

August 15, 2022

The Hendricks County Board of Zoning Appeals convened in the Hendricks County Government Center, Commissioner's Meeting Room, Monday, August 15, 2022. The meeting began at 7:30 p.m. Members present included Anthony Hession, Ron Kneeland and Russ Hesler. Rod Lasley and Walt O'Riley were absent. Also, present were Greg Steuerwald, County Attorney, Tim Dombrosky, Planning Director and Leslie Dardeen, Recording Secretary.

Everyone stood and recited the Pledge of Allegiance.

Mr. Hession presided over the meeting as the board president and vice president were absent.

Mr. Hession read the Rules of Procedure for the Board of Zoning Appeals meeting. He also explained that since there are only 3 board members present, it will take a unanimous vote to either approve or deny a motion. If a motion does not receive a unanimous vote, the petition will be continued to next month's meeting.

He then asked for a motion to approve the minutes from the July 18, 2022 meeting.

Mr. Hesler made a motion to approve the July 18, 2022 minutes.

Mr. O'Riley seconded the motion.

Motion to approve the July 18, 2022 minutes passed unanimously.

VOTE: For- 3 Against- 0 Abstained- 0 APPROVED
July 18, 2022: MEETING MINUTES

Mr. Steuerwald announced that SE 14-22 has been withdrawn by the petitioner.

SE 14-22: Christel Boe Special Exception to allow active recreation for a spectator event on a 10.07-acre AGR-zoned parcel in Washington Township: Section 32, Township 16, Range 1E; Key No. 12-1-32-61E 100-016; located approx. ¼ mile north of intersection at N CR 425 E and E 150 N; 1636 N CR 425 E, Avon, IN 46123.

Mr. Steuerwald then announced the first case of the evening.

VAR 20-22: Irving Materials, Inc Variance to allow an increase of maximum building height from 60 ft. to 85 ft. on a combined 33.58-acre MI-zoned parcel in Liberty Township: Section 34, Township 14, Range 1W; Key No. 07-3-34-41W 400-008; located approximately 1.25 miles west of intersection of E Hendricks County Rd and SR 39; 10714 S CR 100 E, Clayton, IN 46118.

VAR 21-22: Irving Materials, Inc Variance to modify the required buffer-yard location to include the setback on a combined 33.58-acre MI-zoned parcel in Liberty Township: Section 34, Township 14, Range 1W; Key No. 07-3-34-41W 400-008; located approximately 1.25 miles west of intersection of E Hendricks County Rd and SR 39; 10714 S CR 100 E, Clayton, IN 46118.

Mr. Dombrosky introduced the property on PowerPoint. It is on the southwest corner of Exit 59, at I-70 and SR 39. The parcel, an L-shaped parcel, is part of a larger piece of MI zoned property which also includes a triangle-shaped wooded parcel. There is mostly PB zoning (Planned Business) around it. There are farm fields around it, with an agricultural-residential parcel bordering it. Site plan shows a detention area at the south of the property, a materials storage area on the west side, and the main operations of the plant with an entrance off of S County Road 100 E. The variance request is for building height (MI-zoning has the highest building height (60') allowed by the ordinance). The height variance is to allow three silos to be 85' tall. A site plan has not been completed; therefore, the exact placement of the silos is unknown. However, they will be centrally located on the parcel. This petition, VAR 20-22, is for a variance to development standards and must meet the 3 criteria of a variance. Mr. Dombrosky explained that the petitioner is actually asking for 2 variances and thought it may be helpful to go over

both of them together. The second variance, VAR 21-22, is for the setback and landscape buffer to overlap. An MI-zoned parcel is required to have a 75' wide landscape buffer, and the property, by default, already has a 50' setback, thus totaling 125'. The ordinance does call for those 2 items to remain separate, but they can overlap if deemed appropriate. The landscape buffer is not explicitly a setback, but in effect is as building is not allowed in that area. The buffer can require either a berm or a fence.

In the staff letter, Mr. Dombrosky states that either variance on its own would be ok, but both variances together could potentially cause a nuisance for the neighboring residential property. The provisions of the ordinance are explicitly designed to protect properties with dissimilar uses. Mr. Dombrosky isn't convinced that the buffer/setback stacking is completely necessary based on the site plan provided. The 50' setback can be achieved in addition to the 75' buffer; however, overlapping the two could result in commercial building within 75' of the property line. There is no evidence that Mr. Dombrosky can see to go against the ordinance as far as the setback and buffer yard. Mr. Dombrosky, however, does believe that the height variance would be appropriate. The ordinance doesn't allow any district to have structures over 60' and doesn't give consideration to the needs of industrial areas. He further recommends adjusting the site plan so that all the silos are on the north side of the property, then the height of the silos would not be as much of a concern as they would be as far away from the residential area as possible.

