

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

**24-W-SE-13**      **SPECIAL EXCEPTION**  
Elizabeth & Joseph Hill  
3280 N. State Road 5

**SEPTEMBER 24, 2024**  
**AGENDA ITEM: 4**

---

**SUMMARY OF PROPOSAL**

Current zoning: AG, Agricultural

Property area: 138 acres

The petitioners, children of the property owner, and current residents of the subject property, are requesting special exception approval for a secondary dwelling unit on the property located at 3280 N. State Road 5, in Section 20 of Etna Troy Township. The property is currently improved with two dwellings and agriculture buildings.

The petitioners have proposed replacing the existing 16' x 75' mobile home that they live in on the property with a 30' x 76' manufactured home. A mobile home has been in place at this location since the 1970s. A special exception file could not be located, so it is assumed to be legal nonconforming. So, the proposed replacement and change in size trigger the need for special exception approval as a secondary dwelling unit.

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 building would be in the same location as the existing structure. Per the site plan provided, the secondary unit would be 85'± from the right-of-way and would be comparable and harmonious to 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;**

With this being a replacement of an existing structure, the visual impression and environment to the neighborhood should be consistent.

**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 the current situation. 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: 9/18/24

**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>					

Sagars, Jeff  
D & Angie J

Zorn, Max L  
& Karen L

Deathe, John  
A & Julia K

Hill, Michael  
A & Lois M

