

MINUTES
WHITLEY COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING
May 24, 2022
7:30 P.M.

Whitley County Government Center
Meeting Room A/B

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

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. Bockelman read the roll call; the members present and absent are listed above.

CONSIDERATION OF PREVIOUS MEETING MINUTES

The minutes for the April 26, 2022 regular meeting were presented for review. Ms. Lopez made a motion to approve the minutes as presented. Mr. Wolf seconded the motion. The motion passed by a vote of 3-0.

ADMINISTRATION OF OATH

Ms. Deckard provided the oath to the audience members wishing to speak.

OLD BUSINESS

22-W-SE-4 (Continued from April meeting)

Ryan Diepenbrock requested a Special Exception for Traffic Generating Home Occupation. The subject property, commonly known as 9490 S. 800 East-92, Roanoke, was located on the west side of 800 south, approximately 180 feet north of Popcorn Drive, in Section 25 of Jefferson Township and was zoned AG, Agriculture.

Mr. Bilger presented the staff report. He explained the nature of the request, stating that a portion of the proposed outbuilding would be used by the owner to conduct continuing education classes with an entertainment area and theater/presentation room. He noted that a variance was previously approved for the construction of the building at a different site on an adjacent parcel, and so that did not require a Special Exception. With the change in site onto the same parcel as

the primary dwelling and a shift in building details, a special exception was required. Mr. Bilger discussed the review criteria and suggested 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.

Todd, Hartzog, 4207 Gallmeyer Ct. Fort Wayne, addressed the Board as the representative of the petitioner. He explained the project and uses of the building. He stated that the owner was a doctor who currently put on training sessions at hotels and wanted to hold them on his own property. The weekend training meetings for about six attendees would happen three to five times a year.

Mr. Wilkinson asked for any questions from the public. Hearing none, he asked for a motion. Ms. Lopez made a motion to approve petition 22-W-SE-4, with the staff recommended conditions. Motion was seconded by Mr. Wolf. Motion was passed by a vote of 3-0.

NEW BUSINESS

22-W-VAR-11

Jerry and Debra Carpenter requested a development standards variance for an encroachment into the required front yard setback on their property located at 3395 W. Shoreline Drive, in Section 12 of Etna Troy Township. The property was zoned LR, Lake Residential.

Mr. Bilger presented the staff report and displayed aerial views of the property and proposed plan for a deck. He explained the variance of the front setback and compared this setback to other properties in the area. Review criteria was discussed and stated that the structure would not be located in the floodplain.

Jerry Carpenter, 3395 W. Shoreline Drive, explained his proposed project and the neighboring properties. He also explained that his property line did not extend all the way to the shoreline of the lake.

Mr. Wilkinson asked for any questions from the public. Hearing none, he asked for a vote. The motion was approved by a vote of 3-0.

22-W-SE-5

Amber Mynhier requested a Special Exception for a Secondary Dwelling unit. The subject property, commonly known as 7455 S. State Road 5, was located on the east side of State Road 5, 200 feet south of 600 West, in section 14 of Cleveland Township and was zoned AG, Agricultural.

Mr. Bilger presented the staff report. He described the nature of the petition to include a variance of the definition of “family” to be construed to include “refugees and asylum seekers.” He described the living quarters as a studio style apartment above a detached garage. The apartment was constructed by the previous owner without obtaining a building permit or zoning approval. The current property owners wished to correct this through this request for a special exception

and then proper permitting. Aerial views were provided of the property and subject building. Mr. Bilger discussed the review criteria, and suggested the following conditions of approval:

Amber Mynhier, 7455 S. State Road 5, addressed the Board and explained the petition request. She explained that there would be no rent collected and that the dwelling unit would be occupied by refugee and asylum-seeking families through their Church since the apartment was not currently needed by any family members. Discussion was made as to the number of people that would be permitted to live in the unit. It was suggested that the limit of four occupants was appropriate.

Mr. Wilkinson asked for any questions from the public. Hearing none, he asked for a motion. Mr. Wolf made a motion to approve 22-W-SE-5 with the following conditions:

1. The request is granted as presented.
2. The Special Exception and Variance are non-transferable and expire upon the transfer of the subject property from the petitioner's ownership.
3. The dwelling shall not be used as an income-producing rental unit.
4. The number of occupants of the secondary dwelling unit is limited to 4.

The motion was seconded by Ms. Lopez. The petition was approved by a vote of 3-0.

22-W-SE-6

Timothy & Carol Graham requested a Special Exception for a Secondary Dwelling unit. The subject property commonly known as 3519 W. Lincolnway, was located on the west side of 350 West, 130 feet south of Lincolnway, in Section 26 of Richland Township. It was zoned AG, Agricultural.

