

The Westfield Washington Township Board of Zoning Appeals met at 7:00 p.m. on Monday, February 12, 2008 at Westfield Town Hall. Members present included Dan Degnan, Randy Graham, Martin Raines, William Sanders, and Craig Wood. Also present were Greg Anderson, Director; Kevin Todd, Planner II; and Town Attorney, Brian Zaiger.

ADOPTION OF RULES OF PROCEDURE

Sanders expressed concern regarding BZA members attending training sponsored by organizations that may promote their end of the business.

Zaiger stated he did not see a problem with this further stating the organization may have something topical that applies to the BZA.

Sanders moved to adopt the Rules of Procedure.

Graham seconded, and the motion passed by voice vote.

ELECTION OF OFFICERS

Degnan nominated Sanders as President.

Sanders was elected by voice vote.

Degnan nominated Wood for Vice President

Sanders seconded, and Wood was elected by voice vote.

Sanders nominated Raines for Pro-Tempore.

Raines was elected by voice vote.

APPROVAL OF MINUTES

Sanders moved to approve the December 17, 2007 minutes as presented.

Raines seconded, and the motion passed by voice vote.

Sanders recused himself from 0801-SE-01 and 0801-VS-01 due to a past business relationship with the petitioner and further requested that 0802-VS-02 be moved to the front of the agenda.

Wood reviewed the Public Hearing Rules and Procedures.

NEW BUSINESS

0802-VS-02 15391 Whistling Lane, *Pools of Fun* The Appellant is requesting a Variance of Standard from the Bridgewater PUD (Ord. 06-49), to reduce the setback for an in-ground pool from 35 feet to 30 feet in Parcel B, Bridgewater PUD.

Mr. Rick Kendall, Pools of Fun, introduced the appellant, and discussed the request. He stated that due to a frost footer underneath the foundation, if the pool is rotated and moved closer to the house, the corner where the step is will be three feet from the corner of the house, which is a safety issue; also the automatic pool cover will be within 18 inches of the corner of the house. He further stated the Bridgewater HOA has accepted the 30 foot rear setback and that they have spoken with the neighbors, who have all been supportive.

Sanders asked if the yard elevation is only 841.67 feet.

Kendall responded yes, back corner is 841 feet.

Sanders asked if there is any concern with the loss of setback that there may be a lack of protection from a rising pond level.

Henderson, the home owner, stated the elevation of the pool will remain flat and will grade off at the end so it will be even with the back of the house.

Wood discussed the staff report.

Wood asked if the size of the pool at 16 x 32 feet is firm.

Kendall responded that is the minimum size for a diving pool.

Sanders asked if the corner could be rotated toward the covered patio and away from the property line.

Kendall stated when you swing it around, in order for it to stay on the angle, it gets pushed towards the house.

Todd also stated then you would be in the side yard setback which creates an additional issue.

After further discussion regarding the safety issues, Wood asked Todd if further information had been given, would Staff's recommendation change.

Todd stated Staff would have to look further into this issue in light of the information brought forward this evening, regarding safety issues and integrity of the structure.

Wood asked if this petition should be continued so Staff can further investigate since Staff recommended denial of this petition.

Kendall agreed if the additional time would give Staff time to further investigate, the petition could be continued.

A Public Hearing opened at 7:38 p.m.

No one spoke, and the Public Hearing closed at 7:39 p.m.

Degnan stated it would be helpful to have information from the Homeowner's Association stating their approval.

Degnan moved to continue 0802-VS-02 to the March 11, 2008 BZA meeting.

Sanders seconded, and the motion passed unanimously.

Wood stated his desire to approach 0801-SE-01 and 0801-VS-01 separately.

Sanders recused himself and left the meeting.

0801-SE-01 17138 Joliet Road, *William and Cheryl Wendling* The Appellant is requesting a Special Exception from the Westfield-Washington Township Zoning Ordinance (WC 16.04.030, B2), to allow a Riding Stable in the AG-SF1 District.

Mr. Robert Harmeyer, MSKTD and Associates, representing the appellants, explained the details of the special exception request which is for use as a commercial riding stable and academy for equestrian lessons. He acknowledged the public concern about the number of horses to be kept on the property stating there would be no more than eight to ten horses in the pasture at any given time for exercise, not for grazing. He further stated the horses would be fed hay and grain as their main diet.

Wood asked where the hay storage would be located.

