

DEKALB COUNTY DEPARTMENT OF DEVELOPMENT SERVICES

PLANNING • BUILDING • GIS

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AGENDA

DeKalb County Board of Zoning Appeals

Commissioners Court – 2nd Floor DeKalb County Court House

Monday, September 11, 2023

6:00 PM

1. Call to order
2. Roll call
3. Approval of Minutes: August 14, 2023
4. Old Business: None
5. New Business:

Petition #23-12 – Benjamin Krafft requesting a Use Variance to allow for the outdoor storage and staging of construction debris and materials. The property is located at the northeast corner of County Road 60 and County Road 55, St. Joe, Indiana and is zoned A2, Agricultural.

Petition #23-13 – Randy Cook requesting a Development Standards Variance to allow for a garage addition to be located closer to the front yard setback than allowed by ordinance. The proposed garage addition will be approximately 26 feet from the property line along County Road 9A. The required setback is 30 feet. The property is located 66 Skyline Dr., Garrett, Indiana and is zoned R2, Medium Density Residential.

6. Reports from Planning Staff, Officers, and/or Committees
7. Comments from Public in attendance
8. Adjournment

Next Meeting: October 09, 2023

If you cannot attend, please contact Andrea Noll:

Anoll@co.dekalb.in.us | (260) 925-1923

***PLEASE ENTER THROUGH THE NORTH DOOR OF THE
COURTHOUSE LOCATED ON SEVENTH STREET***

****Cellphones, tablets, laptops, & weapons are prohibited****

MINUTES
DEKALB COUNTY BOARD OF ZONING APPEALS
Monday, August 14, 2023

A Meeting of the DeKalb County Board of Zoning Appeals was called to order at 6:00 p.m. in the Commissioner's Court of the DeKalb County Courthouse by Chairperson, Frank Pulver.

ROLL CALL:

Members present: Jason Carnahan, Frank Pulver, Rory Walker and new member, Larry Williams (who replaced Jeremy Watson).

Members absent: Mary Diehl

Staff Present: BZA Attorney, Andrew Kruse, Director/Zoning Administrator, Chris Gaumer and Secretary, Andrea Noll

Public in Attendance: Brian Dill, Carolyn Shelton, Bruce Scranage, Beth Flesher, Diana Chambers (Commercial Signs, Inc), Adam Dager and Andrew Schulenburg (The Baldus Co.).

APPROVAL OF MINUTES:

Motion was made by Jason Carnahan and Seconded by Rory Walker to approve the Minutes of July 10, 2023 as submitted. None opposed. Motion carried.

OLD BUSINESS:

None

NEW BUSINESS:

Petition #23-09 – Lauren Kruse & Brian Dill requesting a Special Exception to allow outdoor storage of recreational vehicles and boats. The property is located at 6128 County Road 427, Auburn, Indiana and is zoned AP3, Airport Commercial.

Chris Gaumer read the Staff Report, then asked if there were any questions.

Rory Walker inquired about a fence on the property.

Mr. Gaumer replied that there was an existing fence. He wasn't positive on the height of the fence, but that he could ask the petitioner.

Frank Pulver asked if the petitioner had anything he wanted to add.

Brian Dill approached the podium and clarified that the existing fence is 6 feet in height.

Mr. Pulver asked the petitioner if there were multiple accesses available from County Road 427. There was only one.

Andrew Kruse asked if this property is located where the old nursery was. Mr. Dill affirmed it was.

Mr. Pulver verified with Mr. Gaumer that the nearby property owners had received notification of this petition.

Mr. Pulver asked if there was anyone in the audience who was for or against the petition.

Mr. Pulver asked if there were any further questions from members or public. There were none. Mr. Pulver closed the public portion of the hearing.

Andrew Kruse explained to the newest board member, Larry Williams, what the Findings of Fact are and why we do them. Then Mr. Kruse went through the Findings for this petition with the board.

JURISDICTIONAL FINDINGS:

1. Application completed and filed on **July 6, 2023**.
2. Legal notice published in The Star on **August 4, 2023** with the publisher's affidavit and receipt received.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Board of Health, dated **July 12, 2023**.
5. Letter from the County Highway Department, dated **July 6, 2023**.
6. Letter from the Soil & Water Conservation District, dated **July 7, 2023**.
7. Letter from the County Surveyor or Drainage Board, dated **July 7, 2023**.
8. Letter from the DeKalb County Airport Authority, dated **August 4, 2023**.

FINDINGS OF FACT:

1. Is the proposed use consistent with the purpose of the Zoning District and Comprehensive Plan?
Yes (☒) No (☐)*
The proposal is consistent with the district and Comprehensive Plan. This approval is for outdoor storage of boats, campers and recreational vehicles, which is permitted by Special Exception approval by the Board of Zoning Appeals. Also, see letters from the DeKalb County Board of Health, Highway Dept., Soil/Water Conservation District, County Surveyor and DeKalb County Airport Authority.
2. Will the approval of this Special Exception request be injurious to the public health, safety, morals and the general welfare of the community?
Yes (☐)* No (☒)
The proposal is consistent with the zoning district and Comprehensive Plan and will not be injurious to the surrounding community. This approval is for outdoor storage of boats, campers and recreational vehicles.
3. Is the proposed use in harmony with all adjacent land uses?
Yes (☒) No (☐)*
The proposal is harmonious with the surrounding land uses. Also, see the letter from the DeKalb County Airport Board.
4. Does the proposed use alter the character of the district?
Yes (☐)* No (☒)
The proposed use is for outdoor storage of campers, boats and recreational vehicles. While the use of the property is not residential in nature, which would be similar to the surrounding properties, the use does not appear to alter the character of the district.
5. Does the proposed use substantially impact the property value in an adverse manner?
Yes (☐)* No (☒)
The proposal for outdoor storage of boats, camper and recreational vehicles will not impact the property values negatively.

Conditions of Approval:

1. The Board retains continuing jurisdiction of this Special Exception to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. No offsite drainage crossing over said real estate should be obstructed by any development on this site.

3. The Special Exception to allow for the outdoor storage of boats, campers and recreational vehicles is approved.
4. ~~Receive an approval or non-objection letter from the DeKalb County Airport Authority before any items are stored on the property.~~ (Andrew Kruse verified with Chris Gaumer that we had already received a non-objection letter from the Airport Authority)
5. Zoning Administrator to determine when conditions have been met.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS SPECIAL EXCEPTION, PETITION #23-09, IS HEREBY GRANTED APPROVAL ON THIS 14TH DAY OF AUGUST, 2023.

Motion made by Jason Carnahan, Seconded by Larry Williams.

Vote tally: Yes: 4 No: 0

Frank Pulver

Larry Williams

Jason Carnahan

Rory Walker

Petition #23-10 – DAGCO Real Estate II, LLC requesting a Development Standards Variance to allow for an electronic message sign. The property is located at 6467 Merchants Dr., LaOtto, Indiana and is zoned C2, Neighborhood Commercial.

Chris Gaumer read the Staff Report and asked if the board had any questions.

Frank Pulver clarified with Mr. Gaumer the marked location of the sign on the aerial map.

Jason Carnahan clarified with Mr. Gaumer that this was one petition for two variances, combined.

