

March 20, 2023

The Hendricks County Board of Zoning Appeals convened in the Hendricks County Government Center, Meeting Rooms 4 & 5, Monday, March 20, 2023. The meeting began at 6:30 p.m. Members present included Walt O'Riley, Russ Hesler, Ron Kneeland and Anthony Hession. Rod Lasley was 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, board vice-chairperson, presided over the meeting as Rod Lasley, board chairperson, was absent.

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

Mr. O'Riley then asked for a motion to approve the minutes from the February 21, 2023 meeting.

Mr. Kneeland made a motion to approve the February 21, 2023 minutes.

Mr. Hesler seconded the motion.

Mr. Hession abstained from the vote as he was absent from the February meeting.

Motion to approve the February 21, 2023 minutes passed.

VOTE: For- 3 Against- 0 Abstained- 1 APPROVED
February 21, 2023: MEETING MINUTES

Mr. Steuerwald presented the cases.

SE 01-23: Claudia Salas Special Exception to allow a one-chair nail salon as a home occupation on a .24-acre AGR-zoned parcel in Lincoln Township: Section 17, Township 16, Range 2E; Key No. 08-2-17-62E 320-004; located in Clermont Heights, Sec. 4, Lot 80; 4444 N Varner Rd, Brownsburg, IN 46112.

Mr. Dombrosky gave an overview of the property. The property is in an older subdivision and suburban residential district close to Raceway Road and Clermont. He explained that the request is for a one-chair nail salon, which is a permitted use with a Special Exception. Staff believes all nine criteria of a special exception have been met and recommends approval.

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

Being none, he then asked the petitioner to address the board.

Mrs. Claudia Salas, 4444 Varner Rd, Brownsburg, IN 46112, addressed the board. She explained that she is a licensed cosmetologist and would like to work from home. By working at home, she would be able to save on booth rental at an outside salon. She further explained that she is a nail technician and only has one customer at a time by appointment.

Mr. O'Riley asked if she would be the only technician or would there be another employee.

Mrs. Salas responded that she would be the only person working. She will have no employees. And there will only be one client at a time.

Mr. O'Riley opened the public meeting.

Mrs. Pam Lime, 4456 Varner Road, Brownsburg, IN 46112, next door neighbor to the petitioner, addressed the board. She has no objections to Mrs. Salas having a one-chair nail salon. She believes there is adequate parking space and won't interfere with or obstruct traffic.

Mr. O'Riley closed the public meeting as no one else had signed up to speak.

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

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

Mr. Kneeland made a motion to approve SE 01-23.

Mr. Hession seconded the motion with the added condition that the salon will not exceed one employee.

Motion to approve SE 01-23 carried unanimously.

VOTE: For- 4 Against- 0 Abstained-0 APPROVED
SE 01-23: Claudia Salas

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

SE 1-23

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 a **Home-Based Business** 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 a home-based business 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 business meets Comprehensive Plan goals for economic development.

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 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 the 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.

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 be disruptive and detrimental to the surrounding area as the majority of business activity is not detrimental.

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.

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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.

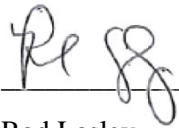
IC 36-7-4-918.2 Exceptions and uses. The Board may impose reasonable conditions as a part of its approval.

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

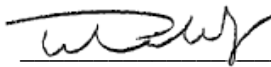
1. There shall be no more than 1 employee who does not reside at the home.
2. All applicable federal, state, and local approvals are required.

For all the foregoing reasons, the Board APPROVED this request for a Special Exception on the 20th day of March 2023.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Rod Lasley
Chairperson



Tim Dombrosky
Secretary

SE 02-23 & SE 03-23: CRM Real Estate LLC Special Exception to allow the use "storage contractor" and include storage of semi tractor-trailers on a combined 39.36-acres of AGR-zoned parcels in Liberty Township: Section 24, Township 14, Range 1W; Key Nos. 07-3-24-41W 100-016, 07-3-24-41W 100-027, 07-3-24-41W 100-029 and 07-3-24-41W 300-002; located approx. ¼ mile north of E CR 875 S, along the east side of S SR 39; 8451 S SR 39, Clayton, IN 46118.

