



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_08_11_2020

Tuesday, August 11, 2020 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, August 11, 2020 at 07:00 PM

MEETING PLACE:

ONLINE VIA SKYPE

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

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

OPENING OF REGULAR MEETING

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

Note the presence of a quorum

Minutes - June 9, 2020 & July 14, 2020

Documents: [BZA Minutes - June 9, 2020](#) | [BZA Minutes - July 14, 2020](#)

Pro-Tempore Replacement for M. Raines Discussion

Review Rules & 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)

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

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)

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

2008-VS-18 [PUBLIC HEARING]

3511 West 166th Street

Citizens Energy Group

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)

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

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)

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

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 - poward@westfield.in.gov)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Current Site Conditions](#) | [Exhibit 4: Landscaped Site Plan](#) | [Exhibit 5: Recorded Acknowledgment of Variance 1601-VU-02](#) | [Exhibit 6: Acknowledgement of Variance 1902-VU-02](#) | [Exhibit 7: Petitioner's Application](#)

ITEMS CONTINUED TO A FUTURE MEETING:

None

REPORTS/COMMENTS:

ADJOURNMENT



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 11, 2020
2008-VS-17
Exhibit 1

Petition Number: 2008-VS-17

Subject Site Address: 20451 Chatham Hills Blvd. (the "Property")

Petitioner: Christopher Bartlow (the "Petitioner")

Request: 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.

Current Zoning: Chatham Hills PUD District

Current Land Use: Residential

Approximate Acreage: 0.35 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 0.35 acres +/- in size and located at 20451 Chatham Hills Blvd. (see **Exhibit 2**). The Property is zoned the Chatham Hills PUD District. The Property currently contains a Single-family residence. All surrounding properties are also zoned Chatham Hills PUD District.

Property History: The Secondary Plat for Chatham Hills, Section 2A, was recorded January 21, 2016 (Instrument No. 2016002641).

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

SUMMARY OF VARIANCES

As depicted in the Site Plan (See **Exhibit 3**), the Petitioner is requesting to encroach four (4') feet into the platted Rear Yard Building Setback Line², which is three (3'6") feet six inches into the Rear Yard Building Setback Line as listed in Ordinance 13-24. This will result in the pool sitting twenty-one (21'6") feet six inches from the Property Line. The Landscape Plan (See **Exhibit 4**) shows proposed Landscaping in the ten (10') 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 "New Suburban" 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 August 11, 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

² Chatham Hills, Section 2A, Secondary Plat establishes the Property's Rear Yard Building Setback Line at twenty-five feet, six inches (25'6").

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.

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(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.

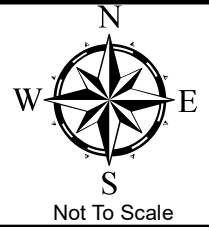
3. **The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.**

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 and the proposed improvements would otherwise comply with the applicable ordinances.

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



Property Location Map
20451 Chatham Hills Blvd.
Bartlow Variance
2008-VS-17



Aerial Location Map



Zoning Map



Parcel

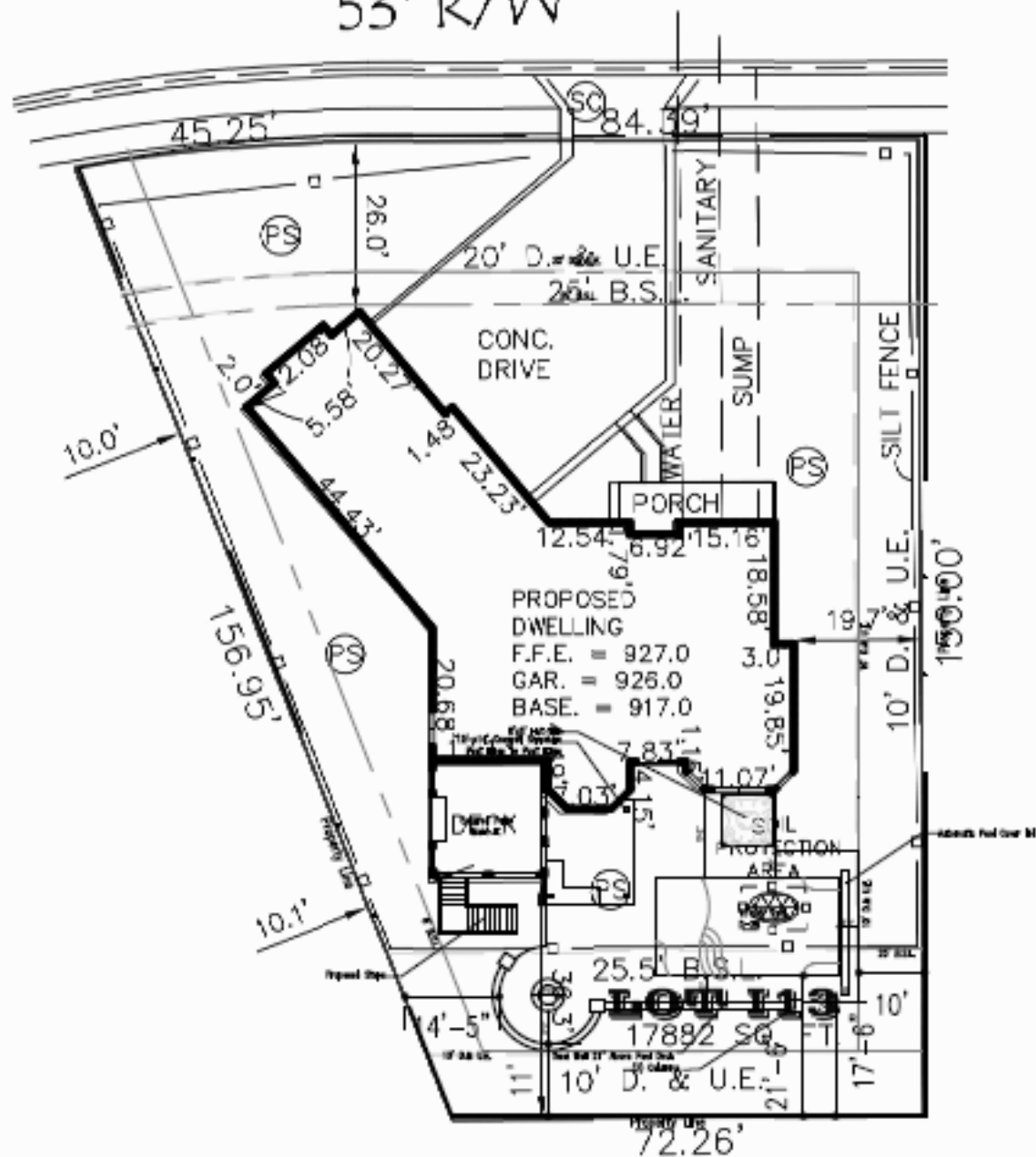
Zoning - All

AG-SF1 (Agriculture - Single Family - 1)

PUD (Planned Unit Development)

SF-5 (Single Family - 5)

CHATHAM HILLS BOULEVARD
53' R/W



Legend:

SYM	QTY	Description	Use
◆	6	Low Voltage LED	Pathway Light
▼	1	Low Voltage LED	Accent Light
—	6	Low Voltage LED	Underscap Light

Site Plan Details:

- Pool:** 15x20' Pool D-20
- Hot Tub:** 8'x20' Hot Tub
- Patio:** 12' x 14' Covered Structure Post Edge To Post Edge
- Other Features:** Fridge, Covered Patio Main Fl., Enclouse Under Deck Stairs Proposed Steps, Seat Wall 21" Above Pool Deck (5) Columns
- Dimensions:** 10' D. & U.E., 25' B.S.L., 10' D. & U.E., 10' D. & U.E.
- Property Line:** Indicated by a dashed line.

VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: 2008-VS-17 FILING DATE: 7/2/20
FILING FEE: \$ FEE PLUS \$ PER ADDITIONAL VARIANCE (@)= \$

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Corey Harris (STAFF NAME) DATE: 6/12/2020

PRIOR OR RELATED DOCKET NUMBERS

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

APPLICANT INFORMATION

APPLICANT'S NAME: Christopher Bartlow TELEPHONE: 812-243-4409
ADDRESS: 20451 Chatham Hills Blvd., Westfield, IN 46074 EMAIL: chrisbartlow@gmail.com
PROPERTY OWNER'S NAME: Christopher & Denise Bartlow TELEPHONE: 812-243-4409
ADDRESS: 20451 Chatham Hills Blvd., Westfield, IN 46074 EMAIL: chrisbartlow@gmail.com
REPRESENTATIVE'S NAME: Tyler Hermon TELEPHONE: 317-496-0549
COMPANY: Pools of Fun EMAIL: THermon@poolsoffun.com
ADDRESS: 3891 Clarks Creek Road, Plainfield, IN 46168

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 20451 Chatham Hills Blvd., Westfield, IN 46074
COUNTY PARCEL ID #(S): 08-05-23-00-02-083.000
EXISTING ZONING DISTRICT(S): Chatham Hills 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):
requesting a variance of standard to encroach into the rear yard setback by four (4) feet to accomodate an in-ground swimming pool

APPLICANT AFFIDAVIT

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

[Signature]
Applicant/Representative (signature)

CHRISTOPHER BARTOW
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 1 day of July, 2020
State of IN, County of Hamilton, SS: _____

[Signature]
Notary Public (signature)

Hannah Nix
Notary Public (printed)

HANNAH MARIE NIX
Notary Public - Seal
Marion County - State of Indiana
Commission Number 713249
My Commission Expires May 7, 2026

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)*

CHRISTOPHER BARTOW
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 1 day of July, 2020
State of IN, County of Hamilton, SS: _____

[Signature]
Notary Public (signature)

Hannah Nix
Notary Public (printed)

HANNAH MARIE NIX
Notary Public - Seal
Marion County - State of Indiana
Commission Number 713249
My Commission Expires May 7, 2026

*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: Christopher Bartlow

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:

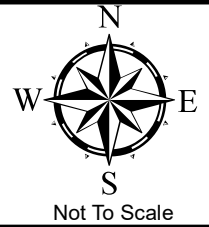
A. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because: _____
the existing use and proposed improvements will otherwise comply with the applicable standards of the Chatham Hills PUD. The pool will
have a mechanically operated cover that cannot be drawn open or retracted without the use of a key and/or switch or a touch
pad with a personal access code.

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 proposed variance does not change the primary use of the property and therefore will not affect the use and value of any adjacent
properties

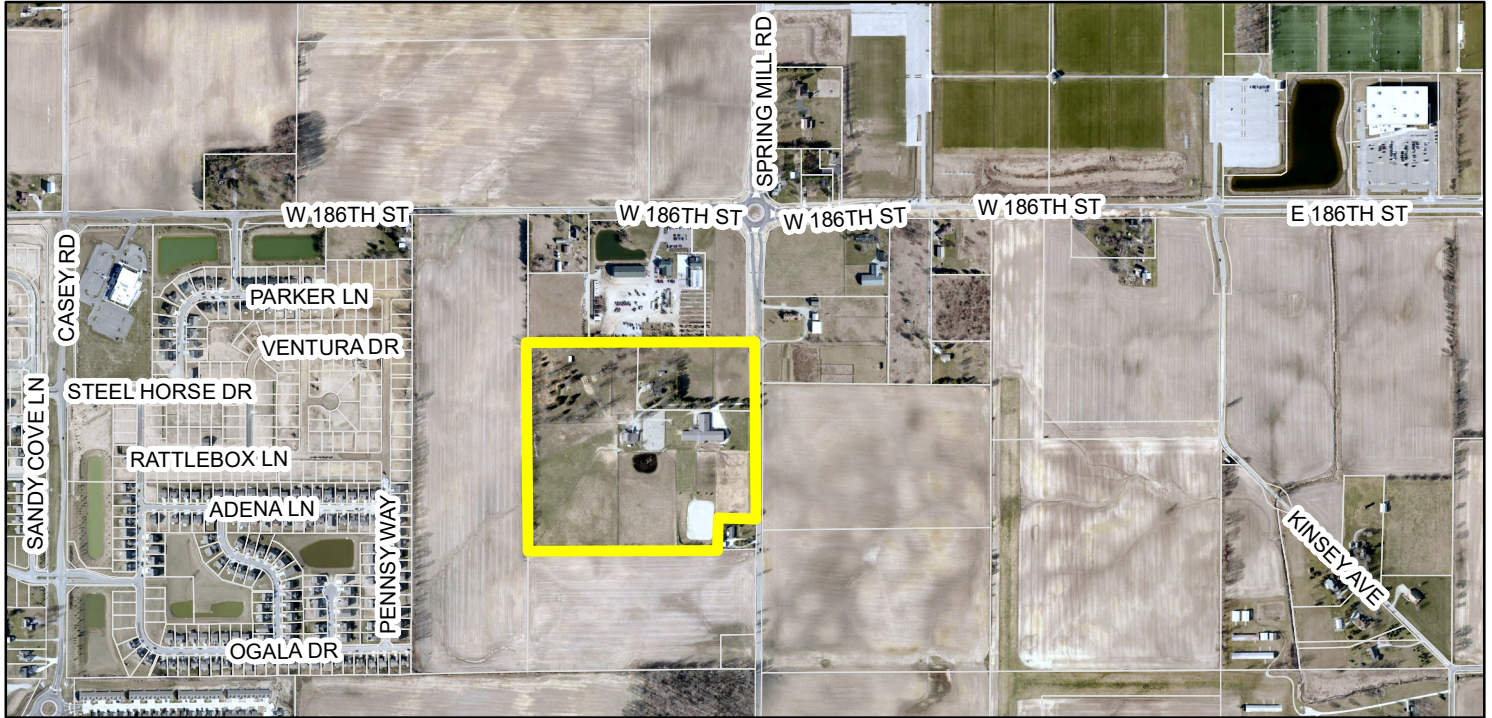
C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: _____
this would result in the inability to improve the property as proposed and would result in the construction of a swimming pool and patio that would not meet
the residents' needs.



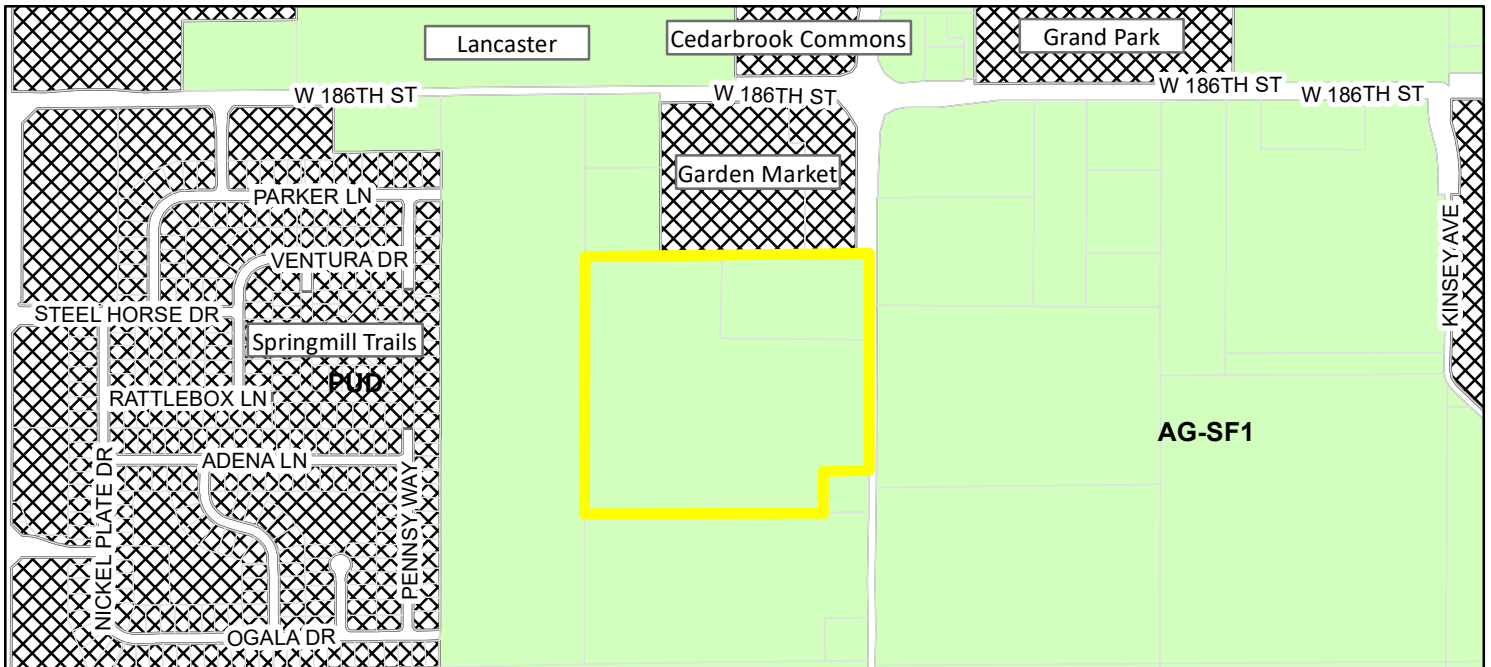
Property Location Map
18326 Springmill Road
Variance of Use
2008-VU-04



Aerial Location Map



Zoning Map



- Parcel **Zoning**
- Zoning - All**
- AG-SF1 (Agriculture - Single Family - 1)
 - PUD (Planned Unit Development)

SITEPLAN

18326 Springmill Rd, Westfield, IN 46074



All buildings shown already exist except the white building. This shows a future glass greenhouse location. Farm land shows possible layout for vineyards and orchards.



