

HENDRICKS COUNTY BOARD OF ZONING APPEALS

Meeting Minutes

Monday, December 18, 2023

6:30 PM

Hendricks County Government Center • Meeting Rooms 4 & 5
355 S Washington St #G80
Danville, IN 46122

Members Present: Ron Kneeland, Russ Hesler, Walt O'Riley (VC), Rod Lasley (C)

Members Absent: Anthony Hession

Staff Present: Tim Dombrosky, Planning Director, and Leslie Dardeen, Recording Secretary

A quorum was established, the Pledge of Allegiance was recited, and 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 November 20, 2023 meeting. Ron Kneeland made a motion to approve the November minutes. Rod Lasley seconded the motion. Motion of approval passed 4-0.

New Business:

VAR 22-23 Brooks Weller Variance to plat a lot with well and septic with less than 1.5 acres on a .48-acre AGR-zoned parcel in Brown Township: Section 15, Township 17, Range 1E; Key No. 01-1-15-71E 420-004; located ½ mile north of intersection of N SR 267 and E CR 1000 N; 10436 N SR 267, Brownsburg, IN 46112.

Mr. Dombrosky gave an overview of the petition and property:

- Ag-residential zoned lot north of Brownsburg
- One of a strip of lots that are each approx. ½ acre
- Unapproved subdivision was created by building a house (permitted on an unplatted parcel of 20 or more acres), then splitting it off by deed on a ½ acre lot, bypassing the subdivision process and the Plan Commission. It was done again and again, resulting in an unapproved subdivision all accessing a county road.
- Does not happen often, there's probably a dozen of these subdivisions in Hendricks County
- Problems come up when building permits are pulled for one of the existing homes. The subdivision control ordinance does not allow us to issue permits for a lot that was created without subdivision approval
- In many cases, owners will go through the subdivision process for a one lot plat, which is what the petitioners are going to do if they obtain variance approval
- Only hurdle is that it is ½ acre instead of the required 1.5 acre minimum
- Variance from development standards would make the lot legal as far as size, and then petitioner would need to plat to have a legal subdivision lot
- Slides of existing house and drive show the septic fingers and tank at the back of the property
- In theory, don't have a problem with a variance from development standards to reduce lot size since it's an existing lot. If appropriate onsite sewage can be sited and designed and handled, then no problem with lot size change. It's more about fitting the

infrastructure onsite. Since the petitioners are going to go through the subdivision plat process, an engineer will look at the site to make sure that it can handle onsite sewage

- Recently the Commissioners approved a change to no longer require a secondary septic field easement on a lot, which takes up around 3500 sq ft and would be a problem with a smaller lot size. In this case, a secondary field could possibly fit in the front yard. However, the requirement is no longer in place, and the petitioners should be able to design the lot the way they like. They just need to be certain that the existing septic is functioning
- Provided conditional positive findings of fact

Mr. O'Riley: This petition got started because of a room addition?

Mr. Brooks Weller, 10436 N SR 267, Brownsburg, IN 46112: Yes, we tried to get permits to build an addition, a three-season sunroom, used for recreation. It will not be a bedroom or impact the occupancy of the house.

Mr. Lasley: Where will the sunroom be located?

Mr. Weller: It will be centered on the rear of the house where there is the existing patio space. The existing patio is only about 8' sq and the addition would be bigger than that at roughly 14' x 15'.

Mr. Dombrosky: Addition will have to have 10' of separation from the septic fingers.

Mr. Hesler: Will you add a restroom?

Mr. Weller: No. There will be no restroom added.

Mr. O'Riley: Did you sell off the back of the property?

Mr. Weller: No, it was sold years before we bought the property. Sometime in the past the neighbor had built an outbuilding that extended over the property line onto the original farmer's property and negotiated with the farmer to purchase the back lot

Mr. O'Riley: What happens if the variance is approved? Would petitioner have to get the septic inspected?

Mr. Dombrosky: No, the petitioner will need to have an engineer draw up a 1-lot subdivision plat showing all existing conditions, including the drain lines and where they run to.

Mr. O'Riley: Will the BZA approval be subject to this?

Mr. Dombrosky: No, these are separate issues. You can just approve to reduce the minimum size of the lot. And then the subdivision plat will adhere to that.

Mr. Hesler: Is city sewage available?

Mr. Dombrosky: Don't know exactly, but it's probably pretty far away from the house.

Mr. Weller: Well south of CR 1000.

Mr. Lasley opened and closed the public portion of the meeting as no one had signed up to speak. He asked for any final comments or questions from the board or staff.

Mr. Dombrosky: Although not required, it's still a good idea to find a secondary septic site, maybe in the front, with a soil test. It should not be a condition to the variance as it will be difficult. Just something to keep in mind should future issues arise.

Being nothing further, Mr. Lasley asked for a motion.

Mr. O'Riley made a motion to approve VAR 22-23.

Mr. Hesler seconded the motion.

Motion to approve VAR 22-23 carried unanimously.

VOTE: For – 4 Against – 0 Abstained – 0 APPROVE
VAR 22-23: Brooks Weller

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 22-23

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 reduction to the minimum lot size 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. If a subdivision plat is present that demonstrates adequate design for a septic field, there is no injury 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 reduction will allow a lot that is a similar size as other adjacent lots.

- (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. If the lot can be shown to support the required infrastructure, it should be permitted. This constitutes a hardship.

HCZO 12.6 E. Conditions. The Board may impose such reasonable conditions upon its approval as it deems necessary.


The Board finds that the approval shall be conditional upon the applicant's understanding of the risk that additional engineering is necessary and the property may not be suitable for further development.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 18th day of December 2023.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Rod Lasley
Chairperson



Tim Dombrosky
Secretary to the Board

Other Business:

Election of Chair and Vice-Chair for 2024 Board of Zoning Appeals.

Mr. Hesler made a motion to elect Walt O'Riley as 2024 Chairperson and Rod Lasley as 2024 Vice Chairperson.

Mr. Kneeland seconded the motion.

Motion passed unanimously, 4-0.

VOTE: For – 4 Against – 0 Abstained – 0 APPROVE
2024 Chairperson: Walt O'Riley Vice Chairperson: Rod Lasley

Being no further business before the board, the meeting was adjourned at 6:42 pm.