

May 21, 2018

The Hendricks County Board of Zoning Appeals met in the Hendricks County Government Center, in Meeting Rooms 4 and 5; Monday, May 21, 2018. The meeting began at 7:30 p.m. Members present included Sonnie Johnston, Walt O’Riley and Sam Himsel. Anthony Hession and Rod Lasley were both absent. Also present were Tim Dombrosky, Planning Director, Graham Youngs, County Attorney and Leslie Dardeen, Recording Secretary.

Mr. Dombrosky read the Rules of Procedure for the Board of Zoning Appeals meeting. He also clarified that it would take a unanimous vote to either pass or deny a petition due to only three board members being present.

Everyone stood and recited the Pledge of Allegiance.

Mr. Dombrosky called for a vote to elect a temporary board president as both the president and vice president were absent.

Ms. Johnston made a motion for Walt O’Riley to fill the role as temporary board president.

Mr. Himsel seconded the motion.

VOTE: For- 3 Against- 0 Abstained- APPROVED
May 21, 2018 WALT O’RILEY AS TEMPORARY BOARD PRESIDENT

Mr. O’Riley asked for a motion for approval of the minutes from the March 19, 2018 meeting.

Mrs. Johnston made a motion to approve the March 19, 2018 meeting minutes.

Mr. Himsel seconded the motion.

VOTE: For- 3 Against- 0 Abstained- APPROVED
March 19, 2018 MEETING MINUTES

SE 03-18: Jeffrey O’Neal to allow the use of an existing structure for a private kennel on a 2.43-acre agricultural-residential lot in Eel River Township; Section 7, Township 16, Range 2W; Key No. 04-2-07-62W 300-003; located east of the intersection of N Putnam County Road and W 550 N; 8787 W CR 550 N, North Salem, IN 46165.

Mr. Dombrosky showed where the property is located on power point, stating that the applicant is requesting permission to have a private kennel on his property. Most of the land surrounding the property is either agricultural or conservational land. The petitioner has raised hunting dogs at the property for several years, not aware that a Special Exception was needed. Animal Control officers brought it to the attention of both the petitioner and the Planning and

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Building office. The proposed special exception is to allow the private kennel to continue without significant changes. Mr. Dombrosky then turned the floor over to Mr. O’Neal.

Jeffrey O’Neal, 8787 W CR 550 N, North Salem, IN 46165, explained to the board the set-up of the kennel. He raises dogs for himself and friends on a limited basis.

Mr. Himsel asked how many dogs are typically boarded.

Mr. O’Neal responded that he never has more than 6-9 adult dogs at a given time. Also stated that he is not changing anything, just wanting to continue doing what he’s done for the last several years.

Mr. O’Riley asked what the maximum number of dogs is.

Mr. O’Neal stated that he is at the maximum now with 9 adult dogs and 2 puppies.

Mr. Himsel asked the Director if limiting the number of dogs as a condition is warranted.

Mr. Dombrosky responded that he didn’t believe such a condition is needed; that the size of property and the ability to house the dogs will naturally limit the number.

Ms. Johnston asked what type of housing is used for the dogs.

Mr. O’Neal described the kennels as well-built wooden structures that are sufficient to house very expensive dogs. He has future intentions of building a new, large kennel to house all the dogs.

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

There were none.

Due to no one signing up to speak, Mr. O’Riley opened and closed the public portion of the hearing. He asked for a motion from the board.

Ms. Johnston made a motion to approve SE 03-18 subject to staff comments.

Mr. Himsel seconded the motion.

VOTE: For- 3 Against- 0 Abstained-0 APPROVED
SE 03-18: JEFFREY O’NEAL

Hendricks County Board of Zoning Appeals

Positive Findings of Fact/Law and Conditions of Approval
SE 03-18

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 **Private Kennel in an AGR/Agricultural Residential** zoning district. Acting in its role as staff to the Hendricks County Board

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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 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 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 Board of Zoning Appeals to approve Special Exceptions.

HCZO Section 4.7 (C) authorizes the approval of a private kennel 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 private kennel is in fact a Special Exception in the Agriculture Residential zoning district. The AGR district is characterized by permitting the establishment of individual single-family dwellings and other compatible uses while maintaining a primarily rural character.

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. The comprehensive plan recommends this area for Agriculture, and little to no development. A private kennel at a residence will fit into that plan while maintaining the rural character.

C. Will be designed, constructed, operated, and maintained 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;

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The Board finds that the proposed use will be designed, constructed, operated, and maintained 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 character of the property will not change significantly with this approval.

- 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. There should be no noticeable change in the intensity of needed public services as a result of this approval.

- 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. No additional public service is required because of this approval.

- 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. The use should not produce any excessive nuisance as compared to a typical rural residence.

- 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 applicant will use the existing vehicular approach to the property, which currently does not create an interference with traffic on surrounding public thoroughfares. The proposed use will have a negligible effect on local traffic.

- 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 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 for more than one year. 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.