Mr. Dombrosky explained that there are 2 special exceptions to consider for the same property. He further explained that he'll be introducing both petitions together, but they will require 2 separate motions from the board. The parcel is on SR 39, just north of the exit 59 interchange, and just a little north of the PB district (the planned business warehouse park). The comprehensive plan shows the area as Planned Business with suburban residential further north on SR 39. The property has had an existing non-conforming construction/excavation business operating from it for more than 50 years. Close-up of the property shows a graveled area where the existing business is at, plus some recent illegal expansions. These expansions triggered action from the Planning and Building Department and brought the property owner and representation in to meet about bringing everything into compliance. The

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property owner then petitioned the Plan Commission and the County Commissioners to rezone the property to an appropriate zoning that would allow contractor use. The Plan Commission did rezone the property to GB, general business, but the contractor storage yard still requires a special exception to operate. The petitioner is additionally requesting a new use as a separate business to lease space to park and store semi-tractor trailers. Mr. Dombrosky reiterated that the two uses are contractor storage and the parking of semi-tractor trailers. If approved, both uses would also require a development plan review and approval by the Plan Commission for compliance with screening and development standards. Both requests are special exceptions, and Mr. Dombrosky found both meet all nine criteria. He recommends approval of both.

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

Being none, he then asked the petitioner to address the board.

Mr. Andy Kult, Comer Law Office, LLC, 71 W Marion St, Danville, IN 46122, representing CRM Real Estate LLC and owner Chip McCullough, addressed the board. He showed a current map of the property, with 39-acres highlighted. There's an additional 4.7-acre parcel owned by Mr. and Mrs. Cox that was included in the re-zone petition for potential future contractor development in the GB district. It is not part of either special exception request. Mr. Kult gave a brief history of the property. Mr. McCullough has operated an excavating company on the property since 2016. Two of the parcels have been utilized for commercial purposes for years, including a trucking company that operated on the premises in the 80s and 90s. When Mr. McCullough bought the property, he continued operating an excavating business on the property as a legal non-conforming use. He then expanded to the north for this business. An expansion to the south was driven by being approached by a number of people/companies looking for parking/storage space for semi-trucks and trailers. Mr. McCullough received a letter from the Planning and Building Department informing him of the illegal expansion of the legal non-conforming use. He and Mr. Kult then met with Mr. Dombrosky and discussed the overall site, the excavation business that Mr. McCullough currently operates, the expansions, and the request for parking storage. Mr. Kult explained that they agreed that the county is in need of semi-tractor trailer parking, and this property is an appropriate solution due to its location, screening and proximity to the road. During that meeting, it was discussed how to operate and use the property for the business and accommodate other needs, as well as cleaning up some non-conforming issues that have historically been there and bringing everything into compliance. Mr. Kult then enumerated the steps to achieve these goals: Step one was to re-zone the entire 44 acres to GB, which was done in January, Step two is requesting the special exceptions for contractor storage and truck parking for 39 of the 44 acres, Step three would be back with the Plan Commission and submitting a development plan review in terms of expansion areas for outdoor contractor storage. Mr. Kult then showed photos of the property, highlighting the density of trees and screening of the southern expansion. The expansion to the north is buffered by additional properties owned by CRM, including one heavily-wooded parcel that was excluded from the rezone to add additional buffering to the surrounding AGR areas. There's also a natural waterway that runs through that area that will deter any further expansion to the north. The driveway from SR 39 to the property is about 800 feet, well off of the roadway. SR 39 has become a major corridor for trucks and truck related businesses. There have been a few uses to the north that have been approved, not all implemented, for truck related schools and businesses. The petitioner believes his property accommodates that use.

Mr. Hession asked who owns the property to the south.

