

April 18, 2022

The Hendricks County Board of Zoning Appeals convened in the Hendricks County Government Center, Commissioner's Meeting Room, Monday, April 18, 2022. The meeting began at 7:30 p.m. Members present included Rod Lasley, Walt O'Riley, Anthony Hession, Ron Kneeland and Russ Hesler. 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. Lasley read the Rules of Procedure for the Board of Zoning Appeals meeting.

He asked for a motion to approve the minutes from the March 21, 2022 meeting.

Mr. O'Riley made a motion to approve the March 21, 2022 minutes.

Mr. Kneeland seconded the motion.

Motion to approve the March 21, 2022 minutes passed unanimously.

VOTE: For- 5 Against- 0 Abstained- 0 APPROVED
March 21, 2022 MEETING MINUTES

Mr. Steuerwald presented the cases.

VAR 07-22: Ronald Merkley Variance to allow lot with no road frontage on an 8.42-acre AGR-zoned parcel in Guilford Township: Section 4, Township 14, Range 1E; Key No. 06-2-04-41E 400-015; located apprx. ¼ mile northwest of intersection at E CR 600 S and S CR 600 E; Parcel # 32-15-04-400-015.000-011, Plainfield, IN 46168.

Mr. Dombrosky introduced the property on PowerPoint. It is part of an older developed area that remains in the county's jurisdiction, with newer development areas that have been annexed into the town of Plainfield. There are a number of homes on a private drive that comes off of S CR 600 E. The private drive easement accesses 4-5 houses and two parcels, including the petitioner's parcel. Mr. Dombrosky explained that there is a history of complicated splits, resulting in this parcel being non-buildable due to lack of road frontage. The parcel would need to be platted in a subdivision plat and be granted a variance to the road frontage requirements before it would be buildable. This petition is the first step into making this a developable parcel. He reminded the board that this is a development standard variance, so it must meet the 3 criteria. Mr. Dombrosky recommends denial of the petition as he does not find enough evidence to support those 3 criteria.

Mr. Lasley asked if the parcel to the east went through the plat process or if it was granted a variance.

Mr. Dombrosky responded that a variance for road frontage was granted for that parcel. He went on to explain the history of the area and the splits. The petitioner's parcel also had a variance at one time, but the parcel was split at a later date and sold to two different owners, nullifying the variance. He also added that all the parcels with access to the private drive were split throughout the years without minor platting, all becoming legal non-conforming.

Mr. O'Riley asked how the issue could be fixed.

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Mr. Dombrosky answered that the easement/driveway that gives access to all the houses would have to become a public road through a subdivision plat. That would include all the parcels.

Mr. Hession asked how the parcels were split.

Mr. Dombrosky explained that all of the splits originated with the parent parcel, typically a forty-acre block.

Mr. Kneeland asked if any of the block was included in the town limits.

Mr. Dombrosky said that none of it is part of the town. He showed the town boundaries on PowerPoint.

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

There were none.

Mr. Lasley then invited the petitioner to address the board. Mr. Steve Brower, 1661 Woodstock Dr, Brownsburg, IN 46112, representing Mr. Merkley, addressed the board. He explained that the petitioner is wanting the ability to build a single-family home. When the parcel was bought, Mr. Merkley believed that an old variance was still valid. However, after that variance had been granted, the property was split again nullifying the variance. Mr. Brower told the board that there is a deeded easement allowing access and utilities to the property. Mr. Merkley would then put a driveway connecting the property to the easement.

Mr. O'Riley pointed out a couple of lots on the map and asked how they were set up, whether they had road frontage.

Mr. Dombrosky responded that they are both owned by the same owner, one parcel has the primary dwelling, and one has a barn, and neither have road frontage. They front the shared driveway.

Mr. Brower said that the owner of the shared driveway had it recorded as a deeded easement in 2012, giving access to all the homes.

Mr. Hesler asked how wide the easement is.

Mr. Brower answered that it is wide enough for two cars.

Mr. Steuerwald mentioned that there is a utility easement as well.

Mr. Dombrosky confirmed that the easement is 60 feet wide.

Mr. Lasley asked if utilities could be run back to the property.

Mr. Dombrosky responded that if there is not a public right-of-way, there is not public access for utilities. Therefore, it would be up to the discretion of the utility companies. Currently, there is no tie-in to the sewer and water.

