



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_01_08_2019

Tuesday, January 08, 2019 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, January 08, 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

Election of Officers

-Chairperson

-Vice-Chairperson

-Pro-Tempore

Approval of Minutes - November 13, 2108

Documents: [BZA Minutes - November 13, 2018](#)

Review Rules & Procedures

ITEMS OF BUSINESS:

1901-VS-01 [PUBLIC HEARING]

North of and adjacent to 1106 E. 191st 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)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Existing Conditions](#) | [Exhibit 4: Lot Line Exhibit](#)

1901-VU-01 & 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)

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

ITEMS CONTINUED TO A FUTURE MEETING:

1609-AA-01 [CONTINUED]

14939 Ditch Road

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)

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, November 13, 2018 at Westfield City Hall.

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

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

ROLE CALL

Noted presence of a quorum.

APPROVAL OF MINUTES

Motion:

Motion: Raines motioned to approve the October 9, 2018 meeting minutes.
Kingshill seconded. Motion passed. Vote 5-0.

APPROVAL OF 2019 BZA SCHEDULE OF MEETINGS

Motion:

Motion: Kingshill motioned to approve the BZA Schedule of Meetings.
Schmitz seconded. Motion passed. Vote 5-0.

REVIEW OF RULES AND PROCEDURES

Todd reviewed BZA rules and procedures.

ITEMS OF BUSINESS**1808-VU-04**

[ADOPTION OF
FINDINGS OF FACT]

3459 Heathcliff Court

Juliana Robertson by Gary Sallee

Adoption of Findings of Fact for Variance of Use that was denied on October 9, 2018.

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

Todd reported that Finding #4 was incorrectly listed and has been corrected and updated.

Schmitz asked about the process used in determining Findings of Fact.

Zaiger summarized that process.

Motion:

Schmitz motioned to adopt staff's recommended Findings of Fact for 1808-VU-04.
Rainey seconded. Motion passed. Vote 4-0 (Kingshill abstained).

1811-VS-15

[PUBLIC HEARING]

15891 Little Eagle Creek Avenue

Tammy Welsch

The petitioner is requesting a Variance of Development Standard to allow the occupancy of an Accessory Building (horse barn) prior to the occupancy of a Principal Building on the same Lot (Article 6.1(E)(2)).

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

Crabtree presented an overview of this request for Variances of Development Standard to allow for a barn to be used prior to the completion of the principal building.

Schmitz asked about the nature of the use of the barn.

The petitioner responded it would be occupied only by her horses.

Public Hearing for 1811-VS-15 opened at 7:10 p.m.

No public comments.

Public Hearing for 1811-VS-15 closed at 7:11 p.m.

Motion:

Schmitz motioned to approve 1811-VS-15 with the following recommended condition:

- 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.

Kingshill seconded. Motion passed. Vote 5-0

Motion:

Schmitz motioned to adopt the staff's Findings of Fact for 1811-VS-15.

Raines 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)

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 Report.

Economic and Community Development Department.

ADJOURNMENT

Motion:

Schmitz motioned to adjourn the meeting.

Kingshill seconded. Motion passed. Vote 5-0.

