

# DEKALB COUNTY DEPARTMENT OF DEVELOPMENT SERVICES

PLANNING • BUILDING • GIS

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## AGENDA

**DeKalb County Board of Zoning Appeals**  
**Commissioners Court – 2<sup>nd</sup> Floor DeKalb County Court House**  
**Monday, October 14, 2024**  
**6:00 PM**

A livestream of the meeting can be found here: <https://tinyurl.com/YouTubeDCPC>

1. Call to order
2. Roll call
3. Approval of Minutes: July 8, 2024
4. Old Business: None
5. New Business:

Petition #24-10 – Jeff & Michelle Morr requesting a Special Exception to allow Dependent Housing for herself & her husband to reside in a mobile home on the property with her daughter & son-in-law. The property is located at 4961 County Road 47, Auburn, Indiana and is zoned A2, Agricultural.

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

**No Meeting in November**

**If you cannot attend, please contact Meredith Reith**  
**mreith@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, July 8, 2024**

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, Mary Diehl, Jason Carnahan, Rory Walker, and Andrew Provines.

**Members absent:** None

**Staff Present:** BZA Attorney, Andrew Kruse, Director/Zoning Administrator, Chris Gaumer, and Secretary, Meredith Reith

**Public in Attendance:** Robin Garrison, Chris Frane, Nataley Frane, Travis Haiflich, Erik Weber, Jack Bortner, Margie Bortner, Marty Beasley, Doug Johnston, Ben Graber, and Adam Graber.

**APPROVAL OF MINUTES:**

Motion was made by Jason Carnahan and Seconded by Rory Walker to approve the Minutes of April 8, 2024 as submitted. Mary Diehl and Andrew Provines abstained due to absence. Motion carried.

Motion was made by Jason Carnahan and Seconded by Mary Diehl to approve the Minutes of May 13, 2024 as submitted. Rory Walker and Andrew Provines abstained due to absence. Motion carried.

Motion was made by Rory Walker and Seconded by Mary Diehl to approve the Minutes of June 10, 2024 as submitted. Jason Carnahan and Andrew Provines abstained due to absence. Motion carried.

**OLD BUSINESS:** None

**NEW BUSINESS:**

Petition #24-08 – Christopher Frane requesting a Special Exception to allow for a Home Enterprise per Section 5.22 C of the Unified Development Ordinance for a plumbing business including office and storage. The property is located at 6772 County Road 29, Auburn, Indiana and is zoned A2, Agricultural.

Chris Gaumer read the proposed petition and staff report stating the proposed special exception for a home enterprise. He stated that if the board has any questions Mr. Frane is here to answer them.

Andrew Provines asked if approval was needed from the airport sense it's located in the overlay district. Mr. Gaumer stated only if the use would be part of what's in the prohibited uses.

Chris Frane approached the podium stating why a special exception is needed. Being his business is still small. The work is new construction and is done mostly offsite. Using the old house as office space for him and his wife. Frank Pulver asked if the old house would be used for storage. Mr. Frane stated that 60% of it will be used for storage and the other part has been constructed to have three offices. Mr. Pulver asked what the white pole barn would be used. Mr. Frane stated that the building will be used for storage of business materials and personal items.

Mr. Pulver asked about the proposed privacy fences. Mr. Gaumer stated that the fences are located there already. Mr. Pulver asked about the fence located on the south property line. Is the fence as far west as it can go? Mr. Frane answered that there's a county tile located by the fence. Having to be 75 feet away from the tile. The fence on the north property line he spoke with the neighbor and due to the power line being there the fence can't be extended any longer. Mr. Gaumer added that the fences were permitted and being that the Drainage Board doesn't allow any permanent structures to be in that 75 foot right of way.

Mr. Pulver asked about the cars and materials located at the back of the pole barn. Mr. Gaumer stated that the aerials are from 2023 and aren't up to date. Mr. Frane stated that the aerial shows when they were framing their new home. The pool has been removed and some cars are still there. Mr. Pulver stated that this was a concern with the neighbor to the south.

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

Mary Diehl had questions regarding the equipment and supplies located outside. She asked will they be contained inside the building. Mr. Frane stated that the materials outside are being contained now. The rest should be in by the end of the week. Mrs. Diehl asked when the materials would be picked up. Mr. Frane stated that they usually don't need to come back. He has an employee that runs parts and helps keep everything cleaned up. He has them come once a week and load up supplies, depending on if they finish the job and need to come back onsite. Not constantly coming back.

