

**MINUTES**  
**WHITLEY COUNTY BOARD OF ZONING APPEALS**  
**REGULAR MEETING**  
**July 23, 2019 7:30 P.M.**

**MEMBERS PRESENT**

Sarah Lopez  
Danny Wilkinson  
Doug Wright  
Tim Denihan  
Elizabeth Deckard

**ATTORNEY**

Dawn Boyd

**MEMBERS ABSENT**

None

**STAFF**

Nathan Bilger  
Mark Cullnane

**VISITORS**

There were 7 visitors who registered their attendance at the July 23, 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 7:30 p.m. Mr. Bilger introduced Mr. Cullnane, a new hire in the Columbia City/Whitley County Joint Planning and Building Department. Mr. Cullnane read the roll call. Ms. Deckard was not present when roll call was read.

**CONSIDERATION AND ADOPTION OF THE MAY 28, 2019, AND JUNE 25, 2019, REGULAR MEETING MINUTES**

Mr. Bilger stated that due to being short-staffed, the May 28, 2019, and June 25, 2019, minutes were not yet ready for review.

**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, including what happens when only four members are present.

**OLD BUSINESS**

**19-W-VAR-7**

Granite Ridge Builders requested variances of the required front yard and side yard setbacks on property they plan to subdivide. The 60 acre property is located on the northwest corner of 700 South and 800 East in Jefferson Township.

Mr. Bilger stated that petitioner has requested a continuance for the rezoning petition of the same property, thereby resulting in a request for continuance of the variance petition.

## **NEW BUSINESS**

### **19-W-SE-3**

Clara North Shearer requested a special exception for a mobile home on her property at 3741 W. 800 North, Columbia City. The property is located on the northwest corner of 700 South and 800 East, approximately ¼ mile west of 350 West, in Section 35 of Etna-Troy Township.

Mr. Bilger summarized the staff report and reviewed the findings of fact criteria.

Ms. Deckard arrived at approximately 7:36 P.M.

Mr. Bilger stated that the petition appeared to comply with pertinent statutes and ordinances and gave a favorable recommendation with suggested conditions.

Mr. Wilkinson asked for petitioner to speak. Clara North-Shearer, 3741 W. 800 North, Columbia City, stated that she wants to place a mobile home on her property to replace the one that currently exists.

Mr. Wilkinson asked if she intends to remove the mobile home that is currently there once the new one is granted a certificate of occupancy. Ms. North-Shearer responded that is correct.

Mr. Wilkinson asked if the Board had any questions of the petitioner. Hearing none, Mr. Wilkinson asked if there were any individuals who wanted to speak regarding this petition. Hearing none, Mr. Wilkinson closed the public hearing.

Mr. Wright made a motion to approve petition 19-W-SE-3 with the following conditions:

1. The special exception is granted for the applicant and is non-transferable. The mobile home must be removed from the property within six (6) months of being vacated by Clara North Shearer.
2. The special exception must be renewed each year through the Board of Zoning Appeals staff as long as the mobile home remains on the property.
3. The special exception is granted for a period of 5 years. If the applicants wish to continue the use of the mobile home, approval must be obtained through the Board of Zoning Appeals staff.
4. Verification of the age of the mobile home must be submitted to the staff that verifies the mobile home as 1981 or newer.
5. No attached additions or structures shall be constructed to the mobile home.
6. The existing mobile home shall be removed within six (6) months of the placement of the new mobile home.

Mr. Denihan seconded, and the motion passed 5-0.

### **19-W-VAR-9**

City Ford requested a variance of the allowable height of a pole sign and the total number of pole signs allowed per parcel in order to permit an Electronic Message Center sign at 3040 E.

Business 30, Columbia City. The property is located on the southeast corner of Business 30 and US 30, in Section 17 of Union Township.

Mr. Bilger summarized the staff report and reviewed the findings of fact criteria. The variance request is to allow for the installation of a pole sign that exceeds the maximum height and sign face area, is the second pole sign on the property, and contains an Electronic Message Center. He then provided suggested conditions if the request were approved.

Mr. Wilkinson asked for petitioner to speak. Scott West, 3100 E. Business 30, Columbia City, stated that the petitioner is requesting a development standards variance to increase their visibility along US 30. He stated that the location, height, and area being requested is necessary because of a wooded area to the southeast of the proposed sign location that impedes the view of westbound traffic on US 30. He also stated that petitioner desires to place an electronic message center in order to convey information about two dealerships, City Ford and City Chevrolet, owned by the petitioner on the subject and adjacent properties.

Mr. Wilkinson asked the Board if there were any questions for Mr. West. Mr. Wilkinson asked for clarification of why petitioner selected the proposed location of the sign for which the variance is being requested.

Kasey Shirey, 3100 E. Business 30, Columbia City, stated that petitioner wants to avoid potential future cost associated with replacing or moving the sign in the event that the state of Indiana constructs an overpass on US 30 that impedes visibility of the sign.

Mr. Wilkinson asked if the Board had any additional questions of the petitioner. Hearing none, Mr. Wilkinson asked if there were any individuals who wanted to speak regarding this petition.

