



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_06_09_2020

Tuesday, June 09, 2020 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, June 09, 2020 at 07:00 PM

MEETING PLACE:

ONLINE VIA SKYPE

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

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

OPENING OF REGULAR MEETING

Documents: [06/09/2020 - viewable online via Skype at https://www.youtube.com/user/CityofWestfieldIN](https://www.youtube.com/user/CityofWestfieldIN)

Note the presence of a quorum

Approval of Minutes - May 12, 2020

Documents: [BZA Minutes - May 12, 2020](#)

Review Rules & Procedures

ITEMS OF BUSINESS:

2004-VS-06 [ADOPTION OF FINDINGS OF FACTS]

345 E Park Street

John Long

Adoption of Findings of Fact for Variances of Development Standard that were denied on May 12, 2020.

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

Documents: [Exhibit 1 Findings of Fact](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Plot Plan](#) | [Exhibit 4: Proposed Elevations](#) | [Exhibit 5: Application](#)

2006-VS-08 [PUBLIC HEARING]

1817 W. 216th Street

John & Jennifer Driscoll

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

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

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Existing Site Plan](#) | [Exhibit 4: Application](#) | [Preliminary Plans for Main House](#) | [Inspiration Photos for Guest House](#) | [Public Comments](#)

2006-VS-09 [PUBLIC HEARING]

4180 Westfield Road

Washington Park Cemetery Association

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

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

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

2006-VS-10 [PUBLIC HEARING]

4730 Muscatine Circle

Matt J. Falls

The Petitioner requests a Variance of Development Standard to encroach twelve (12) feet into the twenty-five (25) foot Minimum Rear Yard Setback on 0.19 acres +/- in the Andover Planned Unit Development (PUD) District.

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

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

ITEMS CONTINUED TO A FUTURE MEETING:

2006-VS-07 [CONTINUED]

4321 W. 166th Street

Scott Higgs

The Petitioner requests a Variance of Development Standard to permit an Accessory Structure in an Established Front Yard on 10 acres +/- in the AG-SF1:

Agriculture/Single-Family Rural District (Article 6.1(D)(2)(a))

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

REPORTS/COMMENTS:

ADJOURNMENT



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 9, 2020
2006-VS-09
Exhibit 1

Petition Number: 2006-VS-09

Subject Site Address: 4180 Westfield Road (the "Property")

Petitioner: Westfield Park Cemetery Association (the "Petitioner")

Request: The Petitioner is requesting a Variance of Development Standard to construct a Building beyond the Maximum Setback required by the State Highway 32 Overlay Zone in the AG-SF1: Single-family Rural District (Article 5.3(G)(1)).

Current Zoning: AG-SF1 District

Current Land Use: Cemetery

Approximate Acreage: 54.6 acres +/-

Exhibits:

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

Staff Reviewer: Caleb Ernest, Associate Planner

OVERVIEW

Location: The subject property is 54.6 acres +/- in size and located at 4180 Westfield Road, generally northwest of the State Road 32 and Shady nook Road intersection (see **Exhibit 2**). The Property is zoned the AG-SF1: Single-family Rural District. The adjacent properties to the north are zoned the Sheffield Park Planned Unit Development (PUD) District. The adjacent properties to the east are zoned the SF4: Single-family High Density District and GO: General Office District. The adjacent properties to the west are zoned the SF4 District, LB-PD: Business / Planned Development District and the Oak Manor North PUD District. The adjacent properties to the south are zoned the Oak Manor PUD District and GB-PD: Business / Planned Development District.

Variance Request: The Petitioner is requesting a Variance of Development Standard to construct a Building¹ beyond the Maximum Setback required by the State Highway 32 Overlay Zone in the AG-SF1: Single-family Rural District (Article 5.3(G)(1)).

¹ Chapter 12 of the UDO defines "Building" as "A structure having a roof supported by columns or walls, for the shelter, support, enclosure or protection of persons, animals, chattels or other property."

SUMMARY OF VARIANCE

The Petitioner is requesting a Variance of Development Standard to construct a new Building ninety-five (95) feet beyond the one hundred and twenty (120) foot Maximum Setback required by the State Highway 32 Overlay Zone.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies part of this Property within the “Local Commercial”² land use classification and the other part of this Property within the “Suburban Residential”¹ land use classification. The “Local Commercial”¹ land use classification is the area where the proposed new Building and Variance request are taking place.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of the Variance of Development Standard. This petition is scheduled to receive its public hearing at the June 9, 2020, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals’ Rules of Procedure.

Conditions: The UDO³ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by the variances as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO⁴ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

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

² Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (p. 24).

³ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

⁴ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.

ordinance. Variances may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

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

DEPARTMENT COMMENTS

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

Recommended Findings for Approval of the Variance of Development Standard:

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

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community as the property complies with all other standards of the Unified Development Ordinance (UDO).

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

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

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 new event center being relocated closer to State Road 32 and interference with existing site conditions per the UDO.

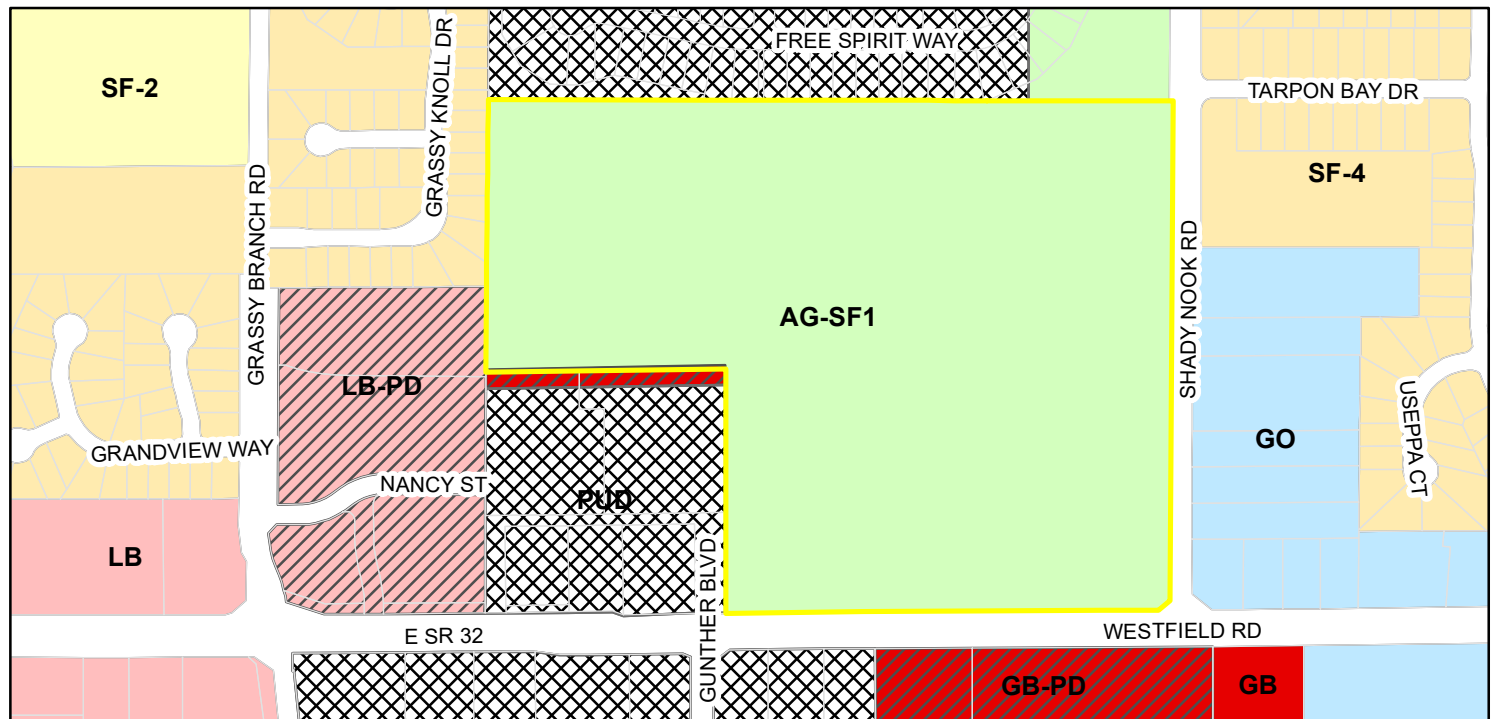
Denial: If the Board is inclined to deny either of the requested variances, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings consistent with the public hearing evidence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

Aerial Location Map

Site

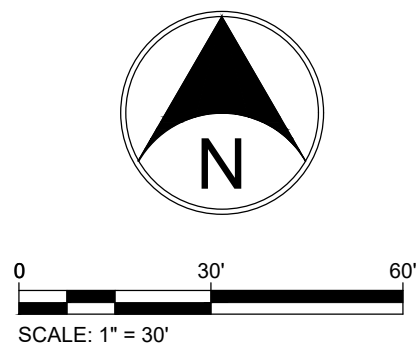
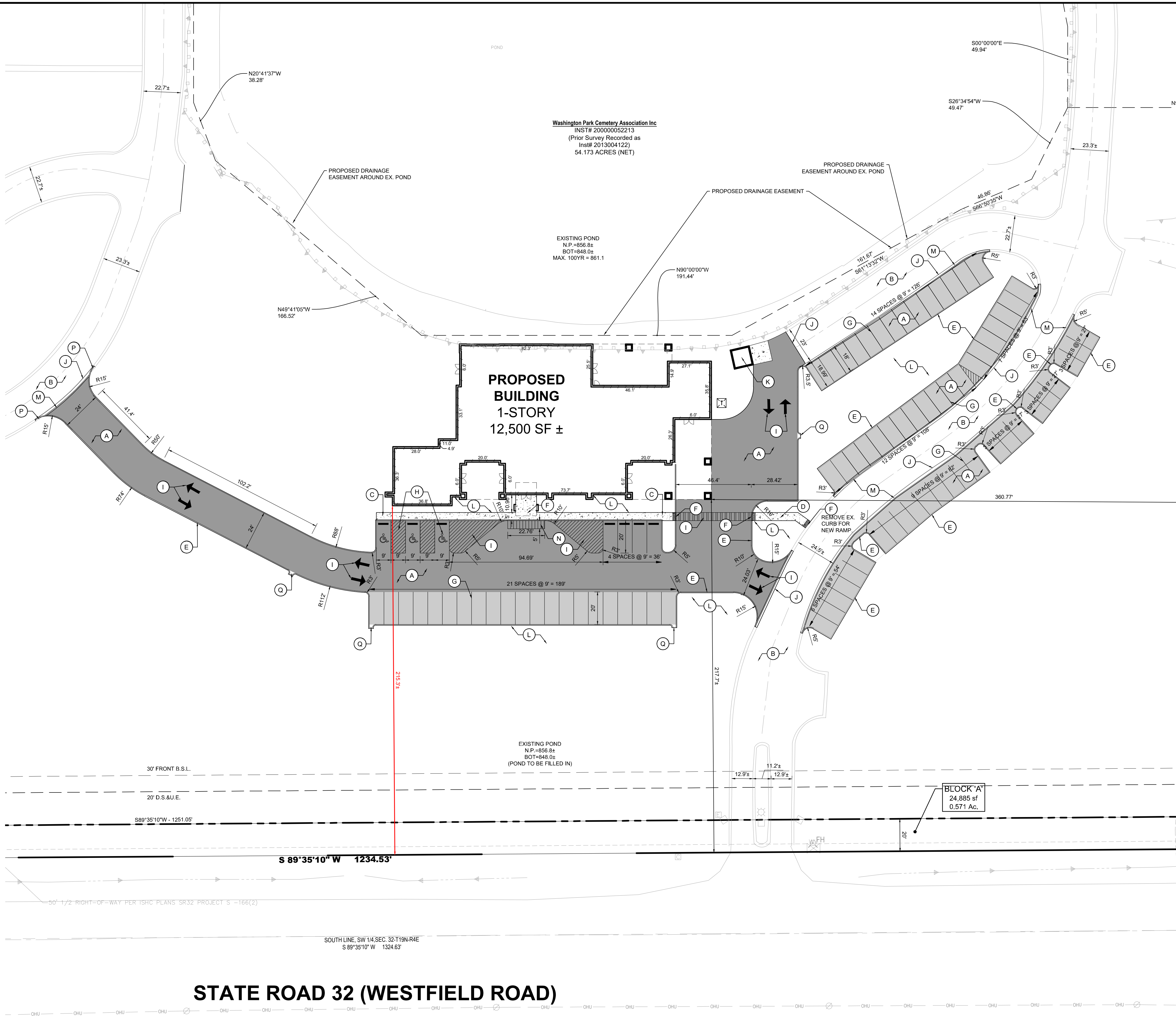


Zoning Map



Zoning

- | | |
|--|--|
| AG-SF1 (Agriculture - Single Family - 1) | LB (Local Business) |
| GB (General Business) | LB-PD (Local Business - Planned Development) |
| GB-PD (General Business - Planned Development) | PUD (Planned Unit Development) |
| GO (General Office) | SF-2 (Single Family - 2) |
| | SF-4 (Single Family - 4) |



