

June 21, 2021

The Hendricks County Board of Zoning Appeals convened in the Hendricks County Government Center, Meeting Rooms 4 and 5, Monday, June 21, 2021. The meeting began at 7:30 p.m. Members present included Rod Lasley, Anthony Hession and Sam Himsel. Also, present were Greg Steuerwald, County Attorney, Tim Dombrosky, Planning Director and Leslie Dardeen, Recording Secretary. Walt O'Riley and Ron Kneeland were absent.

Everyone stood and recited the Pledge of Allegiance.

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

He then asked for a motion to approve the minutes from the May 17, 2021 meeting.

Mr. Hession made a motion to approve the May 17th meeting minutes.

Mr. Lasley seconded the motion.

Motion to approve the May 17, 2021 minutes passed.

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|-------------------------------------|-------------------|---------------------|-----------------|
| VOTE: For- 3 | Against- 0 | Abstained- 0 | APPROVED |
| May 17, 2021 MEETING MINUTES | | | |

Mr. Steuerwald presented the case.

SE 04-21 Karlie & Justin Shaw Special Exception to allow animal boarding and stables (excluding kennels) on 10-acre AGR-zoned parcel in Eel River Township: Section 18, Township 17, Range 2W; Key No. 04-1-18-72W 235-001; located south side and east side of SR 234 at the east end of Boone County Road; 8015 W SR 234, Jamestown, IN 46147.

Mr. Dombrosky re-introduced the property on PowerPoint. There are no relevant cases in the area. The comprehensive plan shows the area as remaining rural agricultural, which does include "Riding Stables" as a permitted use. He reminded the board that the Shaws own 2 parcels, the one with their house and existing stables and the parcel directly to the south. Mr. Dombrosky also pointed out the shared driveway between the Shaw's property and the Beck's. He believes that the nine criteria of a special exception have been met and that the proposed boarding stables are an appropriate use for the area. Staff still recommends approval.

Mr. Lasley asked if there were any question from the board.

Being none at this time, he invited the petitioner to address the board.

Mr. Andy Kult, Comer Law Office 71 W Marion St, Danville, IN, representing Karlie Shaw addressed the board. He gave the board members a handout of the property map and revised commitments from the petitioner. He reminded the board that the Shaws are wanting to include horse boarding to their riding stables. He listed the points of concern that were highlighted at last month's meeting, including traffic, visual screening, water issues and number of horses. The new commitment clarifies that the petitioner will reduce the maximum number of horses to 25 for boarding. Mr. Kult then introduced a concept site plan with a new stable barn. He explained that the petitioner hopes to build this stable sometime in the future, and all feature improvements to the property will take place on

the back 5 acres behind the existing barn. Mr. Kult also explained that the petitioner fully understands that any new structures and/or growth of business will require approval from the planning committee. He shared a series of photos that highlighted the drainage easement between the Shaw's and Beck's properties, where potential improvements/additions to the property would go and where screening between the properties would be placed. He added that the Shaws would rather use a fast-growing type of evergreen tree to construct 100 feet of screening rather than putting up a privacy fence. Mr. Kult also highlighted points on the revised commitment contract: maximum of 25 horses, private drive to the stables, new drive put in by August 2021, signage directing riding and boarding clients to proper drive and a new address for the new driveway. He assured the board that the commitment contract would be recorded. Mr. Kult concluded that AGR-zoned areas permit riding stables; the petitioner is only asking to add boarding stables.

Mr. Hession asked for clarification on where the 100' screening would be.

Mr. Kult pointed out on the map the area where trees would be planted. He also stated that the area could be expanded if the board thought it necessary.

Mr. Hession asked if the 25-horse maximum excluded the Shaws personally owned horses.

Mr. Kult responded that was correct. There would be a maximum of 25 boarded horses in addition to those owned by the Shaws.

Mr. Lasley asked what the immediate plans are?

Mr. Kult said that right now, until new stalls are built, the boarding is limited by number of existing stalls. Currently, there are only 9 stalls. He also added that the most immediate plan is to have the new driveway put in.

Mr. Lasley asked what was different for boarding clients vs. riding clients.

Karlie Shaw, 8015 W SR 234, Jamestown, IN 46147, responded that all clients must adhere to hours of operation, no earlier than 9 am and no later than 8 pm. Boarding clients can ride and groom their horses on their own during those hours. Riding clients have lessons during those hours.

Mr. Lasley asked if there were any other questions from the board at this time.

There were none.

Mr. Lasley then opened the public portion of the meeting.

Edward Roe, 8253 W SR 234, New Ross, IN 47968, voiced his concerns: diminished property value, depleted well system, dust/noise/smell/flies/lights, waste removal, safety/security (how many employees, will background checks be required, etc.). He is also concerned that the county road is not adequate for the potential traffic and could pose a hazard. Finally, he uses his own land for shooting, fireworks and motor cross, and does not want to have to stop these activities because of the business.