Harmeyer stated the hay storage would be inside the stable building itself, along with the grain storage.

Wood asked what the anticipated number of stalls is for the future.

Harmeyer responded forty stalls.

Wood clarified that there is the potential for forty horses in the barn.

Harmeyer responded yes, the potential is for up to forty horses.

Ms. Kelly Wendling, appellant, stated the majority of the horses would be kept inside all of the time. She further stated these types of horses are not accustomed to being "turned out" and that an hour of exercise per day is enough for horses of this caliber.

Degnan asked how many horses would be school horses (outdoor horses) and how many would be show horses (indoor horses).

Wendling responded that ideally, 8-10 horses will be school horses and that the number of show horses will fluctuate depending upon the business.

Wood asked how many horse trailers would be on site.

Wendling responded right now anticipating one six-horse trailer, with the possibility of two six-horse trailers in the future.

Wood asked that since it is a commercial operation, if there would be boarding of horses.

Wendling responded that in the future they would like to offer a boarding with lessons program.

Wood asked if it is anticipated that horse owners in the boarding program would be leaving horse trailers on the property.

Wendling responded no.

Graham asked what prevents the horses to graze on the grass in the pastures.

Wendling responded the horses will graze, but will have to be monitored and brought in to the barn.

Wood asked what the time line of the project is.

Harmeyer stated late summer, early fall.

Todd passed out letters to the Board received from the public prior to opening the public hearing. Todd stated the letters are from the following residents: Ray and Debbie Head, 17110 Joliet Road and Chris and Jenny Burger 17120 Joliet Road (joint letter); Dr. Ginny Kelleher, 3920 West 166th Street; Robert Welsh, 17021 Joliet Road; Tim Tague, 16950 Joliet Road; and Alice Swanson 17320 Joliet Road.

Graham asked for clarification on where the food storage area would be located.

Harmeyer clarified the location of the food storage within the stable building.

Graham stated the location is close to Eagle Creek and asked how the run off problem would be handled.

Harmeyer responded a large dumpster will be kept on site, and waste will be collected and used for compost.

Wendling further stated that in order to keep the property nice, the pastures would be cleaned every other week, and waste will be hauled away from the property.

Graham asked if the dumpster be covered or open.

Wendling stated that a client works with public waste and can set up the dumpster where it is sectioned off in order not to be an eye sore. She further stated the intent to use a product called "Bug Off" which will be fed to the horses and keeps fly eggs from hatching on the manure.

Graham asked what about the run off of rain on the manure.

Harmeyer responded when the Board approves the requests, the petitioner will move forward through the process including compliance with the Department of Health, the Advisory Plan Commission, etc. and all other regulations, but at this point plans are not developed to that level.

Zaiger advised the Board that in order to assure run off would be at a minimum, the Board should limit the use on the property at the beginning and perhaps allow for request for expansion of special exceptions in the future. He further stated to make a recommendation regarding adequate run off to the APC is not valid because the Commission cannot consider things that are not concrete standards for them to adhere to.

The Board took a recess.

A Public Hearing opened at 8:25 p.m.

Ms. Ann Hensley-Pointdexter spoke in favor of the petition and shared her positive experience in doing business with the petitioner.

Ms. Jennifer McDougal spoke in favor of the petition and shared her positive experience in doing business with the petitioner.

Ms. Jenny Head-Burger, representing some neighbors and adjoining property owners, spoke of concern of the size of the project, the size of the property versus the use of the property, increased activity around the property, grazing turning the property into mud, drainage issues, upkeep of the property, increased traffic, and landscape buffers.

Ms. Jodi Huke spoke in favor of the petition and shared her positive experience in doing business with the petitioner.

Dr. Ginny Kelleher expressed concern about the size of the parcel, mud in the pastures, drainage, subdivision of the parcels, horse trailer storage, and offered some suggestions for conditions of the petition.

The Public Hearing closed at 8:47 p.m.

Wendling reiterated that the type of horse and quality of horse is different and unfamiliar to the community; however, because the horses will remain inside will be of no consequence to the neighbors.

Mr. Bill Wendling stated that he agrees with all remonstrance concerns but assured the Board all these issues will be addressed during the planning process.

Graham asked how many horses the petitioner will begin with.

Harmeyer responded that there will be twelve to fourteen show horses and six to eight school horses when they move in.

Wood asked about the operating hours for the lessons.

