

**LAGRANGE COUNTY BOARD OF ZONING APPEALS**  
**MAY 18, 2021**

THE LAGRANGE COUNTY BOARD OF ZONING APPEALS MET IN REGULAR SESSION ON **TUESDAY, MAY 18TH, 2021 AT 7:00P.M.** IN THE LAGRANGE COUNTY COMMISSIONERS ROOM AT THE COUNTY OFFICE BUILDING

**CALL TO ORDER:** Nick Wilson called the meeting to order at 7:00 p.m.

**ROLL CALL:** Philip Bieberich, Nick Wilson, Lynn Bowen, & Jim Bugg.

**ADOPT AGENDA:** Per Petitioner, Robbie Miller tabled 21-LUV-14 (850 Investments) Lynn Bowen made a motion to adopt the agenda, Jim Bugg seconded the motion. A vote was taken, motion carried.

**MINUTES OF PREVIOUS MEETING:** None.

**COMMUNICATIONS:** None.

**NEW BUSINESS**

**DEVELOPMENTAL VARIANCE**

*(Public Hearing)*

**ENGLAND, GEORGE & LISA ~ By: George England (21-V-21):** Johnson Twp., Sect. 33, T36N R10E, zoned L-1. Located 2075 E 765 S, W Wolcottville, IN. Application is for a 37' lakeside setback and a 6.2' side setback for a house addition.

Robbie Miller introduced the petition and reviewed the site plan.

George England, 2075 E 765 S, W Wolcottville, was present as the petitioner and explained the reason for the variance.

Nick Wilson asked if there was anyone in favor of the petition. No others appeared in favor of the petition. Mr. Wilson asked if anyone would like to remonstrate against the petition.

Mary Arend, 2065 E 765 S, Wolcottville, was present as a remonstrator. Mrs. Arend is a neighboring property owner and expressed her concerns pertaining to the the flooding issues due to no gutters or drain spouts on the structure and the 2011 variance Mr. England received approval for. Mrs. Arand provided a handout to the board.

James Ball, 7630 S 120 E, was also present as a remonstrator. Mr. Ball is a neighboring property owner and expressed his concerns about the flooding and drainage issues.

Julia Kerr, 7840 S 150 E, Wolcottville, was present as a remonstrator. Mrs. Kerr is a property owner on Witmer Lake. Mrs. Kerr expressed her concerns about the policies set in place when building on a property.

The public hearing was subsequently closed.

The board discussed the petition at length.

A roll call vote was taken:

***Developmental Standard Variance***

1. The Approval **will be** injurious to the public health, safety and general welfare of the community.

*The proposal is for the construction of a house addition on the Petitioner's existing nonconforming structure. The existing auxiliary/residential structure does not meet prior*

*variance approvals and is located too close to the neighboring roadway and too close to the side yards of the property. The proposal would pose additional risk to the health and safety of the public.*

2. The use and value of the area adjacent to the property included in the variance **will be** affected in a substantially adverse manner.

*The proposed new construction, while it may be aesthetically pleasing, may cause issues with runoff and unreasonable encroach on neighboring landowners. Three (3) Remonstrators appeared citing concerns over Petitioner's failure to comply with prior setbacks, drainage/runoff issues currently existing on the property due to no gutters, and issues with elevation changes due to excessive backfill on the property.*

3. The strict application of the terms of the zoning ordinance **will not** result in practical difficulties in the use of the property.

*That Petitioner would be able to construct an addition on the property within the required setbacks. Petitioner has a current residential structure on the property and can continue to utilize the property for that purpose.*

4. The variance granted **is not** the minimum necessary and **does** correct a hardship caused by an owner, previous or present, of the property.

*The Petitioner failed to properly construct the existing auxiliary/residential structure within the required parameters creating a nonconforming use on the property. That the Petitioner, by proposing the addition of this size and scope, has created its own hardship as it could be constructed without the need for a variance.*

For all of the foregoing reasons, on this 18th day of May, 2021, the LaGrange County Board of Zoning Appeals finds the Petitioner has not met its burden of proof and hereby denies the variance as requested.

*(Public Hearing)*

**WATTIER, GREGG & LINDA ~ By: Gregg Wattier (21-V-23):** Milford Twp., Sect. 15, T36N R11E, zoned L-1. Located 9245 E 490 S, Wolcottville. Application is for a proposed 30' centerline setback and a 5' sideyard setback in an L-1 zoning district.