Mr. O'Riley asked should the current easement be a county road, would there be access to utilities, sewer and water.

Mr. Dombrosky answered yes.

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Mr. O'Riley commented that for this parcel to be accessible and have utilities available, the private drive off of CR 600 would have to be made public as well as the drive that then goes back to the petitioner's parcel.

Mr. Dombrosky responded that is correct, then all the parcels would have access to all the city utilities.

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

Mr. O'Riley commented that this is a good example of why people need to inquire before splitting parcels.

Mr. Hesler asked what the process is to make the easement a county road.

Mr. Dombrosky explained that the owner of the easement would have to dedicate it as a street and develop it to street standards per the county ordinance.

Mr. Steuerwald responded that typically the county will not accept the dedication of a street that has been a private drive until the individual property owner brings it up to county standards. It's an extremely expensive process.

Mr. O'Riley asked if the area would have to stay on septic and well.

Mr. Dombrosky answered that the parcels could potentially tie into city utilities. However, the area will most likely remain septic and well.

Mr. Hession asked if the parcel would have to come into compliance with the Health Department.

Mr. Steuerwald responded that it would.

Mr. Dombrosky commented that right now the area around and including the parcel is a 6-lot unapproved subdivision. Approving this variance would make 7 lots with the potential of an 8th.

Mr. Hession confirmed that when the subject parcel was split, neither of the newly created parcel were allowed to keep the variance.

Mr. Dombrosky answered that is correct. The previous owner had a lot-frontage variance for the entire unsplit parcel. But once he split the parcel, the variance didn't apply to either of the "new" parcels.

Mr. O'Riley commented that right now the parcel is a "recreational" lot.

Mr. Dombrosky responded that this is correct. The owner could put an accessory building on it, but not a residence.

Mr. Lasley asked if it the parcel could go through a minor plat.

Mr. Dombrosky said that it would pass as a minor plat.

Mr. Kneeland asked what the conditions of a minor plat are.

Mr. Dombrosky said that it would have to be granted a variance first before it could be minor-platted with no road frontage.

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

Being none, he asked for a motion.

Mr. Hesler made a motion to deny VAR 07-22.

Mr. O'Riley seconded the motion.

Motion for denial of VAR 07-22 carried unanimously.

VOTE: For- 5 Against- 0 Abstained-0 DENIED
VAR 07-22: Ronald Merkley

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 07-22

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 lot with no road frontage 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 not meet this standard. The uncontrolled development of lots that do not meet infrastructure requirements goes directly against the County's goals and ordinances meant to

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protect the public. Lots are required to have road frontage to provide secure, safe, and convenient access. Private access cannot guarantee any of these conditions. Lot frontage is also a method of limiting density in areas of undesirable growth and unapproved subdivisions that inflate density where infrastructure is inadequate.

(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.

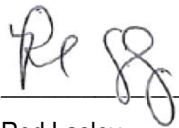
The Board finds that the proposal will not meet this standard. The continued development of lots with substandard public infrastructure is directly in conflict with orderly development and protection of property values through the jurisdiction. The existing legally non-conforming lots that are adjacent to this lot will be affected by increased wear and access onto the private drive easement, and increased usage of the access cut onto the public street.

(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 not meet the standard. The property is undeveloped with no expectation of a right to develop. The property has been split numerous times without subdivision approval or review. There is no condition peculiar to the property that constitutes a hardship.

For all the foregoing reasons, the Board DENIED this request for a development standards Variance on the 18th day of April 2022.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Rod Lasley
Chairperson



Tim Dombrosky
Secretary to the Board

SE 09-22: Dustin Cox Special Exception to allow an accessory dwelling unit on a 29.69-acre AGR-zoned parcel in Center Township: Section 19, Township 15, Range 1E; Key No. 02-3-19-51E 200-002; located apprx. ¼ mile east of intersection at S CR 300 E and E CR 200 S; 3301 E CR 200 S, Danville, IN 46122.

Mr. Dombrosky introduced the property on PowerPoint. He explained that the petition is for an accessory dwelling unit. He pointed out the single-family residence that is already on the property and

three accessory buildings, all sharing a driveway. He reminded the board that 16 special exceptions for Accessory Dwelling Units have been approved in the last 3 years. He believes this is an appropriate form of development for the area and recommends approval.

