



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_04_11_2023

Tuesday, April 11, 2023 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, April 11, 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

March 14, 2023

Documents: [BZA Minutes - March 14, 2023](#)

Review Rules & Procedures

ITEMS OF BUSINESS:

2304-VS-05 [PUBLIC HEARING]

2988 Creeks Crossing Court

Andrew Tebbe

The Petitioner requests a Variance of Development Standard to encroach five (5) feet into the thirty (30) foot Minimum Rear Yard Setback in the SF-2: Single-Family Low-Density District.

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

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

2304-VS-06 [PUBLIC HEARING]

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)

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, March 14, 2023 BZA Meeting

Presented for approval: April 11, 2023

The Westfield-Washington Township Board of Zoning Appeals
met at 7:00 p.m. on Tuesday, March 14, 2023 at Westfield City Hall.

Active Links for this meeting:

[March 14, 2023 BZA Agenda & Exhibits](#)

[March 14, 2023 YouTube Video](#)

OPENING OF MEETING

[YouTube Time: 0:17](#)

CHANGES TO THE AGENDA: Error on agenda: the election of officers took place last month.

ACKNOWLEDGEMENT OF HATFIELD & SCHMITZ REAPPOINTMENTS TO BZA

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 Ryan Collingwood, Associate Planner.

City Staff Present Virtually: None

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

APPROVAL OF MINUTES

McCarty motioned to approve the February 14, 2023 Minutes.
Fortier seconded. Motion passed. Vote 5-0.

REVIEW RULES AND PROCEDURES

Crabtree reviewed BZA rules and procedures.

ITEMS OF BUSINESS

2303-VS-04 [PUBLIC HEARING]

[YouTube Time: 2:59](#)

1549 Chatham Villages Blvd / CHLL, LLC by V3 Companies

The Petitioner requests a Variance of Development Standard to modify Minimum Lot Landscaping Requirements for a Multi-Family use on 14.37 acres +/- in the Chatham Hills Planned Unit Development (PUD) District.
(Planner: Lauren Gillingham – lgillingham@westfield.in.gov)

Staff presentation / Petitioner presentation / BZA comments.

Public Hearing for 2303-VS-04 opened at 7:07 p.m.

- No public comments.

Public Hearing for 2303-VS-04 closed at 7:08 p.m.

BZA comments / Petitioner responses.

Fortier motioned to approve 2303-VS-04 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 2303-VS-04.

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

McCarty seconded. Motion passed. Vote 5-0.

2303-VU-03 [PUBLIC HEARING]

[YouTube Time: 10:59](#)

19027 Grassy Branch Road / David & Shannon Carley

The Petitioners request a Variance of Use to permit a Kennel use for a maximum of twenty (20) chickens on 2.19 acres +/- in the SF-2: Single-Family Medium Density District (Article 13.2).

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

Staff presentation / Petitioner presentation / BZA comments.

Public Hearing for 2303-VU-03 opened at 7:15 p.m.

- One public comment.

Public Hearing for 2303-VU-03 closed at 7:17 p.m.

Petitioner responses / BZA comments / Staff Comment.

McCarty motioned to approve 2303-VU-03 subject to the recommended conditions stated in the motion.

Hatfield seconded. Motion passed. Vote 5-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2303-VU-03.

Boller seconded. Motion passed. Vote 5-0.

ITEMS CONTINUED TO A FUTURE MEETING

No Continued Items.

REPORTS/COMMENTS:

[YouTube Time: 25:38](#)

- Plan Commission Liaison
- Community Development Department

ADJOURNMENT

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

The meeting adjourned at 7:28 p.m.

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

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

BZA Minutes for March 14, 2023 Page 2 of 3

Signature Page for BZA Minutes for March 14, 2023

Chairperson
Dave Schmitz

Secretary
Kevin M. Todd, AICP
Director



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

April 11, 2023

2304-VS-06

Exhibit 1

Petition Number: 2304-VS-06

Subject Site Address: 235 Penn Street (The “Property”)

Petitioner: Stellhorn Equity, LLC (The “Petitioner”)

Request: 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)*)

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

Current Land Use: Residential

Approximate Acreage: 0.3 acres+/-

Exhibits:

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

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.

Variance Request: The Petitioner requests Variances of Development Standard to permit a temporary gravel parking lot without surfacing or curbing on 0.3 acres +/- in the SF-3 Single-Family Medium Density District (UDO Articles 6.14(G)(7)(a) and 6.14(G)(7)(b)).

SUMMARY OF VARIANCES

The Petitioner is requesting this variance to allow a temporary gravel parking lot on the Property, as generally illustrated on the Proposed Site Plan (see **Exhibit 3**). Per discussions with the Petitioner, this is necessary for employees and patrons of the Cherry Street Plaza building (320 E. Main Street) as on-street parking is temporarily eliminated during the future State Highway 32 construction.

Although the proposed temporary parking lot would not be on the same lot as the Cherry Street Plaza building, Article 6.14(G)(2) of the UDO permits parking spaces to be located on land other than the Lot on which the building or Use is located provided the parking spaces are located



within three hundred (300) feet walking distance from the main entrance to the Use served. This standard would be met by the proposed temporary lot.