Robbie Miller introduced the petition and reviewed the site plan.

Gregg Wattier, 9245 E 490 S, Wolcottville, was present as the petitioner and explained the reason for the variance to the board.

Nick Wilson asked if there was anyone in favor of the petition. No others appeared in favor of the petition. Mr. Wilson asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the petition and concerns regarding the locations of both sheds.

Lynn Bowen made a motion to approve, pending the following conditions: 1) The 8x16 shed be removed from the property within 30 days of occupancy of the proposed detached garage. Nick Wilson seconded the motion.

A roll call vote was taken:

*Developmental Standard Variance*

1. The Approval will not be injurious to the public health, safety and general welfare of the community.

*The proposal is to construct a new auxiliary structure within the required side yard and road side setback requirements. The proposed new garage will be located adequate distance from the roadside of the property and will not obstruct or interfere with traffic on the roadway. The proposal will not pose any risk to the public.*

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.

*The proposed new garage will not substantially interfere with or intrude on the use and enjoyment of adjacent property owners. The new construction may increase the property values of neighboring landowners. No remonstrators appeared.*

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

*Strict application would prevent Petitioner from constructing an auxiliary structure on the lot without the requested variance. Given the size and layout of the subject property, it would be difficult and/or impractical to construct a new auxiliary structure on the lot while meeting all required setbacks.*

4. The variance granted is the minimum necessary and does not correct a hardship caused by an owner, previous or present, of the property.

*The proposed auxiliary structure is minimally intrusive to neighboring properties and does not interfere with the use and enjoyment of the lake. The structure, as proposed, will have similar side yard setbacks to other similar situated lake properties in the area.*

For all of the foregoing reasons, on this 18th day of May, 2021, the LaGrange County Board of Zoning Appeals finds the Petitioner has met its burden of proof and hereby approves the variance as requested.

*(Public Hearing)*

**PETERSHEIM, JOHN & ERMA ~ By: John Petersheim (21-V-25):** Newbury Twp., Sect. 28, T37N R08E, zoned A-1. Located 9615 W 100 S, Shipshewana. Application is for a proposed side yard setback from 100' to 15' for a Commercial Dog Breeding Facility.

Robbie Miller introduced the petition and reviewed the site plan.

Susie Troyer, 2675 E 050 N LaGrange, was present on behalf of the petitioner & explained the reason for the variance.

Nick Wilson asked if there was anyone in favor of the petition. No others appeared in favor of the petition. Mr. Wilson asked if anyone would like to remonstrate against the petition.

The public hearing was subsequently closed.

The board discussed the petition.

The petitioner request to amend the petition from a 15' side setback to a 40' side setback.

A roll call vote was taken:

#### *Developmental Standard Variance*

1. The Approval will not be injurious to the public health, safety and general welfare of the community.

*The proposal is to operate a dog breeding facility on the subject property which encroaches into the required minimum side yard setback. The structure, as proposed, would not pose a risk to the health and safety of the public as it is located behind Petitioner's home, out of view of the neighboring landowners and the general public.*

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.

*The structure proposed will not affect the use and value of adjacent properties in a substantially adverse manner, as there are no neighboring structures in the vicinity of the proposed breeding facility. The proposed location of the structure does not unreasonably encroach on neighboring landowners. No remonstrators appeared.*

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.

*The strict application would result in practical difficulties as Petitioner would be unable to construct and operate the breeding facility on the subject property. Due to the topography and layout of the property, there is not another suitable location to construct the facility on the property within the required setbacks.*

4. The variance granted is the minimum necessary and does not correct a hardship caused by an owner, previous or present, of the property.

*The proposed construction is minimally intrusive and does not seek to invade neighboring properties view and use of the land. Given the layout of the property and the location of the existing structures, it makes it impractical to construct/locate the structure in a different location.*

For all of the foregoing reasons, on this 18th day of May, 2021, the LaGrange County Board of Zoning Appeals finds the Petitioner has met its burden of proof and hereby approves the variance as requested.

*(Public Hearing)*

**BONTRAGER, DEVON & NETTIE ~ By: Anthony Glentz (21-V-26):** Newbury Twp., Sect. 26, T37N R08E, zoned A-1. Located at 7905 W 100 S, Topeka. Application is for a proposed 63' roadside setback for a second residence.

