

July 19, 2021

The Hendricks County Board of Zoning Appeals convened in the Hendricks County Government Center, Meeting Rooms 4 and 5, Monday, July 19, 2021. The meeting began at 7:30 p.m. Members present included Rod Lasley, Anthony Hession, Walt O’Riley and Ron Kneeland. Also, present were Greg Steuerwald, County Attorney, Tim Dombrosky, Planning Director and Leslie Dardeen, Recording Secretary. Sam Himsel was 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 June 21, 2021 meeting.

Mr. Hession made a motion to approve the June 21<sup>st</sup> meeting minutes.

Mr. Lasley seconded the motion.

Mr. O’Riley and Mr. Kneeland both abstained as they were not present at the June meeting.

Motion to approve the June 21, 2021 minutes was continued to next meeting.

**VOTE: For- 2                  Against- 0                  Abstained- 2                  CONTINUED**  
**June 21, 2021 MEETING MINUTES**

Old Business:    Continued from July 19, 2021 BZA meeting.

**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. It is zoned AGR with the comprehensive plan showing the area as remaining rural agricultural, which does include “Riding Stables” as a recommended use. There are no relevant BZA cases in the area. He reminded the board that the Shaw’s 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, which has been a point of contention. 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 reminded the board of the key issues they need to focus on: screening/buffering along the fence row, number of horses allowed and issues with water pressure and well output.

He then invited the petitioner to address the board.

Mr. Andy Kult, Comer Law Office 71 W Marion St, Danville, IN, representing Karli Shaw, addressed the board. He outlined the petitioner’s request and reminded the board of the new commitments made: number of horses reduced to 25, including the Shaw’s own and 200’ of screening between the Shaw’s and Beck’s properties.

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Mr. Lasley asked Mr. Kult to point out on the map where the screening would go.

Mr. Kult pointed out the area along the fence row. He added that at the last meeting they had pledged to create a 100' screen of evergreen trees. They have committed to increasing that to 200'.

Mr. O'Riley asked if the driveway shown in the picture was the neighbor's.

Mr. Kult responded that it is the shared driveway. He pointed out where it splits off to the 2 properties and where the easement is located.

Mr. Kult also addressed the well issues that have been a concern. He explained that the amount of water needed to properly care for the boarding facility with the maximum number of horses would be equivalent to 1 or 2 single family homes on the same 35 acres.

Mr. Hession asked him to further explain.

Mr. Kult went through the numbers of average water use per household per day, breaking it down further to usage per person (showers, laundry, toilets, etc.). On average a household will use 300-400 gallons of water per day. Mr. Kult then went on to explain that horses drink between 5-15 gallons of water a day. With 25 horses, plus monthly bathing and watering arenas, the total water usage for the boarding facility per day would be between 275-300 gallons. He also added that the back 25-acre parcel could be used for building roughly 8-10 new houses, which would use considerably more water than the proposed boarding facility.

Mr. O'Riley asked if the current facility is on the same well as the Shaw's residence.

Mr. Kult answered that it is. When the petitioners build the new barn, they will also put in a new well.

Mr. Lasley reminded the board that they are only concerned with the current facility. Anything new would have to go before a review board.

Mr. Kult went back to the commitment sheet and showed a rendering of a 1000-gallon rain collector system that the petitioners will be using.

Mr. Hession asked how the system works, is it tied together with the well.

Mrs. Karli Shaw responded that they are 2 different systems. But, she clarified, that they will be able to determine when to pull from either.

Mr. Kult also addressed the hours of operation. Boarding client hours are from when the gate opens at 7 am to when the gates close at 9 pm. Riding lesson client hours are from 9 am to 8:30 pm.

Mr. O'Riley asked if those hours would be 7 days a week.

Mr. Kult responded that yes, those hours are 7 days a week.