Mr. Lasley invited the petitioner to address the board. Mr. Richard Harris, 3301 E CR 200 S, Danville, IN 46122, addressed the board. He explained that he is the owner of the property, and his daughter and son-in-law are wanting to construct an ADU on the parcel. He pointed out where the primary residence is on the property and where the new structure would be in relation to it. He also pointed out the structure closest to the road. He explained that it is one of the oldest original farmhouses in the area. The plan is to take that structure down, allowing for a side-entry garage on the new ADU structure. He also added that there will be plenty of room for a new well and septic for the ADU.

Mr. Lasley asked for confirmation on the placement of the new 2-bay garage.

Mr. Harris pointed it out on the map and explained that the intent is to come off of the main driveway to a smaller driveway for the new structure.

Mr. Lasley asked if the covered porch shown in the plans would be at the back of the house.

Mr. Harris answered that is correct.

Mr. Hession asked for confirmation that the old farmhouse would be taken down.

Mr. Harris responded that they will be taking it down as it is unsafe.

Mr. Dombrosky mentioned that it is recommended by the ordinance that an ADU be placed behind the principal dwelling, the intent is that the parcel remains visually as one property. He suggested that since the site plan shows the ADU in front of the principal, the board decide whether the proposed placement and design of the building remains functionally one property, a true accessory dwelling and not a second principal or an alternative to a split.

Mr. Harris offered that the ADU will have the same outward appearance as the principal.

Mr. Dombrosky also added that there would remain just one address and one driveway for the property.

Mr. O'Riley asked if it was a condition to approval that the old farmhouse be taken down.

Mr. Dombrosky answered that the board can make that a condition.

Mr. Harris said that he was perfectly fine with that condition. The farmhouse is beyond repair and is unsafe. He further said that it would be taken down before starting construction of the ADU.

Mr. Hession asked for clarification on exterior materials being used. He pointed out that this building will have metal siding. Last month the board heard a petition for a variance to allow metal siding. He asked Mr. Dombrosky if this was in fact the same issue.

Mr. Dombrosky responded that the petition last month was necessary because that house was part of a minor plat, which has architectural requirements that differ from this petition.

Mr. Lasley 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.

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Being none, Mr. Lasley asked for a motion.

Mr. Hession made a motion to approve SE 09-22 with conditions set by staff and the added condition of the removal of old farmhouse closest to the road is to be completed prior to occupancy.

Mr. Kneeland seconded the motion.

Motion for approval of SE 09-22 carried unanimously.

VOTE: For- 5 Against- 0 Abstained-0 APPROVED
SE 09-22: Dustin Cox

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

SE 09-22

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.

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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.

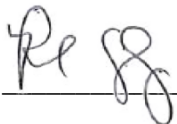
IC 36-7-4-918.2 Exceptions and uses. The Board may impose reasonable conditions as a part of its approval.

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.
4. The existing old farmhouse must be demolished prior to occupancy of the new dwelling.

For all the foregoing reasons, the Board APPROVED this request for a Special Exception on the 18th day of April 2022.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Rod Lasley
Chairperson



Tim Dombrosky
Secretary

VAR 08-22: Andrew Oberhausen Variance to allow accessory structure prior to principal on a 6.05-acre AGR-zoned parcel in Middle Township: Section 19, Township 16, Range 1E; Key No. 10-3-19-61E 230-001; located approx. ¼ mile north of intersection at N CR 400 E and E CR 350 N; 3684 N CR 400 E, Pittsboro, IN 46167.

Mr. Dombrosky introduced the property on PowerPoint. He explained that the property is part of a 2-lot minor plat. It's a new parcel that has not been developed before, in a rural residential area. He explained that it has been sited for construction of a single-family residence. The site plan shows where the future primary home will be placed, as well as the driveway and the proposed accessory structure. It also shows the proposed septic areas. This is a variance from development standards to construct an accessory building prior to the principal dwelling. Mr. Dombrosky explained that in the AGR district, barns are allowed without a variance if the primary use is agricultural. In this case, this will be a single-family accessory building since the primary use is not ag-related. He does not feel like he has cause to recommend approval based on the three criteria of a variance. He added that he believes it is a matter of convenience for the owner, but not a necessity, since the ordinance has allowances for timing of construction. Per the ordinance, the accessory building can be constructed and receive a temporary certificate of occupancy (C of O) as long as the primary home is completed within a year, at which point a clean C of O can be issued. Since that allowance is built into the ordinance, Mr. Dombrosky believes there is not a hardship to stay in compliance. Therefore, he does not recommend approval.

