

MINUTES
WHITLEY COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING
August 27, 2019 7:30 P.M.

MEMBERS PRESENT

Kelley Scheiss (alternate)
Danny Wilkinson
Doug Wright
Tim Denihan
Elizabeth Deckard

ATTORNEY

Dawn Boyd

MEMBERS ABSENT

Sarah Lopez

STAFF

Nathan Bilger
Mark Cullnane

VISITORS

There were 20 visitors who registered their attendance at the August 27, 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 7:34 p.m. Mr. Cullnane read the roll call.

CONSIDERATION AND ADOPTION OF THE MAY 28, 2019, JUNE 25, 2019, AND JULY 23, 2019, REGULAR MEETING MINUTES

Mr. Bilger stated that the May 28, 2019, June 25, 2019, and July 23, 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.

OLD BUSINESS

Mr. Bilger stated that Granite Ridge Builders withdrew their petition, 19-W-REZ-6, for rezoning of a 60 acre property located on the northwest corner of 700 South and 800 East in Jefferson Township. A related variance petition, 19-W-VAR-7, is currently tabled and is expected to be withdrawn.

Mr. Wilkinson briefly explained the procedure for conducting the meeting.

NEW BUSINESS

19-W-VAR-11

Judith Bruck requested a variance of the required side yard setback for a detached garage at 2693 E. Lakeview Avenue, Columbia City, IN 46725. The property is located on the north side of

Lakeview Avenue, just west of Fish Hatchery Road in Section 12 of Thorncreek Township, and is zoned LR, Lake Residential.

Mr. Bilger summarized the staff report and reviewed the finding of fact criteria. The petitioner has proposed a 14'x24' detached garage to replace an existing 10'x20' garage/shed. Per the submitted plot plan, the new garage would be located with the same setbacks as the existing garage: 2.8'± from the west property line and 9' from the Lakeview Avenue right-of-way line. Because of the demolition of the garage, the legal nonconforming setbacks would be removed as well.

Larry Trumbull, 1824 E. Poplar Road, Columbia City, approached the podium to speak on behalf of the petitioner.

Mr. Trumbull stated that petitioner is interested in being able to view the driveway from the back (street-facing) of the house. Mr. Trumbull addressed concerns about access to the lake shore for public safety officials between the proposed garage and structures on the property directly to the west, 2685 E. Lakeview Avenue.

Mr. Wilkinson asked the Board if it had any questions for petitioner.

Mr. Wright asked Mr. Trumbull to confirm that there will be 4-4.5' between the proposed garage and existing shed on property directly to the west. Mr. Trumbull stated that there is probably 4.5-5' between the proposed garage and existing shed directly to the west.

Mr. Wilkinson asked the Board if it had any additional questions for Mr. Trumbull. Mr. Wilkinson then asked if any audience members wanted to speak regarding the petition.

Ronda Salge, 5465 N. 650 East, Churubusco, asked the Board if it thought that a total of 5' is enough room for first responders to get a gurney between the proposed garage and existing shed. Mr. Wilkinson stated that he thought first responders could access the lake shore through the west side of the property.

Mr. Wilkinson asked if any additional audience members wanted to speak regarding this petition. Hearing none, Mr. Wilkinson closed the public hearing.

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

19-W-VAR-12

Daniel and Penny Atkinson requested a variance of the required side yard setback and front yard setback in order to construct a shed on a property located on the south side of E. Wilcken Road, approximately 1/5 mile west of E. Schram Avenue in Section 11 of Thorncreek Township, and is zoned LR, Lake Residential.

Mr. Bilger summarized the staff report and reviewed the findings of fact criteria. The petitioner has proposed a 20'x20' shed to replace an existing shed. Per the submitted plan, the new shed would be located with approximately the same setbacks as the existing shed: 1'± from the west property line and 15' from lake side property line. Because of the demolition of the existing shed, the legal nonconforming setbacks would be removed as well. The location of the shed is

within the regulatory floodplain; the proposed structure would comply with the regulations of the flood code.

