

LAGRANGE COUNTY BOARD OF ZONING APPEALS
MAY 27, 2020

THE LAGRANGE COUNTY BOARD OF ZONING APPEALS WILL MEET IN REGULAR SESSION ON **WEDNESDAY, May 27, 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, Nick Wilson, Lynn Bowen, Terry Holsinger, and Jim Bugg. In attendance: Robbie Miller, Brittney Johnston and Dustin Glick.

ADOPT AGENDA: Robbie Miller explained both 20-LUV-01 and 20-LUV-14 has requested to be postponed to the June 16, 2020 meeting. Terry Holsinger made a motion to adopt the agenda, Nick Wilson seconded the motion. A vote was taken, motion carried.

MINUTES OF PREVIOUS MEETING: Lynn Bowen made a motion to adopt the amended minutes, Nick Wilson seconded the motion. A vote was taken, motion carried.

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. Postponed per the petitioner's request.

VARIANCE

(Public Hearing)

SELKING, JANE/BRAUN, ASHLEY/RINGGER, EMILY ~ By: Jim Selking (20-V-02): Johnson Twp., Sect. 18, T36N R10E, zoned L-1. Located at 4685 S 050 E, Wolcottville. Application is for a 36' roadside setback and a 3.3' Southside yard setback for new shed.

Robbie Miller introduced the petition and reviewed the site plan. Mrs. Miller mentioned that a new survey and neighbor notification had been completed.

Jim Selking, 4685 S 050 E, Wolcottville, was present as the petitioner. Mr. Selking read the report from Hand To Plow surveying.

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.

Gary Pignato, 4689 S 050 E, Wolcottville, stated his concerns about contamination in his well from the shed setting so close to it and the water runoff from the shed. Mr. Pignato also believes that the shed is 2.9' from his property line on the new survey. Robbie Miller disagreed and stated the new survey showed a line of 3.4'. Mr. Pignato also wanted to see a drain tile installed.

The public hearing was subsequently closed.

The board discussed the site plan at length. Terry Holsinger questioned if the new shed is a different size compared to the old shed. Robbie Miller confirmed that the new shed is 12' x 16', while the old shed was 12' x 8'. Jim Selking mentioned that the 12' x 8' shed was there when the property was purchased. Terry Holsinger then questions why not pull the shed forward to the North and alleviate the distance from the property line. Jim Selking asked what would be

the purposed of moving the shed, it was placed where it is. Robbie Miller stated the shed doesn't meet the setback of 10' off the property line. Lynn Bowen questions why is the shed larger? Jim Selking stated more room is need. 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 new shed is located further from the roadway than the prior shed on the property, however, it is located closer to the property line of the neighboring landowner. The proposed location of the shed, while within the roadside setback, does not risk of obstruction on the roadway nor does it hinder or interfere with the public traveling on said roadway.
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 shed size is larger than the prior nonconforming structure and the new location encroaches further on the neighboring property owner. The proximity to the side yard property line could affect the use and value of the neighboring property owner's land. One remonstrator appeared citing concerns over the distance from the side yard property line and possible issues with drainage and runoff onto his property.
3. The strict application of the terms of the zoning ordinance **will not** result in practical difficulties in the use of the property.
Strict application would not prevent petitioner from continued residential use of the property and relocating the proposed shed to another suitable location within the required setbacks. The petitioner possesses sufficient space on the subject property to locate the auxiliary structure at the required setback or further away from the side yard at issue without the need of the variance requested.
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 proposed location of the auxiliary structure and the reduction from the required 10' side yard setback down to the proposed 3.3' is not the minimum necessary given that sufficient space exists to relocate the structure at the required setback without issue. The Petitioner by proposing the subject location has created his own hardship.

