

**MINUTES**  
**WHITLEY COUNTY BOARD OF ZONING APPEALS**  
**REGULAR MEETING**  
**July 28, 2020**  
**7:30 P.M.**

**MEMBERS PRESENT**

Tim Denihan  
Sarah Lopez  
Danny Wilkinson  
Doug Wright  
Joe Wolf

**MEMBERS ABSENT**

**STAFF**

Nathan Bilger  
Mark Cullnane

**ATTORNEY**

Sam Ladowski

**AUDIENCE MEMBERS**

Twenty visitors signed the guest list at the July 28, 2020 regular meeting of the Whitley County Board of Zoning Appeals. The guest list is kept on the record.

**CALL TO ORDER/ROLL CALL**

Mr. Wilkinson called the meeting to order at 7:30 p.m. Mr. Bilger read the roll call with all members present and absent listed above. Ms. Lopez participated electronically.

**CONSIDERATION OF PREVIOUS MEETING MINUTES**

The minutes for the May 26, 2020 regular meeting were not ready for review at this time.

**ADMINISTRATION OF OATH**

Approximately 14 guests were sworn in by Mr. Ladowski.

Mr. Wilkinson reviewed the rules of procedure for the meeting.

**OLD BUSINESS**

There was no old business.

**NEW BUSINESS**

**20-W-VAR-5 & 20-W-VAR-6**

Site, Inc. requested a variance of the required front yard setback on Lots 177 and 178 of the currently under development Lincoln Pointe Section 5. The property is located on the southeast corner of S. 300 East and E. 100 South in Section 17 of Union Township, and is zoned RR, Rural Residential.

Mr. Bilger stated that 20-W-VAR-5 and 20-W-VAR-6 are both in Section 5, currently under development, of Lincoln Pointe, but are enough different to warrant two separate petitions. The Board, nonetheless, could combine them if it saw fit. Mr. Denihan stated that the petitions should be combined for review of the Board.

Mr. Bilger reviewed the staff reports for 20-W-VAR-5 and 20-W-VAR-6. He stated that they are both development standards variances for encroachment into the required front yard setback on

Lots 177 and 178 and Lots 168 and 187, respectfully. The primary plat for Lincoln Pointe was originally approved in 1997. Although required front yard setbacks are currently 35' for properties in the Rural Residential (RR) district with public sewer and water, primary plat approval allowed setbacks of 30'. Lots 177 and 178 (20-W-VAR-5) have frontage along Butler Court and County Road 300 East. Petitioner requested to reduce the setback along CR 300 to 25'. Lots 168 and 187 (20-W-VAR-6) are corner lots with frontage along Sherman Street and Butler Court. Petitioner requested to reduce the setback along Sherman Street to 20'.

Mr. Bilger presented aerial images of the subject properties and surrounding area along with plot plans for both petitions.

Mr. Bilger discussed the review criteria for both petitions. He stated that there was slight concern for the general welfare regarding 20-W-VAR-6, as the setbacks of other dwellings along Sherman Street would be 30', while the setbacks for Lots 168 and 187 along that street would be 20'.

Mr. Bilger asked the Board if it had any questions for him. Hearing none, Mr. Wilkinson asked the petitioner or its representative to address the Board.

Kevin McDermitt, 1017 S. Hadley Road, Fort Wayne, stated that he has been the engineer for Lincoln Pointe since the primary plat was initially approved. He stated that the location of sewer lines under Butler Court restricts the placement of a dwelling on Lots 177 and 178, creating a practical difficulty that has led to variance request 20-W-VAR-5. He said that current market demand favors 3-car garages, which the requested additional 10' of buildable width would accommodate on Lots 168 and 187, leading to variance request 20-W-VAR-6. He stated that the developer has removed two lots from the plat to accommodate market demand for wider dwellings with larger garages.

Kevan Biggs, 9689 N. Miami Lane, Roanoke, IN, stated that he wants to deliver a product that the current housing market demands and that these variance requests, if approved, would allow him to provide such a product.

Mr. Wolf asked Mr. Biggs if there will be additional sections of Lincoln Pointe north of the currently under development Section 5. Mr. Biggs stated that currently there are two additional sections planned that will occupy the land from Pickett Lane and Sherman Street north to CR 100 South.

