

LAGRANGE COUNTY BOARD OF ZONING APPEALS
NOVEMBER 17, 2020

THE LAGRANGE COUNTY BOARD OF ZONING APPEALS MET IN REGULAR SESSION ON **TUESDAY, NOVEMBER 17, 2020 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: Nick Wilson, Jim Bugg, Richard Sherman, & Freeman Miller.

NOMINATION: Rich Sherman made a motion to nominate Nick Wilson for pro tem, Freeman Miller seconded the motion. A vote was taken, motion carried. Freeman Miller made a motion to close the nominations, Rich Sherman seconded the motion. A vote was taken, motion carried.

ADOPT AGENDA: Robbie Miller informed the board petition **DELAGRANGE, ROGER ~ By: Larry Helmer (20-V-63)** was tabled until the December 15, 2020 LaGrange County Board of Zoning Appeals meeting.

MINUTES OF PREVIOUS MEETING: None.

COMMUNICATIONS: None.

OLD BUSINESS

LAND USE VARIANCE

(Public Hearing)

MULLET, ELROY & MARY LOU ~ MULLET'S REPAIR ~ By: Rob Yoder (20-LUV-29): Van Buren Twp., Sec. 35, T38N, R08E, zoned A-1. Located at N SR 5, Shipshewana. (44-04-35-100-004.000-017) Application is for the retail sales for equipment assembled off site (600 sq. ft. inside & 16,000 sq. ft. outside), light manufacturing / assembly (shear machine blades, millings knives & chain saws) and warehouse storage of raw materials to support manufacturing building.

Robbie Miller introduced the petition and reviewed the site plan.

Rob Yoder, 7740 W SR 120, was present on behalf of 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. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the site plan and the sign that was relocated to meet the required setback.

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 business with light manufacturing and general assembly in an A-1 zone. The proposal provides for an adequate driveway and turnaround for deliveries. Traffic flow on the adjacent roadway should not be affected. The proposal poses no risk to the community, as the subject property has been an existing business location for several years.
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 business for several years without issue and the manufacturing processes are all housed inside the structures, thereby avoiding any possible adverse effects on adjacent properties. There are minimal residential structures near the subject location and the proposed business should not affect the use and enjoyment of the surrounding properties. 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 Petitioners from operating their business with light manufacturing and assembly at said location and place a limitation on the property's 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.
Petitioners would be prohibited from operating its manufacturing business at this location without the requested variance, requiring Petitioners to relocate said business and find another suitable location away from their 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 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 17th day of November, 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)

HARTMAN, CHRIS & MOLLY ~ By: Chris Hartman (20-V-61): Johnson Twp., Sect. 25, T36N R10E, zoned L-1. Located at 5085 E 620 S, Wolcottville. Application is for a 5' East side yard, 6' West side yard and a 32' roadside setback for a proposed house.

Robbie Miller introduced the petition and reviewed the site plan.

Chris Hartman, 10616 Flutter Road, Fort Wayne, was present as the petitioner and explained the reason for the variance. Mr. Hartman elaborated that the home was purchased approximately a year ago and had too many issues to fix so he wished to build a new home for retirement.

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.

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 home on Petitioners' lot to replace an existing home in need of repair/remodel. The proposed new home is located closer to the adjacent roadway than what is permitted, but will not cause any unnecessary risks to the public or travelers on the 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 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. 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 Petitioners from replacing the existing home. Given the size, width, 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 17th day of November, 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)

NOEL, STEVE & RITA ~ By: Rita Noel (20-V-65): Johnson Twp., Sect. 24, T36N R10E, zoned L-1. Located at 550 S (parcel# 44-10-24-300-052.000-010), Wolcottville. Application is for a 5.2' West side yard and a 6.5' East side yard setback for a new residence.

Robbie Miller introduced the petition and reviewed the site plan.

Rita Noel was present as the petitioner and explained the reason for the variance. Ms. Noel informed the board they wished for a year round home to enjoy with family.

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 petitioner. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the site plan and the neighboring properties at length.

Nick Wilson questioned the neighbors' setbacks, and stated they were close to the property lines.

Rita Noel explained she knew one neighbor to have a 4' setback and was unsure of the neighbor's.

Nick Wilson questioned if the home could be adjusted to a longer design instead of the wide design that was submitted.

