



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_10_08_2019

Tuesday, October 08, 2019 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, October 08, 2019 at 07:00 PM

MEETING PLACE: Westfield City Hall, 130 Penn Street, Westfield, IN 46074

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

OPENING OF REGULAR MEETING

Note the presence of a quorum

Approval of Minutes - September 10, 2019

Documents: [September 10, 2019 BZA Minutes](#)

Review Rules & Procedures

ITEMS OF BUSINESS:

1910-VS-18 [PUBLIC HEARING]

15354 Little Eagle Creek Avenue

Sara Scharnowske

The petitioner is requesting a Variance of Standard to reduce the Front Yard Setback from eighty (80) feet to fifty (50) feet in order to accommodate a horse stable on 12.33 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(E)(1)(b)).

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

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

1910-VS-19 [PUBLIC HEARING]

19937 Hampton Park Drive and 19955 Hampton Park Drive

Craig Miles

The petitioner is requesting Variances of Development Standard to reduce the south Side Yard Building Setback from five (5) feet to three (3) feet at 19955 Hampton Park Drive and a modification for Building Separation Requirements from ten (10) feet to eight (8) feet at both 19937 Hampton Park Drive and 19955 Hampton Park Drive in the Chatham Hills PUD District due to a foundation error (Ord. 13-24, Section 9.1, District Sub-Area 1-H).

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

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

1910-VU-06 [PUBLIC HEARING]

18350 Blackburn Road

Olena Nahorna

The petitioner is requesting a Variance of Use to permit a Single-Family Residential use on 0.80 acres +/- in GB-PD: General Business/Planned Development District (Article 13.2).

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

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Setbacks Exhibit](#) | [Exhibit 4: Character Exhibit](#)

ITEMS CONTINUED TO A FUTURE MEETING:

1803-AA-01 [CONTINUED]

16708 Dean Road (Bob's Garage)

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

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

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

REPORTS/COMMENTS:

Plan Commission Liaison

Economic and Community Development Department

ADJOURNMENT



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

October 8, 2019

1910-VS-18

Exhibit 1

Petition Number: 1910-VS-18

Subject Site Address: 15854 Little Eagle Creek Avenue (the "Property")

Petitioner: Sara Scharnowske (the "Petitioner")

Request: The Petitioner requests a Variance of Development Standard to modify the Front Yard Setback from eighty (80) to fifty (50) feet to accommodate a horse stable.

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

Current Land Use: Vacant

Approximate Acreage: 12.33 acres +/-

Exhibits:

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

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject property is a 12.33 +/- acre parcel located at 15854 Little Eagle Creek Avenue (see **Exhibit 2**) in the AG-SF1: Agriculture/Single-Family Rural District.

Requested Variances: The Petitioner is requesting a Variance of Development Standard to modify the Front Yard Setback from eighty (80) feet to fifty (50) feet to accommodate a horse stable.

SUMMARY OF VARIANCE

The Petitioner requests a Variance of Development Standard to modify the Minimum Front Yard Setback from eighty (80) feet to fifty (50) feet to allow for the construction of a horse stable. The Property is significantly impacted by Floodplain, specifically the floodway (see **Exhibit 4**), making the AG-SF1 Minimum Front Yard Setback standard setback virtually impossible for any structure to be built on the Property without a variance.

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



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

October 8, 2019

1910-VS-18

Exhibit 1

public hearing at the October 8, 2019, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO¹ 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 UDO² requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variances of Development Standard: The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

DEPARTMENT COMMENTS:

Recommended Findings for Approval: If the Board is inclined to approve the variance, then the Department recommends the findings as set forth below, for each variance:

¹ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

² Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

October 8, 2019

1910-VS-18

Exhibit 1

- 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 will otherwise comply with the applicable standards of AG-SF1 District.

- 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: 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 improvements will enhance the value of the subject property; (ii) the improvements will otherwise comply with or exceed the applicable standards; (iii) the use of the Property will not change; and (iv) the approval of the variance will allow for the continued use and improvement of the property in a manner substantially consistent with the quality and character of the surrounding area and Comprehensive Plan.

- 3) **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, in accordance with the Unified Development Ordinance and Bridgewater PUD Ordinance. The primary agricultural use of the property is otherwise permitted by the applicable ordinances and the proposed improvements would otherwise comply with the applicable ordinances.

