

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

**18-W-VAR-11    DEVELOPMENT STANDARDS VARIANCE**  
Paul Newman  
5005 E Duffin Street

**JULY 24, 2018**  
**AGENDA ITEM:    4**

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**SUMMARY OF PROPOSAL**

Current zoning: RR, Rural Residential  
Property area: 0.25± acres

The petitioner is requesting a development standards variance for the encroachment into the required front setback to allow for the construction of a pole building. The property is comprised of parts of Lots 1, 2, 3, and 4 of the Original Plat of Coesse, and is located on the northeast corner of Duffin and Simonson Streets, with an approximate address of 5005 East Duffin Street.

As proposed, a new pole building would be constructed on the western part of the property, with the setback along Duffin Street to match the existing pole building on the eastern part of the property. The setback along Simonson Street is proposed to be 13' from the right-of-way line. A driveway may be expected to serve the new structure, but no information on such was provided. The existing driveway off of Simonson Street may not have received a drivecut permit when constructed around 2011.

Prior to 2011, the property was improved with a modular home and a pole building. At that time, the modular home was located about 25' from Duffin Street and 10' from Simonson Street. In 2011, the petitioner removed the modular home and obtained a variance to permit the expansion of that pole building. That variance permitted a 26' front yard setback along Duffin Street, which was the setback of the existing pole building. Note that the submitted site plan indicates a 35' setback along Duffin Street rather than 26' despite the intention that both buildings would have the same setback; this apparently is due to imprecision of the GIS map dimensions. For consistency, the 26' setback established in the 2011 will be used in this report.

The proposed structure would utilize the same 26' setback as the 2011 variance. Because this is a separate structure, a new variance needs to be considered. Additionally, the zoning code requires a 40' front setback along local streets, so a 27' variance is also requested for the Simonson Street frontage.

**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, morals, and general welfare as other structures have similar encroachments in the vicinity of the historic town of Coesse without significant effects. However, public safety may be injured due to the proximity of the proposed building to the intersection of Duffin and Simonson Streets. While the requirements sight triangle clearance of §5.12 would be met, the proposed structure may still limit the visibility for traffic due to the arrangement of the streets in an effective S-curve, intersection, and grades coming from the railroad overpass. A purpose of front setbacks applying to both street frontages of a corner lot is to allow at least some visibility while approaching the intersection, while the sight triangle clearance is to preserve clear visibility at the intersection itself. While the property was previously improved with a modular home in roughly the same location, it may not be in the interest of public safety to limit the sight visibility to such an extent again.*

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 use and value of the area adjacent to the property as similar properties in the area have similar encroachments of accessory structures which have not resulted in any apparent adverse effect on the use and value of the adjacent area. However, if the proposal impairs the use of the street and intersection, then that could adversely affect the overall usage of properties in the vicinity.*

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 due to the historic nature of the area. The zoning code does not apply easily to historic areas because of existing buildings, smaller lots, and other factors that differentiate such areas from modern development. In this case, the existing pole building, previously granted variance, and other structures along the street set a front setback line along Duffin Street that is smaller than the 40' required. However, the setback along Simonson is less defined, and the proposed setback may not be as consistent with the context of the vicinity.*

Date report prepared: 7/18/18, NB.

#### BOARD OF ZONING APPEALS ACTION

Motion:

By:

Second by:

<b><i>Vote:</i></b>	<b>Deckard</b>	<b>Denihan</b>	<b>Klein</b>	<b>Wilkinson</b>	<b>Wright</b>
<i>Yes</i>					
<i>No</i>					
<i>Abstain</i>					