Warehouse
Seed Storage
(Pallet Shelves)
4,320 sq.ft.

Utilities

Bathroom

Lunchroom

Seed Processing Room
27'x60'

Storage Room
12'x40'

Offices
20x30'

Storage Area
10x40'

5,700 sq.ft.

Floor Storage

Wine Bottler
12'x4'

Bottling Area

Grape & Wine Processing
Storage Tanks, Bottling, Filtering, Storage
(Pallet Shelves)
8,712 sq.ft.

Bottle Storage

Equip.
Room

Pumps
Room

Filter
Room

Lab & Storage
13x18'

Stairs

Receiving
32'x18'

6085 gal 6085 gal 6085 gal

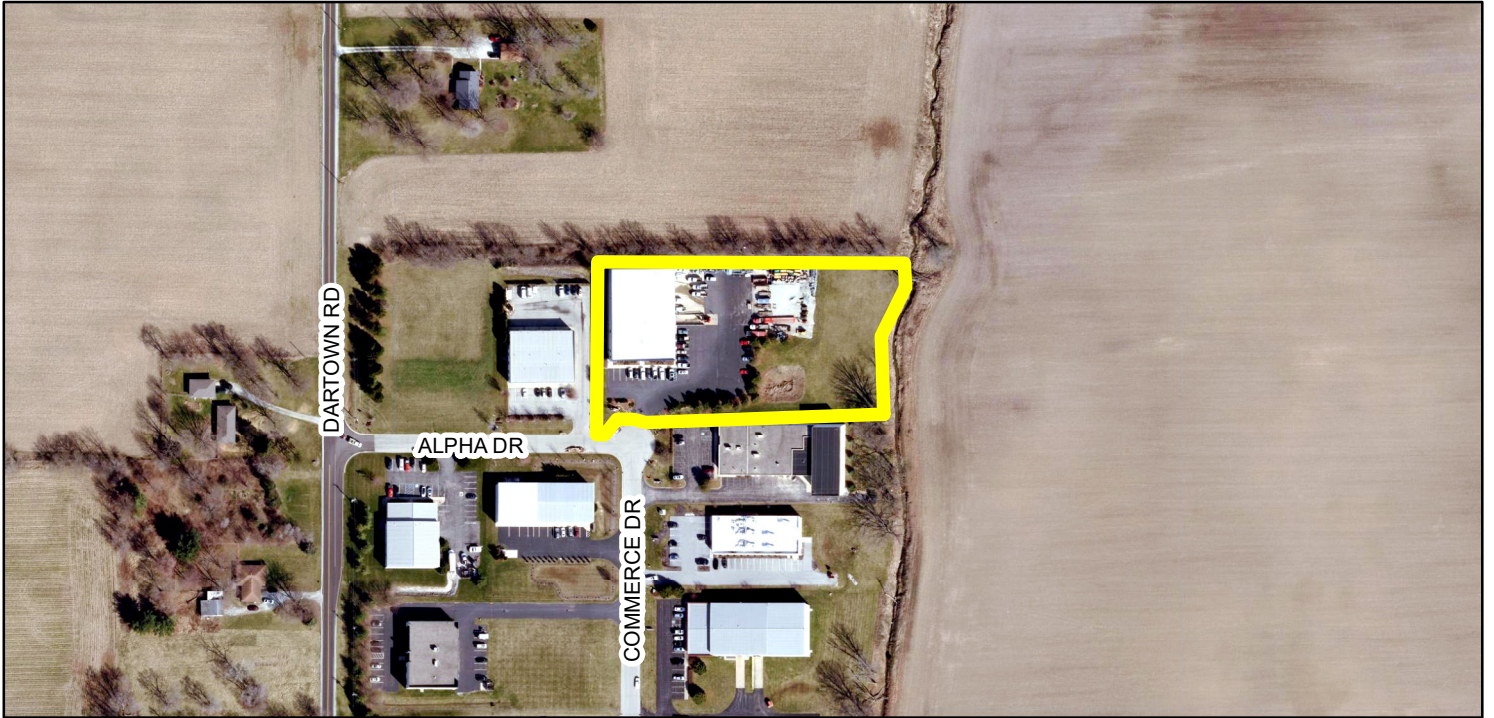
2200 gal 2200 gal 550 gal 550 gal 550 gal 550 gal

2200 gal 2200 gal 2200 gal 2200 gal 2200 gal

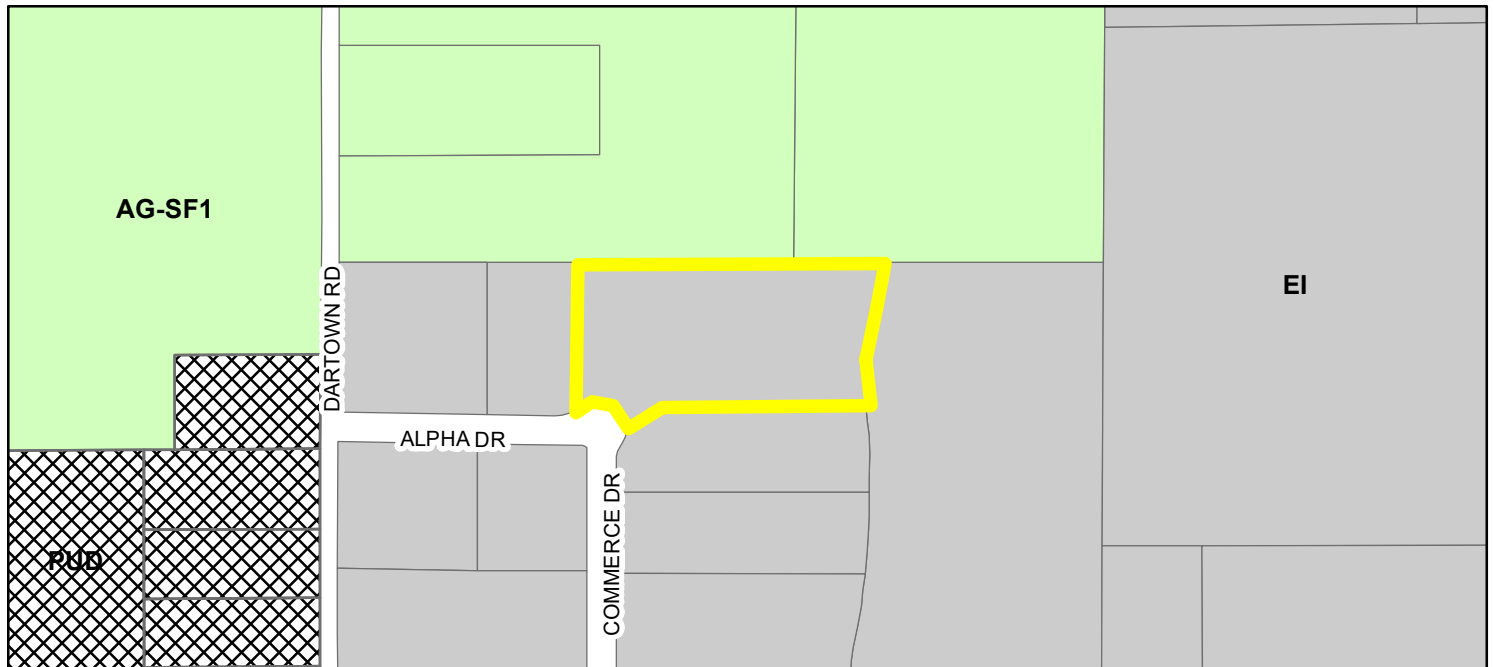
6085 gal 6085 gal 6085 gal 6085 gal

Aerial Location Map

 Site



Zoning Map



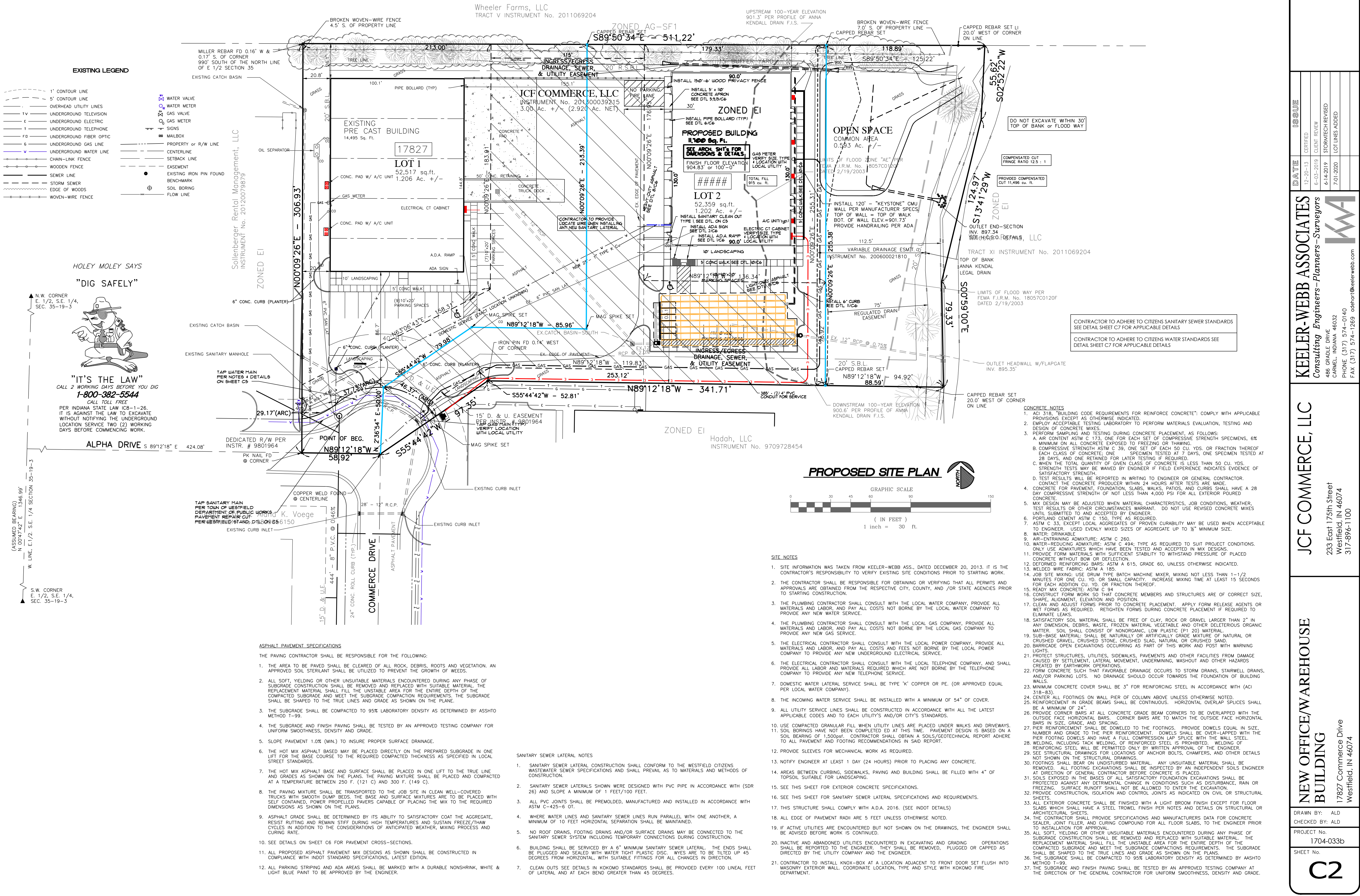
**Zoning - All
Zoning**

 AG-SF1 (Agriculture - Single Family - 1)

 EI (Enclosed Industrial)

 PUD (Planned Unit Development)







WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

August 11, 2020
2008-VU-05 & 2008-VS-19
Exhibit 1

Petition Number: 2008-VU-05 & 2008-VS-19

Subject Site Address: 518 E. Main Street (the “Property”)

Petitioner: Westfield Imports, LLC (the “Petitioner”)

Request: The petitioner is requesting an extension to 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)).

Current Zoning: SF3: Single-Family Medium Density District

Current Land Use: Commercial

Approximate Acreage: 0.57 acre +/-

Exhibits:

1. Staff Report
2. Location Map
3. Current Site Conditions
4. Landscaped Site Plan
5. Recorded Acknowledgement of Variance (1601-VU-02)
6. Acknowledgement of Variance (not recorded (1902-VU-02)
7. Petitioner’s Application

Staff Reviewer: Pam Howard, Senior Planner

OVERVIEW

Property Location: The subject property is approximately 0.57 acre +/- in size and is located at 518 East Main Street (see **Exhibit 2**). The Property is zoned SF3: Single-Family Medium Density District. The property is located at the eastern edge of Downtown Westfield. Adjacent properties to the north, south, east and west are used for residential purposes.

Property History: In 1998, the Board of Zoning Appeals (the “BZA”) approved a variance of use to allow a beauty salon on the Property (98-V-37). The Property was used as a beauty salon for approximately seventeen (17) years. On February 9, 2016 the BZA approved a Variance of Use to permit pre-owned automobile sales on the Property (the “Original Variance”) (see **Exhibit 5**). The Original Variance was approved with several conditions, one being an expiration date of March 1, 2019. On February 12, 2019 the BZA approved a three-year extension of the Original Variance (the “First Extension”) (see **Exhibit 6**).



The First Extension was approved with an expiration date of March 1, 2022, and also included the remainder of the conditions of the Original Variance.

Variance Request: The petitioner is requesting an extension to 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)).

SUMMARY OF VARIANCES

As described in the Statement of Intent (see Exhibit 7, page 5), the Petitioner intends to change the business model of the existing use. Because of this change, the Petitioner requests to renew the three-year variance at this time.

The Property is zoned SF3: Single-Family Medium Density. Vehicle sales are categorized as a Very High Intensity Retail¹ use in the Unified Development Ordinance. As such, the use is only permitted by Special Exception in the General Business and Industrial Districts².

The Original Variance and First Extension were approved with a three (3) year time limit. The Department would support an extension of no greater than three (3) years for the variance of use.

Additionally, the name of the business will be changing and the petitioner would like to utilize the existing Monument Sign³. Article 6.17(F)(11)(a) requires Monument Signs to incorporate a masonry base. This Sign⁴ was installed prior to the adoption of this standard making it a Legal Nonconforming⁵ Sign⁶.

¹ The UDO defines Retail, Very High Intensity as “[r]etail businesses that have a very high impact on neighboring properties, traffic generation, and public safety and that inherently operates in whole or part outdoors through sale, display or other general activities. Example businesses include, but are not limited to: vehicle and motorcycle sales (new or used), construction vehicle and trailer sales, farm equipment sales, farm implement sales and service, feed sales, heavy equipment sales, tool and light equipment rental, manufactured or mobile home sales, boat and trailer sales and service, travel trailer sales and rental, and semi tractor-trailer cleaning, service, rental, repair and sales.”

² Article 13.2 Use Table of the UDO.

³ The UDO defines Sign, Monument (or Ground) as “[a] Sign which is permanently fixed to the ground.”

⁴ The UDO defines Sign as [a]ny display or device placed on a property in any fashion which is designed, intended, or used to convey any identification, message or information other than an address number.”

⁵ Article 9.2(B) of the UDO states “[l]egal nonconforming is different than illegal nonconforming because a legal nonconforming property is caused by an amendment to this Ordinance, not as a result of a change to the property, that has resulted in the property no longer conforming to the policies and standards of the applicable Zoning District.”

⁶ The UDO defines Nonconforming Sign as “[a] Sign which does not conform to the regulations of this Ordinance, or any amendment thereto.”



Changing the Sign Copy⁷ is considered a major change to the Sign which would require the Sign to be brought into conformity.

Article 6.17(F)(11)(a) Sign Standards; General Sign Regulations; Monument Signs; Materials: Monument Signs shall incorporate a sign base consisting of Masonry Materials. Masonry Materials shall compliment the color and texture of materials used on the Front Building Façade of the Lot's Building(s).

Article 9.6(C) Nonconforming Standards; Nonconforming Signs: Legal Nonconforming Signs shall be permitted to remain until such time as: (i) a major change is made to the Sign; (ii) any new Sign is proposed for the property upon which the nonconforming Sign is located; or, (iii) the Sign is taken down for maintenance and repair and is down for longer than thirty (30) days. Major changes for purposes of this Section shall include replacement of the Sign Copy, changing the size, changing the height, adding lights, altering light intensity, and/or relocation. The replacement of individual tenant panels on a Nonresidential Center sign shall not constitute a major change.

If this variance is approved, then the Department recommends a condition that the approval only applies to the current sign structure, shown in the Current Site Conditions Exhibit (see **Exhibit 3**).

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this Property within the "Downtown"⁸ land use classification. The Downtown area was further studied in 2008 after the formation of the Grand Junction Task Group (the "GJTG"). The study resulted in an amendment to the Comprehensive Plan known as the Grand Junction Master Plan and Addendum, adopted in 2009, and then subsequently the adoption of the Grand Junction Implementation Plan (the "Implementation Plan"), an amendment to the Comprehensive Plan adopted in 2013 (collectively, the "Grand Junction Plan").

