CITY OF WESTFIELD, IN

BoardofZoningAppeals_Meeting_Agenda_09_11_2018

Tuesday, September 11, 2018 at 07:00 PM

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

MEETING DATE: **Tuesday, September 11, 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 - July 10, 2018
Documents: BZA Minutes - July 10, 2018

Review Rules & Procedures

ITEMS OF BUSINESS:

1809-VU-05 [PUBLIC HEARING]
216 Jersey Street
Sobczak Properties, LLC
The petitioner is requesting a Variance of Use to allow a professional office on 0.17 acre +/- in the MF1: Multi-Family Low Density District (Article 13.2).
(Planner: Daine Crabtree - DCrabtree@westfield.in.gov)
Documents: Exhibit 1: Staff Report | Exhibit 2: Location Map | Exhibit 3: Existing Conditions | Exhibit 4: Grand Junction Task Group Support

1809-VU-06 [PUBLIC HEARING]
1839 W. 166th Street
Integrity Heating and Air Conditioning, LLC
The petitioner is requesting a Variance of Use to allow a heating and cooling business (Industry, Light) on 1.6 acres +/- in the AG-SF1: Agriculture/Single Family Rural District (Article 13.2).
(Planner: Daine Crabtree - DCrabtree@westfield.in.gov)
Documents: Exhibit 1: Staff Report | Exhibit 2: Location Map | Exhibit 3: Existing Conditions | Exhibit 4: Petitioner's Narrative

1809-VS-13 [PUBLIC HEARING]
18 E. State Road 32
Maaco
The petitioner is requesting multiple Variances of Development Standard to 1) increase the Maximum Sign Area to accommodate both a Monument Sign and a Wall Sign (Article 6.17(H)(1)), 2) allow a chain-link fence with slats (Article 5.3(L)(3)(b)), and 3) allow a fence in lieu of a screen wall (Article 6.12(D)(2)(a)(ii)) on 1.87 acres +/- in the EI: Enclosed Industrial District and State Highway 32 Overlay District.
(Planner: Caleb Ernest - CErnest@westfield.in.gov)
Documents: Exhibit 1: Staff Report | Exhibit 2: Location Map | Exhibit 3: Site Plan | Exhibit 4: Application

1808-VU-04(formerly docketed as 1808-SE-03)[PUBLIC HEARING]
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)
Documents: Exhibit 1: Staff Report | Exhibit 2: Location Map | Exhibit 3: Application

ITEMS CONTINUED TO A FUTURE MEETING

1609-AA-01 [CONTINUED]
14939 Ditch Road
The petitioner is appealing an Administrative Determination (1604-AD-02) regarding standards applicable to a concrete business pursuant to a previously approved Variance of Use (79-V-12).
(Planner: Kevin Todd - KTodd@westfield.in.gov)

1803-AA-01 [CONTINUED]
16708 Dean Road (Bob's Garage)
Esler Properties, LLC by Morse & Bickel, P.C.
The petitioner is appealing an Administrative Determination (1712-AD-04) regarding the revocation of a variance (1603-VU-03).
(Planner: Pam Howard - PHoward@westfield.in.gov)

REPORTS/COMMENTS:

Plan Commission Liaison

Economic and Community Development Department

ADJOURNMENT

The Westfield-Washington Township Board of Zoning Appeals met at 7:00 p.m. on Wednesday, July 10, 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 and Brian Zaiger, City Attorney.

ROLE CALL

Noted presence of a quorum.

APPROVAL OF MINUTES

Motion: move to approve the June 12, 2018 meeting minutes subject to staff administratively modifying the minutes to reflect the petitioner's representative's public hearing rebuttal, under Docket No. 1806-VS-09, so that it reflects his lack of assurance that approving the variance would not have a substantially adverse impact on neighboring property values.

Motion: Schmitz; Second: Kingshill. Motion passed. Vote 5-0.

REVIEW OF RULES AND PROCEDURES

Todd reviewed BZA rules and procedures.

ITEMS OF BUSINESS

1806-VS-09	**3989 Birkdale Drive**
[ADOPTION OF	*Tiffany Bedsworth by True North Surveying, LLC*
FINDINGS OF FACT]	Adoption of Findings of Fact for Variance of Standard that was denied on June 12, 2018.
	(Planner: Caleb Ernest - CErnest@westfield.in.gov)

Schmitz stated that he believes that the presented draft findings reflect the discussion surrounding the denial of this case. He specifically noted that the second and third criteria were the problematic items for approving the petition.

Recommended Findings:

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 Development Standards of Ord. 06-49. The rear setback encroachment typically affects the rear adjoiner, in this case the rear adjoiner is a common area and detention pond.

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

   Finding: The proposed variance would affect the value of the area by devaluing property values and alter the characteristics of the immediate community.

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

   Finding: Strict adherence to the zoning ordinance would not result in practical difficulties. The property's use as a residence will not be affected by the denial of this variance.

Motion:
Schmitz motioned to accept the staff finding of Facts for denial of 1806-VS-09.
Motion passed. Vote 5-0.

1807-VS-11 **18250 N. Union Street**
[PUBLIC HEARING] *Westfield Washington Schools—Westfield High School*
The petitioner is requesting multiple Variances of Development Standard related to loading space screening (Article 6.3 (F)(2)(c) and Article 6.8 (H)(2)); wall planes (Article 6.3 (F)(5)(b)); Minimum Lot Landscaping Requirements (Article 6.8 (K)); Foundation Plantings (Article 6.8 (L)); External Street Frontage Landscaping Requirements (Article 6.8 (M)(2)); Interior Parking Area Landscaping (Article 6.8 (O)(1); and Perimeter Parking Area Landscaping (Article 6.8 (O)(2)) in the GB-PD: Business / Planned Development District and EI: Enclosed Industrial District.
(Planner: Kevin Todd - KTodd@westfield.in.gov)

Todd overviewed these requests for Variances of Development Standard.

Jennifer Lash with Cripe Architects and Engineering, representing the petitioner, summarized the requests for these variances. She presented the overall plan for renovating Westfield High School (WHS), including a 50,000 square foot building addition, landscaping updates, and parking lot improvements, that require deviation from the applicable standards. She outlined the reasons for the request, including: access and safety, responsible use of tax-payer dollars, line of sight and safety concerns, and improved traffic circulation.

Public Hearing for 1807-VS-11 opened at 7:14 p.m.

No public comments.

Public Hearing for 1807-VS-11 closed at 7:15 p.m.

Motion:
Schmitz motioned to approve 1807-VS-11.
Raines seconded. Motion passed. Vote 5-0.

Motion:
Schmitz motioned to adopt the findings of fact for 1807-VS-11.
Kingshill seconded. Motion passed. Vote 5-0.

ITEMS CONTINUED TO A FUTURE MEETING:

1609-AA-01 **14939 Ditch Road**
[CONTINUED] *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).

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)

REPORTS/COMMENTS

Plan Commission Liaison Report.

Economic and Community Development Department.

ADJOURNMENT

Motion:

Schmitz motioned to adjourn the meeting.
Kingshill seconded. Motion passed. Vote 5-0.

The meeting adjourned at 7:30 p.m.

Chairperson
Robert Smith, Esq.

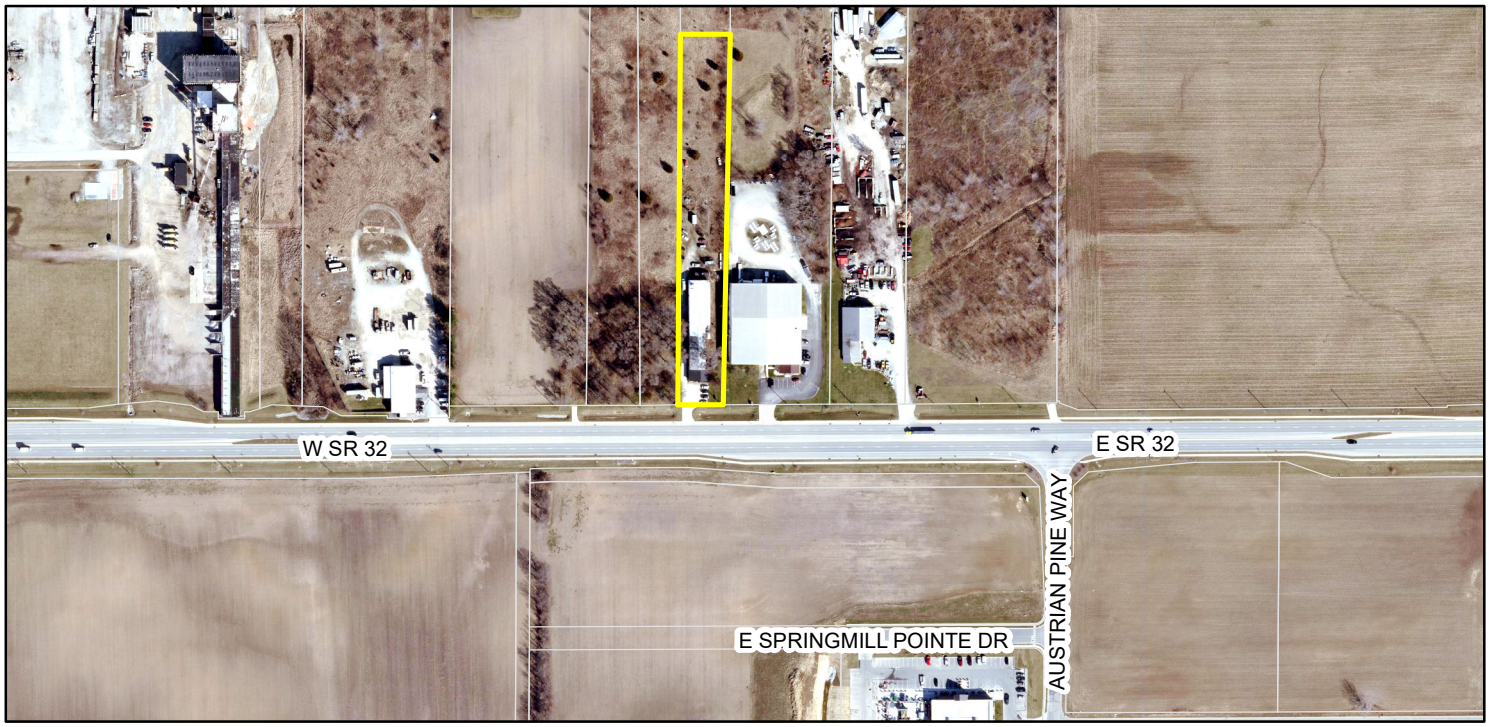
Secretary
Matthew S. Skelton, Esq., AICP
Director

