

HENDRICKS COUNTY BOARD OF ZONING APPEALS

Meeting Minutes

Monday, May 19, 2025

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), Brett Smedley, Ron Kneeland

Members Absent: Anthony Hession

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 April 21, 2025 meeting. Mr. Kneeland made a motion to approve the April minutes. Mr. Smedley seconded the motion. Motion of approval passed 4-0.

New Business:

VAR 02-25 Daniel & Karen Hix Variance to allow accessory lot coverage to exceed 7% (apprx. total would be 9%) on a 3.17-acre AGR-zoned parcel in Eel River Township: Section 6, Township 16, Range 2W; Key No. 04-2-06-62W 101-001; located apprx. ½ mile east of N Putnam County Rd and ½ west of N CR 775 W; 8380 W CR 675 N, North Salem, IN 46165.

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

- Zoned AGR, rural residential
- Multiple out buildings on the property that will remain
- Proposed building will be to accommodate larger equipment needed for land maintenance

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

Mr. Daniel Hix, 8380 W CR 675 N, North Salem, IN 46165, declined to speak stating that everything had been covered in Mr. Dombrosky’s introduction. He offered to answer any questions.

Mr. O’Riley opened and closed the public hearing as no remonstrators were present.

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

Being none, he asked for a motion from the board.

Mr. Lasley made a motion to approve VAR 02-25 with conditions set by staff.

Mr. Kneeland seconded the motion.

Motion to approve VAR 02-25 carried unanimously.

VOTE: For – 4

Against – 0

Abstained – 0

APPROVE

VAR 02-25: Daniel & Karen Hix

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 02-25

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 structures to exceed the accessory lot coverage limit 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 not have a negative effect on the community and 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 structure will not be out of place or character with the surroundings. 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 context is not considered by the ordinance.

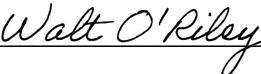
HCZO 12.6 (E) Development Standards Variance; Conditions. The Board may impose such reasonable conditions upon its approval as it deems necessary.

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

1. Must receive all required permits.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 19th day of May 2025.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Walt O'Riley
Chairperson



Tim Dombrosky
Secretary to the Board

VAR 03-25 Gary Jeffries Variance to allow an accessory dwelling unit (ADU) to be closer to property line (324') than to the principal structure (337') on a 27.33-acre AGR-zoned parcel in Middle Township: Section 17, Township 17, Range 1E; Key No. 10-1-17-71E 300-017; located apprx. 1/8 mile west of intersection at E CR 1000 N and N CR 471 E; 4662 E CR 1000 N, Pittsboro, IN 46167.

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

- Zoned AGR with rural homesteads around it
- Parcel is almost entirely covered by floodplain, leaving only one acceptable spot for the ADU
 - Constitutes a hardship
 - Limited building site options fall outside of setback requirements

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

Mr. Gary Jeffries, 4662 E CR 1000 N, Pittsboro, IN 46167, answered questions from the board.

Mr. Lasley: Will the ADU be on septic?

Mr. Dombrosky: Yes.

Mr. Jeffries: I've already obtained approval from the Health Department.

Mr. Smedley: Did the approval come before or after the floodplain designation?

Mr. Jeffries: It was approved after.

Mr. Dombrosky: The ADU will have the board established conditions of no new address and no separate driveway.

Mr. Lasley: Will this be used as a rental?

Mr. Jeffries: No, it will be for myself and wife to move into.

Mr. O'Riley opened and closed the public hearing as no remonstrators were present.

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

Being none, he asked for a motion from the board.

Mr. Kneeland made a motion to approve VAR 03-25 with conditions set by staff.

Mr. Smedley seconded the motion.

Motion to approve VAR 03-25 carried unanimously.

VOTE: For – 4 Against – 0 Abstained – 0 APPROVE w/conditions
VAR 03-25: Gary Jeffries

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 03-25

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 dwelling that does not meet the setbacks 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 not have a negative effect on the community and 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 structure will not be out of place or character with the surroundings. 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 structure minor change would meet the intent of the 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. The accessory dwelling shall not be permitted a second address.
2. The accessory dwelling shall not be permitted a separate driveway.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 19th day of May 2025.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA


Walt O'Riley
Chairperson


Tim Dombrosky
Secretary to the Board

VAR 04-25 Cory Eliason Variance to allow an accessory dwelling unit (ADU) to be closer to property line (44.6') than to the principal structure (75.3') on a 5.74-acre AGR-zoned parcel in Washington Township: Section 28, Township 16, Range 1E; Key No. 12-1-28-61E 435-002; located at the intersection of N CR 575 E and N CR 600 E; 2500 N CR 600 E, Avon, IN 46123.

