

Minutes
WARRICK COUNTY AREA BOARD OF ZONING APPEALS
Regular meeting to be held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana
October 24, 2022 at 6:00 P.M.

PLEDGE OF ALLEGIANCE:

MEMBERS PRESENT: Terry Dayvolt, Chairman, Paul Keller, Doris Horn, Mike Moesner, Jeff Willis, Mike Winge, and Jeff Valiant.

MEMBERS ABSENT: None

Also present was Morrie Doll, Attorney, Molly Barnhill, Executive Director, Kim Kaiser, staff.

MINUTES: Upon a motion made by Jeff Valiant and seconded by Mike Winge, the Minutes of the last regular meeting held September 26, 2022 were approved as circulated.

Chairman Dayvolt explained the Rules of Procedures.

SPECIAL USES

Chairman Dayvolt stated first up is BZA-SU-22-31 this is the Rustic Hills Solar, LLC. He said Molly has instructed me that they have continued this.

Mrs. Barnhill stated they have filed a continuance to go to the November 28, 2022 meeting.

Chairman Dayvolt asked so there is no motion or anything on that is there.

Jeff Valiant stated we will need a motion to continue.

Attorney Doll stated two.

Jeff Valiant stated I make a motion to table it. The motion was seconded by Doris Horn and unanimously continued.

Mrs. Barnhill stated that will be the same thing for BZA-SU-22-32.

Doris Horn said I make a motion to table to the next meeting for November 28, 2022. The motion was seconded by Mike Moesner and carried unanimously.

Jeff Valiant asked Molly how many straight months has this been that they have tabled or continued. He asked was it two.

Attorney Doll said September's.

Mrs. Barnhill stated they have really only asked for one continuance the first one was a mishap with The Standard.

Attorney Doll said the newspaper didn't print it.

Mrs. Barnhill replied yes. She said now they have officially asked for a continuance.

Jeff Valiant stated it seems like it has been more. He said alright, thank you, sorry.

VARIANCES:

BZA-V-22-33

APPLICANT: Kevin Hennessy

OWNER: Warrick Real Estate, LLC by Maureen Ford, Director

PREMISES AFFECTED: Property located southwest side of Lot 2 ALCOA-APGI Subdivision approximately 4300' south of the intersection formed by SR 66 and SR 61 Anderson TWP. Lot No. 2 & 3 in ALCOA-APGI Subdivision and Pt 9-7-8

NATURE OF THE CASE: Applicant requests a variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow a Major Subdivision to be filed with 0' setbacks. All in a "M-2" General Industrial Zoning District. *(Advertised in The Standard on October 13, 2022)*

Chairman Dayvolt asked for a staff report.

Mrs. Barnhill stated we have all of the return receipts and they did mail them correctly to the adjacent property owners. She said the existing land use is Kaiser Aluminum. She stated the surrounding zoning and land use to the east, west, and south are all zoned "M-2" General Zoning District with industrial businesses and to the north is zoned "A" Agricultural with fields. She said there is partial floodplain on the property but not where this building is. She stated the existing drive on SR 66. She said the applicant's statement says they need to file a subdivision with a variance for the 5' building line offset.

Chairman Dayvolt said state your name for the Board.

Kevin Hennessy, Surveyor and Attorney Ziemer, Attorney for Alcoa were present.

Chairman Dayvolt asked for any questions from the Board.

Mrs. Barnhill asked Kevin could you explain to them why the lot lines are going to be like they are and why we need this variance.

Kevin Hennessey stated it is part of the lease with Kaiser that this be subdivided for tax purposes. He said there is no change in ownership and the lease is going to stay in place as of now but in the

future there may be a change in ownership. He stated the lease is defined, the lines of the lease are defined by the two different operations that take place at the facility.

Chairman Dayvolt asked and this is a subdivision.

Kevin Hennessey replied well, yeah, because it is already a subdivision because back in 2016 the Warrick generating station part was subdivided from the other facilities there so now we are basically looking at a third subdivision therefore...

Chairman Dayvolt asked so this is not a residential subdivision though.

Kevin Hennessey replied no, this is all industrial.

Mrs. Barnhill replied yes, this is a General Industrial Zoning.

Attorney Ziemer stated and nothing will change as far as what is happening with the real estate or perception...someone driving by is going to look and see it exactly the way it has always been. He said it is just that Kaiser, a third party, leases the portion we are looking to subdivide from ALCOA because they have certain operations there and for various reasons the biggest of which is we would like to have a separate tax ID number so that Kaiser can pay the taxes for the portion that they lease from ALCOA.