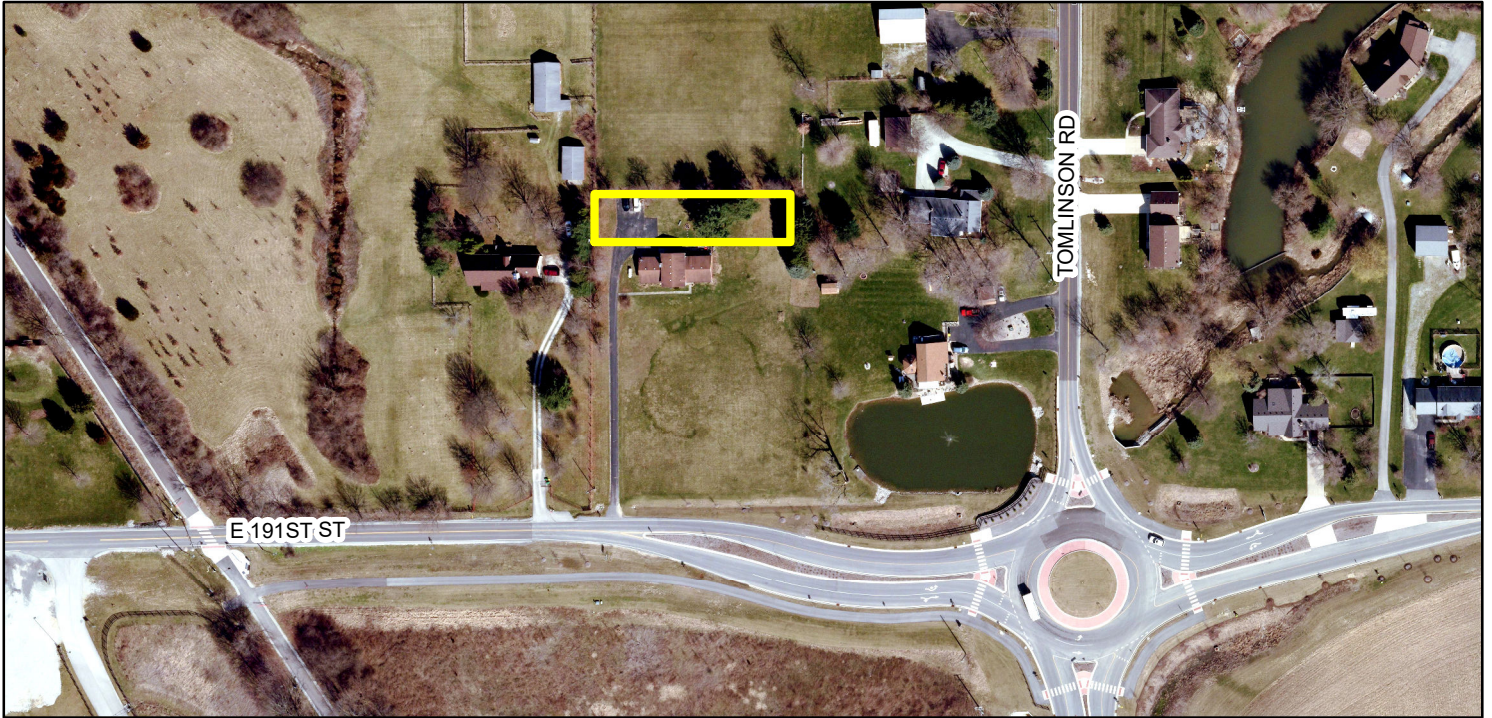
The meeting adjourned at 7:18 p.m.

Chairperson
Robert Smith, Esq.

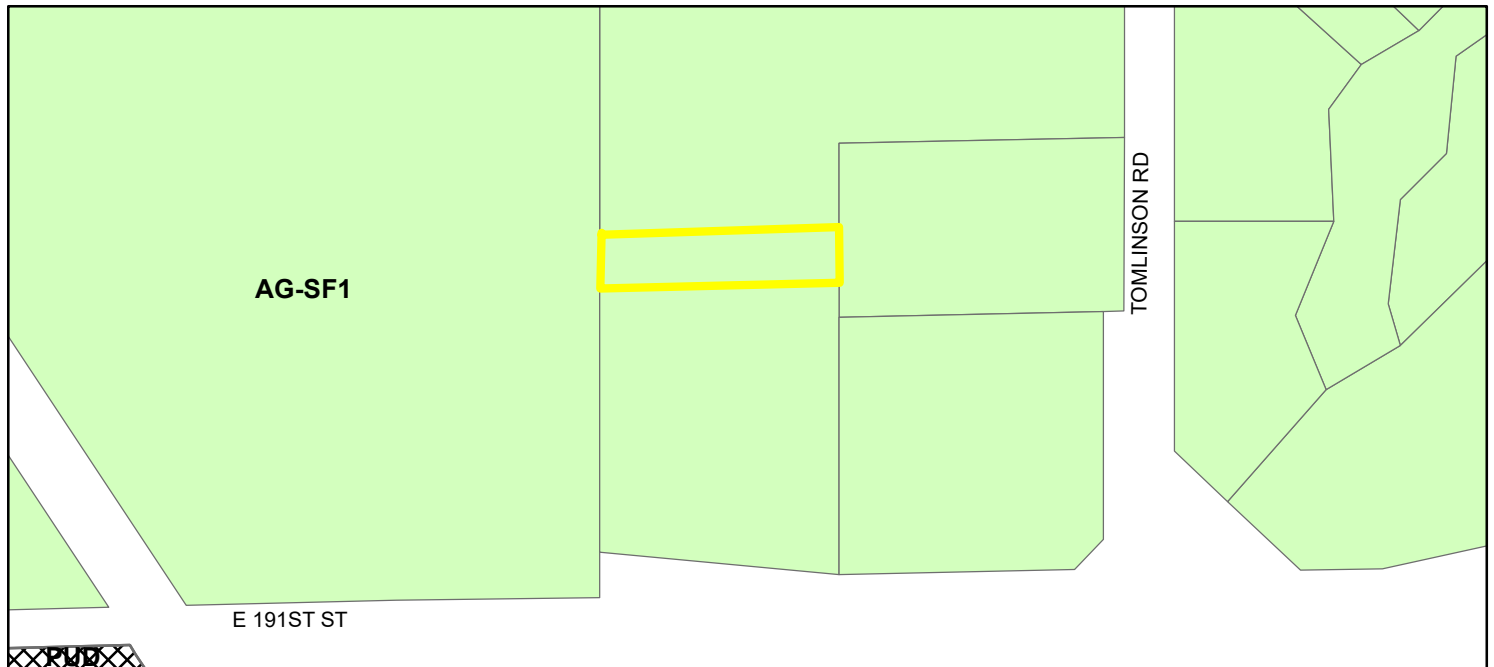
Secretary
Matthew S. Skelton, Esq., AICP
Director

