

HENDRICKS COUNTY BOARD OF ZONING APPEALS

Meeting Minutes

Monday, June 17, 2024

6:30 PM

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

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

Members Absent:

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

Legal Representation: Greg Steuerwald, County Attorney

A quorum was established, and the Pledge of Allegiance was recited. Mr. O’Riley read the Rules of Procedure for the Board of Zoning Appeals meeting. He then asked for a motion to approve the minutes from the May 20, 2024 meeting. Mr. Kneeland made a motion to approve the May minutes. Mr. Lasley seconded the motion. Motion of approval passed 4-0-1. Russ Hesler abstained from the vote as he was not present at last month’s meeting.

New Business:

VAR 11-24 McCullough Realty, LLC Variance to utilize vacated alley as road frontage for construction of townhouses on a .38-acre RB-zoned parcel in the Town of Coatesville: Section 6, Township 14, Range 2W; Key No. 16-1-06-42W 215-010 and 06-1-06-42W 215-005; located off Main St. and 1/8 mile west of Johnson St; 8283 Main and 121 W Main St, Coatesville, IN 46121.

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

- Zoned RB, single-family residential
- Comprehensive plan maintains the area as part of a small town with mixed use, making use of existing infrastructure
- Plan shows 4 townhome units on 4 different lots to be accessed by the alley right-of-way
- When area was platted years ago, alleys separated the lots, with 2 lots (lots 19 and 20) road-facing and 2 lots (lots 9 and 10) to the rear
- Lots 9 and 10 were never developed and the alley accessing them was vacated. Ownership then reverted to ownership of the lots
- The plan would be to use the vacated alley rights-of-way to access the rear lots. Because the frontage of those lots do not meet the requirement of 50’, the petitioner is asking for a variance to utilize the right-of-way as the frontage
- Duplexes will have a shared drive that is accessed from Main Street to the north
- Color-coded map shows ownership of the individual lots; the blue areas are owned by McCullough Realty, the white areas are public rights-of-way, the red area (9’ wide strip) is owned by a third party
- Petitioner is asking for a variance from development standards to develop lots without the minimum road frontage of 50’

Mr. O’Riley: Will there be driveways coming in from the side?

Mr. Dombrosky: My request is that a driveway be constructed down the west alley across the fronts of the rear lots and looping through to the alley on the east. Since a 12' wide entrance is not wide enough for 2 vehicles to pass, let alone an emergency vehicle, having a one-way loop would make it a viable driveway.

Mr. Lasley: (Indicating map displayed on PowerPoint) What does the green overlay mean?

Mr. Dombrosky: The "green" signifies that the lot is currently under a purchase agreement, with McCullough Realty purchasing from the current owner.

Mr. O'Riley invited the petitioner to speak to the board.

Mr. Shannon McCullough, 8795 E Hwy 36, Coatesville, IN 46121, addressed the board:

- The building that is currently under construction on Lot 20 has been shifted to the west to make room for the driveway
- Plenty of room to loop the driveway out on the east side of the lots
- This type of development is good for the town, will bring in revenue from property taxes

Mr. Lasley: You said you shifted the current building over to make more room for the drive. How wide was it before?

Mr. McCullough: We shifted the building to the west as far as we could to have 12' for the drive.

Mr. O'Riley: There will be 12' all the way around the loop?

Mr. McCullough: Yes.

Mr. O'Riley: It would make sense to have the drive going 1-way since 12' is only wide enough for one car.

Mr. Kneeland: There is the same type of development in North Salem. Did you do that one?

Mr. McCullough: No. I've done one similar in Bainbridge.

Mr. O'Riley: So, coming in from the road, the access to the rear units would be from the alley?

Mr. McCullough: Yes.

Mr. O'Riley: Where is the access to the front two units?

Mr. McCullough: From Main Street. The proposed drive on the west side will have to be wider than 12' because the alley is shared with the neighboring property.

Mr. Lasley: That alleyway is active now?

Mr. McCullough: Yes.

Mr. O'Riley: Mr. Dombrosky, what is your take on the driveway situation? You mentioned that you think it should be a loop. Is 12' enough?

Mr. Dombrosky: 12' is all there is.

Mr. O'Riley: Do we have any say-so on making this a one-way drive?

Mr. Dombrosky: That can be a condition set by the board. Can't be certain how effective the condition will be, but a sign could be put up.

