



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_12_13_2022

Tuesday, December 13, 2022 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, December 13, 2022 at 07:00 PM

MEETING PLACE: Westfield City Hall, 130 Penn Street, Westfield, IN 46074

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

Viewable online at: <https://www.youtube.com/user/CityofWestfieldIN>

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

OPENING OF REGULAR MEETING

Documents: [Online viewable @ https://www.youtube.com/user/CityofWestfieldIN](https://www.youtube.com/user/CityofWestfieldIN)

Note the presence of a quorum

Approval of Minutes

November 15, 2022

Documents: [BZA November 15, 2022 Minutes](#)

Review Rules & Procedures

ITEMS OF BUSINESS:

2212-VS-36 [PUBLIC HEARING]

20253 Willenhall Court

Lennar Homes of Indiana, LLC

The Petitioner requests a Variance of Development Standard to encroach five (5) inches into the five (5) foot Minimum Side Yard Setback (south) on 0.2 acres +/- in the Northpoint PUD District due to a foundation error.

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

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Lot Survey](#) | [Exhibit 4: Plot Plan](#) | [Exhibit 5: Application](#)

2212-VU-16 [PUBLIC HEARING]

605 Hillcrest Drive

Dennis A Hunt Insurance and Financial Services

The Petitioner requests a Variance of Use to permit a Professional Office use (Insurance and Finance Institution) in the SF3: Single-Family Medium Density District (Chapter 13).

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

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

2212-VU-17 [PUBLIC HEARING]

758 North Union Street

Achieve Therapy Services, Inc.

The Petitioner requests a Variance of Use to permit a Professional Office use (Physical Rehabilitation Service) in the MF-1: Multi-Family Low Density District (Chapter 13).

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

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

2212-VU-18 & 2212-VS-37 [PUBLIC HEARING]

17925 Sun Park Drive

Practical Property Group

The Petitioner is requesting the extension of an existing Variance of Use and existing Variance of Development Standards to permit temporary relief from the US Highway 31 Overlay Zone for a landscaping contractor use (Construction Trade Office) (Article 5.2 & Chapter 13)

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

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

ITEMS CONTINUED TO A FUTURE MEETING

No Continued Items

REPORTS/COMMENTS:

Plan Commission Liaison

Community Development Department

ADJOURNMENT



Westfield-Washington Township Board of Zoning Appeals (BZA)

Minutes of the Tuesday, November 15, 2022 BZA Meeting

Presented for approval: November 15, 2022

The Westfield-Washington Township Board of Zoning Appeals
met at 7:00 p.m. on Tuesday, November 15, 2022 at Westfield City Hall.

Active Links for this Meeting:

[November 15, 2022 BZA Agenda & Exhibits](#)

[November 15, 2022 YouTube Video](#)

OPENING OF MEETING

[YouTube Time: 0:01](#)

Roll Call

BZA Members Present In-Person: Jeannine Fortier, Victor McCarty and Dave Schmitz.

BZA Members Present Virtually: None.

BZA Members Absent: Jeff Boller and Noble Hatfield.

City Staff Present: Daine Crabtree, Senior Planner and Ryan Collingwood, Associate Planner.

City Staff Present Virtually: None

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

Approval of Minutes

Fortier motioned to approve the October 11, 2022 Minutes.

McCarty seconded. Motion passed. Vote 3-0.

Review Rules and Procedures

Crabtree reviewed BZA rules and procedures.

ITEMS OF BUSINESS

2211-VS-34 [PUBLIC HEARING]

[YouTube Time: 3:03](#)

101 West 161st Street / Daniel Sandlin by Sandlin Law Group PC

The Petitioner requests a Variance of Development Standard to permit the construction of an Accessory Structure on a Legal, Nonconforming Lot without requiring the combination of adjacent parcels owned by the same Property Owner as the subject Property on 1 acre +/- in the AG-SF1: Agriculture/Single-Family Rural District (Article 9.4(C)(1)).

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

Staff presentation / Petitioner presentation / BZA comments and questions / Staff and Petitioner responses.

Public Hearing for 2211-VS-34 opened at 7:09 p.m.

- No public comments.

Public Hearing for 2211-VS-34 closed at 7:10 p.m.

BZA comments.

McCarty motioned to approve 2211-VS-34 subject to the recommended conditions stated in the motion.

Fortier seconded. Motion passed. Vote 3-0.

Schmitz motioned to adopt Staff's Findings of Fact for the approval of 2211-VS-34.

Fortier seconded. Motion passed. Vote 3-0.

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

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

BZA Minutes for November 15, 2022 Page 1 of 3

2211-VU-15 [PUBLIC HEARING]

[YouTube Time: 13:21](#)

227 Jersey Street / Erin O'Rear

The Petitioner requests the permanent extension of an existing Variance of Use for a community arts center with a commercial component (Retail, Low Intensity) in the MF-1: Multi-Family Low Density District (Article 4.10).

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

Staff presentation / Petitioner presentation.

Public Hearing for 2211-VU-15 opened at 7:15 p.m.

- No public comments.

Public Hearing for 2211-VU-15 closed at 7:16 p.m.

BZA comments / Staff responses.

Fortier motioned to approve 2211-VU-15 subject to the recommended conditions stated in the motion.

McCarty seconded. Motion passed. Vote 3-0.

Schmitz motioned to adopt Staff's Findings of Fact for the approval of 2211-VU-15.

McCarty seconded. Motion passed. Vote 3-0.

REPORTS/COMMENTS:

[YouTube Time: 21:22](#)

- Plan Commission Liaison
- Community Development Department

ADJOURNMENT

Schmitz motioned to adjourn the meeting. Fortier seconded. Motion passed. Vote 3-0.

The meeting adjourned at 7:23 p.m.

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Signature Page for BZA Minutes for November 15, 2022

Chairperson
Dave Schmitz

Secretary
Kevin M. Todd, AICP
Director



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

December 13, 2022

2212-VU-17

Exhibit 1

Petition Number: 2212-VU-17

Subject Site Address: 758 N. Union Street (the "Property")

Petitioner: Achieve Therapy Services, Inc.

Request: The Petitioner is requesting a Variance of Use to permit a Professional Office (physical rehabilitation) within the MF-1: Multi-Family Low Density District (Chapter 13).

Current Zoning: MF-1: Multi-Family Low Density

Current Land Use: Residential

Approximate Acreage: 0.45 acre +/-

Exhibits:

1. Staff Report
2. Location Map
3. Existing Conditions Exhibit

Staff Reviewer: Daine Crabtree, Senior Planner

PROPERTY INFORMATION

The subject Property is 0.45 acre +/- in size and located at 758 N. Union Street (see **Exhibit 2**). The Property is zoned MF-1: Multi-Family Low Density.

ANALYSIS

Upon the Property currently exists a Single-Family Detached residence (the "Residence"). Based on historic aerials, the Residence appears to have been built between 1956 and 1962.

The Property is zoned MF-1: Multi-Family Low Density and has been since 1977 when zoning was established in Westfield. Therefore, the existing use of the Property as a single-family detached residence is considered legal, nonconforming as single-family dwellings are not permitted in Multi-Family zoned districts.

Additionally, the Property is located within the "Employment Corridor" on the Westfield-Washington Township Comprehensive Plan map. The Property is not located within the Grand Junction Subdistrict, for which the northern boundary is Hoover Street.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Use. This petition is scheduled to receive its public hearing at the



December 13, 2022, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO² and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefitted by 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.

Acknowledgment of the Variance: If the Board of Zoning Appeals approves this petition, then the UDO³ requires the approval of the variance shall be memorialized in an acknowledgment of variance instrument prepared by Department. The acknowledgment 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 the 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 acknowledgment 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.
-



COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan contemplates the Property as "Employment Corridor".

The Employment Corridor classification identifies office and service uses, research and development and retail and institutional uses that are subordinate to and supportive of the office and service uses as appropriate land uses.

The Employment Corridor development policies also encourages employment-generating uses and related supporting service uses.

DEPARTMENT COMMENTS

If the Board is inclined to approve 2212-VU-17, The Department recommends the following condition and findings:

Recommended Conditions:

- The proposed Professional Office use shall be limited to Physical Rehabilitation Services or a substantially similar use as determined by the Director of Community Development;
- The existing Residence on the Property and/or any additional improvements to said Residence must remain residential in character as determined by the Director of the Community Development Department;
- Hours of Operation for a Professional Office use on the Property shall be limited to 8am to 6pm Monday through Friday and 8am to 2pm on Saturday with no hours of operation on Sundays;
- In the event that a Professional Office use on the Property is in operation for longer than twelve (12) consecutive months, the ability to utilize the Property as a Single-Family Detached Dwelling shall continue to be permitted if/when the Professional Office use has ceased; and
- That the Petitioner record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Community Development Department

Recommended Findings for Variance of Use (2212-VU-17):

- 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 a business defined as ‘Professional Office’ to locate on the Property will be injurious to the public health, safety, morals, and general welfare of the community because the proposed conditions of approval would require the Property to remain residential in nature with hours of operation consistent with a normal workday.