Mr. Hession asked how many wells Mr. Rowe has on his property.

Mr. Roe responded that he has 1 well that is 236 feet deep.

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Ryan Beck, 8033 W SR 234, Jamestown, IN 46147, addressed the board. He reminded the board that he shares a driveway with the Shaws. He reiterated his concerns that he shared at last month's meeting: devaluing of his property, proposed screening not adequate, loss of privacy, increase in traffic, safety issues, depleted well system and continued business use of the shared drive. He also does not agree with the proposed business hours, arguing that because of the boarding the hours are around the clock, 24 hrs. per day.

Penny Beck, 8033 W SR 234, Jamestown, IN 46147, addressed the board. She shares the same concerns as her husband: loss of privacy/safety and the devaluing of property. She also mentioned that they have had some of the Shaw's clients trespass on their property.

Curt Franke, 11088 W SR 234, Jamestown, IN 46147, addressed the board. He also has concerns with the well system and an increase in traffic/inadequate road system.

David Baxter, Landtree Realtors, 537 N East St, Greenfield, IN 46140. He reminded the board of his concerns that he shared with them at the last meeting: devaluing of surrounding property, addressing issues, proper signage. He also mentioned that Mrs. Shaw has had advertisements on her Facebook page for the riding and boarding stables, and with the number of people on her "friends list" there is the potential for traffic to increase significantly. He believes there are more suitable locations to operate a business. He also questions what would happen with the property should the Shaws sell it, and if new owners would be allowed to operate a business. He concluded that he believes there are a lot of loopholes that would allow the Shaw's clientele to continue to use the shared drive with no recourse for the Becks.

Jessica Grundlock, 8261 W SR 234, New Ross, IN 47968, addressed the board. She lives adjacent to the southern 25-acre parcel owned by the Shaws. Her property will be next to the proposed commercial driveway. She is concerned with loss of privacy, safety and security, increase in traffic, water issues and future plans for the 25-acre parcel.

Mr. Lasley asked if there is a fence between her property and Mrs. Shaw's.

Mrs. Grundlock answered that there is not a fence.

Mr. Lasley closed the public portion of the meeting and invited Mr. Kult to address the concerns expressed by the neighboring property owners.

Mr. Kult asked the board to keep in mind that the type of business the petitioner is wanting to operate does not generate a huge amount of traffic. There is always potential for accidents, but the vast majority of the traffic coming to the Shaw's is by personal passenger vehicles and not trailers and large trucks. Most of their clients come to visit and/or ride their horses, not to pick them up in trailers. He again stated that if the county allows, the petitioner has no issues with obtaining a new separate address for the business. He also confirmed that the new well will be pulling from different areas of the aquifer. Mr. Kult also countered that the Becks have approximately 10 of their own livestock animals that they are caring for. He also said that any new approved facility would not be visible from the Beck's property, it and the horses will only be visible at the back of the property. He does not believe that riding and boarding stables will devalue the area; although "value" is not a consideration in the Special Exception criteria. He concluded that this is a completely suitable use of land for the area.

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Mr. Steuerwald explained that because the BZA is a 5-member board and only 3 members are present, it will take a unanimous vote to pass or deny the petition.

Mr. Dombrosky added that the board may want to discuss what would happen if the property is sold.

Mr. Lasley noted that the pertinent issues for the board are the screening/buffering and the number of horses.

Mr. Dombrosky also commented to the board that it would be entirely appropriate for them to pass on to the Planning Committee any concerns they deem outside of the BZA's boundaries.

Mr. Kult responded that he and the petitioner were offering the commitments as a way to try and find a middle ground.

Mr. Himsel said he is not comfortable making a decision at this time.

Mr. Kult asked that should the BZA approved the petition, would it just be for boarding.

Mr. Dombrosky responded that was correct. If the BZA approves the petition it will be for the use of the property. It would be up to the Planning Review Board to approve improvements to the property. He added that the screening, additional buildings and the new driveway would need to go through a development plan review.

Mr. Lasley clarified that the BZA should look at the petitioner's request based on the existing structures.

Mr. Kult confirmed that the petitioner would have to get approval from the BZA before going to the Planning Review Board.

Mr. Hession added that he believes the well issue and water usage is a big issue/obstacle.

Mr. Lasley asked who would be responsible for traffic issues.

Mr. Dombrosky answered that any road improvements would have to be mandated by the state. County plays no part in that. As far as the new driveway is concerned, the petitioner will have to get the required permits.

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

Being none, he asked for a motion.

Mr. Himsel made a motion to continue SE 04-21 to next month's meeting.

Mr. Lasley asked for a second to the motion.

