

**WHITLEY COUNTY BOARD OF ZONING APPEALS
STAFF REPORT**

24-W-SE-9 **SPECIAL EXCEPTION**
Jason & Jennifer Esterline
8324 W. SR 14

JULY 23, 2024
AGENDA ITEM: 1

This case was continued from the June meeting at the request of staff to allow additional details.

SUMMARY OF PROPOSAL

Current zoning: AG, Agricultural
Property area: 3.26 acres

The petitioner, owner of the subject property at 8324 W. State Road 14 in Cleveland Township, is requesting approval to amend the conditions of a special exception approved in 2022 as 22-W-SE-7. Generally, that special exception was for “processing of agricultural products not produced on-site” to allow for the operation of a brewery operation with an accessory taproom and associated outdoor seating.

The property is improved with a dwelling, a detached bedroom (formerly a secondary dwelling) used as an AirBnB, and several outbuildings.

The operation is located within the western 40’x64’ pole building. As approved, the brewing area was to be about 13’x32’ (416 sq. ft.), with the adjacent taproom/sales area being about the same area. The remainder of the building was for raw material and finished product storage. An outdoor patio area for seating resulted in a total of about 1,000 sq. ft. of seating area approved. Parking was to consist of a gravel lot with a minimum of 16 parking spaces provided, and a buffer was to be located along the western property line.

The following are the conditions of approval from 22-W-SE-7:

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 4 P.M.-10 P.M. Friday, 11 A.M.-10 P.M. Saturday, and 11 A.M.-8 P.M. 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. Special Exception is in effect for three years from the date of approval unless reapproved.

APPLICATION OF THE CODE

As has been discussed in prior cases, requested amendments to previously approved special exceptions trigger a review of the entire special exception, not only that part requested to be amended. The facility has been in operation for roughly one year. So, in this case, the Board should review the proposed use for ongoing compliance with the special exception standards, the conditions of approval, and the zoning code generally.

Again, the special exception is for the brewing operation (which processes agricultural products produced off-site) with an accessory taproom. As stated above, most of the conditions of the original approval dealt with limiting that accessory use.

Modifications sought

The petitioner seeks to increase the hours of operation of the accessory taproom from those listed in item (7) above to 11 A.M. to 10 P.M., Monday to Sunday. The stated purpose being to accommodate special events and holidays, such as Thanksgiving. The hours of the brewing operation itself were not limited in the previous approval.

Additionally, the interior seating area for the taproom has been expanded into what was to be production/storage space. This adds roughly 1,000 sq. ft. of seating area. However, the taproom area itself is approximately 333 sq. ft.

The buffering on the western property line was originally contemplated to be trees, but a solid 8' privacy fence has been installed instead.

The freestanding sign installed, apparently without a permit, is approximately 2'x4', exceeding the 6 sq. ft. stipulated in the conditions.

Events have become more frequent than originally stated might occur.

Approximately 30 parking spaces are available on the gravel lot. A paved driveway is to be installed per INDOT's specifications. These are compliant with the original conditions but are included here to update the proposal.

REVIEW CRITERIA

Indiana Code §36-7-4-918.2 and Section 10.9(A) of the Zoning Code authorize the Board to review special exceptions and state the criteria listed below upon which the Board must base its review. Staff's comments/proposed findings of fact under each criterion.

- 1. The special exception shall not involve any elements or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the performance standards;**

Brewing operations do not typically have elements that are dangerous, injurious, or noxious for the public.

The following is the list of performance standards:

- Air pollution. This does not appear to apply to this case.
- Electrical disturbance. This does not appear to apply to this case.
- Fire protection. Grains can be flammable if not properly stored, but at the scale proposed, this is not likely a significant fire hazard.
- Noise. Noise, particularly from the accessory taproom component or associated events, may be an issue because of the proximity of the adjacent residences.
- Odor. Odors from brewing may be found to be objectionable, but at the scale proposed, it would not likely be identifiable from adjacent properties.
- Vibration. This does not appear to apply to this case.
- Heat and glare. This does not appear to apply to this case.

