

July 18, 2022

The Hendricks County Board of Zoning Appeals convened in the Hendricks County Government Center, Commissioner's Meeting Room, Monday, July 18, 2022. The meeting began at 7:30 p.m. Members present included Walt O'Riley, Anthony Hession and Russ Hesler. Rod Lasley and Ron Kneeland were absent. Also, present were Greg Steuerwald, County Attorney, Tim Dombrosky, Planning Director and Leslie Dardeen, Recording Secretary.

Everyone stood and recited the Pledge of Allegiance.

Mr. O'Riley presided over the meeting as Rod Lasley was absent.

Mr. O'Riley read the Rules of Procedure for the Board of Zoning Appeals meeting.

He asked for a motion to approve the minutes from the June 20, 2022 meeting.

Mr. Hesler made a motion to approve the June 20, 2022 minutes.

Mr. O'Riley seconded the motion.

Motion to approve the June 20, 2022 minutes passed unanimously.

VOTE: For- 3 Against- 0 Abstained- 0 APPROVED
June 20, 2022 MEETING MINUTES

Mr. Steuerwald presented the cases.

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

Mr. Dombrosky introduced the property on PowerPoint. It is zoned AGR and is suburban residential. He explained that the property is a corner lot with a long and slightly curving side yard property line. Mr. Dombrosky further explained that because the side yard is road facing, it is technically considered a front yard per the County Ordinance, and as such can only have a 4' fence with 50% opacity. The petitioner wants to put a privacy fence along that side at a height of 6' and 100% opaque. As long as the fence is not in front of the house on either of the road-facing sides, the corner has a clear visibility triangle for cars at the intersection. Mr. Dombrosky believes that if the fence is moved back from the property line and even with the house on the Walnut Way side, visibility requirements will be met as well as all three criteria for a variance and recommends approval.

Mr. O'Riley asked if the fence would run from the north corner of the house to the northwest corner of the lot.

Mr. Dombrosky answered yes.

Mr. O'Riley then asked if Mr. Dombrosky recommendation of approval is for a 6' fence.

Mr. Dombrosky responded that is correct.

Mr. Hesler asked if there was an HOA.

Mr. Dombrosky answered that he is unaware of an active HOA.

Mr. Lasley invited the petitioner to address the board. Mr. Anthony Kilgore, 6586 E CR 100 N, Avon, IN 46123, addressed the board. He explained that he is Shane Phillips' brother-in-law and is representing Shane and his wife as they are on vacation. He confirmed that the petitioner is asking to put up a 6' 100% opaque fence along the Walnut Way Street side. He added that the way the lot is laid out there is very little to no privacy in the backyard. The petitioners believe that having the fence will not only provide privacy but will make the backyard safer for their children and dog.

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Mr. O'Riley asked if the petitioner is aware and ok with the change in placement of the fence from being on the property line to being even with the side of the house.

Mr. Dombrosky responded that he had spoken with Mr. Phillips, and he was in agreement with the altered fence location.

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

He then asked if there were any final questions or comments from the board.

Being none, he asked for a motion.

Mr. Hession made a motion to approve VAR 17-22.

Mr. Hesler seconded the motion.

Motion for approval of VAR 17-22 carried unanimously.

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

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 17-22

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). The application sought to vary development standards by allowing a six-foot tall solid privacy fence in the front yard in an RB/Residential zoning district.

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

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

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

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

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

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

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

- (2) **The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner.**

The Board finds that the proposal will meet this standard. The fence will not be out of character for the area.

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

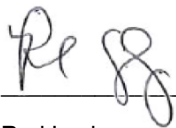
The Board finds that the proposal will meet the standard. The efficient use of the parcel is a goal of the County's plans and ordinances and is inhibited by the specific development standard due to the unique design of the lot.

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

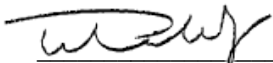
1. The variance shall apply only to the mechanical units as described in the application.
2. All other federal, state and local regulations apply.

