

MINUTES
WHITLEY COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING
August 24, 2021
7:30 P.M.

Whitley County Government Center
Meeting Room A/B

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

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.

CONSIDERATION OF PREVIOUS MEETING MINUTES

The minutes for the July 27, 2021 regular meeting were presented for review. Mr. Wright made a motion to approve the minutes as presented. Ms. Lopez seconded the motion. The motion passed by a vote of 4-0.

ADMINISTRATION OF OATH

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

OLD BUSINESS

There was no old business.

NEW BUSINESS

21-W-VAR-14, Setback Variance, 9160 E. 300 North

Bradley Pearl and Sarah Straub Pearl requested a variance of the required front yard setback. The subject property, commonly known as 9160 E. 300 North, Churubusco, was located on the south side of E. 300 North, approximately 2,000' west of US 33, in Section 25 of Smith Township, and was zoned AG, Agricultural.

Mr. Bilger presented the staff report. He stated that a roughly 50'x60' outbuilding was proposed to the west side of the existing dwelling for garage and storage/woodworking shop. It would be approximately 25' from the surveyed right-of-way line, which necessitated the variance request. He reviewed aerial views and the submitted plot plan and displayed the proposed building plan.

Mr. Bilger discussed the review criteria. He said that an outbuilding likely would not injure the public health, safety, morals, and general welfare. He stated that the value and use of the area likely would not be affected since storage buildings were common in the vicinity. He stated that this site had several constraints to locating an outbuilding, including the lot size, the location of the septic field and legal drain easement to the west of the dwelling, and utility connections and trees to the east. Further, placement of the structure to the east would likely still require a side setback variance.

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

Bradley Pearl and Sarah Straub Pearl, petitioner, stated that the existing dwelling only had a one-car garage, so additional storage and garage space were needed. They stated that in addition to utility lines, there apple trees were to the east of the house, so to the west of the house was the only remaining space available.

Mr. Wilkinson asked the Board if it had questions for the petitioner. Hearing none, he opened the public hearing. Hearing no public comment, he closed the public hearing. Having no other discussion from the Board, he called for a vote. The petition was approved by a vote of 4-0.

21-W-VAR-15, Industrial buffering variance, 1150 N. 650 West

Paul McCoy (TAPS Salvage & Sails) requested a variance of the required industrial buffering. The subject property, commonly known as 1150 N. 650 West, Larwill, is located on the east side of N. 650 West, approximately 700' north of US 30, in Section 33 of Richland Township, and was zoned IPM, Industrial Park/Manufacturing pending approval by the Commissioners.

Mr. Bilger summarized the staff report. He stated that a 0.37-acre parcel had been split from the surrounding field and requested to be rezoned to IPM to permit the expansion of the TAPS facility to the north. He explained the application of industrial buffering requirements for expansions, noting that only the part of the property adjacent to the expansion is subject to the buffering. He showed a summary of the buffering requirements for IPM when adjacent to AG-zoned properties. He stated that the requested variance was to waive the required buffering since the petitioner owned the surrounding property.

Mr. Bilger displayed aerial views, proposed site plan, and showed where the buffering would be required by the code. He then reviewed the variance criteria, noting that the presence or lack of landscaping would not likely injure the public health, safety, and morals since landscaping does not usually have such effects; general welfare might be injured if there were not specific difficulties. He stated that the use of the surrounding property would not be affected, since it was owned by the petitioner. The value of the area, wider than the immediately adjacent property, might be affected since the expansion would be visible from the road and other properties, but given the size of the expansion and distance to other properties, it may not be substantial. He stated that the development was new, so the ability to include the required buffering should be easily included in the site design. However, the drainage, ownership of the surrounding property by the petitioner, and potential for further future expansion, may cause practical difficulties.

He suggested that the Board consider modifying the requested variance to shift the buffering on the north side of the IPM parcel to the existing tree line on the adjacent parcel owned by the petitioner. Doing would provide buffering and screening from the road and properties to the north, while not affecting the expansion room for the industrial facility itself. He felt that the east side buffering could be waived since there were no properties other than the petitioner's for about ½ mile to the east.

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.

Mike Reiff, building contractor and representative for the petitioner, stated that they would like to not install the buffering. Mr. Wilkinson asked Mr. Bilger if the existing building needed to have buffering; Mr. Bilger stated that the business had been in operation long enough to predate the buffering requirement of the code.

Mr. Wright asked if the petitioner would be okay with moving the buffering. Mr. Reiff stated that he felt that the trees would be an obstacle for farming the field and that it would not result in any benefit to the industrial property.

