



8 0 2 8 7 7 1
Tx:4015859

200406161

RECORDED AS PRESENTED ON

11/24/2020 11:59:48 AM

FEE: 0.00

PAGES: 7

LORI L. AUSTIN

WHITE COUNTY RECORDER

BZA MEETING

October 15, 2020

The White County Area Board of Zoning Appeals met Thursday, October 15, 2020, at 6:00 p.m. in the Commissioners Meeting Room, Second Floor, White County Government Center, Monticello, Indiana.

Present: Dennis Sterrett, Abbey Gross, Stan Minnick, Randy Conwell and Jeff Guingrich

Also attending were Executive Director Joseph W. Rogers, Board Secretary Raquel Reynolds, and Area Plan Attorney Mackenzie Martin.

Visitors attending were: Jeff Williams, Mark Klaczak, Kyle Gay, Rebecca Gay, and Betty Kelly.

The meeting was called to order by Chair Abbey Gross at 6:00 p.m.

Minutes:

There was a motion by member Jeff Guingrich and a second by member Dennis Sterrett to approve the meeting minutes and finding of facts dated September 17, 2020 as written, motion carried unanimously.

Note: At the introduction of each case hearing, Director Rogers entered all documents provided to the Board in their pre-meeting packets, the Staff Report and all other file documents into the official record of the meeting. All documents entered into the record along with all hearing testimony and completed ballots will be used in establishing the Findings of Fact for each hearing.

Business:

Director Rogers advised the Board that before he began his formal review of Variance Petition #3022, the Board needed to address whether or not the north property line of the subject site was going to be treated as a front. Director Rogers went on to review Exhibit A with the Board. Exhibit A was a staff analysis of the property which lies north of the subject lot. From the Staff's research, the Staff believes the subject site is bordered on the north by privately owned land over which the subject site has an easement right for the purpose of accessing the Lake. The Staff concluded that the south boundary line of Halas Court abuts the north property line of the private property which provides the subject site easement to the

Lake. The Staff was not able to find any records indicating that Halas Court was a platted road. Under the historical practices used by the Staff when 911 addresses were assigned, it was common for a private drive to be given a road name if the drive served more than one residence. Even though the survey shows Halas Court and the easement co-existing over the same area, the surveyor admitted they had no way of determining the boundary locations of Halas Court.

After the Director's presentation, there was extensive discussion between the Board and the Board's attorney as well as comments and opinions from local property owners. The Board elected to accept the survey as submitted and concluded that Halas Court should be considered to abut the subject site (as well as the other lots along this corridor) and that the north property line of the subject site should be considered a front property line.

Member Dennis Sterrett made a motion to consider Halas Court as a second front to the subject property, member Stan Minnick seconded the motion, motion carried 4 in favor and 1 opposed; motion passed.

Variance # 3022

Director Rogers read the call log into the record. The call log had two entries; Deb McKay of Hebron Realty called to obtain more information; the Staff emailed her the survey. McKay expressed concerns regarding parking along Grande Vista Court and asked if the 14.5' setback could be applied to the north along Halas Court. Troy Clinton stated concerns regarding parking on Grande Vista Court along with water runoff from the downspouts and where all the excess water was going to go. Both Deb McKay and Troy Clinton were undecided at the time of the call in.

Director Rogers stated that the applicant, Jeff Williams, is requesting a variance from Appendix B: Bulk Use Standards of the White County Indiana Zoning Control Ordinance (ZO) to construct a 30'x100' pole building with living quarters. There are no developmental standards listed on the plat, so county setbacks are applied. Current county developmental standards for an R-2 District are as follows; 30' front (roadside), 20' rear, and 4' sides. The footprint of the proposed structure is 14.5' from the front (Grande Vista Court) property line and 20' from the front (Halas Court) property line.

Director Rogers summarized the Staff Report for the Board. Director Rogers then displayed for the Board and the audience a series of photos he had taken at the site showing the area subject to the request along with the surrounding area.

Director Rogers asked if there were any questions for him. Member Jeff Guingrich questioned the status of there being a grinder on the property. Director Rogers stated the property owner would need to obtain a permit from TLRSD. Chair Abbey Gross asked about the utility poles on the property posing an issue with the building location and proposed setbacks. Director Rogers stated the poles would not propose a problem since the property owner will be accessing the property from the north (Halas Court).

Chair Abbey Gross asked if there was anyone attending in support of the request, no one came forward.

Chair Abbey Gross asked if there was anyone here representing the request. Mr. Jeff Williams came forward to the podium. Mr. Williams stated that he has discussed the

proposed plan with TLRS and they will install the grinder accordingly. Mr. Williams also stated that he will not be using the easement water access on Halas Court. Mr. Williams has access off of Kelly Court where his boat house and lift are located.