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

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

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

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. 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 April 11, 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 UDO² and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon

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

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

April 11, 2023

2304-VS-06

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

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

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

DEPARTMENT COMMENTS

Approval: The Department recommends approval of the Variances of Standard (2304-VS-06), then the Department recommends the conditions and findings as set forth below:

Recommended Conditions of Approval:

- 1) That the Gravel Parking Area be constructed at the location shown and in substantial compliance with the Proposed Site Plan (**Exhibit 3**).
- 2) That the gravel parking lot shall be constructed of compacted #53 stone at 6" of depth.
- 3) That approval of this variance shall expire on December 31, 2028. Any request to extend the time limit of this variance shall be reviewed and approved by the Board of Zoning Appeals prior to December 31, 2028.
- 4) That the Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Community Development Department.

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



Recommended Findings for Approval:

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

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the Use of the Property is not changing, and all other improvements to the Property with the applicable zoning and construction standards.

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

Finding: It is unlikely the use and value of adjacent properties will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on surrounding properties because the Use of the Property is not changing, and all other improvements to the Property with the applicable zoning and construction standards.

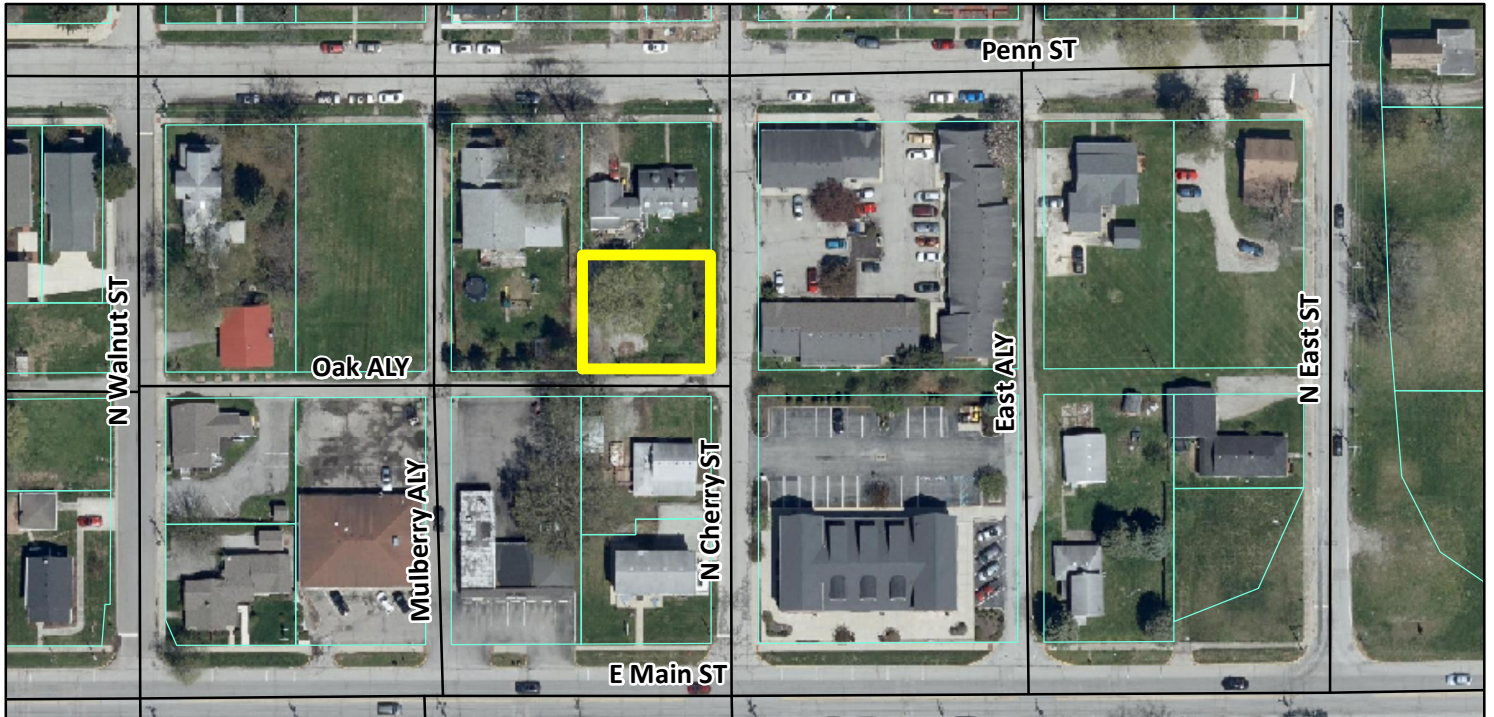
- 3) *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:*

