

MINUTES
WHITLEY COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING
March 23, 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
<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. Mr. Wilkinson reminded the Board that, due to electronic member participation, any votes would need to be taken by roll call.

CONSIDERATION OF PREVIOUS MEETING MINUTES

The minutes for the December 22, 2020, January 26, 2021, and February 23, 2021 regular meetings were presented for review. Mr. Wright made a motion to approve the minutes as presented; Ms. Lopez seconded the motion. The motion passed by roll call vote of 5-0.

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

There was no old business.

NEW BUSINESS

21-W-VAR-3, Setback Variance, Brian Bridge & Michelle Waters, 3398 E. Magley Lane

Brian Bridge and Michelle Waters requested a development standards variance of the required front and side setbacks for the property at 3398 E. Magley Lane, Columbia City. The property,

located on the south side of Poplar Road, about 1,860' east of State Road 9, is in Section 2 of Thorncreek Township and was zoned LR, Lake Residential.

Mr. Bilger presented the staff report. He stated that petitioner had recently provided an updated site plan that is like the original except for a substantial change to the proposed front setback. He stated that the originally proposed front setback of 35' had been changed to 25', thus resulting in a request for a front setback variance in addition to the originally requested side setback variance. He said that the request was now for a side yard setback of 1' and a front yard setback of 25' for a proposed 36'x56' detached garage.

Mr. Bilger reviewed aerial images of the subject property and surrounding area. He presented the original site plan along with the updated site plan and discussed changes between the two. He stated that averaging does not apply to this lot as, although it is zoned Lake Residential, it is not located between a lake or lake channel and road right-of-way. He stated that the property directly to the northwest was granted variance approval of a 24' front yard setback for a detached garage in 2014 (14-W-VAR-20) and reviewed the dimensions and front setbacks of a selection of detached garages on nearby properties.

Mr. Bilger discussed the review criteria. He stated that a side yard setback of less than 5' may present a public safety concern because it may reduce the ability of public safety officials to access certain areas. He added that the state fire code requires the walls of buildings less than 5' from a property line to include additional fire protections. He said that a 1' side setback along the east property line may impact use of the property to the northeast. He stated that the size and shape of the lot may introduce a practical difficulty, but added that most other detached garages along this portion of Magley Lane are 32' wide or less and appear to serve their owners satisfactorily and that the request for a 4' side setback variance could be a self-imposed hardship. He said that the only other detached garage along this portion of Magley Lane that is 36' wide is located on the property directly northeast of the subject property. He stated that staff finds a front variance of 10' to be generally supportable but questioned the supportability of a 4' side variance.

Mr. Bilger asked the Board if it had any questions. There were none.

Mr. Wilkinson asked the petitioner or its representative to address the Board.

Brian Bridge, 3397 E. Magley Lane, Columbia City, stated that he intends to build a detached garage on the subject property for storage of a pontoon and other personal items. He said that he had come before the Board to see what he could get approved. He said that he has spoken with his neighbors and that none have expressed opposition to his proposal. He stated that he is now considering a 32' wide structure after continued discussions with Planning & Building Department staff.

Mr. Wilkinson asked the Board if it had questions for the petitioner.

Mr. Wilkinson asked Mr. Bridge if he wanted to place his detached garage so that it had a 25' front setback. Mr. Bridge affirmed that this was correct. Mr. Wright stated that he was amenable to a 25' front setback but did not support approving a side setback of less than 5'. Mr. Denihan and Mr. Wolf expressed agreement with Mr. Wright. Mr. Wolf added that he thought a 1' side setback could lead to problems in the future, such as the need to enter another's property to maintain or repair the structure. Mr. Denihan stated that he felt it was best for the Board to uphold 5' minimum side setbacks for this proposal but that he was amenable to a 25' front

setback. Mr. Wilkinson stated that, since the Board appeared to be changing the proposal from that which was presented in staff report, a motion would be in order.

Hearing no further questions for petitioner from the Board, Mr. Wilkinson opened the public hearing. Hearing no public comment, he closed the public hearing.

Mr. Wilkinson asked for a motion. Mr. Wright made a motion to approve 21-W-VAR-3 with a 25' front setback and 5' side setbacks; Mr. Wolf seconded. The motion passed by roll call vote of 5-0.

21-W-VAR-4, Setback Variance, Tim & Ashley Clark, 7851 E. G' Antony Drive

Tim and Ashley Clark requested a variance of the required side yard setback for a primary structure. The subject property, commonly known as 3398 E. Magley Lane, Columbia City, is located on the southeast side of E. Magley Lane, approximately 620' southwest of N. 350 East, in Section 12 of Thorncreek Township and is zoned LR, Lake Residential.

Mr. Bilger presented the staff report. He stated that this petition resulted from petitioner's home being built such that it encroaches on the required front yard setback and a platted building line. Petitioner attempted to refinance their home and the bank, while performing due diligence, recognized the encroachment and contacted the Planning & Building Department to ask if a variance had been granted to allow such. The Planning & Building Department was unable to locate any such variance and relayed this to the bank. The bank paused the refinance and petitioner then contacted the Department to pursue a variance. He said that the house was built in 1994 and petitioner purchased the property in 2019. He stated that the south corner of the house was 26.5' from the right-of-way line, encroaching on the 35' platted building line and 40' minimum front setback. The site plan from the building permit showed the house as compliant, in-field inspections did not identify the location as noncompliant, and the house was issued a Certificate of Occupancy when built.

