



**BARTHOLOMEW COUNTY  
BOARD OF ZONING APPEALS  
(December 14, 2015 Meeting)**

**STAFF REPORT**

**Docket No. / Project Title:** B/CU-15-10 & B/DS-15-14 (J&A Asset Management)  
**Staff:** Melissa Begley  
**Applicant:** J & A Asset Management  
**Property Size:** 22.808 Acres  
**Zoning:** AP (Agriculture: Preferred)  
**Location:** Approximately 3800 feet north of the intersection of 800 North and Stafford Road, on the west side of Stafford Rd, in Hawcreek Township

**Background Summary:**

The applicant has indicated that the proposed conditional use will allow the addition of a 50 ft. by 100 ft. (5000 square foot) building at their existing farm (CFO/CAFO type II). The new structure is to provide additional space for their existing animals and is not going to be used to add additional animals to the operation. The applicant is also requesting a development standards variance from Zoning Ordinance Section 6.3(B)(2) to be located 45 feet from the property line, 55 feet closer than the 100 foot minimum setback. The applicant's facility houses up to 2500 sows and their litters.

According to Section 14.2 of the zoning ordinance, the definition of both a concentrated animal feeding operation (CAFO) and a confined feeding operation (CFO) is: the raising of animals for food, fur, or recreation in lots, pens, ponds, sheds, or buildings where they are confined, fed, and maintained for at least 45 days during any calendar year, and where there is no vegetation present over at least half of the animal's confinement area. A CAFO is a CFO that includes a comparatively larger number of animals. All CFOs, including CAFOs, that include at least 300 cattle, 600 swine or sheep, 30,000 fowl, or 500 horses are subject to regulation by the Indiana Department of Environmental Management (IDEM). All CFOs/CAFOs subject to IDEM regulation are defined as farm (CFO/CAFO type II) by the Zoning Ordinance and also require local approval as a conditional use.

**Preliminary Staff Recommendation:**

Conditional Use: Approval, all criteria have been met.

Development Standards Variance: Approval, all criteria have been met.

**Zoning District Intent:**

***District Intent:*** The intent of the AP (Agriculture: Preferred) zoning district is intended to provide an area suitable for agriculture and agriculture-related uses. This district is further intended to preserve the viability of agricultural operations, and limit nonagricultural development in areas with minimal, incompatible infrastructure.

**Development Standards:** Section 6.3(B)(2): Required Setbacks: All structures used in association with a farm (CFO/CAFO type II) operation, including waste disposal facilities, shall be setback a minimum of 100 feet from app property lines.

<b>Current Property Information:</b>	
<b>Land Use:</b>	Farm (CFO/CAFO type II)
<b>Site Features:</b>	12 Agricultural barns and 2 lagoons
<b>Flood Hazards:</b>	No flood hazards exist on the property.
<b>Vehicle Access:</b>	Stafford Road (Local)

<b>Surrounding Zoning and Land Use:</b>		
	<b>Zoning:</b>	<b>Land Use:</b>
<b>North:</b>	AP (Agriculture: Preferred)	Agricultural farm fields
<b>South:</b>	AP (Agriculture: Preferred)	Agricultural farm fields, large lot single family residence
<b>East:</b>	AP (Agriculture: Preferred)	Agricultural farm fields, Single family residence
<b>West:</b>	AP (Agriculture: Preferred)	Agricultural farm fields

<b>Interdepartmental Review:</b>	
<b>County Engineer:</b>	No issues.
<b>Code Enforcement:</b>	There are no issues that we see with this proposal. The 45 foot setback would not be a violation of the Indiana Building Code.

**Planning Consideration(s):**

The following general site considerations, planning concepts, and other facts should be considered in the review of this application:

1. The Indiana Department of Environmental Management (IDEM) regulates this facility with regard to facility setbacks from streams, wells, roads, property boundaries, and residences, manure handling and storage, facility design and construction, manure application rates and setbacks, monitoring and record keeping, stormwater run-off and closure of manure storage structures. IDEM does not regulate property values, public road conditions, place where CFOs and CAFOs locate, traffic, or odors and vectors (e.g. flies, mosquitoes)
2. The proposed 100 ft. by 50 ft. (5,000 square foot) barn will be located at the northern most end of the property in line with the other existing barn structures. The applicant has indicated that the new building is to provide additional space for existing animals on the farm and will not be used to increase the number of animals at this location.

