

**A G E N D A**  
**RUSH COUNTY BOARD OF ZONING APPEALS**  
**Thursday, November 7, 2013**  
**6:30PM**

**ROLL CALL:**

**MINUTES:** October 3, 2013

**SPECIAL EXCEPTIONS:**

1. Brian & Bobbi Roy, 6392 N 800 W, Arlington, are requesting a special exception to allow a new single family home on less than forty (40) acres in the A-3; Agricultural, Regulated Livestock zoning district.
  
2. Clint & Kelly Piles, 6781 N Blue River Road, Arlington are requesting a special exception to allow a new single family home on less than forty (40) acres in the A-3; Agricultural, Regulated Livestock zoning district.

**VARIANCES:**

1. Clint & Kelly Piles, 6781 N Blue River Road, Arlington are requesting a variance to allow the subdivision of a lot to create a new lot under 40 acres in size in the A-3; Agricultural, Regulated Livestock zoning district.

**APPEALS:** None

**REVIEWS:** None

**OLD BUSINESS:** None

**NEW BUSINESS:** None

**AUDIENCE PARTICIPATION:**

**REPORTS:**

Attorney

Plan Consultant

Director

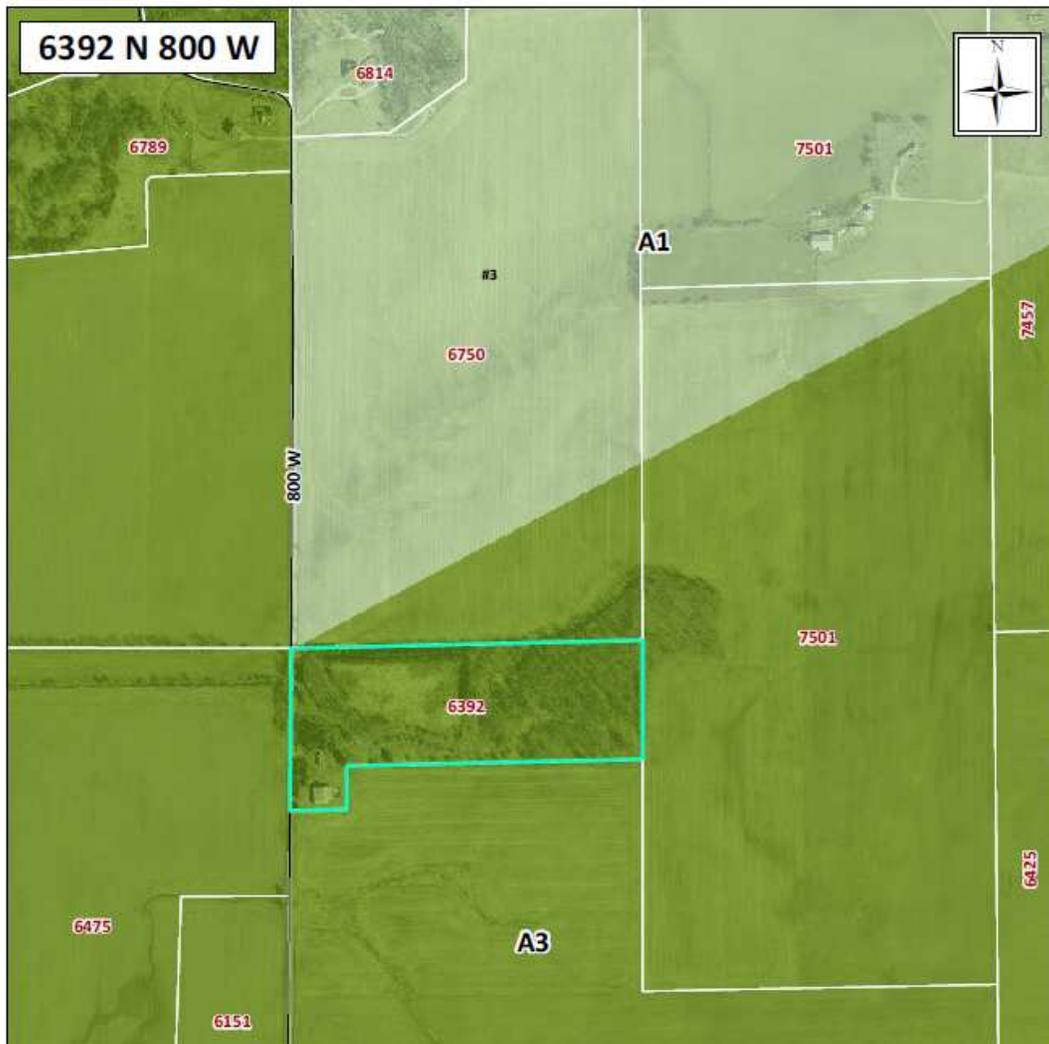
**ADJOURN:**

**RUSH COUNTY BOARD OF ZONING APPEALS**  
**Thursday, November 7, 2013**

**STAFF REPORT – 6392 N 800 W**

Brian & Bobbi Roy, 6392 N 800 W, Arlington, are requesting a special exception to allow a new single family home on less than forty (40) acres in the A-3; Agricultural, Regulated Livestock zoning district.

**Surrounding Zoning Districts & Uses**



Zoning District	Property Use
<b>North:</b> A-1; Agricultural, Rural Residential	Agricultural
<b>South:</b> A-3; Agricultural, Regulated Livestock	Residential
<b>East:</b> A-3; Agricultural, Regulated Livestock	Agricultural
<b>West:</b> A-3; Agricultural, Regulated Livestock	Agricultural

## Rezone Facts

1. The applicant has completed the A-3 scorecard to determine whether a new home is permitted on less than forty (40) acres.
2. A score of twenty-seven (27) or higher would permit a home to be built without a special exception. A score of twenty-one (21) to twenty-six (26) requires a special exception be obtained.
3. The applicant scored twenty-four (24) points which requires a Special Exception be obtained in order to permit a new home on less than forty (40) acres.
4. The property is approximately 14.55 acres in size and already contains a single family dwelling.
5. The property could be subdivided at some point in the future after the proposed home is built (pending special exception approval).
6. Septic permit and Drainage Board approvals are pending at this time.

