

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

**23-W-SE-24      SPECIAL EXCEPTION**  
Paul & Elizabeth Holley  
5260 E. 800 South

**NOVEMBER 28, 2023**  
**AGENDA ITEM: 3**

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**SUMMARY OF PROPOSAL**

Current zoning: AG, Agricultural  
Property area: 40 acres

The petitioner, owners of the subject property, are requesting special exception reapproval for a secondary dwelling unit on the property located at 5260 East 800 South, in Section 22 of Jefferson Township. The property is currently improved with a dwelling and outbuildings.

In 2011, the Board approved a special exception for this secondary dwelling unit. That approval was conditioned upon the occupancy of the dwelling unit being for that owner's parents only. Since that time, the property has changed ownership twice, with the previous owner being notified in May 2023 that the unit would require a new approval. That owner had acquired the property in 2017 and used the unit for occasional family visits.

The current owners bought the property in September of this year and are seeking the reapproval of the dwelling unit primarily to avoid the cost of remodeling to remove the dwelling unit to comply with the zoning ordinance. They may use the secondary unit for occasional visiting family, but there are no plans for it to be a permanent residence currently.

Secondary dwelling units are defined by the zoning code as "either a portion of the principal building or a separate building, which is utilized as an independent living facility, or a Type II or III manufactured home, located on the same parcel and occupied exclusively by a relative of the family residing in the principal dwelling." In practice, these units are located in outbuildings or manufactured homes that may be removed or converted upon the conclusion of the secondary dwelling use. This is the significant difference between these units and a second full dwelling unit on a property.

In the AG, Agricultural District, secondary dwelling units require a special exception through the Board of Zoning Appeals. The requirements of Sections 10.9 Special Exception Standards apply.

**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;**  
Residences typically do not have such elements, cause such conditions, nor contravene the performance standards.
- 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 dwelling is a reapproval of a previous secondary dwelling, so there would not be significant changes to the harmony with the adjacent buildings and properties.

**3. The special exception shall produce a total visual impression and environment that is consistent with the environment of the neighborhood;**

Again, as this is a reuse of an existing building, the visual impression and environment to the neighborhood should be as consistent as it has been.

**4. The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood; and**

The traffic volume and arrangement access of this use is unlikely to cause traffic congestion any more than any other single-family dwelling. Sufficient area exists to provide parking for the secondary dwelling unit.

**5. The special exception shall preserve the purpose of this Ordinance as stated in Section 1.4.**

The proposed secondary dwelling unit is a permissible special exception of the Zoning Ordinance. It seems this proposal meets the intent and rules for secondary dwelling units and so does not seem contrary to the purpose of the Ordinance.

**SUGGESTED CONDITIONS**

Staff suggests the following conditions if the Board finds to approve the requested special exception:

1. The Special Exception is granted as presented and is not transferable without further Board approval.
2. In addition to the requirements in the Zoning Code definition of "Secondary Dwelling Unit", the dwelling shall not be used as an income-producing rental unit.