3. The property is 22 acres in size and currently contains 12 barn structures, in which there are animals in 11 of the structures. This operation is a farrowing operation and houses up to 2500 sows and their litters. The baby pigs leave the farm at 3 weeks of age.
4. The applicant will utilize the existing gravel drive that runs through a single family property to the southeast to the facility and which gains access from Stafford Road which is a local road according to the Bartholomew County Thoroughfare Plan. The applicant has indicated that there are approximately 11 semi-trucks traveling to the site per month for delivery of feed and the delivery/shipment of animals. The primary route these trucks travel when exiting the farm is south on Stafford Road to County Road 800 North.
5. There are currently 2 lagoons on the site. The lagoons are liquid manure storage structures that store diluted manure for an extended period. IDEM requires the lagoons to hold a minimum of 6 months of storage. The applicant has indicated these lagoons are able to hold 24 months of storage. The new barn will utilize the existing lagoons and there will be no additional manure generated with this structure because they are not increasing the number of animals on site.
6. Section 6.3(B)(4) of the Zoning Ordinance requires a minimum distance from residential zoning. No farm (CFO/CAFO Type II) operation shall be located closer than ½ mile to any Single-family Residential or Multi-Family Residential zoning district measured at the nearest boundary line of the zoning district and the nearest property line of the CFO/CAFO operation. This operation meets that standard. The nearest residential zoning district is 1.5 miles to the west and is the town of St. Louis, which is a small rural settlement of 21 residential properties. The Town of Hope's jurisdictional limit is located 1.61 miles to the south.
7. Zoning Ordinance Section 6.3(B)(2) requires that all structures used in association with a farm (CFO/CAFO type II) operation to be setback a minimum of 100 feet from all property lines. The barn will be 45 feet from the west property line. This corresponds with the existing buildings on the property that are located 45 feet from the west property line. The applicant has indicated that the location of the structure is to match the existing buildings to the south and this is the practical location because it will allow for an extension of the existing driveway and will provide for easier drainage and will have the least impact of the surrounding productive farmland.
8. The nearest residential structure is directly adjacent to the subject property to the south and is owned by the applicant. It is approximately 1590 feet southeast of the proposed barn. There are three other single family properties that are within a half of a mile of the existing operation. The first is approximately 1,900 feet directly to the west of the proposed structure location, the second single family property to the south is located over 2,100 feet from the proposed structure and the third is 3,100 feet to the south of the proposed structure.
9. The barn has been sited over 1,600 feet from Haw Creek and the barn will not be located in a flood plain.

### **Comprehensive Plan Consideration(s):**

The Future Land Use Map indicates the future use of this property as agriculture preferred. The agriculture preferred district includes prime farmland in Bartholomew County, outside developed areas. Prime farmland includes most of the eastern and northern parts of the County.

The following Comprehensive Plan goal(s) and/or policy(ies) apply to this application:

1. **Goal 1: Preserve productive farmland and maintain the productive capacity for a strong county agricultural industry.**
2. **Policy 1-D:** Require appropriate buffers to allow the continued full use of adjoining farmland and to reduce conflicts between neighboring uses.
3. **Policy 1-F:** Direct development away from more productive farmland and agricultural areas.
4. **Policy 1-G:** Prevent subdivision development from interfering with ongoing agricultural operations.
5. **Policy 1-J:** Require development to take place in a manner that allows for preservation and conservation of farmland, open land and significant natural features.
6. **Policy 1-K:** Protect neighboring farmland from increased water runoff (both surface and subsurface), night lighting, sun-blocking interference, trespassing or anything else which might interfere with existing or potential farm operations.

7. **Policy 1-Q:** Promote development of businesses such as value-added agricultural industries that enhance agriculture and agribusiness while protecting the character and environmental quality of the county.
8. **Goal 2: Protect open space such as woodlands, flood plains, and wetlands for environmental, recreational, scenic, and life-style benefits.**
9. **Policy 2-B:** Ensure that development occurs in a manner that preserves farmland, wildlife habitat, woodland, and significant natural features.
10. **Policy 2-E:** Utilize information about soil and water resources to make wise land use decisions and to prevent damage to the environment.
11. **Goal 7: Maintain and enhance the quality of the water, air and land.**
12. **Policy 7-C:** Ensure, to the extent possible, that new development does not cause deterioration in water quality or quantity for existing development.
13. **Policy 7-L:** Ensure that human and animal waste disposal is carried out in accordance with applicable environmental regulations.
14. **Goal 12: Improve Water Quality and Ensure an Ample Supply of Potable Water.**
15. **Policy 12-A:** Protect ground and surface water from contamination by chemicals, industrial waste, septic systems, animal waste, human waste, and sludge.

