



Petition Number: 1408-VS-10

Subject Site Address: 16960 Little Eagle Creek Avenue (the "Property")

Petitioner: Gerald and Nancy Gobel (the "Petitioner")

Request: The petitioner is requesting three (3) Variances of Standard from the Westfield-Washington Zoning Ordinance (the "Zoning Ordinance") for the property commonly known as 16960 Little Eagle Creek Avenue, Westfield, Indiana 46074. The request is to: (i) allow a Minimum Lot Area of one (1) acre (WC § 16.04.030.B.5); (ii) allow a Minimum Lot Frontage on Road of two hundred and thirty (230) feet (WC § 16.04.030.B.5); and (iii) to allow a Minimum Front Yard Setback of sixty-two (62) feet from the centerline of Little Eagle Creek Avenue (WC § 16.04.030.B.6.a).

Current Zoning: AG-SF1 (Agriculture-Single Family Rural) District

Current Land Use: Residential

Approximate Acreage: 1.61 acres

Exhibits:

1. Staff Report
2. Aerial Location Map
3. Site Plan Exhibit
4. Existing Conditions Exhibit
5. Floodplain District Exhibits

Staff Reviewer: Jesse M. Pohlman, Senior Planner

Petition History

This petition will receive a public hearing at the August 18, 2014, Board of Zoning Appeals meeting.

Analysis

Location: The subject property is 1.61 acres +/- in size and located on the west side of Little Eagle Creek Avenue; approximately thirteen hundred (1,300) feet south of Towne Road (see [Exhibit 2](#)). The Property is zoned Agriculture – Single Family 1 District ("AG-SF1") and is located within the Floodplain District (see



Exhibit 5)¹. The Property currently contains a single family home occupied by the Petitioner. The surrounding properties are zoned AG-SF1, with a portion of the property across Little Eagle Creek Avenue is zoned the Westgate PUD District (approved in 2006). The surrounding properties are improved with single-family residential uses and/or agricultural uses.

Variance Request: The Petitioner has filed this variance request to allow them to construct a garage addition to the existing home, as generally shown on the Site Plan Exhibit (see Exhibit 3). As depicted on the Aerial Location Map (see Exhibit 2) and Existing Conditions Exhibit (see Exhibit 4), the site's existing conditions and constraints (e.g., existing home, existing driveway location, existing pond, existing woodlands and floodplain) restrict the potential locations to construct a garage. As such, the Petitioner is requesting a variance from the Minimum Front Yard Setback standard to allow the garage to be located as shown on the Site Plan Exhibit, utilizing the existing driveway.

Minimum Front Yard Setback Line (WC § 16.04.030.B.6.a): The standard for Minimum Front Yard² Setback Line³ in the AG-SF 1 District is eighty (80) feet along Little Eagle Creek Avenue (a Collector pursuant to the Thoroughfare Plan). As depicted on the Site Plan Exhibit, the existing home⁴ is located right at the eighty (80) feet from the centerline of Little Eagle Creek Avenue. The Petitioner is requesting a Minimum Front Yard Setback Line of sixty-two (62) feet from the centerline of Little Eagle Creek Avenue.

In reviewing the proposed garage addition, the Department also identified that the existing lot (which the Petitioner acquired in 2012) does not comply with the AG-SF1 District's Minimum Lot Area and Minimum Lot Frontage on Road requirements. As a result, the Department recommended the Petitioner also include these two (2) standards in their variance request so that if approved, the lot would be in compliance with the Zoning Ordinance.

Minimum Lot Area (WC § 16.04.030.B.4): The standard for Minimum Lot Area in the AG-SF1 District is three (3) acres. The Property's legal description includes 1.61 acres+/-; however, as

¹ The Indiana Department of Natural Resources (the "DNR") has reviewed the requested garage addition and issued a Floodplain Analysis and Regulatory Assessment (dated June 19, 2014, provides the Property is located within the AE Zone (areas of 100-year flood, based flood elevations determined (pre-1987 maps)) and Elevation Certificate (dated April 25, 2014, certifies the Base Flood Elevation of 889.0'). These documents provide that as long as no fill is occurring to construct the garage addition, then no permit is required by the DNR.

² The Zoning Ordinance defines "Front Yard" as "[a] yard extending across the full width of the lot unoccupied other than by steps, walks, terraces, driveways, lamp posts and similar structures, the depth of which is the least distance between the front lot line and the building line."

³ The Zoning Ordinance defines "Building Line" as "[t]he line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of a building or structure and the front lot line as defined by the legal description." In this instance, the legal description for the Property is to the centerline of Little Eagle Creek Avenue.