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

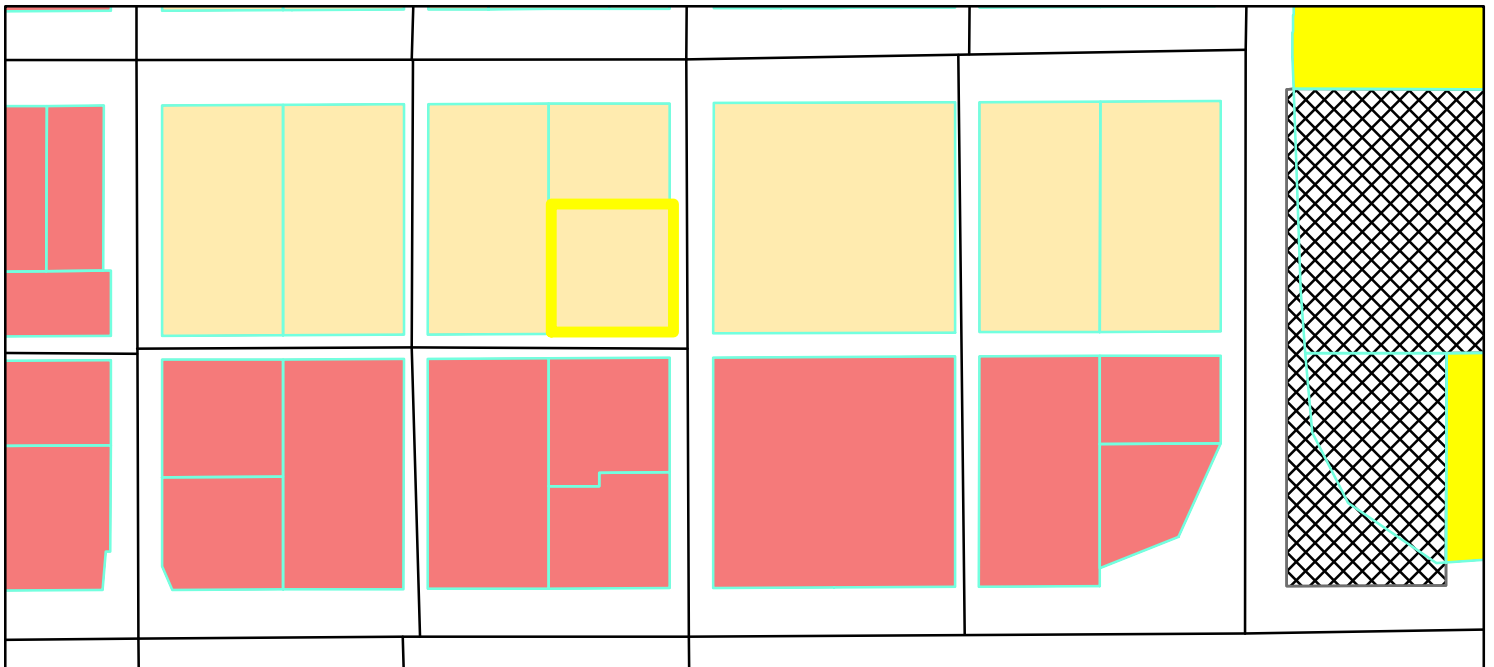
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