- 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 as the proposed use is arguably less intense than what is otherwise be permitted in the MF-1 zoning district by-right (ie: apartments), and the use will be utilizing improvements consistent with the character of the surrounding area.

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

Finding: The use of Professional Office is not permitted in the MF-1: Multi-Family Low Intensity District.

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

Finding: The existing MF-1 zoning conflicts with the Property’s current use of a Single-Family Detached dwelling which in turn limits the Property’s ability to be improved due to its legal nonconforming status. Therefore, this proposal would lessen the hardship already existing.

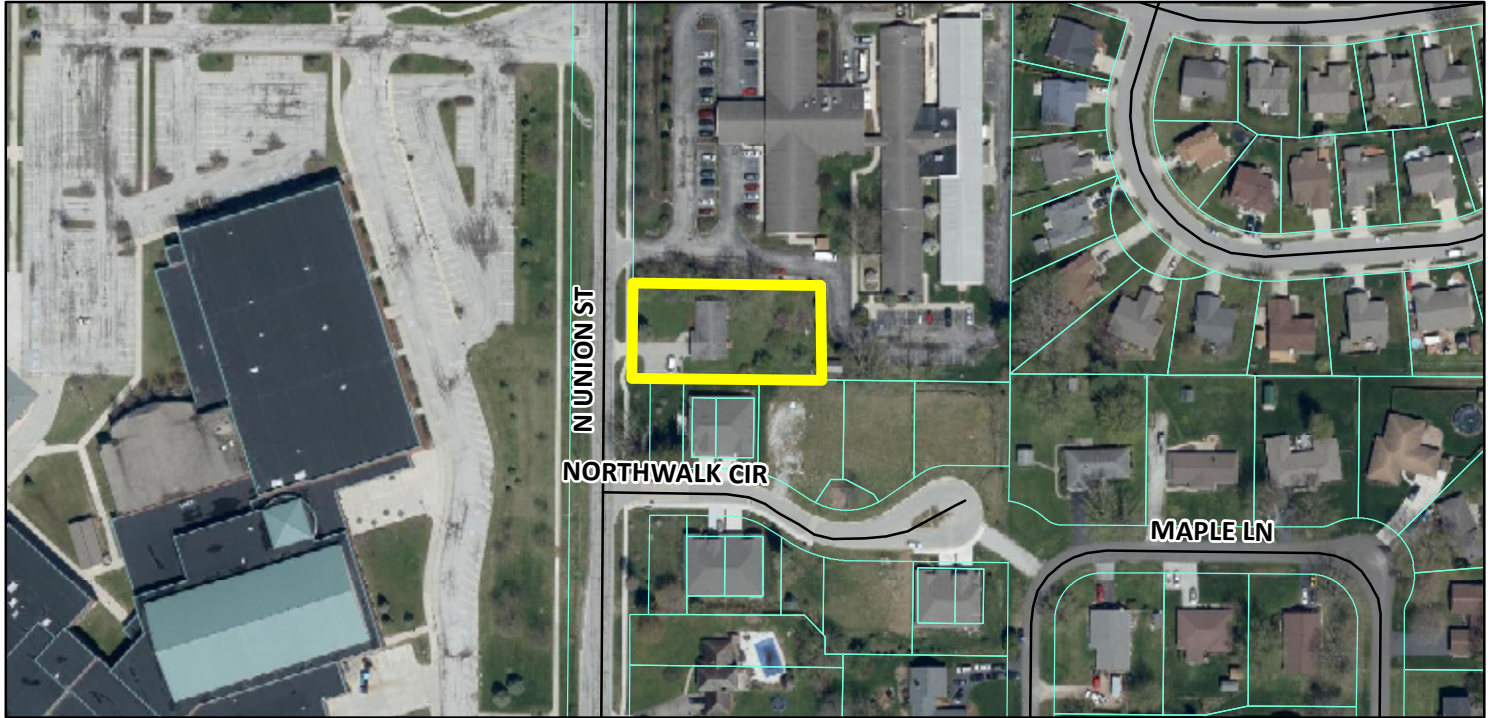
- 5) *The approval does not interfere substantially with the comprehensive plan:*

Finding: The Westfield-Washington Comprehensive Plan (the “Comprehensive Plan”) includes this property in the area designated as “Employment Corridor”. Therefore, the proposed use is more in line with the current zoning and/or the existing use of the Property.

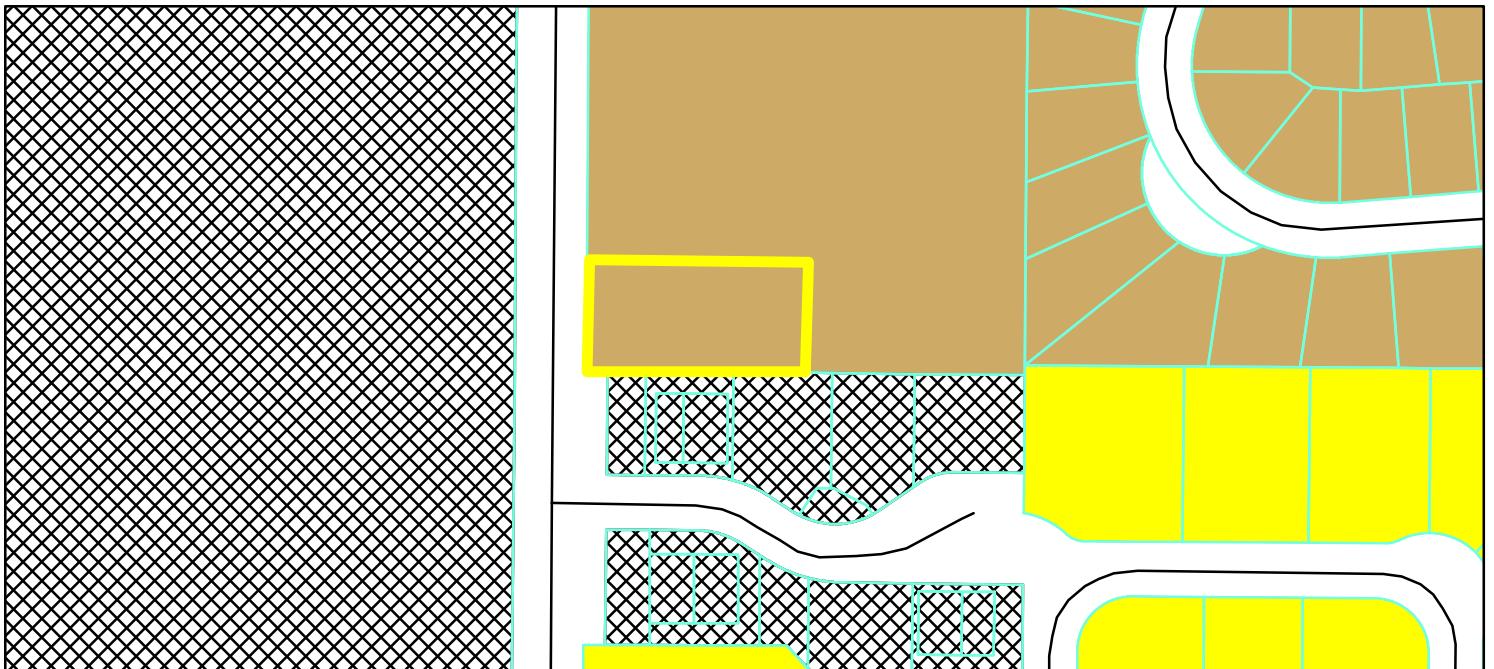
Denial: If the Board is inclined to reject or deny the Variance of Use, then the Department recommends denying the Variance of Use, and then tabling the adoption of findings until the Board’s next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence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

Aerial Location Map

 Site



Zoning Map



GIS.DBO.PW_Streets Zoning
Parcel
Parcel
Zoning - All
MF-1 (Multiple Family - 1)
PUD (Planned Unit Development)
SF-3 (Single Family - 3)

0 0.025 0.05 Miles



EXISTING CONDITIONS



Subject Property From Across the Street (Looking East)



Subject Property From Front Lot Line (Looking East)



Looking South from Far Northwest



Looking South From Near Northwest



Looking North From Southwest



View Across the Street (Looking West)



Property Rear Looking South



Property Rear Looking North



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

December 13, 2022
2212-VU-18 & 2212-VS-37
Exhibit 1

Petition Number: 2212-VU-18 & 2212-VS-37

Subject Site Address: 17925 Sun Park Drive (the "Property")

Petitioner: Practical Property Group (the "Petitioner")

Request: The Petitioner is requesting an extension of an existing Variance of Use and Variance of Development Standard to allow temporary relief from the US Highway 31 Overlay Zone (Articles 5.2 & 13.2).

Current Zoning: EI: Enclosed Industrial

Current Land Use: Commercial/Office

Approximate Acreage: 3 acres+/-

Exhibits:

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

Staff Reviewer: Daine Crabtree, Senior Planner

PETITION HISTORY

These petitions will receive a public hearing at the December 13, 2022, Board of Zoning Appeals (the "BZA") meeting.