Mr. Provines asked what the hours of operation were. Mr. Frane stated that there 7-4. Mr. Provines added that he did go out and look at the property beforehand. Asking for permission to walk around and look at the property. He informed Mr. Frane that he was not able to talk to him. Stating that the building materials that are left outside can be contained inside the storage areas.

Mr. Pulver opened the public portion of the hearing up to any comments for or against this petition.

Robin Garrison approached the podium stating that he is a neighbor across from Mr. Frane's property. He stated his concerns about the business. Having questions on how Mr. Frane's business could be run there for over a year without any permission to do so. Mr. Gaumer stated that he is coming before the board now to review his proposal for a business. Not knowing about it till he received complaints from the neighbors. There are no penalties unless they are taken to court to be addressed. We are here tonight to address his business.

Marty Beasley approached the podium to state why Mr. Frane's business is a good addition to the community. Hoosier Plumbing is used through Dekalb High School. He has been great for the school system, donating and sponsoring to the children through all athletic events.

Travis Haiflich approached the podium stating that he is the league president for Jackson Township Athletic Association. A rural youth sports league just south of Auburn. Hoosier Plumbing has been great for the youth, sponsoring a team every year. If there are any issues with the plumbing, he's there the next day to take care of it. He would hate to see a business like this move out of our community.

Nataley Frane approached the podium stating she is Mr. Frane's wife. Being a nurse she is not on-site two days out of the week. Not knowing that the neighbors were upset. She stated that there is a dispute with the neighbor across the road. He is in criminal court getting things sorted out.

Mr. Pulver asked if there were any further comments from the public. Mr. Gaumer stated that he would like to read the letter that was received from the neighbor into the record. Andrew Kruse asked if there was a chance for Mr. Frane to come up and address the letter. Mr. Frane approached the podium to address his concerns about the letter. As far as the tubing and materials. There still is a unit that houses pipe and is in the process of getting moved inside. The fence like he said before due to the county tile being located there, he couldn't extend the fence all the way back. The scrap has been cleaned up now. He is not aware of his employees speeding out of his driveway, being on-site when the employees come and go.

Mr. Pulver closed the public portion of the hearing.

Mrs. Diehl stated that she had driven out there not going on the property. The neighbor to the south has a sizable number of trees planted. From just driving by it seemed like the trees totally blocked the view of Mr. Frane's property.

Mr. Provines stated that you would only see his property if you're walking through the orchard. He added how could we address the concerns in the letter to be dependent on the materials being stored inside.

Mr. Kruse stated that it could be added as a condition of approval.

Mrs. Diehl stated that she was stuck on the word incidental for the definition of a home enterprise for the use. Mr. Gaumer stated that the primary use of the land is for them to reside there. Further down in the

definitions it states the maximum floor area that can't be exceeded. Mr. Kruse stated that the definition of the location states that the home enterprise shall be conducted entirely within the primary structure or within an accessory structure. Mrs. Diehl would like to see a condition of approval added to address her concerns with the word incidental stating how a use is defined. About there being more than one accessory structure being used to conduct a business. Mr. Gaumer stated with there being two structures of equal size to have the home enterprise he sees the point in why a condition would need to be added to address both structures.

Mr. Kruse went through the Findings of Fact for this petition with the board.

**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 **June 11, 2024**
2. Legal notice published in The Star on **June 28, 2024** and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Health Department, dated **June 25, 2024**
5. Letter from the County Highway Department, dated **June 12, 2024**
6. Letter from the County Surveyor or Drainage Board, dated **May 24, 2024**
7. Letter from the Soil & Water Conservation District, dated **June 12, 2024**
8. Letter from the DeKalb County Airport Authority is **not applicable**

**FINDINGS OF FACT:**

1. Is the proposed use consistent with the purpose of the Zoning District and Comprehensive Plan?  
Yes (  ) No (  )\*  
*The proposed use is consistent with the district and Comprehensive Plan. This use is for a Home Enterprise, which is permitted by Special Exception approval by the BZA. The proposed Home Enterprise meets the standards of the UDO.*
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 proposed use is consistent with the zoning district and Comprehensive Plan and will not be injurious to the surrounding community. This use is a Home Enterprise for a plumbing business that is all conducted off-site except for office staff and indoor storage. Also, see the letters from the Board of Health, Highway Dept., Soil/Water Conservation District and County Surveyor.*
3. Is the proposed use in harmony with all adjacent land uses?  
Yes (  ) No (  )\*  
*The proposal is harmonious with the surrounding land uses. Privacy fence has been installed and no additional buildings are proposed. All storage for the business is indoors.*
4. Does the proposed use alter the character of the district?  
Yes (  )\* No (  )  
*The proposed use is for a Home Enterprise for a plumbing business that is all done off-site except for office staff and indoor storage. While this an surrounding property is residential in nature the use does not appear to alter the character of the district. This use is for a Home Enterprise, which is permitted by Special Exception approval by the BZA. The proposed Home Enterprise meets the standards of the UDO.*
5. Does the proposed use substantially impact the property value in an adverse manner?  
Yes (  )\* No (  )