Aerial Location Map

 Site



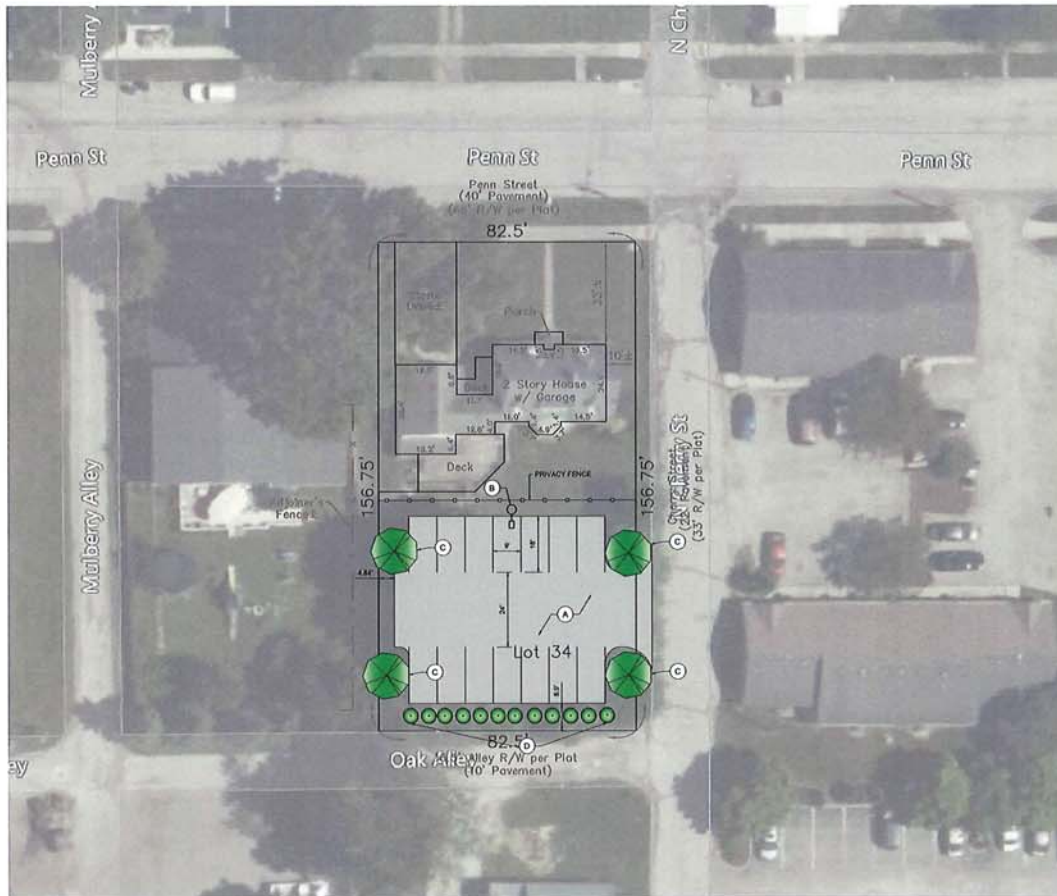
Zoning Map



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)

0 0.0125 0.025
Miles



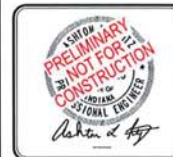


KEY NOTES:

A	TEMPORARY GRAVEL PAVEMENT (IF COMPACTED AND CRUSHED LIMESTONE)	
B	POLE LIGHT	
C	ORNAMENTAL TREE (MIN. 10' TALL PER 100')	
D	BOXWOOD SHRUBS	

NOTES:

Fritz Engineering Services, LLC
14020 Massinewa Drive
Carmel, Indiana 46033
P: 317.324.8895 F: 317.324.8717
www.Fritz-Eng.com



REVISIONS AND ISSUES	DATE	BY

GENERAL NOTES / LEGEND

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

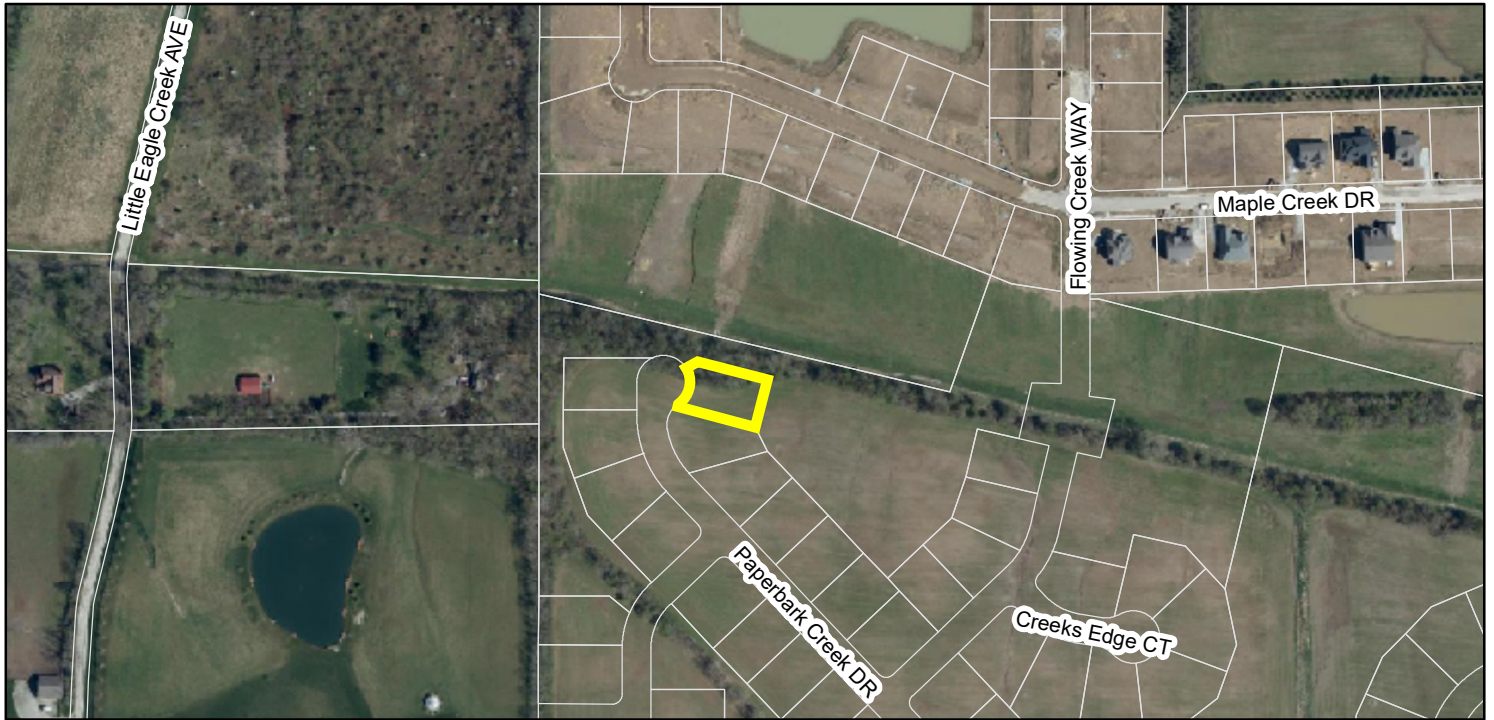
PROJECT:
235 PENN ST
TEMPORARY PARKING LOT

