



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_06_13_2023

Tuesday, June 13, 2023 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, June 13, 2023 at 07:00 PM

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

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

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

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

Announce Any Changes to the Agenda

Approval of Minutes

BZA Minutes - May 16, 2023

Documents: [BZA Minutes - May 16, 2023](#)

Review Rules & Procedures

ITEMS OF BUSINESS:

2306-VU-05 & 2306-VS-13 [PUBLIC HEARING]

17728 Sun Park Drive

Direct Repair Collision by Church, Church, Hittle + Antrim

**The Petitioner requests a Variance of Use to permit an Automotive Refurbishing Business and a Variance of Development Standard for the US Highway 31 Overlay District development standards exemption to be inapplicable to the 4.32 acre +/- Property in the Enclosed Industrial (EI) zoning district (Articles 5.2(L) and 13.2)
(Planner: Weston Rogers - wrogers@westfield.in.gov)**

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Statement of Intent](#) | [Exhibit 4: Petitioner Response to Staff Questions](#) | [Exhibit 5: Application](#)

2306-VU-06 [PUBLIC HEARING]

235 Penn Street

Stellhorn Equity, LLC

The Petitioner requests a Variance of Use to permit Low-Intensity Retail (Beauty Salon) and a Professional Office Use on 0.3 acres +/- in the SF3: Single-Family Medium Density District (Article 13.2)

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

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

2306-VS-10 [PUBLIC HEARING]

15383 Whistling Lane

Dennis and Kristy Murphy

The Petitioner requests a Variance of Development Standard to encroach eleven (11) feet into the thirty-five (35) foot Minimum Rear Yard Setback on 0.66 acres +/- in the Bridgewater PUD District to accommodate the installation of a swimming pool and deck

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

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

2306-VS-11 [PUBLIC HEARING]

15326 Holcombe Drive

Jim & Jill Fennell

The Petitioner requests a Variance of Development Standard to encroach eight (8) feet into the twenty (20) foot Minimum Rear Yard Setback on 0.16 acres +/- in the Harmony PUD District to accommodate a swimming pool and deck.

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

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

2306-VS-12 [PUBLIC HEARING]

Freemont Moore Road, ¼ Mile South of E. 206th Street

Stephen M. Bell, Jr. by Church, Church, Hittle + Antrim

The Petitioner requests a Variance of Development Standard to modify Minimum Lot Frontage standards for the development of two (2) residential lots on 10.83 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(D))

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

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

2306-VS-14 [PUBLIC HEARING]

14933 Thatcher Lane

CBRE Group, Inc. by NELO Arch., Inc

The Petitioner requests a Variance of Development Standard to encroach fifteen (15)

feet into the forty-five (45) foot Minimum Side Yard Setback as required by the US Highway 31 overlay District to accommodate the redevelopment of a 0.95 acre +/- Property in the SB-PD: Special Business Planned Development District (Article 5.2(E) (4) as applied to Article 4.22(B))

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

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

2306-VS-15 [PUBLIC HEARING]

1290 Hartswick Court

Henke Development Group, LLC

The Petitioner requests a Variance of Development Standard to encroach six (6) feet into the twenty-five (25) foot Minimum Rear Yard Setback on 0.16 acres +/- in the Chatham Hills PUD District to accommodate a single-family residence with an attached garage.

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

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

ITEMS CONTINUED TO A FUTURE MEETING

No Continued Items.

REPORTS/COMMENTS:

Plan Commission Liaison

Community Development Department

ADJOURNMENT



Westfield-Washington Township Board of Zoning Appeals (BZA)

Minutes of the Tuesday, May 16, 2023 BZA Meeting

Presented for approval: June 13, 2023

The Westfield-Washington Township Board of Zoning Appeals
met at 7:00 p.m. on Tuesday, May 16, 2023 at Westfield City Hall.

Active Links for this meeting:

[May 16, 2023 BZA Agenda & Exhibits](#)

[May 16, 2023 BZA YouTube Video](#)

OPENING OF MEETING

[YouTube Time: 0:29](#)

ROLL CALL

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

BZA Members Present Virtually: None.

BZA Members Absent: None.

City Staff Present: Daine Crabtree, Senior Planner; Lauren Gillingham, Senior Planner; and Weston Rogers, Associate Planner.

City Staff Present Virtually: None

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

APPROVAL OF MINUTES

Boller motioned to approve the April 11, 2023 Minutes.
McCarty seconded. Motion passed. Vote 5-0.

REVIEW RULES AND PROCEDURES

Crabtree reviewed BZA rules and procedures.

ITEMS OF BUSINESS

2304-VS-06 [PUBLIC HEARING]

[YouTube Time: 3:17](#)

235 Penn Street / Stellhorn Equity, LLC

The Petitioner requests Variances of Development Standard to permit a temporary gravel parking lot without surfacing or curbing on 0.3 acres +/- in the SF3: Single-Family Medium Density District (Article 6.14(G)(7)(a) and 6.14(G)(7)(b)).

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

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

Public Hearing for 2304-VS-06 opened at 7:09 p.m.

- One public comment.

Public Hearing for 2304-VS-06 closed at 7:12 p.m.

BZA comments & questions / Petitioner response.

McCarty motioned to approve 2304-VS-06 subject to the recommended conditions stated in the motion.

Fortier seconded. Motion passed. Vote 5-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2304-VS-06.

Hatfield seconded. Motion passed. Vote 5-0.

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

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

2305-VS-07 [PUBLIC HEARING]

[YouTube Time: 26:36](#)

2934 Buchanan Lane / Vernon Reizman

The Petitioner requests a Variance of Development Standard to encroach five (5) feet into the twenty (20) foot Minimum Rear Yard Setback on 0.25 acres +/- in the Claiborne Farms by Del Webb PUD District to accommodate a smart pergola.

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

Staff presentation.

Public Hearing for 2305-VS-07 opened at 7:27 p.m.

- No public comments.

Public Hearing for 2305-VS-07 closed at 7:29 p.m.

BZA comments & questions / Petitioner response.

Boller motioned to approve 2305-VS-07 subject to the recommended conditions stated in the motion.

Fortier seconded. Motion passed. Vote 5-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2305-VS-07.

Fortier seconded. Motion passed. Vote 5-0.

2305-VS-08 [PUBLIC HEARING]

[YouTube Time: 34:46](#)

17400 Westfield Boulevard / Westfield Washington Township by Zentz Consulting, LLC

The Petitioner requests a Variance of Development Standard to permit native grasses in landscape islands in lieu of shrubs on 4 acres +/- in the Grand Millennium Center PUD District.

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

Staff presentation.

Public Hearing for 2305-VS-08 opened at 7:37 p.m.

- No public comments.

Public Hearing for 2305-VS-08 closed at 7:38 p.m.

BZA comments & questions / Staff responses / Petitioner responses.

Hatfield motioned to approve 2305-VS-08 subject to the recommended conditions stated in the motion.

McCarty seconded. Motion passed. Vote 5-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2305-VS-08.

Boller seconded. Motion passed. Vote 5-0.

2305-VS-09 [PUBLIC HEARING]

[YouTube Time: 43:59](#)

19002 Shady Nook Road / Bill Chichwak

The Petitioner requests a Variance of Development Standard to modify Minimum Lot Area and Minimum Lot Frontage standards for two (2) residential lots in the AG-SF1: Agriculture/Single-Family Rural District (Articles 4.2(C) and 4.2(D))

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

Staff presentation / Petitioner presentation.

Public Hearing for 2305-VS-09 opened at 7:46 p.m.

- No public comments.

Public Hearing for 2305-VS-09 closed at 7:48 p.m.

BZA comments & questions / Staff & Petitioner responses.

Fortier motioned to approve 2305-VS-09 subject to the recommended conditions stated in the motion.

Boller seconded. Motion passed. Vote 5-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2305-VS-09.

Boller seconded. Motion passed. Vote 5-0.

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

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

2305-VU-04 [PUBLIC HEARING]

[YouTube Time: 55:31](#)

1960 East Greyhound Pass / Academy, Ltd. by Barnes & Thornburg, LLP

The Petitioner requests a Variance of Use to permit a High Intensity Retail Use (Sporting Goods Store, Large) in the SB-PD: Special Business Planned Development District and US Highway 31 Overlay District (Article 13).

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

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

Staff presentation / Petitioner presentation.

Public Hearing for 2305-VU-04 opened at 8:06 p.m.

- One public comment.

Public Hearing for 2305-VU-04 closed at 8:09 p.m.

BZA comments & questions / Petitioner & Staff responses.

McCarty motioned to approve 2305-VU-04 subject to the recommended conditions stated in the motion.

Fortier seconded. Motion passed. Vote 5-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2305-VU-04.

Hatfield seconded. Motion passed. Vote 5-0.

ITEMS CONTINUED TO A FUTURE MEETING

No Continued Items.

REPORTS/COMMENTS:

[YouTube Time: 1:12:44](#)

- Plan Commission Liaison
- Community Development Department

ADJOURNMENT

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

The meeting adjourned at 8:17 p.m.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

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

Signature Page for BZA Minutes for May 16, 2023

Chairperson
Dave Schmitz

Secretary
Kevin M. Todd, AICP
Director



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 13, 2023

2306-VU-06

Exhibit 1

Petition Number: 2306-VU-06

Subject Site Address: 235 Penn Street (The "Property")

Petitioner: Stellhorn Equity, LLC (The "Petitioner")

Request: The Petitioner requests a Variance of Use to permit Low-Intensity Retail (Beauty Salon) and Professional Office uses in the SF-3: Single-Family Medium Density District (*Article 13.2*)

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

Current Land Use: Residential/Vacant

Approximate Acreage: 0.3 acres+/-

Exhibits: 1. Staff Report
2. Location Map

Staff Reviewer: Daine Crabtree, Senior Planner

OVERVIEW

Location: The subject property is 0.3 acres +/- in size and is located at 235 Penn Street (see **Exhibit 2**). The Property is currently zoned SF3- Single-Family Medium Density. The adjoining properties to the north, east and west are also zoned the SF-3: Single-Family Medium Density while property to the south is zoned LB-H: Local Business Historic.

The Property is also located in the Penn Street Corridor of the Junction Subdistrict within the [Grand Junction Subdistricts Addendum](#) to the Comprehensive Plan.

SUMMARY OF VARIANCES

The Petitioner requests a Variance of Use to permit a Low-Intensity Retail Use (beauty salon) as well as a Professional Office Use, on the Property.

Conditions specifying the uses are suggested in the Department Comments section of this Staff Report in the event that the Board is inclined to approve the variance.

Due to the removal of on-street parking on State Road 32 and the absence of stormwater infrastructure in the immediate area, a three-year temporary Variance of Development Standard (2304-VS-06) for the Property which permits a gravel parking lot without curbs and gutters was approved at the BZA's May 16, 2023, meeting.



COMPREHENSIVE PLAN

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

Additionally, the Property is located within the Grand Junction Sub-Districts Addendum to the Comprehensive Plan - specifically the Penn Street Corridor. Language within the Penn Street Corridor Section states, "Appropriate land uses primarily include residential and low intensity non-residential uses..."

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 13, 2023, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

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

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

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

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 13, 2023

2306-VU-06

Exhibit 1

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

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

DEPARTMENT COMMENTS

If the Board is inclined to approve 2306-VU-06, The Department recommends the following condition and findings:

Recommended Conditions:

- The proposed Professional Office use shall be limited to an Insurance, Real Estate, Accounting or Counseling office - or a substantially similar use as determined by the Director of Community Development;
- The proposed Low-Intensity Retail use shall be limited to a beauty salon;
- Business hours for a Professional Office use shall be limited to:
 - o 8am to 6pm Monday
 - o 8am to 8pm Tuesday through Friday
 - o 8am to 2pm on Saturday
 - o No hours of operation on Sunday;
- Business hours for a beauty salon use shall be limited to:
 - o 8am to 8pm Monday through Saturday
 - o 10am to 4pm on Sunday;
- The existing primary structure on the Property and/or any additional improvements to said primary structure must remain residential in character as determined by the Director of the Community Development Department; and
- That the Petitioner record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Community Development Department

Recommended Findings for Variance of Use (2306-VU-06):

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

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

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

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner as the proposed use will be utilizing improvements currently existing on the Property which is consistent with the character of the surrounding area and any improvements to the Property must remain residential in nature. Additionally, the Property is located in the Downtown area where many similar or higher intensity commercial operations already exist.