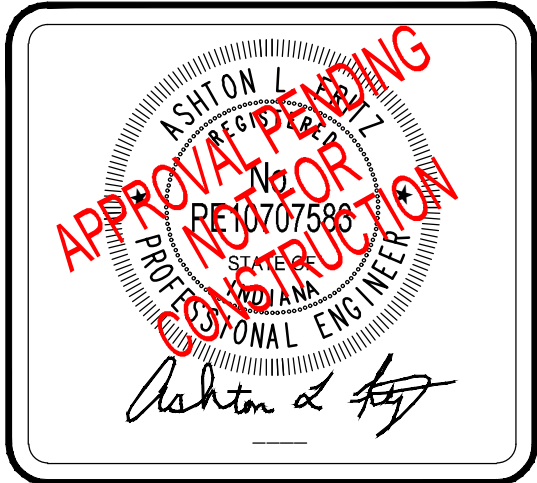
KEY NOTES:

- A PROPOSED ASPHALT PAVEMENT
- B EXISTING PAVEMENT TO REMAIN
- C COMBINED CONCRETE CURB & WALK
- D CONCRETE WALK
- E 6" CONCRETE CURB
- F ADA RAMP
- G 4" WHITE PAVEMENT STRIPING, TYP.
- H ADA BLUE PAVEMENT STRIPING, TYP.
- I PAVEMENT MARKING (AS SHOWN)
- J MATCH EXISTING PAVEMENT, CURB, OR WALK
- K DUMPSTER ENCLOSURE
- L LANDSCAPE AREA (REF. LANDSCAPE PLAN)
- M VALLEY CURB AND GUTTER
- N CURB RAMP (PER INDOT DETAIL)
- O BICYCLE PARKING (U-SHAPED, BLACK THERMOPLASTIC POWDER COATED)
- P FLUSH CURB / CURB TAPER
- Q CURB TURNOUT

NOTES:

**PROPOSED PARKING:
82 STANDARD SPACES
+ 3 ADA SPACES
85 TOTAL SPACES

Fritz Engineering Services, LLC
14020 Mississinewa Drive
Carmel, Indiana 46033
P: 317.324.8695 F: 317.324.8717
www.Fritz-Eng.com
ashton@Fritz-Eng.com



REVISIONS AND ISSUES	DATE	BY

GENERAL NOTES / LEGEND:

PROJECT: **HAMILTON MEMORIAL PARK EVENT CENTER**
PROJECT LOCATION: 4180 WESTFIELD RD. WESTFIELD, INDIANA 46062 HAMILTON COUNTY
SECTION, TOWNSHIP, RANGE: SW 1/4, S32, T19N, R4E

CLIENT: **WASHINGTON PARK CEMETERY ASSOCIATION**
2020 MONTCALM ST. INDIANAPOLIS, INDIANA 46202

PLAN DATE: **4/3/2020**
DESIGN: AF CHECK: AF DRAWN: RG
PROJECT NO.: **1801004**
SHEET NAME: **SITE PLAN**
SHEET NO.: **C201**

"IT'S THE LAW"
811
Know what's below.
Call before you dig.
2 WORKING DAYS BEFORE YOU DIG.



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

VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: 2006-VS-09 FILING DATE: 5/11/20

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Caleb Ernest (STAFF NAME) DATE: 5/7/2020

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: AMENDMENTS: DEVELOPMENT PLAN: 2005-ODP-11, 2005-DDP-11
PRIMARY PLAT: 2005-SPP-11 SECONDARY PLAT: 2005-SFP-23 VARIANCE(S):

APPLICANT INFORMATION

APPLICANT'S NAME: WASHINGTON PARK CEMETERY ASSOCIATION TELEPHONE: 317-396-2524
ADDRESS: 2020 MONTCALM STREET, INDIANAPOLIS, IN 46202 EMAIL: TMAU@BUCHANANGROUP.COM
PROPERTY OWNER'S NAME: SAME AS APPLICANT, c/o TED MAU TELEPHONE:
ADDRESS: EMAIL:
REPRESENTATIVE'S NAME: TOM MARTEN TELEPHONE: 317-714-4175
COMPANY: MARTEN CONSTRUCTION EMAIL: TAMJR@MARTENCM.COM
ADDRESS: 5719 LAWTON LOOP E DRIVE INDIANAPOLIS, IN 46216

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 4180 WESTFIELD ROAD
COUNTY PARCEL ID #(S): 09-06-32-00-00-023.000
EXISTING ZONING DISTRICT(S): AG-SF1 EXISTING LAND USE(S): CEMETERY

PROPERTY AND PROJECT INFORMATION

☐ VARIANCE OF LAND USE CODE CITATION:
☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: UDO - SECTION 5.3(G)(1)

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY):
APPLICANT REQUEST GRANT OF THE MAXIMUM BUILDING SETBACK SET FORTH IN THE SR 32 OVERLAY DISTRICT REGULATIONS. THE MAXIMUM SETBACK IS LISTED AS 120 FEET. DUE TO THE USE AND EXISTING LAND FEATURES INCLUDING DETENTION PONDS NORTH AND SOUTH OF THE PROPOSED BUILDING PROVIDE FOR A PROPOSED 200' SETBACK FROM THE SR 32 RIGHT OF WAY. THE PROPOSED BUILDING WILL BE LOCATED APPROXIMATELY 450 FEET CLOSER TO THE SR 32 RIGHT OF WAY THAN THE EXISTING MAUSOLEUM BUILDING LOCATED ON THE PROPERTY.

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.

Charles E. Mau IV

Applicant/Representative (signature)

THEODORE E. MAU IV

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 8 day of May, 2020

State of IN County of MARION, SS: INDYPS

Karen L Becvar

Notary Public (signature)

Karen L Becvar

Notary Public (printed)

Karen L. Becvar
Notary Public, State of Indiana
SEAL
Hendricks County
Commission Number 714382
My Commission Expires 06/15/2026

PROPERTY OWNER AFFIDAVIT

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

Charles E. Mau IV

Property Owner (signature)*

THEODORE E. MAU IV

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 8 day of May, 2020

State of IN County of MARION, SS: INDYPS

Karen L Becvar

Notary Public (signature)

Karen L Becvar

Notary Public (printed)

Karen L. Becvar
Notary Public, State of Indiana
SEAL
Hendricks County
Commission Number 714382
My Commission Expires 06/15/2026

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

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: WASHINGTON PARK CEMETERY ASSOCIATION

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 BUILDING WILL BE LOCATED WITHIN THE OVERALL CEMETERY PROPERTY AND WILL BE SETBACK GREATER THAN 120 FEET
FROM THE PUBLIC RIGHT OF WAY OF SR 32. THERE ARE NO ANTICIPATED SITE LINE, BUILDING HEIGHT,
OR ROADWAY IMPACTS THAT WOULD 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 PRIMARY USE OF THE OVERALL PROPERTY IS A CEMETERY/BURIAL FACILITY. THE ANCIALLY PROPOSED USE OF THE NEW BUILDNG WILL
BE FOR COMPLIMENTARY EVENTS. THEREFORE,THE PRIMARY USE OF THE PROPERTY WILL NOT BE AFFECTED.
A SIGNIFICANT DISTRANCE FROM THE BUILDING TO THE ADJACENT PROPERTIES WILL REMAIN.

C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: _____
THE PREVIOUSLY APPROVED DEVELOPMENT PLANS FROM 1996 INCLUDED BUILDINGS WITHIN THE PROPOSED BUILDING LOCATION.
THE CORRESPONDING INFRASTRUCTURE INCLUDING STORMWATER MANAGEMENT FACILITIES WERE DESIGNED AND CONSTRUCTED IN ANTICIPATION OF BUILDINGS
IN THE PROPOSED LOCATION. RELOCATING THE STORMWATER FACILITIES WOULD BE REQUIRED IN ORDER TO CONSTRUCT
NEW BUILDINGS WITHIN THE 120 FEET MAXIMUM SETBACK IN THE SR 32 OVERLAY.

GENERAL INSTRUCTIONS

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 9, 2020
2006-VS-08
Exhibit 1

Petition Number: 2006-VS-08

Subject Site Address: 1817 W. 216th St. (the “Property”)

Petitioner: John & Jennifer Driscoll (the “Petitioner”)

Request: The Petitioner(s) request a Variance of Development Standard to reduce the Minimum Lot Frontage from 250 feet to 217 feet and to permit a second Dwelling Unit on 6.77 acres +/- in the AG-SF1: Agriculture / Single Family Rural District (Articles 4.2(D) & 6.4(B)).

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

Current Land Use: Residential

Approximate Acreage: 6.77 acres +/-

Exhibits:

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

Staff Reviewer: Pam Howard, Senior Planner

OVERVIEW

Location: The subject property is 6.77 acres +/- in size and located at 21440 Mule Barn Road (see **Exhibit 2**). The Property is zoned the AG-SF1: Agriculture/Single-Family Rural District. The Property currently contains a single-family residence, detached garage, and barn. All surrounding properties in our jurisdiction are also zoned AG-SF1. Properties to the north are under Sheridan’s Zoning Jurisdiction and are zoned AG-1: Agricultural District.

Property History: The Property was split from the larger parent parcel in 1988. At that time, this type of division of land was not considered a Subdivision and was therefore not required to go through a platting process. The resulting lot however, did not comply with the 250-foot Minimum Lot Frontage¹ requirement that was in place at the time and still exists today. For this reason, the lot cannot be considered a Nonconforming Lot of Record².

¹ The UDO defines “Lot Frontage” as “[t]he length of the Front Lot Line.”

² **Article 9.4(A) Nonconforming Regulations; Nonconforming Lots of Record:** “A Legal Nonconforming Lot shall be deemed as such for any Lot that (i) was established and recorded prior to the date of passage of the Westfield Washington Township Zoning Ordinance of December 20, 1977; and (ii) no longer conforms to the regulations set forth in this Ordinance, or its subsequent amendments, as applicable to Lots (e.g., Lot Area, Lot Width, Lot Depth, Lot Frontage).”

Variance Request: The Petitioner is requesting Variances of Development Standard reduce the Minimum Lot Frontage from 250 feet to 217 feet and to permit a second Dwelling Unit³ on the Property.

SUMMARY OF VARIANCES

The Petitioner is requesting this variance to build two dwelling units. One will be the primary residence of the applicants and the other will be a guest house. Since this property not a Nonconforming Lot of Record, a variance is required to bring the Property into compliance prior to any structures being built. Additionally, a variance is required to build a second residential structure on the property.

Article 4.2(D) Zoning Districts; AG-SF1: Agriculture / Single-family Rural District; Minimum Lot Frontage: 250 feet

Article 6.4(B) Development Standards; Building Standards; Single-family Residential Uses: In no case shall there be more than one (1) Principal Building⁴ used for residential purposes, and its Accessory Buildings, located on one (1) Lot, except as otherwise permitted herein.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this property within the “Rural Northwest and Northeast” land use classification.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standard. This petition is scheduled to receive its public hearing at the June 9, 2020, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals’ Rules of Procedure.

Conditions: The UDO⁵ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse

³ The UDO defines “Dwelling Unit” as “[a]ny room or group of rooms located within a building, which forms a single habitable unit for occupancy for one (1) family unit and includes facilities that are used, or intended for use as living, sleeping, cooking, and eating accommodations.”

⁴ The UDO defines “Building, Principal” as [a] building in which is conducted the main or primary use of the Lot on which said building is located. Where a substantial portion of an ancillary building is attached to the Principal Building in a substantial manner, as by a roof, then such ancillary building shall be counted as a part of the Principal Building and not as an Accessory Building.”

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

effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO⁶ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

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

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

DEPARTMENT COMMENTS

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

Recommended Condition: No more than two (2) Dwelling Units shall be permitted on the Property.

Recommended Findings for Approval:

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

Finding: It is unlikely that approving the requested variance(s) would be injurious to the public health, safety, morals, and general welfare of the community. The use of the property will remain residential and the proposed improvements will be consistent in design with existing structures in the area.

⁶ 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:**

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on surrounding properties because: (i) the proposed improvement will enhance the value of the subject property; (ii) the improvements will otherwise comply with or exceed the applicable standards; and (iii) the proposed improvements will be consistent in design with other structures in the area.

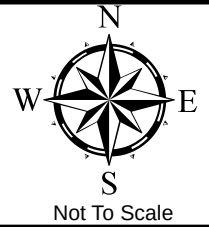
3. **The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.**

Finding: Strict adherence to the zoning ordinance would result in the inability to improve the property in accordance with the Unified Development Ordinance. The residential use of the property is otherwise permitted by the applicable ordinances and the proposed improvements would otherwise comply with the applicable ordinances.