Chairman Dayvolt asked for questions from the Board.

Attorney Doll stated Kevin for the Board's clarification next to the Ohio River, if you look at the color chart that is the part that is being retained by ALCOA.

Kevin Hennessey replied that is correct, yes, the southern portion.

Attorney Doll asked in the 537.6 acres, the larger irregular shaped tract inside the yellow line, that's the part that is leased to Kaiser.

Kevin Hennessey responded correct.

Attorney Doll said okay and the reason you are asking for a waiver of the 5' setback is we are literally going through a building.

Kevin Hennessey replied that's correct.

Attorney Doll asked and you did that with a drone.

Kevin Hennessey responded that's correct, yes.

Attorney Doll asked you shot this by legal description, this lengthy legal description, flying a drone through the interior of this building.

Kevin Hennessey replied no, over the exterior.

Attorney Doll responded oh, okay thank you. He asked so on the north side of that line will be Kaiser lease territory and on the south side of that line, through the building, that will remain ALCOA.

Kevin Hennessey replied correct.

Attorney Doll asked and all of that is set out in this legal, the lengthy legal description, to the left of the color print showing the meets and bounds.

Kevin Hennessey replied that's correct.

Attorney Doll responded okay, thank you.

Doris Horn asked the pot room area of ALCOA or Kaiser is being leased by Kaiser.

Attorney Ziemer replied correct.

Kevin Hennessey replied yes.

Doris Horn responded okay.

Chairman Dayvolt asked any more questions. He asked any remonstrators. He said seeing none I'll ask one more time any questions from the Board.

Attorney Doll asked this is essential to the long term use of that facility.

Attorney Ziemer replied yes.

Kevin Hennessey replied yes.

Chairman Dayvolt said okay, I'll entertain a motion.

I, Mike Winge, make a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.

3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is essential to the continued function of the facility.
4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
 - a) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
 - b) Subject to all Building Commission requirements
 - c) Subject to all public utility easements and facilities in place.
 - d) Subject to the plat being filed and approved by the APC Board.

The motion was seconded by Doris Horn and carried unanimously.

Attorney Doll stated good luck.

Attorney Ziemer replied thank you.

Kevin Hennessey said thank you very much.

BZA-V-22-34

APPLICANT & OWNER: Daniel & Sandra Jones

PREMISES AFFECTED: Property located on the north side of SR 662 approximately 0' NE of the intersection formed by SR 662 and Old Stonehouse Drive, Ohio TWP. Lot No. 4 in Old Stonehouse Estates Subdivision. *6766 Old Stonehouse Dr.*

Sandra Jones stated I am Sandra Jones and this is my husband Dan Jones.

Chairman Dayvolt asked for a staff report.

Mrs. Barnhill stated I will read a staff report first and then you can talk.

Sandra Jones replied thanks.

Mrs. Barnhill stated Applicant requests a variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued for: a single-family dwelling to be built 19' into the 25' rear setback line, leaving a 6' rear yard. All in an "R-1A" One-Family Dwelling Zoning District. (*Advertised in The Standard on October 13, 2022*) She said on the notices she sent them properly and we did get them all back. She stated the existing land use was a single-family dwelling. She asked has that been razed.

Daniel Jones replied yes.

Mrs. Barnhill stated so that is gone, okay. She said so the home that was there is now gone. She stated all directions are zoned "R-1A" One-family dwelling with single-family dwellings or vacant property. She said there is no floodplain. She stated they have an existing drive onto Old Stonehouse Drive. She said their additional information in the application stated that *they are asking for a variance to allow our completed drawing to fit on Lot 4 in Old Stonehouse Estates Unit 1. I was not aware of another 25' setback line on the east side of the property as there is already a 20' setback on the south side and a 25' on the west side, see exhibit one, which is in your packets, this will make three large setbacks and reduce the building space to a very small lot. I was going off of a survey that I had obtained from Morley and it did not show a 25' setback on the east side only 6'. The two adjacent dwellings are setting 25' off of the property line, which would put more than 32' between the dwellings. We are building this for our retirement home.* She stated the application would be in order.

Chairman Dayvolt said now it is your turn.