Robbie Miller introduced the petition and reviewed the site plan.

Anthony Glentz, 613 Colorado St, Goshen, was present on behalf of the petitioner. Mr. Glentz explained the reason for the variance to the board.

Nick Wilson asked if there was anyone in favor of the petition. No others appeared in favor of the petition. Mr. Wilson asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the petition.

Lynn Bowen made a motion to table the petition until Mr. Glentz can discuss the location of the second home with the petitioner until the next available meeting.

A vote was taken to table, motion carried.

**LAND USE VARIANCE**

*(Public Hearing)*

**WILLIAMS, KARA & GREGORY ~ By: Kara Williams & Barbara Radtke (21-LUV-17)** Greenfield Twp., Sect. 24, T38N R11E, zoned L-1. Located at 11529 E 605 N, Orland. Application is proposed second residence in an L-1 zone.

Robbie Miller introduced the petition and reviewed the site plan.

Kara Williams, 11529 E 605 N, Orland, was present as the petitioner and explained the reason for the variance to the board.

Nick Wilson asked if there was anyone in favor of the petition. No others appeared in favor of the petition. Mr. Wilson asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the site plan at length.

The petitioner asked for the petition to be postponed until a new design can be presented to the board.

Lynn Bowen made a motion to table the petition. Phil Bieberich seconded the petition.

A vote was taken, motion carried.

**MILLER, JONAS & KERSTON ~ By: Starr J Construction (21-LUV-18)** Clay Twp East., Sect. 13, T37N R09E, zoned B-3. Located West of 1400 N Detroit St, LaGrange. Application is proposed residence in a B-3 zoning district.

Robbie Miller introduced the petition and reviewed the site plan.

Jonas Miller, 160 N 350 W, LaGrange, was present as the petitioner. Mr. Miller explained the reason for the variance to the board.

Nick Wilson asked if there was anyone in favor of the petition. No others appeared in favor of the petition. Mr. Wilson asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

The public hearing was subsequently closed.  
The board discussed the petition.  
A roll call vote was taken:

#### *Land Use Variance*

1. The approval will not be injurious to the public health, safety and general welfare of the community.

*The proposal is for the construction of a residence on Petitioner's lot located in a B-3 zoning district. The variance requested does not interfere with neighboring properties, the structure is located well off the neighboring roadway, and does not increase traffic nor does it create hazardous conditions for the public.*

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.

*The proposed structure is a residence to be located towards the rear of the property, well off the roadway and outside the view of neighboring landowners. There are minimal landowners located nearby Petitioner's property. Petitioner's proposed use of the land is the most beneficial use given that it is unlikely that the low-lying area to the rear of the property would ever be utilized for business development. No remonstrators appeared.*

3. The need for the variance arises from some condition peculiar to the property involved

*The unique geographical location of the subject property as it currently sits in a B-3 zone would prevent the construction of any proposed residential structures without the variance requested.*

4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.

*Petitioner would be unable to construct the proposed residence on the subject property due to the zoning that currently exists. Strict application would require the Petitioner to rezone his property or relocate the residence to another location.*

5. The approval does not interfere substantially with the Comprehensive Plan

*The proposed variance and the proposed residence, as requested, is consistent with the comprehensive plan and will not interfere with the B-3 zoning given the low likelihood of business development near the Petitioner's property.*

For all of the foregoing reasons, on this 18th day of May, 2021, the LaGrange County Board of Zoning Appeals finds the Petitioner has met its burden of proof and hereby approves the variance as requested.

**YODER POPCORN, LLC ~ By: Ashley Real Estate Investments LLC (21-LUV-19)** Eden Twp., Sect. 02, T36N R08E, zoned A-1. Located at 7680 W 200 S, Topeka. Application is to operate a proposed veterinary clinic in an A-1 zone.

Robbie Miller introduced the petition and reviewed the site plan.

Gregory Ashley, a potential buyer, 2130 E 525 S, Wolcottville, was present as the petitioner and explained the reason for the variance to the board.

Nick Wilson asked if there was anyone in favor of the petition. No others appeared in favor of the petition. Mr. Wilson asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the petition.

