

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

23-W-SE-9 **SPECIAL EXCEPTION**
Caleb Heisler
8314 S. 800 East

APRIL 25, 2022
AGENDA ITEM: 7

SUMMARY OF PROPOSAL

Current zoning: AG, Agricultural
Property area: 5.3 acres

The petitioner, owner of the subject property at 8314 S. 800 East in Section 24 of Jefferson Township, is requesting special exception approval for “processing of agricultural products not produced on-site.” The property is improved with a dwelling and pole barn structure.

The petitioner has proposed a brewery operation in the 846 sq. ft. pole barn on the property to offer commercial production and sales, which triggers the need for a special exception (i.e., home brew operations do not require approvals).

The proposed hours of operation would be between 7:00 A.M. and 9:00 P.M., Monday-Saturday. The proposed would be a relatively small operation of 140 gallons at max capacity with only 1 employee. Traffic generated would be 1-2 deliveries per week. The petitioner stated that minimal noise would be generated, and all products would be sold off site. There are no proposed changes to the existing structure. If expansion is needed, the plan would be to build upon the existing structure for larger equipment and additional storage until the point that a new off-site location is required.

Details on the signage, lighting, and refuse handling were not yet submitted.

DEFINITION OF USE

The proposed intensity of a commercial operation triggers the need for a zoning review. The “processing of agricultural products not produced on-site, not to include slaughterhouses” use has been interpreted previously by the Board to permit a broad number of uses, including sawmills and meat processors, and might even include operations like grain mills or corn syrup processors. The special exception process then evaluates the specific details of the proposed use to ensure proper siting and compatibility with the area.

In this case, the proposed operation would utilize local agricultural products in its production, it may be considered as falling under this broadly defined use, with the special exception process to refine the details.

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 impact would appear to be minimal.
- Odor. Odors from brewing may be found to be objectionable, but at the scale proposed and contained within the structure, 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 proposed use will generate wastewater. This must be properly discharged or treated.

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 use of a pole building structure as the processing/production operation. The structure itself is comparable to other buildings 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. Expansions of the building and use, if they should ever occur, could eventually become inconsistent with the area.

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. This is a typical residential driveway. 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 or generate congestion.

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.

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. Building additions or other expansions of the use will require additional approval.
3. Noise from this special exception will not exceed 50 dB as measured at adjacent residences.
4. Any requirements of the Health Department for the well, septic system, foodstuff production, etc. will be met.
5. The hours of operation will be no later than 9 P.M.

- 6. Freestanding signage will be limited to one non-illuminated sign of not more than 6 sq. ft. in area per face.

Date report prepared: 4/19/23

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>					

Brent Bockelman

From: caleb heisler <caleb.heisler1991@gmail.com>
Sent: Friday, April 7, 2023 4:50 PM
To: Brent Bockelman
Subject: Re: [External] Newspaper notification

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

My name is Caleb Heisler, and I am the owner and brewmaster for the Underdog Brewing Co. located at 8314 S 800 E-92. There will be a public hearing on April 25 2023 to announce my plans to open a brewery out of my home residence in a detached 846 sqft pole barn. Hours of operation will be between 7:00 A.M. and 9:00 P.M. Monday-Saturday. It is a very small operation. Only 140 gallons at max capacity, and only 1 employee. It will produce minimal traffic 1-2 deliveries per week, and minimal noise. All goods will be sold off site to second hand vendors. There will be no visible changes to structure until need of expansion. When expansion is needed I plan to build upon existing structure to accommodate for larger equipment, and additional storage until a new off site location is needed. If you require additional information or an opportunity to ask me specific questions I personally invite you to attend this public hearing

On Tue, Mar 21, 2023, 3:34 PM Brent Bockelman <wcplanning2@whitleygov.com> wrote:

See attached Newspaper Publication. Needed in 2 newspapers, 1 time each.

Brent Bockelman

Planner I

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