PROPERTY INFORMATION

The subject property is 3 acres +/- in size and is located at 17925 Sun Park Drive (the "Property") (see **Exhibit 2**). The Property is zoned EI: Enclosed Industrial and is located within the U.S. Highway 31 Overlay Zone.

The U.S. Highway 31 Overlay Zone ordinance (the "Overlay") excludes landscaping contractors under the definition of Office, Construction Trade.

At the April 29, 2013, BZA meeting, the Board granted a Variance of Use allowing a landscaping business to operate in the U.S. Highway 31 Overlay Zone. Additionally, the Board granted a Variance of Development Standard allowing the Property temporary relief from the U.S. Highway 31 Overlay District. Both of the approvals were approved with the condition that the Variance of Use and Variance of Development Standard would expire December 31, 2015. These variances received an extension at the January 12, 2016, BZA meeting with a condition that the variances shall expire on December 31, 2017. Once more, at the November 14, 2017, BZA meeting, the Board granted extensions of the existing variances for an additional five (5) year term to expire December 31, 2022.



VARIANCE REQUEST

The U.S. Highway 31 Overlay Zone Ordinance (the "Overlay") states that if a facility changes to a use different from when the Overlay standards were adopted, then the site is subject to all of the Overlay standards. This means that if 2212-VU-18 is approved by the BZA, the Property and the building on the Property are required to meet the current Overlay Standards.

Applying the Overlay standards to the Property would require the existing building to be brought into compliance with all the Overlay's standards, including: meeting the use requirements, lot size, setbacks, building height, minimum gross floor area, lot coverage, architectural requirements, and screening requirements. As such, the petitioner is requesting a Variance of Standard for relief from the Overlay's standards.

It should be noted that if 2212-VU-18 is not approved, then variance request 2212-VS-37 is not necessary.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Use and Variance of Development Standard. This petition is scheduled to receive its public hearing at the December 13, 2022, 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

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.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

December 13, 2022
2212-VU-18 & 2212-VS-37
Exhibit 1

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

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

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

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.

DEPARTMENT COMMENTS:

Recommended Conditions for Approval:

If the Board is inclined to approve 2212-VU-18 and 2212-VS-37, the Department recommends the following conditions:

1. That the approval of these variances shall expire on December 31, 2024.

2. That any request to extend the time limit for these variances shall be reviewed and approved by the Board of Zoning Appeals prior to December 31, 2024.
3. That if the Petitioner ceases operation on the Property prior to December 31, 2024, then these variances shall be annulled.
4. That the Petitioner records an Acknowledgement of Variance with the Hamilton County Recorder's Office and returns a copy of the recorded instrument to the Community Development Department.

Recommended Findings for Approval (2212-VU-18):

If the Board is inclined to approve the Variance of Use, then the Department recommends the following findings:

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

- **Finding:** It is unlikely that allowing a landscaping business to continue to locate on the Property for a temporary period of time will be injurious to the public health, safety, morals, and general welfare of the community as there have not been any complaints regarding the business during its tenure on the Property.

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 Property and the surrounding area were developed without the existing U.S. Highway 31 Overlay standards being in effect. Very little of the surrounding area complies with the Overlay standards. Approving the variance would result in the character of the area to remain unchanged.

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

- **Finding:** While the use of a landscaping business is permitted within the existing Enclosed Industrial (EI) zoning, it is an excluded use under the U.S. Highway 31 Overlay.

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

- **Finding:** While the use of a landscaping business is permitted within the existing Enclosed Industrial (EI) zoning, it is an excluded use under the U.S. Highway 31 overlay.

The approval does not interfere substantially with the comprehensive plan:

- **Finding:** The Westfield-Washington Comprehensive Plan (the “Comprehensive Plan”) includes this area in the Downtown area. The Grand Junction Plan, the Comprehensive Plan addendum for Downtown Westfield, recommends this quadrant of U.S. 31 and State Road 32 develop as hospitality uses. The continued use of the Property as a landscaping business does not accomplish the vision; however, placing a reasonable time limit on any approval would help ensure the overall vision of the Grand Junction Plan is achieved in the future.

Recommended Findings for Approval (2212-VS-37):

If the Board is inclined to approve the Variance of Development Standard, then the Department recommends the following findings:

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

- **Finding:** It is unlikely that the reuse of the existing building and site for a temporary period of time would be injurious to the public health, safety, morals, and general welfare of the community. This proposal is an extension of the property’s current use.

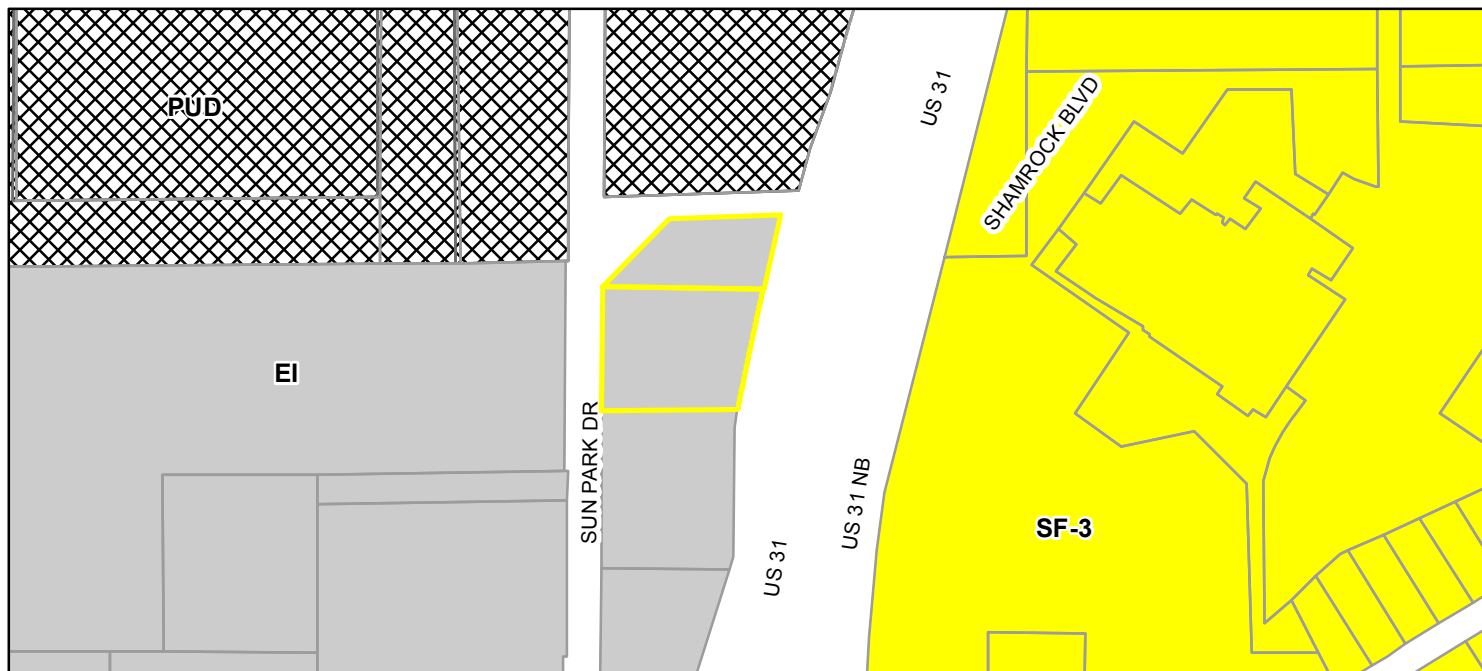
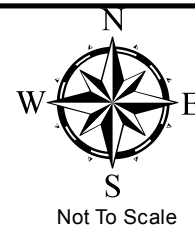
The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

