

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

25-W-SE-18 SPECIAL EXCEPTION
Jason & Jennifer Esterline
8324 W. SR 14

DECEMBER 23, 2025
AGENDA ITEM: 5

SUMMARY OF PROPOSAL

Current zoning: VC, Village Commercial

Property area: 3.26 acres

The petitioner, owner of the subject property at 8324 W. State Road 14 in Cleveland Township, is requesting re-approval of a special exception originally approved in 2022 as 22-W-SE-7, with a condition for a three-year operation time period. Generally, that special exception was for “processing of agricultural products not produced on-site” to allow for the operation of a brewery operation which included an accessory taproom and associated outdoor seating.

The property is improved with a dwelling, a detached bedroom (formerly a secondary dwelling) used as an AirBnB, and several outbuildings used for the restaurant, brewing operation, and agriculture uses.

The operation is located within the western 40'x64' pole building. As originally approved, the brewing area was to be about (416 sq. ft.), with the adjacent taproom/sales area being about the same area. The remainder of the building was for raw material and finished product storage. This configuration has changed as the operation became more focused on the restaurant.

Since the original approval, the accessory taproom use was enlarged in size and scope as to be considered a primary restaurant use. The petitioner filed 24-W-SE-9 to amend the special exception to deal with this shift in use and details of the approved conditions. The Board denied that proposal as being beyond what could be considered an accessory use under the AG zoning district.

The property was then rezoned from AG, Agricultural, to VC, Village Commercial, which would permit the expansion of the accessory use into a primary use as a restaurant. Additionally, zoning commitments were recorded to restrict many of the commercial uses in VC. However, the brewing use remains a special exception use under the VC zoning, as it was under the AG zoning, and the previous conditions of approval related to that use carry forward.

The following are the conditions of approval from 22-W-SE-7. Conditions related to the accessory use that are no longer applicable due to the change in zoning district are struck through.

1. The Special Exception is granted for the applicant and is non-transferable without Board approval.
2. The Special Exception is granted as presented.
- ~~3. The area of the interior taproom/consumer sales area will not exceed the proposed 416 sq. ft.~~
4. The number and design of parking spaces will comply with the parking code. An INDOT permit, if required, must be obtained.
5. Noise from this special exception will not exceed 50 dB as measured at adjacent residences.
6. Any requirements of the Health Department for the septic system, food operation, etc. will be met.
- ~~7. Hours of operation for the taproom will be 4 P.M. - 10 P.M. Friday, 11 A.M. - 10 P.M. Saturday, and 11 A.M. - 8 P.M. on Sunday.~~
8. Freestanding signage will be limited to one non-illuminated sign of not more than 6 sq. ft. in area per face.
9. As growth occurs, an alternative location for the use should be identified.

10. Special Exception is in effect for three years from the date of approval unless reapproved.

USE DETAILS

The brewing operation is enclosed within the 40'x64' building that is also used for the restaurant. Exact dimensions of the separate components have not been submitted, but being enclosed the exact proportion of brewing and restaurant uses may not be of particular concern.

From the 2022 presentation, the brewing operation would produce 5-6 barrels per month, with much of the beer being for offsite consumption. The petitioner has indicated that the volume in 2024 averaged 7 barrels per month and in 2025, has averaged 5.5 barrels per month.

Parking for the brewing use is mixed with the parking provided for the other uses on-site. Per the parking code, treating this use as "manufacturing" would require one parking space per employee, plus one space per 400 square feet of office space. The petitioner has specified that there are no employees for the brewing use besides themselves.

A loading space is provided for deliveries and any loading that may occur.

Hours of operation in the original approval were focused on the taproom. Staff suggests that hours of operation for the brewing operation be a condition in this review in order to minimize overlap with parking used by the restaurant.

Buffering for commercial uses is required to be additional setback distance, but the petitioner has installed an 8' privacy fence on the west property line.

Signage for the property is related to the restaurant use, and separate signage for the brewing operation is not anticipated.

APPLICATION OF THE CODE

As has been discussed in prior cases, requested amendments to previously approved special exceptions trigger a review of the entire special exception, not only that part requested to be amended. Similarly, this request, while a renewal, can be reviewed as a whole.

The 22-W-SE-7 staff report included a discussion about defining a commercial brewing operation as "processing of agricultural products not produced on-site, not to include slaughterhouses." That use is permissible as a special exception in the AG district, and which has been interpreted to include a variety of agricultural processing uses. Under the VC zoning, the term is slightly modified to "commercial processing agricultural products" but is still classified as a special exception use.

In both cases, the special exception process is used to evaluate those uses falling into the broad definition of processing agricultural products for proper siting and compatibility with the area and purposes of the zoning code. For example, a corn syrup plant would have different effects to be considered than a maple sugaring operation. The zoning code has no specific standards to be applied for these uses.

