

February 19, 2019

The Hendricks County Board of Zoning Appeals met in the Hendricks County Government Center, Meeting Rooms 4 and 5, Tuesday, February 19, 2019. The meeting began at 7:30 p.m. Members present included Anthony Hession, Rod Lasley, Sonnie Johnston and Walt O'Riley. Sam Himsel was absent from the meeting. Also, present were Tim Dombrosky, Planning Director, Graham Youngs, County Attorney and Leslie Dardeen, Recording Secretary.

Everyone stood and Mr. Lasley lead the Pledge of Allegiance.

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

Mr. Hession asked for a motion to approve the minutes from the January 22, 2019 meeting.

Mrs. Johnston made a motion to approve the January 22, 2019 meeting minutes.

Mr. Lasley seconded the motion.

**VOTE: For- 4                  Against- 0                  Abstained- 0                  APPROVED**  
**January 22, 2019 MEETING MINUTES**

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

**VAR 03-19: John Willey** Variance to reduce side setback from 15' to 13' to allow for a previously constructed garage on a .895-acre AGR-zoned lot in Highland Acres in Liberty Township; Section 27, Township 14, Range 1W; Key No. 07-3-27-41W 315-010; located north of I-70 and west of S SR 39; 204 E CR 951 S, Clayton, IN 46118.

Mr. Dombrosky showed the property on power point, noting that it is in Hazelwood on a subdivision street off of the county road. He pointed out previous BZA cases in the area, consisting of mostly mobile homes. Zoning of the surrounding area is for residential neighborhoods. He then went on to show an aerial picture of the garage addition during construction; the site plan includes the old garage and location of septic and well. Mr. Dombrosky pointed out the side property boundaries and the setback points of the structures. He noted that the house is setback rather far on the lot to accommodate the pie-shape of said lot. Because of that, the new garage with a 13' side setback would not be encroaching on a neighboring home. He explained that Mr. Willey has two options to be compliant, either tear down the new garage or apply for a variance. Mr. Willey opted to apply for the variance. Staff recommends approval as it's only a two-foot difference in setback and it meets all three criteria of a variance.

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

There were none.

Mr. Hession then invited the petitioner to address the board.

Mr. John Willey, 204 E CR 951 S, Clayton, IN 46118, explained to the board that when he built the addition, he thought that the side setback was 10 feet, in part because an accessory building on a

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neighboring lot was so close to the property line. He later learned that because the garage he built was attached to the principle dwelling, the side setback was actually 15 feet.

Mr. Hession asked if the next-door neighbor had been contacted.

Mr. Willey replied that the he had spoken to the neighbor personally and mailed him the required notification letter.

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

Mr. Hession then asked for a motion from the board.

Mr. Lasley made a motion to approve VAR 03-19 with conditions set by staff.

Mrs. Johnston seconded the motion.

Motion for approval of VAR 03-19 carried unanimously for approval.

**VOTE: For- 4            Against- 0            Abstained-0            APPROVED**  
**VAR 03-19: JOHN WILLEY**

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

Findings of Fact/Law and Conditions of Approval

VAR 03-19

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). The application sought to vary development standards by reducing the side setback from 15' to 13'.

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 Board, the applicant also sent courtesy notices to certain surrounding property owners of record and other interested persons. A copy of this courtesy notice and a list of those receiving them were made a part of the file for this variance.

The Board conducted the hearing as advertised and heard evidence and testimony on the above noted variance. Meeting in open session, the Board subsequently considered the above noted request and its relationship to the requirements of IC 36-7-4 and HCZO. A tape recording of this proceeding has been on file and available to the public in the DPB office since the date of the hearing.

In its deliberations, the Board weighed the evidence associated with the following requirements and made the following findings.

**IC 36-7-4-918.5 Variance from the development standards of the Zoning Ordinance. A Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. A Variance may be approved under this section only upon a determination in writing that:**

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

The Board finds that the proposal will meet this standard. The addition still meets minimum separation distance for fire safety and will have no negative impact on public health or safety. Public morals and general welfare will not be affected.

