

October 16, 2023

The Hendricks County Board of Zoning Appeals convened in the Hendricks County Government Center, Meeting Rooms 4 & 5, Monday, September 18, 2023. The meeting began at 6:30 p.m. Members present included Walt O'Riley, Anthony Hession, Ron Kneeland, and Russ Hesler. Rod Lasley was absent. Also present were Greg Steuerwald, County Attorney, Tim Dombrosky, Planning Director, and Leslie Dardeen, Recording Secretary.

Everyone stood and recited the Pledge of Allegiance.

Mr. O'Riley, board vice-chairperson, presided over the meeting as Rod Lasley, board chairperson, was absent.

He read the Rules of Procedure for the Board of Zoning Appeals meeting.

Mr. O'Riley then asked for a motion to approve the minutes from the September 18, 2023 meeting.

Mr. Hession made a motion to approve the September 18, 2023 minutes.

Mr. Hesler seconded the motion.

Motion to approve the September 18, 2023 minutes passed.

VOTE: For- 4 Against- 0 Abstained- 0 APPROVED
September 18, 2023: MEETING MINUTES

Mr. Steuerwald presented the cases.

SE 05-23: LT Family Farm LLC Special Exception to allow a mobile home on a 79.52-acre AGR-zoned parcel in Franklin Township: Section 19, Township 14, Range 2W; Key No. 05-1-19-42W 300-001; located apprx. ¾ mile west of the intersection of W SR 240 and S SR 75; 9956 W SR 240, Coatesville, IN 46121.

Mr. Dombrosky gave an overview of the property. The property is zoned AGR and is in a very remote and rural area. There is currently an ag barn on the property that will remain. Because of the remoteness of the area, staff finds no issues with allowing a mobile home and has provided the board with positive Findings of Facts.

Mr. O'Riley asked if there were any questions or comments from the board at this time.

Being none, he asked the petitioner to address the board.

Mr. Mark Legan, 1498 S CR 775 E, Coatesville, IN 46121, addressed the board. He told the board that he bought the property about twelve years ago to add to his livestock and grain farming business. There had been an old farmhouse on site at the time of purchase that he had demolished. Mr. Legan explained that he wants to put a mobile home on the property for affordable housing to have available for employees. Having someone live there would also provide security for the ag building and all the equipment kept on site.

Mr. Kneeland asked if the mobile home was a double-wide.

Mr. Legan answered that it would be a single-wide.

Mr. O'Riley asked if it would be put on a foundation.

Mr. Legan responded that it would have a block foundation.

Mr. O'Riley opened and closed the public meeting as no one had signed up to speak.

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He asked if there were any final questions or comments from the board.

Being none, Mr. O'Riley asked for a motion.

Mr. O'Riley made a motion to approve SE 05-23.

Mr. Hession seconded the motion.

Motion to approve SE 05-23 carried unanimously.

VOTE: For- 4 Against- 0 Abstained-0 APPROVE w/ conditions
SE 05-23: LT Family Farm LLC

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

SE 05-23

An application for the above noted special exception was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to permit '**Dwelling, Manufactured Housing (Single Unit)**' in an area zoned AGR (Agriculture Residential). Acting in its role as staff to the County Board of Zoning Appeals (Board), the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in the County Government Center.

In accordance with Indiana Code (IC) 5-3-1 and the County Zoning Ordinance (HCZO) Section 12.7, 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 special exception 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 notice and a list of those receiving them were made a part of the file for this Special Exception.

The Board conducted the hearing as advertised and heard evidence and testimony on the above noted Special Exception. 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 36-7-4-918.2 Exceptions and uses. A Board of Zoning Appeals shall approve or deny all: (1) Special Exceptions; ... from the terms of the Zoning Ordinance, but only in the classes of cases or in the particular situations specified in the Zoning Ordinance.

HCZO Section 12.7 authorizes the Hendricks County Board of Zoning Appeals to approve Special Exceptions.