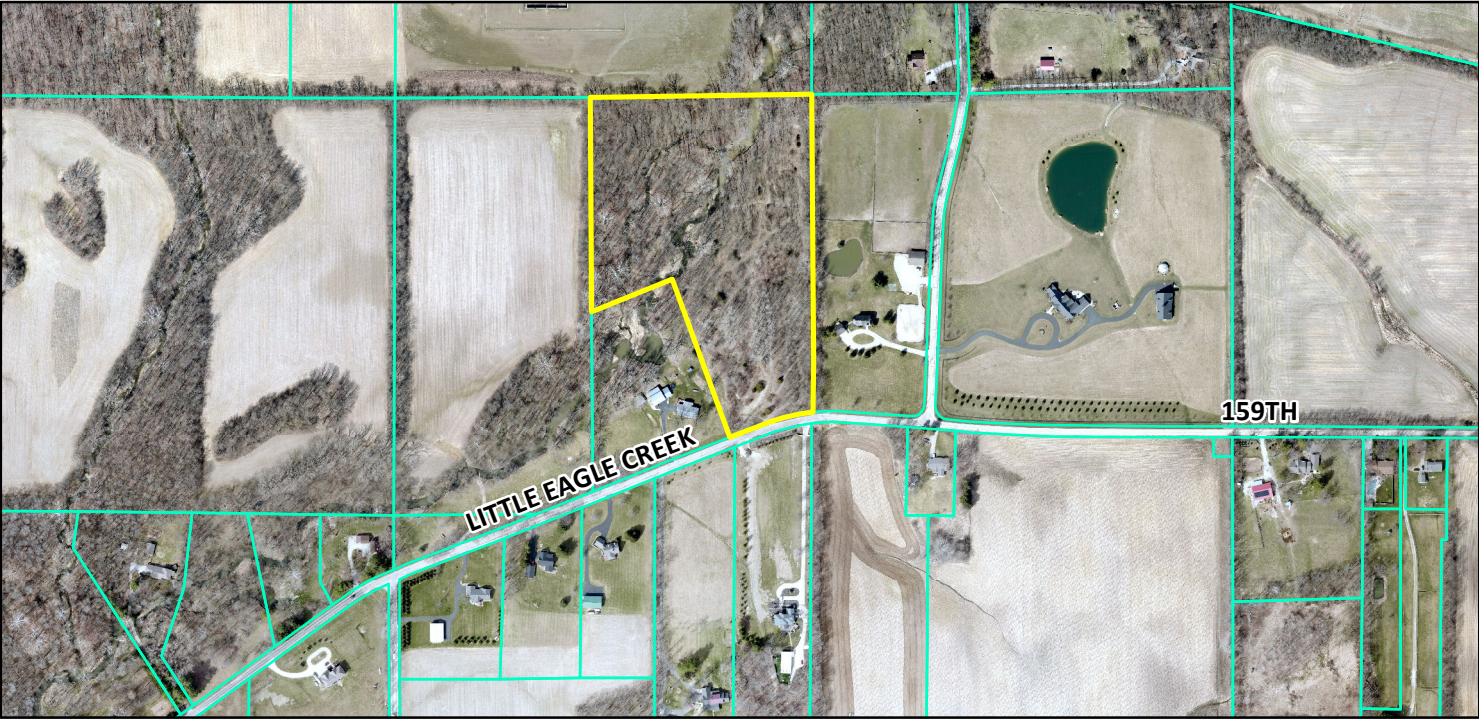
Recommended Conditions:

- That all necessary Improvement Location Permits (ILP) are reviewed and approved by the Community Development Department.
- 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 Economic and Community Development Department.

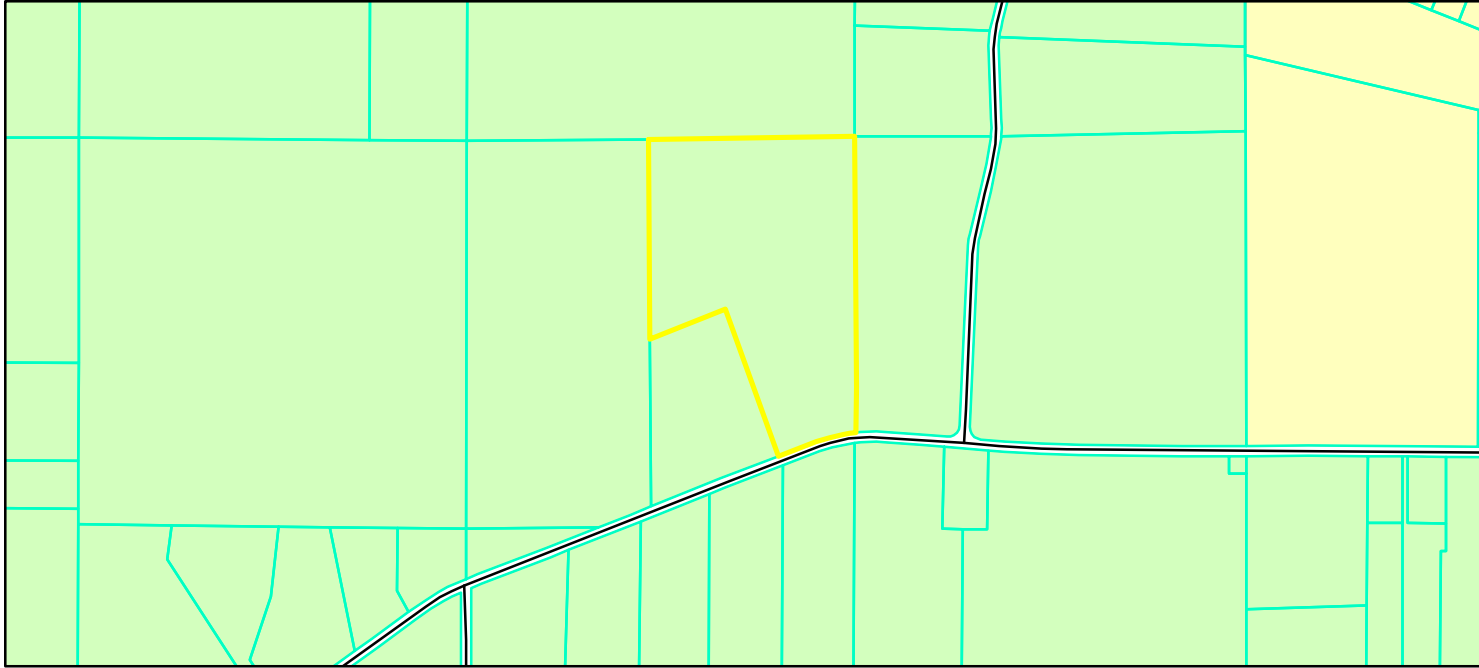
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings consistent with the public hearing evidence and Board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