He then went on to address the traffic issues brought up at the last meeting. He told the board that a study had been performed by the State Highway Department's engineers. They found no sight-line issues or safety risks on SR 234 with any additional traffic generated by the facility. The State

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Highway Department also agreed to reduce the speed limit through the area as a precaution. Furthermore, Karli Shaw has contacted the DNR and INDOT to advise them of her proposed plans.

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

There were none.

He then opened the public portion of the meeting.

Ed Roe, 8253 E SR 234, New Ross, IN 47968, addressed the board. He is concerned with the inadequacy of the well system in the area and the safety of area with heavier traffic and unknown people around property. He also questions the accuracy of Mr. Kult's water usage figures for the horses.

Ryan Beck, 8033 W SR 234, Jamestown, IN 46147, addressed the board. He is also concerned with the well issues. He, too, questions the figures used in water usage for the horses. He is worried that the shared drive will continue to be used for commercial traffic, that the proposed screening will not be sufficient, and that the Shaw's could potentially host open horse shows on the property. Mr. Beck also questioned how waste would be disposed of and how often, and the effect that a business would have on surrounding property values. Finally, he presented the board with a petition signed by area property owners that are opposed to the horse boarding business.

Mr. Hession asked Mr. Beck if he had any livestock on his property.

Mr. Beck answered that he has 3 horses and 3 steers.

Peggy Beck, 8033 W SR 234, Jamestown, IN 46147, addressed the board. She posed 2 questions to the board: who do the residents contact when they run out of water? And who will police the business to make sure it's following all of their commitments? She's concerned about potential events being held on the property and whether there will be trailers and overnight guests. And lastly, she is worried that there will be continued commercial traffic on the shared drive.

Mr. Lasley closed the public meeting, as no one else had signed up to speak.

He then invited Mr. Kult back to the podium to address the concerns shared by the neighbors.

Mr. Kult reminded everyone that the petitioner has committed to putting in a new drive within the next couple of months; they are just waiting to start the project until they have received approval of the special exception.

Mr. Lasley asked if there are trailers on the property.

Karli Shaw responded that they have one horse trailer on their property now. They do not want to take away from the view and openness of the property.

Mr. O'Riley clarified that he believes the concern is that they would allow horse trailers belonging to clients to be stored on the property.

Mr. Kult responded that they will not be storing trailers.

Mrs. Shaw added that she will commit to no more than 2 stored horse trailers.

Mr. Hession asked Mr. Steuerwald if the county is liable for water loss.

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Mr. Steuerwald responded that the county is not responsible. Water rights go with property ownership.

Mr. Kult also added that in Indiana, the law states that if you own the land, you own the water under it. He went on to say that there are 2 significant ground water withdraw facilities in the immediate area, Jamestown Water Works and the Tomahawk Golf Course. Neither of which have reported any water issues.

Mr. Lasley commented that 15 commitments is a lot to keep track of. He stated that policing them is based on complaints received by the zoning inspector.

Mr. Steuerwald also added that the Planning and Building Department can file action through the County Attorney's office to enforce code.

Mr. Hession asked if the petitioner could be forced to cease operations.

Mr. Steuerwald answered that the county has to enforce the ordinance and codes. There is a legal obligation to enforce commitments made.

Mr. Lasley asked if there were any further questions or comments.

Being none, he asked for a motion from the board.

Mr. Steuerwald added that any action would require 3 affirmative votes or the case will be continued.

Mr. Hession made a motion to approve SE 04-21 with the conditions set by staff, the 15 commitments offered by the petitioner, plus limiting trailers to a maximum of 2.

Mr. Kneeland seconded the motion.

Motion for approval of SE 04-21 carried unanimously.

**VOTE: For- 4          Against- 0          Abstained-0          APPROVED**  
**SE 04-21: KARLIE & JUSTIN SHAW**

### **Hendricks County Area Board of Zoning Appeals**

Findings of Fact/Law and Conditions of Approval

#### **SE 04-21**

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 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 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

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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 Agricultural. The proposal follows that recommendation as it specifically includes stables. 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;**

The Board finds that the proposed use will meet this standard. The agricultural areas of the County are reserved for uses such as stables, and large lot rural agricultural residential development patterns. 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 currently serve the area.

