



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_08_08_2023

Tuesday, August 08, 2023 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, August 08, 2023 at 07:00 PM

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

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

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

Public input can be submitted in 1 of 2 ways:

-Submit comments via email to planners@westfield.in.gov (Include petition number in the subject line.)

-Attend the meeting at Westfield City Hall for an opportunity to participate and publicly comment on a public hearing.

Indiana law prohibits any person from communicating with Board of Zoning Appeals (BZA) members before the public hearing with the intent to influence the Board members on a matter pending before the Board.

OPENING OF REGULAR MEETING

Documents: [Online viewable @ https://www.youtube.com/user/CityofWestfieldIN](https://www.youtube.com/user/CityofWestfieldIN)

Note the Presence of a Quorum

Announce Any Changes to the Agenda

Approval of Minutes

BZA Minutes - July 11, 2023

Documents: [BZA Minutes - July 11, 2023](#)

Review Rules & Procedures

ITEMS OF BUSINESS:

2308-VU-07 [PUBLIC HEARING]

546 North Union Street

Jeff Boller by WKRP Indy

The Petitioner requests to reestablish an expiring Variance of Use that permits a Low-Intensity Retail (Beauty Salon) use on 0.25 acres +/- in the SF3: Single-Family Medium-Density District (Article 13.2)

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

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

2308-VU-08 [PUBLIC HEARING]

17808 Grassy Branch Road

Angela Gapinski

The Petitioner requests a Variance of Use to permit a Nursery with a small Low-Intensity retail component on 5.39 acres +/- in the SF4: Single-Family High-Density District (Article 13.2)

(Planner: Lauren Gillingham - lgillingham@westfield.in.gov)

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

2308-VS-18 [PUBLIC HEARING]

15373 Holcombe Drive

Michael Schulz

The Petitioner requests a Variance of Development Standard to encroach eight (8) feet into the twenty (20) foot Minimum Rear Yard setback on 0.17 acres +/- in the Harmony PUD District to accommodate a swimming pool and deck.

(Planner: Ryan Collingwood - rcollingwood@westfield.in.gov)

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

2308-VS-19 [PUBLIC HEARING]

3265 West 193rd Street

David Franzman

The Petitioner requests a Variance of Development Standard to encroach twelve (12) feet into the thirty (30) foot Minimum Side Yard setback to accommodate an accessory building on 4.97 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(E)(2)).

(Planner: Ryan Collingwood - rcollingwood@westfield.in.gov)

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

ITEMS CONTINUED TO A FUTURE MEETING

2308-VU-09 [CONTINUED]

17502 Shady Nook Road

Dustin and Lana Nichols

The Petitioner requests a Variance of Use to permit a by-appointment only Low-Intensity Retail (Beauty Salon) use on 0.65 acres +/- in the GO: General Office District (Article 13.2)

(Planner: Weston Rogers - wrogers@westfield.in.gov)

REPORTS/COMMENTS:

Plan Commission Liaison

Community Development Department

ADJOURNMENT



Petition Number:	2308-VU-08
Subject Site Address:	17808 Grassy Branch Road (the "Property")
Petitioner:	Angela Gapinski (the "Petitioner")
Request:	The Petitioner requests a Variance of Use to permit a Nursery with a small plant-related retail component on 5.39 acres in the SF4: Single-Family High-Density District
Current Zoning:	SF4: Single-family High-Density District
Current Land Use:	Residential (formerly Residential/Plant Nursery)
Approximate Acreage:	5.39 acres
Property History:	Rezoned from SF2 to SF4 (92-Z-2)
Exhibits:	1. Staff Report 2. Location Map
Staff Reviewer:	Lauren Gillingham, AICP - Senior Planner

PROPERTY INFORMATION & BACKGROUND

The subject Property is +/- 5.39 acres in size and located at 17808 Grassy Branch Road, as seen in **Exhibit 2**. The Property is zoned SF4: Single-family High-Density District. The western half of the property falls in the floodplain.

On the Property there currently exists a Single-Family Detached residence, an outbuilding, and six greenhouses. The paved parking area can accommodate six or seven vehicles. The property was previously home to James & Irma Shields and their hobby-business, Shields Gardens, a nursery offering walk-in and mail-order sales of specialty plants, seeds, and bulbs. Judging from aerial imagery, the previous nursery use dated from the mid-1980s to the mid-2010s, however, it is unclear if the use was legally established.

Although nursery/greenhouses without retails sales may have been allowed by some interpretations of a previous zoning ordinance, Staff could not find evidence that a use variance or similar approval was ever obtained to operate the walk-in retail component. As such, a use variance is necessary for retail operations to resume.



REQUEST FOR VARIANCE

The Petitioner is the owner of two businesses in downtown Westfield - Root 31, a modern floral shop, and Remedy, a boutique selling plant-related gift and décor items. Currently, the floral products sold at Root 31 are grown at Heartland Growers; with this property, the petitioner plans to expand upon the success of Root 31 while having the ability to grow her floral products on site.

The UDO defines Nursery as:

"The Use of land and buildings (e.g., greenhouse) for the growing or production of fruits, vegetables, flowers, nursery stock, including ornamental plants and trees, and cultured sod as a business activity that then sells as retail and/or wholesale only the plants that are grown on the Lot. This definition does not include Agritourism Uses or landscaping contractor uses.

Although the definition the definition focuses on horticultural products, Staff has determined that holding educational workshops and selling small accessories shall be permitted as auxiliary uses.

The applicant has plans to beautify the property and perform needed maintenance to the home itself, but has committed to keep the residential appearance of the property. Although the parking is limited, the applicant believes that it is enough to suit her needs, judging from the traffic at her current locations. To keep the front lot open for customers, she will require employees to park in the existing gravel parking area to the rear of the outbuilding.

At this time, there are no plans to expand the primary building or add additional greenhouses. Per the standards for legal nonconforming structures, the existing gravel areas may be maintained and refreshed as long as they are not expanded. Any other construction, including parking lot expansions, would require a Development Plan Review and trigger platting, dedication, and roadway improvements. Any construction in the floodplain would comply with all applicable floodplain standards.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Use. This petition is scheduled to receive its public hearing at the August 8th, 2023, 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 UDO 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 benefitted by 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.

Acknowledgment of the Variance: If the Board of Zoning Appeals approves this petition, then the UDO requires the approval of the variance shall be memorialized in an acknowledgment of variance instrument prepared by Department. The acknowledgment 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 the 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 acknowledgment shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

Variances of Use: The Board of Zoning Appeals shall approve or deny variances from the terms of the UDO. A variance may be approved under Indiana Code § 36-7-4-918.4 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
3. The need for the variance arises from some condition peculiar to the property involved;
4. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property; and
5. The approval does not interfere substantially with the Comprehensive Plan.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan ("the Comprehensive Plan") identifies this property within the "New Suburban" land use classification.

