



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_11_13_2018

Tuesday, November 13, 2018 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, November 13, 2018 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 - October 9, 2018

Documents: [BZA Minutes - October 9, 2018](#)

Approval of 2019 BZA Schedule of Meetings

Documents: [2019 BZA Meetings Dates_DRAFT](#)

Review Rules & 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)

Documents: [Exhibit 1: Findings of Fact](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Application](#)

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)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Property Layout](#) | [Exhibit 4: Stable Elevation](#) | [Exhibit 5: Home Elevation](#)

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



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

November 13, 2018

1811-VS-15

Exhibit 1

Petition Number: 1811-VS-15

Subject Site Address: 15891 Little Eagle Creek Ave. ("the Property")

Petitioner: Tammy Welsch ("the Petitioner")

Request: The Petitioner requests 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)).

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

Current Land Use: Agriculture

Approximate Acreage: 11.74 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Property Layout
4. Stable Elevation
5. Home Elevation

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject property is 11.74 acres +/- in size and located at 15891 Little Eagle Creek Avenue (see **Exhibit 2**). The Property is zoned AG-SF1: Agriculture/Single-Family Rural.

Requested Variances: The Petitioner is requesting the Variance of Standard to allow the occupancy of an Accessory Building (horse barn) prior to the occupancy of a Principal Building on the same Lot.

SUMMARY OF VARIANCE

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 (**see Exhibit 3**). Article 6.1(E)(2) of the Westfield-Washington Township Unified Development Ordinance (UDO) states that, "No Accessory Building shall be occupied/utilized unless the Principal Building on the same Lot is first legally occupied for a permitted use within the applicable Zoning District".



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 November 13, 2018, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

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

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

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

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

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

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



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: Despite simultaneous construction of both the Accessory Building and the Principal Building, the Accessory Building will likely be completed well in advance of the Principal Building due to its smaller size. Strict adherence to the zoning ordinance would result in the inability to utilize the Accessory Building prior to the occupancy of the Principal Building on the Lot.

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.

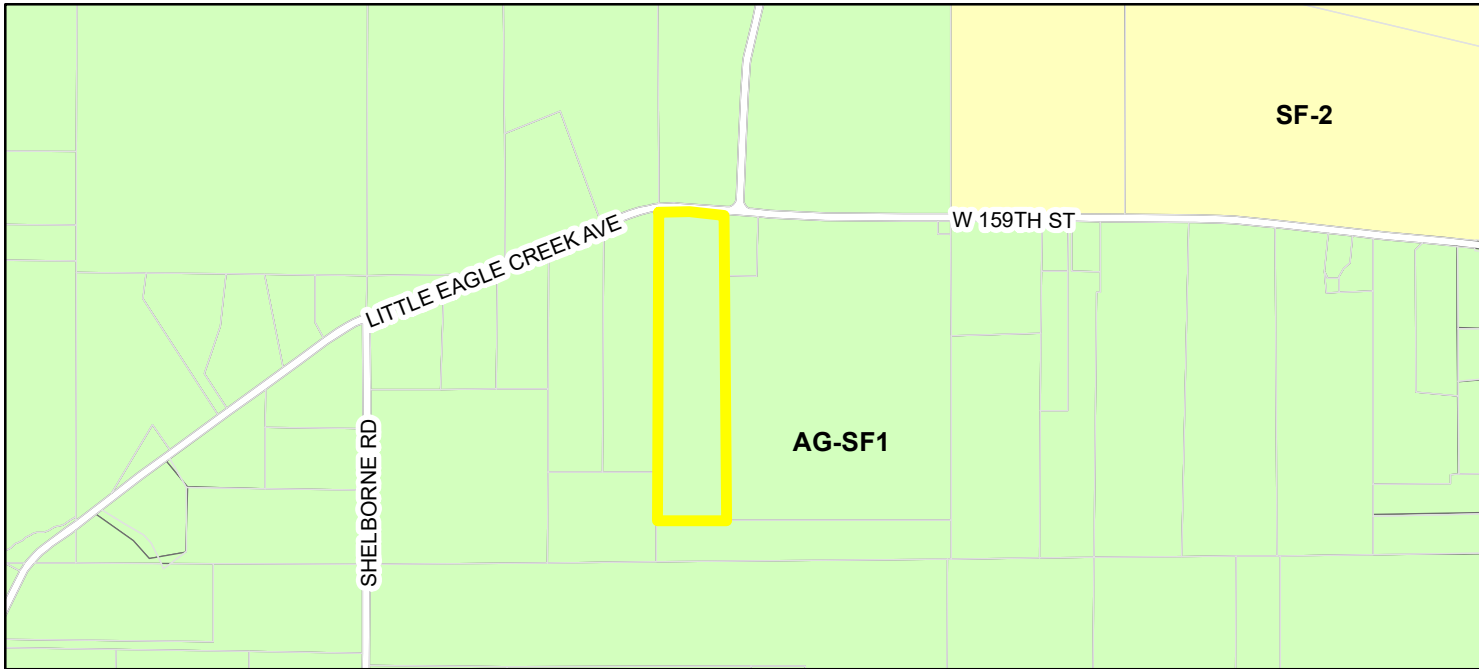
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

Aerial Location Map

 Site



Zoning Map



 Parcel

Zoning

Zoning - All

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



N82°22'33"E
20.28'

N89°27'35"E
50.59'

S85°45'06"E
229.19'

S85°45'06"E
70.00'

S00°25'42" W 250.40'

S00°25'42" W 1135.95'

N00°25'42"E 1446.25'

MAIN LINK FENCE
5' OF LOT LINE

SKE
210983)

ON PIN FOUND
1/2 YELLOW CAP

10'

BARN

OUT DOOR ARENA

11.742 Ac.±
(INCLUDES R/W)
LANDECO, LLC
(INSTR. #2015010421)

25'

25'

N 1.6 acre

160'