Mr. Chip McCullough, 1677 N CR 100 E, Danville, IN 46122, addressed the board. He explained that he has made an offer on the property to the south. The woman who owns the property is out of state and under medical care. The remaining family are working to get power-of-attorney to make decisions on the status of the property. Mr. McCullough's offer has been standing since November.

Mr. Kult added that regardless of ownership of the 2 parcels to the south, the petitioner recognizes that his expansion on the south side will need to be moved to allow for appropriate setback standards and any required buffer that will be determined through the DPR stage.

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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 final questions or comments from the board.

Mr. Hession asked how many tractor-trailers are anticipated to be parked on the property.

Mr. McCullough answered that he anticipates around 100 box trailers.

Having no further questions, Mr. O'Riley asked for a motion on SE 02-23.

Mr. Hession made a motion to approve SE 02-23.

Mr. Kneeland seconded the motion.

Motion to approve SE 02-23 carried unanimously.

VOTE: For- 4 Against- 0 Abstained-0 APPROVED
SE 02-23: CRM Real Estate LLC

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

SE 02-23

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 **RV and Boat Storage** in an area zoned as GB (General Business). 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 RV and Boat Storage is in fact a Special Exception in the General Business 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 business meets Comprehensive Plan goals for economic development.

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 use will not substantially change the appearance of the property as it is a historic non-conforming use and will not change the essential character of the area. Approval will constitute site plan review by the Plan Commission and compliance with current screening standards.

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 the 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.

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 be disruptive and detrimental to the surrounding area as compliant screening and buffering will be implemented.

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.

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The Board finds that the proposal will meet this standard. The entrance will be reviewed and approved by INDOT for 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:

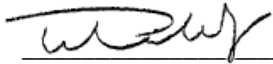
1. There shall be no more than 1 employee who does not reside at the home.
2. All applicable federal, state, and local approvals are required.

For all the foregoing reasons, the Board APPROVED this request for a Special Exception on the 20th day of March 2023.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Rod Lasley
Chairperson



Tim Dombrosky
Secretary

Mr. O'Riley asked if there were final questions or comments from the board concerning SE 03-23.

Being no further questions, Mr. O'Riley asked for a motion for SE 03-23.

Mr. Hession made a motion to approve SE 03-23.

Mr. Hesler seconded the motion.

Motion to approve SE 03-23 carried unanimously.

VOTE: For- 4 Against- 0
SE 03-23: CRM Real Estate LLC

Abstained-0 APPROVED

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

SE 03-23

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 ‘**Storage, Contractor**’ in an area zoned as GB (General Business). 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 ‘Storage, Contractor’ is in fact a Special Exception in the General Business 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 business meets Comprehensive Plan goals for economic development.

- 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 use will not substantially change the appearance of the property as it is a historic non-conforming use and will not change the essential character of the area. Approval will constitute site plan review by the Plan Commission and compliance with current screening standards.

- 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 the 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.

- 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 be disruptive and detrimental to the surrounding area as compliant screening and buffering will be implemented.

- 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 entrance will be reviewed and approved by INDOT for 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.

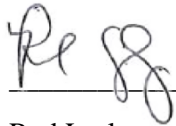
The Board imposed the following conditions in furtherance of the Indiana Code and the Hendricks County Zoning Ordinance:

1. All applicable federal, state, and local approvals are required.

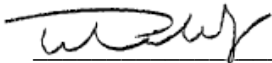
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For all the foregoing reasons, the Board APPROVED this request for a Special Exception on the 20th day of March 2023.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Rod Lasley
Chairperson



Tim Dombrosky
Secretary

VAR 25-22 Jeannine Medvescek Variance to allow the principal dwelling to be 1015 sq. ft. instead of the required minimum of 1500 sq. ft. on a 1.12-acre AGR-zoned parcel in Guilford Township: Section 22, Township 14, Range 1E; Key No. 06-3-22-41E 230-005; located ½ mile south of I-70 at the intersection of S CR 675 E and E CR 825 S.; 6801 E CR 825 S, Plainfield, IN 46168—continued from Oct. 17, 2022 meeting.