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



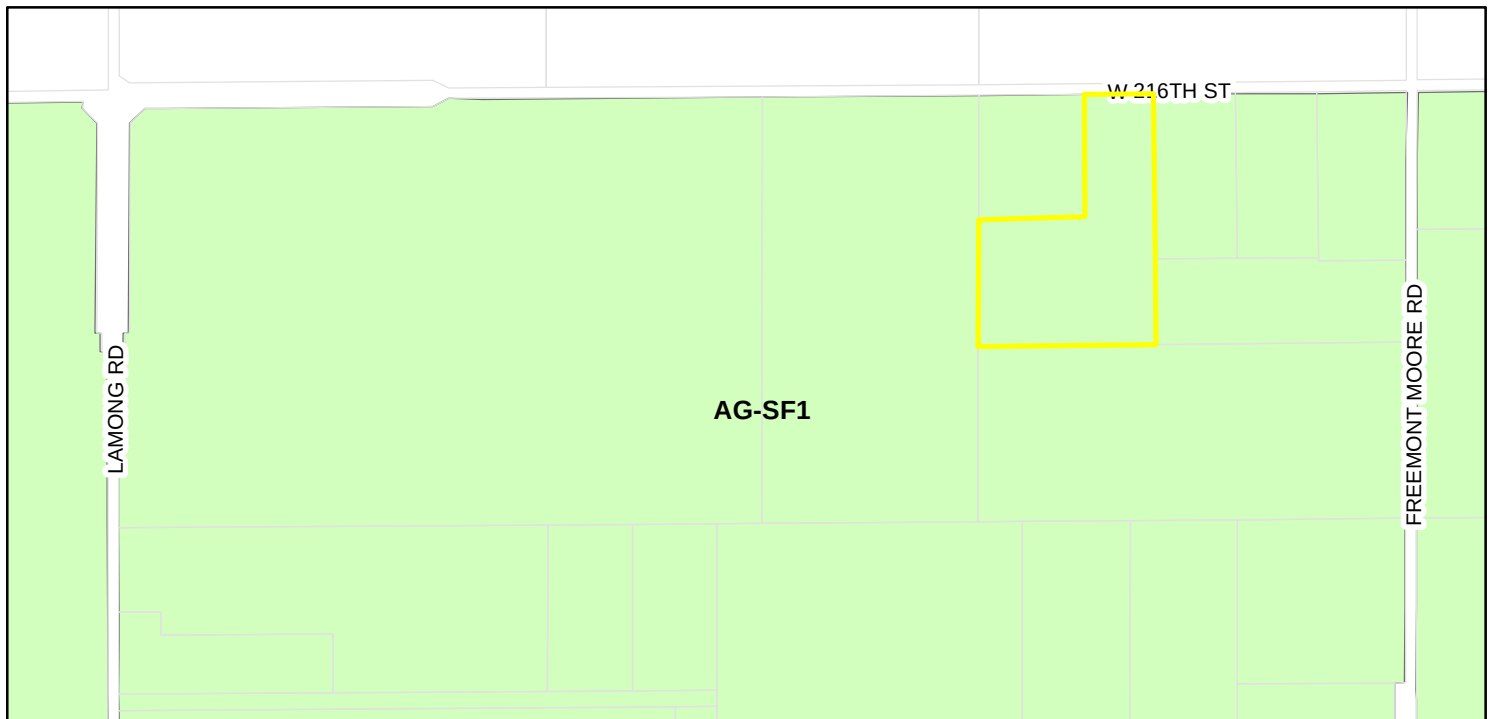
Property Location Map
Driscoll Variance
2006-VS-08



Aerial Location Map



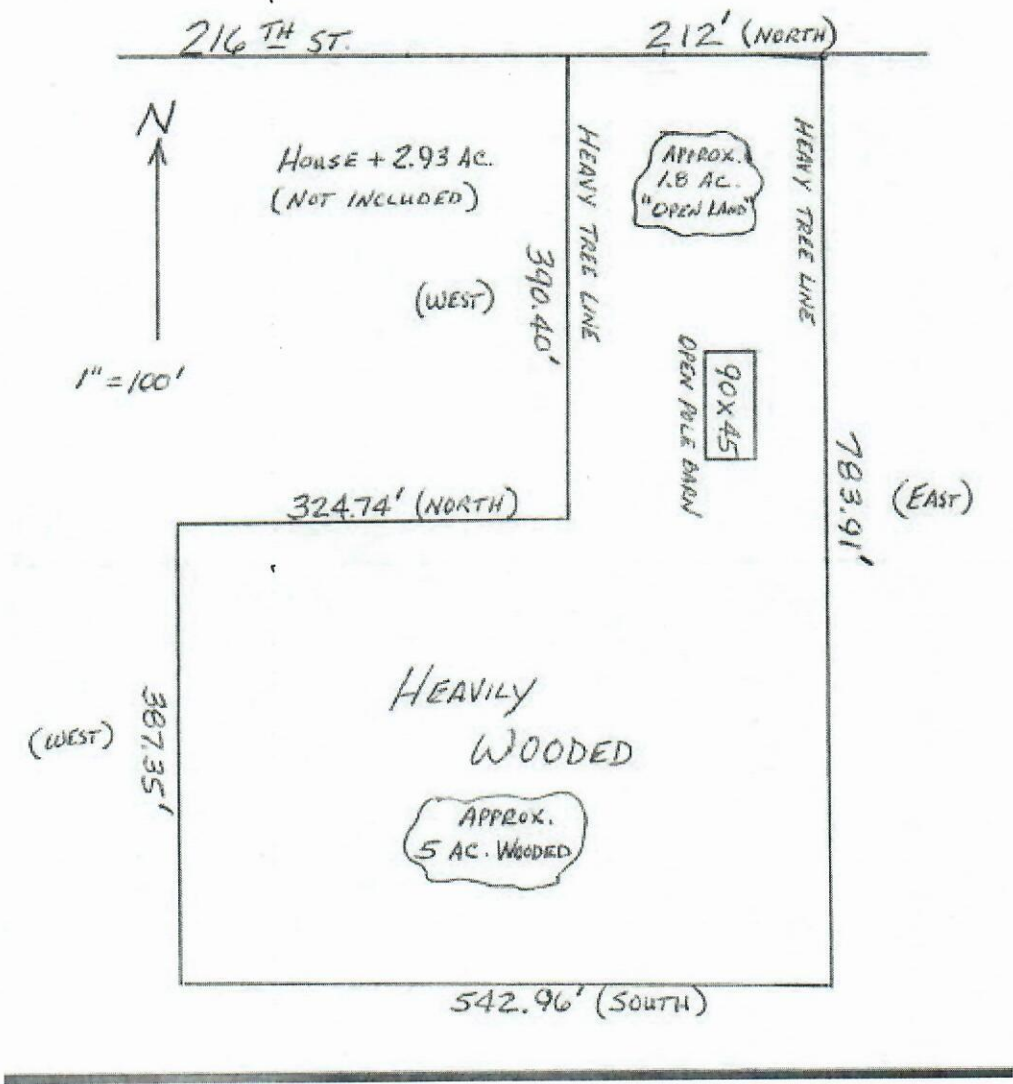
Zoning Map



Zoning

 AG-SF1 (Agriculture - Single Family - 1)

1817 W. 216TH ST. (6.774 ACRES)





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

VARIANCE APPLICATION

DOCKET #: 2006-VS-08 FILING DATE:
OFFICE USE ONLY FILING FEE: \$ FEE PLUS \$ PER ADDITIONAL VARIANCE (@)= \$

PRE-FILING CONFERENCE

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

PRIOR OR RELATED DOCKET NUMBERS

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

APPLICANT INFORMATION

APPLICANT'S NAME: John + Jennifer Driscoll TELEPHONE: 317-626-8352
ADDRESS: 16635 Downstream Drive, Westfield, In. 46062 EMAIL: Jen@photosbyjennifer.com
PROPERTY OWNER'S NAME: John + Jennifer Driscoll TELEPHONE: 317-626-8352
ADDRESS: 16635 Downstream Drive, Westfield, In. 46062 EMAIL: Jen@photosbyjennifer.com
REPRESENTATIVE'S NAME: TELEPHONE:
COMPANY: EMAIL:
ADDRESS:

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 1817 W. 216th St., Sheridan, In. 46069
COUNTY PARCEL ID #(S): 08-05-16-00-00-006.002
EXISTING ZONING DISTRICT(S): AF - SF1 EXISTING LAND USE(S):

PROPERTY AND PROJECT INFORMATION Westfield, In. 46062 Jen@photosbyjennifer.com

VARIANCE OF LAND USE CODE CITATION:
VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: Article 4.2 (D) and Article 6.4 (B)

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY):
1) The Applicant requests the BOZA to grant a variance of development standard [Article 4.2 (D)] to amend the required 250' lot frontage to 212' to allow construction of a residential dwelling on the 6.774 acre lot.
2) The Applicant requests the BOZA to grant a variance of development standard [Article 6.4 (B)] to allow construction of a "Guest House" on the property to be used for family and friends to occupy when they visit. The existing barn might be remodeled and used or a new structure might be built. The "Guest House" would be in addition to the primary residence.



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.

DocuSigned by: John Driscoll DocuSigned by: Jennifer Driscoll
Applicant/Representative (signature) Applicant/Representative (printed)

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

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

Notary Public (signature) Notary Public (printed)

PROPERTY OWNER AFFIDAVIT

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

DocuSigned by: John Driscoll DocuSigned by: Jennifer Driscoll
Property Owner (signature) Property Owner (printed)

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

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

Notary Public (signature) Notary Public (printed)

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



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

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: John +_ Jennifer Driscoll DOCKET #: 2006-VS-08

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:
- 1) This 6.774 Ac parcel is comprised of approximately 5 acres of woods and the balance is open ground in front with a heavy tree-line on the perimeter making it private from the neighbors on both sides. The home to the West is a remodeled farm house and barn on 2.93 Ac and was part of a 9.7 Ac parcel that included the subject property. The parcels were split in the 1980's. The two properties to the East that front on 216th St are both 3 Ac parcels with custom homes built on them. 2) The 6.774 Acres will more than support a residential home and a "Guest House" since this parcel is more than twice the amount required by Westfield and twice the amount of the neighbors to the E + W. The "Guest House" will only be used for short term stays. (Family + Friends, etc.)
- 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 6.774 Acres is more than twice the Westfield requirement of 3 acres to build a single family home. Over 5 acres is wooded and the open ground has heavy tree-lines. The woods and tree-lines add lots of privacy for the surrounding neighbors. The "Guest House" will only be used for family and friends to occupy when they visit. The average acreage for each structure (Primary Home and "Guest House") will be over 3.35 acres each (6.774 total acres divided by two structures). This exceeds the 3 Acre Westfield requirement.
- C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because:
- The property can't be used for farming because it is too small to farm, it is wooded, and it is surrounded by residential homes. The surrounding homes would benefit from it being developed into residential use versus a storage area for cars or boats or landscaping+farming equipment or other non-residential uses. The neighbors would also prefer that it be residential and not used for hunting because of the safety issues. There appears to be evidence that non-authorized and unknown individuals have hunted this property without the owner's permission. Almost all Realtors would agree with this assessment.

**WESTFIELD-WASHINGTON
TOWNSHIP BOARD OF ZONING
APPEALS PUBLIC NOTICE**

NOTICE IS HEREBY GIVEN THAT the Westfield-Washington Township Advisory Board of Zoning Appeals will hold a public hearing on Tuesday, June 9____, 2020, at 7:00 p.m. at Westfield City Hall, 130 Penn Street, Westfield, Indiana, or in a virtual format viewable at <https://www.youtube.com/user/CityofWestfieldIN>, to consider petition(s) **[2006-VS-08]**, filed by **[John + Jennifer Driscoll]**. The request pertains to real estate comprising approximately **[6.774]** acres and generally located at **[1817 W. 216th St]**, Washington Township, Westfield, Indiana.

The request is for approval of a **Variance of Development Standard** to allow road frontage variance + “Guest House” variance.

Specific details regarding this request, including the application, file, and property legal description, may be obtained from the Westfield Community Development Department, or by calling (317) 804-3170.

Written suggestions or objections relative to the request may be filed with the Westfield Community Development Department, at or before the public hearing. Interested persons desiring to present their views upon the request, either in writing or verbally, will be given the opportunity to be heard at the above mentioned time and place. In the case of a virtual meeting, written comments concerning the proposals can be provided before and during the aforementioned public hearing by emailing planners@westfield.in.gov. Such hearing may be continued from time to time as may be found necessary.

Please review the agenda for this meeting on the City’s website (www.westfield.in.gov/boards) immediately prior to the scheduled meeting time to confirm that this item has not been continued to the following meeting or that the meeting has not been cancelled.

APPLICANT:	REPRESENTATIVE: (if applicable)
[John + Jennifer Driscoll]	[Enter contact information]

CITY OF WESTFIELD:
Community Development Department
2728 East 171st Street
Westfield, Indiana 46074
(317) 804-3170
www.westfield.in.us

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 29-05-16-000-006.002-014

A PART OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 19 NORTH, RANGE 3 EAST LOCATED IN WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA BEING BOUNDED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 16, TOWNSHIP 19 NORTH, RANGE 3 EAST; THENCE NORTH 89 DEGREES 23 MINUTES 02 SECONDS EAST (ASSUMED BEARING) 322.75 FEET ON AND ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 00 DEGREES 15 MINUTES 28 SECONDS EAST 390.40 FEET; THENCE SOUTH 88 DEGREES 13 MINUTES 50 SECONDS WEST 324.74 FEET TO A POINT ON THE WEST LINE OF SAID NORTHEAST QUARTER, SAID POINT BEING SOUTH 00 DEGREES 00 MINUTES 49 SECONDS WEST 396.95 FEET FROM THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE SOUTH 00 DEGREES 00 MINUTES 49 SECONDS WEST 387.35 FEET ON AND ALONG THE WEST LINE OF SAID NORTHEAST QUARTER; THENCE NORTH 89 DEGREES 20 MINUTES 51 SECONDS EAST 542.96 FEET; THENCE NORTH 00 DEGREES 35 MINUTES 11 SECONDS WEST 783.91 FEET TO THE NORTH LINE OF SAID NORTHEAST QUARTER; THENCE SOUTH 89 DEGREES 23 MINUTES 02 SECONDS WEST 212.00 FEET ON AND ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER TO THE POINT OF THE BEGINNING. CONTAINING 6.774 ACRES, MORE OR LESS.

