

HENDRICKS COUNTY BOARD OF ZONING APPEALS

Meeting Minutes

Monday, August 19, 2024

6:30 PM

Hendricks County Government Center • Meeting Rooms 4 & 5
355 S Washington St #G80
Danville, IN 46122

Members Present: Rod Lasley (vc), Anthony Hession, Ron Kneeland, Brett Smedley

Members Absent: Walt O'Riley (c)

Staff Present: Tim Dombrosky, Planning Director; Leslie Dardeen, Recording Secretary

Legal Representation: Greg Steuerwald, County Attorney

A quorum was established, and the Pledge of Allegiance was recited. Mr. Lasley, presiding over the meeting in the absence of Mr. O'Riley, read the Rules of Procedure for the Board of Zoning Appeals meeting. He then asked for a motion to approve the minutes from the July 15, 2024 meeting. Mr. Hession made a motion to approve the July minutes. Mr. Kneeland seconded the motion. Motion of approval passed 4-0.

Mr. Dombrosky introduced Brett Smedley as the new board member. Mr. Smedley was appointed by the Coatesville Town Council, replacing Russ Hesler who moved out of the district.

New Business:

SE 03-24 Donald Bolinger Special Exception to allow a modular home as a second residence on a 4.21-acre AGR-zoned parcel in Liberty Township: Section 22, Township 14, Range 1W; Key No. 07-3-22-41W 476-001; located directly west of intersection of S CR 100 E and E CR 900 S; 910 E CR 900 S, Clayton, IN 46118.

Mr. Dombrosky gave an overview of the petition and property:

- Zoned AGR
- Comprehensive plan calls for area to remain suburban residential
- Site plan, showing ADU in front of principal, has been amended. The petitioner has agreed that the ADU will be no closer to the front property line than the façade of the primary. If the board does approve the petition, I would recommend making this a condition to that approval
- There are standards for accessory dwellings outlined in the ordinance
- ADUs are permitted by right in the AGR district; they cannot be closer to the road than the main house or bigger than the main house. These standards have been met
- The board will only need to consider whether a modular home as an ADU is appropriate to the area
- Must meet all 9 criteria of a special exception to be approved

Mr. Lasley asked if the board had any questions.

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

The petitioner was not present

Mr. Lasley opened the public portion of the meeting.

Mr. Atanas Serbezov, Alemar Group LLC, 944 E County Road 900 S, Clayton, IN 46118, addressed the board:

- Concerned that by allowing a modular home, others will follow
- Manufactured homes would change the character of the neighborhood
- Could lead to a decrease in property values

Ms. Elena Serbezov, Alemar Group LLC, 944 E County Road 900 S, Clayton, IN 46118, addressed the board:

- Also concerned that an approval will bring in more similar petitions, thus allowing more modular homes in the area

Mr. Lasley closed the public portion of the meeting as no one else had signed up to speak. He asked it to be noted and put on record that the board received two letters of remonstrance.

Mr. Smedley: Would the home be allowed if the lot was vacant?

Mr. Dombrosky: No, modular homes require a Special Exception. (Correction on 9/16. Modular homes are permitted.)

Mr. Smedley: Would the new structure be required to have separate utilities?

Mr. Dombrosky: Probably. The Health Department makes the determination about the well and septic.

Mr. Lasley: Have there been many petitions for this type of home in the past?

Mr. Dombrosky: We've had a few. We did one a few months ago on the Putnam County line, in the southwest corner of the county.

Mr. Lasley: Are there any more comments or questions from the board?

Being nothing further, Mr. Lasley asked for a motion.

Mr. Lasley made a motion to deny SE 03-24.

Mr. Kneeland seconded the motion.

Motion to deny SE 03-24 carried unanimously.

VOTE: For – 4 Against – 0 Abstained – 0 DENY
SE 03-24: Donald Bolinger

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

SE 03-24

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 **a manufactured home** in an area zoned as 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 a manufactured home is in fact a Special Exception in the Agriculture 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 use meets Comprehensive Plan goals for rural residential development.

- 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 not meet this standard. Due to the existing character and nature of the development in the area, the use will substantially change the appearance and character of the property and will negatively affect 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 as the activity is not detrimental.

- 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. The existing entrance provides adequate access.

- 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 business.

For all the foregoing reasons, the Board DENIED this request for a Special Exception on the 19th day of August 2024.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA

Walt O'Riley

Walt O'Riley
Chairperson

Tim Dombrosky

Tim Dombrosky
Secretary

VAR 18-24 Walter Craig Sullivan Variance to allow construction of an accessory building without a principal dwelling on a 5.2-acre AGRE-zoned parcel in Marion Township: Section 1, Township 15, Range 2W; Key No. 09-1-01-52W 401-002; located on Lot 2 of Crystal Cove Major Plat #752/22; 440 Brianne Lane, Danville, IN 46122.