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

- Zoned AGR
- Property was recently platted
- ADU will be attached to the new accessory building, making it closer to property line than to the principal dwelling

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

Mr. Andy Kult, Comer Law Office 71 W Marion St, Danville, IN 46122, representing the petitioner, addressed the board:

- Accessory structure (without the ADU added) meets all requirements, including setbacks
- An ADU attached to the accessory structure requires the entire structure to be closer to the principal than to the property line, resulting in the need of a setback variance

Mr. O'Riley: What is the square footage of the ADU?

Mr. Kult: It will be 25'x60'.

Mr. O'Riley: Will it be on septic?

Mr. Kult: We are working through that now with the Health Department. It will either be tied into the existing septic system or a new one will have to be put in.

Mr. Smedley: How will the ADU be accessed?

Mr. Kult: It will use the same driveway as the principal home.

Mr. Lasley: What will the accessory building be used for?

Mr. Kult: It will be for storage, cars and an RV. It will have no commercial use. Also, the ADU will be used for visiting family only.

Mr. Smedley: If the ADU was separate from the barn then there would be no issue, correct?

Mr. Dombrosky: Correct.

Mr. O'Riley opened and closed the public hearing as no remonstrators were present.

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

Being none, he asked for a motion from the board.

Mr. Lasley made a motion to approve VAR 04-25 with conditions set by staff.

Mr. Kneeland seconded the motion.

Motion to approve VAR 04-25 carried unanimously.

VOTE: For – 4 Against – 0 Abstained – 0 APPROVE w/conditions
VAR 04-25: Cory Eliason

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 04-25

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 dwelling that does not meet the setbacks 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 not have a negative effect on the community and 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 structure will not be out of place or character with the surroundings. 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 existing structure can be converted with little external change or effect and would meet the intent of the 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. The accessory dwelling shall not be permitted a second address.
2. The accessory dwelling shall not be permitted a separate driveway.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 19th day of May 2025.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA

Walt O'Riley

Walt O'Riley
Chairperson

Tim Dombrosky

Tim Dombrosky
Secretary to the Board

VAR 05-25 Susan Trout Variance to allow a side setback of 10' instead of the required 15' for the construction of a room addition on a .8-acre AGR-zoned parcel in Lincoln Township: Section 22, Township 16, Range 1E; Key No. 08-3-22-61E 475-004; located in Sunny Suburban Acres Lot 13; 3188 Sunny Dr, Brownsburg, IN 46112.

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

- Has a historic zoning of AGR, but is not up to date with current zoning practices
- Comprehensive plan labels area as "Town Growth"
- AGR zoning standards include 15' setbacks from side and rear property lines
- Lot is more typical of an RB zoning, which would allow 7.5' setbacks
- Petitioner wants to put on a room addition and has very limited placement options
- Staff believe there is a hardship due to the zoning and recommend approval

Mr. O'Riley: To be clear, the petitioner is asking for the setback to be 10' instead of 15'. Is that correct?

Mr. Dombrosky: That's correct. Keep in mind that the AGR zoning of the property is not typical for the type of subdivision this is. Subdivisions like this are usually zoned RB. Also, the 10' setback the petitioner is asking for is outside of a 10' utility easement.

Mr. Smedley: Will the addition encroach on the easement?

Mr. Dombrosky: No.

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

Ms. Susan Trout, 3188 Sunny Dr, Brownsburg, IN 46112, addressed the board:

- Room addition will be used as extra living space for family. It will not be a bedroom
- There will still be 40' between the addition and the neighbor's house

Mr. O'Riley opened and closed the public hearing as no remonstrators were present.

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

Being none, he asked for a motion from the board.

Mr. Smedley made a motion to approve VAR 05-25 with conditions set by staff.

Mr. Kneeland seconded the motion.

Motion to approve VAR 05-25 carried unanimously.