A roll call vote was taken:

#### *Land Use Variance*

1. The approval will not be injurious to the public health, safety and general welfare of the community.

*The proposed veterinary clinic in an A-1 zone will have a minimal effect on the surrounding area given that the subject location has operated as a business for many years. The proposed location of the veterinary clinic is located well off of the road and allows for safe flow of traffic and sufficient turn around for any patrons or deliveries.*

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.

*The proposed site for the veterinary clinic is located in a rural area just off of State Road 5, well away from any neighboring structures and/or landowners. The operation of the veterinary clinic would not interfere or infringe upon adjacent landowners' use and enjoyment of their properties. The operation of the clinic at the site will not affect the neighboring areas in a substantial way. No remonstrators appeared.*

3. The need for the variance arises from some condition peculiar to the property involved

*The location of the subject property as it currently exists within an A-1 zone would prevent Petitioners from operating the veterinary clinic without the variance requested.*

4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.

*Petitioners would be prohibited from operating a veterinary clinic at this location without the variance requested. Given that the site location has operated as a business and has a large commercial structure, it would be a significant hardship to limit the property to agricultural uses only.*

5. The approval does not interfere substantially with the Comprehensive Plan

*The comprehensive plan encourages growth and a diverse economy. The proposed veterinary clinic would provide a much-needed service to the surrounding agricultural area.*

For all of the foregoing reasons, on this 18th day of May, 2021, the LaGrange County Board of Zoning Appeals finds the Petitioner has met its burden of proof and hereby approves the variance as requested.

**MILLER, ALBERT** ~ By: Albert Miller (21-LUV-20) Newbury Twp., Sect. 02, T37N R08E, zoned A-1. Located at 10755 W 050 N, Middlebury. Application is to operate fabric store as a 2<sup>nd</sup> business on a single parcel in an A-1 zoning district.

Robbie Miller introduced the petition and reviewed the site plan.

Susie Troyer, 2675 E 050 N LaGrange, was present on behalf of the petitioner and explained the reason for the variance to the board.

Nick Wilson asked if there was anyone in favor of the petition. No others appeared in favor of the petition. Mr. Wilson asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the petition.

A roll call vote was taken:

#### *Land Use Variance*

1. The approval will not be injurious to the public health, safety and general welfare of the community.

*The proposal is to operate a second home-based business on Petitioner's property, specifically a fabric store. The business will have minimal deliveries and expects patrons to be primarily by buggy or bicycle, therefore the property allows for a safe flow of traffic and sufficient turn around. The proposed business poses no risk of harm to the general public.*

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.

*The business is located within a portion of the residential structure on the property and is otherwise unnoticeable and blends well with neighboring properties. Petitioner's proposed business will cause minimal noise and intrusion upon neighboring landowners. No remonstrators appeared.*

3. The need for the variance arises from some condition peculiar to the property involved

*The location of the subject property, as it currently sits within an A-1 zone, would prevent Petitioner from operating a second home-based business on the property as proposed without a variance.*

4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.

*Petitioner would be prohibited from operating the proposed fabric store at this location without the requested variance requiring them to cease said sales at this location.*

5. The approval does not interfere substantially with the Comprehensive Plan

*The comprehensive plan encourages economic growth and rural-based cottage industries similar to that which Petitioner is proposing. The proposed usage is not dissimilar from other rural businesses in the surrounding area.*

For all of the foregoing reasons, on this 18th day of May, 2021, the LaGrange County Board of Zoning Appeals finds the Petitioner has met its burden of proof and hereby approves the variance as requested.

**BONTRAGER, DENNIS & KRISTINA~ DK WOODCRAFT ~ By: Dennis Bontrager (21-LUV-21)** Clay Twp East., Sect. 35, T37N R09E, zoned A-1. Located at 1290 W 100 S, LaGrange. Application is for a proposed cabinet wholesale & furniture manufacturing business in an A-1 zone.

Robbie Miller introduced the petition and reviewed the site plan.

Dennis Bontrager, 1290 W 100 S, LaGrange, was present as the petitioner and explained the reason for the variance to the board.

Nick Wilson asked if there was anyone in favor of the petition. No others appeared in favor of the petition. Mr. Wilson asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the petition.

After speaking with Susie Troyer, the petitioner asked for the petition to be postponed until a five-person board is available.