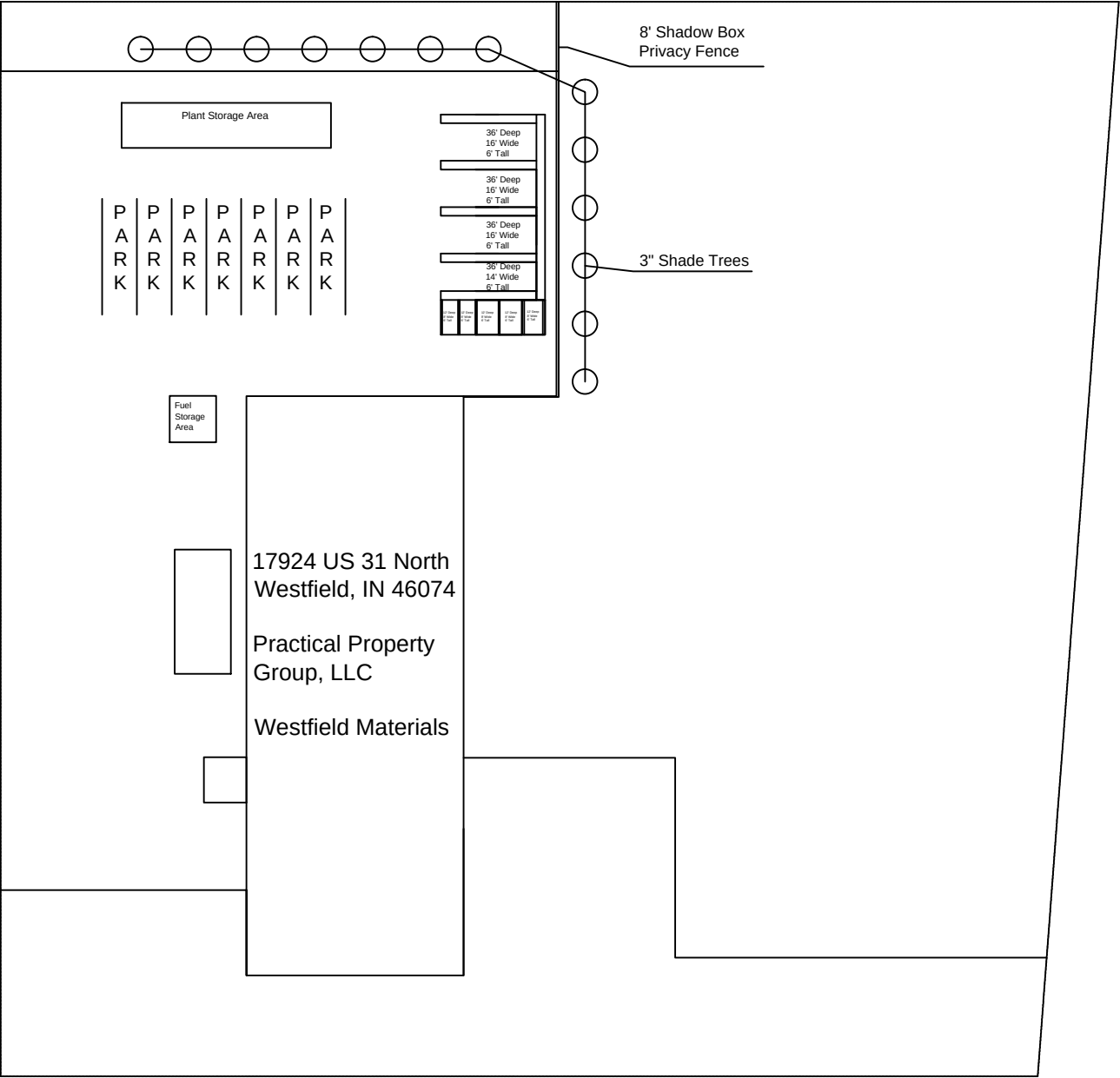
- **Finding:** It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The Property and the surrounding area were developed without the existing U.S. Highway 31 Overlay standards being in effect. Very little of the surrounding area complies with the Overlay standards. Approving the variance would result in the character of the area to remain unchanged.

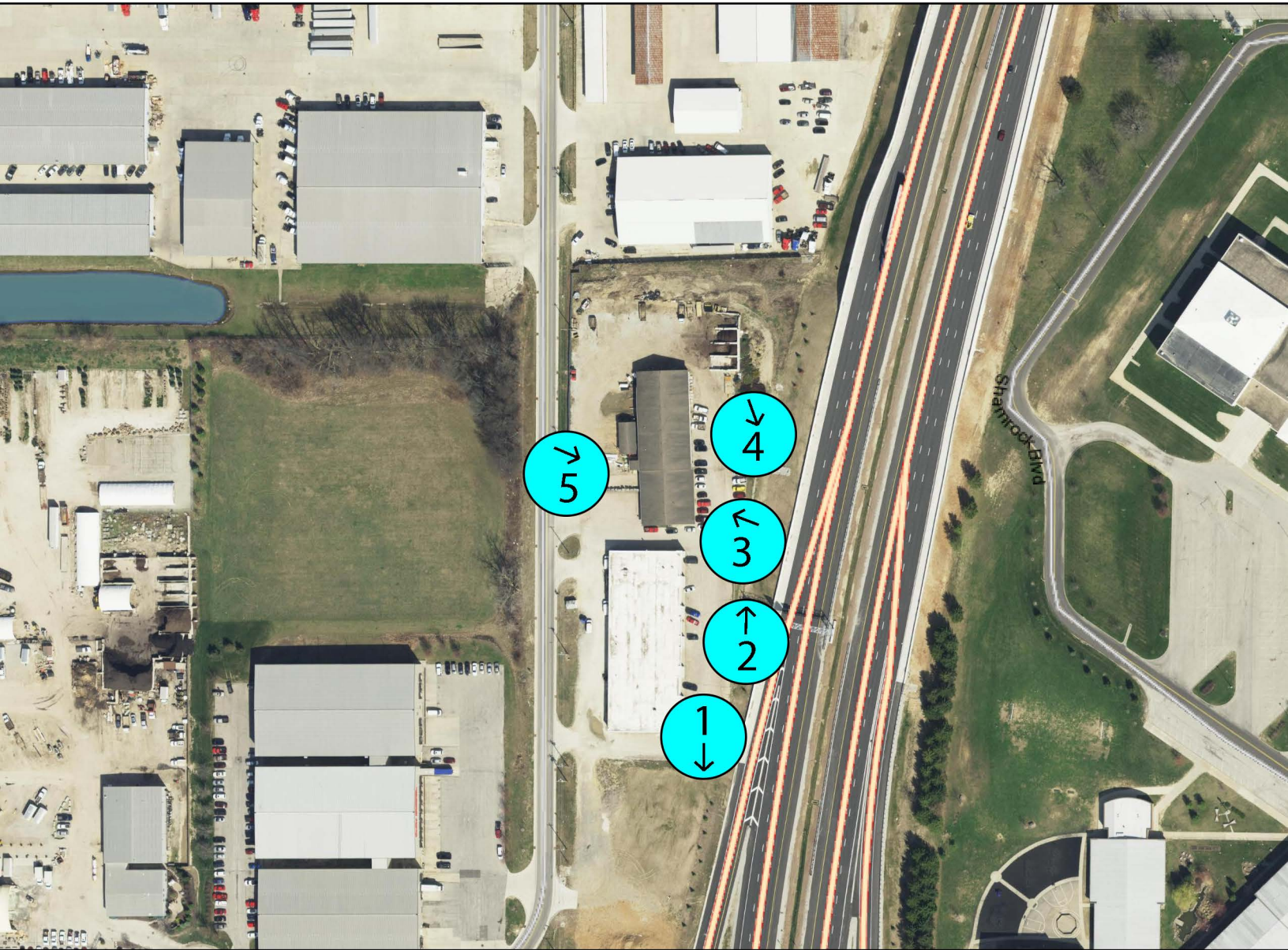
The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:

- **Finding:** Strict adherence to the zoning ordinance would mean that the existing building and site conditions would be required to comply with the U.S. highway 31 Overlay standards. The required improvements would be significant and the petitioner has stated that making them would be burdensome to the operations of the business at this temporary location.

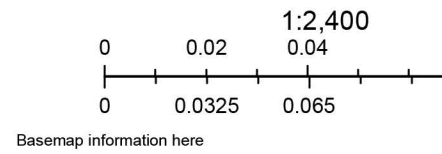
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board’s next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.







2017



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WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

December 13, 2022

2212-VU-16

Exhibit 1

Petition Number: 2212-VU-16

Subject Site Address: 605 Hillcrest Drive (the "Property")

Petitioner: Dennis A. Hunt Insurance and Financial Services

Request: The Petitioner is requesting a Variance of Use to permit a Professional Office use on .47 acres +/- in the SF-3 Zoning District.

Current Zoning: SF-3 Single-family Medium Density District

Current Land Use: Residential

Approximate Acreage: 0.47 acre +/-

Exhibits:

1. Staff Report
2. Location Map
3. Existing Conditions
4. Application

Staff Reviewer: Weston Rogers, Associate Planner

PROPERTY INFORMATION

The subject Property is 0.47 acres +/- in size and located at 605 Hillcrest Drive (see **Exhibit 2**). The Property is zoned SF-3 Single-family Medium Density District.

ANALYSIS

Upon the Property currently exists a Single-Family Detached residence (the "Residence"). Based on historic aerials, the Residence appears to have been built between 1962 and 1974. The Property is zoned SF-3 Single-family Medium Density District and has been since 1977 when zoning was established in Westfield.

The Property is located within the "[Downtown](#)" designation on the Westfield-Washington Township Comprehensive Plan [map](#). The Property is not located within the Grand Junction Subdistrict, for which the eastern boundary is approximately located at N East Street.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Use. This petition is scheduled to receive its public hearing at the December 13, 2022, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Conditions: The UDO² and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefitted by 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.

Acknowledgment of the Variance: If the Board of Zoning Appeals approves this petition, then the UDO³ requires the approval of the variance shall be memorialized in an acknowledgment of variance instrument prepared by Department. The acknowledgment 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 the 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 acknowledgment 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.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan contemplates the Property as "[Downtown](#)" in classification.

