



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_04_10_2018

Tuesday, April 10, 2018 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, April 10, 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 - March 13, 2018

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

Review Rules & Procedures

ITEMS OF BUSINESS:

1803-VS-04 [ADOPTION OF FINDINGS OF FACT]

16133 Haddam Lane

Gennadiy Kelmanson by Raymond J. Hafseten, Jr.

Adoption of Findings of Fact for Variance of Standard that was denied on March 13, 2018.

(Planner: Matt Pleasant - MPleasant@westfield.in.gov)

Documents: [Exhibit 1 Staff Report](#) | [Exhibit 2 Location Map](#) | [Exhibit 3 Petitioner's Application](#)

1804-VS-06 [PUBLIC HEARING]

2605 West 159th Street

Patrick Heitz

The petitioner is requesting a Variance of Standard to reduce the Minimum Lot Frontage within the AG-SF1: Agriculture / Single-Family Rural District (Article 4.2(D)).

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

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

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)

1804-VS-07 [CONTINUED]

348 Old Ashbury Road

Jason Richarz by Pools of Fun

The petitioner is requesting a Variance of Standard to reduce the Minimum Rear Yard Setback in the Chatham Hills PUD District (Section 9.1 of Ord. 13-24).

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

REPORTS/COMMENTS:

Plan Commission Liaison

Economic and Community Development Department

ADJOURNMENT



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

April 10, 2018

1804-VS-06

Exhibit 1

Petition Number: 1804-VS-06

Subject Site Address: 2605 W 159th St. (The "Property")

Petitioner: Patrick Heitz (The "Petitioner")

Request: The Petitioner is requesting a Variance of Standard to modify the minimum lot frontage.

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

Current Land Use: Agriculture / Residential

Approximate Acreage: 13.63 acres +/-

Exhibits:

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

Staff Reviewer: Caleb Ernest, Associate Planner

OVERVIEW

Location: The subject Property is 13.63 acres +/- in size and is located at 2605 W 159th Street (see **Exhibit 2**). The Property is currently zoned AG-SF1: Agriculture / Single-Family Rural District and the adjacent properties to the east, west and south are also zoned AG-SF1. The adjacent property to the north is zoned SF2: Single-Family Low Density District and is the site of the recently approved Bent Creek subdivision.

Variance Request: The Petitioner is requesting a Variance of Standard to modify the Minimum Lot Frontage.¹

SUMMARY OF VARIANCE

The Property is currently zoned AG-SF1 and in accordance with the zoning standards the Minimum Lot Frontage² is two hundred and fifty (250) feet. The Petitioner is requesting a Variance of Standard to reduce the Minimum Lot Frontage in anticipation of subdividing the Property to create two (2) lots, one of which would have zero (0) feet of lot frontage and the other would have 241.25 feet (see **Exhibits 3 and 4**). The Petitioner would be required to file a

¹ Chapter 12 of the UDO defines "Lot Frontage" as "The length of the Front Lot Line."

² Article 4.2(D) Zoning Districts; AG-SF1: Agriculture / Single-Family Rural District; Minimum Lot Frontage of the UDO.



Secondary Plat³ for any subdividing. The Petitioner would also be required to show a twenty-five (25) foot wide access easement on the Secondary Plat.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan (The “Plan”) identifies the property within the “New Suburban” land use classification⁴. 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.⁵

The New Suburban classification is designed to accommodate detached dwellings, attached dwellings, institutional uses, recreational uses, artisan farms and equestrian uses⁶. 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 Standard. This petition is scheduled to receive its public hearing at the April 10, 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 UDO⁷ 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

³ Chapter 10.12(C)(2) Subdivision; Approval Process; Minor Subdivision of the UDO.

⁴ Page 24 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Land Use Classifications and Development Policies.

⁵ Page 38 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Background.

⁶ Pages 39-43 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan; New Suburban.

⁷ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

April 10, 2018

1804-VS-06

Exhibit 1

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 UDO⁸ 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 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 § 36-7-4-918.4 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.

⁸ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



DEPARTMENT COMMENTS

Approval: If the Board is inclined to approve the Variance of Standard (1804-VS-06), then the Department recommends the following conditions and findings as set forth below, for the variance:

Recommended Conditions:

- 1) A twenty-five (25) foot access easement, to permit access to both properties, be included on the Secondary Plat.
- 2) The Property be subdivided to create no more than two (2) lots.

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 would be injurious to the public health, safety, morals, and general welfare of the community because the existing use and Lot Frontage complies with the Legal Nonconforming⁹ standards and all applicable standards of the zoning district. Both new lots will comply with all applicable zoning standards.

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

Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on adjacent surrounding properties because the use of the Property will not change.

- 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 subdivide the Property with the required Minimum Lot Frontage as proposed.

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.

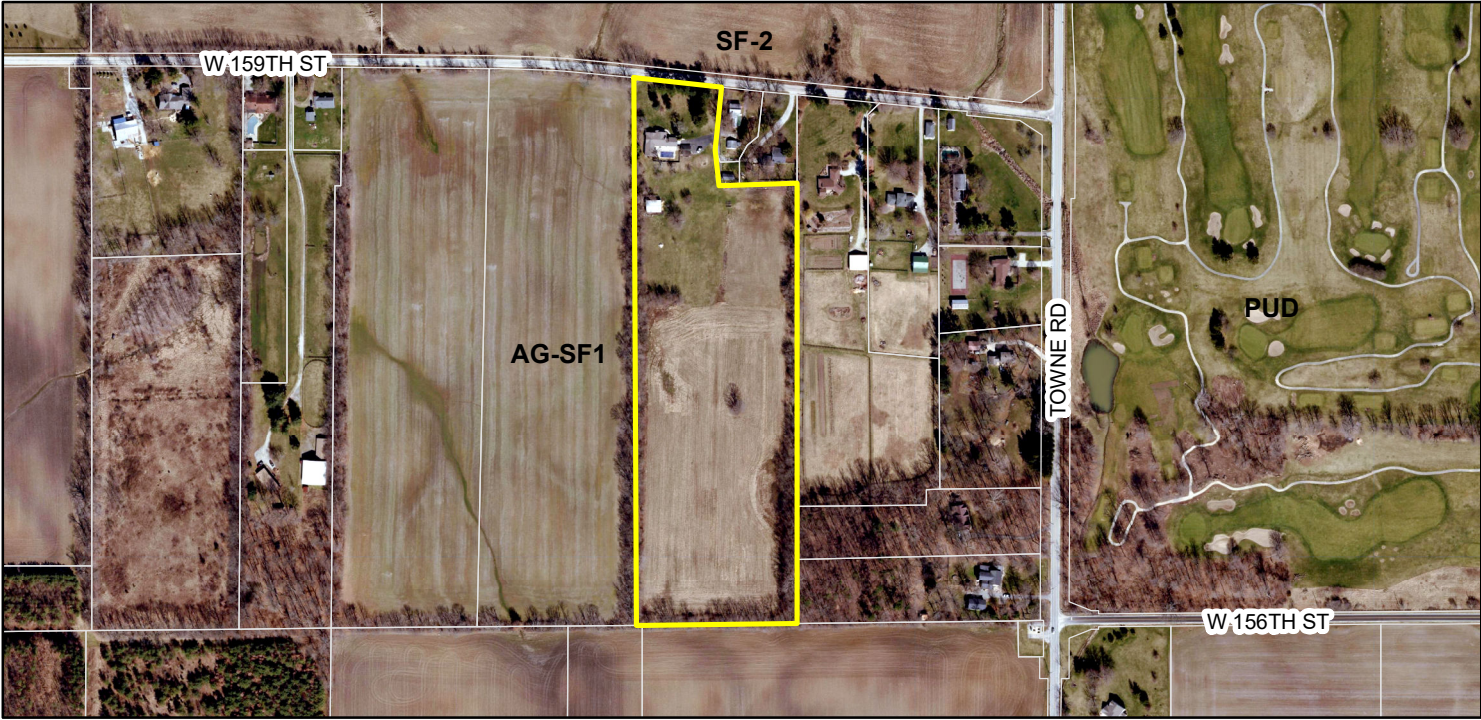
⁹ Article 9.2(B) Nonconforming Regulations; Legal Nonconforming and Illegal Nonconforming; Legal Nonconforming of the UDO.



