

September 19, 2016

The Hendricks County Board of Zoning Appeals met in the Hendricks County Government Center, in the Meeting Room 4 and 5; Monday, September 19, 2016. The meeting began at 7:30 p.m. Members present included, Anthony Hession, Sam Himsel, Sonnie Johnston, Rod Lasley, and Walt O'Riley. Also present were Don Reitz, Planning Director, Greg Steuerwald, County Attorney, Nicholas Hufford, Planner, and Kim Cearnal, Recording Secretary.

Mr. Hession read the Rules of Procedure for the Board of Zoning Appeals meeting.

Everyone stood and recited the Pledge of Allegiance.

Mr. Hession asked for a motion for approval of the minutes from the August 15, 2016 meeting.

Mrs. Johnston made a motion to approve the August 15, 2016 meeting minutes.

Mr. Lasley seconded the motion.

VOTE: For- 5 Against- 0 Abstained-0 APPROVED
AUGUST 15, 2016 MEETING MINUTES

SE 11-16: Terry and Karen Street for a Special Exception in accordance with HCZO 4.7 (C) to permit a dwelling, mobile home on a 26.66 parcel in Liberty Township.

Mr. Hession stated that this case had been continued from the August 15, 2016 meeting and the case had been withdrawn for the board's consideration.

SE 11-16: WITHDRAWN

Corrections of clerical error in cross reference to another hearing.

VAR 03-16: William & Betty Harrington, for a Variance from Development Standards 4.3(C) to permit two principal uses; a residence and a banquet hall/wedding venue on a 2.59 acre parcel in an AGR zoned district in Center Township.

Mr. Steuerwald stated that the Findings of Facts for VAR 03-16 had cross referenced with another case due to a clerical error. He stated that the document had been corrected to what the Findings of Facts should be. Mr. Steuerwald also stated that he had contacted the attorney for the Crabtree's, Frank Hogan, and had let him know that the error was found and that it would be talked about at the September 19th BZA meeting. Mr. Steuerwald stated he informed Mr. Hogan that the corrected version would be sent to him on September 20, 2016.

September 19, 2016

Mr. Hession asked if the board had any questions.

There were none.

Mr. Steuerwald asked that the board look through the Findings of Facts while present to make sure it is what the board would like to make as a finding. He stated that if it is, he would like the board to make a motion to correct the scrivener's error of the findings dated April 18, 2016.

Mr. Lasley made a motion to approve the revision of the scrivener's error for the Findings of Facts for VAR 03-16 for the April 18, 2016 BZA meeting.

Mrs. Johnston seconded the motion.

VOTE: For-4 Against-0 Abstained-1 APPROVED
CORRECTED FINDINGS OF FACTS FOR VAR 03-16

SE 13-16: Central States Tower for a wireless communication tower on a leased .147 of 27.55 acre parcel in Middle Township.

Mr. Hession stated that Central States Tower had asked for a continuance to the October 17, 2016 BZA meeting.

Mrs. Johnston made a motion to continue SE 13-16: Central States Tower for a wireless communication tower.

Mr. Himsel seconded the motion.

VOTE: For-5 Against-0 Abstained- APPROVED
SE 13-16: CONTINUANCE TO OCTOBER 17, 2016 MEETING

VAR 12-16: Diana Holtgrave for a Variance from Development Standards 4.7 (D) to allow lot size to be 1.2 acres in an AGR zoned district in Guilford Township.

The Staff presented a power point presentation over the facts of case. Mr. Hufford pointed out that the property is south of Hwy 40. He stated that the property is 1.2 acres. Mr. Hufford stated that Mrs. Holtgrave obtained this property at this size from her brother who is now deceased. He stated that the property is considered legal nonconforming. Mr. Hufford stated that the Holtgrave's want to build a storage building but it would not be permitted under nonconforming status because the lot requirements are 1.5 acres. Mr. Hufford stated this is the reason as to why the Variance is needed.

September 19, 2016

Scott Holtgrave, 8095 Christopher Ct., Avon, IN. 46123, Mr. Holtgrave is the son to Diana. He stated that the proposed building will be 28 x 36. He stated it will have cedar lap siding and it will also have a covered porch on a concrete slab with an engineered roof system with 2 x 4 framed walls. He stated it will be run for power.

Mr. Lasley asked if there would be any restroom facilities.

Mr. Holtgrave stated no restroom facilities.

Mr. Lasley stated so no plumbing or water.

Mr. Holtgrave stated there would be no plumbing or water.

Mr. O'Riley asked what the intended use for the building is going to be.

Mr. Holtgrave stated it is going to be used for storage for his parents stuff as well as his deceased uncles' belongings that they want to keep in the family.

Mr. Hession stated, so the interior is not going to be finished interior.

Mr. Holtgrave stated that was correct, it would not be finished.

Mr. Hession asked if the board had any further questions.

There were none.

Mr. Hession opened the public hearing portion.