Mr. O'Riley: I believe it would make it safer if it was one-way.

Mr. Lasley: Can the proposed buildings on the rear lots 9 and 10 be pushed back further, making the drive area between the front and rear lots wider?

Mr. McCullough: Yes, the buildings can be moved back further on lots 9 and 10.

Mr. O'Riley: That would make sense to have more space in between the units.

Mr. Lasley: It would make it easier for emergency vehicles to reach the rear properties.

Mr. Lasley: Who will be responsible for maintenance of the roads?

Mr. McCullough: I believe I will be responsible.

Mr. Dombrosky: That's correct. The driveway area will no longer be a public right-of-way, it will be a private drive for the property owners of the four lots.

Mr. Hesler: I've spoken to Jerry Decker, Coatesville Town Manager. He gives his full approval of these improvements.

Mr. O'Riley: Have you considered contacting the owner of the small 9' strip of land about the possibility of buying it?

Mr. McCullough: No. If I purchased it, in order to use it for additional space for the townhomes I would have to replat the entire property. I don't think it's worth the time or expense.

Mr. O'Riley opened and closed the public portion of the meeting as no one had signed up to speak.

Mr. O'Riley: Are there any more comments or questions from the board?

Mr. Hesler: I believe this type of development is positive for the town.

Mr. O'Riley: I don't have any objections to the project except for the street situation. If we make a motion, should we put in conditions pertaining to the driveway?

Mr. Dombrosky: I think it would be wise for the petitioner to include an access easement across the west side of lot 19. This would allow emergency vehicles to access all four properties.

Mr. O'Riley: Can we include something about the middle alley being widened also?

Mr. Dombrosky: I'm not as worried about that as it's more of a physical improvement.

Mr. Hesler: I'd like to see the buildings on lots 9 and 10 moved back so that the east-west drive/street be widened at least by double.

Mr. Dombrosky: If the driveway has also been put in on the east side, making a full loop, there will be 2 access points for the rear lots.

Mr. O'Riley: You are recommending that the drive be u-shaped?

Mr. Dombrosky: Correct.

Mr. O'Riley: How wide will it be?

Mr. Dombrosky: 12' all the way around, from Main Street on the west side of lot 19 to Main Street on the east side of lot 20. Practically, the petitioner can widen it onto the lot as much as he wants. If you feel like widening it is appropriate, then you can make that a stipulation to granting the variance.

Mr. O'Riley reopened the public portion of the meeting as changes to the plan have been discussed that would affect the neighboring property owner to the east.

Mr. Simon Jahner, 8103 E US Hwy 36, Avon, IN 46123, owner of the property at 8255 W Main St, Coatesville, IN 46121 addressed the board:

- Alley between his property and petitioner's property is used as a driveway for his property
- Alleys looked like they were vacated years ago and property owners have taken back ownership, put up fences
- Looping the drive would adversely affect the driveway to his property

Mr. O'Riley: To accommodate the neighboring driveway on the east side of Lot 20, can the drive be widened to 24' on the west side of Lot 19 and the north side of Lots 9 and 10, instead of looped?

Mr. Dombrosky: You can make that a condition.

Mr. McCullough: Lot 19 is wider than Lot 20, so there should be room to move the building further to the east and have enough space for a 24' wide drive.

Mr. O'Riley: If the drive from Main Street is widened to 24', would that become public access?

Mr. Dombrosky: If being 24' wide is critical to approval, then you would need to require an access easement for Lots 9 & 10 on the portion of the drive that is on Lot 19.

Mr. O'Riley: The motion would then need to be subject to that portion of the drive being 24' wide with an easement on Lot 19 for access to Lots 9 & 10?

Mr. Dombrosky: Correct.

Mr. Steuerwald: It's an ingress/egress easement on Lot 19 for the benefit of Lots 9 & 10.

Being nothing further, Mr. O'Riley asked for a motion.

Mr. Hesler made a motion to approve VAR 11-24 with the added condition of a 24' wide minimum ingress/egress easement be created that runs across Lot 19 to Lot 9.

Mr. Kneeland seconded the motion.

Motion to approve VAR 11-24 carried unanimously.

VOTE: For – 5 Against – 0 Abstained – 0 APPROVE
VAR 11-24: McCullough Realty, LLC

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 11-24

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 lots with less than the required road frontage in an RB/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. The structure will be in an appropriate location on an urban lot and will not be injurious 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 lots of the immediate area are densely developed with structures of mixed sizes. The variance will not negatively impact the surrounding properties.

