The Westfield Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, April 9, 2013, at Westfield City Hall. Members present included Dan Degnan, Randy Graham, Martin Raines, Ron Rothrock, and Bill Sanders. Also present were Jesse Pohlman, Senior Planner; Sarah Reed, Associate Planner; and Brian Zaiger, City Attorney.

APPOINTMENT OF OFFICERS

Degnan nominated Randy Graham as Chairperson of the 2013 Board of Zoning Appeals.

Raines seconded, and the motion passed by voice vote.

Degnan nominated Martin Raines for Vice Chairperson of the 2013 Board of Zoning Appeals.

Sanders seconded, and the motion passed by voice vote.

Degnan nominated Bill Sanders as Chairperson Pro Tempore of the 2013 Board of Zoning Appeals.

Rothrock seconded, and the motion passed by voice vote.

APPROVAL OF MINUTES

Degnan moved to approve the December 11, 2012, minutes as presented.

Raines seconded, and the motion passed by voice vote.

Pohlman reviewed the Public Hearing Rules and Procedures.

NEW BUSINESS

1304-VU-02 **17924 US 31 North, Christopher Woodard**
The petitioner is requesting a Variance of Use from the Westfield-Washington Township Zoning Ordinance to allow a temporary landscaping business to be permitted in the Enclosed Industrial (EI) District (WC 16.04.060.B.1).

1304-VS-04 **17924 US 31 North, Christopher Woodard**
The petitioner is requesting a Variance of Standard from the Westfield-Washington Township Zoning Ordinance to allow temporary relief from the US Highway 31 Overlay Zone (WC 16.04.070).

Reed explained that these two variances are related and that public notice for these variance requests were not properly served, so the petitioner is requesting the Board to suspend its Rules of Procedure for public notice pursuant to Article X: 10 Notice, Section 2: Certified Mailing.

The variances were properly noticed in the newspaper and the sign was posted on the property according to the Rules of Procedure; however, the petitioner did not send certified mailing. There was no mailing of the notice. Staff does not support the request to suspend the Rules of Procedure. The petitioner is present.

Degnan motioned to decline the request to suspend the Rules of Procedure.

Sanders seconded and the motion passed by voice vote. Rothrock abstained.

The items were continued until the May Board of Zoning Appeals hearing.

1304-VS-01 **15015 Little Eagle Creek Avenue,**
Todd and Debra Foutz by Justin Foutz
The petitioner is requesting Variances of Standard from the Westfield-Washington Township Zoning Ordinance to allow the minimum lot frontage on road and minimum lot width at building line to be 50 feet (south property line) from 200 feet in the Agriculture-Single Family Rural (AG-SF1) District (WC 16.04.030.B.5 and WC 16.04.030.B.6.d).

Pohlman presented details of the variance which was reviewed by the Technical Advisory Committee at its March 19, 2013, meeting and received no comments. He stated the proposed lots would otherwise comply with the applicable standards of the zoning district, including minimum lot size. Pohlman distributed written comments submitted to the Department in opposition to the variance request. He confirmed the variance request has been properly advertised for public hearing and that staff recommends approval of the requested variance, subject to the recommended conditions set forth in the staff report.

The Board reviewed the written comments in opposition to the variance.

Mr. Chris Foutz presented the request in more detail. He stated the property would otherwise comply with the applicable zoning standards and that the resulting lot size and lot frontage would be equal to or exceeds those of the properties to the north. He stated the use is a single family use, which will result in minimal traffic. He presented pictures of properties to the north and their proximity to each other and stated any drainage or run-off issues that they may have already exists today because of existing conditions and those homes distance to each other and that the proposed home will be almost four acres, which exceeds the minimum lot size requirements.

Mr. Foutz stated any concerns about well and septic will be addressed through permitting by the County or City. He presented an exhibit depicting the planned location and an exhibit depicting a picture of the proposed home.

A Public Hearing opened at 7:25 p.m.

Sharon Morgan, 3969 Country Place Drive, stated her property abuts this property and she has

concerns about runoff since she is lower than the parcel and currently has problems. Concern with a home this size; she would like to know if a runoff pond will be built to ease the problem. Her concern is the request is not a unique variance, but rather just a variance to use the lot differently than zoned.

Jennifer Schwerin, 4033 Country Place Drive, stated she has concerns with the driveway of this new house which will be right up against her property and the resulting traffic, safety, noise and obstruction of her view. She also has concerns with the drainage problem. She said they have spent a lot of money on drainage because she is the only house in her neighborhood with a basement and it is continually flooding.