Frank Pulver asked if the petitioner if he wanted to speak.

The representative for this petition, Andrew Schulenburg, approached the podium to address the board.

Rory Walker asked Mr. Gaumer why our ordinance doesn't allow electronic signs.

Mr. Gaumer assumed it was because electronic signs are becoming more common now than they were back in 2009, when the ordinance was created. He added that if there was ever a subdivision created, people wouldn't want a flashing sign shining through their windows.

Mr. Pulver clarified the size of the billboard with Mr. Gaumer.

Mr. Pulver asked if there were any further questions from the audience.

Adam Dager, a neighboring property owner, approached the podium to ask Mr. Gaumer about obtaining more information about creating more billboards along SR 3.

Mr. Kruse explained to Mr. Dager that SR 3 goes up Allen County and cuts across a corner of DeKalb County for a short stretch, then goes into Noble County.

Mr. Gaumer advised that the Plan Commission changed the ordinance to allow billboards in more areas than they did before, but if he wanted electronic billboard signs, then he would have to come through the Board of Zoning Appeals for each sign.

Frank Pulver determined that there were no other comments or questions from the audience, and closed the public hearing.

Mr. Kruse went through the Findings with the board.

JURISDICTIONAL FINDINGS:

1. Application completed and filed on **July 10, 2023**.
2. Legal notice published in The Star on **August 4, 2023** and affidavit given to staff and receipt received.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Board of Health, dated **August 3, 2023**.
5. Letter from the County Highway Department, dated **July 11, 2023**.
6. Letter from the Soil & Water Conservation District, dated **July 12, 2023**.
7. Letter from the County Surveyor or Drainage Board, dated **July 14, 2023**.
8. Letter from the DeKalb County Airport Authority, **not applicable**.

FINDINGS OF FACT:

1. Will the approval of the variance request be injurious to the public health, safety, morals and general welfare of the community?
Yes ()* No (X)
The proposed electronic message sign within the outdoor advertising sign and reduction to the setbacks from the north and east property line will not be injurious to the public. The distances to the pavement of each road are a safe distance. Also see Highway Dept. letter.
2. Will the use and value of the area adjacent to the property included in the variance request be affected in a substantially adverse manner?
Yes ()* No (X)
The proposed electronic message sign within the outdoor advertising sign and reduction to the setbacks from the north and east property line will not adversely affect the neighboring properties as the majority of neighboring properties are commercial use.
3. Will the strict application of the terms of the Unified Development Ordinance result in practical difficulties in the use of the property?
Yes (X) No ()*
The proposed electronic message sign within the outdoor advertising sign and reduction to the setbacks from the north and east property line is needed because the petitioner states that the building location is far from the road, thus vehicles often miss this location due to visibility.

Conditions of Approval:

1. The Board retains continuing jurisdiction of this Development Standards Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. A Variance to allow an electronic message sign to be permitted within the outdoor advertising sign (billboard) and the setbacks from the north and east property lines be reduced to 80 feet and 60 feet, respectfully, is approved.
3. Comply with any applicable Environmental Standards as required in Article 5, 5.11; EN-01, in the Unified Development Ordinance.
4. No offsite drainage crossing over said real estate should be obstructed by any development on this site.

5. No Certificate of Occupancy or Certificate of Completion shall be issued until the applicant files written evidence of compliance with any conditions of the DeKalb County Board of Health, DeKalb County Highway Dept., DeKalb County Drainage Board or DeKalb County Surveyor, DeKalb County Airport, DeKalb County Soil & Water Conservation, or other agency as applicable. And further, where applicable, file written evidence of compliance with Federal or State agencies where identified in the findings or conditions. The Zoning Administrator to determine when conditions have been met.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS DEVELOPMENT STANDARDS VARIANCE, PETITION #23-10, IS HEREBY GRANTED APPROVAL ON THIS 14TH DAY OF AUGUST, 2023.

Motion made by Rory Walker, Seconded by Jason Carnahan.

Vote tally: Yes: 4 No: 0

Frank Pulver

Larry Williams

Jason Carnahan

Rory Walker

Petition #23-11 – DeKalb County Humane Society requesting a Development Standards Variance to allow for 22 inches of ground clearance for a proposed monument sign. The property is located at 5730 County Road 11A, Auburn, Indiana and is zoned C3, General Commercial.

Chris Gaumer briefly explained what types of signs are permitted by the ordinance and that he added the definitions and a photo explaining what each type of sign is. Then he read the Staff Report.

Frank Pulver clarified the dimensions of the sign with Mr. Gaumer; 48x96 Feet with 86 ft as the overall height.

Then, Mr. Pulver inquired why the Humane Society didn't submit plans for a proposed sign when they first built their facility back in 2021.

Citing the Staff Report for the Humane Society's Development Plan (October 21, 2020), Mr. Gaumer stated that no signage plans were submitted and a separate sign company will submit plans for any and all signage.

Mr. Pulver asked if the petitioner if they wanted to speak.

Diana Chambers, from Commercial Signs, Inc., approached the podium. Ms. Chambers explained the petitioner's Variance request. She then clarified the exact location of the proposed sign with Mr. Gaumer, also asking if they could move it closer to the road.

After looking into the ownership of that portion of the property, Mr. Gaumer confirmed that it was part of the dedicated right of way and that the sign could not be in that spot.

Mr. Gaumer advised that he could explain the plat to the applicant when he comes in to get his sign permit.

Mr. Pulver clarified the location of the proposed sign with Mr. Gaumer.

Frank Pulver then addressed Diana Chambers to clarify the updated proposed location and that the sign will be angled to match the curve of the road. Mr. Pulver inquired the importance of an extra 6 or 8 feet.

Ms. Chambers explained that the petitioner's proposed sign would gain more visibility.

Mr. Pulver asked if there were any further questions from the audience.

Beth Flesher, a neighboring property owner, approached the podium to express her concerns. Ms. Flesher stated that there was a blind spot where you turn onto County Road 56 and wanted to make sure the proposed sign would not be blocking visibility.

Andrew Kruse went through the Findings with the board.

JURISDICTIONAL FINDINGS:

1. Application completed and filed on **July 14, 2023**.
2. Legal notice published in The Star on **August 4, 2023** and affidavit given to staff and receipt received.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Board of Health, dated **August 3, 2023**.
5. Letter from the County Highway Department, dated **July 17, 2023**.
6. Letter from the Soil & Water Conservation District, dated **July 14, 2023**.
7. Letter from the County Surveyor or Drainage Board, dated **July 14, 2023**.
8. Letter from the DeKalb County Airport Authority, **not applicable**.

FINDINGS OF FACT:

1. Will the approval of the variance request be injurious to the public health, safety, morals and general welfare of the community?
Yes () * No (X)
The proposed monument sign with 22 inches of clearance will not be injurious to the public. The distances to the pavement of County Road 56 are a safe distance and would not impede any line of sight. Also see Highway Dept. letter.
2. Will the use and value of the area adjacent to the property included in the variance request be affected in a substantially adverse manner?
Yes () * No (X)
The proposed monument sign with 22 inches of clearance will not adversely affect the neighboring properties. The Plan Commission and County Commissioners approved the zone map amendment in December 2019 to allow for the development.
3. Will the strict application of the terms of the Unified Development Ordinance result in practical difficulties in the use of the property?
Yes (X) No () *
The proposed monument sign with 22 inches of clearance is needed because the visibility of the sign is needed due to the curve of County Road 56.

