

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

24-W-VAR-1 DEVELOPMENT STANDARDS VARIANCE
Jason & Sandra Barbknecht
6649 W. 800 North

**FEBRUARY 27, 2024
AGENDA ITEM: 1**

SUMMARY OF PROPOSAL

Current zoning: AG, Agriculture
Property area: 9.766± acres

The petitioners, owners of the subject property, are requesting a development standards variance for an encroachment into the required side setback at 6649 W. 800 North for placement of a storage building. The property is located on the south side of 800 North, 740 feet west of 650 West in Section 32 of Etna-Troy Township.

The petitioner has proposed constructing a new 24' x 40' storage building in the northeast corner of the property. The new structure will be located approximately 10' from the east property line, and 40' from the north road right-of-way. This location was chosen to limit the area of woods that would need to be taken out for construction.

While the proposed use is for storage, this being the only structure on the property, it is treated as the primary structure. Thus, the primary structure side setback required would be 25'. If there were a dwelling on the property, although there is no current plan to do so, this would be considered an accessory structure, and would be compliant with the zoning code at the 10' side setback. The proposal results in a 15' variance.

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, health, and morals as the proposed structure does maintain an accessory structure setback from the side property line and allows access around the property. Also, such structures exist around the county with no apparent injury. However, the general welfare may be injured if practical difficulties specific to the property are not found.

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

This variance likely would not adversely affect the value of the area adjacent to the property, as the similar structures with similar encroachments exist in the county, and the value of the adjacent property is not contingent on this property.

The placement of the proposed building could affect the use of the adjacent properties in the eventuality that this structure is converted to a primary use, e.g., a residence. At which time, the residence would not enjoy the greater setback of 25' and there could be a conflict generated between the residents and the adjacent farming use. How substantial this effect could be, if it were to even happen, is uncertain.

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 may or may not result in practical difficulties. Because of the code’s difference in application of side setbacks by “primary” or “accessory”, a difficulty does arise because this proposal is effectively an accessory use in what is defined a primary structure. If there was a plan for a future residence, this code discrepancy could be viewed as a matter of timing of the order of construction rather than purely a development standards issue.

However, despite desiring to retain as many trees as possible, the petitioner has some 300’ of parcel width in which to relocate the proposed structure to comply with the 25’ setback.

SUGGESTED CONDITIONS

If the Board moves to grant the variances, the following are suggested condition(s) of the approval:

1. A zoning commitment be recorded that the proposed building shall not be occupied as a residence or business if the setback is not compliant with the minimum development standard.

Date report prepared: 2/13/2024

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: _____

| | Green | Sheiss | Wilkinson | Wolf | Wright |
|----------------|--------------|---------------|------------------|-------------|---------------|
| <i>Yes</i> | | | | | |
| <i>No</i> | | | | | |
| <i>Abstain</i> | | | | | |

Sheiss, Daryl J & Penelope P

Sheiss, Donald B & Kelley L

Sheiss, Donald B & Kelley L

Longville Farms Inc

Longville Farms Inc

W 800 N

Kissinger, Douglas M & Christina L

Barbknecht, Jason W & Sandra K

Sheiss, Donald B & Kelley L

N 650 W

Longville Farms Inc

Juillerat Farms Inc

Garringer, Carl Jr & Lorin M

Sheiss, Donald B & Kelley L

West Etna Community Church

Longville Farms Inc

W 750 N

Agland Exchange, Inc

Longville Farms Inc

Sheiss, Eric B & Darice R

11214 (MIR) 11214 (MIR)

360.6 (MIR)

COUNTY ROAD 800 N.

NE 1/4, SEC. 14, T5S, R20E, CO. DEER

MADE MAIL FENCE *
PAUL IRON POST 20.0'S.
(45,10.1) *

NE CORNER
NE 1/4, SEC. 14,
T5S, R20E,
CO. DEER

67°51'-30"

MADE MAIL
FENCE *
PAUL IRON
POST 18.14'S.

Doc. # 89-2-12

Doc. # 2004-10-0594

21°22'
87°48'

356.9' (MIR)

3.361 Ac. ±

12" Ø TREE AT CORNER.
PAUL IRON POST 9.8' W.

MADE MAIL FENCE *
PAUL IRON
POST 21.2' W.

COUNTY ROAD 650 W.

1431.4' (MIR)

1591.56' (MIR)
401.45'S
98.07'

* PAUL IRON
POST (44,10.3)

FRIDGE
711.1' (MIR)

N. EAST

20'