

The Westfield Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, July 14, 2015, at Westfield City Hall. Members present included Martin Raines, Ron Rothrock, Bill Sanders and Dave Schmitz. Also present were Jesse Pohlman, Senior Planner; Kevin Todd, Senior Planner; Jeffrey Lauer, Associate Planner; and Brian Zaiger, City Attorney.

APPROVAL OF MINUTES

Schmitz moved to approve the June 9, 2015, Meeting Minutes.

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

Pohlman reviewed the Public Hearing Rules and Procedures.

ITEMS OF BUSINESS

1506-VU-06
(CONTINUED)

14939 Ditch Road

Jeff Kelich

The petitioner is requesting approval of a Variance of Use to allow a lawn and landscape business in the SF2: Single-Family Low Density District (Chapter 13: Use Table).

Jeff Kelich, petitioner, presented his request for a continuance.

Sanders motioned to approve the continuance as requested.

Schmitz seconded, and the motion passed 3-0 (1 abstain: Rothrock).

1507-VS-09
(PUBLIC HEARING)

17777 Commerce Drive

Edward Tomich by Badger Engineering, LLC

The petitioner is requesting approval of a Variance of Development Standard to reduce the Minimum Building Setback Line for the Side Yard in the EI: Enclosed Industrial District (Article 4.24(E)(2)).

Pohlman presented an overview of the requested Variance of Development Standard as detailed in the staff report for a reduction in the side yard setback along the north property line.

Andi Metzler, Benesch, Friedlander, Coplan & Aronoff LLP, on behalf of the petitioner, gave a brief presentation regarding the improvements to the structure that have been made. Metzler presented a preliminary design of the additional improvements that the petitioner intends to make if the requested Variance of Development Standard is approved.

Public Hearing opened at 7:18 p.m.

Brian Tuohy, 50 South Meridian Street: Representing the property owner to the north, Hadah LLC, presented that the proposed improvement is putting a band aid on the sound problem that exists

and further detailed and summarized the history of the issue. He concluded that they do not object to this variance but they request the Board's consideration to impose conditions that: (i) the three (3) lanes on the north side of the building not be used until the new wall is built; and (ii) if this improvement does not work, then the petitioner would extend the wall to the east end of the building, effectively creating two walls along the entire north elevation.

Jeff Unger, 129 Penn Street: E Noise Control Company, on behalf of the property owner to the north, Hadah LLC, presented that he has recorded on three separate occasions at the same location on the property and that no sound reduction was observed or recorded over that time. Unger stated he believes the new vestibule, in his opinion, needs to be the full length of the existing wall.

Andy Weas, 5102 Briarwood Trail: Member of Hadah LLC, property owner to north, stated he does not believe the short wall will work and that this issue has dragged on too long. He noted he believes they are being cooperative all along in this matter because while the indoor shooting range is still generating revenue, he is incurring expenses because he cannot sell or lease his building. Weas conclude he would like this resolved as soon as possible without delay.

Public Hearing closed at 7:30 p.m.

Metzel responded to the public hearing comments noting she understands the concerns which are the same concerns that they are trying to resolve with the proposed improvement and request. She stated they believe, based on their sound consultant, that the problem is the door and the noise coming from the door, so they believe this improvement will address the issue.

Schmitz asked why the new door was placed at the end of the vestibule near the existing door, and whether a double wall have been a better solution.

Tim Tomich, petitioner, responded that the new door is required by the Fire Marshal to be within a minimum distance of the existing door for emergency exit reasons, which also prohibit the storage of anything within the vestibule. He noted the new door will also be treated with sound proofing material.

Chris Badger, Badger Engineering, LLC, responded that constructed a second interior wall is not practical because the existing interior walls were specific designed and built for bullets, which also includes that the existing door hinges were set in concrete.

Schmitz motioned to approve the petition 1507-VS-09.

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-VU-02

17777 Commerce Drive

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 the Department's recommendation to continue this item to allow for the improvements to be made pursuant to the prior agenda item that are intended to address this issue, but that the Department would anticipate that an update on the construction progress or the resulting sound levels following completion will be presented to the Board.

Schmitz motioned to continue Petition 1503-VU-02.

Rothrock seconded, and the motion passed 4-0.

1507-VU-07

4540 East 146th Street

(PUBLIC HEARING) Crown Castle

The petitioner is requesting approval of a Variance of Use to allow a new Wireless Communication Service Facility in the SF3: Single-Family Medium (Chapter 13: Use Table).

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

Matt Price, on behalf of the petitioner, gave a brief presentation.

Sanders asked about the existing trees on the property and whether the petitioner has control over the trees to ensure they will remain.

Price responded the petitioner does not own the land, so they do not have control over the trees.

Schmitz inquired about the design and whether a stealth design was considered.

Price responded that a stealth design accommodates fewer carriers than the proposed design, which in turn typically results in the need for additional towers. In this case, the proposed tower is intended to facilitate several carriers and complement existing carrier locations such as those on the nearby water towers.

Public Hearing opened at 8:10 p.m.

There was no public comment.

Public Hearing closed at 8:11 p.m.

Schmitz motioned to approve Petition 1507-VU-07 with the conditions: (i) the maximum tower height shall be one hundred and fifty five (155) feet; and (ii) the two (2) existing towers shall be

removed.

Rothrock seconded, and the motion passed 4-0.

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

Rothrock seconded, and the motion passed 4-0.

1507-VS-08 2901 East State Road 38

(PUBLIC HEARING) Marcus Masiarak

The petitioner is requesting approval of a Variance of Development Standard to reduce the Minimum Building Setback Lines in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(E)).

Lauer presented an overview of the request, as summarized in the Department's report. Lauer noted that four letters were received from neighbors either in favor or with no concerns and distributed those to the Board.

Marcus Masiarak introduced himself and explained his request.

Public Hearing opened at 8:18 p.m.

There was no public comment.

Public Hearing closed at 8:19 p.m.

Rothrock motioned to approve petition 1507-VS-08.

Schmitz seconded, and the motion passed 4-0.

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

Schmitz seconded, and the motion passed 4-0.

1507-VS-10 15550 Little Eagle Creek Avenue

(PUBLIC HEARING) James and Donna Curry

The petitioner is requesting approval of Variances of Development Standard to reduce: (i) the Minimum Lot Area (Article 4.2 (C)); (ii) the Minimum Building Setback Line for the Front Yard (Article 4.2 (E)(1)(b)); and (iii) the Minimum Building Setback Line for the Side Yard (Article 4.2 (E)(2)) in the AG-SF1: Agriculture/Single-Family Rural District.

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

Donna Curry gave a brief explanation of their request.

Public Hearing opened at 8:28 p.m.

There was no public comment.

Public Hearing closed at 8:29 p.m.

Rothrock motioned to approve petition 1507-VS-10.

Schmitz seconded, and the motion passed 4-0.

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

Schmitz seconded, and the motion passed 4-0.

REPORTS/COMMENTS

Plan Commission Liaison Report by Schmitz.

Economic and Community Development Department.

Sanders motioned to adjourn the meeting.

Schmitz seconded, and the motion passed.

The meeting adjourned at 8:33 p.m.

Chairperson
Martin Raines

Secretary
Matthew S. Skelton, Esq., ACIP
Director