Conditions of Approval:

1. The Board retains continuing jurisdiction of this Development Standards Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. A Variance for a monument sign with 22 inches of clearance is approved, along with any modified allowable distance.

3. Comply with any applicable Environmental Standards as required in Article 5, 5.11; EN-01, in the Unified Development Ordinance.
4. No offsite drainage crossing over said real estate should be obstructed by any development on this site.
5. No Certificate of Occupancy or Certificate of Completion shall be issued until the applicant files written evidence of compliance with any conditions of the DeKalb County Board of Health, DeKalb County Highway Dept., DeKalb County Drainage Board or DeKalb County Surveyor, DeKalb County Airport, DeKalb County Soil & Water Conservation, or other agency as applicable. And further, where applicable, file written evidence of compliance with Federal or State agencies where identified in the findings or conditions. The Zoning Administrator to determine when conditions have been met.

Jason Carnahan clarified that the board is determining the clearance of the proposed sign and if the location of the proposed sign gets modified, it wouldn't have to come before the Board of Zoning Appeals again. Chris Gaumer confirmed, as long as it meets setbacks.

Frank Pulver clarified the modified location of the proposed sign with Mr. Gaumer.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS DEVELOPMENT STANDARDS VARIANCE, PETITION #23-11, IS HEREBY GRANTED APPROVAL ON THIS 14TH DAY OF AUGUST, 2023.

Motion made by Rory Walker, Seconded by Jason Carnahan.

Vote tally: Yes: 4 No: 0

Frank Pulver

Larry Williams

Jason Carnahan

Rory Walker

There being no further business to come before the board, the meeting was adjourned at 6:50 p.m.

Frank Pulver, Chairperson

Andrea Noll, Secretary

DeKalb County Department of Development Services
Planning, Building & GIS
301 S. Union St.
Auburn, IN 46706
Ph: 260-925-1923
Fax: 260-927-4791

FOR OFFICE USE ONLY:
File Number: 23-12
Date Application Filed: 7/19/2023
Fee Paid: 150.00
CC

**Application for USE VARIANCE
(Section 9.28)**

This application must be completed and filed with the DeKalb County Department of Development Services in accordance with the meeting schedule.

APPLICANT INFORMATION

Applicant's Name: Ben Krafft
Address: 5543 County Road 60
Saint Joe, IN 46785
Telephone Number: (260) 573-6593 E-Mail: krafftwatersolutions@gmail.com

OWNER INFORMATION (if different from applicant information)

Owner's Name: J&L Farms, Inc.
Address: 12141 County Road 91
Lillian, AL 36549
Telephone Number: (251) 978-5146 E-Mail: lpliechty@gmail.com

REPRESENTATIVE INFORMATION (if different from applicant information)

Representative: _____
Address: _____
Telephone Number: _____ E-Mail: _____

Legal Ad Payment & Public Hearing Notifications: Applicant ☐ Owner ☐ Representative ☐

Zoning Classification of Property: A2- Agricultural

Overlay District of Property (if applicable): _____

Address or common description of property:
Located at the corner of County Road 60 and County Road 55 Saint Joe, IN 46785

Legal description of property affected (or provide property deed):
Parcel ID 02-11-16-300-005

What use(s) are you requesting to have on the property and why:
Outdoor storage and staging of construction materials.

Please provide the following information to the best of your ability if it pertains to your petition to the BZA. All of this information should be located on the site plan as well.

A. Lighting (if any):

1. Style: _____
2. Height: _____
3. Location: _____

B. Signage (if any): No Trespassing Sign

1. Dimensions: 12x18 inches
2. Materials: Metal
3. Placement: On concrete blocks
4. Lighting: None

C. Hours of Operation (if any):

D. Parking/Access (if any):

Driveway located along County Road 55

Parking Classification (office use only) _____

E. Landscaping/Buffer yards (if any):

Dirt mound with gate. Gate is fastened to concrete blocks that have no permanent foundation.

Bufferyard Classification (office use only) _____

F. Number of Employees (if any): _____

The Applicant must address the following questions and be able to establish reasons for each answer at the public hearing in order to obtain an accurate determination from the BZA. Please answer each question and give reasons for your answer.

A. Will the approval of this Use Variance request be injurious to the public health, safety, morals, and the general welfare of the community?

Yes () No (X) Why? Explain below:

The equipment and storage of materials will not pose any risk or injury to the public health or safety of the community.

B. Will the use and value of the area adjacent to the property included in the Use Variance request be affected in a substantially adverse manner?

Yes () No (X) Why? Explain below:

The equipment and storage of materials will not adversely affect the adjacent property. Equipment and material will not be visible.

C. Does the need for the Use Variance request arise from some condition peculiar to the property involved?

Yes (X) No () Why? Explain below:

This is the best use for this particular area of the property due to the farmground not being usable because of the odd layout of the property and the nearby wetland.

D. Will the strict application of the terms of the Unified Development Ordinance result in an unnecessary hardship if applied to the property for which the Use Variance is sought?

Yes (X) No () Why? Explain below:

This area of the property is not suitable for agricultural use or building due to the odd layout and the nearby wetland.

E. Will the approval of this Use Variance request interfere substantially with the Comprehensive Plan?

Yes () No (X) Why? Explain below:

The use will not be creating the need for additional services or infrastructure improvements.

By my signature, I acknowledge the above information and attached exhibits, to my knowledge and belief, are true and correct. I also give permission for the Zoning Administrator to enter onto the petitioned property for inspections and take photos for the public hearing.

Applicant's Signature: _____

(If signed by representative for applicant, state capacity)

This Staff Report is prepared by the DeKalb County Department of Development Services to provide information to the Board of Zoning Appeals to assist them in making a decision on this Application. It may also be useful to members of the public interested in this Application.

SUMMARY FACTS:

PROPERTY OWNER: J&L Farms, LLC

APPLICANT: Benjamin Krafft, purchasing by land contract

SUBJECT SITE: northeast corner of County Road 60 & County Road 55, Saint Joe

REQUEST: Use Variance

PURPOSE: To allow for the outdoor storage and staging of construction debris and materials

EXISTING ZONING: A2, Agricultural

SURROUNDING LAND North: Single Family Residential & Farm Ground (A2)

USES AND ZONING: South: Single Family Residential & Farm Ground (A2)
East: Farm Ground (A2)
West: Single Family Residential & Farm Ground (A2)

ANALYSIS:

In an A2, Agricultural Zoning District, the UDO does not permit or allow for the outdoor storage of construction debris & material as a storage and staging area for a commercial business. Thus, a Use Variance is required.

