

January 18, 2022

The Hendricks County Board of Zoning Appeals convened in the Hendricks County Government Center, Meeting Rooms 4 and 5, Tuesday, January 18, 2022. The meeting began at 7:30 p.m. Members present included Rod Lasley, Anthony Hession, Walt O’Riley and Ron Kneeland. Also, present were Tim Dombrosky, Planning Director and Leslie Dardeen, Recording Secretary.

Everyone stood and recited the Pledge of Allegiance.

Mr. Lasley asked the board to join him in a moment of silence to honor the recent passing of Board Member Sam Himself.

He then read the Rules of Procedure for the Board of Zoning Appeals meeting.

Mr. Lasley asked for a motion to approve the minutes from the December 20, 2021 meeting.

Mr. O’Riley made a motion to approve the December 20th meeting minutes.

Mr. Hession seconded the motion.

Motion to approve the December 20, 2021 minutes passed, with Mr. Kneeland declining to vote as he was not present at the previous meeting.

**VOTE: For- 3                      Against- 0                      Abstained- 1                      APPROVED**  
**December 20, 2021 MEETING MINUTES**

Mr. Dombrosky presented the cases.

**VAR 01-22: W. Joseph Leonard** Variance from development standards to be exempt from providing type 3 buffer yard along north property line on a 3.05-acre NB-zoned parcel in Marion Township: Section 08, Township 15, Range 2W; Key No. 09-2-08-52W 200-007; located approx. ¼ mile south of intersection at US Hwy 36 and S SR 75; Parcel #32-12-08-200-007.000-017, Danville, IN 46122.

**VAR 02-22: W. Joseph Leonard** Variance from development standards to allow for more than the maximum 50% of required parking spaces to be located between the front façade and the primary street on a 3.05-acre NB-zoned parcel in Marion Township: Section 08, Township 15, Range 2W; Key No. 09-2-08-52W 200-007; located approx. ¼ mile south of intersection at US Hwy 36 and S SR 75; Parcel #32-12-08-200-007.000-017, Danville, IN 46122.

**VAR 03-22: W. Joseph Leonard** Variance from development standards to be exempt from providing a continuous public sidewalk along the property’s road frontage on S SR 75 on a 3.05-acre NB-zoned parcel in Marion Township: Section 08, Township 15, Range 2W; Key No. 09-2-08-52W 200-007; located approx. ¼ mile south of intersection at US Hwy 36 and S SR 75; Parcel #32-12-08-200-007.000-017, Danville, IN 46122.

Mr. Dombrosky introduced the property on PowerPoint. The applicant is in the process of seeking approval for a Dollar General store at the site. The property is in New Winchester, with the access point onto the property from SR 75. The comprehensive plan recommends maintaining “small town mixed use.” Mr. Dombrosky explained that the petitioner is requesting 3 separate variances on the property: one regarding landscaping buffer, one for parking and one for a sidewalk. He outlined the three requested variances. The first one is to reduce the required 30-foot buffer yard to 10 feet. He believes this to be an acceptable request as there are mature trees and a proposed privacy fence on that

part of the property and recommends approval. The second variance is to allow more than the maximum allotted parking spaces between the building and the road frontage. He explained that there is an equivalent amount of paved space on two adjacent sides of the building and there would be no visibility or aesthetic issues with allowing more parking in front. He recommends approval of VAR 02-22. The third variance is asking for an exemption to the required continuous public sidewalk. Mr. Dombrosky explained that while he understands why the exemption is being asked for, he does believe a sidewalk should still be provided. His recommendation is that a sidewalk be installed in front of the store between the parking lot and road frontage and run to the south end of the parking lot. Then, should the property to the south be developed, the sidewalks should be extended to the south and provide the continuous sidewalk required by the ordinance.

Mr. Lasley asked if the petitioner, Mr. Leonard, owns all the property.

Mr. Dombrosky answered that Mr. Leonard only has an option to buy the 3 acres involved in the petition.

Mr. Lasley asked if there was currently a sidewalk between the proposed building site and the ballpark to the north.

Mr. Dombrosky responded that there is not an existing sidewalk. He is proposing that a sidewalk be put in starting at the existing drive and running to the south of the property, not to the ballpark.

Mr. Lasley asked if staff is ok with the proposed buffer yard and landscaping.

Mr. Dombrosky answered that he is, and that the petitioner can answer specific questions of what they have planned.

Mr. Michael Thompson, civil engineer for Hamilton Designs, LLC, 11 Municipal Dr, Ste 300, Fishers, IN 46038, representing the petitioner, addressed the board. He explained that there are a couple of issues that make a large buffer yard difficult. The first is that there is a 12-foot drop from the far northwest corner of the property to the south. They are required to maintain that grade for the septic system. There is also an 8-foot ditch easement that has to be avoided. In addition, they are trying to maintain access to the farmland behind the store to the west, and the petitioner is installing a privacy fence along the north side of the property. Because of these considerations, plus the fact that there is at least 100 feet of greenspace between the ballpark and the pavement (parking lot/driveway), the petitioner believes a 10-foot buffer yard is more realistic. Mr. Thompson also addressed the need to have most of the parking on the east side/road frontage side of the building. Since the north side is hampered by the access point from SR 75 and the access road to the adjoining farmland, and the south side is hampered by the placement of the septic system, it is more feasible to have the majority of parking in front.