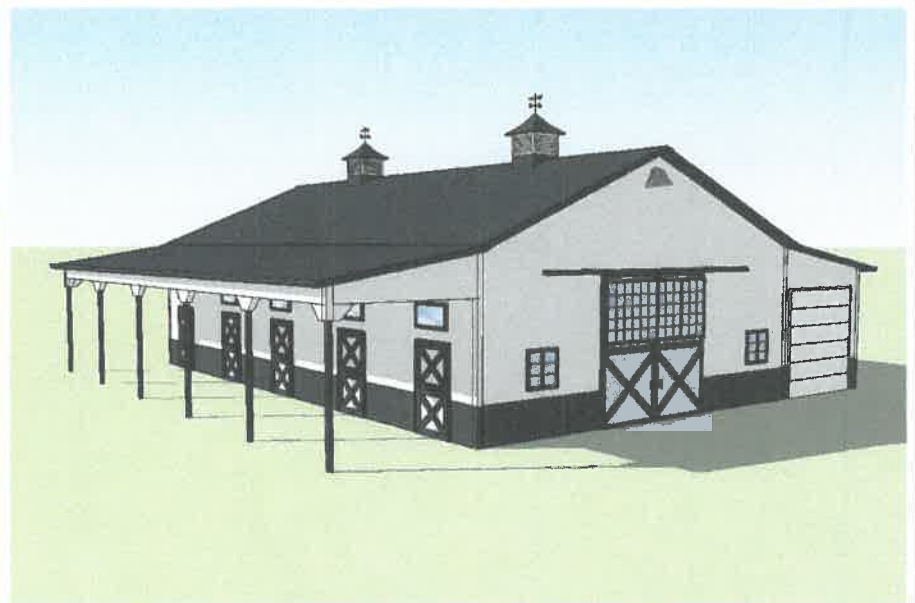
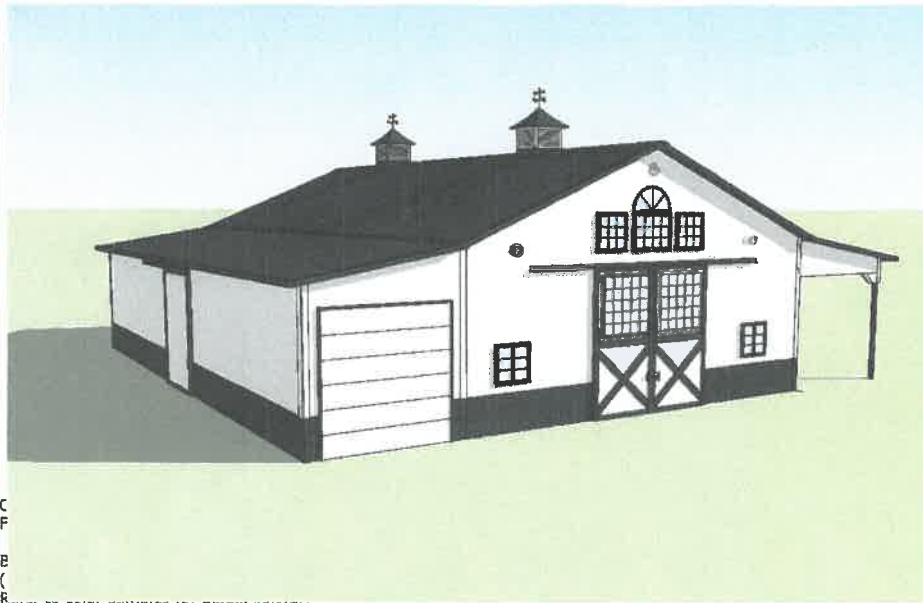
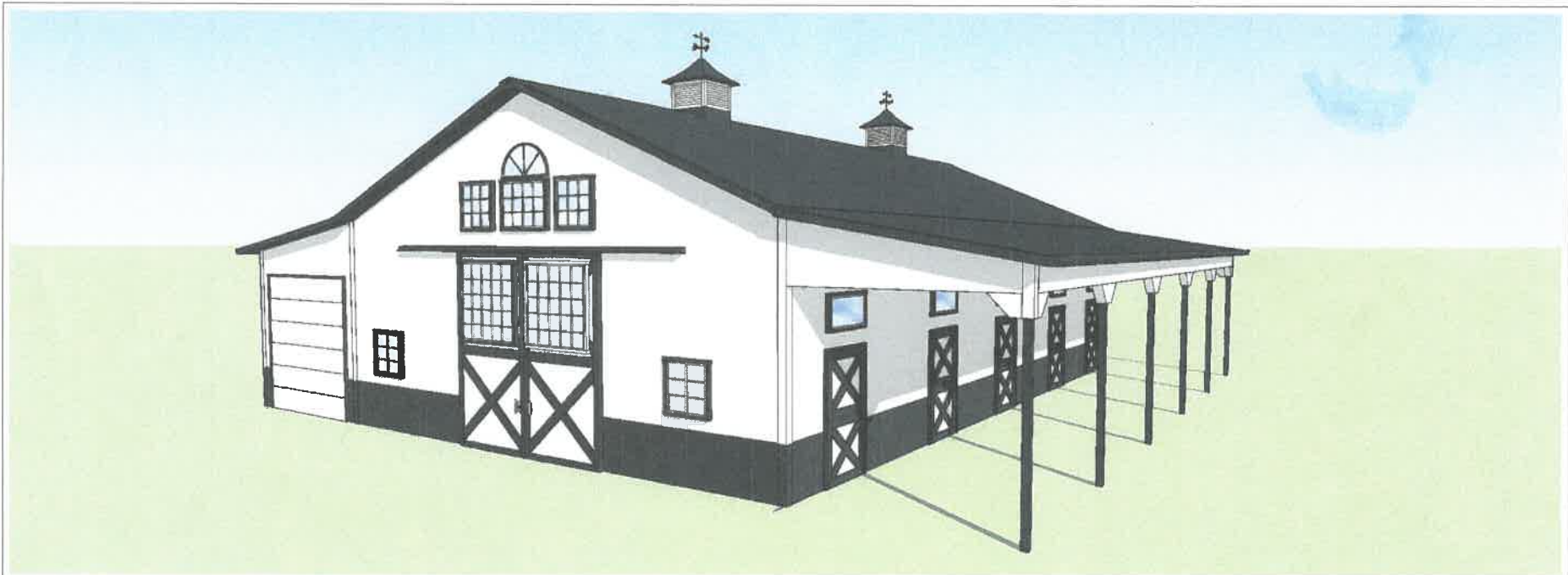
160'

