

**MINUTES
WHITLEY COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING
June 28, 2022
7:30 P.M.**

**Whitley County Government Center
Meeting Room A/B**

MEMBERS	PRESENT	ABSENT	STAFF
Tim Denihan		X	Nathan Bilger
Sarah Lopez	X		Brent Bockelman
Danny Wilkinson	X		
Doug Wright	X		LEGAL COUNSEL
Joe Wolf	X		Elizabeth Deckard
<i>Kelley Sheiss (alt.)</i>		X	

AUDIENCE MEMBERS

The list of audience members, in-person and electronic, is attached to these minutes. The 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. Bockelman read the roll call; the members present and absent are listed above.

CONSIDERATION OF PREVIOUS MEETING MINUTES

The minutes for the May 24, 2022 regular meeting were presented for review. Ms. Lopez made a motion to approve the minutes as presented. Mr. Wolf seconded the motion. The motion passed by a vote of 4-0.

ADMINISTRATION OF OATH

Ms. Deckard provided the oath to the audience members wishing to speak.

OLD BUSINESS

NEW BUSINESS

22-W-VAR-12

Mark and Dian Constant are requesting a development standards variance for an encroachment into the required rear yard, right side, and left side setback on their property located at 2728 East Island Court, in Section 12 of Thorncreek Township.

Mr. Bilger presented the staff report. He explained the nature of the request to construct a 36'X 24' addition with a 12'X 23' overhang on the east side. The proposed setbacks would be 2.1' and 1.4' side setbacks and 11.5' rear setback. Aerial views were provided to show the site plan, the

existing detached garage that would be removed, and the floodplain area. Explanation was given on how the floodplain issues were handled to comply with code. Review criteria was discussed.

Mark Constant, 2728 E. Island Ct., addressed the Board. He explained the project and uses of the addition. He explained that when he retires, this would be their permanent residence. He addressed the parking concerns that had been stated by neighbors.

Mr. Wilkinson asked for any questions from the public.

Peggy Lafontaine, 1616 E. State Road 124, Monroe Indiana addressed the Board. She discussed her concern with the parking situation at the property. She also shared her concern with the use of the addition to have sleeping area over the garage.

Mr. Constant addressed these concerns and stated that the addition will meet all the safety and building codes. Discussion was made about the parking situation in the area.

Hearing nothing further, Mr. Wilkinson asked for a vote. The motion was passed by a vote of 4-0.

22-W-VAR-13

Larry Arend is requesting a development standards variance for an encroachment into the required front yard and right-side setbacks for construction of a deck. The subject property, commonly known as 6390 E. McGuire Road, is in Section 10 of Smith Township.

Mr. Bilger presented the staff report and displayed aerial views of the property and constructed deck. He explained that the deck had been built without getting a permit. It was seen while doing other inspections in the area. The petitioner then applied for the variance and building permit. Mr. Bilger described the setbacks and compared these setbacks to other properties in the area. A variance of 22'± for the front setback and 3.4'± for the side setback were requested. Review criteria was discussed and stated that the structure would be in the floodplain. Due to its size, the deck would not need to be elevated.

Larry Arend, 6390 E. McGuire Rd. addressed the Board and explained the situation and hoping to be able to keep the deck he had built.

Mr. Wolf asked about the amount of use the walkway had by neighbors. Mr. Arend stated that he had not seen it used in the time he had lived there

Mr. Wilkinson asked for any questions from the public. Hearing none, he asked for a vote. The motion was approved by a vote of 4-0.

22-W-SE-9

Nicholas and Shenae Miller are requesting a Special Exception for a Plumbing Supply business. The subject property, commonly known as 4650 W. 750 North, is in Section 34 of Etna Troy Township, and zoned AG-Agricultural.

Mr. Bilger presented the staff report. He described the nature of the petition being a service business more than a retail business. Business had been in place for multiple years and the special exception need was brought up due to a new building structure being proposed. Aerial views were provided of the property and subject building. Mr. Bilger discussed the review criteria, and suggested the following conditions of approval:

1. The Special Exception is granted for the applicant and is non-transferable without Board approval.
2. The Special Exception is granted as presented and per the site plan.
3. The existing evergreen tree screen be maintained for the tenancy of the use.
4. Any outdoor lighting be oriented and shielded to prevent light spillage and/or glare onto surrounding properties.

Nick Miller, 4650 W. 750 North, addressed the Board. He explained the business story, reason for the petition, and his request for approval.

Mr. Wilkinson asked for any questions from the public. Hearing none, he asked for a motion.