PROJECT LOCATION:
235 PENN ST.
WESTFIELD, INDIANA 46074
HAMILTON COUNTY
SECTION TOWNSHIP RANGE
--- 1, S6, T18N, R4E

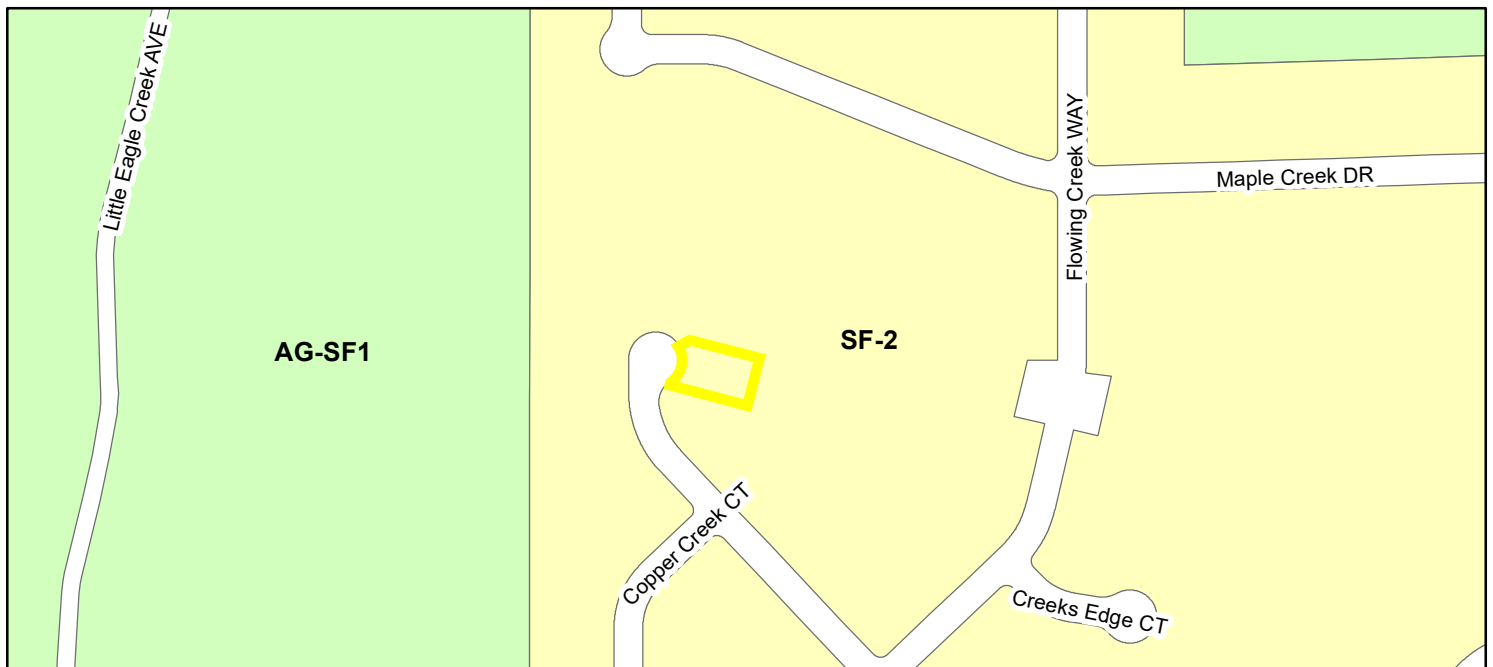
CLIENT:
JRF CONSTRUCTION
705 E. MAIN ST.
WESTFIELD, IN 46074

PLAN DATE		
3/7/2023		
DESIGN	CHECK	DRAWN
AF	AF	KG
PROJECT NO.		
P220903		
SHEET NAME		
CONCEPTUAL SITE PLAN		
SHEET NO.		
EXH-2		

Aerial Location Map

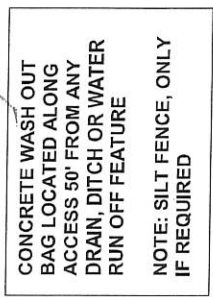


Zoning Map



Zoning

-  AG-SF1 (Agriculture - Single Family - 1)
-  SF-2 (Single Family - 2)



JOSEPH TRIAN
REGISTERED
No.
LS-1500000
STATE OF
INDIANA
LAND SURVEYOR

Completed Nov 11th Dec 11th July 2022

Joseph Frank
Professional Land Surveyor
License No. 45215-0000

PREPARED FOR: PULTE HOMES
JOB #: 225E-578

PREPARED FOR: PULTE HOUSE
JOB # 728E-878
FORERONT
ENGINEERING

[illegible]

	Sq. Yds.	Sq. Ft.	Sq. Ft.	Sq. Ft.
SOD:	4,309	1,480		
BED:		178		
PRIVATE WALK:		377		
PUBLIC WALK:		1,346		
DRIVEWAY:				