VOTE: For – 4 Against – 0 Abstained – 0 APPROVE
VAR 05-25: Susan Trout

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 05-25

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 10' side setback for a principle structure 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 not have a negative effect on the community and 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 structure will not be out of place or character with the surroundings. 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 resultant setback will meet the intent of the 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:

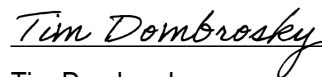
1. Petitioner shall be responsible for obtaining all the required permits.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 19th day of May 2025.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Walt O'Riley
Chairperson



Tim Dombrosky
Secretary to the Board

VAR 06-25 Eric & Aneta Scholtens Variance to allow a side setback of 8'7" instead of the required 15' for the construction of a room addition on a 3.05-acre AGR-zoned parcel in Washington Township: Section 32, Township 16, Range 1E; Key No. 12-1-32-61E 497-001; located apprx. ¼ mile east of N CR 475 E on Lot 1 of MIP 491; 4936 E CR 100 N, Avon, IN 46123.

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

- Zoned AGR, in the middle of a suburban residential area
- Comprehensive Plan labels the area as “Town Growth”
- Proposed addition would be on the isolated east side of property
- Neighboring parcel is undeveloped and landlocked
- Staff has no concern with the location of the addition, but cannot make a positive recommendation as a hardship is not apparent

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

Mr. Jef Cowsert, 831 N Park Av, Suite A, Indianapolis, IN 46202, architect representing the petitioner, addressed the board:

- The existing driveway will remain the only access
- Back corner of the addition would be the only part not meeting the setback

Mr. Lasley: Is there a way to make the addition smaller?

Mr. Cowsert: Yes, but the client doesn’t want to make it smaller.

Mr. O’Riley: I’m not too worried about only one corner being closer to the property line.

Mr. Lasley: The empty parcel to the east is landlocked, correct?

Mr. Dombrosky: Yes, it’s currently landlocked.

Mr. Smedley: Is there a possibility of it being developed in the future.

Mr. Dombrosky: It’s possible. There are ways to make it buildable.

Mr. Smedley: Could the addition be moved to another location?

Mr. Cowsert: Yes, but then it would be too close to the leach field.

Mr. O’Riley opened and closed the public portion of the meeting as no remonstrators were present.

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

Mr. Smedley: Does staff believe there to be a hardship that would necessitate the variance?

Mr. Dombrosky: Strictly, no. But there are no remonstrators, and the addition will bring value to the property.

Being no more questions, Mr. O’Riley asked for a motion from the board.

Mr. Kneeland made a motion to approve VAR 06-25 with conditions set by staff.

Mr. Lasley seconded the motion.

Motion to approve VAR 06-25 carried.

VOTE: For – 3

Against – 1

Abstained – 0

APPROVE

VAR 06-25: Eric & Aneta Scholtens

Hendricks County Area Board of Zoning Appeals

Findings of Fact/Law and Conditions of Approval

VAR 06-25

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' side setback for a principal structure 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 not have a negative effect on the community and 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 structure will not be out of place or character with the surroundings. 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.

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. The petitioner shall be responsible for obtaining the required permits

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 19th day of May 2025.

AREA BOARD OF ZONING APPEALS
HENDRICKS COUNTY, INDIANA



Walt O'Riley
Chairperson



Tim Dombrosky
Secretary to the Board

Other Business:

AMI Properties: unsafe building Hendricks County Zoning Ordinance 13.4

Mr. Greg Steuerwald updated the board on the status of the AMI Properties: unsafe building case.

577 Foxboro Drive, Avon, IN 46123:

- Has been demolished

4749 Colchester Circle, Avon, IN 46123:

- Has been looked at by 4 different contractors and deemed unsalvageable
- Building permit request has been withdrawn

Mr. Steuerwald: The board needs to consider upholding the Continuing Enforcement Order of Demolition and making a motion.

Mr. O'Riley: This Order will require the owner to demolish the house?

Mr. Dombrosky: Yes. They will be required to obtain a demo permit within 45 days of the Order being signed.

Mr. Steuerwald: At this point, there's no reason to assume that the mortgage company/owner will contact more contractors to "fix" the house.

Mr. O'Riley asked if there were any more questions from the board.

Being none, he asked for a motion to proceed with the Continuing Enforcement Order of Demolition.

Mr. Lasley made a motion to approve the Continuing Enforcement Order of Demolition.

Mr. Smedley seconded the motion.

Motion to approve the Continuing Enforcement Order to Demolish 4749 Colchester Circle, Avon, IN 46123 carried unanimously.

