

**MINUTES
WHITLEY COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING
JULY 24, 2018 7:30 P.M.**

MEMBERS PRESENT

Will Klein
Danny Wilkinson
Doug Wright
Tim Denihan

STAFF

Nathan Bilger
Jennifer Shinabery

MEMBERS ABSENT

Elizabeth Deckard

ATTORNEY

Dawn Boyd

VISITORS

There were visitors who registered their attendance at the June 26, 2018, regular meeting of the Whitley County Board of Zoning Appeals.

CALL TO ORDER

Mr. Wilkinson called the meeting to order at 7:32 p.m.

ROLL CALL

Ms. Shinabery read the roll with all members present and absent listed above.

CONSIDERATION AND ADOPTION OF THE JUNE 26, 2018 REGULAR MEETING MINUTES

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

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.

OLD BUSINESS

18-W-VAR-6 Julie & Michael Pierce, 4361 E. Lincolnway, Columbia City, requested a development standards variance to allow for the construction of a pole building within the required side setback. The property is located on the north side of E. Lincolnway, ¼ mile east of S. 400 East in Section 16 of Union Township, and is zoned AG, Agricultural District.

Mr. Bilger reviewed the staff report, providing the details of the petition. He explained that the petitioners were proposing to construct a 30' x 40' pole building to the east of their residence, 1' from the eastern property line. He referred to the aerial view of the property and site plan, explaining the reported reasoning behind the request. He explained that the petitioners were requesting a 9' variance, as the code requires a 10' side setback. He proposed that it may be

possible for the petitioners to locate the building in another area and stated there may be a concern for the adjacent property as the building would be located very close to their existing fence.

Julie Pierce, 4361 E. Lincolnway, Columbia City, explained that the building could not be located on the west side of the property due to the location of the well and septic. She also explained how locating the building on the north side would be impractical because it would require a much longer drive and more expense to run electric to it due to the location of a large tree. She explained that even a variance of 5' or 6' would allow the building to not be located so close to the house. She stated that the neighbor's fence was about 6' from her property line, allowing for plenty of room.

Mr. Wilkinson asked if there was anyone present who opposed the petition. There was no one. He also asked if there was anyone present who wanted to speak regarding this petition or ask questions of the petitioner. There was no one.

The Board discussed a reduced setback with the petitioner. Mr. Klein and Mr. Wright stated they would like the variance to be reduced to 5', allowing for a 5' setback. Mr. Wilkinson called for a vote. All members voted in favor of the petition, with an amended variance of 5'.

NEW BUSINESS

18-W-VAR-8 Michael & Linda Ann Grable, 2055 E. Crampton Road, Columbia City, are requesting a development standards variance to allow for the construction of a gazebo within the required front yard setback. The property is located on the north side of E. Crampton Road, ½ mile west of N. Center Street in Section 11 of Thorncreek Township and is zoned LR, Lake Residential District.

Mr. Bilger reviewed the staff report, providing details of the petition. He explained that as proposed, the gazebo would be 10'x14' and located 15' from the property line. He explained that the code requires a 35' lakeside setback measured from the property line versus the shoreline. He referred to the aerial view, explaining that the shed located on the property was permitted in 2005 but not placed as permitted and does not comply with the zoning setbacks. He suggested the Board may want to address this as well. He explained the location of the sewer line easement as well as a slope on the property were the reasons for the petition. He discussed the review criteria, mentioning that a lesser variance may be possible.

Mike Grable, 2055 E. Crampton Road, Columbia City presented his request, explaining that the existing shed is located approximately 34' from the shoreline as they were not aware the measurement was to be taken from the property line versus the shoreline. He explained that as proposed, the gazebo would be 38' from the shoreline.

Mr. Wilkinson asked if there was anyone present who opposed the petition or wanted to speak or ask questions regarding this petition. There was no one.

The Board discussed including the existing shed with this petition. Mr. Klein made a motion to approve the petition as proposed, including the current location of the existing shed; Mr. Wright seconded. There being no further discussion, Mr. Wilkinson called for a vote. All members voted in favor of the petition.

18-W-VAR-9 Burnell Gump, 1210 W. Wayne Street, Fort Wayne, requested a development standards variance to allow for the construction of a structure within the required front yard setback. The property is located on the east side of N. 350 North, across from 5805 N. 350 East in Section 7 of Smith Township and is zoned LR, Lake Residential District.