HCZO Section 12.7 (D)(1). In addition to the special requirements for permitted Special Exception uses as specified in Section 12.7 (D)(2) ... the Board of Zoning Appeals ... shall find adequate evidence showing that the use at the proposed location:

A. Is in fact a permitted Special Exception use ... [in] the zoning district involved.

The Board finds that 'Dwelling, Manufactured Housing (Single Unit)' is in fact a Special Exception in the Agricultural Residential Zoning District.

B. Will be harmonious with and in accordance with the general objectives or with any specific objective of the County's Comprehensive Plan and the Zoning Ordinance.

The Board finds that the proposal will meet this standard. The Comprehensive Plan outlines goals that support the development of diverse housing options in the right locations.

C. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.

The Board finds that the proposed use will meet this standard. The use will not be out of character with the area and will not change the essential character of the area.

D. Will be served adequately by essential public facilities and services ... or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

The Board finds that the proposal will meet this standard. Public facilities and infrastructure are either private or will be provided at expense to the owner. Other public services adequately serve the area, and the use does not represent a significant increase in demand.

E. Will not create excessive additional requirements at public cost of public facilities and services and will not be detrimental to the economic welfare of the community.

The Board finds that the proposal will meet this standard. The property changes will not result in significant changes to the existing demand for services.

F. Will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.

The Board finds that the proposal will meet this standard. The use will not be disruptive and detrimental to the surrounding area.

G. Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.

The Board finds that the proposal will meet this standard. Minimal change to traffic pattern will happen as a result of approval.

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H. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

The Board finds that the proposal will meet this standard. There will be no substantial loss in natural, scenic, or historic features with the approval of the use.

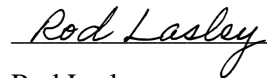
IC 36-7-4-918.2 Exceptions and uses. The Board may impose reasonable conditions as a part of its approval.


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

1. All applicable federal, state, and local approvals are required.

For all the foregoing reasons, the Board APPROVED this request for a Special Exception on the 16th day of October 2023.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA


Rod Lasley
Chairperson


Tim Dombrosky
Secretary

VAR 18-23: Danville North Elementary Variance to allow an electronic message center sign to exceed height and size limits on a 8.89-acre RB-zoned parcel in Center Township: Section 4, Township 15, Range 1W; Key No. 02-2-04-51W 100-007; located just north of the intersection of Urban St. (N SR 39) and N Salem Rd; Parcel #32-11-04-100-007.000-002; directly north of Danville North Elementary School at 398 Urban St, Danville, IN 46122.

Mr. Dombrosky gave an overview of the property. He explained that the parcel where the school building is located is within the Town of Danville jurisdiction, whereas the parcel where the sign is located is within the county's jurisdiction. The parcel is zoned RB, in a suburban residential area. There is an electrical substation near the existing sign. The substation will partially block the view of the sign from passing traffic because the elevation of the sign's site is lower than the road, thus necessitating a larger and taller sign. Mr. Dombrosky further explained that the variance will cover both the height and surface area increase of the sign. Staff believes all criteria of the variance have been met and recommends approval.

Mr. O'Riley asked if there were any questions or comments from the board at this time.

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Being none, he then asked the petitioner to address the board.

Ms. Lauren Obendorf, 1045 E Freeland Rd, Greensburg, IN, 47240, representative for Green Sign Company, addressed the board. She confirmed that the substation hides a significant portion of the existing sign. The new sign will be an automated message center advertising school events, calendars, etc. and its larger size will mitigate the issue with the substation.

Mr. Hession asked if the sign would be on 24 hours a day, seven days a week.

Ms. Obendorf responded that she wasn't sure what the schedule would be. It's up to the school.

Mr. Dombrosky added that there is a 50' setback for lighted signs and this meets that requirement.

Mr. O'Riley opened and closed the public portion of the meeting as no one had signed up to speak.

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

Having no further questions, Mr. O'Riley asked for a motion.

Mr. Hesler made a motion to approve VAR 18-23.

Mr. Kneeland seconded the motion.

Motion to approve VAR 18-23 carried unanimously.