Ms. Lopez stated that traffic on CR 300 East often includes large trucks, and asked Mr. Biggs if reduced setbacks on Lots 177 & 178 along the county road would present problems. Mr. Biggs stated that the setback being requested would be consistent with those approved for previous sections of Lincoln Pointe. Ms. Lopez asked if the proposed setbacks would allow for dwellings closer to the county road than existing homes at the corner of Pickett Lane and CR 300 East. Mr. Bilger stated that the dwellings at 3005 E. Pickett Lane and 3006 E. Picket Lane are approximately the same distance from CR 300 East as the setbacks proposed for Lots 177 & 178.

Mr. Wilkinson asked the Board if it had additional questions for the petitioner, hearing none, he asked the public if it had questions or comments.

Marcie Bayman, 1260 S. 300 East, Columbia City, asked what would be the square footage of other homes along CR 300 East. Mr. Biggs stated that existing homes in Lincoln Pointe Section 4 provide a good example of the size of homes that can be expected in Section 5.

Caleb Slowey, 3090 E. Pickett Lane, Columbia City, stated that he was concerned that there are not enough access points from Lincoln Pointe to CR 300 East and asked if others are planned for Section 5. Mr. McDermitt stated that an additional access point is planned along CR 100 South for future sections, but not for Section 5. Mr. Slowey asked if there is a timeline for development of future phases. Mr. Biggs stated that it is uncertain but that he hopes they will be developed within the next 3 – 5 years.

Linda Shambarger, 1267 S. Sherman Street, Columbia City, stated that she is concerned that there are no new access points planned along CR 300 East for the proposed cul-de-sacs found on the draft secondary plat of Lincoln Pointe Section 5. She said that this lack of additional access points threatens public safety.

Mr. Biggs stated that residential developments such as Lincoln Pointe are subject to rigorous review according to the jurisdiction's requirements prior to approval.

Sonya Emerick, 5865 E. State Road 14, Columbia City, asked if the sidewalks in Lincoln Pointe are compliant with the requirements of the Americans with Disabilities Act (ADA). Mr. Bilger stated that development plan approval of Section 5 included review of sidewalk design adherence to ADA standards.

Mr. Wilkinson asked if the public had additional questions or comments. Hearing none, he asked if the Board had additional questions or comments. Hearing none, he closed the public hearing.

Mr. Wilkinson called for a vote on 20-W-VAR-5 and 20-W-VAR-6. The petitions passed by a vote of 5-0, with all attending members voting in favor.

## **20-W-SE-4**

Bradly & Ashley Perry requested a special exception approval to permit a secondary dwelling unit at 550 East 300 South, Columbia City. The property is located on the west side of E. 300 South, approximately 1,410' west of S. State Road 9 in Section 26 of Columbia Township and is zoned AG, Agriculture.

Mr. Bilger presented the staff report. He reviewed the location of the subject property and surrounding area. He stated that this is essentially a request to place a Type II or Type III manufactured home (mobile home) on the subject property while the petitioners build a new home. Placement of a mobile home is allowed for up to one year while building a home, but petitioners have stated that they expect to take roughly 7 years to build a home. As such, this petition is better considered to be a special exception for placement of a mobile.

Mr. Bilger presented aerials of the subject property and surrounding area. He stated that much of the subject property is located within a flood hazard area, as delineated by the Department of Natural Resources, but that the buildable area, as shown on the plat of Lawrence Subdivision from 1978, is outside this area.

Mr. Bilger reviewed staff's suggested conditions.

Mr. Wilkinson asked the Board if it had questions for Mr. Bilger. Hearing none, he asked the petitioner to address the Board.

Bradly Perry, 550 E. 300 South, Columbia City, stated that he is going to build a home for his family, but that it will take some time. He said that his goal is to have it completed in less than

seven years and added that it will take that long because he and his wife are going to pay for it in cash as they build it.

Mr. Wilkinson asked Mr. Perry to confirm that he intends to have the home built within seven years. Mr. Perry confirmed this and added that his goal is to have it completed sooner than that, but seven years is what he and his wife have projected based on their family budget.

Mr. Wilkinson asked the Board if it had additional questions for Mr. Perry, hearing none, he asked the public if it had questions or comment.

Rod Perry, 2900 S. 50 East, Columbia City, stated his opposition to 20-W-SE-4. He said that he has a petition signed by nine adjacent landowners expressing opposition to 20-W-SE-4. He said that he and the other landowners do not want to look at a mobile home in the woods. He stated that the presence of the mobile home will drive down his and others' property values. He expressed concern about work in the flood hazard area on the subject property. He stated that the petitioner placed a driveway over a private tile on the subject property, and added that he had received a notice from the Department of Natural Resources (DNR) regarding a driveway placed within a flood hazard area.