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WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 9, 2020
2006-VS-10
Exhibit 1

Petition Number: 2006-VS-10

Subject Site Address: 4730 Muscatine Circle (The "Property")

Petitioner: Matt J. Falls (The "Petitioner(s)")

Request: The Petitioner requests a Variance of Development Standard to encroach twelve (12) feet into the twenty-five (25) foot Minimum Rear Yard Setback on 0.19 acres +/- in the Andover Planned Unit Development (PUD) District.

Current Zoning: Andover PUD District

Current Land Use: Residential

Approximate Acreage: 0.19 acres+/-

Exhibits:

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

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject Property is 0.19 acres +/- in size and is located at 4730 Muscatine Circle (see **Exhibit 2**). The Property is currently zoned the Andover PUD. The surrounding properties are also zoned the Andover PUD.

Property History: The Secondary Plat for Andover, The Lakes at Grassy Branch, Section 5, was recorded on December 16, 2011 (Instrument No. 2011065465).

Variance Request: The Petitioner is requesting a Variance of Standard to encroach twelve (12) feet into the twenty-five (25) foot Minimum Rear Yard Setback as further described herein.

SUMMARY OF VARIANCE

The Property is currently subject to the Andover PUD District Standards and in accordance with underlying zoning classification of SF2: Single-Family Low Density District as set forth in the PUD. The underlying zoning sets forth a minimum rear yard setback line of twenty-five (25) feet. The Petitioner is requesting this variance to encroach twelve (12) feet into the twenty-five (25) foot Minimum Rear Yard Setback to accommodate a swimming pool and deck, as illustrated on the Site Plan (see **Exhibit 3**). The pool and deck is shown encroaching two (2) feet into the existing drainage easement as well; this has been reviewed and approved by Westfield Public Works.



A similar variance of standard modifying the rear yard setback from twenty-five (25) feet to ten (10) feet for a pool in the Andover PUD, specifically the Lakes of Grassy Branch, Section 2A, was granted at the March 10, 2020, BZA meeting.

COMPREHENSIVE PLAN

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

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

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

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Standard. This petition is scheduled to receive its public hearing at the June 9, 2020, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

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

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

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

³ Pages 39-43 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan; New Suburban.

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 9, 2020

2006-VS-10

Exhibit 1

public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

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

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

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

DEPARTMENT COMMENTS

Approval: If the Board is inclined to approve the Variance of Standard (2006-VS-10), then the Department recommends the findings as set forth below, for the variance:

Recommended Findings for Approval:

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

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the existing use and proposed improvements will otherwise comply with the applicable standards of the underlying zoning of the SF2: Single-Family Low-Density District. The pool and its setbacks have been approved by the applicable HOA (see **Exhibit 4**).

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 9, 2020

2006-VS-10

Exhibit 1

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

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

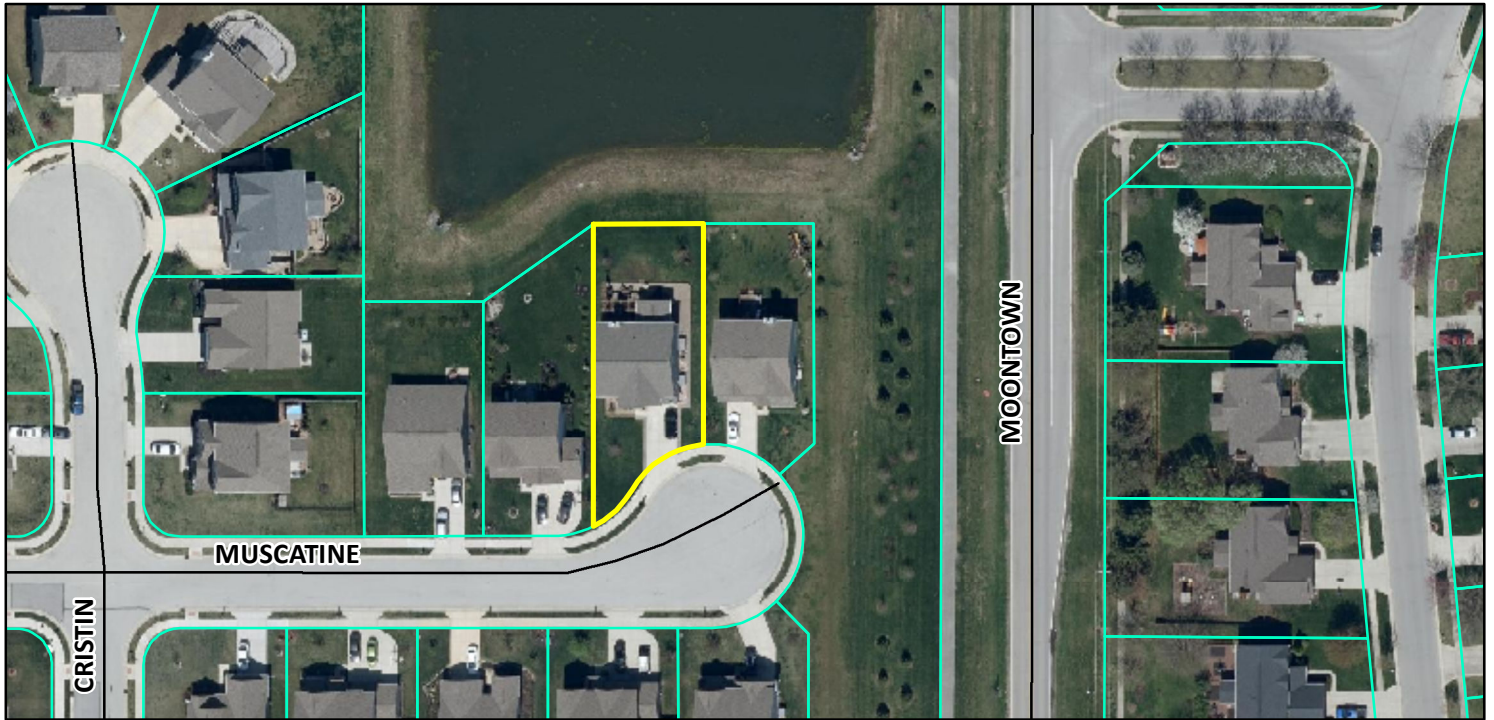
- 3) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:*

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

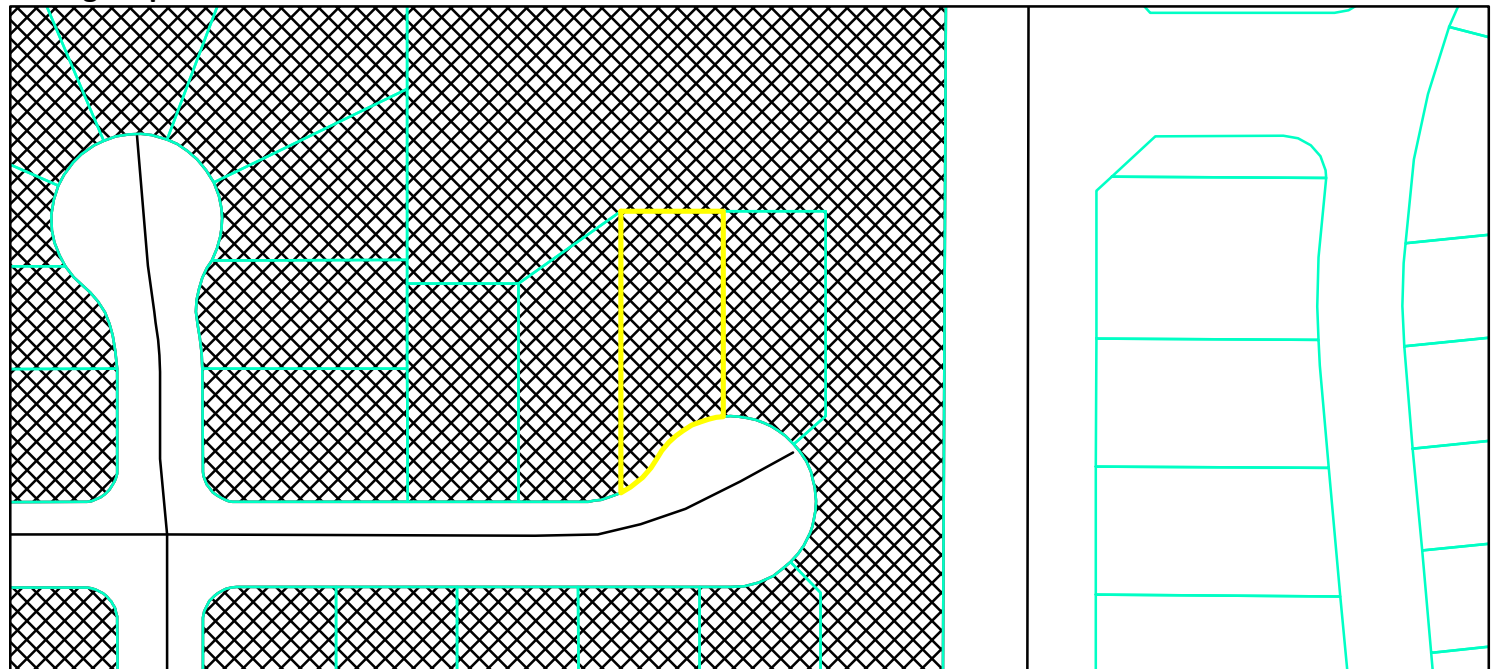
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

Aerial Location Map

 Site



Zoning Map



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

0 0.0125 0.025
 Miles



Project

Private Property

Falls Residence
4730 Muscatine Circle
Westfield, IN 46062

May 21, 2020

Team

Graphic Scale 1"= 5'
Sheet Size 18"x24"



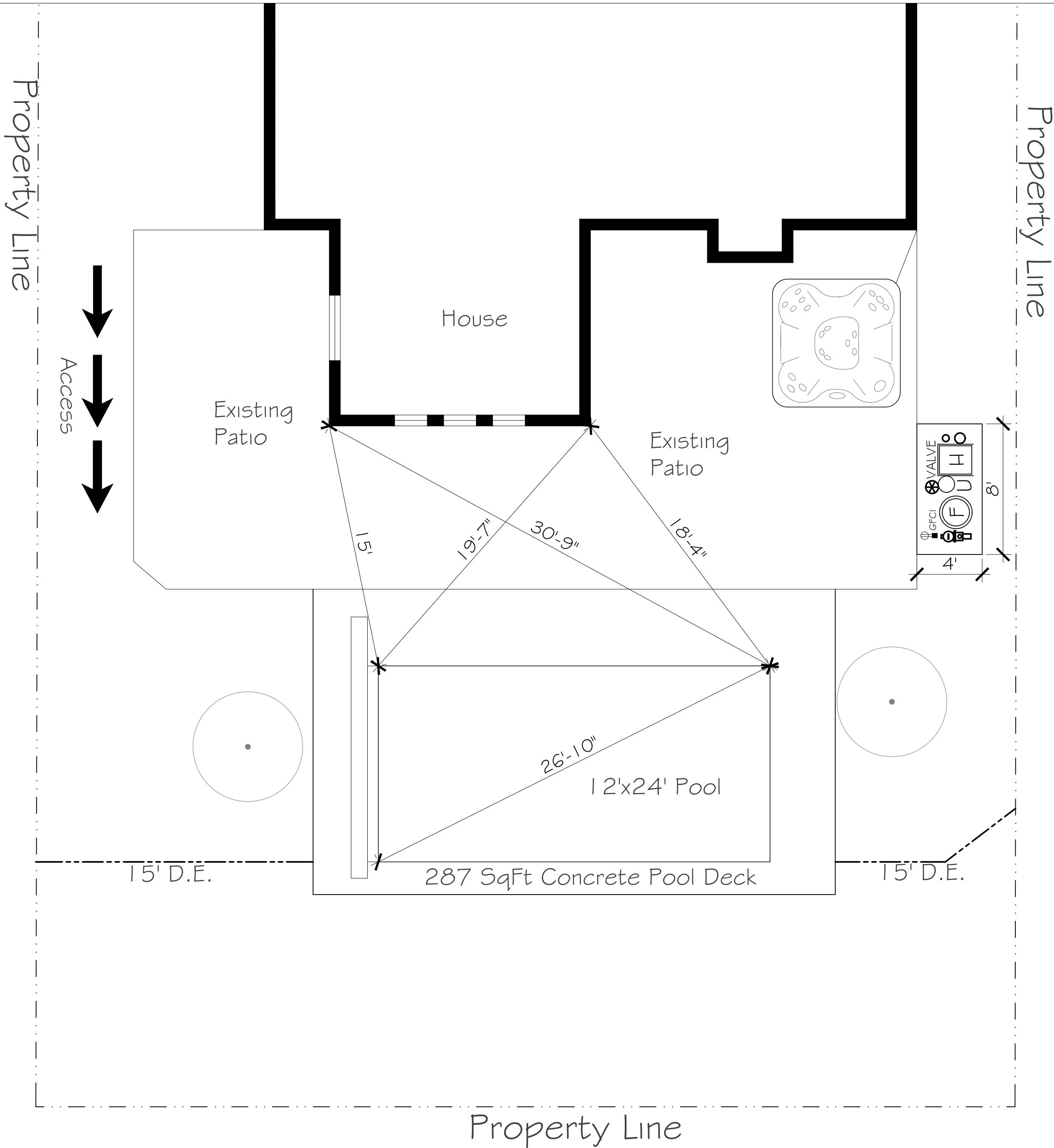
Key

Revision

1		5.21.20
2		
3		
4		

Drawn	AG
Checked	

2nd Takeoff Plan
Sheet Size 18"x24"



