

WHITLEY COUNTY BOARD OF ZONING APPEALS
STAFF REPORT

19-W-SE-4 SPECIAL EXCEPTION
Jon Dock
685 North State Road 5

AUGUST 27, 2019
AGENDA ITEM: 3

SUMMARY OF PROPOSAL

Current zoning: AG, Agricultural
Property area: 27.00 acres

The petitioner, owner of the property located at 685 North State Road 5, is requesting special exception approval for a kennel use. The property is located on the west side of SR 5, across from the (former) Whitko Middle School.

The petitioner proposes to construct a 20'x40' building containing 16 kennels with external runs. Also proposed are three fenced outside exercise areas and a separate driveway and parking area, as shown on the site plan. Petitioner intends to run a perimeter security fence approximately 12' from the north, east, and west sides of the kennel. A sign would be installed on the existing driveway.

An average of 7-10 dogs per week is expected, with additional dogs boarded during peak times. A specific maximum number of dogs was not submitted, but given that there are 16 kennels proposed, that may be the maximum number of animals as well. An estimated 5 pick-up/drop-offs could occur per day. The only employee noted is the wife of the petitioner.

Also of note is that the petitioner received special exception approval in 2015 for a kennel located at 4780 W. 600N (known as Mud Creek Kennels). If approved, they would relocate the kennel to this property. One complaint was noted in the file about that operation from May 2016 regarding dogs that had gotten loose. No other complaints have been recorded in the file.

Per the zoning code, a "place primarily for keeping of four (4) or more adult dogs" is defined as a kennel. Because the petitioners live on the property, a traffic-generating home occupation approval might apply, but the area of the kennel exceeds the maximum allowable as a home occupation. This request should then be reviewed for a kennel alone.

In the AG, Agricultural District, kennels require a special exception approval through the Board of Zoning Appeals.

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;**

It is unlikely that this proposal will have any elements or conditions that may be particularly dangerous, injurious, or noxious to other properties, and should generally comply with performance standards. Noise of barking dogs when outside in the dog runs or exercise areas may be a performance standard consideration, but the 5 acres surrounding the kennel location would likely mitigate much of the noise.

Waste from the dogs is proposed to be collected and spread on agricultural ground elsewhere on the petitioner's property. Based on this, the health department is not requiring a septic system.

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 add an accessory building to the property that would likely be harmonious with the existing buildings, both on-site and adjacent. The exterior fencing and dog runs would be less harmonious, and even with the 285'± setback from the road, the fenced areas would be visible. The Board may consider requiring landscaping along SR 5 to screen the view.

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

Accessory buildings are common in the AG district, and the proposed structure should be comparable to those found elsewhere. Again, the dog runs and fencing could be seen as out of place with the neighborhood, so some screening of the operation may be appropriate.

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

Access to the property would use the existing driveway and a proposed driveway with turnaround and parking some distance from SR 5. The submitted expectation of around 5 vehicles per day would not likely create traffic congestion, even if all dogs were to be picked up or dropped off at about the same time.

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

The proposal is a special exception use already listed in the Zoning Ordinance. The Comprehensive Plan appears to indicate that this site would be Transitional Agriculture, so this animal-based use does not seem to conflict with its recommendations. Based on these facts, the above criteria, and any conditions the Board sees necessary, the proposal would preserve the purpose of the Ordinance.

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.
2. The Special Exception is granted as presented and per the site plan.
3. There shall be no more than 16 dogs on the property as part of the Special Exception.
4. Pick up and drop off of dogs will be limited to the hours of 7:00 a.m. to 5:00 p.m.
5. Screening is required along the frontage of SR 5. Eight 1½" shade trees spaced 50' on center along the frontage is suggested.

Date report prepared: August 21, 2019.

BOARD OF ZONING APPEALS ACTION

Motion:

By:

Second by:

Vote: Deckard Denihan Lopez Wilkinson Wright

Yes					
No					
Abstain					

Mud Creek Kennels

Current Location
4780 West 600 North
Columbia City, IN 46725

Open Monday-Sunday 7a.m.-5p.m.

Contact Information:

574-518-0195

MudCreekKennels@yahoo.com

Kennel Specifications

1. Building dimensions 20'x40' with 8' overhang all the way around
2. 2 outside exercise areas that are 40'x68'. 1 outside exercise area that is 24'x44'.
3. 16 indoor kennels with outside runs
4. Indoor kennels are 4'x5'
5. Outside runs are 4'x8'
6. Outside runs are covered by building overhang
7. Interior area for indoor exercise
8. Climate controlled
9. Walkways for moving dogs from kennels to runs and exercise areas

Building and property:

The new kennel will be built on our property at 685 N. State Road 5, Larwill. The property consists of 27 acres of mixed woods and tillable ground with 5± acres of pond. We would like to utilize the front 5 acres adjacent to SR 5 to construct our new kennel. It will be a standard post frame construction with hired sub-contractors for insulation, electrical and heating/cooling. The kennels will be built by a custom fence company that specializes in dog kennels. We intend to run a perimeter security fence approximately 12' from the North, East, and West sides of the kennel.

