

MINUTES
WHITLEY COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING
May 28, 2019 7:30 P.M.

MEMBERS PRESENT

Sarah Lopez
Danny Wilkinson
Doug Wright
Tim Denihan
Elizabeth Deckard

ATTORNEY

Dawn Boyd

STAFF

Nathan Bilger

VISITORS

There were 7 visitors who registered their attendance at the May 28, 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. and Mr. Bilger read the roll call.

CONSIDERATION AND ADOPTION OF THE APRIL 23, 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 Mrs. Lopez to approve the minutes. The motion carried 4-0; Ms. Deckard had not yet arrived.

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

NEW BUSINESS

19-W-VAR-4

Robert Myers, 875 N. State Road 109, Columbia City requested a variance of the required minimum lot frontage. The property is located on the southwest side of 800 North, and is more commonly known as 4087 W. 800 North, in Section 35 of Etna-Troy Township and is zoned AG, Agricultural.

Mr. Bilger summarized the staff report and details of the petition. The petitioner currently owns two adjacent parcels, neither of which has road frontage. The northern parcel had frontage on 800N until the county road was vacated sometime in the 1970s or 1980s. On or around the time of vacation, the road was truncated about 150' east of the petitioner's current property line on the adjacent parcel, although it is believed that the petitioner owned both tracts at the time.

Ms. Deckard arrived at this point in the discussion of 19-W-VAR-4, approximately 7:33 P.M.

The splitting of the petitioner's parcel in 1995 into the current configuration predated the code requirement for road frontage. This allowed the construction of the petitioner's dwelling on the subject property in 1996.

The petitioner now desires to sell the dwelling by itself while retaining the surrounding undeveloped land, including a sizeable wetland to the north of the proposed parcel, which would create the proposed landlocked parcel. An access easement would be granted following the existing driveway. No platting is necessary for this split given the configuration of the proposed parcel and preceding splits from the parent parcels.

Mr. Bilger presented the review criteria upon which the Board must base its review. He stated concern that the proposed variance could be injurious to the public health, safety, and general welfare as landlocked parcels may over time become less accessible for public services such as emergency agencies or utilities. Since they are not ensured access to a public road, and surrounding properties may encroach more easily, landlocked parcels also can suffer from loss of adequate light, air, and convenience of access.

He added that it is not expected that this variance will adversely affect the use and value of the area adjacent to the property as there are no changes to improvements proposed or otherwise permissible that would not be permissible currently. He stated that the loss of a public road frontage by the historic vacation of the county road is a practical difficulty. The petitioner voluntarily gave up what frontage remained when splitting the property in 1995, although such a loss of frontage was permissible under the zoning code in effect at the time. At the present, the parcels are "lots of record," legally nonconforming upon the adoption of the current zoning code in 2006.

Robert Myers, 927 N. State Road 109, Columbia City, approached the podium to speak. He stated that the main reason he is requesting this variance is to maintain access to the farmland to the south of the property.

Mr. Wilkinson asked Mr. Myers if he lives at the 4087 W. 800 North, and Mr. Myers responded that he does live there.

Mr. Wilkinson asked if Mr. Myers intends to sell this property, and Mr. Myers stated that he does intend to sell this property.

Mr. Wilkinson asked if there were any questions from the Board.

Mr. Wilkinson requested confirmation that the variance currently before the Board is only for the property at 4087 W. 800 North.

Mr. Bilger confirmed that the variance currently before the Board is only for the property at 4087 W. 800 North.

Mr. Wright asked if approval of this variance request would result in any appreciable changes to the boundaries of the property at 4087 W. 800 North.

Mr. Bilger stated that the point of this variance request was to ensure that an ingress, egress, and utility easement is in place that will guarantee Mr. Myers access to property to the south that he currently farms.

Mr. Wilkinson asked if this request was to create an easement for access to W. 800 North and for utilities.

Mr. Myers stated that utilities come in from the west, off Etna Road.

Mr. Wright asked Mr. Myers if he intends to build on the larger parcel to the south that is currently landlocked.

Mr. Myers stated that he does not intend to build on the larger parcel to the south that is currently landlocked.

Mr. Wilkinson asked for members of the public to speak. Hearing none, he asked for a vote on the petition. The variance petition passed unanimously 5-0.

19-W-VAR-5

Kenneth and Jane Gick, 2099 E. 750 North, Huntington, requested a variance to allow for a home within the required side setbacks. The property is located on the west side of W. Buckles Road on Loon Lake and more commonly known as 2729 W. Buckles Road, in Section 25 of Etna-Troy Township and is zoned LR, Lake Residential.