Mr. O'Riley asked what the difference is between this case and the others that have come before the board that have been approved.

Mr. Dombrosky responded that there are no working plans for the primary residence at this point. The petitioner intends to build a home some time in the future, but there is no specific time frame.

Mr. Lasley invited the petitioner to address the board. Mr. Andrew Oberhausen, 3684 N CR 400 E, Pittsboro, IN 46167, addressed the board. He explained that the accessory structure would be used to store equipment and building materials when construction begins on the house. He added that he is waiting for lumber prices to stabilize before beginning construction of the house.

Mr. O'Riley asked what the intended use is for the accessory structure now, during the interim before the house construction begins.

Mr. Oberhausen responded that he wants to use it for storage of a boat and equipment needed to maintain the property. His intention is also to get some materials needed for the house and store them.

Mr. Lasley asked Mr. Dombrosky that as long as the petitioner does not occupy the accessory building, is it considered "just" a storage building.

Mr. Dombrosky responded that "occupy" can mean two different things; either 1) residing in it as a home, or 2) using it for storage. Not "occupying" it, in this case, means that the structure is unfinished, still in the construction state and not ready for storage. The owner would have a year from first inspection to complete it. He further explained that any building requiring a permit has to have a first inspection within a year and be completed within a year after that. If Planning and Building does not issue a Certificate of Occupancy within that time period, then it is in violation.

Mr. Lasley asked if the petitioner could declare it as a farm structure.

Mr. Dombrosky explained that they would have to sign an affidavit stating that it is an agricultural building used for agricultural purposes only, that the purpose of the parcel is for agricultural production and the accessory building is an accessory to that use. That is not what this is.

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

He then asked for final questions or comments from the board.

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Mr. O'Riley commented that it would be easier to approve the accessory structure if there were plans for the principal structure in the works. As it is, this accessory structure could be there forever with no house ever being built.

Mr. Lasley commented that the property is not in or near any major subdivisions. There are no close houses or neighbors surrounding it. He thinks it's reasonable that a parcel in this area would have a shed or barn for storage, as long as no one was living in it.

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

Mr. Lasley made a motion to approve VAR 08-22 as a storage facility with no occupancy opportunities attached to it and with conditions set by staff.

Mr. Dombrosky responded that since occupancy can mean two different things, Mr. Lasley should clarify his condition of approval.

Mr. Lasley stated that he intended the condition to pertain to not allowing the accessory structure to be used as a residence.

Mr. O'Riley seconded the motion.

Mr. Lasley reiterated that the motion is for an accessory structure that cannot be used as a residence.

Mr. Oberhausen asked if he would be allowed to put a bathroom in the accessory structure.

Mr. Dombrosky explained that for a structure to be defined as a residence it must have a bathroom, kitchen and closet. Therefore, the accessory cannot have all three of these attributes. It is allowable for an accessory structure to have 1 or 2 of those things, just not all three. As soon as all three are included, it is deemed a residence.

Mr. Lasley explained to the petitioner that should he ever want to turn it into a residence, he would have to come back before the board and be granted a Special Exception for a secondary dwelling.

Motion for approval of VAR 08-22 carried unanimously.

VOTE: For- 5 Against- 0 Abstained-0 APPROVED
VAR 08-22: Andrew Oberhausen

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 08-22

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 an accessory structure with no principle 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 accessory structure will meet other development standards 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. An accessory structure with no principal structure is not uncommon or detrimental to the rural natural of the surrounding 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 site currently is permitted an accessory structure for agricultural needs, and the residential accessory structure is not different in form, and the restriction in this context is a hardship.

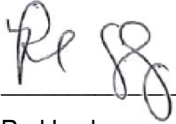
IC 36-7-4-918.2 Exceptions and uses. The Board may impose reasonable conditions as a part of its approval.

1. The variance shall apply only to the construction described in the application.
2. All other federal, state and local regulations apply.
3. The structure shall not be used as a residence.

