

LAGRANGE COUNTY BOARD OF ZONING APPEALS

February 18, 2020

THE LAGRANGE COUNTY BOARD OF ZONING APPEALS MET IN A REGULAR SESSION ON **TUESDAY, February 18, 2020, AT 7:00P.M.** IN THE LAGRANGE COUNTY COMMISSIONERS ROOM AT THE COUNTY OFFICE BUILDING

CALL TO ORDER: Tyler Young called the meeting to order at 7:00 p.m.

ROLL CALL: Tyler Young, Freeman Miller, Nick Wilson, and Lynn Bowen. In attendance: Robbie Miller, Jennifer Miller and Dustin Glick.

ADOPT AGENDA: None.

MINUTES OF PREVIOUS MEETING: None

COMMUNICATIONS: None.

OLD BUSINESS

LAND USE VARIANCE

(Public Hearing)

YODER, NATHAN/TRI-COUNTY LAND TRUSTEE CORP. ~ By: Nathan Yoder (20-LUV-01): Clay Twp., Sect. 04, T37N R9E, zoned A-1. Located at 3930 W 400 N, Shipshewana. Application is to operate a dog breeding facility in an A-1 zoning district.

Robbie Miller introduced the petition and reviewed the site plan.

Susie Troyer, 2675 E 025 N, Lagrange, was present on behalf of the petitioner.

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

Mary Redden, 3760 W 400 N, Shipshewana, remonstrated explaining the draw of her neighboring property was the quite lake atmosphere. Previously, Mrs. Redden has experiences with dogs barking, odors associated, etc. from the dogs of Mr. Yoder. Mrs. Redden's concerns were around the possibility of these situations increasing with the approved variance allowing seven breeding female dogs which would limit her ability to enjoy her property as she previously has and that she would possibly sell her own property if this variance passed. Mrs. Redden did request that if this measure was passed by the board that Mr. Yoder only be allowed five breeding females.

Joy Sharp, 102 Market Street, Howe, stated her concerns as the Redden's realtor for the neighboring property to Mr. Yoder. Ms. Sharp questioned as to why this is a lake property but it is not listed as an L-1 zoning.

Ms. Troyer elaborated that the closest home to the dog breeding facility is the Yoder's and that Mr. Yoder wishes to be good neighbors and keep the peace of the current area. Ms. Troyer stated that there is plenty of room on the property.

The public hearing was subsequently closed.

Lynn Bowen stated that a portion of the area is L-1 zoning.

The board discussed the site plan.

The item was tabled until March 17th, 2020 per the petitioner's request.

(Public Hearing)

MICKEM, MICHAEL & STEPHANIE ~ By: Michael Mickem (20-LUV-03): Lima Twp., Sect. 25, T38N R9E, zoned B-3/A-1. Located at 0120 W SR 120, Howe. Application is to have a residential auxiliary building in a B-3 zone.

Robbie Miller introduced the petition and reviewed the site plan. Harley Mast, 105 E 200 N, Lagrange, was present on behalf of the petitioner. Tyler Young asked if there was anyone in favor of the petition. No others appeared in favor of the petition. Mr. Young asked if anyone would like to remonstrate against the petition. No others appeared to remonstrate.

The public hearing was subsequently closed.

The board discussed the site plan.

A roll call vote was taken:

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 an auxiliary structure on the roadside portion of Petitioner's lot that is split zoned A-1 and B-3 requiring the variance requested. 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 pole barn to be used for storage of items that would otherwise be stored outside. There are no neighboring landowners nearby and Petitioners property is almost entirely surrounded by wooded area, thereby blocking the view of the proposed structure. No remonstrators appeared.

3. The need for the variance arises from some condition peculiar to the property involved. *The unique geographical location of the proposed auxiliary building as it currently sits in an A-1/B-3 zone would prevent the construction of the proposed auxiliary structure as proposed.*

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 auxiliary structure at the proposed location on the lot as it currently exists due to the unique split zoning that exists on the property. Strict application would require the Petitioner to either rezone a small portion of his property or relocate to the auxiliary structure to another location on the property.