Property Location Map
Maaco
Variance of Development Standard
1809-VS-13

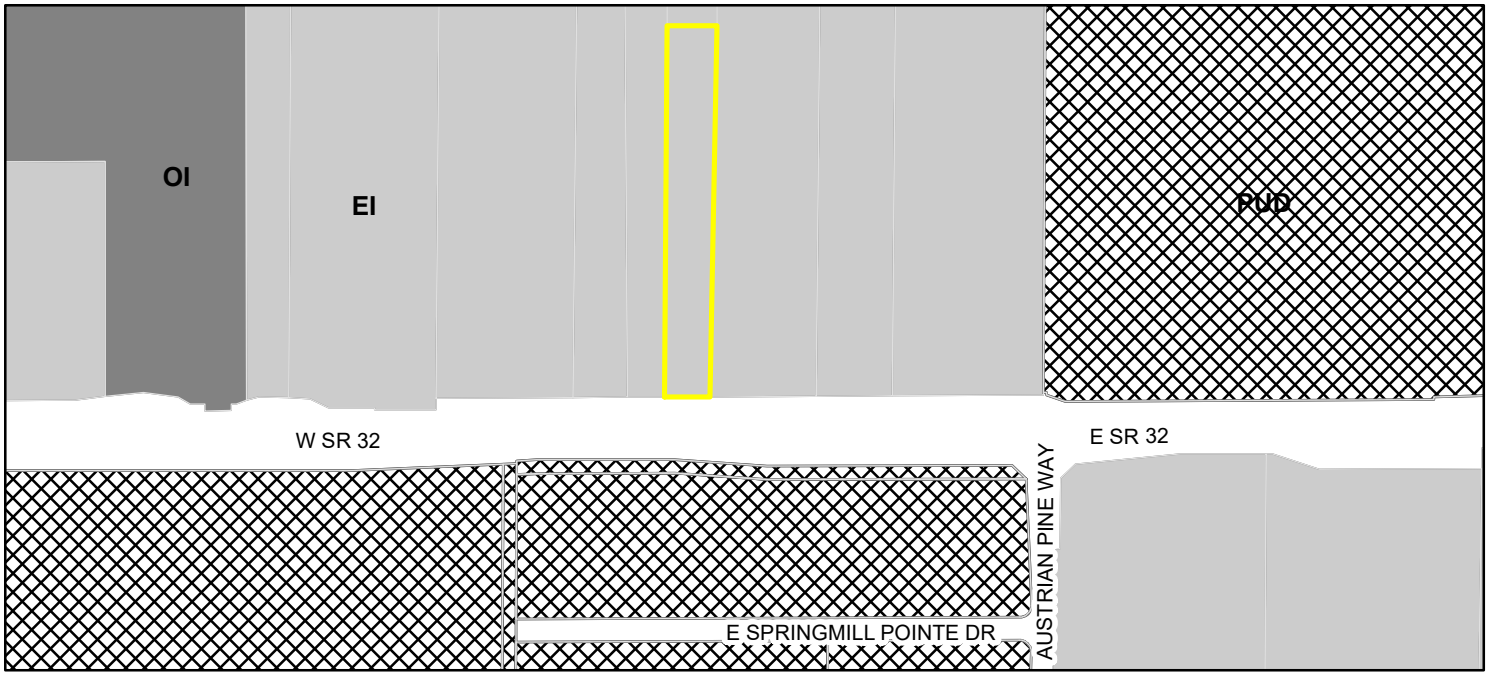
N
W E
S
Not To Scale

Aerial Location Map

Site



Zoning Map

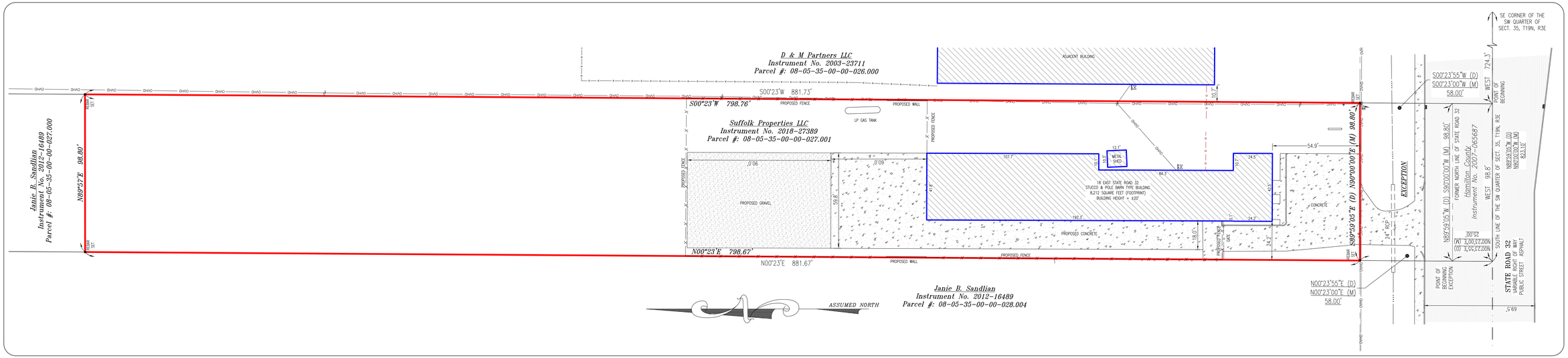


Parcel

Zoning - All

Zoning

- EI (Enclosed Industrial)
- OI (Open Industrial)
- PUD (Planned Unit Development)



STATE ROAD 32

18 EAST STATE ROAD 32
WESTFIELD, INDIANA

ALTA/NSPS LAND TITLE SURVEY

PROJECT LOCATED IN:

SOUTHWEST QUARTER
OF SECTION 35
TOWNSHIP 19 NORTH
RANGE 3 EAST
WASHINGTON TOWNSHIP
HAMILTON COUNTY

PREPARED FOR:

Aws Hattab

VICINITY MAP (NOT TO SCALE)

VICINITY MAP (NOT TO SCALE)

LEGAL DESCRIPTION

Warranty Deed
Suffolk Properties, LLC
Instrument No. 2018-027389

Part of the Southwest Quarter of Section 35, Township 19 North, Range 3 East, and more specifically described as follows:

Commencing at the Southeast corner of the Southwest Quarter of Section 35, Township 19 North, Range 3 East; thence West on and along the South Section line of said Section. 724.3 feet to the point of beginning; thence West on and along said Section line, 98.8 feet to a point; thence North 0 degrees and 23 minutes East 881.67 feet to a point; thence North 89 degrees and 57 minutes East 98.8 feet; thence South 0 degrees and 23 minutes West 881.73 feet to the point of beginning. Containing 2.0 acres.

Excepting therefrom:

A part of the Southwest Quarter of Section 35, Township 19 North, Range 3 East, Hamilton County, Indiana, and being that part of the grantor's land lying within the right-of-way depicted non the attached Right-Of-Way parcel Plat marked Exhibit "b". described as follows:

Commencing at the Southeast corner of said Quarter section (said corner being designated 22 in said Exhibit "B"); thence North 89 degrees 59 minutes 05 seconds West 823.10 feet along the South line of said Section to the prolonged West line off the grantor's land; thence North 0 degrees 23 minutes 55 seconds East 25.00 feet along said west line prolonged to the North boundary of S.R. 22 and the point of beginning of this description; thence North 0 degrees 23 minutes 55 seconds East 58.00 feet along the West line of the grantor's land; thence South 89 degrees 59 minutes 05 seconds East 98.80 feet to the East line of the grantor's land; thence South 0 degrees 23 minutes 55 seconds East 58.00 feet along said East line to the North boundary of said S.R. 32; thence North 89 degrees 59 minutes 05 seconds West 98.80 feet along the boundary of said S.R. 2 to the point of beginning and containing 0.132 acres, more or less.

This description describes the same tract of land as that described in the title commitment.

LINES OF OCCUPATION

Occupation means some observable improvement either man made or a natural barrier manipulated by man to delineate the boundary line. It should be noted that not all fences are erected to define boundary lines and caution is warranted before accepting this type of barrier as such. One should also be aware that when these types of occupation are not in agreement with deed lines certain unwritten rights may exists over the land between them. Those parties relying on the survey should assume that the uncertainty of ownership of these areas where occupation lines and deed lines are not in coincidence is, at least, equal to the magnitude of the difference. Unless otherwise noted or shown on the survey, there is no visible evidence of occupation (possession) along the deed lines of the subject real estate.

BASIS OF BEARING

The basis of bearing for this survey is an assumed West along the south line of the Southwest Quarter of Section 35, Township 19 North, Range 3 East per subject deed.

TITLE COMMITMENT NOTES

This Survey was prepared utilizing information contained in ATA National Title Group File No. 18583091-IND, dated March 19, 2018. Some of the items disclosed in Schedule BII of said Commitment have been shown on the survey, if possible, and are identified by their record information. If there is a need for additional items to be shown on the survey, please advise and provide the appropriate information.

Line 15 – Terms and Provisions as set out in Ordinance Number 04-20 (An Ordinance Annexing Certain Real Estate to the Town of Westfield, Hamilton County, Indiana) recorded August 10, 2004 as Instrument Number 200400055672.

Corrected by Affidavit of Correction recorded December 1, 2004 as Instrument Number 2004000080806 in the Office of the Recorder of Hamilton County, Indiana. Affects subject property and is blanket in nature in regards to the rights and restrictions as laid out in the document itself.

Line 16 – Terms and Provisions as set out in Ordinance No, 166 (An Ordinance of the Town of Westfield, Indiana, annexing contiguous Territory) recorded October 12, 1973 in Book 140 Page 145, in the Office of the Recorder of Hamilton County, Indiana. Affects subject property and is blanket in nature in regards to the rights and restrictions as laid out in the document itself.

Line 17 – Terms and Provisions as set out in Ordinance No. 88-6 (An Ordinance of the Town of Westfield, Indiana, annexing contiguous Territory) recorded February 15, 1989 in Instrument Number 89-03066, in the Office of the Recorder of Hamilton County, Indiana. Affects subject property and is blanket in nature in regards to the rights and restrictions as laid out in the document itself.

Line 18 – Terms and Provisions as set out in Ordinance No 07-38 (An Ordinance Annexing Certain Real Estate to the Town of Westfield, Hamilton County, Indiana) recorded March 19, 2008 as Instrument Number 2008014517, in the Office of the Recorder of Hamilton County, Indiana. Affects subject property and is blanket in nature in regards to the rights and restrictions as laid out in the document itself.

Line 19 – Grant of Right-Of-Way to the County of Hamilton by a document dated May 24, 1971 and recorded June 23, 1971 in Book 245 Page 280, in the Office of the Recorder of Hamilton County, Indiana. Affects subject property and is shown hereon at the south of the property.

Line 20 – Grant of Easement to Buckeye Pipeline Company dated October 10, 1962 and recorded October 16, 1962 in Book 176 Page 227, in the Office of the Recorder of Hamilton County, Indiana. Does not appear to affect the subject property. Easement plots to the west of said subject property.

Line 21 – Grant of Easement to Central Indiana Power Company recorded October 5, 2939 in Book 35 page 47, in the Office of the Recorder of Hamilton County, Indiana. Affects subject property and is blanket in nature in regards to the rights and restrictions as laid out in the document itself.

FLOOD ZONE NOTE

The accuracy of the flood hazard data shown on this report is subject to map scale uncertainty and to any other uncertainty in location or elevation on the referenced Flood Insurance Rate Map. According to the Federal Emergency Management Agency Flood Insurance Rate Map for the City of Westfield, Hamilton County, Community Map Number 18057C0120G dated November 19, 2014, the described real estate lies within the Unshaded Zone "X," which area is determined to be outside 500-year floodplain, by graphic plotting only. No field surveying was performed to determine this zone and an elevation certificate may be needed to verify this determination or apply for a variance from the federal management Agency.