Mr. Bilger summarized the staff report and details of the petition. The petitioner is requesting a development standards variance to allow the rebuilding of a dwelling on their property at 2729 West Buckles Road. The property is Lot 4 of Rickett's First Addition to Loon Lake Resort, about 125' north of the intersection with Arnold Road.

As proposed, a new two-story dwelling would be constructed utilizing approximately the same footprint as the existing one-story dwelling dating from the 1930s. The new structure would extend somewhat nearer the lake, but would retain the existing side yard setbacks of 2.9'± on each side.

The zoning code requires a 5' side setback in LR. The existing dwelling enjoys legal nonconforming side setbacks due to its age. Removal of the structure to construct the new dwelling would remove the legal nonconforming status.

Mr. Bilger presented the review criteria upon which the Board must base its review. He stated that the continuation of noncompliant setbacks can degrade the purpose of the zoning code standards, which degrades the general welfare, but otherwise would not likely be injurious. He stated that there likely would be no substantial impact on use and value, and that there may be practical difficulties since the proposal would result in constructing a building-code compliant structure rather than a remodeled structure with legal nonconforming setbacks.

Ken Gick, 2099 E. 750 North, Huntington, approached the podium to speak. He stated that the proposed new home would extend closer to the lake as a result of the addition of a screened in front porch, but that the new structure would maintain existing side yard and rear yard setbacks.

Mr. Wilkinson asked if the Board had any questions of the petitioner, or if any members of the Board were opposed to this petition. Board members neither had questions of the petitioner nor expressed opposition to the petition.

Mr. Wilkinson asked for members of the public to speak. Hearing none, he asked if the Board would like to further discuss the petition. There was no further discussion.

Mr. Wilkinson asked for a vote on the petition. The variance petition passed unanimously 5-0.

19-W-VAR-6

Stephanie Stewart & Amy Biggs, 1880 E. Linker Road, Columbia City, requested variances to allow for the construction of a deck within the required front/lake-side and side setbacks. The property is located on the south side of Linker Road, ½ mile east of State Road 9 at Big Cedar Lake in Section 2 of Thorncreek Township and is zoned LR, Lake Residential.

Mr. Bilger summarized the staff report and details of the petition. Petitioners are requesting a development standards variance to allow the rebuilding of a deck on their property at 1880 East Linker Road. The property is comprised of Lots 7 and 8 of Barber's Third Addition to Tri-Lakes Resort.

The property is currently improved with a single-family dwelling and detached garage. The petitioners had been granted a variance in 2012 for a room addition located within the side setback and for reconstruction of the existing deck within the front setback using the existing footprint. The addition was completed in 2012, but the deck was not rebuilt.

The petitioners are now seeking to rebuild the deck wider and deeper than the deck considered in 2012. The existing deck is approximately 24'x10', resulting in the approved 19' lakeside setback. The proposal is for a 28'x14' deck, resulting in a 15' lakeside setback.

Mr. Bilger presented the review criteria upon which the Board must base its review, stating that public health, safety, and morals would not be injured, the continuation of noncompliant setbacks can degrade the general welfare. He stated that use and value would likely not be substantially affected, and noted that while the strict application of the Ordinance terms might result in practical difficulties, the Board should consider whether the variance arises from a particular condition of the property or from a self-imposition.

Amy Biggs and Stephanie Stewart, 1880 E. Linker Road, Columbia City, IN 46725, approached the podium to speak. Ms. Biggs stated that they did a major remodel in 2012, and that a portion of that remodel included changing out the deck. The current deck is approximately 25 years old. Ms. Biggs stated that she has spoken with neighbors to both the left and right, and that both parties are supportive of petitioners' intended deck improvements.

Mr. Wilkinson asked petitioners for more information about the deck. Ms. Biggs stated that the ground level deck area has no access except from the side porch area on the west side of the property. An existing sliding glass door provides access to the second story deck.

Mr. Wilkinson asked if the Board had any further questions. He then asked for members of the public to speak. Hearing none, he asked if there was any further discussion. Mr. Wilkinson asked for a vote on the petition. The variance petition passed unanimously 5-0.

OTHER BUSINESS

Mr. Bilger thanked those who attended the training session the previous week, and stated that there had already been one or two petitions filed for the next month's meeting.

ADJOURNMENT

Mr. Wilkinson adjourned the meeting at 7:57 P.M.