5. The approval does not interfere substantially with the Comprehensive Plan. *The proposed variance and the proposed auxiliary structure 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 Petitioners residential property.*

For all of the foregoing reasons, on this 18th day of February, 2020, the LaGrange County Board of Zoning Appeals finds the Petitioner has met its burden of proof and hereby approves the variance as requested

NEW BUSINESS

DEVELOPMENTAL VARIANCE

(Public Hearing)

LANGE, JERRY & DEBRA ~ By: Eddie Michaels (20-V-06): Johnson Twp., Sect. 30, T36N R10E, zoned L-1. Located at 0525 E 680 S, Wolcottville. Application is for 26.4' roadside setback and a 6.7' Eastside yard setback for a proposed house addition.

Robbie Miller introduced the petition and reviewed the site plan. Eddie, of H&M Construction, 25 W 060 S, Lagrange, was present on behalf of the petitioner. Tyler Young asked if there was anyone in favor of the petition. No others appeared in favor of the petition. Mr. Young asked if anyone would like to remonstrate against the petition. No others appeared to remonstrate.

The public hearing was subsequently closed.

The board discussed the site plan.

Lynn Bowen asked if the property next door received a variance for the garage. The board discussed the hillside limiting locations to build.

Tyler Young questioned the location of the vent for septic.

Lynn Bowen made a motion to require fencing, drainage plan and erosion. Nick Wilson seconded the motion. Motion was carried.

A roll call vote was taken:

1. The Approval will not be injurious to the public health, safety and general welfare of the community.
The proposal is to construct an addition on Petitioners' existing home that will consist of a two-car garage and additional living space. The proposed addition will remain in line with the existing home lines and setbacks and the reduction of the roadside setback will not pose a risk to the public or general welfare of 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 proposed addition will make better use of the property while not moving any closer to the lakeside of the property and also not increasing the side yard infringement on neighboring landowners. The new construction will be more aesthetically pleasing and may also improve the property values of surrounding properties. 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.
Given the size, width, and layout of the subject lot it would be impractical to construct an addition and/or rebuild said home without the need for a variance. Petitioner would be unable to perform the proposed overhaul/remodel of the subject home thereby limiting the value of the property.
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 move closer to the lakeside or reduce the setback requirements more than what currently exists. The proposed construction will not cause any additional encroachment towards neighboring landowners.

For all of the foregoing reasons, on this 18th day of February, 2020, 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)

GARHA PROPERTY, LL/CORRIGAN OIL ~ BP ~ By: Aver Sign Co./Jennifer Glover (20-V-07): Newbury Twp., Sect. 15, T37N R8E, zoned B-3. Located at 8095 W US 20, Shipshewana. Application is for a 12.5' roadside setback, a 25' tall sign and to exceed the maximum sign by 135.9 sq. ft.

Robbie Miller introduced the petition and reviewed the site plan.

George Bachman, 3645 N 760 W, Shipshewana, was present on behalf of the petitioner.

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

The public hearing was subsequently closed.

The board discussed the site plan.

A roll call vote was taken.

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

The proposal is to replace an existing sign that has been located at said location for many years. The new sign will be five (5) feet shorter and constructed on the same foundation as the existing sign, which does not interfere with the neighboring roadway or sightlines of traffic. The proposed sign will not pose any risk on the safety of the public and their ability to travel safely on US 20.

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 newly constructed sign will be shorter than that which currently exists and more esthetically pleasing to the surrounding properties. The property is located in a business area and the newly proposed sign will not have a negative impact 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.

Given the size and location of the proposed sign, Petitioner would be unable to construct and/or replace their existing sign while reusing the existing foundation without the variance requested.

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 variance requested is minimal and is smaller than the sign that currently exists at the same location. The proposal does not interfere with general public and/or neighboring area.