- Waste matter. No refuse management details were submitted. Waste is not to accumulate on the property.
- Water pollution. The brewing use can generate a large volume of wastewater, along with the. Additionally, a restroom is located in the building. These have been reviewed by the Health Department.

2. The special exception shall be sited, or oriented and landscaped to produce a harmonious relationship of building and grounds to adjacent buildings and properties;

The proposed special exception would permit the continued use of a pole building structure as the processing/production operation. The structure itself is comparable to other agricultural buildings on the site and in the area.

3. The special exception shall produce a total visual impression and environment that is consistent with the environment of the neighborhood;

The proposed production use, if contained within the building, would have little visible evidence to indicate the existence of the operation, and so it would be consistent with the neighborhood.

However, the taproom component, including the outdoor seating and required parking, would be evident to the surrounding area. This may be inconsistent with the immediately adjacent properties, which are primarily residential. The installation of a fence as a screen should mitigate this somewhat, but its adequacy is subjective.

4. The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood; and

The existing driveway would be utilized for the operation and would be paved to INDOT specifications. Given the petitioner's expected 2± trucks per week for the brewing operation itself, this driveway likely would be sufficient. Similarly, any employees for this small operation would also not likely have significant impact on the traffic.

However, the taproom may have numerous visitors coming and going throughout business hours. Further, traffic congestion could be created because of the number of vehicles coming and going throughout the day.

The proposed parking number of 30 spaces should be compliant with the 16 space per 1,000 sq. ft. of seating area (1,600± sq. ft.) plus 2 spaces per 3 employees.

5. The special exception shall preserve the purpose of this Ordinance, as stated in Section 1.4.

Processing of agricultural crops is a listed special exception use of the AG district and appears to meet the stated purposes of the Zoning Ordinance for an agricultural area. The taproom, while an accessory use, may impact the "healthful surroundings for family life" and public comfort unless mitigation measures are implemented.

SUGGESTED CONDITIONS

If the Board moves to grant the special exception, the following are suggested conditions of the approval:

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 350 sq. ft. An additional seating area of up to 1,250 sq. ft. is permissible.
4. The number and design of parking spaces will comply with the parking code. Specifications An INDOT permit, if required, must be obtained.

