



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_08_10_2021

Tuesday, August 10, 2021 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, August 10, 2021 at 07:00 PM

MEETING PLACE: Westfield City Hall- Assembly Room

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

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

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

OPENING OF REGULAR MEETING

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

Note the presence of a quorum

Approval of Minutes

July 13, 2021

Documents: [BZA Minutes - July 13, 2021](#)

Review Rules & Procedures

BZA Resolution 21-01

Establishing a Virtual Meeting Policy

Documents: [BZA Resolution 21-01](#)

ITEMS OF BUSINESS:

2108-SE-02 [PUBLIC HEARING]

2909 E State Road 32

Next Gear Auto Sales

The Petitioner requests an extension for an existing Special Exception for a Very High

Intensity Retail Use (Auto Sales) on 1.93 acres +/- in the GB: General Business District and State Highway 32 Overlay District (Articles 4.16(B) & 13.2).

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

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Conditions Comparison](#) | [Exhibit 4: Current Site Plan](#) | [Exhibit 5: Recorded Acknowledgement of Variance \(1810-SE-04\)](#) | [Exhibit 6: Application](#)

2108-VS-27[PUBLIC HEARING]

15718 Towne Road

Dannon and Andrea Brown

The Petitioners request Variances of Development Standard to modify the Minimum Lot Frontage from 250 feet to 220 feet and modify the Minimum Lot Area from 3 acres to 1.3 acres +/- to permit the subdivision of a 2.77 acre +/- parcel in the AG-SF1:

Agriculture/Single-Family Rural District (Articles 4.2(C) and (D)).

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

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

2108-VS-28 [PUBLIC HEARING]

15500 Viking Crusader Court

Heather Hohla

The Petitioner requests a Variance of Development Standard to encroach ten (10) feet into the twenty-five (25) foot Minimum Rear Yard Setback on 0.57 acres +/- in the Viking Meadows PUD District to accommodate a swimming pool, deck, and associated accessory structure.

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

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

2108-VS-29 [PUBLIC HEARING]

Freemont Moore Road Subdivision

Mark Zielinski by Northern Commercial

The Petitioner requests a Variance of Development Standard to modify the Minimum Lot Frontage from 250 feet to 233 feet for two (2) lots and 40 feet for one (1) lot on 18.11 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District.

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

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Concept Plat](#) | [Exhibit 4: Plat Model](#)

2108-VS-30 [PUBLIC HEARING]

Flat Mountain II

Miller Surveying

The Petitioner requests a Variance of Development Standard to modify the Minimum Lot Frontage from 250 feet to 214.9 feet on 3 acres +/- in the AG-SF1:

Agriculture/Single-Family Rural District (Article 4.2(D))

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

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

2108-VS-31 [PUBLIC HEARING]

17112 Towne Road

Michael A. Johnson

The Petitioner requests Variances of Development Standard to modify the Minimum Lot Size from 3 acres to 1.43 acres, the Minimum Lot Frontage from 250 feet to 140 feet, the Minimum Front Yard Setback from 100 feet to 77 feet, and the Minimum Side Yard Setback from 30 feet to 10 feet for the north and south lot lines on 1.43 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District for building additions and a future accessory building (Articles 4.2(C), (D), (E)(1), and (E)(2).

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

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

2108-VS-32 [PUBLIC HEARING]

19400 Tomlinson Road

Westfield-Washington Schools by Cripe

The Petitioner requests a Variance of Development Standard to modify the maximum height of an Accessory Building from eighteen (18) feet to twenty-five (25) feet on 86.77 acres +/- in the AG-SF1: Agriculture/ Single-Family Rural District (UDO 6.1(F)).

(Planner: Rachel Riemenschneider - rriemenschneider@westfield.in.gov)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: Elevations](#) | [Exhibit 5: Narrative](#) | [Exhibit 6: Application](#)

ITEMS CONTINUED TO A FUTURE MEETING:

2108-VU-03 [PUBLIC HEARING-CONTINUED]

217 Mill Street

4E by WKRP Indy

The Petitioner requests a Variance of Use to permit a Low-Intensity Retail Use (Gift and Coffee Shop with bakery and limited seating) on 0.32 acres +/- in the MF1: Multi-Family Low Density District (Article 13.2)

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

REPORTS/COMMENTS:

Plan Commission Liaison

Community Development Department

ADJOURNMENT



Westfield-Washington Township Board of Zoning Appeals (BZA)

Minutes of the July 13, 2021 BZA Meeting

Presented for approval: August 10, 2021

**The Westfield-Washington Township Board of Zoning Appeals (BZA)
met both in-person and virtually at 7:00 p.m. on Tuesday, July 13, 2021.**

Active Links for this Meeting:

[July 13, 2021 BZA Agenda & Exhibits](#)

[July 13, 2021 YouTube Video](#)

Minutes are available to be acquired or viewed at the City of Westfield Community Development Office.

OPENING OF MEETING: 7:00 PM

YouTube Time: 0:24

ROLL CALL

BZA Members Present In-Person: Jeannine Fortier, Brian Morales, Victor McCarty, and Dave Schmitz. Jeff Boller arrived at 7:02 p.m.

BZA Members Present Virtually: None.

BZA Members Absent: None.

City Staff Present: Kevin Todd, Senior Planner; and Daine Crabtree, Associate Planner.

Legal Counsel Present: Beth Copeland with Taft Stettinius & Hollister LLP.

APPROVAL OF MINUTES

YouTube Time: 0:47

Fortier motioned to approve the June 8, 2021 Minutes.

McCarty seconded. Motion passed. Vote 4-0.

REVIEW RULES AND PROCEDURES

YouTube Time: 4:22

Crabtree reviewed BZA rules and procedures.

INTRODUCTION OF NEW BZA MEMBER

YouTube Time: 6:16

Schmitz introduced Brian Morales who replaced Ken Kingshill.

ITEMS OF BUSINESS

2107-VS-22

[PUBLIC HEARING]

YouTube Time: 6:31

16517 Brookhollow Drive

Peyman Heydarpour

The Petitioner requests a Variance of Development Standard to encroach seven and a half (7.5) feet into the thirty (30) foot minimum Rear Yard Setback to accommodate a swimming pool and deck on 0.38 acres +/- in the SF-2: Single-family Low-Density District (Article 4.5(E)(3)(a)).
(Planner: Daine Crabtree – dcrabtree@westfield.in.gov)

Public Hearing for 2107-VS-22 opened at 7:07 p.m.

No public comments.

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

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

Public Hearing for 2107-VS-22 closed at 7:09 p.m.

McCarty motioned to approve 2107-VS-22 with Staff conditions.
Fortier seconded. Motion passed. Vote 5-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2107-VS-22.
McCarty seconded. Motion passed. Vote 5-0.

2107-VS-23
[PUBLIC HEARING]
YouTube Time: 13:32

1609 E. Greyhound Pass
Charles E. Duke by Church Church Hittle + Antrim
The Petitioner requests Variances of Development Standard to exempt Architectural requirements for Business Districts for building additions on 1.03 acres +/- in the GB: General Business District (Article 6.3(F)).
(Planner: Caleb Ernest – cernest@westfield.in.gov)

Public Hearing for 2107-VS-23 opened at 7:21 p.m.

No public comments.

Public Hearing for 2107-VS-23 closed at 7:22 p.m.

Boller motioned to approve 2107-VS-23 with Staff conditions.
McCarty seconded. Motion passed. Vote 5-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2107-VS-23.
McCarty seconded. Motion passed. Vote 5-0.

2107-VS-24
[PUBLIC HEARING]
YouTube Time: 24:33

16539 Vintage Court North
Scott Hackman
The Petitioner requests a Variance of Development Standard to encroach nineteen (19) feet into the thirty (30) foot minimum Rear Yard Setback to accommodate a swimming pool and deck on 0.50 acres +/- in the SF-2: Single-family Low-Density District (Article 4.5(E)(3)(a)).
(Planner: Daine Crabtree – dcrabtree@westfield.in.gov)

Public Hearing for 2107-VS-24 opened at 7:26 p.m.

No public comments.

Public Hearing for 2107-VS-24 closed at 7:27 p.m.

Fortier motioned to approve 2107-VS-24 with Staff conditions.
Boller seconded. Motion passed. Vote 5-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2107-VS-24.
McCarty seconded. Motion passed. Vote 5-0.

2107-VS-25
[PUBLIC HEARING]
YouTube Time: 30:25

20097 Centennial Road
Keith Burns
The Petitioner requests a Variance of Development Standard to modify the Minimum Lot Frontage from 250 feet to 150 for an existing lot in the AG-SF1: Agriculture/Single-Family Rural District so an Accessory Building may be constructed (Article 4.2(D)).
(Planner: Daine Crabtree – dcrabtree@westfield.in.gov)

Public Hearing for 2107-VS-25 opened at 7:34 p.m.

No public comments.

Public Hearing for 2107-VS-25 closed at 7:35 p.m.

McCarty motioned to approve 2107-VS-25 with Staff conditions.
Boller seconded. Motion passed. Vote 5-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2107-VS-25.
McCarty seconded. Motion passed. Vote 5-0.

2107-VS-26
[PUBLIC HEARING]
YouTube Time: 38:31

1250 W 161st Street
Matthew Obras
The Petitioner requests a Variance of Development Standard to modify the Minimum Front Yard Building Setback from 100 feet to 40 feet in the AG-SF1: Single-Family Rural District (Article 4.2(E)(1)(a)).
(Planner: Daine Crabtree – dcrabtree@westfield.in.gov)

Public Hearing for 2107-VS-26 opened at 7:42 p.m.

No public comments.

Public Hearing for 2107-VS-26 closed at 7:43 p.m.

Boller motioned to approve 2107-VS-26 with Staff conditions.
Fortier seconded. Motion passed. Vote 5-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2107-VS-25.
McCarty seconded. Motion passed. Vote 5-0.

ITEMS CONTINUED TO A FUTURE MEETING

NONE

REPORTS/COMMENTS:

YouTube Time: 48:29

- Plan Commission Liaison
- Community Development Department

ADJOURNMENT

YouTube Time: 49:16

McCarty motioned to adjourn the meeting. Fortier seconded. Motion passed. Vote 5-0.
The meeting adjourned at 7:49 p.m.

Chairperson
Dave Schmitz

Secretary
Kevin M. Todd, AICP
Director



Petition Number: 2108-SE-02

Subject Site Address: 2909 E. State Road 32 (the “Property”)

Petitioner: NextGear Auto Sales (the “Petitioner”)

Request: The petitioner is requesting an extension to a previously approved Special Exception to permit a Very High Intensity Retail Use for auto sales in the GB: General Business District and State Highway 32 Overlay District (Article 4.16(B) & 13.2)).

Current Zoning: GB: General Business District

Current Land Use: Commercial

Approximate Acreage: 1.93 acre +/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Conditions Comparison
4. Current Site Plan
5. Recorded Acknowledgement of Variance (1810-SE-04)
6. Petitioner’s Application

Staff Reviewer: Caleb Ernest, Associate Planner

OVERVIEW

Property Location: The subject property is approximately 1.93 acres +/- in size and is located at 2909 E. State Road 32 (see **Exhibit 2**). The Property is zoned GB: General Business District. All adjacent properties are zoned General Business and State Highway 32 is to the north.

Property History: On October 9, 2018, the BZA approved a Special Exception to permit auto sales on the Property (the “Original Petition”) (see **Exhibit 5**). The Original Petition was approved with several conditions, one being an expiration date of December 31, 2021. Prior to the auto sales use, the Property had been used for auto sales and service.

Variance Request: The petitioner is requesting an extension to a previously approved Special Exception to permit auto sales in the GB: General Business District (Article 4.16(B) & 13.2)).



SPECIAL EXCEPTIONS

Definition: Chapter 12 (Definitions) of the Unified Development Ordinance (the “UDO”) defines a “Special Exception” as “[a] use that requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community that is reviewed by the Board of Zoning Appeals for its characteristics and impacts to determine its suitability in a given location for the Zoning District in which it is permitted.”

Use Table: Chapter 13 (Use Table) of the UDO provides that “[a] Special Exception designation is not meant to imply that the use will be disallowed, but that the use requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community. The Board of Zoning Appeals reviews a Special Exception and its characteristics and impacts to determine its suitability in a given location for those Zoning Districts in which it is permitted. The determination of whether the Special Exception may be approved shall be subject to a public hearing by the Board of Zoning Appeals and review in accordance with Article 10.11 Special Exceptions.”

Purpose: Article 10.11(B) (Processes and Permits; Special Exceptions; Purpose) of the UDO states “[a] Special Exception is a use that requires a greater degree of scrutiny and review because of its potential adverse impact upon the immediate neighborhood and the community. The Board reviews a Special Exception and its characteristics and impacts to determine its suitability in a given location for the Zoning District in which it is permitted. The determination of whether the Special Exception is approved shall be contingent upon: (i) the Special Exception meeting the standards of this Ordinance and those standards as set forth in this Article; and (ii) the Board weighing, in each case, the public need and benefit against the local impact, giving effect to the proposals of the Applicant for ameliorating adverse impacts through special site planning and development techniques and contributions to the provisions of public improvements, sites, right-of-way and services.”

ANALYSIS

The below analysis coincides with the review criteria for a Special Exception set forth in the Unified Development Ordinance¹, as summarized herein.

¹ Article 10.11 Processes and Permits; Special Exceptions; Review Criteria of the UDO.



Criteria #1: The establishment, maintenance, or operation of the Special Exception will not be detrimental to or endanger the public health, safety, morals, or general welfare.

Comment: It is unlikely that approving the extension of the Special Exception would be injurious to the public health, safety, morals, and general welfare of the community because no hazardous materials will be used on the Property.

Criteria #2: The Special Exception will be designed, constructed, operated, and maintained so as to: (i) not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; (ii) not substantially diminish and impair property value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area.

Comment: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The property will continue to operate in a commercial manner, and the extension should not have a negative impact on surrounding properties because the Petitioner has made improvements to the site increasing the aesthetics of the Property compared to prior conditions (see **Exhibit 3**).

Criteria #3: The establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the Zoning District.

Comment: The operation and design of the use should not impact surrounding properties and will not impede the use and development of adjacent properties. The property will continue to maintain its commercial character and the extension would be compatible with adjacent land uses permitted in the GB District.

Criteria #4: Adequate public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided and the Special Exception will not result in excessive additional requirements at public expense for such public facilities and services.

Comment: The above is true; no additional requirements or infrastructure improvements are necessary for the extension.



Criteria #5: Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and have vehicular approaches are designed as not to create an interference with traffic on surrounding rights-of-way.

Comment: No traffic improvements are proposed for the extension. The proposed auto sales use is of an equal intensity to previous sales uses on the Property that already used the existing traffic circulation and design.

Criteria #6: The Special Exception will be harmonious with and in accordance with the objectives of the Comprehensive Plan.

Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan identifies this Property within the “Local Commercial” land use classification. As summarized below, the Special Exception is generally consistent with the goals and objectives of the Comprehensive Plan.

Development policies of the Local Commercial land use classification include²: (i) Locate local commercial development only in planned centers and only on streets classified as arterials or on frontage roads as depicted on the Land use Concept Map; (ii) Require commercial uses to be dispersed, but also to be focused on key nodes, avoiding strip patterns, which are inefficient from an access standpoint; (iii) Require all parking areas to have interior landscaping as well as landscaping along the street; (iv) Encourage internal connectivity between adjacent commercial developments; (v) discourages masses of asphalt. Parking areas should be broken up by landscaping or by being located on more than one side of the buildings.

The Comprehensive Plan identifies appropriate land uses in this land use classification to include: (i) Community and local retail; (ii) Office; (iii) Service; (iv) Institutional uses; (v) Attached residential dwellings.

² Westfield-Washington Township Comprehensive Plan, pages 47-49.



Criteria #7: The Special Exception will be located in a Zoning District where such use is permitted and that all other requirements of the Zoning District and the Unified Development Ordinance, and as may be applicable to such use, will be met.

Comment: The Unified Development Ordinance contemplates the use within the GB District as a Special Exception and the Property has previously been used for auto sales and service. The extension of the use and property will otherwise comply with or exceed the applicable standards of the GB District.

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 2, 2021, 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 in granting a Special Exception, may prescribe conditions and limitations concerning the use, construction, character, location, landscaping, screening, parking and other matters relating to the purposes and objectives of this Ordinance upon the premises benefited by a Special Exception as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject property or upon public facilities and services. Any conditions prescribed by the Board shall be recorded in the Office of the Recorder of Hamilton County, Indiana. Violation of any such condition or limitation shall be a violation of this Ordinance and shall constitute grounds for revocation of the Special Exception or related Improvement Location Permit, pursuant to Chapter 11: Enforcement & Penalties.

Review Criteria: The Board of Zoning Appeals may approve a Special Exception only upon a determination that the Special Exception at the proposed location meets the following⁴:

1. The establishment, maintenance, or operation of the Special Exception will not be detrimental to or endanger the public health, safety, morals, or general welfare.
2. The Special Exception will be designed, constructed, operated, and maintained so as to:
 - (i) not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted;
 - (ii) not substantially diminish and impair property

³ Article 10.11(l) Processes and Permits; Special Exceptions; Conditions of the UDO.

⁴ Article 10.11 Processes and Permits; Special Exceptions; Review Criteria of the UDO.



value within the neighborhood; (iii) be harmonious and appropriate in appearance with the existing or intended character of the immediate vicinity; and (iv) not change the essential character of the area.

3. The establishment of the Special Exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the Zoning District.
 4. Adequate public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools have been or are being provided and the Special Exception will not result in excessive additional requirements at public expense for such public facilities and services.
 5. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion and have vehicular approaches are designed as not to create an interference with traffic on surrounding rights-of-way.
 6. The Special Exception will be harmonious with and in accordance with the objectives of the Comprehensive Plan.
 7. The Special Exception will be located in a Zoning District where such use is permitted and that all other requirements of the Zoning District and this Ordinance, and as may be applicable to such use, will be met.
-

DEPARTMENT COMMENTS

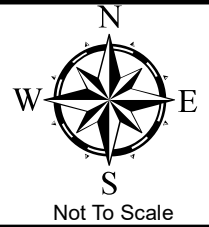
Approval: If the Board finds that adequate evidence is shown that the Special Exception meets the applicable review criteria, then the Department recommends approving the Special Exception, with the recommended conditions below, and adopting the written review criteria findings as summarized herein.

1. That all vehicles shall only be stored or parked on existing paved areas;
2. That the approval of the Special Exception shall expire on December 31, 2024.
3. The Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Economic and Community Development Department.

