

April 20, 2020

The Hendricks County Board of Zoning Appeals met on Monday, April 20, 2020 via Zoom video conference to accommodate Covid-19 restrictions. 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, Greg Steuerwald, County Attorney and Leslie Dardeen, Recording Secretary. Sam Himsel was absent.

Mr. Lasley asked for a motion to approve the minutes from the March 16, 2020 meeting.

Mr. Hession made a motion to approve the March 16, 2020 meeting minutes.

Mr. O'Riley seconded the motion.

Mr. Dombrosky lead a roll call for votes on the March minutes:

Rod Lasley—Approve

Anthony Hession—Approve

Walt O'Riley—Approve

Ron Kneeland—Approve

Motion to approve March 16, 2020 minutes passed unanimously.

VOTE: For- 4 Against- 0 Abstained- 1 APPROVED
March 16, 2020 MEETING MINUTES

Mr. Dombrosky presented the cases.

VAR 04-20: Sandra Berry Variance to exceed 7% maximum lot coverage for an above ground pool on a .32-acre AGR-zoned parcel in Lincoln Township: Section 27, Township 16, Range 2E; Key No. 08-2-17-62E 345-020; located in Section 9 Lot 273 of Clermont Heights; 4314 Clifford Rd, Brownsburg, IN 46112.

Mr. Dombrosky introduced the property on power point. He noted that the property is in a developed subdivision that is on public utilities. The property, as well as the subdivision, is zoned AGR although it would be more appropriately zoned RB. The zoning of the parcel came before the subdivision was established and has remained unchanged. Mr. Dombrosky then pointed out past BZA cases in the area, highlighting three in the immediate vicinity that were approved to also exceed maximum accessory lot coverage. The comprehensive plan is not relevant to the case, though it does call for the area to remain suburban residential. The close-up of the property shows it to be a small urban lot that's developed with a house and a relatively large pole barn that brings the property close to the maximum lot coverage. Mr. Dombrosky explained that the petitioner is wanting to put a 24' round above-ground pool on the property. This will put the accessory coverage over the maximum of 7% by 360 square feet. He reminded the board that lot coverage had been recently raised from 5% to 7% for accessory structures. The lot coverage in this case is more of an aesthetic regulation and has no other effect on the property. There is no concern that drainage of storm water will be adversely affected. He added that the property, and intended pool area, is fenced. Staff has little concern to allow the maximum lot coverage to exceed 7%, however has maintained a neutral recommendation for granting a variance due to lack of proof of substantial hardship (one of the three criteria for a variance).

April 20, 2020

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

There were none at this time.

Mr. Dombrosky invited the petitioner to address the board.

Mrs. Sandra Berry, 4314 Clifford Rd, Brownsburg, IN 46112, declined to add further comment.

Mr. Dombrosky asked Mr. Lasley if there was anything he'd like to add or ask before asking for a motion.

Mr. Lasley had no questions.

Mr. Hession responded that he is of the opinion that above-ground pools are basically a temporary structure because they can be easily removed. He sees no issue with allowing the variance as it will allow the petitioner to better enjoy her property.

Mr. Dombrosky concurred with Mr. Hession, saying that he had a good point in viewing above-ground pools as more temporary in comparison to other accessory structures.

Mr. O'Riley also agreed with Mr. Hession's assessment.

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

Mr. Hession made a motion to approve VAR 04-20 with the conditions set by staff.

Mr. O'Riley seconded the motion.

Mr. Dombrosky lead a roll call for votes on VAR 04-20:

Rod Lasley—Approve

Anthony Hession—Approve

Walt O'Riley—Approve

Ron Kneeland—Approve

Motion for approval of VAR 04-20 carried unanimously.

VOTE: For- 4

Against- 0

Abstained-0

APPROVED

VAR 04-20: Sandra Berry

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 04-20

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 to exceed the lot coverage limit.

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. The structure will not be out of character with the area and will pose no 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 use will remain residential and the densely developed nature of the area will be no substantial adverse effects due to the existing character of the area. In addition, the restriction on lot coverage is mainly aesthetic and an existing privacy fence restricts outside views.

- (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.

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

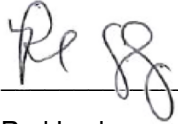
1. The variance applies to the structure and general location described in this application only, and no future buildings.

