

**MINUTES
WHITLEY COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING
February 27, 2024
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 January 23, 2024, regular meeting were presented for review. Mr. Wright 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

24-W-VAR-1

Jason & Sandra Barbknecht, owners of the subject property, are requesting approval of a Development Standards Variance to allow for encroachment into the side yard setback for construction of a storage building. The property is located at 6649 W. 800 North, in Section 32 of Etna Troy Township.

Ms. Sheiss recused herself due to being and adjoining land owner to the subject property.

Mr. Bilger presented a summary of the staff report for the petition. He explained that the petitioner's proposed location was decided as to limit the number of trees that would need to be removed for construction. He suggested that a zoning commitment be recorded stating that the proposed building shall not be occupied as a residence or business if the setback is not compliant with the minimum development standard. Review criteria and proposed conditions were discussed.

Jason Barbknecht, 2185 N. Etna Road, addressed the Board and explained the proposed structure and use of the building for personal storage. He explained that he has had values of the oak and walnut trees in the area assessed. He is hoping to delay the harvest of those trees another 10-15 years to increase their value. He explained that the long-term plan is to construct an accessible home for his disabled son to the west of the storage building. He stated that he agreed with the zoning commitment.

Discussion was made regarding the tree value estimate and the agriculture nature of the area.

Mr. Wilkinson asked if anyone else wished to speak for or against the case. Hearing none, he closed the public hearing and asked for further discussion.

Mr. Green made a motion to approve 24-W-VAR-1 with the following condition.

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.

Mr. Wright seconded the motion. 24-W-VAR-1 was approved by a vote of 3-1 with Mr. Wilkinson voting against the motion.

24-W-VAR-2

Michael & Rhonda Bauermeister, owners of the subject property, are requesting approval of a Development Standards Variance to allow for encroachment into the front yard (Lakeside) setback for construction of a new dwelling. The property is located at 7990 N. Brown Road, in Section 36 of Etna Troy Township.

Mr. Bilger presented the staff report. He explained that the petitioner was looking to remove the existing dwelling and construct a new home. The proposed would require a 4'± variance of the front yard setback to 31' from the code standard of 35'. All other setbacks would be met. Aerial views were displayed for reference. Review criteria were reviewed.

Michael Bauermeister, 7990 N. Brown Road, addressed the Board and explained his project. He discussed that shifting to the west or north is restricted with parking area and a manhole located there for the sewer system.

Mr. Wilkinson asked if anyone else wished to speak for or against the case. Hearing none, he closed the public hearing and asked for further discussion. Having none, he called for a vote. 24-W-VAR-2 was approved by a vote of 5-0.

24-W-VAR-3

Brooks Langeloh, owner/purchaser of the subject property, is requesting approval of Development Standards Variances for front yard setbacks, side yard setbacks, minimum lot width, and minimum lot area. The property is located at 2740 W. 700 North, in Section 36 of Etna Troy Township.

Mr. Bilger presented the staff report. He explained that the nature of the proposal was to split the existing property into two lots and the primary plat was approved by the Plan Commission at their last meeting with conditions of the variances being granted. He explained that with the platting of the lots and dedication on right-of-way, the existing structures become encroaching into the standard setbacks and lot size becomes under the code minimum. The variance is being requested to avoid being legal nonconforming. He explained that they were also requesting that the side setbacks be retained at the 5' instead of the code standard 10'. A chart was displayed representing the different variances being requested. Aerial views were displayed to show the location and overlays were shown to display the proposed setbacks. Discussion was made about the condition suggested to amend the plat with the setbacks as approved. Review criteria were also discussed.

Ms. Sheiss asked if the plan was to keep the existing structures and if approved, would the variances run with the land. Mr. Bilger stated that, as proposed, they would run with the land.

Kevin Michel, 4242 S. 700 East, addressed the Board. He explained the proposal and the request for variance.

Mr. Wilkinson asked if anyone else wished to speak for or against the case. Hearing none, he closed the public hearing and asked for further discussion.

Ms. Sheiss made a motion to approve 24-W-VAR-3 with the following conditions.

1. The plat be amended with the setback lines as approved and a notation of this variance approval.
2. Variance approval applies to all future new construction on the properties.

The motion was seconded by Mr. Wolf. Petition 24-W-VAR-3 was approved by a vote of 4-1 with Mr. Wright voting against.