Mr. Hession seconded the motion.

Mr. Lasley asked for clarification on what issues need addressed.

Mr. Kult said the wells/water seem like a primary issue.

Mr. Hession agreed.

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Mr. Dombrosky explained that because water is available for everyone's use, anyone can drill wells on their property.

Mr. Lasley asked if there would be additional lights installed.

Mr. Kult answered that there would be a keyed entry gate and no additional lighting would be added.

Mr. Lasley then asked for direction on the continuance.

Mr. Hession responded that the water issue needs to be addressed. He also mentioned that a separate address for the new driveway and business would need to be assigned.

Mr. Dombrosky confirmed that he would be the one to assign an address, no need to make that a part of the continuance.

Mr. Lasley asked about waste removal.

Mr. Kult explained that the petitioner has a spreader on premises and a contract with a waste management company.

Mr. Lasley referred to the commitment page that was offered by the petitioner and said that the continuance would need to address the buffer/hedge, number of horses and water/well issues.

Motion for continuance of SE 04-21 carried unanimously.

VOTE: For- 3 Against- 0 Abstained-0 CONTINUED TO 7/19/2021 MTG.
SE 04-21: KARLIE & JUSTIN SHAW

VAR 14-21: Bradley & Michelle Eisenhart Variance for an increase to maximum height of accessory building from 24' to 25'9" on an 8.45-acre AGR-zoned parcel in Center Township: Section 16, Township 16, Range 1W; Key No. 02-1-16-61W 270-001; located near the intersection of N Washington St and E CR 450 N; 4534 N Washington St, Danville, IN 46122.

Mr. Dombrosky introduced the property on PowerPoint. It is part of a 2-lot subdivision, zoned AGR. The comprehensive plan shows the area remaining agricultural residential with some conservation areas. The lot is 8.45 acres and is mostly wooded with an added tree line along the road. The petitioner is wanting to increase the maximum accessory height by 1'9" to allow for oversized vehicles (RV). Mr. Dombrosky believes the criteria for a variance have been met and recommends approval.

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

There were none at this time.

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

Brad Eisenhart, 4534 N Washington St, Danville, IN 46122, addressed the board. He confirmed that he is wanting to increase the height of an accessory building. He has plans to build an "old-

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fashioned” style barn and wants to match its roof pitch to that of the house for aesthetic reasons and to accommodate a 10 ft. garage door.

Mr. Lasley asked if there were any graphics of the proposed building.

Mr. Eisenhart showed the board a rendering of the building.

Mr. Lasley asked if Mr. Eisenhart was building the barn himself.

Mr. Eisenhart said that he would be building most of it, but not entirely.

Mr. Lasley asked if there were any further questions from the board.

There were none.

Mr. Lasley opened and closed the public hearing as no one signed up to speak.

He then asked for a motion.

Mr. Hession made a motion to approve VAR 14-21 with the conditions set by staff.

Mr. Himsel seconded the motion.

Motion for approval of VAR 14-21 carried unanimously.

VOTE: For- 3 Against- 0 Abstained-0 APPROVED
VAR 14-21: BRAD EISENHART

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 14-21

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 an **accessory structure to exceed the height limit** in an AGR/Agricultural Residential zoning district.

In accordance with Indiana Code (IC) 5-3-1 and the Hendricks County Zoning Ordinance (HCZO) Section 12.6 (C), the DPB staff published a legal notice in the Danville Republican. This notice advertised the public hearing scheduled in conformity with IC 36-7-4-920. The public hearing included the above variance on its agenda.

In accordance with Section 3.07 (D)(2) of the Rules of Procedure of the Board, the applicant also sent courtesy notices to certain surrounding property owners of record and other interested persons. A copy of this courtesy notice and a list of those receiving them were made a part of the file for this variance.

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

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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. Occupancy of the structure will be in compliance with the Zoning Ordinance and other applicable standards. It will be held to zoning ordinance maintenance and other development standards. As such, it will not constitute any harm to the public good.

(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 structure type is common to this rural residential setting. In context the height difference will not be noticeable and will not adversely affect area property values.

(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 height difference will allow for a door height and roof pitch that will architecturally match and blend with the area.

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

1. The variance shall apply only to the construction described in the application.
2. All other 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 June 2021.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Rod Lasley
Chairperson



Tim Dombrosky
Secretary to the Board

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SE 05-21: Brent Branscum Special Exception to allow an accessory dwelling unit on a 3.112-acre AGR-zoned parcel in Clay Township: Section 6, Township 14, Range 1W; Key No. 03-2-06-41W 430-001; located approximately ½ mile south of W CR 500 S; 5612 S CR 200 W, Clayton, IN 46118.

