

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

**21-W-SE-6**

**SPECIAL EXCEPTION**

Kati Parker  
4700 N. 50 West

**FEBRUARY 22, 2022**

**AGENDA ITEM: 1**

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This petition was continued from the December and January meetings to permit the petitioner to address issues regarding the shared driveway.

It was previously described as a traffic-generating home occupation, which was an imprecise classification. This report describes it as the more accurate Child Care Home special exception.

**SUMMARY OF PROPOSAL**

Current zoning: AG, Agricultural

Property area: 9.127 acres

The petitioner is requesting special exception approval for a licensed childcare home. The property consists of Lot 8 of Zumbrun's Third Addition, located on the east side of 50 West, about 1,500' south of 500 North in Section 16 of Thorncreek Township.

The petitioner's business, Kati's Daycare, has been in operation for some time as a State-licensed childcare home, caring for up to 16 children Monday through Friday from 6am until 5pm. The petitioner was unaware of the special exception requirement until recently. The petitioner then filed an application upon notification of the special exception requirement.

By zoning code definition, Child Care Homes caring for five (5) to fifteen (15) children, excluding those who reside in the residence, require State licensure as well as special exception approval through the Board of Zoning Appeals. Note that the State licensing rules changed since the adoption of the definition and now permit up to sixteen (16) children under a home childcare license. The requirements of §10.9 Special Exception Standards of the zoning code apply.

**REVIEW CRITERIA**

Indiana Code §36-7-4-918.2 and Section 10.9(A) of the Zoning Code authorize the Board to review special exceptions and 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 special exception shall not involve any elements or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the performance standards;**

As a use within a residence, it is unlikely that this proposal will have any elements or conditions that may be particularly dangerous, injurious, or noxious to other properties. Of the performance standards listed in §5.7, only the noise standard may be impacted by this request. Given the large size of the property and resultant separation from surrounding residences, the noise generated by this use should be mitigated to a level expected of a residential use. Otherwise, the request should generally comply with the performance standards.

- 2. The special exception shall be sited, or oriented and landscaped to produce a harmonious relationship of building and grounds to adjacent buildings and properties;**

The special exception is located within the existing residence and so would not change the relationship to adjacent buildings and properties.

**3. The special exception shall produce a total visual impression and environment that is consistent with the environment of the neighborhood;**

The special exception is located within the existing residence and so it has the visual impression and environment of a residential use.

**4. The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood; and**

There appears to be adequate parking and maneuvering space for the dropping off and picking up of children. Because the use could have only up to 16± additional vehicles per day (one per child, plus any employees), the trips generated would not have a significant effect on traffic congestion on the county road generally.

However, this use utilizes a driveway shared among four property owners. One of the owners noted to staff that traffic from this use creates congestion on the driveway and at the intersection with the county road, particularly during peak drop-off/pick-up times. This is worsened by the steep slope and partially shortened sight distance of the driveway intersection. The petitioner is seeking alternatives to the shared driveway to alleviate these difficulties.

As a separate issue, the same neighbor expressed concern about a home occupation use of a landscaping business that also creates traffic from this property. Staff has inquired about this use, and the petitioner stated that the business was not traffic generating. In the absence of solid evidence, it is staff's current understanding that the landscaping business is a permissible non-traffic generating home occupation. The Board may wish to investigate this situation further if they feel it contributes to the evaluation of this special exception.

**5. The special exception shall preserve the purpose of this Ordinance as stated in Section 1.4.**

The proposed use is a permissible special exception use of the AG district and does not appear to contravene the purpose of the Ordinance.

**SUGGESTED CONDITIONS**

Staff suggests the following conditions if the Board finds to approve the requested special exception:

1. The special exception is granted for the applicant and is non-transferable.
2. The special exception is granted as presented. If an alternative driveway arrangement is agreed upon, that arrangement is also included in this approval.
3. No more than one license for a childcare home may be obtained for this property without further Board approval.

Date report prepared: 1/19/22

**BOARD OF ZONING APPEALS RECORD OF ACTION**

Motion:

By:

Second by:

Approve

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Approve w/conditions

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Deny

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**Vote: Denihan Lopez Wilkinson Wolf Wright**

Yes				
No				
Abstain				

## Lean-To (10x40x10)

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Barn Pole (T3) (30x40x12)



