

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

23-W-VAR-11 DEVELOPMENT STANDARDS VARIANCE
Areda Rieder
3180 N. State Road 109

JUNE 20, 2023
AGENDA ITEM: 1

SUMMARY OF PROPOSAL

Current zoning: AG, Agriculture
Property area: 2± acres

The petitioner, owner of the subject property, is requesting a development standards variance to allow a split of their property to an adjacent property owner. The property is located at 3180 North State Road 109 in Section 21 of Thorncreek Township.

As historic reference, the 1.19-acre property to the south of the petitioner's was created in 1966 and was apparently used as a gas or propane dealer. As it predates the establishment of the county's zoning code, the parcel is a legal nonconforming lot of record. As a result of its historic use, it is zoned VC, Village Commercial.

The petitioner's 2-acre parcel was created in 1985, which was after the 80,000 sq. ft. minimum lot area was established. This minimum was achieved by wrapping the property around the smaller lot, creating the current L-shape. It appears that the eastern part of the L has been farmed since the parcel's creation.

As proposed, the petitioner will split 17,050± sq. ft. of their 2-acre lot to be combined with the 1.19-acre property to the south to give the commercial parcel additional space and make it closer to the 80,000 sq. ft. size (note that the 5,000 sq. ft. minimum lot area for VC zoning is already met). Doing so results in a 70,070± sq. ft. parcel of the petitioner and a 68,886± sq. ft. adjacent parcel. Because this would reduce the petitioner's lot area below the minimum 80,000 sq. ft. required in the AG district, a variance is necessary.

REVIEW CRITERIA

Indiana Code §36-7-4-918.5 and Section 10.10 of the Zoning Code 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 approval will not be injurious to the public health, safety, morals, and general welfare of the community;

The proposed variance will not likely be injurious to the public safety or morals. It could impact public health if it reduces the available area for a functioning septic system; however, because the proposal increases the area of the smaller lot, there may be a tradeoff. As with any variance, the general welfare may be injured by degradation of the effectiveness of the zoning code if there are not site-specific difficulties for the variance.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

It is not expected that this variance will adversely affect the use and value of the area adjacent to the property as the proposed lot area reduction will not be particularly perceptible to the surrounding areas.

3. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction or restriction of economic gain.

The strict application of the Ordinance terms could result in practical difficulties. The existing configuration of the petitioner's parcel locks in the adjacent smaller lot and adding any acreage to that

lot requires a reduction in area from the petitioner's parcel. Increasing the area of that lot is desirable because its smaller size relative to the minimum found in the AG district.

