

April 17, 2017

The Hendricks County Board of Zoning Appeals met in the Hendricks County Government Center, in the Meeting Room 4 and 5; Monday, March 20, 2017. The meeting began at 7:30 p.m. Members present included, Anthony Hession, Rod Lasley, Sonnie Johnston, Sam Himself, and Walt O'Riley. Also present were Don Reitz, Planning Director, Tim Dombrosky, Senior Planner, Greg Steuerwald, County Attorney, Nicholas Hufford, Planner, and Kim Cearnal, Recording Secretary.

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

Everyone stood and recited the Pledge of Allegiance.

Mr. Hession asked for a motion for approval of the minutes from the February 21, 2017 meeting.

Mrs. Johnston made a motion to approve the February 21, 2017 meeting minutes.

Mr. Himself seconded the motion.

**VOTE:        For- 5            Against- 0            Abstained-0            APPROVED**  
**FEBRUARY 21, 2017 MEETING MINUTES**

**VAR 07-17: Mitch and Jennifer Gibboney** for a Variance from Development Standards 7.12 (a) (1) to allow an accessory structure prior to principal on 7.37 acre parcel in Guilford Township; Section 16, Township 14, Range 1E; Key No. 06-3-16-41E 300-004.

Mr. Hufford showed where the property is located on power point, stating that the parcel is across the street from the residence of Mr. and Mrs. Gibboney. He stated there is an old barn currently on the property that will be taken down. Mr. Hufford stated that the new barn will be used for storing miscellaneous things that can't be stored in a garage or on their current property. He stated they do plan on building a home shortly thereafter the new barn is finished.

Mitch Gibboney, 7911 S CR 525 East, Mooresville, IN. 46158.

Mr. Hession asked if Mr. Gibboney had anything further to add.

Mr. Gibboney stated no.

Mr. Hession asked if the board had any questions.

Mr. O'Riley asked how soon they planned on building the home.

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Mr. Gibboney stated it depends on work, economy and available money. He stated he would like for it to be around 2 or 3 years after barn is put up.

Mrs. Johnston asked when the old barn would be taken down.

Mr. Gibboney stated after the new one is built.

Mr. O'Riley asked the staff what is the rule when it comes to how long a pole barn can be built before home is built.

Mr. Hufford stated there is no specific regulation as to how long.

Mr. Himself asked where exactly the barn would be built.

Mr. Reitz stated the property is zoned AG residential meaning the barn could be placed in front of the home if needed.

Mr. Hession asked if the board had any further questions.

There were none.

Mr. Hession opened the public hearing portion.

No one had signed up to speak.

Mr. Hession closed the public hearing.

Mr. Hession asked for a motion on VAR 07-17.

Mr. Lasley made a motion to adopt the positive findings of facts and approve VAR 07-17.

Mrs. Johnston seconded the motion.

**VOTE: For- 5 Against- 0 Abstained-0 APPROVED**  
**VAR 07-17: Mitch & Jennifer Gibboney**

### **Hendricks County Area Board of Zoning Appeals**

Findings of Fact/Law and Conditions of Approval

VAR 07-17

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to vary

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development standards to permit *an accessory building prior to a principal* in an AGR/Agricultural Residential district. Acting in its role as staff to the Hendricks County Area Board of Zoning Appeals, the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in Room 212 of the Hendricks County Government Center.

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 Hendricks County Area Board of Zoning Appeals, 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 an approval will not be injurious to the public health, safety, morals and general welfare of the community. The surrounding community consists of residences, and approval of this variance will allow that use to continue.

**(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 use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. A barn already exists on the property, and the proposed barn is of substantially higher quality than the existing barn.



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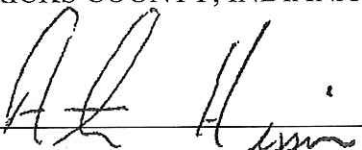
**(3) The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.**

The Board finds that the strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. The applicant currently lives across the street and wants to use the property to house items and animals that do not work on their current parcel, while working on building a home on the parcel in the foreseeable future.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 17th day of April 2017.

**AREA BOARD OF ZONING APPEALS**

**HENDRICKS COUNTY, INDIANA**



Anthony Hession  
*Chairman*



Tim Dombrosky  
*Secretary to the Board*

**VAR 10-17: Tim and Sharen Arney** for a Variance from Development Standards 4.9 (D) to allow a 5 foot side setback in a RB zoned district on a .45 acre parcel in Lincoln Township; Section 10, Township 16, Range 1E; Key No. 08-1-10-61E 380-014.