The "Downtown" classification identifies commercial, offices, retail, residential (neighborhood and high density), cottage industries, institutional, entertainment, and public open green spaces as appropriate [land uses](#). Moreover, a variety of land uses is encouraged within the "Downtown" classification of the Comprehensive Plan.

The “Downtown” classification also identifies Redevelopment Opportunities which specifically notes the future potential to convert existing residences into businesses and office uses along State Road 32.

DEPARTMENT COMMENTS

If the Board is inclined to approve 2212-VU-16, The Department recommends the following condition and findings:

Recommended Conditions:

- The proposed Professional Office use shall be limited to Insurance and Financial Services or a substantially similar use as determined by the Director of Community Development;
- The existing Residence on the Property and/or any additional improvements to said Residence must remain residential in character as determined by the Director of the Community Development Department;
- Hours of Operation for a Professional Office use on the Property shall be limited to 8am to 6pm Monday through Friday and 8am to 2pm on Saturday with no hours of operation on Sundays;
- That the Petitioner record an acknowledgement of this approval with the Hamilton County Recorder’s Office and return a copy of the recorded instrument to the Community Development Department

Recommended Findings for Variance of Use (2212-VU-16):

- 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 a business defined as ‘Professional Office’ to locate on the Property will be injurious to the public health, safety, morals, and general welfare of the community because the proposed conditions of approval would require the Property to remain residential in nature with hours of operation consistent with a normal workday.

- 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 as the proposed use will be utilizing improvements currently existing on the



Property which is consistent with the character of the surrounding area and any improvements to the Property must remain residential in nature.

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

Finding: The use of Professional Office is not permitted in the SF-3: Single-family Medium Density District.

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

Finding: The existing SF-3 zoning conflicts with the Property's proposed use of a Professional Office. Without the requested variance, the Petitioner will be unable to use the Property as described in the Statement of Intent.

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

Finding: The Westfield-Washington Comprehensive Plan (the "Comprehensive Plan") includes this property within the area designated as "Downtown". Therefore, the proposed land use concurs with the Comprehensive Plan as the "Downtown" classification contemplates land uses such as office and commercial.

Denial: If the Board is inclined to reject or deny the Variance of Use, then the Department recommends denying the Variance of Use, 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.



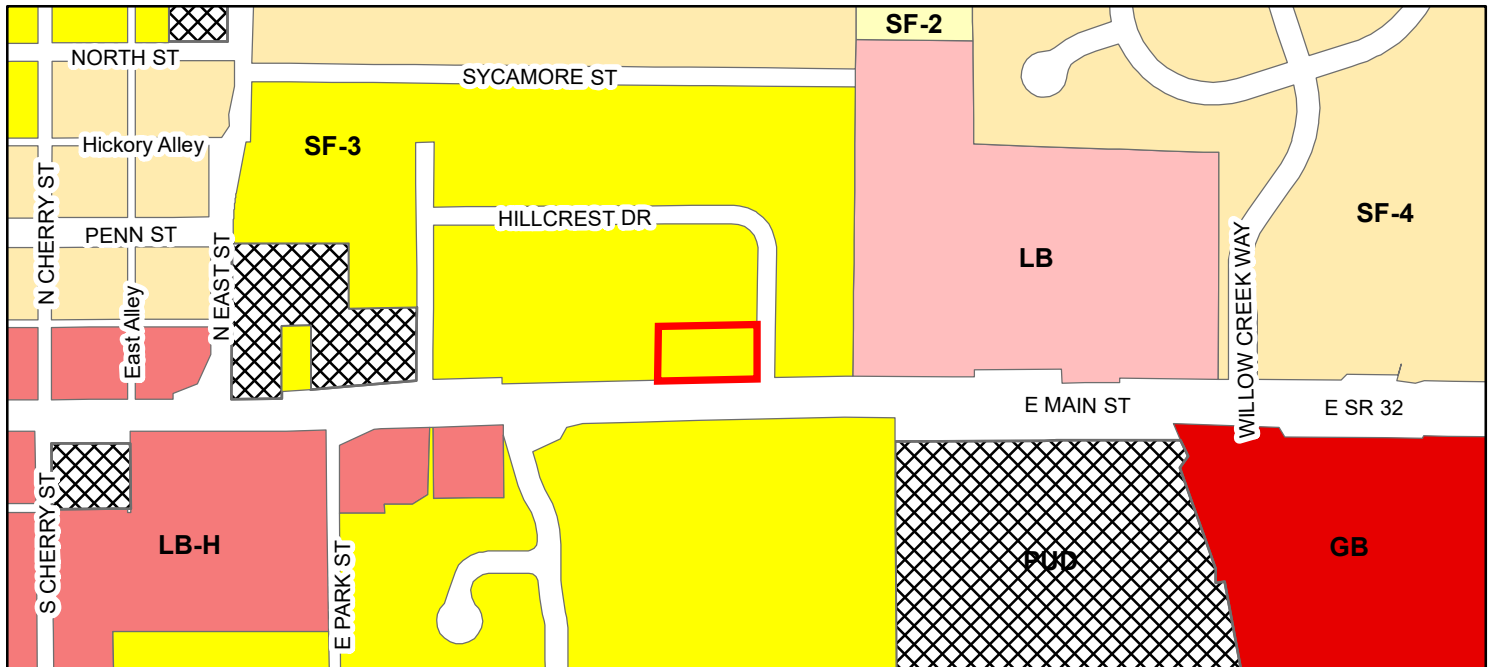
Property Location Map
Hunt Insurance and Financial Services
605 Hillcrest Drive
2212-VU-16



Aerial Location Map



Zoning Map



- SITE Zoning**
- | | |
|------------------------------------|--------------------------------|
| GB (General Business) | PUD (Planned Unit Development) |
| LB (Local Business) | SF-2 (Single Family - 2) |
| LB-H (Local Business - Historical) | SF-3 (Single Family - 3) |
| | SF-4 (Single Family - 4) |

Exhibit 3 - Existing Site Conditions





VARIANCE APPLICATION

DOCKET #: 2212-VU-16 FILING DATE: 11/15/22

OFFICE USE ONLY

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Daine Crabtree (STAFF NAME) DATE: 09/27/2022

PRIOR OR RELATED DOCKET NUMBERS

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

APPLICANT INFORMATION

APPLICANT'S NAME: <u>Dennis A Hunt Insurance and Financial Services</u>	TELEPHONE: <u>(317)896-2420</u>
ADDRESS: <u>411 E Main St., Westfield, IN 46074</u>	EMAIL: <u>ins@dennishunt.net</u>
PROPERTY OWNER'S NAME: <u>Dennis A Hunt</u>	TELEPHONE: <u>(317)896-2420</u>
ADDRESS: <u>411 E Main St., Westfield, IN 46074</u>	EMAIL: <u>ins@dennishunt.net</u>
REPRESENTATIVE'S NAME: <u>Amanda Hunt and Dennis Hunt</u>	TELEPHONE: <u>(317)896-2420</u>
COMPANY: <u>Dennis A Hunt Insurance and Financial Services</u>	EMAIL: <u>ins@dennishunt.net</u>
ADDRESS: <u>411 E Main St., Westfield, IN 46074</u>	

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 605 Hillcrest Dr., Westfield, IN 46074
COUNTY PARCEL ID #(S): 09-06-31-03-09-014.000
EXISTING ZONING DISTRICT(S): SF3 EXISTING LAND USE(S): Residential

PROPERTY AND PROJECT INFORMATION

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

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY): See Attached.

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.

Dennis A. Hunt
Applicant/Representative (signature)

Dennis A. Hunt
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 9 day of November, 2022
State of Indiana County of Hamilton, SS: _____

R. Keith Hunt
Notary Public (signature)

R. Keith Hunt
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.

Dennis A. Hunt
Property Owner (signature)*

Dennis A. Hunt
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 9 day of November, 2022
State of Indiana, County of Hamilton, SS: _____

R. Keith Hunt
Notary Public (signature)

R. Keith Hunt
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.

FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: Dennis A. Hunt Insurance and Financial Services

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 use for Dennis A. Hunt Insurance and Financial Services to conduct commercial business at the property that is currently zoned SF-3, will not pose any threat to the public health, safety, morals and general welfare of the community as we hold high standards to our business authority. We are insurance agents that represent, major medical companies and personal lines companies. That our clients expect the highest safety, morals, ethics and values from us.
- 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: Dennis A. Hunt Insurance will be relocating into a SF-3 building, which is common in Westfield and doesn't affect the adjacent properties. There are commercial businesses adjacent to the properties adjacent to our property, that are zoned as commercial or have variances. Even though we will be moving from an already zoned commercial property, we will continue to operate in the exact manner as we have in the past 21 years, as a result there will be no reason that our business will have any adverse impact on the adjacent properties.
- C. The need for the variance arises from some condition particular to the property involved because: The property is zoned as SF-3 although it is within very close adjacent properties zoned GB, LB, LB-H, the need for the variance for Dennis A. Hunt Insurance is to be permitted for the land use of a Professional Office in a SF-3 District. The variance will allow Dennis A. Hunt Insurance to continue to service their local and surrounding clients, thrive and grow as a small business. Dennis A. Hunt Insurance has been a Westfield Small Business owner for over 21 years and want to continue to provide excellent customer service and bring possible community growth to the growing City of Westfield and Downtown area.
- 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: With our current business location that we are having to relocate from, we are questioned with where to go. Dennis A. Hunt Insurance has looked at other possible buildings and properties that are already zoned for professional office land use. There were different factors of those properties wouldn't keep the business thriving, visibility, the safety of our elderly clients or our walk-in clients that need handicap accessibility or it would move our business out of Westfield.
- E. The variance of use does not interfere substantially with the Comprehensive Plan because: The variance for Dennis A. Hunt Insurance would be promoting diversity, balance of the land uses, identity for Westfield, the architecture being a residential feel with updated unique landscape, as in the Westfield-Washington Comprehensive Plan. Dennis A. Hunt Insurance is local small business owner that has established community roots, Westfield Graduates (Class of 08') and future generations of Westfield Grads. Dennis A. Hunt Insurance would never interfere with the Comprehensive Plan but we would be supporting and grow with the Comprehensive Plan.

