

May 20, 2019

The Hendricks County Board of Zoning Appeals met in the Hendricks County Government Center, Meeting Rooms 4 and 5, Monday, May 20, 2019. The meeting began at 7:30 p.m. Members present included Anthony Hession, Rod Lasley, Walt O'Riley and Sam Himsel. Also, present were Tim Dombrosky, Planning Director, Graham Youngs, County Attorney and Leslie Dardeen, Recording Secretary.

Everyone stood and Mr. Hession asked Mr. Himsel to lead the Pledge of Allegiance.

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

Mr. Hession asked for a motion to approve the minutes from the April 15, 2019 meeting.

Mr. Lasley made a motion to approve the April 15, 2019 meeting minutes.

Mr. O'Riley seconded the motion.

VOTE: For- 4 Against- 0 Abstained- 0 APPROVED
April 15, 2019 MEETING MINUTES

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

VAR 07-19: Christy Willingham Variance to fence height standards to allow an eight-foot privacy fence on an AGR-zoned parcel in Washington Township; Section 20, Township 15, Range 2E; Key No. 12-4-20-52E 170-006; located northwest of the intersection of South Ronald Reagan Pkwy and East Main Street; 10065 Medallion Dr, Indianapolis, IN 46231.

Mr. Dombrosky introduced the property on power point, noting that it is zoned AGR. It is in a subdivision off Ronald Reagan Parkway and US Hwy 40. He pointed out that there have been no BZA cases in the neighborhood and immediate area. For reference, he presented a map of the Town of Plainfield that shows the entire area around Ms. Willingham's subdivision has been annexed by the town. The comprehensive plan has no relevance to the variance. A close-up of the property shows an existing fence around the property and a neighboring house that has since been demolished. Mr. Dombrosky explained that the request to have an eight-foot privacy fence is to help block the industrial area owned by Adesa Indianapolis Inc. He noted for Board consideration that eight-foot fences are not allowed by residential areas; however, they are allowed by industrial areas. Adesa backs up to Ms. Willingham's property and a higher fence would help provide more privacy. The petition meets all three criteria of a variance; therefore, the staff recommends approval.

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

There were none.

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

Ms. Willingham explained that the taller fence would help block out the industrial area and parking lot that is behind her property. She further explained that when she bought the property, trees and green space was behind it. She was unaware that Adesa had purchased the land and would be clearing it for a building, access road and parking lot site. There is now no privacy for her back yard, plus she noted that

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the noise and lights from the traffic on the access road is intrusive. She believes that an eight-foot fence would help keep passersby from seeing into the back yard and provide privacy from the industrial area.

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

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

Mr. Lasley asked what the road running behind the subdivision was used for.

Mr. Dombrosky explained that it is a Plainfield town road used for access from Adesa to US Hwy 40. It also is an access road into the subdivision.

Being no further questions, Mr. Hession asked for a motion from the board.

Mr. O'Riley made a motion to approve VAR 07-19 with conditions set by staff.

Mr. Himsel seconded the motion.

Motion for approval of VAR 07-19 carried unanimously.

VOTE: For- 4

Against- 0

Abstained-0

APPROVED

VAR 07-19: Christy Willingham

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 07-19

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). The application sought to vary development standards by allowing an 8-foot fence height in the rear of the property.

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

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

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

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

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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 height limit is not beneficial in this specific situation, and the variance will not set a precedent for other property. There will be no negative impacts to the general public.

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

The Board finds that the proposal will meet this standard. The property is next door to a major automobile auction facility. The height limit for that property is 8', and if the fence were placed only feet away on that property, it would not require a variance. The two-foot height difference for a residential property will not be noticeable.

- (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 variance will allow screening of an undesirable use adjacent to a residence, and the fence would be legal if were being placed by the industrial property as opposed to the residential neighbor.

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

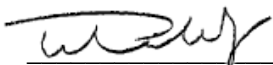
1. All other federal, state and local regulations apply.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 20th day of May 2019.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Anthony Hession
Chairperson



Tim Dombrosky
Secretary to the Board

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VAR 08-19: Billy Vick Variance to exceed 5% coverage rule on a .31-acre RB zoned parcel in the Town of Coatesville; Section 5, Township 14, Range 2W; Key No. 16-1-05-42W 155-027; located between S SR 75 and Milton St; 7938 Heavin St, Coatesville, IN 46121.

Mr. Dombrosky showed the property on power point. It is within the town of Coatesville and is an old town lot, measuring approximately 60'x120'. He noted that the property, as well as most surrounding property, is zoned RB and near AGR-zoned areas. There are several BZA cases in the area, including variances to lot area, building and development standards and usage, which is very common in small towns. The comprehensive plan calls for the area to remain RB, to encourage growth and to allow for continued use of homes. Close up of property shows that the property is a town lot (metes and bounds) as opposed to a subdivision lot. Much of the small lot is covered by the road and drive; zoning does not count that coverage against the property owner, and it should not be considered part of the total lot coverage. Mr. Dombrosky also added that accessory lot coverage has been increased to 7%, but petitioner would still exceed that limit by 90 square feet. He concluded that continued productive use of the lot should be encouraged. The proposed project is for a pool in a fenced-in yard, so it is not of visual or aesthetic concern. Staff believes it meets the three criteria for a variance and recommends approval.