Mr. Bilger presented the staff report. He discussed the nature of the request, stating that the proposed secondary dwelling would be a pole building with living quarters for the son of the property owner. This would be reverted to garage space and storage when the need for the second dwelling was no longer needed. Aerial views and site plan were displayed for reference. Suggested conditions were discussed.

Timothy Graham, 3519 W. Lincolnway, explained the project and that his son would be living in the new structure.

Mr. Wilkinson asked for any questions from the public. Hearing none, he asked for a motion.

Mr. Wolf made a motion to approve 22-W-SE-6 with the following conditions:

1. The Special Exception is granted as presented.
2. 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.

The motion was seconded by Ms. Lopez. The motion was approved by a vote of 3-0

22-W-SE-7

Jason and Jennifer Esterline, owners of the subject property at 8324 W. State Road 14 in Cleveland Township, requested a special exception approval for a "processing of agricultural products not produced on-site" use. The property was zoned AG, Agricultural.

Mr. Bilger presented the staff report. He stated that the nature of the use would be a microbrewing operation in an existing 2,600 sq. ft. building. He stated that the “processing of agricultural products not produced on-site” was a broad use that had been previously used for uses such as a sawmill and meat processing, and which might be used for uses like a feed mill or ethanol production. The special exception review process would determine the appropriateness of each specific use to any particular site. He added that a taproom was also proposed, which would be an accessory retail use to the brewing use.

He stated that within the building, 416± sq ft used for brewing, 416± sq ft for the accessory taproom, with the remainder for storage and loading. A total of 1,000± sq ft seating area on the patio and inside was proposed. There would be parking for 19 vehicles, which would comply with the parking code, and tree buffering was proposed along the west property line. Aerial views, floor plan, and surrounding areas were displayed.

Review criteria were discussed. Noise, water pollution, and outdoor area were stated as concerns. He stated that the Health Department could require a new well and septic system since this would be a public building. The traffic for the taproom operation was discussed and INDOT approval would be needed for driveway. Mr. Bilger explained the following suggested 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.
3. The area of the interior taproom/consumer sales area will not exceed the proposed 416 sq. ft.
4. The number and design of parking spaces will comply with the parking code. An INDOT permit, if required, must be obtained.
5. Noise from this special exception will not exceed 50 dB as measured at adjacent residences.
6. Any requirements of the Health Department for the septic system, food operation, etc. will be met.
7. Hours of operation for the taproom will not be open later than 10 P.M.
8. Freestanding signage will be limited to one non-illuminated sign of not more than 6 sq. ft. in area per face.
9. Food service for on-site consumption constitutes a restaurant use and is not allowed under this special exception.
10. Other conditions as may be discussed during the public hearing.

Mr. Wilkinson asked for clarification as to what exactly this approval would be. Mr. Bilger stated that the brewing operation would be the primary use, with an accessory tap room to purchase and consume the beverage produced on-site. Mr. Wilkinson asked about the new restrooms proposed. Mr. Bilger stated that new restrooms would be installed to meet the health department requirements.

Mr. Wilkinson asked about the surface material for the parking lot. Mr. Bilger stated that it was proposed to be gravel and that in AG-zoned areas gravel is permitted.

Ms. Lopez asked who would monitor and enforce the noise levels at the property. Mr. Bilger stated that it would initially be by the neighboring property owners, then if there is an issue, would be handled through code enforcement.

Mr. Wilkinson asked the petitioner to speak. Jason and Jennifer Esterline, 8324 W. State Road 14, addressed the Board and explained their project. Jason explained details about their backgrounds, business history, and projected impact on the property in the future. He described the licensing, requirements, and permits that were being acquired for the operation.

Jennifer discussed some of the concerns that had been brought up. She explained the success that their private brewery has had. Documentation was provided to the Board by Ms. Esterline. She discussed traffic concerns and hours of operation. Parking on the property was discussed as well as drive way size. Discussion was made about noise and comparisons to other agricultural activities were given. The concern about vandalism was addressed. She explained in more detail the family friendly and educational operations on the farm and business.

Ms. Lopez asked about the quantity of production and the amount of waste water produced. Mr. Esterline explained the amount of roughly 60-70 gallons of product and planned to have a separate septic system for the business and new restroom. He estimated producing around 5-6 barrels per month. Ms. Lopez asked about the parking situation. Parking was explained and stated that plan on normal use of 10-12 spaces with ADA parking.