Sharon Kotnik, 4085 Country Place Drive, stated she has concerns with the driveway at the back of the property. She stated the property owner at the end of her block will be surrounded on three sides by driveways. She stated they did not respond to the petitioner's letters because they wanted to talk to him in a public manner about their concerns.

The Public Hearing closed at 7:31 p.m.

Petitioner stated this was the first time he had heard a concern about the driveway location, which will be fifty feet from the property line. The driveway will be ten feet wide and there will be trees and grass that will remain between the properties.

Degnan confirmed with staff that the zoning ordinance does not regulate setbacks of the driveway from the property line.

Degnan confirmed with staff applicable drainage regulations. Pohlman explained the property would not be permitted to increase its current water flow across property lines as a result of the proposed home and driveway.

Degnan moved to approve 1304-VS-01 with the following conditions:

1. That the Petitioner dedicates a fifty (50) foot half right-of-way (pursuant to the Westfield Thoroughfare Plan) along the Property's Little Eagle Creek Avenue frontage to the City of Westfield prior to the issuance of a Certificate of Occupancy for any new home on the Property; and

2. 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.

Raines seconded, and the motion passed 4-1 (Sanders).

Degnan moved to adopt the staff's findings of facts.

Graham seconded, and the motion passed.

1304-VS-03 **14933 US 31 North (Burger King)**
Burger King by Megan Pyrtle of Allen Industries
The petitioner is requesting a Variance of Standard from the Westfield-Washington Township Zoning Ordinance to increase sign area allotment from 84 square feet to 115 square feet in the Special Business – Planned Development (SB-PD) District (WC 16.08.010 I.8 Outlot Signage).

Reed presented details of the variance request and that a commercial remodel permit has already been approved by the City for exterior modifications associated with the restaurant's rebranding efforts. She confirmed the variance request has been properly advertised for public hearing and that staff recommends approval of the requested variance.

Leah Smith, representing Allen Industries Sign Company on behalf of Burger King, introduced herself and stated she was available to answer any questions.

Public Hearing opened at 7:45 p.m.

No one spoke, and the Public Hearing closed at 7:46 p.m.

Raines moved to approve 1304-VS-03 with the following conditions:

1. That changeable copy is prohibited on any sign located on the Property; and

2. 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 sign permit for the Property.

Rothrock seconded, and the motion passed 5-0.

Degnan moved to adopt the staff's findings of facts.

Sanders seconded, and the motion passed.

1304-VU-01 **17777 Commerce Drive (Tim's Shooting Academy of Westfield)**
Tim Tomich by Christian Badger of Badger Engineering, LLC
The petitioner is requesting a Variance of Use from the Westfield-Washington Township Zoning Ordinance (the "Zoning Ordinance") for the property commonly known as 17777 Commerce Drive, Westfield, Indiana 46074. The request is to allow an indoor shooting range and related retail sales in the Enclosed Industrial (EI) District (WC 16.04.060.B.2).

Pohlman presented details of the variance and that the Variance of Use is being requested because: (i) a shooting range is not a land use specified within the Zoning Ordinance, thus by default is a prohibited use within any Zoning District in Westfield-Washington Township; and (ii) retail sales, or more specifically characterized by the Zoning Ordinance as the sale of sporting goods, is not a permitted land use within the EI District. He presented that this petition was reviewed by the Technical Advisory Committee at its March 19, 2013, meeting and received no comments. Subsequent to the TAC meeting on March 20, 2013, the Petitioner met with the Police and Fire Departments to preliminarily discuss operational and design aspects of the proposed use. As a result of that meeting, neither Department has concerns at this time regarding the proposed use.

Pohlman explained that if the Board approves the requested Variance of Use, then the use and site would be required to obtain Development Plan approval by the Plan Commission prior to the issuance of any construction permits. He confirmed the variance request has been properly advertised for public hearing and that staff recommends approval of the variance, subject to the recommended conditions set forth in the staff report.

Staff has not received written comments prior to this meeting. The petitioner and his representatives are present to provide a presentation. Staff is available for any questions.

Mr. Tim Tomich presented that he has been active in Westfield and has owned a small business in Westfield since 1991 and that he and his wife purchased this land in 1997 and wanted to provide proper training for people to respect and use firearms. Mr. Guy Relford, attorney on behalf of Mr. Tomich, presented that they agree with the review and findings of the staff report. He stated he is president and chief instructor of Tactical Firearms Training, LLC and that he is a NRA certified firearms instructor and certified chief safety officer. He presented that he has an agreement to partner with Mr. Tomich to provide training at the proposed facility and that the proposed use is a good opportunity to have people be educated in gun safety, training and practice in one facility and that all training will be conducted by NRA Certified trainers. He presented design details as outlined in the petitioner's filed narrative.