Sandra Jones stated she took all of the words right out of my mouth. She said I am Sandra Jones and this is my husband Dan. She stated yes, this is going to be our retirement home and we purchased the piece of property. She said they had a survey there, existing, which did not show

that 25' on the east side of the house. She stated like she just said yes, there is already existing on the street 25' setback and on the south side there is a 20' setback. She said if you take another 25' on the east side it really, really narrows the lot down. She stated when I had it surveyed the survey did not show that so I continued on with my drawing and I had the drawing completely finished and came on up then for permits and then learned then that there is another 25' setback. She said as you can see on my exhibit one this broken line down through there, which is the 25' on the east side how it encroaches into the drawing, which makes it very, very narrow. She stated we are just requesting that if I could leave the 6' setback, which is a utility easement and then forgive 19' of it would make the drawing work. She said I also took a photo of the Google showing the location of the surrounding houses. She stated each house and each house on each side of it there is a good 25' between the lot line and their home on either side. She said it would not be like we would be encroaching too close to another residence. She stated I don't know...I guess that's....can you think of anything else to say. She said I think that is basically it....

Chairman Dayvolt said okay, Mrs. Jones did Mr. Morley take the survey on the previous home that was there and you tore it down then or....

Sandra Jones stated yes, I have a copy of that...this I don't know if I am permitted to hand you....

Chairman Dayvolt stated whatever you give us we keep.

Sandra Jones replied that is okay, that's okay. She stated I have several...

Attorney Doll stated bring them to the side.

Sandra Jones replied okay.

Attorney Doll stated you are fine.

Sandra Jones said yes, there is three there.

Jeff Willis stated it is really hard to see coming back because the carpet is the same color.

Sandra Jones stated I outlined the red was Morley's (inaudible)

Jeff Willis asked (inaudible) the previous home.

Sandra Jones replied yes, let me see (inaudible). She said you can see where... okay here give this to them. She stated in the red was the original dwelling and that was the survey there from Morley's. She said and then they did an overlay with this one showing our new drawing and where the old house was. She stated you can see on the top here where their porch and all was way over into the 25' anyway.

Chairman Dayvolt asked was it a porch or was it just a fenced in yard.

Jeff Valiant stated it looks like a fenced back yard on that picture.

Sandra Jones said show them this too.

Jeff Valiant stated we have the aerial.

Sandra Jones replied oh, okay. She said I've even spoke with both neighbors and they don't have a problem with it at all.

Attorney Doll asked do we have any remonstrations.

Chairman Dayvolt asked anymore questions by the Board.

Chairman Dayvolt asked is there anyone here for or against this.

Someone in the seating stated I have (inaudible)

Chairman Dayvolt stated ma'am please come up and sign in.

Michelle E. Hulse said I'm sorry.

Chairman Dayvolt said ma'am, state your name for us.

Michelle E. Hulse said I only have two copies of this if you will let me bring them... She said my name is Michelle Hulse and I live at 6744 Old Stonehouse Drive, which is the property adjacent to the Jones' property on the east side. She said as I am not very familiar with this what I have done is look at your rules of variance and prepared remarks about my concerns. She stated first of all I don't really think this impairs the owners right to some reasonable use of the property. She said it seems to me there is property not being used that perhaps could be used although that is not my decision. She stated in item five of your information you said that the variance sought after should be as little as possible. She said if you look at my pictures from a different angle these are hillsides. She stated and the first concern I have is an illumination of 19' x 180' isn't small. She said and secondly on the one picture, I don't know if you can see it, I couldn't get an angle that looked good on a picture, but starting at the property line on all sides at the top of that hill their property comes down. She said so significant water shed comes down there on their property and the house as I see it because I didn't go on and measure it but six foot is not very large. She stated that I'm afraid when they build and especially if you see the one part that is only 15" from the offset that it may cause the drainage to become incorrect. She said I don't have a problem with the drainage on their property because I am sure they will take care of that but what will happen on the drainage on the property above them and if there is any because my front yard does kind of come down that way. She stated I have a dip on my side that drains a lot of my water. She stated but I don't know how theirs will affect that. She said I looked at that under the part that says modified as little as possible. She stated and then the sixth item on your rules says not detrimental to the adjacent property. She said if you look, and I am glad she presented it, the original house was 25' away. She stated all of the houses on the river there, in Old Stonehouse, are 50' apart. She said I'm concerned about the integrity of the hillside. She stated when reducing the distance between houses we have seen some subsidence on the river there and you probably know that if you have lived along there for very long. She said will the integrity of the hill that holds all of the

rest of us on top of it if they are building that close together. She stated I don't know, I am not an engineer. She said I contacted an engineer he said there was no way he could help me in this short of time. She stated and then erosion. She said if that water directs I can show you already where there is erosion on both properties. She stated water is our enemy up there because it just really rains hard and things go overhead. She said so those were my concerns. She stated I hate to start off my work with my new neighbors this way but that is a big house and I do worry a lot about erosion and drainage not to mention the integrity of the hill.

