

MINUTES
COLUMBIA CITY BOARD OF ZONING APPEALS
REGULAR MEETING
OCTOBER 1, 2024
7:00 P.M.

WHITLEY COUNTY GOVERNMENT CENTER
MEETING ROOM A/B, LOWER LEVEL

MEMBERS PRESENT

Stacey Dumbacher
Cathy Gardner
Jon Kissinger, Chairman
Anthony Romano, Vice Chair
Dennis Warnick

MEMBERS ABSENT

STAFF

Nathan Bilger

ATTORNEY

Dawn Boyd (E)

(E)lectronic participant

AUDIENCE MEMBERS

Ten visitors signed the Guest List at the meeting; there was one attendee on the webcast. The Guest List is included below.

CALL TO ORDER/ROLL CALL/INTRODUCTIONS

Mr. Kissinger called the meeting to order at 7:00 P.M. Mr. Bilger read the roll with members present and absent listed above.

CONSIDERATION OF PREVIOUS MEETING MINUTES

Minutes of the August meeting were not yet available for consideration.

ADMINISTRATION OF OATH

Ms. Boyd administered the Oath to those in the audience wishing to speak.

OLD BUSINESS

There was no old business.

NEW BUSINESS

1. 24-C-VAR-4

Windsor, Inc., requested a variance of the front yard setback and building line requirements for the construction of homes on Lots 16 through 19 in Brennan's Addition, Section II-B. The subject properties were zoned R-1, Single-Family Residential District and located on the south side of Hawthorn Lane, just east of Brennan Street. The lot addresses were 972, 980, 988, and 996 E. Hawthorn Lane.

Mr. Bilger summarized the staff report. He stated that the request was to have a 25' front setback due to the amount of grading necessary to construct houses on the lots. The code requirement was a 35' front setback, and the subdivision was platted with a 35' building line.

He presented aerial views showing the petitioner's lots and the existing topography. He also displayed the petitioner's submitted illustration of the houses with 35' and 25' setbacks.

Mr. Bilger discussed the variance review criteria, stating that staff did not feel the request would be injurious to public health and morals, but the reduced driveway length may have impact on public safety if cars would overhang the sidewalk. He stated that the value would be minimally impacted. He felt that the value of adjacent properties to the south may could be adversely impacted if the 35' setback were maintained due to the increased cut required along that property line. He stated that the hill was a practical difficulty, especially in combination with the age of the development dating before current subdivision standards. However, the difficulties created by the hill could also be addressed by other means, such as a retaining wall, as used on other lots.

Mr. Bilger concluded by recommending the following conditions of approval:

1. Driveways shall be a minimum of 20' wide at the parking area.
2. The rear setback shall be a minimum of 25'.

Ms. Dumbacher asked Mr. Bilger why he included condition 2. He explained that it would prevent a house from being built with a larger volume than others in the subdivision. He said that if the Board felt that it was unnecessary, they did not need to include it.

Ms. Gardner asked why the Board had the right to consider a variance of the platted front building line since it was established by the Plan Commission in the plat. Mr. Bilger stated that the platted building line was a requirement of the subdivision code that would match the zoning code standard, so they would be one in the same. He continued that if a reduced setback were contemplated at the platting stage, it would have been considered by the Board prior to the Plan Commission review of the plat and establishment of the building line, since the Plan Commission could not approve reduced setbacks on its own. He did note that all owners in the subdivision plat received notice of the request, not just those designated as interested parties.

Having no further questions for staff, Mr. Kissinger asked the petitioner to speak.

Rob Wacker, Windsor Homes, explained why Windsor acquired the property. He stated that the lots were left vacant due to the slope and discussed impacts of the rear 20' utility easement and necessary drainage, need for a backyard for each house, and other aspects of the development. He said that the pad height for the lots would be 30" above curb and keeping the 35' setback would create very steep backyards.

Ms. Gardner asked whether Mr. Wacker had looked at the lots prior to purchasing them. He replied that he had and he had known that there would be significant grading needed. He said that he could put homes on the lots without a variance, but he felt they would not be the best homes for the neighborhood, especially without a backyard.

Ms. Gardner asked if a more rectangular floor plan would fit better than the submitted square house by using more side yard area. Mr. Wacker said that style of floorplan would result in a "double-wide look" that would not fit in as well.

Mr. Kissinger asked how deep the building footprint was. Mr. Wacker replied they would be 50' deep, but they had considered smaller. Mr. Kissinger asked if raising the building pad

would create a steep driveway; it would be steeper than desirable. Mr. Wacker said he was comfortable with the staff's suggestion to increase the rear setback if the front was reduced. Having no further questions for the petitioner, Mr. Kissinger asked for public comment.