160'

450'

Foot print of house 110' x 75' = 8250
Foot print of barn 60' x 40' = 2400
Arena 60' x 135' = 8100
Foot print of house 110' x 75' = 8250
Foot print of barn 60' x 40' = 2400
Arena 60' x 135' = 8100
Perimeter Fencing 1350
Perimeter Fencing 1350

POINT OF BEGINNING



C
F
B
(
R

☒ Purchaser Approval	Date _____
☒ Seller Approval	Date _____
Drawing # _____	

Tammy Welsch	3D View
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~~PRELIMINARY~~
 FBI Buildings, Inc.
 3823 W 1800 S
 Remington, IN 47977
 219-261-2157
 www.fbibuildings.com

Date : 00/00/00
 Name: XXX
 Rev 0

PRELIMINARY
 THESE DRAWINGS
 ARE FOR
REVIEW
ONLY
 These drawings are
 not complete and
 are not to be used
 for construction.

A-203



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



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

EXTERIOR ELEVATIONS
SCALE 1/4" = 1'-0"

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ALL STRUCTURAL ASPECTS OF THESE PLANS
TO BE VERIFIED BY BUILDER AND/OR GENERAL
CONTRACTOR. MCGINNIS DESIGN GROUP DOES NOT
WARRANT THE STRUCTURAL INTEGRITY OF PLANS.

SQUARE FOOTAGE	
FIRST FLOOR	= 2173 SF
SECOND FLOOR	= 1516 SF
TOTAL	= 3689 SF
GARAGE SLAB	= 1056 SF
BASEMENT SLAB	= 2003 SF
OUT DOOR LIVING	= 376 SF
FINISHED BASEMENT	= 1554 SF

1980 East 116th Street
Suite 120c
Carmel, IN 46032
Nathan - 317.557.3518
Dean - 317.408.8999
www.mcginnisdesigngroup.com



The Welsch Residence

Designed For:
G&G Custom Homes

Scale:
1/4" = 1'-0"

Date:
04.05.18

File Name:
welsch.dwg

1.0



DRAFT

**WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS
2019 SCHEDULE OF MEETINGS AND FILING DATES**

MEETING MONTH	FILING DEADLINE	TECHNICAL ADVISORY COMMITTEE MEETING	REVISED MATERIALS DEADLINE	PUBLIC NOTICE DEADLINE	BOARD OF ZONING APPEALS MEETING
	Friday Noon	Tuesday 9:00 AM	Tuesday Noon	Friday	Tuesday 7:00 PM
FEBRUARY	01/04/19	01/22/19	01/29/19	02/01/19	02/12/19
MARCH	02/01/19	02/19/19	02/26/19	03/01/19	03/12/19
APRIL	03/01/19	03/19/19	03/26/19	03/29/19	04/09/19
MAY	03/29/19	04/23/19	04/30/19	05/03/19	05/14/19
JUNE	05/03/19	05/21/19	05/28/19	05/31/19	06/11/19
JULY	05/31/19	06/18/19	06/25/19	06/28/19	07/09/19
AUGUST	06/28/19	07/23/19	07/30/19	08/02/19	08/13/19
SEPTEMBER	08/02/19	08/20/19	08/27/19	08/30/19	09/10/19
OCTOBER	08/30/19	09/24/19	09/24/19	09/27/19	10/08/19
NOVEMBER	10/04/19	10/22/19	10/29/19	11/01/19	11/12/19
DECEMBER	11/01/19	11/19/19	11/26/19	11/29/19	12/10/19
JANUARY	11/29/19	12/17/2019*	12/17/2019*	01/03/20	01/14/20

** Dates are scheduled for a different day due to a Holiday conflict.*

A Pre-Filing Conference is required prior to filing. Please contact the Economic and Community Development Department at (317) 804.3170 at least one week in advance of your targeted filing to arrange this pre-filing conference.

The Westfield-Washington Township Board of Zoning Appeals met at 7:00 p.m.
on Tuesday, October 9, 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; Caleb Ernest, Associate Planner; Jonathan Dorsey, Associate Planner; and Brian Zaiger, City Attorney.

ROLE CALL

Noted presence of a quorum.

APPROVAL OF MINUTES

Motion:

Motion: Kingshill motioned to approve the September 11, 2018 meeting minutes
Smith seconded. Motion passed. Vote 5-0.

REVIEW OF RULES AND PROCEDURES

Todd reviewed BZA rules and procedures.

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

(formerly docketed as
1808-SE-03)

3459 Heathcliff Court

Juliana Robertson by Gary Sallee

The petitioner is requesting a Variance of Use to allow a Kennel in the Oak Manor Planned Unit Development (PUD) District (Article 13.2).

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

Ernest presented an overview of this Variance of Use request to allow four or more dogs on the property located at 3459 Heathcliff Court, which is zoned as the Oak Manor Planned Unit Development District.

Gary Sallee, Esq., representing the petitioner stated that due to a scheduling emergency, the petitioner had not yet met with the Oak Manor HOA. He also summarized his belief that the petitioner had met the findings necessary to grant the variance. He added that the petitioner has had her backyard re-sodded, redesigned, and increased the frequency of yard maintenance in an effort to respond to complaints previously made about the yard.

After discussion, the majority of BZA members felt that the findings required to grant the variance have not been met.

Motion:

Smith motioned to deny 1808-VU-04.

Schmitz seconded. Motion passed. Vote 4-1 (Kingshill voted no).

Motion:

Smith motioned to table the consideration of adopting of the Findings of Facts to the November BZA meeting.

Raines seconded. Motion passed. Vote 5-0.

1810-VS-14

[PUBLIC HEARING]

2727 West 166th Street*JJB Westfield, LLC by Onpointe Land Matters, LLC*

The Petitioner requests multiple Variances of Development Standard to 1) reduce the Minimum Lot Frontage requirement (Article 4.2(D)); 2) eliminate the Perimeter/External Pedestrian Network requirement along 166th Street (Article 8.7 (D)); and 3) modify various accessory building standards (Article 6.1(D) and Article 6.1(I)) on 19.94 acres +/- in the AG-SF1: Agriculture / Single-Family Rural District.