SURVEYORS REPORT

The planimetric data was gathered using standard radial surveying techniques with an electronic instrument with data collector. The following paragraphs are observations and opinions regarding the uncertainties in the locations of monuments (found and set) record documents, and the deed lines as established by this survey, and as introduced by probable random errors in the measurements made due to the instrumentation and techniques employed (relative positional accuracy). The survey may show differences between the deed (D) or plat (P) dimensions and the measured (M) dimensions along the deed lines. There may be differences between lines of occupation (possession) and the deed lines as shown on this survey.

Monuments were set or found flush with the surface, unless otherwise noted during the course of this survey. There may be 5/8" rebar with orange plastic caps stamped "REFERENCE POINT" found on or near the subject real estate. These are working points and not to be confused as monuments marking the boundaries of the subject property. Monuments found at or near the deed corners, or along the deed lines of the subject real estate are indicated on the drawing. Monuments were not set in those cases where a found monument was not in exact agreement with this survey, but within the tolerances required for the survey, because the difference is deemed insignificant. The difference may be shown on the survey to accentuate the uncertainty of that corner. In those cases where the difference is greater than the relative positional accuracy or uncertainty in controlling monuments, caution should be exercised before making any improvements along the lines affected. Those uncertainties considered to be significant are discussed below.

The monuments at the corners of the subject real estate established this survey are within the acceptable relative positional specifications for a Rural Survey, 0.26 feet + 200 ppm as defined in 865 IAC 1-12-7.

The purpose of this survey was to retrace and monument the boundary of the tract of land described in the above "Description".

The subject real estate is described by metes and bounds. These types of descriptions make "calls", which are references to record, natural or artificial monuments at the corners; and record, natural or cultural boundary lines. The most common method is to recite the direction and length of each line as one would walk around the perimeter of the property. The following paragraphs are observations relative to those controlling monuments and calls as referenced in the description.

The following are the monuments found or re-established marking the corners common to the Southwest Quarter of Section 35, Township 19 North, Range 3 East.

Southeast Corner – Harrison monument found per Hamilton County Surveyor's Office Corner Record tie sheet.

Southwest Corner – Harrison monument found per Hamilton County Surveyor's Office Corner Record tie sheet.

Information regarding the ownership of the subject real estate or adjoining parcels is that as shown in local government records, or as furnished by others.

A comparison was made between the deed calls of the subject real estate and those adjoining parcels with common lines with the surveyed parcel and no discrepancies were found.

UTILITY NOTE

The locations of utilities shown hereon are based on above ground structures and/or locations as marked by others. No excavations were made during the progress of this survey to locate buried utilities/structures. AXIS Surveying encourages the use of the Indiana Underground Plant Protection Services, IUPPS, a.k.a. "Holey Moley." Their services are available by telephone at 1-800-382-5544 or through the Internet at www.iupps.org.

ZONING NOTE

According to the City of Westfield GIS Zoning Map for Hamilton County, Indiana, the subject real estate is in an area designated as having a EI (Enclosed Industrial District) zoning. There may be a need for an interpretation of certain restrictions and requirements that can only be given by the Zoning Administrator. A surveyor cannot make a certification on the basis of an interpretation or opinion of another party. Set back requirements for EI zoning can be variable, transitional, and subject to legal interpretation; therefore, setback lines are not depicted on the survey.

GENERAL NOTES

Table A Item Notes:
Item 16 – There is no evidence of earth moving on the subject tract.
Item 17 – There is no visible evidence of recent street or sidewalk construction or repairs.

SURVEYORS CERTIFICATE

Certificate of Survey
ALTA/NSPS Land Title Survey

To: William P. Dougherty and Kay L. Dougherty; Aws Hattab:

This is to certify that this map or plat and the survey on which it is based were made in accordance with the "Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys," jointly established and adopted by ALTA and NSPS in 2016, and includes Items 1, 2, 3, 4, 7(a), 7(b)(1), 8, 9, 10, and 11(a) of Table A thereof. Pursuant to the Accuracy Standards as adopted by ALTA and NSPS and in effect on the date of this certification, undersigned further certifies that in my professional opinion, as a land surveyor registered in the State of Indiana, the Relative Positional Accuracy of this survey does not exceed that which is specified therein.

I further certify that to the best of my professional knowledge, information, and belief, the within plat represents the results of a Rural Survey, as defined in 865 IAC 1-12-7, completed, in the field, under my direct supervision on May 8, 2018.

Donn M. Scotten
Professional Land Surveyor #S0510
May 15, 2017

DONN M. SCOTTEN
REGISTERED
No. S0510
STATE OF INDIANA
LAND SURVEYOR

PARKING COUNT

NO STRIPED PARKING AT TIME OF SURVEY
BUT SPACE IS AVAILABLE FOR PARKING

LAND AREA

1.81 ACRES
78,911 SQUARE FEET

SCALE 1" = 30'
30 0 15 30 60

ASSUMED NORTH

DRAWING LEGEND

OLD FARM FENCE
CHAIN LINK FENCE
WOOD-TYPE FENCE
STM = UNDERGROUND STORM SEWER LINES
OVHD = OVERHEAD UTILITY LINES
REAL ESTATE BOUNDARY LINE
LOT LINE
SECTION LINE
ROW = RIGHT-OF-WAY OR R/W
FLOWLINE WITH DIRECTION
UTILITY POLE
CURB INLET
ELECTRIC BOX
GUY ANCHOR
ELECTRIC METER

HOLEY MOLEY SAYS
"DON'T DIG BLIND"
"IT'S THE LAW"
CALL 3 WORKING DAYS BEFORE YOU DIG
1-800-382-5544
CALL TOLL FREE
PER INDIANA STATE LAW IC-8-1-26-1991, IT IS AGAINST THE LAW TO EXCAVATE WITHOUT NOTIFYING THE UNDERGROUND LOCATION SERVICE TWO (2) WORKING DAYS BEFORE COMMENCING WORK.

SITE PHOTO

AXIS SURVEYING, LLC
Complete Surveying Services for Commercial - Construction - Residential
(317) 841-1506 - www.AXISIndy.com P.O. BOX 502369 - Indianapolis, IN 46250

DRAWN BY: R. STOHLER
CHECKED BY: D. SCOTTEN
ISSUE DATE: 08-07-2018

REVISIONS: Revision #	Date	Remarks and revision descriptions:

PROJECT NUMBER
1-23067

SHEET
1 OF 1

RECEIVED
AUG 0 2 2018
By

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: 1809-VS-13 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): xx

APPLICANT INFORMATION

APPLICANT'S NAME: Aws Hattab TELEPHONE: 317-764-6503

ADDRESS: 713 Suffolk Ln. Carmel, IN 46032 EMAIL: hattab.aws@gmail.com

PROPERTY OWNER'S NAME: Suffolk Properties, LLC TELEPHONE: 317-764-6503

ADDRESS: 713 Suffolk Ln. Carmel, IN 46032 EMAIL: hattab.aws@gmail.com

REPRESENTATIVE'S NAME: _____ TELEPHONE: _____

COMPANY: _____ EMAIL: _____

ADDRESS: _____

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 18 E. State Rd. 32, Westfield, IN 46074

COUNTY PARCEL ID #(S): 08-05-35-00-00-027.001

EXISTING ZONING DISTRICT(S): SR-32 Overlay EXISTING LAND USE(S): Commercial repair garage

VARIANCE REQUEST

☐ VARIANCE OF LAND USE CODE CITATION: _____

☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: UDO 6.5 (Fence Standards); 6.17 (Sign Standards)

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

We would like a variance of the maximum sign restrictions due to the small amount of surface area facing the street;
Based on the width of the frontage of the building the allowance square footage allows us to install only a monument sign.
Due to that we would like to ask for a variance in order to be able to have an additional sign fixed on the front of the building.
Poor visibility from the main street due to neighboring trees and the speed of the traffic on SR32.
We would also like a variance to allow an 8' chain link fence instead of a wooden fence.
(Regular wood fence 8' high not stained) which statically will not look nice from the inside would cost similar to a chain link fence.
Due to the amount of vegetation growing in the near plots that wood fence will root very fast and will be high on maintenance cost.
Chain link fence can be easily modified/ repaired and will allow us to have the wide drive in gates that we are planning to install.

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.

Aws Hattab
Applicant/Representive (signature)

Aws Hattab
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 2 *day of* August, *20* 18.

State of Indiana, County of Hamilton SS:

Julie E Sole
Notary Public
SEAL
Hamilton County, State of Indiana
My Commission Expires October 4, 2024
Commission Number: 691639

Notary Public Signature

Julie Sole
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.

Aws Hattab
Property Owner (signature)*

Aws Hattab
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 2 *day of* August, *20* 18.

State of Indiana County of Hamilton SS:

Notary Public Signature

Julie Sole
Notary Public (printed)

Julie E Sole
Notary Public
SEAL
Hamilton County, State of Indiana
My Commission Expires October 4, 2024
Commission Number: 691639

**A signature from each party having a legal 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 (VARIANCE OF USE)

APPLICANT: Aws Hattab 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 existing use is consistent with the past use of the building and the prospective growth in the area.

B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: the requested variances do not diminish the value of the property in relation to the neighboring parcels.

C. The need for the variance arises from some condition particular to the property involved because: the existing building on the property was built with an orientation that presented the "side" wall of the shop to SR-32. This presents a much smaller profile of the building for signage that would be typical. Due to the same orientation of the building on the lot, the fencing would barely be visible from the street.

D. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because: the owners would not be able to properly advertise their business due to the small size of that side of the building. With regard to the fencing, because of the depth of the property, a wooden fence would be cost prohibitive.

E. The varianace of use does not interfere substantially with the Comprehensive Plan because: the use of the building and the business are consistent with the goals of the Comprehensive Plan in the area. The owners are investing substantial resources to renovate and upgrade the facilities.

VARIANCE 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
- ☐ Draft Public Notice
- ☐ Property Owner Consent
- ☐ Site Plan (to scale)
- ☐ Statement of Intent
- ☐ Legal Description
- ☐ List of Adjoining Property Owners (as provided by County)
- ☐ TAC Delivery Affidavit (if TAC is determined to be necessary)
- ☐ Copy of Property Deed
- ☐ 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.

SINGLE SIDED INTERNALLY ILLUMINATED WALL SIGN WITH A PAN EMBOSSED FACE
1" THICK PAINTED SINTRA STUD MOUNTED LETTERS

28'-4" STOREFRONT WIDTH

THIS DRAWING IS THE PROPERTY OF HUTCHISON SIGNS, INC. AND IS NOT TO BE COPIED OR DUPLICATED IN ANY WAY WITHOUT WRITTEN PERMISSION FROM HUTCHISON SIGNS, INC.

The Shield of Quality
Hutchison Signs
& ELECTRICAL COMPANY

215 SOUTH MUNSIE STREET INDIANAPOLIS, IN 46229
317-894-8787
FAX: 317-894-8778

DESIGN
U.L. MANUFACTURING
INSTALLATION
SERVICE

MAACO

Client
18 E SR32

Address
WESTFIELD, IN

Phone
317-764-6503

Date
07-11-2018

Job Number
18DR-10411d

Sales Represenative
DARRYL RICE

Scale
3/16"=1'-0"

Drawn by,
D.SIGN

Customers Approval

Approval Date

Maaco
America's Bodyshop
Maaco
America's Bodyshop

36" X 10' DOUBLE SIDED INTERNALLY ILLUMINATED MONUMENT SIGN W/PAN EMBOSSED FACES AND 24" X 10'-0" TEXTURE PLUS FAUX STONE OVER ALUMINUM BASE WITH 3"H PAINTED ALUMINUM CAP.