The petitioner owns the adjacent property to the west. Since the property is not combined as one, and since the proposed improvement does not cross the property line, the required side setback is to be enforced.

Since this lot has lake frontage, front setback standards apply to the lake side. The required minimum front setback is 35' and side setback is 5', necessitating a request for a 20' front variance and a 4' side variance.

The petitioner, Daniel Atkinson, 2240 E. Wilcken Road, Columbia City, stated that he needs more storage space and that replacing the existing storage shed with a larger structure would provide a remedy. He said that the proposed location was confirmed by an engineer to be the most appropriate site on the property to locate the proposed structure.

Mr. Wilkinson asked the Board if it had any questions for the petitioner. Hearing none, Mr. Wilkinson asked if any audience members wanted to speak regarding the petition. Hearing none, Mr. Wilkinson closed the public hearing and asked for a vote on the petition. The variance petition passed with a vote of 5-0.

19-W-SE-4

Jon Dock requested a special exception approval to permit a kennel use at 685 N. State Road 5, Larwill. The property is located on the west side of State Road 5, ½ mile south of Old Trail Road in Section 4 of Richland Township, and is zoned AG, Agriculture.

Mr. Bilger summarized the staff report and reviewed the findings of fact criteria. The petitioner has proposed to construct a 20'x40' building containing 16 kennels with external runs. Also proposed are three fenced outside exercise areas and a separate driveway and parking area, as shown on the site plan. The petitioner intends to run a perimeter security fence approximately 12' from the north, east, and west sides of the kennel. A sign would be installed on the existing driveway.

An average of 7-10 dogs per week is expected, with additional dogs boarded during peak times. A specific maximum number of dogs was not submitted, but given that there are 16 kennels proposed, that may be the maximum number of animals as well. An estimated 5 pick-up/drop-offs could occur per day. The only employee noted is the wife of the petitioner.

Mr. Bilger also noted that the petitioner received special exception approval in 2015 for a kennel located at 4780 W. 600N (known as Mud Creek Kennels). If approved, they would relocate the kennel to this property. One complaint was noted in the file about that operation from May 2016 regarding dogs that had gotten loose. No other complaints have been recorded in the file.

Per the zoning code, a "place primarily for keeping of four (4) or more adult dogs" is defined as a kennel. Because the petitioners live on the property, a traffic-generating home occupation approval might apply, but the area of the kennel exceeds the maximum allowable as a home

occupation. This request should then be reviewed for a kennel alone. Mr. Bilger stated that the petition appeared to comply with pertinent statutes and ordinances.

The petitioner, Jon Dock, 4780 W. 600 North, stated that he and his wife want to expand their kennel, but have limited space to do so at their current location.

Mr. Wilkinson asked the Board if it had any questions for the petitioner. Hearing none, Mr. Wilkinson asked Mr. Dock his thoughts on the proposed screening mentioned in suggested condition number five of the staff report. Mr. Dock stated that suggested condition number five was not overly burdensome and that he is intending to place some form of landscaping along State Road 5 to provide screening.

Ms. Scheiss stated that the current location is very well kept and commended Mr. Dock for a good job running his business.

Mr. Bilger asked Mr. Dock if the suggested condition of sixteen (16) dogs being the maximum allowed in the kennel at any one time was acceptable. Mr. Dock stated that it was acceptable.

Mr. Wilkinson asked the Board if it had any more questions for the petitioner. Hearing none, Mr. Wilkinson asked if anyone from the audience had any comments or questions regarding this petition. Hearing none, Mr. Wilkinson closed the public hearing.

Mr. Wright made a motion to approve petition 19-W-SE-4 with the following conditions:

1. The Special Exception is granted for the applicant and is non-transferable.
2. The Special Exception is granted as presented and per the site plan.
3. There shall be no more than 16 dogs on the property as part of the Special Exception.
4. Pick up and drop off of dogs will be limited to the hours of 7:00 a.m. to 5:00 p.m.
5. Screening is required along the frontage of SR 5. Eight 1½" shade trees spaced 50' on center along the frontage is suggested.