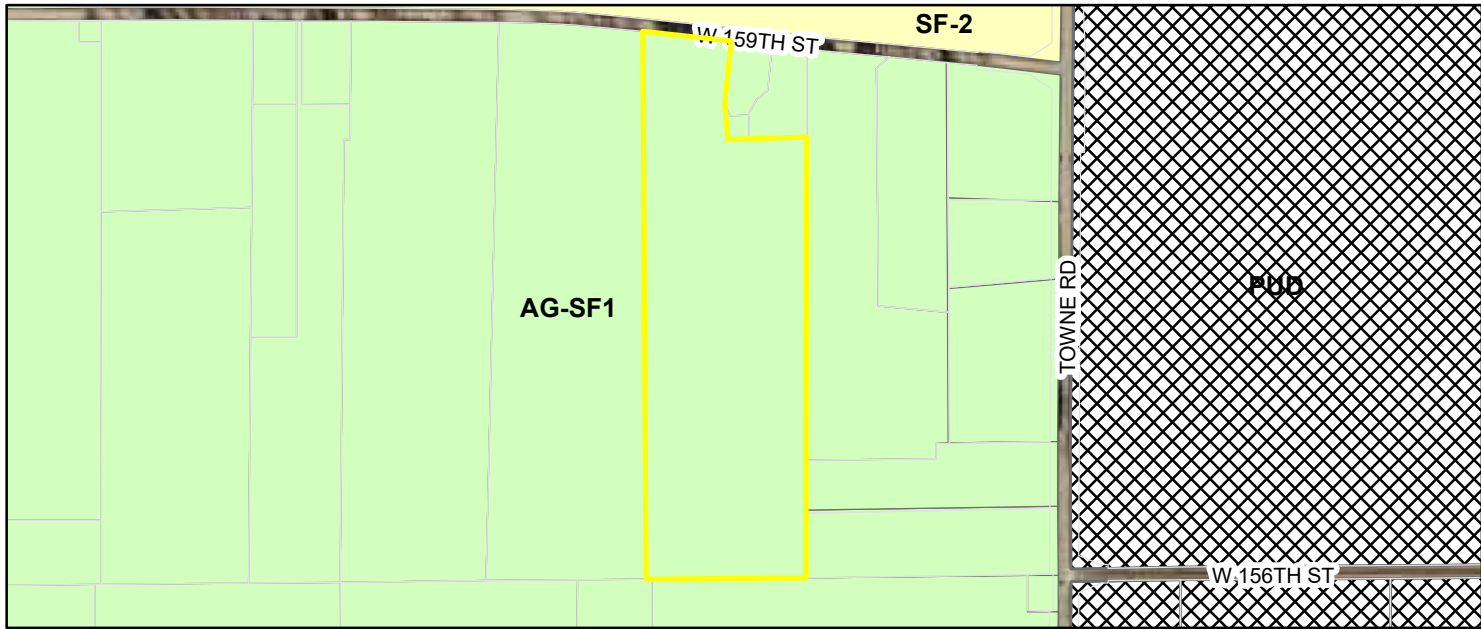
Property Location Map
Patrick Heitz
Variance of Development Standard
1804-VS-05

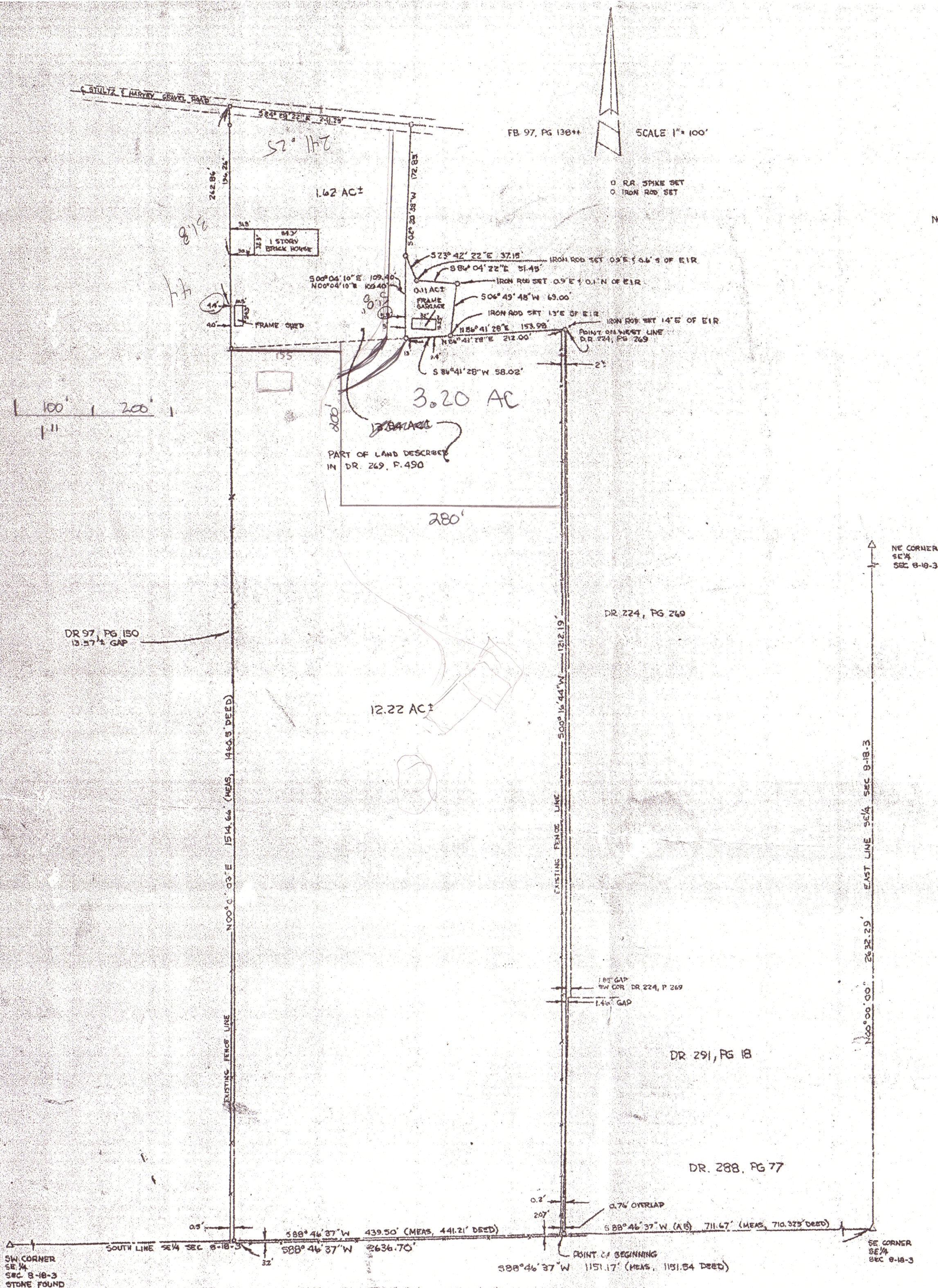


Aerial Location Map



Zoning Map





A survey of a part of the Southeast Quarter of Section 8, Township 18 North, Range 3 East, located in Washington Township, Hamilton County, Indiana, being more specifically described as follows:

Beginning at a point on the South line of the Southeast Quarter of Section 8, Township 18 North, Range 3 East, said POINT OF BEGINNING being South 88 degrees 46 minutes 37 seconds West (assumed bearing) 711.67 feet (Measured, 710.325 feet Deed) from the Southeast corner of said Southeast Quarter; thence South 88 degrees 46 minutes 37 seconds West 439.50 feet (Measured, 441.21 feet Deed) on and along the South line of said Southeast Quarter; thence North 00 degrees 01 minutes 03 seconds East 1514.66 feet (Measured, 1460.5 feet Deed) to the center line of the Stultz & Harvey gravel road (159th Street); thence South 84 degrees 28 minutes 22 seconds East 241.25 feet on and along the center line of said road; thence South 02 degrees 20 minutes 38 seconds West 172.85 feet; thence South 00 degrees 04 minutes 10 seconds East 109.40 feet; thence North 86 degrees 41 minutes 28 seconds East 212.00 feet; thence South 00 degrees 16 minutes 44 seconds West 1212.19 feet to the Point Of Beginning, Containing 13.84 acres, more or less, being subject to all applicable easements and rights-of-way of record.

