



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_06_14_2022

Tuesday, June 14, 2022 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, June 14, 2022 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>

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

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

Approval of Minutes

May 10, 2022

Documents: [May 10, 2022 BZA Minutes](#)

Review Rules & Procedures

ITEMS OF BUSINESS:

2204-VU-05 & 2204-VS-14 [ADOPTION OF FINDINGS OF FACTS]

North of 193rd Street, approximately 700 feet east of Centennial Road

Custom Concrete by Gordon D. Byers

Adoption of Findings of Fact for Variance of Use that was denied on May 10, 2022.

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

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

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3 - VU Application](#) | [Exhibit 4: VS Application](#)

2205-VU-09 & 2205-VS-17 [PUBLIC HEARING]

15100 Thatcher Lane

McDonald's Corporation by Ice Miller, LLP

The Petitioner requests a Variance of Use to permit a fast-food restaurant as well as multiple Variances of Development Standard to increase the distance between building façade offsets, to permit metal awnings, and to permit an Accessory Structure in the Established Front Yard on 1.6 acres +/- in the LB-PD: Local Business-Planned Development District (Articles 6.3(F)(5)(b), 6.3(F)(10)(d) & 6.1(H)(2).

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

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: Building Elevations](#) | [Exhibit 5: Statement of Intent](#) | [Petitioner Presentation](#)

2206-VS-18 [PUBLIC HEARING]

18515 N. Union Street

ONE Church by Andy Riemersma

The Petitioner requests multiple Variances of Development Standard to omit parking area landscaping, to permit gravel surfacing in lieu of pavement, to omit curbs and gutters, and to omit lighting standards for a proposed off-street parking area on 2.66 acres +/- within the MF-1: Multi-Family Low-Density Zoning District (Articles 6.8(O), 6.14(G)(7)(a), 6.14(G)(7)(b), and 6.14(G)(10).

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

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

2206-VS-19 [PUBLIC HEARING]

17444 Little Eagle Creek Avenue

Melissa & Darrell Stalbaum by Craig Spaid

The Petitioner requests a Variance of Development Standard to encroach ten (10) feet into the eighty (80) foot Minimum Front Yard Setback for the development of a barn on 9.98 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(E)(1)(b)).

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

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

2206-VS-20 [PUBLIC HEARING]

19065 Moontown Road

Hayley Morgan

The Petitioner requests Variances of Development Standard to permit an Accessory Building in an Established Front Yard and to encroach three (3) feet into the 100 Foot Minimum Front Yard Setback on 3 acres +/- in the SF2: Single-Family Low-Density District (Articles 4.5(E)(1)(b) & 6.1(D)(2)(a).

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

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

2206-VS-21 [PUBLIC HEARING]

10 E. 191st Street

West Fork Whiskey Co.

The Petitioner requests Variances of Development Standard to permit a temporary gravel parking lot without surfacing, curbing, lighting, or landscaping on 12.85 acres +/- in the Osborne Trails PUD District (UDO Articles 6.8(O), 6.14(G)(7)(a), 6.14(G)(7)(b), and 6.14(G)(10).

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

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

2206-VS-22 [PUBLIC HEARING]

510 E. State Road 32

BMO Harris Bank, N.A. by Bailey Borkack Nadelhoffer, LLC

The Petitioner requests Variances of Development Standard to permit a temporary walk-up ATM and Accessory Structure in the Established Front Yard on 2.13 acres +/- in the Alpha Tau PUD District and State Highway 32 Overlay District (UDO Articles 5.3(H), 5.3(K)(2)(I), 6.1(D)(1)(a), and 6.12(C)).

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

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Walk-up ATM Plan](#) | [Exhibit 4: Application](#)

ITEMS CONTINUED TO A FUTURE MEETING:

2202-VU-02 [TABLED]

2907 W SR 32

Alan Hodgeson

The Petitioner requests a Variance of Use to permit a temporary Very High Intensity Retail (used vehicle sales) use on 1.50 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District.

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

2205-VU-08 [CONTINUED]

17821 Joliet Road

Matthew Schiller

The Petitioner requests a Variance of Use to permit a private athletic training facility on 6.62 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District (Article 13.2)

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

REPORTS/COMMENTS:

Plan Commission Liaison

Community Development Department

ADJOURNMENT



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 14, 2022

2206-VS-19

Exhibit 1

Petition Number: 2206-VS-19

Subject Site Address: 17444 Little Eagle Creek Ave. ("the Property")

Petitioner: Melissa and Darrell Stalbaum ("the Petitioner")

Request: The Petitioner requests a Variance of Development Standard to encroach ten (10') into the eighty (80) foot Minimum Front Yard Setback in the AG-SF1 Zoning District ([Chapter 4.2\(E\)\(1\)\(b\)](#)).

Current Zoning: AG-SF1

Current Land Use: Residential

Approximate Acreage: 9.98 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. Building Elevations

Staff Reviewer: Weston Rogers, Associate Planner

OVERVIEW

Location: The subject property is 9.98 acres +/- in size (the "Property") and located at 17444 Little Eagle Creek Ave. in the AG-SF1 Zoning District (see **Exhibit 2**).

Requested Variances: The petitioner is requesting a Variance of Development Standard to encroach ten (10) into the eighty (80) foot Front Yard Setback as further described herein.

SUMMARY OF VARIANCE

The Property is currently subject to the AG-SF1 Zoning District. This Zoning District sets forth a Minimum Front Yard Setback line of eighty (80) feet along collector roadways as identified in the Thoroughfare Plan. The Petitioner is requesting this variance to encroach ten (10) feet into the eighty (80) foot Minimum Front Yard Setback to accommodate a proposed barn, as illustrated on the Site Plan and Building Elevations (see **Exhibits 3 and 4**).

The Westfield Public Works Department has reviewed the Petitioner's plans and has noted the proposed placement of the barn is acceptable, provided that the barn is located no closer to Little Eagle Creek Ave than the existing Single-family Dwelling's front façade line.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 14, 2022

2206-VS-19

Exhibit 1

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 June 14, 2022 Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

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

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

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

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

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

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



DEPARTMENT COMMENTS:

Recommended Findings for Approval: If the Board is inclined to approve the Variance of Development Standards (2206-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 zoning of the AG-SF1 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 as proposed due to existing Little Eagle Creek flood way restrictions.

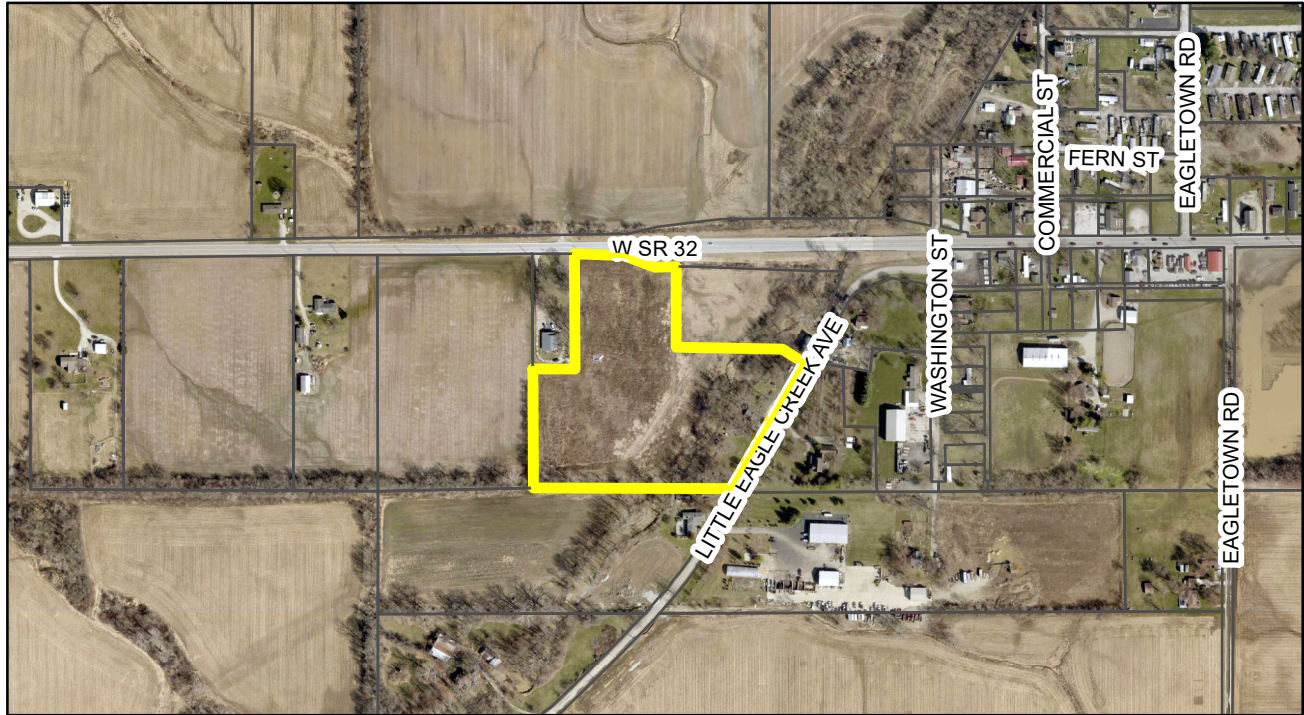
Recommended Conditions:

- That the Property shall 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.

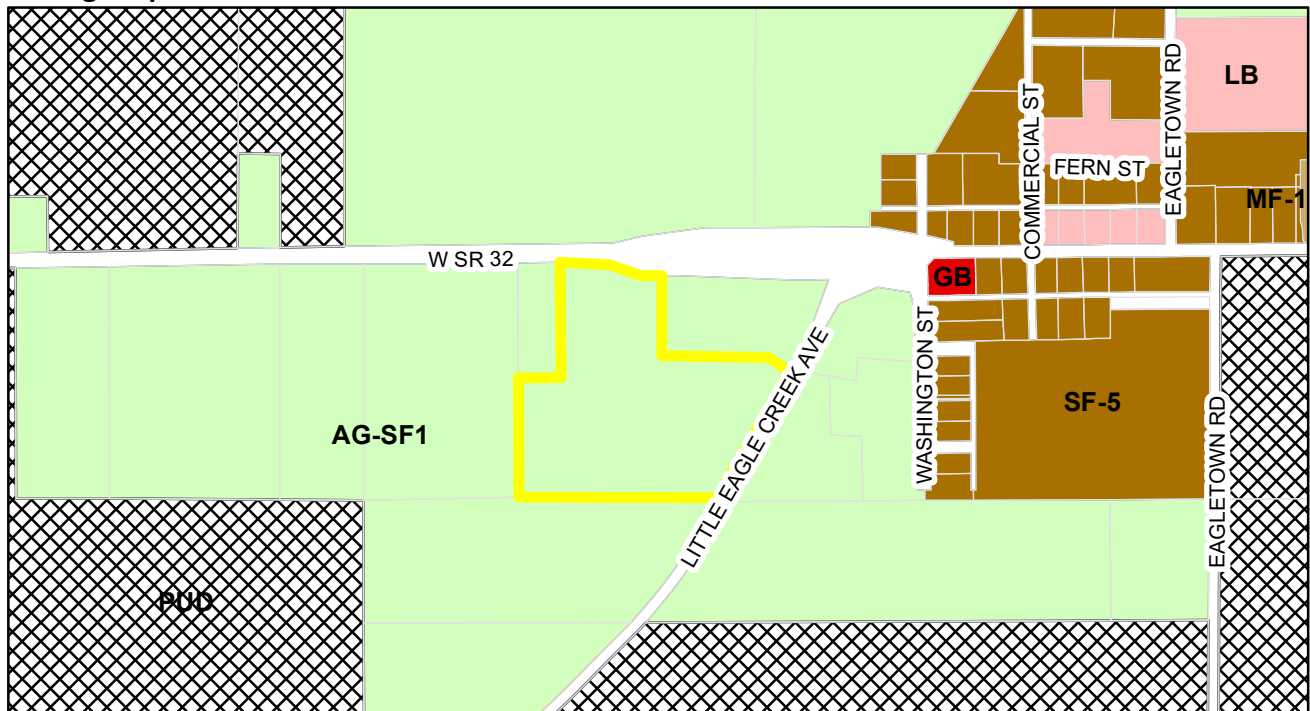
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

Aerial Location Map

Site



Zoning Map



Site

Parcel

Zoning - All

Zoning

AG-SF1 (Agriculture - Single Family - 1)

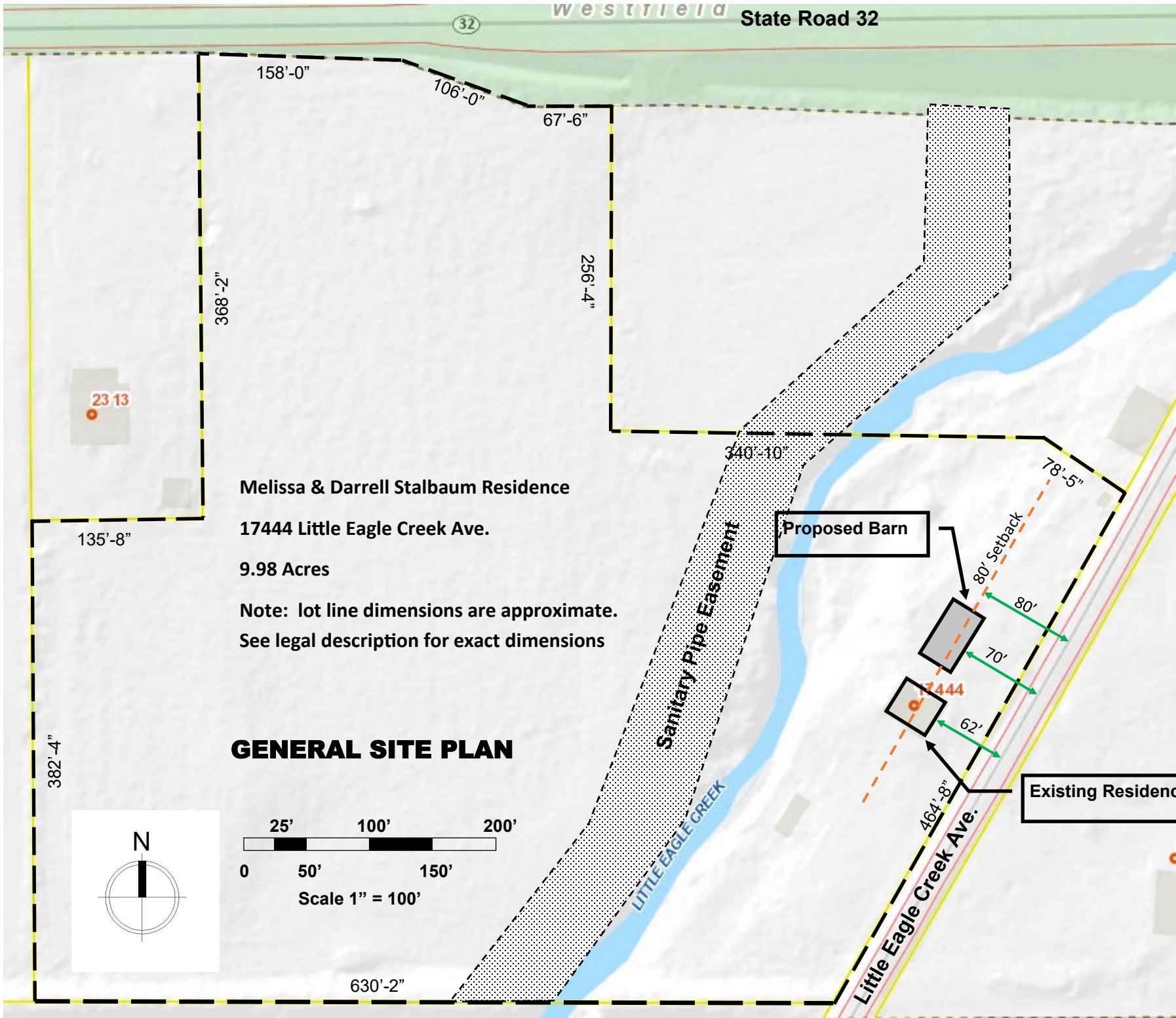
GB (General Business)

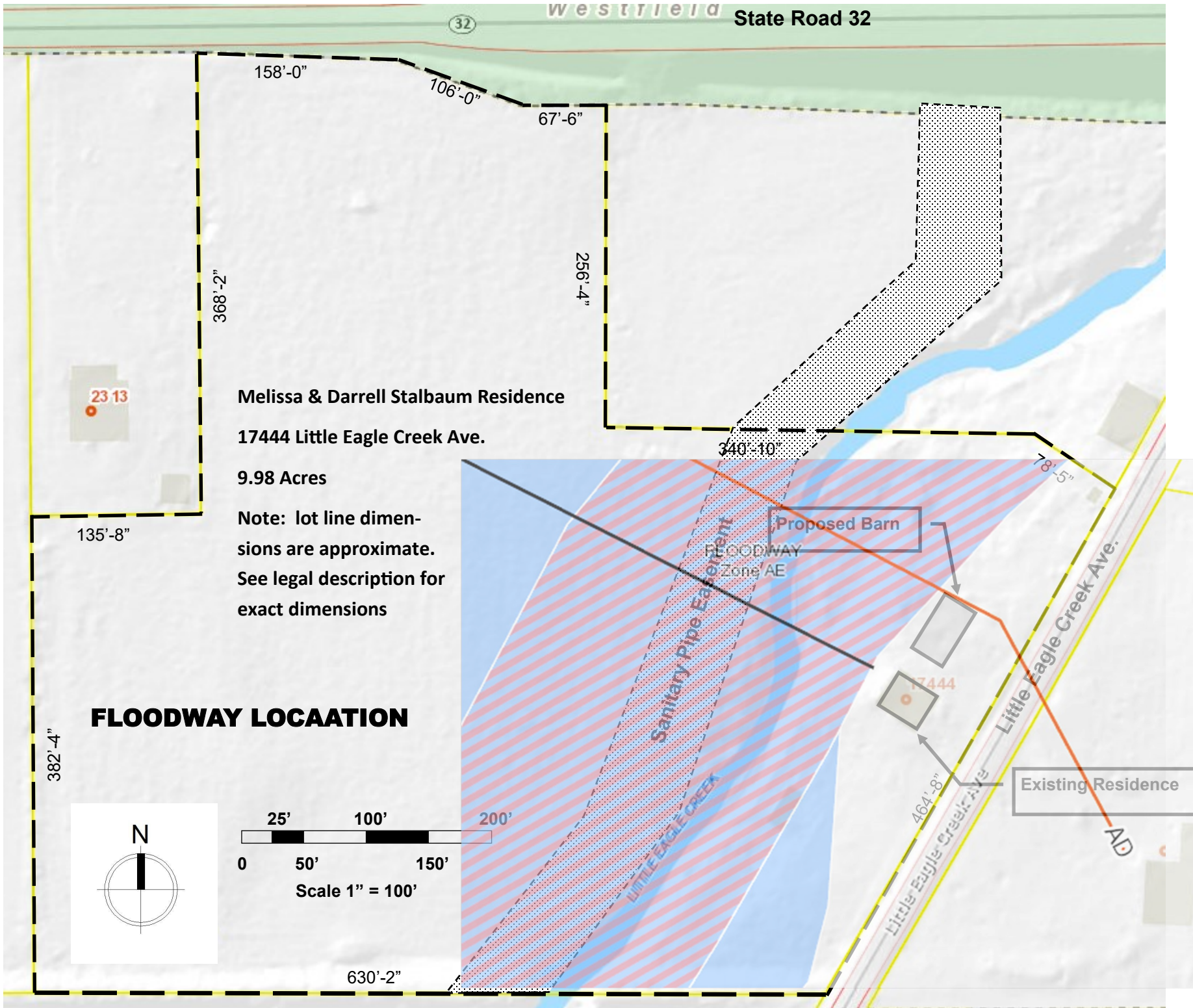
LB (Local Business)

MF-1 (Multiple Family - 1)

PUD (Planned Unit Development)

SF-5 (Single Family - 5)







EAST ELEVATION (Front)



WEST ELEVATION (Rear)



NORTH ELEVATION



SOUTH ELEVATION

GENERAL NOTES:

Roof and Side Panel is 29Ga Steel manufactured to ASTM A792 Grade 80 specifications for a minimum tensile strength of 80,000 psi.