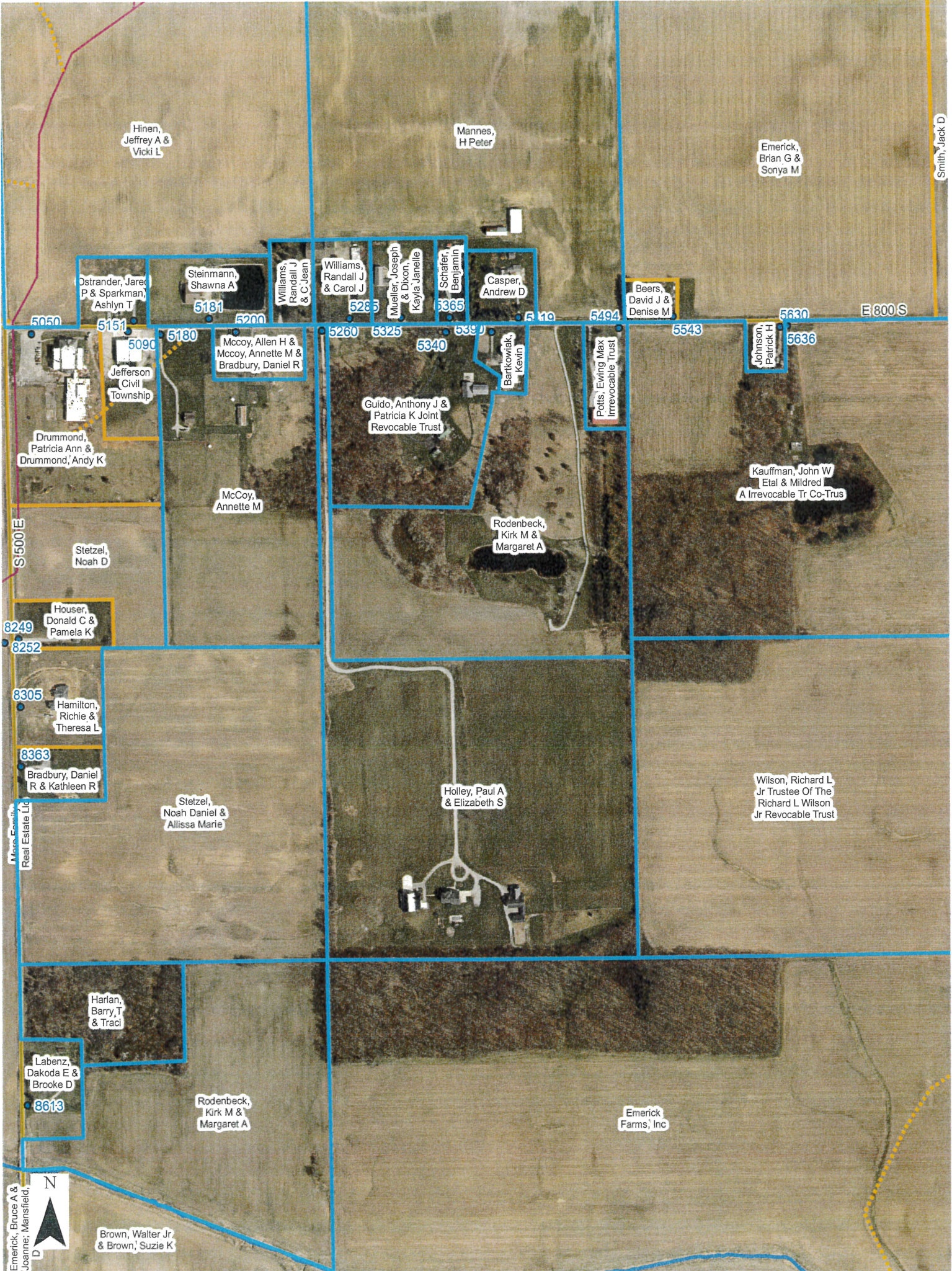
Date report prepared: 11/16/2023

**BOARD OF ZONING APPEALS RECORD OF ACTION**

Motion: By: Second by:  
 Approve —  
 Approve w/conditions —  
 Deny —

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





Hinen, Jeffrey A & Vicki L

Mannes, H Peter

Emerick, Brian G & Sonya M

Smith, Jack D

Ostrander, Jared P & Sparkman, Ashlyn T

Steinmann, Shawna A

Williams, Randall J & C Jean

Williams, Randall J & Carol J

Mueller, Joseph & Dixon, Kayla Janelle

Schaefer, Benjamin

Casper, Andrew D

Beers, David J & Denise M

5050

5151

5181

5200

5285

5325

5340

5390

5494

5543

5630

E 800 S

Jefferson Civil Township

Mccoy, Allen H & Mccoy, Annette M & Bradbury, Daniel R

Guido, Anthony J & Patricia K Joint Revocable Trust

Potts, Ewing Max Irrevocable Trust

Johnson, Patrick H

Drummond, Patricia Ann & Drummond, Andy K

McCoy, Annette M

Rodenbeck, Kirk M & Margaret A

Kaufman, John W Etal & Mildred A Irrevocable Tr Co-Trus

S 1500 E

Stetzel, Noah D

Houser, Donald C & Pamela K

8249

8252

8305

Hamilton, Richie & Theresa L

8363

Bradbury, Daniel R & Kathleen R

Stetzel, Noah Daniel & Allissa Marie

Holley, Paul A & Elizabeth S

Wilson, Richard L Jr Trustee Of The Richard L Wilson Jr Revocable Trust

Maxwell, Real Estate Ltd

Harlan, Barry T & Traci

Labenz, Dakota E & Brooke D

8613

Rodenbeck, Kirk M & Margaret A

Emerick Farms, Inc

Emerick, Bruce A & Joanne; Mansfield, D



Brown, Walter Jr & Brown, Suzie K