For all of the foregoing reasons, on this 27th day of May, 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)

PAYNE, KELLY & EDWINA~ By: Pete Hochstetler (20-V-21): Clearspring Twp., Sect. 25, T36N R9E, zoned L-1. Located at 0030 W 625 S, LaGrange. Application is for a 26.5' roadside setback and a 5' Northwest side setback for a new residence.

Robbie Miller introduced the petition and reviewed the site plan. Mrs. Miller mentioned stated the majority of the structure is being redone.

Paul Yoder, 2350 E 1200 N, Wolcottville, was present on behalf of the petitioner. Mr. Yoder explained they are setting the house further back from the road, the sides are the same as the existing home.

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

Kelly Payne, 0030 W 625 S, Wolcottville, stated that the existing home as a two bedroom. Mr. Payne shared that their family is growing and that was the reason behind expanding the home.

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

Robbie Miller presented a letter from Jean Mckinley, 0024 W 625 S, Wolcottville. Mrs. Miller added that she felt the letter wasn't associated with the petition.

Edwina Payne, 0030 W 625 S, stated that the new residence will also improve parking. Mrs. Payne also included that there is a tree between the home and the lake that they wish to keep. If they were told to move the new residence toward the lake, it would have to be removed to do so.

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 construct a new home with a slightly larger footprint on Petitioners' lot to replace an existing home in need of repair/remodel. The proposed new home and attached garage is located close to the adjacent roadway, however, it would be located further away from the roadway than the current detached garage, making travel and sight on the roadway safer to persons and vehicles.
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 will not substantially interfere or intrude on the use and enjoyment of adjacent property owners. The new home, as proposed, does not unreasonably encroach on the lakeside of the property, thereby not interfering with neighboring landowners' lake view. One neighboring landowner wrote a letter with concerns over new construction and other properties in the area.
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 replacing the existing home. Given the size and layout of the subject property, it would be difficult and/or impractical to construct a new home on the lot 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 proposed structure is minimally intrusive to neighboring properties and does not interfere with the use and enjoyment of the lake. The home, 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 27th day of May, 2020, the LaGrange County Board of Zoning Appeals finds the Petitioner has met is burden of proof and hereby approves the variance as requested.

(Public Hearing)

ANDERSON, KEVIN & ERIN ~ By: Kevin Anderson (20-V-22): Johnson Twp., Sect. 30, T36N R10E, zoned L-1. Located at 6450 S 070 E, Wolcottville. Application is for a 32' lakeside setback for a new deck and pergola.

Robbie Miller introduced the petition and reviewed the site plan.

Kevin Anderson, 6450 S 070 E, Wolcottville, was present as the petitioner. Mr. Anderson 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:

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

The proposal is for the replacement and expansion of an existing deck on Petitioners property to allow for additional space for outdoor activities. The proposed new deck is located on the lakeside of the property and poses no risk of harm to the public or neighboring landowners.

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 deck is set to be in line with neighboring homes in an effort to not intrude upon or interfere with the view of the lake. The proposed setback variance will not intrude on neighboring landowners' properties or affect their use and/or property values. 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 location of the exiting home on the subject lot Petitioner would be unable to rebuild/repair the existing deck 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 proposed construction is minimally intrusive and does not seek to encroach beyond the lines of neighboring properties, thereby not interfering with or intruding on the neighboring landowners view of the lake.

For all of the foregoing reasons, on this 27th day of May, 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)

YODER, BRANDON ~ By: Brandon Yoder (20-V-23): Johnson Twp., Sect. 9, T36N R110E, zoned S-1. Located North of 3575 S 200 E, LaGrange. Application is to build a residence on an under size lot.

Robbie Miller introduce the petition and reviewed the site plan. Mrs. Miller explained Brandon Yoder had worked with the health department for the site plan. Mr. Yoder had changed the house to fit this undersized lot.

Brandon Yoder, 3575 S 200 E, Wolcottville, was present as the petitioner. Mr. Yoder told the board he owns the adjacent property to the South of the undersized lot. Mr. Yoder's wish is to build on land he already owns if possible.