PERSPECTIVE LOOKING SOUTHWEST



PERSPECTIVE LOOKING SOUTHWEST (no walls)

VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: 2206-VS-19

FILING DATE: 5/12/22

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

PRE-FILING CONFERENCE

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

PRIOR OR RELATED DOCKET NUMBERS

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

APPLICANT INFORMATION

APPLICANT'S NAME: Melissa & Darrell Stalbaum TELEPHONE: 317-805-8027
ADDRESS: 17444 Little Eagle Creek Ave. EMAIL: melissastalbaum@gmail.com
PROPERTY OWNER'S NAME: Same TELEPHONE: Same
ADDRESS: Same EMAIL: Same
REPRESENTATIVE'S NAME: Craig Spaid TELEPHONE: 317-409-7554
COMPANY: _____ EMAIL: _____
ADDRESS: 20014 Willenhall Way, Westfield 26074

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 17444 Little Eagle Creek Ave.
COUNTY PARCEL ID #(S): 08-09-04-00-00-003.000
EXISTING ZONING DISTRICT(S): AG-SF1 EXISTING LAND USE(S): AG-SF

PROPERTY AND PROJECT INFORMATION

☐ VARIANCE OF LAND USE CODE CITATION: _____
☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: 100' building setback from ROW

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

The land owner needs to build a new barn for agricultural purposes in an area that does not infringe upon the floodway of Little Eagle Creek. There is no way to accomplish this without amending the setback from the Little Eagle Creek Ave. Current residence is approx. 40' from the ROW and we are proposing the barn be set back 50' from the ROW.

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.

Melissa Stalbaum

Applicant/Representative (signature)

Melissa Stalbaum

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 13th day of May, 2022
State of IN, County of Hamilton, SS:

Cole Mitchell
Notary Public (signature)

Cole Mitchell
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.

Melissa Stalbaum

Property Owner (signature)*

Melissa Stalbaum

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 13th day of May, 2022
State of IN, County of Hamilton, SS:

Cole Mitchell
Notary Public (signature)

Cole Mitchell
Notary Public (printed)

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



FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: _____ **DOCKET #:** _____

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

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

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

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

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

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

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: _____ **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 or 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: _____

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

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

June 14, 2022

2206-VS-18

Exhibit 1

Petition Number: 2206-VS-18

Subject Site Address: 18515 N. Union St. ("the Property")

Petitioner: One Church ("the Petitioner")

Request: The Petitioner requests multiple Variances of Development Standard to omit parking area landscaping, permit gravel surfacing in lieu of pavement, omit curbs and gutters, and omit lighting standards for a proposed off-street parking area on 2.66 acres +/- within the MF-1 zoning district. Articles 6.8(O), 6.14(G)(7)(a), 6.14(G)(7)(b), and 6.14(G)(10).

Current Zoning: MF-1 – Multifamily Low Density

Current Land Use: Religious Institution

Approximate Acreage: 2.66 acres +/-

Exhibits:

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

Staff Reviewer: Weston Rogers, Associate Planner

OVERVIEW

Location: The subject Property is 2.66 acres +/- in size (the "Property") and is located on North Union Street near the Westfield High School Baseball Diamonds (see **Exhibit 2**). The Property is zoned the MF-1 – Multifamily Low-density District. The adjacent properties to the north, east, and south are also zoned MF-1. The adjacent Property to the west is zoned Westfield High School Campus PUD.

Property History: Since the early 1970's The Property has been zoned MF-1 (Multifamily Low-density) and appears to have been utilized as a Religious Institution since inception.

Requested Variances: The Petitioner requests four (4) Variances of Development Standard with a proposed expiration date of December 31, 2025 as outlined below:

- 1) Omission of Parking Area Landscape Requirements – [Article 6.8\(O\)](#)
- 2) Permit gravel parking lot surfacing in lieu of pavement – [Article 6.14\(G\)\(7\)\(a\)](#)
- 3) Omission of parking lot curbs and gutters – [Article 6.14\(G\)\(7\)\(b\)](#)
- 4) Omission of parking lot lighting standards – [Article 6.14\(G\)\(10\)](#)

SUMMARY OF VARIANCES

Staff received a variance of development standard application for a proposed gravel surface parking lot to serve the existing One Church Religious Institution located at 18515 N. Union St.

In total the Petitioner has requested four (4) variances of development standard to permit the proposed gravel surface parking lot. Together, the Petitioner has requested all four (4) variances of development standard to remain in effect until December 31, 2025.

A summary of each requested variance of development standard is outlined below:

- 1) Omission of Parking Area Landscape Requirements – [Article 6.8\(O\)](#)
 - The current UDO “Parking Area Landscape” standards require Interior Parking Area Landscaping and Perimeter Parking Area Landscaping for all Parking Areas. The requested variance of development standard would omit these standards.
- 2) Permit gravel parking lot surfacing in lieu of pavement – [Article 6.14\(G\)\(7\)\(a\)](#)
 - The current UDO “Off-street Parking Surfacing and Curbs” standards require Parking Areas to be paved with a dust proof or hard surface. The requested variance of development standard would modify this standard to permit gravel surfacing in lieu of a hard surface (i.e. pavement).
- 3) Omission of parking lot curbs and gutters – [Article 6.14\(G\)\(7\)\(b\)](#)
 - The current UDO “Off-street Parking Surfacing and Curbs” standards require Parking Areas to be curbed and guttered. The requested variance of development standard would omit this standard.
- 4) Omission of parking lot lighting standards – [Article 6.14\(G\)\(10\)](#)
 - The current UDO “Off-street Parking Lighting” standards require a system of lights shall be installed to provide an adequate standard of illumination over the entire Parking Area of business uses during business hours and minimum-security illumination during nonbusiness hours. The requested variance of development standard would omit this standard.

Prior to December 31, 2025 the proposed gravel surface parking lot would be required to be improved and comply with all provisions of the Unified Development Ordinance. See recommended conditions of approval for further information.

PROCEDURAL

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 14, 2022

2206-VS-18

Exhibit 1

public hearing at the June 14, 2022, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

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

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

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

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

DEPARTMENT COMMENTS:

Approval: If the Board finds that adequate evidence is shown that the Variances of Development Standard meet the applicable review criteria, then the Department recommends approval of the

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

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 14, 2022

2206-VS-18

Exhibit 1

Variances of Development Standard (2206-VS-18), with the recommended conditions and findings as set forth below:

Recommended Conditions of Approval:

1. That the site shall be developed in substantial compliance with **Exhibit 3** – provided that only the Public Works Department may permit modifications for the inclusion of required on-site stormwater infrastructure; and
2. That the Petitioner shall submit an application for a Detailed Development Plan to the Community Development Department by June 14, 2025 in order to bring the parking lot into compliance with all standards and provisions of the Unified Development Ordinance (UDO); and
3. That all requested variances of development standard shall expire on December 31, 2025; and
4. 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 variances would be injurious to the public health, safety, morals, and general welfare of the community because the existing uses in the MF-1 zoned area and other standards of the proposed parking lot expansion will otherwise comply with the applicable standards of the UDO.

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

Finding: It is unlikely the use and value of adjacent Property will be affected in a substantially adverse manner. The proposed variances should not have a negative impact on 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 construct the proposed parking lot expansion in sequential phases as proposed.

Denial: If the Board is inclined to deny the requested variances, then the Department recommends denying the variances, 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.



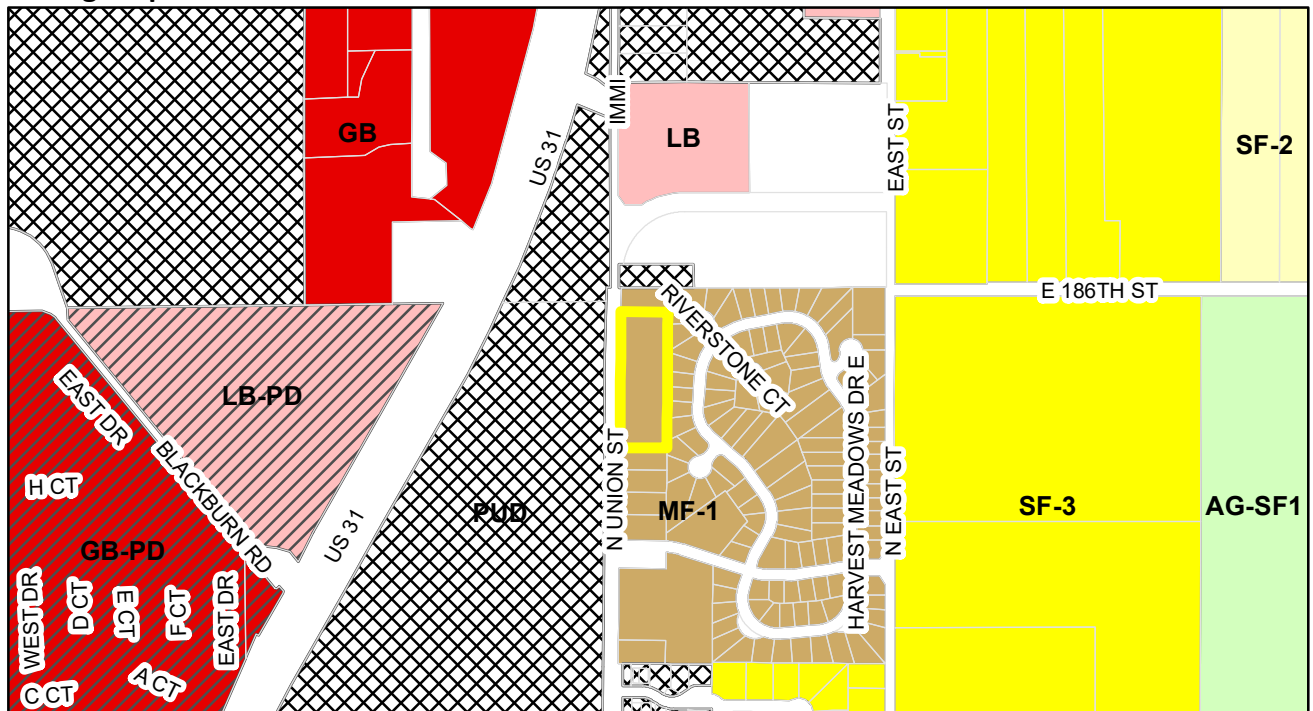
Property Location Map
ONE Church
18515 N. Union St.
2206-VS-18



Aerial Location Map

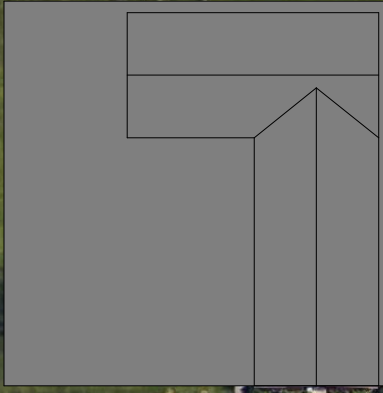


Zoning Map



- | | |
|--|--|
| Parcel selection | LB (Local Business) |
| Parcel | LB-PD (Local Business - Planned Development) |
| Zoning - All | MF-1 (Multiple Family - 1) |
| Zoning | PUD (Planned Unit Development) |
| AG-SF1 (Agriculture - Single Family - 1) | SF-2 (Single Family - 2) |
| GB (General Business) | SF-3 (Single Family - 3) |
| GB-PD (General Business - Planned Development) | |

N Union St



Church

8

12

12

12

12

122

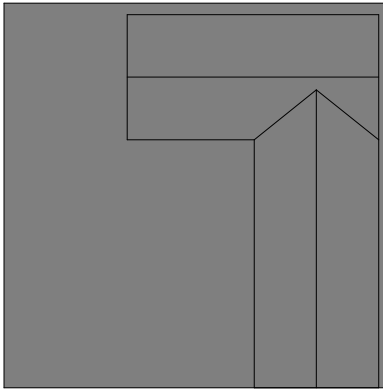
12

12

12

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18



8

12

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122

12

12

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12

18

VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: _____ FILING DATE: _____

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Ryan Collingwood (STAFF NAME) DATE: 4/28/22

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: Andy Riemersma
ADDRESS: 18441 N Union Street Westfield, IN 46074

TELEPHONE: 317-605-7618
EMAIL: andy@fortheone.church

PROPERTY OWNER'S NAME: Crossroads Dist. of the Wesleyan Church
ADDRESS: 1500 S Western Ave, Suite A Marion, IN 46953

TELEPHONE: 317-605-7618
EMAIL: Andy Riemersma is representing

REPRESENTATIVE'S NAME: Andy Riemersma
COMPANY: ONE Church
ADDRESS: 18441 N Union Street Westfield, IN 46074

TELEPHONE: 317-605-7618
EMAIL: andy@fortheone.church

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 18515 N Union Street Westfield, IN 46074

COUNTY PARCEL ID #(S): 09-06-31-01-01-002.000

EXISTING ZONING DISTRICT(S): R5 EXISTING LAND USE(S): Church

PROPERTY AND PROJECT INFORMATION

☐ VARIANCE OF LAND USE CODE CITATION: _____

☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: 6.8 subsection O & 6.14 subsection G items 7a, 7b, and 10

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

We intend to enlarge the parking lot in phases - the first phase being gravel for temporary use.
are requesting a three year period for gravel use. After gravel, we would do asphalt as the long term plan.

FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: One Church

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: Andy Riemersma

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 will be continuing operating as a house of worship. We are committed to honoring the public health, safety, morals, and general welfare of the community. We consider it an honor to serve the community of Westfield. ++

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 are not changing the use of this property - it will continue to operate as a house of worship. ++

C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: We are requesting this variance because it allows us to move in phases to complete this project. This will allow proper time for fundraising for each phase to successfully be completed. ++

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)


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.

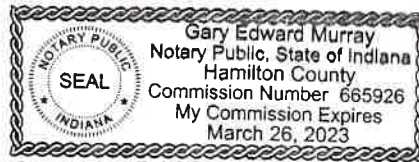
Witness my hand and Notarial Seal this 10th day of May, 2021.

State of Indiana, County of Hamilton, SS: _____


Notary Public (signature)

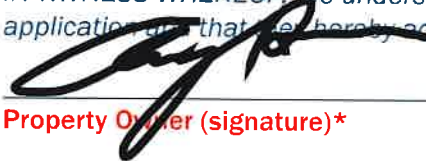
Gary Edward Murray

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)*


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.

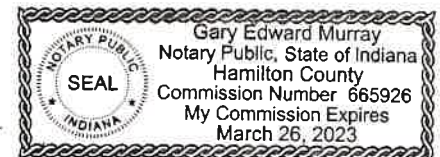
Witness my hand and Notarial Seal this 10th day of May, 2021.

State of Indiana, County of Hamilton, SS: _____


Notary Public (signature)

Gary Edward Murray

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.

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

June 14, 2022

2206-VS-21

Exhibit 1

Petition Number: 2206-VS-21

Subject Site Address: 10 E. 191st Street (The "Property")

Petitioner: West Fork Whiskey Co. (The "Petitioner")

Request: The Petitioner requests Variances of Development Standard to permit a temporary gravel parking lot without surfacing, curbing, lighting, or landscaping on 12.85 acres +/- in the Osborne Trails PUD District (*UDO Articles 6.8(O), 6.14(G)(7)(a), 6.14(G)(7)(b), and 6.14(G)(10)*).

Current Zoning: [Osborne Trails PUD District](#) (Ord. 16-44, as amended by Ord.17-21, Ord. 18-14, Ord. 20-29, & Ord. 21-60)

Current Land Use: Commercial

Approximate Acreage: 12.85 acres+/-

Exhibits:

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

Staff Reviewer: Pam Howard, Assistant Director

OVERVIEW

Location: The subject property is 12.85 acres +/- in size and is located at 10 E. 191st Street (see **Exhibit 2**). The Property is currently zoned the Osborne Trails PUD District. The adjoining properties to the east and west are also zoned the Osborne Trails PUD, the property to the north is zoned the Chatham Hills PUD, and the property to the south is zoned the Grand Park PUD.

Property History: The Property was incorporated into the Osborne Trails PUD with an amendment approved on August 14, 2017. A subsequent amendment, approved on October 12, 2020, addressed the currently proposed use and development standards for the proposal. The Overall Development Plan and Detailed Development Plan were approved at the May 17, 2021, APC meeting. An Improvement Location Permit was issued on July 23, 2021, and the building is currently under construction. A PUD amendment relating to signage was approved on January 24, 2022.

