



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_09_15_2020

Tuesday, September 15, 2020 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, September 15, 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

OPENING OF REGULAR MEETING

Note the presence of a quorum

BZA Minutes - August 11, 2020

Documents: [BZA Minutes - August 11, 2020](#)

Pro-Tempore Replacement for M. Raines Discussion

Review Rules & 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)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Survey with Proposed Parking](#) | [Exhibit 4: Statement of Intent](#) | [Exhibit 5: GJTG Letter of Support](#)

2009-VS-20 [PUBLIC HEARING]

16426 River Crest Court

Brian Metzger by Property Pros Land Management

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)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: Landscape Plan](#) | [Exhibit 5: Application](#)

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)

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

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)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Concept Plan](#) | [Exhibit 4: Derby Ridge Concept Plan](#)

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)

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

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)

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

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)

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

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)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: Site Plan With Aerial](#) | [Exhibit 5: HOA Approval](#)

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](#)

ITEMS CONTINUED TO A FUTURE MEETING:

None

REPORTS/COMMENTS:

ADJOURNMENT



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

September 15, 2020

2009-VS-22

Exhibit 1

Petition Number: 2009-VS-22

Subject Site Address: 1250 West 161st Street (the "Property")

Petitioner: Matthew Obras (the "Petitioner")

Request: The Petitioner requests Variances of Development Standard to modify the Minimum Lot Area and Minimum Lot Frontage for three (3) new lots in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(C) and (D))

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

Current Land Use: Agriculture/Residential

Approximate Acreage: Current: One (1) 6.83 acres +/- lot
Proposed: Three (3) 1.0 acre +/- lots, the remaining land to be added to the adjacent parcel to the east

Exhibits:

1. Staff Report
2. Location Map
3. Concept Plan
4. Derby Ridge Concept Plan

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject property is a 6.83 +/- acre parcel located at 1250 West 161st Street (see **Exhibit 2**).

Requested Variances: The Petitioner is requesting Variances of Development Standard to modify the following:

- Minimum Lot Frontage for one (1) lot from 250 feet to 200 feet
- Minimum Lot Frontage for two (2) lots from 250 feet to 0 feet
- Minimum Lot Size for three (3) lots from 3 acres to 1 acre

SUMMARY OF VARIANCE

The Petitioner requests Variances of Development Standard (the "Variances") to modify the Minimum Lot Frontage and Minimum Lot Size Standards to create three (3) new lots.



As shown on the Concept Plan (see **Exhibit 3**), the Petitioner wishes to subdivide the existing 6.83 +/- acre parcel to create three (3) one acre parcels and merge the remaining land with the existing lot (Lot 1 as shown on the Concept Plan) to the east.

In order to do so, the petitioner will require the following variances:

- Modification of Minimum Lot Frontage from 250 feet to 200 feet for one (1) lot – the lot adjacent to 161st Street (Lot 5 as shown on the Concept Plan);
- Modification of Minimum Lot Frontage from 250 feet to 0 feet for two (2) lots – the two lots proposed immediately north of the aforementioned lot (Lots 3 and 4 as shown on the Concept Plan); and
- Modification of Minimum Lot Size from 3 acres to 1 acre for all three (3) of the aforementioned lots (Lots 3-5 as shown on the Concept Plan).

The Petitioner plans to use the existing driveway on the Property to access all three (3) one acre parcels via an ingress/egress or cross-access easement.

The Petitioner received a Variance of Development Standard (**1909-VS-19**) at the September 10, 2019, BZA meeting which modified the minimum Lot Frontage Requirement for Lot 2 as shown on the Concept Plan from 250 feet to 0 feet.

The land immediately west of the Property is land for a future section of Derby Ridge, which is zoned SF-3, permits lots as small as .275 acres, and has not yet been platted (see **Exhibit 4**).

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 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.

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.

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



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) **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 AG-SF1 zoning 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:

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



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

September 15, 2020

2009-VS-22

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 surrounding properties because the use of the property will not change.

- 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: The Petitioner wishes to use the lot in a manner deemed appropriate by the Comprehensive Plan in terms of land use, low density, and single family residential. Strict application of the ordinance would result in the inability to subdivide the Property with the required Minimum Lot Frontage as proposed.

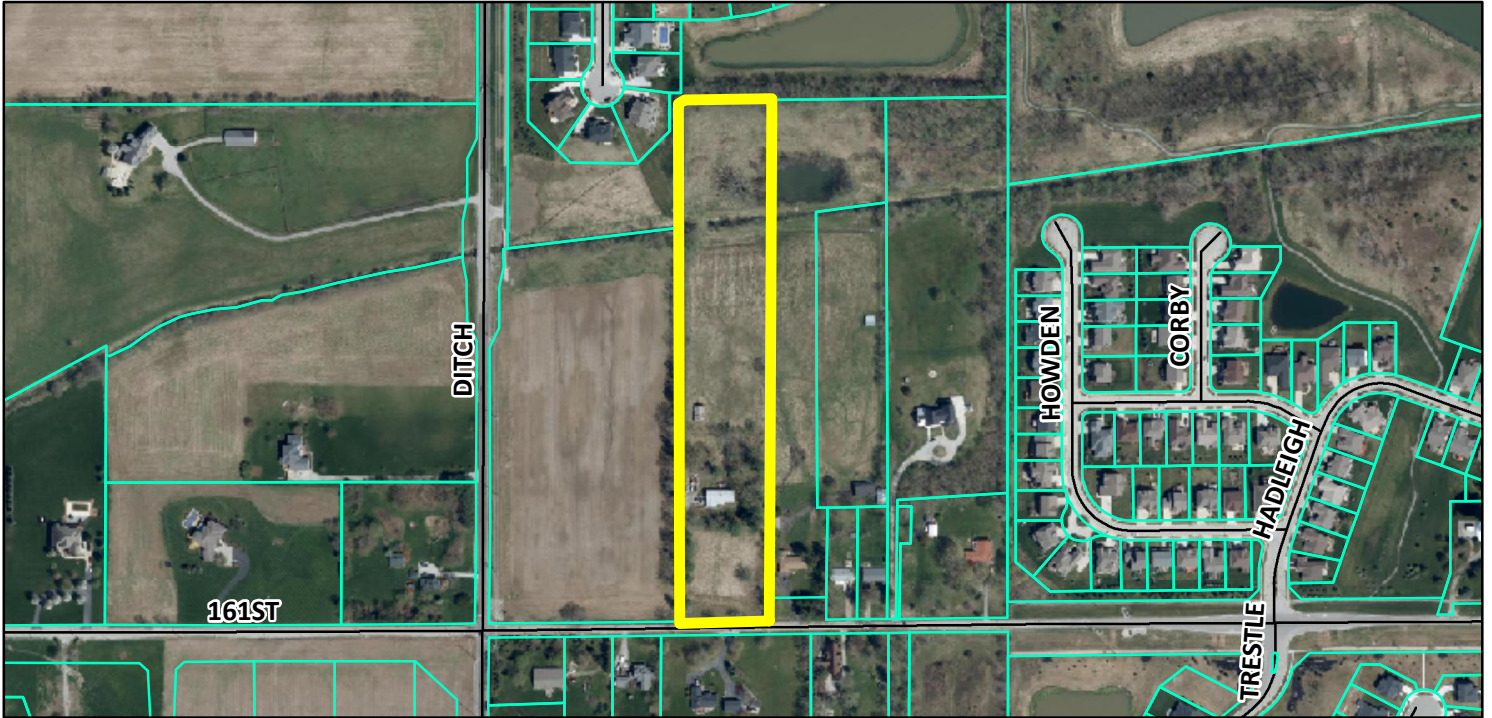
Recommended Conditions:

- 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 (see **Exhibit 3**)
- 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.

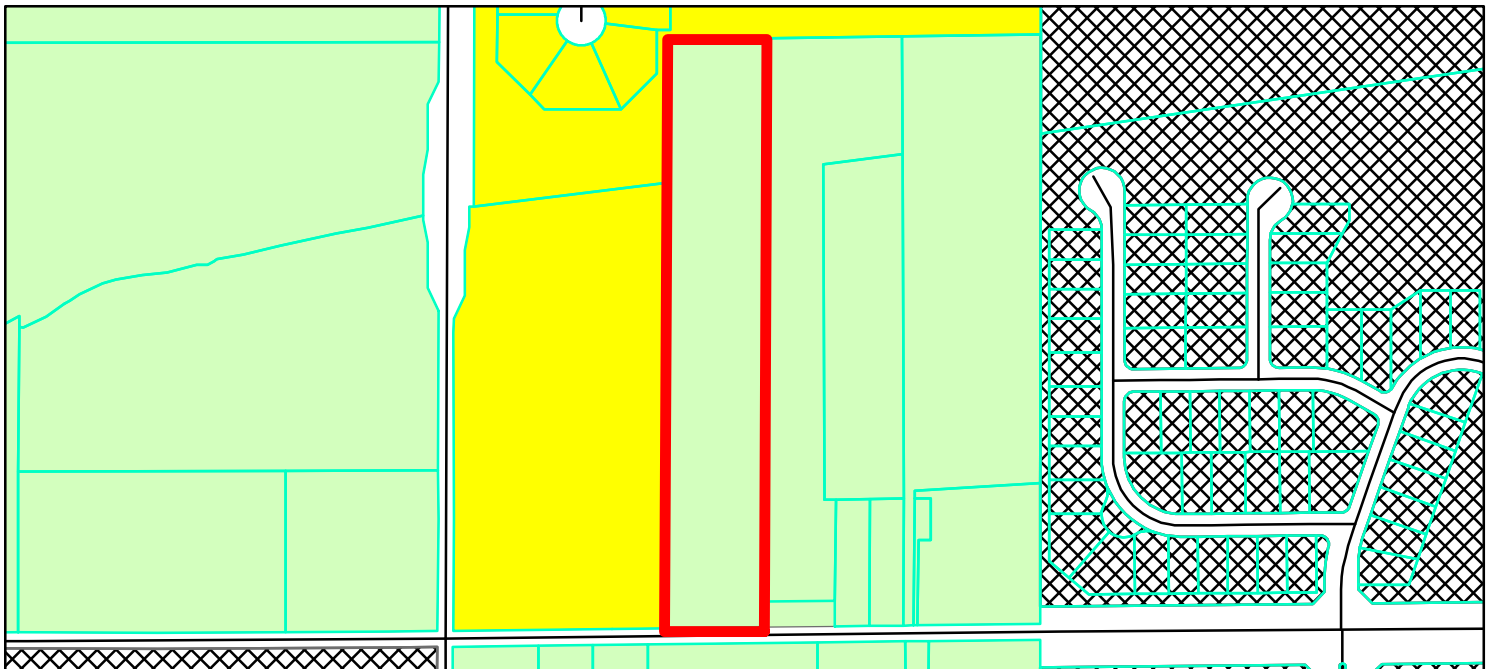
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings consistent with the public hearing evidence and Board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

Aerial Location Map

 Site



Zoning Map



 Parcel
 GIS DBO/PW Streets
Zoning - All
 AG-SF1 (Agriculture - Single Family - 1)
 PUD (Planned Unit Development)
 SF-3 (Single Family - 3)

0 0.05 0.1
 Miles



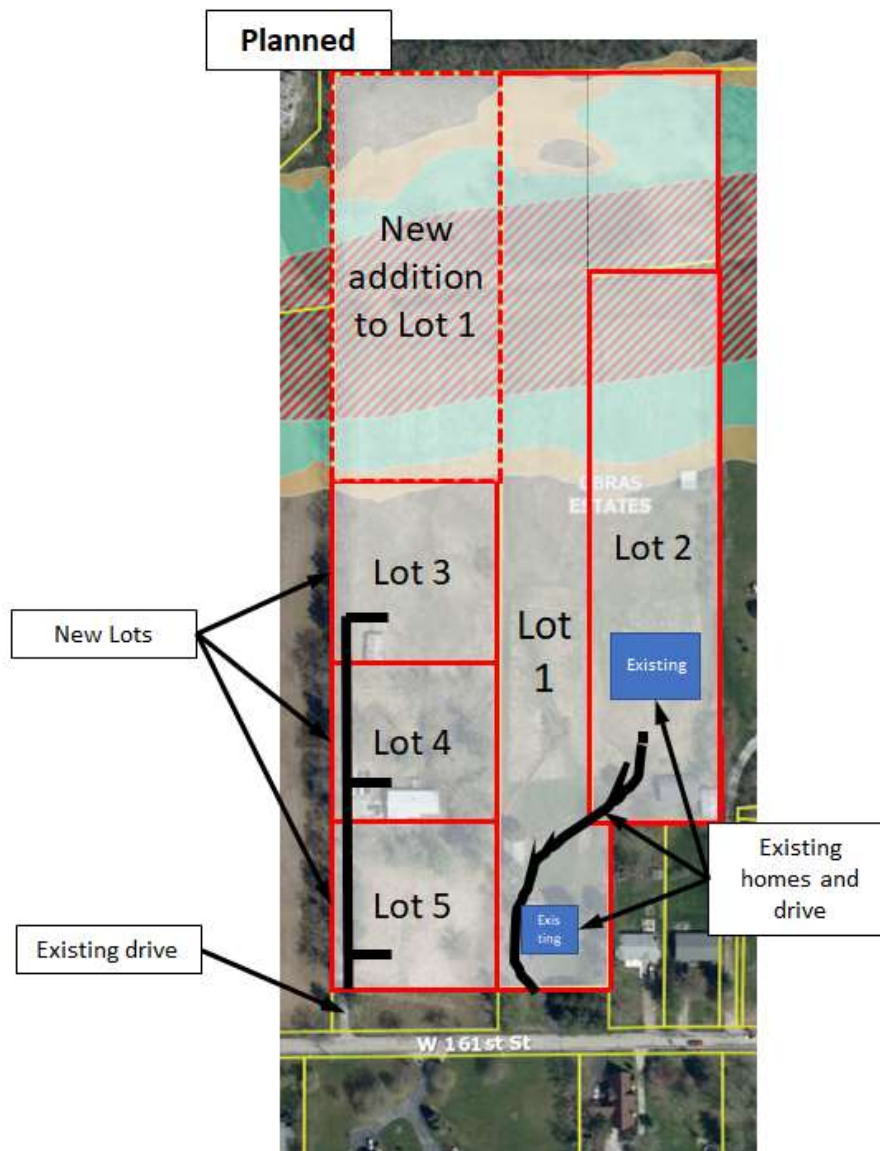


EXHIBIT B – CONCEPT PLAN





Petition Number: 2009-VS-23

Subject Site Address: 20945 Anthony Road (the "Property")

Petitioner: Brad Canada (the "Petitioner")

Request: The Petitioner requests a Variance of Development Standard to modify the Minimum Lot Frontage for a new lot from 250 feet to 0 feet (Article 4.2(D))

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

Current Land Use: Agriculture

Approximate Acreage: Current: One (1) 15.78 acre +/- lot
Proposed: One (1) new 6.0 acre +/- lot and one (1) 9.78 acre +/- lot

Exhibits:

1. Staff Report
2. Location Map
3. Concept Plan
4. Existing Property Exhibit

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject property is an 15.78 +/- acre parcel located at 20945 Anthony Road (see **Exhibit 2**).

Requested Variances: The Petitioner is requesting a Variance of Development Standard to modify the Minimum Lot Frontage for a new lot from 250 feet to zero (0) feet.

SUMMARY OF VARIANCE

The Petitioner requests a Variance of Development Standard (the "Variance") to modify the Minimum Lot Frontage from 250 feet to zero (0) feet to allow for the creation of a new, 6.0 acre +/- lot (see **Exhibit 3**).

The existing Property received a Variance of Development Standard at the October 20, 1997, BZA meeting (97-V-46) which permitted the Property to have as little as zero (0) Minimum Lot Frontage. However, when the Secondary Plat for Anthony Estates (1702-SFP-07 – the existing plat can be seen as the base of the Concept Plan in **Exhibit 3**) was recorded, it was desired that



the Property have some – approximately 42.68 feet – of Lot Frontage to accommodate the existing drive as well as a drainage and utility easement.

The Petitioner desires to create a new, 6.0 acre +/- lot from the existing 15.78 +/- acre parcel as shown on the Concept Plan (**Exhibit 3**), on which a new residence would be located. This new lot would be accessed by an ingress/egress easement to be shown on a forthcoming Secondary Plat.

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 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.

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 AG-SF1 zoning 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.

- 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: The Petitioner wishes to use the lot in a manner deemed appropriate by the Comprehensive Plan in terms of land use, low density, and single family residential. Strict application of the ordinance would result in the inability to subdivide the Property with the required Minimum Lot Frontage as proposed.