- 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 rural residential and agricultural uses that have small amounts of odor and noise. The special exception approval 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. The existing entrance will be reserved for residential traffic, and a second entrance will be created to separate the business 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 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. All applicable federal, state, and local approvals are required.

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2. Petitioner shall be allowed to board a maximum of 25 total horses, to include Petitioner's own horses and client-owned horses.
3. Petitioner shall install "PRIVATE DRIVE" or similar conspicuous signage at the residential entrance drive at the north end of Tract I.
4. Petitioner shall install a new driveway across Tract II, from SR 234 at the west end of Tract II. Only the new driveway shall be utilized for boarding/riding clients (hereafter together referred to as "Clients"). The shared residential driveway on Tract I shall NOT be utilized by Clients. The new driveway shall be installed by the end of September 2021.
5. Petitioner shall install wayfinding signage at the west end of the new driveway, at the entrance to Tract II from SR 234, in order to signify this driveway as the driveway for Clients to utilize.
6. Petitioner shall obtain a separate and unique address for the boarding business, and shall include such address at the entrance to Tract II from SR 234, to further assist Clients in utilizing such driveway.
7. Petitioner shall include a highlighted clause within all written contracts with Clients, mandating that the new driveway across Tract II, from SR 234, shall be utilized by all Clients as the exclusive means of ingress and egress to and from the property.
8. If Petitioner constructs a second stall barn that results in more than nine (9) horse stalls being available for use on the property, then Petitioner shall install a second water well on the property for the water needs associated with such new barn and the additional horses to be accommodated.
9. Petitioner shall install tree screening, as approved by the BZA, along the following portion of Petitioner's existing farm fence located within the western part of Tract I: beginning at the west gatepost of the gate located nearest the northernmost accessory structure (garage), and running in a southwesterly direction along the subject farm fence for a distance of 200 feet. Tree screening shall be installed by June 1, 2022.
10. Petitioner understands and agrees that future improvement to the property may require development plan review as deemed necessary and appropriate in scale by the Hendricks County Director of Planning.
11. Hours of operation for boarding clients shall be 7am to 9pm Sunday-Saturday.
12. Hours of operation for riding lesson clients shall be 9am to 8:30pm Sunday-Saturday.
13. There shall be no sanctioned horse show events allowed to take place at the property.
14. There shall be no outdoor overhead speaker use allowed in connection with Client use of the property.

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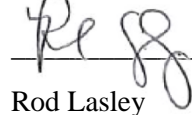
15. Any additional outdoor lighting shall be shielded in accordance with the terms of the Hendricks County Zoning Ordinance and related County requirements.

16. If Petitioner installs a second stall barn a 1,000 gallon rainwater collection system will be included in the installation.

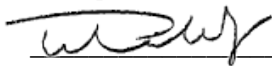
17. A maximum of two (2) Client horse trailers may be stored on the Property.

For all the foregoing reasons, the Board APPROVED this request for a Special Exception on the 19<sup>th</sup> day of July 2021.

AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA



Rod Lasley  
*Chairperson*



Tim Dombrosky  
*Secretary*

Mr. Steuerwald presented the cases.

**VAR 15-21: Thomas & Stephenie Luken** Variance to allow construction of an accessory structure prior to the principal dwelling on a 6.21-acre AGR-zoned parcel in Center Township: Section 31, Township 16, Range 1W; Key No. 02-1-31-61W 225-005; located ¼ mile south of intersection of W CR 200 N and N CR 200 W; 1736 N CR 200 W, Danville, IN 46122.