- (2) The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner;**

The Board finds that the proposal will meet this standard. The structure will still meet minimum side setbacks for a detached accessory structure, and therefore will not be substantially out of character with the neighborhood or infringe on the neighboring property in any way.

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

The Board finds that the proposal will meet the standard. The lot is a pie shaped lot on a curved street and is unusually narrow at its front. The home is already pushed back on the lot two times more than neighboring homes, so allowing the variance will remove a unique constraint to this specific property.

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

1. All other federal, state and local regulations apply, including submission and approval of a building permit with the County Planning and Building Department.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 19<sup>th</sup> day of February 2019.

AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA



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Anthony Hession  
Chairperson



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Tim Dombrosky  
Secretary to the Board

**VAR 04-19: Frederick & Kyle Freeman** Variance to allow a second principle dwelling on a 16.01-acre RB/AGR-zoned parcel in Washington Township; Section 16, Township 15, Range 1E; Key No. 12-3-16-51E 130-004; located near the intersection of S 525 E and E 100 S; 5519 E CR 100 S, Avon, IN 46123.

Mr. Dombrosky showed the location of the property on power point, noting that it is very near the Prestwick area. It is in a mixed residential zoning area, including PUD, RB, RA, AGR. He pointed out the other BZA cases in the area, highlighting four that border the front of the petitioner's property, including a two-family dwelling. Mr. Dombrosky then went on to show the site plan, explaining where the current home and accessory buildings are, access to those structures and the location of the proposed new build. He confirmed that the new structure would be half dwelling and half accessory building and will share the existing drive and address with the current home, maintaining only one entrance onto County Road 100 South. Mr. Dombrosky believes all three variance criteria are satisfied and this to be an acceptable request and use of the space. Staff is recommending approval.

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

There were none.

Mr. Hession then invited the petitioner to address the board.

Kyle Freeman, 5519 E CR 100 S, Avon, IN 46123, explained to the board that the new dwelling would be for his father. He reiterated that they would share the existing drive and address. Mr. Freeman pointed out on the site plan where the new structure will be in relation to the existing accessory building and primary dwelling.

Mr. O'Riley asked if the accessory building was a pole barn.

Mr. Freeman confirmed that it is a pole barn and that the new dwelling would be to the west of it. He then provided the board with renderings of the new structure.

Mr. O'Riley asked if the new home's septic would tie in with the existing one or would it have its own system.

Mr. Freeman responded that they do not know at this time. It would be the Health Department's decision.

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

There were none.

Mr. Hession opened the public portion of the hearing.

Mr. Frederick Freeman had signed up to speak. He declined to comment, saying that Ryan Freeman had covered all major points of the petition.

Ms. Sandra Gardella, 910 Saint Andrews Dr., Avon, IN 46123, had signed up to speak. She also declined to comment.

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Mr. Hession closed the public portion of the hearing as no one else had signed up.

Mr. Hession asked if there were any additional questions from the board or comments from the staff.

There were none.

Mr. Hession asked for a motion from the board.

Mrs. Johnston motioned to approve VAR 04-19 subject to conditions set by the staff.

Mr. O'Riley seconded the motion.

Motion for approval of VAR 04-19 carried unanimously.

**VOTE: For- 4                      Against- 0                      Abstained-0                      APPROVED**  
**VAR 04-19: FREDERICK & KYLE FREEMAN**

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

Findings of Fact/Law and Conditions of Approval

VAR 04-19

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). The application sought to vary development standards by allowing a second principle dwelling on the property.

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 Board, the applicant also sent courtesy notices to certain surrounding property owners of record and other interested persons. A copy of this courtesy notice and a list of those receiving them were made a part of the file for this variance.

