

**MINUTES
WHITLEY COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING
January 26, 2021
7:30 P.M.**

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

MEMBERS	PRESENT	ABSENT	STAFF
Tim Denihan	Electronic		Nathan Bilger
Sarah Lopez	X		Mark Cullnane
Danny Wilkinson	X		
Doug Wright	X		LEGAL COUNSEL
Joe Wolf	X		Elizabeth Deckard (Electronic)
<i>Kelley Sheiss (alt.)</i>	NA		

AUDIENCE MEMBERS

The list of audience members, in-person and electronic, is attached to these minutes. 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; the members present and absent are listed above.

ELECTION OF OFFICERS

Mr. Wilkinson stated that the Board would now elect officers for the year and that nominations were open. Mr. Wright nominated Mr. Wilkinson as Chair. Mr. Wolf seconded. Mr. Wilkinson asked for additional nominations. Hearing none, Mr. Wilkinson called for a vote. The roll call vote was 4-0-1, with Mr. Wilkinson abstaining, in favor of approving Mr. Wilkinson as the Chair for 2021.

Mr. Wilkinson called for nominations for Vice Chair. Mr. Wright nominated Ms. Lopez as Vice Chair. Mr. Wolf seconded. Mr. Wilkinson asked for additional nominations. Hearing none, Mr. Wilkinson called for a vote. The roll call vote was 4-0-1, with Ms. Lopez abstaining, in favor of approving Ms. Lopez as the Vice Chair for 2021.

Mr. Wilkinson and Mr. Bilger discussed whether the Board needed a Secretary. Mr. Bilger stated that Secretary duties were handled by staff.

CONSIDERATION OF PREVIOUS MEETING MINUTES

Mr. Wilkinson stated that there were no previous meetings' minutes ready for the Board to review.

ADMINISTRATION OF OATH

Ms. Deckard provided the oath to the audience members wishing to speak. Mr. Wilkinson reviewed the rules of procedure for the meeting.

OLD BUSINESS

20-W-SE-8, Secondary Dwelling Unit, Thomas & Laurel Stockamp, 4875 E. McJunkin Street

Thomas and Laurel Stockamp requested a special exception to permit a secondary dwelling unit at 4875 E. McJunkin Street, Columbia City. The property is located on the west side of E. McJunkin Street, approximately 880' west of Simonson Street in Section 21 of Union Township and is zoned AG, Agricultural.

Mr. Bilger presented the staff report. He prefaced his discussion of staff report with the observation that this petition was unusual relative to previous petitions to permit a secondary dwelling unit, but that staff feels such a petition is the best fit considering the options. He stated that the proposal includes a 1,674 square foot addition to an existing legal nonconforming "tenant house," that would include a three-bay garage along with second story living quarters. He stated that "tenant house" was used by the previous Planning Director the last time a building permit was approved for such a use. He reviewed the history of the structure relative to previous versions of the Zoning Ordinance. He said that the dwelling unit would be occupied by a son of the property owners, but that no reversion details had been submitted. He stated that the proposed unit would be attached to the "tenant house" but connected via a utility room door. He said that this attachment could compel the Board to consider this a two-family dwelling and that approval as a secondary dwelling unit could impact how two-family dwellings are treated. He stated that there is a bit of room for the Board to interpret the use and how approval of a secondary dwelling unit may come into play.

Mr. Bilger presented aerials of the subject property and surrounding area. He displayed a site plan and stated that the proposed addition is well away from surrounding roads and structures not on the subject property. He displayed and reviewed the building plans submitted by petitioner. He discussed the criteria by which the Board is to use for its review and the proposed findings of fact. He presented staff's suggested conditions.

Mr. Wilkinson asked the Board if it had questions for Mr. Bilger. Hearing none, he asked the petitioner or its representative to address the Board. Christopher Stockamp, 4875 E. McJunkin Street, Columbia City, stated that a family member will be moving into the proposed addition to care for aging parents. Mr. Wilkinson asked Mr. Stockamp if the family member would be living in the entire "tenant house" or just the proposed addition. Mr. Stockamp stated that the family member would occupy the entire tenant house. Mr. Wilkinson asked for confirmation that only one family unit would reside in the "tenant house." Mr. Stockamp affirmed this.

Mr. Wilkinson asked the Board if it had questions for petitioner. Hearing none, Mr. Wilkinson opened the public hearing. Hearing no input from the public, Mr. Wilkinson closed the public hearing. Mr. Bilger stated that no input had been provided by electronic participants.