DEPARTMENT COMMENTS

If the Board is inclined to approve 2308-VU-08, The Department recommends the following condition and findings:

Recommended Conditions:

- Business hours shall be 10 am to 6 pm
- Retail items shall be limited to floral products and related retail items (including but not limited to pots, plant accessories, cards, small gift items, etc.).
- Parking shall only be on surfaced parking areas
- All temporary events shall comply with applicable Art. 6.18 Temporary Uses and Events standards
- The existing primary structure on the Property and/or any additional improvements to said primary structure must remain residential in character as determined by the Director of the Community Development Department
- Prior to opening for business, the Petitioner must receive all applicable approvals and permits related to commercial occupancy
- 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 Variance of Use (2308-VU-08):

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

Finding: The variance would not be immediately injurious to surrounding properties. The lot is agricultural in nature and already has everything required for the desired use. A state Construction Design Release will be required to convert the building into a Class 1 (commercial) structure and ensure it meets all applicable building and fire codes.

- 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: The use is unlikely to affect adjacent properties in a substantially adverse manner. The applicant has committed to maintaining the residential nature and currently does not plan to add additional greenhouses. Although Shields Gardens has been closed for a number of years, the adjacent subdivisions, Grassy Knoll to the east and Willow Creek to the west, were developed while the former nursery was in active operation. Available records show no history of zoning or nuisance complaints during that time.

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

Finding: One peculiarity of this property is the naturally occurring, high-quality soil. As mentioned above, the western half of the property is covered by floodplain. When an area flood, the floodwaters leave behind nutrient-rich sediment. It's a slow process, but, over the course of hundreds of years, the resulting soil is much more fertile than surrounding area lying outside of the floodplain. This is one of the reasons why the former nursery was a success.

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

Finding: The strict application of the terms of the UDO will result in practical difficulties in using the property as it currently exists because it is designed for uses that are incongruent with the residential zoning district. The definition of Agricultural Use is very broad and includes horticulture, even if the resulting plants are solely for private use. This means that even if the home was occupied as intended, as a single-family residence, the use of all six greenhouses could fall under the definition of Agriculture Use in violation of the UDO.

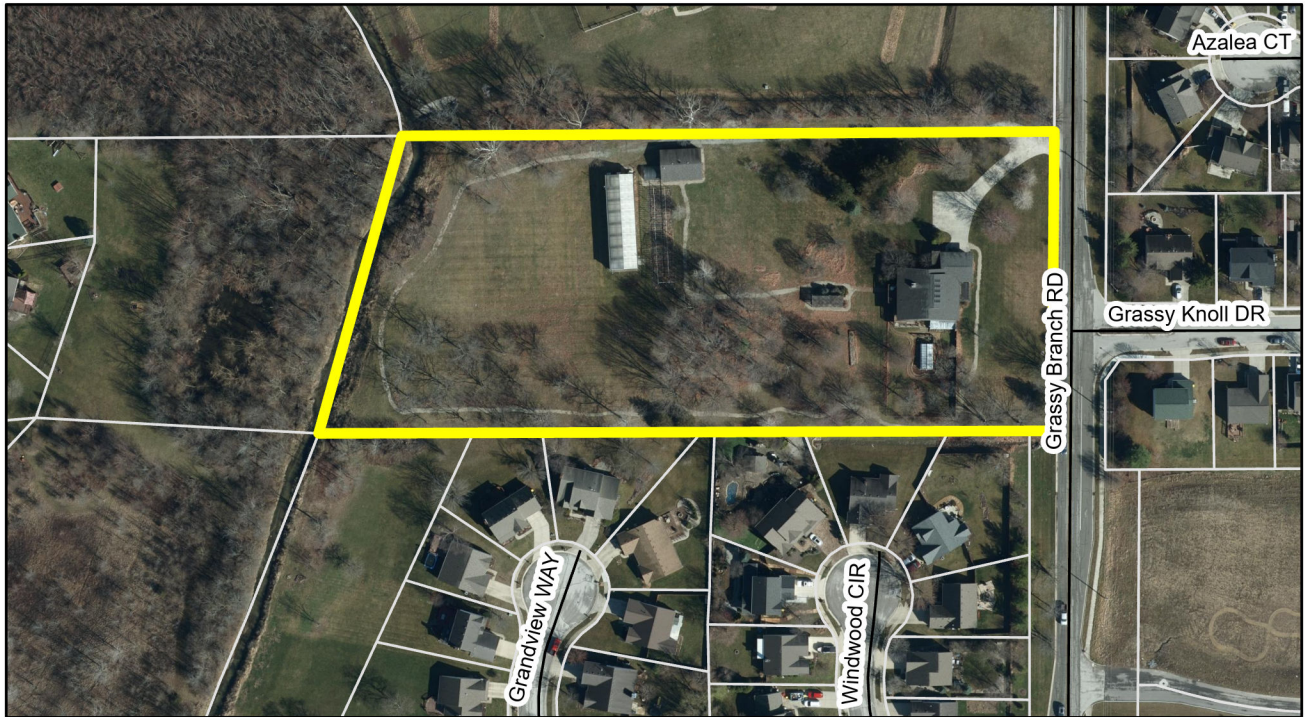
5) ***The approval does not interfere substantially with the Comprehensive Plan:***

Finding: The use is substantially in-line with the 2006 Comprehensive Plan, which designates the property as "Existing Suburban Residential". The Comprehensive Plan encourages infill development that is "compatible in mass, scale, density, materials, and architectural style to existing development". While the document does discourage new retail uses, given the past history of the property, Staff does not believe that resuming the Nursery use would alter the existing character of the area.

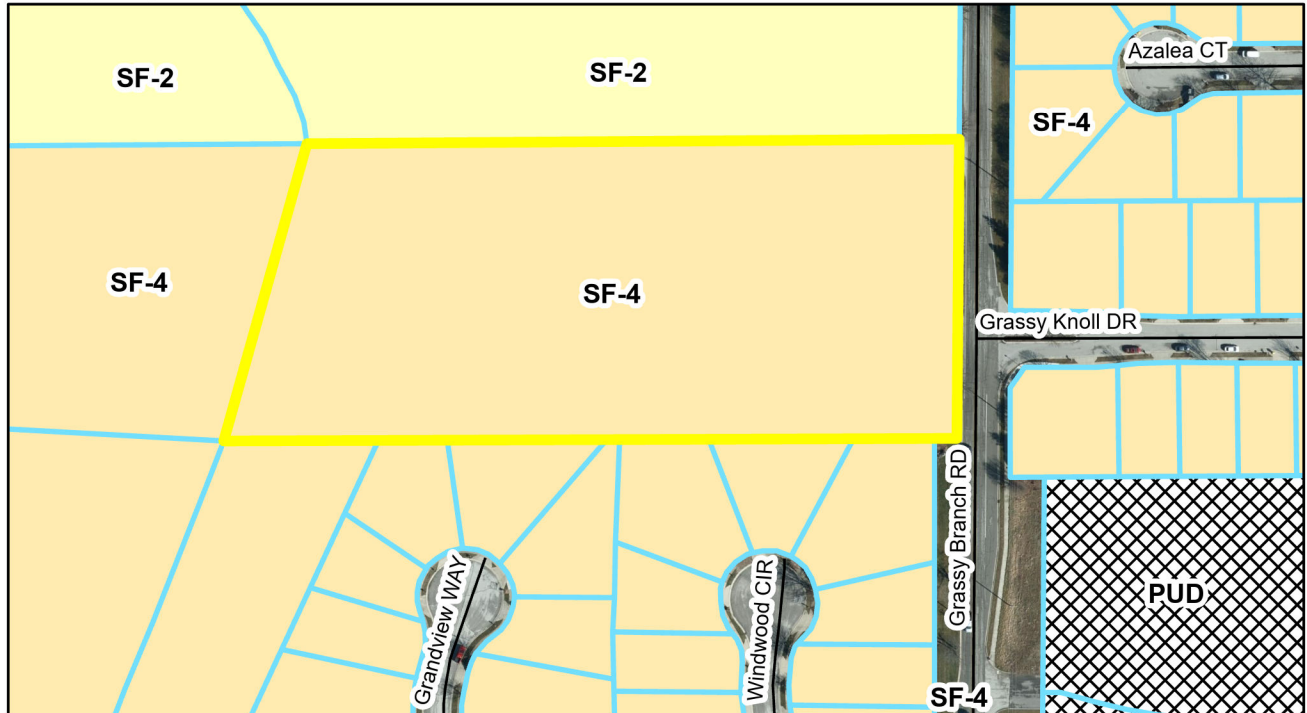
Denial: If the Board is inclined to reject or deny the Variance of Use, then the Department recommends denying the Variance of Use, but tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and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