Recommended 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 (see **Exhibit 3**)



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

September 15, 2020

2009-VS-23

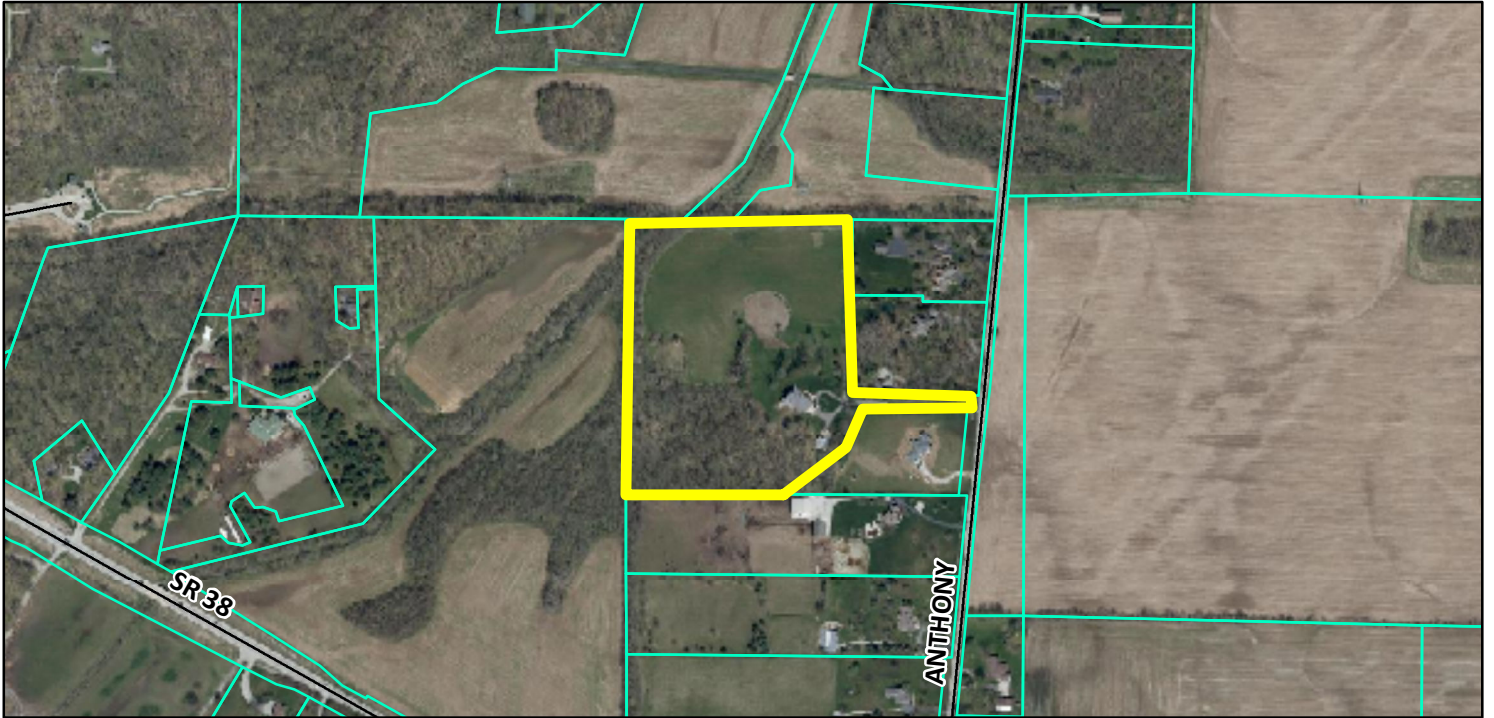
Exhibit 1

- 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.

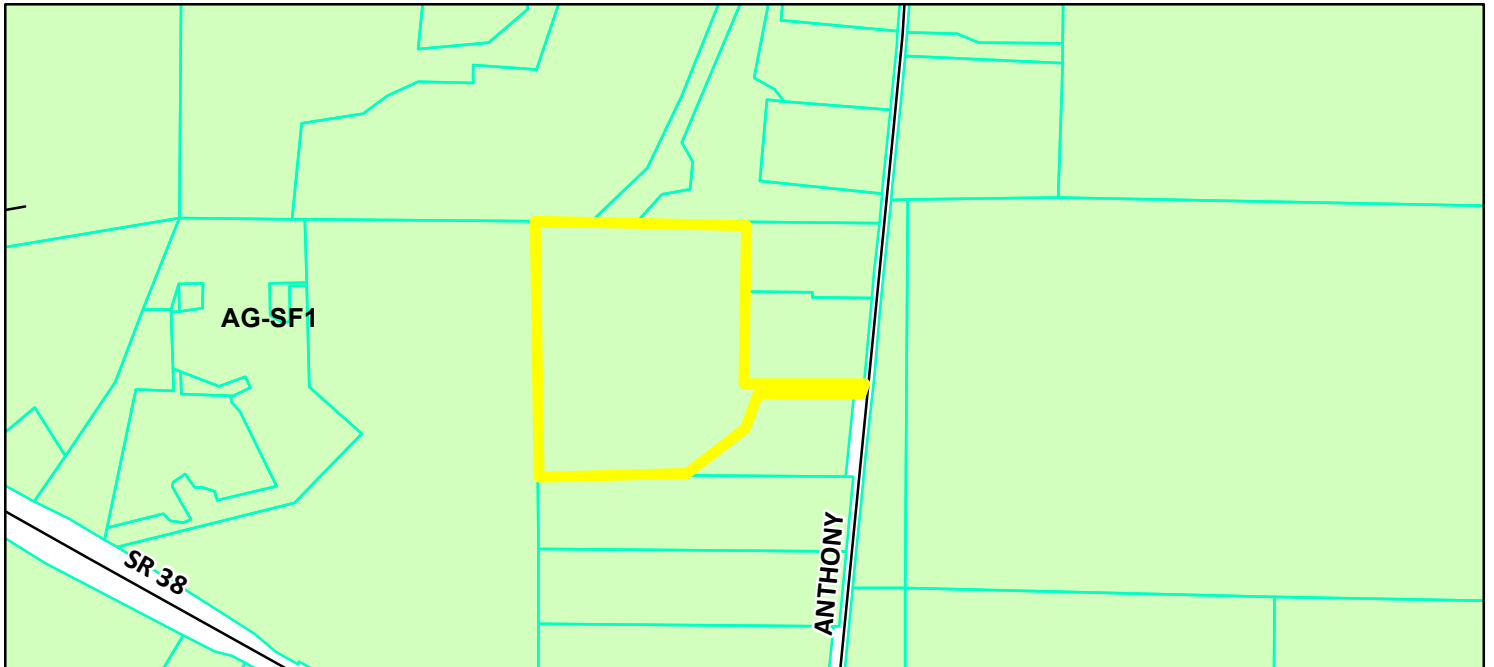
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings consistent with the public hearing evidence and Board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

Aerial Location Map

 Site



Zoning Map



 Parcel
 GIS.DBO.PW.Streets
Zoning - All
Zoning
 AG-SF1 (Agriculture - Single Family - 1)

0 0.075 0.15
Miles



PC5 slide 644

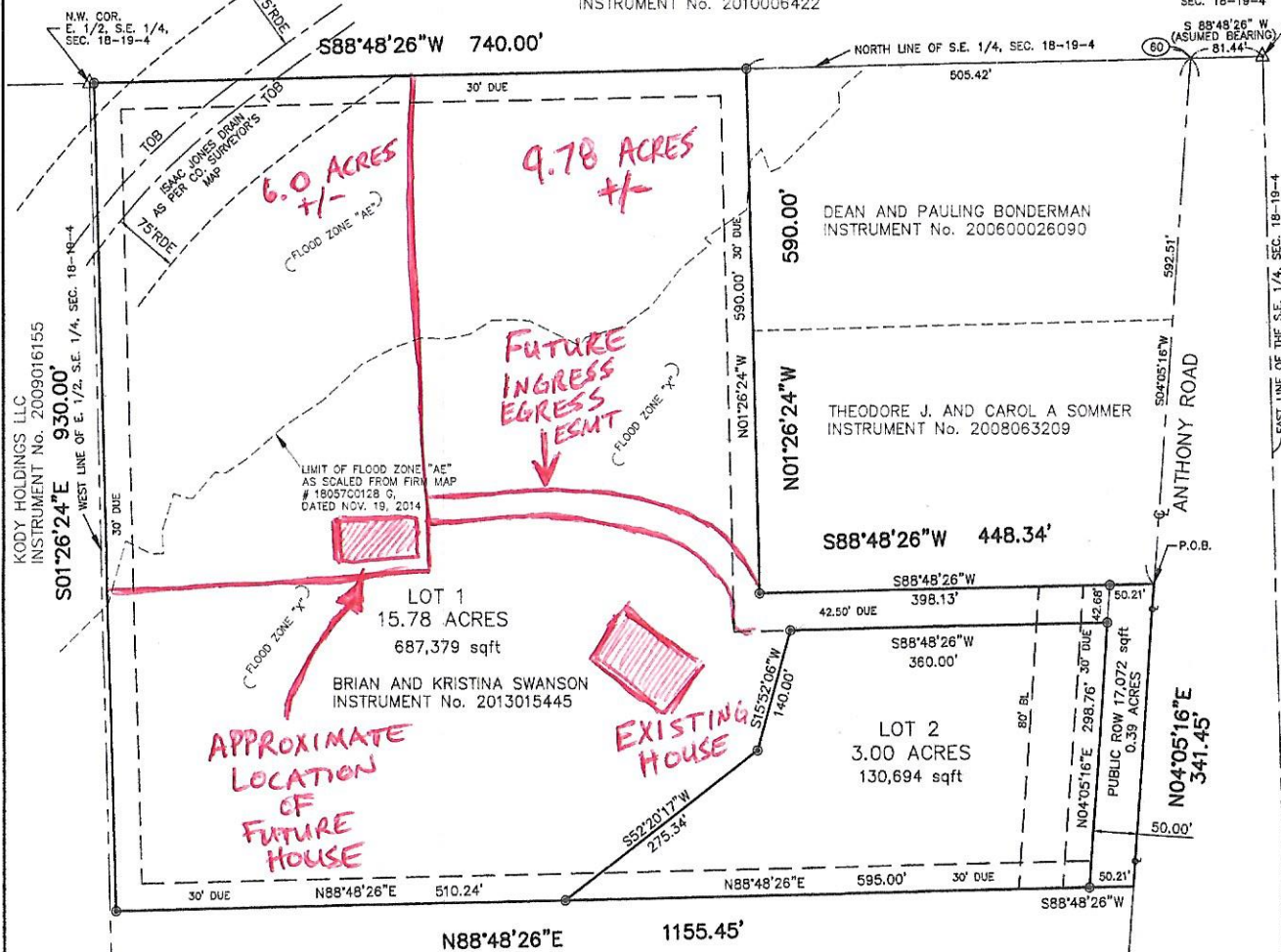
2017008993 PLAT \$25.00
02/15/2017 10:58:15A 2 PGS
Jennifer Hayden
HAMILTON County Recorder IN
Recorded as Presented

MINOR PLAT ANTHONY ROAD ESTATES PART OF THE S.E. 1/4, SEC. 18-19-4 HAMILTON COUNTY, INDIANA

DALE H AND LORETTA McCULLOUGH
INSTRUMENT No. 2010006422

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer
By day of February, 2017
Filed 7th March Auditor of Hamilton County
Parcel #

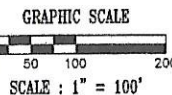
N.E. COR.
E 1/2, S.E. 1/4,
SEC. 18-19-4



AMY R HITTLE TRUSTEE
INSTRUMENT No. 2008063312

LEGEND

- ROW RIGHT-OF-WAY
- 5/8" IRON ROD WITH YELLOW CAP STAMPED "MILLER S0083" SET
- TOB TOP OF BANK
- DUE DRAINAGE AND UTILITY EASEMENT
- R.O.E. = 75' EASEMENT EACH SIDE OF THE CENTERLINE OF A TILE DRAIN, 75' EASEMENT FROM THE TOP OF BANK OF EACH SIDE OF A OPEN DRAIN



SOURCE OF TITLE

BRIAN AND KRISTINA SWANSON
INSTRUMENT No. 2013015445

THIS INSTRUMENT PREPARED BY:
K. NATHAN ALTHOUSE
MILLER SURVEYING, INC.
948 CONNER STREET
NOBLESVILLE, IN. 46060
Ph 773-2644 Fx 773-2694
DATE: NOVEMBER 15, 2017
Job No. B37017

OWNER / SUBDIVIDER / DEVELOPER

BRIAN AND KRISTINA SWANSON
20945 ANTHONY ROAD
Westfield, IN 46082

SURVEYOR

MILLER SURVEYING, INC.
948 CONNER STREET
NOBLESVILLE, INDIANA PH:
(317) 773-2644

WITNESS MY SIGNATURE THIS 15TH DAY OF NOVEMBER 2017.

K. Nathan Althouse
K. NATHAN ALTHOUSE, PLS
PROFESSIONAL LAND SURVEYOR No. LS 20400007
STATE OF INDIANA

I AFFIRM, UNDER THE PENALTIES FOR PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THE DOCUMENT, UNLESS REQUIRED BY LAW. (KEITH NATHAN ALTHOUSE)



17-XXXX ANTHONY ROAD ESTATES

Image 1: Back tree line (past the big Walnut) will serve as the barrier between our House and the new house (as well as the 2 neighbors that have their backyards touching our property line). Those are all 30 feet+ mature trees running down that whole line where the houses will be tucked away (roughly 200 ft run).



Image 2: Back property line of neighbors that are northeast corner of property. Mature tree line and 400+ feet between their property line and where the new houses would be.



Image 3: Tree line of Neighbor #2 (Sommers)



Image 4: Driveway will come down and cut West just north of the electrical box. The driveway will have no line of sight from the Sommer house.



Image 5: Additional photo of the tree line that will be blocking the new houses from our house as well as our neighbors.





WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

September 15, 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(s)")

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

Staff Reviewer: Jonathan Dorsey, Associate Planner

OVERVIEW

Location: The subject Property is 0.57 acres +/- in size and is located at 15621 Hidden Oaks Court (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 fifteen (15) feet into the fifty (50) 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 fifty (50) feet. The Petitioner is requesting this variance to encroach fifteen (15) feet into the fifty (50) 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 is scheduled to receive 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.

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.



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 (2009-VS-25), 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

September 15, 2020

2009-VS-25

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.

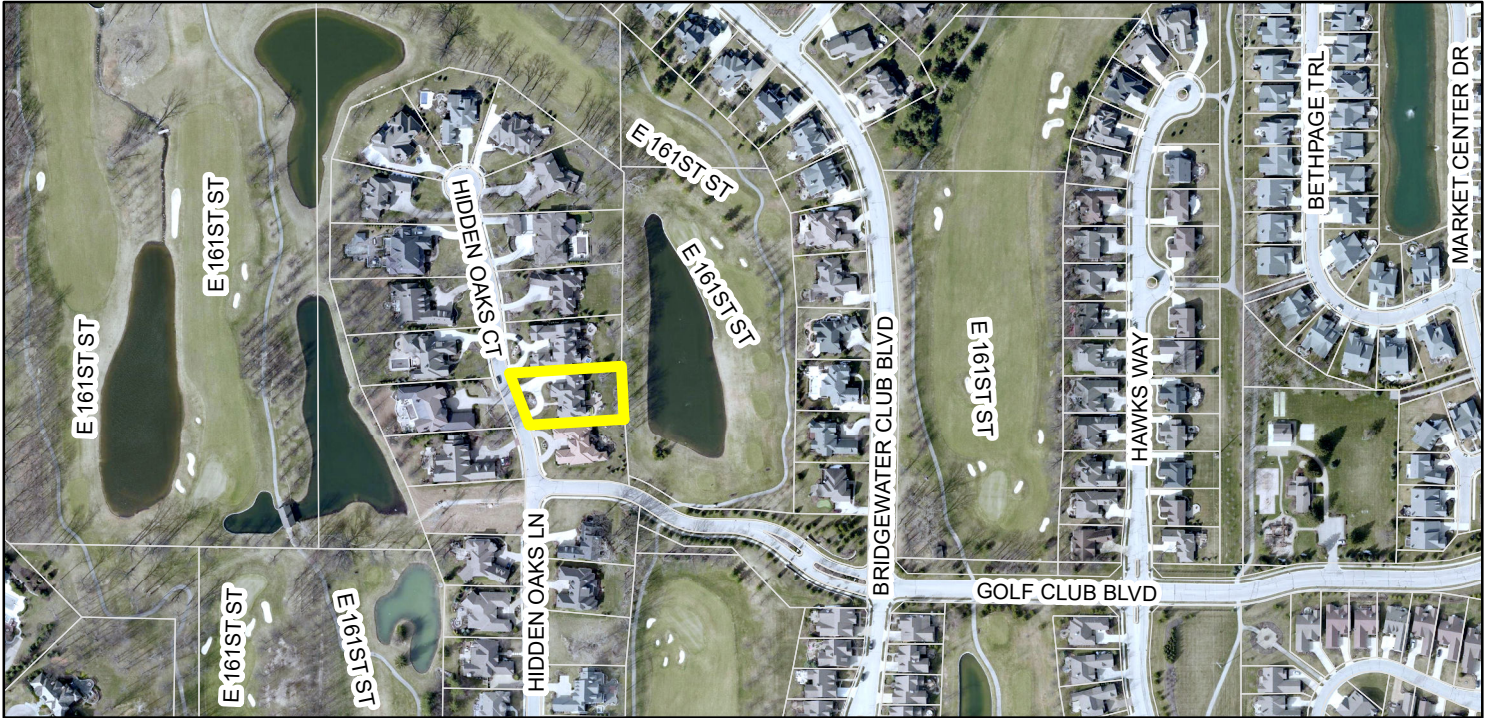
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.