(Planner: Jonathan Dorsey - JDorsey@westfield.in.gov)

Dorsey presented an overview of the requests for Variances of Development Standards. He noted that the petitioner is currently going through the subdivision second platting process.

Jesse Pohlman, with Onpointe Land Matters on behalf of the petitioner, summarized the three requests: 1) reduce the Minimum Lot Frontage requirement; 2) eliminate the Perimeter/External Pedestrian Network requirement along 166th Street; and 3) modify various accessory building standards. He said the project had been through the Technical Advisory Committee and received limited comments.

Public Hearing for 1810-VS-14 opened at 7:29 p.m.

Paul Zawadski, 16409 Little Eagle Creek Avenue; stated his support of this project.

Public Hearing for 1810-VS-14 closed at 7:30 p.m.

Motion:

Kingshill motioned to approve 1810-VS-14.

Raines seconded. Motion passed. Vote 5-0

Motion:

Raines motioned to adopt the staff's Findings of Fact for 1810-VS-14.

Kingshill seconded. Motion passed. Vote 5-0.

1810-SE-04

[PUBLIC HEARING]

2909 East SR 32*Nextgear Auto Sales*

The Petitioner requests a Special Exception to permit auto sales and services on 1.93 acres +/- in the GB: General Business District and State Highway 32 Overlay District (Article 13.2).

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

Ernest presented a summary of this request for a Special Exception to permit auto sales and services on the subject property.

Public Hearing for 1810-SE-04 opened at 7:32 p.m.

No public comments.

Public Hearing for 1810-SE-04 closed at 7:33 p.m.

Schmitz asked about what auto services would be offered at this location.

Adel Elhaj, 2909 East SR 32 on behalf of the petitioner replied that limited repair and maintenance services would be performed for vehicles in the inventory only, and would not be available to their customers. He also stated that the number of for-sale vehicles on-site would range between 40-50 vehicles. He added that he would not expand the existing paved surface.

Motion:

Raines motioned to approve 1810-SE-04 with the following conditions:

- That all vehicles shall only be stored or parked on existing paved areas;
- That servicing vehicles is prohibited, except for preparation for sales;
- That the approval of the Special Exception shall expire on December 31, 2021.
- 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.

Smith seconded. Motion passed. Vote 5-0.

Motion:

Raines motioned to adopt the findings of fact for 1810-SE-04.

Kingshill seconded. Motion passed. Vote 5-0.

1810-VU-07

[PUBLIC HEARING]

18626 Centennial Road

Andrew Weaver

The petitioner requests a Variance of Use to allow a Construction Trade Office only on designated areas of the Property on 9 acres +/- in the AG-SF1: Agriculture / Single-Family Rural District (Article 13.2).

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

Ernest summarized this request for a Variance of Use to allow a Construction Trade Office only on designated areas of the petitioner's property.

Andrew Weaver, petitioner, presented an overview of his request and photo exhibits related to this petition.

Public Hearing for 1810-VU-07 opened at 7:56 p.m.

Jim Younger, 3124 West 186th Street; stated concerns about vehicles and equipment being stored outside that compromises his back yard view. He said that as long as vehicles and equipment are stored inside the barn, he has no problem with this request.

Kerry Matney, 2977 West 186th Street; said if the petitioner stores the items inside the barn, that he would have no problem with this request.

Josh Kunze, 19201 Centennial Road; said he believes the petitioner is doing all he can, but is not sure it is possible to obscure all of the equipment all the time. He said he has no issues with what the petitioner is doing.

Public Hearing for 1810-VU-07 closed at 8:07 p.m.

The Board discussed narrowing the designated outdoor storage area to an area the same width as the barn, in order to help screen the view of any outdoor vehicles and equipment from neighbors.

Motion:

Kingshill motioned to approve 1810-VU-07 with the following amendment:

- That the approval of 1810-VU-07 apply only to the designated area as shown on a new Exhibit 3, to be prepared by staff.

Fortier seconded. Motion passed. Vote 4-1 (Smith).

Motion:

Kingshill motioned to adopt the findings of fact for 1810-VU-07.

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:**

Raines motioned to adjourn the meeting.

Kingshill seconded. Motion passed. Vote 5-0.

The meeting adjourned at 8:35 p.m.

Chairperson

Robert Smith, Esq.

