

HENDRICKS COUNTY BOARD OF ZONING APPEALS

Meeting Minutes

Monday, February 20, 2024

6:30 PM

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

Members Present: Ron Kneeland, Russ Hesler, Walt O’Riley (C), Rod Lasley (VC)

Members Absent: Anthony Hession

Staff Present: Tim Dombrosky, Planning Director

Legal Representation: Greg Steuerwald, County Attorney

A quorum was established, the Pledge of Allegiance was recited, and Mr. O’Riley read the Rules of Procedure for the Board of Zoning Appeals meeting. He then asked for a motion to approve the minutes from the December 18, 2023 meeting. Rod Lasley made a motion to approve the December minutes. Russ Hesler seconded the motion. Motion of approval passed 4-0.

New Business:

VAR 01-24 Bradley McHugh Variance to allow a 0’ side setback to accommodate an existing pergola on a 1.03-acre AGR-zoned parcel in Washington Township: Section 26, Township 16, Range 1E; Key No. 12-1-26-61E 400-002; located ¼ mile west of round-about at N CR 800 E and E CR 200 N; 7814 E CR 200 N, Avon, IN 46123.

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

- Ag-residential zoned lot
- Property is developed and has 2 entrances, with residential properties on either side
- Pergola was added to the east side of the garage where there is an existing concrete pad that extends to the property line
- Structure was reported to Planning and Building Department by Assessor’s office because it does not meet the setback requirements
- There is no conflict with the neighboring property owner
- Can’t recommend approval of a 0’ setback due to access issues and development standards; but in this case, there are no objections should the board approve the petition
- Provided draft positive findings of fact

Mr. Lasley: Is there an issue with the garage in front of the house?

Mr. Dombrosky: No, the property is zoned Ag-residential which allows accessory structures in front of the principal.

Mr. O’Riley invited the petitioner to speak to the board.

Mr. Bradley McHugh, 7814 E CR 200 N, Avon, IN 46123: Neighbor to the east is the person I purchased the house/property from. Our garages are right next to each other and positioned so that the door is visible; the pergola offers a little more privacy.

Mr. O'Riley: Are you referring to the service door or the overhead door?

Mr. McHugh: The overhead door.

Mr. Hesler: That's the door you use to enter the garage?

Mr. McHugh: No, it's another access point. There are four garage doors. The previous owner (next door neighbor) poured the concrete slab and used this door to load/unload his trailer.

Mr. O'Riley: How many feet is the garage away from the property line?

Mr. McHugh: About ten feet.

Mr. O'Riley: You've spoken with the neighbor, and he doesn't have a problem with the pergola?

Mr. McHugh: Correct, and there's a letter from him stating that. I've also spoken to the neighbor on the other side of the property, and they also have no problem with the pergola.

Mr. O'Riley: Are there any utilities that run along the property line?

Mr. McHugh: No.

Mr. Hesler: If the house to the east is sold, will the pergola then become an issue?

Mr. Steuerwald: No, if the board approves the variance tonight then it's approved regardless of ownership, and no future complaints regarding the placement of the pergola can be made against it.

Mr. Lasley: Is this a shared driveway?

Mr. McHugh: It's close. When the neighbor built his house, he asked me if we could join our driveways or would I rather have a strip of grass dividing the properties. I agreed to join them.

Mr. O'Riley: Are there any other questions or comments?

Mr. McHugh: I don't see why any future owners of the property or any future neighbors would have an issue with the structure. It is well built with quality materials on a concrete slab that was already there.

Mr. Kneeland: So, when you purchased the property, the concrete slab was already there?

Mr. McHugh: Yes. The slab was pre-existing to my purchase of the property. All I did was add the overhead structure.

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

Mr. Brent Holmes, 7790 E CR 200 N, Avon, IN 46123: I live in the house to the west of Mr. McHugh. I have no issues with the structure. I think it makes the property more presentable.

Mr. O’Riley closed the public portion of the meeting as no one else had signed up to speak. He asked if there were any more comments or questions from the board.

Being nothing further, Mr. O’Riley asked for a motion.

Mr. Lasley made a motion to approve VAR 01-24.

Mr. Kneeland seconded the motion.

Motion to approve VAR 01-24 carried unanimously.

