



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_11_15_2022

Tuesday, November 15, 2022 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, November 15, 2022 at 07:00 PM

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

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

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

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

OPENING OF REGULAR MEETING

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

Note the presence of a quorum

Approval of Minutes

October 11, 2022

Documents: [October 11, 2022 BZA Minutes](#)

Review Rules & Procedures

ITEMS OF BUSINESS:

2211-VS-34 [PUBLIC HEARING]

101 West 161st Street

Daniel Sandlin by Sandlin Law Group PC

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

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

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

2211-VU-15 [PUBLIC HEARING]

227 Jersey Street

Erin O'Rear

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

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

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: 1712-VU-08 Acknowledgement of Variance](#)

ITEMS CONTINUED TO A FUTURE MEETING

No Continued Items

REPORTS/COMMENTS:

Plan Commission Liaison

Community Development Department

ADJOURNMENT



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

November 15, 2022

2211-VS-34

Exhibit 1

Petition Number: 2211-VS-34

Subject Site Address: 101 W. 161st Street ("the Property")

Petitioner: Daniel Sandlin ("the Petitioner" and "Property Owner")

Representative: Barrie Landrock

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

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

Current Land Use: Residential

Approximate Acreage: 1 acre +/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. Building Elevations
5. Application

Staff Reviewer: Ryan Collingwood, Associate Planner

OVERVIEW

Location: The Property is 1 acre +/- in size and is located at 101 W. 161st Street (**Exhibit 2**).

SUMMARY OF VARIANCE

UDO Article 9.4(C)(1)

The City of Westfield's Unified Development Ordinance Article 9.4(C)(1) states a legal nonconforming lot, in which the Property is deemed, may be built upon if the owner of said parcel does not own sufficient adjacent land surrounding the subject parcel.

Within this petition, however, the Petitioner does own sufficient adjacent land surrounding the subject parcel to the south and east. With this being said, the Petitioner requests to waive the requirement that the Property Owner is required to combine adjacent parcels in order to make



the subject parcel conform to the dimensional and acreage requirements of the AG-SF1 zoning district.

In other words, as the Petitioner does in fact own sufficient adjacent land, the Variance of Development Standard is requesting to not have to combine the adjacent lots, as written in UDO Article 9.4(C)(1), in order to build a detached garage on the Property.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan (The "Plan") identifies the property within the "Existing Suburban" land use classification¹. 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.²

The Existing Suburban classification is designed to accommodate detached dwellings, attached dwellings, institutional uses, and recreational uses³. The Plan also contemplates Existing 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 the Variances of Development Standard. This petition is scheduled to receive its public hearing at the November 15, 2022, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

¹ Page 24 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan: Land Use Classifications and Development Policies.

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

³ Pages 38-39 of the Westfield and Washington Township Comprehensive Plan; Chapter 2; Land Use Plan; New Suburban.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

November 15, 2022

2211-VS-34

Exhibit 1

Conditions: The UDO⁴ 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 UDO⁵ 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.

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

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

DEPARTMENT COMMENTS:

Recommended Findings for Approval: If the Board is inclined to approve the Variance of Development Standard (2211-VS-34):

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

⁴ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

⁵ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

November 15, 2022

2211-VS-34

Exhibit 1

Finding: The requested variance is the construction of a simple one-story garage in a grassy area of the lot. No bathrooms or drains will be built. There will be no additional light or sound pollution created by the use of the structure.

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

Finding: The adjacent property is a field used for grazing animals. The property to the other side will not be able to see the structure from their property. This is the same for those in all other directions. The structure will only have windows facing the road. There will be no physical impact on the surrounding properties. The structure will be no taller than existing structures. The proposed structure will blend in with the existing structures as well.

- 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 application of the terms of the ordinance diminishes the use of the adjacent agricultural land by prohibiting a necessary structure from being built on this residential lot. Strict application will also prevent owner from being able to sell one of the parcels at some point in the future.