- The petitioner is requesting a Use Variance to allow for outdoor storage & staging of construction debris & material. Per the petitioner, the plan is to dump construction debris at this site until they are able to compile a large load to then haul to a landfill. This site will not be used for permanent storage of these materials.
 - *The board should note that there is a history of non-compliance with this property being used for the proposed use. Since May 2021, the Plan Commission, Code Enforcement Official, Highway Department and the Soil & Water Conservation District have sent the Krafft's multiple letters of violations at this site. Those violations include:*
 - *Plan Commission: UDO Section 5.53: there be no outdoor storage of building materials, waste or scrap materials, etc.;*
 - *Code Enforcement Official: Resolution # 2021-R-1 (now 2023-R-15): Public Nuisance Ordinance: providing that accumulation or storage of "junk" is a violation;*
 - *Highway Dept: no permit was received for a driveway to access this property from County Road 55 (a permit has since been approved);*
 - *Soil Water Conservation District: Storm Water Pollution Prevention Plan (SWPPP) has not been in compliance per the permit from Indiana Department of Environmental Management (IDEM) for wetland remediation.*
 - *You may remember that the Krafft's constructed a pond on their property west of this site at 5543 County Road 60 without the proper permits. Upon inspection, it was found that the pond created was connecting to another man-made pond to the west at 5475 County Road 60, which is the parents of Benjamin Krafft. Due to the setback regulations not being met, the BZA heard and approved a setback variance for the already constructed pond to be located within the 40-foot side yard setback and to connect to the neighboring properties pond.*
 - *The Board approved the setback variance with the conditions that this property be brought into compliance. The approval letter from BZA Case # 2021-08 has been included in this Staff Report and you'll want to reference #2(E) as a condition of approval.*

- *Since the approval by the BZA of the pond side yard setback reduction, the Krafft's have made no attempt to bring this property into compliance. It was only until recently, when the DeKalb County Commissioners voted unanimously to file a lawsuit against the Krafft's, that the Krafft's finally began cooperating with the County. With this cooperation, the Krafft's are requesting this Use Variance be approved.*
- The area of the proposed use is approximately 0.5 acres.
 - This includes:
 - Approximately 8-10-foot-tall berms along County Road 55, the north side of this area and the south side of this area. (see site plan)
 - Approximately 8-10-foot-tall concrete blocks with an 8-10-foot-tall steel gate at the entrance on County Road 55. (see photos)
 - Staging area within these berms, wall and gate for the construction debris.
 - Per Indiana Department of Environmental Management (IDEM) only "uncontaminated" materials can be stored at this location: 329 IAC 11-3-1 (Rule 3): Sec. 1. The following solid waste management activities are not subject to the provisions of this article: (1) Processing and disposing of only uncontaminated: (A) rocks; (B) bricks; (C) concrete; (D) road demolition waste materials; or (E) dirt. & (7) Processing and disposal of uncontaminated and untreated natural growth solid waste, including the following: (A) Tree limbs. (B) Stumps. (C) Leaves. (D) Grass clippings. The letter from IDEM is included in this Staff Report. Staff recommends that a condition be provided that if this use is approved that Rule 3 of 329 IAC 11-3-1 be followed.
 - When routed through Technical Review, the Drainage Board objected to the approval of this Use Variance. See Drainage Board letter included in this Staff Report. The Board should note that when we spoke with IDEM representative, provided the only materials stored on site are uncontaminated, they are exempt from IDEM rules per 329 IAC 11-3-1 (Rule 3).
 - No lighting is proposed.
 - Signage will consist of "No Trespassing" signage and will be located on concrete blocks.
 - Parking would be located along County Road 55, at the entrance gate, when needed.
 - Buffer yards/Landscaping: Dirt/construction fill mounds with concrete blocks and a gate are constructed. The dirt mounds appear to not be complete as there is construction material & fill dirt with nothing planted for stabilization as of Friday, September 1, 2023. There appears to be construction fill used, weeds are growing, and the mounds are not aesthetically pleasing. Per the County Soil Water Conservation District, the stabilization requirements from Mr. Krafft's current Construction Stormwater General Permit still apply. The berms put in place at CR 55 & 60 still need seeded and 70% vegetated cover before filing the notification of termination. Staff recommends that a condition be provided that if this use is approved that the mounds used for buffer/screening be planted with grass and maintained as per the Construction Stormwater General Permit.
 - Number of Employees: Only employees of the commercial business would be permitted on site.

JURISDICTIONAL FINDINGS:

The petitioner has complied with the rules and regulations of the Board of Zoning Appeals in filing appropriate forms and reports.

1. Application completed and filed on **July 19, 2023**
2. Legal notice published in The Star on **August 31, 2023** and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Health Department, dated **August 3, 2023**
5. Letter from the County Highway Department, dated **July 19, 2023**
6. Letter from the County Surveyor or Drainage Board, dated **August 7, 2023**
7. Letter from the Soil & Water Conservation District, dated **July 20, 2023**
8. Letter from the DeKalb County Airport Authority, if applicable, dated **not applicable**

PROPOSED FINDINGS OF FACT:

*These Findings of Fact proposed by staff are based off the knowledge and understanding of the proposed project. If any one of **your** answers is followed by an asterisk, under State Law (IC 36-7-4-918.4) and Section 9.28 G(3) of the DeKalb County Unified Development Ordinance you must deny the request.*

1. Will the approval be injurious to the public health, safety, morals, and general welfare of the community?
Yes ()* No (X)
The approval of the storage of construction debris and materials should not be injurious to the public. The site is required to hold uncontaminated materials as outlined in IDEM 329 IAC 11-3-1. See letters from the DeKalb County Board of Health and IDEM.
2. Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? Yes ()* No (X)
The property values adjacent to the property should not be affected negatively. The properties adjacent to the land are for this use would be sited adjacent to vacant farm ground and the mounds used for the buffer would block the views of the construction materials stored on site.
3. Does the need arise from some condition peculiar to the property involved? Yes (X) No ()*
The petitioner states that there is a need for the outdoor storage and staging of the construction materials he takes from demolition of sites for his construction company. This land, while it was used for farm ground is located at the "V" that is difficult for the farming practices. The petitioner states the rest of the property will be used for farming.
4. Will the strict application of the Unified Development Ordinance result in an unnecessary hardship if applied to the property for which the variance is sought? Yes (X) No ()*
There are no sites in DeKalb County for this type of use, other than taking materials directly to a landfill. The petitioner states that allowing this use will give him the opportunity to store materials here until he has a large enough load to take to the landfill.
5. Will the approval interfere substantially with policies of the Comprehensive Plan?
Yes ()* No (X)
The proposed use should not interfere with the Comprehensive Plan provided the petitioner meets the rules and regulations of IDEM and DNR. The Comprehensive Plan promotes that federal and state laws and regulations for wetlands are upheld. DeKalb County does not have land that is zoned to allow this type of use. This use on A2, Agricultural, property will have to be approved by the BZA for a Use Variance to permit that use. With the type of use proposed and the limited sites in the County, the need arises by virtue of the limited sites in the County.

PLANNING STAFF RECOMMENDATIONS/COMMENTS:

Conditions of Approval:

Staff is recommending approval for this Use Variance and recommends the following conditions:

1. The Board retains continuing jurisdiction of this Use Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. Use Variance is approved for the outdoor storage of construction debris and materials at the northeast corner of County Road 56 and County Road 60, St. Joe (parcel number: 02-11-16-300-005). Only approximately 0.8 acres, the southern portion of the property, may be used. The remaining property must only have uses permitted in the A2 Zoning District.

