

October 15, 2018

The Hendricks County Board of Zoning Appeals met in the Hendricks County Government Center, Meeting Rooms 4 and 5, Monday, October 15, 2018. The meeting began at 7:30 p.m. Members present included Anthony Hession, Rod Lasley, Sonnie Johnston and Sam Himsel. Also, present were Tim Dombrosky, Planning Director, Gregory Steuerwald, County Attorney and Leslie Dardeen, Recording Secretary.

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

Everyone stood, and Mr. Lasley lead the Pledge of Allegiance.

Mr. Hession asked for a motion to approve the minutes from the September 17, 2018 meeting.

Mr. Lasley made a motion to approve the September 17, 2018 meeting minutes.

Mrs. Johnston seconded the motion.

Mr. Himsel abstained due to his absence at the September board meeting.

VOTE: For- 3 Against- 0 Abstained- 1 APPROVED
September 17, 2018 MEETING MINUTES

Mr. Hession asked Mr. Steuewald to present the cases.

SE 12-18: Ryan Yocum/DBA Long Range Stables Special Exception to allow commercial animal boarding and stables on a 5.08-acre parcel in Liberty Township; Section 25, Township 15, Range 1W; Key No. 07-1-25-51W 100-004; located near intersection of Cartersburg Road and S CR 225 E; 3200 S CR 225 E, Danville, IN 46122.

Mr. Dombrosky showed where the property is located on power point. Zoning all around the area is AGR. He pointed out past BZA cases in the area, noting how few and minor they have been. He went on to show the comprehensive plan of the area, showing the future zoning projection as Suburban Residential and a neighboring Conservation space, and a close-up of the property and buildings. Mr. Dombrosky gave each board member a copy of the file from another horse farm that was approved in 2012, as a reference for the current case and possible conditions for approval. The staff recommendation is to approve SE 12-18 as it adheres to the 9 standards needed for a special exception.

Mr. Hession asked if the board had any questions for Mr. Dombrosky.

There were none.

Mr. Hession then invited Mr. Yocum to the podium.

Mr. Ryan Yocum, 3200 S CR 225 E, Danville, IN 46122, gave each board member a packet containing pictures of his property and proposed plans, including solutions to concerns of neighbors. He confirmed that the property in question had been a horse farm in the past and that

October 15, 2018

he is planning to continue operating a horse farm without changing any of the existing structures. He's put roughly \$40,000 into upgrades and renovation of the property. He told the board that he will have 11 stalls for 11 horses maximum. He has 4-5 show horses at a given time that are either stalled or in the practice ring. The remaining horses are on premise for boarding or training and are the only horses that are ever put to pasture. He has installed a "hotwire" electric fence and security cameras completely around the spaces open to horses. Mr. Yocum indicated that he hopes this will alleviate any concern the neighbor has about horses getting off of the property. He also mentioned that drainage has been a concern of the neighbor. Mr. Yocum has met with the surveyor and was told that the drainage from his property is at an acceptable level and any run-off to his neighbor's property is typical and permitted.

Mr. Hession asked how many horses Mr. Yocum owns personally.

Mr. Yocum answered that he owns 17 horses, but only 2 are on the property.

Mr. Himsel confirmed that there would only be 11 horses on the property. He asked if they would all be stalled at night.

Mr. Yocum answered that all horses will be stalled each night, that the ones in the pasture will only be out there during daylight hours. He also explained that all the horses will be stalled during bouts of extreme weather (hot or cold conditions).

Mr. Himsel asked what kind of training Mr. Yocum does and if he is planning on hosting events at the location.

Mr. Yocum answered that he trains horses for "western riding" and is not planning on having events. He owns other property/facilities that he uses for events.

Sonnie asked again the maximum number of horses that will be at the property.

Mr. Yocum confirmed that there will only be 11 horses.

Mr. Hession asked about the show horses and where they are kept.

Mr. Yocum responded that the show horses are never put to pasture. They are either stalled or in the indoor or outdoor training rings.

Mr. Lasley asked for confirmation that there will be no shows or events at the property.

Mr. Yocum responded that was correct, there will be no shows or events.

Mr. Hession asked whether Mr. Yocum will have horse related sales (equipment or animals).

Mr. Yocum answered no.

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

They did not.

October 15, 2018

Mr. Hession opened the public portion of the hearing and asked Mr. Steuerwald to announce the first person signed up to address the board.

Mr. Steuerwald called Mr. Babbitt to the podium.

Mr. Bruce Babbitt, 3389 Cartersburg Road, Danville, IN 46122, addressed the board. He pointed out on the map his property in relation to Mr. Yocum's property. He stated that he had issues with the previous owners and had to call animal control a number of times because the horses were not securely fenced in and would get out and come into his yard. Mr. Babbitt said that the previous owner refused to work out a solution with him to fix the fence. Mr. Babbitt did not feel it was his responsibility to repair the fence himself but was willing to help out the previous owner. It was during an inspection of the property/complaint that an issue with the well and drainage system was identified. He is afraid these issues will persist with the new owner.

