

**MINUTES
WHITLEY COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING
December 28, 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		Brent Bockelman
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. Bockelman read the roll call; the members present and absent are listed above.

CONSIDERATION OF PREVIOUS MEETING MINUTES

The minutes for the November 23, 2021 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 4-0.

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-21, Setback Variance, Bryn & Isaac Keplinger, 6976 East Harrold Place

Bryn & Isaac Keplinger, trustees of the owner’s estate, is requesting a development standards variance for an encroachment into the required front setback on the property located at 6976 East Harrold Place in Smith Township.

Mr. Bilger presented the staff report. The petitioner has proposed to construct a new 40'x30' two story dwelling. He explained the need of a variance of 7' requested for this case.

Mr. Bilger provided an aerial view for reference and pointed out the proposed site for the structure.

Mr. Bilger asked the Board if it had any questions for him. Hearing none, Mr. Wilkinson asked the petitioner or its representative to address the Board.

Bryn Keplinger, petitioner, stated that they were requesting a variance to allow for construction of a new two-story dwelling to replace the former home that had burned and was removed. The new location would put the front of the home more in line with the existing homes on Harrold Place and help with poor soil conditions at the back of the property.

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

Hearing no further public comment, he closed the public hearing. Having no other discussion from the Board, he called for a vote. The petition was approved by a vote of 4-0.

21-W-VAR-22, Setback Variance, Brooks Langeloh, 3258 Circle drive.

Brooks Langeloh, owner of the subject property, is requesting development standards variances to permit the splitting of the property between two existing buildings. The property is located on the west side of Circle Drive on Goose Lake in Etna-Troy Township and is comprised of Lots 10, 11, and 12 of Walker's Landing.

Mr. Bilger presented the staff report. The petitioner proposes to split the parcel to place each structure on its own property. Due to the small separation between buildings, the side setbacks from the proposed lot line are 3.5' from the south side of the dwelling and 3.4' from the north side of the commercial building. The minimum side setback in VC is 0' (or 10' where adjacent to a residential zoning district), which permitted historically commercial buildings in the unincorporated towns. In this case, it meant that the setbacks would be compliant. However, since the dwelling is a legal nonconforming use of the VC district, a variance is being sought to establish the setback in the event of a future zoning change to LR, Lake Residential. That zoning district requires a 5' minimum side setback.

Brooks Langeloh, petitioner, explained that the variance request would be needed if the property would be rezoned from VC to LR.

Mr. Bilger displayed the aerial view of the property.

Mr. Bilger discussed the review criteria as noted in the written staff report. He explained that the proposed 6,098 sq. ft. lot area for Tract I would exceed the minimum 5,000 sq. ft. for the existing VC zoning, but it would not meet the 10,000 sq. ft. requirement of LR.

Mr. Wilkinson opened the public hearing. Hearing no public comment, he closed the public hearing. Having no other discussion from the Board, Mr. Wright made motion to approve the variance for side yard setback and minimum lot area with conditions, and only apply if rezoned to LR. seconded by Ms. Lopez.

Richard Byall, owner of nearby properties, asked if this would affect his property. Mr. Bilger explained that the structure appearance and use would not change with this variance.

Mr. Wilkinson called for a vote on the motion. The petition was approved by a vote of 4-0.

21-W-SE-6, Special Exception Childcare home, Jonathan & Katherine Parker, 4700 N. 50 West, Request to continue to January meeting.

Mr. Wilkinson asked for clarification on the request and that it was from the opposition. Mr. Bilger confirmed that the legal counsel for the neighboring properties had requested the continuance.

Mr. Wilkinson asked for a vote for continuance. Vote passed for continuance 4-0.

21-W-SE-7, Special Exception, Kenneth Laux, Southwest Corner of Pook Road/350 West

Kenneth Laux, petitioner, is requesting a special exception approval for a Class 2 Confined Feeding Operation (“CFO”) on the property located on the southwest corner of Pook Road and 350 West in Section 6 of Washington Township. The property is currently unimproved.

Mr. Bilger presented the staff report. The proposed would be a 142’x285’ wean to finish hog barn, compost bin, and driveways. He provided the separations and setbacks. He mentioned that there was a proposed to be determined dwelling on an adjacent property to the west and could impact the location of the CFO.

Mr. Bilger gave a summary of the special exception and need for it in this situation. He presented aerial views of the area. These described the subdivisions that were near, drains, present zoning, and site plan. He displayed a list of suggested conditions.

1. Special exception is granted as presented and per the submitted site plan.
2. Special exception is limited to 2,100 animal units, as described in the submittal.
3. Prior to issuance of permits, a survey is required indicating the exact distances to the nearest three residences to verify compliance with the zoning standards.
4. As for any CFO case, the Board should discuss if any mitigation requirements are necessary; however, Staff has no specific recommendations at this time.

Mr. Wilkinson asked if the petitioner had gone through the IDEM permitting yet. Mr. Bilger confirmed that these permits have not been acquired at this time.

Kenneth Laux, 9665 S. Raber Road, and Melissa Lehman, 7070 S. 500 West, Topeka, addressed the Board. Ms. Lehman explained the project and how it would work. She gave details on the operation, how the feeding and watering will work, manure handling, and compost bin.

Mr. Wilkinson asked for clarification on the project. Stating that the initial barn would hold the 2,100 animal units and could not be larger without coming back before the board. Ms. Lehman confirmed that the condition in place would limit the number to 2,100 animal units.

