



**CITY OF WESTFIELD, IN**  
**BoardofZoningAppeals\_Meeting\_Agenda\_02\_12\_2019**

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*Tuesday, February 12, 2019 at 07:00 PM*

**BOARD OR COMMISSION:** Board of Zoning Appeals (BZA)

**MEETING DATE:** Tuesday, February 12, 2019 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**

**OPENING OF REGULAR MEETING**

Note the presence of a quorum

Approval of Minutes - January 8, 2019

Documents: [BZA Minutes - January 8, 2019](#)

Consideration of Change to Mailed Notice Requirement

Documents: [Proposed Change to the Mailed Notice Requirement](#)

Review Rules & Procedures

**ITEMS OF BUSINESS:**

**1901-VS-01 [ADOPTION OF FINDINGS OF FACT]**

***North of and adjacent to 1106 E. 191st Street***

***Martin Cody***

**Adoption of Findings of Fact for Variance of Development Standard that was denied on January 8, 2019.**

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

**Documents: [Exhibit 1: Staff Report \(1901-VS-01\)](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Petitioner's Application](#)**

**1902-VS-03 [PUBLIC HEARING]**

***21250 Anthony Road***

***Michael Graber***

**The petitioner is requesting a Variance of Development Standard to modify the South Side Yard Setback Line from thirty (30) feet to ten (10) feet to allow for the extension and reconfiguration of an attached garage (Article 4.2(E)(2)).**

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

Documents: [Exhibit 1: Staff Report \(1902-VS-03\)](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: Existing Conditions](#)

**1902-VS-04 [PUBLIC HEARING]**

*16708 Dean Road*

*GEFT Outdoor, LLC*

The petitioner is requesting Variances of Development Standard to permit an Off-Premise Electronic Pole Sign in the EI: Enclosed Industrial District and the US Highway 31 Overlay District (Articles 6.17(E)(4-5), 6.17(F)(5), and 6.17(F)(6)(a-f)).

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

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: Proposed Sign Exhibit](#) | [Exhibit 5: Petitioner's Application](#)

**1902-VU-02[PUBLIC HEARING]**

*518 E. Main Street*

*Rocks Auto Exchange*

The petitioner is requesting a Variance of Use an extension to a previously approved Variance of Use to permit pre-owned automobile sales in the SF-3: Single-Family Medium Density District (Article 13.2).

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

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Current Site Conditions](#) | [Exhibit 4: Landscaped Site Plan](#) | [Exhibit 5: Recorded Acknowledgment of Variance 1601-VU-02](#) | [Exhibit 6: Petitioner's Application](#)

**ITEMS CONTINUED TO A FUTURE MEETING:**

**1803-AA-01[CONTINUED]**

*16708 Dean Road (Bob's Garage)*

*Esler Properties, LLC by Morse & Bickel, P.C.*

The petitioner is appealing an Administrative Determination (1712-AD-04) regarding the revocation of a variance (1603-VU-03).

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

**REPORTS/COMMENTS:**

Plan Commission Liaison

Economic and Community Development Department

**ADJOURNMENT**

The Westfield-Washington Township Board of Zoning Appeals met at 7:00 p.m.  
on Tuesday, January 8, 2019 at Westfield City Hall.

Members present: Jeannine Fortier, Ken Kingshill, Martin Raines, Dave Schmitz, and Robert Smith.

City staff present: Pam Howard, Senior Planner; Daine Crabtree, Associate Planner; and Brian Zaiger, City Attorney.

**ROLE CALL**

Noted presence of a quorum.

**ELECTION OF OFFICERS**

Motion: Nominate and elect Dave Schmitz as Chairperson for 2019

Motion: Kingshill; Second: Raines

Motion: Close nominations

Motion: Kingshill; Second: Raines

Motion to nominate and elect Dave Schmitz as Chairman passed. Vote 5-0

Motion: Nominate and elect Jeannine Fortier as Vice-Chairperson for 2019

Motion: Raines; Second: Smith

Motion: Close nominations

Motion: Raines; Second: Smith

Motion to nominate and elect Jeannine Fortier as Vice-Chairperson passed. Vote 5-0

Motion: Nominate and elect Ken Kingshill as Pro-Tempore for 2019

Motion: Smith; Second: Raines

Motion: Close nominations

Motion: Smith; Second: Raines

Motion to nominate and elect Ken Kingshill as Pro-Tempore passed. Vote 5-0

**APPROVAL OF MINUTES**

Motion:

Motion: Kingshill motioned to approve the November 13, 2018 meeting minutes.

Raines seconded. Motion passed. Vote 5-0.

**REVIEW OF RULES AND PROCEDURES**

Howard reviewed BZA rules and procedures.

**ITEMS OF BUSINESS****1901-VS-01****[PUBLIC HEARING]****North of and adjacent to 1106 E. 191<sup>st</sup> Street**

*Martin Cody*

The petitioner is requesting Variances of Development Standard to permit two (2) Accessory Buildings on a Lot with no Principal Building and to reduce the Minimum Lot Area, Minimum Lot Frontage, and Minimum Building Setback Line in the AG-SF1: Agriculture / Single-Family Rural District (Articles 6.1(D), 4.2(C-E)).

*(Planner: Daine Crabtree - [DCrabtree@westfield.in.gov](mailto:DCrabtree@westfield.in.gov))*

Crabtree overviewed these requests. The Petitioner is requesting Variances of Development Standard for two (2) Accessory Buildings that currently exist on the Property. The Property, as well as the parcel to the south (1106 E. 191st Street), are zoned AG-SF1: Agriculture/Single-Family Rural. Both parcels exist under the same ownership, FMH Limited Partnership (the "Owner"). The property is being rented by the Petitioner.

Schmitz asked what brought about this petition. Was it due to enforcement?

- Crabtree responded yes, enforcement officer determined enforcement was not necessary; however, the buildings on the property are not compliant with setbacks

Smith asked how long have the buildings been on the property.

- Martin Cody, the petitioner, responded these portable buildings have been in place for four to five months

Schmitz asked Cody if he is renting the home as well.

- Cody replied yes.

Kingshill asked why not combining parcels

- Crabtree replies that would result in losing the legal conforming status.

Schmitz asked why they are considered two parcels when they have the same ownership.

- Crabtree and Howard addressed that the tax parcels are also used for zoning purposes.

Public Hearing for 1901-VS-01 opened at 7:10 p.m.

Dan Klingensmith, 19136 Tomlinson Road; said his back yard backs up to the petitioner's back yard. He said there were three small utility buildings on the property, not two. He said there are several cars on property that he works on and said he was not sure if the petitioner was running a business. He stated he is concerned about the situation as the area is residential.

- Smith asked Klingensmith if this situation impacts his property values and if so, why?
  - o Klingensmith replied yes, cars being worked on in residential neighborhood negatively affects their personal enjoyment as well as the value of their property.

Sharon Cordero, 19150 Tomlinson Road; said her home is on the L shaped lot that abuts the petitioner's lot. She stated a concern for the lowering of property values as a result of the situation. She asked how they can get a variance if the petitioner does not own the property. She pointed out that the cars shown in the pictures are very close to her property/fence. She asked that if these variances were approved would it result in making it easier for the property owner to rezone. She said the yard is messy.

- Schmitz and Crabtree responded that the property owner consented to the application.
- Schmitz responded that rezoning would be a separate matter.

Darleen Klingensmith, 19136 Tomlinson Road; asked when was this property made into two parcels? What does it mean that there is no principle building? She said it would not be fair to current residents to change the zoning as the property had always been zoned single-family/agricultural and that was the basis for the current residents to purchase their land.

- Smith asked how this situation impacts her.
- She replied the noise coming from his auto repairs is loud and lowers her property value. She said that could make it selling her property more difficult.

Petitioner responded that he does not run a business; he uses the buildings to store his personal vehicles. He added he has worked on his own cars.

Public Hearing for 1901-VS-01 closed at 7:23 p.m.

Kingshill asked the petitioner about a piece of equipment that was pictured on the property.

- The petitioner replied it was an engine hoist.

Raines asked if he works on his own cars or other people's cars. If so, he asked the petitioner if he was being paid to work on cars.

- Cody replied he only works on his own cars.

Raines asked about the use of the buildings.

- Cody replied they are used for storing his cars and tools.

Raines asked petitioner if he could store his cars on the other parcel, closer to house



- Cody replied yes.

Raines asked if everything could be stored inside the buildings.

- Cody replied no.

Schmitz mentioned that the setback reductions are significant. He also asked about the nature of the enforcement – asking if it was related to use.

- Crabtree replied that the enforcement was regarding reports of oil running off of property. Once the property was inspected that was not found to be valid. It was at this time the setbacks were noticed.

Schmitz said that the setback issue is self-created.

- Cody responded that he didn't think it mattered since it they portable buildings.

Kingshill stated he did not think this variance should be granted

Schmitz doesn't think that practical difficulties are met.

Cody stated that he keeps his property in as nice of condition as the neighbors' properties.

Motion:

Kingshill motioned to deny 1901-VS-01.

Smith seconded. Motion passed. Vote 4-1. Raines voted against the motion.

Motion:

Kingshill motioned to table the staff's Findings of Fact for 1901-VS-01 until next BZA meeting.

Fortier seconded. Motion passed. Vote 5-0.

**1901-VU-1 &  
1901-VS-02  
[PUBLIC HEARING]**

**14925 Bridlewood Drive**

*Matthew Knowles*

The petitioner is requesting a Variance of Use to permit an addition to a Single-Family Dwelling and a Variance of Development Standard to reduce the Minimum Side Yard Setback in the SB-PD: Special Business / Planned Development District (Article 13.2 & 4.22(B)).  
(Planner: Pam Howard - [PHoward@westfield.in.gov](mailto:PHoward@westfield.in.gov))

Howard explained that a certified mailing for this petition was not competed and said that to proceed the BZA would need to waive the certified mailing rule.

No one was present to speak in this item.

Motion:

Kingshill motioned to waive the requirement of public notice for 1901-VU-01 & 1901-VS-02.

Smith seconded. Motion passed. Vote 5-0.

Howard presented an overview of this request for this a Variance of Use to allow for a side yard setback. The Petitioner requests a Variance of Development Standard to modify the South Side Yard Setback Line from thirty (30) feet to ten (10) feet to allow for the extension and reconfiguration of an attached garage.

Schmitz asked what is required for the setback.

- The petitioner responded 15 feet.

Kingshill asked if the subdivision's homes had predominantly two car garages.

- The petitioner responded yes; but, there are several three car garages.

Public Hearing for 1901-VU-01 & 1901-VS-02 opened at 7:45 p.m.

No public comments.

Public Hearing for 1901-VU-01 & 1901-VS-02 opened at 7:46 p.m.

**Motion:**

Smith motioned to approve 1901-VU-01 & 1901-VS-02 with the following condition:

- The additions shall be built as shown on the Site Plan Exhibit and Proposed Addition Exhibit attached to the Staff Report.

Kingshill seconded. Motion passed. Vote 5-0.

**Motion:**

Smith motioned to adopt the staff's Findings of Fact for 1901-VU-01 & 1901-VS-02.

Kingshill seconded. Motion passed. Vote 5-0.

**ITEMS CONTINUED TO A FUTURE MEETING:****1609-AA-01****[CONTINUED]****14939 Ditch Road**

*Indiana Structural Foundations, LLC*

The petitioner is appealing an Administrative Determination (1604-AD-02) regarding standards applicable to a concrete business pursuant to a previously approved Variance of Use (79-V-12).

*(Planner: Kevin Todd - [KTodd@westfield.in.gov](mailto:KTodd@westfield.in.gov))*

**1803-AA-01****[CONTINUED]****16708 Dean Road (Bob's Garage)**

*Esler Properties, LLC by Morse & Bickel, P.C.*

The petitioner is appealing an Administrative Determination (1712-AD-04) regarding the revocation of a variance (1603-VU-03)

*(Planner: Pam Howard - [PHoward@westfield.in.gov](mailto:PHoward@westfield.in.gov))*

**REPORTS/COMMENTS**

Plan Commission Liaison Report.

Economic and Community Development Department.

**ADJOURNMENT****Motion:**

Schmitz motioned to adjourn the meeting.

Kingshill seconded. Motion passed. Vote 5-0.

The meeting adjourned at 7:59 p.m.

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Chairperson

Dave Schmitz

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Secretary

Matthew S. Skelton, Esq., AICP

Director

### **Proposed Change to the Mailed Notice Requirement**

1. **Article X(2):** ~~Certified~~-Mailing: A petitioner shall mail a copy of legal notice to interested parties in accordance with the following:
2. **Article X(2)(b):** ~~Certified-First Class~~ Mail and Timing: Required notices to interested parties shall be sent by ~~certified-USPS First Class mail-Mail~~ with ~~proof-a Certificate of mailing-Mailing~~ and postmarked at least ten (10) days prior to the public hearing. The Department will advise the Board at the public hearing of any omissions or deficiencies in such public notice.
3. **Article X(5):** Affidavit of Notice of Public Hearing: The petitioner 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. The affidavit shall include ~~proof that notice has been mailed consisting of the postmarked certified mail receipts~~the Certificate of Mailing on the form provided by the USPS and a copy of the list of interested parties from the Hamilton County Auditor, Office of Transfers and Mapping. Said affidavit and attachments shall be filed in the office of the Department at least four (4) calendar days prior to the public hearing.



WESTFIELD-WASHINGTON  
BOARD OF ZONING APPEALS

February 12, 2019

1902-VU-02

Exhibit 1

**Petition Number:** 1902-VU-02

**Subject Site Address:** 518 E. Main Street (the "Property")

**Petitioner:** Rocks Auto Exchange (the "Petitioner")

**Request:** The petitioner is requesting an extension to a previously approved Variance of Use to permit pre-owned automobile sales in the SF-3: Single-Family Medium Density District (Article 13.2).

**Current Zoning:** SF3: Single-Family Medium Density District

**Current Land Use:** Commercial

**Approximate Acreage:** 0.57 acre +/-

**Exhibits:**

1. Staff Report
2. Location Map
3. Current Site Conditions
4. Landscaped Site Plan
5. Recorded Acknowledgement of Variance (1601-VU-02)
6. Petitioner's Application

**Staff Reviewer:** Pam Howard, Senior Planner

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## **OVERVIEW**

**Property Location:** The subject property is approximately 0.57 acre +/- in size and is located at 518 East Main Street (see **Exhibit 2**). The Property is zoned SF3: Single-Family Medium Density District. The property is located at the eastern edge of Downtown Westfield. Adjacent properties to the north, south, east and west are used for residential purposes.

**Property History:** In 1998, the Board of Zoning Appeals (the "BZA") approved a variance of use to allow a beauty salon on the Property (98-V-37). The Property was used as a beauty salon for approximately seventeen (17) years. On February 9, 2016 the BZA approved a Variance of Use to permit pre-owned automobile sales on the Property (the "Existing Variance") (see **Exhibit 5**). The Existing Variance was approved with several conditions, one being an expiration date of March 1, 2019.

**Variance Request:** The petitioner is requesting an extension to a previously approved Variance of Use to permit pre-owned automobile sales in the SF-3: Single-Family Medium Density District.



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## **SUMMARY OF VARIANCES**

The Petitioner requests an extension to the Existing Variance, which expires on March 1, 2019.

The Property is zoned SF3: Single-Family Medium Density. Vehicle sales are categorized as a Very High Intensity Retail<sup>1</sup> use in the Unified Development Ordinance. As such, the use is only permitted by Special Exception in the General Business and Industrial Districts<sup>2</sup>.

The Existing Variance was approved with a three (3) year time limit. The Department would support an extension of no greater than three (3) years.

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## **COMPREHENSIVE PLAN**

The Westfield-Washington Township Comprehensive Plan identifies this Property within the "Downtown"<sup>3</sup> land use classification. The Downtown area was further studied in 2008 after the formation of the Grand Junction Task Group (the "GJTG"). The study resulted in an amendment to the Comprehensive Plan known as the Grand Junction Master Plan and Addendum, adopted in 2009, and then subsequently the adoption of the Grand Junction Implementation Plan (the "Implementation Plan"), an amendment to the Comprehensive Plan adopted in 2013 (collectively, the "Grand Junction Plan").

The Grand Junction Plan identifies a long term vision as well as land use and financial investment goals for the intermediate and short terms. The centerpiece of the Grand Junction Plan includes creating public gathering spaces with key public investments opportunities to include: Grand Junction Plaza (currently being designed), new civic facilities, extended trail system and street network, enhanced stormwater management, and signature gateway developments.