Rita Noel clarified they preferred not to, their purpose was to maximize the use of the lot for a year round home.

Freeman Miller questioned if a home could be built on the lot without a variance if the home were designed smaller.

Nick Wilson answered yes, and agreed with Freeman Miller's statement.

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 new residence on a sixty (60) foot wide lot, with two side yard setback variance requests. The proposal does not unreasonably interfere with the public or obstruct traffic on the roadside of the property and poses no 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 not be affected in a substantially adverse manner.
The proposed new construction will be aesthetically pleasing and may increase neighboring property values. The proposed home is in line with neighboring properties and does not seek to unreasonably infringe on the lakeside of the property. The proposal does not interfere with 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.
That Petitioner would be unable to construct the proposed new residential structure on the parcel as currently proposed without the requested variance.
4. The variance granted **is not** the minimum necessary and **does** correct a hardship caused by an owner, previous or present, of the property.
Given the size, width and available space on the existing lot, a new residential structure could be safely constructed without the need for any side yard setback variances, therefore the variance requested is not the minimum necessary. The Petitioner, by proposing a new residence of this size and scope in the proposed location, has created its own hardship.

For all of the foregoing reasons, on this 17th day of November, 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)

YODER, RONALD & JANE ~ By: Ronald Yoder (20-V-66): Clearspring Twp., Sect. 24, T36N R09E, zoned L-1. Located across from 0880 W 600 S, Wolcottville. Application is for an accessory building to exceed the square footage of the house by 1,012 sq. ft.

Robbie Miller introduced the petition and reviewed the site plan.

Ron Yoder, 870 W 600 S, was present as the petitioner and explained the reason for the variance. Mr. Yoder stated the use was for more outdoor storage.

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 sight 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 for the construction 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 may 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 1012 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 17th day of November, 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)

STEVEN HOLDINGS, LLC~ By: Paul Hochstetler / Freedom Builders (20-V-67): Newbury Twp., Sect. 12, T37N R08E, zoned A-1. Located at 6340 W 275 N, Shipshewana. Application is for an 84'4" roadside setback for a 2,720 sq. ft. addition to an existing heating and energy business.

Robbie Miller introduced the petition and reviewed the site plan.

Paul Hostetler, Freedom Builders, 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. 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 proposed addition will not be located any closer to the adjacent roadway than what currently exists. The proposed addition will not interfere with the adjacent roadway and will still allow for adequate turnaround at the site. The proposed addition is appropriate and poses no risks 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 subject lot has been operating as a commercial business for several years, and the proposed addition will not change the use and character of the property to the detriment of neighboring landowners. The adjacent properties are primarily agricultural and would not be affected in a substantially adverse manner with the construction of the addition. 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 the proposed addition on his property, without removing and/or relocating the existing structures. Given the size and layout of the Petitioner's property as it currently exists, it would be impractical/impossible to construct the new structure in another location 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 proposal is minimally intrusive and seeks to locate the proposed addition for practicality and convenience purpose. The encroachment caused on the neighboring roadway is minimal based on the location of the existing structure.

For all of the foregoing reasons, on this 17th day of November, 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)

MICHEL, GEORGE ~ By: George Michel (20-V-68): Greenfield Twp., Sect. 25, T38N R11E, zoned L-1. Located at 5917 N 1192 E, Orland. Application is for 35' roadside and 32' lakeside setback for a proposed residence to replace an existing mobile home.

Robbie Miller introduced the petition and reviewed the site plan.

Margaret Michel, 5917 N 1192 E, was present on behalf of the petitioner and explained the reason for the variance. Mrs. Michel stated their plan was to build a retirement home.

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.

Freeman Miller asked if the intent was to remove the existing mobile home. Mrs. Michel confirmed the removal of the mobile home.

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 residence to replace an existing mobile home on Petitioner's lot. The proposed new home is located close to the adjacent roadway. However, it would not interfere with or affect travel and sight on the reduced speed road.
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. The new home will likely improve neighboring 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.
Strict application would prevent Petitioner from replacing the existing mobile 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 variances 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 residence 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 17th day of November, 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)

RENCH, JANE & KEVIN ~ By: Jane Rench (20-V-69): Milford Twp., Sect. 29, T36N R11E, zoned L-1. Located at 7690 E 620 S, Wolcottville. Application is for a 3.3' rear setback for a 560 sq. ft. garage addition in an L-1 zone. The standard is 15'.