Mr. Wilkinson asked for questions for the petitioner.

Mackenzie Brown, West Keiser Road, stated that they own property nearby that they intend to build on in the future. She stated a concern with the odor and questioned the pit additives that could be used to help with the smell. Ms. Lehman explained how the pit additives would work to help with the odor. She explained that the pit is under the building, enclosed, and not an outside open pit.

Mr. Wilkinson opened for statements.

Mr. Bilger stated that one electronic attendee, Ms. Livengood, was opposed to this petition.

Anthony Hatfield, 3405 W. Keiser Road, stated that he had been a truck driver, hauled hogs, and had not been to a hog farm that smelled good. He stated concern about property value with the smell of the hog barn. He opposed a barn coming to this area and affecting the neighboring properties and housing.

Scott Kerr, 4004 W. Keiser Road, explained that they had recently purchased land and will hopefully move into their new home in January. His property will be about 3000 feet from the location. He stated his concern for his wife and newborn with air pollutants produced from the CFO. He mentioned concerns with physical and mental health. He stated concern with ground water contamination from run off and illnesses that could be caused. He also stated his concern with property value and quality of life.

Mr. Bilger made the Board aware of electronic attendees that wished to speak and asked if this would be a good time to do so. The Board agreed that it would be.

Spencer Livengood, 5301 S. 350 West, addressed the board remotely. He stated his strong opposition to the petition. It would be detrimental to their small farm market that include on site produce picking and produce pick up. He shared his concern about odor and contaminates produced by the CFO. He stated that they were devastated by the news of a possible CFO nearby. They have dedicated everything to produce local grown. He referenced the packet that he had supplied for the Board to review.

Mr. Bilger read into record a comment from Dillon Poe, 102 S. Merkle St., North Manchester, a land owner of neighboring property to the west. Ground water contamination can be a huge problem given how close the proposed hog farm is to a flood plain. He would like this to be known to the Board and public in the audience.

Kaitlin Gilson, 4839 S. 350 West, addressed the Board remotely. She stated the concern of traffic and semis on the dirt road that would cause damage. She shared her opposition to the petition due to traffic, smell, and harm to the community.

Mr. Wilkinson welcomed the petitioner to speak again if they wished.

Ms. Lehman addressed the odor concern. She stated that pit additives could be used to help with that. She addressed the concern about nitrate contamination. She stated that with this being an IDEM permitted farm, there is a process to make sure this is handled properly and proper testing to monitor this type of contamination. IDEM required inspections and records will be kept. She described the semi traffic that would happen throughout the year.

Mr. Wilkinson opened discussion of the Board concerning conditions. Mr. Wright discussed odor control. Mr. Wilkinson stated it is very important to take care of your neighbors and be considerate of timing of manure handling and semi deliveries.

Mr. Bilger addressed the Board in regard to the property to the west of the proposed location. He explained the code and how the barn location would be affected depending on the location of the building site of a home on the Poe property.

Ms. Lehman discussed the flood map.

Ms. Lopez discussed the IDEM permit process and the location of barn if it were to change.

Discussion was made on the appropriate way to handle location concerns and how the code only works in one direction. Aerial displays were used to show possible changes in locations.

Ms. Lopez made a motion to approve 21-W-SE-7 as presented by staff with three conditions.

1. Special exception is granted as presented and per the submitted site plan.
2. Special exception is limited to 2,100 animal units, as described in the submittal.
3. Prior to issuance of permits, a survey is required indicating the exact distances to the nearest three residences to verify compliance with the zoning standards.

The motion was seconded by Mr. Wolf. Mr. Wilkinson asked for a vote. The petition was approved by a vote of 3-1.

OTHER BUSINESS

No other business was discussed.

ADJOURNMENT

Having no other business, Mr. Wilkinson adjourned the meeting at 9:08 p.m.

GUEST LIST

1. Randy Laux.....1810 W. State Road 14
2. Debra Laux.....1810 W. State Road 14
3. Diana Laux.....9665 S. Raber Road
4. Kameron Laux9665 S. Raber Road
5. Kyle Laux.....9665 S. Raber Road
6. Ken Laux.....9665 S. Raber Road
7. William Auer3750 W. Keiser Road
8. Kati Parker4700 N. 50 West
9. Bryn Keplinger.....267 E. Taylor Street, Huntington
10. Lori Kreider1760 N. Mary Lane
11. Stephen Taulbee.....4732 N. 50 West
12. Tiffany Taulbee.....4732 N. 50 West
13. Robert Bisher4690 N. 50 West
14. Terrie Bisher4690 N. 50 West
15. Richard Byall3271 W. Hill Dr.
16. Chad Banks3393 W. Old Lake Road
17. Brooks Langeloh.....818 N. Newport Run
18. Melissa Lehman7070 S. 500 West, Topeka
19. Scott Kerr4004 W. Keiser Road
20. Crystal Kerr.....4004 W. Keiser Road
21. Mackenzie BrownW. Keiser Road
22. Anthony Hatfield3405 W. Keiser Road
23. Shelley Winter3405 W Keiser Road

GUEST LIST – ELECTRONIC

- 24. Mark Brown.....11117 Rolling Pine Run, Fort Wayne
- 25. Kaitlin Gilson.....4839 S. 350 West
- 26. Crystal Livengood.....5301 S. 350 West
- 27. Spencer Livengood5301 S. 350 West
- 28. Dylan Poe.....102 S. Merkle St., North Manchester