

**MINUTES  
WHITLEY COUNTY BOARD OF ZONING APPEALS  
REGULAR MEETING  
August 23, 2022  
7:30 P.M.**

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

<b>MEMBERS</b>	<b>PRESENT</b>	<b>ABSENT</b>	<b>STAFF</b>
Tim Denihan		X	Nathan Bilger
Sarah Lopez		X	Brent Bockelman
Danny Wilkinson	X		
Doug Wright	X		<b>LEGAL COUNSEL</b>
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. Bockelman read the roll call; the members present and absent are listed above.

**CONSIDERATION OF PREVIOUS MEETING MINUTES**

The minutes for the July 26, 2022 regular meeting were presented for review. Mr. Wright made a motion to approve the minutes as presented. Mr. Wolf seconded the motion. The motion passed by a vote of 3-0, with Ms. Sheiss abstaining due to her not being present at the meeting.

**ADMINISTRATION OF OATH**

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

**OLD BUSINESS**

**NEW BUSINESS**

**22-W-VAR-17**

Johnson Family Living Trust requested a development standards variance for an encroachment into the required front, left side, and right-side setbacks on the property located at 6480 E McGuire Road, in Section 10 of Smith Township. The property was comprised of Lot 17 of Lucretia A McGuires Second Addition to Blue Lake Resort.

Mr. Bilger presented the staff report and displayed aerial views of the property to show the proposed setbacks. He explained that the northeast part of the proposed structure would be an open lean-to design.

William Johnson, 6550 E. McGuire Road, addressed the Board and explained his project. He noted that the lean-to area would be covering the existing sidewalk to allow cover to the new front door area.

Discussion was made about the details of proximity to the neighboring structures and water runoff.

Mr. Wilkinson called for anyone from the public to speak. Hearing no public comments, he asked for any further Board discussion. Hearing no further comments, Mr. Wilkinson asked for a vote. Variance 22-W-VAR-17 was approved by a 4-0 vote with all members voting in favor.

## **22-W-VAR-18**

Anthony Agular requested a land use variance to permit a third platted residential lot in an AG, Agricultural zone, for a ten-acre parcel located on E. 200 North in Section 32 Smith Township.

Mr. Bilger gave the staff report. He described the history of the subdivision code and explained the proposal of a 3-Lot Subdivision without the area being rezoned. He stated that the zoning code for AG only permits two residential platted lots from a parent tract, any lots platted over that would require rezoning to a residential district. The Plan Commission had considered a rezoning request to RR at their meeting in August, but they requested that the Board consider a land use variance review that would not change the zoning map. The petitioner's letter was referenced for explanation of need for a land use variance. Aerial views were displayed of the area and the proposed parcels including the changes from the original plat. Review criteria was discussed. The following two suggested conditions were displayed and discussed:

1. The variance is granted to permit a Major Residential Subdivision in the AG, Agricultural zoning district, consisting of not more than three (3) platted lots from the 2018 parent parcel.
2. Not more than three (3) lots shall be platted by the petitioner.

Anthony Agular, 4720 E. 200 North, addressed the Board. He explained the background of the process that he had gone through with this piece of land. He expressed his intention to provide the ability for his parents to build on the neighboring lot. He also explained that it had been very difficult to find someone interested in the area for agriculture. Discussion was made about drainage on the property.

Andrew Bonneau, 4766 E. 200 North, addressed the Board. He explained that he was the owner of one of the lots in the proposed replat. He also discussed the intentions for the property and compared to the surrounding area. He expressed his gratitude.

Mr. Wilkinson called for anyone else from the public to speak. Hearing no other comments, the public hearing was closed.

Ms. Sheiss discussed the situation. She stated that changes may need to be made regarding this type of situation and need for rezoning. What has been proposed seemed to fit in the area and as a community, need to welcome those people who go through the process and do things correctly.

Mr. Wilkinson asked about the second condition of a three lot maximum. Mr. Bilger explained that would mean any further splits would still trigger the need for rezoning.

Mr. Wright made a motion to approve 22-W-VAR-18 with staff's recommended conditions. Seconded by Ms. Sheiss. Motion was approved by a vote of 4-0, with all voting in favor.

## 22-W-SE-12

Zacheray & Sha Shawna Lybarger, owners of the subject property located at 7110 South State Road 5, in section 15 of Cleveland Township, requested special exception approval for a traffic generating home occupation and a variance for maximum square footage of home occupation.

Mr. Bilger presented the staff report. He explained that the case was like a case from a few years ago, so many of the conditions and discussion points from that case could be applied to this case. The Special Exception would be for a wedding venue in an existing 7,680 sq. ft. bank barn. The submitted details on parking, employees, and restrooms were discussed. Aerial views were displayed to show distance to other residential properties. With this property being located on a state road, it was stated that INDOT approval would need to be acquired. Suggested conditions were reviewed. Discussion was made about the condition that stated that the barn doors would need to be closed during event activities. Mr. Bilger stated that stemmed from the letter of the code that home occupation operations in outbuildings would occur with doors closed. Parking and ADA were further discussed, as well as paving or concrete at the road entrance. The construction of the gravel parking lot was discussed.

