

**MINUTES**  
**WHITLEY COUNTY BOARD OF ZONING APPEALS**  
**REGULAR MEETING**  
**September 22, 2020**  
**7:30 P.M.**

**Whitley County Government Center**  
**Meeting Room A/B**

**MEMBERS PRESENT**

Kelley Sheiss  
Danny Wilkinson  
Doug Wright  
Joe Wolf

**MEMBERS ABSENT**

Tim Denihan

**STAFF**

Nathan Bilger  
Mark Cullnane

**ATTORNEY**

Sam Ladowski

**AUDIENCE MEMBERS**

The list of audience members is attached to these minutes; there were no webcast attendees. The signed guest list is kept on 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.

**CONSIDERATION OF PREVIOUS MEETING MINUTES**

The minutes for the July 28, 2020 regular meeting were not ready for review.

**ADMINISTRATION OF OATH**

Approximately eight 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-8, Setback Variance, James Schrimper, 2091 E. Fox Drive**

James Schrimper requested a variance of the required front yard setback at 2091 E. Fox Drive, Columbia City. The property is located on the northwest side of E. Fox Drive, approximately 165' south of E. Wilcken Road in Section 11 of Thorncreek Township, and is zoned LR, Lake Residential.

Mr. Bilger presented the staff report. He reviewed the location of the subject property and surrounding area. He said that the variance is for a 24'x32' one story detached garage to be located on the north side of the property. The subject property is located across Fox Drive from

petitioner's residence. A home and shed on the subject property had recently been demolished. Petitioner has proposed to build the garage at 13' from the Fox Drive right-of-way. The subject property is a corner lot and does not have lake frontage, thus the road frontage is subject to front yard setback requirements. The required setback from Fox Drive is 35', necessitating a request for a 22' variance of the required front yard setback.

Mr. Bilger presented aerial images of the subject property and surrounding area, along with a site plan. He discussed structures and uses on adjacent properties. He concluded by stating that Staff felt the review criteria were generally supportable.

Hearing no questions for Mr. Bilger from the Board, Mr. Wilkinson asked the petitioner or its representative to address the Board.

Larry Trumbull, 1824 E. Poplar Road, Columbia City, stated that he is petitioner's representative. He said that the size of the proposed structure results from Mr. Schrimper's intent to store his pontoon in it. He stated that there are many structures along Fox Drive that are approximately 15' from the roadway and added that there are many structures around Tri-Lakes that are much closer than 15'. He further described the location of the proposed structure.

Mr. Wilkinson opened the public hearing. No comments were heard.

No on-line comments were heard. Mr. Wilkinson closed the public hearing. He asked for questions or comments from the Board.

Hearing none, Mr. Wilkinson called for a vote. The motion passed by a vote of 4-0.

## **20-W-VAR-9, Setback and Minimum Main Floor Area Variances, Julie Steininger, 2640 E, Stalf Road**

Julie Steininger requested a variance of the required side and rear yard setbacks and minimum main floor area at 2640 E. Stalf Road, Columbia City. The property is located on the southside of E. Stalf Road, approximately 725' east of N. Center Street in Section 12 of Thorncreek Township and is zoned LR, Lake Residential.

Mr. Bilger presented the staff report. He reviewed the location of the subject property and surrounding area. He said that the proposed structure is a residential dwelling that would replace an existing dwelling. He stated that the main floor area of the proposed dwelling would be 718± square feet and that the district standard, as a one-story structure, is 950 square feet. He reviewed the setbacks of the previous structure and stated that the proposed structure would have a 12.1' rear (street side) setback, 2.5' setback from the west property line, and a 2.8' setback from the east property line. He stated that all these proposed setbacks did not meet the district standards and would require the Board's approval.