Mr. Hession asked if the petitioner has agreed to installing the sidewalk as recommended by Mr. Dombrosky.

Mr. Thompson responded that they have agreed.

Mr. O'Riley asked if that is included in the staff's conditions of approval and Findings of Fact.

Mr. Dombrosky answered that it is.

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

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Mr. Lasley asked if there were any final questions or comments from the board concerning VAR 01-22.

Being none, Mr. Lasley asked for a motion.

Mr. O'Riley made a motion to approve VAR 01-22 with conditions set by staff.

Mr. Kneeland seconded the motion.

Motion for approval of VAR 01-22 carried unanimously.

**VOTE: For- 4                  Against- 0                  Abstained-0                  APPROVED**  
**VAR 01-22: W. Joseph Leonard**

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

Findings of Fact/Law and Conditions of Approval

VAR 01-22

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 reducing the landscaping requirements in an NB/Neighborhood Business 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.**

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The Board finds that the proposal will meet this standard. A reduced landscaping buffer width will be supplemented by increased plantings 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 development will be substantially the same and landscaping will still be installed to mitigate any potential impacts.

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

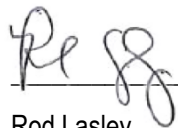
The Board finds that the proposal will meet the standard. The property is encumbered by public easements that impact efficient use of the land, and a variance for buffer width will allow a more dense, more responsible development.

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

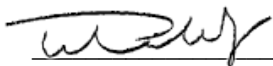
1. The variance shall apply only to the construction described in the application.
2. All other federal, state and local regulations apply.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 18<sup>th</sup> day of January 2022.

AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA



Rod Lasley  
*Chairperson*



Tim Dombrosky  
*Secretary to the Board*

Mr. Lasley asked if there were any final questions or comments from the board concerning VAR 02-22.

Being none, Mr. Lasley asked for a motion.

Mr. O'Riley made a motion to approve VAR 02-22 with conditions set by staff.

Mr. Hession seconded the motion.

Motion for approval of VAR 02-22 carried unanimously.

**VOTE: For- 4          Against- 0          Abstained-0          APPROVED**  
**VAR 02-22: W. Joseph Leonard**

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

Findings of Fact/Law and Conditions of Approval

VAR 02-22

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 more than 50% of the required parking to be in front of the primary structure's facade in an NB/Neighborhood Business 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 regulation is aesthetic in nature and no there is no threat to public health, safety, moral, or 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.**

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The Board finds that the proposal will meet this standard. The site will be designed in such a way as to balance the pavement and still achieve the intent of the ordinance.

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

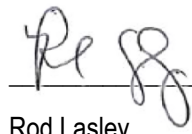
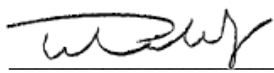
The Board finds that the proposal will meet the standard. The proposed design is an effort to maintain an efficient site design while incorporating all the required elements, and results in a substantially compliant layout.

**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 construction 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 18<sup>th</sup> day of January 2022.

AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA

  
\_\_\_\_\_  
Rod Lasley  
Chairperson  
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Tim Dombrosky  
Secretary to the Board

He then asked if the board had any further questions or comments concerning VAR 03-22.

Being no further comments, Mr. Lasley asked for a motion.

Mr. Kneeland made a motion to approve VAR 03-22 with conditions set by staff, including that the sidewalk would run in front of the store to the south property line should the adjacent property to the south be developed.

Mr. Hession seconded the motion.

Motion for approval of VAR 03-22 carried unanimously.

**VOTE: For- 4          Against- 0          Abstained-0          APPROVED**

**VAR 03-22: W. Joseph Leonard**  
**Hendricks County Area Board of Zoning Appeals**

Findings of Fact/Law and Conditions of Approval

VAR 03-22

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 not providing a public sidewalk in an NB/Neighborhood Business 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 sidewalk will be constructed to the extent practical and allow a sidewalk connection to the north.

- (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 sidewalk connection will be made to the north now, and to the south when that adjacent property is developed.

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

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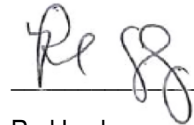
The Board finds that the proposal will meet the standard. The site limitations make some variance from the strict requirements necessary.

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

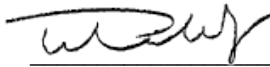
1. The sidewalk shall be extended to connect to the South when the adjacent property is developed.
2. All other federal, state and local regulations apply.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 18<sup>th</sup> day of January 2022.

AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA

A handwritten signature in dark ink, appearing to read 'Rod Lasley', is written over a horizontal line.

Rod Lasley  
*Chairperson*

A handwritten signature in dark ink, appearing to read 'Tim Dombrosky', is written over a horizontal line.

Tim Dombrosky  
*Secretary to the Board*

Mr. Lasley asked if there was any further business.

Being none, the meeting was adjourned at 7:50 pm.