Mr. Hufford showed where the property is located on power point. He stated the standards are that RB has to have a 7 ½ foot setback for a principal dwelling because the requested garage will be attached to the home. Mr. Hufford stated the front yard slopes dramatically and the garage cannot be placed on this side. He stated the garage will be built to match the rest of the home. Mr. Hufford stated the garage cannot be built in the front of home because of regulations and stated that it can't be put in the back because of the septic field.

Mr. Himsel asked if they own the lot next door that they want to encroach.

Mr. Hufford stated no, they own the opposite side.

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Tim and Sharen Arney, 5154 Green Hills Drive, Brownsburg, IN. 46112.

Mr. Lasley asked if that was a concrete pad next to existing garage.

Mrs. Arney stated no, its gravel.

Mr. Arney stated that the garage will be out about another 5 ft. from gravel.

Mr. Hession asked about it looking like the rest of the house.

Mrs. Arney stated that yes; it will look like the rest of home.

Mr. Hession asked if the board had any further questions.

There were none.

Mr. Hession opened the public hearing portion.

No one had signed up to speak.

Mr. Hession closed the public hearing portion.

Mr. Hession asked for a motion on VAR 10-17

Mrs. Johnston made a motion to adopt positive findings of facts and approve VAR 10-17.

Mr. O'Riley seconded the motion.

<b>VOTE:</b>	<b>For- 5</b>	<b>Against- 0</b>	<b>Abstained-0</b>	<b>APPROVED</b>
<b>VAR 10-17: Tim and Sharen Arney</b>				

### **Hendricks County Area Board of Zoning Appeals**

Findings of Fact/Law and Conditions of Approval

VAR 10-17

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to vary development standards to permit **a 5 foot side setback** in an RB/Single - Family Residential district. Acting in its role as staff to the Hendricks County Area Board of Zoning Appeals, the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in Room 212 of the Hendricks County Government Center.

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.

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In accordance with Section 3.07 (D)(2) of the Rules of Procedure of the Hendricks County Area Board of Zoning Appeals, 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 an approval will not be injurious to the public health, safety, morals and general welfare of the community. The decreased setback will not undermine long term planning efforts.

- (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 use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. The use will resemble and allow residential development in a way that does not adversely affect 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 strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. The applicant has no other reasonable place for the addition on the property due to a significant slope behind the house that could only be remedied through extensive earthmoving operations.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 17th day of April 2017.



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AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA



Anthony Hession  
*Chairman*



Tim Dombrosky  
*Secretary to the Board*

**VAR 11-17: Mark and Tammy Manes** for a Variance from Development Standards 4.7 (D) to allow a side setback of less than 10 feet in an AGR zoned district on a .49 acre parcel in Lincoln Township; Section 16, Township 16, Range 1E; Key No. 08-2-16-61E 485-008. 4133 Oles Drive, Brownsburg, IN. 46112.

Mr. Hufford showed where the property is located on power point. Mr. Hufford stated that there is an older accessory building that will be torn down. He stated the location of the new one is in about same area. Mr. Hufford stated that they are zoned AGR which makes their side setback 10 feet and they are requesting an addition 5 feet. Mr. Hufford stated that Mr. Manes mother will be moving in with them and need the extra storage for her things including her car.

Tammy Manes, 4133 Oles Drive, Brownsburg, IN. 46112, Mrs. Manes stated that they need space for her mother-in-law.

Mr. Hession asked if the board had any questions.

There were none.

Mr. Hession opened the public hearing portion.

John Hand, 4155 Oles Drive, Brownsburg, IN., Mr. Hand stated he had a couple of questions. He asked how tall the home would be and if there would be a perimeter drain around it. He stated he was worried about changing the dynamics of drainage in that area.

Mr. Hession closed the public hearing portion.

Mrs. Manes stated that her builder has already taken drainage into consideration and he is taking care of it.

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Mr. Hession asked if there will be gutters and downspouts and if the pond would be the water flow to.

Mrs. Manes stated she really didn't know where the gutters and downspouts were going to flow to.

Mr. O'Riley asked if Mrs. Manes was willing to put sufficient drainage to make it flow correctly.

Mrs. Manes stated yes, most definitely because she didn't want a water problem.