Aerial Location Map

 Site



Zoning Map

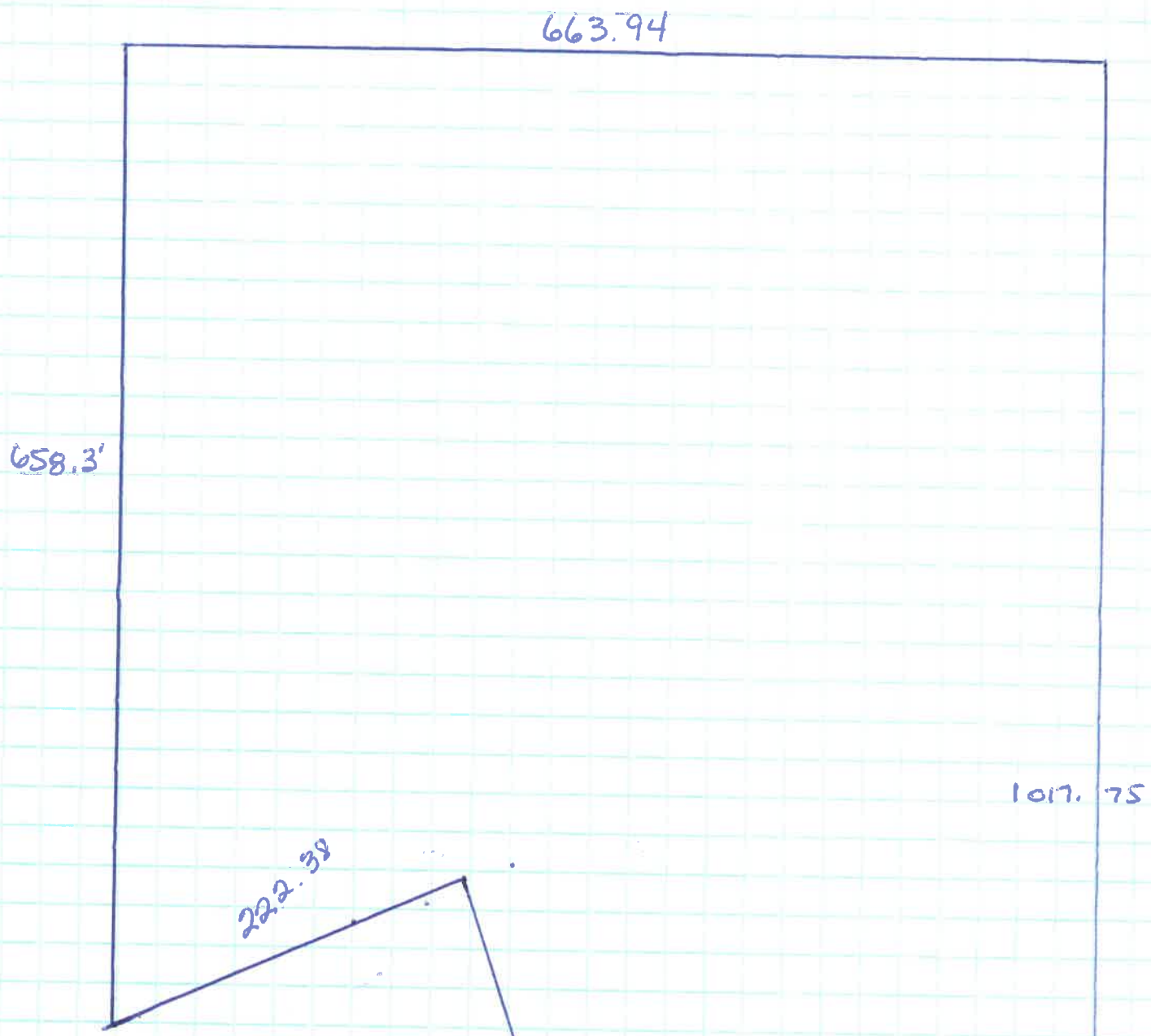


 Parcel
 GIS.DBO.PW.Streets
Zoning - All

Zoning
 AG-SF1 (Agriculture - Single Family - 1)
 SF-2 (Single Family - 2)

00.0325065 0.13 0.195 0.26
 Miles





Property Owner Ryan Scharnowske

Bld Corner
90' from
Property line
and 50' set
back from
Road.

Proposed
60' x 30' Bld.

Proposed
Drive

120'

Little Eagle Creek Ave.

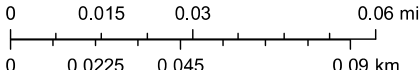
Hamilton County, Indiana



September 9, 2019

1:1,800

 FIRM Panels





WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

October 8, 2019

1910-VS-19

Exhibit 1

Petition Number: 1910-VS-19

Subject Site Addresses: 19955 Hampton Park Drive (the "Glessner Property")
19937 Hampton Park Drive (the "Homes by McKenzie Property")

Petitioner: Craig Miles (the "Petitioner")

Request: The Petitioner requests to modify the south Side Yard Setback for 19955 Hampton Park Drive from five (5) feet to three (3) feet in addition to modifying the Minimum Building Separation for both 19955 Hampton Park Drive and 19937 Hampton Park Drive from ten (10) feet to eight (8) feet due to a foundation error.

Current Zoning: Chatham Hills PUD (Ord. 13-24)

Current Land Use: Residential

Approximate Acreage: 19955 Hampton Park Drive: 0.25 acres +/-
19937 Hampton Park Drive: 0.22 acres +/-

Exhibits: 1. Staff Report
2. Location Map
3. Site Exhibit

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject properties are 0.25 acres +/- and 0.22 acres +/- in size located at 19955 Hampton Park Drive and 19937 Hampton Park Drive respectively, (see **Exhibit 2**) in The Chatham Hills PUD. The lots are adjacent to each other and both lots are located within District Subarea "1-H" of the Chatham Hills PUD.

Requested Variances: The Petitioner requests three (3) Variances of Development Standard in total, two (2) for 19955 Hampton Park Drive and one (1) for 19937 Hampton Park Drive. The request is to modify the south Side Yard Setback for 19955 Hampton Park Drive from five (5) feet to three (3) feet in addition to modifying the Minimum Building Separation for both 19955 Hampton Park Drive and 19937 Hampton Park Drive from ten (10) feet to eight (8) feet due to a foundation error (see **Exhibit 3** for Site Plans of both properties).