Mr. Steuerwald reminded the board that the two cases must have 2 separate motions.

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

There were none.

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

Mr. Michael Kalberg, Crossroads Engineers, PC, 115 N 17th Av, Beech Grove, IN, representing IMI addressed the board. He showed the site map, confirming the location as south of I-70 and east of SR 39. He pointed out on the site plan where they intend to place the 3 silos. They will be centrally located on the property.

Mr. Hession asked what the dimensions of the silos are.

Mr. Kalberg responded that they are round and 8'-10' in diameter. He further explained that they are requesting a height variance for the 3 silos to improved functionality of the operation and to have the capacity to store more inventory. The site will meet all the standards and regulations imposed by the state and local agencies. He added that the final site plan has not been completed as yet, they are waiting on the outcome of the variance petitions. He also mentioned that there would be directional lighting no higher than 45'. He showed the board pictures of comparable silos at other sites.

Mr. Hession asked for clarification of the height. He asked if the 85' was measured from the top of the silo or the structure around it.

Mr. Kalberg responded that it would be 85' from the structure around the silo.

Mr. Hession asked the petitioner to explain the nature of the 2nd variance regarding the setback and buffer yard.

Mr. Kalberg said that the request is to combine or overlap the required setback and buffer yard areas. He explained that this would give them more room and make the operation of the plant more functional. Due to the irregular shape of the parcel, there would be significant building restraints if they have to maintain both the setback and the buffer yard. Combining them would allow more flexibility in the layout of structures, storage buildings, needed on the site. There would still be ample landscaping buffering between the plant and the neighboring properties. Instead of having a 50' setback plus a 75' buffer area, for a total of 125' from property line to building line, they would like to include the setback as part of the 75' buffer area. Mr. Kalberg did add that the silos and primary structures would still be at least 125' from the property line to maintain a central location. He also added that most of the property around the site is also zoned Major Industrial and that as it is developed it will have similar site plans and structures as the IMI plant. He showed the board a map of the subject parcel and the building

August 15, 2022

constraints. He pointed out where an existing creek and ditch are and where the 75' buffer yard would be, and the minimal space left as developable area.

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

Mr. Hesler asked the petitioner why they couldn't just add additional silos at 60' instead of asking for a 25' height increase.

Mr. Mike McGray, IMI representative, 8032 N SR 9, Greenfield, IN, responded that they are already tight on surface space of the site, so going vertical makes more sense.

Mr. Hesler asked if they would be required to have a red light on top of the silos due to the increased height.

Mr. McGray answered that they would abide by whatever was required by the FAA or County.

Mr. Hesler asked if they know where the proposed future buildings would be on the site.

Mr. McGray responded that there is no definitive plan yet. They would like to expand as the business grows and would prefer to remain flexible on building sites until they know what type of structures they will be needing.

Mr. Hesler asked if dust levels are an issue with the concrete plant.

Mr. McGray answered that they have regulations that must be met. Berms and vegetation in the buffer areas help maintain the dust levels and keep it on the property.

Mr. Hesler asked how many trucks they anticipate starting with.

Mr. McGray responded that the number of trucks will be determined by the development and expansion of the plant. Right now, the Danville site runs 25-30 trucks. This facility would run about ½ that number. He also added that he believes the location of this plant is good for the community because it's on less traveled roads.

Mr. Kneeland asked for confirmation on number of trucks at the new facility.

Mr. McGray responded that they anticipate somewhere between 12-15.

Mr. Hession, referring back to the site plan provided by Mr. Kalberg, asked if it showed the 50' setback.

Mr. Kalberg answered that the 50' setback is not shown on their proposed site plan.

Mr. Hession asked staff what can be in the setback.

Mr. Dombrosky responded that in reference to this parcel, surface elements (the pond and stream) can be in the setback. Structures, though, are prohibited.

Referring back to the height variance, Mr. Hesler commented that an additional 25' in height seems excessive.

Mr. Hession opened the public portion of the meeting.