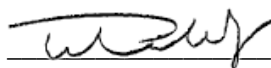
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For all the foregoing reasons, the Board APPROVED this request for a Special Exception, subject to the conditions set forth, the 21th day of May 2018.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Walt O'Riley
Acting Chairman



Tim Dombrosky
Secretary

SE 04-18: Clearnote Church of Indianapolis to allow a place of worship to be built in an agricultural zone in Brown Township; Section 30, Township 17, Range 2E; Key No. 01-2-30-72E 400-011; located at the intersection of Maloney Road and N 1050 E; 8532 N CR 1050 E, Brownsburg, IN 46112.

Mr. Dombrosky presented a power point of the location of the property. He noted that it is zoned as rural residential. He noted the property's proximity to the Ronald Reagan corridor. He further explained that the applicant is seeking a special exception to build a place of worship as a prerequisite of purchasing the property. He then turned the floor over to the petitioner.

Mr. Charles Hostettler, attorney representing Clearnote Church, 515 N Green St, Suite 200, Brownsburg, IN 46112, gave a brief description of his role as representing counsel.

Mr. Himsel asked for an overview of the proposal.

Mr. Hostettler explained that Clearnote is in position to purchase land with the approval of the special exception. They are wanting to build a church for their growing membership. There are no drawings or plans of the building at this time. Currently they have services on Sunday mornings for 70-80 parishioners, 20-30 cars. Anticipate continued growth. Mr. Hostettler briefly highlighted nine points of special exception approval and the proposal's compliance with said points. The Church has services on Sunday mornings at 10:30, so that would be the only time of additional traffic in the area. Emphasized that it is a "natural" use of the property in the area it is located.

Mr. O'Riley asked for the map of the property to be displayed again. He then asked what its proximity to the surrounding subdivisions is in comparison to other churches in the area.

Mr. Dombrosky confirmed that the nearest existing church is approximately 1½ to 2 miles away. The property in question is much closer.

Mr. O'Riley asked the board if they had additional questions.

Ms. Johnston asked what the current membership is.

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Mr. Hostettler answered that they currently have around 70 members and have been meeting in the Brownsburg Middle School. He then asked if the church pastor could address the board.

Pastor David Abu-Sara introduced himself and gave a brief history of the Clearnote Church. The church was founded in 2010 and services were held in a congregant's home. They have steadily grown over the years and anticipate continued growth. The hope is to remain on the west side of Indianapolis due to potential growth of that area and easy access for current church members. He believes the church would be a positive influence on the existing community and be an attractive attribute to new residents.

Mr. O'Riley asked if the board had any questions for the pastor.

Mr. Himsel asked how big of a building the church is planning to build.

Pastor Abu-Sara said they are in very preliminary stages and are unsure how big the building will be. He did say that it would likely have a 600-800 seat sanctuary but would not be a "mega-church".

Mr. O'Riley asked for additional questions from the board.

There were none.

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

Patricia Trout, 8560 N 1050 E, Brownsburg, IN 46112, lives 4th property north of the proposed church site. Stated that she is not opposed to the church but is opposed to the location as it will change the character of the area. She is also concerned with the roads leading to the area. Both approaches to property are "S" turns with blind spots that have led to many previous wrecks. She stated that there is considerable pedestrian traffic (dog walkers, runners, bicyclist) on the surrounding roads which would be interrupted by heavier traffic. She mentioned the improbability of town sewer and water being accessible there and questioned what that would mean in terms of drainage and run-off.

Lori Spence, 10598 Reel Creek Ln, Brownsburg, IN 46112, lives east of proposed church in the Reel Creek subdivision. She mentioned the drainage pond that services the subdivision and is concerned what would happen to it with construction of a new church. She stated that the previous owner tiled proposed building site due to frequently flooding, but it still does not drain well causing flooding around the "S" curve previous mentioned by Mrs. Trout. She feels a church would be disserving to neighborhood due to inadequacy of visibility on existing roads. With an anticipated growth of 300 plus members, she does not feel the roads are adequate for the increase in traffic. She also mentioned local bike races are held in the area on Saturdays and Sundays, the time when the church would have the most traffic.

Mr. Himsel asked if the "S" curves could be shown on the map for clarity. Mr. Dombrosky pointed them out, showing their proximity to the property.

Nancy Heard, 10727 Maloney Rd, Brownsburg, IN 46112, her father owns and farms the property directly across the road from the proposed church. There are many young children,

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families who bike, walkers in the area that benefit from low traffic. Roads are inadequate for higher traffic rate. Has nothing against the church but feels this is not the right area.

Mr. O'Riley asked Mrs. Heard to show her father's property on the map.

Mrs. Heard's husband came up and helped point out the property.

Jeff Wells, 10335 Pineway Dr, Brownsburg, IN 46112, represents property owners in the Pine Way Lake subdivision just north of the proposed building site. They are an association of 13 home owners with an 8-acre lake. They have traffic safety concerns because of the "S" curves. They are also concerned with lack of detail about the proposed site and building, including potential growth with possibility of day care, schools, athletic facilities, all of which are normal outreach programs associated with churches. This type of growth would magnify the traffic issues. The character of neighborhood would be impacted negatively. The area is quiet, lightly travelled because roads simply don't make area easily accessed or used as "cut-throughs". The association is concerned with impact on environment; how a commercial sewer and water system would affect the homeowners' wells and drainage and the lakes in the area. Mr. Wells asks on behalf of the Pine Way Lake Subdivision Homeowners' Association that board deny petition, stating that there is not enough information to proceed with plans. He added that although the church has stated its intentions, intentions are not binding and can change.