The studied land use component of the Grand Junction Plan identified several sub-districts. The Property is on the fringe of the Grand Junction planning area, but is located closest to the area identified as the

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<sup>1</sup> The UDO defines Retail, Very High Intensity as "[r]etail businesses that have a very high impact on neighboring properties, traffic generation, and public safety and that inherently operates in whole or part outdoors through sale, display or other general activities. Example businesses include, but are not limited to: vehicle and motorcycle sales (new or used), construction vehicle and trailer sales, farm equipment sales, farm implement sales and service, feed sales, heavy equipment sales, tool and light equipment rental, manufactured or mobile home sales, boat and trailer sales and service, travel trailer sales and rental, and semi tractor-trailer cleaning, service, rental, repair and sales."

<sup>2</sup> Article 13.2 Use Table of the UDO.

<sup>3</sup> Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (pg. 24).



“Junction Sub-District”. The specific objectives for the Junction Sub-District, as prioritized in the Implementation Plan, include: (i) develop architectural and development standards; (ii) formalize a position with INDOT regarding the SR32 expansion through downtown; (iii) develop standards to address modifications to existing structures; (iv) develop Downtown Westfield Association review process; and (v) develop strategy for attracting/encouraging the following land uses: trail-oriented businesses (i.e. bike shop, coffee shop); dry cleaner; market; specialty shops; night-time gathering places; restaurants; offices<sup>4</sup>.

The Department, in coordination with the GJTG, is currently working on the prioritized objectives of the Implementation Plan; however, the specific objectives noted above for the Junction Sub-District are still in progress. As a result, the Department encouraged the Petitioner to meet with the GJTG. The GJTG has provided a letter as a result of their last meeting with the Petitioner on February 5, 2019, which will be presented at the public hearing.

The Grand Junction Plan would not support auto sales in the downtown area as a long-term commercial use. However, it may be appropriate to consider differing short-term use of downtown properties on a case-by-case basis as the downtown area continues to redevelop and transition into the longer-range vision of the Grand Junction Plan.

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## **PROCEDURAL**

**Public Notice:** The Board of Zoning Appeals is required to hold a public hearing on its consideration of this petition. This petition is scheduled to receive its public hearing at the February 12, 2019, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals’ Rules of Procedure.

**Conditions:** The UDO<sup>5</sup> and Indiana Code § 36-7-4-918.4 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 UDO<sup>6</sup> 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

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<sup>4</sup> Grand Junction Implementation Plan, Chapter 6: Implementation Plan Objectives and Action Items (pg. 26).

<sup>5</sup> Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

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



WESTFIELD-WASHINGTON  
BOARD OF ZONING APPEALS

February 12, 2019

1902-VU-02

Exhibit 1

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

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

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

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**DEPARTMENT COMMENTS**

**Approval:** If the Board is inclined to approve the petition, the Department recommends the following conditions and findings:

**Recommended Conditions:**

1. That approval of this variance shall expire on **[INSERT CHOSEN DATE]**. Any request to extend the time limit of this variance shall be reviewed and approved by the Board of Zoning Appeals prior to **[INSERT CHOSEN DATE]** (A 3 year renewal would result in expiration on March 1, 2022).
2. That conditions 2-11 of the Existing Variance, as outlined in **Exhibit 5**, shall still apply.

**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 of use would be injurious to the public health, safety, morals, and general welfare of the community. The Westfield Fire Department has reviewed the proposed site plan for safe circulation and has expressed no concerns with the site layout or access.



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 that the use and value of adjacent property will be affected in a substantially adverse manner. The recommended conditions of approval for the use of the property in this manor should mitigate any impact this proposed use may have on neighboring properties.

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

**Finding:** The existing condition and development of the Property does not lend itself to a traditional SF3 land use. The Property has been developed and used as a commercial property for approximately 17 years.

4. *The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.*

**Finding:** The existing condition and development of the Property does not lend itself to a traditional SF3 land use. The Property has been developed and used as a commercial property for approximately 17 years and reverting the property back to an SF3 land use would be challenging.

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

**Finding:** This property is on the fringe of the Grand Junction planning area. And while the Grand Junction Plan does not support using the Property for auto-sales long-term, the success of short-term or interim uses of existing structures in downtown will contribute to the long-term success and stability of the Grand Junction District, thus the proposed use does not substantially interfere with the Comprehensive Plan.

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

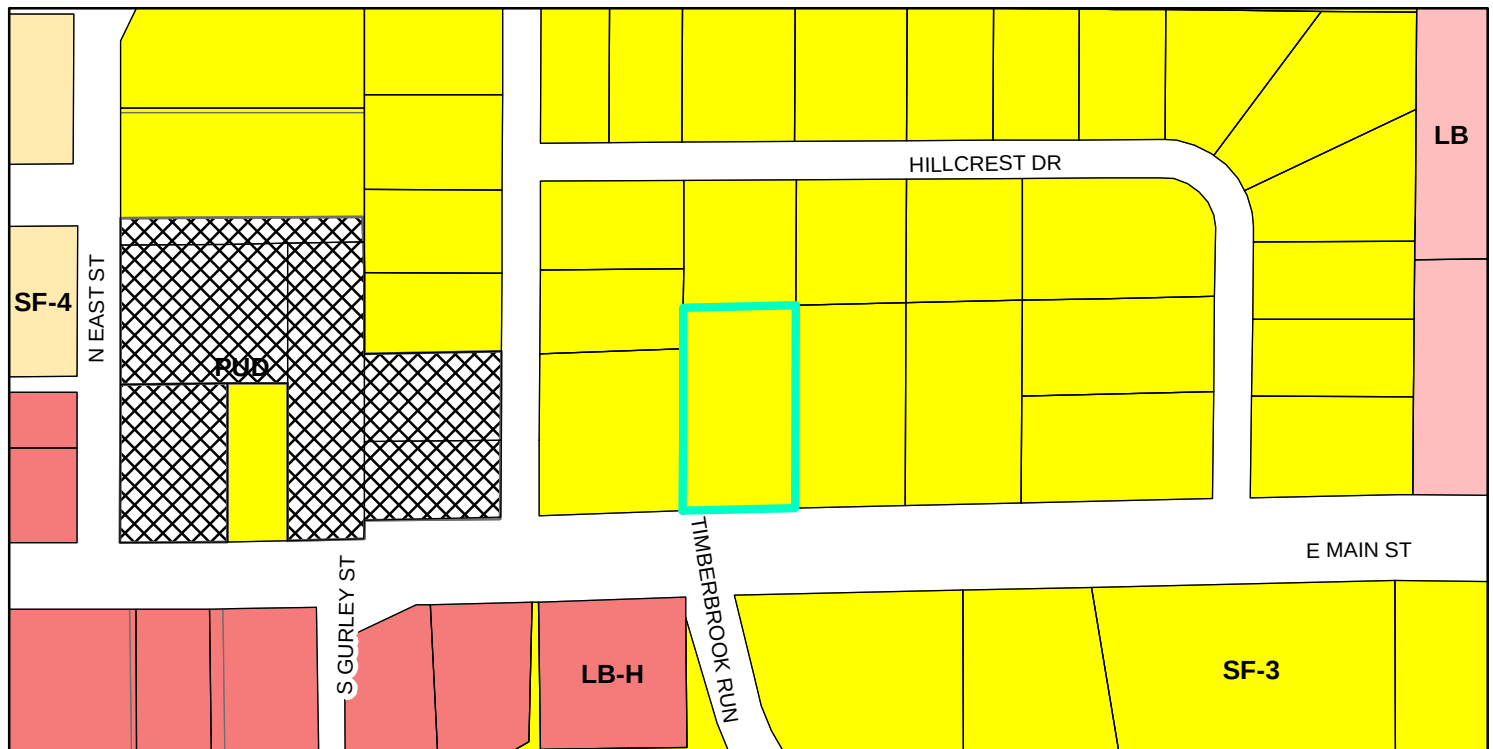


### Aerial Location Map

 Site



### Zoning Map



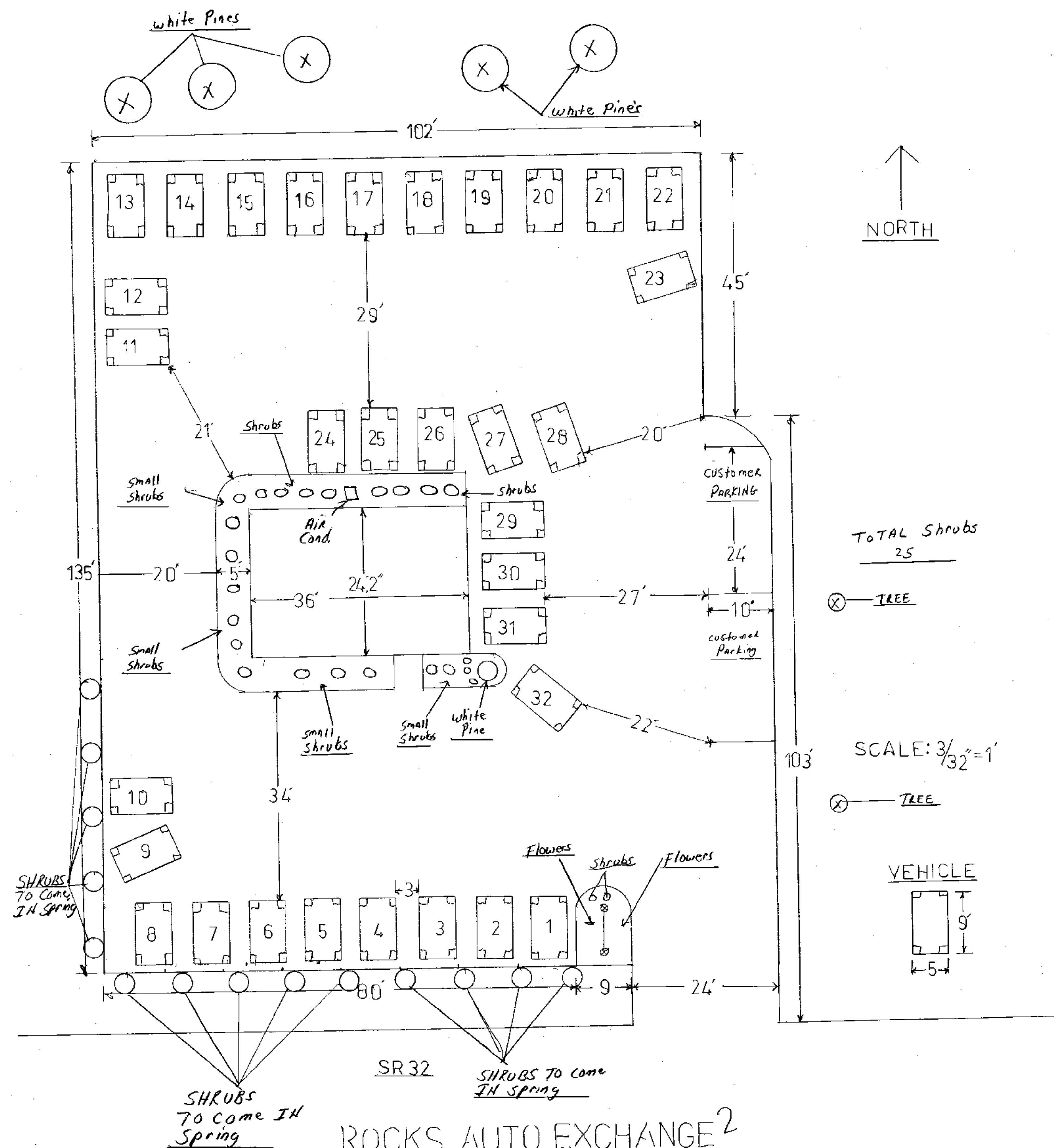
- |                                                                                                                        |                                                                                                                    |                                                                                                                |
|------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|
|  LB (Local Business)                |  PUD (Planned Unit Development) |  SF-4 (Single Family - 4) |
|  LB-H (Local Business - Historical) |  SF-3 (Single Family - 3)       |                                                                                                                |



### Exhibit 3

#### Current Site Conditions





ROCKS AUTO EXCHANGE<sup>2</sup>  
 518 E. MAIN ST.  
 WESTFIELD IN. 46074





2016010901 VARIANCE \$22.00  
03/10/2016 03:45:55P 5 PGS  
Jennifer Hayden  
HAMILTON County Recorder IN  
Recorded as Presented

## ACKNOWLEDGEMENT OF VARIANCE

Document Cross Reference Number: 2008045590

**Mayor**  
Andy Cook

**City Council**  
Chuck Lehman  
Jim Ake  
Joe Edwards  
Steven Hoover  
Robert L. Horkay  
Dr. Mark Keen  
Cindy L. Spoljaric

**Clerk Treasurer**  
Cindy J. Gossard

This ACKNOWLEDGEMENT, made this 17<sup>th</sup> day of February, 2016, by Matthew S. Skelton, Economic and Community Development Director, City of Westfield, Indiana (the "Director") WITNESSETH:

WHEREAS, on Tuesday, February 9, 2016, the Westfield-Washington Township Board of Zoning Appeals (the "Board") heard Petition No. 1601-VU-02 (the "Petition"), filed by Brian Ewen of Rock's Auto Exchange (the "Business Owner"), for a Variance of from the Westfield-Washington Township Unified Development Ordinance regarding property commonly known as 518 East Main Street, Westfield, IN 46074 (Parcel No: 09-06-31-03-09-023.000 and more particularly described in Exhibit A (the "Property"), owned by Frances Michelle Turner (the "Property Owner").

The Business Owner requested approval of the following:

**1601-VU-02** – Variance of Use to allow sales of pre-owned automobiles in the SF3: Single-Family Medium Density District (Chapter 13: Use Table).

WHEREAS, the Board voted three (5) to zero (0) to approve the Petition with the following conditions:

1. That approval of this variance shall expire on March 1, 2019. Any request to extend the time limit of this variance shall be reviewed and approved by the Board of Zoning Appeals prior to March 1, 2019.
2. That no more than thirty-two (32) vehicles that are for sale be on the Property at any one time;
3. That the parking surface and paved area not expand;
4. That designated customer and employee parking spaces be identified and striped;
5. That vehicles are not permitted to be parked in the grass;
6. That landscaping be installed and/or maintained as generally depicted on the submitted concept plan/landscaping plan (see Exhibit 4 of the Staff Report);
7. That no existing landscaping be removed without being replaced with a similar size and species of plant;
8. That no additional signage or sign types be permitted on the Property;
9. That banners, flags, posters, pennants, ribbons, streamers, spinners, strings of lights, feather flags or signs, balloons, or inflatable signs be prohibited on the Property;

**Economic and  
Community  
Development**

(317) 804-3170

2728 East 171<sup>st</sup> Street  
Westfield, IN 46074

[westfield.in.gov](http://westfield.in.gov)

10. That individual vehicle pricing and other displayed vehicle information be limited to a maximum of four (4) window "stickers" or tags per vehicle; and,
11. That outdoor speakers for music and/or announcements be prohibited.

**NOW, THEREFORE**, the Director hereby declares that all the Property as it is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, or occupied and improved, is subject to the Variance of Use approved by the Board on February 9, 2016. Unless otherwise modified herein, this Variance of Development Standard shall run with the land, and shall be binding upon the owner, heirs and assigns, and all parties having an interest in and to the Property or any part or parts thereof subject to such Variance of Development Standard, and shall inure to the benefit of the owner and every one of his/her successors in title to any real estate in the Property.

WESTFIELD ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT

"DIRECTOR"



MATTHEW S. SKELTON, DIRECTOR

Economic and Community Development Department, City of Westfield, IN

**Administration**

(317) 804-3040 office  
(317) 804-3190 fax

2728 East 171st Street  
Westfield, IN 46074  
**westfield.in.gov**

"PROPERTY OWNER"

I, Frances M. Turner, Owner of the Property, hereby acknowledge the accuracy of the information contained in this Acknowledgement of Variance and any conditions and limitations placed on the Petition, as set forth herein.

IN WITNESS WHEREOF, the Owners have executed this instrument, on the 22 day of 2, 2016.

Frances M. Turner  
Owner Signature

Frances M. Turner  
Printed

owner  
Title

2-22-16  
Date

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

)  
) SS  
)



Signed and acknowledged before me this 3rd day of March, 2016.

(SEAL)

Julie L. Hallman  
Signature of Notary Public

Julie Hallman  
Printed name of Notary Public

My County of Residence: Hamilton

My Commission Expires: Sept. 2nd 2023

**Administration**

(317) 804-3040 office  
(317) 804-3190 fax

2728 East 171st Street  
Westfield, IN 46074  
**westfield.in.gov**



"PETITIONER"

I, Brian Evers, Rocks Auto Exchange, hereby acknowledge the accuracy of the information contained in this Acknowledgement of Variance and any conditions and limitations placed on the Petition, as set forth herein.