Mr. Dombrosky introduced the property. He reminded the board that this petition was continued at the October 17, 2022 meeting. The parcel is in a platted subdivision, it is undeveloped and zoned AGR. There is a significant conservation flood plain area, White Lick Creek, on the rear 2/3 of the parcel. The plot plan shows flood protection restriction on the back of the lot, which turns this already non-conforming lot into a much smaller non-conforming lot in terms of developable area. It does not meet the minimum of 1.5-acres of the current zoning ordinance, as it was platted before that standard was adopted. This parcel is about half of the required size for developable space. Because of the difficulties and challenges of building a home with the required minimum of 1500 sq. ft., Mr. Dombrosky did recommend approval when the petition was first brought before the board in October 2022. He has no reason to change his recommendation now.

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

Being none, he then asked the petitioner to address the board.

Ms. Jeannine Medvescek, 524 Stone Table Blvd #202, Plainfield, IN 46168, addressed the board. She pointed out the large drop-off that divides the property. She will be required to have a sub-surface sand-line septic system. She was advised that a house with a walk-out basement would fit the property best. Since she would be having 2 levels, her request is to be able to go smaller (1015 sq. ft.) than the required minimum square footage on the main floor.

Mr. O'Riley asked if the plans were for a 1015 sq. ft. house plus a full basement.

Ms. Medvescek said she is unsure of her final plans. The current plans show the lower level at 672 additional sq. ft. However, she does not want or need that much space. She also asked for clarification on what the required minimum of 1500 sq. ft. refers to: livable space? or the main floor?

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Mr. Dombrosky responded that the required 1500 sq. ft. is livable space.

Ms. Medvescek confirmed that her current building plans have 1015 sq. ft. of livable space on the main level. The lower level would not be finished as she does not want a basement.

Mr. O'Riley asked if the lot would accommodate a 1500 sq. ft. house.

Mr. Dombrosky responded that an engineer would have to determine that.

Ms. Medvescek added that it would be difficult to fit a 1500 sq. ft. house on the lot because of the way it's shaped and because of the drop-off. She wants to build something that will look nice, but she understands the neighbors' concerns of having a much smaller house among their much larger homes. She wants a good quality, energy-efficient house; it will have to be smaller to fit on the lot.

Mr. O'Riley asked if this was considered a hardship.

Mr. Dombrosky answered that the board has to make that determination.

Mr. Hesler asked if the one level is 1015 sq. ft.

Ms. Medvescek responded that the plans she submitted are for 1015 sq. ft. total, which includes the basement. She further commented that she would need to make changes to get the main floor to 1015 sq. ft.

Mr. Hesler added that by having a walk out basement, she could get close to the required 1500 sq. ft. minimum.

Ms. Medvescek said that she does not want a house that big.

Mr. O'Riley asked if the sizes of the neighboring homes are known.

Mr. Dombrosky responded that he does not know the actual square footage of the neighboring homes other than they are larger than 1500 sq. ft.

Mr. O'Riley opened the public portion of the meeting.

Mr. Maurice Jones, 8065 S SR 39, Clayton, IN 46118, addressed the board. He owns the vacant lot directly west of Ms. Medvescek. He gave the board members copies of the covenants for the subdivision, which include the requirements for square footage, interior and exterior materials, and basements for homes in the subdivision. He, as well as the other homeowners, bought their lots based on the covenants. He believes that a 1015 sq. ft. home in the area would significantly harm the surrounding property values.

Mr. O'Riley asked what the minimum required square footage of a single level home is based on the covenants.

Mr. Jones read from the covenants that the "ground of the floor area of the main structure excluding the porch and the garage shall be not less than 1600 sq. ft." He added that houses must also have a minimum of 75% brick exterior.

Mr. Hesler asked if the covenants were filed with the county recorder's office.

Mr. Jones responded that they have been recorded. Each property owner is given a copy at the time of purchase, and he got this additional copy from the recorder's office.