Aerial Location Map

 Site



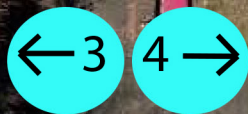
Zoning Map



Zoning - All Zoning

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





1



2



3



4



5



An aerial photograph of a residential property. A large, two-story house with a brown roof is located in the lower-left quadrant. A paved driveway leads from the house towards the upper-left. A red car is parked in the driveway, and a pink object, possibly a shed or a car, is visible further up. The property is surrounded by green grass and several trees, some of which are bare. Three horizontal yellow lines divide the image into four sections. Red text labels are placed near these lines: 'Rear Lot Line' at the top, 'Side Lot Line' on the left, and 'Front Lot Line' in the center. The right side of the image shows a continuation of the property with more trees and a fence line visible on the far right.

Rear Lot Line

Side Lot Line

Side Lot Line

Front Lot Line



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

January 8, 2019
1901-VU-01 & 1901-VS-02
Exhibit 1

Petition Number: 1901-VU-01 & 1901-VS-02

Subject Site Address: 14925 Bridlewood Drive (the "Property")

Petitioner: Matthew Knowles (the "Petitioner")

Request: 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)).

Current Zoning: SB-PD: Special Business / Planned Development District

Current Land Use: Residential

Approximate Acreage: 0.34 acres +/-

Exhibits:

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

Staff Reviewer: Pam Howard, Senior Planner

OVERVIEW

Location: The subject property is 0.34 acres +/- in size and located at 14925 Bridlewood Drive, within the Bridlewood Subdivision (see **Exhibit 2**). The Property is zoned the SB-PD: Special Business / Planned Development District. The Property currently contains a single-family home, pool, and Accessory Building¹. All surrounding properties are also zoned the SB-PD District and are part of the Bridlewood Subdivision.

Variance Requests: The Petitioner is requesting these variances to allow additions to be constructed, as generally illustrated on the Site Plan Exhibit (see **Exhibit 3**) and Proposed Addition Exhibit (see **Exhibit 4**).

¹ Chapter 12 of the UDO defines "Building, Accessory" as "[a] subordinate building or structure, the use of which is incidental to and customary in connection with the Principal Building or use and which is located on the same Lot with such Principal Building or use and is under the same ownership. Buildings which are portable and do not have permanent foundations are also classified as Accessory Buildings, but shall not require an Improvement Location Permit."

SUMMARY OF VARIANCES

The Petitioner is requesting these variances to allow additions to the side and rear of the home, as illustrated on the Site Plan Exhibit (see **Exhibit 3**) and Proposed Addition Exhibit (see **Exhibit 4**).

Variance of Use: The existing home is located within the Bridlewood Subdivision, which is zoned the SB-PD District. The subdivision received Primary Plat approval on November 23, 1987. At that time, it was determined that Single-Family Residential was permitted in the SB-PD District, though the rationale for making this determination is unclear. In order to formally memorialize the rationale behind permitting Single-Family Residential, we have asked the Petitioner to include a Variance of Use as part of their request. The Department is looking into ways to address this issue on a more global scale to alleviate the issue in future instances.

Variance of Development Standard: The Minimum Side Yard Setback for the SB-PD District is twenty (20) feet². The proposed side addition will be approximately eight (8) feet from the north property line, requiring a reduction in the Minimum Side Yard Setback.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this property within the “Suburban Residential” land use classification.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of Variances of Use and Development Standard. This petition is scheduled to receive its public hearing at the January 8, 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 UDO³ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by 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 UDO⁴ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance;

² Article 4.2(B) SB-PD: Special Business / Planned Development; General Standards

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

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

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

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

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

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

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

[SEE FOLLOWING PAGES FOR DEPARTMENT COMMENTS]

DEPARTMENT COMMENTS

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

Recommended Condition:

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

Recommended Findings for Approval of the Variance of Use:

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

Finding: It is unlikely that allowing an addition to the existing Dwelling would have any effect on public health and safety, and general welfare as the use of the property will not change.

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

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The dwelling will retain its use as a Single-Family Dwelling which is consistent with the surrounding properties.

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

Finding: The unique approval history of the Bridlewood Subdivision has created challenges for every property located in the platted area.

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

Finding: Strict adherence to the zoning ordinance would result in the Petitioner being unable to obtain any new permits for the property, including but not limited to the permits required for the proposed additions.

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

Finding: Approval will not interfere with the comprehensive plan because the comprehensive plan identifies this area as Suburban Residential, and the use of the property will remain Single-Family Residential.

