

The Hendricks County Board of Zoning Appeals met in the Hendricks County Government Center, in the Meeting Room 4 and 5; Monday, December 19, 2016. The meeting began at 7:30 p.m. Members present included, Anthony Hession, Sonnie Johnston, Sam Himsel and Rod Lasley. Also present were Don Reitz, Planning Director, Greg Steuerwald, County Attorney, Nicholas Hufford, Planner, and Kim Cearnal, Recording Secretary.

Mr. Hession read the Rules of Procedure for the Board of Zoning Appeals meeting.

Everyone stood and recited the Pledge of Allegiance.

Mr. Hession asked for a motion for approval of the minutes from the October 17, 2016 meeting.

Mrs. Johnston made a motion to approve the October 17, 2016 meeting minutes.

Mr. Himsel seconded the motion.

VOTE: For- 4 Against- 0 Abstained-1 APPROVED
OCTOBER 17, 2016 MEETING MINUTES

Mr. Hession asked for a motion on the 2017 Board of Zoning Appeals meeting schedule.

Mrs. Johnston made a motion to approve the 2017 Board of Zoning Appeals meeting schedule.

Mr. Hession seconded the motion.

VOTE: For- 4 Against- 0 Abstained- 1 APPROVED
2017 BOARD OF ZONING MEETING SCHEDULE

SE 14-16: Richard and Amy Mann for a Special Exception in accordance with HCZO 4.7 (C) to allow a home based business on 11.09 acres in an AGR zoned district in Clay Township.

Mr. Hufford showed where property is located on power point. He stated the land was originally apart of AJ estates and Mr. and Mrs. Mann bought three lots and combined them into one parcel. Mr. Hufford stated Rick Mann owns a roofing contracting business and runs the business from the pole barn that is on the property. He stated the barn is used for some trailer equipment and storage of Mr. Mann's personal items. Mr. Hufford stated there is one off site employee who picks up the trailer most days and then returns it that day. Mr. Hufford stated that this is a home based business even without the home being on parcel. He stated that Mr. Mann

pulled both home and barn permits together. Mr. Hufford explained that Mr. Mann was waiting on his other home to sell before building the new home but that he did stay current with the permit. He stated that having the new home built within a certain amount of time will be a part of the conditions of approval.

Richard Mann, 2182 W CR 350 S, Danville, IN., Mr. Mann stated that he takes a lot of pride in his property. He stated that the contents of the pole barn are not just for the business. He stated that the building is just a place to store the trucks for the roofing business.

Mr. Hession asked if there were any deliveries on regular basis.

Mr. Mann stated no, we do churches, apartment complexes, nursing homes, and residential neighborhoods and the material for these jobs are delivered to the site.

Mr. Hession asked how many employees there are.

Mr. Mann stated that there is one supervisor who runs a ten man crew. He stated that all of the men report to the job sites and they never report to the pole barn.

Mr. Himsel asked if Mr. Mann thinks he would ever have more than one supervisor.

Mr. Mann said it is unlikely but in the event that he needed to, it would be just be one. He stated that there is one supervisor per crew.

Mr. Himsel stated that if Mr. Mann thought he might have two employees one day that he wouldn't be opposed to having it stated in the conditions.

Mr. Hession stated he agreed with Mr. Himsel so that Mr. Mann wouldn't have to come back through BZA if he hired another person. Mr. Hession asked if Mr. Mann fully expected to have a residence within two years.

Mr. Mann stated yes that they just sold their home in Forest Commons and have already received the plans for new home.

Mr. Lasley asked what part of the property the home would be going on.

Mr. Mann pointed to power point to show where the home is going to be.

Mr. Hession asked if the board had any further questions.

There were none.

Mr. Hession opened the public hearing portion.

December 19, 2016

Dixie Moorton, 2139 W CR 350 S, Danville, IN., Mrs. Moorton stated she didn't have any questions and has no issues with the property because it is well kept. She stated that her only concern is when the trucks are picked up and dropped off bringing in more traffic. Mrs. Moorton stated she is happy to hear of the home going in.

Mr. Hession closed the public portion of the hearing.

Mr. Hession asked if the staff had any further comments.

There were none.

Mr. Mann stated that his business is not there. He stated that he just stores his trucks there and that there is no computer, phone service, or mailbox.

Mr. Lasley asked how many trucks are leaving and coming.

Mr. Mann stated his personal truck, a box truck, a van, and a dump trailer.

Mr. Lasley stated so there is only two people going in and out at a time.

Mr. Mann stated yes.

Mr. Hession asked if there any further questions.

There were none.

Mr. Hession asked for a motion on SE 14-16.

Mr. Himsel made a motion to adopt positive findings of facts with the added condition of two employees.

Mrs. Johnston seconded the motion.

VOTE: For- 4 Against- 0 Abstained-1 APPROVED
SE 14-16: Richard and Amy Mann

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval
SE 14-16

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 AGR/Agriculture Residential zone**. Acting in its role as staff to the Hendricks County Area Board of

Zoning Appeals, the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in Room 212 of the Hendricks County Government Center.

In accordance with Indiana Code (IC) 5-3-1 and the Hendricks County Zoning Ordinance (HCZO) Section 12.7, the DPB staff published a legal notice in the *Hendricks County Flyer* and 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 Hendricks County Area Board of Zoning Appeals, 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 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 Area Board of Zoning Appeals to approve Special Exceptions.

HCZO Section 4.7 (C) authorizes the approval of a mobile home in the AGR zoning district.

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 permitted Special Exception use in the zoning district involved.

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 be harmonious with and in accordance with the general objectives and specific objectives of the County's Comprehensive Plan and Zoning Ordinance. Large pole barns are a common structure in rural areas, and with the area being completely AGR, it is consistent with the area's rural character. Additionally, conditions of approval have been

established to maximize the compatibility of the proposed home-based business with its surrounding land uses.

- 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 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. Pole barns are common in Agricultural zones, and the quality of the structure under consideration does not detract from the character of the area. Moreover, conditions of approval have been imposed to maintain the residential character of the property even in the presence of the home-based business.

- 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 be adequately served by essential public facilities and services. The necessary public service agencies have been included in the project and the site will be able to provide for all necessary services.

- 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 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 use causes an insignificant additional burden to servicing infrastructure.

- 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 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. This proposal is residential in nature and will maintain the residential character of the area. Additionally, conditions of approval have been established to protect persons, property, and the general welfare.

- 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 utilize existing or newly state approved vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares. The proposed use will have a negligible effect on local traffic volume or patterns.

- H. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.**

December 19, 2016

The Board finds that the proposal will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance. No historic, scenic, or natural feature is involved in this approval.

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. Approval shall be terminated and of no further effect in the event the proposed use is discontinued during the approval period. Upon such termination, no reestablishment of the use in any form shall occur without favorable action (including new findings of fact/law and conditions of approval) by the BZA or any successor agency.
2. The applicant shall have constructed, and received a Certificate of Occupancy for, a residence on the property by December 19, 2018. Failure to do so shall result in termination of this approval.
3. Outside storage of business-related material is prohibited..
4. Any expansion of the business, additional vehicles, customer parking, or a substantial increase in the area taken by business activities will need further approval.
5. All other federal, state, and local regulations apply.
6. A maximum of two (2) offsite employees coming to the site shall be permitted

For all the foregoing reasons, the Board approved this request for a Special Exception, subject to the conditions set forth, the 19th day of December, 2016.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA

Being no further business, the meeting was adjourned at 7:51 P.M.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Anthony Hession

Chairman

December 19, 2016



Don F. Reitz, AICP
Secretary to the Board