Dennis A Hunt Insurance and Financial Services- 411 E Main St.

The Variance Request is for Dennis A Hunt Insurance and Financial Services to relocate their current business at 411 E Main St. (Insurance Sales) to 605 Hillcrest Dr. We are requesting this variance due to the current 32 Expansion and roundabout being on 32 & East St. which will cause our office building to be demoed. Dennis A Hunt Insurance and Financial Services has been located and doing business on 32 in Westfield for over 21 years and we want to stay in Westfield, as this is our hometown. Dennis A Hunt Ins. is a small business, with just a father and daughter insurance agent duo. Our hours of operation are 9am-4:30pm Monday thru Friday. During Oct. to the end of year, we are sometimes in the office late but no later than 6pm, due to open enrollment for Medicare, Individual Health, and Group Renewals. We will be updating the exterior of the building to give it an appealing look, changing landscaping to an inviting atmosphere, updating our current business sign to meet the ordinances for commercial sign/lighting/landscaping and improving the parking, walkways. With some of the improvements will require a permit and approval, those will not be started until approved. We are committed to following the variance guidelines and rules that would be set for our business at the new location.

Thank you for all your time and understanding in our Variance Request.

Dennis A. Hunt Insurance & Financial Services,

Dennis A. Hunt



Amanda Hunt



DULY ENTERED FOR TAXATION
Subject to final acceptance of transfer
14th day of October 2022 - JKT
Robin M. Thibault Auditor of Hamilton County
Parcel # 09-06-31-03-09-014.000

2022050219 WD \$25.00
10/14/2022 11:53:20AM 3 PGS
Jennifer Hayden
Hamilton County Recorder IN
Recorded as Presented

TKB

TAX ID NUMBER(S)
09-06-31-03-09-014.000 29-06-31-309-014.000-015

WARRANTY DEED

THIS INDENTURE WITNESSETH THAT

Chad D. Hahn

CONVEY(S) AND WARRANT(S) TO

Dennis A. Hunt, 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 Real Estate taxes now due and payable and thereafter.

Subject to covenants, restrictions and easements of record.

IN WITNESS WHEREOF, the Grantor has executed this Deed this

13th day of October 2022

Chad D. Hahn
Chad D. Hahn

State of Indiana, County of Hamilton ss:

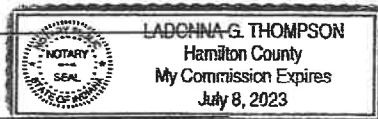
Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named **Chad D. Hahn** who acknowledged the execution of the foregoing Deed and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS, my hand and Seal this 13th day of October 2022

My Commission Expires:

Ladonna G. Thompson
Signature of Notary Public

Commission No.



Printed Name of Notary

Notary Public County and State of Residence

This instrument was prepared by:

Andrew R. Drake, Attorney-at-Law
11711 N. Pennsylvania St., Suite 110, Carmel, IN 46032

Property Address:
605 Hillcrest Drive
Westfield, IN 46074

Grantee's Address and Mail Tax Statements To:

15710 Oak Rd
Carmel IN 46033

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. Andrew R. Drake

EXHIBIT A

Lot Numbered Two (2) in Roberts Rolling Acres, 2nd Addition to the Town of Westfield in Hamilton County, Indiana, as per plat thereof recorded in Plat Book 2, page 185 in the Office of the Recorder of Hamilton County, Indiana.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

December 13, 2022

2212-VS-36

Exhibit 1

Petition Number: 2212-VS-36

Subject Site Address: 20253 Willenhall Court ("the Property")

Petitioner: Lennar Homes of Indiana, LLC ("the Petitioner")

Representative: Tony Bagato

Request: The Petitioner requests a Variance of Development Standard to encroach 5 inches into the 5-foot side yard setback due to a foundation error on .2 acres +/- in the Northpoint PUD District (Northpoint PUD Ord. 17-51, Section 6(E)(9)(b)).

Current Zoning: Northpoint PUD District ([Ord. 17-51](#))

Current Land Use: Residential

Approximate Acreage: .2 acres +/-

Exhibits:

- 1) Staff Report
- 2) Location Map
- 3) Lot Survey
- 4) Plot Plan
- 5) Application

Staff Reviewer: Ryan Collingwood, Associate Planner

OVERVIEW

Location: The Property is .2 acres +/- in size and is located at 20253 Willenhall Court (**Exhibit 2**).

History: The Property was developed in part of Coventry Section 2. Coventry Section 2 began construction in 2020 & 2021.

SUMMARY OF VARIANCE

Northpoint PUD (Ord. 17-51), Section 6(E)(9)(b)

Due to a foundation error, the home at 20253 Willenhall Court was built 5 inches into the allotted side yard setback. In the Northpoint PUD, Section 6(E)(9)(b), the lot standards for The Villas portion of the residential community are outlined for single-family dwellings. The PUD notes a minimum 5-foot side yard setback is required. A Variance of Development Standard is necessary to remedy the uncompliant side yard setback due to the Property being located 5 inches into the allotted 5-foot side yard setback.



COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan: The Land Use Plan contemplates the Property to be located in the “Business Park” land use classification.

The Business Park classification includes the reservation for employment-generating uses and related supporting service uses. The Business Park classification is designed to accommodate manufacturing, research and development, processing activities, office and service uses that provide jobs and a tax base for the community.

Indiana Code states that reasonable regard be paid to the Comprehensive Plan when considering zone map changes; however, the Comprehensive Plan is not law. The Comprehensive Plan is intended to serve as a guide in making land use decisions.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of the Variance of Development Standard. This petition is scheduled to receive its public hearing at the December 13, 2022, 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

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.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

December 13, 2022

2212-VS-36

Exhibit 1

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

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

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

DEPARTMENT COMMENTS:

Recommended Findings for Approval: If the Board is inclined to approve the Variance of Development Standard (2212-VS-36):

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

Finding: The home is built in accordance with the property codes and would 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:*

Finding: The use and value of the area will not be affected since the home was built to meet the community's design intent.

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

Finding: Since the home is already built and occupied, the strict application of the ordinance would require the home to be demolished and rebuilt.

Recommended Conditions:

- That the Petitioner shall record an acknowledgement of this approval with the County Recorder's Office and return a copy of the recorded instrument to the Community Development Department.