Paul Keller asked what was your address again.

Michelle Hulse stated 6744 Old Stonehouse Drive. She said that is my white house in those in those little pictures.

Paul Keller asked so your property doesn't abut to this.

Michelle Hulse replied yes, it does.

Mike Winge stated all it shows us here ma'am 6788 and 6722.

Michelle Hulse stated I am lot 3. She asked do you have a lot 3.

Paul Keller replied no, I am just looking at the addresses.

Attorney Doll stated yes, we have a lot 3.

Michelle Hulse asked do you want to see my other map.

Mrs. Barnhill stated she is lot 3 to the east of them. She asked are you looking at the addresses on GIS.

Paul Keller and Mike Winge replied yes.

Mrs. Barnhill stated it is wrong.

Mike Winge stated rule number one on the lot (inaudible) on the building code requires that they have a 6" (inaudible) later so all of that is going to be covered under the building code number one and number two. He stated the last time I checked any resident has the right if they want to raise of fill in their lot they have the right to do that. He said I think that I am correct on that so I don't think that should be an issue on it.

Attorney Doll asked what is the normal setback, Molly on the back.

Mrs. Barnhill stated 25'.

Mike Winge said 25' and the old house was 25'.

Attorney Doll responded umhm.

Chairman Dayvolt stated okay, thank you very much.

Michelle Hulse replied you're welcome.

Chairman Dayvolt asked did you have a chance to answer her questions, Mrs. Jones.

Jeff Willis asked is there anybody else.

Chairman Dayvolt asked is there anybody else here for remonstrators.

Sandra Jones said the only thing I would like to reply to that is anytime we would go in and build a structure that is our first concern, to drain the water away from the house.

Mike Winge stated you are required to.

Sandra Jones stated you are required to do that by law, I mean you know I could not go in there and defer the water over on my neighbor... I just couldn't do that. She said I know that she has mentioned that she, the water comes off of this street in front of her house and it comes down her driveway more, but that is over on her property that you know has nothing to do with our property... I'm just kinda trying to explain what, you know, I don't know can you think of anything....

Daniel Jones said obviously we are going to build the thing to Building Codes, I mean we aren't going to go up there and build something that is going to fall down and throw water on everyone else and the whole thing fall down... we aren't going to do that.

Sandra Jones said and actually I have offered to even help to her defer with a problem that she is having. She said I have even offered maybe we could assist them in some way, you know, umm but I guess that is about all I can think to say.

Chairman Dayvolt asked are there any more questions by the Board.

Jeff Willis asked why do we usually have the 25-foot setbacks in the backyards.

Mrs. Barnhill asked why.

Jeff Willis said yes, because they said they had a 25-foot setback and they kind of have two front yard setbacks already with the two streets...

Mrs. Barnhill said I wasn't here when they wrote that ordinance...

Jeff Willis said I wasn't sure if there were safety reasons or trying to preserve enough green space or yardage...

Mrs. Barnhill said I think it is so you aren't on top of your neighbors...

Attorney Doll stated fire.

Mrs. Barnhill asked its fire.

Attorney Doll stated partially.

Mike Winge said well if the neighbors are all right with it, with that particular situation then I don't see why that would be affected. He stated she's not close enough to them that it is affecting her side.

Attorney Doll said well the proposed home would be 6 feet off of her property line.

Mike Winge stated and that is her utility easement too.

Attorney Doll stated that is a utility easement. He continued so the home would be built at the edge of the utility easement and I am not sure.

Mike Winge asked we have done that before haven't we.

Attorney Doll stated well with the consent of the utility...

Mrs. Barnhill said well in the easement, yea you can go right up to it... when we say 6 feet that is the roof overhang, the building footprint is the 7.3 feet so that is 1.3 feet off of the public utility easement, so yeah when people come in they go right up to it.

Mike Winge stated I have a question on that. He asked on your drawing is that something...can you step back up to the podium please. He said this is cost effective on the drawing and that is the main reason you are doing this right... or are you just trying to save the problem of having to redraw the plan...

