



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_10_13_2020

Tuesday, October 13, 2020 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, October 13, 2020 at 07:00 PM

MEETING PLACE:

THE FOLLOWING AGENDA IS SUBJECT TO CHANGE AT THE DISCRETION OF THE BOARD OF ZONING APPEALS

Viewable online at: <https://www.youtube.com/user/CityofWestfieldIN>

To submit a comment for the record on any Public Hearing item, please email planners@westfield.in.gov

Documents: [Viewable online at: https://www.youtube.com/user/CityofWestfieldIN](https://www.youtube.com/user/CityofWestfieldIN)

OPENING OF REGULAR MEETING

Note the presence of a quorum

BZA Minutes - September 15, 2020

Documents: [BZA Minutes - September 15, 2020](#)

Review Rules & Procedures

ITEMS OF BUSINESS:

2009-VS-25 [FINDINGS OF FACT]

15621 Hidden Oaks Court

Pete Davis

The Petitioner requests a Variance of Development Standard to encroach fifteen (15) feet into the fifty (50) foot Minimum Rear Yard Setback on 0.57 acres +/- in the Bridgewater PUD District to accommodate a swimming pool and deck.

(Planner: Daine Crabtree - dcrabtree@westfield.in.gov)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: HOA Approval](#) | [Exhibit 5: Davis Exhibits](#) | [Exhibit 6: Neighborhood Meeting Summary](#)

2009-VS-26 [CONTINUED]

15533 Hidden Oaks Lane

Stephen and Joni Buyer

The Petitioners request a Variance of Development Standard to encroach twenty-two (22) feet into the forty-five (45) foot Minimum Rear Yard Setback on 0.46 acres +/- in the Bridgewater PUD District to accommodate a swimming pool and deck.

(Planner: Daine Crabtree - dcrabtree@westfield.in.gov)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: Site Plan With Aerial](#) | [Exhibit 5: HOA Approval](#) | [Exhibit 6: Buyer Exhibits](#) | [Exhibit 7: Neighborhood Meeting Summary](#)

2009-VS-27 [PUBLIC HEARING]

15519 Hidden Oaks Lane

Paul and Kaprice Kraemer

The Petitioners request a Variance of Development Standard to encroach twenty-three (23) feet into the forty-five (45) foot Minimum Rear Yard Setback on 0.45 acres +/- in the Bridgewater PUD District to accommodate a swimming pool and deck.

(Planner: Daine Crabtree – dcrabtree@westfield.in.gov)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: HOA Approval](#) | [Exhibit 5: Kraemer Exhibits](#) | [Exhibit 6: Neighborhood Meeting Summary](#)

2010-VS-28 [PUBLIC HEARING]

South of State Road 32 & Centennial Road

Tyler Eifert by Brian Cardinal

The Petitioner requests a Variance of Development Standard to modify the Minimum Lot Frontage requirement from 250 feet to 0 feet on 40 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(D))

(Planner: Daine Crabtree - dcrabtree@westfield.in.gov)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Recorded Easement](#) | [Exhibit 4: Easement Color Exhibit](#) | [Exhibit 5: Adjacent Property Owners](#)

2010-VS-30 [PUBLIC HEARING]

312 Genesis Drive

Joell and Heather Grisel

The Petitioners requests a Variance of Development Standard to encroach seven (7) feet into the thirty (30) foot Minimum Rear Yard Setback on 0.34 acres +/- in the SF2: Single-Family Low Density District (Article 4.5(E)(3)(a)).

(Planner: Corey Harris - charris@westfield.in.gov)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: Application](#)

2010-VS-29 [PUBLIC HEARING]

19500 Tomlinson Road

Westfield Washington Schools by Cripe

The Petitioner requests to modify the External Street Frontage Landscaping requirements from Article 6.8(M)(2) of the UDO to match the existing landscaping for Monon Trail Elementary School and modify Detention and Retention Ponds designed with meandering edges to not designed with meandering edges in the AG-SF1: Agricultural/Single-Family Rural District (Articles 6.8(M)(2) and 6.8(I)(c)).

(Planner: Caleb Ernest - cernest@westfield.in.gov)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Monon Trail Elementary School Master Plan \(2007\)](#) | [Exhibit 4: Application](#)

2010-VS-31 [PUBLIC HEARING]

3860 Madeline Lane

Jason and Rebecca Ogle

The Petitioner requests Variances of Development Standard to encroach ten (10) feet into the thirty (30) foot Minimum Rear Yard Setback and one (1) foot into the Minimum Side Yard Setback on 0.28 acres +/- in the SF3: Single-Family Medium Density District to accommodate a swimming pool and deck (Article 4.6(E)(2) and Article 4.6(E)(3)).

(Planner: Daine Crabtree - dcrabtree@westfield.in.gov)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Concept Plan](#) | [Exhibit 4: HOA Approval](#) | [Exhibit 5: Existing Conditions](#)

2010-VS-32 [PUBLIC HEARING]

3650 Birkdale Drive

Jennifer Derado

The Petitioner request a Variance of Development Standard to encroach twelve (12) feet into the thirty (30) foot Minimum Rear Yard Setback on 0.37 acres +/- in the Bridgewater PUD District to accommodate a swimming pool and deck.

(Planner: Daine Crabtree - dcrabtree@westfield.in.gov)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: HOA Approval](#)

2010-VS-33 [PUBLIC HEARING]

16080 Westfield Boulevard

Pure SEP, LLC by American Structurepoint

The Petitioner requests a Variance of Development Standard to permit a dumpster enclosure in an Established Front Yard in the LB: Local and Neighborhood Business District (Article 6.1(H)(2)).

(Planner: Caleb Ernest - cernest@westfield.in.gov)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: Application](#)

ITEMS CONTINUED TO A FUTURE MEETING:

None

REPORTS/COMMENTS:

ADJOURNMENT



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

October 13, 2020
2010-VS-29
Exhibit 1

Petition Number: 2010-VS-29

Subject Site Address: 312 Genesis Drive (the "Property")

Petitioner: Joell and Heather Grisel (the "Petitioner")

Request: The Petitioner requests a Variance of Development Standard to encroach seven (7) feet into the thirty (30) foot Minimum Rear Yard Setback on 0.34 acres +/- in the SF2: Single-family Low Density District (Article 4.5(E)(3)(a)).

Current Zoning: SF2: Single-family Low Density District

Current Land Use: Residential

Approximate Acreage: 0.34 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. Application

Staff Reviewer: Corey Harris, Associate Planner

OVERVIEW

Location: The subject property is 0.34 acres +/- in size and located at 312 Genesis (see **Exhibit 2**). The Property is zoned in the SF2: Single-family Low Density District. The Property currently contains a Single-family residence. All properties west, south, and east are in the SF2: Single-family Medium Low District and the properties to the north, across W. 169th Street are in the SFA: Single-family Attached District.

Property History: The Secondary Plat Springmill Park, Section 1, was recorded December 30, 2015 (Instrument No. 2015066900).

Variance Request: The Petitioner is requesting a Variance of Development Standard to build a pool that encroaches into the Rear Yard Building Setback Line¹.

¹ The UDO defines a "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."



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

October 13, 2020
2010-VS-29
Exhibit 1

SUMMARY OF VARIANCES

The Petitioner is requesting to encroach seven (7) feet into the thirty (30) foot Minimum Rear Yard Building Setback Line² as depicted on the Site Plan (see **Exhibit 3**).

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this property within the "Existing Suburban Residential" 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 October 13, 2020, 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 UDO³ 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 UDO⁴ 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.

² Article 4.5(E)(3)(a): Rear Yard Minimum Building Setback Line is 30'.

³ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

⁴ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

October 13, 2020
2010-VS-29
Exhibit 1

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.

DEPARTMENT COMMENTS

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

Recommended Conditions:

1. Approval shall only be valid for the pool noted on the Site Plan (**Exhibit 3**).
2. Construction shall be substantially compliant with the Site Plan (**Exhibit 3**).

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 use of the property will remain residential and the proposed improvements will be consistent in design with the existing structures.

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 proposed improvements will be consistent in design with the Property.

3. **The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.**



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

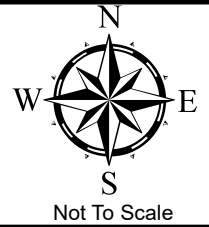
October 13, 2020
2010-VS-29
Exhibit 1

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 residential use of the property is otherwise permitted by the applicable ordinances.

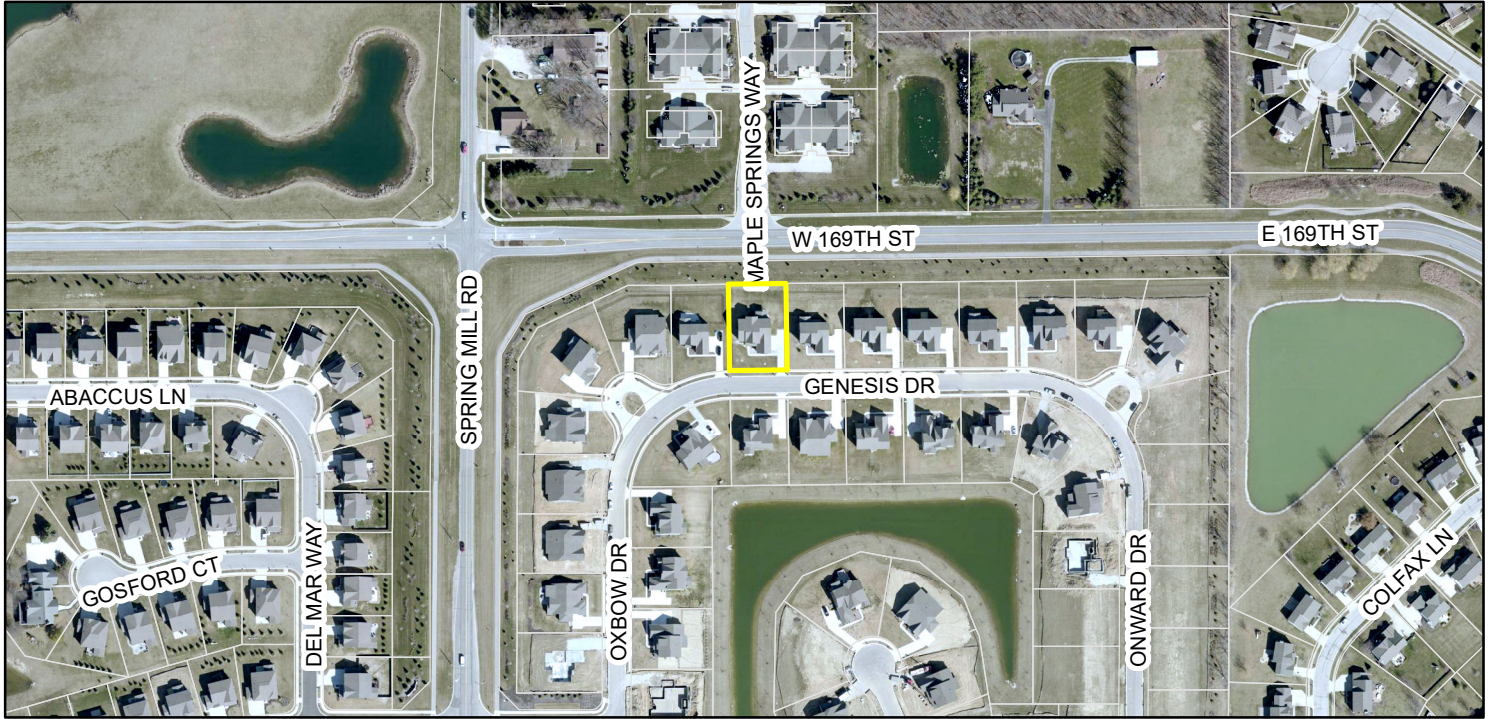
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.



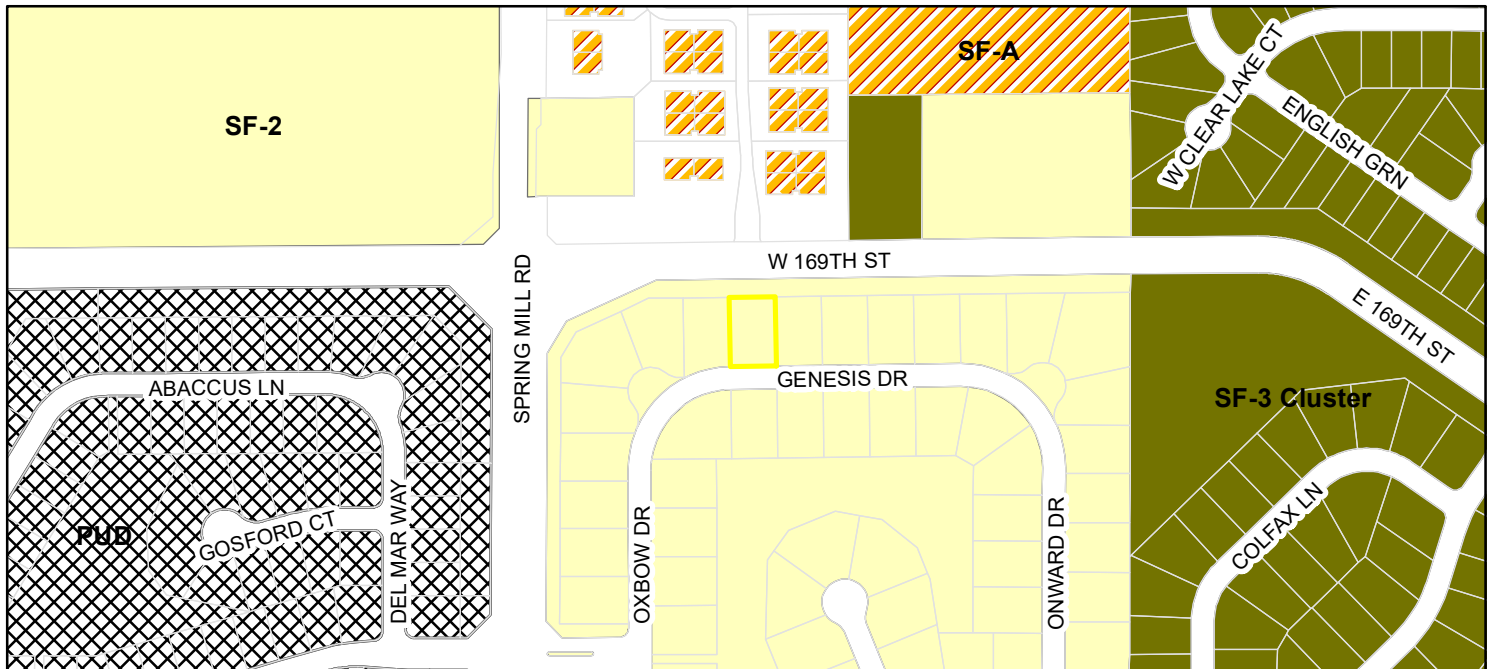
Property Location Map
312 Genesis Drive
Grisel Variance
2010-VS-29



Aerial Location Map

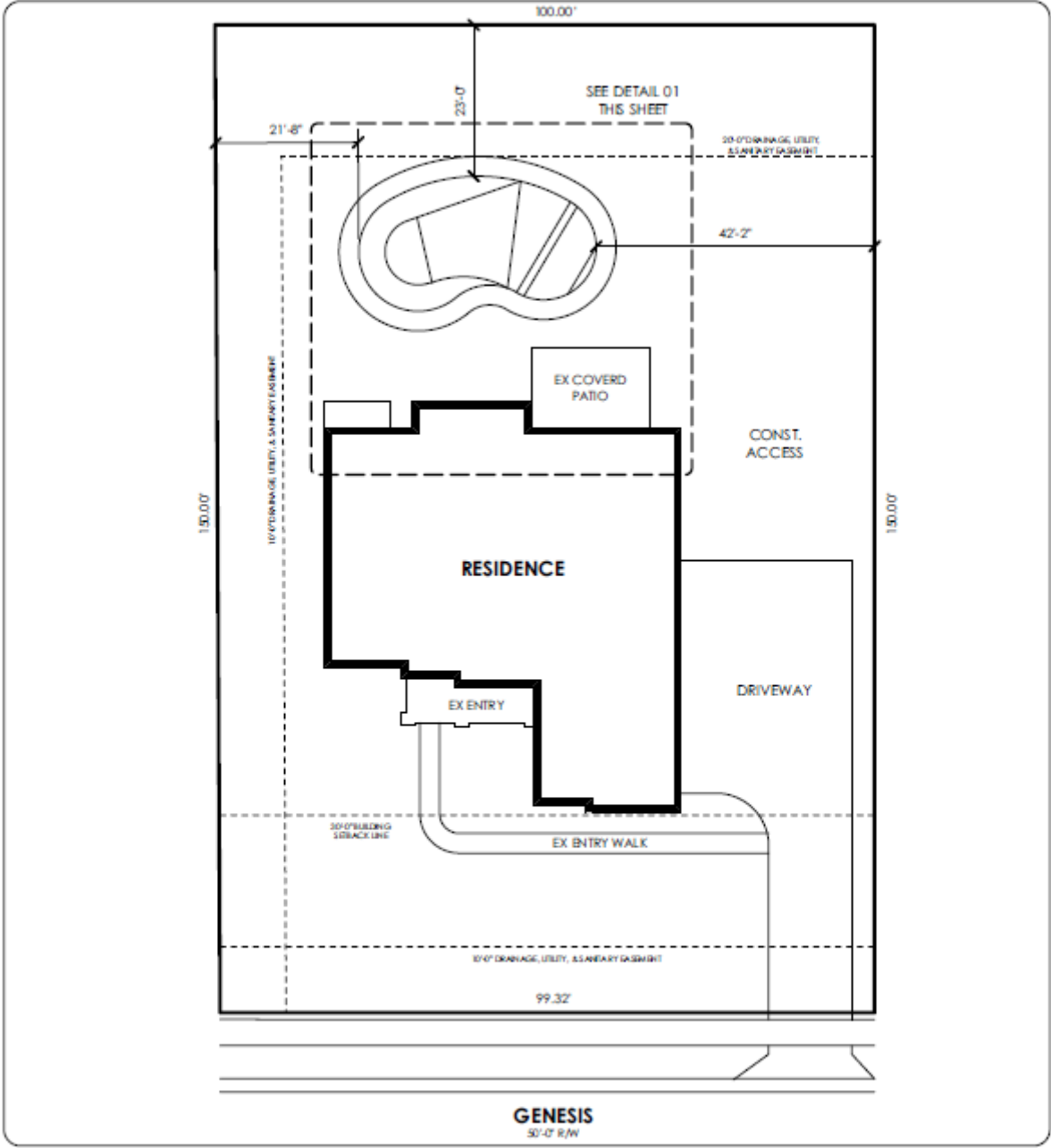


Zoning Map



- Parcel
- Zoning - All**
- Zoning**
- SF-2 (Single Family - 2)
 - SF-3 Cluster
 - SF-A (Single Family - Attached)
 - PUD (Planned Unit Development)

Exhibit 3
Site Plan



02

SITE PLAN
SCALE: 1" = 20'-0"

GENESIS
50'-0" R/W





Westfield Community Development
2728 E. 171st Street | Westfield, IN 46074
317.804.3170 | nwoerner@westfield.in.gov

VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: 2010-VS-29

FILING DATE: _____

FILING FEE: \$ _____ FEE PLUS \$ _____ PER ADDITIONAL VARIANCE (@ _____) = \$ _____

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: _____ (STAFF NAME) DATE: _____

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: _____ AMENDMENTS: _____ DEVELOPMENT PLAN: _____

PRIMARY PLAT: _____ SECONDARY PLAT: _____ VARIANCE(S): _____

APPLICANT INFORMATION

APPLICANT'S NAME: Joell & Heather Grisel

ADDRESS: 312 Genesis Drive, Westfield, IN 46074

TELEPHONE: 574-595-0310

EMAIL: jdgrisel12@gmail.com

PROPERTY OWNER'S NAME: Joell & Heather Grisel

ADDRESS: 312 Genesid Drive, Westfield, IN 46074

TELEPHONE: 574-595-0310

EMAIL: jdgrisel12@gmail.com

REPRESENTATIVE'S NAME: _____

COMPANY: _____

ADDRESS: _____

TELEPHONE: _____

EMAIL: _____

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 312 Genesis Drive, Westfield, IN 46074

COUNTY PARCEL ID #(S): 29-09-02-052-019.000-015

EXISTING ZONING DISTRICT(S): Residential

EXISTING LAND USE(S): Residential

PROPERTY AND PROJECT INFORMATION

☒ VARIANCE OF LAND USE

CODE CITATION: _____

☐ VARIANCE OF DEVELOPMENT STANDARD(S)

CODE CITATION: _____

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY): To gain a variance to build an in-ground pool

APPLICANT AFFIDAVIT

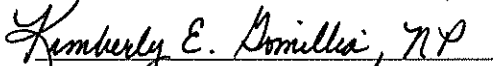
IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says that above information is true and correct as he/she is informed and believes and that Applicant owns or controls the property involved in this application.


Applicant/Representative (signature)

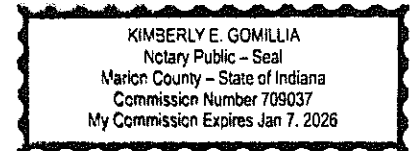
Joell D. Grisel
Applicant/Representative (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the above party, who having been duly sworn acknowledged the execution of the foregoing Application.

Witness my hand and Notarial Seal this 3rd day of September, 2020
State of Indiana County of Marion, SS: _____


Notary Public (signature)

Kimberly E. Gomillia, NP
Notary Public (printed)



PROPERTY OWNER AFFIDAVIT

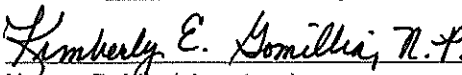
IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says they are the owners of the property involved in this application and that they hereby acknowledge and consent to the foregoing Application.


Property Owner (signature)*

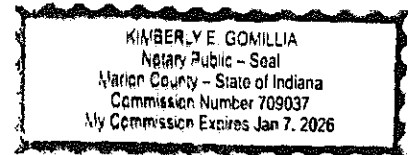
Joell D. Grisel
Property Owner (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the Property Owner, who having been duly sworn acknowledged and consents to the execution of the foregoing Application.

Witness my hand and Notarial Seal this 3rd day of September, 2020
State of Indiana County of Marion, SS: _____


Notary Public (signature)

Kimberly E. Gomillia, NP
Notary Public (printed)



*A signature from each party having interest in the property involved in this application is required. If the Property Owner's signature cannot be obtained on the application, then a notarized statement by each Property Owner acknowledging and consenting to the filing of this application is required with the application.

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: Joell & Heather Grisel

DOCKET #: _____

In taking action on a variance request, the Board of Zoning Appeals uses the following decision criteria to approve or deny a variance, as established by Indiana Code, and the Board may impose reasonable conditions as part of its approval. The applicant must address the criteria below (if multiple variances of development standard are being requested, then this sheet should be completed separately for each requested variance). A variance of land use may be approved by the Board of Zoning Appeals only upon a determination that the Board finds all of the following to be true:

- A. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because: This approval relates to our personal in-ground pool installed on our personal property. It will enhance our property value and will not be available for use to the public.

- B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: The in-ground pool will be installed completely within our property lines and easements and following all existing codes and regulations.

- C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: The in-ground pool specs are showing that the outer edge of the planned pool is at 23 feet 1 inches from our property line. The variance is requested because the current guidelines show that the pool must be at 30 feet from the property line.

GENERAL INSTRUCTIONS

- A. **Pre-Filing Conference:** A pre-filing conference is required for all petitions. An appointment must be made with the Community Development Department (the "Department") to discuss a petition prior to filing. An application will not be considered filed until a pre-filing conference has occurred. Applicants are encouraged to incorporate the Department's comments into the application prior to filing.
- B. **Filing Petition:** A petition shall be filed with the Department by the filing deadline in accordance with the Schedule of Meeting and Filing Dates. In order to be deemed a complete petition, a petition shall include the following:
- | | |
|---|--|
| ☐ Completed Application | ☐ Legal Description |
| ☐ Draft Public Notice | ☐ List of Adjoining Property Owners (as provided by County) |
| ☐ Property Owner Consent | ☐ TAC Delivery Affidavit (if TAC is determined to be necessary) |
| ☐ Site Plan (to scale) | ☐ Copy of Property Deed |
| ☐ Statement of Intent | Elevations, photographs or other supporting information necessary to explain the nature of the requested variance(s) |
- C. **Filing Fee Check:** After the filing of an application, the Department will advise the applicant of the applicable filing fee amount, which is due and payable (checks made out to "City of Westfield") within two (2) weeks of filing.
- D. **Technical Advisory Committee (TAC):** The applicant is responsible for submitting a copy of the application and related information to Technical Advisory Committee members prior to filing, if determined by the Department to be necessary. An affidavit confirming delivery of information is required to be completed and signed by the applicant and submitted with the petition. Technical Advisory Committee meetings are held in the City Services Building (2728 East 171st Street, Westfield, IN 46074) in accordance with the Schedule of Meeting and Filing Dates. A representative must be present at this meeting.
- E. **Public Hearing and Notice:** All variance petitions require a public hearing by the Board of Zoning Appeals. The public hearing is held at City Hall, 130 Penn Street, Westfield, Indiana, in accordance with the Schedule of Meeting and Filing Dates. Notice of the hearing is required in accordance with the Board's Rules of Procedure:
1. **Newspaper Publication:** Notice of the hearing will be published in the Hamilton County Reporter and The Times. The Department will handle the newspaper publication requirement.
 2. **Mailed Public Notice:** The applicant is responsible to send public notice by certified mail with proof of mailing (certificate of mailing) to all interested parties, postmarked at least ten (10) days prior to the hearing. A list of adjacent property owners may be obtained from the **Hamilton County Auditor, Office of Transfers and Mapping** (33 North 9th Street, Noblesville, IN 46060, (317) 776-9624), and shall include all owners of property to a depth of two (2) ownerships of no direct or indirect financial or other interest to the applicant or property owner or one eighth of a mile (1/8), whichever is less.
 3. **Public Notice Sign:** The applicant is responsible to post a public notice sign(s) on the property at least ten (10) days prior to the public hearing. The Department will determine sign locations and will make signs available for the applicant to obtain in the office of the Department.
 4. **Affidavit of Notice of Public Hearing:** The applicant shall deliver a copy of the mailed notice and a signed affidavit, verifying that the notices were mailed and the public notice sign(s) was posted on the subject property, to the Department at least four (4) calendar days prior to the public hearing.
- F. **Ex-parte Communication:** In no event shall applicants or other interested parties contact or attempt to communicate with members of the Board in regard to a filed variance petition prior to the public hearing.
- G. **Revised Materials:** If the applicant wishes to submit additional or revised information than what is filed, then the applicant shall submit those to the Department no later than ten (10) days prior to the public hearing.
- H. **Board's Consideration:** Following the public hearing, the Board may either approve, approve with conditions, deny or continue the petition.
- I. **Resource:** Please see the Board's Rules of Procedure for more detailed procedural information.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

October 13, 2020

2009-VS-26

Exhibit 1

Petition Number: 2009-VS-26

Subject Site Address: 15533 Hidden Oaks Lane (The "Property")

Petitioner: Stephen and Jodi Buyer (The "Petitioner(s)")

Request: The Petitioner requests a Variance of Development Standard to encroach twenty-two (22) feet into the forty-five (45) foot Minimum Rear Yard Setback on 0.46 acres +/- in the Bridgewater PUD District.

Current Zoning: Bridgewater PUD (Ord. 06-49)

Current Land Use: Residential

Approximate Acreage: 0.46 acres+/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. Site Plan With Aerial
5. HOA Approval
6. Buyer Exhibits
7. Neighborhood Meeting Summary

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject Property is 0.46 acres +/- in size and is located at 15533 Hidden Oaks Lane (see **Exhibit 2**). The Property is currently zoned Bridgewater PUD. The surrounding properties are also zoned Bridgewater PUD.

Variance Request: The Petitioner is requesting a Variance of Standard to encroach twenty-two (22) feet into the forty-five (45) foot Minimum Rear Yard Setback as further described herein.

SUMMARY OF VARIANCE

The Property is currently subject to Zoning Standards for Bridgewater PUD District as set forth in Ordinance 06-49. The zoning sets forth a minimum rear yard setback line of forty-five (45) feet. The Petitioner is requesting this variance to encroach twenty-two (22) feet into the forty-five (45) foot Minimum Rear Yard Setback to accommodate a swimming pool, as illustrated on the Site Plan (see **Exhibit 3**).



COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan (The “Plan”) identifies the property within the “Existing Suburban” land use classification¹. The vision for the Suburban Residential classification is contemplated for future residential growth of the community, generally to the west and north of the Existing Suburban area.²

The Existing Suburban classification is designed to accommodate detached dwellings, attached dwellings, institutional uses, and recreational uses³. The Plan also contemplates Existing Suburban to:

- Ensure that new development occurs in a way that it is contiguous with existing development:
- Prevent monotony of design and color. Recognize that quality in design applies not just to individual homes, but to the collective impact of an entire development:
- Encourage a diverse range of homes styles in individual subdivisions, using innovative architecture of a character appropriate to Westfield, and:
- Emphasize connectivity between subdivisions, and avoid creating isolated islands of development.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Standard. This petition received its public hearing at the September 15, 2020, 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.

The project received a continuation until the October 13, 2020, Board of Zoning Appeals meeting.

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

¹ Page 24 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Land Use Classifications and Development Policies.

² Page 38 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Background.

³ Pages 38-39 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan; New Suburban.

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

October 13, 2020

2009-VS-26

Exhibit 1

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 Standard: The Board of Zoning Appeals shall approve or deny variances from the terms of the UDO. A variance may be approved under Indiana Code § 36-7-4-918.4 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;
- 3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property; and

DEPARTMENT COMMENTS

Approval: If the Board is inclined to approve the Variance of Standard (2009-VS-26), then the Department recommends the findings as set forth below, for the variance:

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 would be injurious to the public health, safety, morals, and general welfare of the community because the existing use and proposed improvements will otherwise comply with the applicable standards of the zoning of the Bridgewater PUD.

- 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:*

⁶ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

October 13, 2020

2009-VS-26

Exhibit 1

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 adjacent surrounding properties because the use of the Property will not change.

- 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 and would result in the construction of a swimming pool and deck that would not suit the needs of the Petitioner.

Recommended Condition:

- That the variance is applicable only to the swimming pool and hardscape as generally illustrated on the site plan. The swimming pool specifically shall be installed in substantial conformance with the site plan as determined by the Director of the Westfield Department of Community Development.

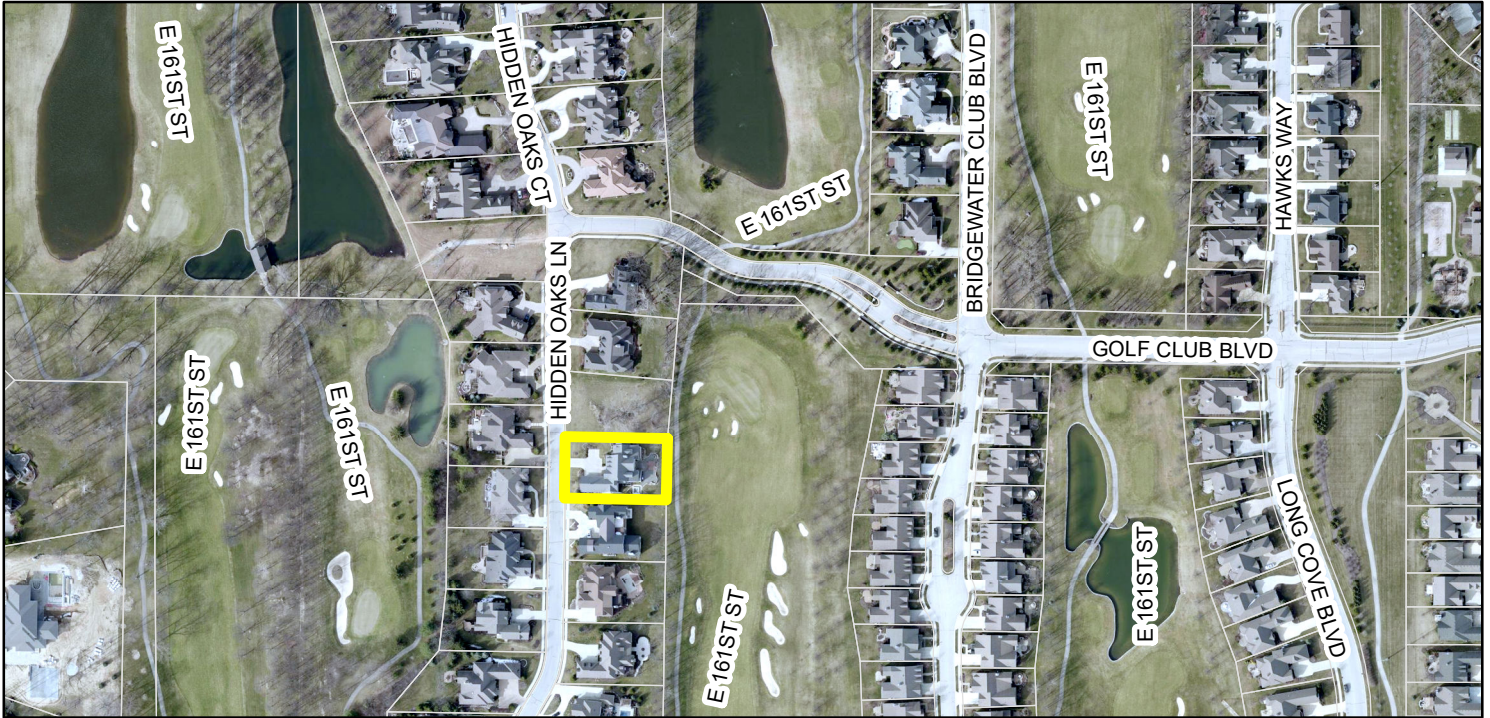
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.



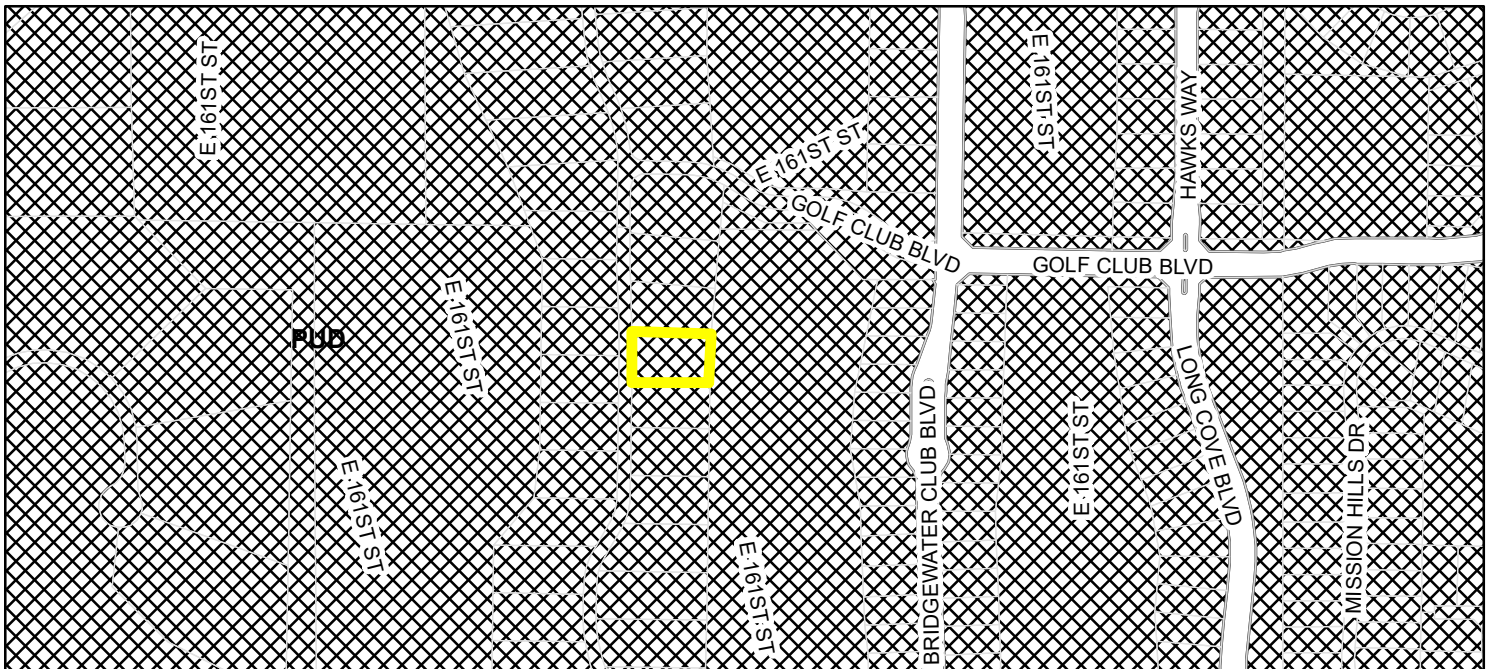
Property Location Map
15533 Hidden Oaks Court
Variance of Development Standard
2009-VS-26



Aerial Location Map



Zoning Map



LOT SIZE: 19,826 SQ.FT.
CONC. DRIVEWAY: 2,024± SQ.FT.
PUBLIC WALK: 376± SQ.FT.

APPROVED

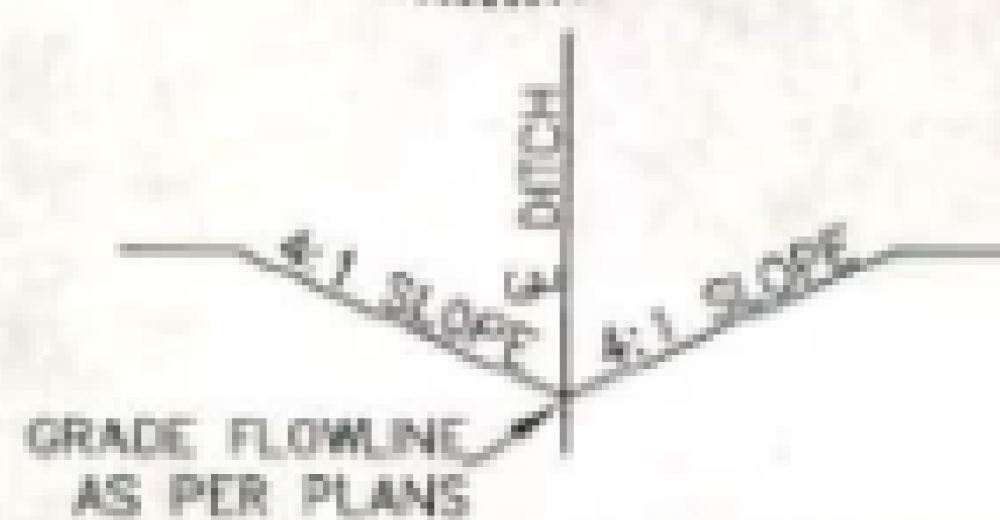
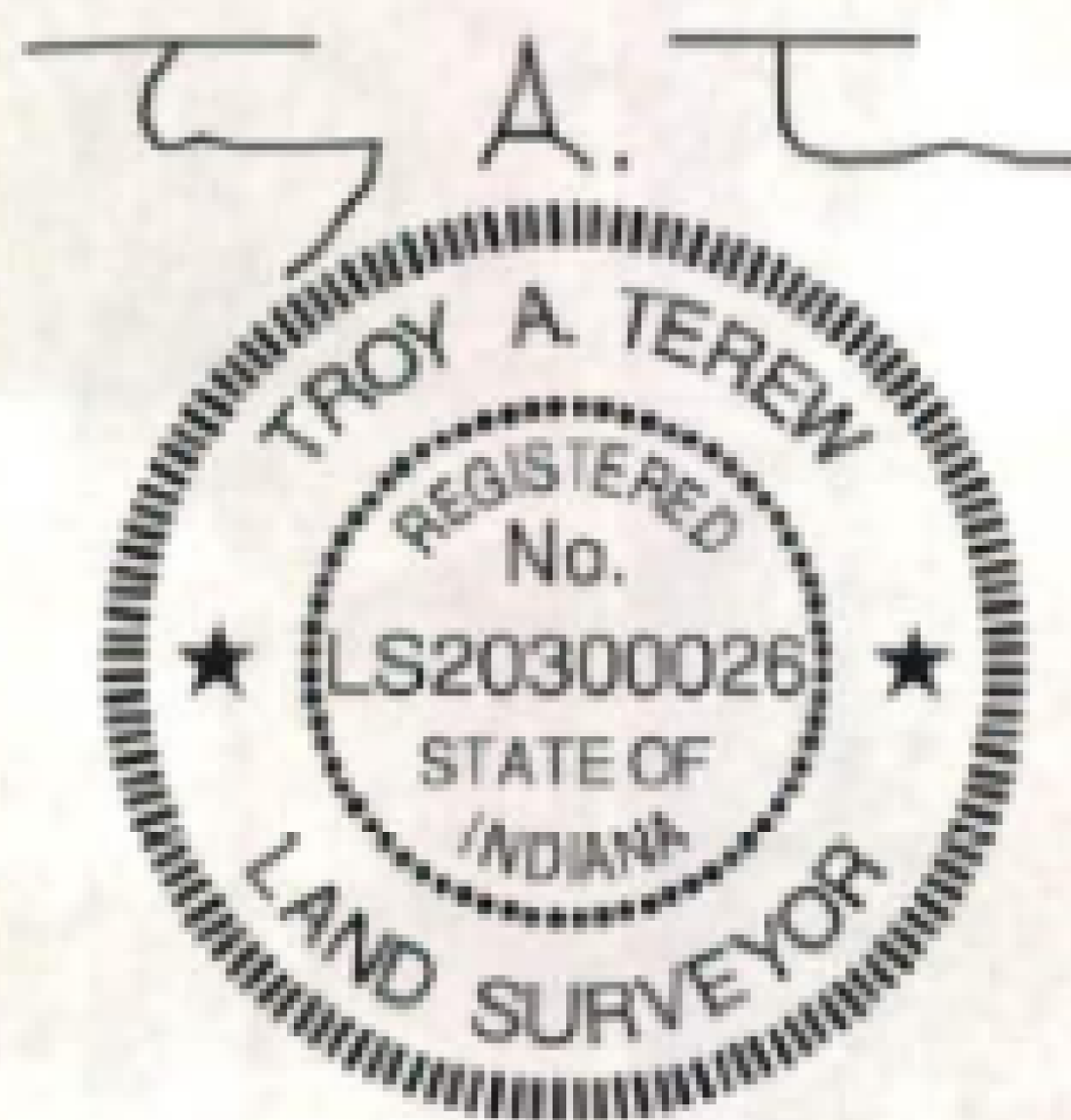
DATE 11-18-09

BY M.S./P.A.

THIS IS A TRUE PLOT PLAN
SHOWING PROPOSED LOCATION OF
BUILDING AND EXISTING BUILDINGS
ON THIS LOT OR PLOT

SIGNED

TAT



TYPICAL SWALE SECTION

NOTE: BUILDER TO ENSURE POSITIVE DRAINAGE AWAY FROM STRUCTURE(S)

NOTE:

- DRIVE ENTRY TO CONFORM WITH TOWN OF WESTFIELD STD.
- SEE SHEET 2 FOR CLEAN WATER PERMIT EROSION CONTROL PLAN
- THE LOCATIONS, DIMENSIONS, AND WIDTH ALONG THE PROPOSED PUBLIC SIDEWALK WERE SCALED OR TAKEN FROM ENGINEERING CONSTRUCTION PLANS PREPARED BY OTHERS OR AS PROVIDED.
- VERIFY SANITARY LATERAL LOCATION PRIOR TO CONSTRUCTION
- IT SHALL BE THE RESPONSIBILITY OF THE BUILDER/CONTRACTOR TO VERIFY THE BUILDING DIMENSIONS, BUILDING LOCATIONS, THE LOCATION OF OTHER PERTINENT FEATURES AND ELEVATIONS PRIOR TO THE START OF CONSTRUCTION. THE INTENDED USE OF THIS PLOT PLAN IS FOR SECURING BUILDING PERMITS ONLY AND SHALL NOT BE USED FOR ANY OTHER PURPOSE.

True North
Surveying, LLC
"POINTING YOU IN THE RIGHT DIRECTION"

LAND SURVEYING &
LAND DEVELOPMENT CONSULTING
1055 WINDHAM LAKE DRIVE
INDIANAPOLIS, INDIANA 46214
PHONE: (317)-290-1290
FAX: (317)-290-1293

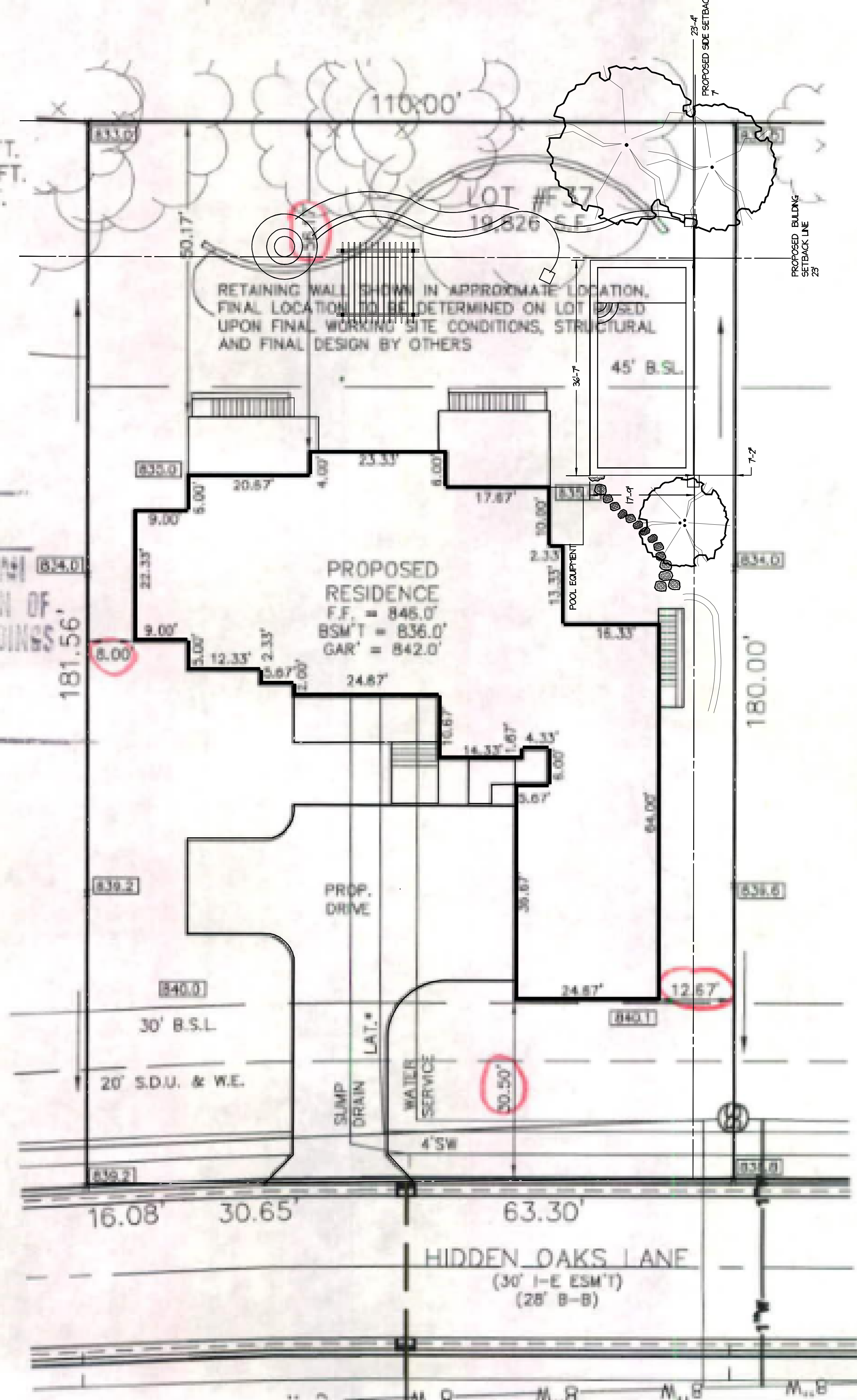
DRWN: TAT
JOB#: 09-292

ZONED:
ZONING: 15' BETWEEN
7' MIN. SIDE

DATE: 11/02/09
REV.:

SCALE: 1" = 30'

F.F.E. HSE: 846.0'
F.F.E. GAR: 842.0'
F.F.E. BSM'T: 836.0'



EXTERIOR PROTECTION GRADE:
THE DEVELOPMENT PLAN
REFERENCES AN EXTERIOR
PROTECTION GRADE OF 838.0'
BEING THE LOWEST SURFACE
OPENING PERMISSABLE FOR THIS
LOT, FOR BASEMENT OPENINGS,
THIS REFERS TO THE TOP OF
THE WALL OF THE WELL, AND
NOT THE SILL OF THE OPENING.

LEGEND

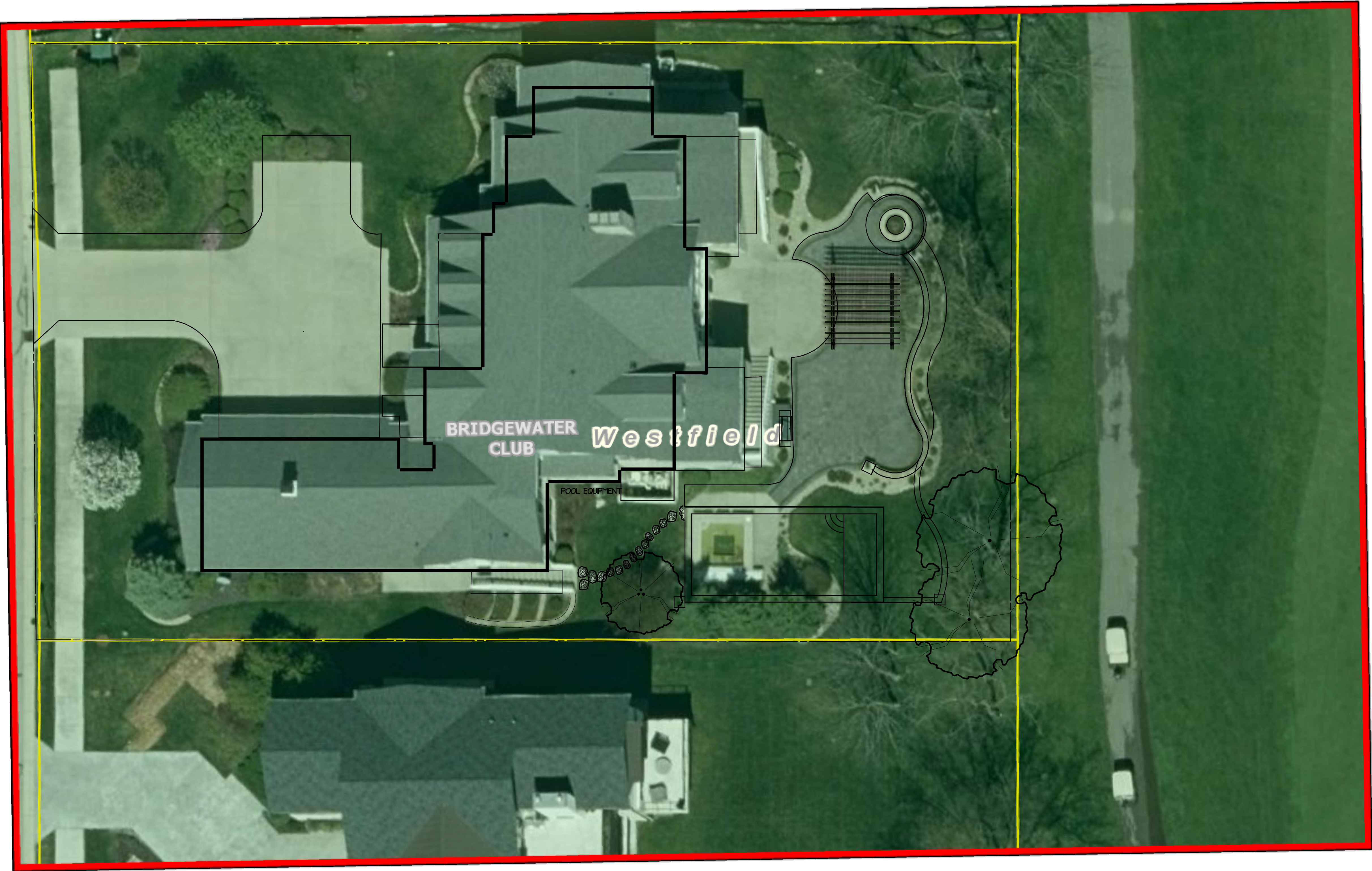
000.0 — PROPOSED GRADE
000.0 — EXISTING GRADE

SHEET 1 OF 2

STAKE ACTUAL CORNERS STAKE BIG BOX 5'x5' 10'x10'

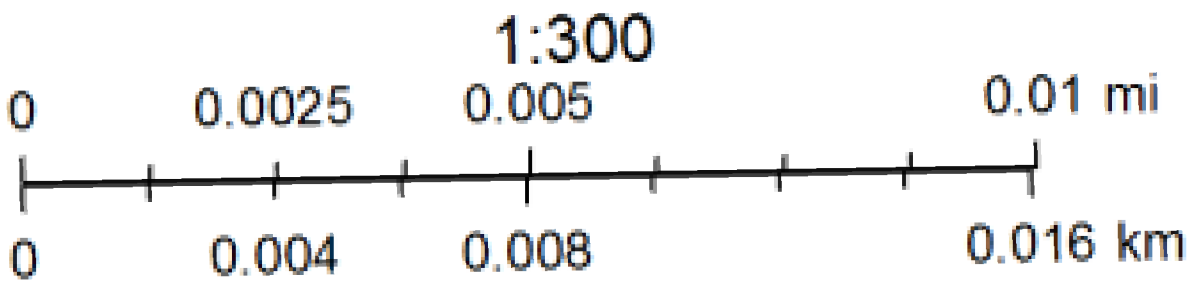
FINAL CHECKED BY: DATE:

Hamilton County, Indiana



June 10, 2020

 Parcel Boundary (public)



REQUEST FOR ARCHITECTURAL CHANGE

Please Print

1. Community: **The Bridgewater Club Master Owners Association Lot #: F37**

Name: **Stephen E. and Joni L. Buyer** Address: **15533 Hidden Oaks Ln**

Phone: **202-552-9119** Fax: **EMAIL ADDRESS: fourboos4@hotmail**

FOR ALL SUBMISSIONS THE FOLLOWING ATTACHMENTS ARE REQUIRED:

- ☐ A Plot Plan or a Surveyors Location Report of your lot should have been provided at closing.
Please indicate the location of the proposed addition/improvement will be installed (on a copy).
- ☐ Please include Elevations and Blueprints or working drawings indicating all dimensions.
- ☐ If available, a photograph or drawing of a similar completed project.

THE COMMITTEE MAY TAKE UP TO 30 DAYS TO REPLY – PLEASE PLAN ACCORDINGLY – THANK YOU!

2. Requesting architectural approval of the following: ☒ Improvement ☐ Addition ☐ Repair/Replacement

Briefly describe the proposed change:

Removal of existing inground spa and replacement with inground gunite pool. Extending patio around pool to create pool deck and extending seat wall to block from golf course. Wall and patio to be constructed with materials that match existing corresponding surfaces. Change 45' building setback line as platted to 23' to accommodate the new pool and seat wall

Location: Backyard

Dimensions: 15'x 34' pool ~ 350 square feet of pool deck

Please list below the major construction materials that will be used in this project. Be as specific as possible:

Unilock Richcliff Pavers, Unilock Estate Wall for seat walls and columns. Pool to be constructed from gunite and plaster with natural limestone coping and autocover.