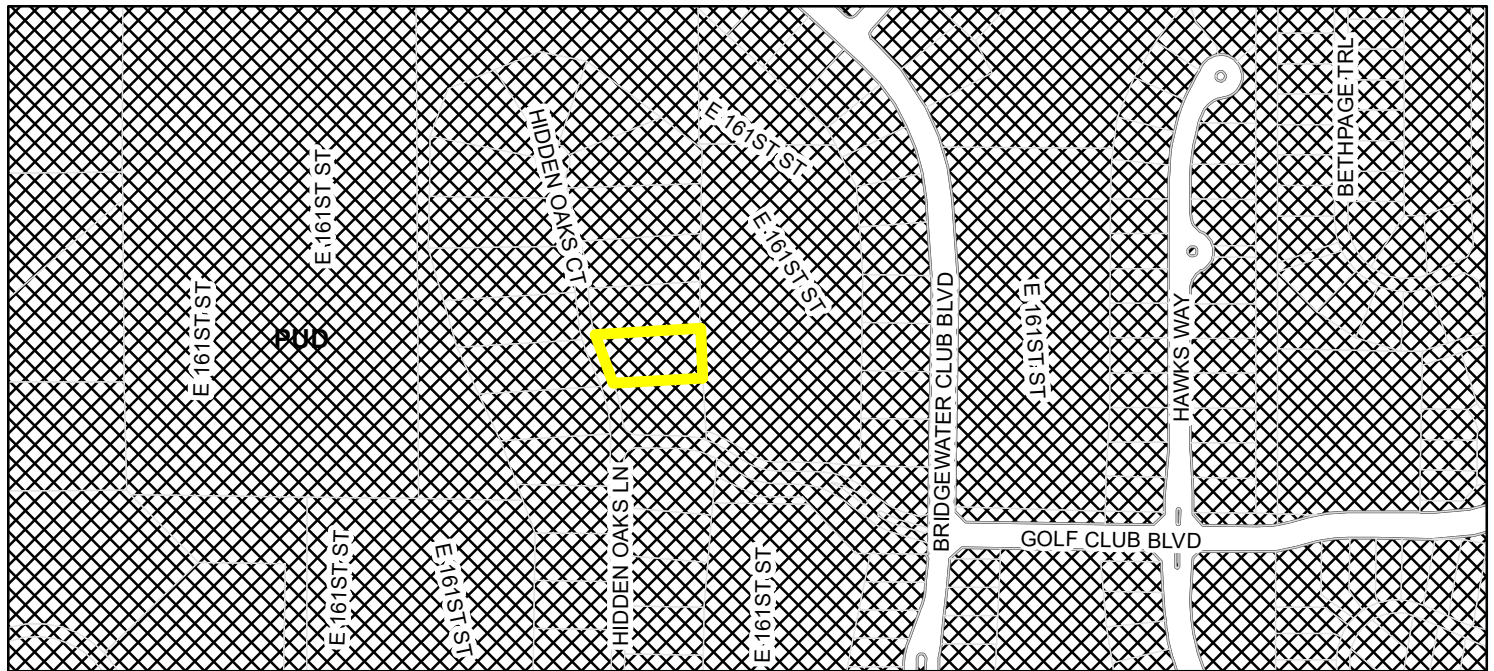
Property Location Map
15621 Hidden Oaks Court
Variance of Development Standard
2009-VS-25



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

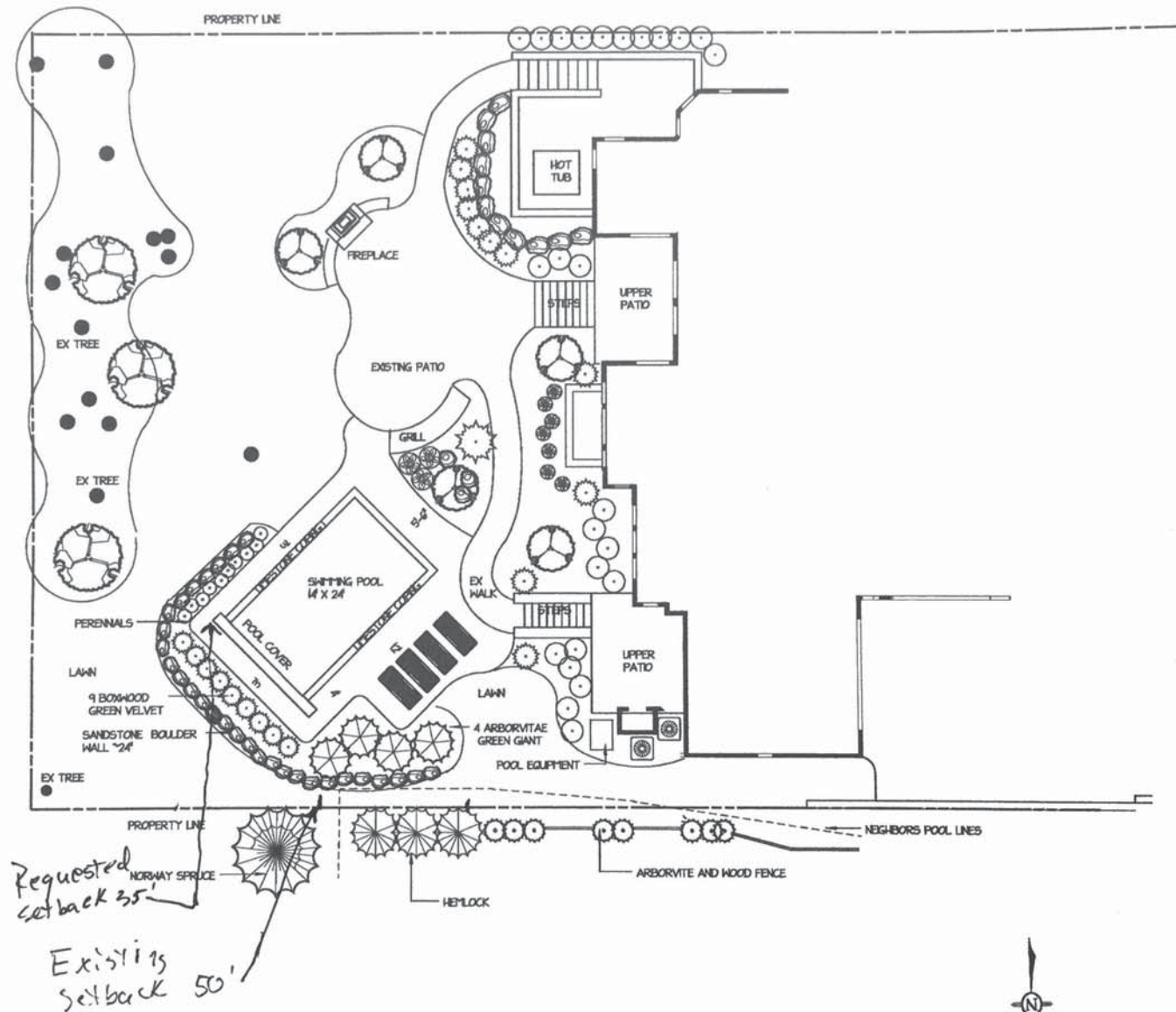


1-800-382-5544
IT'S THE LAW

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

September 15, 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

Staff Reviewer: Jonathan Dorsey, 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 is scheduled to receive 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.

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

September 15, 2020

2009-VS-26

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 (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:*

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.



- 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.

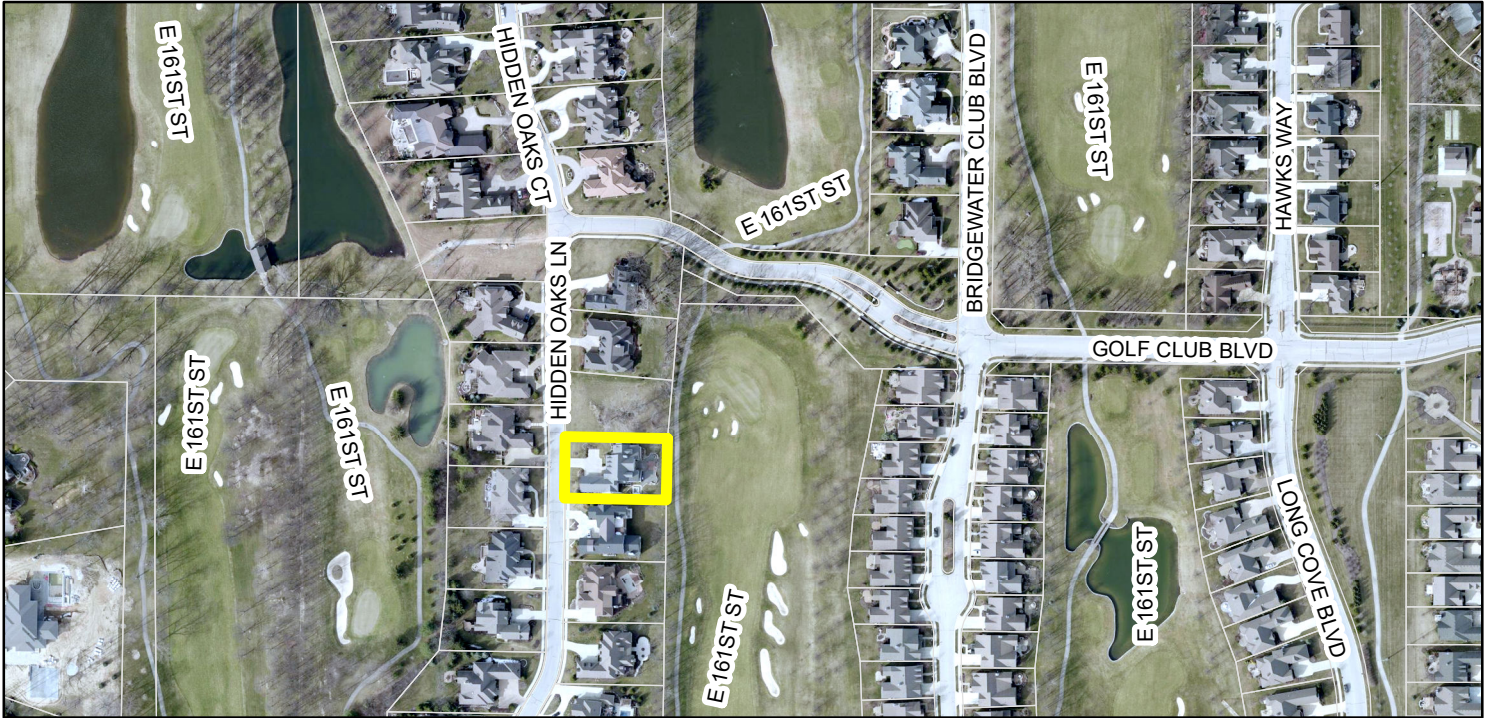
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.



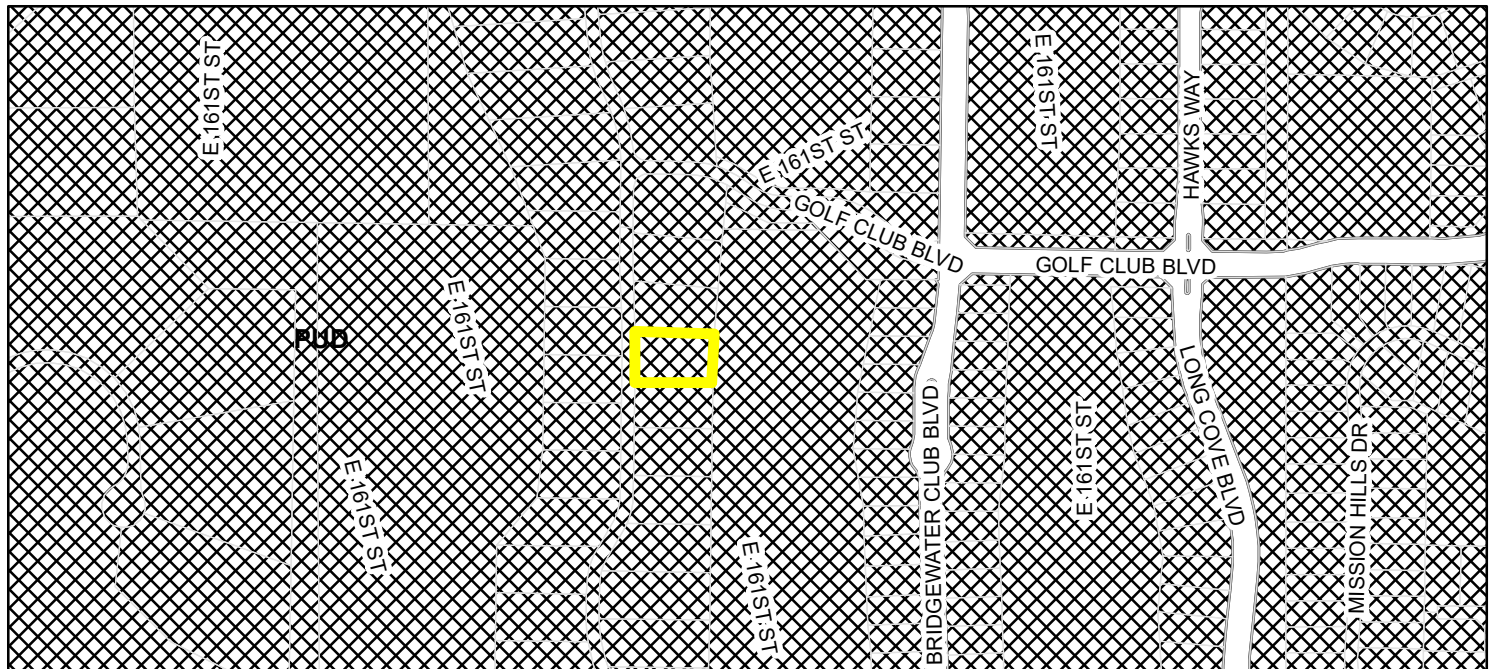
Property Location Map
15533 Hidden Oaks Court
Variance of Development Standard
2009-VS-26



Aerial Location Map



Zoning Map



Parcel Zoning
Zoning - All  PUD (Planned Unit Development)