Variance Request: The Petitioner requests Variances of Development Standard to permit a temporary gravel parking lot without surfacing, curbing, lighting, or landscaping on 12.85 acres +/- in the Osborne Trails PUD District (*UDO Articles 6.8(O), 6.14(G)(7)(a), 6.14(G)(7)(b), and 6.14(G)(10)*).



SUMMARY OF VARIANCES

The Petitioner is requesting this variance to allow a temporary gravel parking lot, as generally described in the statement of intent (see [Exhibit 4](#)) and illustrated on the Proposed Site Plan (see [Exhibit 3](#)).

Parking Areas are regulated by Article 6.14 of the UDO. Due to the temporary nature of the proposed Parking Area, the Petitioner is requesting variances from the following standards:

Article 6.14(G)(7) Parking and Loading Standards; Off-street Parking; Surfacing and Curbing:

- a. Public Parking Areas¹ and loading and unloading berths shall be paved with a dust proof or hard surface. All open off-street Parking Areas shall be improved with a compacted gravel or stone base and surfaced with all-weather, dustless material, in accordance with the City's Construction Standards.
- b. The perimeter of all Parking Areas, and any islands located therein, shall be curbed and guttered, in accordance with the City's Construction Standards.

Article 6.14(G)(10) Accessory Use and Building Standards; Building Location; Lots in Subdivisions; Front Setback: A system of lights shall be installed to provide an adequate standard of illumination over the entire Parking Area of business Uses during business hours and minimum security illumination during nonbusiness hours. All lights shall be shielded so that minimum glare will extend to the adjacent property and meet the requirements of Article 6.9 Lighting Standards.

Additionally, Parking Areas are required to be landscaped in accordance with [Article 6.8\(O\): Landscaping Standards; Parking Area Landscaping](#). This includes Perimeter Parking Area Landscaping and Interior Landscaping in the form of landscaped islands. Due to the temporary nature of the proposed parking area, the petitioner is asking for these standards to be waived.

COMPREHENSIVE PLAN

The [Westfield-Washington Township Comprehensive Plan](#) (the "Comprehensive Plan") identifies this area as part of the [Family Sports Capital Addendum II](#) of the Westfield-Washington Township Comprehensive Plan. 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 June 14, 2022, 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

¹ Chapter 12 of the UDO defines "Parking Area" as "[a]ny public or private land area designed and used for parking more than four (4) motor vehicles, and shall include garages, Driveways, Parking Spaces, drive aisles and areas of Streets legally designated for parking."

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 14, 2022

2206-VS-21

Exhibit 1

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.

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

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

DEPARTMENT COMMENTS

Approval: The Department recommends approval of the Variances of Standard (2205-VS-21), then the Department recommends the conditions and findings as set forth below:

Recommended Conditions of Approval:

- 1) That the Gravel Parking Area be constructed at the location shown and in substantial compliance with the Proposed Site Plan (**Exhibit 3**).
- 2) That approval of this variance shall expire on December 31, 2025. Any request to extend the time limit of this variance shall be reviewed and approved by the Board of Zoning Appeals prior to December 31, 2025.
- 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.

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 14, 2022

2206-VS-21

Exhibit 1

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 Use of the Property is not changing, and all other improvements to the Property with the applicable zoning and construction standards.

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

Finding: It is unlikely the use and value of adjacent properties 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 is not changing, and all other improvements to the Property with the applicable zoning and construction 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 improve the property as proposed.

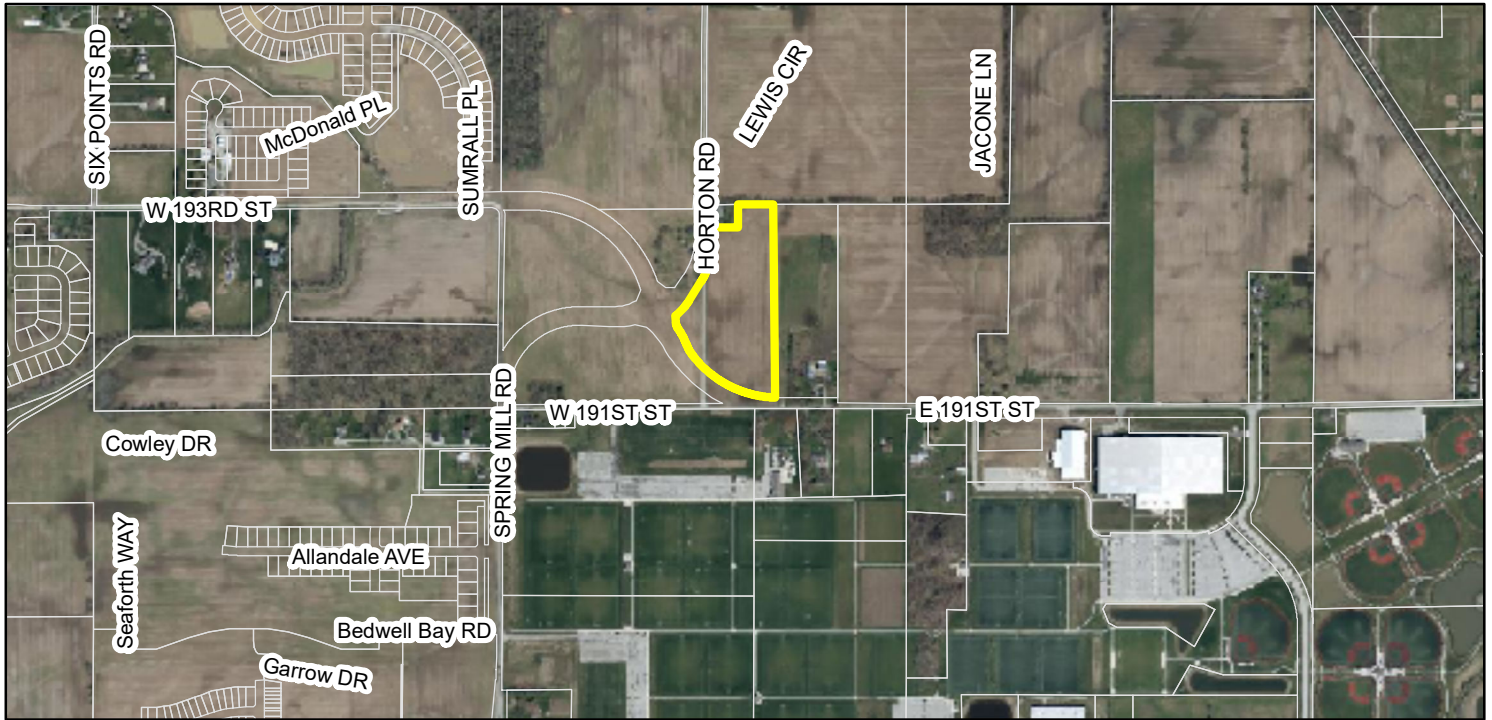
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.



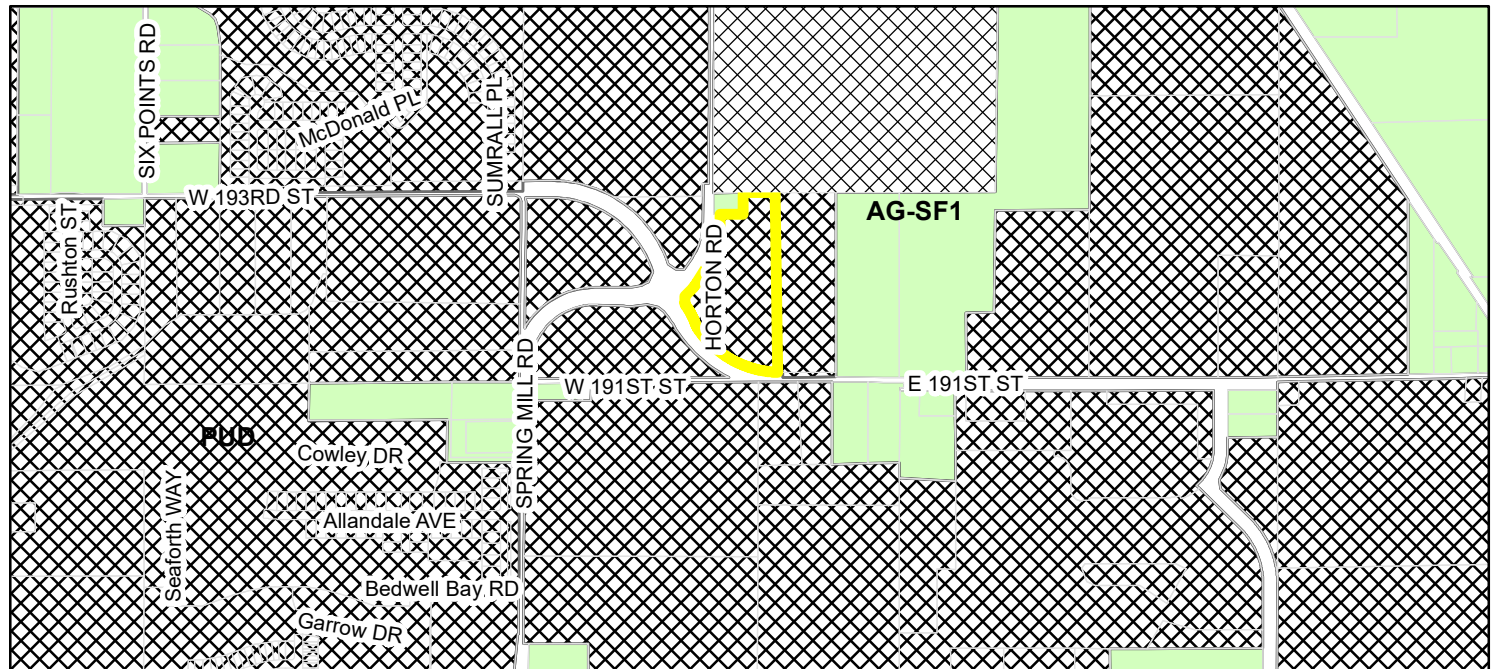
Property Location Map
West Fork Whiskey
Temporary Parking
2206-VS-21



Aerial Location Map



Zoning Map



-  Site
-  Parcel
- Zoning**
-  AG-SF1 (Agriculture - Single Family - 1)
-  OI (Open Industrial)
-  PUD (Planned Unit Development)

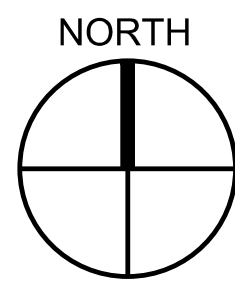
WEST FORK
WHISKEY

TEMPORARY GRAVEL
PARKING

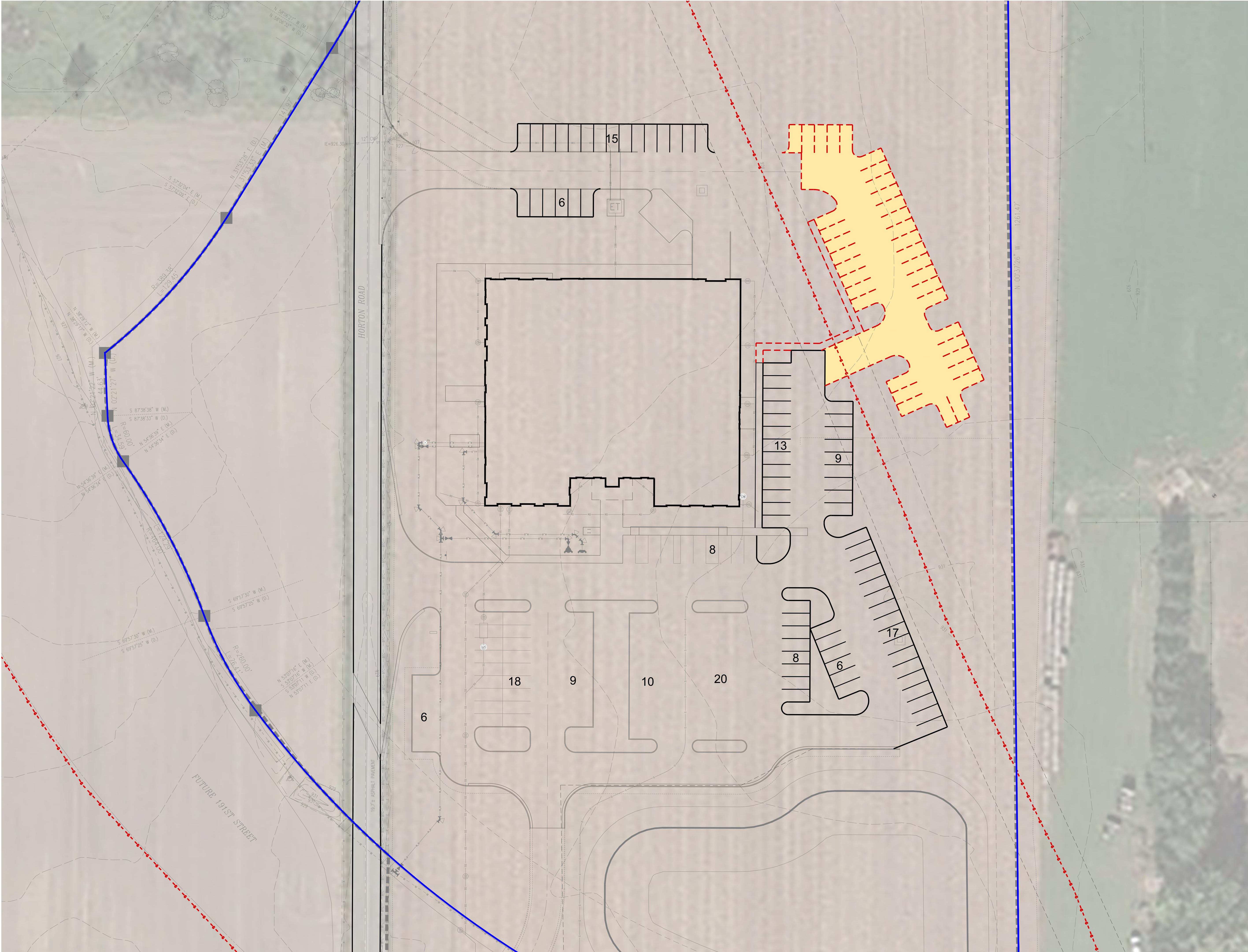
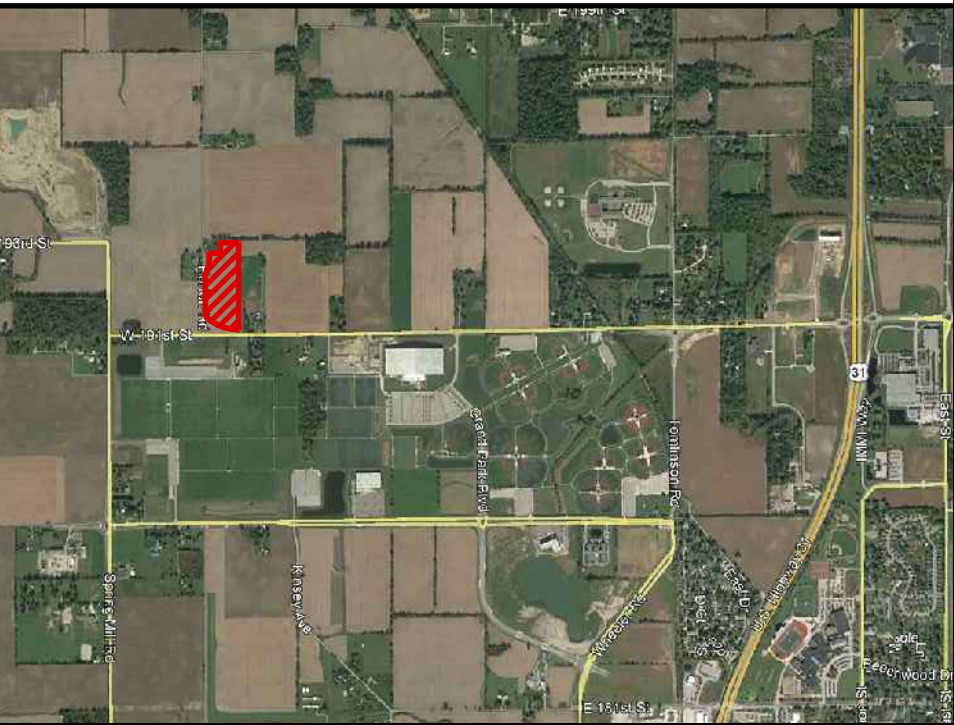
- ORIGINAL PARKING:

143
- OVERFLOW PARKING:

36



LOCATION



VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: _____ FILING DATE: _____

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Kevin Todd (STAFF NAME) DATE: 5/20/22

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: West Fork Whiskey Co
ADDRESS: 10 E. 191st St., Westfield, IN 46074

TELEPHONE: 812-508-2936
EMAIL: david@westforkwhiskey.com

PROPERTY OWNER'S NAME: West Fork Whiskey Real Estate JV, LLC
ADDRESS: 10 E. 191st St., Westfield, IN 46074

TELEPHONE: 812-508-2936
EMAIL: david@westforkwhiskey.com

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

TELEPHONE: _____
EMAIL: _____

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 10 E. 191st St., Westfield, IN 46074

COUNTY PARCEL ID #(S): 08-05-26-00-00-002.102

EXISTING ZONING DISTRICT(S): Osborne Trails EXISTING LAND USE(S): Distillery/Agrotourism

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): West Fork Whiskey Co would like to install a temporary gravel parking lot for overflow parking. Currently they have 143 finished parking spots at their facility, but due to anticipated high traffic, they would like to add a temporary lot for overflow. The final location of more permanent parking is still being developed, and is subject to change based on acquiring the additional 12.5 acre parcel next door, therefore West Fork would like to avoid installing another permanent parking until a final development plan is in place. (Attached is proposed location of temporary parking lot.)

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)

Robert D McIntyre

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.

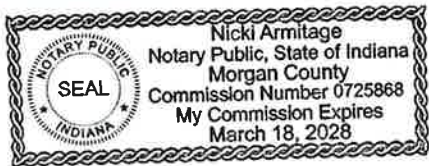
Witness my hand and Notarial Seal this 20th day of May, 2022
State of Indiana, County of Marion, SS: _____



Notary Public (signature)

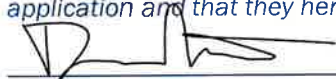
Nicki Armitage

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)*

Robert D McIntyre

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.