Mr. Dombrosky introduced the property on PowerPoint. It is zoned AGR, north of Cascade Schools. He reminded the board that last month a petition for an accessory prior to principal was approved for the property next door owned by Jerome Branscum, the petitioner's father. He explained that this petition is for an accessory dwelling within a new barn being built behind the petitioner's house. Mr. Dombrosky added that he would not recommend a separate drive or address for the accessory dwelling to discourage future rental of the property. He does, however, believe all criteria have been met for the special exception and recommends approval.

Mr. Lasley asked what would happen with the special exception should the property be sold.

Mr. Dombrosky responded that this would be up to the board to discuss, but they could make a condition that the special exception is only good for as long as the petitioner owns the property.

Mr. Lasley asked if there were any further questions from the board.

There were none.

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

Mr. Andy Kult, Comer Law Office 71 W Marion St, Danville, IN, representing Brent Branscum, addressed the board. He outlined the petitioner's request; Mr. Branscum wants to build a 30'x40' pole barn with 700-800 sq. ft. apartment for his mother-in-law who has Alzheimer's. It would include 1 bedroom and 1 bathroom. Mr. Branscum has future plans to use the space as either an office or guest quarters when his mother-in-law is no longer able to stay there. It will not be used for a 3rd party rental.

Mr. Steuerwald, in full transparency, told the board that the petitioner's father is a client of his. It should have no bearing on the petitioner's request.

Mr. Lasley opened and closed the public hearing as no one signed up to speak.

He then asked for a motion.

Mr. Hession made a motion to approve SE 05-21 with the conditions set by staff.

Mr. Lasley asked for a second to the motion.

Mr. O'Riley seconded the motion.

Motion for approval of SE 05-21 carried unanimously.

VOTE: For- 3

Against- 0

Abstained-0

APPROVED

SE 05-21: BRENT BRANSCUM

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

SE 05-21

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 accessory dwelling unit** in an area zoned as AGR (Agriculture Residential). Acting in its role as staff to the County Board of Zoning Appeals (Board), the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in the County Government Center.

In accordance with Indiana Code (IC) 5-3-1 and the County Zoning Ordinance (HCZO) Section 12.7, the DPB staff published a legal notice in the Danville Republican. This notice advertised the public hearing scheduled in conformity with IC 36-7-4-920. The public hearing included the above special exception on its agenda.

In accordance with Section 3.07 (D)(2) of the Rules of Procedure of the Board, the applicant also sent courtesy notices to certain surrounding property owners of record and other interested persons. A copy of this notice and a list of those receiving them were made a part of the file for this Special Exception.

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

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

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

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

HCZO Section 12.7 (D)(1). In addition to the special requirements for permitted Special Exception uses as specified in Section 12.7 (D)(2) ... the Board of Zoning Appeals ... shall find adequate evidence showing that the use at the proposed location:

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

The Board finds that an accessory dwelling unit 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 unit represents a reuse of property, efficient use of existing services, and a desirable outcome of increased development and demand for housing. The use is encouraged by the County's ordinances.

C. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;

The Board finds that the proposed use will meet this standard. The Zoning Ordinance ensures uses are harmonious and appropriate. Additionally, the development type is common to the setting, and the use will not substantially change the appearance of the property and will not change the essential character of the area.

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

The Board finds that the proposal will meet this standard. Public facilities and infrastructure are either private or will be provided at expense to the owner. Other public services adequately serve the area, and the use does not represent a significant increase in demand.

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

The Board finds that the proposal will meet this standard. The property changes will not result in significant changes to the existing demand for services. In fact, it represents an efficient use of existing facilities and should be promoted.

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

The Board finds that the proposal will meet this standard. The use will not generate conditions substantially different from other residences.

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

The Board finds that the proposal will meet this standard. The existing entrance provides adequate access.

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

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

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

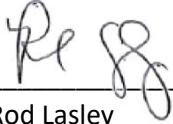
The Board imposed the following conditions in furtherance of the Indiana Code and the Hendricks County Zoning Ordinance:

1. All applicable federal, state, and local approvals are required.
2. No separate address will be assigned to the accessory apartment.
3. No new driveway shall be permitted.


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For all the foregoing reasons, the Board **APPROVED** this request for a Special Exception on the 21st day of June 2020.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Rod Lasley
Chairperson



Tim Dombrosky
Secretary to the Board

Mr. Lasley asked if the maximum building height could be amended so that it was more in line with the standard RV height.

Mr. Dombrosky responded that it was something that he could bring up with the Planning Commission.

Mr. Steuerwald explained to the board that they were not required to have a third public hearing for SE 04-21. The BZA is only required to have a second public hearing when a case is continued. Since SE 04-21 has been continued for a second time, the board will discuss it but not open public discussion.

Mr. Lasley asked if there was any further business.

Being none, the meeting was adjourned at 9:15 pm.