The Grand Junction Plan identifies a long term vision as well as land use and financial investment goals for the intermediate and short terms. The centerpiece of the Grand Junction Plan includes creating public gathering spaces with key public investments opportunities to include: Grand Junction Plaza (currently being designed), new civic facilities, extended trail system and street network, enhanced stormwater management, and signature gateway developments.

The studied land use component of the Grand Junction Plan identified several sub-districts. The Property is on the fringe of the Grand Junction planning area, but is located closest to the area identified as the "Junction Sub-District". The specific objectives for the Junction Sub-District, as prioritized in the Implementation Plan, include: (i) develop architectural and development standards; (ii) formalize a position

⁷ The UDO defines Sign Copy as [t]he wording, logos, symbols, emblems, or graphic content of a Sign."

⁸ Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (pg. 24).



with INDOT regarding the SR32 expansion through downtown; (iii) develop standards to address modifications to existing structures; (iv) develop Downtown Westfield Association review process; and (v) develop strategy for attracting/encouraging the following land uses: trail-oriented businesses (i.e. bike shop, coffee shop); dry cleaner; market; specialty shops; night-time gathering places; restaurants; offices⁹.

The Department, in coordination with the GJTG, is currently working on the prioritized objectives of the Implementation Plan; however, the specific objectives noted above for the Junction Sub-District are still in progress. As a result, the Department encouraged the Petitioner to contact the GJTG. The GJTG has provided a letter, which will be presented at the public hearing.

The Grand Junction Plan would not support auto sales in the downtown area as a long-term commercial use. However, it may be appropriate to consider differing short-term use of downtown properties on a case-by-case basis as the downtown area continues to redevelop and transition into the longer-range vision of the Grand Junction Plan.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of this petition. This petition is scheduled to receive its public hearing at the August 11, 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 UDO¹⁰ and Indiana Code § 36-7-4-918.4 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 UDO¹¹ 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

⁹ Grand Junction Implementation Plan, Chapter 6: Implementation Plan Objectives and Action Items (pg. 26).

¹⁰ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

¹¹ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variance of Use: The Board of Zoning Appeals shall approve or deny variances of land use from the terms of the UDO. A variance of land use 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 constitute an unnecessary hardship if applied to the property for which the variance is sought; and
5. The approval does not interfere substantially with the Comprehensive Plan.

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 petition, the Department recommends the following conditions and findings:

Recommended Conditions (Variance of Use):

1. 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.
2. That conditions 2-11 of the Original Variance, as outlined in **Exhibit 5**, shall still apply.

Recommended Condition (Variance of Development Standard):

1. 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.



Recommended Findings for APPROVAL (Variance of Use):

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 of use would be injurious to the public health, safety, morals, and general welfare of the community. The use and layout of the property are not proposed to change.

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 that the use and value of adjacent property will be affected in a substantially adverse manner. The recommended conditions of approval for the use of the property in this manor should mitigate any impact this proposed use may have on neighboring properties.

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

Finding: The existing condition and development of the Property does not lend itself to a traditional SF3 land use. The Property has been developed and used as a commercial property for approximately 22 years.

4. *The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.*

Finding: The existing condition and development of the Property does not lend itself to a traditional SF3 land use. The Property has been developed and used as a commercial property for approximately 22 years and reverting the property back to an SF3 land use would be challenging.

5. *The approval does not interfere substantially with the comprehensive plan.*

Finding: This property is on the fringe of the Grand Junction planning area. And while the Grand Junction Plan does not support using the Property for auto-sales long-term, the success of short-term or interim uses of existing structures in downtown will contribute to the long-term success and stability of the Grand Junction District, thus the proposed use does not substantially interfere with the Comprehensive Plan.

Recommended Findings for Approval (Variance of Development Standard):

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

Finding: It is unlikely that approving the requested variance of use would be injurious to the public health, safety, morals, and general welfare of the community. The use and layout of the property are not proposed to change.



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 existing Sign structure has been in place for 21 years and the use and layout of the property are not proposed to change.

2. 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 utilize the existing Sign structure, as proposed, in accordance with the Unified Development Ordinance.

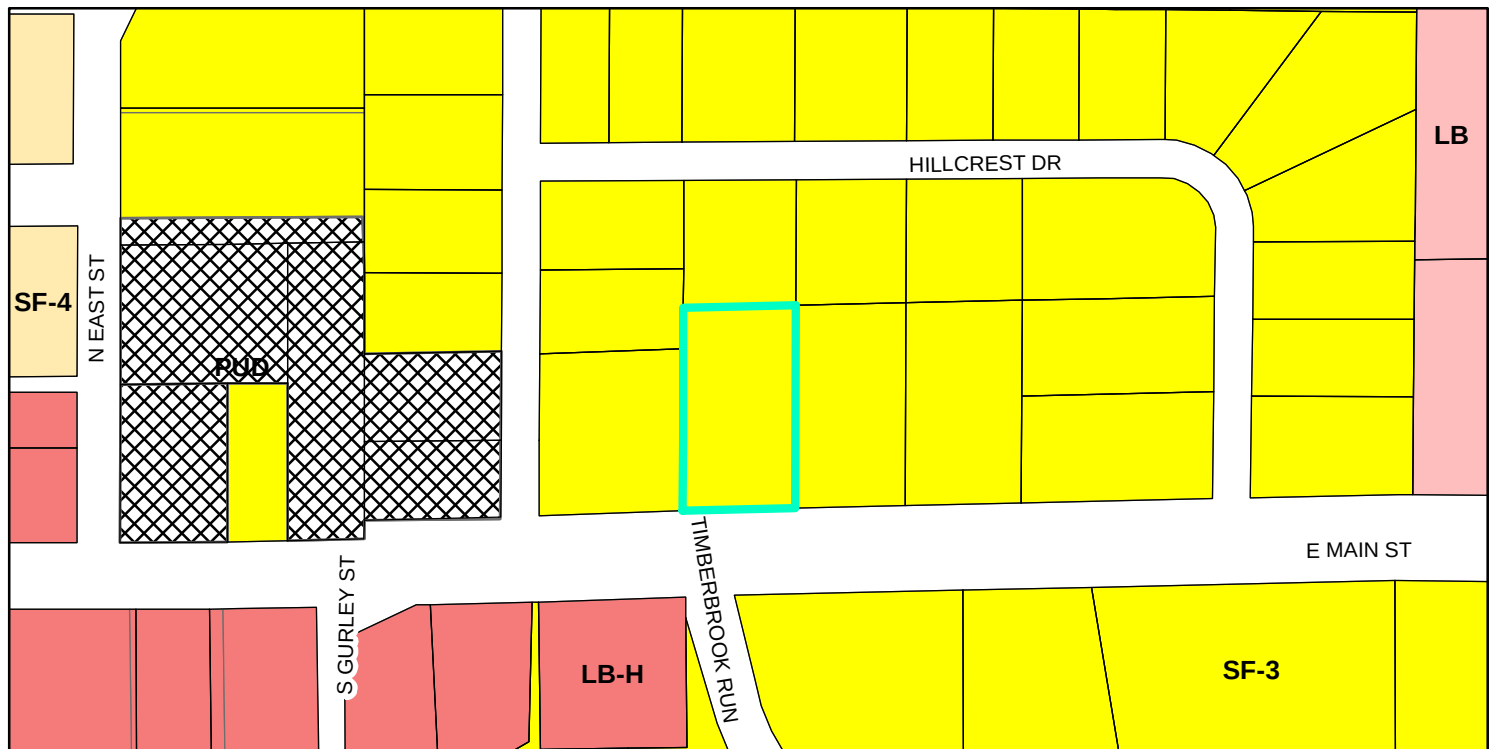
Denial: If the Board is inclined to deny either of the requested variances, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings consistent with the public hearing evidence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

Aerial Location Map

 Site



Zoning Map



- | | | |
|--|--|--|
|  LB (Local Business) |  PUD (Planned Unit Development) |  SF-4 (Single Family - 4) |
|  LB-H (Local Business - Historical) |  SF-3 (Single Family - 3) | |



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 11, 2020
2008-VS-18
Exhibit 1

Petition Number: 2008-VS-18

Subject Site Address: 3511 W. 166th Street (the "Property")

Petitioner: Citizens Energy Group (the "Petitioner")

Request: The Petitioner is requesting a Variance of Development Standard reducing the Minimum Lot Frontage from two hundred and fifty (250) feet to fifty (50) feet in the AG-SF1: Agriculture / Single-family Rural District (Article 4.2(D)).

Current Zoning: AG-SF1 District

Current Land Use: Utilities

Approximate Acreage: 40.11 acres +/-

Exhibits:

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

Staff Reviewer: Caleb Ernest, Associate Planner

OVERVIEW

Location: The subject property is 40.11 acres +/- in size and located at 3511 W. 166th Street (see **Exhibit 2**). The Property is zoned the AG-SF1: Agriculture / Single-family Rural District. All adjacent properties are also zoned the AG-SF1 District.

Variance Request: The Petitioner is requesting a Variance of Development Standard reducing the Minimum Lot Frontage from two hundred and fifty (250) feet to fifty (50) feet in the AG-SF1 District (Article 4.2(D)).

SUMMARY OF VARIANCE

The Petitioner is requesting a Variance of Development Standard to bring the existing Lot into compliance with the AG-SF1 District. The request is to reduce the Minimum Lot Frontage from two hundred and fifty (250) feet to fifty (50) feet.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this Property within the “Existing Rural Southwest”¹ land use classification.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of the Variance of Development Standard. This petition is scheduled to receive its public hearing at the August 11, 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 the variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

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

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

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

¹ Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (p. 24).

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

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

DEPARTMENT COMMENTS

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

Recommended Findings for Approval of the Variances of Development Standard:

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

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the existing proposed use of the Property is a permitted use in the zoning district and will comply with all other standards of the Unified Development Ordinance (UDO).

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 this variance will bring the Property into full compliance with the zoning district and is compatible to the permitted uses in all the adjacent existing zoning districts.

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 bring this Property into full zoning compliance in accordance with the UDO.

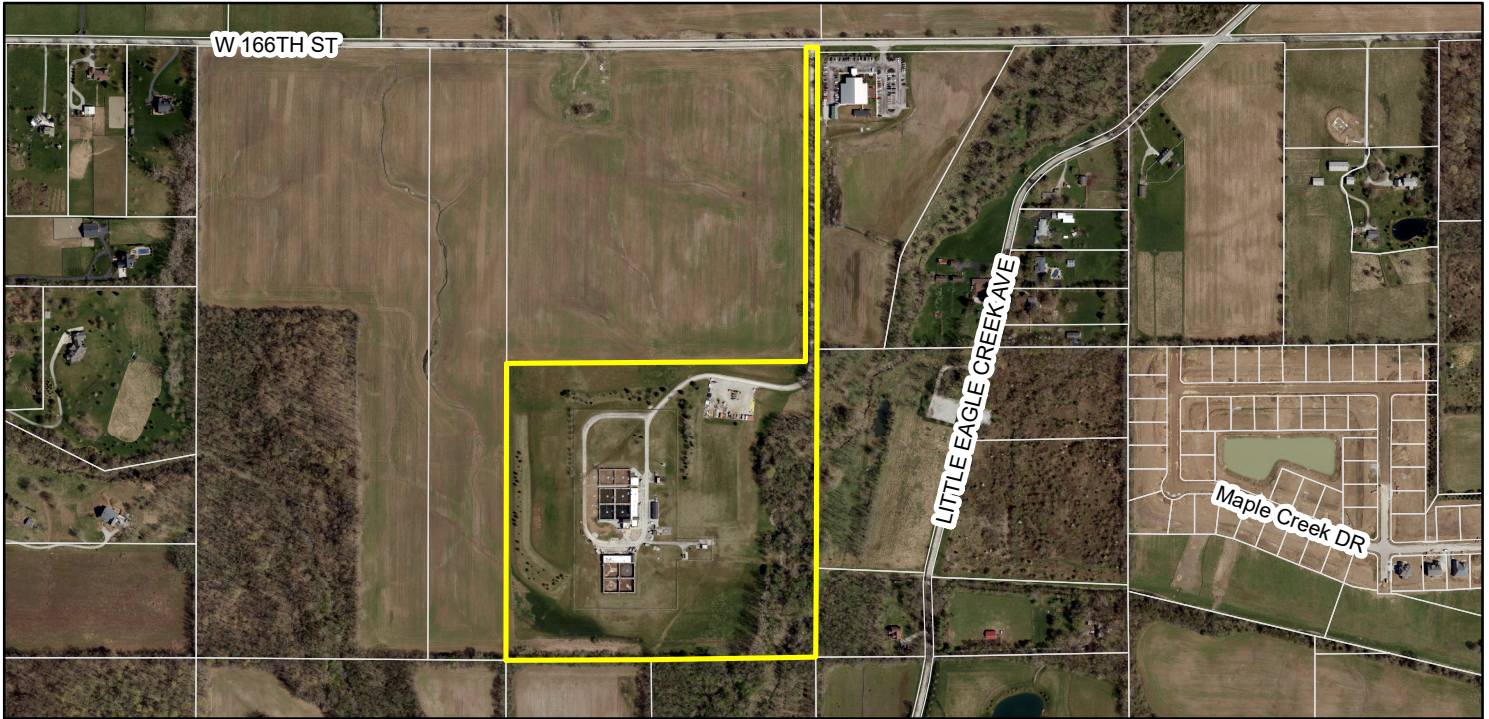
Denial: If the Board is inclined to deny either of the requested variances, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings consistent with the public hearing evidence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



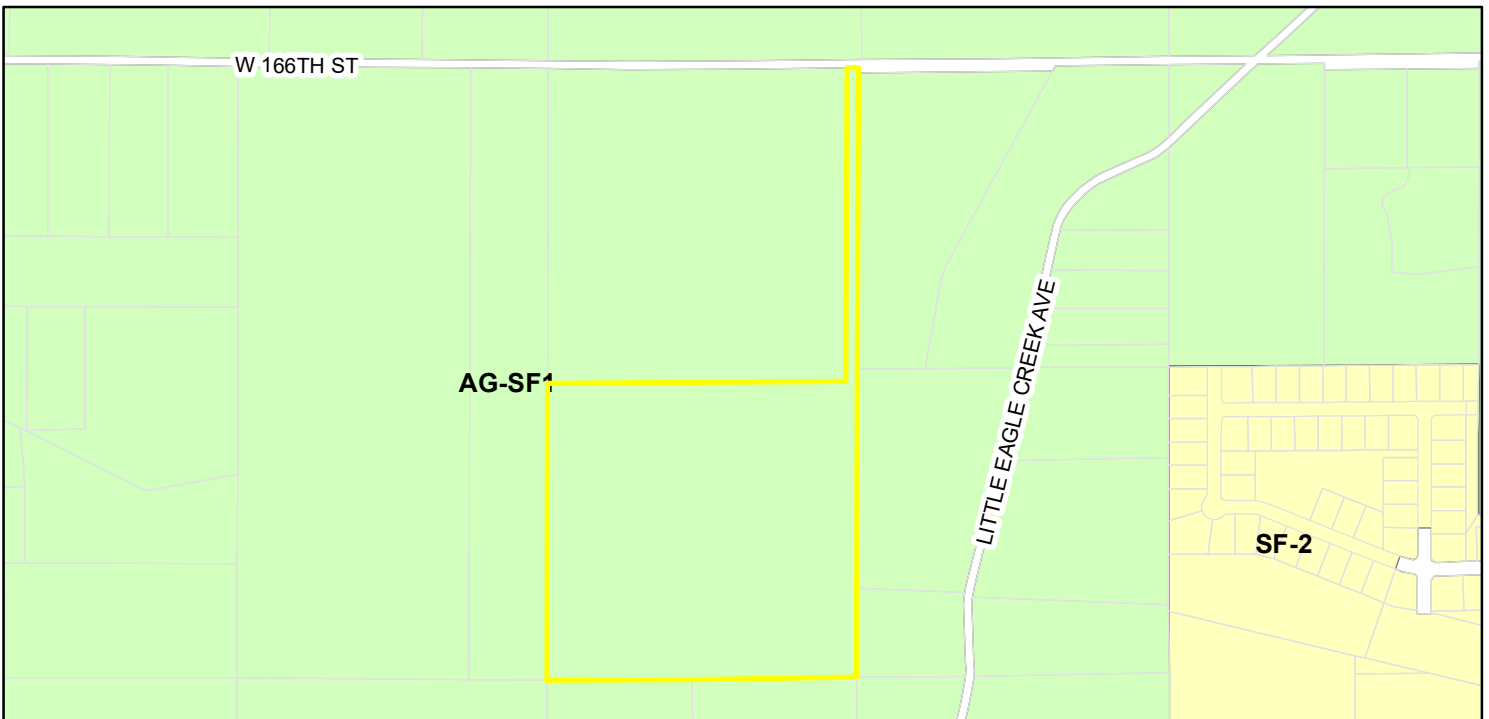
Property Location Map
Variance of Development Standard
Citizens Westfield
2008-VS-18