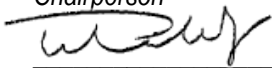
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For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 18th day of April 2022.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Rod Lasley
Chairperson



Tim Dombrosky
Secretary to the Board

VAR 09-22: David Lugo Variance to allow accessory structure in front of principal dwelling on a 1.16-acre RB-zoned parcel in Washington Township: Section 10, Township 15, Range 1E; Key No. 12-3-10-51E 415-002; located on lot 3 of Lake Forest Estates; 6591 Lake Forest Dr, Avon, IN 46123.

Mr. Dombrosky introduced the property on PowerPoint. It is in an urban area, south of the Avon School's administration building. The subdivision was developed before the Town of Avon was established and remains in the county's jurisdiction. The petitioner's parcel is on a partial-corner lot. It was sited and developed with the house at the back of the parcel, making it difficult to place an accessory building behind the house. Mr. Dombrosky reminded the board that since it is zoned RB-residential accessory structures are to be behind the front façade of the principal dwelling. He explained that the carport in question was brought to attention through a violation. He pointed out the carport in a wooded corner of the front yard. The carport has a separate access from Lake Forest Drive on the east side of the lot; the primary driveway comes off of the northwest side of the lot. Mr. Dombrosky further explained that in order for the carport to stay at its current site, a variance for an accessory in front of a principal in an RB district must be granted.

Mr. O'Riley asked if there was anything in the subdivision covenants that addressed the extra driveway.

Mr. Dombrosky explained that the Engineering Department does not have driveway standards, per se. The extra driveway condition is something that the BZA decides if it's appropriate with the accessory dwelling. That's about the only time driveways come into the conversation.

Mr. Hession asked where the violation came from, the county or a neighbor.

Mr. Dombrosky answered that there had been a complaint called in by a neighbor.

Mr. Lasley invited the petitioner to address the board. Mr. David Lugo, 6591 Lake Forest Dr, Avon, IN 46123, addressed the board. He explained that he had gotten the carport from a friend and did not realize it would be a violation to place it at its present site. He uses the carport to store a van the family uses for traveling and a trailer he uses for hauling, which do not fit in the garage.

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Mr. Hession asked why Mr. Lugo chose the particular site for placement of the carport. He indicated an area behind the house and asked if it would fit back there where he could utilize the existing drive.

Mr. Lugo explained that the area Mr. Hession indicated has a hill that makes it unusable.

Mr. Hesler asked if the carport is next to the neighbor's house.

Mr. Dombrosky answered that it is very close to the neighbor's property.

Mr. Lugo added that he chose that site because it is easy to access and because there are trees that block it from full view.

Mr. Lasley opened the public portion of the meeting.

Ms. Tina Northern, 6588 Lake Forest Dr, Avon, IN 46123, addressed the board. She lives across the street from Mr. Lugo and sees the carport from her front door. She does not like the carport's location. She stated that Mr. Lugo has been storing things other than his van and trailer in it. This includes furniture, boxes, trash and lawn equipment. She believes these are items that should be stored under cover of a garage, not in a carport where it is visible. She concluded that it doesn't look good for the neighborhood.

Mr. Lasley closed the public meeting as no one else had signed up to speak.

He then invited the petitioner to address Ms. Northern's concern.

Mr. Lugo said that he had unloaded items from the trailer in the carport. However, he told the board that he does not permanently store items there.

Mr. O'Riley commented that he understands the need for extra storage. His concern is that the carport is very close to the next-door neighbor's house. By nature of a carport, it doesn't have any sides so the contents are visible. He concluded that if it had sides or was a garage it probably wouldn't be a big deal because the contents would not be visible to neighbors or passersby. Open type of buildings can easily become an eyesore.

Mr. Hession commented that he believes the carport to be in the wrong location. He went on to make a motion to deny VAR 09-22.

Mr. O'Riley seconded the motion.

Motion for denial of VAR 09-22 carried unanimously.

VOTE: For- 5 Against- 0 Abstained-0 DENIED
VAR 09-22: David Lugo

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 09-22

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 an accessory building in front of a primary residence 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 aesthetic design and placement have no impact on the public health, safety, morals, and general welfare of the community.

