

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

**24-W-VAR-5      DEVELOPMENT STANDARDS VARIANCE**  
Adam Huntley  
4495 N. 250 East

**MARCH 26, 2024  
AGENDA ITEM: 2**

**SUMMARY OF PROPOSAL**

Current zoning: AG, Agriculture  
Property area: 1.0± acre

The petitioner, owner of the subject property, is requesting a development standards variance of the maximum animal units for the property at 4495 North 250 East in Section 14 of Thorncreek Township.

Earlier this year, the Health Department made staff aware of the keeping of several animals on this property, as well as various unpermitted structures. The petitioner has since obtained permits for the structures. By staff's notation, the following table lists the livestock currently on the property and the associated animal units:

<b>Animals</b>	<b>Animal units per head</b>	<b>Total animal units</b>
21 goats	0.3	6.3
10 pigs (50-100 lbs)	0.3	3.0
10 ducks (to be removed)	0.033	N/A
10 layer chickens	0.012	0.12
<b>Total:</b>		<b>9.42± animal units</b>

Note that these numbers are approximate. Section 5.17 of the zoning code states that AG-zoned properties under 80,000 square feet in area may have a maximum of 1.25 animal units per prorated acre of area. Since the subject property is 1.0 acre, the maximum permitted number of animal units is 1.25.

Thus, a variance is requested to exceed the maximum permitted number of animal units.

**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 and morals as the number of livestock being kept on a property would generally not have impact on such factors. Public health could be impacted if the number of animals creates an excessive amount of manure or compost, or if the animals impact the septic system on a small property. The Health Department has stated that they have no concern about such impact on this property. The property's location in the middle of an agricultural field mitigates the effects of manure accumulation, as there are no off-site residences within 600' of the property.

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 use of the area adjacent to the property, as the subject property is surrounded by agricultural fields, on which any number of livestock may be kept. The value of the surrounding area could be affected if the increased number of animals on the subject

property creates a negative aesthetic appearance or has negative performance effects (e.g., excessive odors, noise). The distance from surrounding homes should mitigate such effects, and the oversight of the Health Department will keep the property in generally good condition.

**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. The rationale for a maximum number of animal units was discussed in 2018 when the animal unit section was significantly revised. Generally, AG properties do not have a maximum AU; however, because of a number of AG-zoned small lot subdivisions around the county, the maximum of 1.25 AU per acre was applied to lots of less than 80,000 square feet, just like any size property zoned RR. This was to allow a nominal number of animals in subdivisions, as well as to address potential public health impacts (discussed above).

This property's 1-acre area originates from its historic use as a township school, well before the petitioner's ownership. Since this property is located in the middle of unimproved agricultural fields, the purpose of limiting the animal units due to proximity of homes is largely immaterial. As discussed above, the impacts on the public health have been stated to be in check.