No one had signed up.

Mr. Hession asked if the staff had any comments.

There were none.

Mr. Hession asked for a motion for VAR 12-16.

Mrs. Johnston made a motion to adopt positive findings of facts and approve VAR 12-16.

Mr. Himsel seconded the motion.

VOTE: For- 5 Against- 0 Abstained- APPROVED
VAR 12-16

Hendricks County Area Board of Zoning Appeals
Findings of Fact/Law and Conditions of Approval

VAR 12/16

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 1.2 acre lot size in an AGR/ Agriculture Residential zoning 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.

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 lot was bought in its current state after an illegal split that left the AGR lot with 1.2 acres, .3 acres under the 1.5 acre requirement. It has remained in its current state as a legal non-conforming lot until the proposal for an additional storage building for the property. By expanding upon the nonconforming nature of the lot, the applicants have enacted the need for the lot to come into compliance of the development 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 property has not had an adverse effect on neighboring properties and allowing a smaller lot will not cause an adverse effect.

(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 property was bought nonconforming, and the

September 19, 2016

applicants are undertaking all the steps necessary to overcome the pre-existing conditions of the property.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 19th day of September 2016.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Anthony Hession
Chairman



Don F. Reitz, AICP
Secretary to the Board

VAR 13-16: Susan Shepherd and Margaret Turpin for a Variance from Development Standards to allow side setback of 12 ft. on a .51 acre parcel in a AGR zoned district in Washington township.

The Staff presented a power point of the facts of case. Mr. Hufford pointed out where the parcel is located on power point. He stated that the Shepherds want to remodel their home to allow space for Mrs. Shepherd's mother, Margaret. Mr. Hufford stated that there will not be a separate kitchen and that it would not be its own accessory apartment. He stated that they are confined by their property and they would exceed the set-back limit for AGR by three feet.

Steve Shepherd, 4337 E CR 100 N., Avon, IN., Mr. Shepherd stated that they need this Variance because otherwise they could only extend out 8 feet instead of 12 feet for the room addition for his mother-in-law. Mr. Shepherd explained that the placement of septic system and drive way keeps them from building where they want to.

Mr. Hession asked if the board had any questions.

Mrs. Johnston asked if the other side of house was getting addition shown now or at a later date.

Mr. Shepherd stated that is was being built at the same time.

Mr. O'Riley stated this seems like a reasonable request considering where the septic system is.

Mr. Hession opened the public hearing.

No one had signed up to speak.

Mr. Hession closed the public hearing portion.

Mr. Hession asked if the board had any further comments.

There were none.

Mr. Hession asked for a motion on VAR 13-16.

Mr. Himsel made a motion to adopt positive findings of facts and approve VAR 13-16.

Mr. O'Riley seconded the motion.

VOTE: For- 5 Against- 0 Abstained-0 APPROVED

VAR 13-16

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 13/16

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 side setback of 12ft. for a bedroom addition to the main house**. 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.

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 addition will surpass the required setback by three (3) feet. The setback is needed to allow the owner to utilize their property to cater to a unique multi-generational living arrangement. This approval will have no detrimental influence on the community.

- (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 new structure will not significantly alter the current circumstances of the property in relation to neighboring properties. The approval will not subject adjacent property to crowding or any other untoward effect.

- (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 layout of the home makes this location the most ideal and the small amount of the encroachment makes it clear building within the boundaries of the property was sufficiently attempted.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 19th day of September 2016.

September 19, 2016

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Anthony Hession

Chairman



Don F. Reitz, AICP

Secretary to the Board

Mr. Hufford opened a discussion regarding accessory dwellings. He stated that the community as well as around the country is seeing more and more requests for smaller homes. Mr. Hufford stated that the Hendricks County ordinance doesn't really allow for this. He stated for instance that if said son or daughter has five acres that putting one of these homes on their land for mother should be allowed. He stated that the county does permit accessory apartment dwellings but that are a part of another building and they cannot have their own entrance. He stated there are also two family dwellings, but again have to be attached. Mr. Hufford stated what he is seeing more of is detached accessory apartments. He showed examples to what he was referring to on power point saying the average size to one of these homes seems to be around 800 sq. ft.

Mr. O'Riley stated that the only concern that he would have is if a mobile home was moved in how it would affect the surrounding property value.

Mr. Hufford stated yes, but we already have an avenue for a mobile home but not for a cottage.

Mr. O'Riley asked if he was talking about permanent or not permanent foundations.

Mr. Hufford stated from the looks of things he would say permanent.

Mr. Himsel asked if the county could change the ordinance regarding these types of homes.

September 19, 2016

Mr. Hufford stated this discussion is more of an informational one and also deciding which avenue to take after getting a request for any that may come in.

Mr. Hession stated that when the BZA starts getting a number of requests for these, they will look into these types of homes more in depth.

Being no further business, the meeting was adjourned at 8:05 p.m.