

January 17, 2023

The Hendricks County Board of Zoning Appeals convened in the Hendricks County Government Center, Meeting Rooms 4 & 5, Tuesday, January 17, 2023. The meeting began at 7:30 p.m. Members present included Rod Lasley, Anthony Hession, Russ Hesler and Ron Kneeland. Walt O'Riley arrived after the vote on December minutes. 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 December 19, 2022 meeting.

Mr. Kneeland made a motion to approve the December 19, 2022 minutes.

Mr. Hesler seconded the motion.

Motion to approve the December 19, 2022 minutes passed.

VOTE: For- 4 Against- 0 Abstained- 0 APPROVED
December 19, 2022: MEETING MINUTES

Mr. Steuerwald presented the cases.

VAR 01-23 James Sarkine Variance to allow reduction of required road-frontage from 50' to 25' on a 10.71-acre RB-zoned parcel in Washington Township: Section 35, Township 16, Range 1E; Key No. 12-1-35-61E 300-002; located just north of Avon Wedding Barn on E CR 100 N; Parcel #32-07-35-300-002.000-022, Avon, IN 46123.

Mr. Dombrosky gave an overview of the property. It is an RB-zoned landlocked parcel behind the Avon Wedding Barn. To the east is the Bread of Life Ministries church and its driveway. He explained to the board that this is a variance request to reduce the required road frontage. He further explained the history of the property and its split from the Avon Wedding Barn parcel in 1998. That split made the subject parcel an unapproved subdivision and not eligible for development until it has been platted. However, it cannot be platted with less than the minimum road frontage (50 feet); it also cannot be platted with individual road access off of a collector arterial street without a waiver from the Plan Commission and approval from the Town of Avon. Mr. Dombrosky concluded that he did not find reason to support the variance requested on the basis of the three criteria and recommends denial.

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

Mr. Lasley asked if the Avon Wedding Barn still uses the church parking lot, and if granting the variance would affect that.

Mr. Dombrosky responded that Mr. Wheeler, the owner of The Avon Wedding Barn, is at the meeting and can address that question.

Mr. Lasley then asked the petitioner to address the board.

Mr. Deron Rueff, 460 Depot Circle, Avon, IN 46123, representing James Sarkine, addressed the board. He explained that Mr. Sarkine listed the property for sale with the intention that it be for a single residence. There is no intention of it being developed for a subdivision. Mr. Rueff further stated that he had spoken with the leadership of the church to the east, and they were favorable to the possibility of a shared drive.

Mr. Lasley asked if there were any questions for the petitioner.

Mr. O'Riley commented that if Mr. Sarkine sells the property and it's unplatted, the buyer will not be able to build anything on it.

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Mr. Rueff responded that they are aware of that; however, they didn't want to go through the platting process if they were denied the variance.

Mr. Dombrosky responded that Mr. Rueff and Mr. Sarkine are doing things in the right order. They would need to be granted a variance before they could plat the property with less than the minimum road frontage.

Mr. Lasley asked if they had a shared drive with the church, would that alleviate the issue with the road frontage.

Mr. Dombrosky explained that each individual parcel still needs its own 50' of road frontage. The shared access would help since the parcel is not allowed to have individual access onto CR 100 without a waiver and approval from the Town of Avon. The road frontage and the driveway are two separate issues.

Mr. Lasley asked for clarification on the "individual access".

Mr. Dombrosky replied that, the subdivision control ordinance does not allow for individual lots to access arterial roads. There has to be a shared drive or subdivision access.

Mr. Lasley asked if the properties with access onto CR 100 were "grandfathered" that access.

Mr. Dombrosky said that they could have been, or they could have subdivision access, or the road classification could have changed after the properties had been developed.

Being no further question from the board, Mr. Lasley opened the public meeting.

The following remonstrators addressed the board:

Mr. Chris Meloy, 7391 Meadow Violet Ct, Avon, IN 46123

Mr. Brian Wheeler, 2474 E CR 100 N, Avon, IN 46123

Mr. Tim Marcum, 7616 Disciples Way, Avon, IN 46123

Their opposition to the variance petition includes several issues:

- Detrimental to the surrounding property values
- Over-development of the property
- Increase in already substantial traffic along CR 100
- Potential safety issues with additional access onto CR 100

Mr. Lasley asked Mr. Wheeler if The Avon Wedding Barn still uses the church parking lot, and if there is walking traffic between the two properties.

Mr. Wheeler said that they only use the church's parking lot a couple of times a year for special events. They did at one time use it for overflow parking but have since expanded their own parking area. He went on to add that the Wedding Barn had to obtain a special exception from the BZA, and as a condition for approval they would need to monitor the noise level so that it is not disruptive to the neighboring properties. The subject parcel is an additional buffer between the facility and neighboring properties; and without that, it may adversely affect the condition of their agreement.

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

He asked if Mr. Rueff had any final comments.

Mr. Rueff reiterated that there is no intention to develop the parcel into anything other than a one residence, single-family lot.

Mr. Lasley reminded the board that the issue at hand is road frontage.

Mr. Hession asked for confirmation that the illegal split of the property was in 1998.

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Mr. Dombrosky responded that is correct.

Mr. Lasley asked if Mr. Sarkine had at one time owned the land around the parcel, including the Avon Wedding Barn property.

Mr. Dombrosky answered that he did not. The Dragon family owned the land and were the original owners of the Wedding Barn.

Mr. Lasley commented that Mr. Sarkine bought the lot knowing it could not be developed without first being platted.

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

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

Mr. Hesler made a motion to deny VAR 01-23.

Mr. Kneeland seconded the motion.

Motion to deny VAR 01-23 carried unanimously.

VOTE: For- 5 Against- 0 Abstained-0 DENIED
VAR 01-23: James Sarkine

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 01-23

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). The application sought to vary development standards by reducing the required road frontage 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:

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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 not meet this standard. There is a possible negative impact on the public health, safety, morals, and general welfare of the community from deviating from the standards.

- (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. Reducing the frontage requirement artificially increases density without supplying the necessary public infrastructure.

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

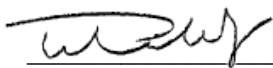
The Board finds that the proposal will not meet the standard. There is no condition unique to the property involved that warrants a variance.

For all the foregoing reasons, the Board DENIED this request for a development standards Variance on the 17th day of January 2023.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Rod Lasley
Chairperson



Tim Dombrosky
Secretary to the Board

Mr. Lasley asked if there was any further business.

Being nothing further, the meeting was adjourned at 6:50 pm.