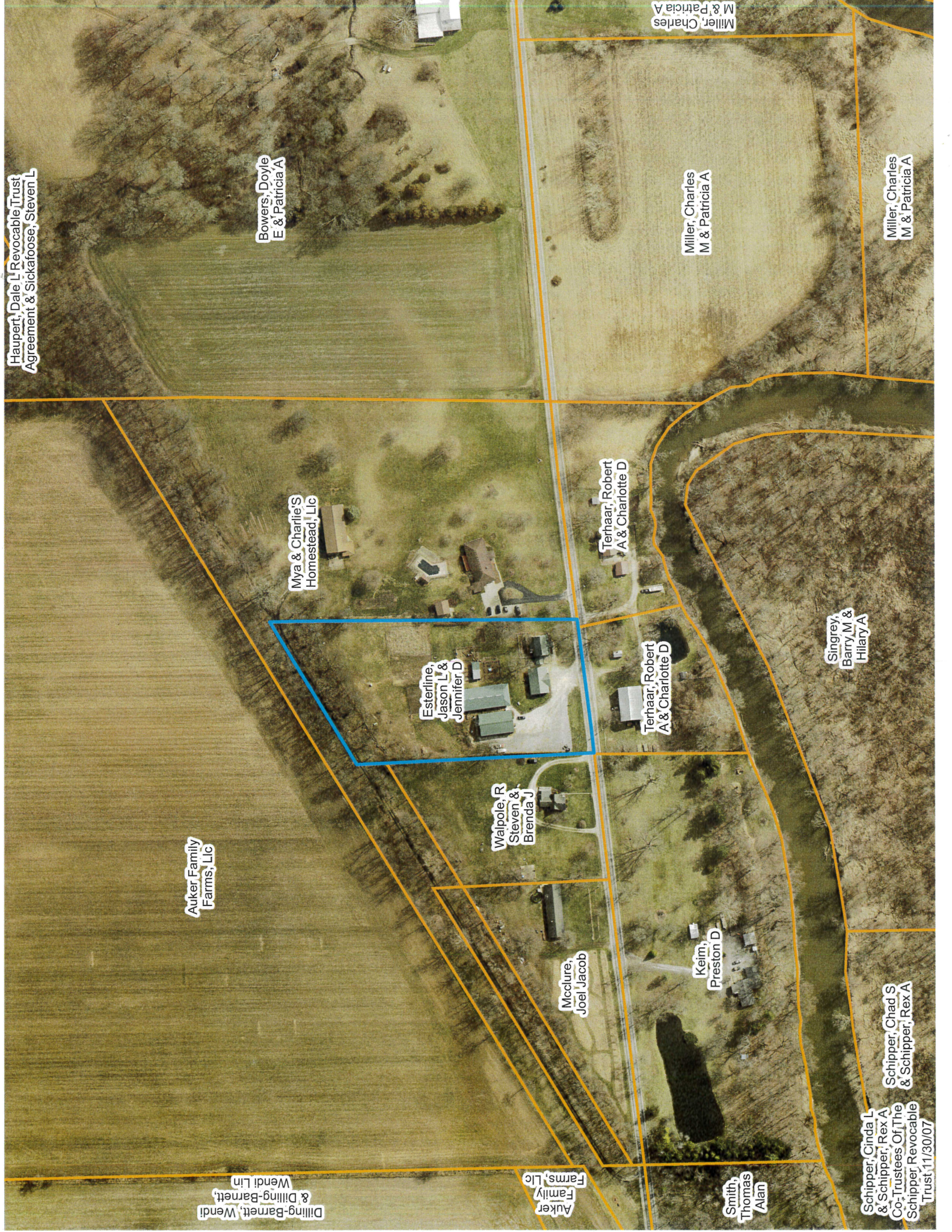
5. Noise from this special exception will not exceed 50 dB as measured at adjacent residences.
6. Any requirements of the Health Department for the septic system, food operation, etc. will be met.
7. Hours of operation for the taproom must be discussed. Staff suggests:
 - 4 P.M.-10 P.M. on Fridays
 - 11 A.M.-10 P.M. on Saturdays and holidays
 - 11 A.M.-8 P.M. on Sundays
 One additional weekday per calendar week, using Sunday hours.
8. Any limitations on events, particularly those outdoors, should be discussed.
9. Freestanding signage will be limited to one non-illuminated sign of not more than 8 sq. ft. in area per face.
10. Maintain the 8' privacy fence along the west property line.
11. The Special Exception expires July 23, 2026, unless reapproved.
12. Additional conditions to be added based on discussions and input from the hearing.

Date report prepared: 7/17/24

BOARD OF ZONING APPEALS RECORD OF ACTION

Motion: _____ By: _____ Second by: _____
 Approve _____
 Approve w/conditions _____
 Deny _____

<i>Vote:</i>	Green	Sheiss	Wilkinson	Wolf	Wright
<i>Yes</i>					
<i>No</i>					
<i>Abstain</i>					



Hauptert, Dale L Revocable Trust Agreement & Sickafosse, Steven L

Bowers, Doyle E & Patricia A

Miller, Charles M & Patricia A

Miller, Charles M & Patricia A

Miller, Charles M & Patricia A

Mya & Charlie's Homestead, LLC

Terhaar, Robert A & Charlotte D

Esterline, Jason L & Jennifer D

Terhaar, Robert A & Charlotte D

Singrey, Barry M & Hilary A

Walpole, R Steven & Brenda J

Auker Family Farms, LLC

McClure, Joel Jacob

Keim, Preston D

Schipper, Chad S & Schipper, Rex A

Dilling-Barnett, Wendi & Dilling-Barnett, Wendi Lini

Auker Family Farms, LLC

Smith, Thomas Alan

Schipper, Cinda L & Schipper, Rex A Co-Trustees Of The Schipper Revocable Trust, 11/30/07