⁴ The existing home was constructed in 1980 according to the Hamilton County Assessor's office.



noted below, the Thoroughfare Plan suggests that a half right-of-way up to a fifty (50) feet in width may be needed in the future for the improvement of Little Eagle Creek Avenue. As a result after taking that potential future right-of-way into consideration, the Petitioner is requesting a Minimum Lot Area of one (1) acre for the existing lot.

Minimum Lot Frontage on Road (WC § 16.04.030.B.5): The standard for Minimum Lot Frontage on Road in the AG-SF1 District is two hundred and fifty (250) feet. The Property currently has a lot frontage of 230 feet +/- . As a result, the Petitioner is requesting a Minimum Lot Frontage on Road of two hundred and thirty (230) feet for the existing lot.

Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan identifies this Property within the "Existing Rural Southwest"⁵ land use classification. Among other uses, the Comprehensive Plan⁶ notes this area of the township includes single-family uses, equestrian uses and artisan farms in agricultural and rural areas, including the Little Eagle Creek watershed, wetlands, rolling topography and upland woods.

The Comprehensive Plan contemplates this area will remain rural (e.g., farmsteads and individual houses on large lots) for the foreseeable future and that a primary component of this character is to encourage uses that preserve this open character with low density.

Thoroughfare Plan: A part of the Comprehensive Plan is the Thoroughfare Plan, which is designed to support and facilitate the City's efforts to provide for safe and effective transportation systems within the Township. As such, each major thoroughfare in the Township is classified, based on anticipated future growth. Little Eagle Creek Avenue is designated on the Thoroughfare Plan as a "Collector Road", which is the lowest classification for a major thoroughfare. The Thoroughfare Plan provides that a Collector Road could be up to a half right-of-way of fifty (50) feet in order to accommodate future improvements. For reference purposes, the "Future 50' Right-of-Way Pursuant to the City's Thoroughfare Plan" is labeled on the Site Plan Exhibit. As proposed, the garage addition would be located outside of the potential future right-of-way.

Floodplain District: The Property is located with the Floodplain District. The Indiana Department of Natural Resources (the "DNR") has reviewed the requested garage addition and issued a Floodplain Analysis and Regulatory Assessment⁷ and Elevation Certificate⁸. These documents provide that DNR will not require a permit as long as fill does not occur for the construction of the garage. The Petitioner

⁵ Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (pg. 24).

⁶ Westfield-Washington Township Comprehensive Plan, Existing Rural Southwest (pg. 25).

⁷ Dated June 19, 2014 and states the Property is located within the AE Zone (areas of 100-year flood, based flood elevations determined (pre-1987 maps)).

⁸ Dated April 25, 2014 and certifies the Base Flood Elevation of 889.0'.



plans to construct the garage at grade. As a result, the proposed construction is permitted as long as it does not exceed the Floodplain District's thresholds that would otherwise require fill or elevated construction to occur. This will be further reviewed at the time of the building permit and if it is determined that thresholds are exceeded, then the appropriate steps will be taken by the Petitioner and the City, as necessary, to obtain the appropriate permits from DNR.

Procedural

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standards. This petition is scheduled to receive its public hearing at the August 12, 2014, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Variance of Development Standard: The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, 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; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

Recommendation

If the Board finds the application of the terms of the zoning ordinance would result in practical difficulties in the use of the Property and adjacent property values will not be affected in a substantially adverse manner, then the Department recommends approving 1408-VS-10 with the following condition and findings:

Recommended Condition: That the Petitioner records an Acknowledgement of Variance with the Hamilton County Recorder's Office and returns a copy of the recorded instrument to the Economic and Community Development Department prior to the issuance of a building permit for the Property.



Recommended Findings for Approval:

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

Finding: It is unlikely that approving the requested variance(s) would be injurious to the public health, safety, morals, and general welfare of the community because the AG-SF1 District permits the proposed residential use and the resulting parcels will otherwise comply with or exceed the applicable standards of the AG-SF1 District.

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:*

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance(s) should not have a negative impact on surrounding properties because: (i) the use is permitted and the Property will be used for its current residential use; (ii) the parcel will otherwise comply with or exceed the applicable standards of the AG-SF1 District; and (iii) the approval of the variance(s) will allow for the continued use and improvement of the Property in a manner substantially consistent with the quality and character of the surrounding area and Comprehensive Plan.

3. *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

Finding: Strict adherence to the zoning ordinance would result in the inability to improve the Property, as proposed, in accordance with the zoning ordinance. The use is permitted by the zoning ordinance and the proposed improvements and parcel would otherwise be permitted and comply with the zoning ordinance.