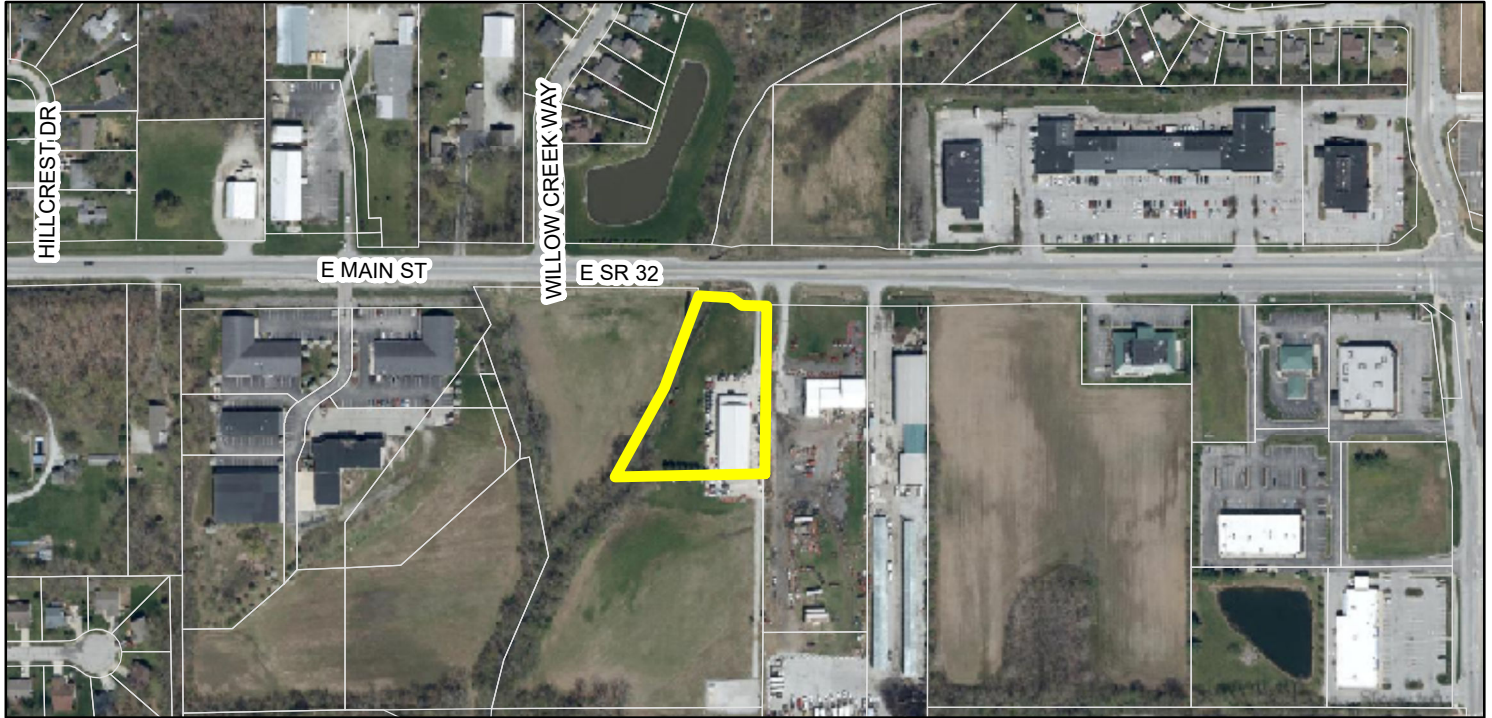
Denial: If the Board is inclined to reject or deny the Special Exception, then the Department recommends denying the Special Exception, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence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



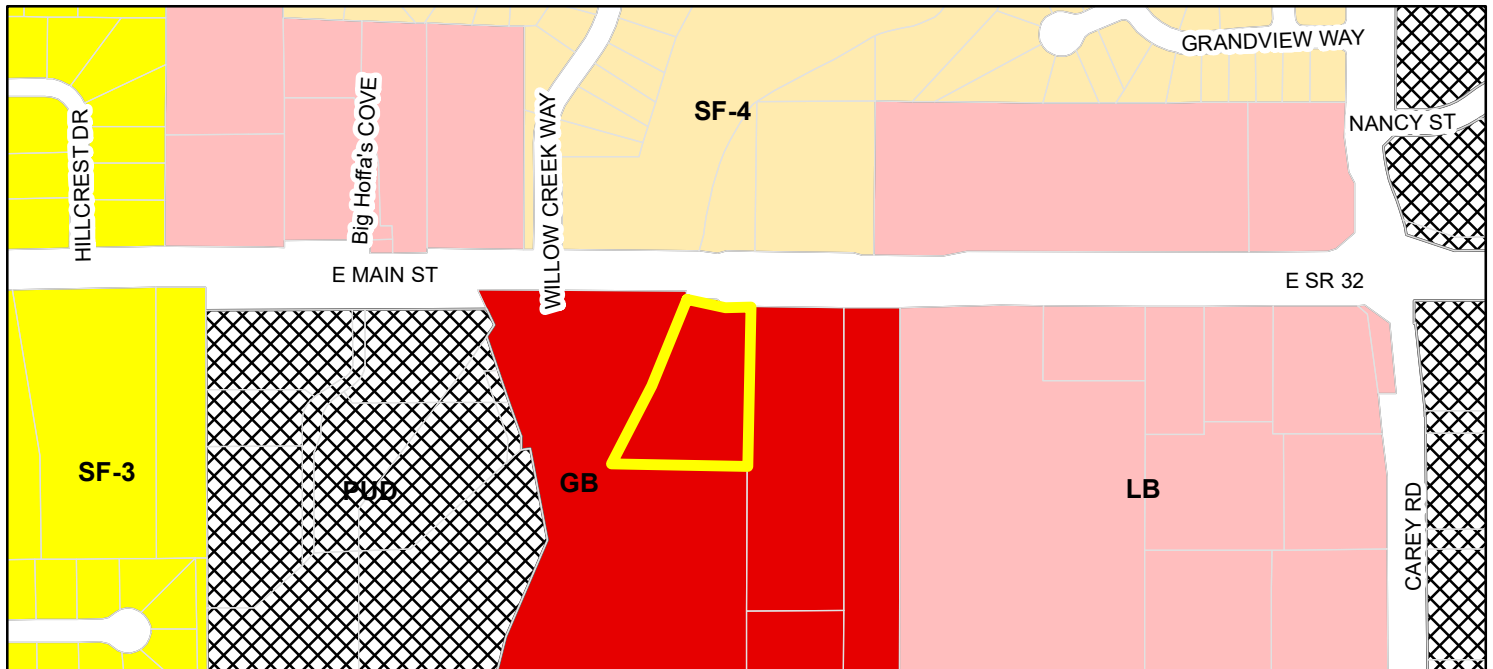
Property Location Map
NextGear Auto Sales
Special Exception
2108-SE-02



Aerial Location Map



Zoning Map



Parcel	LB (Local Business)
Zoning - All	PUD (Planned Unit Development)
Zoning	SF-3 (Single Family - 3)
GB (General Business)	SF-4 (Single Family - 4)



Before



Now



Now



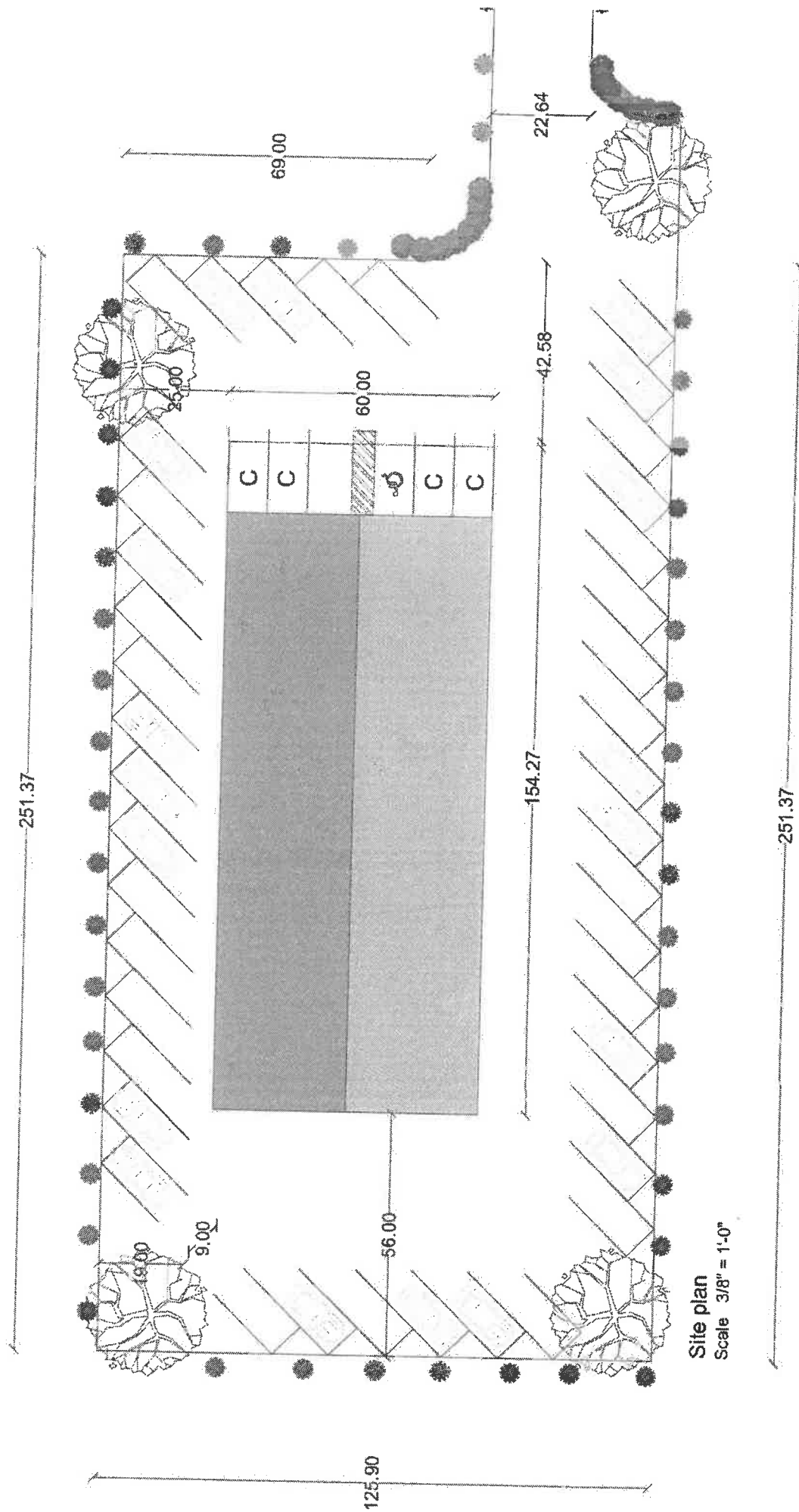
Before



Before



After





2018052422 VARIANCE \$25.00
11/07/2018 08:53:10A 4 PGS
Jennifer Hayden
HAMILTON County Recorder IN
Recorded as Presented
11/07/2018 11:07:10A 4 PGS

ACKNOWLEDGEMENT OF VARIANCE

Document Cross Reference Number: 2015002403

This ACKNOWLEDGEMENT, made this 12th day of October, 2018, by Matthew S. Skelton, Economic and Community Development Director, City of Westfield, Indiana (the "Director") WITNESSETH:

WHEREAS, on Tuesday, October 9, 2018, the Westfield-Washington Township Board of Zoning Appeals (the "Board") heard Petition No. 1810-SE-04 (the "Petition"), filed by NextGear Auto Sales (the "Applicant"), for a Special Exception from the Westfield-Washington Township Unified Development Ordinance (the "UDO") regarding property commonly known as 2909 E State Road 32, Westfield, IN 46074 (Parcel No: 08-10-06-00-005.101) and more particularly described in Exhibit A (the "Property").

The Applicant requested and received approval of the following:

1810-SE-04: Special Exception to Permit auto sales and services (Article 13.2) in the GB: General Business District and State Highway 32 Overlay District.

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

1. That all vehicles shall only be stored or parked on existing paved areas;
2. That servicing vehicles is prohibited, except for preparation for sales;
3. That the approval of the Special Exception shall expire on December 31, 2021;
4. The Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Economic and Community Development Department.

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 Special Exception approved by the Board on October 9, 2018. Unless otherwise modified herein, this Special Exception 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 Special Exception, 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, ESQ., DIRECTOR
Economic and Community Development Department, City of Westfield, IN

Charles S. Roudebush, 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.

IN WITNESS WHEREOF, the Property Owner has executed this instrument, on the 5th day of Nov, 2018.

Charles S. Roudebush

Signature:

Printed Name:

Title:

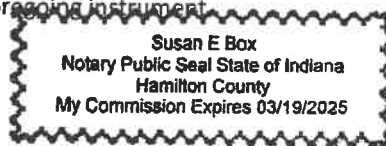
Date:

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

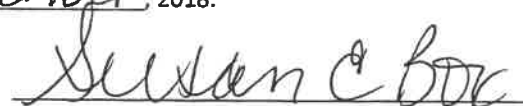
STATE OF

COUNTY OF

)
SS:
)



Signed and acknowledged before me this 5th day of November, 2018.
(SEAL)


Signature of Notary Public


Printed Name of Notary Public

My County of Residence:

My Commission Expires:

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: Caleb Ernest

Prepared by: Caleb Ernest, City of Westfield, 2728 East 171st Street, Westfield, IN 46074, (317) 519-8630

EXHIBIT A
THE PROPERTY

A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 18 NORTH, RANGE 4 EAST OF THE SECOND PRINCIPAL MERIDIAN, HAMILTON COUNTY, INDIANA. SAID TRACT BEING MORE PARTICULARLY BOUND AND DESCRIBED AS FOLLOWS, TO-WIT:

ASSUMING THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION AS BEING NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST AND ALL OTHER BEARINGS BEING RELATIVE THERETO:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 6; THENCE RUNNING ALONG THE NORTH LINE OF SAID QUARTER SECTION BEARING NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST 1090.09 FEET, SAID POINT BEING 1568.00 FEET NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST OF THE NORTHEAST CORNER OF SAID QUARTER SECTION, TO THE POINT OF BEGINNING FOR THIS LEGAL DESCRIPTION; THENCE CONTINUING TO RUN ALONG THE NORTH LINE OF THE NORTHEAST QUARTER BEARING NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST (CENTER LINE OF STATE ROAD #32) 116.00 FEET TO A POINT; THENCE RUNNING PARALLEL WITH THE EAST LINE OF THE NORTHEAST QUARTER BEARING SOUTH 00 DEGREES 09 MINUTES 51 SECONDS WEST 430.00 FEET TO A POINT; THENCE RUNNING PARALLEL WITH THE NORTH LINE OF A 15 FOOT WIDE WATER LINE EASEMENT BEARING NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST 307.00 FEET TO THE CENTER LINE OF AN OPEN LEGAL DRAIN KNOWN AS COOL CREEK OR WHEELER-BEAN DRAIN AND RUNNING ALONG THE DRAIN CENTER LINE FOR THE NEXT FIVE (5) COURSES:

- 1) THENCE NORTH 40 DEGREES 00 MINUTES 00 SECONDS EAST 30.00 FEET TO A POINT;
- 2) THENCE NORTH 28 DEGREES 00 MINUTES 00 SECONDS EAST 168.00 FEET TO A POINT;
- 3) THENCE NORTH 22 DEGREES 00 MINUTES 00 SECONDS EAST 114.00 FEET TO A POINT;
- 4) THENCE NORTH 20 DEGREES 00 MINUTES 00 SECONDS EAST 35.00 FEET TO A POINT;
- 5) THENCE NORTH 18 DEGREES 08 MINUTES 51 SECONDS EAST 126.39 FEET TO THE POINT OF BEGINNING. (CONTAINING 1.95 ACRES, MORE OR LESS)

EXCEPT:

A PART OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 18 NORTH, RANGE 4 EAST, HAMILTON COUNTY, INDIANA, BEING ALL THAT PART OF THE GRANTORS' LAND IDENTIFIED AS PARCEL NO. 1 THAT LIES WITHIN THE RIGHT OF WAY LINES DEPICTED UPON THE RIGHT OF WAY PARCEL PLAT FOR PARCEL 1

OF INDOT PROJECT STP-088-6(005) AND ATTACHED AS EXHIBIT "B", DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID QUARTER SECTION, DESIGNATED AS POINT "21" ON SAID EXHIBIT "B"; THENCE NORTH 89 DEGREES 43 MINUTES 48 SECONDS EAST 1,205.78 FEET (1,206.09 FEET DEDUCED FROM INSTRUMENT #200100019139) ALONG THE NORTH LINE OF SAID SECTION TO THE NORTHEAST CORNER OF THE GRANTORS' LAND; THENCE SOUTH 0 DEGREES 05 MINUTES 56 SECONDS EAST 43.29 FEET ALONG THE EAST LINE OF THE GRANTORS' LAND TO THE SOUTH BOUNDARY OF S.R. 32 AND THE POINT OF BEGINNING OF THIS DESCRIPTION: THENCE SOUTH 0 DEGREES 05 MINUTES 56 SECONDS EAST 15.00 FEET ALONG SAID EAST LINE; THENCE NORTH 89 DEGREES 21 MINUTES 37 SECONDS WEST 51.84 FEET TO POINT "507" AS SHOWN ON SAID EXHIBIT "B"; THENCE NORTH 52 DEGREES 29 MINUTES 25 SECONDS WEST 25.00 FEET TO THE SOUTH BOUNDARY OF SAID S.R. 32 AND POINT "205" AS SHOWN ON SAID EXHIBIT "B"; THENCE SOUTH 89 DEGREES 21 MINUTES 37 SECONDS EAST 71.64 ALONG THE BOUNDARY OF SAID S.R. 32 TO THE POINT OF BEGINNING AND CONTAINING 0.021 ACRES, MORE OR LESS.

SE
VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: 2108-SE-02

FILING DATE: _____

FILING FEE: \$ _____

FEE PLUS \$ _____

PER ADDITIONAL VARIANCE (@ _____) = \$ _____

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Caleb Ernest

(STAFF NAME)

DATE: 6/1/2021

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: _____

AMENDMENTS: _____

DEVELOPMENT PLAN: _____

PRIMARY PLAT: _____

SECONDARY PLAT: _____

VARIANCE(S): _____

APPLICANT INFORMATION

APPLICANT'S NAME: NextGear Auto Sales

ADDRESS: 2909 E State Road 32 Westfield IN 46074

TELEPHONE: 317-804-5493

EMAIL: f.alsabia@hotmail.com

PROPERTY OWNER'S NAME: Mr Roudebush

ADDRESS: 2911 E State Road 32 Westfield IN 46074

TELEPHONE: 317-896-2543

EMAIL: N/A

REPRESENTATIVE'S NAME: _____

COMPANY: _____

ADDRESS: _____

TELEPHONE: _____

EMAIL: _____

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 2909 E State Road 32 Westfield IN 46074

COUNTY PARCEL ID #(S): 08-10-06-00-005.101

EXISTING ZONING DISTRICT(S): City of Westfield

EXISTING LAND USE(S): Commerical

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):

We intend to use the property for auto sales and to make the property have curb appeal since it is on one of the majorly traveled streets in Westfield.

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)

Fadi AlSabia
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 June, 2021
State of IN County of Hamilton SS:

[Signature]
Notary Public (signature)

Angela Elhaj
Notary Public (printed)

**ANGELA J. ELHAJ
SEAL**
Notary Public, State of Indiana
My Commission Expires June 18, 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.

Jeff Roudelush
Property Owner (signature)*

Jeff Roudelush
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 June, 2021
State of IN County of Hamilton SS:

[Signature]
Notary Public (signature)

Angela Elhaj
Notary Public (printed)

**ANGELA J. ELHAJ
SEAL**
Notary Public, State of Indiana
My Commission Expires June 18, 2026

*A signature from each party having interest in the property involved in this application is required. If the 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: No hazardous materials will be used on site.

- 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: We will be making improvements to the appearance of the outside and inside of the building and adding landscaping this will help the main street of our city to be more pleasant looking versus looking like a junk yard with lawnmowers and junk in the front where it is clearly visible to anyone who passes by.

- C. The need for the variance arises from some condition particular to the property involved because: If the variance is not granted then we will no longer be able to sell any cars and we will be forced out of business.

- 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: N/A

- E. The variance of use does not interfere substantially with the Comprehensive Plan because: It is already in a district that the use is permitted for any has previously been for auto sales.

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:
- 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.
 - 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.
 - 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.
 - 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.

STATEMENT OF INTENT

WE NEXTGEAR AUTO SALES INTEND TO KEEP USING THE PROPERTY 2909 E STATE ROAD 32 WESTFIELD IN 46074 FOR AUTO SALES.

WE INTEND TO KEEP THE FACILITY A RETAIL FACILITY WITH PROPER LANDSCAPING AND A VERY NICE CURB APPEAL.

WE WILL CLEANING AND PAINTING THE FACILITY AND HAULING AWAY ALL OF THE CURRENT JUNK AND DEBRIS.

OUT MAIN GOAL IS TO HAVE A VERY NICE LOOKING FACILITY IN WHICH CONSUMERS WILL BE COMING TO AND A FACILITY THAT WE CAN BE PROUD OF AND THE CITY OF WESTFIELD CAN BE PROUD WE ARE LOCATED THERE.

SINCERELY

FADI ALSABIA

NEXTGEAR AUTO SALES



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 10, 2021
2108-VS-27
Exhibit 1

Petition Number: 2108-VS-27

Subject Site Address: 15718 Towne Road (the "Property")

Petitioner: Dannon and Andrea Brown (the "Petitioners")

Request: The Petitioners are requesting Variances of Development Standard to modify the zoning standards for a property split on 2.77 acres +/- in the AG-SF1: Agriculture / Single-family Rural District (Article 4.2(C), (D) and (E)(1)(a)).