A vote was taken. Motion carried, tabled to the next available agenda.

**YODER, LAVERN & MABEL ~ LAVERN HERSHBERGER ~ By: Hand to Plow Surveying (21-LUV-22)** Eden Twp., Sect. 15, T36N R08E, zoned A-1. Located North of 4503. S 900 W, Topeka. Application is for a proposed auction house and community building in an A-1 zone.

Robbie Miller introduced the petition and reviewed the site plan.

Scott Ziegler, 5678 W 350 S, Albion, was present on behalf of the petitioner and explained the reason for the variance to the board.

Nick Wilson asked if there was anyone in favor of the petition. No others appeared in favor of the petition. Mr. Wilson asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the petition.

A roll call vote was taken:

### *Land Use Variance*

1. The approval will not be injurious to the public health, safety and general welfare of the community.

*The proposal is for Petitioner to construct a new commercial auxiliary structure to be utilized as an auction house on a property zoned A-1. The property is located in a heavily rural area with little commercial uses in the surrounding area. The proposal allows for safe flow of traffic, sufficient turn around for patrons and does not pose a risk to the community.*

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.

*The parcel in question is located in a primarily rural area and there are minimal structures, residential or otherwise, on the surrounding properties. The proposal would not affect use and value of neighboring properties in a substantial way. No remonstrators appeared.*

3. The need for the variance arises from some condition peculiar to the property involved

*The location of the subject property as it currently sits within an A-1 zone would prevent Petitioners from operating an auction house without the variance requested.*

4. The strict application of the terms of the zoning ordinance **will not** constitute an unnecessary hardship if applied to the property for which the variance is sought.

*Petitioners would be able to continue to utilize the property for agricultural purposes without a variance. Petitioners, by proposing to operate an auction house in an A-1 zone, have created their own hardship.*

5. The approval does not interfere substantially with the Comprehensive Plan

*The comprehensive plan encourages unique and diverse businesses and enterprises in the County. The proposed auction house does not interfere substantially with the comprehensive plan.*

For all of the foregoing reasons, on this 18th day of May, 2021, the LaGrange County Board of Zoning Appeals finds the Petitioner has not met its burden of proof and hereby denies the variance as requested.

### *CONDITIONAL USE*

**CURRY, DEIDRA** ~ By: Deidra Curry (21-CU-01) Clearspring Twp., Sect. 25, T36N R09E, zoned L-1. Located at 6020 S 085 W, Wolcottville. Application is to operate a short term rental unit in an L-1 zoning district.

Robbie Miller introduced the petition and reviewed the site plan.

Deidra Curry, 6020 S 085 W, Wolcottville, was present on behalf of the petitioner and explained the reason for the variance to the board.

Nick Wilson asked if there was anyone in favor of the petition. No others appeared in favor of the petition. Mr. Wilson asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the petition.

A roll call vote was taken and the petition was approved.

**OTHER BUSINESS:** None.

**ADJOURNMENT:** Jim Bugg made a motion to adjourn, Lynn Bowen seconded the motion. A vote was taken, motion carried. The meeting was adjourned at 10:02 p.m.

LAGRANGE COUNTY, INDIANA  
ANTI-DISCRIMINATION NOTICE STATEMENT

The County of LaGrange does not illegally discriminate because of race, color, national origin, sex, religion, disability, or age with regards to admission, participation, or treatment in its facilities, programs, activities, or services, as required by Title III and Title VI of the American Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and their related statutes, regulations, and directives. The County has established an Anti-Discrimination Compliance Division to ensure compliance with these laws. If you would like more information concerning the provisions of these laws and about the rights provided thereby, or if you have a suggestion on how the County can better meet the needs of persons protected thereby, please contact the Division at 300 E. Factory St., LaGrange, IN 46761 or by telephone at (260)499-6352.

## LAGRANGE COUNTY BOARD OF ZONING APPEALS

BY: \_\_\_\_\_  
Tyler Young, President

BY: \_\_\_\_\_  
Nick Wilson, Vice President

BY: \_\_\_\_\_  
Lynn Bowen, Member

BY: \_\_\_\_\_  
Jim Bugg, Member

BY: \_\_\_\_\_  
Rich Sherman, Alternate Member

BY: \_\_\_\_\_  
Freeman Miller, Alternate Member