Signage and parking:

There will be a metal cut sign on the south end of the barn facing the entrance. There is a gravel drive that allows patrons to enter and exit without having to back out onto the road. There will also be a sign visible from State Road 5. Parking area will accommodate 4 vehicles.

Heating and cooling/electrical:

We will install a new disconnect at the building for the electrical panel. The building will be heated and cooled with a unit from Elliot Heating and Cooling in Warsaw.

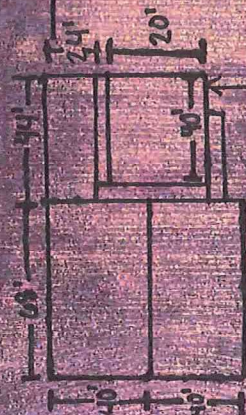
We hope to continue providing a safe, clean and loving environment for our dogs.

N ↑

Not to Scale

N SR 6

10' I



Richland

Circle Drive

262'

710'

685

04

Spice

20x40 Building

12x11 x 14 concrete

24'

N



540,000

177,700

corners 12
gates 4'-5' 6'-4'
gatepost 16
line post 50
footings 500

12

30'

17 1/2

400

506

700

August 16, 2019

Mark Cullnane, Planner I
Whitley County Joint Planning
& Building Department
220 W Van Buren Street Suite 204
Columbia City Indiana 46725

Re: Dock Mud Creek Kennels

Mark:

There is some uncertainty in the application of Rule 5 in situations like this. I won't ask for a SWPPP and Notice of Intent submittal for the kennels because I estimate that the disturbed area will be significantly less than one acre. IDEM might ask for a submittal if a storm water specialist happens to visit the site during construction. For commercial project sites, Rule 5 says the area of land disturbance must be calculated as one acre or more when the lot is one acre or larger.

With respect to water quality, erosion and sedimentation will be the main concern during construction. The soils on the front 5 acres are classified as highly erodible by the USDA. According to the topography on the Whitley GIS website, the location of the kennels shown on the site plan places them on steeply sloped highly erodible soils above the neighbor's pond. Constructing the kennels on the slope will require more earthwork to create a level building pad. This will increase the area of land disturbed as well as the potential for erosion and sedimentation. I recommend the kennels be constructed further to the south on flatter ground.

Post-construction, dog waste will be the main concern although there could be erosion problems if the surfaces of the dog runs are bare earth. Again, moving the kennels further south to flatter ground will reduce these concerns. If dog waste and soiled bedding materials will be disposed of onsite, the proposed disposal location should be shown on the site plan and the disposal method described.

Sincerely yours,

Jon Gotz

Jon Gotz
Whitley County Soil & Water
Conservation District

Mark Cullnane

From: Dock, Jonathan [REDACTED]
Sent: Tuesday, August 20, 2019 10:03 AM
To: Mark Cullnane
Subject: FW: Message from "RNP002673583C8A"
Attachments: 201908200908.pdf; MCK.bmp

Categories: Special Exception check this now!

Mark,

I went and measured the property again yesterday. I have included the footage in the attached drawing. We are 286' from the center of the road to the east side of the building. We are 262 feet north of the drive way. This is the best location for the building. The building and fencing will sit on the flat portion of the highest point of the property. The building or fencing won't be on the slope that drops off towards the pond. The 3 outside exercise areas are currently a mixture of grass and weeds. I am not going to disturb the fenced in areas, simple mow and over seed and the yard will turnout nicely. Erosion issues will be avoided by the location not being on the slop and also by not disturbing the ground near the slope.

As requested, I have also included a picture of the back of the property where we intend to dispose of the manure.

Hopefully, this will clarify a few concerns

Jon Dock

-----Original Message-----

From: Jon Dock [REDACTED]
Sent: Tuesday, August 20, 2019 9:08 AM
To: Jon Dock [REDACTED]
Subject: Message from "RNP002673583C8A"

This E-mail was sent from "RNP002673583C8A" (MP C5502).

Scan Date: 08.20.2019 09:08:20 (-0400)
Queries to: [REDACTED]

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Waste disposal areas highlighted orange

Beacon™ Whitley County, IN

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