LEGEND
AS APPLICABLE

1	ELEVATION PLAIN
2	ELEVATION MOUND
3	BANKS METER
4	WATER METER
5	WATER VALVE
6	FIRE HYDRANT
7	STORM SEWER
8	CURB SET

1  PLOT PLAN
1" = 30'-0"

BUILDING SETBACK LINES.
REAR SIDE YARD

VARIANCE APPLICATION

OFFICE USE ONLY

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Lauren & Darne (STAFF NAME) DATE: 2/1/2023

PRIOR OR RELATED DOCKET NUMBERS

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

APPLICANT INFORMATION

APPLICANT'S NAME: <u>Andrew K. Tebbe</u>	TELEPHONE: <u>317-710-4457</u>
ADDRESS: <u>2988 Creeks Crossing Westfield</u>	EMAIL: <u>tebbea@wws.k12.in.us</u>
PROPERTY OWNER'S NAME: <u>Same</u>	TELEPHONE: <u>Same</u>
ADDRESS: _____	EMAIL: <u>Same</u>
REPRESENTATIVE'S NAME: <u>Same</u>	TELEPHONE: <u>Same</u>
COMPANY: _____	EMAIL: <u>Same</u>
ADDRESS: _____	

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 2988 Creeks Crossing Court
COUNTY PARCEL ID #(S): 08-09-08-00-05-021.000
EXISTING ZONING DISTRICT(S): SF2 EXISTING LAND USE(S): Residential

PROPERTY AND PROJECT INFORMATION

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

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

See attached statement

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.

AK Tebbe
Applicant/Representative (signature)

Andrew K. Tebbe
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 2ND day of MARCH, 2023
State of INDIANA, County of HAMILTON, SS: _____

Johnna M. Groom
Notary Public (signature)

JOHNNA M. GROOM
Notary Public (printed)



JOHNNA M. GROOM
Notary Public, State of Indiana
Hamilton County
Commission #702065
My Commission Expires
June 26, 2025

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.

AK Tebbe
Property Owner (signature)*

Andrew K. Tebbe
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 2ND day of MARCH, 2023
State of INDIANA, County of HAMILTON, SS: _____

Johnna M. Groom
Notary Public (signature)

JOHNNA M. GROOM
Notary Public (printed)



JOHNNA M. GROOM
Notary Public, State of Indiana
Hamilton County
Commission #702065
My Commission Expires
June 26, 2025

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

FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: Andrew K. Tebbe 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: _____

n/a

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: _____

n/a

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

n/a

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

n/a

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

n/a

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: Andrew K. Tesbe 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: _____

see attached statement

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: _____

see attached statement

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

see attached statement

GENERAL INSTRUCTIONS

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

Statement of Intent - Project Description

We are wanting to install an in-ground swimming pool in the rear yard of our home.

Address:

2988 Creeks Crossing, Westfield, IN 46074

Legal Description:

Acreage 0.36, Section 8, Township 18, Range 3, Bent Creek Section 4, Lot 93 Irregular shape

The proposed pool will measure approximately 16 feet wide by 36 feet long. The proposed pool location meets all required 15 foot easements but does not comply with the 30 foot setback rule on the East side. We are seeking a variance on the 30 foot setback on the East side to allow for the proposed pool location.

Pools of Fun will be installing the pool and overseeing all aspects of the installation. Pools of Fun is a reputable and highly respected pool company in Indiana. They will make sure any and all landscaping and drainage issues are addressed. The pool will have an automatic cover meeting the required safety standards.

The pool installation has also been approved by the homeowners association and that approval letter is part of this application. All stipulations listed in the HOA approval letter will be met

Variance Request Details

The east Side of Pool complies with the 15 foot easement but does not comply with the 30 foot setback. The Pool edge will be approximately 26 feet from the property line. The area east of the property line is common ground for the neighborhood and a large water retention pond. We are seeking a variance on the 30 foot setback on the east side.

A

The public health, safety, morals, and general welfare of the community will not be injurious because the location of installing the Pool is currently an open lawn area in the backyard of the property owner. Nature or wildlife will also not be impacted by installing a Pool. Inground pools are plentiful throughout the community and other homeowners in our neighborhood have inground pools.

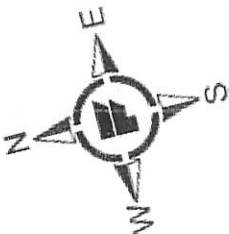
B

The east side of the property line that a variance is being requested is common ground that runs into a large retention pond. Access to the common ground and area around the retention pond will not be impacted and will remain the same after installing the pool.