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

19-W-SE-5

Jeffery and Sherri Sickafoose requested a special exception approval to permit a Class 2 Confined Feeding Operation at 5570 W. State Road 205, South Whitley. The property is located on the north side of W. State Road 205, approximately ½ mile west of S. 500 West in Section 35 of Cleveland Township, and is zoned AG, Agriculture.

Mr. Bilger summarized the staff report. The current proposal is to construct a new 81'x255' farrowing/gestation building to the northeast of an existing gestation barn. No changes are proposed to the existing buildings.

The barn would contain up to 120 sows and litters and 640 gestating sows, with 782 days of self-contained manure storage. Using the animal unit calculation of §5.17 of the zoning code, sows are 0.5 animal units (AU), and nursery pigs (up to 15lbs) are 0.1 AU. While the IDEM does not separate nursing piglets from the sow in their permit, using instead the term "sow and litter," to calculate the zoning code animal units, staff used the assumption that there would be,

conservatively, 12 piglets per sow, making each “sow and litter” equivalent to 1.7 AU. Thus, in this new building, there would be up to a total of 524 AU.

Mr. Bilger stated that the total animal unit calculation would be approximately 1,565 animal units on the property including the structure proposed in this petition. The petitioner has decided to round the special exception request up to 1,570 animal units.

Mr. Bilger presented aerial views of the property along with the zoning map, floodplain map, and site plan. He reviewed the findings of fact criteria, and stated that the petition appeared to comply with pertinent statutes and ordinances.

The petitioner, Jeff Sickafoose, 5570 W. State Road 205, South Whitley, stated that his family purchased the farm in 1991, and have since that time raised a family. Mr. Sickafoose and his wife have petitioned for a special exception to expand their pork production operation.

Mike Veenhuizen, 2967 S. Honey Creek Road, Greenwood, IN 46143, stated that the petitioners wish to expand their operation, support their family, and contribute to the Whitley County economy. He stated that the expansion being reviewed with this petition is similar to the last expansion on the property in 2006. Mr. Veenhuizen and his team have moved the proposed structure north to comply with the County's setback requirements from the nearest off-site residence.

Mr. Wilkinson asked the Board if it had any questions for the petitioner.

Mr. Bilger asked if the total number of animal units is a theoretical maximum because all of the buildings on the property will not be at capacity at any one time. Mr. Veenhuizen stated that 10-15 percent of the space in a building is typically vacant at any one time.

Alayne Johnson, 6952 E. 150 North, Columbia City, stated that screening requirements found in suggested condition number three around barns should take ventilation into so that the animals have adequate fresh air.

Joe Lopez, 5300 N. 250 West, Columbia City, stated his opposition to the screening requirements found in suggested condition number three. Mr. Lopez stated that petitioners should not have to hide their farming operation and barns, and that screening should be a suggestion not a mandate.

Rhonda Salge, 5465 N. 650 East, Churubusco, stated that previous petitions pertaining to confined feeding operations had been controversial, but that confined feeding operations around the county add to the beauty of the county. She added that her and her husband consider Whitley County to be an agricultural area.

Mr. Wilkinson asked the Board if it had any questions for the petitioner. Hearing none, Mr. Wilkinson asked if anyone from the audience wished to speak for or against the petition. Hearing none, Mr. Wilkinson once again asked the Board if it had any questions for the petitioner. Hearing none, Mr. Wilkinson closed the public hearing. The Board discussed the conditions, in particular the suggestion for landscape screening.

Mr. Wright made a motion to approve petition 19-W-SE-5 with the following conditions:

1. Special exception is granted as presented and per the submitted site plan.
2. Special exception is limited to 1,570 animal units, as described in the submittal.

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

OTHER BUSINESS

Mr. Wilkinson asked Mr. Bilger if staff has received any applications for petitions to be heard at next month's meeting. Mr. Bilger stated that staff have so far received four applications for petitions to be heard at next month's meeting.

ADJOURNMENT

There being no other business, Mr. Wilkinson adjourned the meeting at 8:24 P.M.