Aerial Location Map



Zoning Map



Legend

 Subject Parcel

0 0.01 0.03 0.06 Miles






Westfield-Washington Township Board of Zoning Appeals (BZA)

Minutes of the Tuesday, July 11, 2023 BZA Meeting

Presented for approval: August 8, 2023

The Westfield-Washington Township Board of Zoning Appeals
met at 7:00 p.m. on Tuesday, July 11, 2023 at Westfield City Hall.

Active Links for this meeting:

[July 11, 2023 BZA Agenda & Exhibits](#)

[July 11, 2023 BZA YouTube Video](#)

OPENING OF MEETING

[YouTube Time: 0:04](#)

ROLL CALL

BZA Members Present In-Person: Jeff Boller, Jeannine Fortier, Noble Hatfield, Victor McCarty, and Dave Schmitz.

BZA Members Present Virtually: None.

BZA Members Absent: None.

City Staff Present: Daine Crabtree, Senior Planner; Ryan Collingwood, Associate Planner; and Weston Rogers, Associate Planner.

City Staff Present Virtually: None

Legal Counsel Present: Ashley Ulbricht with Taft Stettinius & Hollister LLP.

APPROVAL OF MINUTES

Fortier motioned to approve the June 13, 2023 Minutes.

Hatfield seconded. Motion passed. Vote 5-0.

REVIEW RULES AND PROCEDURES

Crabtree reviewed BZA rules and procedures.

ITEMS OF BUSINESS

2307-VS-16 [PUBLIC HEARING]

[YouTube Time: 2:57](#)

1415 E. 191st Street

Trinity Baptist Church by Andy Wheeler

The Petitioner requests a Variance of Development Standard to encroach twenty (20) feet into the 100-foot Front Yard Minimum Building Setback along 191st Street and to encroach eighty (80) feet into the 100 foot Front Yard Minimum Building Setback along Chad Hittle Drive to allow for the expansion of the existing building located on 9.40 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District (*Article 4.2(1)(a)*).

(*Planner: Weston Rogers – wrogers@westfield.in.gov*)

Staff presentation / Petitioner presentation / BZA comments & questions / Petitioner response.

Public Hearing for 2307-VS-16 opened at 7:10 p.m.

- No public comments.

Public Hearing for 2307-VS-16 closed at 7:11 p.m.

BZA comments & questions / Petitioner response.

McCarty motioned to approve 2307-VS-16 subject to the recommended conditions stated in the motion.

Boller seconded. Motion passed. Vote 5-0.

Schmitz motioned to adopt Staff's Findings of Fact for the approval of 2307-VS-16.

Fortier seconded. Motion passed. Vote 5-0.

Agendas and minutes for all City meetings are updated and available at the City's website.

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

BZA Minutes for July 11, 2023 Page 1 of 3

2307-VS-17 [PUBLIC HEARING]

[YouTube Time: 15:26](#)

4005 Country Place Drive

Perma Pools

The Petitioner requests Variances of Development Standards to modify Minimum Lot Area, Minimum Lot Frontage, and Minimum Rear and Side Yard Building Setback standards on a 0.84 acre +/- legal, nonconforming lot in the AG-SF1: Agriculture/Single-Family Rural District so that a swimming pool may be built (*Articles 4.2(C), (D), & (E)(2)*).

(Planner: Lauren Gillingham – lgillingham@westfield.in.gov)

Staff presentation / Petitioner presentation / BZA comments & questions / Petitioner response.

Public Hearing for 2307-VS-17 opened at 7:20 p.m.

- No public comments.

Public Hearing for 2307-VS-17 closed at 7:23 p.m.

Petitioner response / BZA comments & questions.

Boller motioned to approve 2307-VS-17 subject to the recommended conditions stated in the motion.

Fortier seconded. Motion passed. Vote 5-0.

Schmitz motioned to adopt Staff's Findings of Fact for the approval of 2307-VS-17.

Fortier seconded. Motion passed. Vote 5-0.

ITEMS CONTINUED TO A FUTURE MEETING

No Continued Items.

REPORTS/COMMENTS:

[YouTube Time: 28:02](#)

- Plan Commission Liaison
- Community Development Department

ADJOURNMENT

Fortier motioned to adjourn the meeting. Boller seconded. Motion passed. Vote 5-0.

The meeting adjourned at 7:29 p.m.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Agendas and minutes for all City meetings are updated and available at the City's website.

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

BZA Minutes for July 11, 2023 Page 2 of 3

Signature Page for BZA Minutes for July 11, 2023

Chairperson
Dave Schmitz

Secretary
Kevin M. Todd, AICP
Director



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 8, 2023

2308-VU-07

Exhibit 1

Petition Number: 2308-VU-07

Subject Site Address: 546 N. Union Street (The “Property”)

Petitioner: Jeff Boller by WKRP Indy (The “Petitioner”)

Request: The Petitioner requests to reestablish an expiring Variance of use that permits a Low-Intensity Retail (Beauty Salon) use on 0.25 acres +/- in the SF3: Single-Family Medium Density District

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

Current Land Use: Commercial

Approximate Acreage: 0.25 acres+/-

Exhibits: 1. Staff Report
2. Location Map

Staff Reviewer: Daine Crabtree, Senior Planner

OVERVIEW

Location: The subject property is 0.25 acres +/- in size and is located at 546 N. Union Street (see **Exhibit 2**). The Property is currently zoned SF3- Single-Family Medium Density. Properties to the north, south, and east are also zoned SF3 while properties across Union Street to the west are zoned as part of the Junction North PUD, a residential PUD that defaults to SF3 as the underlying zoning district

The Property is also located in the Union Subdistrict within the [Grand Junction Subdistricts Addendum](#) to the Comprehensive Plan. However, the Union Subdistrict section of the aforementioned Addendum is blank (as are the Kendall and Neighborhood subdistricts), without the in-depth details of the Gateway and Junction subdistricts.

