

**MINUTES
WHITLEY COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING
MARCH 26, 2019 7:30 P.M.**

MEMBERS PRESENT

Sarah Lopez
Danny Wilkinson
Doug Wright

MEMBERS ABSENT

Tim Denihan
Elizabeth Deckard

ATTORNEY

Dawn Boyd

STAFF

Nathan Bilger
Jennifer Shinabery

VISITORS

There were 9 visitors who registered their attendance at the March 26, 2019 regular meeting of the Whitley County Board of Zoning Appeals. A signed guest list is kept on record.

CALL TO ORDER/ ROLL CALL

Mr. Wilkinson called the meeting to order at 7:32 p.m. and Ms. Shinabery read the roll call. Mr. Bilger explained that Ms. Deckard is absent because she is recusing herself from the sole agenda item. He introduced Mrs. Lopez as a new member replacing Will Klein, who resigned late last year. Attorney Boyd administered an oath for Mrs. Lopez.

CONSIDERATION AND ADOPTION OF THE JANUARY 22, 2019 REGULAR MEETING MINUTES

Mr. Wilkinson asked if there were any corrections or additions to the minutes as submitted. There being none, Mr. Wright made a motion, seconded by Mr. Wilkinson to approve the minutes. The motion carried 3-0.

OATH TO WITNESSES

Attorney Boyd administered the oath to those present who wished to speak during the meeting. Mr. Wilkinson then briefly explained the procedure for conducting the meeting.

NEW BUSINESS

19-W-SE-1/19-W-VAR-1 Stan & Randee Reiff, 4560 W. State Road 205, South Whitley, are requesting a special exception to allow for a traffic generating home occupation in an AG, Agricultural District and a variance from the Home Occupation Standards related to the size and parking requirements. The property is located on the north side of W. State Road 205, about ½ mile between S. 400 West and S. 500 West in Section 36 of Cleveland Township.

Mr. Bilger summarized the staff report and described the details of the petition, referring to aerial views of the property. He explained that the petitioners are requesting to operate a seasonal wedding reception facility in a historic barn located on their property. He explained the need for the variances from the home occupation standards related to the total floor area and parking. He explained that the petitioners and their daughters would be the operators of the venue and would only provide the event space. He explained that needs such as catering, DJs, and portable restroom facilities needed for the event would be the responsibility of the clients. He explained that this should be reviewed by the Board and could possibly result in another variance request,

depending on the interpretation of the standard related to the number of allowed employees. He discussed the review criteria, providing commentary relating to the petition. He concluded by reviewing the thirteen suggested conditions as listed in the staff report.

Matt Shipman, attorney with Bloom Gates Shipman & Whitleather LLP, 119 S. Main Street, Columbia City, stated that he is representing the petitioners. He stated that the petitioners would like clarification on two of the suggested conditions. Condition number 9 states, “No additional employees are to be hired by the petitioner to operate the facility”. Attorney Shipman explained that the petitioners and their daughters would operate the facility. The clients that would be renting the venue would be responsible for hiring any activities they need for their event such as caterers, preachers, and DJs. He stated that whether those hired for such activities would be considered employees or subcontractors should be clarified. Condition number 6 states, “Events of any type are limited to no more than two per month from May to September, inclusive. No more than one event per calendar week is permitted”. Attorney Shipman stated that the petitioners plan to utilize the barn *primarily* in the months of May to September or possibly October. He added that the petitioners may have requests for three or four events desired per month during those months. He stated that the petitioners would like for this condition to be clarified and possibly modified to allow for more than two events per month. He explained that the petitioners spoke to their neighbors and received favorable responses and even obtained written consents. He showed various photographs from the petitioner’s daughter’s wedding, showcasing the condition of the barn and demonstrating what the venue would look like. He explained that the intent is to provide a rural, rustic setting. He also provided Findings of Fact.

Mr. Wilkinson asked if there were any questions for the petitioner.

Mr. Bilger asked whether the events would be primarily on the weekend. Mr. Reiff stated that they would primarily be on Saturdays, but they would like not to be restricted to that in the case someone requests another day of the week.

Mr. Wright asked what they would do in the event of heavy rain the night before an event. Mr. Reiff responded that he would direct the water through tile to the pond. He added that the ground is currently sloped to direct water to the pond. There was continued discussion amongst the Board regarding their concerns related to drainage and parking. Mr. Reiff stated he would address any issues including keeping parking off of State Road 205 and keeping their yard well-maintained, including using stone if necessary.

The Board discussed with the petitioner the use of portable restroom facilities. Mr. Bilger explained that the Health Department would have jurisdiction over this issue.

Mr. Wilkinson asked if there was anyone present who wanted to speak regarding the petition. There was no one.

The Board, staff, and Attorney Boyd discussed the interpretation of the standard relating to employees and subcontractors. Attorney Boyd stated that the suggested condition that “no additional employees are to be hired by the petitioner to operate this facility” does not apply to the contractors hired by the client because they are not *operating* the facility. She further stated

that the client's contractors are not the petitioner's subcontractors. She stated that in her opinion there is a distinction between the two.

Mr. Wright stated that he is comfortable with the way the suggested condition (#9) is stated because it does not apply to anyone needing to be hired by a particular client and the *operators, or employees* of the facility would be limited to the immediate Reiff family members. He further clarified that the Home Occupation Standard limiting the number of employees and subcontractors does not apply to anyone needing to be hired by the client of the petitioners. Mrs. Lopez agreed.

There was further discussion regarding concerns over parking and the parking requirements for Home Occupations. This included a discussion clarifying the suggested condition (#6) related to the number of events allowed. Mr. Bilger clarified that the intent was to limit the number of events to one per calendar week in the months of May through September.

Following discussion, Mr. Wright made a motion to approve both petitions with all of the suggested staff conditions, with the above discussed clarifications of suggested conditions #6 and #9, and with an additional condition of placing temporary no parking signs on the road during events; Mrs. Lopez seconded. Mr. Wright and Mrs. Lopez voted in favor and Mr. Wilkinson voted against. Having an indecisive vote, the petition was automatically continued.

OTHER BUSINESS

Mr. Bilger mentioned that he would like to have a BZA training session on May 21 or 22.

ADJOURNMENT

Mr. Wilkinson declared the meeting adjourned at 8:45 p.m.