Mr. Howard Knight, 4541 W N County Line Rd, Clayton, IN, addressed the board. He's not in favor of the excess height. The silos will be visible from his property, which likely will decrease the value. He understands that the area is zoned for this type of industrial use but still worries that it is dangerous for nearby residents. He's also concerned with the effect of the dust on the surrounding farmed fields; therefore, he is against any reduction of buffers. He believes that maintaining the ordinance, not allowing an increase in height and a decrease in setback/buffer, will help keep the intrusiveness of the plant as minimal as possible for the surrounding residents.

August 15, 2022

Ms. Debra Mason, 830 E Hendricks CR, Clayton, IN, addressed the board. She is a co-owner of the residential property next to the subject parcel. Her father had once owned all the property in the area, including the L-shaped parcel where the concrete plant is. He sold that parcel about 12 years ago with the understanding that it would be used for a concrete plant, believing it to be a good location for such an operation. However, she is not in favor of the petition as she believes it will detract from her residential property. She fears that allowing the petition to pass would set a precedent for future industrial development in the area. She understands that with the MI-zoning, there will be industrial growth, but she wants to protect the value, both financial and intrinsic, of her AGR-zoned property. Ms. Mason is also concerned that a reduced setback will negatively impact their septic field, as well as allow a commercial building to be built in close proximity to her property line.

Mr. Hession closed the public hearing as no one else signed up to speak.

He then asked if the petitioner would like to address any concerns raised by the remonstrators.

Willie Hall, Crossroads Engineers, PC, 115 N 17th Av, Beech Grove, IN, addressed the board. He responded to Mr. Knights health concerns. He explained that there are many regulations governing hazards and biohazards to protect the community. They must meet stringent requirements set by the state and environmental agencies. IMI has received the highest rating in meeting these requirements. They have also received the highest rating in air quality requirements. If a site is not compliant, they get shut down until they make the necessary corrections and achieve compliancy.

Mr. Hession asked if there had been any citations issued to IMI in the Indianapolis area.

Mr. Hall said that he is unsure if IMI has ever received any citations in the area. He did mention that they have built several sites very comparable to this one that have been surrounded by residential properties. This project is not an atypical situation. He further explained this plant will be a 30-million-dollar project and therefore a long-term commitment to the community and county. IMI will also bring CR 150 to arterial standards to manage the truck traffic that will be generated by the plant. He added that IMI has a vested interest in being compliant with all the requirements and regulations, because getting shut down is a huge loss in revenue. Mr. Hall addressed the buffer requirement, stating that a 75' buffer is quite significant. There will be 6' or 8' trees as well as mounds. The buffer on the south side of the property will keep the trucks and deliveries from being visible to neighboring properties. He pointed out that if the subject parcel and the neighboring property had "similar uses" the 75' buffer would not be required. But since the uses are dissimilar, IMI must install the buffer, actually giving the neighboring property more privacy than it currently has. As far as concerns with the neighboring property's septic field, Mr. Hall offered that they are working with the Plan Commission and Health Department to alleviate any issues.

Mr. Hession confirmed with staff that as far as the height variance, the BZA is only concerned with the height of the silos and not the placement. The placement will be determined by the Plan Commission.

Mr. Dombrosky responded that is correct. He further recommended that if the board approves the height variance it should be with the condition that it is only for the 3 silos and that they be located on the north half of the property. As for the setback variance, he said that the board may want to consider a reduction of the setback on the north side of the property as it abuts I-70 and is already heavily wooded. What is concerning to him is that there will be future accessory buildings on the southern half of the property of unknown size and use. He believes that maintaining the setback and buffer area on that side of the property would be a good compromise.

Mr. Hession asked for confirmation that Mr. Dombrosky's recommendation is eliminating the 50' setback on the north side along I-70 but keeping it and the 75' buffer area on the south.

Mr. Dombrosky said that is correct, he recommends eliminating the setback only on the north boundary line.

Mr. Kneeland asked if this project would have to go before the Plan Commission regardless of the BZA's actions.

August 15, 2022

Mr. Dombrosky responded that it will have to go before the Plan Commission for a development plan review. He explained that IMI wants a level of comfort to know that the height and setback variances are acceptable before moving ahead with the project. He pointed out that the Dollar General project did the same thing. They came to the BZA to find out if they could actually do the project before creating a site plan for the Plan Commission. He gave this example to illustrate that this is not unusual, especially for large projects.

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

Being none, he asked for a motion.