SUMMARY OF VARIANCE

The request is to modify the south Side Yard Setback for 19955 Hampton Park Drive from five (5) feet to three (3) feet in addition to modifying the Minimum Building Separation for both 19955 Hampton Park Drive and 19937 Hampton Park Drive from ten (10) feet to eight (8) feet due to a foundation error. Because the lots are immediately adjacent to each other, the Minimum Building Separation standard must be modified for both lots.

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 8, 2019, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO¹ 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 UDO² requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variances of Development Standard: The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

¹ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

² Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



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:

Recommended Findings for Approval: If the Board is inclined to approve the variance, then the Department recommends the findings as set forth below, for each variance:

- 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 will otherwise comply with the applicable standards of The Chatham Hills PUD District.

- 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: 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: the use of the Property will not change and the approval of the variance will allow for the continued use and improvement of the property in a manner substantially consistent with the quality and character of the surrounding area and Comprehensive Plan.

- 3) **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 both subject properties being deemed 'Legal, Nonconforming', which may require additional variances in the future if improvements are necessary.

Recommended Conditions:

- 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 Economic and Community Development Department.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

October 8, 2019

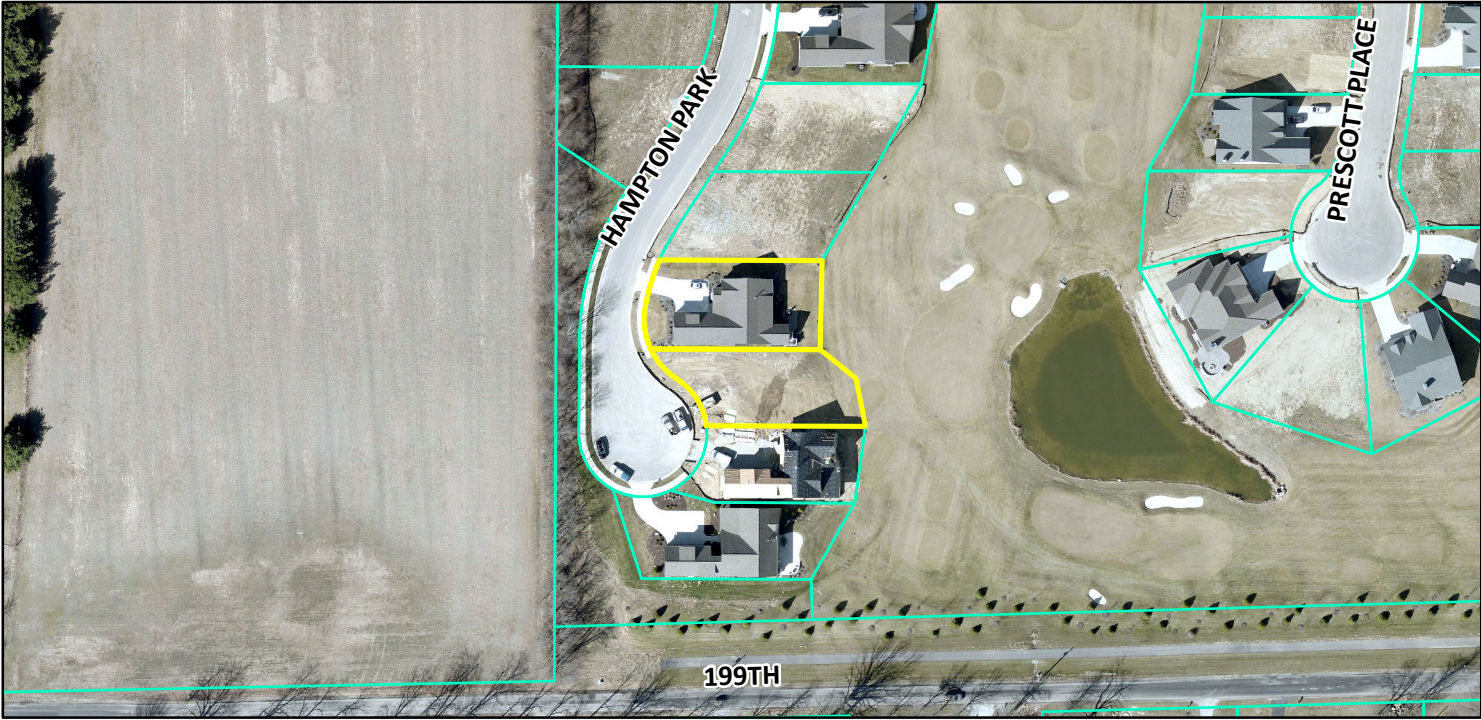
1910-VS-19

Exhibit 1

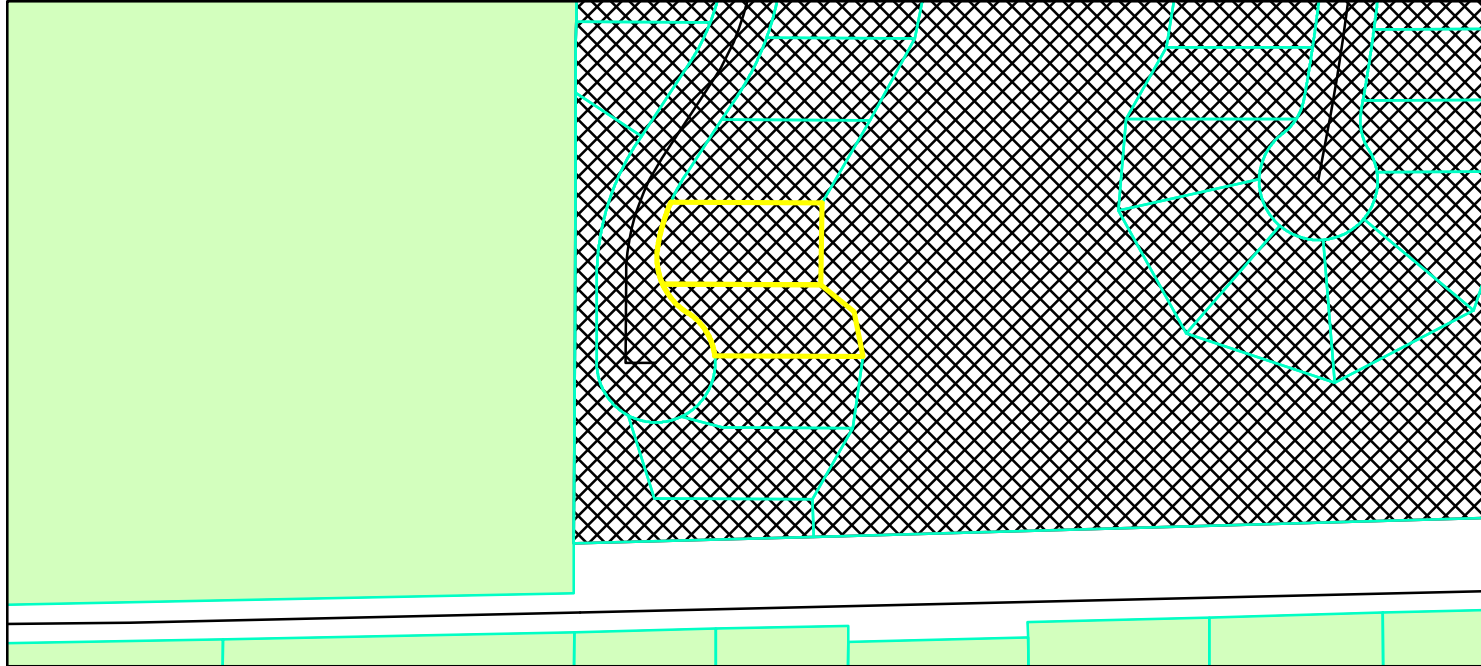
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings consistent with the public hearing evidence and Board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

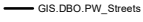
Aerial Location Map

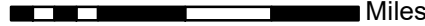
 Site



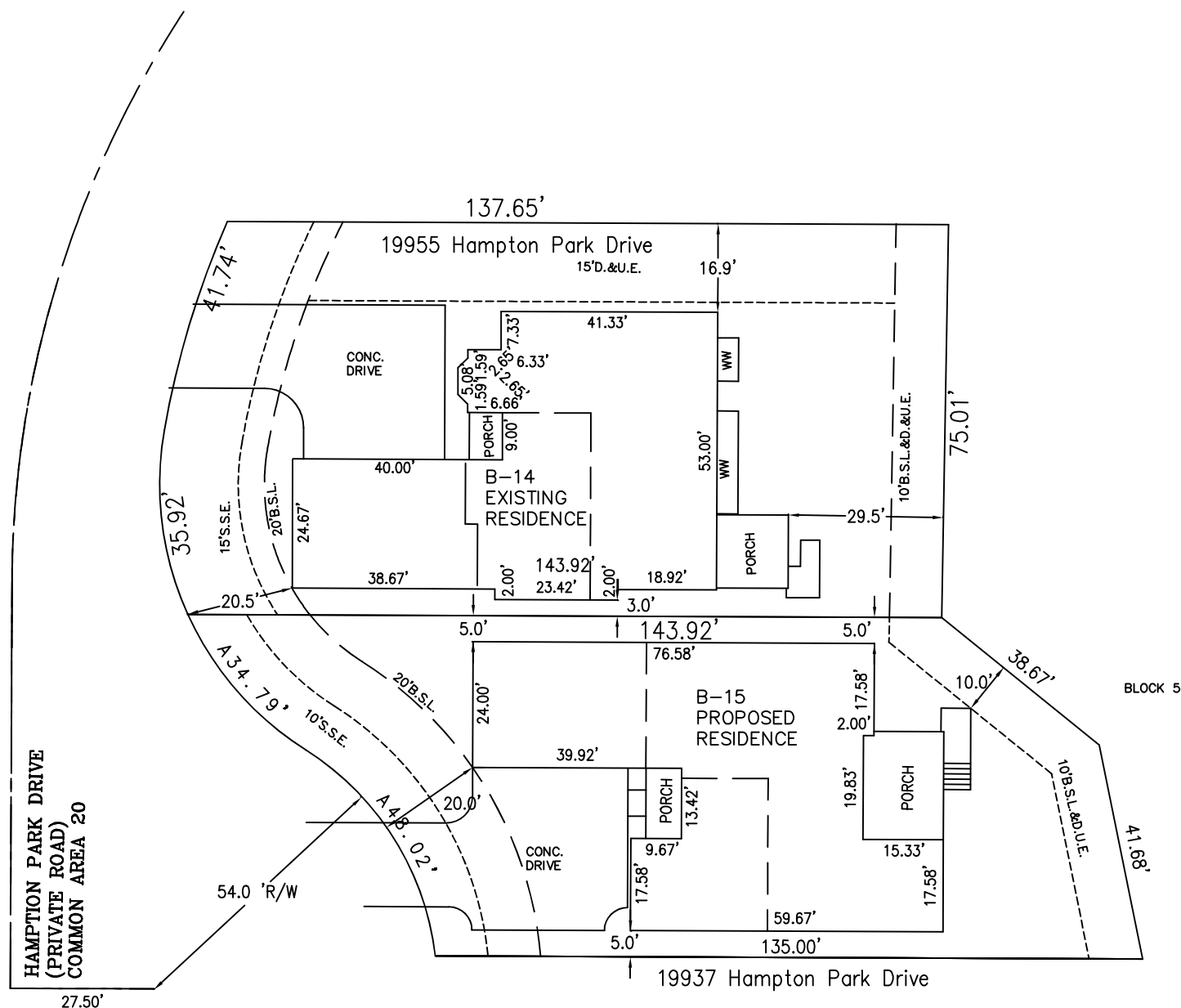
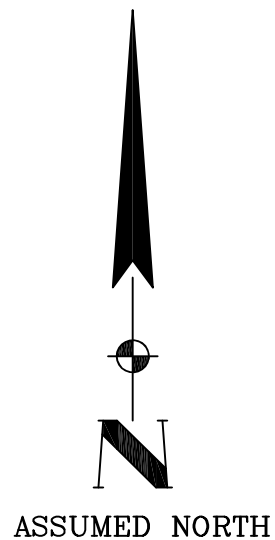
Zoning Map



