

January 21, 2020

The Hendricks County Board of Zoning Appeals met in the Hendricks County Government Center, Meeting Rooms 4 and 5, Tuesday, January 21, 2020. The meeting began at 7:30 p.m. Members present included Rod Lasley, Anthony Hession, Walt O'Riley and Ron Kneeland. Also, present were Tim Dombrosky, Planning Director, Graham Youngs, County Attorney and Leslie Dardeen, Recording Secretary. Sam Himsel was absent.

Everyone stood and recited the Pledge of Allegiance, led by Mr. Lasley.

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 December 16, 2019 meeting.

Mr. Kneeland made a motion to approve the December 16, 2019 meeting minutes.

Mr. O'Riley seconded the motion.

Mr. Hession abstained as he was not present at the December meeting.

VOTE: For- 3 Against- 0 Abstained- 1 APPROVED
December 16, 2019 MEETING MINUTES

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

VAR 26-19: Trustee Washington Township, Hendricks County, IN Variance to allow pylon sign with electronic messaging on a 4.32-acre AGR-zoned parcel in Washington Township: Section 9, Township 15, Range 1E; Key Nos. 12-3-09-51E 200-001 and 12-3-09-51E 210-001; located near intersection of E US Hwy 36 and S CR 575 E; Parcel IDs 32-10-09-200-001.000-022 and 32-10-09-210-001.000-022, Avon, IN.

Mr. Dombrosky introduced the property on power point. He noted that the property had been rezoned from AGR to NB (neighborhood business) as of last month in order to request a pylon sign with electronic message center. Most of the surrounding property is zoned either PB (Planned Business) or GB (General Business), and most of the past BZA cases are related to highway businesses, including several for a church, lighting and setbacks for a car dealership, parking, outdoor display and signage. The comprehensive plan shows that the property is developed and close to the Avon Municipal boundaries. Mr. Dombrosky then showed a close up of the Paw Park, explaining that it is intended for recreational community use. He pointed out the locations of the parking lot, open shelter and the fencing that encompasses the area running along US Hwy 36. He then showed renderings for the proposed sign, which he believes to have been modified slightly. It is a pylon style sign with an electronic message center and an identifier on top. The site plan shows the proposed location, 54 feet from the shelter, on the roadside, to be visible from US Hwy 36. Mr. Dombrosky mentioned that he had received a letter from the Town of Avon Planning Department, which differed in interpretation of several key elements of the variance requirements. Pylon signs are not permitted in NB districts unless the property is fronting a major thoroughfare, which in this case it is on US Hwy 36. The Town of Avon misinterpreted this within their letter as pylon signs are not permitted in NB districts at all. He also explained that there is an overlay zoning district along US Hwy 36 between Danville and Avon that restricts pylon signs within the district, making it appropriate that the petitioner file for a variance and not a special exception to have the sign. The overlay district has different architectural and signage restrictions for aesthetic reasons.

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Mr. O'Riley asked how far away from the property the district is where pylon signs are permitted.

Mr. Dombrosky responded that zoning allows signs everywhere between the incorporated areas of Danville and Avon except for a very small area between the Danville and Avon town limits that falls in the overlay district. Anywhere else in the county along US Hwy 36 would be permitted to have a pylon sign. He concluded that it is exclusively because of the overlay district and exclusively asking for variances from the overlay standards that necessitated the petition to the Board. The original request was for a 24' sign; but has been reduced to 18' per the Town of Avon's request. There are also restrictions on the electronic message center, as far as how it's used (message can't change more than every 8 seconds and needs to remain a static image). The town's letter asks that the messaging be text only, no images. Mr. Dombrosky does not recommend that be one of the conditions as the county ordinance does not make that a distinction.

Mr. Lasley asked why the existing signs within the overlay district were approved.

Mr. Dombrosky explained that those variances were from 2000-2003. The overlay district was not established until sometime after 2006.

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

There were none at this time.

Mr. Lasley invited the petitioner to address the board.