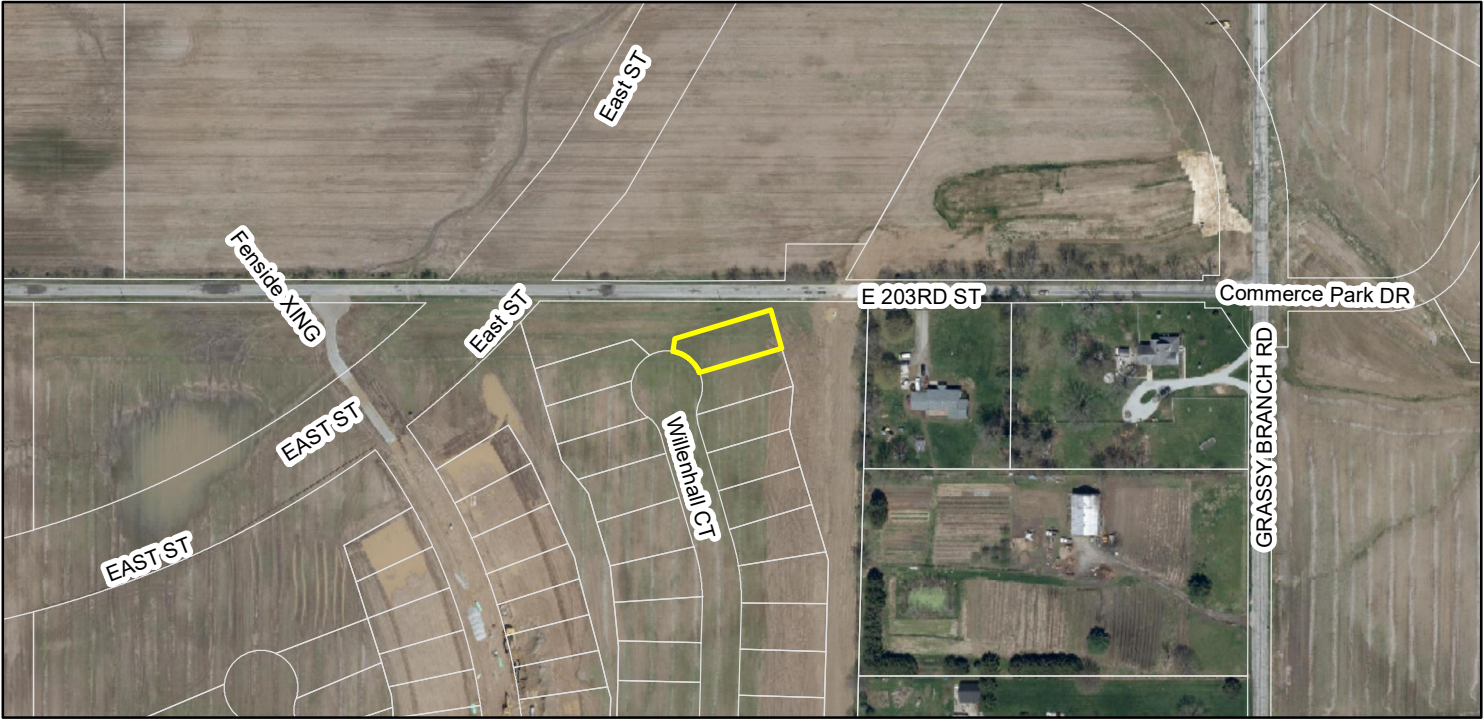
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.



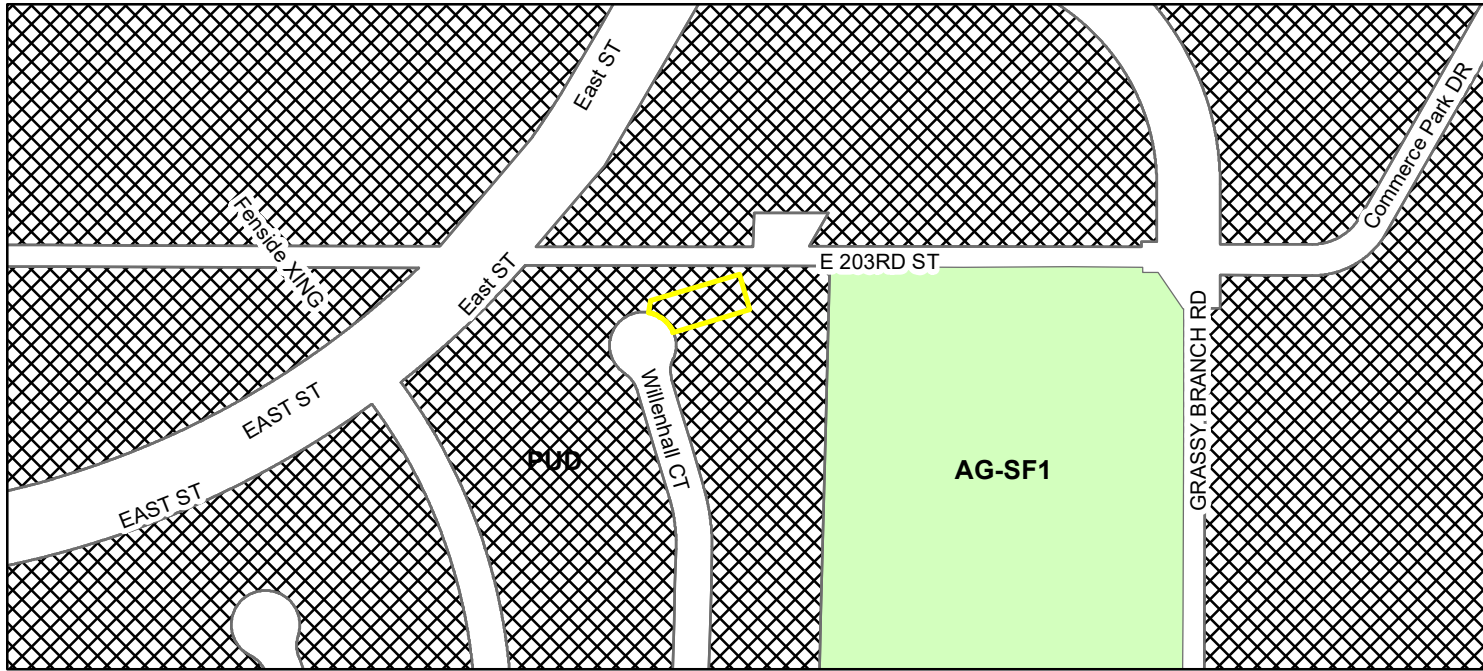
Exhibit 2: Property Location Map
20253 Willenhall Court
2212-VS-36



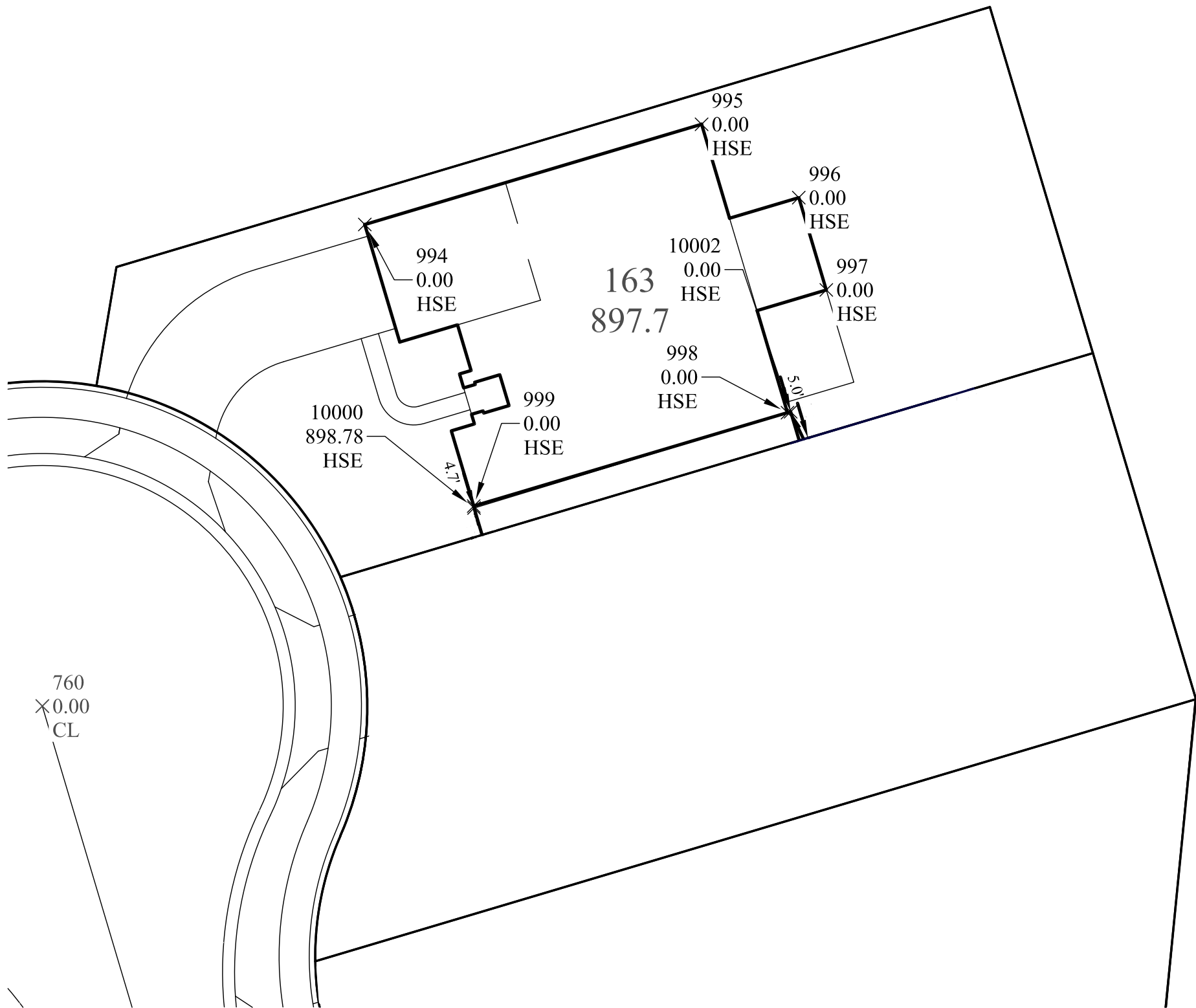
Aerial Location Map

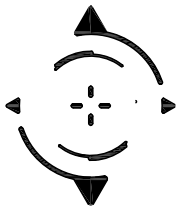


Zoning Map



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





STOEPPELWERTH

ALWAYS ON

7965 East 106th Street, Fishers, IN 46038-2505
phone: 317.849.5935 fax: 317.849.5942

JOB ID COVENT2.163

(PIN)

CONTROL# 94319 LEN

THE FOOTINGS FOR THIS HOUSE SHOULD BE PINNED SINCE THERE IS LITTLE OR NO TOLERANCE ON THE SIDE YARD REQUIREMENT. CALL US WHEN FOOTING IS IN SO WE CAN SCHEDULE PINNING.

