

LAGRANGE COUNTY BOARD OF ZONING APPEALS
AUGUST 22ND, 2023

THE LAGRANGE COUNTY BOARD OF ZONING APPEALS MET IN REGULAR SESSION ON TUESDAY, AUGUST 22ND, 2023 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, Lynn Bowen, Tyler Young, Dan Patterson and Philip Bieberich

ADOPT AGENDA: Lynn Bowen made a motion to adopt the agenda. Philip Bieberich seconded the motion. A vote was taken, motion carried.

MINUTES OF PREVIOUS MEETING: Lynn Bowen made a motion to approve the previous minutes. Tyler Young seconded the motion. A vote was taken, motion carried.

COMMUNICATIONS:

NEW BUSINESS

DEVELOPMENTAL VARIANCE

(Public Hearing)

WATERS, WILLIAM ~ By: William Waters (23-V-15): Johnson Twp., Sect. 30, T36N R10E, zoned L-1. Located South of 0765 E 680 S., Wolcottville. Application is for a Developmental Variance for a 30'x60' pole barn to exceed the square footage of the residence in the L-1 Zoning District.

Robbie Miller introduced the petition and reviewed the site plan.

William Waters (0765 E 680 S., Wolcottville) was present as the petitioner. Mr. Waters discussed how the neighborhood was coming together to create a better way to drain the water through the rear of the buildings to the detention pond on the East side.

Nick Wilson asked if there were any in favor of the petition, no others appeared in favor of the petition. Mr. Wilson then asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the petition at length.

Philip Bieberich made a condition to have Mr. Waters submit a Storm Water drainage plan before applying for a building permit/Zoning Compliance. Robbie Miller asks for a condition of a written/recorded drainage easement agreement. Lynn Bowen seconded the conditions.

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 detached auxiliary structure on Petitioner's property in order to provide additional 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 substantial 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 detached pole barn structure that would be 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 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 Petitioner's back lot property specifically designed for auxiliary structures such as this.

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, 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 22nd day of September, 2023, 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 submit a detailed drainage plan; submit stormwater calculations to the Plan Administrator for approval; and provide proof of a recorded drainage easement agreement.

(Public Hearing)

MCCOY, BRIAN ~ By. Brian McCoy (23-V-16) Van Buren Twp., Sect. 18, T38N R08E, zoned L-1. Located at 7340 N 1160 W., Middlebury. Application is for a Developmental Variance for a 6' side yard setback for a 12'x17.5' addition to an existing residence where a 10' setback is required in the L-1 Zoning District.

Robbie Miller introduced the petition and reviewed the site plan.

Brian McCoy (7340 N 1160 W., Middlebury) was present as the petitioner.

Mr. McCoy explained how they wanted to demo the existing kitchen and replace it with a new one, add a bedroom, bathroom, and stairs. Changing the second story walls from 4'-8' and removing the small shed from the property.

Nick Wilson asked if there were any in favor of the petition, no others appeared in favor of the petition. Mr. Wilson then asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the petition at length.

Philip Bieberich made a motion to have a condition of Storm Water Drainage Plan approved before applying for building permit/zoning compliance. Dan Patterson seconded the condition.

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 an addition on Petitioner's existing residence located in the L-1 zone. The proposed addition is located well off of the adjacent roadway wherein it will not obstruct view on the road nor will it pose any risk to the public.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

The proposed addition will be aesthetically pleasing to neighboring landowners. The proposed setback variance will not unreasonably intrude on neighboring landowners' use and enjoyment of their properties as it seeks to maintain the existing setback and not further encroach on the adjacent property. The properties in the surrounding area have similar setbacks as well. 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 lot, Petitioner would be unable to construct an addition on the 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 addition is minimally intrusive and does not seek to unreasonably encroach upon the lakeside of the property or onto neighboring properties. The proposed addition will maintain the same setback distance that currently exists on the property. The proposed addition is reasonably sized considering the lot size in question.

For all of the foregoing reasons, on this 22nd day of September, 2023, the LaGrange County Board of Zoning Appeals finds the Petitioner has met is burden of proof and hereby approves the variance subject to the following conditions: Petitioner must submit a detailed drainage plan; and submit stormwater calculations to the Plan Administrator for approval.

(Public Hearing)

FITZPATRICK, MIKE & ANGIE ~ By. Tim Herman (23-V-19) Johnson Twp., Sect.24 T36N R10E, zoned L-1. Located east of 5900 S 550 E., Wolcottville. Application is for a Developmental Variance for a 24'x44' garage exceeding the square footage of the primary residence

Robbie Miller introduced the petition and reviewed the site plan.

Mike Fitzpatrick (5900 S 550 E) was present as the petitioner.

Mr. Fitzpatrick spoke briefly on using the proposed building for storage, taking down the brown shed before construction begins.

Nick Wilson asked if there were any in favor. There was one.

Bill Green (5975 S 455 E) was in favor of the building, friendly neighbors.

Nick Wilson asked if anyone would like to remonstrate, there was one that was mailed in,

Christa McCormick read the remonstrator's letter to the board.

Nick Wilson asked for more public comments. There were none, public hearing was subsequently closed.

The board discussed the petition at length.

Tim Herman (6225 S 455 E) spoke along with the petitioner as the contractor, spoke about how the building will be built into the hill on the property. Total sidewall height is 16 feet.

Philip Bieberich made a motion to have the petitioner submit a detailed Stormwater Plan approved and submitted by Robbie Miller and Zach Holsinger. Lynn Bowen seconded.

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 detached auxiliary structure on Petitioner's back lot property in order to provide additional 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.

