

**WHITLEY COUNTY BOARD OF ZONING APPEALS  
STAFF REPORT**

**18-W-SE-5**      **SPECIAL EXCEPTION**  
Clint & Jennifer Simmons  
4660 N. State Road 109

**APRIL 24, 2018**  
**AGENDA ITEM: 2**

**SUMMARY OF PROPOSAL**

Current zoning: AG, Agricultural  
Property area: 8.19 acres

The petitioner is requesting a special exception to allow an auto repair business in an AG district. While the business is conducted on the same property as the petitioner’s residence, the use exceeds the limitations to be considered a home occupation.

**PROPOSED BUSINESS DETAILS**

The proposed business would be located in an existing shed building of approximately 1,280 sq. ft. in area. A parking area would be created on the south and east sides of the shop building; no indication of the paving type was provided. A metal dumpster would be located on the east side of the residence. An average of 12 vehicles would be worked on per week. There would be up to three vehicles stored outside at a time. Additionally, the petitioner has 6 personal vehicles that would also be on the property. The hours of operation would be to 10am to 7pm, Monday through Friday. No details on outside lighting, number of employees, signage, or parts storage have been submitted at this time.

The Zoning Code allows automobile repair (enclosed) in the AG, Agricultural district as a special exception with review by the Board of Zoning Appeals. The requirements of Sections 10.9 Special Exception Standards apply.

**REVIEW CRITERIA**

Indiana Code §36-7-4-918.2 and Section 10.9(A) of the Zoning Code authorize the Board to review special exceptions and state the criteria listed below upon which the Board must base its review. Staff’s comments/proposed findings of fact under each criterion.

1. The special exception shall not involve any elements or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the performance standards;

*Automobile repair does involve some elements that may be dangerous to other property if misused, including welding equipment, gasoline, paint, etc. The setbacks from adjacent properties (a minimum of 125’±) would mitigate those potentially dangerous elements.*

*Of the performance standards, noise and vibration may be applicable to this proposal, as operation of automobiles and equipment may generate some noise and occasionally associated vibration even when enclosed within the shop building. The setback distances would likely mitigate these effects to adjacent properties. The proposed hours of operation from 10am to 7pm would also aid in avoiding being a nuisance.*

2. The special exception shall be sited, or oriented and landscaped to produce a harmonious relationship of building and grounds to adjacent buildings and properties;  
*The proposed use would be enclosed within an existing shop building set behind the residence, with an expanded parking area to be used for maneuvering and parking of vehicles. Generally, the relationship of the building and grounds to the adjacent area would not change significantly from what is existing.*

3. The special exception shall produce a total visual impression and environment that is consistent with the environment of the neighborhood;  
*The proposed use would be enclosed within an existing shop building, with an expanded parking area to be used for parking vehicles to be worked on. The operation of the business within the shop would likely be consistent with the overall environment of the neighborhood.*  
  
*However, the number of vehicles stored outside in a visible location may not have a visual impression consistent with the neighborhood. Minimizing the visibility of vehicles through regulation of placement, screening, or reduction of number would mitigate this.*
4. The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood; and  
*The amount of traffic generated by an average of 2.5 cars per day would be unlikely to cause traffic congestion in the neighborhood. The location of the use approximately 275' from the road further minimizes the chance for this use to cause impacts on the traffic of the vicinity.*  
  
*The petitioner should be advised that because the property fronts onto State Road 109, INDOT may consider this a change in use and require a revision of the driveway permit.*
5. The special exception shall preserve the purpose of this Ordinance.  
*The proposed use is a permissible special exception of the AG district.*

**SUGGESTED CONDITIONS**

1. The Special Exception is granted as presented and per the site plan.
2. The Special Exception is granted for the applicant and is non-transferable.
3. All automobile repair and maintenance operations shall take place within the shop building and shall not extend beyond the submitted hours of 10am to 7pm.
4. There shall be no employees of the use other than the petitioner.
5. Dismantled or disassembled vehicles shall not be parked outside overnight. The total number of vehicles parked on the property, including those for business and personal use, shall not exceed 9. Vehicle parking shall be confined to the parking area. No vehicles shall be parked north of the north façade of the shop building. Temporary parking for personal events, guests, etc. is an exception.
6. A solid opaque fence shall be required to screen the visibility of the parking area from the public right-of-way. The fence is suggested to be 6-8' in height.
7. Outdoor work lighting shall not be permitted.
8. Any freestanding signage shall not exceed a total of 24 sq. ft. in area of all sign faces.
9. The dumpster shall be kept in a location that is not visible from the public right-of-way or else screened with a solid opaque enclosure.

Date report prepared: April 18, 2018.

**BOARD OF ZONING APPEALS ACTION**

Motion:

By:

Second by:

**Vote: Deckard Denihan Klein Wilkinson Wright**

Yes					
No					
Abstain					