shouldn't be approving anything that's already built. We should be receiving them before the get go. Just needing to be aware of approving these things because it does set a precedent for future projects. Especially when there's area to put the structure.

Mr. Pulver asked if there were any comments or questions from the board.

Mr. Walker asked so the land to the south is owned by someone different. Mr. Gaumer stated that it's owned by the neighbor to the west.

Mr. Kruse asked what the options are for the BZA if a denied. Mr. Gaumer stated that if it's denied the structure would need to be removed up to 5 ft to get in compliance with the UDO. Mr. Kruse asked if they needed the whole space they would need to move over to the area on the side of the barn. Mr. Gaumer stated yes, they would just need to come into compliance.

Mr. Carnahan asked what the neighbor's opinion was on the situation.

Mr. Gaumer stated that the neighbors are here and will probably be commenting on this. They didn't submit anything in writing. Having a conversation with Margie and her husband Jack Bortner, formally Mrs. Crow about the proposed staging area.

Mr. Pulver asked if there were any further questions for Chris. He asked Adam Graber or his representative to come up and speak.

Doug Johnston, Mr. Graber's attorney approached the podium stating he has been helping him and his wife with the request of the application. Stating that Mr. Graber approached him not knowing he needed a permit. He had applied for the barn then and didn't know he need a permit for the animal run/staging area at that time. The property located to the south is a crop field with no development and nothing would be impacted. He stated the purpose for having a barn to raise calves, requiring them to have air so they don't get infection. The outside area is where everything will take place to sterilize the calves before they go into the barn. If any proposed findings and board recommendations are deemed with any approval. We are fully prepared to comply with those. To his understanding the Health Department and Drainage Board are satisfied with the structural layout in terms of how it will operate. Wanting to satisfy both the board and Planning Department that they will finish the job correctly, if deemed approval.

Mr. Pulver asked what the number of calves was. Mr. Johnson stated it's 299.

Mr. Carnahan stated that the number only applies for mature calves. The number is mature equivalent not per head count, since its calves it won't qualify for the 300 minimum required for IDEM compliance.

Mr. Kruse asked what's the required number. Mr. Carnahan stated that there is no number, they don't assign a fractional amount.

Mr. Gaumer stated that you can't use a financial reason to approve or deny a case. Just because he spent \$40,000 dollars doesn't mean you should automatically approve it or a million dollars to remove it. Can't be based on financial hardship.

Mr. Walker asked what would be done with the extra 5 feet left. How will you propose to maintain it, being so narrow.

Mr. Johnston stated that he wasn't aware of any junk. Mr. Walker stated that was not necessarily what he meant. Just in a couple of years the property line will collect junk. As a neighbor he would be concerned in how it would be maintained as far as weeds and trash.

Mr. Johnston stated that any laws applied will be fulfilled.

Mr. Pulver stated that it would need to be a commitment.

Mr. Johnston added it would need to be maintained in an appropriate manner. Mr. Walker said just keep control of the trash and weeds. Being done any type of way. For the neighbors sack it needs to be maintained.

Mr. Pulver asked if there were any further questions. His number one problem is there wasn't a permit to begin with. Mr. Johnston stated that a mistake was made. They were not sure if a permit was needed.

Mr. Pulver asked if there were any other questions or comments from the board. He opened it up to any comments from the public for or against.

Eric Weber approached the podium representing Mr. and Mrs. Bortner as their attorney. Stating that Mrs. Bortner is the owner of the property west of Mr. Graber. The property to the south is farm ground owned by her also. He read finding three to the board, stating why it was important. The answer should be answered as no. It doesn't suggest or present any solid evidence that there is a need to go outside what the zoning ordinance allows for, which is 10 feet. This is why a setback is required. Mr. Walker had suggested some of them. How will the remaining 5 feet be maintained to ensure there's practical space between the properties? Their error in obtaining the permit wasn't a practical difficulty. The holding pen/staging area could have been made smaller or made wider if they needed a certain amount of space. Having real estate elsewhere to build. Asking how you can get here to address this finding. Not seeing any evidence showing how it could be a practical difficulty.