Date report prepared: 6/19/23

BOARD OF ZONING APPEALS ACTION

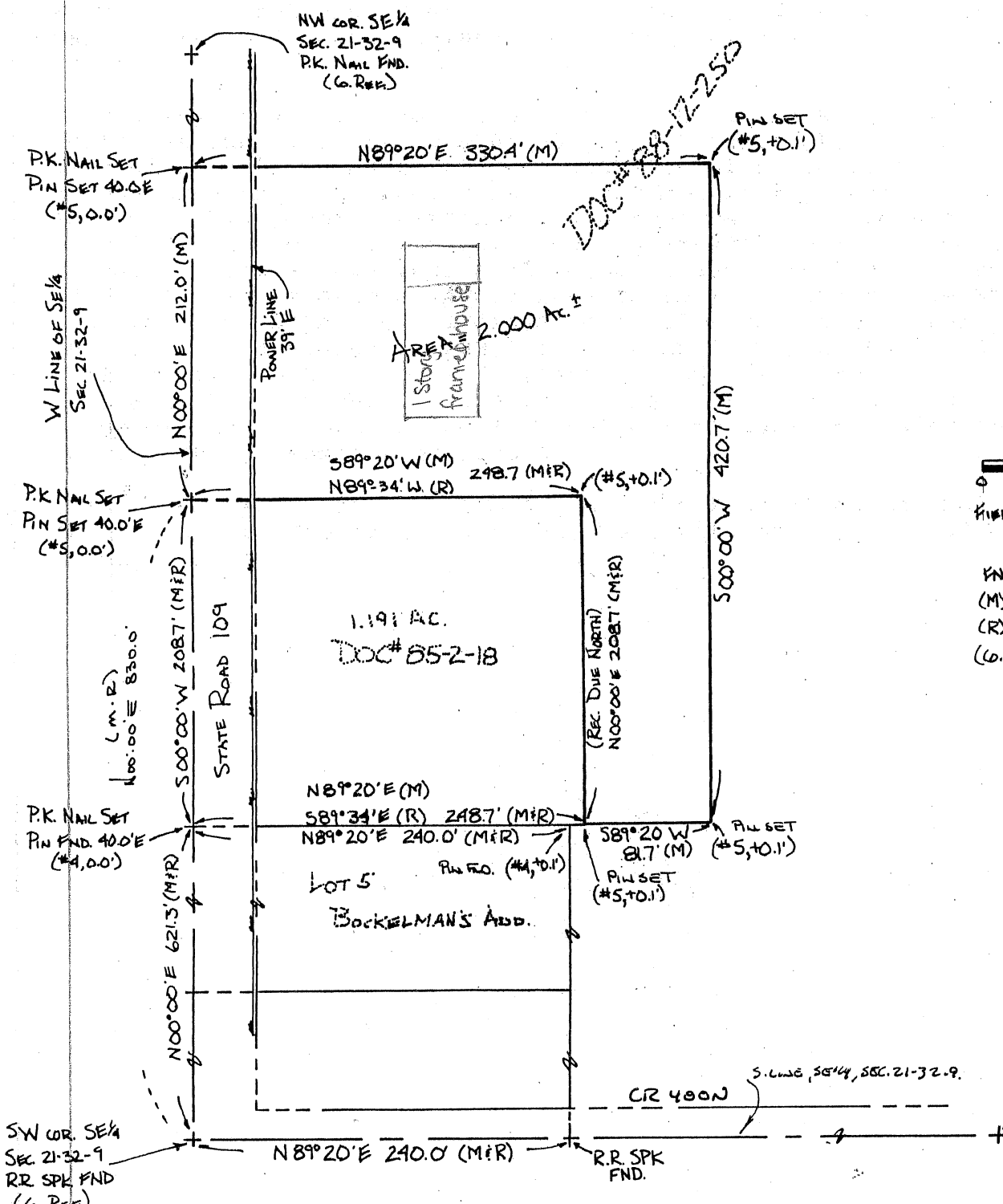
Findings of Fact Criteria

	Green		Sheiss		Wilkinson		Wolf		Wright	
	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>
<i>Criterion 1</i>										
<i>Criterion 2</i>										
<i>Criterion 3</i>										

Motion: Grant
 Grant w/conditions
 Deny

By: _____ Second by: _____

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



1" = 100'
 FIELD WORK COMPLETED:
 6/01/94
 FND. = FOUND
 (M) = MEASURED
 (R) = RECORDED
 (G. REF.) = COUNTY REFERENCED

I, THE UNDERSIGNED REGISTERED LAND SURVEYOR, LICENSED IN COMPLIANCE WITH THE LAWS OF THE STATE OF INDIANA, HEREBY CERTIFY THE HEREON PLAT TO CORRECTLY REPRESENT A SURVEY AS MADE UNDER MY DIRECTION AND THAT THIS SURVEY AND ACCOMPANYING REPORT HAS BEEN COMPLETED IN ACCORDANCE WITH TITLE 865-IAC 1-12 AND ALL OTHER AMENDMENTS THERETO.

I hereby certify on the 14th day of June, 19 94 that the above survey is correct.

Surveyed for: Leiter, John/Sharon

Survey No.: FA-160"A"





Culp, David J & Patricia L

Fahl Family Legacy Farms LLC

Zorger, Jerry J & Phyllis Jean

Zorger, Jerry J & Phyllis Jean & Zorger, Richard E & Zorger, Rod A

Newman, Scott A & Laura Beth

Niccum, Richard K

McClurg, Jamie Q & King, Angela R

McClurg, James A & Carol L

Rieder, Keith A & Areeda S

Jahn, Randy

Knigh, Homer & Patricia Ann

Whitley County Remc

Jones, Jill A

Jones, John C & Tanith L

Huskey, David

Torres, Oscar R & Bonnie K

Zorger, Jerry J & Phyllis Jean & Zorger, Rick & Zorger, Rod

Geiger, Clay Wayne

Linscomb, Janeiro J & Melinda

Bail, David L & Carol D

Weixler, Frank M & Diane C

Chardonray Association Inc

Cesaretti, Joseph D & Sarah L

Jones, Charles E & Barbara

Jones, Barbara S

Knefelkamp, Sarah L

Harris, Thomas & Kathy

Geiger, Clay

Brindley, Ernie & Charlotte A

Krieger, James

Sadler, Dustin J & Sadler, Amy K

Conrad, Callie V

Coney, Jason L & Hannah

Crowell, Richard D

Diehl, Luke R & Sara M

Shew, Jon A & Christy A

Zolman, James R & Wildean

Tenwilliger, James J

Stoner, Kevin & Jacobson, Kenneth

Clough, Tang S & Aiello-Clough, Theresa

Dupen, Barry M & Davidson Julie F

Miller, Chad R & Erica L

Klingenberger, Lucas

Zorger, Richard E & Zorger, Rodney A

Zorger, Jerry J & Phyllis Jean & Zorger, Rick & Zorger, Rod

Ferguson, Michael W & Lorie M

Haifley, Bridget N

Haifley, Bridget N

Zorger, Jerry J & Phyllis Jean & Zorger, Rick & Zorger, Rod

Zorger, Jerry J & Phyllis Jean & Zorger, Rick & Zorger, Rod