Mr. Bilger reviewed aerials of the subject property and surrounding area. He said that the property directly to the east, 2632 E. Stalf Road, Columbia City, received approval from the Board in 2019 for variances of the required rear yard and side yard setbacks. He stated that the southeast corner of the existing dwelling is close to, if not within, the floodplain area. He added that the plot plan shows the southeast corner of the proposed dwelling to be similarly close to, if not within, the floodplain. He said Staff recommends that petitioner seek a Letter of Map Amendment (LOMA) to the National Flood Insurance Program map. He stated that the proposal does raise a public safety concern, specifically that a reduced side yard setback from 2632 E. Stalf Road could potentially hamper public safety access to the lake shore. He stated that the

current building code requires increased fire ratings when a structure is less than 5' from a property line. He finished summarizing the review criteria and stated that the size of the lot and location of the floodplain create practical difficulties that could warrant variance approval.

Hearing no questions for Mr. Bilger from the Board, Mr. Wilkinson asked the petitioner or its representative to address the Board.

Julie Steininger, 9720 Iron Bridge Road, Roanoke, stated that she wants to rebuild her lake cottage because the foundation is failing, but that the lot size and location of the floodplain restrict where she can place a new structure. She said that the state owns the property directly to the east of her, thus she is requesting approval to place a new structure closer to the east property line than the existing structure. She added that she wants to modernize her cottage and bring it up to [building] code.

Hearing no questions of the petitioner from the Board, Mr. Wilkinson opened the public hearing. No comments were heard.

No on-line comments were heard. Mr. Wilkinson closed the public hearing. He asked for questions or comments from the Board.

Hearing none, Mr. Wilkinson called for a vote. The motion passed by a vote of 4-0.

#### **20-W-VAR-10, Setback Variance, James E. & Loretta R. Schwartz, 6255 W. 1000 South**

James and Loretta Schwartz requested a variance of the required side yard setback at 6255 W. 1000 South, South Whitley. The property is located on the south side of W. 1000 South, approximately  $\frac{3}{4}$  mile east of S. State Road 105 in Section 34 of Cleveland Township and is zoned AG, Agricultural District.

Mr. Bilger presented the staff report. He reviewed the location of the subject property and surrounding area. He stated that a variance has been sought to place a new 3,344± square foot dwelling to the west of the existing driveway. The property is currently improved with a pole building with living quarters, two other barns, and a pool. There is a tile drain in the northeast part of the property and an existing septic field to the east of the driveway, south of the legal drain. He stated that the new dwelling unit, as proposed, would be angled roughly 30° so that the front of the structure would face north northeast, resulting in the northwest corner to be 6.0' from the side (west) property line. He said that the Code requires a 25' setback for primary structures in the AG district, resulting in a request for a variance of 19'.

Mr. Bilger discussed the review criteria, specifically noting that the proposed distance from the cultivated field directly to the west is very small and that placing a structure so close to the field could make it difficult to use modern farm equipment on the field. He also stated that, despite some constraints, there remains sufficient space on the lot and that the proposed configuration of the new dwelling appears to be a self-imposed difficulty. He added that the Board should confirm petitioner's plans for dealing with the existing living quarters after construction of the proposed dwelling, most likely by removing the living quarters or by obtaining a secondary dwelling unit special exception.

Hearing no questions for Mr. Bilger from the Board, Mr. Wilkinson asked the petitioner or its representative to address the Board.

James Schwartz, 6255 W. 1000 South, South Whitley, stated that he has asked his neighbor to the west if he can purchase some land to increase the side yard setback and not need a variance, but the neighbor has declined the offer. He said that the positioning of the structure was such that the driveway and road could be visible from the kitchen area.

Mr. Wilkinson asked Mr. Schwartz if he had asked the Baker's if he could buy some land to avoid needing a variance. Mr. Schwartz stated that he asked them about purchasing a 50' strip that would give them enough space to build the structure as desired and not require a variance, but that they declined his offer.

Ms. Sheiss asked Mr. Schwartz if the Bakers farm the land to the east. He stated that this land is farmed by Sickafoose. Ms. Sheiss asked Mr. Schwartz if he had conversations with the Sickafoose's to see if placing a structure so close to the field would hinder their ability to farm it. He said that he has not spoken with them.

Mr. Wright asked Mr. Schwartz if there were not other areas on the property where the proposed dwelling could be placed so that a variance would not be required. Mr. Schwartz stated that the topography of the property, along with locations of the drive, septic field, and legal drain restrict where the dwelling could be built.