3. The petitioner must acquire local permits for the concrete block wall and gate.
4. Indiana Department of Environmental Management (IDEM) Rule 3 of 329 IAC 11-3-1 be followed. Any public complaints shall be directed to an IDEM contact.
5. The dirt mounds used as buffer/screening be completed and planted with grass and maintained per the Construction Stormwater General Permit on file with the DeKalb County Soil Water Conservation District. This plan shall be completed by Monday, December 11, 2023 and approved by the DeKalb County Soil Water Conservation District.
6. No offsite drainage, existing surface water or existing tiled water drainage crossing over said real estate should be obstructed by any development on this site. The Board of Zoning Appeals may enforce these conditions by injunctive relief with attorney fees.
7. No Certificate of Occupancy or Certificate of Completion shall be issued until the applicant files written evidence of compliance with any conditions of the DeKalb County Board of Health, DeKalb County Highway Dept., DeKalb County Drainage Board or DeKalb County Surveyor, DeKalb County Airport, DeKalb County Soil & Water Conservation, or other agency as applicable. And further, where applicable, file written evidence of compliance with Federal or State agencies there were identified in the findings or conditions. The Zoning Administrator to determine when conditions have been met.

Commitments of Approval:

Staff is recommending approval. If the Board assigns commitments, they shall be given, signed and recorded with the DeKalb County Recorder's Office.

1. For as long as the land use of outdoor storage and staging of construction materials is at this site, the mounds shall be covered with natural vegetation (no rock, mulch, etc.) and maintained to be orderly and visually pleasing. The concrete walls shall remain. The gate shall remain and be maintained and locked when not in use to prevent trespassing. Should this use no longer be located on site, the concrete walls, gate and dirt mounds shall be removed, and the site restored to usable farm ground.
2. Staff has the ability to view the site for compliance at any time with a minimum of 24 hours' notice to Benjamin Krafft.

DEKALB COUNTY DEPARTMENT OF DEVELOPMENT SERVICES

PLANNING • BUILDING • GIS

301 S. Union St., Auburn IN 46706

Planning: 260.925.1923 • Building: 260.925.3021 • GIS: 260.927.2356 • Fax: 260.927.4791

Ben Krafft
5543 County Road 60
St. Joe, IN 46785

October 12, 2021

SENT VIA EMAIL: krafftwatersolutions@gmail.com

RE: BZA Approval

This letter is to inform you that on October 11, 2021, the DeKalb County Board of Zoning Appeals approved a petition for case #21-08. This case was a petition requesting a Development Standards Variance to allow a pond to be constructed on the property lines of the property owners with 0' setbacks between the interior property lines. The required setback is 40 feet from all property lines. The properties are located at 5543 County Road 60 & 5475 County Road 60.

With this approval the Board applied the following conditions. These conditions are required to be met.

1. The Board retains continuing jurisdiction of this from Development Standards Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. A Variance to allow the construction of a pond at 5543 CR 60 that will connect to an existing pond at 5475 CR 60, crossing over the adjoining property line, is approved if the following items are completed on or before September 1, 2022. Sign off that the items have been completed is required by the applicant or representative from the departments listed below.
 - a. An approved Improvement Location Permit is obtained from DeKalb County Development Services.
 - b. Stormwater Pollution Prevention Plan (SWPPP) is approved by the DeKalb County Soil/Water Conservation District.
 - c. Roadside ditch reshaped for better flow/drainage from and along the County Highway right-of-way along CR 60 as per the direction of the County Highway Superintendent.
 - d. The Drainage Board and/or County Surveyor review and approve a pond permit that will address constructed pond and the potential obstruction of any offsite drainage.
 - e. The removal of all manmade debris that has been dumped on the property located at the northeast corner of CR 60 & CR 55. A wetland delineation shall also be completed and results given to the Zoning Administrator. Review and approval shall also be completed by the Drainage Board and/or County Surveyor as to the potential on-site and off-site drainage issues that the natural fill may cause.
3. Provide proof of the recorded Pond Agreement to the Zoning Administrator prior to the Improvement Location Permit being issued.
4. Comply with any applicable Environmental Standards as required in Article 5, 5.11; EN-01, in the Unified Development Ordinance.

5. No offsite drainage crossing over said real estate should be obstructed by any development on this site.
6. No Certificate of Occupancy or Certificate of Completion shall be issued until the applicant files written evidence of compliance with any conditions of the DeKalb County Board of Health, DeKalb County Highway Dept., DeKalb County Drainage Board or DeKalb County Surveyor, DeKalb County Airport, DeKalb County Soil & Water Conservation, or other agency as applicable. And further, where applicable, file written evidence of compliance with Federal or State agencies where identified in the findings or conditions. The Zoning Administrator to determine when conditions have been met.

I have copied the County Departments will you will need to be in contact with to address the items above. Their phone numbers and names are listed. Please be in touch with them so the properties can be in compliance with the conditions.

If you have any questions about this letter or need further assistance on future projects, please do not hesitate to contact me. I would be happy to help however I can. Thank you for your cooperation in this case.

Respectfully,

A handwritten signature in black ink, appearing to be 'CG' with a long horizontal stroke extending to the right.

Chris Gaumer
Director/Zoning Administrator

cc: DeKalb County Surveyor: Mike Kline & Nathan Frye (260-925-2222)
DeKalb County Highway Superintendent: Ben Parker (260-925-1864)
DeKalb County Soil/Water Conservation District: Nellie Peffley & Cameron Bell (260-925-5620)
DeKalb County Commissioner Mike Watson
DeKalb County Commissioner Attorney Jim McCanna
EarthSource Inc.: Ryan Rodrigue (email to: rrodrigue@earthsourceinc.com)

DEKALB COUNTY SURVEYOR'S OFFICE

220 East Seventh Street, Suite 130, Auburn, IN, 46706
Phone (260) 925-2222; Fax (260) 927-4746



GLENN CRAWFORD
DeKalb County Surveyor

August 7, 2023

Mr. Christopher Gaumer
DeKalb County Board of Zoning Appeals
301 South Union Street
Auburn, IN 46706

RE: BZA Use Variance – Use Variance – NE Corner of County Road 60 & County Road 55,
Section 16, Concord Township

Dear Chris,

The DeKalb County Drainage Board and the DeKalb County Surveyor's Office *object* to the proposed Use Variance for outdoor storage and staging of construction material at the northeast corner of County Road 60 & County Road 55 on Parcel No. 02-11-16-300-005 for Ben Krafft. The request was presented to the Drainage Board on July 27, 2023, and again discussed at the August 3, 2023 Drainage Board meeting.

The Drainage Board and County Surveyor objections are based on the potential impact of any pollutants on the site affecting the water quality of the George Wade Open Regulated Drain No. 31-00-0. This is due to the George Wade Lateral 1 Tile Regulated Drain No. 31-01-0 being located on the southern edge of the property in the variance request which then flows into the George Wade Open Regulated Drain No. 31-00-0.