Project

Private Property

Falls Residence
4730 Muscatine Circle
Westfield, IN 46062

May 21, 2020

Team

Graphic Scale 1"= 5'
Sheet Size 18"x24"



Key

Revision

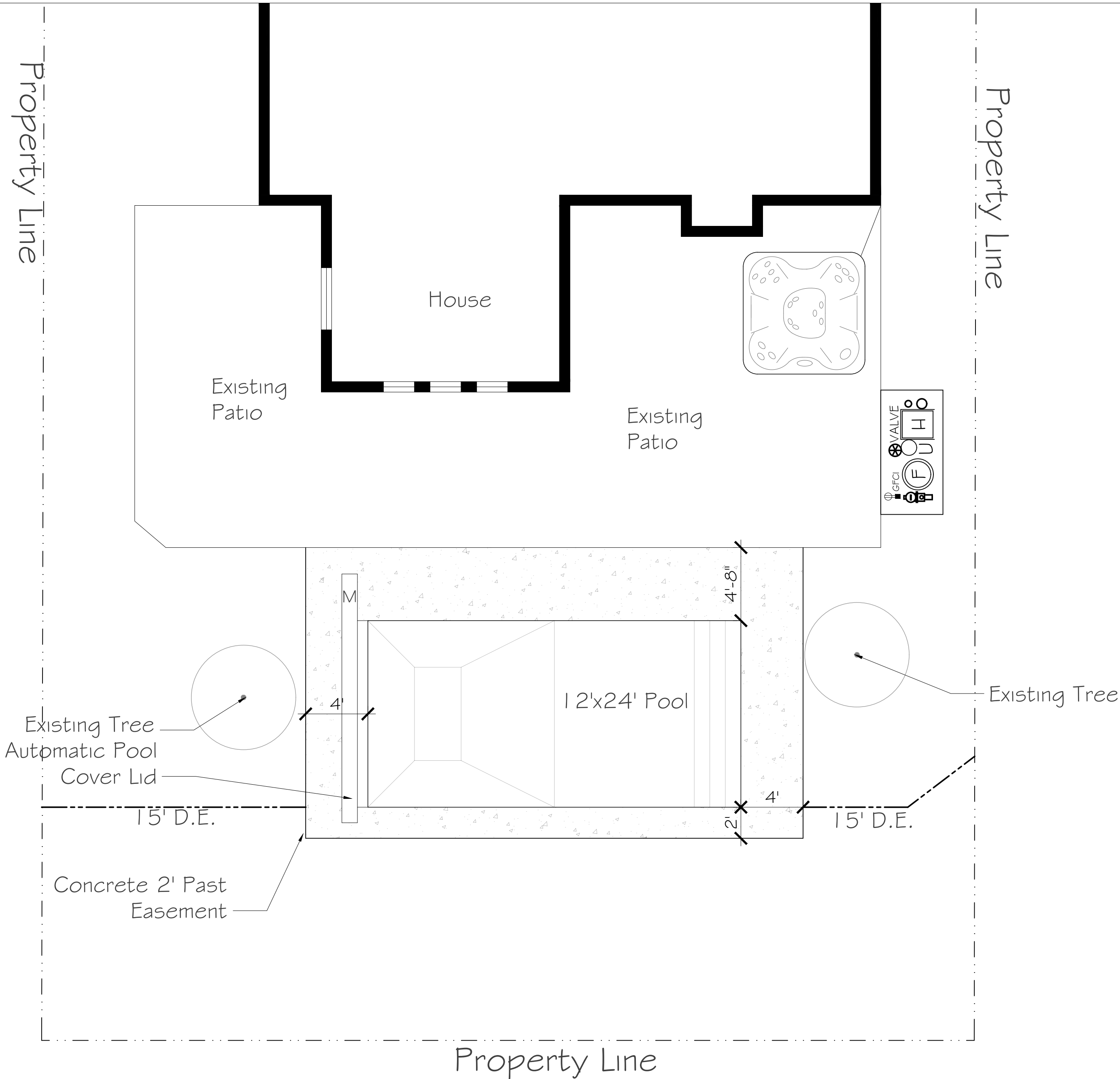
1		5.21.20
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3		
4		

Drawn	AG
Checked	

2nd Pool Plan

Sheet Size 18"x24"

L-1.0
Copyright 2020



The Overlook at Andover Homeowners Association, Inc.
3002 East 56th Street
Indianapolis, IN 46220
317-253-1401

4/10/2020

MATTHEW & TAMI FALLS
4730 MUSCATINE CIRCLE
WESTFIELD, IN 46062

RE: 4730 MUSCATINE CIRCLE
Lot#: 128

Dear MATTHEW & TAMI FALLS:

The improvement request that you sent in regarding Swimming Pool and cedar fence was received and approved by the Architectural Control Committee as submitted.

- **You are still required to follow up with your local municipality to determine if a permit is necessary for your improvement.**
- **It is highly recommended that you have the property lines properly marked before any fence installation.**
- **If your improvement is going into an easement- be aware that if the local utilities or city/county need access to this easement they can require you to remove your improvement at your expense.**

You have 90 days from beginning of the project to complete the updates unless you apply to the committee for an extension.

Any questions please feel free to contact Mary Bafia at mbafia@ardsleymgmt.com.

Thank you,

The Overlook at Andover Homeowners Association, Inc.



Westfield–Washington Township Board of Zoning Appeals
Minutes of the May 12, 2020 BZA Meeting
Presented for approval: June 9, 2020

The Westfield-Washington Township Board of Zoning Appeals (BZA) met at 7:00 p.m. on Tuesday, May 12, 2020 online via Skype.

OPENING OF MEETING: 7:00 PM

ROLL CALL

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

City staff present: Kevin Todd, Director; Daine Crabtree, Associate Planner; Caleb Ernest, Associate Planner; and Brian Zaiger, City Attorney.

APPROVAL OF MINUTES

March 10, 2020 BZA Minutes

Motion to approve the March 10, 2020 BZA Minutes with the corrected language verifying the Esler Variance deadline of 60 days began immediately following the March 10, 2020 BZA Hearing.

Motion: Schmitz; Second: Raines. Motion Passed. 5-0.

April 14, 2020 BZA Minutes

Motion to approve the April 14, 2020 BZA Minutes as written.

Motion: Schmitz; Second: Kingshill. Motion Passed. 5-0.

REVIEW RULES AND PROCEDURES

Crabtree reviewed BZA rules and procedures.

ITEMS OF BUSINESS

2004-VS-06

345 E Park Street

John Long

The Petitioner requests Variances of Development Standard to modify the Minimum Lot Area and Minimum Side and Rear Yard Setbacks to allow for the construction of a new Single-family residence in the SF3: Single-family Medium Density District (Article 4.6(C) & (E)(2) and (3)).

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

Ernest overviewed this request for Variances of Development Standard which has its Public Hearing at the April 14th BZA meeting. He indicated that the Petitioner is requesting Variances of Development Standard as follows:

- to reduce the minimum Rear Yard Setback from 30 feet to 7 ½ feet;
- to reduce the minimum Side Yard Setback from 10 feet to 5 feet;
- to reduce the minimum Lot Size from 12,000 square feet to 6,500 square feet.

He stated that Staff had received public comments which had been provided to the BZA members.

Jeffrey Lauer, with Polis Collaborative LLC, on behalf of the Petitioner summarized updates on this request. Lauer said that the Petitioner, John Long, had spoken with the Mayor regarding this petition. He said the City

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

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

expressed no desire to purchase the land; however, the City was interested in seeing it redeveloped. He said that the previous buyer has now chosen to not pursue this purchase. He said that he and the Petitioner discussed possibility of assembling the properties but found it is not economically feasible. He said that given the situation, the Petitioner was back to ask for the BZA approval. He said that a denial would result in a the Petitioner being forced to participate in a redevelopment project that may not come for quite some time, if ever.

Schmitz said he appreciated the petitioner trying to create a comprehensive plan for the area but it was unfortunate other owners in the area were not willing.

Schmitz asked Ernest about the setback and asked why the existing homes seem to not be in compliance with the requested setbacks.

Ernest replied that perhaps those homes were built before the UDO standards.

Lauer responded that the 30-foot setback shown on the plat was more onerous than the normal SF3 standard of 20 feet, which is what the property is zoned.

Schmitz stated one of his concerns with the Petitioner's request is that one of the requirements of the Petitioner is to establish that the use and value of the area adjacent to the variance would not be affected in a substantially adverse manner and that is why the Grand Junction Task Force had also stated they were not on board with the variance; that the proposal may not be the highest and best use of the ground.

Kingshill stated he agreed with Schmitz.

Fortier stated she agreed with Schmitz and Kingshill.

Lauer responded that the Petitioner's burden is to show that the surrounding properties would not be affected in a substantially adverse manner, not that there is a potentially higher and better value/use of the Property. Lauer stated that the surrounding areas would not be substantially adversely affected because it is a vacant lot whose surrounding area has not seen a substantial reinvestment in some time and that a new single-family home in the mid-\$350K range would be a substantial improvement in the area, noting that a neighbor sent a letter of support for the use to the Board. Lauer stated that without the requested variances, the Petitioner could not do anything with the Property.

John Long, the Petitioner, responded that the home would actually be close to the \$500K range similar to those in Village of West Clay or Downtown Carmel type areas and restated that without the variances he would not be able to do anything with the lot and that denial would be a financial hardship.

Schmitz asked the Petitioner whether the available uses for the Property were investigated prior to purchasing the lot.

Long stated that they had investigated and knew the Property was zoned residential and a survey was run that everything was recorded residential and reiterated that he had been in contact with the City about the Property.

Schmitz asked why the Petitioner, knowing the parameters in place making it difficult to develop were present, why the Petitioner purchased it knowing the limitations.

Long stated he was not aware of the UDO, only what was recorded.

Lauer stated he felt by pulling the title for the Property, pulling the plot plan showing setbacks and easements or lack thereof, that due diligence was done and there was a reasonable expectation because plot was already platted and recorded that it was correct – it found out only later with Staff that the plat was not compliant with UDO standards.

Kingshill stated that because the UDO is available, that it is constructive notice to the world of existing regulations. Kingshill stated that the Petitioner was somewhat pleading ignorance of the law.

Lauer stated that while the UDO was available, the Property was platted prior to Westfield having a zoning ordinance thus creating the practical difficulty. Lauer stated had the UDO been around when the Property was platted in the '50s, the plat would not have had the further restrictions as shown. He restated that if the variances aren't granted, it would not possible to develop the Property as currently zoned.

Kingshill stated that proper due diligence would have been to look at the UDO and that he would expect an experienced real estate broker to do more due diligence than the average person.

Long stated that members of the Grand Junction Task Group own similar properties with houses equal to or greater than the one proposed.

Raines stated that complete redevelopment of the area was speculative and the someone wants to put a house on an empty lot already zoned residential and someone could put a small house on it now and the petition wouldn't be before the Board.

Schmitz asked City Attorney Zaiger if a variance was denied whether or not a similar variance could be put forth.

Schmitz motioned to deny 2004-VS-06.

Kingshill seconded. Motion passed. Vote 3-2. (Raines, McCarty)

Schmitz motioned to table the Findings of Fact for 2004-VS-06 to the June 2020 BZA meeting.

Kingshill seconded. Motion passed. Vote 5-0.

ITEMS CONTINUED TO A FUTURE MEETING:

No Continued Items

REPORTS/COMMENTS:

- Departmental reports tabled
- Raines extended kudos to all involved in resolving the recent power outage.

ADJOURNMENT

Schmitz motioned to adjourn the meeting.

Raines seconded. Motion passed. Vote 5-0.

The meeting adjourned at 7:51 p.m.