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

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Rod Lasley
Chairperson



Tim Dombrosky
Secretary to the Board

VAR 18-22 Chris & Carley Shearin Variance to allow construction of a detached garage with a side setback of 5' (instead of 10') on a .53-acre AGR-zoned parcel in Lincoln Township: Section 16, Township 16, Range 1E; Key No. 08-2-16-61E 290-006; located in Pleasant Vue Estates, Sec.3 Lot 47; 5909 Tulip Dr., Brownsburg, IN 46112.

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Mr. Dombrosky introduced the property on PowerPoint. It is an old, rural subdivision zoned AGR. He explained that the petitioner wants to build a new accessory building with a side setback of only 5'. Mr. Dombrosky showed the site plan, pointing out the proposed location for the detached garage at the back of the existing driveway. He believes this meets all the criteria for a variance and recommends approval. He also recommends that the board consider adding a condition that should draining issues occur, the petitioner must install a swale to mitigate the problem.

Mr. O'Riley asked if the board had any questions at this time.

Being none, Mr. O'Riley invited the petitioner to address the board. Mr. Chris Shearin, 5909 Tulip Dr, Brownsburg, IN 46112, addressed the board. He confirmed that the detached garage would be at the back of the driveway.

Mr. Hession asked if it would be possible to move the building to maintain the 10' required setback.

Mr. Shearin responded that it is possible but not an optimal solution. By lowering the setback to 5' it would allow the garage to be lined up with the backside of the house and have full utilization of the driveway.

Mr. Hession pointed out on the map that the neighbors to the east appear to have a similar setup with the detached garage close to the property line.

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

He then asked if there were any final questions or comments from the board.

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

Mr. Hession made a motion to approve VAR 18-22.

Mr. O'Riley seconded the motion.

Motion for approval of VAR 18-22 carried unanimously.

VOTE: For- 3 Against- 0 Abstained-0 APPROVED
VAR 18-22: Chris & Carley Shearin

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 18-22

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 side setback reduction in an RB/Residential zoning district.

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

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

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

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

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

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

The Board finds that the proposal will meet this standard. The plan does not impact the public and has no impact on the public health, safety, and general welfare.

- (2) The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner.**

The Board finds that the proposal will meet this standard. Conditions are applied that will mitigate adverse effects from surface water.

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

The Board finds that the proposal will meet the standard. The efficient use of the parcel is a goal of the County's plans and ordinances and is inhibited by the specific development standard.

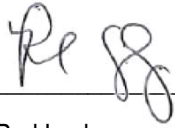
IC 36-7-4-918.2 Exceptions and uses. The Board may impose reasonable conditions as a part of its approval.

1. The variance shall apply only to the structure described in the application.
2. All other federal, state and local regulations apply.
3. If there is an observable increase in surface water flow onto the adjacent property, a diversion swale or drain must be installed.

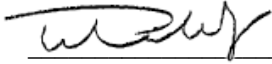
For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 18th day of July 2022.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA

July 18, 2022



Rod Lasley
Chairperson



Tim Dombrosky
Secretary to the Board

SE 13-22: Monty & Terri Cook Special Exception for an accessory dwelling unit on a .67-acre RB-zoned parcel in Guilford Township: Section 13, Township 14, Range 1E; Key No. 06-3-13-41E 105-006; located in Sycamore Estates Section 2 Lot 53; 8146 Red Bud Ct, Plainfield, IN 46168.

Mr. Dombrosky introduced the property on PowerPoint. It is zoned RB and within an older subdivision. On the site plan, he pointed out all the existing structures, highlighting the one that the petitioner is going to remove and replace with the ADU. Mr. Dombrosky also reminded the board that the Commissioners just approved ADUs as a permitted use in AGR districts. In this case, since it's an RB-zoned property, an ADU requires a special exception. Mr. Dombrosky believes all 9 criteria of a special exception have been met, he recommends approval with the conditions previously established by the board of no new address and no separate driveway.

Mr. O'Riley asked if there were any questions from the board.