Secretary

Matthew S. Skelton, Esq., AICP

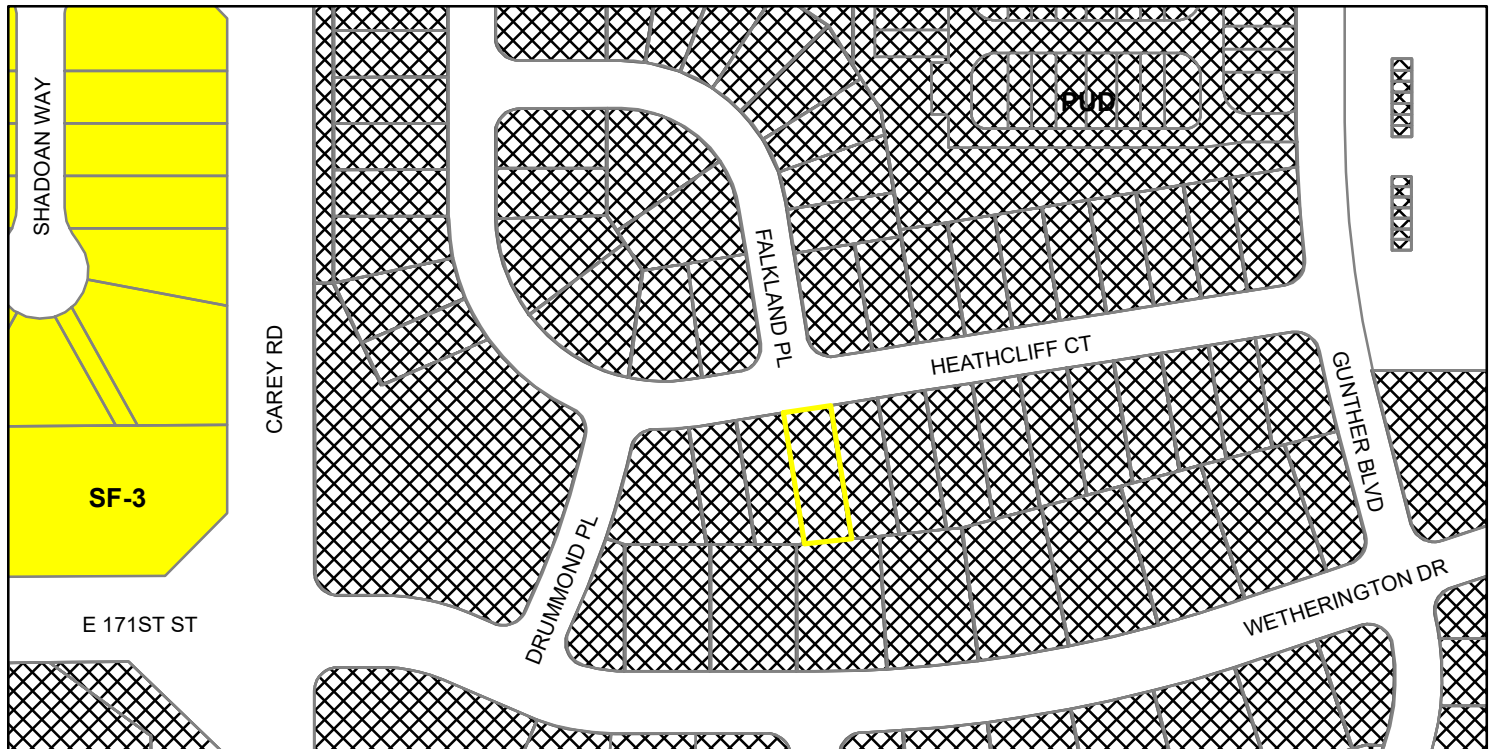
Director

Aerial Location Map

Site



Zoning Map



PUD (Planned Unit Development)



SF-3 (Single Family - 3)

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

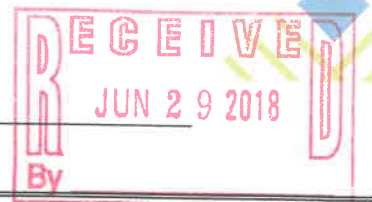
SPECIAL EXCEPTION APPLICATION

OFFICE
USE ONLY

DOCKET #: 1808-SE-03

FILING FEE: \$ _____

FILING DATE: _____



PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Caleb Ernest

(STAFF NAME)

DATE: June 7, 2018

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: Juliana Robertson

TELEPHONE: 317 501 6237

ADDRESS: 3459 Heathcliff Court, Westfield, IN 46074

EMAIL: julianagr@aol.com

PROPERTY OWNER'S NAME: Same as above

TELEPHONE: _____

ADDRESS: _____ EMAIL: _____

REPRESENTATIVE'S NAME: Gary D. Sallee, Attorney at Law

TELEPHONE: 317 416 9543

COMPANY: _____ EMAIL: gdsallee@gmail.com

ADDRESS: _____

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 3459 Heathcliff Court, Westfield, IN 46074

COUNTY PARCEL ID #(S): 29-10-45-010-029.000-015 / 08-10-05-00-10-029.000

EXISTING ZONING DISTRICT(S): Oak Manor Planned Unit Development EXISTING LAND USE(S): Residential

SPECIAL EXCEPTION REQUEST

CODE CITATION: Section 10-3(b)

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY): See attached, paragraph 1.



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.

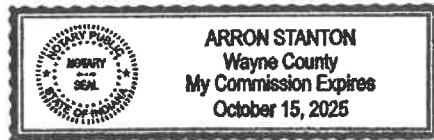
[Handwritten Signature]
Applicant/Representative (signature)

Juliana G. Robertson
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 29 day of June, 2018.

State of Hamilton, County of Indiana, SS:



[Handwritten Signature]
Notary Public Signature
Arron Stanton
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.

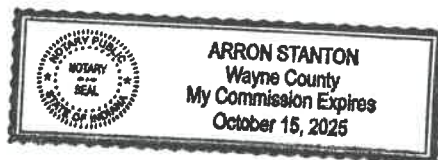
[Handwritten Signature]
Property Owner (signature)*

Juliana G. Robertson
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 29 day of June, 2018.

State of Hamilton, County of Indiana, SS:



[Handwritten Signature]
Notary Public Signature
Arron Stanton
Notary Public (printed)

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

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM
FINDINGS OF FACT (SPECIAL EXCEPTION)



APPLICANT: Juliana G Robertson

DOCKET #: _____

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

- A. The establishment, maintenance, or operation of the special exception will not be detrimental to or endanger the public health safety morals or general welfare because: See attached, paragraph 2.

- B. The special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property value within the neighborhood because: See attached, paragraph 3.

- C. The establishment of the special exception will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district because: See attached, paragraph 4,

- D. Adequate utilities, streets drainage and other necessary facilities have been or are being improved: Not applicable.

- E. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion: Not applicable.

- F. The special exception will be located in a district where such use is permitted and that all other requirements set forth, applicable to such special exception, will be met: See attached, paragraph 5.