Mr. Carnahan asked if there's a solution that has been talked about to please the landowner. Mr. Weber stated that there's no solution that's been discussed. There has been discussion between the two parties. Nothing had arrived at any type of solution. He personally hasn't had a conversation with both parties together.

Mr. Walker stated that there should be continued discussion between the two.

Mr. Gaumer stated that he has heard about ongoing discussions that he hasn't been apart of. That somewhere in the middle of it all there is the truth. The BZA shouldn't be the moderator between the two parties. Understanding why Mr. Weber wants them to follow the law like Mrs. Bortner would have to if she was building a barn. If there's a view issue and doing a buffer on the one side doesn't help with this variance request. Meaning that the board shouldn't be doing undo requests. For something that the request is not for. Doing a buffer on the west side of the property isn't fixing the 5 ft variance. Being a land swap has been exhausted. Mr. Kruse added and as the BZA we can't force a land swap. Can offer an idea for a condition of approval. That a pre buffer be added as a potential solution.

Mr. Weber stated that he hasn't been involved with these discussions that took place. Mrs. Bortner indicated that there was discussion about the trading of properties or making a type of accommodation by selling property to allow for the issue to go away. They couldn't get on the same page with that.

Mr. Pulver asked Mr. Johnson to come up and speak if he had any further information to add.

Mr. Johnston stated his frustration about hearing objective after there were many conversations. Mr. Graber approached Mr. and Mrs. Bortner regarding the first start of the construction. Mr. Graber had asked if it was okay to have the structure located 5 feet off the property line. Their answer was no. Not knowing he would need a variance of 5 feet. Then there was another conversation with them about being okay only if he obeys the law. There were discussions with meeting the Bortner's lawyer. He was not aware who the lawyer was and didn't get to meet with him. Stating the word encroachment mentioned, being he's on his own land just not 10 feet off the property line. Asking the board to allow this variance in a properly zoned agricultural area.

Mr. Kruse asked Mr. Johnston if there was any response to Mr. Weber's argument regarding number three on the practical difficulties. Since the calf holding pen could be moved off to the side.

Mr. Johnston stated that if it goes towards the Bortner's would they want it any closer to them and to the east there's the pond. The placement was designed to have it located where it's as far away from both the potential issues.

Mr. Gaumer stated that what is hard is if he would have known there would be the barn with the staging area located on the back. He could have suggested they pushed it five feet north. He has room between the other barn and the calf barn to push it north. The calf barn was built prior to the staging area. Not sure if it was intentional or not if there saying what is true. Stating that it was hard for him to write finding three. How would you make this yes when they have the land there to build? With what he wrote he felt comfortable saying yes as a practical difficulty.

Mr. Weber approached again stating whatever the discussions were. His clients have told him they never said that Mr. Graber could put this in any way he wanted. Mr. Bortner had indicated that the discussion of where the structure could go wasn't up to him and he needed to do this in the proper way. He learned of it because the construction workers were asking if they could get on his property to remove the forms off the concrete. That's when he looked at it and seen it was close to the property line. His clients could come up here and say they talked about a way to resolve it. The Graber's wanted to buy more real estate. Being if they go towards their property so be it there's room to move it and go all the way up to ten feet. Stating that ignorance of the law is not a practical difficulty. Asking that the variance be denied.

Mr. Gaumer stated that the petitioner should have one last rebut.

Mr. Johnston suggested to Mr. Pulver stating that if the board is interested, he has the map drawn by Mr. Bortner showing what land he wanted. He stated why Mr. Graber needed the required space for the calves. Making a mistake whether an accessory run needed a permit. If the standard is, we don't tolerate any mistakes. How does that leave the board in the future? Mr. Graber not wanting a war with his neighbors, tried to work it out. The compromise and the recommendations of the planner are consistent with the justice and the fairness of the process of allowing that 5 ft.

Mr. Pulver closed the public portion of the hearing. Asking if there was any further discussion from the board.