Mr. Wilkinson asked petitioner if they would like to rebut Mr. Perry's comment.

Ashley Perry, 550 E. 300 South, Columbia City, stated that they want the mobile home to be temporary. She said that they bought the land with cash and want to build their house with cash. She added that they plan to sell the mobile home after their house is finished. She also said that they were originally issued a permit to place a driveway by the County and were not notified of the existence of a flood hazard area. She stated that they only learned about the existence of the flood hazard area when they applied for a building permit. She added that there is a meeting scheduled with DNR concerning work that has already been done in the flood hazard area.

Mr. Wolf clarified that the Highway Department reviews driveway permit applications and advised Ms. Perry to speak with her neighbors about fixing the damaged private tile drain.

Robin Longenbaugh, 524 E. 300 South, Columbia City, stated that she is opposed to placement of a mobile home on the property. She said that petitioners have maintained the property poorly, allowing vegetation to grow unchecked, and added that they have begun digging a pond without a permit. She presented photos to Board and to Planning staff documenting the unkempt property along with the alleged pond.

Kelley Anders, 716 E. 300 South, Columbia City, stated her opposition to placement of a mobile home on the property. She said that she intends to sell her property in the near future and that placement of a mobile home will lower her property value. She stated that the property is unkempt, that there are tall weeds, and that she has, for the first time, noticed mice on her property. She added that she is currently renovating her home, but that she is concerned that she will not be able to sell because of the existence of a nearby mobile home.

Mr. Bradley Perry and Ms. Perry stated that they were not able to mow the property as much as they wanted to last year because of rain and that they have not been able to mow as much as they have wanted this year because their lawnmower was broken for period of time.

Shelly Alexander, 2875 S. 50 East, Columbia City, stated her opposition to 20-W-SE-4. She said that petitioner's driveway goes directly over the private tile mentioned earlier by Mr. Rod Perry

and asked how the tile will be fixed if the driveway continues to be placed directly on top of the tile.

Mr. Wilkinson stated that resolution of issues involving the placement of the driveway on top of the private tile is a civil matter between property owners.

Mr. Wilkinson asked if the public had additional questions or comments. Hearing none, he asked the Board if it had questions or comments for petitioner.

Mr. Wolf stated that he is familiar with the area and the people who live there, and added that the field where the driveway is currently located has been grain farmed for years. He suggested that petitioner and concerned neighbors enter into an agreement to continue to have the field farmed so as to keep tall weeds at bay.

Ms. Lopez asked petitioner if DNR had indicated to petitioner by when the mitigation plan has to be submitted or completed.

Mr. Bradly Perry stated that they have until August 14 to present a mitigation plan to DNR and that they will be required to mitigate eight tenths of an acre.

Mr. Wilkinson asked the Board if it had any additional questions for petitioner. Hearing none, he asked the Board for discussion.

Mr. Wilkinson asked the Board if it was comfortable with a condition capping the special exception to seven years. Mr. Denihan stated that he is not opposed, but added that seven years is relatively a long time for a special exception to allow placement of a mobile home.

Mr. Wilkinson asked if the public had additional questions or comments. Hearing none, he asked if the Board had additional questions or comments. Hearing none, he closed the public hearing.

Mr. Wilkinson called for a motion. Ms. Lopez made a motion to approve 20-W-SE-4 with the following conditions:

1. The special exception is granted for the applicant only and is non-transferable.
2. The special exception must be reviewed each year through the planning staff as long as the mobile home remains on the property.
3. The special exception is granted for a maximum of 7 years, or until the permanent dwelling is completed, whichever comes first.
4. Verification of the age of the mobile home must be submitted to the staff, which verifies the mobile home as a 1981 or newer.
5. No attached additions or structures shall be constructed to the mobile home.
6. A building permit for the permanent dwelling must be obtained within one (1) year of the approval of the special exception.
7. The mobile home must be removed from the property within three months of the completion of the permanent dwelling.

Mr. Wright seconded the motion. The motions passed by a vote of 5-0, with all attending members voting in favor.

## **OTHER BUSINESS**

Mr. Bilger discussed the status of the ongoing update to the County's Comprehensive Plan.

## **ADJOURNMENT**

Mr. Wilkinson adjourned the meeting at 8:40 p.m.