Mr. Hession asked if the fence was on the property line or inside the neighbor's property line.

Mr. Babbitt said that the fence was inside the neighbor's property line.

Mr. Babbitt said that when animal control visited the property, the drainage issue was evident because the horses were standing in water. He said this led to the property owner digging a trench all around the property and laying drainage tile; however, he did not complete the job and water run-off was left to cross onto Mr. Babbitt's property.

Mr. Babbitt is also concerned that the number of horses will increase from the proposed 11 and there will be no way to sufficiently monitor the numbers.

Lastly, Mr. Babbitt brought up the possibility of the property being rezoned to allow commercial business.

Mr. Hession and Mr. Dombrosky assured him that this is not a rezoning, that the property would remain AGR.

As there were no more people signed up to speak, Mr. Hession closed the public hearing.

Mr. Yocum was asked to come back to the podium to address the concerns brought up by Mr. Babbitt.

Mr. Yocum reiterated that he will only have 11 stalls, thus limiting him to 11 horses.

Mr. Yocum also responded to the improper fencing the previous owner had around the property. He has repaired and upgraded all the fencing, adding "hotwire" fencing around the entire perimeter with an alarm system.

Mr. Hession asked if the horses will be able to reach over the "hotwire" fence.

Mr. Yocum answered that yes, they can reach over it, but won't after they come into contact with it the first time.

October 15, 2018

Mr. Yocum also addressed the drainage issue brought up by Mr. Babbitt. He assured the board that the drainage from his property was approved by the County Surveyor, as confirmed by Mr. Dombrosky.

Mr. Lasley asked to clarify how many horses will be in the pasture at a given time.

Mr. Yocum responded that there will only ever be 4 to 5 horses in the pasture at a time.

Mr. Hession asked Mr. Dombrosky how the number of animals will be monitored.

Mr. Dombrosky answered that there will be no inspections to monitor numbers, instead the only resource to determine non-compliance will be complaints raised by neighbors, animal control or other concerned individuals.

Mr. Yocum interjected that there is a State Law about the number of horses allowed on a property (fully pastured horses—1 animal per 2 acres; stalled horses—2 animals per 1 acre; essentially, the more the animals are fed and stalled, the more horses are allowed) ensuring that he would not be able to increase the numbers.

Mr. Hession asked if there were any more questions from the board.

There were none.

Mr. Hession asked for a motion.

Mr. Himsel made a motion to approve SE 12-18 subject to conditions set by the staff and a limit of 11 horses.

Mrs. Johnston seconded the motion.

Mr. Hession asked that the motion reflect that there will be a limit of 11 *stalled* horses and that there will be no events or competitions on the property.

Motion carried unanimously for approval.

VOTE: For- 4 Against- 0 Abstained-0 APPROVED
SE 12-18: RYAN YOCUM/DBA LONG RANGE STABLES

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

SE 12-18

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 **an animal boarding/stable** in an area zoned as AGR (Agricultural Residential). Acting in its role as staff to the County Board of Zoning Appeals (Board), the DPB staff subsequently created a file containing all

October 15, 2018

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 Board, the applicant also sent courtesy notices to certain surrounding property owners of record and other interested persons. A copy of this notice and a list of those receiving them were made a part of the file for this Special Exception.

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

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

IC 36-7-4-918.2 Exceptions and uses. A Board of Zoning Appeals shall approve or deny all: (1) Special Exceptions; ... from the terms of the Zoning Ordinance, but only in the classes of cases or in the particular situations specified in the Zoning Ordinance.

HCZO Section 12.7 authorizes the Hendricks County Board of Zoning Appeals to approve Special Exceptions.

HCZO Section 4.7 (C) authorizes the approval of Animal Boarding/Stables 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 animal boarding/stables is in fact a Special Exception in the Agriculture Residential Zoning District.

B. Will be harmonious with and in accordance with the general objectives or with any specific objective of the County's Comprehensive Plan and the Zoning Ordinance;

The Board finds that the proposal will meet this standard. The comprehensive plan recommends this area develop as suburban residential. The proposal represents a continuation of an existing use on the property which would be an interim use until major development occurs. Therefore, this approval will not alter the existing or future land use of the general area.

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;

October 15, 2018

The Board finds that the proposed use will meet this standard. The plans for the facility are to maintain it in its current arrangement which is agricultural and passive in nature. This is a reasonable and compatible use with the general vicinity.

- D. Will be served adequately by essential public facilities and services ... or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;**

The Board finds that the proposal will meet this standard. The use will have to meet local and State regulations for water supply and sewage disposal. Emergency services are relatively close.

- E. Will not create excessive additional requirements at public cost of public facilities and services and will not be detrimental to the economic welfare of the community;**

The Board finds that the proposal will meet this standard. Increases in demand for street repair and emergency services will not exceed that of a typical agricultural use. There will be no negative economic impact on the County.

