

July 15, 2019

The Hendricks County Board of Zoning Appeals met in the Hendricks County Government Center, Meeting Rooms 4 and 5, Monday, July 15, 2019. The meeting began at 7:30 p.m. Members present included Anthony Hession, Rod Lasley, Walt O'Riley and Ron Kneeland. Also, present were Tim Dombrosky, Planning Director, Greg Steuerwald, County Attorney and Leslie Dardeen, Recording Secretary.

Everyone stood and recited the Pledge of Allegiance.

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

He then asked for a motion to approve the minutes from the June 17, 2019 meeting.

There was discussion about how a vote would be taken since only 2 members from the previous board meeting were present.

Mr. Steuerwald said that a vote by an absent board member is allowable if said board member is comfortable casting a vote based on the assessment of the minutes by the members who were present.

Mr. Lasley said that he was prepared to vote based on Mr. Hession's and Mr. O'Riley's approval of the minutes.

Mr. Hession asked for a motion.

Mr. O'Riley made a motion to approve the June 17, 2019 meeting minutes.

Mr. Hession seconded the motion.

VOTE: For- 3 Against- 0 Abstained- 0 APPROVED
June 17, 2019 MEETING MINUTES

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

VAR 14-19: Mark Maines Variance to allow a 5-foot rear setback for construction of new garage on a 1.78-acre RB zoned parcel in Lincoln Township; Section 10, Township 16, Range 1E; Key No. 08-1-10-61E 200-010; located at the intersection of W Main St (US Hwy 136) and Ridgeline Dr; 6780 E US Hwy 136, Brownsburg, IN 46112.

Mr. Dombrosky introduced the property on power point, noting that it is in close proximity to the Town of Brownsburg, older subdivisions and partial splits that have not been annexed into the incorporated limits of the Town of Brownsburg. He noted that the property is zoned RB and the area has had several BZA cases typical of the age and location of the area. There was a previous variance for a second principal on the petitioner's parcel. The comprehensive plan shows conservation areas and areas that could potentially be annexed into Brownsburg. Mr. Dombrosky then showed a close up of the property. He noted that the parcel is on a corner lot and the house sits back a significant distance from the road, which is an important factor in this case. He highlighted the existing buildings, including the car port to be torn down

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and replaced with a new garage. He showed where the privacy fence runs along property line at the back of the property, noting that the existing car port is 10 feet from the fence. Mr. Dombrosky explained that when he spoke with the petitioner, he made it known that he would not recommend anything less than a 5-foot rear setback. As long as a 5-foot setback is maintained, staff finds all criteria of the variance to be met and recommends approval.

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

Mr. O'Riley asked why they couldn't move the new garage forward instead of encroaching on the rear setback.

Mr. Dombrosky explained that by placing the garage any further forward, the access to another existing building (Mr. Maines' business) would be blocked.

Mr. Hession then asked the petitioner if he had anything further to add.

Mr. Maines said that Mr. Dombrosky had covered all the main points relevant to the variance.

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

Being no further questions or comments from the board, Mr. Hession asked for a motion.

Mr. Lasley made a motion to approve VAR 14-19 with conditions set by staff.

Mr. O'Riley seconded the motion.

Motion for approval of VAR 14-19 carried unanimously.

VOTE: For- 4 Against- 0 Abstained-0 APPROVED
VAR 14-19: Mark Maines

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 14-19

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 a setback.

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 *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.

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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 negative affect on health, safety, morals, or general welfare as it is only being modified in form and not function.

- (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 property is surrounded by a privacy fence, and the new structure will not be substantially different from the old. It is still a safe distance away for fire separation.

- (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 setback does not allow for a garage of sufficient depth to comfortably park a vehicle in and also not block the other existing garage. The variance will allow just enough space to retain functionality of all the garages.

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

1. All other federal, state and local regulations apply.
2. The variance shall not apply to any other structure than those included in this current request.

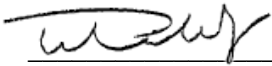
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For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 15th day of July 2019.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Anthony Hession
Chairperson



Tim Dombrosky
Secretary to the Board

VAR 15-19: Laura Elmore Variance to reduce side setback for construction of a new carport on a .597-acre AGR zoned parcel in Washington Township; Section 5, Township 15, Range 1E; Key No. 12-2-05-51E 205-002; located on south side of road between N 450 E and N 475 E; 4623 E CR 100 N, Avon, IN 46123.

Mr. Dombrosky showed the property on power point. The area is almost entirely zoned AGR with a variance history including mainly non-conforming uses, very consistent with the AGR zoning. He then showed a close-up of the property, noting the narrowness of the lot. Neighboring lots and houses are parallel with each other and evenly spaced. However, the petitioner's lot has an easement abutting the east property line.

Mr. Hession asked if the petitioner's property is lot 2 on the map provided.

Mr. Dombrosky answered that it is lot 2.

The easement was originally intended to be used as an access road for the development of the property behind the petitioner's. Mr. Dombrosky explained that through a series of events, the other property had not been developed as previously intended and that the access was not needed.

Mr. O'Riley asked if the easement was considered an ingress/egress for that property.

