

MINUTES
DEKALB COUNTY BOARD OF ZONING APPEALS
Monday, July 10, 2023

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: Jason Carnahan, Jeremy Watson, and Mary Diehl

Members absent: Frank Pulver and Rory Walker

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

Public in Attendance: Justin Hoover, Brian & Judy Krockner, and Justin Hoffman

APPROVAL OF MINUTES:

Motion was made by Jeremy Watson and Seconded by Jason Carnahan to approve the Minutes of June 23, 2023 as submitted. None opposed. Motion carried.

OLD BUSINESS:

None

NEW BUSINESS:

Petition #23-07 – Justin Hoover requesting a Development Standards Variance to allow for the reduction to the front yard setback for an accessory structure. The proposed setback from the center of County Road 69 will be approximately 50 feet. The required setback is 80 feet. The property is located at 5140 County Road 69, St. Joe, Indiana and is zoned A2, Agricultural.

Chris Gaumer shared with the board and audience how the front yard setback is determined and read the Staff Report. Then he explained the proposed plans of the petitioner, using the aerial map.

Mr. Gaumer asked if there were any questions for him, then he added that the petitioner was present.

Mary Diehl inquired about the letters from the Health Department and the Highway Department.

Mr. Gaumer explained that he wanted to make sure the Health Department knew where the proposed location was, just to make sure it wasn't too close to the septic, which was marked on the map. He also stated that he wanted to make sure there weren't any odd sight problems with the Highway Department.

Ms. Diehl asked if the petitioner had anything he wanted to say or if the board had any questions for him.

Petitioner, Justin Hoover, approached the podium and further explained his proposal.

Andrew Kruse asked Mr. Hoover about the drainage arms on the map.

Mr. Hoover stated that currently nothing is going to happen to them, and they will stay put. He explained that those were old clay tiles and had since replaced them.

Mr. Kruse verified with Mr. Hoover that it was not a used tile, under where the proposed barn will be located. Mr. Hoover agreed.

Ms. Diehl asked if there were any further questions from members or public. There were none.

Ms. Diehl closed the public hearing.

Mr. Kruse went through the Findings with the board.

JURISDICTIONAL FINDINGS:

1. Application completed and filed on **May 24, 2023**.

2. Legal notice published in The Star on **June 30, 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 **June 21, 2023**.
5. Letter from the County Highway Department, dated **May 24, 2023**.
6. Letter from the Soil & Water Conservation District, dated **May 24, 2023**.
7. Letter from the County Surveyor or Drainage Board, dated **May 25, 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 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 pond embankment location and topography of the property.

Conditions of Approval:

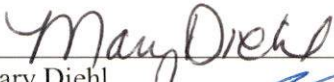
1. The Board retains continuing jurisdiction of this from Development Standards Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. A Variance to allow for the front yard setback of 50 feet is approved.
3. Comply with 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.

Mary Diehl asked if the petitioner, Justin Hoover, agrees to abide by these conditions and commitments should the petition be approved. Mr. Hoover confirmed.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS DEVELOPMENT STANDARD VARIANCE, PETITION #23-07, IS HEREBY GRANTED APPROVAL ON THIS 10TH DAY OF JULY, 2023.

Motion made by Jason Carnahan, Seconded by Jeremy Watson.

Vote tally: Yes: 3 No: 0


Mary Diehl


Jeremy Watson


Jason Carnahan

Petition #23-08 – Brian & Judith Krockner requesting a Floodplain Standards Variance to allow for the reduction to the flood protection grade for an addition to the primary structure. The Base Flood Elevation (BFE) is 945.3 feet and the proposed addition is at 945.8 feet. The required flood protection grade per the Floodplain Ordinance is 947.3 feet or more. The property is located at 0448 Story Lake Dr., Hudson, Indiana and is zoned R3, Village Residential.

Chris Gaumer briefly explained what a Floodplain Standards Variance consists of, then read the Staff Report.

Mr. Gaumer advised to the board what the petitioners' proposal was and explained a LOMA.