Please note that neither the DeKalb County Surveyor nor the DeKalb County Drainage Board have jurisdiction over the wetlands located on the site and cannot give permission for the use of the wetlands.

Please let me know if you have any questions or comments.

Respectfully,

Glenn M. Crawford

Glenn M. Crawford
DeKalb County Surveyor

mal

Christopher Gaumer

From: Cameron Straw
Sent: Thursday, July 20, 2023 2:26 PM
To: Charity Wisel; Andrea Noll; Christopher Gaumer
Cc: Nellie Peffley
Subject: Krafft - NE corner of CR 55 & CR 60 - Use Variance

Based on the information provided, permitting for compliance with the Construction Stormwater General Permit is not required for the request of this application.

The stabilization requirements from Mr. Krafft's current CSGP still apply though. The berms put in place at CR 55 & 60 still need seeded and 70% vegetated cover before filing the notification of termination.

Thanks,



Cameron Straw
Resource Technician

☎ (260) 925-5620 EXT 3
✉ cstraw@co.dekalb.in.us
📍 942 W 15th St Auburn, IN 46706

Christopher Gaumer

From: Wren, Kira <KWren@idem.IN.gov>
Sent: Tuesday, August 22, 2023 1:53 PM
To: Christopher Gaumer; ARQUETTE, JULIE; Harris, Reid A
Subject: RE: Outdoor storage of construction debris
Attachments: 329 IAC 11 (SW processing facility).pdf

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good Afternoon Chris,

I want to acknowledge the concern the neighbors are raising for the unwanted materials being close to their home. This would not be a pretty site to look every day! However, the description you have provided below would fall under the solid waste exclusions rule (329 IAC 11-3-1). The rule states that any solid waste management activities involving uncontaminated rock, bricks, concrete, road demolition waste materials, or dirt are not subject to the need for a solid waste processing facility permit.

Please see attached rule guidance for your reference (page 28).

Thanks,



Kira Wren

Environmental Manager | Solid Waste Permits Section |
Permits Branch | Office of Land Quality
Indiana Department of Environmental Management
KWren@IDEM.IN.gov (317) 233-7090



| www.idem.IN.gov

From: Christopher Gaumer <CGaumer@co.dekalb.in.us>
Sent: Tuesday, August 22, 2023 1:27 PM
To: Wren, Kira <KWren@idem.IN.gov>; ARQUETTE, JULIE <JARQUETT@idem.IN.gov>; Harris, Reid A <RAHarri@idem.IN.gov>
Subject: Outdoor storage of construction debris
Importance: High

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Hi Kira, Julie & Reid:

I am the Director and Zoning Administrator for DeKalb County and am hoping one of you would be able to help answer some questions and provide some insight on what may be required. We have an applicant going before the Board of Zoning Appeals, requesting approval for outdoor storage and staging of construction debris. He is telling us that he wants to use the site as staging of construction material so he can have a larger load to take to the landfill. The property will be located at the northeast corner of County Road 55 & County Road 60:



You can see where the piles of dirt are located on this aerial map – across from address 6064 CR 55. That’s the general location. What, if any, permits would be required from IDEM? If there are, I want the BZA to be aware and add as a condition of approval, should the BZA approve the request.

The applicant going before the Board of Zoning Appeals is Benjamin Krafft and his business if Kraft Water Solutions. He also does excavating and demolition. There have been various materials stored on site for 2-3 years now and through various means of compliance, he is going through this process. Materials that I have seen on site are road or sidewalk demolition debris, manhole covers, rip-rap, rebar, etc.

If you have any questions, you can email or call me, that would be very helpful. I would like to get a written response from IDEM on requirements for this type of land use ASAP. If there are not any, please let me know that as well as what rules and regulations you’re referencing.

Thank you,

Chris Gaumer

Director/Zoning Administrator

DeKalb County Department of Development Services

Planning – Zoning – Building – GIS

301 S Union St., Auburn, IN 46706

T: 260-925-1923

E: cgaumer@co.dekalb.in.us

W: www.co.dekalb.in.us

329 IAC 11-2-51 "Waters" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1; IC 13-19-4-10

Affected: IC 13-30-2; IC 25-31; IC 36-9-30

Sec. 51. (a) "Waters" means the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this state.

(b) The term does not include any:

(1) private pond; or

(2) off-stream pond, reservoir, or facility built for reduction or control of pollution or cooling of water prior to discharge unless the discharge from the pond, reservoir, or facility causes or threatens to cause water pollution.

(Solid Waste Management Division; 329 IAC 11-2-51; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1933; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; readopted filed May 14, 2007, 1:53 p.m.: 20070523-IR-329070138BFA; readopted filed Jul 29, 2013, 9:20 a.m.: 20130828-IR-329130179BFA; readopted filed Jun 6, 2016, 11:52 a.m.: 20160706-IR-329160144BFA)

329 IAC 11-2-52 "Wetlands" defined

Authority: IC 13-14-8-7; IC 13-15-1-2; IC 13-15-2-1; IC 13-18-3-1; IC 13-18-12-4

Affected: IC 13-18; IC 13-19; IC 13-30-2-1

Sec. 52. "Wetlands" means those areas that are inundated or saturated by surface water or ground water at a frequency and duration to support and that, under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include the following:

(1) Swamps.

(2) Marshes.

(3) Bogs.

(4) Areas similar to areas specified in subdivision (1), (2), or (3).

(Solid Waste Management Division; 329 IAC 11-2-52; filed Jun 28, 2010, 2:11 p.m.: 20100728-IR-329060070FRA; readopted filed Jun 6, 2016, 11:52 a.m.: 20160706-IR-329160144BFA)

Rule 3. Exclusions

329 IAC 11-3-1 Exclusions; general

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1

Affected: IC 13-11-2-245; IC 13-11-2-266; IC 13-18-10; IC 13-19-3-3; IC 13-30-2; IC 36-9-30

Sec. 1. The following solid waste management activities are not subject to the provisions of this article:

(1) Processing and disposing of only uncontaminated:

(A) rocks;

(B) bricks;

(C) concrete;

(D) road demolition waste materials; or

(E) dirt.

(2) Land application activities regulated by 327 IAC 6.1 and 327 IAC 7.

(3) Confined feeding operation activities regulated by IC 13-18-10.

(4) Wastewater discharge activities regulated by 327 IAC 5.

(5) Processing of waste when the waste, other than tires, has been segregated from the general MSW stream prior to arrival at a processing facility. To qualify for exclusion from this article, the facility must do the following:

(A) In the regular course of business, receive distinct and recognizable solid waste items that do not require substantial further processing. Substantial further processing includes any thermal or chemical treatment of the waste, as well as physical processing such as shredding, breaking, compacting, or mixing with other materials or waste beyond the

SOLID WASTE PROCESSING FACILITIES

processing needed to render the waste more amenable for transport.

(B) Return those items for reuse in manufacturing including any intermediate processing steps before being sent for manufacturing.

(C) Not have more than ten percent (10%) of the solid waste that passes through the facility ultimately taken for final disposal. This is determined by the weight of material passing through the facility in a calendar quarter.

(6) Processing of solid waste that takes place at the generating facility.

(7) Processing and disposal of uncontaminated and untreated natural growth solid waste, including the following:

(A) Tree limbs.