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 construct a new home on vacant undersized lot in an S-1 zone. The proposed new home meets all required setbacks and has been developed to ensure proper space for a well and septic to fit on the property. The proposed structure does not pose any 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 proposed new home would make good use of an otherwise vacant lot in a residential area and the new construction may also increase the property values of nearby properties. The proposed home meets all setbacks and does not intrude on any neighboring landowners' use and enjoyment 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.
Strict application would prevent petitioner from building any residential structure on the lot in question without the variance requested, rendering the lot unusable for any residential uses.
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 new home is reasonably sized and fits within all required setbacks. The Petitioner is seeking to make the best possible use of the subject property as a primary residence in an S-1 zone.

For all of the foregoing reasons, on this 27th day of May, 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)

MORLEY, NEIL ~ By: Neil Morley (20-V-25): Milford Twp., Sect. 12, T36N R11E, zoned L-1. Located at 11690 E 310 S, LaGrange. Application is for a 5' West side setback for a 12' x 42' house addition.

Robbie Miller introduced the petition and reviewed the site plan.

Neil Morley, 11690 E 310 S, LaGrange, was present as the petitioner. Mr. Morley explained the reason for the variance is to partially remove the existing garage and add a 12' x 42' addition for bedrooms.

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 a significant overhaul/remodel of Petitioners' existing home that will actually decrease the side yard setback that currently exists. The proposed addition will better utilize the property and will pose no 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 decreasing the side yard infringement on the neighboring landowner. 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 27th day of May, 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)

MILLER, JOHN/ OAK GROVE TAX SERVICES LLC ~ By: John Miller (20-LUV-12):
Vanburen Twp., Sect. 29, T38N R9E, zoned A-1. Located at 4430 W State Road 120, Shipshewana. Application is to operate a tax preparation and book keeping office in an A-1 zoning district.

Robbie Miller introduced the petition and reviewed the site plan.

John Miller, 6275 N 450 W, Shipshewana, was present as the petitioner. Mr. Miller 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 others appeared to remonstrate.

The public hearing was subsequently closed.

The board discussed the site plan at length.

Lynn Bowen made a motion for this owner, this use, only. Terry Holsinger seconded the motion. A vote was taken, motion 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 operate a tax preparation and book keeping business in A-1 zone on a property where Petitioner does not currently reside. The Petitioner plans to renovate and use residential structure as tax office before relocating to property in the future. The

proposal would not bring a significant uptick in traffic due to the business being in operation a few miles down the road and the property provides for more adequate turn around.

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 has been in existence a few miles from the subject property at Petitioners primary residence for several years without issue. The proposed location is on a main road, however, there are minimal neighboring properties that would be affected in any way by the business operation. 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 the business at said location while not residing at the subject property.
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 tax business at this location without the requested variance requiring petitioner to move primary residence to the subject property.
5. The approval does not interfere substantially with the Comprehensive Plan
The comprehensive plan encourages rural family-based businesses and a diverse economy and the proposed plan is not dissimilar from those in existence in the surrounding area.

For all of the foregoing reasons, on this 27th day of May, 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; and this owner only.

(Public Hearing)

PETERSHIEM, MIRIAM & SAMUEL & IDASUE ~ By: Miriam Petersheim (20-LUV-13):
Clay Twp., Sect. 25, T37N R8E, zoned S-1. Located at 0410 W 100 S, LaGrange. Application is to have two horses in an S-1 zoning district.

Robbie Miller introduced the petition and reviewed the site plan.

Samuel Petersheim, 0410 W 100 S, LaGrange, was present as the petitioner. Mr. Petersheim explained the reason for the variance was for one or two horses for transportation uses.

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 at length.

Terry Holsinger asked if the zoning is S-1?

Robbie Miller confirmed that is the correct zoning.

Tyler Young questioned if it should be a re-plat?