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

APPROVED

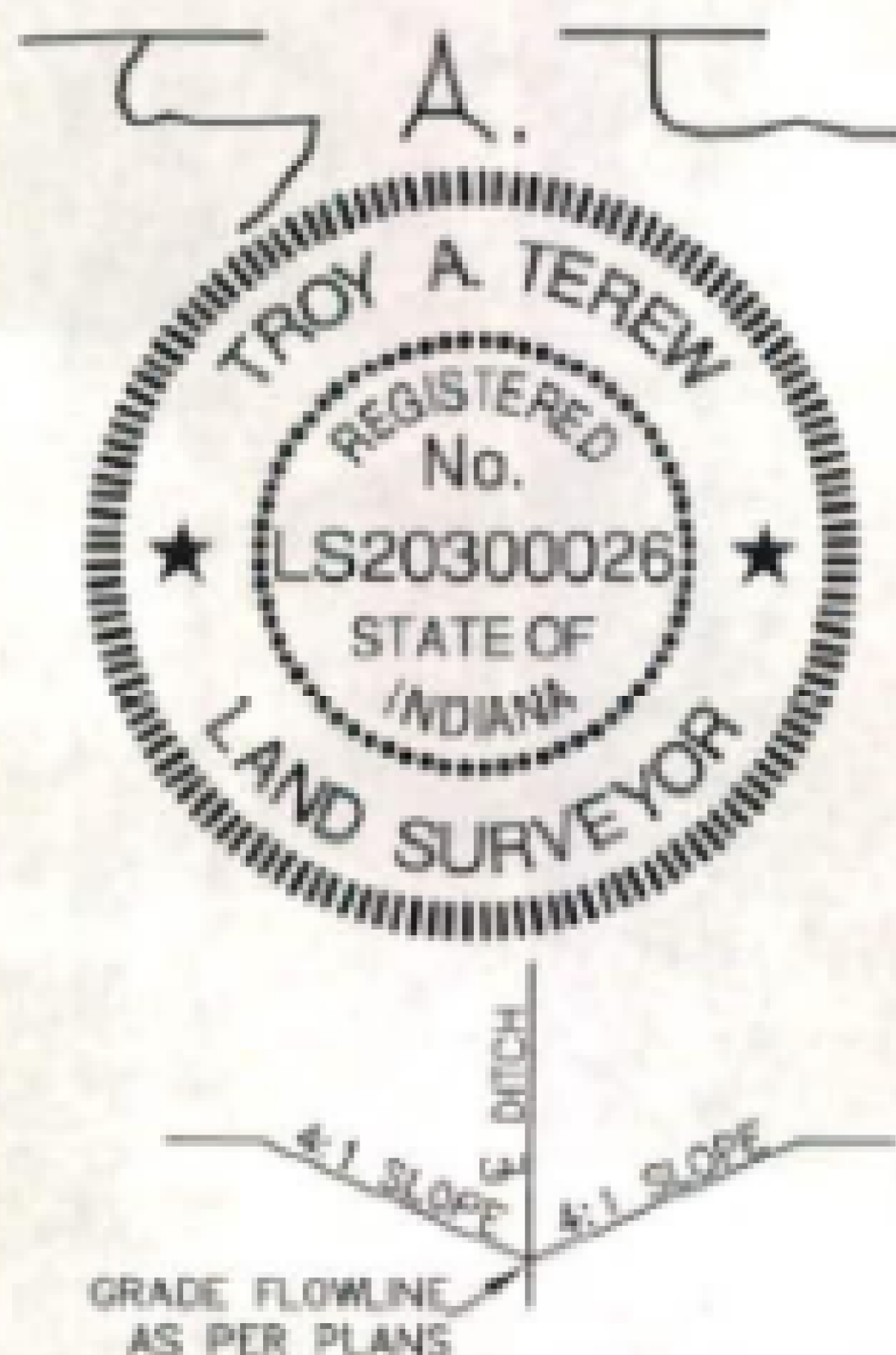
DATE 11-18-09

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

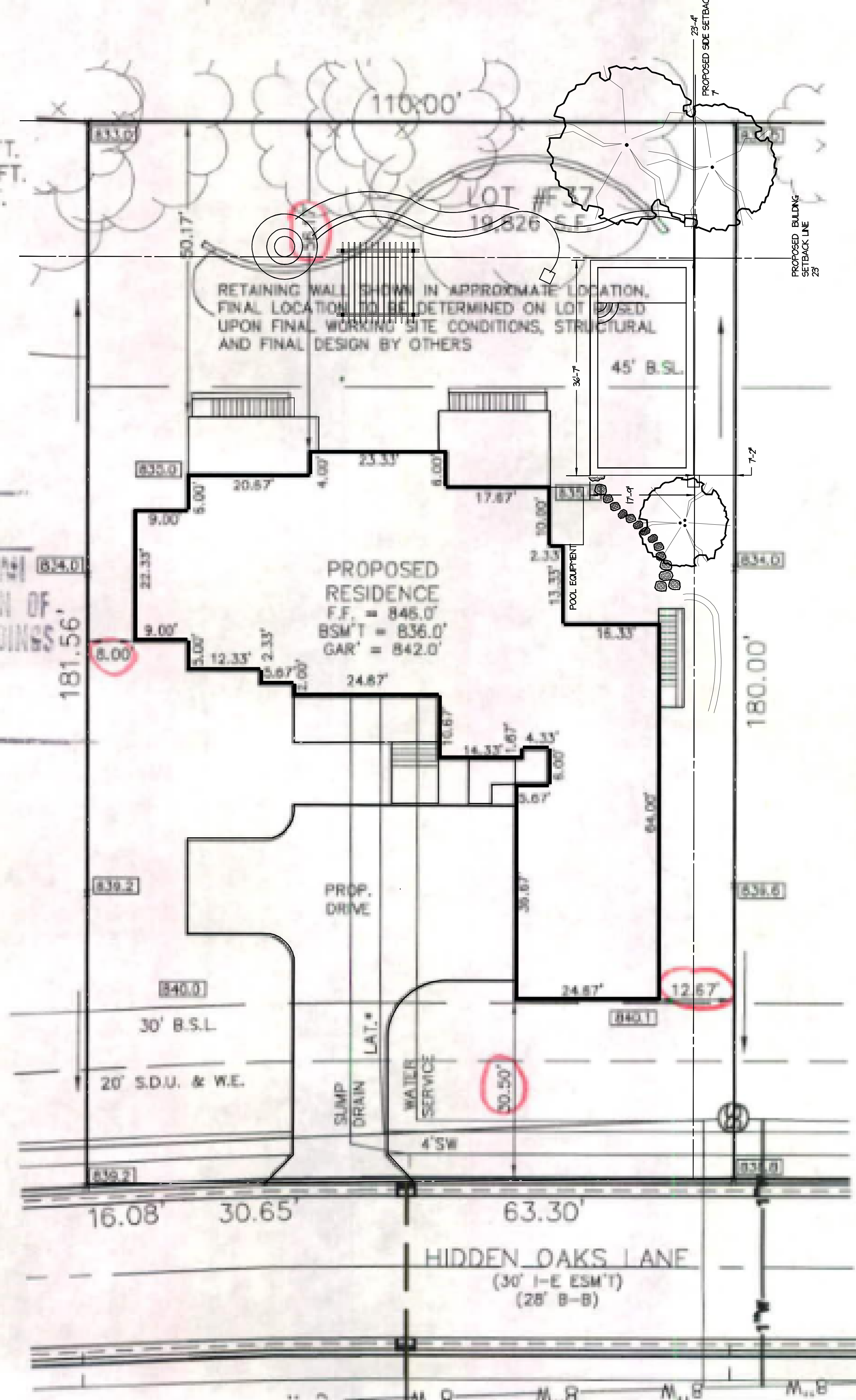
DRWN: TAT
JOB#: 09-292

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 836.0'
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

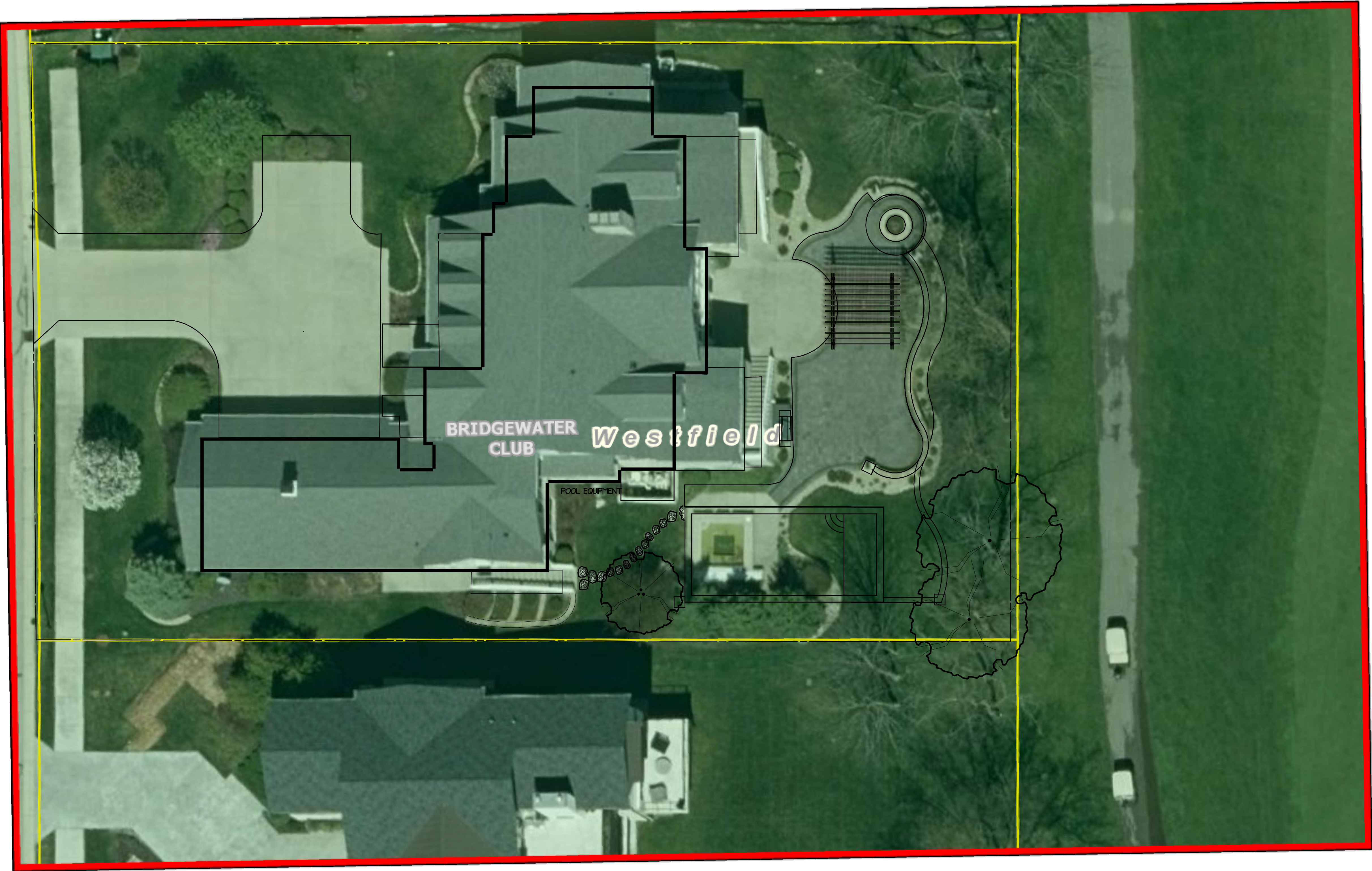
SHEET 1 OF 2

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

FINAL CHECKED BY:

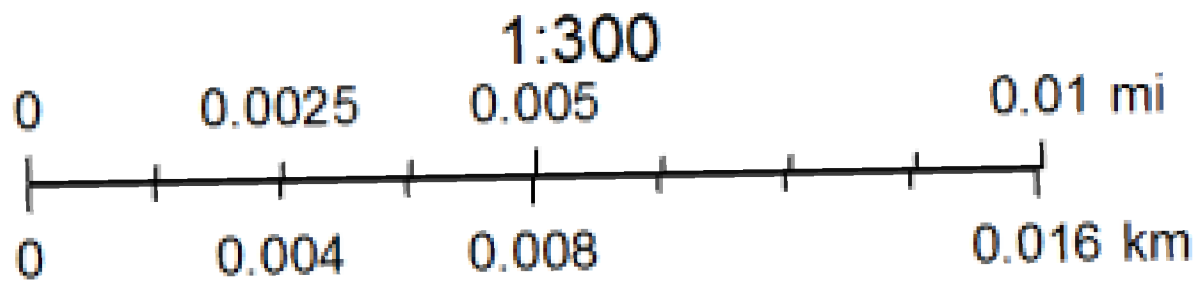
DATE:

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

September 15, 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

Staff Reviewer: Jonathan Dorsey, 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 is scheduled to receive 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.

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

September 15, 2020

2009-VS-27

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 (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:*

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.



- 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.



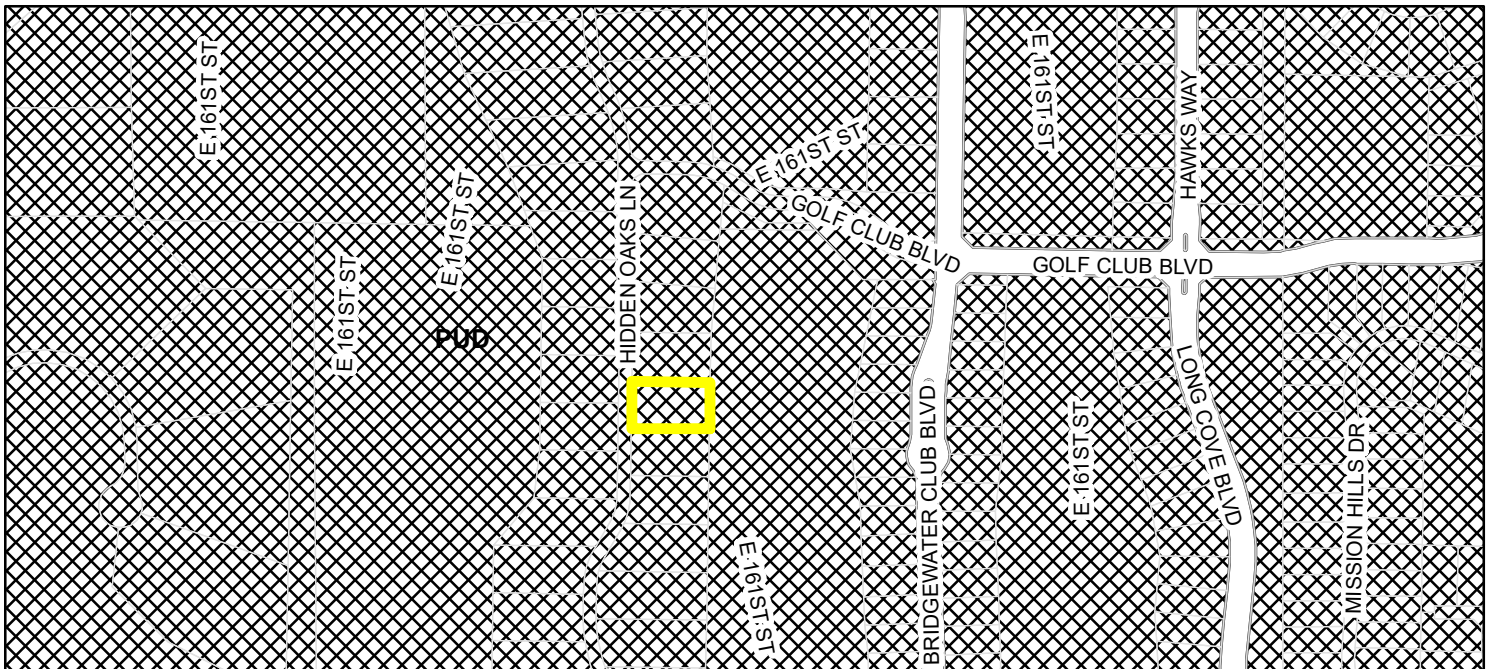
Property Location Map
15519 Hidden Oaks Court
Variance of Development Standard
2009-VS-27



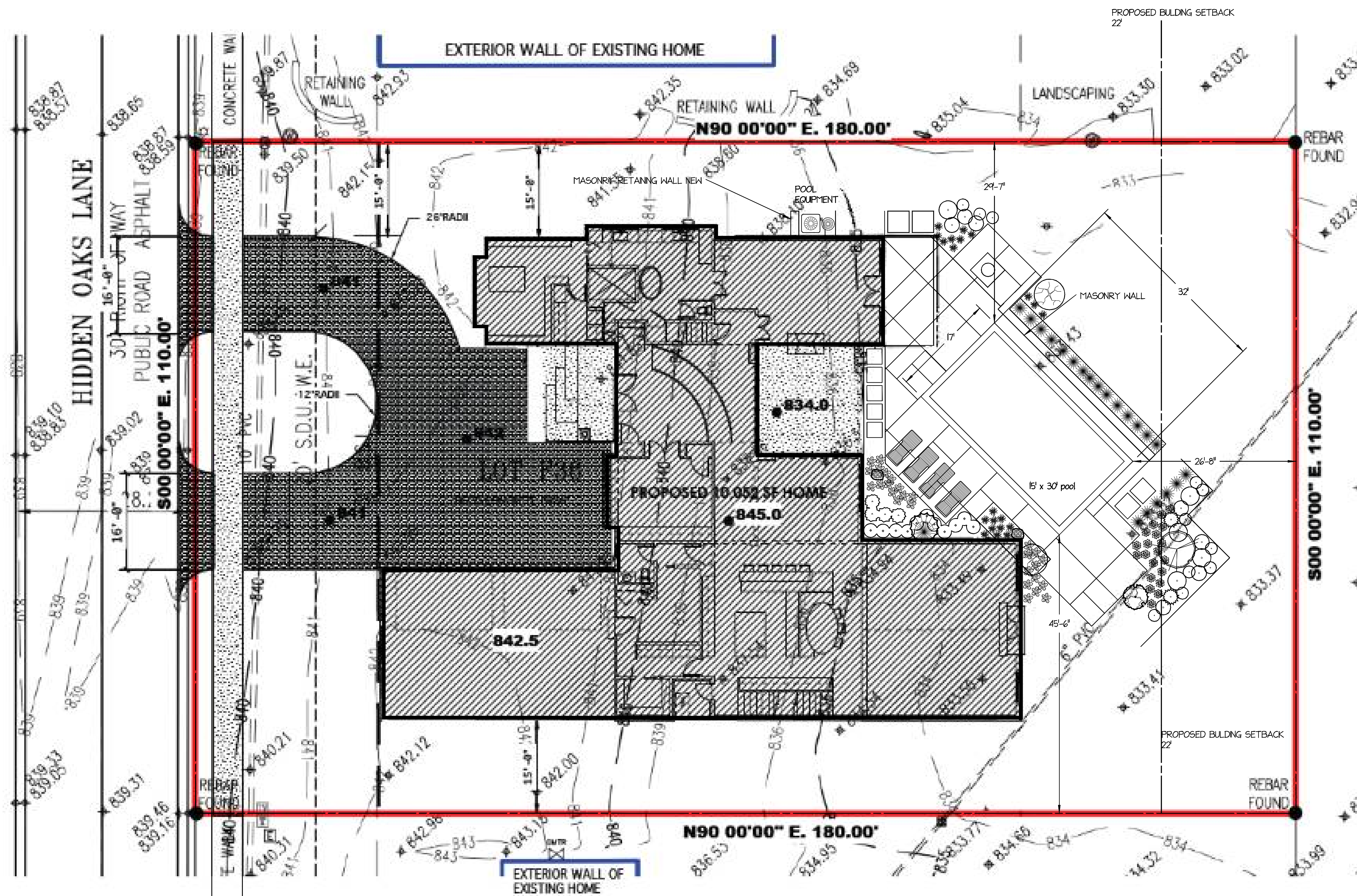
Aerial Location Map



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.