--and--

**VAR 16-21: Thomas & Stephenie Luken** Variance for an increase to maximum height of accessory building from 24' to 27' on a 6.21-acre AGR-zoned parcel in Center Township: Section 31, Township 16, Range 1W; Key No. 02-1-31-61W 225-005; located ¼ mile south of intersection of W CR 200 N and N CR 200 W; 1736 N CR 200 W, Danville, IN 46122.

Mr. Lasley recused himself from this petition as he is a business acquaintance of the petitioner. He turned the meeting over to Vice President, Mr. Hession.

Mr. Dombrosky introduced the property on PowerPoint. It is part of the rural subdivision of Gentry Woods. He showed the site plan for the property, noting the substantial landscaping mound on the road-side of the property. He explained that there are 2 variances for the board to consider. The first is that the petitioners would like to build an accessory building (barn) prior to building their home. As with other "accessory prior to principal" cases, Mr. Dombrosky has no issue with it. However, he explained to the board that he maintains a neutral position on it as he feels there is not adequate



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evidence of a hardship. The second variance is for an increase to the accessory height from 24' to 27'. Mr. Dombrosky sees no issues with the extra height and recommends approval. He concluded that should the board allow the accessory prior to principal, they need to be comfortable with the possibility of a house not being built as there is no way to enforce someone to build a home.

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

There were none at this time.

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

Mr. Thomas Luken and Mrs. Stephenie Luken, 1991 Knightsbridge Rd, Danville, IN 46122, addressed the board. They explained that they fully intend to build a home in the immediate future. Right now they are responsible for mowing and maintaining the parcel. They would like to go ahead and construct the barn so that they have a secure place to store their equipment.

Mr. Hession asked if the extra height request is due to a cupola.

Mr. Luken responded that the extra height is for aesthetic purposes, so that the peak of the barn will match the peak of the house.

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

There were none.

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

He then asked for a motion.

Mr. O'Riley made a motion to approve VAR 15-21 with the conditions set by staff.

Mr. Kneeland seconded the motion.

Motion for approval of VAR 15-21 carried unanimously.

**VOTE: For- 3**

**Against- 0**

**Abstained-0**

**APPROVED**

**VAR 15-21: THOMAS & STEPHANIE LUKEN**

## Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 15-21

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 prior to principle 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.

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. The barn will be used to maintain the property and provide storage and security. This will result in protection of 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 accessory structure will allow for more expedient maintenance of the property in compliance with development standards. This constitutes a hardship.

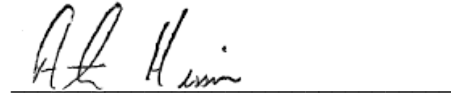
**IC 36-7-4-918.2 Exceptions and uses. The Board may impose reasonable conditions as a part of its approval.**

1. The variance shall apply only to the construction described in the application.
2. All other federal, state and local regulations apply.

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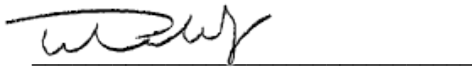
For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 19<sup>th</sup> day of July 2021.

AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA



Anthony Hession

*Vice Chairperson*



Tim Dombrosky

*Secretary to the Board*

Mr. Hession then asked for a motion on VAR 16-21.

Mr. O'Riley made a motion to approve VAR 16-21 with the conditions set by staff.

Mr. Kneeland seconded the motion.

Motion for approval of VAR 16-21 carried unanimously.

**VOTE: For- 3**

**Against- 0**

**Abstained-0**

**APPROVED**

**VAR 16-21: THOMAS & STEPHANIE LUKEN**

## Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval  
VAR 16-21

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.

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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. 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 that will allow storage of an oversized personal vehicle.

**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 19<sup>th</sup> day of July 2021.

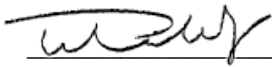
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AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA



Anthony Hession

*Vice Chairperson*



Tim Dombrosky

*Secretary to the Board*

**VAR 17-21: Robert A. Jones** Variance to allow construction of an accessory structure prior to the principal dwelling on a 9.12-acre AGR-zoned parcel in Center Township: Section 16, Township 15, Range 1W; Key No. 02-3-16-51W 190-001; located 1 mile south of intersection of W Lincoln St and S CR 75 W (Mackey Road); 1431 S CR 75 W, Danville, IN 46122.