**SUGGESTED CONDITIONS**

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

1. The Board may or may not wish to establish an alternative maximum animal unit number specific to this property.

Date report prepared: 3/19/2024

**BOARD OF ZONING APPEALS ACTION**

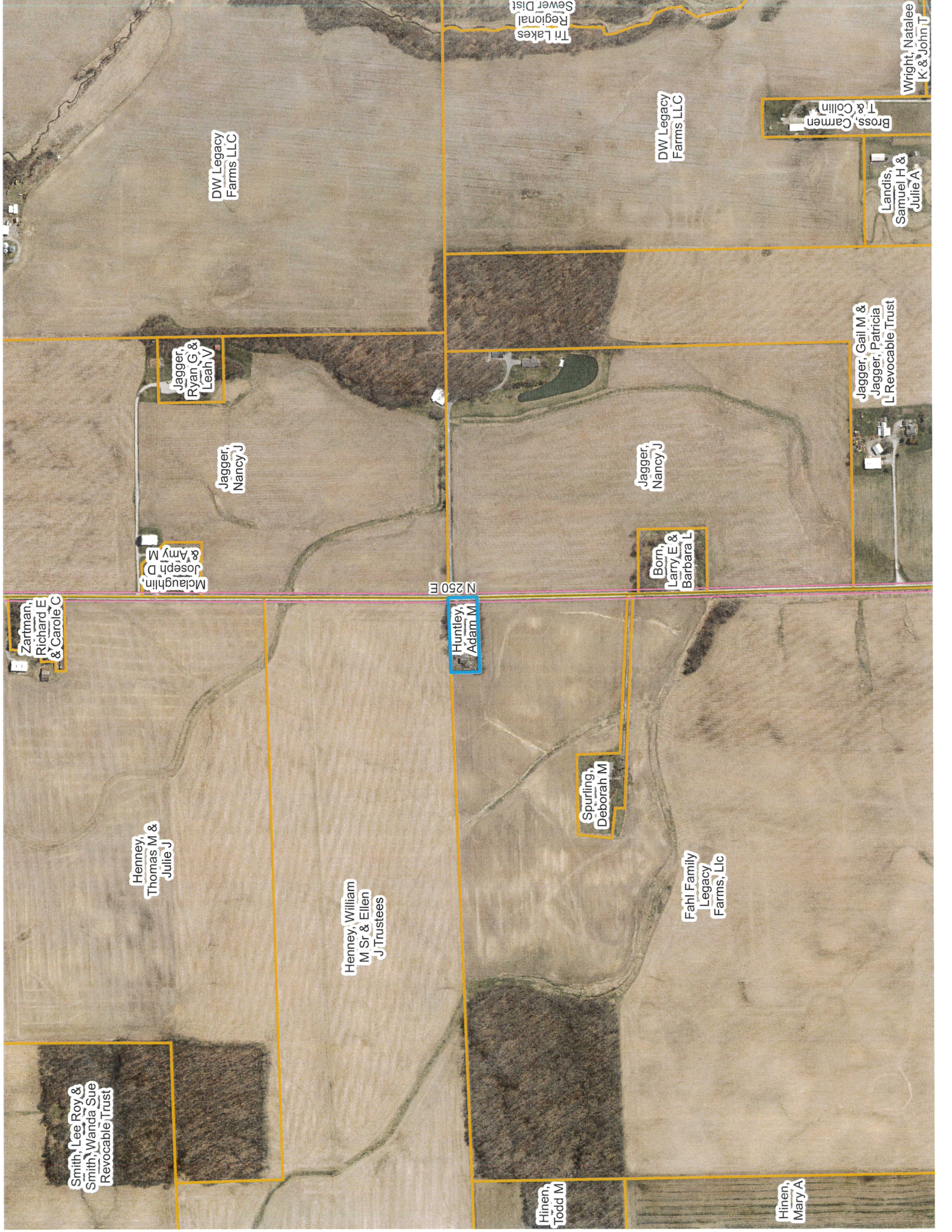
Findings of Fact Criteria

	<b>Green</b>		<b>Sheiss</b>		<b>Wilkinson</b>		<b>Wolf</b>		<b>Wright</b>	
	<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: \_\_\_\_\_

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



Smith, Lee Roy &  
Smith, Wanda Sue  
Revocable Trust

Henney,  
Thomas M &  
Julie J

Henney, William  
M Sr & Ellen  
J Trustees

Zartman,  
Richard E  
& Carole C

McLaughlin,  
Joseph D  
& Amy M

Jagger,  
Nancy J

Jagger,  
Ryan G &  
Lean V

DW Legacy  
Farms LLC

Huntley,  
Adam M

Spurling,  
Deborah M

Jagger,  
Nancy J

Born,  
Larry E &  
Barbara L

DW Legacy  
Farms LLC

Fahl Family  
Legacy  
Farms, Llc

Hinen,  
Todd M

Hinen,  
Mary A

Jagger, Gail M &  
Jagger, Patricia  
L Revocable Trust

Landis,  
Samuel H &  
Julie A

Bross, Carmen  
T & Collin

Wright, Natalie  
K & John J

Tr Lakes  
Regional  
Sewer Dist