FAUX STONE HISTORIC OLD WORLD BRICK W/ GRAY GROUT

THIS DRAWING IS THE PROPERTY OF HUTCHISON SIGNS, INC. AND IS NOT TO BE COPIED OR DUPLICATED IN ANY WAY WITHOUT WRITTEN PERMISSION FROM HUTCHISON SIGNS, INC.

The Shield of Quality
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& ELECTRICAL COMPANY
of Indianapolis

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U.L. MANUFACTURING
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SERVICE

MAACO

Client
18 E SR32

Address
WESTFIELD, IN

Phone
317-764-6503

Date
07-13-2018

Job Number
18DR-10411C REV

Sales Represenative
DARRYL RICE

Scale
3/8"=1'-0"

Drawn by,
D.SIGN

Customers Approval

Approval Date

Picture of the property taken from 200 Ft from the east north corner of the property shows that the building cant be recognized or seen. From 200'

Front Picture of the property from the opposite side.

Picture taken from the opposite side of the property, 200Ft from the South West corner of the plot.

Vegetation from the North of the property.

Vegetation from the neighboring plot West North side

Vegetation from the West of the property

Light Blue
White
Brown
Redwood
Dark Green
Beige
Black
Grey

WESTFIELD-WASHINGTON
TOWNSHIP BOARD OF ZONING
APPEALS PUBLIC NOTICE

NOTICE IS HEREBY GIVEN THAT the Westfield-Washington Township Advisory Board of Zoning Appeals will hold a public hearing on Tuesday 11, 09,2018, at 7:00 p.m. at Westfield City Hall, 130 Penn Street, Westfield, Indiana, to consider petition(s) **1809-VS-13#**, filed by **Aws Hattab** on behalf of **Suffolk Properties LLC**. The request pertains to real estate comprising approximately **1.81** acres and generally located at **18 E SR32**, Washington Township, Westfield, Indiana.

The request is for approval of a **Variance of Development Standard** to allow **for more signage space and a chain link fence with slats instead of a wood fence**.

Specific details regarding this request, including the application, file, and property legal description, may be obtained from the Westfield Economic and Community Development Department, or by calling (317) 804-3170.

Written suggestions or objections relative to the request may be filed with the Westfield Economic and Community Development Department, at or before the public hearing. Interested persons desiring to present their views upon the request, either in writing or verbally, will be given the opportunity to be heard at the above mentioned time and place, which may be continued from time to time as may be found necessary.

APPLICANT: Suffolk Properties LLC

REPRESENTATIVE: Aws Hattab
Hattab.aws@gmail.com
(317) 764-6503

CITY OF WESTFIELD:
Economic and Community Development Department
2728 East 171st Street
Westfield, Indiana 46074
(317) 804-3470
www.westfield.in.us

DULY ENTERED FOR TAXATION
Subject to final acceptance of transfer
21st day of June 2018 - SBH
M Robin M. Mills Auditor of Hamilton County
Parcel # 08-05-35-00-00-027.001

2018027389 WD $25.00
06/21/2018 10:36:35AM 4 PGS
Jennifer Hayden
Hamilton County Recorder IN
Recorded as Presented

TGR

Parcel No. 08-05-35-00-00-027.000
State ID No. 29-05-35-000-027.001-015

WARRANTY DEED

THIS INDENTURE WITNESSETH, That **William P. Dougherty and Kay L. Dougherty,** husband and wife (Grantors) of Hamilton County, in the State of Indiana, CONVEY AND WARRANT to **Suffolk Properties, LLC**, an Indiana limited liability company (Grantee) for the sum of Ten Dollars ($10.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following described real estate in Hamilton County, State of Indiana:

See attached Exhibit "A"

Commonly known as **18 E. State Road 32, Westfield, IN 46074**

Subject to the following:

Terms and Provisions as set out in Ordinance Number 04-20 (An Ordinance Annexing Certain Real Estate to the Town of Westfield, Hamilton County, Indiana) recorded August 10, 2004 as Instrument Number 200400055672.Corrected by Affidavit of Correction recorded December 1, 2004 as Instrument Number 2004000080806 in the Office of the Recorder of Hamilton County, Indiana.

Terms and Provisions as set out in Ordinance No, 166 (An Ordinance of the Town of Westfield, Indiana, annexing contiguous Territory) recorded October 12, 1973 in Book 140 Page 145, in the Office of the Recorder of Hamilton County, Indiana.

Terms and Provisions as set out in Ordinance No. 88-6 (An Ordinance of the Town of Westfield, Indiana, annexing contiguous Territory) recorded February 15, 1989 in Instrument Number 89-03066, in the Office of the Recorder of Hamilton County, Indiana.

Terms and Provisions as set out in Ordinance No 07-38 (An Ordinance Annexing Certain Real Estate to the Town of Westfield, Hamilton County, Indiana) recorded

March 19, 2008 as Instrument Number 2008014517, in the Office of the Recorder of Hamilton County, Indiana.

Grant of Right-Of-Way to the County of Hamilton by a document dated May 24, 1971 and recorded June 23, 1971 in Book 245 Page 280, in the Office of the Recorder of Hamilton County, Indiana.

Grant of Easement to Buckeye Pipeline Company dated October 10, 1962 and recorded October 16, 1962 in Book 176 Page 227, in the Office of the Recorder of Hamilton County, Indiana.

Grant of Easement to Central Indiana Power Company recorded October 5, 2939 in Book 35 page 47, in the Office of the Recorder of Hamilton County, Indiana.

Subject to any and all easements, rights-of-way, agreements, commitments and restrictions of record.

Subject to real estate taxes and drainage ditch assessments for 2017 due and payable in November, 2018 and thereafter.

IN WITNESS WHEREOF, Grantor has executed this deed this 13 day of June, 2018.

William P. Dougherty

Kay L. Dougherty

STATE OF INDIANA)
)SS: ACKNOWLEDGMENT
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared William P. Dougherty and Kay L. Dougherty, husband and wife, who acknowledged the execution of the foregoing Warranty Deed.

Witness my hand and Notarial Seal this 13 day of June, 2018.

MARK FEATHERSON
Notary Public, State of Indiana
Hamilton County
Commission # 682146
My Commission Expires
April 22, 2024

Signature: _____

Printed: _____, Notary Public

My Commission Expires: _____ Residing in _____ County, IN

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. Steven C. Robinson

This instrument was prepared by and after recording return to Steven C. Robinson, Robinson Wolenty & Young, LLP, 8415 Allison Pointe Blvd., Suite 210, Indianapolis, IN 46250.

Send Tax Statements to Grantee @ Grantee's address: 18 E. SR 32
Westfield IN 46074

File No : 18583091-IND

EXHIBIT A

The land is situated in the County of Hamilton, State of Indiana, as follows:

Part of the Southwest Quarter of Section 35, Township 19 North, Range 3 East, and more specifically described as follows:

Commencing at the Southeast corner of the Southwest Quarter of Section 35, Township 19 North, Range 3 East; thence West on and along the South Section line of said Section line of said Section. 724.3 feet to the point of beginning; thence West on and along said Section line, 98.8 feet to a point; thence North 0 degrees and 23 minutes East 881.67 feet to a point; thence North 89 degrees and 57 minutes East 98.8 feet; thence South 0 degrees and 23 minutes West 881.73 feet to the point of beginning. Containing 2.0 acres.

Excepting therefrom

A part of the Southwest Quarter of Section 35, Township 19 North, Range 3 East, Hamilton County, Indiana, and being that part of the grantor's land lying within the right-of-way depicted non the attached Right-Of-Way parcel Plat marked Exhibit "b". described as follows: Commencing at the Southeast corner of said Quarter section (said corner being designated 22 in said Exhibit "B"); thence North 89 degrees 59 minutes 05 seconds West 823.10 feet along the South line of said Section to the prolonged West line off the grantor's land; thence North 0 degrees 23 minutes 55 seconds East 25.00 feet along said west line prolonged to the North boundary of S.R. 22 and the point of beginning of this description; thence North 0 degrees 23 minutes 55 seconds East 58.00 feet along the West line of the grantor's land; thence South 89 degrees 59 minutes 05 seconds East 98.80 feet to the East line of the grantor's land; thence South 0 degrees 23 minutes 55 seconds est 58.00 feet along said East line to the North boundary of said S.R. 32; thence North 89 degrees 59 minutes 05 seconds West 98.80 feet along the boundary of said S.R. 2 to the point of beginning and containing 0.132 acres, more or less.

Commonly Known As: 18 E. State Road 32, Westfield, IN 46074

Tax Parcel ID: 08-05-35-00-00-027.001 State Parcel ID: 29-05-35-000-027.001-015

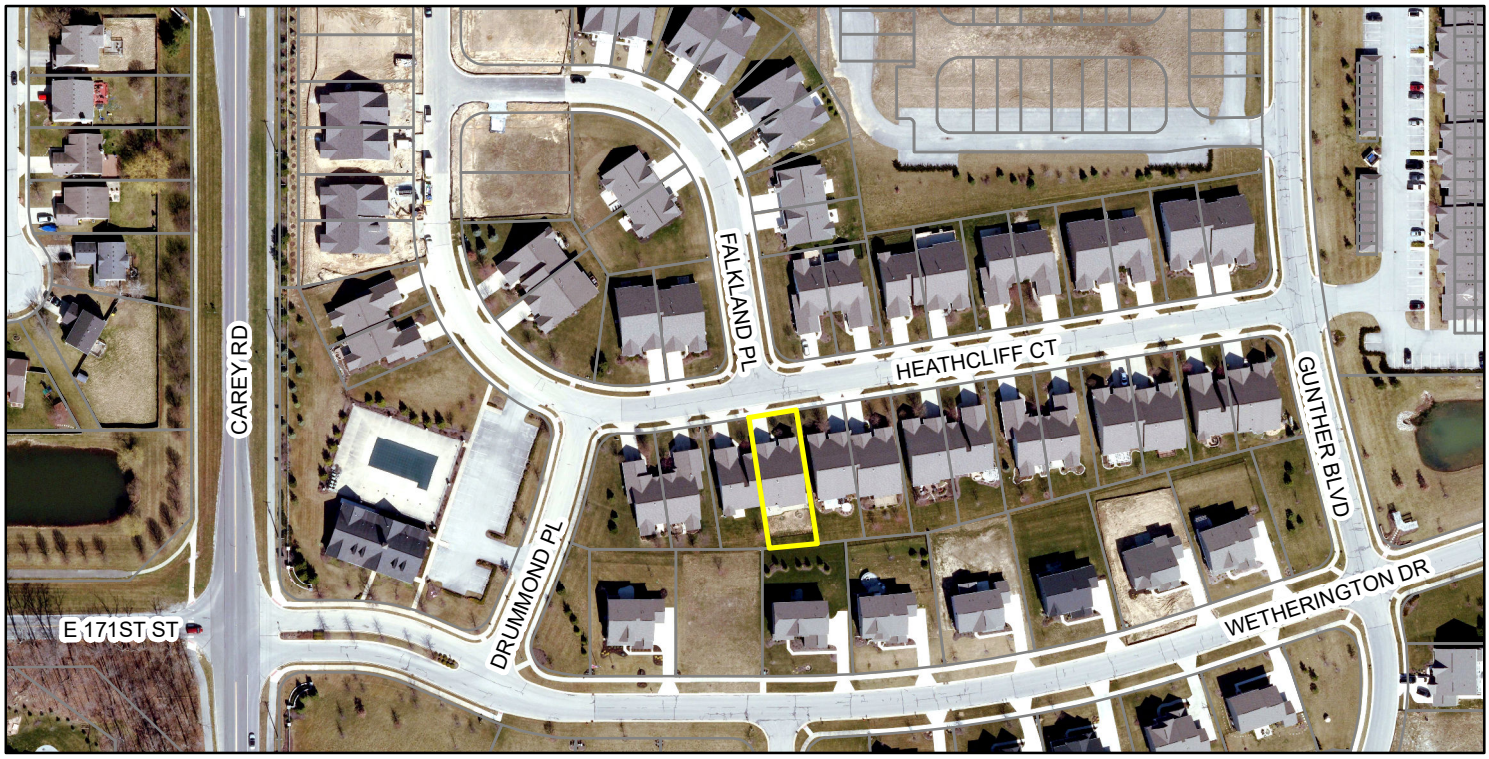
ATA NATIONAL TITLE GROUP OF INDIANA, LLC
8335 Keystone Crossing, Ste. 104
Indianapolis, IN 46240
Ph:(317) 808-9600 Fax:(317) 808-9619

