



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

November 12, 2019
1911-VS-22
Exhibit 1

Petition Number: 1911-VS-22

Subject Site Address: 20889 Anthony Road (the "Property")

Petitioner: Wayne Wheeler (the "Petitioner")

Request: The petitioner is requesting a Variance of Development Standard reduce the Minimum Side Yard Setback from 30 feet to 15 feet in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(E)(2)).

Current Zoning: AG-SF1: Agriculture/Single-Family Rural District

Current Land Use: Residential

Approximate Acreage: 3 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. Proposed Barn Elevations
5. Application

Staff Reviewer: Pam Howard, Senior Planner

OVERVIEW

Location: The subject property is 3 acres +/- in size and located at 20889 Anthony Road (see **Exhibit 2**). The Property is zoned the AG-SF1: Agriculture/Single-Family Rural District. The Property currently contains a single-family home. All surrounding properties are also zoned AG-SF1.

Variance Request: The Petitioner is requesting this variance to allow construction of a barn, as generally illustrated on the Site Plan (see **Exhibit 3**).

SUMMARY OF VARIANCE

The Petitioner is requesting this variance to allow a 30' x 40' barn to be constructed within the Side Yard¹ Setback², as illustrated on the Site Plan (see **Exhibit 3**).

The Property is located within the AG-SF1: Agriculture/Single-Family Rural District. The Minimum Side Yard Setback is thirty feet (30').

¹ Chapter 12 of the UDO defines "Yard, Side" as "[a] Yard extending across the full depth of the Lot, the depth of which is the least distance between the Side Lot Line and the Side Yard Building Setback Line."

² Chapter 12 of the UDO defines "Building Setback Line" as "[a] line parallel to a Right-of-way line, edge of a stream, or other Lot Line established on a parcel of land or Lot for the purpose of prohibiting construction of a building or structure in the area between such line and the Right-of-way, stream bank, or other Lot Line."

The requested variance is to allow the barn to be constructed 15 feet +/- from the south Side Lot Line³, which would place it within the Side Yard Setback.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this property within the “Rural Northwest and Northeast” land use classification.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standard. This petition is scheduled to receive its public hearing at the November 12, 2019, 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.

Conditions: The UDO⁴ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO⁵ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variances 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.

³ Chapter 12 of the UDO defines “Lot Line, Side” as “[a] Lot Line other than a Front Lot Line or Rear Lot Line.”

⁴ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

⁵ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.

DEPARTMENT COMMENTS

Approval: If the Board is inclined to approve the variance, then the Department recommends the following condition and findings:

Recommended Condition:

1. The barn be constructed at the location shown on the Site Plan.

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 the existing use and proposed improvements would otherwise comply with 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 should not have a negative impact on surrounding properties because: (i) the proposed improvement will enhance the value of the subject property; (ii) the improvements will otherwise comply with or exceed the applicable standards; and (iii) the approval of the variance 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 Unified Development Ordinance. The primary residential use of the property is otherwise permitted by the applicable ordinances and the proposed improvements would otherwise comply with the applicable ordinances.

Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board’s next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.