

January 22, 2019

The Hendricks County Board of Zoning Appeals met in the Hendricks County Government Center, Meeting Rooms 4 and 5, Tuesday, January 22, 2019. The meeting began at 7:30 p.m. Members present included Anthony Hession, Rod Lasley, Sonnie Johnston, Walt O'Riley and Sam Himself. Also, present were Tim Dombrosky, Planning Director, Greg Steuerwald, County Attorney and Leslie Dardeen, Recording Secretary. Deputy Mark Masterson was also present.

Everyone stood; Mr. Lasley lead the Pledge of Allegiance.

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

Mr. Hession asked for a motion to approve the minutes from the December 17, 2018 meeting.

Mrs. Johnston made a motion to approve the December 17, 2018 meeting minutes.

Mr. O'Riley seconded the motion.

VOTE: For- 5 Against- 0 Abstained- 0 APPROVED
December 17, 2018 MEETING MINUTES

Mr. Hession asked Mr. Steuerwald to present the cases.

SE 01-19: Skyway Towers, LLC and GTE Mobilnet of Indiana Special Exception to construct, maintain and operate a wireless telecommunications facility (cell tower) on a 1.998-acre lot in Washington Township; Section 01, Township 15, Range 1E; Key No. 12-4-13-51E 400-008, located south of E US HWY 36 and west of S Ronald Reagan Pkwy; 8782 E CR 200 S, Avon, IN 46123.

Mr. Dombrosky announced that Skyway Towers asked for a continuance, and there are a number of documents that were submitted late. Mr. Dombrosky has also spoken with the Town of Plainfield and both parties agree that there may be potential alternative sites available. He further stated that Skyway Towers is asking for a 90-day continuance to continue researching the alternative sites and to decide if they are viable options. Mr. Dombrosky said that the staff's recommendation is to grant the continuance with a set deadline.

Mr. Hession asked how long of a continuance they are asking for.

Mr. Dombrosky answered that they are asking for 90 days. He further said that the board could put a final date on the continuance; he thinks no more than 90 days is fair, which would be the April 15, 2019 meeting. If the petitioner does not come before the board by the set date, the petition would be denied.

Mr. Hession asked that if the petitioner is given the continuance and doesn't appear before the board by the set date, would that be an automatic denial.

Mr. Dombrosky responded that the board would still have to vote.

Mr. O'Riley asked for confirmation that Skyway is investigating other sites.

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Mr. Dombrosky said that is correct.

Mr. Hession asked if there were any more questions from the board.

There were none.

Mr. Hession then asked for a motion from the board.

Mr. Lasley made a motion to approve the continuance of SE 01-19 with conditions set by staff or requiring a new notice if a new meeting was requested, and a deadline of April 15, 2019.

Mrs. Johnston seconded the motion.

Motion carried unanimously for approval.

VOTE: For- 5 Against- 0 Abstained-0 CONTINUANCE APPROVED
SE 01-19: SKYWAY TOWERS, LLC AND GTE MOBILNET OF INDIANA

The meeting was interrupted by an audience member asking if the continuance could be argued against.

Mr. Hession explained that no, the continuance can not be argued. It was voted on and approved by the board. He went on to explain that should the petitioner come back before the board, they would have to inform the surrounding property owners of the new hearing date.

Several people said that they had not received a notice for this meeting.

Mr. Hession explained that only those property owners within 660 feet or 2 properties from the project site are notified.

Mr. Steuerwald confirmed the 660 feet or 2 properties notification requirement.

An audience member gave the board members informational packets of her research into the adverse effects of cell towers. The files were gathered and given to Mr. Dombrosky to add to the official case file.

VAR 01-19: Edward & Catherine Bloemker Variance to reduce side setback from 15' to 10' to allow for a room addition on lot 7 in Preston Estates in Brown Township; Section 33, Township 17, Range 1E; Key No. 01-2-33-71E 140-004 located north of I-74 and south of E 800 N; 7925 Eaker Ct., Brownsburg, IN 46112.

Mr. Dombrosky showed the location of the property on power point, noting that it is an old subdivision and still zoned AGR. His opinion is that the area should really be zoned RB. He highlighted the property layout and the site plan. Mr. Dombrosky showed the building plans for the house addition that

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Mr. Bloemker provided. He explained that the lot is small with a large setback, leaving only about 1/3-acre of buildable space. Because of the location of the septic, the buildable area is very limited. The addition will encroach on the side setback by five feet. Mr. Dombrosky believes this to be an acceptable request and use of the space, and staff is recommending approval.

Mr. Hession invited Mr. Edward Bloemker to the podium to address the board.

Mr. Ed Bloemker, 7925 Eaker Ct., Brownsburg, IN 46112, stated that he has spoken with most of his neighbors and none have raised any objections about the variance. He also described the addition to his home as blending seamlessly in style and material with the original part of the house.

Mr. Paul Wilson also spoke on behalf of the petitioner. He is the contractor doing the work on the addition. He stated that all the plans have been submitted and approved provided the variance to setback is granted. He also concurred that the addition will be an exact match to the original home.

Mr. Hession asked for Mr. Wilson to point out the septic location.

