

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

24-W-VAR-4 DEVELOPMENT STANDARDS VARIANCE
Aaron & Vanessa Schoon
1250 W. 200 North

MARCH 26, 2024
AGENDA ITEM: 1

SUMMARY OF PROPOSAL

Current zoning: AG, Agriculture

Property area: 20.5± acre

The petitioner, owner of the subject property, is requesting a development standards variance for encroachment into the required front setback for construction of an accessory structure on the property located at 1250 W. 200 North, in Section 29 of Thorncreek Township. The property is improved with a residence and outbuildings. The overall property is a flag lot parcel with a 2,000'± driveway from the road to the buildable width of the parcel.

The petitioner has proposed constructing a 72'x120' building and parking area. The use would be a basketball court for the petitioner's friends/family (note that a non-personal use would require a special exception or rezoning approval). The petitioner has recently acquired additional property south of the main body of the property to allow room for this new building. However, they were not able to acquire enough land to meet the 40' front setback requirement and to remain out of the utility easement for the overhead lines that run through the property.

As proposed, the structure location would have a 33' front setback (from new south property line), resulting in a 7' variance from the code requirement.

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, or morals, given the significant distance to any other improvements or roads. However, as with any variance, the general welfare may be injured by degradation of the effectiveness of the zoning code if there are not site-specific difficulties for the variance.

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

It is not expected that this variance will adversely affect the value of the area adjacent to the property as properties throughout the AG district have similar accessory structures. Use should also not be affected, at least not substantially, since the property on which the building is located was recently acquired from the field property owner for the specific purpose of constructing the building.

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 could result in practical difficulties. While the petitioner could place the outbuilding elsewhere on their property, rolling topography reduces the suitability for the proposed basketball court. The petitioner did acquire additional property in an effort to comply

with the setback, but the property area was defined by the seller's desire to align the property line with the adjacent woods. Additionally, a powerline easement prevents moving the building farther north.

Date report prepared: 3/18/24.

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:

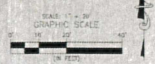
Second by:

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



Survey Notes

All bearings and distances are as shown on the plat, unless otherwise noted. All bearings are given in degrees, minutes and seconds. All distances are in feet and inches. The plat is a true and correct copy of the original survey records, as shown on the Survey Location Record.



Legend

Proposed Building Footprint	Proposed Gravel	Existing Gravel Drive	500 Gallon Drinking Tank	1000 Gallon Dual Compartment Tank
Proposed Gravel	Proposed Building	Proposed Gravel	Proposed Building	Proposed Building

LAKEWOOD SURVEYING, LLC

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Project Information

Aaron Schoon & Pulver Asphalt

Section 29, Township 32 North, Range 9 East, Thomercreek Township, Whitely County, Indiana

Proposed Site Plan

Prepared For:

Aaron Schoon & Pulver Asphalt

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Certification

RYAN C. WEBER

Professional Land Surveyor

STATE OF INDIANA

12/23/2011