Mr. Hession asked the staff if there could be a stipulation when applying for the building permit.

Mr. Reitz stated it would be reviewed at the time the building permit is applied for.

Mr. Hession asked if the board had any further questions.

There were none.

Mr. Hession asked for a motion on VAR 11-17

Mr. Hession made a motion to adopt positive findings of facts and approve VAR 11-17 with condition of approval as part of permit approval.

Mr. Himself seconded the motion.

**VOTE:        For- 5                    Against- 0                    Abstained-0                    APPROVED**  
**VAR 11-17: Mark and Tammy Manes**

## **Hendricks County Area Board of Zoning Appeals**

Findings of Fact/Law and Conditions of Approval

VAR 11-17

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to vary development standards to permit ***an accessory building within 5' of the side setback*** in an AGR/Agricultural Residential district. Acting in its role as staff to the Hendricks County Area Board of Zoning Appeals, the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in Room 212 of the Hendricks County Government Center.

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*.



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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 Hendricks County Area Board of Zoning Appeals, 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 an approval will not be injurious to the public health, safety, morals and general welfare of the community. The placement of the accessory building will not adversely affect long term planning efforts.

- (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 use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. The barn is incidental to the residence and its placement does not affect adjacent property owners or values.

- (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 strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. The applicant needs the additional space to adequately store personal items on their property. The location of the septic tank, and the pond in the back do not allow the building to be placed anywhere else on the property, and the building follows all other regulations.

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

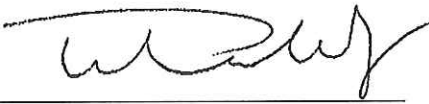
The Board imposed the following conditions in furtherance of the Indiana Code and the Hendricks County Zoning Ordinance:

1. Ensure drainage review by the proper authority as part of the building permit process  
For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 17th day of April 2017.

AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA



Anthony Hession  
*Chairman*



Tim Dombrosky  
*Secretary to the Board*

**VAR 12-17: Max Wilkerson** for a Variance from Development Standards 4.7 (D) to allow a side setback to be less than 15 feet in an AGR zoned district on a .88 acre parcel in Brown Township; Section 18, Township 17, Range 2E; Key No. 01-1-18-72E 420-035; Located approximately 180 feet east of N CR 1000 E; 10042 E CR 1000 N, Brownsburg, IN. 46112.

Mr. Hufford pointed out where property was located on power point. He stated with the property being zoned AGR the setback for a principal dwelling is 15 feet and the applicant is requesting 10' for the added attached garage on the home. Mr. Hufford stated the attached garage will be 24 feet in width and 50 feet long. He stated it will be used for cars, motorcycles, lawn equipment, and other personal items. Mr. Hufford stated that the addition cannot be placed in front of the house, and due to septic system, it cannot be placed in the backyard.

Cindy Wilkerson, 3637 Shelby Street, Indianapolis, IN. 46227, Ms. Wilkerson stated she is representing Max Wilkerson for the attached garage addition.

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Mr. Hession asked if the board had any questions.

Mr. Lasley asked if there would be any drive-way changes.

Ms. Wilkerson stated it will most likely branch off existing drive-way over to new garage. She stated it won't come out to the road.

Mr. Hession opened the public hearing portion.

No one had signed up to speak.

Mr. Hession closed the public hearing portion.

Mr. Hession asked the board if they had any further questions or comments.

There were none.

Mr. Hession asked for a motion on VAR 12-17.

Mrs. Johnston made a motion to adopt positive findings of facts and approve VAR 12-17.

Mr. Lasley seconded the motion.

<b>VOTE:</b>	<b>For- 5</b>	<b>Against-0</b>	<b>Abstained-0</b>	<b>APPROVED</b>
<b>VAR 12-17</b>				

## **Hendricks County Area Board of Zoning Appeals**

Findings of Fact/Law and Conditions of Approval

VAR 12-17

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to vary development standards to permit **a 10' side setback** in an AGR/Agricultural Residential district. Acting in its role as staff to the Hendricks County Area Board of Zoning Appeals, the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in Room 212 of the Hendricks County Government Center.

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 Hendricks County Area Board of Zoning Appeals, 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.



April 17, 2017

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 an approval will not be injurious to the public health, safety, morals and general welfare of the community. The expansion of the garage will not adversely affect long term planning efforts.

- (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 use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. The residence will continue its residential function and keeping items stored inside will help maintain property values and uses.

