

April 15, 2019

The Hendricks County Board of Zoning Appeals met in the Hendricks County Government Center, Meeting Rooms 4 and 5, Monday, April 15, 2019. The meeting began at 7:30 p.m. Members present included Anthony Hession, Rod Lasley, Sonnie Johnston, Walt O'Riley and Sam Himself. Also, present were Tim Dombrosky, Planning Director, Graham Youngs, County Attorney and Leslie Dardeen, Recording Secretary.

Everyone stood and Mr. Hession asked Mrs. Johnston to lead the Pledge of Allegiance as this would be her last board meeting.

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

Mr. Hession asked for a motion to approve the minutes from the March 18, 2019 meeting.

Mr. O'Riley made a motion to approve the March 18, 2019 meeting minutes.

Mrs. Johnston seconded the motion.

VOTE: For- 3 Against- 0 Abstained- 2 APPROVED
March 18, 2019 MEETING MINUTES

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

VAR 05-19: Todd Weber Variance to allow a zero setback for high tunnel hoop houses as part of a USDA grant on a 4-acre AGR zoned parcel in Brown Township; Section 19, Township 17N, Range 2E; Key No. 01-1-19-72E 300-001; located at the intersection of E CR 950 N and N CR 950 E; 9605 E CR 950 N, Brownsburg, IN 46112.

Mr. Dombrosky showed the property on power point, noting the creek that runs along the back side of the property, and the tree line to the west. He noted that there are accessory buildings and a few residences in the area, but they are fairly spread out. Zoning around the area is mainly AGR. He also highlighted the few standard BZA cases in the area, including variances to building standards and temporary residences. Future use of land in the area indicates conservation space and a business corridor that would accompany the planned expansion of the Ronald Reagan Parkway. Mr. Dombrosky then pointed out the existing structures on the property, the residence and an accessory building, and their proximity to the creek's significant flood plain. He also pointed out the one existing hoop house, noting the site plan shows the USDA building plan for the hoop houses to be side-by-side. He reiterated that the variance would be to allow a zero setback for the hoop houses. The primary residence sits 50' back from the center of the road; the required setback would be an additional 35' beyond that. However, use of the property is already severely hampered due to the flood plain and the narrowness of the parcel. He went on to explain that the setback, in this case, is mainly for aesthetic purposes since the site location does not fall within a right-of-way area and line of vision is not impaired. Request for a variance is not out of character with the rest of the area and does not pose a safety issue. Petitioner was awarded a grant from the USDA for the hoop houses, given USDA approval to build them and did not realize the need for a variance to the setback ordinance. Staff believes all three criteria of a variance are met in this case and recommends approval.

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

There were none.

Mr. Hession then invited the petitioner to address the board.

Mr. Weber declined to comment further, saying that Mr. Dombrosky covered everything.

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

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

Being no further questions, Mr. Hession said he would entertain a motion from the board but that he would abstain from voting due to a conflict of interest.

Mr. O'Riley made a motion to approve VAR 05-19 with conditions set by staff.

Mrs. Johnston seconded the motion.

Motion for approval of VAR 05-19 carried.

VOTE: For- 4 Against- 0 Abstained-1 APPROVED
VAR 05-19: TODD WEBER

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 05-19

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 0' front setback on the property.

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.

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

IC 36-7-4-918.5 Variance from the development standards of the Zoning Ordinance. A Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. A Variance may be approved under this section only upon a determination in writing that:

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

The Board finds that the proposal will meet this standard. The public safety is protected by the more than adequate right of way restriction. There will be no negative impacts to the general public.

- (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 surrounding property is similarly construction with structures that don't meet current setbacks.

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

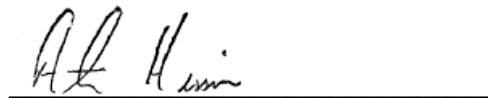
The Board finds that the proposal will meet the standard. The agricultural property has no other practical use, and the property would likely otherwise sit fallow and uncared for.