***Requests for exterior color/materials changes MUST submit samples of color, paint, brick, etc.
(Exterior materials must conform to the original construction or be sufficiently compatible.)***

4 Project schedule:

A. The work will be performed by: Homeowner or Contractor Name: Mike McGhee and associates and Northshore Landscape llc

B. Subsequent to the committee approval,

please indicate the projected start date

on or around 10/1/2020

please indicate the projected end date

on or around 5/15/2021

C. Please indicate all required permits (building, etc.) building, electrical permits

5. Will any part of the proposed improvement extend beyond your property line? No
6. Will any part of the proposed improvement extend into any Common Area, any Utility, Drainage or Sewer Easement, Landscape, Preservation or Lake Easement shown on the plot plan of your lot? No

ARCHITECTURAL CHANGE STANDARDS

I understand that under the Declaration and the rules and regulations, the Board will act on this request and provide me with a written response of their decision. I further understand and agree to the following provisions:

1. No work or commitment of work will be made by me until I have received written approval from the Association.
2. All work will be done at my expense and all future upkeep will remain at my expense.
3. All work will be done expeditiously once commenced and will be done in a good workman-like manner by myself and/or a licensed and insured contractor.
4. All work will be performed at a time and in a manner to minimize interference and inconvenience to other owners.
5. I assume all liability and responsibility for all damage and/or injury which may result from performance of this work.
6. I will be responsible for the conduct of all persons, agents, contractors, and employees connected with this work.
7. I understand that any and all improvements placed in a drainage, utility, sewer, landscape or other easement is at my risk. I accept the responsibility for repair and/or replacement of improvements when utility, drainage or sewer principals, developer or other authorized party removes improvements for access to the easement.
8. I will be responsible for complying with, and will comply with, all applicable federal, state and local laws, codes, the community governing documents, regulations and requirements in connection with this work, and I will obtain any necessary governmental permits and approvals for the work. I understand and agree that the Association, it's Board of Directors, its Agent and/or the Committee have no responsibility with respect to such compliance and that the Board of Director's and/or its designated Committee's approval of this request shall not be understood as the making of any representation or warranty that the plans, specifications or work comply with any law, code, covenant, regulation and/or requirement.

I hereby acknowledge that I have read and understand the ARCHITECTURAL CHANGE STANDARDS set forth by the Board, as well as the Declaration of Covenants and Restrictions.

Homeowner's Signature:  Date: August 30, 20

**NOTE: All submitted materials shall remain the property of the Association.
You may wish to make a copy for your personal records.**

For ALL Submissions
Be sure to include the requested attachments listed on the previous page.

Please return the completed documents to:

The Bridgewater Club Master Association
Attn: Architectural Review Board, David Mennel
3535 East 161st St
Carmel, IN 46033
Email; david.mennel@thebridgewaterclub.com
Phone; 317-399-2490

..... **For Office Use Only**

Architectural Committee Action: **Date received:**

() Approved as submitted

(☒) Approved with restrictions as follows:

landscape buffer to be added as discussed

() Deferred: Please supply additional information:

() Denied: ARB Comments:

Committee Signature:



Date:

Dear Homeowner:

Any lot improvement made or installed within an easement is at the owner's risk regardless of the approval by the Architectural Control Committee. If for any reason repairs and or maintenance are required in the easement, any improvement(s) that are removed will not be reinstalled by the utility company or contractor.

This waiver must be signed and returned with the Request for Architectural Change, to protect you and the HOA of your community. It is to verify that you have a full understanding of the responsibilities and risk of developing an improvement into an easement.

If you are developing into an easement, it is also your responsibility to have the utilities marked prior to commencing by calling "Holey Moley" Indiana Underground Services @ 811.

EASEMENT WAIVER

This document is an acknowledgment that I/we,

NAME OF HOMEOWNER (S)

the owner(s) of the property located at

, IN.

STREET ADDRESS

CITY

of the

Homeowners Association Lot #

will be

NAME OF SUBDIVISION

installing

that extends into a drainage and/or utility and/or sewage easement and accepts full responsibility of any cost to replace this improvement if the utility company, developer or other authorized party needs to gain access to that area by removal of said improvement.

Signature of Homeowner

Date

Signature of Homeowner

Date

Return all required documentation to:

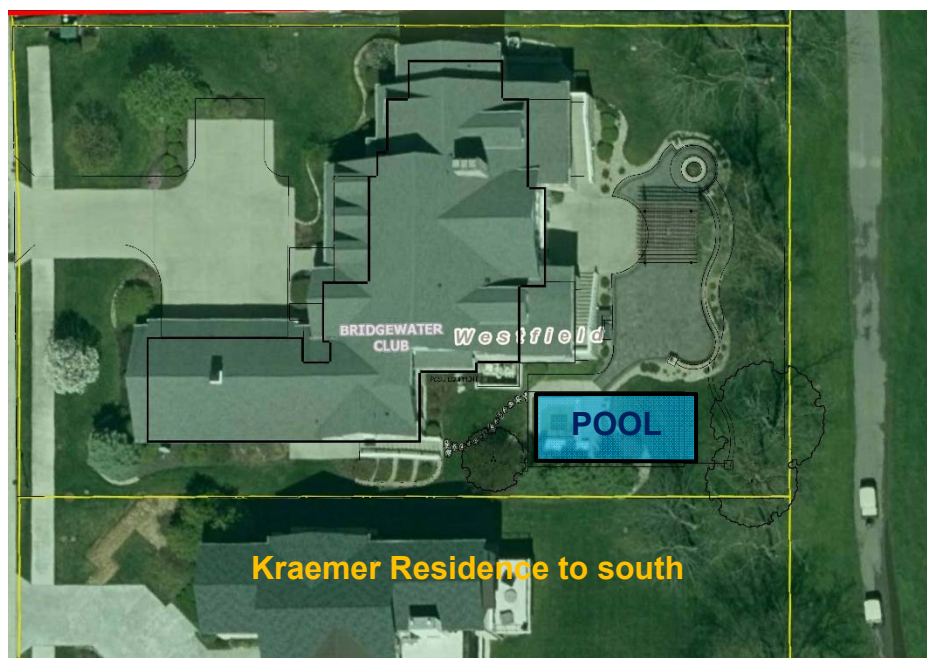
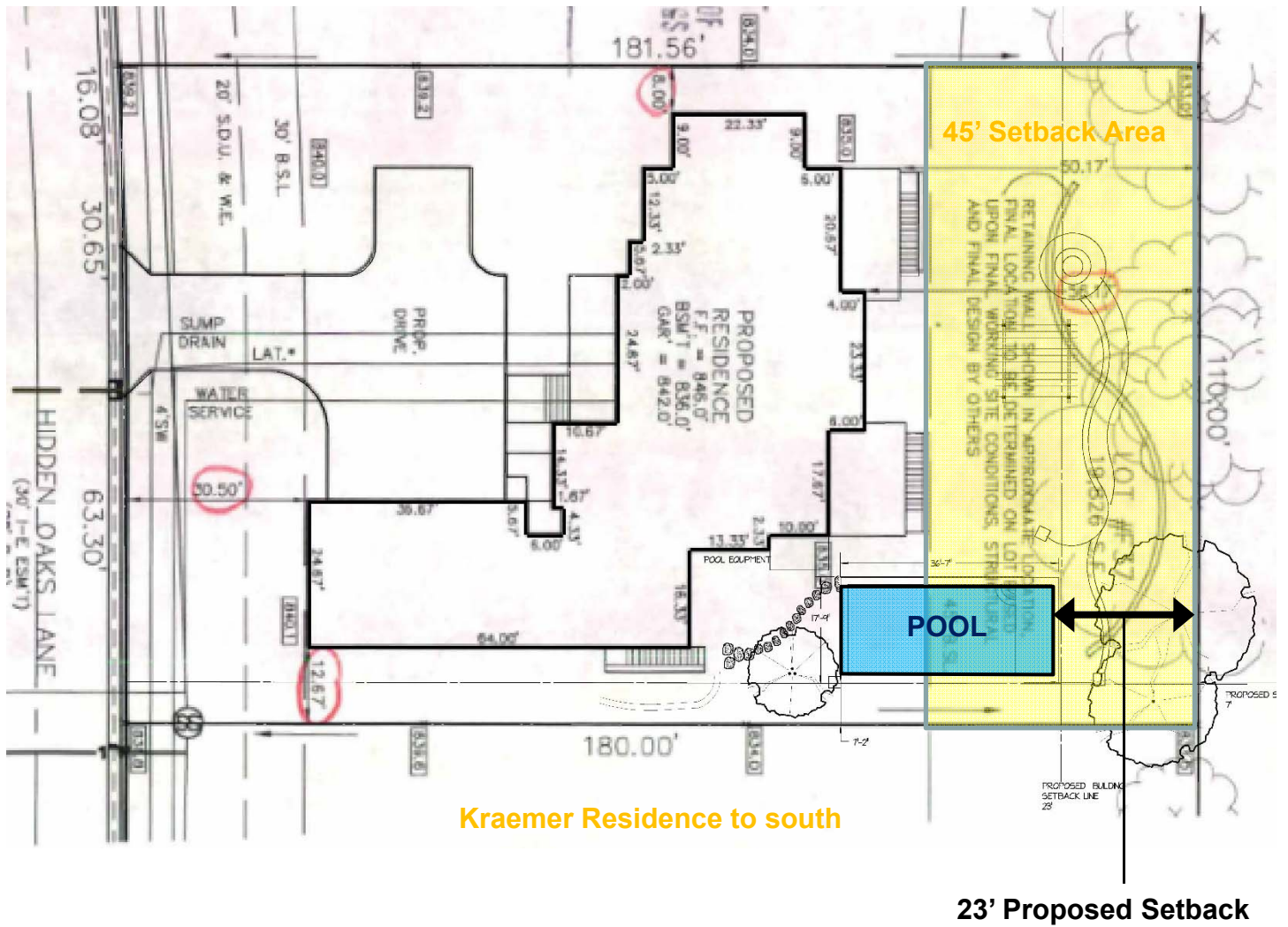
The Bridgewater Club Master Association
Attn: Architectural Review Board, David Mennel
3535 East 161st St
Carmel, IN 46033
Email; david.mennel@thebridgewaterclub.com
Phone; 317-399-2490



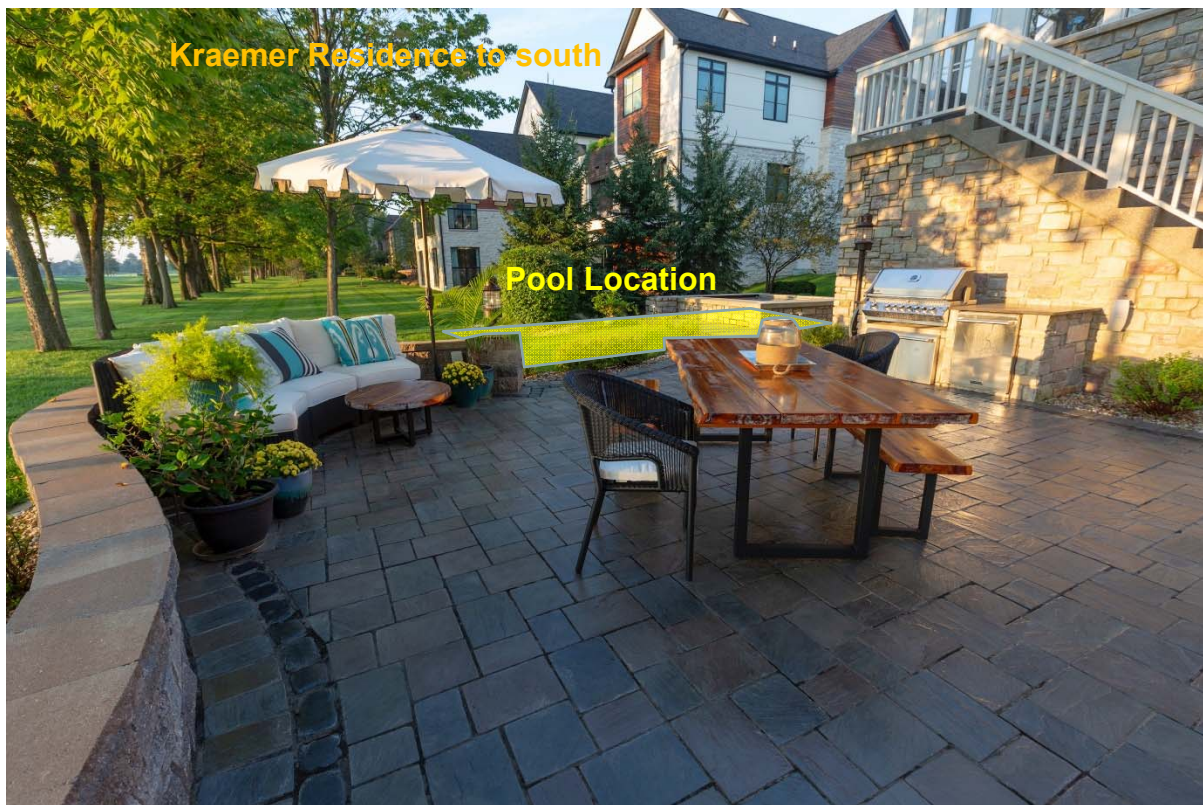
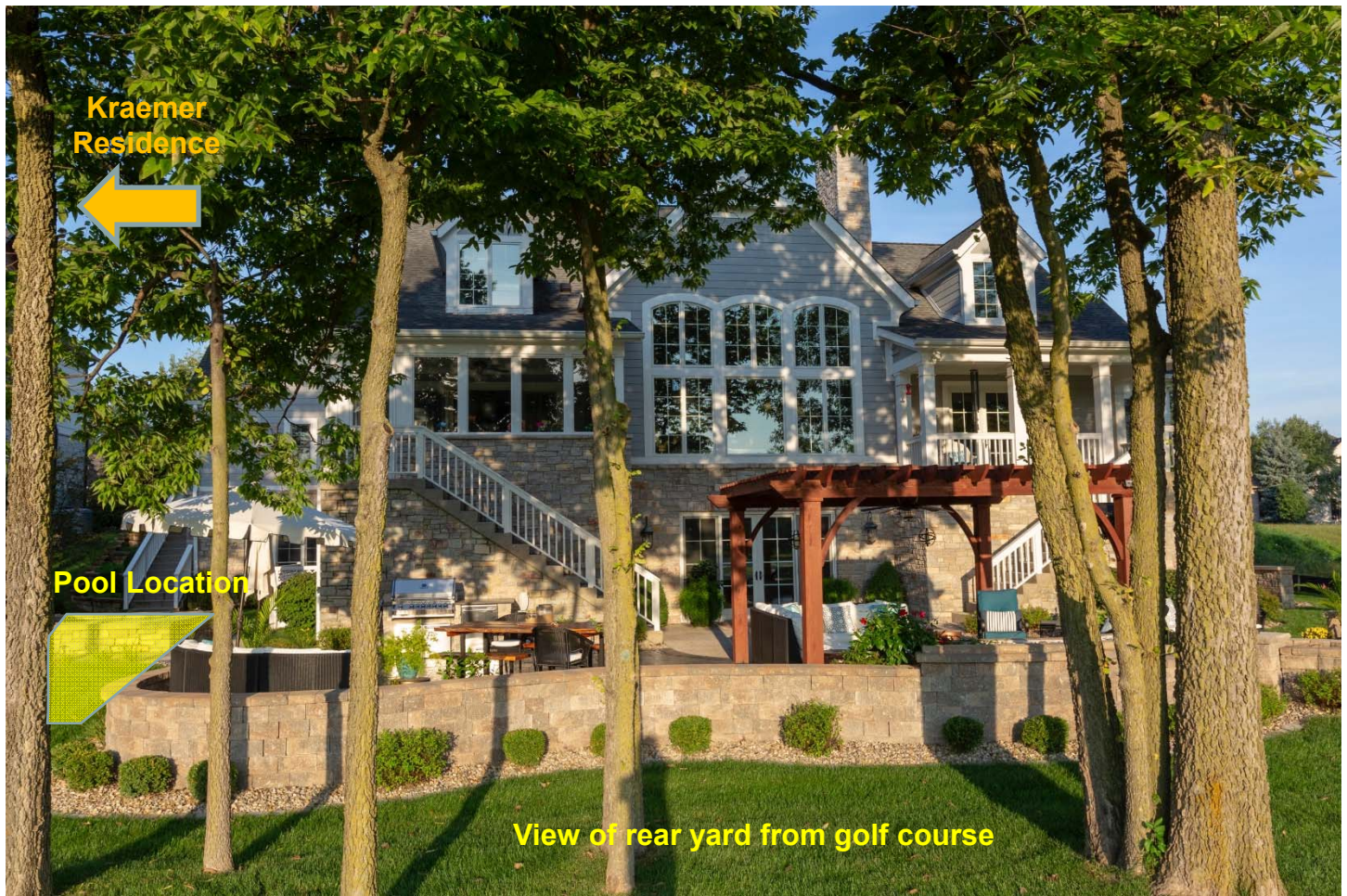
Site Location Map / Aerial Photograph



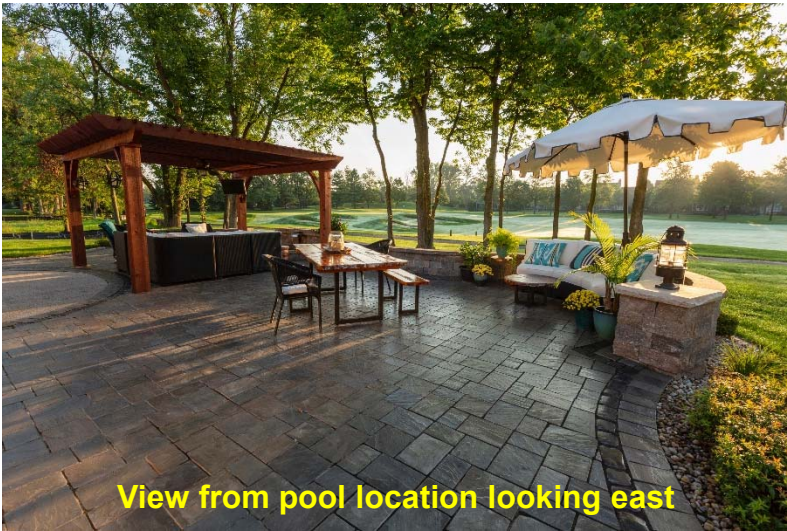
Site Location Map / Aerial Photograph



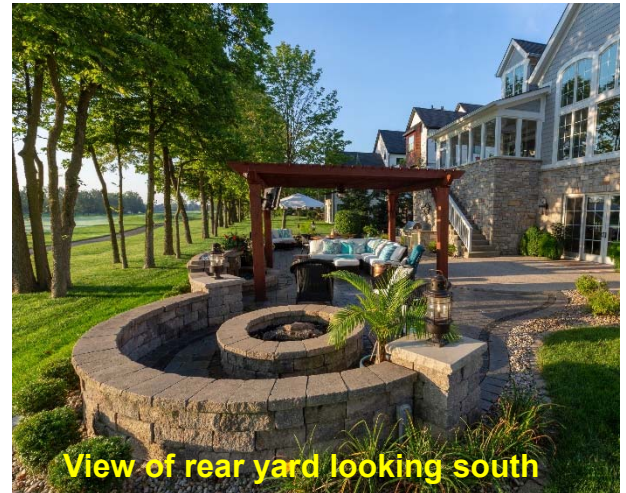
**Buyer Residence
Site Plan**



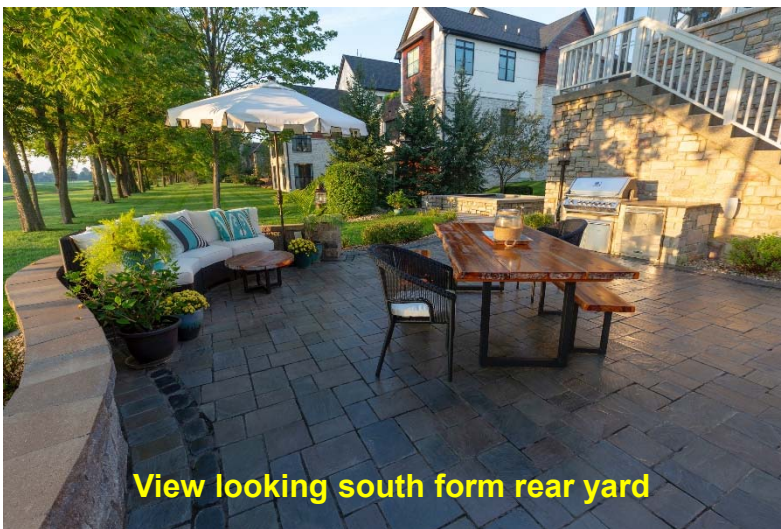
Buyer Residence
Photos (proposed pool location)



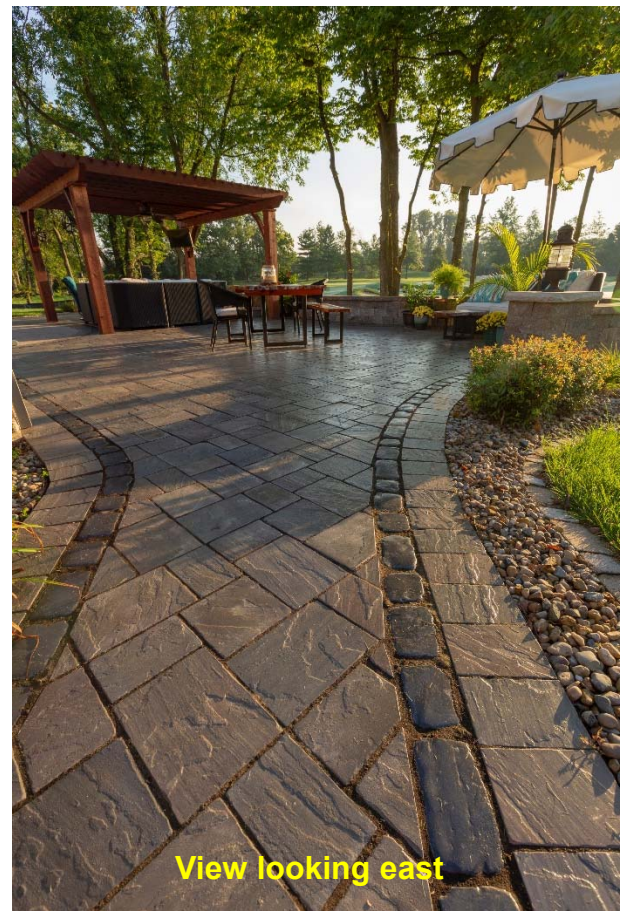
View from pool location looking east



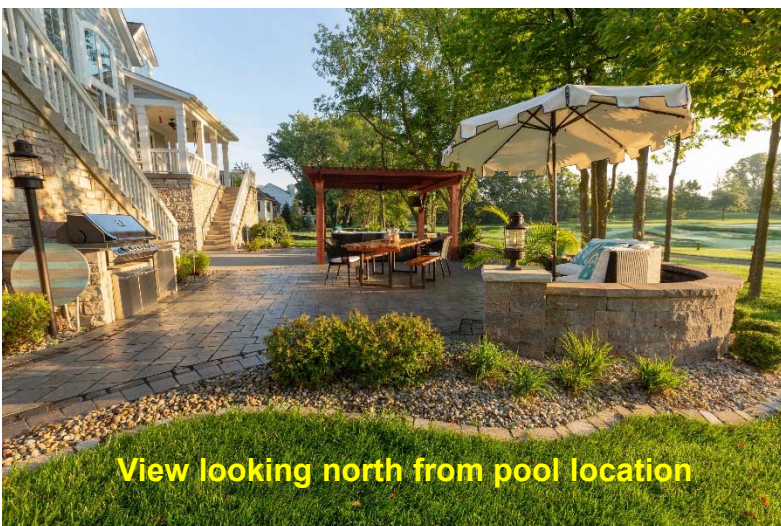
View of rear yard looking south



View looking south from rear yard



View looking east



View looking north from pool location

Buyer Residence

Photos (existing rear yard)

September 28, 2020 Neighborhood Meeting Summary

Project: Rear Yard Setback Variances for Davis Residence, Buyer Residence and Kraemer Residence

Applicants: Pete Davis,
Stephen and Joni Buyer, and
Paul and Kaprice Kraemer

Docket Number: Variance Docket Numbers: 2009-VS-25, 2009-VS-26 and 2009-VS-27

Date: September 28 at 7:00pm

Location: Bridgewater Club, 3535 East 161st Street, Carmel, IN 46033

Attendees: Jon Dobosiewicz – Nelson & Frankenberger
Pete Davis
Stephen and Jodi Buyer
Dr. Paul Kraemer
Pam Howard – Staff
See **Exhibit A:** Sign-in Sheet

Meeting began at 7:00pm.

Mr. Steve Buyer introduced himself and the other applicants. Steve described his request for the audience indicating among other things that his proposed pool was in a location which replaces his existing built-in large 10' x 10' spa with a 3.5-4 foot deep sport pool which would include no slide or diving board. Steve further described the proposed location, extension of the existing serpentine wall and proximity of the Kraemer home and how they would coordinate during construction of both pools during the off-season to accommodate golfers.

Dr. Paul Kraemer described their proposed pool indicating that it was a sport pool (depth 3.5-4ft) and would be constructed inside an existing hardscape wall with no way to tell the pool was there from the golf course. The pool will occupy an area already occupied by a patio which will be removed and replaced by the sport pool with no slide or diving board. There is no diving board in a sport pool. Dr. Kraemer spoke to the outreach he and the other applicants had done in communicating with neighbors and the overwhelming support they had received back from residents in Hidden Oaks and Bridgewater Pointe.

Pete Davis also spoke regarding his request noting the distance of golf play across the pond on golf course property, the size of the proposed pool (14' by 24'), that it was also a sport pool (depth 3.5-4ft) with no slide or diving board and the enhancement to the value of the property it would add.

Jon Dobosiewicz handed out some exhibits (attached) and provided an overview summary of the process and why neighbors had received the invitation to the meeting and potentially notice of the pending variance requests.

David Mennel spoke regarding the process the Master Association plays in working with residents who desire to make improvements noting that this year he had seen considerably more requests for home improvements this year in particular pool requests. Dave went on to describe the precedents over the past 12 years of varied setbacks on the golf course and why they were established and that in his experience variances were a normal part of the process. He thought there have been about five (5) variances a year over the last several years in Bridgewater. Dave also clarified that the Association process is separate from the City process an owner has to address in order to obtain all permits.

Neighbor Comments and Questions:

1. Why are we receiving this notice and not on other pool requests?

Mr. Dobosiewicz explained that the notice was sent out and they were having the meeting at the suggestion of the Board of Zoning Appeals (BZA) so that more people would be given an opportunity to share their comment or questions regarding the request so that the BZA might have more input in advance of making a final decision. He also explained that some pools have been constructed within the property's setback.

2. Is there a special fee for a BZA request?

It was noted that the BZA fee was approximately \$650 and there was not a fee for review by the Bridgewater Master HOA.

3. Mr. Cohen indicated that it looked like the applicants had worked to be considerate of neighbors but he was concerned about the encroachment in the rear yard putting people closer to the property line and the precedent he thought it would set on future requests down the road.

Mr. Buyer thanked Mr. Cohen for his comments and reviewed how he had worked with an architect and adjacent neighbors to protect them and the golf course. Mr. Buyer also stated that his variance is not setting a precedent as there have been many approved variances over the years that consume far more of the setback by area and distance.

Pam Howard explained that each variance is reviewed on a case by case basis and the BZA does not review past approvals in considering each variance that comes before them.

4. Pete Emigh thanked the applicants for their working with the neighbors and thought the plans were great and said he would do whatever he could to support the requests.
5. One attendee asked how they could help or attend the meeting to convey support.

Mr. Dobosiewicz noted that the public could send e-mails and/or attend the meeting on October 13th but that seating was limited due to Covid and that all e-mails would be shared with the BZA.

The meeting ended at 7:50pm

To: Hidden Oaks and Bridgewater Club Blvd HOA Members in Good Standing

You may have noticed there are multiple signs in yards advising of pending action before Westfield-Washington Township Advisory Plan Commission, including variances for incursions into backyard setbacks. Pete and Janna Davis, 15621 Hidden Oaks Ct., Steve and Joni Buyer (15533 Hidden Oaks), and my wife Kaprice and I (15519 Hidden Oaks) have submitted the proper plans and designs for swimming pools and we have met with Dave Mennel for appropriate considerations. The Bridgewater Club Master Club Association has approved each of our individual architectural plans which were drawn by professional landscape architects to fit seamlessly with the aesthetics of each home. We went before the planning commission on Sept 15th to present the request for variances.

There were complaints from 2 neighbors, Fred Schaefer and Jan Endres of Hidden Oaks, along with Michael Cohen from the BW Pointe neighborhood. The impression was given by Fred and Jan that the hearing notice was insufficient because not all members of Hidden Oaks HOA were informed. Fred and Jan expressed concern regarding "pools decreasing others' property values" and "the Buyer's hardscape and pergola was an eye sore" and "children would make noise." Mr. Cohen was concerned that a golf ball could hit a child. The Commission continued the hearing and suggested we get a better feel for the opinions of the neighborhood by holding a meeting.

We are requesting for you to express your opinion of support or concerns by either attending a meeting with us Monday evening at 7pm September 28th 2020 in the Landing Room at The Bridgewater Club or by Email, which in this COVID world may suffice.

Attached for your review are the plans for each of our three setback variances, with the proposed permanent changes in blue and the rest of the setback in yellow, and math shown in the margins.

Pete and Janna Davis (image does not show full setback) - 4% of setback square footage requested, (220 sq ft). On far side of pond in relation to Hole 8 tee boxes

Steve and Joni Buyer - 7% of setback square footage requested (355 sq Ft), within 25 feet of property line but protected by a short wall (contiguous with current wall in front of pergola) Nothing projects further back than currently approved and implemented hardscape

Paul and Kaprice Kraemer - 5.1% of setback for pool (253 sq ft), additional 2.4% (121 sqft) for larger sundeck, within 23 feet of setback, all behind current stone short wall. Nothing projects further back than currently approved and implemented hardscape

Many of you have pools and most of you know us, The three of us are committed to the beauty and charm of our neighborhood, the well being of our neighbors, and to the Club.

We are simply asking for very minor variances to place our pools at more aesthetic angles. We are aware that we can place the pools within the setback areas upon the sole approval of Dave Mennel; however, the pools would not be aesthetically appealing and could therefore decrease each property's value and perhaps negative consequence upon others. We believe the attached plans are ideal for each home, and thereby for the neighborhood collectively. We value your thoughts.

If you can not attend our meeting, please email any comments to us so that we may have a record to bring to the October 13th Commission meeting. We will then reappear before the Commission to request approval for our variances of less than 10% of the rear area set-back.

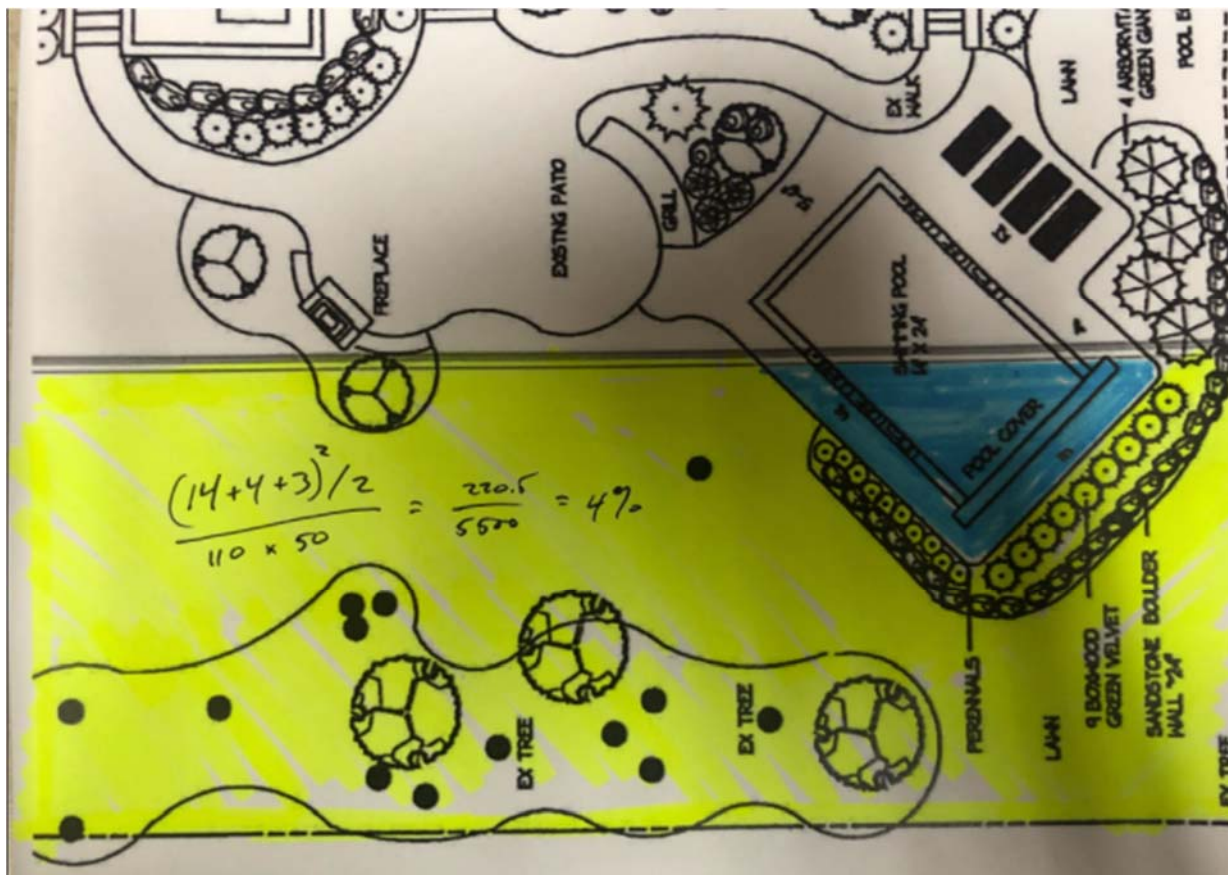
We appreciate your considerations and look forward to hearing from you.

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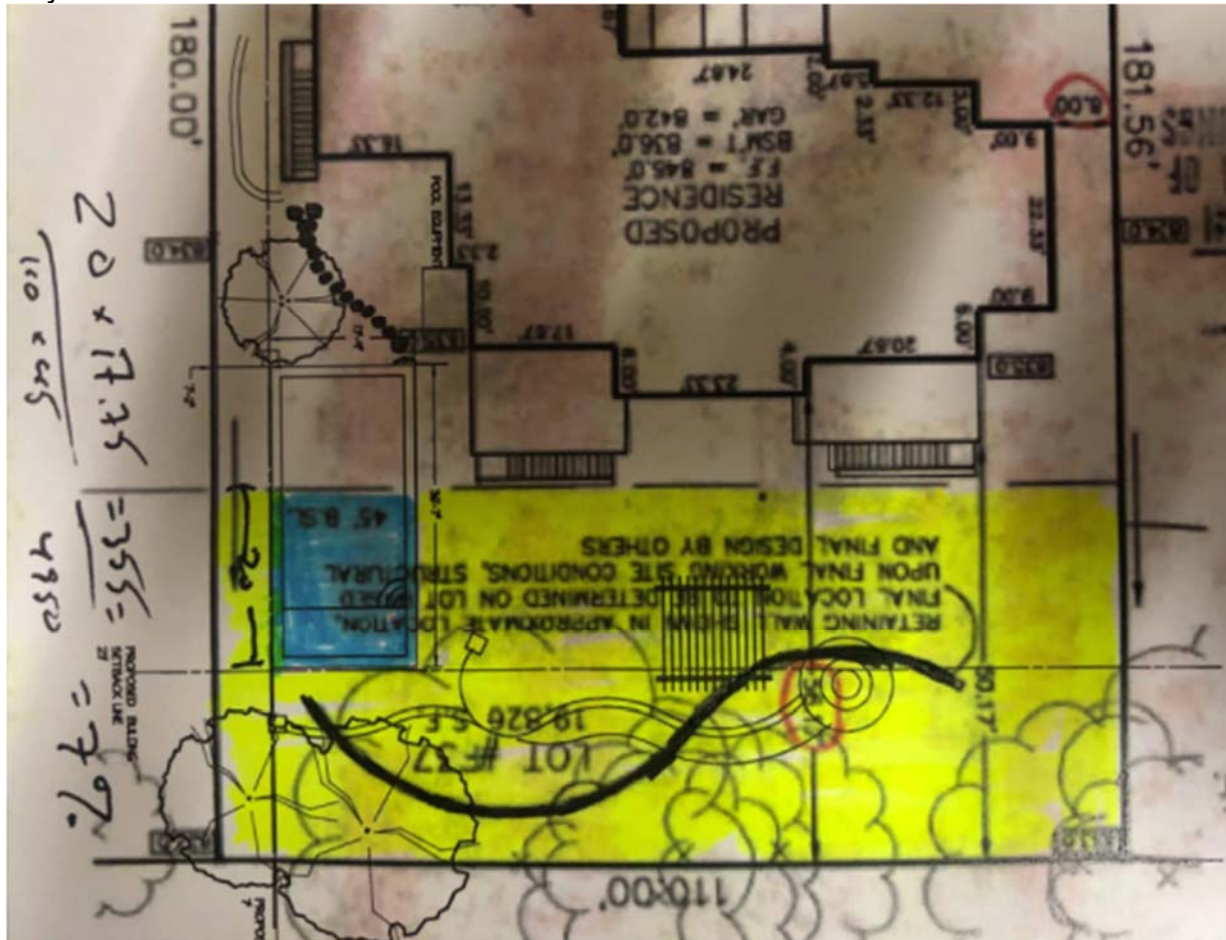
Dr. Paul & Kaprice Kraemer

Steve & Joni Buyer

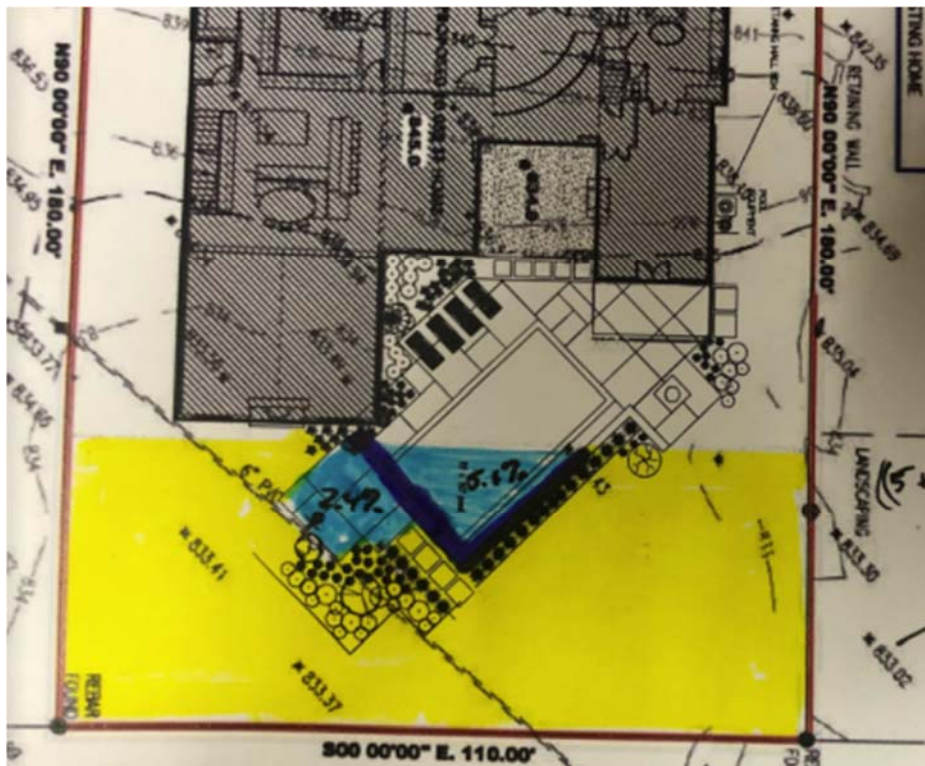
Pete and Janna Davis



Buyer



Kraemer

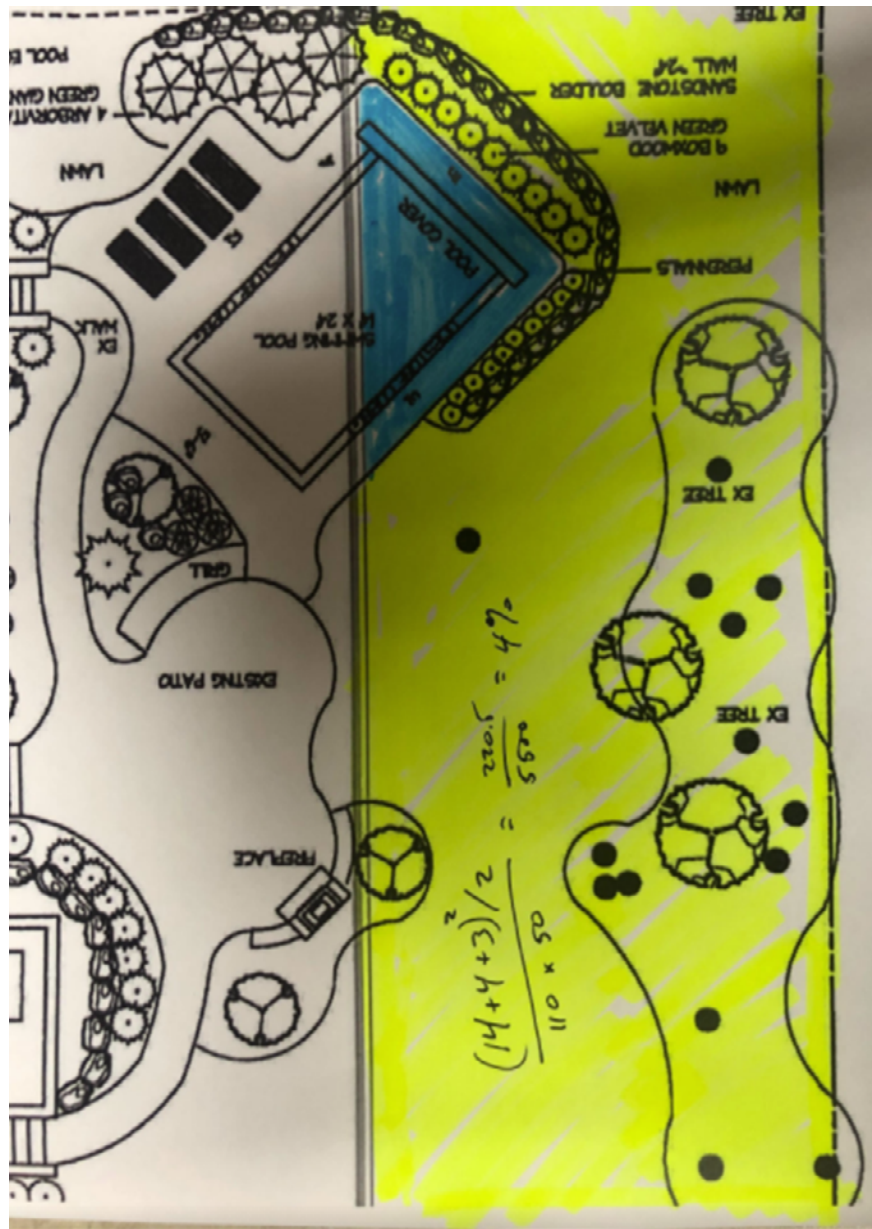


$$\frac{(5+15+2.5^2/2) + (1^2)}{110 \times 45} = 5.17$$

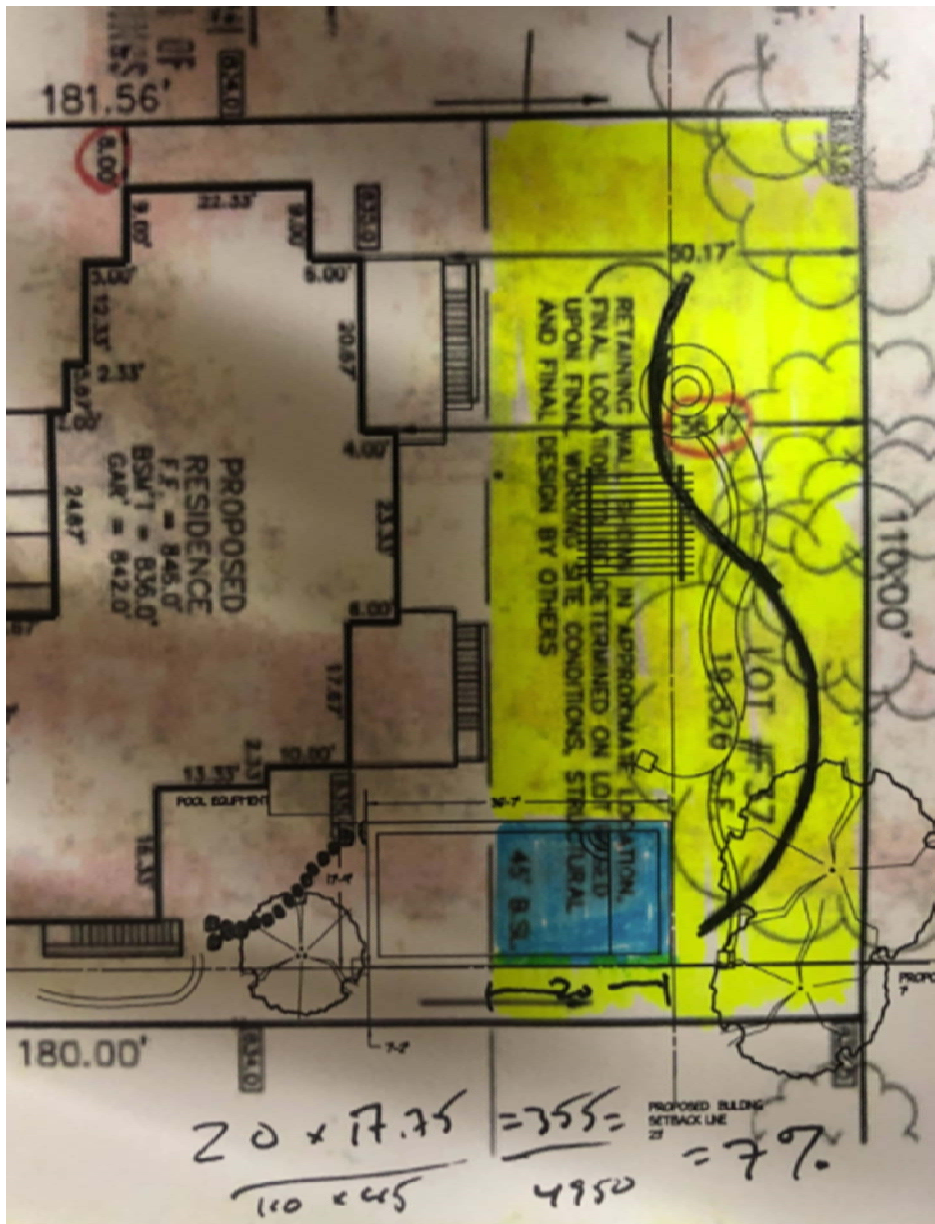
$$121 = 2.49$$



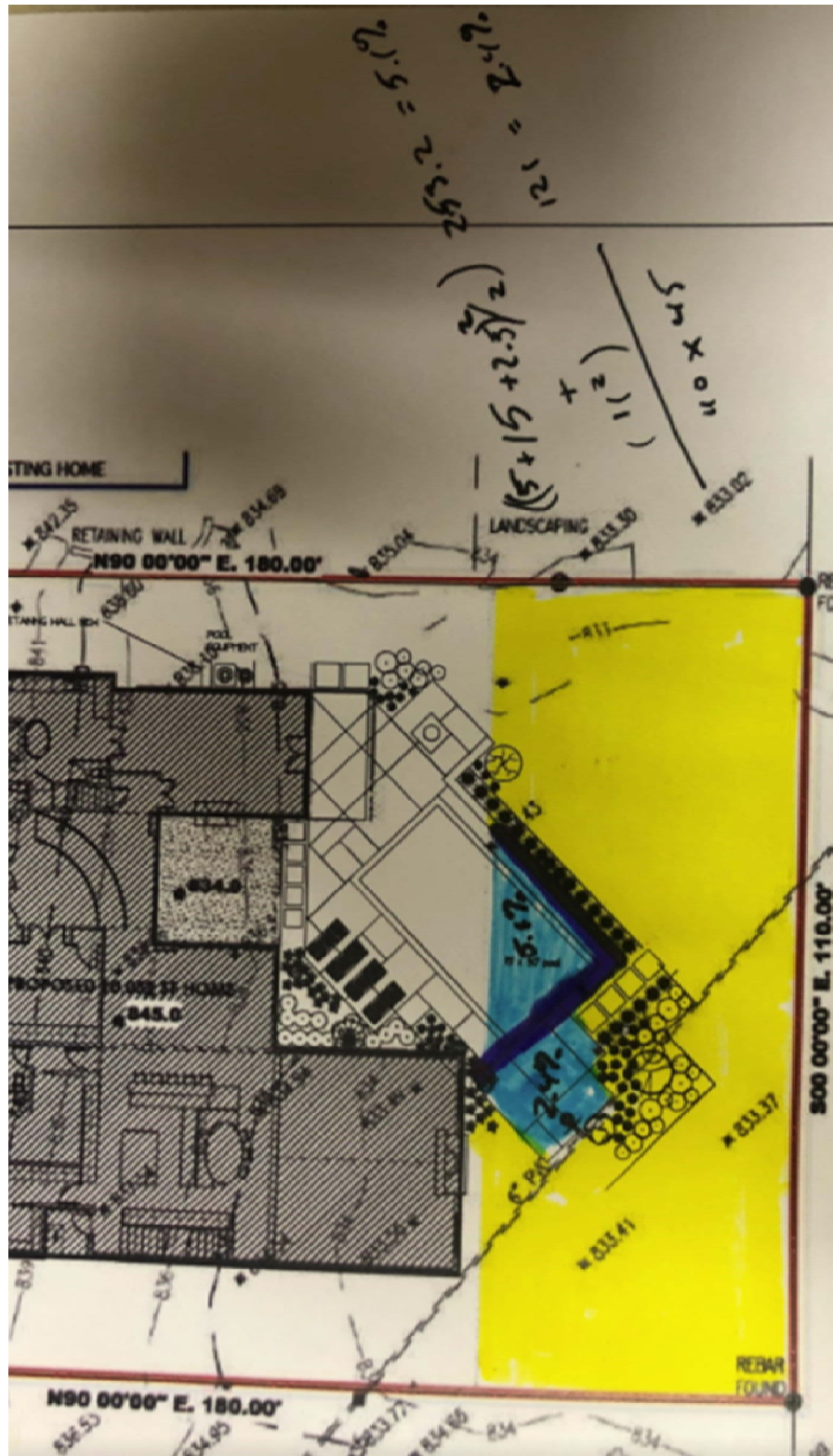
Site Location Map / Aerial Photograph



Davis Residence
Site Plan



Buyer Residence
Site Plan



Kraemer Residence

Site Plan

Neighborhood Meeting Sign In-Sheet

EXHIBIT "A"

Variance Docket Numbers: 2009-VS-25, 2009-VS-26 and 2009-VS-27

Applicants: Pete Davis, Stephen and Jodi Buyer, and Paul and Kaprice Kraemer

Monday, September 28, 2020 at 7:00 p.m., Bridgewater Club, 3535 East 161st Street, Carmel, IN 46033

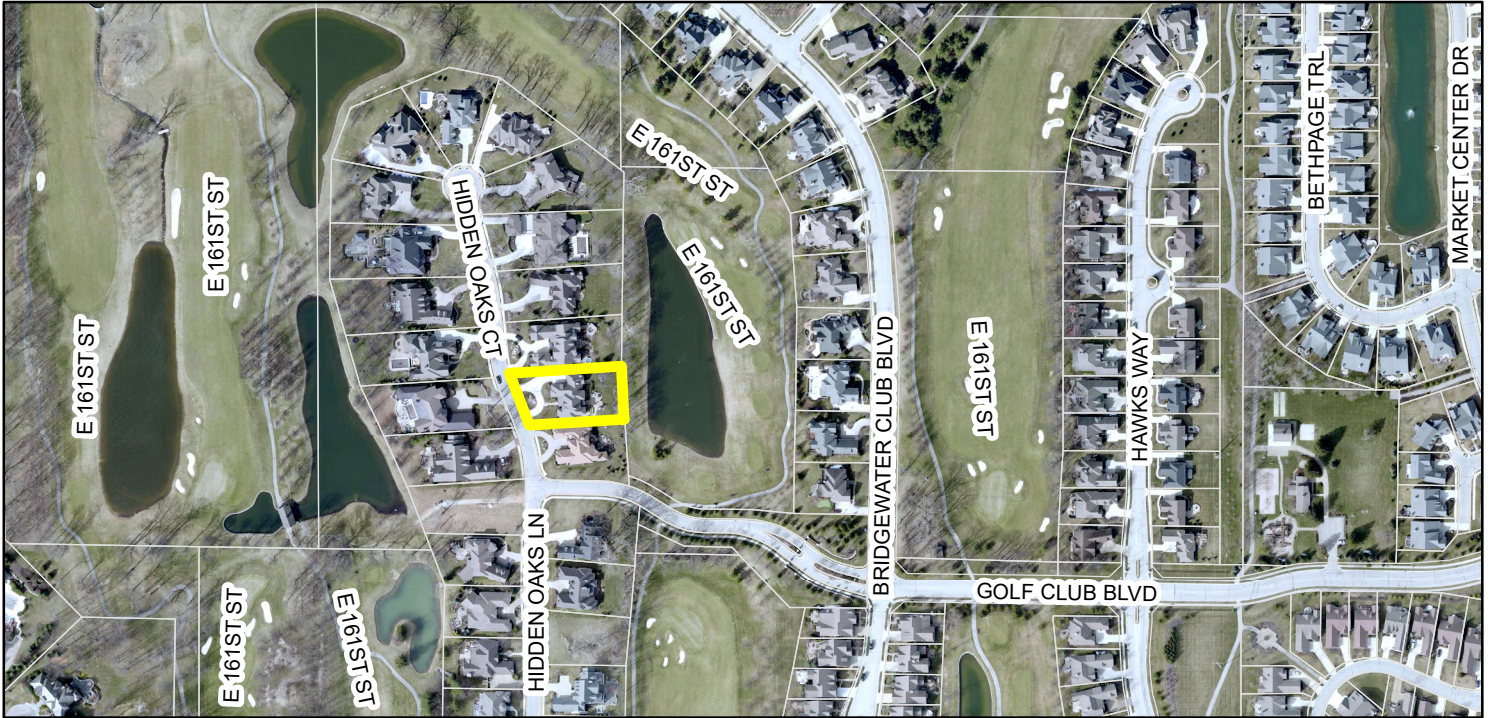
<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE</u>	<u>EMAIL</u>
1. John Lewis	15622 Bridgewater Club Blvd	317-308-8332	jlcwis1053@aol.com
2. Janna Davis	15621 Hidden Oaks Ct.	765-414-3905	cjsj1963@yahoo.com
3. MIKE COHEN	15560 BRIDGEWATER CLUB BLVD	317-590-8374	MIKE COHEN46@AOL.COM
4. Linda Friedlander	15552 Hidden Oaks Ln.	317-574-1492	lhfriedla@aol.com
5. Zekre Friedlander	Carmel, 46033		
6. STEVE OLEKSIW	15547 HIDDEN OAKS LN	317-966-0997	STEVE_OLEKSIW@YAHOO.COM
7. Paul Kraemer	15519 HIDDEN OAKS	317-219-9924	paul.kraemer@gmail.com
8. LOY ANGELICCHIO	15486 HIDDEN OAKS LN	317-670-0314	ITALSTOCKAOC.COM
9. JUDY ANGELICCHIO	" " " "		
10. Peter Emigh	15702 Bridgewater Club Blvd	317-696-5888	peinhce@gmail.com
11. M. YAQUB	15634 Bridgewater Club Blvd	317-566-9528	sohail_yaqub@hotmail.com
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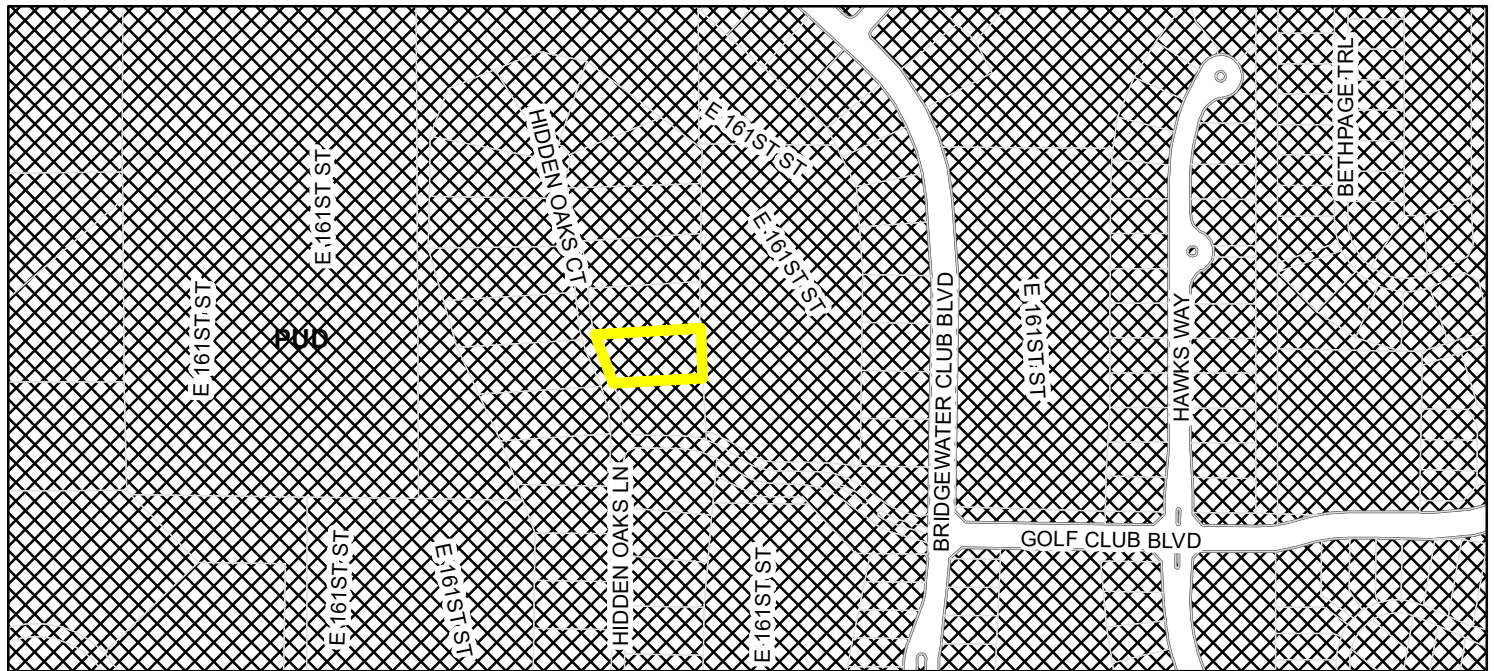
Property Location Map
15621 Hidden Oaks Court
Variance of Development Standard
2009-VS-25



Aerial Location Map



Zoning Map



Parcel **Zoning**
Zoning - All PUD (Planned Unit Development)

Note
The intended use of this drawing is for conceptual layout.
Landscape items such as driveway, sidewalks, patios and decks are
furnished on this plan for client purposes only. Salsbery Brothers
Landscape Inc. in no way claims to be providing specifications for
construction use by other contractors or builders. We reserve the
right to make modifications of this plan on site as needed for proper
implementation. The property owner assumes all responsibility for
ensuring that landscape plans are approved by and/or in compliance
with any requirements imposed by homeowner associations or
other governing bodies in the area.