A survey of a part of the Southeast Quarter of Section 8, Township 18 North, Range 3 East, located in Washington Township, Hamilton County, Indiana, being more specifically described as follows:

Commencing at the Southeast corner of the Southeast Quarter of Section 8, Township 18 North, Range 3 East; thence South 88 degrees 46 minutes 37 seconds West (assumed bearing) 1151.17 feet (Measured, 1151.54 feet Deed) on and along the South line of said Southeast Quarter; thence North 00 degrees 01 minutes 03 seconds East 1514.66 feet (Measured, 1460.5 feet Deed) to the center line of the Stultz & Harvey gravel road (159th Street); thence South 84 degrees 28 minutes 22 seconds East 241.25 feet on and along the center line of said road; thence South 02 degrees 20 minutes 38 seconds West 172.85 feet to the POINT OF BEGINNING of this description; thence South 23 degrees 42 minutes 22 seconds East 37.15 feet; thence South 86 degrees 04 minutes 22 seconds East 51.45 feet; thence South 06 degrees 49 minutes 48 seconds West 69.00 feet; thence South 86 degrees 41 minutes 28 seconds West 58.02 feet; thence North 00 degrees 04 minutes 10 seconds East 109.40 feet to the POINT OF BEGINNING, Containing 0.11 acres, more or less, being subject to all applicable easements and rights-of-way of record.

A survey of a part of the Southeast Quarter of Section 8, Township 18 North, Range 3 East, located in Washington Township, Hamilton County, Indiana, being more specifically described as follows:

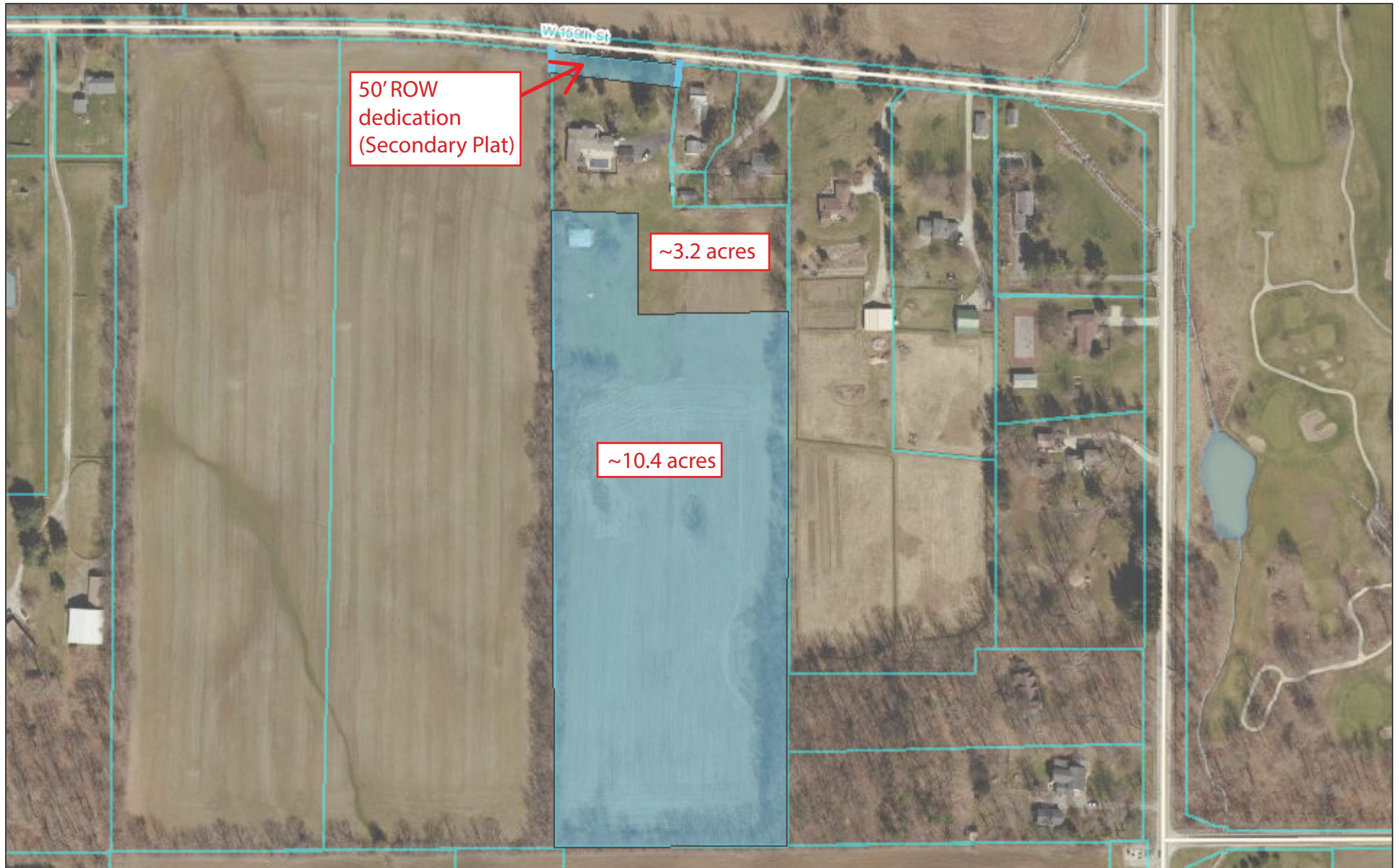
Beginning at a point on the South line of the Southeast Quarter of Section 8, Township 18 North, Range 3 East, said POINT OF BEGINNING being South 88 degrees 46 minutes 37 seconds West (assumed bearing) 711.67 feet (Measured, 710.325 feet Deed) from the Southeast corner of said Southeast Quarter; thence South 88 degrees 46 minutes 37 seconds West 439.50 feet (Measured, 441.21 feet Deed) on and along the South line of said Southeast Quarter; thence North 00 degrees 01 minutes 03 seconds East 1514.66 feet (Measured, 1460.5 feet Deed) to the center line of the Stultz & Harvey gravel road (159th Street); thence South 84 degrees 28 minutes 22 seconds East 241.25 feet on and along the center line of said road; thence South 02 degrees 20 minutes 38 seconds West 172.85 feet; thence South 23 degrees 42 minutes 22 seconds East 37.15 feet; thence South 86 degrees 04 minutes 22 seconds East 51.45 feet; thence South 06 degrees 49 minutes 48 seconds West 69.00 feet; thence North 86 degrees 41 minutes 28 seconds East 153.98 feet; thence South 00 degrees 16 minutes 44 seconds West 1212.19 feet to the POINT OF BEGINNING, Containing 13.95 acres more or less, being subject to all applicable easements and rights-of-way of record.

By LELAND D. MILLER
Registered Land Surveyor #50083
November 22, 1977
For:

L. D. Miller Land Surveying & Mapping
23 North 8th Street
Noblesville, Indiana 46060
Phone: 317-773-2644

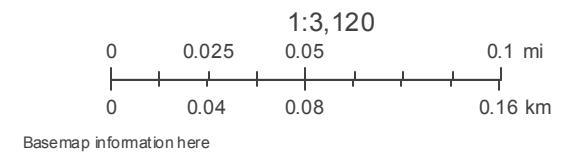


Proposed Site Plan



March 29, 2018

Parcels



WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

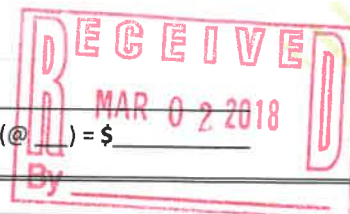
VARIANCE APPLICATION

OFFICE
USE ONLY

DOCKET #: 1804-VS-06

FILING DATE: _____

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



PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Caleb Ernest (STAFF NAME)

DATE: 2-26-2018

PRIOR OR RELATED DOCKET NUMBERS y/a

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: Patrick Heitz

TELEPHONE: 317 828-2224

ADDRESS: P.O. Box 159 Westfield

EMAIL: patrickgheitz@gmail.com

PROPERTY OWNER'S NAME: Patrick Heitz

TELEPHONE: _____

ADDRESS: 2605 W 159th Westfield

EMAIL: _____

REPRESENTATIVE'S NAME: _____ TELEPHONE: _____

COMPANY: _____ EMAIL: _____

ADDRESS: _____

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 2605 W 159th Westfield

COUNTY PARCEL ID #(S): 08-09-08-00-00-022.000

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

VARIANCE REQUEST

☐ VARIANCE OF LAND USE

CODE CITATION: _____

☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: 4.2D

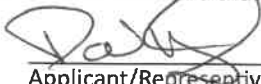
FINDINGS OF FACT: (PLEASE SEE ATTACHED) _____

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY): split 14 Ac

into 2 lots 3.2 + 10.64

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)

Patrick Heitz
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 2nd day of March, 2018.