Recommended Findings for Approval of the Variance of Development Standard:

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

Finding: It is unlikely that approving the requested variance(s) would be injurious to the public health, safety, morals, and general welfare of the community as the existing use and proposed improvements are consistent with other properties in the Bridlewood Subdivision.

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

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

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

Finding: Strict adherence to the zoning ordinance would result in the inability to improve the property, as proposed, in accordance with the Unified Development Ordinance. The primary residential use of the property is consistent with surrounding properties and the proposed improvements would otherwise comply with the Unified Development Ordinance.

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



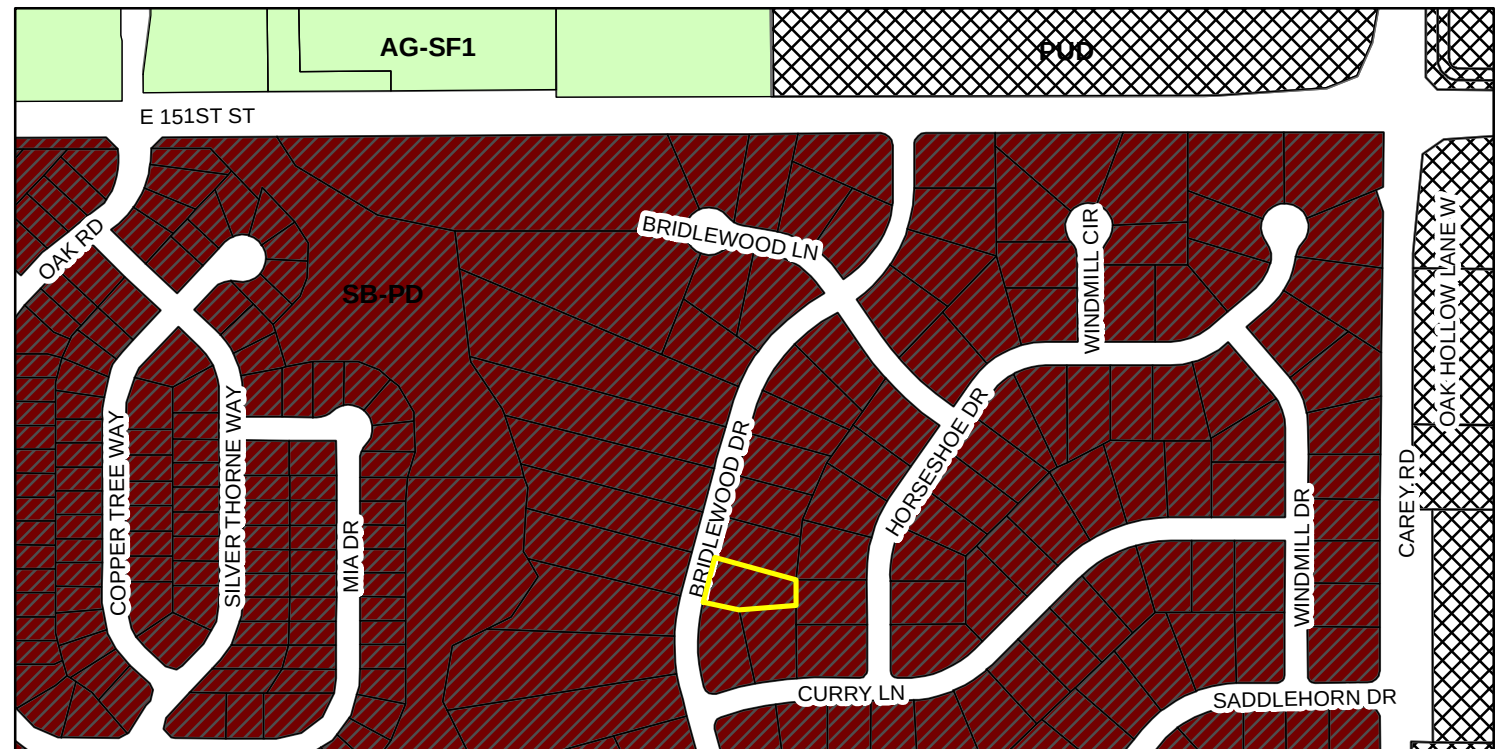
Property Location Map
Knowles Variance
1901-VU-01 & 1901-VS-02