Current Zoning: AG-SF1 District

Current Land Use: Residential

Approximate Acreage: 2.77 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Statement of Intent (Site Plan)
4. Application

Staff Reviewer: Caleb Ernest, Associate Planner

OVERVIEW

Location: The subject property is 2.77 acres +/- in size and located at 15718 Towne Road (see **Exhibit 2**). The Property is zoned the AG-SF1 District. Adjacent properties to the north, west and south are also zoned the AG-SF1. The adjacent properties to the east are zoned the Westchester Planned Unit Development (PUD) District.

Variance Request: The Petitioners are requesting Variances of Development Standard to reduce the Minimum Lot Area from three (3) acres to one (1) acre and reduce the Minimum Lot Frontage from 250 feet to 200 feet.

SUMMARY OF VARIANCE

The Petitioners are requesting Variances of Development Standard in order to subdivide their property from one (1) Lot into two (2) Lots. The Petitioners wish to remain on one (1) of the newly created Lots (the area their house currently is located) while selling the other Lot to another family. To do this, the Petitioners request to reduce the Minimum Lot Area from three (3) acres to one (1) acre and reduce the Minimum Lot Frontage from 250 feet to 200 feet (**Exhibit 3**).

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this Property within the “New Suburban”¹ land use classification. Desired land uses in New Suburban include detached dwellings, attached dwellings, institutional uses, recreational uses, artisan farms and equestrian uses.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of the Variances of Development Standard. This petition is scheduled to receive its public hearing at the August 10, 2021, 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 variances as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variances.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO³ requires that the approval of the variances shall be memorialized in an acknowledgement of variances instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variances and any commitments made or conditions imposed in granting of the variances; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variances.

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

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.

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 variances, then the Department recommends the following conditions and findings:

Recommended Conditions for Approval:

1. That the subdivision of the Property shall only create two (2) Lots;
2. That the Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Community Development Department.

Recommended Findings for Approval of the 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 variances would be injurious to the public health, safety, morals, and general welfare of the community because the creation of two (2) Lots are consistent with the Lot size and shape of adjacent neighbors. Additionally, the newly created Lots will operate and 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 creation of the new Lots would add value to the Property and allow for the Petitioners to make improvements to their home and Lot. The Property otherwise fully complies with the PUD district.

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 subdivide and make improvements to the Property.

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.



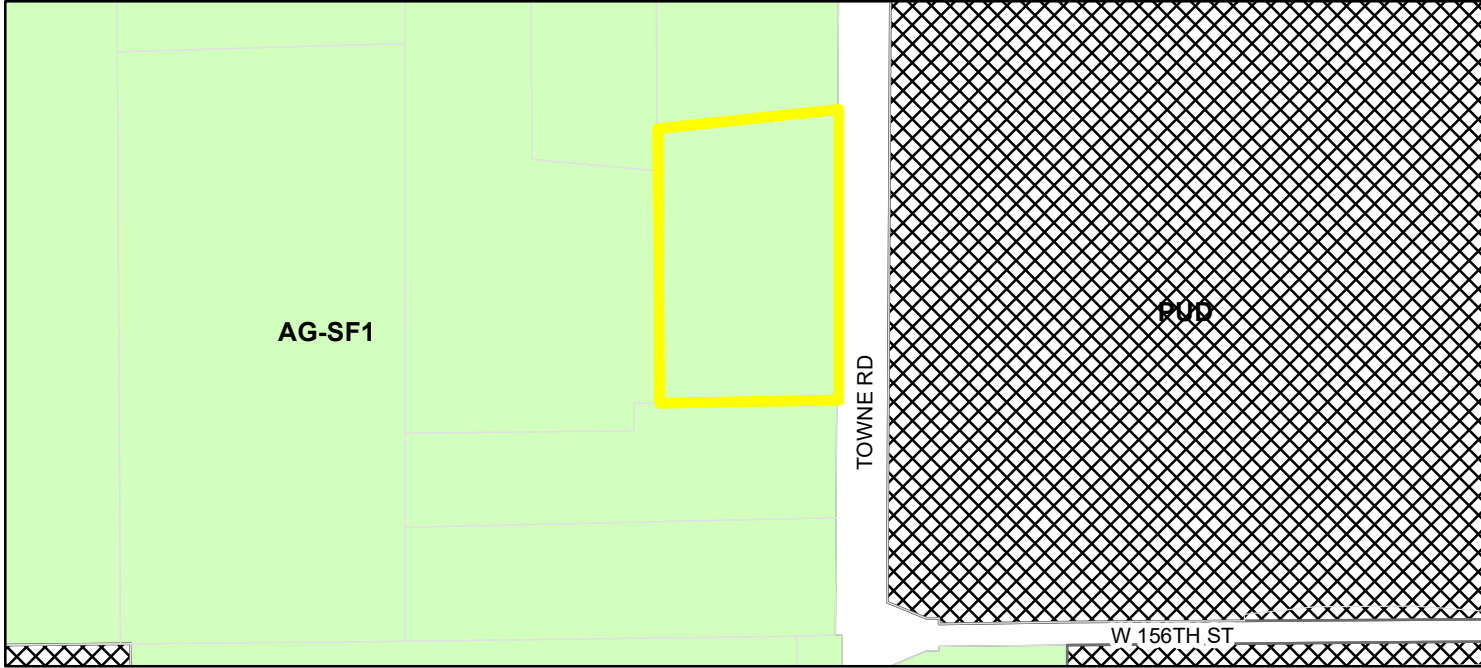
Property Location Map
15718 Towne Road
Variance of Development Standard
2108-VS-27



Aerial Location Map



Zoning Map



Parcel

Zoning

Zoning - All

AG-SF1 (Agriculture - Single Family - 1)

PUD (Planned Unit Development)

STATEMENT OF INTENT:

We would like to sell the south half of our property at 15718 Towne Rd to our friends, the Foremans. This would create two smaller lots (one where we will continue to live and one where the Foremans will build a house and live) similar in size to the lot just north of us.



Parcel 017
(1.5 acres)

Parcel 018
(currently 2.77 acres)
would be divided into
2 parcels of 1.4 and
1.3 acres

New parcel to be
formed and sold to
Andrew & Carlie
Foreman of Westfield,
who will build their
primary residence here.

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: 5/24/2021

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: Dannon & Andrea Brown TELEPHONE: 317-964-9223
ADDRESS: 15718 Towne Rd., Westfield, IN EMAIL: andreahuisdenbrown@gmail.com

PROPERTY OWNER'S NAME: [same as above] TELEPHONE: _____
ADDRESS: _____ EMAIL: _____

REPRESENTATIVE'S NAME: _____ TELEPHONE: _____
COMPANY: _____ EMAIL: _____
ADDRESS: _____

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 15718 Towne Rd.

COUNTY PARCEL ID #(S): 08-09-08-00-00-018.000

EXISTING ZONING DISTRICT(S): _____ EXISTING LAND USE(S): Ag single family

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): _____

[SEE ATTACHED]

This is a request for a variance of the minimum road frontage ordinance. Our current road frontage is 440 feet, so dividing our property in half means that each half of the parcel would have only 220 feet of road frontage; just shy of the required 250 feet.

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)

Dannan & Andrea Brown
Applicant/Representative (printed)

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

Witness my hand and Notarial Seal this 28TH day of JUNE, 2021
State of INDIANA County of HAMILTON SS:

[Signature]
Notary Public (signature)

JASMINE MIAKHEL
Notary Public (printed)



PROPERTY OWNER AFFIDAVIT

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

[Signature]
Property Owner (signature)*

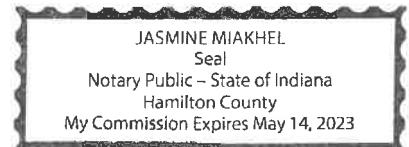
Dannan & Andrea Brown
Property Owner (printed)

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

Witness my hand and Notarial Seal this 28TH day of JUNE, 2021
State of INDIANA County of HAMILTON SS:

[Signature]
Notary Public (signature)

JASMINE MIAKHEL
Notary Public (printed)



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

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: Dannon & Andrea Brown

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: _____
We are requesting to make two lots out of one. Presently, our residence sits on the north half of our parcel. The second lot would be the south half of this parcel. Both lots would remain ag single family; each would house just one primary residence. The family to whom we want to sell this second lot has lived in Westfield for many years. They are raising three children who are good students, involved in Westfield school sports and activities. The family are avid golfers and are invested in the Westfield community. The existing homes are on individual septic systems with well water so there would be no additional strain on shared resources or infrastructure.
- 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 addition of a new home on this property would boost property values in the area, while preserving the wooded nature of the lot. Further, the sale of this portion of our property would provide us the resources to invest further in our own residence; namely, remodeling our 1900-era farmhouse, modernizing the layout, and making significant improvements to the landscaping and curb appeal.
- C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: _____
Disapproval of this variance could cause hardship to our family, as we look to make the above-referenced improvements to our homesite, while paying college tuition for the first of 4 children. Sale of our home in its present condition would not benefit the neighbors, as it would provide a low comp figure. The wooded area on the parcel is in need of active management (mainly removal of dead ash trees, recently decimated by ash borer beetles) and a variance would enable us to address that.

GENERAL INSTRUCTIONS

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 10, 2021

2108-VS-30

Exhibit 1

Petition Number: 2108-VS-30

Subject Site Address: 2302 W. 193rd Street ("the Property")

Petitioner: Miller Surveying ("the Petitioner")

Request: The Petitioner requests a Variance of Development Standard to modify the Minimum Lot Frontage from 250 feet to 214.9 feet on 3 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(D)).

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

Current Land Use: Vacant

Approximate Acreage: 3 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Proposed Secondary Plat

Staff Reviewer: Pam Howard, Senior Planner

OVERVIEW

Location: The subject property is 3 acres +/- in size (the "Property") and located at 2302 W. 193rd Street (see **Exhibit 2**). The Property is zoned AG-SF1: Agriculture/Single-Family Rural. Adjacent properties are also zoned AG-SF1.

Property History: The Property was previously part of a larger parent parcel, which was subdivided with an ownership transfer in May. Both parcel are included on the Proposed Secondary Plat (see **Exhibit 3**), with Lot 5 being the subject of this request and lots 2-4 making up the remainder of the parent parcel.

Requested Variances: The petitioner is requesting a Variance of Development Standard to reduce the Minimum Lot Frontage from 250 feet to 214.9 feet for the Lamong Road frontage of the subject Property.

SUMMARY OF VARIANCE

The Property is currently subject to the AG-SF1: Agriculture/Single-Family Rural¹ zoning set forth by the Westfield-Washington Township Unified Development Ordinance (the "UDO"). This

¹ Article 4.2: AG-SF1: Agriculture/Single-Family Rural District



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 10, 2021

2108-VS-30

Exhibit 1

includes a Minimum Lot Frontage² requirement of 250 feet. The Subject Property is shown as Lot 5 on the Proposed Secondary Plat (see **Exhibit 3**), and is a Corner Lot³ and therefore has two Front Lot Lines⁴. Both Front Lot Lines are required to have the required Minimum Lot Frontage. As proposed, Lot 5 will have 214.9 feet of Frontage on Lamong Road and approximately 575 feet of frontage on 193rd Street.

The proposed subdivision plat (the "plat") of the Property (docketed as petition **2103-SFP-17**) has been reviewed by City of Westfield Staff as part of the standard Technical Advisory Committee (TAC) review process. The plat will be recorded at the Hamilton County Recorder's Office prior to the issuance of an Improvement Location Permit (ILP).

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 10, 2021, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO⁵ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by 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 UDO⁶ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the

² The UDO defines Lot Frontage as "[t]he length of the Front Lot Line."

³ The UDO defines Lot, Corner as "[a] Lot at the junction of and abutting two (2) or more intersecting Streets (public or Private Streets)."

⁴ The UDO defines Lot Line, Front as "[a] Lot Line abutting a Street (public or Private Street). A Through Lot and Corner Lot will have multiple Front Lot Lines."

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

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 10, 2021

2108-VS-30

Exhibit 1

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: The Department recommends approval of the Variances of Standard (2108-VS-30), then the Department recommends the conditions and findings as set forth below:

Recommended Conditions of Approval:

1. That the Property be Subdivided in substantial compliance with the Proposed Secondary Plat (**Exhibit 3**).
2. That the Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Community Development Department.

Recommended Findings for Approval:

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

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the existing use and proposed improvements will otherwise comply with the applicable standards of the AG-SF1: Agriculture/Single-Family Rural District.

- 2) *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

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.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 10, 2021

2108-VS-30

Exhibit 1

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

Finding: Strict adherence to the zoning ordinance would result in the inability to subdivide the property, as currently proposed.

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.



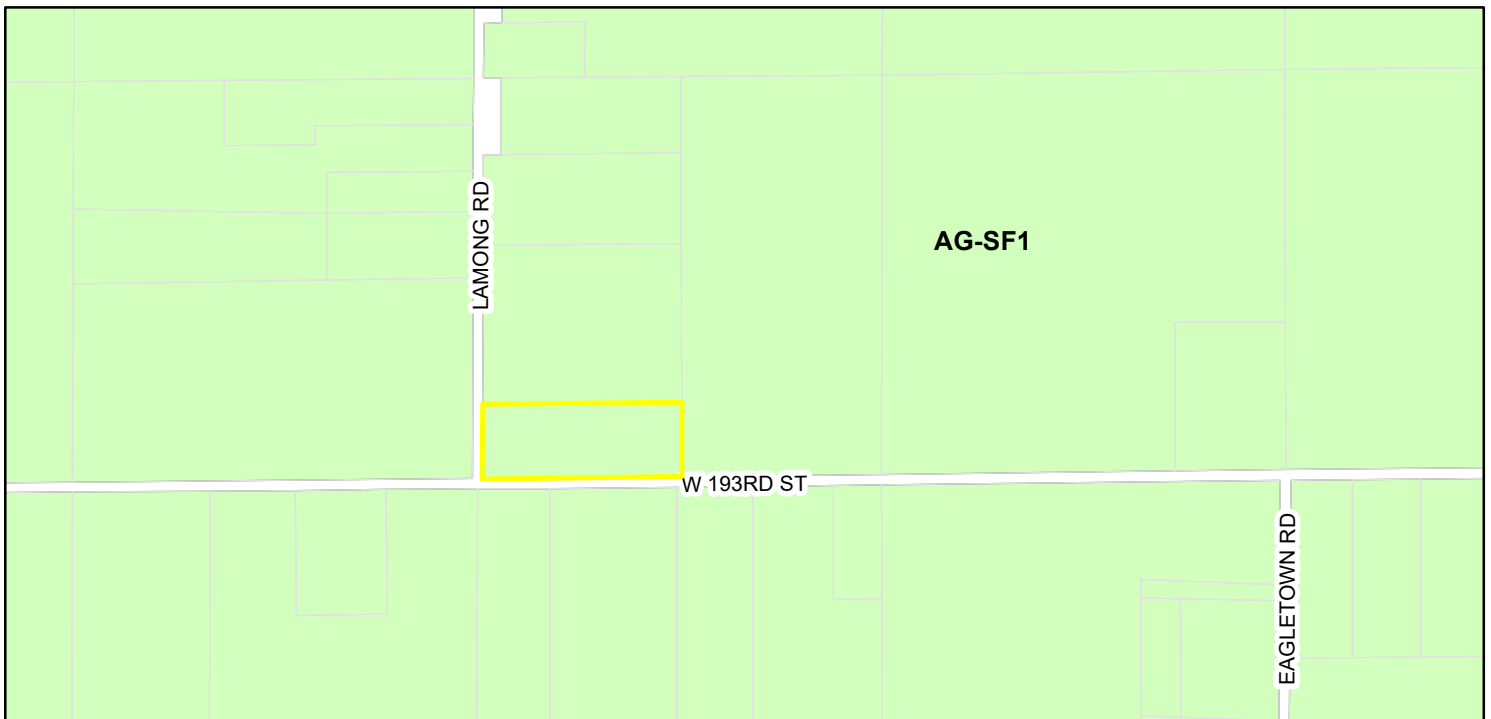
Property Location Map
Flat Mountain II
2108-VS-30



Aerial Location Map



Zoning Map



Zoning

 AG-SF1 (Agriculture - Single Family - 1)

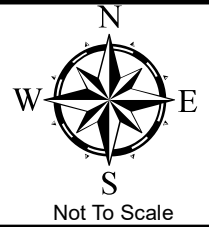


Property Location Map

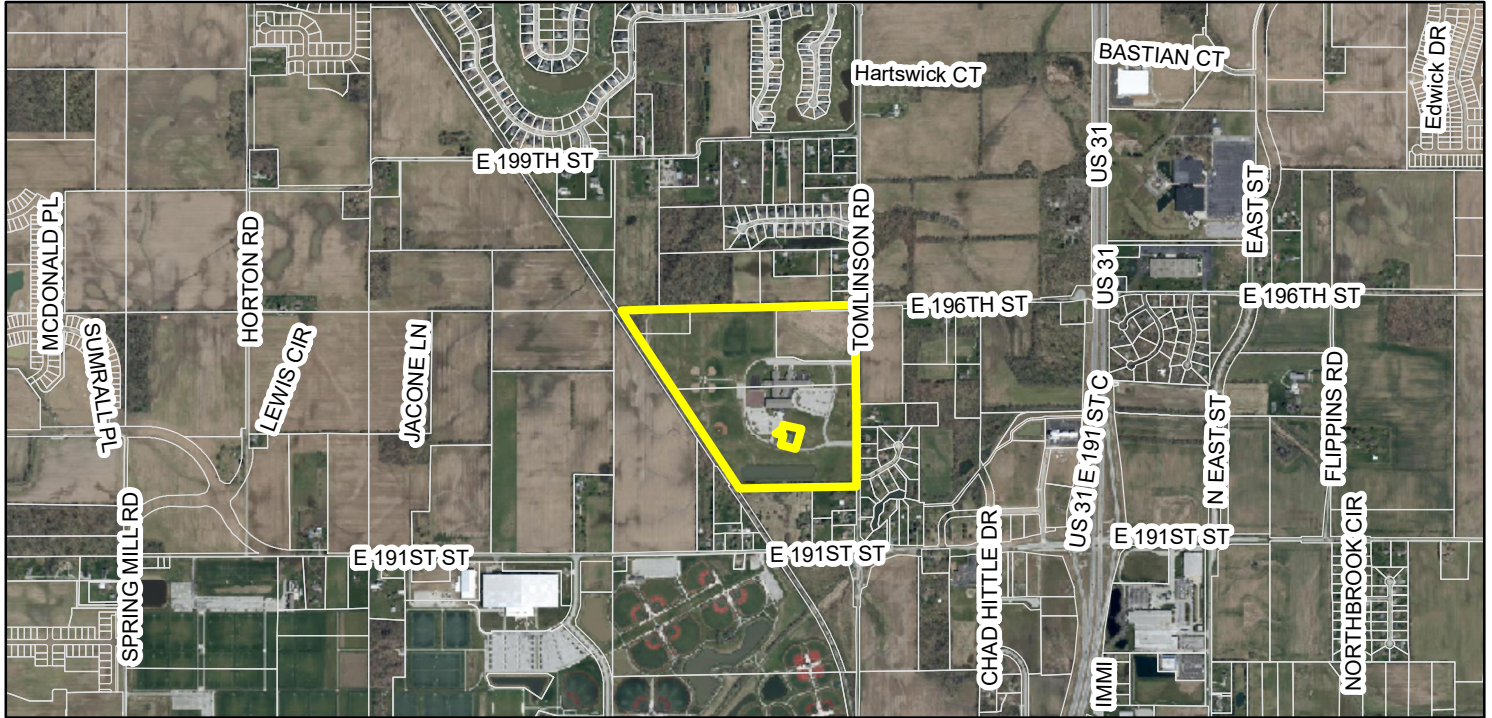
19400 Tomlinson Road

Variance of Development Standard

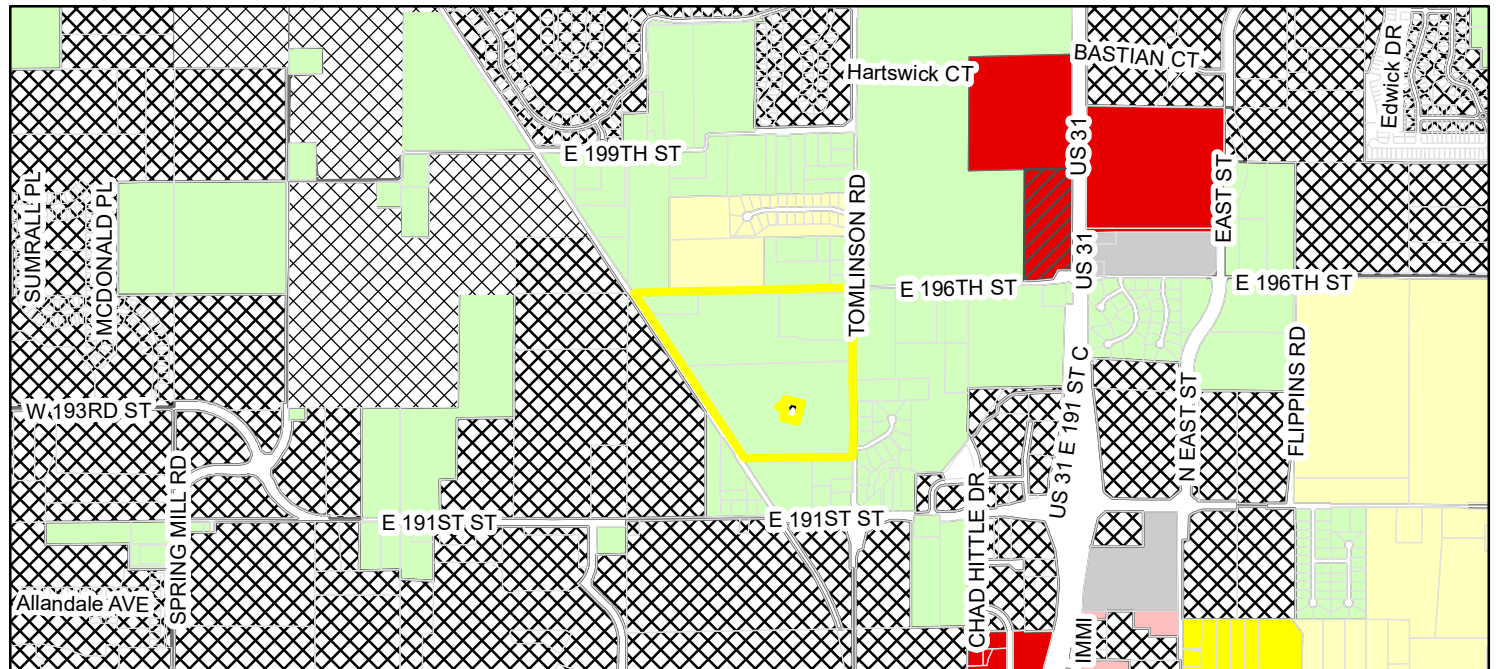
2108-VS-32



Aerial Location Map



Zoning Map



- | | | |
|-------------------------------|--|--------------------------------|
| Monon Trail Elementary School | Zoning | LB (Local Business) |
| Parcel | AG-SF1 (Agriculture - Single Family - 1) | OI (Open Industrial) |
| | EI (Enclosed Industrial) | PUD (Planned Unit Development) |
| | GB (General Business) | SF-2 (Single Family - 2) |
| | GB-PD (General Business - Planned Development) | SF-3 (Single Family - 3) |