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

1. All other federal, state and local regulations apply.
2. The variance shall not apply to any other structure than those included in this current request.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 15th day of April 2019.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Anthony Hession
Chairperson



Tim Dombrosky
Secretary to the Board

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VAR 06-19: Dominick Cora Variance to height allowance for accessory building from 24' to 26' on a 6.15-acre RB zoned parcel in Union Township; Section 33, Township 17, Range 1W; Key No. 11-1-33-71W 300-004; located 1 mile east of CR 700 N and 1 mile south of US 136; 7405 N SR 39, Lizton, IN 46149.

Mr. Dombrosky showed the property on power point. He noted that the property, as well as most surrounding property, is zoned RB. There are a few BZA cases in the area, including mobile homes. The property in question has a lot variance for road frontage (1973) as does the neighboring property. The comprehensive plan calls for the area to remain RB, as is common around small towns. Close up of property shows creek running diagonal through the lot.

Mr. Hession asked where the street access was for the house.

Mr. Dombrosky showed the driveway that is shared with two other homes, accessed by an easement that crosses two pieces of property. He went on to show the site plan and location of proposed barn being 50' from property line. Due to the septic fingers, there is only one acceptable building location. The reason for the variance is due to the large size of the barn needing a 26' height to achieve the right pitch. There is only one neighbor that would be able to see the barn through the tree line; staff doesn't believe it to be intrusive to the neighbor or area. Mr. Dombrosky noted that the height allowance was just recently raised from 18' to 24', but a variance of an addition 2' is not out of character with other barns in the area. Due to that and the seclusion of the barn, staff recommends approval

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

There were none.

Mr. Hession asked if there was anyone present who wished to speak on behalf of the petition.

Mr. Dombrosky responded that Mr. Cora, the petitioner, was unable to attend the meeting due to a prior obligation.

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

Mr. Hession asked if there were final questions or comments from the board.

There were none.

Mr. Hession asked for a motion from the board.

Mrs. Johnston made a motion to approve VAR 06-19 with conditions set by staff.

Mr. Himsel seconded the motion.

Motion for approval of VAR 06-19 carried unanimously.

VOTE: For- 5

Against- 0

Abstained-0

APPROVED

VAR 06-19: DOMINICK CORA

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 06-19

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 26-foot accessory structure height on the property.

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 the proposal will meet this standard. The height limit has no effect on public wellbeing outside of protections for falling structures and aircraft overhead. These issues are not affected. There will be no negative impacts to the general public.

- (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 proposal will meet this standard. The property is secluded and only immediately visible by one neighbor. The two-foot height difference will not be noticeable.

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(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 proposal will meet the standard. The variance will allow a desirable roof slope for the building which will aid its structural issues such as snow loading, etc.

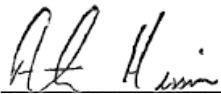
IC 36-7-4-918.2 Exceptions and uses. The Board may impose reasonable conditions as a part of its approval.

3. All other federal, state and local regulations apply.

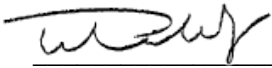
4. The variance shall not apply to any other structure than those included in this current request.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 15th day of April 2019.

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.

Mr. Dombrosky asked the board for their input on height restriction for barns. He noted that the height allowance is mostly for aesthetic purposes and is, in fact, an arbitrary number. He asked the board if they felt that 24 feet was a reasonable height, as it was just increased from 18 feet.

Mr. Himsel responded that he thinks it would be reasonable to increase the maximum height to 28 or 30 feet, as this would allow more clearance for farming equipment.

Mr. O'Riley rebutted that he believes there's a need to maintain the 24 feet limit to protect neighbors' interest.

Mr. Dombrosky agreed that a limit is needed to keep accessory building heights reasonable but allowing variances when warranted.

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Mr. Hession also agreed that there needs to be reasonable limits. He suggested that this needs to be addressed on a case-by-case basis as opposed to increasing the height limit further.

Mr. Hession asked if there were any further questions or comments regarding height limits.

There were none.

Mr. Hession asked if anyone had more to add.

They did not.

Being no further business, the meeting was adjourned at 7:47 P.M.