**VOTE: For – 4 Against – 0 Abstained – 0 Approve Order to Demolish AMI
Properties: unsafe properties/4749 Colchester Circle, Avon, IN 46123**

STATE OF INDIANA) IN THE HENDRICKS COUNTY BOARD OF ZONING APPEALS
) SS: 2025 TERM
COUNTY OF HENDRICKS)

IN RE: THE MATTER OF)
UNSAFE BUILDINGS and)
FRC VTX ASSETS LLC.)

202509492 MISC \$25.00
05/27/2025 03:22:52P 13 PGS
LAURA HERZOG
Hendricks County Recorder IN
Recorded as Presented



RE: 4749 Colchester Circle
 Avon, IN 46123

CONTINUING ENFORCEMENT ORDER AS TO 4749 COLCHESTER CIRCLE

This matter, having been continued from hearing scheduled for April 21, 2025 as agreed by the relevant parties, now come before Hendricks County Board of Zoning Appeals, acting in its appointed capacity as the Hendricks County Unsafe Building Hearing Authority, for a Continuing Enforcement Order with respect to the property located at 4749 Colchester Circle, Avon, Hendricks County Indiana, 46123, this body hereby ORDERS:

THE ORDER TO DEMOLISH AND REMOVE DATED OCTOBER 15, 2024 ISSUED BY THE HENDRICKS COUNTY UNSAFE BUILDING ENFORCEMENT AUTHORITY (copy attached as Exhibit 1) IS HEREBY AFFIRMED except that THE DATE UPON WHICH THE ORDERED DEMOLITION MUST BE COMPLETED BY THOSE PERSONS WHO HAVE A SUBSTANTIAL INTEREST IN THE PROPERTY IS EXTENDED TO FORTY-FIVE (45) DAYS FROM THE DATE OF THIS ORDER, WITH THE PROCESS OF DEMOLITION AND REMOVAL BEGINNING NO LATER THAN THIRTY (30) DAYS FROM THE DATE OF THIS ORDER.

IT IS FURTHER ORDERED THAT IF THE PROCESS OF DEMOLITION AND REMOVAL IS NOT BEGUN IN THE TIME FRAME ORDERED or IF THE DEMOLITION AND REMOVAL IS NOT COMPLETE BY THE DATE ESTABLISHED BY THIS ORDER, THE ENFORCEMENT AUTHORITY MAY PROCEED WITH THE REQUIRED DEMOLITION AND REMOVAL WITHOUT THE NEED FOR ADDITIONAL NOTICE OR HEARING WITH THIS BODY AND ALL COSTS INCURRED BY THE ENFORCEMENT AUTHORITY SHALL BE ASSESSED AND RECOVERABLE AS PROVIDED BY LAW.

The basis for this issuance of this Order is as follows:

SIGNED

MAY 19 2025

Hendricks County
Board of Zoning Appeals

1325-

- 1) Service of the Order to Demolish and Remove issued on October 15, 2024 as well as the notice of this final hearing have been acknowledged by the Mortgagee for the property as well as by the Court appointed Receiver in control of property who was appointed at the request of the Mortgagee in a mortgage foreclosure lawsuit instituted as to the property: *SSA NE Assets LLC v AMI Developers Inc., et al.*, Hendricks Superior Court 2, Cause No: 32C02-24-2-2408-MF-000113. The owner of record AMI Developers Inc. who has abandoned the property and no longer has control of the property following appointment of the Receiver, has also been served.
- 2) The Mortgagee, and the Receiver requested a continuance of the November 18, 2018 hearing set by the Order to Demolish. The Enforcement Authority and this Body agreed to the request. As reflected in the minutes of this Body for its November 18, 2024 meeting, the matter was continued to December 16, 2024.
- 3) On or before the rescheduled December 16, 2024 hearing the Mortgagee, the Receiver and the Enforcement Authority executed an Agreed Entry (copy attached as Exhibit 2). The Agreed Entry was presented at the December 16 hearing of this Body. In the Agreed Entry, the Receiver stipulated that the building on the subject property was an “Unsafe Building”. Further, the Agreed Entry required: “On or before February 28, 2025, the Receiver shall make application with the Planning Department of the appropriate improvement location permit or demolition permit.” It also required that all repairs or demolition approved by any permit sought and approved “be done in a timely manner.”
- 4) Receiver did not seek the required permit on or before February 28, 2025. Nor has any application for permit been submitted as of this hearing.
- 5) Despite failure of Receiver to timely seek a permit, Enforcement Authority agreed to further extend to April 30, 2025, the time to seek a permit – with conditions, which agreement was executed by Receiver and counsel for Mortgagee and thereafter approved by the Hearing Authority at the hearing scheduled for April 21, 2025. (See attached Exhibit 3).
- 6) Receiver did not on or before April 30, 2025 seek “the appropriate improvement location permit” as required by the Hearing Authority agreed entry of April 21, 2025. Nor has Receiver, since April 30, 2025, applied for a permit.
- 7) Thus, based on: a.) the findings of the Enforcement Authority as set out in its Order to Demolish and Remove dated October 15, 2024; b.) the stipulation of Receiver that the building in issue is an “Unsafe Building”, a stipulation agreed to by Mortgagee via execution by counsel for Mortgagee; c.) the Receiver’s failure to comply with the permit application requirement set out in the Agreed Entry of December 16, 2024, which required permit application by February 28, 2025; and d.) the additional failure to comply with the approved extended permit application period agreed to by the Receiver, Mortgagee and Enforcement Authority, as set out in the Body’s order to continue of April 21, 2025, **this Continuing Order of Enforcement**, affirming the Enforcement Authority’s Order to Demolish and Remove the subject building, modified by extending the date for compliance by