Chairperson
Dave Schmitz

Secretary
Kevin M. Todd, AICP
Director



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

June 9, 2020

2004-VS-06

Exhibit 1

Petition Number: 2004-VS-06

Subject Site Address: 345 E Park Street (The "Property")

Petitioner: John Long (The "Petitioner")

Request: The Petitioner is requesting Variances of Development Standard to reduce the minimum Side and Rear Yard Setback and minimum Lot Area in the SF3: Single-family Medium Density District (Article 4.6(C), (E)(2) and (3)).

Current Zoning: SF3: Single-family Medium Density District

Current Land Use: Vacant

Approximate Acreage: 0.15 acres +/-

Exhibits:

1. Findings of Fact
2. Location Map
3. Plot Plan
4. Proposed Elevations
3. Application

Staff Reviewer: Caleb Ernest, Associate Planner

PETITION HISTORY

The Petition was first scheduled for the April 14, 2020, Board of Zoning Appeals (the "Board") meeting. The Board continued the determination of the proposal to the next scheduled Board of Zoning Appeals meeting. The Petition then received a determination from the Board on the May 12, 2020, Board of Zoning Appeals meeting. At this meeting, the Board denied the Variances requested and tabled the adoption of its Findings of Fact until the Board's next meeting. The Board directed the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

DEPARTMENT COMMENTS

Approval: Staff recommends approval of the following written findings of fact related to the denial of 2004-VS-06:



Recommended Findings:

- 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 as the property complies with all other standards of the Unified Development Ordinance (UDO). This Property complies with the Zoning District's permitted use of a residential use.

- 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: Approving the requested Variances could affect the use and value of adjacent properties in a substantially adverse manner, as the future uses adjacent to the Property are envisioned for uses differing from the currently permitted use.

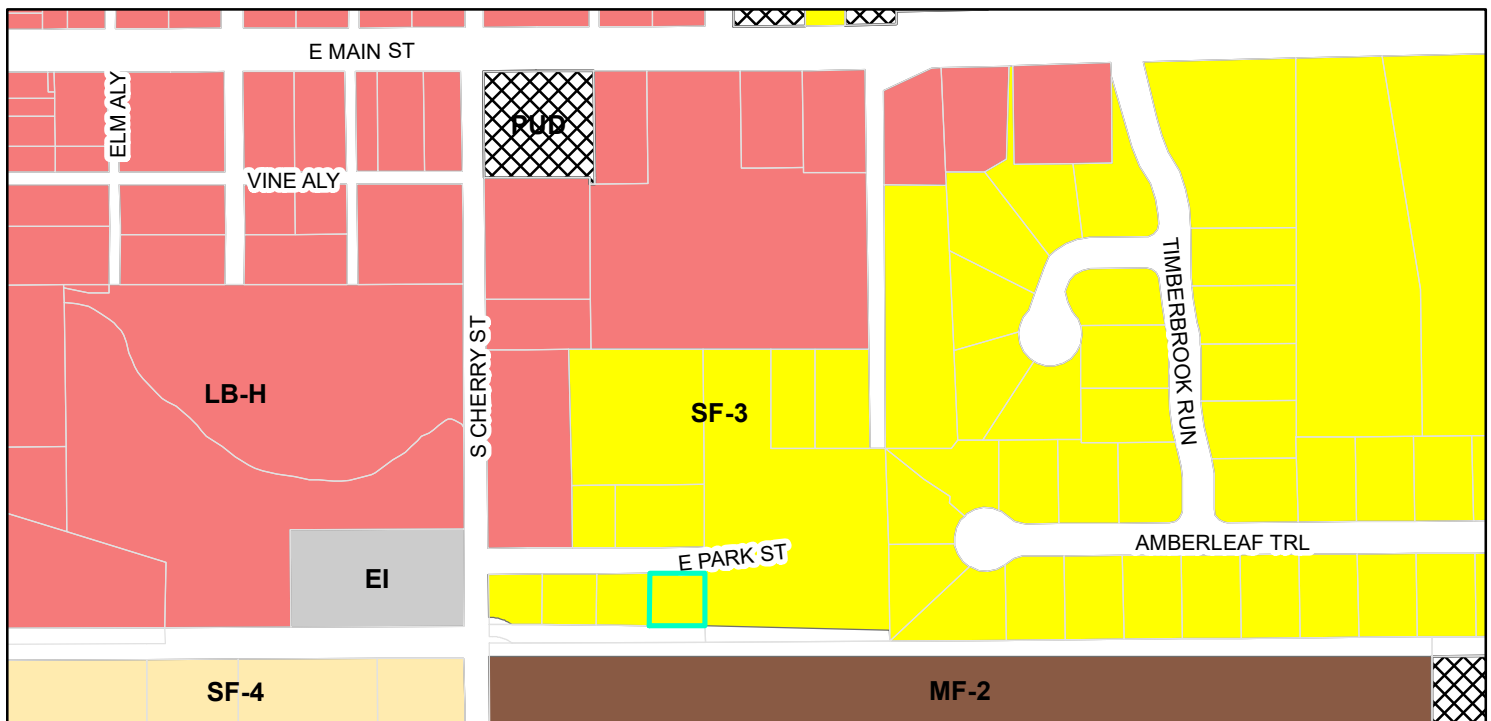
- 3) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:*

Finding: The Petitioner was unable to demonstrate that the terms of the zoning ordinance constitute an unnecessary hardship when applied to the subject Property.

Aerial Location Map



Zoning Map



Zoning

■ EI (Enclosed Industrial)

■ LB-H (Local Business - Historical)

■ MF-2 (Multiple Family - 2)

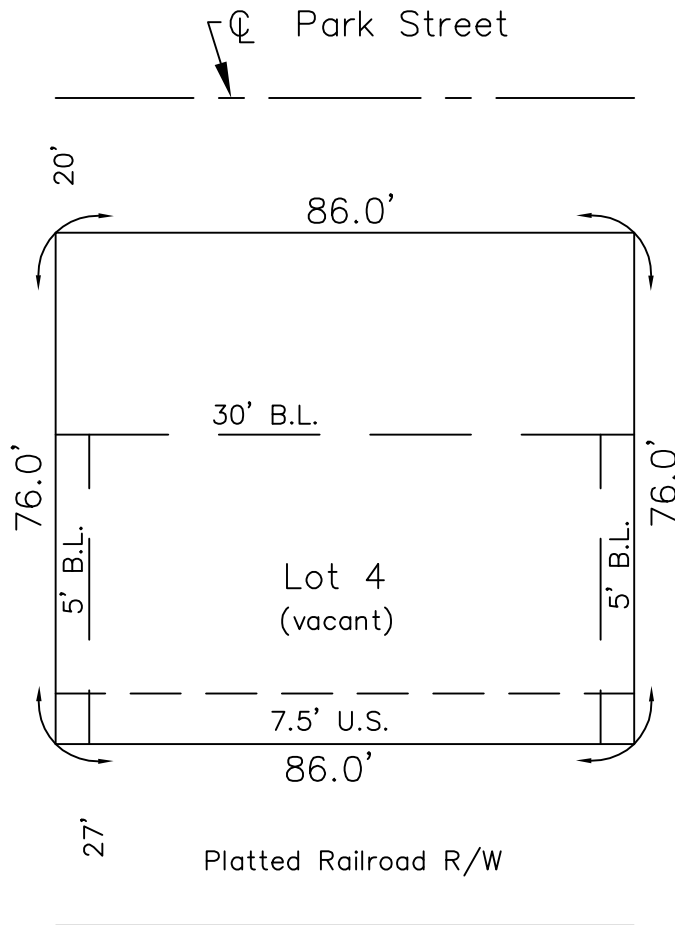
■ PUD (Planned Unit Development)

■ SF-3 (Single Family - 3)

■ SF-4 (Single Family - 4)

SURVEYOR LOCATION REPORT

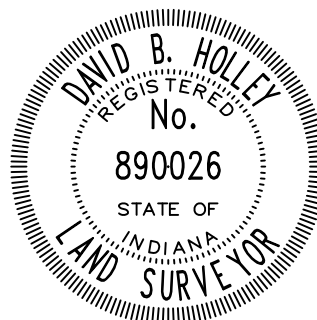
I hereby certify to the parties named above that the real estate described herein was inspected under my supervision on the date indicated and that to the best of my knowledge, this report conforms with the requirements contained in Sections 27 through 29 of 865 IAC 1-12 for a SURVEYOR LOCATION REPORT.



Scale: 1" = 30'

P&H
ENGINEERING/SURVEYING LLC

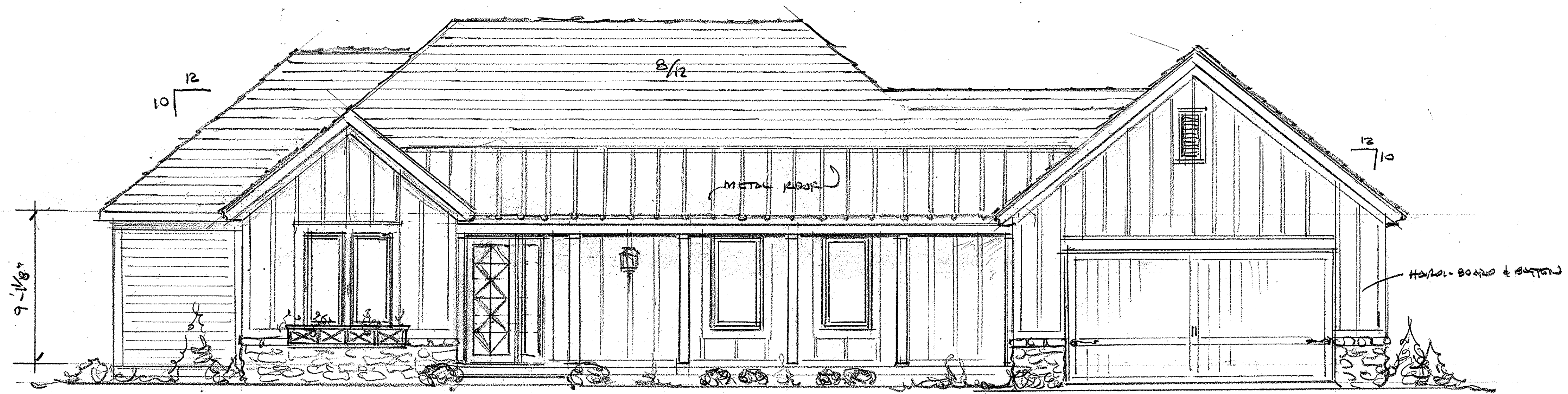
5251 S. East Street #1
INDIANAPOLIS, IN 46227
PHONE: (317) 974-5555
FAX: (317) 974-5570