8831 Keystone Crossing, Indianapolis, IN 46240
317.848.7800 | csoinc.net

3939 PRIORITY WAY SOUTH DRIVE, SUITE 200
INDIANAPOLIS, INDIANA 46240
Darci Pellom: (317) 706-6318
dpellom@cripe.biz

DARCY FOWLER DFWOWER@CONTEXT-DESIGN.COM 317-505-9417
12 S Main St, Ste 200 | Fortville, IN 46040
317-485-6900 | www.context-design.com

PROJECT ADDRESS	19400 TOMLINSON ROAD
PROJECT AREA	6.30± AC
BUILDING AREA	1096 SF

SHEET	DESCRIPTION
C001	COVER SHEET
C101	EXISTING CONDITIONS AND DEMOLITION PLAN
C200	OVERALL DEVELOPMENT PLAN
C201	DEVELOPMENT PLAN

Elev. = 903.48 (NAVD 88)

AGENCY/UTILITY	PHONE NUMBER
CITY OF WESTFIELD PLANNING	
RACHEL RIENSCHNEIDER	317-531-3751
CITY OF WESTFIELD ENGINEERING	
JONATHAN NAIL	317-430-6750
PUBLIC WORKS - CITY OF WESTFIELD	
JOHN RANKIN	317-804-3147
FIRE DEPARTMENT - CITY OF WESTFIELD	
JAMES ROBERTS	317-804-3300
SURVEYOR - HAMILTON COUNTY	
SAM CLARK	317-776-8495
HAMILTON COUNTY SOIL AND WATER	
	317-773-2181
GAS - VECTREN	
CHAD MILLER	317-776-5550
ELECTRIC - DUKE ENERGY - NOBLESVILLE OFFICE	
BILL OLDHAM	317-776-5331
COMMUNICATIONS - COMCAST CABLE	
EARL SMALL JR.	317-982-1161
COMMUNICATIONS - AT&T	
BRIAN WENTER	317-610-5440
CITIZENS WATER AND WASTEWATER OF WESTFIELD	
2150 DR. MARTIN LUTHER KING JR ST	
INDIANAPOLIS, IN 46202	
CAUTION	
BRAD HOSTETLER	317-927-4351

LOCATIONS OF ALL EXISTING UNDERGROUND UTILITIES SHOWN ON THIS PLAN ARE BASED UPON ABOVE GROUND EVIDENCE (INCLUDING, BUT NOT LIMITED TO, MANHOLES, INLETS, VALVES, AND MARKS MADE UPON THE GROUND BY OTHERS) AND ARE SPECULATIVE IN NATURE. THERE MAY ALSO BE OTHER EXISTING UNDERGROUND UTILITIES FOR WHICH THERE IS NO ABOVE GROUND EVIDENCE OR FOR WHICH NO ABOVE GROUND EVIDENCE WAS OBSERVED. THE EXACT LOCATIONS OF SAID EXISTING UNDERGROUND UTILITIES SHOULD BE VERIFIED BY THE CONTRACTOR PRIOR TO ANY AND ALL CONSTRUCTION.

PROJECT MANAGER	DARCI PELLOM, LA	317-706-6318
PROJECT ENGINEER	ALEX STEPHENS, PE	317-706-6379
QUALITY ASSURANCE	JENNIFER LASCH, PE, LEED BD+C	317-706-6346
CAD DESIGNER	CALEB CHANCE	317-706-6325

[illegible]

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NOT FOR
INSTRUCTION

00-00-00



811 1-800-382-5544
ALL IN INDIANA CALL TOLL FREE

CHANCE

PELLOM LA

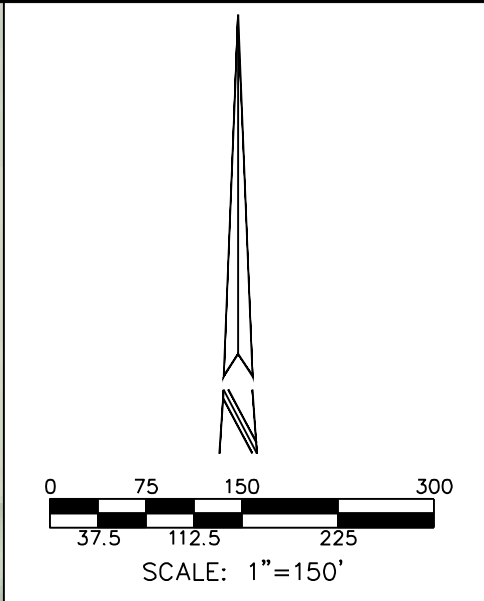
LASCH, PE, LEED BD+C



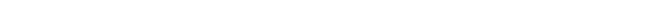
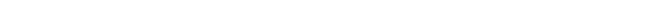
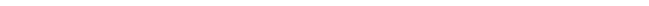
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07-26-2021

050391-20300



SITE PLAN LEGEND

	PROPERTY LINE
	EASEMENT LINE
	CONSTRUCTION
	FENCE
	GUARD RAIL
	BUILDING LIMITS

[illegible]

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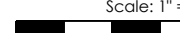
OVERALL DEVELOPMENT PLAN
MONON TRAIL SOFTBALL CONCESSION BUILDING
WESTFIELD-WASHINGTON SCHOOL
19500 TOMLINSON ROAD
WESTFIELD, IN 46074

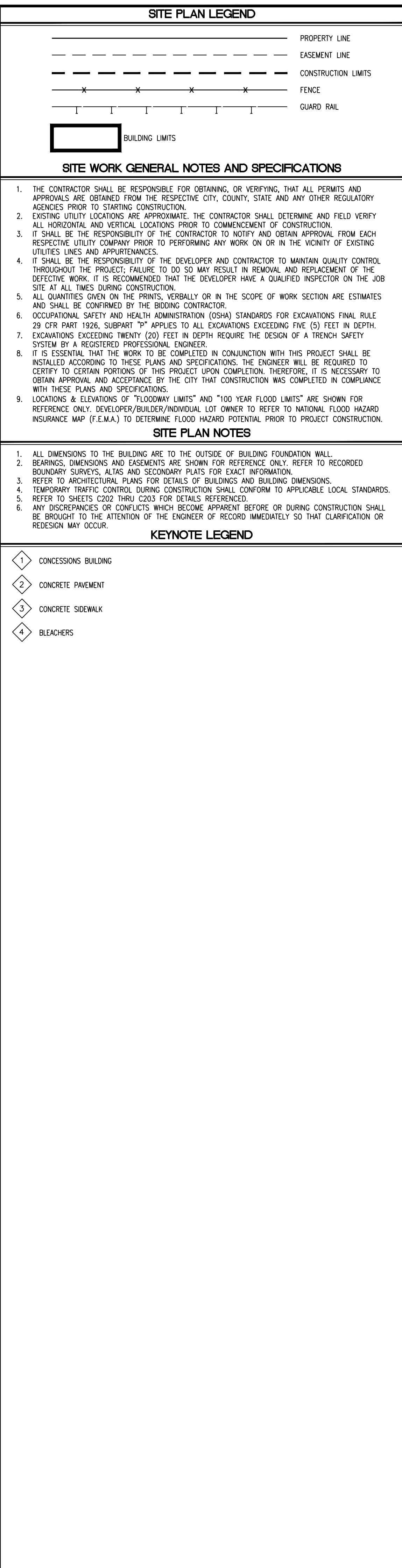
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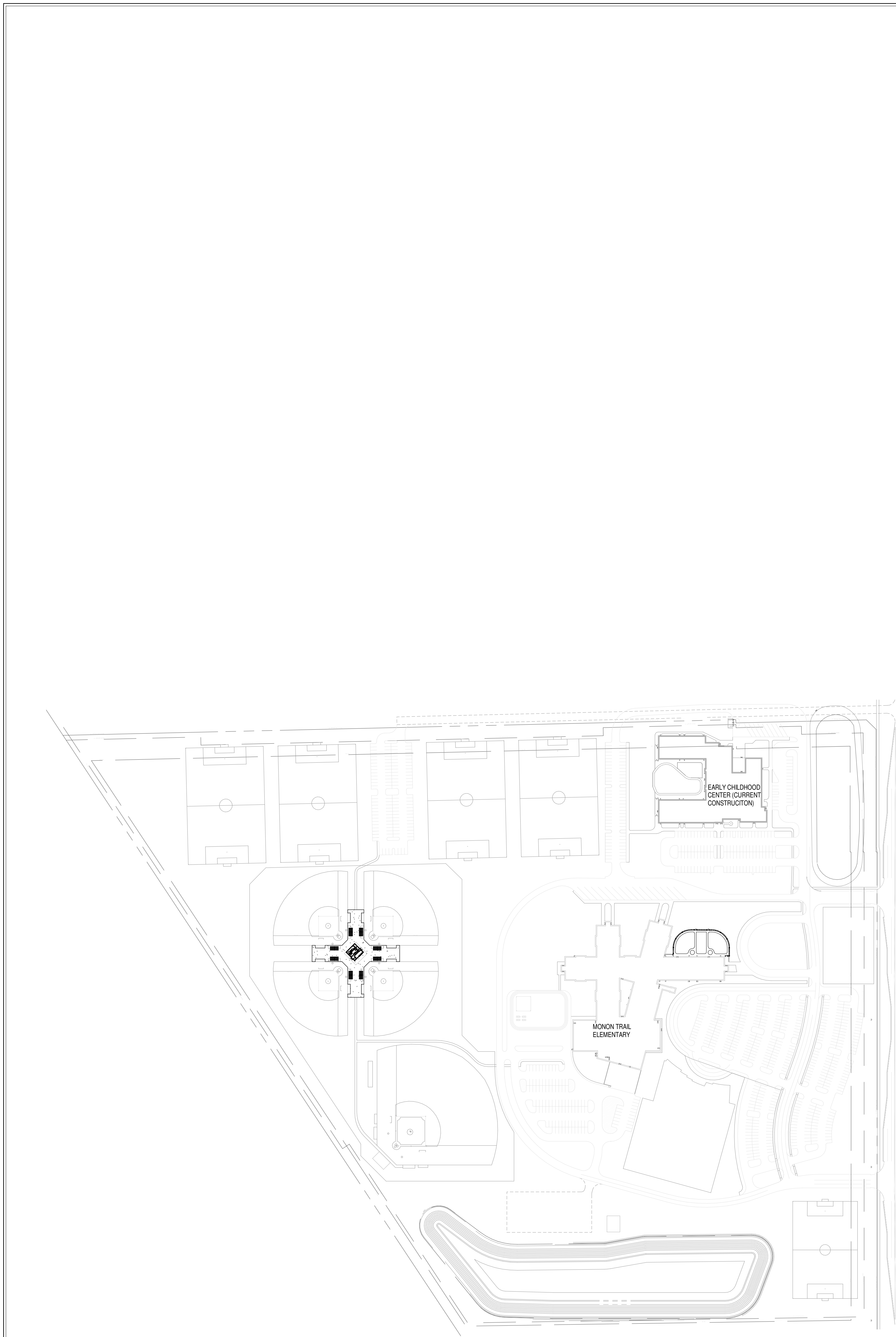
PRELIMINARY
NOT FOR
CONSTRUCTION

Date 00-00-00

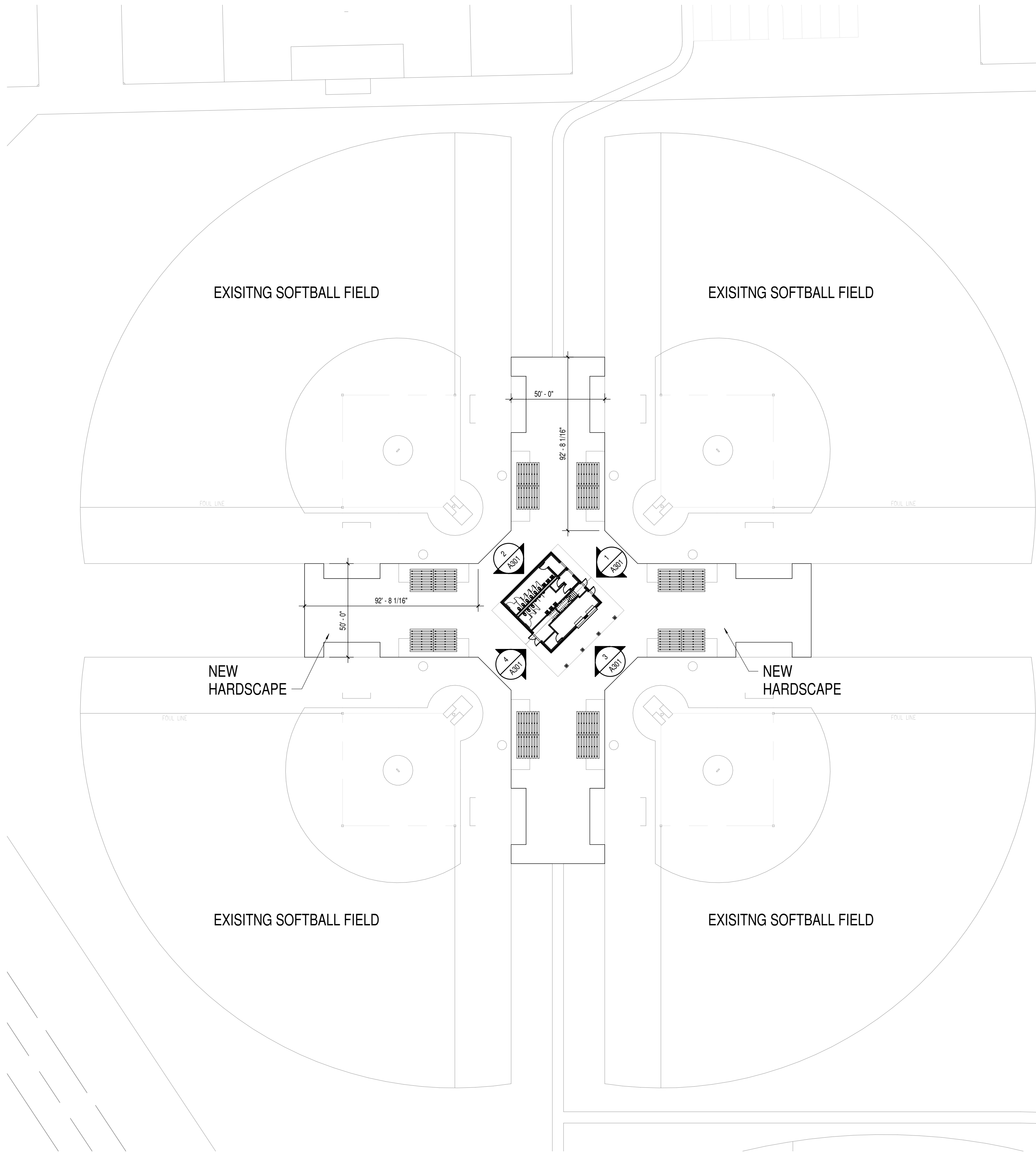


811 FOR CALLS IN INDIANA		1-800-382-5544 CALL TOLL FREE	
Drawn By: C. CHANCE			
Checked By: D. PELLOW, LA			
Quality Assurance: J. LASCH, PE, LEED BD+C			
Scale: 1" = 150' 			
Sheet C200			
Date 07-26-2021			
Project Number 050391-20300			

[illegible]



2 CAMPUS MASTERPLAN
A101 SCALE: 1" = 100'-0"



1 ENLARGED SITE PLAN
A101 SCALE: 1/32" = 1'-0"



SCSO

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317.246.7800 | info@scso.net
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PROJECT:
MONON TRAIL
ELEMENTARY SCHOOL
SOFTBALL CONCESSIONS
19400 TOMLINSON RD., WESTFIELD, IN 46074

SCOPE DRAWINGS:
These drawings provide the general scope of the project as shown on the site plan. The drawings are not to be used for construction purposes and are not to be used for any other purpose. The drawings do not necessarily indicate or describe all requirements of the Contract. On the basis of the general scope indicated or described, the contractor shall conduct all work required for the proper execution and completion of the work.