affected parties, as set out above, is well justified, as the Unsafe Building poses an immediate threat to the health and well- being of the community.

Entered this 19th day of May 2025

BY:

Area Board of Zoning Appeals, acting in its appointed capacity as the Hendricks County Unsafe Building Hearing Authority (following vote as reflected in minutes of Meeting on May 19, 2025)


Walt O'Riley, Chairperson



HENDRICKS COUNTY PLANNING & BUILDING DEPARTMENT

ORDER TO DEMOLISH AND REMOVE

You (Owner and/or Mortgagee) are hereby **ORDERED** to **DEMOLISH** and **REMOVE** the building located on the premises (Building) identified above.

You must begin the process of demolition and removal within thirty (30) days of receipt by you of this ORDER and the demolition and removal must be completed within sixty (60) days.

The reasons demolition and removal are required include, but are not limited to:

- Building is an "Unsafe Building."
- All construction and maintenance of site ceased many months ago, and the unfinished, unmaintained and vacant Building now constitutes a hazard to public health, safety and welfare. All that has occurred at the site during the last twelve (12) months is the removal of a trash dumpster and a porta potty. Building is a public nuisance.
- The building permit for Building expired on October 4, 2023.
- The structure is vacant, open and unsecured – front and back doors are open and cannot be locked. In addition, the access door is approximately nine (9) feet above grade. These conditions invite children. The Building is an attractive nuisance.
- There has been water in the basement because of the inoperable sump pump. There is now extensive mold throughout lowest level of the structure.
- There are serious deficiencies in the exterior brick work. Proper brick ties were not installed as the brick was being laid, and in many places, the brick work has been laid too close to the framing. These deficiencies create the risk of partial or total collapse of the brick work.
- There is a lack of adequate flashing between the brick work and the wood siding and trim. Other poor construction practices exist throughout the abandoned Building including the installation of drywall before the required insulation inspection rendering unknown what is behind the walls. Much of this drywall is now infested with mold. There are multiple locations throughout the structure where the framing is lacking in is softer than appropriate indicating a structural problem of inadequate and unsafe framing.
- Owner ignored the Department's notice of violation issued on June 26, 2023, and took no action to correct deficiencies and bring Building into compliance by July 28, 2023,



HENDRICKS COUNTY PLANNING & BUILDING DEPARTMENT

the date of compliance set out in the notice.

- Owner also ignored the Department's second notice of violation issued on August 3, 2023, and took no action to correct deficiencies and bring the Building into compliance by September 5, 2023, the date of compliance set as out in the reissued second notice.
- Building, if allowed to remain, will cause a decrease in property values to nearby properties and will adversely affect tax revenues if not abated.
- Owner has abandoned its interest in the identified premises.
- Unkempt grounds surrounding Building, deteriorated and deteriorating unused/abandoned building materials, junk, trash and debris demonstrate abandonment; affect nearby property values; and invite others to utilize the site as a dumping ground for trash and other debris.

The legal authority for this ORDER is Hendricks County Ordinance No. 1987-12 (Hendricks County Unsafe Building Law) and Indiana Code 36-7-9-1 et. seq. (Indiana Unsafe Building Law).