ShaShawna Lybarger, 7110 S. State Road 5, addressed the Board. She explained the project to be place for weddings to be held. She stated that the parking lot would be asphalt road millings, so not exactly gravel. She would prefer to have the ability to have doors open during events during the warm months. She also stated that they would like to have the number of events be allowed to be one event per week during the operating months. There was a discussion about Thursdays becoming a popular day to have weddings, as was discussed in another recent event venue case. Ms. Lybarger stated that she had positive feedback from neighboring property owners.

Zack Lybarger, 7110 S. State Road 5, addressed the Board. He explained that he works construction and would be installing the parking areas. He discussed the process he would use to construct the parking lot and compaction and levels implemented. Multiple vehicle parking and vehicles overnight were discussed.

The Board and discussed the barn doors being open during events. A suggestion was made to change the condition.

Mr. Wilkinson called for anyone from the public to speak. Hearing no public comments, he asked for any further Board discussion. Hearing no further comments, Mr. Wilkinson asked for a motion.

Ms. Sheiss made a motion to approve 22-W-SE-12 with the following conditions:

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 Indiana Building Commission must issue a design release for the remodeling of the barn to be used by the public.
4. No events that occur primarily outside shall be permitted under this special exception.
5. All event activities—for example, ceremonies, dining, music, etc.—must occur within the barn. An exception is made for photography of small groups elsewhere on the property.

6. Events of any type are limited to occur from April to October, inclusive. No more than one event per calendar week is permitted.
7. Hours of operation for event activities shall be Friday, 12PM-10PM; Saturday, 8AM-11PM; and Sunday, 8AM-5PM. Music shall be stopped no later than 10 PM.
8. One permanent sign, not to exceed six square feet per sign face, is permitted as regulated by the sign code. Temporary directional signs, not to exceed 18"x24" each, may be placed on the property on the day of an event.
9. One additional non-resident employee may be hired by the petitioner to operate this facility.
10. The parking areas must be kept in good condition and available to accommodate the required parking.
11. The Health Department must approve the restroom facility, food service, and/or related issues.
12. The access onto SR 5 is subject to INDOT's rules and requirements.
13. To avoid congestion, the petitioner must implement an effective traffic management plan.

The motion was seconded by Mr. Wolf. The motion passed by a vote of 4-0, with all members voting in favor.

### **22-W-SE-13**

Jason Barbknecht, owner of the subject property located at 2185 N. Etna Road in Section 28 of Thorncreek Township, requested special exception approval for a traffic generating home occupation.

Mr. Bilger presented the staff report. He explained the home occupation would be a gunsmithing business. A previous special exception for a hunting/fishing guide business had been previously approved for this property (22-W-SE-2), and this special exception would be related to, but separate from, that previous approval. Aerial views were given of the property and outbuilding that would be used for the business. He reviewed staff's suggested conditions.

Jason Barbknecht, 2185 N. Etna Road, addressed the Board and explained the business project. He described that the building that will be used for the business is accessible by his son, who was in a wheelchair. He and the Board had extensive discussion about the suggested non-transferable condition and possible ways that would allow for his son Noah to take over in the event of the father's death and the applicability of transferring the previous approval as well. After conferring with legal counsel, it was determined that the previous special exception could not be changed with this case, but a revision could be filed if and when that became necessary.

Mr. Wilkinson called for anyone from the public to speak. Hearing no public comments, he asked for any further Board discussion. Hearing no further comments, Mr. Wilkinson asked for a motion.

Ms. Sheiss made a motion to approve 22-W-SE-13 with the following conditions:

1. The Special Exception is granted for the applicant and is transferable to Noah Barbknecht provided he is still involved in the business and a resident at the time of transfer.
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.

Mr. Wright seconded the motion. The motion passed by a vote of 4-0 with all members voting in favor.

**ADJOURNMENT**

Having no other business, Mr. Wilkinson adjourned the meeting at 9:30 P.M.

**GUEST LIST**

1. ShaShawna Lybarger .....7110 S. State Road 5
2. Zach Lybarger .....7110 S. State Road 5
3. Danielle Line.....7110 S. State Road 5
4. Chris Line.....7110 S State Road 5
5. Bill Johnson .....6550 E. McGuire Road
6. Anthony Agular .....4730 E. 200 North
7. Andrew Bonneau .....4766 E 200 North

**GUEST LIST – ELECTRONIC**

8. Sonya Emerick .....5865 E. State Road 14