

February 22, 2022

The Hendricks County Board of Zoning Appeals convened in the Hendricks County Government Center, Commissioner's Meeting Room, Tuesday, February 22, 2022. The meeting began at 7:30 p.m. Members present included Walt O'Riley, Russ Hesler and Ron Kneeland. 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. Dombrosky introduced Mr. Russ Hesler as the Board's new member, replacing Sam Himself as representative for Coatesville.

He also explained that Walt O'Riley would preside over the meeting as Rod Lasley was absent.

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 January 18, 2022 meeting.

Mr. Dombrosky suggested that the approval of minutes be continued to the next meeting as only two board members were present last month.

Mr. O'Riley asked for a motion to continue the approval of the January 18th meeting minutes.

Mr. Kneeland made a motion for continuance.

Mr. O'Riley seconded the motion.

Motion to continue the January 18, 2022 minutes passed unanimously.

VOTE: For- 3 Against- 0 Abstained- 0 CONTINUED
JANUARY 18, 2022 MEETING MINUTES

Mr. Steuerwald presented the cases.

SE 01-22: Paula Evans Special Exception to allow an accessory dwelling unit in an existing structure on a 7.31-acre AGR-zoned parcel in Middle Township: Section 18, Township 17, Range 1E; Key No. 10-1-18-71E 400-004; located apprx. ¼ mile east of intersection at E CR 1000 N and N CR 400 E; 4194 E CR 1000 N, Pittsboro, IN 46167.

Mr. Dombrosky introduced the property on PowerPoint. He highlighted an existing building on the site plan and explained the petitioner is wanting to retro-fit an ADU (accessory dwelling unit) in it and add a porch. Mr. Dombrosky went on to explain that the ordinance outlines the nature of an ADU as promoting affordable housing. He believes all nine criteria of the special exception have been sufficiently met and recommends approval.

Mr. O'Riley invited the petitioner to address the board. Ms. Paula Evans responded that she would answer any questions that the board had, but she had nothing further to add to Mr. Dombrosky's comments.

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

He then asked if Ms. Evans would be using the ADU for relatives.

Ms. Evans responded that it would be used for visiting family members.

Mr. O'Riley confirmed that it would not be used as a rental.

Ms. Evans answered that it would not be a rental.

He asked if there were any final questions or comments from the board concerning SE 01-22.

Being none, Mr. O'Riley asked for a motion.

Mr. Hesler made a motion to approve SE 01-22 with conditions set by staff.

Mr. Kneeland seconded the motion.

Motion for approval of SE 01-22 carried unanimously.

VOTE: For- 3 Against- 0 Abstained-0 APPROVED
SE 01-22: Paula Evans

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

SE 01-22

An application for the above noted special exception was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to permit **an accessory dwelling unit** 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. A. Is in fact a permitted Special Exception use ... [in] the zoning district involved.

The Board finds that an accessory dwelling unit 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 unit represents a reuse of property, efficient use of existing services, and a desirable outcome of increased development and demand for housing. The use is encouraged by the County's ordinances.

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 Zoning Ordinance ensures uses are harmonious and appropriate. Additionally, the development type is common to the setting, and 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. In fact, it represents an efficient use of existing facilities and should be promoted.

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;

February 22, 2022

The Board finds that the proposal will meet this standard. The use will not generate conditions substantially different from other residences.

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:

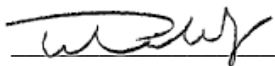
1. All applicable federal, state, and local approvals are required.
2. No separate address will be assigned to the accessory apartment.
3. No additional driveway shall be permitted.

For all the foregoing reasons, the Board APPROVED this request for a Special Exception on the 22nd day of February 2022.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Walt O'Riley
Interim Chairperson



Tim Dombrosky
Secretary

SE 02-22: Chad & Megan Hauptert Special Exception to allow an accessory dwelling unit in an accessory structure on a 10.175-acre AGR-zoned parcel in Middle Township: Section 23, Township 16, Range 1W; Key No. 10-3-23-61W 191-003; located in the northwest quadrant at the intersection of E CR 350 N and N CR 150 E; 1396 E CR 350 N, Danville, IN 46122.