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

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

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

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

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

Finding: The Westfield-Washington Comprehensive Plan (the “Comprehensive Plan”) includes this property within the area designated as “Downtown”. More specifically, the Property is located in the Penn Street Corridor of the Junction Subdistrict within the Grand Junction Sub-Districts Addendum to the Comprehensive Plan. The Penn Street Corridor section states that, “appropriate land uses primarily include residential and low intensity non-



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 13, 2023

2306-VU-06

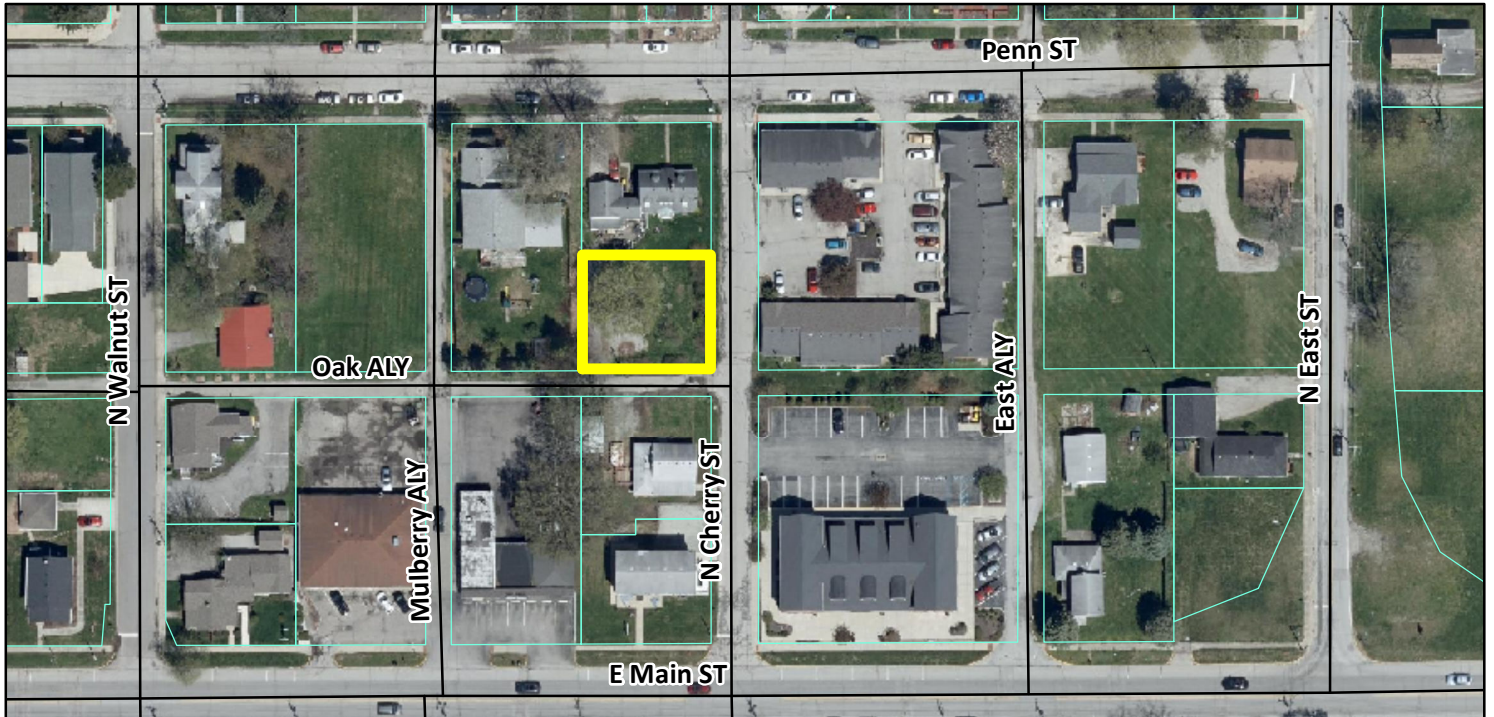
Exhibit 1

residential uses...” Therefore, the proposed land uses of low-intensity retail and office does not interfere substantially with the Comprehensive Plan.

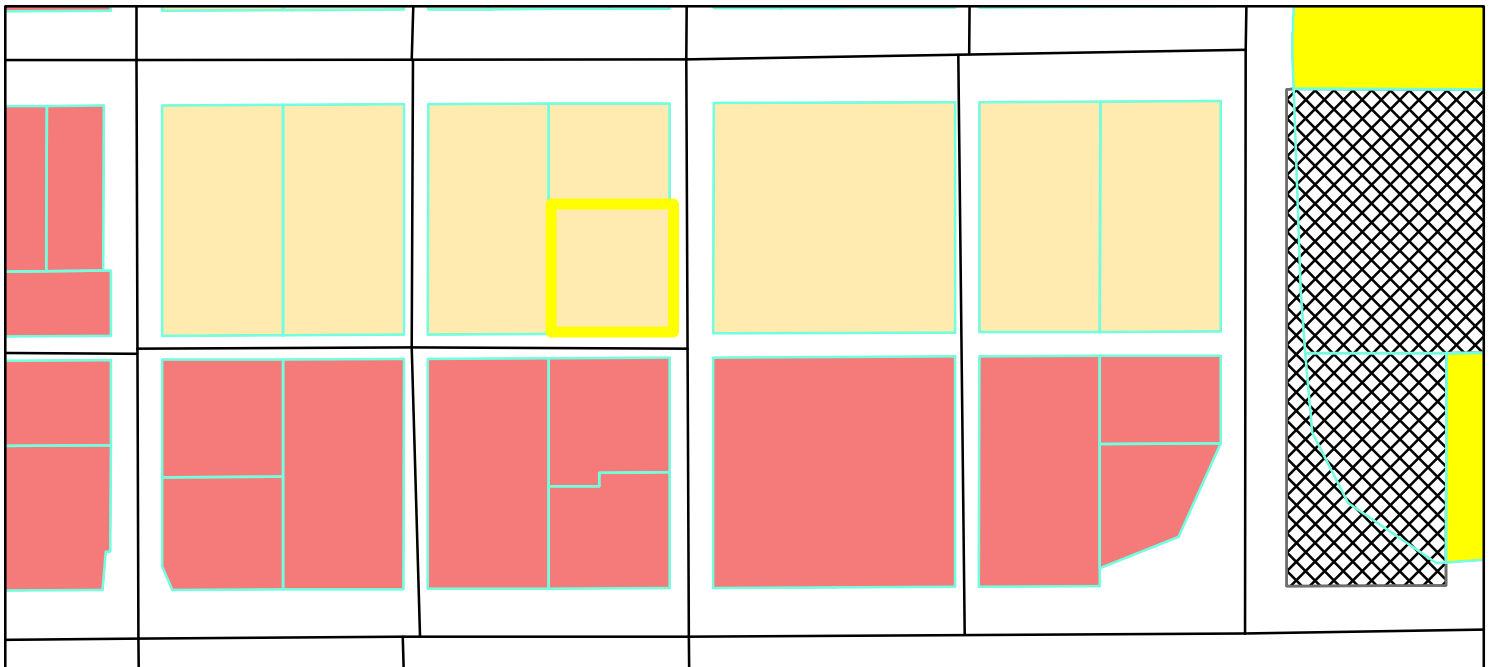
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board’s next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

Aerial Location Map

 Site



Zoning Map



GIS.DBO.PW_Streets Zoning
Parcel
Parcel
Zoning - All
LB-H (Local Business - Historical)
PUD (Planned Unit Development)
SF-3 (Single Family - 3)
SF-4 (Single Family - 4)

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Miles





WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 13, 2023

2306-VS-10

Exhibit 1

Petition Number: 2306-VS-10

Subject Site Address: 15383 Whistling Lane ("the Property")

Petitioner: Dennis and Kristy Murphy ("the Petitioner")

Request: The Petitioner requests a Variance of Development Standard to encroach eleven (11) feet into the thirty-five (35) foot Minimum Rear Yard Setback on 0.66 acres +/- in the Bridgewater PUD District to accommodate the installation of a swimming pool and deck.

Current Zoning: [Bridgewater PUD \(Ord. 06-49\)](#)

Current Land Use: Residential

Approximate Acreage: 0.25 acres +/-

Exhibits:

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

Staff Reviewer: Daine Crabtree, Senior Planner

OVERVIEW

Location: The subject property is 0.66 acres +/- in size (the "Property") and located at 15383 Whistling Lane in the Bridgewater Club subdivision of the Bridgewater PUD (see **Exhibit 2**).

Requested Variances: The petitioner is requesting a Variance of Development Standard to encroach eleven (11) feet into the thirty-five (35) foot Minimum Rear Yard Setback to accommodate the installation of a swimming pool and deck.

SUMMARY OF VARIANCE

The Petitioner is requesting to encroach eleven (11) feet into the Minimum Rear Yard Setback to accommodate a swimming pool and deck as illustrated on the Site Plan (**Exhibit 3**). This project has been approved by the Bridgewater HOA (see **Exhibit 4**).

PROCEDURAL

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 13, 2023

2306-VS-10

Exhibit 1

public hearing at the June 13, 2023, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

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

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

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 (2306-VS-10):

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 13, 2023

2306-VS-10

Exhibit 1

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

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

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

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

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

Finding: Strict adherence to the zoning ordinance would result in a swimming pool and deck that does not meet the needs of the Petitioner.

Recommended Conditions:

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

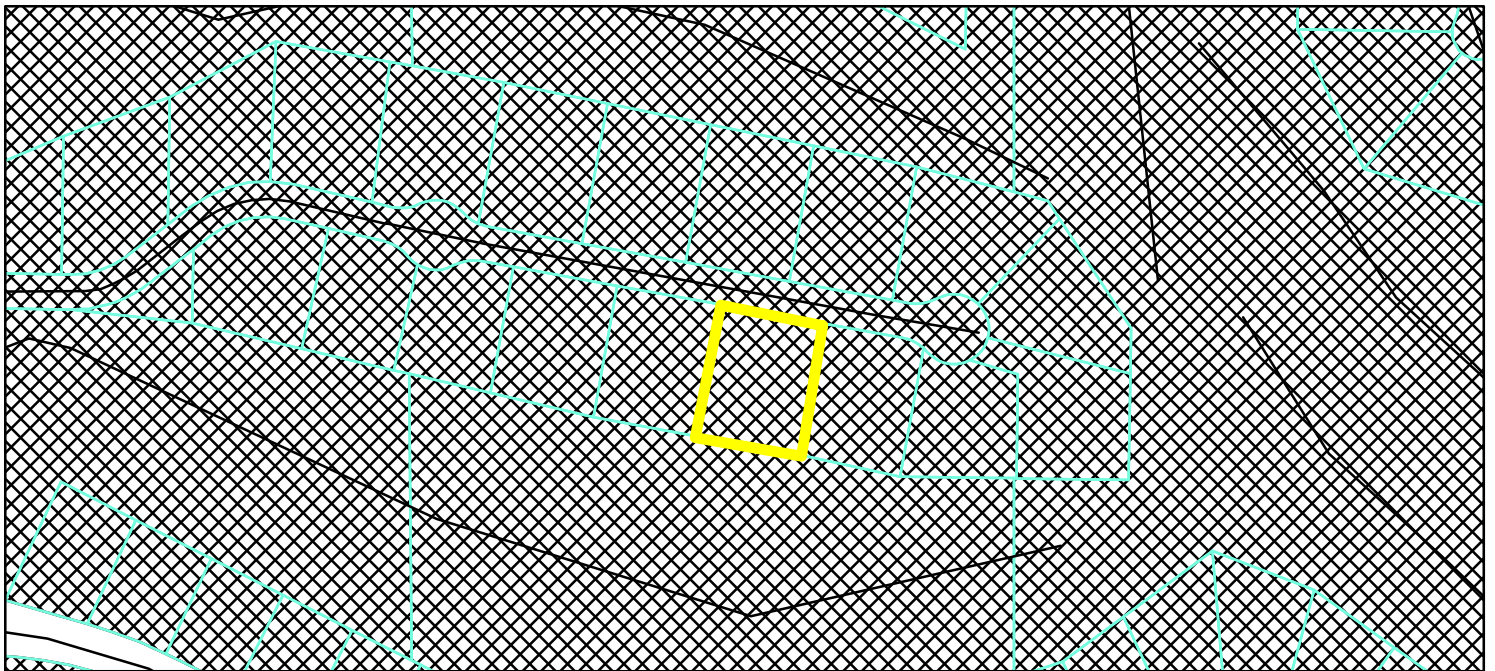
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

Aerial Location Map

 Site



Zoning Map



 GIS.DBO.PW_Streets
 Parcel
 Parcel
 PUD (Planned Unit Development)
 Zoning - All

0 0.025 0.05
Miles



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SITE DATA:

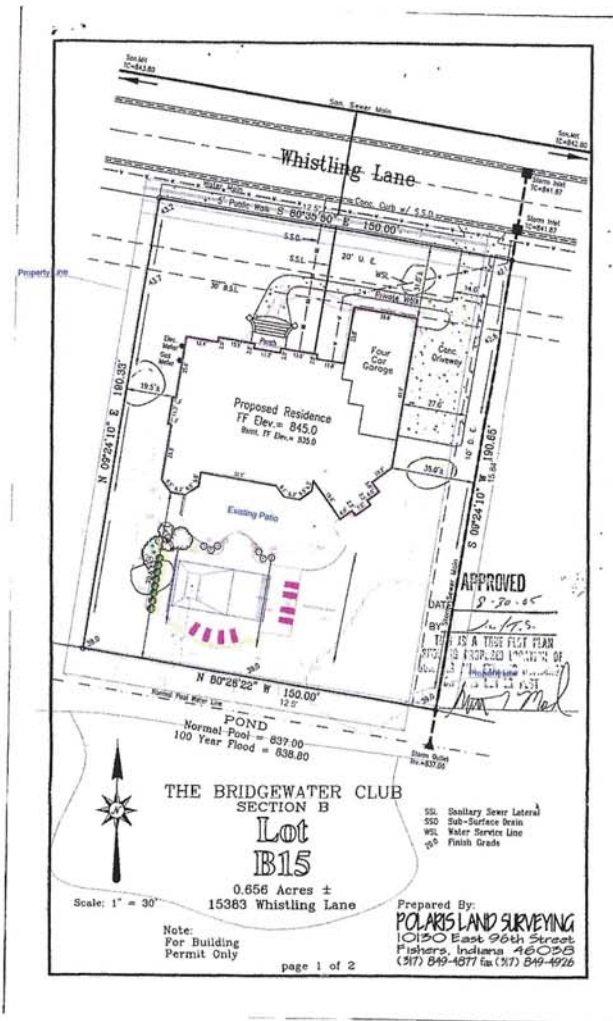
Total Existing Lot Area: 28750 SF

EXISTING

Main Home Area: 6768 SF
Existing Concrete Drive and sidewalk Area: 2592 SF
Existing Paver Patio Area: 1584 SF
EXISTING TOTAL IMPERVIOUS COVERAGE: 10944 SF
EXISTING LOT COVERAGE (%): 34.9 (%)

PROPOSED

Main Home Area: 11783 SF
Proposed Impervious Area: 2160 SF
Existing Concrete Drive and sidewalk Area: 2592 SF
Existing Paver Patio Area: 1584 SF
PROPOSED TOTAL IMPERVIOUS COVERAGE: 13104 SF
PROPOSED LOT COVERAGE (%): 41.7 (%)



ARCHITECTURAL SITE PLAN
SCALE: 1" = 2'



CUSTOM LIVING
design - plan - build

MURPHY RESIDENCE
Pecall Landscaping, Gym, Golf Sim
15383 Whistling Lane
Carmel, IN 46033

CUSTOM LIVING
5335 Whistling Ave
Indianapolis IN 46220
DESIGNER: ERIN STUMP
E.erin@customlivinginc.com
C: 317.549.4877 F: 317.549.4926

SIGNATURE / SEAL

Client Initials:

Date:

Revision: Date:

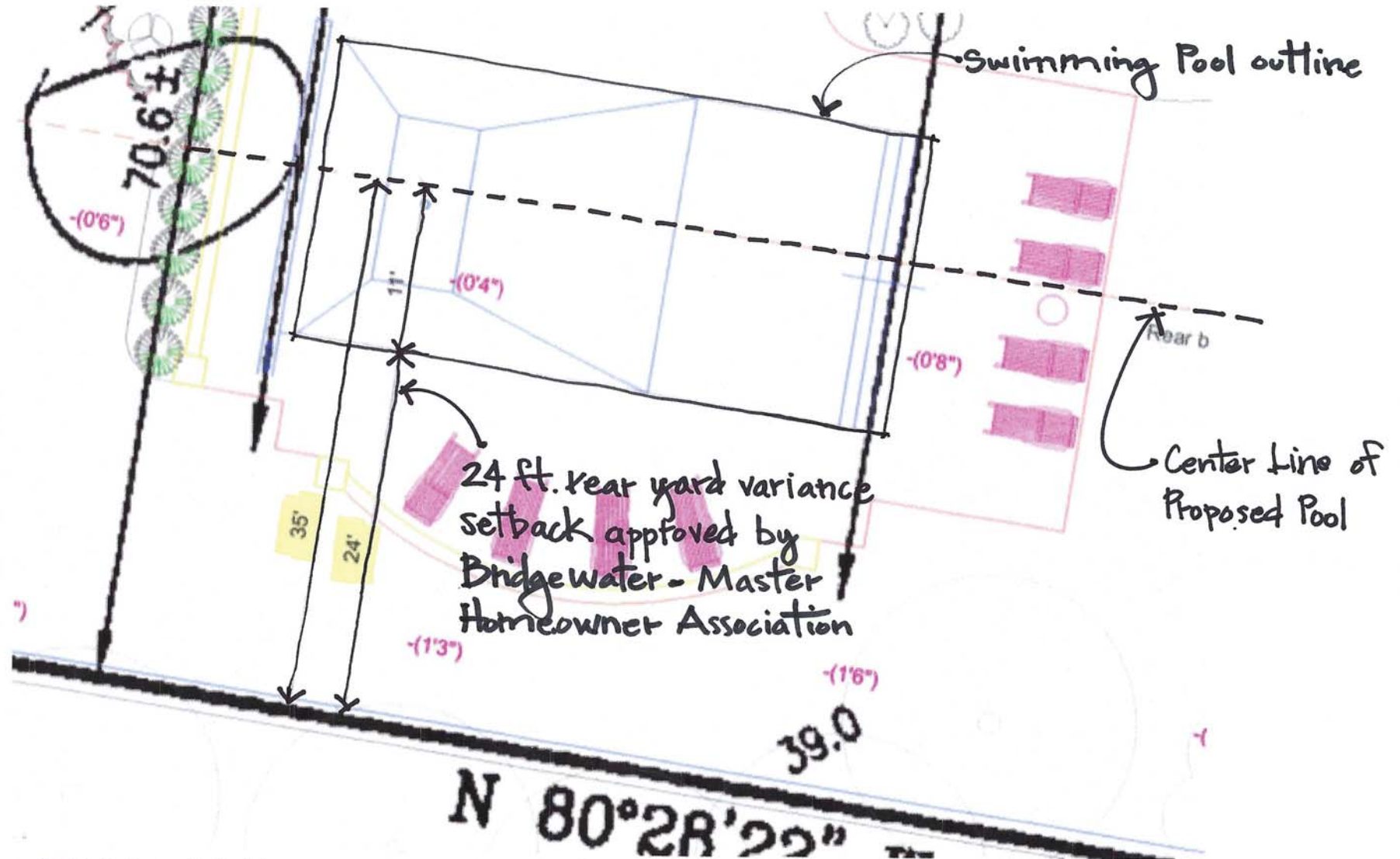
DATE:
5/9/23

SHEET OF 11

A2

[PRINTS TO SCALE IF PRINTED ON 24" X 36"]

Attached is a zoomed in view of the pool set backs on the provided plot plan for easy viewing. I will send this information on to Donna



15383 Whistling Lane; Carmel, IN 46033

5/13/2023

ARCHITECTURAL REVIEW SUBMITTAL

The Bridgewater Club Master Homeowners Association

Note: This request is only valid for One (1) Year after Approval Date

1. Subdivision: Bridgewater Lot #: B15
Name: Dennis and Kristy Murphy Address: 15383 Whistling Lane, Carmel, IN 46033
Phone: 773-401-7278 Fax: _____ EMAIL ADDRESS: kmurphy31@gmail.com
dkdmurphy@msnl.com

FOR SUBMISSIONS THE FOLLOWING ATTACHMENTS MAY BE REQUIRED:

- ☐ A Plot Plan or a Surveyors Location Report of your lot should have been provided at closing. Please indicate the location of the proposed addition/improvement will be installed (on a copy).
 - ☐ Please include Elevations and Blueprints or working drawings indicating all dimensions.
 - ☐ If available, a photograph or drawing of a similar completed project.
- THE COMMITTEE MAY TAKE UP TO 30 DAYS TO REPLY — PLEASE PLAN ACCORDINGLY — THANK YOU!

2. Requesting architectural approval of the following: ☒ Improvement ☐ Addition ☐ Repair/Replacement

Briefly describe the proposed change: Our request is to re-landscape our back yard and to add a pool

Location: Rear yard off existing back patio Dimensions: 20 x 40 pool

Please list below the major construction materials that will be used in this project. Be as specific as possible.

Pool will be a liner pool with diamond cut colored concrete marrying up to our existing paver patio. The landscaping will

have a knee wall off the south end of the pool for a decorative element viewed from the course and provide a visual block to

the lounge chairs. We also plan to install boulders, trees, and a water fall element shown in visuals attached.

*Requests for exterior changes MUST submit samples of color, paint, brick, etc.
(Exterior materials must conform to the original construction or be sufficiently compatible)*

4. Project schedule:

- A. The work will be performed by: Homeowner _____ Contractor X (Pools of Fun & Sundown Gardens
Managed by Custom Living, Inc)
- B. Upon the committee's approval:
- C. Please indicate the projected start date June
Please indicate the projected end date: August / September
- D. Please indicate all required permits (building, etc.) Westfield BZA Approval and Permitting

5. Will any part of the proposed improvement extend beyond your property line?

☒ Yes ☐ No * *Note: improvement extends beyond minimum rear yard setback. Refer to approval notes.*

6. Will any part of the proposed improvement extend into any Common Area, Utility, Drainage or Sewer Easement, Landscape, Preservation or Lake Easement shown on the plot plan of your lot? Yes ☐ No ☒

ARCHITECTURAL REVIEW STANDARDS

I understand that under rules and regulations, the committee will act on this request and provide me with a written response of their decision. I further understand and agree to the following provisions:

1. No work or commitment of work will be made by me until I have received written approval from the Committee.
2. All work will be done at my expense and all future upkeep will remain at my expense.
3. All work will be done expeditiously and will be done in a good workman-like manner by myself and/or a licensed and insured contractor. *Note: This request is only valid for One (1) Year after Approval Date*
4. All work will be performed at a time and in a manner to minimize interference and inconvenience to other owners.
5. I assume all liability and responsibility for all damage and/or injury which may result from performance of this work.
6. I will be responsible for the conduct of all persons, agents, contractors, and employees connected with this work.
7. I understand that any improvements placed in a drainage, utility, sewer, landscape or other easement is at my risk. I accept the responsibility for repair and/or replacement of improvements when utility, drainage or sewer principals, developer or other authorized party removes improvements for access to the easement. If you are developing into an easement, it is your responsibility to have the utilities marked prior to beginning work by calling "Holey Moley" Indiana Underground Services at "811".
8. I will be responsible for complying with, and will comply with, all applicable federal, state and local laws, codes, the community governing documents, regulations and requirements in connection with this work, and I will obtain any necessary governmental permits and approvals for the work. I understand and agree that the Association, its Directors, Agent and/or the Committee have no responsibility with respect to such compliance

Present the application and detailed project plan for the requested changes to your home or landscaping. Completed applications are reviewed by the Architectural Review Committee and will be approved or denied. In the event of a denial, an explanation will be provided that addresses the concerns. Review will done as soon as possible, no later than 30 days of receipt. If denied, appeal of the decision must be submitted within 30 days of the mailing date.

I hereby acknowledge that I have read and understand the Architectural Review Submittal form and agree to requirements set forth by the Committee and the Declaration of Covenants and Restrictions.

Homeowner's Signature: _____

Date: 5/6/23

NOTE: All submitted materials shall remain the property of the Association.
You may wish to make a copy for your personal records.

For ALL Submissions

Be sure to include the requested attachments listed on the previous page.

Please return the completed documents to:

Bridgewater Club Master Association

Attn: Community Manager

3535 East 161st St

Carmel, IN 46033

Email: DTripp@AssociatedAsset.com

Phone: 317-399-2474

Office Use Only

Architectural Committee Action:

Date Received: 5/6/23

Date Approved: 5/13/23

() Approved as submitted.

☒ Approved with following restrictions: See notes below for justification of approved variance. There is precedent for reduction of rear yard minimum setbacks when there are ponds between rear yards and the Bridgewater golf course.

() Deferred: Please supply additional information: _____

() Denied: ARC Committee Comments: _____

Committee Signature: _____

Chair; Bridgewater-Master HOA - Architectural Review
Gary L. Vance

Date: 5.13.2023

Committee (ARC)

Approval Notice has been provided to the appropriate subdivision Board of Director's President for their information

Note 1: BW ARC - Approves reduction of rear yard setback from 35 ft. to 24 ft.
Note 2: This rear yard reduction is based on retention pond between property line and golf course. Refer to attached aerial photo indicating this existing condition.

Dear Homeowner:

Any lot improvement made or installed within an easement is at the owner's risk regardless of the approval by the Architectural Control Committee. If for any reason, repairs and or maintenance are required in the easement, any improvement(s) that are removed will not be reinstalled by the utility company or contractor.

This waiver must be signed and returned with the Architectural Review Submittal, to protect you and the HOA of your community. It is to verify that you have a full understanding of the responsibilities and risk of developing an improvement into an easement.

If you are developing into an easement, it is your responsibility to have the utilities marked prior to commencing by calling "Holey Moley" Indiana Underground Services at 811.

EASEMENT WAIVER

This document is an acknowledgment that I/we, _____
Name of Homeowner(s)

The owner(s) of the property at _____ IN.

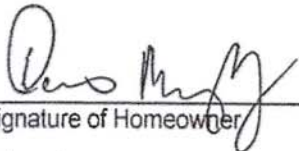
of the _____ Street Address _____ City _____

_____ Homeowners Lot # _____ will be

_____ Community Neighborhood

installing _____

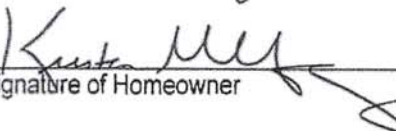
that extends into a drainage and/or utility and/or sewage easement and accepts full responsibility of any costs to replace this improvement if the utility company, developer or other authorized party needs to gain access to that area by removal of said improvement.



Signature of Homeowner

5/6/23

Date



Signature of Homeowner

5/6/23

Date

Return all required documentation to:

The Bridgewater Club Master Association

Attn: Community Manager
3535 East 161st St
Carmel, IN 46033
Email: DTripp@AssociatedAsset.com
Phone: 317-399-2474



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

June 13, 2023
2306-VS-14
Exhibit 1

Petition Number: 2306-VS-14

Site Address: 14933 Thatcher Ln

Petitioner: Sam Klooster – CBRE Group, Inc

Representative: Robert J. Sullivan – NELCO Arch, Inc

Request: The Petitioner requests a Variance of Development Standard to encroach fifteen (15) feet into the forty-five (45) foot Minimum Side Yard Setback as required by the US Highway 31 Overlay District to accommodate the redevelopment of the 0.95 acre +/- Property in the SB-PD: Special Business Planned Development District.

[Ch. 5, Art. 5.2(E)(4) as it applies to Ch. 4, Art. 4.22(B)]

Current Zoning: SB-PD: Special Business/Planned Development District, US Highway 31 Overlay District

Current Land Use: Fast Food Restaurant (Burger King)

Approximate Acreage: 0.95 acres

Exhibits:

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

Zoning History:

88-V-9	Outlot Signage (for all of Village Park Plaza)
92-AP-40	Site Plan Approval
1304-VS-03	Increase in Signage Allotment

Staff Reviewer: Lauren Gillingham, AICP – Senior Planner

Public Hearing

This petition will receive a public hearing at the June 13, 2023 Board of Zoning Appeals meeting. If the Board of Zoning Appeals approves the requested variances, the site would still require Development Plan approval prior to the issuance of any building permits.



Analysis

The subject property is approximately 0.95 acres in size and is located at 14933 Thatcher Ln (the "Property"). The Property is zoned Special Business District/Planned Development (SB-PD) and is adjacent to SB-PD zoning to the south and east, and the Village Park Plaza II PUD District to the north and east. The Property is adjacent to US 31 on the west and the property across US 31 is zoned General Business (GB). The Property is located within the US Highway 31 Overlay District, which includes increased development and architectural standards. The Village Park Plaza development predates the US 31 Overlay District and is considered legal nonconforming to lot and development standards, per the Nonconforming Regulations section of the UDO (Ch. 9). The proposed site is exempt from minimum lot area, minimum lot width, maximum lot coverage, and some perimeter parking requirements, but must meet all applicable standards related to setbacks, architectural design, parking, and lighting, as well the remain landscape standards.

The Petitioner requests a Variance of Development Standard from UDO *Ch. 5, Art. 5.2(E)(4) as it applies to Ch. 4, Art. 4.22(B)* to encroach fifteen (15) feet into the forty-five (45) foot Minimum Side Yard Setback on both the north and south of the building. Although the proposed site plan (Exhibit 3) shows the building encroaching 14.5' into the north setback and 2' into the south setback, Staff requests a 15' encroachment on both sides to accommodate minor site changes that may be required as the building moves through the Development Plan approval process and is reviewed against Fire and Building codes. Even with a 15' encroachment in both side setbacks (which is greater than the site plan proposes), the total encroachment would be less than the existing Burger King building, which encroaches roughly 34' into the north setback and 30' into the west setback. The site meets the setback requirements to the west and east.

