



**BARTHOLOMEW COUNTY
BOARD OF ZONING APPEALS
(July 24, 2023 Meeting)**

STAFF REPORT

Docket No. / Project Title: BDS-2023-007 (Yvonne Leonard)

Staff: Kyra Behrman

Applicant: Yvonne Leonard, Tanya Adams, and Autumnbreeze Phillips

Property Size: 0.42 Acres (18,084 square feet)

Zoning: RE (Residential: Established)

Location: 12571 South 350 East (Azalia), in Sand Creek Township

Background Summary:

The applicant has indicated that the proposed development standards variance is to allow an accessory dwelling to be more than 800 square-feet, specifically 980 square-feet (14-foot by 70-foot). The applicant is asking to replace the existing mobile home on the property with a manufactured home, but the existing mobile home has been retained on the property in violation of the zoning ordinance since a 2010 Board of Zoning Appeals denial of a variance request to retain it and the March 27, 2023 denial by the Board of Zoning Appeals to allow a mobile home as an accessory dwelling. Kyra – I would include this content. I would probably also note that the BZA approved an accessory dwelling on the property, just not a mobile home.

Preliminary Staff Recommendation:

Denial, criteria #3 has not been met.

Zoning Ordinance Considerations:

District Intent: The intent of the RE (Residential Established) zoning district is as follows: The "RE", Residential, Established zoning district is intended to ensure the continued viability of neighborhoods and developments in existence on the effective date of the (Zoning) Ordinance. This district should be used to maintain traditional, contextually appropriate setbacks, uses, and other standards in a manner consistent with the Comprehensive Plan.

Development Standards: [Section 6.1(D)(1)] Accessory Dwellings: Single family dwellings constructed and used as accessories to the primary dwelling on the property (otherwise commonly known as "mother-in-law's quarters" or "granny flats") shall meet the following requirements:

- a. Living Area: In residential zoning districts, the living area of any accessory dwelling shall not exceed 800 square feet or an amount equal to 65% of the primary residence on the property, whichever is less. Further, no accessory dwelling shall be less than 500 square feet in living area.

Current Property Information:	
Land Use:	Single-Family Residential with a previously permitted, but since expired and now non-compliant, mobile home.

Site Features:	Residential dwelling, mobile home (in addition to the other dwelling on the property), detached garage, accessory structures and storage shed
Flood Hazards:	The site is not located in any flood zone.
Vehicle Access:	County Road 350 East, Boat Street and East Street, which are all classified as Subdivision Streets

Surrounding Zoning and Land Use:		
	Zoning:	Land Use:
North:	RE (Residential: Established)	Single-Family Residential
South:	RE (Residential: Established)	Single-Family Residential
East:	AP (Agriculture: Preferred)	Single-Family Residential, Undeveloped Woodlands
West:	RE (Residential: Established)	Single-Family Residential, County Park

Interdepartmental Review:	
County Engineer:	County Highway has no issue with new accessory dwelling as long as it is not in the Right-of-Way. The accessory dwelling needs to meet the setback from the Right-of-Way line on East Street, or vacate the Right-of-Way.
Code Enforcement:	No comments.
County Health Department:	No comments.
County Fire Inspector:	No issues with request as submitted.

History of this Location:

The following history of this location is relevant to this current request:

- At its July 8, 2005 meeting the Bartholomew County Board of Zoning Appeals approved a conditional use request by Yvonne [Kilgore] Leonard/same petitioner to allow the placement of a mobile home on the same lot as the family home for the purpose of on-site care of Yvonne's disabled adult daughter (case #CU-05-04). At that time the property was zoned R1b (Single-family Residential) and Bartholomew County Zoning Ordinance Section 8-177 allowed this type of request as a temporary use for no more than four years on a parcel that already contained a dwelling. The applicant owned two adjoining lots with the primary dwelling on one lot and the proposed mobile home to be on the separate, adjoining lot. Conditions of approval were to replat the two lots into one by vacating the