Mr. Bilger reviewed the staff report, providing details of the petition. He explained that the petition proposes to build a 30'x60' garage with 1,000 square feet of living space upstairs, which would be considered a single-family dwelling per the zoning ordinance. He explained that as proposed, the setback would be 16' from the right-of-way line, which is roughly no closer than the existing garage and would result in a 19' variance. He referred to the aerial view of the property, explaining that the reasons for the petition were to avoid cutting down large trees as well as avoiding a natural drain on the property. He referred to the site plan, stating that the measurement of 16' appears to be measured from the building's overhang. He reviewed the criteria for the Board to consider.

Burnell Gump presented his request, explaining that the existing garage has structural issues and he wants to demolish it. He explained that his intent is to live in the upstairs dwelling while remodeling his cottage across the street and then use the living space for family visitors. He explained that the proposed location would prevent him from removing the Poplar tree that is located on the property. He explained that he designed the garage so that you do not have to back out onto the street, allowing for safer traffic. He explained that the building will be built conventionally, improving the value. He explained that the proposed location would also be conveniently accessible from his home across the street. He also explained that the setback was measured from the eave and will be generally in line with what is existing.

Mr. Wilkinson asked if there was anyone present who opposed the petition or wanted to speak or ask questions regarding this petition. There was no one. With there being no further discussion, Mr. Wilkinson called for a vote. All members voted in favor of the petition.

18-W-VAR-11 Paul Newman, 5000 E. Duffin Street, Columbia City is requesting a development standards variance to allow for the construction of a pole building within the required front yard setback. The property is located on the northeast corner of Duffin Street and Simonson Street in Section 22 of Union Township and is zoned RR, Rural Residential District.

Mr. Bilger reviewed the staff report, providing details of the petition. He explained that the petition is proposing to build a 24' x 40' pole building on the western part of the property, with the 26' setback from Duffin Street to match the existing structure on the eastern part of the property, which previously received a variance in 2011. He explained that the site plan indicated a 35' setback, which may be due to the imprecision of the GIS map dimensions. He explained that because this is a new structure, a new variance is required. He explained that the petitioner is

also requesting a 27' variance from the right-of-way along Simonson Street, as the code requires a 40' front setback. He also made note that prior to 2011, there was a modular home on the property with similar setbacks as what is being requested for this new structure. He referred to the aerial view of the property, mentioning that the County Engineer had reviewed the petition and had some concern that the proposed structure may limit visibility for traffic due to the arrangement of the streets in an effective S-curve, intersection, and grades coming from the railroad overpass. In addition, a driveway permit will be required. He proposed the possibility of shifting the building to the east in order to reduce the variance.

Paul Newman presented his petition. He explained that he is wanting to store his motor home and trailer in the proposed building, which would result in minimal traffic. He explained that the line of sight would not be affected as the building would not extend any closer to the street than an existing 5' shrub. He explained that he did not want to move the building any further east due to an existing slope.

Mr. Wilkinson asked if there was anyone present who opposed the petition or wanted to speak or ask questions regarding this petition. Ronda Salge, 5465 N. 650 East, Churubusco, stated she did not oppose the petition, but did have a few questions. She asked how tall the side walls would be. She also asked whether the school bus came down over the bridge past the property on its way to the school.

Mr. Bilger asked whether the driveway would be located off of Simonson Street or Duffin Street and the petitioner stated he would continue the drive as it is off of Simonson Street. Mr. Bilger again confirmed that a driveway permit would be needed as there is not one on record.

There being no further discussion, Mr. Wilkinson called for a vote. All members voted in favor of the petition.

18-W-SE-8 Amos Yoder, 4757 W. 300 South, Columbia City, requested to amend a previously approved special exception for a lumber products business. The property is located on the south side of W. 300 South, at the south end of S. Whitley Road in Section 25 of Cleveland Township and is zoned AG, Agricultural District.

Mr. Bilger reviewed the staff report, providing details of the petition. He explained that the petitioner is requesting to modify a previously granted special exception that was most recently approved in 2009. He explained that a condition of the currently approved special exception is that the business cannot be transferred and Mr. Yoder would like to be able to transfer the business in the future to any of his children. He explained that Mr. Yoder would also like to amend the hours of operation. He referred to the aerial view of the property, demonstrating that the petitioner has made some progress on cleaning up the property. He reviewed the suggested conditions, explaining that he included the conditions from the previously approved special exception and amended the two relating to hours of operation and ownership, as requested by the petitioner. He recommended that if the Board approves the request for transferring ownership that the petition provides a list of the names of each of his children to be kept on record.