(B) Stumps.

(C) Leaves.

(D) Grass clippings.

(8) The disposal of coal ash, transported by water, into an ash pond that has received a water pollution control facility construction permit under 327 IAC 3.

(9) The operation of surface impoundments; however, the final disposal of solid waste in such facilities at the end of their operation is subject to approval by the commissioner except as excluded under subdivision (8).

(10) Uses and disposal of coal waste as exempted from regulation in IC 13-19-3-3.

(11) The legitimate use of iron and steelmaking slags, including the use as a base for road building, but not including use for land reclamation except as allowed under subdivision (13).

(12) The legitimate use of foundry sand that has been demonstrated as suitable for restricted waste site Type III under the provisions of 329 IAC 10-9, including the use as a base for road building, but not including use for land reclamation except as allowed under subdivision (13).

(13) Solid waste management activities or legitimate uses of solid waste determined by the commissioner to not pose a threat to public health or the environment.

(14) Processing or storage of electronic waste or e-waste, which is any solid waste that is the following or has the following component:

(A) A circuit board, including a shredded circuit board.

(B) A diode.

(C) A CRT.

(D) A computer.

(E) An electronic device.

E-waste does not include vehicles, as defined by IC 13-11-2-245, or white goods, as defined by IC 13-11-2-266. Electronic waste is regulated under 329 IAC 16 and must comply with all applicable standards and requirements under 329 IAC 16.

(15) The transfer of closed waste containers meeting the following criteria where the solid waste is not removed from the container:

(A) The container remains closed.

(B) The solid waste in the container is only nonmunicipal solid waste.

(C) The solid waste is stored in the container for not more than ten (10) days.

(16) Biomass anaerobic digestion facilities and biomass gasification facilities that are registered under 329 IAC 11.5.

(17) Any mobile home salvaging operation registered under 329 IAC 11.6.

(18) Any facility that uses industrial process waste or commercial waste as an alternative fuel source and is registered under 329 IAC 11.7.

(19) Crematoriums for human and animal remains.

(20) Burning engineered wood waste as a fuel. As used in this subdivision, "engineered wood", also called composite wood or man-made wood, includes a range of derivative wood products that are manufactured by binding together the strands, particles, fibers, or veneers.

(Solid Waste Management Division; 329 IAC 11-3-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1933; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; errata filed May 8, 2002, 2:01 p.m.: 25 IR 2741; readopted filed May 14, 2007, 1:53 p.m.: 20070523-IR-329070138BFA; filed Aug 15, 2007, 10:22 a.m.: 20070912-IR-329050181FRA; filed Feb 13, 2008, 1:38 p.m.: 20080312-IR-329050297FRA; filed Jun 28, 2010, 2:11 p.m.: 20100728-IR-329060070FRA; filed Mar 14, 2013, 2:57 p.m.: 20130410-IR-

329090193FRA; readopted filed Jun 14, 2019, 2:00 p.m.: 20190710-IR-329190249BFA)

329 IAC 11-3-2 Exclusion; hazardous waste

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1

Affected: IC 13-19-3; IC 13-30-2; IC 36-9-30

Sec. 2. (a) Hazardous wastes are regulated by and shall be treated, stored, and disposed of in accordance with 329 IAC 3.1. Hazardous waste that is regulated by 329 IAC 3.1 is not subject to the provisions of this article.

(b) No hazardous waste that is regulated by 329 IAC 3.1 shall be processed at any solid waste facility regulated under this article.

(c) As used in this article, "hazardous waste that is regulated by 329 IAC 3.1" does not include CESQG hazardous waste as defined in 329 IAC 10-2-29.5. CESQG hazardous waste must be disposed of in accordance with 329 IAC 10 and 40 CFR 261.5, revised as of July 1, 2002. 40 CFR 261.5 is available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, (202) 783-3238.

(d) Facilities permitted under 329 IAC 3.1 are not required to obtain permits under this article for the storage, treatment, or disposal of nonhazardous solid waste where such solid waste is treated or disposed of as a hazardous waste at the receiving hazardous waste facility. (*Solid Waste Management Division; 329 IAC 11-3-2; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1934; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; filed Jul 14, 2004, 9:15 a.m.: 27 IR 3971; errata filed Oct 7, 2004, 11:50 a.m.: 28 IR 608; readopted filed May 14, 2007, 1:53 p.m.: 20070523-IR-329070138BFA; readopted filed Jul 29, 2013, 9:20 a.m.: 20130828-IR-329130179BFA; readopted filed Jun 14, 2019, 2:00 p.m.: 20190710-IR-329190249BFA*)

Rule 4. Previously Permitted Facilities Closed Prior to Effective Date of this Article; Responsibilities

329 IAC 11-4-1 Applicability

Authority: IC 13-14-8-7; IC 13-15-2; IC 13-19-3-1; IC 13-19-4-10

Affected: IC 13-30-2; IC 36-9-30

Sec. 1. This rule applies to solid waste processing facilities permitted under 329 IAC 1.5, which was repealed in 1989, that have closed before April 13, 1996. (*Solid Waste Management Division; 329 IAC 11-4-1; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1934; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; readopted filed May 14, 2007, 1:53 p.m.: 20070523-IR-329070138BFA; filed Feb 13, 2008, 1:38 p.m.: 20080312-IR-329050297FRA; readopted filed Aug 6, 2014, 9:49 a.m.: 20140903-IR-329140187BFA; readopted filed Jun 14, 2019, 2:00 p.m.: 20190710-IR-329190249BFA*)

329 IAC 11-4-2 Maintenance, monitoring, or correcting nuisance; permittee responsibility

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1

Affected: IC 13-30-2; IC 36-9-30

Sec. 2. (a) Closed facilities must continue to be monitored and maintained by the facility permittee in accordance with the permit granted to the facility at the time the facility was closed.

(b) The owner or operator of a closed facility or the owner of real estate upon which a closed facility is located shall be responsible for correcting and controlling any nuisance conditions occurring at the facility. (*Solid Waste Management Division; 329 IAC 11-4-2; filed Mar 14, 1996, 5:00 p.m.: 19 IR 1934; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535; readopted filed May 14, 2007, 1:53 p.m.: 20070523-IR-329070138BFA; readopted filed Jul 29, 2013, 9:20 a.m.: 20130828-IR-329130179BFA; readopted filed Jun 14, 2019, 2:00 p.m.: 20190710-IR-329190249BFA*)

329 IAC 11-4-3 Elimination of threats to human health or the environment

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-19-3-1

Affected: IC 13-30-2; IC 36-9-30

Looking Northeast at CR 60 & CR 55:



Looking Northeast at CR 60 & CR 55:



Looking Southeast:



Looking Southeast:



Gate & Concrete Block Wall (Jeep used for height reference):



Fill Dirt (south side):



Fill Dirt (north side):



24' wide by 12' tall
gate with privacy
screen.

8' long 10' tall
concrete blocks

Driveway
permit approved by
County Highway.