Aerial Location Map

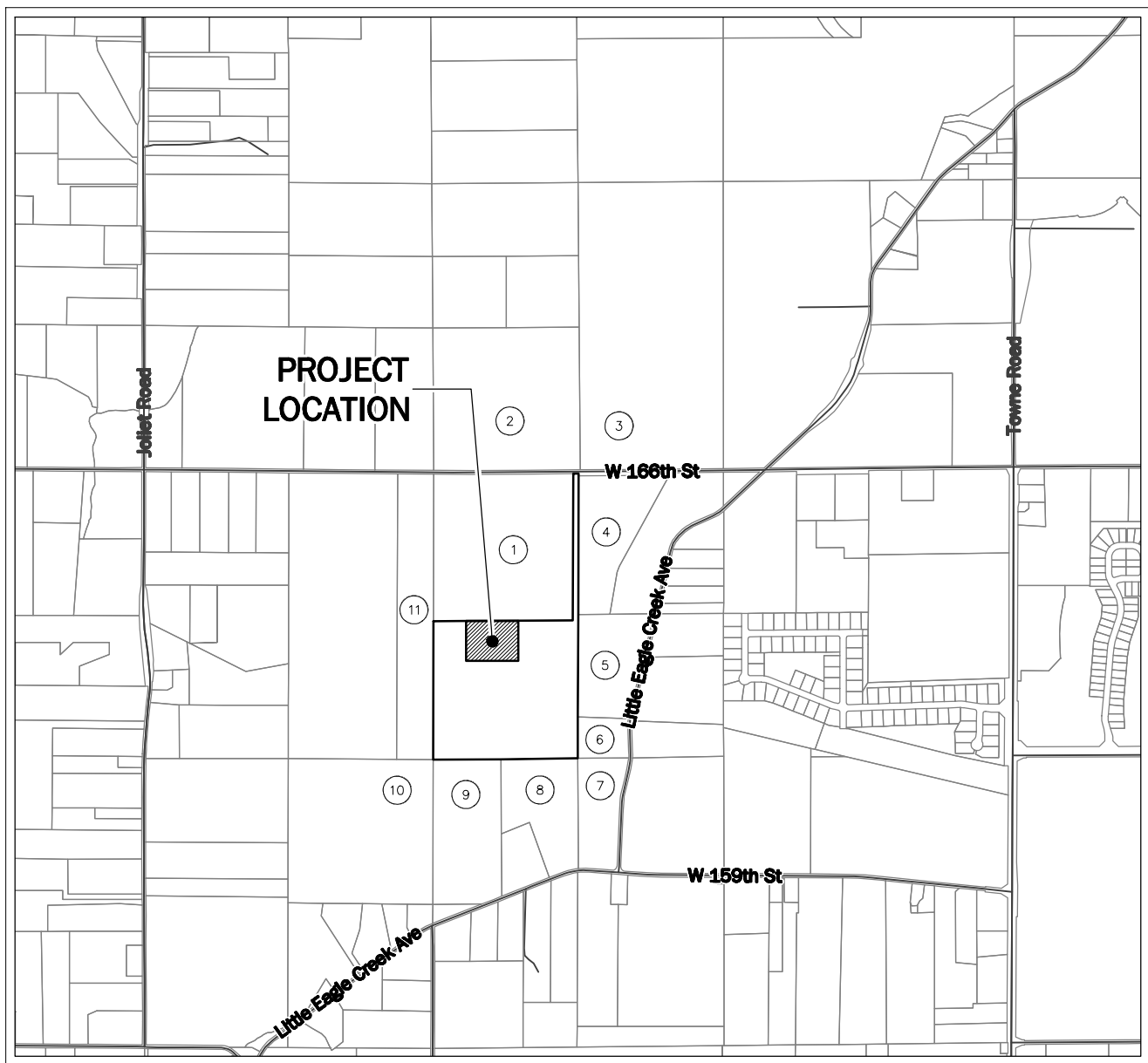


Zoning Map



Zoning

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



VICINITY MAP

NOT TO SCALE



ADJACENT PROPERTY OWNERS AND USE		
	OWNER	USE
1	LANG, ELEANOR M. REVOCABLE TRUST	VACANT LOT
2	LANG, ELEANOR M. REVOCABLE TRUST	VACANT LOT
3	LANG, ELEANOR M. REVOCABLE TRUST	VACANT LOT
4	LIFEPONTE CHURCH INC.	EXEMPT RELIGIOUS
5	CITY OF WESTFIELD	EXEMPT MUNICIPALITY
6	COMBS, LAWRENCE R & DEADRA K	SINGLE FAMILY RESIDENTIAL
7	DALY, JOHN P Jr & DEBRA J	CASH GRAIN GENERAL FARM
8	SCHARNOWSKE, RYAN	UNPLATTED
9	GARDNER, JERRY K & PATRICIA A (50% INT) & REBECCA MIKESELL (50% INT)	VACANT LOT
10	GARDNER, JERRY K & PATRICIA A (50% INT) & REBECCA MIKESELL (50% INT)	VACANT LOT
11	LANG, ELEANOR M REVOCABLE TRUST	VACANT LOT

VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: 2008-VS-18

FILING DATE: 7/15/20

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

PRE-FILING CONFERENCE

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

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: AMENDMENTS: DEVELOPMENT PLAN:

PRIMARY PLAT: SECONDARY PLAT: VARIANCE(S):

APPLICANT INFORMATION

APPLICANT'S NAME: Citizens Energy Group - Jason Dillon

ADDRESS: 2150 Dr. Martin Luther King., Jr. St., Indianapolis, IN 46202

TELEPHONE: (317) 693-8808

EMAIL: jdillon@citizensenergygroup.com

PROPERTY OWNER'S NAME: Same as Applicant

ADDRESS:

TELEPHONE:

EMAIL:

REPRESENTATIVE'S NAME: Tyler Comstock

COMPANY: American Structurepoint

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

TELEPHONE: (317) 547-5580

EMAIL: tcomstock@structurepoint.com

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 3511 W 166th St, Westfield, IN 46074

COUNTY PARCEL ID #(S): 08-09-08-00-00-001.000

EXISTING ZONING DISTRICT(S): AG-SF1

EXISTING LAND USE(S): Wastewater Treatment Plant

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):

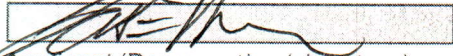
Reduce the required roadway frontage from the required 250 feet to approximately 50 feet per the existing conditions.



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.


Applicant/Representative (signature)

Jason E. Dillon
Applicant/Representative (printed)

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

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


Notary Public (signature)

Notary Public (printed)

PROPERTY OWNER AFFIDAVIT

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


Property Owner (signature)*

Jason E. Dillon
Property Owner (printed)

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

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


Notary Public (signature)

Notary Public (printed)

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

FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: _____ **DOCKET #:** _____

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

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

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

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

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

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

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: Citizens Energy Group

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 roadway frontage has been existing for the past 15+ years and frontage requirement does not provide anything injurious.

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 minimum frontage is for a lane back to the existing wastewater treatment plant and the full 250 feet is not needed.

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

The roadway frontage has been existing for the past 15+ years and the minimum frontage is for a lane back to the existing wastewater treatment plant and the full 250 feet is not needed.

GENERAL INSTRUCTIONS

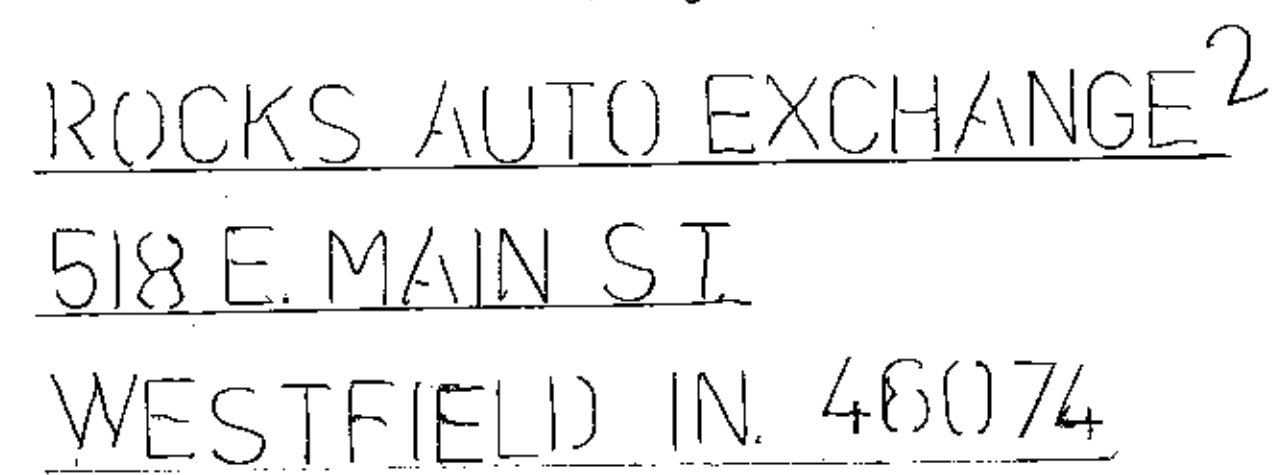
- A. **Pre-Filing Conference:** A pre-filing conference is required for all petitions. An appointment must be made with the Community Development Department (the “Department”) to discuss a petition prior to filing. An application will not be considered filed until a pre-filing conference has occurred.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

Exhibit 3

Current Site Conditions









2016010901 VARIANCE \$22.00
03/10/2016 03:45:55P 5 PGS
Jennifer Hayden
HAMILTON County Recorder IN
Recorded as Presented

ACKNOWLEDGEMENT OF VARIANCE

Document Cross Reference Number: 2008045590

Mayor
Andy Cook

City Council
Chuck Lehman
Jim Ake
Joe Edwards
Steven Hoover
Robert L. Horkay
Dr. Mark Keen
Cindy L. Spoljaric

Clerk Treasurer
Cindy J. Gossard

This ACKNOWLEDGEMENT, made this 17th day of February, 2016, by Matthew S. Skelton, Economic and Community Development Director, City of Westfield, Indiana (the "Director") WITNESSETH:

WHEREAS, on Tuesday, February 9, 2016, the Westfield-Washington Township Board of Zoning Appeals (the "Board") heard Petition No. 1601-VU-02 (the "Petition"), filed by Brian Ewen of Rock's Auto Exchange (the "Business Owner"), for a Variance of from the Westfield-Washington Township Unified Development Ordinance regarding property commonly known as 518 East Main Street, Westfield, IN 46074 (Parcel No: 09-06-31-03-09-023.000 and more particularly described in Exhibit A (the "Property"), owned by Frances Michelle Turner (the "Property Owner").

The Business Owner requested approval of the following:

1601-VU-02 – Variance of Use to allow sales of pre-owned automobiles in the SF3: Single-Family Medium Density District (Chapter 13: Use Table).

WHEREAS, the Board voted three (5) to zero (0) to approve the Petition with the following conditions:

1. That approval of this variance shall expire on March 1, 2019. Any request to extend the time limit of this variance shall be reviewed and approved by the Board of Zoning Appeals prior to March 1, 2019.
2. That no more than thirty-two (32) vehicles that are for sale be on the Property at any one time;
3. That the parking surface and paved area not expand;
4. That designated customer and employee parking spaces be identified and striped;
5. That vehicles are not permitted to be parked in the grass;
6. That landscaping be installed and/or maintained as generally depicted on the submitted concept plan/landscaping plan (see Exhibit 4 of the Staff Report);
7. That no existing landscaping be removed without being replaced with a similar size and species of plant;
8. That no additional signage or sign types be permitted on the Property;
9. That banners, flags, posters, pennants, ribbons, streamers, spinners, strings of lights, feather flags or signs, balloons, or inflatable signs be prohibited on the Property;

**Economic and
Community
Development**

(317) 804-3170

2728 East 171st Street
Westfield, IN 46074

westfield.in.gov

10. That individual vehicle pricing and other displayed vehicle information be limited to a maximum of four (4) window "stickers" or tags per vehicle; and,
11. That outdoor speakers for music and/or announcements be prohibited.

NOW, THEREFORE, the Director hereby declares that all the Property as it is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, or occupied and improved, is subject to the Variance of Use approved by the Board on February 9, 2016. Unless otherwise modified herein, this Variance of Development Standard shall run with the land, and shall be binding upon the owner, heirs and assigns, and all parties having an interest in and to the Property or any part or parts thereof subject to such Variance of Development Standard, and shall inure to the benefit of the owner and every one of his/her successors in title to any real estate in the Property.

WESTFIELD ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT

"DIRECTOR"



MATTHEW S. SKELTON, DIRECTOR

Economic and Community Development Department, City of Westfield, IN

Administration

(317) 804-3040 office
(317) 804-3190 fax

2728 East 171st Street
Westfield, IN 46074
westfield.in.gov

"PROPERTY OWNER"

I, Frances M. Turner, Owner of the Property, hereby acknowledge the accuracy of the information contained in this Acknowledgement of Variance and any conditions and limitations placed on the Petition, as set forth herein.

IN WITNESS WHEREOF, the Owners have executed this instrument, on the 22 day of 2, 2016.

Frances M. Turner
Owner Signature

Frances M. Turner
Printed

owner
Title

2-22-16
Date

STATE OF _____

COUNTY OF _____

)
) SS
)



Signed and acknowledged before me this 3rd day of March, 2016.

(SEAL)

Julie L. Hallman
Signature of Notary Public

Julie Hallman
Printed name of Notary Public

My County of Residence: Hamilton

My Commission Expires: Sept. 2nd 2023

Administration

(317) 804-3040 office
(317) 804-3190 fax

2728 East 171st Street
Westfield, IN 46074
westfield.in.gov

"PETITIONER"

I, Brian Evers, Rocks Auto Exchange, hereby acknowledge the accuracy of the information contained in this Acknowledgement of Variance and any conditions and limitations placed on the Petition, as set forth herein.

IN WITNESS WHEREOF, the Owners have executed this instrument, on the ____ day of ____, 2016.

Brian Evers
Signature

Brian Evers
Printed

Owner
Title

2/22/16
Date

STATE OF _____

COUNTY OF _____

)
) SS
)



Signed and acknowledged before me this 3rd day of March, 2015.

(SEAL)

Julie Hallman
Signature of Notary Public

Julie Hallman
Printed name of Notary Public

My County of Residence: Hamilton

My Commission Expires Sept. 2nd 2023

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law: Kevin M. Todd

Prepared by: Kevin M. Todd, AICP, City of Westfield
2728 East 171st Street, Westfield, IN 46074, (317) 804-3170

Administration

(317) 804-3040 office
(317) 804-3190 fax

2728 East 171st Street
Westfield, IN 46074
westfield.in.gov

EXHIBIT A
THE PROPERTY

Lot Numbered Thirteen (13) in Roberts Revised Rolling Acres, and Addition to the Towne of Westfield, in Hamilton County, Indiana, as per plat thereof recorded in Plat Book 2, pages 40-41, in the Office of the Recorder of Hamilton County, Indiana.

Administration

(317) 804-3040 office
(317) 804-3190 fax

2728 East 171st Street
Westfield, IN 46074
westfield.in.gov



ACKNOWLEDGEMENT OF VARIANCE

Document Cross Reference Number: 2008045590

This ACKNOWLEDGEMENT, made this 19th day of February, 2019, by Matthew S. Skelton, Economic and Community Development Director, City of Westfield, Indiana (the "Director") WITNESSETH:

WHEREAS, on Tuesday, February 9, 2016, the Westfield-Washington Township Board of Zoning Appeals (the "Board") heard Petition No. 1601-VU-02 (the "Existing Variance"), filed by Brian Ewen of Rock's Auto Exchange (the "Petitioner") on behalf of Frances Michelle Turner (the "Property Owner"), for a Variance of from the Westfield-Washington Township Unified Development Ordinance regarding property commonly known as 518 East Main Street, Westfield, IN 46074 (Parcel No: 09-06-31-03-09-023.000 and more particularly described as follows (the "Property").

Lot Numbered Thirteen (13) in Roberts Revised Rolling Acres, and Addition to the Towne of Westfield, in Hamilton County, Indiana, as per plat thereof recorded in Plat Book 2, pages 40-41, in the Office of the Recorder of Hamilton County, Indiana.

WHEREAS, the Board voted five (5) to zero (0) to approve the Petition with the conditions outlined in the Acknowledgement of Variance on file at the Hamilton County Recorder's Office as Instrument Number 2016010901, and attached hereto as **Exhibit A**.

WHEREAS, on Tuesday, February 12, 2019, the Board heard Petition No. 1902-VU-02 (the "Petition"), filed by the Petitioner on behalf of the Property Owner to extend to a previously approved Variance of Use to permit pre-owned automobile sales in the SF-3: Single-Family Medium Density District.

WHEREAS, the Board voted five (5) to zero (0) to approve the Petition with the following conditions:

1. That approval of this variance shall expire on March 1, 2022. Any request to extend the time limit of this variance shall be reviewed and approved by the Board of Zoning Appeals prior to March 1, 2022.
2. That conditions 2-11 of the Existing Variance shall still apply (see **Exhibit A**).

NOW, THEREFORE, the Director hereby declares that all the Property as it is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, or occupied and improved, is subject to the Variance of Use approved by the Board on February 12, 2019. Unless otherwise modified herein, this Variance of Development Standard shall run with the land, and shall be binding upon the owner, heirs and assigns, and all parties having an interest in and to the Property or any part or parts thereof subject to such Variance of Development Standard, and shall inure to the benefit of the owner and every one of his/her successors in title to any real estate in the Property.