Mr. Hession made a motion to approve VAR 20-22 with the conditions set by staff and with the additional condition of there being a maximum of 3 silos, all located on the northern part of the property, specifically for a concrete/asphalt plant.

Mr. Kneeland seconded the motion.

Motion for approval of VAR 20-22 received a split vote of 2-1, continuing it to next month's meeting.

VOTE: For- 2 Against- 1 Abstained-0 CONTINUED
VAR 20-22: Irving Materials, Inc. (IMI)

Mr. Steuerwald explained that the motion was neither approved nor denied, there was no action taken. Because of this it automatically gets continued to the next board meeting. He further explained that since the petition has been heard in a public meeting, it will be up to the Chair whether or not any public input is taken at the next meeting. Generally, public input is not taken since a public meeting has already been conducted.

VAR 21-22: Irving Materials, Inc Variance to modify the required buffer-yard location to include the setback on a combined 33.58-acre MI-zoned parcel in Liberty Township: Section 34, Township 14, Range 1W; Key No. 07-3-34-41W 400-008; located approximately 1.25 miles west of intersection of E Hendricks County Rd and SR 39; 10714 S CR 100 E, Clayton, IN 46118.

Mr. Hession then asked if there were any final questions or comments from the board concerning VAR 21-22. He clarified that the 75' buffer is required, this motion is only to determine whether the 50' setback is required.

Being no questions, he asked for a motion.

Mr. Hession made a motion to deny VAR 21-22.

Mr. Hesler seconded the motion.

Motion for denial of VAR 21-22 received a split vote of 2-1, continuing it to next month's meeting.

VOTE: For- 2 Against- 1 Abstained-0 CONTINUED
VAR 21-22: Irving Materials, Inc. (IMI)

DPR 504/22: JP Express Appeal the decision of the Hendricks County Administrative and Plat Committee denying the proposed commercial development project (JP Express Truck Maintenance Facility) at 9084 S SR 39, Mooresville, IN 46158.

Mr. Dombrosky explained that he did not have a Power Point presentation for this case as it is an appeal of an administrative decision and not a project. The appeal is of a denial for a development plan review, the secondary approval of the Administrative Plat Committee (which is a function of the Plan Commission). The Administrative Plat Committee hears secondary plan reviews. It consists of 1 member of the Plan Commission (Ron Kneeland) and 4 staff members, Tim Dombrosky, John Ayers, David Gaston and Krista Click. Ginger Harrington sat in for Mrs. Click. The petition was heard by the Plan Commission the night after the final development plan approval, and of concern was that documentation of approval for a water supply study was not provided. Mr. Brian Moench, representing JP Express, told the board that they had documentation but had not submitted it yet. They had it in hand and would deliver it the next day. It was stated at the Plan Commission meeting that the Administrative Plat Committee needed that documentation to grant secondary approval, but the Plan Commission could grant primary approval with the assurance that the documentation would be delivered. The Plan Commission granted the primary approval by a unanimous vote. The Administrative Committee met the next morning. Mr. Moench was not present, and staff didn't receive the required documentation, so Mr. Ayers made a motion to deny the secondary DPR. It was a unanimous vote to deny the project. After the meeting, Mr. Moench's office provided staff with a note from IDEM stating that they did not require approval of a public water supply study due to number of employees JP Express would have on site.

Mr. Dombrosky explained that the appeal of an administrative decision is to be heard by the Board of Zoning Appeals. What the BZA has to decide is whether the Administrative Committee did anything improper or against the rules. He maintains that they did not do anything wrong, the denial was based on lack of documents being provided to them.

Mr. Steuerwald asked for clarification to make sure he understood the sequence of events. After the Administrative Plat Committee made its decision, it then received the needed documentation.

Mr. Dombrosky responded that is correct. The Plan Commission was assured that the water supply was approved through the State Health Department and gave the primary approval. The assumption was that the project would be tied into the public water supply and IDEM approval was necessary. The response from IDEM that it was not tied into the public water supply and subsequently did not need approval came after the Administrative Committee's denial. There were 3 continuances of the petition, waiting on IDEM to respond.

Mr. Steuerwald asked that if the BZA upholds the denial, can the petitioner reapply.

Mr. Dombrosky answered that they could reapply 6 months after either the application date or the denial date. He would have to check to clarify.

Mr. Steuerwald asked if they had received the necessary documentation at the time of the Administrative meeting, the issue would have been resolved and the project would have been approved.

Mr. Dombrosky responded that was correct.