Mr. Dombrosky introduced the property on PowerPoint. He explained that the land is presently undeveloped. The petitioners are beginning the building process to construct a principal dwelling and an accessory building. It is in the accessory building that they are wanting to include an ADU (accessory dwelling unit). He showed the board the site plan and a rendering of the accessory building. He believes all points of the special exception have been met and recommends approval.

Mr. O'Riley invited the petitioner to address the board. Mr. Andy Kult, Comer Law Office, 71 W Marion St, Danville, IN, representing the petitioner, addressed the board. He confirmed that the purpose of the ADU is for visiting family. The Haupterts will not use it as a rental, Airbnb, etc. Mr. Kult also confirmed that there will not be a separate drive or address for the ADU.

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

He asked if there were any final questions or comments from the board concerning SE 02-22.

Being none, Mr. O'Riley asked for a motion.

Mr. Kneeland made a motion to approve SE 02-22 with conditions set by staff.

Mr. O'Riley seconded the motion.

Motion for approval of SE 02-22 carried unanimously.

VOTE: For- 3	Against- 0	Abstained-0	APPROVED
SE 02-22: Chad & Megan Hauptert			

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

SE 02-22

An application for the above noted special exception was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to permit **an accessory dwelling unit** 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 an accessory dwelling unit 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 unit represents a reuse of property, efficient use of existing services, and a desirable outcome of increased development and demand for housing. The use is encouraged by the County's ordinances.

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 Zoning Ordinance ensures uses are harmonious and appropriate. Additionally, the development type is common to the setting, and 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. In fact, it represents an efficient use of existing facilities and should be promoted.

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 generate conditions substantially different from other residences.

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:

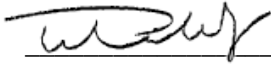
1. All applicable federal, state, and local approvals are required.
2. No separate address will be assigned to the accessory apartment.
3. No additional driveway shall be permitted.

For all the foregoing reasons, the Board APPROVED this request for a Special Exception on the 22nd day of February 2022.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Walt O'Riley
Interim Chairperson



Tim Dombrosky
Secretary

Mr. O'Riley asked if there was any further business.

Mr. Dombrosky mentioned that there have been quite a few petitions for ADUs; they have all been uncontested and have been approved unanimously. He asked the board to consider having him take the matter before the Plan Commission to recommend allowing ADUs as a permitted use.

Mr. O'Riley asked how many have gone through the BZA.

Mr. Dombrosky answered that there have been approximately 15-20 come through the BZA in the last 3 years with no remonstrances.

Mr. O'Riley commented that it may be a good idea to take it to the Plan Commission.

Mr. Dombrosky said that he would research the past cases, but he believes that all of the ADUs have been approved in AGR-zoned areas. That may be a consideration for the Plan Commission, to permit ADUs in certain zoning districts.

Mr. Steuerwald added that most of the ADUs have been for a family member. He thinks taking it to the Plan Commission is worth consideration.

Mr. Hesler asked about adding a condition for septic systems.

Mr. Dombrosky explained that the Health Department would take care of any issues with septic and well during the permit review process.

Mr. O'Riley asked whether it would make sense to determine a minimum lot size for an addition of an ADU.

Mr. Dombrosky responded that there isn't a minimum lot size now. He explained that if the engineering can work, adhering to setbacks, lot coverage, etc., then the lot size is irrelevant.

Mr. O'Riley asked by a show of hands if the board agrees to make the recommendation of permitting ADUs to the Plan Commission.

All three present board members raised their hands in agreement.

Mr. Dombrosky agreed to bring the recommendation to the next Plan Commission meeting.

Mr. O'Riley asked if there were any further business.

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