Mr. Carnahan asked that they referred to this as may requiring a permit and may not. Can you speak to the gray area that we're in? Mr. Gaumer stated that our ordinance isn't all the way clear. With it being a structure with walls and a roof. We don't require permits for at grade patios. The concrete slab part he would consider as an at grade patio even though it will be used for raising the calves. The part south of it has a roof and walls of 6 or 8 feet tall. This must be considered a structure being it will have a roof and walls. Mr. Carnahan asked if it's a at grade patio what's the setback. Mr. Gaumer stated there is none. He believes the walls are 6 feet. With the roof and walls to the south it is considered an accessory structure.

Mr. Gaumer stated that the barn was built and received its inspections not being finalized yet and closed out. He was not aware of the structure on the back till an inspection was done.

Mr. Kruse stated that it's not just a concrete slab you're talking about. The walls and the roof are different. Mr. Carnahan stated if the roof was flipped to the northside we wouldn't be having this issue. Mr. Gaumer stated potentially we wouldn't be.

Mr. Carnahan stated that it's hard for him because 5 feet close vs 5 feet over are not within the UDO. He's struggling with forgiveness then permission happening more.

Mr. Provines asked if they would have come before it was built would we give the variance.

Mr. Gaumer stated it depends because they still would notify the neighboring landowners within a 300-foot radius. There would need to be a reason for practical difficulty. If Mr. Graber had come forward that he would have this barn and slab area. We could have asked if needed a permit then. We would have suggested he move the building 5 feet further north. The board needs to also consider what Mr. Carnahan said.



Mrs. Diehl stated she would like to add to Mr. Carnahan's comment. She is getting frustrated with repeatedly people coming forward after something is put up. Being if she would like to build close to her neighbor. She would need to check in to make sure she is meeting the requirements. With something this significant it needs to be addressed. Struggling with approval to have this.

Mr. Provines stated his question from before. He gets exactly what you're saying but there are still people who don't get the permit. Regardless there should be a condition added on maintenance to take care of the remaining five feet.

Mr. Kruse stated that in this situation it comes down to the findings. You can think about these other issues as a BZA. You should keep all the issues in mind and to some extent put them aside.

Mr. Gaumer stated that the findings need to reflect your vote. Basing your vote off of everyone's findings even if you don't all agree with them.

Mr. Kruse stated that when voting on the three findings make sure you read them correctly. An approval would be saying yes to what's already proposed. He went through the proposed 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 **June 05, 2024**
2. Legal notice published in The Star on **June 28, 2024** 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, 2024**
5. Letter from the County Highway Department, dated **June 20, 2024**
6. Letter from the Soil & Water Conservation District, dated **June 21, 2024**
7. Letter from the County Surveyor or Drainage Board, dated **June 28, 2024**
8. Letter from the DeKalb County Airport Authority is **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 rear yard setback not be injurious to the public. The petitioner states in their application that that drainage should not be an issue as the runoff will go east & west and should not impact neighboring properties. See letters from the various county departments without objection.*
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 rear yard setback will not adversely affect the neighboring properties. The land to the south that could be affected negatively is farm ground without 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 reduction in the rear yard setback is needed due to fact that the distance between the calf barn used to raise the calf's and the new calf holding/staging area should be maximized to help minimize the potential infection among the calves. While there appears to be area to the east or west of the raising barn, the petitioner built this structure without the proper permits. Upon approval from the County Surveyor, this addition should have minimal impact on neighboring properties. The runoff from the concrete goes to the east and west – not south to the adjacent property.*

**PLANNING STAFF RECOMMENDATIONS/COMMENTS:**

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 Development Standards Variance to allow the reduction in the rear yard setback to 5 feet to construct a calf barn/staging area 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.
6. That the 5 ft on the southside between the calf staging area and the property line be maintained.

Mr. Carnahan stated in his opinion he would like to find a middle ground before we go forward. He doesn't want to be the reason one would sue the other side. Mr. Gaumer stated that there could be a continuation. You wouldn't be rehearing the case again and they would need to come back with more evidence. Knowing that they have tried that already.

A motion for approval was made by Rory Walker with the proposed findings. Motion failed due to lack of a second.

Mr. Provines stated he would like to change the finding listed on number 3 adding "That the operation was likely built for efficiency and not practical difficulty."