IN WITNESS WHEREOF, the Owners have executed this instrument, on the \_\_\_\_ day of \_\_\_\_, 2016.

Brian Evers  
Signature

Brian Evers  
Printed

Owner  
Title

2/22/16  
Date

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

)  
) SS  
)



Signed and acknowledged before me this 3rd day of March, 2015.

(SEAL)

Julie Hallman  
Signature of Notary Public

Julie Hallman  
Printed name of Notary Public

My County of Residence: Hamilton

My Commission Expires Sept. 2nd 2023

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

Prepared by: Kevin M. Todd, AICP, City of Westfield  
2728 East 171st Street, Westfield, IN 46074, (317) 804-3170

**Administration**

(317) 804-3040 office  
(317) 804-3190 fax

2728 East 171st Street  
Westfield, IN 46074  
[westfield.in.gov](http://westfield.in.gov)

**EXHIBIT A**  
**THE PROPERTY**

Lot Numbered Thirteen (13) in Roberts Revised Rolling Acres, and Addition to the Towne of Westfield, in Hamilton County, Indiana, as per plat thereof recorded in Plat Book 2, pages 40-41, in the Office of the Recorder of Hamilton County, Indiana.

**Administration**

(317) 804-3040 office  
(317) 804-3190 fax

2728 East 171st Street  
Westfield, IN 46074  
**westfield.in.gov**



## VARIANCE APPLICATION

OFFICE  
USE ONLY

DOCKET #: 1902-VU-02

FILING DATE: \_\_\_\_\_

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

### PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: \_\_\_\_\_ (STAFF NAME) DATE: \_\_\_\_\_

### PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: \_\_\_\_\_ AMENDMENTS: \_\_\_\_\_ DEVELOPMENT PLAN: \_\_\_\_\_

PRIMARY PLAT: \_\_\_\_\_ SECONDARY PLAT: \_\_\_\_\_ VARIANCE(S): \_\_\_\_\_

### APPLICANT INFORMATION

APPLICANT'S NAME: Rocks Auto Exchange TELEPHONE: 317-399-7854

ADDRESS: 518 E. Main St., Westfield, IN 46074 EMAIL: brianewen83@gmail.com

PROPERTY OWNER'S NAME: Frances Michelle Turner TELEPHONE: 317-710-5440

ADDRESS: 16411 Carter Ct, Westfield, IN 46074 EMAIL: \_\_\_\_\_

REPRESENTATIVE'S NAME: Doug Goin TELEPHONE: 317-710-0126

COMPANY: \_\_\_\_\_ EMAIL: doug@directmoney

ADDRESS: \_\_\_\_\_ lenders.com

### PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 518 E. Main St, Westfield, IN 46074

COUNTY PARCEL ID #(S): 09-06-31-03-09-023.000

EXISTING ZONING DISTRICT(S): SF-3 EXISTING LAND USE(S): Pre-owned Auto Sales

### VARIANCE REQUEST

☒ 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): A variance of land use for this property was approved approximately three years ago for pre-owned auto sales. The applicant has been operating as a pre-owned auto sales business since the variance was approved. It is the applicant's intention to continue operating a pre-owned auto sales business in the same manner - displaying, promoting and selling pre-owned vehicles and promoting ancillary vehicle cleaning and repair services performed off-site. The applicant has proven over the last three years that the business is an asset to the community and has a positive economic impact on the city of Westfield.

## FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: Frances Michelle Turner

DOCKET #: \_\_\_\_\_

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

- A. The use will not be injurious to the public health, safety, morals, and general welfare of the community because: \_\_\_\_\_  
The business has proven over the last three years that it in no way poses any threat to public health, safety, morals or general welfare of the community. Even though the property is currently zoned Single Family- Medium Density, the property has been operating as a pre-owned sales business for the last three years and is surrounded by properties zoned for local business and local business - historic district use. No construction or alteration of the existing improvements will be necessary. The applicant will continue to add needed commerce and employment opportunities to Westfield's downtown area.
- 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: Applicant has proven over the last three years operating as a pre-owned sales business that it has not and will not interfere in the use and value of the property, any adjacent property or any property included in the variance. The applicant intends to continue operating in the same manner; as a result there is no reason to believe that the business would have any adverse impact.
- C. The need for the variance arises from some condition particular to the property involved because: The property is zoned Single-Family Medium Density although it is within very close proximity to properties zoned for Local Business and Local Business- Historic District uses. Providing the variance for this property has allowed the small business to grow and thrive and become a vital part of the Westfield community over the last 3 years; the applicant wishes to continue providing its much needed products and services at this location.
- D. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because: The applicant has built a thriving business at this location. The business quite honestly may not be able to continue if it had to relocate and try to find another location with the same traffic at a similar price. The business is driven by high traffic volume and the price of locations that offer comparable traffic counts and visibility would most likely prevent the company from being profitable. The business would most likely have to cease operations and would no longer provide the products, services, employment or economic value to the community.
- E. The variance of use does not interfere substantially with the Comprehensive Plan because: One of the principles for Westfield's downtown area's Comprehensive plan is establishing identity. The applicant feels like the business compliments the plan by relating to and connecting with the community through its name sake (Go Rocks!), as a small business owned by a family that lives, works and plays in the city of Westfield and its efforts to get involved with the community through sports sponsorships, local events, and more. The business truly loves and cares about the community and identifies with its citizens. The business in no way would interfere in Westfield's Comprehensive plan, but rather should provide it support.

**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)

Brian Ewer  
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 22 day of January, 2019.

State of Indiana, County of Hamilton ss:

[Signature]  
Notary Public Signature

Julie Sole  
Notary Public (printed)

My Commission Expires October 1, 2020  
Hamilton County, State of Indiana  
Commission Number 58

SEAL

Notary Public  
Julie E. Sole

**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)\*

Francis Turner  
Property Owner (printed)

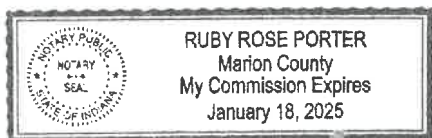
Before me the undersigned, a Notary Public in and for said County and State, personally appeared the Property Owner, who having been duly sworn acknowledged and consents to the execution of the foregoing Application.

Witness my hand and Notarial Seal this 21 day of January, 2019.

State of Indiana, County of Hamilton ss:

[Signature]  
Notary Public Signature

Ruby Rose Porter  
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  
BOARD OF ZONING APPEALS

February 12, 2019  
1902-VS-04  
Exhibit 1

**Petition Number:** 1902-VS-04

**Subject Site Address:** 16708 Dean Road (the "Property")

**Petitioner:** GEFT Outdoor LLC (the "Petitioner")

**Request:** The petitioner is requesting Variances of Development Standard to permit an Off-Premise Electronic Pole Sign in the EI: Enclosed Industrial District and US Highway 31 Overlay District (Articles 6.17(E)(4-5), 6.17(F)(5), 6.17(F)(6)(a-f)).

**Current Zoning:** EI Enclosed Industrial District  
US Highway 31 Overlay District

**Current Land Use:** Auto Repair

**Approximate Acreage:** 4.59 acres +/-

**Exhibits:**

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

**Staff Reviewer:** Pam Howard, Senior Planner

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## **OVERVIEW**

**Location:** The subject property is 4.59 acres +/- in size and located at 16708 Dean Road (the "Property") (see **Exhibit 2**). The Property is zoned the Enclosed Industrial (EI) District and located within the US Highway 31 Overlay District (the "US31 Overlay"). Adjacent properties to the north and south are also zoned the EI District, properties to the west are zoned the South Oak PUD. The Property is bordered by Dean Road and US 31 to the East.

**Property History:** On November 9, 2010, the Westfield-Washington Board of Zoning Appeals (the "BZA") approved a variance of use (Case Number: 1011-VU-05, the "First Variance") with conditions to allow the temporary operation of an automobile repair facility at 16708 Dean Road, now owned by Esler Properties, LLC, within the U.S. Highway 31 Overlay District (the "Overlay District"). As a condition of the First Variance approval, the Repair Business was to terminate by December 31, 2015.

On January 28, 2016, a new variance of use application was submitted requesting approval to continue operation of the Repair Business in the Overlay District. On March 8, 2016, the BZA approved the variance of use request (Case Number: 1603-VU-03, the "Second Variance") to allow the temporary operation of the Repair Business on the Property until December 31, 2019.



On or about November 7, 2017 the Westfield Economic and Community Development Department (“the Department”) received a complaint that a Structure<sup>1</sup> was being installed on the Property without an Improvement Location Permit. Upon inspection, it was found that the base of a new Pole Sign<sup>2</sup> (the “Pole Sign<sup>3</sup>”) had been installed on the Property and a non-conforming Pole Sign<sup>4</sup> was located on the Property. No reference to the new Pole Sign or a relocation of an existing sign was included in the Site Plan or Statement of Intent submitted to the BZA for the First Variance or Second Variance for its consideration. On December 16, 2016, Esler Properties, LLC removed the relocated existing sign but left the base of the new Pole Sign in the ground.

On December 18, 2017, the Department issued an Administrative Determination revoking the Second Variance. Esler Properties LLC filed an appeal of that determination on January 17, 2018 (Case Number 1803-AA-01, the “Appeal”). The Appeal is still pending.

Variances: The Petitioner, who asserts a leasehold interest in a portion of the Property, is requesting several Variances of Development Standard to permit an Off-Premise Electronic Pole Sign in the EI: Enclosed Industrial District and US Highway 31 Overlay District, as depicted on the Site Plan Exhibit (see **Exhibit 3**) and Proposed Sign Exhibit (see **Exhibit 4**). The next section further details the variances requested.

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## **SUMMARY OF VARIANCES**

Variances #1 & 2 (Prohibited Signs): The Petitioner requests that the following prohibited Sign types be permitted on the Property.

Article 6.17(E)(4) Sign Standards; Prohibitions: Pole Signs.

Article 6.17(E)(5) Sign Standards; Prohibitions: Off-Premise Signs<sup>5</sup>.

---

<sup>1</sup> The UDO defines “Structure” as “[a]nything constructed or erected which requires location on the ground or attachment of something having location on the ground.”

<sup>2</sup> The UDO defines “Sign” as “[a]ny display or device placed on a property in any fashion which is designed, intended, or used to convey any identification, message or information other than an address number.”

<sup>3</sup> The UDO defines “Sign, Pole” as “[a] Sign which is supported by one or more poles, posts, or braces upon the ground, in excess of six (6) feet in height, not attached to or supported by any building.”

<sup>4</sup> The nonconforming pole sign was a grandfathered sign on the Property which had been moved and therefore lost its grandfathered status.

<sup>5</sup> The UDO defines “Sign, Off-Premise” as “[a] Sign directing attention to a specific business, product, service, entertainment, or any other activity offered, sold, or conducted elsewhere than upon the lot where the Sign is displayed.”





Variance #3 (Sign Area<sup>6</sup>): The Petitioner requests that the maximum total sign area permitted be increased to six hundred seventy-two (672) square feet from the five hundred (500) square feet permitted by the UDO.

Article 6.17(F)(5) Sign Standards; General Regulations, Sign Area: In no instance shall a permitted non-residential use or tenant be restricted to less than twenty-five (25) square feet of Sign Area, nor shall any permitted nonresidential use or tenant be permitted to display more than five (500) hundred square feet of Sign Area.

Variance #4 (Electronic Sign<sup>7</sup> type): The petitioner requests that an Electronic Sign be permitted to be a Pole Sign . The UDO currently limits Electronic Signs to Monument Signs<sup>8</sup>. The proposed Sign is not a Monument Sign, it is a Pole Sign.

Article 6.17(F)(6)(a) Sign Standards; General Regulations; Electronic Signs: Electronic Signs shall be limited to Monument Signs...

Variance #5 (Electronic Sign Area): The petitioner requests that the entire electronic display not be counted towards the size limitations of 60 square feet per face. [I'm unclear on the purpose of this requested variance. It seems to me the only way to vary it would be not have the entire electronic display count as sign area, which contradicts variance #7 which states 100% of the sign area will be electronic.]

Article 6.17(F)(6)(b) Sign Standards; General Regulations; Electronic Signs: The entire electronic display area for Electronic Sign shall count toward the permitted Sign Area, as applicable to the type of sign (e.g., Monument Sign) and as permitted in this Article.

Variance #6 (Electronic Sign character height): The petitioner requests that there be no maximum height for characters displayed on the sign. The UDO restricts the height of any characters on the electronic display to twenty (20) inches. The proposed sign will contain characters of varying height, possibly exceeding this limitation.

Article 6.17(F)(6)(c) Sign Standards; General Regulations; Electronic Signs: The maximum height of any letter, number or character shall be twenty (20) inches.

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<sup>6</sup> The UDO defines "Sign Area" as "The entire area within a single continuous perimeter enclosing the extreme limits of a sign, including all background area figures and letters. However, such perimeter shall not include any structural elements lying outside the limits of the sign which are not part of the information, visual attraction, or symbolism of the sign. Sign Area shall be computed as the smallest continuous rectangular figure that circumscribes a single sign display including writing, representations, emblems, logos or other displays, exclusive of the supporting framework, base, or structural bracing clearly incidental to the sign display."

<sup>7</sup> The UDO defines "Sign, Electronic" as "[a] Sign or Sign component with a fixed or changeable display composed of a series of lights, including but not limited to light emitting diode (LED), that may be changed through electronic means."

<sup>8</sup> The UDO defines "Sign, Monument (or Ground)" as [a] sign that is permanently fixed to the ground."



Variance #7 (Electronic Sign Area): The petitioner requests that the maximum area for proposed sign be increased to 672 square feet (100% of the total Sign Area) from the 60 square feet and 50% of the total Sign Area permitted by the UDO.

Article 6.17(F)(6)(d) Sign Standards; General Regulations; Electronic Signs: An Electronic Sign shall not exceed fifty percent (50%) of the Sign Area of the Sign, as permitted by this Article, on which it is located; however, in no instance shall an Electronic Sign exceed sixty (60) square feet, per face.

Variance #8 (Electronic Sign effects): The petitioner request that effects be permitted during the transition between images. [I am also unclear what they are asking for with this, it seems as though they are asking for this standard to not apply to them "just in case" we determine that the image transitions are moving. The UDO has a separate standard related to transitions (Article 6.17(F)(6)(g)) which they have not requested a variance from.]

Article 6.17(F)(6)(e) Sign Standards; General Regulations; Electronic Signs: The effects or use of moving, flashing, blinking, animation, scrolling, twirling, or other similar effects (including but not limited to video) are prohibited.

Variance #7 (Electronic Sign image change frequency): The petitioner requests that the maximum frequency of a change of image be increased to once per 8 seconds from the UDO standard of once per hour.

Article 6.17(F)(6)(e) Sign Standards; General Regulations; Electronic Signs: Changes of image shall not occur more than once per hour, except for displays containing only time and/or temperature.

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## **IMPACT OF COMPREHENSIVE PLAN**

Comprehensive Plan: The Future Land Use Plan in the Westfield-Washington Township Comprehensive Plan (the "Comprehensive Plan") identifies the properties as "Employment Corridor". The Comprehensive Plan is not law; rather, it is intended to serve as a guide in making land use decisions.

US Highway 31 Overlay District: Permitting a Pole Sign would not align with the vision of the US 31 corridor. Article 5.1 (A)(2) states "US Highway 31 is a limited access highway and an important entrance corridor to the community. It is the further purpose of the US31 Overlay to preserve the aesthetic qualities of those bordering properties..." A Pole Sign would negatively affect the aesthetics of the corridor.

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## **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 February 12, 2019, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

**Conditions:** The UDO<sup>9</sup> 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 UDO<sup>10</sup> 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.

---

<sup>9</sup> Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

<sup>10</sup> Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



Variances of Use: The petitioner did not submit an application to amend the previously granted Variance of Use. If an application had been submitted, as requested by the Department, additional analysis and Findings of Fact would have been included in this report.

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#### **DEPARTMENT COMMENTS**

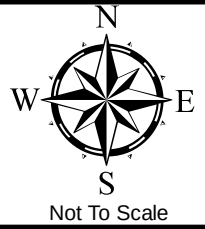
**Findings:** The Board must determine all of the following to be true statements for each of the requested Variances of Development Standard in order to approve each requested Variance.

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.

**Recommendation:** The Department recommends denial of all requested Variances of Development Standard. The Department also recommends 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.