Mr. Ben Comer, Comer Law Office 71 W Marion St, Danville, IN, representing the Washington Township Trustee Don Hodson, addressed the board. He introduced Lora Helmick, Park Director, as the representative for the Washington Trustee's office. He explained that Washington Township owns roughly 160-175 acres, 4.3 acres zoned specifically for NB (neighborhood business) that allows continued recreational use and possible commercial signage. He explained that the park is in desperate need of a new, larger sign and pointed out the location of the existing sign. It has been in place for many years and the trees have grown up around it blocking it from view. The new sign is intended to advertise the Paw Park, events in the park and community information and events sponsored by the Washington Township Fire Department. The requested site of the sign is the best choice, within Washington Township, for the most visibility. Mr. Comer added that to effectively display information and appease the request of the Town of Avon, the petitioner is willing to make two commitments: 1) the sign will be a maximum of 18 feet, and 2) the electronic message will not change more frequently than every 8 seconds. Although Avon has requested that the message center be for text only, the petitioner is requesting that they be able to have text and imaging messages. Mr. Comer went on to highlight the commercial zoning in the immediate area and other businesses that have pylon signs, some with electronic messaging, to promote their services and products. The proposed sign would be used only to relay public information and not to sell products for a profit.

Mr. Hession asked if the sign would have imaging/messages 24 hours a day.

Mr. Comer asked Ms. Helmick to respond.

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Ms. Lora Helmick, 7590 S CR 450 W, Stilesville, IN 46180, answered that this type of sign cannot be turned off at specific times. The messages will not be changed frequently, the same messages will run for possibly a week or more at a time.

Mr. Lasley asked for clarification on whether that means the same message will be displayed during the day for a week at a time or if several messages would rotate throughout the day.

Mr. Comer responded that they have not worked out the details of this and therefore do not want to make a commitment at this time. They will, of course, abide by the county regulations on frequency.

Mr. Lasley asked how tall the fence is around the Paw Park.

Ms. Helmick answered that the fence is 6 feet. The bottom of the messaging portion of the sign would be just above the fence. She added that they have an agreement with the Avon about the height of the messaging center.

Mr. Lasley asked if the electronic portion would be facing East/West or will it be 3-sided with one side facing the nearby residential area.

Mr. Comer responded that it would only have 2 sides and face East/West so that traffic along US Hwy 36 can see it from both directions.

Mr. Lasley asked if the sign would be on the inside of the fenced area.

Mr. Comer answered that it would.

Mr. Hession asked about the safety of the message content and messaging system from being hacked into and potentially displaying offensive material.

Ms. Helmick responded that the company they are getting the sign from is very reputable and they have safeguards against hacking.

Mr. Lasley asked who would be in control of creating and changing the message.

Ms. Helmick responded that she would be responsible for all messages and changes.

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

Mr. Lasley asked for further comments or questions from the board.

Mr. O'Riley reconfirmed that the sign would be a maximum of 18 feet and that the Town of Avon is ok with that height. He also reconfirmed that the message would not change more frequently than every 8 seconds. He concluded that he saw no need to limit the messaging to text only.

Mr. Hession reiterated that the sign's messaging is to display community information, and he agreed that it should not be limited to text only.

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Mr. Lasley asked if they would need to put in the conditions of maximum height at 18 feet and rate of messaging to 8 seconds.

Mr. Dombrosky answered that they should include a condition of the sign height, but they do not need to include a condition about the messaging frequency as that is already part of the county ordinance.

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

Mr. O'Riley made a motion to approve VAR 26-19 with the commitment of the township to limit sign height to 18 feet and conditions set by staff.

Mr. Hession seconded the motion.

Motion for approval of VAR 26-19 carried unanimously.

VOTE: For- 4 Against- 0 Abstained-0 APPROVED
VAR 26-19: Trustee Washington Township, Hendricks County, IN

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 26-19

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 pylon sign type with an electronic message center.

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. Other similar signs are located along US 36, and if this sign is placed similarly, will not pose any risk to the 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 sign will be oriented toward US 36 and will not substantially affect the other surrounding uses.

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

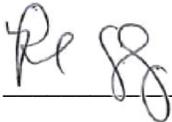
The Board finds that the proposal will meet the standard. The type of sign is expected along a major highway, and the need for the variance only arises due to the peculiarities of the zoning ordinance.