Tim Litz, 8793 Traders Landing, Brownsburg, IN 46112, represents homeowners' association of Traders Station subdivision north of proposed building site. They are an association of 33 lots. They feel proposed site is too close to residential area. Also, they're concerned that current membership does not adequately reflect future membership. There are no guarantees that the facility will not operate 7 days a week and not just on Sundays, leading to a negative impact on surrounding areas. He pointed out three major points of criteria that he believes have not been met to approve proposal: the church would change characteristics of area from rural/residential to more commercial, it has potential to be detrimental to residents and property primarily because of traffic and excessive noise, and questions that a place of assembly is in line with future zoning plans to expand residential neighborhoods.

Malorie Kennedy, 2337 Heritage Ct, Apt 811, Indianapolis, IN 46224, is a current member of the church. She highlighted the ways in which the church has been a positive force within her life. She believes that the church would have a positive impact on the surrounding areas.

John Kluge, 518 N Enderly Av, Apt 6, Brownsburg, IN 46112, is a current member of the church, along with his wife and child. He states the church is very family oriented, something he believes to be a great asset to the community as they promote and help support good citizenship and parenting.

James Sands, 8814 Timberwood Dr, Indianapolis, IN 46234, is a current member of the church. He believes that the goal of the church is to become a vital part of the neighborhood and community. He also stated that the church wants to be an instrument of positive change for the community. He highlighted the positive impact the church has had on his life, as well as others. Feels benefits of the church outweigh the negative aspects of a new building in the area.

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Tom O'Leary, 10617 Reel Creek Ln, Brownsburg, IN 46112, lives in Reel Creek subdivision. He does not agree that the location is the right one. He is concerned that existing drainage tile will be negatively impacted, mainly because drainage issues already exist. The condition of the roads, as well as seasonal road conditions are a big concern. He spoke with Pastor Dave about the drawing of proposed building and that it would most likely include a parking lot with up to 300 spaces, indicating substantial growth resulting in increase of traffic.

Danny Johnson, 10609 Reel Creek Ln, Brownsburg, IN 46112, lives in Reel Creek subdivision. He stated his opposition to the proposal for all the reasons previously mentioned.

Mr. Dombrosky asked if Mr. Johnson's wife had also signed up to speak and if she still wanted to address the board.

Mrs. Johnson said she no longer wanted to address the board other than to concur with her husband's statement.

Terry Iwasko, 8460 Mary Ct, Brownsburg, IN 46112, president of Reel Creek subdivision homeowners' association. As a member of a cycling team and bicycle association he is not in favor of the proposal, highlighting the training they do in the area on Tuesday, Wednesday and Thursday afternoons. On Saturday and Sunday mornings there can be as many as 50-200 cyclist in the area. He believes the additional traffic a church would bring is a significant traffic risk with potentially fatal results. He also reiterated concerns with seasonal conditions of the road.

Mike Starkey, 9225 E 700 N, Brownsburg, IN 46112, farmed area next to proposed church site. Before the neighboring area was sold, it was in the process of being declared a wetland due to the drainage issue. The new owner fixed the drainage tiles to make land farmable. However, church site has not had similar repairs and still has drainage issues. He is also concerned with lack of infrastructure, sewage and water. There isn't an available area to run a drainage system. The proposed parking lot would be potentially damaging to tiled farm land to the south. He also brought up safety issue of the roads.

Jason Burcham, 10092 Maloney Rd, Brownsburg, IN 46112, lives ½ mile west of proposed site. He opposes location of proposed church as it will be visually dominant from his property. He also brought up that 7 churches are already within the area, between 1.6 and 5.4 miles from proposed site. He is concerned with the safety issues pertaining to increased traffic, mentioned the number of cyclists and walkers that are on the roads. The potential increase of pollution is another concern. He mentioned that no plans are available so there's no way of knowing size or appearance of the proposed building.

Bill Nelson, 10283 Maloney Rd, Brownsburg, IN 46112, lives across the road from proposed site. He believes roads are inadequate and seasonal conditions are not conducive to additional traffic. He fears property value would go down and taxes would increase. The neighborhood would be exposed to more traffic, more people and more potential for increased crime/left. He is concerned with potential issues affecting existing septic systems that tie into the drainage tile, possibly causing a backup.

Mr. O'Riley asked if anyone else had signed up to speak.

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No one had.

Mr. O'Riley then closed the public portion of the meeting.

The floor was turned back over to Mr. Hostettler for an opportunity to respond to the public's comments.

Mr. Hostettler first addressed the issue of drainage. The paperwork from the last owner shows it's been before the Hendricks County Drainage Board and given approval from surveyor for septic to tie into the Reel Creek drainage system. A commercial well and septic system would be installed, and the additional 2 hours of usage on Sunday mornings would be insignificant compared to the daily use of all the houses in all the subdivisions that tie into the same drainage system.

He then addressed the traffic issue. The traffic from the church would be minimal, and there will continue to be traffic regardless. He questioned how many walkers are on the county roads with low visibility instead of utilizing the safer roads within the subdivisions. He also suggested that additional signage could be added to the area. As the area continues to become developed the county will need to address road conditions and make improvements. There are also adaptive measures that can be used to help control traffic on Sunday mornings; i.e. employing a police officer to help direct traffic.