Wendling responded the lessons begin around 3:30 p.m. and the last lesson is at 7:30 p.m. Monday through Friday. Lessons are not routinely offered on the weekends.

Wood asked about vacation and summer hours.

Wendling responded the summer can be busier for lessons, but that is also a frequent travel season.

Wood asked about the parking surface.

Harmeyer stated that they are proposing gravel, but that will be determined by development standards placed on the property and have not determined the specific requirements.

Graham asked about the noise level.

Wendling responded the lessons are given in the indoor arena so it will be a quiet, confined operation.

Graham asked if there will be any events held on the property.

Wendling responded there are no plans for any horse events.

Wood asked what type of fencing is being proposed.

Harmeyer stated solid wood, four-rail fencing.

Wood asked if the Board proposed limited the number of horses, what a do-able number is.

Wendling responded due to budgeting, planning, and three-year business goals, 35 horses is an acceptable number.

Degnan referred to the letters received from the public and asked for clarification on fencing and the suggestion to limit the number of horse trailers. He stated that he agreed about limiting the number of horses.

Graham asked where the horse trailers would be stored.

Wendling responded horse trailers would most likely be parked to the side or north end of the parking lot. She further stated that she does not envision ever needing more than two horse trailers.

Zaiger reviewed the Board's concerns and made several suggestions on how to proceed with a motion and conditions.

Degnan moved to approve 0801-SE-01 with the following conditions:

1. That the final development plan and site plan substantially comply with the site plan filed with this petition;
2. That the two (2) parcels be legally joined to create one (1) parcel; and not be subdivided;
3. That no more than six (6) horses be outdoors at any given time;
4. That waste be placed in dumpster and hauled away weekly;
5. That the petitioner comply with all standards and requirements from the Hamilton County Soil and Water Conservation District;
6. That all fencing be wooden fencing; and,
7. That no more than two (2) six-horse trailers be stored outdoors.

Raines seconded, and the motion passed 3-1 (Wood).

0801-SE-01 17138 Joliet Road, *William and Cheryl Wendling* The Appellant is requesting a Special Exception from the Westfield-Washington Township Zoning Ordinance (WC 16.04.030, B2), to allow a Riding Stable in the AG-SF1 District.

- 1) West setback for stables – to reduce the setback from 200 feet to 60 feet (WC 16.04.030, B1); and,
- 2) Northeast setback for stables – to reduce the setback from 200 feet to 121 feet (WC 16.04.030, B1).

Harmeyer discuss the details of the variance request which is to reduce the west setback and the northeast setback.

Wood stated the Board needs to move on the adoption of the staff's Finding of Fact on 0801-SE-01.

Degnan moved to adopt the staff's Finding of Fact.

Graham seconded, and the motion passed 3-0.

Harmeyer continued his presentation.

A Public Hearing opened at 9:43 p.m.

Kelleher expressed concern about the setback from the western property line and the size of the facility and asked staff about a special exception for the barn being larger than the principal structure.

Mr. Sam Fix expressed concern about this use jeopardizing the future sale of surrounding properties for commercial use, horses that will “not to be outside,” waste management, and the size of this parcel for this use.

Head-Burger expressed concern about this use being detrimental to surrounding businesses, future drainage issues, and spoke against the setback reduction. She further expressed concern about hours of operation, the size of the facility, lighting, landscape buffering on the south end of the property, and run-in sheds.

The Public Hearing closed at 9:58 p.m.

Harmeyer responded to public hearing comments.

Wood asked if they had to fit within the 200 foot setbacks, how this would impact the physical size of the riding arena.

Harmeyer responded if they had to stay within the 200 foot setback, they could not construct the riding arena or the stables.

The Board discussed the possibility of changing the orientation of the buildings and proposing different setbacks.

Zaiger suggested continuing the item to give the petitioner time to make changes to the site plan.

Degnan moved to continue 0801-VS-01 to the March, 2008 BZA meeting.

The motion failed due to there being no second on the motion.

Raines moved to approve 0801-VS-01 with the following conditions:

1. That the west setback is to be reduced from 200 feet to 100 feet;
2. That the northeast setback is to be reduced from 200 feet to 90 feet; and
3. That no further encroachment on the west rear yard and northeast side yard occurs.

Graham seconded, and the motion passed 3-1 (Degnan).

Raines moved to adopt the staff’s Finding of Fact.

Graham seconded, and the motion passed 3-0.

The meeting adjourned at 10:30 p.m.

Chairman

Secretary