

**MINUTES
WHITLEY COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING
November 28, 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 October 24, 2023, regular meeting were presented for review. Ms. Sheiss made a motion to approve the minutes as presented. Mr. Green 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-26

Emily Lefebvre, representative of the owner of the subject property, is requesting a development standards variance for the minimum floor area on the property located at 6043 N. Timber Lane, in Section 3 of Smith Township.

Mr. Bilger presented the staff report. He explained that the petitioner was the daughter of the deceased owner of the property. The owner remodeled the garage into a dwelling around 2018. The remodel resulted in a dwelling of only 576 sq. ft. of living space. Due to the required

minimum dwelling area being 750 sq. ft., the petitioner has requested approval of a variance of 174 sq. ft. to be able to sell the property as it is. Aerial views were displayed for reference of location. Photos of the interior of the dwelling were also displayed. Review criteria and suggested conditions of approval were discussed.

Emily Lefebvre, 7010 Ideal Avenue, Fort Wayne, addressed the Board. She explained the reason for the variance and that she had the building department perform the appropriate inspections needed to verify code compliance. She stated that she would just like to sell the property.

Mr. Wilkinson opened the public hearing.

David Fletter, 6033 N. Blue Lake Road, addressed the Board in support of the variance. He described how beautiful the property is.

Tim Pence, 6091 N. Blue Lake Road, addressed the Board in support of the variance. He asked for clarification on the ability to build a stick built on the properties in the area. Mr. Bilger discussed an interpretation made by the Board in the past that addressed this situation. He stated that he would provide Mr. Pence with the information documentation for his records.

David Fletter, 6033 N. Blue Lake Road, discussed the septic and sewer situation in the area.

Hearing no further discussion, Mr. Wilkinson asked for a motion. Mr. Green made a motion to approve 23-W-VAR-26 with the staff recommended conditions. Ms. Sheiss Seconded the motion. Mr. Wilkinson asked for a vote. Petition 23-W-VAR-26 was approved by a vote of 5-0 with the following conditions:

1. The structure is to be compliant with building and health code requirements.
2. This variance expires with the demolition of the subject building or its conversion to a non-residential use.
3. A deed restriction be added to the next deed noting that the building is subject to a variance as its floor area is not compliant with the minimum floor area of the zoning code, and that the variance expires with its demolition or conversion to a non-residential use.

23-W-SE-22

Travis and Emi Chalk, owners, and residents of the subject property, are requesting approval to operate a specialty retail store to be known as “Lost Cottage Designs,” in a 16’ X 28’ area of an existing building on the property at 4424 E. State Road 205 in Section 31 of Smith Township.

Mr. Bilger presented the staff report and explained the petitioner’s proposal to operate a specialty retail business out of an existing building on the property. He stated that they would be using 448 sq. ft. of area inside their outbuilding to operate the business. The hours of operation would be Thursday, Friday, and Saturday, from 10-4. The petitioners estimate having 10-20 customers per day with parking on the south and west sides of the building. They plan to have no non-resident employees and INDOT has approved the commercial driveway onto State Road 205 with conditions. He explained that there are no signage plans determined at this time. Aerial views were provided to show location.

Emi and Travis Chalk, 4424 E. State Road 205, addressed the Board. She explained their petition to operate a small retail business out of the building on their property.

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

Having no further questions or discussion, Mr. Wilkinson asked for a motion. Ms. Sheiss made a motion to approve Petition 23-W-SE-22 with the staff recommended conditions. Mr. Wolf seconded the motion. Petition 23-W-SE-22 was approved by a vote of 5-0 with the following conditions:

1. The Special Exception is granted for the applicant and is non-transferable.
2. The proposed driveway and its location must be approved by INDOT, and any conditions of their permit (if one is required) must be incorporated.
3. The Special Exception is granted as presented and per the site plan.
4. There will not be more than one (1) non-resident employee.
5. The parking areas must be kept in good condition and available to accommodate the required parking.
6. Hours of the retail operation would not exceed 10am to 4pm (or as determined by the Board).
7. Exterior lighting, if any, shall be directed and/or oriented to prevent light spillage and glare onto adjacent properties and rights-of-way.
8. Any dumpster will be screened from public view using an opaque enclosure.
9. Any signage will conform to the requirements of the sign code.

23-W-SE-24

Paul and Elizabeth Holley, 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.

Mr. Bilger presented the staff report. He explained that this secondary dwelling unit was previously approved in 2011 conditioned upon specific ownership and occupancy. The next owners had used the secondary dwelling as a guest house. They should have acquired the proper approval and did not. The current owners acquired the property in September and wish to reapprove the secondary dwelling unit instead of remodeling the building to eliminate the dwelling unit. There are no plans for any residency at this time. Mr. Bilger discussed an additional structure on the property that was previously used as a helicopter hangar and lounge area. He explained that it was not considered a dwelling per zoning code due to it not having a bathing facility. Aerial views were displayed showing the property and the structures involved. Review criteria and conditions were discussed.