For all of the foregoing reasons, on this 18th day of February, 2020, 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)

FENTON, SCOTT & BECKY ~ By: Scott Fenton (20-V-08): Johnson Twp., Sect. 26, T36N R10E, zoned L-1. Located at 4645 E 640 S, Wolcottville (back lot). Application is for a 6' rear setback and two 6' yard setbacks for a proposed 1,824 sq. ft. garage.

Robbie Miller introduced the petition and reviewed the site plan.

Becky Fenton, 4645 E 460 S, Wolcottville, was present on behalf of the petitioner. Mrs. Fenton stated that the purpose was to replace an older garage with a newer version that coordinates with the home and has more space for storage.

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

The public hearing was subsequently closed.

The board discussed the site plan.

A roll call vote was taken:

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 new 1824 ft. sq. auxiliary structure on petitioner's back lot property to replace the existing garage. The variance requested does not interfere with neighboring properties, does not increase traffic or create hazardous conditions 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 structure is a new pole barn/garage making the property more aesthetically pleasing to neighboring properties and would likely improve neighboring property values. The proposed auxiliary structure would be centered on the lot, thereby decreasing the current side yard setback on the East side of the property. 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.

Given the size and layout of the subject property, Petitioner would be unable to build any reasonably sized auxiliary structure without the variance requested. The inability to rebuild an auxiliary structure on the back lot would frustrate the purpose of said lot.

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 is similar in size and scope to other neighboring auxiliary structures in the area. The proposal would move the auxiliary building further from the side yard and neighboring structure than what currently exists on the property.

For all of the foregoing reasons, on this 18th day of February, 2020, 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)

RUPLEY, JAMES & LYNN ~ By: Lynn Rupley (20-V-10): Johnson Twp., Sect. 29, T36N R10E, zoned L-1. Located at 1170 E 690 S, Wolcottville. Application is for a 34.3' roadside setback, a 6.1' Eastside setback, 28' lakeside setback, 5' Westside setback for an AC unit and generator and 46% lot coverage.

Robbie Miller introduced the petition and reviewed the site plan.

Jim Rupley, 1170 E 690 S, Wolcottville, was present on behalf of the petitioner.

Gary Meadowbrooks, 700 W 665 S, Topeka, was also present on the behalf of the petitioner. A letter from Susie Brooks Kenzie was presented.

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

The public hearing was subsequently closed.

The board discussed the site plan.

Lynn Bowen made a motion for silt fence, drainage, and erosion plans to be submitted for this build. Tyler Young seconded the motion. A vote was taken and the motion approved.

Tyler Young questioned if the AC unit and the generator are one.

A roll call vote was taken:

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

The proposed structure is a new residence to replace an existing cabin on Petitioner's lakeside lot. The new home, as proposed, would occupy a larger footprint than that which currently exists but the side yard setbacks requested are common on similar situated L-1 lots in the area. The proposal does not pose any risks to the health, safety, or general welfare of 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 proposed new home construction will not substantially interfere or intrude on the use and enjoyment of adjacent property owners. The lakeside setback is in line with neighboring properties to avoid unnecessary obstruction of lake view. The new construction will improve the appearance of the property and will likely improve the values of adjacent property owners. No remonstrators appeared, but five neighbors appeared and/or wrote letters in favor of the variance request.

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

Given the size and layout of the existing lake lot, strict application would prevent petitioner from constructing a new home on the lot without the variance requested. The size of the home and the side yard setbacks requested are consistent with other homes in the neighboring area.

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 structure is minimally intrusive to neighboring properties and does not interfere with the use and enjoyment of the lake.

For all of the foregoing reasons, on this 18th day of February, 2020, the LaGrange County Board of Zoning Appeals finds the Petitioner has met its burden of proof and hereby approves the variance subject to the following conditions: Petitioner must install a silt screen on both side yards and the lake side of the property during construction to avoid soil run-off onto neighboring properties; must submit a drainage plan and soil erosion plan to the plan administrator.