State of Indiana, County of Hamilton SS:



Kristen M Sparks
Notary Public Signature
Kristen m Sparks
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)*

Patrick Heitz
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 2nd day of March, 2018.

State of Indiana, County of Hamilton SS:



Kristen M Sparks
Notary Public Signature
Kristen m Sparks
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.

16.00
1.00 now

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer
29 day of December, 2011
Dawn Coverdale Auditor of Hamilton County
Parcel # 08-09-08-00-00-022,000

2011068537 WARR DEED \$17.00
12/29/2011 11:41:32A 1 PGS
Mary L. Clark
HAMILTON County Recorder IN
Recorded as Presented

File Number: 01077-3811

WARRANTY DEED

THIS INDENTURE WITNESSETH, That Tom Maddox and Donna Maddox*, husband and wife, (Grantor) of Hamilton County, in the State of Indiana, CONVEY AND WARRANT(S) to Patrick G Heitz, (Grantee) of Marion County, in the State of Indiana for the sum of Ten & 00/100 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: *AKA Donna N Maddox

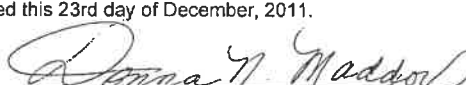
A PART OF THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 18 NORTH RANGE 3 EAST LOCATED IN WASHINGTON TOWNSHIP, HAMILTON, INDIANA, BEING MORE SPECIFICALLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 18 NORTH, RANGE 3 EAST, SAID POINT OF BEGINNING BEING SOUTH 88 DEGREES 46 MINUTES 37 SECONDS WEST (ASSUMED BEARING) 711.67 FEET (MEASURED 710.325 FEET DEED) FROM THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE SOUTH 88 DEGREES 46 MINUTES 37 SECONDS WEST 439.50 FEET (MEASURED 441.21 FEET DEED) ON AND ALONG THE SOUTH LINE OF SAID SOUTHEAST CORNER; THENCE NORTH 00 DEGREES 01 MINUTES 03 SECONDS EAST 1514.66 FEET (MEASURED 1460.5 FEET DEED) TO THE CENTER LINE OF THE STULTZ & HARVEY GRAVEL ROAD (159 TH STREET); THENCE SOUTH 84 DEGREES 28 MINUTES 22 SECONDS EAST 241.25 FEET ON AND ALONG THE CENTER LINE OF SAID ROAD; THENCE SOUTH 02 DEGREES 20 MINUTES 38 SECONDS WEST 172.85 FEET; THENCE SOUTH 00 DEGREES 04 MINUTES 10 SECONDS EAST 109.40 FEET; THENCE NORTH 86 DEGREES 41 MINUTES 28 SECONDS EAST 212.00 FEET; THENCE SOUTH 00 DEGREES 16 MINUTES 44 SECONDS WEST 1212.19 FEET TO THE POINT OF BEGINNING. CONTAINING 13.84 ACRES MORE OR LESS.

Subject to real estate taxes payable in 2011 and all subsequent taxes and assessments thereon, all of which Grantee herein assumes and agrees to pay.

Subject to any and all easements, agreements and restrictions of record. The address of such real estate is commonly known as 2605 159th Street West, Westfield, IN 46074.

IN WITNESS WHEREOF, Grantor has executed this deed this 23rd day of December, 2011.


Tom Maddox


Donna Maddox AKA Donna N Maddox

State of Indiana

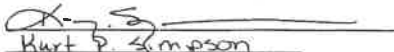
ss: ACKNOWLEDGEMENT

County of Marion

Before me, a Notary Public in and for the said County and State, personally appeared Tom Maddox and Donna Maddox*, husband and wife, who acknowledged the execution of the foregoing Instrument, and who, having been duly sworn, stated that any representations therein contained are true.

*AKA Donna N Maddox

Witness my hand and Notarial Seal this 23rd day of December, 2011


Kurt P. Simpson
Notary Public
Residing in Hamilton Co, IN



KURT P. SIMPSON, Notary Public,
Hamilton County, State of Indiana
My Commission Expires January 24, 2015

My commission expires: 1-24-15

This instrument prepared by: Wendy S. Gibbons, Attorney at Law 16726-53

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. Sheila Cargal

Information from Stewart Title Company

Send Tax bills to: 2605 159th Street West, Westfield, IN 46074

Grantee's street or rural route address is: 2605 159th Street West, Westfield, IN 46074

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



APPLICANT: _____

DOCKET #: _____

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

- A. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because: _____

Should not affect ~~adj~~ adjoining both new lots will
be over 3 ac

- 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: _____

adjacent property is much smaller in size
new lots will both be over 3 ac

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

Lot has a narrow frontage for 14 ac

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

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 | ☒ Legal Description |
| ☒ Draft Public Notice | ☒ List of Adjoining Property Owners (as provided by County) |
| ☒ Property Owner Consent | ☒ TAC Delivery Affidavit (if TAC is determined to be necessary) |
| ☒ Site Plan (to scale) | ☒ Copy of Property Deed |
| ☐ Statement of Intent | ☐ Elevations, photographs or other supporting information necessary to explain the nature of the requested variance(s) |
- Find on Part*
- 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.

MINUTES

Westfield-Washington Board of Zoning Appeals

Minutes of the March 13, 2018 BZA Meeting

Presented for approval: April 10, 2018

Page 1 of 7

The Westfield-Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, March 13, 2018, at Westfield City Hall.

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

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

ROLE CALL

Noted presence of a quorum. Kingshill arrived at 7:05 p.m.

ELECTION OF OFFICERS

Moved to end of meeting until Ken Kingshill has arrived.

APPROVAL OF MINUTES

Motion: move to approve the February 13, 2018 meeting minutes as presented.

Motion: Schmitz; Second: Raines. Motion passed. Vote 4-0.

REVIEW OF RULES AND PROCEDURES

Howard reviewed BZA rules and procedures.

ITEMS OF BUSINESS

1803-VU-02

[PUBLIC HEARING]

133 W. 161st Street

Mauricio Gonzalez Reyna

The petitioner is requesting a temporary Variance of Use to allow a Construction Trade Office (Article 12) use within the AG-SF1: Agriculture / Single-Family Low Density District (Article 13.2).

Pleasant overviewed the petitioner's request for a variance to allow a Construction Trade Office use which would include storing vehicles and trailers for their business.

Public Hearing for 1803-VU-02: Opened at 7:05 p.m.

No public comment.

Public Hearing for 1803-VU-02: Closed at 7:05 p.m.

Schmitz stated he was pleased with the petition and that the petitioner had obtained Spring Mill Station Task Group support.

Kingshill arrived at 7:05 p.m.

Motion:

Schmitz motioned to approve 1803-VU-03 recommends the Variance of Use (1803-VU-02) approval with the following condition:

- The Variance of Use shall expire on December 31, 2021.

Fortier seconded. Motion passed. Vote 4-0. 1 abstention.

Motion:

Schmitz moved to adopt the Department's recommended findings of facts.

Raines seconded. Motion passed. Vote 4-0. 1 abstention.

1803-VS-03**[PUBLIC HEARING]****14758 Greyhound Pass**

Texas Roadhouse Holdings, LLC by GreenbergFarrow

The petitioner is requesting Variances of Development Standard to change the required lot standards (Article 4.16(D), 4.16(E)), relief from the US Highway 31 Overlay District (Article 5.2), Architectural Standards (Article 6.3), Landscaping Standards (Article 6.8), and Signage Standards (Article 6.17) within the GB: General Business District (Article 4.16).