The Board conducted the hearing as advertised and heard evidence and testimony on the above noted variance. Meeting in open session, the Board subsequently considered the above noted request and its relationship to the requirements of IC 36-7-4 and HCZO. A tape recording of this proceeding has been on file and available to the public in the DPB office since the date of the hearing.

In its deliberations, the Board weighed the evidence associated with the following requirements and made the following findings.

**IC 36-7-4-918.5 Variance from the development standards of the Zoning Ordinance. A Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of**

**the zoning ordinance. A Variance may be approved under this section only upon a determination in writing that:**

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

The Board finds that the proposal will meet this standard. The area is developed and can support an additional dwelling. There will be no negative impacts to the general public.

- (5) The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner;**

The Board finds that the proposal will meet this standard. The second dwelling will be for family and will not have a separate address or access drive. This will prevent neglect or overcrowding and will be functionally the same as a multi-generational household.

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

The Board finds that the proposal will meet the standard. Splitting of the lot is not desirable due to frontage limitation, but the proposed second dwelling would allow the owner to maximize the use and value of the property.

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

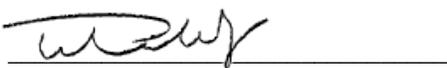
1. All other federal, state and local regulations apply.
2. The property shall not be assigned a second address.
3. The property shall not have more than one access onto County Road 100 South.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 19<sup>th</sup> day of February 2019.

AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA



Anthony Hession  
*Chairperson*



Tim Dombrosky  
*Secretary to the Board*

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Mr. Hession asked if there was any further business.

Mr. Dombrosky stated that because of Mrs. Johnston's impending retirement from the board, they needed to discuss board membership appointment. He noted a need to clarify how members are appointed and by whom.

Mr. Dombrosky stated that two Planning Commission members are on the Board of Zoning Appeals; one appointed by the Plan Commission and one appointed by the Commissioners. These two members are currently Sonnie Johnston and Walt O'Riley. He asked if they knew which had been appointed by the Plan Commission and which by the Commissioners.

Mr. O'Riley answered that he didn't remember.

Mr. Dombrosky stated the Mrs. Johnston is on the Planning Commission by appointment from the Town of North Salem; but she is on the BZA either by appointment from the Planning Commission or by the board of Commissioners. Mrs. Johnston was not sure who appointed her. Mr. Dombrosky then asked Mr. O'Riley if he knew. He did not.

Mr. Lasley asked Mr. O'Riley if he knew when he was appointed.

Mr. O'Riley responded that he thought he was appointed four years ago.

Mr. Lasley asked Mr. O'Riley if he was already on the Plan Commission at that time.

Mr. O'Riley answered that he didn't remember for sure, but that he was on them both (Plan Commission and BZA) around the same time. He took the place of a former Plan Commission member who stepped down.

Mr. Dombrosky said that he thought Mr. O'Riley had been appointed to the Plan Commission by the County Council. He reiterated that he thought Mrs. Johnston was appointed by the Town of North Salem, as was Mr. Lasley.

Mrs. Johnston said she was under the impression that she was on the Plan Commission as the Trustee of North Salem.

Mr. Dombrosky corrected that there is no North Salem Trustee appointment.

He further stated that the issue is that Coatesville is now larger than North Salem.

Mr. Hession asked if this means Mrs. Johnston's replacement would have to be appointed by the Town of Coatesville since Mr. Lasley would fill the North Salem appointment.

Mr. Dombrosky answered that it may, but that the Plan Commission can still appoint to the BZA whomever they want. However, since Coatesville is now the largest municipality, there may be an appointment from there to the BZA. He also stated that he may have to meet with the Coatesville Town Council to discuss the appointment.

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There also remains some question as to whom appointed Sam Himself to the BZA and whether his appointment will be affected by Mrs. Johnston's replacement.

Mr. Dombrosky concluded that he would need to research past minutes to get accurate appointment dates and information before any determination can be made.

Being no further business, the meeting was adjourned at 7:54 P.M.