HEARING

Pursuant to I.C. 36-7-9-7, this ORDER has been set for Hearing before the Hendricks County Board of Zoning Appeals (the Unsafe Building Hearing Authority). Information as to the Hearing is:

Hearing Date: November 18, 2024

Hearing Time: 6:30 P.M.

Hearing Location: Hendricks County Government Center, Meeting Room 4 and 5

355 S Washington St. Danville IN 46122

You (Owner and/or Mortgagee) may appear in person, with or without counsel, at the Hearing. Each person appearing at the Hearing is entitled to present evidence, cross-examine opposing witnesses, and present arguments. If **You** elect not to appear at the Hearing, summary affirmation of the ORDER will likely occur and the Hearing Authority may also determine the subject property to be abandoned. **You** are further advised that willful failure to comply with this ORDER may subject **You** to a civil penalty in an amount not to exceed Five Thousand Dollars (\$5,000.00). Also, in the event the Enforcement Authority must engage contractors to accomplish



The Hendricks County
Quality Growth Strategy

HENDRICKS COUNTY PLANNING & BUILDING DEPARTMENT

and/or complete the demolition and removal required by the ORDER, due to **Your** (Owner's and/or Mortgagee's) failure or refusal to do so, **You** will be responsible for all costs incurred.

You are obligated under IC 36-7-9-27 to provide notice of this ORDER to anyone to whom you transfer or plan to transfer any interest in the subject property - FULL INFORMATION regarding this ORDER is required. Further if **You** transfer any interest you must supply to the undersigned the full name, address and telephone number of the person to whom the interest has been transferred along with copies of the legal instruments under which the transfer was accomplished.

I look forward to **Your** compliance with this ORDER. If **You** intend to attend the scheduled Hearing to challenge this ORDER, I would appreciate notice of such intent.

Tim Dombrosky – Enforcement Authority
Director of Planning and Building
Hendricks County Planning and Building Department
Hendricks County Government Center
355 South Washington Street, Suite G80
Danville, IN 46122
Phone: (317) 745-9255
Fax: (317) 745-9347
www.co.hendricks.in.us

cc: Mark Mussman, Zoning Inspector

STATE OF INDIANA)
COUNTY OF HENDRICKS) SS: IN THE HENDRICKS COUNTY BOARD OF ZONING
APPEALS 2024 TERM

IN RE: THE MATTER OF UNSAFE
BUILDINGS

RE: 577 Foxboro Drive
Avon, IN 46123

4749 Colchester Circle
Avon, IN 46123

AGREED ENTRY

Come now the Hendricks County Planning and Building Department (Enforcement Authority), Nathaniel R. Sim, Esq., not in his individual capacity, but in his capacity as the court-appointed receiver in the Hendricks Superior Court 2, Hendricks County, Indiana, in an action styled *SSA NE Assets LLC v. AMI Developers Inc., et al.*, Case No. 32D02-2408-MF-00013 (Receiver), and *SSA NE Assets LLC* (Mortgagee), through counsel, in an action before the Hendricks County Board of Zoning Appeals and agree as follows:

1. FRC VTX Assets LLC issued a commercial loan for the benefit of defendant AMI Developers Inc. (Owner). The loan is evidenced by a Commercial Promissory Note dated December 27, 2022, executed by Owner, as maker, and delivered to Lender in the principal face amount of \$1,620,000.00 (Note).

2. The Note is secured by a Commercial Mortgage, Security Agreement and Fixture Filing dated December 27, 2022, executed by Owner, as mortgagor, and delivered to Lender, as mortgagee (Mortgage). The Mortgage was filed for record with the Hendricks County Recorder on January 10, 2023 as instrument no. 202300433, and was recorded against and encumbers the real property and improvements located at 577 Foxboro Drive, Avon, IN 46123, parcel no. 32-10-08-353-006.000-022, and 4749 Colchester Circle, Avon, IN 46123, parcel no. 32-10-17-227-005.000-022 (collectively, the Properties).

3. The Mortgage was assigned to SSA NE Assets LLC (Lender) by virtue of an Assignment of Mortgage dated February 7, 2024, and filed for record with the Hendricks County Recorder on June 20, 2024 as instrument no. 202410592.

4. On August 12, 2024, Lender filed a Complaint to Enforce Note, Loan Agreement, and Guarantees and Foreclose on Commercial Mortgage and Assignment with the Hendricks County Superior Court 2, seeking to foreclose on its Mortgage against the Properties.

