

LAGRANGE COUNTY BOARD OF ZONING APPEALS

JULY 21, 2020

THE LAGRANGE COUNTY BOARD OF ZONING APPEALS MET IN REGULAR SESSION ON **TUESDAY, JULY 21, 2020 AT 7:00P.M.** IN THE LAGRANGE COUNTY COMMISSIONERS ROOM AT THE COUNTY OFFICE BUILDING

CALL TO ORDER: **CALL TO ORDER:** Tyler Young called the meeting to order at 7:13 p.m.

ROLL CALL: Tyler Young, Jim Bugg, Lynn Bowen, Rich Sherman. In attendance: Robbie Miller, Brittney Johnston and Dustin Glick.

ELECTION OF OFFICERS:

ADOPT AGENDA: Lynn Bowen made a motion to approve the agenda, Rich Sherman seconded the motion. A vote was taken, motion carried.

MINUTES OF PREVIOUS MEETING: Previous minutes from the June 16, 2020 BZA were postponed until the August 18, 2020 BZA meeting.

COMMUNICATIONS: None.

OLD BUSINESS

LAND USE VARIANCE

(Public Hearing)

WHETSTONE, LAVERN & NORMA/OUTBACK CANINE LLC ~ By: Lavern Whetstone (20-LUV-14): Bloomfield Twp., Sect. 16, T37N R10E, zoned A-1. Located at East of 2275 E 150 N, LaGrange. Application is to operate a commercial dog breeding facility for 100 breeding females in an A-1 zoning district.

Robbie Miller introduced the petition and reviewed the site plan.

Stephen Clouse, attorney for Outback Canine, LLC, was present on behalf of the petitioner. Mr. Clouse reviewed the need for the variance while informing the board that the petitioner is already a commercial breeder, has a good reputation with no complaints from current neighbors, reputable health care is provided for his animal by veterinarian Dr. King, and that as a breeder he and Ezra Whetstone exceed the standards for USDA, Validous, and the Purdue program. The petitioner's plan is to build the first home, then the first kennel, followed by the second home and second kennel. Mr. Clouse stated that between the Outback Canine, LLC, business partners there is 17 years of breeding experience.

Tyler Young asked if there was anyone in favor of the petition. No others appeared in favor of the petition.

Tyler Young asked if anyone would like to remonstrate against the petition.

Robbie Miller stated that 434 emails had been received in opposition to the petition, along with a Change.org petition against the petition containing 8,423 signatures.

Larry Helmer, Ernsberger & Helmer, was present on behalf of Gary Litke. Mr. Helmer expressed concern for the health and welfare of the animals involved, and referenced the number of commercial breeding facilities already in existence in the state. Mr. Helmer also stated the lack of an animal control officer for LaGrange county as a concern.

Stephen Clouse addressed the remonstrator's concerns stating the board has oversight by enforcing what they deem necessary, and that this is not creating a new breeding facility but combining two existing breeding facilities.

The public hearing was subsequently closed.

The board discussed the site plan at length.

Tyler Young questioned what Validous is.

Lavern Whetstone explained it to be an unbiased auditing company.

Dr. Krystal King, 800 N Detroit St., confirmed she works closely with the breeders and encourages the breeding females are bred until 4-5 years of age and then she facilitates with the process of the animals being adopted into family homes as pets.

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 dog breeding facility is located in a remote area in the middle of a large parcel in the A-1 zoning district. The proposed site location is adequately suited for the proposed dog breeding operation and is adequately screened from the public and neighboring landowners, as the closest residence is approximately 1,200 feet away. Petitioners have certificates with and will continue to comply with USDA, ICAW and Indiana Board of Health Licensing Requirements ensuring safety precautions.

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 facility will be located well off the road and away from any neighboring landowners so as to not infringe on said neighboring landowners' use and enjoyment of their properties. There will not be any retail sales on the property removing any unnecessary traffic to the site. 434 emails, several letters and a Change.org petition with 8423 was submitted in opposition to the proposed variance and One (1) remonstrator appeared in person on behalf of neighboring landowners. Those in opposition cited concerns regarding too many kennels in the county, state, country and fear of the facility becoming a "puppy mill," however, much of the complaints provided did not address the criteria for a land use variance.

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 A-1 zone would prevent the proposed dog breeding facility from operating without signed affidavits of neighboring landowners, to which one (1) landowner withheld their signature. The A-1 zone is the most appropriate location for a breeding facility and/or the housing of animals of this nature.

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.

The Petitioners would be unable to operate their proposed dog breeding facility at the subject property located in an A-1 zone. The main use of A-1 zoned property is for farming and agricultural operations, which includes the housing of livestock and/or animals.

