

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

**24-W-SE-5**      **SPECIAL EXCEPTION**  
Michelle Linsky  
4717 S. 700 East

**APRIL 23, 2024**  
**AGENDA ITEM: 3**

**SUMMARY OF PROPOSAL**

Current zoning: AG, Agricultural  
Property area: 11.32 acres

The petitioner, owner of the subject property, is requesting special exception approval for a secondary dwelling unit on the property located at 4717 S. 700 East, in Section 36 of Union Township. The property is currently improved with a dwelling and outbuildings.

The petitioner proposes to construct a new home and pole barn on the property. The new construction would be for the property owners to live in, with the existing house to remain on the property to possibly be occupied by a family member. Long-term, the petitioner proposes that the existing dwelling be demolished and removed. At this time, they are unsure when the demolition will take place thus triggering the need to request this approval.

Secondary dwelling units are defined by the zoning code as “either a portion of the principal building or a separate building, which is utilized as an independent living facility, or a Type II or III manufactured home, located on the same parcel and occupied exclusively by a relative of the family residing in the principal dwelling.” In practice, these units are located in outbuildings or manufactured homes that may be removed or converted upon the conclusion of the secondary dwelling use. This is the significant difference between these units and a second full dwelling unit on a property.

In the AG, Agricultural District, secondary dwelling units require a special exception through the Board of Zoning Appeals. The requirements of Sections 10.9 Special Exception Standards apply.

**REVIEW CRITERIA**

Indiana Code §36-7-4-918.2 and Section 10.9(A) of the Zoning Code authorize the Board to review special exceptions and 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 special exception shall not involve any elements or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the performance standards;**  
Residences typically do not have such elements, cause such conditions, nor contravene the performance standards.
- 2. The special exception shall be sited, or oriented and landscaped to produce a harmonious relationship of building and grounds to adjacent buildings and properties;**  
The proposed second dwelling would be located within an existing structure, so there would not be significant changes to the harmony with the adjacent buildings and properties.
- 3. The special exception shall produce a total visual impression and environment that is consistent with the environment of the neighborhood;**  
Again, as this is an existing building, the visual impression and environment to the neighborhood should be as consistent as it has been.

**4. The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood; and**

The traffic volume and arrangement access of this use is unlikely to cause traffic congestion any more than any other single-family dwelling. Sufficient area exists to provide parking for the secondary dwelling unit.

**5. The special exception shall preserve the purpose of this Ordinance as stated in Section 1.4.**

The proposed secondary dwelling unit clearly falls into a permissible special exception of the Zoning Ordinance. It seems this proposal meets the intent and rules for secondary dwelling units and so does not seem contrary to the purpose of the Ordinance.

**SUGGESTED CONDITIONS**

Staff suggests the following conditions if the Board finds to approve the requested special exception:

1. The Special Exception is granted as presented.
2. Compliance with recommendations of the Health Department.
3. 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.

Date report prepared: 4/16/24

**BOARD OF ZONING APPEALS RECORD OF ACTION**

Motion: \_\_\_\_\_ By: \_\_\_\_\_ Second by: \_\_\_\_\_  
 Approve \_\_\_\_\_  
 Approve w/conditions \_\_\_\_\_  
 Deny \_\_\_\_\_

