

**MINUTES
WHITLEY COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING
April 25, 2023
7:30 P.M.**

**Whitley County Government Center
Meeting Room A/B**

MEMBERS	PRESENT	ABSENT	STAFF
Kelley Sheiss	X		Nathan Bilger
Danny Wilkinson	X		Brent Bockelman
Doug Wright	X		
Joe Wolf	X		LEGAL COUNSEL
Jack Green	X		Elizabeth Deckard

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 March 28, 2023 regular meeting were presented for review. Ms. Sheiss made a motion to approve the minutes as presented. Mr. Green 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

NEW BUSINESS

23-W-VAR-5

Jeremy Brice, property owner, requested a development standards variance for an encroachment into the required rear setback at 1551 E. Poplar Road.

Mr. Bilger presented the staff report stating the request for a setback variance to allow for a 5'± setback from the north property line for the proposed room addition. Aerial views were provided to show the property and location of the project. The floor plan was also displayed. The topography of the property was discussed as a difficulty, and the criteria were reviewed.

Jeremy Brice addressed the Board. He explained the project and reasons for the request, indicating that the location of the addition was limited by the existing floor plan and the topography. There was a discussion about the location of the patio.

Mr. Wilkinson opened the public hearing. Hearing nothing, the public hearing was closed.

Hearing no further questions, Mr. Wilkinson asked for a vote. 23-W-VAR-5 was approved by a vote of 5-0.

23-W-VAR-6

Jonathan & Deanon Morales, owners of the property, requested a development standards variance for an encroachment into the required front setback at 7486 N. Etna Road for construction of a new dwelling to replace an existing dwelling due to fire damage.

Mr. Bilger presented the staff report and provided aerial views and overlays to describe the proposed structure. He stated that the existing front setback was being maintained at the same distance, but the new structure was being centered on the property, making the side setbacks compliant. He explained that, due to the fire damaged home being removed, the legal nonconforming front setback would be eliminated and required variance approval. He also stated that while the property was zoned GC, the nonconforming single-family dwelling land use would remain in place. Review criteria were discussed.

Deanon Morales addressed the Board and explained the proposed new construction.

Mr. Wilkinson opened the public hearing. Hearing nothing, the public hearing was closed.

Hearing no further questions, Mr. Wilkinson asked for a vote. 23-W-VAR-6 was approved by a vote of 5-0.

23-W-VAR-7

Robert & Martha Wieging, owners of the subject property, requested a development standards variance for an encroachment into the required side setback at 2338 E. Linker Road for placement of a shed.

Mr. Bilger presented the staff report and explained the request to allow for a proposed 2-foot side setback on the east side of the property. He also provided aerial views and overlays to describe the proposed structure location. He explained that the proposed shed would be located within the platted utility easement on the lot and that the property owner had received the proper authorization from the utilities. The plat was displayed to show the platted building lines, easements, and topography. Review criteria were discussed including possible impact on the neighboring property, alternate locations for the shed to be placed, and concern about practical difficulties.

Robert Wieging addressed the Board and explained the reasoning for the location of the yard barn. He stated that the placement was to allow for enough room for equipment to access the rear yard and remain convenient to the lake and to the house. He noted that it was portable and could be easily moved if necessary.

Mr. Wilkinson opened the public hearing. Hearing nothing, the public hearing was closed.

Hearing no further questions, Mr. Wilkinson asked for a vote. 23-W-VAR-7 was approved by a vote of 5-0.

23-W-VAR-8

Andrew D. & Trisha D. Bills, owners of the subject property, requested a development standards variance for an encroachment into the required front setback at 2699 E. Beech Ave.

Mr. Bilger presented the staff report and explained the request for a 33' west (front) variance to allow for a proposed 2-foot front setback on the west side of the property. He also provided aerial views and overlays to describe the proposed structure location. He stated that the original house was severely damaged in the June 2022 storms. The plot plan was shown to provide information regarding new structure location and the location of a legal drain on the property. Drainage Board had already provided consent for encroachment into the legal drain easement. Review criteria were discussed.

Andy Bills addressed the Board and explained his project of replacing the storm damaged house.

Mr. Wilkinson opened the public hearing. Hearing nothing, the public hearing was closed.

Hearing no further questions, Mr. Wilkinson asked for a vote. 23-W-VAR-8 was approved by a vote of 5-0.

23-W-SE-7

Gary Kaufman, petitioner, requested special exception approval for a traffic generating home occupation. The proposed was a firearm investment and transfer business at the petitioner's home at 1676 S. 700 East.

Mr. Bilger presented the staff report and explained the nature of use for the business. Details were given regarding the 200 sq. ft. of home space to be used and the number of 1-3 in-person transactions per year. He explained that the zoning compliance was needed to fulfill the requirements of the federal firearms license (FFL) as a dealer, and the business only barely qualified as traffic-generating. Suggested conditions were discussed and are as follows.

