

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

18-W-VAR-15 DEVELOPMENT STANDARDS VARIANCE
Laura Maley
5192 E. SR 14

**OCTOBER 23, 2018
AGENDA ITEM: 3**

SUMMARY OF PROPOSAL

Current zoning: AG, Agricultural
Property area: 3.06 acres

The petitioner is requesting a variance to permit a freestanding sign in conjunction with a home occupation use larger than the code maximum. The property is located at 5192 East State Road 14.

A special exception for a traffic generating home occupation use (hair salon) was approved by the Board in June as 18-W-SE-6. At the time, no information on signage was submitted; even if it were, the proposed size would have required a variance at that time.

The petitioner proposes to install a 6'x4' freestanding sign between the driveways on the property, just off of the right-of-way line. No height is noted in the file.

Section 5.14(A)(10) requires that freestanding signage for permitted home occupations not exceed 6 square feet in area per sign face. The proposed sign is 24 square feet per face, triggering the need for a variance.

REVIEW CRITERIA

Indiana Code §36-7-4-918.5 and Section 10.10 of the Zoning Code 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 approval will not be injurious to the public health, safety, morals, and general welfare of the community;

The proposed variance will not likely be injurious to the public health and morals, as sign structures do not have health impacts, and the sign as an identification sign would not impact generally held morals.

Public safety may be affected if the location of the sign impairs visibility when entering or existing the property.

General welfare would be injured if the approval of this variance creates a precedent for larger signs to be located at other home occupations, thereby degrading the effectiveness of the code regulation. Also, the larger sign may create the appearance of a commercial district, rather than a home occupation in a residential/agricultural area, which could injure the application of the zoning district itself.

It should be noted here that there is a 6'x4' freestanding sign located at the nearby dog grooming home occupation/business special exception at SR 14 and CR 500E. It was installed in 2003 under the previous zoning code, which no longer applies, and so that sign is now legal nonconforming. Another sign on the northeast corner of that intersection is also apparently legal nonconforming.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

It is not expected that this variance will adversely affect the value of the area adjacent to the property since the signage is relatively small and located on a primary arterial highway. However, as discussed above if this variance sets a precedent for larger home occupation signs, the area may become a

virtual commercial area without having been so zoned. If that were to happen, that likely could have an adverse effect on the current agricultural and residential uses in the area.

3. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction or restriction of economic gain.

The property is located on SR 14, a primary arterial. As such, an identification sign for a business may need to be somewhat larger in order to be effective than a sign located on a road with less and slower traffic.

However, the regulations on sign size for home occupations are intended to limit a home occupation from being fully a commercial use that should be zoned as such.

Date report prepared: 10/18/18

BOARD OF ZONING APPEALS ACTION

Motion:

By:

Second by:

<i>Vote:</i>	Deckard	Denihan	Klein	Wilkinson	Wright
<i>Yes</i>					
<i>No</i>					
<i>Abstain</i>					