- F. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;**

The Board finds that the proposal will meet this standard. The Agricultural Residential zoning district is intended to permit certain commercial and residential agricultural uses that have small amounts of odor and noise but that will not be excessive or different from a private stable or other permitted agricultural use.

- G. Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;**

The Board finds that the proposal will meet this standard. Neither the existing entrance nor a possible slight increase in traffic will interfere with existing traffic patterns.

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

The Board finds that the proposal will meet this standard. There will be no substantial loss in natural, scenic, or historic features with the operation of the business.

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

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

1. 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. All applicable federal, state, and local approvals are required.
3. Any significant expansion of the structures shall require the appropriate County approval.

October 15, 2018

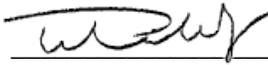
For all the foregoing reasons, the Board APPROVED this request for a Special Exception on the 15th day of October 2018.

AREA BOARD OF ZONING APPEALS

HENDRICKS COUNTY, INDIANA



Anthony Hession
Chairperson



Tim Dombrosky
Secretary to the Board

VAR 12-18: Dan & Teresa Johnson Variance to allow two principle uses on a 17.17-acre parcel in Union Township; Section 20, Township 17, Range 1W; Key No. 11-1-20-71W 100-010; located between W Old SR 34 and I-74; 9601 N CR 200 W, Lizton, IN 46149.

Mr. Dombrosky showed the property on power point. He noted that the zoning around the area includes LI (light industrial), which is a county change because of the proximity of a rest stop and highway, as well as AGR. He also pointed out past BZA cases to the north of the Johnson's property. He highlighted the existing home and the back of the property where the Johnson's are wanting to build their new residence. Staff recommendation is for approval of VAR 12-18.

Mr. Himsel asked the staff what steps would be needed to build a new house.

Mr. Dombrosky answered that the only necessary step after being granted the Variance would be to obtain building permits. He also mentioned that he had given each board member a copy of the report from the Health Department stating that they did not have records of the existing septic system for the current residence. Mr. Dombrosky concluded that he did not recommend taking any action against lack of septic record.

Mr. Hession called Mr. Johnson to the podium to address the board.

Mr. Dan Johnson, 9601 N CR 200 W, Lizton, IN 46149, pointed out the existing house and the site for the new home. He mentioned that they already have county approved house

October 15, 2018

plans for their new home, septic, etc. He explained that the original home (built in 1864) has been owned by his family for a number of years. When he and his wife took ownership, they refurbished it and lived there until they were in a position to build a new house. Because of the family history with the house, Mr. Johnson does not want to tear it down, but rather keep it as a guest house for family and use portions of it for storage.

Mr. Hession asked if the pond at the back of the property where the new house will be built is a natural pond.

Mr. Johnson answered that it is a natural pond but has been dredged out over the years. He also pointed out that he owns the adjoining 24-acre parcel on the other side of the pond.

Mr. Himsel asked if it is possible to get to the 24-acre parcel, if there is access from any county road.

Mr. Johnson answered that the only access is from the driveway of the residential parcel.

Mr. Hession asked if the board had further questions for Mr. Johnson.

There were none.

Mr. Hession open and closed the public portion of the meeting as no one had signed up to speak.

Mr. Hession asked if the board had any final questions or comments.

Mr. Dombrosky interjected that the staff is suggesting the stipulation that both houses remain under one address as a condition of approval.

Mr. Hession asked for a motion from the board.

Mrs. Johnston made a motion to approve VAR 12-18 with the conditions that both houses remain under one address and staff recommendations.

Mr. Himsel seconded the motion.

Motion for approval of VAR 12-18 carried unanimously.

VOTE: For- 4 Against- 0 Abstained-0 APPROVED
VAR 12-18: DAN & TERESA JOHNSON

October 15, 2018

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 12-18

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). The application sought to vary development standards by allowing a second primary residence on a parcel.

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:

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

The Board finds that the proposal will meet this standard. An additional dwelling on this 17-acre parcel will not have any injurious effect on the community. It will comply with the density maximum of the zoning district and will share one driveway.

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

The Board finds that the proposal will meet this standard. The approval will be in character with the surrounding rural residential neighborhood. It will be held to the same standards and does not inherently pose any threat to adjacent areas.

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

October 15, 2018

The Board finds that the proposal will meet the standard. The existing single-family structure is nearing the end of its functional life span. Forcing demolition at this time could lead to practical difficulties in housing arrangements and timing.

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

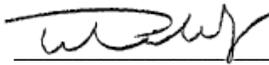
1. The property shall have one address.
2. The property shall not be subdivided to a size less than twice the lot size requirement of the existing zoning classification while the two dwellings are on the same parcel.
3. All federal, state, and local regulations apply

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 15th day of October 2018.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Anthony Hession
Chairperson



Tim Dombrosky
Secretary to the Board

Mr. Hession asked if there was any further business.

Being no further business, the meeting was adjourned at 8:10 P.M.