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

1. The variance applies to the sign described in this application only, and no future signs.
2. All other federal, state and local regulations apply.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 21st day of January 2020.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Rod Lasley
Chairperson



Tim Dombrosky
Secretary to the Board

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VAR 01-20: Michael Carr Variance to allow accessory building in front of principal dwelling on an 2.24-acre RB-zoned parcel in Middle Township: Section 1, Township 16, Range 1W; Key No. 10-2-01-61W 351-003; located approximately ¼ mile west of intersection E CR 600 N and N CR 250 E; 6206 Carex Ct, Pittsboro, IN 46167.

Mr. Dombrosky showed the property on power point. The parcel is zoned RB, a rural subdivision within a predominantly zoned AGR area. He noted past BZA cases in the area, including variances to setbacks and special exceptions to allow mobile homes. The comprehensive plan shows the area remaining suburban residential, rural residential and agriculture. Mr. Dombrosky introduced a close-up of the property and the potential building site. The variance is to place an accessory building in front of the principal dwelling. Mr. Dombrosky further explained that the variance is needed because of the RB-zoning of the property; had it been zoned AGR a variance would not be necessary. He pointed out the location of the well, septic field and utility/drainage easements which impact the potential building site. The surveyor's office would have to grant encroachment of the easements, which Mr. Dombrosky believes they have. Due to the practical difficulty of the lot, staff believes criteria have been met and recommends approval.

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

There were none.

Mr. Lasley invited the petitioner to address the board.

Mr. Mike Carr, 6206 Carex Ct, Pittsboro, IN 46167, addressed the board. He said that Tim had covered his request, reiterating that his main objective in choosing the building site is to avoid the septic and well. He also added that he wants to put the new structure near the existing garage and driveway for practical purposes.

Mr. Hession asked if the turn-around portion of the cul-de-sac is actually on his property.

Mr. Carr responded that it is.

Mr. Hession asked if the road is public or private.

Mr. Carr answered that the road is private. The county never assessed the road due to lack of proper drainage and curbs. He also added that the drainage easement is on his property as well.

Mr. Hession asked if there is a neighborhood agreement on road maintenance.

Mr. Carr answered that there is not an agreement presently but should be addressed soon.

Mr. Hession asked if all 5 homeowners in the subdivision have access to the road.

Mr. Carr answered that there are 2 lots/homes on either side of him and that they all have access to the road.

Mr. Lasley asked for confirmation that the surveyor had signed off on encroachment of the drainage easement.

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Mr. Carr responded the surveyor did sign off. He also mentioned that the map of the easement and accompanying swale is incorrect. The swale is actually 15 feet further east than is shown, which allows more room for the accessory building without encroaching on setbacks or easements.

Mr. Lasley asked if the new structure would be for personal use.

Mr. Carr answered, yes, that it would be used for vehicles, an RV, a fifth-wheel, and lawn equipment.

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

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

There were none.

Mr. Lasley asked for a motion from the board.

Mr. Kneeland made a motion to approve VAR 01-20 with conditions set by staff.

Mr. Hession seconded the motion.

Motion for approval of VAR 01-20 carried unanimously.

VOTE: For- 4 Against- 0 Abstained-0 APPROVED
VAR 01-20: Michael Carr

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 01-20

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 building in front of the principle.

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:

- (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 structure will not be out of character with the area and will pose no risk to the 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 use will remain residential and there will be no substantial adverse effects due to the existing character of the area.

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

The Board finds that the proposal will meet the standard. The property is uniquely shaped around a cul-de-sac. Any perceived harm due to varying standards is negated.

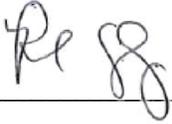
IC 36-7-4-918.2 Exceptions and uses. The Board may impose reasonable conditions as a part of its approval.

3. The variance applies to the structure and general location described in this application only, and no future buildings.
4. All other federal, state and local regulations apply.

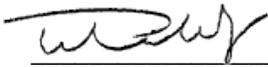
For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 21st day of January 2019.

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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.

There was none.

Being no further business, the meeting was adjourned at 8:00 P.M.