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

SPECIAL EXCEPTION APPLICATIONS



GENERAL INSTRUCTIONS

- A. **Pre-Filing Conference:** A pre-filing conference is required for all petitions. An appointment must be made with the Economic and Community Development Department (the "Department") to discuss a petition prior to filing. An application will not be considered filed until a pre-filing conference has occurred. Applicants are encouraged to incorporate the Department's comments into the application prior to filing.
- B. **Filing Petition:** A petition shall be filed with the Department by the filing deadline in accordance with the Schedule of Meeting and Filing Dates. In order to be deemed a complete petition, a petition shall include the following:
- | | |
|--|--|
| ☐ Completed Application | ☐ Legal Description |
| ☐ Draft Public Notice | ☐ List of Adjoining Property Owners (as provided by County) |
| ☐ Property Owner Consent | ☐ TAC Delivery Affidavit (if TAC is determined to be necessary) |
| ☐ Site Plan (to scale) | ☐ Vicinity Map (including property within 500 feet) |
| ☐ Statement of Intent | ☐ Covenants and commitments (if any) |
| ☐ Copy of Property Deed | |
| ☐ Elevations, photographs, service reports or other supporting information necessary to explain the nature of the special exception use | |
- C. **Filing Fee Check:** After the filing of an application, the Department will advise the applicant of the applicable filing fee amount, which is due and payable (checks made out to "City of Westfield") within two (2) weeks of filing.
- D. **Technical Advisory Committee (TAC):** The applicant is responsible for submitting a copy of the application and related information to Technical Advisory Committee members prior to filing. An affidavit confirming delivery of information is required to be completed and signed by the applicant and submitted with the petition. Technical Advisory Committee meetings are held in the City Services Building (2728 East 171st Street, Westfield, IN 46074) in accordance with the Schedule of Meeting and Filing Dates. A representative must be present at this meeting.
- E. **Public Hearing and Notice:** All special exception petitions require a public hearing by the Board of Zoning Appeals. The public hearing is held at City Hall, 130 Penn Street, Westfield, Indiana, in accordance with the Schedule of Meeting and Filing Dates. Notice of the hearing is required in accordance with the Board's [Rules of Procedure](#):
1. **Newspaper Publication:** Notice of the hearing will be published in the Hamilton County Reporter and The Times. The Department will handle the newspaper publication requirement.
 2. **Mailed Public Notice:** The applicant is responsible to send public notice by certified mail with proof of mailing (certificate of mailing) to all interested parties, postmarked at least ten (10) days prior to the hearing. A list of adjacent property owners may be obtained from the **Hamilton County Auditor, Office of Transfers and Mapping** (33 North 9th Street, Noblesville, IN 46060, (317) 776-9624), and shall include all owners of property to a depth of two (2) ownerships of no direct or indirect financial or other interest to the applicant or property owner or one-eighth of a mile (1/8), whichever is less.
 3. **Public Notice Sign:** The applicant is responsible to post a public notice sign(s) on the property at least ten (10) days prior to the public hearing. The Department will determine sign locations and will make signs available for the applicant to obtain in the office of the Department.
 4. **Affidavit of Notice of Public Hearing:** The applicant shall deliver a copy of the mailed notice and a signed affidavit, verifying that the notices were mailed and the public notice sign(s) was posted on the subject property, to the Department at least four (4) calendar days prior to the public hearing.
- F. **Ex-parte Communication:** In no event shall applicants or other interested parties contact or attempt to communicate with members of the Board in regard to a filed variance petition prior to the public hearing.
- G. **Revised Materials:** If the applicant wishes to submit additional or revised information than what is filed, then the applicant shall submit those to the Department no later than ten (10) days prior to the public hearing.
- H. **Board's Consideration:** Following the public hearing, the Board may either approve, approve with conditions, deny or continue the petition.
- I. **Resource:** Please see the Board's [Rules of Procedure](#) for more detailed procedural information.

Special Exception Request
Juliana G. Robertson
3459 Heathcliff Court
Westfield, IN 46074

1. STATEMENT OF INTENT

I am seeking a limited special exception to the City of Westfield Unified Development Ordinance (UDO) section which defines the keeping of four (4) or more dogs as a kennel. My home is located at 3459 Heathcliff Court, which is in the Oak Manor Planned Unit Development (PUD) District. I am seeking this exception (and also a variance of use or PUD amendment) so that I may keep the six senior greyhounds that have lived in my home for the past seven to ten years. Because of the special reason that I have these greyhounds, they will not be replaced as their number decreases by natural attrition. I am seeking a variance that will allow me to continue to live in my house with the greyhounds that I currently have and only these greyhounds. In the future, I will never have more than three. In the alternative, I am seeking a limited special exception that will allow me to keep my greyhounds in my home while I build a new home for them and my widowed mother on property that I currently own outside of Westfield. I would ask you to understand that we simply have no place else to go, and it is probably impossible for me to find a suitable place to rent if we have to leave. I really like my neighborhood and my neighbors. I am hoping that we can stay in our home.

2. THE ESTABLISHMENT, MAINTENANCE, OR OPERATION OF THE SPECIAL EXCEPTION WILL NOT BE DETRIMENTAL TO OR ENDANGER THE PUBLIC HEALTH, SAFETY, MORALS, OR GENERAL WELFARE BECAUSE:

My six senior greyhounds have lived in my home anywhere from six to ten years without complaint. They have never in any way been detrimental to or endangered the public health safety, morals, or general welfare of my neighborhood. They do not bark. They are not walked in the neighborhood. They do not run free in the neighborhood. They only go outside in groups of two or three to relieve themselves in a fenced backyard and sometimes to play for a couple of minutes. They are rarely seen by anyone in the community because they spend the vast majority of their time doing what greyhounds do - laying around or sleeping. They are gentle natured animals that pose a threat to no one. They are very closely supervised by me at all times because I work primarily from home.

The six senior greyhounds in my home range in age from eight to 12 years old, each having a life expectancy of about 12 years. I am a single female who lives alone, but for these greyhounds. I have absolutely no intent of replacing my greyhounds as they pass and would eventually comply with the current ordinance in any event. These greyhounds have resided in my Westfield home for the last seven to ten years without incident. Being typical senior greyhounds, they very rarely bark. They are never taken off of my property or walked in the neighborhood, nor will they be in the future. They are turned out five times a day, in groups of two or three, for no more than 10 minutes at a time. You have to make a concerted effort to figure out that there

are more than three because of the way that I manage them and because they all look alike. If a special variance is granted, I will continue being diligent so as not to advertise how many live with me. They are closely supervised whenever they are in their fenced yard and are not allowed to bark at other dogs in the area. I am very concerned about waking my neighbors at night, and I do not let them out if the lights in the neighbor's house are off. If it is an emergency, I will put them on a leash and take them out myself so that I can ensure that they do not disturb anyone. In the morning, I do not let them out before 6 am.

Their waste, which is actually very minimal because of the special home cooked diet that they are fed, is now picked up at least once every day. That waste is then placed into a sealed trash container in my garage so that there is no outside odor issue. This is a change in my procedure for cleaning the yard that I have made in response to the recent issue with my neighbor. Previous to that, I would pick up the waste and would store it in a closed container in my backyard until my trash pickup on Friday. I believe the container used to store waste might have been large part of any alleged odor issue. That entire issue is now resolved.