Procedural

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:*

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 requested encroachment is less than what currently exists on the site.



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(s) should not have a negative impact on surrounding properties because: (i) the subject parcel will otherwise comply with or exceed the applicable standards of the US 31 Overlay and SB-PD Districts; and (ii) the requested encroachment brings the site closer to conformity with the standards.

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

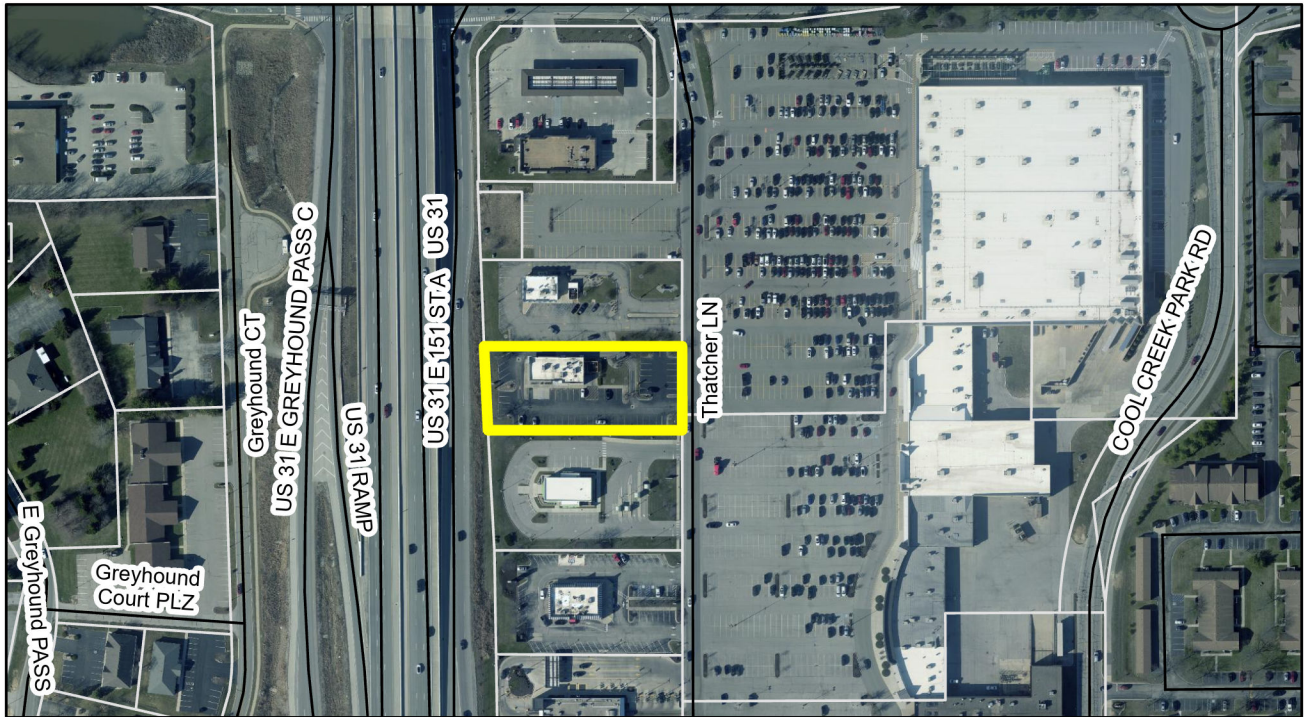
Finding: Strict adherence to the zoning ordinance would result in the inability to develop the Property, as proposed. The US 31 Overlay setback requirements were designed for lots meeting the 5-acre minimum lot area requirement. Requiring the same setback on a 1-acre lot is unrealistic and would impede the site's future development potential.

Recommendation

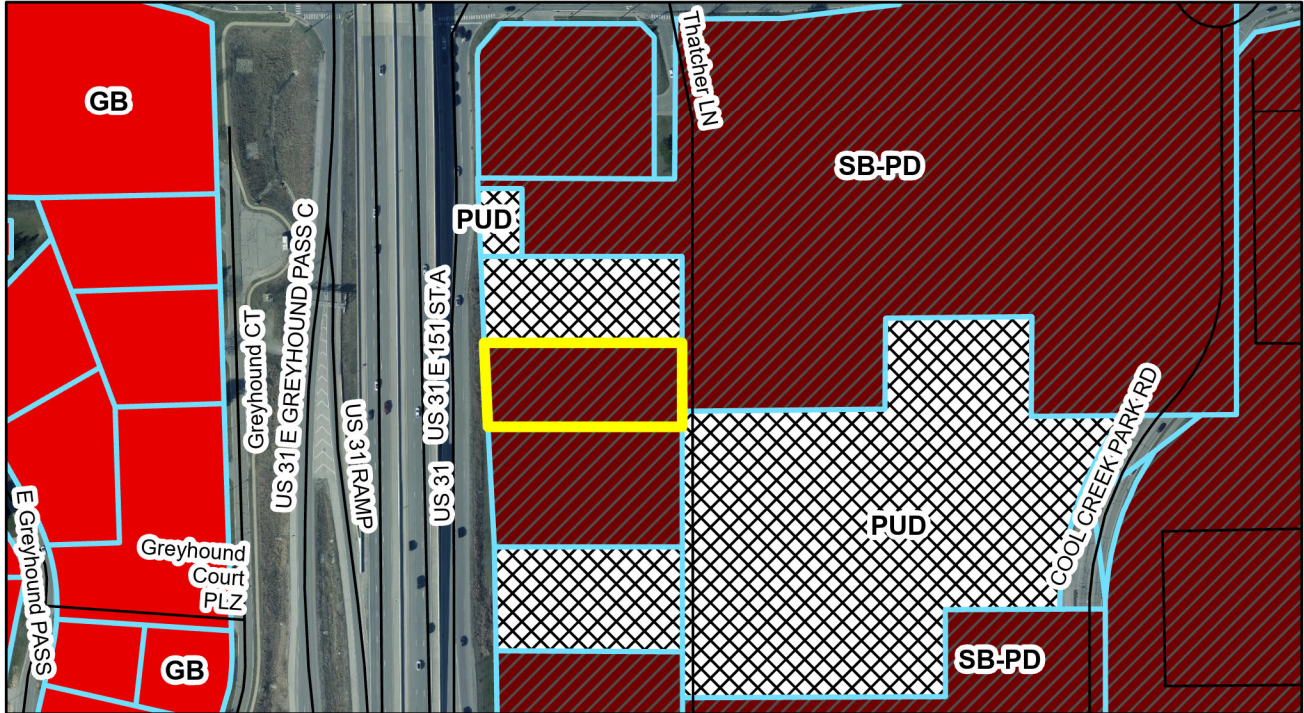
Approve 2306-VS-14 based on the findings of this report.



Aerial Location Map



Zoning Map

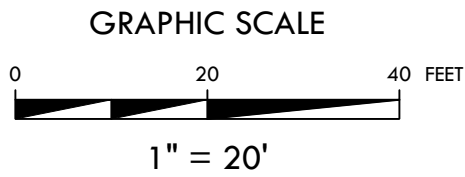


Legend

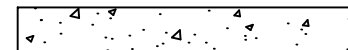
 Subject Parcel

0 0.03 0.05 0.1 Miles





LEGEND

PROPOSED FACE AND BACK OF CURB	
PROPOSED MEDIUM DUTY ASPHALT PAVEMENT	
PROPOSED CONCRETE SIDEWALK	
PROPOSED LANDSCAPE AREA	
PROPOSED SIGN	
PARKING COUNT	

Project No. 532033801	Drawing No. C1.0
Date 05/22/2023	
Drawn By ELP	
Checked By MSH	
Sheet 1 of 1	

TOPOGRAPHIC INFORMATION TAKEN FROM A TOPOGRAPHIC SURVEY PERFORMED BY #. THE CONTRACTOR SHALL NOTIFY THE ENGINEER IMMEDIATELY, IN WRITING, OF ANY DISCREPANCIES OR OMISSIONS TO THE TOPOGRAPHIC INFORMATION. THE CONTRACTOR(S) SHALL BE RESPONSIBLE FOR CONFIRMING THE LOCATION (HORIZONTAL/VERTICAL) OF ANY BURIED CABLES, CONDUITS, PIPES, AND STRUCTURES (STORM SEWER, SANITARY SEWER, WATER, GAS, TELEVISION, TELEPHONE, ETC.) WHICH IMPACT THE CONSTRUCTION SITE. THE CONTRACTOR(S) SHALL NOTIFY THE OWNER AND ENGINEER IF ANY DISCREPANCIES ARE FOUND BETWEEN THE ACTUAL CONDITIONS VERSUS THE DATA CONTAINED IN THE CONSTRUCTION PLANS. ANY COSTS INCURRED AS THE RESULT OF NOT CONFIRMING THE ACTUAL LOCATION (HORIZONTAL AND VERTICAL) OF CABLES, CONDUITS, PIPES, AND STRUCTURES SHALL BE BORNE BY THE CONTRACTOR. ADDITIONALLY, THE CONTRACTOR(S) SHALL NOTIFY THE OWNER AND ENGINEER IF ANY ERRORS OR DISCREPANCIES ARE FOUND ON THE CONSTRUCTION DOCUMENTS (P&E) WHICH NEGATIVELY IMPACT THE PROJECT. THE ENGINEER AND OWNER SHALL BE INDEMNIFIED OF PROBLEMS AND/OR COST WHICH MAY RESULT FROM CONTRACTOR'S FAILURE TO NOTIFY ENGINEER AND OWNER.

THE CONTRACTOR IS SPECIFICALLY CAUTIONED THAT THE LOCATION AND/OR ELEVATION OF ANY EXISTING UTILITIES AS SHOWN ON THESE PLANS ARE BASED ON RECORD DRAWINGS OF THE UTILITY COMPANIES, THE GOVERNING CITY, TOWN AND/OR COUNTY, AND WHERE POSSIBLE, THE RECORD DRAWINGS OF THE MUNICIPALITY AND WHERE POSSIBLE, THE RECORD DRAWINGS OF THE STATE. THE INFORMATION PROVIDED IS NOT TO BE RELIED ON AS BEING EXACT OR COMPLETE. THE CONTRACTOR MUST CALL THE APPROPRIATE UTILITY COMPANY AT LEAST 48 HOURS BEFORE ANY EXCAVATION TO REQUEST EXACT FIELD LOCATION OF UTILITIES. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO RELOCATE ALL EXISTING UTILITIES WHICH ARE NOT SHOWN ON THESE PLANS. THE CONTRACTOR SHALL SHOW ON THESE PLANS:

EXISTING OVERHEAD & UNDERGROUND UTILITIES IN THE VICINITY
VERIFY LOCATION OF EXISTING UNDERGROUND UTILITIES
BY VACUUM EXCAVATION OR OTHER POTHOLING TECHNIQUES.

Know what's below.
Call before you dig.

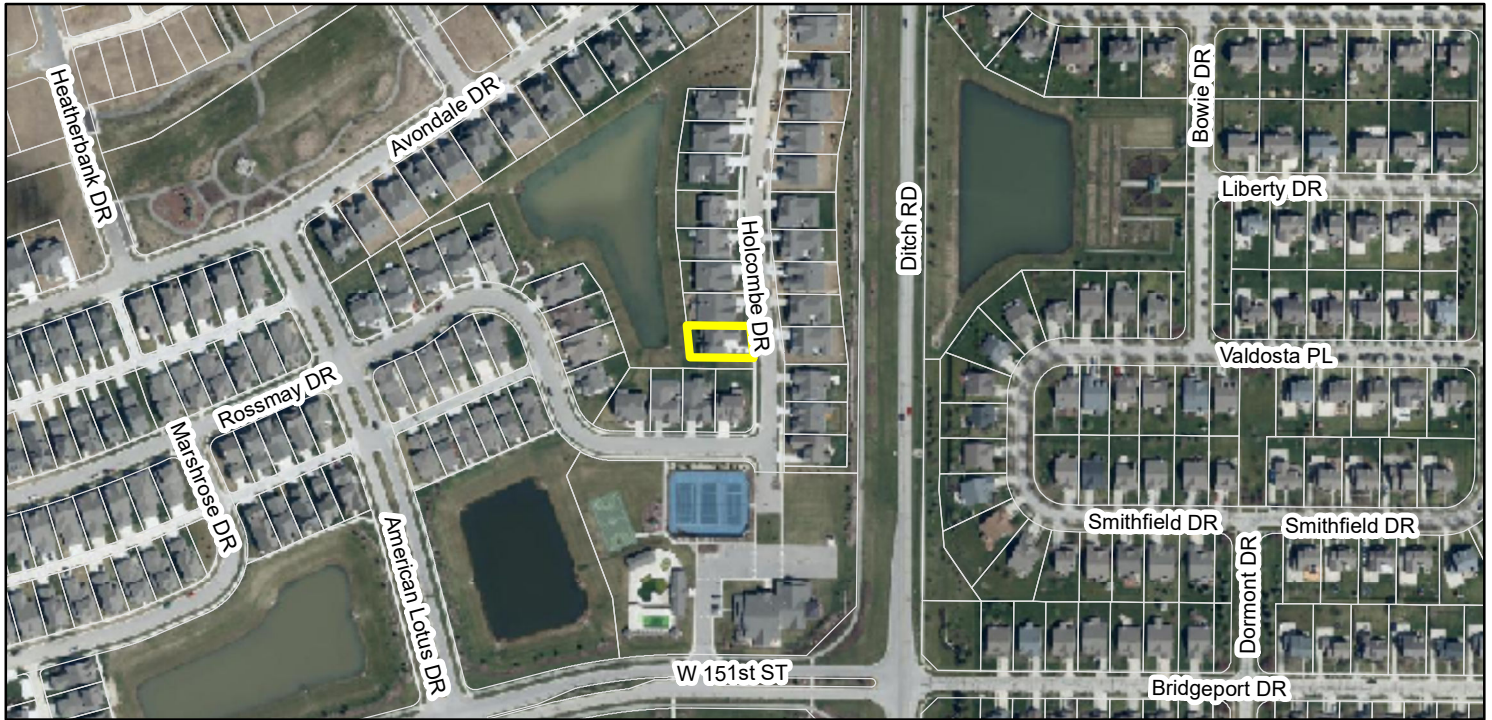
THESE PLANS ARE SUBJECT TO REVIEW &
APPROVAL BY JURISDICTIONAL ENTITIES.