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

There were none.

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

Mr. Vick explained that he is planning on building a covered deck off the back of the existing garage to accompany the above-ground pool he is installing. This location would allow him to use previously unusable space and still allow him to preserve a small unobstructed portion of the back yard. The pool would be about three feet from the existing fence on the side of the property, directly behind the garage. He would not encroach on the ten-foot setback at the back of the property. He has chosen this spot so that the pool does not take up the middle of the back yard.

Mr. Dombrosky asked how far the garage is from the property line.

Mr. Vick replied that he didn't know.

Mr. Dombrosky asked if the fence is attached to the garage.

Mr. Vick answered that the fence is attached to the garage.

Mr. Dombrosky then clarified that the garage is closer to the property line than the pool would be.

Mr. Hession asked how tall the fence is.

Mr. Vick answered that the fence is 6 feet tall.

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

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

There were none.

Mr. Hession asked for a motion from the board.

Mr. Lasley made a motion to approve VAR 08-19 with conditions set by staff.

Mr. O'Riley seconded the motion.

Motion for approval of VAR 08-19 carried unanimously.

**VOTE: For- 4
VAR 08-19: Billy Vick**

Against- 0

Abstained-0

APPROVED

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 08-19

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). The application sought to vary development standards by allowing accessory structure coverage in excess of 7%.

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:

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

The Board finds that the proposal will meet this standard. The lot is in a traditional town center and is smaller than most County lots. It is the expressed objective of the County to encourage reuse and redevelopment of these types of lots, allowing variances where reasonable. There will in fact be positive impacts to the general public.

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

The Board finds that the proposal will meet this standard. The proposed structures exceed the 7% limit by 90 square feet. This amount will not be discernable. The neighboring property will not be affected in a substantially adverse manner.

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

The Board finds that the proposal will meet the standard. Many of the legal non-conforming small town lots in rural town centers are not able to meet current development standards, and it is important to maintain the health and viability of these areas to allow somewhat flexible standards. It is a hardship to allow occupancy of these small lots and not grant small, reasonable variances.

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

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

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 20th day of May 2019.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Anthony Hession
Chairperson



Tim Dombrosky
Secretary to the Board

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VAR 10-19: Jeffrey Conyer Variance to allow a zero side setback on a vacant 1.35-acre AGR zoned parcel in Guilford Township; Section 9, Township 14, Range 1E; Key No. 06-2-09-41E 400-010; located near intersection of S CR 600 E and E CR 700 S; Parcel #32-15-09-400-010.000-011, Plainfield, IN 46168.

Mr. Dombrosky showed the property on power point. He noted that the property is zoned AGR but is surrounded by mainly RB-zoned area. The property is located off S County Road 600 E next to a subdivision and larger platted lots. The property was the part of a larger parcel that adjoined the petitioner's lot in the neighboring subdivision. The owner sold the 1.35-acre portion to Mr. Conyer for his personal use. The way that platting works and the restraints of the HOA makes it nearly impossible to join the two lots together as one parcel. Mr. Dombrosky showed the area where the petitioner is wanting to build a barn, with a zero-side setback. Due to the topography of the parcel, the only practical building site would be right at the property line. There's a drain easement on the house side of the property line, but as the building site avoids that, staff believes criteria of a variance is met and recommends approval.

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

There were none.

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

Mr. Jeffrey Conyer explained that the parcel he wants to build on is only accessible from his home property. He also said that by combining the parcel with his home lot, the parcel would become part of the subdivision and fall under the HOA restrictions. The HOA does not allow outbuildings. He also explained the proposed building site and the need for a zero setback. The parcel is mostly wooded, is divided by a creek and has several predominant elevation changes. The proposed building site is the only relatively clear and flat area of the parcel, and thus the logical place to build.

Mr. O'Riley asked how it would be handled should the house, subdivision or parcel be sold.

Mr. Dombrosky clarified that the building would not cross property lines. There is also a 10-foot drainage easement that runs between the two properties, on the house side of the property line. The barn would have a zero setback from the easement and still be ten feet from the home's building line. He added that if there is a concern about either of the properties being sold in the future, it is not a concern that the BZA can address directly. It's possible, but not probable, that the house would be sold independent of the out-building/parcel. There would be some practical difficulty in accessing the parcel should that happen.

Mr. O'Riley stated that it wouldn't be an issue if the lot and parcel were joined.

Mr. Dombrosky reiterated that joining them would be highly unlikely and extremely difficult.