Mr. Yoder presented his request, explaining that as he ages, he is stepping away from the business more and would like to give his children the opportunity to be more involved. He explained that he has made some changes such as downsizing the number of employees, using upgraded equipment, and buying pre-cut lumber versus sawing the lumber on-site. He stated that when they were sawing the lumber themselves, the property was a mess and he knew it bothered his neighbors which is why he changed that aspect of the business. He explained that the business currently produces pallets and shipping boxes. He stated that he will still be involved with the business, but more behind the scenes.

Mr. Wilkinson asked if there was anyone present who opposes the petition or anyone who wanted to speak or ask questions regarding this petition.

Joan Klein, 4585 W. 300 South, Columbia City, expressed her concerns regarding the extended hours and the possible additional noise during those hours. She stated that she also is concerned for her safety and the safety of her neighbors as she was nearly hit once while walking by a truck.

Will Klein stated that he would be abstaining from the vote as well as from the Board discussion as he would like to express his concerns as a neighbor. He stated that he understands the business is Amos's livelihood and he supports the business. He explained that he believed the hours of operation would be more harmonious if they were 6:30 am to 5:30 pm Monday through Friday and 6:30 am to 3:30 pm on Saturday. He explained that there have been times when the business is operating until 9 pm and the noise is disturbing. He asked that the pallets and the boxes not be constructed on neighboring properties as the special exception is approved for Amos's property only. He requested that a fence be constructed around the high stacks of lumber stored on the property. He requested the business not be allowed to expand any further without rezoning the property to an industrial zoning district as this is an industrial operation. He also requested that the petitioner caution the truck drivers that haul the lumber to abide by the speed limit as speeding has been an issue.

Mr. Wilkinson offered Mr. Yoder the opportunity to rebut. Mr. Yoder stated that he believed Mr. Klein is fair and explained that he would be willing to put up a fence on the east end of the property. He explained that he does request that the trucks be considerate of the time of day they arrive, but they do not always comply. He explained that the Whitley County Solid Waste Department removes some of the scrap and this may contribute to the traffic at undesirable hours. He stated he would communicate to everyone to accommodate the hours of operation, although there are some situations that are difficult to avoid. He stated he appreciates his neighbors and would be willing to operate during the hours suggested by Mr. Klein.

Joan Klein again expressed her concerns over the noise with the extended hours and asked where the scrap wood is stored. Mr. Yoder responded that the scrap is stored on the south side of the building.

Mr. Wilkinson asked Mr. Yoder if he currently lives on the property and whether he intends to move. Mr. Yoder stated he does live there, but plans to move to another location so he can

separate his work life from his home life.

The Board asked Mr. Amos some clarifying questions and discussed the hours of operation, the transfer of ownership, and the location of the fence.

Mr. Wright made a motion to approve the petition with the following conditions:

1. The Special Exception is granted as presented and per the site plan.
2. The Special Exception is granted for the applicant and/or any of his 9 children and is otherwise non-transferable without further Board approval.
3. Operating hours shall not extend beyond the hours of 6:30 am to 5:30 pm, Monday through Friday, and 6:30 am to 3:30 pm on Saturdays.
4. All raw products are to be stored on the South side of the building with the exception of the product stored inside and product that is waiting to be brought into the building or picked up. Raw product waiting to be picked up is allowed outside for one day.
5. Any other conditions from prior approvals are still in effect.
6. A 6' privacy fence running north/south will be constructed on the east end of the property per the request of a neighbor to limit visibility of the business.

Mr. Denihan seconded the motion and the motion passed with a 3-0 vote, with Mr. Klein abstaining.

OTHER BUSINESS

Mr. Bilger explained that Mr. Yoder will be subdividing his property in order to separate the business from his home. He explained that the surveyor, Kevin Michel, is requesting some guidance from the Board as there will be some setback variances. Following brief discussion, the Board determined that as long as there were no encroachments, they would be willing to work with what Walker & Associates is able to draw up.

Mr. Bilger updated the Board on 17-W-VIO-1, showing current photos he had taken of the property in Collins. He explained that in his opinion the property was now in full compliance and is recommending no further action be taken. Following brief discussion, the Board agreed with this recommendation. Mr. Wright made a motion to close the file; Mr. Klein seconded. The motion passed unanimously.

ADJOURNMENT

There being no further business to discuss, Mr. Wilkinson declared the meeting adjourned at 9:12 p.m.