Property Location Map
Robertson Special Exception
1808-SE-03

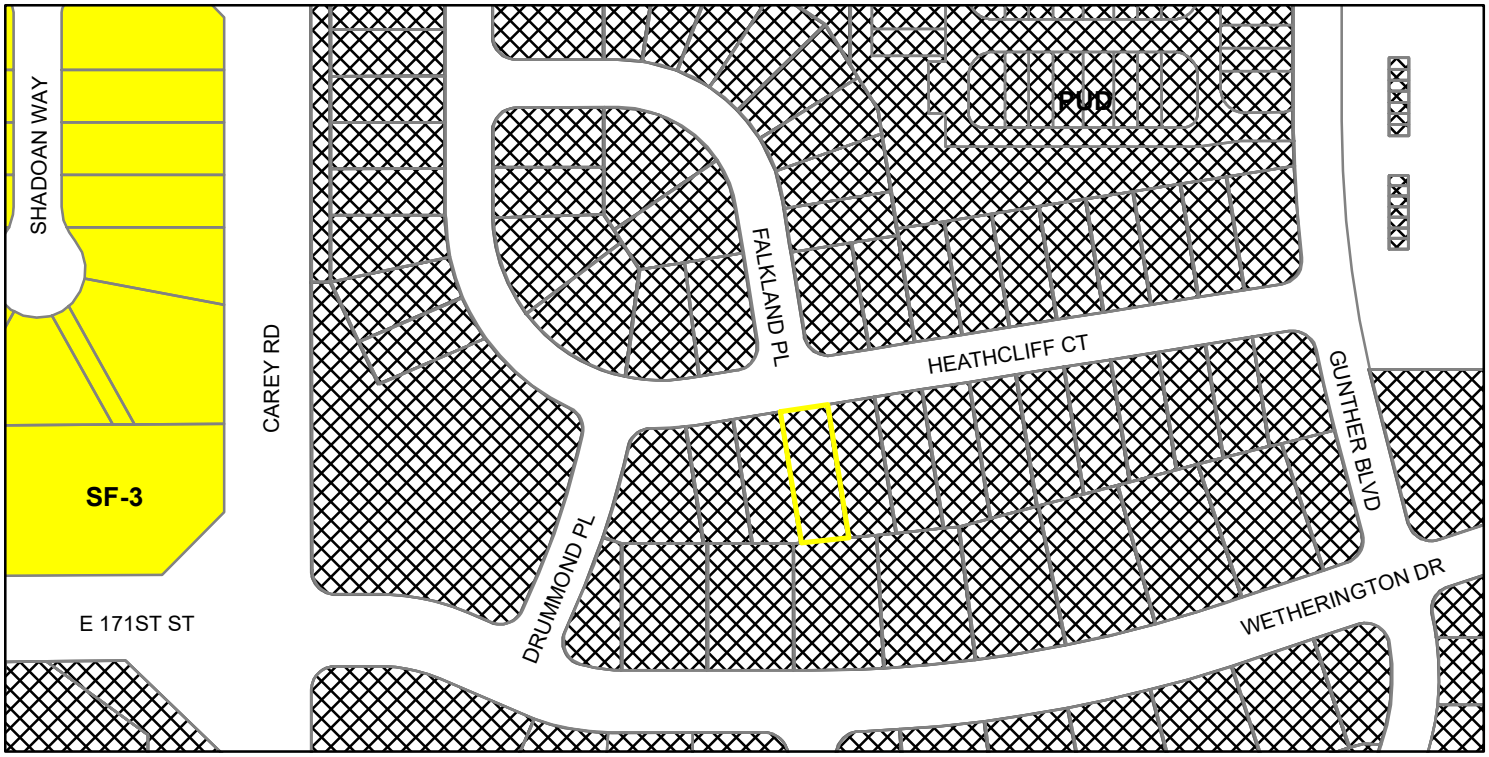
N
W E
S
Not To Scale

Aerial Location Map

Site



Zoning Map



PUD (Planned Unit Development) SF-3 (Single Family - 3)

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

SPECIAL EXCEPTION APPLICATION

RECEIVED JUN 29 2018 By

OFFICE USE ONLY

DOCKET #: 1808-SE-03 FILING DATE: _____

FILING FEE: $_____

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 / 08-16-05-00-10-029.000

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.

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, *20*18.

State of Hamilton, County of Indiana, SS:

ARRON STANTON
Wayne County
My Commission Expires
October 15, 2025

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.

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, *20*18.

State of Hamilton, County of Indiana, SS:

ARRON STANTON
Wayne County
My Commission Expires
October 15, 2025

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.

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
- ☐ Draft Public Notice
- ☐ Property Owner Consent
- ☐ Site Plan (to scale)
- ☐ Statement of Intent
- ☐ Copy of Property Deed
- ☐ Elevations, photographs, service reports or other supporting information necessary to explain the nature of the special exception use
- ☐ Legal Description
- ☐ List of Adjoining Property Owners (as provided by County)
- ☐ TAC Delivery Affidavit (if TAC is determined to be necessary)
- ☐ Vicinity Map (including property within 500 feet)
- ☐ Covenants and commitments (if any)

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.

Petition Number:	1809-VU-05
Subject Site Address:	216 Jersey Street
Petitioner:	Sobczak Properties, LLC (the "Petitioner")
Request:	The Petitioner is requesting a Variance of Use to allow a Professional Office in an MF-1: Multi-Family Low Density District (Article 4.10) for a five year term.
Current Zoning:	MF-1: Multi-Family Low Density
Current Land Use:	Residential
Approximate Acreage:	0.17 acre +/-
Exhibits:	1. Staff Report 2. Location Map 3. Existing Conditions 4. Grand Junction Task Group Support
Staff Reviewer:	Daine Crabtree, Associate Planner

PROPERTY INFORMATION

The subject property is 0.17 acre +/- in size and located at 216 Jersey Street (the "Property") (see **Exhibit 2**). The Property is zoned MF-1: Multi-Family Low Density.

ANALYSIS

The Petitioner is requesting a variance of use to allow a Professional Office, at 216 Jersey Street, currently zoned MF-1: Multi-Family Low Density. The use classification "Office, Professional" is not a permitted use within the MF-1 District.

The Property is located within an area that is identified in the Grand Junction Addendum (the "Addendum"), an addition to the Westfield-Washington Township Comprehensive Plan, as the Grand Junction Plaza Block (the "Sub-Area") of the Grand Junction Sub-District.

The Addendum states that the Sub-Area should, "have a more urban form than the village or old town form of other sub-areas". The Addendum also states that land uses within the Sub-Area, "are encouraged to be a mix of uses typically associated with central business and entertainment districts and that residential uses should be restricted from the first floor within the sub-area."

Nearby properties (227 Jersey Street, 203 Jersey Street and 201 Mill Street) were granted variances (1712-VU-08, 1509-VU-08 and 1603-VU-06 respectively) at previous Board of Zoning Appeals (BZA) meetings, allowing a community arts center in a former residence, a beauty and barbershop in a former residence and a health and wellness business in a former residence.

This proposal has been reviewed by the Grand Junction Task Group and has received their support (see **Exhibit 4**).

Details of the Variance Request:

> Variance of Use: The Property is currently zoned MF-1: Multi-Family Low Density. A Professional Office is not a permitted use in the MF-1 zoning district (Article 13.2, Use Table).
>
> The requested variance shall be applicable to the property for approximately five (5) years, where the approval of the variance shall expire on December 31, 2023.

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 September 11, 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 UDO 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 UDO 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.

DEPARTMENT COMMENTS

The area immediately surrounding the Property is either being redeveloped or contemplated for redevelopment in the future in accordance with the Comprehensive Plan and its subsequent amendments for Downtown Westfield such as the Grand Junction Plaza. As a result of these economic development opportunities, there is an emerging desire for transitional businesses in the downtown area that contribute to further activity and liveliness. For these reasons, the Department supports the proposed variance of use to permit a Professional Office on the Property.

The Department recommends approval of 1809-VU-05 with the following conditions and findings:

Recommended Conditions:

1. That the approval of this variance shall expire on December 31, 2023.
2. That any request to extend the time limit for this variance shall be reviewed and approved by the Board of Zoning Appeals prior to December 31, 2023.

Recommended Findings for Variance of Use (1611-VU-06):

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 Professional Office to locate on the Property will be injurious to the public health, safety, morals, and general welfare of the community because the request is consistent with the uses contemplated in the City's Comprehensive Plan. The Grand Junction Task Group has stated this proposal is a good interim use in the Grand Junction Plaza area until such time as the property is redeveloped.

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 only those improvements currently existing on the property which is consistent with the character of the surrounding area. Economic redevelopment activity is anticipated within the proximity of the Property, including the proposed Grand Junction Plaza, that will include more commercial operations.

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

   Finding: The use of a Professional Office is not permitted within the MF-1: Multi-Family Low Density District. The Comprehensive Plan and subsequent Comprehensive Plan Addendums have identified an emerging economic development opportunity in downtown. As this redevelopment will occur overtime, the transitional period warrants the adaptive reuse of existing structures to promote downtown as a destination and lively center to the community.

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 use of a Professional Office is not permitted within the MF-1: Multi-Family Low Density District. Strict adherence to the Zoning Ordinance would allow for arguably more intense and related uses (nursing home, assisted living facilities); however, would not permit the less intense, but albeit, commercial operation of a Professional Office.

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 "Downtown". The Comprehensive Plan

recommends that land uses in the Downtown area include commercial, offices, and retail as well as residential. The use of a Professional Office would not interfere substantially with the Comprehensive Plan.