Mr. Dombrosky introduced the property on PowerPoint. It is zoned AGR and is currently 2 separate parcels. There are few BZA cases in the area. The comprehensive plans call for the area remaining rural residential. Mr. Dombrosky then showed the site plan, highlighting an area where the barn and future house will be located. He reiterated to the board that this is another accessory prior to principal, and he again takes a neutral stance. However, there is comfort in that the petitioner already has house plans.

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

Being none, he invited the petitioner to address the board.

Mr. Robert Jones, 11546 Admirals Lane, Indianapolis, IN 46236, addressed the board. He explained that he is wanting to have a barn to store the equipment he needs to maintain the property. He currently resides in Indianapolis and it's difficult to transport large equipment back and forth. He is also planning on doing the excavating for the house site himself and will need a secure structure to store that equipment as well. He submitted to the board his house plans and loan approval documents as proof of his intentions to build. He also submitted a letter of support from the neighboring property owner. Mr. Jones added that the barn and house will be behind a heavy screening of trees and not be easily seen from the road. He plans to eventually use the barn for his stump-grinding business.

Mr. Lasley asked if he had employees.

Mr. Jones responded that he does not have any employees.

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Mr. Lasley asked if there were any further questions.

There were none.

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

He then asked for a motion from the board.

Mr. Lasley made a motion to approve VAR 17-21 with the conditions set by staff.

Mr. Kneeland seconded the motion.

Motion for approval of VAR 17-21 carried unanimously.

**VOTE: For- 4**

**Against- 0**

**Abstained-0**

**APPROVED**

**VAR 17-21: ROBERT JONES**

## Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 17-21

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 prior to principle 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.

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:**

July 19, 2021

- (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. The barn will be used to maintain the property and provide storage and security. This will result in protection of property values.

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

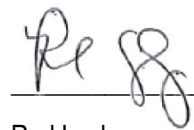
The Board finds that the proposal will meet the standard. The accessory structure will allow for more expedient maintenance of the property in compliance with development standards. This constitutes a hardship.

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

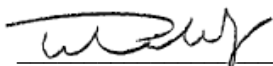
1. The variance shall apply only to the construction described in the application.
2. All other federal, state and local regulations apply.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 19<sup>th</sup> day of July 2021.

AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA



Rod Lasley  
*Chairperson*



Tim Dombrosky  
*Secretary to the Board*

**VAR 18-21: Hebrews Holdings LLC** Variance to reduce front setback on a corner lot to align with average setback of corner lots in the area on a .21-acre Town of Stilesville-zoned parcel in Franklin Township: Section 21, Township 14, Range 2W; Key No. 22-1-21-42W 432-001; located on southeast corner of South St. and Wayne St; 6175 South St, Stilesville, IN 46180.

July 19, 2021

Mr. Dombrosky introduced the property on PowerPoint. It is zoned RB and in the town of Stilesville. There are few BZA cases in the area. The comprehensive plans call for the area to retain the small-town status. Mr. Dombrosky then showed a map of the vacant lot and pointed out where the prior building had burned down. The site plan shows the footprint of 2 proposed duplexes. Mr. Dombrosky explained that because the property is on a corner, it is considered to have 2 front yards. The petition is for a variance to the setback of the yard facing Wayne St. The ordinance allows for flexible standards in small towns; because of this and the low volume of traffic, Mr. Dombrosky recommends approval.

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

Being none, he invited the petitioner to address the board.

Mr. Duane Lane, 291 E Main St, Danville, IN 46122, addressed the board. He added that the duplexes he is planning to build will be 21' from South Street and 23' from Wayne St even after reducing the setback.

Mr. Lasley asked the board if they had any questions at this time.