Daniel Jones stated no, we are trying to match our drawing that we came up with.

Sandra Jones said I am just trying to utilize...it turns out with a 25' setback on the front and 20' on the south side and then learning there is another 25' it really narrowed the lot down extremely. She said the reason for that other 25' is because like he mentioned, what was the reason why they are requiring because they are considering that the back yard. She continued this is kinda like an odd shape if my front door is on the south side then I wouldn't have a problem with that 6 foot on the east side but I can't have a front door on the highway. She said I guess all in all it's just to put a decent size house there, you know...

Jeff Valiant said I was just looking at a street view of that, so would that be safe to assume the slope of the front yard there would kinda hinders you in shifting that house forward or towards the street.... not towards the highway but towards the street.

Sandra Jones replied yes, it is very steep right there.

Chairman Dayvolt asked the utilities in that easement, are they above ground.

Sandra Jones said there aren't any, in that 6-foot easement on the east side there are no utilities in there at all and well, that's another thing too. She continued the drawing the surveyor did, did not show any easement at all on the north side and then I discovered there are utilities on the north side and then I had an attorney to research and they found an easement that the courthouse, they

had to search and found a 4 foot easement on the north side, which SIGECO at that time purchased from the owner and they went in and put power on the north side and they are way out of their 4 foot easement and so is Spectrum, but that is not encroaching on me you know. She said I actually need to contact them about getting their utilities inside that easement but on the east side that 6 foot all the way down, that long length, there are no buried utilities.

Inaudible talking among Board members.

Chairman Dayvolt asked there is a six foot easement on both sides of the property line, it is a twelve foot total.

Mrs. Jones replied umhum, with no buried utilities on the east side.

Chairman Dayvolt asked are there any more questions by the Board. He said I will entertain a motion.

Paul Keller said I, Paul Keller make a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is it has three setbacks on a triangular shaped lot, which severely limits the buildability on the lot.
4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.

7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.
10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:
 - a) Subject to an Improvement Location Permit being amended.
 - b) Subject to a Building Permit being amended.
 - c) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
 - d) Subject to all utility easement and facilities in place.

Motion was seconded by Mike Winge and it carried unanimously.

Mrs. Barnhill said so Mrs. Jones if you give us a day or two to type up the approval and then we will be ready to do permits.

Sandy Jones replied thank you.

BZA-V-22-35

APPLICANT & OWNER: Walter O Jr. & Terry Hale

PREMISES AFFECTED: Property located on the west side of Pelzer Road approximately 575' south of the intersection formed by Pelzer Road and New Hope Road. Boon TWP. 24-6-8 3133 S. Pelzer Rd.

NATURE OF THE CASE: Applicant requests a variance from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued for: a single-family dwelling on property with an existing single-family dwelling to be removed within 180 days after receiving the COO. All within an "R-1A" One-Family Dwelling Zoning District. (*Advertised in The Standard on October 13, 2022*)

Chairman Dayvolt said Mr. and Mrs. Hale.

Mrs. Barnhill asked are you ready...are you ready for the staff report.

Chairman Dayvolt said yes ma'am.

Mrs. Barnhill said they did send notices and we have all the white pay receipts from that, they were mailed correctly. She said the existing land use is a single-family dwelling; Surrounding zoning and land use to the north, south, and east are all "R-1A" 1 family dwelling, single-family dwellings. She said there is no flood plain and they have an existing drive onto Pelzer Road. She said the existing home was built in the 1800's and the property owner would like 180 days from the date they receive their certificate of occupancy so that they would have time to salvage a lot of the items. She said the applicant statement said, "We need to live in the house while the new one is being built." She stated the application is in order.

Chairman Dayvolt said state your name please.

Walter Hale said Walter Hale Jr and Terry Hale, do both of us need to sign this or just one of us.

Chairman Dayvolt asked do you have anything to add to the staff report Mrs. Barnhill just gave us.

Mr. Hale said no we are just wanting to build a retirement home behind the existing, reuse all the driveway, the hookups and all that stuff... just put in a new septic and like I said...

Chairman Dayvolt asked are there questions by the Board.

Mike Winge asked how much ground do you have there.

Mr. Hale said a little shy of 8 acres...

Mrs. Barnhill stated 7.3 acres I believe is the actual.

Jeff Willis said it looks like there is what, two unattached buildings currently now behind the existing home, that would be in front of the new home.