Mr. Wilson showed where the septic field is located on the south side of the home.

Mr. Hession opened and closed the public portion of the meeting as no one signed up to speak.

Mr. Hession asked if there were any additional questions from the board or comments from the staff.

There were none.

Mr. Hession asked for a motion from the board.

Mr. Himsel motioned to approve VAR 01-19 subject to conditions set by the staff.

Mr. O'Riley seconded the motion.

Motion for approval of VAR 01-19 carried unanimously.

VOTE: For- 5 Against- 0 Abstained-0 APPROVED
VAR 01-19: EDWARD & CATHERINE BLOEMKER

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 01-19

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). The application sought to vary development standards by reducing the side setback for a principle building from 15' to 10'.

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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 Board, 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 the proposal will meet this standard. The structure will have no effect on the public and community at large. The construction will allow further and flexible use of the property while keeping construction a safe distance away from the on-site septic system. Further, the approval will not set a precedent.

- (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 proposal will meet this standard. The structure will still meet fire separation standards and will also meet the setback requirement for an accessory structure which is 10'. The structure will not be conspicuous in appearance as compared to the surroundings and will not cause a substantially 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 proposal will meet the standard. The lot was approved by the County through a verified platting process, even though the lot is too small and does not allow for normal and convenient use of the land. This constitutes a practical difficulty to the property owner.

IC 36-7-4-918.2 Exceptions and uses. The Board may impose reasonable conditions as a part of its approval.

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1. All other federal, state, and local regulations apply

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 22th day of January 2019.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Anthony Hession

Chairperson



Tim Dombrosky

Secretary to the Board

VAR 02-19: Town of Coatesville Variance to reduce front setback from 85' to 35' from centerline to allow for a pole-type sign in a neighborhood business-zoned district on a 1.65-acre lot in Clay Township; Section 32, Township 15, Range 2W; Key No. 16-1-32-52W 300-015, located west of S SR 75; 4922 S SR 75, Coatesville, IN 46121.

Mr. Dombrosky showed the location of the property on power point, noting the zoning of the surrounding area as GB (general business), NB (neighborhood business) and RB (residential). He highlighted various other BZA cases in the area. The roads making up the intersection are owned by the town and state; both agencies have signed off on the project. He further explained that the variance is needed for two reasons: the type of sign and the sign's location. Mr. Dombrosky also explained that the sign would be a tall pole-style sign (to be visible to traffic without being hazardous and impairing the line of sight) instead of a permissible street-level sign.

Mr. O'Riley commented that having a pole-style sign, as opposed to a street-level sign, would actually be beneficial and provide better site lines.

Mr. Dombrosky agreed, a pole-style sign would be preferable. He went on to note that he believes the more important issue is the location of the sign and the need to reduce setbacks. He further stated that the town and INDOT have no objections to the style of sign or setback variance.

Mr. Lasley asked if the neighboring bank had voiced any concerns.

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Mr. Dombrosky responded that the bank has not raised any concerns or objections.

Mr. Hession invited the petitioner to the podium to address the board.

Mr. Dombrosky explained that the petitioner could not be at the meeting due to a previous engagement, so he was speaking on the town's behalf.

Mr. Hession opened and closed the public portion of the meeting, as no one had signed up to speak.

Mr. Hession asked if there were further comments or questions from the board or staff.

There were none.

Mr. Hession asked for a motion from the board.

Mrs. Johnston motioned to approve VAR 02-19 subject to conditions set by the staff.

Mr. O'Riley seconded the motion.

Motion for approval of VAR 02-19 carried unanimously.

VOTE: For- 5 Against- 0 Abstained-0 APPROVED
VAR 02-19: TOWN OF COATESVILLE

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 02-19

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). The application sought to vary development standards by reducing the setback from 85' to 35' from the centerline of the road, and to permit a pole style sign in a Neighborhood Business zoning district.

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 Board, 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:

- (4) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;**

The Board finds that the proposal will meet this standard. The sign will still be placed outside of the state road right of way but will be more plainly visible from State Road 75. If the sign met the setback, it could cause motorists to drive in an unsafe fashion as it would not be as visible. In addition, the raised 'pole' style sign will allow greater visibility by allowing views under the face of the sign. This style will allow the sign to meet sight visibility restriction for safe traffic operation.

- (5) 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 proposal will meet this standard. The variance for placement of the sign will not have a negative effect on adjacent property owners as it will be placed in the general vicinity regardless, and the placement closer to the road is immaterial to the surrounding property. In fact, the sign is for public information, and should add to the community.

- (6) 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 proposal will meet the standard. The Town owns the property on which is requests to place the sign. If the setback is imposed, the sign will need to be placed so far back as to not be useful or visible.

IC 36-7-4-918.2 Exceptions and uses. The Board may impose reasonable conditions as a part of its approval.

2. All other federal, state and local regulations apply, including submission and approval of a sign permit with the County Planning and Building Department.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 22th day of January 2019.

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AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Anthony Hession

Chairperson



Tim Dombrosky

Secretary to the Board

Mr. Hession asked if there was any further business.

Being no further business, the meeting was adjourned at 7:55 P.M.