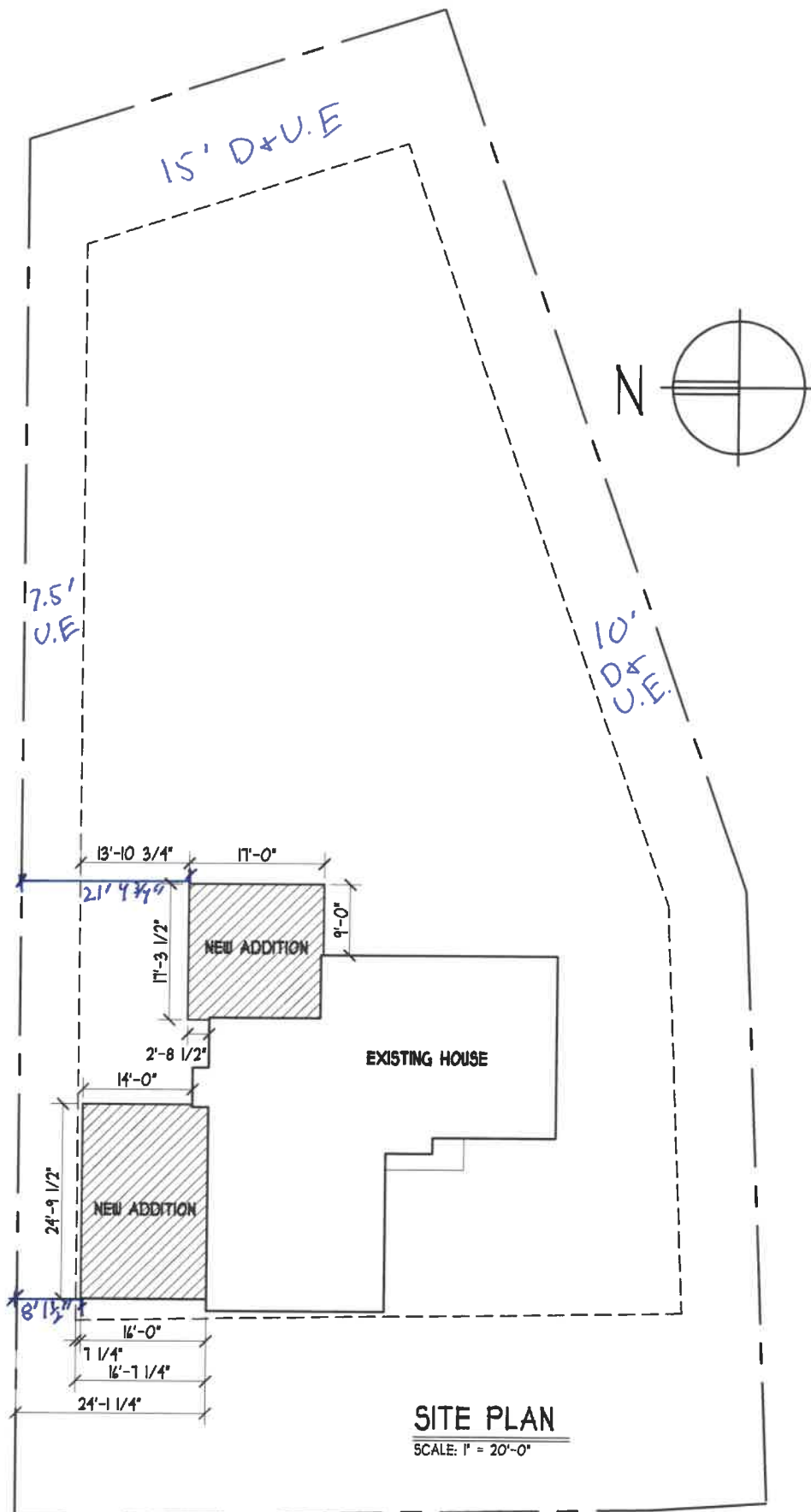
Aerial Location Map

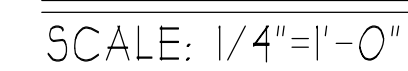


Zoning Map

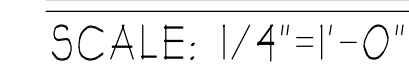


- AG-SF1 (Agriculture - Single Family - 1) SB-PD (Special Business - Planned Development)
PUD (Planned Unit Development)



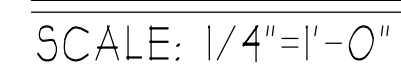


O'-O" FIRST FLOOR HEIGHT

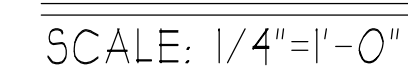


1. VERIFY ALL TYPES AND SIZES OF WINDOW UNITS AND DOORS WITH BUILDER. NOTIFY BUILDER OF ANY DISCREPANCIES.
2. VERIFY LOCATIONS, TYPES AND SIZES OF VENTS AND EXTERIOR TRIM WITH BUILDER.
3. ALL ROOF, CHIMNEY AND WALL INTERSECTIONS SHALL BE FLASHED WITH ALUMINUM OR BETTER MATERIAL.