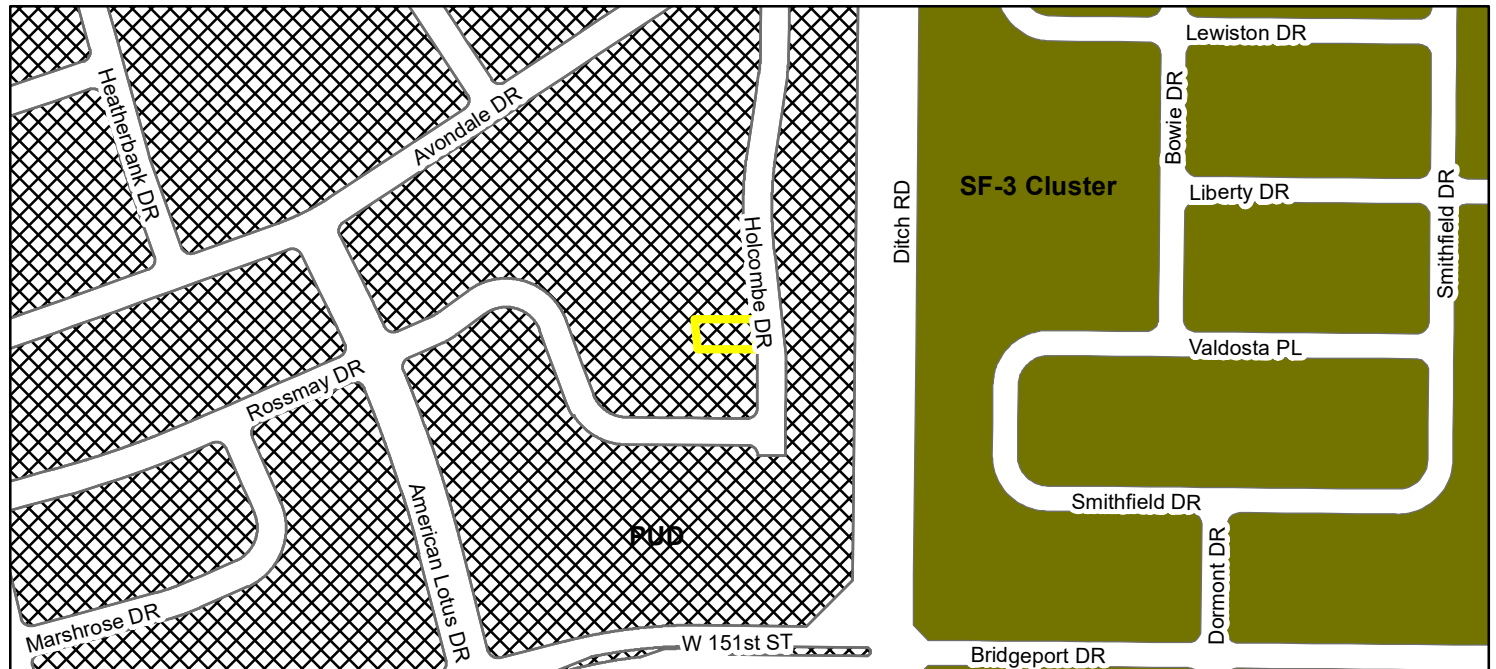
Property Location Map
15326 Holcombe Drive
2306-VS-11



Aerial Location Map



Zoning Map



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

San Juan - Sea Isle - White
 12' x 16' 6" - 5' deep
 Salt Cell Generator
 Gas Heater
 Bnmk - Existing Patio
 Shuttle Material
 Most all dirt hauls
 Sump Pit & Perimeter Drain
 Pour Concrete Pad
 Pad Not to be Connected to House
 Access South side of property -
 Next to driveway
 Remove Existing Concrete Slab

117.68'

4' USE EASEMENT

913.1

914.4

914.9

18.00'

17' B.S.L.

17' D.& U.E.

54.97'

5.17'

60.42'

12'

90' 11"

33'

25.52'

913.0

913.5

912.7

117.82'

913.2

913.4

912.4

1=5.47'

SIDEWALK 913.5

LATERAL

PROP. DRIVE

PORCH

EXISTING PATIO

EXISTING STEPS

CONCRETE STEP

SUMP PIT

SJP - Sea Isle
 12' x 16'6"

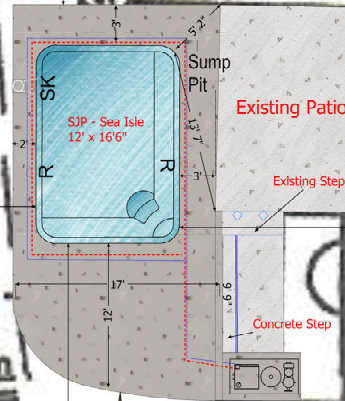
SK

R

10' D.E.

SUMP DRAIN

STUB



From: julyjim57@aol.com
To: [Nick Kell](#); [Nick Arthur](#); [Brian Gentry](#)
Subject: [EXTERNAL] Fw: Pool request
Date: Friday, May 19, 2023 11:45:43 AM

All,
Looks like Harmony HOA will approve the pool installation if a variance is granted by the City of Westfield. See below.

Best!

Jim Fennell

[Sent from the all new AOL app for iOS](#)

Begin forwarded message:

On Friday, May 19, 2023, 9:42 AM, arb@harmonyhoa.com <arb@harmonyhoa.com> wrote:

Hello James and Jill,

We received your architectural review request for your inground pool. Though we cannot approve the encroachment over the building setback line since that is enforced by the City of Westfield, we would not object if you were to seek out the variance to the current zoning code.

Thanks

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

(317) 669-6230
arb@harmonyhoa.com



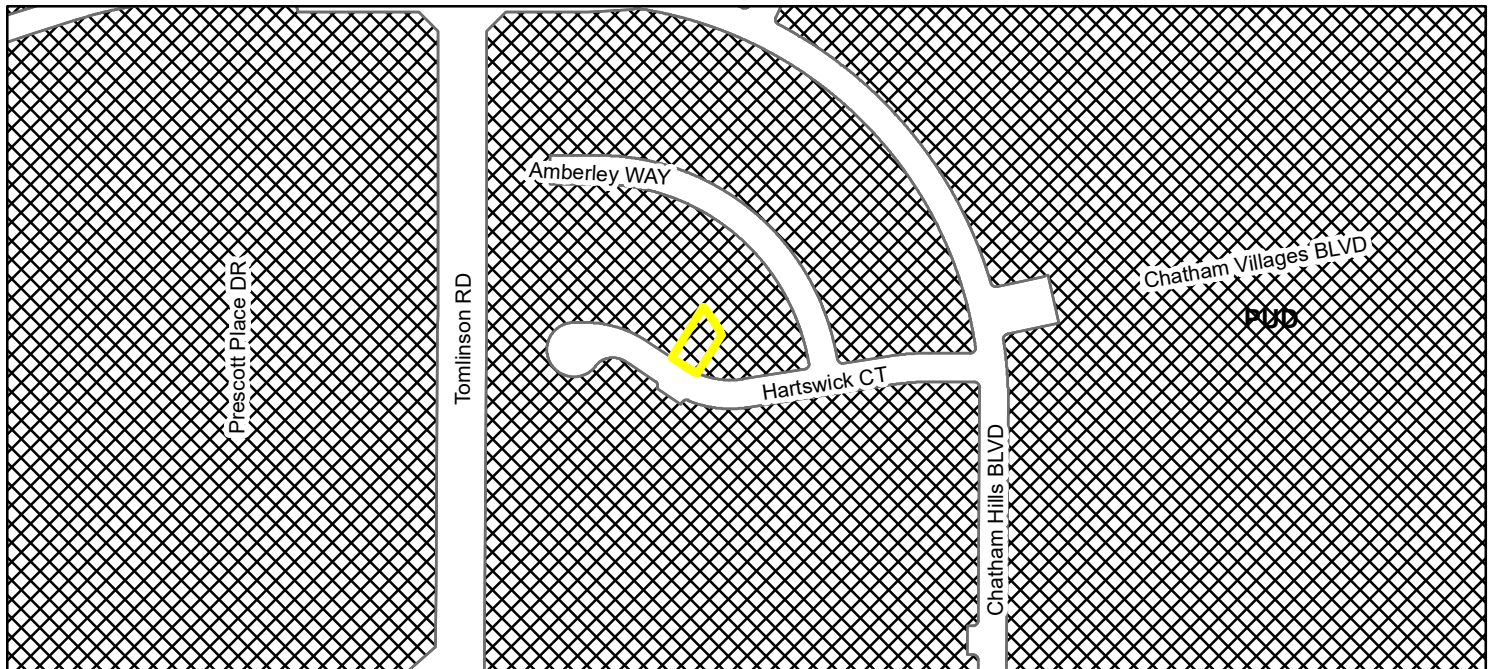
Property Location Map
1290 Hartswick Court
2306-VS-15



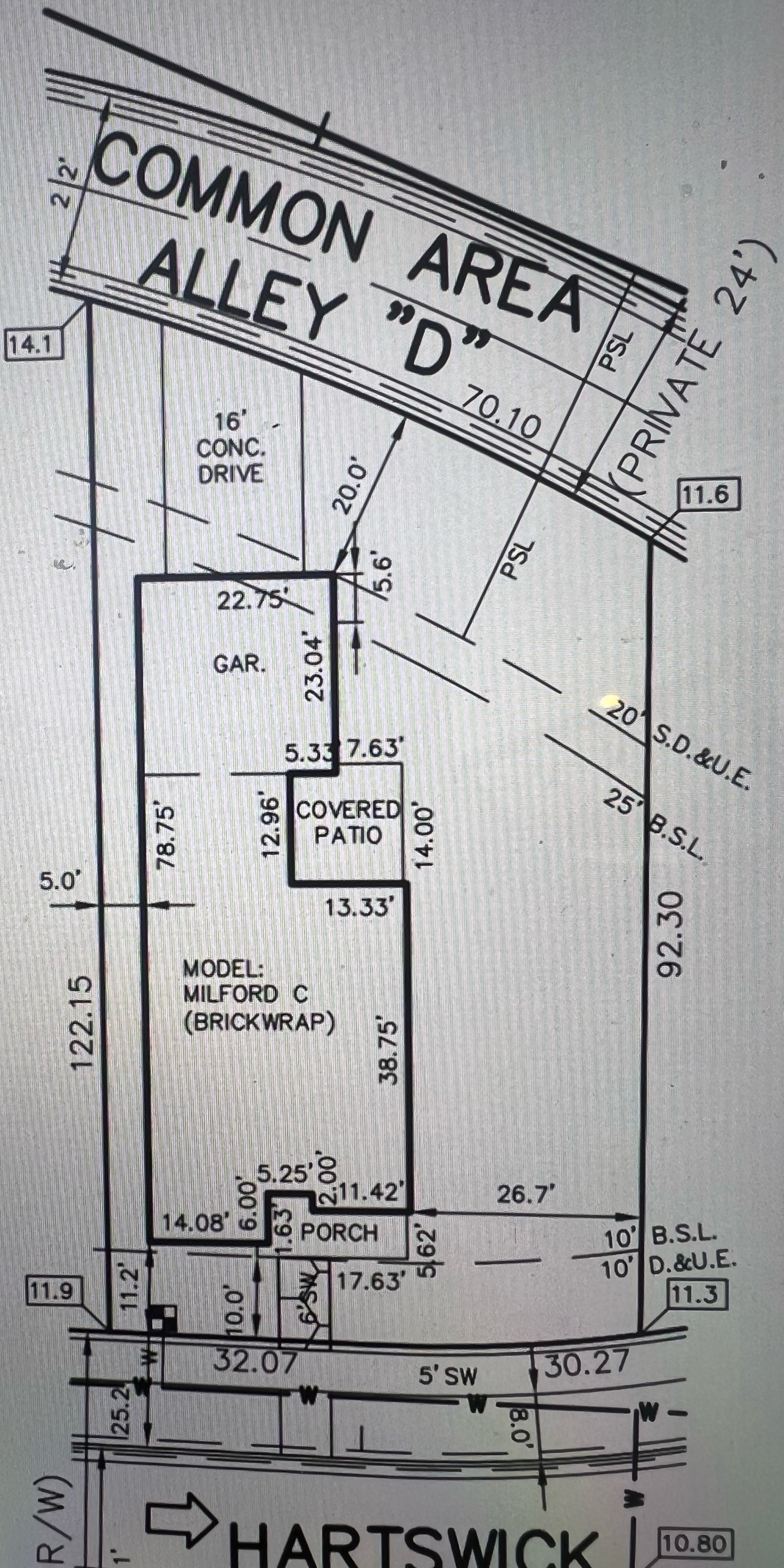
Aerial Location Map



Zoning Map



 SITE Zoning  PUD (Planned Unit Development)



HARTSWICK



Petition Number: 2306-VS-11

Subject Site Address: 15326 Holcombe Drive (the "Property")

Petitioner: Family Leisure, on behalf of Jim & Jill Fennell (the "Petitioner")

Request: The Petitioner requests a Variance of Development Standard to encroach eight (8) feet into the twenty (20) foot Minimum Rear Yard Setback to accommodate the installation of a swimming pool in the Harmony PUD District.

Current Zoning: Harmony PUD District

Current Land Use: Residential

Approximate Acreage: .16 acres +/-

Exhibits:

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

Staff Reviewer: Ryan Collingwood, Associate Planner

PROPERTY INFORMATION & BACKGROUND

The subject Property is .16 acres +/- in size and located at 15326 Holcombe Drive, as seen in the Location Map (**Exhibit 2**). The Property's zoning classification is the Harmony PUD District.

Upon the Property currently exists a Single-Family Detached residence (the "Residence"). Based on aerial snapshots, the Residence appears to have been fully constructed between 2018 and 2019.