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 BRIDGE WATER CLUB SUBDIVISION OR
15519 HIDDEN OAKS LANE
CARMEL, IN 46033

SHEET:

C100

PLAN #2026
12/2/14

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

(X) 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

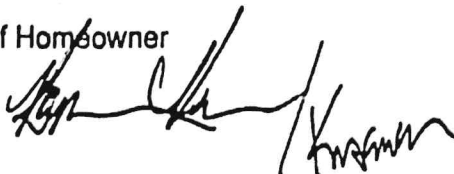
Homeowners Association Lot #

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

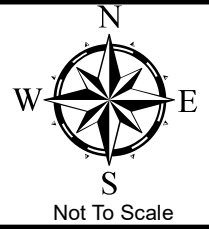


Date

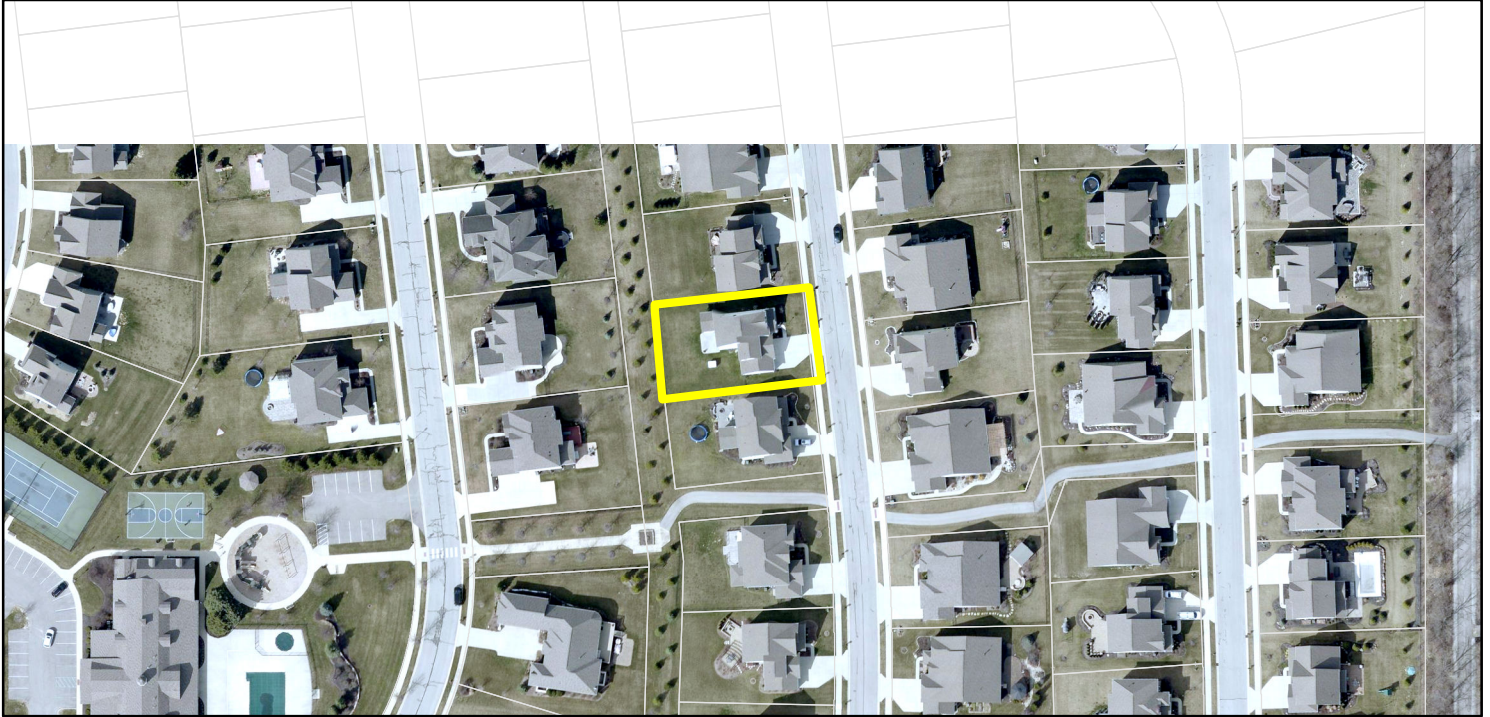
8/30/20



Property Location Map
15742 Capital Spending Road
O'Neil Variance
2009-VS-24



Aerial Location Map



Zoning Map

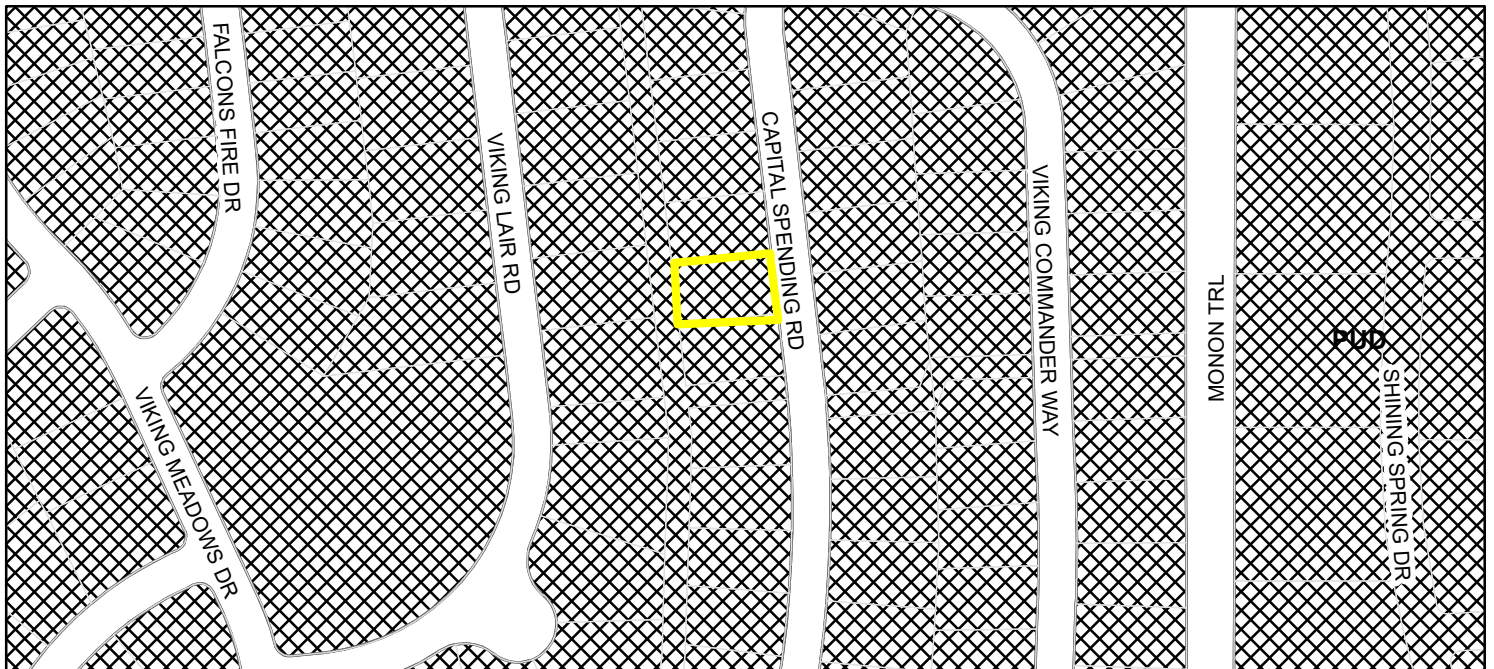
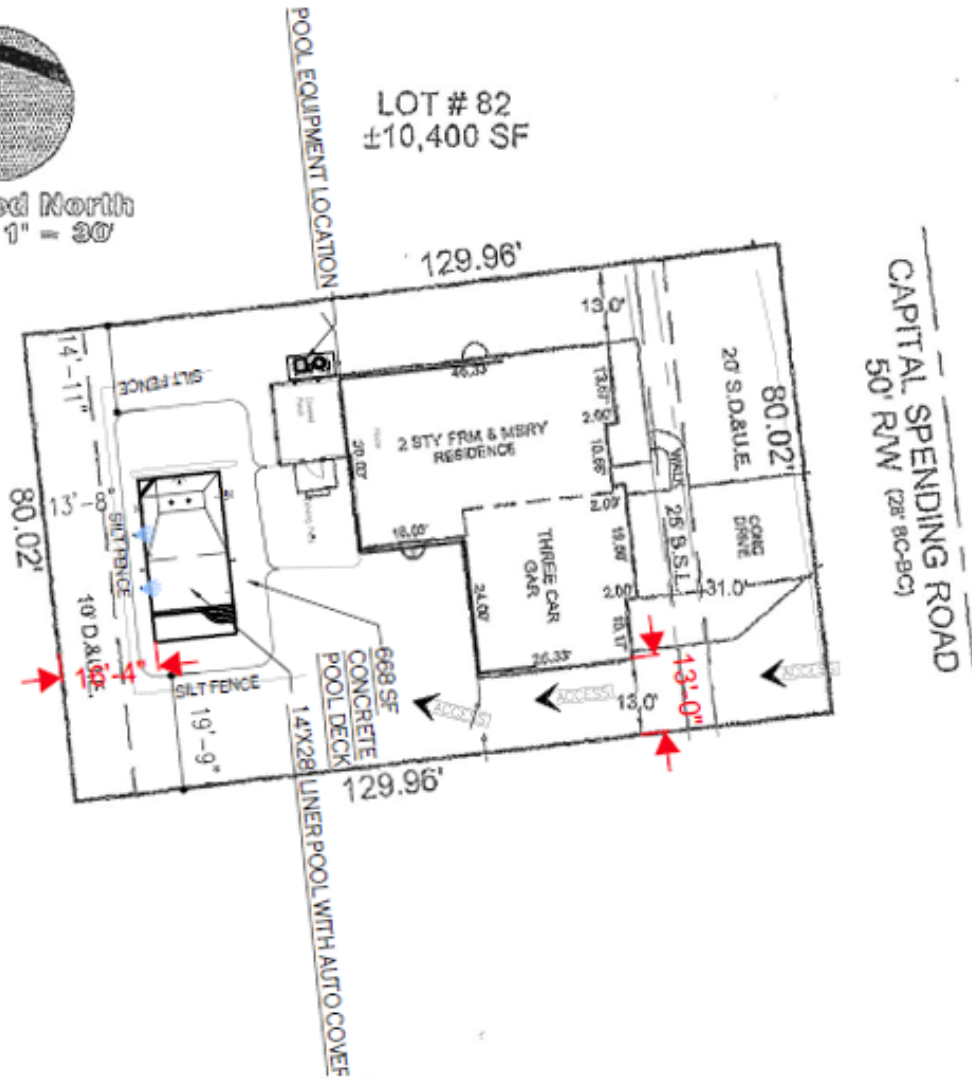


Exhibit 3

SITE PLAN

Property Address: 15742 Capitol Spending Road, Westfield, Indiana 46074

Property Description: Lot 32 in The Meadowlands at Viking Meadows, Section Three, a subdivision in Hamilton County, Indiana, as Instrument Number 2012048851 in the Office of the Recorder of Hamilton County, Indiana.





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

VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: 2009-VS-24

FILING DATE: _____

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Corey Harris (STAFF NAME) DATE: 7/28/2020

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: Ryan & Amanda O'Neil

TELEPHONE: 317.697.3001

ADDRESS: 15742 Capital Spending Rd

EMAIL: ryan.oneil@encoresir.com

PROPERTY OWNER'S NAME: Ryan & Amanda O'Neil

TELEPHONE: 317.697.3001

ADDRESS: 15742 Capital Spending Rd

EMAIL: ryan.oneil@encoresir.com

REPRESENTATIVE'S NAME: _____

TELEPHONE: _____

COMPANY: _____

EMAIL: _____

ADDRESS: _____

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 15742 Capital Spending Rd

COUNTY PARCEL ID #(S): 08-09-12-00-12-008.000

EXISTING ZONING DISTRICT(S): Viking Meadows PUD EXISTING LAND USE(S): Single Family 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 install an inground swimming pool in back yard.



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

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.

[Signature]
Applicant/Representative (signature)

Ryan & Amanda O'Neil
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 28th day of July, 2020
State of IN, County of Hamilton, SS: _____

[Signature]
Notary Public (signature)

Brooke Lauren Shepherd
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.

[Signature]
Property Owner (signature)*

Ryan & Amanda O'Neil
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 28th day of July, 2020
State of IN, County of Hamilton, SS: _____

[Signature]
Notary Public (signature)

Brooke Lauren Shepherd
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.



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

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: Ryan & Amanda O'Neil 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: No, homeowners backyard is fenced, both neighbors on each side are fenced as well, pool will have an undermount cover operated by a key. Pool cover will be closed when not in use.
- 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: It would improving the property value & adding value to the neighborhood.
- C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: It is not allowing us to use our property how we would like.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

September 15, 2020
2009-VS-21
Exhibit 1

Petition Number: 2009-VS-21

Subject Site Address: 1254 Lewiston Drive (the "Property")

Petitioner: Mike and Lori Weber (the "Petitioner")

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

Current Zoning: SF3 Cluster: Single-family Medium Density District

Current Land Use: Residential

Approximate Acreage: 0.24 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 0.24 acres +/- in size and located at 1254 Lewiston Drive (see **Exhibit 2**). The Property is zoned in the SF3 Cluster: Single-family Medium Density District. The Property currently contains a Single-family residence. All surrounding properties are also zoned in the SF3 Cluster: Single-family Medium Density District.

Property History: The Secondary Plat Centennial, Section 9, was recorded September 8, 2003 (Instrument No. 200300091644).

Variance Request: The Petitioner is requesting a Variance of Development Standard to build a pool that encroaches into the Minimum 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

September 15, 2020
2009-VS-21
Exhibit 1

SUMMARY OF VARIANCES

The Petitioner is requesting to encroach one (1') foot and two (2") inches into the thirty (30') foot 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 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.

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 4.6(E)(3): 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

September 15, 2020
2009-VS-21
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

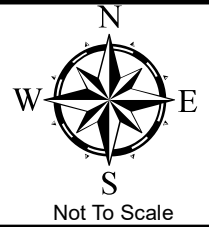
September 15, 2020
2009-VS-21
Exhibit 1

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.

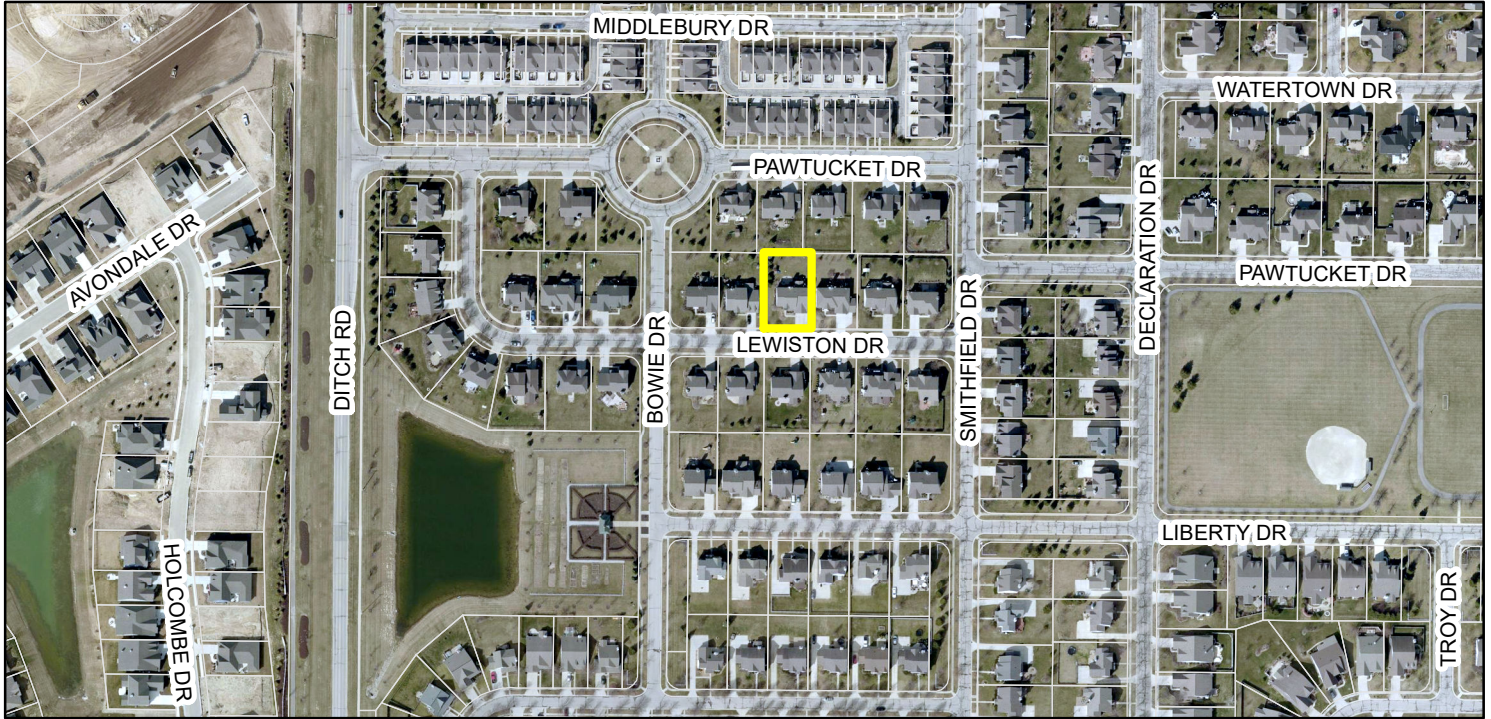
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.