5. On November 5, 2024, Lender filed a Motion for the Immediate Appointment of Receiver seeking to appoint a Receiver over the Properties.



6. On November 6, 2024, the Hendricks County Superior Court 2 granted Lender's motion and issued its Order Appointing Receiver, appointing the Receiver Mr. Sinn as the receiver over the Properties.

7. The Order Appointing Receiver grants the Receiver, as the court-appointed fiduciary, certain powers and duties with respect to the Properties, including the following:

- a. To take and keep exclusive possession of the Properties;
- b. To obtain estimates, designs or plans for the completion of construction of a single-family home on one or both of the Properties, and, upon the consent and approval of Lender, to take all actions reasonably necessary to complete such construction, including, but not limited to, enter into contracts with contractors, suppliers, and laborers to complete such constructions, to buy materials, to oversee and manage completion of such construction, and to apply for and obtain all required permits for the work; and
- c. upon the consent and approval of Lender, complete any construction sufficient for occupancy and prevent waste and make necessary repairs to the Properties.

8. Following his appointment pursuant to the Order Appointing Receiver, the Receiver has engaged agents and physically inspected the Properties on several occasions.

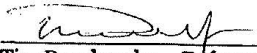
9. Having inspected the Properties, the Receiver stipulates and agrees that the Properties are at present an unsafe building.

10. The Receiver is in the process of determining if the Properties are salvageable and can be made safe and in compliance with county ordinances and regulations.


11. The Receiver shall notify the Enforcement Authority on or before January 24, 2025, of his intent to bring the Properties into compliance or to demolish the Properties.

12. On or before February 28, 2025, the Receiver shall make application with the Planning Department of the appropriate improvement location permit or demolition permit.

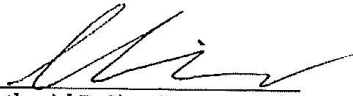
13. Said repairs or demolition shall be done in a timely manner.



Tim Dombrosky – Enforcement Authority
Director of Planning and Building
Hendricks County Planning and Building
Department
Hendricks County Government Center
355 South Washington Street, Suite G80
Danville, IN 46122



Daniel A. Cox (28426-15)
Wood & Lamping LLP
Attorney for SSA NE Assets LLC
600 Vine Street, Suite 2500
Cincinnati, OH 45202
Attorney for SSA NE Assets LLC



Nathaniel R. Sinn, Esq. - not in his
individual capacity, but in his capacity as
the court-appointed receiver in the
Hendricks Superior Court 2, Hendricks
County, Indiana, in an action styled *SSA
NE Assets LLC v. AMI Developers Inc., et
al.*, Case No. 32D02-2408-MF-000113

STATE OF INDIANA) IN THE HENDRICKS COUNTY BOARD OF ZONING APPEALS
COUNTY OF HENDRICKS) SS: 2025 TERM

IN RE: THE MATTER OF)
UNSAFE BUILDINGS and)
PRC VTX ASSETS LLC.)

RE: 4749 Colchester Circle
Avon, IN 46123

**AGREED ENTRY TO CONTINUE HEARING SCHEDULED FOR
CONTINUING ENFORCEMENT ORDER AS TO 4749 COLCHESTER CIRCLE**

This matter having come before Hendricks County Board of Zoning Appeals, acting in its appointed capacity as the Hendricks County Unsafe Building Hearing Authority, for a Continuing Enforcement Order with respect to the property located at 4749 Colchester Circle, Avon, Hendricks County Indiana, 46123, come now the Hendricks County Planning and Building Department (Enforcement Authority), Nathaniel R. Sim, Esq, not in his individual capacity, but in his capacity as the court-appointed receiver in the Hendricks Superior Court 2, Hendricks County, Indiana, in an action styled *SSA NE Assets LLC v. AMI Developers Inc., et al.*, Case No. 32002-2408-MF-000113 (Receiver), and SSA NE Assets LLC (Mortgagee), through counsel, and agree as follows:

1. This matter is set for hearing on Enforcement Authority's request for a continuing enforcement order as to the identified property.
2. Receiver and Mortgagee, however, have requested that the hearing be continued until 6:30 p.m. on May 19, 2025, the next scheduled meeting of this body.
3. Enforcement Authority has agreed to a continuance based on Receiver's representation that he has been advised that the previously stipulated unsafe building on said property can be rehabilitated and that a contractor has been engaged to perform the required work.
4. Receiver has also represented that the contractor will make an application with the Planning and Building Department for the appropriate improvement location permit by no later than April 30, 2025.
5. In addition to the typical required application documents, the Department will also require detailed plans and specifications as to the scope of the rehabilitation project. The Department reserves the



right to review thoroughly the plans and specifications and may require additional information and/or documents, including but not limited to a structural engineers' report, before approval of any permit requested. Further, the Department reserves the right to reject the permit if it is not satisfied the work proposed will bring the building into full compliance with all county ordinances, regulations and codes.