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.
5. The number of customers on-site will not exceed an average of one per month.

Gary Kaufman addressed the Board and explained his request. He explained that he is a collector and decided to acquire his FFL for convenience. Mr. Wilkinson asked for clarification on the business dealings. Mr. Kaufman stated that he collected firearms himself and usually would not be selling any of his own. He would occasionally use the FFL to help friends and customers to buy/sell firearms on-line with minimal transaction fees. He stated that few transactions would occur on-site. Mr. Wilkinson asked if the proposed conditions were acceptable; Mr. Kaufman agreed they were.

Mr. Wilkinson opened the public hearing. Hearing nothing, the public hearing was closed.

Ms. Sheiss made a motion to approve 23-W-SE-7 with the staff recommended conditions; seconded by Mr. Wolf. Petition 23-W-SE-7 was approved by a vote of 5-0.

23-W-SE-8

Jeff Shelton, owner of the banquet hall business located at 7195 E. State Road 14, requested special exception approval for modification of the previously approved banquet hall use by constructing a new structure to be used as a chapel.

Mr. Bilger presented the staff report. Aerial views were displayed with overlays for reference. He explained that the petitioner proposed a new structure on the property to be used as a chapel. Due to the conditions of approval including a condition of “per site plan” with the previous special exception, additional approval was required. He reviewed the suggested conditions and discussed the review criteria. He stated that parking could be an issue, depending on whether the chapel would be used only with the event center/banquet hall or if more than one event could occur simultaneously. The suggested conditions were as follows:

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

Josh Padgett, 10060 Bent Creek Blvd. Fort Wayne, represented the petitioner. He explained the proposed project. He explained that the buildings would not be used at the same time; therefore, occupancy would not be an issue.

Mr. Wilkinson opened the public hearing. Hearing nothing, the public hearing was closed.

Mr. Wright made a motion to approve 23-W-SE-8 with the suggested conditions; seconded by Mr. Green. 23-W-SE-8 was approved by a vote of 5-0.

23-W-SE-9

Caleb Heisler, owner of the subject property at 8314 S. 800 East in Section 24 of Jefferson Township, requested special exception approval for “processing of agricultural products not produced on-site.”

Mr. Bilger presented the staff report. He explained the terminology of the petition had been historically defined broadly to include many types of agricultural operations. He stated that this request was for the specific use of a brewery operation. Details were given to the 140-gallon maximum capacity, single employee, weekly deliveries, and off-site product sales only. Aerial views were displayed of the surrounding area and of the property involved. He presented suggested conditions as follows:

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.

Caleb Heisler addressed the Board and explained the proposed business. He stated that his intention to operate his small brewery operation out of the pole building on the property. He thought that he might expand the pole building for growth, but a new site could be needed eventually. He also said he was working on the septic or sewer connection. Mr. Wilkinson asked if the product would be sold only off-site; Mr. Heisler confirmed that was the case.

Mr. Wilkinson opened the public hearing. Hearing nothing, the public hearing was closed.

Ms. Sheiss made a motion to approve 23-W-SE-9 with the suggested conditions. Seconded by Mr. Wright. Petition 23-W-SE-9 was approved with conditions by a vote of 5-0.

OTHER BUSINESS

Mr. Bilger discussed updating the rules of procedure and removing them from ordinance and into resolution. He stated that he would be providing information on the changes for the next meeting including electronic meeting participation, time limitations, and notification.

ADJOURNMENT

Having no other business, Mr. Wilkinson adjourned the meeting at 8:42 P.M.

GUEST LIST

1. Jeremy Brice1551 E. Poplar Road
2. Diana du Pont.....1676 S. 700 East
3. Gary Kaufman.....1676 S. 700 East
4. Deanon Morales7486 N. Etna Road
5. Jonathan Morales7486 N. Etna Road
6. Caleb Heisler.....13607 Veracruz Dr.
7. Lynette Heisler.....13607 Veracruz Dr.
8. Tod Heisler.....13607 Veracruz Dr.
9. Lindsey Ellis711 Blake Dr., Ft. Wayne
10. Jeff Shelton4541 W. 1000 North, Markle
11. Andy Bills3740 E. Mowrey Road
12. Mike Butts.....734 S. 600 East
13. Bob Wieging2338 E Linker Road
14. Josh Padgett10060 Bent Creek Blvd. Fort Wayne
15. Sonya Emerick5865 E State Road 14
16. Adam Hallien8260 S 800 East

GUEST LIST – ELECTRONIC

17. Bridget Bogdon.....2697 E. Beech Ave.