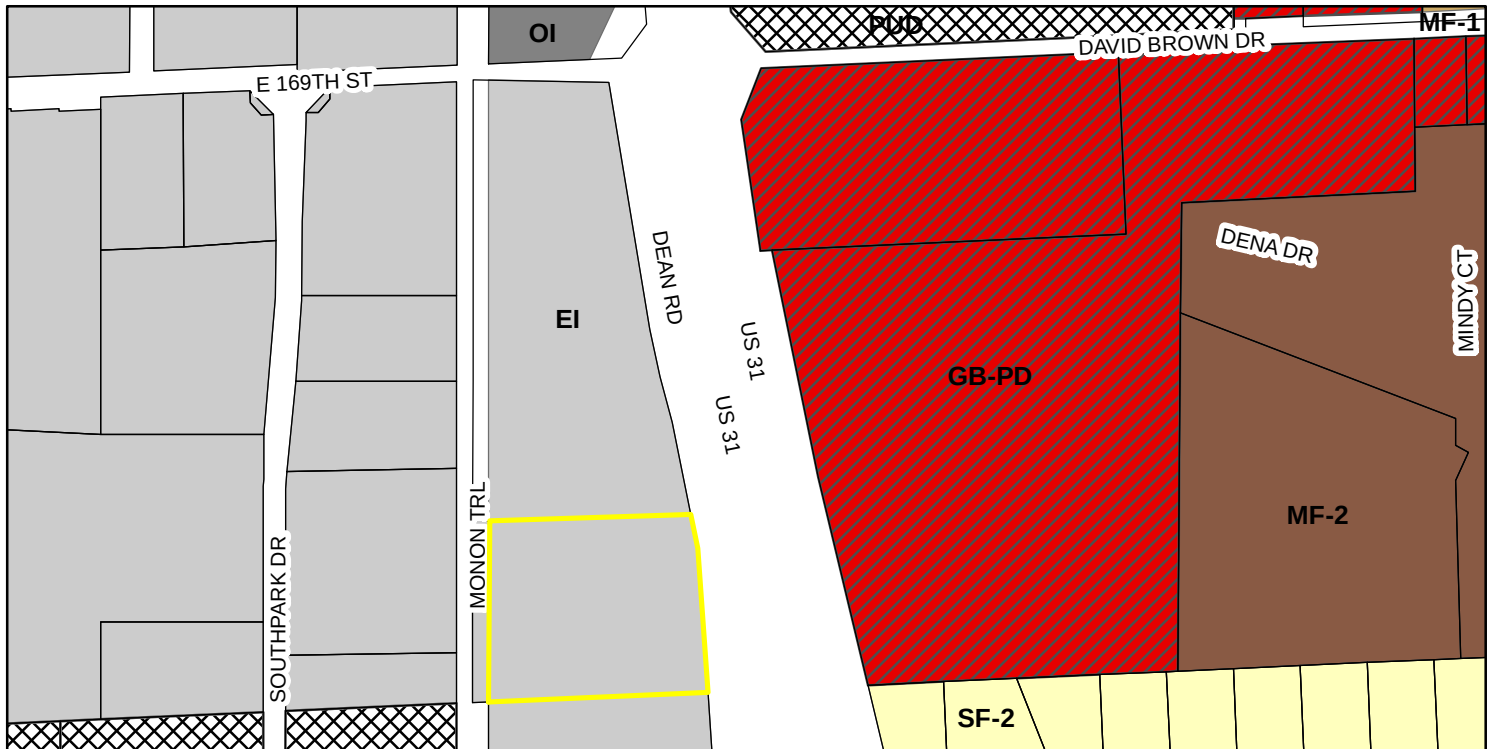
Property Location Map  
GEFT Variance  
1902-VS-04



Aerial Location Map



Zoning Map



- |                                                |                            |                                |
|------------------------------------------------|----------------------------|--------------------------------|
| EI (Enclosed Industrial)                       | MF-1 (Multiple Family - 1) | OI (Open Industrial)           |
| GB-PD (General Business - Planned Development) | MF-2 (Multiple Family - 2) | PUD (Planned Unit Development) |
|                                                | SF-2 (Single Family - 2)   |                                |

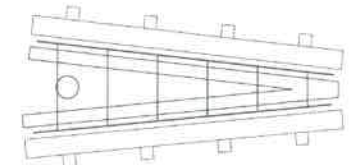




30' 0 30' 60' 90'  
SCALE: 1" = 30'



DETAILED SITE PLAN



BILLBOARD OVERHEAD VIEW  
(FOR INFORMATION ONLY, SEE PLANS BY OTHERS)

LAND SURVEYOR CERTIFICATE

I do hereby certify that this Exhibit was prepared under my direct supervision and all information shown herein is accurate to the best of my knowledge, skill and professional opinion. This drawing is not intended to be represented as a metes and bounds or original boundary survey, a route survey, or a Boundary Location Report.

Certified Date: November 11, 2018

*[Signature]*  
A. E. SURVEYING  
Registered Land Surveyor of the State of Indiana  
Registration Number: LS20000001



18708 Dean Road, Westfield, IN 46074  
REV. 06/21/2008

A part of the South Half of the Southeast Quarter of Section 1, Township 18 North, Range 3 East in Hamilton County, Indiana, described as follows: Beginning at the intersection of the South line of said half section with the western line of U.S. Highway No. 31; thence of the Northwesterly along said centerline on a 90 degree 30 minute curve to the right 378.28 feet to a point; thence West along a line parallel to the South line of the South half of the Southeast quarter section of said Section 08.11 feet to a point in the East right of way line of the North Branch; thence South along said right of way line 375.00 feet to a point in the South line of said half of said quarter section; thence East along said South line 664.38 feet to the Point of Beginning.

EXCEPT  
Part of the Southeast Quarter of Section 1, Township 18 North, Range 3 East in Washington Township, Hamilton County, Indiana, and being that part of the grantor's land lying within the right of way line depicted on the attached Right of Way Parcel Plat, marked Exhibit "B", described as follows: Beginning at a point on the south line of said quarter section South 87 degrees 27 minutes 21 seconds West 1,578.43 feet from the southeast corner of said quarter section which point is on the western boundary of U.S. 31; thence continuing South 87 degrees 27 minutes 21 seconds West 1,578.43 feet along said line; thence North 3 degrees 55 minutes 25 seconds West 30.65 feet to point "Catch"; on said side thence North 11 degrees 27 minutes 11 seconds West 72.69 feet to the north line of said grantor's land; thence North 67 degrees 27 minutes 21 seconds East 70.73 feet along said line to the eastern boundary of U.S. 31; thence along said boundary southeasterly 278.19 feet along an arc to the left and making a curve of 11,264.52 feet and subtended by a long chord bearing a bearing of South 12 degrees 31 minutes 17 seconds East and a length of 378.17 feet to the point of beginning, containing 0.765 acres more or less.

BILLBOARD LOCATION EXHIBIT

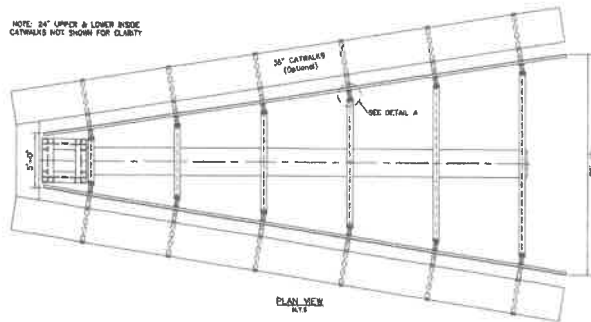
18708 DEAN ROAD  
WESTFIELD, HAMILTON COUNTY, INDIANA  
FOR:  
GEFT OUTDOOR, L.L.C.

| REVISIONS | DRAWING: 18-168.DWG        |
|-----------|----------------------------|
|           | JOB NO: 18-168             |
|           | DATE: 11/11/18             |
|           | DRAWN: REB CHECKED BY: PEH |
|           | SHEET 1 OF 2               |

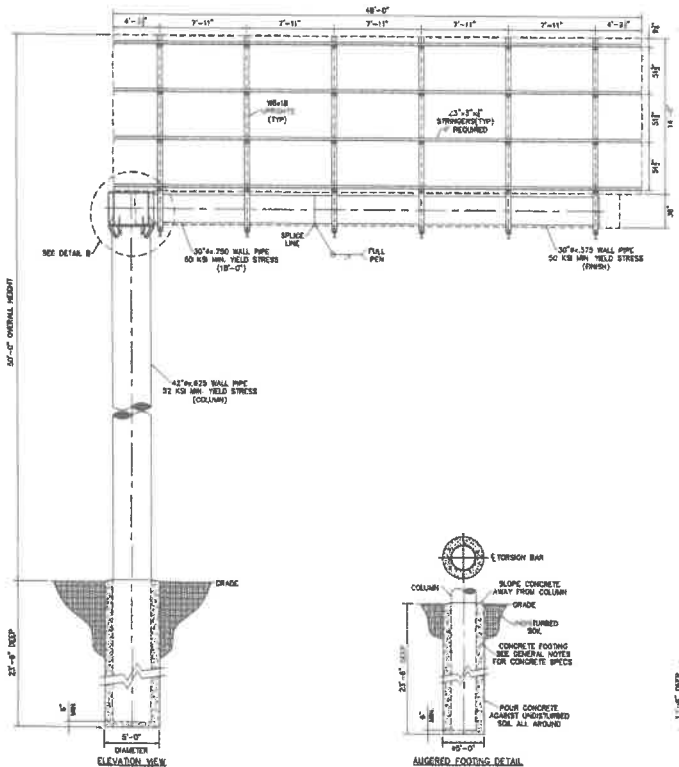
*[Signature]*

ARE SURVEYING CONSULTANTS, INC.  
199 SOUTH 6TH AVENUE  
BEECH GROVE, INDIANA 46107  
(617) 407-5000  
(617) 652-4747 FAX  
WWW.ARESURVEYING.COM

NOTE: 24" UPPER & LOWER INSIDE CATWALKS NOT SHOWN FOR CLARITY

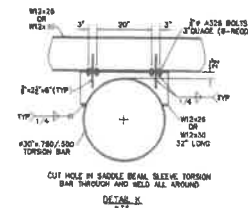
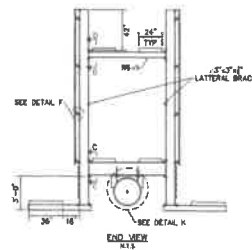
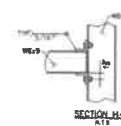
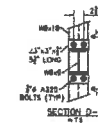
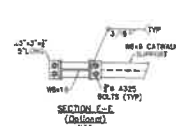
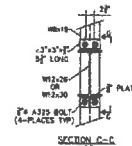
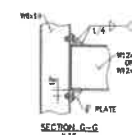
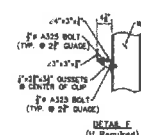
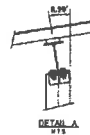
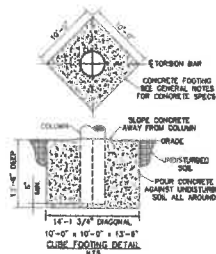
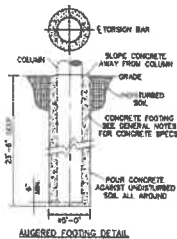


THE STRUCTURE IS SHOWN FLAGGED FROM THE HARBOR END. STRUCTURALLY IT MAKES NO DIFFERENCE WHICH END THE COLUMN IS ON. RIGHT OF WAY ISSUES AT THE SITE SHALL DICTATE.

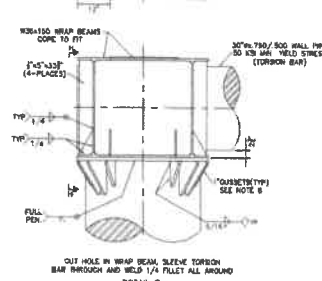
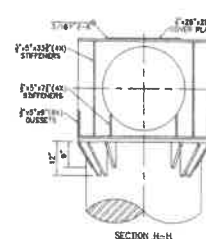
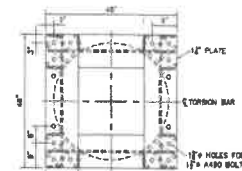


STIRRERS AND CUPS CAN BE REMOVED, REPLACED OR REPOSITIONED AS NEEDED FOR FUTURE DIGITAL UNIT INSTALLATION

THIS STRUCTURE AS DESIGNED IS CAPABLE OF SUPPORTING UP TO TWO (2) DIGITAL UNITS WEIGHING APPROXIMATELY 8,400# EACH AT TIME OF CONSTRUCTION OR IN THE FUTURE



CUT HOLE IN SADDLE BEAM, SLEAVE TORQON BAR THROUGH AND WELD ALL AROUND



Selective Structures, LLC  
811 East Avenue  
Athens, TN 37303

## NOTES

- 1) IMPORTANT: ALL FLAG COLUMN PIPE TO BE BACKSET 1/4" PER FOOT, IN THE DIRECTION AWAY FROM THE FLAG, TO CORRECT DEADLOAD DEFLECTION.
- 2) PROVIDE 1/4" CAP PLATES FOR ENDS OF TORQON PIPE. PLATE TO BE WELDED, ALL AROUND, TO PIPE.
- 3) FOUNDATION BASED ON SOIL CONDITIONS OF MEDIUM STIFF CLAY OR BETTER. (Allowable soil pressure=3000 LBS/FT<sup>2</sup> OF depth)
- 4) ATTACH CATWALK ANGLES USING 1/4" O A-325 BOLT (1" ANGLE).
- 5) CATWALK GRATING TO BE 3.14 PSF EXPANDED METAL GRATING, WELDED WITH 1/4" FILLER, 1" LONG & 1/4" ON TO ANGLE.
- 6) PLACE GUSSETS AS CLOSE TO HOLES AS POSSIBLE, ALLOWING FOR BOLT TIGHTENING.

## TYPICAL GUSSET DETAIL

(Use this criteria for all gussets)

- Length & height of gussets to be determined by fabricator (if not specified)
- Use maximum length & height possible & still allow for welding all around.
- depth of 4" channel to be minimum required to clear weld or filler.



## GENERAL NOTES

- All steel and bolts are to be zinc plated. (Exempt A-490 bolts which are not to be plated, but primed and painted after installation).
- The contractor shall verify all dimensions and conditions in the field before fabrication or construction, and notify engineer of any discrepancies.
- Any deviations from this plan must be approved by Engineer.
- All structural steel shall conform to the requirements of ASTM A-36.
- (Exempt structural tubing, which shall conform to A-500 grade B).
- All W-shape beams shall conform to A-325 (30 ksi minimum yield).
- All steel pipe shall conform to the requirements of ASTM A-53 grade B or A-252 grade 1, unless otherwise noted.
- Concrete shall attain a minimum compressive strength of  $f'_c = 2500$  psi in 28 days, unless otherwise noted.
- All structural steel shall be produced, fabricated, and treated according to latest AISC Specifications and Standard Practices.
- All welding shall be in accordance with AWS Standards. Welding to be performed by certified welders using E-70 electrodes.
- Contractor to ensure that all work is performed in accordance with federal, state, and local codes & ordinances, and OSHA safety regulations.
- Splicing of pipes having an equal diameter, wall & yield is permitted. A full penetration weld all around (Per AWS D1.1) shall be used and must be performed by a certified welder. Splices shall not be within one-half of the foundation depth below grade, within 10' above grade or within 10' above telescoping splices. Unless specified otherwise.

THE UNDERSIGNED ENGINEER WILL NOT SUPERVISE THE FABRICATION AND/OR ERECTION OF THIS STRUCTURE.

APPLICABLE BUILDING CODE AND WIND SPEED:  
International Building Code (2015 Edition)  
(115 mph Exposure-C) 3-Second Gusts

14'-0" x 48'-0" FF, 20V @ 50'-0" O.A.H.  
w/Up to (2) 8,400# Digital Units  
Located in: Hamilton County, IN

Effective Engineering Solutions, Ltd.  
61 White Water Court  
New Lenox, IL 60451  
(815) 485-1470

AFTER SEAL

THIS PRINT CONTAINS PROPRIETARY INFORMATION AND SHALL NOT BE REPRODUCED OR ITS CONTENTS DISCLOSED IN WHOLE OR IN PART WITHOUT WRITTEN CONSENT FROM Effective Engineering Solutions, Ltd.

