

MINUTES
WHITLEY COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING
July 27, 2021
7:30 P.M.

Whitley County Government Center
Commissioner's Meeting Room

MEMBERS	PRESENT	ABSENT	STAFF
Tim Denihan		X	Nathan Bilger
Sarah Lopez	X		
Danny Wilkinson	X		
Doug Wright	X		LEGAL COUNSEL
Joe Wolf	X		(absent)
<i>Kelley Sheiss (alt.)</i>			

AUDIENCE MEMBERS

The list of audience members, in-person and electronic, is attached to these minutes. The signed guest list is kept on record.

CALL TO ORDER/ROLL CALL

Mr. Wilkinson called the meeting to order at 7:30 p.m. Mr. Bilger read the roll call; the members present and absent are listed above.

CONSIDERATION OF PREVIOUS MEETING MINUTES

The minutes for the June 22, 2021 regular meeting were presented for review. Mr. Wright made a motion to approve the minutes as presented. Ms. Lopez seconded the motion. The motion passed by a vote of 4-0.

ADMINISTRATION OF OATH

Mr. Bilger provided the oath to the audience members wishing to speak.

OLD BUSINESS

There was no old business.

NEW BUSINESS

21-W-VAR-12, Setback Variance, Jeffrey Lemon, 2405 E. Fox Drive

Jeffrey Lemon requested a variance of the required front and rear setbacks to construct a new structure. The subject property, commonly known as 2045 E. Fox Drive, Columbia City, was located on the east side of E. Fox Drive, approximately 250' south of E. Wilcken Road, in Section 11 of Thorncreek Township. It was zoned LR, Lake Residential.

Mr. Bilger presented the staff report. He stated that the existing dwelling on the site would be removed and a new 30'x54' outbuilding would be constructed. As proposed, the structure would be 29.9' from the road right-of-way and 5' from the east (rear) property line, necessitating variances of each. He noted that there had been variances for other outbuildings granted nearby in the recent past and summarized each. He reviewed aerial views and the submitted plot plan, indicating the locations of the variances, and displayed the proposed building plans.

Mr. Bilger discussed the review criteria. He said that an outbuilding in itself likely would not injure the public health, safety, morals, and general welfare. He stated that the value of the area likely would not be affected since storage buildings were common in the vicinity, but the use of the adjacent lot to the east could be somewhat adversely affected by the closeness of the structure. He stated that this site was in a historic subdivision, which typically are found to have practical difficulties, and the petitioner had shifted the building to try to balance the front and rear setbacks. He added that the Board should consider if the requested building size was reasonable or if the building was a self-imposed difficulty.

Mr. Bilger asked the Board if it had any questions. Hearing none, Mr. Wilkinson asked the petitioner or its representative to address the Board.

Jeff Lemon, petitioner, stated that the proposed structure would be built into the existing hill. He had talked with the neighbor to the east, Matt Field, to address their concerns. He stated that they had come to agreement that Mr. Lemon would construct a 6' privacy fence along the east property line.

Mr. Wilkinson asked the Board if it had questions for the petitioner. Hearing none, he opened the public hearing. Hearing no public comment, he closed the public hearing.

Mr. Wilkinson asked Mr. Bilger if there were any requirements for the fence. Mr. Bilger stated that fences in the county did not require permits or have setbacks. He did recommend that the Board add the fence as a condition of approval. Mr. Wilkinson and Mr. Lemon briefly discussed further details on the fence. They clarified that 6' would be as measured from grade.

Mr. Wright made a motion to approve with the condition that a 6' privacy fence be constructed along the eastern property line; Ms. Lopez seconded. Mr. Wilkinson asked for further discussion. Hearing none, he called for a vote. The petition was approved by a vote of 4-0.

21-W-VAR-13, Lot Frontage Variance, Ag Plus, 5501 S. State Road 9

Ag Plus, Inc. requested a variance of the required road frontage to permit a property split. The subject property, commonly known as 5501 S. State Road 9, Columbia City, was located on the east side of South State Road 9, approximately 1/2 mile north of E. State Road 14, in Section 1 of Washington Township. It was zoned IN, Intensive Use.

Mr. Bilger summarized the staff report, providing a brief history of the parcel. He stated that the petitioner desired to split 4.33 acres from the parent 11.88-acre tract to place the recently constructed dry fertilizer building on its own parcel. The proposed tract would not have the required 100' of public road frontage, which necessitated the variance request. He provided aerial views, showing the location of the building and existing access drives. He then showed the proposed survey, noting the location of a proposed 50' wide access easement from the parcel to SR 9. Also on the survey was a text notation that a blanket access easement would be created across the gravel driveways.

