

September 17, 2018

The Hendricks County Board of Zoning Appeals met in the Hendricks County Government Center, Meeting Rooms 4 and 5, Monday, September 17, 2018. The meeting began at 7:30 p.m. Members present included Anthony Hession, Rod Lasley and Sonnie Johnston. Also present were Tim Dombrosky, Planning Director, Gregory Steuewald, County Attorney, Nathan Schall, Planner, and Leslie Dardeen, Recording Secretary.

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

Everyone stood and recited the Pledge of Allegiance.

Mr. Hession asked for a motion to approve the minutes from the July 16, 2018 meeting.

Mrs. Johnston made a motion to approve the July 16, 2018 meeting minutes.

Mr. Lasley seconded the motion.

**VOTE:        For- 3            Against- 0            Abstained-            APPROVED**  
**July 16, 2018 MEETING MINUTES**

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

**VAR 11-18: Paul and Dana Fruits** to allow a Variance from Development Standards to increase maximum lot coverage for an in-ground pool from 600 sq. ft. to 720 sq. ft. on a .25-acre lot in Brown Township; Section 26, Township 17, Range 1E; Key No. 01-2-26-71E 480-004; located in Highland Springs Section 4, east of N SR 267; 8321 Iris Drive, Brownsburg, IN 46112.

Mr. Dombrosky showed where the property is located on power point. He pointed out that the property is in a PUD (Planned Unit Development). As such, there are clearly written standards that allow for property owners to apply for variances from those standards. He then mentioned other approved BZA cases in the area pertaining to lot standards, lot frontage. The petitioner's property is zoned Residential with the surrounding areas zoned for possible business expansion near the Ronald Reagan corridor area. Mr. Dombrosky detailed the lot in question, showing that it is a typical suburban lot, small in size at .25-acres. The development standard being considered is accessory use lot coverage. The current development standard allows for accessory lot coverage to be up to 600 square feet. The petitioner has applied for a permit to put in an in-ground pool covering 720 square feet, thus needing the variance. Mr. Dombrosky stated that the staff recommends approval based on the three criteria needed.

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

There were none.

Mr. Hession then asked the representative for Paul and Dana Fruits to step to the podium.

Kim Sturgeon, owner of The Pool Shop, Inc. 3992 Clarks Creek Rd, Plainfield, IN 46168, addressed the board. She indicated that the increase in lot coverage pertains to the pool

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only; it does not include the concrete around it. She also explained that the larger pool area is needed to allow the inclusion of a diving board, requiring water to be at a depth of 8 feet. The installation will not encroach upon anyone else's property. Only change to existing patio will be taking out a small stairway/stoop and replacing it with a wider area of concrete.

Mr. Hession confirmed that the pool would be in-ground.

Mrs. Sturgeon replied that was correct, the pool would be in-ground with an 8-foot depth deep end.

Mr. Hession asked the staff if any calls, comments or complaints from neighbors had been received.

Mr. Dombrosky answered that there have been no calls or correspondence of any kind.

Mrs. Sturgeon mentioned that she had sent notification letters out to the neighbors and she hadn't received any comments back.

Mr. Hession asked if the petitioners had to get approval from the HOA.

Mrs. Sturgeon replied that they did have to obtain HOA approval and that they had received an official letter stating the approval.

Mr. Hession asked if the staff had received a copy of that letter.

Mr. Dombrosky responded that a copy was received and placed in the file.

Mr. Hession open and closed the public portion of the hearing as no one had signed up to speak. He then asked if the board had any final questions. There were none.

Mr. Hession asked for a motion from the board.

Mrs. Johnston motioned to approve VAR 11-18.

Mr. Lasley seconded the motion.

Motion carried 3-0 for approval.

**VOTE: For- 3 Against- 0 Abstained-0 APPROVED**  
**VAR 11-18: PAUL & DANA FRUITS**

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

Findings of Fact/Law and Conditions of Approval

VAR 11-18

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). The application sought to vary development standards by installing a pool that is 120 square feet larger than what is allowed in the Hendricks County Zoning Ordinance.

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

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

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

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

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

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

The Board finds that the proposal will meet this standard. The homeowners sought a professional company for the design and installation of the pool. Plans for the pool have received proper permits from Hendricks County Planning and Building Department.

- (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 pool has applied for proper permits and received approval save for this development standard. The proposed pool will not detract from the Hendricks County Comprehensive Plan's goal to enhance neighborhood character and identity (9).

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

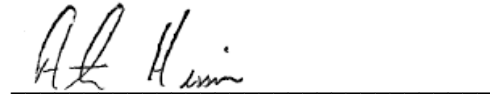
The Board finds that the proposal will meet the standard. The pool is of an industry standard size and reduction in size would either result in a custom pool or a pool that is undersized virtually unusable. The addition of a pool has the potential to increase the property value, and the future potential property value may be compromised if the installation process does not proceed.

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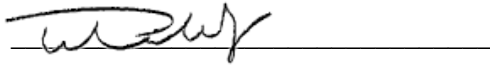
**IC 36-7-4-918.2 Exceptions and uses. The Board may impose reasonable conditions as a part of its approval.**

For all the foregoing reasons, the Board APPROVED VAR 11-18.

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 informed the board that Nathan Schall would be leaving at the end of the week. He went on to say that he would not be hiring a replacement planner right away, instead he'll be handling BZA cases for the foreseeable future. He explained that he'll have another staff member attend the meetings with petitioners and the board meetings with him. It'll be on a case-to-case basis as to which staff member would be most appropriate.

Mr. Dombrosky asked if the board was comfortable with the 7:30 pm start time for the meetings. He mentioned that the Planning Commission meetings start at 6:30 pm and he was unsure why these meetings would have different start times. Also, he mentioned that it may be more convenient for staff members if there wasn't a 3 1/2-hour gap between the close of work and the start of the meeting.

Mr. Hession offered the explanation of differing start times for the boards. He stated that the Planning Commission meetings used to start at 7:30 pm, but because of the growing number of cases they were hearing it was decided to move the start time up an hour.

Mr. Hession, Mr. Lasley and Mrs. Johnston all indicated that they would be able to make an earlier start time work should that be the decision. However, there was concern about the other board members' schedules. Meeting start time will remain at 7:30 until further discussion and notice.

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Mr. Dombrosky also informed the board that he is planning to make some changes pertaining to lot coverage ordinances with the Planning Commission. There have been several recent cases seeking similar variances. Mr. Dombrosky explained that when there is this type of trend, usually an ordinance change is warranted. He maintained that there is a hard rule that the maximum lot coverage for accessory buildings is 35% and feels that is sufficient and no other coverage regulations are needed.

Mr. Hession asked if the 35% rule applied to hard surfaces or just structures.

Mr. Dombrosky answered that the 35% rule is only for actual structures.

Mr. Steuerwald agreed with Mr. Dombrosky. He reiterated that when there is a trend to variances sought it typically indicates the need to re-evaluate the ordinance in question. There would be a need to decide if the ordinance is still warranted.

Being no further business, the meeting was adjourned at 7:45 P.M.