

MINUTES
WHITLEY COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING
June 22, 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>	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. Bilger read the roll call; the members present and absent are listed above.

CONSIDERATION OF PREVIOUS MEETING MINUTES

The minutes for the March 23, 2021, April 27, 2021, and May 25, 2021 regular meetings were presented for review. MR. Wright made a motion to approve the March 23, 2021, April 27, 2021, and May 25, 2021 as presented. Mr. Wolf seconded the motion. The motion passed by a vote of 5-0.

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-11, Setback Variance, Jeff & Lola Grothaus, 3509 W. Shoreline Drive

Jeff and Lola Grothaus requested a variance of the required rear yard setback for an accessory structure. The subject property, commonly known as 3509 W. Shoreline Drive, Columbia City, is located on the southeast corner of the intersection of W. Shoreline Drive and N. Oak Drive in Section 11 of Etna-Troy Township and is zoned LR, Lake Residential.

Mr. Bilger presented the staff report. He stated that the subject property was located on the northwest corner of Goose Lake. He said that petitioner was requesting a setback variance for a 14'x10' storage shed that had been placed at the northwest corner of the property approximately two years ago. He stated that this shed replaced a slightly smaller shed that had been located at the northeast corner of the property. He said that the Planning Department was notified about the unpermitted shed by a building inspector who was in the area performing an inspection on a project at a nearby property. He stated that the required rear yard setback for an accessory structure in the LR district is 15' and that the plot plan showed the shed at 1' from the right-of-way line along W. Shoreline Drive, resulting in a variance request of 14'.

Mr. Bilger displayed aerial images of the subject property. He described the location of the floodplain. He displayed an aerial image from 2017 that showed the previous shed at the northeast corner of the property and stated that this shed had encroached into the right-of-way. He displayed photos that he had taken during a site visit. He displayed a plot plan showing the location of the existing and previous sheds.

Mr. Bilger discussed the review criteria. He said that a shed in itself did not injure the public health, safety, morals, and general welfare, but added that the placement of the shed on the inside corner of W. Shoreline Drive and N. Oak Drive could impact public safety by impeding visibility at the intersection. He stated that a propane tank and utility pole are also located at the corner and added that he did not believe that the shed obstructed visibility any more than the propane tank or utility pole. He said that low speed and volume of traffic at the intersection lessened public safety concerns. He stated that the shed would not negatively impact the use and value of adjacent properties. He said that there appeared to be sufficient space on the lake side of the property to place the shed in a location that would comply with development standards, but that the aesthetics of placing it on the lake side of the property may adversely impact neighboring property values more so than placement on the street side.

Mr. Bilger asked the Board if it had any questions.

Mr. Wilkinson asked for clarification of the requested variance. Mr. Bilger stated that the request was for a 14' variance of the required setback from the right-of-way line along W. Shoreline Drive. He said that this was not a corner lot and that the setback from side yard near N. Oak Drive was compliant with the Code.

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

Jeff Grothaus, 3509 W. Shoreline Drive, Columbia City, stated that he did not have a garage and that he bought the subject shed three years ago to store personal items because the previous one was not large enough. He said that the color of the shed matched his home to be aesthetically pleasing. He stated that he spoke with his neighbors and that none of them had issues with the location of the shed. He said that many primary and accessory structures were similarly situated near to the right-of-way along W. Shoreline Drive.

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

Mr. Wolf asked Mr. Grothaus which of his neighbors he spoke with about his petition. Mr. Grothaus listed the neighbors with whom he spoke regarding the petition. Mr. Wolf asked Mr. Grothaus if he contacted the County Highway Department. Mr. Grothaus said that he had not. Mr. Wolf stated that the Highway Department should have been contacted because W. Shoreline

Drive was a county-maintained road. Mr. Grothaus said that he was not aware of this and that the subject shed was on skids and could be easily moved.

Mr. Wilkinson asked the Board if it had additional questions. Hearing none, he opened the public hearing. Hearing no public comment, he closed the public hearing.

Mr. Wilkinson stated that he had made a site visit and that he had greater concern about the side yard setback near N. Oak Drive than the rear yard setback from W. Shoreline Drive.