SUMMARY OF VARIANCES

The Petitioner requests a Variance of Use to permit a Low-Intensity Retail Use (Beauty Salon) on the Property.

A beauty salon, currently known as Twisted Sisters, has been permitted on the Property since a Variance of Use (0708-VU-003) was approved at the August 20, 2007 BZA meeting. There were eleven (11) conditions of approval for this variance – the 11th being that the variance is rendered null and void when the owner of record at the time of approval (Mr. William Webster) ceases to own the subject property or operate a cosmetology business.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 8, 2023

2308-VU-07

Exhibit 1

As Mr. Webster is seeking to sell the Property, a new variance is needed.

The Community Development Department believes that only three (3) of the previous eleven (11) conditions need apply to this requested variance in the event that the Board is inclined to approve, for reasons stated in red below:

1. That two (2) off-street parking spaces per chair/station plus one (1) off-street parking space per employee during the largest shift be provided per the standards found in WC 16.04.120,
The WC has since been updated to the UDO and parking requirements for such a use are now determined by the Director of Community Development. Additionally, there have been no complaints about parking – or lack thereof – in regards to the current use.
2. That any portion of an off-street parking lot that is not effectively screened by the existing structure, as determined by the Director, shall be screened per the landscaping standards found in WC 16.06.070, B1b; B1c; and B2;
The WC has since been updated to the UDO and the stated condition is true of the current parking lot landscaping requirements within anyways.
3. That any wall signage shall comply with the Home Occupation signage standards, as prescribed in WC 16.08.010, F2 and F3;
As this is not a Home Occupation, it should instead follow standard Commercial Sign Standards of the UDO.
4. That any monument signage shall comply with the following:
 - a. One (1) monument sign shall be permitted for the business;
 - b. The display area shall not exceed sixteen (16) square feet per face;
 - c. The monument sign, including any base and cap feature, shall not exceed four feet (4') in height from grade;
 - d. The monument sign shall not be internally lit;Because of the surrounding residential properties, this standard may continue to be appropriate.
5. That awning and projecting signs are prohibited;
Awning and projecting signs are permitted in the downtown area per the UDO. Provided that new signage that conforms to the standards of the UDO in regards to sign area are followed, there is no reason not to permit these types of signs on the Property.
6. That WC 16.08,010, J (Sign Area Bonus) shall not be available to this site;
As the UDO now applies, this is now inapplicable.



7. That the structure and any additional site improvements comply with all ADA accessibility requirements;
This is true anyways.
8. That any parking lot lighting comply with all applicable standards found in WC 16.04.120, 2 (Off Street Parking) and WC 16.07.101 (Lighting Standards);
The UDO now applies and lighting standards would be required to be met anyways.
9. That the trash collection conform to standard residential trash collection practices;
Language should be changed to, "a commercial dumpster and/or enclosure shall not be permitted on the Property" in order to both clarify the intent of the condition and to bring the condition closer to something the Department can realistically enforce.
10. That a six foot (6') wood privacy fence be installed along the southern property line; and,
As this fence is in existence today, language should be changed to "maintained" rather than "installed".
11. That this variance of use be rendered null and void when the owner of record at the time of approval (Mr. William Webster on August 20, 2007) ceases to own the subject property or operate a cosmetology business at the subject property.
As this use has been in existence for nearly 16 years without much - if any - issue(s), the Department does not believe tying the variance to the new owner is necessary – nor would any other sunset provision.

COMPREHENSIVE PLAN

The 2007 Westfield-Washington Township Comprehensive Plan identifies the Property as being within the Downtown area. A healthy mix of commercial, offices, retail, residential, and more are contemplated as appropriate uses within the Downtown area. Along with development that ensures a unique image for downtown Westfield, development that will complement the visual and aesthetic value of the entire town, and promote the downtown as a growth area and a destination.

Additionally, the Property is located within the Grand Junction Sub-Districts Addendum (the "Addendum") to the Comprehensive Plan - specifically the Union Subdistrict. Specific details regarding expectations of the Union Subdistrict are not presently included with the Addendum.

The Comprehensive Plan is not law; rather, it is intended to serve as a guide in making land use decisions.



PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Standard. This petition is scheduled to receive its public hearing at the August 8, 2023, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO¹ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

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

Variance of Use: The Board of Zoning Appeals shall approve or deny variances of land use from the terms of the UDO. A variance of land use may be approved under Indiana Code § 36-7-4-918.4 only upon a determination in writing that:

- The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- The need for the variance arises from some condition peculiar to the property involved;
- The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and
- The approval does not interfere substantially with the Comprehensive Plan.

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

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



DEPARTMENT COMMENTS

If the Board is inclined to approve 2308-VU-07, The Department recommends the following conditions and findings:

Recommended Conditions:

- The proposed Low-Intensity Retail use shall be limited to a Beauty Salon - or a substantially similar use as determined by the Director of Community Development;
- That any monument signage shall comply with the following:
 - o One (1) monument sign shall be permitted for the business;
 - o The display area shall not exceed sixteen (16) square feet per face;
 - o The monument sign, including any base and cap feature, shall not exceed four feet (4') in height from grade;
 - o The monument sign shall not be internally lit;
- That a six-foot (6') wood privacy fence be maintained in good condition along the southern property line;
- A commercial dumpster and/or enclosure shall not be permitted on the Property;
- The existing primary structure on the Property and/or any additional improvements to said primary structure must remain residential in character as determined by the Director of the Community Development Department; and
- That the Petitioner 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 Variance of Use (2308-VU-07):

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

Finding: It is unlikely that allowing a business defined as 'Low-Intensity Retail', specifically a beauty salon, to locate on the Property will be injurious to the public health, safety, morals, and general welfare of the community because the Property is located in the Downtown area of the city where many similar or higher intensity commercial operations exist and the proposed conditions of approval would require the Property to remain residential in nature.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

August 8, 2023

2308-VU-07

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 as the proposed use will be utilizing improvements currently existing on the Property which is consistent with the character of the surrounding area and any improvements to the Property must remain residential in nature. Additionally, the Property has been home to the very use requested for 16 years without complaint of property devaluation.

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

Finding: The use of Low-Intensity Retail is not permitted by the SF-3: Single-family Medium Density District zoning of the Property but are suggested as appropriate land uses for the Property by the Grand Junction Sub-districts Addendum to the Comprehensive Plan.

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

Finding: Uses not permitted by the existing SF-3 zoning conflict with many suggested potential uses in the Grand Junction Addendum to the Comprehensive Plan. Without the requested variance, the Petitioner will be unable to use the Property as arguably it's highest and best use.

