The Westfield Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, March 10, 2015, at Westfield City Hall. Members present included Randell Graham, Martin Raines, Ron Rothrock and Bill Sanders. Also present were Jesse Pohlman, Senior Planner; Kevin Todd, Senior Planner; and, Andrew Murray, Associate Planner; Brian Zaiger, City Attorney.

ELECTION OF OFFICERS

Raines moved to postpone the election of officers until the next Board meeting.

Graham seconded, and the motion passed by 4-0 vote.

APPROVAL OF MINUTES

Graham moved to approve the January 13, 2015, minutes.

Rothrock seconded, and the motion passed by 4-0 vote.

Pohlman reviewed the Public Hearing Rules and Procedures.

NEW BUSINESS

1503-SE-01 &	**140 East 161st Street**
1503-VS-05	Noah Herron (d/b/a Urban Farmer)
(PUBLIC HEARING)	The petitioner requests approval of a Special Exception and associated Variances of Development Standard to allow an Agritourism Use in the AG-SF1: Agriculture/Single-Family Rural District (Chapter 13: Use Table).

Murray presented an overview of the requested Special Exception and associated Variances of Development Standard as outlined in the staff report.

Noah Herron, petitioner, gave a brief presentation explaining the proposed use.

Sanders asked about secondary signs and if they will be distracting to drivers and requested clarification on if the variance was for multiple signs.

Herron responded the signs would not be distracting to drivers.

Murray explained the petitioner is permitted forty (40) square feet of signage based on the existing building's frontage along 161st Street and that the requested sign variance is to a total signage allotment of eighty (80) square feet that may be divided among a monument sign, wall signs and awning signs.

Rothrock asked for an explanation of the Agritourism Use and about educational opportunities. Rothrock expressed concern with available on-site parking.

Herron explained that part of the use includes community gardens, trail gardens, beneficial insect areas and places for children and adults to learn about all aspects of gardening and farming to grow produce locally. Herron confirmed there is plenty of parking for a school bus and cars to get in and out and that he hopes people will ride their bikes or walk from surrounding neighborhoods.

Public Hearing opened at 7:25 p.m.

Mike Rodman, 17201 Joliet Road, noted he was an existing neighbor of the petitioner and supports the requested approvals.

Public Hearing closed at 7:27 p.m.

Sanders motioned to approve 1503-SE-01 and 1503-VS-05 with the Department's recommended conditions:

1. The Special Exception shall be substantially similar as described in the Petitioner's Narrative Description and Conceptual Site Plan, attached as Exhibits 4 and 6, respectively. Any substantial alteration to the scope and operation of the Special Exception, as determined by the Director, shall require approval by the Board of Zoning Appeals; and
2. The Variances of Development Standard shall only apply to an Agritourism use.

Rothrock seconded, and the motion passed 4-0.

Raines moved to adopt the Department's recommended findings of fact.

Rothrock seconded, and the motion passed 4-0.

1503-VS-01 **17130 Joliet Road**
(PUBLIC HEARING) Sterling and Jessica Strickland
The petitioner requests: (i) a modification of a condition of approval for a previously approved Variance of Standard for a reduction in the Minimum Lot Frontage (0102-VS-07) (Article 4.4(D)); and (ii) the termination of a previously approved Special Exception to allow a riding stable and associated setback variances (0801-SE-01, 0801-VS-01) (Chapter 13: Use Table) in the AG-SF1: Agriculture/ Single-Family Rural District.

Pohlman presented an overview of the request and noted the petitioner's application included three letters of support and provided those to the Board for their review.

Sterling and Jessica Strickland introduced themselves and were available for questions.

Public Hearing opened at 7:36 p.m.

There was no public comment.

Public Hearing closed at 7:37 p.m.

Rothrock motioned to approve the modified condition to state that a driveway shall be prohibited along the property's Joliet Road frontage. The Property's access shall be provided via a shared access on an adjacent property.

Sanders seconded, and the motion passed 4-0.

Sanders moved to adopt the Department's recommended findings of fact

Graham seconded, and the motion passed 4-0.