Degnan inquired whether all shooting ranges provide retail sales. Mr. Relford responded no, but that this facility will sell earplugs, safety glasses and target sheets for use at the range.

Graham inquired whether ammunition and guns will be sold. Mr. Tomich responded that ammunition can also be purchased so that proper ammunition is used on the range for safety reasons. When the proper license is acquired, Mr. Tomich plans to sell guns as well.

Sanders inquired what gunsmith services will be offered. Mr. Tomich explained that simple services like putting a scope on a gun can be done one-site, but if repair is needed they will send the gun to an offsite gunsmith with twenty-five years of experience.

Rothrock inquired if the outside ventilation system will be louder than others located in the surrounding industrial park. Mr. Tomich responded that the noise level will not be any louder than others in the area.

A Public Hearing opened at 8:03 p.m.

Deanne Candler, 5355 East 225th street, stated she owns property just north of this site and is concerned about the nature of individuals that may use the facility and theft. She stated she opposes the petition.

Joseph Lyons, 170 East Hoover Street, stated he believes this is an excellent opportunity for people to get proper training and shooting experience in Hamilton County. He stated he supports the petition.

Chris Badger, Badger Engineering, LLC, stated he is the engineer for the petition and provided additional details regarding the proposed floor plan and building layout and that this use will provide an opportunity not only for private individuals to learn proper gun safety and use, but organizations, such as the Boys Scouts of America, as well. He stated he supports the petition.

Nick Badger, Eagle Scout with Boy Scouts of America, stated he believes that this is a great facility that will allow Boy Scouts to get their merit badges because right now getting their badge is difficult because they can only get experience in one week of summer camp. He stated he supports the petition.

Leo J deBlecourt, 556 Athens Place, stated he is a gun owner for over forty years and is very impressed with the proposed guidelines and safety of this facility. He stated his son is an Eagle Scout and agreed with earlier statements. He stated he supports the petition.

The Public Hearing closed at 8:15 p.m.

Degnan inquired on clarification of retail sales component. Pohlman explained that the sale of sporting goods, though permitted in business districts, is not a permitted land use within the EI District, but if the Board adopts the staff's recommendation conditions, the retail sales would be limited in scope as set forth in the petitioner's narrative.

Degnan inquired whether classroom or safety training will be required for use of the shooting range. Mr. Relford responded that prior to opening of the shooting range, one of the first actions will be the development of standard operating procedures, which includes safety and operation rules of the range. He stated they would agree to develop standard operating procedures and make them part of the conditions so they would be mandatory on future operators. Mr. Tomich further explained that all users will be required to go through a safety class prior to use of the shooting range.

Sanders moved to approve 1304-VU-01 with the following conditions:

1. The Petitioner shall record an Acknowledgement of Variance with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Economic and Community Development Department prior to the issuance of a building permit for the

Property.

2. The "Indoor Shooting Range and related Retail Sales" use (collectively, the "Shooting Academy") shall be limited in scope and operation to the Petitioner's Narrative and Preliminary Plans, attached hereto as Exhibits 3 and 4, respectively. Any expansion or substantial alteration to the scope and operation of the Shooting Academy, as determined by the Director, shall require approval by the Board of Zoning Appeals.
3. The Shooting Academy shall be developed and operated in substantial compliance to the Petitioner's Narrative and Preliminary Plans, subject to review and approval for compliance with applicable ordinances and laws of the development plans and appropriate permits.
4. The Shooting Academy shall comply with the Westfield-Washington Township Zoning Ordinance's Performance Standards for Industrial Districts (WC 16.04.060), as amended.
5. The Shooting Academy shall comply with Indiana Fire and Building Codes, as amended.
6. The Shooting Academy shall maintain standard operating procedures and require within those procedures that all users of the Shooting Academy shall be required to attend a formal training program prior to their use of the indoor shooting range.

Raines seconded and the motion passed 5-0.

Degnan moved to adopt the staff's findings of facts.

Sanders seconded, and the motion passed.

REPORTS/COMMENTS:

No reports.

The meeting adjourned at 9:05 p.m.

Chairperson
Randy Graham

Secretary
Matthew Skelton, Director