Mr. Bilger asked Mr. Stockamp if he was amenable to staff's suggested conditions. Mr. Stockamp stated that he was opposed to the condition, "The secondary dwelling unit shall be removed when it is no longer occupied by a family member of the petitioner." Mr. Bilger stated

that this condition is standard to petitions to permit secondary dwelling units. He said that when the proposed secondary dwelling unit is a manufactured home, the assumption is that the manufactured home will be removed when the petitioner's family member no longer resides in the manufactured home. He added that if the proposed secondary dwelling unit is an addition to an existing dwelling unit, the assumption is that the secondary dwelling unit will be reverted in some manner so that it is no longer separate living space after it is no longer occupied by a family member of the petitioner.

Ms. Lopez asked if the property could be split in the future if the current or a future property owner wanted to keep the secondary dwelling unit in the "tenant house." Mr. Bilger affirmed that this would be an option, although setback issues might come into play as the dwelling units are relatively near each other.

Mr. Wilkinson asked the Board if it had additional questions for the petitioner. Hearing none, he called for a motion. Ms. Lopez made a motion to approve 20-W-SE-8 with the following conditions:

1. The Special Exception is granted as presented and is non-transferable.
2. The secondary dwelling unit shall be removed or otherwise converted when it is no longer occupied by a family member of the petitioner.
3. If it has not already occurred, Health Department review and approval of the septic system shall be required.
4. In addition to the requirements in the Zoning Code definition of "Secondary Dwelling Unit", the dwelling shall not be used as an income-producing rental unit.

Mr. Wright seconded the motion. Motion passed by a roll call vote of 5-0.

NEW BUSINESS

21-W-SE-1, Traffic Generating Home Occupation, Tom & Hillary Zumbrun, 6146 N. 450 East

Tom and Hillary Zumbrun requested a special exception to permit a traffic generating home occupation at 6146 N. 450 East, Churubusco. The property is located on the east side of N. 450 East, approximately 760' north of E. 600 North in Section 5 of Smith Township and is zoned AG, Agricultural.

Mr. Bilger presented the staff report. He stated that the petition proposes to allow a massage therapy business at petitioner's residence. He said that the proposed use would occupy a 10.5'x10.5' room in the petitioner's residence, equaling roughly 7.5 percent of the dwelling floor area. He added that petitioner expects up to six (6) clients per day, or roughly 25 clients per week, with hours by appointment only, primarily on weekdays, and that no non-resident employees are planned at this time.

Mr. Bilger presented aerials of the subject property and surrounding area and identified a parking area designated by petitioner. He stated that no floor plan was provided, but that petitioner's identification of a 110.25± square foot room in the dwelling for operation of the home occupation was sufficient. He stated that no signage has been proposed at this time. He discussed the criteria by which the Board is to use for its review and the proposed findings of fact. He presented staff's suggested conditions. He said that he did receive one public comment

expressing support for the petition with the reasoning that massage therapy is a needed resource in the County.

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

Hillary Zumbrun, 6146 N. 450 East, Churubusco, stated that she is a licensed physical therapist assistant and has recently completed a course of study in preparation for pursuing professional licensure as a massage therapist. She said that her goal is to provide massage therapy services to residents of the surrounding area. She added that she has been a licensed PTA for seven years and that she will be taking the massage therapy licensing exam this week. She stated that she cannot provide physical therapy services unless she works under the direct supervision of a licensed physical therapist, and that her pursuit of licensure in massage therapy will allow her to provide services to clients without having to work under the direct supervision of a licensed PT.

Mr. Wilkinson and Ms. Zumbrun discussed licensing requirements for massage therapists and the types of services that she would provide.

Mr. Wilkinson asked the Board if it had questions for the petitioner. Hearing none, he opened the public hearing. Hearing no input from the public, he closed the public hearing. Mr. Bilger stated that no input had been provided by electronic participants.

Mr. Wilkinson asked the Board if it had any questions or comments. Hearing none, he called for a motion. Ms. Lopez made a motion to approve 21-W-SE-1 with the following conditions:

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. The area used for the business shall not exceed 20% of the habitable area of the residence.
4. Any signage will conform to the requirements of the code.
5. Any required professional licensing or registrations will be kept in good standing.

Mr. Wolf seconded the motion. Motion passed by a roll call vote of 5-0.

OTHER BUSINESS

There was no other business.

ADJOURNMENT

Mr. Wilkinson adjourned the meeting at 8:00 p.m.

GUEST LIST

1. Christopher Stockamp.....4875 E. McJunkin Street, Columbia City
2. Hillary Zumbrun6146 N. 450 East, Churubusco
3. Tom Zumbrun6146 N. 450 East, Churubusco

GUEST LIST – ELECTRONIC

4. Sonya Emerick5865 E. SR 14, Columbia City