Chair Abbey Gross asked if there was anyone attending that opposed the request. Mr. Kyle Gay came to the podium. Mr. Gay asked if there were side set-back requirements. Director Rogers stated the proposed structure would meet the county side set-back requirements. Mr. Gay stated concerns that his property would get flooded from the water run-off if the structure was built lowering his property value due to the structure being next his property. Ms. Betty Kelly stepped to the podium and stated that if this is approved the Board needs to set the same set-backs granted for each parcel located along Grande Vista Court and Halas Court. Ms. Kelly also stated concerns with the 20' set-back and the possibility of traffic going into her yard due to the 20' set-back along with the narrow 8' road, which she believes to be Halas Court, when parking trailers, boats, etc.

Mr. Jeff Williams stepped to the podium and stated the parking area would be inside the building and handicap accessible. Mr. Williams stated he would also be using his utility vehicle or tractor to park the boat and trailers into the building which would have a shorter turning radius so there would be no issues of going into any neighboring yards.

There being no further questions or discussion. Attorney Martin provided each Board member with a written ballot.

After tabulating the ballots, Chair Abbey Gross read the following results into the record:

Variance #3022 – 5 votes cast; 4 to grant; 1 to deny;

Petition - Granted

There being no further business, member Stan Minnick motioned to adjourn the meeting, with a second from Jeff Guingrich. Motion was passed and meeting adjourned at 7:10 p.m.

Respectfully submitted,



Joseph W. Rogers, Executive Director
White County Area Plan Commission



Prepared by: Raquel Reynolds, Secretary

Document Prepared By: White County Area Plan Executive Director Joseph W. Rogers, "I AFFIRM, UNDER THE PENALTIES FOR PERJURY THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW."



White County Building & Planning

110 N Main St. PO Box 851 Monticello, IN 47960

Phone: (574)583-7355 Fax: (574)583-4624

www.whitecountyindiana.us

FINDINGS OF FACT

FILE #	Variance # 3022
APPLICANT	BRS Properties – Owner/Jeff Williams - Applicant
LOCATION	5667 E Grande Vista Court, Monticello, IN 47960
REQUEST(S)	The applicant is requesting a 20' front set-back vs 30' required from Halas Court and a 14.5' front set-back vs a 30' required from Grande Vista Court to construct a pole building with living quarters.
HEARING DATE	October 15, 2020

The Area Board of Zoning Appeals (hereinafter referred to as “Board”) of White County, Indiana, at a public meeting, properly advertised pursuant to IC 5-3-1-2 and IC 5-3-1-4, having heard testimony and reviewed evidence related to the following request(s), does now enter the following Findings of Fact:

- 1) Board variance authority is provided for under Sec. 12.4.1 of the White County Indiana Zoning Control Ordinance;
- 2) The subject site is identified by Parcel ID # 91-83-28-000-011.500-010; Tax ID # 007-11190-00;
- 3) The subject site is further described with a short legal description; N/S NE SE; 28-28-03; .18
- 4) The property is zoned R-2, Single and Two-Family Residential;
- 5) The site is 7556 sq. ft. which is below the 10,000 sq. ft. lot size provided for in the Bulk Use Standard (Appendix B) for a R-2, Single and Two-Family Residential, zoned property;
- 6) The adjoining properties are zoned L-1, Lake, R-2, Single and Two-Family Residential and A-1, General Agriculture;
- 7) Properties in the general area of the subject site are zoned L-1, Lake, R-2, Single and Two Family Residential and A-1, General Agriculture;
- 8) The applicant requested approval of a 20' front set-back (30' required) from Halas Court and a 14.5' front set-back (30' required) from Grande Vista Court;
- 9) The applicant submitted a survey of the subject property, dated September 25, 2020, which provided boundary, location, proposed improvement information and other pertinent data relevant to the applicant's request.
- 10) The applicant's survey showed an easement and road to the north of the subject property.