Mr. Wilkinson asked Mr. Schwartz to explain what he intends to do about the existing living quarters. Mr. Schwartz stated has spoken with the Health Department about removal of the living quarters and added that he would have the Health Department out to the property once the new dwelling is completed to review what needs to be removed from the existing living quarters.

Ms. Sheiss, Mr. Wilkinson, and Mr. Bilger discussed removal of the existing living quarters. Ms. Sheiss asked if it needed to be a condition of approval. Mr. Bilger stated that it would be part of the building permit process.

Hearing no further questions of the petitioner from the Board, Mr. Wilkinson opened the public hearing. No comments were heard.

No on-line comments were heard. Mr. Wilkinson closed the public hearing. He asked for questions or comments from the Board.

Hearing none, Mr. Wilkinson called for a vote. The motion passed by a vote of 4-0.

### **20-W-SE-6, Amendment of a Previously Approved Bottled Gas Storage and Distribution Facility Special Exception, Cidermill Propane LLC, 3879 E. Cider Mill Road**

Cidermill Propane LLC requested a special exception to allow for an amendment to a previously approved bottled gas storage and distribution facility at 3879 E. Cider Mill Road, Columbia City. The property is located on the north side of E. Cider Mill Road, approximately 790' west of E. State Road 205 in Section 31 of Smith Township and is zoned AG, Agricultural.

Mr. Bilger presented the staff report. He reviewed the location of the subject property and surrounding area, and clarified that, although most of the subject property is zoned AG, the area impacted by this petition is zoned IPM, Industrial Park/Manufacturing. He stated that multiple zoning petitions have been filed in the past pertaining to a propane distribution facility at this location: 11-W-REZ-1, 11-W-REZ-3, 11-W-SE-10, 15-W-SE-7, and 20-W-REZ-2. He said that this petition is an amendment to 15-W-SE-7, a special exception that allowed for the addition of one (1) 30,000-gallon propane storage tank to a previous approval (11-W-SE-10) that had

allowed for two (2) 12,000-30,000-gallon propane storage tanks. Approval of this petition would allow for the placement of two (2) additional 30,000-gallon propane storage tanks, taking the total number of propane storage tanks on the property to 5 (five). He reviewed the site plan and explained that a legal drain is approximately 80' from the proposed northernmost tank.

Mr. Bilger summarized the review criteria. He stated that, as proposed, the property may take on the appearance of a "tank farm," and that this may result in the propane distribution facility differing from the character of the surrounding neighborhood. He reviewed Staff's suggested conditions.

Hearing no questions for Mr. Bilger from the Board, Mr. Wilkinson asked the petitioner or its representative to address the Board.

Braden Coffelt, 455 S. 300 East, Columbia City, stated that he wants to expand his business and be able to more propane gas to residents in the surrounding area.

Mr. Wilkinson asked Mr. Coffelt if he has plans to site additional propane distribution facilities in the area. Mr. Coffelt affirmed that he does and added that currently he is looking at locations in Noble County.

Mr. Wilkinson asked the Board if it had further questions for Mr. Coffelt. Hearing none, Mr. Wilkinson opened the public hearing. No comments were heard.

No on-line comments were heard. Mr. Wilkinson closed the public hearing. He asked for questions or comments from the Board.

Hearing none, he asked for a motion. Mr. Wolf made a motion to approve 20-W-SE-6 with the following conditions:

1. The Special Exception is granted for the applicant and is non-transferable without Board approval.
2. The Special Exception is granted as presented and per the site plan.

Ms. Sheiss seconded; motion passed by a vote of 4-0.

### **21-W-SE-7, Processing of Agricultural Products Not Produced On-site, Not to Include Slaughterhouses Special Exception, Aaron, Allen, & Kenoshia Schwartz, 7780 W. 1000 South**

Aaron, Allen, and Kenoshia Schwartz request a special exception to permit the processing of agricultural products not produced on-site, not to include slaughterhouses at 7780 W. 1000 South, South Whitley. The property is located on the north side of W. 1000 South, approximately ¾ mile west of S. State Road 105 in Section 28 of Cleveland Township and is zoned AG, Agricultural.

