



**BARTHOLOMEW COUNTY
BOARD OF ZONING APPEALS
(August 25, 2014 Meeting)**

STAFF REPORT

Docket No. / Project Title: B/DS-14-08 (Casper & Jamie Wilmer)
Staff: Melissa Begley
Applicant: Casper & Jamie Wilmer
Property Size: 4.86 Acres
Current Zoning: AP (Agriculture: Preferred)
Location: 21510 E 300 N, in Clifty Township

Background Summary:

The applicant has indicated that the proposed variance from Zoning Ordinance Section 3.5(C) is for the purpose of allowing an accessory structure to be located 5 feet from the property line, 25 feet less than the 30 foot front setback requirement and from Zoning Ordinance Section 6.1(E)(3) is to allow an accessory structure to be located in an front yard.

Preliminary Staff Recommendation:

Approval, all criteria have 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 agricultural and non-agricultural property within the community.

Development Standards:

Section 6.1 (E)(3) states no accessory structure shall be permitted in any front yard, or within the required side and rear yard setbacks specified by the district in which it is located.

Section 3.5(C) Minimum Front Setback: All structures are required to be setback a minimum of 30 feet from a Collector Road.

Current Property Information:	
Land Use:	Large lot single family residential
Site Features:	Single family residence, 1 accessory structure, woods and an open field

Flood Hazards:	A portion of the lot along 300 North is located in the 100-year floodway fringe.
Vehicle Access:	The property is accessed from 1200 East (Collector)

Surrounding Zoning and Land Use:		
	Zoning:	Land Use:
North:	AP (Agriculture: Preferred)	Large lot single family residential
South:	AP (Agriculture: Preferred)	Large lot single family residential
East:	Agriculture (Decatur County)	Vacant, woods
West:	AP (Agriculture: Preferred)	Large lot single family residential

Interdepartmental Review:	
County Engineer:	We already have 35' of right of way on 1200 East, so with the 5 foot setback, it is still 30 feet off of the road. It is not causing any problems now and I do not foresee any future highway work in that area going that far off the road.
Code Enforcement:	No comments received.

Planning Consideration(s):

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

1. The applicants are requesting to build a 50 foot by 30 foot (1500 square foot) accessory structure. This structure will replace an accessory structure that was located in the same approximate location. According to the applicant, the structure will be used partly as a garage and partly as a wood shop. The new structure will be accessed from the same driveway as the primary structure, which gains access from 1200 East.
2. The subject property is located at the corner of 300 North and 1200 East. Because the property sits on the corner of two roads, the Zoning Ordinance considers it to have two front yards. Generally, the front yard is the space between the house and the road. The Zoning Ordinance Section 6.1 (E)(3) states no accessory structure shall be permitted in any front yard. In this case, the applicant is proposing to locate the accessory structure in the front yard along 1200 East. In addition, the front yard setback is 30 feet. The applicants are proposing a 5 foot setback from the 1200 East front property line.
3. A significant portion of the lot is wooded, including the area directly west of the house. There is also a significant rise in elevation from 300 North up to the house. The applicants have indicated that the septic system for the house is located on the west side of the driveway just north of the house. At the drive entrance from 1200 East there is a small open field on the north side of the parcel, approximately 300 feet from the house, with an access easement that leads to a property to the northwest of the subject property.
4. The property is located in a rural area that is comprised of primarily large lot single-family residential uses and woodlands. Many of the properties have accessory structures.

Provisional Findings of Fact/Decision Criteria:

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 accessory structure will be constructed to current building code standards and will utilize the existing driveway. The location of the structure will not create any sight visibility issues and therefore the approval of this application will not be injurious to the safety or general welfare 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 accessory structure. Although the accessory structure will be located 5 feet from the property line along 1200 East, the accessory structure will be obscured from view by a dense line of vegetation. Further, there is dense vegetation obscuring any views between the accessory structure and the property owners to the south, west and northwest. The property directly to the east is undeveloped. *This criterion has been met.*

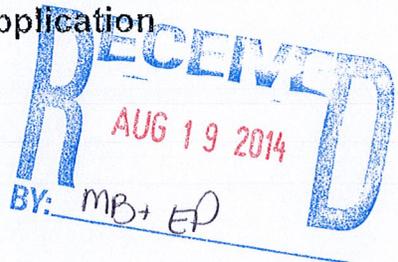
- 3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.**

Provisional Findings: The possible locations for the accessory structure are limited due to the location of the woods and existing septic system to the north and west of the house, west of the driveway. The structure could be placed in the open field on the north side of the parcel, but it would be over 300 feet away from the house and would not be in a convenient location for the property owner. This placement would also be in the direct line of sight of the property owner to the northwest of the subject 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.

Columbus – Bartholomew County Planning Department
Development Standards Variance Application



Planning Department Use Only:

Jurisdiction: Columbus Bartholomew County

Zoning: _____

Docket No.: B/DS-14-11

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: Ricker's Oil - Travis C. Smith

Address 30 West 11th Street, Anderson, Indiana 46016
(number) (street) (city) (state) (zip)

Phone No.: 765-643-3016 Fax No.: 765-642-7323 E-mail Address: tsmith@rickers.net

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

Name: HHH-TS Properties, LLC

Address 12645 Mason Forest Drive, St. Louis, MO 63141
(number) (street) (city) (state) (zip)

Phone No.: 314-494-2185 Fax No.: _____ E-mail Address: hjfiveroat@gmail.com

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

Name: William S. Riggert, PE, Bledsoe Riggert Guerettaz

Address 1351 W. Tapp Road, Bloomington, Indiana 47403
(number) (street) (city) (state) (zip)

Phone No.: 812-336-8277 Fax No.: 812-336-0817 E-mail Address: wriggert@brgcivil.com

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

Property Information:

Address _____
(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):

Southwest corner of Hartmann Drive and U.S. 31

Variance Requested:

I am requesting a variance from Section 7.3-C-3-c - Circulation Standards of the Zoning Ordinance to allow the following:

To retain the existing driveway along U.S. 31. There is one existing driveway along U.S. 31. The driveway is located just south of Hartmann Drive with a separation of approximately 260-feet. The existing property has a 269.67-foot frontage along U.S. 31. The Ordinance states that no two entrances from a public street or road to a property shall be permitted within 400-feet along an Arterial. This is the only driveway from this property onto U.S. 31.

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 existing driveway provides direct access to U.S. 31 for this property as well as the properties to the south. The driveway is limited to the south bound lanes of U.S. 31. With the existing median separating U.S. 31 this driveway allows right-in-right-out travel only. Leaving this driveway in place should not be injurious to the public health, safety, morals, and general welfare of the community.

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

There should be no affect to the use and value of the area adjacent to the property if the driveway is allowed to remain in place. However, closing the driveway may cause a negative impact to the adjacent properties to the south.

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 strict application of the terms of the Zoning Ordinance will limit access to this property to the existing driveway along Hartmann Drive. The removal of the existing driveway along U.S. 31 will restrict access, circulation, and departure of gas delivery tanker trucks and other vehicles from the property.

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: Bledsoe Riggert Guerettaz
Address 1351 W. Tapp Road, Bloomington, Indiana 47403
(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) (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.

HHH-TS Properties, LLC
By: W. G. M. [Signature], Manager
(Owner's Signature) 8/19/2014
(Date)

(Owner's Signature) (Date)