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

The comprehensive plan encourages farming and livestock operations in A-1 zoning districts. The plan also encourages rural home-based businesses such as the proposed dog breeding operation and also encourages the housing and maintenance of animals in A-1 zones.

For all of the foregoing reasons, on this 21st day of July, 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)

BRI-DA-BAR ATWOOD FARMS, LLC ~ By: Stacy Rofkahr (20-LUV-18): Johnson Twp., Sect. 30, T36N R10E, zoned L-1. Located CR 680 S, lots 11 & 12 of Joest's Westler Lake Addition, Wolcottville. Application is for future development for a non-contiguous land owner.

Robbie Miller introduced the petition and reviewed the site plan.

Gary Andrews, 1330 E 700 S, Wolcottville, was present on behalf of the petitioner. Mr. Andrews explained the reason for the variance.

Tyler Young asked if there was anyone in favor of the petition.

Daniel Orlando, 6210 S 085 W, Wolcottville, appeared in support of the petition.

Tyler Young asked if anyone would like to remonstrate against the petition.

Tim Byler, 0855 E 680 W, Wolcottville, stated his concerns about allowing a non-contiguous land owner. Mr. Byler informed the board he had previously placed offers on the lots that had not been accepted.

The public hearing was subsequently closed.

The board discussed the site plan at length.

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 develop and construct an auxiliary structure on a vacant lot in an L-1 zone, which is not contiguous to the Petitioner's primary residence. The variance requested does not interfere with neighboring properties, does not increase traffic or create hazardous situations to the public. There are other similar auxiliary structures on the surrounding back lots.

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 would be used for storage of items that would otherwise be stored outside, making the proposed use more aesthetically pleasing to neighboring properties. The adjacent properties are all primarily auxiliary lots used for the same purpose as Petitioner is proposing. One (1) remonstrator wrote a letter in opposition and one (1) remonstrator appeared and spoke in opposition as well. Concerns were cited over the use of the lot, other offers on the property, no hardship if denied.

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 and not contiguous with the primary residence of Petitioner would prevent the proposed auxiliary structure from being constructed on the vacant lot as it currently exists.*

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.
- There would not be any hardship on the subject property for which the variance is sought, as there is an adjacent property owner prepared to purchase said property who would not need a variance, therefore the property could be reasonably put into conforming use without the need of a variance.*

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 is common usage for similarly situated parcels in the surrounding L-1 zone. The variance requested is not in conflict with the comprehensive plan.*

For all of the foregoing reasons, on this 21st day of July, 2020, the LaGrange County Board of Zoning Appeals finds the Petitioner has not met its burden of proof and hereby denies the variance as requested.

NEW BUSINESS **VARIANCE**

(Public Hearing)

HOCHSTETLER, JAMES D. ~ By: James D. Hochstetler (20-V-33): Clearspring Twp., Sect. 30, T36N R09E, zoned A-1. Located at 6760 S 500 W, Shipshewana. Application is for 55' roadside setback for a proposed house addition.

Robbie Miller introduced and reviewed the site plan.

James Hochstetler, 6760 S 500 W, Topeka, was present as the petitioner, and explained the reason for the variance.

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 remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the site plan.

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 an addition onto Petitioner's existing residence that will encroach on the roadside setback requirement for a residential structure in an A-1 zone. The proposed expansion of the home will pose minimal risk to the public and not cause any obstruction on the neighboring roadway.
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 to Petitioner's home is in line with neighboring properties and does not seek to encroach on neighboring properties or side yard setbacks. 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.
Due to the size, layout, and location of utilities on the subject lot, Petitioner is unable to construct an addition on said home in any other location, thereby requiring the setback variance.
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 seeks only to create a modest addition to an existing residence on the property.

For all of the foregoing reasons, on this 21st day of July, 2020, the LaGrange County Board of Zoning Appeals finds the Petitioner has met his burden of proof and hereby approves the variance as requested.

(Public Hearing)

AREND, RICHARD & MARY~ By: Mary Arend (20-V-34): Johnson Twp., Sect. 33, T36N R10E, zoned L-1. Located at 2065 E 765 S, Wolcottville. Application is for a proposed auxiliary building with a footprint 660 sq. ft. larger than the primary structure.

Robbie Miller introduced the petition and reviewed the site plan.

Mary Arend, 2065 E 765 S, Wolcottville, was present as the petitioner, and explained the reason for the variance.

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 remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the site plan.

Lynn Bowen questioned if the building would be strictly for storage.