VOTE: For – 4 Against – 0 Abstained – 0 APPROVE
VAR 01-24: Bradley McHugh

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 01-24

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 zero-foot side setback in an RB/Single Family 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 structure will be in an appropriate location on a residential lot and will not be injurious to the public.

- (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 lots of the immediate area are not uniformly developed, and the variance will not negatively impact 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 proposal will meet the standard. The structure will be similar in context to other residential properties.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 20th day of February 2024.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA

Walt O'Riley

Walt O'Riley
Chairperson

Tim Dombrosky

Tim Dombrosky
Secretary to the Board

VAR 02-24 Nathan Krahn Variance to reduce side setback from 10' to 5' to allow for construction of a detached garage on a .7-acre AGR-zoned parcel in Washington Township: Section 5, Township 15, Range 1E; Key No. 12-2-05-51E 225-002; located in Valley Vista Estates, Sec. 2 Lot 15; 846 Valley Vista Ct, Avon, IN 46123.

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

- Ag-residential zoned lot

- Single-family residential area in an older subdivision with well and septic
- Septic fingers are visible on the plot plan
- There's a 15-foot drainage and utilities easement along the western property line
- A reduction in the setback would allow an accessory building to fit between the easement and the septic field
- In this case, a reduction of 5' is purely aesthetic with no safety or access issues
- Based on the subdivision's "well and septic" lots that are smaller than the current county standard, staff finds reason to approve this petition
- Provided draft positive findings of fact

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

Mr. Nathan Krahn, 846 Valley Vista Ct, Avon, IN 46123: My plan is to build a 24'x30' pole barn. The original location was 10' from the southern property line, not realizing that there is a 15' easement. By reducing the required setback and narrowing the building to have just one garage door, I can fit the pole barn between the setback/easement and the septic fingers and still be able to utilize my existing driveway.

Mr. O'Riley: Looks like it's tight getting the driveway back to it.

Mr. Krahn: There must be 5' between the driveway and the septic fingers. I have 12'.

Mr. Lasley: Is there a required distance between the structure and the septic fingers?

Mr. Dombrosky: The structure must be 10' from the septic fingers. We (Planning & Building Dept.) don't regulate the distance between the driveway and the septic. The Health Department would be concerned about driving over the septic field.

Mr. Krahn: I also had a survey done before I bought the property.

Mr. O'Riley opened and closed the public portion of the meeting as no one else had signed up to speak.

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

Being nothing further, Mr. O'Riley asked for a motion.

Mr. Hesler made a motion to approve VAR 02-24.

Mr. Kneeland seconded the motion.

Motion to approve VAR 02-24 carried unanimously.

VOTE: For – 4 Against – 0 Abstained – 0 APPROVE
VAR 02-24: Nathan Krahn

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 02-24

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 five-foot side setback variance in an AGR/Agricultural 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 structure will be in an appropriate location on a residential lot and will not be injurious to the public.

- (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 lots of the immediate area are not uniformly developed, and the variance will not negatively impact 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.**

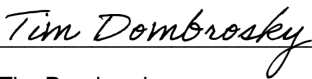
The Board finds that the proposal will meet the standard. The structure will be similar in context to other residential properties.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 20th day of February 2024.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA

_____

Walt O'Riley
Chairperson

_____

Tim Dombrosky
Secretary to the Board

SE 01-24 Janet Lathrop Special Exception to allow a one-chair hair salon on a 6.84-acre AGR-zoned parcel in Center Township: Section 36, Township 16, Range 1W; Key No. 02-1-36-61W 105-001; located just east of intersection of E CR 200 N and N CR 200 E; 2129 E CR 200 N, Danville, IN 46122.

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

- Home businesses that are allowed with Special Exceptions include hair salons not exceeding one chair
- Property is in a suburban residential area, and was recently platted through the Plan Commission
- The proposed site for the salon is where the drive ends near the house
- Salon will be detached from the house and on the other side of the driveway court
- This is a special exception so there are 9 criteria to look at and to review the specific context of the request knowing that the use is acceptable in the right context
- Staff believes the criteria have been met
- Provided draft positive findings of fact

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

Mrs. Janet Lathrop, 2129 E CR 200 N, Danville, IN 46122: I'm currently in a salon suite now. Speaking with my clients, it would be more convenient for them to have my salon at my house. Parking is a big issue where I am right now as it is shared between other stylists. It would also be a big convenience for me to be able to work from home. I'll be able to get my oldest child on and off the bus when he starts kindergarten in the fall. We have the space for me to do this.