Pleasant presented a summary of this requests for Variances of Standard.

Public Hearing for 1803-VS-03: Opened at 7:08 p.m.

No public comment.

Public Hearing for 1803-VS-03: Closed at 7:08 p.m.

Schmitz asked how footprint compare to Don Pablo's.? Was Don Pablos issued similar variances?

- Pleasant explained that the lots were created after the fact.
- The petitioner is adding parking and landscaping and requesting additional signage.

Schmitz asked if signage was consistent with other businesses in the area

- Pleasant answered yes it is consistent.

Kingshill mentioned that the APC permitted greater signage in Greyhound Pass due to US 31 and this request is probably consistent with that permitted use.

Kingshill asked if they were using existing building

- Pleasant stated this is a tear down and rebuild and that they are aware of the 31 vision, however, the petitioner needs relief from some of the US 31 overlay standards.

Motion:

Kingshill motioned to approve 1803-VS-03

Schmitz seconded. Motion passed. Vote 5-0.

Motion:

Schmitz moved to adopt the Department's recommended findings of facts.

Kingshill seconded. Motion passed. Vote 5-0.

1803-VS-04

[PUBLIC HEARING]

16133 Haddam Lane

Gennadiy Kelmanson by Raymond J. Hafseten, Jr.

The petitioner is requesting Variances of Development Standard to change the required Lot Standards (Article 4.2(C) and Article 4.2(D)) and amend the previously approved variance (99-V-28) to allow a fifth lot in Block A of the Woodshire subdivision within the Agriculture / Single-Family Rural District (Article 4.2).

Pleasant presented a summary of this requests for a Variance of Development Standard to change the required Lot Standards.

Gennadiy Kelmanson, petitioner, gave an overview of his request and addressed the size of his lot and the proposed subdivided lot in comparison to other existing lots.

Kingshill asked how the rear lot will be accessed.

- Petitioner explained that they have an existing drive that is shared with the rear lots (A-4 and A-1).

Kingshill asked if A-4 had a variance for no frontage

- Pleasant explained that there was a variance that allowed the four lots to be developed without platting and no frontage for A-4.

Schmitz asked if these lots were subject to Woodshire covenants.

- Pleasant answered yes they are.

Schmitz and Smith asked if all other lots were over two acres.

- Pleasant confirmed yes.

Petitioner stated that two acre requirement was a health department standard for well and septic which is N/A now that city water and sewer are available.

Schmitz asked if seller told him he could split the property; did he check with city.

- Petitioner responded that he did to check with the city because he knew it wasn't possible until water and sewer were available.

Kingshill asked about the purpose of splitting the property.

- Petitioner responded that it is to build for daughter.

Schmitz asked about if the driveway would be accessed from the private driveway or the road.

- Petitioner responded it would be accessed off the driveway.

Kingshill asked if he could purchase south corner lot to build on, appears to be vacant on GIS.

- Pleasant stated that site is currently under construction.

Public Hearing for 1803-VS-04: Opened at 7:32 p.m.

James Dickerson, 16129 Haddam Lane; stated, as a direct neighbor to this petitioner's property, that he has concerns over the flooding in the wetland area between their properties. He doesn't think there is enough room for a building of that size proposed in the wetland area. He said when he bought in this subdivision his purchase was based on its large estate lots and strong covenants ensuring large estate lots would remain. Woodshire covenants expressly prohibit this type of subdivision. Covenants can only be changed after a period of 25 years and with homeowner vote.

Jane Ferreri, 16421 Greenwich Drive; said she doesn't see how a home can be built far enough back from the road. She feels covenants should be followed which would include the protection of large lot sizes. She said the location of new building is a concern; and, if this was allowed, then other lots could be subdivided.

Ben Hovhanessian, 16303 Haddam Lane; stated that the wetland situation is a significant and current problem. He said building would add more wetland and problems to the area. He said that petitioner's proposed building project would add more wetland.

Linda Manning, 16239 Haddam Lane; stated she is an adjacent neighbor to this property and is concerned about what additional buildings will do to the current situation of standing water and runoff. She stated she wants the neighborhood covenants upheld.

Adam Schiffer, 16323 Haddam Lane; said the covenants clearly state that all lots must be two acres and that APC approval is required for any further subdivision with the exception of lot combinations. He stated concerns about the negative impact on existing properties as well as the drainage problems adding that the neighborhood as no city drains.

Annette Dartt, 16516 Greenwich Drive; representing John Dartt, Woodshire HOA president, stated that the current lots are over two acres and the neighborhood covenants state that lots can't be less than two acres. She said that drainage issues in neighborhood are bad for health and safety reasons and the property values will be affected by decreased acreage. She said that of the 31 estate lots the HOA received 20 letters of opposition to this proposed project. She said that as the petitioner has enjoyed property for 15 years denying this request will not result in practical difficulties.

Guy East, 16517 Haddam Lane; said as a builder he would love to build a home there, however he added that he built his home in this neighborhood and found the soil to be the worst he has ever built on. He said that water doesn't drain well and affects basements and septic systems. He voiced opposition.

Bill Gutrich, 720 S Rangeline Road: Stated he is currently building home on the lot directly south of the proposed project. He said when he purchased his property he was under the impression it was the last lot in the neighborhood. If he knew something like this subdivision was going to happen, he would have possibly faced his home north to allow him to subdivide later. He said he was aware of the wetland issue. Adding for drainage based on current lot and buildings, this proposed lot would have to be raised to build on, subsequently will negatively affecting his drainage to his lot. He is opposed. He said that as result of this proposed project, the density in front of his house along with the draining and grading would change. He said he feels the neighborhood covenants should be followed.

Jeff Troyer, 16326 Greenwich Drive; stated he sits on the on the HOA board of directors and is concerned about water drainage. He said the drainage tile currently in place was not designed large enough resulting in a lot of standing water. If this were to be approved an increased tile size should be required. He said he is worried about breaching bylaws/covenants which might lead to other non-conforming items.

Chad Huff, 16410 Greenwich Drive; said his biggest issue is adherence to the neighborhood covenants. He questioned why the petitioner feels this is something he can ask for when he agreed to same terms as did the other Woodshire residents. He said he doesn't see how this project would result in increased property values. He said he doesn't see how anyone is asking the petitioner to give up any usage of his property, he has been there for a while and used his property. He said adding density upon entry goes against the character of the neighborhood.

Public Hearing for 1803-VS-04: Closed at 7:58 p.m.

Petitioner responses:

- Working with engineer to design site.
- Has never seen flooding on property.
- This house will not be closer to road than others are, will be at least 80 feet back.
- Mentioned increase vs decrease of property size in covenants.
- Woodshire HOA doesn't exist as they haven't kept up with their non-profit status.
- Neighbor to south cut down almost all trees on lot to build on property.
- If necessary he will agree to bring in professional engineer and will dig pond deeper.
- Not much flooding; dirt is buildable.

Kingshill asked the petitioner how long he has lived on this property. He also asked the petitioner if he is not allowed to do this, would he no longer able to live on this property.

- Petitioner responded he purchased the property in 2000 and he lives there. He said he planned to subdivide the entire time he has lived there and that is why he built his home on rear of the property. The petitioner stated will not have to move if his request is denied.

Smith clarified that the question to petitioner, that he would be able to continue to use property if this is denied.

Schmitz asked if the petitioner if he knew when he purchased the property that he couldn't build two homes

- The petitioner said he bought the property with the intent to eventually and that he thinks it is good for the city.

Schmitz said that no hardship should be self-created and the petitioner agreed to the covenants when he purchased the property and added he doesn't think that the petitioner has demonstrated that it will not have negative impact on adjacent properties.

Kingshill agreed with Schmitz and also thinks that Finding Two is not met and this also doesn't meet any of the Finding Three criteria

Smith stated that all drainage and property value testimony is lay testimony, not experts testimony.

Motion:

Kingshill motioned to deny 1803-VS-04.

Raines seconded. Motion passed. Vote 5-0.

Findings of Facts:

Tabled to the next BZA meeting.