REVISIONS:

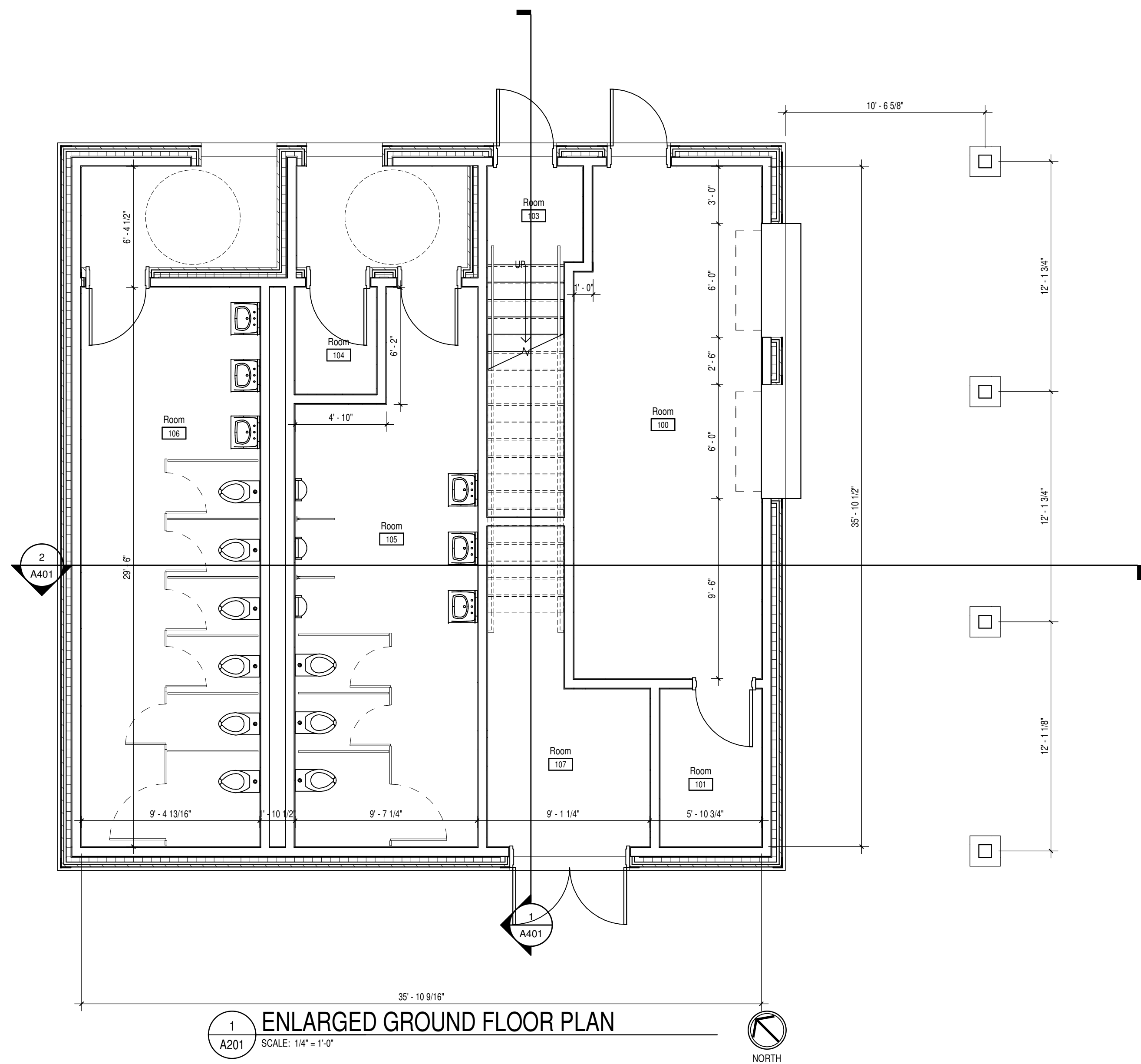
ISSUE DATE	DRAWN BY	CHECKED BY
06/18/2021	JNC	XXX

DRAWING TITLE:
SITE PLAN

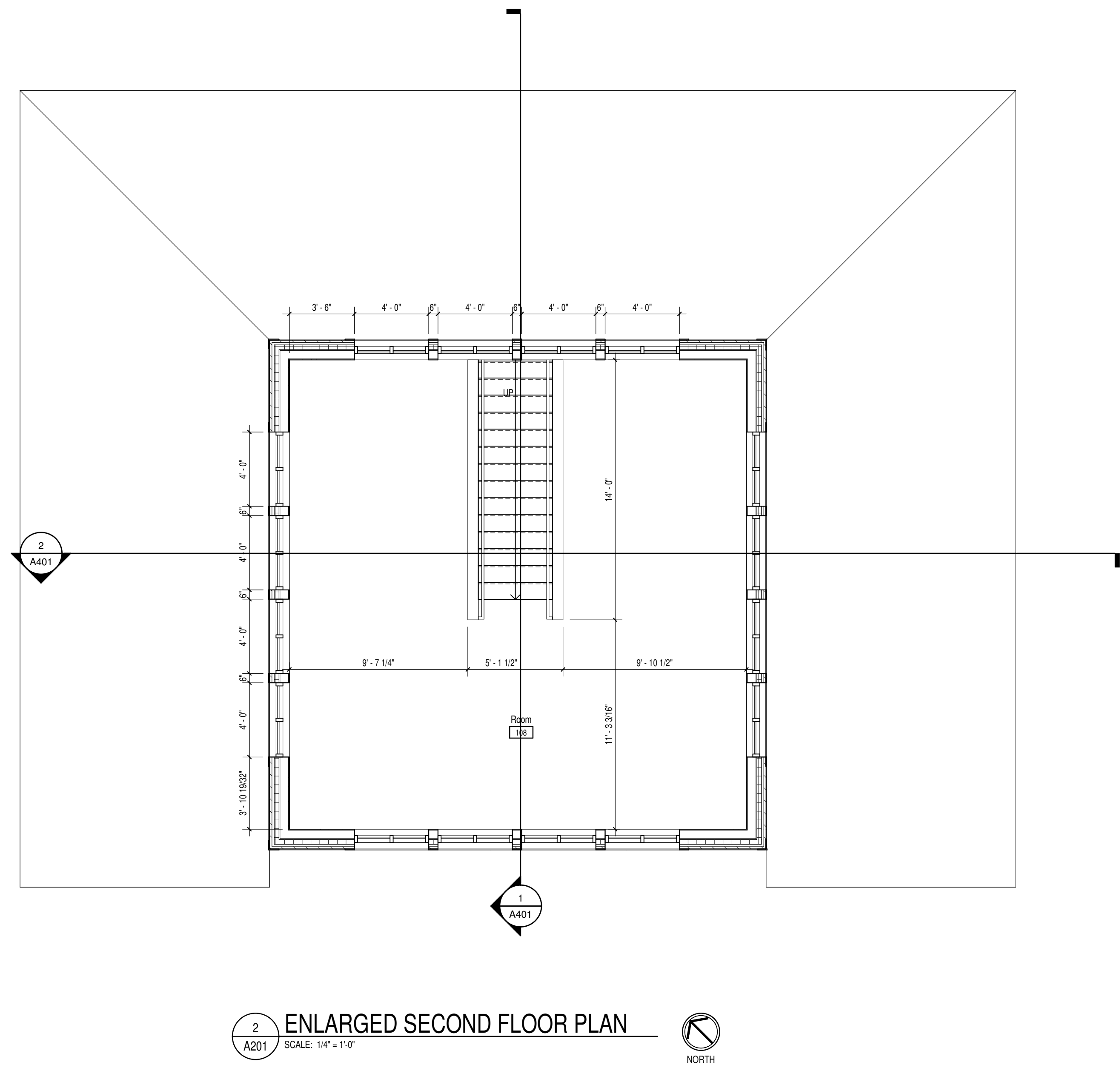
CERTIFIED BY:

DRAWING NUMBER
A101

PROJECT NUMBER
19139



1
A201
ENLARGED GROUND FLOOR PLAN
SCALE: 1/4" = 1'-0"



2
A201
ENLARGED SECOND FLOOR PLAN
SCALE: 1/4" = 1'-0"

S C S O

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PROJECT:
MONON TRAIL
ELEMENTARY SCHOOL
SOFTBALL CONCESSIONS
19400 TOMLINSON RD., WESTFIELD, IN 46074

SCOPE DRAWINGS:
These drawings show the general scope of the project as shown on the architectural design package, the general location of the building, the major structural elements and the type of mechanical, electrical and plumbing systems. The drawings do not necessarily indicate or describe all requirements of the Contract. On the basis of the general scope indicated or described, the contractor shall conduct all work required for the proper execution and completion of the work.

REVISIONS:

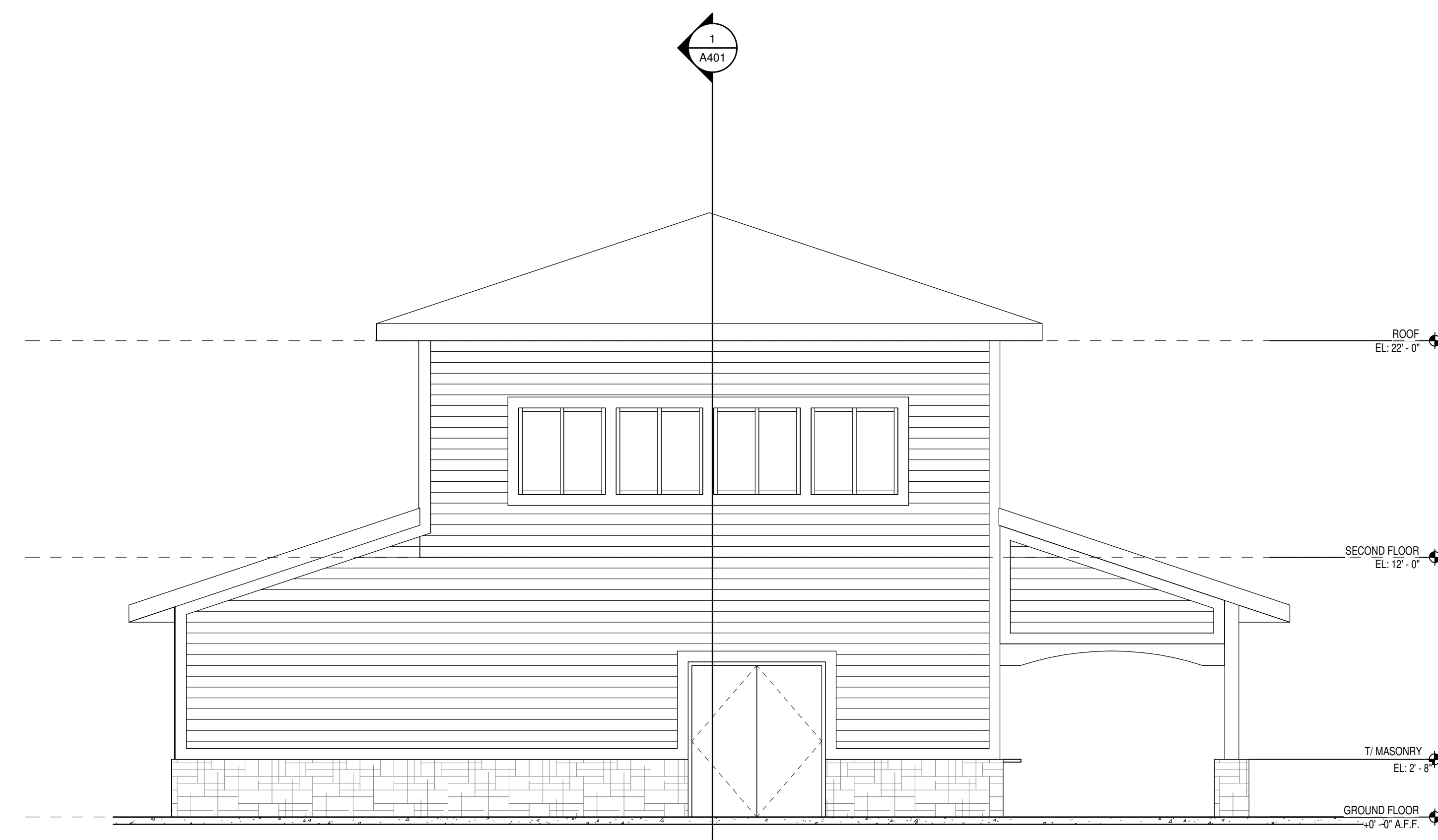
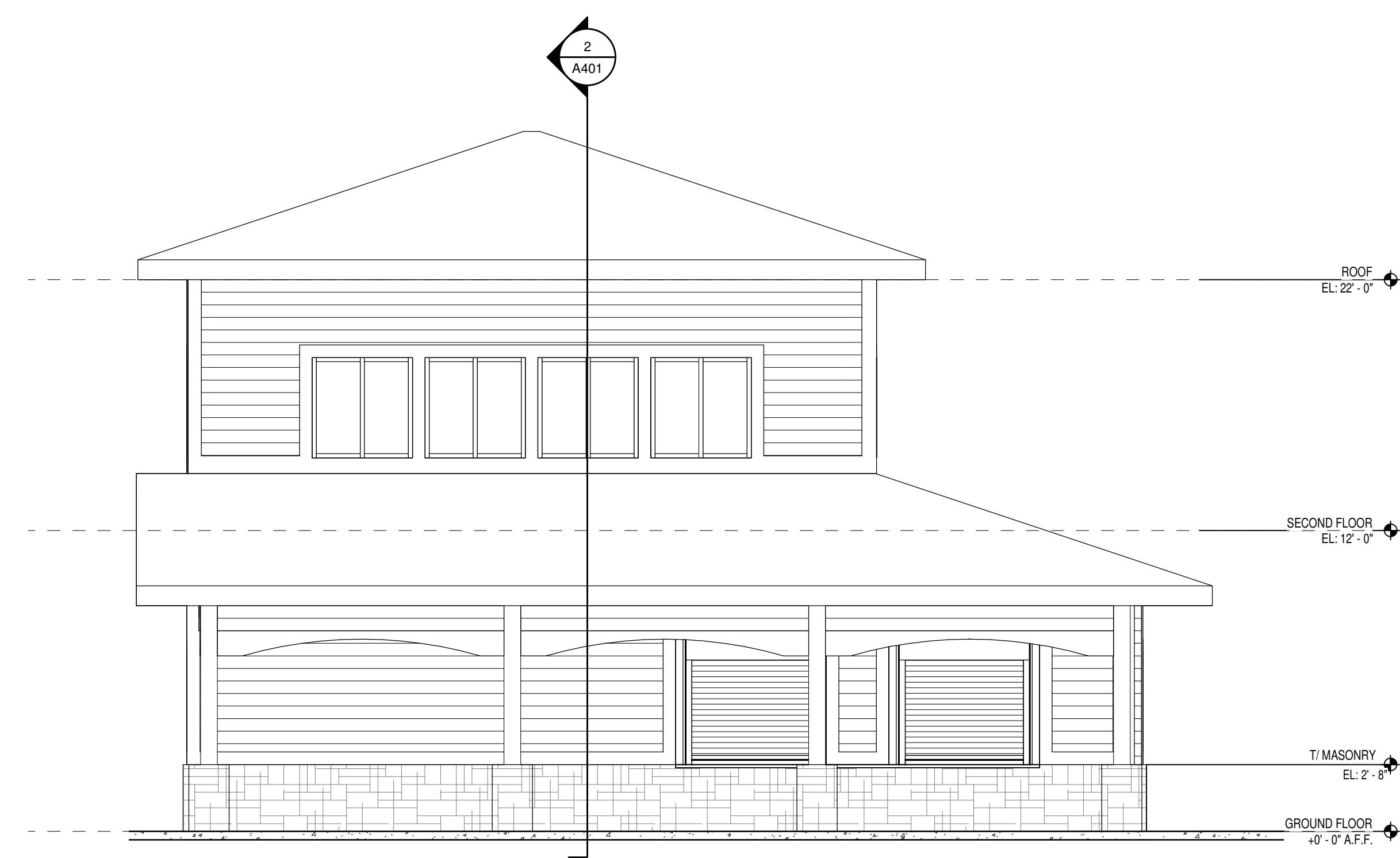
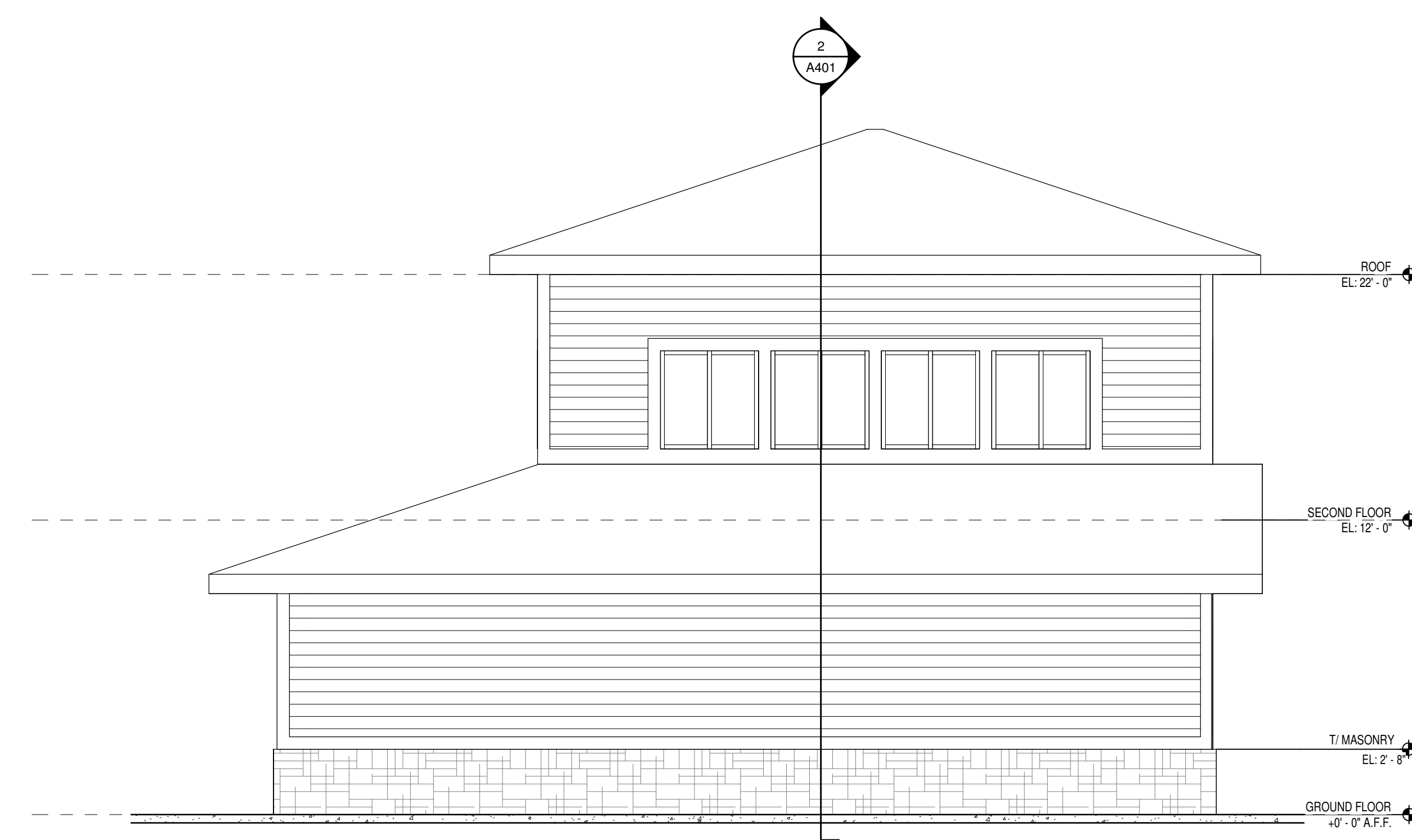
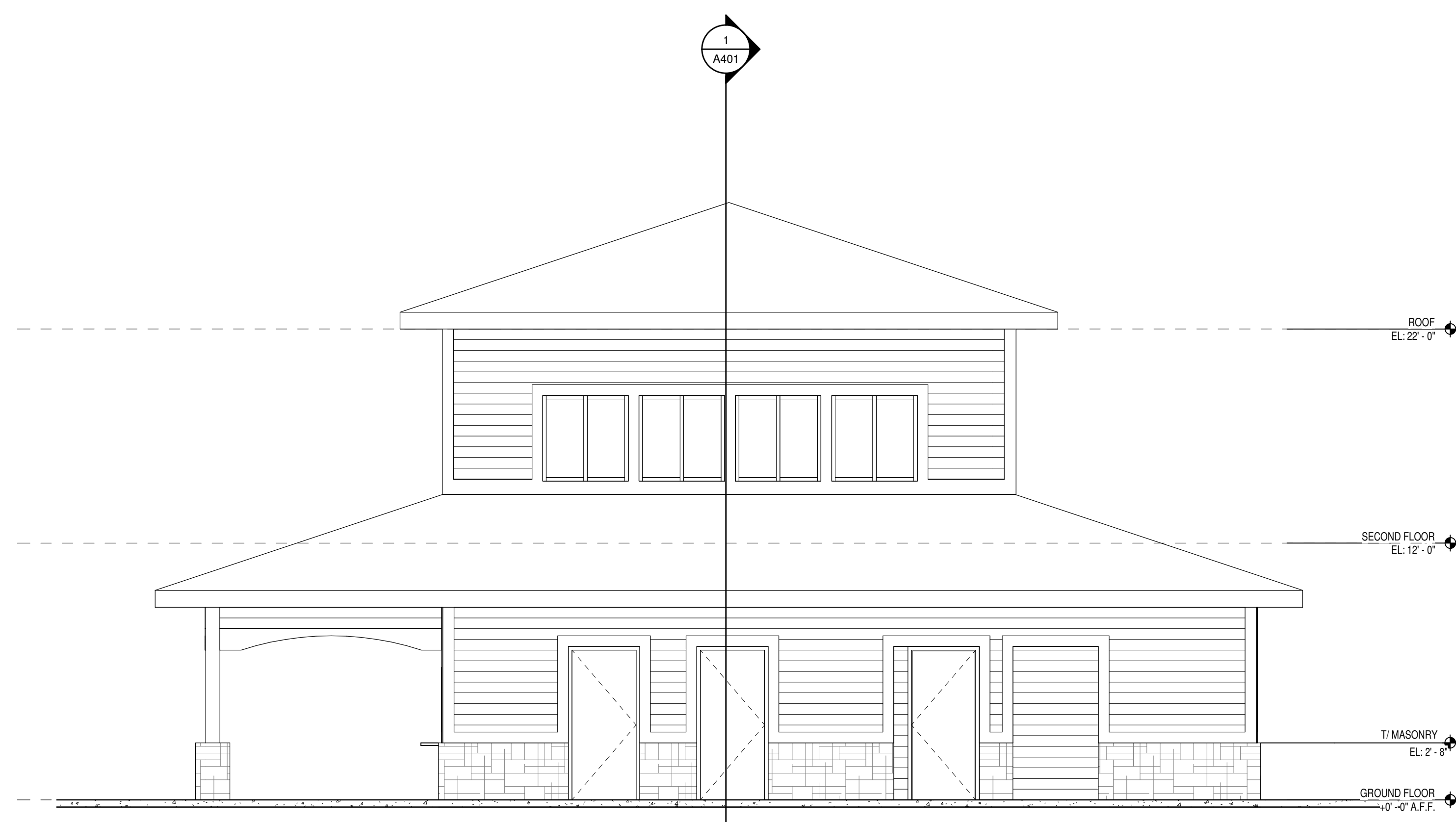
ISSUE DATE	DRAWN BY	CHECKED BY
06/18/2021	JNC	XXX

DRAWING TITLE:
ENLARGED
FLOOR PLANS

CERTIFIED BY:

DRAWING NUMBER
A201

PROJECT NUMBER
19139



OSCS

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PROJECT: MONON TRAIL
ELEMENTARY SCHOOL
SOFTBALL CONCESSIONS
19400 TOMLINSON RD, WESTFIELD, IN 46074

SCOPE DRAWINGS:

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

The drawings do not necessarily indicate or describe all work required for full performance and completion of the requirements of the Contract.