VOTE: For- 4 Against- 0 Abstained-0 APPROVED
VAR 18-23: Danville North Elementary School

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 18-23

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 allowing a sign to exceed the height and size maximums in an RB/Residential 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 *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.

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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 be in an appropriate location given the context and will not be injurious to the public.

- (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 institutional nature of the sign and the surrounding property will not negatively impact the surrounding properties.

- (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 sign is restricted by the site and the additional height and size will allow needed visibility.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 16th day of October 2023.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA

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Rod Lasley
Chairperson

_____

Tim Dombrosky
Secretary to the Board

October 16, 2023

VAR 19-23: Luke Walters Variance to allow accessory building to encroach 5' into front building setback on a 4.02-acre AGR -zoned parcel in Eel River Township: Section 13, Township 17, Range 2W; Key No. 04-1-13-72W 320-001; located ½ mile west of intersection of N CR 350 W and W Old SR 34; 3913 W SR 34, Lizton, IN 46149.

Mr. Dombrosky gave an overview of the property. He explained that this petition is a result of a zoning violation initiated by the Assessor's office. The barn/garage has already been built and it encroaches on the front building setback by 5'. It is not in the right-of-way, only in the building setback. He believes this is a reasonable request and that the criteria of a variance have been met. Staff recommends approval.

Mr. O'Riley asked if there were any questions or comments from the board at this time.

Being none, he then asked the petitioner to address the board.

Mr. Luke Walters, 3913 W SR 34, Lizton, IN 46149, addressed the board. He explained that there had been an old garage in the general area that he had taken down and replaced with the new building. He did not get the required permits prior to building; therefore, he was unaware of encroaching on the building setback. Mr. Walters concluded that the new garage is a considerable distance from the road and poses no site issues.

Mr. O'Riley asked if there was a reason why the builder didn't move the building site back 5'.

Mr. Walters answered that the new building is a little bigger than the original one and moving it back 5' put it too close to the well.

Mr. O'Riley opened and closed the public portion of the meeting as no one had signed up to speak.

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

Having no further questions, Mr. O'Riley asked for a motion.

Mr. Hession made a motion to approve VAR 19-23.

Mr. Kneeland seconded the motion.

Motion to approve VAR 19-23 carried unanimously.

VOTE: For- 4 Against- 0 Abstained-0 APPROVED
VAR 19-23: Luke Walters

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 19-23

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 allowing an accessory structure in the front setback in an AGR/Agriculture Residential 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 *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 be in an appropriate location on a rural lot and will not be injurious to the public.

- (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 agricultural lots of the immediate area are not uniformly developed, and the variance will not negatively impact the surrounding properties.

- (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 structure will be similar in context to other rural residential properties.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 16th day of October 2023.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Rod Lasley
Chairperson

Tim Dombrosky

Tim Dombrosky
Secretary to the Board

VAR 20-23: Stephen St John Variance to allow a lot with no road frontage on a 34.27-acre RB-zoned parcel in Eel River Township: Section 4, Township 16, Range 2W; Key No. 04-2-04-62W 200-009; located east of the intersection at N SR 75 and E Pearl St/SR 236; Parcel #32-05-04-200-009.000-007, North Salem, IN 46165.

Mr. Dombrosky gave an overview of the property. He explained that this petition is for a buildable lot with no road frontage. The property is zoned RB in a residential district. The parcel is heavily wooded with a creek occupying most of the western side of the property. There is also a flood zone occupying most of the property. This includes most of the access point to the property. The lot is significantly hampered with road frontage limitations. The ordinance tries to limit lots with no road frontage as a means of maintaining density control. However, this is not a concern in this case as growth is wanted in the area. There is a concern, though, with permanent access to the lot for future owners.

Mr. O'Riley asked the petitioner to address the board.