WESTFIELD ECONOMIC AND COMMUNITY DEVELOPMENT
DEPARTMENT

“DIRECTOR”

MATTHEW S. SKELTON, DIRECTOR

Economic and Community Development Department, City of Westfield, IN

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law: Pam Howard

Prepared by: Pam Howard, Senior Planner, City of Westfield
2728 East 171st Street, Westfield, IN 46074, (317) 804-3170

Frances Michelle Turner, the Property Owner, hereby acknowledges the accuracy of the information contained in this Acknowledgement of Variance and any conditions and limitations placed on the Petition and Property, as set forth herein.

Frances Michelle Turner

Before me, a Notary Public in and for said County and State, personally appeared Frances Michelle Turner, who acknowledged their authority and the execution of the foregoing Acknowledgement of Variance to be their voluntary act and deed.

STATE OF _____)
) SS:
COUNTY OF _____)

IN WITNESS WHEREOF, my hand and Notarial Seal this ____ day of _____
_____, 2019.

(SEAL)

Signature of Notary Public

Printed: _____

My County of Residence: _____

My Commission Expires: _____

Rocks Auto Exchange, the Petitioner, hereby acknowledges the accuracy of the information contained in this Acknowledgement of Variance and any conditions and limitations placed on the Petition and Property, as set forth herein.

IN WITNESS WHEREOF, the Petitioner has executed this instrument, on the ____ day of _____, 2019.

Rocks Auto Exchange

Signature: _____

Printed Name: _____

Title: _____

Date: _____

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 instrument.

STATE OF _____)
) SS:
COUNTY OF _____)

IN WITNESS WHEREOF, my hand and Notarial Seal this _ day of _____, 2019.

(SEAL)

Signature of Notary Public

Printed: _____

My County of Residence: _____

My Commission Expires: _____

EXHIBIT A
EXISTING VARIANCE

[SEE FOLLOWING 2 PAGES]

VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: _____ FILING DATE: _____

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Pamela Howard (STAFF NAME) DATE: 7-10-20

PRIOR OR RELATED DOCKET NUMBERS

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

PRIMARY PLAT: _____ SECONDARY PLAT: _____ VARIANCE(S): 1902-vv-02

APPLICANT INFORMATION

APPLICANT'S NAME: Westfield Imports, LLC - Zach Yale

ADDRESS: 518 E Main Street Westfield, In 46074

TELEPHONE: 317.456.5446

EMAIL: zach@noblesvilleimports.com

PROPERTY OWNER'S NAME: Doug Goins

ADDRESS: 311 E Hoover Street Westfield, In 46074

TELEPHONE: 317.710.0126

EMAIL: doug@directmoneylenders.com

REPRESENTATIVE'S NAME: _____

COMPANY: _____

ADDRESS: _____

TELEPHONE: _____

EMAIL: _____

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 518 E. Main Street Westfield, In 46074

COUNTY PARCEL ID #(S): 09-06-31-03-09-023.000

EXISTING ZONING DISTRICT(S): SF-3 EXISTING LAND USE(S): Pre-Owned Auto Sales

PROPERTY AND PROJECT INFORMATION

☒ VARIANCE OF LAND USE CODE CITATION: _____

☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: 6.17(F)(11)(a)

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY): There are approximately 2 years remaining on an existing 3 year variance. Due to new partnership formations, a name change, and a new lease the applicant is requesting a fresh, 3 year Variance for the property.

Applicant will continue to adhere 100% to conditions set forth with existing variance.

PLEASE SEE THE ATTACHED FOR HISTORY AND FURTHER SUMMARY OF THE REQUEST.

Doug Goins

Digitally signed by Doug Goins
DN: cn=Doug Goins, o=Creative Solutions, email=directmoneylenders@gmail.com, c=US
Date: 2020.07.27 09:52:29 -0400

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.

Zachary Yale

Digitally signed by Zachary Yale
DN: cn=Zachary Yale, o=ou, email=nd@d.com, c=US
Date: 2020.07.27 09:44:54 -04'00'

Applicant/Representative (signature)

Zachary Yale

Applicant/Representative (printed)

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

Witness my hand and Notarial Seal this ____ day of _____, 20__.

State of _____, County of _____, SS: _____

Notary Public (signature)

Notary Public (printed)

PROPERTY OWNER AFFIDAVIT

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

Doug Goins

Digitally signed by Doug Goins
DN: cn=Doug Goins, o=ou, email=directnotary@goins.com, c=US
Date: 2020.07.23 11:52:02 -04'00'

Property Owner (signature)*

Doug Goins

Property Owner (printed)

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

Witness my hand and Notarial Seal this ____ day of _____, 20__.

State of _____, County of _____, SS: _____

Notary Public (signature)

Notary Public (printed)

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

FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: Westfield Imports, LLC

DOCKET #: 1902-vv-02

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

- A. The use will not be injurious to the public health, safety, morals, and general welfare of the community because: The basic Commercial business model for the location has proven over the past 21 years that in no way poses any threat to public health, safety, morals or general welfare of the community. Even though the property is currently zoned Single Family- Medium Density, the property has been operating under a variance as a commercial retail business retail business for the past 21 years and conducting business in the pre-owned sales business for the past 4.5 years. The applicant intends to continue operating in the exact professional manor as currently allowed under the current variance and as a result, there is no reason to believe that the business would have any adverse impact to the community.
- 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: Both owners and applicant has proven over the past several years that operating under a commercial use variance has not and will not interfere in the use of any adjacent property or any property included in the variance. The applicant intends to continue operating in the exact same manor as years past; as a result there is no reason to believe that the business would have any adverse impact.
- C. The need for the variance arises from some condition particular to the property involved because: The property is zoned Single-Family Medium Density although it is within very close proximity to property zoned for Local Business and Local Business-Historic District uses. Providing the variance for this property has allowed the small business to grow and thrive thus becoming a vital part of the Westfield community over the last 20 years. The owners and applicant wish to continue providing excellent customer products and services at this location.
- D. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because: The applicant has built a thriving business at this location. The business quite honestly may not be able to continue if it had to relocate and try to find another location with the same traffic at a similar price. The business is driven by high traffic volume and the price the price of locations that offer comparable traffic counts and visibility would most likely prevent the company from being profitable. The business would most likely have to cease operations and would no longer provide the products, services, employment or economic value to the community.
- E. The variance of use does not interfere substantially with the Comprehensive Plan because: One of the principles for Westfield's downtown area's Comprehensive plan is establishing identity. The applicant feels like the business compliments the plan by relating to and connecting with the community through its name Westfield Imports. As a small business owned by families that live, play, and emphatically supports the city of Westfield. The business truly loves and cares about the community and identifies with its citizens. The business is no way would interfere in Westfield's Comprehensive plan, but rather should profoundly support it.

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: Westfield Imports, LLC

DOCKET #: 1902-vv-02

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 current sign located at 518 E Main Street has been previously approved and 100% conforming to standards from the city of Westfield and in the exact same location for 21 years. Applicant is only requesting approval to change the lettering to display new name, phone number and logo. There should be no reason small design changes to an existing structure design could endanger the public health, safety, morals, and welfare of anyone.

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 current sign located at 518 E Main Street has been previously approved and 100% conforming to standards from the city of Westfield and in the exact same location for 21 years. only changing the lettering and information. There should be no reason this sort of change could substantially adverse manner.

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

By not allowing a sign change to reflect the new business name, contact information, and company logo it would make it next to impossible for potential customers to identify the business name and contact information.

518 E Main Street – Westfield Imports, LLC – Variance Request

A Quick History:

Rocks Auto Exchange LLC has been successfully operating, with overwhelmingly high customer ratings in Westfield for over 6 years. Now into the 4th year of operating in the current location, the inventory for sale has remained high quality, the property is always well manicured, and continues to enhance the gateway to Westfield's downtown.

Business Model Modification:

In order to accommodate the increasing number of Westfield higher end car buyers, Rocks Auto Exchange is planning to modify the business model by taking on new equity partners and injecting substantial cash into the high-end import/luxury auto market at an affordable price point to the customer. The planned upgrade of inventory and business model is accompanied by a name change to Westfield Imports LLC that more accurately describe the vision.

Variance Request:

The property owners, as well as the tenants, remain committed to adhering to all of the existing rules of the Variance as we have for the past 4 years. All parties remain committed to the continued improvement of the properties curb appeal and high customer satisfaction.

Due to the rather large injection of new capital required to purchase late model vehicles such as BMW, Mercedes-Benz, Audi, Land Rover, Porsche, Maserati, etc the new partners/tenant are requesting to have a fresh, 3 year Variance to operate and permission to change the name on the existing sign to Westfield Imports LLC. The sign size or location is not changing size or location.

Property Owners:

David & Shelly Turner
Doug Goins

Applicants:

Jeff Long – Current owner of Noblesville Imports
Zac Yale – Current owner of Noblesville Imports

Idea of vehicles that will be offered at Westfield Imports can be found here - <https://www.noblesvilleimports.com/> - 4.7 Star Rating on several customer Reviews websites.

Thank you for all of your time in reviewing our request!

Respectfully submitted,

Doug Goins

Doug Goins



WESTFIELD
— IMPORTS —



WESTFIELD
—IMPORTS—



WESTFIELD
— IMPORTS —



Westfield–Washington Township Board of Zoning Appeals
Minutes of the June 9, 2020 BZA Meeting
Presented for approval: August 11, 2020

The Westfield-Washington Township Board of Zoning Appeals (BZA) met at 7:00 p.m.
on Tuesday, June 9, 2020 online via Skype.

OPENING OF MEETING: 7:00 PM

ROLL CALL

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

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

APPROVAL OF MINUTES

Motion to approve the May 12, 2020 BZA Minutes as written.
Motion: Schmitz; Second: McCarty. Motion Passed. 5-0

REVIEW RULES AND PROCEDURES

Crabtree reviewed BZA rules and procedures.

ITEMS OF BUSINESS

2004-VS-06

**[ADOPTION OF
FINDINGS OF FACT]**

345 E Park Street John Long

Adoption of Findings of Fact for Variances of Development Standard that were denied on May 12, 2020.
(Planner: Caleb Ernest – cernest@westfield.in.gov)

Schmitz overviewed this item. Raines said that these Findings of Fact focus on the second and third elements that were required by the Petitioner that were not met.

Kingshill motioned to adopt Staff's Findings of Fact for 2004-VS-06.
Raines seconded. Motion passed. Vote 5-0.

2006-VS-08

[PUBLIC HEARING]

1817 W. 216th Street

John & Jennifer Driscoll

The Petitioners request Variances of Development Standard to modify the Minimum Lot Frontage of the Property from 250 feet to 217 feet and to permit a second Dwelling Unit on 6.77 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District (Articles 4.2(D) & 6.4(B))
(Planner: Pam Howard – phoward@westfield.in.gov)

Howard overviewed this request for Variances of Development Standard to modify the Minimum Lot Frontage of the Property.

The Petitioners, John & Jennifer Driscoll, summarized the plans they have for this property. They said they are currently conducting due diligence on the property to build a primary dwelling unit. They said that they would like to have the option to build a second dwelling to accommodate their visiting children. They said that there is

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currently only a barn structure on the property that they would like to refurbish. They said that the possible additional unit would not be able to be sold off as a separate parcel given the layout and the driveway's location. They said that they had a good conversation with their future neighbor regarding drainage and possible resolutions.

Public Hearing for 2006-VS-08 opened at 7:13 p.m.

Public Comment emails previously received:

Brent Osswald: After discussing multiple issues with neighbors, I 100% oppose these variances being approved. One very important issue is the current drainage situation that currently exists in this area. Adding one and possibly two more dwellings would only make matters worse. Second, with no idea from a drawing, plans, etc. of what the dwellings would look like, what size, where they would be built, etc. I cannot support the variance. I would like more information on the dwellings plans, size, use, current barn that is very old, etc. For example, the second dwelling ultimately could be used as a rental or Air B'n'B for people coming to Grand Park for sporting events. The area out here is country with large lawns, farmers, and people wanting space to live. This would not align with what we want out here. Thirdly and probably most important, we all currently are experiencing septic perimeter drainage issues. I would like to know where they are planning to tie into their septic(s) perimeter tile. The system that myself and my neighbor use is too small currently for us, let alone adding one to two more homes into it. I reached out to the Health Department and nothing has been filed with them on this issue and ultimately this will become a big issue of where to tie into. I would like to know more plans and information on how this issue would be resolved.

Jason Heidegger: I am one of the adjacent properties to the Driscoll property that is petitioning for variances. I have a concern about the multiple houses proposed to be built as there are no plans put in place to address septic systems. I would like to voice my concern and would oppose moving forward until plans are submitted and can be reviewed.

Brian Kinny: I am emailing you to oppose the Driscoll's requests for variance to reduced road frontage and especially the variance for increasing allowed dwellings from 1 to 2 dwellings. I have the same concerns as Brent Osswald, my next-door neighbor. It may be best to table tonight's meeting until we've had a chance to discuss our issue with the Driscoll's. Unfortunately, we did not realize they wanted to increase allowed dwellings until earlier today.

Public Comment emails received at the meeting from original commenters:

- 1) Brent Osswald: I would be in favor of the passing variance for one dwelling unit, but ask that the variance for the second dwelling unit be tabled until there are more definite plans and details about the septic perimeter tile issue.
- 2) Brian Kinny: I do not oppose approving the variance for the road frontage but do oppose the variance for an additional dwelling unit.

Public Hearing for 2006-VS-08 closed at 7:23 p.m.

Kingshill asked if this would go through the Technical Advisory Committee (TAC).

- Howard said no, but the project would require septic and well permits prior to receiving a building permit. She said single family residential homes are not typically sent to TAC.

Schmitz asked if the Health Department factors into this for the well and septic.

- Howard said it is possible to request the Health Department to attend TAC as they are one of the TAC agencies.

Kingshill asked for the rationale for the limit of only one dwelling on AG-SF 1 and also asked if this could be attached to the Petitioner or would it run with the land.

- Howard said she is not able to answer the issue of limiting one dwelling other than that the standard has been in existence for some time. This topic has been discussed and may be addressed in the future as these requests are occasionally received.

Zaiger said that this variance could be focused on being attached to the Petitioner by adding a condition addressing the deadline to build, but normally the variance would run with the land.

- Howard said the Petitioner would be agreeable to a five-year time frame on building the second unit. She also said that additional comments from Brent Osswald and Brian Kinney were received and that they both said that they were prefer that the variance would expire in five years and that the variance would run with the Petitioner.

Raines asked about the barn being a secondary structure. He also asked if a condition could be requested to prohibit any rental use of the secondary dwelling unit.

Zaiger said the barn is not a secondary dwelling structure, but an accessory building. He said a condition can be issued to prohibit rental use.

Kingshill voiced his concern about regulating the rental restrictions.

Schmitz asked if it would best to limit rental restriction to the second dwelling.

Kingshill said that he felt that the restriction was overbearing as other residents can rent their homes for uses such as an Air B'n'B.

McCarty said he agreed with Kingshill.

Fortier asked if they were to sell the entire property, would the conditions of the variance be released.

Howard said that any conditions attached to this property would run until the end of the time limit given to the variance.

Schmitz overviewed the proposed conditions to the Petitioners.

The Petitioners agreed to the most of the proposed conditions; however, Petitioners stated that they struggle with denying the possible rental aspect.

Kingshill and McCarty said that they don't want to impose the rental regulations on the Petitioners.

The Petitioners said that they want to be good stewards and neighbors and would agree to the proposed conditions.

Additional follow-up comments were received from the previous commenters that asked why the Petitioners need the apply for the variance at this time as opposed to when they are ready to build and would the variance transfer to future buyers,

Howard said in regard to the transfer of the variance, that it would run with the land not the individual.

Schmitz said that, as the Petitioners are present now, it is more time efficient to address the requests at this time.

Raines motioned to approve 2006-VS-08 with the following with the following staff conditions:

- 1) No more than two (2) Dwelling Units shall be permitted on the property;
- 2) The road frontage variance will apply to the lot as presented;

- 3) Second dwelling unit must be built within five years from date of the granting of the variance; and
- 4) There will be no commercial aspect to the secondary structure.

Kingshill seconded. Motion passed. Vote 5-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2006-VS-08 .

McCarty seconded. Motion passed. Vote 5-0.

2006-VS-09
[PUBLIC HEARING]

4180 Westfield Road

Washington Park Cemetery Association

The Petitioner requests to construct a Building ninety-five (95) feet beyond the one hundred and twenty (120) foot Maximum Setback required by the State Highway 32 Overlay Zone (Article 5.3(G)(1)).

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

Ernest overviewed this request. He said that Staff had not received any comments.

Public Hearing for 2006-VS-09 opened at 7:59 p.m.

No public comments.

Public Hearing for 2006-VS-09 closed at 8:02 p.m.

Kingshill asked to look at the location map to determine the proposed location of the building and also mentioned its relevance to the SR 32 Overlay.

Ernest was able to show the location.

McCarty asked about the use of the proposed building.

Ashton Fritz with Fritz Engineering, on behalf of the Petitioner, replied that the use would be that of an events center complementary to services related to the overall property.

Schmitz asked what was the use of the structure located to the north.

Fritz replied that it was a mausoleum.

Kingshill asked if there is was existing office space in the current building.

Tom Martin, on behalf of the Petitioner, replied that the current office space would be relocated to the new building.

Fortier said that she felt the existing structure is beautiful and hopes the new building would be of equal quality and that she was pleased to have this option presented.