He clarified that Pastor Dave said that they are looking to build a church big enough to accommodate 300 people, not a parking lot to accommodate 300 cars. Any expansion apart from the actual church building would be continued improvement to the property and would have to be approved by the Board.

Mr. Hostettler also addressed the concern that the church building would be detrimental to the area and property owners. He argued that if there's a danger to the area, the danger already exists without the church there. He suggested that the church and parking lot would actually create a safe place for walkers.

Mr. Hostettler then turned the floor over to Daniel Meyer, church elder.

Daniel Meyer, 3202 W 34th St, Indianapolis, IN 46222, addressed the lack of plans and spoke to lack of detail. He confirmed that there would be a development plan later in the process due to possible setback requirements and other zoning considerations that are still yet to be determined. They are very committed to adhering to all the regulations, including green space requirements, lot coverage percentages, light-shielding, landscaping, possible turn lanes and whatever else is required. There would also be a development review process of all the specifics. Right now, it's in the conceptual phase and they are only asking the board for the possibility of building a church on the property.

Mr. Hostettler took the floor and reiterated points from the letter presented to the board prior to the meeting. He highlighted the portion that spoke directly to the growth of Brownsburg and that as the town continues to expand away from city center, it is naïve to think that a 10-acre piece of land would remain vacant. Clearnote contends that a church would be preferable to a commercial or agri-business. Growth and change is the nature of things and progress will happen. The property is for sale and the owner will sell it for some use, church or otherwise.

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Mr. O'Riley asked for comments from the board.

Mr. Himsel said he understood why there are no plans yet, as it can be very costly. But he said that because of the drainage, he feels it is an unsuitable location.

Mr. O'Riley stated that he had no objections to the church, but he also felt that the location was unsuitable due to the drainage issue.

Ms. Johnston agreed with Mr. Himsel and Mr. O'Riley's assessment.

Mr. O'Riley asked for motion of SE 04-18.

Mr. Himsel made a motion to deny SE 04-18.

Ms. Johnston seconded the motion.

VOTE: For- 0 Against- 3 Abstained-0 DENIED
SE 04-18: CLEARNOTE CHURCH OF INDIANAPOLIS

Hendricks County Board of Zoning Appeals

Negative Findings of Fact/Law

SE 04-18

An application for the above noted special exception was filed in the office of the Hendricks County (County) Department of Planning and Building (DPB). That application sought to permit **a Place of Worship in an AGR/Agricultural Residential** zoning district. Acting in its role as staff to the County 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 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 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 following requirements and made the following findings.

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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 Board of Zoning Appeals to approve Special Exceptions.

HCZO Section 4.7 (C) authorizes the approval of a Place of Worship 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 place of worship is in fact a Special Exception in the Agriculture Residential zoning district. The AGR district is characterized by permitting agriculture and individual single-family dwellings and other compatible uses while maintaining a primarily rural character.

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. The comprehensive plan recommends Rural Residential, with low growth intensity. The church will be a supporting use next to existing residential development with indirect access to major county roads.

C. Will be designed, constructed, operated, and maintained 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 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 place of worship should not disrupt the character of the area as it is a complimentary use to residential neighborhoods and will be designed in compliance with the Zoning Ordinance which requires buffers from nearby residential uses.

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 not be adequately served by essential public facilities and services. The petitioner intends to install an on-site commercial water supply and sewage treatment facility. Emergency services already serve the neighborhoods in this area. The area is not served by adequate county roads, and this use will have a significant effect on them. There will be an excessive change in the intensity of needed public services because of this approval.

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;

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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. Improvements to some of the roads in the area are planned and the use should not generate any unplanned impacts to public services. No additional public service is required because of this approval.

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 involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to persons, property, or the general welfare by reason of excessive production of traffic and noise. The intensity of the traffic increase will be disproportionate the area and have a negative effect.

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 vehicular approaches to the property will be reviewed and approved by the Plan Commission in order to ensure they are designed and sited properly.

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 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.

For all the foregoing reasons, the Board DENIED this request for a Special Exception, subject to the conditions set forth, the 21th day of May 2018.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Walt O'Riley
Acting Chairman



Tim Dombrosky
Secretary

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SE 05-18: Owen Family Farm, LLC to allow a mobile home to be temporarily placed on the property until primary residence is built in Eel River Township; Section 23, Township 17, Range 2W; Key No. 04-1-23-72W 300-001; located east of N SR 75 at the intersection of W 900 N and N 475 W; 4668 W CR 900 N, North Salem, IN 46165.

Mr. Dombrosky presented a power point of the location of the property. He further explained that the applicant is seeking a special exception to have a mobile home placed on the property during the building stages of a new permanent home. He then turned the floor over to the petitioner.

Mr. Gary Owen, 7800 N SR 75, North Salem, IN 46165, introduced himself and took questions from the board.

Mr. O'Riley asked why there's a need to have a mobile home on site.

Mr. Owen explained that his daughter would be living in the mobile home while the permanent residence is being built. He further stated that having someone on site was a safety precaution against theft and vandalism.