LAND USE VARIANCE

(Public Hearing)

MUNSON, SHANE/MUNSON, FRED ~ By: Basham Buildings/Bill Basham (20-LUV-08/20-V-11): VanBuren Twp., Sect. 07, T38N R8E, zoned L-1. Located West of 11400 W 825 N, Shipshewana. Application is for a 4th auxiliary building in an L-1 zone and to exceed the footprint of the house by 1,000 sq. ft.

Robbie Miller introduced the petition and reviewed the site plan.

Bill Basham, 2440 E US 12, Sturgis 49091, was present on behalf of the petitioner. Mr. Basham explained the need for the build is for storage.

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

The public hearing was subsequently closed.

The board discussed the site plan.

Lynn Bowen made a motion to require a tie-to affidavit for lots 5 and 6. Nick Wilson seconded the motion.

A vote was taken, motion carried.

A roll call vote was taken: **(20-V-11)**

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 an auxiliary structure on Petitioner's property adjacent to his residential property in order to store vehicles and lake equipment. The variance requested does not interfere with neighboring properties, does not increase traffic or create hazardous situations 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 structure is a new pole barn/garage making the property more aesthetically pleasing to neighboring properties and would likely enhance neighboring property values. The proposed structure fits within the appropriate setbacks, thereby not intruding on adjacent landowners use of their properties. 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.

Petitioner would be unable to build any reasonably sized auxiliary structure without the variance requested, unless petitioner was to increase the size of the existing home by 1000 sq. ft.

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 is placed within the required setbacks and does not infringe on neighboring properties.

For all of the foregoing reasons, on this 18th day of February, 2020, the LaGrange County Board of Zoning Appeals finds the Petitioner has met is burden of proof and hereby approves the variance as requested.

A roll call vote was taken: **(20-LUV-08)**

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

The proposal is to construct a large pole barn on the far south end of a vacant lot that is adjacent to the Petitioner's residential property. Petitioners adjacent residential lot already possesses multiple auxiliary structures. The variance requested does not interfere with neighboring properties, does not increase traffic nor does it create hazardous situations 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 auxiliary structure is a detached pole building to be used for storage of Petitioner's personal property that would otherwise have be stored outside or at a rental facility. The subject property is not on the lakefront and would not interfere with neighbors use and enjoyment of the lake. The proposed use is more aesthetically pleasing to neighboring properties and may also increase neighboring property values. No remonstrators appeared.

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

The geographical location of the property as it currently sits in an L-1 zone would require the removal of Petitioner's existing auxiliary structures on his neighboring lot 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 build the auxiliary structure on the vacant lot without the variance requested. Strict application would require the removal of all of petitioner's existing auxiliary structures located on the adjacent property.
5. The approval does not interfere substantially with the Comprehensive Plan
The proposed variance and the proposed auxiliary structure requested is common usage on back lots around the lake to provide for ample storage. The additional auxiliary structure does not cause any interference with the surrounding area given the size of Petitioner's two adjacent properties.

For all of the foregoing reasons, on this 18th day of February, 2020, the LaGrange County Board of Zoning Appeals finds the Petitioner has met its burden of proof and hereby approves the variance subject to the following conditions: Petitioner must execute a "tie-to" affidavit.

OTHER BUSINESS: None.

ADJOURNMENT: Lynn Bowen made a motion to adjourn the meeting, Freeman Miller seconded the motion. The meeting adjourned at 8:28 p.m.

LAGRANGE COUNTY BOARD OF ZONING APPEALS

BY: _____
Tyler Young, President

BY: Absent _____
Terry Holsinger, Vice President

BY: Absent _____
Jim Bugg, Member

BY: _____
Lynn Bowen, Member

BY: _____
Nick Wilson, Member

BY: Absent _____
Rich Sherman, Alternate Member

BY: _____
Freeman Miller, Alternate Member

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.