Paul Holley, 5260 E. 800 South, addressed the board and explained his request for approval so that he did not have to remodel and remove the kitchen in the guest house. He stated that he had no plans to have anyone living there and only use it as a guest house for visitors.

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

Mr. Green made a motion to approve 23-W-SE-24 with the recommended conditions. Mr. Wright seconded. Mr. Wilkinson asked for a vote. Petition 23-W-SE-24 was approved by a vote of 5-0, with the following conditions:

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.

23-W-SE-25

Lehman Real Estate Holdings, owner of the subject property area, is requesting a special exception approval for a storage warehouse facility in a VC, Village Commercial district. The property is located on the north side of Morsches Road, about 200’ east of State Road 109 in Section 4 of Thorncreek Township, with the address of 65 E. Morsches Road.

Mr. Bilger presented the staff report and explained the details of the proposal. He explained that the property was rezoned earlier in 2023 with zoning commitments including restricted uses and development commitments. He stated that the storage warehouse would be in a new building constructed on the property and would be used for garage door parts. Aerial views were provided to show the location of the property and the building. Recent photographs were displayed to show the new structure. Review criteria and suggested conditions were discussed. Mr. Bilger also displayed a rendering of the locations of the required landscaping and trees.

Avery Lehman, 65 E. Morsches Road, addressed the Board. He explained the proposal and that they had worked with the neighbors and lake association to come up with a list of uses that seem appropriate for the area.

Mr. Wilkinson opened the public hearing.

John Meister, 5995 Woodstrail Dr-57, addressed the Board stating his support of this petition. He provided an information handout to the Board members. He discussed the Bishop Ridge Addition subdivision that was recently approved in the area. He also discussed the successful business that the Lehman’s operate. He stated, as President of the Crooked Lake Association, they are very supportive of this Special Exception. Discussion was made about the mutually agreed upon uses and restrictions. He stated that the Lehman family had worked collaboratively with the neighbors and the Lake Association, and he would like to give unconditional and full support for the special exception.

Hearing no further questions or discussion, Mr. Wilkinson closed the public hearing and asked for a motion.

Mr. Wolf made a motion to approve 23-W-SE-25 with the following conditions:

1. The Special Exception is granted for the applicant and is non-transferable without Board approval.
2. The Special Exception is granted as presented and per the site plan.
3. Any outdoor lighting be oriented and shielded to prevent light spillage and/or glare onto surrounding properties.

4. Hours of operation will not exceed 8 AM to 5 PM.
5. Freestanding signage, if any, shall not exceed 32 sq. ft. per sign face.
6. Landscaping on the site shall be required, as stated in the zoning commitments.
 - a. Foundation plantings on the south façade of the new building are required.
 - b. A minimum of two (2) deciduous shade trees of minimum 1 ½” caliper shall be planted approximately 30’ on center within 15’ of the west property line between the Morsches Road right-of-way and the existing tree line to the north.
 - c. A minimum of four (4) deciduous shade trees of minimum 1 ½” caliper shall be planted approximately 30’ on center (excluding existing trees) and 25’ from the centerline of Morsches Road east of the former clubhouse building.
7. There shall be no outdoor storage.
8. Aside from parking of vehicles related to the business on established parking areas, if any outdoor vehicle storage is proposed in the future, it will require Board approval.
9. Any refuse container/dumpster stored outside will be screened from public view with an opaque enclosure.

The motion was seconded by Ms. Sheiss. Mr. Wilkinson asked for a vote. Petition 23-W-SE-25 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 that the December meeting was on Wednesday, the 27th.

ADJOURNMENT

Having no other business, Mr. Wilkinson adjourned the meeting at 8:27 P.M.

GUEST LIST

1. Nick Lehman.....366 E. 600 North
2. Emi Chalk4424 E. State Road 205
3. Travis Chalk.....4424 E. State Road 205
4. Tom Lehman.....366 E. 600 North
5. Avery Lehman65 E. Morsches Road
6. Emily Lefebve.....6043 N. Timber Lane
7. David Fletter6033 N. Blue Lake Road
8. Deb Fletter6033 N. Blue Lake Road
9. Kathern Fike.....6084 N. Timber Lane
10. Renee Dammeyer.....7170 E. Dogwood Lane
11. Tim Pence6091 N. Blue Lake Road
12. Sonya Emerick5865 E. State Road 14
13. Brent Emerick5249 S. 500 East
14. John Meister.....5995 S. Woodstrail Dr.
15. Paul Holley.....5260 E 800 South

GUEST LIST – ELECTRONIC

There were no electronic attendees.