Again, this special exception is for the *brewing operation*, but as mentioned above, this property has various other uses as well. Since discussion of the brewing operation will likely be entwined with these other uses, the following is a summary of these other uses for the Board's reference:

- The consumption of food and beverage falls into the permitted restaurant use. Based on the discussion at the November meeting, it is staff's working definition that a "restaurant" offers food to customers on-demand from a menu or offer a buffet, with regular operating hours. Food is typically

prepared on-site by employees, but other types of food service operations (e.g., commissary, mobile kitchen, catering, etc.) may also fall into this definition if other aspects are fulfilled.

- To the degree that the consumption is primarily alcoholic beverages on-site instead of food, this use may be considered a bar, which would require a special exception approval (listed as “bar/night club”). The distinction of what constitutes a food-serving bar versus a liquor-serving restaurant is not explicitly defined.
- The petitioner acknowledges that the restaurant holds private events. This could be classified as an event center (a “banquet hall” special exception). Event centers sometimes have restaurants and restaurants (and some bars) often hold private closed-door events, so this distinction is not perfectly clear. It is further muddled if one considers components of a use (e.g., holding private events, alcohol consumption, off-site food preparation) rather than a use in its entirety. Since the restaurant is open to the general public more frequently than closed for private events, staff suggests that this is a restaurant that has events rather than an event center.
- The AirBnB and single-family residence together constitute a traditional bed and breakfast, which is a permitted use. The residence by itself would be a special exception use in VC.
- Raising livestock and growing crops are not listed uses in VC, but are protected agricultural activities under state law, as well as being legal nonconforming since they started under the AG zoning.

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;

Brewing operations do not typically have elements that are dangerous, injurious, or noxious for the public.

The following is the list of performance standards:

- Air pollution. This does not appear to apply to this case.
- Electrical disturbance. This does not appear to apply to this case.
- Fire protection. Grains can be flammable if not properly stored, but at the scale of this case, this is not likely a fire hazard any more significant than other commercial uses.
- Noise. Noise from the brewing operation alone has not been significant enough to impact adjacent uses. However, the restaurant and other uses, particularly those outdoor components, have generated complaints from the adjacent residences.
- Odor. Odors from brewing can be found to be objectionable, but the scale of this operation limits any odors generated.
- Vibration. This does not appear to apply to this case.
- Heat and glare. This does not appear to apply to this case.
- Waste matter. Refuse management is handled by a dumpster near the front of the property. Generally, waste is not to accumulate on the property.
- Water pollution. A brewing use can utilize a large volume of water and generate a large volume of wastewater. Both the well and septic system have been reviewed by the Health

Department, and it is staff's understanding that permitting and testing requirements have been met.

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 proposed special exception would permit the continued use of a pole building structure as the processing/production operation. The structure itself is comparable to other agricultural buildings on the site and in the area.

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

The proposed production use, if contained within the building, would have little visible evidence to indicate the existence of the operation, and so it would be consistent with the neighborhood.

However, the other uses on the property—the restaurant, outdoor seating, required parking, etc.—would be evident to the surrounding area, despite being permissible in the zoning district. The Board must be aware of the impacts of the special exception use versus the impacts of the permitted uses.

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

For the brewing operation, the existing parking area should be sufficient, given the two or so truck deliveries per week. Similarly, any employees for this small operation would also not have significant impact on the traffic, especially if the hours of operation are different than the other uses on the property.

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

Processing of agricultural crops is a listed special exception use of the VC district and appears to meet the stated purposes of the Zoning Ordinance for the district and surrounding area.

With several additional uses on the property, the combined intensity on the property may be on the high side of what may be expected in the Mixed Rural character type described in the Comprehensive Plan. Still, variation in intensity of properties across an area should be expected.

SUGGESTED CONDITIONS

If the Board moves to grant the special exception, the following are suggested conditions of the 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.
3. Any refuse container visible from a neighboring property or public right-of-way is to be enclosed with an opaque screen.
4. Noise from this special exception will not exceed 50 dB as measured at adjacent residences.
5. Compliance with any requirements of the Health Department will be maintained.
6. Hours of operation to be limited to hours outside of the restaurant's operating hours.
7. Maintain the 8' privacy fence along the west property line.
8. Additional conditions to be added based on discussions and input from the hearing.

Date report prepared: 12/16/2025

BOARD OF ZONING APPEALS RECORD OF ACTION

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

<i>Vote:</i>	Green	Sheiss	Wilkinson	Wolf	Wright
<i>Yes</i>					
<i>No</i>					
<i>Abstain</i>					