REQUEST FOR VARIANCE

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

PROCEDURAL



Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standard. This petition is scheduled to receive its public hearing at the June 13, 2023, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

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

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

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

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

COMPREHENSIVE PLAN



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

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

DEPARTMENT COMMENTS

If the Board is inclined to approve 2306-VS-11, The Department recommends the following findings and conditions:

Recommended Findings for Variance of Development Standard (2306-VS-11):

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

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

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

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

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

Finding: Strict adherence to the zoning ordinance would result in a swimming pool that does not meet the needs of the Petitioner.

Recommended Conditions:



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

June 13, 2023

2306-VS-11

Exhibit 1

- That the Property be developed in substantial compliance with the Site Plan (**Exhibit 3**), and
- That the Petitioner record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Community Development Department

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



Petition Number: 2306-VS-15

Subject Site Address: 1290 Hartswick Court (the "Property")

Petitioner: Henke Development Group, LLC (the "Petitioner")

Request: The Petitioner requests Variance of Development Standard to encroach six (6) feet into the twenty-five (25) foot Minimum Rear Yard Setback on .16 acres +/- in the Chatham Hills PUD District.

Current Zoning: Chatham Hills PUD District

Current Land Use: Vacant/Residential

Approximate Acreage: .16 acres +/-

Exhibits:

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

Staff Reviewer: Ryan Collingwood, Associate Planner

PROPERTY INFORMATION & BACKGROUND

The subject Property is .16 acres +/- in size and located at 1290 Hartswick Court, as seen in the Location Map (**Exhibit 2**). The Property has a zoning classification of the Chatham Hills PUD District.

Although the home has yet to be built, the variation of home proposed to be built on the Property would not conform to the setback standards in which are in place today. As a result, the Petitioner is requesting a 6-foot encroachment into the allotted 25-foot Rear Yard Setback in order to legally construct the variation of home on the Property.

REQUEST FOR VARIANCE

The request for variance exists due to the proposed variation of a single-family home not complying with the Chatham Hills PUD District's building setback standards. As the Property is rear-alley loaded, the Rear Yard setback fronts the alleyway to the north, while the Front Yard setback fronts Hartswick Court to the south.

The Petitioner is requesting to encroach 6 feet into the 25-foot Rear Yard Setback in order to construct a specific home variation on the Property.



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 13, 2023, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

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

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

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

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

COMPREHENSIVE PLAN

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

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

DEPARTMENT COMMENTS

If the Board is inclined to approve 2306-VS-15, The Department recommends the following findings and conditions:

Recommended Findings for Variance of Development Standard (2306-VS-15):

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

Finding: It is unlikely approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the home has not been built yet. The proposed Use is not changing and the development of the home would otherwise comply with the applicable standards of the Chatham Hills PUD District.

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

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

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

Finding: Strict adherence to the zoning ordinance would result in the home to encroach into the allotted building setback, and therefore, would result in an uncompliant and illegal structure.



Recommended Conditions:

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

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 13, 2023

2306-VS-12

Exhibit 1

Petition Number: 2306-VS-12

Subject Site Address: East side of Freemont Moore Rd., 1/4 mile south of East 206th St.
Parcel ID: 08-05-21-00-00-008.000 ("the Property")

Petitioner: Stephen M. Bell, Jr. ("the Petitioner")

Representative: Andrew Wert of Church, Church, Hittle & Antrim ("the Representative")

Request: Variance of Development Standard to modify the Minimum Lot Frontage standards for the development of two (2) individual residential lots on 10.83 acres +/- within the Agriculture/Single-Family (AG-SF1) Rural District. *Article 4.2 (D)*

Current Zoning: AG-SF1 (Agriculture / Single-family Rural District)

Current Land Use: Agriculture

Approximate Acreage: 10.83 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 10.83 acres +/- in size (the "Property") and is located on East side of Freemont Moore Rd., approximately 1/4 mile south of East 206th St. (see **Exhibit 2**). The Property is zoned AG-SF1 – Agriculture / Single-family Rural District. The adjacent properties to the north, east, west, and south are also zoned AG-SF1.

Property History: The Property appears to have been continuously utilized for agricultural purposes since the beginning of record-keeping activity with the City. There is no current development on site.

Requested Variances:

The Petitioner requests one (1) Variance of Development Standard:

Modify the Minimum Lot Frontage from two-hundred and fifty (250) feet to fifty (50) feet – [Article 4.2\(D\)](#)



SUMMARY OF VARIANCES

The Unified Development Ordinance (UDO) requires AG-SF1 zoned properties to have a Minimum Lot Frontage of two-hundred and fifty (250) feet. The requested variance of development standard would modify the Minimum Lot Frontage to be fifty (50) feet for the development of two (2) single family lots.

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 13, 2023 Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

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

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

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.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 13, 2023

2306-VS-12

Exhibit 1

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 Variances of Development Standard 2306-VS-12), with the recommended conditions and findings as set forth below:

Recommended Conditions of Approval:

1. 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;
2. That the site shall be developed in substantial compliance with **Exhibit 3**;
3. That the Petitioner shall file a Secondary Plat application to the Community Development Department for review, comment, and approval; and
4. That the Petitioner shall record the approved Secondary Plat with the Hamilton County Records office and return a digital copy of the recorded plat 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 use and proposed improvements will otherwise comply with the applicable standards of the AG-SF1: Agriculture/Single-Family Rural District.

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

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

- 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 create an additional lot for a single-family residence in character with the surrounding context.

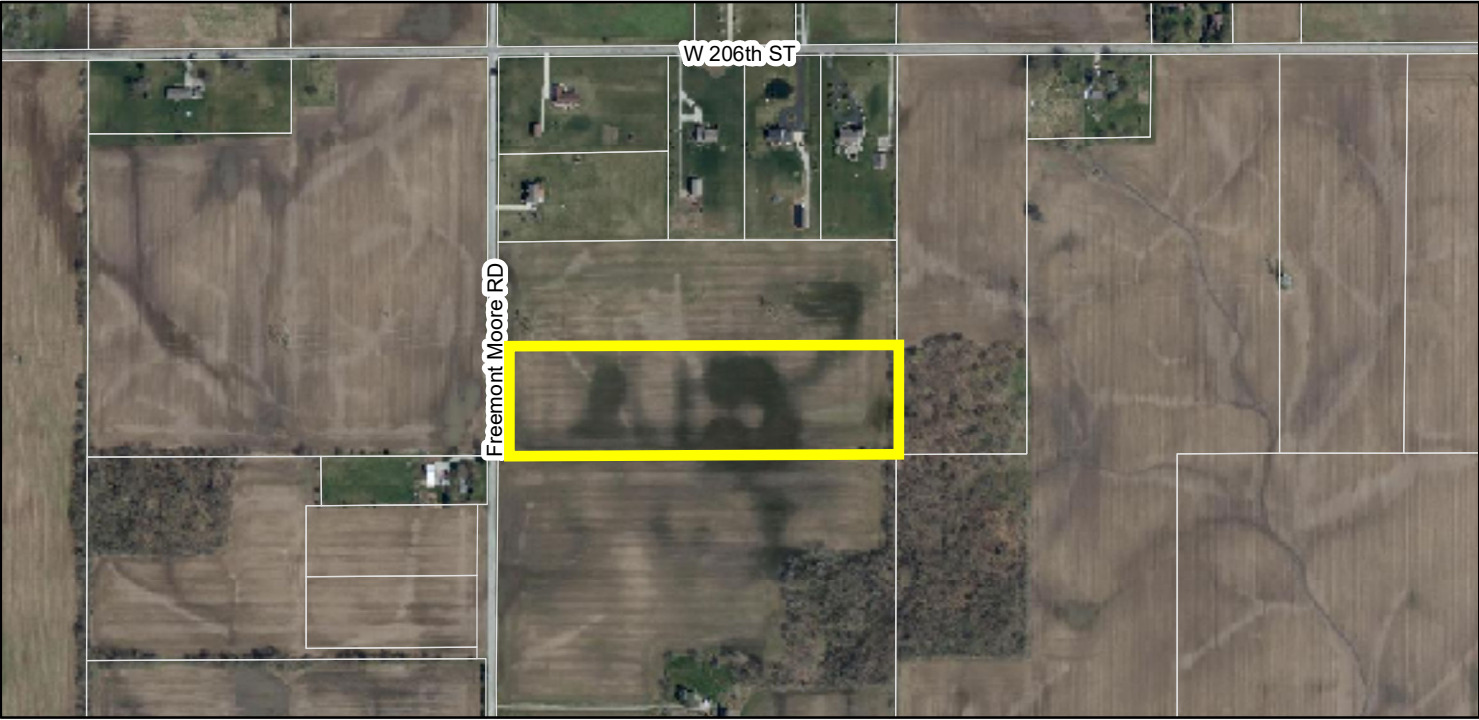
Denial: If the Board is inclined to deny the requested variances, then the Department recommends denying the variances, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.



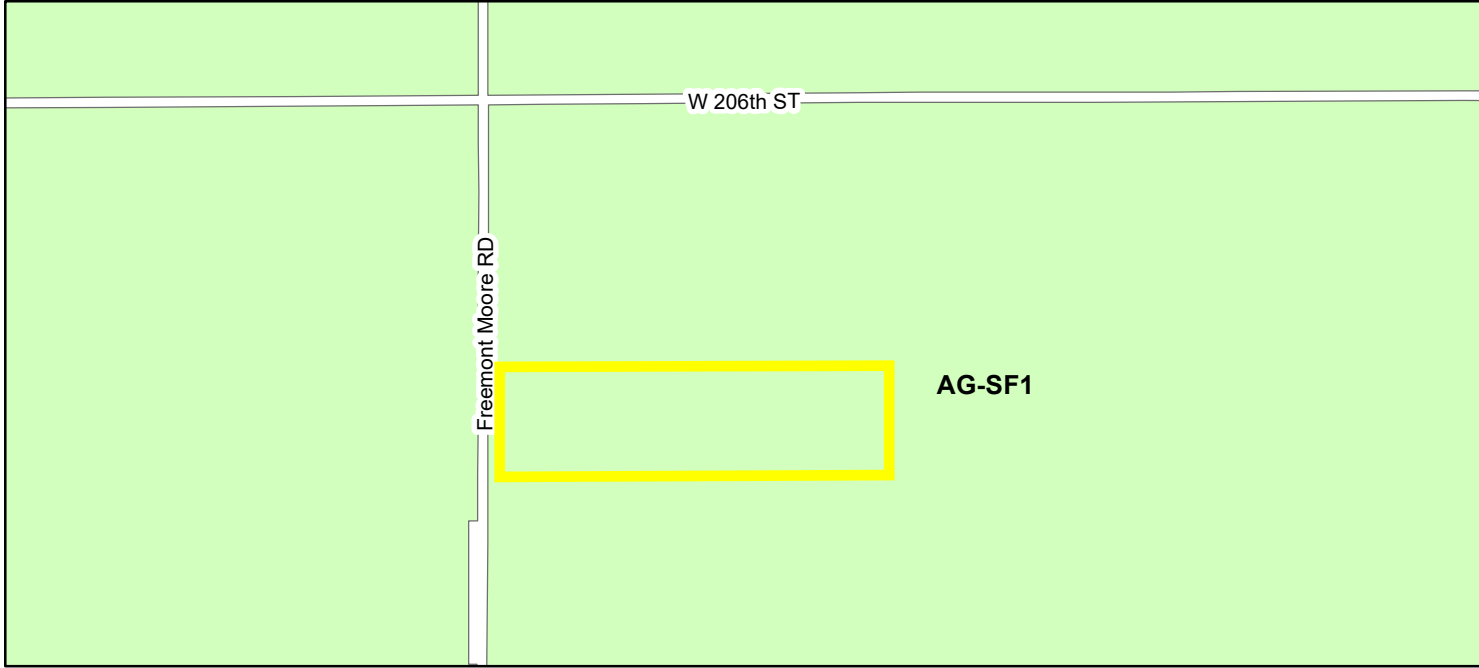
Property Location Map
East side of Freemont Moore Rd., 1/4 mile south of E. 206th St.
2306-VS-12



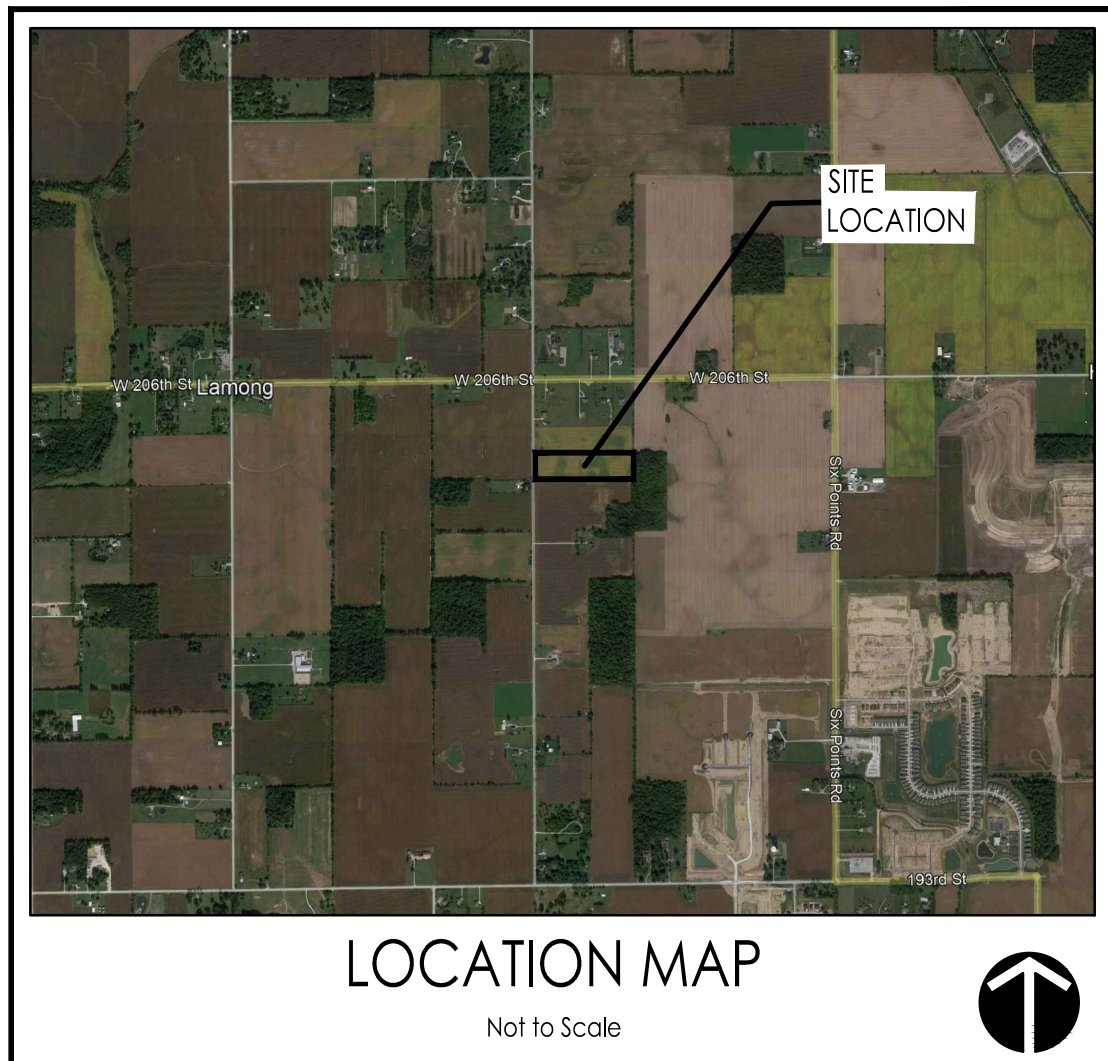
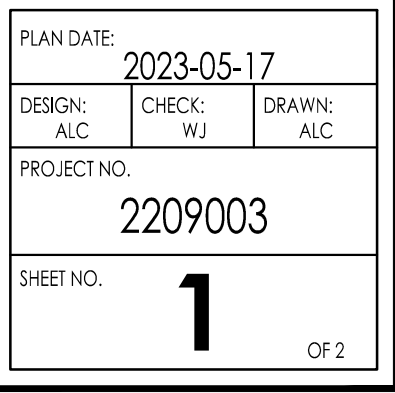
Aerial Location Map



Zoning Map



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



VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: _____ FILING DATE: _____

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Weston Rogers (STAFF NAME) DATE: May 18, 2023

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: Stephen M. Bell, Jr.