**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 rear yard setback not be injurious to the public. The petitioner states in their application that that drainage should not be an issue as the runoff will go east & west and should not impact neighboring properties. See letters from the various county departments without objection.*
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 rear yard setback will not adversely affect the neighboring properties. The land to the south that could be affected negatively is farm ground without 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 reduction in the rear yard setback is needed due to fact that the distance between the calf barn used to raise the calf's and the new calf holding/staging area should be maximized to help minimize the potential infection among the calves. While there appears to be area to the east or west of the raising barn, the petitioner built this structure without the proper permits.*

*Upon approval from the County Surveyor, this addition should have minimal impact on neighboring properties. The runoff from the concrete goes to the east and west – not south to the adjacent property. The operation was likely built for efficiency not a self-imposed practical difficulty.*

**PLANNING STAFF RECOMMENDATIONS/COMMENTS:**

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 Development Standards Variance to allow the reduction in the rear yard setback to 5 feet to construct a calf barn/staging area 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.
6. That the 5 ft on the southside between the calf staging area and the property line be maintained.

A motion for approval was made by Andrew Provines and seconded by Rory Walker.

Vote tally: Yes: 2 (Rory Walker, Andrew Provines) No: 3 (Jason Carnahan, Mary Diehl, Frank Pulver)

Motion died due to lack of majority.

Mr. Gaumer advised the board that if the application denied the findings need to reflect the vote. Mr. Carnahan stated changing number 3, “No, there will not be a practical difficulty associated with this. The staging area could have been relocated somewhere else. The findings would all be answered as no.”

**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 rear yard setback not be injurious to the public. The petitioner states in their application that that drainage should not be an issue as the runoff will go east & west and should not impact neighboring properties. See letters from the various county departments without objection.*
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 rear yard setback will not adversely affect the neighboring properties. The land to the south that could be affected negatively is farm ground without 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 ( ) No ( X )\*

*The proposed reduction in the rear yard setback will not be a practical difficulty. The staging area could have been relocated somewhere else..*

IT IS, THEREFORE, THE DECISION OF THE BOARD OF ZONING APPEALS THAT THIS VARIANCE FROM DEVELOPMENTAL STANDARDS, PETITION #24-09 IS HEREBY DENIED ON THIS 8<sup>TH</sup> DAY OF JULY 2024.

Motion made by Jason Carnahan, Seconded by Mary Diehl

Vote tally: Yes: 3                      No: 2

Yes: Jason Carnahan, Mary Diehl, Frank Pulver

No: Rory Walker, Andrew Provines

\_\_\_\_\_  
Frank Pulver

\_\_\_\_\_  
Mary Diehl

\_\_\_\_\_  
Jason Carnahan

\_\_\_\_\_  
Rory Walker

\_\_\_\_\_  
Andrew Provines

**REPORTS OF PLANNING STAFF, OFFICERS, OR COMMITTEES**

None

**COMMENTS FROM PUBLIC IN ATTENDANCE**

None

**ADJOURNMENT**

There being no further business to come before the board, the meeting was adjourned at 7:30 p.m.

\_\_\_\_\_  
Frank Pulver, Chairperson

\_\_\_\_\_  
Meredith Reith, 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: 24-10  
Date Application Filed: 3/22/2024  
Fee Paid: pd. cc  
8687.45

**Application for SPECIAL EXCEPTION  
(Section 9.20)**

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: Jeff Morr - Michelle Morr  
Address: 4961 CR 47 Auburn In 46706  
Telephone Number: 260-385-1454 E-Mail: JeffMorr382@gmail.com

**OWNER INFORMATION (if different from applicant information)**

Owner's Name: Will Spangler Margaret Morr  
Address: 4961 CR 47 Auburn In 46706  
Telephone Number: 260 4404371 E-Mail: wspangler56@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: \_\_\_\_\_

Overlay District of Property (if applicable): \_\_\_\_\_

Address or common description of property:  
4961 CR 47 Auburn In 46706

Legal description of property affected (or provide property deed):  
PT NW Section 6 TWP 33 Range 14 Acres 7.8  
Parcel No 17-11-06-100-001.000-002

Describe the Use that you are requesting a Special Exception for:  
Mobile Home for Michelle and I to live close to will spangler  
Margaret to care for Michelle when I am away

Please provide the following information to the best of your ability if it pertains to your petition to the BZA.

**A. Lighting (if any):**

- 1. Style: N/A
- 2. Height: \_\_\_\_\_
- 3. Location: \_\_\_\_\_

**B. Signage (if any):**

- 1. Dimensions: N/A
- 2. Materials: \_\_\_\_\_
- 3. Placement: \_\_\_\_\_
- 4. Lighting: \_\_\_\_\_

**C. Hours of Operation (if any):**

N/A

**D. Parking/Access (if any):**

N/A

**Parking Classification (office use only)** \_\_\_\_\_

**E. Landscaping/Buffer yards (if any):**

N/A

**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.

A. Is the proposed use consistent with the purpose of the zoning district and Comprehensive Plan?

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

The Home is loved for my wife and I for special ex.