Mary Arend confirmed it is only meant for storage and that she had been working on this process since 2017.

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 for the construction of a pole building auxiliary structure on a back lot near Petitioner's residence. The variance requested does not interfere with neighboring properties and 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 an auxiliary structure to be constructed on a back lot for personal storage. The new construction would make 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 on the subject back lot without the variance requested unless Petitioner was to increase the size of the existing home, thereby placing a limitation on the potential use and value of the subject 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 is placed within the required setbacks and the proposed development is consistent with other back lots in the surrounding area.

For all of the foregoing reasons, on this 21st day of July, 2020, the LaGrange County Board of Zoning Appeals finds the Petitioner has met its burden of proof and hereby approves the variance as requested.

LAND USE VARIANCE

(Public Hearing)

SCHROCK, MERVIN & JOANN ~ TAYLOR SAWMILL ~ By: Rob Yoder (20-LUV-22):
Clearspring Twp., Sect. 04, T36N R09E, zoned A-1. Located at 3095 W 300 S, LaGrange.
Application is to operate a wholesale rough-cut board manufacturing facility in an A-1 zone.

Robbie Miller introduced the petition and reviewed the site plan.

Rob Yoder, 7740 W SR 120, Shipshewana, was present on behalf of the petitioner, and explained the reason for the variance. Mr. Yoder informed the board the new location was to avoid traffic congestion at the current location, and to keep on the property as a family business.

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 remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the site plan.

Lynn Bowen inquired if part of or the property is in the floodway.

Rob Yoder confirmed yes, and that Mervin Schrock was in the process of having the land delineated by DNR.

Tyler Young made a motion to postpone the petition until the floodway is specified and final site plan is submitted, Lynn Bowen seconded the motion. A voice vote was taken, motion carried. The petition was postponed until the next available meeting.

(Public Hearing)

SCHROCK, EARL O. ~ CUSTOM COLOR AUTOMOTIVE, LLC ~ By: Earl Schrock (20-LUV-23): Bloomfield Twp., Sect. 36, T37N R10E, zoned A-1. Located at 1575 S 500 E, LaGrange. Application is to operate an auto body paint & repair business in an A-1 zone.

Robbie Miller introduced the petition and reviewed the site plan.

Earl Schrock, 1575 S 500 E, LaGrange, was present as the petitioner, and explained the reason for the variance.

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 remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the site plan at length.

Lynn Bowen questioned the petitioner about how long this has been in operation and if there is an EPA registration?

Earl Schrock informed the board the operation was established in 2015, and that he is currently in the process of gaining EPA registration.

Tyler Young asked what corrosive material are involved in the business' operation.

Earl Schrock answered used oil, and antifreeze.

Lynn Bowen queried if Earl Schrock plans on expanding the business in the future.

Earl Schrock confirmed yes, eventually planning on the business becoming a full time venture.

Lynn Bowen made a motion for this use, this building, this owner, with no further expansion, Tyler Young seconded the motion. A voice vote was taken, motion carried.

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 an auto body paint and repair business in an A-1 zone. The proposal provides for an adequate driveway and turnaround for vehicles to be delivered, to ensure traffic flow on the neighboring county road is not affected. The proposal poses minimal 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 proposed business location has operated as a body shop/repair business for several years without issue. The type of business proposed will not have significant traffic and will have minimal deliveries, aside from customer vehicles. No remonstrators appeared.

3. The need for the variance arises from some condition peculiar to the property involved *The unique characteristics and the geographical location of the property as it currently sits in an A-1 zone would prevent the Petitioner from operating an auto body paint and repair business at said location and place a limitation on the property's maximum usefulness.*
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 his auto body paint and repair business at this location without the requested variance, requiring Petitioner to find another suitable location away from his home.*
5. The approval does not interfere substantially with the Comprehensive Plan

The comprehensive plan encourages rural family-based businesses and the proposed plan is not dissimilar from those in existence in the surrounding A-1 area. The comprehensive plan also encourages a diverse economy and promotes growth in the county economy with the small business owners.

For all of the foregoing reasons, on this 21st day of July, 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: this use only; this owner only; no future expansion at this site.

(Public Hearing)

MILLER, GLEN/TRI-COUNTY LAND TRUSTEE CORP. ~ NATIONAL RV REFRIGERATION AC & REPAIR ~ By: Rob Yoder (20-LUV-24): Van Buren Twp., Sect. 25, T38N R08E, zoned A-1. Located at 6755 W SR 120, Shipshewana. Application is to operate a proposed commercial business repairing and installing AC units on RV's in an A-1 zone.

