



**CITY OF COLUMBUS
BOARD OF ZONING APPEALS
(Updated - April 22, 2014 Meeting)**

STAFF REPORT

Docket No. / Project Title: C/DS-14-02 (Robert & Jennifer Kelley)
Staff: Melissa Begley
Applicant: Robert & Jennifer Kelley
Property Size: 10 Acres
Current Zoning: AP (Agriculture: Preferred)
Location: 58 N. 525 W. in Harrison Township

Background Summary:

The applicant has indicated that the proposed variance from Zoning Ordinance Section 3.5(D)(2) is for the purpose of allowing a new lot to be created without the required 10 acre parent tract. The applicant intends to subdivide a 5 acre parcel off of their 10 acre property to create a new lot in order to build a second home.

Preliminary Staff Recommendation:

Denial, criteria 3 has not been met.

Zoning Ordinance Considerations:

District Intent: The intent of the AP (Agriculture: Preferred) zoning district is as follows: 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. Residential development in this zoning district is intended to be limited. In no instance shall this zoning district be considered a large-lot residential zone. This district is further intended to protect the use and value of both agriculture and non-agricultural property within the community.

Development Standards: Section 3.5(D)(2) Subdivision Limitations: In the City of Columbus jurisdiction, no more than 2 lots shall be subdivided from any parent tract present on September 7, 1999 over any period of time. The remaining tract shall contain at least 10 acres for each lot subdivided.

Current Property Information:	
Land Use:	Large lot single family residential
Site Features:	Single family house, woods
Flood Hazards:	No flood hazards exist on this property
Vehicle Access:	525 West (Minor Arterial, Residential, Rural)

Surrounding Zoning and Land Use:		
	Zoning:	Land Use:
North:	AP (Agriculture: Preferred)	Single family residential
South:	AP (Agriculture: Preferred)	Single family residential, agriculture
East:	AP (Agriculture: Preferred)	Agriculture
West:	AP (Agriculture: Preferred)	Single family residential

Interdepartmental Review:	
County Highway:	<p>450 Feet is the required Sight Distance on a non-posted (55mph) road as 525 West is. That being said the subject drive has inadequate sight visibility (350 feet) due to a fence post, fence, and vegetation growth on the neighbor's property.</p> <p>If something can be worked out with the neighbors to remove these obstacles it will be ok, otherwise the sight visibility is inadequate and I don't recommend approving this request.</p>
Environmental Health:	<p>On January 2, 2014, Mr. Kelley applied for a conditional certificate and site assessments for a proposed subdivision. Representatives of this department met with Mr. Kelley January 14. Basing on where he stated the proposed lot lines would be, it was determined that the on-site sewage system for the existing home was not malfunctioning and would be contained within the proposed lot lines and sites were staked for soil analysis. The results of the soil analysis indicated that there two acceptable sites for on-site sewage systems on the proposed lot.</p>

Planning Consideration(s):

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

1. The applicant is proposing to subdivide their 10 acre lot into two lots. The new lot will be 5 acres in size and will be located directly behind the current property. The intent is to build a second home on the new lot.
2. Per Section 3.5(D)(2) of the Zoning Ordinance, an additional lot would be permitted at this location, however lots that are subdivided in the AP (Agriculture: Preferred) zoning district are required to have a 10 acre parent tract remainder for the new lot created. The 10 acre minimum is intended to discourage remainders that would be too small for agricultural uses and too large to be a manageable home site. Additionally, these larger tracts allow for the orderly growth of the City at the appropriate time. The subject property does not have the potential to be either a viable farm or the future site of dense city expansion. With the presence of Touch the Earth conservation area, owned by the Sycamore Land Trust, and other large lot residences in this area, County Road 525 West is the likely western boundary for and future expansions of the Columbus City limits.
3. The subject property gains access from County Road 525 West which is identified in the Thoroughfare Plan as a minor arterial road. Arterial roads are expected to accommodate more traffic and provide better access to other areas of the community. C.R. 525 West currently is a two lane road that is approximately 20 feet (10 foot wide lanes) in width and does not have shoulders. The Thoroughfare Plan calls for lanes to be at least 11 feet in width and to have 12 foot shoulders for minor arterial streets. Also, C.R. 525 West intersects S.R. 46 and is less than a quarter of a mile from

the subject property and S.R. 46 is a major east/west thoroughfare which provides good access for this property. County Highway has noted that the driveway does not have adequate sight visibility to the south due to an existing fence, a utility pole and vegetation.

4. The surrounding area is all zoned AP (Agriculture: Preferred) and is primarily rural single-family residential and agricultural uses. The surrounding residential lots range from 41.03 acres to 1.7 acres and average 6.63 acres in size. The adjacent properties to the east are large agriculture fields and properties to the west are mostly wooded. The proposed lot would only be 5 acres, which is smaller than the surrounding properties. However, Harrison Woodlands is a nearby subdivision located to the south of the subject property with a total of 7 lots averaging as small as 1.8 acres up to 4 acres in size.
5. The AP (Agriculture: Preferred) zoning district has a minimum lot size of 1 acre or as required to provide two viable septic system sites, whichever is greater. The Bartholomew County Health Department has indicated that there are 2 septic sites available on the new 5 acre lot.
6. The Future Land Use Map of the Comprehensive Plan indicates this area as "Estate/Cluster Development" in the future. The intent of this land use is to act as a transitional area between denser residential neighborhoods and non-residential and agricultural uses. This area typically has houses provided on larger lots in rural settings. The primary land use is single-family detached residential. Estate/cluster residential uses should be developed only in areas that are served by water and sewer to prevent farms from being redeveloped into residential housing and sprawl. Lot clustering that maintains an overall low density, while preserving substantial open space is encouraged in this area. The land use area also is intended to preserve open space and agricultural land.