Mr. O'Riley asked how long the petitioner expected to have the mobile home on site.

Mr. Owen answered that he estimated the building time of the permanent home to be between 6 and 12 months. Once the house was complete, the mobile home would be removed.

There were no further questions from the board.

Due to no one signing up to speak, Mr. O'Riley opened and closed the public portion of the hearing. He asked for a motion from the board.

Mr. Himsel made a motion to approve SE 05-18.

Ms. Johnston seconded the motion.

VOTE: For- 3 Against- 0 Abstained-0 APPROVED
SE 05-18: OWEN FAMILY FARM, LLC.

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

SE 05-18

An application for the above noted special exception was filed in the office of the Hendricks County (the County) Department of Planning and Building (DPB). That application sought to permit a **Manufactured Home in an AGR/Agriculture Residential** zoning district. Acting in its role as staff to the County Board of Zoning Appeals, the DPB staff subsequently created a file containing all

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documentation of the request and made that file available for public inspection in Room 212 of 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 *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 County 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 Board of Zoning Appeals to approve Special Exceptions.

HCZO Section 4.7 (C) authorizes the approval of a Manufactured 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:

I. Is in fact a permitted Special Exception use ... [in] the zoning district involved;

The Board finds that a Manufactured Home is in fact a Special Exception in the Agriculture Residential Zoning District.

J. 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 comprehensive plan recommends this area for agriculture. The temporary exception will have no effect on the Plan.

K. 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;

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The Board finds that the proposed use will meet this standard. The use would not be out of place in the rural parts of the county, surrounded by agricultural fields on all sides with smaller homes.

- L. 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. The use does not require any additional facilities beyond a typical rural residential use.

- M. 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. No additional public service is required as a result of this approval, and it has no detrimental economic effect due to its temporary nature.

- N. 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 still be residential and will not create excessive nuisance.

- O. 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 proposed use will not have an impact on surrounding thoroughfares.

- P. 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. 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:

2. 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.
3. This approval will expire when a Certificate of Occupancy for a single-family dwelling is issued.
4. This approval will expire 2 years from the date of this meeting, May 21, 2020. At which time the applicant may file a new Special Exception to extend the approval.
5. All applicable federal, state, and local approvals are required.

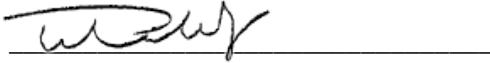
For all the foregoing reasons, the Board APPROVED this request for a Special Exception, subject to the conditions set forth, the 21st day of May 2018.

May 21, 2018

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Walt O'Riley
Acting Chairman



Tim Dombrosky
Secretary

SE 06-18: Julie Allen to allow an animal boarding business as a home-based business in Washington Township; Section 35, Township 16, Range 1E; Key No. 12-1-35-61E 235-003; located in Wall Street Heights Section 1, near intersection of Charles St and E CR 200 N; 7849 E CR 200 N, Avon, IN 46123.

Mr. Dombrosky showed location of property on the map. Most of the zoning is RB for the neighborhoods in the area. There are no changes or additions proposed to the existing house or property.

Julie Allen addressed the board. She explained that she trains dogs for a living. Most of the training is done in the clients' homes. However, there are times when extra training is needed, and she brings the dogs home with her. The kennel she keeps them in is inside the house and most of the training is done in the house. When the dogs do go outside, she is with them. The clients never come to her home. She strictly brings the dogs to her home for training and then returns them to their owners.

Mr. O'Riley asked how many dogs she anticipates adding.

Ms. Allen's response: maximum of 5

Ms. Johnston asked if they were all in her house.

Ms. Allen's response: yes, they all remain kenneled in the house.

Ms. Allen went on to comment on potential noise issues. This is one of the first points of training she addresses.

Mr. Himsel asked how many animals the County allowed per home kennel.

May 21, 2018

Mr. Dombrosky said is was a “convoluted” answer, but generally home kennels were permitted 7 animals over the age of 6 months.

Mr. Himsel asked for confirmation that no clients come to the house.

Ms. Allen’s response: never, only the dogs when needed. Again, most training is done in the clients’ homes.

Mr. O’Riley asked the board if they had additional questions or comments.

They had none.

Mr. O’Riley then opened the public portion of the meeting.

Dawn Sanders, 7829 E CR 200 N, Avon, IN 46123, next door neighbor to the west. She is opposed to the home kennel. She contends that Ms. Allen has several dogs of her own in addition to the dogs she brings in and out of the house. Ms. Sanders also states that the dogs are kept outside and trained with negative reinforcement such as shock collars. She further states that Ms. Allen keeps multiple dogs in multiple kennels in her basement and that this is driving down property values. She said there are currently 3 portable kennels in the front yard and 2 stacked up behind the fence in the back yard. She doesn’t feel that it is an appropriate place for a kennel and that it could entice others to open businesses within the residential area, further driving down property values. She says there are 8 boarding kennels within 7 miles of the property and 4 training facilities with certified trainers within 10 miles, therefore there’s no need for another kennel.

Tom Wilson, 7868 Sharon Dr, Avon, IN 46123, lives southeast of property, adjacent back yards. He has not seen the kennels outside that Ms. Sanders spoke of. He also has witnessed Ms. Allen training dogs with positive reinforcement, including treats. He’s never had any concerns or problems.