1503-VS-02 **16588 North Gray Road**
(PUBLIC HEARING) James Campbell
The petitioner requests the approval of two (2) Variances of Standard to: (i) allow more than one Principal Building used for residential purposes on one Lot (Article 6.4(B)); and (ii) reduce the Minimum Lot Area requirement in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(C)).

Pohlman presented an overview of the request and noted the Department received two letters from

Brian Ondre, an adjoining property owner, who was unable to attend the public hearing. Pohlman provided those letters to the Board for their review and explained the first letter suggested a continuance to allow the neighbor additional time to review the request; however, the second letter is a letter of support after the neighbor had an opportunity to discuss the request with the petitioner and the petitioner agreed to install a row of landscaping along the shared property line.

James Campbell, petitioner, gave a brief presentation on the request.

Public Hearing opened at 7:47 p.m.

Matt Effinger, 16649 George Gang Boulevard, expressed concerns as they just bought the lot immediately west of the property; however, if the landscaping previously noted were also installed along his property line, then that would address his concerns.

Public Hearing closed at 7:50 p.m.

Pohlman commented that in addition to the recommended conditions in the Department report, that the Department also recommends a condition that the Petitioner install along the entire length of the Property's west property line a single row of evergreen landscaping substantially similar to the landscaping exhibit included with Mr. Ondre's letter and that the landscaping shall be installed prior to the issuance of a Certificate of Occupancy for any new home on the Property, or within six (6) months of the issuance of a Certificate of Occupancy for any new home on the Property if periods of adverse weather or planting conditions (e.g., season, time of year) otherwise prohibits the installation of the landscaping.

Campbell commented that he would agree with the condition.

Rothrock motioned to approve the petition with the Department's recommended conditions:

1. The petitioner shall dedicate a sixty (60) foot half right-of-way (pursuant to the Westfield Thoroughfare Plan) along the property's Gray Road frontage to the City of Westfield prior to the issuance of a Certificate of Occupancy for any new home on the property.
2. The property shall only be permitted one (1) driveway access onto Gray Road.
3. The "Existing 1-Story Frame House" and "Existing Frame Garage" (collectively, the "Existing House"), as identified on the Site Plan attached hereto, shall be demolished: (i) prior to the ownership transfer of the Property to an owner other than the existing Property Owner or Petitioner; (ii) within six (6) months of the existing Property Owner's vacancy of the Existing Home; or (iii) by March 10, 2025, whichever occurs first.
4. That the petitioner shall install along the entire length of the property's west property line a single row of evergreen landscaping substantially similar to the landscaping exhibit included with Mr. Ondre's letter and that the landscaping shall be installed prior to the issuance of a Certificate of Occupancy for any new home on the property, or within six (6) months of the issuance of a Certificate of Occupancy for any new home on the property if periods of adverse weather or planting conditions (e.g., season, time of year) otherwise prohibits the installation of the landscaping.

Sanders seconded, and the motion passed 4-0.

Graham moved to adopt the Department's recommended findings of fact.

Sanders seconded, and the motion passed 4-0.

1503-VU-03 &	**228 Park Street**
1503-VS-03	Scott Wolf
(PUBLIC HEARING)	The petitioner is requesting approval for a Variance of Use and associated Variances of Development Standard to allow a new parking lot in the MF1: Multi-Family Low Density District (Chapter 13: Use Table).

Todd presented an overview of the request, as summarized in the Department's report, and noted that two (2) letters were received from neighbors in support of the project. Todd provided those letters to the Board for their review.

Scott Wolf, petitioner, gave a brief presentation regarding the petition for a temporary parking lot and vision for the restaurant.

Sanders inquired what material would be used as the parking lot surface.

Wolf responded gravel, which will have to be maintained and is consistent with what was installed by the City at Mill Street and Park Street.

Public Hearing opened at 8:04 p.m.

Neal Hoard, 306 Park Street, asked how security for the lot will be handled during off hours and how storm drainage will impact adjacent properties.

Melody Jones, 211 Mill Street, stated she lives in this neighborhood and is in support of this parking lot and the provisions of these petitions.

Jack Russell, 1707 Ashley Wood Drive, on behalf of the Grand Junction Task Group, stated the group's full support of this project.

Public Hearing closed at 8:11 p.m.