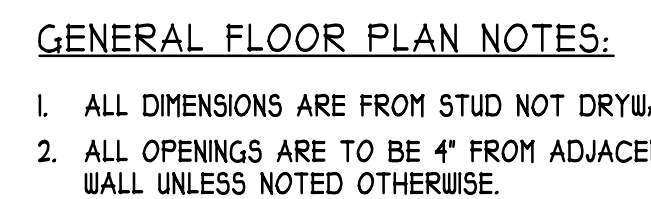
IT IS THE BUILDER/ OWNER'S RESPONSIBILITY TO VERIFY THE PROPER AIR SPACE BETWEEN ALL BRICK AND WOOD WALLS WITH HOUSE WRAP, TO PREVENT WATER INFILTRATION. BUILDER/ OWNER SHOULD SEEK THE ASSISTANCE OF A QUALIFIED ENGINEER FOR THE PROPER SIZING OF ALL STRUCTURAL HEADERS, RAFTERS, SUPPORT BEAMS, LAMINATED BEAMS, JOISTS, FOOTINGS, ETC. IT IS THE BUILDER/ OWNER RESPONSIBILITY TO VERIFY ALL DIMENSIONS & DESIGN OF THESE DOCUMENTS FOR ACCURACY.



O'-O" FIRST FLOOR HEIGHT



SHEET NO
A — 1
OF 3
DATE
11/28/18
DOWN NO
6



##NOTES

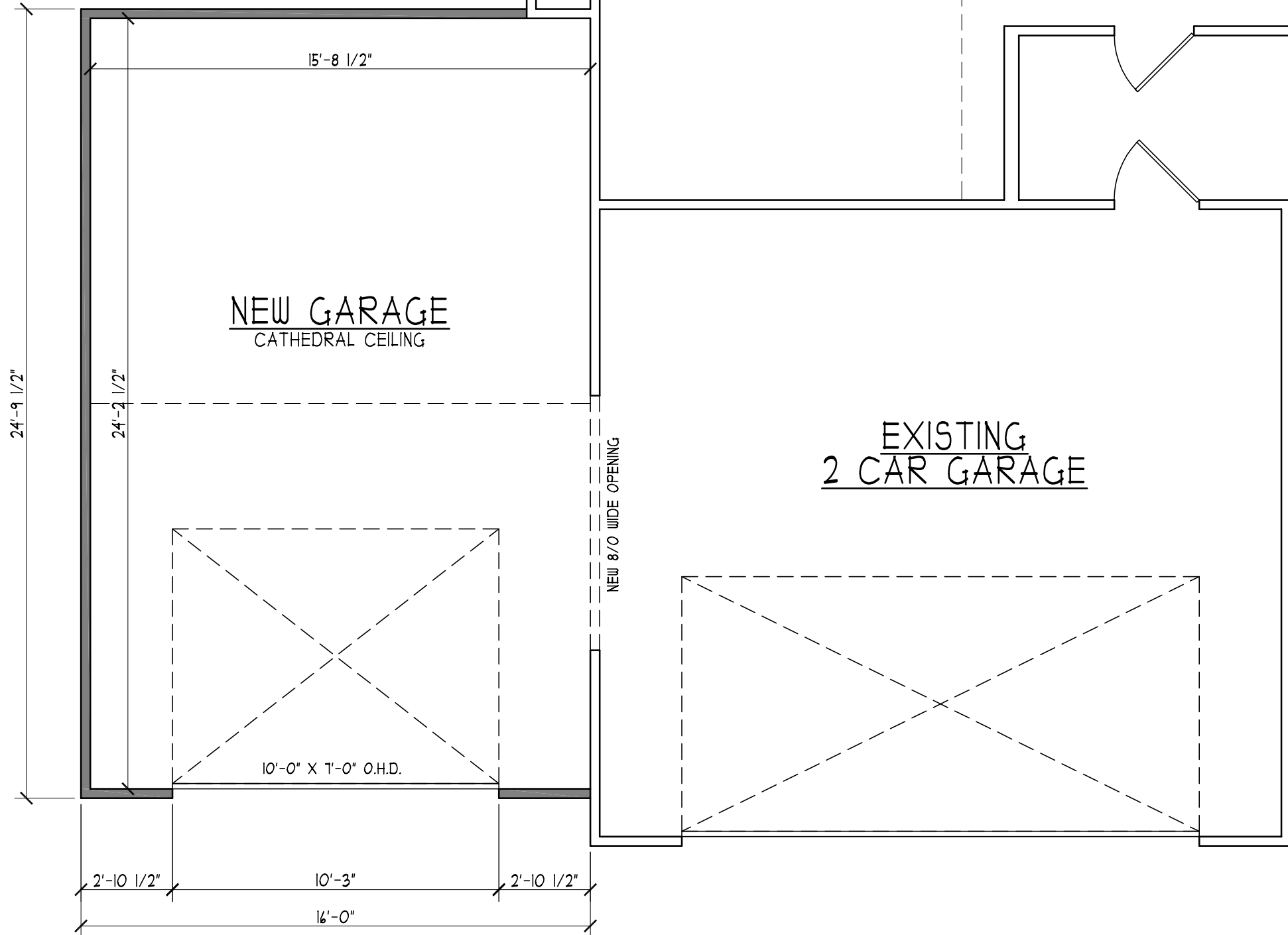
IT IS THE BUILDER / OWNERS RESPONSIBILITY TO VERIFY THE PROPER AIR SPACE BETWEEN ALL BRICK AND WOOD WALLS AND HOSE WRAP TO PREVENT WATER INFILTRATION. A BUILDER / OWNER SHOULD SEEK THE ASSISTANCE OF A QUALIFIED ENGINEER FOR THE PROPER SIZING OF ALL STRUCTURAL HEADERS, RAFTERS, SUPPORT BEAMS, LAMINATED BEAMS, JOISTS, FOOTINGS, ETC. IT IS THE BUILDER / OWNER RESPONSIBILITY TO VERIFY ALL DIMENSIONS & DESIGN OF THESE DOCUMENTS FOR ACCURACY.