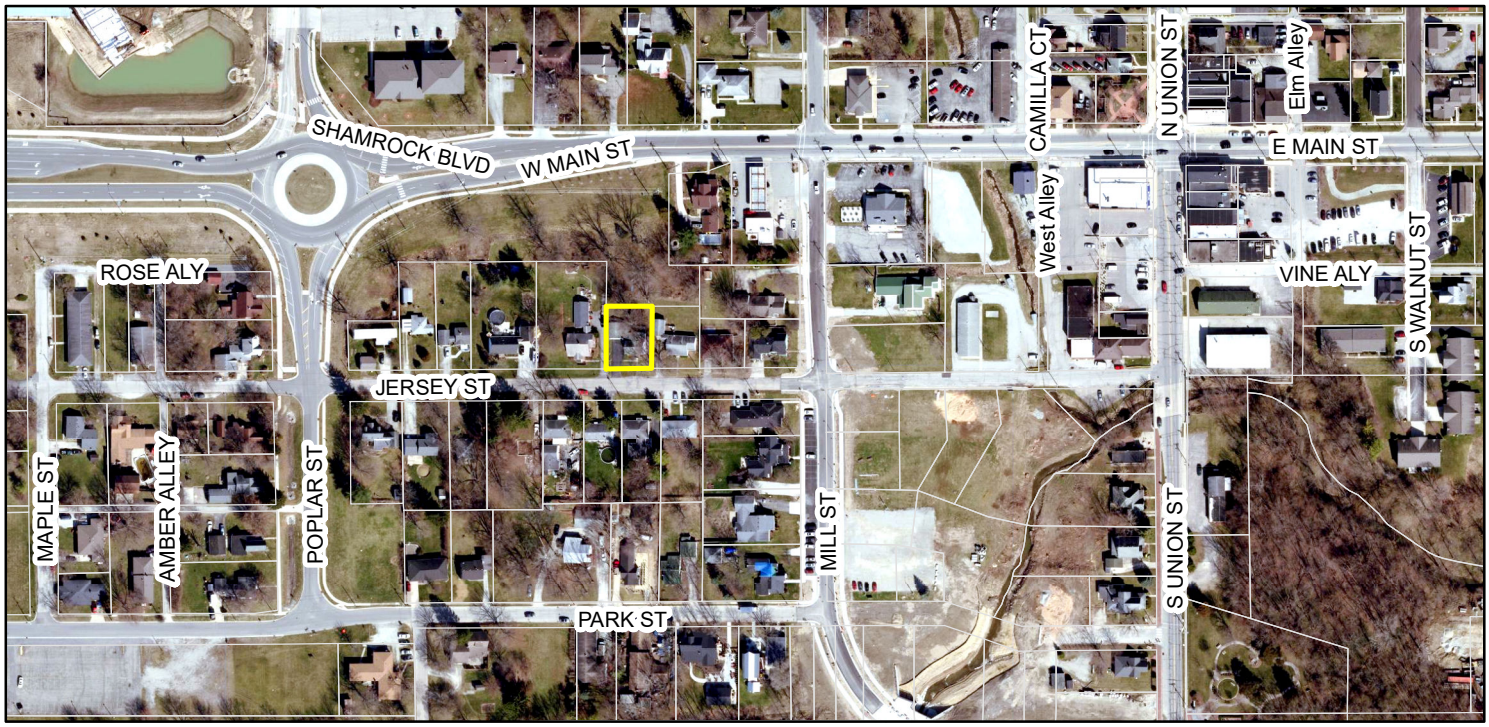
Denial: If the Board is inclined to reject or deny the Variance of Use, then the Department recommends denying the Variance of Use, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence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

Property Location Map
216 Jersey Street

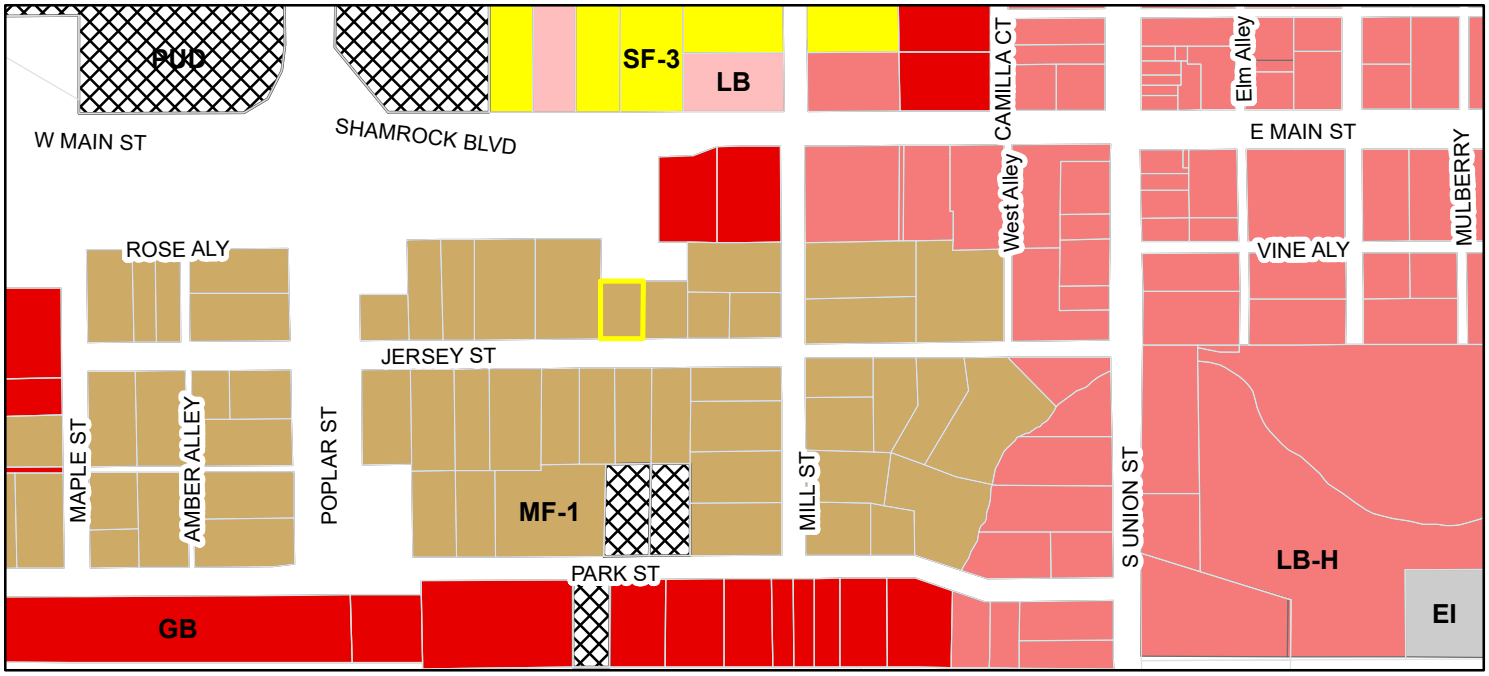
N
W E
S
Not To Scale

Aerial Location Map

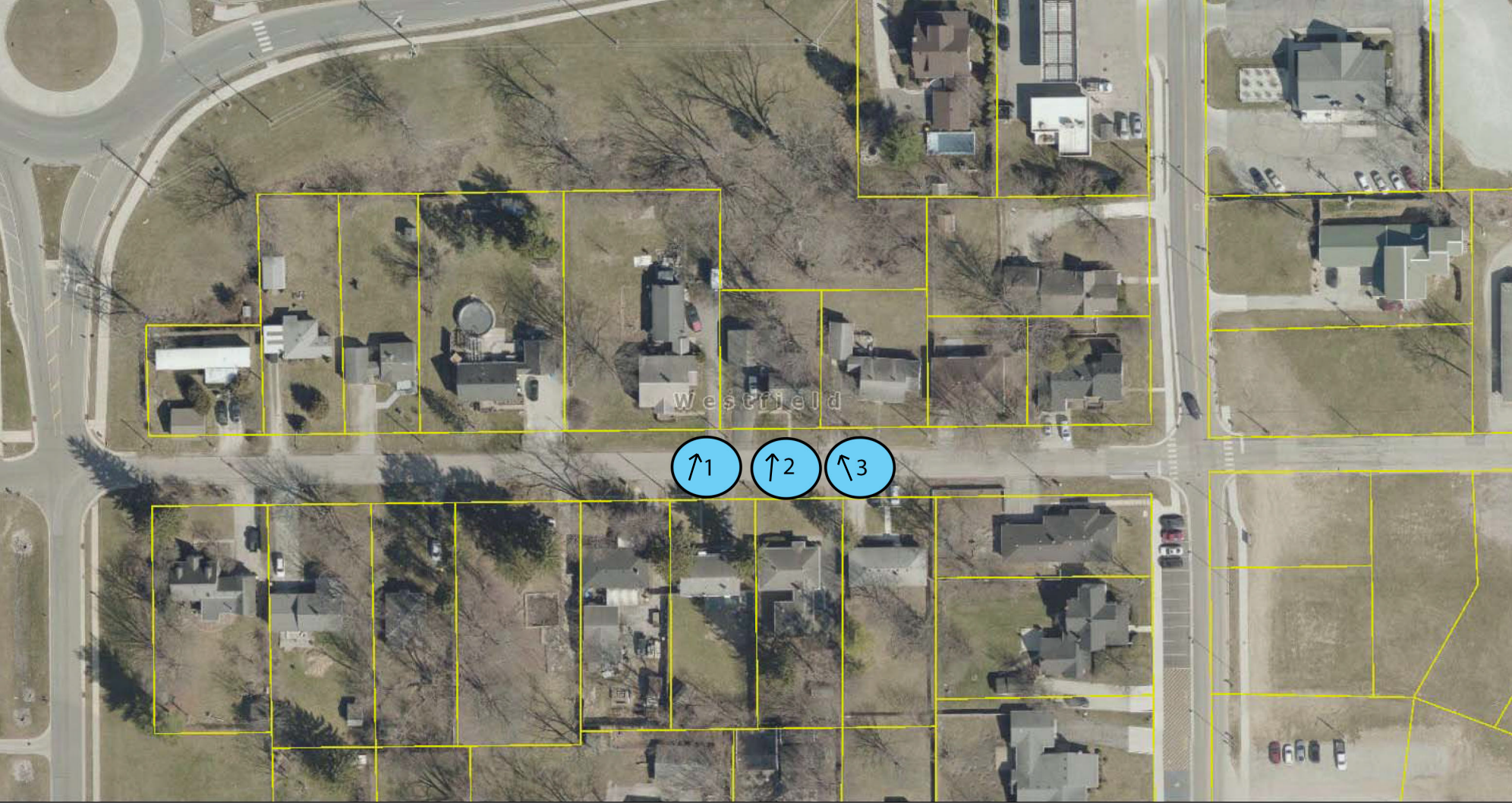
Site



Zoning Map



Parcel
Zoning - All
Zoning
EI (Enclosed Industrial)
GB (General Business)
LB (Local Business)
LB-H (Local Business - Historical)
MF-1 (Multiple Family - 1)
PUD (Planned Unit Development)
SF-3 (Single Family - 3)
SF-4 (Single Family - 4)


Westfield
1
2
3

1
RESOURCE RECOVERY SYSTEMS
4X4
CONSTRUCTION
SOBCZAK
SERVICES, INC.
GENERAL CONTRACTORS
(317)844-9576
WWW.SCSCUSTOMHOMES.COM

2
216
SOBCZAK
(517) 844-9576
SOLD

3
SOURCE
RECOVERY
SYSTEMS

GRAND JUNCTION TASK GROUP

MEETING AUGUST 14, 2018

AT THE DOWNTOWN WESTFIELD ASSOCIATION OFFICE

The Grand Junction Task Group (GJTG) met Tuesday, August 14, 2018 at 10:00 A.M. The meeting was held at the Downtown Westfield Association office (120 Camilla Court). There were approximately 15 people in attendance.