B. 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) Why? Explain below:

\_\_\_\_\_

C. Is the proposed use in harmony with all adjacent land uses?

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

OMO Home next to us

D. Does the proposed use alter the character of the district?

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

ON Home NEXT TO ME

E. Does the proposed use substantially impact the property value in an adverse manner?

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

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:**

**PETITIONER:** Jeff & Michelle Morr

**SUBJECT SITE:** 4961 County Road 47, Auburn

**REQUEST:** Special Exception

**PURPOSE:** To allow for dependent housing for herself & her husband to reside in a mobile home on the property with her daughter & son-in-law

**EXISTING ZONING:** A2, Agricultural

**SURROUNDING LAND USES AND ZONING:** North: Single Family Residential (A2)  
 South: Farm ground (A2)  
 East: Farm ground (A2)  
 West: Farm ground (A2)

**ANALYSIS:**

In the A2, Agricultural Zoning District, Dependent Housing is permitted by Special Exception approval from the Board of Zoning Appeals.

***5.09 DH-01: Dependent Housing; General***

*This Dependent Housing Standards section applies to the following zoning districts or districts approved for Dependent Housing:*

*The following dependent housing standards apply:*

- A. *An application for a Special Exception for Dependent Housing, as defined, shall be filed with the DeKalb County Board of Zoning Appeals.*
- B. *A letter addressed to the DeKalb County Board of Zoning Appeals shall be submitted with the Special Exception Application from the doctor of which the dependent housing is for explaining the need for the dependent to live in close proximity to the property owner.*
- C. *Dependent Housing is deemed temporary:*
  - 1. *Initial approval shall be given by the Board of Zoning Appeals and shall not exceed five (5) years.*
  - 2. *If an extension is needed, it may be approved by the Zoning Administrator. A new doctor’s letter for the extension is required. If there is a dispute, it shall be referred to the BZA.*
  - 3. *The Zoning Administrator has the right to request information of said dependent at any time for compliance with the UDO. If the dependency no longer exists the Zoning Administrator shall require the property owner to have the dependent residence removed from the real estate.*
- D. *Dependent Housing shall meet all setbacks standards for Primary Structures.*

- This petition is to allow for Dependent Housing for the Michelle Morr & her husband Jeff Morr. Mrs. Morr is in need of assistance from her daughter and son-in-law, Margaret Morr & Will Spangler, while her husband is away. See note from Dr. Sanjay Patel.
- The proposal is that Michelle & Jeff Morr will reside in a mobile home that will be moved onto the property and their daughter and son-in-law will reside in the existing residence on the parcel. The property is owned by Margaret Morr & Will Spangler. The proposed location of the new residence meets all requirements & has received preliminary approval from all applicable County Departments.
- When the dependent housing is no longer needed, the mobile home will be removed.



**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 28, 2024**
2. Legal notice published in The Star on **October 3, 2024** 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 **September 25, 2024**
5. Letter from the County Highway Department, dated **August 28, 2024**
6. Letter from the Soil & Water Conservation District, dated **August 29, 2024**
7. Letter from the County Surveyor or Drainage Board, dated **August 28, 2024**
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. 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 Dependent Housing for the petitioner. Also, see DeKalb County Board of Health letter, Highway Dept. letter, Soil/Water Conservation District & County Surveyor letter. When the dependent housing is no longer needed, the mobile home will be removed.*
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. When the dependent housing is no longer needed, the mobile home will be removed.*
3. Is the proposed use in harmony with all adjacent land uses? Yes (  ) 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 (  )  
*The proposal is residential in nature which is consistent with the surrounding community. When the dependent housing is no longer needed, the mobile home will be removed.*
5. Does the proposed use substantially impact the property value in an adverse manner?  
Yes (  )\* No (  )  
*The proposal is residential in nature and will not impact the property values negatively. When the dependent housing is no longer needed, the mobile home will be removed.*

**PLANNING STAFF RECOMMENDATIONS/COMMENTS:**

**Conditions of Approval:**

Staff is recommending approval for dependent parent housing 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 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. When the dependent housing is no longer needed, the mobile home will be removed.
6. 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 by the petitioner.