My greyhounds have all been spayed and are regularly seen by a veterinarian. They are probably better fed and get better medical care than your children do. They each have health insurance. They are very friendly, extremely gentle, love people, and are never allowed to be in a situation in which either they or someone else or someone else's pet would be placed in danger. They never behave in an aggressive manner and are always excited to meet a new person. Because of their breed, I make sure that they are always contained. I go to extreme lengths to make sure that they never get out of my house or their fenced backyard. To date, they never have.

I have also enclosed pictures of my house which show that it is properly maintained. I have my home professionally cleaned on a regular basis. I used to hire someone to clean my yard, but now I do that myself because I do a better job.

If anyone had said anything about having an issue with the way that I manage my greyhounds, I would have immediately resolved the situation. In this particular instance, no one said anything to me before making a complaint, even though I had asked each of my neighbors to tell me if my greyhounds were causing them an issue. Furthermore, after talking to my neighbors, and as evidenced by the letters that I have submitted in support of this exception, it is clear that the vast majority of my neighbors have never been bothered by my greyhounds. Most people only think that there are a couple of dogs at my home or none at all.

Regarding the waste issue, an allegation that I find terribly embarrassing and totally regret, I have always checked to see if I could smell anything in my backyard. The neighbor directly beside me, who is the closest down wind home, has told me that he has not smelled anything this entire year. I did get behind with maintaining my yard because of several overwhelming events. The person that I hired to clean my yard failed to show up on multiple occasions. Then, starting at the end of last year, a close friend died a couple of months after a

cancer diagnosis, and I was one of her main care givers; my widowed mother, who lives in Avon, had four surgeries; I had pneumonia; and, both of my horses died after multiple hospitalizations at Purdue, one at the end of March, the other at the end of May. It has been a daily thing dealing with one loss after another that required me to spend a lot of time either at hospitals or at Purdue's Large Animal Hospital. These losses have had a tremendous impact on me and continue to do so. In spite of this, I have totally resolved the waste issue and will never let it happen again. I personally clean up my backyard every day without exception and will continue to do so. Since I will not be getting any more horses, I now have even more time to devote to the maintenance of my home and my greyhounds. And, as I have been cleaning my bark yard every day, I have discovered that is actually easier and quicker to do it daily than once a week.

I would also note that I am trying for the fourth time to get permission from my HOA to do some landscaping in my backyard. If I can get approval, it will go a long way toward solving any issue that I may have with the neighbor immediately behind me.

It was never my specific intent to run afoul of the zoning ordinances by having this many greyhounds. I am not a breeder, nor am I a random adopter or hoarder of animals. My greyhounds are all the offspring of my CoCo who passed away several years ago. She was a famous racing greyhound who lost a rear leg in an horrific accident at the breeding farm in Kansas. (One summer night, CoCo got out of the kennel and did not return. Just by chance they found her three days later, hanging over a fence on the edge of a bluff, suspended by the barbed wire that was wrapped around her rear leg. She was unconscious and almost dead.) Because she was famous, they amputated her leg so that they could breed her, which they did three times. I fought for several years to get CoCo before finally succeeding. Two years after I got her, she developed osteosarcoma (bone cancer) in her remaining rear leg and eventually died a few months later. Trying to make some sense out of the suffering that she had endured, a friend and I set out to ensure that all of her babies found homes. For years, we literally begged to get them from the racetracks. Against tremendous odds, we got them and found homes for all but three of CoCo's 18 babies. The three that could not find homes have lived with me for the past seven years. The others were never in my home. CoCo is the only reason that I have this number of greyhounds. After this group, I will never have more than two or three.

After working with retired racing greyhounds for 16 years, I can state without reservation that, now that mine are senior dogs, their chance of being adopted from a rescue or shelter is zero. No one wants the senior dogs, especially when, like mine, they already have ailments and issues. Osteosarcoma is the great killer of greyhounds. Unfortunately, mine, due to their breeding, are at a very high risk to develop cancer. If they do, I, unlike most, will fight to give them every possible day. They are probably only alive today because of the way that I care for them. And they are so close to me and to one another, that it would be absolutely devastating to them and their health to break us up. And putting them in a shelter to waste away or be killed would be an absolute travesty that would in no way serve any community's greater good. I would like to stay in my home with the greyhounds that I currently have, especially since I have spent a lot of money doing upgrades to my home, and because this situation is temporary. If that

is not possible, I am prepared to move out of Westfield. In that case, I am asking for a limited variance that would allow me to keep my greyhounds while I build a home for them and my elderly mother who currently lives in Avon. I already own the property on which I would build.

Greyhounds really are not dogs, and you cannot judge them like you would other dogs. Six greyhounds are certainly less work and less intrusive than three of any other breed of any size. And, from what I have seen, my six greyhounds are less intrusive than my neighbors' dogs who bark frequently and are in yards that are cleaned far less often than my own. Since I have a fence, it is likely that someone with dogs will purchase my property. Those dogs (or dog) will surely be more disruptive to the neighborhood than my six have ever been, especially given various comments made by my neighbors about how the other dogs in the neighborhood bark.

Having multiple greyhounds in one household is very common. The frequent saying amongst greyhound people is that three greyhounds in a home equal one cat. Having had both animals, I absolutely agree with that statement. Greyhounds do not shed. They do not bark. They are incredibly gentle. They are not destructive. They are extremely clean. They come crate-trained. They do not require very much exercise. When they are awake, they are extremely quiet. They sleep 20 hours a day.

My greyhounds, due to their advanced age, sleep probably closer to 21 hours a day, especially since my household is extremely quiet and low key. At any given moment, there are six sleeping greyhounds somewhere in my house not bothering anyone. It is like that every day, all day long. They are so quiet that they do not interfere with the phone calls that I make daily to clients, courts, and other attorneys. The fact that they are there, sound asleep, only going out to relieve themselves, in no way impacts the health or welfare of anyone else in my neighborhood.