### **Provisional Findings of Fact/Decision Criteria (Conditional Use)**

Section 12.4(D) of the Zoning Ordinance permits the Board of Zoning Appeals to allow conditional uses that meet the criteria listed below. The Board may impose reasonable conditions as part of an approval.

1. **The proposal will not be injurious to the public health, safety, and general welfare of the community.**

*Provisional Findings:* This farm (CFO/CAFO type II) is an existing operation and the applicant is requesting to add a 50 foot by 100 foot structure to the site. The structure will be used to house existing animals on the site and will utilize the existing lagoons. The lagoons exceed the IDEM minimum 180 day requirement of manure storage by 550 days. This provides more than sufficient storage, allowing the applicant to be able to land apply the manure during the most appropriate times of year and also mitigates the chances of the lagoons from overflowing onto adjacent ground. The County Engineer has no concerns with this site, particularly because the new structure will not generate any additional truck traffic to or from the site. *This criterion has been met.*

2. **The development of the property will be consistent with the intent of the development standards established by the Zoning Ordinance for similar uses.**

*Provisional Findings:* The applicants have requested a development standards variance to locate a structure for a farm (CFO/CAFO type II) closer to the property line than the 100 foot minimum setback requirement. The building will be located 45 feet from the property line, which is in line with seven other existing structures on the site. The development will meet all other development standards including the ½ mile minimum separation from a residential zoning district and the minimum lot size of 5 acres. *If the variance is granted, this criterion has been met.*

3. **Granting the conditional use will not be contrary to the general purposes served by the Zoning Ordinance, and will not permanently injure other property or uses in the same zoning district and vicinity.**

*Provisional Findings:* The site is surrounded primarily by agricultural fields, and because there will be no additional animals added to the property, the impact to neighboring properties will not change. There are three single family properties that are within a half of a mile of the existing operation. The first residential structure is approximately 1,900 feet directly to the west of the proposed barn location the second residential structure to the south is located over 2,100 feet from the proposed barn and the third is 3,100 feet to the south of the proposed barn. *This*

*criterion has been met.*

**4. The proposed use will be consistent with the character of the zoning district in which it is located and the recommendations of the Comprehensive Plan.**

*Provisional Findings:* The AP zoning district is intended to provide an area suitable for agriculture and agriculture-related uses. This district is further intended to preserve the viability of agricultural operations, and limit non-agricultural development in areas with minimal, incompatible infrastructure. The Comprehensive Plan supports this operation with the goal of preserving productive farmland and maintaining the productive capacity for a strong county agricultural industry. *This criterion has been met.*

**Board of Zoning Appeals Options:**

In reviewing a request for conditional use the Board may (1) approve the petition as proposed, (2) approve the petition with conditions, (3) continue the petition to a future meeting of the Board, or (4) deny the petition (with or without prejudice). Failure to achieve a quorum or lack of a positive vote on a motion results in an automatic continuance to the next regularly scheduled meeting.

**Provisional Findings of Fact/Decision Criteria (Variance):**

The Board of Zoning Appeals may approve or deny variances from the development standards of the Bartholomew County Zoning Ordinance. The Board may impose reasonable conditions as part of an approval. A variance from the development standards may only be approved upon a determination in writing that:

**1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**

*Provisional Findings:* The proposed structure will not be located in a sight visibility triangle and will utilize the existing driveway. The location of the barn will allow for adequate space for the structure to be maintained and will not be injurious to the public health and safety of the community. *This criterion has been met.*

**2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.**

*Provisional Findings:* The surrounding properties will not be substantially impacted by the construction of the proposed structure. Although the structure will be located 45 feet from the property line, the property to the west is an 80 acre agricultural field that is next to another 80 acre agricultural field and therefore will not be substantially impacted in an adverse manner. *This criterion has been met.*