Dave Sobczak of Sobczak Construction presented to the group his proposal of petitioning for a Variance of Use. He recently purchased a residential at 216 Jersey Street and would like to convert and use as an office for his company. He is not proposing any external changes at this time. After some discussion all were unanimously in favor of supporting this with a 5 year timeline as this is in a redevelopment spot. This is consistent with other Variances granted on this street and fits with the Grand Junction Implementation Plan.

This will serve as the Grand Junction Task Group "Letter of Support".

As always feel free to contact me with any questions you may have.

Thank you!

Teresa Otis Skelton, Executive Director
Downtown Westfield Association
317 508-3392

Petition Number:	1809-VS-13
Subject Site Address:	18 E. State Road 32 (The "Property")
Petitioner:	Aws Hattab (The "Petitioner")
Representative:	Aws Hattab
Request:	The Petitioner is requesting multiple Variances of Development Standard to 1) increase the Maximum Sign Area to accommodate both a Monument Sign and a Wall Sign (Article 6.17(H)(1)), 2), allow a chain-link fence with slats (Article 5.3(L)(3)(b)), and 3) allow a fence in lieu of a screen wall (Article 6.12(D)(2)(a)(ii) in the EI: Enclosed Industrial District (Article 13.2).
Current Zoning:	EI: Enclosed Industrial District
Current Land Use:	Vacant Commercial/Industrial Use
Approximate Acreage:	1.87 acres+/-
Exhibits:	1. Staff Report 2. Location Map 3. Site Plan 4. Application
Staff Reviewer:	Caleb Ernest, Associate Planner

OVERVIEW

Location: The subject Property is 1.87 acres +/- in size and is located at 18 E. State Road 32 (see **Exhibit 2**). The Property is currently zoned the EI District. The surrounding properties to the north, east and west are also zoned the EI District and the property to the south is zoned the Maple Knoll Planned Unit Development (PUD) District.

Variance Request: The Petitioner is requesting multiple Variances of Development Standard to 1) increase the Maximum Sign Area to accommodate both a Monument Sign and a Wall Sign (Article 6.17(H)(1)), 2), allow a chain-link fence with slats (Article 5.3(L)(3)(b)), and 3) allow a fence in lieu of a screen wall (Article 6.12(D)(2)(a)(ii) in the EI: Enclosed Industrial District (Article 13.2) (see **Exhibit 4**).

SUMMARY OF VARIANCE

The Petitioner is requesting to 1) increase the Maximum Sign Area to accommodate both a Monument Sign and a Wall Sign, 2) allow a chain-link fence with slats, and 3) allow a fence in lieu of a screen wall; more specifically outlined below:

1) The Maximum Sign Area allocation is calculated as per UDO Article 6.17(H)(1) permitting one (1) square foot of Sign Area for each one (1) linear foot of building fronting on a public Right-of-way.
2) The Property is located within the State Highway 32 Overlay District and shall comply with the fencing requirements which prohibits non-solid and/or unfinished wood, chain link (with or without slats), non-decorative corrugated metal, electrified fences and razor/concertina/barbed wire as a fence type.
3) The Property is zoned EI: Enclosed Industrial and shall comply with the Outdoor Storage and Display screening requirements for Industrial lots. The requirement is that a wall be constructed with architectural block, brick or decorative tilt up concrete to be consistent with and compatible with the architectural character and materials of the building.

COMPREHENISVE PLAN

The Westfield-Washington Township Comprehensive Plan (The "Plan") identifies the Property within the "Employment Corridor" land use classification[1]. The vision for the Employment Corridor and all Highway Corridor classifications is contemplated for employment-generating uses and related supporting service uses[2].

The Employment Corridor classification is designed to accommodate office and service uses, research and development, retail and institutional uses that are subordinate to and supportive of the office and service uses[3]. The Plan also contemplates Employment Corridor to:

- Promote smaller scale local office and service uses along SR 32. Such uses should generally take place along the north side of SR 32, with business uses on the south side of US 32 allowed only where it is demonstrated that they will not negatively impact residential neighborhoods or uses:
- Locate loading docks appropriately, generally at the sides or backs of buildings. Screening should be provided where it is needed to hide unattractive views:
- Encourage signs that are attractive and sized and designed in relation to the buildings and to the traffic conditions in which they are seen.

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 September 11, 2018, Board of Zoning Appeals meeting. Notice of the public

[1] Page 24 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Land Use Classifications and Development Policies.
[2] Page 53 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Background.
[3] Pages 53-54 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan; Highway Corridors.

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

Conditions: The UDO[4] and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO[5] 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 terms of the UDO. 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;
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

Approval: If the Board is inclined to approve the Variance of Development Standard (1809-VS-13), then the Department recommends the approval with the following condition:

1. That the approval of 1809-VS-13 apply only to an Automobile Repair use.

In addition, the Department recommends the following written findings of fact related to the Variance of Development Standard:

[4] Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.
[6] Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.

Recommended Findings for Approval:

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

   Finding: It is unlikely that approving the requested variance(s) would be injurious to the public health, safety, morals, and general welfare of the community. The existing use is consistent with previous uses on the Property.

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

   Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The use of the Property would not change from its most recent use as an Automotive Repair business.

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

   Finding: Strict adherence to the zoning ordinance would result in the inability to properly advertise the business and the proposed fence would result in improved maintenance and security to the site.

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.

Petition Number:	1809-VU-06
Subject Site Address:	1839 West 166th Street
Petitioner:	Nathan and Mindy Martin
Request:	The Petitioner is requesting a Variance of Use to allow a heating and cooling business (Industry, Light – "the Business") in the AG-SF1: Agriculture/Single-Family Rural District
Current Zoning:	AG-SF1: Agriculture/Single-Family
Current Land Use:	Residential
Approximate Acreage:	1.6 acres +/-
Exhibits:	1. Staff Report 2. Location Map 3. Existing Conditions 4. Petitioner's Narrative
Staff Reviewer:	Daine Crabtree, Associate Planner

PROPERTY INFORMATION

The subject property is 1.6 acres +/- in size and located at 1839 West 166th Street (the "Property") (see **Exhibit 2**). The Property is zoned AG-SF1: Agriculture/Single-Family.

ANALYSIS

The Petitioner is requesting a variance of use to allow a heating and cooling business (Industry, Light) at 1839 West 166th Street, currently zoned AG-SF1: Agriculture/Single-Family. The use classification "Industry, Light" is not a permitted use within the AG-SF1 District.

The Petitioner's Narrative (see **Exhibit 4**) provides extensive details regarding the Business operations (and/or lack thereof) that occur on the property as well as multiple conditions/commitments.

Details of the Variance Request:

> Variance of Use: The Property is currently zoned AG-SF1. A heating and cooling business, deemed a Light Industrial use by the Westfield-Washington Township Unified Development Ordinance (UDO), is not a permitted use in the AG-SF1 zoning district (Article 13.2, Use Table).

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 September 11, 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 UDO 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 UDO 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.

DEPARTMENT COMMENTS

Although the area surrounding the Property is designated as 'New Suburban' in the Westfield-Washington Township Comprehensive Plan, based on the nature of the Business operations outlined in the Petitioner's Narrative as well as the conditions to which the petitioner is willing to commit, Staff is comfortable with the proposal.

The Department recommends approval of 1809-VU-06 with the following conditions and findings:

Recommended Conditions:

1. No overnight vehicle or trailer storage will be permitted on the Property
2. No Business-related signage will be permitted on the Property
3. No outdoor storage of Business-related equipment will be permitted on the Property.
4. In order to adequately screen the existing dumpster and toolshed, the Petitioner will maintain the existing landscaping and provide additional landscaping, if necessary.

Recommended Findings for Variance of Use (1809-VU-06):

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 the Business, as outlined in the Petitioner's Narrative, to locate on the Property will be injurious to the public health, safety, morals, and general welfare of the community because the Business has minimal employees, will not operate on the Property often, most if not all Business-related operations occur in the existing pole barn, and the Petitioner is willing to commit to several conditions listed in the Petitioner's Narrative.

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 only those improvements currently existing on the property and will be otherwise consistent with or less intensive than the character of the surrounding area. Properties that exist less than 1/3 of a mile away (Ackerson Farm PUD) permit and encourage commercial uses.

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

   Finding: The property on which the existing pole barn exists, where most, if not all business operations on the Property takes place, is zoned AG-SF1 which does not permit a Light Industrial use. Without approval of the Variance of Use, the proposed activity may not legally take place.

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 use of Industry, Light is not permitted within the AG-SF1 zoning district. Strict adherence to the Zoning Ordinance would not allow the Business, as it exists today, to operate on the Property.

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 "New Suburban". The use of the Property, as outlined in the Petitioner's Narrative, would not interfere substantially with the Comprehensive Plan.

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
1839 W. 166th Street

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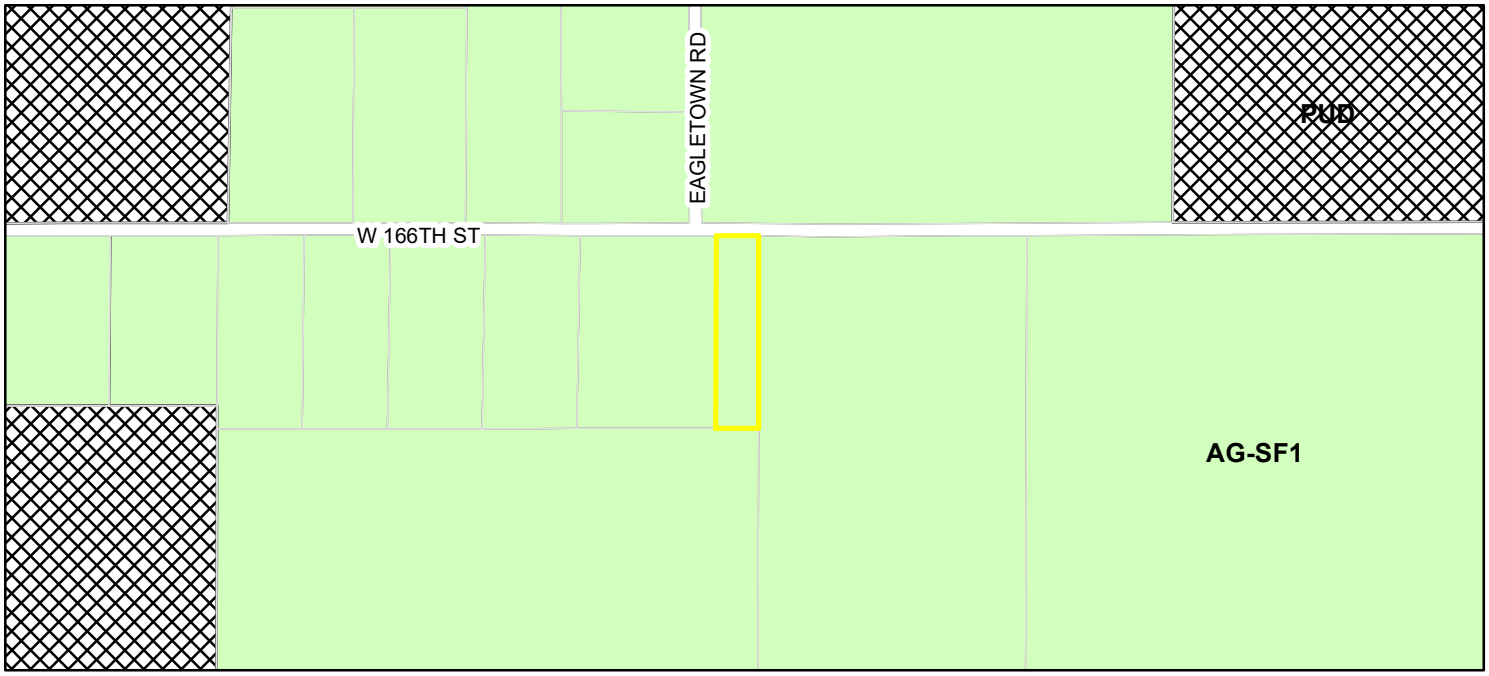
Not To Scale