## CRITERIA FOR DECISIONS – SPECIAL EXCEPTION:

In taking action on all special exception requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements outlined in Section 10.2 of the Rush County Zoning Ordinance. The Board may grant a special exception of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.2) that:

### DECISION CRITERIA – SPECIAL EXCEPTION

**1. General Welfare:** The approval (will or will not) be injurious to the public health, safety, morals, and general welfare of the community.

#### *Staff Finding:*

Staff has no reason to believe that the construction of a single family home on this portion of the property would constitute any negative threats to general welfare. The A-1; Rural Residential zone abuts the property to the north, which encourages residential development, and this would fit the character of the area.

**2. Development Standards:** The requirements and development standards for the requested use as prescribed by the Zoning Ordinance (will or will not) be met.

- a. Restrictions of the zoning district have been followed.  
( Yes / No / Not Applicable )
- b. Ingress and Egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.  
( Yes / No / Not Applicable )
- c. Off-street parking and loading areas where required, with particular attention to the items in (b) above and the economic, noise, glare, or odor effects of the special exception on adjoining properties generally in the district.  
( Yes / No / Not Applicable )
- d. Refuse and service areas, with particular reference to the items in (1) and (2).  
( Yes / No / Not Applicable )

- e. Utilities, with reference to locations, availability and compatibility are available.  
( **Yes** / No / Not Applicable )
- f. Screening and buffering of objectionable or unsafe views, odors, noises, or vibrations, with reference to type, dimensions, and character.  
( Yes / No / **Not Applicable** )
- g. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.  
( Yes / No / **Not Applicable** )
- h. Required yards and other open space will be provided.  
( **Yes** / No / Not Applicable )

*Staff Finding:*

A review of the development standards related qualifications of the special exception show that all should be met or are not applicable to this particular case. A site plan for the property has not yet been received, but will be reviewed for compliance, and a preliminary meeting with the applicant indicates that it will indeed meet the required zoning regulations.

**3. Ordinance Intent:** Granting the special exception (will or will not) be contrary to the general purposes served by the Zoning Ordinance, and (will or will not) permanently injure other property or uses in the same zoning district and vicinity.

