

**TOWN OF TOPEKA-WOLCOTTVILLE BOARD OF ZONING APPEALS  
MAY 27, 2020**

THE TOWN OF TOPEKA-WOLCOTTVILLE BOARD OF ZONING APPEALS MET IN REGULAR SESSION ON **WEDNESDAY, MAY 27, 2020 AT 6:30 P.M.** IN THE COUNTY OFFICE BUILDING.

**CALL TO ORDER:** Tyler Young called the meeting to order at 6:31 p.m.

**ROLL CALL:** Tyler Young, Doug Fought, and Sally Fought. In attendance: Robbie Miller, and Brittney Johnston.

**ADOPT AGENDA:** Robbie Miller explained an address correction for 20-LUV-16. The correct address is 128 Roy Street, Topeka. Tyler Young made a motion to adopt the agenda. Doug Fought seconded the motion. A vote was taken, motion carried and the agenda was adopted.

**MINUTES OF PREVIOUS MEETING:** Tyler Young made a motion to approve the minutes of the previous meeting. Doug Fought seconded the motion. A vote was taken, motion carried and minutes of the previous meeting were approved.

**COMMUNICATIONS:** None

**NEW BUSINESS**

*LAND USE VARIANCE*

*(Public Hearing)*

**YODER, MARK & DORETTA ~ By: Heartland Builders (20-LUV-15/20-V-24):** Eden Twp., Sect. 35, T36N R8E, zoned A-1. Located at 2165 W Lake Street, Topeka. Application is for an 80' setback for a commercial building in an A-1 zoning district for a proposed accessory building for a Home Based Business.

Robbie Miller introduced the petition and reviewed the site plan.

Mark Yoder, 2165 West Lake Street, Topeka, was present as the petitioner. Mr. Yoder explained "The Connection" is a monthly publish family magazine that he and his family design. Mr. Yoder elaborated on the need for a separate building for the business to house its phone and internet due to his religious beliefs. Mr. Yoder also stated the Town of Topeka had given a positive recommendation for the petition.

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 one remonstrated against the petition.

The public hearing was subsequently closed.

The board discussed the petition.

A roll call vote was taken for **(20-V-24):**

*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 auxiliary building on the property within the required commercial building setback. While the structure is within the required setback, the type of business will have minimal traffic and deliveries thereby reducing any potential harm of the setback encroachment. The proposal will cause minimal intrusion on the community and its general welfare.*

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 auxiliary structure will be utilized primarily as an office-type business with minimal outward disturbance and adverse effects on neighboring landowners. the proposed structure location does not encroach on neighboring landowners' properties and meets required side yard setbacks. 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 the proposed auxiliary structure and operating their proposed homebased business variance requiring Petitioner to find another suitable location at substantial cost.*
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 auxiliary structure is minimally intrusive to neighboring properties and does not seek to correct any hardship created by the owner of the property.*

For all of the foregoing reasons, on this 27th day of May, 2020, the Topeka-Wolcottville 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 for **(20-LUV-15)**:

*Land Use Variance*

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

*The proposed homebased business will not bring a significant increase in traffic or deliveries to the subject property. The property provides for adequate turn around, and the proposed building is located well off the road to not interfere with 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 business is primary office based and will not pose any adverse effect on their neighboring property owners. There are other homebased businesses located in the surrounding area. 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 having a homebased business as proposed 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 their homebased business in the proposed auxiliary structure at this location without the requested variance requiring Petitioner to find another suitable location at substantial cost.*
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.*

For all of the foregoing reasons, on this 27th day of May, 2020, the Topeka-Wolcottville Board of Zoning Appeals finds the Petitioner has met its burden of proof and hereby approves the variance as requested.

(Public Hearing)

**THE COMMUNITY HEALTH CLINIC INC/PLAIN CHURCH GROUP MINISTRY~ By: Vernon Beechy (20-LUV-16):** Eden Twp., Sect. 25, T36N R8E, zoned U-1. Located at 128 Roy Street, Topeka. Application is to operate a health clinic in an S-1 zoning district and also to operate two separate business in one building.

Robbie Miller introduced the petition and reviewed the site plan.

Jerod Beasley, 315 Lehman Avenue, Topeka, was present for the petitioner. Mr. Beasley explained that the lower level will be a primary care clinic. Mr. Beasley stated the remodel had already begun when it was realized a variance would be needed to have the two businesses in the building, and that this will have no effect of the surrounding property.

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 one remonstrated against the petition.

The public hearing was subsequently closed.

The board discussed the petition.

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 health clinic, and allow for a second business in the existing building at the subject location in an S-1 zone. The existing location has operated as business for several years without issues from surrounding properties. The property allows for safe flow of traffic and sufficient turn around for patrons or deliveries.*
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 has operated as a business for some time without issues or adverse effects on neighboring landowners. the property is well maintained and aesthetically pleasing. 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 S-1 zone would prevent petitioners from operating the proposed health clinic and the proposed second business without the variance requested.*
4. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.  
*Petitioner would be prohibited from operating the proposed business at this location without the requested variance requiring them to move to another location at a significant cost, thereby also reducing the value and usefulness of the subject property.*
5. The approval does not interfere substantially with the Comprehensive Plan  
*The comprehensive plan encourages economic growth and the operation of certain businesses in S-1 zones. The proposed usage is not dissimilar from prior business use on the property and from uses in the surrounding area.*

For all of the foregoing reasons, on this 27th day of May, 2020, the Topeka-Wolcottville Board of Zoning Appeals finds the Petitioner has met its burden of proof and hereby approves the variance as requested.

**OTHER BUSINESS:** None.

**ADJOURNMENT:** Tyler Young made a motion to adjourn. Doug Fought seconded the motion. A vote was taken, motion carried and meeting adjourned at 6:55 p.m.

The County of LaGrange does not discriminate because of disability in the admission to, or treatment or employment in, its programs or activities. The LaGrange County Engineer has been designated to coordinate compliance with nondiscrimination requirements contained in Section 35.107 of the Department of Justice Regulations. Information concerning the provisions of the Americans with Disabilities Act and the rights provided after that are available from the LaGrange County Engineer. Suggestions on how the County can better meet the needs of those persons with disabilities may be submitted to the LaGrange County Engineer, 300 E. Factory Street, LaGrange, IN 46761, or by telephone at 260-499-6408.

## TOPEKA-WOLCOTTVILLE BOARD OF ZONING APPEALS

BY: \_\_\_\_\_  
Tyler Young, President

BY: \_\_\_\_\_  
Doug Fought

BY: \_\_\_\_\_  
Sally Fought

BY: \_\_\_\_\_

BY: \_\_\_\_\_