Sue Cunningham, 7850 Sharon Dr, Avon, IN 46123, lives south of property, directly behind Ms. Allen. She has no issues with the kennel. Ms. Allen always has control over the dogs. There’s never been an issue with noise/barking.

Orville Rule, Jr., 7840 Sharon Dr, Avon, IN 46123, lives next door. He has never had any issues. Ms. Allen is always outside when the dogs are outside. He supports her and kennel.

Leon Nevins, 7865 Sharon Dr, Avon, IN 46123—WITHDREW REQUEST TO SPEAK

May 21, 2018

David McKinney, 7939 E CR 200 N, Avon, IN 46123, lives 4 houses to the east. There is an existing kennel already 4000 ft. up the road. He is concerned with noise issues, odors, possible ground water contamination. He opposes proposed kennel.

Mr. O'Riley closed the public portion of the hearing.

Petitioner stated that she has been training dogs in her home for the past 8 months. The noise level will remain the same.

Mr. O'Riley asked for comments or questions from the board.

Mr. Himsel asked how many dogs she currently owns.

Ms. Allen responded that she owns 3 but is currently in the process of "re-homing" one. She also stated that she would only take up to 5 more for training purposes.

Mr. O'Riley clarified that she would then have 2 of her own and take in a maximum of 5 dogs.

Ms. Allen stated that was correct.

Ms. Johnston asked if the dogs, her own and the ones being trained, were kept in the house the majority of the time.

Ms. Allen answered that was correct. She went on to say that they only go outside with her for either training or transporting.

Mr. O'Riley asked for any final questions or comments.

Mr. Dombrosky stated that the staff's recommendation is to approve the petition without any conditions. However, conditions can be added to the approval, including limiting number of dogs allowed.

Mr. O'Riley asked what the county limit is for animals in the home.

Mr. Dombrosky responded that 7 adult animals is the limit.

Mr. Himsel mentioned that placing a limit had worked well in the past with other kennels.

Mr. O'Riley then asked for a motion from the board.

Ms. Johnston made a motion to approve SE 06-18 with the condition to limit number of dogs to seven.

Mr. Himsel seconded the motion.

VOTE: For- 3
SE 06-18: JULIE ALLEN

Against- 0

Abstained-0

APPROVED

May 21, 2018

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

SE 06-18

An application for the above noted special exception was filed in the office of the Hendricks County (the County) Department of Planning and Building (DPB). That application sought to permit **Animal Boarding as a Home-Based Business in an RB/Residential** zoning district. Acting in its role as staff to the County 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 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 *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 County 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 Board of Zoning Appeals to approve Special Exceptions.

HCZO Section 4.7 (C) authorizes the approval of a Home-Based business in the RB 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:

Q. 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.

May 21, 2018

R. 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 comprehensive plan recommends this area for urban residential, and home businesses are complimentary to higher density residential neighborhoods.

S. 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 be accessory to the residence, and not require any significant structural modifications.

T. 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. The use does not require any additional facilities beyond a typical rural residential use.

U. 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. No additional public service is required as a result of this approval, and it has no detrimental economic effect.

V. 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 primary use will still be residential, and the home-based nature of it should limit excessive nuisance.

W. 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 proposed use will not have an impact on surrounding thoroughfares.

X. 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. 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:

6. 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.

May 21, 2018

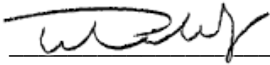
7. All applicable federal, state, and local approvals are required.

For all the foregoing reasons, the Board APPROVED this request for a Special Exception, subject to the conditions set forth, the 21st day of May 2018.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Walt O'Riley
Acting Chairman



Tim Dombrosky
Secretary

SE 07-18: Marissa Blair to allow a hair salon as a home-based business in the Town of Coatesville; Section 32, Township 15, Range 2W; Key No. 16-1-32-52W 300-004; located west of S SR 75 on Hathaway Drive; 4821 Hathaway Dr., Coatesville, IN 46121.

Mr. Dombrosky presented a power point of the location of the property. He explained that the applicant is seeking a special exception to use an existing garage as a home-based hair and nail salon. He then turned the floor over to the petitioner.

Marissa Blair, 4821 Hathaway Dr., Coatesville, IN 46121, explained that she is a hair stylist and has worked at a commercial salon for several years. She is wanting to own and operate her own 1-chair salon as a home-based business.

Mr. Himsel asked what her hours of operation would be.

Ms. Blair responded that she would be open Tuesday thru Friday from 9am-5pm. Occasionally she'll work a Saturday.

Mr. O'Riley asked how many customers she typically had at one time.

Ms. Blair explained that she only had 1 or 2 at a time, depending on which services they were receiving.

Mr. O'Riley asked if the board had any further questions.

There were none.

May 21, 2018

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

Mr. Mark Blair, 4853 Hathaway Dr., Coatesville, IN 46121, addressed the board in support of the petitioner. He lives next door to the proposed hair salon and has no concerns regarding an increase in traffic. Furthermore, he is the only other resident that lives on the street. He also mentioned that there are no viable commercial buildings available in Coatesville for a salon. He fully supports the petitioners request to have a home-based business.