 Parcel
 GIS DBO, PW, Streets
Zoning - All
 AG-SF1 (Agriculture - Single Family - 1)
 PUD (Planned Unit Development)

0.000 0.015 0.03 0.045 0.06
 Miles





Property Description:
 Lot Number B14 and B15 in Chatham Hills, Section 1, an Addition in Hamilton County, Indiana, as per plat thereof recorded as Instrument Number 2015014891, found in the Office of the Recorder of Hamilton County, Indiana.

EXHIBIT

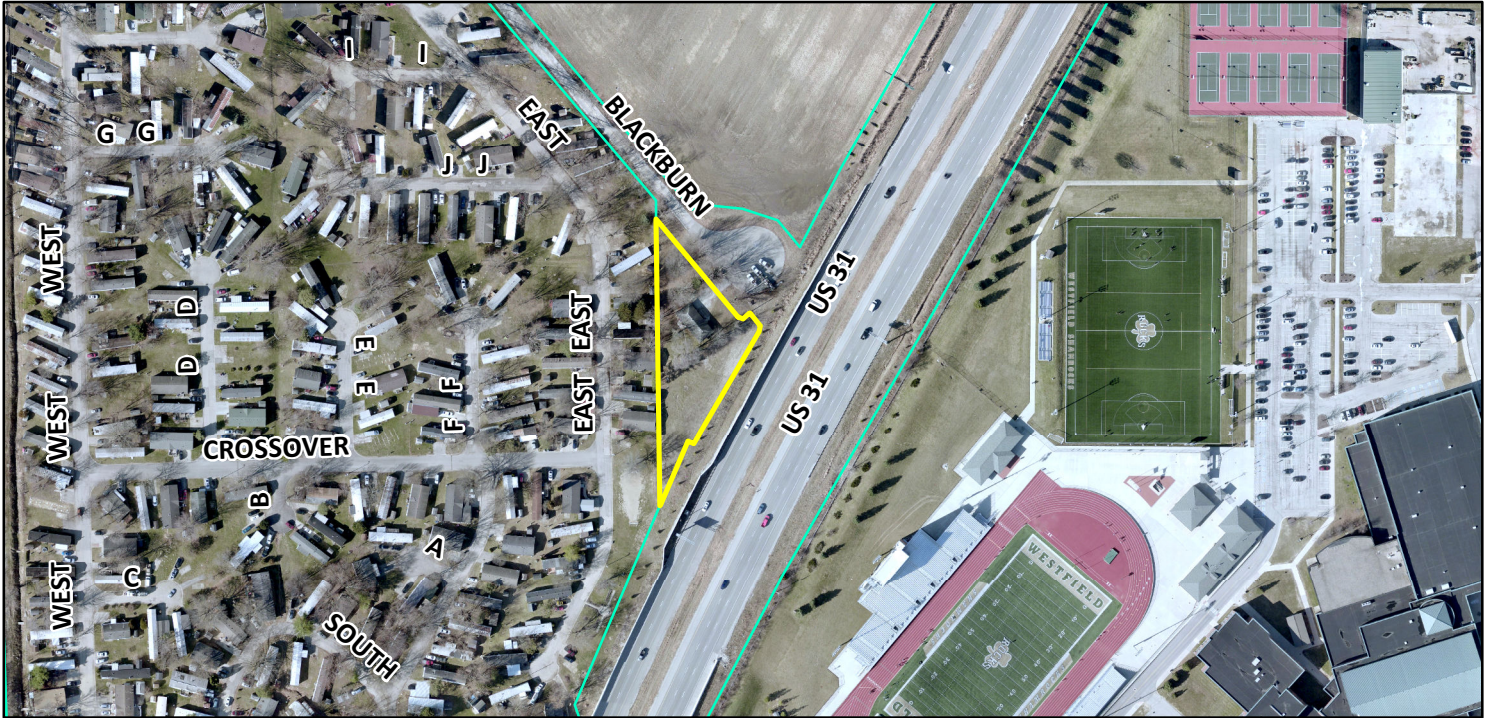
Prepared For:
 HOMES BY MCKENZIE

Scale: 1"=30'
 Date: Aug. 16, 2019

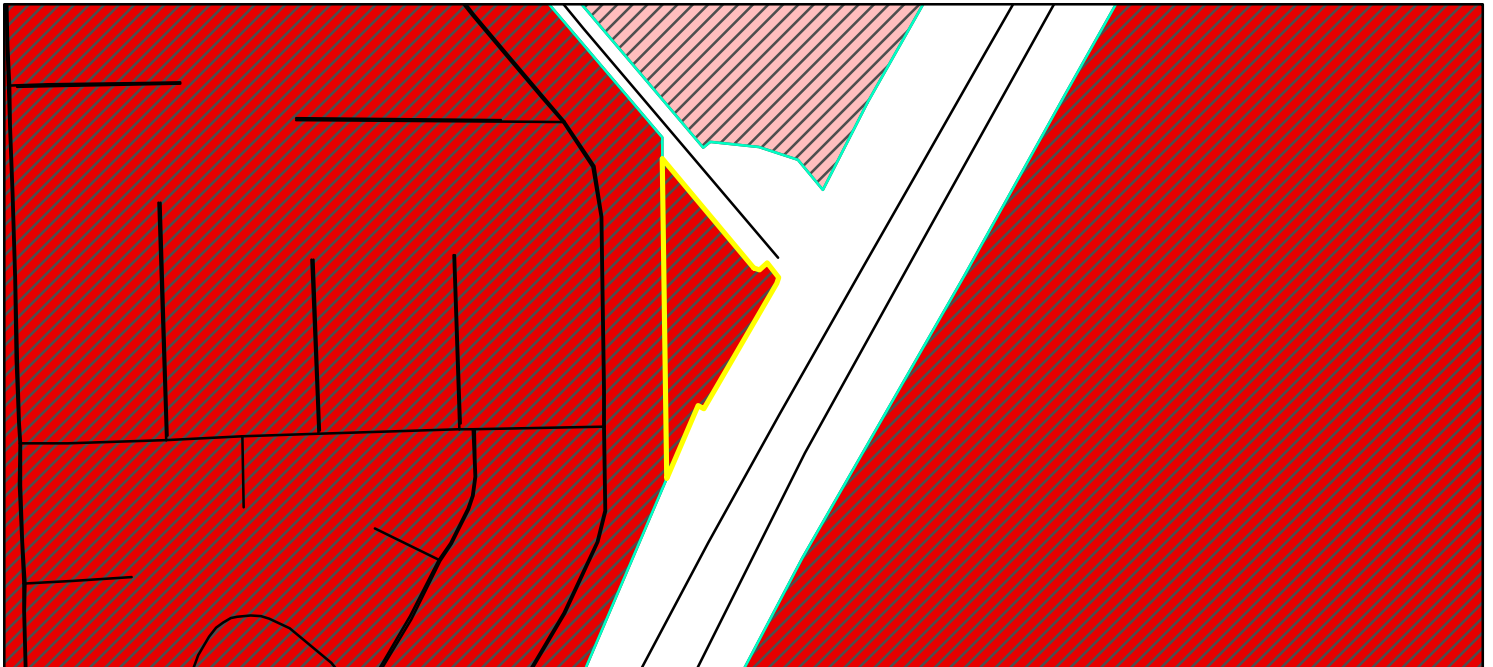
Drawn by: DJR

Aerial Location Map

 Site



Zoning Map



 Parcel
 GIS DBO, PW, Streets
Zoning - All
 GB-PD (General Business - Planned Development)
 LB-PD (Local Business - Planned Development)

00.0125025 0.05 0.075 0.1
 Miles





Blackburn Rd

East Dr

20 ft. Side
Yard

60 ft. Front
Yard

60 ft. Front
Yard

31





Westfield–Washington Township Board of Zoning Appeals

Minutes of the September 10, 2019 BZA Meeting

Presented for approval: October 8, 2019

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

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

Members Absent: All present.

City staff present: Pam Howard, Senior Planner; Daine Crabtree, Associate Planner; and Brian Zaiger, City Attorney.

APPROVAL OF MINUTES

Schmitz motioned to approve the August 13, 2019 meeting subject to two corrections.

Smith seconded. Motion passed. Vote 5-0

REVIEW RULES AND PROCEDURES

Crabtree reviewed BZA rules and procedures.

ITEMS OF BUSINESS

1909-VS-16

[PUBLIC HEARING]

1234 W. 161st Street

Matthew Obras

The petitioner is requesting a Variance of Standard to reduce the Minimum Lot Frontage requirement from 250 feet to zero (0) feet to accommodate a new lot and residence in the AG-SF1: Agriculture/Single-Family District (Article 4.2(D)).

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

Crabtree overviewed this request for a Variance of Standard.

Public Hearing for 1909-VS-16 opened at 7:08 p.m.

No public comments.

Public Hearing for 1909-VS-16 closed at 7:09 p.m.

Kingshill asked about the three-acre and if it will be adequate for the minimum requirement.

Crabtree explained that it will meet the minimum and +/- is just standard in description text.

Kingshill motioned to approve 1909-VS-16 with the following staff conditions.

- The approval of the variance shall only apply to the proposed 3.0 acre +/- parcel, shown as “Parcel 2”, on the Concept Plan.