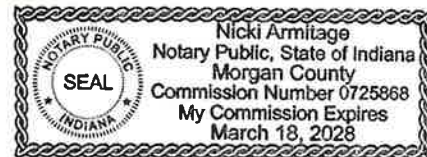
Witness my hand and Notarial Seal this 20th day of May, 2022
State of Indiana, County of Marion, SS: _____



Notary Public (signature)

Nicki Armitage

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: West Fork Whiskey Co.

DOCKET #: _____

In taking action on a variance request, the Board of Zoning Appeals uses the following decision criteria to approve or deny a variance, as established by Indiana Code, and the Board may impose reasonable conditions as part of its approval. The applicant must address the criteria below (if multiple variances of development standard are being requested, then this sheet should be completed separately for each requested variance). A variance of land use may be approved by the Board of Zoning Appeals only upon a determination that the Board finds all of the following to be true:

A. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because: This temporary parking lot will not pose any risk to public health, safety, morals or general welfare.

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: West Fork has an option on the adjacent property, and this temporary lot will adversely effect it.

C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: Investing in a permanent parking structure that may need to be moved or removed in the next 18-24 months is not economical for the Company. This temporary lot will provide West Fork with the additional parking they will need on heavy traffic days while also giving them time to decide on the final development plan for additional permanent parking.

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

June 14, 2022

2206-VS-22

Exhibit 1

Petition Number: 2206-VS-22

Subject Site Address: 510 E. SR 32 (The "Property")

Petitioner: BMO Harris Bank, N.A by Bailey Borkack Nadelhoffer, LLC (The "Petitioner")

Request: The Petitioner requests Variances of Development Standard to permit a temporary walk-up ATM and Accessory Structure in the Established Front Yard on 2.13 acres +/- in the Alpha Tau PUD District and State Highway 32 Overlay District (UDO Articles 5.3(H), 5.3(K)(2)(I), 6.1(D)(1)(a), 6.12(C)).

Current Zoning: [Alpha Tau PUD District \(Ord. 19-25\)](#)
State Highway 32 Overlay District

Current Land Use: Commercial

Approximate Acreage: 2.13 acres+/-

Exhibits:

1. Staff Report
2. Location Map
3. Walk-up ATM Plan
4. Application

Staff Reviewer: Pam Howard, Assistant Director

OVERVIEW

Location: The subject property is 2.13 acres +/- in size and is located at 510 E. SR 32 (see **Exhibit 2**). The Property is currently zoned the Alpha Tau PUD District and is also located within the State Highway 32 Overlay District (the "Overlay"). The adjoining properties to the north and east are also zoned the Alpha Tau PUD, the property to the west is zoned the Dartown Crossing PUD, and the property to the south is zoned EI: Enclosed Industrial.

Property History: Existing Office Building was constructed in 2000, while the property was zoned Enclosed Industrial. The Property was rezoned to the Alpha Tau PUD District in 2019.

Variance Request: The Petitioner requests Variances of Development Standard to permit a temporary walk-up ATM and Accessory Structure in the Established Front Yard on 2.13 acres +/- in the Alpha Tau PUD District and State Highway 32 Overlay District (UDO Articles 5.3(H), 5.3(K)(2)(I), 6.1(D)(1)(a), 6.12(C)).



SUMMARY OF VARIANCES

The Petitioner is requesting this variance to allow a walk-up ATM and Accessory Structure¹ to be constructed within an Established Front Yard², as generally described in the statement of intent (see **Exhibit 4**) and illustrated on the Walk-up ATM Plan (see **Exhibit 3**). The tenant space being leased by the Petitioner is located in the center of the existing building; therefore, to have the ATM and Accessory Structure to be near the tenant's entrance, it will need to be in an Established Front Yard.

The location of the proposed Accessory Structure is located in two (2) Sections of the UDO, as listed below.

Article 5.3(H) State Highway 32 Overlay District; Accessory Buildings: No Accessory Building³ shall be erected in the Established Front Yard. For the purpose of this Article only, an Accessory Building shall not include the following: (i) if provided for public use and enjoyment: fountains, gazebos, picnic shelters, benches, public restrooms, drinking fountains, utility installations, bike racks, decorative walls and fences (not to exceed an average height of four (4) feet), hardscape amenities, landscaping, pavement, curbs and other similar improvements; or (ii) Monument Signs.

Article 6.1(D)(1)(a) Accessory Use and Building Standards; Building Location; Lots in Subdivisions; Front Setback: No Accessory Building may be erected closer than ten (10) feet from the Established Front Yard.

Architecturally, the State Highway 32 Overlay standards supersede the Architectural Standards of the Underlying Zoning District established in the PUD. The Overlay Standard specifically related to Accessory Buildings is listed below.

Article 5.3(J)(2)(I) State Highway 32 Overlay District; Architectural Design Requirements; Building Elevations; Accessory Buildings: All Accessory Buildings shall be architecturally compatible with the Principal Building(s) with which they are associated.

Additionally, the Walk-up ATM could be considered either Outside Storage⁴ or an Outside Sales Display⁵. Both of these items are regulated by the Standards of Article 6.12(C): Outside Storage and Display; Business Districts.

¹ Chapter 12 of the UDO defines "Structure" as "[a]nything constructed or erected which requires location on the ground or attachment of something having location on the ground."

² Chapter 12 of the UDO defines "Yard, Established Front" as "[a] Yard extending across the full width of the Lot between the Principal Building, as built, and the Front Lot Line, the depth of which is the least distance between the Front Lot Line and the Principal Building."

³ Chapter 12 of the UDO defines "Building, Accessory" as "[a] subordinate building or structure, the Use of which is incidental to and customary in connection with the Principal Building or Use and which is located on the same Lot with such Principal Building or Use and is under the same ownership. Buildings which are portable and do not have permanent foundations are also classified as Accessory Buildings, but shall not require an Improvement Location Permit."

⁴ Chapter 12 of the UDO defines "Outside Storage" as "[t]he keeping of any material, merchandise, products, or equipment outside of a building or structure for a period greater than twenty-four (24) hours. Material or equipment being used in the development of a property or construction refuse, disposed of within fifteen (15) days, shall not be deemed Outside Storage."

⁵ Chapter 12 of the UDO defines "Outside Sales Display" as "[a]n outdoor arrangement of objects, items, products merchandise or other materials, that are placed, designed and/or used for the purpose of selling, advertising or identifying a business, product, or service."

COMPREHENSIVE PLAN

The [Westfield-Washington Township Comprehensive Plan](#) (the “Comprehensive Plan”) identifies this area as part of the [Family Sports Capital Addendum II](#) of the Westfield-Washington Township Comprehensive Plan. 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 June 14, 2022, 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 UDO⁶ 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 UDO⁷ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

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

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

⁶ 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

Approval: The Department recommends approval of the Variances of Standard (2205-VS-22), then the Department recommends the conditions and findings as set forth below:

Recommended Conditions of Approval:

1. That the approval be limited to the Applicant (BMO Harris Bank N.A.).
2. That the approval is limited to the Walk-up ATM and Accessory Structure as shown on the Walk-up ATM Plan (**Exhibit 3**).
3. That the Walk-up ATM and Accessory Structure be constructed at the location shown and in substantial compliance with the Walk-up ATM Plan (**Exhibit 3**).
4. 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 proposed use is otherwise permitted by the applicable PUD and Overlay 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:*

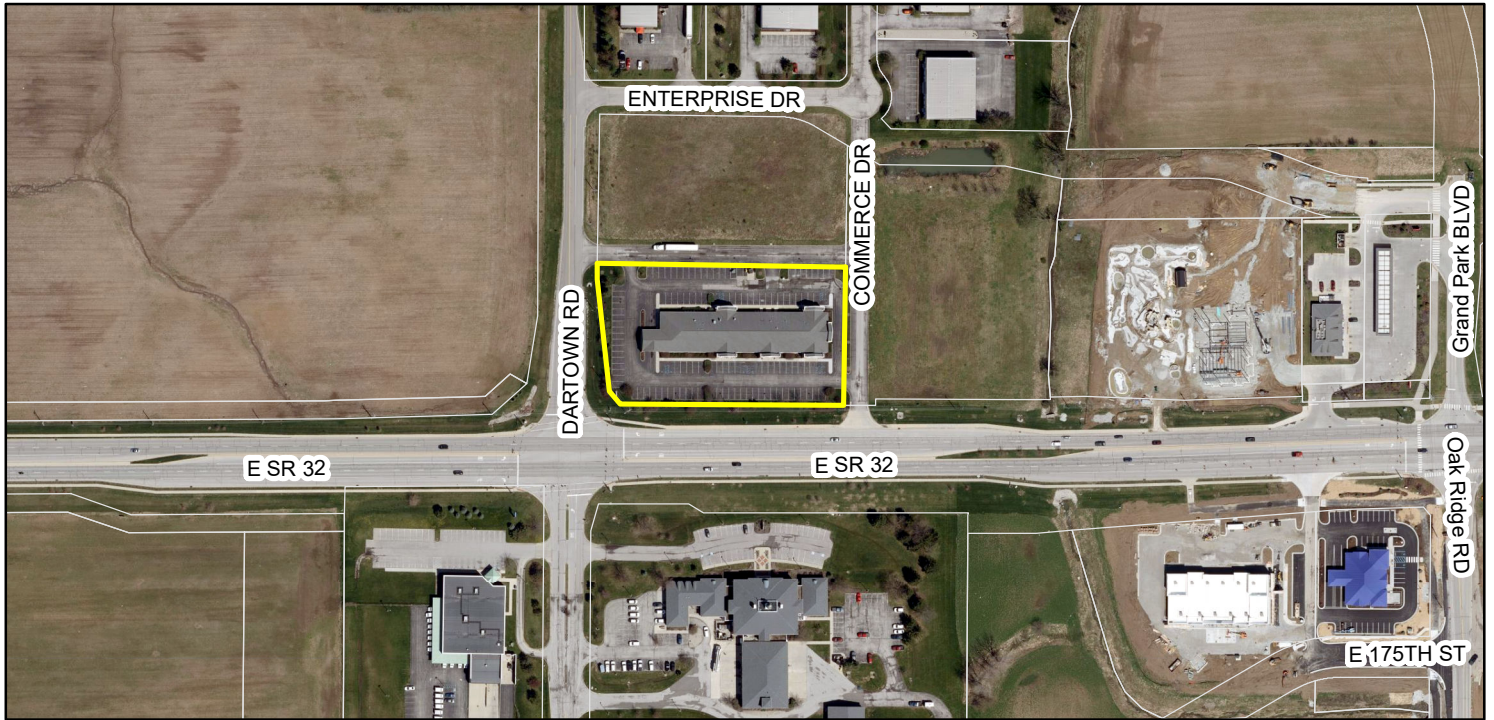
Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on adjacent surrounding properties because the proposed use is otherwise permitted by the applicable PUD and Overlay District.

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

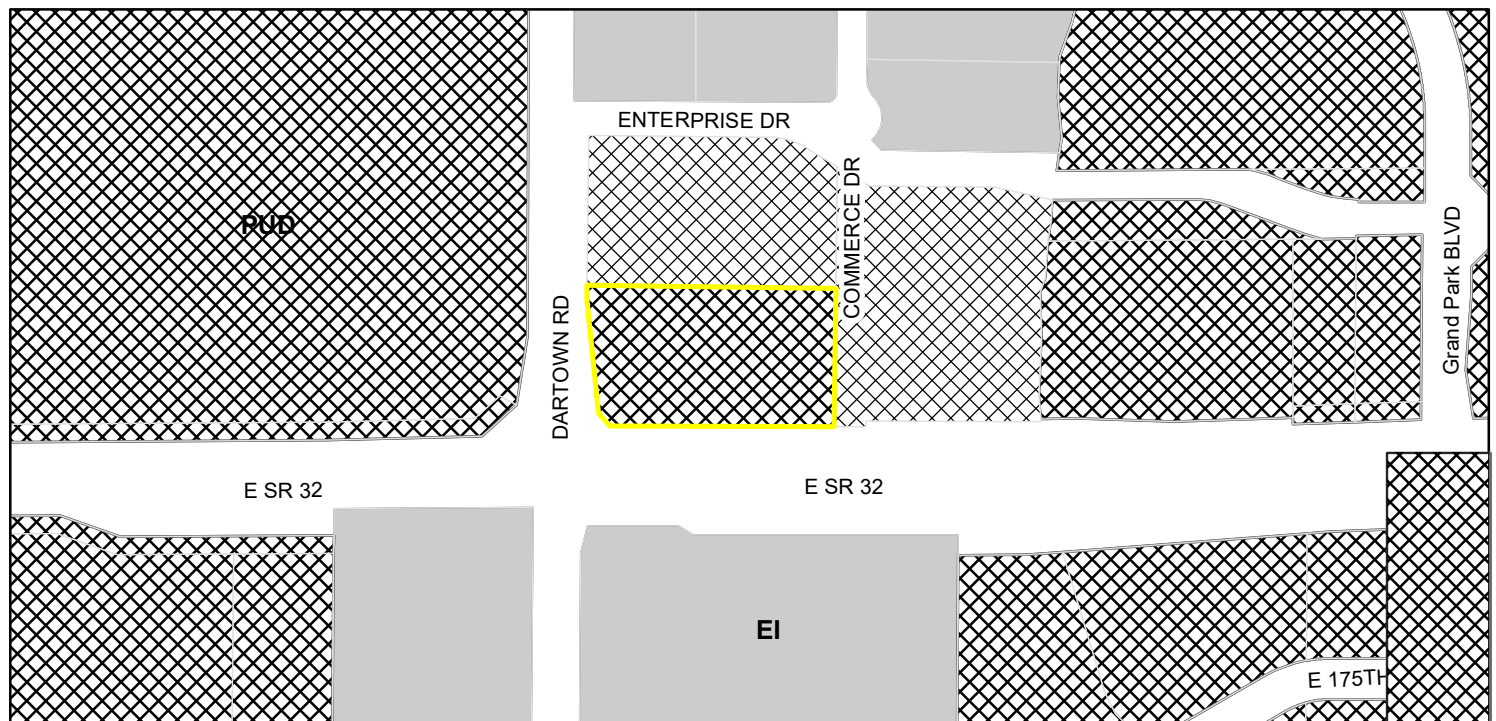
Finding: Strict adherence to the zoning ordinance would result in the inability to improve the property as proposed.

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.

Aerial Location Map



Zoning Map



Zoning

-  EI (Enclosed Industrial)
-  PUD (Planned Unit Development)

EXHIBIT D-2 WALK-UP ATM PLAN

Location: State Hwy 32 & Dawtown

Concrete slab for ATM



BMO  Financial Group
We're here to help.





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

VARIANCE APPLICATION

OFFICE USE ONLY

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Pam Howard (STAFF NAME) DATE: May 17, 2022

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: 1908-PUB-23 (Ord 19-25) AMENDMENTS: _____ DEVELOPMENT PLAN: 1907-ODP-11
PRIMARY PLAT: 1907-SPP-11 SECONDARY PLAT: _____ VARIANCE(S): X

APPLICANT INFORMATION

APPLICANT'S NAME: BMO Harris Bank N.A., a national association
ADDRESS: 111 W. Monroe Street, Ste. 3C, Chicago IL 60603
TELEPHONE: 312.907.2310 (c)
EMAIL: hettie.ensign@bmo.com

PROPERTY OWNER'S NAME: Dartown WEG, LLC, an IN limited liability company
ADDRESS: 510 East State Rd. 32, Westfield, IN 46074
TELEPHONE: 317.696.9254
EMAIL: jpohlman@williamtres.com

REPRESENTATIVE'S NAME: Sarah Nadelhoffer, Atty.
COMPANY: Bailey Borlack Nadelhoffer LLC
ADDRESS: 135 S. LaSalle St., Ste. 2800, Chicago, IL 60603
TELEPHONE: 312.259.7326 (c)
EMAIL: snadelhoffer@bbn-law.com

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 510 East State Rd. 32, Westfield, IN 46074
COUNTY PARCEL ID #(S): 09-05-35-00-00-017.000
EXISTING ZONING DISTRICT(S): Alpha Tau PUD EXISTING LAND USE(S): Commercial

PROPERTY AND PROJECT INFORMATION

☐ VARIANCE OF LAND USE CODE CITATION: _____
☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: Article 6.12(c)

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

Applicant is leasing certain premises at the subject property consisting of approximately 2,010 square feet to operate a full-service bank.

As part of the services it provides to its customers, Applicant wishes to install a walk-up ATM on a concrete pad in front of its premises, as shown on the attached drawing. An ATM is commonly contemplated for the permitted use. The goal of adding a walk-up ATM is to better serve the bank's customers and the community by offering the convenience of automatic banking transactions, while maintaining the integrity of the property's aesthetic.

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)

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__.

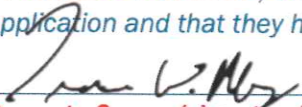
State of _____, County of _____, SS: _____

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.

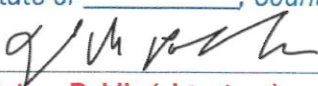

Property Owner (signature)*

Dartown WEG, LLC by Travis W. May
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 19th day of May, 2022

State of Indiana, County of Hamilton, SS: _____


Notary Public (signature)

Jesse M. Pohlman
Notary Public (printed)

JESSE M POHLMAN
Notary Public - Seal
Hamilton County - State of Indiana
Commission Number NP0698041
My Commission Expires Mar 15, 2025

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



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

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.

E-SIGNED by Hettie B Ensign
on 2022-05-20 14:22:43 GMT

Applicant/Representative (signature)

Hettie B. Ensign

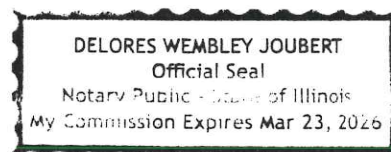
Applicant/Representative (printed)

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 20th day of May, 2022
State of Illinois, County of Cook, SS: _____

Delores Wembley Joubert
Notary Public (signature)

Delores Wembley Joubert
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)*

Property Owner (printed)

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

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

Notary Public (signature)

Notary Public (printed)

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

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: BMO Harris Bank 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 (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: A walk-up ATM will provide a convenient service (automatic banking transactions) to the community at the Property. The walk-up ATM will be designed to be attractive, will feature current, user-friendly technology, and security enhancements. The ATM facility will be designed, maintained and operated so as to improve the subject property, enhance its value, provide an important service and ensure the public safety, therefore furthering the public health, safety, morals and general welfare of the community.
- B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: A walk-up ATM will provide automatic banking transactions to the adjacent area and community. Automatic banking services are accessory to the banking use of the leased premises and compatible with the adjacent uses in that it offers a convenient service and helps to stimulate economic activity. The ATM will be designed, operated and maintained in a first-class and safe manner, and will enhance the use and value of the subject property, and adjacent area.
- C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: The applicant is seeking a permanent location in the community that will afford it sufficient space for ATM banking services. In the meantime, while it is leasing temporary space, it seeks to continue offering its customers and community the convenience of automatic banking transactions, which is also best practices for a financial institution. Therefore, applicant seeks approval of the temporary walk-up ATM at this location. An ATM is a commonly contemplated improvement for an otherwise permitted use.