Mr. Steuerwald summed up by saying that the petition was denied based on the lack of required documentation.

Mr. Dombrosky concurred. He then explained to the Board that they are not voting to approve or deny the project. If they approve the appeal, then the petition goes back to the Administrative Plat Committee.

Mr. Steuerwald asked if the BZA approves the appeal, would the petition go back to the Administrative Plat Committee at their next meeting.

August 15, 2022

Mr. Dombrosky responded that he believes so. It is not explicit in the rules, but that would be correct for this case.

Mr. Steuerwald stated that the question to the BZA is whether to uphold or deny the appeal. If it's denied, then the petitioner can reapply in 6 months. They lose 6 months in the building project. If it is approved, it goes back to the Administrative Plat Committee much sooner, and it will be approved because the required documentation is now submitted.

Mr. Hession invited the petitioner to address the board.

Mr. Brian Moench, 4000 Clarks Creek Rd, Plainfield, IN, addressed the board. He said that this project was always to be on a private well. Private wells do not require a water supply study to be done. His firm provided to IDEM documentation in November 2021 that stated this project was on a private well. Somewhere along the way it was assumed by the Plan Commission that it would be on the public water supply. He claims he attested to the Plan Commission that they did not need a water supply study, as it would be on a private well permanently. He said that the petition was denied secondary approval because of lack of documentation from IDEM confirming this. After the denial, he contacted IDEM to confirm that a water study was not needed and that the project was indeed on a private well. He believes the denial was based on the wrong assumption of public water. Waiting another 6 months to reapply would be detrimental to the project.

Mr. Steuerwald explained that should the BZA uphold the appeal, they are not in effect saying that the Administrative Plat Committee made the wrong decision. Upholding the appeal would be based on new documentation that was not provided to the Plan Commission. The Administrative Plat Committee made the right decision at that time, based on the documentation provided to them.

Mr. Hession commented that he has a hard time understanding the disconnect that allowed the staff to assume that the project would be on public water when there is documentation from November 2021 that it would be on a private well.

Mr. Dombrosky clarified that the issue was that Mr. Moench said it is a private well; there was nothing from IDEM confirming that it is. IDEM didn't provide the documentation confirming that it is a private well until August 2022, after the meeting.

Mr. Kneeland, who is also on the Plan Commission, commented that the issue he had was that Mr. Moench stated to the Plan Commission, he would personally deliver the documentation from IDEM confirming a private well to the Administrative Committee the next morning and never showed up.

Mr. Moench denied having made that statement.

Mr. Dombrosky concluded that there wasn't much they could do at the meeting, there was no proof provided of the private well. He continued that if the BZA wants to uphold the appeal to expedite the project, he has no objections.

Mr. Hesler made a motion to approve the appeal for DPR 504/22.

Mr. Hession seconded the motion.

Motion for approval of appeal for DPR 504/22 carried unanimously.

VOTE: For- 3 Against- 0 Abstained-0 APPROVED
DPR 504/22: JP Express

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

Appeal – JP Express

An application for the above noted appeal was filed in the office of the Hendricks County Department of Planning and Building (DPB). The application sought to appeal the decision of the Hendricks County Administrative and Plat Committee to deny a secondary development plan application.

The Board conducted the appeal and heard evidence and testimony on the above noted appeal. Meeting in open session, the Board subsequently considered the above noted request and its relationship to the requirements of the 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.

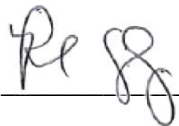
In its deliberations, the Board weighed the evidence associated with the following requirements and made the following findings.

HCZO 12.9 Administrative Appeals procedure. The Board may grant an appeal of any decision, interpretation, or determination made by the Director, other Plan Commission staff members, or any other administrative official or board charged with the duty of enforcing and interpreting this Ordinance. The Board of Zoning Appeals shall only grant an appeal of such an administrative decision based on a determination in writing that the decision of the administrative person or board was inconsistent with the provisions of this Ordinance:

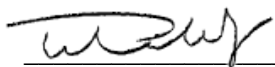
The Board finds that the appeal meets this standard. The denial was based on a lack of information that has since been provided.

For all the foregoing reasons, the Board APPROVED this appeal on the 15th day of August 2022.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Rod Lasley
Chairperson



Tim Dombrosky
Secretary to the Board

August 15, 2022

Mr. Steuerwald presented the next case, explaining that this is a "To Be Heard" item and not subject to a public meeting.