There were none.

Mr. Lasley opened the public portion of the meeting.

Barbara Webster, PO Box 106 (8524 Morgan St), Stilesville, IN 46180, addressed the board. She is a member of the town board and is concerned with the impact the duplexes will have on the existing water/well system. She would like to see a study of the water table done to gauge the impact.

Mike Lawson, PO Box 155 (6195 Clinton St), Stilesville, IN 46180, addressed the board. He owns the vacant lot to the south of the subject property. He has left the lot vacant over concern for his well on his home property.

Mr. Lasley closed the public portion of the meeting as no one else had signed up to speak.

He then invited Mr. Lane to address the concerns.

Mr. Lane explained that at one time there was a house on each lot, each with its own well. One of the wells is still in existence. He will be building a 2-bedroom duplex on each lot, each with their own well. The proposed units will have fewer bedrooms than the original houses.

Mr. Kneeland asked if Stilesville is on septic.

Barbara Webster responded that they are not.

Mr. Lasley asked Mr. Steuerwald if it would be appropriate to have a study done.

Mr. Steuerwald responded that every property owner has a right to water and to dig a well.

Mr. Dombrosky reminded the board that duplex-use is permitted, and that this variance is for a setback only.

Mr. Lasley asked if there were further questions or comments.



July 19, 2021

Being none, he then asked for a motion from the board.

Mr. Kneeland made a motion to approve VAR 18-21 with the conditions set by staff.

Mr. Hession seconded the motion.

Motion for approval of VAR 18-21 carried unanimously.

**VOTE: For- 4**

**Against- 0**

**Abstained-0**

**APPROVED**

**VAR 18-21: Hebrews Holdings LLC**

## **Hendricks County Area Board of Zoning Appeals**

Findings of Fact/Law and Conditions of Approval

VAR 18-21

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 reducing front setbacks in an RB/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.

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.**

July 19, 2021

The Board finds that the proposal will meet this standard. The lot was platted as is part of an older subdivision where small lot sizes were common. The structures will maximize use and efficiency of the lots in and served by infrastructure to meet a housing need. Visibility for roadways will be maintained. 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 neighborhood is not developed uniformly, with varying setbacks and orientations. In context the setback reductions 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.**

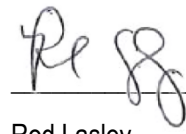
The Board finds that the proposal will meet the standard. The setbacks on the corner lot do not reasonably allow development as single lots. This constitutes a hardship.

**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.

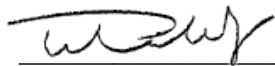
For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 19<sup>th</sup> day of July 2021.

AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA



Rod Lasley

*Chairperson*



Tim Dombrosky

*Secretary to the Board*

Mr. Steuerwald recused himself from the next case as he has been counsel for the petitioner in the past.

July 19, 2021

**SE 06-21: Jerome & Melisa Branscum** Special Exception to allow an accessory apartment/dwelling on a 3.11-acre AGR-zoned parcel in Clay Township: Section 6, Township 14, Range 1W; Key No. 03-2-06-41W 430-002; located approximately ½ mile south of W CR 500 S; 5618 S CR 200 W, Clayton, IN 46118.

Mr. Dombrosky introduced the property on PowerPoint. He reminded the board that Mr. Branscum had been approved for a variance earlier in the year for an accessory structure prior to the principal. The area is zoned AGR and will remain rural residential. The subject parcel is Lot 1 of a 2-lot minor plat. Mr. Dombrosky explained that the petitioner is now seeking a variance to put an accessory apartment in the accessory structure that was approved 2 months ago. He concluded that he believes accessory apartments are a good idea when they don't have a negative effect on the surrounding area. He believes all criteria have been met for the special exception and recommends approval.

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

There were none.

He then invited the petitioner to address the board.