Mr. Dombrosky answered that it is identified as an ingress/egress and could still potentially be used for a road, although very unlikely.

Mr. Dombrosky concluded that the submitted plans show 2 possible locations for the carport and either would need a variance to the side setback. Because it's highly unlikely the easement will ever be

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used for its original purpose and all other criteria have been met, staff recommends approval of the variance to the side setback.

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

There were none.

Mr. Hession invited the petitioner to address the board.

Mrs. Laura Elmore, 4623 E CR 100 N, Avon, IN, explained that they currently have a one-car garage that is insufficient for the needs of their family. She clarified that they are wanting to possibly put in two carports, one next to the garage extending east and also one in the "turn-around" northeast of the garage. Being allowed to put in two carports would be optimal for them, but they would understand if they could only put in one.

Mr. O'Riley asked how the variance has been filed.

Mr. Dombrosky responded that it is filed as one variance with two options. Either way, the variance is to the side setback. One thing to keep in mind would be that by allowing a carport in the turn-around there would be an accessory building in front of a primary. This is fine for an AGR-zoned parcel, which this is. But since the area is more reflective of RB-zoning, putting an accessory before a primary would be something to take into consideration. Mr. Dombrosky added that he doesn't necessarily see having an accessory in front of a primary as out of character for the area, he only mentioned it as a point to consider.

Mr. Hession clarified that they are looking at the side setback for the variance and not whether two carports should be allowed.

Mr. Dombrosky answered that yes, they are only concerned with the side setback.

Mrs. Elmore questioned whether a carport in the turnaround would encroach on the front setback.

Mr. O'Riley asked what the front setback is.

Mr. Hession responded 52 feet.

Mr. Dombrosky asked the petitioner if she had a measurement from the turn-around to the road, as there was not one listed on the site plan.

Mr. Elmore did not.

Mr. Dombrosky said the 52-foot building line would fall somewhere between the front of the house and the turn-around. Therefore, a carport in the turn-around would be in the front setback building line.

Mr. O'Riley asked if a carport in the turn-around would be closer to the road than the neighboring houses.

Mr. Dombrosky answered that it would encroach on the front setback and that it would, in fact, be closer to the road than the neighboring houses but would be hidden by large trees. He explained that there is a platted right-of-way of 40 feet. He went on to state that he would not support infringing on the front

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setback line because none of the neighboring properties have infringed on the front setback line. He further stated that he does not know the reason why the property is platted with a 52-foot building line.

Mr. Hession asked if that was from the center of the road.

Mr. Dombrosky explained that it's 40 feet from the center line for the right-of-way and 52 feet from the right-of-way for the front building line, making the building line 92 feet from the center of the road.

Mr. O'Riley stated that they could still decide on the side setback and could come back to the front setback at a later time.

Mrs. Elmore asked if it mattered what kind of building it would be, such as a temporary open-sided covered carport.

Mr. Dombrosky answered that the type of building would be relevant; however, it would still need a variance to the front setback.

Mr. Hession commented that the variance in question is to the side setback, not whether or not a carport can be put in the turn-around. The board can only vote to approve or deny the side setback.

Mr. Dombrosky concurred, adding he would not recommend approving a variance to the front setback as that is not something staff has made a habit of doing.

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

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

Mr. O'Riley clarified that the board is only voting on the side setback.

Mr. Dombrosky answered that they are only voting on the side setback; and that is for the whole side setback, not just for the one structure.

Mr. Elmore asked for clarification on whether they would be allowed to put anything in the turn-around space in front of the house anytime in the future.

Mr. Dombrosky answered that they would not be able to put anything in the turn-around if it encroaches on the front setback.

Mr. Lasley asked if there was policy on open-sided structures.

Mr. Dombrosky answered that open-sided structures, anything with a roof, are still considered accessory structures. The policy in this case would be more about aesthetics and not traffic visibility.

Mr. Hession asked if there were any further questions or comments.

There were none.

Mr. Hession asked for a motion from the board.

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Mr. O'Riley made a motion to approve VAR 15-19 with conditions set by staff.

Mr. Kneeland seconded the motion.

Motion for approval of VAR 15-19 carried unanimously.

VOTE: For- 4

Against- 0

Abstained-0

APPROVED

VAR 15-19: Laura Elmore

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 15-19

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 a platted setback from 25 feet.

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 *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 structure will have no negative affect on health, safety, morals, or general welfare as a ten-foot setback will be maintained to ensure adequate clearance if the subdivision does develop.

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- (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 adjacent property is an unused access stem that could not house a structure.

- (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 lot is narrow and was platted with a setback meant for a subdivision street that has not been developed.

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

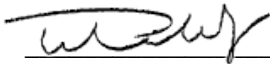
3. The setback shall not be reduced to less than ten feet in the event the access stem is dedicated as a public street.
4. All other federal, state and local regulations apply.
5. The variance shall not apply to any other structure than those included in this current request.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 15th day of July 2019.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Anthony Hession
Chairperson



Tim Dombrosky
Secretary to the Board

Mr. Hession welcomed new board member, Ron Kneeland. He then asked if there was any further business.

There was none.

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