CALL BEFORE YOU DIG

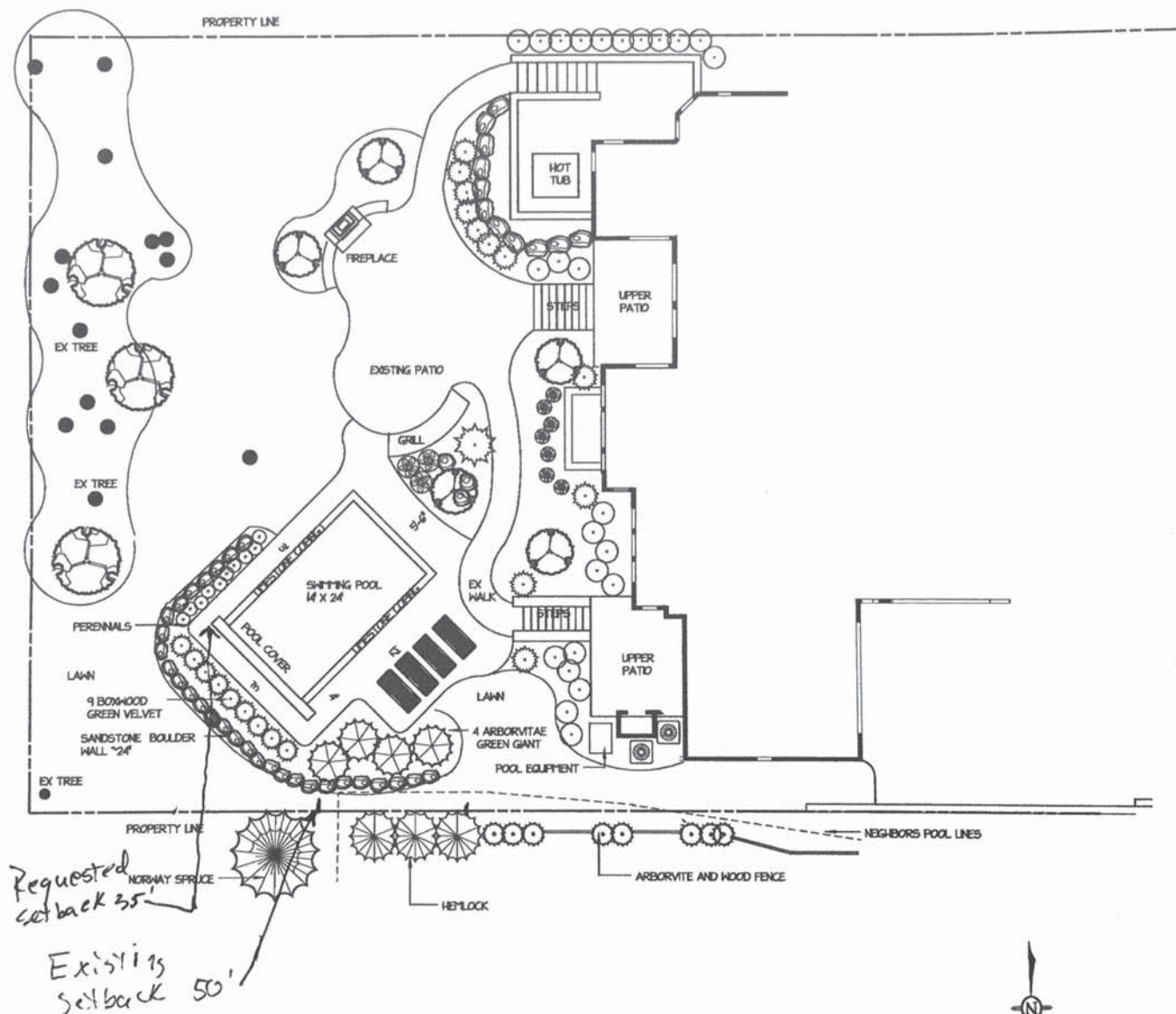


1-800-382-5544
IT'S THE LAW

Salsbery Brothers
LANDSCAPING INC.

317-843-0100

www.salsberybrothers.com
4317 East 146th Street, Carmel, Indiana 46033



DAVIS RESIDENCE
15621 HIDDEN OAKS LANE
CARMEL, IN 46033

Scale: 1" = 10' - 0"

Design By: BF

Drawn By: BF

Notes:

Date: 8-5-20

Page 1 of 1

REQUEST FOR ARCHITECTURAL CHANGE

Please Print

1. Community: The Bridgewater Club Master Owners Association Lot #: F2
Name: Pete Davis Address: 15621 Hidden Oaks Ct.
Phone: 317-503-3183 Fax: _____ EMAIL ADDRESS: Peterdavis1999@gmail.com

FOR ALL SUBMISSIONS THE FOLLOWING ATTACHMENTS ARE REQUIRED:

- ☐ A Plot Plan or a Surveyors Location Report of your lot should have been provided at closing.
Please indicate the location of the proposed addition/improvement will be installed (on a copy).
 - ☐ Please include Elevations and Blueprints or working drawings indicating all dimensions.
 - ☐ If available, a photograph or drawing of a similar completed project.
- THE COMMITTEE MAY TAKE UP TO 30 DAYS TO REPLY - PLEASE PLAN ACCORDINGLY - THANK YOU!

2. Requesting architectural approval of the following: _____ Improvement ☒ Addition _____ Repair/Replacement

Briefly describe the proposed change: Install swimming pool

Location: North side of back yard Dimensions: 14' x 24'

Please list below the major construction materials that will be used in this project. Be as specific as possible: _____

Granite pool & Landscaping per attachment
Assuming a Westfield Variance is granted

**Requests for exterior color/materials changes MUST submit samples of color, paint, brick, etc.
(Exterior materials must conform to the original construction or be sufficiently compatible.)**

4. Project schedule:

- A. The work will be performed by: Homeowner _____ or Contractor Name Mike McGhee Pool
B. Subsequent to the committee approval,
please indicate the projected start date Sept. 15th 2020
please indicate the projected end date Nov. 15th 2020
C. Please indicate all required permits (building, etc.) Building

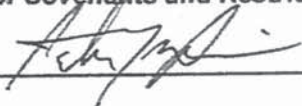
5. Will any part of the proposed improvement extend beyond your property line? Yes _____ No ☒
6. Will any part of the proposed improvement extend into any Common Area, any Utility, Drainage or Sewer Easement, Landscape, Preservation or Lake Easement shown on the plot plan of your lot? Yes _____ No ☒

ARCHITECTURAL CHANGE STANDARDS

I understand that under the Declaration and the rules and regulations, the Board will act on this request and provide me with a written response of their decision. I further understand and agree to the following provisions:

1. No work or commitment of work will be made by me until I have received written approval from the Association.
2. All work will be done at my expense and all future upkeep will remain at my expense.
3. All work will be done expeditiously once commenced and will be done in a good workman-like manner by myself and/or a licensed and insured contractor.
4. All work will be performed at a time and in a manner to minimize interference and inconvenience to other owners.
5. I assume all liability and responsibility for all damage and/or injury which may result from performance of this work.
6. I will be responsible for the conduct of all persons, agents, contractors, and employees connected with this work.
7. I understand that any and all improvements placed in a drainage, utility, sewer, landscape or other easement is at my risk. I accept the responsibility for repair and/or replacement of improvements when utility, drainage or sewer principals, developer or other authorized party removes improvements for access to the easement.
8. I will be responsible for complying with, and will comply with, all applicable federal, state and local laws, codes, the community governing documents, regulations and requirements in connection with this work, and I will obtain any necessary governmental permits and approvals for the work. I understand and agree that the Association, its Board of Directors, its Agent and/or the Committee have no responsibility with respect to such compliance and that the Board of Director's and/or its designated Committee's approval of this request shall not be understood as the making of any representation or warranty that the plans, specifications or work comply with any law, code, covenant, regulation and/or requirement.

I hereby acknowledge that I have read and understand the ARCHITECTURAL CHANGE STANDARDS set forth by the Board, as well as the Declaration of Covenants and Restrictions.

Homeowner's Signature:  Date: 8-5-2020

NOTE: All submitted materials shall remain the property of the Association.
You may wish to make a copy for your personal records.

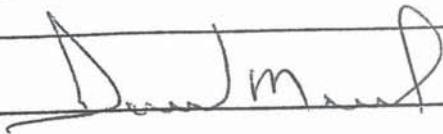
For ALL Submissions
Be sure to include the requested attachments listed on the previous page.

Please return the completed documents to:

The Bridgewater Club Master Association
Attn: Architectural Review Board, David Mennel
3535 East 161st St
Carmel, IN 46033
Email;
Phone; 317-399-2490

..... For Office Use Only
Architectural Committee Action: _____ Date received: _____

- () Approved as submitted
- (☒) Approved with restrictions as follows: includes Landscape buffer as
ATTACHED
- () Deferred: Please supply additional information: _____
- () Denied: ARB Comments: _____

Committee Signature:  Date: 8/5/2020

Dear Homeowner:

Any lot improvement made or installed within an easement is at the owner's risk regardless of the approval by the Architectural Control Committee. If for any reason repairs and or maintenance are required in the easement, any improvement(s) that are removed will not be reinstalled by the utility company or contractor.

This waiver must be signed and returned with the Request for Architectural Change, to protect you and the HOA of your community. It is to verify that you have a full understanding of the responsibilities and risk of developing an improvement into an easement.

If you are developing into an easement, it is also your responsibility to have the utilities marked prior to commencing by calling "Holey Moley" Indiana Underground Services @ 811.

EASEMENT WAIVER

This document is an acknowledgment that I/we, Peter V. Davis
NAME OF HOMEOWNER (S)

the owner(s) of the property located at 15621 Hidden Oaks Ct. Carmel, IN.
STREET ADDRESS CITY

of the Bridgewater Homeowners Association Lot # F2 will be
NAME OF SUBDIVISION

installing Swimming pool

that extends into a drainage and/or utility and/or sewage easement and accepts full responsibility of any cost to replace this improvement if the utility company, developer or other authorized party needs to gain access to that area by removal of said improvement.

[Signature]
Signature of Homeowner

8-5-20
Date

Signature of Homeowner

Date

Return all required documentation to:

The Bridgewater Club Master Association
Attn: Architectural Review Board, David Mennel
3535 East 161st St
Carmel, IN 46033
Email;
Phone; 317-399-2490



Site Location Map / Aerial Photograph



Site Location Map / Aerial Photograph



Davis Residence
Photos of proposed pool location

September 28, 2020 Neighborhood Meeting Summary

Project: Rear Yard Setback Variances for Davis Residence, Buyer Residence and Kraemer Residence

Applicants: Pete Davis,
Stephen and Joni Buyer, and
Paul and Kaprice Kraemer

Docket Number: Variance Docket Numbers: 2009-VS-25, 2009-VS-26 and 2009-VS-27

Date: September 28 at 7:00pm

Location: Bridgewater Club, 3535 East 161st Street, Carmel, IN 46033

Attendees: Jon Dobosiewicz – Nelson & Frankenberger
Pete Davis
Stephen and Jodi Buyer
Dr. Paul Kraemer
Pam Howard – Staff
See **Exhibit A:** Sign-in Sheet

Meeting began at 7:00pm.

Mr. Steve Buyer introduced himself and the other applicants. Steve described his request for the audience indicating among other things that his proposed pool was in a location which replaces his existing built-in large 10' x 10' spa with a 3.5-4 foot deep sport pool which would include no slide or diving board. Steve further described the proposed location, extension of the existing serpentine wall and proximity of the Kraemer home and how they would coordinate during construction of both pools during the off-season to accommodate golfers.

Dr. Paul Kraemer described their proposed pool indicating that it was a sport pool (depth 3.5-4ft) and would be constructed inside an existing hardscape wall with no way to tell the pool was there from the golf course. The pool will occupy an area already occupied by a patio which will be removed and replaced by the sport pool with no slide or diving board. There is no diving board in a sport pool. Dr. Kraemer spoke to the outreach he and the other applicants had done in communicating with neighbors and the overwhelming support they had received back from residents in Hidden Oaks and Bridgewater Pointe.

Pete Davis also spoke regarding his request noting the distance of golf play across the pond on golf course property, the size of the proposed pool (14' by 24'), that it was also a sport pool (depth 3.5-4ft) with no slide or diving board and the enhancement to the value of the property it would add.

Jon Dobosiewicz handed out some exhibits (attached) and provided an overview summary of the process and why neighbors had received the invitation to the meeting and potentially notice of the pending variance requests.

David Mennel spoke regarding the process the Master Association plays in working with residents who desire to make improvements noting that this year he had seen considerably more requests for home improvements this year in particular pool requests. Dave went on to describe the precedents over the past 12 years of varied setbacks on the golf course and why they were established and that in his experience variances were a normal part of the process. He thought there have been about five (5) variances a year over the last several years in Bridgewater. Dave also clarified that the Association process is separate from the City process an owner has to address in order to obtain all permits.

Neighbor Comments and Questions:

1. Why are we receiving this notice and not on other pool requests?

Mr. Dobosiewicz explained that the notice was sent out and they were having the meeting at the suggestion of the Board of Zoning Appeals (BZA) so that more people would be given an opportunity to share their comment or questions regarding the request so that the BZA might have more input in advance of making a final decision. He also explained that some pools have been constructed within the property's setback.

2. Is there a special fee for a BZA request?

It was noted that the BZA fee was approximately \$650 and there was not a fee for review by the Bridgewater Master HOA.

3. Mr. Cohen indicated that it looked like the applicants had worked to be considerate of neighbors but he was concerned about the encroachment in the rear yard putting people closer to the property line and the precedent he thought it would set on future requests down the road.

Mr. Buyer thanked Mr. Cohen for his comments and reviewed how he had worked with an architect and adjacent neighbors to protect them and the golf course. Mr. Buyer also stated that his variance is not setting a precedent as there have been many approved variances over the years that consume far more of the setback by area and distance.

Pam Howard explained that each variance is reviewed on a case by case basis and the BZA does not review past approvals in considering each variance that comes before them.

4. Pete Emigh thanked the applicants for their working with the neighbors and thought the plans were great and said he would do whatever he could to support the requests.
5. One attendee asked how they could help or attend the meeting to convey support.

Mr. Dobosiewicz noted that the public could send e-mails and/or attend the meeting on October 13th but that seating was limited due to Covid and that all e-mails would be shared with the BZA.

The meeting ended at 7:50pm

To: Hidden Oaks and Bridgewater Club Blvd HOA Members in Good Standing

You may have noticed there are multiple signs in yards advising of pending action before Westfield-Washington Township Advisory Plan Commission, including variances for incursions into backyard setbacks. Pete and Janna Davis, 15621 Hidden Oaks Ct., Steve and Joni Buyer (15533 Hidden Oaks), and my wife Kaprice and I (15519 Hidden Oaks) have submitted the proper plans and designs for swimming pools and we have met with Dave Mennel for appropriate considerations. The Bridgewater Club Master Club Association has approved each of our individual architectural plans which were drawn by professional landscape architects to fit seamlessly with the aesthetics of each home. We went before the planning commission on Sept 15th to present the request for variances.

There were complaints from 2 neighbors, Fred Schaefer and Jan Endres of Hidden Oaks, along with Michael Cohen from the BW Pointe neighborhood. The impression was given by Fred and Jan that the hearing notice was insufficient because not all members of Hidden Oaks HOA were informed. Fred and Jan expressed concern regarding "pools decreasing others' property values" and "the Buyer's hardscape and pergola was an eye sore" and "children would make noise." Mr. Cohen was concerned that a golf ball could hit a child. The Commission continued the hearing and suggested we get a better feel for the opinions of the neighborhood by holding a meeting.

We are requesting for you to express your opinion of support or concerns by either attending a meeting with us Monday evening at 7pm September 28th 2020 in the Landing Room at The Bridgewater Club or by Email, which in this COVID world may suffice.

Attached for your review are the plans for each of our three setback variances, with the proposed permanent changes in blue and the rest of the setback in yellow, and math shown in the margins.

Pete and Janna Davis (image does not show full setback) - 4% of setback square footage requested, (220 sq ft). On far side of pond in relation to Hole 8 tee boxes

Steve and Joni Buyer - 7% of setback square footage requested (355 sq Ft), within 25 feet of property line but protected by a short wall (contiguous with current wall in front of pergola) Nothing projects further back than currently approved and implemented hardscape

Paul and Kaprice Kraemer - 5.1% of setback for pool (253 sq ft), additional 2.4% (121 sqft) for larger sundeck, within 23 feet of setback, all behind current stone short wall. Nothing projects further back than currently approved and implemented hardscape

Many of you have pools and most of you know us, The three of us are committed to the beauty and charm of our neighborhood, the well being of our neighbors, and to the Club.

We are simply asking for very minor variances to place our pools at more aesthetic angles. We are aware that we can place the pools within the setback areas upon the sole approval of Dave Mennel; however, the pools would not be aesthetically appealing and could therefore decrease each property's value and perhaps negative consequence upon others. We believe the attached plans are ideal for each home, and thereby for the neighborhood collectively. We value your thoughts.

If you can not attend our meeting, please email any comments to us so that we may have a record to bring to the October 13th Commission meeting. We will then reappear before the Commission to request approval for our variances of less than 10% of the rear area set-back.

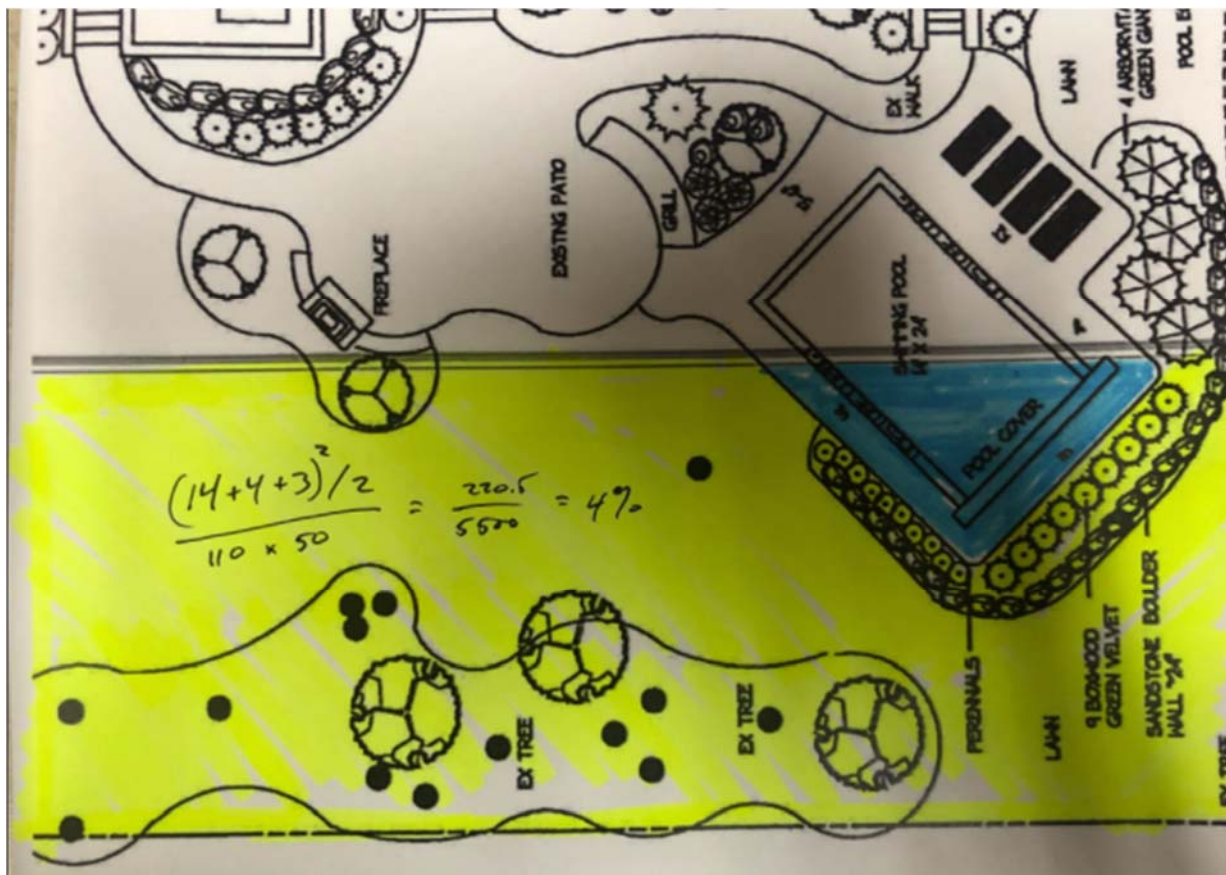
We appreciate your considerations and look forward to hearing from you.

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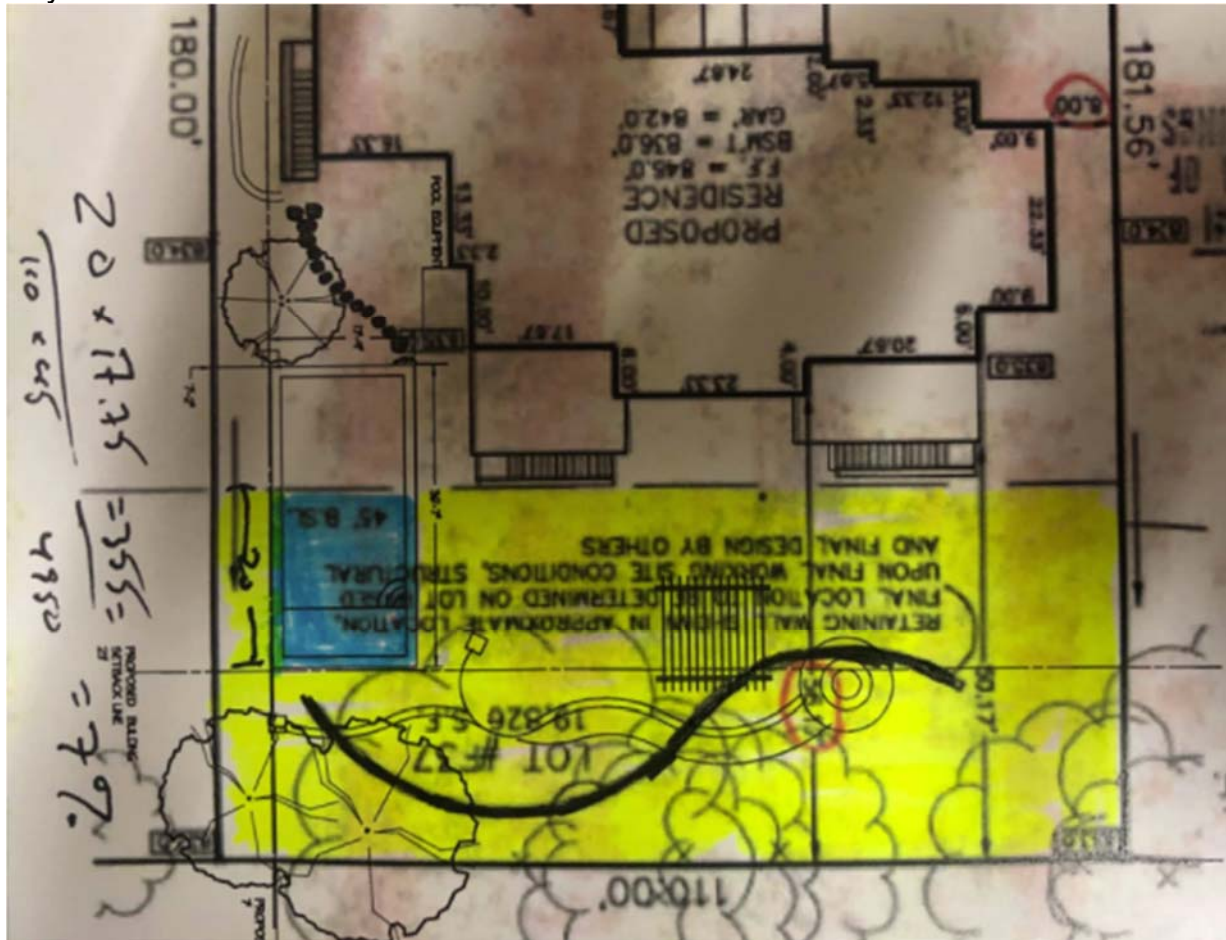
Dr. Paul & Kaprice Kraemer

Steve & Joni Buyer

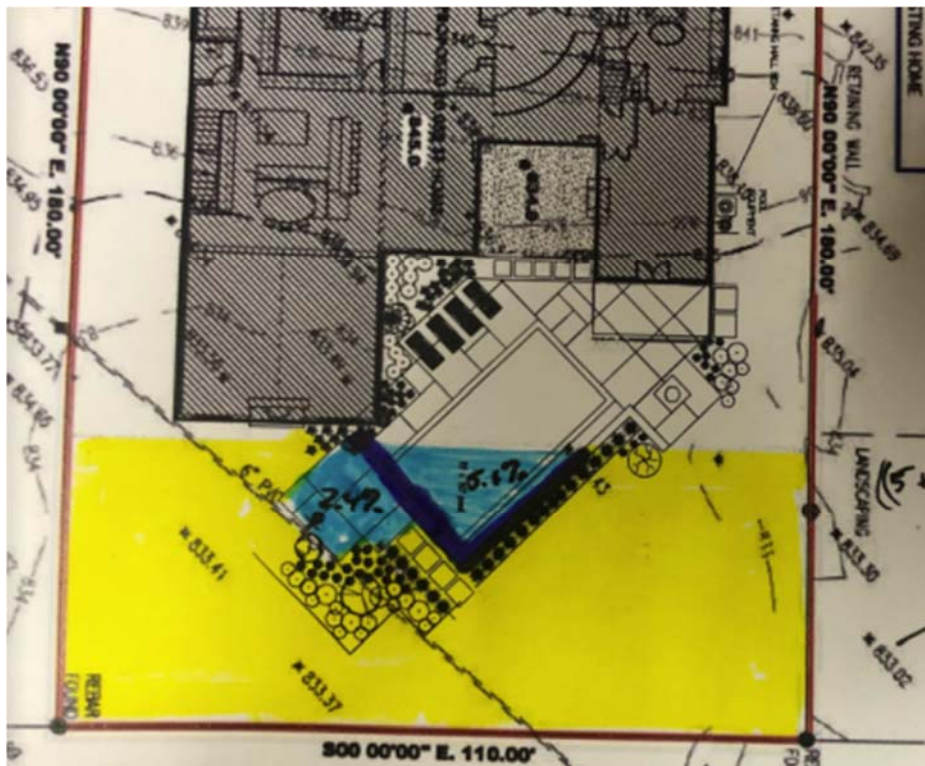
Pete and Janna Davis



Buyer



Kraemer

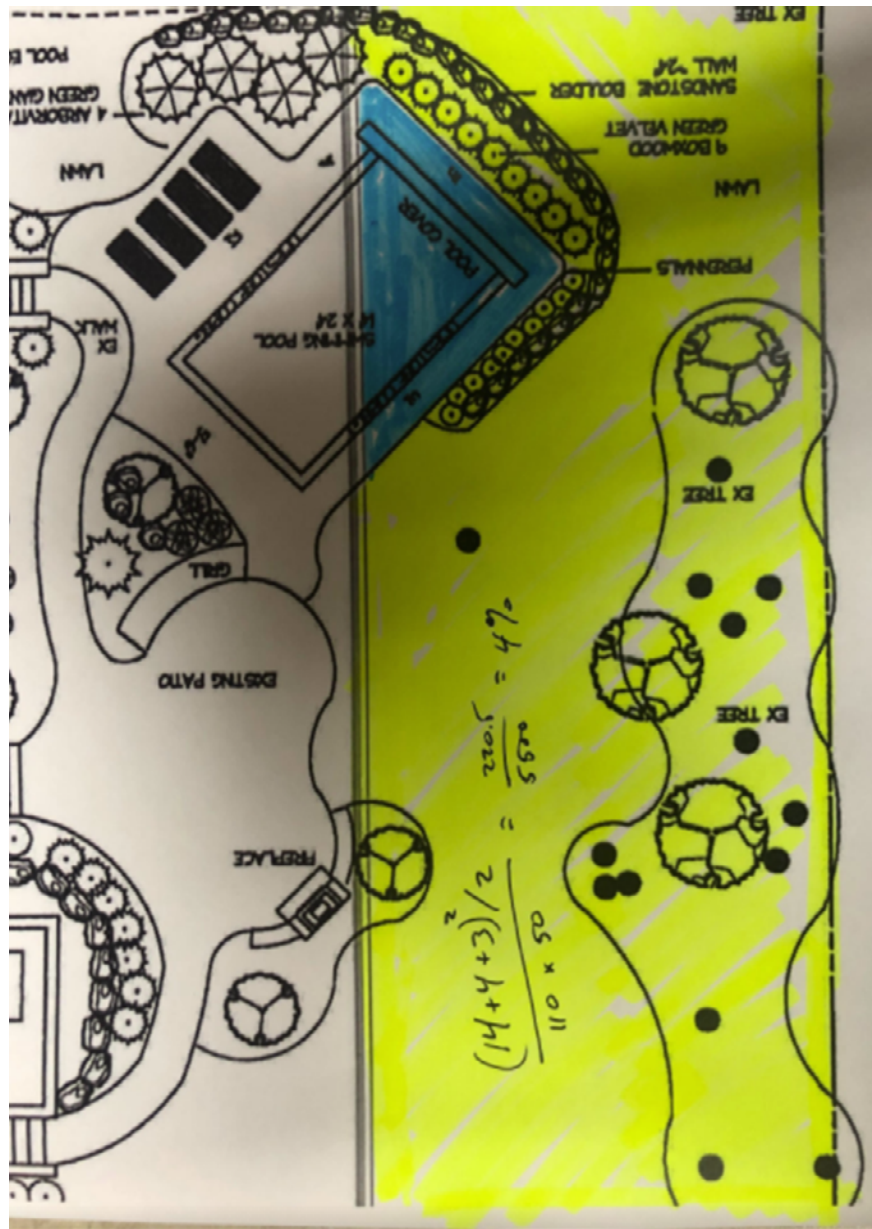


$$\frac{(5+15+2.5^2/2) + (1^2)}{110 \times 45} = 5.17$$

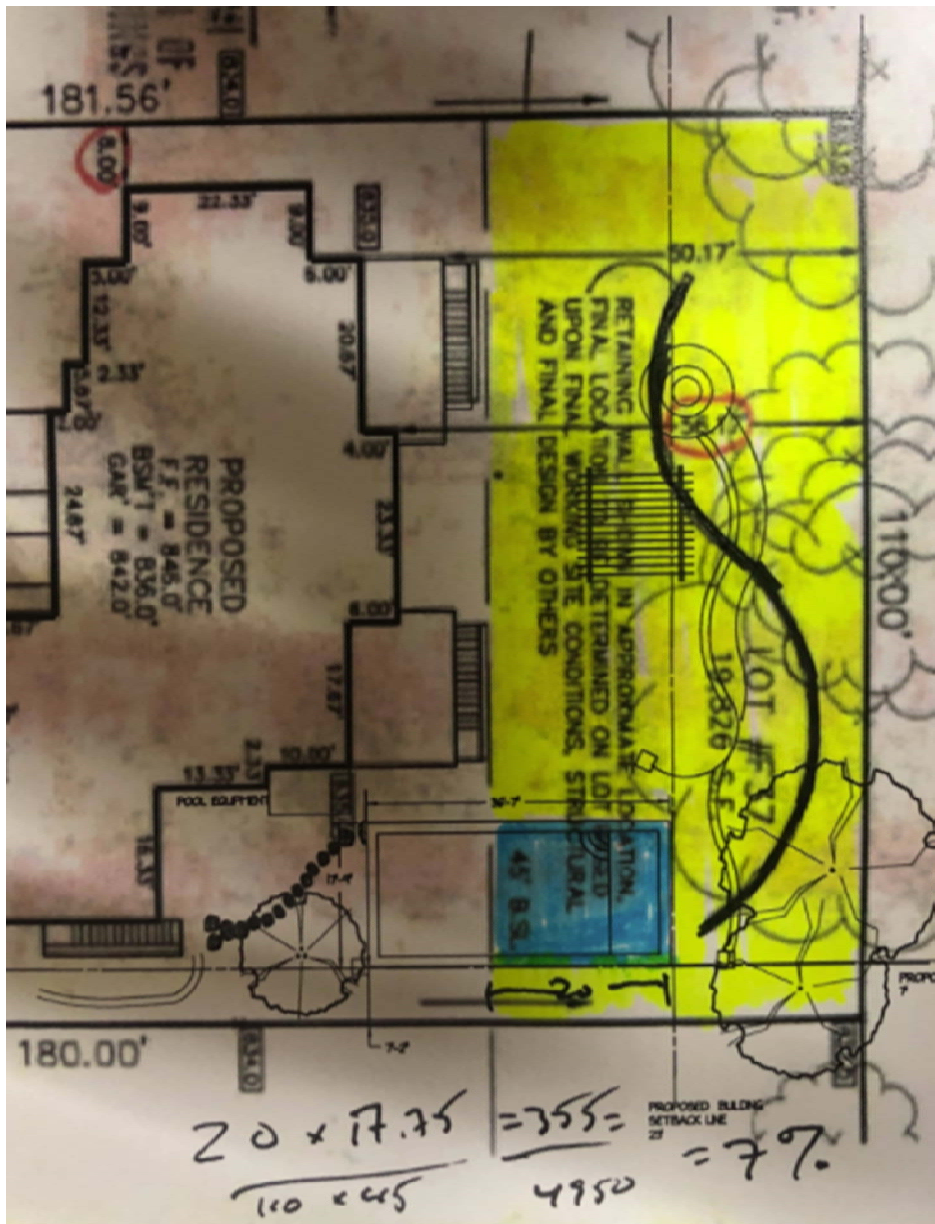
$$121 = 2.49$$



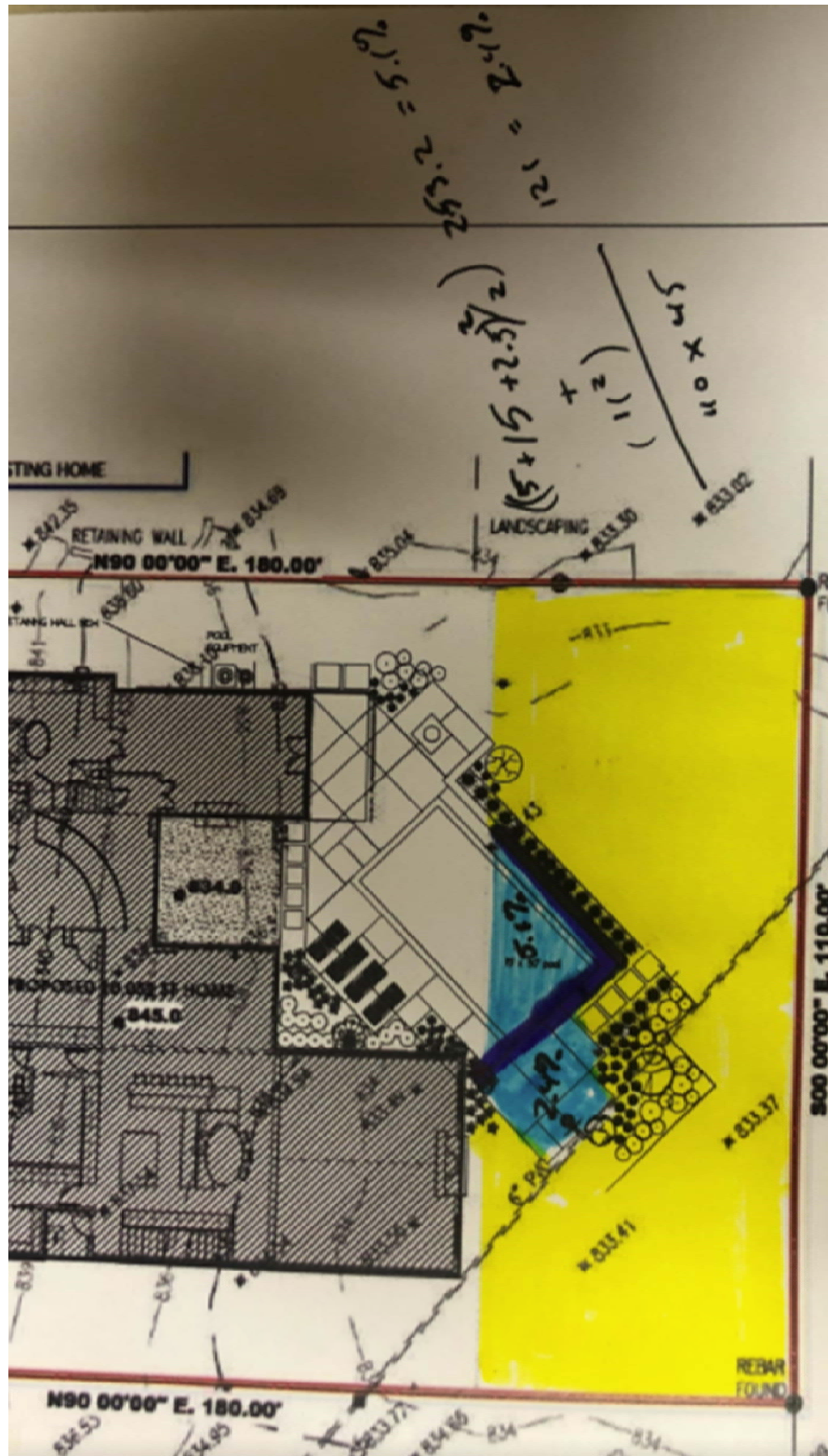
Site Location Map / Aerial Photograph



Davis Residence
Site Plan



Buyer Residence
Site Plan



Kraemer Residence
Site Plan

Neighborhood Meeting Sign In-Sheet

EXHIBIT "A"

Variance Docket Numbers: 2009-VS-25, 2009-VS-26 and 2009-VS-27

Applicants: Pete Davis, Stephen and Jodi Buyer, and Paul and Kaprice Kraemer

Monday, September 28, 2020 at 7:00 p.m., Bridgewater Club, 3535 East 161st Street, Carmel, IN 46033

NAME	ADDRESS	PHONE	EMAIL
1. John Lewis	15622 Bridgewater Club Blvd	317-308-8332	jlcwis1053@aol.com
2. Janna Davis	15621 Hidden Oaks Ct.	765-414-3905	cjsj1963@yahoo.com
3. MIKE COHEN	15560 BRIDGEWATER CLUB BLVD	317-590-8374	MIKE COHEN46@AOL.COM
4. Linda Friedlander	15552 Hidden Oaks Ln.	317-574-1492	lhfriedla@aol.com
5. Zekre Friedlander	Carmel, 46033		
6. STEVE OLEKSIW	15547 HIDDEN OAKS LN	317-966-0997	STEVE_OLEKSIW@YAHOO.COM
7. Paul Kraemer	15519 HIDDEN OAKS	317-219-9924	paul.kraemer@gmail.com
8. LOY ANGELICCHIO	15486 HIDDEN OAKS LN	317-670-0314	ITALSTOCKAOC.COM
9. JUDY ANGELICCHIO	" " " "		
10. Peter Emigh	15702 Bridgewater Club Blvd	317-696-5888	peinhce@gmail.com
11. M. YAQUB	15634 Bridgewater Club Blvd	317-566-9528	sohail_yaqub@hotmail.com
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WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

October 13, 2020

2009-VS-25

Exhibit 1

Petition Number: 2009-VS-25

Subject Site Address: 15621 Hidden Oaks Court ("the Property")

Petitioner: Pete Davis ("the Petitioner")

Request: The Petitioner requests a Variance of Development Standard to encroach fifteen (15) feet into the fifty (50) foot Minimum Rear Yard Setback on 0.57 acres +/- in the Bridgewater PUD District

Current Zoning: Bridgewater PUD (Ord. 06-49)

Current Land Use: Residential

Approximate Acreage: 0.57 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. HOA Approval
5. Davis Exhibits
6. Neighborhood Meeting Summary

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject property is a 0.57 +/- acre parcel within the Hidden Oaks subsection of the Bridgewater Club (see **Exhibit 2**).

The Board of Zoning Appeals heard the petition at its [September 15, 2020, meeting](#). The Board denied the variance requested and tabled the adoption of its Findings of Fact until the Board's October 13, 2020, meeting. The Board directed the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

Two (2) subsequent projects located on the same street for the same request (Variance of Development Standard request for setback modification for a pool) were continued until the October 13, 2020, BZA meeting. Therefore, it may be prudent for the Board to consider hearing testimony from the Petitioner or their representative prior to the consideration for the Findings of Fact.



PROCEDURAL

ARTICLE XI: FINAL DISPOSITION OF PETITIONS¹

1. The final disposition of petitions shall set forth the findings and determinations of the Board, together with any modification, specification or limitation it makes. The Board shall make written findings of fact for all petitions that are heard.
2. The Board may dismiss a petition for lack of representation by the petitioner, or petitioner's representative, or lack of jurisdiction. If a petition is dismissed for lack of representation, then the petitioner may re-file in accordance with these rules.
3. A petitioner may request to withdraw a petition under "Other Business" on the agenda. A petition may not be withdrawn after all items in "Other Business" have been completed.
4. A petition that has been withdrawn by the petitioner or a petition that has received an adverse decision shall not be placed on the docket for consideration until six (6) months after the date of the decision.
5. In all petitions, the Board may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel. Such commitment shall be made and memorialized in accordance with Article 10.6 of the Unified Development Ordinance.
 - a. By permitting or requiring commitments, the Board does not obligate itself to approve or deny any request.
 - b. Conditions imposed on the granting of a petition are not subject to the rules applicable to commitments.
 - c. Commitments do not affect the validity of any covenant, easement, equitable servitude or other land use restriction created in accordance with the law.
 - d. Appeals to a decision made by the Board of Zoning Appeals shall follow the process prescribed in I.C. 36-7-4, 1000 Series – Remedies and Enforcement.

Denial²: Applications that are denied shall not be eligible for consideration again by the Board for a period of twelve (12) months from the date of denial.

¹ Page 12 of the Board of Zoning Appeals Rules of Procedure

² Article 10.14(E) of the UDO.



DEPARTMENT COMMENTS:

Approval: Staff recommends approval of the following written findings of fact related to the denial of 2009-VS-25:

- 1) **Criteria:** 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 would be injurious to the public health, safety, morals, and general welfare of the community because the existing use and proposed improvements would otherwise comply with the applicable standards of the Bridgewater PUD.

- 2) **Criteria:** 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: The petitioner was unable to counter or adequately respond to the testimony presented that the granting of the variance would not negatively impact the neighbor's property values.

- 3) **Criteria:** 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 and would result in the construction of a swimming pool and deck that would not suit the needs of the Petitioner.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

October 13, 2020

2010-VS-28

Exhibit 1

Petition Number: 2010-VS-28

Subject Site Address: Approximately 1,145 feet South of the Intersection of State Road 32 and Centennial Road (The "Property")

Petitioner: Tyler Eifert by Brian Cardinal (The "Petitioner(s)")

Request: The Petitioner requests a Variance of Development Standard to modify the minimum lot frontage from 250 feet to 0 feet on 40 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District

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

Current Land Use: Vacant

Approximate Acreage: 40 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Recorded Easement
4. Easement Color Exhibit

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject Property is 40.0 acres +/- in size and is located approximately 1,145 feet south of the intersection of State Road 32 and Centennial Road. The Property is surrounded by AG-SF1: Agriculture/Single-Family Rural on three sides. East of the Property is the as-yet undeveloped Town Road Crossing PUD.

Variance Request: The Petitioner is requesting a Variance of Standard to modify the minimum Road Frontage requirement from 250 feet to 0 for an existing 40 acre +/- parcel so that one (1) a single-family home may be built.

SUMMARY OF VARIANCE

The Property is currently subject to Zoning Standards for the AG-SF1: Agriculture/Single-Family Rural District. AG-SF1 zoning sets forth that a parcel must have, at minimum, 250 feet of Road Frontage. However, the existing parcel, which was created prior to zoning being established (and is therefore legal but nonconforming), has no road frontage. Therefore, the petitioner is seeking to modify this development standard so that one (1) single home can be built on the Property. A cross-access easement from the Property to Little Eagle Creek Avenue was recorded on September 13, 2019 (see **Exhibits 3 and 4**). The easement is shown in **Exhibit 3** as the dark grey line beginning at the southeast corner of the Property at the northwest corner of the map and



eventually ending at Little Eagle Creek Avenue. The same easement is more easily seen as red in **Exhibit 4.**

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan (The “Plan”) identifies the property within the “Existing Suburban” land use classification¹. The vision for the Suburban Residential classification is contemplated for future residential growth of the community, generally to the west and north of the Existing Suburban area.²

The Existing Suburban classification is designed to accommodate detached dwellings, attached dwellings, institutional uses, and recreational uses³. The Plan also contemplates Existing Suburban to:

- Ensure that new development occurs in a way that it is contiguous with existing development:
- Prevent monotony of design and color. Recognize that quality in design applies not just to individual homes, but to the collective impact of an entire development:
- Encourage a diverse range of homes styles in individual subdivisions, using innovative architecture of a character appropriate to Westfield, and:
- Emphasize connectivity between subdivisions, and avoid creating isolated islands of development.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Standard. This petition is scheduled to receive its public hearing at the October 13, 2020, 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

¹ Page 24 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Land Use Classifications and Development Policies.

² Page 38 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Background.

³ Pages 38-39 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan; New Suburban.

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

October 13, 2020

2010-VS-28

Exhibit 1

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 Standard: The Board of Zoning Appeals shall approve or deny variances from the terms of the UDO. A variance may be approved under Indiana Code § 36-7-4-918.4 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;
- 3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property; and

DEPARTMENT COMMENTS

Approval: If the Board is inclined to approve the Variance of Standard (2009-VS-27), then the Department recommends the findings as set forth below, for the variance:

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 would be injurious to the public health, safety, morals, and general welfare of the community because the existing use and proposed improvements will otherwise comply with the applicable standards of the AG-SF1: Agriculture/Single-Family Rural 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:*

⁶ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

October 13, 2020

2010-VS-28

Exhibit 1

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 adjacent surrounding properties because the use of the Property will not change.

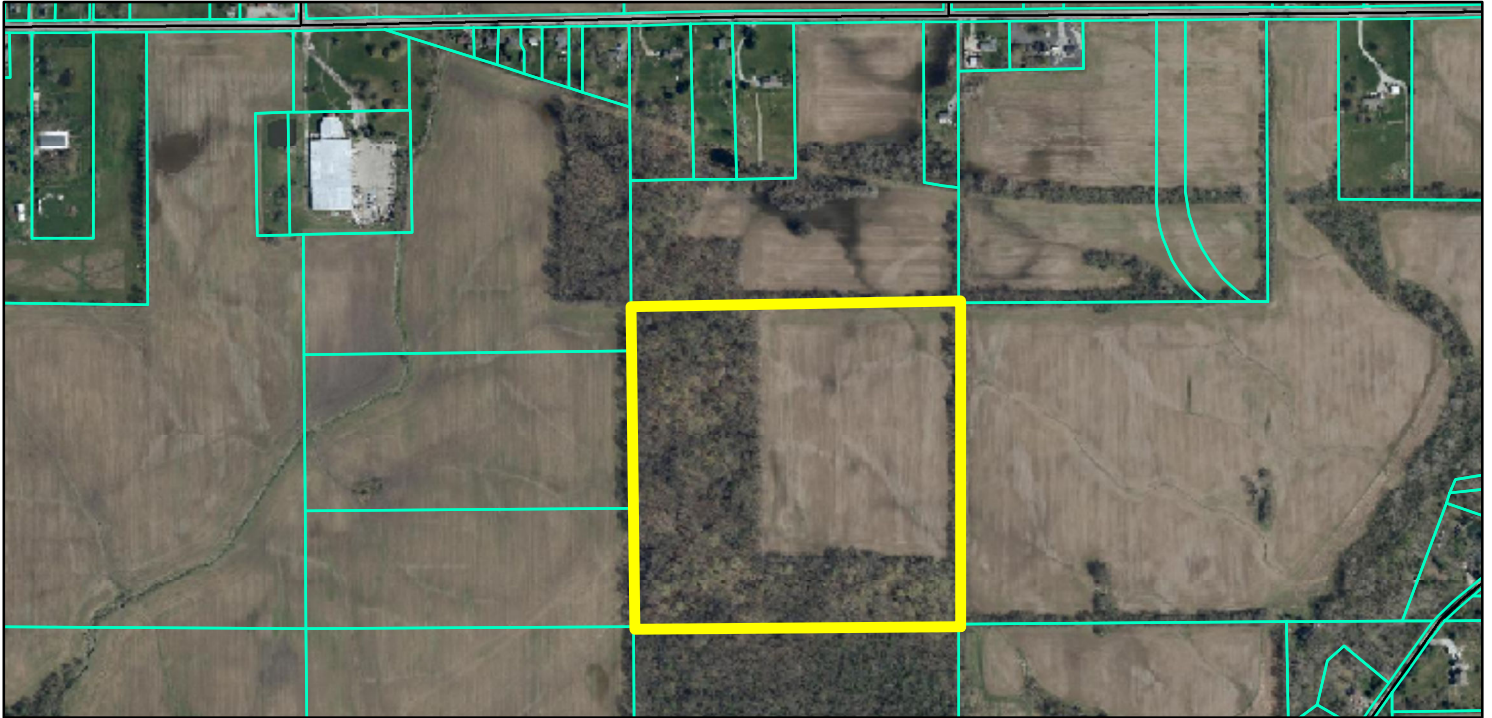
- 3) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:*

Finding: Strict adherence to the zoning ordinance would render the City of Westfield unable to issue an Improvement Location Permit, thereby resulting in the inability to improve the property beyond its existing vacant status.

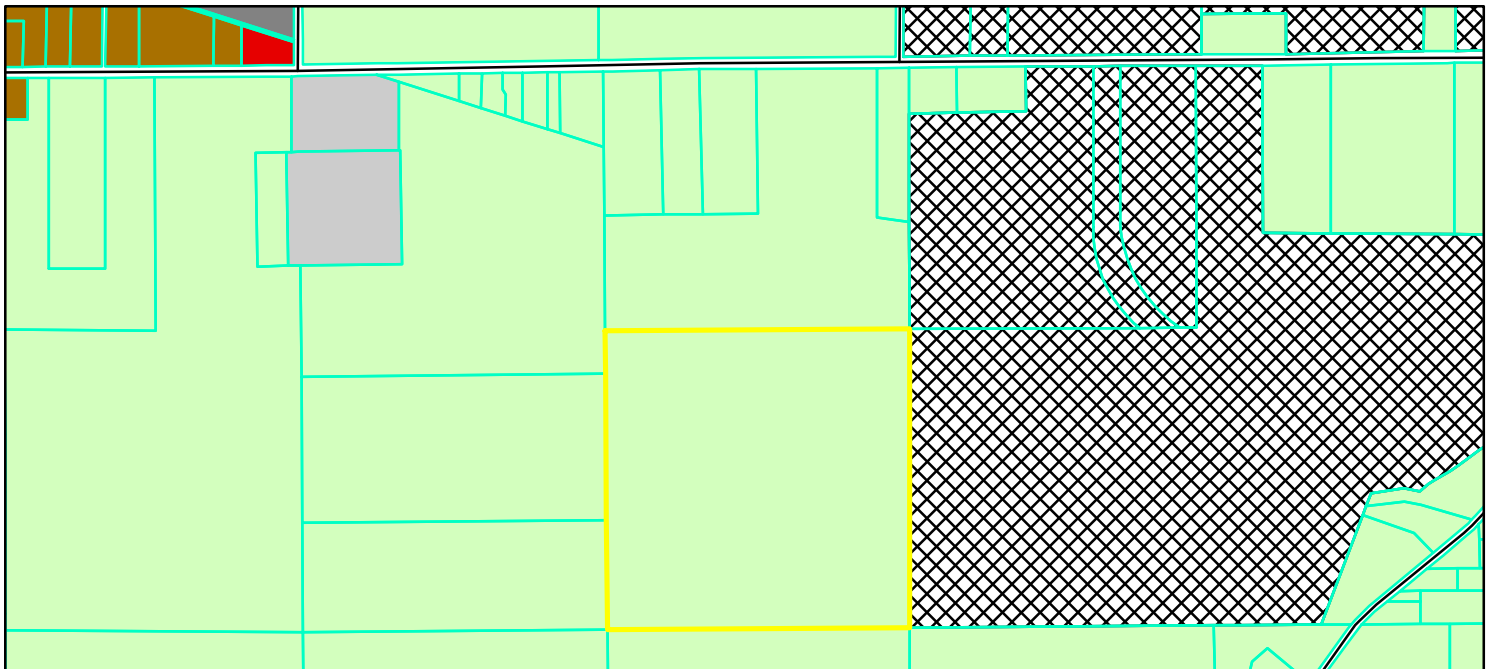
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

Aerial Location Map

 Site



Zoning Map



 Parcel
 GIS.DBO.PW_Streets
Zoning - All
Zoning
 AG-SF1 (Agriculture - Single Family - 1)
 SF-5 (Single Family - 5)
 EI (Enclosed Industrial)
 GB (General Business)
 OI (Open Industrial)
 PUD (Planned Unit Development)

0 0.1 0.2
Miles



EASEMENT AGREEMENT



This Easement Agreement (this "Easement") is made as of the 13th day of September, 2019 (the "Effective Date") by and between **Cardinal Real Estate Holdings, LLC**, an Indiana limited liability company ("Cardinal"), and **Tyler Eifert**, an adult individual ("Eifert").