6. Upon approval of a requested improvement permit, rehabilitation work must be initiated within 30 days of approval. The work must be completed in a timely manner.

7. Representatives of the Planning and Building Department, or its designees, in its discretion, will perform any inspections it deems necessary during the rehabilitation project to ensure compliance with all county ordinances, regulations and codes.

8. All parties hereto understand that absent full compliance, demolition of the unsafe building shall become necessary.



Nathaniel R. Simm, Esq. -- not in his individual capacity, but in his capacity as the court-appointed receiver in the Hendricks Superior Court 2, Hendricks County, Indiana, in an action styled SSA NE Assets LLC v. AMI Developers Inc., et al., Case No. 32D02-2408-MF-000113



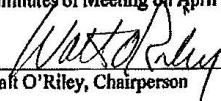
Tim Dombrosky -- Enforcement Authority
Director of Planning and Building
Hendricks County Planning and Building Department
Hendricks County Government Center
355 South Washington Street, Suite G80
Danville, IN 46122



Daniel A. Cox (28426-JS)
Wood & Lamping LLP
600 Vine Street, Suite 2500
Cincinnati, OH 45202
Attorney for SSA NE Assets LLC

This Agreed Entry to Continue Hearing Scheduled for Continuing Enforcement Order as to 4749 Colchester Circle, is Approved this 21st day of April 2025. This matter is continued to the May 19, 2025 meeting of this Board.

BY: Area Board of Zoning Appeals, acting in its
appointed capacity as the Hendricks County Unsafe
Building Hearing Authority (following vote as reflected
in minutes of Meeting on April 21, 2025)


Walt O'Riley, Chairperson

STATE OF INDIANA) IN THE HENDRICKS COUNTY BOARD OF ZONING APPEALS
COUNTY OF HENDRICKS) SS: 2025 TERM

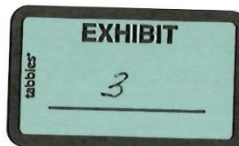
IN RE: THE MATTER OF)
UNSAFE BUILDINGS and)
FRC VTX ASSETS LLC.)

RE: 4749 Colchester Circle
Avon, IN 46123

**AGREED ENTRY TO CONTINUE HEARING SCHEDULED FOR
CONTINUING ENFORCEMENT ORDER AS TO 4749 COLCHESTER CIRCLE**

This matter having come before Hendricks County Board of Zoning Appeals, acting in its appointed capacity as the Hendricks County Unsafe Building Hearing Authority, for a Continuing Enforcement Order with respect to the property located at 4749 Colchester Circle, Avon, Hendricks County Indiana, 46123, come now the Hendricks County Planning and Building Department (Enforcement Authority), Nathaniel R. Sinn, Esq., not in his individual capacity, but in his capacity as the court-appointed receiver in the Hendricks Superior Court 2, Hendricks County, Indiana, in an action styled *SSA NE Assets LLC v. AMI Developers Inc., et al.*, Case No. 32002-2408-MF-000113 (Receiver), and SSA NE Assets LLC (Mortgagee), through counsel, and agree as follows:

1. This matter is set for hearing on Enforcement Authority's request for a continuing enforcement order as to the identified property.
2. Receiver and Mortgagee, however, have requested that the hearing be continued until 6:30 p.m. on May 19, 2025, the next scheduled meeting of this body.
3. Enforcement Authority has agreed to a continuance based on Receiver's representation that he has been advised that the previously stipulated unsafe building on said property can be rehabilitated and that a contractor has been engaged to perform the required work.
4. Receiver has also represented that the contractor will make an application with the Planning and Building Department for the appropriate improvement location permit by no later than April 30, 2025.
5. In addition to the typical required application documents, the Department will also require detailed plans and specifications as to the scope of the rehabilitation project. The Department reserves the



Mr. O'Riley asked if there was any further business to discuss.

Being no further business before the board, the meeting was adjourned at 7:10 pm.