Wolf responded that the parking will be valet parking and will be surrounded with privacy fences with the entrance chained when the restaurant is closed. Wolf explained the parking will be gravel and is not a hard surface, so drainage and runoff will not be a problem.

Graham motioned to approve the petition with the Department's recommended conditions:

1. That landscaping be installed and/or maintained as generally depicted on the submitted concept plan.
2. That a six (6) foot wood privacy fence be installed and maintained on any common property line(s) of residentially-used property to the north, west, and east of the subject property.
3. That approval of the variances shall expire on April 1, 2020. Any request to extend the time limit of the variances shall be reviewed and approved by the Board of Zoning Appeals prior to April 1, 2020.

Rothrock seconded, and the motion passed 4-0.

Sanders moved to adopt the Department's recommended findings of fact.

Rothrock seconded, and the motion passed 4-0.

1503-VU-04 &	**131 West Main Street**
1503-VS-04	Scott Wolf
(PUBLIC HEARING)	The petitioner is requesting approval for a Variance of Use and associated Variances of Development Standard to allow a new parking lot in the LB-H: Local Business/Historical District (Chapter 13: Use Table).

Todd presented an overview of the request, as summarized in the Department's report.

Scott Wolf, petitioner, gave a brief presentation of the proposed restaurant and parking.

Public Hearing opened at 8:17 p.m.

Steve Reitmeyer, 410 East Main Street, on behalf of the Grand Junction Task Group, expressed the group's full support for this project.

Randell Bruns, 120 Mill Street, commented that he spoke with the petitioner to resolve his concerns and is in support of this project.

Melody Jones, 211 Mill Street, stated she is very much in support of this project.

Public Hearing closed at 8:20 p.m.

Sanders motioned to approve the petition with the Department's recommended conditions:

1. That landscaping be installed and/or maintained as generally depicted on the submitted concept plan.
2. That approval of the variance shall expire on April 1, 2020. Any request to extend the time limit of the variances shall be reviewed and approved by the Board of Zoning Appeals prior to April 1, 2020.

Graham seconded, and the motion passed 4-0.

Rothrock moved to adopt the Department's recommended findings of fact.

Graham seconded, and the motion passed 4-0.

1503-VU-02	**17777 Commerce Drive**
(PUBLIC HEARING)	Edward Tomich by Badger Engineering, LLC The petitioner is requesting a modification of a condition of approval for a previously granted Variance of Use to allow an indoor shooting range and related retail sales in the EI: Enclosed Industrial District (1304-VU-01) (Chapter 13: Use Table).

Pohlman presented a project history and request overview, as summarized in the Department's report, of the requested modification of the condition of approval related to sound for the previously granted Variance of Use.

Pohlman provided written comments that were submitted to the Department to the Board for their review and noted comments submitted were both in support and in opposition to the petition.

Andi Metzel, Benesch Friedlander Coplan & Aronoff, representing the petitioner, distributed presentation materials and gave an overview presentation of the request.

Jeffry Carter, retired from the Indiana Occupational Safety and Health Administration and fire

arms instructor, noted the report of sound measurements he performed and submitted on behalf of the petition and is available for any questions regarding noise levels.

Public Hearing opened at 8:57 p.m.

The following individuals spoke on behalf of Hadah, LLC, owner of property at 17819 Commerce Drive, immediately north of the subject property, in opposition to the petition:

Brian Tuohy, 50 South Meridian, Suite 700, attorney on behalf of Hadah, LLC.

Jeff Unger, 129 Penn Street, an acoustical consultant on behalf of Hadah, LLC.

Andy Weas, Sr., 5102 Briarwood Trail, owner of Hadah, LLC property.

Andy Weas, Jr., 4848 Dee Ridge Drive, minority owner of Hadah LLC, and president and owner of Weas Engineering, previously located in the adjacent building.

Jim Flood, 8549 West 1000 South, plant and safety manager for Weas Engineering.

Heidi Muller, 12700 Devon Lane, owner of Hadah, LLC.

Mike Muller, 12700 Devon Lane.

Bryan Poynter, an industrial real estate broker with DTZ, noted his submitted letter to the Board regarding use of the property and property values.

The following individuals spoke on behalf of the petitioner, in support of the petition:

Chris Badger, 990 West Oak Street.