- The approval of the variance is contingent upon the approval of the associated Secondary Plat (1909-SFP-51) by the Community Development and Public Works Departments.
- 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 Economic and Community Development Department

Smith seconded. Motion passed. Vote 5-0.

Kingshill motioned to adopt Staff’s Findings of Fact for 1909-VS-16.

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

Raines seconded. Motion passed. Vote 5-0.

1909-VS-17
[PUBLIC HEARING]

15366 Whistling Lane

Extreme Outdoor Solutions

The petitioner is requesting a Variance of Development Standard to reduce the Minimum Rear Yard Setback from thirty-five (35) feet to eighteen (18) feet to accommodate a swimming pool and deck in the Bridgewater Planned Unit Development District. (Exhibit 12 of Ord. 06-49).

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

Crabtree overviewed this request for a Variance of Development Standard. He said that since this was posted the department has received four comments in support of this request and revised site and planting plans. He revised the first condition based on the revised Site Plan and Planting Plan. He explained the revision to the BZA members.

Public Hearing for 1909-VS-17 opened at 7:15 p.m.

David Mennel, on behalf of the Bridgewater HOA Architectural Review Board (ARB); said the ARB has worked with the resident to meet design and landscaping standards to minimize setback impacts.

Public Hearing for 1909-VS-17 closed at 7:18 p.m.

Kingshill said that he sees no concerns from the neighbors.

A resident spoke and asked for clarification on what plan is the final version and its details.

Crabtree said that by State Statute contact with the BZA is prohibited five days prior to the BZA meeting. He said that this is why the new plans are being distributed at this evening's meeting. He said that this can be revised on line after the meeting concludes.

Kingshill said that he sees no concerns from the neighbors.

Raines motioned to approve 1909-VS-17 with the following staff conditions:

- The improvements associated with Variance 1909-VS-17 shall be constructed in substantial compliance with the revised Site Plan and Planting Plan provided to the BZA at the September 10, 2019 Hearing.
- That all necessary Improvement Location Permits (ILP) are reviewed and approved by the Community Development Department.
- 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 Economic and Community Development Department

Kingshill seconded. Motion passed. Vote 5-0.