*Staff Finding:*

The use of the property for residential purposes fits within the general character of agriculturally zoned property and will not harm surrounding properties.

**Staff Recommendation**

The special exception request meets all of the required qualifications to this point, with the only the site plan of the property outstanding. Staff opinion is that there will be no concern with meeting required zoning setbacks for the site plan and recommends **approval** of the special exception.

Submitted by Kevin Tolloty, AICP  
Executive Director, Rush County APC  
November 1, 2013

## Score Card for Proposed New Dwelling A-3 Zone

Name of Property Owner: Gary Roy  
Address of Property Owner: 6940 S. Grant City Rd. Knightstown

Phone: \_\_\_\_\_

Name of Subdivider/Builder: Brian + Bobbi Roy  
Address of Subdivider/Builder: 8593 S. Spiceland Rd. Spiceland

Phone: \_\_\_\_\_

Date Submitted to APC: 9/25/13

Submitted by: Bobbi Roy

Parcel ID #: 70-01-36-300-001.000-008

Sec. 36 Twp 15 Range 8

Acreage: 14.552

Soils: 5

Suitable for septic system 5

Not suitable 2

Existing Land Use: (Graded on Dwelling site) 3

Tillable 0

Wooded 3

Pastureland 5

Section Density: 1

0-5=0

6-10=1

11-17=3

18-23=5

24-38=7

39-49=8

50+=10

Utilities: 2

Municipal 5

Septic system 2

Road Type: 3

- Paved 3
- Gravel 1
- New 5

CFO Proximity: 10

- Upwind (within 1320 ft) 5
- Upwind (over 1320 ft) 10
- Downwind (within 1320 ft) 3
- Downwind (over 1320 ft) 6

Total Score 24 /40

Requirements to obtain an Improvement Location Permit for housing on less than 40 acres (without application for special exception)

a) Existing home

- 1.) The existing home is split from the parcel
- 2.) Deed for the remainder of parcel (without existing home) shall contain the following recital: "Hereafter, there shall be no residential structure erected on the within described real estate unless a Special Exception is first granted by the Rush County Board of Zoning Appeals or the governing body in place at such time.
- 3.) Lot size shall be a minimum of 2 acres.

b) New Home

- 1.) Applicant must score at least twenty seven (27) points on the Regulated Livestock (A-3) Housing scoring System located in Appendix C.

Additional Requirements to Obtain an Improvement Location Permit for housing on Less than Forty (40) acres (with application for a special exception).

- a) Applicants who receive an unfavorable decision from the Area Plan Director pursuant to 6.3.6.4.5 above, due to an inadequate score on the Regulated Livestock (A-3) Housing scoring system may file an application for a special exception if:

- 1.) Applicant scored at least twenty-one (21) Points.

Date Completed/Returned to applicant: 9/26/13

  
Kevin Tolloty, AICP, Executive Director

**RUSH COUNTY BOARD OF ZONING APPEALS**  
**Thursday, November 7, 2013**

**STAFF REPORT – 6392 N 800 W**

Clint & Kelly Piles, 6781 N Blue River Road, Arlington are requesting a special exception to allow a new single family home on less than forty (40) acres and also requesting a variance to allow the subdivision of a lot to create a new lot under 40 acres in size in the A-3; Agricultural, Regulated Livestock zoning district.

**Surrounding Zoning Districts & Uses**



Zoning District	Property Use
<b>North:</b> A-3; Agricultural, Regulated Livestock	Wooded
<b>South:</b> A-3; Agricultural, Regulated Livestock	Residential/Agricultural
<b>East:</b> A-3; Agricultural, Regulated Livestock	Residential/Agricultural
<b>West:</b> A-3; Agricultural, Regulated Livestock	Agricultural

## Rezone Facts

1. The applicant has completed the A-3 scorecard to determine whether a new home is permitted on less than forty (40) acres.
2. A score of twenty-seven (27) or higher would permit a home to be built without a special exception. A score of twenty-one (21) to twenty-six (26) requires a special exception be obtained.
3. The applicant scored twenty-three (23) points which requires a Special Exception be obtained in order to permit a new home on less than forty (40) acres.
4. The current lot size is less than forty (40) acres and the A-3 scorecard would be required whether or not the subdivision is approved.
5. The lot is proposed to be subdivided and an application has been received for the APC to hear the primary plat approval at the November 19<sup>th</sup> APC meeting.
6. The minimum lot size for an undeveloped lot is forty (40) acres.
7. The proposed lot size after subdivision would be approximately 3.8 acres.
8. The minimum lot size for an existing home to be subdivided in the A-3 district is two (2) acres.
9. The property has received septic system approval for the proposed house.
10. The property is also under review by the Drainage Board, and is expected to be approved.