REVISIONS

REVISIONS  
DRAWN BY: TGS  
DATE DRAWN: 11-1-18  
SCALE: N/A  
SELECTED BY: P. Williams  
DRAWING NO: SS-6389  
SHEET NO: 1 OF 1



# GRAND PARK

EVENTS CENTER

WELCOME TO WESTFIELD



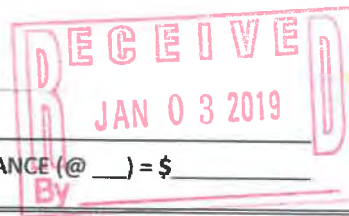
## VARIANCE APPLICATION

OFFICE  
USE ONLY

DOCKET #: 1902-VS-04

FILING DATE:

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



## PRE-FILING CONFERENCE

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

## PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: AMENDMENTS: DEVELOPMENT PLAN:

PRIMARY PLAT: SECONDARY PLAT: VARIANCE(S): 1603-VU-03

## APPLICANT INFORMATION

APPLICANT'S NAME: GEFT Outdoor LLC TELEPHONE: 317-270-8383

ADDRESS: 9425 N. Meridian, Indianapolis, IN 46260 EMAIL: jeff@geftoutdoor.com

PROPERTY OWNER'S NAME: Esler Properties LLC TELEPHONE: 317-867-2627

ADDRESS: 14736 Laredo Ct, Carmel IN 46032 EMAIL: Bob@bobsgarage.biz

REPRESENTATIVE'S NAME: Jeff Lee TELEPHONE: 317-270-8383

COMPANY: Geft Outdoor, LLC EMAIL: jeff@geftoutdoor.com

ADDRESS: 9425 N. Meridian, Indianapolis, IN 46260

## PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 16708 Dean Road, Westfield, IN

COUNTY PARCEL ID #(S): 09-09-01-01-00-00-014.000

EXISTING ZONING DISTRICT(S): Enclosed Industrial (EI) EXISTING LAND USE(S): Auto Repair

## VARIANCE REQUEST

☐ VARIANCE OF LAND USE CODE CITATION:☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: 6.17(E)(4), (E)(5), (F)(5), (F)(6)(d), and (F)(6)(f)

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

## **SPECIFIC UDO SECTIONS AND RELIEF REQUESTED**

The statements contained in the body of the application (Findings of Fact) should be read in conjunction with and as introductions to each of the specific sections of the UDO which apply to the requests for Variance from the Development Standards as if these statements were included as part of each individual Variance from Development Standards request.

1. 6.17(E)(4) – Pole Sign – This section of the UDO currently prohibits pole signs. It is unclear whether this definition which is based upon the physical structure applies to the proposed Sign or this Variance of the Development Standards should be solely for an off-premise Sign which is separately defined in the UDO and is based upon the content and use of the Sign. As the diagram of the Sign structure indicates, the proposed Sign will utilize a pole which would require a Variance from the Development Standards which prohibit pole signs IF that designation applies to the proposed Sign structure.
2. 6.17(E)(5) – Off-premise Sign – This section of the UDO currently prohibits Off-premise Signs. The Petitioner is seeking to construct a 50' tall, 48'X14'back-to-back, digital Off-premise Sign. The overall height is 50 feet tall with the distance from the ground to the bottom of the sign face at approximately 36' and the distance from the ground to the decorative skirting below the sign face at approximately 32'6". This will require a Variance from the Development Standards which prohibits Off-premise Signs.
3. 6.17(F)(5) – Sign Area – This section of the UDO currently limits the total sign area for a non-residential sign to 500 sq. ft. The proposed sign will have two back-back digital sign faces each measuring 14' high by 48' wide or 672 sq. ft. The overall size of the proposed Sign is substantially less than the maximum of 1,000 sq. ft. allowed by INDOT Rules for a billboard as a point of comparison. The square footage size of the proposed Sign will require a Variance from the Development Standards.
4. 6.17(F)(6)(a) – Electronic Sign Limitation by Type – The UDO currently limits Electronic Signs to Monument Signs. The proposed Sign is an Off-premise Sign which will be permanently fixed to the ground. Since the Sign will be "permanently fixed to the ground," the construction of the Sign appears to be consistent with the definition of a Monument Sign. However, the UDO seems to distinguish between Monument Signs and outdoor advertising signs (an undefined term used in the UDO which, based upon its usage in the UDO, would seem to be referring to an Off-premise Sign) in several sections, therefore, it appears, a Variance from the Development Standards regarding the type of Sign which can be an Electronic Sign is required.
5. 6.17(F)(6)(b) – Electronic Sign Area Limitation by Type – It is unclear if a Variance from the Development Standards is required from this section. Off-premise Signs are prohibited by the UDO which would appear to mean there is no Development Standard size limitation applicable to an Off-premise Sign. If this would be considered as a Monument Sign by virtue of the fact the proposed Sign meets the definition of a Monument Sign since it "will be permanently fixed to the ground," the Proposed Sign would exceed the Electronic Sign Area Limitation for a Monument Sign and would require a Variance from the Development Standards.
6. 6.17(F)(6)(c) – Electronic Sign Letter Height – The UDO currently limits letters in Electronic Signs to twenty (20) inches for any, "letter, number or character." The size of the letters depicted on the Sign which will appear by use of LED lights will be based upon the needs and copy of



individual advertisers on the Sign and exceed the 20" limitation. This will require a Variance from the Development Standard of this section.

7. 6.17(F)(6)(d) – Percentage of sign face and total square feet for an Electronic Sign – The UDO currently limits the percentage of a Sign face which may be an Electronic Sign to 50% of the sign face and 60 sq. ft. in area. The proposed Off-premise Sign will be 672 sq. ft. in area and the entire sign face will be available for use as an Electronic Sign. The nature of advertising – short copy generally of seven words or less – means that it is extremely unlikely the entire sign face will be in use as the limitation appears to assume. However, this will be a 672 sq. ft. sign face with an unknown percentage of the face which will be used as an Electronic Sign so therefore, a request for a Variance from the Development Standards appears to be necessary.
8. 6.17(F)(6)(e) – Motion on an Electronic Sign – The UDO currently prohibits Electronic Signs from, “The effects or use of moving, flashing, blinking, animation, scrolling, twirling, or other similar effects (including but not limited to video).” The proposed Sign will not utilize any of the effects stated. There will be eight advertising slots which will hold in place for 8 second periods. There will be transitions from one image to the next lasting a second or less as the images change which could be construed as “moving” since that term is not adequately defined in the UDO in relation to Electronic Signs and the limitations outlined for them. If the transition is not determined to be “moving” then there would be no need for a Variance from the Development Standards. The proposed Sign will not employ any of the other effects of “flashing, blinking, animation, scrolling, twirling, or other similar effects (including but not limited to video)” often seen on Electronic Variable Message Signs you may see at a convenience store. The proposed Sign will also not use the unsynchronized changes seen on the two digital Off-premise Signs which are currently located on the exterior of the High School Stadium which face US31 less than a mile from the Proposed Sign location. If the change from one ad slot to the next is Motion on an Electronic Sign under the UDO, it will require a Variance from the Development Standards.
9. 6.17(F)(6)(f) – Copy change frequency – The UDO currently limits the changing of images to “once per hour.” The proposed Sign, unlike the Off-premise Signs located on the exterior of the High School Stadium facing US31 less than a mile from the Proposed Sign location which changes in an unsynchronized manner every 5-6 seconds apparently based on the number of ads, will hold in place (hold time) and change every eight (8) seconds. The change or transition will occur nearly instantaneously in approximately one second. The hold time and transition time amounts which will be programmed into the proposed Sign meet the standards and regulations used by INDOT as well as over 1,500 other communities in Indiana and across the country which currently allow digital billboards, however the gradual change which will occur 8 seconds apart will require a Variance from the Development Standards.

**APPLICANT AFFIDAVIT**

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

Applicant/Representative (signature)

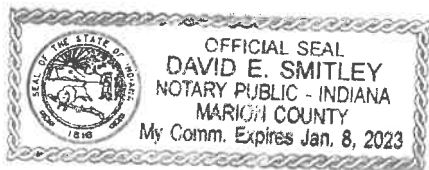
**Jeffrey S. Lee**

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 4th day of DECEMBER 2019.

State of IN, County of MARION, SS:



Notary Public Signature  
**DAVID E. SMITLEY**  
 Notary Public (printed)

**PROPERTY OWNER AFFIDAVIT**

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

Property Owner (signature)\*

Property Owner (printed)

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

Witness my hand and Notarial Seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

State of \_\_\_\_\_, County of \_\_\_\_\_, SS:

Notary Public Signature

Notary Public (printed)

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

**PROPERTY OWNER AFFIDAVIT**

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

Esler Properties LLC

By

  
Robert J. Esler

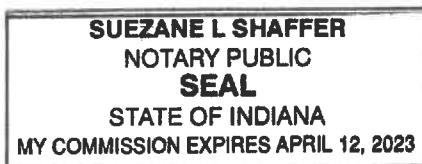
Property Owner (signature)

Esler Properties LLC by Robert J. Esler  
Property Owner (printed)

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

Witness my hand and Notarial Seal this 8th day of November, 2018.

State of Indiana, County of Hamilton, SS:



  
Notary Public Signature

Suezane L Shaffer  
Notary Public (printed)

## STATEMENT OF INTENT

The requested variance is for the construction of a 50' tall, back-to-back digital off-premises sign along US 31. The sign will utilize technology which is similar, but of a more advanced quality, to the existing side-by-side digital off-premises sign located on the side of the Westfield High School football stadium (existing sign). The proposed off-premises sign will be more aesthetically pleasing than the existing sign. Unlike the existing sign, it will not be configured as a side-by-side unit with both sign panels visible at the same time and will not contain the unsynchronized displays which are viewed simultaneously by drivers on US 31 on the existing sign. The proposed digital displays will be back-to-back with each panel configured for separate viewing, will have excellent resolution and clarity, will be equipped with state-of the art light sensors which will automatically dim the brightness of the sign based on the surrounding ambient light making the measured output its lowest at night, and will hold each ad in a static position for a full eight seconds before transitioning to the next ad nearly instantaneously. The sign will serve as an economic development tool which can be effectively utilized by local businesses to advertise their goods and services in order to grow and prosper, promote the City of Westfield to those traveling on US 31 who might never have thought to stop, and direct visitors to local attractions such as Grand Park and other points of interest in the Westfield community. The proposed sign will be available for noncommercial emergency announcements such as AMBER Alerts and other warnings which need to be disseminated to the motoring public when time is of the essence and lives are at risk.

By submitting this variance request, GEFT Outdoor, LLC does not intend to waive any rights that it has in relation to the digital off-premises sign, and it expressly reserves all rights that it has in relation to that sign including, without limitation, all rights and/or claims that GEFT Outdoor, LLC has asserted or will assert against the City of Westfield in certain litigation styled *GEFT Outdoor, L.L.C. v. City of Westfield, Hamilton County, Indiana*, which is currently pending in the United States District Court for the Southern District of Indiana under cause number 1:17-cv-4063-TWP-TAB ("Federal Court Litigation"). This reservation of rights includes, without limitation, any claim asserted in the Federal Court Litigation that GEFT Outdoor, LLC has property rights in the digital off-premises sign that vested prior to the City of Westfield amending its Uniform Development Ordinance in April of 2018.

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



APPLICANT: GEFT OUTDOOR LLC

DOCKET #: \_\_\_\_\_

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

- A. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because: \_\_\_\_\_  
The proposed use for a digital off-premises sign is consistent with and complimentary to the anticipated commercial development in the area. The sign will serve as an economic tool for local businesses to advertise their goods and services which, in turn, will help them grow their businesses. The sign will not advertise tobacco products or adult oriented businesses and would serve as a way to promote community events and destinations like Grand Park. The sign would not use blinking lights, video, or rapidly changing messages. Its configuration would not allow both sides of the sign to be viewed simultaneously as is the case with the unsynchronized digital off-premises signs on the exterior of the high school stadium located approximately a mile north on US 31.
- 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 properties adjacent to the property where the off-premises sign will be located are zoned for commercial use and all could benefit from utilizing the sign for advertising the goods and services of businesses located in that area and throughout Westfield to motorists traveling on US 31 in either direction. There is no empirical evidence that the presence of an off-premises sign has a negative effect on adjacent properties. In many instances, local businesses will utilize the sign to improve the visibility of their location which is particularly important along a corridor such as US 31.
- C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: \_\_\_\_\_  
One of the most basic tenets of constitutional law is the freedom to use one's property as one sees fit. This includes the use of property to exercise one's right to free speech guaranteed by the First Amendment to the U.S. Constitution. Strict application of the terms of the Ordinance impermissibly limits GEFT Outdoor, LLC's use of property in which it holds a property interest because the Ordinance impermissibly restricts GEFT Outdoor, LLC's right to free speech based on the content of the message that GEFT Outdoor, LLC intends to express. GEFT Outdoor, LLC's intended use of the property is to exercise its right to free speech via an off-premises sign, and strict application of the terms of the Ordinance will result in practical difficulties in GEFT Outdoor, LLC's intended use of the property. There is no compelling governmental interest justifying the denial of GEFT Outdoor, LLC's proposed off-premises sign.



## NOTICE OF PUBLIC HEARING

To Whom It May Concern:

Notice is hereby given that the Board of Zoning Appeals for the City of Westfield, Indiana on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at 7:00 p.m. in the meeting room of the Westfield City Hall at 130 Penn Street, Westfield Indiana will hold a public hearing on a proposed **Variance** of the Westfield-Washington Township Unified Development Ordinance (Docket #\_\_\_\_\_).

The proposed **Variance** is for the construction of a 50' tall, back-to-back digital off-premises sign to be located at 16708 Dean Road, Westfield, IN to be constructed by the Petitioner, GEFT Outdoor, LLC. Petitioner will be represented by Jeffrey S. Lee and John A. Kisiel.

The Petition for Variance may be examined in the office of the Westfield Department of Economic and Community Development located at 2728 East 171<sup>st</sup> Street, Westfield, IN during normal business hours. Written comments or objections to the provisions of said Variance may be filed with the Department of Economic and Community Development at or before such meeting and will be heard by the Board of Zoning Appeals at the time and place specified above. Interested persons desiring to present their views, either for or against the Petition, either in writing or verbally will be given the opportunity to be heard at the above mentioned time and place.

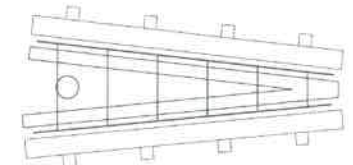
This petition may be continued on the Board of Zoning Appeals agenda from time to time as may be necessary.



30' 0 30' 60' 90'  
SCALE: 1" = 30'



DETAILED SITE PLAN



BILLBOARD OVERHEAD VIEW  
(FOR INFORMATION ONLY, SEE PLANS BY OTHERS)

LAND SURVEYOR CERTIFICATE

I do hereby certify that this Exhibit was prepared under my direct supervision and all information shown herein is accurate to the best of my knowledge, skill and professional opinion. This drawing is not intended to be represented as a metes and bounds or original boundary survey, a route survey, or a Boundary Location Report.

Certified Date: November 11, 2018

*[Signature]*  
A. E. SURVEYING  
Registered Land Surveyor of the State of Indiana  
Registration Number: LS20000001



18708 Dean Road, Westfield, IN 46074  
REV. 06/21/2008

A part of the South Half of the Southeast Quarter of Section 1, Township 18 North, Range 3 East in Hamilton County, Indiana, described as follows: Beginning at the intersection of the South line of said half section with the western line of U.S. Highway No. 31; thence of the Northwesterly along said centerline on a 90 degree 30 minute curve to the right 378.28 feet to a point; thence West along a line parallel to the South line of the South half of the Southeast quarter section of said Section 08.11 feet to a point in the East right of way line of the North Branch, thence South along said right of way line 375.00 feet to a point in the South line of said half of said quarter section; thence East along said South line 664.38 feet to the Point of Beginning.

EXCEPT  
Part of the Southeast Quarter of Section 1, Township 18 North, Range 3 East in Washington Township, Hamilton County, Indiana, and being that part of the grantor's land lying within the right of way line depicted on the attached Right of Way Parcel Plat, marked Exhibit "B", described as follows: Beginning at a point on the south line of said quarter section South 87 degrees 27 minutes 21 seconds West 1,578.43 feet from the southeast corner of said quarter section which point is on the western boundary of U.S. 31; thence continuing South 87 degrees 27 minutes 21 seconds West 1,578.43 feet along said line; thence North 3 degrees 55 minutes 25 seconds West 30.65 feet to point "Catch"; on said side thence North 11 degrees 27 minutes 11 seconds West 72.69 feet to the north line of said grantor's land; thence North 67 degrees 27 minutes 21 seconds East 70.73 feet along said line to the eastern boundary of U.S. 31; thence along said boundary southeasterly 278.19 feet along an arc to the left and making a curve of 11,264.52 feet and subtended by a long chord bearing a bearing of South 12 degrees 31 minutes 17 seconds East and a length of 378.17 feet to the point of beginning, containing 0.765 acres more or less.