- (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 surrounding properties are platted in a historic pattern with alleys which allow access but not development under the updated ordinance.

HCZO 12.6 (E) Development Standards Variance; Conditions. The Board may impose such reasonable conditions upon its approval as it deems necessary.

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

1. A twelve-foot wide access easement must be created on the east side of the west alley to allow for a 24' access to the rear lots.
2. The driveway across lots nine and ten must be at least 24' wide.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 17th day of June 2024.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA

Walt O'Riley

Walt O'Riley
Chairperson

Tim Dombrosky

Tim Dombrosky
Secretary to the Board

VAR 12-24 Seth and Candy Stephenson Variance to allow construction of an accessory building without a principal dwelling on a 24.48-acre AGR-zoned parcel in Marion Township: Section 29, Township 16, Range 2W; Key No. 09-1-29-62W 300-007; located ½ mile north of W CR 200 N on Clay Rd; Parcel #32-05-29-300-007.000-017, Danville, IN 46122.

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

- Partially wooded parcel in Clay Road
- Zoned AGR, very rural area with farm homesteads
- Comprehensive Plan reflects the zoning with continued Ag residential
- Unfarmed lot with a plan to build an accessory building without a principal
- Site Plan shows the location of a future house with the septic and well
- Variance consideration is that there will be an accessory building without a primary dwelling for the time being

Mr. O’Riley invited the petitioner to speak to the board.

Mr. and Mrs. Seth and Candy Stephenson, 206 N Indiana St, Danville, IN 46122:

- Bought the property with the intention to build a home
- Would like to start building a home after the loan for the land is paid off
- Need a barn to store the equipment needed to maintain property

Mr. Hession: What size barn are you planning to build?

Mr. Stephenson: We are having a 60’ x 40’ pole barn built by Midland Post.

Mr. Hession: What’s the eave height?

Mr. Stephenson: 14’.

Mr. O’Riley opened and closed the public portion of the meeting as no one had signed up to speak.

Mr. O’Riley: Are there any more comments or questions from the board?

Being nothing further, Mr. O’Riley asked for a motion.

Mr. Hession made a motion to approve VAR 12-24 with conditions set by staff.

Mr. Kneeland seconded the motion.

Motion to approve VAR 12-24 carried unanimously.

VOTE: For – 5 Against – 0 Abstained – 0 APPROVE
VAR 12-24: Seth and Candy Stephenson

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 12-24

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 structure without a principle dwelling in an AGR/Agriculture 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. The structure will be in an appropriate location on an urban lot and will not be injurious 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 lots of the immediate area are rural and developed with similar structures. The variance will not negatively impact the surrounding properties.

- (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. Approval will facilitate maintenance of the property.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 17th day of June 2024.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA

Walt O'Riley

Walt O'Riley
Chairperson

Tim Dombrosky

Tim Dombrosky
Secretary to the Board

VAR 13-24 Bradley Banker Variance to reduce side setback from 10' to 5' for construction of accessory structure on a 1.72-acre AGR-zoned parcel in Brown Township: Section 18, Township 17, Range 2E; Key No. 01-1-18-72E 420-001; located on lot 29 of Wing's Meadow Subdivision, ½ mile north of intersection at E CR 1000 N and N CR 1000 E; 10493 N CR 1000 E, Brownsburg, IN 46112.

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

- Parcel is in an older rural subdivision
- Zoned AGR, close to the Boone County line
- Comprehensive Plan shows area as remaining rural residential
- Heavily treed property
- Placement of garage not flexible due to location of driveway
- Rendering of building shows where the driveway will lead straight to the garage door
- It will be a 2-story loft style building to match the aesthetics of the house
- This is a setback variance to reduce side setback from 10' to 5'
- No safety issues

Mr. O'Riley invited the petitioner to speak to the board.

Mr. Bradley Banker, 10493 N CR 1000 E, Brownsburg, IN 46112:

- Lived at property for 5 years
- Driveway is about 5' from the property line
- Wants garage door to be aligned with driveway for easy access

Mr. O'Riley: The reason you are wanting to reduce the side setback to 5' is to shift the new building over far enough so that the garage door is accessible?

Mr. Banker: Correct. It will also help us maintain enough distance from the septic fingers.