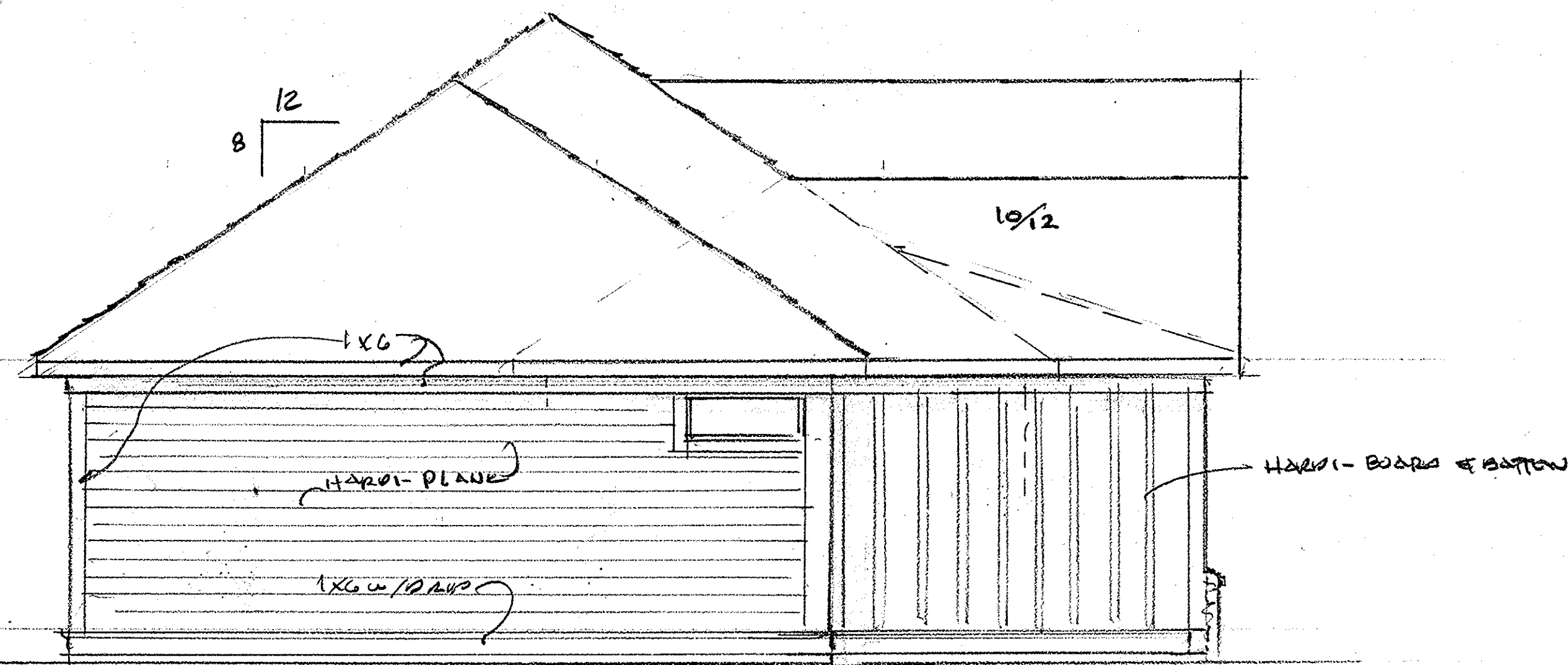
CERTIFIED: 01/07/2020

David B. Holley
David B. Holley
Professional Surveyor,

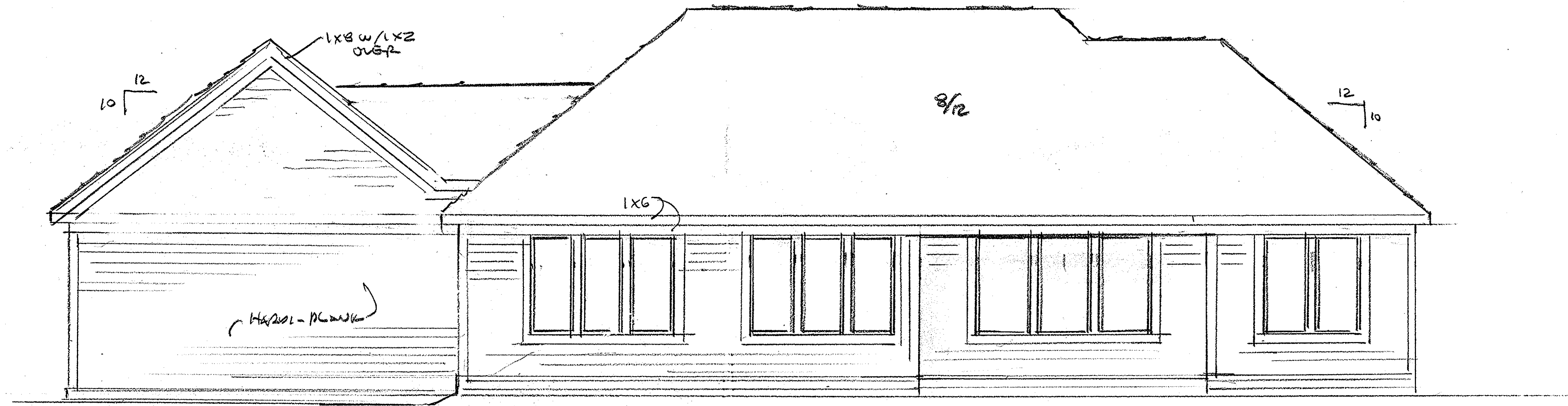
Indiana #890026
Job No.: 20011006
Sheet 2 of 2



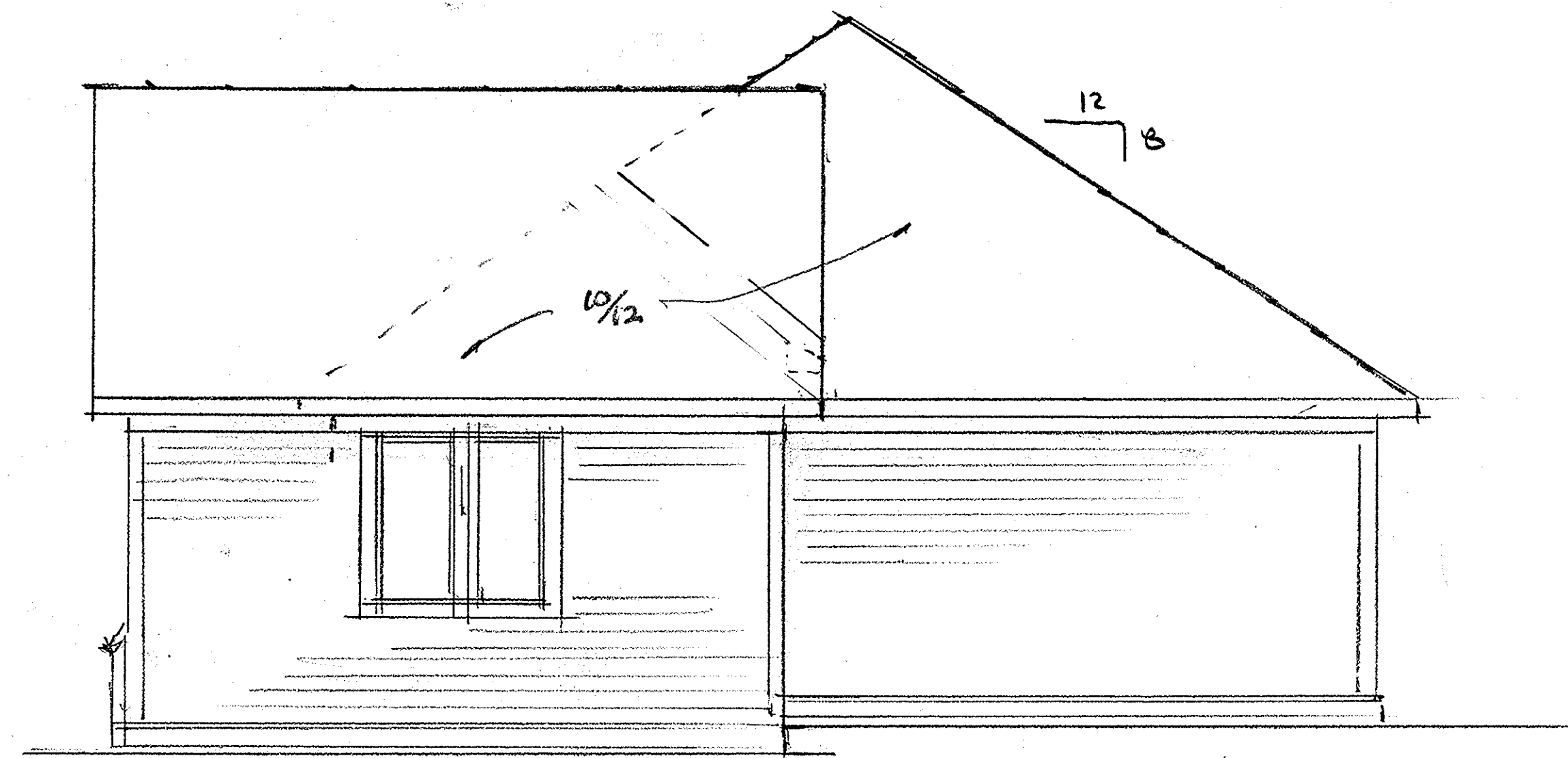
FRONT ELEVATION
SCALE = 1/4" = 1'-0"



LEFT END
1/4" = 1'-0"



REAR ELEVATION
 SCALE = 1/4" = 1'-0"

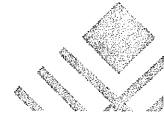


RIGHT END
 1/4" = 1'-0"

2650 RANCH

MIKE & HEATHER REEVE
 DRAWN BY: DENNIS VASSILIS
 JOB 56 (PUEBLO) 3-6-20

VARIANCE APPLICATION

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

PRE-FILING CONFERENCE

 PRE-FILING CONFERENCE WITH: Caleb Ernest (STAFF NAME) DATE: 2/26/2020

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

 APPLICANT'S NAME: John Long TELEPHONE: (317) 750-9698

 ADDRESS: 1002 S. Quiet Bay Circle, Cicero, IN, 46034 EMAIL: john.long@coldwellbanker.com

 PROPERTY OWNER'S NAME: KBC Group LLC TELEPHONE: (317) 750-9698

 ADDRESS: 1002 S. Quiet Bay Circle, Cicero, IN, 46034 EMAIL: john.long@coldwellbanker.com

 REPRESENTATIVE'S NAME: Jeffrey Lauer TELEPHONE: (317) 775-0007

 COMPANY: Polis Collaborative LLC EMAIL: jeffrey@poliscollaborative.com

 ADDRESS: 12401 Old Meridian Street, Carmel, IN 46032

PROPERTY AND PROJECT INFORMATION

 ADDRESS OR PROPERTY LOCATION: 345 E Park St, Westfield, IN 46074

 COUNTY PARCEL ID #(S): 09-10-06-01-02-010.000

 EXISTING ZONING DISTRICT(S): SF-3: Single-Family Medium Density District EXISTING LAND USE(S): Vacant Lot

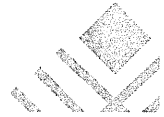
VARIANCE REQUEST

☐ VARIANCE OF LAND USE CODE CITATION: _____

☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: Article 4.6(C); Article 4.6(E)(2); Article 4.6(E)(3)

 FINDINGS OF FACT: (PLEASE SEE ATTACHED)

 STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY): With this petition, the property owner is requesting a series of Variances of Development Standard in order to legitimate the extant conditions of the property located at 345 E Park Street which is part of the Watson Plat, a plat which was filed, approved and recorded legally back in the 1950s; however, the lot conditions do not comply with the current City of Westfield-Washington Township UDO (the "UDO").

**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)

Jeffrey Lauer
Applicant/Representative (printed)

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

Witness my hand and Notarial Seal this 28TH day of FEBRUARY, 2020.

State of INDIANA, County of HAMILTON SS:



[Signature]
Notary Public Signature
VICKI L. SHAW
Notary Public (printed)

PROPERTY OWNER AFFIDAVIT

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

[Signature]
Property Owner (signature)*

John Long member of KBC Group, LLC
Property Owner (printed)

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

Witness my hand and Notarial Seal this 28TH day of FEBRUARY, 2020.

State of INDIANA, County of HAMILTON SS:



[Signature]
Notary Public Signature
VICKI L. SHAW
Notary Public (printed)

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

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM
FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)



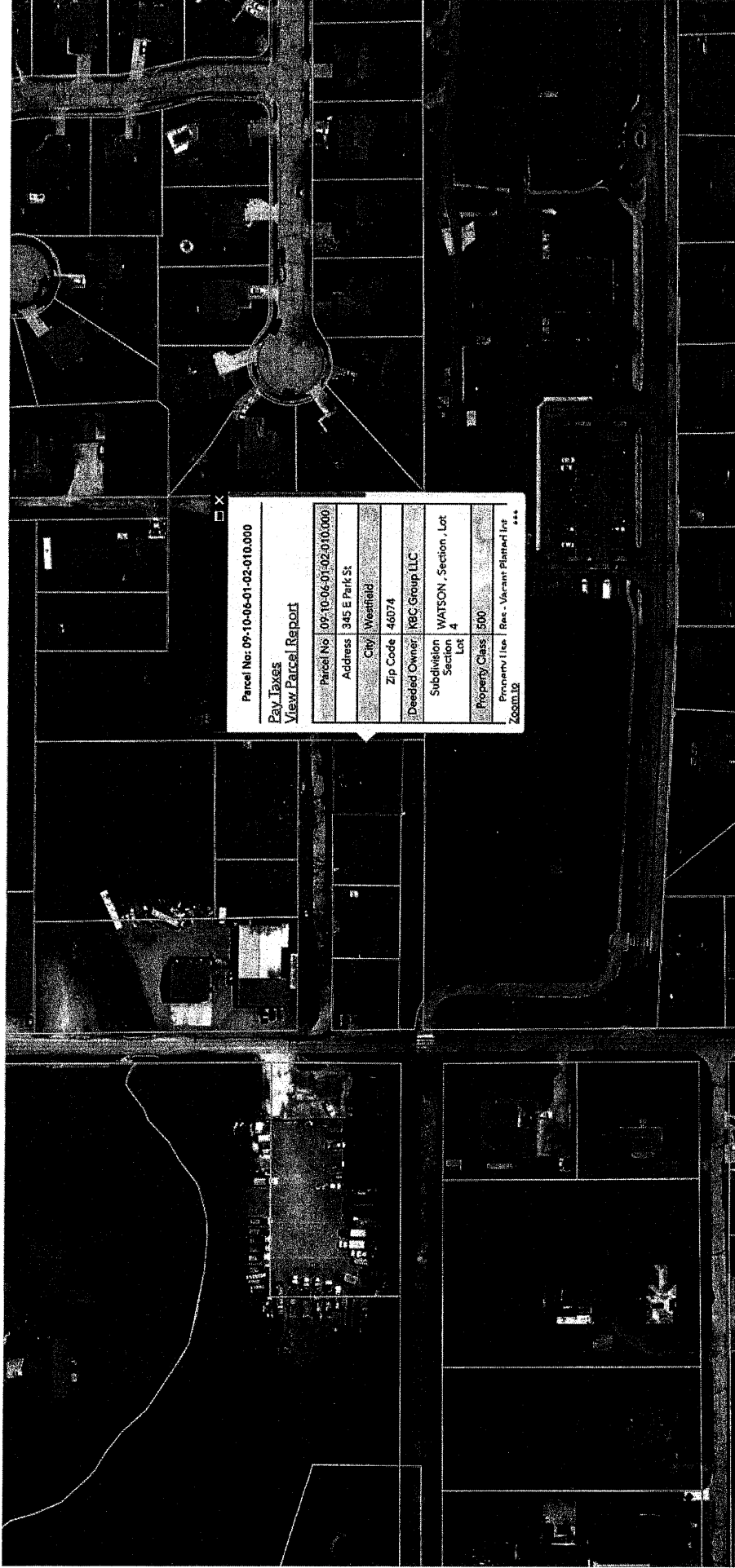
APPLICANT: Jeffrey Lauer

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 property is already zoned as a residential lot (SF-3: Single-Family Medium Density District) and was legally platted to permit home construction; however, the restrictions of the Watson's Subdivision Plat (the "Subdivision") and the current UDO have prohibited home construction. Approval of the requested Variances of Development Standard would not change the zoning, but rather allow the property to development as envisioned by the City of Westfield-Washington Township Comprehensive Plan.
- _____
- _____
- _____
- 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: _____
this property is currently vacant and legal non-conforming. Approval of the requested Variances of Development Standard would permit the construction of a new home on the property thereby increasing the assessed value of the property and lifting property values in the immediate area, all of which is residential and bordered by a Rails-to-Trails corridor on the south (the Midland Trace Trail).
- _____
- _____
- _____
- C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: _____
although the property was legally platted as the Subdivision back in the 1950s the standards of the current UDO restricts the buildable envelope to +/- 20' (north-south) due to the 30' Front Yard setback platted as part of the Subdivision and the 30' Rear Yard setback required by the UDO. Therefore, strict application of the UDO in conjunction with the Subdivision would prohibit the construction of any contemporary and marketable home on the property.
- _____
- _____
- _____