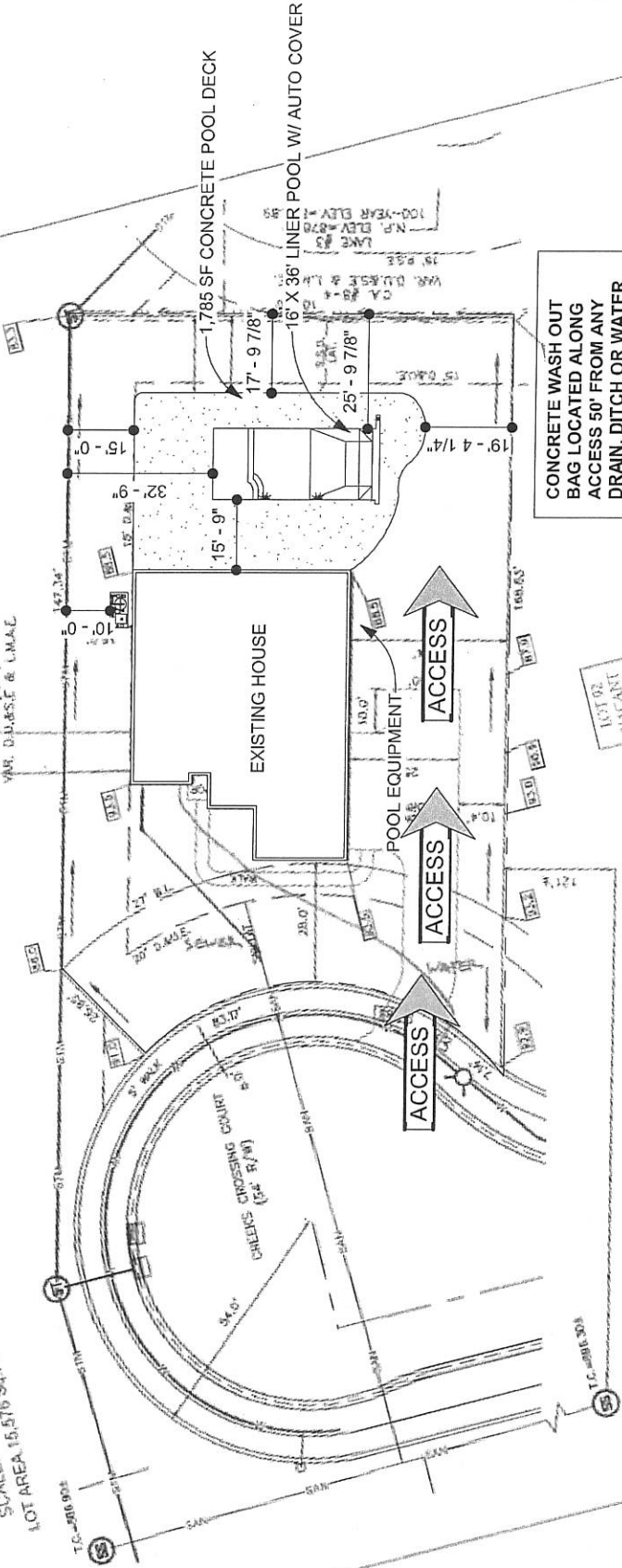
C

A second floor back yard porch and steps that lead down into the yard dictate the location of the pool. Moving the pool further West creates a pinch point around the pool by the back porch steps. If the pool is moved further south to alleviate the pinch point of the back porch steps then a variance would be needed on the south side instead. The south side has the only contiguous property owner so moving the pool in this direction has a much greater impact. The planned location is deemed "best" because it keeps the pool more centered in the back yard and away from the neighbor on the south side as well as balancing the distance from common ground on the north and east sides. This location also alleviates pinch points moving around the pool. If the 30 foot setback stays in play, the pool would be too small to be practical and useful.

Thank you for your consideration in granting our variance request.

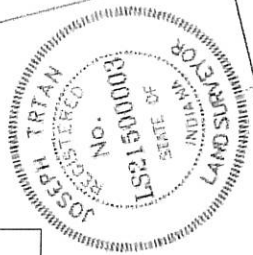


0 10 20 30
SCALE: 1" = 30'
LOT AREA 15,576 SQ. FT.



CONCRETE WASH OUT
BAG LOCATED ALONG
ACCESS 50' FROM ANY
DRAIN, DITCH OR WATER
RUN OFF FEATURE

NOTE: SILT FENCE, ONLY
IF REQUIRED



Contract this 14th day of May, 2022
Joseph T. Tran
Joseph T. Tran Licensed Surveyor
Professional No. LS21500003
Indianapolis, Indiana

	SQ. YDS.	SQ. FT.
SOD	4,309	Sq. Ft.
SEED	1,500	Sq. Ft.
PRIVATE WALK	176	Sq. Ft.
PUBLIC WALK	537	Sq. Ft.
DRIVEWAY	1,346	Sq. Ft.

- LEGEND**
- AS APPLICABLE
 - ELEVATION PER PLAN
 - BARRIER MARKER
 - WALKER METER
 - WATER VALVE
 - FIRE HYDRANT
 - STORM STRUCTURE
 - CURB INLET

1 PLOT PLAN
1" = 30'-0"

PREPARED FOR: FULTE HOMES
JOB # 22SE-018
FORERONT
SURVEYING & ENGINEERING
12341 Tomlinson Hwy, Westfield, IN 46076
Phone: (317) 225-0188
Email: info@foreront.com
Date: 05/14/2022
Page: 1 of 2

Bent Creek

941 E. 86th Street
Suite 225
Indianapolis, IN 46240

Phone: 317-631-2213
Toll Free: 800-354-0257

Andy Tebbe
2988 Creeks Crossing Ct
Westfield IN 46074

RE: Architectural Submittal for 2988 Creeks Crossing Ct
Account#: 1616918
Submittal: Pool Installation