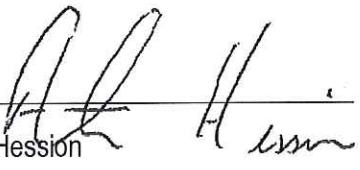
- (3) The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.**

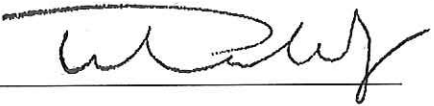
The Board finds that the strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. The septic field in the back and the pre-existing width of the lot impose limitations on the placement of the garage addition. A major component of the usefulness of a garage is the width of the garage doors resulting in the need to go from a 15 foot setback to a 10 foot.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 17th day of April 2017.

AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA

April 17, 2017

  
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Anthony Hession  
Chairman

  
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Tim Dombrosky  
Secretary to the Board

**SE 01: Duane and Patricia Lane** for a Special Exception in accordance with HCZO 4.15 (C) to permit RV and boat storage in the GB district on a 7.58 acre parcel in Marion Township; Section 5, Township 15, Range 2W; Key No. 09-1-05-52W 400-025; Located approximately .35 of a mile west of CR 75; 7410 W US Hwy 36, Danville, IN. 46122.

**VAR 13-17: Duane and Patricia Lane** for a Variance from Development Standard 4.15 (D) to allow a zero foot front setback in a GB zoned district on a 7.58 acre parcel in Marion Township; Section 5, Township 15, Range 2W; Key No. 09-1-05-52W 400-025; Located approximately .35 of a mile west of CR 75; 7410 W US Hwy 36, Danville, IN. 46122.

**VAR 14-17: Duane and Patricia Lane** for a Variance from Development Standards 7.6 (C) (5c) to allow a front yard fence to be higher than 4 ft. on a 7.58 acre parcel in Marion Township; Section 5, Township 15, Range 2W; Key No. 09-1-05-52W 400-025; Located approximately .35 of a mile west of CR 75; 7410 W US Hwy 36, Danville, IN. 46122.

Mr. Hufford showed where the property was located on power point. He stated that the property had recently changed zoning to GB (General Business District). Mr. Hufford stated that if approved, the front part of the property will be used for RV and boat storage. He stated that they want to use all of property to the front setback line making it a zero foot setback from a required 80 feet. He stated that US HWY 36 has a Thoroughfare Plan that bases the right of way off the size of the road and US HWY 36 does have a considerable right of way to allow for expansions. Mr. Hufford stated that if the zero foot set back was permitted it would not be in the right of way. He stated that the gravel that is there now will be utilized. Mr. Hufford stated the other part of approval is to put 6 foot fencing around property. He stated that the zoning ordinance states that fencing must be no higher than 4 feet for front of property, but the 6 feet is needed for security purposes. Mr. Hufford stated that the Thoroughfare Plan for US HWY 36 states that the right of way is to be 75 feet from road, if granted the zero foot setback, they would only be 75 feet from center of road instead of 155 feet.

Mr. O'Riley asked if the fence would be 75 feet away from road.

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Mr. Hufford stated yes.

Mrs. Johnston asked if they would be taking the fence around 3 three sides of property.

Mr. Hufford stated that is his understanding.

Mr. O'Riley asked if the fence is approved and is right up against right of way, and road is widened at a later date, how will it be affected.

Mr. Dombrosky stated it shouldn't matter because it is his property.

Ben Comer, 71 West Marion St., Danville, IN. 46122, Mr. Comer stated that as of right now, there is a 30 foot half right of way. He stated that it would have to triple to get close to where the fence is going to be placed. Mr. Comer stated there is no way the road is ever going to get close to 100 feet. Mr. Comer stated that any storage yard would ask for a 6 foot fence around property for security purposes.

Mr. Hession asked what kind of fencing it will be.

Mr. Comer stated chain link.

Mr. Hession asked if would go around the property.

Mr. Comer stated yes.

Mr. Himsel asked if it was going to be outside storage.

Mr. Comer stated yes, but there are already buildings on property that will also be used for storage. He stated that this property is perfect for outdoor storage and it was used this way by previous owner, Trailers Galore.

Mr. Hession asked if Trailers Galore had a Special Exception for the business when they owned this property.

Mr. Comer stated they were zoned differently. He stated a rezone was done by the Lane's so they could have indoor and outdoor storage both.