McCarty motioned to approve 2006-VS-09.

Kingshill seconded. Motion passed. Vote 5-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2006-VS-09.

Raines seconded. Motion passed. Vote 5-0.

2006-VS-10
[PUBLIC HEARING]

4730 Muscatine Circle

Matt J. Falls

The Petitioner requests a Variance of Development Standard to encroach twelve (12) feet into the twenty-five (25) foot Minimum Rear Yard Setback on 0.19 acres +/- in the Andover Planned Unit Development (PUD) District. (*Planner: Daine Crabtree – dcrabtree@westfield.in.gov*)

Crabtree overviewed this request for a Variance of Development Standard. He said this plan had been approved by the Andover HOA as well as the Westfield Public Works Department. He said Staff had received no comments on this petition.

Public Hearing for 2006-VS-10 opened at 8:08 p.m.

No public comments.

Public Hearing for 2006-VS-10 closed at 8:09 p.m.

Fortier asked about the deadline date within the HOA letter.

Zaiger said it is just a standard HOA requirement.

Raines motioned to approve 2006-VS-10.

Kingshill seconded. Motion passed. Vote 5-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2006-VS-10.

Fortier seconded. Motion passed. Vote 5-0.

ITEMS CONTINUED TO A FUTURE MEETING:

2006-VS-07
[CONTINUED]

4321 W. 166th Street

Scott Higgs

The Petitioner requests a Variance of Development Standard to permit an Accessory Structure in an Established Front Yard on 10 acres +/- in the AGSF1: Agriculture/Single-Family Rural District (Article 6.1(D)(2)(a)) (*Planner: Corey Harris – charris@westfield.in.gov*)

REPORTS/COMMENTS:

- Plan Commission Liaison
- Community Development Department

ADJOURNMENT

Kingshill motioned to adjourn the meeting.

Raines seconded. Motion passed. Vote 5-0.

The meeting adjourned at 8:15 p.m.

Chairperson
Dave Schmitz

Secretary
Kevin M. Todd, AICP
Director



Westfield–Washington Township Board of Zoning Appeals
Minutes of the July 14, 2020 BZA Meeting
Presented for approval: August 11, 2020

The Westfield-Washington Township Board of Zoning Appeals (BZA) met at 7:00 p.m.
on Tuesday, July 14, 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 tabled.

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

2006-VS-07

[PUBLIC HEARING]

4321 W. 166th Street

Scott Higgs

The Petitioner requests Variances of Development Standard to allow a detached garage taller than the Maximum Accessory Building Height and to encroach in the Established Front Yard on 10 acres +/- in the AG-SF1: Agriculture / Single-family Rural District (Articles 6.1(D)(2)(a)) & 6.1(F)).

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

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

Public Hearing for 2006-VS-07 opened at 7:05 p.m.

No public comments.

Public Hearing for 2006-VS-07 closed at 7:07 p.m.

Fortier asked about the use of the structure.

The Petitioner answered it would only be for personal use.

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Fortier motioned to approve 2006-VS-07 with the following staff conditions:

- Approval shall only be valid for the building noted on the Site Plan (Exhibit 3).
- Construction shall be substantially compliant with the Site Plan (Exhibit 3) and Elevations (Exhibit 4).

McCarty seconded. Motion passed. Vote 3-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2006-VS-07 with;

- The striking of the legal non-conforming aspect in the petitioners original Findings of Fact.

McCarty seconded. Motion passed. Vote 3-0.

2007-VS-11

[PUBLIC HEARING]

549 McNamara Court

Michael Schroeder

The Petitioner requests a Variance of Development Standard to Encroach fifteen (15) feet into the thirty (30) foot Minimum Rear Yard Setback on 0.38 acres +/- in the SF-2: Single-Family Low-Density District to accommodate a swimming pool and pergola (Article 4.5(E)(3)(a)).

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

Dorsey overviewed this request for a Variance of Development. He said several, all positive public comments had been received.

Public Hearing for 2007-VS-11 opened at 7:15 p.m.

No additional public comments.

Public Hearing for 2007-VS-11 closed at 7:16 p.m.

McCarty motioned to approve 2007-VS-11.

Fortier seconded. Motion passed. Vote 3-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2007-VS-11.

Fortier seconded. Motion passed. Vote 3-0.

2007-VS-14

[PUBLIC HEARING]

2150 E Greyhound Pass

Menard, Inc.

The Petitioner requests Variances of Development Standard so that (a) existing Variance 0206-VS-058, which permitted the increase of Maximum Fence Height from ten (10) feet to fourteen (14) feet, be also applicable to additional real estate proposed to be added to the subject Property and (b) encroachments into the Side and Rear Yard Building Setbacks for a future building addition in the SBN-PD: Special Business-Planned Development District (Article 4.22)(B)).

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

Dorsey overviewed this request for Variances of Development Standard. He said no public comments had been received.

Tyler Edwards, the Petitioner, summarized the reasoning behind the expansion and its associated variance requests. He said the all of the Menards Stores are upgrading their properties. He also addressed the landscape buffering for the adjacent homes.

Public Hearing for 2007-VS-14 opened at 7:26 p.m.

No public comments.

Public Hearing for 2007-VS-14 closed at 7:27 p.m.

Schmitz asked for clarification on which direction the finished side of the fence would face.

Dorsey said the fencing standards are in the UDO.

Fortier motioned to approve 2007-VS-14.

McCarty seconded. Motion passed. Vote 3-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2007-VS-14.

Fortier seconded. Motion passed. Vote 3-0.

2007-VS-16
[PUBLIC HEARING]

SE Corner of 161st Street and US Highway 31

Pure Development, Inc. by Tuohy Bailey & Moore LLP

The Petitioner requests Variances of Development standard to: (a) increase the Maximum Building Size from 30,000 SF to approximately 70,000 SF, (b) reduce Masonry Materials of all external Building Facades to less than 60%, (c) provide horizontal offsets as proposed, and (d) provide a flat roof design as proposed for the construction of a new office building in the LB: Local and Neighborhood Business District. (Articles 4.14(H)(2), 6.3(F)(2), 6.3 (F)(5)(b), and 6.3(F)(7)(b)).

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

Ernest overviewed this request for Variances of Development Standard. He further described the variance requests as:

- maximum building size proposes increasing from 30,000 SF to no greater than 75,000 SF
- reduce a minimum of 60% masonry materials to a range of 10-20%
- provide horizontal offsets in substantial compliance with Exhibit A, and
- provide a Flat Roof design in substantial compliance with Exhibit A.

Brian Tuohy with Tuohy Bailey and Moore LLP, on behalf of the Petitioner, said that this site would be the home of the SEP Corporate Headquarters. He summarized the project and its variance requests through the use of PowerPoint exhibits. He said this variance will allow for a use within the Employment Corridor which is called for in the Comprehensive Plan.

Public Hearing for 2007-VS-16 opened at 7:44 p.m.

Two public comments were submitted electronically prior to the meeting.

Alice Henehen, 16 Cool Creek Circle: I cannot come to the hearing on July 14th. I do not want the office building at the southeast corner of 161st and 31.

Bob Barnes: I own 10 acres residential property at 15617 Westfield Boulevard as well as seven-plus commercially zoned acres at 15600 Westfield Boulevard. My question is about adding future capabilities for water and sewer to continue south from this project. Will capabilities be increased to accommodate future expansion? Also, I'm sure the sidewalk and roundabout will be completed with this project?

Public Hearing for 2007-VS-16 closed at 7:47 p.m.

Tuohy responded that he had a conversation with Henehen, and that the reason she did not want this project was that the site is a country site. Tuohy pointed out the zoning and the Comprehensive Plan's recommendation for this area.

Brian Palmer, on behalf of the Petitioner, responded to Barnes comments and questions. He said that the roundabout would be completed separately from this project and the City could address the timetable/status for that improvement. He said that they would be bringing sanitary and water utilities to the property. He said future utility extensions would be managed by the current utility provider.

APC Comments:

McCarty said he did not find anything to which he objected; however, he said he might be missing something. He said he would wait to point anything out if other board members had any comments. He said that he felt the area/land was appropriate for this project.

Fortier said she appreciated the site development and the keeping of nature, the beautiful setting, and building. She asked about the traffic at the intersection of the proposed roundabout and said that intersection is controlled with a traffic signal. She said she was concerned about traffic especially when SEP lets traffic out. She said she was worried about traffic and how it would be handled and added that she felt sure that SEP will work with City on that issue.

Schmitz said that the building size caught his attention because 75,000 square feet was over the permitted number; but, he said he was very pleased with seeing the building footprint relative to the site. He said that the scope of the building was not enormous especially with the way it is integrated into the site. He said the other three variances were discretionary architectural issues. He said that as Tuohy mentioned they are high quality architecture and justifies variances in absence of any evidence to contrary. He said that, unlike other variances that sometimes are not aligned with Comprehensive plan, this one is aligned well.

McCarty said he agreed with Schmitz and Fortier, in regard to use of lowering brick, but incorporating other high quality and modern architecture would make the building impressive and draw people. He said that the location is key in its aspect adding that if this had been proposed along State Road 32 it would be a little different, but as it is off of US 31 it's a fit.

McCarty motioned to approve 2007-VS-16.
Fortier seconded. Motion passed. Vote 3-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2007-VS-16.
Fortier seconded. Motion passed. Vote 3-0.

**2007-VS-12 &
2007-VU-02
[PUBLIC HEARING]**

203 Jersey Street
Grand Junction Properties, LLC by Church, Church, Hittle & Antrim, LLP
The Petitioner requests a Variance of Use to permit a Low-Intensity Retail (Plant Boutique) use as well as a Variance of Development Standard to modify

applicable sign standards on 0.30 acres +/- in the MF1: Multi-Family Low Density District (Chapter 13 & Article 6.17).

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

Crabtree overviewed this request for a Variance of Use to a Low-Intensity Retail use and a Variance of Development Standard. He said the property had previously been granted a variance to allow a hair salon, however that business is no longer located at this address. He said that the Grand Junction Task Group had submitted a letter of support. He said two public comments had been received.

Eric Douthit with Church Church Hittle & Antrim on behalf of the Petitioner, Bob Beauchamp, summarized the details of this expansion of the business, Root 31. He said the building on Jersey Street would be used as office space, a boutique, and an educational area. He said the structure would remain as is with no modifications. He asked about the sunset requirement and how it would be affected by the City's revision of the zoning along Jersey Street. Kevin Todd explained the process of the proposed zoning and that the sunset time line condition is aligned with the proposed new zoning work.

Public Hearing for 2007-VS-12 & 2007-VU-12 opened at 8:03 p.m.

Three public comments were received electronically.

- 1) Westfield Preservation Alliance: Contributing members: Susan Boyer, Judi Shuck, Linda Naas, Elaine Hinshaw and Marla Ailor
Rezoning should happen at the APC/Council, not as piecemeal changes of uses through variances that affect surrounding properties and in this case an entire sub-district in downtown Westfield. Since the Grand Junction Implementation Plan, adopted August, 2013, has not yet resulted in amendments to the UDO establish zoning, uses, etc., we are left with an unsystematic partial measures approach to establishing uses for existing and new construction in the area. This is never a good way to approach planning and zoning and becomes a problematic and fragmented decision-making process that results in long-lasting effects on the future of "the core of downtown Westfield". (See Junction Sub-district (orange) below for reference.)

WPA is offering for consideration of the BZA:

1. Although we would like to see these properties in use and maintained, we believe there should be a step back (really a step forward) to make an overall plan of zoning and uses for this area to be amended into the Unified Development Ordinance to include most if not all the standards suggested in the Grand Junction Implementation Plan.
2. The City through BZA consider a temporary "use" allowed contingent upon #1 being pursued and implemented, suggesting 3 years but no more than 5 years.
3. Require developer of these projects to follow the GJIP in keeping the properties cohesive with existing downtown.
4. Guidelines from LB-H zoning in our current UDO should be considered for update of UDO for this area.
5. WPA is willing to work with a committee to update UDO Ordinances in an effort to avoid these piecemeal and fragmented variances in the hopes of eliminating "use" variances in the future for this area.
6. We believe now is the time to address the above issues as GJ Plaza develops and more investors come into this area.

RESOURCE:

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

Junction Sub-district (orange)

The Junction Sub-district includes the core of Westfield's downtown area. It is the central business district of Westfield. The Junction Sub-district centers on Union Street and Main Street. It extends to properties just north of Penn Street, to the north; properties just east of East Street, to the east; properties just south of the future Mill Street/East Street extension, to the south; and Poplar Street, to the west.

The area included in the Junction Sub-district contains the basic grid street network that is part of a typical, traditional downtown. The street network is planned to be extended in strategic locations to enhance circulation. This Sub-district is anticipated to redevelop in a form that is compatible with traditional downtown development.

Preserving Westfield's heritage is important, and a list of downtown buildings that need to be preserved should be developed and maintained. As the rest of the Sub-district redevelops, it is anticipated that buildings will be positioned near the street and they will be designed using timeless and eclectic architecture. Quality materials and design should be used. Faux facade treatment is not desirable in this area. The Sub-district should maintain a distinct character that is unique to Westfield, and it should be welcoming and safe for pedestrians and first-time visitors. Public art should be integrated into the area, and public/semi-public spaces should be incorporated into the Sub-district's design and enhanced as the area develops and redevelops. Uses and events that create activity and interest in the downtown should be encouraged.

2) Judith and Robert Shuck, 209 West Main Street:

Thank you for the notification given to our neighbors on Jersey Street. I (Judith) have resided in the neighborhood for almost 70 years. It is sad to have seen so many family properties purchased for business but at least the structures are repurposed.

First, we had questioned the rezone for 203 Jersey Street, because there was a business located there before. I also thought the council did these changes of rezoning???

Second, we admit that we have enjoyed walking to Greeks pizza for dinner on occasion and still enjoy being able to say "Hi" to neighbors.

We question what all of this is doing to our core of downtown Westfield. It seems that anyone can just put anything where they want. Where is the planning? We know there is a Comprehensive Plan and the Grand Junction is part of that plan. Are we staying true to that plan? Members of the DWA and Grand Junction Task group seem to have benefited by the purchase of a lot of our neighborhood properties. Some issues send up a red flag on how these dealings are happening. Many residents have spoken to me about this very subject.

After seeing the experiences of residents still living on Park Street and in the middle of business', we question more business on Jersey at this time because there are still families with children. There are no sidewalks for people to walk on and the street is not safe with added traffic.

Are we, as stewards of this community looking out for the best interests of our residents? We want this 'progress' to be right.

3) Ralph Bruns, 227 Park Street:

This is a response for approval for the aforementioned petition 2007-VS-12 and 2007-VU-02. The investment of this individual brings great economic impact for the city of Westfield. This positive move toward creating more jobs for the community by Mr. Bob Beauchamp is an awesome example that others should join to make the area a profit to Westfield assets. We the people do support the approval of this petition.

Public Hearing for 2007-VS-12 & 2007-VU-12 closed at 8:05 p.m.

Douthit replied that he felt that the variance deadline aligns with the City's rezoning effort for the area.

McCarty asked for clarification for what all is Root 31 going to utilize.

Douthit replied that they would be utilizing the structure and the yard.

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Schmitz asked if the Park Street would remain the primary retail space.

Schmitz stated that the buildings would not be modified.

Douthit agreed.

Douthit replied yes.

Schmitz motioned to approve 2007-VS-12 & 2007-VU-12 with the following staff conditions:

1. That the Low-Intensity Retail use permitted to exist on the Property shall be limited only to a Plant Boutique;
2. That any substantial alteration to the exterior of the existing Principal Building on the Property (shown as Exhibit 3) shall require a Detailed Development Plan (DDP) review and approval by the Westfield-Washington Township Advisory Plan Commission (APC). The determination of whether an alteration is “substantial” shall be relegated to the Director of the Community Development Department;
3. That any sign erected on the property shall be in substantial compliance with the Illustrative Sign Exhibit provided as Exhibit 4;
4. That the approval of these variances shall expire on December 31, 2024 or when the Property is rezoned as commercial, whichever occurs first;
5. That any request to extend the time limit for these variances shall be reviewed and approved by the Board of Zoning Appeals prior to December 31, 2024;
6. That a new application shall be submitted by June 30, 2024 to the Economic and Community Development Department if an extension to the time limit for the variances is requested; and
7. That the Petitioner records an Acknowledgement of Variance with the Hamilton County Recorder’s Office and returns a copy of the recorded instrument to the Economic and Community Development Department.

Fortier seconded. Motion passed. Vote 3-0.

Schmitz motioned to adopt Staff’s Findings of Fact for 2007-VS-12 & 2007-VU-12.

Fortier seconded. Motion passed. Vote 3-0.

**2007-VS-13 &
2007-VU-03
[PUBLIC HEARING]**

337 Jersey Street

Grand Junction Properties, LLC by Church, Church, Hittle & Antrim, LLP

The Petitioner requests a Variance of Use to permit a Low-Intensity Retail (Coffee Shop Without Drive-Thru) use as well as a Variance of Development Standard to modify applicable sign standards on 0.30 acres +/- in the MF1: Multi-Family Low Density District (Chapter 13 & Article 6.17).

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

Crabtree overviewed this request for a Variance of Use to a Low-Intensity Retail use for a coffee shop without a drive-through. and a Variance of Development Standard. He said that the Grand Junction Task Group had submitted a letter of support. He said one public comment had been received.