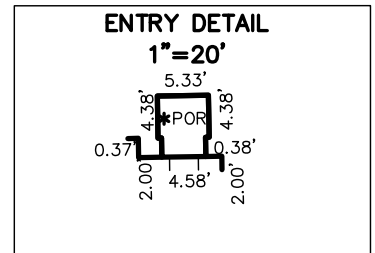
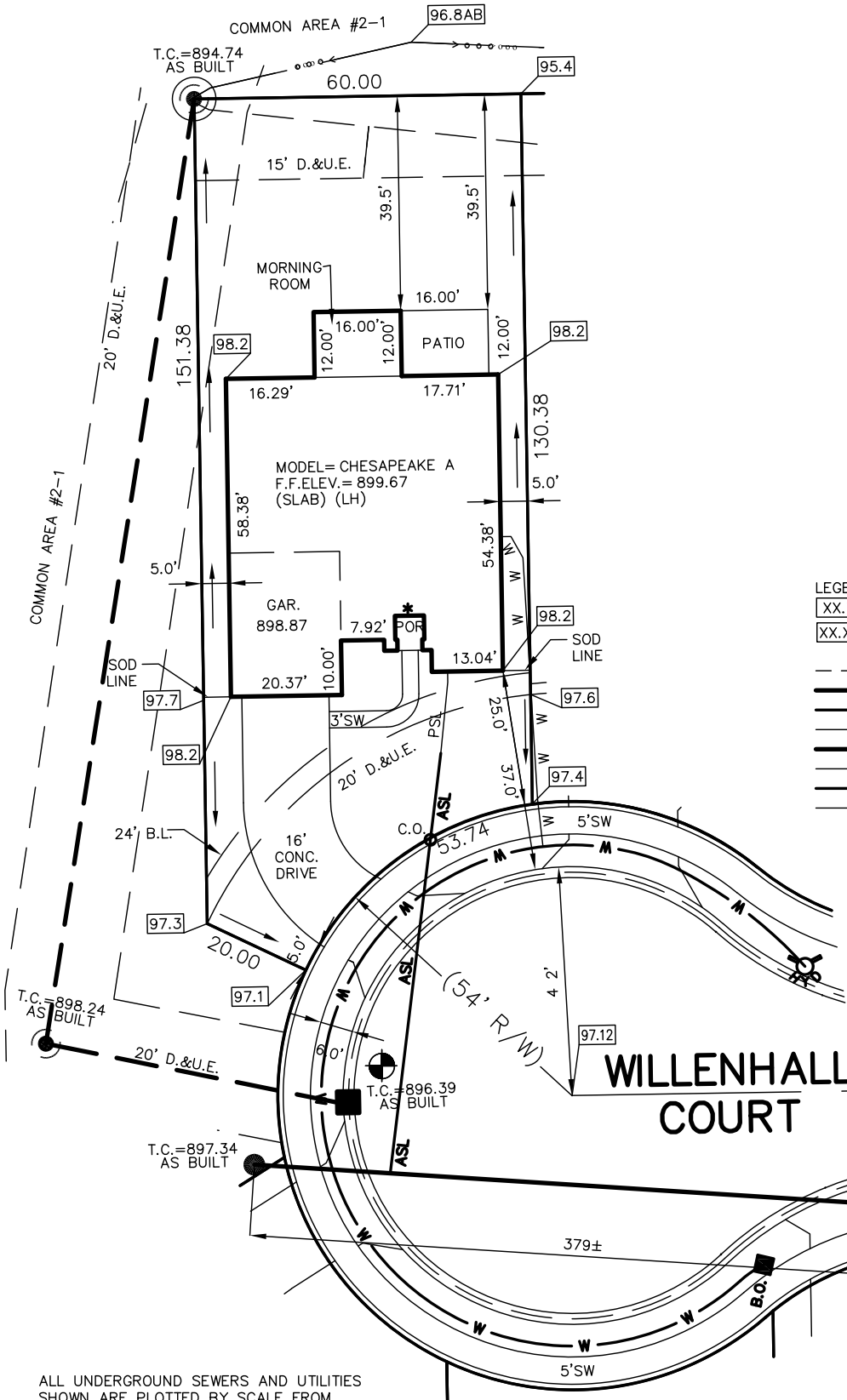
20253 WILLENHALL COURT
WESTFIELD, IN 46074



1" = 30'

LOT AREA: 8,678 Sq. Ft.

M.F.F.=898.3



- LEGEND:
- XX.X PROPOSED GRADE PER PLAN
 - XX.XAB AS BUILT GRADE
 - S.S.D. SUB-SURFACE DRAIN
 - ASL SANITARY SEWER
 - PSL 6" AS BUILT SANITARY LATERAL
 - 6" PROPOSED SANITARY LATERAL
 - W STORM SEWER
 - 3/4" WATER CONNECTION
 - W WATER MAIN
 - SWALE
 - B.O. BLOW OFF
 - SANITARY MANHOLE
 - STORM MANHOLE
 - CURB INLET
 - FIRE HYDRANT
 - B.L. BUILDING LINE
 - D.&U.E. DRAINAGE & UTILITY EASEMENT
 - M.F.F. MINIMUM FINISHED FLOOR
 - C.O. CLEAN OUT

ALL UNDERGROUND SEWERS AND UTILITIES SHOWN ARE PLOTTED BY SCALE FROM "RECORD DRAWINGS" FURNISHED BY ENGINEER.

LOT 163
COVENTRY
SECTION 2

INST. #2019049335
C.O.C. INST. #2019049335
P.C. #5. SLIDE #1046
5' MINIMUM SIDE YARD
20' MINIMUM FRONT YARD
20' MINIMUM REAR YARD

SOD: 191 ± Sq. Yd.
SEEDING: 3,268 ± Sq. Ft.
SEED IN EASEMENT: 900 ± Sq. Ft.
CONC. DRIVEWAY: 700 ± Sq. Ft.
PRIVATE WALK: 77 ± Sq. Ft.
PUBLIC WALK: 166 ± Sq. Ft.
APRON: 207 ± Sq. Ft.
ADDITIONAL SOD TO: 263 ± Sq. Yd.
REAR EASEMENT
HANDICAP RAMPS: 0

BENCHMARK
TOP OF CASTING=896.39



David J. Stoeppelwerth

NOTE: THIS DRAWING IS NOT INTENDED TO BE REPRESENTED AS A RETRACEMENT OR ORIGINAL BOUNDARY SURVEY, A ROUTE SURVEY OR A SURVEYOR LOCATION REPORT.

SIGNATURE:

DATE:

SIGNATURE REPRESENTS CONFIRMATION OF RECEIPT OF PLOT PLAN BY CUSTOMER

11/20/20 EMC



VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: _____ 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: _____ TELEPHONE: _____

ADDRESS: _____ EMAIL: _____

PROPERTY OWNER'S NAME: _____ TELEPHONE: _____

ADDRESS: _____ EMAIL: _____

REPRESENTATIVE'S NAME: _____ TELEPHONE: _____

COMPANY: _____ EMAIL: _____

ADDRESS: _____

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: _____

COUNTY PARCEL ID #(S): _____

EXISTING ZONING DISTRICT(S): _____ EXISTING LAND USE(S): _____

PROPERTY AND PROJECT INFORMATION

☐ VARIANCE OF LAND USE CODE CITATION: _____

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

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

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.

William M. Locky Jr.
Applicant/Representative (signature)

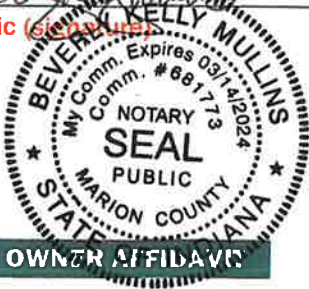
Applicant/Representative (printed)

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

Witness my hand and Notarial Seal this 24th day of August, 2022
State of INDIANA, County of HAMILTON, SS: IN

Beverly Kelly Mullins
Notary Public (signature)

BEVERLY KELLY MULLINS
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.

William M. Locky Jr.
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 24th day of August, 2022
State of INDIANA, County of HAMILTON, SS: IN

Beverly Kelly Mullins
Notary Public (signature)

BEVERLY KELLY MULLINS
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.

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: _____ **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: _____

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: _____

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

GENERAL INSTRUCTIONS

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