On the basis of the general scope indicated or described the trade contractors shall furnish all items required for the proper execution and completion of the work.

REVISIONS:

ISSUE DATE	DRAWN BY	CHECKED BY
06/18/2021	JNC	XXX

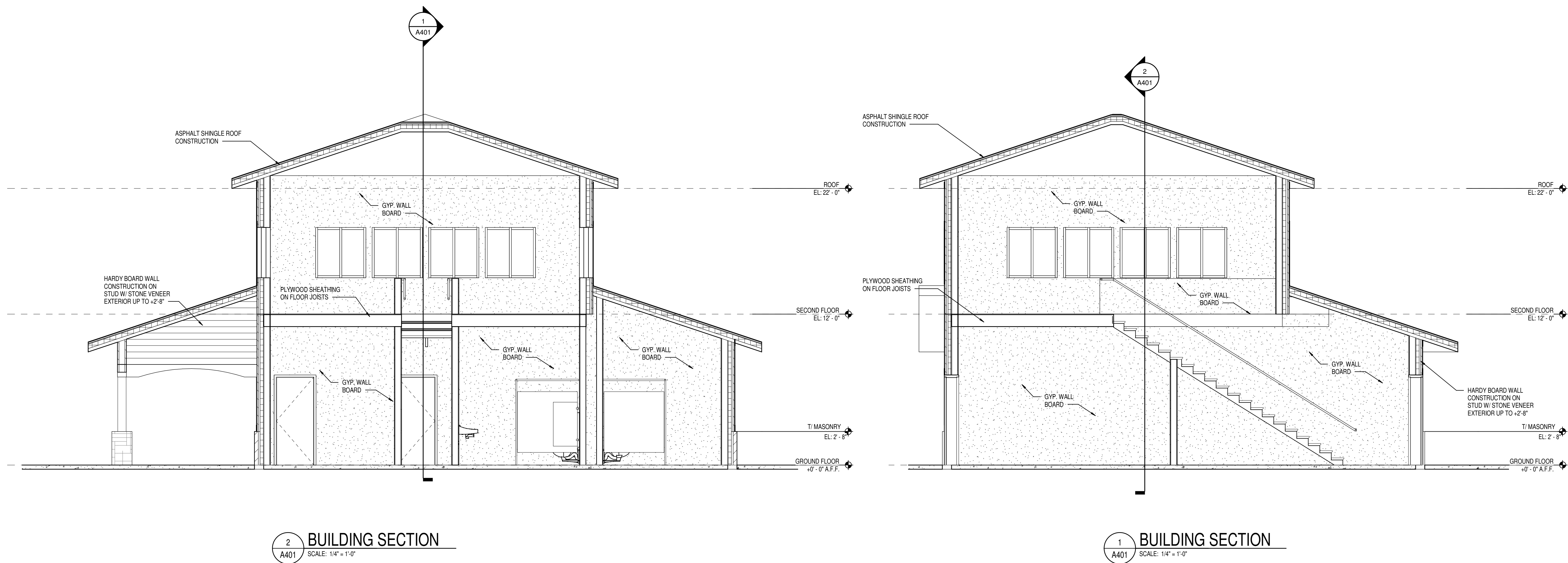
DRAWING TITLE:
**EXTERIOR
ELEVATIONS**

CERTIFIED BY:

DRAWING NUMBER
A301

PROJECT NUMBER
19139

KEYNOTE LEGEND



CSO

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PROJECT:
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SOFTBALL CONCESSIONS
19400 TOMLINSON RD., WESTFIELD, IN 46074

SCOPE DRAWINGS:
These drawings show the general scope of the project as shown on the site plan. The drawings are not to be used for construction purposes and are not to be used for construction purposes. The drawings are not to be used for construction purposes and are not to be used for construction purposes. The drawings are not to be used for construction purposes and are not to be used for construction purposes.

REVISIONS:

ISSUE DATE	DRAWN BY	CHECKED BY
06/18/2021	JNC	JDO

DRAWING TITLE:
BUILDING
SECTIONS

CERTIFIED BY:

DRAWING NUMBER
A401

PROJECT NUMBER
19139



3939 Priority Way South Drive, Suite 200
Indianapolis, IN 46240
Ph: 317.844.6777
Fax: 317.706.6451
www.cripe.biz

MEMORANDUM

TO: City of Westfield

FROM: Darci Pellom

DATE: 8-4-2021

RE: Project Narrative for Westfield Washington Schools Monon Trail Softball Concessions Building

The proposed Westfield Washington Schools Monon Trail Softball Concession Building is Located at 19400 Tomlinson Road to the west or behind the Monon Trail Elementary. There are four existing high school softball fields built around according to a 2007 approved engineering master plan. Also included in the master plan documents was a concession/press box building in the middle of the four fields that was not constructed during the original Monon Trail Elementary and athletic fields project.

The school corporation would like to construct a building in the exact location as shown in the original 2007 master plan for the Monon Trail Elementary site. The original building was to be approximately 48 feet square. The proposed building is about 38 feet square and includes concessions, restrooms, and storage areas on the first floor, with the press box on the second floor. The building has an 11-foot-deep overhang for the concession window on the southeast and is 22 feet to the bottom of the eve of the second floor.

The site will include a concrete area around the dugouts that will extend in all directions about halfway down the baselines. Sanitary, water, electric, stormwater routing, and infrastructure were planned and available on-site per the 2007 master plan drawings.

A variance of development standard is requested to increase the 18' accessory building height, Article 6.1.F to allow the 22' to the bottom of the eve of the second-floor roof. The application is included with the BZA submittal.

VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: _____ FILING DATE: _____

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Rachel Riemenschneider (STAFF NAME) DATE: 7-14 to 7-27-2021
via email

PRIOR OR RELATED DOCKET NUMBERS

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

APPLICANT INFORMATION

APPLICANT'S NAME: Darci Pellom - Cripe

ADDRESS: 3939 Priority Way South Drive, Suite 200 Indianapolis, IN 46240

TELEPHONE: 317-706-6318

EMAIL: dpellom@cripe.biz

PROPERTY OWNER'S NAME: Joe Montalone - Westfield Washington Schools

ADDRESS: 1143 East 181st Street Westfield, IN 46074

TELEPHONE: 317-867-8000

EMAIL: montalonej@wws.k12.in.us

REPRESENTATIVE'S NAME: _____

COMPANY: _____

ADDRESS: _____

TELEPHONE: _____

EMAIL: _____

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 19400 Tomlinson Rd

COUNTY PARCEL ID #(S): 08-05-25-00-00-004.000

EXISTING ZONING DISTRICT(S): AG-SF1 Institutional EXISTING LAND USE(S): Athletic Fields

PROPERTY AND PROJECT INFORMATION

☐ VARIANCE OF LAND USE CODE CITATION: _____

☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: 6.1.F

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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



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.

Darci Pellom
Applicant/Representative (signature)

Darci Pellom
Applicant/Representative (printed)

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

Witness my hand and Notarial Seal this 28 day of July, 2021
State of Indiana, County of Hamilton, SS: _____

Celia J. Hemmley
Notary Public (signature)

Celia J. Hemmley
Notary Public (printed)



PROPERTY OWNER AFFIDAVIT

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

Property Owner (signature)*

Joe Montalone
Property Owner (printed)

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

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

Notary Public (signature)

Notary Public (printed)

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

APPLICANT AFFIDAVIT

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

Applicant/Representative (signature)

Darci Pellom

Applicant/Representative (printed)

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

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

Notary Public (signature)

Notary Public (printed)

PROPERTY OWNER AFFIDAVIT

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

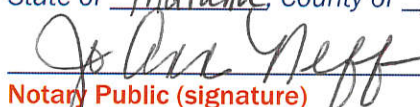

Property Owner (signature)*

Joe Montalone

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 27 day of July, 2021.
State of Indiana, County of Hamilton, SS: _____


Notary Public (signature)

Jo Ann Neff

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.



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

FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: N/A

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: Darci Pellom, Cripe on behalf of Westfield Washington Schools

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 approval of a concessions/press and public restroom facility at 22 feet tall from grade to bottom of eve of the building in lieu of the accessory building height will

provide necessary facilities for player, officials and spectators without compromising building standards or

creating risk to the natural environment and flood conditions or affecting the property negatively

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 use of the area adjacent to the property includes Monon Trail Elementary, Early Learning Childhood Center and an athletic fields which include soccer fields directly to the north

with a cross country course winding throughout the property. The fields are used by the high school girls softball team.

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

The need for the variance of height for the concession/press/restroom building will allow for a similar facilities to other high school athletic fields by providing essential services for girls softball players and spectators.

Press boxes tend to be elevated and are therefore placed on the second floor of the building requiring the accessory building to Monon Trail Elementary to

be taller than allowed by ordinance.

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:
- 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.
 - 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.
 - 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.
 - Affidavit of Notice of Public Hearing:** The applicant shall deliver a copy of the mailed notice and a signed affidavit, verifying that the notices were mailed and the public notice sign(s) was posted on the subject property, to the Department at least four (4) calendar days prior to the public hearing.
- F. **Ex-parte Communication:** In no event shall applicants or other interested parties contact or attempt to communicate with members of the Board in regard to a filed variance petition prior to the public hearing.
- G. **Revised Materials:** If the applicant wishes to submit additional or revised information than what is filed, then the applicant shall submit those to the Department no later than ten (10) days prior to the public hearing.
- H. **Board’s Consideration:** Following the public hearing, the Board may either approve, approve with conditions, deny or continue the petition.
- I. **Resource:** Please see the Board’s Rules of Procedure for more detailed procedural information.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 10, 2021
2108-VS-32
Exhibit 1

Petition Number: 2108-VS-32

Subject Site Address: 19400 Tomlinson Rd (the "Property")

Petitioner: Westfield Washington Schools (the "Petitioner")

Request: The petitioner requests a Variance of Development Standard to exempt the height requirements for Accessory Buildings from eighteen (18) feet to twenty-five (25) feet for a press box on 86.77 acres +/- in the AG-SF1: Agriculture / Single Family district (UDO 6.1(F))

Current Zoning: Agriculture / Single Family District

Current Land Use: Institutional

Approximate Acreage: 86.77 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. Elevations
5. Narrative Statement
6. Application

Staff Reviewer: Rachel Riemenschneider, Associate Planner

OVERVIEW

Location: The subject property is 86.77 acres +/- in size and located at 19400 Tomlinson Rd (see **Exhibit 2**). The Property is zoned AG-SF1 District. Adjacent properties south and east are zoned AG-SF1 District. Properties to the north are AG-SF1 and SF-2. Properties to the west are zoned the Woods Robinson Briggs Planned Unit Development District.

Variance Request: The Petitioner is requesting a Variance of Development Standard to exempt the height requirements for Accessory Buildings.

SUMMARY OF VARIANCE

The Petitioner is constructing a two-story Accessory Building¹: a concession stand on the first floor with a press box on the second floor. They are requesting to exempt the height requirement

¹ The Unified Development Ordinance (UDO) defines Accessory Building 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

for the Accessory Building. The current maximum Building Height² is eighteen (18) feet. They request a height of twenty-five (25) feet (**Exhibit 4**).

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this Property as being within the “New Suburban”³ land use classification. Desired land uses in New Suburban include institutional and recreational uses, as well as detached dwellings, attached dwellings, artisan farms, and equestrian uses.

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 10, 2021, 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 Unified Development Ordinance (UDO)⁴ 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 UDO⁵ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

portable and do not have permanent foundations are also classified as Accessory Buildings, but shall not require an Improvement Location Permit.”

² Th UDO defines Building Height as “[t]he vertical distance measured from the Lot ground level to the highest point of the roof for a flat roof (or the top of the parapet wall, if provided); to the deck line of a mansard roof; and to the mean height between eaves and ridges for gable, hip and gambrel roofs.”

³ Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (p. 24).

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

⁵ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.

Variance of Development Standard: The Board of Zoning Appeals shall approve or deny 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.

DEPARTMENT COMMENTS

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

Recommended Conditions for Approval:

1. That the Variance only applies to the Accessory Building as shown in the site plan and building elevations (**Exhibit 3 & Exhibit 4**);
2. That the building additions shall be constructed in substantial compliance with the building elevations (**Exhibit 4**);
3. That the Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Community Development Department.

Recommended Findings for Approval of the 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 would be injurious to the public health, safety, morals, and general welfare of the community because the Property currently operates and complies with all other standards of the Unified Development Ordinance (UDO). Additionally, the Accessory Building will provide services that facilitate the full use and enjoyment of the softball fields.

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 Accessory Building will improve the quality of the lot by adding functionality to the athletic area of the Monon Trail Elementary School. The building otherwise fully complies with the UDO standards.

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 include the press box on the second story. The UDO's architectural standards otherwise would require the building not exceed eighteen (18) feet, which restricts the ability to add a second story.

Denial: If the Board is inclined to deny 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.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 10, 2021

2108-VS-28

Exhibit 1

Petition Number: 2108-VS-28

Subject Site Address: 15500 Viking Crusader Court ("the Property")

Petitioner: Heather Hohla ("the Petitioner")

Request: The Petitioner requests a Variance of Development Standard to encroach ten (10) feet into the twenty-five (25) foot Rear Yard Setback to accommodate a swimming pool and deck on 0.57 acres +/- in the Viking Meadows PUD District.

Current Zoning: Viking Meadows PUD

Current Land Use: Residential

Approximate Acreage: 0.57 acres +/-

Exhibits:

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

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject property is 0.57 acres +/- in size (the "Property") and located at 15500 Viking Crusader Court in the Two Gaits subdivision of the Viking Meadows PUD (see **Exhibit 2**).

Requested Variances: The petitioner is requesting a Variance of Development Standard to encroach ten (10) feet into the twenty-five (25) foot Minimum Rear Yard Setback as further described herein.

SUMMARY OF VARIANCE

The Property is currently subject to the Viking Meadows PUD. The zoning sets forth a minimum rear yard setback line of twenty-five (25) feet. The Petitioner is requesting this variance to encroach ten (10) feet into the twenty-five (25) foot Minimum Rear Yard Setback to accommodate a swimming pool and deck, as illustrated on the Site Plan and Character Exhibits (see **Exhibits 3 and 4**).



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 10, 2021

2108-VS-28

Exhibit 1

The Westfield Public Works Department has approved the Petitioner's plans showing the plans encroaching five (5) feet into the Drainage and Utility Easement but no more.

COMPREHENSIVE PLAN

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

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

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

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standard. This petition is scheduled to receive its public hearing at the August 10, 2021 Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO⁴ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO

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

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

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

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 10, 2021

2108-VS-28

Exhibit 1

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 UDO⁵ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variances of 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 (2108-VS-28):

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

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the existing use and proposed improvements will otherwise comply with the applicable standards of the zoning of the Viking Meadows PUD.

⁵ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 10, 2021

2108-VS-28

Exhibit 1

- 2) *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on adjacent surrounding properties because the use of the Property will not change.

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

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

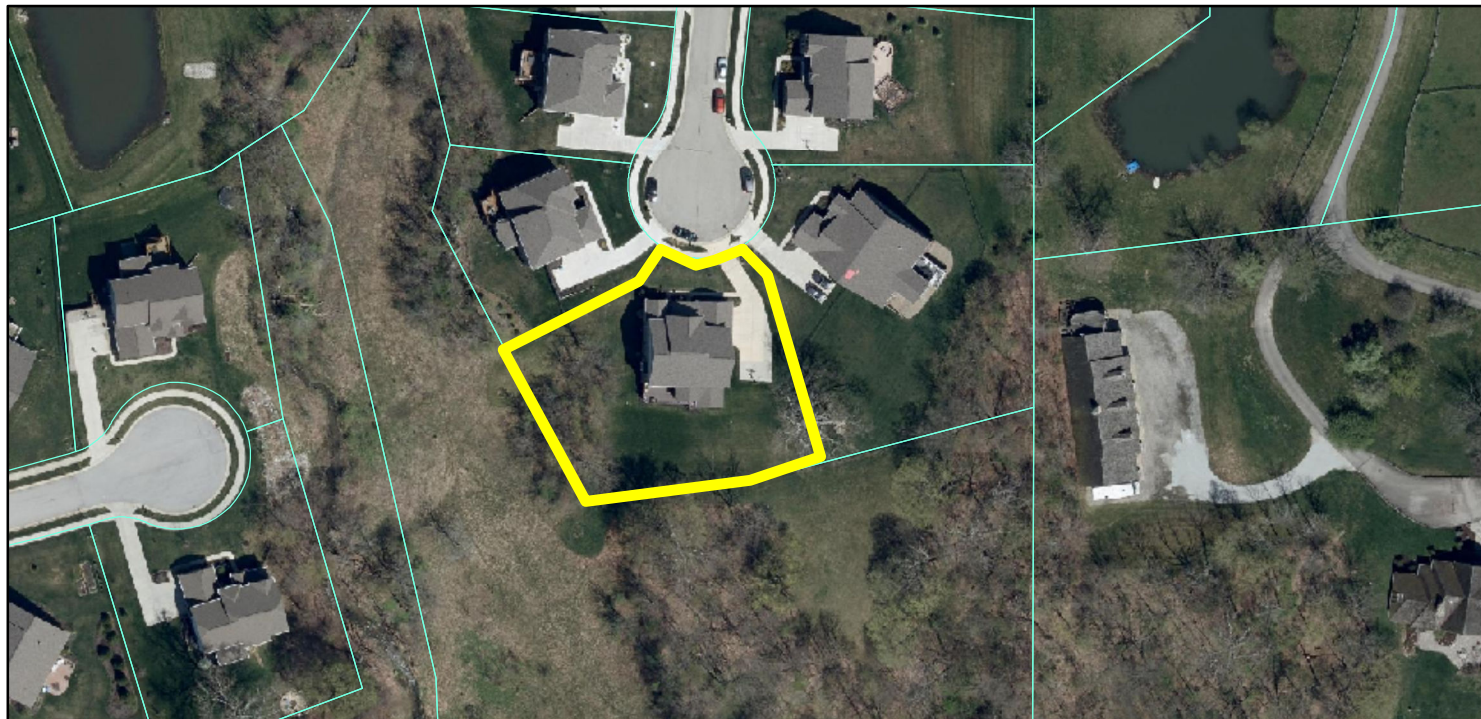
Recommended Conditions:

- That the Property be developed in substantial compliance with the Site Plan shown as **Exhibit 3.**
- 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.

