

HENDRICKS COUNTY BOARD OF ZONING APPEALS

Meeting Minutes

Monday, April 21, 2025

6:30 PM

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

Members Present: Walt O'Riley (C), Rod Lasley (VC), Anthony Hession, Brett Smedley, Ron Kneeland

Members Absent:

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

Legal Representation: Edward Hannon, County Attorney

A quorum was established, and the Pledge of Allegiance was recited. 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 March 17, 2025 meeting. Mr. Lasley made a motion to approve the March minutes. Mr. Hession seconded the motion. Motion of approval passed 5-0.

New Business:

SE 01-25 Jason & Melissa Richey Special Exception to allow an ADU in an RB-zoned district on a 26.9-acre RB-zoned parcel in the Town of Amo/Clay Township: Section 35, Township 15, Range 2W; Key No. 13-1-35-52W 300-002; located approx. 1/8 mile east of the intersection at Pearl St and South St/W CR 500 S; 4739 Pearl St, Amo, IN 46103.

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

- Zoned RB with small town mixed use around it
- Subject property is 26+ acres, the petitioner owns the neighboring parcel to the east
- Existing accessory building will be converted into an ADU
- ADUs are only permitted in an RB district by Special Exception
- There is no principal, although permit applications have been filed.
- Petitioner has been cited for violations and this SE would rectify those

Mr. Lasley: What are the structures in the northern portion of the parcel?

Mr. Dombrosky: They consist of accessory structures and shipping containers. They will either need to be removed or permitted correctly.

Mr. O'Riley: Will that need to be remedied before permits for the ADU and new home are final?

Mr. Dombrosky: That's correct.

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

Mr. Jason Richey, 4739 Pearl St, Amo, IN 46103, addressed the board:

- ADU will be used as in-law quarters for elderly parents
- Shipping containers are on the property to hold personal belongings until house is complete
- There is currently an RV on the property that has a deck around it

Mr. O'Riley: There's no house on the property now?

Mr. Richey: No. Covid and rising building costs delayed construction of the house.

Mr. Smedley: Can we approve the Special Exception subject to all violations being cleared?

Mr. Dombrosky: Yes, the ADU will not have clear occupancy until all violations have been corrected.

Mr. O'Riley: Are you living in the RV currently?

Mr. Richey: Yes.

Mr. Lasley: Is there a well and septic?

Mr. Richey: We have municipal sewage, but we were still required to put in a septic tank.

Mr. Smedley: Will the petitioner need to go through the Health Department?

Mr. Dombrosky: He already has.

Mr. Hession: Do you own the driveway or have an access easement?

Mr. Richey: I have a driveway to the property; there is no easement.

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

The remonstrators in attendance who addressed the board were:

Rene Gay, 5261 S CR 525 W, Coatesville, IN 46121—Amo Town Board member
Rosie Bell, 2231 S 200 W, Clayton, IN 46118—representing Baptist Church of Amo

Their concerns included:

- Previous permit applications and no completed projects
- Possibility of the petitioners moving into the ADU and never building the principal structure
- ADU is not necessary for the functionality of the property
- Ensure Church property line is respected

Mr. O'Riley closed the public hearing as no one else had signed up to address the board.

Mr. Smedley: Do we need to be concerned with architectural standards?

Mr. Dombrosky: No, because the property is not part of a subdivision.

Mr. Lasley: Are the concerns with the ADU alleviated with permits for the principal?

Mr. Dombrosky: They should be. If the property were zoned AGR the ADU would be permitted as an acceptable use. There is nothing inherently wrong with having the ADU. The question at hand is if an ADU is acceptable at this location, which is zoned RB.

Mr. Lasley: I understand the concern with allowing the ADU and then the principal never getting constructed.

Mr. Dombrosky: We would not allow the accessory dwelling to remain if the principal is not built.

Mr. Hession: What is the timeline for the permits?

Mr. Dombrosky: They'll have 2 years from issuance to completion. They will have 1 year from issuance to get their first inspection. A permit for the ADU will not be issued until the permit for the principal structure is also issued.

Mr. Smedley: It's a wooded lot, will the ADU be visible from the road?

Mrs. Melissa Richey: The primary house will be more visible than the accessory.

Mr. Dombrosky: The house will sit on a hill and will be visible from the road. As far as finishing the building projects, we give a little grace on timing. We don't expect the house and ADU to be finished on the same day, we usually have a window of 90 days. We would give a temporary Certificate of Occupancy for the ADU if it is finished first.

Marge Strahl, 5131 Pearl St, Amo, IN 46103: If the barn is converted into the in-law quarters, and they live in it until the house is completed, what will happen to the RV?

Mr. Dombrosky: They can live in the RV as a temporary residence until the house is complete. The typical timeline would be a 2-year permit, with 1 year to get the first inspection. The BZA can include additional conditions to the approval.

Mr. Smedley: Is it ok to live in an RV while the house is being built?

Mr. Dombrosky: We typically allow temporary residency in an RV during the building process.

Mr. Smedley: Would it be acceptable for the owners to live in the ADU before the house is completed? That gets back to the concern of the primary house actually getting built.

Mr. Dombrosky: It is up to the board to decide whether conditions are needed to address and alleviate that concern.

Mr. O'Riley: To clarify things, right now there is an RV that the petitioners are living in. The RV is not the ADU. It's a separate building and there will be a separate primary residence. Once the ADU and the principal residence are established, will the RV be removed?