April 20, 2020

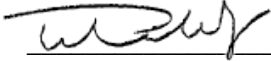
2. All other federal, state and local regulations apply.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 20th day of April 2020.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Rod Lasley
Chairperson



Tim Dombrosky
Secretary to the Board

SE 01-20: Duane Lane/Rooster Bar, LLC Special Exception to allow the addition of boat and RV storage at an existing storage facility on a 8.42-acre AGR-zoned parcel in Marion Township: Section 5, Township 15, Range 2W; Key No. 09-1-05-52W 400-018; located approximately ½ mile west of SR 75 on W US Hwy 36; Parcel 32-12-05-400-018.000-017, Danville, IN 46122.

Mr. Dombrosky explained that Mr. Lane has an agreement to purchase the parcel behind the current Hawkeye Self-Storage in New Winchester. He showed the property on power point. The parcel that Mr. Lane owns was recently re-zoned GB and granted a special exception to allow the storage facility; the subject parcel is now going through the same process and has already been rezoned GB to unify the properties. The GB zoning permits indoor boat and RV storage, the special exception will allow for outdoor storage and expansion. Past BZA cases in the immediate area deal almost exclusively with Hawkeye Storage properties, including signage and setback variances. Comprehensive plan calls for the surrounding area to remain AGR, with the exception of the areas newly rezoned as GB, and also allowing for the potential of development and re-development as is common in small rural towns. Mr. Dombrosky showed a close-up of the property and the existing structures. Mr. Dombrosky believes all nine criteria of a special exception have been met and recommends approval.

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

Mr. Hession asked if the driveway on the northeast corner of the property is the access onto Hawkeye Self Storage property.

Mr. Dombrosky invited the petitioner to answer the question.

April 20, 2020

Mr. Ben Comer, Comer Law Office 71 W Marion St, Danville, IN, representing Duane Lane, responded that the driveway in question had been used as the access point at one time, but is no longer used.

Mr. Hession confirmed that the photo provided was an old aerial picture.

Mr. Comer responded that is correct. Once the property was converted to a storage facility and completely gated in, the old driveway/access was no longer needed.

Mr. Hession asked if the building on the aerial picture is a house.

Mr. Comer said he believes it is a barn.

Mr. Comer concluded that the special exception is to allow for expansion of the existing storage facility and will be treated as one operation and operated under a common ownership and one business.

Mr. Lasley asked if there was anything else Mr. Comer wanted to add.

Mr. Comer responded that this would be the last step of approval to allow for the expansion of outdoor storage for this site.

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

Mr. Dombrosky added that he had solicited input and interest in both cases comprising the public meeting and no one responded; there was no written support or opposition submitted and no one requested to speak to the board.

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

There were none.

Mr. Lasley asked for a motion from the board.

Mr. Hession made a motion to approve SE 01-20 with conditions set by staff.

Mr. Kneeland seconded the motion.

Mr. Dombrosky lead a roll call for votes on SE 01-20:

Rod Lasley—Approve
Anthony Hession—Approve
Walt O'Riley—Approve
Ron Kneeland—Approve

Motion for approval of SE 01-20 carried unanimously.

VOTE: For- 4

Against- 0

Abstained-0

APPROVED

SE 01-20: Rooster Bar, LLC/Duane Lane

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

SE 01-20

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 **RV and Boat Storage** in an area zoned as GB (General Business). Acting in its role as staff to the County Board of Zoning Appeals (Board), the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in the County Government Center.

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

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

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

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

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

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

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

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

The Board finds that RV and boat storage is in fact a Special Exception in the General Business 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 remain agricultural, but encourages commercial services be located so as to maximize use of existing infrastructure, including along major thoroughfares.

- 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 use is an expansion of an existing permitted use, and the character and design will not differ significantly from the existing use. Additionally, the use will be screened according to ordinance.

- 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. There will be proper review of the development by County departments for site design including drainage. Emergency services and other public services are adequately serving the rural area for this low intensity use and will not likely experience significant increases 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 traffic is served by a major highway and will not have a detrimental effect on the roadway. The increase in demand for emergency services and other public services will likely not increase costs for the County that will not be recovered.

- 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 significantly change and be disruptive and detrimental to the surrounding area.

- 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 is designed to handle the expected 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 as it is substantially similar to what is permitted.

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

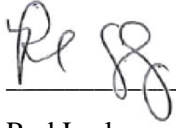
The Board imposed the following conditions in furtherance of the Indiana Code and the Hendricks County Zoning Ordinance:

1. All applicable federal, state, and local approvals are required.

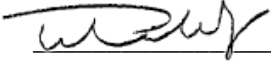
For all the foregoing reasons, the Board APPROVED this request for a Special Exception on the 20th day of April 2020.

April 20, 2020

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Rod Lasley
Chairperson



Tim Dombrosky
Secretary

Mr. Lasley asked if there was any further business.

There was none.

Being no further business, the meeting was adjourned at 7:50 P.M.