- WINDOW & DOOR FRAMING DTL.
SCALE: 1/4"=1'-0"

SHEET NO
A-2
OF 3
DATE
11/28/18
DOWN NO
6



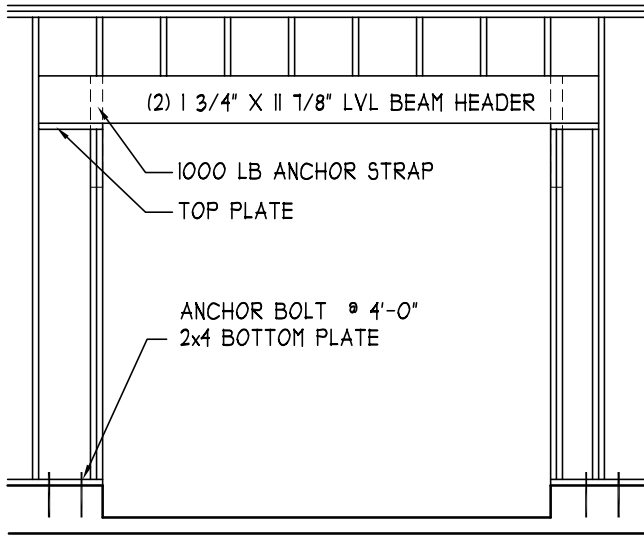
SECOND FLOOR PLAN
SCALE: 1/4"=1'-0"



FIRST FLOOR PLAN
SCALE: 1/4"=1'-0"

GENERAL FLOOR PLAN NOTES:

- ALL INTERIOR WALLS ARE 2X4 OR 2X4 AS SHOWN. EXTERIOR WALLS ARE 2X4 OR 2X4 WITH ONE LAYER OF 1/2" SHEATHING. ALIGN EXTERIOR OF SHEATHING WITH FOUNDATION WALL. ALL ANGLED WALLS ARE 45 DEGREES FROM ADJACENT WALL UNLESS OTHERWISE NOTED.
- CONFIRM ALL HEADER HEIGHTS AND SIZES PRIOR TO START OF FRAMING. ALL OPENINGS ARE TO BE 4" FROM ADJACENT WALL UNLESS NOTED OTHERWISE.
- VERIFY ALL TYPES AND SIZES OF WINDOW UNITS AND DOORS WITH OWNER/BUILDER. NOTIFY BUILDER OF ANY DISCREPANCIES.
- VERIFY LOCATION, TYPES AND SIZES OF VENTS AND EXTERIOR TRIM WITH OWNER/BUILDER.
- INSULATE HIDDEN AREAS OR ASSEMBLIES BEFORE COVERING.
- BUILDER/LUMBER SUPPLIER SHALL SPECIFY SIZES OF DIMENSIONAL LUMBER FOR FLOOR AND ROOF SYSTEMS. NOTIFY BUILDER/LUMBER SUPPLIER IMMEDIATELY OF ANY DISCREPANCIES.
- STEEL LINTELS OR WOOD BEARING AREAS, PROPERLY SIZED, ARE TO BE PROVIDED OVER ALL OPENINGS TO SUPPORT MASONRY VENEER.



GARAGE DOOR FRM. DTL.
SCALE: 1/4"=1'-0"

	DEMO EXISTING OPENING
	DEMO EXISTING WALL
	EXISTING WALL
	NEW WALL

GENERAL FLOOR PLAN NOTES:

- ALL DIMENSIONS ARE FROM STUD NOT DRYWALL
- ALL OPENINGS ARE TO BE 4" FROM ADJACENT WALL UNLESS NOTED OTHERWISE.