WITNESSETH:

WHEREAS, Cardinal is the owner of certain real property located in Hamilton County, Indiana, as more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Cardinal Property");

WHEREAS, Eifert is the owner of certain real property located in Hamilton County, Indiana, as more particularly described on Exhibit B attached hereto and incorporated herein by reference (the "Eifert Property");

WHEREAS, Cardinal owned both the Cardinal Property and the Eifert Property before selling the Eifert Property to Eifert as of the Effective Date (the "Sale Transaction"); and

WHEREAS, in consideration for the Sale Transaction, Cardinal and Eifert desire to, upon the terms and conditions set forth in this Easement, (i) allow Eifert to construct a drive over and across a portion of the Cardinal Property in the area generally shown on Exhibit C attached hereto and incorporated herein by reference (the "Access Easement") with the portion of the Access Easement that is Cardinal's current driveway shown as "Section 1" on Exhibit C ("Section 1"), and that portion of the Access Easement to be constructed and installed by Eifert (from the connection point at the end of Cardinal's existing driveway on Cardinal's Property to the southeast corner of Eifert's Property shown as "Section 2" on Exhibit C ("Section 2"), (ii) provide for the costs to improve Section 1 of the Access Easement, which shall include a new or reconstructed bridge and entryway gate lying east of Section and going over Little Eagle Creek (the "Bridge") (the costs of such improvements hereinafter collectively referred to as the "Bridge Upgrade Costs"), (iii) provide for the maintenance responsibilities and associated costs for Section 2 of the Access Easement; (iv) allow Eifert to cause to be installed an electrical line, conduits, and appurtenances for the distribution of electricity ("Electrical Facilities"), (v) grant and declare an easement for pedestrian and personal vehicular access over and across the Access Easement, and (vi) grant and declare the Electrical Easement.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Construction of Access Easement and Electrical Easement.

(a) Eifert shall, at its sole cost and expense, upon starting construction of a single-family residence on the Eifert Property, construct or cause to be constructed, Section 2 of the Access Easement, in the location generally depicted on Exhibit C attached hereto and

First American Title
251 E. Ohio Street, Suite 555
Indianapolis, IN 46204
FILE NO: 859979

incorporated herein by reference, (which, for the avoidance of doubt, is located over a portion of the Cardinal Property), with the exact location to be determined by Cardinal, in its sole and absolute discretion. Notwithstanding Section 2 of the Access Easement not being constructed and installed until Eifert begins construction of a single-family home on the Eifert Property, Cardinal shall undertake diligent and good faith efforts to allow Eifert reasonable access over and across the Cardinal Property to access the Eifert Property. The initial installation of Section 2 of the Access Easement shall be gravel, until such time that Cardinal requires Eifert to pave Section 2 of the Access Easement. Upon the request of Cardinal, the specific location of the Access Easement shall be designated by survey or plat at Eifert's sole cost and expense, which specific location shall be approved by Cardinal, with the parties entering into an amendment to this Easement for the purpose of stipulating to the legal description of the Access Easement. At such time as an amendment to this Easement is recorded to specify the exact location of the Access Easement by metes and bounds legal description(s) or by plat, the location of the Access Easement as shown on Exhibit C shall be replaced in its entirety by the new metes and bounds legal description(s) or plat of the Access Easement; however, unless otherwise stated in said amendment, the Access Easement shall remain subject to all other terms and conditions set out in this Easement.

(b) Eifert shall, at its sole cost and expense, upon starting construction of a single-family residence on the Eifert Property, construct or cause to be constructed the Electrical Facilities to run along Section 2 of the Access Easement in the location generally depicted on Exhibit C attached hereto and incorporated herein by reference, (which, for the avoidance of doubt, is located over a portion of the Cardinal Property and hereinafter referred to as the "Electrical Easement"), with the exact location to be determined by Cardinal, in its sole and absolute discretion. Upon the request of Cardinal, the specific location of the Electrical Easement shall be designated by survey or plat at Eifert's sole cost and expense, which specific location shall be approved by Cardinal, with the parties entering into an amendment to this Easement for the purpose of stipulating to the legal description of the Electrical Easement. At such time as an amendment to this Easement is recorded to specify the exact location of the Electrical Easement by metes and bounds legal description(s) or by plat, the location of the Electrical Easement to run along Section 2 of the Access Easement as shown on Exhibit C shall be replaced in its entirety by the new metes and bounds legal description(s) or plat of the Electrical Easement; however, unless otherwise stated in said amendment, the Electrical Easement shall remain subject to all other terms and conditions set out in this Easement.

(c) Eifert, in exercising its obligations under this Easement, shall (a) perform all work in a good and workmanlike manner and in accordance with good construction practices, (b) conduct its activities so as not to unreasonably interfere with the use, occupancy or enjoyment of the Cardinal Property, (c) comply with all government standards at the time of construction and otherwise meet all requirements for commercial private driveways with the same specifications for Section 1 of the Access Easement, (d) comply with all government standards at the time of construction for underground electrical utilities, and (e) take such actions as may be reasonably necessary to ensure the protection and safety of the persons and property on the Cardinal Property and restore any damage caused to the Cardinal Property arising out of its activities.

(d) To facilitate the construction of Section 2 of the Access Easement and the Electrical Easement, Cardinal hereby grants to Eifert a temporary non-exclusive easement over the area of the Cardinal Property reasonably necessary to construct Section 2 of the Easement Area

and the Electrical Easement (the "Eifert Easement Area") for ingress and egress for persons, vehicles and materials on, over, across and through the Eifert Easement Area and for the purpose of staging and marshalling of construction vehicles, equipment, contractors, subcontractors, materialmen and suppliers in connection therewith. The foregoing temporary construction easement shall expire upon the completion of the construction of the improvements to be constructed as aforesaid.

(e) No person shall ever be entitled to any mechanics', materialmen's or any other similar lien, directly or indirectly, derived through or under Eifert, or through or under any act or omission of Eifert, upon the Cardinal Property, or any improvements now or hereafter situated thereon, for or on account of construction of the Eifert Easement Area, and nothing in this Easement shall be construed to constitute a consent by Cardinal to the creation of any lien. In the event any such lien shall be filed, Eifert shall remove, within thirty (30) days after the filing thereof, any such lien on the Cardinal Property arising by reason of Eifert's act or any work or materials which Eifert has, or has caused to be, ordered. In the event Eifert fails to remove any such lien within such thirty (30) day period, Cardinal may take such action as it may deem necessary to remove such lien. Cardinal shall be entitled to reimbursement from Eifert for all costs and expenses incurred by Cardinal in removing or attempting to remove such lien.

(f) Eifert covenants and agrees, at its sole cost and expense, to indemnify and hold harmless Cardinal from and against any and all claims against Cardinal for losses, liabilities, damages, judgments, costs and expenses and any actions or proceedings arising therefrom, arising or related to Eifert's construction of the Eifert Easement Area, and from and against all costs, attorneys' fees, expenses and liabilities incurred with respect to any such claim, action or proceeding arising therefrom. In case any action or proceeding is brought against Cardinal by reason of any such claim, Eifert, upon notice from Cardinal, and, at Eifert's sole cost and expense, covenants to resist or defend such action or proceeding with attorneys reasonably satisfactory to Cardinal.

2. Access Easement. Cardinal hereby grants, declares and conveys to Eifert, a perpetual non-exclusive easement over, across and through the Access Easement to permit unobstructed pedestrian and vehicular passage by Eifert and its agents, contractors, employees, tenants, licensees and invitees between the Eifert Property and Little Eagle Creek Avenue, and to maintain Section 2 of the Access Easement. No barriers, fences, grade changes or other obstructions shall be erected so as to impede or interfere in any way with the free flow of vehicular and pedestrian traffic over, across, and/or through the Access Easement (or any portion thereof). The Access Easement shall not be used in a manner inconsistent with the use as a gravel and/or paved access drive and no improvements shall be erected thereon. The Access Easement shall only be for access to and from a single-family residence and accessory buildings on the Eifert Property. In the event access becomes available from another direction (by way of example, the land to the east of the Eifert Property is developed into a housing subdivision and has a stub street to the Eifert Property with access available), then Eifert shall have the right, but not the obligation to obtain access to such new access point, at Eifert's sole expense and the Access Easement shall then terminate. Notwithstanding the foregoing, Eifert shall be required to obtain access to the new access point if he sells the Eifert Property or relocation of the Access Easement is necessary due to development of Cardinal's Property.

3. Maintenance and Costs of Section 2. Eifert shall repair, maintain and replace Section 2 of the Access Easement so as to keep the access drive located thereon in a good and safe gravel or paved condition (as the case may be), including, without limitation, salting and snow and ice removal (collectively, the "Section 2 Property Maintenance") and Cardinal shall provide Eifert reasonable access to the Cardinal Property for said maintenance. Prior to undertaking any pavement replacement of Section 2, Eifert shall obtain Cardinal's prior written approval as to the need for such replacement, which approval shall not be unreasonably withheld, conditioned or delayed.

4. Maintenance and Costs of Section 1.

- (i) Cardinal shall improve Section 1 of the Access Easement, which shall include the Bridge. Once Eifert begins construction of a single-family residence on the Eifert Property, Eifert shall be responsible for reimbursing Cardinal fifty (50%) percent of the Upgrade Costs ("Buyer's Share of Upgrade Cost"), of which twenty (20%) percent shall be immediately due and payable and twenty (20%) percent shall be due and payable on the anniversary date each year of the date Eifert's Share of Upgrade Cost first became due and payable. In the event the use of the Access Easement is discontinued and no longer needed by Eifert because the Eifert Property obtains access from an area outside of Cardinal's Property, then Eifert shall pay Eifert's Share of the Upgrade Cost prorated up to the date the Access Easement is no longer required by Eifert and Eifert shall be relieved from paying the balance of Eifert's Share of Upgrade Cost.
- (ii) Eifert hereby expressly agrees and consents to the installation of an entryway gate, including security measures, and the maintenance thereof from time to time, associated with the Bridge.

5. Electrical Easement. Cardinal hereby grants, declares and conveys to Eifert, a perpetual non-exclusive easement over, across and through the Electrical Easement to permit the construction and installation of the Electrical Facilities, and to maintain the Electrical Facilities. The Electrical Facilities shall be installed underground, unless Cardinal and Eifert shall mutually agree to another location for the Electrical Easement not visible to Cardinal. Eifert shall have the right to tap into Cardinal's existing electrical line termination in the area at the end of Cardinal's existing driveway, subject to electric company approvals and with any upgrade costs payable solely by Eifert. No barriers, fences, grade changes or other obstructions shall be erected so as to impede or interfere in any way with the free flow of electricity through the Electrical Easement (or any portion thereof). The Electrical Easement shall not be used in a manner inconsistent with the use as a utility easement and no improvements shall be erected thereon. The Electrical Easement shall only be used to provide electricity to a single-family residence and accessory buildings on the Eifert Property. In the event utilities become available from another direction (by way of example, the land to the east of the Eifert Property is developed into a housing subdivision and has a stub street to the Eifert Property with utilities), then Eifert shall have the right, but not the obligation to obtain access to such new access point, at Eifert's sole expense and the Electrical Easement shall then terminate. Notwithstanding the foregoing, Eifert shall be required to hook into the new access point for utilities if he sells the Eifert Property or relocation of the Electrical

Easement is necessary due to development of Cardinal's Property.

6. Self-Help. In the event Eifert fails: (i) to undertake the Section 2 Property Maintenance as required by Section 3 of this Easement, (ii) fails to pave Section 2 of the Access Easement upon the request of Cardinal, inclusive of the final top coat, and/or (iii) to have the specific location(s) of the Access Easement and/or Electrical Easement designated by survey or plat pursuant to Sections 1(a) and 1(b), respectively, of this Easement and this Easement Amended accordingly, and any such failure continues for a period of thirty (30) days following receipt of written notice (or such shorter period of time as may be necessary to ensure the continued safe and unobstructed right of Cardinal to use the Access Easement), then Cardinal may undertake the applicable work on Eifert's behalf. In the event Cardinal exercises its self-help right as aforesaid, Eifert shall reimburse Cardinal for the reasonable out-of-pocket costs and expenses incurred by Cardinal for prosecuting the applicable work, which shall be paid by Eifert within thirty (30) days after Eifert's receipt of Cardinal's written demand for reimbursement, together with an invoice and reasonable supporting documentation for the same. Furthermore, notwithstanding Section 9 below, if Cardinal exercise its self-help right with respect to subsection (iii) above, Cardinal shall have the unilateral right to amend this Easement to specify the exact location of the Access Easement and/or Electrical Easement by survey or plat. In order to facilitate Cardinal's self-help rights herein, Eifert hereby grants to Cardinal, a temporary non-exclusive easement over the area of the Eifert Property reasonably necessary to exercise its self-help rights herein, together with ingress and egress for persons, vehicles and materials on, over, across and through such easement area and for the purpose of staging and marshalling of construction vehicles, equipment, contractors, subcontractors, materialmen and suppliers in connection therewith.

7. Indemnity; Waiver; Insurance

(a) Indemnity. Each party shall indemnify and hold the other party harmless from and against all claims, liabilities and expenses (including reasonable attorneys' fees and costs) relating to accidents, injuries, loss, or damage of or to any person or property arising from (i) the negligent, intentional or willful acts or omissions of such indemnifying party and/or its occupants and/or permittees. Eifert hereby waives and releases any and all right of recovery against Cardinal (and Cardinal's occupants and permittees) for any and all loss, or damage to any property of Eifert (and/or of its occupants and/or permittees) located within or constituting a part of the Access Easement and Electrical Easement, which loss or damage is insured under valid and collectible insurance policies held by Eifert to the extent of any recovery collectible under such insurance policies. Cardinal hereby waives and releases any and all right of recovery against Eifert (and Eifert's occupants and permittees) for any and all loss, or damage to any property of Cardinal (and/or of its occupants and/or permittees) located within or constituting a part of the Access Easement or Electrical Easement, which loss or damage is insured under valid and collectible insurance policies held by Cardinal to the extent of any recovery collectible under such insurance policies.

(b) Insurance. Each party shall procure and maintain, or cause to be procured and maintained, general and/or comprehensive public liability and property damage insurance against claims for personal injury (including contractual liability arising under the indemnity contained in Section 5(a) above), death, or property damage, with single limit coverage of not less

than Five Hundred Thousand Dollars (\$500,000.00) per occurrence including umbrella coverage if any. The minimum limits of insurance required under this Section 5(b) shall be adjusted in Constant Dollars (as hereafter defined) on the ten (10) year anniversary of the recording of this Easement and on each ten (10) year anniversary thereafter. The term "Constant Dollars" shall mean the present value of the dollars to which such phrase refers, which shall be determined by multiplying the dollar amount to be adjusted by a fraction, the numerator of which is the Current Index Number and the denominator of which is the Base Index Number. The "Base Index Number" shall be the level of Index for the month and year during which this Easement is recorded; the "Current Index Number" shall be the most recent Index published prior to each calendar year during the term of this Easement; and the "Index" shall be the consumer price index for all urban consumers for the Midwest Region, published by the Bureau of Labor Statistics of the United States Department of Labor (Base Year 1982-84=100) or any successor index thereto. If publication of the Index is discontinued, or if the basis of calculating the Index is materially changed, then the parties shall determine a substitute Index based upon comparable statistics as computed by an agency of the United States Government or, if none, by a recognized responsible periodical or publication of recognized authority which most closely approximates the result which would have been achieved by using the original Index.

8. Attorneys' Fees. In the event a party institutes any legal action or proceeding for the enforcement of any right or obligation herein contained, the prevailing party after a final adjudication shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

9. Entire Agreement. This Easement contains the entire agreement between the parties hereto with respect to the subject matter hereof. All representations, promises and prior or contemporaneous undertakings between such parties are merged into and expressed in this Easement, and any and all prior agreements or understandings between such parties are hereby canceled. This Easement shall not be amended, modified or supplemented except by a written agreement duly executed by all of the then owners of the Access Easement, the Cardinal Property, and the Eifert Property.

10. Notice. All notices given under this Easement shall be in writing and sent by personal delivery, prepaid certified or express mail, return receipt requested, or by a nationally-recognized overnight courier (such as Federal Express), addressed as follows:

If to Cardinal: Cardinal Real Estate Holdings, LLC
 Attn: Brian Cardinal
 15615 Shining Spring Drive
 Westfield, Indiana 46074

If to Eifert: Tyler Eifert
 1523 State Route 749
 Amelia, Ohio 45102

Notice shall be deemed given upon the date indicated on written confirmation of receipt by the receiving party if sent via certified mail or one (1) business day after notice is given to a courier for overnight delivery. The address to which notices are to be mailed may be changed from time to time by either party upon written notice to the other party.

11. Easement to Run with the Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land and create equitable servitudes in favor of the real property benefited thereby, shall bind every person having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives. Notwithstanding the foregoing, Cardinal shall have the unilateral right to release and disclaim this Easement by written notice to Eifert, in which case, neither party shall have any rights and obligations under this Easement except as accrued as of the date of the aforesaid release and disclaimer.

12. Governing Law. This Easement shall be governed by and construed in accordance with the laws of the State of Indiana.

[Signature Page Follows]

EXECUTED to be effective as of the Effective Date.

CARDINAL:

Cardinal Real Estate Holdings, LLC,
an Indiana limited liability company

By: [Signature]

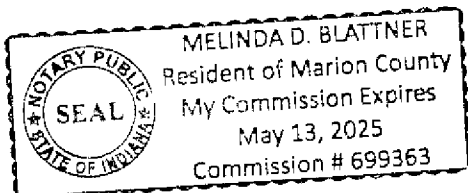
Printed: Brian Cardinal

Title: Manager

STATE OF INDIANA)
) SS:
COUNTY OF Hamilton)

Before me, a Notary Public in and for the State of Indiana, personally appeared Brian Cardinal, by me known to be the Manager of Cardinal Real Estate Holdings, LLC, an Indiana limited liability company, who, being first duly sworn, has executed the foregoing Easement Agreement, for and on behalf of said limited liability company.

WITNESS my hand and Notarial Seal this 17 day of Sept., 2019.



[Signature]
Notary Public

(Printed signature)

My Commission Expires:

My County of Residence:

EIFERT:


Tyler Eifert

STATE OF Ohio)
) SS:
COUNTY OF Hamilton)

Before me, the undersigned, a Notary Public in and for the State of Indiana, personally appeared Tyler Eifert, an adult individual who has executed the foregoing Easement Agreement as his voluntary act and deed.

WITNESS my hand and Notarial Seal this 13th day of September, 2019.

Karen E. Kramer
Notary Public
Karen E. Kramer
(Printed signature)



My Commission Expires:

KAREN E. KRAMER
Notary Public, State of Ohio
My Commission Expires
August 26, 2023

My County of Residence:

West Chester, Ohio (Butler County)

This Instrument prepared by and after recording return to: Christopher D. Long, Krieg DeVault LLP, One Indiana Square, Suite 2800, Indianapolis, Indiana 46204

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Christopher D. Long

Exhibit A
“Cardinal Property”

Tax Parcel No. 08-09-05-00-00-035.000

[See attached]

PARCEL 1:

All that part of the Southeast Quarter of Section Five (5), Township Eighteen (18) North, Range Three (3) East, lying on the West of the Public Highway running from Northeast to the Southwest through said Quarter Section, containing 68 acres more or less.

EXCEPT:

A part of the Southeast Quarter of Section 5, Township 18 North, Range 3 East, Hamilton County, Indiana, and being that part of the grantor's land lying within the right of way lines depicted on the Right of Way Parcel Plat marked Exhibit "B" as recorded in "Certificate of Payment and Order Transferring Real Estate" on February 4, 2004 as Instrument No. 2004-7490, described as follows:

Commencing at the Southwest corner of the Southeast quarter of said section, depicted as point "29" on said plat; thence North 89 degrees 16 minutes 22 seconds East 375.36 feet along the South line of said quarter section to point "38" on said plat in the centerline of Little Eagle Creek Avenue; thence North 47 degrees 30 minutes 30 seconds East 418.33 feet along said centerline to point "39" on said plat; thence North 46 degrees 09 minutes 35 seconds East 141.08 feet along said centerline to point "53" on said plat and the point of beginning of this description; thence North 43 degrees 50 minutes 24 seconds West 16.50 feet to point "28" on said plat on the existing right-of-way of Little Eagle Creek Avenue; thence North 39 degrees 07 minutes 44 seconds East 151.14 feet to point "27" on said plat; thence North 46 degrees 58 minutes 12 seconds East 82.55 feet to point "26" on said plat; thence North 43 degrees 26 minutes 03 seconds East 113.55 feet to point "25" on said plat; thence North 27 degrees 55 minutes 29 seconds East 285.86 feet to point "24" on said plat; thence North 20 degrees 23 minutes 44 seconds East 47.38 feet to point "23" on said plat; thence North 02 degrees 50 minutes 26 seconds East 39.00 feet to point "22" on said plat; thence North 16 degrees 24 minutes 36 seconds East 29.91 feet to point "21" on said plat; thence North 50 degrees 05 minutes 53 seconds East 36.06 feet to point "20" on said plat; thence North 19 degrees 44 minutes 12 seconds East 348.88 feet to point "19" on said plat on the existing right-of-way of Little Eagle Creek Avenue; thence South 79 degrees 10 minutes 31 seconds East 16.50 feet to point "63" on said plat on the existing centerline of Little Eagle Creek Avenue; thence following said centerline Southerly 68.21 feet along an arc to the right and having a radius of 700.00 feet and subtended by a long chord having a bearing of South 13 degrees 36 minutes 59 seconds West and a length of 68.19 feet to point "35" on said plat; thence South 16 degrees 24 minutes 29 seconds West 424.72 feet along said centerline to point "44" on said plat; thence following said centerline Southerly, and Southwesterly 124.80 feet along an arc to the right and having a radius of 375.00 feet and subtended by a long chord having a bearing of South 25 degrees 56 minutes 31 seconds West and a length of 124.22 feet to point "43" on said plat; thence South 35 degrees 28 minutes 33 seconds West 166.30 feet along said centerline to point "42" on said plat; thence following said centerline Southwesterly 120.39 feet along an arc to the right and having a radius of 600.00 feet and subtended by a long chord having a bearing of South 41 degrees 13 minutes 27 seconds West and a length of 120.19 feet to point "41" on said plat; thence South 46 degrees 58 minutes 21 seconds West 96.47 feet along said centerline to point "40" on said plat; thence South 46 degrees 09 minutes 35 seconds West 150.00 feet along said centerline to the point of beginning and containing 1.010 acres, more or less. The portion of the above described real estate which is not already encumbered with pavement containing 0.799 acres, more or less.

ALSO EXCEPTING:

Part of the East Half of the Southeast Quarter of Section 5, Township 18 North, Range 3 East in Hamilton County, Indiana, as shown in the Warranty Deed recorded as Instrument Number 1990-10684, and more particularly described

as follows:

Beginning at the Northwest corner of the East Half of the Southeast Quarter of Section 5, Township 18 North, Range 3 East; thence North 89 degrees 30 minutes East (assumed bearing) on and along the North line of said East Half of 108.5 feet; thence South 50 degrees 35 minutes East 168.5 feet; thence South 52 degrees 38 minutes West 89.0 feet; thence South 13 degrees 41 minutes West 189.0 feet; thence South 55 degrees 56 minutes West 148.7 feet to the West line of said East Half; thence North 00 degrees 00 minutes on and along said West line 427.0 feet to the place of beginning.

ALSO EXCEPTING:

Part of the East Half of the Southeast Quarter of Section 5, Township 18 North, Range 3 East in Hamilton County, Indiana, as shown in the Warranty Deed recorded as Instrument No. 1990-19684, an more particularly described as follows:

Beginning at a point on the North line of the East Half of the Southeast Quarter of Section 5, Township 18 North, Range 3 East, 108.5 feet North 89 degrees 30 minutes East (assumed bearing) of the Northwest corner of said East Half; thence continuing North 89 degrees 30 minutes East on and along said North line 520.8 feet to its intersection with the centerline of Little Eagle Creek Avenue; thence South 89 degrees 12 minutes West on and along said centerline 50.0 feet; thence South 35 degrees 06 minutes West on and along said centerline 285.0 feet; thence North 50 degrees 35 minutes West 421.1 feet to the place of beginning.

ALSO EXCEPTING:

Part of the East Half of the Southeast Quarter of Section 5, Township 18 North, Range 3 East in Hamilton County, Indiana, as shown in Warranty recorded as Instrument No. 1996-24285, and more particularly described as follows:

Beginning at the Northwest corner of the East Half of the Southeast quarter of Section 5, Township 18 North, Range 3 East; thence North 89 degrees 30 minutes east (assumed bearing) on and along the North Line of said East Half 629.3 feet to the intersection with the centerline of Little Eagle Creek Avenue; thence South 39 degrees 12 minutes West on and along said centerline 50.0 feet; thence South 35 degrees 06 minutes West on and along said Centerline 285.0 feet to the place of beginning of the tract; thence continuing South 35 degrees 06 minutes West on and along said centerline 230.0 feet; thence North 58 degrees 08 minutes West 210.0 feet; thence North 13 degrees 41 minutes East 189.0 feet; thence North 52 degrees 38 minutes 89.0 feet; thence South 50 degrees 35 minutes East 252.6 feet to the place of beginning.

ALSO EXCEPTING:

Part of the East Half of the Southeast Quarter of Section 5, Township 18 North, Range 3 East in Hamilton County, Indiana, as shown in the Warranty Deed recorded as Instrument No. 2007-4560, and more particularly described as follows:

Beginning at a point on the West line of the East Half of the Southeast Quarter of Section 5, Township 18 North, Range 3 East 427.0 feet South 00 degrees 00 minutes (assumed bearing) of the Northwest corner of said East Half; thence continuing South 00 degrees 00 minutes on and along said West line 456.6 feet to its intersection with the centerline of Little Eagle Creek Avenue extended; thence North 35 degrees 06 minutes East on and along said centerline and the extension thereof 524.4 feet; thence North 58 degrees 08 minutes West 210.0 feet; thence South 55 degrees 56 minutes West 148.7 feet to the place of beginning.

Exhibit B
“Eifert Property”

Tax Parcel No. 08-09-05-00-00-009.000

The Southeast Quarter of the Northwest Quarter of Section Five (5), Township Eighteen (18) North, Range Three (3) East, all in Hamilton County, Indiana.

Exhibit C
“Depiction of Access Easement”

The Eifert Property is marked by a red “X”

The Cardinal Property is outlined in yellow

The general location of the Access Easement on the Cardinal Property is marked by red and pink lines (within
the yellow outline of the Cardinal Property)

The pink line is “Section 1” of the Access Easement

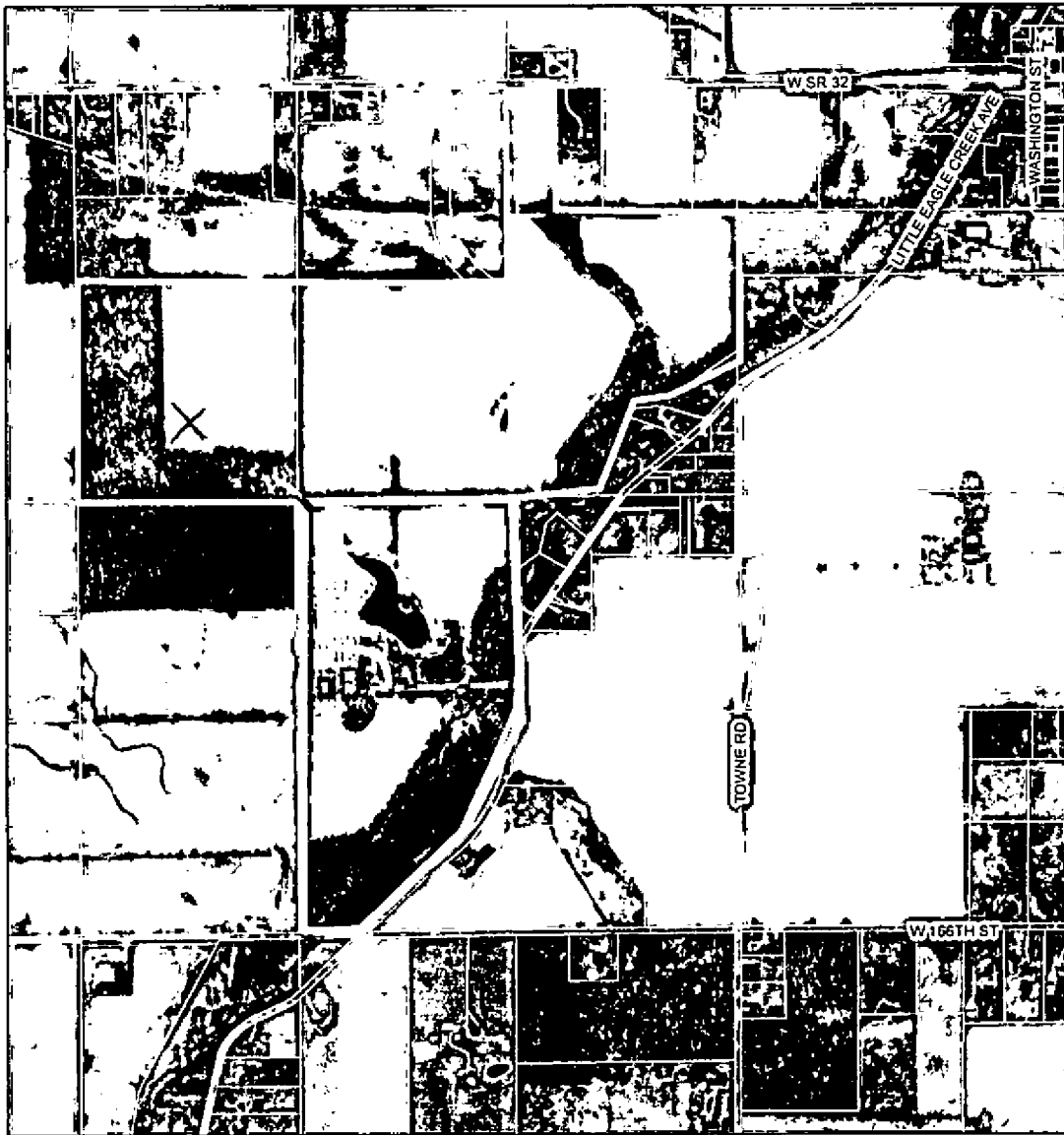
The red line is “Section 2” of the Access Easement



Brian Cardinal Property



Aerial Location Map



Eifert
Property

Towne Rd

Eagle Creek Ave

W 166th St







WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

October 13, 2020

2010-VS-31

Exhibit 1

Petition Number: 2010-VS-31

Subject Site Address: 3860 Madeline Lane (The "Property")

Petitioner: Jason & Rebecca Ogle (The "Petitioner")

Request: The Petitioner requests a Variance of Development Standard to encroach ten (10) feet into the thirty (30) foot Minimum Rear Yard Setback and one (1) foot into the ten (10) foot Minimum Side Yard Setback on 0.28 acres +/- in the SF-3: Single-Family Medium Density District.

Current Zoning: SF-3: Single-Family Medium Density

Current Land Use: Residential

Approximate Acreage: 0.28 acres+/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject Property is 0.28 acres +/- in size and is located at 3860 Madeline Lane (see **Exhibit 2**). The Property is currently zoned SF-3: Single-Family Medium Density. The surrounding properties are also zoned SF-3.

Variance Request: The Petitioner is requesting a Variance of Standard to encroach ten (10) feet into the thirty (30) foot Minimum Rear Yard Setback and one (1) foot into the ten (10) foot Side Yard Setback as further described herein.

SUMMARY OF VARIANCE

The Property is currently subject to Zoning Standards for the SF-3: Single-Family Medium Density District. The zoning sets forth a Minimum Rear Yard Setback line of thirty (30) feet and a Minimum Side Yard Setback line of ten (10) feet. The Petitioner is requesting these variances to encroach ten (10) feet into the thirty (30) foot Minimum Rear Yard Setback and one (1) foot into the Minimum Side Yard Setback to accommodate a swimming pool and deck, as illustrated on the Site Plan (see **Exhibit 3**).



COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan (The “Plan”) identifies the property within the “Existing Suburban” land use classification¹. The vision for the Suburban Residential classification is contemplated for future residential growth of the community, generally to the west and north of the Existing Suburban area.²

The Existing Suburban classification is designed to accommodate detached dwellings, attached dwellings, institutional uses, and recreational uses³. The Plan also contemplates Existing Suburban to:

- Ensure that new development occurs in a way that it is contiguous with existing development:
- Prevent monotony of design and color. Recognize that quality in design applies not just to individual homes, but to the collective impact of an entire development:
- Encourage a diverse range of homes styles in individual subdivisions, using innovative architecture of a character appropriate to Westfield, and:
- Emphasize connectivity between subdivisions, and avoid creating isolated islands of development.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Standard. This petition is scheduled to receive its public hearing at the October 13, 2020, 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.

¹ Page 24 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Land Use Classifications and Development Policies.

² Page 38 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Background.

³ Pages 38-39 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan; New Suburban.

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

October 13, 2020

2010-VS-31

Exhibit 1

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO⁶ 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 Standard: The Board of Zoning Appeals shall approve or deny variances from the terms of the UDO. A variance may be approved under Indiana Code § 36-7-4-918.4 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;
- 3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property; and

DEPARTMENT COMMENTS

Approval: If the Board is inclined to approve the Variance of Standard (2010-VS-31), then the Department recommends the findings as set forth below, for the variance:

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 would be injurious to the public health, safety, morals, and general welfare of the community because the existing use and proposed improvements will otherwise comply with the applicable standards of the existing zoning 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 adjacent surrounding properties because the use of the Property will not change.

⁶ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

October 13, 2020

2010-VS-31

Exhibit 1

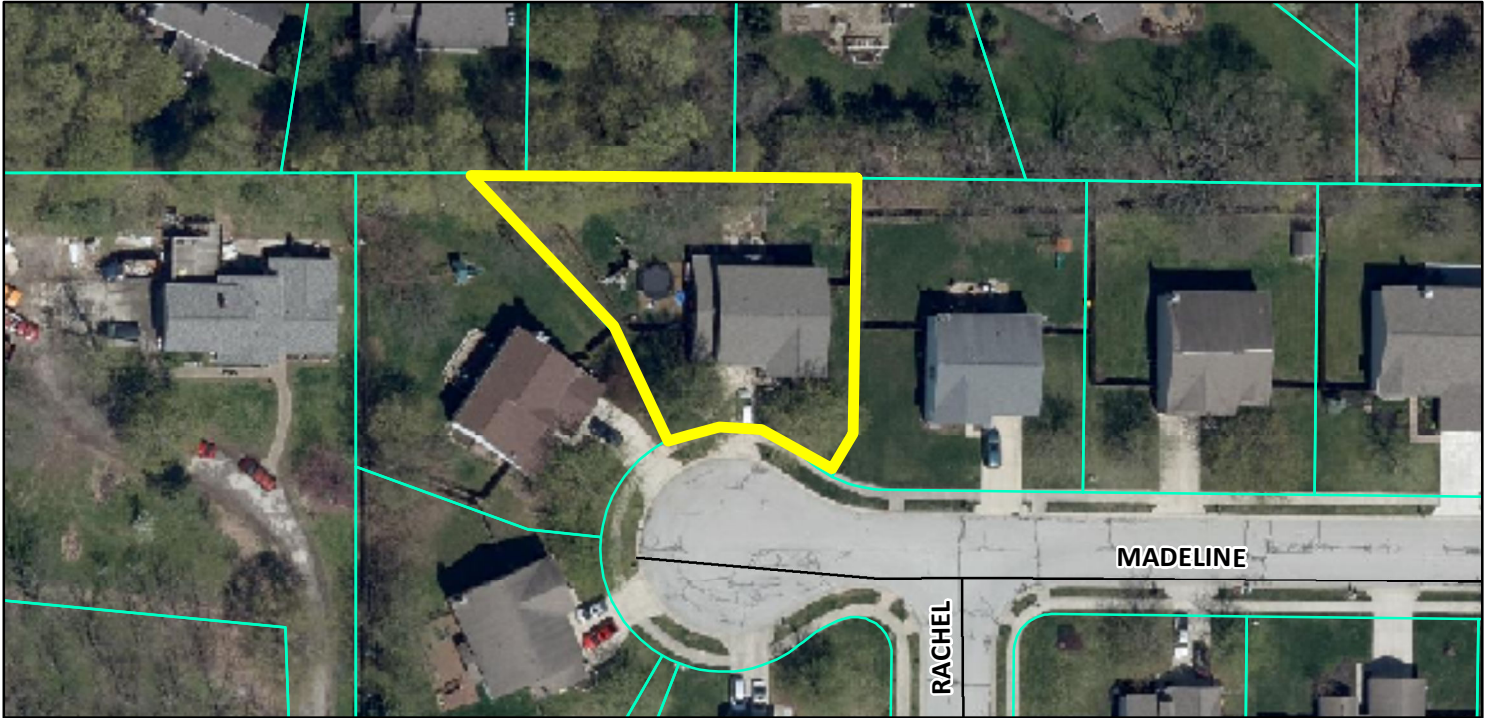
- 3) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:*

Finding: Strict adherence to the zoning ordinance would result in the inability to improve the property as proposed and would result in the construction of a swimming pool and deck that would not suit the needs of the Petitioner.

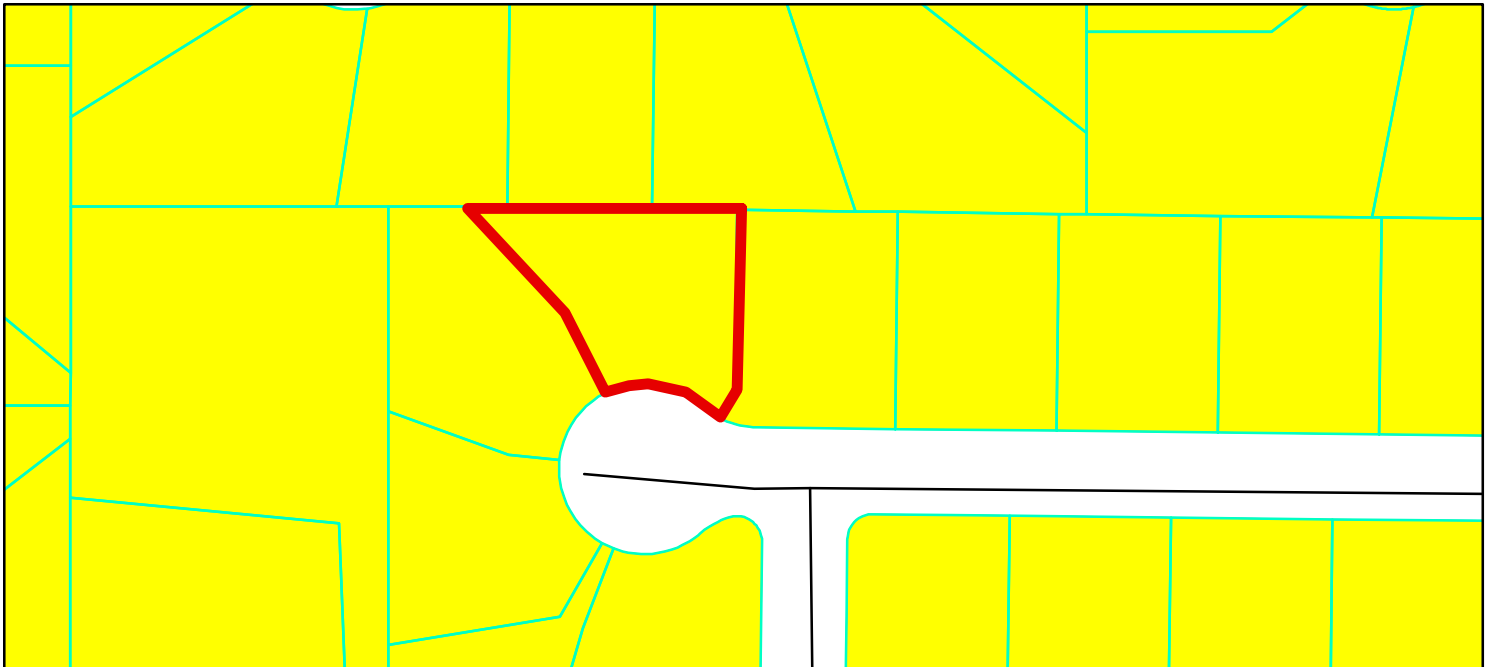
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

Aerial Location Map

 Site



Zoning Map



 Parcel
 GIS.DBO.PW.Streets
Zoning - All

Zoning
 SF-3 (Single Family - 3)

0 0.0125 0.025
Miles



Project
Private Property

Ogle Residence
3860 Madeline Lane
Carmel, IN 46033

July 23, 2020

Team

Graphic Scale 1" = 8'
Sheet Size 18"x24"



Key

M Motor

⊙ Standard Bubbler

Revision

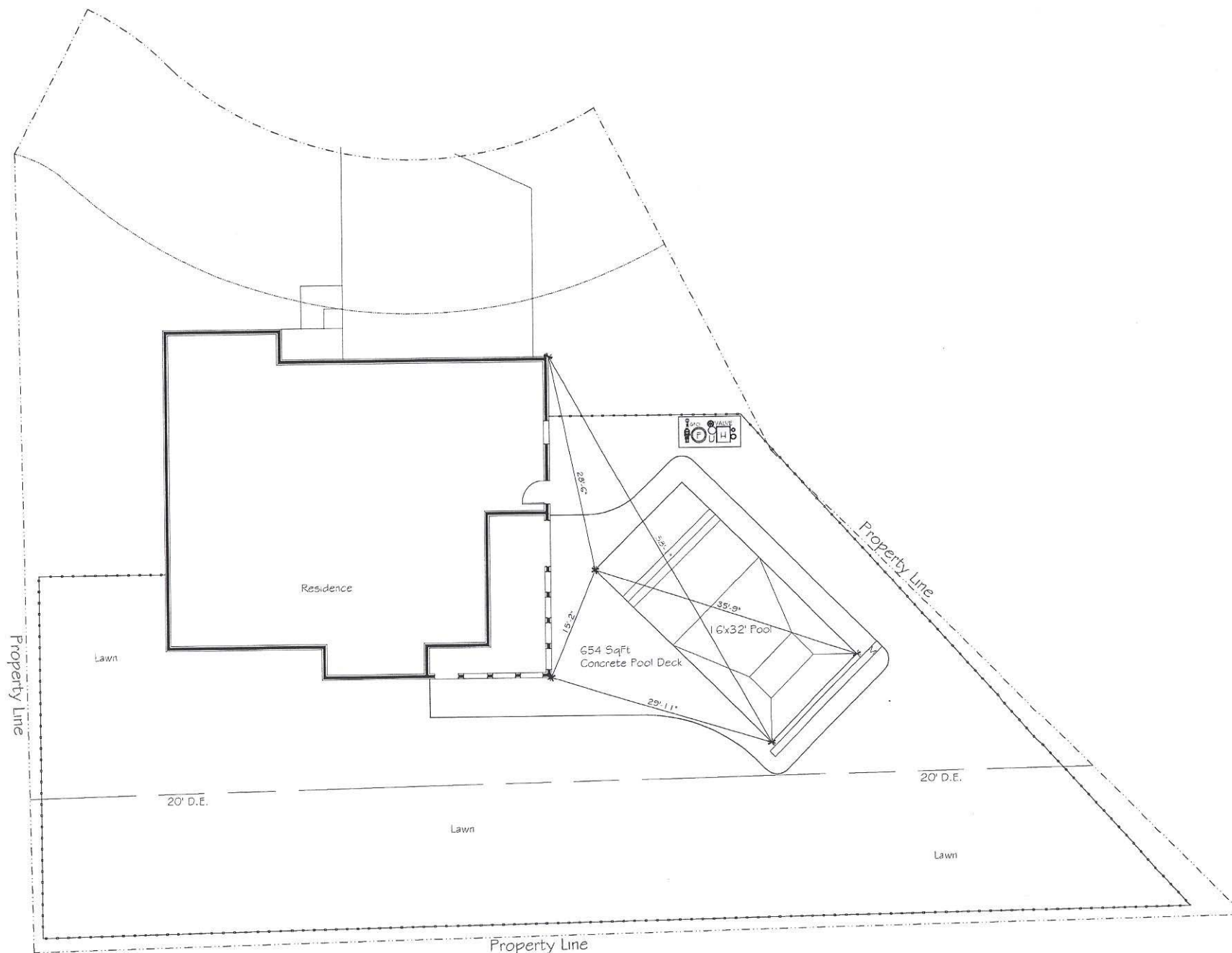
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Drawn AG
Checked

Takeoff Plan

Sheet Size 18"x24"

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Copyright 2010





WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

October 13, 2020

2009-VS-27

Exhibit 1

Petition Number: 2009-VS-27

Subject Site Address: 15519 Hidden Oaks Lane (The "Property")

Petitioner: Paul and Kaprice Kraemer (The "Petitioner(s)")

Request: The Petitioner requests a Variance of Development Standard to encroach twenty-three (23) feet into the forty-five (45) foot Minimum Rear Yard Setback on 0.45 acres +/- in the Bridgewater PUD District.

Current Zoning: Bridgewater PUD (Ord. 06-49)

Current Land Use: Residential

Approximate Acreage: 0.45 acres+/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. HOA Approval
5. Kraemer Exhibits
6. Neighborhood Meeting Summary

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject Property is 0.45 acres +/- in size and is located at 15519 Hidden Oaks Lane (see **Exhibit 2**). The Property is currently zoned Bridgewater PUD. The surrounding properties are also zoned Bridgewater PUD.

Variance Request: The Petitioner is requesting a Variance of Standard to encroach twenty-three (23) feet into the forty-five (45) foot Minimum Rear Yard Setback as further described herein.

SUMMARY OF VARIANCE

The Property is currently subject to Zoning Standards for Bridgewater PUD District as set forth in Ordinance 06-49. The zoning sets forth a minimum rear yard setback line of forty-five (45) feet. The Petitioner is requesting this variance to encroach twenty-three (23) feet into the forty-five (45) foot Minimum Rear Yard Setback to accommodate a swimming pool, as illustrated on the Site Plan (see **Exhibit 3**).



COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan (The "Plan") identifies the property within the "Existing Suburban" land use classification¹. The vision for the Suburban Residential classification is contemplated for future residential growth of the community, generally to the west and north of the Existing Suburban area.²

The Existing Suburban classification is designed to accommodate detached dwellings, attached dwellings, institutional uses, and recreational uses³. The Plan also contemplates Existing Suburban to:

- Ensure that new development occurs in a way that it is contiguous with existing development:
- Prevent monotony of design and color. Recognize that quality in design applies not just to individual homes, but to the collective impact of an entire development:
- Encourage a diverse range of homes styles in individual subdivisions, using innovative architecture of a character appropriate to Westfield, and:
- Emphasize connectivity between subdivisions, and avoid creating isolated islands of development.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Standard. This petition was on the agenda for the September 15, 2020, BZA meeting; however, it was continued to the October 13, 2020, BZA meeting without receiving a public hearing. Therefore, this item is scheduled to receive its public hearing at the October 13, 2020, 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. As the item was continued, no additional notice was necessary.

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

¹ Page 24 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Land Use Classifications and Development Policies.

² Page 38 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Background.

³ Pages 38-39 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan; New Suburban.

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

October 13, 2020

2009-VS-27

Exhibit 1

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 Standard: The Board of Zoning Appeals shall approve or deny variances from the terms of the UDO. A variance may be approved under Indiana Code § 36-7-4-918.4 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;
- 3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property; and

DEPARTMENT COMMENTS

Approval: If the Board is inclined to approve the Variance of Standard (2009-VS-27), then the Department recommends the findings as set forth below, for the variance:

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 would be injurious to the public health, safety, morals, and general welfare of the community because the existing use and proposed improvements will otherwise comply with the applicable standards of the zoning of the Bridgewater PUD.

- 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:*

⁶ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

October 13, 2020

2009-VS-27

Exhibit 1

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 adjacent surrounding properties because the use of the Property will not change.

- 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 and would result in the construction of a swimming pool and deck that would not suit the needs of the Petitioner.

Recommended Condition:

- That the variance is applicable only to the swimming pool and hardscape as generally illustrated on the site plan. The swimming pool specifically shall be installed in substantial conformance with the site plan as determined by the Director of the Westfield Department of Community Development.

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.



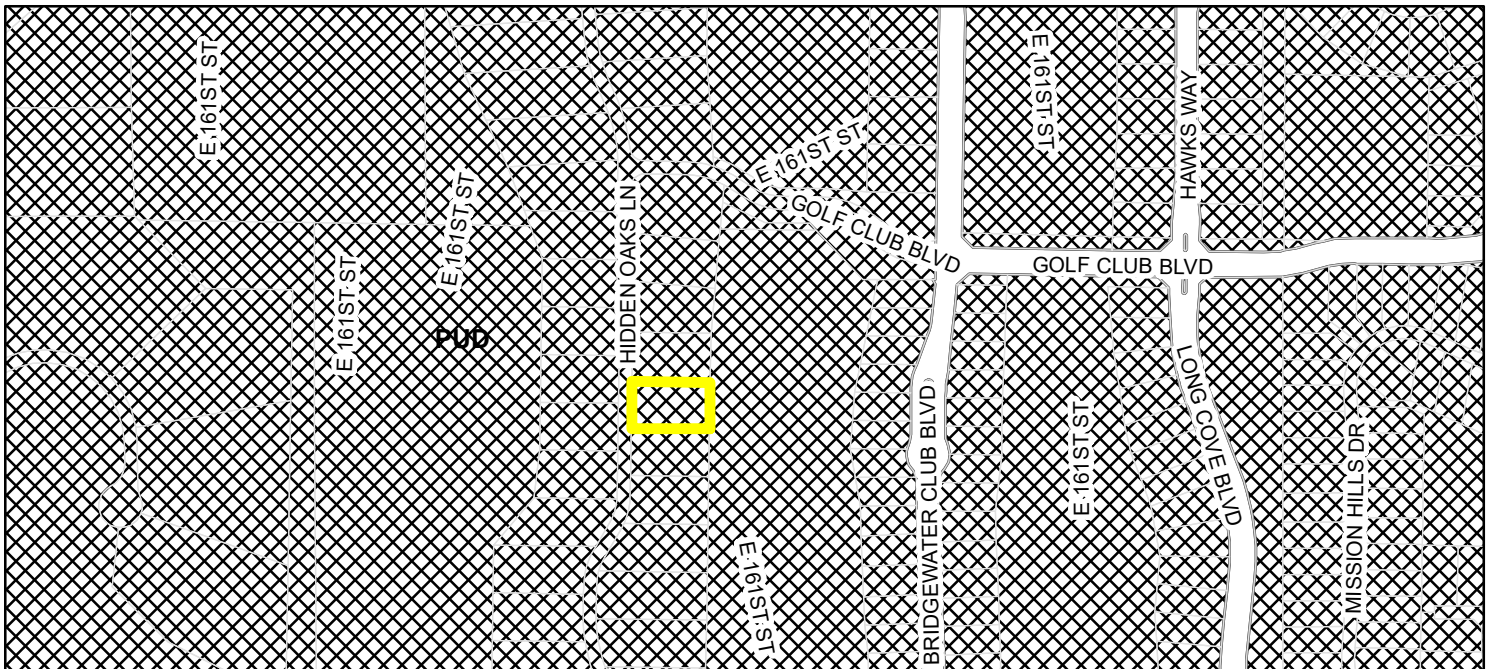
Property Location Map
15519 Hidden Oaks Court
Variance of Development Standard
2009-VS-27



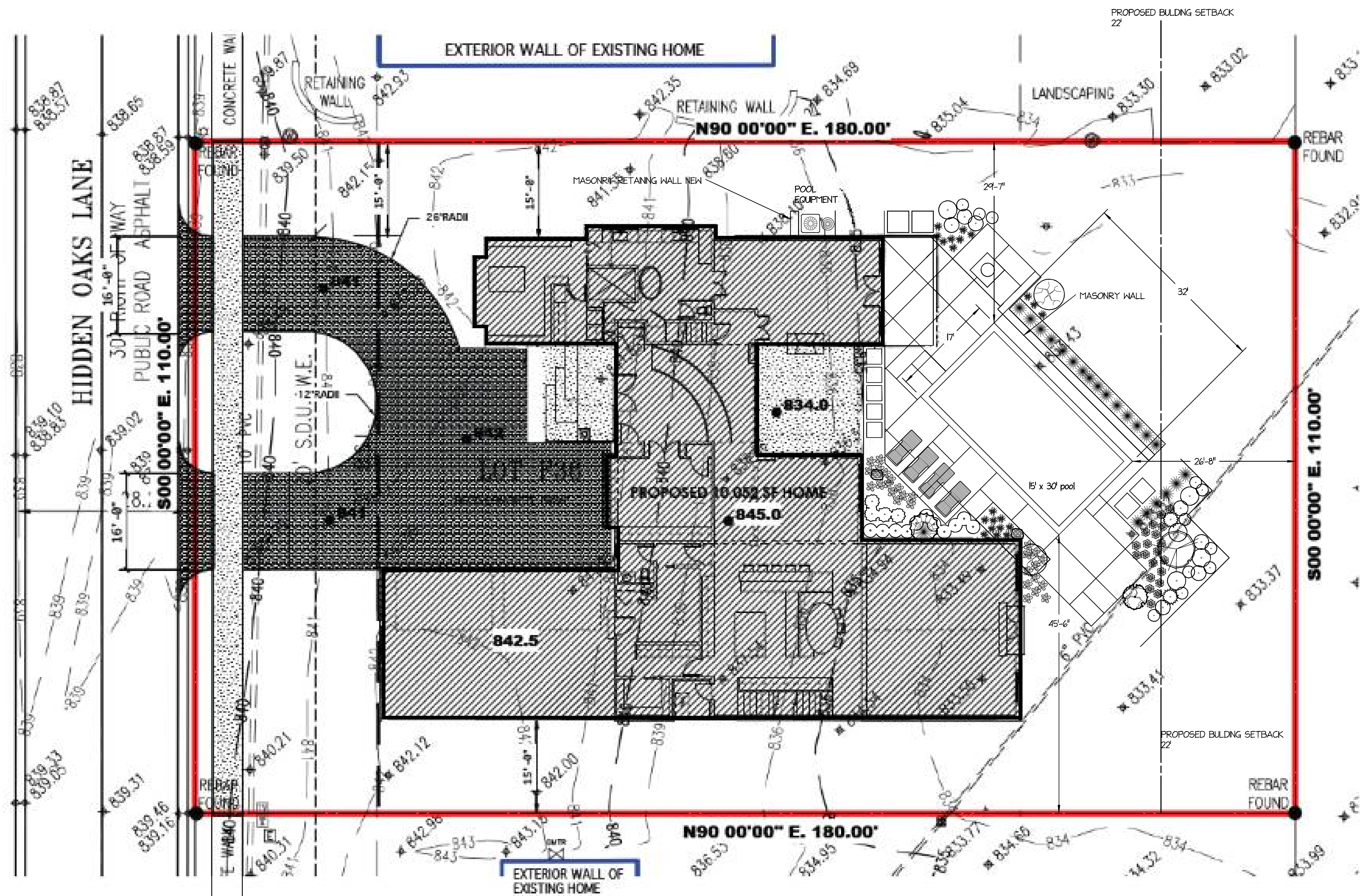
Aerial Location Map



Zoning Map



PLAN #2026



PROPOSED SITE PLAN
SCALE: 1"=10'-0"

HOME INFORMATION:

MAIN FLOOR SF	4,220 SF
SECOND FLOOR SF	2,600 SF
BASEMENT SF	3,232 SF
TOTAL LIVING SF	10,052 SF
GARAGE SF	934 SF
BONUS ROOM SF	539 SF

SHEET INDEX:

C100	SITE PLAN / COVER SHEET
S100	FOUNDATION BASEMENT PLAN
S101	BASEMENT PLAN
S200	SECTIONS
A100	MAIN FLOOR PLAN
A200	SECOND FLOOR PLAN
A300	WEST ELEVATION
A400	EAST, NORTH, SOUTH ELEVATIONS
A500	ROOF PLAN
A501	THREE D ELEVATIONS
A600	FINISH PLAN
A700	INTERIOR ELEVATIONS
E100	BASEMENT LIGHTING PLANS
E200	MAIN FLOOR LIGHTING PLAN
E300	SECOND FLOOR LIGHTING PLANS

Surveyed Land Description

Lot numbered 36 in The Bridgewater Club, Section F, as per plat thereof, recorded on May 11, 2005 as Instrument #200500028681 in Plat Cabinet 3, Slide 623 in the Office of the Recorder of Hamilton County, Indiana.