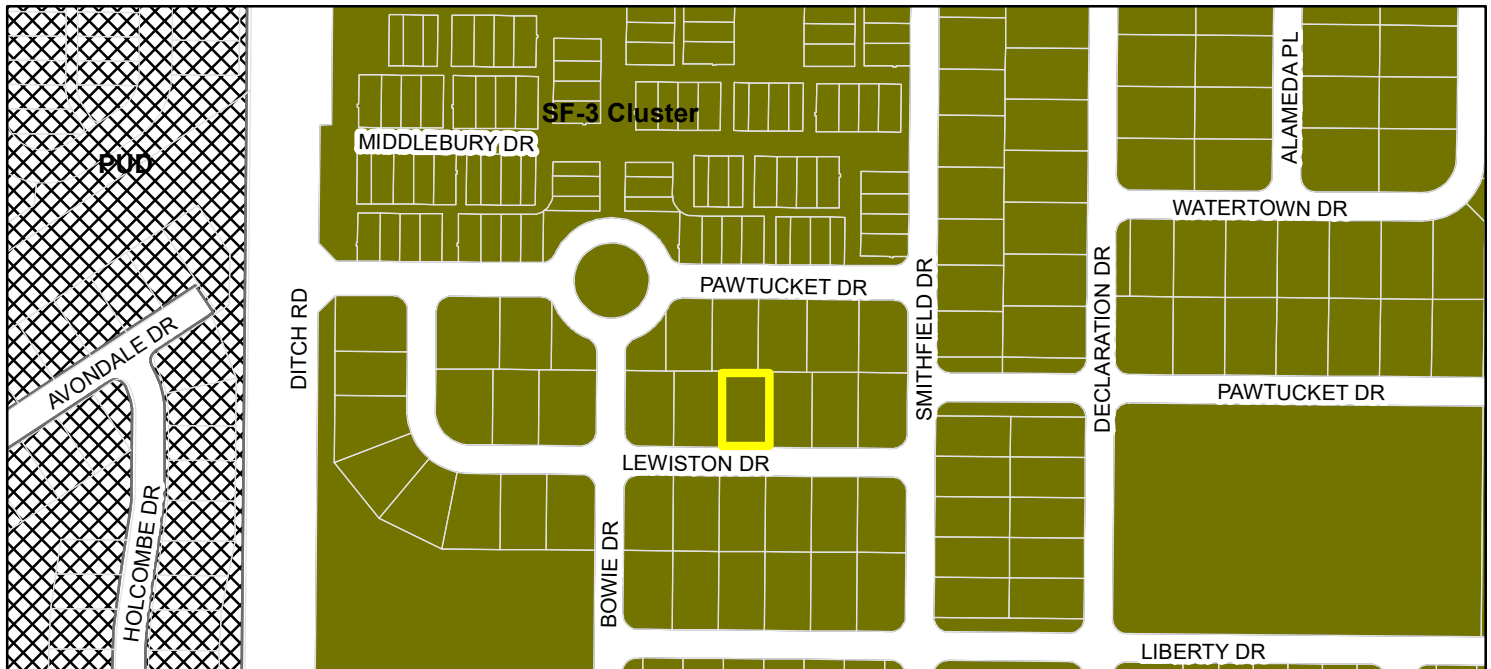
Property Location Map
1254 Lewiston Drive
Weber Variance
2009-VS-21



Aerial Location Map



Zoning Map



Parcel Zoning
Zoning - All PUD (Planned Unit Development)
 SF-3 Cluster

[illegible]



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

VARIANCE APPLICATION

DOCKET #: 2009-VS-21 FILING DATE: 7/31/20

OFFICE USE ONLY

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Jonathan Dorsey (STAFF NAME) DATE: 7/23/2020

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: AMENDMENTS: DEVELOPMENT PLAN:
PRIMARY PLAT: SECONDARY PLAT: VARIANCE(S):

APPLICANT INFORMATION

APPLICANT'S NAME: Mike & Lori Weber TELEPHONE: 574-276-9401
ADDRESS: 1254 Lewiston Drive, Westfield, IN 46074 EMAIL: lori.weber.84@gmail.com
PROPERTY OWNER'S NAME: Michael & Lori Weber TELEPHONE: 574-276-9401
ADDRESS: 1254 Lewiston Drive, Westfield, IN 46074 EMAIL:
REPRESENTATIVE'S NAME: Self TELEPHONE:
COMPANY: EMAIL:
ADDRESS:

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 1254 Lewiston Drive, Westfield, IN 46074
COUNTY PARCEL ID #(S): 08-09-15-00-18-026.000
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): This variance request is due to the limited setback lines on our property to properly install an automatic pool cover to comply with city standards and to allow safe distancing between the pool and screened in porch

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)

Lori Weber

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 30 day of July, 2020.

State of IN, County of Boone, SS: Lebanon, IN



Notary Public (signature)



Notary Public (printed)

SARAH DEAKINS
Notary Public - Seal
Boone County - State of Indiana
Commission Number NP0725466
My Commission Expires Feb 26, 2028

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)*

Lori Weber

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 30 day of July, 2020.

State of IN, County of Boone, SS: Lebanon, IN



Notary Public (signature)



Notary Public (printed)

SARAH DEAKINS
Notary Public - Seal
Boone County - State of Indiana
Commission Number NP0725466
My Commission Expires Feb 26, 2028

*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: Mike & Lori Weber

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 small request will not threaten the overall welfare of the public or community. This variance is to comply with city safety standards to install an automatic pool cover

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: this request is for safety and will not impose negative affects on our surrounding properties.

C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: unfortunately we are not able to use the property as desired due to the size of set backs and we are limited. The way the setbacks are now, they would not allow for the proper installation of an automatic pool cover.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

September 15, 2020
2009-VS-20
Exhibit 1

Petition Number: 2009-VS-20

Subject Site Address: 16426 River Crest Court (the "Property")

Petitioner: Brian Metzger (the "Petitioner")

Representative: Josh Springer (the "Representative")

Request: The Petitioner requests a Variance of Development Standard to encroach six (6) feet and seven (7) inches into the thirty (30) foot Minimum Rear Yard Setback on 0.50 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: 0.50 acres +/-

Exhibits:

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

Staff Reviewer: Corey Harris, Associate Planner

OVERVIEW

Location: The subject property is 0.50 acres +/- in size and located at 16426 River Crest Court (see **Exhibit 2**). The Property is zoned the Single-family Low Density District. The Property currently contains a Single-family residence. All surrounding properties are also zoned the SF2 District.

Property History: The Secondary Plat for Brookside, Section 5C, was recorded on December 14, 2015 (Instrument No. 2015063595).

Variance Request: The Petitioner is requesting a Variance of Development Standard to build a pool that encroaches into the Minimum 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

September 15, 2020
2009-VS-20
Exhibit 1

SUMMARY OF VARIANCES

The Petitioner is requesting to encroach six (6') feet and seven (7) inches into the thirty (30) foot into the established Rear Yard Building Setback Line² as depicted on the Site Plan (see **Exhibit 3**). The Landscape Plan (see **Exhibit 4**) proposes landscaping in the fifteen (15) foot Drainage and Use Easement ("D.&U.E.") and the twenty-two and one half (22.5) foot Regulated Drainage Easement ("R.D.E.") and Drainage and Use Easement ("D.&U.E."). This proposal has been reviewed and approved by the Public Works Department with the condition that the Petitioner is responsible to remove anything placed in the easement in case of maintenance.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this property within the "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 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.

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

² Article 4.5(E)(3)(a): Rear Yard Minimum Building Setback Line for a Subdivision Lot: 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

September 15, 2020
2009-VS-20
Exhibit 1

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

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**) and the Landscape Plan (**Exhibit 4**).

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. 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:**



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

September 15, 2020
2009-VS-20
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 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.

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.

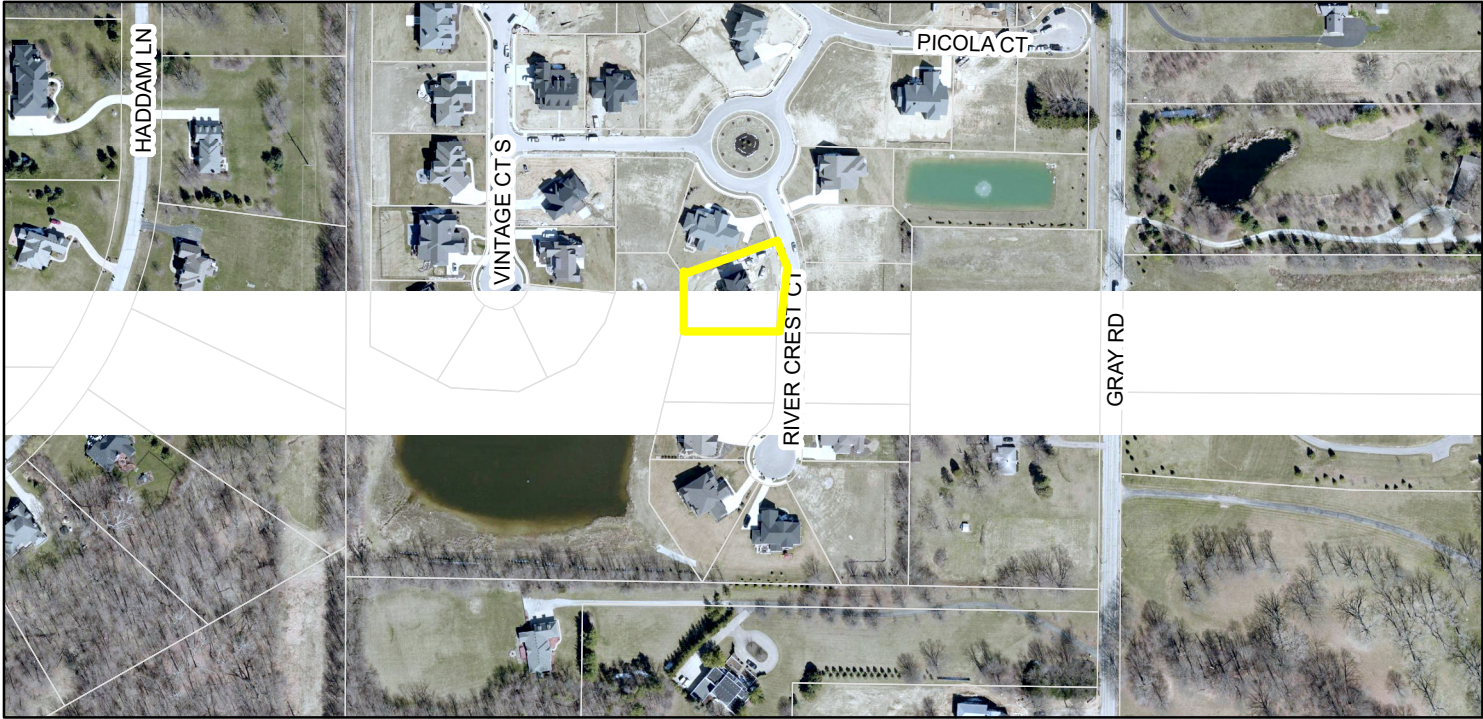
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.



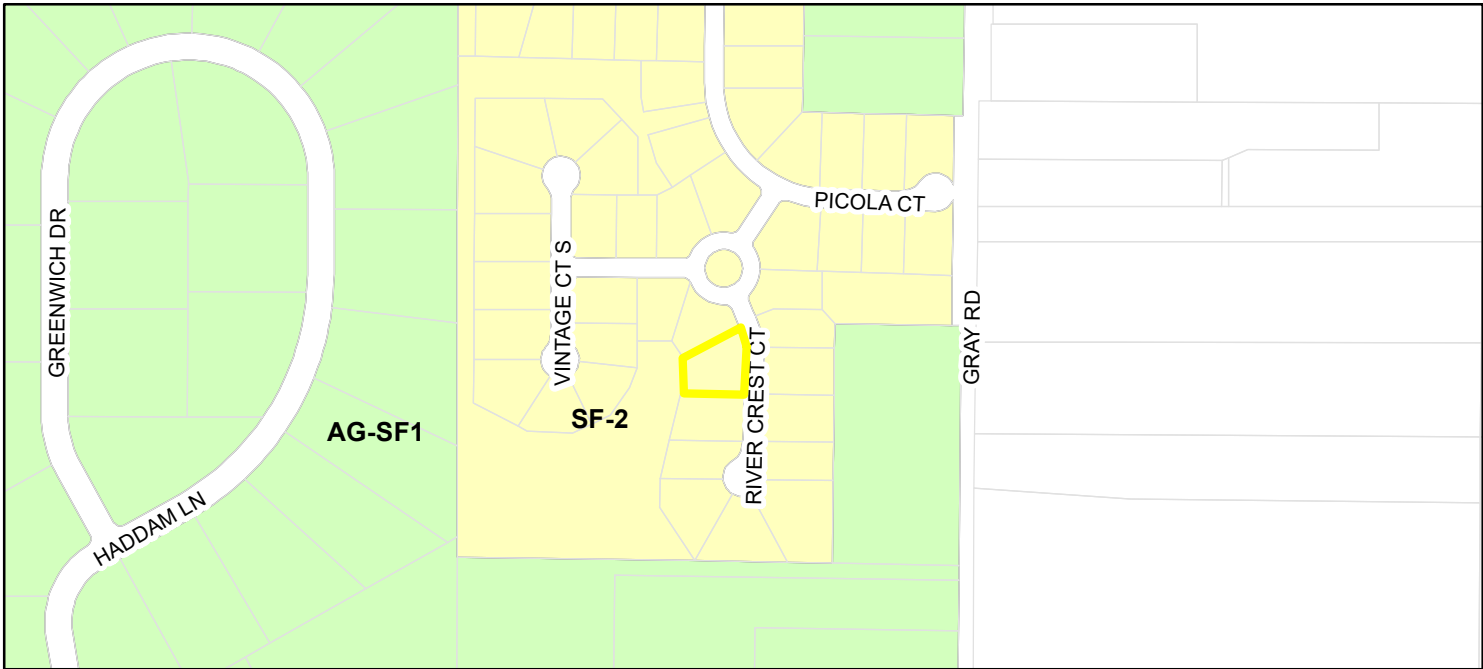
Property Location Map
16426 River Crest Blvd.
Metzger Variance
2009-VS-20



