

MINUTES
DEKALB COUNTY BOARD OF ZONING APPEALS
Monday, April 10, 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: Frank Pulver, Jason Carnahan, and Mary Diehl

Members absent: Jeremy Watson, and Rory Walker

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

Public in Attendance: Bridget Ortiz and Dave Hall

APPROVAL OF MINUTES:

Motion was made by Jason Carnahan and Seconded by Mary Diehl to approve the Minutes of February 13, 2023 as submitted. Motion carried.

OLD BUSINESS:

None

NEW BUSINESS:

Petition #23-02 – David A. Hall requesting a Development Standards Variance to allow a reduction to the side yard setback for a new accessory structure. The proposed setback from the east property line will be approximately 5 feet. The required setback is 10 feet. The property is located at 6446 County Road 40, Butler, Indiana and is zoned A2, Agricultural.

Chris Gaumer read the Staff Report.

Andrew Kruse clarified the kind of septic system that is located on the property.

David Hall approached the podium to explain the variance he is requesting.

Frank Pulver asked Mr. Hall if he planned to install a bathroom in the pole building.

He was not. The building was strictly for storage.

Mr. Pulver asked if there were any further questions from members or public. There were none.

Mr. Pulver closed the public hearing.

JURISDICTIONAL FINDINGS:

1. Application completed and filed on **March 15, 2023**.
2. Legal notice published in The Star on **March 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 **March 28, 2023**.
5. Letter from the County Highway Department, dated **March 21, 2023**.
6. Letter from the Soil & Water Conservation District, dated **March 21, 2023**.
7. Letter from the County Surveyor or Drainage Board, dated **March 21, 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 reduction in the side 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 side yard setback will not adversely affect the neighboring properties as the neighboring properties are agricultural and/or 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 side yard setback is needed to allow for the required setback from the septic tanks.

Conditions of Approval:

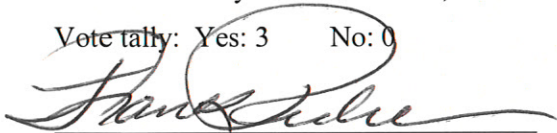
Staff is recommending approval for this Development Standard Variance and recommends the following conditions:

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 the side yard setback of 5 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.


IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS DEVELOPMENT STANDARD VARIANCE, PETITION #23-02 IS HEREBY GRANTED APPROVAL ON THIS 10TH DAY OF APRIL, 2023.

Motion made by Jason Carnahan, Seconded by Mary Diehl.

Vote tally: Yes: 3 No: 0


 Frank Pulver


 Mary Diehl


 Jason Carnahan

Petition #23-03 – Bridget & Tony Ortiz requesting a Special Exception to allow Dependent Housing for their son in a one-bedroom apartment in a pole building. The property is located at 1504 County Road 79, Butler, Indiana and is zoned A1, Conservation Agricultural.

Chris Gaumer read the Staff Report and indicated that there were 3 letters from the petitioner's son's doctors, which will further explain his situation.

Jason Carnahan asked if this was something they had to revisit every 5 years.

Mr. Gaumer advised that he, as the Zoning Administrator, would look at this petition every 5 years just to confirm that the petitioner's son is still living in their pole barn.

Andrew Kruse articulated that they would need a new doctor's letter every 5 years.

Mr. Gaumer further explained that typically, the BZA approves mobile home-type structures that can be moved off the property when the dependency is no longer needed. Also, it is stated in the Findings that should the dependency no longer be needed, the apartment in the pole barn would not be able to be occupied or rented out for profit.

Bridget Ortiz approached the podium to explain her son's history and why dependent housing would be beneficial.

Frank Pulver verified with Mrs. Ortiz that there is currently no plumbing in the existing pole barn.

Mrs. Ortiz stated that they had Perkins come out to make sure that they will have the proper drop that they need to go from the barn to the septic tank.

Mr. Gaumer included that they had received approval from the Health Department, stating that the Ortiz's septic was designed at the maximum capacity needed for what they are proposing to do.

Mrs. Ortiz clarified that their current home is a 3-bedroom and they went ahead and increased the septic tank size to accommodate a 4-bedroom house, if needed. She also confirmed that their current septic is a mound system.

Mr. Pulver determined there were no further questions or comments from the board or the audience.

Mr. Kruse read the Findings of Fact.

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 **March 27, 2023**.
2. Legal notice published in The Star on **March 31, 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 **March 28, 2023**.
5. Letter from the County Highway Department, dated **March 21, 2023**.
6. Letter from the Soil & Water Conservation District, dated **March 21, 2023**.
7. Letter from the County Surveyor or Drainage Board, dated **March 21, 2023**.
8. Letter from the DeKalb County Airport Authority, **not applicable**.

FINDINGS OF FACT:

1. Is the proposed use consistent with the purpose of the Zoning District and Comprehensive Plan?
Yes (X) No ()*

The proposal is consistent with the district and Comprehensive Plan. This approval is for Dependent Housing for the petitioner's son. Also, see DeKalb County Board of Health letter, Highway Dept. letter, Soil/Water Conservation District & County Surveyor letter.

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 (X)
The proposal is consistent with the zoning district and Comprehensive Plan and will not be injurious to the surrounding community.
3. Is the proposed use in harmony with all adjacent land uses? Yes (X) No () *
The proposal is harmonious with the surrounding community. The property is residential in use.
4. Does the proposed use alter the character of the district? Yes () * No (X)
The proposal is residential in nature which is consistent with the surrounding community.
5. Does the proposed use substantially impact the property value in an adverse manner?
Yes () * No (X)
The proposal is residential in nature and will not impact the property values negatively.

Conditions of Approval:

Staff is recommending approval for dependent child housing for the petitioner's son and recommends the following conditions:

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 this dependent housing for the petitioner's son is approved.
4. The Special Exception expires in 5 years but may be renewed by the Zoning Administrator as long as all terms of this approval exist.
5. Should there be no additional need for the Dependent Housing, the living quarters can never be rented or occupied for value.
6. Zoning Administrator to determine when conditions have been met.

Commitments of Approval:


1. The Special Exception (BZA Case # 23-03) to allow a 1 bedroom living quarters in the Pole Barn is approved by the Board of Zoning Appeals on April 10, 2023. The living quarters can never be rented or occupied for value but may be used for short term stays for family or friends.

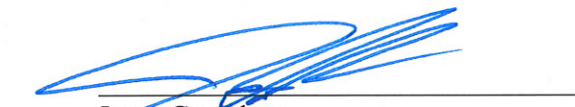
IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS DEVELOPMENT STANDARD VARIANCE, PETITION #23-03 IS HEREBY GRANTED APPROVAL ON THIS 10TH DAY OF APRIL, 2023.

Motion made by Mary Diehl, Seconded by Jason Carnahan

Vote tally: Yes: 3 No: 0


Frank Pulver

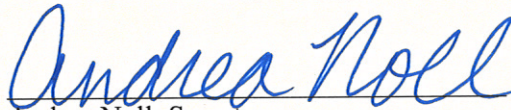

Mary Diehl


Jason Carnahan

There being no further business to come before the board, the meeting was adjourned at 6:24p.m.



Frank Pulver, Chairperson



Andrea Noll, Secretary