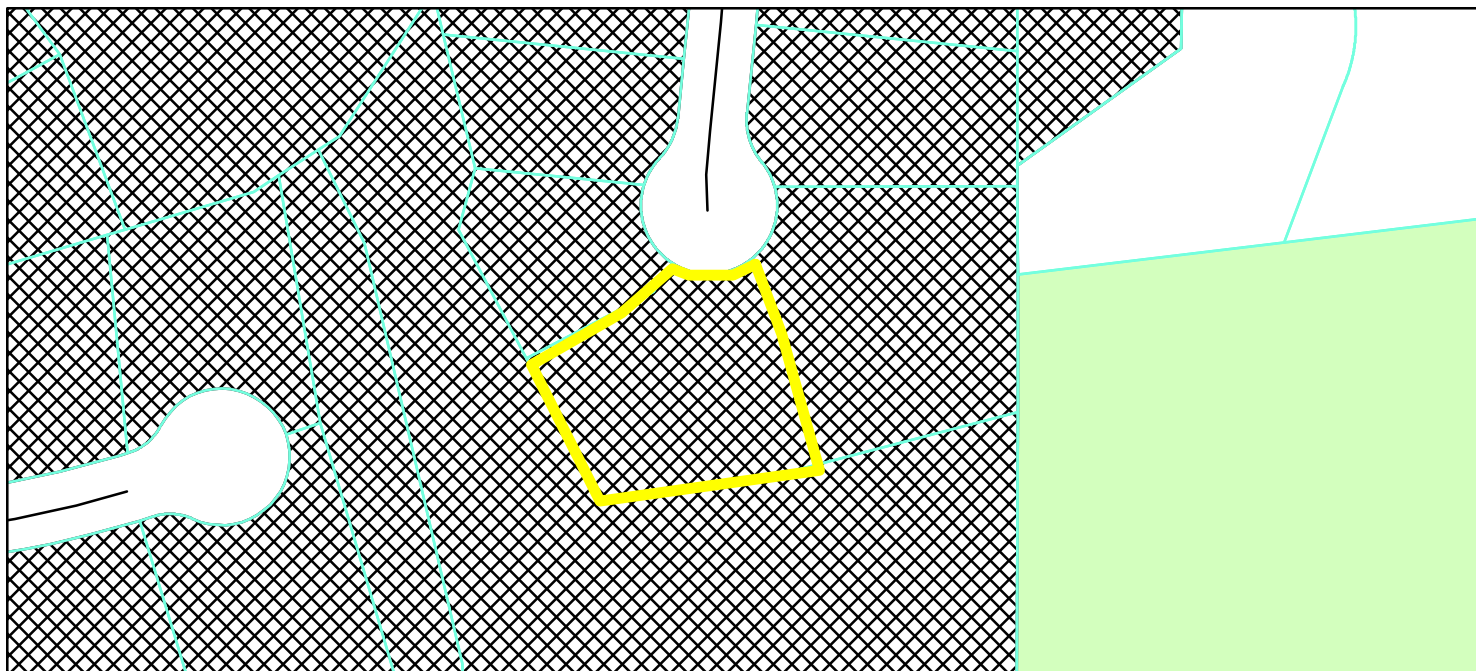
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

Aerial Location Map

 Site

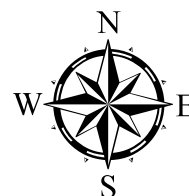


Zoning Map



 GIS.DBO.PW_Streets
 Parcel
 Parcel
Zoning - All
 AG-SF1 (Agriculture - Single Family - 1)
 PUD (Planned Unit Development)

0 0.0125 0.025
Miles



BH

PONTIAC - ELEV 1
LEFT HAND - Brick Wrap
GARDEN BSMT - 9' Walls
3 CAR - Side Entry
Sunroom, Fireplace

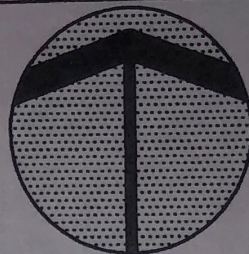
Gar. FFE = 879.0
1st Flr FFE = 880.8
TOW = 879.8
Bsmt FFE = 871.0
Gard. Window = 875.0
Drive Slope = 5.4%

"BASE HOUSE STANDARD FEATURES"

8' FULL BASEMENT
3 CAR SIDE ENTRY GARAGE
5'X7' DECK

"SELECTED FEATURES"

9' GARDEN BASEMENT
BRICK WRAP
SUNROOM
FIREPLACE



Assumed North
Scale: 1" = 40'

Note:

Minimum Front Yard - 25'
Minimum Side Yard - 5'
Minimum Between Residences - 18'
Minimum Rear Yard - 25'

* IN FOR PERMIT *
CH 2/13/15

LOT # 52
±24,728 SF
PAD 879.0 PER PLAN
MFFE 878.5 PER PLAN

PREVIOUSLY APPROVED

EXISTING
SCREENED
PORCH

RETAINING
WALL 5'

10' Setback
Variance
Request

16' x 46'
INGROUND
POOL

20' x 20'
COVERED
STRUCTURE

PRIVACY
LANDSCAPE
EVERGREENS

HARD SCAPE
PAVERS

Note:

Retaining system for grading
may be necessary for garden
basements.

XX.X = Proposed Grade
— = Drainage Flow
← = Overflow Route

* Conc Flatwork Sq. Ft = ±1644
Public Walk Sq Ft = ±246
Sod Sq Yds = ±224
Seeding Sq Ft = ±18124
* (Drive, Apron, 3' Walk, Patio, Stoops)
(PORCH NOT INCLUDED)

Flood Hazard Note:

Lot Number 52 lies within Flood Hazard Zone "X" per the
scaled location on the Flood Insurance Rate Maps for
Hamilton County, Indiana (Community Panel #18057C0120G,
dated November 19, 2014).

Note:

This document has been prepared for the benefit of the parties
indicated hereon, for the express use of obtaining a residential
building permit.

Note:

Contractor should verify site specific information depicted
hereon with the approved construction plans for this
development in regards to sidewalk and handicap ramp
placement, widths, and construction. Contractor should verify
site specific information in regards to erosion control
placement and materials. Also, Contractor should reference
Architectural plans for foundation orientation and dimensions.

The contractor/owner should verify existing conditions prior to
construction. Any varying field conditions or any discrepancy
with the information contained hereon should be immediately
reported to COOR Consulting & Land Services, Corp.; failure
to do so would result in the contractor/owners assumption of
liability.

Note:

Unless otherwise stated hereon, no information pertaining to but not
limited to, fluctuating water tables elevations, soil types, and
conditions within the building areas of this development have been
provided and/or referenced on said documents. With the exception

Note:
Contractor should verify sump pit
location with Field Manager.

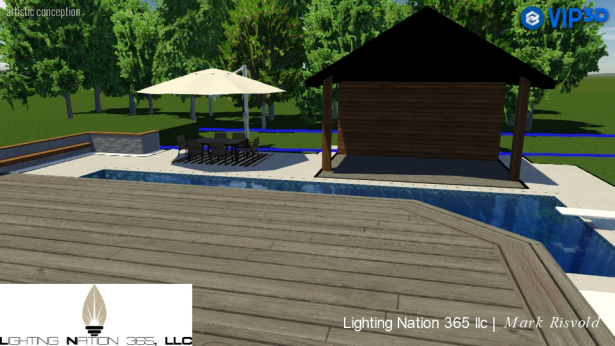
artistic conception



Lighting Nation 365 llc | Mark Risvold

artistic conception

VIP3D



Lighting Nation 365 llc | *Mark Risvold*

artistic conception

VIP3D



Lighting Nation 365 llc | *Mark Risvold*

artistic conception

VIP3D



Lighting Nation 365 llc | *Mark Risvold*

artistic conception

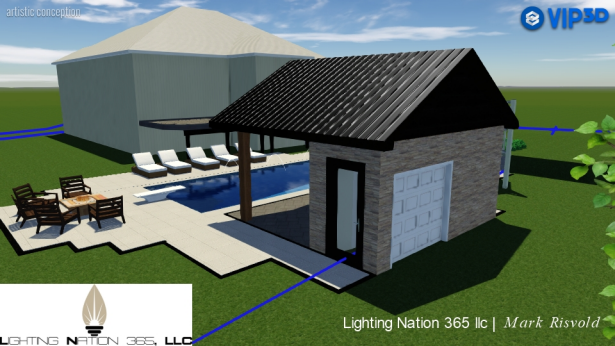
VIP3D



Lighting Nation 365 llc | Mark Risvold







artistic conception

VIP3D



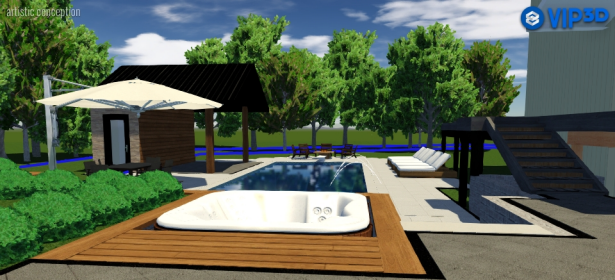
Lighting Nation 365 llc | Mark Risvold





artistic conception

VIP3D

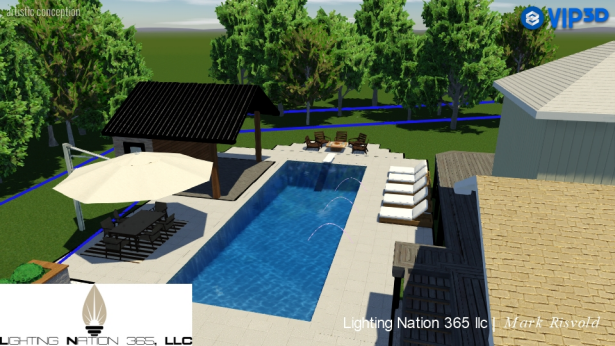


Lighting Nation 365 llc | *Mark Risvold*



artistic conception

VIP3D



Lighting Nation 365 llc | *Mark Risvold*

artistic conception



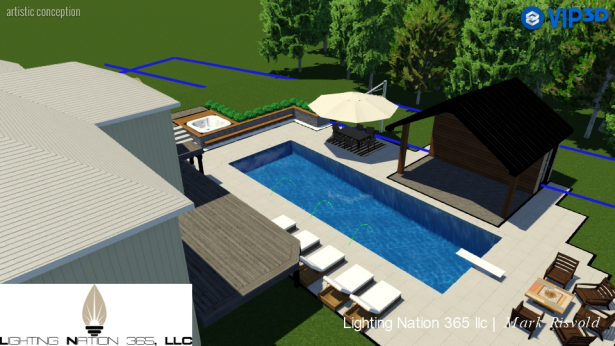
Lighting Nation 365 llc | Mark Risvold

artistic conception



Lighting Nation 365 llc | Mark Risvold

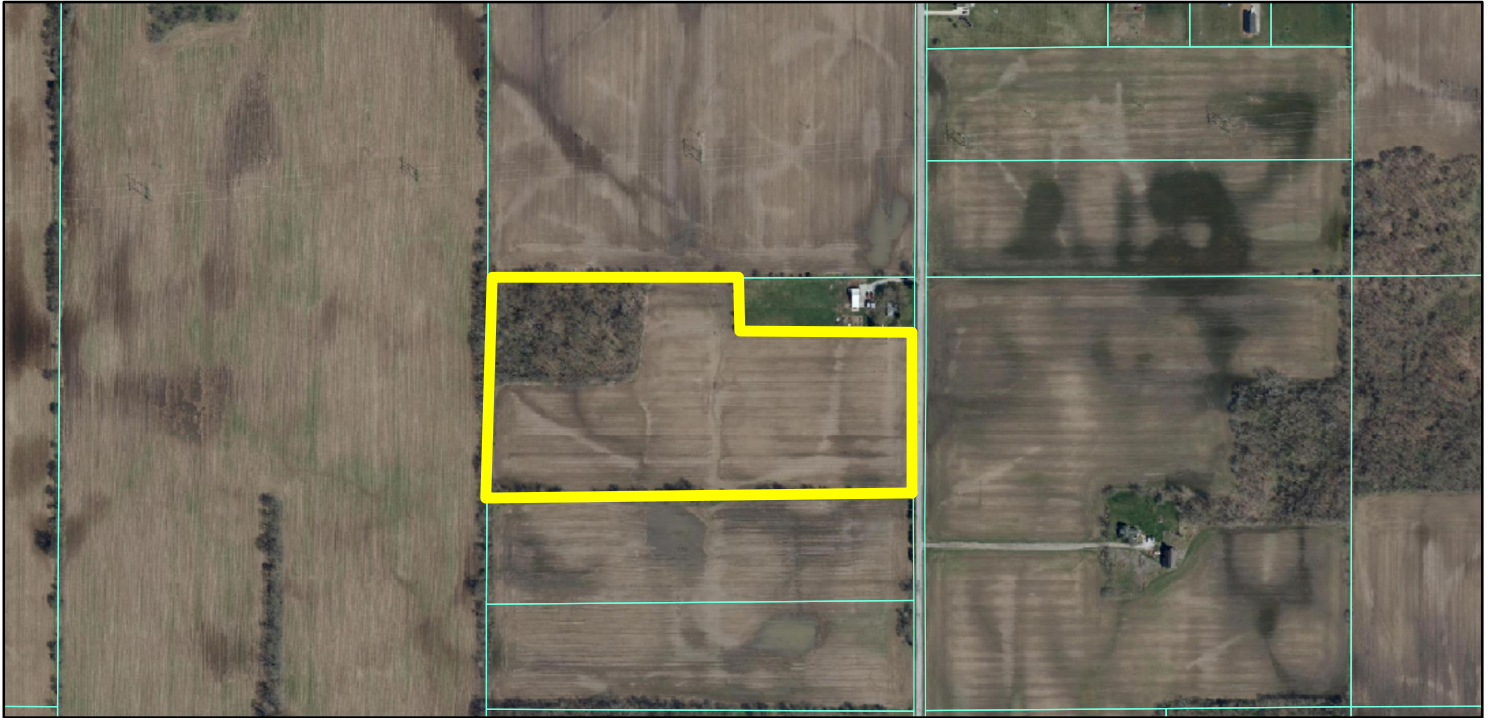
artistic conception



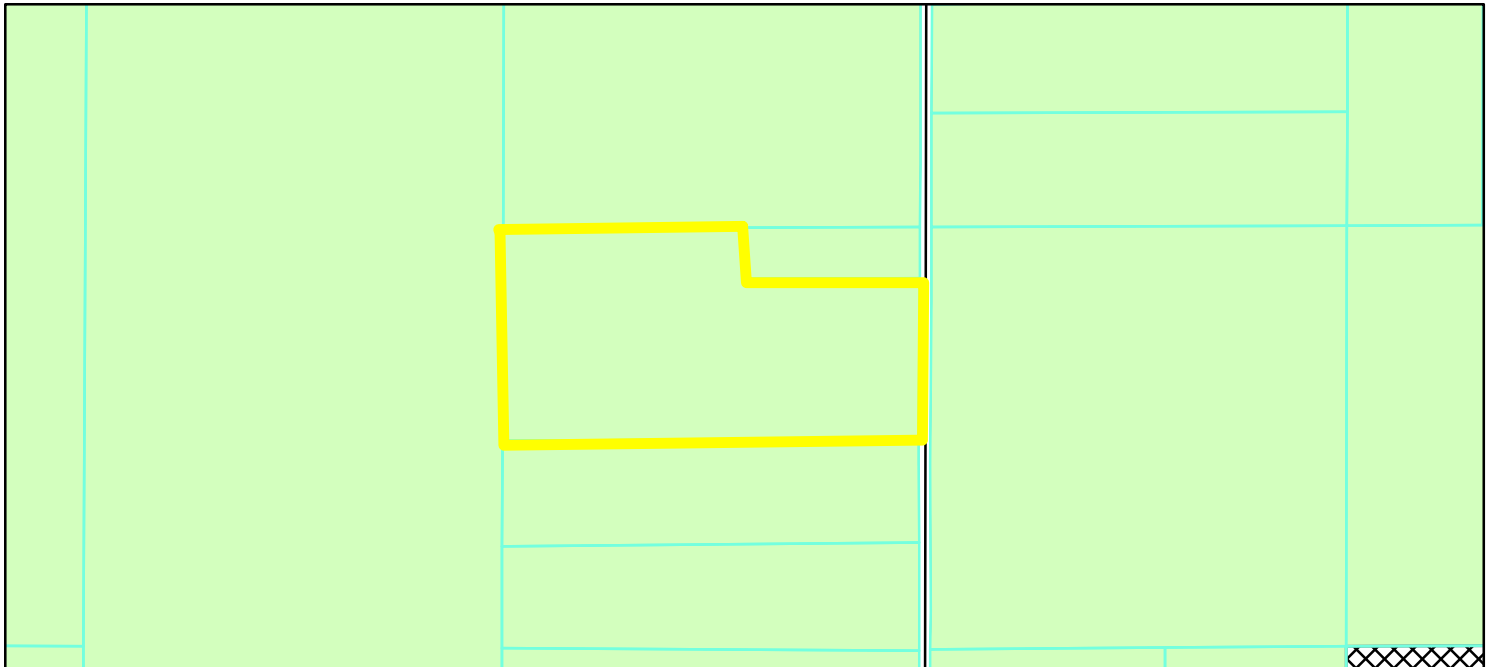
Lighting Nation 365 llc | *Mark Risvold*

Aerial Location Map

 Site



Zoning Map



GIS.DBO.PW_Streets
Parcel
Parcel
Zoning - All

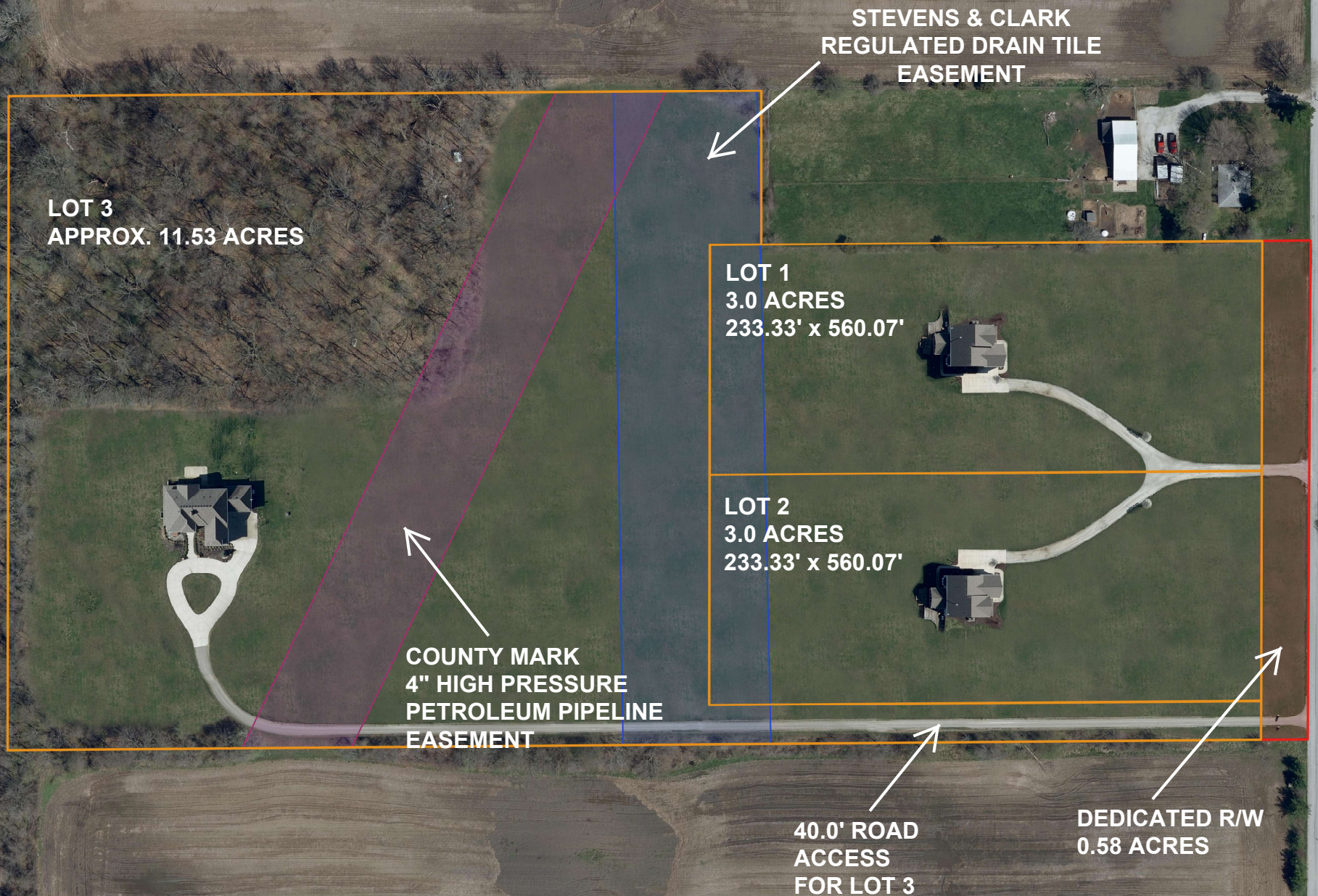
Zoning

AG-SF1 (Agriculture - Single Family - 1)
PUD (Planned Unit Development)

0 0.05 0.1
Miles



PROPOSED LAYOUT FOR PARCEL 08-05-21-00-00-005.000





WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 10, 2021

2108-VS-31

Exhibit 1

Petition Number: 2108-VS-31

Subject Site Address: 17112 Towne Road ("the Property")

Petitioner: Michael A. Johnson ("the Petitioner")

Request: The Petitioner requests a Variance of Development Standard to modify Minimum Lot Size, Minimum Road Frontage, Minimum Front Yard Setback and Minimum Side Yard Setback for an existing lot in the AG-SF1: Agriculture/Single-Family Rural District so a building addition may be constructed (Articles 4.2(C), 4.2(D), 4.2(E)(1) and 4.2(E)(2)).