Mr. Wilkinson asked Mr. Bilger about the parking of in-progress vehicles on the IPM property or the AG side. Mr. Bilger stated that it should be on the IPM property. Mr. Reiff added that the purpose of the building addition was to move most of the vehicles inside.

Mr. Wilkinson asked the Board if it had more questions for the petitioner. Hearing none, he opened the public hearing.

John Klefeker stated that he lived due north of the facility. They hear much of the beeping noise coming from the property already. He requested that the buffering be installed to help block the noise, with the extension of the tree line being acceptable if it is solid line of pine trees at least 15' in height. Mr. Klefeker stated he had discussed this with the petitioner and the tenant farmer, and he thought planting trees could be done without interfering with the farming or the business. Mr. Wilkinson asked Mr. Bilger about the requirements for the trees. Mr. Bilger referred to the code requirements being deciduous shade trees or coniferous trees, but the Board could condition the variance to be more specific if they desired.

Mr. Reiff expressed concern about the proposed location and length of trees. He stated that the elevation of the tree line might not be effective at blocking noise anyway. Mr. Wilkinson suggested that even muffling the sound could be helpful. There was discussion about the noise buffering. Mr. Wolf stated that he thought noise could travel far because it would follow the swale. Mr. Wright stated that he thought buffering was needed since it was in the code, whether it be on the code location, or the modified location along the fence line. He asked if there would be expansion to the east in the future. Mr. Reiff explained that doing so would involve a lot of regrading. Ms. Lopez stated that she felt pine trees would be best for noise blocking.

Mr. Wilkinson confirmed that the Board could limit the type of trees. Mr. Bilger affirmed, noting that it could be a condition of the variance approval. Mr. Reiff asked about the hardness of pine trees when near field spraying. The Board suggested that may or may not be a concern. There was further discussion about the location of the trees to be planted.

Mr. Wright stated that the variance, as requested, was to waive all buffering requirements. He stated that as such he would make a motion to deny the variance request. Mr. Reiff stated that given the two options, he would prefer relocating the buffering to the tree line instead of along

the facility perimeter. Mr. Reiff repeated that the proposed storm line and grading would make the installation of trees along the facility perimeter difficult and less effective anyway. There was discussion about the location. Mr. Wilkinson suggested that the tree line location would be more effective than along the perimeter of the facility.

Mr. Klefeker asked to clarify the location being discussed. It was explained that it would be the field property line, where there is an existing tree line. He then discussed what he felt the grading and farming impacts would be. There was further discussion among the speaking parties about the length of the proposed trees along the tree line. There was a decision that the length in question would be about 400' east 650W, roughly in line with the east line of the TAPS property.

Hearing no additional public comments, Mr. Wilkinson asked for a motion from the Board. Mr. Wolf made a motion to approve a variance to move the buffer north to the petitioner's adjacent property line, extended 400' east from the road. Ms. Lopez asked for clarification that it would include evergreens; Mr. Wolf clarified his motion to include evergreens. Mr. Bilger asked for clarification that the east buffering would be waived; Mr. Wolf clarified his motion to include that as well. Mr. Wilkinson asked Mr. Bilger about the distance of the trees from the property line; Mr. Bilger stated that the motion moved the buffering and stipulated the type of trees, but the other requirements of the code would still apply. So, trees would need to be 5' to 15' from the property line. Ms. Lopez seconded the motion as clarified.

Mr. Klefeker asked if there was a height requirement for the trees. Mr. Bilger stated that an evergreen height of 6' at the time of planting would be required. Mr. Klefeker asked if it would be possible to require a minimum height in a certain time. Mr. Bilger stated that there were practical limitations of doing so because of growth rate of trees, survivability, and so on.

Mr. Wilkinson restated the motion to approve a variance to move the required buffering to the petitioner's adjacent north property line, extended 400' to the east, and to consist of evergreens. He then called for a vote. The petition was approved by a vote of 4-0.

OTHER BUSINESS

Mr. Bilger stated that Mark Cullnane would be leaving as of Friday, August 27th, and he relayed a statement of appreciation from Mr. Cullnane. A new person was due to start in the position mid-September.

ADJOURNMENT

Having no other business, Mr. Wilkinson adjourned the meeting at 8:26 p.m.

GUEST LIST

1. Mike Reiff.....5961 E. 300 North, Warsaw
2. Sarah & Brad Pearl9160 E. 300 North, Churubusco
3. John Klefeker6443 W. Plattner Road, Columbia City

GUEST LIST – ELECTRONIC

4. Kelley Sheiss.....8179 N. 650 West, Larwill
5. Sonya Emerick5865 E. State Road 14, Columbia City