ADDRESS: 141 1st Avenue SE, Carmel, IN 46032

TELEPHONE: 317.697.4013

EMAIL: michaelbelldc@gmail.com

PROPERTY OWNER'S NAME: Stephen M. Bell, Jr.

ADDRESS: 141 1st Avenue SE, Carmel, IN 46032

TELEPHONE: 317.697.4013

EMAIL: michaelbelldc@gmail.com

REPRESENTATIVE'S NAME: Andrew Wert

COMPANY: Church Church Hittle + Antrim

ADDRESS: 116 North Union Street, Westfield, IN 46074

TELEPHONE: 317.776.5262

EMAIL: awert@cchalaw.com

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: east side of Freemont Moore Road, 1/4 mile south of East 206th Street

COUNTY PARCEL ID #(S): 08-05-21-00-00-008.000

EXISTING ZONING DISTRICT(S): AG-SF1 EXISTING LAND USE(S): Agricultural

PROPERTY AND PROJECT INFORMATION

☐ VARIANCE OF LAND USE CODE CITATION: _____

☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: UDO Chapter 4.2.D.

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

Owner wishes to create a second buildable tract on this 10+ acre parcel. Reduction of the frontage standard from 250 feet to 50 feet for one of the lots is being sought. The parcel division would follow the minor plat approval process with right-of-way dedication.



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

APPLICANT AFFIDAVIT

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

[Signature]
Applicant/Representative (signature)

Andrew Worf
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 18th day of May, 2023
State of Indiana, County of Hamilton, SS: _____

[Signature]
Notary Public (signature)

Joan E. Guilkey
Notary Public (printed)



JOAN E. GUILKEY
MY COMMISSION EXPIRES: 2-19-2024
MY COMMISSION NUMBER IS: 678833
MY COUNTY OF RESIDENCE IS: HAMILTON

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)*

STEPHEN M. BELL JR
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 17th day of May, 2023
State of Indiana, County of Hamilton, SS: _____

[Signature]
Notary Public (signature)

Adam P Ruberry
Notary Public (printed)

Adam P Ruberry
Notary Public - Seal
State of Indiana
Hamilton County
My Commission Expires 11/24/2023
Commission No. NP0730154

*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: Stephen M. Bell, Jr.

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 proposed reduction in road frontage requirement would allow the property to be used in a manner that is similar to other large-lot residential land uses in the vicinity of the subject property. This proposal will not be injurious to the public health, safety, morals, or general welfare of the community as a result.
- B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: the proposed reduction in road frontage requirement would allow the property to be used in a manner that is similar to other large-lot residential land uses in the vicinity of the subject property. This proposal will not adversely affect adjacent land uses and values as a result.
- C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: the subject 10.83 +/- acre parcel is narrow and deep. For the owner to build a new home and create an additional buildable parcel for a family member's new home, in a manner that is compatible with other large-lot residential homes in the vicinity, this proposed variance is being sought. This will allow one home to be built toward the back of the acreage and the other home to be built closer to Freemont Moore Road.



Petition Number: 2306-VS-13 & 2306-VU-05

Subject Site Address: 17728 Sun Park Drive (the "Property")

Petitioner: Direct Repair Collision LLC (the "Petitioner")

Request: Direct Repair Collision LLC requests a Variance of Use to permit an Automotive Refurbishing Business and for the US Highway 31 Overlay District development standards exemption to be inapplicable to the 4.32 acres +/- Property in the Enclosed Industrial (EI) zoning district. Article 13.2 and Article 5.2(L)

Current Zoning: EI: Enclosed Industrial

Current Land Use: Warehousing, Office

Approximate Acreage: 4.32 acres+/-

Exhibits:

1. Staff Report
2. Location Map
3. Statement of Intent
4. Petitioners Response to Staff Questions
5. Application

Staff Reviewer: Weston Rogers, Associate Planner

OVERVIEW

Location: The subject property is 4.32 acres +/- in size and is located at 17728 Sun Park Drive (the "Property") (see **Exhibit 2**). The Property is zoned EI: Enclosed Industrial and is located within the U.S. Highway 31 Overlay District.

Requested Variances: The Petitioner request a Variance of Use to permit an Automotive Refurbishing Business on the Property as further described in the Statement of Intent (see **Exhibit 3**) and for the US Highway 31 Overlay District development standards exemption to be inapplicable to the Property.

BACKGROUND

The Property, located at 17728 Sun Park Drive includes an existing roughly 40,000 SF enclosed building. The original portion of this existing building (+/- 30,000 SF) was developed in 1989 under permit numbers 89-IP-148 and 89-AP-15. The building was later expanded by an additional 10,000 SF in 1998 under permit numbers 98-IP-182. The current zoning of the property, Enclosed Industrial (EI) has remained unchanged since the early 1970's.

SUMMARY OF VARIANCE

Variance of Use – [Article 13.2](#)

The Petitioner is requesting to permit an “Automotive Refurbishing Business”, as described in the Statement of Intent (see **Exhibit 3**), on the Property.

The Community Development Department has determined this land use to closely align with the UDO definition of “High Intensity Retail”. This land use, High Intensity Retail, is not permitted within the US Highway 31 Overlay District.

Moreover, the Petitioner is requesting a Variance of Use to permit an Automotive Refurbishing Business, as described in the Statement of Intent (see **Exhibit 3**) on the Property.

It should be noted that if 2306-VU-05 is not approved, then variance request 2306-VU-05 is not necessary.

Variance of Development Standard – [Article 5.2\(L\)](#)

The Petitioner is requesting to exempt Article 5.2(L) from being applicable to the subject property.

The U.S. Highway 31 Overlay District Ordinance (the “Overlay”) states that if a facility changes to a use different from when the Overlay standards were adopted, then the site is subject to all of the Overlay standards.

Applying the Overlay standards to the Property would require the existing building to be brought into compliance with all the Overlay’s standards, including: meeting the use requirements, lot size, setbacks, building height, minimum gross floor area, lot coverage, architectural requirements, and screening requirements.

As such, the petitioner is requesting a Variance of Standard for relief from the Overlay’s development standards.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies a large majority of the Property within the “Business Park” land use classification. A link to the Comprehensive Plan “Business Park” section can be found [here](#).

The Comprehensive Plan identifies appropriate land uses in this land use classification to include: i) manufacturing; ii) subordinate office, retail, and services; iii) Research and Development; and iv) warehousing.

In addition, the Property is also located within the Family Sports Capital of America Comprehensive Plan Amendment – link [here](#).

The property to the southeast across Sun Park Drive is located within the “Gateway Subdistrict” of the Grand Junction Addendum to the Comprehensive Plan – link [here](#).

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 13, 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;

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.

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.

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

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

DEPARTMENT COMMENTS:

Recommended Conditions for Approval:

If the Board is inclined to approve 2306-VS-13 & 2306-VU-05, the Department recommends the following conditions:

1. That the Variance of Use shall be tied to the Applicant, Direct Repair Collision LLC;
2. That if the Petitioner ceases operation on the Property, the variances associated with this approval shall be annulled;
3. That the use of the Property shall remain consistent with the Statement of Intent as described in **Exhibit 3**;
4. That the use of the Property will occur entirely within the existing building on site; and
5. That the Petitioner records an Acknowledgement of Variance with the Hamilton County Recorder's Office and returns a copy of the recorded instrument to the Community Development Department.

Recommended Findings for Approval (2306-VU-05):

If the Board is inclined to approve the Variance of Use, then the Department recommends the following findings:

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

- **Finding:** It is unlikely that allowing an Automotive Refurbishing Business to locate on the Property will be injurious to the public health, safety, morals, and general welfare of the community as the use will be contained to the Property.

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 Property and most of the surrounding area were developed without the existing U.S. Highway 31 Overlay standards being in effect. Very little of the surrounding area complies with the Overlay standards. Approving the variance would result in the character of the area to remain unchanged.

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

- **Finding:** An Automotive Refurbishing Business is considered to be a High Intensity Retail use which is not permitted within the Enclosed Industrial (EI) zoning district and excluded within the U.S. Highway 31 Overlay District.

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

- **Finding:** The strict application of the terms of the zoning ordinance will result in the inability for the Petitioner to utilize the Property for the intended business purpose.

The approval does not interfere substantially with the comprehensive plan:

- **Finding:** The Westfield-Washington Comprehensive Plan (the “Comprehensive Plan”) identifies the Property within the “Business Park” land use classification. The proposed Automotive Refurbishing Business use concurs with elements of this plan. The Property also falls within the Family Sports Capital Comprehensive Plan Amendment. However, in addition to the sports-related uses, this plan contemplates that additional related and supporting land uses to be located within, adjacent to and nearby the Sports Campus.



Recommended Findings for Approval (2306-VS-13):

If the Board is inclined to approve the Variance of Development Standard, then the Department recommends the following findings:

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

- **Finding:** It is unlikely that allowing an Automotive Refurbishing Business to locate on the Property will be injurious to the public health, safety, morals, and general welfare of the community as the use will be contained to the Property.

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 Property and most of the surrounding area were developed without the existing U.S. Highway 31 Overlay standards being in effect. Very little of the surrounding area complies with the Overlay standards. Approving the variance would result in the character of the area to remain unchanged.

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

- **Finding:** The strict application of the terms of the zoning ordinance will result in the inability for the Petitioner to utilize the Property for the intended business purpose.

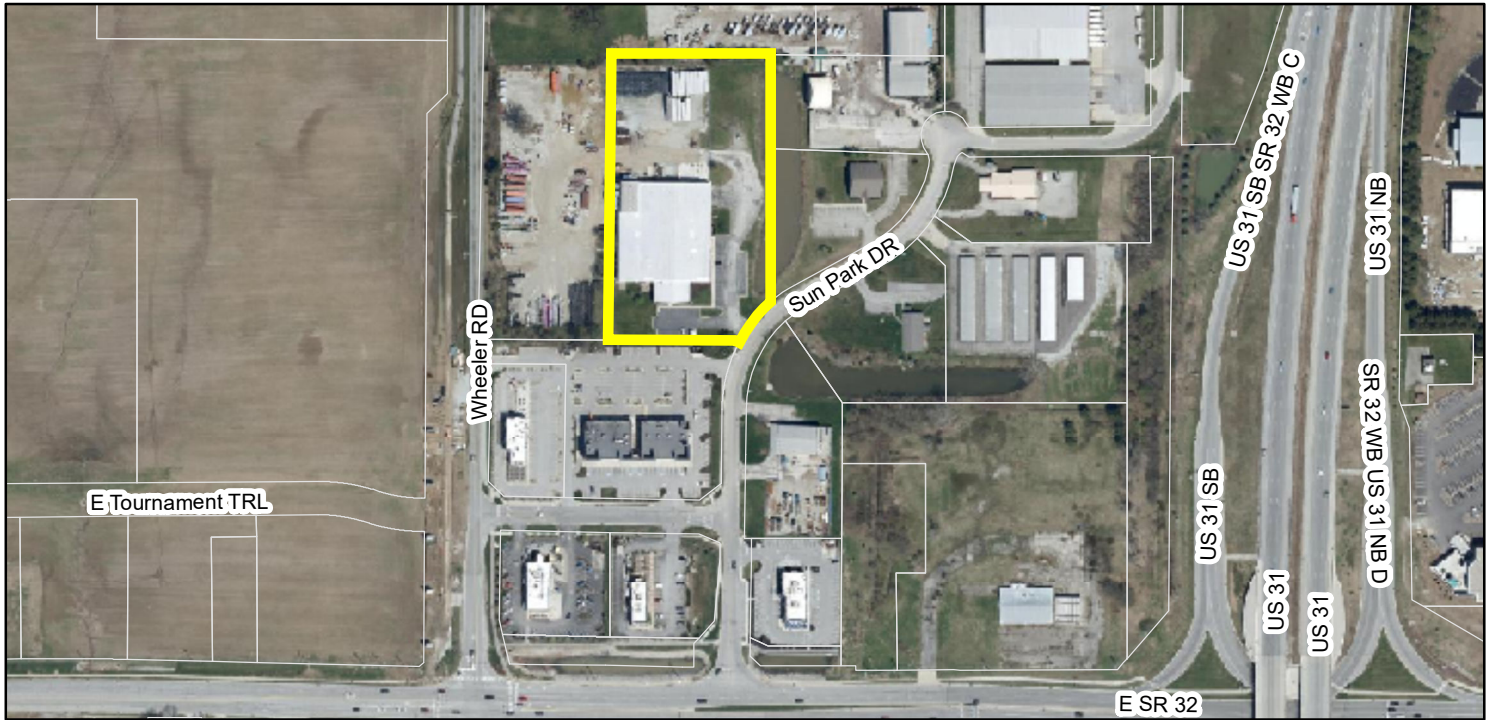
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.