****NOTE****
IT IS THE BUILDER/ OWNERS RESPONSIBILITY TO VERIFY THE PROPER AIR SPACE BETWEEN ALL BRICK AND WOOD WALLS WITH HOUSE WRAP, TO PREVENT WATER INFILTRATION. BUILDER/ OWNER SHOULD SEEK THE ASSISTANCE OF A QUALIFIED ENGINEER FOR THE PROPER SIZING OF ALL STRUCTURAL HEADERS, RAFTERS, SUPPORT BEAMS, LAMINATED BEAMS, JOISTS, FOOTINGS, ETC. IT IS THE BUILDER/ OWNER RESPONSIBILITY TO VERIFY ALL DIMENSIONS & DESIGN OF THESE DOCUMENTS FOR ACCURACY.

SCALE	1/4"=1'-0"
DRAWN BY	MUS
CHECKED	MUS

DATE	REVISIONS

PROJECT	KNOWLES RESIDENCE 14925 BRIDEWOOD DRIVE, CARMEL IN 46033
SHEET TITLE	FLOOR PLANS

CLIENT INFORMATION

SHAWCAD DESIGN WHERE DRAFTING MEETS DESIGN NOBLESVILLE, INDIANA 46060 EMAIL: SHAWCADDESIGN@GMAIL.COM

SHEET NO	A-3
OF	3
DATE	11/28/18
DWN NO	6



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

January 8, 2019

1901-VS-01

Exhibit 1

Petition Number: 1901-VS-01

Subject Site Address: Generally located north of and adjacent to 1106 E. 191st 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. 191st Street (see **Exhibit 2**).

Requested Variances: The Petitioner is requesting Variances of Standard to allow two (2) Accessory Buildings on the Property.

SUMMARY OF VARIANCE

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.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

January 8, 2019

1901-VS-01

Exhibit 1

The Property as well as the parcel to the south are both considered Legal, Nonconforming lots. Both were in existence prior to zoning being established in Westfield, though neither conforms to today's current UDO standards for AG-SF1 zoned properties.

Per Article 9.4(C) of the UDO, a Legal Nonconforming Lot not within the geographic area identified as Downtown may be...built upon only if the Lot and improvements otherwise comply with all other standards of the Ordinance, and provided that:

- 1) The Property Owner of said parcel does not own, in whole or in part, sufficient adjacent land to enable the parcel to conform to the dimensional acreage requirements of the UDO;
- 2) The Lot Width is no less than one hundred (100) feet; and
- 3) The Lot Area is no less than one (1) acre

The Property is 0.24 acres +/- in size. Combining the Property with the parcel to the south that is under the same ownership (1.26 acres +/- in size) would still result in a parcel less than three (3) acres in size, which is the minimum Lot Size for AG-SF1 zoned properties. Also, because the Property has no Road Frontage, it has only Side Yards, and therefore no way to measure Lot Width.

Additionally, Article 9.4(D) of the UDO states that, "A Legal Nonconforming Lot shall lose its status as a Legal Nonconforming Lot if the Lot has been combined into a single Lot or parcel that either fully conforms with the standards of the Zoning District or decreases the nonconformity." If the Owner were to combine the two lots decreasing the Property's nonconformity but still being less than the UDO requirement, the result would be an Illegal, Nonconforming Lot on which no new buildings would be permitted.

Therefore, by defining the lot lines of the Property as shown on the Line Exhibit (See **Exhibit 4**), the Lot Width can be measured. Using these definitions, the Property is more than one hundred (100) feet in width. Additionally, by requesting a variance from the Minimum Lot Area (see second bullet point below) for the Property, the Property would meet all three requirements of Article 9.4(C).

In order to accommodate the two (2) Accessory Buildings that currently exist on the Property, the Petitioner is requesting the following Variances of Development Standard:

- Relief from Article 6.1(D) of the Unified Development Ordinance (UDO), which states that, "Accessory Buildings shall be constructed on the same Lot as the Principal Building which they are accessory..."
- Modification of the Minimum Lot Area for the Property from three (3) acres to 0.24 of an acre (Article 6.2(C))



- Modification of the Minimum Lot Frontage for the Property from two hundred fifty (250) feet to zero (0) feet (Article 4.2(D))
- Modification of the west Side Yard Building Setback from thirty (30) feet to three (3) feet (Article 4.2(E)(2))
- Modification of the Rear Yard Building Setback from thirty (30) feet to sixteen (16) feet (Article 4.2(E)(2))

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 January 8, 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 UDO¹ and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

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

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

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

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



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

DEPARTMENT COMMENTS:

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

- 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 its AG-SF1 zoning, existing mature trees, and its legal nonconforming status, make the Property particularly challenging for any new Building or Structure to legally exist on the Property without a variance.

Recommended Conditions:

- The lot lines for the Property shall be defined as shown in the Lot Line Exhibit (**Exhibit 4**) until the Property is combined with another parcel.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

January 8, 2019

1901-VS-01

Exhibit 1

- 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 pursuant to the public hearing evidence and Board discussion.