ELECTION OF OFFICERS

- Chairperson:
 - Motion: Appoint Robert Smith as Chairperson for 2018.
 - Motion: Kingshill; Second: Raines. Motion passed. Vote: 5-0.
- Vice-Chairperson:
 - Motion: Appoint Dave Schmitz as Vice-Chairperson for 2018.
 - Motion: Kingshill; Second: Smith. Motion passed. Vote: 5-0.
- Pro-Tempore:
 - Motion: Appoint Jeannine Fortier as Pro-Tempore for 2018.
 - Motion: Raines; Second: Schmitz. Motion passed. Vote: 5-0.

1609-AA-01
[CONTINUED]

14939 Ditch Road

Indiana Structural Foundations, LLC

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

1803-AA-01
[CONTINUED]

16708 Dean Road (Bob's Garage)

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

MINUTES

Westfield-Washington Board of Zoning Appeals

Minutes of the March 13, 2018 BZA Meeting

Presented for approval: April 10, 2018

Page 7 of 7

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

Raines left at 8:23 p.m.

REPORTS/COMMENTS

Plan Commission Liaison Report.

Economic and Community Development Department—no report

Motion:

Kingshill motioned to adjourn the meeting.

Schmitz seconded. Motion passed. Vote 5-0.

The meeting adjourned at 8:29 p.m.

Chairperson
Robert Smith, Esq.

Secretary
Matthew S. Skelton, Esq., AICP
Director



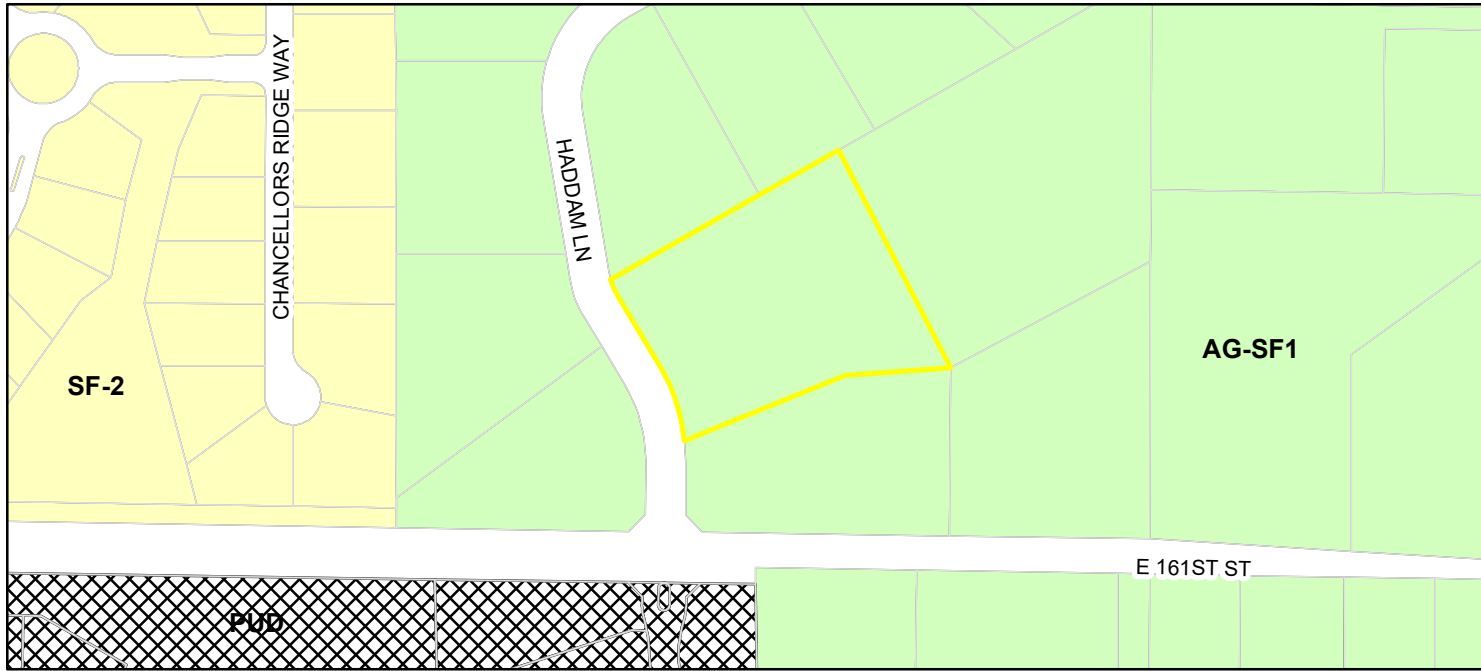
Property Location Map
16133 Haddam Lane
Variance of Development Standard
1803-VS-04



Aerial Location Map



Zoning Map



Parcel	Zoning
	AG-SF1 (Agriculture - Single Family - 1)
	PUD (Planned Unit Development)
	SF-2 (Single Family - 2)

VARIANCE APPLICATION

OFFICE
USE ONLY

DOCKET #: 1803-VS-04

FILING DATE:

FILING FEE: \$ _____ FEE PLUS \$ _____ PER ADDITIONAL VARIANCE (@ _____) = \$ FEB 02 2018

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Ms Pamela Howard (STAFF NAME) DATE: 2/1/18

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: Gennadiy Kelmarson TELEPHONE: 317-679-4449

ADDRESS: 16133 Haddam Lane EMAIL: Gepakelm@gmail.com

PROPERTY OWNER'S NAME: Gennadiy and Svetlana Kelmarson TELEPHONE: 317-679-4449

ADDRESS: 16133 Haddam Lane EMAIL: same

REPRESENTATIVE'S NAME: Raymond J. Hafsten Jr TELEPHONE: 317-635-2244

COMPANY: Attorney EMAIL: hafsten@sbcglobal.net

ADDRESS: 841 N. Park Indpls, IN 46202

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 16133 Haddam Lane Westfield, IN

COUNTY PARCEL ID #(S): 08-10-08-00-01-029.002

EXISTING ZONING DISTRICT(S): AG SF1 EXISTING LAND USE(S): Residential

VARIANCE REQUEST

☐ VARIANCE OF LAND USE CODE CITATION: _____☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: 4.2C, 4.2D, 4.2e1, 4.2i

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

To divide the realty in two separate parcels
as illustrated to/in attached exhibit A

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: Georgiy Kelmarson

DOCKET #: _____

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

- A. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because: _____

The division of the parcel into two equals 1.83 acre parcels will provide two residential conforming homes. The two parcels have access to city water.

- 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 addition of another residence conforming to the covenants, conditions and restrictions of Woodshire Subdivision will enhance adjacent property value, and revenue to the city of Westfield

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

Not all parcels in Woodshire conform to a 3 acre size. There is no reason to ask for such an acreage for water and septic because the parcels have city water. There are two contiguous parcels/ lots to the north which are functionally equivalent to the requested divided parcel. The division would/will result in ~~the~~ 2 equal lots of 1.83 acres

APPLICANT AFFIDAVIT

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

[Signature]
Applicant/Representative (signature)

Georgiy Kelman son
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 1st day of February, 2019.

State of Indiana, County of Hamilton, SS:



Kristen M Sparks
Notary Public Signature
Kristen M Sparks
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.

[Signature]
Property Owner (signature)*

Georgiy Kelman son
Property Owner (printed)
Svetlana Kelman son

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 1st day of February, 2019.

State of Indiana, County of Hamilton, SS:



Kristen M Sparks
Notary Public Signature
Kristen M. Sparks
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.