- platted alley that separated the lots; and to get approval from the County Health Department for a septic system for the mobile home. Both conditions were met.
2. On February 4, 2008 a new Bartholomew County Zoning Ordinance and map were adopted. This new ordinance and map included the property in the RE (Residential: Established) Zoning District and did not allow mobile homes to be used for the on-site care of dependent relatives in that district.
 3. On July 8, 2009 the original approval for #CU-05-04 for the dependent care related mobile home expired (ordinance allowed this for no more than four years).
 4. On September 20, 2010 the petitioner applied for approval to retain the mobile home on the property so that it could continue to be the home of her disabled daughter. This subsequent request (case #DS-10-06) was for a development standards variance from Zoning Ordinance Chapter 6.7(Part 2) to allow a mobile home as a temporary care-giver / dependent relative residence in the RE zoning district. The updated zoning ordinance allowed mobile homes for this purpose in “agricultural” zoning districts, but not the residential district in which the subject property is located. The development standards variance requested from the Board of Zoning Appeals approval to vary from that zoning ordinance standard to continue to permit the mobile home on her residentially zoned property.
 5. On October 12, 2010 the Board of Zoning Appeals Hearing Officer heard the request to retain the mobile home (case #DS-10-06). Based on the objections from neighbors who spoke at the public hearing, the Hearing Officer declined to take action and forwarded it to the full Board of Zoning Appeals. The primary objections offered by the neighbors were related to perceived reductions in the value of their property as a result of the continued presence of the mobile home.
 6. On November 22, 2010 the Board of Zoning Appeals denied the petitioner’s request, indicating that criteria #3 had not been met. At that time, the applicant no longer lived on the property and the Board found that the mobile home was not needed at that specific location to enable care for her disabled daughter. Despite the Board’s denial, the mobile home was not removed from the property.
 7. At its March 27, 2023 meeting the Bartholomew County Board of Zoning Appeals approved a conditional use request by Yvonne Leonard, to allow an accessory dwelling in the RE (Residential: Established) Zone district (BCU-2023-001). The Board also approved a development standards variance to allow an accessory dwelling to be a separate structure; however, the board denied a second development standards variance to allow the accessory dwelling to be a mobile home (BDS-2023-001).

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 requesting to place a 14-foot x 70-foot (980 square-foot) accessory dwelling on the subject site. This exceeds the 800-square-foot maximum permitted by the zoning ordinance by 180-square-feet.
2. The primary dwelling contains approximately 1,825-square-feet. The Ordinance allows an accessory dwelling equaling either 65% of the primary dwelling, which is 1,186-square-feet, or 800-square feet, whichever is less.
3. The applicant has indicated that the accessory dwelling will be occupied by her 47-year old dependent daughter who resides in the existing mobile home being replaced and who needs supervision and care.
4. The subject lot is 66-feet wide and 274-feet long. There are two, single-story detached garages and a storage shed on the lot. This site has frontage on three streets: 350 East, Boat Street and East Street.
5. Within 600-feet of the subject site there are approximately 22 existing accessory structures of varying size.
6. The Zoning Ordinance requires accessory dwellings to comply with the off-street parking standards consistent with Section 7, which would require four spaces for the two dwellings on this property. The site contains four parking spaces. The Zoning Ordinance also requires that the accessory dwelling does not necessitate an additional driveway on the property. No other driveway is needed.
7. This site contains frontage on three streets; therefore the accessory dwelling must meet the front setback from 350E, Boat Street and East Street. Section 3.12.(C) states for an RE zone district that the front setback is an average of all primary structures on the same side of the street on legal lots of record within 300 feet. The proposed location of the accessory dwelling meets the front setback for all

three streets. The proposed location of the accessory dwelling would be required to also meet the side setback to the north, which is 3-feet. Additionally, the proposed location does not interfere with the intersection visibility triangle created at the intersection of Boat and East Streets.

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 property has access from three streets: Boat Street, East Street and 350 East. The proposed location of the accessory dwelling meets the front setback for all three streets. The proposed location of the accessory dwelling would be required to also meet the side setback to the north, which is 3-feet and the proposed location meets this requirement. The proposed location does not interfere with the intersection visibility triangle created at the intersection of Boat and East Streets. 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 neighborhood contains many accessory structures of various sizes. Allowing the subject property to have an accessory dwelling that is 180-square-feet more than what the ordinance allows would not appear to negatively affect adjacent property values in this long-established residential neighborhood. 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 difficulty in using this property. The applicant has not identified any unique features of this site that warrant the structure to be larger than what the ordinance allows. This criterion has not been met.

Board of Zoning Appeals Options (Development Standards variances):

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.

City of Columbus - Bartholomew County Planning Department
Development Standards Variance Application

Submit applications and materials by e-mail to planning@columbus.in.gov. If questions, please call: 812.376.2550.
Submittal instructions available at <https://www.columbus.in.gov/planning/applications-forms/>.

