

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

18-W-VAR-10 DEVELOPMENT STANDARDS VARIANCE
Amos Yoder
4757 W. 300 South

**AUGUST 28, 2018
AGENDA ITEM: 2**

SUMMARY OF PROPOSAL

Current zoning: AG, Agricultural
Property area: 22.829 acres

The petitioner is requesting setback variances to permit encroachment of existing structures into the required side setbacks to allow for the proposed splitting of the property.

As proposed, two buildings would be approximately 1' from the new property line, with another two approximately 8' and 8.7' from the line.

The zoning code requires a 10' side setback for accessory structures. Therefore, the petitioner is proposing a maximum 9' variance.

REVIEW CRITERIA

Indiana Code §36-7-4-918.5 and Section 10.10 of the Zoning Code 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 approval will not be injurious to the public health, safety, morals, and general welfare of the community;
The proposed variance will not likely be injurious to the public health, safety, and morals, the encroachments only affect the current property owner and potential future owners. The general welfare may be injured by degradation of the effectiveness of the zoning regulations if this requested variance does not have strict practical difficulties.
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; and
It is not expected that this variance will adversely affect the value or use of the area adjacent to the property since the adjacent property is owned by the petitioner.
3. The strict application of the terms of the 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 or restriction of economic gain.
The strict application of the Ordinance terms may result in practical difficulties since the structures involved were erected as part of one functional unit. When dividing the house and farm from the business buildings, the previously acceptable distances between structures no longer satisfy the code setbacks, despite no change in location.

However, the Board should give consideration to whether the proposal is self-imposed by the desire to split a special exception business from the primary permitted use of a residence and farm.

Date report prepared: 8/23/18, NB.

BOARD OF ZONING APPEALS ACTION

Motion:

By:

Second by:

Vote: **Deckard** **Denihan** **Klein** **Wilkinson** **Wright**

Yes

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No

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Abstain

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