Mr. Andy Kult, Comer Law Office, LLC, 71 W Marion St, Danville, IN 46122, representing Stephen St. John, addressed the board. He specified that the parcel is zoned RB and is 34 acres, more than large enough to subdivide into two parcels. Currently the parcel has 250' of road frontage but with major limitations due to the floodway. He also told the board that Mr. St. John is working with Kruse Surveying to decide on the plot plan for the principal dwelling on the larger parcel, and how to subdivide the parcel for his daughter to have 5-7 acres for her own home. There are many restrictions to the development of building sites because of the flood zone. The smaller, parceled piece of land will have to be in the southeast portion of the property to allow for adequate building sites. The existing driveway onto the property will access both properties. Mr. Kult told the board that the petitioner would be recording an easement for access to both parcels. He added that an alternative to that would be to create a 50' drive along the south property line, but that would probably be achieved through an easement as well.

Mr. O'Riley asked how the property would be split.

Mr. Kult answered that it depends on tonight's decision. If the board allows for the existing drive to be used with an easement, then 5 acres of the southeast corner would be parceled off for the second homesite. If the board decides a separate drive along the south property line is more appropriate, then an additional 2 acres would be split off to accommodate the new driveway.

Mr. St. John pointed out on the map where the division would be made. He also pointed out the potential building sites for the homes.

Mr. O'Riley commented that easements don't bode well for resale. He believes that a separate drive makes more sense in his opinion.

Mr. Kult agreed that easements can be a point of contention. However, most issues come about because specific guidelines are not properly laid out before recording the easement.

Mr. O'Riley concluded that having an easement affects the sell ability of a property.

Mr. Kult rebutted that it would be a legal recorded easement. The petitioner would be the one taking the risk, and he is willing to do so.

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Mr. Hession asked how long the drive would be if they used the existing entrance.

Mr. St. John responded that it would be approximately 2000'.

Mr. Hesler asked if the entire drive is above the flood stage.

Mr. St. John answered that it is.

Mr. O'Riley asked how much road frontage is required for a buildable lot, and how wide is the drive required to be.

Mr. Dombrosky responded that a buildable lot needs a minimum of 50' of road frontage, and the drive should be 16' wide.

Mr. O'Riley asked how far apart driveways need to be from one another.

Mr. Dombrosky answered that there are no restrictions.

Mr. O'Riley asked if there was room for another driveway.

Mr. Dombrosky answered that it may be possible. It would be tough because there aren't many options due to the floodplain.

Mr. Hesler asked if there were any other options for splitting off the driveway so that it doesn't go past both houses.

Mr. Kult responded that there may be, but the petitioner is fine with the drive going in front of his house.

Mr. O'Riley opened the public portion of the meeting.

Mr. Roger Cloncs, 5985 N CR 275 E, Greencastle, IN 46135, addressed the board. He is a neighboring property owner. He has no issues with what the petitioner is proposing. He thinks it's the best way to utilize the property.

Mr. O'Riley closed the public hearing.

Mr. O'Riley asked if there were final questions or comments from the board.

Mr. Hession commented that if the petitioner understands the risk to resale by having an easement, he has no problem with the petition.

Mr. O'Riley responded that he can agree to that as well.

Having no further questions, Mr. O'Riley asked for a motion.

Mr. Hession made a motion to approve VAR 20-23 with the condition that the petitioner is willing to assume the risk to resale that an access easement poses.

Mr. Hesler seconded the motion.

Motion to approve VAR 20-23 carried unanimously.

VOTE: For- 4 Against- 0 Abstained-0 APPROVED w/conditions
VAR 20-23: Stephen St. John

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 20-23

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 allowing a residential lot with no road frontage in an RB/Residential 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 *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 easement for access will be granted to the owner of the new lot and the right for usage will be inherited by any subsequent owners, ensuring future owners are made aware of their rights and restrictions.

- (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 development pattern in the Town supports lots with no frontage, and the variance will not negatively impact the surrounding properties.

- (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 parcel is constrained near the public road by environmental factors but has desirable residential area that is inaccessible without a variance.

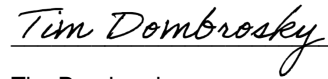
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For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 16th day of October 2023.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA

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Rod Lasley
Chairperson

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Tim Dombrosky
Secretary to the Board

Mr. O'Riley asked if there was any further business.

Being nothing further, the meeting was adjourned at 7:05 pm.