**3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.**

*Provisional Findings:* When the site was originally configured, it was designed to locate the barns in a row, along the west property line. The corresponding lot was configured based on that layout. The strict terms of the zoning ordinance would require the building to be placed farther into the site, out of line with the other buildings, further interrupting the adjacent agricultural operations and requiring the gravel driveway to be extended or the lot would need to be reconfigured to gain the extra 55 feet on the west property line to achieve the 100 foot setback requirement, either scenario creates a practical difficulty in the use of the property. *This criterion has been met.*

**Board of Zoning Appeals Options:**

In reviewing a request for development standards variance the Board may (1) approve the petition as proposed, (2) approve the petition with conditions, (3) continue the petition to a future meeting of the Board, or (4) deny the petition (with or without prejudice). Failure to achieve a quorum or lack of a positive vote on a motion results in an automatic continuance to the next regularly scheduled meeting.



**Conditional Use Requested:**

I am requesting a conditional use as listed by Section \_\_\_\_\_ of the Zoning Ordinance to allow the following:

The construction of a new swine facility north of the existing structures. The building will be 100 Feet long by 50 feet wide. The new building will be used to provide more space for the existing animals on the farm. It will not increase the total number of animals or increase the amount of manure produced annually.

**Conditional Use Criteria:**

The Columbus & Bartholomew County Zoning Ordinance establishes specific criteria that must be met in order for a conditional use to be approved. Describe how the conditional use requested meets each of the following criteria.

**The approval of the conditional use will not be injurious to the public health, safety, and general welfare of the community.**

The construction will conform to all applicable laws and IDEM regulations. It is an expansion of an existing hog farm. The expansion will not significantly increase truck traffic since it is not increasing the number of animals on the farm. There will be no new driveways or road cuts.

**The development of the property will be consistent with the intent of the development standards established by the Zoning Ordinance for similar uses.**

The current use of the property is animal agriculture. The requested new facility does not change the current approved use. The new building meets the zoning ordinance of 1. Parcel size of at least 5 acres; 2. Located at least 1/2 mile from a residential zoning district.

We are requesting a variance of the 100 foot property line set back. If the variance is denied, we will relocate the building on the property to maintain the setback requirement.

**Granting the conditional use will not be contrary to the general purposes served by the Zoning Ordinance, and will not permanently injure other property or uses in the same zoning district and vicinity.**

The area consists of highly productive crop farms and animal agriculture. The area primarily consist of square and flat farm land with land owner and tenant housing.

**The conditional use will be consistent with the character of the zoning district in which it is located and the recommendations of the Comprehensive Plan.**

The comprehensive plan is supportative of agriculture and this building expansion is appropriate for the area.

**Applicant's Signature:**

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

William R Cozza  
(Applicant's Signature)

11/10/15  
(Date)

**Owner's Signature** (the "owner" does not include tenants or contract buyers):

I authorize the filing of this application and will allow the Planning Department staff to enter this property for the purpose of analyzing this request. Further, I will allow a public notice sign to be placed and remain on the property until the processing of the request is complete.

William R Cozza  
(Owner's Signature)

11/10/15  
(Date)

\_\_\_\_\_  
(Owner's Signature)

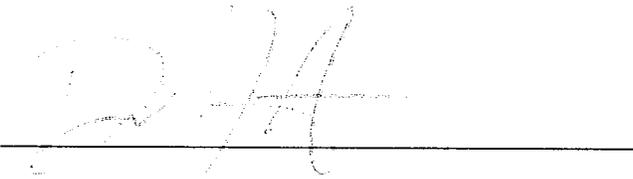
\_\_\_\_\_  
(Date)

November 9, 2015

RE: J&A Asset Management LLC Conditional Use and Variance requests

To the Bartholomew County Planning Department:

I have been advised by the principals of J & A Asset Management about the upcoming Conditional Use request and the Zoning Variance request for an additional CAFO building located at the existing hog farm on Stafford Road. I am supportive of the new building that is proposed and the zoning variance to allow the building to be less than 100 feet from the property line. The existing buildings are approximately 50 feet from the property line.

A handwritten signature in black ink, appearing to read "D. Stafford", is written over a solid horizontal line.

David J. Stafford

Hope Enterprises Inc.