Mr. Bilger presented the staff report. He reviewed the location of the subject property and surrounding area and discussed the nature of the proposed use. He stated that the use would be breakdown of primal cuts of meat, along with on-site sales. Butchering of animals would not be allowed on-site. He said that the operation would have three (3) employees, all family members, and that, initially, five (5) customers per day were to be expected. He stated that parking, adjacent to the barn where the operation would be located, appears adequate for employees and the expected number of daily customers. Petitioner has told Staff that proposed hours of operation would be 7 a.m. to 5 p.m. and that the number of animals processed per week would be

five (5) hogs and three (3) cattle, with deer processed when in season. He stated that petitioner would need to install a septic system capable of handling the effluent created during breakdown and processing of meat that is compliant with Health Department requirements.

Mr. Bilger presented aerials of the subject property and surrounding area, the site plan, and discussed review criteria. He said that Staff find the review criteria to be generally supportable but added that some type of monitoring may be required if traffic entering and exiting the property grow due to an increase in the number of customers visiting daily. He reviewed Staff's suggested conditions.

Mr. Wilkinson asked Mr. Bilger if this would be a slaughterhouse. Mr. Bilger stated that this would not be a slaughterhouse; animals would be slaughtered off-site and carcasses would be brought to the site for breakdown, processing, and sales.

Mr. Wilkinson asked Mr. Bilger if animals other than beef, hogs, and deer could be processed on-site (e.g., goats and sheep). Mr. Bilger stated that this is something that the Board could discuss with petitioner.

Hearing no further questions for Mr. Bilger from the Board, Mr. Wilkinson asked petitioner or its representative to address the Board.

Allen Schwartz, 7750 W. 1000 South, South Whitley, stated that there is no butcher shop in the surrounding area and that his family wants to meet the demand of local residents. He said that the barn where the operation would be located has space for walk-in coolers.

Mr. Wright asked Mr. Schwartz what would happen if someone brought in a lamb or goat. Mr. Schwartz said that he wants to take whatever business comes his way.

Ms. Sheiss asked Mr. Schwartz if he has been in contact with the state Board of Animal Health. Mr. Schwartz affirmed that he has. She asked if he has received approval from Animal Health. He stated that Animal Health told him to get County approval before seeking its approval.

Mr. Wolf asked Mr. Schwartz if the building has electricity or if the coolers would run off generator(s). Mr. Schwartz stated that the building will have electricity.

Ms. Sheiss asked Mr. Schwartz about his customer radius and how he intends to handle incoming carcasses. Mr. Schwartz said that he is unsure how far customers will travel with animal carcasses that are to be processed, but that his intent is to provide services to local residents.

Mr. Wolf asked Mr. Schwartz if there would be adequate access for tractor trailers.

Ms. Sheiss asked Mr. Schwartz if he intends to only do custom cuts or if he intends to do retail sales to the public, as well. Mr. Schwartz stated that he wants to do mostly custom cuts along with limited retail sales. Ms. Sheiss stated that this would impact the nature of state inspections.

Mr. Wilkinson asked if petitioner would be able to do retail sales. Mr. Bilger affirmed that he would, as the retail aspect of the petition would be considered a farm market.

Ms. Sheiss asked if the state had additional county requirements that would need to be met based on the proposed use. Mr. Bilger stated there would not and added that the retail operation would be classified as a farm market.

Mr. Wolf asked Mr. Schwartz if the site currently has or will have adequate access for waste disposal vehicles to maneuver without damaging County infrastructure such as culvert(s). Mr. Schwartz stated that he intends to improve the site so that such vehicles have adequate space to maneuver without damaging County infrastructure.

Ms. Sheiss asked Mr. Schwartz what the approximate pick-up time of waste products was. Mr. Schwartz stated that he intends to have waste picked up weekly, but that this may happen more frequently if required.