- (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 not meet this standard. The structure placement is not common to the subdivision and surrounding properties and will be a detraction that will negatively impact 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 not meet the standard. There is no condition unique to the property involved that necessitates a variance.

For all the foregoing reasons, the Board DENIED this request for a development standards Variance on the 18th day of April 2022.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA

April 18, 2022



Rod Lasley
Chairperson



Tim Dombrosky
Secretary to the Board

VAR 10-22: Hendricks County Recycling District Variance to minimum lot size for construction of a new recycling drop-off center on a .40-acre HB-zoned parcel in Union Township: Section 28, Township 17, Range 1W; Key No. 11-1-28-71W 100-019; located on SW corner of intersection at SR 39 and W CR 900 N; 8976 N SR 39, Lizton, IN 46149.

Mr. Dombrosky introduced the property on PowerPoint. He explained that the property is an old gas station. The area is zoned Highway Business, with RB-residential across the street. The parcel is uniquely shaped and the concrete pad from the old gas station remains. The parcel is currently going under a development plan review process with the Plan Commission. Mr. Dombrosky also explained that the parcel has been split from its previous "grandfathered" state, making it less than the required 2.5-acre lot size. This necessitates a variance to the minimum lot size. Plan Commission has already done their due diligence and found the planned recycling drop-off center to be appropriate, now the petitioner need BZA approval that the sub-standard lot size is acceptable. Mr. Dombrosky believes the three criteria of a variance have been met and recommends approval.

Mr. Lasley invited the petitioner to address the board. Mr. Lenn Detwiler, Executive Director of the Hendricks County Recycling District, 49 N Wayne St, Danville, IN 46122, addressed the board. He confirmed that the facility will be a recycling drop-off center. The plan is to have an attended site that is opened limited days with limited hours. There will be a staff member working there, available to assist the public.

Mr. O'Riley asked if this was the same company that has a drop-off station by the fire department.

Mr. Detwiler said that they are the same organization and part of the Hendricks County Government.

Mr. O'Riley asked if they would be removing the small drop-off station.

Mr. Detwiler responded that it would be removed.

Mr. Lasley asked for more detail on the facility.

Mr. Detwiler explained that the planned building will have compactors and a collection box.

Mr. Hession asked if they would have specific days and hours of operation.

Mr. Detwiler answered that there will be specific times that the facility is open to the public.

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Mr. Hession asked how they would keep this facility from being abused like the drop-off station has been.

Mr. Detwiler answered that the facility will be gated, have video surveillance and an on-duty attendant during operational hours.

Mr. Lasley 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.

Mr. Hession asked how soon the facility would be operational.

Mr. Detwiler responded that they are hoping for late summer/early fall of 2022.

Mr. Lasley asked for a motion.

Mr. O'Riley made a motion to approve VAR 10-22 with conditions set by staff.

Mr. Hesler seconded the motion.

Motion for approval of VAR 10-22 carried unanimously.

VOTE: For- 5 Against- 0 Abstained-0 APPROVED
VAR 10-22: Hendricks County Recycling District

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 10-22

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 lot that does not meet the minimum required lot size in an HB/Highway 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.

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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 lot will have adequate provisions to meet the County's Ordinances intent to protect the public wellbeing.

- (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 area of development remains functionally the same and should have no negative effect on neighboring property.

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

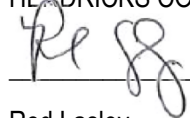
The Board finds that the proposal will meet the standard. The property is heavily restricted by its location on the corner of a County Road and State Highway and newer right of way restrictions that come with that. It is undevelopable without the granting of a variance.

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 18th day of April 2022.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Rod Lasley
Chairperson



Tim Dombrosky
Secretary to the Board

April 18, 2022

Mr. Lasley asked if there were any further business.

Mr. Dombrosky pointed out that when the board denies a case that he has provided positive findings-of-fact for, he then goes back and drafts negative findings and puts them in the minutes to be voted on at the next meeting. He explained that that was what he did for last month's case involving Way Maker, Inc, where he provided positive findings, but the board voted for denial. He drafted negative findings that were then included in the minutes voted on at this meeting. He will do the same with tonight's case that the board denied but which he provided positive findings. The negative findings will be voted in with the April minutes at the next board meeting.

Mr. Lasley asked if there were any questions or comments.

Being none, the meeting was adjourned at 8:40 pm.