February 17, 2023

Dear Andy Tebbe:

The Architectural Review Committee has reviewed and **APPROVED WITH STIPULATIONS** the above listed submittal. The Architectural Committee has placed stipulations on your approval, they are outlined below:

- Swimming pools shall be screened from any street view.
- The pool and all related mechanical equipment will be located in the rear yard and will not extend past the side of the dwelling and will be fully concealed from view.
- Homeowner shall take into consideration all sound nuisances to neighboring property in the installation of equipment.
- Pool decking shall not exceed 40% of buildable rear lot area.
- Pool accessories shall not exceed 10 feet in height from builder installed grade.
- No permanent lines or wires shall be constructed, placed or permitted to be placed anywhere above ground on the Unit.
- Owner responsible to obtain all applicable permits from County, State, City, or Township prior to work and to have property utilities marked prior to digging

This approval is subject to all County, City, State and Federal permits, codes, statutes, laws, rules, and regulations, which are the sole responsibility of the homeowner. This approval shall not be deemed a warranty or representation as to the quality of the construction, installation, addition, alteration, repair, change or other work.

Should you have any questions, please feel free to contact me at 463-221-5620 or by email at panthony@AssociatedAsset.com. We thank you for your patience with this process.

Sincerely,

Patricia Anthony
Community Manager
For the Board of Directors
Bent Creek Homeowners Association Inc

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

AFFIDAVIT OF NOTICE OF PUBLIC HEARING

DOCKET #: 2304-VS-05PUBLIC HEARING DATE: April 11, 2023APPLICANT'S NAME: Andrew K TebbeREPRESENTATIVE'S NAME: Andrew K Tebbe COMPANY: n/aPROJECT TO BE KNOWN AS: Install inground poolAPPLICATION TYPE: ☐ CHANGE OF ZONING ☐ TEXT AMENDMENT ☐ COMMITMENTS ☐ PRIMARY PLAT☐ DEVELOPMENT PLAN (SITE PLAN) ☒ BOARD OF ZONING APPEALS (VARIANCE, SPECIAL EXCEPTION)

PUBLIC NOTICE AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath does hereby certify that notice of public hearing to consider above petition was sent by certified, registered or first class mail to the last known address of each of the following persons, as attached hereto as Exhibit A, they being all persons to whom notice was required to be sent by the Plan Commission or Board of Zoning Appeals' Rules of Procedure (as applicable), and that said notices were postmarked on the 22 day of March, 2023 being at least ten (10) days prior the scheduled public hearing.

I (We) further certify that the notice required to be posted on the subject property described in the above petition was posted on the subject property in accordance with the Plan Commission's or Board of Zoning Appeals' Rules of Procedures (as applicable) on the 22 day of March, 2023 being at least ten (10) days prior the scheduled public hearing.

AK Tebbe
Applicant/Representative (signature)*

Andrew K. Tebbe
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 instrument.

Witness my hand and Notarial Seal this 22ND day of MARCH, 2023.

State of INDIANA, County of HAMILTON, SS:

Johnna M. Groom
Notary Public Signature
JOHNNA M. GROOM
Notary Public (printed)



JOHNNA M. GROOM
Notary Public, State of Indiana
Hamilton County
Commission #702065
My Commission Expires
June 26, 2025



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

April 11, 2023

2304-VS-05

Exhibit 1

Petition Number: 2304-VS-05

Subject Site Address: 2988 Creeks Crossing Ct. ("the Property")

Petitioner: Andy Tebbe ("the Petitioner")

Request: The Petitioner requests a Variance of Development Standard to encroach five (5) feet into the thirty (30) foot Rear Yard Setback in the Single-family Low Density (SF-2) zoning district. (Article 4.5(E)(3)(a))

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

Current Land Use: Residential

Approximate Acreage: 0.36 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 0.36 acres +/- in size (the "Property") and located at 2988 Creeks Crossing Ct. in the Bent Creek subdivision (see **Exhibit 2**).

Requested Variances: The petitioner is requesting a Variance of Development Standard to encroach five (5) feet into the thirty (30) foot Minimum Rear Yard Setback to accommodate a swimming pool.

SUMMARY OF VARIANCE

SF-2 standards of the Westfield-Washington Township Unified Development Ordinance (UDO) sets forth a minimum Rear Yard Setback of thirty (30) feet for the property. The Petitioner is requesting this variance to encroach five (5) feet into the Minimum Rear Yard Setback to accommodate a swimming pool and deck as illustrated on the Site Plan (see **Exhibit 3**).



COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan (The “Plan”) identifies the property within the “New Suburban” land use classification¹. 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.²

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

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 April 11, 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 UDO⁴ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

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

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

² Page 40 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Background.

³ Pages 41 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan; New Suburban.

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

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

April 11, 2023

2304-VS-05

Exhibit 1

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

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

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

DEPARTMENT COMMENTS:

Recommended Findings for Approval: If the Board is inclined to approve the Variance of Development Standards (2304-VS-05):

- 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 SF-2 zoning district.

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

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

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

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

April 11, 2023

2304-VS-05

Exhibit 1

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 Economic and Community Development Department.

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