Ms. Sheiss asked Mr. Schwartz what his approximate cooler space will be and if he has plans for when that cooler space reaches capacity. Mr. Schwartz said that he has enough space in the building to expand walk-in coolers if necessary. Ms. Sheiss asked if he would have the ability to communicate to customers that no cooler space is available. Mr. Schwartz affirmed that he would.

Mr. Wilkinson stated that this use has been described by Staff as a farm market. He asked Mr. Bilger to explain what petitioner would be allowed to sell at a farm market. Mr. Bilger stated that a farm market use would allow for sale of products that are grown, raised, or produced on-site. He said that vegetable stands are a standard example of a farm market and added that things reasonably grown, raised, or produced on-site would be allowable at a farm market. Mr. Bilger clarified that on-site means on the same property, but that this could potentially be construed to include petitioner's other properties.

Ms. Sheiss asked Mr. Bilger for clarification of a farm market. Mr. Bilger stated that the special exception use is specifically for the processing of agricultural products not produced on-site, not to include slaughterhouses, and that the retail sales, or farm market, aspect of the operation is a permitted use. He said that the Board could construe this to be a farm market that sells products created off-site, that such a use could be approved by special exception, and could be included in the Board's discussion of the petition. Ms. Sheiss said that approval of this petition could set a precedent and that she feels there are other establishments conducting the same or a similar type of business which are classified differently. Mr. Bilger and Ms. Sheiss discussed other situations where animals, produced off-site, are broken down, stored, and consumed on-site. Ms. Sheiss said that she is concerned with perception of disparate treatment and with public safety. Mr. Bilger said that he cannot speak to a perception of disparate treatment, that it would be a matter for the Board to discuss, but that public safety is a concern that needs to be reviewed by the Board. Ms. Sheiss stated that she supports small business, especially agriculture-related, but that she has some concerns.

Mr. Wilkinson asked for clarification of the petition. Mr. Bilger stated that the petition is for a special exception to permit the processing of agricultural products not produced on-site, not to include slaughterhouses. He said that the retail sales, which Staff construed as a farm market that sells products produced on-site, is a permitted use, but added that the Board could construe the retail sales as a farm market that sells products produced off-site, which would require special exception approval and could be included in the current petition. Mr. Wilkinson asked if the special exception to permit the processing of agricultural products not produced on-site, not to include slaughterhouses, would include other agricultural products not specified in staff report. Mr. Bilger said that it would not as such use(s) would be outside of the scope of what petitioner has represented to staff, as reflected in the relative abundance of recommended conditions.

Ms. Sheiss asked Mr. Bilger if the Board could add a condition that the petitioner must be in compliance with Indiana State Board of Animal Health requirements along with a condition that petitioner provide proof of cooler capacity.

[Crosstalk] Monty Martin, 877 Davis Ferry Road, West Lafayette, stated that he was a retired meat inspector with Animal Health and that he has been working with petitioner to ensure compliance with all federal, state, and local regulations and generally ensure that the operation is set up in a manner that fosters its success and maintains public health. He stated that beef and hog carcasses will need to have been inspected by the State prior to being brought to petitioner's operation.

Mr. Wilkinson asked if there will be a state inspector at petitioner's operation at all times. Mr. Martin stated that the place where animals are slaughtered, prior to being brought to petitioner's operation, will be inspected by the state.

Ms. Sheiss asked Mr. Martin if petitioner will be having animals slaughtered at a state inspected facility. Mr. Martin affirmed that they would. Mr. Wilkinson asked if it would not be allowed for him to kill a hog on his farm and bring it to petitioner for butchering. Mr. Martin affirmed that this would not be allowed. Ms. Sheiss asked Mr. Martin if it would be appropriate to include a condition that petitioner must be in compliance with Animal Health requirements. Mr. Martin affirmed that it would. Ms. Sheiss asked Mr. Martin if a condition concerning cooler capacity would be appropriate. He affirmed that it would. Ms. Sheiss asked Mr. Martin if petitioner could process poultry on-site, according to Animal Health. Mr. Martin stated that he could.

Mr. Martin and the Board further discussed how Animal Health would regulate petitioner's operation. Ms. Sheiss stated that carcasses would be brought to petitioner's operation to be broken down. Mr. Martin affirmed that this was correct.