Mr. Kneeland: Do your parents live next door?

Mrs. Lathrop: My in-laws do.

Mr. Chris Lathrop: My wife currently works at the Elements building in Avon. The parking is terrible and inadequate. There are safety issues as the salon was broken into recently. Also, she will soon be charged \$200 more a month for booth rental.

Mr. O'Riley: How will you dispose of water and solutions used?

Mrs. Lathrop: We've spoken with a plumber, and he will be able to tie the salon's water supply and disposal in with our house.

Mr. Hesler: You'll have water, sewage, electricity?

Mrs. Lathrop: Yes.

Mr. O'Riley: Would we need to make approval subject to that?

Mr. Hesler: What about a bathroom?

Mrs. Lathrop: We will have a bathroom. The State does not require me to have a bathroom, but it will be more convenient for my clients.

Mr. Lasley: All this will have to go through permitting, correct?

Mr. Dombrosky: Yes, through our office and the Health Department. We will review all of this when the project is submitted for permits.

Mr. O'Riley opened and closed the public portion of the meeting as no one else had signed up to speak.

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

Being nothing further, Mr. O'Riley asked for a motion.

Mr. Lasley made a motion to approve SE 01-24.

Mr. Kneeland seconded the motion.

Motion to approve SE 01-24 carried unanimously.

VOTE: For – 4

Against – 0

Abstained – 0

APPROVE

SE 01-24: Janet Lathrop

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

SE 1-24

An application for the above noted special exception was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to permit a **Home-Based Business** in an area zoned as AGR (Agriculture Residential). Acting in its role as staff to the County Board of Zoning Appeals (Board), the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in the County Government Center.

In accordance with Indiana Code (IC) 5-3-1 and the County Zoning Ordinance (HCZO) Section 12.7, the DPB staff published a legal notice in the *Danville Republican*. This notice advertised the public hearing scheduled in conformity with IC 36-7-4-920. The public hearing included the above special exception on its agenda.

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

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

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

IC 36-7-4-918.2 Exceptions and uses. A Board of Zoning Appeals shall approve or deny all: (1) Special Exceptions; ... from the terms of the Zoning Ordinance, but only in the classes of cases or in the particular situations specified in the Zoning Ordinance.

HCZO Section 12.7 authorizes the Hendricks County Board of Zoning Appeals to approve Special Exceptions.

HCZO Section 12.7 (D)(1). In addition to the special requirements for permitted Special Exception uses as specified in Section 12.7 (D)(2) ... the Board of Zoning Appeals ... shall find adequate evidence showing that the use at the proposed location:

A. Is in fact a permitted Special Exception use ... [in] the zoning district involved.

The Board finds that a home-based business is in fact a Special Exception in the Agriculture Residential Zoning District.

B. Will be harmonious with and in accordance with the general objectives or with any specific objective of the County's Comprehensive Plan and the Zoning Ordinance.

The Board finds that the proposal will meet this standard. The business meets Comprehensive Plan goals for economic development.

C. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.

The Board finds that the proposed use will meet this standard. The use will not substantially change the appearance of the property and will not change the essential character of the area.

D. Will be served adequately by essential public facilities and services ... or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

The Board finds that the proposal will meet this standard. Public facilities and infrastructure are either private or will be provided at expense to the owner. Other public services adequately serve the area, and the use does not represent a significant increase in demand.

E. Will not create excessive additional requirements at public cost of public facilities and services and will not be detrimental to the economic welfare of the community.

The Board finds that the proposal will meet this standard. The property changes will not result in significant changes to the existing demand for services.

F. Will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.

The Board finds that the proposal will meet this standard. The use will not be disruptive and detrimental to the surrounding area as the majority of business activity is not detrimental.

G. Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.

The Board finds that the proposal will meet this standard. The existing entrance provides adequate access.

H. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

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

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. Subject to all requirements of section 7.9 of the Hendricks County Zoning Ordinance
2. There shall be no more than 1 customer chair.
3. All applicable federal, state, and local approvals are required.

For all the foregoing reasons, the Board APPROVED this request for a Special Exception on the 20th day of February 2024.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA

Walt O'Riley

Walt O'Riley
Chairperson

Tim Dombrosky

Tim Dombrosky
Secretary

Being no further business before the board, the meeting was adjourned at 7:00 pm.