Mr. Wright made a motion to approve 22-W-SE-9 with the following conditions:

1. The Special Exception is granted for the applicant and is non-transferable without Board approval.
2. The Special Exception is granted as presented and per the site plan.
3. The existing evergreen tree screen be maintained for the tenancy of the use.
4. Any outdoor lighting be oriented and shielded to prevent light spillage and/or glare onto surrounding properties.

The motion was seconded by Ms. Lopez. The petition was approved by a vote of 4-0.

22-W-SE-10

Kenneth Laux is requesting a Special Exception for a 2100 animal unit Confined Feeding Operation. The subject property is located on the west side of 350 West on the southwest corner of the intersection with Pook Road, in Section 6 of Washington Township, and Zoned Ag-Agricultural.

Mr. Bilger presented the staff report. He explained that this is a new location of a CFO on a property that was approved in the past. With this being a new location, this is a new stand-alone Special exception. Mr. Bilger displayed and explained the setbacks and separations. Standards and proposed values were discussed. Animal units on the CFO were discussed. Aerial views were displayed along with the site plan for reference. Review criteria were discussed, and the following conditions were recommended by staff.

1. Special exception is granted as presented and per the submitted site plan.
2. Special exception is limited to 2,100 animal units, as described in the submittal.
3. Prior to issuance of permits, a survey is required indicating the exact distances to the nearest three residences in order to verify compliance with the zoning standards.
4. As for any CFO case, the Board should discuss if any mitigation requirements are necessary. Staff has no specific suggestions at this time.

Mr. Bilger discussed the comment letter and information received from adjacent property owners regarding the project.

Mr. Wilkinson asked for clarification that the only change from the previous petition was the location of the building and the IDEM permitting. Mr. Bilger confirmed that the site location was the only change that he was aware of.

Melissa Lehman, 7070 S. 500 West, Topeka, and Kenneth Laux, 9665 S. Raber Road, addressed the Board. Melissa described the project and the process gone through to get the IDEM permitting. She asked that with the delays they have had, increased project cost, and the building location change being farther away from neighboring residents, the third condition of having a survey be removed as a requirement.

Mr. Wilkinson asked for any questions from the public.

Mr. Bilger stated that Dylan Poe, 3759 W. Pook Rd., electronically, stated his opposition to the petition. He asked for discussion to be made of wind breaks being installed.

David Kopson, 3192 W. Keiser Road, addressed the Board electronically and asked for windbreak be discussed and asked for a mechanically constructed windbreak, that would be immediately effective, be installed instead of trees that would take years to be effective.

Dylan Poe, 3759 W. Pook Rd., electronically, stated that windbreaks are not just for him but other neighbors in the surrounding area.

Melissa Lehman stated that she has not heard of a mechanical windbreak being used in this application and referred to the natural wooded landscape being a windbreak.

Mr. Wilkinson discussed the removal of the third condition for the survey.

Dylan Poe, 3759 W. Pook Rd., electronically commented that mechanical windbreaks do work to control odor and particulate matter from spreading.

Discussion was made about mitigation requirement and existing natural landscape.

Hearing nothing further, Mr. Wilkinson asked for a motion.

Mr. Wolf made a motion to approve 22-W-SE-10 with the following conditions:

1. Special exception is granted as presented and per the submitted site plan.
2. Special exception is limited to 2,100 animal units, as described in the submittal.

The motion was seconded by Ms. Lopez. The motion was approved by a vote of 4-0

ADJOURNMENT

Having no other business, Mr. Wilkinson adjourned the meeting at 8:35 P.M.

GUEST LIST

1. Chris Dillree.....6365 E. McGuire Rd
2. Jordan Dillree.....6365 E. McGuire Rd
3. LeeAnn Holmes6420 E. McGuire Rd
4. Todd Muehlmeier.....6420 E. McGuire Rd.
5. Larry Arend.....6390 E. McGuire Rd.
6. Mark Constant.....2728 E. Island Court
7. Nick Miller.....4650 W. 750 North
8. Shenae Miller4650 W. 750 North

- 9. Diana Laux9665 S. Raber Rd.
- 10. Chris KenyonGoshen, IN
- 11. Ken Laux9665 S. Raber Rd.
- 12. Debra Laux.....1810 W. State Road 14
- 13. Melissa Lehman9665 S. Raber Rd.
- 14. Kyle Laux.....9665 S. Raber Rd.
- 15. Randall Laux.....1810 W. State Road 14
- 16. Bob Baker6340 E. McGuire Rd.
- 17. Peggy Lafontaine1616 E. State Road 124, Monroe

GUEST LIST – ELECTRONIC

- 18. Sonya Emerick5865 E. State Road 14
- 19. David Kopson3192 W. Keiser Rd
- 20. Scott Kerr4004 W. Keiser Rd.
- 21. Dylan Poe.....3759 W. Pook Rd.