

**MINUTES
WHITLEY COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING
October 24, 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 September 26, 2023, regular meeting were presented for review. Ms. Sheiss made a motion to approve the minutes as presented. Mr. Wolf 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

There was no old business.

NEW BUSINESS

23-W-VAR-23

Eric and Jody Dorais, prospective owners of the subject property, requested approval of a variance to allow for encroachment into the front, sides, and rear setbacks, and of minimum lot size for construction of a storage building. The property was located on the south side of the east end of Crescent Avenue, in Section 12 of Thorncreek Township.

Mr. Bilger presented the staff report. He explained that the petitioner has proposed to construct a new storage building on a new parcel to be platted from the parent tract. The new parcel would

be 7,923 sq. ft., triggering the need for the minimum lot area variance from the required minimum of 10,000 sq. ft. He also explained that the proposed 40'x80' building would encroach into the front, rear, and side setbacks of the newly created parcel. As a new parcel, side setbacks of 10' would apply instead of the 5' typically seen in LR. This would require variances of 8.8' for the front setback, 5.5' for each side setback, and 5' for the rear setback. Aerial views and plot plan were displayed to show the parent tract, proposed new parcel, and location of the proposed new structure. Mr. Bilger discussed the review criteria, expressing concerns about the structure being out of character, and the lack of practical difficulty to support the reduced lot size.

Eric Dorais, 2851 E. Crescent, addressed the Board. He explained his proposal of building a structure for personal storage. He stated that they were selling other property and would use the building to store items indoors. He expressed his willingness to adjust the building location to lessen the side setback encroachments if need be, but doing so could increase the encroachment in the rear.

Mr. Wolf asked if it was possible to enlarge the proposed lot to meet the 10,000 sq. ft. minimum. Mr. Dorais explained that the 7,923 sq. ft. was what was offered to them by the current property owner, and they were trying to work with what was available to them.

The Board discussed the tightness of the area, the narrowness of the street, and the posts along the road that had been positioned on the adjacent property.

Discussion was also made about the proposed repositioning of the building to have at least 5-foot side yard setbacks.

Mr. Wilkinson opened the public hearing and asked if anyone had questions for the petitioner.

Terri Parker, 2921 E. Crescent Avenue, explained that she lived across the street and asked if there would be any other use in the building other than storage.

Mr. Dorais stated that they may work on some of their own items inside but would most likely have the doors closed during this time.

Randall Keller, 2905 E. Crescent Avenue, asked if they had considered a smaller building and what the plan was for the water runoff from the property.

Mr. Dorais stated that with the items that would need to be stored, a smaller building would not be suitable. He also stated that the plan for water runoff would be to install gutters on the building and direct water to the southwest portion of the property.

Hearing no further questions, Mr. Wilkinson asked for general statements.

Terri Parker, 2921 E. Crescent Avenue, expressed her concerns about safety with the lack of area to turn around at the end of Crescent Avenue and the potential for more traffic. She discussed ongoing conversations with the county about a new turn around or additional road to connect Crescent and Colony.

Randall Keller, 2905 E. Crescent Avenue, asked that the Board reject the proposal due to the new parcel not meeting the requirements of minimum square footage. He stated that he did not have an issue with a new building on the property, but he had concerns with the character of the proposal and amount variances being asked being out of character for the neighborhood.

Twyla Hunter, 2887 E. Crescent Avenue, addressed the Board and explained that she had written a letter to the Board with her concerns and wanted to confirm that it was received. It was confirmed that it was received.

Terri Parker, 2921 E. Crescent Avenue, stated that with the lack of a turn-around at the end of the road, garbage trucks and delivery trucks have been backing down the entire length of Crescent Avenue and this was not a safe situation.

Todd Shepherd, 2949 E. Crescent Avenue, addressed the Board discussing the posts on his property. He stated that they are placed just out of the right of way to help keep people from turning around on his property. He stated that he was in favor of the building project.

Eric Dorais, 2851 E. Crescent, stated that he was just trying to build a building on the property that was offered to him. He stated that the posts and turn-around issues that had been brought up had nothing to do with his proposed project.

Mr. Bilger discussed the history of the turn-around proposal and a potential road connection that were brought up by Ms. Parker and Mr. Keller. He stated that conversations between the property owners and the Commissioners were not necessarily relevant to the requested variances. Those items could be discussed more at the upcoming Plan Commission meeting to consider the preliminary plat approval to split the proposed lots.

Hearing no further discussion, the public hearing was closed.

Mr. Bilger advised that there being multiple variances, the Board could consider them separately.

Ms. Sheiss stated that she would like to see the side setbacks changed to at least 5 feet. Mr. Wolf agreed with that statement.

Mr. Wilkinson asked the board if they would like to address the setback variances separately from the lot size variance.

Mr. Wolf made a motion to separate the lot size variance from the setback variances. There was no second to the motion.

Hearing no further discussion, Mr. Wilkinson asked for a vote on the variances as proposed. Petition 23-W-VAR-23 was denied by a vote of 0-5.

After the decision, Mr. Dorais addressed the Board from the audience stating that he had never before seen the Board deny a petition. He asked if the Board found that “kind of odd” and made an accusation of someone getting into their pockets. He concluded with the statement, “This is crap, I’m going to get you guys.”

23-W-VAR-24

Peggy Kunkle, owner of the subject property, requested a development standards variance for encroachment into the front setback to allow for construction of a new home. The property was located at 5911 N. 350 East, in Section 12 of Thorncreek Township.

