

Westfield–Washington Township Board of Zoning Appeals
Minutes of the December 10, 2019 BZA Meeting
Presented for approval: January 14, 2020



The Westfield-Washington Township Board of Zoning Appeals (BZA) met at 7:00 p.m.
on Tuesday, December 10, 2019 at Westfield City Hall.

Members Present: Jeannine Fortier, Ken Kingshill, Martin Raines, Robert Smith and Dave Schmitz.

Members Absent: All present.

City staff present: Kevin Todd, Director; Pam Howard, Senior Planner; Caleb Ernest, Associate Planner; and Brian Zaiger, City Attorney.

APPROVAL OF MINUTES

Raines motioned to approve the November 12, 2019 meeting subject to two corrections.
Fortier seconded. Motion passed. Vote 5-0

APPROVAL OF 2020 BZA SCHEDULE OF MEETINGS AND FILING DATES

Kingshill motioned to approve the 2020 BZA Schedule of Meetings and Filing Dates.
Raines seconded. Motion passed. Vote 5-0

REVIEW RULES AND PROCEDURES

Crabtree reviewed BZA rules and procedures.

ITEMS OF BUSINESS

1912-VS-25
[PUBLIC HEARING]

355 E. 191st Street

Caitlin O'Dougherty

The Petitioner requests a Variance of Development Standard to reduce the minimum Side Yard Setback in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(E)(2)).

(Planner: Caleb Ernest – Cernest@westfield.in.gov)

Ernest overviewed this request for a Variance of Development Standard to reduce the minimum Side Yard Setback from 30 feet to 0 feet to accommodate the construction of a new residential home on the property. He said no public comments had been received.

Public Hearing for 1912-VS-25 opened at 7:05 p.m.

No public comments.

Public Hearing for 1912-VS-25 closed at 7:05 p.m.

Schmitz asked about the access to the property.

Ernest explained that access is a shared drive, and no comments had been received.

Raines motioned to approve 1912-VS-25 with the following staff condition.

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- The Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Community Development Department.

Kingshill seconded. Motion passed. Vote 5-0.

Schmitz motioned to adopt Staff's Findings of Fact for 1912-VS-25.

Raines seconded. Motion passed. Vote 5-0.

1912-VS-24
[PUBLIC HEARING]

18501 Joliet Road

Sean and Lauren Laird

The Petitioner(s) request Variances of Development Standard to permit a Home Business out of an Accessory Structure larger than the Primary Building and in the Established Front Yard (Articles 6.9, 6.1(B)(2), 6.1(D)(2)(a), and 6.1(F))

(Planner: Pam Howard- PHoward@westfield.in.gov)

Howard overviewed this petition stating that the Variances of Development Standard were being requested to accommodate the following: To permit an Accessory Building to be larger than the Primary Building; to permit an Accessory Building in an Established Front Yard; to permit an Accessory Building over eighteen feet in height; and to exempt the property from the Home Business Standards only for an athletic training business as described in the submitted Statement of Intent.

The Petitioners, Sean and Lauren Laird, addressed the BZA on several items of this proposed home business. They highlighted that this proposal is not for a large-scale business but an owner-operated training program for young athletes and added that there are currently no outside employees at this business. They said they wish to retain the AGSF-1 zoning status and that they had professional input from an appraiser that this project would not devalue nearby properties. They said that the structure would comply with all Westfield building standards including the lighting on the barn to avoid light pollution that was among the concerns they had received.

Schmitz asked about the Petitioner's current business.

Laird responded that he does not have a facility but currently leases space in a school.

Schmitz asked about the outside activity of the proposed business.

Laird replied that all programs would be inside the pole barn.

Smith asked about the status of commercial property and the impact of the increased traffic created by the traffic programs.

The Lairds responded they would only be using the barn for their training and if they were to sell the land, it would remain a residential property with an empty pole barn.

Todd reiterated that this request was for a home business use not a commercial property use.

Kingshill asked for clarification on home business guidelines.

Howard responded that a home business permits such uses as teaching music and dance within the home structure.

Public Hearing for 1912-VS-24 opened at 7:29 p.m.

Dennis Ells, 18420 Joliet Road; stated he is opposed to this project and feels it is a commercial use within a residential neighborhood. He said the proposed use would present safety concerns and would devalue local residential properties.

Julia Hoskins, 18384 Joliet Road; said she submitted several photos of the homes within this area. She said, after going door to door with the residents in the area that an overwhelming majority of residents signed a petition opposing this

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project. She said several people not in the immediate area of this request also signed the petition in an effort to protect the residential qualities of their own neighborhoods. She is opposed to this project.

Kim Cavalier, 18737 Joliet Road; said she, along with other residents in the area, purchased their properties based on the zoning in place to protect residential culture of their neighborhood. She also reviewed several home business standards, several which she said were in a conflict to points within this proposal. She is opposed to this project.