Red out lined
area 0.60 acre
for storage of
Building materials and
Storage of equipment



DeKalb County Department of Development Services
Planning, Building & GIS
301 S. Union St.
Auburn, IN 46706
Ph: 260-925-1923
Fax: 260-927-4791

FOR OFFICE USE ONLY:
File Number: 23-13
Date Application Filed: 8/22/2023
Fee Paid: pd CC 8-22-23

Application for DEVELOPMENT STANDARDS VARIANCE
(Section 9.09)

This application must be completed and filed with the DeKalb County Department of Development Services in accordance with the meeting schedule.

APPLICANT INFORMATION

Applicant's Name: RANDY COOK
Address: 66 SKYLINE DR
GARRETT IND
Telephone Number: 260 553-1290 E-Mail: rLCOOK13@HOTMAIL.COM

OWNER INFORMATION (if different from applicant information)

Owner's Name: RANDY COOK
Address: 66 SKYLINE DR
Telephone Number: 260 553-1290 E-Mail: RLCOOK13@HOTMAIL.COM

REPRESENTATIVE INFORMATION (if different from applicant information)

Representative: _____
Address: _____
Telephone Number: _____ E-Mail: _____

Legal Ad Payment & Public Hearing Notifications: Applicant ☐ Owner ☒ Representative ☐

Zoning Classification of Property: R2

Overlay District of Property (if applicable): _____

Address or common description of property:

Legal description of property affected (or provide property deed):

What Development Standard are you seeking a variance for (setback, height, parking, etc.) and how to what extent (acreage, square footage, distance, number of lots, etc) BE SPECIFIC:
SETBACK OFF CO. RD 9A FOR A GARAGE ADDITION
ASKING 4' VARIANCE OFF 9A
FRD

**Standards of Zoning Ordinance requesting Variance from Developmental Standards from
(Zoning Section Number and/or Specific Section from Article 5):**

SECTION 2.16

The Applicant must answer the following questions and be able to establish reasons for each answer at the public hearing in order to obtain an accurate determination from the BZA.

- A. Will the approval of this variance request be injurious to the public health, safety, morals, and the general welfare of the community?

Yes () No (☒) Why? Explain below:

GARAGE ADD WOULD NOT AFFECT AREA SITE OFF DRIVERS

- B. Will the use and value of the area adjacent to the property included in the variance request be affected in a substantially adverse manner if the petition is approved?

Yes () No (☒) Why? Explain below:


GARAGE ADD WOULD NOT AFFECT PROPERTY VALUE

- C. Will the strict application of the terms of the Unified Development Ordinance result in practical difficulties in the use of the property involved in the petition?

Yes (☒) No () Why? Explain below:

EXISTING WATER LINE REQUIRE GARAGE
TO BE BUILT CLOSER TO PROPERTY LINE

By my signature, I acknowledge the above information and attached exhibits, to my knowledge and belief, are true and correct. I also give permission for the Zoning Administrator to enter onto the petitioned property for inspections and take photos for the public hearing.

Applicant's Signature: 
(If signed by representative for applicant, state capacity)

This Staff Report is prepared by the DeKalb County Department of Development Services to provide information to the Board of Zoning Appeals to assist them in making a decision on this Application. It may also be useful to members of the public interested in this Application.

SUMMARY FACTS:

APPLICANT:	Randy Cook
SUBJECT SITE:	66 Skyline Dr., Garrett
REQUEST:	Development Standards Variance
PURPOSE:	To allow for the reduction to the front yard setback for a garage addition
EXISTING ZONING:	R2, Medium Density Residential
SURROUNDING LAND	North: Single Family Residence (R2)
USES AND ZONING:	South: Single Family Residence (R2)
	East: Single Family Residence (R2)
	West: Single Family Residence (R2)

ANALYSIS:

*UDO Standards: R2 Zoning District
Minimum Front Yard Setback: 30 feet*

- When determining the front yard setback, we look at and review Section 5.43: Setback Standards: B. Minimum Front Yard Setback: The dimensions are to be taken from the center of the road. Adding together the right-of-way, as determined by the DeKalb County Thoroughfare Plan, plus the minimum front yard setback per each two-page layout in *Article 02: Zoning Districts*.
- County Road 9A = 40-foot right-of-way (20 feet on each side of the center of the road).
- In this case, the total setback from the center of the road is 50 feet (30-foot building setback + 20-foot ROW = 50 foot from center of road).
- The petitioner is proposing a garage addition to be located 46 feet from the center of County Road 9A. Thus, requesting a variance for 4 feet.
- The variance is needed due to the existing home location and water line at the southwest corner of the home.

JURISDICTIONAL FINDINGS:

The petitioner has complied with the rules and regulations of the Board of Zoning Appeals in filing appropriate forms and reports.

1. Application completed and filed on **August 22, 2023**
2. Legal notice published in The Star on **August 31, 2023** with the publisher's affidavit and receipt received.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Board of Health, dated **August 30, 2023**
5. Letter from the County Highway Department, dated **August 23, 2023**
6. Letter from the Soil & Water Conservation District, dated **August 24, 2023**
7. Letter from the County Surveyor or Drainage Board, dated **August 23, 2023**
8. Letter from the DeKalb County Airport Authority, **not applicable**.

PROPOSED FINDINGS OF FACT:

*These Findings of Fact proposed by staff are based off the knowledge and understanding of the proposed project. If any one of **your** answers is followed by an asterisk, under State Law (IC 36-7-4-918.5) and Section 9.09 G (3) of the DeKalb County Unified Development Ordinance you must deny the request.*

1. Will the approval of the variance request be injurious to the public health, safety, morals and general welfare of the community? Yes ()* No (X)
The proposed reduction in the front yard setback will not be injurious to the public. Also see DeKalb County Board of Health letter & Highway Dept. letter.
2. Will the use and value of the area adjacent to the property included in the variance request be affected in a substantially adverse manner? Yes ()* No (X)
The proposed reduction in the front yard setback will not adversely affect the neighboring properties as the neighboring properties are single-family homes.
3. Will the strict application of the terms of the Unified Development Ordinance result in practical difficulties in the use of the property? Yes (X) No () *
The proposed reduction in the front yard setback is needed due to the existing home location and the location of the existing water line located at the southwest corner of the home.

PLANNING STAFF RECOMMENDATIONS/COMMENTS:

Conditions of Approval:

Staff is recommending approval and is recommending the following conditions:

1. The Board retains continuing jurisdiction of this from Development Standards Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. A Variance to allow for the front yard setback of 46 feet is approved.
3. Comply with any applicable Environmental Standards as required in Article 5, 5.11; EN-01, in the Unified Development Ordinance.
4. No offsite drainage crossing over said real estate should be obstructed by any development on this site.
5. No Certificate of Occupancy or Certificate of Completion shall be issued until the applicant files written evidence of compliance with any conditions of the DeKalb County Board of Health, DeKalb County Highway Dept., DeKalb County Drainage Board or DeKalb County Surveyor, DeKalb County Airport, DeKalb County Soil & Water Conservation, or other agency as applicable. And further, where applicable, file written evidence of compliance with Federal or State agencies where identified in the findings or conditions. The Zoning Administrator to determine when conditions have been met.

Commitments of Approval:

Staff is recommending approval. If the Board assigns commitments, they shall be given, signed and recorded with the DeKalb County Recorder's Office.