Provisional Findings of Fact/Decision Criteria:

The Board of Zoning Appeals may approve or deny variances from the development standards of the City of Columbus 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: Approval of this request would be not injurious to the public health and safety. There will not be an additional driveway for the new lot and with vegetation being removed there will be no sight visibility issues along 525 West. *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 average lot size for residential properties in this area is approximately 6.33 acres which is slightly larger than the proposed 5 acre lot that would result from this subdivision. Contextually this request is appropriate due to the surrounding lot sizes. *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: The strict application of the terms of the Zoning Ordinance will not result in practical difficulties in the use of the property. The property is and can continue to be used consistent with the surrounding area and with the general pattern of development found throughout the AP zoning district. This property is not unique to the AP district. *This criterion has not 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.

Columbus – Bartholomew County Planning Department
Development Standards Variance Application



Planning Department Use Only:

Jurisdiction: Columbus Bartholomew County

Zoning: G/DS-14-02 AP

Docket No.: _____

Hearing Procedure: Hearing Officer Board of Zoning Appeals

Development Standards Variance Application:

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

Name: Robert and Jennifer Kelley

Address 490 Oakbrook Dr., Columbus, Indiana 47201
(number) (street) (city) (state) (zip)

Phone No.: 812-342-0807 Fax No.: N/A E-mail Address: kelleys@sbcglobal.net

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

Name: Robert and Jennifer Kelley

Address 490 Oakbrook Dr., Columbus, Indiana 47201
(number) (street) (city) (state) (zip)

Phone No.: 812-342-0807 Fax No.: N/A E-mail Address: kelleys@sbcglobal.net

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

Name: Jeffrey C. Rucker

Address 320 Franklin Street, Columbus, Indiana 47201
(number) (street) (city) (state) (zip)

Phone No.: 812-372-8858 Fax No.: 812-378-4732 E-mail Address: jrucker@beckrocker.com

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

Property Information:

Address 58 N. 525 West, Columbus, Indiana 47201
(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):

Variance Requested:

I am requesting a variance from Section 3.5(D)(2) of the Zoning Ordinance to allow the following:

The subdivision of a 10 acre existing parcel into two separate five acre lots, without requiring a 10 acre remaining tract.

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.

While the parcel in question is in the AP zone, the surrounding area is predominantly residential property, including large lot rural subdivisions such as Harrison Woodlands, Briarmere Estates, and Fairway Farms, as well as large rural homesites, many of which utilize shared access. The proposal will add only one additional homesite which will gain access to 525 W from a shared driveway. The driveway is existing and has ample separation from the existing neighboring properties. 525 W is a well developed road with good visibility.

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

A number of the neighboring properties have been developed in a similar manner. The parcels immediately north of this property are three lots which access SR 46 via a shared driveway. Three parcels 2 lots south of this property have been split from a larger parcel which left a parcel of less than 7 acres remaining. The creation of two large lots will continue the normal pattern of development along 525 W and will be in character with the surrounding properties.

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.

After the proposed split, the two resulting parcels will be as large or larger than the average residential lot in the surrounding area. The size of the resulting lots will exceed the ordinance minimum sizes. The intent of this zoning ordinance does not seem to be applicable to this property, which is predominantly wooded and has no historical agricultural use. The restriction imposed by the ordinance creates practical difficulty in its use.

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: _____

Address _____
(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.

(Applicant's Signature)

*Jeffrey C. Rocker, Attorney
for Applicants.*

(Date)

2/17/14

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.

(Owner's Signature)

*Jeffrey C. Rocker, Attorney
for Owners.*

(Date)

2/17/14

(Owner's Signature)

(Date)

RECEIPT

COLUMBUS PLAN COMMISSION

No 8289

GENERAL FUND

COLUMBUS IN., FEB. 18 2014

RECEIVED FROM BECK ROCKER P.C. \$50⁰⁰

THE SUM OF FIFTY & 10/100 DOLLARS

ON ACCOUNT OF ROBERT & JENNIFER KELLEY D.S. VARIANCE

PAYMENT TYPE & AMOUNT CHECK

CASH _____ CHECK 53870 M.O. _____

E.F.T. _____ C.C./BC _____ OTHER _____


AUTHORIZED SIGNATURE

Bartholomew County, IN



Re: 58 N 525 W. in Harrison Township / Robert & Jennifer Kelley

In regards to sight distance limitations the property owners of 52 S 525 W in Harrison Township agree to allow Robert & Jennifer Kelley to clean up the fence post, and fence row vegetation growth. All work will be done at the expense of Robert & Jennifer Kelley and will be done with the approval of the owners of the property in question. Clean up of the Fence Post and Fence Row may include removing over growth of vegetation and straightening of the fence post and fence row. If additional work upon the fence post and fence row is required the property owners agree to work with Robert & Jennifer Kelley in removing the visual obstacles that are restricting the sight distance.

Maudie N. Shimer, POA

PROPERTY OWNER

4-14-14

DATE

Robert & Jennifer Kelley

ROBERT & JENNIFER KELLEY

4/14/14

DATE