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 detached pole barn structure that would be aesthetically pleasing to neighboring properties and would likely enhance neighboring property values. The proposed structure fits within the appropriate setbacks and would be placed amongst other similar pole buildings on neighboring back lots. One (1) party appeared in favor and one (1) anonymous letter was received in opposition.

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 Petitioner's 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, 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 22nd day of September 2023, the LaGrange County Board of Zoning Appeals finds the Petitioner has met is burden of proof and hereby approves the variance subject to the following conditions: Petitioner must submit a detailed drainage plan; and submit stormwater calculations to the Plan Administrator for approval.

LAND USE VARIANCE

(Public Hearing)

EASH, JAY ~ By. Josh Lash (23-LUV-16) Newbury Twp., Sect.22 T37N R08E, zoned A-1 & B-3. Located 8165 W 050 N., Shipshewana. Application is for a Land Use Variance for an RV storage lot in the B-3 and A-1 Zoning District.

Robbie Miller introduced the petition and reviewed the site plan.

Josh Lash (124 E Albion., Avilla) was present along with the petitioner Jay Eash (8165 W 050 N). Josh explained why they went for a variance instead of a rezone.

Nick Wilson asked if there were any in favor.

Nick Wilson asked if anyone would like to remonstrate:

Steve Miller (1625 W. US 20., LaGrange) spoke against the petitioner, he owns Triple M Tire and says the water drains onto their property heavily and wants to know where the water will go. Mr. Mower also mentioned that Alpha was planning on building in the back lot in the future, so he was worried about drainage.

Nick Wilson asked for public comment. There were none, public hearing was subsequently closed.

The board discussed the petition at length.

The board was concerned about the traffic and the INDOT letter.

Tyler Young made a motion to table the petition until the next available meeting as long as we get the INDOT letter. Lynn Bowen seconded the motion.

A roll call vote was taken:

(Public Hearing)

FRY, MARCUS ~ By. MM Quality/Marcus Fry (23-LUV-17) Newbury Twp., Sect.35 T37N R08E, zoned A-1. Located 1315 S Sr 5., Topeka. Application is for a Land Use Variance to add a second home to 2.59 acres in the A-1 Zoning District where 10 acres is required.

Robbie Miller introduced the petition and reviewed the site plan.

Marcus Fry (1315 S Sr 5., Topeka) was present as the petitioner. Mr. Fry spoke about how he would like to build a suite to care for his elderly neighbor until she passes.

Nick Wilson asked if there were any in favor, there was one.

Harley Bontrager (57342 CR 116., Middlebury) spoke in favor of the petition.

Mr. Wilson then asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

The public hearing was subsequently closed.

The board discussed the petition. The board gave a few options for Mr. Fry, attach the addition to the house or do a single-wide trailer for a care taker (along as all the requirements are met).

A roll call vote was taken:

Land Use Variance

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

The proposal is for Petitioner to construct a second home on his property that is significantly smaller than the required 10 acres. The property does have sufficient space for the proposed home and it should not affect the public. The proposed home is located well off the roadway and should not affect traffic 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 second home should not have a negative effect on any neighboring landowners nor should it interfere with the use and enjoyment of their properties. No remonstrators appeared.

3. The need for the variance **does not** arise from some condition peculiar to the property involved

The Petitioner's property is not peculiar in any discernable way, aside from it lacking the requisite acreage to construct a second home. The property is still usable as a single-family residential property and there is sufficient space to construct an addition on the existing home to house additional persons.

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 would be allowed to continue to utilize the property for residential and agricultural purposes consistent with the zoning ordinance. Petitioner, by proposing to add a second home on the lot with significantly less than the required 10 acres, has created his own hardship.

5. The approval **does** interfere substantially with the Comprehensive Plan

The proposed second home on a property with less than three (3) acres is not consistent with the aim of the comprehensive plan and that which is appropriate for the reasonable development of the County.

For all of the foregoing reasons, on this 22nd day of September, 2023, the LaGrange County Board of Zoning Appeals finds the Petitioner has not met its burden of proof and hereby denies the variance as requested.

CONDITIONAL USE VARIANCE

(Public Hearing)

MORRIS, LANE ~ By. Lane Morris (23-CU-03) Johnson Twp., Sect.32 T10N R10E, zoned L-1. Located 7220 S 180 E., Wolcottville. Application is for a Conditional Use Variance to have a short-term rental in the L-1 Zoning District.

Robbie Miller introduced the petition and reviewed the site plan.

Lane Morris (7220 S 180 E., Wolcottville) was present as the petitioner. Mr. Morris explained this was only a summer month cottage and would like to use it as a short-term rental.

Nick Wilson asked if there were any in favor of the petition, no others appeared in favor of the petition. Mr. Wilson then asked if anyone would like to remonstrate against the petition. No remonstrators appeared.

The public hearing was subsequently closed.

The board mentioned not seeing the BZA sign, Lane Morris was not able to pick up the sign.

Lynn Bowen made a motion to table the petition until the next available meeting date.

Philip Bieberich seconded the motion.

OTHER BUSINESS: Robbie Miller spoke about the UDO Module she printed out for the board (Rough Draft). Meetings are being scheduled for September 11th and September 12th; she will email with any further dates.

ADJOURNMENT: Lynn Bowen made a motion to adjourn, Dan Patterson seconded the motion. A vote was taken, motion carried. Nick Wilson adjourned the meeting at 8:34 p.m.

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.

LAGRANGE COUNTY BOARD OF ZONING APPEALS

BY: _____
Nick Wilson, President

BY: _____
Phil Bieberich, Vice President

BY: _____
Lynn Bowen, Member

BY: _____
Dan Patterson, Member

BY: _____
Tyler Young, Member

BY: _____
Alternate Member