Aerial Location Map

Site

Zoning Map



Parcel

Zoning

Zoning - All

AG-SF1 (Agriculture - Single Family - 1)

PUD (Planned Unit Development)

Overview and Statement of Intent: 1839 West 166th Street, Westfield, Indiana

The petitioners, Nathan and Mindy Martin, own property located at 1839 West 166th Street, Westfield, IN 46074. Located on the 1.6 acre parcel is a home that was constructed in 1978 and to the rear of the property, a 40x60 tool shed that was constructed in 1980 Petitioner's currently reside in the home . The front of the property is bordered to the south by 166th St. with an agriculture field located on the opposite side of 166th. The north and east sides of the property are surrounded by agricultural fields and to the west is a vacant lot. The tool shed is not easily visible from the road or any surrounding houses. The tool shed is accessed by a gravel driveway that encircles the tool shed. The tool shed faces to the south with the entrances facing the surrounding agricultural field.

On or around July 1, 2018, verbal notification was received from Corey Harris from the City of Westfield stating that a complaint had been made that a business was being operated on the property. Petitioner allows Integrity Heating and Air to use the small office within the tool shed and one bay located within the tool shed as needed for storage of parts and supplies. Integrity Heating and Air is a small HVAC business servicing Westfield and the surrounding communities since 2012. Integrity has no employees other than the two co-owners, Ted Heinzelman and Ryan Martin. Integrity has no plans to expand its operations at the 166th Street location. Integrity has no signage at the 1839 West 166th Street property and not does meet with customers or accept any deliveries of equipment and parts at this address. Company vehicles are stored off-site and other than storage of supplies within the toolshed, Integrity generally only utilizes the property five hours or less per week. During those times, Integrity's activities on the property include bookkeeping duties within the office, use of a metal brake that is stored within the tool shed (typically used less than one hour per week), and unloading/loading of supplies onto the company trucks. There is a small dumpster located behind the toolshed that is emptied weekly. The majority of Integrity's business is conducted at customer's homes or from within the company vehicles.

The Petitioner is requesting a variance to allow a limited Office Construction Trade use to allow Integrity to continue to operate at the property as outlined above and commits to the following:

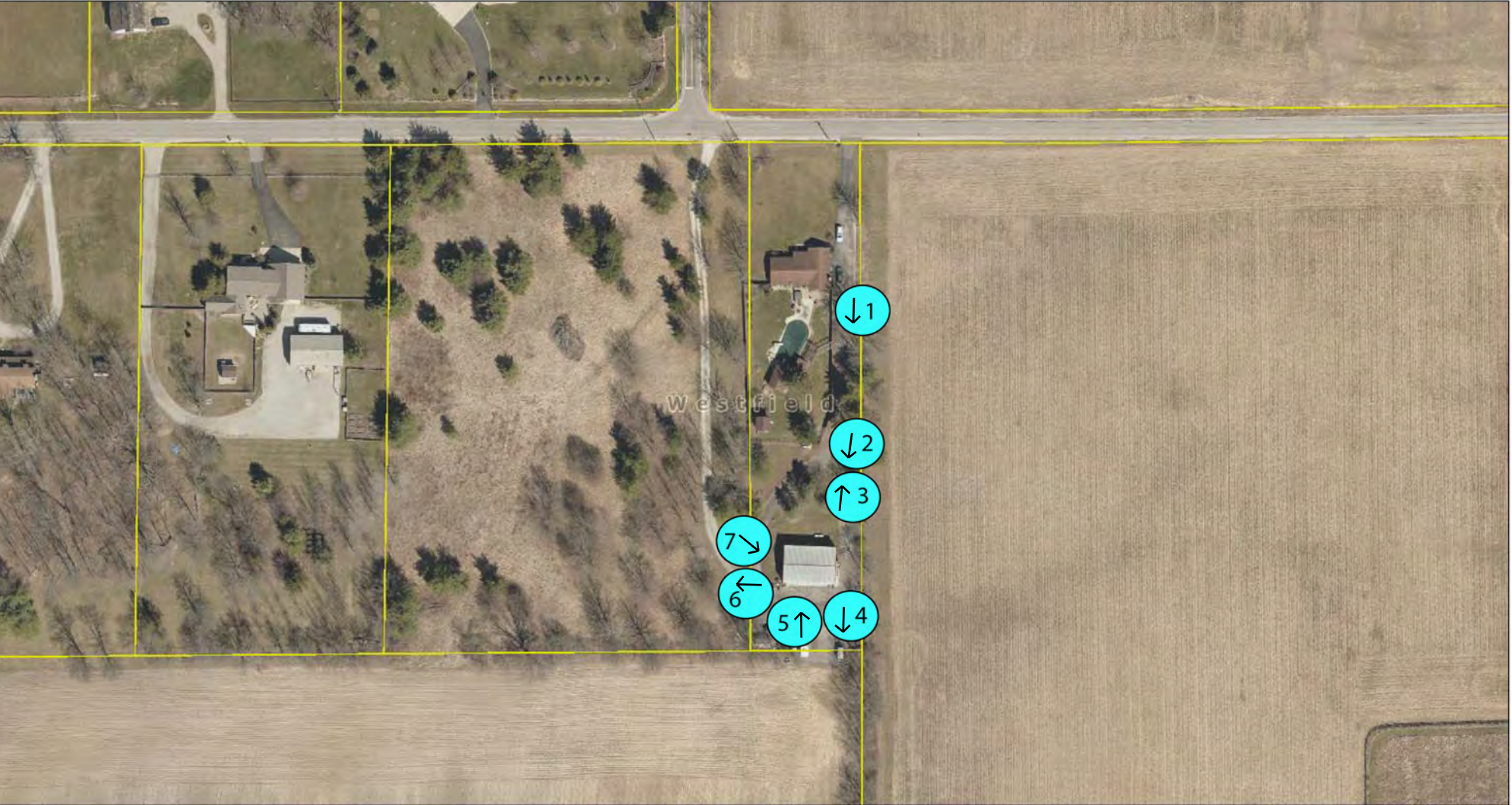
a.) no storage of company vehicles or trailers on the property;

b.) No business signage or customer visits to the property;

c) Adequately screening of the dumpster and/or toolshed so not to be an eyesore to surrounding properties;

d.) No storage of equipment or parts outside of the toolshed.

Petitioner has reached out to neighbors to discuss the desired variance of land use on the property. (see attached letter)


Westfield
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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
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

OVERVIEW

Location: The subject Property is 0.16 acres +/- in size and is located at 3459 Heathcliff Court (see **Exhibit 2**). The Property is currently zoned the Oak Manor PUD. The surrounding properties are also zoned the Oak Manor PUD.

Property History: The Secondary Plat for The Villages of Oak Manor, Section 1, was recorded on August 11, 2006 (Instrument No. 200600047128).

Variance Request: The Petitioner is requesting a Variance of Use to allow a Kennel[1] in the Oak Manor PUD, as further described in the Petitioner's application (see **Exhibit 3**).

SUMMARY OF VARIANCE

The Property is governed by the Oak Manor PUD (Ord. 03-37). The permitted uses established by Ord. 03-37 do not include a Kennel as a permitted use. The Petitioner is requesting this variance to allow the keeping of more than four (4) dogs on the Property.

COMPREHENISVE PLAN

[1] Chapter 12 of the UDO defines "Kennel" as "Any use on which four (4) or more dogs, or small animals (e.g., cats, rabbits, chickens), at least four (4) months of age are kept."

The Westfield-Washington Township Comprehensive Plan (The "Plan") identifies the Property within the "Suburban Residential" land use classification[2]. The vision for the Suburban Residential classification is contemplated for future residential growth of the community, generally to the west and north of the Existing Suburban area[3].

The New Suburban classification is designed to accommodate detached dwellings, attached dwellings, institutional uses, recreational uses, artisan farms and equestrian uses[4]. The Plan also contemplates New Suburban to:

- Ensure that new development occurs in a way that it is contiguous with existing development:
- Prevent monotony of design and color. Recognize that quality in design applies not just to individual homes, but to the collective impact of an entire development:
- Encourage a diverse range of homes styles in individual subdivisions, using innovative architecture of a character appropriate to Westfield, and:
- Emphasize connectivity between subdivisions, and avoid creating isolated islands of development.

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 September 11, 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 UDO[5] and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefited by a variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO[6] 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

[2] Page 24 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Land Use Classifications and Development Policies.
[3] Page 38 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Background.
[4] Pages 39-43 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan; New Suburban.
[5] Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.
[6] Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.

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 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 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.
5) The approval does not interfere substantially with the Comprehensive Plan.

DEPARTMENT COMMENTS

Approval: If the Board is inclined to approve the Variance of Use (1808-VU-04), then the Department recommends the approval with the following conditions:

1. That the approval of this variance shall expire on December 31, 2020.
2. That any request to extend the time limit for this variance shall be reviewed and approved by the Board of Zoning Appeals prior to December 31, 2020.
3. That a new application shall be submitted by June 30, 2020 to the Economic and Community Development Department if an extension to the time limit for the variance is requested.
4. That if the Petitioner ceases operation on the Property prior to December 31, 2020, then this variance shall be annulled.
5. That this variance is limited to no more than six (6) dogs.
6. That approval of this variance shall only be applicable to dogs.

7. 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 Economic and Community Development Department.

In addition, the Department recommends the following written findings of fact related to the Variance of Use:

Recommended Findings for Approval:

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

   Finding: It is unlikely that allowing more than four (4) 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 variance would allow for the Petitioner to continue keeping more than four (4) dogs on the Property.

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 Petitioner has been keeping more than four (4) dogs on the Property for a range of six (6) to eleven (11) years, and no previous issues, concerns, or disturbances have been filed with the City. Strictly applying the zoning ordinance would result in the displacement of the Petitioner's dogs.

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.

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.