There were none-

Mr. O'Riley invited the petitioner to address the board. Mr. James Jones, 6844 Cottonwood Dr, Avon, IN 46123, addressed the board. He explained that he is the petitioners' neighbor and speaking on their behalf. He told the board that the Cook's want to build an ADU for their adult son with special needs so that he can have some independence while still being close to them. Mr. Jones pointed out where the ADU would be and its setbacks from the property lines.

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.

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

Mr. Hesler made a motion to approve SE 13-22 with conditions set by staff.

Mr. Hession seconded the motion.

Motion for approval of SE 13-22 carried unanimously.

VOTE: For- 3	Against- 0	Abstained-0	APPROVED
SE 13-22: Monty & Terri Cook			

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

SE 13-22

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 RB (Single Family 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 RB Single Family 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 structure and development type are 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.

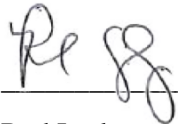
The Board imposed the following conditions in furtherance of the Indiana Code and the Hendricks County Zoning Ordinance:

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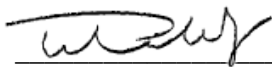
1. All applicable federal, state, and local approvals are required.
2. No separate address will be assigned to the accessory apartment.
3. No additional driveway shall be permitted.

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

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Rod Lasley
Chairperson



Tim Dombrosky
Secretary

VAR 19-22: Brandon & Kaylee Hites Variance to allow metal as a primary building façade material on a 1.6-acre AGR-zoned parcel in Eel River Township: Section 18, Township 17, Range 2W; Key No. 04-1-18-72W-210-002; located on the northwest corner of W SR 234 and N CR 850 W; 10738 N CR 850 W, New Ross, IN 47968.

Mr. Dombrosky introduced the property on PowerPoint. He explained that the property is currently undeveloped. He then showed the proposed location of the house, septic, well, etc. on the plat of the property. Mr. Dombrosky presented the board with a rendering of the proposed house, which meets all of the ordinance's requirements except for exterior material to be used. In this case, the petitioner is wanting to have an all-metal exterior. Mr. Dombrosky reminded the board of a similar case heard a few months prior that the board voted in favor of. He suggested that since metal exteriors are becoming a more popular option, the board may want to consider recommending to the Plan Commission that metal exteriors be a permitted option. He believes that this meets all three criteria of the variance and recommends approval.

Mr. O'Riley asked if the board had any questions at this time.

There were none.

Mr. O'Riley then invited the petitioner to address the board. Mrs. Kaylee Hites, 8253 W SR 234, New Ross, IN 47968, addressed the board. She confirmed that they are wanting to use metal siding as the exterior material on their new home.

Mr. Hession asked what the square footage of the house would be.

Mrs. Hites said the square footage is approximately 2500 sq. ft.

Mr. O'Riley asked if that includes the garage.

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Mrs. Hites responded that she is not sure, she would have to look at the blueprints.

Mr. Hesler asked if the metal is painted black.

Mr. Hites explained that it is prefinished black.

Mr. Hession asked if the roof would be a different color.

Mrs. Hites responded that it would be.

Mr. O'Riley asked if there were any more questions from the board.

There were none.

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

He asked for final questions or comments from the board.

Being none, he asked for a motion.

Mr. O'Riley made a motion to approve VAR 19-22.

Mr. Hession seconded the motion.

Motion for approval of VAR 19-22 carried unanimously.

VOTE: For- 3 Against- 0 Abstained-0 APPROVED
VAR 19-22: Brandon & Kaylee Hites

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 19-22

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 metal as a primary building façade material 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 aesthetic design has 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 meet this standard. The proposed design goes above and beyond the architectural design standards, and utilizes metal in a pleasing way, increasing value.

- (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. Restricting the use of a different material in a beneficial way constitutes 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.

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

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Rod Lasley
Chairperson



Tim Dombrosky
Secretary to the Board

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

Being none, the meeting was adjourned at 7:55 pm.