Beth Moon, 19061 Joliet Road; said that there were inconsistencies with the conditions stated in the Staff Report and the project's proposal. She said she thinks that based on the information presented that this project is more of a commercial/recreational facility and should not be allowed in a residential area. She is opposed to this project.

Carri Gray, 18625 Joliet Road; said she lives directly across the road from this proposed project. She said she disagrees on the water/drainage assessment. She said there is a current drainage problem and that it required the relocation of her driveway in 2012. She said she is very concerned about drainage. She said she agrees with the statements of the previous public speakers and stated she is opposed to this project.

Andrew Butts, 18520 Joliet Road; stated that his family walks along Joliet Road several times a week. He said there are no paths, sidewalks, or even lines separating north south traffic on this county road. He said this proposal would increase traffic and place the current residents in danger. He said this proposal would be a detriment to the residential area's quality of life. He is opposed to this project.

Doug Ruffner, 18465 Joliet Road; said he is a long-time resident of this area and it currently offers area residents a quiet, peaceful residential quality of life. He said that he is concerned with the possible negative affect on property values; the drainage issue that currently exists would be made worse by this project; and that three other similar business are located appropriately in commercial areas where they contribute a commercial tax rate to the community. He is opposed to this project.

Terri Ruffner, 18465 Joliet Road; said she feels the proposed project would increase the traffic and negatively affect the safety of the residents. She is concerned about having a commercial business next door to her property. She said all the neighbors in this area are opposed to this project and that they want to retain the country environment that currently exists. She is opposed to this project.

Tracey Bernstein, 3910 West 186th Street; said her family moved to this area to avoid commercial zoning. She said she and her small children ride their horses and ponies along Joliet Road and that the infrastructure is not adequate to accommodate pedestrians, horses, and increased traffic. She said that drainage problems in the area are truly an issue. She is opposed to this project.

Tamara Ells, 18420 Joliet Road; read a letter from her real estate agent that stated that a variance of this nature, if approved, would have a significant negative impact on her property and other properties in the area. She is opposed to this project.

Misha Honaker, 205 Sweet Gum Court; said that this petition is not of the magnitude of other larger facilities in the area. She said this would be a small organization with a small number of training classes and students. She said the only issue is that the Petitioner can't teach baseball inside the home, so a barn is necessary. She supports this project.

Terry O'Neill, 16342 Oldenberg Circle; stated he doesn't live in the area of this petition; however, he was a client of the Petitioner he said he wanted to validate the Petitioner's statement that class sizes would be small. He said his experience with the business's traffic was a non-issue. He supports this project.

Jessica Curtis, 4004 West 186th Street; said she agrees with many of the statement opposing this petition. She said her main concern was the location of the pole barn being in the front of the residence. She said there is a number of barns in this area, but all are located behind the homes. She is opposed to this project.

Alan Eisberg, 4261 West 186th Street; said he built a new home in this area after living in Westfield for 30 years. He was drawn to build in this area based on its current environment, He said a variance would negatively impact the safety of

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the area. He also said that approving a variance for this petition would decrease area property values and set a dangerous precedent for Westfield by allowing commercial zoning into residential areas. He said that the Petitioners indicated they hope to grow the business. He is opposed to this project.

Craig Wood, 167 East 191st Street; stated that although he doesn't live in the immediate area of this request, he does own property there. He stated that Grand Park is literally in his back yard and that he has experienced increased traffic. He questioned whether some of the Pro X clientele might transfer to the proposed training facility. He said that he had concerns on how this proposed business may grow and impact Joliet Road.

Cory Essex, 1953 West 156th Street; said that he doesn't live in this area but frequently visits his family that does live there. He said he had concerns about teenage drives on the smaller country roads that are used frequently by pedestrians and horses. He said the infrastructure, especially if septic, could potentially affect existing drainage issues. He said he has concerns about the residential tax rate being utilized by a business. He said the business plan looks great and showed hope for the business to grow; however, that would add to the previously stated concerns if it were to be located in a residential area. He asked if a barn was necessary to conduct training.

Nate Dohm, 11440 Valley Meadow Drive; said he was a client of the Petitioner. He said there were never any problems with an excess of cars and that he carpools to training sessions. He said the Petitioner is developing his clients, not only as athletes, but as people of character. He said he is a better person for training with the Petitioner. He supports this project.

Jeremy Honaker, 215 Sweet Gum Court; said he doesn't live in the area but frequently drives by. He said he didn't really understand the concerns of the neighbors. He said he feels the Petitioner had the highest of intentions. He supports this project.

Josh Motsinger, 18681 Joliet Road; said that he shares the previously stated concerns. He said that he felt the plan for the Petitioner to hire a part-time employee would violate the Home Business Standards. He said he also had concerns about the on-going use of the property should the variance be approved. He stated concerns about the business growing to be more than a small home business. He is opposed to this project.