Robbie Miller explained, no, there is no purpose for the expense until it is approved.

A roll call vote was taken:

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

The proposal is to house and maintain two (2) horses on a parcel of land zoned S-1. The subject lot is proposed to be parceled out of a larger property, all of which is zoned S-1 for residential use. The proposed use poses potential risks to the health, safety and general welfare of the community.

2. The use and value of the area adjacent to the property included in the variance **will** be affected in a substantially adverse manner.
Maintaining horses is not the best use of the S-1 property and runs the risk of reducing neighboring property values. Maintaining horses and agricultural uses of S-1 property may also hinder residential development in the surrounding S-1 area and have an impact on the community as a whole. No remonstrators appeared.
3. The need for the variance **does not** arise from some condition peculiar to the property involved
The sole need for the variance arises from the fact that the proposed location to create a new parcel and maintain horses is located in an S-1 zoning district. The petitioner owns additional land across the street in an A-1 zone where horses would be permitted without the need for a variance.
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.
Petitioner, by selecting the subject location in an S-1 zone, to maintain horses has created his own hardship, that could have been prevented by selecting a more suitable location on his property located within an A-1 zone. The S-1 zoning district is not conducive to housing horses and other large animal as said usage is designated for A-1 zoning districts.
5. The approval **does** interfere substantially with the Comprehensive Plan
The use requested by Petitioner is not common in the S-1 zone, as the S-1 zone is designated for primary residential development. The comprehensive plan clearly provides for the designation of agricultural uses, such as maintaining large animals and livestock, in A-1 zones and not in S-1 zones.

For all of the foregoing reasons, on this 27th day of May, 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.

(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.
Postponed per the petitioner's request.

(Non-Public Hearing)

SCHROCK, ELI & ROSELLA ~ BIKE SHOP ~ By: Sexton & Associates (20-LUV-17) Newbury Twp., Sect. 09, T37N R08E, zoned A-1. Located at 2235 N 1000 W, Shipshewana. Application is to operate a bike shop with retail and repair in an A-1 zoning district.

Robbie Miller introduced the petition and reviewed the site plan.

Randy Sexton, 108 E Main Street, Albion, was present on behalf of the petitioners. Mr. Sexton 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 others appeared to remonstrate.

The public hearing was subsequently closed.

The board discussed the site plan.

Lynn Bowen questioned if the business already existed.

Eli Schrock, 2235 N 1000 W, Shipshewana, stated no, he intends to start the bike shop after receiving approval.

Lynn Bowen made a motion for this owner, this use, only. Terry Holsinger seconded the motion. A vote was taken, motion 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 operate a bike shop with retail sales in Petitioner's existing auxiliary structure located in an A-1 zone. The business will have minimal deliveries and expects patrons to be primarily by buggy, therefore the property allows for 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 existing building blends well with neighboring properties and there is minimal traffic at the location. Petitioner's proposed business will only be operated a few hours per day and will be of 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 petitioners from operating with retail sales of bikes and bike accessories 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 prohibited from operating the proposed retail sales of bikes and bike accessories 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 27th day of May, 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; and this owner only.

OTHER BUSINESS: Robbie Miller reviewed the questionnaires being given to petitioners to complete for filing. Mrs. Miller also offered to have packets mailed to the members who preferred a physical copy.

ADJOURNMENT: Lynn Bowen made a motion to adjourn the meeting, Nick Wilson seconded the motion. The meeting adjourned at 8:46 p.m.

LAGRANGE COUNTY BOARD OF ZONING APPEALS

BY: _____
Tyler Young, President

BY: _____
Terry Holsinger, Vice President

BY: _____
Jim Bugg, Member

BY: _____
Lynn Bowen, Member

BY: _____
Nick Wilson, Member

BY: _____
Rich Sherman, Alternate Member

BY: _____
Freeman Miller, Alternate Member

LAGRANGE COUNTY, INDIANA

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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.