102.14 Ac(c)

250

272

320

978

22.88 AC

1453



**Columbus – Bartholomew County Planning Department  
Development Standards Variance Application**

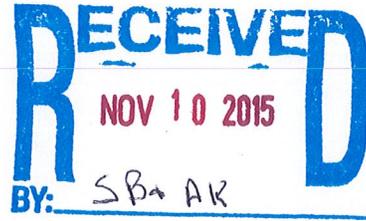
**Planning Department Use Only:**

Jurisdiction:  Columbus  Bartholomew County

Zoning: \_\_\_\_\_

Docket No.: \_\_\_\_\_

Hearing Procedure:  Hearing Officer  Board of Zoning Appeals



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**Development Standards Variance Application:**

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**Applicant Information** (the person or entity that will own and/or execute what is proposed):

Name: J & A Asset Management LLC

Address 5062 West Base Road Greensburg IN 47240  
(number) (street) (city) (state) (zip)

Phone No.: 812-663-5175 Fax No.: 812-663-6152 E-mail Address: bill.corya@prodigy.net

**Property Owner Information** (the "owner" does not include tenants or contract buyers):

Name: J & A Asset Management LLC

Address 5062 West Base Road Greensburg IN 47240  
(number) (street) (city) (state) (zip)

Phone No.: 812-663-5175 Fax No.: 812-663-6152 E-mail Address: bill.corya@prodigy.net

**Notification Information** (list the person to whom all correspondence regarding this application should be directed):

Name: William Corya

Address 5062 West Base Road Greensburg IN 47240  
(number) (street) (city) (state) (zip)

Phone No.: 812-663-5175 Fax No.: 812-663-6152 E-mail Address: bill.corya@prodigy.net

How would you prefer to receive information (please check one):  Email  Phone  Fax  Mail

**Property Information:**

Address 15480 Stafford Road Hope IN 47246  
(number) (street) (city) (state) (zip)

or General Location (if no address has been assigned provide a street corner, subdivision lot number, or attach a legal description):

This is the address for the parcel that the house is on. Building will be on parcel behind house.

**Variance Requested:**

I am requesting a variance from Section \_\_\_\_\_ of the Zoning Ordinance to allow the following:

I am requesting a variance for the construction of a new hog production facility. The current ordinance requires a 100 foot set back from the property line. We are proposing a 45 foot setback from the west property line.

**Variance Request Justification:**

The Indiana Code and the Columbus & Bartholomew County Zoning Ordinance establish specific criteria that must be met in order for a development standards variance to be approved. Describe how the variance request meets each of the following criteria.

**The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**

The property currently has hog production buildings. The property is surrounded on 4 sides by Hope Enterprises LLC. The existing buildings are approximately 45 feet from the property line. The new building will be in line with the existing buildings.

We have discussed our intention with Hope Enterprises LLC and have attached a letter from them.

**The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.**

The use is consistent with the agriculture zoning in the area. Please see the attached letter from Hope Enterprises LLC.

**The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed; nor be based on a perceived reduction of, or restriction on, economic gain.**

The farm was purchased from the owners of the adjacent parcels. It is more practical to align the building east and west to match the existing structures. This orientation will allow for easier feed deliveries, better drainage and have less impact on the productive farm land.

**Application Fee Refund Information:**

The adopted Planning Department Schedule of Application Fees provides for the refunding of application fees for this request if it is approved by the Board of Zoning Appeals. The refund will be provided by mail in the form of a check. It may take several weeks after the Board of Zoning Appeals approval to process the refund and issue the check. Please indicate to whom the refund should be provided:

Name: J & A Asset Management

Address 5062 West Base Road Greensburg IN 47240  
(number) (street) (city) (state) (zip)

**Applicant's Signature:**

The information included in and with this application is completely true and correct to the best of my knowledge and belief.

William R Cozys  
(Applicant's Signature)

11/10/15  
(Date)

**Owner's Signature** (the "owner" does not include tenants or contract buyers):

I authorize the filing of this application and will allow the Planning Department staff to enter this property for the purpose of analyzing this request. Further, I will allow a public notice sign to be placed and remain on the property until the processing of the request is complete.

William R Cozys  
(Owner's Signature)

11/10/15  
(Date)

\_\_\_\_\_  
(Owner's Signature)

\_\_\_\_\_  
(Date)