MORR, MICHELLE SUSAN  
4961 COUNTY ROAD 47  
Auburn, IN 46706-9746

June 19, 2024

Letter to whom it may concern

Morr Michelle Suzan databases 10/26/1964 is a patient, ours for many years . She has multiple clinical conditions require physical and mental assistance. She has been diagnosed with a brain abscess, recurrent seizure, COPD, and other rheumatological conditions.

She has been requiring to stay with someone. She will require to stay on the property with someone assisting her. She has multiple flareup of condition along with multiple hospitalizations. I do believe for the safety of hers she will require to stay at home with family and/or assist. I have seen her daughter coming with her at the clinic visits and has provided transportation and other health need. She has done well taking care of her. She needs to stay on her property for better support and health needed.

If you have any further questions or concerns fever to contact me

Sincerely yours

A handwritten signature in black ink, appearing to read "Sanjay Patel".

Dr. Sanjay Patel



MORR, MICHELLE SUSAN  
4961 COUNTY ROAD 47  
AUBURN, IN 46706-9746

August 29, 2024

To Whom It May Concern:

Ms. Morr is an individual that our office has seen for years. She has a history of recurrent intracranial abscess and seizures. She is disabled secondary to these. Her husband travels frequently for work, with her then needing the assistance of family (Margaret). It is imperative that family be in close proximity to assist with needs as they arise.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read "April Morrison".

April Morrison, MD

Provider Letter

Patient Name: MORR, MICHELLE SUSAN  
MRN: 220435655    FIN: 48098329    DOB: 10/26/64  
Admission Date: 06/06/24 09:05:00

Facility:  
LHP-Rheum-7916 FW  
7916 W Jefferson Blvd 2300 A, 2300 B, 2300 C, 2400 D  
Fort Wayne IN 468044140



# Lutheran Health Physicians

MORR, MICHELLE SUSAN  
4961 COUNTY ROAD 47  
AUBURN, IN 46706-9746

June 06, 2024

Re: Michelle Morr  
DOB 10/26/1964

## TO WHOM IT MAY CONCERN:

Michelle is currently living with her daughter who is providing her daily care. Michelle is totally dependent upon her daughter Margaret to take care of her daily needs. She provides her with all of her meals. Michelle has rheumatoid arthritis and her daughter assists her with her daily showers and getting dressed daily. She assists with doctors appointments and medications. The patient has frequent falls and is at a high risk for recurrent seizures. It would be in the best interest of Michelle to be in close proximity of her daughter.

|                 |  |
|-----------------|--|
| Result type:    | Provider Letter  |
| Result date:    | June 06, 2024 09:58 EDT  |
| Result status:  | Auth (Verified)  |
| Result title:   | Provider Letter  |
| Performed by:   | RINGWALD, KAREN R MD on June 06, 2024 09:58 EDT                      |
| Encounter info: | ATHENA0048098329, LHP-Rheum-7916 FW, Ambulatory, 6/6/2024 - 6/6/2024 |

Provider Letter

Patient Name: MORR, MICHELLE SUSAN  
MRN: 220435655 FIN: 48098329 DOB: 10/26/64  
Admission Date: 06/06/24 09:05:00

Facility:  
LHP-Rheum-7916 FW  
7916 W Jefferson Blvd 2300 A, 2300 B, 2300 C, 2400 D  
Fort Wayne IN 468044140

IF you have other question, please call our office at 260 432-2297.

Sincerely,

Karen Ringwald, MD  
Rheumatologist

KAREN

Karen Ringwald, MD  
Rheumatology  
Lutheran Medical Group  
7916 W. Jefferson Blvd  
Ft. Wayne, IN 46804

**Completed Action List:**

\* Perform by RINGWALD, KAREN R MD on June 06, 2024 09:58 EDT

Result type: Provider Letter  
Result date: June 06, 2024 09:58 EDT  
Result status: Auth (Verified)  
Result title: Provider Letter  
Performed by: RINGWALD, KAREN R MD on June 06, 2024 09:58 EDT  
Encounter info: ATHENA0048098329, LHP-Rheum-7916 FW, Ambulatory, 6/6/2024 - 6/6/2024



CR-47

4961

42'

470'

550'

Levi Rowland

Levi Rowland



**Waterway (Status)**  
 — Regulated Drain

**Waterway (Type)**  
 - - Tile Drain

**Survey Division Lot**  
 □ Lots

**Tax Parcel**  
 □ Tax Parcel  
 □ County Limits