

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

25-W-SE-9 **SPECIAL EXCEPTION**
Josiah & Jessica Smith
North end of Butterstone Trail

JULY 22, 2025
AGENDA ITEM: 4

SUMMARY OF PROPOSAL

Current zoning: AG, Agricultural
Property area: 55.64± acres

The petitioner, purchaser of the subject property, is requesting special exception approval for a secondary dwelling unit on the property located at the north end of Butterstone Trail in Chapine Reserve in Union Township, immediately north of the Lake Trail Estates subdivision on east Old Trail Road. The property is currently unimproved but was previously the site of a gravel pit.

The petitioner proposes to construct a pole barn with living quarters that will be used as their residence during the construction of a primary dwelling. After completion of the primary residence, the living quarters in the pole barn would be retained for use by relatives as a guest house.

Note that this particular property is comprised of two existing parcels, each of which is interpreted to be a building site. So, two dwellings could be constructed here without need for special exception review. However, since the exact location of each structure is not yet determined, and they will be contingent on the suitability of soil conditions for building and septic system, the petitioner is requesting this review prior to purchasing the property in case the two residences wind up on the same parcel. No matter the siting, though, the proposed usage would remain the same.

Secondary dwelling units are defined by the zoning code as “either a portion of the principal building or a separate building, which is utilized as an independent living facility, or a Type II or III manufactured home, located on the same parcel and occupied exclusively by a relative of the family residing in the principal dwelling.” In practice, these units are located in outbuildings or manufactured homes that may be removed or converted upon the conclusion of the secondary dwelling use. This is the significant difference between these units and a second full dwelling unit on a property.

In the AG, Agricultural District, secondary dwelling units require a special exception through the Board of Zoning Appeals. The requirements of Sections 10.9 Special Exception Standards 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;**

Residences typically do not have such elements, cause such conditions, nor contravene 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;**

Given the large size of the subject property, existing vegetation, and ponds, the proposed location of the new structures would be harmonious to the nearest buildings and properties.

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

While no detailed building plan elevations were submitted at the time of writing, it is expected that the proposed structures would be consistent in appearance with other residences and outbuildings found throughout the area. Combined with the screening factors mentioned above, the visual impression and environment should be consistent to the neighborhood.

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

The traffic volume and arrangement access of this use is unlikely to cause traffic congestion any more than any other single-family dwelling. Sufficient area exists to provide parking for the two dwelling units.

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

The proposed secondary dwelling unit clearly falls into a permissible special exception of the Zoning Ordinance. It seems this proposal meets the intent and rules for secondary dwelling units and so does not seem contrary to 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 as presented.
2. Compliance with recommendations of the Health Department.
3. In addition to the requirements in the Zoning Code definition of "Secondary Dwelling Unit", the dwelling shall not be used as an income-producing rental unit.

Date report prepared: 7/17/25

BOARD OF ZONING APPEALS RECORD OF ACTION

Motion: By: _____ Second by: _____
 Approve _____
 Approve w/conditions _____
 Deny _____

Vote:	Green	Sheiss	Wilkinson	Wolf	Wright
Yes					
No					
Abstain					