Ryan Bunnell, 16069 Bounds Court; said he is a teacher at Westfield High School and its head baseball coach, He said he has known both Petitioners for several years and they are the type of people Westfield needs. He supports this project.

Bill Greenwood, 18346 Joliet Road; said, that as a resident in the area, he is very familiar with the drainage issues and that drainage is a major issue. He said the creek that the water drains into is already overloaded. He said the issues tonight were not about the quality of the business proposal, but the impacts it would bring to the area.

Bart Rowland, 17873 Joliet Road; said he is a longtime resident of this area and said he is concerned about drainage and traffic. He said there are many bicycles on the weekends. He also said he is not against the idea but asked where will the business would go should it grow.

Marla Ailor, 1602 East 203rd Street; said she understood that the BZA addresses the legal requirements and the Finding of Facts of the petitions and not the quality of the Petitioner. She overviewed the home business standards. She said that the findings of fact are the concern.

Josh Medvescek, 4330 Chase Circle; he said that the petitioner could build this house and barn and the impact would be the same.

Ginny Kelleher, 3920 West 166th Street; she stated she lives in a similar neighborhood. She said this project is a commercial project proposed in a residential area and she referred to a definition in the UDO that disputed the use of teaching as a Home Business in regard to this petition. She addressed the Finding of Facts. She is opposed to this project.

Steve Dohm, 11440 Valley Meadow Drive; said his son has been attending the petitioners training sessions. He said that he feels that the Petitioner does conduct training. He said from what he has observed that the traffic generated would not be a significant increase. He supports this project.

Public Hearing for 1912-VS-24 closed at 8:41 p.m.

Jarred Moore, on behalf of the Petitioner, spoke to the Market Report he conducted for the Petitioners. He said that many of the homes in the area have barns/accessory buildings. He said their proposal would not have a negative impact on area properties.

Schmitz stated that the points made by Moore overlooked potential impacts to the neighborhood. He asked about the impact of the increased traffic.

Moore responded that there was nothing he saw in his assessment that traffic would be an issue. He said the training business would be conducted within the structure. He said there were many pole barns in the area.

Kingshill asked about the location of the pole barn in the front yard.

Moore said there is clear visibility of other large barns in the area.

Laird, the Petitioner, said regardless of the barn's placement it would need to be in the front yard.

Smith questioned the Petitioner about the actual amount of traffic.

The Petitioner responded that the traffic count is only a possibility.

The Petitioners clarified that they do not have any desire to ruin the area. They spoke to the capacity of the business and said that if they were to exceed capacity they would seek out commercial properties. They overviewed the types of services that would be offered and the impact of each of those sessions in regard to traffic.

Smith asked for clarification about the Home Business use.

Zaiger explained the variance that is being requested is to use the pole barn for a Home Business.

The petitioner asked about connecting the structures to meet the Home Business Standards.

Howard explained there are several standards that would need to be considered.

Smith said that the staff was recommending approval.

Todd and Howard both stated that staff doesn't make recommendations, only the Findings of Facts for approval.

The Petitioners said that they are not trying to avoid paying taxes or cheat the system. They said everything is addressed in the Statement of Intent.

Smith asked about the number of possible employees.

The Petitioner replied one to three employees as stated in the Statement of Intent.

Smith said the possible employees would add to the traffic.

The Petitioner said their occupancy is 299 based on square footage and fire code per the Department of Homeland Security.

Schmitz explained the outcome of some previous variances is that the business flourished and created concerns. He said he was not comfortable with the Statement of Intent. He said he was also uncomfortable with the use going forward with future land owners.

Zaiger explained about periods of time allowed in transitional areas and associated conditions.

Schmitz said that he is uncomfortable that the petition doesn't meet the Findings of Facts.

The Petitioner asked if this would be approved if located in another location.

Kingshill replied he could not support this type of use is any AGSF-1 as the community results would likely be the same.

Fortier said that she would like to see this business in Westfield but feels that this is location is not right.

Kingshill motioned to deny 1912-VS-24.

Smith seconded. Motion passed. Vote 4-1. (Raines)

Schmitz motioned to table Staff's Findings of Fact for 1912-VS-24 until the next BZA meeting.

Kingshill seconded. Motion passed. Vote 5-0.

ITEMS CONTINUED TO A FUTURE MEETING:

1803-AA-01

[CONTINUED]

16708 Dean Road (Bob's Garage)

Esler Properties, LLC by Morse & Bickel, P.C.

The petitioner is appealing an Administrative Determination (1712-AD-04) regarding the revocation of a variance (1603-VU-03).

(Planner: Pam Howard - PHoward@westfield.in.gov)

REPORTS/COMMENTS:

- Plan Commission Liaison
- Community Development Department

ADJOURNMENT

Kingshill motioned to adjourn the meeting.

Raines seconded. Motion passed. Vote 5-0.

The meeting adjourned at 9:28 p.m.

Chairperson
Dave Schmitz

Secretary
Kevin M. Todd, AICP
Director