Mr. Dombrosky gave an overview of the petition and property:

- Property is zoned AGRE; the “estate” zoning distinction can be applied for a major subdivision of 3 or more lots in an AGR district
- The parcel is currently undeveloped, but there are future plans to build a home
- The proposed accessory building is on the south side of the lot
- Develop standards variance, must satisfy all 3 criteria
- Difficult to recommend approval of “accessory prior to principal” as there is no way to force someone to build a house

Mr. Lasley: Is this part of the Crystal Lakes subdivision?

Mr. Dombrosky: No. It's separate from Crystal Lakes and has its own HOA. It's part of the original parcel of land that includes Crystal Lakes.

Mr. Lasley: There's an accessory building on the neighboring lot. How big is that?

Mr. Dombrosky: I'm not sure, but I can find out for you.

Mr. Lasley invited the petitioner to speak to the board.

Mr. Walter Sullivan, 2045 Dawnshire Hill Court, Plainfield, IN 46168, addressed the board:

- Developed the Brianne Lane addition with estate lots to allow for bigger out-buildings
- Would like to build a 60' x 80' building for a 50' rv and 3 collector cars
- Design of the building will be comparable to other out-buildings in the area and will blend in with the homes
- Will also be storing the equipment used to maintain the property

Mr. Smedley: Are there any plans in motion to build the house?

Mr. Sullivan: I'm working with a builder to layout the property. There are no definitive house plans yet. But the location of the septic field and well are both planned.

Mr. Lasley: Will there be outside storage?

Mr. Sullivan: No, everything will be stored inside. I do plan to put a porch on the building. And the exterior will have stone accents to match the future house.

Mr. Lasley opened the public portion of the meeting.

There were several remonstrators in attendance:

Mr. Al Lowe, 253 Brianne Lane, Danville, IN 46122
Mr. & Mrs. Steve and Dawn Brehob, 333 Brianne Lane, Danville, IN 46122
Ms. Carrie Schraeder, 400 Brianne Lane, Danville, IN 46122
Mr. Aaron Crane, 400 Brianne Lane, Danville, IN 46122
Mr. Brent Wilson, 303 Brianne Lane, Danville, IN 46122
Mr. & Mrs. Jason and Rochelle Fetterly, 419 Brianne Lane, Danville, IN 46122
Ms. Kristen Franks, 240 Brianne Lane, Danville, IN 46122

Their shared concerns included:

- Potential increase in noise due to the car collection
- Petitioner has not demonstrated "practical difficulty"
- No enforceability to ensure a principal home is built
- Size of the potential building is not congruent with the rest of the area
- May negatively impact the value of surrounding properties
- Due to size of building, there's concern that it may be used for commercial purposes

Mr. Lasley closed the public portion of the meeting as no one else had signed up to speak. He then asked the petitioner if he would like to respond to any of the comments.

Mr. Sullivan: This building will be used for personal property only. It will have no commercial purpose. All commercial business and equipment are kept at my commercial properties at the Danville Commerce Park. The bigger estate lots were designed to allow for bigger accessory structures, and if a house was already on the lot, I would be allowed to have an accessory building of this size.

Mr. Lasley: Will there be water or plumbing in the accessory building?

Mr. Sullivan: If I put plumbing in, it will tie into the same septic system as the house.

Ms. Carrie Schraeder: Is the variance transferable?

Mr. Steuerwald: The variance stays with the property.

Mr. Dombrosky: One thing I'd like to add is that the architecture is not in question, the building that is proposed would be permitted as an accessory building to a principal dwelling.

Mr. Lasley: What are the lot sizes of the Crystal Lakes Subdivision?

Mr. Dombrosky: They are between 1.5 and 4 acres. Crystal Lakes does not follow the designation of estate lots because it pre-dates that designation.

Mr. Hession: My concerns are that a building this size seems out of place, and there is no way to enforce the petition to build a house.

Mr. Lasley: We could make a condition that the petitioner would be required to add screening.

Mr. Smedley: I also have concerns about when or if a house will be built.

Mr. Steuerwald: We can't force someone to build a house. However, it is possible to take the property owner to court and have them ordered to demolish the accessory building if a principal structure is not built. It is an extreme remedy, but it is an option.

Mr. Lasley: Are there any more comments or questions from the board?

Being nothing further, he asked for a motion.

Mr. Smedley made a motion to deny VAR 18-24 with conditions set by staff.

Mr. Hession seconded the motion.

The vote was split 2-2.

Mr. Steuerwald: The BZA is a 5-member board. Any motion must have a majority vote to pass. The vote is tied, so the petition will automatically continue to the next board meeting. Since Mr. O'Riley has a conflict of interest pertaining to this petition (and why he is not present at tonight's meeting), staff will appoint a temporary board member for this one petition.

VOTE: For – 2 Against – 2 Abstained – 0 CONTINUED TO SEPTEMBER 16, 2004 MTG
VAR 18-24: Walter Sullivan

Being no further business before the board, the meeting was adjourned at 8:00 pm.