Mr. O'Riley asked if anyone else had signed up to speak.

No one else had.

Mr. O'Riley closed the public portion of the hearing and asked for a motion from the board.

Mr. Himsel made a motion to approve SE 07-18.

Ms. Johnston seconded the motion.

VOTE: For- 3 Against- 0 Abstained-0 APPROVED
SE 07-18: MARISSA BLAIR

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

SE 07-18

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 **Home Based Business in an RB/Residential** zoning district. 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.

May 21, 2018

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 banquet hall/wedding venue 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:

Y. 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 RB Residential Zoning District.

Z. 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 this to be true. The comprehensive plan recommends this area for small town mixed use development. A small well-maintained business run out of a home is considered to be a form of mixed use development and is appropriate in the small-town setting.

AA. 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 this to be true. The business will be operated out of an accessory building on the property and strategically placed fences will maintain the appearance of a typical residence in Coatesville.

BB. 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 this to be true. The use does not require any additional facilities beyond the scope of a typical residential use.

CC. 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 this to be true. There will be no need for additional public services to the residence being used as a home-based business.

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DD. 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 this to be true. All operations and activities are conducted indoors. Conditions of approval have been established to protect persons, property, and the general welfare in the vicinity of those business operations.

EE. 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 this to be true. The proposed use will adequate access and have a negligible effect on local traffic volume or patterns.

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

The Board finds this to be true. 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:

8. 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.
9. All applicable federal, state, and local approvals are required.
10. Any significant expansion of the business, including the addition of more than one employee not residing in the home, shall require the appropriate County approval.
11. The business will only operate between the hours of 8am-6pm.

For all the foregoing reasons, the Board APPROVED this request for a Special Exception, subject to the conditions set forth, the 21th day of May 2018.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Walt O'Riley
Acting Chairman



Tim Dombrosky
Secretary

May 21, 2018

VAR 03-18: Adam & Amy Schut to reduce the side setback from 10 feet to 5 feet to accommodate proposed accessory building in Center Township; Section1, Township 15, Range 1W; Key No. 02-2-01-51W 428-001; located at lot 66 in Gailcrest Subdivision; 436 Myerwood Dr., Danville, IN 46122.

Mr. Dombrosky presented a power point of the location of the property. He explained that the applicant is seeking a variance to the side setback of their lot to accommodate a new garage. He showed where the septic system is located relative to the proposed building site. He then turned the floor over to the petitioner.

Adam Schut, 436 Myerwood Dr., Danville, IN 46122, addressed the board and concurred with Mr. Dombrosky’s remarks (site location is the only buildable location due to the placement of the septic system) and overview of the plans for the new structure.

Mr. O’Riley opened and closed the public meeting as no one signed up to speak. He asked for a motion from the board.

Ms. Johnston made a motion to approve VAR 03-18.

Mr. O’Riley seconded the motion.

VOTE: For- 3 Against- 0 Abstained-0 APPROVED
VAR 03-18: ADAM & AMY SCHUT

Hendricks County Area Board of Zoning Appeals

Positive Findings of Fact/Law and Conditions of Approval

VAR 03-18

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to vary development standards to permit a **5’ side setback** in an RB/ Residential zoning district. Acting in its role as staff to the Hendricks County Area 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 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 12.6 (C), 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 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

May 21, 2018

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 an approval will not be injurious to the public health, safety, morals and general welfare of the community. The garage will be detached and still meet life safety requirements.

- (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 use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. The garage will be designed in a way that is supportive and harmonious with the existing homes. The structure will be for personal use and shall not result in a negative impact on the neighboring properties.

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


The Board finds that the strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. The layout of the buildings, septic system, and the property lines makes the Variance request reasonable.

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

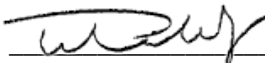
1. The building must be placed in accordance with all other federal, state, and local codes.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 21st day of May 2018.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Walt O'Riley
Acting Chairman



Tim Dombrosky
Secretary

VAR 04-18: Kevin & Phyllis Alexander to build a second principal dwelling on a 23-acre property in Union Township; Section 19, Township 17, Range 1W; Key No. 11-1-19-71W 100-009; located at W Old SR 34 and N 300 W; 3195 W Old SR 34, Lizton, IN 46149.

Mr. Dombrosky presented a power point of the location of the property. He explained that the applicant is seeking a variance to build a second primary structure for a multi-generational homestead. He then turned the floor over to the petitioner.

Kevin Alexander, 3195 W Old SR 34, Lizton, IN 46149, pointed out where the proposed house would be built in relationship to the existing structures. He also explained that one of the existing structures would be used as a dwelling until the new home is built.

Mr. O’Riley asked if this use still complied with the zoning ordinances.

Mr. Dombrosky answered that yes, it complied. The existing structure being used as a dwelling is still being used primarily as a barn and will eventually be reverted to a barn completely. Ultimately, the property will have one dwelling and two barns.

Mr. O’Riley asked if there were further questions or comments from the board.

There were none.

Due to no one signing up to speak, Mr. O’Riley opened and closed the public portion of the hearing. He asked for a motion from the board.

Mr. Himsel made a motion to approve VAR 04-18.

Ms. Johnston seconded the motion.