Robbie Miller introduced the petition and reviewed the site plan.

Jane Rench, 7690 E 620 S, was present as the petitioner and explained the reason for the variance. Mrs. Rench informed the board the intent was to add to the garage for storage and personal woodworking shop.

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.

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 new 560 sq. ft. auxiliary structure on the rear portion of Petitioner's lot near the rear property line. 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 garage, making the property more aesthetically pleasing to neighboring properties and may enhance neighboring property values. The proposed new auxiliary structure would be at the far rear of the property that abuts undeveloped farm land. 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 have issues locating the proposed auxiliary structure anywhere else on the subject property 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, rather small in size, and would not significantly infringe on any of the neighboring property owners.

For all of the foregoing reasons, on this 17th day of November, 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)

MAST, CHRISTY & FREIDA ~ By: Rob Yoder (20-LUV-38): Clearspring Twp., Sect. 28, T36N R09E, zoned A-1. Located at 3670 W 600 S, Topeka. Application is to operate a retail harness shop in an A-1 zone.

Robbie Miller introduced the petition and reviewed the site plan.

Rob Yoder, 7740 W SR 120, was present on behalf of 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. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the site plan and the shared driveway.

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 harness shop with retail sales in Petitioner's existing auxiliary structure in an A-1 zone. The business will have minimal deliveries and expects patrons to be primarily by buggy, therefore the property provides space 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 create 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 harnesses and harness 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.
Petitioners would be prohibited from operating the proposed retail sales of harnesses and harness 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 Petitioners are proposing. The proposed usage is not dissimilar from other rural businesses in the surrounding area.

For all of the foregoing reasons, on this 17th day of November, 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)

KEMPF, IVAN/ TRI-COUNTY LAND TRUSTEE CORP ~ By: Ivan Kempf (20-LUV-39): Lima Twp., Sect. 30, T38N R10E, zoned S-1. Located at 0545 E SR 120, Howe. Application to have 2 horses on 1.03 acres in an S-1 zone.

Robbie Miller introduced the petition and reviewed the site plan.

Ivan Kempf, 345 E SR 120, was present as the petitioner and explained the reason for the variance. Mr. Kempf shared that when he purchased the property he believed he could have horses there. It was discovered that the property was not zoned for horses when Mr. Kempf came to the Planning Commission office to begin the process to run a clock business.

Nick Wilson asked if there was anyone in favor of the petition.

Jeff Anderson, 0635 E SR 120, was present in support of the petition and expressed that himself and other surrounding neighbors were in support of the variance.

Nick 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.

Freeman Miller made a motion for this owner only, Rich Sherman seconded the motion. A 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 maintain two (2) horses on a parcel of land zoned S-1, located on the edge of the village of Howe. The parcel is just over one (1) total acre in size, comprised of primarily residential land abutting other residential property and farm land. Maintaining horses on said property does not pose a risk 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 not be affected in a substantially adverse manner.
The housing and maintaining of horses as requested would not have an effect on neighboring landowners as the Petitioner has had horses on the property on and off for the past two years. There are minimal neighbors, with only one residential property directly to the east of Petitioner. No remonstrators appeared. One (1) neighbor appeared in favor of petition.
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 S-1 zone would prevent Petitioner from housing any horses on 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 housing and maintaining horses at this location without the requested variance, limiting the properties usefulness to Petitioner.
5. The approval does not interfere substantially with the Comprehensive Plan
The use requested by Petitioner is similar to surrounding areas comprised of rural farm land and individuals maintaining horses similar to those requested by Petitioner.

For all of the foregoing reasons, on this 17th day of November, 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 condition: This owner only.

OTHER BUSINESS: Robbie Miller discussed the subject of as-builts not being met. The board discussed options to address the issue in the future.

ADJOURNMENT: Freeman Miller made a motion to adjourn, Nick Wilson seconded the motion. A vote was taken, motion carried. The meeting was adjourned at 9:09 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: _____ Absent
Tyler Young, President

BY: _____
Jim Bugg, Member

BY: _____ Absent
Lynn Bowen, Member

BY: _____
Nick Wilson, Member

BY: _____
Rich Sherman, Alternate Member

BY: _____
Freeman Miller, Alternate Member