Mr. Wilkinson asked what products could be consumed at the patio. Ms. Esterline explained the possibility of food trucks and trailers. She discussed the pending cottage industry law change and allowance of foods served without a commercial kitchen as of July 1. She detailed events that are planned for non-profits.

Mr. Wilkinson asked for public questions for the petitioner.

Tom Smith, 8300 W. State Road 14, asked the length of operation to this point and if they were brewing, shouldn't he have known about it.

Ms. Esterline stated that she had conversations with Mr. Smith's wife about the brewing and Mrs. Smith had brought beer over to their property to share. She stated that the brewing operation is quiet.

Preston Keim, 8429 W. State Road 14, asked for clarification on the special exception and the limitations of growth. He shared his concern with the broadness of the exception. Mr. Bilger explained the special exception and that the limits would be determined at this meeting. Mr. Wilkinson stated that right now the limits would be on parking and noise. No limit on the number of people had been proposed. Ms. Esterline explained other regulations in place and that if major growth would happen, a new facility would be looked at.

Steve Walpole, 8360 W. State Rd. 14, stated that he was the neighbor to the west and the one that has his family over every Sunday for dinner. He stated his concern with the noise and parking. He felt like the notification did not clarify the brewing operation. That was explained. Discussion was made on the comment letters.

Ryan Null, 101 S. Maple St, South Whitley, explained that his wife operates a new business in South Whitley that has been well received. He described the business environment in South Whitley and stated the need for growth and bringing people to the area. He shared his support for the special exception and support for agritourism growth. He shared a statement from Chris Judy in support of the special exception.

Tom Smith, 8300 W. State Road 14, asked about the selling of the beer on the property, or if it would be free. He had heard it stated both ways. Mr. Esterline explained that right now they

could not charge for the beer since the licensing needed to sell alcohol would not be completed until September. Mr. Smith stated that it appeared to him to be a tavern. He expressed his concern with weekend traffic with basketball and football games at the school that is a mile away.

Patricia Bowers, 8060 W. State Road 14, shared her concern with blocking traffic with the semi and the bus stop and concerned for the kids.

Eric Hackworth, 120 N. Singing Quail Ct., stated that he just purchased ground near the property. He explained his support for the special exception. He stated that this small business would help bring people to the area to spend their money to help the local economy.

Steve Walpole, 8360 W. State Road 14, addressed the Board and asked how they would like it if this would move in next door to them. Discussion was made about the location.

Tom Smith, 8300 W. State Road 14, asked if the area was zoned to operate this business. Mr. Bilger clarified the zoning question and reason for the special exception. Mr. Smith expressed his concern with outgrowing the location and needing to relocate. Discussion was made about the limitations being set and parking.

Patricia Bowers, 8060 W. State Road 14, shared her concern on the number of cars at a grand opening. Mr. Wilkinson stated that the limit proposed is 19 cars.

Corene Painter, 2505 Northway Ave, Fort Wayne, addressed the Board. She stated that she and her husband had purchased property nearby and with their agriculture interest in the growing of hops, are excited to hear of the local business and support the approval of the special exception.

Patricia Miller, 8021 W. State Road 14, addressed the Board. She stated her concern with the added traffic and drivers under the influence. She stated her support for the business idea but suggested having the tap room itself at a different location.

Mr. Wilkinson opened the podium to the petitioner for rebuttal of the general comments. Mr. and Mrs. Esterline did not speak in rebuttal.

Ms. Lopez discussed the taproom idea and proximity of the neighbors in the area. She shared her concerns on the traffic and close neighbors as well.

Mr. Wolf discussed agriculture and regulations put in place by the State and Federal government. He stated that change and growth can be hard to accept.

Mr. Bilger stated that research done on the new bill passed by the State of Indiana, taking effect in July, would allow for home-based vendors and food provided. With this information, Mr. Bilger suggested to remove condition number nine from the recommended conditions by staff.

The number of people allowed at the establishment was discussed. Mr. Wolf asked the petitioner on the plan and liability of patrons that may be served and intoxicated. Mr. Esterline stated that with this being his livelihood, and his responsibility, to ensure that is controlled, he would not jeopardize that. Mr. Wolf asked for clarification on the amount of production. Ms. Esterline stated that much of the beer produced would be used for offsite events. They are looking at serving around ten patrons at any given time. If growth would exceed the limits, the brewery would remain at the property. It was stated that the beer would be sold by the glass or in a keg style for distribution.

Parking was discussed and stated that the parking plan would need to meet code requirements with 16 space and 3 additional ADA spaces.

Further discussion was made on hours of operation. 4PM-10 PM on Friday, 11AM-10 PM on Saturday, 11AM-8PM on Sunday, were proposed by the petitioner.