GENERAL INSTRUCTIONS

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

**EXHIBIT D-2
WALK-UP ATM PLAN**

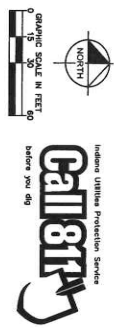
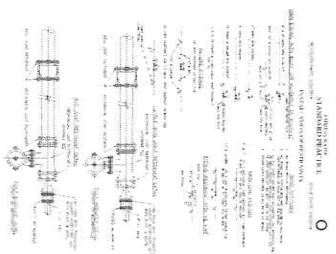
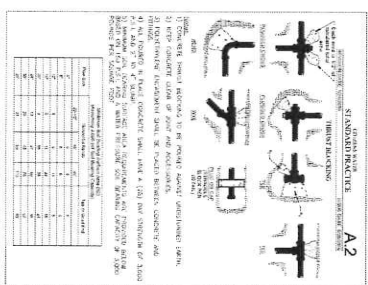
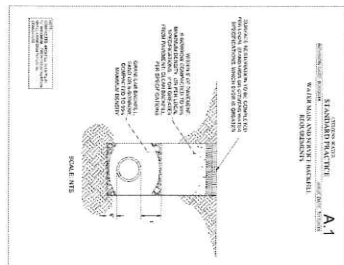
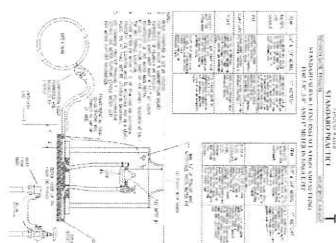
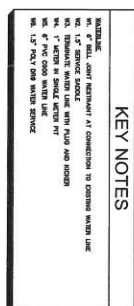
Location: State Hwy 32 & Dawtown

Concrete slab for ATM



BMO  Financial Group
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NARRATIVE STATEMENT
BMO HARRS BANK N.A. - VARIANCE APPLICATION FOR WALK-UP ATM

The applicant, BMO Harris Bank N.A. (BMO) is a national bank with over 500 branch locations in Indiana, Illinois, Wisconsin, and five (5) other states. BMO operates a branch bank at 111 East Main St., in Westfield, IN. For many years, the bank has provided personal and commercial banking services to the community from this location, including automatic banking from a walk-up ATM. As a result of an eminent domain proceeding to widen State Road 32, BMO must relocate the branch. BMO is in the process of seeking a permanent branch location for its branch in Westfield. Due to the time required to develop and build a branch bank, BMO will lease premises on a temporary basis in the Dartown Plaza Shopping Center at 508 East State Road 32, Westfield, IN. The Dartown Plaza Shopping Center is zoned commercial and a bank is a permitted use. An ATM is a commonly contemplated improvement for the permitted use. BMO is seeking a variance to permit the installation of a walk-up ATM in front of its temporary bank premises in the Dartown Plaza Shopping Center, as more fully described in its application.

2019055710 WD \$25.00
 11/06/2019 12:03:23PM 3 PGS
 Jennifer Hayden
 Hamilton County Recorder IN
 Recorded as Presented



DULY ENTERED FOR TAXATION
 Subject to final acceptance of transfer
 6th day of November 2019 - CRH
R. M. Miller Auditor of Hamilton County
 Parcel # N/P

GENERAL WARRANTY DEED

THIS INDENTURE WITNESSETH, that ALPHA TAU ENTERPRISES, LLC, an Indiana limited liability company of Hamilton County, Indiana ("Grantor"), CONVEYS AND WARRANTS to DARTOWN WEG, LLC an Indiana limited liability company, of Hamilton County, Indiana ("Grantee"), for the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following described real estate in Hamilton County, in the State of Indiana:

See legal description attached as Exhibit "A"

Parcel Identification Number: # 09-05-35-00-00-017.000
 Commonly known as: 510 E State Road 32, Westfield, IN 46074

Subject to (i) all easements, highways, rights-of-way, covenants, conditions, restrictions and other matters of record; (ii) all current, non-delinquent real estate taxes and assessments; and (iii) all matters that would be disclosed by an accurate survey or physical inspection of said real estate.

Grantor is a limited liability company duly organized under the laws of Indiana, and the person executing this deed on behalf of Grantor is the authorized Manager of Grantor. Grantor has full capacity to convey the Real Estate and all necessary limited liability company action for the making of this conveyance has been taken and done.

IN WITNESS WHEREOF, I have executed this Warranty Deed this 30th day of October, 2019 to be Effective as of 1st day of November, 2019.

GRANTOR:

ALPHA TAU ENTERPRISES, LLC, an Indiana limited liability company

BY: *William K. Millholland*
 William K. Millholland, Member
WMILLHOLLAND

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

BEFORE ME, a Notary Public in and for said County and State, personally appeared William K. Millholland, Authorized Manager of Alpha Tau Enterprises, LLC, who acknowledged the execution of the foregoing General Warranty Deed, for and on behalf of that limited liability company.

WITNESS my hand and Notarial Seal on October 30, 2019.



Christine M. O'Hara
(Signature - Notary Public)

Christine M. O'Hara
(Name - Printed or Typed)

MY COMMISSION EXPIRES:
9-21-2021

COUNTY OF RESIDENCE:
HAMILTON

Send tax statements to and Grantee's mailing address is: Dartown WEG, LLC, 3802 W. 96th Street, Suite 210, Indianapolis, IN 46268 238 N. Main St. Maxwell, IN 46154

This instrument was prepared by:

E. DAVIS COOTS • ATTORNEY NO. 3367-29 • COOTS, HENKE & WHEELER, P.C.
255 EAST CARMEL DRIVE • CARMEL, INDIANA 46032 • TELEPHONE: (317) 844-4693

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

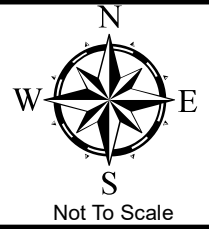
Christine M. O'Hara
Printed Name: Christine M. O'Hara

EXHIBIT A

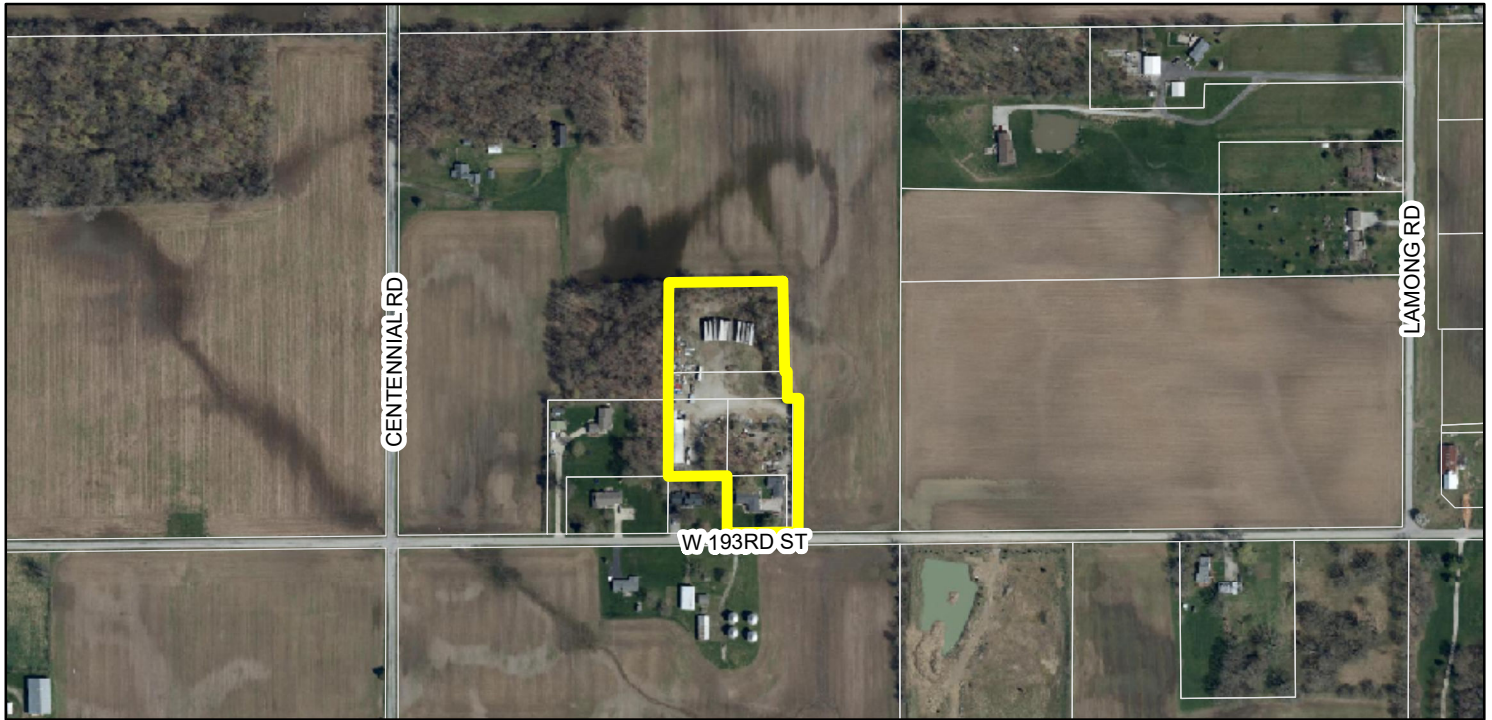
LOT 1 IN ALPHA TAU PARK LOTS 1-3, AS PER PLAT OF SAID ADDITION, RECORDED AS INSTRUMENT NO. 2019053105 IN PLAT CABINET 5, SLIDE 1054, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA.



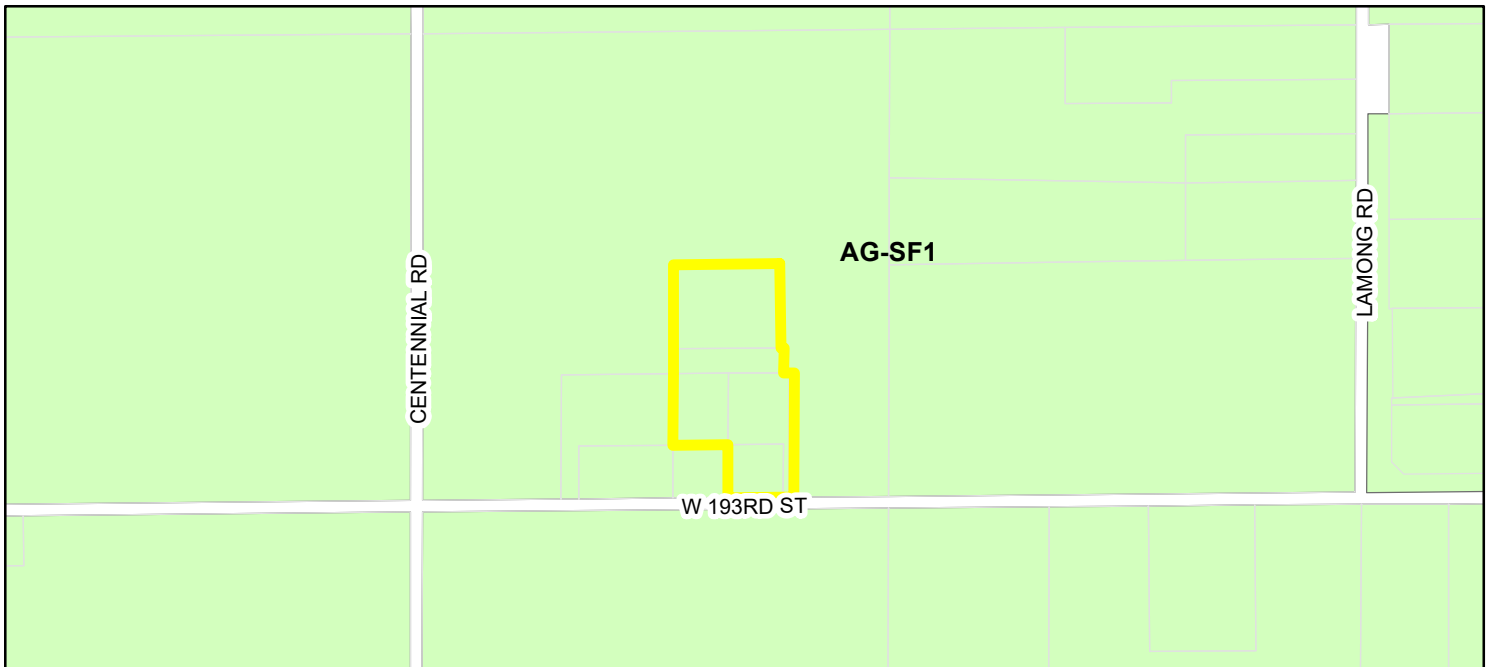
Property Location Map
Custom Concrete
2204-VU-05 & 2204-VS-14



Aerial Location Map



Zoning Map



 Site **Zoning**  AG-SF1 (Agriculture - Single Family - 1)
 Parcel



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

VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: _____ FILING DATE: _____

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Kevin Todd (STAFF NAME) DATE: _____

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: Custom Concrete Co., Inc.

TELEPHONE: _____

ADDRESS: 17241 Foundation Parkway, Westfield, IN 46074

EMAIL: _____

PROPERTY OWNER'S NAME: Joe and Betty Carr

TELEPHONE: _____

ADDRESS: 11355 E 200 N, Sheridan, IN 46069

EMAIL: _____

REPRESENTATIVE'S NAME: Gordon D. Byers, Attorney at Law

TELEPHONE: 317-773-3221

COMPANY: _____

EMAIL: gdbyers@gmail.com

ADDRESS: 298 S. 10th Street, Suite 300, Noblesville, IN 46060

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 0 Centennial Road, Westfield, IN 46074

COUNTY PARCEL ID #(S): 08-05-29-00-00-003.001, 08-05-29-00-00-003.002, 08-05-29-00-00-003.003, 08-05-29-00-00-007.000, 08-05-29-00-00-008.000, 08-05-29-00-00-009.000

EXISTING ZONING DISTRICT(S): R-1 EXISTING LAND USE(S): Outside storage of aggregate by

Custom Concrete Co., Inc.

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): _____



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317.804.3170 | nwoerner@westfield.in.gov

APPLICANT AFFIDAVIT

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

[Signature]
Applicant/Representative (signature)

Gordon D. Byers, Attorney for Applicant
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 16th day of March, 2022.
State of Indiana, County of Hamilton, SS: _____

[Signature]
Notary Public (signature)

Kelly DeFoe
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)*

Betty I. Carr
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 15th day of March, 2022.
State of Indiana, County of Hamilton, SS: _____

[Signature]
Notary Public (signature)

Christeen Hershey
Notary Public (printed)

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





Westfield Community Development
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FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: Custom Concrete Co., Inc.

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: The Applicant is committing, by separate commitment, that the land use variance shall exist no more than 18 months from the date of approval by the Westfield Board of Zoning Appeals. Commercial activity has taken place on the site prior to 1977. The property has had nonconforming activity, storage of aggregate materials, storage of concrete forms, and truck activity prior to 1977. The additional 18 month use with the commitments made by the Applicant will not substantially impact, change, or harm any properties in the immediate vicinity.
- 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 Applicant is committing, by separate commitment, that the land use variance shall exist no more than 18 months from the date of approval by the Westfield Board of Zoning Appeals. Commercial activity has taken place on the site prior to 1977. The property has had nonconforming activity, storage of aggregate materials, storage of concrete forms, and truck activity prior to 1997. The additional 18 month use with the commitments made by the Applicant will not substantially impact, change, or harm any properties in the immediate vicinity. The company has invested thousands of dollars into the developed area upon which the aggregate is stored.
- C. The need for the variance arises from some condition particular to the property involved because: The property has had pre-existing nonconforming uses prior to 1977 and the activity has a limitation of 18 months from the approval of the use variance by the Westfield Board of Zoning Appeals. The property has been actively used by Custom Concrete Co., Inc. for its aggregate and concrete construction business continuously and openly since prior to 1977.
- D. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because: The property has had pre-existing nonconforming uses prior to 1977 and the activity has a limitation of 18 months from the approval of the use variance by the Westfield Board of Zoning Appeals. The property has been actively used by Custom Concrete Co., Inc. for its aggregate and concrete construction business continuously and openly since prior to 1977.
- E. The variance of use does not interfere substantially with the Comprehensive Plan because: The Applicant is committing, by separate commitment, that the land use variance shall exist no more than 18 months from the date of approval by the Westfield Board of Zoning Appeals. Commercial activity has taken place on the site prior to 1977. The property has had nonconforming activity, storage of aggregate materials, storage of concrete forms, and truck activity prior to 1977. The additional 18 month use, with the commitments made by the Applicant, will not substantially impact, change, or harm any properties in the immediate vicinity.

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: Custom Concrete Co., Inc.

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:

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 strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because:

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.



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VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: _____ FILING DATE: _____

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Kevin Todd (STAFF NAME) DATE: _____

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: Custom Concrete Co., Inc. TELEPHONE: _____

ADDRESS: 17241 Foundation Parkway, Westfield, IN 46074 EMAIL: _____

PROPERTY OWNER'S NAME: Joe and Betty Carr TELEPHONE: _____

ADDRESS: 11355 E 200 N, Sheridan, IN 46069 EMAIL: _____

REPRESENTATIVE'S NAME: Gordon D. Byers, Attorney at Law TELEPHONE: 317-773-3221

COMPANY: _____ EMAIL: gdbyers@gmail.com

ADDRESS: 298 S. 10th Street, Suite 300, Noblesville, IN 46060

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 0 Centennial Road, Westfield, IN 46074

COUNTY PARCEL ID #(S): 08-05-29-00-00-003.001, 08-05-29-00-00-003.002, 08-05-29-00-00-003.003, 08-05-29-00-00-007.000, 08-05-29-00-00-008.000, 08-05-29-00-00-009.000

EXISTING ZONING DISTRICT(S): AG-SF1 EXISTING LAND USE(S): Outside storage of aggregate by Custom Concrete Co., Inc.