Aerial Location Map



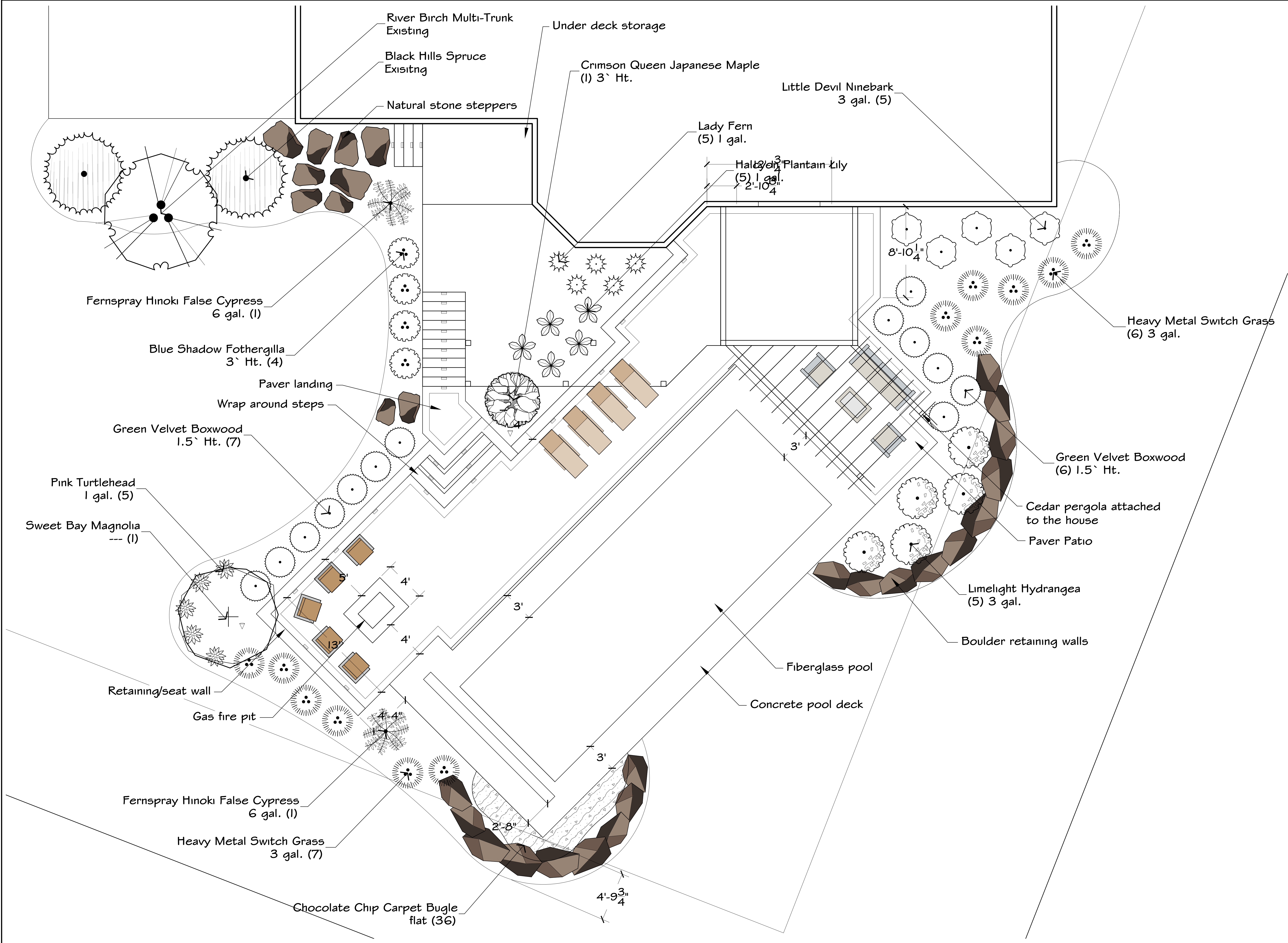
Zoning Map



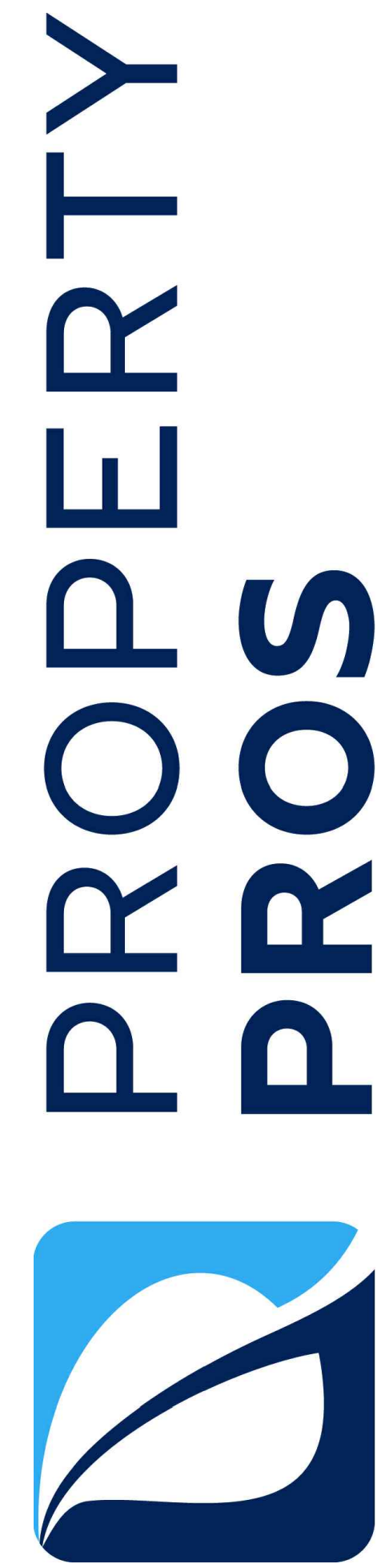
- Parcel Zoning
- Zoning - All AG-SF1 (Agriculture - Single Family - 1)
- SF-2 (Single Family - 2)

SITE PLAN





PREPARED FOR:
**METZGER
RESIDENCE**
16426 River Crest Ct.
Westfield, IN 46062



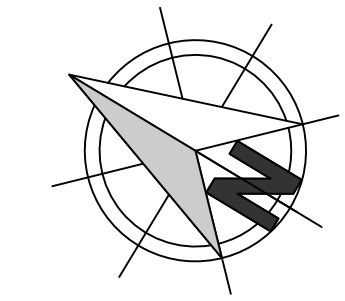
ALL IDEAS, DESIGNS, ARRANGEMENTS, AND PLANS REPRESENTED BY THIS DRAWING ARE PROPERTY OF PROPERTY PROS LAND MANAGEMENT, LLC AND WERE CREATED AND DEVELOPED FOR USE ON AND IN CONNECTION WITH THE SPECIFIED PROJECT. NONE OF THE IDEAS, DESIGNS, ARRANGEMENTS, OR PLANS SHALL BE USED BY OR DISCLOSED TO ANY PERSON, FIRM, OR CORPORATION FOR ANY PURPOSE WHATSOEVER WITHOUT THE WRITTEN PERMISSION OF PROPERTY PROS LAND MANAGEMENT, LLC. WRITTEN DIMENSIONS ON THESE DRAWINGS SHALL HAVE PRECEDENCE OVER SCALE DIMENSIONS. CONTRACTORS SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS ON THE JOB. THE DESIGNER MUST BE NOTIFIED OF ANY VARIATIONS FROM THE DIMENSIONS AND CONDITIONS SHOWN BY THESE DRAWINGS.

ISSUED JUNE 13, 2020

REVISIONS		
No.	Date	Issue
1	7/1/20	Larger pool

DRAWN BY: J. MULL
CHECKED BY: T. COX

SHEET TITLE
**LANDSCAPE &
HARDSCAPE PLAN**



VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: 2009-VS-20

FILING DATE: 7/31/20

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: COREY HARRIS (STAFF NAME) DATE: 7/30/2020
@ 12:46 PM

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: AMENDMENTS: DEVELOPMENT PLAN:
PRIMARY PLAT: SECONDARY PLAT: VARIANCE(S):

APPLICANT INFORMATION

APPLICANT'S NAME: PROPERTY PROS LAND MANAGEMENT TELEPHONE: 317-482-3111
ADDRESS: 1200 E. BROADWAY ST, FORTVILLE, IN 46040 EMAIL: OFFICE@PROPERTYPROSLM.COM
PROPERTY OWNER'S NAME: BRYAN METZGER TELEPHONE: 513-225-0284
ADDRESS: 16426 RIVER CREST CT, WESTFIELD, IN 46062 EMAIL: BMETZGER20@MSN.COM
REPRESENTATIVE'S NAME: JOSH SPRINGER TELEPHONE: 317-697-0060
COMPANY: PROPERTY PROS LAND MANAGEMENT EMAIL: JOSH@PROPERTYPROSLM.COM
ADDRESS: 1700 E. BROADWAY ST, FORTVILLE, IN 46040

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 16426 RIVER CREST CT, WESTFIELD, IN 46062
COUNTY PARCEL ID #(S): 08-10-08-00-16-021-000
EXISTING ZONING DISTRICT(S): BROOKSIDE PUD EXISTING LAND USE(S): RESIDENTIAL

PROPERTY AND PROJECT INFORMATION

☐ VARIANCE OF LAND USE CODE CITATION:
☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: N/A

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY): TO RECEIVE A
VARIANCE FOR ENCRoACHMENT OF APPROXIMATELY 8 FEET OF SET BACK
AREA TO INSTALL A POOL AND LANDSCAPING, AS DESIGNED.



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

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.

[Signature]
Applicant/Representative (signature)

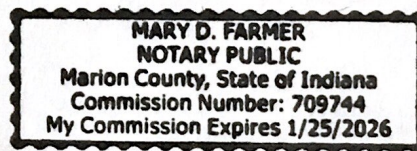
Josh Springer
Applicant/Representative (printed)

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 30th day of July, 2020
State of IN, County of Marion, SS: Fortville, IN

Mary D. Farmer
Notary Public (signature)

Mary D. Farmer
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.

[Signature]
Property Owner (signature)*

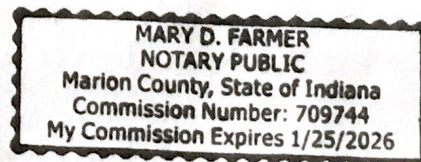
Brian A Metzger
Property Owner (printed)

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 30th day of July, 2020
State of IN, County of Marion, SS: Fortville, IN

Mary D. Farmer
Notary Public (signature)

Mary D. Farmer
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: PROPERTY PROS LAND MANAGEMENT

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 POOL'S LOCATION IS DESIGNED WITH BOTH NEIGHBOR'S LINE OF SIGHT UNCHANGED FOR THE POOL. THE POOL BEING INSTALLED WILL BE SET UP WITH A LOCKED ACCESS AUTO COVER. THE LAYOUT OF THE POOL ALLOWS FOR SAFE USE ON ALL SIDES WITH PROFESSIONALLY DESIGNED LANDSCAPING AS A BUFFER FROM DRAIN SWALE (REGULATED DRAIN EASEMENT / DRAINAGE & UTILITY EASEMENT). FAVORABLE ACCESS FOR LARGE EQUIPMENT IN R.D.E. & D. & V.E.
- 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 LAYOUT AND DESIGN OF THE PROJECT USES MATERIALS CONSISTENT WITH OTHER PROJECTS AROUND POOL & SURROUNDING PROPERTIES. THE ENTIRE DESIGN WAS CREATED FROM A LANDSCAPE ARCHITECT WITH OVER 10 YEARS OF INDUSTRY EXPERIENCE ON PROJECTS OF THIS CALIBER.
- C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because:
THE DESIGN WILL NOT BE ABLE TO BE INSTALLED AS DESIRED PER HOMEOWNER'S ORIGINAL PLAN. THE PROJECT WILL BE DELAYED AND REDESIGNED, TAKING AWAY FROM THE AESTHETIC APPEAL, FLOW, FORM, & FUNCTION. THE CURRENT TOPOGRAPHY OF THE JOBSITE COULD CAUSE FOR THE NEED OF UGLY BARRIERS FOR SAFETY AND STRUCTURAL RETENTION, UNPLEASING TO NEIGHBORING PROPERTIES. ACCESS FOR CONSTRUCTION HAS CURRENTLY BEEN GRANTED AND APPROVED.



Westfield–Washington Township Board of Zoning Appeals

Minutes of the August 11, 2020 BZA Meeting

Presented for approval: September 15, 2020

The Westfield-Washington Township Board of Zoning Appeals (BZA) met at 7:00 p.m. on Tuesday, August 11, 2020 online via Skype.

OPENING OF MEETING: 7:00 PM

ROLL CALL

Members Present: Jeannine Fortier, Victor McCarty, and Dave Schmitz.

Members Absent: Ken Kingshill.

City staff present: Kevin Todd, Director; Daine Crabtree, Associate Planner; Caleb Ernest, Associate Planner; Jonathan Dorsey, Associate Planner; Corey Harris, Associate Planner; and Brian Zaiger, City Attorney.

APPROVAL OF MINUTES

June 9, 2020 BZA Minutes & July 14, 2020 BZA Minutes

Fortier motioned to approve the June 9, 2020 Minutes.

McCarty seconded. Motion passed. Vote 3-0

PRO-TEMPORE REPLACEMENT

Member Resigned: Martin Raines.

Discussion about a pro-tempore replacement for Raines was deferred.

REVIEW RULES AND PROCEDURES

Crabtree reviewed BZA rules and procedures.

ITEMS OF BUSINESS:

2007-VS-15

[PUBLIC HEARING]

17827 Commerce Drive

JCF Commerce, LLC

The Petitioner requests to amend a condition of 97-V-7 to permit a 14th Lot within the Alpha Tau Business Park and for Variances of Development Standard to reduce the minimum Lot Frontage for two (2) lots from 70 to 66.9 feet and from 70 feet to 46.37 feet in the EI: Enclosed Industrial Business District (Article 4.24(D)).

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

Crabtree overviewed the history of this parcel and this current request for a Variance of Development Standard. He said no public comments had been received by Staff.

The Petitioner, JR Freiburger, stated that the tenant currently located this parcel would like to own the property.

Public Hearing for 2007-VS-15 opened at 7:09 p.m.

No public comments.

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

Public Hearing for 2007-VS-15 closed at 7:10 p.m.

Schmitz asked if the tenant would be building the new building.

The Petitioner, JR Freiburger responded that his company, JRF construction, would build the new building then convey it to the tenant and back lease the existing building

Schmitz said he thought that this request was reasonable and the Staff's findings are appropriate.

McCarty motioned to approve 2007-VS-15 with the following staff conditions:

Schmitz seconded. Motion passed. Vote 3-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2007-VS-15.

Fortier seconded. Motion passed. Vote 3-0.

2008-VS-17
[PUBLIC HEARING]

20451 Chatham Hills Boulevard

Christopher Bartlow

The Petitioner requests a Variance of Development Standard to encroach four (4) feet into the twenty-five (25) foot Minimum Rear Yard Setback on 0.35 acres +/- in the Chatham Hills Planned Unit Development (PUD) District.

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

Harris overviewed this request for a Variance of Development Standard. He said that the Westfield Public Works Department had reviewed and approved the encroachment associated with this request. He said no public comments had been received by Staff.

Chris Bartlow, the Petitioner, said that the project was given support by the Chatham Hills Architectural Standards Committee.

Public Hearing for 2008-VS-17 opened at 7:14 p.m.

No public comments.

Public Hearing for 2008-VS-17 closed at 7:16 p.m.

Schmitz said he thought that this request did not seem objectional given the size of the encroachment and that it backs up to a pond.

Fortier and McCarty both agreed with Schmitz and added that it looked like a good project.

Schmitz motioned to approve 2008-VS-17.

Fortier seconded. Motion passed. Vote 3-0.

2008-VS-18
[PUBLIC HEARING]

3511 West 166th Street

Citizens Energy Group

The Petitioner requests to reduce the Minimum Lot Frontage standard from two hundred and fifty (250) feet to fifty (50) feet in the AG-SF1: Agriculture / Single-family Rural District (Article 4.2(D)).

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

Ernest overviewed this request to reduce the Minimum Lot Frontage standard. He said no public comments had been received by Staff.

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

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

Tyler Comstock of American Structurepoint, on behalf of the Petitioner, summarized these plans and Citizens effort to bring everything up to code.

Public Hearing for 2008-VS-18 opened at 7:20 p.m.

No public comments.

Public Hearing for 2008-VS-18 closed at 7:21 p.m.

Schmitz asked if this request was the result of an enforcement case.

Ernest responded no, that the submittal of a development plan caused the site to lose its legal nonconforming status.

McCarty motioned to approve 2008-VS-18.

Fortier seconded. Motion passed. Vote 3-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2008-VS-18.

Fortier seconded. Motion passed. Vote 3-0.

2008-VU-04

[PUBLIC HEARING]

18326 & 18342 Spring Mill Road

Noah Herron

The Petitioner requests a Variance of Use to permit a wine processing (including but not necessarily limited to harvesting, fermentation, aging, and bottling) use on 35.0 acres +/- in the AG-SF1: Agricultural / Single-Family Rural District (Article 13).

(Planner: Jonathan Dorsey – jdorsey@westfield.in.gov)

Dorsey overviewed this request for a Variance of Use. He said one public comment had been received by Staff and emailed to the Board.

Matt Pleasant, with Pleasant Cities LLC, on behalf of the Petitioner, gave a presentation outlining aspects related to this request for a Variance of Use. He addresses future development in the area of this proposed project. He referenced the now withdrawn Hoosier Hills PUD, once contemplated for this area, and he added that now the Petitioner is only requesting the wine processing use.

Public Hearing for 2008-VU-04 opened at 7:33 p.m.

One comment email was sent to the board

Kathy with Concerned Citizens of Westfield: "We as citizens of Westfield have become aware that Noah Herron is trying to re-zone a horse farm property on Spring Mill Road.

He has told numerous people that he plans to do a "bait and switch" to basically try to get it zoned as a production facility with a loophole for his real intention of turning it into an Agritourism/campground.

As residents of Westfield in close proximity to this location I would like to request that the board look extra harshly upon this zoning request especially given the shady nature of the individual requesting it.

His original project Urban Vines is an eyesore on beautiful growing city of Westfield and it's basically a gravel parking lot with no landscaping and a pole barn with not enough parking so people are overflowing into the church parking lot etc.

We can't imagine that this new project is going to be done any better and do we really need another place for Parents to drink and party with their kids on site?

By the time Mr. Herron is done with this place it's going to look like a KOA campground Which does nothing for the city of Westfield.

Please proceed with caution and extra care when considering the zoning request."

Public Hearing for 2008-VU-04 closed at 7:36 p.m.

Noah Herron, the Petitioner, responded that if he wanted to do more than asked for in this request then he would need to go back to BZA or Council with a new request.

Schmitz asked about local tours.

The Petitioner responded that there are no plans for public tours of the facility.

Fortier asked about number of employees and if semi-trucks would be used.

Petitioner replies:

- There would be five employees with parking available for 15 cars.
- Semi-trucks would sometimes make deliveries.
- He said he thought that this would result in an overall reduction in traffic due to the of the number of horses on site with different owners.
- Pleasant responded that Spring Mill Road is contemplated as a primary arterial.

McCarty said that he liked this request better than the previous proposal. He said he had some concerns related to semi-truck traffic.

Schmitz said he also liked this proposal better than the previous one and was comfortable with the request as presented.

Fortier motioned to approve 2008-VU-04.

McCarty seconded. Motion passed. Vote 3-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2008-VU-04.

Fortier seconded. Motion passed. Vote 3-0.

2008-VU-05
2008-VS-19
[PUBLIC HEARING]

518 E. Main Street

Westfield Imports, LLC

The Petitioner requests an extension of a previously approved Variance of Use to permit pre-owned automobile sales, as well as a Variance of Development Standard to remove the masonry requirement for an existing Monument Sign in the SF-3: Single-Family Medium Density District (Article 13.2 & 6.17(F)(11)(a)).
(Planner: Pam Howard – phoward@westfield.in.gov)

Howard overviewed this request for an extension of a previously approved Variance of Use. She a letter of support had been received from the Grand Junction Task Group. She no public comments had been received by Staff.

