

MINUTES
DEKALB COUNTY BOARD OF ZONING APPEALS
Monday October 10th, 2022

A Meeting of the DeKalb County Board of Zoning Appeals was called to order at 6:01 p.m. in the Commissioner's Court of the DeKalb County Courthouse by Vice Chairperson, Mary Diehl.

ROLL CALL:

Members present: Jerry Yoder, Mary Diehl, Jeremy Watson

Members absent: Jason Carnahan, Frank Pulver, Rory Walker

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

Public in Attendance: Valorie Miller, Trionne & James Dickerson, Samuel Weingartner, Dan Webb

APPROVAL OF MINUTES:

Motion was made by Jeremy Watson and Seconded by Jerry Yoder to approve the Minutes of September 12th, 2022. Motion carried.

OLD BUSINESS:

None.

NEW BUSINESS:

Petition #22-09 Valorie Miller requesting a Development Standards Variance to allow a reduction to the front and side yard setback to be able to rebuild the home on the existing foundation. The proposed front yard setback will be 60 feet from the center of the road and the proposed side yard setback will be 20 feet. The required front yard setback is 80 feet and the required side yard setback is 30 feet. The property is located at 6925 County Road 62, St. Joe, Indiana and is zoned A2, Agricultural.

Chris Gaumer read the Staff Report.

Valorie Miller took to the podium to explain the purpose of application.

Mary Diehl asked if there were any questions from the board members or audience. There were none. Mary Diehl closed the public hearing.

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 19, 2022**
2. Legal notice published in The Star on **September 30, 2022** and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Board of Health, dated **August 29, 2022**
5. Letter from the County Highway Department, dated **August 23, 2022**
6. Letter from the Soil & Water Conservation District, dated **August 23, 2022**
7. Letter from the County Surveyor or Drainage Board, dated **August 23, 2022**
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 and side yard setback 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)
Due to a house fire, the petitioner wishes to rebuild on the existing foundation. The house existed on the pervious foundation prior to the fire and approving the Variance for the proposed reduction in the front yard and side yard setback not adversely affect the neighboring properties.
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 and side yard setback is needed to be able to build a new house on the existing foundation.

PLANNING STAFF RECOMMENDATIONS/COMMENTS:

Conditions of Approval:

Staff is recommending approval for this Development Standard Variance and recommends 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 a front yard setback of 60 feet and side yard setback of 27.8 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.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS VARIANCE FROM DEVELOPMENTAL STANDARDS, PETITION #22-09 IS HEREBY GRANTED APPROVAL ON THIS 10th DAY OF OCTOBER, 2022

Motion made by Jeremy Watson, Seconded by Jerry Yoder.

Vote tally: Yes: 3 No: 0

Jerry Yoder

Mary Diehl

Jeremy Watson

Petition #22-10 Samuel Weingartner requesting a Development Standards Variance to allow a reduction to the side yard setback for an addition to the residence. The proposed side yard setback will be 24 feet. The required side yard setback is 30 feet. The property is located at 4220 State Road 8, Auburn, Indiana and is zoned A2, Agricultural.

Chris Gaumer read the Staff Report.

Samuel Weingartner took to the podium to explain the purpose of application.

Mary Diehl asked if there were any questions from the board members or audience. There were none. Mary Diehl closed the public hearing.

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, 2022**
2. Legal notice published in The Star on **September 30, 2022** and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Board of Health, dated **August 29, 2022**
5. Letter from the County Highway Department, dated **August 23, 2022**
6. Letter from the Soil & Water Conservation District, dated **August 23, 2022**
7. Letter from the County Surveyor or Drainage Board, dated **August 23, 2022**
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 side yard setback 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)
Due to the location of the entrance, kitchen, living area and bathroom, the petitioner is requesting to build on the east side of the home. Approving the Variance for the proposed reduction in the side yard setback will not adversely affect the neighboring properties.

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 side yard setback is needed to be able to build the addition on the east side of the home without reconfiguring the entire home.*

PLANNING STAFF RECOMMENDATIONS/COMMENTS:

Conditions of Approval:

Staff is recommending approval for this Development Standard Variance and recommends 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 a side yard setback of 24 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.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS VARIANCE FROM DEVELOPMENTAL STANDARDS, PETITION #22-10 IS HEREBY GRANTED APPROVAL ON THIS 10th DAY OF OCTOBER, 2022

Motion made by Jeremy Watson, Seconded by Jerry Yoder.

Vote tally: Yes: 3 No: 0

Jerry Yoder

Mary Diehl

Jeremy Watson

Petition#22-11 James & Trionne Dickerson requesting a Development Standards Variance to allow a reduction to the side yard setback to be able to rebuild the garage addition on the existing foundation. The proposed side yard setback will be 22 feet. The required side yard setback is 30 feet. The property is located at 0750 County Road 23, Ashley, Indiana and is zoned A1, Conservation Agricultural.

Chris Gaumer read the Staff Report.

Mary Diehl asked if there were any questions from the board members or audience. There were none. Mary Diehl closed the public hearing.

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 25, 2022**
2. Legal notice published in The Star on **August 8, 2022** and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Board of Health, dated **August 30, 2022**
5. Letter from the County Highway Department, dated **August 25, 2022**
6. Letter from the Soil & Water Conservation District, dated **August 26, 2022**
7. Letter from the County Surveyor or Drainage Board, dated **August 25, 2022**
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 side yard setback 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)
Approving the Variance for the proposed reduction in the side yard setback will not adversely affect the neighboring properties.
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 side yard setback is needed to be able to build the addition on the north side of the home without reconfiguring the entire home.

PLANNING STAFF RECOMMENDATIONS/COMMENTS:

Conditions of Approval:

Staff is recommending approval for this Development Standard Variance and recommends 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 a side yard setback of 22 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.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS VARIENCE FROM DEVELOPMENTAL STANDARDS, PETITION #22-11 IS HEREBY GRANTED APPROVAL ON THIS 10th DAY OF OCTOBER, 2022

Motion made by Jeremy Watson, Seconded by Jerry Yoder.

Vote tally: Yes: 3 No: 0

Jerry Yoder

Mary Diehl

Jeremy Watson

There being no further business to come before the board, the meeting was adjourned at 6:27 p.m.

Mary Diehl, Vice Chairperson

Alicia Shackelford, Secretary