Robbie Miller introduced the petition and reviewed the site plan.

Rob Yoder, 7740 W SR 120, Shipshewana, was present on behalf of the petitioner, and explained the reason for the variance.

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 remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the site plan.

Robbie Miller stated a copy of INDOT approval must be provided for the file.

Lynn Bowen made a motion to postpone, Rich Sherman seconded the motion. A voice vote was taken, motion carried. The petition was postponed until the next available meeting.

(Public Hearing)

MILLER, BRIAN ~ MILLER STEEL FABRICATORS ~ By: Rob Yoder (20-LUV-25): Van Buren Twp., Sect. 22, T38N R08E, zoned A-1. Located at 8465 W SR 120, Shipshewana. Application is for a proposed warehousing manufacturing and assembly of refrigeration components to include cutting, forming, stamping of tubing and sheet metal parts and welding.

Robbie Miller introduced the petition and reviewed the site plan.

Rob Yoder, 7740 W SR 120, Shipshewana, was present on behalf of the petitioner, and explained the reason for the variance.

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 remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the site plan.

Robbie Miller inquired if a CDR was pulled for the remodel of the building, and if the permit process to remove the Eastern drive.

Rob Yoder no to both questions.

Tyler Young made a motion to postpone the petition until the permit for CDR building, inspection, and the permit for the eastern driveway are addressed, Lynn Bowen seconded the motion. A voice vote was taken, motion carried. The petition was postponed until the next available meeting.

(Public Hearing)

KORTE, BRENT & NICOLE~ By: Brent Korte (20-LUV-26/20-V-36): Johnson Twp., Sect. 30, T36N R10E, zoned L-1. Located at Lot's 21 & 22 of Joest's Westler Lake Addition, Wolcottville (parcel #'s 44-10-30-400-037.021-010 & 44-10-30-400-037.022-010). Application is for a second detached auxiliary building and for the total square footage of the auxiliary building to exceed the primary structure by 2,032 sq. ft.

Robbie Miller introduced the petition and reviewed the site plan.

Brent Korte, 17301 Doty Road, New Haven, was present as the petitioner, and explained the reason for the variance. Mr. Korte elaborated that they wish to build a garage across from their existing home.

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 remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the site plan.

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 second auxiliary structure located on a back lot across the street from Petitioner's home. The variance requested does not interfere with neighboring properties and 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 new construction proposed would be aesthetically pleasing to neighboring properties and may also increase their value. There are other similar auxiliary structures on neighboring properties in the area. 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 prevent the Petitioners from having a second auxiliary structure without the removal of the existing auxiliary structure located near Petitioner's residence.
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.
Strict application would prevent Petitioners from building the auxiliary structure as proposed and would render the subject property unusable.
5. The approval does not interfere substantially with the Comprehensive Plan

The proposed variance and the proposed auxiliary structure is consistent with the comprehensive plan as the back lot in question is purposely created to house auxiliary structures, such as the one proposed.

For all of the foregoing reasons, on this 21st day of July, 2020, the LaGrange County Board of Zoning Appeals finds the Petitioner has met its burden of proof and hereby approves the variance as requested.

A roll call vote was taken **(20-V-36)**:

Developmental Standard 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 an auxiliary structure on Petitioners' back lot property in order to provide personal storage. The variance requested does not interfere with neighboring properties, does not increase traffic or create hazardous situations to the public and meets all of the setback requirements. No risk is posed to the community or 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 structure, to make use of the back lot located adjacent to Petitioners' home. The new structure will be more aesthetically pleasing to neighboring properties and will 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 the auxiliary structure as proposed without the variance requested unless, Petitioner was to increase the size of the existing home. The strict application would place a limitation on the usefulness and value of Petitioners' back lot 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 is placed within the required setbacks and does not infringe on neighboring properties or the general public.

For all of the foregoing reasons, on this 21st day of July, 2020, the LaGrange County Board of Zoning Appeals finds the Petitioner has met its burden of proof and hereby approves the variance as requested.

OTHER BUSINESS: None

ADJOURNMENT: Rich Sherman made a motion to adjourn the meeting, Jim Bugg seconded the motion. The meeting adjourned at 10:05 p.m.

LAGRANGE COUNTY BOARD OF ZONING APPEALS

BY: _____
Tyler Young, President

BY: _____ ABSENT _____
Terry Holsinger, Vice President

BY: _____
Jim Bugg, Member

BY: _____
Lynn Bowen, Member

BY: _____ ABSENT _____
Nick Wilson, Member

BY: _____
Rich Sherman, Alternate Member

BY: _____ ABSENT _____
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.