BILLBOARD LOCATION EXHIBIT

18708 DEAN ROAD  
WESTFIELD, HAMILTON COUNTY, INDIANA  
FOR:  
GEFT OUTDOOR, L.L.C.

| REVISIONS | DRAWING: 18-168.DWG        |
|-----------|----------------------------|
|           | JOB NO: 18-168             |
|           | DATE: 11/11/18             |
|           | DRAWN: REB CHECKED BY: PEH |
|           | SHEET 1 OF 2               |

*[Signature]*

ARE SURVEYING CONSULTANTS, INC.  
199 SOUTH 6TH AVENUE  
BEECH GROVE, INDIANA 46107  
(617) 407-5060  
(617) 652-4747 FAX  
WWW.ARESURVEYING.COM

C & I  
CTIC # 427489 MJS

2011015058 WARR DEED \$20.00  
03/23/2011 12:04:13P 2 PGS  
Mary L. Clark  
HAMILTON County Recorder IN  
Recorded as Presented

RETURN TO:

Grantee's Address and Mail Tax Statements to: 14736 Laredo Ct., Carmel, IN 46032

Property Address:

Tax ID No. 09-09-01-00-00-014.000

16708 N. US31, Westfield, IN 46074

WARRANTY DEED

THIS INDENTURE WITNESSETH THAT

American Real Estate Investments No. 13, LLC, an Illinois limited liability company

CONVEY(S) AND WARRANT(S) TO

Esler Properties, LLC for Ten Dollars and other valuable consideration the receipt whereof is hereby acknowledged, the following described REAL ESTATE in Hamilton County, in the State of Indiana, to wit:

See Attached Exhibit A

Subject to taxes for the year 2010, due and payable in 2011, and taxes for all subsequent years.

Subject to covenants, restrictions and easements of record.

IN WITNESS WHEREOF, the Grantor has executed this deed this 15<sup>th</sup> day of November, 2010.

American Real Estate Investments No. 13, LLC

By: First American Bank, its member

By: James M. Berton, First Vice President

DULY ENTERED FOR TAXATION  
Subject to final acceptance for transfer  
23 day of March, 2011

B Dawn Coverdale Auditor of Hamilton County  
Parcel # 09-09-01-00-00-014.000

Sate of Illinois, County of Cook ss:

Before the undersigned, a Notary Public in and for said County and State, personally appeared the within named James M. Berton, First Vice President of First American Bank, Manager of American Real Estate Investments No. 13, LLC, an Illinois limited liability company who acknowledges the execution of the foregoing Deed and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS, my hand and Seal this 15<sup>th</sup> day of November, 2010

My Commission Expires: Aug 12, 2013

ZARINA MASON

Printed Name of Notary Public

This instrument was prepare by:

Andrew S. Ryerson  
McGuireWoods LLP  
33 West Wacker Drive, Suite 4100

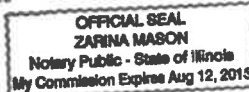


Exhibit A

**LEGAL DESCRIPTION**

**Parcel 1:**

A part of the South half of the Southeast quarter of Section 1, Township 18 North, Range 3 East in Hamilton County, Indiana, described as follows:

Beginning at the intersection of the South line of said half section and the centerline of U.S. Highway No. 31; thence Northwesterly along said centerline on a 00 degree 30 minutes curve to the right 379.28 feet to a point; thence West along a line parallel to the South line of the South half of the Southeast quarter section of said Section 581.11 feet to a point in the East right of way line of the Monon Railroad; thence South along said right of way line 375.00 feet to a point in the South line of said half of said quarter section; thence East along said South line 664.38 feet to the Point of Beginning.

**EASEMENT PARCEL:**

A non-exclusive easement for ingress and egress as set forth in a Corporate Warranty Deed dated July 10, 1973 and recorded July 13, 1973 in Deed Record 267, page 369 as Instrument No. 5005.

[illegible]

$\angle 4^{\circ} \times 3^{\circ} \times \frac{1}{8}$   
 $\frac{7}{8} \times A325$  BOLT  
 (TYP. @  $2\frac{1}{2}$ " GAUGE)  
 $\angle 3^{\circ} \times 3^{\circ} \times \frac{1}{8}$   
 $\frac{7}{8} \times 2\frac{1}{2}" \times \frac{3}{4}"$  OUTLETS  
 @ CENTER OF CLIP  
 $\frac{7}{8} \times A325$  BOLT  
 (TYP. @  $2\frac{1}{2}$ " GAUGE)

**DETAIL F**  
 (If Required)

SECTION M-M

[illegible][illegible]

- 1) IMPORTANT- FULL FLAG COLUMN PIPE TO BE BACKSHEATH<sup>1</sup> PER FOOT, IN THE DIRECTION AWAY FROM THE FLAG, TO CORRECT DEADLOAD DEFLECTION.
- 2) PROVIDE 1/2" CAP PLATES FOR ENDS OF TENSION PIPE. PLATE TO BE WELDED ALL AROUND, TO PIPE.
- 3) FOUNDATION BASED ON SOIL CONDITIONS OF MEDIUM STIFF CLAY OR BETTER. (Allowable soil pressure= 2000 LBS/ sq. ft. of depth).
- 4) CONTRACTOR TO NOTIFY ENGINEER IF OTHER THAN THESE SOIL CONDITIONS EXIST.
- 5) ATTACH CATCHWALL ANCHLES USING 1/2" 6-325 BOLT (1" ANGLE);
- 6) CATCHWALL GRATING TO BE 3.14 PS EXPANDED METAL GRATING WELDED WITH "PILEET," 1" LONG & 12" O.C. TO ANCHLE.
- 6.1) PILEET TO BE 1/2" THICK, TO BE AS CLOSE AS POSSIBLE ALLOWING FOR BOLT TIGHTENING.

- Length & height of gussets to be determined by fabricator if not specified. Use maximum length & height possible & still allow for welding all around.
- depth of 45° chamfer to be minimum required to clear weld or fillet.

- All nuts and bolts are to be zinc plated. (Excludes A-400 bolts which are not to be plated, but instead are painted and anodized after installation.)
- The contractor shall submit all dimensions and conditions in the field before fabrication of any component. The contractor shall be responsible for any discrepancies.
- Any deviations from this price may be subject to review by the Engineer.
- All structural steel shall conform to the requirements of ASTM A-36.
- All structural steel shall be galvanized to meet the requirements of ASTM A-123.
- All A-400 shape beams shall conform to A-472 (M30) or A-500 Gr 50.
- All steel plate shall conform to the requirements of ASTM A-36 in 2" or greater thickness.
- Concrete shall achieve a minimum compressive strength of  $f'_c = 2500$  psi at 28 days, unless otherwise noted.
- All structural steel to be pre-painted, fabricated, and erected in accordance with later AISC Specification.
- All welding shall be in accordance with AWS Standards. Welding to be performed in accordance with the following:
  - Contractor shall be responsible for obtaining all necessary permits.
  - Contractor to ensure that all work is performed in accordance with federal, state, and local codes and ordinances, and OSHA safety regulations.
  - All welding shall be performed in accordance with AWS D1.1, Structural Steel Welding, all ground and butt joints shall be welded in accordance with AWS D1.1, Structural Steel Welding, all ground and butt joints shall be welded in accordance with AWS D1.1, Structural Steel Welding, all ground and butt joints shall be welded in accordance with AWS D1.1, Structural Steel Welding.

THE UNDERSIGNED ENGINEER WILL NOT SUPERVISE THE FABRICATION AND/OR ERECTION OF THIS STRUCTURE

APPLICABLE BUILDING CODE AND WIND SPEED  
International Building Code (2015 Edition)  
(115 mph Exposure-C) 3-Second Gusts

**14'-0" x 48'-0" FF, 20V @ 50'-0" O.A.H.  
w/Up to (2) 8,400# Digital Units  
Located in: Hamilton County, IN**



**Effective Engineering Solutions, Ltd.**  
61 White Water Court  
New Lenox, IL 60451  
(815) 485-1470

**AFFIX SEAL**

THIS PRINT CONTAINS PROPRIETARY INFORMATION AND SHALL NOT BE USED, REPRODUCED, OR ITS CONTENTS DISCLOSED, IN WHOLE OR IN PART, WITHOUT WRITTEN CONSENT FROM

**Effective Engineering Solutions, Ltd.**

**REVISIONS**

|             |         |
|-------------|---------|
| DRAWN BY    | IGS     |
| DATE DRAWN  | 11-1-18 |
| SCALE       | N/A     |
| SELECTIVE # | P       |
| DRAWING #   | SS-6389 |
| SHEET #     | 1 OF 1  |





# GRAND PARK

EVENTS CENTER

WELCOME TO WESTFIELD

Exhibit A

**LEGAL DESCRIPTION**

**Parcel 1:**

A part of the South half of the Southeast quarter of Section 1, Township 18 North, Range 3 East in Hamilton County, Indiana, described as follows:

Beginning at the intersection of the South line of said half section and the centerline of U.S. Highway No. 31; thence Northwesterly along said centerline on a 00 degree 30 minutes curve to the right 379.28 feet to a point; thence West along a line parallel to the South line of the South half of the Southeast quarter section of said Section 581.11 feet to a point in the East right of way line of the Monon Railroad; thence South along said right of way line 375.00 feet to a point in the South line of said half of said quarter section; thence East along said South line 664.38 feet to the Point of Beginning.

**EASEMENT PARCEL:**

A non-exclusive easement for ingress and egress as set forth in a Corporate Warranty Deed dated July 10, 1973 and recorded July 13, 1973 in Deed Record 267, page 369 as Instrument No. 5005.

## Michael Crussel

---

**From:** INTERNETGUEST  
**Sent:** Friday, November 2, 2018 11:55 AM  
**To:** Plat Auditor  
**Subject:** Online Adjoiner Request

POSSE Job #: AR-2018-0232  
Zoning Authority: Westfield  
Parcel # of Property: 0909010000014000  
Additional Parcel #: , , , , , , , , ,

Owner: Esler Properties LLC  
Petitioner: GEFT Outdoor LLC  
Contact: John Kisiel  
Contact Phone: 3179655831  
Contact Email: johnkisiel@yahoo.com

## **HAMILTON COUNTY AUDITOR**

I, ROBIN M. MILLS, AUDITOR OF HAMILTON COUNTY, INDIANA, CERTIFY MY OFFICE HAS SEARCHED OUR RECORDS AND BASED ON THAT SEARCH, IT APPEARS THAT THE PROPERTY OWNERS MARKED AS NEIGHBORS ARE THE PROPERTY OWNERS THAT ARE TWO PROPERTIES OR 660' FEET FROM THE REAL ESTATE MARKED AS SUBJECT PROPERTY.

THIS DOCUMENT DOES NOT CERTIFY THAT THE ATTACHED LIST OF PROPERTY OWNERS IS ACCURATE OR INCLUDES ALL PROPERTY OWNERS ENTITLED TO NOTICE PURSUANT TO LOCAL ORDINANCE. ANY PERSON SEEKING A MORE ACCURATE SEARCH OF THE REAL ESTATE RECORDS OF THE COUNTY SHOULD SEEK THE OPINION OF A TITLE INSURANCE COMPANY.

ROBIN M. MILLS, HAMILTON COUNTY AUDITOR

DATED: *Olivia Jesse* 11/08/2018

### **SUBJECT PROPERTY:**

|                        |          |
|------------------------|----------|
| 09-09-01-00-00-014.000 | Subject  |
| Esler Properties LLC   |          |
| 14736 Laredo Ct        |          |
| Carmel                 | IN 46032 |

Pursuant to the provisions of Indiana Code 5-14-3-3-(e), no person other than those authorized by the County may reproduce, grant access, deliver, or sell any information obtained from any department or office of the County to any other person, partnership, or corporation. In addition any person who receives information from the County shall not be permitted to use any mailing list, addresses, or databases for the purpose of selling, advertising, or soliciting the purchase of merchandise, goods, services, or to sell, loan, give away, or otherwise deliver the information obtained by the request to any other person.

## HAMILTON COUNTY NOTIFICATION LIST

PLEASE NOTIFY THE FOLLOWING PERSONS

|                                                                                                                                                                        |    |          |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|----------|
| 08-09-12-00-00-003.000                                                                                                                                                 |    | Neighbor |
| Menonna, Mary Catherine                                                                                                                                                |    |          |
| 7905 Rosa Dr                                                                                                                                                           |    |          |
| Indianapolis                                                                                                                                                           | IN | 46237    |
| 08-09-12-00-00-004.000                                                                                                                                                 |    | Neighbor |
| Alvis, Patricia K Trustee of Patricia K Alvis Rev Trust, C Philip Smiley Trustee of Family Trust, James R & Judith G Alvis CoTrustees of James R Alvis Revocable Trust |    |          |
| 3110 Maqua Ct                                                                                                                                                          |    |          |
| Carmel                                                                                                                                                                 | IN | 46033    |
| 09-09-01-00-00-012.000                                                                                                                                                 |    | Neighbor |
| Roush Real Estate LLC                                                                                                                                                  |    |          |
| P O Box 391                                                                                                                                                            |    |          |
| Westfield                                                                                                                                                              | IN | 46074    |
| 09-09-01-00-00-013.000                                                                                                                                                 |    | Neighbor |
| Habig, Frank J (18.75%); Habig, Lynn (50%); Habig, Richard D (6.25%); Habig, Robert D (6.25%); Habig, Steven J (18.75%)                                                |    |          |
| 115 W 246th St                                                                                                                                                         |    |          |
| Sheridan                                                                                                                                                               | IN | 46069    |
| 09-09-01-00-00-014.001                                                                                                                                                 |    | Neighbor |
| Edward Hines Lumber Co                                                                                                                                                 |    |          |
| 1000 Corporate Grove Dr                                                                                                                                                |    |          |
| Buffalo Grove                                                                                                                                                          | IL | 60089    |
| 09-09-01-00-00-015.000                                                                                                                                                 |    | Neighbor |
| Mountain Trace Development LLC dba Englewood Building Group                                                                                                            |    |          |
| 860 E 86th St Ste 5                                                                                                                                                    |    |          |
| Indianapolis                                                                                                                                                           | IN | 46240    |
| 09-09-01-00-00-021.002                                                                                                                                                 |    | Neighbor |
| C K Properties Llc                                                                                                                                                     |    |          |
| P O Box 930                                                                                                                                                            |    |          |
| Westfield                                                                                                                                                              | IN | 46074    |
| 09-09-01-00-00-021.302                                                                                                                                                 |    | Neighbor |



|                                 |    |          |
|---------------------------------|----|----------|
| Teamm Realty LLC                |    |          |
| P O Box 930                     |    |          |
| Westfield                       | IN | 46074    |
| <hr/>                           |    |          |
| 09-09-01-00-00-021.402          |    | Neighbor |
| South Park Investments LLC      |    |          |
| P O Box 930                     |    |          |
| Westfield                       | IN | 46074    |
| <hr/>                           |    |          |
| 09-09-01-00-00-021.602          |    | Neighbor |
| Time Financial Corporation      |    |          |
| 14300 Clay Terrace Blvd Ste 249 |    |          |
| Carmel                          | IN | 46032    |
| <hr/>                           |    |          |
| 09-09-01-00-00-021.802          |    | Neighbor |
| Halle Properties LLC            |    |          |
| 20225 Scottsdale Rd             |    |          |
| Scottsdale                      | AZ | 85255    |
| <hr/>                           |    |          |
| 09-09-12-00-00-002.005          |    | Neighbor |
| Southpark Real Estate LLC       |    |          |
| 16525 Southpark Dr              |    |          |
| Westfield                       | IN | 46074    |
| <hr/>                           |    |          |
| 09-09-12-00-00-002.202          |    | Neighbor |
| 16535 Southpark LLC             |    |          |
| 2159 GLEBE ST STE 250           |    |          |
| Carmel                          | IN | 46032    |
| <hr/>                           |    |          |
| 09-09-12-00-00-002.302          |    | Neighbor |
| T H E LLC                       |    |          |
| 16545 South Park Dr             |    |          |
| Westfield                       | IN | 46074    |
| <hr/>                           |    |          |
| 09-09-12-02-01-001.000          |    | Neighbor |
| Yang, Ta Lang & Linh Leha       |    |          |
| 1400 Woodside Dr                |    |          |
| Westfield                       | IN | 46074    |
| <hr/>                           |    |          |
| 09-09-12-02-01-002.000          |    | Neighbor |