Ms. Sheiss asked to view an aerial image that showed the location of the previous shed that had been placed at the northeast corner of the property. Mr. Bilger displayed an historical aerial image that showed the location of the previous shed.

Mr. Denihan asked if it would be appropriate to condition approval of the variance on Highway Department approval of the subject shed location. Mr. Wolf stated that the Highway Department should have been solicited for comment. Mr. Bilger stated that Highway Department comment had not been solicited because the subject shed was located outside of the right-of-way. He said that if the subject shed was in the right-of-way Highway Department and County Commissioner approval would have been required.

Mr. Wilkinson asked for further discussion. Hearing none, he called for a vote. The petition was approved by a vote of 5-0.

21-W-SE-3, Secondary Dwelling Unit, Cathy Severson, 8172 S. 800 East

Cathy Severson requested a special exception to permit a secondary dwelling unit. The subject property, more commonly known as 8172 S. 800 East-92, Fort Wayne, is located on the west side of S. 800 East, approximately 1,050' south of E. 800 South, in Section 24 of Jefferson Township and is zoned AG, Agricultural.

Mr. Bilger presented the staff report. He said that the secondary dwelling unit was proposed to be a pole building with living quarters that would be converted to office space upon conclusion of the secondary dwelling use. He stated that petitioner was the mother of the property owner, thus meeting the familial relationship for secondary dwelling units required by the Code. He said that, as proposed, the secondary dwelling unit would be located to the south and west of the primary dwelling and added that both were planned to be constructed at roughly the same time. He presented aerial images of the subject property and surrounding area. He presented a conceptual site plan. He stated that there were legal drains on the property and that petitioner had received a Consent for Permanent Structure from the County Drainage Board for placement of a driveway. He said that further encroachments into legal drain easements would require additional approval from the Drainage Board. He stated that the dwellings would be required to connect to sanitary sewer.

He discussed the review criteria and the suggested conditions of approval. He noted that concerns with sight distance and the volume of traffic along S. 800 East resulted in suggested condition number three.

Mr. Bilger asked the Board if it had any questions.

Hearing none, Mr. Wilkinson asked the petitioner or its representative to address the Board.

Ken Severson, 417 S. Hadley Road, Fort Wayne, stated that he would live in the primary dwelling and his mother would live in the secondary dwelling. He stated that he would convert the secondary dwelling to a welding shop after his mother vacates.

Mr. Denihan asked how the office space fits into the proposal. Mr. Severson stated that the living area would be converted into office space for the welding shop after his mother vacates.

Mr. Wilkinson opened the public hearing. Hearing no public comment, he closed the public hearing.

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

Mr. Wilkinson stated that a motion would be required as the petition was for a special exception.

Ms. Sheiss asked Mr. Bilger for clarification of suggested condition number two. Mr. Bilger stated that after the family member vacated the secondary dwelling and the property owner converted it to a welding shop, additional Board approval could be required as it would potentially be a traffic generating home occupation in the AG District. Ms. Deckard stated that her interpretation was that condition number three would not apply to any use of the structure other than as a secondary dwelling unit. Mr. Bilger reviewed a previous petition for special exception approval of secondary dwelling unit that led to the standard use of condition number two for such petitions.

Mr. Wolf asked petitioner if condition number three was acceptable. Mr. Severson confirmed that it was.

Mr. Wolf asked petitioner if he understood the terms and conditions of CFPS approval from the Drainage Board. Mr. Severson confirmed that he did.

Mr. Wilkinson asked for any additional questions or discussion from the Board. Hearing none, he asked for a motion.

Mr. Wright made a motion to approve 21-W-SE-4 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.
3. The secondary dwelling unit will share the same driveway as the primary dwelling.

Ms. Sheiss seconded the motion. The motion passed by a vote of 5-0.