Mr. Hession asked how they will begin filling the property as they get boats and RV's to store.

Mr. Lane, 419 E Mill St, Danville, IN. 46122, Mr. Lane stated they haven't actually done a site plan. He stated their plan is to work more towards boat storage with Heritage Lake being close and with it being on the way to Raccoon Lake. He stated they may need to add buildings for the boats at a later date. He stated he prefers to keep most of the outside storage towards the back of the property because of the right of way.

Mr. Hession asked if the board had any further questions.



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There were none.

Mr. Hession opened the public hearing portion.

No one had signed up to speak.

Mr. Hession closed the public hearing portion.

Mr. Hession asked if the staff had any further comments.

There were none.

Mrs. Johnston made a motion to adopt positive facts of findings and approve SE 01-17 with conditions of approval.

Mr. Hession seconded the motion.

<b>VOTE:</b>	<b>For- 5</b>	<b>Against-0</b>	<b>Abstained-0</b>	<b>APPROVED</b>
<b>SE 01-17</b>				

### **Hendricks County Area Board of Zoning Appeals**

Findings of Fact/Law and Conditions of Approval

**SE 01-17**

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 **RV and Boat storage in a GB/General Business** zoning district. Acting in its role as staff to the Hendricks County Area Board of Zoning Appeals, the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in Room 212 of the Hendricks County Government Center.

In accordance with Indiana Code (IC) 5-3-1 and the Hendricks County Zoning Ordinance (HCZO) Section 12.7, 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 special exception on its agenda.

In accordance with Section 3.07 (D)(2) of the Rules of Procedure of the Hendricks County Area Board of Zoning Appeals, 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 Special Exception.

April 17, 2017

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 Area Board of Zoning Appeals to approve Special Exceptions.**

**HCZO Section 4.7 (C) authorizes the approval of a banquet hall/wedding venue in the AGR zoning district.**

**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 RV and Boat storage is in fact a Special Exception in the General Business 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 be harmonious with and in accordance with the general objectives and specific objectives of the County's Comprehensive Plan and Zoning Ordinance. The comprehensive plan recommends agriculture for the area, however, there are a number of businesses located in an around the intersection of 75 and US 36 that make up the entity of New Winchester. RV and Boat storage, along with the other covered personal storage options offered at the site are compatible with the surrounding uses.

**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 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



proposed use will be adequately secured and will provide an improved situation from the existing conditions on the site.

**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 be adequately served by essential public facilities and services. The site is just north of US 36 to allow more than adequate access, and the site is being designed in such a way to allow it to be secure, while also allowing large vehicles towing recreational vehicles to queue off the road.

**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 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. No additional public service is required as a result of this approval.

**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 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. Conditions of approval have been established to protect persons, property, and the general welfare.

**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 utilize existing or newly state approved vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. The proposed use will have a negligible effect on local traffic volume or patterns.

**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 not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance. No historic, scenic, or natural feature is involved in this approval.



April 17, 2017

**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. Approval shall be terminated and of no further effect in the event the proposed use is discontinued during the approval period. Upon such termination, no reestablishment of the use in any form shall occur without favorable action (including new findings of fact/law and conditions of approval) by the BZA or any successor agency.
2. To restrict accountability and responsibility for the operation and to make future operations compatible with the surrounding property, this Special Exception shall run with the applicants and not the real estate.
3. All applicable federal, state, and local approvals are required.
4. Any expansion of the business shall require BZA approval. Depending on the scale and/or nature of the expansion, development plan review may be required, and therefore Plan Commission approval, as well.

For all the foregoing reasons, the Board approved this request for a Special Exception, subject to the conditions set forth, the 17<sup>th</sup> day of April, 2017.


AREA BOARD OF ZONING APPEALS

HENDRICKS COUNTY, INDIANA



Anthony Hession

*Chairman*



Tim Dombrosky

*Secretary to the Board*

April 17, 2017

VAR 13-17

Mrs. Johnston made a motion to adopt positive findings of facts and approve VAR 13-17.

Mr. Lasley seconded the motion.

**VOTE:          For- 5                  Against-0                  Abstained-0                  APPROVED**

**VAR 13-17**

### **Hendricks County Area Board of Zoning Appeals**

Findings of Fact/Law and Conditions of Approval

VAR 13-17

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to vary development standards to permit **a 0' front setback** in a GB/General Business zoning district. Acting in its role as staff to the Hendricks County Area Board of Zoning Appeals, the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in Room 212 of the Hendricks County Government Center.