Yang, Ta Lang & Linh Leha

1400 Woodside Dr

Westfield IN

46074 9515

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09-09-12-02-01-003.000

Neighbor

Wright, Sharon L

1412 WOODSIDE DR

Westfield IN

46074

---

09-09-12-02-01-020.000

Neighbor

Yang, Ta Lang & Linh Leha

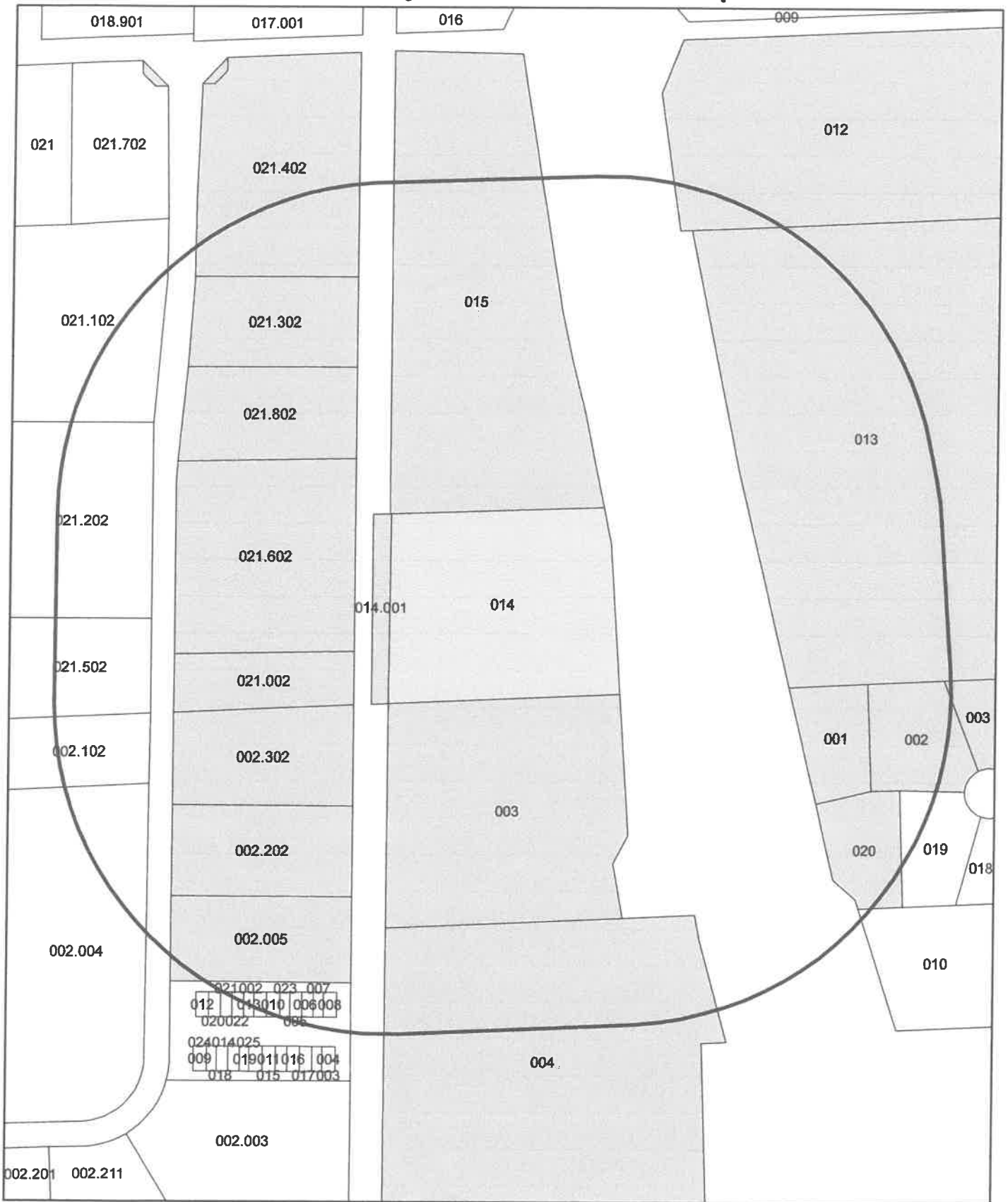
1400 Woodside Dr

Westfield IN

46074 9515

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# Adjoiner Notification Map



**Legend**

- Buffer
- Notify
- Subject



| Parcel No *            | Owner Name                                                                                                                                                             |
|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 09-09-01-00-00-014.001 | Edward Hines Lumber Co                                                                                                                                                 |
| 08-09-12-00-00-004.000 | Alvis, Patricia K Trustee of Patricia K Alvis Rev Trust, C Philip Smiley Trustee of Family Trust, James R & Judith G Alvis CoTrustees of James R Alvis Revocable Trust |
| 09-09-12-00-00-002.202 | 16535 Southpark LLC                                                                                                                                                    |
| 09-09-01-00-00-021.602 | Time Financial Corporation                                                                                                                                             |
| 08-09-12-00-00-003.000 | Menonna, Mary Catherine                                                                                                                                                |
| 09-09-01-00-00-015.000 | Mountain Trace Development LLC dba Englewood Building Group                                                                                                            |
| 09-09-01-00-00-021.802 | Halle Properties LLC                                                                                                                                                   |
| 09-09-01-00-00-013.000 | Habig, Frank J (18.75%); Habig, Lynn (50%); Habig, Richard D (6.25%); Habig, Robert D (6.25%); Habig, Steven J (18.75%)                                                |
| 09-09-01-00-00-021.302 | Teammm Realty LLC                                                                                                                                                      |
| 09-09-01-00-00-012.000 | Roush Real Estate LLC                                                                                                                                                  |
| 09-09-12-00-00-002.005 | Southpark Real Estate LLC                                                                                                                                              |
| 09-09-12-00-00-002.302 | T H E LLC                                                                                                                                                              |
| 09-09-01-00-00-021.402 | South Park Investments LLC                                                                                                                                             |
| 09-09-01-00-00-021.002 | C K Properties Llc                                                                                                                                                     |
| 09-09-12-02-01-020.000 | Yang, Ta Lang & Linh Leha                                                                                                                                              |
| 09-09-12-02-01-001.000 | Yang, Ta Lang & Linh Leha                                                                                                                                              |
| 09-09-12-02-01-003.000 | Wright, Sharon L                                                                                                                                                       |
| 09-09-12-02-01-002.000 | Yang, Ta Lang & Linh Leha                                                                                                                                              |

| Owner Address                   | Owner City    | Owner State | Owner Zip  | Parcel |
|---------------------------------|---------------|-------------|------------|--------|
| 1000 Corporate Grove Dr         | Buffalo Grove | IL          | 60089      | 14.001 |
| 9110 Maqua Ct                   | Carmel        | IN          | 46033      | 4      |
| 2159 GLEBE ST STE 250           | Carmel        | IN          | 46032      | 2.202  |
| 14300 Clay Terrace Blvd Ste 249 | Carmel        | IN          | 46032      | 21.602 |
| 7905 Rosa Dr                    | Indianapolis  | IN          | 46237      | 3      |
| 860 E 86th St Ste 5             | Indianapolis  | IN          | 46240      | 15     |
| 20225 Scottsdale Rd             | Scottsdale    | AZ          | 85255      | 21.802 |
| 115 W 246th St                  | Sheridan      | IN          | 46069      | 13     |
| P O Box 930                     | Westfield     | IN          | 46074      | 21.302 |
| P O Box 391                     | Westfield     | IN          | 46074      | 12     |
| 16525 Southpark Dr              | Westfield     | IN          | 46074      | 2.005  |
| 16545 South Park Dr             | Westfield     | IN          | 46074      | 2.302  |
| P O Box 930                     | Westfield     | IN          | 46074      | 21.402 |
| P O Box 930                     | Westfield     | IN          | 46074      | 21.002 |
| 1400 Woodside Dr                | Westfield     | IN          | 46074 9515 | 20     |
| 1400 Woodside Dr                | Westfield     | IN          | 46074      | 1      |
| 1412 WOODSIDE DR                | Westfield     | IN          | 46074      | 3      |
| 1400 Woodside Dr                | Westfield     | IN          | 46074 9515 | 2      |



WESTFIELD-WASHINGTON  
BOARD OF ZONING APPEALS

February 12, 2019

1901-VS-01

Exhibit 1

**Petition Number:** 1901-VS-01

**Subject Site Address:** Generally located north of and adjacent to 1106 E. 191<sup>st</sup> Street. Specifically, Parcel No. 08-05-25-00-00-015.000 ("the Property")

**Petitioner:** Martin Cody ("the Petitioner")

**Request:** The Petitioner requests Variances of Development Standard to permit two (2) Accessory Buildings on a Lot with no Principal Building and to reduce the Minimum Lot Area, Minimum Lot Frontage, and Minimum Building Setback Line in the AG-SF1: Agriculture/Single-Family Rural District (Articles 6.1(D), 4.2(C-E))

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

**Current Land Use:** Agriculture

**Approximate Acreage:** 0.24 acres +/-

**Exhibits:**

1. Staff Report
2. Location Map
3. Existing Conditions
4. Lot Line Exhibit

**Staff Reviewer:** Daine Crabtree, Associate Planner

---

**OVERVIEW**

**Location:** The subject property is a 0.24 +/- acre parcel north of 1106 E. 191<sup>st</sup> Street (see **Exhibit 2**).

The Board of Zoning Appeals heard the petition at its [January 8, 2019 meeting](#). The Board denied the variances requested and tabled the adoption of its Findings of Fact until the Board's next meeting. The Board directed the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

---



## **PROCEDURAL**

### **ARTICLE XI: FINAL DISPOSITION OF PETITIONS<sup>1</sup>**

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

**Denial**<sup>2</sup>: Applications that are denied shall not be eligible for consideration again by the Board for a period of twelve (12) months from the date of denial.

---

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<sup>1</sup> Page 12 of the Board of Zoning Appeals Rules of Procedure

<sup>2</sup> Article 10.14(E) of the UDO.





**DEPARTMENT COMMENTS:**

**Approval:** Staff recommends approval of the following written findings of fact related to the denial of 1901-VS-01:

- 1) **Criteria:** 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 would otherwise comply with the applicable standards of the AG-SF1 zoning district.

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

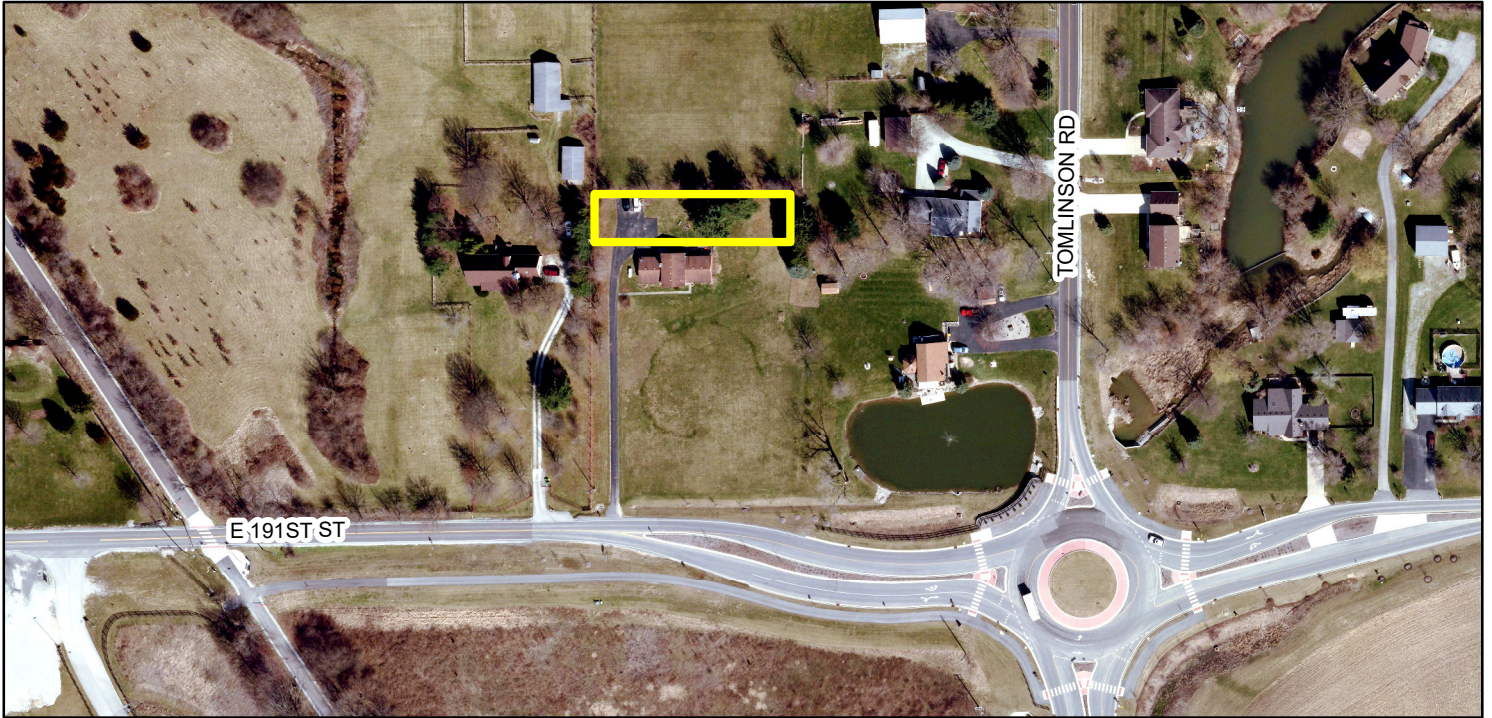
**Finding:** The petitioner was unable to counter or adequately respond to the testimony presented that the granting of the variance and subsequent location of the storage unit would negatively impact the neighbor's property values.

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

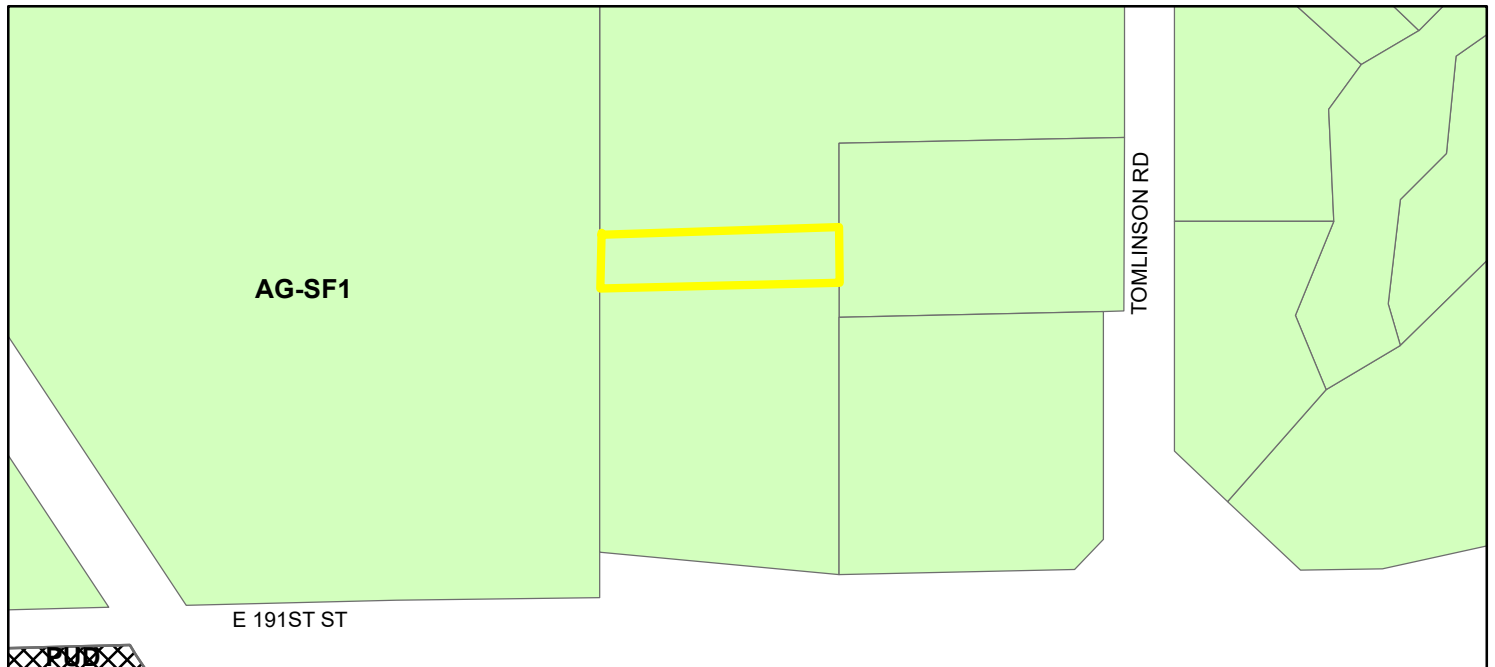
**Finding:** Strict adherence to the zoning ordinance would not result in practical difficulty. The Property's AG-SF1 zoning permits the existing Single-Family Residential use. The denial of the variance to permit an Accessory Building on a Lot without a Principal Building as well as reductions for Side Yard Setbacks and Minimum Lot Frontage will not halt or alter the existing use.