Guy Relford, 151 Mission Hills Drive.

The following individuals provided public comment:

Chris Bluto, 16438 Lakeville Crossing, stated the importance to uphold the standard and that some noise is understandable but the noise there is now is not acceptable. He believes this is not against the use, rather it is just upholding businesses to be accountable to what they say and to the standards they have agreed to. Coming back on a variance that got them the permit in the first place is not unacceptable.

J.R. Freiburger, 14487 Blue Sky Court, owns property to the north of the subject property as well as two other commercial properties and is not vested on either side of this particular request. He noted he is a huge proponent of Tim's Shooting Academy and what they have done and he purchased his nearby building in December 2013 after the variance of use was approved in June 2013. Freiburger commented he is vested in business in Westfield and actively looking for more investment opportunities. He stated he believes we should be careful and not commit to zero decibels in an industrial area; however, you also cannot allow a neighbor to not have any standards. Freiburger believes we are on a very slippery slope to allow ourselves to go through a variance process then open that door back up to change our minds later as a community, which takes integrity out of the system. Freiburger asks that this be pondered deeply before making any decisions.

Public Hearing closed at 9:36 p.m.

Metzel responded to comments and noted particularly the public comment observation that we need to be reasonable because she does not feel that it was entirely clear when the original petition

was approved what the actual standard was and when she looks at what was approved, there is nothing wrong with the process but the ordinance does not fit this particular use and the project narrative did not say zero noise but it is being interpreted that way.

Metzel noted they are still looking at options to improve the situation to figure out the most responsible way to use this building to reduce the sound because the goal is to be a good community partner and do it within reason but don't expect them to live up to standards that no one else does.

Raines asked if the petitioner had done his research before he started building to be able to guarantee that a bullet won't go through the roof because sound goes through the roof.

Graham inquired what of the Department what the zoning ordinance standard was with regard to the maximum decibel level.

Pohlman responded the zoning ordinance's standard is eighty decibels as measured one hundred and twenty-five feet from the boundary of the enclosed industrial district boundary, not as measured from the property line. So the petitioner's proposed eighty decibel maximum at their property line is more restrictive than the zoning ordinance's standard.

Rothrock asked if what is being voted on is to change the city ordinance because the condition says no sounds will be heard outside the building and that is the standard that was agreed to. He understands that they could either appeal that or abide by the standard.

Pohlman responded the request is to modify the standard imposed by the Board as part of the Variance of Use approval to establish an alternative standard regarding the sound, which is at the discretion of the Board to amend the condition, not to amend the zoning ordinance standard.

Rothrock asked if the presented sound readings were done before or after the improvements were done after the City brought the violation to the petitioner's attention.

Tomich responded they just wanted to be treated like anyone else and yes, he has added additional sound absorbing material so they are below the City's ordinance standard based on the readings at the property line, which is fifteen feet from range's external egress where the greatest leakage of sound occurs. He commented the thickness of the concrete makes a big difference and he will stand behind his statement that the sound would be like a whisper in a library. Based on their initial research before constructing the building they found data that every two inches of concrete reduces the decibel level by fifty percent, but because of construction standards the building's walls are actually less than ten inches thick. He did not intentionally mean to deceive anyone with what they proposed. They proposed to bring the safest shooting range and instructional academy in the United States short of a military instillation. Never said there would be no sound.

Tuohy further responded the measurements were taken February 16, 2015, and March 9, 2015, and then commented they had been previously told by the petitioner that they had done all they could to correct the noise levels but now the petitioner is stating there may be other options.

Metzel requested a continuance.

Graham motioned to continue the petition to the April 14, 2015, meeting.

Rothrock seconded, and the motion to continue passed 3-1 (Sanders).

Pohlman requested that any new or updated information by the petitioner that they wished to be considered by the Board at the next meeting be submitted to the Department by March 31, 2015, in accordance with the Board's schedule of meetings and filing dates.

REPORTS/COMMENTS

Plan Commission Liaison

Economic and Community Development Department

Graham motioned to adjourn the meeting.

Rothrock seconded, and the motion passed.

The meeting adjourned at 10:11 p.m.

Vice Chairperson
Martin Raines

Secretary
Matthew Skelton, Director