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 Hendricks County Area Board of Zoning Appeals, 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:**

April 17, 2017

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

The Board finds that an approval will not be injurious to the public health, safety, morals and general welfare of the community. By staying out of the right-of-way, the applicant is not having an adverse effect on future planning efforts.

- (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 use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. The encroachment into the setback does affect any neighboring uses or values.

- (3) The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.**

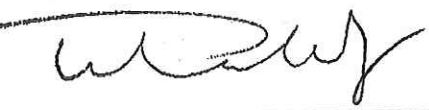
The Board finds that the strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. Due to pre-existing circumstances of the graveled front yard, the applicant is in fact coming into compliance for an improvement he did not make. Additionally, the front yard of a parcel is determined by the placement of a building, and the buildings already located on the property are towards the back, allowing the applicant without much useable room unless he builds closer to the road.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 17th day of April 2017.

AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA



Anthony Hession  
Chairman



Tim Dombrosky  
Secretary to the Board



April 17, 2017

**VAR 14-17**

Mrs. Johnston made a motion to adopt positive findings of facts and approve VAR 14-17.

Mr. O'Riley seconded the motion.

<b>VOTE:</b>	<b>For- 5</b>	<b>Against-0</b>	<b>Abstained-0</b>	<b>APPROVED</b>
<b>VAR 14-17</b>				

**Hendricks County Area Board of Zoning Appeals**

Findings of Fact/Law and Conditions of Approval

VAR 14-17

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to vary development standards to permit **a 6' high front yard fence** in a GB/General Business zoning district. Acting in its role as staff to the Hendricks County Area Board of Zoning Appeals, the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in Room 212 of the Hendricks County Government Center.

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 Hendricks County Area Board of Zoning Appeals, 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:**

April 17, 2017

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

The Board finds that an approval will not be injurious to the public health, safety, morals and general welfare of the community. The fence will be located outside of the right-of-way and will make the property more secure for its use. It will not hinder any future planning efforts.

**(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 use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. The fence will not prohibit adjacent property owners from use of their property and will not be detrimental to their land values.

**(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 strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. The applicant will be storing items outdoors, which requires security. The applicant is reacting to pre-existing conditions, and if the ordinance were followed exactly, would prohibit the applicant from adequately securing his property.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 17th day of April 2017.

AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA

  
Anthony Hession

*Chairman*

  
Tim Dombrosky

*Secretary to the Board*

April 17, 2017

SE 02-17: Hendricks Civic Theatre, INC, Hendricks County Civic Theatre, Inc. is requesting a Special Exception to allow an expansion of the Community Theatre Special Exception on .60 acre parcel in Center Township; Section 15, Township 16, Range 1W; Key No. 02-1-15-61W 200-009; Located on the southwest corner of E CR 500 E and N CR 100 E; 4972 N CR 100 E, Danville, IN. 46112.

Mr. Hufford made a power point presentation pointing out the parcels that are owned by Hendricks Civic Theatre, INC... He stated there are four total parcels explaining that the current Special Exception is with the parcel with the church on it. Mr. Hufford stated that with the approval of the requested Special Exception the house and garage will be coming down. He stated that they want to expand the parking and take advantage of the drive and build something at a later date to store their props in. Mr. Hufford stated that this Special Exception would basically be an expansion of the current Special Exception. He stated the existing Special Exception was only approved under the ordinance that they got their Special Exception under. He stated it doesn't conform to any of the current Special Exceptions, but since it was at the time of approval, it is being expanded. Mr. Hufford stated that they have passed all tests for findings of facts but being served adequately by central public facilities, specifically drainage.

Mr. O'Riley asked if there was a drainage issue, would they be responsible for taking care of it.

Mr. Hufford stated as part of their conditions of approval they will have to go before Administrative Plan Review.

Gerald Vornholt, 551 N Washington St, Danville, IN. 46122, Mr. Vornholt addressed the board and said he would answer whatever questions they had for him.

Mr. Hession asked how many cars are normally at one of the shows and how many spaces are being added.

Mr. Vornholt stated they have 82 seats in their theatre, but haven't ever actually counted the cars. Mr. Vornholt stated that adding the parking will add to the traffic flow than needing to add a ton of extra space.