### Aerial Location Map

 Site



### Zoning Map



#### Zoning - All Zoning

-  AG-SF1 (Agriculture - Single Family - 1)
-  PUD (Planned Unit Development)



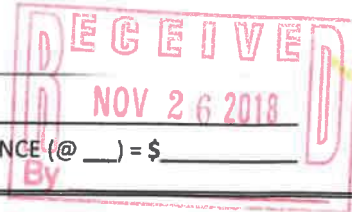
WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM  
VARIANCE APPLICATION

OFFICE  
USE ONLY

DOCKET #: 1901-VS-01

FILING DATE: NOV 26 2018

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



PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Daine Crabtree (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: MARTIN Cody TELEPHONE: 317-220-9769

ADDRESS: 1106 E 191st St EMAIL: \_\_\_\_\_

PROPERTY OWNER'S NAME: Frank Hahn, Hahn Family LP TELEPHONE: 928-420-4677

ADDRESS: 1343 Gray eagle Prescott, AZ 86305 EMAIL: engralternatives@hotmail.com

REPRESENTATIVE'S NAME: Chip Slagle TELEPHONE: 317-441-5645

COMPANY: \_\_\_\_\_ EMAIL: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 1106 E 191st St

COUNTY PARCEL ID #(S): 08-05-25-00-00-016.000

EXISTING ZONING DISTRICT(S): \_\_\_\_\_ EXISTING LAND USE(S): \_\_\_\_\_

VARIANCE REQUEST

☒ 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): Portable Sheds

1. 12x24 1. 12x32 To store my classic cars and auto  
Hobby of mine Location of Sheds. on Dawkins

2. Reduce Rear yard West side yard - 3 feet  
Rear yard - 14 feet

3. Reduce side yard

Prop is



# WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM



## 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.

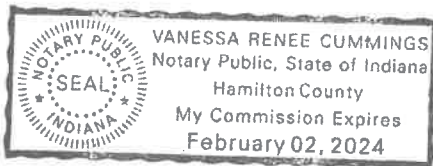
Mah Coy  
Applicant/Representative (signature)

MARTIN Coy  
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 26 day of November, 2018.

State of Indiana, County of Hamilton SS:



[Signature]  
Notary Public Signature  
Vanessa R. Cummings  
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.

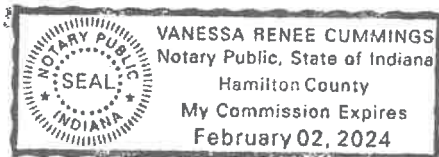
Chip Stagle Rep.  
Property Owner (signature)\*

Chip Stagle FOR FMH Family Limited Partnership  
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 26 day of November, 2018.

State of Indiana, County of Hamilton SS:

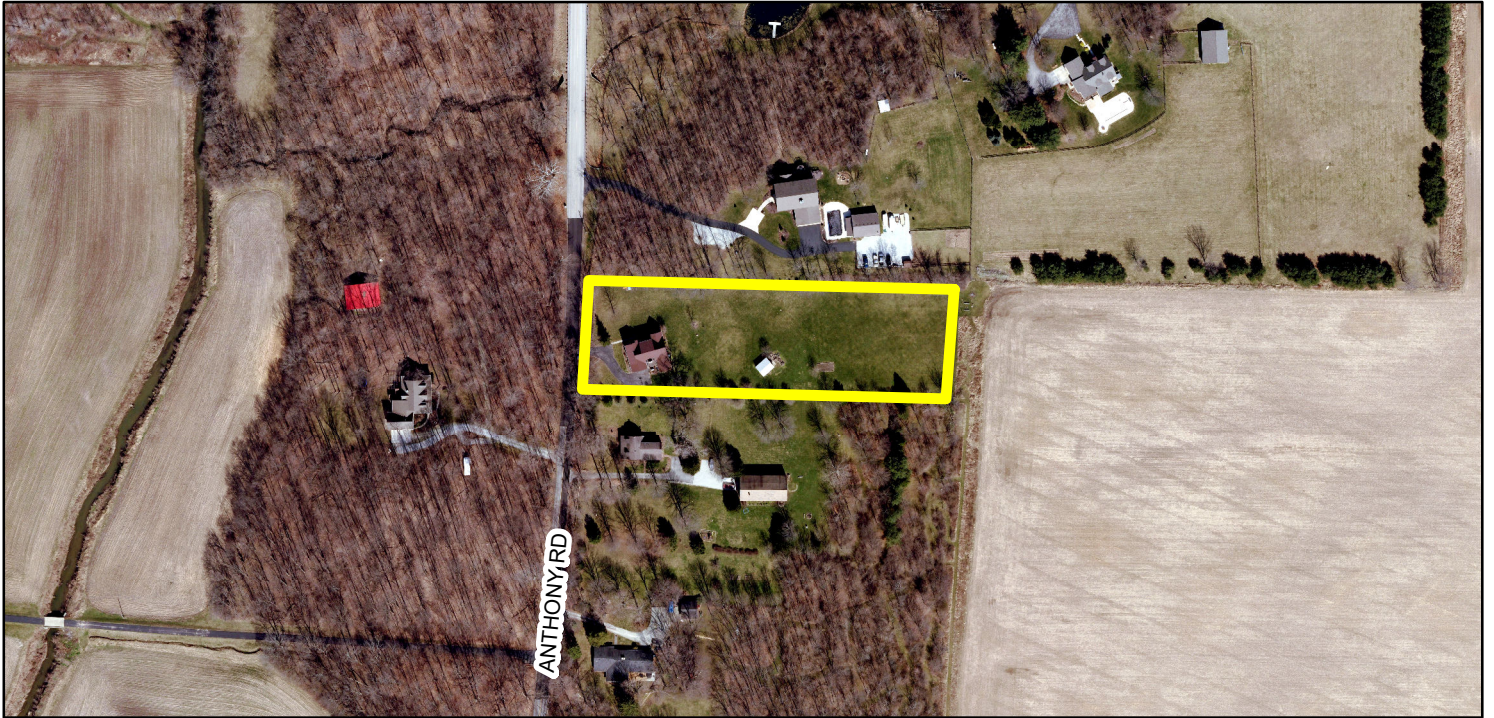


[Signature]  
Notary Public Signature  
Vanessa R. Cummings  
Notary Public (printed)

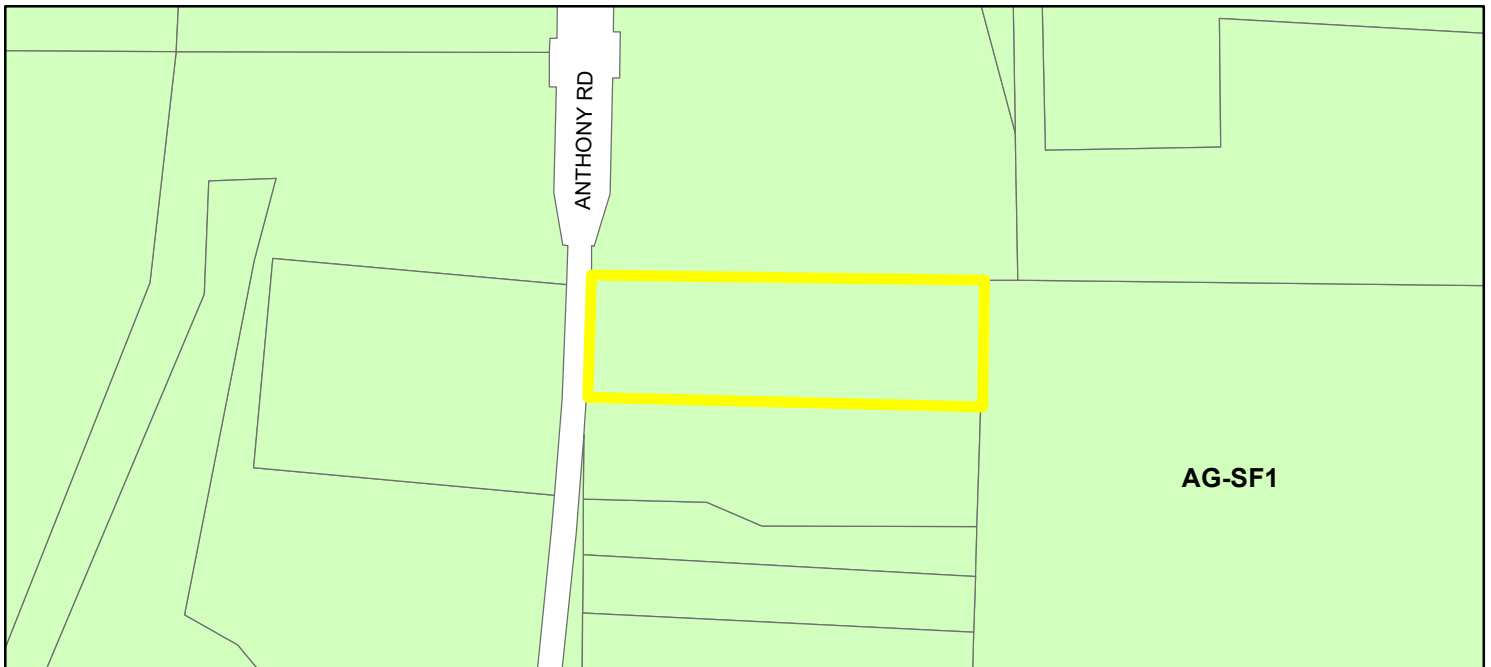
\*A signature from each party having interest in the property involved in this application is required. If the Property Owner's signature cannot be obtained on the application, then a notarized statement by each Property Owner acknowledging and consenting to the filing of this application is required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

**Aerial Location Map**

 Site



**Zoning Map**

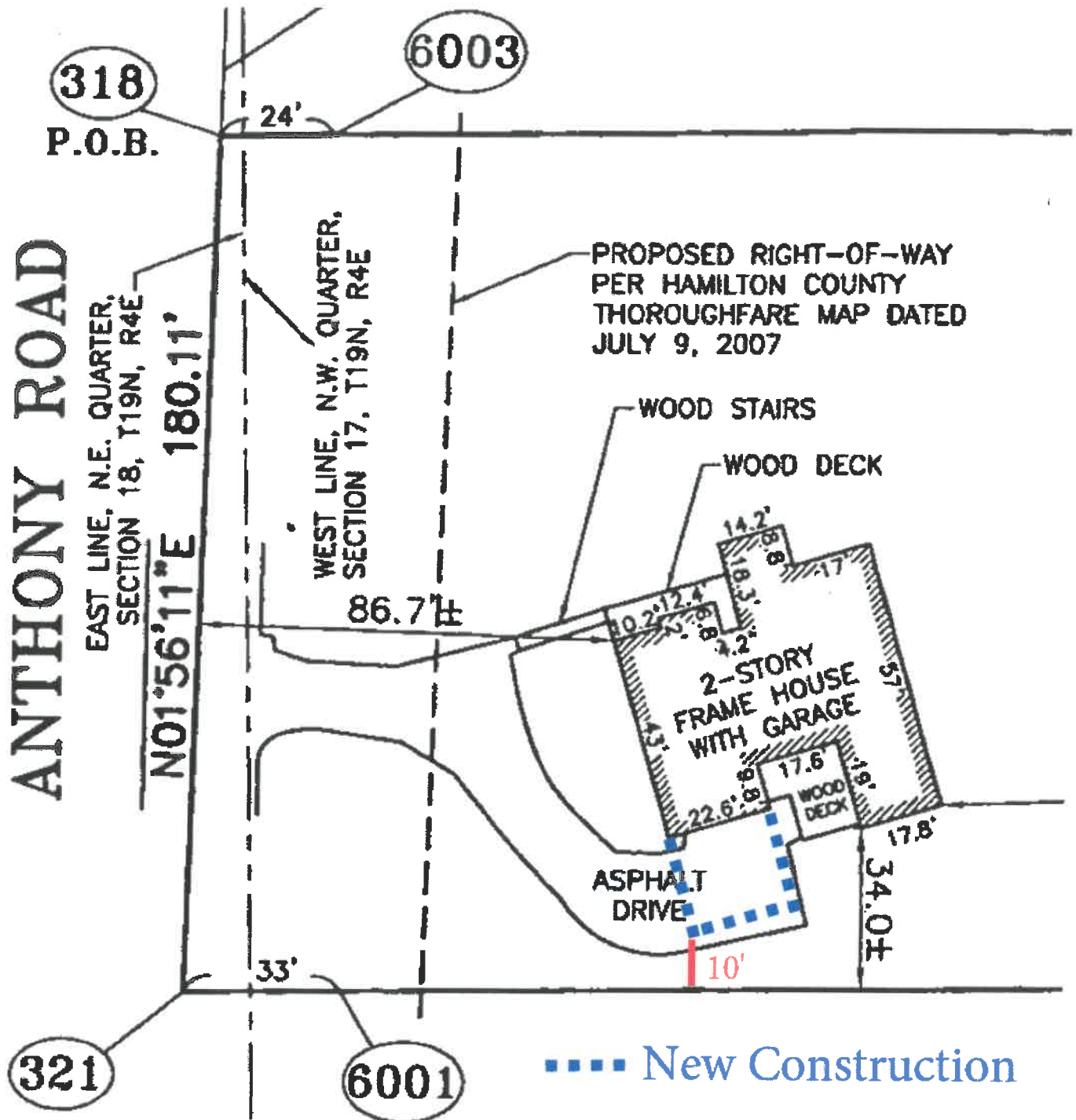


**Zoning - All Zoning**

 AG-SF1 (Agriculture - Single Family - 1)



# Site Plan – 21250 Anthony Road





Anthony Rd

1

2

3





1





2





3







WESTFIELD-WASHINGTON  
BOARD OF ZONING APPEALS

February 12, 2019

1902-VS-03

Exhibit 1

**Petition Number:** 1902-VS-03

**Subject Site Address:** 21250 Anthony Road ("the Property")

**Petitioner:** Michael Graber ("the Petitioner")

**Request:** The Petitioner requests a Variance of Development Standard to modify the South Side Yard Setback Line from thirty (30) feet to ten (10) feet to allow for the extension and reconfiguration of an attached garage (Article 4.2(E)(2))

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

**Current Land Use:** Agriculture

**Approximate Acreage:** 2.37 acres +/-

**Exhibits:**

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

**Staff Reviewer:** Daine Crabtree, Associate Planner

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### **OVERVIEW**

**Location:** The subject property is a 2.37 +/- acre parcel located at 21250 Anthony Road (see **Exhibit 2**).

**Requested Variances:** The Petitioner is requesting a Variance of Development Standard to modify the South Side Yard Setback Line from thirty (30) feet to ten (10) feet.

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### **SUMMARY OF VARIANCE**

The Petitioner requests a Variance of Development Standard to modify the South Side Yard Setback Line from thirty (30) feet to ten (10) feet to allow for the extension and reconfiguration of an attached garage (see **Exhibit 3**).

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### **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 February 12, 2019, Board of Zoning Appeals meeting. Notice of the public



hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

**Conditions:** The UDO<sup>1</sup> 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 UDO<sup>2</sup> 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.

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**DEPARTMENT COMMENTS:**

**Recommended Findings for Approval:** If the Board is inclined to approve the variance, then the Department recommends the findings as set forth below, for each variance:

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

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





WESTFIELD-WASHINGTON  
BOARD OF ZONING APPEALS

February 12, 2019

1902-VS-03

Exhibit 1

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

**Finding:** It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the existing use and proposed improvements will otherwise comply with the applicable standards of the AG-SF1 zoning district.

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

**Finding:** 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 use of the property will not change.

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

**Finding:** The unique dimensions and characteristics of the Property, including but not limited to the home placement and topography changes make it difficult for the home to undergo any remodel and/or additions without requiring a variance.

**Recommended Conditions:**

- 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 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 consistent with the public hearing evidence and Board discussion.