Mr. Wolf made a motion to approve 22-W-SE-7 with staff recommended conditions and add that if growth occurs, a new facility location would be researched. The motion was seconded by Ms. Lopez. The wording of the new condition was discussed at length. Mr. Bilger suggested that a condition for a time frame of approval could be more effective to enforce than a limitation on growth. Amendment was made to the motion, resulting in 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.
3. The area of the interior taproom/consumer sales area will not exceed the proposed 416 sq. ft.
4. The number and design of parking spaces will comply with the parking code. An INDOT permit, if required, must be obtained.
5. Noise from this special exception will not exceed 50 dB as measured at adjacent residences.
6. Any requirements of the Health Department for the septic system, food operation, etc. will be met.
7. Hours of operation for the taproom will be 4PM-10 PM on Friday, 11AM-10 PM on Saturday, and 11AM-8PM on Sunday
8. Freestanding signage will be limited to one non-illuminated sign of not more than 6 sq. ft. in area per face.
9. As growth occurs, an alternative location for the use should be identified.
10. The special exception is in effect for three years from the date of approval unless reapproved.

The motion passed by a vote of 3-0.

Mr. Wilkinson then called a two-minute recess.

22-W-SE-8

Jeff Shelton requested Special Exception approval for a Banquet Hall use. Proposed was an event center that would utilize the existing building and include the home located on the property at 7195 East State Road 14, in Section 1 of Jefferson Township. The property was zoned VC, Village Commercial, with the residence being zoned RR, Rural Residential, with a rezoning request from RR to VC pending.

Mr. Bilger presented the staff report. He described the request for Banquet Hall use. The proposed use would occupy an existing building and could use an outside area. He explained that the current residence would also be used for the business operation, which triggered the need to rezone that part of the property. The proposed parking was discussed, with some concern about the total number of spaces being in question since the floor area of the hall was not submitted. Aerial views and site plan were displayed for reference. He presented suggested conditions.

Mr. Wilkinson asked for the petitioner or their representative to speak. Matt Kelty, 116 Berry Street, Suite 700, Fort Wayne, addressed the Board. He described details of the project that was proposed. He explained the size and scope of events that would be held at the location. He stated that the size of events and number of attendees would be limited due to areas for storage, catering, and entertainment. Noise levels were discussed.

Jeff Shelton, 4541 W. 1000 North, Markle, addressed the Board. He added to the description of the property and use. He expressed his desire to be a good neighbor and have conversations with the adjacent property owners. He described the use of the facility by his company as well as rent out for other events. He expressed his understanding of the concerns about noise and traffic and that they would be monitored and controlled. He stated that the area labeled the outdoor event area would be a green space for attendees to retreat to for fresh air and conversation.

Mr. Wilkinson asked for clarification about the residence that was located on the property. Mr. Kelty stated that the home would be included in the business as office space, bridal party rooms, and meeting rooms. No one would be living there.

Mr. Wilkinson asked for comments from the public.

Jeff Burke, 5924 S. Legacy Ct., expressed his concern about times of operation, lighting, and water runoff from the added parking spots. Drainage was discussed on the properties. Mr. Kelty explained that the lighting would consist of cut-off lighting that would cast zero footcandle of projected light on adjacent properties. Noise was discussed.

Mr. Shelton addressed the concern on operating hours. He stated that operations would be around 11:30 PM on a weekend and 10:00 PM on a weekday. Thursday hours were discussed with some weddings being held on that day of the week. The additional parking and water retention was discussed.

Mike Stanford, 7195 W. State Road 14, addressed the Board and described the existing drainage and what has been done to address the water concern on the property.

Kathy Sauers, 7410 E. Heritage Trail, expressed her concerns with noise, buffering, fireworks and trash from the event center and outdoor activities. She shared her desire to enjoy the peace and quiet of “country living.”

Mark Crawford, 5912 S. Legacy Ct., addressed the Board. He shared concerns about the existing firing range and outdoor event center noise. He had concern about outdoor band concerts and the noise produced.

Doug Sauers, 7410 E. Heritage Trail, shared his concern about the trash that might blow over and the water draining from the property.

Joe Weiss, 5956 S. Legacy Ct., shared concerns about the water issue on the properties in the area. He explained the drain issue on his property and discussions he had with the County Drainage department. With the flooding that happens now needs to be considered. Mr. Kelty stated that the area discussed would remain grass in the plan.

Mike Stanford, 7195 W. State Road 14, responded about the concern about the shooting range and described some of the events that had been held on the past on the property. History of the property was described. Mr. Bilger added that a commercial shooting range would require further zoning review.