PLAN #2026
12/2/14

OWNERS:

PAUL AND KAPRICE KRAEMER
14243 OVERBROOK DRIVE
CARMEL, IN 46074



DRAWN BY: JAB
DATE: 9/01/14

PROJECT INFO:

PROPOSED HOME TO BE CONSTRUCTED AT
LOT 36 IN BRIDGEWATER CLUB SUBDIVISION OR
15519 HIDDEN OAKS LANE
CARMEL, IN 46033

SHEET:

C100

REQUEST FOR ARCHITECTURAL CHANGE

Please Print

1 Community: **The Bridgewater Club Master Owners Association Lot #:** F36

Name: **Paul and Kaprice Kraemer** Address: **15519 Hidden Oaks Ln**

Phone: **702-334-1993** Fax: EMAIL ADDRESS: **kikraemer@me.com**

FOR ALL SUBMISSIONS THE FOLLOWING ATTACHMENTS ARE REQUIRED:

- ☐ A Plot Plan or a Surveyors Location Report of your lot should have been provided at closing.
Please indicate the location of the proposed addition/improvement will be installed (on a copy).
- ☐ Please include Elevations and Blueprints or working drawings indicating all dimensions.
- ☐ If available, a photograph or drawing of a similar completed project.

THE COMMITTEE MAY TAKE UP TO 30 DAYS TO REPLY - PLEASE PLAN ACCORDINGLY - THANK YOU!

2. Requesting architectural approval of the following: ☒ Improvement ☐ Addition ☐ Repair/Replacement

Briefly describe the proposed change:

Removal of existing patio replace with inground gunite pool. Re- install patio around pool to create pool deck and extending seat wall to block from golf course. Wall and patio to be constructed with materials that match existing corresponding surfaces. Change 45' building setback line as platted to 22' to accommodate the new pool and seat wall

Location: Backyard

Dimensions: 15'x 30' pool ~ 1000 square feet of pool deck

Please list below the major construction materials that will be used in this project. Be as specific as possible:

Dyed burnished salt finish concrete patio to match existing surface. Masonry wall to match existing wall and veneer stone on home. . Pool to be constructed from gunite and plaster with natural limestone coping and autocover.

***Requests for exterior color/materials changes MUST submit samples of color, paint, brick, etc.
(Exterior materials must conform to the original construction or be sufficiently compatible.)***

4 Project schedule:

A. The work will be performed by: Homeowner or Contractor Name: Mike McGhee and associates and Northshore Landscape llc

B. Subsequent to the committee approval,

please indicate the projected start date

on or around 10/1/2020

please indicate the projected end date

on or around 5/15/2021

C. Please indicate all required permits (building, etc.) building, electrical permits

5. Will any part of the proposed improvement extend beyond your property line? No
6. Will any part of the proposed improvement extend into any Common Area, any Utility, Drainage or Sewer Easement, Landscape, Preservation or Lake Easement shown on the plot plan of your lot? No

ARCHITECTURAL CHANGE STANDARDS

I understand that under the Declaration and the rules and regulations, the Board will act on this request and provide me with a written response of their decision. I further understand and agree to the following provisions:

1. No work or commitment of work will be made by me until I have received written approval from the Association.
2. All work will be done at my expense and all future upkeep will remain at my expense.
3. All work will be done expeditiously once commenced and will be done in a good workman-like manner by myself and/or a licensed and insured contractor.
4. All work will be performed at a time and in a manner to minimize interference and inconvenience to other owners.
5. I assume all liability and responsibility for all damage and/or injury which may result from performance of this work.
6. I will be responsible for the conduct of all persons, agents, contractors, and employees connected with this work.
7. I understand that any and all improvements placed in a drainage, utility, sewer, landscape or other easement is at my risk. I accept the responsibility for repair and/or replacement of improvements when utility, drainage or sewer principals, developer or other authorized party removes improvements for access to the easement.
8. I will be responsible for complying with, and will comply with, all applicable federal, state and local laws, codes, the community governing documents, regulations and requirements in connection with this work, and I will obtain any necessary governmental permits and approvals for the work. I understand and agree that the Association, its Board of Directors, its Agent and/or the Committee have no responsibility with respect to such compliance and that the Board of Director's and/or its designated Committee's approval of this request shall not be understood as the making of any representation or warranty that the plans, specifications or work comply with any law, code, covenant, regulation and/or requirement.

I hereby acknowledge that I have read and understand the ARCHITECTURAL CHANGE STANDARDS set forth by the Board, as well as the Declaration of Covenants and Restrictions.

Homeowner's Signature: _____

Date: _____

**NOTE: All submitted materials shall remain the property of the Association.
You may wish to make a copy for your personal records.**

For A.I.L. Submissions

Be sure to include the requested attachments listed on the previous page.

Please return the completed documents to:

**The Bridgewater Club Master Association
Attn: Architectural Review Board, David Monnol
3535 East 161st St
Carmol, IN 46033
Email: david.monno1@thebridgewaterclub.com
Phone: 317-390-2490**

..... **For Office Use Only**

Architectural Committee Action: _____ **Date received:** _____

Signature of Homeowner

Date

Return all required documentation to:

The Bridgewater Club Master Association
Attn: Architectural Review Board, David Mennel
3535 East 161st St
Carmel, IN 46033
Email; david.mennel@thebridgewaterclub.com
Phone; 317-399-2490

() Approved as submitted

(✓) Approved with restrictions as follows: The Landscape material added between the pool & golf course are adequate to diffuse view of pool furniture

() Deferred: Please supply additional information:

() Denied: ARB Comments:

Committee Signature:



Date:

8/31/2020

Dear Homeowner:

Any lot improvement made or installed within an easement is at the owner's risk regardless of the approval by the Architectural Control Committee. If for any reason repairs and or maintenance are required in the easement, any improvement(s) that are removed will not be reinstalled by the utility company or contractor.

This waiver must be signed and returned with the Request for Architectural Change, to protect you and the HOA of your community. It is to verify that you have a full understanding of the responsibilities and risk of developing an improvement into an easement.

If you are developing into an easement, it is also your responsibility to have the utilities marked prior to commencing by calling "Holey Moley" Indiana Underground Services @ 811.

EASEMENT WAIVER

This document is an acknowledgment that I/we,

NAME OF HOMEOWNER (S)

the owner(s) of the property located at

STREET ADDRESS

CITY

, IN.

of the

NAME OF SUBDIVISION

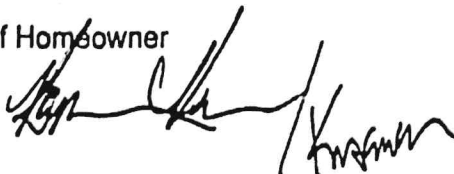
Homeowners Association Lot #

will be

installing

that extends into a drainage and/or utility and/or sewage easement and accepts full responsibility of any cost to replace this improvement if the utility company, developer or other authorized party needs to gain access to that area by removal of said improvement.

Signature of Homeowner



Date

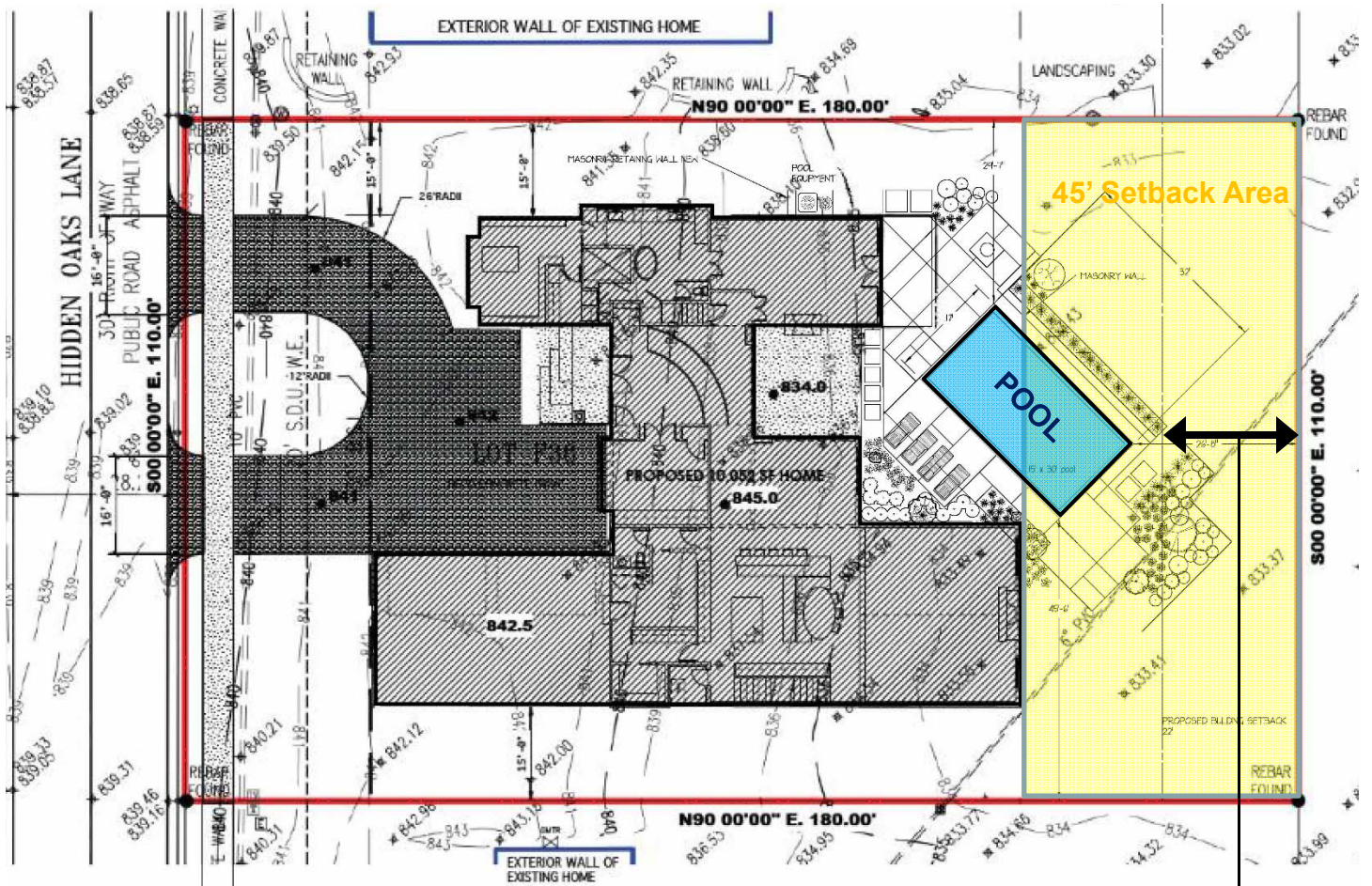
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Site Location Map / Aerial Photograph



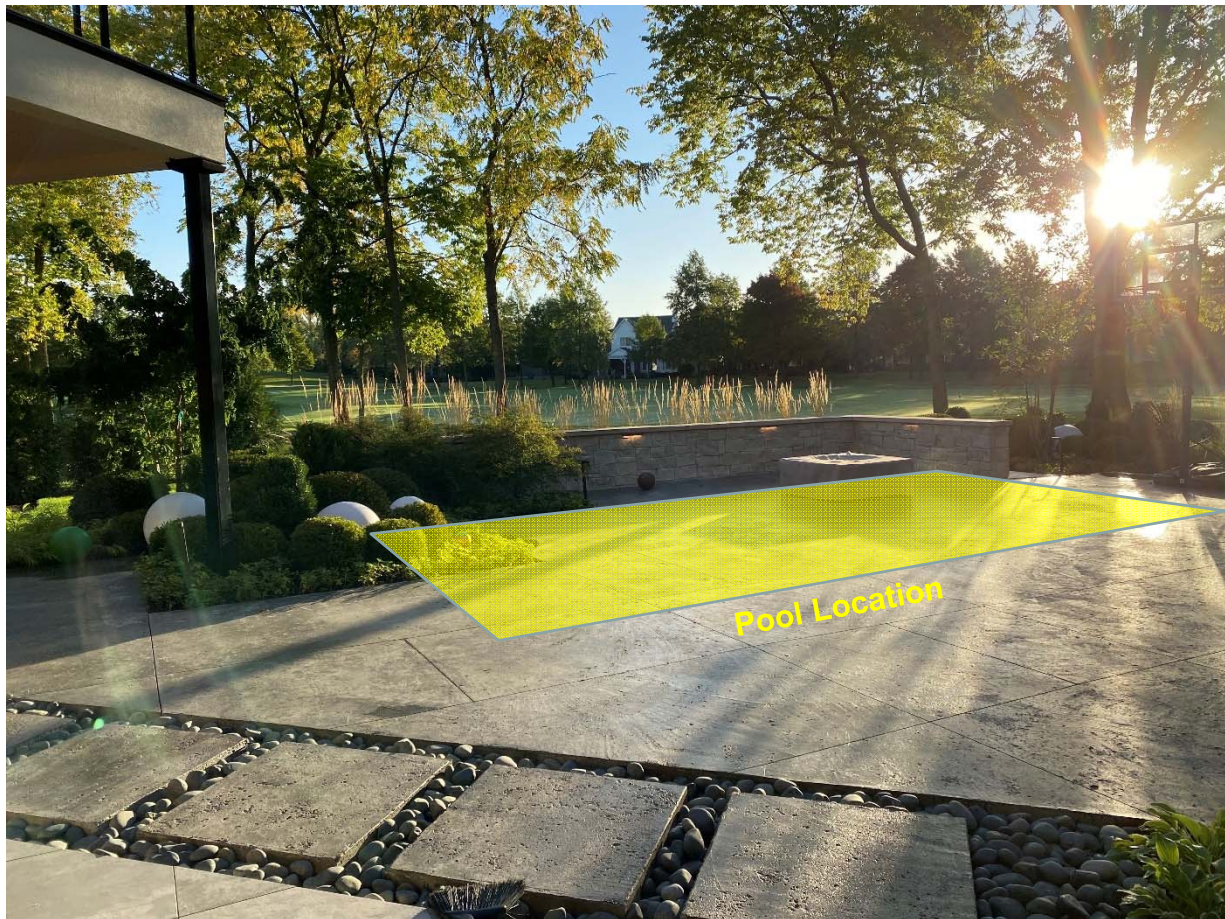
Site Location Map / Aerial Photograph



22' Proposed Setback



Kraemer Residence
Site Plan



Kraemer Residence
Photos

September 28, 2020 Neighborhood Meeting Summary

Project: Rear Yard Setback Variances for Davis Residence, Buyer Residence and Kraemer Residence

Applicants: Pete Davis,
Stephen and Joni Buyer, and
Paul and Kaprice Kraemer

Docket Number: Variance Docket Numbers: 2009-VS-25, 2009-VS-26 and 2009-VS-27

Date: September 28 at 7:00pm

Location: Bridgewater Club, 3535 East 161st Street, Carmel, IN 46033

Attendees: Jon Dobosiewicz – Nelson & Frankenberger
Pete Davis
Stephen and Jodi Buyer
Dr. Paul Kraemer
Pam Howard – Staff
See **Exhibit A:** Sign-in Sheet

Meeting began at 7:00pm.

Mr. Steve Buyer introduced himself and the other applicants. Steve described his request for the audience indicating among other things that his proposed pool was in a location which replaces his existing built-in large 10' x 10' spa with a 3.5-4 foot deep sport pool which would include no slide or diving board. Steve further described the proposed location, extension of the existing serpentine wall and proximity of the Kraemer home and how they would coordinate during construction of both pools during the off-season to accommodate golfers.

Dr. Paul Kraemer described their proposed pool indicating that it was a sport pool (depth 3.5-4ft) and would be constructed inside an existing hardscape wall with no way to tell the pool was there from the golf course. The pool will occupy an area already occupied by a patio which will be removed and replaced by the sport pool with no slide or diving board. There is no diving board in a sport pool. Dr. Kraemer spoke to the outreach he and the other applicants had done in communicating with neighbors and the overwhelming support they had received back from residents in Hidden Oaks and Bridgewater Pointe.

Pete Davis also spoke regarding his request noting the distance of golf play across the pond on golf course property, the size of the proposed pool (14' by 24'), that it was also a sport pool (depth 3.5-4ft) with no slide or diving board and the enhancement to the value of the property it would add.

Jon Dobosiewicz handed out some exhibits (attached) and provided an overview summary of the process and why neighbors had received the invitation to the meeting and potentially notice of the pending variance requests.

David Mennel spoke regarding the process the Master Association plays in working with residents who desire to make improvements noting that this year he had seen considerably more requests for home improvements this year in particular pool requests. Dave went on to describe the precedents over the past 12 years of varied setbacks on the golf course and why they were established and that in his experience variances were a normal part of the process. He thought there have been about five (5) variances a year over the last several years in Bridgewater. Dave also clarified that the Association process is separate from the City process an owner has to address in order to obtain all permits.

Neighbor Comments and Questions:

1. Why are we receiving this notice and not on other pool requests?

Mr. Dobosiewicz explained that the notice was sent out and they were having the meeting at the suggestion of the Board of Zoning Appeals (BZA) so that more people would be given an opportunity to share their comment or questions regarding the request so that the BZA might have more input in advance of making a final decision. He also explained that some pools have been constructed within the property's setback.

2. Is there a special fee for a BZA request?

It was noted that the BZA fee was approximately \$650 and there was not a fee for review by the Bridgewater Master HOA.

3. Mr. Cohen indicated that it looked like the applicants had worked to be considerate of neighbors but he was concerned about the encroachment in the rear yard putting people closer to the property line and the precedent he thought it would set on future requests down the road.

Mr. Buyer thanked Mr. Cohen for his comments and reviewed how he had worked with an architect and adjacent neighbors to protect them and the golf course. Mr. Buyer also stated that his variance is not setting a precedent as there have been many approved variances over the years that consume far more of the setback by area and distance.

Pam Howard explained that each variance is reviewed on a case by case basis and the BZA does not review past approvals in considering each variance that comes before them.

4. Pete Emigh thanked the applicants for their working with the neighbors and thought the plans were great and said he would do whatever he could to support the requests.
5. One attendee asked how they could help or attend the meeting to convey support.

Mr. Dobosiewicz noted that the public could send e-mails and/or attend the meeting on October 13th but that seating was limited due to Covid and that all e-mails would be shared with the BZA.

The meeting ended at 7:50pm

To: Hidden Oaks and Bridgewater Club Blvd HOA Members in Good Standing

You may have noticed there are multiple signs in yards advising of pending action before Westfield-Washington Township Advisory Plan Commission, including variances for incursions into backyard setbacks. Pete and Janna Davis, 15621 Hidden Oaks Ct., Steve and Joni Buyer (15533 Hidden Oaks), and my wife Kaprice and I (15519 Hidden Oaks) have submitted the proper plans and designs for swimming pools and we have met with Dave Mennel for appropriate considerations. The Bridgewater Club Master Club Association has approved each of our individual architectural plans which were drawn by professional landscape architects to fit seamlessly with the aesthetics of each home. We went before the planning commission on Sept 15th to present the request for variances.

There were complaints from 2 neighbors, Fred Schaefer and Jan Endres of Hidden Oaks, along with Michael Cohen from the BW Pointe neighborhood. The impression was given by Fred and Jan that the hearing notice was insufficient because not all members of Hidden Oaks HOA were informed. Fred and Jan expressed concern regarding "pools decreasing others' property values" and "the Buyer's hardscape and pergola was an eye sore" and "children would make noise." Mr. Cohen was concerned that a golf ball could hit a child. The Commission continued the hearing and suggested we get a better feel for the opinions of the neighborhood by holding a meeting.

We are requesting for you to express your opinion of support or concerns by either attending a meeting with us Monday evening at 7pm September 28th 2020 in the Landing Room at The Bridgewater Club or by Email, which in this COVID world may suffice.

Attached for your review are the plans for each of our three setback variances, with the proposed permanent changes in blue and the rest of the setback in yellow, and math shown in the margins.

Pete and Janna Davis (image does not show full setback) - 4% of setback square footage requested, (220 sq ft). On far side of pond in relation to Hole 8 tee boxes

Steve and Joni Buyer - 7% of setback square footage requested (355 sq Ft), within 25 feet of property line but protected by a short wall (contiguous with current wall in front of pergola) Nothing projects further back than currently approved and implemented hardscape

Paul and Kaprice Kraemer - 5.1% of setback for pool (253 sq ft), additional 2.4% (121 sqft) for larger sundeck, within 23 feet of setback, all behind current stone short wall. Nothing projects further back than currently approved and implemented hardscape

Many of you have pools and most of you know us, The three of us are committed to the beauty and charm of our neighborhood, the well being of our neighbors, and to the Club.

We are simply asking for very minor variances to place our pools at more aesthetic angles. We are aware that we can place the pools within the setback areas upon the sole approval of Dave Mennel; however, the pools would not be aesthetically appealing and could therefore decrease each property's value and perhaps negative consequence upon others. We believe the attached plans are ideal for each home, and thereby for the neighborhood collectively. We value your thoughts.

If you can not attend our meeting, please email any comments to us so that we may have a record to bring to the October 13th Commission meeting. We will then reappear before the Commission to request approval for our variances of less than 10% of the rear area set-back.

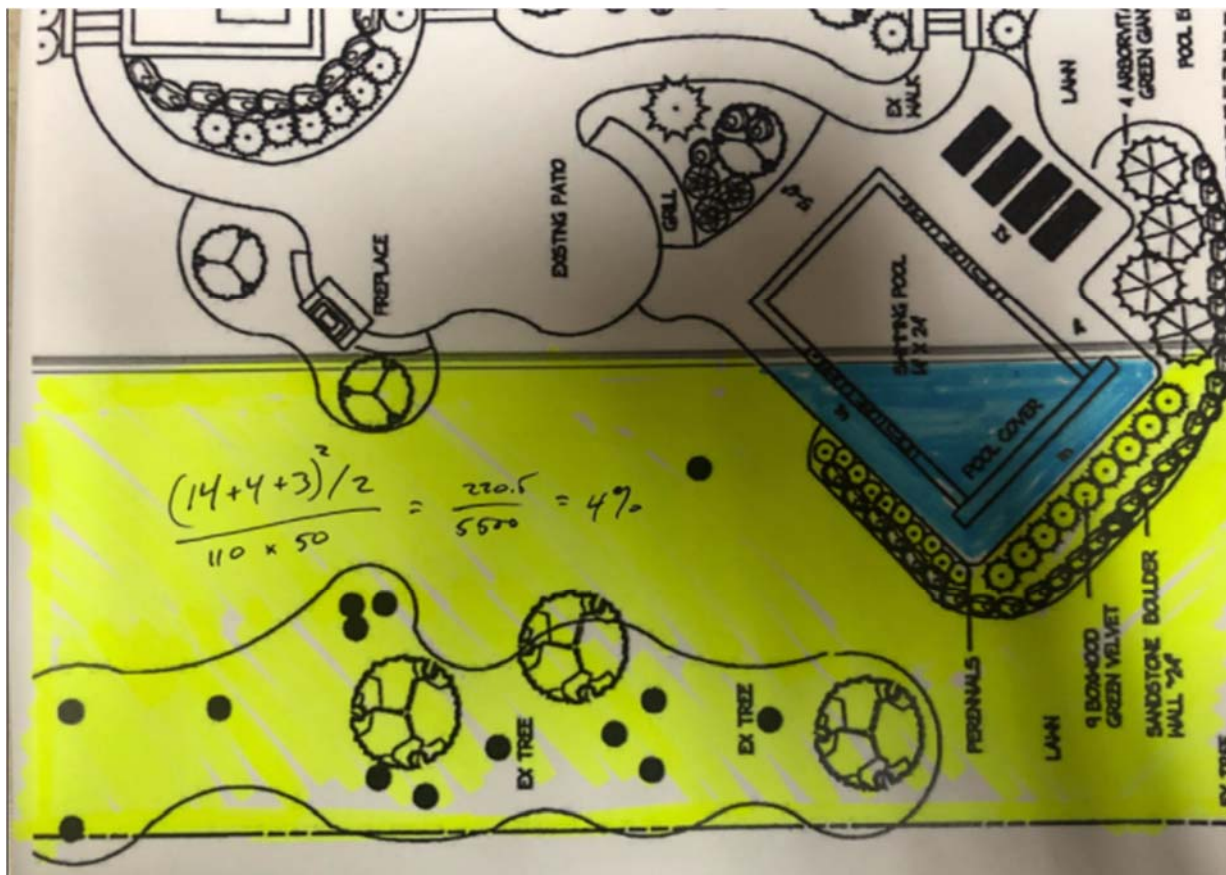
We appreciate your considerations and look forward to hearing from you.

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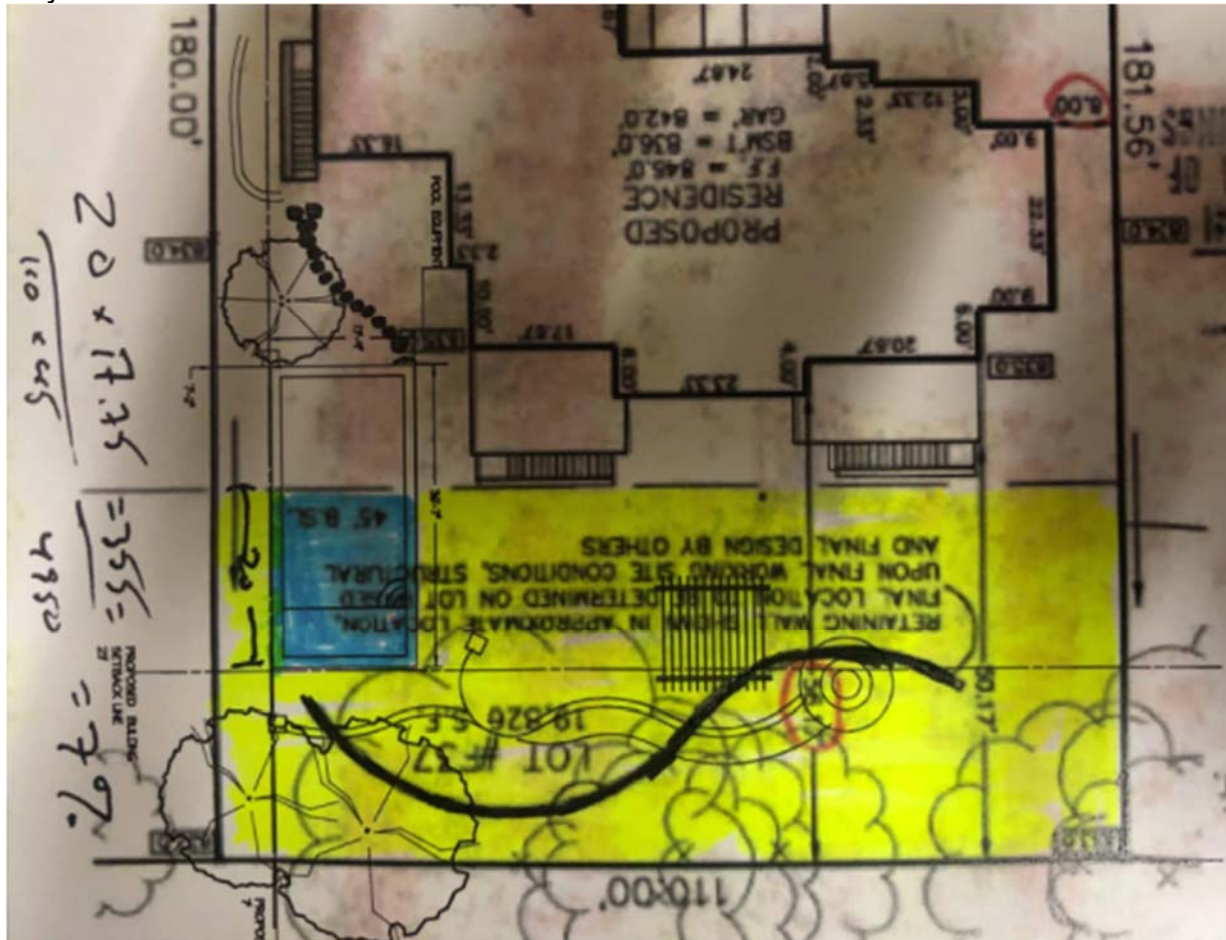
Dr. Paul & Kaprice Kraemer

Steve & Joni Buyer

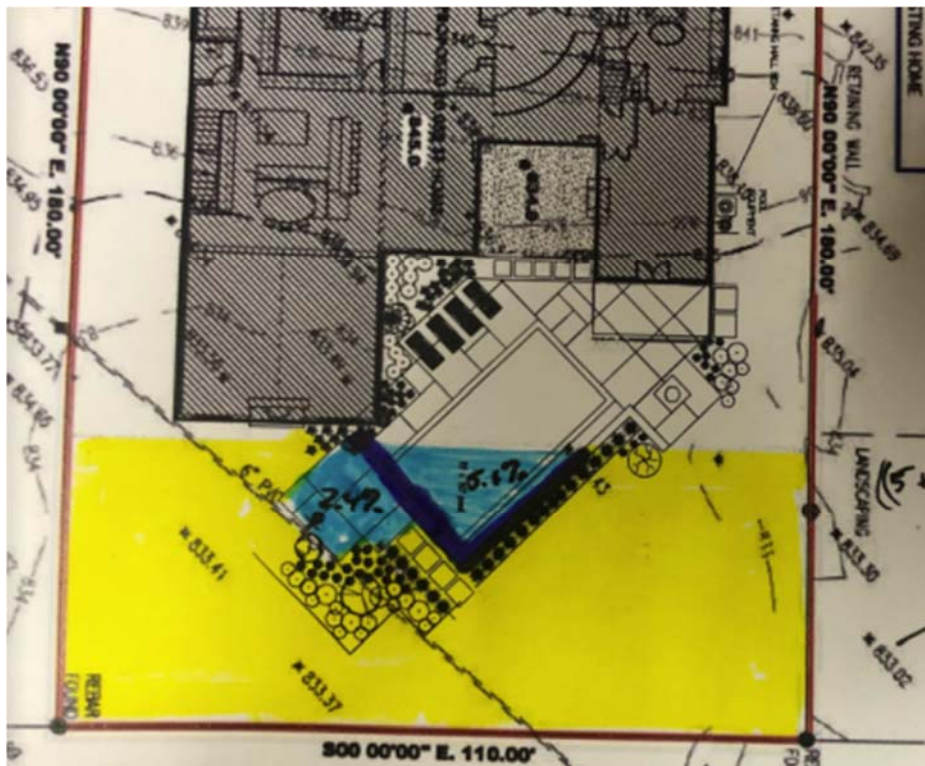
Pete and Janna Davis



Buyer



Kraemer

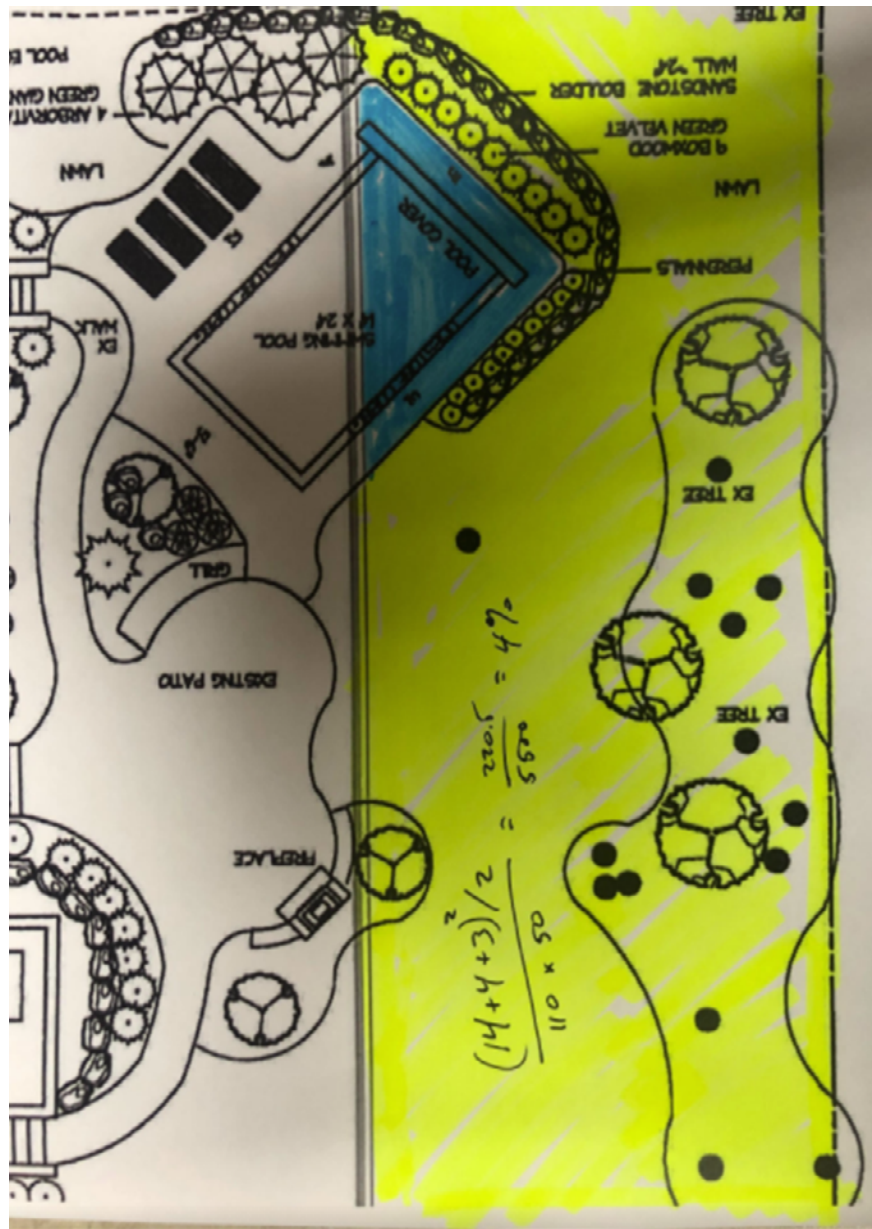


$$\frac{(5+15+2.5^2/2) + (1^2)}{110 \times 45} = 5.17$$

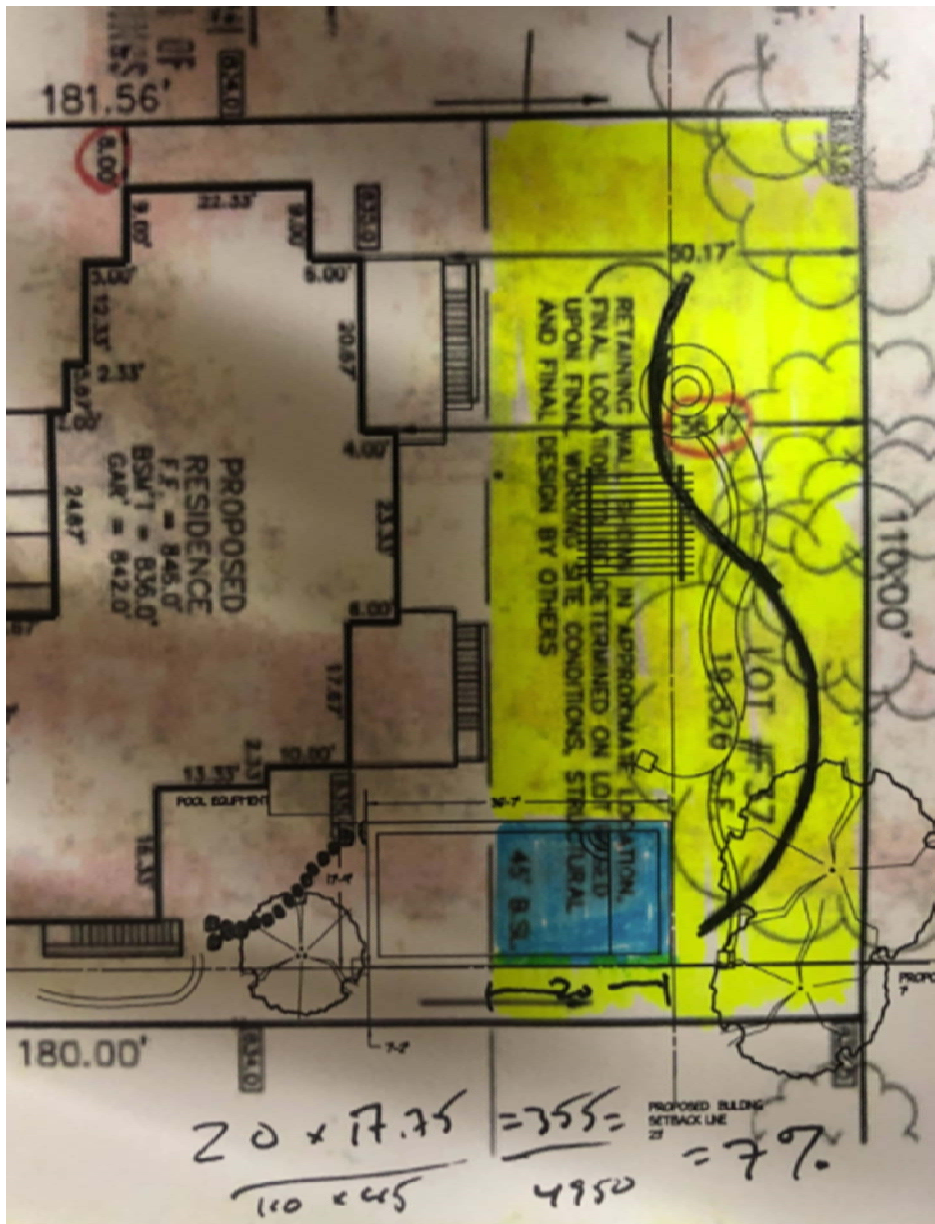
$$121 = 2.49$$



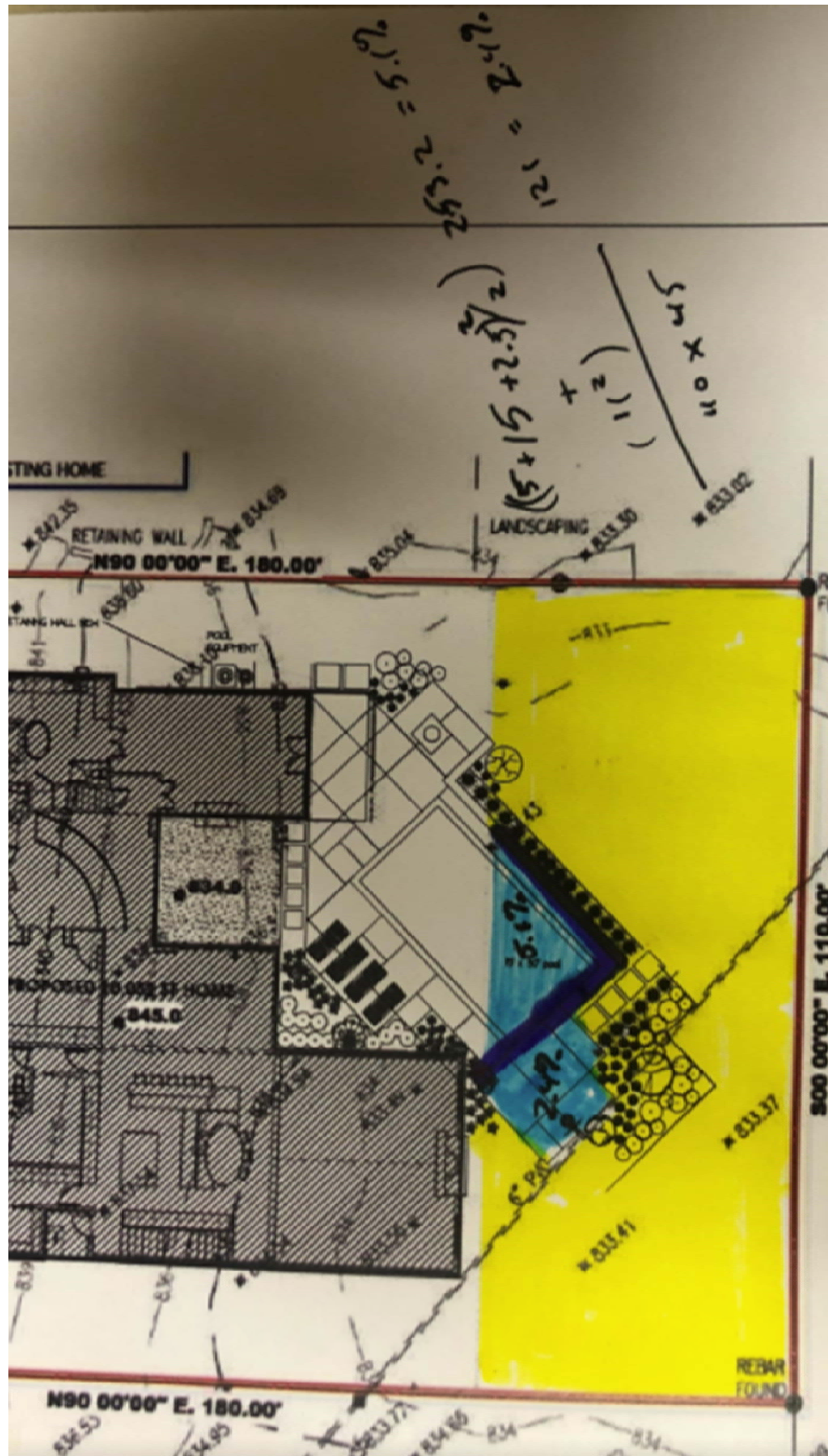
Site Location Map / Aerial Photograph



Davis Residence
Site Plan



Buyer Residence
Site Plan



Kraemer Residence
Site Plan

Neighborhood Meeting Sign In-Sheet

EXHIBIT "A"

Variance Docket Numbers: 2009-VS-25, 2009-VS-26 and 2009-VS-27

Applicants: Pete Davis, Stephen and Jodi Buyer, and Paul and Kaprice Kraemer

Monday, September 28, 2020 at 7:00 p.m., Bridgewater Club, 3535 East 161st Street, Carmel, IN 46033

<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE</u>	<u>EMAIL</u>
1. John Lewis	15622 Bridgewater Club Blvd	317-308-8332	jlcwis1053@aol.com
2. Janna Davis	15621 Hidden Oaks Ct.	765-414-3905	cjsj1963@yahoo.com
3. MIKE COHEN	15560 BRIDGEWATER CLUB BLVD	317-590-8374	MIKE COHEN 46@AOL.COM
4. Linda Friedlander	15552 Hidden Oaks Ln.	317-574-1492	lhfriedla@aol.com
5. Zekre Friedlander	Carmel, 46033		
6. STEVE OLEKSIW	15547 HIDDEN OAKS LN	317-966-0997	STEVE_OLEKSIW@YAHOO.COM
7. Paul Kraemer	15519 HIDDEN OAKS	317-219-9924	paul.kraemer@gmail.com
8. LOY ANGELICCHIO	15486 HIDDEN OAKS LN	317-670-0314	ITALSTOCKAOC.COM
9. JUDY ANGELICCHIO	" " " "		
10. Peter Emigh	15702 Bridgewater Club Blvd	317-696-5888	peinhce@gmail.com
11. M. YAQUB	15634 Bridgewater Club Blvd	317-566-9528	sohail_yaqub@hotmail.com
12.			
13.			
14.			
15.			
16.			
17.			
18.			
19.			
20.			



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

October 13, 2020
2010-VS-33
Exhibit 1

Petition Number: 2010-VS-33

Subject Site Address: 16080 Westfield Blvd. (the "Property")

Petitioner: American Structurepoint (the "Petitioner")

Request: The Petitioner is requesting a Variance of Development Standard to permit a dumpster enclosure within an Established Front Yard in the LB: Local and Neighborhood Business District (Article 6.1(H)(2)).

Current Zoning: LB District

Current Land Use: Vacant

Approximate Acreage: 21.85 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. Application

Staff Reviewer: Caleb Ernest, Associate Planner

OVERVIEW

Location: The subject property is 21.85 acres +/- in size and located approximately at the southeast corner of 161st Street and US 31, 16080 Westfield Blvd. (see **Exhibit 2**). The Property is zoned the LB: Local Neighborhood and Business District. The adjacent property to the north is zoned the GB-PD: General Business / Planned Development District and the Lantern Commons Zoning Commitments. The adjacent properties to the east and west are zoned the AG-SF1: Agriculture / Single-family Rural District. The adjacent property to the south is zoned the LB District.

Variance Request: The Petitioner is requesting a Variance of Development Standard to permit a dumpster enclosure within an Established Front Yard in the LB: Local and Neighborhood Business District (Article 6.1(H)(2)).

SUMMARY OF VARIANCE

The Petitioner is requesting a Variance of Development Standard for the location of a proposed dumpster enclosure. The Property has three (3) Established Front Yards¹ (see **Exhibit 3**) to the west, north and east. The dumpster enclosure is proposed to be located within the east Established Front Yard.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this Property within the “Employment Corridor”² land use classification.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of the Variance of Development Standard. This petition is scheduled to receive its public hearing at the October 13, 2020, 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 UDO³ 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 the 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 UDO⁴ 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.

¹ Chapter 12 of the UDO defines “Established Front Yard” as “A Yard extending across the full width of the Lot between the Principal Building, as built, and the Front Lot Line, the depth of which is the least distance between the Front Lot Line and the Principal Building.”

² Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (p. 24).

³ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

⁴ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.

Variance of Development Standard: The Board of Zoning Appeals shall approve or deny variance from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. 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.

DEPARTMENT COMMENTS

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

Condition:

1. That 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.

Recommended Findings for Approval of the Variances of Development Standard:

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 would be injurious to the public health, safety, morals, and general welfare of the community as the proposed trash enclosure location is approximately three hundred (300) feet from the nearest Right-of-way. The Property will also comply with all other standards of the Unified Development Ordinance (UDO) as verified during the Detailed Development Plan (DDP) review.

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. Views of the proposed trash enclosure will be screened by preserving the existing landscaping on the Property.

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. The Property has three (3) Established Front Yards and the only location for the trash enclosure (to the south of the building) impacts the existing landscaping to be preserved and maintaining access to the dumpster.

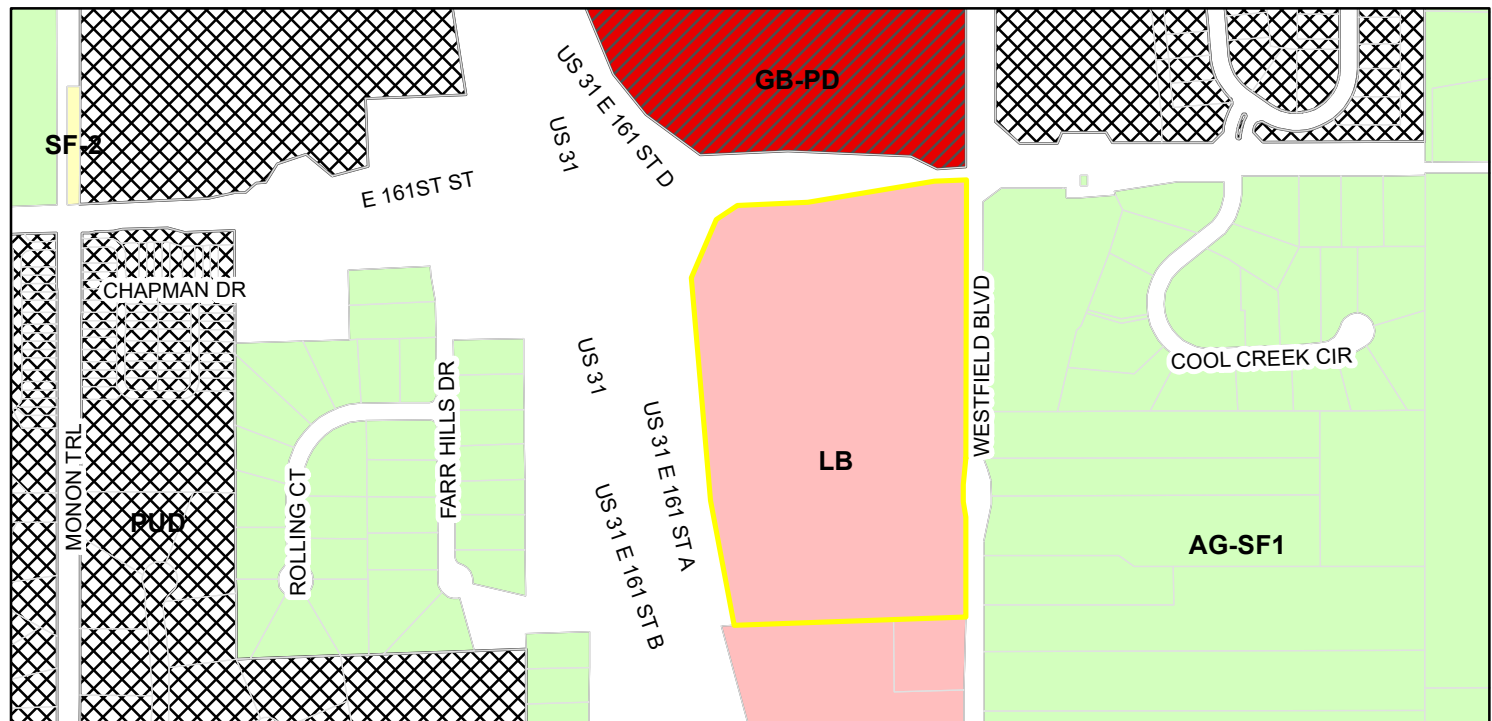
Denial: If the Board is inclined to deny either of the requested variances, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings consistent with the public hearing evidence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

Aerial Location Map

Site



Zoning Map



Zoning

AG-SF1 (Agriculture - Single Family - 1)

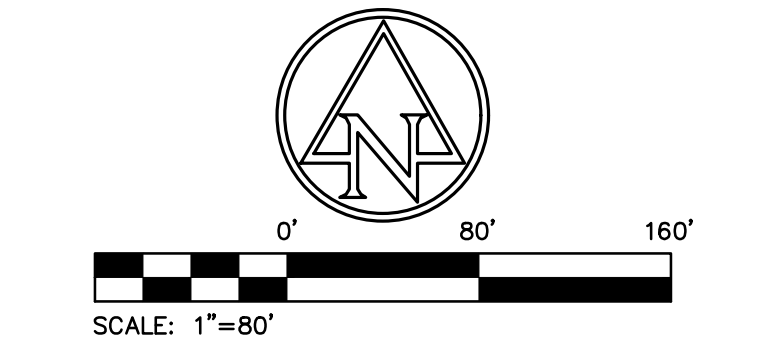
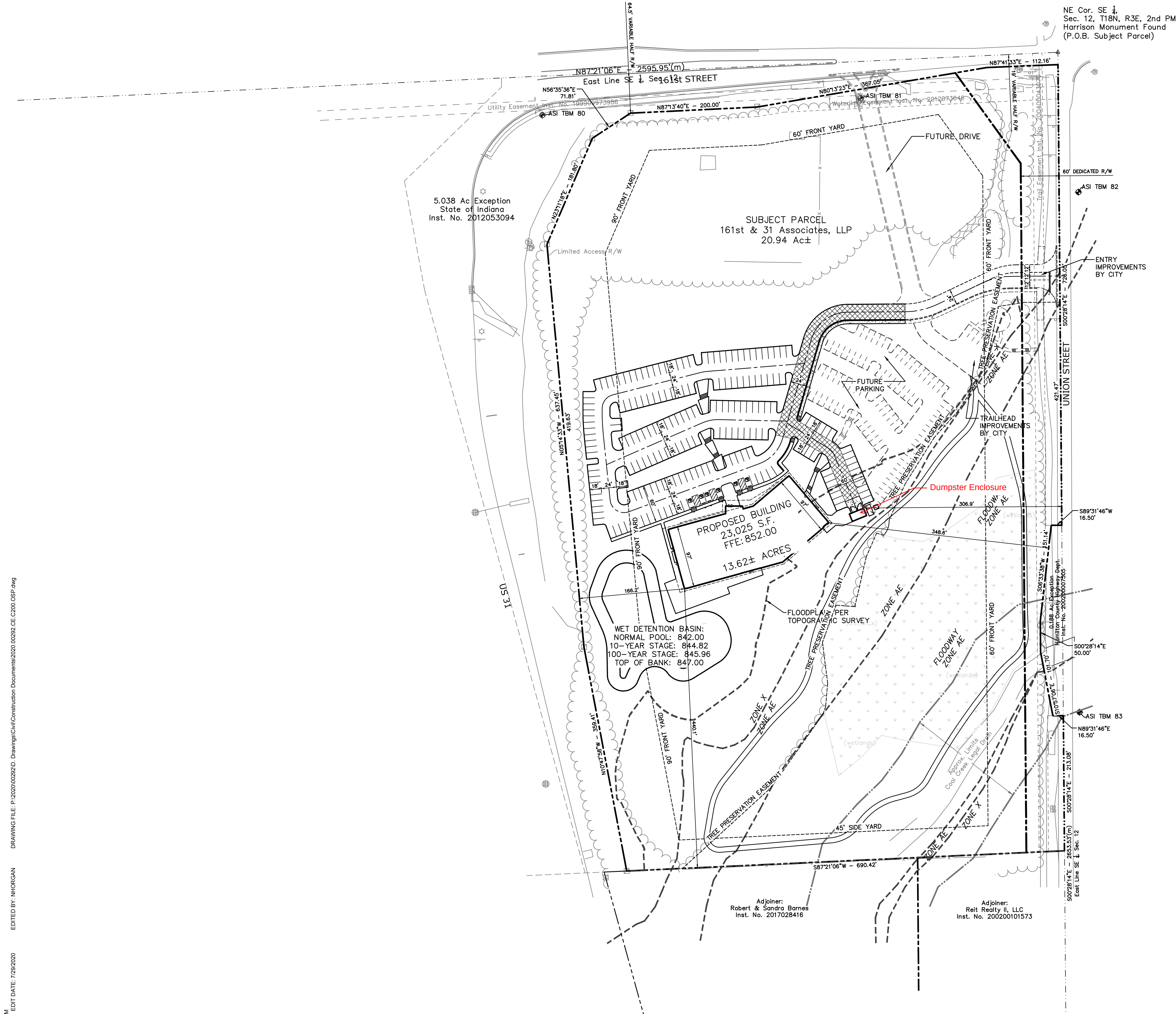
GB-PD (General Business - Planned Development)

LB (Local Business)

PUD (Planned Unit Development)

SF-2 (Single Family - 2)

PLOT DATE: 9/17/2020 1:30 PM
PLOT SCALE: 1"=80'
DRAWING FILE: P:\2020\002020.D Drawings\Civil\Construction Documents\0020.002020.CE C200.DSF.dwg
EDITED BY: INHORGAN
EDIT DATE: 7/29/2020



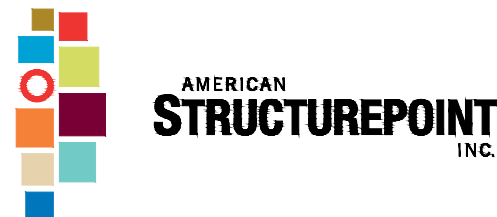
EXISTING LEGEND	
	Curb Inlet
	Fire Hydrant
	Inlet
	Light Pole
	Mailbox
	Right Of Way Monument
	Sign
	Sanitary Manhole
	Temporary Bench Mark
	Test Hole
	Telephone Handhole
	Telephone Pedestal
	Traffic Pole
	Water Manhole
	Water Valve
	Overhead Traffic Line
	Buried Water Line

SITE LEGEND	
	LIGHT DUTY ASPHALT PAVEMENT
	HEAVY DUTY ASPHALT PAVEMENT
	CONCRETE PAVEMENT
	ASPHALT PATH

SITE DATA TABLE	
SITE ZONING:	LB
PROJECT AREA:	20.85± ACRES
BUILDING AREA - FOOTPRINT:	23,025 SF
BUILDING AREA - TOTAL:	70,000 SF
SITE IMPERVIOUS AREA:	4.45± ACRES
LOT NUMBER:	1
LOT 1 AREA:	908,225± SFT
STANDARD PARKING (9.5'x18'):	194
ADA PARKING PROVIDED:	6
(INCLUDES 6 VAN ACCESSIBLE)	
TOTAL PROPOSED PARKING:	200
FUTURE PARKING (9.5' X 18')	83

GENERAL NOTES:	
1.	CONTRACTOR SHALL PROTECT AND NOT DESTROY THE PROPERTY CORNER MONUMENTS DURING CONSTRUCTION.
2.	CONTRACTOR TO VERIFY LOCATION, SIZE AND DEPTH OF EXISTING UTILITIES PRIOR TO COMMENCING ANY CONSTRUCTION. CONTACT ENGINEER IF VARIATION EXISTS.
3.	SEE SHEET C002 GENERAL NOTES FOR MORE INFORMATION.
4.	THE PRESENCE OF A CITY OF WESTFIELD REVIEW AND ACCEPTANCE STAMP ON PLANS DOES NOT RELIEVE THE CONTRACTOR OR DEVELOPER FROM COMPLIANCE OF THE "CITY OF WESTFIELD CONSTRUCTION STANDARDS, LATEST EDITION". THIS REVIEW ONLY DESIGNATES THAT THE GENERAL CONFORMANCE WITH DESIGN AND SPECIFICATIONS HAVE BEEN MET. FIELD CHANGES MAY BECOME NECESSARY IN ORDER TO COMPLY WITH THE DETAILED CITY OF WESTFIELD SPECIFICATIONS.
!! CAUTION !!	
THE LOCATIONS OF ALL EXISTING UNDERGROUND UTILITIES SHOWN ON THIS PLAN ARE BASED UPON ABOVE GROUND EVIDENCE (including, but not limited to, manholes, inlets, valves, and marks made upon the ground by others) AND ARE SPECULATIVE IN NATURE. THERE MAY ALSO BE OTHER EXISTING UNDERGROUND UTILITIES FOR WHICH THERE IS NO ABOVE GROUND EVIDENCE OR FOR WHICH NO ABOVE GROUND EVIDENCE WAS OBSERVED. THE EXACT LOCATIONS OF SAID EXISTING UNDERGROUND UTILITIES SHALL BE VERIFIED BY THE CONTRACTOR PRIOR TO ANY AND ALL CONSTRUCTION.	
CALL TOLL FREE "811" OR 1-800-382-5544 - INDIANA UNDERGROUND -	

OVERALL SITE PLAN



APPROVAL PENDING
NOT FOR CONSTRUCTION



Westfield Community Development
2728 E. 171st Street | Westfield, IN 46074
317.804.3170 | nwoerner@westfield.in.gov

VARIANCE APPLICATION

DOCKET #: 2010-VS-33

FILING DATE: 9/11/2020

OFFICE USE ONLY

FILING FEE: \$ FEE PLUS \$ PER ADDITIONAL VARIANCE (@)= \$

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Caleb Ernest (STAFF NAME) DATE:

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: AMENDMENTS: DEVELOPMENT PLAN: 2008-ODP-12

PRIMARY PLAT: 2008-SPP-12 SECONDARY PLAT: 2008-SFP-48 VARIANCE(S):

APPLICANT INFORMATION

APPLICANT'S NAME: Bradley Schrage, American Structurepoint TELEPHONE: 317-547-5580

ADDRESS: 9025 River Road, Suite 200, Indianapolis, IN 46240 EMAIL: bschrage@structurepoint.com

PROPERTY OWNER'S NAME: Pure SEP LLC TELEPHONE:

ADDRESS: 815 E. 65th Street Suite 200, Indianapolis, IN EMAIL:

REPRESENTATIVE'S NAME: Bradley Schrage TELEPHONE: 317-547-5580

COMPANY: American Structurepoint, Inc EMAIL: bschrage@structurepoint.com

ADDRESS: 9025 River Road, Suite 200, Indianapolis, IN 46240

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 16080 Westfield Boulevard

COUNTY PARCEL ID #(S): 09-09-12-00-00-014.000

EXISTING ZONING DISTRICT(S): LB (Local Business) EXISTING LAND USE(S): Vacant

PROPERTY AND PROJECT INFORMATION

☐ VARIANCE OF LAND USE CODE CITATION:

☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: 6.1(H)(2)

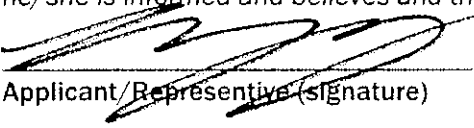
FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY):

We are requesting a variance to allow the dumpster enclosure to be located between the building and the right-of-way of Westfield Boulevard. The existing site has 3 front yards as it is bordered on the west by US 31, the north by 161st St, and the east by Westfield Boulevard. The proposed dumpster will sit approximately 300' from the right-of-way of Westfield Boulevard

APPLICANT AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says that above information is true and correct as he/she is informed and believes and that Applicant owns or controls the property involved in this application.