- 11) Director Rogers reported that, according to the surveyor, it was unclear whether or not the easement coincided with Halas court or if the easement was just south of Halas court abutting the subject property. Therefore, the Staff was unable to determine if the subject property had two fronts (Grande Vista Court & Halas Court) or a front (Grande Vista Court) and a rear (Halas Court).
- 12) Director Rogers presented to The Board Exhibit A (see file), which was an analysis of the property which lies north of the subject lot. There was extensive discussion between The Board and The Board's legal counsel, as well as comments and opinions from the neighboring property owners, related to the location of Halas Court and the easement in question.
- 13) The Board decided with a 4-1 vote that the subject property has two fronts; Grande Vista Court & Halas Court; therefore, the setback from the north property line would be included in their consideration.
- 14) The Staff advised the Board that they had received two communications from the general public pertaining to the request; the communications were from Deb McKay of Hebron Realty and Troy Clinton. (see call log in file)
- 15) As required by State Code, the White County Indiana Zoning Control Ordinance and BZA By-laws, proper notice of the variance requests was given by mail to interested parties; a variance request sign was posted on the property by the Staff and legal notice published in two newspapers;
- 16) Joseph Rogers, Executive Director of the White County Planning Department, presented the Staff Report as well as general information about the site development, the surrounding area, history of the site as well as pictures of the subject property and the surrounding area to the Board. His summary included the following;
 - A) An entry into the record of the Staff Report, the site photos taken by the Staff, all documents within the petition file pertaining to the request at hand;
 - B) An explanation of the purpose for the variance requests;
 - C) A review of the site plan and survey;
 - D) A detailed analysis of the request from the Staff's perspective;
- 17) Chair Abbey Gross asked if there was anyone in the audience wishing to speak in favor of the request; no one came forward.
- 18) Chair Abbey Gross asked if there was anyone in the audience representing the request; Mr. Jeff Williams came forward and stated that he would not be using the easement access in question to the lake as the easement access is not handicapped accessible and that he has alternative lake access off of Kelly Court where his boat and boat house are located.
- 19) Chair Abbey Gross asked if there was anyone in the audience wishing to speak against the request; Mr. Kyle Gay and Ms. Betty Kelly came forward.
- 20) Mr. Gay questioned the side set-backs. Director Rogers stated side set-backs were being met. Mr. Gay stated concerns regarding his neighboring property being flooded due to excess run-off from the proposed structure. Mr. Gay also stated concerns regarding his property value being lowered due to the proposed structure being built.
- 21) Ms. Betty Kelly stated that if The Board approves this request then The Board needs to set the same set-backs for each parcel located along Grande Vista Court & Halas Court. Ms. Kelly also stated concerns regarding the 20' set-back on Halas court and

the possibility of traffic going into her yard due to the narrow 8' road (which she believes to be the width of Halas Court) when parking trailers, boats, etc. into the proposed structure.

- 22) Chair Abbey Gross provided the applicant the opportunity to rebuttal. Mr. Jeff Williams responded with the following:
- A) The parking area would be inside the building and handicap accessible.
 - B) He will also be using his utility vehicle or tractor to park the boat and trailers into the building, which gives him a much shorter turning radius therefore there would be no issues of going into neighboring yards.
- 23) Being there were no further questions or commentary on the matter, Attorney Martin provided each Board Member with a written ballot.

Ordinance Consideration Criteria

- 1) *The granting of this variance will not be injurious to the public health, safety, morals and general welfare of the community. The Board finds that the proposed development will be an upgrade to the site's current condition and that the proposed improvements are typical of the residential nature of the area and as such created no identifiable nuisance or safety condition which would be detrimental to the morals or general welfare of the community. As to safety, the Board finds that the 20' setback from Halas Court (the route of ingress and egress) is sufficient enough to be considered safe.*
- 2) *The use and value of the area adjacent to the property included in the variance request will not be affected in a substantially adverse manner. The Board concludes that the use is consistent with the intended use of the site and the surrounding area and that the proposed construction would assist in supporting adjacent property values.*
- 3) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. The Board concludes that due to the size and configuration of the lot, as well as being situated with two road fronts, it would be impractical for the owner to construct any building without the relief granted in the applicant's request.*
- 4) *The granting of a variance would be a minimal departure from the strict application of the provisions of the zoning ordinance. In other words, the variance will be the minimum necessary to permit a reasonable use of the land and building. The Board determines the request to be reasonable and the most minimum allowance which could be granted and still allow for the proposed construction and its functional use.*
- 5) *The variance requested does not essentially alter the character of the surrounding area. The Board concludes that the construction and use is common to the area. Therefore, would have no effect on the character of the surrounding area.*
- 6) *The granting of the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property owners in the same vicinity and district but which is denied to the property in question. The Board concludes that it is common for small lots which were developed prior to zoning ordinance standards to need setback relief in order to allow reasonable development and use of the land. The*

Board also finds these variances necessary in order to allow the property owner rights possessed by others in the area with a common zoning district assignment.

- 7) *The variance request is not the result of an act or action, or lack thereof, of the applicant, property owner, contractor or any other party affiliated with the property to which the variance is being sought. The Board concludes that the requested relief is based on a previous configuration of the property and is not an action of this property owner.*
- 8) *The need for the developmental standard variance is not based on a perceived reduction of, or restriction on, economic gain. The Board concludes that the need for this variance is for functional purposes and not related to economic considerations.*

The Board finds that the variances herein authorized and granted are not so typical or recurrent in nature as to make need for the formation of a general regulation under an amendment of the Ordinance for the above said condition or situation of the above said specific piece of property; the Board additionally finds that the determination of the above said variances is based on the findings of fact and that said findings of fact support and create a fact situation that warrants authorization of the above said variances as allowed for the White County Indiana Zoning Control Ordinance.

For all the foregoing reasons, the Board APPROVED the request for a 14.5' front setback from Grande Vista Court and a 20' front setback from Halas Court so ordered, October 15, 2020.

Area Board of Zoning Appeals



**Joseph W. Rogers, Executive Director
White County Area Plan**



**Raquel E. Reynolds, Secretary
Board of Zoning Appeals**