Doug Goins, the Petitioner, gave a history of his ownership of this property. He said there are new partners in the current business that wish to improve and enhance the property.

Public Hearing for 2008-VU-05 & 2008-VS-19 opened at 8:16 p.m.

No public comments.

Public Hearing for 2008-VU-05 & 2008-VS-19 closed at 8:17 p.m.

Schmitz asked if there had been any code enforcement complaints received on the property.

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

Howard replied no code enforcement complaints have been received.

Schmitz said the request surrounding the sign makes sense given the temporary nature of the use variance. He said he thought the proposed change to the business was desirable.

Fortier asked about the expiration date of the Variance.

Howard replied that the date would be September 1, 2023.

Schmitz motioned to approve 2008-VU-05 with the following staff conditions:

- That approval of this variance shall expire on September 1, 2023. Any request to extend the time limit of this variance shall be reviewed and approved by the Board of Zoning Appeals prior to September 1, 2023.
- That conditions 2-11 of the Original Variance, as outlined in Exhibit 5, shall still apply.

McCarty seconded. Motion passed. Vote 3-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2008-VU-05.

Fortier seconded. Motion passed. Vote 3-0.

McCarty motioned to approve 2008-VS-19 with the following staff condition:

- The variance applies only to the existing Sign structure, shown in the Current Site Conditions Exhibit (Exhibit 3). If this Sign is removed for more than 30 days, then it shall be replaced with a sign the meets the UDO requirements at the time it is replaced.

Fortier seconded. Motion passed. Vote 3-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2008-VS-19.

Fortier seconded. Motion passed. Vote 3-0.

ITEMS CONTINUED TO A FUTURE MEETING

No continued items.

REPORTS/COMMENTS:

- Plan Commission Liaison
- Community Development Department

ADJOURNMENT

Schmitz motioned to adjourn the meeting.

Fortier seconded. Motion passed. Vote 3-0.

The meeting adjourned at 8:02 p.m.

Chairperson
Dave Schmitz

Secretary
Kevin M. Todd, AICP
Director



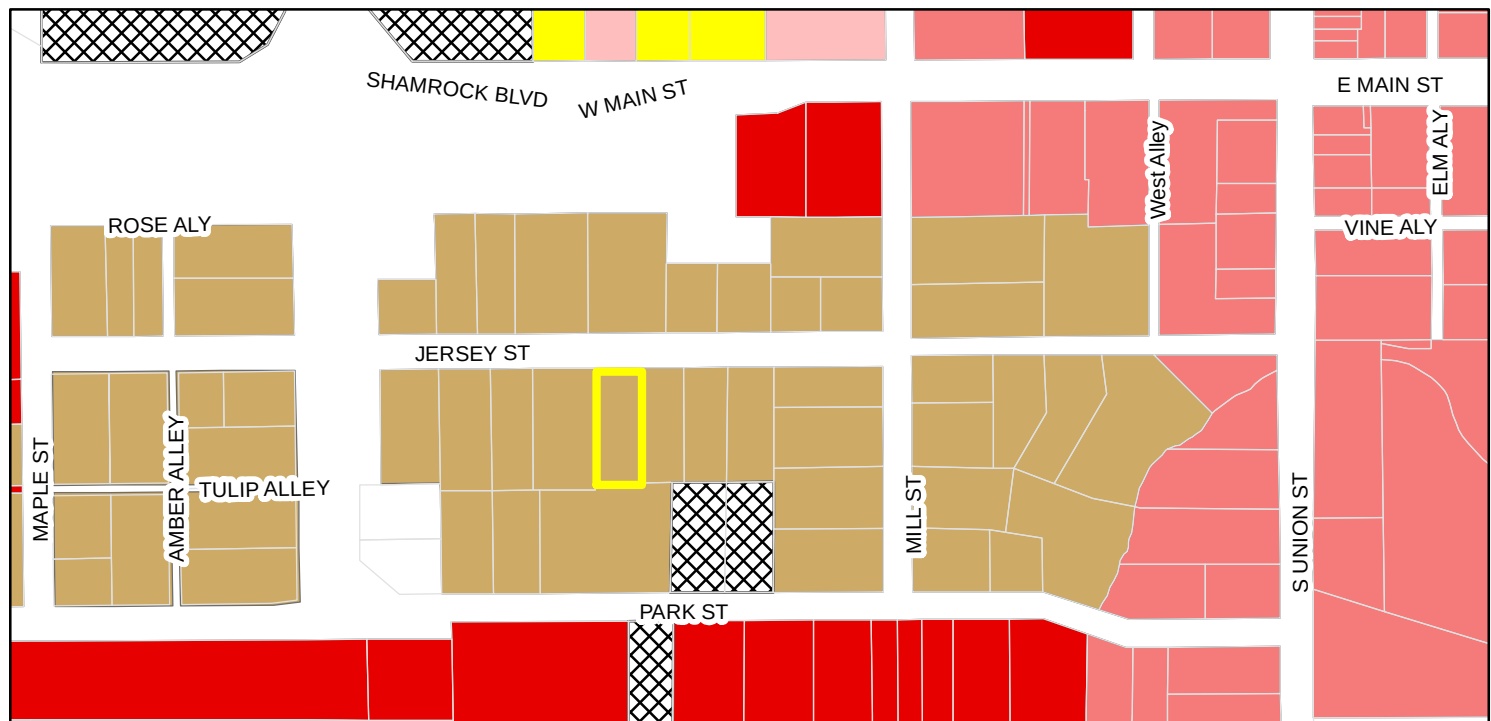
Property Location Map
223 Jersey Street
2009-VU-06



Aerial Location Map



Zoning Map



Zoning

- | | |
|------------------------------------|--------------------------------|
| GB (General Business) | MF-1 (Multiple Family - 1) |
| LB (Local Business) | PUD (Planned Unit Development) |
| LB-H (Local Business - Historical) | SF-3 (Single Family - 3) |



July 27, 2020

Re: STATEMENT OF INTENT - 223 Jersey Street, Westfield, IN 46074

Dear Westfield Community Development and Board of Zoning Appeals:

The purpose of this letter is to provide a statement of intent as part of the variance application for 223 Jersey Street.

Personal Introduction:

We are Kate and Josh Kneifel. We recently celebrated our 20th anniversary and are very proud parents of two children; Elizabeth (17) and Kai (15). Elizabeth is starting her senior year, and Kai is starting his freshman year at Carmel High School.

Kate is a former elementary teacher. She started her career in education, spending most of her teaching career here in Westfield teaching 1st and 2nd grade at Oak Trace Elementary under Robin Lynch before transitioning into counseling. Kate spent several years working as a school social worker in elementary, middle and high schools, working with students and families to provide mental health support and connect families to necessary community services.

In 2018, Kate opened her own private practice, *Kneifel Counseling*, in Carmel. She specializes in the treatment of anxiety, depression and trauma. She is also an EMDR certified trauma therapist. Kate has partnered with Carmel High school and Westfield Washington schools to provide services and has been asked to present on topics including: stress management, grief and loss, emotional regulation, and how to help students cope with academic pressures.

While she loves being in private practice, Kate misses the close community connections she had during her time working in the schools, both as a teacher and then a school social worker. Relocating her practice to the Grand Junction area will provide a great opportunity to connect with the Westfield community on many levels.

Josh has over 20 years of commercial aviation and business experience. As a FAA licensed Commercial Pilot and Certified Flight Instructor, he has held operational, sales and management roles with industry leading Fortune 500 organizations, including Continental Airlines, Cessna Aircraft Company and Rolls-Royce Corporation. Josh currently works as a Sales Executive with PlaneSense, a fractional aircraft ownership program. He also works as an independent Business Broker with Indiana Equity Brokers, helping small business owners sell their business and entrepreneurs purchase businesses.

Vision and Goals:

Our vision for 223 Jersey St. as a general professional office space is three fold. First, we have detailed plans to update and renovate the main house in order to create 3 office spaces for counselors and/or related wellness professionals to work with clients. Some of the primary renovations include improved curb appeal, on-wall business signage, new paint, new windows, updated & improved landscaping, tree trimming, new flooring, trimwork, doors and interior paint, recessed lighting throughout, new kitchen, new bath, updated rear deck and more.

Second, in addition to professional office space in the main building, we plan to convert the three car garage into a larger gathering space to hold workshops, guest speakers and host community events for individuals, Westfield organizations and businesses. Mental health and personal wellness stretches well beyond individual counseling. Loneliness and a sense of disconnection from our communities is one of the most detrimental factors at play in our modern day lives. We want to create a space that offers community members a number of ways to connect and grow with others. As a signal of that collaborative spirit, the business name will change from *Kneifel Counseling* to *Yellow Key Collaborative*.

Third, we fully intend to contribute to the community of Westfield as active community members in its development, but also the health and well-being of the town. In addition to being involved and vested in mental health initiatives within Westfield, we would be proud to be part of the Grand Junction Task Force as property owners in the area.

Fit With Grand Junction and Westfield:

We believe the opportunity presented by 223 Jersey St. is a perfect fit with the professional vision for *Kneifel Counseling / Yellow Key Collaborative*, and also aligns with the family and community centric values of Westfield. As it states on the Grand Junction District website, *"Every community needs a heart, a place where people can connect. The Grand Junction District is that place for downtown Westfield."*

Our collaborative mental health and wellness services align with the goal of providing a place where people can connect, and will help strengthen the Grand Junction area and Westfield community as a whole. Additionally, our requested use of the property aligns with the Grand Junction Addendum (Sub-Districts of the Grand Junction), resolution 16-106, as stated on page 23 under *Land Uses* - *"Professional, medical, or general office uses (including a visitor's center) are desirable throughout the sub-district and are primarily anticipated along Main Street, Poplar Street and Jersey Street within mixed-use or multi-tenant buildings."*

We greatly appreciate your consideration and would be proud to be a part of your community. We will look forward to hearing from you and working with you further.

Sincerely,

The image shows two handwritten signatures in black ink. The signature on the left is 'Kate Kneifel' and the signature on the right is 'Josh Kneifel'. Both are written in a cursive, flowing style.

Kate & Josh Kneifel
Kneifel Counseling / Yellow Key Collaborative

Pamela Howard

From: Teresa Skelton <teresa.otis.skelton@gmail.com>
Sent: Wednesday, July 22, 2020 10:15 AM
To: Pamela Howard; Kevin M. Todd, AICP
Cc: Teresa Skelton; Josh Kneifel
Subject: 223 Jersey Street

Warning: This external email is from teresa.otis.skelton@gmail.com. Do not click on unexpected or untrusted links and attachments.

The Grand Junction Task Group (GJTG) met via email July 16, 2020. Replies and opinions were due July 21, 2020.

There were 13 replies out of 15 sent. All were in support of the quality of the use presented. The concerns were as follows:

- (4) were in support as long as parking was addressed.
- (3) is this the appropriate use for that area as put forth in the plan.
- (6) in support with no issues

The group supports the integrity of the proposal but questions the under utilization intended for that area as referenced in the Grand Junction District plan.

Thank you!
Grand Junction Task Group
Submitted by Teresa Otis Skelton, DWA, GJTG

Sent from my iPhone



Petition Number: 2009-VU-06

Subject Site Address: 223 Jersey Street (the "Property")

Petitioner: Josh and Katie Kneifel (the "Petitioner")

Request: The Petitioner is requesting 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.).

Current Zoning: MF1: Multi-Family Low Density

Current Land Use: Residential

Approximate Acreage: 0.24 acres+/-

Exhibits:

1. Staff Report
2. Location Map
3. Survey with Proposed Parking
4. Statement of Intent
5. Grand Junction Task Group Letter

Staff Reviewer: Pam Howard, Senior Planner

PROPERTY INFORMATION

The subject property is 0.24 acres +/- in size and is located at 223 Jersey Street (the "Property") (see **Exhibit 2**). The Property is zoned MF1: Multi-Family Low Density.

VARIANCE REQUEST

The Petitioner is requesting a variance of use to allow a Professional Office (Counseling) Use, at 223 Jersey Street, currently zoned MF-1: Multi-Family Low Density. The use classification "Professional Office"¹ is not a permitted use within the MF-1 District.

¹ Chapter 12 of the UDO defines "Office, Professional" as "[a]n office used by members of a recognized profession such as accountants, architects, artists, Art Studio, engineers, lawyers, musicians, physicians, surgeons, pharmacists, and real estate or insurance agents and brokers."



COMPREHENSIVE PLAN

The Property is located within an area that is identified in the Grand Junction Addendum (the "Addendum"), an addition to the Westfield-Washington Township Comprehensive Plan, as the Grand Junction Plaza Block (the "Sub-Area") of the Grand Junction Sub-District.

The Addendum states that the Sub-Area should, "have a more urban form than the village or old town form of other sub-areas". The Addendum also states that land uses within the Sub-Area, "are encouraged to be a mix of uses typically associated with central business and entertainment districts and that residential uses should be restricted from the first floor within the sub-area."

The area immediately surrounding the Property is either being redeveloped or contemplated for redevelopment in the future in accordance with the Comprehensive Plan and its subsequent amendments for Downtown Westfield such as the Grand Junction Plaza. As a result of these economic development opportunities, there is an emerging desire for transitional businesses in the downtown area that contribute to further activity and liveliness. Nearby properties (203 Jersey Street, 227 Jersey Street, 337 Jersey Street, and 201 Mill Street) were granted variances at previous Board of Zoning Appeals (BZA) meetings, allowing a plant shop, arts center, coffee shop, and a health and wellness business all in former residences.

This proposal has been reviewed by the Grand Junction Task Group and has received their support (see **Exhibit 5**).

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Use and Variance of Development Standard. This petition is scheduled to receive 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.

Conditions: The UDO² 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.

² Article 10.14(l) Processes and Permits; Variances; Conditions of the UDO.



Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO³ 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 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:

The area immediately surrounding the Property is either being redeveloped or contemplated for redevelopment in the future in accordance with the Comprehensive Plan and its subsequent amendments for Downtown Westfield such as the Grand Junction Plaza. As a result of these economic development opportunities, there is an emerging desire for transitional businesses in the downtown area that contribute to further activity and liveliness.

Recommended Conditions for Approval:

1. That the approval be limited to a counseling business, as described in the Statement of Intent (see **Exhibit 4**); and

³ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.

2. That approval of this variance shall expire on December 31, 2024. 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].

Recommended Findings:

- 1) *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: It is unlikely that allowing a business defined as ‘Professional Office’ to locate on the Property will be injurious to the public health, safety, morals, and general welfare of the community because the request is consistent with the uses contemplated in the City’s Comprehensive Plan. The Grand Junction Task Group has stated this proposal is a good use within the Grand Junction Plaza area.

- 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 as the proposed use will be utilizing only those improvements currently existing on the property which is consistent with the character of the surrounding area. Economic redevelopment activity is anticipated within the proximity of the Property, including the Grand Junction Plaza, that will include more commercial operations.

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

Finding: The use of Professional Office is not permitted within the MF-1: Multi-Family Low Density District. The Comprehensive Plan and subsequent Comprehensive Plan Addendums have identified an emerging economic development opportunity in downtown. As this redevelopment will occur overtime, the transitional period warrants the adaptive reuse of existing structures to promote downtown as a destination and lively center to the community.

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

Finding: The use of Professional Office is not permitted within the MF-1: Multi-Family Low Density District. Strict adherence to the Zoning Ordinance would allow for arguably more intense uses (nursing home, assisted living facilities); however, would not permit less intense, Professional Office uses.

- 5) *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 “Downtown”. The Comprehensive Plan recommends that land uses in the Downtown area include commercial, offices, and retail as



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

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2009-VU-06

Exhibit 1

well as residential. The use of the Property as Professional Office, specifically a counseling business would not interfere with the Comprehensive Plan.

Denial: If the Board is inclined to reject or deny the Variance of Use, then the Department recommends denying the Variance of Use, 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.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

September 15, 2020
2009-VS-24
Exhibit 1

Petition Number: 2009-VS-24

Subject Site Address: 15742 Capital Spending Road (the "Property")

Petitioner: Ryan and Amanda O'Neil (the "Petitioner")

Request: The Petitioner requests a Variance of Development Standard to encroach eight (8') feet and eight (8") inches into the twenty-five (25) foot Minimum Rear Yard Setback on 0.24 acres +/- in Parcel A of the Viking Meadows PUD District (PUD Ordinance 04-22, Section 8.1, Exhibit 14).

Current Zoning: [Parcel A of the Viking Meadows PUD District \(Ord. 04-22\)](#)

Current Land Use: Residential

Approximate Acreage: 0.24 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 0.24 acres +/- in size and located at 15742 Capital Spending Road (see **Exhibit 2**). The Property is zoned in Parcel A of the Viking Meadows PUD District. The Property currently contains a Single-family residence. All surrounding properties are also zoned in the Parcel A of the Viking Meadows PUD District.

Property History: The Secondary Plat the Meadowlands at Viking Meadows, Section 3, was recorded August 17, 2012 (Instrument No. 2012048851).

Variance Request: The Petitioner is requesting a Variance of Development Standard to build a pool that encroaches into 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
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Exhibit 1

SUMMARY OF VARIANCES

The Petitioner is requesting to encroach eight (8') feet and eight (8") inches into the twenty-five (25') foot 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 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.

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 PUD Ordinance 04-22, Section 8.1, Exhibit 14: Rear Yard Minimum Building Setback Line for in Parcel A is 25'.

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
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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
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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.