Mr. O'Riley opened and closed the public portion of the meeting as no one had signed up to speak.

Mr. O'Riley: Are there any more comments or questions from the board?

Being nothing further, Mr. O'Riley asked for a motion.

Mr. Hesler made a motion to approve VAR 13-24 with conditions set by staff.

Mr. Kneeland seconded the motion.

Motion to approve VAR 13-24 carried unanimously.

VOTE: For – 5 Against – 0 Abstained – 0 APPROVE
VAR 13-24: Bradley Banker

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 13-24

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 reducing the side setback in an AGR/Agriculture 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. The structure will be in an appropriate location on a large lot and will not be injurious 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 lots of the immediate area are rural and developed with similar structures. The variance will not negatively impact the surrounding properties.

- (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 narrow lot is limited in areas for expansion and use.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 17th day of June 2024.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA

Walt O'Riley

Walt O'Riley
Chairperson

Tim Dombrosky

Tim Dombrosky
Secretary to the Board

VAR 14-24 Fischer Homes Variance to allow reduction of minimum building separation for condominiums from 15' to 14' between Block 7 and Blocks 6 (west) and 8 (east) on a .212-acre PUD-zoned parcel in Lincoln Township: Section 5, Township 16, Range 2E; Key No. 08-1-05-62E 379-003; located in Eagle Lakes Condos Section 2 Block 7; 10347/10349 Gateway Dr, Indianapolis, IN 46234.

Mr. Dombrosky informed the board that the petitioner has asked for a continuance. He then gave a brief explanation of the petition and why the continuance is needed:

- Zoned PUD
- Eagle Lakes Condos was originally designed to be 4-plexes, but the plan was abandoned about halfway through completion
- The back half of the 4-plexes were never built
- PUD was then amended to allow duplexes
- Original site plan would not allow the duplexes to be built as designed
- PUD is a zoning district created for specific development. The standards are written for that development by the developer
- The PUD ordinance requires 15' between buildings
- They cannot meet their own standards by less than 1 foot
- Petitioner applied for a variance for the one unit, then called the office and informed us that there would be 4 more units that would not meet their standards
- Not going to recommend approval because it's a self-imposed issue
- The petitioner does have the option to amend the PUD, but it is easier for everyone to get a variance

Mr. Hesler: Do you need 15 feet between the units for the fire code?

Mr. Dombrosky: This is an aggregate setback between 2 lots. They must have 15 feet between buildings. They are adding a brick façade to the buildings that is approximately 4 inches thick on each, which reduces the 15' down to 14'4". It still meets the fire code, no safety concerns.

Mr. O'Riley: What is meant by "amending" the PUD? Amending it to include the entire development or just the affected lots?

Mr. Dombrosky: Amending it would be for the entire development, changing the aggregate setback from 15' to 14'. Eagle Lakes PUD is probably the biggest in the county. The section with the condos was separated off to apply different standards, but it remains part of the same ordinance. When they amended the standards, it was just for the 25 units. Variance to development standards is the easiest route for everyone, Eagle Lakes and the county.

Mr. Lasley: They can't shrink the blueprints to get the extra foot that they need?

Mr. Dombrosky: They can, but developers don't like to make changes to the footprint of their 'product'.

Mr. O'Riley: If they make a "blanket" change to the PUD, it would be for the whole development?

Mr. Dombrosky: Then they would not need a variance. If the variance they are requesting is not a unique condition, then it's not a variance. It would become the standard. But it's a lot more work for the developer and the county to go through the amendment process.

Mr. Steuerwald: There's a lot involved. They would have to go back to the Plan Commission and the County Commissioners because they would be amending the ordinance.

Mr. Dombrosky: Plus, a change in zoning notification letter sent to neighboring property owners is a lot more concerning than a letter asking for a reduction in setbacks.

Mr. O'Riley: Are there any more comments or questions from the board?

Being nothing further, Mr. O'Riley asked for a motion.

Mr. Lasley made a motion to continue VAR 14-24 to the July 15th meeting.

Mr. Hesler seconded the motion.

Motion to continue VAR 14-24 carried unanimously.

VOTE: For – 5 Against – 0 Abstained – 0 CONTINUED TO JULY 15, 2024 MTG
VAR 14-24: Fischer Homes

Being no further business before the board, the meeting was adjourned at 7:15 pm.