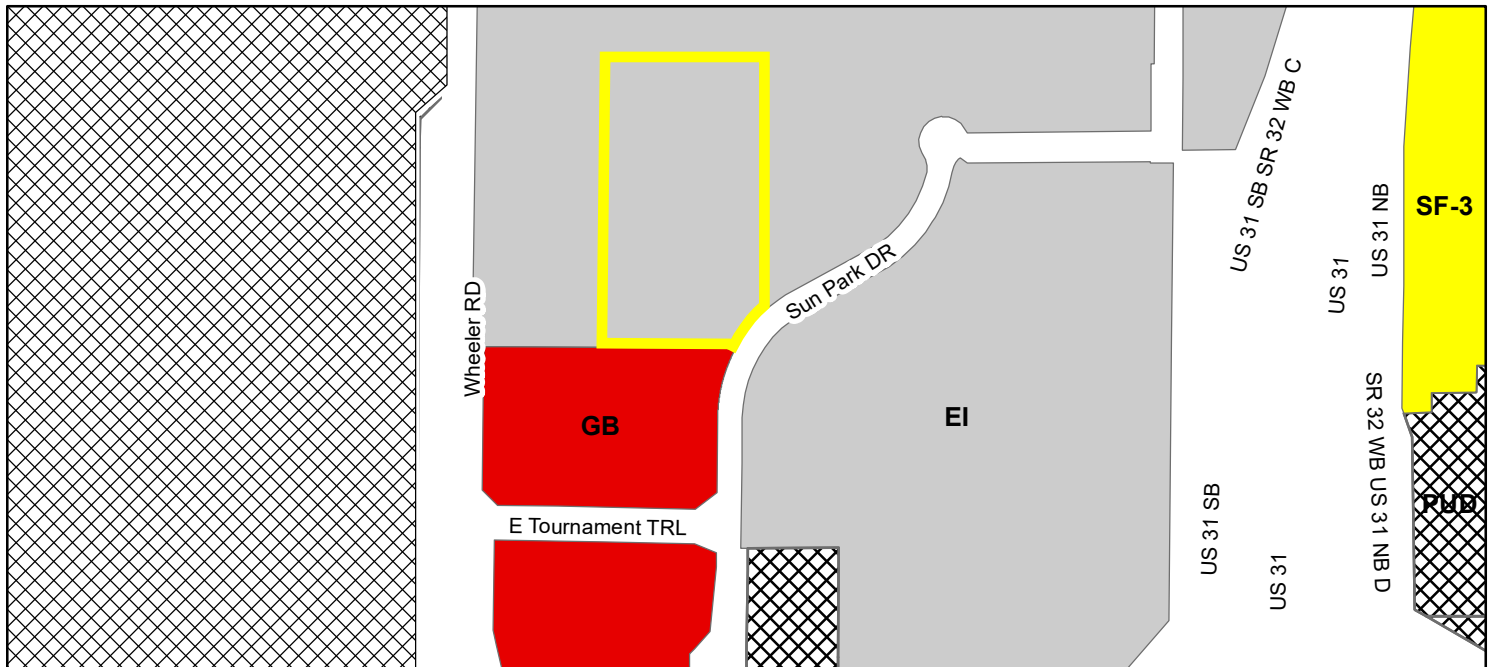
Property Location Map
17728 Sun Park Dr.
2306-VS-13 & 2306-VU-05



Aerial Location Map



Zoning Map



- Zoning**
- PUD (Planned Unit Development)
 - EI (Enclosed Industrial)
 - SF-3 (Single Family - 3)
 - GB (General Business)

Statement of Intent

17728 Sun Park Drive - Variance Petitions

The proposed variances have been submitted to permit the adaptive re-use of a building located at 17728 Sun Park Drive. The proposed use is an automotive refurbishing business. The subject property is located in an area that has gradually transitioned to more of a commercial area than an industrial park over many years.

No material changes are planned to the existing building. The proposed automotive refurbishing use is consistent with the comprehensive plan and is consistent with and less intensive than other existing land uses in the vicinity of the subject property.

The proposed Automotive Refurbishing Business will primarily perform cosmetic restoration work on fleet delivery vehicles. Up to 10%-20% of clients may be individual retail clients. 80%-90% will be non-retail clients. The non-retail component of the business involves members of the Automotive Refurbishing Business picking up from clients the fleet delivery vehicles needing service, driving them to the subject property, performing refurbishing service, and then returning the fleet vehicles to clients. This is not a predominantly retail use and it is not a high-intensity use.

Weston Rogers

From: Matthew S. Skelton <mskelton@cchalaw.com>
Sent: Friday, June 2, 2023 3:07 PM
To: Weston Rogers
Cc: Andrew E. Wert; Daine Crabtree
Subject: RE: Follow up Questions - 17728 Sun Park Drive

Follow Up Flag: Follow up
Flag Status: Flagged

**WARNING: This external email is from
mskelton@cchalaw.com.**

Weston:

See responses in bold below. Does this adequately answer your questions? Anything else?

Thanks, Matt

- 1) To confirm, is this variance specifically for parcel no. 09-05-36-00-00-039.003 (the rectangular parcel) associated with 17728 Sun Park Drive?

Confirmed.

- 2) Can you provide some detail as to what land use activity is taking place to the west and north of the property at 17728 Sun Park Drive?

No. That property is owned by another party. The applicant intends to purchase 17728 Sun Park Drive subject to approval of the proposed variance. The applicant has no intention of acquiring the adjacent property.

- a. It appears the property to the west and north is "connected" in multiple capacities such as vehicular access, existing land uses, etc.

It does appear that the adjacent property has been being access through the subject property. To the extent that there is any non-conforming use or condition on the subject property, we would propose to resolve those items after the applicant completes the purchase of the property. Until then, the applicant does not have control of the property.

- b. Is the proposed "Automotive Refurbishing Business" planning to utilize the neighboring property in any capacity?

No.

- 3) Will there be any outdoor storage on the property as part of the "Automotive Refurbishing Business"? -or- will the use be completely contained inside the building?

The applicant's use will occur entirely within the building. On occasion there may be a few vehicles parked in a secured area behind the building. They would not be stored on site. These would be roadworthy vehicles in que for refurbishing or return to owners. The applicant's use does not involve work on wrecked vehicles.

- a. If outdoor storage is proposed, additional variances may need to be included in this request.

N/A

- 4) In regards to the Statement of Intent – this will need to be refined to include additional detail in order to more clearly define the proposed “Automotive Refurbishing Business”.

We have supplied a detailed description for “Automotive Refurbishing Business” below.

- a. The UDO discusses auto service uses (repair, service, etc.) as being considered High Intensity Retail. The Statement of Intent noting the “Automotive Refurbishing Business” use needs to delineate how this proposed use is different -or- doesn't completely “fit” the UDO definition. The verbal explanation of the “Automotive Refurbishing Business” use from the pre-filing meeting shared last week would be a good starting point.

The proposed Automotive Refurbishing Business will primarily perform cosmetic restoration work on fleet delivery vehicles. Up to 10%-20% of clients may be individual retail clients. 80%-90% will be non-retail clients. The non-retail component of the business involves members of the Automotive Refurbishing Business picking up from clients the fleet delivery vehicles needing service, driving them to the subject property, performing refurbishing service, and then returning the fleet vehicles to clients. This is not a predominantly retail use and it is not a high-intensity use.

Matthew S. Skelton | Attorney

Church Church Hittle + Antrim

Two North Ninth Street
Noblesville, IN 46060

P: 317.773.2190 | **F:** 317.773.5320

cchalaw.com

cch+a

From: Weston Rogers <wrogers@westfield.in.gov>

Sent: Wednesday, May 24, 2023 1:11 PM

To: Matthew S. Skelton <mskelton@cchalaw.com>

Cc: Andrew E. Wert <awert@cchalaw.com>; Daine Crabtree <dcrabtree@westfield.in.gov>

Subject: RE: Follow up Questions - 17728 Sun Park Drive

Thanks for the heads up Matt. If you could provide us with a response by mid next week at the latest that would be ideal.

VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: _____ FILING DATE: _____

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Weston Rogers (STAFF NAME) DATE: May 18, 2023

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: Direct Repair Collision LLC

ADDRESS: 135 N Pennsylvania St, Ste 1610, Indianapolis, IN 46204

TELEPHONE: 317.201.3776

EMAIL: alex.gortchilova@dentons.com

PROPERTY OWNER'S NAME: Freedom Associates of Indiana II, LLC

ADDRESS: 2621 East 186th Street, Westfield, IN 46074

TELEPHONE: 317.696.3415

EMAIL: jimg@heartlandgrowers.com

REPRESENTATIVE'S NAME: Andrew Wert

COMPANY: Church Church Hittle + Antrim

ADDRESS: 116 North Union Street, Westfield, IN 46074

TELEPHONE: 317.776.5262

EMAIL: awert@cchalaw.com

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 17728 Sun Park Drive, Westfield, IN 46074

COUNTY PARCEL ID #(S): 09-05-36-00-00-039.003

EXISTING ZONING DISTRICT(S): EI & US 31 Overlay EXISTING LAND USE(S): Industrial

PROPERTY AND PROJECT INFORMATION

☐ VARIANCE OF LAND USE CODE CITATION: _____

☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: UDO Chapter 5.2

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

Exempt proposed automotive refurbishing use from U.S. Highway 31 Overlay District.

APPLICANT AFFIDAVIT

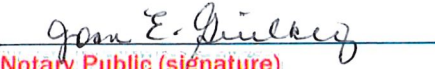
IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says that above information is true and correct as he/she is informed and believes and that Applicant owns or controls the property involved in this application.


Applicant/Representative (signature)

Andrew Wert
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 18th day of May, 2023
State of Indiana, County of Hamilton, SS: _____


Notary Public (signature)

Joan E. Guilkey
Notary Public (printed)



JOAN E. GUILKEY
MY COMMISSION EXPIRES: 2-19-2024
MY COMMISSION NUMBER IS: 678833
MY COUNTY OF RESIDENCE IS: HAMILTON

PROPERTY OWNER AFFIDAVIT

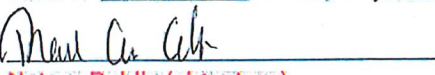
IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says they are the owners of the property involved in this application and that they hereby acknowledge and consent to the foregoing Application.


Property Owner (signature)*

JAMES GAPIŃSKI
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 17th day of May, 2023.
State of Indiana, County of Hamilton, SS: Jan. 8, 2025


Notary Public (signature)

Rachel Ann Cook
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.

VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: _____ FILING DATE: _____

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Weston Rogers (STAFF NAME) DATE: May 18, 2023

PRIOR OR RELATED DOCKET NUMBERS

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ADDRESS OR PROPERTY LOCATION: 17728 Sun Park Drive, Westfield, IN 46074

COUNTY PARCEL ID #(S): 09-05-36-00-00-039.003

EXISTING ZONING DISTRICT(S): EI & US 31 Overlay EXISTING LAND USE(S): Industrial

PROPERTY AND PROJECT INFORMATION

☒ VARIANCE OF LAND USE CODE CITATION: UDO Chapter 13.2

☐ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: _____

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

Repurposing of an existing building for an automotive refurbishing business.

APPLICANT AFFIDAVIT

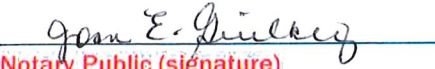
IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says that above information is true and correct as he/she is informed and believes and that Applicant owns or controls the property involved in this application.


Applicant/Representative (signature)

Andrew Wert
Applicant/Representative (printed)

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Witness my hand and Notarial Seal this 18th day of May, 2023
State of Indiana, County of Hamilton, SS: _____


Notary Public (signature)

Joan E. Guilkey
Notary Public (printed)



JOAN E. GUILKEY
MY COMMISSION EXPIRES: 2-19-2024
MY COMMISSION NUMBER IS: 678833
MY COUNTY OF RESIDENCE IS: HAMILTON

PROPERTY OWNER AFFIDAVIT

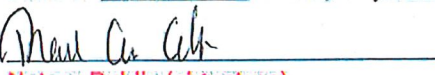
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Notary Public (signature)

Rachel Ann Cook
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: Direct Repair Collision LLC

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 proposed automotive refurbishing use is consistent with and less intensive than other existing land uses in the vicinity of the subject property.

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: No material changes are planned to the existing building. The proposed automotive refurbishing use is consistent with and less intensive than other existing land uses in the vicinity of the subject property.

C. The need for the variance arises from some condition particular to the property involved because: The subject property is located in an area that has gradually transitioned to more of a commercial area than an industrial park. This adaptive re-use of the existing building is a good fit for the property,

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 strict application of the terms of the Ordinance would prevent this compatible land use from locating on the subject property, and may result in some other less compatible industrial use of the property.

E. The variance of use does not interfere substantially with the Comprehensive Plan because: The Comprehensive Plan identifies the subject property as a commercial area which contemplates service uses.

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: Direct Repair Collision LLC

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 proposed adaptive re-use of the existing building is consistent with and less intensive than other existing land uses in the vicinity of the subject property. This proposal will not be injurious to the public health, safety, morals or general welfare of the community as a result.
- 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: No material changes are planned to the existing building. The proposed automotive refurbishing use is consistent with and less intensive than other existing land uses in the vicinity of the subject property,
- C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: The existing property was developed at a time before the U.S. Highway 31 Overlay District, in its present form, existed. To apply the Overlay District standards to this parcel would create several non-conforming conditions. The subject property is located in an area that has gradually transitioned to more of a commercial area than an industrial park. The strict application of the terms of the Ordinance would prevent this compatible land use from locating on the subject property, and may result in some other less compatible industrial use of the property,