24-W-SE-2

Daniel & Deborah Michel, owners of the subject property, are requesting Special Exception approval for a Class III Confined Feeding Operation in the AGP Zoning District. The property is located at 8980 S. 350 West, in Section 19 of Washington Township.

Mr. Bilger presented the summary of the staff report. He explained that the petitioners were requesting approval for a Class III CFO, to add a new barn to the property to house an additional 4,400 head (1768 Animal Units) of wean-to-finish hogs. This new barn would result in a combined total of 3,528 Animal Units on the property. He stated that the IDEM permitting had been approved. Setbacks and separations were displayed and discussed. Animal Unit calculations were reviewed. Aerial views of the property and barn location were provided for reference. A map was displayed showing the other AGP properties in the area as well as current CFO locations. Suggested conditions were displayed and explained. Review criteria was discussed.

Ms. Sheiss asked if the location could be shown reflecting the property address of a comment letter received. It was shown that the address was located approximately 10 miles from the subject property.

Melissa Lehman, 336 E. Lake Street, Topeka, and Dan Michel, 8980 S. 350 West, addressed the Board. Ms. Lehman explained the project and IDEM approval that had been received. She explained the reasons for the new barn to be placed on the same property as the other barns. Mr.

Michel explained the placement and location of the new structure. He discussed the trees that would be planted for screening.

Discussion was made regarding the number of notices that had been sent out.

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

Scott Stoner, 9139 S. 350 West, addressed the Board. He stated that 8000 pigs was to many in one place and thought they should be spread out.

Mr. Wilkinson asked for any other public comment.

Bill Leeuw, 8449 S. 350 West, addressed the Board. He explained that he lived a half mile away from the subject property. He stated that he had no issue with the proposed petition. He explained that the petitioners are great neighbors.

John Omelian, 2900 W. 900 South, addressed the Board. He explained that he only had about 15 days a year that he could smell the farm. He stated he had no problems with the proposed petition.

Dan Michel, 8980 S. 350 West, addressed the Board. He explained that he spreads as much manure west of the farm as he does to the east. He stated that they had looked at locating a new barn on other property and this location would affect the least number of people.

Ms. Sheiss made a motion to approve 24-W-SE-2 with the staff recommended conditions as follows:

1. Special exception is granted as presented and per the submitted site plan.
2. Special exception is limited to 3,528 animal units, as described in the submittal.
3. A landscape screen consisting of 6’ conifer trees spaced no greater than 20’ apart is required along the 900 South frontage, generally in line with the existing landscape screen. A western screen may also be appropriate.

The motion was seconded by Mr. Green. Petition 24-W-SE-2 was approved by a vote of 5-0.

OTHER BUSINESS

ADJOURNMENT

Having no other business, Mr. Wilkinson adjourned the meeting at 8:45 P.M.

GUEST LIST

1. Mike Bauermeister.....7990 N. Brown Road
2. Marta Harshbarger7916 E. 500 South
3. Scott Stoner.....9139 S 350 West
4. Jason Barbknecht2185 N. Etna Road
5. Harry Bauer.....8515 S. 250 West
6. Lynn Omelian2900 W. 900 South
7. John Omelian2900 W. 900 South
8. Rob Michel.....343 W. 1000 South
9. Brad Cormany.....3269 W. 350 West
10. Deb Michel.....8980 S. 350 West

- 11. Dan Michel.....8980 S. 350 West
- 12. Jamie Anderson.....9200 S. 250 West
- 13. Ron Anderson9200 S. 250 West
- 14. Sandi Barbknecht2185 N. Etna Road
- 15. Kevin Michel4242 S. 700 East
- 16. Sonya Emerick5865 E. State Road 14
- 17. Bill Leeuw.....8449 S. 350 West
- 18. Lori Leeuw8449 S. 350 West
- 19. Cari Juillerat.....4115 W. 900 South
- 20. Melissa Lehman336 E. Lake Street, Topeka
- 21. Rob Schuman3345 N. 650 East
- 22. Emily Studebaker.....5147 W. 200 South
- 23. Nolan Studebaker5147 W. 200 South

GUEST LIST – ELECTRONIC

- 24. Alayne Johnson.....6906 E. 150 North
- 25. Susan Lawrence275 N. 800 East, Avilla