OTHER BUSINESS

Mr. Bilger stated that staff requested an interpretation from the Board. He stated that the parcel in question was in the LR District, not lakefront, and mostly vacant. He asked the Board whether boat storage, solely parking boats on the property, was allowable in the LR District. He stated that the LR District has two special exception uses that may apply: “boat sales/service” and “marina (including gas pumps).” He said that a special exception petition from 2007 (07-W-SE-13) potentially provided a comparable situation. He said that this special exception was for boat storage at Shriner Lake Marine on E. Bair Road. He displayed aerial images of Shriner Lake Marine and stated that the approval was for boat storage on property, zoned LR but not lakefront, to the south and east of the establishment. He said that a review of the minutes and staff report revealed that boat storage could be considered part of a marina use. Shriner Lake Marine,

however, provides boat service. He reiterated that the question was for whether boat storage itself, without a service component, was allowable in the LR District.

Mr. Bilger presented three potential options for interpretation and stated that the Board could provide an alternative interpretation if it desired. He offered the following options:

1. Boat storage was an accessory to a marina use in that a marina provided services, including repair, fuel, etc., with storage as an accessory.
2. Boat storage was a marina use in that boat service, fuel, storage, etc., individually or in some combination constituted a marina.
3. Boat storage was a marina use and sales, service, etc., were a separate or accessory use.

Mr. Bilger said that his interpretation of the 2007 special exception was that the boat storage was an accessory to a marina use but was left open-ended. He stated that additional research was inconclusive, but that some other zoning ordinances he reviewed consider marinas to provide some sort of service. He added that a lot of them simply talk about an area for boats.

Mr. Wilkinson asked if the individual just wanted to rent out areas that would be used to store boats. Mr. Bilger stated that it would be all open storage, similar to the outdoor storage area at Shriner Lake Marine.

Ms. Sheiss asked if the property has lake access. Mr. Bilger stated that it did not.

Mr. Wolf discussed techniques commonly used in the County for winter boat storage. He surmised that most similar facilities around Lake James in Steuben County that call themselves marinas also provide some sort of boat storage.

Mr. Denihan stated that boat storage did not make marina, but that a marina was a place that provided service.

Ms. Sheiss stated that many facilities around North Webster provide only storage. She asked Mr. Bilger if he had investigated how these were handled by Kosciusko County. He said he had not and added that if standalone boat storage were not defined as a marina it would fall under outdoor recreational vehicle/boat/car storage allowable in the GC District. He stated that the individual would need to rezone the property to GC if they wanted to pursue the proposed project.

Mr. Wilkinson asked if the outdoor boat storage would be visible from the road. Mr. Bilger stated that the property in question has a lot of frontage. He said that he did not get into those details with the individual who presented the question.

Mr. Wright stated that the Google definition of a marina was a dock, especially a fancy one used for sailboats and yachts. Mr. Wilkinson, Mr. Wright, and Mr. Wolf discussed boat docks and slips.

Ms. Sheiss asked if there was any indication that service would be provided. Mr. Bilger stated that he was not aware of any intention to provide service at this time, but that it might be considered in the future if doing so would constitute a marina and avoid the need to rezone.

Mr. Wilkinson, Mr. Wolf, and Mr. Bilger discussed what constituted service.

Mr. Wilkinson asked for clarification concerning what Mr. Bilger was requesting. Mr. Bilger stated that he was seeking an opinion regarding the three options presented earlier.

Mr. Wright stated that he favored option one. Mr. Denihan agreed.

Mr. Wolf stated that service to him should include engine repair, maintenance, or the like.

Ms. Sheiss stated that Fishers, Indiana recently heard a zoning petition potentially addressed similar issues. Mr. Bilger and Ms. Sheiss stated that Fishers may not be an apt comparison to Whitley County due to the differences in the typical boat and boating culture. Ms. Sheiss stated that she conceived marina as more than just boat storage.

Mr. Bilger asked the Board if it had reached consensus that option one was the preferred interpretation. The Board confirmed that it had.

ADJOURNMENT

Mr. Wilkinson adjourned the meeting at 8:10 p.m.

GUEST LIST

1. Ken & Cathy Severson.....417 S. Hadley Road, Fort Wayne
2. Jeff Grothaus3509 W. Shoreline Drive, Columbia City
3. Adam Hallien8260 S. 800 East-92, Fort Wayne

GUEST LIST – ELECTRONIC

No members of the public attended this meeting electronically.