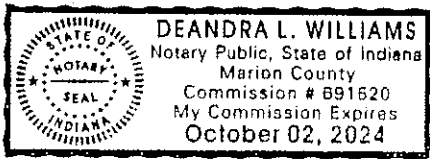


Applicant/Representative (signature)

BUDLEY SCHAGE
Applicant/Representative (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the above party, who having been duly sworn acknowledged the execution of the foregoing Application.

Witness my hand and Notarial Seal this 11th day of September, 2020
State of Indiana County of Marion SS: Indianapolis
Deandra L. Williams Deandra L. Williams
Notary Public (signature) Notary Public (printed)



PROPERTY OWNER AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says they are the owners of the property involved in this application and that they hereby acknowledge and consent to the foregoing Application.

Property Owner (signature)*

Property Owner (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the Property Owner, who having been duly sworn acknowledged and consents to the execution of the foregoing Application.

Witness my hand and Notarial Seal this ____ day of _____, 20____.
State of _____, County of _____, SS: _____

Notary Public (signature)

Notary Public (printed)

*A signature from each party having interest in the property involved in this application is required. If the Property Owner's signature cannot be obtained on the application, then a notarized statement by each Property Owner acknowledging and consenting to the filing of this application is required with the application.

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: American Structurepoint DOCKET #: _____

In taking action on a variance request, the Board of Zoning Appeals uses the following decision criteria to approve or deny a variance, as established by Indiana Code, and the Board may impose reasonable conditions as part of its approval. The applicant must address the criteria below (if multiple variances of development standard are being requested, then this sheet should be completed separately for each requested variance). A variance of land use may be approved by the Board of Zoning Appeals only upon a determination that the Board finds all of the following to be true:

A. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because: _____
the dumpster enclosure location, being 300' from the nearest public R/W, will not have impact on the public.

B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: the dumpster will sit approximately 300' from the nearest R/W and will be screened from view of the R/W by the existing trees which are being preserved on site within tree preservation easements.

C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: _____
the site has 3 front yards which eliminate almost all locations for an enclosure and in order to maintain access to the dumpster from the internal drives it was located as far from the R/W as possible without impacting the trees being preserved on site.

GENERAL INSTRUCTIONS

- A. **Pre-Filing Conference:** A pre-filing conference is required for all petitions. An appointment must be made with the Community Development Department (the "Department") to discuss a petition prior to filing. An application will not be considered filed until a pre-filing conference has occurred. Applicants are encouraged to incorporate the Department's comments into the application prior to filing.
- B. **Filing Petition:** A petition shall be filed with the Department by the filing deadline in accordance with the Schedule of Meeting and Filing Dates. In order to be deemed a complete petition, a petition shall include the following:
- | | |
|--|--|
| ☒ Completed Application | ☒ Legal Description |
| ☒ Draft Public Notice | ☒ List of Adjoining Property Owners (as provided by County) |
| ☒ Property Owner Consent | ☒ TAC Delivery Affidavit (if TAC is determined to be necessary) |
| ☒ Site Plan (to scale) | ☒ Copy of Property Deed |
| ☒ Statement of Intent | Elevations, photographs or other supporting information necessary to explain the nature of the requested variance(s) |
- C. **Filing Fee Check:** After the filing of an application, the Department will advise the applicant of the applicable filing fee amount, which is due and payable (checks made out to "City of Westfield") within two (2) weeks of filing.
- D. **Technical Advisory Committee (TAC):** The applicant is responsible for submitting a copy of the application and related information to Technical Advisory Committee members prior to filing, if determined by the Department to be necessary. An affidavit confirming delivery of information is required to be completed and signed by the applicant and submitted with the petition. Technical Advisory Committee meetings are held in the City Services Building (2728 East 171st Street, Westfield, IN 46074) in accordance with the Schedule of Meeting and Filing Dates. A representative must be present at this meeting.
- E. **Public Hearing and Notice:** All variance petitions require a public hearing by the Board of Zoning Appeals. The public hearing is held at City Hall, 130 Penn Street, Westfield, Indiana, in accordance with the Schedule of Meeting and Filing Dates. Notice of the hearing is required in accordance with the Board's Rules of Procedure:
1. **Newspaper Publication:** Notice of the hearing will be published in the Hamilton County Reporter and The Times. The Department will handle the newspaper publication requirement.
 2. **Mailed Public Notice:** The applicant is responsible to send public notice by certified mail with proof of mailing (certificate of mailing) to all interested parties, postmarked at least ten (10) days prior to the hearing. A list of adjacent property owners may be obtained from the **Hamilton County Auditor, Office of Transfers and Mapping** (33 North 9th Street, Noblesville, IN 46060, (317) 776-9624), and shall include all owners of property to a depth of two (2) ownerships of no direct or indirect financial or other interest to the applicant or property owner or one eighth of a mile (1/8), whichever is less.
 3. **Public Notice Sign:** The applicant is responsible to post a public notice sign(s) on the property at least ten (10) days prior to the public hearing. The Department will determine sign locations and will make signs available for the applicant to obtain in the office of the Department.
 4. **Affidavit of Notice of Public Hearing:** The applicant shall deliver a copy of the mailed notice and a signed affidavit, verifying that the notices were mailed and the public notice sign(s) was posted on the subject property, to the Department at least four (4) calendar days prior to the public hearing.
- F. **Ex-parte Communication:** In no event shall applicants or other interested parties contact or attempt to communicate with members of the Board in regard to a filed variance petition prior to the public hearing.
- G. **Revised Materials:** If the applicant wishes to submit additional or revised information than what is filed, then the applicant shall submit those to the Department no later than ten (10) days prior to the public hearing.
- H. **Board's Consideration:** Following the public hearing, the Board may either approve, approve with conditions, deny or continue the petition.
- I. **Resource:** Please see the Board's Rules of Procedure for more detailed procedural information.

SEP Office Development – Dumpster Location Variance – Statement of Intent
SWC 161st Street and Union Street, Westfield, Indiana
September 11, 2020

Owner: Pure SEP LLC
815 E. 65th Street Suite 200
Indianapolis, IN

Petitioner: American Structurepoint
9025 River Road, Suite 200
Indianapolis, IN 46240

Engineer: American Structurepoint
9025 River Road, Suite 200
Indianapolis, IN 46240

Project Overview

Pure SEP LLC is proposing to construct a new office facility consisting of an office building, parking facilities and drive access located on a site at the southwest corner of 161st Street and Union Street in Westfield, Indiana. The building, occupying a footprint of 22,750 square feet and a total of approximately 70,000 square feet will be a three story structure. The north portion of the site will be serviced with storm and utility connections to allow for development in the future.

The variance request is for relief from Section 6.1 (H)(2) of the UDO which does not allow for the construction of the dumpster enclosure within the front yard of the site. The proposed site has 3 front yards: US 31 on the west, 161st Street on the east, and Westfield Boulevard on the east. The proposed dumpster will be located approximately 300' from the R/W of Westfield Boulevard and located behind the existing trees located within the tree preservation easement.

LAND DESCRIPTION
(from title commitment)

Part of the East Half of the Southeast Quarter of Section 12, Township 18 North, Range 3 East in Hamilton County, Indiana, being more particularly described as follows:

Beginning at the Northeast corner of the Southeast Quarter of said Section; running thence South on and along the East line thereof 1255.05 feet (1262.25 feet by deed); thence West 847.61 feet to a point in the center line of new U.S. Highway No. 31; thence in a Northwesterly direction on and along said center line 1291.70 feet to a point on the North line of said East One-Half of the Southeast Quarter of Section 12, Township 18 North, Range 3 East; thence East on and along the North line of said East Half of the Southeast Quarter of Section 12, Township 18 North, Range 3 East 1178.20 feet to the place of beginning.

Excepting therefrom the following:

Commencing at the Northeast corner of said Quarter; thence South 00 degrees 00 minutes 00 seconds West (assumed bearing) along the East line of said Quarter 745.52 feet to the Point of Beginning of this description; thence continuing South 00 degrees 00 minutes 00 seconds West along said East line 300.00 feet to a point; thence South 90 degrees 00 minutes 00 seconds West 16.50 feet to a point; thence North 10 degrees 28 minutes 52 seconds West 101.70 feet to a point; thence North 00 degrees 00 minutes 00 seconds East 50.00 feet to a point; thence North 7 degrees 01 minute 52 seconds East 151.14 feet to a point; thence North 90 degrees 00 minutes 00 seconds East 16.50 feet to the Point of Beginning and containing 0.188 acres, more or less.

Also excepting therefrom the following:

Part of the Southeast Quarter of Section 12, Township 18 North, Range 3 East in Washington Township, Hamilton County, Indiana, and being that part of the grantors' land lying within the right of way lines depicted on the attached Right of Way Parcel Plat, marked Exhibit "B", described as follows: Beginning at the Northeast corner of said quarter section; thence South 0 degrees 14 minutes 56 seconds East 19.46 feet along the east line of said quarter section; thence South 87 degrees 54 minutes 07 seconds West 112.16 feet to point "738" on said plat; thence South 80 degrees 25 minutes 57 seconds West 367.05 feet to point "737" on said plat; thence South 87 degrees 26 minutes 14 seconds West 200.00 feet to point 736" on said plat; thence South 56 degrees 48 minutes 10 seconds West 71.81 feet to point "735" on said plat; thence South 23 degrees 23 minutes 52 seconds West 181.80 feet to point "734" on said plat; thence South 5 degrees 01 minute 59 seconds East 637.45 feet to point 733" on said plat; thence South 10 degrees 35 minutes 24 seconds East 360.38 feet to the south line of said grantors' land; thence South 87 degrees 32 minutes 34 seconds West 65.54 feet along said line to the east boundary of U.S. 31; thence North 15 degrees 10 minutes 51 seconds West 952.95 feet along said boundary; thence North 10 degrees 16 minutes 56 seconds West 175.64 feet along said boundary; thence North 46 degrees 07 minutes 07 seconds East 212.98 feet along said boundary to the south boundary of 161st Street; thence North 0 degrees 16 minutes 35 seconds West 14.23 feet to the North line of said quarter section; thence North 87 degrees 33 minutes 40 seconds East 877.61 feet along said line to the point of beginning, containing 5.038 acres more or less, inclusive of the presently existing right of way for 161st Street which contains 0.339 acres more or less.

TOGETHER with the permanent extinguishment of all rights and easements of ingress and egress to, from, and across the limited access facility (to be known as U.S. 31 and as Project 0710215), to and from the grantors' abutting lands, along the lines described as follows: Beginning at point "737" on said plat; thence along the 200.00-foot course, the 71.81-foot course, the 181.80-foot course, the 637.45-foot course, the 360.38-foot course and the eastern 35.82 feet of the 65.54-foot course and terminating on the south line of said grantors' land. This restriction shall be a covenant running with the land and shall be binding on all successors in title to the said abutting lands.

DULY ENTERED FOR TAXATION
Subject to final acceptance of transfer
21st day of July 2020 - HG
Julia M. Miller Auditor of Hamilton County
Parcel # 09-09-12-00-00-014.000

mc

File Number: 20707331-NIN
State Tax ID: 09-09-12-00-00-014.000/ 29-09-12-000-014.000-015

2020046619 WD \$25.00
07/21/2020 11:05:41AM 5 PGS
Jennifer Hayden
Hamilton County Recorder IN
Recorded as Presented



LIMITED WARRANTY DEED

JDB

THIS INDENTURE WITNESSETH That 161ST & 31 Associates, LLP, (Grantor), of Hamilton County, in the State of Indiana, CONVEYS WITH LIMITED WARRANTY to Pure SEP, LLC (Grantee), authorized to operate as a limited liability company in the State of Indiana, for valuable consideration the following described real estate in Hamilton County, State of Indiana:

See Exhibit "A"

This conveyance is subject to:

1. All taxes due and payable in 2020, and thereafter.
2. All general and special assessments and all other governmental, municipal and public dues, charges and impositions not delinquent; all easements, restrictions, agreements, covenants and other matters of record.
3. Zoning, subdivision, entitlement, building and other land use and similar liens or regulations impaired by any governmental authority.
4. All matters which would be disclosed by a physical inspection or accurate survey of the land.

The undersigned certifies under oath that he/she is duly authorized by operating agreement or by resolution to execute and deliver the within conveyance on behalf of 161ST & 31 Associates, LLP, and that all necessary action for making of this conveyance has been taken; that Grantor is in good standing in the State of Indiana and that the Grantor has full capacity to convey the real estate herein described.

Grantor covenants that it is seized and possessed of said land and has a right to convey it, and warrants title against the lawful claims of all persons claiming by, through, and under it, but not further otherwise

IN WITNESS WHEREOF, Grantor executed this deed this 15 day of July, 2020.

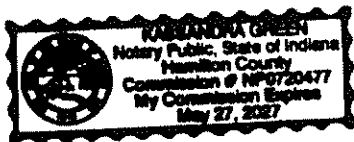
GRANTOR:
161ST & 31 Associates, LLP

[Signature]
By: Steve H. Henke
Title: Managing Partner

STATE OF INDIANA)
County of Marion) SS. ACKNOWLEDGMENT

Before me, a Notary Public in and for said County and State, personally appeared Steve H. Henke, Managing Partner of 161st & 31 Associates, LLP, who acknowledged the execution of the foregoing Special Warranty Deed, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 15 day of July, 2020.



[Signature]
(Signature of Notary Public)
Printed _____
County of Residence: _____
Commission #: _____
Commission Exp: _____

Send tax bills to Grantee @ Grantee's address: 815 E. 65th Street, Suite 200, Indianapolis, IN 46220

After Recording return to: ATA National Title Group, LLC, 8335 Keystone Crossing, Ste. 104
Indianapolis, IN 46240.

This instrument prepared by: Kassandra Green, Attorney at Law #28258-29, The Green Law Firm, LLC,
PO BOX 20265, Indianapolis, IN 46220.

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Kassandra Green.

CERTIFICATE OF PROOF

EXECUTED AND DELIVERED IN MY PRESENCE:

Vicki Gasteau
Witness Signature

Vicki Gasteau
Witness Name

STATE OF INDIANA)
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, on the 20 day of July, 2020, personally appeared, Vicki Gasteau (Witness) the above named WITNESS to the Vendor's Affidavit, who, being by me duly sworn, did depose and say that he/she knows 161st & 31 Associates, LLP (Grantor or Signor's Name) to be the individual(s) described in and who executed the foregoing instrument; that said WITNESS was present and saw said 161st & 31 Associates, LLP (Grantor or Signor's Name) execute the same; and that said WITNESS at the same time subscribed his/her name as a witness thereto.

SEAL:

NOTARY PUBLIC

[Signature]
Notary Name exactly as Commission
Notary Public - State of Indiana
Seal
My Commission Expires: _____
Commission No. _____

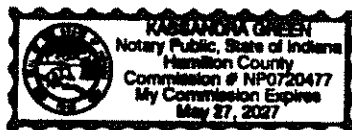


Exhibit A

Real Estate Legal Description

The land referred to herein is described as follows: County of Hamilton, State of Indiana

Part of the East Half of the Southeast Quarter of Section 12, Township 18 North, Range 3 East in Hamilton County, Indiana, being more particularly described as follows:

Beginning at the Northeast corner of the Southeast Quarter of said Section; running thence South on and along the East line thereof 1255.05 feet (1262.25 feet by deed); thence West 847.61 feet to a point in the center line of new U.S. Highway No. 31; thence in a Northwesterly direction on and along said center line 1291.70 feet to a point on the North line of said East One-Half of the Southeast Quarter of Section 12, Township 18 North, Range 3 East; thence East on and along the North line of said East Half of the Southeast Quarter of Section 12, Township 18 North, Range 3 East 1178.20 feet to the place of beginning.

Excepting therefrom the following:

Commencing at the Northeast corner of said Quarter; thence South 00 degrees 00 minutes 00 seconds West (assumed bearing) along the East line of said Quarter 745.52 feet to the Point of Beginning of this description; thence continuing South 00 degrees 00 minutes 00 seconds West along said East line 300.00 feet to a point; thence South 90 degrees 00 minutes 00 seconds West 16.50 feet to a point; thence North 10 degrees 28 minutes 52 seconds West 101.70 feet to a point; thence North 00 degrees 00 minutes 00 seconds East 50.00 feet to a point; thence North 7 degrees 01 minute 52 seconds East 151.14 feet to a point; thence North 90 degrees 00 minutes 00 seconds East 16.50 feet to the Point of Beginning and containing 0.188 acres, more or less.

Also excepting therefrom the following:

Part of the Southeast Quarter of Section 12, Township 18 North, Range 3 East in Washington Township, Hamilton County, Indiana, and being that part of the grantors' land lying within the right of way lines depicted on the attached Right of Way Parcel Plat, marked Exhibit "B", described as follows:

Beginning at the Northeast corner of said quarter section; thence South 0 degrees 14 minutes 56 seconds East 19.46 feet along the east line of said quarter section; thence South 87 degrees 54 minutes 07 seconds West 112.16 feet to point "738" on said plat; thence South 80 degrees 25 minutes 57 seconds West 367.05 feet to point "737" on said plat; thence South 87 degrees 26 minutes 14 seconds West 200.00 feet to point "736" on said plat; thence South 56 degrees 48 minutes 10 seconds West 71.81 feet to point "735" on said plat; thence South 23 degrees 23 minutes 52 seconds West 181.80 feet to point "734" on said plat; thence South 5 degrees 01 minute 59 seconds East 637.45 feet to point "733" on said plat; thence South 10 degrees 35 minutes 24 seconds East 360.38 feet to the south line of said grantors' land; thence South 87 degrees 32 minutes 34 seconds West 65.54 feet along said line to the east boundary of U.S. 31; thence North 15 degrees 10 minutes 51 seconds West 952.95 feet along said boundary; thence North 10 degrees 16 minutes 56 seconds West 175.64 feet along said boundary; thence North 46 degrees 07 minutes 07 seconds East 212.98 feet along said boundary to the south boundary of 161st Street; thence North 0 degrees 16 minutes 35 seconds West 14.23 feet to the North line of said quarter section; thence North 87 degrees 33 minutes 40 seconds East 877.61 feet along said line to the point of beginning, containing 5.038 acres more or less, inclusive of the presently existing right of way for 161st Street which contains 0.339 acres more or less.

TOGETHER with the permanent extinguishment of all rights and easements of ingress and egress to, from, and across the limited access facility (to be known as U.S. 31 and as Project 0710215), to and from the grantors' abutting lands, along the lines described as follows: Beginning at point "737" on said plat; thence along the 200.00-foot course, the 71.81-foot course, the 181.80-foot course, the 637.45-foot course, the 360.38-foot course and the eastern 35.82 feet of the 65.54-foot course and terminating on the south line of said grantors' land. This restriction shall be a covenant running with the land and shall be binding on all successors in title to the said abutting lands.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

October 13, 2020
2010-VS-30
Exhibit 1

Petition Number: 2010-VS-30

Subject Site Address: 19500 Tomlinson Road (the "Property")

Petitioner: Cripe (the "Petitioner")

Request: The Petitioner requests to modify the External Street Frontage Landscaping requirements from Article 6.8(M)(2) of the UDO to match the existing Landscaping for Monon Trail Elementary School and remove the meandering edges standard in the AG-SF1: Agricultural / Single-family Rural District. (Articles 6.8(M)(2) and 6.8(I)(c)).

Current Zoning: AG-SF1 District

Current Land Use: Vacant

Approximate Acreage: 10.03 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Monon Trail Elementary School Master Plan (2007) (the "Master Plan")
4. Application

Staff Reviewer: Caleb Ernest, Associate Planner

OVERVIEW

Location: The subject property is 10.03 acres +/- in size and located approximately at 19500 Tomlinson Road, north of the Monon Trail Elementary School (see **Exhibit 2**). The Property is zoned the AG-SF1: Agriculture and Single-family Rural District. All adjacent properties are also zoned the AG-SF1 District.

Variance Request: The Petitioner is requesting two (2) Variances of Development Standard modifying the External Street Frontage Landscaping¹ and the Detention and Retention Pond² requirements. The External Street Frontage Landscaping is intended to match the master plan, from the Monon Trail Elementary School that was approved in 2007, to create a complete and

¹ Unified Development Ordinance (UDO), Chapter 6.8 Landscaping Standards, Section M. External Street Frontage Landscaping Requirements, Subsection 2. Nonresidential Uses.

² UDO, Chapter 6.8 Landscaping Standards, Section I. Detention and Retention Areas, Subsection 1. Natural Appearances, Subsection c.

consistent streetscape. The proposed Detention/Retention Pond is intended to round edges of the pond given the existing Lot³ dimensions and size.

SUMMARY OF VARIANCES

The Petitioner is requesting two (2) Variances of Development Standard to construct a new Early Childhood Learning Center and Administration Building as further described below:

- 1) Provide External Street Frontage Landscaping that is consistent with the Master Plan (see **Exhibit 3**). A comparison of the Master Plan's landscaping and the Unified Development Ordinance (UDO)'s required External Street Frontage Landscaping is provided below:

UDO	
External Street Frontage Landscaping (Article 6.8(M)(2)) - Tomlinson Rd - est. 570'	
Standard per 100 Lineal Feet	<u>Required</u>
3 Shade or Evergreen Trees	18 Trees
2 Ornamental Trees	12 Trees
25 Shrubs	143 Shrubs

Monon Trail Elementary School Master Plan (2007)	
Proposed Landscaping	
Plantings	<u>Proposed</u>
Shade Trees	13 Trees
Evergreen Trees	45 Trees
Shrubs	26 Shrubs

This variance is requesting to follow the Master Plan's proposed landscaping in lieu of the UDO's landscaping requirements (Article 6.8(M)(2)).

- 2) This variance is requesting to remove the meandering edges standard (Article 6.8(I)(1)(c)).

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this Property within the "New Suburban"⁴ land use classification.

³ Chapter 12 of the UDO defines "Lot" as "A Lot of Record or a tax parcel described by metes and bounds or separately in a survey which is recorded in the Office of the Recorder of Hamilton County, Indiana."

⁴ Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (p. 24).

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of the Variances of Development Standard. This petition is scheduled to receive its public hearing at the October 13, 2020, 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 UDO⁵ 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 the variances 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 variances.

Acknowledgement of Variances: If the Board of Zoning Appeals approves this petition, then the UDO⁶ requires that the approval of the variances shall be memorialized in an acknowledgement of variances instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variances and any commitments made or conditions imposed in granting of the variances; (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 variances.

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. Variances 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.

⁵ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

⁶ 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 conditions and findings:

Condition:

1. That the Petitioner install landscaping in substantial compliance with the Master Plan (see **Exhibit 3**).
2. That 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.

Recommended Findings for Approval of the Variances of Development Standard:

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 variances would be injurious to the public health, safety, morals, and general welfare of the community as the Master Plan (**Exhibit 3**) provides a complete and cohesive streetscape along Tomlinson Road.

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 Landscaping will be added to create a consistent Streetscape along Tomlinson Road with the property to the south. The property to the north does not have any landscaping along the street frontage.

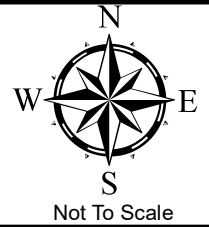
3. *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

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 master plan limits the location of the pond, utility locations and required landscaping.

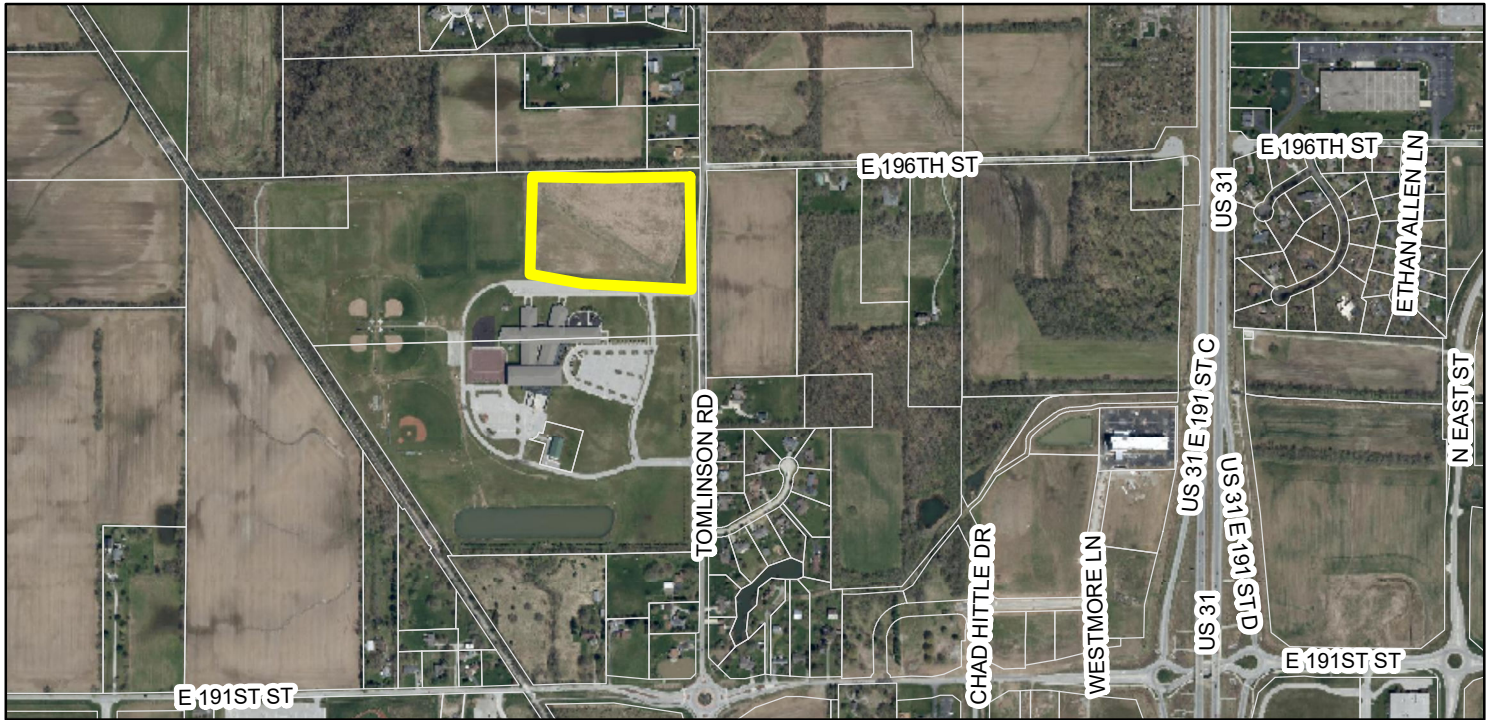
Denial: If the Board is inclined to deny either of the requested variances, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings consistent with the public hearing evidence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



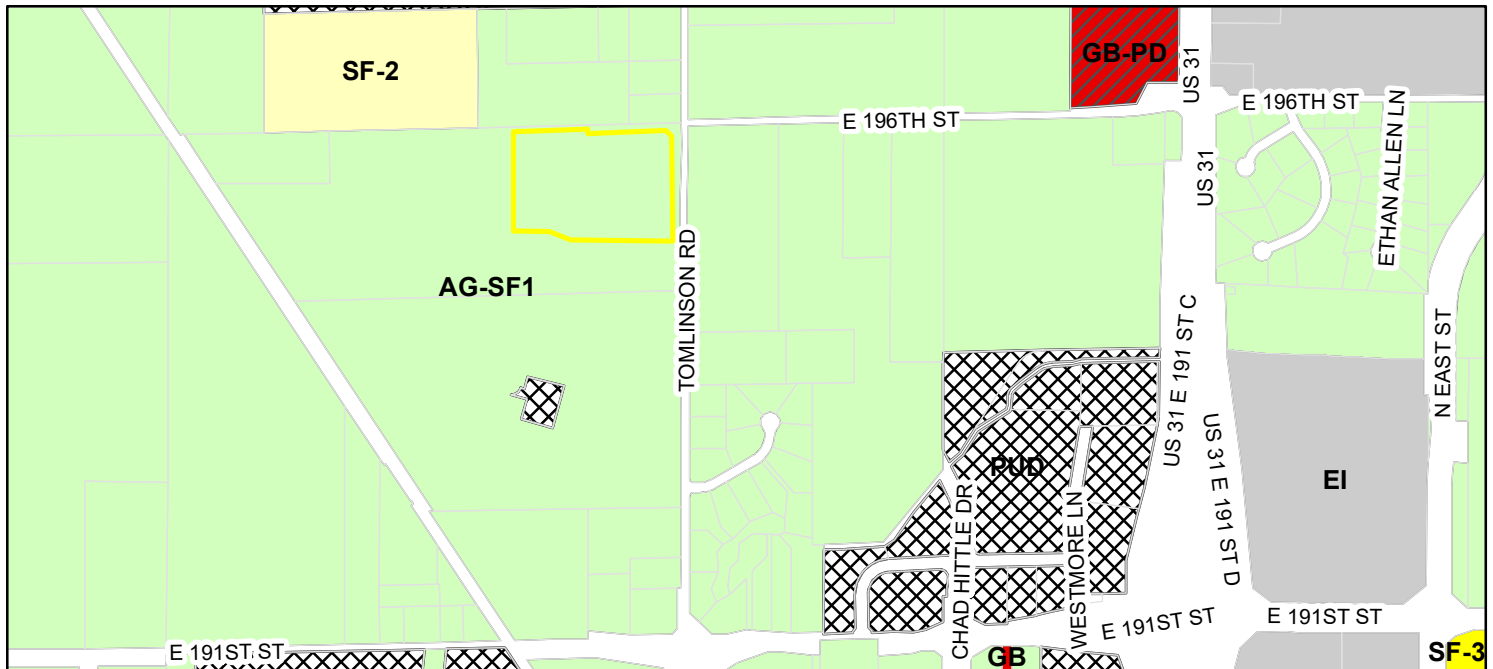
Property Location Map
Westfield Washington Early Childhood Learning Center
& Central Administration Office
Variance of Development Standard
2010-VS-30



Aerial Location Map



Zoning Map



Parcel

Zoning - All

Zoning

AG-SF1 (Agriculture - Single Family - 1)

EI (Enclosed Industrial)

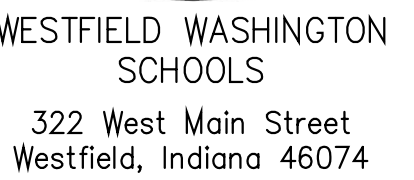
GB (General Business)

GB-PD (General Business - Planned Development)

PUD (Planned Unit Development)

SF-2 (Single Family - 2)

SF-3 (Single Family - 3)



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NEW
MONON TRAIL
ELEMENTARY SCHOOL

9400 Tomlinson Road Westfield, IN 46074

SCOPE DRAWINGS:
These drawings indicate the general scope of the project terms of architectural design, concept, the dimensions of building, the major architectural elements and the type structural, mechanical and electrical systems.
The drawings do not necessarily indicate or describe all required for full performance and completion of the requirements of the Contract.
On the basis of the general scope indicated or described trade contractors shall furnish all items required for the

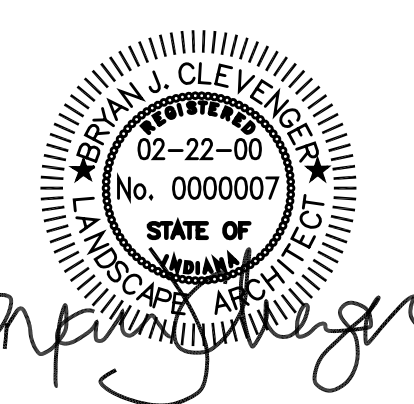
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DATE	DRAWN BY	CHECKED BY
14. 07	BJC	BJC

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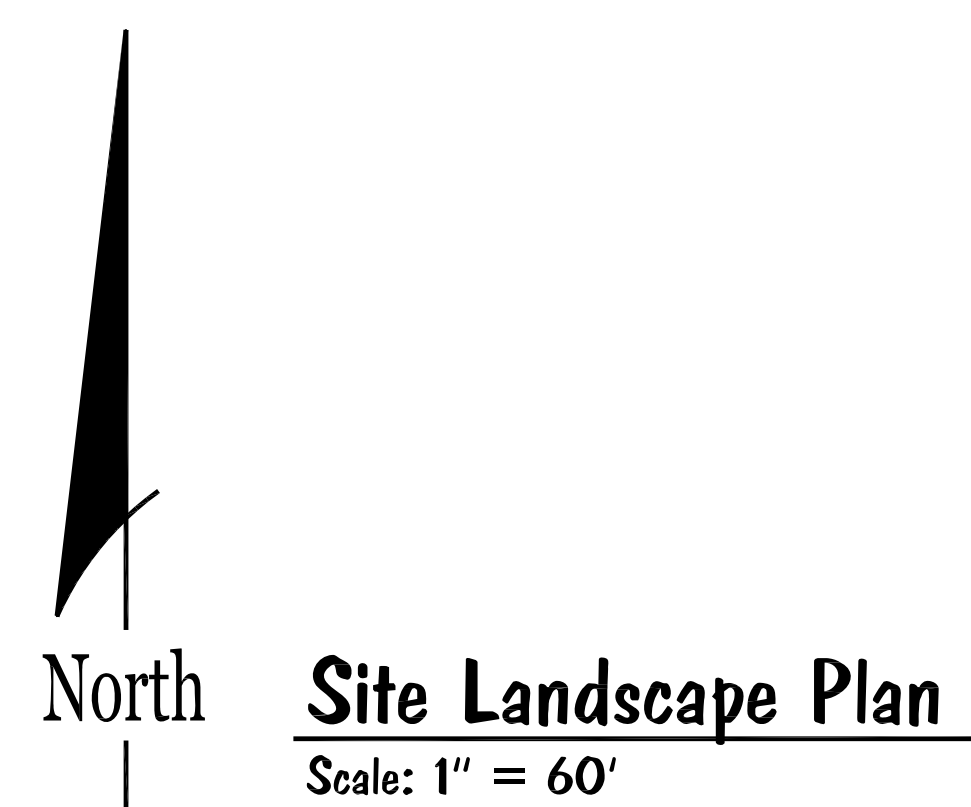
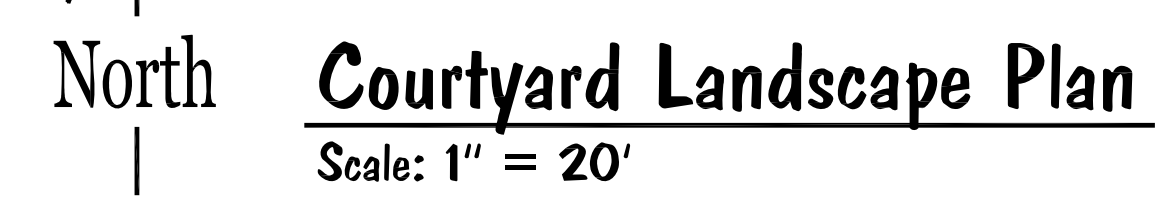
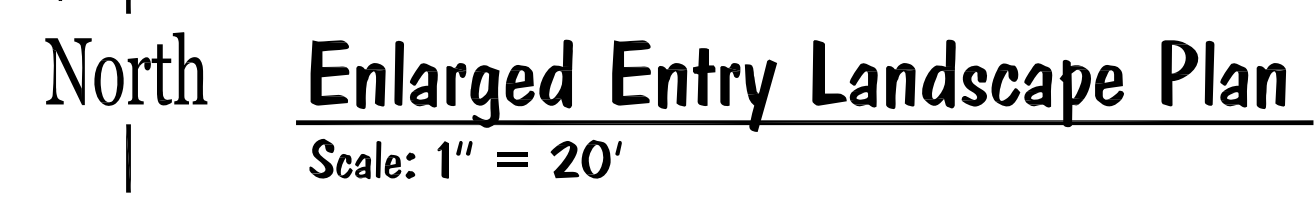
SITE
LANDSCAPE
PLAN

CERTIFIED BY:

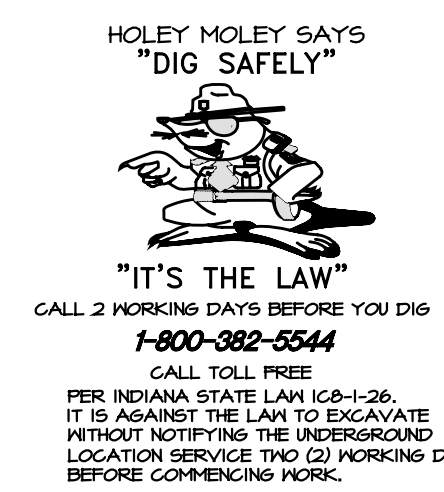


DRAWING NUMBER
L101

PROJECT NUMBER
26211K



PLANT LIST						
SYM.	QTY.	SCIENTIFIC NAME	COMMON NAME	ROOT	SIZE	REMARKS
SHADE TREES	AR	33	ACER RUBRUM 'OCTOBER GLORY'	OCTOBER GLORY RED MAPLE	B&B	2 1/2'
	AS	21	ACER SACCHARUM	SUGAR MAPLE	B&B	2 1/2'
	BN	30	BETULA NIGRA	RIVER BIRCH	B&B	2 1/2'
	CO	19	CELTIS OCCIDENTALIS	COMMON HACKBERRY	B&B	2 1/2'
	HI	41	QUERCUS TRILACINIOSA VAR. INERMIS	THORNLESS HONEYLOCUST	B&B	2 1/2'
	GT	1	LIRIODENDRON TULIPIFERA	TULIP TREE	B&B	5 1/2'
	PC	21	PYRUS CALLERYANA 'CLEVELAND SELECT'	CLEVELAND SELECT PEAR	B&B	2"
	ORNAENTAL TREES	AP	1	ACER PALMATUM	JAPANESE MAPLE	B&B
EVERGREEN TREES	PA	104	PICEA ABIES	NORWAY SPRUCE	B&B	6'-1"
	PN	12	PINUS NIGRA	AUSTRIAN PINE	B&B	6'-1"
	PD	22	PICEA PEXENS	COLORADO BLUE SPRUCE	B&B	6'-1"
	PS	40	PINUS STROBUS	EASTERN WHITE PINE	B&B	6'-1"
SHRUBS	HA	7	HYDRANGEA ARBORESCENS	ANEMELLE HYDRANGEA	CONT.	8'
	HY	4	TAXUS X MEDIA 'WICKSII'	WICKS X YEW	CONT.	8'
	IG	115	ILEX GLABRA 'CHAMZIN'	NORDIC INKBERY HOLLY	CONT.	8'
	V	52	TEA VIRGINICA 'HENRY'S GARNET'	HENRY'S GARNET SWEETSPHIRE	CONT.	8'
	JG	24	JUNIPERUS X PRITTERIANA 'GOLD COAST'	GOLD COAST JUNPER	CONT.	8'
	JB	40	SPIREEA X BUNDALE 'PRODELLI'	PRODELL SPIREA	CONT.	8'
	TH	119	TALIA OCCIDENTALIS 'HOLMSTRUP'	HOLMSTRUP ARBORVITAE	CONT.	3'-4"
	TM	214	TAXUS X MEDIA 'DENBORFIS'	DENSE SPREADING YEW	CONT.	8'
	OT	691	TALIA OCCIDENTALIS 'TECNY'	TECNY ARBORVITAE	CONT.	3'-4"
	EA	16	EUNYOMIS ALATA 'COMPACTA'	CLUMPY BURNING BUSH	CONT.	24"
	BT	56	BERBERIS 'THUNDERB' 'AUTUMNPURPURA NANA'	THUNDERBERRY PYRAMID	CONT.	8'
	IR	7	HYDRANGEA GLABERRIMA	ORACLEFLY HYDRANGEA	CONT.	8'
	PG	51	PENSTEMON ALOPECUROIDES	FOUNTAIN GRASS	CONT.	3 GALLON
	CP	30	CHAMAECYPARIS PISIFERA 'FILIPERA MOM'S'	MOM FALSE CYPRRESS	CONT.	15'-18"
	PFX	10	MISCANTHUS SINENSIS	'MAIDEN GRASS	CONT.	5 GALLON
PERENNIALS	EP	19	ECHINACEA PURPUREA	PURPLE CONEFLOWER	CONT.	1 GALLON
	HS	146	HEPERICALLIS 'STELLA D'ORO'	STELLA D'ORO DAYLILY	CONT.	GALLON
	SA	23	SEDUM 'AUTUMN JOY'	AUTUMN JOY SEDUM	CONT.	GALLON
	HO	5	HOSTA	HOSTA	CONT.	GALLON
	AA	10	ASTILBE	ASTILBE	CONT.	GALLON





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SCOPE DRAWINGS:

These drawings indicate the general scope of the project in terms of architectural design concept, the dimensions of the building, the major architectural elements and the structural, mechanical and electrical systems.

The drawings do not necessarily indicate or describe the details required for full performance and completion of the project as required by the Contract.

On the basis of the general scope indicated or described in the drawings, the contractor shall furnish all materials and trade contractors shall furnish all items required for the project.

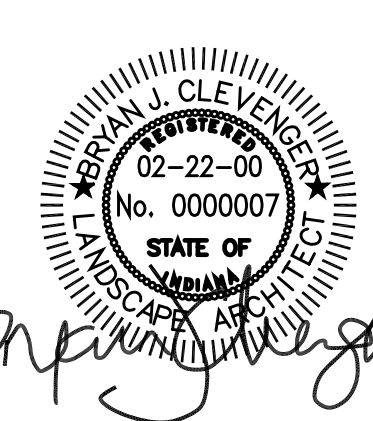
REVISIONS:

ISSUE DATE	DRAWN BY	CHECKED
14. 07	BJC	BJC

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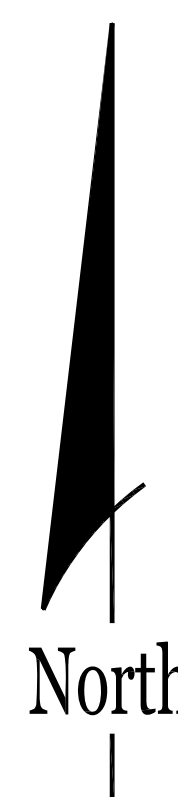
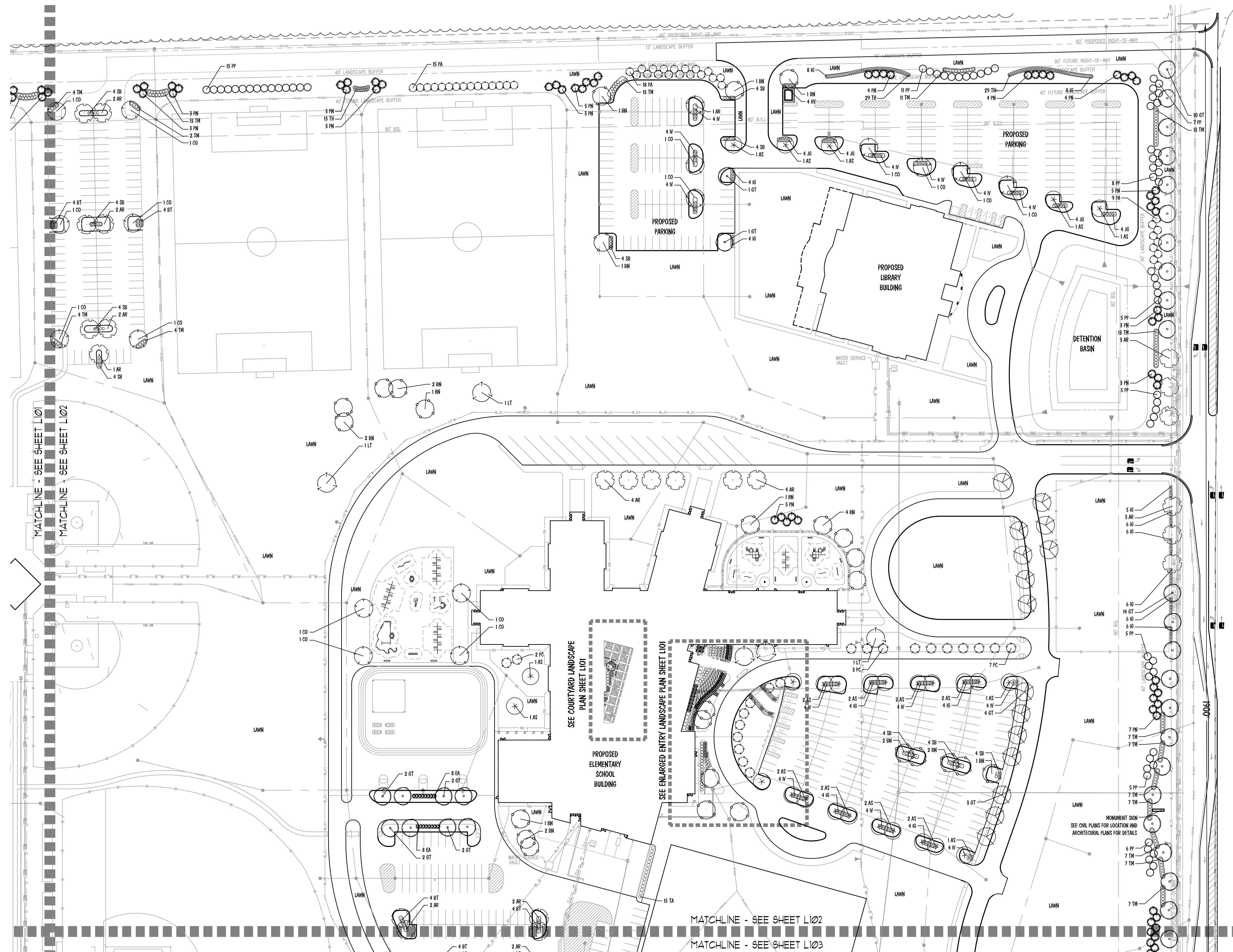
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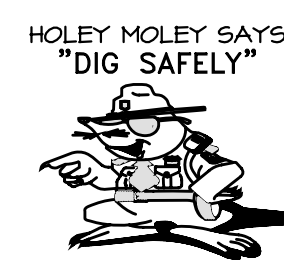
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L102

PROJECT NUMBER
26211K



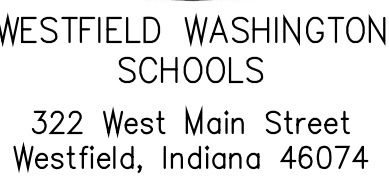
Site Landscape Plan

Scale: 1" = 60'



"IT'S THE LAW"
CALL 2 WORKING DAYS BEFORE YOU DIG

PER INDIANA STATE LAW ICS-1-26,
IT IS AGAINST THE LAW TO EXCAVATE
WITHOUT NOTIFYING THE UNDERGROUND
LOCATION SERVICE TWO (2) WORKING DAYS
BEFORE COMMENCING WORK.



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NEW
MONON TRAIL
ELEMENTARY SCHOOL

SCOPE DRAWINGS:

These drawings indicate the general scope of the programs of architectural design, concept, the dimensions of building, the major architectural elements and the type of structural, mechanical and electrical systems.

The drawings do not necessarily indicate or describe the details required for full performance and completion of the items of the Contract.

On the basis of the general scope indicated or described, the trade contractors shall furnish all items required for the complete installation of the system.

REVISIONS:

1	PIPELINE EASEMENT
	09-21-07

DATE	DRAWN BY	CHECKED BY
14. 07	BJC	BJC

DRAWING TITLE:

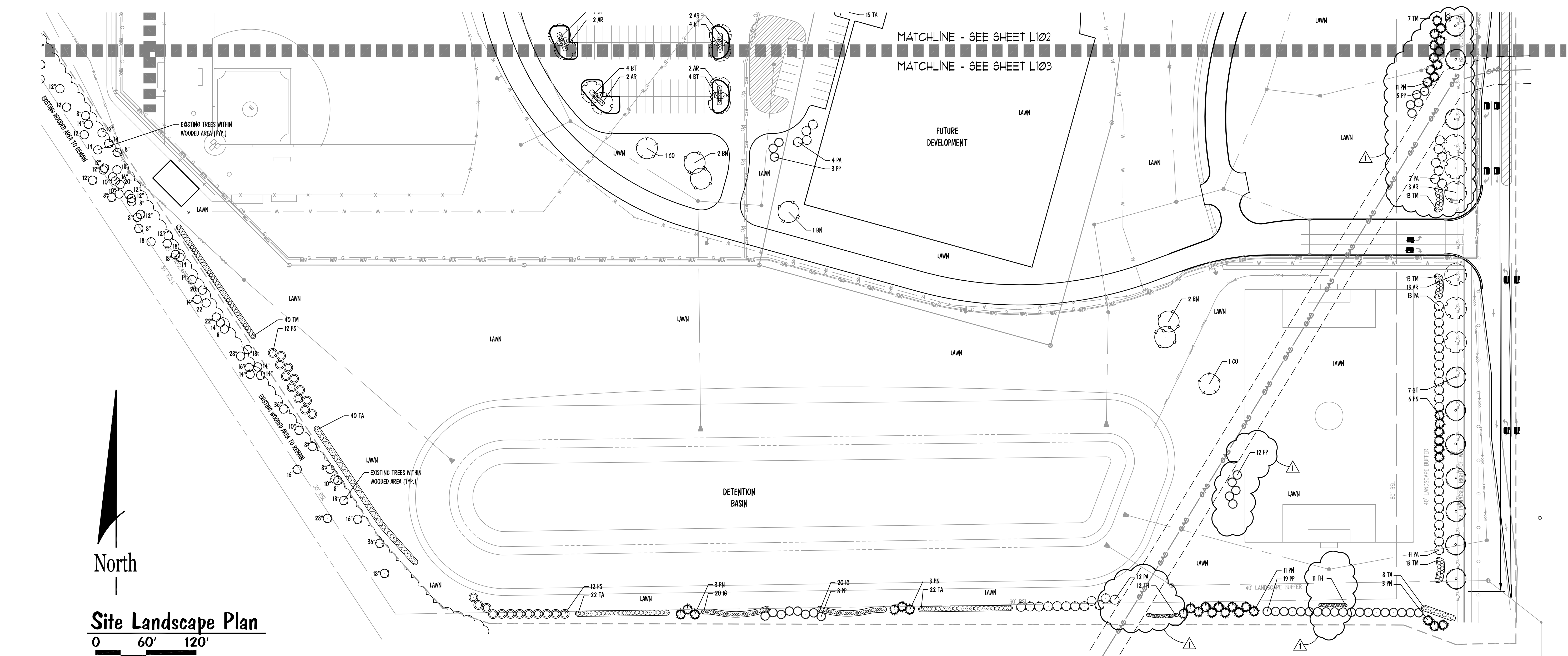
SITE
LANDSCAPE
PLAN

CERTIFIED BY:



DRAWING NUMBER
L103

PROJECT NUMBER
26211K



LANDSCAPE REVISION NOTES: BUCKEYE PIPELINE EASEMENT

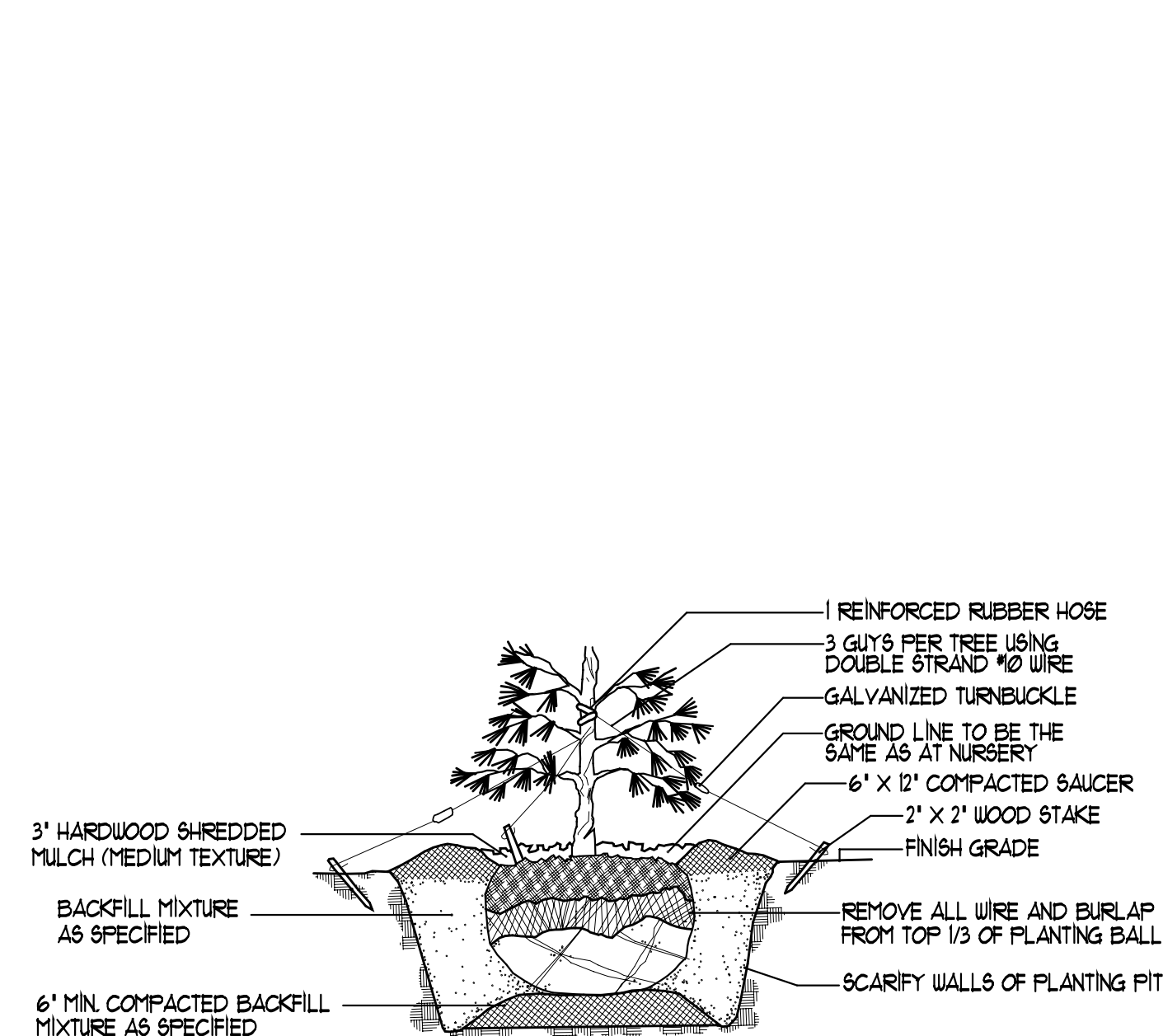
1. SHIFT AND RELOCATE LANDSCAPING SHOWN ON SHEET L103 OUT OF THE PIPELINE EASEMENT AS SHOWN ABOVE.