Mr. Hession asked if there were going to be a sidewalk from where the proposed parking is going to be.

Mr. Vornholt stated it had not yet been discussed with staff.

Mr. Hession asked how many events were held there each year.

Mr. Vornholt stated usually 5 to 6 events.



April 17, 2017

Mr. Lasley asked how many showings per show.

Mr. Vornholt stated that shows normally run for two weeks, Friday, Saturday, and Sunday. He stated that if it's a Christmas show, they'll sometimes run matinees.

Mr. Hession asked if the board had any questions.

There were none.

Mr. Hession opened the public hearing portion.

No one had signed up to speak.

Mr. Hession closed the public hearing portion.

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

There were none.

Mr. Hession asked for a motion on SE 02-17.

Mr. Himsel made a motion to adopt positive findings of facts with conditions and approve SE 02-17.

Mrs. Johnston seconded the motion.

<b>VOTE:</b>	<b>For- 5</b>	<b>Against-0</b>	<b>Abstained-0</b>	<b>APPROVED</b>
<b>SE 02-17</b>				

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### **Hendricks County Area Board of Zoning Appeals**

Findings of Fact/Law and Conditions of Approval  
**SE 02-17**

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 expansion of the Community Theatre Special Exception in an AGR/Agricultural Residential district**. Acting in its role as staff to the Hendricks County Area Board of Zoning Appeals, the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in Room 212 of the Hendricks County Government Center.

In accordance with Indiana Code (IC) 5-3-1 and the Hendricks County Zoning Ordinance (HCZO) Section 12.7, 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 special exception on its agenda.

April 17, 2017

In accordance with Section 3.07 (D)(2) of the Rules of Procedure of the Hendricks County Area Board of Zoning Appeals, 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 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 Area Board of Zoning Appeals to approve Special Exceptions.**

**HCZO Section 4.7 (C) authorizes the approval of a banquet hall/wedding venue in the AGR zoning district.**

**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:**

**I. Is in fact a permitted Special Exception use ... [in] the zoning district involved;**

The Board finds that an expansion of the Community Theatre use is in fact a permitted Special Exception use in the zoning district involved by way of being permitted based on the 1992 Zoning Ordinance.

**J. 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 be harmonious with and in accordance with the general objectives and specific objectives of the County's Comprehensive Plan and Zoning Ordinance. The comprehensive plan recommends agricultural uses in this area, but residences have been in and around the area that is Maplewood for a very long time. The re-use of the church as an active place in the community does not adversely affect the comprehensive plan or its recommendations.

**K. 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 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 property the theatre is expanding on to had been vacant for some time and in disrepair. It is a natural progression for the theatre to expand its use to that lot.

- L. 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 be adequately served by essential public facilities and services. There are adequate public facilities to service most uses of the special exception except the increased hard surface proposed by the parking lot may cause additional water runoff that goes beyond local infrastructure capabilities.

- M. 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 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. No additional public service is required as a result of this approval.

- N. 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 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. Conditions of approval have been established to protect persons, property, and the general welfare.

- O. 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 utilize existing or newly state approved vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. The proposed use will have a negligible effect on local traffic volume or patterns.

- P. 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 not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance. No historic, scenic, or natural feature is involved in this approval. The church building is the most historical feature of this property and the expansion will allow that building to remain in-tact even to the point of potentially helping its longevity.

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



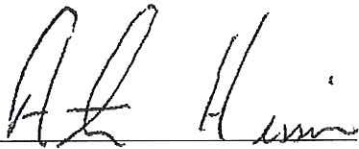
April 17, 2017

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

5. Approval shall be terminated and of no further effect in the event the proposed use is discontinued during the approval period. Upon such termination, no reestablishment of the use in any form shall occur without favorable action (including new findings of fact/law and conditions of approval) by the BZA or any successor agency.
6. To restrict accountability and responsibility for the operation and to make future operations compatible with the surrounding property, this Special Exception shall run with the applicants and not the real estate.
7. An Administrative Development Plan Review shall be required.
8. All applicable federal, state, and local approvals are required.
9. Any expansion of the use shall require BZA approval. Depending on the scale and/or nature of the expansion, development plan review may be required as well.

For all the foregoing reasons, the Board approved this request for a Special Exception, subject to the conditions set forth, the 17<sup>th</sup> day of April, 2017.

AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA



Anthony Hession  
*Chairman*



Tim Dombrosky  
*Secretary to the Board*