Mr. Conyer added that if the lots were combined then the parcel would fall under the HOA covenants and he wouldn't be allowed to have an outbuilding. He also thinks it would not be possible to sell the lots independent of one another as the parcel is only accessible from the house lot.

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

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

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There were none.

Mr. Hession asked for a motion from the board.

Mr. Hession made a motion to approve VAR 10-19 with conditions set by staff.

Mr. Lasley seconded the motion.

Motion for approval of VAR 10-19 carried unanimously.

VOTE: For- 4 Against- 0 Abstained-0 APPROVED
VAR 010-19: Jeffrey Conyer

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 10-19

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). The application sought to vary development standards by allowing a zero-foot side setback on the south property line.

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:

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

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The Board finds that the proposal will meet this standard. The issue does not affect the general public. There will be no negative impacts to the general public.

(8) 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 subject property is owned by the adjacent property owner. The shared property line is not protecting any neighbors. There is a drainage easement to the south of the line, which the variance will not affect.

(9) 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. Building on the property according to the development standards would result in fill and destruction on a creek bank that is a public drainageway.

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

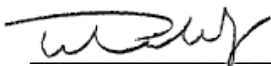
4. All other federal, state and local regulations apply.
5. There shall be no encroachment into the drainage easement.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 20th day of May 2019.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Anthony Hession
Chairperson



Tim Dombrosky
Secretary to the Board

VAR 11-19: Glenn and Brigitt Klaum Variance to reduce side setback from 15' to 2' to allow for a home addition on a 1.83-acre AGR zoned parcel in Marion Township; Section 5, Township 15, Range 2W; Key No. 09-1-05-52W 100-004; located approximately 1 mile west of N SR 75; 7699 W CR 100 N, Danville, IN 46122.

Mr. Dombrosky showed the property on power point. He noted that the property, as well as the surrounding area, is zoned AGR. The comprehensive plan is for the area to remain AGR. There are three

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pieces of property highlighted on Beacon that are all part of the petition. For reasons unknown, they have not been joined and remain three separate parcels. However, the boundaries shown on Beacon are shifted significantly, confusing the actual property lines. There are a few BZA cases in the area, including an event center, as yet unbuilt. Mr. Dombrosky showed the site plan where the proposed addition would be located. The existing garage already encroaches on the side setback. If the petitioners tear it down voluntarily, a variance would be needed to replace it. The petitioners do plan to tear it down to accommodate the addition and a new attached garage. Since the new garage will become part of the principal dwelling instead of an accessory building, the side setback will be fifteen feet instead of ten. Mr. Dombrosky noted that the variance would be for a two-foot side setback. Because there's been a building located at the site and a long-standing discrepancy in the property lines and the surrounding area is AGR, he believes the addition would be an acceptable use. Staff recommends approval.

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

There were none.

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

Mr. Ben Comer, Comer Law Office, 71 West Marion St, Danville, IN 46122, legal representative for the Klaums, addressed the board. He said that the home and garage were built in 1947 before setbacks were established. The existing garage is 2 feet off the actual property line. But due to the discrepancy on Beacon, the Klaums believed that they had an extra 45 feet to work with. It was only when they had the property surveyed that they became aware of the actual property lines and setbacks.

Mr. Hession asked for clarification of the property lines, as Beacon shows conflicting boundaries.

Mr. Comer pointed out where the actual surveyed property line is. He further explained where the proposed addition would be positioned on the lot. He also added that there are limited building options due to the location of the well and septic system. He noted that the proposed addition would maintain the two-foot setback that has been in place since the original building date of 1947. He concluded with the comment that the adjoining property owner had filed a letter in favor of the addition.

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

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

There were none.

Mr. Hession asked for a motion from the board.

Mr. Himsel made a motion to approve VAR 11-19 with conditions set by staff.

Mr. O'Riley seconded the motion.

Motion for approval of VAR 11-19 carried unanimously.

VOTE: For- 4

Against- 0

Abstained-0

APPROVED

VAR 11-19: Glen and Brigitt Klaum

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 11-19

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). The application sought to vary development standards by allowing a 2-foot side setback on the property.

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

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

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

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:

(10)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 common setback is a local issue that will have no effect on the community.

(11)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. There has been a structure located 2' from the side property line since 1947. The property owner has also presented a favorable opinion of the variance.

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(12)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 arrangement of the property and existing structures predate the zoning ordinance. The placement of these structures mostly dictates where an addition can feasibly be placed.

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

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

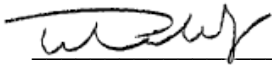
7. The variance shall not apply to any other structure than those included in this current request.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 20th day of May 2019.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Anthony Hession
Chairperson



Tim Dombrosky
Secretary to the Board

Mr. Hession asked if there was any further business.

There was none.

Being no further business, the meeting was adjourned at 7:59 P.M.