Mr. Hale said well for now the barn will stay but the garage will get moved at a later date where it won't be in front 24 x 24 is what it is.

Mrs. Hale said it is not going to be in the front it is actually off to the side.

Jeff Willis asked is that one like directly behind the house now or the one that is kinda across the driveway.

Mrs. Hale said the barn that is staying is across the driveway.

Chairman Dayvolt asked are there any more questions by the Board, not seeing any are there any remonstrators here for or against this project.

Jeff Willis asked will there be an issue if there is an unattached building in front of the house or...

Mrs. Barnhill said no they have enough property where it is a non-issue, over 2.5 acres.

Jeff Willis stated I didn't realize it was seven acres when I asked but it is a big lot.

Mrs. Barnhill replied yes.

After ascertaining there were no more questions from the Board and no remonstrators for or against, Chairman Dayvolt called for a motion.

Mike Moesner said I, Mike Moesner, make a motion to approve the Variance Application based upon and including the following findings of fact:

1. The grant of the Variance will not be injurious to the public health, safety, morals, and general welfare of the Community. As such, it is further found that the granting of the Variance shall not be materially detrimental to the public welfare.
2. The use or value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner. As such, it is further found that the granting of the Variance shall not result in substantial detriment to adjacent property or the surrounding neighborhood.
3. The need for the Variance arises from some condition peculiar to the property involved. The peculiar condition constituting a hardship is unique to the property involved or so limited to such a small number of properties that it constitutes a marked exception to the property in the neighborhood. Such condition is there is already an existing house and it is the only place to reside while you build.
4. The strict application of the terms of the Warrick County Comprehensive Zoning Ordinance will constitute a practical difficulty, unusual and unnecessary hardship if applied to the property for which the Variance is sought.
5. The approval does not interfere substantially with the Warrick County Comprehensive Zoning Ordinance adopted pursuant to IC 36-7-4-500 et seq.
6. The granting of the Variance is necessary in order to preserve a substantial property right of the petitioner to use the property in a reasonable manner, and not merely to allow the petitioner some opportunity to use his property in a more profitable way or to sell it at a greater profit.
7. That the hardship to the applicant's use of the property was not self-created by any person having an interest in the property nor is the result of mere disregard for or ignorance of the provisions of the Warrick County Comprehensive Zoning Ordinance.
8. The approval of the requested Variance is the least modification of applicable regulations possible so that the substantial intent and purpose of those regulations contained in the Warrick County Comprehensive Zoning Ordinance shall be preserved.
9. This Variance shall expire six (6) months after this date, UNLESS a Permit based upon and incorporating this Variance is obtained within the aforesaid six (6) month period or unless the provision of the Variance are adhered to within the aforesaid six (6) month

period. Upon advance written application for good cause, a renewal for an additional six (6) month period may be granted by the Secretary of the Area Plan Commission.

10. The Variance Application is subject to the terms contained therein and the plans on file subject to the following additional conditions:

- a) Subject to an Improvement Location Permit being obtained.
- b) Subject to a Building Permit being obtained.
- c) Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
- d) Subject to all utility easement and facilities in place.
- e) Subject to existing residence being removed within 180 days from issuance of Certificate of Occupancy.

Motion was seconded by Jeff Valiant and carried unanimously.

Mrs. Barnhill said if you want to give us until Wednesday to type up the minutes and we will have your approval ready, then we can do permits.

Mr. Hale said thank you.

Mrs. Hale said okay, thank you so much.

ATTORNEY BUSINESS:

Attorney Doll said there is nothing to report.

Chairman Dayvolt said how about you Madam Secretary.

Mrs. Barnhill said nothing, I hope everyone can make it to our next BZA meeting because we will need you, it will be on the 28th when we will finally be hearing about the Rustic Hills application...

Attorney Doll stated solar farms.

Mrs. Barnhill stated solar farms.

Jeff Valiant said are you sure we will finally be hearing...

Mrs. Barnhill said I still don't have my markups yet and he said they are on their way... today he said that. She said as soon as I get the markups back I would like to give everybody a chance to go over it.

Jeff Valiant stated that would be good.

Mrs. Barnhill stated so I will be calling each one of you to go over it and make sure we understand everything so we will have a smooth meeting.

Mike Winge made a motion to adjourn at 6:49 p.m. Doris Horn seconded the motion and it carried unanimously.

Terry Dayvolt, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of the said Board at their monthly meeting held October 24, 2022.

Molly Barnhill, Executive Director