Aerial Exhibit



SURVEYOR LOCATION REPORT

This report was prepared only for:

JOHN LONG, OWNER

THIS REPORT IS DESIGNED FOR USE BY A TITLE INSURANCE COMPANY WITH RESIDENTIAL LOAN POLICIES. NO CORNER MARKERS WERE SET AND THE LOCATION DATA HEREIN IS BASED ON LIMITED ACCURACY MEASUREMENTS. THEREFORE, NO LIABILITY WILL BE ASSUMED FOR ANY USE OF THIS DATA FOR CONSTRUCTION OF NEW IMPROVEMENTS OR FENCES. THIS REPORT IS NOT INTENDED TO REPRESENT A SURVEY, NOR IS IT INTENDED TO BE USED BY AND/OR BENEFIT THE BORROWER(S).



PROPERTY ADDRESS: 345 E. Park Street

PROPERTY DESCRIPTION: Lot 4 in WATSON'S SUB-DIVISION to the Town of Westfield, Indiana, the plat of which is recorded in Plat Book 2, pages 80-81, in the Office of the Recorder of Hamilton County, Indiana.

This is to certify that the subject property does not lie within that Special Flood Hazard Area Zone "A". The accuracy is subject to map scale uncertainty and to any other uncertainty in location or elevation on Community Panel Number 18057C0136G of the Flood Insurance Rate Maps, effective date 11/19/2014.

BORROWER(S): John Long

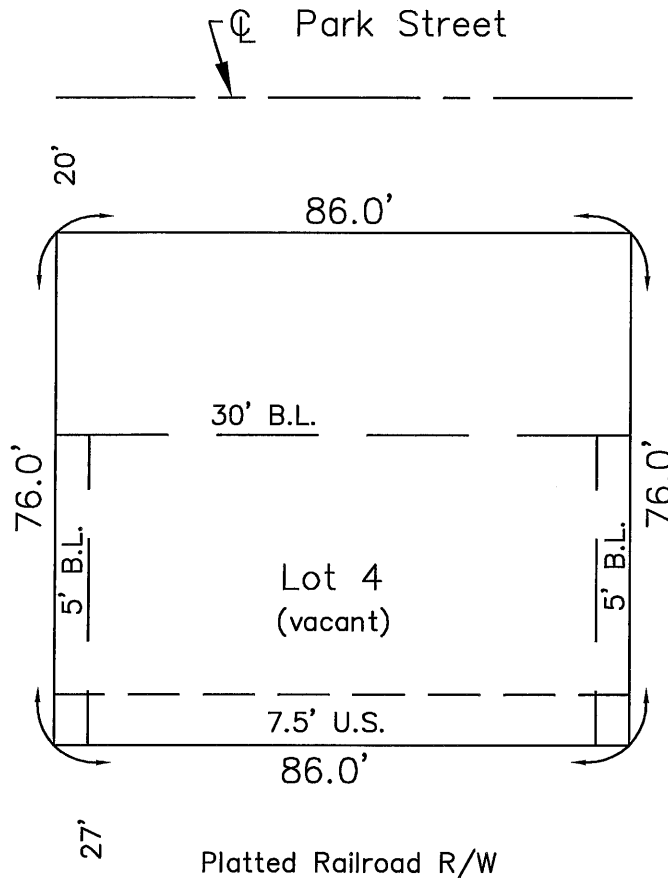
P&H
ENGINEERING/SURVEYING LLC

5251 S. East Street #1
INDIANAPOLIS, IN 46227
PHONE: (317) 974-5555
FAX: (317) 974-5570

Job No.: 20011006
Sheet 1 of 2

SURVEYOR LOCATION REPORT

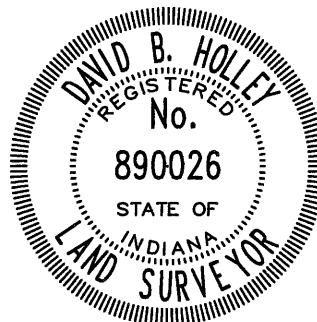
I hereby certify to the parties named above that the real estate described herein was inspected under my supervision on the date indicated and that to the best of my knowledge, this report conforms with the requirements contained in Sections 27 through 29 of 865 IAC 1-12 for a SURVEYOR LOCATION REPORT.



Scale: 1" = 30'

P&H
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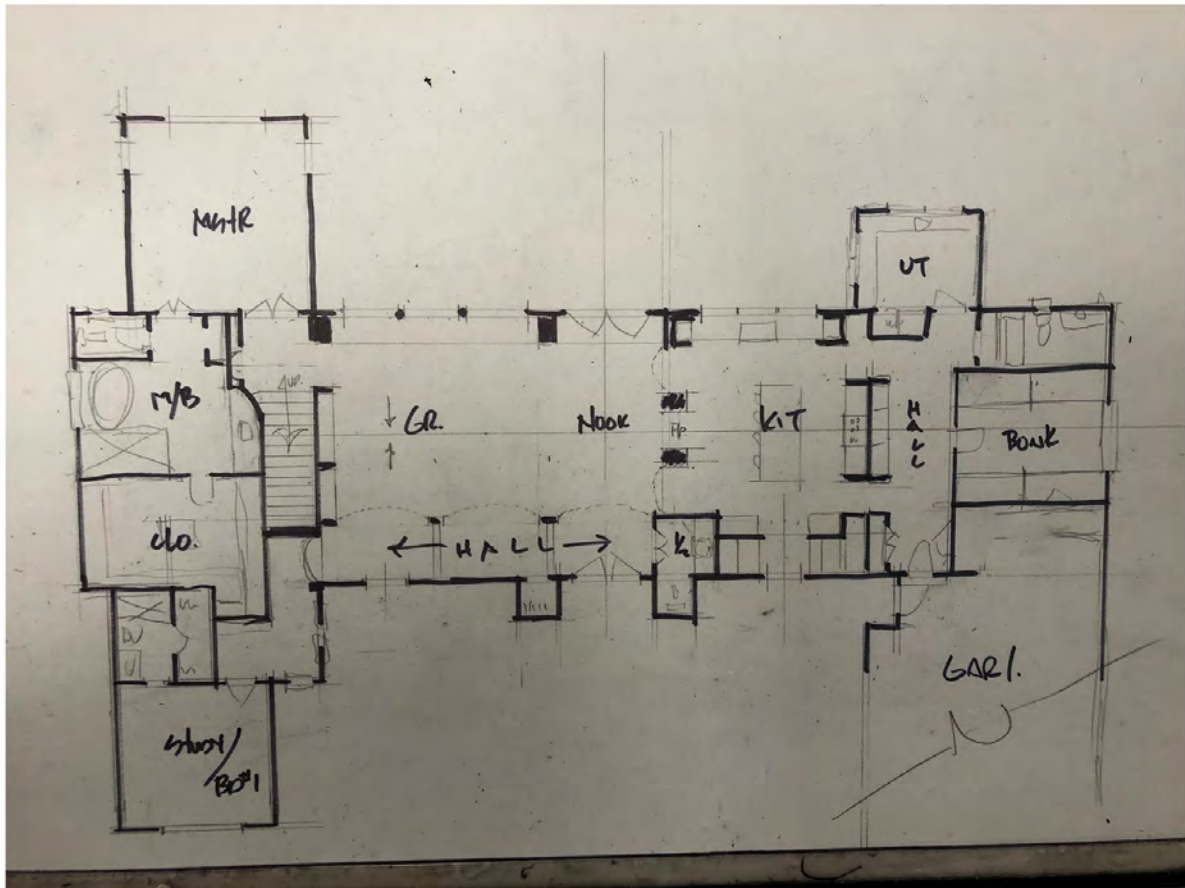
CERTIFIED: 01/07/2020

David B. Holley
David B. Holley
Professional Surveyor,

Indiana #890026
Job No.: 20011006
Sheet 2 of 2

Driscoll Main Residence

approximately 3500 sq feet
partial unfinished basement



Driscoll Cottage Inspiration



Inspiration for our 1-2 bedroom guest cottage. We are building a 3 bedroom home “in the woods” so would like to have a small home for our children and parents to use when visiting.

WRITTEN PUBLIC COMMENTS

Docket Number: 2006-VS-08
Petitioner: John and Jennifer Driscoll
Request: The Petitioner(s) request a Variance of Development Standard to reduce the Minimum Lot Frontage from 250 feet to 217 feet and to permit a second Dwelling Unit on 6.77 acres +/- in the AG-SF1: Agriculture / Single Family Rural District (Articles 4.2(D) & 6.4(B)).

Enclosed Attachments:

June 9, 2020 Public Hearing

- | | |
|--------------------|------------|
| 1. Brent Osswald | (06/09/20) |
| 2. Jason Heidegger | (06/09/20) |
| 3. Brian Kinney | (06/09/20) |

Pamela Howard

From: Brent Osswald <bfreedom8@gmail.com>
Sent: Tuesday, June 9, 2020 4:01 PM
To: Pamela Howard
Cc: Brian Kinney; jeheidegger@gmail.com
Subject: Re: BZA agenda and comments

Warning: This external email is from bfreedom8@gmail.com. Do not click on unexpected or untrusted links and attachments.

Pam,

Thank you for taking the time to call me back and discuss the meeting tonight regarding the variances that John and Jennifer Driscoll are trying to receive.

After discussing multiple issues with neighbors, I 100% oppose these variances being approved.

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

Thank you again for your time and talk soon.

On Jun 9, 2020, at 1:00 PM, Pamela Howard <poward@westfield.in.gov> wrote:

Brent,

I'm glad I was able to talk to you about the Driscoll variance. I've included a link to tonight's meeting agenda below. If you would like to provide comments for tonight's meeting, you can reply to this email and we will add the comments to the agenda and provide them to the board prior to the meeting. Please let me know if you have any additional questions.

<https://www.westfield.in.gov/egov/apps/document/center.egov?view=item;id=6906>

Thanks,

Pamela Howard | Senior Planner

Community Development | 2728 East 171st Street | Westfield,
IN 46074

phoward@westfield.in.gov | 317-531-3751

[Need to send me a file over 25MB?](#)



Pamela Howard

From: Jason Heidegger <jeheidegger@gmail.com>
Sent: Tuesday, June 9, 2020 4:03 PM
To: Pamela Howard
Subject: Driscoll Variance

Warning: This external email is from jeheidegger@gmail.com. Do not click on unexpected or untrusted links and attachments.

Pam,

I am one of the adjacent properties to the Driscoll property that is petitioning for variances.

I have a concern about the multiple houses proposed to be built as there are no plans put in place to address septic systems.

I would like to voice my concern and would oppose moving forward until plans are submitted and can be reviewed.

Sincerely,
Jason Heidegger

Pamela Howard

From: brian kinney <brianandleighann@gmail.com>
Sent: Tuesday, June 9, 2020 6:35 PM
To: Pamela Howard
Subject: Tonight's BZA Meeting - Driscoll variance

Warning: This external email is from brianandleighann@gmail.com. Do not click on unexpected or untrusted links and attachments.

Hi Pam,

I am emailing you to oppose this evenings meeting regarding the Driscoll's requests for variance to reduced road frontage and especially the variance for increasing allowed dwellings from 1 to 2 dwellings.

I have the same concerns as Brent Osswald my next door neighbor.

It may be best to table tonight's meeting until we've had a chance to discuss our issue with the Driscoll's.

Unfortunately we did not realize they wanted to increase allowed dwellings until earlier today.

Thanks for Your Time

Brian Kinney

Sent from my iPhone