Mr. Bilger reviewed the variance criteria, noting that the petitioner had also submitted proposed findings, which were similar to his discussion points. He stated that the split would not likely be injurious since the proposed split was not due to a change in land use, but was due to the splitting of ownership between two affiliated companies. He stated that the required access would still be provided, just by easement, and the property use would not be intensified by the proposal. Use and value would also not be affected, again because there would be no change in use. He stated that there could be practical difficulties in obtaining the required frontage due to the intervening structures and railroad track. He stated that creating a flagpole shape to satisfy the frontage requirement would likely create need for multiple building setback variances, thus this request would minimize the variance request. Mr. Bilger stated that the need for splitting the property was not generated by the petitioner, as they had originally intended to use a lease to avoid a parcel split, but by their lender. He noted a comment letter from INDOT regarding the existing driveway. He stated that the comment would not change the availability of access from SR 9, but could modify the design of the driveway.

Mr. Bilger asked the Board if it had any questions. Hearing none, Mr. Wilkinson asked the petitioner or its representative to address the Board.

Michael Boring, attorney for the petitioner, presented additional information and summarized the petitioner's submitted findings of fact. He reiterated that the petitioner's lending institution was the driving factor in this request. He stated that it would be likely that the entire parcel would be owned by Ag Plus within five years, but the interim financing situation caused the need to split the parcel. He stated that the petitioner would work with INDOT to address their comments, but it would not affect the variance request.

Mr. Wilkinson asked the Board if it had questions for the petitioner. Hearing none, he opened the public hearing. Hearing no public comment, he closed the public hearing.

Mr. Wilkinson asked if the lending institution was aware that the parcel had no frontage, which could cause trouble in the future. Jeff Mize, petitioner, further explained the reason for the 4.33 parcel being split and the business relationship between Ag Plus and Briggs Crop Nutrients. Mr. Boring reaffirmed that the plan to combine the parcels under one ownership in about five years.

Mr. Wilkinson asked for further discussion. He asked if the driveway needed any conditions. He asked if the petitioner's findings of fact should be adopted. Mr. Boring stated that the submitted findings were similar to staff's comments. Mr. Bilger stated that the Board could formally adopt the findings as part of the motion if they wished, or they could simply incorporate them as part of an approval since they were in the file record.

Hearing no request for conditions, and no other questions, he called for a vote. The petition was approved by a vote of 4-0.

Mr. Bilger and the petitioner then briefly discussed the status of recording the deeds for the split.

21-W-SE-3, Secondary Dwelling Unit, Robert & Stacey Schaper, 6372 N. 550 West

Robert and Stacey Schaper requested a special exception to permit a secondary dwelling unit. The subject property, more commonly known as 6372 N. 550 West, Columbia City, was located on the east side of North 550 West, approximately 1,925' north of 600 North in Section 3 of Etna-Troy Township and was zoned AG, Agricultural.

Mr. Bilger presented the staff report. He said that the secondary dwelling unit was proposed to be remodeling of an existing storage area in the attached garage. As designed, the unit would be separated from the rest of the dwelling, and although there was an internal connection to the existing living area, the arrangement just met the definition of a secondary dwelling unit. He stated that the petitioner's mother would live in the unit, with long term plans for their own children, or reversion to storage use. He displayed aerial photos and floor plans for reference. He presented the staff's suggested conditions, clarifying the third condition of the staff report was erroneously included from a previous case and would not apply here.

Mr. Bilger asked the Board if it had any questions. Hearing none, Mr. Wilkinson asked the petitioner or its representative to address the Board.

Rob Schaper, petitioner, clarified that it would be his father would live in this unit. He wanted to allow his father to live outside of a nursing home. He affirmed that the long-term plan would be to use the space for his children or his own use.

Mr. Wilkinson opened the public hearing. Hearing no public comment, he closed the public hearing.

Mr. Wilkinson asked for any additional questions or discussion from the Board. Hearing none, he asked for a motion.

Mr. Wolf made a motion to approve 21-W-SE-5 with the following conditions:

1. The Special Exception is granted as presented.
2. In addition to the requirements in the Zoning Code definition of "Secondary Dwelling Unit", the dwelling shall not be used as an income-producing rental unit.

Ms. Lopez seconded the motion. The motion passed by a vote of 4-0.

ADJOURNMENT

Having no other business, Mr. Wilkinson adjourned the meeting at 8:10 p.m.

GUEST LIST

1. Jeff Lemon2044 E. Fox Drive, Columbia City
2. Jeff Mize401 N. Main Street, South Whitley
3. Michael Boring6375 W. US 52, New Palestine
4. Sonya Emerick5865 E. SR 14, Columbia City
5. Robert Schaper6372 N. 550 West, Columbia City
6. Sarah Schaper6372 N. 550 West, Columbia City

GUEST LIST – ELECTRONIC

No members of the public attended this meeting electronically.