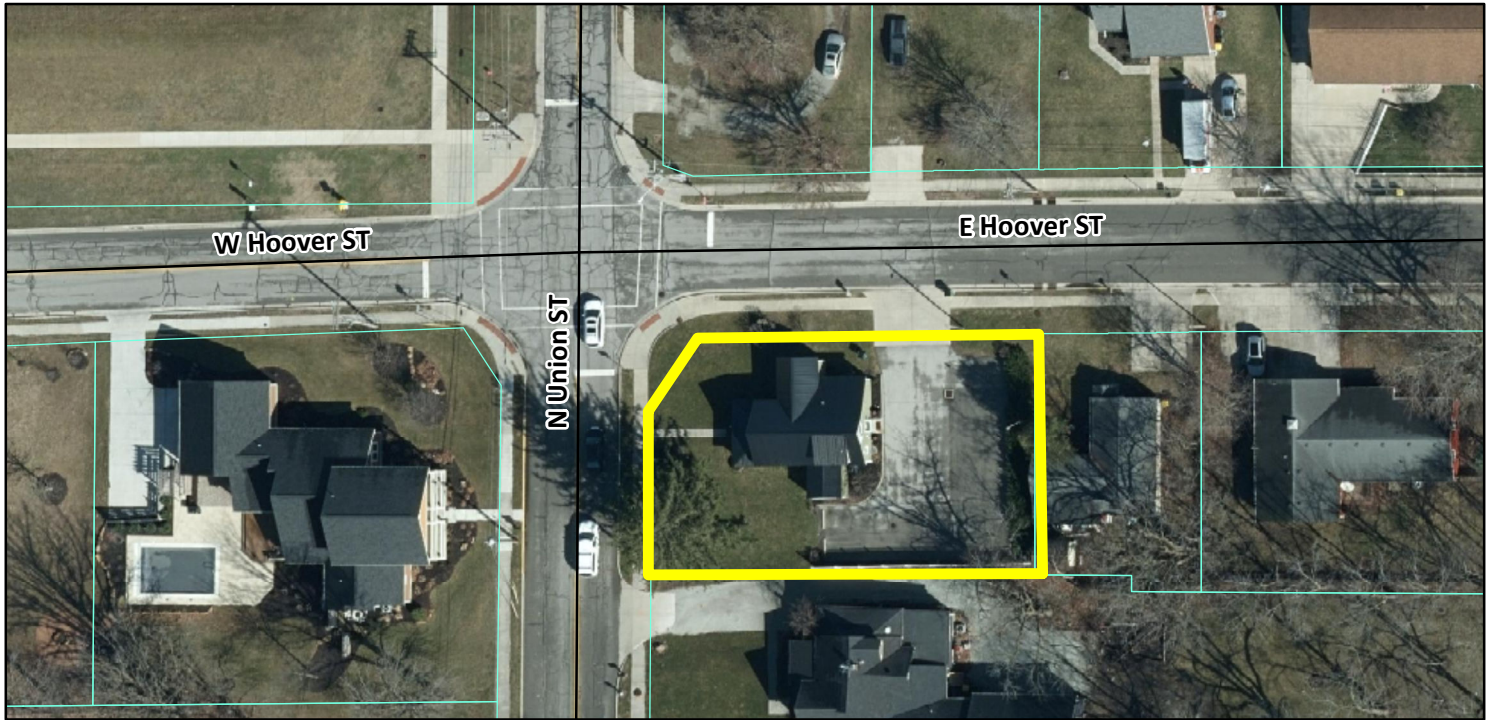
- 5) *The approval does not interfere substantially with the comprehensive plan:*

Finding: The Westfield-Washington Comprehensive Plan (the "Comprehensive Plan") includes this property within the area designated as "Downtown". The proposed land use of low-intensity retail does not interfere substantially with the Comprehensive Plan.

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





Petition Number: 2308-VS-18

Subject Site Address: 15373 Holcombe Drive (the "Property")

Petitioner: Michael Schulz (the "Petitioner")

Request: The Petitioner requests a Variance of Development Standard to encroach eight (8) feet into the twenty (20) foot Minimum Rear Yard setback on 0.17 acres +/- in the Harmony PUD District to accommodate a swimming pool and deck.

Current Zoning: Harmony PUD District

Current Land Use: Residential

Approximate Acreage: .17 acres +/-

Exhibits:

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

Staff Reviewer: Ryan Collingwood, Associate Planner

PROPERTY INFORMATION & BACKGROUND

The subject Property is .17 acres +/- in size and located at 15373 Holcombe Drive, as seen in the Location Map (**Exhibit 2**). The Property's zoning classification is the Harmony PUD District.

Upon the Property currently exists a Single-Family Detached residence (the "Residence"). Based on aerial snapshots, the Residence appears to have been fully constructed between 2019 and 2020.

REQUEST FOR VARIANCE

The Harmony PUD District standards set forth a minimum Rear Yard Setback of twenty (20) feet for the property. The Petitioner is requesting this variance to encroach eight (8) feet into the Minimum Rear Yard Setback to accommodate a swimming pool and deck, as illustrated on the Site Plan (**Exhibit 3**).



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 8, 2023, 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 UDO 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 benefitted by 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.

Acknowledgment of the Variance: If the Board of Zoning Appeals approves this petition, then the UDO requires the approval of the variance shall be memorialized in an acknowledgment of variance instrument prepared by Department. The acknowledgment 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 the 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 acknowledgment 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.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies the property within the “New Suburban” land use classification. The vision for the New Suburban Residential classification is contemplated for future residential growth of the community, generally to the southwest, northwest, and northeast of the Existing Suburban area.

The New Suburban classification is designed to accommodate detached dwellings, attached dwellings, institutional uses, and recreational uses, artisan farms, and equestrian uses.

DEPARTMENT COMMENTS

If the Board is inclined to approve 2308-VS-18, The Department recommends the following findings and conditions:

Recommended Findings for Variance of Development Standard (2308-VS-18):

- 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 Harmony PUD 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 a swimming pool that does not meet the needs of the Petitioner.



Recommended Conditions:

- That the Property be developed in substantial compliance with the Site Plan (**Exhibit 3**), and
- That the Petitioner 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