Mr. Bilger reviewed aerial images of the subject property and surrounding area, both current and historical, along with a plot plan. He discussed the review criteria and findings of fact.

Mr. Bilger asked the Board if it had any questions. There were none.

Mr. Wilkinson asked the petitioner or its representative to address the Board.

Tim Clark, 7851 E. G'Antony Drive-92, Fort Wayne, stated that the refinance of the home has been approved but the lack of a variance allowing the house to be located on the property as is resulted in necessary reconciliation of title work.

Mr. Wilkinson asked Mr. Clark how this issue arose. Mr. Clark said that his bank examined paperwork for the home while performing due diligence related to a refinance and recognized the discrepancy.

Mr. Bilger stated that a survey was done during the refinance process and that survey showed the house encroaching on the required minimum front setback and platted building line.

Mr. Wright and Ms. Deckard discussed levels of due diligence typically performed by lending institutions in these types of instances.

Hearing no further questions for petitioner from the Board, Mr. Wilkinson opened the public hearing. Hearing no public comment, he closed the public hearing.

Mr. Wilkinson asked the Board if it had questions. Hearing none, he called for a vote on 21-W-VAR-4. The petition passed by a roll call vote of 5-0.

21-W-VAR-5, Minimum Main Floor Area Variance, Jason & Elizabeth Ringer, 4270 W. Keiser Road

Jason and Elizabeth Ringer requested a variance of the required minimum main floor area for a primary structure. The subject property, more commonly known as 4270 W. Keiser Road, South Whitley, is located on the north side of W. Keiser Road at the intersection of W. Keiser Road and W. State Road 14 in Section 1 of Cleveland Township and is zoned AG, Agricultural.

Mr. Bilger presented the staff report. He stated that petitioner intends to build a pole building with living quarters to reside while constructing a conventional dwelling unit over the course of a couple years. The proposed pole building with living quarters would not meet the district requirements for minimum main floor area. Petitioner has indicated that they will remove the living quarters from the pole building when the permanent dwelling is completed. Mr. Bilger presented aerials of the subject property and surrounding area, along with a plot plan and floor plan for the proposed structure. He discussed the review criteria and staff's suggested conditions.

Mr. Bilger asked the Board if it had any questions. There were none.

Mr. Wilkinson asked the petitioner or its representative to address the Board.

Jason Ringer, 1922 Donegal Drive, Fort Wayne, stated that his family wanted to build their own home over the course of a couple years and that they would live in the proposed pole building with living quarters until the home was completed. He said that this arrangement would allow his family to live on-site while constructing the home, rather than driving back-and-forth to Fort Wayne. He stated that he had no problem with the requirement that the living quarters be removed from the pole building when the home was completed.

Mr. Wolf asked Mr. Ringer what his plans were for the existing 24'x32' pole building. Mr. Ringer stated that he intends to demolish this structure when the home is completed.

Hearing no further questions for petitioner from the Board, Mr. Wilkinson opened the public hearing. Hearing no public comment, he closed the public hearing.

Mr. Wilkinson asked the Board if it had questions. Hearing none, he asked for a motion.

Mr. Wolf made a motion to approve 21-W-VAR-5 with the following conditions:

1. The variance is granted for a maximum of 3 years, or until the permanent dwelling is completed, whichever comes first.
2. A building permit for the permanent dwelling must be obtained within one (1) year of the approval of the variance.
3. The variance is granted only for the petitioner and is not transferable. If the property is sold, the subject building shall be remodeled to comprise a compliant floor area.

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

21-W-SE-2, Secondary Dwelling Unit, James & Mary Jo Burkett, 2400 S. 625 West

James and Mary Jo Burkett requested a special exception to permit a secondary dwelling unit. The subject property, more commonly known as 2400 S. 625 West, South Whitley, is located on

the west side of S. 625 West, approximately 2,260' south of W. 200 South, in Section 22 of Richland Township and is zoned AG, Agricultural.

Mr. Bilger stated that petitioner had been working with Planning staff and the Health Department to address issues related with appropriate siting of a proposed Type II manufactured home secondary dwelling unit relative to a proposed septic system to serve it. Petitioner indicated to Planning staff that these issues, along with others, have resulted in the proposal no longer being feasible. As a result, petitioner has requested that the petition be withdrawn. He said that Planning staff had told petitioner that they could have up to the time of the meeting to make a final decision on whether to withdraw the petition. He asked Mr. Cullnane to confirm that petitioner was not present; Mr. Cullnane confirmed. Mr. Bilger stated that 21-W-SE-2 had been administratively withdrawn at the request of petitioner.

Mr. Wilkinson asked Mr. Bilger whether the Board needed to act on the petition. Mr. Bilger stated that it did not.

OTHER BUSINESS

There was no other business.

ADJOURNMENT

Mr. Wilkinson adjourned the meeting at 8:12 p.m.

GUEST LIST

1. Jason & Elizabeth Ringer.....1922 Donegal Drive, Fort Wayne
2. Brian Bridge.....3397 E. Magley Lane, Columbia City
3. Tim Clark.....7851 E. G' Antony Drive-92, Fort Wayne

GUEST LIST – ELECTRONIC

4. Scott Kerr.....4004 W. Keiser Road, South Whitley
5. Janet Moser5565 N. 350 East, Columbia City