Andrew Kruse clarified with Mr. Gaumer that the petitioners weren't going any lower than the existing structure.

Mary Diehl asked if the petitioner if he had anything to add.

Justin Hoffman, the site engineer, approached the podium to point out that the 945.8 feet elevation is actually the lowest adjacent grade around the house. He added that the finished floor is actually at 946.0, so it doesn't change the need to come before the BZA.

Mr. Gaumer acknowledged the error.

Ms. Diehl asked if there were any further questions from members or public. There were none.

Ms. Diehl closed the public hearing.

Mr. Kruse went through the Findings with the board.

JURISDICTIONAL FINDINGS:

1. Application completed and filed on **June 6, 2023**.
2. Legal notice published in The Star on **June 30, 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 **June 21, 2023**.
5. Letter from the County Highway Department, dated **June 6, 2023**.
6. Letter from the Soil & Water Conservation District, dated **June 6, 2023**.
7. Letter from the County Surveyor or Drainage Board, dated **June 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 addition to the single-family residence will not be injurious to the surrounding community. See letter from the Health Dept., Soil/Water District, Surveyor and Conditional Letter of Map Amendment from FEMA.

2. Will the use and value of the area adjacent to the property included in the Floodplain Standards Variance request be affected in a substantially adverse manner if the petition is approved?
Yes ()* No (X)
The proposal is consistent with the surrounding residential area and will not substantially affect those properties. See the Conditional Letter of Map Amendment from FEMA.
3. 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 (X) No ()*
The proposal will allow for the seasonal home to be used year-round with the addition of the living space and storage for continual use.
4. Is the variance the minimum necessary, considering the flood hazard, to afford relief?
Yes (X) No ()*
The proposal is the minimum variance necessary for the addition. See the Conditional Letter of Map Amendment from FEMA.
5. Does there exist good and sufficient cause for the requested variance?
Yes (X) No ()*
The proposal will allow for year-round living as opposed to seasonal. This Variance is the minimum necessary.
6. Does the strict application of the terms of the Ordinance constitute an exceptional hardship to the applicant?
Yes (X) No ()*
The proposal will allow for the addition to have year-round living space with the addition of a furnace, washer/dryer, water softener, etc. See the Conditional Letter of Map Amendment from FEMA.
7. Will the granting of the requested variance increase flood height, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances?
Yes ()* No (X)
The proposed addition and the existing structure are the same Base Flood Elevation and does not require the building to be closer to the existing lake or limits of the Base Flood Elevation. See the Conditional Letter of Map Amendment from FEMA.

Conditions of Approval:

1. The Board retains continuing jurisdiction of this Floodplain Standards Variance to assure compliance with all terms and conditions and/or impose additional conditions deemed necessary for health and safety.
2. Comply with any applicable Environmental Standards as required in Article 5, 5.11; EN-01, in the Unified Development Ordinance.
3. No offsite drainage crossing over said real estate should be obstructed by any development on this site.
4. The Floodplain Standards Variance to allow for the Flood Protection Grade to be ~~0.65~~ feet (Andrew Kruse clarified this error with Chris Gaumer) 946.0 feet is approved.
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 were identified in the findings or conditions. The Zoning Administrator to determine when conditions have been met.

Mary Diehl asked if the petitioner agrees to abide by these conditions and commitments should the petition be approved.

Petitioner, Brian Krocker, approached the podium to introduce himself and confirm that he agrees.

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS FLOODPLAIN STANDARDS VARIANCE, PETITION #23-08, IS HEREBY GRANTED APPROVAL ON THIS 10TH DAY OF JULY, 2023.

Motion made by Jeremy Watson, Seconded by Jason Carnahan.


Vote tally: Yes: 3 No: 0



Mary Diehl



Jeremy Watson



Jason Carnahan

There being no further business to come before the board, the meeting was adjourned at 6:25 p.m.



Mary Diehl, Vice-Chairperson



Andrea Noll, Secretary