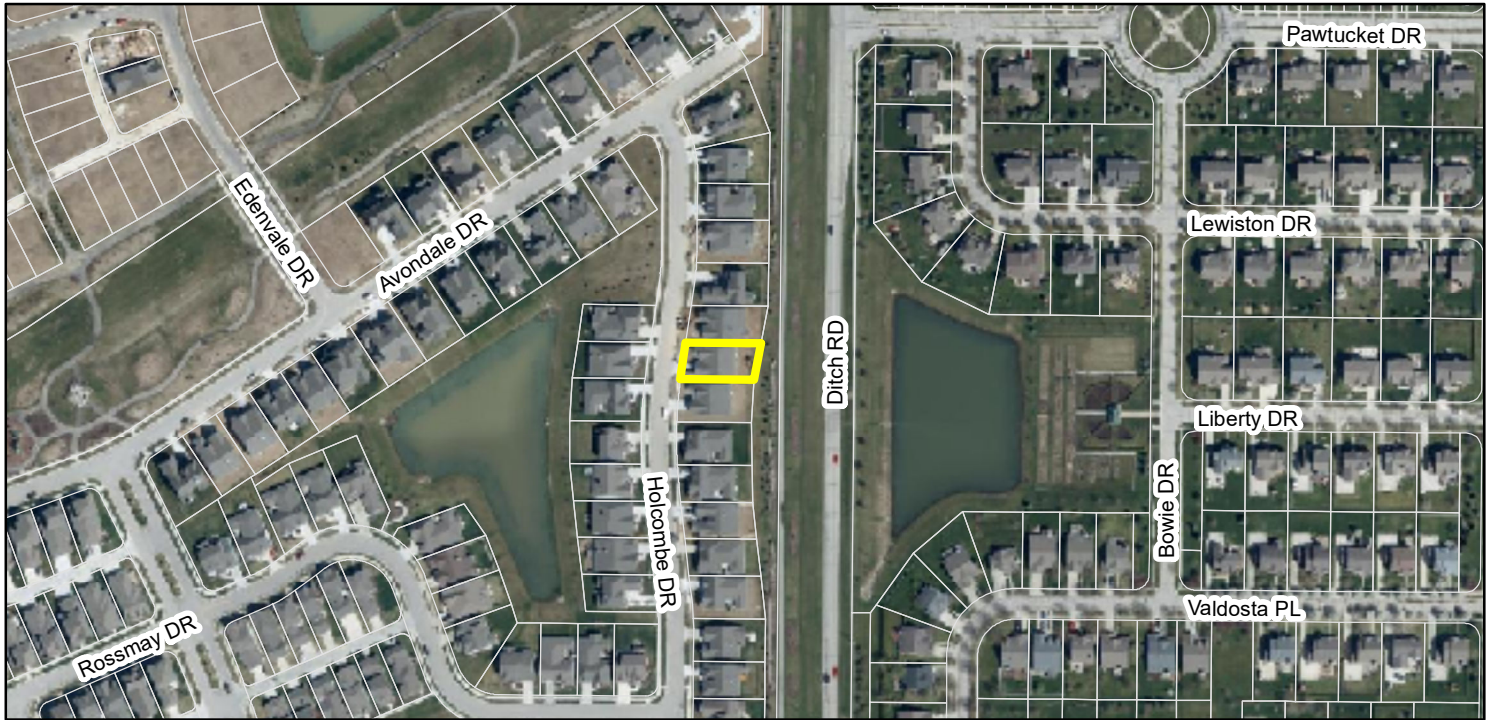
Denial: If the Board is inclined to reject or deny the Variance of Development Standard, then the Department recommends denying the Variance of Development Standard, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant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



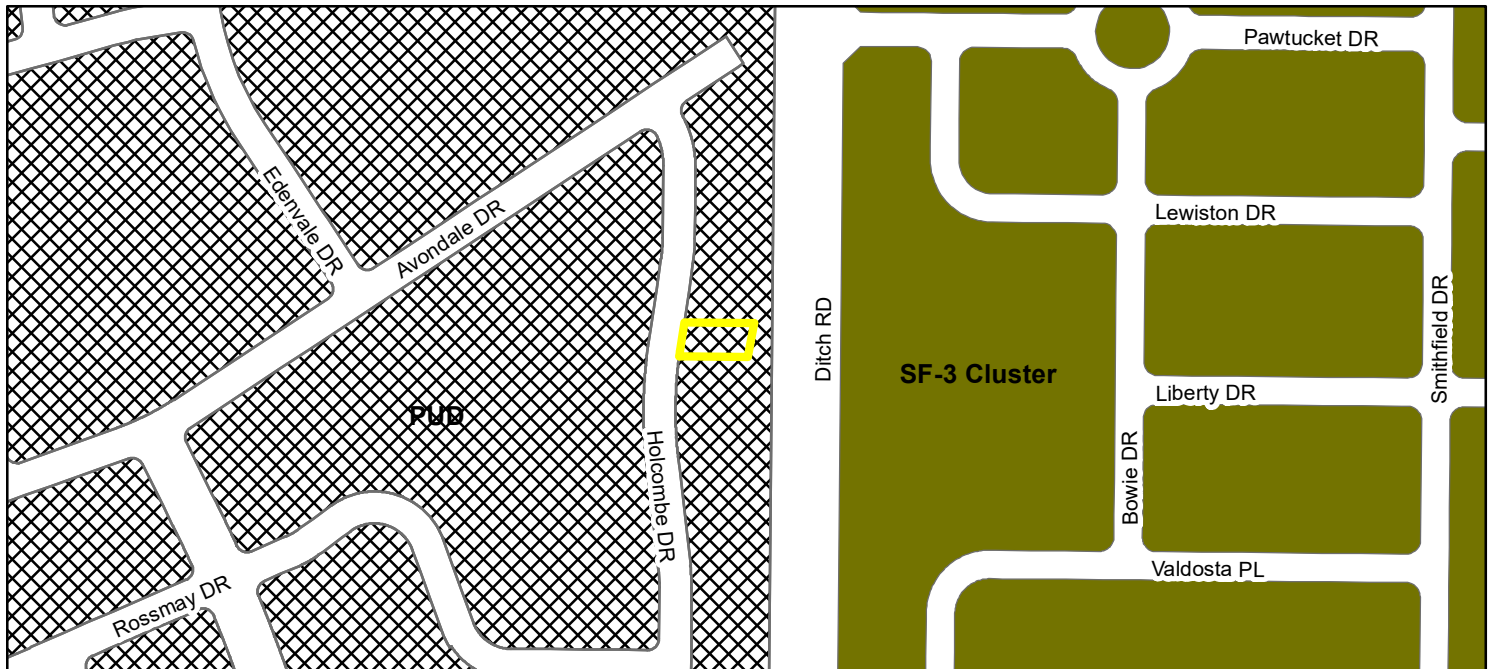
Property Location Map
15373 Holcombe Drive
2308-VS-18