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): Continuation of pre-existing nonconforming use. Outside storage of aggregate by Custom Concrete Co., Inc. in an area of 200' x 200' and continue for a period of 18 months from the approval date and then terminating. (Conditions volunteered on separate sheet)



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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)

Gordon D. Byers, Attorney for Applicant
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 16th day of March, 2022.
State of Indiana County of Hamilton, SS: _____

[Signature]
Notary Public (signature)

Kelly DeFoe
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.

Betty I. Carr
Property Owner (signature)*

Betty I. Carr
Property Owner (printed)

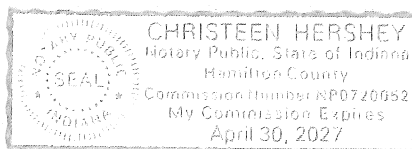
Before me the undersigned, a Notary Public in and for said County and State, personally appeared the Property Owner, who having been duly sworn acknowledged and consents to the execution of the foregoing Application.

Witness my hand and Notarial Seal this 15th day of March, 2022.
State of Indiana County of Hamilton, SS: _____

[Signature]
Notary Public (signature)

Christeen Hershey
Notary Public (printed)

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



FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: Custom Concrete Co., Inc.

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: The Applicant is committing, by separate commitment, that the land use variance shall exist no more than 18 months from the date of approval by the Westfield Board of Zoning Appeals. Commercial activity has taken place on the site prior to 1977. The property has had nonconforming activity, storage of aggregate materials, storage of concrete forms, and truck activity prior to 1977. The additional 18 month use with the commitments made by the Applicant will not substantially impact, change, or harm any properties in the immediate vicinity.
- 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 Applicant is committing, by separate commitment, that the land use variance shall exist no more than 18 months from the date of approval by the Westfield Board of Zoning Appeals. Commercial activity has taken place on the site prior to 1977. The property has had nonconforming activity, storage of aggregate materials, storage of concrete forms, and truck activity prior to 1997. The additional 18 month use with the commitments made by the Applicant will not substantially impact, change, or harm any properties in the immediate vicinity. The company has invested thousands of dollars into the developed area upon which the aggregate is stored.
- C. The need for the variance arises from some condition particular to the property involved because: The property has had pre-existing nonconforming uses prior to 1977 and the activity has a limitation of 18 months from the approval of the use variance by the Westfield Board of Zoning Appeals. The property has been actively used by Custom Concrete Co., Inc. for its aggregate and concrete construction business continuously and openly since prior to 1977.
- D. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because: The property has had pre-existing nonconforming uses prior to 1977 and the activity has a limitation of 18 months from the approval of the use variance by the Westfield Board of Zoning Appeals. The property has been actively used by Custom Concrete Co., Inc. for its aggregate and concrete construction business continuously and openly since prior to 1977.
- E. The variance of use does not interfere substantially with the Comprehensive Plan because: The Applicant is committing, by separate commitment, that the land use variance shall exist no more than 18 months from the date of approval by the Westfield Board of Zoning Appeals. Commercial activity has taken place on the site prior to 1977. The property has had nonconforming activity, storage of aggregate materials, storage of concrete forms, and truck activity prior to 1977. The additional 18 month use, with the commitments made by the Applicant, will not substantially impact, change, or harm any properties in the immediate vicinity.



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FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: Custom Concrete Co., Inc.

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 outside storage and commercial activities have taken place on the site prior to 1977. The property had nonconforming activity, the storage of aggregate material, storage of concrete forms, and truck activity continuously and ongoing prior to 1977. This 18 month commitment will not substantially be injurious to the public health, safety, morals, and general welfare of the community.

- B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: The outside storage and commercial activities have taken place on the property prior to 1977. The property had nonconforming activity, the storage of concrete forms, and truck activity continuously and ongoing prior to 1977. The 18 month commitment will not affect adjacent property in a substantially adverse manner.

- C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: _____
The property has been used as a nonconforming use pre-existing back to 1974. The 18 month restriction will allow the property to be transitioned from its continuous operation from 1974 to the present day. Without the grant of the variance would result in a practical difficulty to the property.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 14, 2022

2206-VS-20

Exhibit 1

Petition Number: 2206-VS-20

Subject Site Address: 19065 Moontown Road ("the Property")

Petitioner: Hayley Morgan ("the Petitioner")

Request: The Petitioner requests Variances of Development Standard to permit an Accessory Building in an Established Front Yard and to encroach three (3) feet into the 100 Foot Minimum Front Yard Setback on 3 acres +/- in the SF2: Single-Family Low-Density District (Articles 4.5(E)(b) & 6.1(D)(2)(a)).

Current Zoning: SF-2: Single-Family Low Density

Current Land Use: Residential

Approximate Acreage: 3 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. Building Elevations
5. Building Renderings

Staff Reviewer: Daine Crabtree, Senior Planner

OVERVIEW

Location: The subject property is 3 acres +/- in size (the "Property") and located at 19065 Moontown Road (see **Exhibit 2**).

Requested Variances: The petitioner is requesting a Variances of Development Standard to permit an Accessory Building (garage) in an Established Front Yard and for said Accessory Building to encroach three (3) feet into the 100 Foot Minimum Front Yard Setback.

SUMMARY OF VARIANCE

Article 4.5(E)(b) of the Westfield-Washington Township Unified Development Ordinance states that the Minimum Front Yard Setback for Non-Subdivision Lots along an Arterial is 100 feet. Moontown Road is considered a Secondary Arterial.



Article 6.1(D)(2)(a) of the Westfield-Washington Township Unified Development Ordinance states that for Lots Not in Subdivisions, “No Accessory Building may be erected in the Established Front Yard of a Principal Building”.

This petition proposes to permit a garage in the Established Front Yard of the Property, and for said garage to encroach three (3) feet into the 100 Foot Minimum Front Yard Setback.

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 June 14, 2022, 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.

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.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 14, 2022

2206-VS-20

Exhibit 1

Conditions: The UDO⁴ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

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 (2206-VS-20):

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

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.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 14, 2022

2206-VS-20

Exhibit 1

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 SF-2 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: The Property, being a corner lot, contains two (2) Front Yards which restricts where an Accessory Building can be placed. In addition, existing basketball and volleyball courts, mature trees and a septic field at the rear of the house make it difficult to place an Accessory Building anywhere other than where proposed.

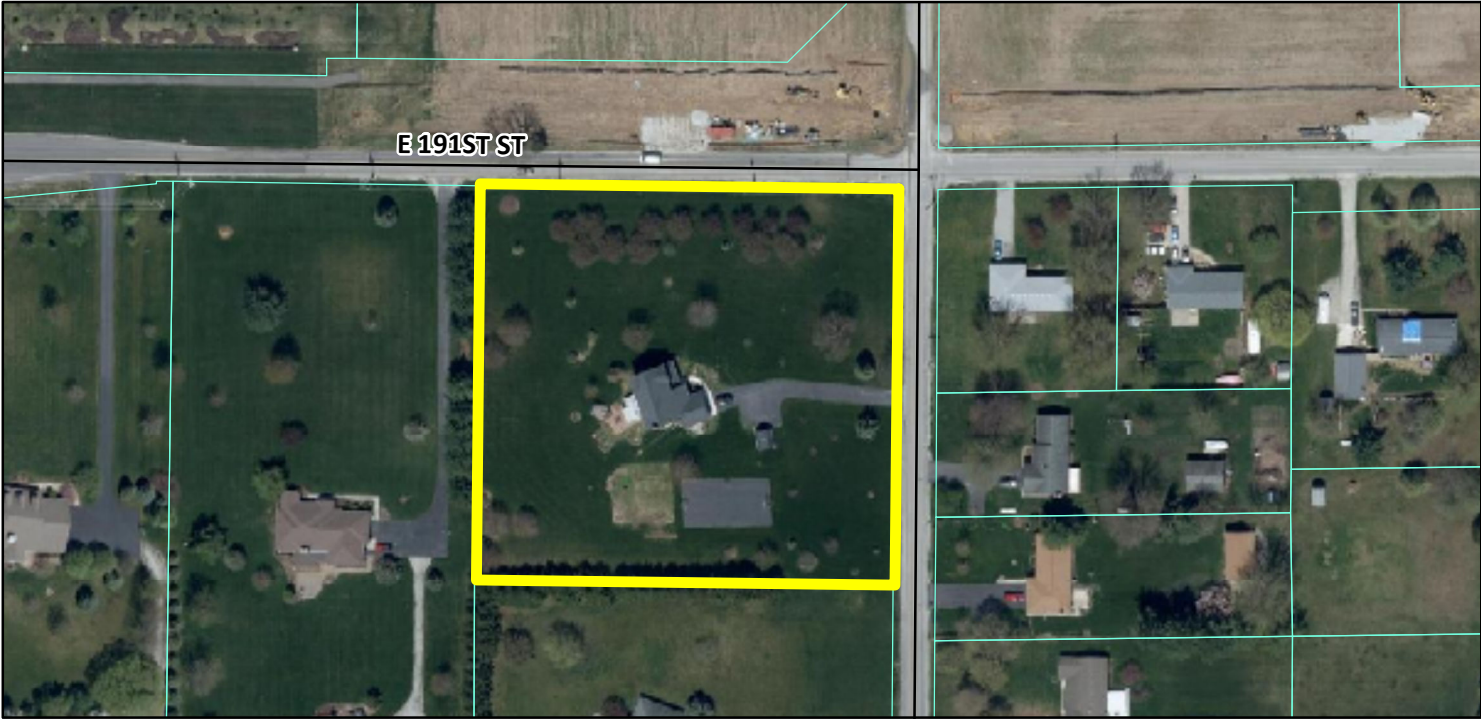
Recommended Conditions:

- That the Property be developed in substantial compliance with the Site Plan (**Exhibit 3**);
- That the variances shall only be valid for a single accessory structure in substantial compliance with Building Elevations (**Exhibit 4**); and
- 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 Community Development Department.

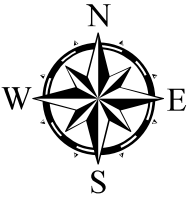
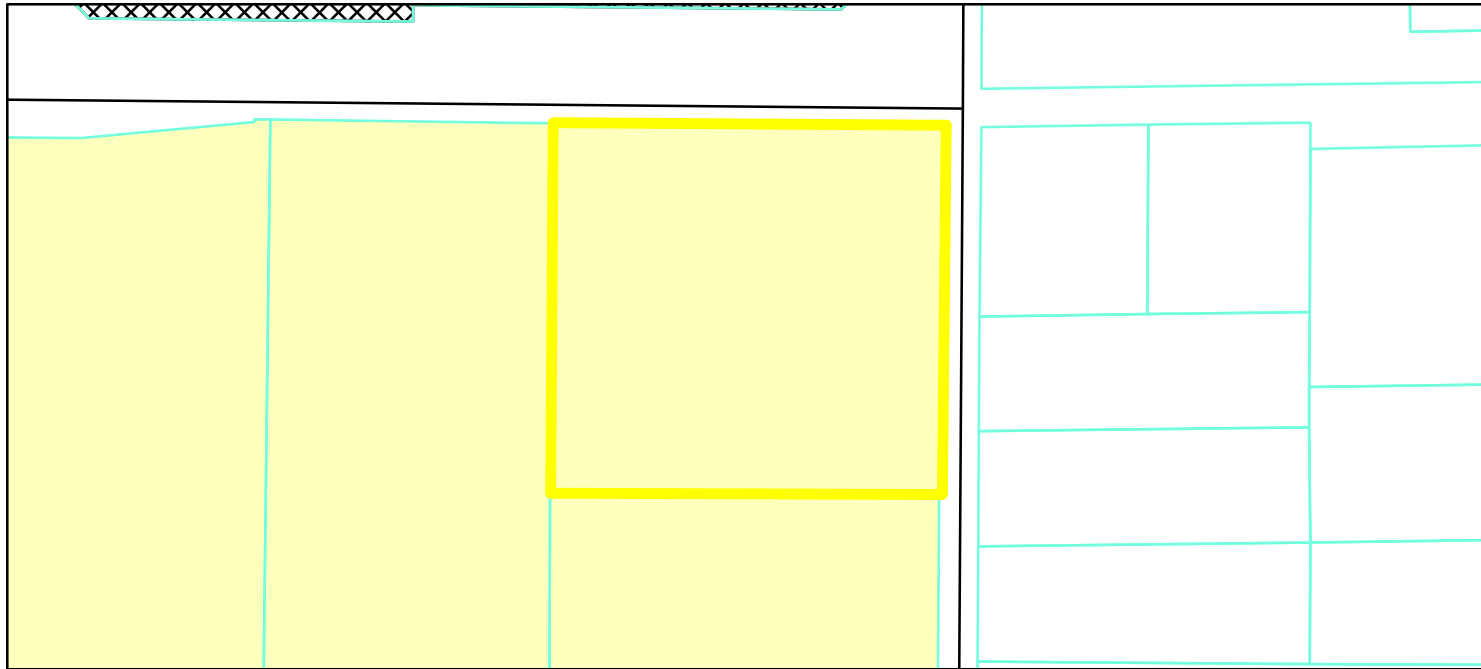
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

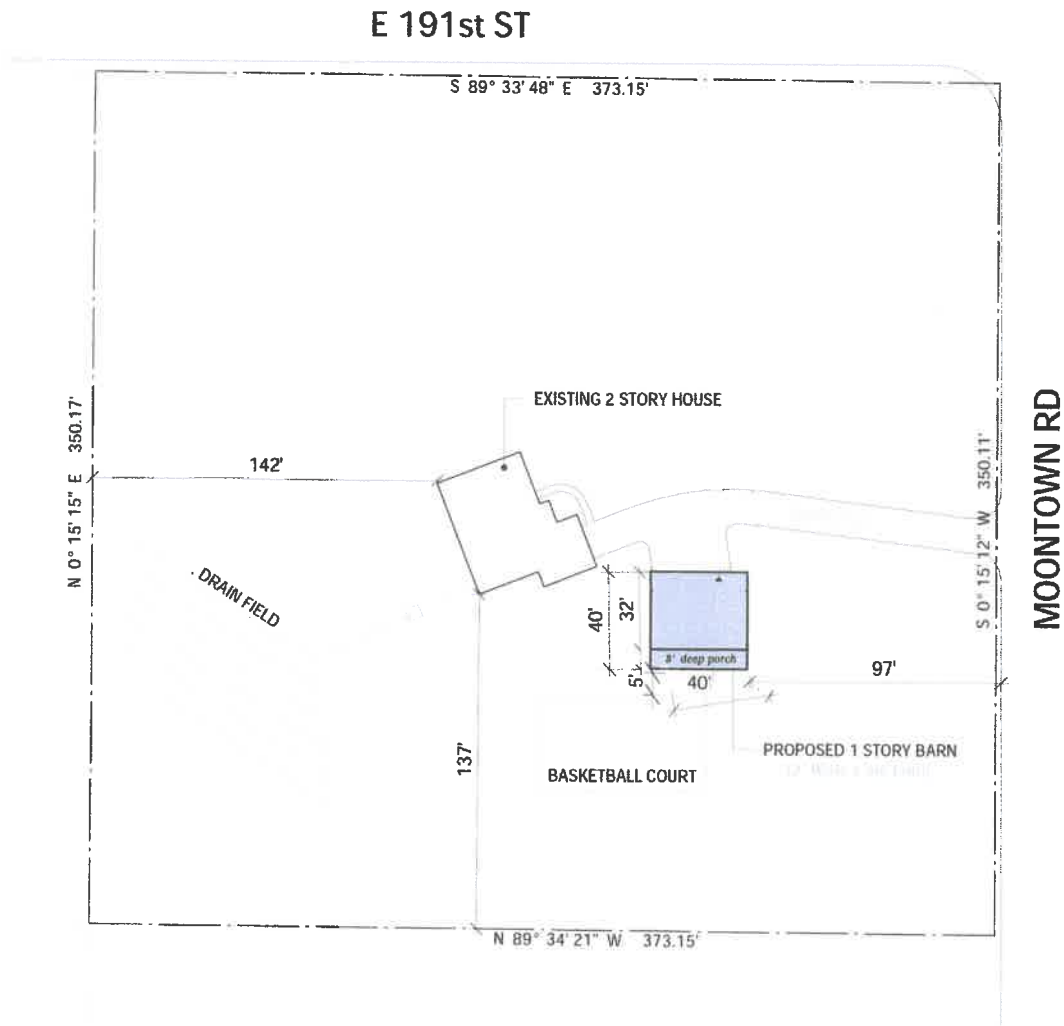
Aerial Location Map

 Site



Zoning Map



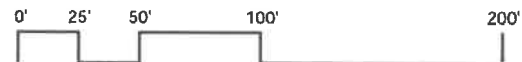


19065 Moontown
Rd, Noblesville, IN
46062

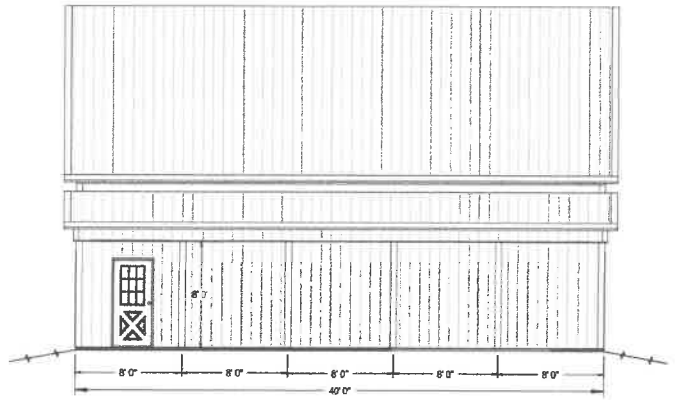
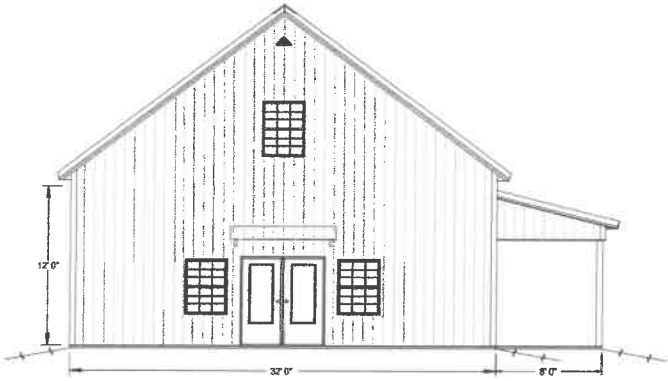
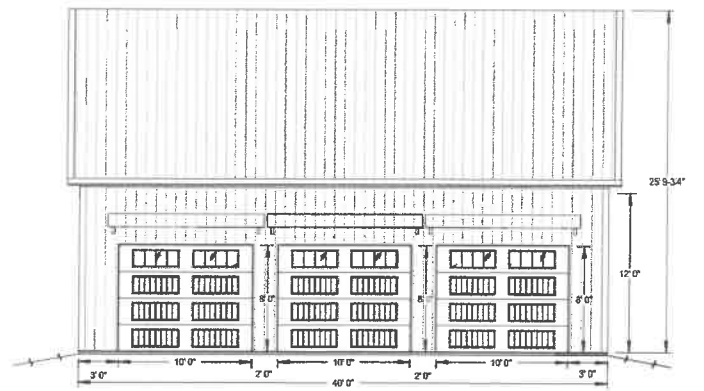
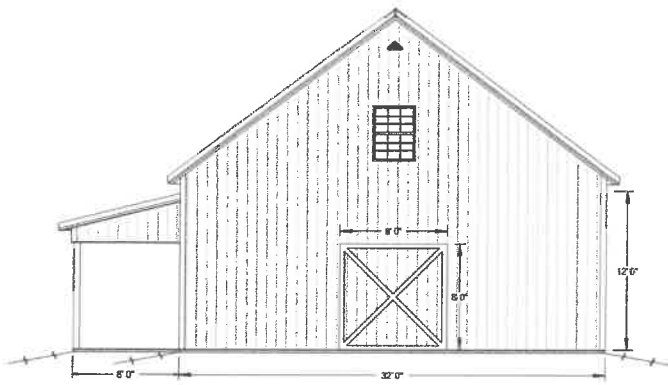
SITE PLAN