Keith Romano, 915 E. Jefferson Street, said he missed the woods that had been behind his house, but he was coming to terms with them being gone. He said that the slope seemed to prevent development, but now that it was being built on he was concerned about drainage from his property. He had concerns about the proposed riprap slope and wondered if a retaining wall would be better.

Kim Coverstone, 944 E. Hawthorn Lane, said that if the houses were 10' forward, they would stick out "like a sore thumb". He stated that the petitioner knew what he was getting into and now was asking for a bailout. He said that the petitioner knew the houses would be unsaleable because of the lack of a backyard. Mr. Coverstone then said that a proposed retaining wall would be prohibited by the covenants of the subdivision that prohibit any wall over 5' tall. He continued about the architecture requirements of the covenants and problems already encountered during construction of the petitioner's first houses.

Jim Swanson, 993 E. Deer Path, expressed concern about the parking on street that would occur because of the limited parking available on the driveway, especially if parking on both sides of the street. Mr. Kissinger said that the condition to have a wider driveway would allow adequate room vehicles to be parked on the driveway as well as in the garage. Mr. Swanson said that the garage would not be used for parking and cars would be parked on the street. Mr. Kissinger and Swanson discussed the arrangement of parking on driveways, and setback effects.

Tom Ryan, 402 N. Brennan Street, also stated concerns about the effects of the reduced setback on parking. He said that 30% of the existing homes had cars parked on the street over the past weekend, so it was already a problem. Ms. Dumbacher asked to confirm that the lots in the center would not be buildable; Mr. Wacker affirmed that. She said that would allow more room on the street. There was additional discussion about the parking issue. Ms. Gardner asked if the streets were now public and not still the developer's; Mr. Bilger replied that they were public.

Having no further public comment, Mr. Kissinger closed the public hearing and asked for Board comments.

Ms. Gardner said that she did not feel comfortable granting a variance when the builder knew the limitations of the lots to start with, and the building line and easements were established as part of the plat. She expressed concern about the upkeep of the property if a variance was granted. She said that she thought a nice home could still fit on the lot without a variance.

Mr. Kissinger asked the petitioner if they had considered creating a multi-level floor plan that would step up to work with the grade. Mr. Wacker replied that the market was more for one level homes due to the aging demographic of the target market. He also said that he was not looking for a bailout since he could build on the lots within the setbacks, but having a variance would look better.

Ms. Dumbacher asked if he had intended to seek variances from the beginning. Mr. Wacker replied that it was not the intent but it had become evident as the lots were cleared and pads being developed.

Mr. Kissinger asked staff about the setbacks of the other subdivisions. Mr. Bilger replied that it depended on zoning district, with R-3 being 25' and R-2 being 30'. Recently developed Timbers Edge was R-3 with a mix of R-2 standards.

Mr. Romano asked if there had been variances in Brennan's Addition already. Mr. Bilger replied that there had been two that he was aware of, one of the side yard to permit a three-car garage and one for a 29' front setback due to misplaced survey stakes.

Mr. Warnick made a motion to approve 24-C-VAR-4 with the conditions recommended by staff. Mr. Kissinger called for a second of the motion. Having none, the motion died, and Mr. Kissinger asked for further discussion. Mr. Romano discussed the comments brought up about the woods and parking; no other members voiced more comments.

Mr. Kissinger asked for a new motion. Ms. Gardner made a motion to deny 24-C-VAR-4; Ms. Dumbacher seconded. Motion passed, 3-2, with Mr. Kissinger and Warnick voting against. Mr. Kissinger thanked the petitioner for his time.

2. 24-C-SE-4

Giving Gardens of Indiana, Inc., requested approval of a special exception for an educational facility located at 479 S. Towerview Drive. The 2.57 acre property was zoned R-1, Single-Family Residential District, and located on the northeast corner of Hanna Street and Towerview Drive.

Mr. Bilger summarized the staff report. The proposal was to place a 16'x60' modular classroom on the Giving Gardens site. The original approval from 2021 did not include classrooms, which were deferred to a future date. This proposal was not the permanent classrooms contemplated then, but would be an interim use until a permanent building could be built. Additionally, paved ADA parking area would be added. He displayed aerial photos for reference, the proposed site plan, and the site plan overlaid on an aerial. He showed a submitted photo of a similar modular unit located in Miami Village.