[Crosstalk] Mr. Wright asked petitioner who would be slaughtering the animals. Mr. Schwartz stated that he has been in discussions with WW(?). [Crosstalk]

Mr. Martin and the Board discussed the local need for expanding meat processing capacity.

Mr. Bilger, Mr. Martin, and the Board discussed whether a condition should be added that specified additional species of animals that could be processed on-site. Mr. Bilger stated that it might make sense to include a condition stating that only state-inspected animals, in addition to deer when in-season, shall be processed on-site. Ms. Sheiss suggested that the condition should include a reference to cooler capacity.

Mr. Wilkinson asked Mr. Schwartz if he owns the subject property, the buildings found thereon, or both. Mr. Schwartz affirmed that his family owned both the land and buildings.

Hearing no additional questions or comments from the Board for the petitioner, Mr. Wilkinson opened the public hearing.

Mr. Ladowski administered the oath to Rhonda Salge.

Rhonda Salge 5465 N. 650 East, Churubusco, stated her support for the petition. She said that the proposed use is a much-needed service in the County, especially for many of the County's small farms. She disagreed with Staff's opinion that retail sales should be considered a farm market.

Mr. Wilkinson asked for additional questions or comment from the public. No comments were heard.



No on-line comments were heard. Mr. Wilkinson closed the public hearing. He asked for questions or comments from the Board.

Ms. Sheiss stated that conditions should be added that limit processing to only animals that have been inspected by the state, in addition to deer when in-season, and that require petitioner to be in compliance with all Indiana State Board of Animal Health requirements. Mr. Bilger and the Board discussed these conditions.

Mr. Wilkinson asked Mr. Schwartz if he had any questions before the Board proceeded. Mr. Schwartz said that he did not.

Mr. Wilkinson asked the Board for any further discussion. Hearing none, he asked for a motion.

Ms. Sheiss made a motion to approve 20-W-SE-7 with the following conditions:

1. The Special Exception is granted for the applicant and is non-transferable without Board approval.
2. The Special Exception is granted as presented and per the site plan.
3. The approval will expire at such time as the use is discontinued for a period of more than 180 consecutive days, or unless the operation is found in non-compliance and approval revoked by the Board after a public hearing.
4. The applicant shall be in compliance with all Department of Health regulations for the property prior to beginning operations, inclusive of an adequate functional septic system.
5. Only state inspected animals will be processed up to, and not to exceed, cooler capacity. Additionally, deer will be processed on a seasonal basis.
6. Hours of operation will be limited to 7am to 5pm, six days a week.
7. Any waste material generated by the facility shall be stored inside or shall be screened with at least an opaque 6' fence (or equivalent). Waste shall be disposed of off-site by a licensed contractor. On-site burning of waste will not be permitted.
8. Traffic volume will be monitored and the petitioner will widen the driveway, expand parking, and/or take other appropriate measures to accommodate increased traffic and avoid traffic congestion on the public road.
9. Applicant shall be in compliance with all State Board of Animal Health requirements.

Mr. Wright seconded; motion passed by a vote of 4-0.

### **OTHER BUSINESS**

Mr. Bilger stated that the ongoing update to the County's Comprehensive Plan was moving forward in earnest.

### **ADJOURNMENT**

Mr. Wilkinson adjourned the meeting at 8:55 p.m.

### **GUEST LIST**

1. Allen Schwartz.....7125 W. 1000 South, South Whitley
2. Braden Coffelt.....455 S. 300 East, Columbia City
3. James & Loretta Schwartz .....6255 W. 1000 South, South Whitley

4. Amos Schwartz .....6145 W. 1000 South, South Whitley
5. Monty Martin .....877 Davis Ferry Road, West  
Lafayette
6. Larry Trumbull.....1824 E. Poplar Road, Columbia City
7. Keith Coffelt .....1890 E. 250 West, Columbia City
8. Julie Steininger.....9720 Iron Bridge Road, Roanoke
9. Sonya Emerick .....5865 E. SR 14, Columbia City
10. Rhonda Salge .....5465 N. 650 East, Churubusco