VAR 17/22: Shane Phillips Variance to allow a 6-foot fence with 100% opacity in a front yard (side yard with road frontage) on a .52-acre AGR-zoned parcel in Lincoln Township: Section 4, Township 16, Range 1E; Key No. 08-1-04-61E 330-012; located in Rolling Hills Subdivision, Sec. 2 Lot 27; 6478 Maple Manor, Brownsburg, IN 46112.

Mr. Dombrosky introduced the property on PowerPoint. He reminded the board that they heard this case at the last meeting. The petition was to allow a 6' opaque fence in the front yard. Since the house is on a corner lot, there are technically 2 front yards. The petition concerns the side that fronts Walnut Way. Mr. Dombrosky said that when he originally spoke with Mr. Phillips about the fence, there was some confusion about the intended placement of the fence. Then at last month's meeting, Mr. Phillips was not able to be present and had his brother-in-law, Tony, stand in for him. Tony was not sure what Mr. Phillips was looking for in terms of the placement and erroneously agreed to Mr. Dombrosky's understanding of where the fence would go. The approval was then granted to run the fence flush with the back corner of the house to the rear property line. That was not the placement Mr. Phillips intended. He is back tonight to ask the board to reconsider allowing him to run the fence from the back corner of his house toward Walnut Way and then to the rear property line, still maintaining the front setback. Mr. Dombrosky reminded the board of the 25' sight triangle needed at intersections to allow unobstructed visibility for traffic. He pointed out on the map that that area has been cleared and there are no visibility issues. Mr. Dombrosky concluded that he does not have a safety issue with the fence coming out from the house toward Walnut Way, it's just a question of aesthetics and if it looks appropriate for the subdivision. He reminded the board that there were no remonstrances, so if they are comfortable with the placement change, he has no objections.

Mr. Hession invited the petitioner to address the board.

Mrs. Angela Phillips, 6478 Maple Manor, Brownsburg, IN, addressed the board. She explained that they want to preserve as much of the back yard as possible behind the fence. They have children and a dog, so the more area they can have fenced in will allow them plenty of space for activities. They were unaware of the fencing ordinance pertaining to corner lots before they bought the materials, and originally thought they could place the fence on the property line along Walnut Way. They believe the extra space they are asking for is a good compromise between their original plan and the ordinance. She further mentioned as an aside that there is no stop sign at the intersection of Maple Manor and Walnut Way. Their proposed placement of the fence maintains the visibility sight triangle. She concluded that the fence will be white vinyl and very attractive, so there should be no aesthetic issues.

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

Mr. Kneeland made a motion to amend conditions of previous approval for VAR 17-22.

Mr. Hesler seconded the motion.

Motion for approval of amendment of conditions for VAR 17-22 carried unanimously.

VOTE: For- 3 Against- 0 Abstained-0 APPROVED
VAR 17-22: Shane Phillips

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 17-22

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 six-foot tall solid privacy fence in the front yard in an RB/Residential zoning district.

In accordance with Indiana Code (IC) 5-3-1 and the Hendricks County Zoning Ordinance (HCZO) Section 12.6 (C), the DPB staff published a legal notice in the *Danville Republican*. This notice advertised the public hearing scheduled in conformity with IC 36-7-4-920. The public hearing included the above variance on its agenda.

In accordance with Section 3.07 (D)(2) of the Rules of Procedure of the Board, the applicant also sent courtesy notices to certain surrounding property owners of record and other interested persons. A copy of this courtesy notice and a list of those receiving them were made a part of the file for this variance.

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

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

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

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

The Board finds that the proposal will meet this standard. The fence will be placed outside of the vision clearance triangle and will no impact on the public health, safety, and general welfare.

- (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 fence will not be out of character for the area.

- (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 efficient use of the parcel is a goal of the County's plans and ordinances and is inhibited by the specific development standard due to the unique design of the lot.

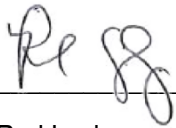
August 15, 2022

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

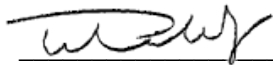
1. The variance shall apply only to the fence location as described in the application.
2. All other federal, state and local regulations apply.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 15th day of August 2022.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Rod Lasley
Chairperson



Tim Dombrosky
Secretary to the Board

Mr. Hession asked if there was any further business.

Being none, the meeting was adjourned at 8:52 pm.