Mr. Andy Kult, Comer Law Office 71 W Marion St, Danville, IN, representing Jerome and Melisa Branscum, addressed the board. He outlined the petitioner's request; Mr. Branscum was granted a variance to build a barn prior to the principal for storage while his current home is for sale. Since then, the current home sold quicker than anticipated and now the Branscum's would like to put an accessory apartment in the barn to live in while they build their new house. The plan is to keep the accessory apartment for friends or family once they have moved into their new home. The apartment will not have a separate address, separate driveway, nor be used for a rental unit.

Mr. Lasley asked if there was an agreement or contract for the shared driveway.

Mr. Dombrosky answered that there is a shared drive easement recorded.

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

Being no further questions or comments from the board, Mr. Lasley asked for a motion.

Mr. Hession made a motion to approve SE 06-21 with the conditions set by staff.

Mr. O'Riley seconded the motion.

Motion for approval of SE 06-21 carried unanimously.

**VOTE: For- 4**

**Against- 0**

**Abstained-0**

**APPROVED**

**SE 06-21: JEROME AND MELISA BRANSCUM**

### **Hendricks County Area Board of Zoning Appeals**

Findings of Fact/Law and Conditions of Approval

**SE 06-21**

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. CIs 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.**

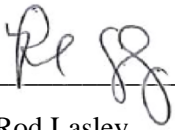
The Board imposed the following conditions in furtherance of the Indiana Code and the Hendricks County Zoning Ordinance:

July 19, 2021

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

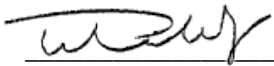
For all the foregoing reasons, the Board APPROVED this request for a Special Exception on the 19<sup>th</sup> day of July 2021.

AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA



Rod Lasley

*Chairperson*



Tim Dombrosky

*Secretary*

**VAR 19-21: Scott Pletcher** Variance to allow construction of an accessory structure prior to the principal dwelling on a 13.31-acre AGR-zoned parcel in Marion Township: Section 15, Township 15, Range 2W; Key No. 09-2-15-52W 410-001; located ¼ mile north of intersection of W CR 200 S and S CR 525 W; 1706 S CR 525 W, Danville, IN 46122.

Mr. Dombrosky introduced the property on PowerPoint. It is zoned AGR, and the comprehensive plan calls for it to remain rural residential. There is mostly farm ground around the property, with a cell tower to the south. He then showed the site plan and the proposed building sites for both the barn and the future house. As with the other “accessory prior to principal” cases, Mr. Dombrosky explained that he is neutral in his recommendation as hardship is hard to prove.

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

Being none, he invited the petitioner to address the board.

Mr. Scott Pletcher, 4110 Sunnyside Court, Danville, IN 46122, addressed the board. He explained that the back portion of the property is being farmed, but he has to maintain the front. He has a mower, tractor and other equipment that are left outside right now. He is wanting to build a 42'x56' barn to store the equipment in.

July 19, 2021

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

He then asked for a motion from the board.

Mr. O'Riley made a motion to approve VAR 19-21 with the conditions set by staff.

Mr. Kneeland seconded the motion.

Motion for approval of VAR 19-21 carried unanimously.

**VOTE: For- 4**

**Against- 0**

**Abstained-0**

**APPROVED**

**VAR 19-21: Scott Pletcher**

## **Hendricks County Area Board of Zoning Appeals**

Findings of Fact/Law and Conditions of Approval

VAR 19-21

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 prior to principle 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.

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.**

July 19, 2021

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. The barn will be used to maintain the property and provide storage and security. This will result in protection of property values.

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

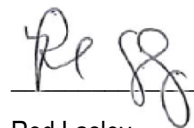
The Board finds that the proposal will meet the standard. The accessory structure will allow for more expedient maintenance of the property in compliance with development standards. This constitutes a hardship.

**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 19<sup>th</sup> day of July 2021.

AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA



Rod Lasley  
*Chairperson*



Tim Dombrosky  
*Secretary to the Board*

Mr. Lasley asked if there was any further business.

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