Mr. Bilger presented the staff report and explained the petitioner’s proposal to demolish the existing home and construct a new one and a half story home. He provided the proposed setbacks of 19.27’ front, 16’ rear, and 5.67’ and 10.73’ side. He stated that while the averaging rule could be applied here, the average was skewed due to one property with a very large front setback. Aerial views were displayed for reference. He also explained that the new proposed structure

would be more compliant with the code than the existing structure, other than the front setback. Review criteria were discussed.

Jackie Miller, petitioner's representative, addressed the Board. She explained that most of the area is all family. She discussed the need to construct a new home that could be lived in year-round for her aunt. The existing cottage was not able to be lived in during the winter months.

Additional discussion was made about the front setbacks of the properties to the south.

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

Having no further questions or discussion, Mr. Wilkinson asked for a vote. Petition 23-W-VAR-24 was approved by a vote of 5-0.

23-W-VAR-25

3W Holdings, LLC, owner of the subject property, requested development standards variances to allow for construction of a new commercial building at 2520 W. Lincolnway, in Section 25 of Richland Township.

Mr. Bilger presented the staff report. He explained that the petitioner proposed constructing a warehouse with light manufacturing and an office area, which had been approved as a special exception at a previous meeting. He stated that requested were a variance of front setbacks to allow for 25' setback, and a variance of number of parking spaces provided to allow for 10 spaces. Aerial views were provided with the overlay to show where the variances would apply. Review criteria and suggested conditions were discussed.

The Board asked about the proposed condition limiting the approval to "corporate successors." Mr. Bilger stated that meant future owners of the business, but not if the business sold the property to a new owner.

The parking space possibilities were discussed.

Kyle Walters, 2520 West Lincolnway, petitioner, addressed the Board and explained the proposal and the reasons for the variances. Addressing the concern of a corporate successor, he stated that the plan was to pass the company on to the next generation in the family. Kyle also addressed the parking concern by explaining the plan for the drive and proposed parking area, as well as discussing the low number of employees and traffic to the business.

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

Ms. Sheiss made a motion to approve 23-W-VAR-25 with the recommended conditions.

Mr. Wright seconded. Mr. Wilkinson asked for a vote. Petition 23-W-VAR-25 was approved by a vote of 5-0, with the following conditions:

1. As part of the Development Plan, the petitioner shall work to designate as many compliant parking spaces on the site as possible in order to minimize the parking number variance.
2. The following be recorded as written commitments, running with the land and binding on successors in title:
 - a. The parking number variance is granted only for the petitioner and its corporate successors.

- b. The parking number variance is not transferable to a new property owner without additional Board approval.
- c. No parking of any vehicles associated with this property shall be permitted within the Lincolnway and/or 250 West rights-of-way unless permission is granted in writing by the County Commissioners.

23-W-SE-23

Gary and Holly Hull, owners of the subject property, requested special exception approval for a secondary dwelling unit on the property at 3630 E. 600 North, in Section 6 of Smith Township.

Mr. Bilger presented the staff report and explained the details of the proposed renovation and addition to the existing garage to be used by the petitioners’ parents. The space would be converted back to garage storage area after being used as a dwelling unit. Review criteria and suggested conditions were discussed.

Holly Hull, 3630 E 600 North, addressed the Board and explained that the proposal was to allow a place for her parents to live so that they could be close.

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

Hearing no further questions or discussion, Mr. Wilkinson asked for a motion.

Mr. Wolf made a motion to approve 23-W-SE-23 with the following conditions:

- 1. The Special Exception is granted as presented.
- 2. Requirements of the Health Department be met.
- 3. 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.

The motion was seconded by Mr. Green. Mr. Wilkinson asked for a vote. Petition 23-W-SE-23 was approved by a vote of 5-0.

OTHER BUSINESS

Mr. Bilger gave an update on the rules of procedure progress.

Mr. Bilger reminded the Board of the upcoming training session to take place on October 30. He also discussed the 2024 meeting schedule.

Mr. Bilger asked the Board if they would like to delegate findings of fact, for the denied petition, to the staff. Mr. Wright made a motion to delegate preparation of findings of fact to staff for petition 23-W-VAR-23. Motion was seconded by Mr. Wolf. The motion passed by a vote of 5-0.

ADJOURNMENT

Having no other business, Mr. Wilkinson adjourned the meeting at 8:52 P.M.

GUEST LIST

- 1. Terri Parker2921 E. Crescent Avenue
- 2. Brad Parker2921 E. Crescent Avenue
- 3. Jody Dorais2851 E. Crescent Avenue

- 4. Eric Dorais2851 E. Crescent Avenue
- 5. Todd Shepherd2949 E. Crescent Avenue
- 6. Randall Keller2905 E. Crescent Avenue
- 7. Jackie Miller.....5919 N. 350 East
- 8. Dustin Wuis2520 W. Lincolnway
- 9. Kyle Walters2520 W. Lincolnway
- 10. Holly Hull3630 E. 600 North
- 11. Gary Hull3630 E. 600 North
- 12. Michelle Becker2893 E. Crescent Avenue
- 13. Greg Hunter2887 E. Crescent Avenue
- 14. Twyla Hunter2887 E. Crescent Avenue

GUEST LIST – ELECTRONIC

There were no electronic attendees.