Aerial Location Map



Zoning Map



-  **SITE Zoning**
-  PUD (Planned Unit Development)
-  SF-3 Cluster

SCHULZ

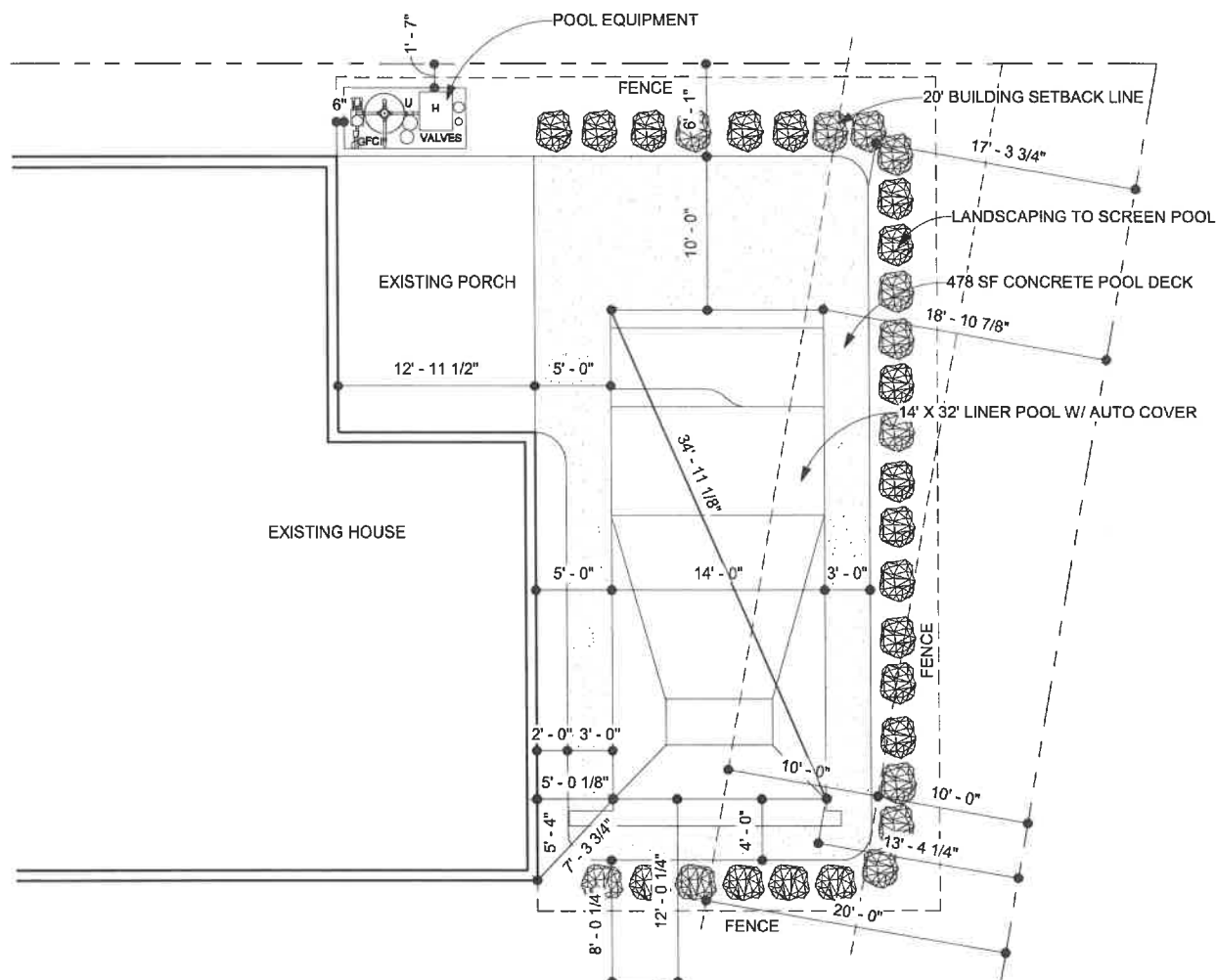
ADDRESS: 15373 HOLCOMBE DR.
CITY: WESTFIELD ST:IN ZIP:
COUNTY: HAMILTON

TWP:

POOL MFG: CON. SF:
WATER: DIRT:
AUTOCOVER: UNDERTRACK
DC: BM PM: KM DESIGNER: BH
TOC:

P/F/H:

RLS/RCS:



1 POOL PLAN
1/8" = 1'-0"

⊕	TOC: ELEVATION
☀	STANDARD POOL LIGHT
☀ ^{LED}	LED POOL LIGHT
⊙ ^{MDX}	MDX MAIN DRAIN
⊗	WIDE MOUTH SKIMMER
⊗	STANDARD SKIMMER
⊗	SUMP PIT
↓	EYEBALL RETURN
⊕	SWING JET
⊕	VBALL/ BBALL SOCKET
⊗	IN-FLOOR CLEANING HEAD
⊕	COVER & LIGHT SWITCH
⊕	SDX SIDE SUCTION BOX
⊕	EXTRA RECEPTACLE
⊕	SUMP PIT DIRECT CIRCUIT
⊕	STANDARD MAIN DRAIN
⊕	LADDER W/ GRABRAILS (1 1/2")
⊕	HINGED LADDER (1 1/2")
⊕	HAND RAIL (1 1/2" SOCKET)
⊕	STREAM JET/ CROWN JET
⊕	BUBBLER
⊕	LIGHTED BUBBLER
⊕	POOL EQUIPMENT

SYMBOLS LEGEND
3/32" = 1'-0"

pools of fun

Date

06-09-2023

P1

Pool Review

From: arb@harmonyhoa.com (arb@harmonyhoa.com)

To: michaelschulz.indy@yahoo.com

Date: Friday, June 23, 2023 at 08:41 AM EDT

Hello Michael,

We received your preliminary request for a pool review. As you have noted, you would need to get approval from the City of Westfield for encroachment into the rear building set back line. The HOA would not contest that request to the City of Westfield, however we cannot review and/or approve your pool until that variance is granted.

If you proceed with the variance request and if it is granted, please submit for your pool review at that time. You will need to include:

1. Fence details. The layout should be shown on your plot plan or survey report
2. Pool plans and details. The layout should also be shown on your plot plan or survey report.
3. Please show how access for the pool excavation will take place keeping in mind no materials can be stored in common areas during the construction period.
4. Finished grading and drainage plans. As a reminder, no part of the drainage of your home or others can be affected by the pool installation.
5. If any retaining walls are needed at the pool deck, please include those details and materials and show the retaining wall locations on your plot plan or survey report.
6. Pool equipment screening
7. Landscape details and layout

Also, we highly recommend you speak ahead of time with your neighbors to let them know of your plans and intentions.

Thanks,

Harmony Owners Association Architectural Review Board
645 W Carmel Dr, Suite 130
Carmel, IN 46032

(317) 669-6230
arb@harmonyhoa.com



Petition Number: 2308-VS-19

Subject Site Address: 3265 W. 193rd Street (the "Property")

Petitioner: David Franzman (the "Petitioner")

Request: The Petitioner requests a Variance of Development Standard to encroach twelve (12) feet into the thirty (30) foot Minimum Side Yard setback to accommodate an accessory building on 4.97 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District (*Article 4.2(E)(2)*).

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

Current Land Use: Residential

Approximate Acreage: 4.97 acres +/-

Exhibits:

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

Staff Reviewer: Ryan Collingwood, Associate Planner

PROPERTY INFORMATION & BACKGROUND

The subject Property is 4.97 acres +/- in size and located at 3265 W. 193rd Street, as seen in the Location Map (**Exhibit 2**). The Property's zoning classification is the AG-SF1: Agriculture / Single-family Rural District.

Upon the Property currently exists a Single-Family Detached residence (the "Residence"). Based on aerial snapshots, the Residence appears to have been constructed in 2023.

The Petitioner began constructing the accessory structure without realizing the illegal encroachment into the side yard setback. The Petitioner stopped work immediately after realizing the incompliance to the required side yard setback. The Petitioner subsequently filed for a Variance of Development Standard through the Community Development Department to remedy the illegal encroachment.

REQUEST FOR VARIANCE

The Petitioner intends to build an accessory structure on the Property, as seen in **Exhibit 3**. In order to meet the required standards of development within the subject zoning district, a



Variance of Development Standard is required to encroach into the Side Yard Setback in order to accommodate the accessory building.

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 8, 2023, 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 UDO 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 benefitted by 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.

Acknowledgment of the Variance: If the Board of Zoning Appeals approves this petition, then the UDO requires the approval of the variance shall be memorialized in an acknowledgment of variance instrument prepared by Department. The acknowledgment 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 the 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 acknowledgment shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

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

COMPREHENSIVE PLAN

The Land Use Plan contemplates the Property as “Existing Rural”.