## CRITERIA FOR DECISIONS – SPECIAL EXCEPTION:

In taking action on all special exception requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements outlined in Section 10.2 of the Rush County Zoning Ordinance. The Board may grant a special exception of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.2) that:

### DECISION CRITERIA – SPECIAL EXCEPTION

**1. General Welfare:** The approval (will or **will not**) be injurious to the public health, safety, morals, and general welfare of the community.

#### *Staff Finding:*

Staff has no reason to believe that the construction of a single family home on this property would constitute any negative threats to general welfare. There are currently several single family homes on smaller lots in the direct vicinity, and the addition of another single family home on a similar sized lot (variance and subdivision approval pending) would fit with the character of this stretch of North Blue River Road

**2. Development Standards:** The requirements and development standards for the requested use as prescribed by the Zoning Ordinance (**will** or will not) be met.

- a. Restrictions of the zoning district have been followed.

( **Yes** / No / Not Applicable )

- b. Ingress and Egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.  
( **Yes** / No / Not Applicable )
- c. Off-street parking and loading areas where required, with particular attention to the items in (b) above and the economic, noise, glare, or odor effects of the special exception on adjoining properties generally in the district.  
( **Yes** / No / Not Applicable )
- d. Refuse and service areas, with particular reference to the items in (1) and (2).  
( Yes / No / **Not Applicable** )
- e. Utilities, with reference to locations, availability and compatibility are available.  
( **Yes** / No / Not Applicable )
- f. Screening and buffering of objectionable or unsafe views, odors, noises, or vibrations, with reference to type, dimensions, and character.  
( Yes / No / **Not Applicable** )
- g. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.  
( Yes / No / **Not Applicable** )
- h. Required yards and other open space will be provided.  
( **Yes** / No / Not Applicable )

*Staff Finding:*

A review of the development standards related qualifications of the special exception show that all should be met or are not applicable to this particular case. A site plan for the property has not yet been received, but will be reviewed for compliance, and a preliminary meeting with the applicant indicates that it will indeed meet the required zoning regulations.

**3. Ordinance Intent:** Granting the special exception (will or **will not**) be contrary to the general purposes served by the Zoning Ordinance, and (will or **will not**) permanently injure other property or uses in the same zoning district and vicinity.

*Staff Finding:*

The use of the property for residential purposes fits within the general character of agriculturally zoned property and will not harm surrounding properties.

**Staff Recommendation – Special Exception**

The special exception request meets all of the required qualifications to this point, with the only the site plan of the property outstanding. Staff opinion is that there will be no concern with meeting required zoning setbacks for the site plan and recommends **approval** of the special exception.

**CRITERIA FOR DECISIONS – VARIANCE:**

In taking action on all variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code and outlined in Section 10.3 of the Rush County Zoning Ordinance. The Board may grant a variance from development standards and limitations of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.5) that:

**DECISION CRITERIA – VARIANCE**

**1. General Welfare:** The approval (will or **will not**) be injurious to the public health, safety, morals, and general welfare of the community.

*Staff Finding:*

The approval of the variance to allow a lot less than forty (40) acres will not be injurious to the general welfare. The Zoning Ordinance allows existing homes to be subdivided on lots as small as two (2) acres, and this lot will be nearly double that size.

**2. Adjacent Property:** The use or value of the area adjacent to the property included in the variance (will or **will not**) be affected in a substantially adverse manner.

*Staff Finding:*

The use of this property for a single family dwelling will not negatively impact surrounding properties as there are already a number of similar uses on adjacent parcels.