VOTE: For- 3 Against- 0 Abstained-0 APPROVED
VAR 04-18: KEVIN & PHYLLIS ALEXANDER

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 04-18

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to vary development standards to permit **two principal dwellings on one parcel** in an AGR/Agriculture, Residential district. Acting in its role as staff to the Hendricks County Area 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 Room 212 of the Hendricks County Government Center.

May 21, 2018

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 *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 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:

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

The Board finds that an approval will not be injurious to the public health, safety, morals and general welfare of the community. The new home will comply with the architectural standards of the ordinance and will comply with the density maximum the zoning district.

- (5) 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 use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. The existing residence looks like an agricultural building, and the new residence will be built to look like a traditional residence. The area's planned density will also be protected.

- (6) 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 strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. Due to the arrangement of the property and neighboring parcel, a property split to conform to the rule allowing one principal use per property would result in a restriction on the agricultural use.

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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:

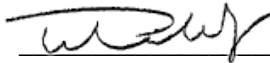
1. The property shall have one address.
2. The property shall not be subdivided to a size less than twice the lot size requirement of the existing zoning classification while the two dwellings are on the same parcel.
3. All federal, state, and local regulations apply

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 21st day of May 2018.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Walt O'Riley
Acting Chairman



Tim Dombrosky
Secretary to the Board

VAR 05-18 / SE 08-18: Robert Schuster to allow a second principle building to be built and used as a recreational facility on an AGR zoned 6.73-acre parcel in Washington Township; Section 32, Township 16, Range 1E; Key No. 12-1-32- 61E 300-008; located ½ mile north of E 100 N, on the west side of N 425 E; 1208 N CR 425 E, Avon, IN 46123.

Mr. Dombrosky presented a power point of the location of the property. He explained that the applicant is seeking a variance to build a pole-barn for a gymnasium to train young athletes for youth sports. He then turned the floor over to the petitioner.

Mr. Schuster, 1208 N CR 425 E, Avon, IN 46123, addressed the board. He stated that his intent is to build a gym to use as a supplemental facility for his children's travel and recreational sports and to train young athletes as a way to offset building costs of the facility.

Mr. O'Riley asked for questions or comments from the board.

There were none.

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

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Ralph Najmon, 1312 N 425 E, Avon, IN 46123, lives 2 houses north and owns land around petitioner's parcel. He has concern about what the building will be; he was told it would be a second residence and gym facility. He's concerned with the concept of a recreational facility, what kind of facility will it be: will it have bleachers and how many, how many games will be played in front of spectators, how many cars. He feels that there is not enough information on the intended use. He also asked about it being listed as a second dwelling.

Mr. Dombrosky clarified that the petitioner did not ask to build a second residence or any kind of second living unit; that the approval would be for a second principle being used for an active recreational facility.

Mr. O'Riley also clarified that the petition is for a second principle use.

Mr. Najmon commented that the petition was listed as a second principle dwelling on the agenda.

Mr. Dombrosky apologized and explained that there was a clerical error and should have been listed as a second principle use, not dwelling.

Mr. Najmon understood, but still would like to know size of building, how much traffic could be expected, how many parking spots would be made available, whether it will be mostly spectator events or training and whether there would be constant adult supervision.

Mr. O'Riley asked if anyone else had signed up to speak.

No one had.

Mr. O'Riley closed the public portion of the meeting and asked the petitioner to step back up to the podium.

Mr. Schuster answered that there are no bleachers at this point. The facility is geared more toward small group training. He also explained that he turned in plans to the County, that the building will be approximately 64'x114' and will have the outward appearance of a barn to blend in with the surrounding area. He is mainly wanting to build the facility for his son as a practice venue, to have somewhere that doesn't require extensive travel.

Mr. Himsel asked if Mr. Schuster planned to host tournaments.

Mr. Schuster answered that he was not intending to host tournaments. He only wants to rent out the facility for individual and small group practices to offset the cost of building.

Mr. O'Riley asked about future plans of the facility when Mr. Schuster's children are grown.

Mr. Schuster explained that he still hoped to coach.

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Mr. O'Riley asked how many people he anticipated to use the facility.

Mr. Schuster answered that there would probably be no more than 12 kids at a time. There's the potential that the facility could be in use 7 days a week, but that more realistically it would be used occasionally, a few times a week.

Mr. O'Riley asked if the board had any other questions or comments.

There were none.

Mr. O'Riley asked for a motion from the board.

Mr. Himsel made a motion to approve VAR 05-18 and SE 08-18 with staff conditions and that there be no tournaments and have adult supervision at all times.

Ms. Johnston seconded the motion.

Mr. O'Riley voted against the petition.

VOTE: For- 2 Against- 1 Abstained-0 CONTINUED
VAR 05-18 / SE 08-18: Robert Schuster

Mr. O'Riley stated that the petition would be carried forward to the June meeting.

Mr. Schuster asked if Mr. O'Riley could explain his decision to vote against the petition.

Mr. O'Riley explained that he felt the location wasn't right due to potential traffic.

Mr. Schuster asked if there was any other information or preparation he should bring or do for the June meeting.

Mr. O'Riley assured him that his plan and presentation was adequate.

Being no further business, the meeting was adjourned at 9:20 P.M.