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

29 day of June, 2000

Auditor
Hamilton County

Parcel # 08-10-08-00-01

16.00
②

200000031807
Filed for Record in
HAMILTON COUNTY, INDIANA
MARY L. CLARK
On 06-29-2000 At 03:04 pm.
WARR DEED 16.00

Warranty Deed

THIS INDENTURE WITNESSETH, That LANGSTON DEVELOPMENT COMPANY, INC., an Indiana Corporation ("Grantor"), CONVEYS AND WARRANTS to Gennadiy Kelmanson ("Grantee"), for the sum of Ten Dollars (\$10) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following described Real Estate in Hamilton County, State of Indiana:

*and Svetlana Kelmanson, Husband and Wife

Parcel "A-3": Part of Block "A" of Woodshire, a subdivision in Hamilton County, Indiana, as per plat thereof, recorded December 3, 1996 as Instrument No. 9650688, amended by Certificate of Correction recorded as Instrument No. 9652794 in the Office of the Recorder of Hamilton County, Indiana, described as follows: Commencing at the Northeast corner of Block "A" of Woodshire, as per plat thereof, recorded as Instrument No. 9650688 in Plat Cabinet One, on Slide 743 in the Office of the Recorder of Hamilton County, Indiana; thence South 59 degrees 31 minutes 31 seconds West (assumed bearing) on the Northerly line of said Block "A", a distance of 633.80 feet to the PLACE OF BEGINNING of the within described real estate; thence continuing South 59 degrees 31 minutes 31 seconds West on the Northerly line of said BLOCK "A", a distance of 461.30 feet to the Northwesterly corner of said BLOCK "A", said corner being on the Easterly right-of-way line of Haddam Lane and on a curve having a radius of 115.00 feet; thence Southeasterly, curving to the left on said curve and the Westerly line of said BLOCK "A", being also the Easterly right-of-way line of Haddam Lane, an arc distance of 30.33 feet to the point of tangency of said curve at a point that is 115.00 feet South 58 degrees 09 minutes 32 seconds West of the radius point of said curve; thence South 31 degrees 50 minutes 28 seconds East on the Westerly line of said BLOCK "A" and right-of-way line, a distance of 139.49 feet to the point of curvature of a curve to the right having a radius of 335.00 feet; thence Southeasterly, curving to the right on said Westerly line of BLOCK "A" and right-of-way line, an arc distance of 133.45 feet to a point that is 48 feet Northwesterly of the point of tangency of said curve; thence North 67 degrees 49 minutes 00 seconds East 307.46 feet; thence North 85 degrees 15 minutes 07 seconds East 186.00 feet to a point on a line that bears South 28 degrees 47 minutes 05 seconds East from the place of beginning; thence North 28 degrees 47 minutes 05 seconds West on said line 425.32 feet to the place of beginning.

Subject to an Access, Drainage, Utility and Sign Easement, being twenty feet by parallel lines off the entire southerly side of the above described real estate.

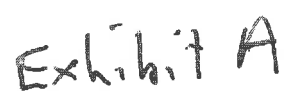
Subject further to all easements and rights-of-way of record, including, but not limited to the easements as set out in the plat of said Woodshire Subdivision.

Subject to the recorded Covenants, Conditions and Restrictions of the said Woodshire Subdivision.

Subject to real estate taxes for 2000 due and payable in May 2001 and all real estate taxes due and payable thereafter.

Grantor certifies that there is not Indiana Gross Tax due with respect to this conveyance.

The undersigned persons executing this deed on behalf of Grantor represent and certify that they are duly authorized officers of Grantor and have been fully empowered and duly authorized by all necessary action of Grantor to execute and deliver this Warranty Deed; that Grantor has full capacity to convey the Real Estate described herein; and that all necessary action for the making of such conveyance has been taken or done.



AFFIDAVIT OF NOTICE OF PUBLIC HEARINGDOCKET #: 1803-VS-04PUBLIC HEARING DATE: March 13, 2018APPLICANT'S NAME: Gennady KelmarsonREPRESENTATIVE'S NAME: Raymond J. Hafsten, Jr COMPANY: Attorney

PROJECT TO BE KNOWN AS: _____

APPLICATION TYPE: ☐ CHANGE OF ZONING ☐ TEXT AMENDMENT ☐ COMMITMENTS ☐ PRIMARY PLAT
☐ DEVELOPMENT PLAN (SITE PLAN) ☒ BOARD OF ZONING APPEALS (VARIANCE, SPECIAL EXCEPTION)

PUBLIC NOTICE AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath does hereby certify that notice of public hearing to consider above petition was sent by certified, registered or first class mail to the last known address of each of the following persons, as attached hereto as **Exhibit A**, they being all persons to whom notice was required to be sent by the Plan Commission's Rules of Procedure, and that said notices were postmarked on the 12 day of Feb, 2018, being at least ten (10) days prior the scheduled public hearing.

I (We) further certify that the notice required to be posted on the subject property described in the above petition was posted on the subject property in accordance with the Plan Commission's Rules of Procedures on the 13 day of Feb, 2018, being at least ten (10) days prior the scheduled public hearing.

[Signature]
 Applicant/Representative (signature)*

Gennady Kelmarson
 Applicant/Representative (printed)

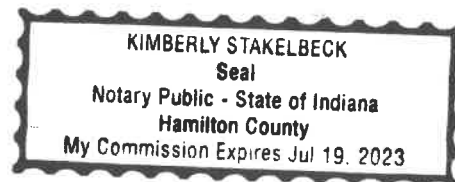
Before me the undersigned, a Notary Public in and for said County and State, personally appeared the above party, who having been duly sworn acknowledged the execution of the foregoing instrument.

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

State of Indiana, County of Hamilton:

[Signature]
 Notary Public Signature

Kimberly Stakelbeck
 Notary Public (printed)



HAMILTON COUNTY AUDITOR

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

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

ROBIN M. MILLS, HAMILTON COUNTY AUDITOR

DATED:

Barton Griesenauer 2/8/2018

SUBJECT PROPERTY:

08-10-08-00-01-029.002	Subject
Kelmanson, Gennadiy & Svetlana	
16133 HADDAM LN	
Westfield	IN 46062

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

HAMILTON COUNTY NOTIFICATION LIST

PLEASE NOTIFY THE FOLLOWING PERSONS

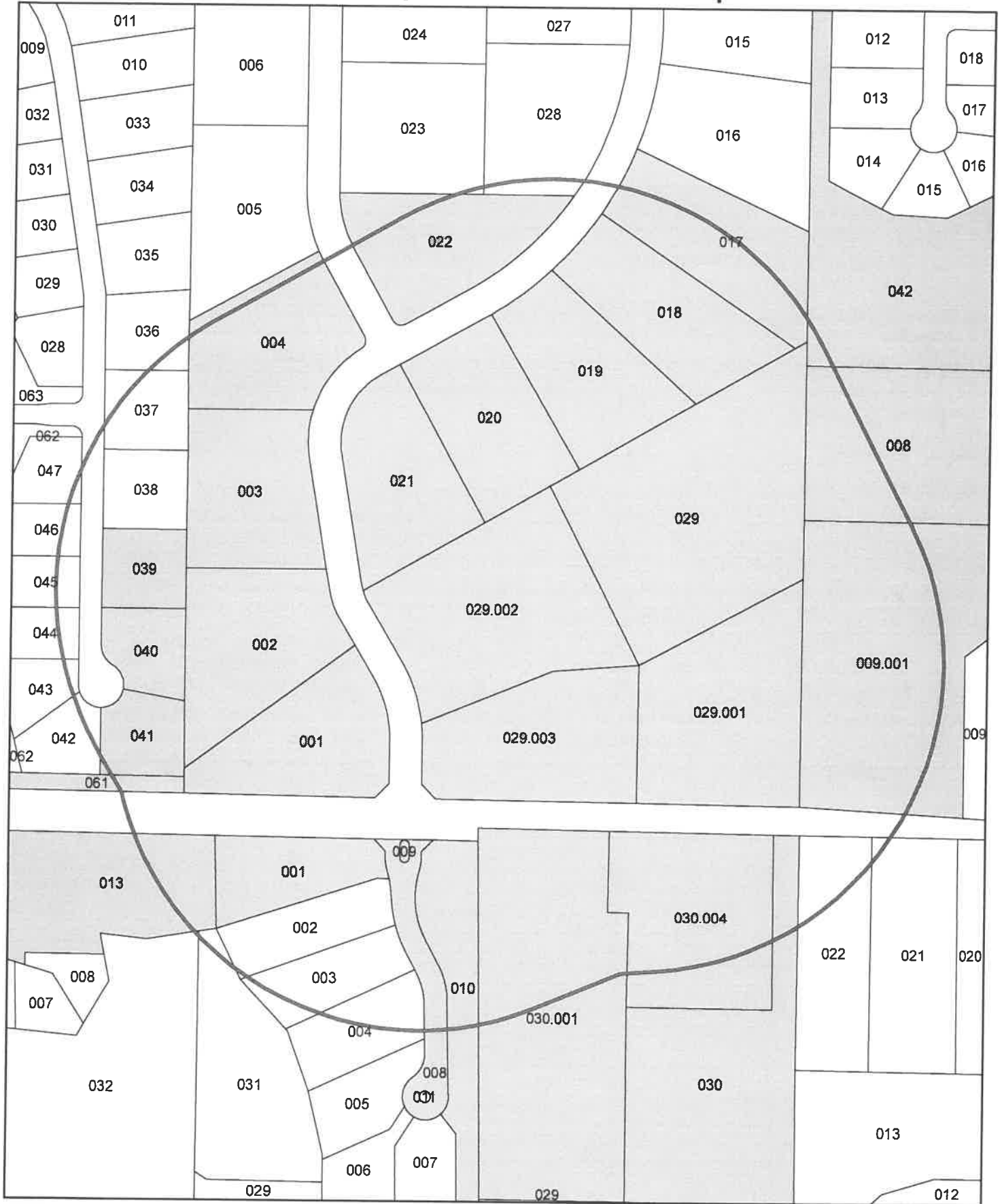
08-10-08-00-00-008.000	Neighbor
Omori, Dean M & Carolyn J	
16240 Gray Rd N	
Westfield IN	46062
08-10-08-00-00-009.001	Neighbor
Delong, Kurt E	
17377 Little Eagle Creek	
Westfield IN	46074
08-10-08-00-00-030.000	Neighbor
Molter, Patrick J & Margaret	
4025 E 161ST ST	
Westfield IN	46062
08-10-08-00-00-030.001	Neighbor
Merritt, Christopher	
3945 E 161ST ST	
Westfield IN	46062
08-10-08-00-00-030.004	Neighbor
Loane, Kevin & Stephanie	
4007 E 161ST ST	
Westfield IN	46062
08-10-08-00-01-001.000	Neighbor
Richardson, C Todd & Debra K	
16128 HADDAM LN	
Westfield IN	46062
08-10-08-00-01-002.000	Neighbor
Fleming, Ryan C & Aimee	
16136 HADDAM LN	
Westfield IN	46062
08-10-08-00-01-003.000	Neighbor
Kemper, Lawrence J & Kelley J	