PARCEL NUMBER: 08-06-29-00-00-010
ZONE: SF-2

1" = 50'-0"

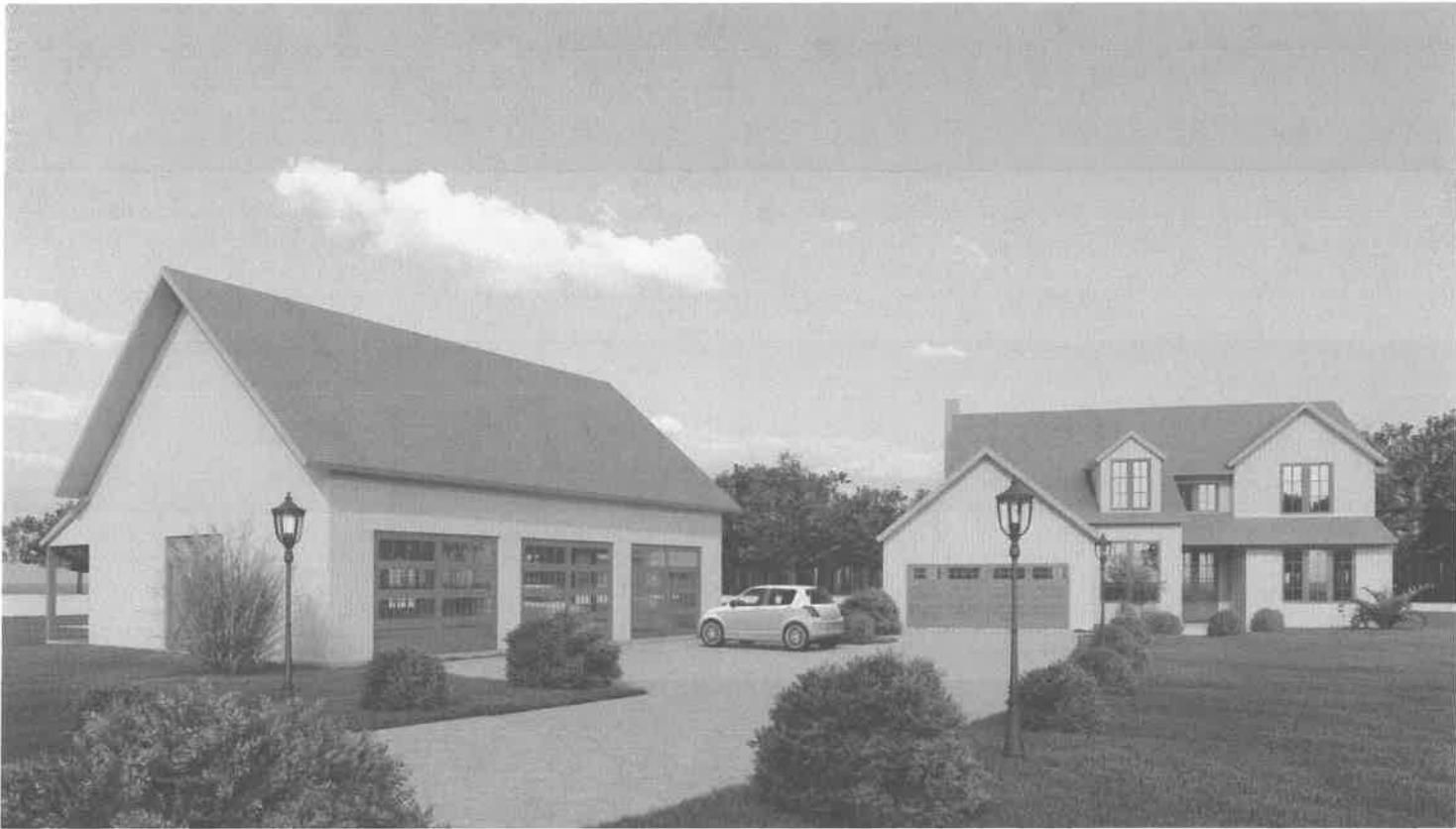


C-1







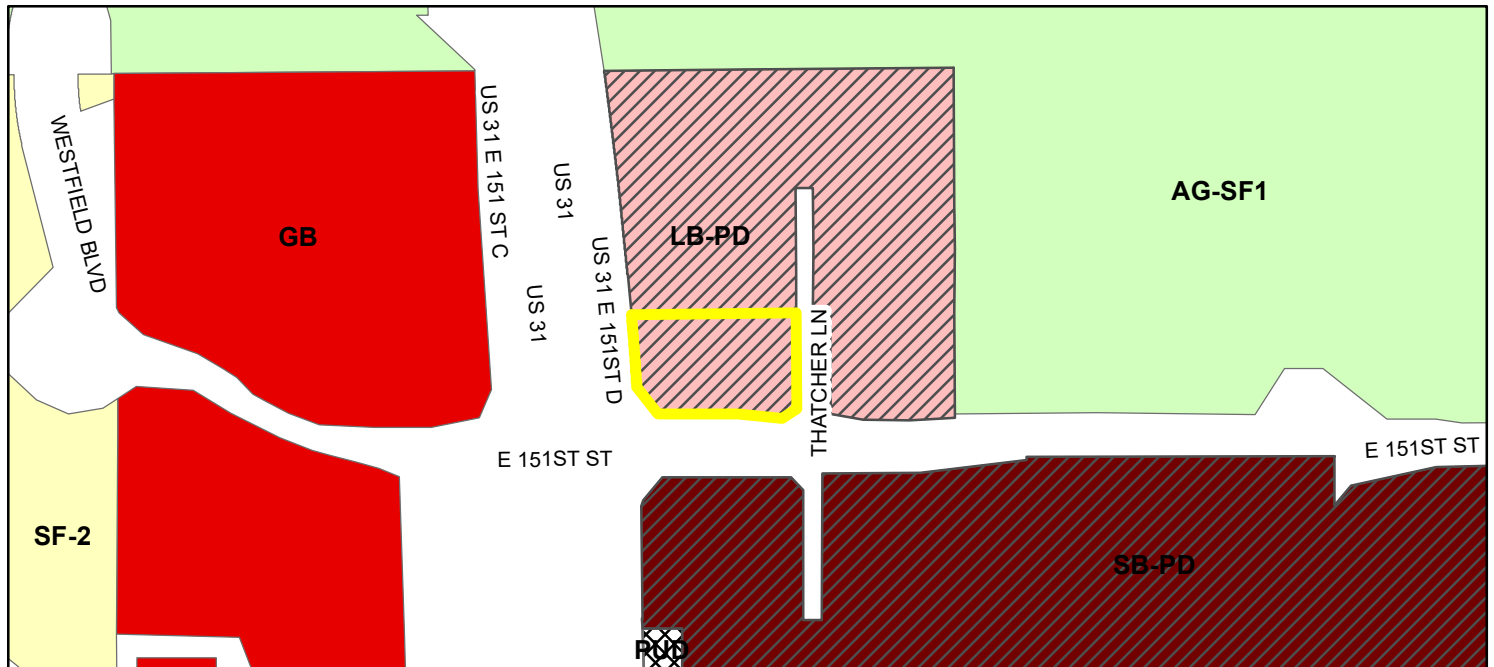


Aerial Location Map

Site



Zoning Map



SITE Zoning

AG-SF1 (Agriculture - Single Family - 1)

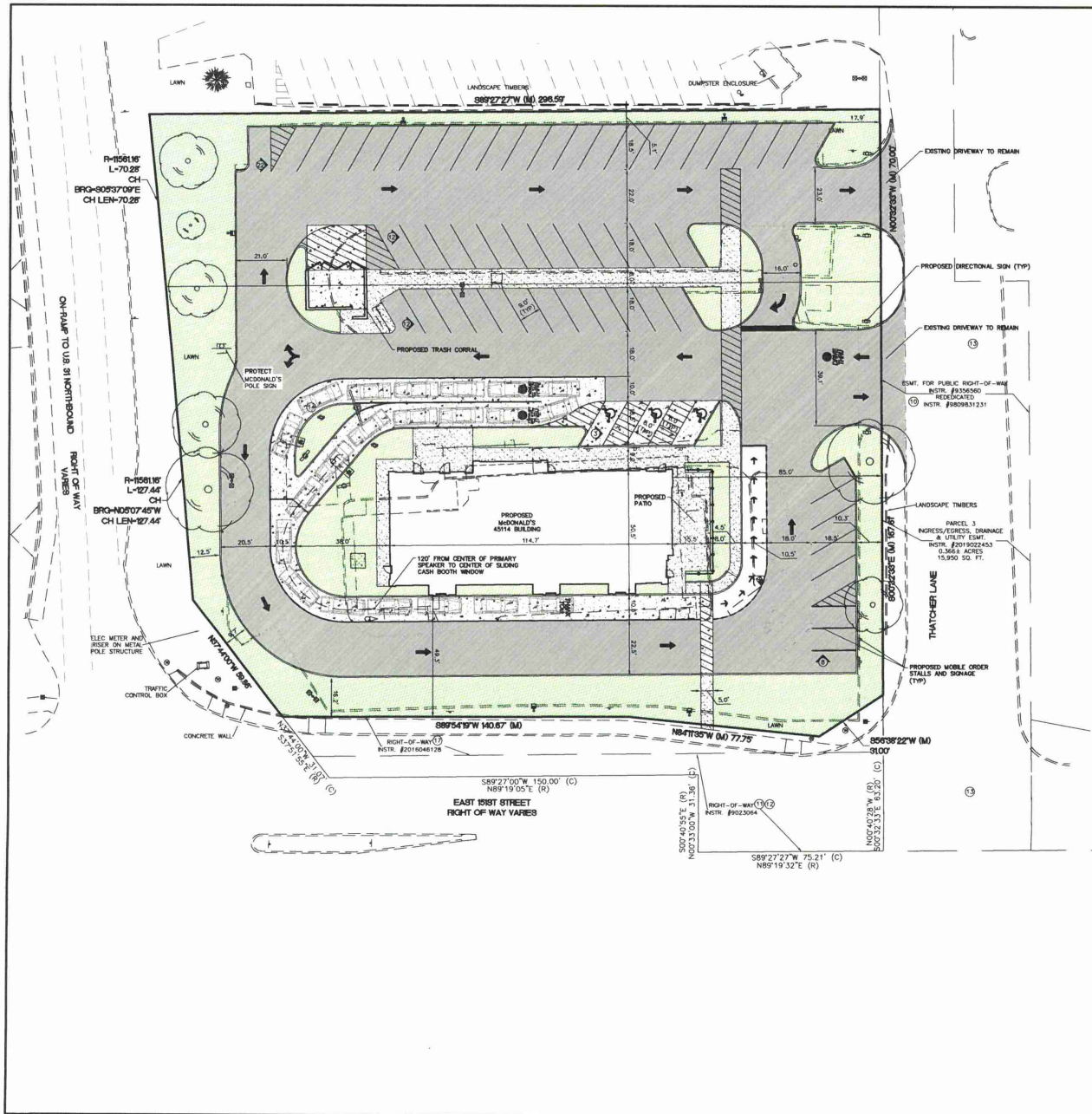
GB (General Business)

LB-PD (Local Business - Planned Development)

PUD (Planned Unit Development)

SB-PD (Special Business - Planned Development)

SF-2 (Single Family - 2)



GENERAL NOTES:
 1. THESE PLANS ARE BASED ON THE ALTA/NSPS LITS W/TOPO (SURVEY PROJECT #W903565SL DATED 6/11/20)
 PREPARED BY: WEHME ENGINEERS
 10505 N. COLLEGE AVE INDIANAPOLIS, IN
 (317) 848-5811
 2. PRIOR TO CONSTRUCTION, CONTRACTOR TO CONTACT THE DESIGN ENGINEER AND ARCHITECT TO VERIFY THAT THEY ARE WORKING FROM THE MOST CURRENT SET OF PLANS AND SPECIFICATIONS.

ON-SITE PARKING DATA
 REGULAR SPACES = 54
 ADA ACCESSIBLE SPACES = 3
 TOTAL SPACES = 57
 DRIVE THRU STACKING = 21 VEHICLES

SITE DATA
 CURRENT ZONING = LB-PD
 LOT AREA = 69,816 S.F. (1.60 AC.)
 EX. IMPERVIOUS AREA = 56,383 S.F. (1.29 AC.)
 EX. PERVIOUS AREA = 13,433 S.F. (0.31 AC.)
 PROP. IMPERVIOUS AREA = 51,854 S.F. (1.18 AC.)
 PROP. PERVIOUS AREA = 17,962 S.F. (0.41 AC.)
 PERVIOUS AREA WILL BE INCREASED BY 4,601 S.F. OR 34%

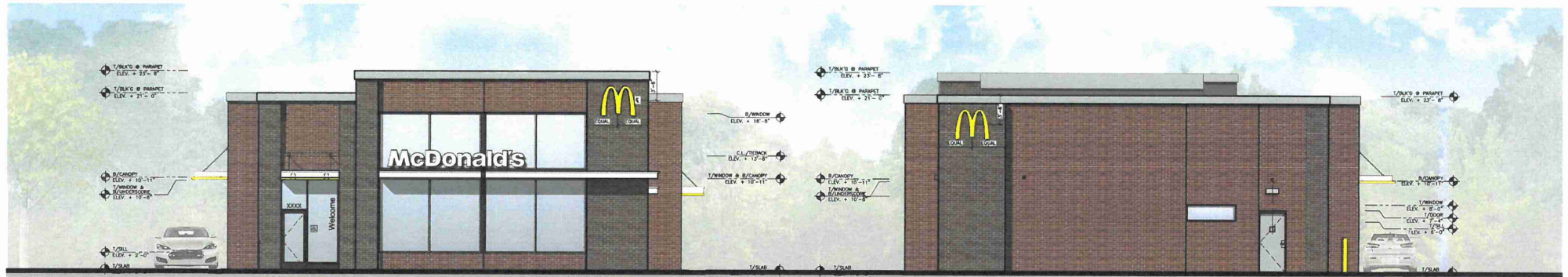
PREPARED FOR:
 McDonald's
 711 Jone Blvd., 3rd Floor
 Oak Brook, IL 60523
McDonald's - WESTFIELD, IN
 15101 Thatcher Ln
 Westfield, Indiana 46083

PREPARED BY:
 Wat & Mark Engineering Resources
 2831 Glasgow Avenue, Suite 100
 Westfield, IN 46083
 (317) 378-1800
 www.watmark-engineering.com

CHECKED BY: J. MILLER
DESIGNED BY: D. NELSON
DRAWN BY: D. NELSON
DATE: MARCH 31, 2022
SCALE: 1" = 20'
PROJECT NO.: 24-006

1 of 1
LC #13-0222

SITE PLAN 5



Front Elevation

Rear Elevation



Non-Drive-Thru Side Elevation



Drive-Thru Side Elevation

Proposed McDonald's Restaurant
Rendered Elevations
013-0222 - 15101 Thatcher Lane, Westfield, IN 46032

Materials Legend:

- Brick Medium Ironspot #77
- Brick Executive Ironspot
- Drive-Thru Metal Panel Alpolic Metal Panel by Alpolic 904 7022
- Gold Understore
- Aluminum Canopy (Metal)
- Siding (Windows + Storefront)
- Storefront Framing - Bronze
- Coping SW 7069 "Iron Ore"



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

June 14, 2022
2204-VU-05 & 2204-VS-14
Exhibit 1

Petition Number: 2204-VU-05 & 2204-VS-14

Subject Site Address: North of 193rd Street and 700 ft +/- feet east of Centennial Road (the "Property")

Petitioner: Custom Concrete Co. Inc. by Gordon Byers ("the Petitioner")

Request: The Petitioner requests a Variance of Use and Variance of Standard to permit the outdoor storage of gravel and associated materials on 4.85 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District (Article 13.2 and Article 6.12).

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

Current Land Use: Agriculture

Approximate Acreage 4.85 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. VU Application
4. VS Application

Staff Reviewer: Daine Crabtree, Senior Planner

OVERVIEW

Location: The subject Property is 4.85 acres +/- in size and is located at North of 193rd Street and 700 ft +/- feet east of Centennial (the "Property") (see **Exhibit 2**). The Property is zoned AG-SF1: Agriculture / Single-family Rural.

The Board of Zoning Appeals heard the petition at its [May 10, 2022 meeting](#). The Board denied the variances requested and tabled the adoption of its Findings of Fact until the Board's next meeting. The Board directed the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.