Mr. O'Riley asked if the board could have a copy.

Mr. Jones submitted a copy of the covenants.

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Mr. Steuerwald reminded the board that the BZA is here to consider what has been presented under our standards. If the BZA approves the petition, it won't trump those covenants. The covenants would stand, and the HOA can enforce them if they want. The BZA does not interfere with the covenants.

Mr. Hesler asked who enforces the covenants.

Mr. Steuerwald responded that it is stated within the covenants who or what entity enforces them.

Mr. O'Riley paraphrased the portion of the covenants that defined enforcement; if a property owner goes against the covenants, the other property owners can enforce them.

Mrs. Carolyn Jones, 8065 S SR 39, Clayton, IN 46118, addressed the board. She is concerned that should Ms. Medvescek be allowed to build the small home, that a precedent will be set for future small homes. She also questions what the ramifications will be in the future if Ms. Medvescek sells the home.

Mr. Tim Hansen, 6834 E CR 825 S, Plainfield, IN 46168, addressed the board. He owns 2 lots directly across the street from the petitioner's lot. He added that multiple story houses are required to have a minimum of 2000 sq. ft. The houses are supposed to be 75% brick or stone. There are a couple of houses in the neighborhood that do not meet that requirement. Those homeowners sought and were granted approval by the HOA to have less than the required 75% masonry. His home is a little over 4200 sq. ft., the other houses are comparable. He has spoken to his friend and neighbor, civil engineer Jeff Banning, about the petitioner's lot. Mr. Banning has recommendations for the lot that include changing the design of the house to meet the required minimum square footage and/or acquiring a variance to build the house closer to the road. Mr. Hansen is also concerned with depreciating home/property values.

Mr. O'Riley closed the public hearing. He invited the petitioner to make any last comments.

Ms. Medvescek said she had nothing more to add.

Mr. O'Riley commented that he is concerned with building a house of such a small size among a subdivision of much larger homes. He believes it does adversely affect surrounding property values. He also believes there are ways to build a 1600 sq. ft. house on the lot. He does not think the petitioner has a true hardship.

Mr. Hession agreed with all points. He does not believe it would be good for the BZA to allow this and set a precedent.

Mr. Hesler also added that the county's minimum sq. ft. is 1500 but the covenants is 1600 sq. ft. making the petitioner's 1015 sq. ft. home an even bigger discrepancy.

Mr. O'Riley agreed, that since the covenants trump the county ordinance, an approval by the board could/would be overturned by the HOA.

Mr. Steuerwald concluded that these are two totally separate issues. One, our county regulations which are before the board tonight, and two, the covenants. They are two separate standards and two separate entities of enforcement. The BZA is not subject to the covenants when assessing whether the three criteria of a variance have been met. However, the BZA does not trump the covenants either.

Mr. O'Riley asked if there were final questions or comments from the board concerning VAR 25-22.

Being no further questions, Mr. O'Riley asked for a motion.

Mr. Hession made a motion to deny VAR 25-22.

Mr. Hesler seconded the motion.

Motion to deny VAR 25-22 carried unanimously.

VOTE: For- 4 Against- 0 Abstained-0 DENIED
VAR 25-22: Jeannine Medvescek

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 25-22

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 primary dwelling with less than the required size 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 dwelling size 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 not meet this standard. The reduction in size will have a negative impact on adjacent property values.

March 20, 2023

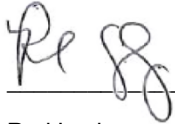
- (3) **The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.**

The Board finds that the proposal will not meet the standard. The petitioner did not identify a hardship.

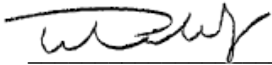
IC 36-7-4-918.2 Exceptions and uses. The Board may impose reasonable conditions as a part of its approval.

For all the foregoing reasons, the Board DENIED this request for a development standards Variance on the 20th day of March 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 nothing further, the meeting was adjourned at 7:20 pm.