Eric Douthit with Church Church Hittle & Antrim on behalf of the Petitioner, Bob Beauchamp, summarized the details of the proposed coffee shop. He said the structure would remain as is with no modifications. He asked about the variance deadline requirement and how it would be affected by the City’s revision of the zoning along Jersey Street. He said the Petitioner understood the deadline’s conditions.

Public Hearing for 2007-VS-13 & 2007-VU-03 opened at 8:16 p.m.

One public comment was received electronically.

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- 1) Westfield Preservation Alliance: Contributing members: Susan Boyer, Judi Shuck, Linda Naas, Elaine Hinshaw and Marla Ailor

Rezoning should happen at the APC/Council, not as piecemeal changes of uses through variances that affect surrounding properties and in this case an entire sub-district in downtown Westfield. Since the Grand Junction Implementation Plan, adopted August, 2013, has not yet resulted in amendments to the UDO establish zoning, uses, etc., we are left with an unsystematic partial measures approach to establishing uses for existing and new construction in the area. This is never a good way to approach planning and zoning and becomes a problematic and fragmented decision-making process that results in long-lasting effects on the future of “the core of downtown Westfield”. (See Junction Sub-district (orange) below for reference.)

WPA is offering for consideration of the BZA:

1. Although we would like to see these properties in use and maintained, we believe there should be a step back (really a step forward) to make an overall plan of zoning and uses for this area to be amended into the Unified Development Ordinance to include most if not all the standards suggested in the Grand Junction Implementation Plan.
2. The City through BZA consider a temporary “use” allowed contingent upon #1 being pursued and implemented, suggesting 3 years but no more than 5 years.
3. Require developer of these projects to follow the GJIP in keeping the properties cohesive with existing downtown.
4. Guidelines from LB-H zoning in our current UDO should be considered for update of UDO for this area.
5. WPA is willing to work with a committee to update UDO Ordinances in an effort to avoid these piecemeal and fragmented variances in the hopes of eliminating “use” variances in the future for this area.
6. We believe now is the time to address the above issues as GJ Plaza develops and more investors come into this area.

RESOURCE:

Junction Sub-district (orange)

The Junction Sub-district includes the core of Westfield’s downtown area. It is the central business district of Westfield. The Junction Sub-district centers on Union Street and Main Street. It extends to properties just north of Penn Street, to the north; properties just east of East Street, to the east; properties just south of the future Mill Street/East Street extension, to the south; and Poplar Street, to the west.

The area included in the Junction Sub-district contains the basic grid street network that is part of a typical, traditional downtown. The street network is planned to be extended in strategic locations to enhance circulation. This Sub-district is anticipated to redevelop in a form that is compatible with traditional downtown development.

Preserving Westfield’s heritage is important, and a list of downtown buildings that need to be preserved should be developed and maintained. As the rest of the Sub-district redevelops, it is anticipated that buildings will be positioned near the street and they will be designed using timeless and eclectic architecture. Quality materials and design should be used. Faux facade treatment is not desirable in this area. The Sub-district should maintain a distinct character that is unique to Westfield, and it should be welcoming and safe for pedestrians and first-time visitors. Public art should be integrated into the area, and public/semi-public spaces should be incorporated into the Sub-district’s design and enhanced as the area develops and redevelops. Uses and events that create activity and interest in the downtown should be encouraged.

Public Hearing for 2007-VS-13 & 2007-VU-03 closed at 8:17 p.m.

He asked about the name.

Douthit replied the name would be Rivet Coffee Shop.

McCarty said he thought this is a great idea.

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Schmitz motioned to approve 2007-VU-03 with the following staff conditions:

1. That the Low-Intensity Retail use permitted to exist on the Property shall be limited only to a Coffee Shop without Drive-Thru;
2. That any substantial alteration to the exterior of the existing Principal Building on the Property (shown as Exhibit 3) shall require a Detailed Development Plan (DDP) review and approval by the Westfield-Washington Township Advisory Plan Commission (APC). The determination of whether an alteration is “substantial” shall be relegated to the Director of the Community Development Department;
3. That any sign erected on the property shall be in substantial compliance with the Illustrative Sign Exhibit provided as Exhibit 4;
4. That the approval of these variances shall expire on December 31, 2024 or when the Property is rezoned as commercial, whichever occurs first;
5. That any request to extend the time limit for these variances shall be reviewed and approved by the Board of Zoning Appeals prior to December 31, 2024;
6. That a new application shall be submitted by June 30, 2024 to the Community Development Department if an extension to the time limit for the variances is requested; and
7. That the Petitioner records an Acknowledgement of Variance with the Hamilton County Recorder’s Office and returns a copy of the recorded instrument to the Community Development Department.

Fortier seconded. Motion passed. Vote 3-0.

Schmitz motioned to adopt Staff’s Findings of Fact for 2007-VU-03.

McCarty seconded. Motion passed. Vote 3-0.

Schmitz motioned to approve 2007-VS-13 with the following staff conditions:

1. That the Low-Intensity Retail use permitted to exist on the Property shall be limited only to a Coffee Shop without Drive-Thru;
2. That any substantial alteration to the exterior of the existing Principal Building on the Property (shown as Exhibit 3) shall require a Detailed Development Plan (DDP) review and approval by the Westfield-Washington Township Advisory Plan Commission (APC). The determination of whether an alteration is “substantial” shall be relegated to the Director of the Community Development Department;
3. That any sign erected on the property shall be in substantial compliance with the Illustrative Sign Exhibit provided as Exhibit 4;
4. That the approval of these variances shall expire on December 31, 2024 or when the Property is rezoned as commercial, whichever occurs first;
5. That any request to extend the time limit for these variances shall be reviewed and approved by the Board of Zoning Appeals prior to December 31, 2024;
6. That a new application shall be submitted by June 30, 2024 to the Community Development Department if an extension to the time limit for the variances is requested; and
7. That the Petitioner records an Acknowledgement of Variance with the Hamilton County Recorder’s Office and returns a copy of the recorded instrument to the Community Development Department.

Fortier seconded. Motion passed. Vote 3-0.

Schmitz motioned to adopt Staff’s Findings of Fact for 2007-VS-13.

McCarty seconded. Motion passed. Vote 3-0.

ITEMS CONTINUED TO A FUTURE MEETING

2007-VS-15

[PUBLIC HEARING]

17827 Commerce Drive

JCF Commerce, LLC

The Petitioner requests Variances of Development Standard to reduce the Minimum Lot Frontage from seventy (70) feet to 66.9 feet on one (1) existing

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Lot and from seventy (70) feet to 46.37 feet on one (1) new Lot in the EI:
Enclosed Industrial Business District (Article 4.24(D)).
(Planner: Daine Crabtree – DCrabtree@westfield.in.gov)

REPORTS/COMMENTS:

- Plan Commission Liaison
- Community Development Department

ADJOURNMENT

Fortier motioned to adjourn the meeting.
McCarty seconded. Motion passed. Vote 3-0.

The meeting adjourned at 8:21 p.m.

Chairperson
Dave Schmitz

Secretary
Kevin M. Todd, AICP
Director



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 11, 2020

2007-VS-15

Exhibit 1

Petition Number: 2007-VS-15

Subject Site Address: 18727 Commerce Drive ("the Property")

Petitioner: J.R. Freiburger ("the Petitioner")

Request: The petitioner requests to amend a condition of 97-V-7 to permit a 14th Lot within Alpha Tau Business Park and for Variances of Development Standard to reduce the Minimum Lot Frontage from seventy (70) feet to 66.9 feet on one (1) existing Lot and from seventy (70) feet to 46.37 feet on one (1) new Lot in the EI: Enclosed Industrial Business District (Article 4.24(D)).

Current Zoning: EI: Enclosed Industrial

Current Land Use: Industrial/Vacant

Approximate Acreage: 2.41 acres +/-

Exhibits:

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

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject property is 2.41 acres +/- in size (the "Existing Lot") and located at the northeast corner of 18727 Commerce Drive in what is commonly known as the Alpha Tau Business Park (**see Exhibit 2**). The Property is zoned EI: Enclosed Industrial. Adjacent properties are zoned EI: Enclosed Industrial and the Wheeler Landing Planned Unit Development (PUD) District.

Property History: At the March 17, 1997, Board of Zoning Appeals (the "BZA") meeting, the entirety of the real estate that comprises the Alpha Tau Business Park (the "Business Park") received Variances of Development Standard so that lots created within could be modified from the Enclosed Industrial lot size requirement of 3 acres to a minimum 1.2 acres. Included with this approval, a condition was added so that the number of lots within Alpha Tau Business Park not exceed eleven (11) lots.

This condition was subsequently amended twice – on May 15, 2000 and August 21, 2000 – so that a twelfth and thirteenth lot were permitted within the Business Park.

A Detailed Development Plan (0901-DDP-01) was approved at the January 20, 2009, Town of Westfield Plan Commission Meeting, which approved a second industrial building (the



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 11, 2020

2007-VS-15

Exhibit 1

“Previously Approved Building”), 11,700 square feet in size, on the Property. Variances of Development Standard to modify building material and offset requirements (1904-VS-07) were approved at the April 9, 2019, Board of Zoning Appeals (BZA) meeting.

Requested Variances: The petitioner is requesting Variances of Standard to reduce the Minimum Lot Frontage from seventy (70) feet for two (2) Lots – one existing, and one new as well as an amended condition permitting a 14th lot in Alpha Tau Park.

SUMMARY OF VARIANCE

The Property is currently subject to the EI: Enclosed Industrial¹ zoning set forth by the Westfield-Washington Township Unified Development Ordinance (the “UDO”).

The Petitioner is requesting Variances of Standard to reduce the Minimum Lot Frontage from seventy (70) feet for two (2) Lots – one existing, and one new as well as an amended condition permitting a 14th lot in Alpha Tau Park.

Rather than erect a second building on the same Lot as previously contemplated, the Petitioner prefers the second building to exist on its own Lot, accessed by an ingress/egress easement.

Rather than create a new Lot with zero (0) road frontage, as shown on the Proposed Site Plan (**Exhibit 3**), both the existing Lot and new Lot would contain Road Frontage, but both would be below the seventy (70) foot minimum.

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 August 11, 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.

¹ Article 4.24: EI: Enclosed Industrial District

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 11, 2020

2007-VS-15

Exhibit 1

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 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 of Development Standards (2007-VS-15), then the Department recommends the following written findings of fact and condition:

- 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 EI: Enclosed Industrial 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:

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 11, 2020

2007-VS-15

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: Because of the lack of road frontage on the Existing Lot, strict adherence to the zoning ordinance would result in either the additional space on the lot remaining as vacant land or requiring an owner of the Property to rent or lease the Previously Approved Building instead of selling the land so that the Previously Approved Building can be owned outright.

Recommended Conditions:

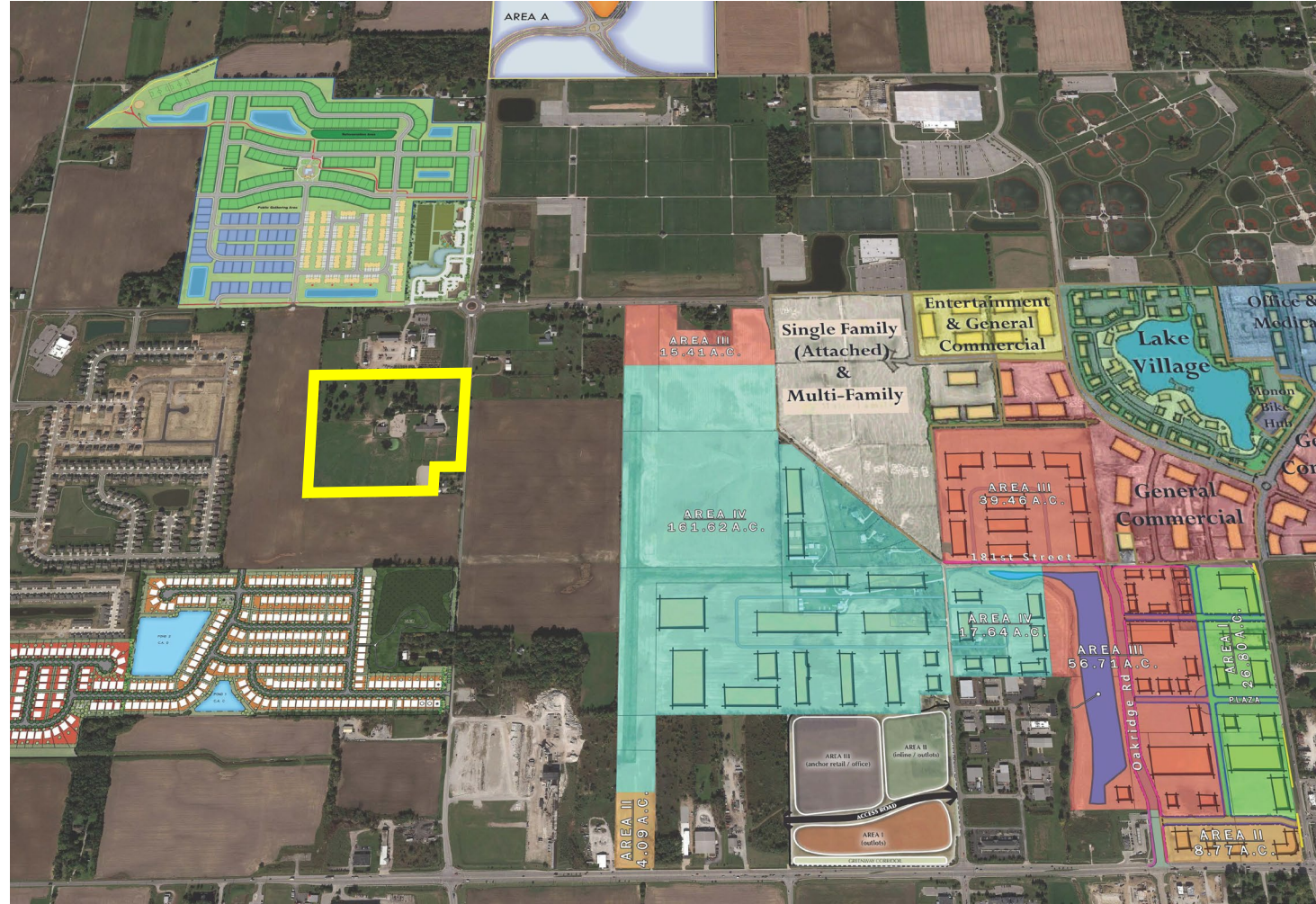
- That the Petitioner shall record an acknowledgement of this approval with the County Recorder's Office and return a copy of the recorded instrument to the Economic and Community Development Department.

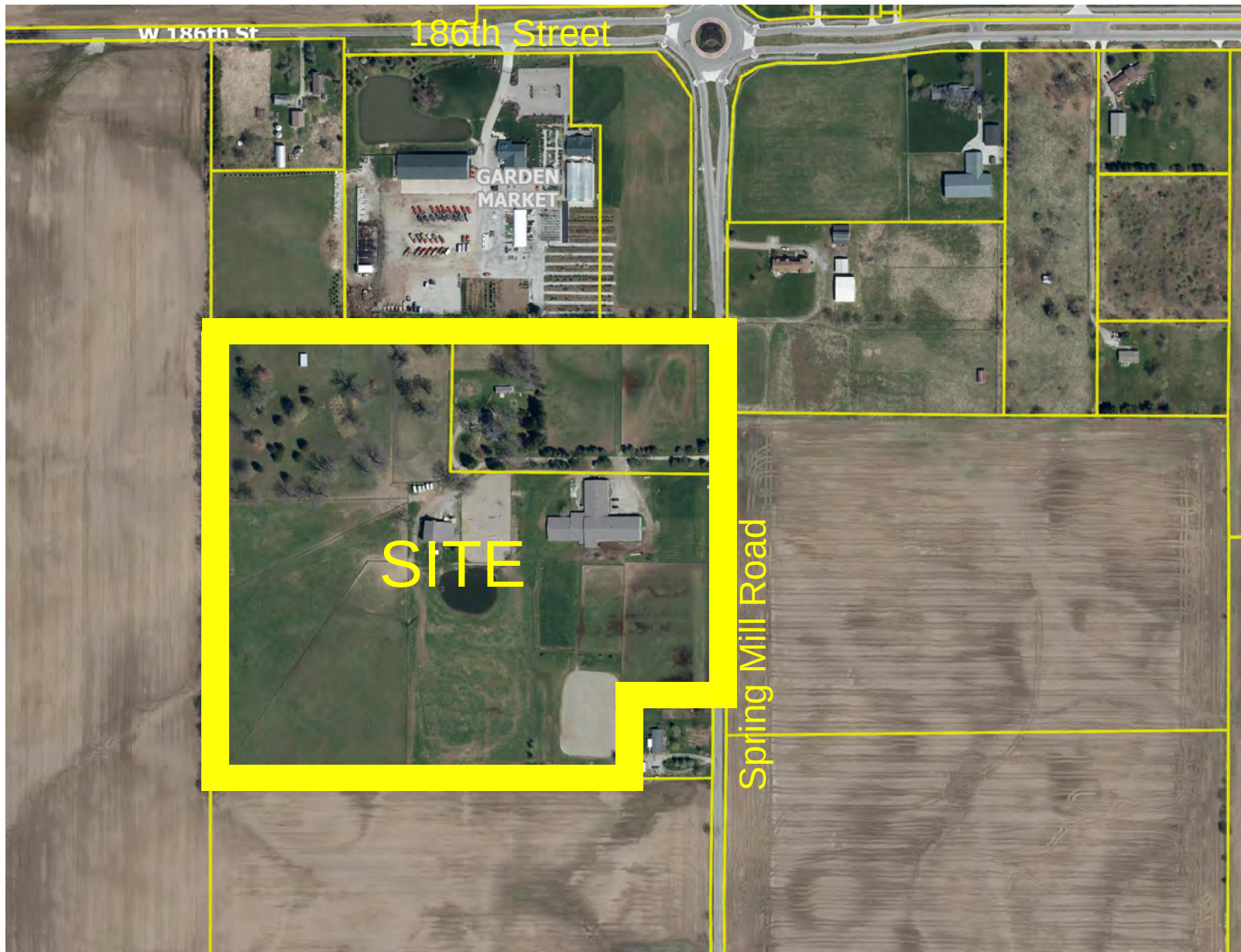
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.