I am submitting several letters supporting my request for an exception. One of those letters is from my neighbors Jean and Curtis Ray who live in the other half of my paired patio home and essentially share the same backyard. Since we share a common wall and yard, if anyone is going to be disturbed, it would be the Rays. They have noted on their letter that my greyhounds have never bothered them.

I would finally like to point out that no is alleging that my greyhounds have done anything to interfere in any way with anyone in my neighborhood. The only complaint is that six is not three, and that I, not them, did not clean up my backyard. Given the fact that my greyhounds are less intrusive than other dogs in the neighborhood and that I have been cleaning my backyard each day without exception, if this special exception is granted, my greyhounds, just like during the previous ten years, will not impact, the public health, safety, morals, or general welfare of the community. I will continue to do all in my power to make sure that is true. I am confident that I will be successful.

3. THE SPECIAL EXCEPTION WILL NOT BE INJURIOUS TO THE USE AND ENJOYMENT OF OTHER PROPERTY IN THE IMMEDIATE VICINITY FOR THE PURPOSES ALREADY PERMITTED, NOR SUBSTANTIALLY DIMINISH AND IMPAIR PROPERTY VALUE WITHIN THE NEIGHBORHOOD BECAUSE:

For all the reasons stated above, and the supporting letters that I have included with my application, it is clear that my greyhounds have not injured the use and enjoyment of properties in the immediate vicinity nor have they substantially diminished or impaired property values in the neighborhood. They have resided in my home for the past six to ten years. There has only been one complaint, and that issue has been resolved. That issue will be even further resolved if I am allowed to landscape my backyard. During the time that my greyhounds have been here, the property values in my neighborhood have increased substantially. A unit next to me that originally sold for \$180,000 recently sold for \$234,000. My own home has increased in value from \$209,000 to \$263,000, and that does not take into consideration the numerous improvements that I have made to my house. When I built my house, I was the fourth person on my street and no homes were beside or behind me. My greyhounds have been here from the beginning. In that time, all the lots in the neighborhood have sold. Given the presence of my fence and my greyhounds, those purchases were made with knowledge that there were dogs on the property. If there had been something injurious going on, I am sure people would not have purchased their homes. In fact, I talked with Jessica, the sales representative at the Fischer model home that is two houses down from the back of my house. She was surprised to hear about any complaints because she only thought that I had two dogs, had never smelled anything, and had never heard any comments from anyone about my greyhounds. Clearly, there has been nothing going on at my home or in my backyard or with my greyhounds that truly discourages people from purchasing lots on which to build the \$400,000 homes that now back up on to my property. Given these facts, and the discussion above, it is clear that the number of greyhounds on the property has had no significant impact on the enjoyment or value of the neighborhood nor will they in the future. Please remember that I have taken such good care of my greyhounds that most people do not even know that I have them, or think that I have only a couple.

I have been canvassing my neighborhood to get support so that we can stay in our home. When I tell neighbors how many greyhounds I have, they are all surprised because they had no idea that I had more than a couple of animals, if any at all. And, as I have talked with them, no one has complained to me about any problems that my greyhounds have caused in the neighborhood. As shown by the letters that I am submitting with this request, my neighbors are supportive of the granting of this exception. And I have reiterated with them all that they should always feel free to contact me if they perceive an issue so that I can remedy it immediately.

4. THE ESTABLISHMENT OF THE SPECIAL EXCEPTION WILL NOT IMPEDE THE NORMAL AND ORDERLY DEVELOPMENT AND IMPROVEMENT OF SURROUNDING PROPERTY FOR USES PERMITTED IN THE DISTRICT BECAUSE:

Again, I incorporate the above information. My greyhounds are totally confined to my house and backyard. They never run free in the neighborhood, nor do they bark. They have been here for the past six to ten years. We were the fourth house sold on my street. After moving in, I immediately built a fence in my backyard, and my greyhounds have been going out into that yard since the fence was installed. During that time, all the empty lots have sold, and now there are houses built on each of them. I have talked to a lot of my neighbors, and none of them feel like my greyhounds have interfered in any way. In fact, a lot of them spend considerable time outdoors and have never said anything to me. Since the surrounding property has been fully developed while my greyhounds have been here, it is clear that they are not a deterrent in any way to the development and improvement of the surrounding property. And, since I have resolved the waste issue, there is absolutely nothing that they do that extends beyond the confines of my property.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

November 13, 2018

1808-VU-04

Exhibit 1

Petition Number: 1808-VU-04 (Formerly docketed as "1808-SE-03")

Subject Site Address: 3459 Heathcliff Court (The "Property")

Petitioner: Juliana Robertson (The "Petitioner")

Representative: Gary D. Sallee, Attorney at Law (The "Representative")

Request: The Petitioner is requesting a Variance of Use to allow a Kennel in the Oak Manor Planned Unit Development (PUD) District (Article 13.2).

Current Zoning: Oak Manor PUD District

Current Land Use: Residential

Approximate Acreage: 0.16 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Application

Staff Reviewer: Caleb Ernest, Associate Planner

PETITION HISTORY

The Petition was first scheduled for the August 14, 2018, Board of Zoning Appeals (the "Board") meeting. The Petitioner requested a continuance to the next scheduled Board of Zoning Appeals meeting. The Petition then received a public hearing on the September 11, 2018, Board of Zoning Appeals meeting. At this meeting, the Board explained a need to reach certain findings by statute in order to support the Board's final ruling. The Representative requested a thirty (30) day continuance to work out the findings. The Board of Zoning Appeals heard the petition at its [October 9, 2018](#), meeting where the Petitioner presented the revised findings. The Board denied the variance requested and tabled the adoption of its Findings of Fact until the Board's next meeting. The Board directed the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

DEPARTMENT COMMENTS

Approval: Staff recommends approval of the following written findings of fact related to the denial of 1808-VU-04:

Recommended Findings:

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

Finding: It is unlikely that allowing four (4) or more dogs on the Property will be injurious to the public health, safety, morals, and general welfare of the community. Adjacent and nearby neighbors have submitted their support of this request.

- 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. Adjacent and nearby neighbors have submitted their support of this request.

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

Finding: The Petitioner was unable to produce evidence that demonstrated a condition peculiar to the Property.

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

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

Finding: The Comprehensive Plan does not address this type of activity in the vision and scope of the New Suburban area.