He concluded with the following suggested conditions of approval:

1. The special exception is granted as presented.
2. The modular classroom is to be removed upon completion of a permanent classroom building, or six (6) years from the date of approval, unless reapproved.
3. Conditions of approval #2-6 listed in 21-C-SE-2 are continued in effect.

Ms. Dumbacher asked what the "permanent classroom" would be. Mr. Bilger deferred to the petitioner to give more information on their plans.

Ms. Gardner asked to be reminded what the conditions of approval were in 21-C-SE-2. Mr. Bilger said he would find the approval and display it later in the meeting.

Having no further questions for staff, Mr. Kissinger asked the petitioner to speak.

Rachel Alexander, Giving Gardens, discussed the plans for the site. A permanent building may be built on the northeast part of the site, but that was still not finalized. She said that restrooms were a requirement of the state, and this building would meet that requirement, along with having a location during inclement weather. Most activities would still be outside. Whitley Manufacturing was donating the modular shell, and the Community Foundation was providing a grant to help complete it.

Ms. Dumbacher asked for a summary of the Giving Gardens program. Ms. Alexander explained that there were various outdoor activity programs in conjunction with other child education programs during the school year, with plans for more during the summer. She estimated there were about 75 students each week.

Mr. Romano asked why the classrooms would remove garden beds. Ms. Alexander replied that the need for the garden beds was reduced because of the shift of the program from growing market produce to growing produce to use as part of the education program.

Having no more questions from the Board, Mr. Kissinger asked for any comments from the public.

James Straws, 754 Thornapple Court, had concern about the location of the future permanent structure being on the northeast corner, which would be right behind his house. He expressed concerns about the inconsistent maintenance of the property. He asked if Whitley Manufacturing would provide the state seal on the modular. Ms. Alexander said she thought it would. Mr. Straws gave her information on the requirements so that she would not be surprised during construction inspections. There was a brief discussion about the inspections and requirements. Mr. Straws mentioned the potential for buried materials from when the site was filled by the City. Ms. Alexander said that there had been soil testing done, and any concerns found were being addressed.

Mr. Straws concluded with a request that the Giving Gardens property be a little better kept up. Ms. Alexander replied that they did hire a maintenance company to help, and they discussed some of the conditions of the property.

Having no more public comment, Mr. Kissinger closed the public hearing and asked for Board discussion or a motion.

Ms. Gardner asked Mr. Bilger if Chief Building Inspector Craig Wagner was made aware of the project and if the petitioner had discussed it. Mr. Bilger replied that they had.

Mr. Bilger displayed the conditions of approval from 2021 that had been requested earlier in the meeting. Conditions 2-6 would be reaffirmed with the current request.

Ms. Gardner also had concern about maintenance of the property and the overgrown appearance she had seen that morning. She asked about the future timeline of the program. Ms. Alexander gave some goals for the coming years.

Mr. Kissinger asked for a motion if there were no more questions. Mr. Romano made a motion to approve 24-C-SE-4 with the staff's recommended conditions; Ms. Dumbacher seconded. Motion passed, 5-0.

OTHER BUSINESS

Mr. Bilger presented the proposed 2025 meeting schedule. He said that all of the 2025 dates would fall on the regular first Tuesday of each month. He pointed out the three training sessions on the fifth Mondays; the fifth Monday session in December would be canceled. There was consensus of the Board that the schedule was acceptable as presented.

Mr. Bilger summarized the training session/workshop that had been held the night before. The topic was on the communities' comprehensive plans. He expressed satisfaction that there were many in-depth conversations among the attendees from the jurisdictions. He felt that those

discussions about what each community was dealing with were probably more relevant than the planned topics. There was a suggestion to do a similar “current events” workshop each year.

Mr. Warnick reminded everyone that the City’s Comprehensive Plan was due to be updated in 2025. Mr. Bilger concurred and gave some insights on the planned update.

ADJOURNMENT

Mr. Romano made a motion to adjourn; seconded by Ms. Gardner. The motion passed 5-0, and the meeting was adjourned at 8:39 P.M.

GUEST LIST

1. James Straws754 Thornapple Court
2. Rachel Alexander.....6432 S. Appaloosa Drive
3. Rob Wacker7505 Westfield Drive, Fort Wayne
4. Kim Coverstone944 Hawthorn Lane
5. Melody Coverstone.....944 Hawthorn Lane
6. Jim Swanson993 Deer Path
7. Tom Ryan.....402 N. Brennan Street
8. Susan Ryan.....402 N. Brennan Street
9. Kimberly Swain412 Deer Path
10. Keith Roman915 E. Jefferson Street

GUEST LIST (WEBCAST)

11. Rosie Coyle.....917 E. Jefferson Street