**3. Unique Conditions:** The need for the variance (**does** or does not) arise from some condition peculiar to the property involved and does not exist in similar property in the same zone.

*Staff Finding:*

The property to be subdivided is an irregular shaped lot with several large chunks of land already subdivided. The division of the lot will allow other areas of the property, which will be difficult to access by the proposed home owner, to be combined with adjoining properties.

**4. Unnecessary Hardship:** The strict application of the terms of the ordinance (**will** or will not) constitute an unusual and unnecessary hardship as applied to the property for which a variance is sought.

*Staff Finding:*

The strict application of this ordinance would prohibit the subdivision of the portion of the property where the new home would be located. While that may not, by ordinance, prohibit the home to be built, it would cause the proposed builder great difficulty in disposing of the remainder of the property.

**5. Minimum Variance:** The variance (**is** or is not) the minimum variance that will make possible the reasonable use of the land, building, or structure.

*Staff Finding:*

The minimum variance standard is not particularly applicable in this case. The requested variance is of appropriate size for the intended use.

*Please Note: The Rush County Board of Zoning Appeals may impose reasonable conditions as part of its approval.*

**Staff Recommendation - Variance**

Although the Zoning Ordinance requires lots to be forty (40) acres in the A-3 zone, it also does permit lots of as little as two (2) acres for existing homes. In this case, the applicant could build a home (pending special exception approval) without requiring the property to be subdivided at this time, and could subdivide the property at a later time without a needed variance, as the proposed lot will be over two (2) acres in size. It is of staff opinion that since the remainder of the lot will be sold to adjoining property owners, not approving the variance will cause an unnecessary delay since the variance would not be required after that home is built. Therefore, staff recommends **approval** of the variance.

Submitted by Kevin Tolloty, AICP  
Executive Director, Rush County APC  
November 1, 2013

# Score Card for Proposed New Dwelling A-3 Zone

Name of Property Owner Tives Lloyd Fitch Estate  
Address of Property Owner 6781 N. Blue River Rd. Arlington, IN. 46104

TX# 765-561-1402

Name of Subdivider/Builder T. K. Homes  
Address of Subdivider/Builder 204 Barratt Dr. Greenfield, IN. 46140

TX# 317-468-1111

Date Submitted to APC 10-21-13  
Submitted by Kelvin Piles

Parcel # 70-01-35-100-007.000<sup>008</sup> Sec.      Twp      Range     

Acres 25.24

Soils: 5  
Suitable for septic system (5)  
Not suitable 2

Existing Land Use: (Graded on Dwelling site) 0  
Tillable 0  
Wooded 3  
Pastureland 5

Section Density 3  
0-5=0  
6-10=1  
11-17=3  
18-23=5  
24-38=7  
39-49=8  
50+=10

Utilities 2  
Municipal 5  
Septic system (2)

Road Type 3  
Paved (3)  
Gravel 1  
New 5

CFO Proximity 10  
Upwind (within 1320 ft) 5  
Upwind (over 1320 ft) (10)  
Downwind (within 1320 ft) 3  
Downwind (over 1320 ft) 6

Total Score 23 /40

**Requirements to obtain an Improvement Location Permit for housing on less than 40 acres (without application for special exception)**

**a) Existing home**

- 1.) The existing home is split from the parcel
- 2.) Deed for the remainder of parcel (without existing home) shall contain the following recital: "Hereafter, there shall be no residential structure erected on the within described real estate unless a Special Exception is first granted by the Rush County Board of Zoning Appeals or the governing body in place at such time.
- 3.) Lot size shall be a minimum of 2 acres.

**b) New Home**

- 1.) Applicant must score at least twenty seven (27) points on the Regulated Livestock (A-3) Housing scoring System located in Appendix C.

**Additional Requirements to Obtain an Improvement Location Permit for housing on Less than Forty (40) acres (with application for a special exception).**

- a) Applicants who receive an unfavorable decision from the Area Plan Director pursuant to 6.3.6.4.5 above, due to an inadequate score on the Regulated Livestock (A-3) Housing scoring system may file an application for a special exception if:
  - 1.) Applicant scored at least twenty-one (21) Points.

Date Completed/Returned to applicant 10/17/13

Completed by: Kevin Tolhty  
[Signature]