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

92-05-35  
000-204  
000-012

92-05-35  
000-203  
000-012

92-05-36-000  
306.000-012

92-05-36-000  
304.000-012

92-05-36-000  
305.000-012

C 700 E

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304.001-012

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301.000-012

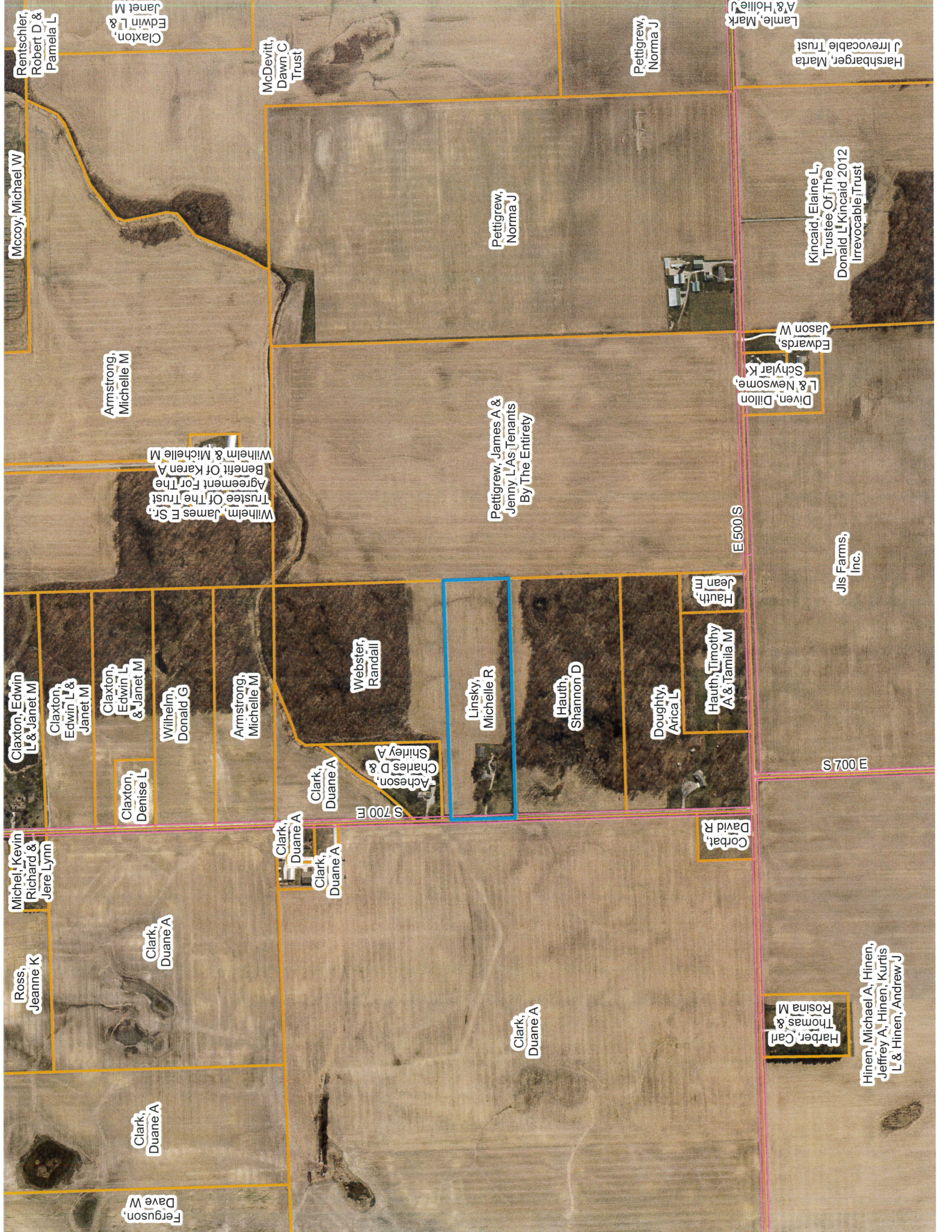
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302.000-012

92-05-36-000  
303.000-012



Rentschler, Robert D & Pamela L

McCooy, Michael W

Claxton, Edwin L & Janet M

Michel, Kevin Richard & Jere Lynn

Ross, Jeanne K

Claxton, Edwin L & Janet M

Armstrong, Michelle M

Wilhelm, James E Sr, Trustee Of The Trust Agreement For The Benefit Of Karen A Wilhelm & Michelle M

Claxton, Edwin L & Janet M

Claxton, Edwin L & Janet M

Claxton, Denise L

Wilhelm, Donald G

Clark, Duane A

Clark, Duane A

Ferguson, Dave W

McDevitt, Dawn C Trust

Clark, Duane A

Clark, Duane A

Acheson, Charles D & Shirley A

Webster, Randall

Linsky, Michelle R

Clark, Duane A

Pettigrew, James A & Jenny L As Tenants By The Entirety

Pettigrew, Norma J

Hauth, Shannon D

Doughty, Arica L

Hauth, Timothy A & Tamiia M

Corbat, David R

Pettigrew, Norma J

Lamie, Mark A & Hollie J

Harber, Carl Thomas & Rosina M

Hinen, Michael A, Hinen, Jeffrey A, Hinen, Kurtis L & Hinen, Andrew J

S 700 E

Jls Farms, Inc.

E 500 S

Kincaid, Elaine L, Trustee Of The Donald L Kincaid 2012 Irrevocable Trust

Diven, Dillon L & Newsome, Schyar K

Edwards, Jason W

Harschbarger, Marta J Irrevocable Trust