The Existing Rural classification calls out rural uses and an overall rural feel, utilizing natural open space and highlighting natural amenities. Conservation-heavy development is a key component of the Existing Rural classification, highlighting low-density residential, including farmsteads, individual houses on large lots, equestrian uses, subdivisions with a rural feel, considerable open space, and perimeter buffering as appropriate land uses.

The Existing Rural development policies encourages:

- Single-family detached houses on large lots or in a Rural or Conservation Subdivision.
- Accessory dwellings
- Equestrian uses
- Agriculture, including artisan farms

DEPARTMENT COMMENTS

If the Board is inclined to approve 2308-VS-19, The Department recommends the following findings and conditions:

Recommended Findings for Variance of Development Standard (2308-VS-19):

- 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 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 Property Owner not being able to begin work and continue constructing the accessory building. Strict application of the zoning ordinance would leave the structure to be partially constructed.

Recommended Conditions:

- That the Property be developed in substantial compliance with the Site Plan (**Exhibit 3**), and
- That the Petitioner 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

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



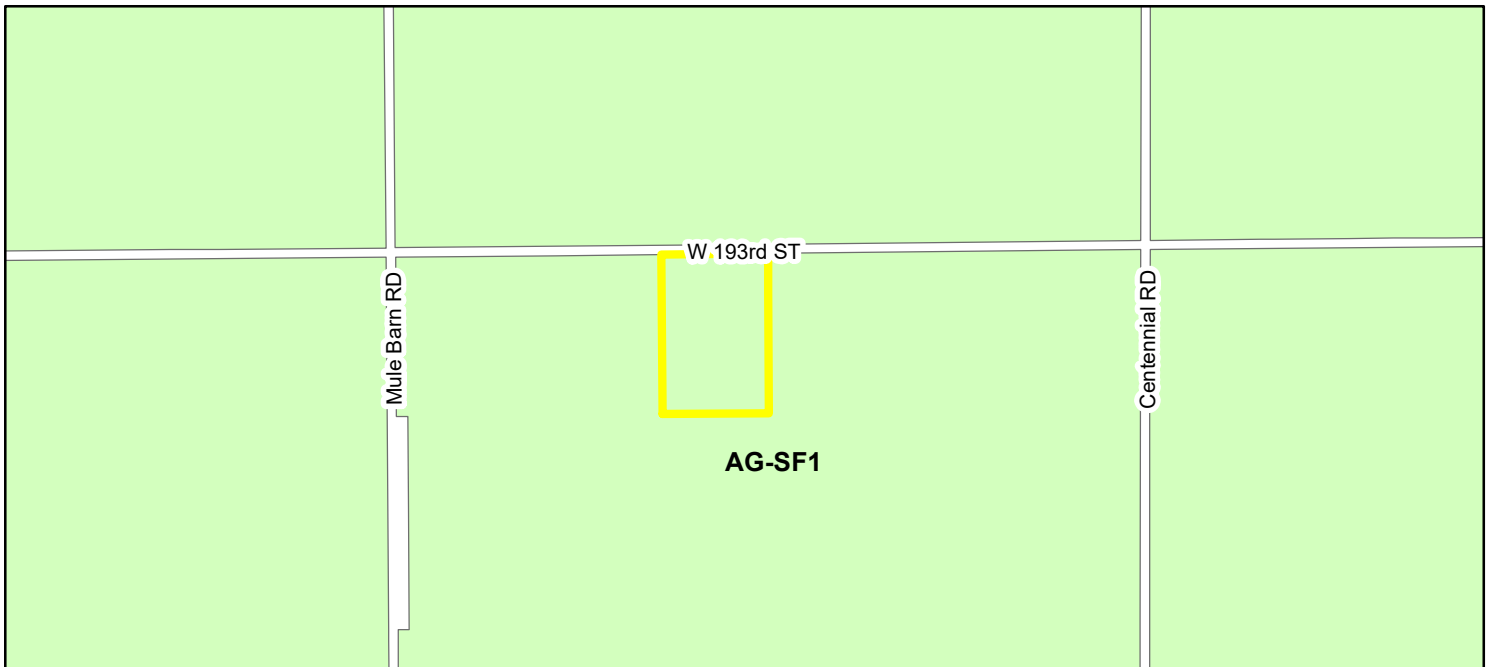
Property Location Map
3265 W. 193rd Street
2308-VS-19



Aerial Location Map



Zoning Map



 **SITE Zoning**  AG-SF1 (Agriculture - Single Family - 1)

File Name: C:\Chil_30\Projects\2022\22-028 193rd street\Version\22-028.dwg - User: 13176 - Nov 30, 2022 - 9:53am



SITE PLAN

3265 W 193RD STREET
WESTFIELD, INDIANA

NOTES:

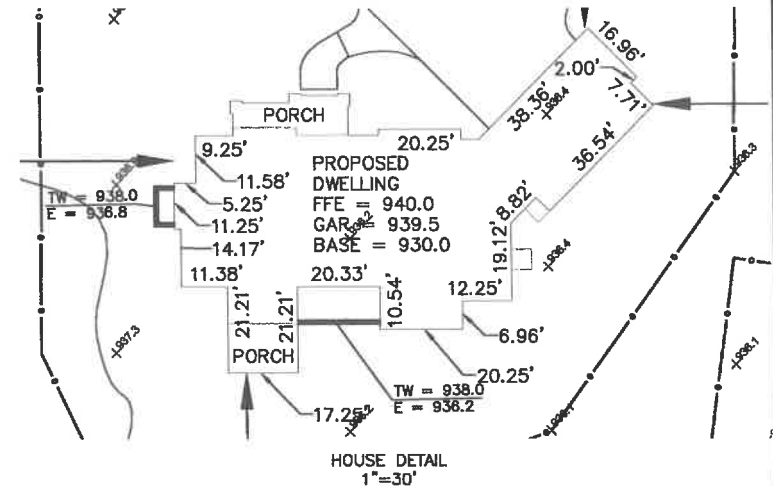
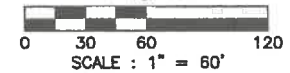
WELL & SEPTIC SYSTEMS BY OTHERS, CONTRACTOR TO BE CHOSEN FROM APPROVED HAMILTON COUNTY HEALTH DEPARTMENT CONTRACTOR LIST.

BARN TO BE CONSTRUCTED BY OTHERS. FINAL PLACEMENT AT THE DISCRETION OF THE OWNER.

PROVIDE SILT FENCE PROTECTION AROUND SEPTIC FIELD

PROVIDE SILT FENCE PROTECTION AROUND BARN LOCATION AT THE TIME OF PERMITTING FOR BARN CONSTRUCTION.

GRAPHIC SCALE



E.L.S. # L620600017

FOR: OLD TOWN DESIGN GROUP

BY: JD HALL LAND SURVEYING, IV088
803 S. OHIO STREET
SHERIDAN, INDIANA 46069
Ph: 317-800-8632
Em: alandsurveyor@yahoo.com

JOB NO: 22-028

11/30/2022
DATE:



SHEET 1 OF 2

- REPRESENTS EXISTING BLDG.