16218 HADDAM LN		
Westfield	IN	46062
08-10-08-00-01-004.000		Neighbor
Patton, Troy & Kim		
16308 GREENWICH DR		
Westfield	IN	46062
08-10-08-00-01-017.000		Neighbor
Hartford, W B & M R		
16401 HADDAM LN		
Westfield	IN	46062
08-10-08-00-01-018.000		Neighbor
Schiffer, Adam H & Karen Lamott Schiffer		
16323 HADDAM LN		
Westfield	IN	46062
08-10-08-00-01-019.000		Neighbor
Smith, Frank & Lynn H		
16311 HADDAM LN		
Westfield	IN	46062
08-10-08-00-01-020.000		Neighbor
Hovhanessian, Banipal & Sleen K		
16303 HADDAM LN		
Westfield	IN	46062
08-10-08-00-01-021.000		Neighbor
Manning, Lonnie D & Linda S		
16239 HADDAM LN		
Westfield	IN	46062
08-10-08-00-01-022.000		Neighbor
Hadden, Jeffery C & Tracy H		
16317 GREENWICH DR		
Westfield	IN	46062
08-10-08-00-01-029.000		Neighbor
Dickerson, James N & Kathleen Jo		
16129 HADDAM LN		

Westfield	IN	46062
08-10-08-00-01-029.001		Neighbor
Baker, Robert V & Sheila L		
16125 HADDAM LN		
Westfield	IN	46062
08-10-08-00-01-029.003		Neighbor
Gutrich, William F & Janet L		
16121 Haddam Ln		
Noblesville	IN	46062
08-10-08-00-02-039.000		Neighbor
Spoljaric, Andrew J & Cindy L		
16131 Chancellors Ridge Way		
Westfield	IN	46062
08-10-08-00-02-040.000		Neighbor
Heirbrandt, Mark & Gina M		
16121 Chancellors Ridge Way		
Westfield	IN	46062
08-10-08-00-02-041.000		Neighbor
Munneke, Dwayne M & Diane L h&w		
16109 Chancellors Ridge Way		
Westfield	IN	46062
08-10-08-00-02-061.000		Neighbor
Brookside Property Owners Association Inc		
PO Box 1706		
Carmel	IN	46082
08-10-08-00-06-001.000		Neighbor
Wise, Mark E & Abby M		
16062 Colleton Ct		
Carmel	IN	46033
08-10-08-00-06-008.000		Neighbor
Heron Ridge Neighborhood Association Inc		
3535 E 161ST ST		

Carmel	IN	46033
08-10-08-00-06-009.000		Neighbor
Heron Ridge Neighborhood Association Inc		
3535 161st St E		
Carmel	IN	46033
08-10-08-00-06-010.000		Neighbor
Heron Ridge Neighborhood Association Inc		
3535 E 161ST ST		
Carmel	IN	46033
08-10-08-00-07-013.000		Neighbor
Bridgewater Club Master Association Inc		
3535 E 161ST ST		
Carmel	IN	46033
08-10-08-00-16-042.000		Neighbor
Brookside Property Owners Association Inc		
PO Box 1706		
Carmel	IN	46082

Adjoiner Notification Map



Legend

- Buffer
- Notify
- Subject





WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

April 10, 2018
1803-VS-04
Exhibit 1

Petition Number: 1803-VS-04

Subject Site Address: 16133 Haddam Ln (The "Property")

Petitioner: Gennediy Kelmanson (The "Petitioner")

Request: The Petitioner requests Variance of Development Standard to change the required Lot Standards (Article 4.2(C) and Article 4.2(D)) and amend the previously approved variance (99-V-28) to allow a fifth lot in Block A of the Woodshire subdivision within the Agriculture / Single-Family Rural District (Article 4.2).

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

Current Land Use: Residential

Property History: 99-V-28

Approximate Acreage: 3.75 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Petitioner's Application

Staff Reviewer: Matt Pleasant, Associate Planner

BACKGROUND

Location: The subject Property is 3.75 acres +/- in size and is located at 16133 Haddam Lane (see **Exhibit 2**) zoned AG-SF1: Agriculture / Single-Family Rural District within the Woodshire subdivision. The Property is currently the residence of the Petitioner. The surrounding properties are zoned AG-SF1.

The Board of Zoning Appeals heard the petition at its [March 13, 2018](#), meeting. The Board denied the variances requested and tabled the adoption of its Findings of Fact until the Board's next meeting. The Board directed the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

PROCEDURAL

ARTICLE XI: FINAL DISPOSITION OF PETITIONS¹

1. The final disposition of petitions shall set forth the findings and determinations of the Board, together with any modification, specification or limitation it makes. The Board shall make written findings of fact for all petitions that are heard.

¹ Page 12 of the Board of Zoning Appeals Rules of Procedure



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

Denial²: Applications that are denied shall not be eligible for consideration again by the Board for a period of twelve (12) months from the date of denial.

DEPARTMENT COMMENTS

Approval: Staff recommends approval of the following written findings of fact related to the denial of 1803-VS-04:

Recommended Findings for Approval:

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

Finding: The subdivision of the property will have immediate impact of the surrounding neighborhood creating more traffic, disturbing the existing wetlands, and altering the character of the community that all occupants had anticipated and relied upon. The increased density and hard surfaces will increase issues with stormwater accumulation in an already troublesome area.

² Article 10.14(E) of the UDO.



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- 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 create a denser neighborhood and alter the characteristics of the immediate community. Every lot in the Woodshire Subdivision has at least two acres of land, and allowing a subdivision to create two lots with less acreage than the others would diminish and adversely impact the defined character of the neighborhood by decreasing the lot size and increasing the impact of development through traffic, density, and increased hard surfaces in an already flood prone area..

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

Finding: Strict adherence to the zoning ordinance would not result in practical difficulty. The property has been used as a residence since 2000 and the denial of the variance to further subdivide will not halt or alter the existing use. Current use of the property is not diminished or restricted.