Smith motioned to adopt Staff's Findings of Fact for 1909-VS-17.

Raines seconded. Motion passed. Vote 5-0.

ITEMS CONTINUED TO A FUTURE MEETING:

1803-AA-01
[CONTINUED]

16708 Dean Road (Bob's Garage)

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

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

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

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

REPORTS/COMMENTS:

- Plan Commission Liaison
- Economic and Community Development Department

ADJOURNMENT

Raines motioned to adjourn the meeting.

Schmitz seconded. Motion passed. Vote 5-0.

The meeting adjourned at 7:33 p.m.

Chairperson
Dave Schmitz

Secretary
Kevin M. Todd, AICP
Director



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

October 8, 2019

1910-VU-06

Exhibit 1

Petition Number: 1910-VU-06

Subject Site Address: 18350 Blackburn Road (the "Property")

Petitioner: Olena Nahorna (the "Petitioner")

Request: The Petitioner requests a Variance of Use to permit a Single-Family Residential Use in the GB-PD: General Business Planned Development District.

Current Zoning: GB-PD: General Business Planned Development

Current Land Use: Commercial

Approximate Acreage: 0.80 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Setbacks Exhibit
4. Character Exhibit

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject property is a 0.80 +/- acre parcel located at 18350 Blackburn Road (see **Exhibit 2**). The Property is currently zoned GB-PD: General Business Planned Development and is also located in the US 31 Overlay.

Requested Variances: The Petitioner is requesting a Variance of Use to permit a Single-Family Residential Use.

SUMMARY OF VARIANCE

The Petitioner requests a Variance of Use (the "Variance") to permit a Single-Family Residential Use on the Property, which is not permitted under its existing GB-PD zoning. The structure that exists on the Property is residential in nature (see **Exhibit 4**) and the Property has not had an active commercial tenant on the Property in several years. In 1999, Just Vettes, Inc. started operating on the Property, but their license expired in March of 2013.

Prior to the improvements to US 31 in the immediate vicinity in 2014, the Property could be accessed via a curb cut from US 31. This curb cut removed in 2015, making the Property only accessible via the intersection of Blackburn Road and Tomlinson Road. The US 31 improvements also significantly reduced the size of the Property. Because of the reduction in lot size, existing



setbacks under GB-PD zoning make any additional development on the Property nearly impossible (see **Exhibit 3**)

After discussions with Planning Staff, it was determined that a Variance of Use rather than a rezone was appropriate for this Property since all adjacent properties are also zoned GB-PD and if the Property is redeveloped, it is likely to do so along with the surrounding properties as a project that is commercial in nature. Additionally, it was determined that the Property is unlikely to redevelop on its own as the Property is a stand-alone 0.80 acre +/- parcel located on the south side of Blackburn Road immediately adjacent to an existing Mobile Home park.

Additionally, the US 31 Overlay prohibits multiple commercial uses that might otherwise be acceptable on the Property as it is zoned today. Requests for other Variances of Use more intense than what is allowable today would likely receive pushback from residents of the adjacent Mobile Home park.

No additional improvements to the Primary Structure are contemplated at this time.

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 8, 2019, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO¹ 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 UDO² 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

¹ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

² Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

October 8, 2019

1910-VU-06

Exhibit 1

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 Use: 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 need for the variance arises from some condition peculiar to the property involved;
4. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property; and
5. The approval does not interfere substantially with the Comprehensive Plan.

DEPARTMENT COMMENTS:

Recommended Findings for Approval: If the Board is inclined to approve the variance, then the Department recommends the findings as set forth below, for each variance:

- 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 proposed Variance of Use would allow the Petitioner to use the Property in a less intense manner than is currently permitted while further conforming to the residential nature of the property which it immediately adjoins.

- 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: 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 Variance of Use will enhance the value of the subject property by permitting additional potential uses and; (ii) the Variance of Use will conform with the residential nature of the property which it immediately adjoins.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

October 8, 2019

1910-VU-06

Exhibit 1

- 3) **Criteria:** The need for the variance of use arises from some condition peculiar to the property involved.

Finding: The Property, while zoned GB-PD, does not contain a Primary Structure that is business-like in nature, currently requires Minimum Building Setbacks which limits the ability to improve the Property in a substantial manner, is located in the US 31 Overlay which further restricts many business uses on the Property, is located adjacent to a residential development rather than business development, is legal nonconforming in status, and has had its primary business access point from US Highway 31 removed.

- 4) **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, in accordance with the Unified Development Ordinance due to the Property: (i) being a Legal, Nonconforming Lot; (ii) containing a Primary Structure that is residential in nature on a commercially zoned property; (iii) being zoned GB-PD with various site constraints that make future improvements and accessibility difficult; (iv) being located within the US 31 Overlay which further restricts potential land uses; and (v) being located immediately adjacent to a use that is residential in nature.

- 5) **Criteria:** The approval does not interfere substantially with the comprehensive plan:

Finding: The Westfield-Washington Comprehensive Plan (the "Comprehensive Plan") includes this property in the area designated as "Employment Corridor", which is the primary reason a Variance of Use rather than a rezone has been sought; the current GB-PD zoning of the Property is appropriate. That stated, because the Property is located on a stand-alone 0.80 acre +/- parcel on the south side of Blackburn Road immediately adjacent to a large mobile home park which is also zoned GB-PD, it is unlikely that the Property will redevelop on its own and will likely instead be redeveloped as part of a large-scale redevelopment including the immediately adjacent properties. Therefore, the use of the Property as a single-family residence until that time occurs will not interfere substantially with the comprehensive plan.

Recommended Conditions:

- 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 Economic and Community Development Department.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

October 8, 2019

1910-VU-06

Exhibit 1

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 consistent with the public hearing evidence and Board discussion.