To be Completed by the Planning Department

Pre-submittal Meeting on (date): 4/20/23 by (initials): VB

Application Received on (date): 4/20/23 by (initials): VB

Jurisdiction: ☐ Columbus ☒ Bartholomew County ☐ Joint District

Hearing Procedure: ☐ Board of Zoning Appeals ☐ Hearing Officer

Docket No.: 6/15-2023-007 Zoning District: _____

Property Owner Name (from GIS): _____

To be Completed by the Applicants

STOP! All variance applicants must meet with a Planning Department staff member before completing this application.
Please contact the Department at 812.376.2550 at least 1 week prior to the applicable Board of Zoning Appeals application deadline to schedule a review meeting. The Department cannot guarantee a timely review meeting if contacted less than 1 week prior to the deadline and is not responsible for any missed deadline that may result.

Representative / Notification Information:

The contractor, surveyor, attorney, or other person authorized to act on behalf of the project owner (or the project owner if no other representative will be used) and to whom all correspondence regarding this application should be directed.

Representative Person's Name: Yvonne Leonard

Representative's Company Name: _____

Mailing Address: 7890 N Private Rd 735W Elizabethtown, IN 47232
(number) (street) (city) (state) (zip)

Phone No.: 812-371-9328 E-mail Address: yleonard07@gmail.com

All correspondence will be by e-mail unless another method has been agreed upon by the Planning Department.

Project Information:

The home owner, business, institution, etc. that is requesting the variance – NOT the contractor, surveyor, or other representative (see above).
If the project owner will be representing themselves, their information should be entered above and "same as above" may be entered below.

Home Owner, Business, Institution, Etc. Name: Yvonne Leonard - Tonya Adams - Autumn Breese Phillips

Business, Institution, Etc. Contact Person Name: _____

Mailing Address: 12571 S 350E Elizabethtown IN 47232
(number) (street) (city) (state) (zip)

Phone No.: 812-371-9328 E-mail Address: yleonard07@gmail.com

Property / Location Information:

Property Address: 12571 S 350E Elizabethtown
(number) (street) (city)

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

Variance Requested:

I am requesting a variance from Section 6.1(D)(1)(b) of the Zoning Ordinance to allow the following:
To allow an accessory dwelling unit to have more than 800sf of living area.

Please describe the project for which the variance is sought:

Living space over 800 sqft 14 x 70
manufactured home

Variance Request Justification:

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

1. **The approval will not be injurious to the public health, safety, morals, and general welfare of the community.** For example: What harm could come from approving the variance? Would it create any public safety issues? Why or why not.

There has been a mobile home on the property since 2005
without any problem of any kind. Neighbors have
agreed to us ~~putting~~ replacing with another one.

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.** For example: What impacts can the neighbors realistically expect to the use of their property and to their property values? Will approval of the variance cause any negative impacts to the neighbors? Why or why not.

The mobile home has never caused a problem with
people selling their home. So there has never been a negative
impact on the property value

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.** For example: Is there a reason the property cannot be used without the variance? If so, what is that reason (does a stream, existing building, well, or septic system limit options for new construction)? Explain the reason.

and existing well and septic

Application Fee Refund Information:

The adopted Planning Department Schedule of Application Fees provides for the refunding of the application fee 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 any refund should be provided:

Name: Tonya Adams
Address: 12571 S 350E Elizabethtown IN 47232
(number) (street) (city) (state) (zip)

Representative's Signature / Acknowledgement:

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

Yvonne Leonard
(Representative's Signature)

10-18-2023
(Date)

Yvonne Leonard
(Representative's Printed Name)

Property Owner's Signature:

The owner DOES NOT include a tenant or contract buyer. Applications submitted without the property owner's signature will not be processed.
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. I understand that a public notice sign may be placed and remain on the property until the processing of the request is complete.

Yvonne Leonard
(Property Owner's Signature)

10-18-2023
(Date)

Yvonne Leonard
(Property Owner's Printed Name)

Signer's Ownership Role or Representation:

If the person signing as the property owner is not specifically listed as such in the records of Bartholomew County, please indicate their relationship to that officially listed person, role in that corporation or entity, etc. below.

(Signer's Ownership Role or Representation)

Autumbrezze Phillips
Autumbrezze Plurin

Tonya Adams

Tonya Adams

Leonard, Adams & Phillips (BDS-2023-007)