PROCEDURAL

ARTICLE XI: FINAL DISPOSITION OF PETITIONS¹

1. The final disposition of petitions shall set forth the findings and determinations of the Board, together with any modification, specification or limitation it makes. The Board shall make written findings of fact for all petitions that are heard.
2. The Board may dismiss a petition for lack of representation by the petitioner, or petitioner's representative, or lack of jurisdiction. If a petition is dismissed for lack of representation, then the petitioner may re-file in accordance with these rules.
3. A petitioner may request to withdraw a petition under "Other Business" on the agenda. A petition may not be withdrawn after all items in "Other Business" have been completed.
4. A petition that has been withdrawn by the petitioner or a petition that has received an adverse decision shall not be placed on the docket for consideration until six (6) months after the date of the decision.
5. In all petitions, the Board may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel. Such commitment shall be made and memorialized in accordance with Article 10.6 of the Unified Development Ordinance.
 - a. By permitting or requiring commitments, the Board does not obligate itself to approve or deny any request.
 - b. Conditions imposed on the granting of a petition are not subject to the rules applicable to commitments.
 - c. Commitments do not affect the validity of any covenant, easement, equitable servitude or other land use restriction created in accordance with the law.
 - d. Appeals to a decision made by the Board of Zoning Appeals shall follow the process prescribed in I.C. 36-7-4, 1000 Series – Remedies and Enforcement.

Denial²: Applications that are denied shall not be eligible for consideration again by the Board for a period of twelve (12) months from the date of denial.

¹ Page 12 of the Board of Zoning Appeals Rules of Procedure

² Article 10.14(E) of the UDO.



DEPARTMENT COMMENTS:

Approval: Staff recommends approval of the following written findings of fact related to the denial of 2204-VU-05:

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

Finding: The Petitioner was unable to counter or adequately respond to the testimony presented that the granting of the variances would be injurious to the public health, safety, morals, and general welfare of the community.

- 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: The Petitioner was unable to counter or adequately respond to the testimony presented that the granting of the variances would negatively impact the neighbor's property values.

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

Finding: Not permitting the variance would result in the inability to for the existing user of the Property to locate elsewhere.

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

Finding: The Petitioner was unable to counter or adequately respond to testimony presented that the denial of the variances would result in practical difficulty in the use of the subject property.

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

Finding: The proposed use would substantially interfere with the Comprehensive Plan. The Property's existing zoning, AG-SF1: Agriculture/Single-Family Rural, more closely aligns with the City's Comprehensive Plan for the Property (Rural Northwest and Northeast) versus a use with outside storage and consistent, heavy truck traffic

Approval: Staff recommends approval of the following written findings of fact related to the denial of 2204-VS-14:

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



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

June 14, 2022
2204-VU-05 & 2204-VS-14
Exhibit 1

Finding: The Petitioner was unable to counter or adequately respond to the testimony presented that the granting of the variances would be injurious to the public health, safety, morals, and general welfare of the community.

- 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: The Petitioner was unable to counter or adequately respond to the testimony presented that the granting of the variances would negatively impact the neighbor's property values.

- 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 not result in practical difficulty. Although the use of the Property for outdoor storage and transportation of gravel was occurring at the time of the variances' denial, said use was operating after the expiration of a previous variance to permit such activity. The property may still be used for permitted uses for AG-SF1 zoning which would also more closely align with the City's Comprehensive Plan and the existing surrounding area.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 14, 2022
2205-VU-09 & 2205-VS-17
Exhibit 1

Petition Number: 2205-VU-09 & 2205-VS-17

Subject Site Address: 15100 Thatcher Lane ("the Property")

Petitioner: McDonald's Corporation ("the Petitioner")

Representative: Ice Miller LLP / Timothy E. Ochs

Request: The Petitioner requests a Variance of Use to permit a fast-food restaurant (Article 13.2) and multiple Variance of Development Standards to increase the distance between facade offsets, permit metal awnings, and permit a dumpster enclosure in the Established Front Yard (Articles 6.3(F)(5)(b), 6.3(F)(10)(d), & 6.1(H)(2)) on 1.6 acres +/- in LB-PD: Local Business - Planned Development District

Current Zoning: LB-PD: Local Business – Planned Development District

Current Land Use: Commercial

Approximate Acreage: 1.6 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. Building Elevations
5. Statement of Intent

Staff Reviewer: Ryan Collingwood, Associate Planner

OVERVIEW

Location: The subject property is 1.6 acres +/- in size and is located at 15100 Thatcher Lane, (see **Exhibit 2**). The Property is zoned the LB-PD: Local Business – Planned Development District. All the adjacent properties are also zoned the LB-PD District, except across E. 151st street to the south, where the designated zoning is the SB-PD District (also see **Exhibit 2**).

Property History: The Board of Zoning Appeals granted a Special Exception (80-SE-10) on May 29, 1980 to permit operation of a restaurant and signage requirements. The Special Exception was amended on April 20, 1981 to permit a change of building design and parking layout. The existing restaurant on site has been conducting business on the property for approximately 40 years.

Requested Variances:



- a. The Petitioner is requesting a Variance of Use to permit the use of a fast-food restaurant in the LB-PD: Local Business – Planned Development District, as “Restaurant, Fast Food” is not currently a permitted use in the designated zoning district (LB: Local Business).
- b. The Petitioner is requesting multiple Variance of Development Standards to increase the distance between facade offsets, permit metal awnings, and permit a dumpster enclosure in the Established Front Yard.

SUMMARY OF VARIANCES

Variance #1: Variance of Use (Article 13.2): The petitioner requests “Restaurant, Fast Food” be a permitted use in the LB-PD: Local Business – Planned Development District.

Variance #2: Architectural Standards (Article 6.3): The petitioner requests that the standards of Article 6.3(F)(5)(b) not apply to the north elevation of the building.

Article 6.3(F)(5)(b) Architectural Standards; Business Districts; Building Elevations; Wall Planes: Building Facades, which are ninety (90) feet or greater in length, shall be designed with offsets (projecting or recessed) at intervals of not greater than sixty (60) feet. Buildings less than ten thousand (10,000) square feet in Gross Floor Area shall be designed with offsets at interval of not greater than forty (40) feet. Offsets shall extend the entire vertical plane of the Building Facade and shall be a minimum depth of four (4) feet and a minimum aggregate length of twenty percent (20%) of the horizontal plane of the overall Building Facade. The offset may be met with setbacks of the Building Facade and/or with architectural elements (i.e. arcades, columns, ribs, piers, and pilasters), if such architectural elements meet the minimum offset requirements of this requirement.

Many of the building’s internal elements would be affected by the compliant offset length, creating practical difficulties. The need for a variance is necessary to complete the internal elements of the restaurant so they are utilized to their fullest potential.

Variance #3: Architectural Standards (Article 6.3): The Petitioner requests that the standards of Article 6.3(F)(10)(d) not apply to the property.

Article 6.3(F)(10)(d) Architectural Standards; Business Districts; Awnings: Metal or aluminum awnings are prohibited.

The building on the Property proposes use of metal awnings that are consistent and attractive with the building’s overall architectural design.



Variance #4: Article 6.1 Accessory Use and Building Standards; Screening of Receptacles and Loading Areas: The petitioner requests that Article 6.1(H)(2) not apply to the property.

Article 6.1(H)(2): Enclosures shall not be located in an Established Front Yard or in any Required Side or Rear Yard.

The Property's location on US 31, 151st Street, and Thatcher Lane results in the Property having three (3) Front Yards. Therefore, the only option with the site layout is to place the dumpster enclosure on the north side of the building.

COMPREHENSIVE PLAN

The Future Land Use Plan in the Westfield-Washington Township Comprehensive Plan (the "Comprehensive Plan") identifies the properties as "Regional Commercial". The existing commercial center meets many of Comprehensive Plan's development policies for this area, including, but not limited to: (i) Reserve exclusively for regional commercial development; (ii) Permit regional commercial uses only in planned centers with consistent design and architectural style for each center; (iii) require that buildings be designed to enhance the community character; and (iv) required the size, materials, color, and design of buildings to be unique to Westfield. 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 Use and Variance of Development Standard. This petition is scheduled to receive its public hearing at the June 14, 2022, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

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

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 14, 2022
2205-VU-09 & 2205-VS-17
Exhibit 1

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 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.

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

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 14, 2022
2205-VU-09 & 2205-VS-17
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.

DEPARTMENT COMMENTS:

Approval: If the Board finds that adequate evidence is shown that the Variance of Use and Variance of Development Standard meet the applicable review criteria, then the Department recommends approval of 2205-VU-09 & 2205-VS-17, with the recommended conditions and findings as set forth below:

Recommended Conditions of Approval:

1. The dumpster location be developed in substantial compliance with the Site Plan (**Exhibit 3**) as determined by the Director of the Westfield Department of Community Development;
2. That only the north façade be tied to the Statement of Intent (**Exhibit 5**) regarding minimized façade offsets where it states “On the north side, a bump out is provided, but an interval of approximately 50’-8” exists, which is 10’-8” longer than permitted, which is needed to align seating and the front counter.”;
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 Variance of Use (2205-VU-09):

- 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 the proposed use will be injurious to the public health, safety, morals, and general welfare of the community. The Real Estate is surrounded by other business uses and it is not directly adjacent to any residential use. The existing restaurant has provided a business and service for the community for about 40 years. Therefore, the proposed use should not have any negative impacts to 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.*



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 14, 2022
2205-VU-09 & 2205-VS-17
Exhibit 1

FINDING: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner as the proposed use is abutting other business uses. The adjacent properties to the Real Estate are also not abutting any residential districts. The property is surrounded by other similar uses, such as other fast food restaurants and gas stations. Therefore, the proposed use should not have any negative impacts to the adjacent properties.

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

FINDING: The existing Fast Food restaurant has been conducting business on the property for around 40 years. The current zoning ordinance does not allow the classification of "Restaurant, Fast Food" to be conducted on properties designated with the LB-PD zoning district. A Use Variance is needed for the property to continue to legally conduct business on-site with the new proposed McDonald's prototype.

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

FINDING: Strict application of the terms of the zoning ordinance will result in practical difficulties due to the inability of the restaurant to be able to legally conduct business on the property due to the LB-PD zoning classification not permitting the use classification of Restaurant, Fast Food.

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

FINDING: The Westfield-Washington Comprehensive Plan (the "Comprehensive Plan") includes this Property in the area designated as "Regional Commercial." The proposed use is consistent with the appropriate land uses shown in the Comprehensive Plan. The request does not substantially interfere 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.

Recommended Findings for Approval of Variance of Standards (2205-VS-17):

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 14, 2022
2205-VU-09 & 2205-VS-17
Exhibit 1

FINDING: It is unlikely that approving the requested variance(s) would be injurious to the public health, safety, morals, and general welfare of the community because the use of the property will not change and all applicable safety requirements will be met.

- 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 variance(s) should not have a negative impact on surrounding properties because it will allow the property to be improved from its current condition without a change in use.

- 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 from its current state and would result in the property remaining in its current condition.

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.

EXHIBIT A

Statement of Intent

The existing McDonald's Restaurant on the property was built approximately 40 years ago. This existing building is reaching the end of its useful life and needs to be replaced. Not only is the architecture dated, but the store does not operate as efficiently as it could. Such inefficiencies cause increased waiting times for customers, including those in the drive-thru, as well as conflicts with deliveries and pedestrians. The applicant intends to demolish the existing building and replace it with the current prototype McDonald's restaurant. Due to changes to the Westfield zoning ordinance since the restaurant was built, however, the restaurant is no longer a permitted use, and demolition of the building will cause the legally established nonconforming use to terminate. As a result, the proposed demolition and rebuild requires a use variance. In addition, the property fronts on three different rights-of-way and is smaller than when the existing restaurant was originally constructed due to condemnations over the years for the rights-of-way for 151st Street and, in particular, US 31. As a consequence, the applicant is requesting the following variances of development standards:

1. Section 6.3(F)(5)(b) requires building facades that are greater than 90 feet in length be designed with offsets at intervals of not greater than 40 feet for buildings less than 10,000 square feet. On the north side, a bump out is provided, but an interval of approximately 50'-8" feet exists, which is 10'-8" feet longer than permitted, which is needed to align seating and the front counter.
2. Section 6.3(F)(10)(d) prohibits metal awnings. Metal awnings are proposed that are consistent with the building's architecture.
3. Section 6.1(H)(2) prohibits trash enclosure from being located in an Established Front Yard. The proposed trash enclosure extends into the Established Front Yard due to the fact that the property fronts on three rights-of-way and, therefore, has three Established Front Yards.



Westfield-Washington Township Board of Zoning Appeals (BZA)

Minutes of the Tuesday, May 10, 2022 BZA Meeting

Presented for approval: June 14, 10, 2022

The Westfield-Washington Township Board of Zoning Appeals
met at 7:00 p.m. on Tuesday, May 10, 2022 at Westfield City Hall.

Active Links for this Meeting:

[May 10, 2022 BZA Agenda & Exhibits](#)

[May 10, 2022 YouTube Video](#)

OPENING OF MEETING

[YouTube Time: 0:48](#)

Roll Call

BZA Members Present In-Person: Jeff Boller, Victor McCarty, and Dave Schmitz.
BZA Member Brian Morales resigned prior to this meeting.

BZA Members Present Virtually: None

BZA Members Absent: Jeannine Fortier.

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

City Staff Present Virtually: None

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

APPROVAL OF MINUTES

Boller motioned to approve the April 12, 2022 Minutes.

McCarty seconded. Motion passed. Vote 3-0.

REVIEW RULES AND PROCEDURES

Crabtree reviewed BZA rules and procedures.

ITEMS OF BUSINESS

2205-VS-18 [PUBLIC HEARING]

[YouTube Time: 3:26](#)

833 East Tournament Trail / Star Financial Bank by Sign Art, LLC

The Petitioner requests a Variance of Development Standard to increase the maximum allowable sign area from one (1) square foot of sign area per one (1) linear foot of building fronting a public Right-of-Way to (2.3) square feet within the Wheeler Landing PUD District.

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

Staff presentation / Petitioner presentation.

Public Hearing for 2205-VS-18 opened at 7:10 p.m.

- No public comments.

Public Hearing for 2205-VS-18 closed at 7:11 p.m.

Petitioner response / BZA comments / Staff Responses.

McCarty motioned to approve 2205-VS-18 subject to the two recommended conditions stated in the motion.

Boller seconded. Motion passed. Vote 3-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2205-VS-18.

Boller seconded. Motion passed. Vote 3-0.

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2205-VS-15 [PUBLIC HEARING][YouTube Time: 16:26](#)**14621 Parkhurst Drive / Elizabeth Lehr Stetzer**

The Petitioner requests a Variance of Development Standard to encroach six (6) feet into the twenty-five (25) foot Minimum Rear Yard Setback on 0.27 acres +/- in the Centennial South PUD District to accommodate a swimming pool and deck.

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

Staff presentation

Public Hearing for 2205-VS-15 opened at 7:17 p.m.

- No public comments.

Public Hearing for 2205-VS-15 closed at 7:18 p.m.

BZA comments / Petitioner responses.

Boller motioned to approve 2205-VS-15 subject to the recommended condition stated in the motion.

McCarty seconded. Motion passed. Vote 3-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2205-VS-15.

McCarty seconded. Motion passed. Vote 3-0.

2205-VS-16 [PUBLIC HEARING][YouTube Time: 21:19](#)**223 Genesis Drive Count / Angelica Galtier-Ross**

The Petitioner requests a Variance of Development Standard to encroach ten (10) feet into the thirty (30) foot Minimum Rear Yard Setback on 0.34 acres +/- in the SF2: Single-Family Low-Density District to accommodate a swimming pool and deck.

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

Staff presentation.

Public Hearing for 2205-VS-16 opened at 7:22 p.m.

- No public comments.

Public Hearing for 2205-VS-16 closed at 7:24 p.m.

BZA comments / Petitioner responses.

McCarty motioned to approve 2205-VS-16 subject to the two recommended conditions stated in the motion.

Boller seconded. Motion passed. Vote 3-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2205-VS-16.

Boller seconded. Motion passed. Vote 3-0

2205-VU-08 [PUBLIC HEARING][YouTube Time: 26:02](#)**17821 Joliet Road / Matthew Schiller**

The Petitioner requests a Variance of Use to permit a private athletic training facility on 6.62 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District (Article 13.2)

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

Staff presentation / Petitioner presentation.

Public Hearing for 2205-VU-08 opened at 7:32 p.m.

- Four public comments.

Public Hearing for 2205-VU-08 closed at 7:42 p.m.

BZA comments / Petitioner responses.

Schmitz motioned to table 2205-VU-08 to a future meeting.

McCarty seconded. Motion passed. Vote 3-0.

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2204-VU-05 & 2204-VS-14 [PUBLIC HEARING]

[YouTube Time: 1:12:48](#)

North of 193rd Street, approximately 700 feet east of Centennial Road / Custom Concrete by Gordon D. Byers

The Petitioner requests a Variance of Use and a Variance of Development Standard to permit the outdoor storage of gravel and associated materials on 4.85 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District. (Article 13.2 and Article 6.12)

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

(Presenter: Planner: Kevin Todd – ktodd@westfield.in.gov)

Petitioner remarks / Staff remarks / Staff presentation

Public Hearing for 2204-VU-05 & 2204-VS-14 opened at 8:26 p.m.

- Thirteen (13) public comments.

Public Hearing for 2204-VU-05 & 2204-VS-14 closed at 9:31p.m.

Petitioner responses.

McCarty motioned to deny 2204-VU-05 & 2204-VS-14.

Boller seconded. Motion passed. Vote 3-0.

Schmitz motioned to table consideration of Staff's Findings of Fact for 2204-VU-05 & 2204-VS-14 to the next BZA meeting.

Boller seconded. Motion passed. Vote 3-0

ITEMS CONTINUED TO A FUTURE MEETING

2202-VU-02 [TABLED]

2907 West SR 32 / Alan Hodgeson

The Petitioner requests a Variance of Use to permit a temporary Very High Intensity Retail (used vehicle sales) use on 1.50 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District.

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

REPORTS/COMMENTS:

[YouTube Time: 2:51:22](#)

- Plan Commission Liaison
- Community Development Department

ADJOURNMENT

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

The meeting adjourned at 9:53 p.m.

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Signature Page for BZA Minutes for April 12, 2022

Chairperson
Dave Schmitz

Secretary
Kevin M. Todd, AICP
Director