Mark Crawford, 5912 S. Legacy Ct., described a situation with drainage during a storm and how the water ran off.

There being no further public comment, Mr. Wilkinson asked for Board discussion. The hours of operations were discussed, with the possibility of later hours on Thursdays. Limitations for fireworks was discussed, and the Board felt it best to follow the existing state regulations.

Ms. Lopez made a motion to approve 22-W-SE-8, seconded by Mr. Wolf, with the following conditions:

1. The Special Exception is granted as presented and per the site plan.
2. This Special Exception will not be in effect until and unless the pending rezoning to VC is approved.
3. Noise from events shall not exceed 50 dB at adjacent residences.
4. Parking will comply with the requirements of the parking code.
5. The access onto State Road 14 should be reviewed by INDOT and a permit be obtained from them if necessary.
6. Any signage will conform to the requirements of the code.
7. Parking lot lighting will use cut-off lights and produce 0 foot-candles onto adjacent properties.
8. Hours of operation will not be later than 10:00 P.M Sunday-Wednesday, and 11:30 P.M. Thursday-Saturday.

The motion was approved by a vote of 3-0.

ADJOURNMENT

Having no other business, Mr. Wilkinson adjourned the meeting at 11:30 P.M.

GUEST LIST

1. Eric Hackworth120 N. Singing Quail Ct.
2. Barry Terry.....2505 Northway Ave, Ft Wayne
3. Corene Painter.....2505 Northway Ave, Ft Wayne
4. Stephanie Kroeber.....120 N. Singing Quail Ct.
5. Chris JoergerLot #5, Legacy Preserve
6. Regis Joerger.....Lot #5, Legacy Preserve
7. Martha Weiss5956 S. Legacy Ct.
8. Joe Weiss5956 S. Legacy Ct.
9. Sarah Trombley101 S. Maple St., South Whitley
10. James Ryan Null101 S. Maple St., South Whitley
11. Jason Esterline8324 W. State Rd. 14, South Whitley
12. Katherine Sharp9324 W. State Rd. 14, South Whitley
13. Jennifer Esterline8324 W. State Rd. 14, South Whitley
14. Mike Stanford7195 E. State Rd. 14
15. Jeff Shelton4541 W. 1000 North, Markle
16. Jill Shelton4541 W. 1000 North, Markle
17. Heather Sparks7151 S. 700 East
18. Avery Sparks.....386 Clark St., Roanoke
19. Jared Sparks7141 S. 700 East

20. Lindsey Ellis	711 Blake Drive, Fort Wayne
21. Karen Jordan	706 N. Hillcrest Dr., South Whitley
22. Kelley Sheiss	8129 N. 650 West, Larwill
23. Tim Graham	3519 W. Lincolnway
24. Randy Graham	3519 W. Lincolnway
25. Darline Graham	3519 W. Lincolnway
26. Mark Shaver	7426 Heritage Trail
27. Deborah Bowers	6443 W. Pook Rd., South Whitley
28. Andrew Bowers	114 N. State St., South Whitley
29. Carol Graham	3519 W. Lincolnway
30. Deb Carpenter	3395 W. Shoreline Dr.
31. Jerry Carpenter	3395 W. Shoreline Dr.
32. Joan Null	8099 S. 200 East
33. Raymond J Hoviak	817 Denzil Dr.
34. Thomas Smith	8300 W. State Rd. 14, South Whitley
35. Steve Walpole	8360 W. State Rd. 14, South Whitley
36. Todd Hartzog	4207 Gallmeyer Ct. Fort Wayne
37. Patricia Bowers	8060 W. State Rd. 14, South Whitley
38. Patricia Miller	8021 W. State Rd. 14, South Whitley
39. Jeff Burke	5924 S. Legacy Ct.
40. Sue Burke	5924 S. Legacy Ct.
41. Keith Robinson	1319 Magnavox Way, Fort Wayne
42. Doug Sauers	7410 E. Heritage Trail
43. Kathy Sauers	7410 E. Heritage Trail
44. Preston Keim	8429 W. State Rd. 14, South Whitley
45. Cady Mishler	8429 W. State Rd. 14, South Whitley
46. Matt Kelty	116 E. Berry St., Fort Wayne
47. Amber Mynhier	7455 S. State Road 5, South Whitley
48. Tammy Gettinger	3309 W. Lincolnway
49. Mark Crawford	5912 S. Legacy Ct.
50. Sonya Emerick	5865 E State Road 14

GUEST LIST – ELECTRONIC

51. Harold Stanford	300 Mckay, Lineville, AL
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