

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

20-W-SE-1 SPECIAL EXCEPTION
James & Kathleen Rowland
9675 W. River Road-92

**JANUARY 28, 2020
AGENDA ITEM: 1**

SUMMARY OF PROPOSAL

Current zoning: AG, Agricultural

Property area: 2.00 acres

The petitioner is requesting special exception approval for a secondary dwelling unit on their property located at 9675 W. River Road-92 in Cleveland Township. They propose to locate a 14'x70' manufactured home near the center of the property to be used while they are rebuilding their home. A 40' shipping container is also proposed to be located on the property at the same time.

Typically, this scenario is permissible under §5.18, MHS-04, which permits the location of a manufactured home while a building permit is open for the construction of the primary dwelling (up to one year). However, the petitioner is uncertain of the timing of the demolition of the existing structure and construction of the new dwelling, and so is unable to obtain a building permit for the new construction at this time. Since the existing dwelling is not to be occupied as the principal structure for a period of time, this request could be seen as either a manufactured home special exception or a secondary dwelling unit special exception. It was filed as a secondary dwelling unit largely because of the presence of the existing dwelling; the Board may find overlapping conditions to be appropriate.

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;**
The structure is to be placed in the center of the property and oriented to be behind the existing dwelling, so the structure should be harmonious with adjacent 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 it is a Type II or III manufactured home, which is somewhat unusual in the immediate neighborhood, the placement of the secondary dwelling to the rear of the property should create a visual impression consistent with the area. Since the home would be removed at the time of completion of the new dwelling, the long-term impression and environment would be consistent.

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

Parking for the secondary dwelling unit's parking area is to be located in the existing gravel area, and the anticipated traffic volume of this use is unlikely to cause traffic congestion.

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

The proposed secondary dwelling unit is a permissible special exception of the Zoning Ordinance. It is unlikely that, if strict conditions are imposed to protect the general welfare, the proposal would contravene the stated purposes 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. The secondary dwelling unit shall be a Type II or III manufactured home, and shall be removed from the property within two months of the issuance of a Certificate of Occupancy for the new primary dwelling.
3. The Special Exception shall expire three (3) years from date of approval and the manufactured home be removed. Any proposed extension of the time period shall require a new Special Exception request.
4. Health Department review and approval of the septic system shall be required.
5. In addition to the requirements in the Zoning Code definition of "Secondary Dwelling Unit", the proposed dwelling and the existing dwelling shall not be used as an income-producing rental units.

Date report prepared: 1/21/20

BOARD OF ZONING APPEALS ACTION

Motion:

By:

Second by:

<i>Vote:</i>	<i>Wolf</i>	<i>Denihan</i>	<i>Lopez</i>	<i>Wilkinson</i>	<i>Wright</i>
<i>Yes</i>					
<i>No</i>					
<i>Abstain</i>					

N↑

- Ⓐ 14' x 70' Manufactured Home
- Ⓑ 8.5' x 40' Storage Container





Ogden, R Devon
& Nancy R

Ogden, R
Devon &
Nancy R

Sims, Gary
W & Jodi R

Rowland,
Daniel A
& Julia A

Rowland,
Daniel A
& Julia A

Fox,
Cory D

7249

7370

7407

M 0950 S

Wagner,
David C &
Peggy L

7517

7580

Busz, Joseph
T & Krista N

7863

Gaier,
James R
& Kay E

Gilbert,
Donald D &
Catherine C

7145

Wendel,
Dean &
Julie

Robinson,
Robert Lee
& Cheryl L

Robinson,
Robert L &
Cheryl L

9641

Foster,
James M
& Greta A

Rowland,
James L &
Kathleen S

Foster,
James M
& Greta A

WIRIVER RD

Stiffler,
Robert A
& Joy L

Moyer,
Rick T
& Jill E

9780

9830

Stiffler,
Robert A
& Joy L

Stiffler,
Robert A
& Joy L

9965

Green,
Betty M

Cripe,
Philip E