Mr. Dombrosky: The shipping containers and porch around the RV must be removed. RVs are permitted to be parked on site, but they cannot be permanently lived in.

Mr. Lasley: We need to determine if we're ok with them living in the RV or living in the ADU, correct?

Mr. Dombrosky: Yes.

Mr. Smedley: The primary concern is that there is conformance to building the principal house.

Mr. O'Riley: Makes sense to allow them to live in the RV until the house and ADU are completed.

Mr. Smedley: Yes, I just want to make sure that the primary house is finished.

Mr. Dombrosky: If we have a conforming plan in place that the BZA approves, then we can hold the petitioner to the agreement. Again, the timeline is 2 years to completion with a grace period of 90 days allowing for a temporary certificate of occupancy if the ADU is finished before the house. The board can add different conditions if you feel they are needed.

Mr. O'Riley: If they are staying in the RV, why would they need a temporary C of O for the ADU?

Mr. Dombrosky: Ideally, people are not living in RVs permanently. This would allow them to move out of it while completing their home.

Mr. Smedley: What if in 2 years they are living in the ADU but not finished building the house? What can be done?

Mr. Dombrosky: A violation would be sent to the County Attorney and action would be pursued.

Mr. O'Riley: This be monitored by the Planning and Building Department all the way through.

Mr. Dombrosky: Yes, and the petitioner will have 1 year to get the first inspection on both the primary home and the ADU.

Mr. O'Riley: Are there any more comments or questions from the board?

Being none, he asked for a motion from the board.

Mr. Smedley made a motion to approve SE 01-25 with the standard permit timeline and conditions set by staff.

Mr. Kneeland seconded the motion.

Motion to approve SE 01-25 carried unanimously.

VOTE: For – 5 Against – 0 Abstained – 0 APPROVE w/conditions
SE 01-25: JASON & MELISSA RICHEY

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

SE 01-25

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 **an Accessory Dwelling** in an area zoned as RB (Single Family 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* advertising 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 an accessory dwelling is in fact a Special Exception in the RB 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 infill 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 meet this standard. The use will not substantially change the appearance and character of the property and will not 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.**

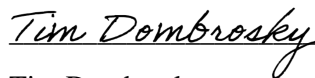
The Board finds that the proposal will meet this standard. There will be no substantial loss in natural, scenic, or historic features with the approval of the business.

For all the foregoing reasons, the Board APPROVED this request for a Special Exception on the 21st day of April 2025.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA

_____

Walt O'Riley
Chairperson

_____

Tim Dombrosky
Secretary

Other Business:

AMI Properties: unsafe building Hendricks County Zoning Ordinance 13.4

Mr. Edward Hannon, standing in for Greg Steuerwald, updated the board on the status of the AMI Properties: unsafe building case.

577 Foxboro Drive, Avon, IN 46123:

- Agreement for demolition of structure has been reached. A permit has already been issued.
- Must be completed within 60 days of issuance of demo permit
- If not completed, it will be deemed a violation, and the Planning and Building Department can complete the demolition.

Mr. Hannon: The board will need to make a motion to approve this agreement.

Mr. Smedley: The order is enforceable regardless of who owns the property.

Mr. Kneeland made a motion to approve the agreement for demolition with the conditions set by counsel.

Mr. Hession seconded the motion.

Motion to approve the agreed enforcement order which requires demolition of 577 Foxboro Drive, Avon, IN 46123 within 60 days or failing that turns over all jurisdiction for demolition to the Plan Commission carried unanimously.

VOTE: For – 5 Against – 0 Abstained – 0 APPROVED
AMI Properties: unsafe properties/Demolition order for 577 Foxboro Dr, Avon, IN 46123

4749 Colchester Circle, Avon, IN 46123:

- Mortgage company asked for a continuance to determine if the structure could be remediated and was supposed to have applied for a permit by the middle of February.
- They still believe they can fix the building and asked for a continuance to the May 19, 2025 meeting
- Mr. Dombrosky has asked for conditions on the continuation
 - Must seek a permit by the end of April
 - Must have detailed plans and specifications in addition to the routinely required documents
 - The Department may require an engineered structural report
 - Work must begin within 30 days after the permit is issued
 - Additional inspections can be required
- If the conditions are not met, the Department can proceed with the demolition
- The receiver has agreed to the conditions.

Mr. Hession: What type of remediation needs to be done?

Mr. Dombrosky: We don't know the extent. The house has been empty and incomplete for over 2 years. It has also been flooded.

Mr. Lasley: Do we know who the contractor will be if the house can be remediated?

Mr. Dombrosky: No, but they will have to be bonded and listed with the county.

Mr. Hannon: Planning and Building will have the final approval once plans have been submitted. The permit application is due by the end of April 2025. By the next meeting we will know more and either have permits being reviewed or have another order for the Department to pursue demolition.

Mr. Hannon: The board will need to make a motion to approve the continuance.

Mr. Lasley made a motion to approve the agreed entry for continuance to the May 19, 2025 BZA meeting with all the conditions set out therein.

Mr. Hession seconded the motion.

Motion to approve the agreement and continuance of 4749 Colchester Circle, Avon, IN 46123 to the May 19, 2025th BZA meeting carried unanimously.

VOTE: For – 5 Against – 0 Abstained – 0 CONTINUED to May 19, 2025
AMI Properties: unsafe properties/4749 Colchester Circle, Avon, IN 46123

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

Being no further business before the board, the meeting was adjourned at 7:15 pm.