URBAN FARMER

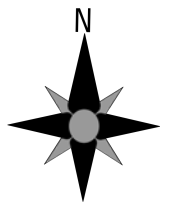
LOVE THE EARTH

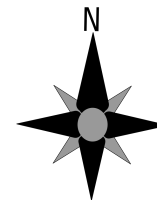
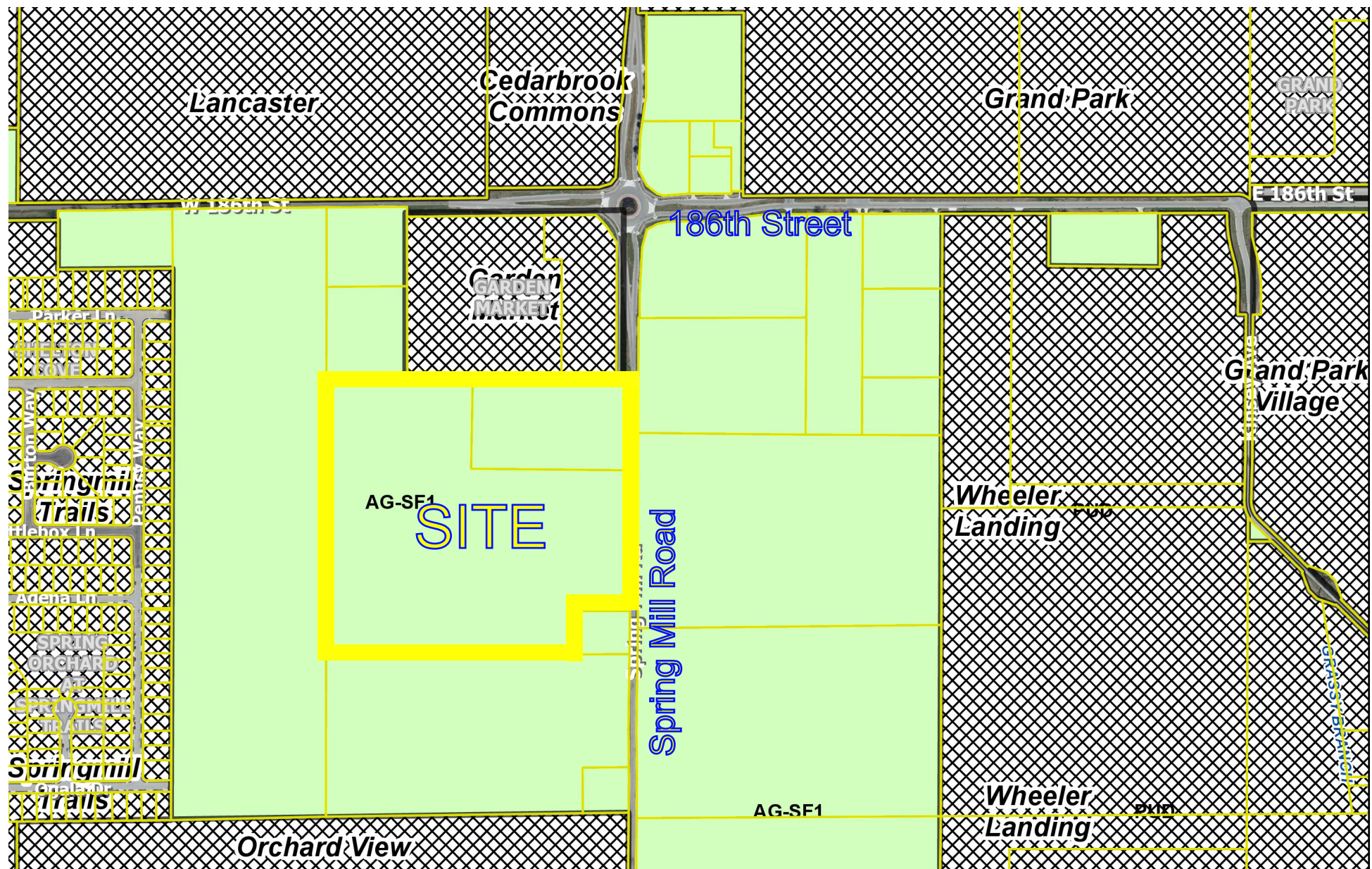


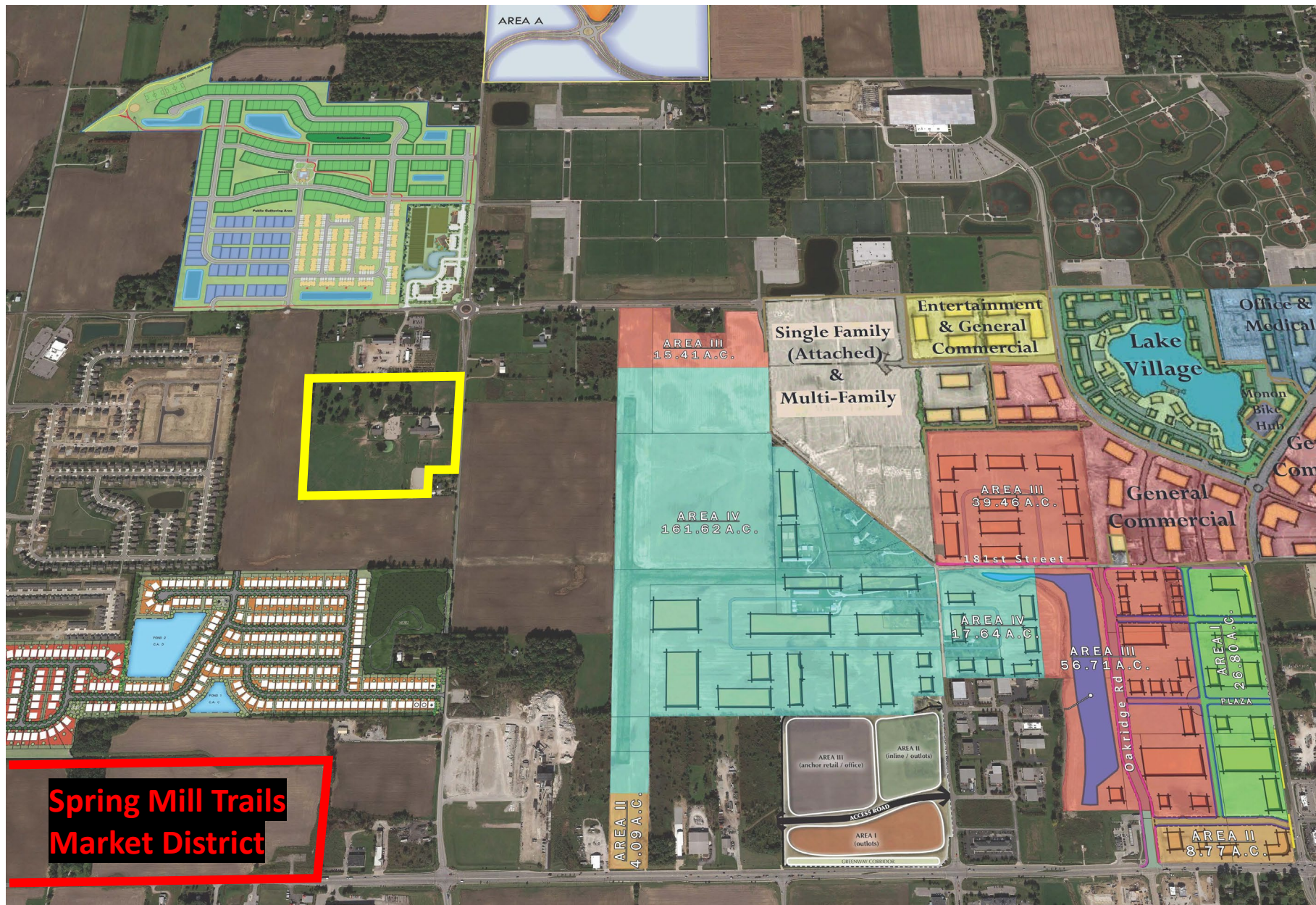


Aerial Map

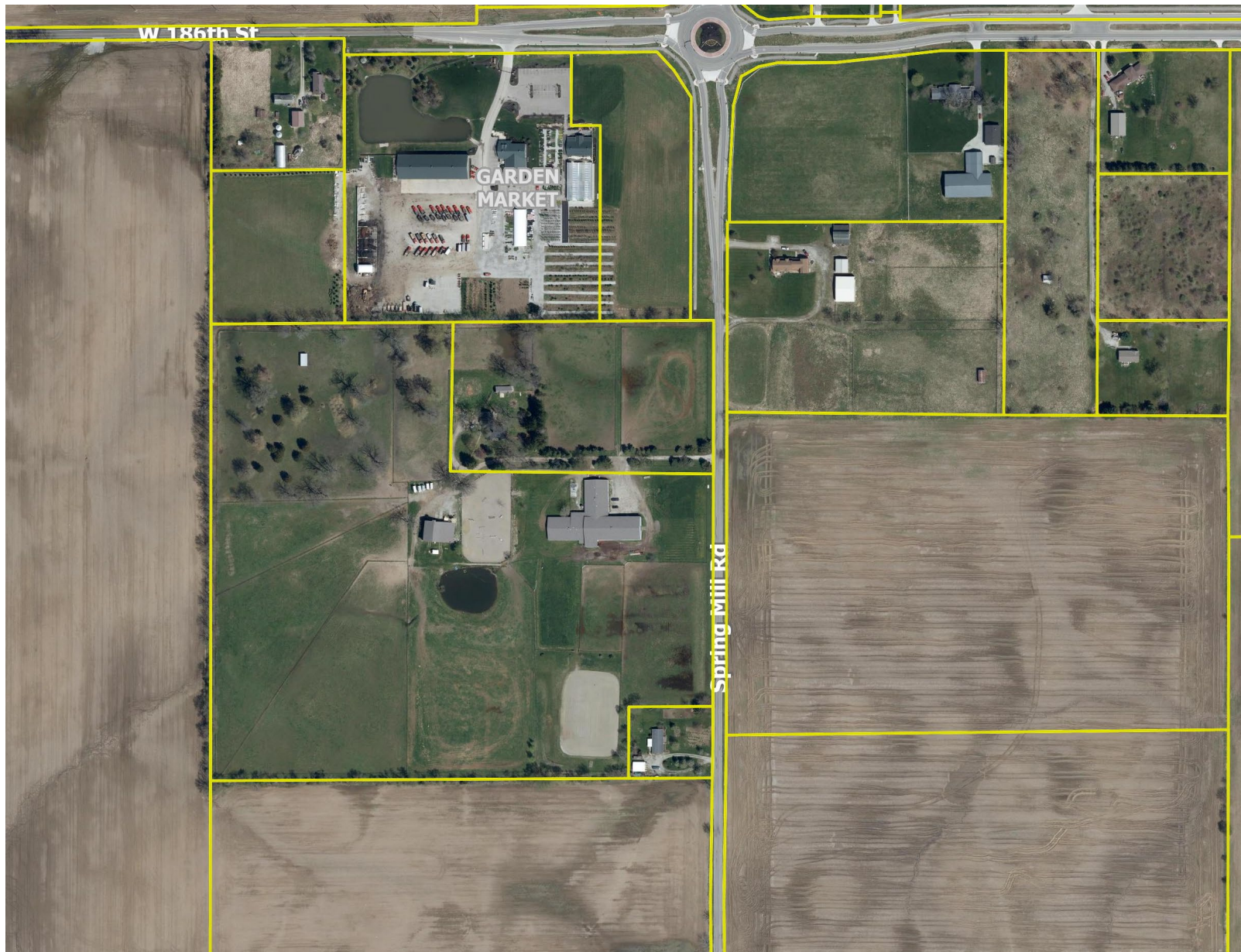
URBAN FARMER
LOVE THE EARTH







Context Map



Aerial Map

SITEPLAN

18326 Springmill Rd, Westfield, IN 46074



All buildings shown already exist except the white building. This shows a future glass greenhouse location. Farm land shows possible layout for vineyards and orchards.

EXISTING BUILDINGS





Warehouse
Seed Storage
(Pallet Shelves)
4,320 sq.ft.

Utilities

Bathroom

Lunchroom

Seed Processing Room
27'x60'

Storage
Room
12'x40'

Offices
20x30'

Storage Area
10x40'

5,700 sq.ft.

Floor Storage

Wine Bottler
12'x4'

Bottling Area

Grape & Wine Processing
Storage Tanks, Bottling, Filtering, Storage
(Pallet Shelves)
8,712 sq.ft.

Bottle Storage

Equip.
Room

Pumps
Room

Filter
Room

Lab & Storage
13x18'

Stairs

Receiving
32'x18'

6085 gal 6085 gal 6085 gal

2200 gal 2200 gal 550 gal 550 gal 550 gal 550 gal

2200 gal 2200 gal 2200 gal 2200 gal 2200 gal

6085 gal 6085 gal 6085 gal 6085 gal



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 11, 2020
2008-VU-04
Exhibit 1

Petition Number: 2008-VU-04

Subject Site Address: 18326 & 18342 Springmill Drive (the "Property")

Petitioner: Noah Herron (the "Petitioner")

Request: The petitioner is requesting 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 13.2).

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

Current Land Use: Agricultural / Residential

Approximate Acreage: 35.0 acres +/-

Exhibits:

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

Staff Reviewer: Jonathan Dorsey, Associate Planner

OVERVIEW

Location: The subject property is 35.0 acres +/- in size and located at 18326 Springmill Drive and 18342 Springmill Drive, (see **Exhibit 2**). The Property is zoned the AG-SF1: Agricultural / Single-Family Rural District. The Property currently contains a single-family home and Accessory Building¹. The properties to the East and South are currently zoned AG-SF1: Agricultural / Single-Family Rural District, the property to the North is currently zoned Garden Market Planned Unit Development (PUD) district, and the properties to the West is currently zoned AG-SF1: Agricultural / Single-Family Rural District and Springmill Trails PUD District.

Variance Requests: The Petitioner is requesting this variance to allow a wine processing facility, as generally illustrated on the Site Plan Exhibit (see **Exhibit 3**) and Proposed Addition Exhibit (see **Exhibit 4**).

¹ Chapter 12 of the UDO defines "Building, Accessory" as "[a] subordinate building or structure, the use of which is incidental to and customary in connection with the Principal Building or use and which is located on the same Lot with such Principal Building or use and is under the same ownership. Buildings which are portable and do not have permanent foundations are also classified as Accessory Buildings, but shall not require an Improvement Location Permit."

SUMMARY OF VARIANCES

The Petitioner is requesting these variances to allow a wine processing business, as illustrated on the Site Plan Exhibit (see **Exhibit 3**) and Proposed Concept Plan Exhibit (see **Exhibit 4**).

Variance of Use: The existing home is located within the AG-SF1 district. The petitioner wishes to use the property for Agricultural Uses and Agricultural Processing Uses. While the proposed Agricultural Uses are permitted by right, the Agricultural Processing Uses are permitted by Special Exception. To limit what may be approved through permitting Agricultural Processing, the Petitioner is asking for uses specifically tied to wine processing, including but not limited to harvesting, fermentation, aging, and bottling.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this property within the “New Suburban” land use classification.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of Variances of Use and Development Standard. This petition is scheduled to receive its public hearing at the August 11, 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.

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

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

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

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.

[SEE FOLLOWING PAGES FOR DEPARTMENT COMMENTS]

DEPARTMENT COMMENTS

Approval: If the Board is inclined to approve the variances, then the Department recommends the following findings:

Recommended Findings for Approval of the Variance of Use:

- 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 of use would be injurious to the public health, safety, moral, and general welfare of the community because the existed and proposed improvements would otherwise comply with the applicable zoning standards.

- 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 use and improvements would otherwise remain permitted by right within the AG-SF1: Agricultural / Single-Family Rural District.

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

Finding: Some, but not all, aspects of the proposed Wine Processing process include uses only permitted by Special Exception.

- 4) *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 Petitioner being unable to use the property as desired.

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

Finding: Approval will not interfere with the comprehensive plan because the comprehensive plan identifies this area as New Suburban, and the use of the property will remain in-line as Open Farmland, Agribusiness, or an Artisan Farm.

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