GENERAL LANDSCAPE NOTES

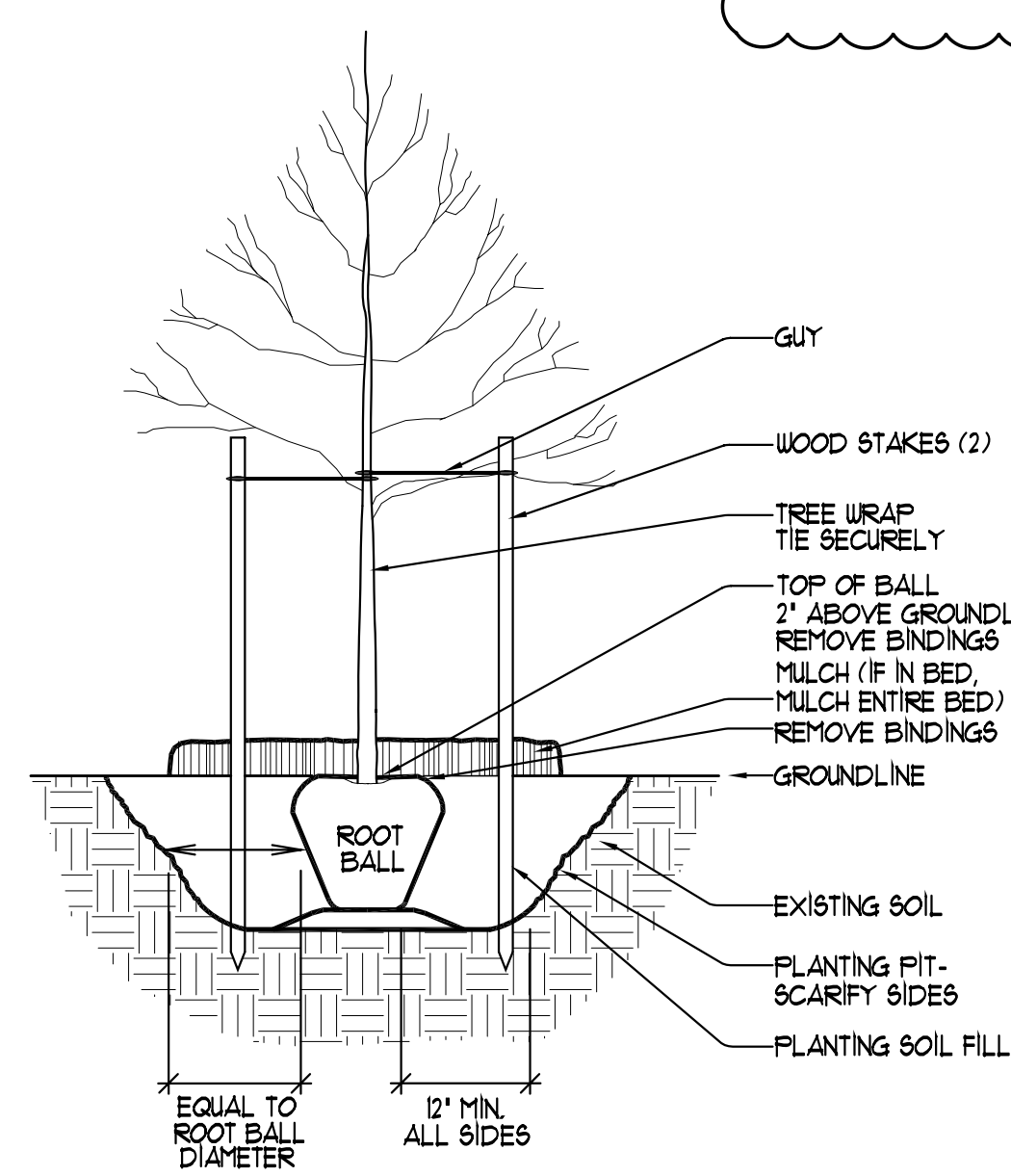
1. ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LANDSCAPE PLANS, SHEET L101 AND UNITED SPECIFICATION SECTIONS 32 92 00, 32 90 00, AND 32 92 15.
2. ALL NECESSARY PERMITS AND APPROVALS FROM AGENCIES GOVERNING THE LANDSCAPE WORK SHALL BE SECURED BY CONTRACTOR PRIOR TO BEGINNING ANY WORK.
3. THE LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR KEEPING ALL ROADS, WALKS, AND ADJACENT PROPERTIES CLEAR OF ALL LANDSCAPE CONSTRUCTION EQUIPMENT, DIRT, AND OTHER DEBRIS.
4. THE LANDSCAPE CONTRACTOR SHALL FIELD VERIFY ALL EXISTING UTILITY LINE LOCATIONS PRIOR TO ANY CONSTRUCTION AND DEVIATIONS FROM THE CORRECT LOCATIONS SHALL BE NOTIFIED TO THE LANDSCAPE ARCHITECT.
5. THE LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR COORDINATING AND SCHEDULING ALL LANDSCAPING RELATED WORK WITH OTHER CONTRACTORS AND TRADES.
6. THE LANDSCAPE CONTRACTOR SHALL NOTIFY THE LANDSCAPE ARCHITECT IMMEDIATELY IF ANY DISCREPANCIES IN THE CONSTRUCTION DOCUMENTS ARE FOUND.
7. THE LANDSCAPE CONTRACTOR IS NOT RESPONSIBLE FOR ROUGH GRADING. THE LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR FINE GRADING IN ALL LAWN AREAS, THE SITE OR GRADING CONTRACTOR SHALL DEVELOP THE SITE GRADES TO WITHIN 1 INCH OF FINE GRADE. THIS SHALL INCLUDE TOPSOIL, IF AVAILABLE.
8. THE LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR PROVIDING AND INSTALLING APPROVED PLANTING SOIL MIX. TILL THE EXISTING SUBGRADE TO MINIMUM DEPTH OF 8" PRIOR TO INSTALLING THE PLANTING SOIL MIX. THE FOLLOWING ARE TO BE RECEIVED APPROVED PLANTING SOIL MIX PER THE PLANTING DETAILS:
 - 1) Shrub Planting Pits
 - 2) Tree Planting Pits
9. ANY SERIES OF TREES OR SHRUBS TO BE PROVIDED IN A PARTICULAR ARRANGEMENT MAY BE FIELD CHECKED AND APPROVED BY THE

LANDSCAPE ARCHITECT FOR ACCURACY OF SPACING PRIOR TO PLANTING.
ANY PLANTS NOT ARRANGED PER THE LANDSCAPE PLANS WILL BE
RELOCATED AT THE EXPENSE OF THE LANDSCAPE CONTRACTOR.

11. APPLY FERTILIZER TO PLANT BEDS PRIOR TO PLANTING FOR USED CONTROL. FOLLOW LABEL DIRECTIONS. DO NOT APPLY TO ANY PLANTING BEDS THAT MAY RESULT IN DAMAGE TO PLANT MATERIALS.
12. PLANTING BEDS IN DAMAGE TO PLANT MATERIALS.
13. DIMENSION FOR HEIGHT AND SPREAD OF PLANT MATERIAL SPECIFIED ON THE PLANT LIST ARE GENERAL GUIDES FOR THE MINIMUM DESIRED SIZE OF EACH PLANT. EACH PLANT SHALL HAVE A UNIFORM AND CONSISTENT SHAPE AS IT PERTAINS TO THE SPECIFICATIONS AND PARTICULAR SPECIES. ANY PLANT MATERIAL WHICH FAILS TO CONFORM TO THE SPECIFICATIONS IS SUBJECT TO REJECTION BY THE LANDSCAPE ARCHITECT.
14. THE QUANTITIES INDICATED ON THE PLANT LIST ARE PROVIDED FOR THE BENEFIT OF THE LANDSCAPE CONTRACTOR BUT SHOULD NOT BE ASSUMED TO BE CORRECT. IN THE EVENT THERE IS A DISCREPANCY, THE PLANTING PLANS WILL TAKE PRECEDENCE OVER THE PLANT LIST. THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR QUANTITIES, CALCULATIONS AND THE LIABILITY PERTAINING TO THOSE QUANTITIES AND ANY RELATED CONTRACT DOCUMENTS AND/OR PRICE QUOTATIONS.
15. THE LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR SEEDING ALL LAWN AND VEGETATED SURFACE AREAS AS INDICATED ON THE LANDSCAPE PLANS. IN THE EVENT THERE IS A DISCREPANCY, THE PLANS WILL TAKE PRECEDENCE SECTION 32 00 FOR SEED MIXTURES AND LAWN INSTALLATION SPECIFICATIONS. VEGETATED SURFACE INSTALLATION INSTRUCTIONS APPEAR ON DRAWING.
16. ALL PLANTING BEDS ADJACENT TO THE BUILDING SHALL HAVE A MINIMUM SLOPE OF 2% AWAY FROM THE BUILDING TO INSURE POSITIVE DRAINAGE.
17. REFER TO CIVIL PLANS FOR SITE GRADING AND UTILITY PLANS.

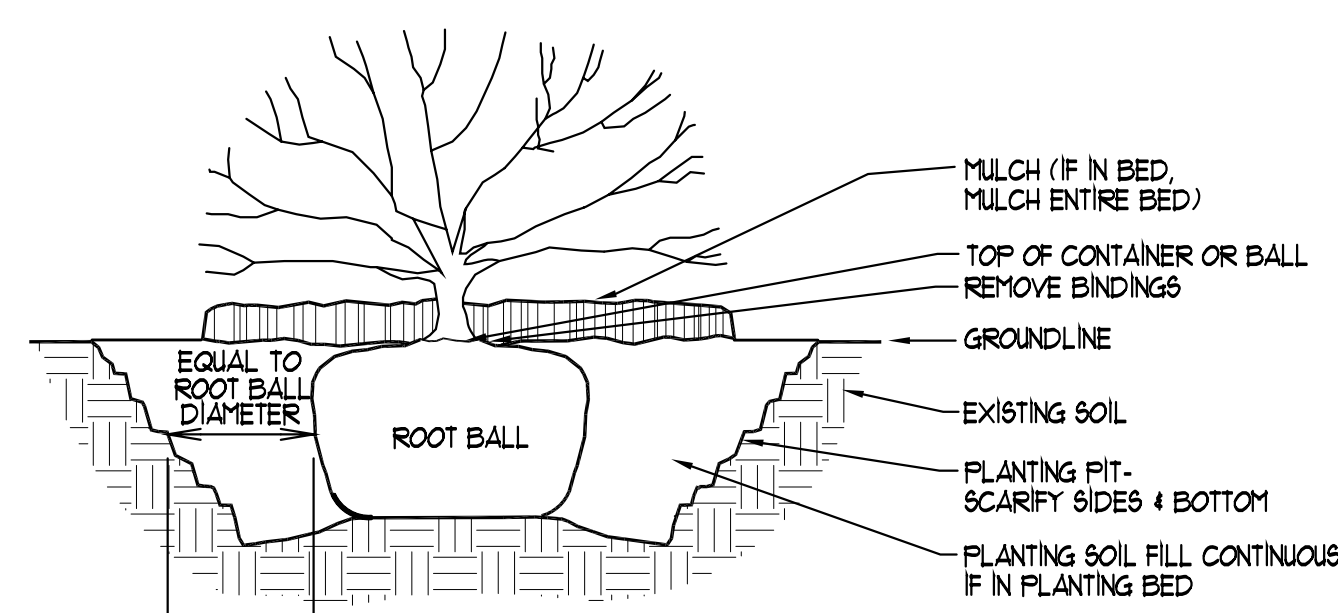


Evergreen Tree Planting Detail



Tree Planting Detail

Not To Scale

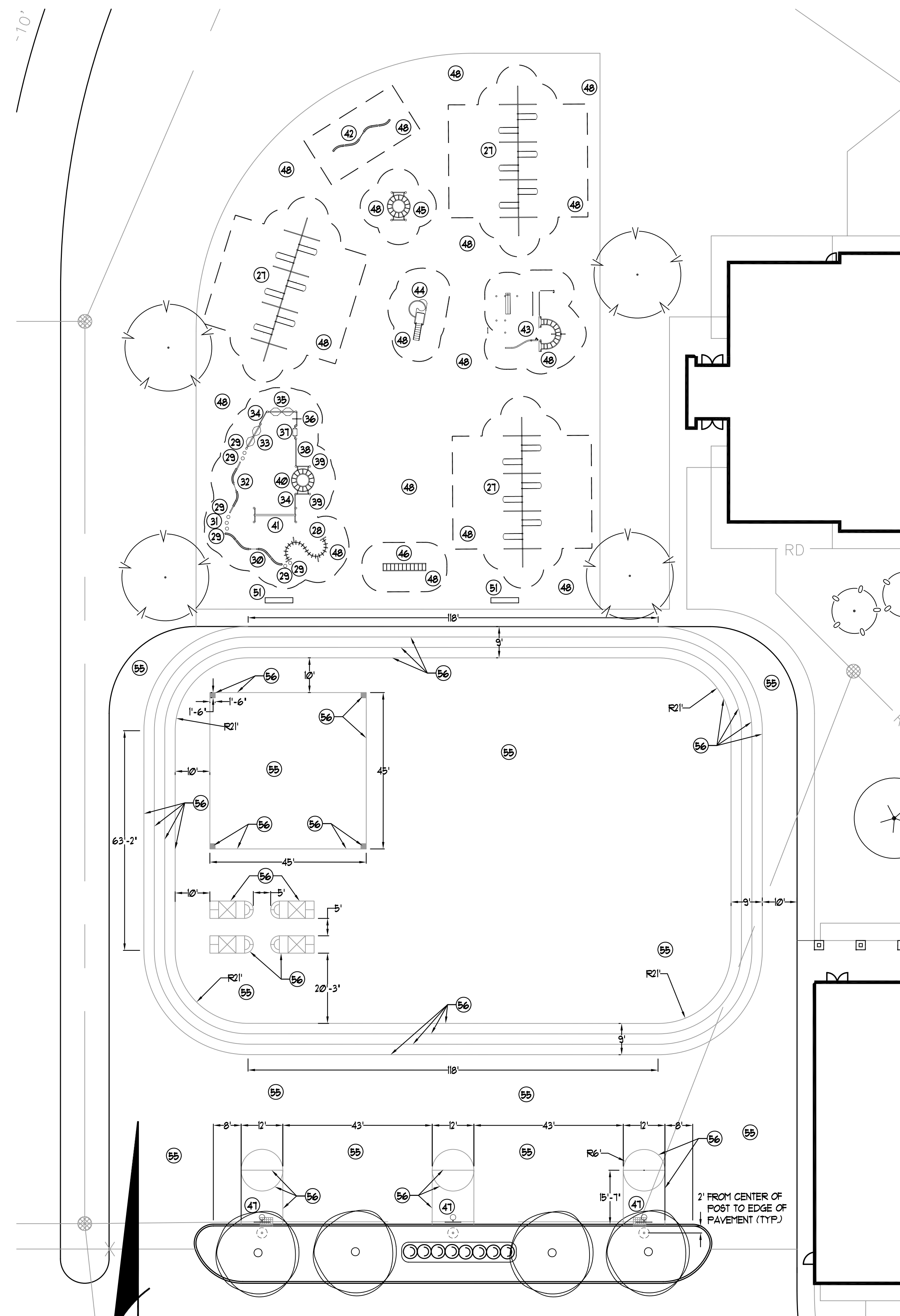


Shrub Planting Detail

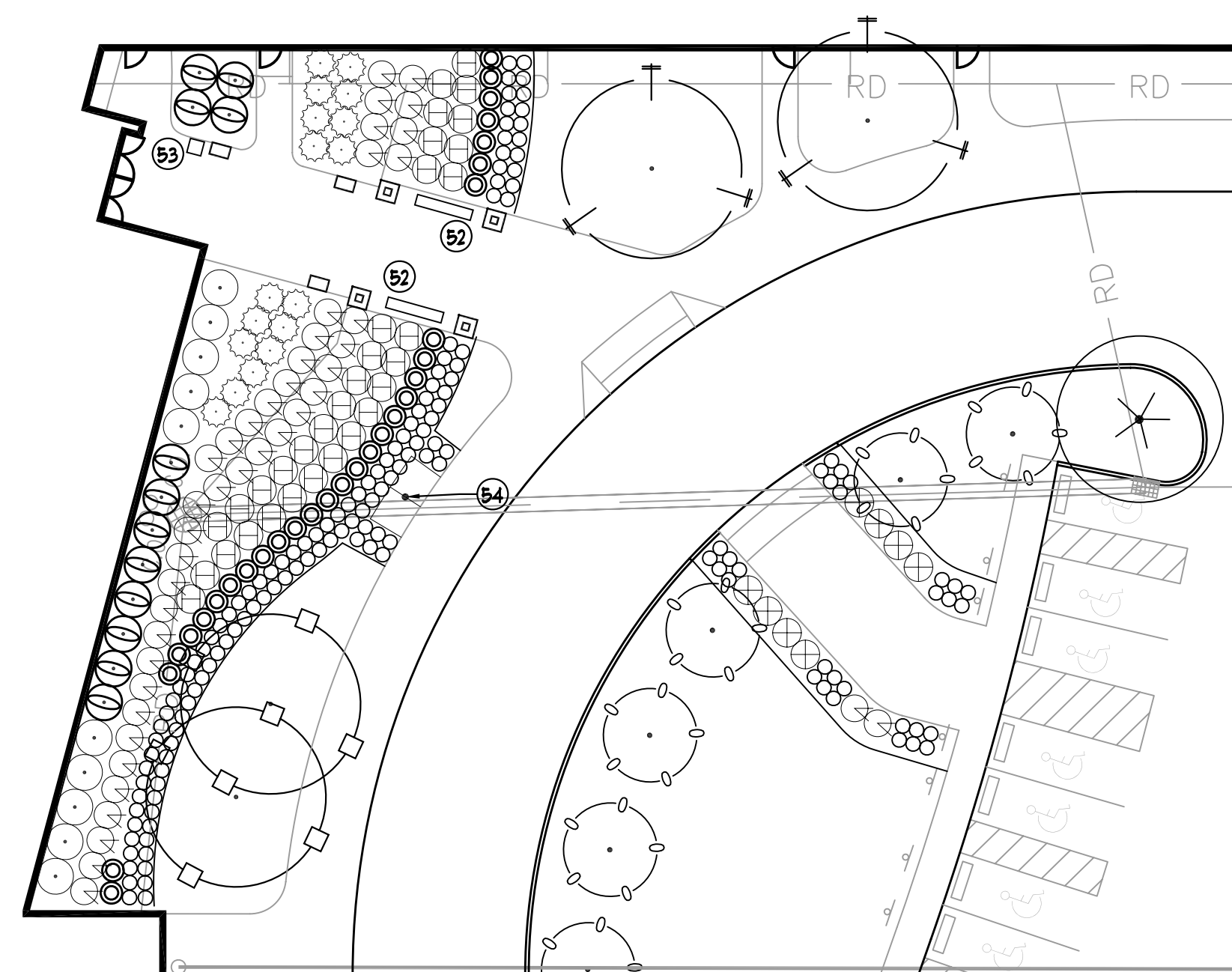
Not To Scale



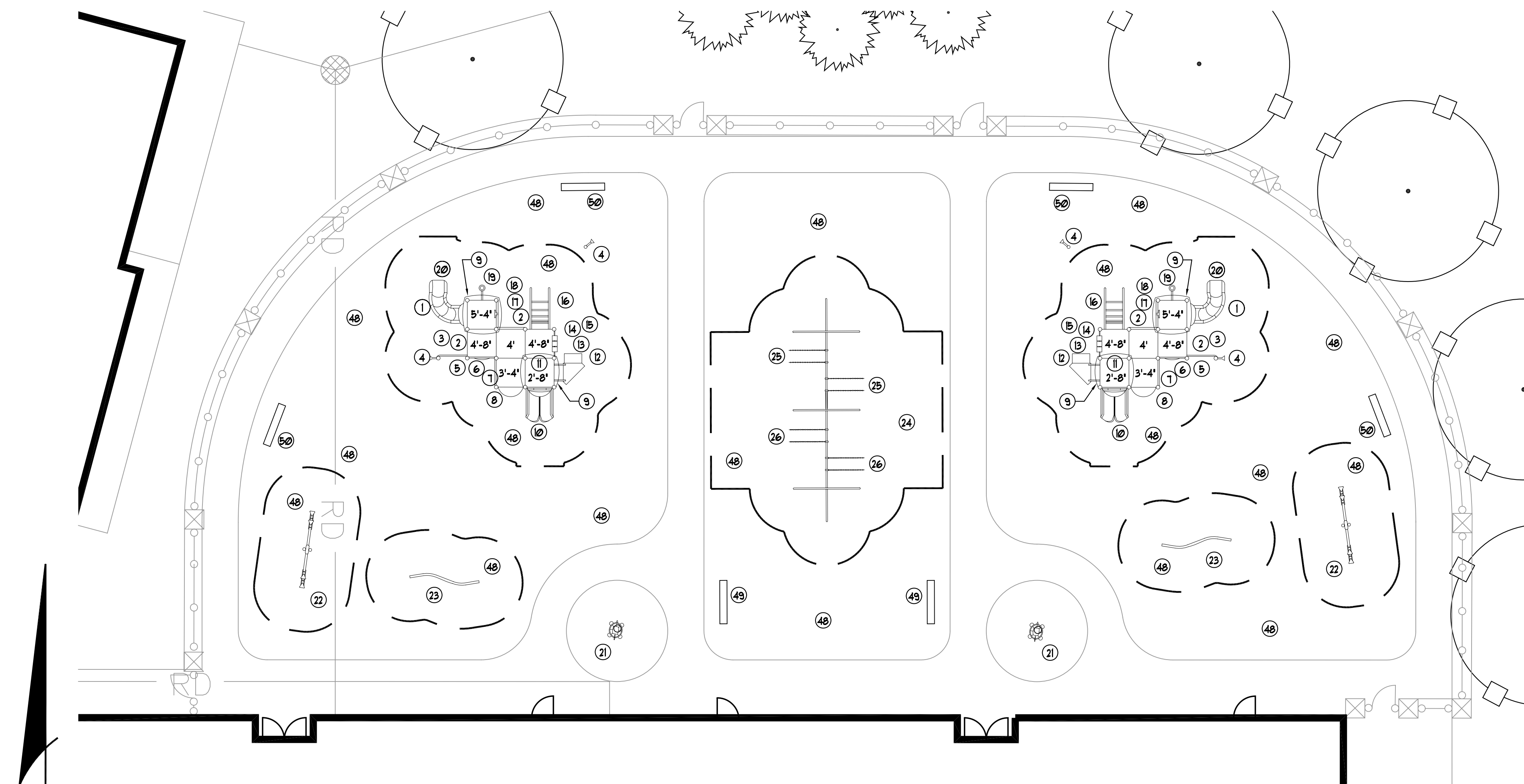
"IT'S THE LAW"
CALL 2 WORKING DAYS BEFORE YOU DIG
1-800-382-5544
CALL TOLL FREE
PER INDIANA STATE LAW IC8-1-26.
IT IS AGAINST THE LAW TO EXCAVATE
WITHOUT NOTIFYING THE UNDERGROUND
LOCATION SERVICE TWO (2) WORKING
BEFORE COMMENCING WORK.



North **Hard and Soft Surface Playground and Amenity Plan**
Scale: 1" = 20'



North **Entry Amenity Plan**
Scale: 1" = 20'



North Kindergarten Playground and Amenity Plan

Legend

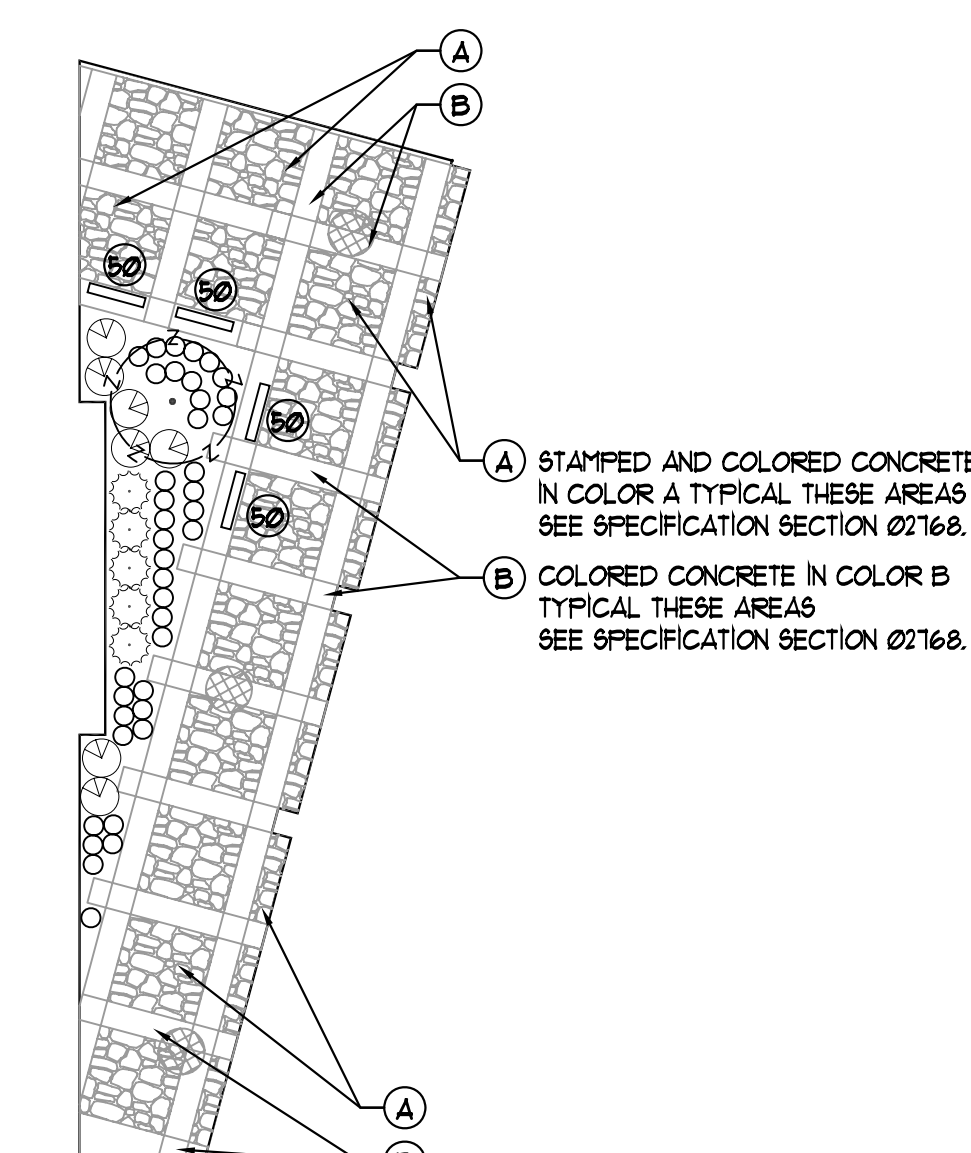
- | KINDERGARTEN PLAYGROUND STRUCTURE EQUIPMENT | |
|---|---|
| (1) | 600661 8' KICK PLATE |
| (2) | 600043 STANDARD PIPE WALL PANEL |
| (3) | 600593 FLOWER HAZE PANEL |
| (4) | 600663 TELEPHONE TUBES |
| (5) | 610336 CHINING BAR |
| (6) | 61130 30" BUBBLE PANEL |
| (7) | 600840 VERTICAL LADDER |
| (8) | 600493 BALCONY STANDARD PANEL |
| (9) | 610556 CURVY CANOPY |
| (10) | 61065 DOUBLE VELOCITY SLIDE |
| (11) | 60204 PLASTIC VERTICAL LADDER |
| (12) | 61122 TRANSFER POINT W/ HANDHOLD |
| (13) | 61111 RETURN STEP |
| (14) | 600048 STORE PANEL |
| (15) | 602136 BLOCKS AND WHEELS PANEL |
| (16) | 602355 5 PIPE CLIMBER |
| (17) | 600664 DOORWAY PANEL |
| (18) | 600086 PLATE WHEEL PANEL |
| (19) | 602541 COIL CLIMBER |
| (20) | 600000, 600003, 600001 LANDSLIDE ENTRANCE WITH VISOR EXIT SECTION AND LEFT CURVED SECTION |
| (21) | TURTLE SAND TABLE |
| (22) | SPRING SEE SAW |
| (23) | CURVED BALANCE BEAM |
| (24) | 8' 4 PLACE SWING SET |
| (25) | BELT SEAT |
| (26) | ENCLOSED TOT SEAT |
| (27) | 10' 6 PLACE SWING SET AND 6 BELT CARDIO COURSE EQUIPMENT |
| (28) | 61593 5 LOOP HORIZONTAL LADDER |
| (29) | 60020 8' HIGH SINGLE BUTTON STEP |
| (30) | 61745 MAXCLIMB RIDGE TOP |
| (31) | 60093 1-4' HIGH SINGLE BUTTON STEP |
| (32) | 61748 MAXCLIMB KEYSTONE CLIMBER |
| (33) | 60039 JUMP N BOUNCE |
| (34) | 610336 CHINING BAR |
| (35) | 60018 WILD SWINGER |
| (36) | 60033 CLIMBING WALL W/ RING |
| (37) | 61119 LOG ROLL |
| (38) | 60076 CHAIN WALK 17 DECK SPAN |
| (39) | 600262 3-RING VERTICAL LADDER |
| (40) | 60464 CLIMB-A-ROUND |

ADDITIONAL KINDERGARTEN PLAY STRUCTURE COMPONENTS NOT IDENTIFIED INCLUDE (4) 1/4" 5' O.D. ALUMINUM UPRIGHTS WITH CAP - 600424 (1) 1/2" 5' O.D. ALUMINUM UPRIGHT WITH CAP - 600593 (1) 6" 5' O.D. ALUMINUM UPRIGHT WITH CAP - 60102, (1) 8" 5' O.D. ALUMINUM UPRIGHT WITH CAP - 60118, (4) 15" 5' O.D. ALUMINUM UPRIGHTS WITH CAP - 60344, (4) 11" 5' O.D. ALUMINUM UPRIGHTS WITH CAP - 60348, (6) SQUARE DECKS 60055, (4) ADDITIONAL 8" SMALL KICKPLATES - 60061, (1) BALCONY DECK - 60149, (1) HDPE VERTICAL LADDER - 2' - 60244, AND (5) ZIG ZAG ADAPTERS - 60293.

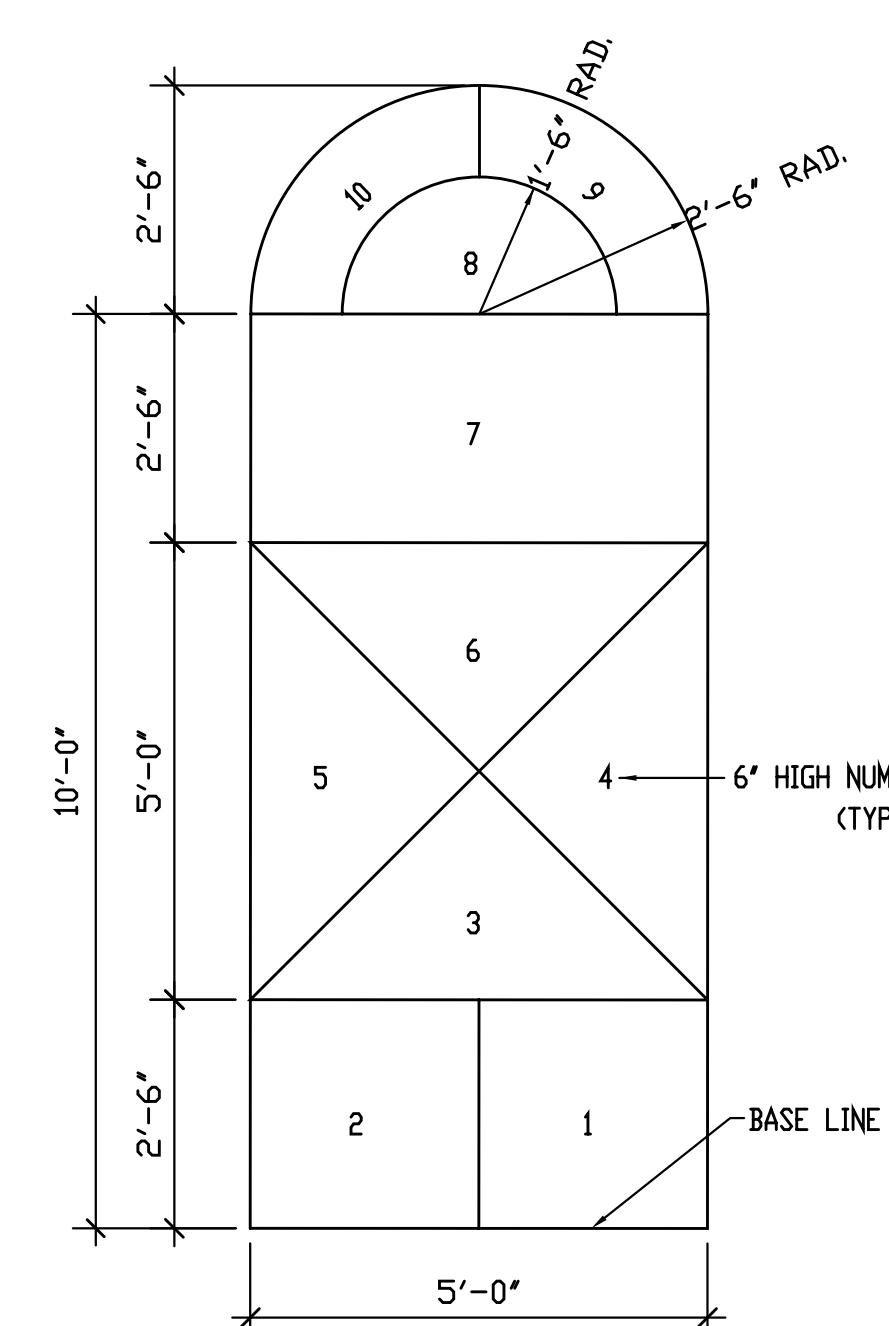
ADDITIONAL CARDIO COURSE STRUCTURE COMPONENTS NOT IDENTIFIED
INCLUDE (1) 10', 5' O.D. ALUMINUM UPRIGHTS WITH CAP - 60059, (1) 8', 5'
O.D. ALUMINUM UPRIGHT WITH CAP - 60110, (1) 7', 5' O.D. ALUMINUM UPRIGHT
WITH CAP - 60349, AND (2) 9', 5' O.D. ALUMINUM UPRIGHTS WITH CAP -
60056.

- 42) MAX CLIMB FREESTANDING RIDGE TOP
- 43) FINESSE CLUSTER
- 44) PLATFORM SLIDE
- 45) CLIMB-A-ROUND
- 46) HORIZONTAL LADDER
- 47) FAN WYNTON BASKETBALL OUTFIT
- 48) PLAYGROUND SAFETY SURFACING - SEE SPEC SECTION 02062
- 49) 6' BENCH W/IO BACK - SEE SPEC SECTION 02005
- 50) 6' BENCH W/IO BACK - SEE SPEC SECTION 02005
- 51) 8' BENCH W/IO BACK - SEE SPEC SECTION 02005
- 52) 8' BENCH W/IO BACK - SEE SPEC SECTION 02005
- 53) TRASH RECEPTACLE - SEE SPEC SECTION 02005
- 54) FLAGPOLE - SEE SPEC SECTION 03050
- 55) HARD SURFACE PLAYGROUND COATING - SEE SPEC SECTION 02791
- 56) HARD SURFACE PLAYGROUND STRIPING - SEE SPEC SECTION 02791

NOTE:
PLEASE VERIFY ALL DIMENSIONS OF PLAY AREA: SIZE,
ORIENTATION, AND LOCATIONS OF ALL EXISTING UTILITIES,
EQUIPMENT, AND SITE FURNISHINGS.



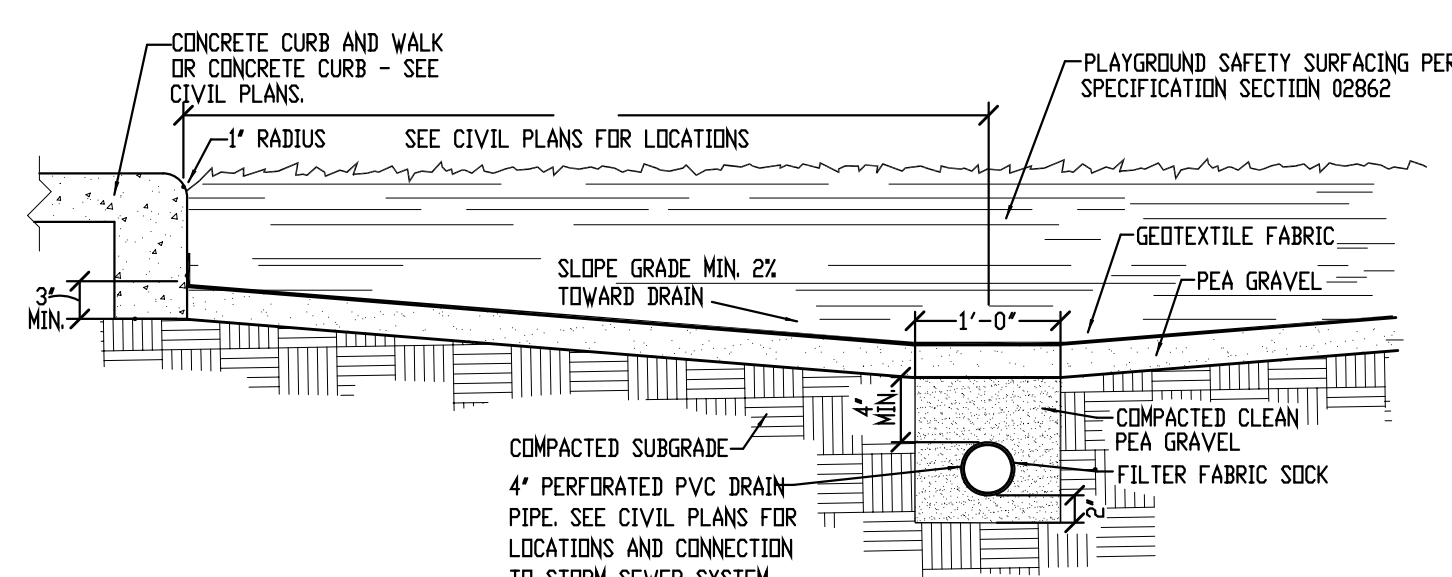
North **Courtyard Amenity Plan**
Scale: 1" = 20'



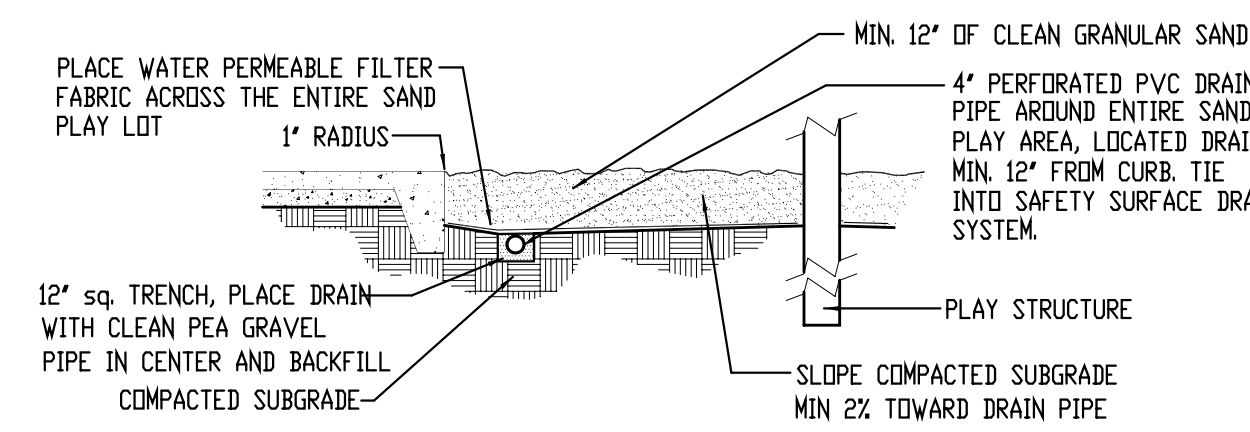
NOTE: SEE SPECIFICATIONS FOR PAINT MARKINGS

Hopscotch Layout Detail

Not to Scale



Safety Surface Drainage Detail



Sand Play Lot Drainage Detail



VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: _____ FILING DATE: _____

FILING FEE: \$ _____ FEE PLUS \$ _____ PER ADDITIONAL VARIANCE (@ _____) = \$ _____

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: _____ (STAFF NAME) DATE: _____

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: _____ AMENDMENTS: _____ DEVELOPMENT PLAN: _____

PRIMARY PLAT: _____ SECONDARY PLAT: _____ VARIANCE(S): _____

APPLICANT INFORMATION

APPLICANT'S NAME: _____ TELEPHONE: _____

ADDRESS: _____ EMAIL: _____

PROPERTY OWNER'S NAME: _____ TELEPHONE: _____

ADDRESS: _____ EMAIL: _____

REPRESENTATIVE'S NAME: _____ TELEPHONE: _____

COMPANY: _____ EMAIL: _____

ADDRESS: _____

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: _____

COUNTY PARCEL ID #(S): _____

EXISTING ZONING DISTRICT(S): _____ EXISTING LAND USE(S): _____

PROPERTY AND PROJECT INFORMATION

☐ VARIANCE OF LAND USE CODE CITATION: _____

☐ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: _____

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY): _____

APPLICANT AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says that above information is true and correct as he/she is informed and believes and that Applicant owns or controls the property involved in this application.

Darci Pellom
Applicant/Representative (signature)

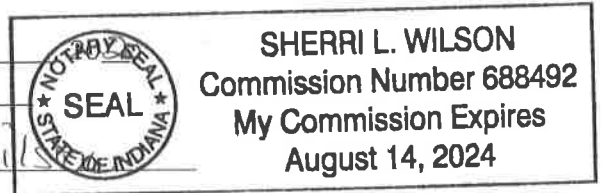
Darci Pellom
Applicant/Representative (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the above party, who having been duly sworn acknowledged the execution of the foregoing Application.

Witness my hand and Notarial Seal this 3rd day of September
State of Indiana, County of Marion, SS:

Sherri L. Wilson
Notary Public (signature)

Sherri L. Wilson
Notary Public (printed)



PROPERTY OWNER AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says they are the owners of the property involved in this application and that they hereby acknowledge and consent to the foregoing Application.

Property Owner (signature)*

Property Owner (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the Property Owner, who having been duly sworn acknowledged and consents to the execution of the foregoing Application.

Witness my hand and Notarial Seal this ____ day of _____, 20__.
State of _____, County of _____, SS: _____

Notary Public (signature)

Notary Public (printed)

*A signature from each party having interest in the property involved in this application is required. If the Property Owner's signature cannot be obtained on the application, then a notarized statement by each Property Owner acknowledging and consenting to the filing of this application is required with the application.

APPLICANT AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says that above information is true and correct as he/she is informed and believes and that Applicant owns or controls the property involved in this application.

Applicant/Representative (signature)

Darci Pellom

Applicant/Representative (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the above party, who having been duly sworn acknowledged the execution of the foregoing Application.

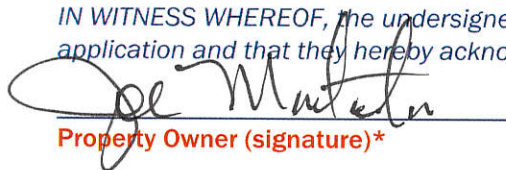
Witness my hand and Notarial Seal this ____ day of _____, 20__.
State of _____, County of _____, SS: _____

Notary Public (signature)

Notary Public (printed)

PROPERTY OWNER AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says they are the owners of the property involved in this application and that they hereby acknowledge and consent to the foregoing Application.


Property Owner (signature)*

Joe Montalvo

Property Owner (printed)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the Property Owner, who having been duly sworn acknowledged and consents to the execution of the foregoing Application.

Witness my hand and Notarial Seal this 3rd day of September, 2020
State of Indiana, County of Hamilton, SS: _____


Notary Public (signature)

Jo Ann Neff

Notary Public (printed)



JO ANN NEFF
Notary Public, State of Indiana
Hamilton County
Commission #666608
My Commission Expires
April 14, 2023

*A signature from each party having interest in the property involved in this application is required. If the Property Owner's signature cannot be obtained on the application, then a notarized statement by each Property Owner acknowledging and consenting to the filing of this application is required with the application.

GENERAL INSTRUCTIONS

- A. **Pre-Filing Conference:** A pre-filing conference is required for all petitions. An appointment must be made with the Community Development Department (the “Department”) to discuss a petition prior to filing. An application will not be considered filed until a pre-filing conference has occurred. Applicants are encouraged to incorporate the Department’s comments into the application prior to filing.
- B. **Filing Petition:** A petition shall be filed with the Department by the filing deadline in accordance with the Schedule of Meeting and Filing Dates. In order to be deemed a complete petition, a petition shall include the following:
- | | |
|---|--|
| ☐ Completed Application | ☐ Legal Description |
| ☐ Draft Public Notice | ☐ List of Adjoining Property Owners (as provided by County) |
| ☐ Property Owner Consent | ☐ TAC Delivery Affidavit (if TAC is determined to be necessary) |
| ☐ Site Plan (to scale) | ☐ Copy of Property Deed |
| ☐ Statement of Intent | Elevations, photographs or other supporting information necessary to explain the nature of the requested variance(s) |
- C. **Filing Fee Check:** After the filing of an application, the Department will advise the applicant of the applicable filing fee amount, which is due and payable (checks made out to “City of Westfield”) within two (2) weeks of filing.
- D. **Technical Advisory Committee (TAC):** The applicant is responsible for submitting a copy of the application and related information to Technical Advisory Committee members prior to filing, if determined by the Department to be necessary. An affidavit confirming delivery of information is required to be completed and signed by the applicant and submitted with the petition. Technical Advisory Committee meetings are held in the City Services Building (2728 East 171st Street, Westfield, IN 46074) in accordance with the Schedule of Meeting and Filing Dates. A representative must be present at this meeting.
- E. **Public Hearing and Notice:** All variance petitions require a public hearing by the Board of Zoning Appeals. The public hearing is held at City Hall, 130 Penn Street, Westfield, Indiana, in accordance with the Schedule of Meeting and Filing Dates. Notice of the hearing is required in accordance with the Board’s Rules of Procedure:
1. **Newspaper Publication:** Notice of the hearing will be published in the Hamilton County Reporter and The Times. The Department will handle the newspaper publication requirement.
 2. **Mailed Public Notice:** The applicant is responsible to send public notice by certified mail with proof of mailing (certificate of mailing) to all interested parties, postmarked at least ten (10) days prior to the hearing. A list of adjacent property owners may be obtained from the **Hamilton County Auditor, Office of Transfers and Mapping** (33 North 9th Street, Noblesville, IN 46060, (317) 776-9624), and shall include all owners of property to a depth of two (2) ownerships of no direct or indirect financial or other interest to the applicant or property owner or one eighth of a mile (1/8), whichever is less.
 3. **Public Notice Sign:** The applicant is responsible to post a public notice sign(s) on the property at least ten (10) days prior to the public hearing. The Department will determine sign locations and will make signs available for the applicant to obtain in the office of the Department.
 4. **Affidavit of Notice of Public Hearing:** The applicant shall deliver a copy of the mailed notice and a signed affidavit, verifying that the notices were mailed and the public notice sign(s) was posted on the subject property, to the Department at least four (4) calendar days prior to the public hearing.
- F. **Ex-parte Communication:** In no event shall applicants or other interested parties contact or attempt to communicate with members of the Board in regard to a filed variance petition prior to the public hearing.
- G. **Revised Materials:** If the applicant wishes to submit additional or revised information than what is filed, then the applicant shall submit those to the Department no later than ten (10) days prior to the public hearing.
- H. **Board’s Consideration:** Following the public hearing, the Board may either approve, approve with conditions, deny or continue the petition.
- I. **Resource:** Please see the Board’s Rules of Procedure for more detailed procedural information.

FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: _____ **DOCKET #:** _____

In taking action on a variance request, the Board of Zoning Appeals uses the following decision criteria to approve or deny a variance, as established by Indiana Code, and the Board may impose reasonable conditions as part of its approval. The applicant must address the criteria below. A variance of land use may be approved by the Board of Zoning Appeals only upon a determination that the Board finds all of the following to be true:

A. The use will not be injurious to the public health, safety, morals, and general welfare of the community because: _____

B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: _____

C. The need for the variance arises from some condition particular to the property involved because: _____

D. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because: _____

E. The variance of use does not interfere substantially with the Comprehensive Plan because: _____

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: _____ **DOCKET #:** _____

In taking action on a variance request, the Board of Zoning Appeals uses the following decision criteria to approve or deny a variance, as established by Indiana Code, and the Board may impose reasonable conditions as part of its approval. The applicant must address the criteria below (if multiple variances of development standard are being requested, then this sheet should be completed separately for each requested variance). A variance of land use may be approved by the Board of Zoning Appeals only upon a determination that the Board finds all of the following to be true:

A. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because: _____

B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: _____

C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: _____



Westfield–Washington Township Board of Zoning Appeals

Minutes of the September 15, 2020 BZA Meeting

Presented for approval: October 13, 2020

The Westfield-Washington Township Board of Zoning Appeals (BZA) met at 7:00 p.m. on Tuesday, September 15, 2020 at Westfield City Hall.

OPENING OF MEETING: 7:00 PM

ROLL CALL

Members Present: Jeannine Fortier, Ken Kingshill, Victor McCarty, and Dave Schmitz.
Members Absent: All present.

City staff present: Kevin Todd, Director; Pam Howard, Senior Planner; Daine Crabtree, Associate Planner; Corey Harris, Associate Planner; and Brian Zaiger, City Attorney.

APPROVAL OF MINUTES

August 11, 2020 BZA Minutes
McCarty motioned to approve the August 11, 2020 Minutes.
Fortier seconded. Motion passed. Vote 4-0.

PRO-TEMPORE REPLACEMENT

Member Resigned: Martin Raines.
Kingshill motioned to appoint McCarty as new Pro-Tempore.
Fortier seconded. Motion passed. vote of 4-0.

REVIEW RULES AND PROCEDURES

Crabtree reviewed BZA rules and procedures.

ITEMS OF BUSINESS:

2009-VU-06

[PUBLIC HEARING]

223 Jersey Street

Josh and Kate Kneifel

The Petitioners request a Variance of Use to permit a Professional Office (Counseling) Use on 0.24 acres +/- in the MF1: Multi-Family Low Density District (Article 13.2).

(Planner: Pam Howard – phoward@westfield.in.gov)

Howard overviewed this request a Variance of Use. She said one public comment had been received by Staff and distributed to the board members. She stated that the Petitioners had coordinated with the Grand Junction task Group and had received its letter of support.

The Petitioners, Josh and Kate Kneifel, summarized this proposed project and use for three private offices. They spoke about the proposed upgrades, both interior and exterior. They addressed parking and indicated that they would add three additional parking spaces similar to other nearby businesses.

Agendas for all City meetings are updated and available at our website.

Website: <http://www.westfield.in.gov> | Economic and Community Development Department E-mail: community@westfield.in.gov

Kingshill asked if all three offices would be counseling.

- The Petitioners replied that as of now, yes, although they would be open to another wellness businesses.

Schmitz asked if the Petitioners were the current owners of the property and if they were comfortable with the proposed conditions.

- The Petitioners replied yes to both questions.

Howard explained the conditions of the variance and the coordinated time lines for the expiration dates of variances in this area.

McCarty said he appreciated this type of use and asked about the types possible of meetings/events.

- The Petitioner replied that they had already coordinated with the Westfield Schools for team building and the business would respond to the needs of the community including movement and art therapies.

Public Hearing for 2009-VU-06 opened at 7:14 p.m.

Hi Pam, I understand the new owners, Josh and Katie Kneifel are coming before the BZA asking for a variance of use for the property at 223 Jersey Street. I want to go on the record as a close neighbor and local real estate agent that I completely support what they are proposing. The changes on Park Street and on Jersey Street are creating a desirable destination for our downtown, This type of use is the vision we see for this area. Please add my name to those who are in favor of granting the variances.

Thank you, Melody Jones

Public Hearing for 2007-VU-06 closed at 7:16 p.m.

Kingshill asked if the parking spaces would be partially in the right-of-way.

- Howard replied yes, and that they would coordinate with Westfield Public Works and that this is consistent with other nearby businesses.

Schmitz asked if number of parking spaces would be consistent with the use.

- Howard replied, yes that a professional office requires one parking space per 300 square feet of office area. They added that other areas downtown have no minimum parking standards because they are zoned LB-H which have no parking minimum.

McCarty motioned to approve 2009-VU-06 with the following staff conditions:

- That the approval be limited to a counseling business, as described in the Statement of Intent.
- That approval of this variance shall expire on December 31, 2024 and any request to extend the time limit of this variance shall be reviewed and approved by the Board of Zoning Appeals prior to December 31, 2024.

Kingshill seconded. Motion passed. Vote 4-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2009-VU-06

Kingshill seconded. Motion passed. Vote 4-0.

