOTE: For- 3 Against- 1 Abstained- 0 DENIED
SE 05/09: THE LIGHTHOUSE FELLOWSHIP, INC. (Brian Richardson)

VAR 02/09: KS HENDRICKS PARTNERS, LLC. (Ben Comer) for a variance from the development standards as required in Section 4.17 D to permit the maximum lot coverage (structures and buildings) to be 50% in a PB/Planned/Flex Business District, Liberty Township, S26-T14N-1W, located on the north side of 1000 South, approximately 1/3 mile east of 100 East, Lots 1 & 2, Christie Acres Subdivision, 1362 East County Road 1000 South, Clayton Indiana, 46118, 14 acres.

VAR 03/09: KS HENDRICKS PARTNERS, LLC. (Ben Comer) for a variance from the development standards as required in Section 4.17 D to permit the maximum lot coverage (all impervious surfaces) to be 75% in a PB/Planned/Flex Business District, Liberty Township, S26-T14N-1W, located on the north side of 1000 South, approximately 1/3 mile east of 100 East, Lots 1 & 2, Christie Acres Subdivision, 1362 East County Road 1000 South, Clayton Indiana, 46118, 14 acres.

The Staff made a Power Point presentation of the facts of the case. Mr. Reitz stated the two lots were being incorporated into the 70 West project and would need an approval for the lot coverage.

Mr. Ben Comer, 71 West Marion Street, Danville Indiana appeared before the Board and stated more land had been acquired at the location that had gone to the Board for variance approvals last October. Mr. Comer stated the petitioner would like to have uniformity in the project and requested to include the 12.62 acres in the previous approval.

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

Mr. Hession made a motion to adopt the positive findings of fact and approve **VAR 02/09: KS HENDRICKS PARTNERS, LLC. (Ben Comer)**.

Mr. Himsel seconded the motion.

VOTE: For- 4 Against- 0 Abstained- 0 APPROVED
VAR 02/09: KS HENDRICKS PARTNERS, LLC. (Ben Comer)

Mr. Hession made a motion to adopt the positive findings of fact and approve **VAR 03/09: KS HENDRICKS PARTNERS, LLC. (Ben Comer)**.

Mr. Himsel seconded the motion.

VOTE: For- 4 Against- 0 Abstained- 0 APPROVED
VAR 03/09: KS HENDRICKS PARTNERS, LLC. (Ben Comer)

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VAR 04/09: ROSALYN LADD (Glen Smith) for a variance from the development standards as required in Section 4.7 D to permit an accessory structure (wind turbine) height of 55 feet rather than the required 24 feet in a AGR/Agricultural Residential district, Franklin Township, S7-T14N-R2W, located on the north side of 700 South, just east of the Hendricks-Putnam County Line Road, 8744 West County Road 700 South, Coatesville Indiana, 46121, 96.21 acres.

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

Mr. Himsel asked why the turbine would not be treated like a silo.

Mr. Reitz stated the reason was because the silo was an agricultural use and was exempt. Mr. Reitz stated the height was what the Board would consider.

Mr. Glen Smith, 66050 U.S. 31 South, Lakeville Indiana, appeared before the Board and stated he represents a company called Wind Wire. Mr. Smith stated the turbines were new to the state and a few had been installed. Mr. Smith stated most counties don't cover turbines in their ordinances and variances were required, as in Hendricks County. Mr. Smith explained how the turbine generated electricity and reduced the homeowner's bill. Mr. Smith stated the product had been approved by major utility companies across the nation.

Ms. Groves asked how the turbine was mounted.

Mr. Smith stated there was an engineered foundation with 36 inch anchor bolts. Mr. Smith stated the pole was steel and could withstand 140 mph winds and there were no guide wires. Mr. Smith stated the energy could be stored on a grid which would credit the electric bill.

Mr. Hession asked if a wind test had been done at the site.

Mr. Smith stated wind charts and maps were used to determine the best location. Mr. Smith stated the wind power generated would power a 2000 sq. foot home, per month. Mr. Smith stated the point of the blade would be eleven feet from the ground, the sweep area was twelve feet and the blades were made of carbon fiber. Mr. Smith stated at eight miles per hour the turbine would begin to generate power to the home.

Mr. Himsel asked about the cost.

Mr. Smith stated the cost was \$16,700 for the 45 foot pole which was the most popular size. Mr. Smith stated the federal government gave tax incentives, a thirty percent tax credit, for these energy saving items.

Ms. Groves asked about a fence around the turbine.

Mr. Smith stated there would be no fence and there was no way to climb the turbine. Mr. Smith stated the turbine was placed with a crane and a lift was used to work on it. Mr. Smith stated the initial set up was done from a lap top as well as periodic maintenance. Mr. Smith

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stated there was a five year warranty and the bearing would be greased at ten years. Mr. Smith stated there were 65 in Indiana with 20 more being installed. Mr. Smith stated they were usually installed on acreage and some on lots with no covenants.

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

Mr. Smith stated there was a state law that says no more than 100 kilowatts of generating power was allowed on public property.

Mr. Himsel made a motion to adopt the positive findings of fact and approve **VAR 04/09: ROSALYN LADD (Glen Smith)**.

Mr. Hession seconded the motion.

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

1. This approval shall apply to a single wind energy conversion system only.
2. All electrical components of the wind energy conversion system shall conform to all applicable local, state, and national codes.
3. The wind energy conversion system tower and blades shall be painted white or gray or another non-reflective unobtrusive color.
4. The applicant shall comply with all applicable FAA requirements.
5. The minimum distance between the ground and any blades on the wind energy conversion system shall be 43 feet as measured at the lowest point of the arc of the blades.
6. Noise and vibration levels shall be in compliance with all county, state and federal regulations.
7. If connected to a utility system, the wind energy conversion system shall meet the requirements for connection and operate as set forth in the electric utility's current service regulations applicable to wind energy conversion systems.
8. The wind energy conversion system shall be no nearer than 1.1 times the height of the wind energy conversion system to any property line, public right-of-way, railroad right-of-way, or overhead electrical transmission or distribution lines. The height shall be measured from the rotor blade at its highest point to the top surface of the wind energy conversion system foundation. The distance shall be measured from the center of the foundation at the base of the tower.
9. Any other structures associated with the wind energy conversion system shall maintain the same minimum setbacks as listed in number 7.

VOTE: For- 4 Against- 0 Abstained- 0 APPROVED
VAR 04/09: ROSALYN LADD (Glen Smith)

Being no further business the meeting was adjourned at 9:00 p.m.

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Jo Ann Groves, Chairman

Don F. Reitz, Secretary