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

Current Land Use: Residential

Approximate Acreage: 1.42 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Petitioner's Plans

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject property is 1.42 acres +/- in size (the "Property") and located at 17112 Towne Road (see **Exhibit 2**).

Requested Variances: The petitioner is requesting the following four (4) Variances of Development Standard so a building addition may be built:

- Modify the Minimum Lot Size from 3 acres to the existing 1.43 acres +/-
- Modify the Minimum Lot Frontage from 250 feet to the existing 140 feet +/-
- Modify the Minimum Side Yard Setback (both) from 30 feet to 10 feet
- Modify the Minimum Front Yard Setback from 100 feet to the existing 77 feet +/-

SUMMARY OF VARIANCE

The Property is currently subject to Zoning Standards for the AG-SF1: Agriculture/Single-Family Rural District as set forth by the UDO.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 10, 2021

2108-VS-31

Exhibit 1

The Property at 17112 Towne Road was considered legal, nonconforming when zoning was established in 1977 as the lot and structure did not conform with four (4) standards:

- Minimum Lot Size (*1.57 acres at the time*)
- Lot Frontage
- Front Yard Setback; and
- Side Yard Setback (south lot line – *currently 28 feet*)

However, in 2016 the owners of the Property split 0.15 acres from the Property and sold it to an adjacent landowner. By further subdividing an already nonconforming parcel, the Property became considered illegal, nonconforming.

The current Property owner purchased the Property in 2021.

Because the lot is currently considered illegal, nonconforming, and no structure may be built until standards in noncompliance are rectified.

The request to modify the Minimum Lot Size, Lot Frontage, Front Yard Setback, and South Lot Line (at least to the current existing 28 feet if not the requested 10 feet) must be granted in order for the Petitioner's currently submitted Improvement Location Permit on file with the Westfield Building Department (docket # **21-RAD-043-1161**) to be issued.

Per conversations with the Petitioner, the request to modify the Minimum Side Yard setbacks to 10 feet is for a future, not yet proposed, building addition and/or an accessory building.

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 10, 2021, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO¹ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO

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



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2108-VS-31

Exhibit 1

upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

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

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

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

DEPARTMENT COMMENTS:

Recommended Findings for Approval: If the Board is inclined to approve the Variance of Development Standards (2108-VS-31), then the Department recommends the following written findings of fact and condition:

- 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

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



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use and proposed improvements will otherwise comply with the applicable standards of the zoning of the AG-SF1 zoning district.

- 2) *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on adjacent surrounding properties because the use of the Property will not change.

- 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 in any way that requires an Improvement Location Permit from the City of Westfield.

Recommended Condition:

- 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.

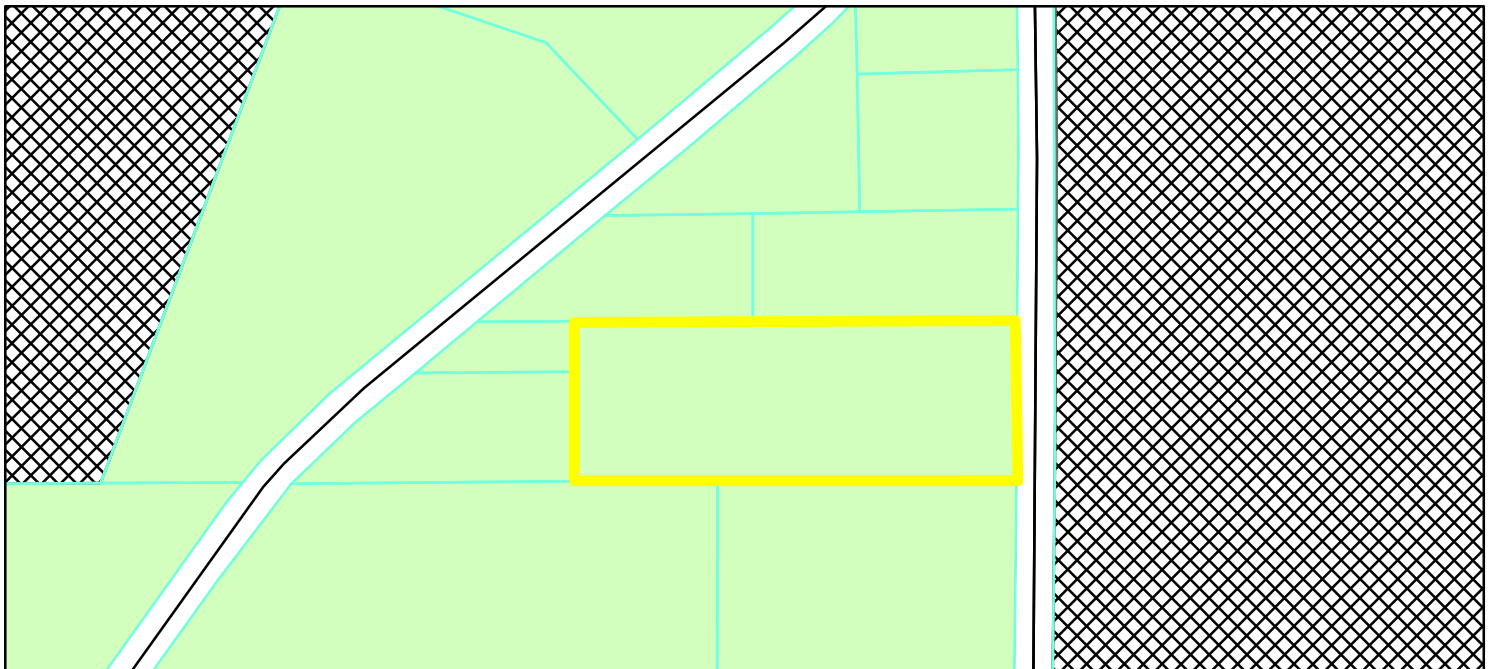
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

Aerial Location Map

 Site



Zoning Map



 GIS.DBO.PW_Streets
 Parcel
 Parcel
Zoning - All
 AG-SF1 (Agriculture - Single Family - 1)
 PUD (Planned Unit Development)

0 0.0175 0.035
Miles



Plot Plan - 12112 Town Rd
Westfield IN, 46074

Towne Rd

12'

116'

driveway

77'

12'

12'

16'

32'

32'

44'

48'

28'

74'

12'

20'

400'

279'

East



North



South



West



150'

17112 Towne Rd
Westfield, IN 46074

2x8 rafters
16" OC

1/2" OSB roof decking

5/12 pitch

R15 insulation

2x4 studs
16" OC

2x4 top plate

2x6

2x band and floor
16"

See
1/2"

Cinder Block foundation

8" thick, 16" wide concrete footer 36" below grade

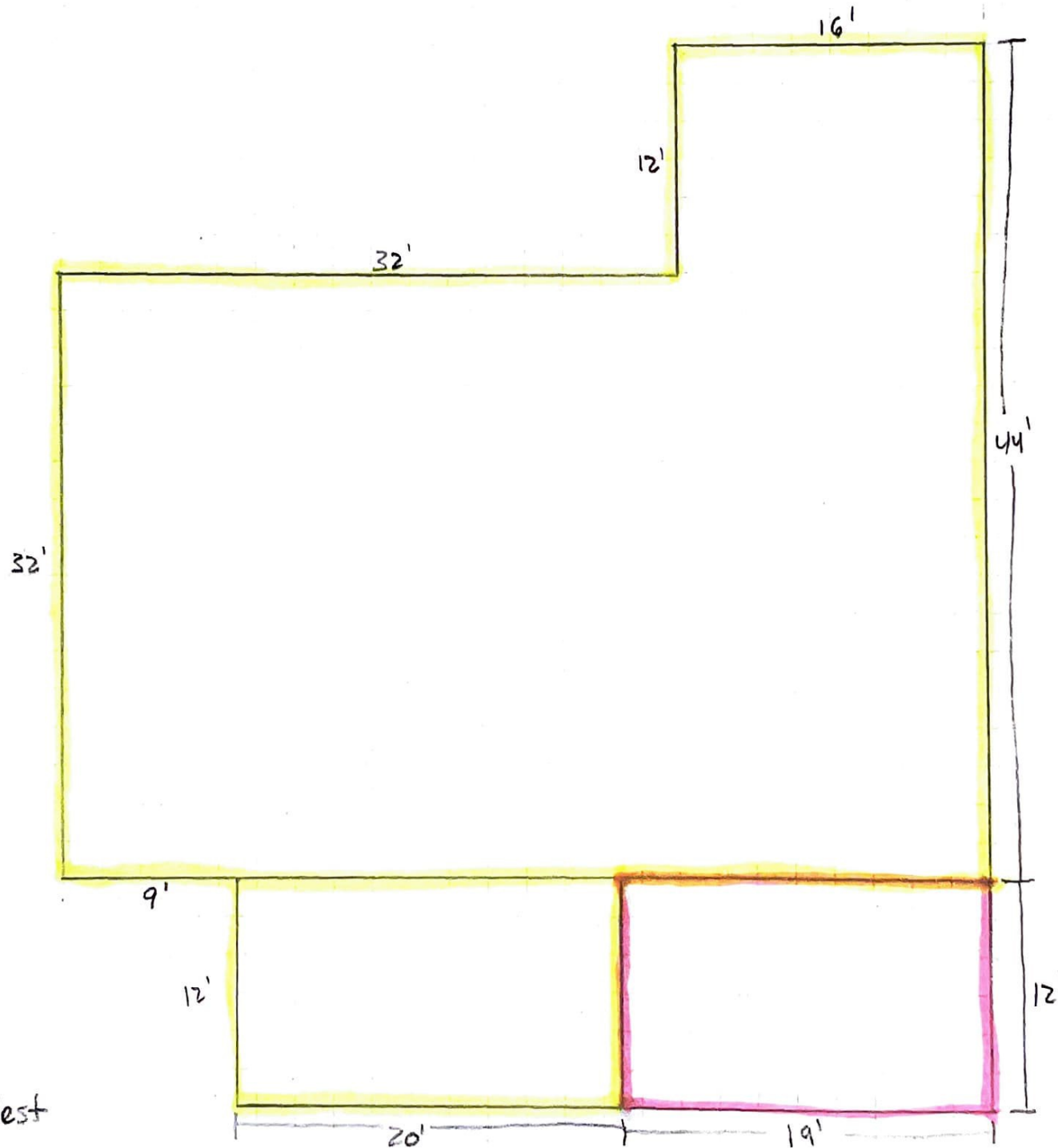
17112 Tanne Rd
Westfield IN 46074

East

North

South

West



Existing structure -

Proposed structure -
Master Bathroom

Scale - $\frac{1}{8}" = 1'$



WESTFIELD-WASHINGTON TOWNSHIP
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2108-VS-29

Exhibit 1

Petition Number: 2108-VS-29

Subject Site Address: West Side of Freemont Moore Road, approximately ¼ mile south of 206th Street ("the Property")

Petitioner: Mark Zielinski by Northern Commercial ("the Petitioner")

Request: The Petitioner requests a Variance of Development Standard to modify the Minimum Lot Frontage from 250 feet to 233.33 feet for two (2) lots and 40 feet for one (1) lot on 18.11 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(D))

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

Current Land Use: Vacant

Approximate Acreage: 18.11 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Concept Plan
4. Plat Model

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject property is 18.11 acres +/- in size (the "Property") and located on the west side of Freemont Moore Road, approximately ¼ mile south of 206th Street (see **Exhibit 2**). The Property is zoned AG-SF1: Agriculture/Single-Family Rural. Adjacent properties are also zoned AG-SF1.

Property History: The Property has never been platted or developed.

Requested Variances: The petitioner is requesting a Variance of Development Standard for the subject Property to modify the Minimum Lot Frontage from 250 feet to 233.33 feet for two (2) lots and 40 feet for one (1) lot.



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SUMMARY OF VARIANCE

The Property is currently subject to the AG-SF1: Agriculture/Single-Family Rural¹ zoning set forth by the Westfield-Washington Township Unified Development Ordinance (the “UDO”).

The Petitioner is requesting a Variance of Development Standard to modify the Minimum Lot Frontage from 250 feet to 233.33 feet for two (2) lots and 40 feet for one (1) lot.

The proposed subdivision plat (the “plat”) of the Property (docketed as petition **2108-SFP-49**) has been reviewed by City of Westfield Staff as part of the standard Technical Advisory Committee (TAC) review process. The plat will be recorded at the Hamilton County Recorder’s Office prior to the issuance of an Improvement Location Permit (ILP).

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 10, 2021, 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 Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

¹ Article 4.2: AG-SF1: Agriculture/Single-Family Rural District

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.



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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 (2108-VS-29), 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 AG-SF1: Agriculture/Single-Family Rural District.

- 2) **Criteria:** The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on surrounding properties because the use of the property will not change.

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

Finding: Strict adherence to the zoning ordinance would result in a Property that does not suit the needs of the Petitioner.



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Recommended Conditions:

- That the Property be developed in substantial compliance with the **Exhibits 3** and **4** accompanying this Petition.
- 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.

RESOLUTION NO: 21-01

**A RESOLUTION OF THE BOARD OF ZONING APPEALS OF THE CITY OF WESTFIELD,
INDIANA ESTABLISHING THE POLICY BY WHICH MEMBERS OF THE BOARD OF
ZONING APPEALS MAY PARTICIPATE IN MEETINGS
BY ELECTRONIC MEANS OF COMMUNICATION**

WHEREAS, P.L. 88-2021 (HEA 1437), SEC. 5, amended IC 5-14-1.5-1 et seq. ("Act"), effective April 20, 2021 by amending IC 5-14-1.5-3.5 to prescribe new requirements by which members of a public agency of a political subdivision may participate in a meeting by any electronic means of communication;

WHEREAS, a member of the governing body may participate by any means of communication that:

- Allows all participating members of the governing body to simultaneously communicate with each other; and
- Except for a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting;

WHEREAS, the Act requires the body to adopt a written policy establishing the procedures that apply to a member's participation in a meeting by an electronic means of communication and may adopt procedures that are more restrictive than the procedures established by I 5-14-1.5-3.5(d); and

WHEREAS, the Board of Zoning Appeals ("Board") is a governing body created by the Common Council of the City of Westfield, Indiana, that oversees planning and zoning within that jurisdiction:

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE CITY OF WESTFIELD, INDIANA:

- Section 1. (a) The provisions of the Act, including definitions, apply to this resolution.
(b) This resolution shall be known as the "Electronic Meetings Policy" of the Board and applies to the Board and any committee appointed directly by the Board or its presiding officer.
- Section 2. (a) Subject to Sections 3 and 5, any member may participate in a meeting by any electronic means of communication that: (i) allows all participating members of the governing body to simultaneously communicate with each other; and (ii) other

than a meeting that is an executive session, allows the public to simultaneously attend and observe the meeting.

- (b) A member who participates by an electronic means of communication: (i) shall be considered present for purposes of establishing a quorum; and may participate in final action only if the member can be seen and heard.
- (c) All votes taken during a meeting at which at least one (1) member participates by an electronic means of communication must be taken by roll call vote.

Section 3. (a) At least fifty percent (50%) of the members must be physically present at a meeting at which a member will participate by means of electronic communication. Not more than fifty percent (50%) of the members may participate by an electronic means of communication at that same meeting.

- (b) A member may not attend more than fifty percent (50%) of the meetings in a calendar year by an electronic means of communication, unless the member's electronic participation is due to:
 - (1) military service;
 - (2) illness or other medical condition;
 - (3) death of a relative; or
 - (4) an emergency involving actual or threatened injury to persons or property.
- (c) A member may attend two (2) consecutive meetings (a set of meetings) by electronic communication. A member must attend in person at least one (1) meeting between sets of meetings that the member attends by electronic communication, unless the member's absence is due to:
 - (1) military service;
 - (2) illness or other medical condition;
 - (3) death of a relative; or
 - (4) an emergency involving actual or threatened injury to persons or property.

Section 4. The minutes or memoranda of a meeting at which any member participates by electronic means of communication must:

- (1) identify each member who:
 - (A) was physically present at the meeting;
 - (B) participated in the meeting by electronic means of communication; and
 - (C) was absent; and
- (2) identify the electronic means of communication by which:
 - (A) members participated in the meeting; and
 - (B) members of the public attended and observed the meeting, if the meeting was not an executive session.

Section 5. No member of the Board may participate by means of electronic communication in a meeting at which the Board may take final action to:

- (1) adopt a budget;
- (2) make a reduction in personnel;
- (3) initiate a referendum;
- (4) impose or increase a fee;
- (5) impose or increase a penalty;
- (6) exercise the Board's power of eminent domain; or
- (7) establish, impose, raise or renew a tax.

Section 6. (a) If an emergency is declared by:

- (1) the governor under IC 10-14-3-12; or
- (2) the mayor under IC 10-14-3-29;

members are not required to be physically present for a meeting until the emergency is terminated.

(b) Members may participate in a meeting by any means of communication provided that:

- (1) At least a quorum of the members participate in the meeting by means of electronic communication or in person.
- (2) The public may simultaneously attend and observe the meeting unless the meeting is an executive session.
- (3) The minutes or memoranda of the meeting must comply with Section 4 of this resolution.

(c) All votes taken during a meeting at which at least one member participates by an electronic means of communication must be taken by roll call vote.

Section 7. This resolution shall be effective from and after adoption by this Board and compliance with IC 36-4-6-14.

ADOPTED AND PASSED THIS 10th DAY OF AUGUST, 2021
WESTFIELD BOARD OF ZONING APPEALS

Voting For

Voting Against

Abstain

David Schmitz

David Schmitz

David Schmitz

Victor McCarty

Victor McCarty

Victor McCarty

Jeannine Fortier

Jeannine Fortier

Jeannine Fortier

Jeff Boller

Jeff Boller

Jeff Boller

Brian Morales

Brian Morales

Brian Morales

ATTEST:

Kevin Todd, Director of Community Development
City of Westfield, Indiana

WEST LINE, S.W. QUARTER, N.E. QUARTER, SEC. 31-19-3
N00°07'35"E 2652.94'