2009-VS-20

16426 River Crest Court

[PUBLIC HEARING]

Brian Metzger by Property Pros Land Management

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Website: <http://www.westfield.in.gov> | Community Development Department E-mail: community@westfield.in.gov

The Petitioner requests a Variance of Development Standard to encroach six feet seven inches (6' 7") into the thirty (30) foot Minimum Rear Yard Setback on 0.50 acres +/- in the SF2: Single-Family Low Density District to accommodate a swimming pool and deck (Article 4.5(E)(3)(a)).
(Planner: Corey Harris – charris@westfield.in.gov)

Harris overviewed this Variance of Development Standard request. He said that Westfield Public Works had reviewed this encroachment. He added that a side yard setback was currently under review by Hamilton County Surveyor's office. He said he would work with the Petitioner on the landscape requirements. He said one public comment had been received by Staff, and has been distributed to the board.

Josh Spring with Property Pros Land Management, on behalf of the Petitioner summarized the details of this request. He said they had taken the landscape plan into consideration so as to not create any safety issues.

Kingshill said the Property Owners' Association had submitted that it had no objections. He asked if there had been any comments from the neighbors.

- Harris replied no.

Schmitz asked about the encroachment distance.

- The Petitioner replied that some of the landscaping had been updated to positively affect the area of encroachment area and that the plan would be compliant.

Kingshill asked if the change related the regulated drain would affect the site plan condition.

- Harris said that a possible change would affect the retention wall, but not the pool.

Public Hearing for 2009-VS-20 opened at 7:27 p.m.

September 10, 2020

Re: Public hearing on Tuesday, September 15, 2020 at pm

Petition 2009-VS-20 filed by Joshua Spring (Property Pros Land Management LLC) on behalf of Brian & Kristen Metzger pertaining to real estate at 16426 River Crest Court, Westfield, IN
Request for Variance of Development Standard

Dear Westfield-Washington Township Advisory Board of Zoning:

In response to receipt of the Westfield-Washington Township Board of Zoning Appeals Public Notice, the Brookside Property Owners Association, Inc., [hereinafter "POA"] offers the following written response to the proposed plan. The POA has no objection to the request for the Metzger's Pool to encroach approximately 6'7" in the Single-family Low Density Zoning (SF2) District's 30 foot Minimum Rear Yard Setback Line assuming that the proposed drawings are correct in that the entire project - pool including plantings and retaining wall - do not exceed the request for variance. Waiver of any objection by the POA is conditioned upon the rendering's representation that the entirety of the project including plantings and the retaining wall do not exceed a 24'5" set back, and as per Article III, Section 3.2 of the Declaration of Covenants, Conditions and Restriction of Brookside, said design would not change the grade in this area so as to restrict the flow of stormwater. Moreover, this waiver is also conditioned upon

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Website: <http://www.westfield.in.gov> | Community Development Department E-mail: community@westfield.in.gov

compliance to Article I, Section 1.13 of the Declaration of Covenants, Conditions and Restrictions of Brookside which states that, "No downspouts shall be tied to the sub-surface drains. Sump pump lines are to be connected to the available subsurface drains provided for each lot."

With regard to the proposed drawings there also appears to be encroachment into the County's dedicated drainage easement on the South side of the property, including the construction of a boulder retaining wall. It is the understanding of the POA that these areas are reserved for maintenance by the City and County who will perform work necessary to ensure proper drainage and water flow located within this easement. Per Article III, Section 3.2 of the Declaration of Covenants, Conditions and Restriction of Brookside, "Within these areas there shall be located no structures including but not limited to trees, plants, landscape, mounds, fences, out buildings, swing sets, play equipment, docks, decks, boats, etc. These areas shall be maintained with a property cut stand of grass at all times. No change of grade shall be permitted within these areas which may restrict the flow of stormwater." The POA respectfully requests the County to review this particular encroachment based upon its standards and/or any maintenance concerns posed by this proposed construction as the City/County is ultimately responsible for maintaining the unhindered flow of water via this easement.

Thank you very much for your consideration. Please direct any questions or commentary to Josh Cox, President, Brookside POA at (317) 331-6475 or the undersigned.

Very truly yours,

Lisa J. Macha
Vice President, Brookside POA
(818) 857-1610

Public Hearing for 2009-VS-20 closed at 7:28 p.m.

Fortier motioned to approve 2009-VS-20 with the following modified Staff conditions:

- Approval shall only be valid for the pool noted on the Site Plan in Exhibit 3.
- Construction shall be substantially compliant with the Site Plan in Exhibit 3.

McCarty seconded. Motion passed. Vote 4-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2009-VS-20.

Kingshill seconded. Motion passed. Vote 4-0.

2009-VS-21
[PUBLIC HEARING]

1254 Lewiston Drive

Mike and Lori Weber

The Petitioners request a Variance of Development Standard to encroach one foot two inches (1' 2") into the thirty (30) foot Minimum Rear Yard Setback on 0.24 acres +/- in the SF3 Cluster: Single-Family Medium Density Cluster District to accommodate a swimming pool and deck (Article 4.6(E)(3)).

(Planner: Corey Harris – charris@westfield.in.gov)

Harris overviewed this Variance of Development Standard request. He said no public comments had been received by Staff.

Lori Weber, the Petitioner, stated that the variance was being requested for safety reasons.

Kingshill asked if there had been any comments from anyone.

- Harris replied no.

Public Hearing for 2009-VS-21 opened at 7:32 p.m.

No public comments.

Public Hearing for 2009-VS-21 closed at 7:33 p.m.

Kingshill motioned to approve 2009-VS-21 with the following Staff conditions:

- Approval shall only be valid for the pool noted on the Site Plan, Exhibit 3.
- Construction shall be substantially compliant with the Site Plan, Exhibit 3.

McCarty seconded. Motion passed. Vote 4-0.

Schmitz Fortier motioned to adopt Staff's Findings of Fact for 2009-VS-21.

Fortier seconded. Motion passed. Vote 4-0.

2009-VS-22
[PUBLIC HEARING]

1250 W. 161st Street

Matthew Obras

The Petitioner requests Variances of Development Standard to reduce Minimum Lot Frontage and Minimum Lot Size standards for three (3) new lots on approximately 6.83 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District (Articles 4.2(C) and 4.2(D)).

(Planner: Daine Crabtree – dcrabtree@westfield.in.gov)

Crabtree overviewed this request for Variances of Development Standard which included Minimum Lot Frontage for one lot from 250 feet to 200 feet; Minimum Lot Frontage for two lots from 250 feet to 0 feet; and Minimum Lot Size for three lots from 3 acres to 1 acre. He said no public comment had been received by Staff.

Public Hearing for 2009-VS-22 opened at 7:37 p.m.

Dave Bigot, 16379 Man O'War Lane; said he wanted these homes to be constructed to the same standard as the existing Derby Ridge community and be required to build the same distance from the legal drain. He said he was not opposed to the proposal, he just wants to make sure the standards are in line with Derby Ridge so as not to negatively affect existing property values.

Public Hearing for 2009-VS-22 closed at 7:39 p.m.

Matthew Obras, The Petitioner, responded that only the front three lots were included in the build plan and the rear area isn't buildable as it is floodplain. He said the lot sizes would be larger than Derby Ridge and that the homes would be same quality and standards.

Schmitz asked about applicable developmental standards

- Crabtree responded AG-SF1 developmental standards.

Kingshill asked about mail and trash pick-up as they relate to a single driveway. He said he had he was concerned about these lots having up to nine trash containers along 161st Street.

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- The Petitioner replied he would make sure there would be adequate space for the trash containers.

McCarty said they would need to think about how to keep the trash containers straight.

Kingshill asked about the rationale for lot frontage requirement.

- Crabtree and Howard replied to avoid creating orphaned parcels as well as to prevent too many road cuts on high speed roads.
- Zaiger went into additional detail on the lot frontage requirement.

Schmitz mentioned that the adjacent lots are narrower and could presumably have the same number of trash cans in the same area.

Kingshill asked if we had a prohibition on flag lots.

- Howard replied no, that the frontage standard addresses that issue.

Schmitz mentioned that most similar variance are AG-SF1 compliant in size; however, given the adjacent zoning of Derby Ridge, he said that this seemed to be a good transition.

McCarty stated he was most worried about safety of new residents with increased traffic.

McCarty motioned to approve 2009-VS-22 with the following Staff conditions.

- The approval of the variances is contingent upon the approval an associated Secondary Plat by the Community Development and Public Works Departments that is in substantial compliance with the Concept Plan.
- 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.
- Fortier seconded. Motion passed. Vote 3-1. (Kingshill)

Schmitz motioned to adopt Staff's Findings of Fact for 2009-VS-22.

Fortier seconded. Motion passed. Vote 4-0.

2009-VS-23

[PUBLIC HEARING]

20945 Anthony Road

Brad Canada

The Petitioner requests a Variance of Development Standard to permit a new lot with zero (0) road frontage on 15.78 acres +/- in the AG-SF1: Agriculture-Single-Family Rural District (Article 4.2(D)).
(Planner: Daine Crabtree – dcrabtree@westfield.in.gov)

Crabtree overviewed this request for a Variance of Development Standard to modify the Minimum Lot Frontage from 250 feet to zero feet to allow for the creation of a new, 6.0 acre +/- lot. He said no public comments had been received by Staff.

Public Hearing for 2009-VS-23 opened at 7:57p.m.

Public Hearing for 2009-VS-23 closed at 7:59 p.m.

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Brad Canada, the Petitioner, said he would be planting trees against the neighboring property.

Kingshill asked if lot 2 contained an existing home.

- The Petitioner replied yes, that a home was built last year.

Kingshill mentioned the trash container issue, but said he felt this situation was different as Anthony Road was not as busy.

Schmitz motioned to approve 2009-VS-23 with the following Staff conditions:

- The approval of the variances is contingent upon the approval an associated Secondary Plat by the Community Development and Public Works Departments that is in substantial compliance with the Concept Plan.
- 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.

McCarty seconded. Motion passed. Vote 4-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2009-VS-23.

Fortier seconded. Motion passed. Vote 4-0.

2009-VS-24
[PUBLIC HEARING]

15742 Capital Spending Road

Ryan and Amanda O'Neil

The Petitioners request a Variance of Development Standard to encroach eight feet and 8 inches (8' 8") into the twenty-five (25) foot Minimum Rear Yard Setback on 0.24 acres +/- in the Viking Meadows PUD District to accommodate a swimming pool and deck.

(Planner: Corey Harris – charris@westfield.in.gov)

Harris overviewed this request for a Variance of Development Standard to allow a rear yard encroachment of a swimming pool by eight feet and eight inches. He said that one public comment had been received by Staff and emailed to the Board.

Ryan O'Neil, the Petitioner, summarized the request including the property boundaries and said that it was a purchased as a premium lot backing up to HOA property.

Kingshill said he was glad this had HOA approval, which carried more weight than a single neighbor down the street. He asked the Petitioner if they had spoken with the neighbor who submitted a complaint.

- The Petitioner replied no.

Kingshill asked if he had been given a copy of the covenants when he purchased the property.

- The Petitioner replied yes, but not a copy of the PUD, and he said that the survey had wrong setback.

Kingshill asked the Petitioner intended to build a pool when they purchased the property.

- The Petitioner replied no, he wasn't planning to build a pool at that time; however, with current pool closures a reason arose to build a pool.

Public Hearing 2009-VS-24 for opened at 8:10 p.m.

No public comments.

Public Hearing for 2009-VS-24 closed at 8:14 p.m.

Schmitz said he thought that the 30-foot buffer worked in the Petitioner's favor.

McCarty thinks that any opposition being from further way carries less weight than if opposition had it been submitted from close by.

Kingshill said he had trouble with last Finding of Fact.

Schmitz said he thought that lack of neighbor remonstrance superseded in this issue and that a pool was less intrusive than a building.

Fortier motioned to approve 2009-VS-24 with the following Staff conditions:

- Approval shall only be valid for the pool noted on the Site Plan, Exhibit 3.
- Construction shall be substantially compliant with the Site Plan, Exhibit 3.

McCarty seconded. Motion passed. Vote 4-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2009-VS-24.

Fortier seconded. Motion passed. Vote 4-0.

2009-VS-25
[PUBLIC HEARING]

15621 Hidden Oaks Court

Pete Davis

The Petitioner requests a Variance of Development Standard to encroach fifteen (15) feet into the fifty (50) foot Minimum Rear Yard Setback on 0.57 acres +/- in the Bridgewater PUD District to accommodate a swimming pool and deck.

(Planner: Daine Crabtree – dcrabtree@westfield.in.gov)

Crabtree overviewed this request for a Variance of Development Standard to encroach 15 feet into the 50-foot Minimum Rear Yard Setback. He said this plan received support from The Bridgewater HOA. He said one public comment had been received by Staff that was forwarded to the Board.

Schmitz asked about the notice issue that was referenced in the comment received.

- Crabtree responded that Staff received the mailing list from Hamilton County and that the remonstrator was not on that list. He said based on what was the list received from the County and what Staff believed to be true, that proper notice had been given.
- Zaiger said the requirement was for the Petitioner to give notice, not necessarily that everyone receives notice.

Public Hearing for 2009-VS-25 opened at 8:20 p.m.

One comment email was sent to the board

Fred Schaefer, 15561 Hidden Oaks Lane; said he did not receive notice on this item and that the notice was required to be sent by certified mail and was that was the basis for his request for a continuance. He spoke in opposition to this item. He said that he paid for a premium lot on the golf course and was assured the area would remain quiet. He said he had no problem with other pools that are built within the setback which keeps the pool closer to the house. He said, from prior experience of living on a lake, that water amplifies sound and feels that pool noise would interfere with his quiet enjoyment of his property. He said since he didn't want a pool that he thought that this variance could negatively affect his property value. He said the alternative is to build the pool without encroaching in the setbacks, adding that the Petitioner knew the setbacks when they built.

David Mennel, Bridgewater Master Owners Association (MOA); he presented some history of the Hidden Oaks setbacks. He explained the setbacks in the area and the process for approval. He said the Home Owners Association (HOA) approval was based on factors including the size of the pool and its buffering.

Kingshill asked if the neighbors were notified of the request and had been given an opportunity to address the request.

- Mennel spoke with neighbors who contacted him about it. He said they do not notice neighbors. He said that the HOA doesn't have the mechanism to notify the 800 Bridgewater residents about the addition of the pool. He stated that a public notice sign was placed in the yard indicating that action was being planned on the property. He said the HOA had reviewed and approved these plans.

Schmitz asked if landscape buffering was the main thing that reviewed by the HOA.

- Mennel replied that yes, upon arrival to the approval stage, that location and safety issues have been worked out.

Schmitz asked if there were specific standard that is used for reviews of setbacks.

- Mennel replied requests are site specific and, in this particular case, these lots are very large and spacious.

Crabtree clarified that the requirement for certified mail was amended in February 12, 2019 and is no longer required.

Jan Endes, 15561 Hidden Oaks Lane; said the Hidden Oaks HOA had not approved this plan, only the MOA had approved it. She said, as a retired realtor, that historically pools don't add value; they are prone to exaggerating noise. She said that it would be hard to enjoy playing golf with all the noise from the children playing in the pool. She said she is not sure of the reason the Petitioner is installing a pool and didn't not think it was health/exercise related, but for pleasure. She added that pools are an eyesore in winter even with a pool cover. She said that the noise from a nearby pool with its safety hazards and noise could negatively affect her property value. She is opposed to this request.

Schmitz asked if her sub-area has approval rights, a process for seeking approval from the Hidden Oaks HOA.

- Endes said she was not sure.

Kingshill asked if having a pool would decrease the value of the property.

- Endes replied that in some cases that is the situation and is probably neutral for the subject property, but decreases adjacent value because of noise, appearance in the winter and safety concerns.

Kingshill asked if she was stating that value of adjacent property could be affected in a substantial adverse manner.

- Endes replied yes, it would probably be affected.

Paul Kraemer, Hidden Oaks HOA board member; mentioned that BZA notice was sent and that the board was noticed.

Kingshill asked if the HOA notified all those that the HOA Board represents.

- Kraemer replied no, that a notice isn't required from HOA as everything goes through MOA . He said the Board does not have input.

Michael Cohen, 15560 Bridgewater Club Boulevard; said that he had concerns on revising the setbacks as they are relied upon by neighbors.

Mennel clarified that the MOA has architectural purview for the entire neighborhood. He said that in certain gated areas that the HOA's are only responsible for common area maintenance and are not involved in noticing.

Schaefer said that Hidden Oaks separated from MOA five or six years ago, and said he feels that the Hidden Oaks HOA should have notified neighbors.

Public Hearing for 2009-VS-25 closed at 8:43 p.m.

Kingshill said that he felt differently about the HOA being representative of the community in this case than he did the prior case. He said we have competing arguments in this case with some residents who were not represented.

McCarty said he looked at immediate neighbors and if they had pools with less setbacks.

Schmitz asked Kingshill to clarify his concerns and asked if the neighbor being present mitigated those concerns.

- Kingshill replied no, that it seemed there are two competing opinions that he was weighing.

Schmitz said he typically has trouble with these types of petitions, but said the fact that there is common area behind the homes helps.

Kingshill asked if nearby pool had variances or were compliant with PUD.

- Howard said they would need to look at records, if they had a permit then it is compliant with either original PUD or variance or amendment.

Kingshill motioned to deny 2009-VS-25.

Fortier seconded. Motion passed. Vote 3-1. (McCarty)

Schmitz motioned to table Staff's Findings of Fact for 2009-VS-25 until the October, 2020 BZA meeting. Kingshill seconded. Motion passed. Vote 4-0.

2009-VS-26
[PUBLIC HEARING]

15533 Hidden Oaks Lane

Stephen and Joni Buyer

The Petitioners request a Variance of Development Standard to encroach twenty-two (22) feet into the forty-five (45) foot Minimum Rear Yard Setback on 0.46 acres +/- in the Bridgewater PUD District to accommodate a swimming pool and deck.

(Planner: Daine Crabtree – dcrabtree@westfield.in.gov)

Crabtree overviewed this request for a Variance of Development Standard. He said that this item had been approved by the Bridgewater HOA and one public comment had been received by Staff that was forwarded to the Board.

Public Hearing for 2009-VS-26 opened at 8:55 p.m.

Fred Schaefer, 15561 Hidden Oaks Lane; stated he had the same issues as he had with the previous petition. He said he received notice, but that it was not certified. He said the Petitioners had already erected a pergola and a wall within setback. He questioned if they had received a variance for those structures. He said the Petitioners could build a smaller pool without encroaching into the setback. He said that the Petitioner stated he did not want to build a smaller pool outside of setback. He said that the Petitioner would need to buffer at the rear of house at the setback. He said that anything added should not encroach in the setback.

Jan Endes, 15561 Hidden Oaks Lane; said that in addition to her previous comments, that the HOA represents properties not homeowners and she said that was a shame.

Fred Schaefer, 15561 Hidden Oaks Lane, via email wrote: "After reviewing the Rules of Procedure for BZA, I am hereby renewing my request that these matters be continued due to defective notices and failure to comply with Article X Sections 1 and 2 inclusive

Kingshill asked Endes how a pool would affect adjacent property values.

- She replied that it could negatively affect adjacent property values due to noise.

McCarty asked how far they are from the proposed pool.

- She replied that they are two houses to the north, with one property in between.

Mike McGhee, pool contractor for several pools in the area; said that he had built several pools in Bridgewater. He said that pool safety was being misrepresented and that pool covers are safer than fences. He said that the pools in that area are tucked into the landscaping, thus being hidden from the golf course. He said that these pools are of great quality and do not detract from the property values.

Paul Kraemer, 15519 Hidden Oaks Lane; said that only the furthest most point of the pool is the minimum requested from the property line and are designed to be tucked into the landscaping. He said that the remonstrators who have spoken tonight have substantial ongoing issues with HOA, and that this conflict was why there was a new HOA created. He said that recently there were several children along with parents gathered in a positive manner. He stated that there were quite a few children in the neighborhood.

Steve Buyer, the Petitioner; said that several neighbors in this area have small children. He added that there were nine ash trees behind a property that died. He said that Dave Mennel does a very good job of balancing

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petitioner requests and neighbors' concerns. He added that the serpentine wall is of great value and has been well accepted by others in the area. He said his main concern is the buffering from the view of the golf course. He said that the project would be done in off-season to accommodate the needs of the golf course.

Michael Cohen, 15560 Bridgewater Club Boulevard; said he was concerned about reducing setbacks by as much as half and that neighbors expected greater setbacks. He said he had concerns about safety such as golf balls from the course coming on to property. He spoke highly of the type of pool that is being proposed; however, added that his wife was real estate agent who said that pools don't increase value and many times they can decrease value.

McCarty asked Cohen if the safety issue was a risk that homeowners are taking.

Cohen replied yes.

Mrs. Buyer, the Petitioner, 15533 Hidden Oaks Lane; stated her property's setback was 33 feet from the golf cart path. She added that only once, in their time there, had they ever had a golf ball in their yard.

Dave Mennel, Bridgewater MOA; said these pools were tucked into existing outdoor living space, there was not a not a new feature added. He said that some existing pines and a tree stand are behind the property. He spoke about property values being affected by pools and that as these homes rise in value so do the area properties.

Public Hearing for 2009-VS-26 closed at 9:22 p.m.

McCarty said he did not think the stated concerns from a neighbor that is two houses away were valid.

Kingshill said that PUDs require a neighborhood meeting which helps alleviate issues. He said it sounds like there was not adequate communications between all parties and he said he thought they should continue to the next meeting to allow for the opportunity to talk to neighbors.

Schmitz said he felt like the petitions should be treated the equally. He added that when there was neighbor remonstrance, it is tough to approve. He said that the owners should be aware of the setbacks when they purchase the property and agree to the setbacks.

McGhee said he would coordinate with Crabtree about future possible variance.

Schmitz addressed the Findings of Facts and suggested that the Petitioners and the neighbors should communicate.

Zaiger clarified that Buyer and Kraemer continue to next month to conduct neighborhood meetings.

Kingshill wants them to continue and hold a neighbor meeting.

Zaiger said the Petitioner doesn't necessarily need full unanimous neighbor support.

The Petitioner requested a 30-day continuance and will petition for HOA board to hold a neighborhood meeting, he would mail notices that are required by Hamilton County. He said he would combine the three petitions in this area.

Schmitz said that the Board will also reconsider the Davis petition at the next meeting.

2009-VS-26 was continued to the October 2020 BZA meeting.

Pools 2009-VS-27
[PUBLIC HEARING]

15519 Hidden Oaks Lane

Paul and Kaprice Kraemer

The Petitioners request a Variance of Development Standard to encroach twenty-three (23) feet into the forty-five (45) foot Minimum Rear Yard Setback on 0.45 acres +/- in the Bridgewater PUD District to accommodate a swimming pool and deck.

(Planner: Daine Crabtree – dcrabtree@westfield.in.gov)

2009-VS-27 was continued to the October 2020 BZA meeting.

ITEMS CONTINUED TO A FUTURE MEETING

- Plan Commission Liaison
- Community Development Department

ADJOURNMENT

Unanimous motioned to adjourn the meeting.

Motion passed. Vote 4-0.

The meeting adjourned at 9:44 p.m.

Chairperson
Dave Schmitz

Secretary
Kevin M. Todd, AICP
Director



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

October 13, 2020

2010-VS-32

Exhibit 1

Petition Number: 2010-VS-32

Subject Site Address: 3650 Birkdale Drive (The "Property")

Petitioner: Jennifer Derado (The "Petitioner")

Request: The Petitioner requests a Variance of Development Standard to encroach twelve (12) feet into the thirty (30) foot Minimum Rear Yard Setback on 0.37 acres +/- in the Bridgewater PUD District.

Current Zoning: Bridgewater PUD (Ord. 06-49)

Current Land Use: Residential

Approximate Acreage: 0.37 acres+/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. HOA Approval

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject Property is 0.37 acres +/- in size and is located at 3650 Birkdale Drive (see **Exhibit 2**). The Property is currently zoned Bridgewater PUD. The surrounding properties are also zoned Bridgewater PUD.

Variance Request: The Petitioner is requesting a Variance of Standard to encroach twelve (12) feet into the thirty (30) foot Minimum Rear Yard Setback as further described herein.

SUMMARY OF VARIANCE

The Property is currently subject to Zoning Standards for Bridgewater PUD District as set forth in Ordinance 06-49. The zoning sets forth a minimum rear yard setback line of thirty (30) feet. The Petitioner is requesting this variance to encroach twelve (12) feet into the thirty (30) foot Minimum Rear Yard Setback to accommodate a swimming pool and deck, as illustrated on the Site Plan (see **Exhibit 3**).



COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan (The “Plan”) identifies the property within the “Existing Suburban” land use classification¹. The vision for the Suburban Residential classification is contemplated for future residential growth of the community, generally to the west and north of the Existing Suburban area.²

The Existing Suburban classification is designed to accommodate detached dwellings, attached dwellings, institutional uses, and recreational uses³. The Plan also contemplates Existing Suburban to:

- Ensure that new development occurs in a way that it is contiguous with existing development:
- Prevent monotony of design and color. Recognize that quality in design applies not just to individual homes, but to the collective impact of an entire development:
- Encourage a diverse range of homes styles in individual subdivisions, using innovative architecture of a character appropriate to Westfield, and:
- Emphasize connectivity between subdivisions, and avoid creating isolated islands of development.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Standard. This petition is scheduled to receive its public hearing at the October 13, 2020, 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.

¹ Page 24 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Land Use Classifications and Development Policies.

² Page 38 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Background.

³ Pages 38-39 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan; New Suburban.

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

October 13, 2020

2010-VS-32

Exhibit 1

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO⁶ 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 Standard: The Board of Zoning Appeals shall approve or deny variances from the terms of the UDO. A variance may be approved under Indiana Code § 36-7-4-918.4 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;
- 3) The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property; and

DEPARTMENT COMMENTS

Approval: If the Board is inclined to approve the Variance of Standard (2010-VS-32), then the Department recommends the findings as set forth below, for the variance:

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 would be injurious to the public health, safety, morals, and general welfare of the community because the existing use and proposed improvements will otherwise comply with the applicable standards of the zoning of the Bridgewater PUD.

- 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 adjacent surrounding properties because the use of the Property will not change.

⁶ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

October 13, 2020

2010-VS-32

Exhibit 1

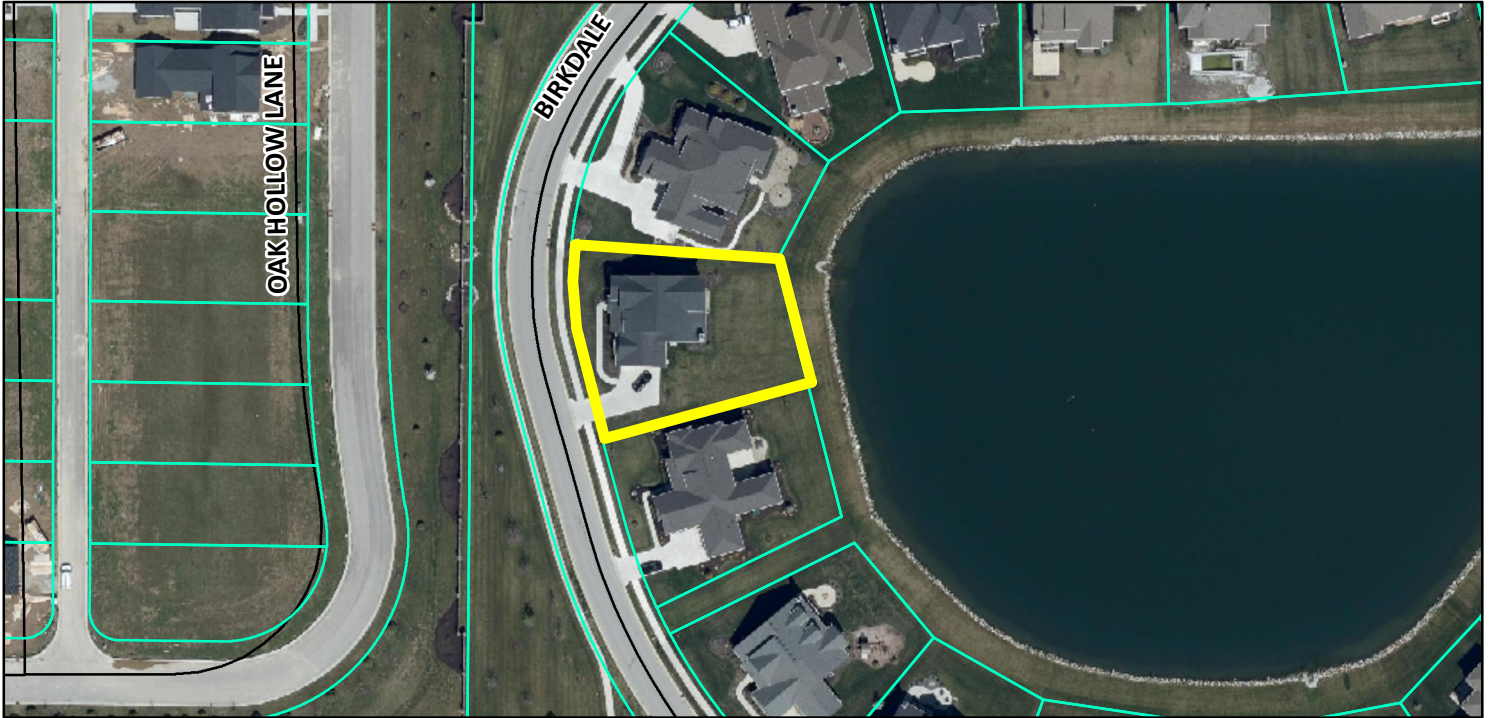
- 3) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:*

Finding: Strict adherence to the zoning ordinance would result in the inability to improve the property as proposed and would result in the construction of a swimming pool and deck that would not suit the needs of the Petitioner.

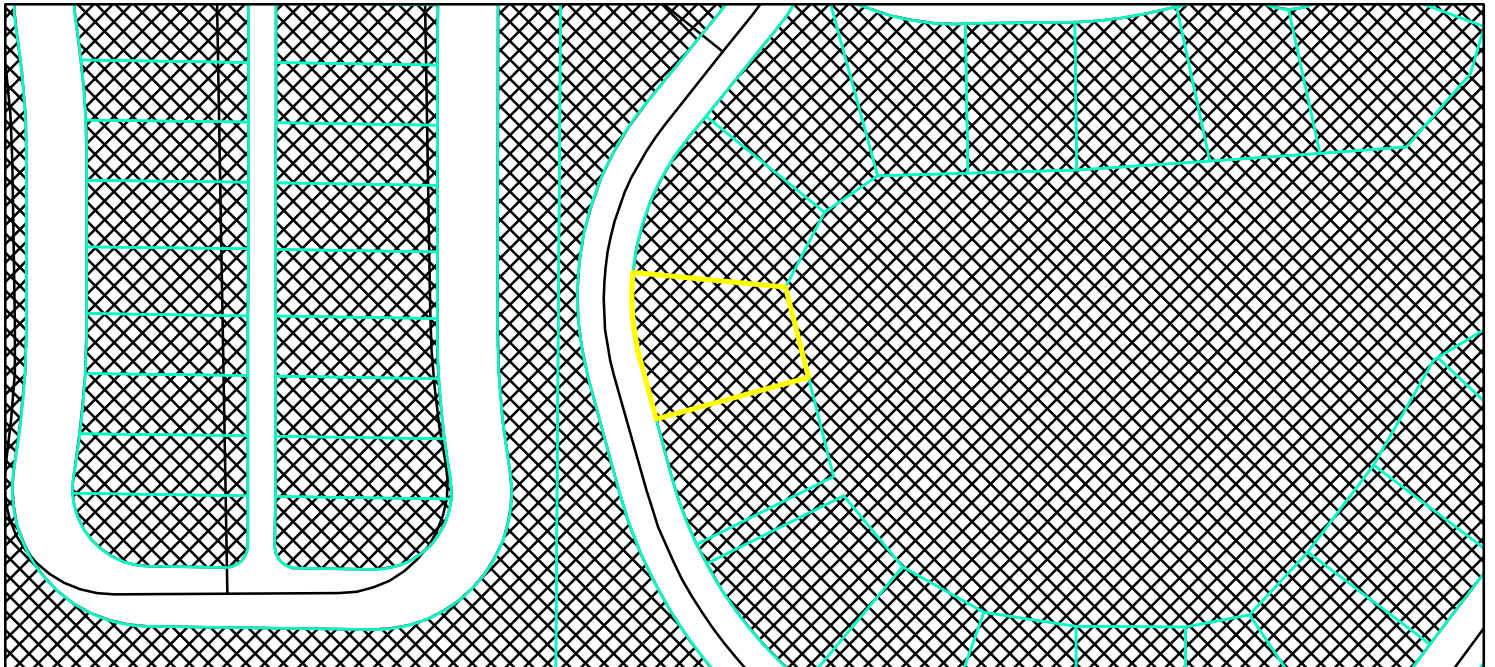
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

Aerial Location Map

 Site



Zoning Map



WATERFORD

AT THE BRIDGEWATER CLUB

INST.#2013-066637

LOT #9

WESTFIELD, INDIANA

3650 BIRKDALE DRIVE

1" = 30'

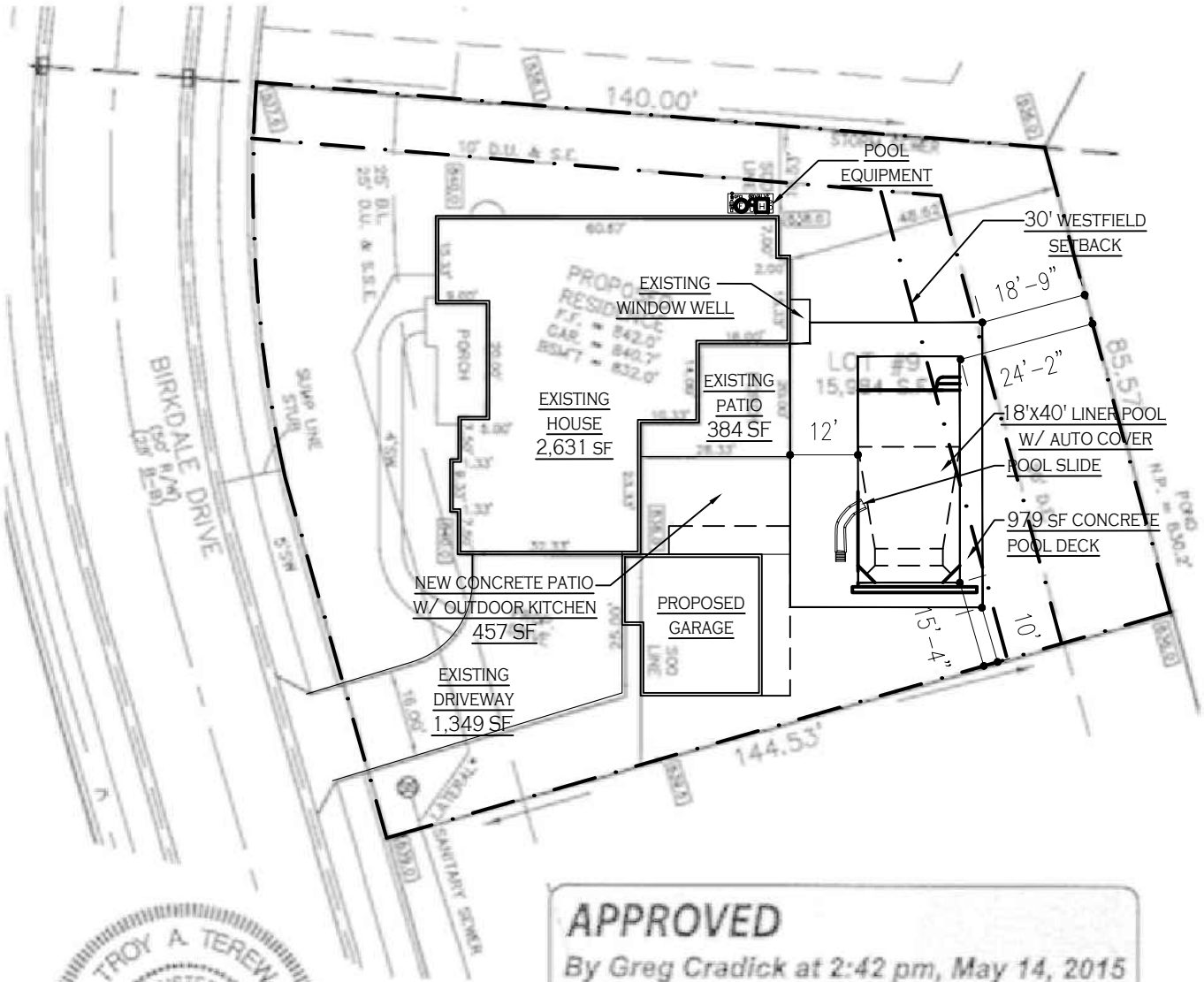


PLOT PLAN

PREPARED FOR

WEDGEWOOD BUILDING COMPANY

LOT SIZE: 15,984 SQ.FT.
CONC. DRIVEWAY: 1,349± SQ.FT.
PUBLIC WALK: 610± SQ.FT.
PRIVATE WALK: 255± SQ.FT.
SEEDING: 6,770± S.F.
SOD: 589± SQ.YD.



APPROVED

By Greg Cradick at 2:42 pm, May 14, 2015

A1

PLOT PLAN

SCALE: 1:30

DERADO

PHONE

ADDRESS 3650 BERKDALE DRIVE

CITY CARMEL STATE IN ZIP 46033

From: [rebecca ogle](#)
To: [Daine Crabtree](#); [Ogle Jason](#)
Subject: Fwd: Ogle Lot 22 arch request
Date: Thursday, October 8, 2020 1:25:14 PM

Warning: This external email is from rloglecpa@gmail.com. Do not click on unexpected or untrusted links and attachments.

Hello Daine

Our HOA doesn't provide a formal letter of approval so we only have this email from the president. Please confirm this is sufficient.

Thanks!

Rebecca

----- Forwarded message -----

From: **Marcus Casteel** <marcusdcasteel@gmail.com>

Date: Sat, Jul 25, 2020 at 2:45 PM

Subject: Re: Ogle Lot 22 arch request

To: rebecca ogle <rloglecpa@gmail.com>

The committee has approved your request for the pool and moving the fence.

Thanks so much!

Marcus Casteel

From: rebecca ogle <rloglecpa@gmail.com>

Sent: Thursday, July 23, 2020 8:28:36 AM

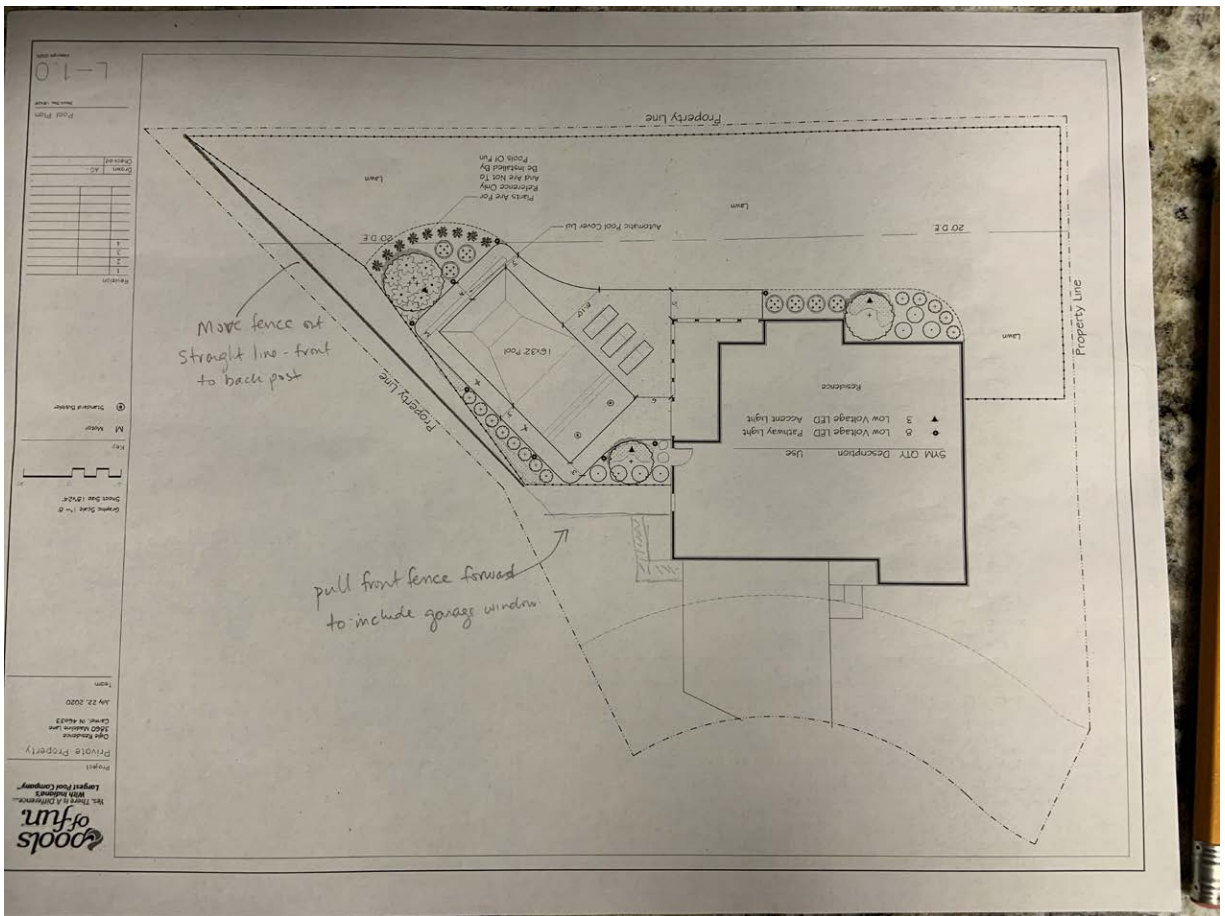
To: Colette VanMatre <cvanmatre@sourwine.com>; Frohardt James <jfrohardt_fvk@hotmail.com>; Gerald & Aly Bollinger <j_bolls@hotmail.com>; Marcus <marcusdcasteel@gmail.com>; Pam Zajack <the.zajacs@gmail.com>; Ogle Jason <JR.Ogle@sbcglobal.net>

Subject: Ogle Lot 22 arch request

Hello!

Please see the attached architectural change request as well as our plot plan/contractor drawing for an inground pool to be installed by pools of fun this fall estimated start time is mid to late September with completion before Thanksgiving.

Their drawing on our plot plans shows the current placement of our fence and I have drawn / labeled lines where we'd like to replace/reposition our fence after construction is complete. FYI we will have to remove much of the fence and our weeping cherry tree to allow for construction. We plan to relocate the weeping cherry into our backyard.



--
Rebecca Ogle
317-698-4167

REQUEST FOR ARCHITECTURAL CHANGE

Please Print

* Landscape
Approval

1. Community: The Bridgewater Club Master Owners Association Lot #:

Name: JENNIFER DERADO Address: 3650 Birkdale Drive

Phone: _____ Fax: _____ EMAIL ADDRESS: _____

Carmel, IN
46033

FOR ALL SUBMISSIONS THE FOLLOWING ATTACHMENTS ARE REQUIRED:

☐ A Plot Plan or a Surveyors Location Report of your lot should have been provided at closing.
Please indicate the location of the proposed addition/improvement will be installed (on a copy).

☐ Please include Elevations and Blueprints or working drawings indicating all dimensions.

☐ If available, a photograph or drawing of a similar completed project.

THE COMMITTEE MAY TAKE UP TO 30 DAYS TO REPLY - PLEASE PLAN ACCORDINGLY - THANK YOU!

* Landscaping plan attached.

2. Requesting architectural approval of the following: _____ Improvement _____ Addition _____ Repair/Replacement

Briefly describe the proposed change:

Location: _____ Dimensions: _____

Landscape around the pool.
(Backyard improvement)

Please list below the major construction materials that will be used in this project. Be as specific as possible:

Requests for exterior color/materials changes MUST submit samples of color, paint, brick, etc.
(Exterior materials must conform to the original construction or be sufficiently compatible.)

4 Project schedule:

A. The work will be performed by: Homeowner

or Contractor Name

Salsbery

B. Subsequent to the committee approval,

please indicate the projected start date

please indicate the projected end date

March 2021

C. Please indicate all required permits (building, etc.)

5. Will any part of the proposed improvement extend beyond your property line?

Yes No

extend 30' line for landscaping

6 Will any part of the proposed improvement extend into any Common Area, any Utility, Drainage or Sewer Easement, Landscape, Preservation or Lake Easement shown on the plot plan of your lot? Yes No

ARCHITECTURAL CHANGE STANDARDS

I understand that under the Declaration and the rules and regulations, the Board will act on this request and provide me with a written response of their decision. I further understand and agree to the following provisions:

1. No work or commitment of work will be made by me until I have received approval from the Association.
2. All work will be done at my expense and all future upkeep will remain at my expense.
3. All work will be done expeditiously once commenced and will be done in a good workman-like manner by myself and/or a licensed and insured contractor.
4. All work will be performed at a time and in a manner to minimize interference and inconvenience to other owners.
5. I assume all liability and responsibility for all damage and/or injury which may result from performance of this work.
6. I will be responsible for the conduct of all persons, agents, contractors, and employees connected with this work.
7. I understand that any and all improvements placed in a drainage, utility, sewer, landscape or other easement is at my risk. I accept the responsibility for repair and/or replacement of improvements when utility, drainage or sewer principals, developer or other authorized party removes improvements for access to the easement.
8. I will be responsible for complying with, and will comply with, all applicable federal, state and local laws, codes, the community governing documents, regulations and requirements in connection with this work, and I will obtain any necessary governmental permits and approvals for the work. I understand and agree that the Association, its Board of Directors, its Agent and/or the Committee have no responsibility with respect to such compliance and that the Board of Director's and/or its designated Committee's approval of this request shall not be understood as the making of any representation or warranty that the plans, specifications or work comply with any law, code, covenant, regulation and/or requirement.

I hereby acknowledge that I have read and understand the ARCHITECTURAL CHANGE STANDARDS set forth by the Board, as well as the Declaration of Covenants and Restrictions.

Homeowner's Signature:

Date:

10-8-20

NOTE: *All submitted materials shall remain the property of the Association.*

You may wish to make a copy for your personal records.

For ALL Submissions

Be sure to include the requested attachments listed on the previous page.

Please return the completed documents to:

The Bridgewater Club Master Association
Attn: Architectural Review Board, David Mennel
3535 East 161st St
Carmel, IN 46033
Email;
Phone: 317-399-2490

[illegible][illegible]**Architectural Committee Action:**

Date received:

10/10/2020

(2) Approved as submitted

() Approved with restrictions as follows:

() Deferred: Please supply additional information:

() Denied: ARB Comments:

Committee Signature:



Date:

10/10/2020

Dear Homeowner:

Any lot improvement made or installed within an easement is at the owner's risk regardless of the approval by the Architectural Control Committee. If for any reason repairs and or maintenance are required in the easement, any improvement(s) that are removed will not be reinstalled by the utility company or contractor.

This waiver must be signed and returned with the Request for Architectural Change, to protect you and the HOA of your community. It is to verify that you have a full understanding of the responsibilities and risk of developing an improvement into an easement.

If you are developing into an easement, it is also your responsibility to have the utilities marked prior to commencing by calling "Holey Moley" Indiana Underground Services @ 811.

EASEMENT WAIVER

This document is an acknowledgment that

I/we,

NAME OF HOMEOWNER (S)

the owner(s) of the property located at _____

, IN.

STREET ADDRESS

CITY

Camel

of the

3650 Brookdale
Drive

Homeowners Association Lot #

will be

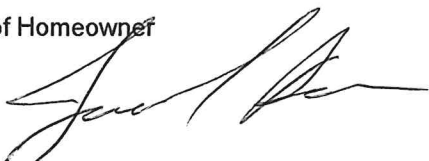
NAME OF SUBDIVISION

Waterford

installing

that extends into a drainage and/or utility and/or sewage easement and accepts full responsibility of any cost to replace this improvement if the utility company, developer or other authorized party needs to gain access to that area by removal of said improvement.

Signature of Homeowner



Date

10-8-20

4317 East 146th Street, Carmel, Indiana 46033

* original request.

REQUEST FOR ARCHITECTURAL CHANGE

Please Print

1. Community: **The Bridgewater Club Master Owners Association Lot #:**

Name: Address:

JENNIFER DERADO
3650 BIRKDALE DRIVE, CARMEL, IN 46033

Phone: 317-679-1922

Fax:

EMAIL ADDRESS: jennifer.derado@yahoo.com

FOR ALL SUBMISSIONS THE FOLLOWING ATTACHMENTS ARE REQUIRED:

☒ A Plot Plan or a Surveyors Location Report of your lot should have been provided at closing.

Please indicate the location of the proposed addition/improvement will be installed (on a copy).

☐ Please include Elevations and Blueprints or working drawings indicating all dimensions.

☐ If available, a photograph or drawing of a similar completed project.

THE COMMITTEE MAY TAKE UP TO 30 DAYS TO REPLY - PLEASE PLAN ACCORDINGLY - THANK YOU!

Pictures and plot plan attached.

**I will fill out a separate architectural form for the new garage and landscaping plan.*

2. Requesting architectural approval of the following: ☐ Improvement ☒ Addition ☐ Repair/Replacement

Briefly describe the proposed change: *Adding a 18'x40' pool, closer to the south side of our home.*

Location: Dimensions: 18'x40'

Back and South side.

Please list below the major construction materials that will be used in this project. Be as specific as possible:

We are building a steel wall vinyl liner swimming pool (in-ground). The major construction materials would be vinyl liner, steel walls, PVC plumbing (rigid pipe), and concrete footers. The surface around the pool will be broom finished concrete.

Requests for exterior color/materials changes MUST submit samples of color, paint, brick, etc. (Exterior materials must conform to the original construction or be sufficiently compatible.)

** My builder (Heuer Homes) will submit a separate form with garage color, brick, paint, architect plans, etc...*

4. Project schedule:

A. The work will be performed by: Homeowner

or Contractor Name

*Director of Sales,
Pools of Fun (Tyler Herman)*

B. Subsequent to the committee approval,

please indicate the projected start date

November 2020 - Weather dependent

please indicate the projected end date

Feb/March 2021 - March is typically best to pour final concrete.

C. Please indicate all required permits (building, etc.)

Pool Permit (Accessory structure permit)

5. Will any part of the proposed improvement extend beyond your property line?

Yes

☒ No

The corner (NE) will cross over the 30 foot easement line.

6. Will any part of the proposed improvement extend into any Common Area, any Utility, Drainage or Sewer

Easement, Landscape, Preservation or Lake Easement shown on the plot plan of your lot? ☒ Yes

No

The 30' easement... lot has an intersection angle.

I understand that under the Declaration and the rules and regulations, the Board will act on this request and provide me with a written response of their decision. I further understand and agree to the following provisions:

- () Deferred: Please supply additional information:

() Denied: ARB Comments:

Committee Signature:

David M. M...

Date:

9/10/2020

Dear Homeowner:

Any lot improvement made or installed within an easement is at the owner's risk regardless of the approval by the Architectural Control Committee. If for any reason repairs and or maintenance are required in the easement, any improvement(s) that are removed will not be reinstalled by the utility company or contractor.

This waiver must be signed and returned with the Request for Architectural Change, to protect you and the HOA of your community. It is to verify that you have a full understanding of the responsibilities and risk of developing an improvement into an easement.

If you are developing into an easement, it is also your responsibility to have the utilities marked prior to commencing by calling "Holey Moley" Indiana Underground Services @ 811.

EASEMENT WAIVER

This document is an acknowledgment that

I/we,

JENNIFER DERADO & MATTHEW DERADO NAME OF HOMEOWNER (S)

the owner(s) of the property located at _____

, IN.

STREET ADDRESS

3650 Birkdale Drive

CITY

Carmel, IN 46033

of the

Homeowners Association Lot # _____

will be

NAME OF SUBDIVISION

Waterford/Bridgewater

installing

Inground 18'x40' pool w/ automatic cover.

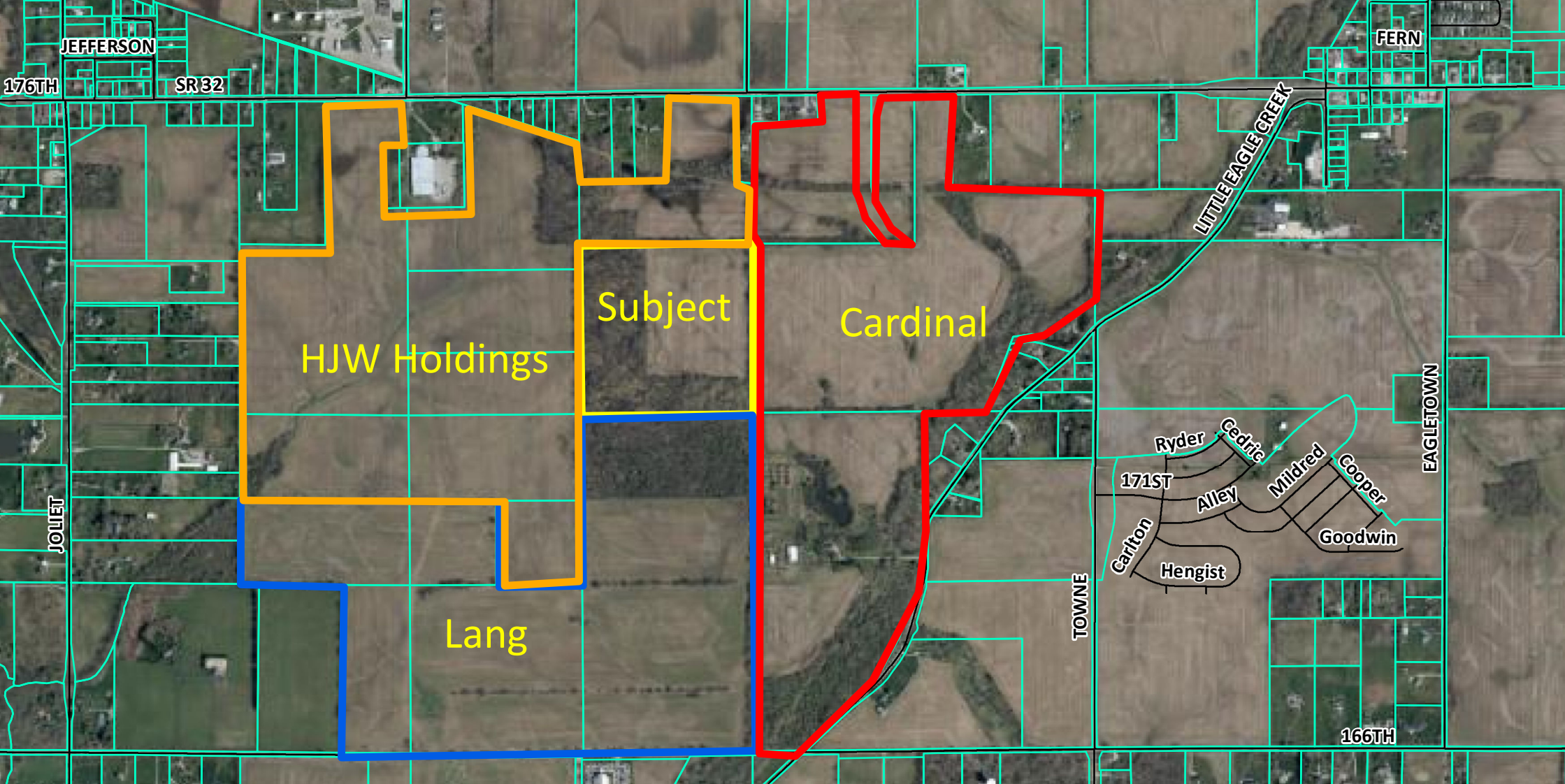
that extends into a drainage and/or utility and/or sewage easement and accepts full responsibility of any cost to replace this improvement if the utility company, developer or other authorized party needs to gain access to that area by removal of said improvement.

Signature of Homeowner

Date

Jennifer Derado

9-10-2020



JEFFERSON

FERN

176TH

SR32

LITTLE EAGLE CREEK

Subject

Cardinal

HJW Holdings

JOLIET

EAGLETOWN

Ryder
Cedric
Alley
Mildred
Cooper
Goodwin
Hengist
Carlton

171ST

Lang

TOWNE

166TH

