

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

24-W-SE-11 **SPECIAL EXCEPTION**
Amos Yoder
7579 W. 1000 South

JULY 23, 2024
AGENDA ITEM: 6

SUMMARY OF PROPOSAL

Current zoning: AG, Agricultural
Property area: 6.5 acres

The petitioner, operator of the business located at 7579 W. 1000 South, in Section 33 of Cleveland Township, is requesting special exception approval to modify a previously approved sawmill use. The property is improved with a dwelling (under construction) and several outbuildings. The original Special Exception, 22-W-SE-1, was granted in 2022. At that time, a sawmill and lumber products business had been in operation for some years but was brought to light when researching the construction of a structure without a building permit.

The Conditions of Approval for 22-W-SE-1 were as follows:

1. The Special Exception is granted for the applicant and is non-transferable without Board approval.
2. The Special Exception is granted as presented and per the site plan.
3. Outdoor storage of lumber and product be screened from view from the county road with screen trees being planted on the North and East side of the property.
4. Hours of operation are limited to 7 A.M. to 7 P.M., Monday-Friday, and 7 A.M to noon, Saturday.
5. The use must have ongoing compliance with building and fire codes.

This request is to modify some of these conditions of approval and to update the site plan and details of the operation, as they have not been fully complied with. As the zoning code does not have a process specific to amendments, this request can be viewed as a special exception in its entirety.

In the AG district, sawmills and lumber product uses require a special exception approval through the Board of Zoning Appeals.

Current operation and proposed changes

Currently, the operation uses the largest building to assemble pallets (the shop). Truck loading docks are located on the north side of the building, with a driveway directly onto the county road. A grinder is located in the center building, and there are two other buildings used for storage, animals, and office space. The office space is being used as a temporary residence while the primary residence is being rebuilt. Pallets are stored between the shop and grinder buildings, and raw materials typically kept south of the grinder building and barn, although these locations vary.

The number of employees is said to be 11, including part-time workers.

The hours of operation are now proposed to be 6am to 4pm, Monday through Friday, and 6am-12pm on Saturday.

The petitioner has stated they would install fencing and/or mounds as screening instead of the previously approved trees.

A diesel generator has been added to power the equipment.

Compliance with 2022 approval

Comparing the conditions of approval with the actual situation, staff has found some deviations:

- The required screening trees were not planted.
- The outdoor storage of lumber and finished product varies in placement, but often is visible from the county road.
- Hours of operation are earlier than the 7 A.M. stated.
- The lumber operation was to be consolidated into the large shop building, with the other existing buildings becoming or returning to personal storage or farm use.
- The creation of the truck loading driveway onto the county road was not clearly shown on the site plan. It may have been discussed in general terms.

Additionally, a complaint from a neighbor was received regarding noise related to saws or grinding machines, and other issues.

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;**

Sawmills and lumber product operations (not including ones doing painting or staining) do not typically have elements that are dangerous, injurious, or noxious for the public.

Most of the performance standards would be met or not apply. Sawdust can be flammable if not properly controlled, especially at a large scale, so adequate fire protection must be anticipated.

Noise has been found to be an issue based on the current operations. Although the distances to the nearest residences (approximately 950' and 1,100') are mitigating factors, the openness of the surrounding area could permit noise to travel farther. Combined with the lowered ambient noise level, the sound generated by this operation could have a larger relative impact than if it were located in a more developed area. The petitioner must implement measures to mitigate this noise so that it is not an objectionable level.

- 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 special exception would permit the continued use of the property for a sawmill and lumber products. The buildings are comparable to other agricultural buildings in the area.

- 3. The special exception shall produce a total visual impression and environment that is consistent with the environment of the neighborhood;**

As stated in the 2022 staff report, if the operation is contained within the buildings, there would be little visible to indicate the operation, and so it would be consistent with the neighborhood. If there is outdoor storage of materials and product, that may be inconsistent with the area; although, agricultural operations do frequently have outside storage.

Effort must be made to minimize outdoor storage to limit an overtly industrial appearance.

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

The existing driveways, including the truck loading dock driveway, would be utilized for deliveries and shipping. The parking code requires that loading spaces be designed with appropriate means of access to a street that will not interfere with traffic movements, and that there shall be no maneuvering within the right-of-way. There is sufficient space for maneuvering of vehicles on-site, so this should be able to be accomplished.

However, if additional traffic is generated by this use, it could be out of character for the neighborhood and at some point may cause unnecessary and unexpected congestion.

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

The proposal is a listed special exception use of the AG district and appears to meet the stated purposes of the Zoning Ordinance, if adequate measures are taken to mitigate adverse effects. The Comprehensive Plan future land use and character map places this site in the Rural-Agricultural character type. Generally, establishment of smaller and/or agriculture-related businesses permissible under the zoning code are expected secondary uses in this character type, if any effects are mitigated.

SUGGESTED CONDITIONS

If the Board moves to grant the special exception, the following are suggested conditions of the approval:

1. The Special Exception is granted for the applicant and is non-transferable without Board approval.
2. The Special Exception is granted as presented and per the site plan.
3. Hours of operation are limited to 6 A.M. to 4 P.M., Monday-Friday, and 6 A.M to noon, Saturday.
4. Appropriate screening of the use, parking, and any outdoor storage should be discussed.
5. Noise mitigation measures should be discussed.
6. Trucks are not to use the county road for backing or maneuvering to the loading docks. Such movements must usually occur on-site.
7. The use must have ongoing compliance with building and fire codes.
8. Any additional conditions that may be found appropriate based on discussion and hearing input.

Date report prepared: 7/17/2024

BOARD OF ZONING APPEALS RECORD OF ACTION

Motion: By: Second by:
 Approve —
 Approve w/conditions —
 Deny —

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

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W 1000 S



Sickafoose,
Steven &
Beth Ann

Hilty,
William E &
Susanna

Reiff, Doug
J & Terri

Sickafoose,
Steven L &
Beth Ann

Hilty, William
E & Susanna

Hilty,
William E &
Susanna

Reiff, Doug
& Terri

Hersha, Cory, Joseph
& Reiff-Hersha,
Claire Ann Marie

Schwartz, Aaron
; Schwartz, Kanoshia
& Schwartz, Allen D

Yoder, Amos J
& Arlene Rose

Sickafoose, Steven
L & Sickafoose,
Beth Ann

Christman,
Gary F. &
Patricia M

Yoder, Amos, Jay
& Arlene Rose

W 1000'S

Sickafoose, Steven
L & Sickafoose,
Beth Ann

Schwartz,
Steven W
& Margaret

Schwartz,
Steven W &
Margaret

Sickafoose, Steven
L & Sickafoose,
Beth Ann

Schwartz,
Aaron &
Kanoshia

Schwartz,
Samuel &
Amelia

Cornerstone Grace Church
Of South Whitley, In Inc