Todd Smith (no address given) stated that the sign has the capacity to be adjusted so that electronic messages can be modified so that they adhere to suggested conditions presented by staff.

Mr. Wilkinson asked if there were any other individuals who wanted to speak regarding this petition. Hearing none, Mr. Wilkinson closed the public hearing.

Mr. Wright made a motion to approve petition 19-W-VAR-9 as presented with the following conditions:

1. The sign shall not appear to flash, undulate, pulse, or portray explosions, fireworks, flashes of light or blinking or chasing lights.
2. Electronic messages may not change more rapidly than once every one and one-half (1.5) seconds.
3. Electronic messages may not require more than ten (10) seconds to display in its entirety.
4. The sign shall have a sensor or other device that automatically determines the ambient illumination and be programmed to automatically dim according to ambient light conditions.

Ms. Deckard seconded, and the motion passed 5-0.

## **19-W-VAR-10**

Jason and Heidi Forschner requested a variance of the front setback and building line requirements in order to construct a house and attached garage on Lot 3, Bear Creek subdivision. The property (more commonly known as 5079 N. Elder Road, Larwill) is located on the south side of Elder Road, approximately  $\frac{3}{4}$  mile north of Lincolnway in Section 18 of Etna-Troy Township.

Mr. Bilger summarized the staff report and reviewed the findings of fact criteria. He stated that the petition appeared to comply with the tests found in pertinent statutes and ordinances, but added that locating the proposed structure to the south could mitigate issues with topography that petitioner is facing at the currently proposed building site. Mr. Bilger stated that this is important because the proposed front yard setback of 12' from the platted right-of-way line is particularly close to the roadway, and that any reasonable options that could minimize the variance requested should receive consideration.

Mr. Wilkinson asked for petitioner to speak. Jason Forschner, 340 E Levi Lee Road, Lot 162, Warsaw, stated that the topography of his property prevents him from moving the house to the south.

Mr. Wright asked Mr. Forschner if he could rotate his house so that the axis was east-west instead of north-south, because this could have reduced the requested variance. Mr. Forschner stated that changing the orientation of the house would reduce his family's ability to enjoy their property.

Mr. Wright stated that he had reservations about allowing petitioner to place a house on a property in a manner that required a variance when the property was large enough that multiple other options existed that could allow petitioner to avoid the variance.

Mr. Forschner stated that he did not think his house was too close to the roadway and that the topography of the property prevented him from placing the house anywhere else on the property.

Mr. Bilger noted that the survey of the property and the subdivision plat did not definitively locate the centerline of Elder Road. This presents a problem because the right-of-way is measured from the centerline and the setback is measured from the right-of-way.

Mr. Wilkinson stated that a neighbor of the petitioner has questioned whether the pin location as described on petitioner's survey is accurate.

The Plan Commission members continued to discuss the survey of the property and petitioner's options placing his home with the petitioner.

Mr. Wilkinson asked if a staff member would be able to visit the property prior to construction to ensure that the front setback approved by the Board was being observed.

Mr. Bilger stated yes a staff member would check the setback during the inspection process as the home was being constructed.

Mr. Wilkinson asked the Board if anyone had any more questions for the petitioner. Mr. Denihan asked the petitioner to confirm that if he were to rotate the axis of the house it would place part of the house in a wooded area of the property. Mr. Forschner confirmed that this was correct.

The Board and petitioner continued discussing petitioner's options siting the home on the property.

Mr. Wilkinson asked if anyone wanted to speak in favor of or against this petition.

John Blakley, 5050 N. Elder Road, Larwill, stated that the nearest survey pin that he is aware of in the vicinity of this property is located in the driveway for 5000 N. Elder Road.

Ms. Deckard asked staff for clarification regarding from where the setback should be measured per ordinance.

Mr. Bilger stated that the setback is defined from the right-of-way line, and explained the difference between platted right-of-way line and assumed right-of-way line on a county road.

Ms. Deckard asked staff if the Board can determine from where the variance is measured or if the Board is required to measure the variance from a predetermined point such as the centerline or right-of-way line.

The Board and petitioner continued to discuss petitioner's options siting the home on the property. Mr. Bilger discussed the locations of the centerline of Elder Road and the quarter section line as depicted on the survey. Mr. Bilger suggested that potentially the Board could consider measuring the setback from the southern edge of the roadway as determined no later than a set date.

Mr. Wilkinson asked if the Board had any additional questions of the petitioner. Hearing none, Mr. Wilkinson asked if there were any more individuals who wanted to speak regarding this petition. Hearing none, Mr. Wilkinson closed the public hearing.

Mr. Wright made a motion to approve a variance from the required front yard setback with the following condition:

The front yard setback shall be 52' from the southern edge of the roadway of N. Elder Road as measured within one (1) year of today, July 23, 2019.

Ms. Lopez seconded, and the motion passed 4-1, with Mr. Denihan voting in opposition.

### **ADJOURNMENT**

There being no other business, Mr. Wilkinson adjourned the meeting at 8:41 P.M.