Recommended Conditions:

- That the Accessory Building (detached garage) be developed in substantial compliance with the Site Plan (**Exhibit 3**) and Building Elevations (**Exhibit 4**);
- That the Petitioner shall record an acknowledgement of this approval with the County Recorder's Office and return a copy of the recorded instrument to the Community Development Department.

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

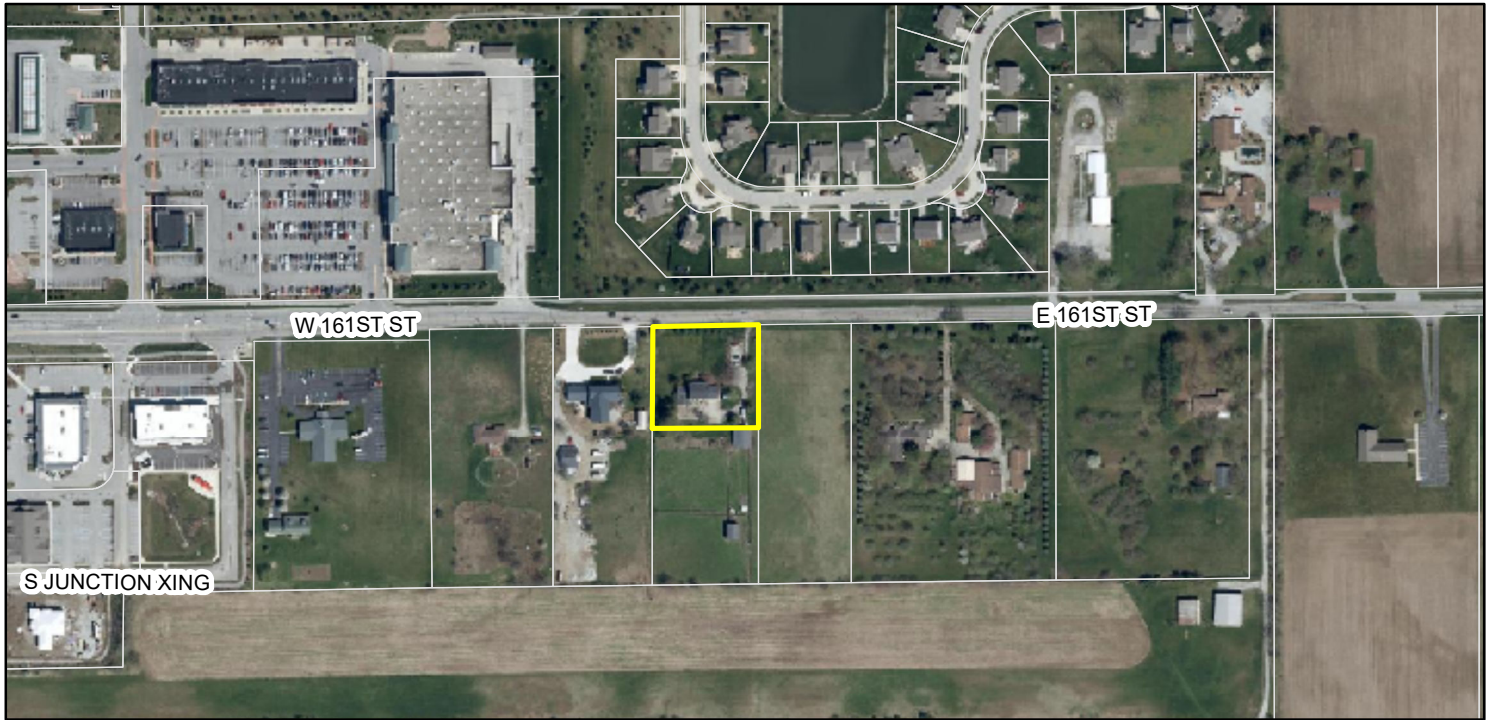
Exhibit 2 - Property Location Map

101 W. 161st Street (Sandlin)

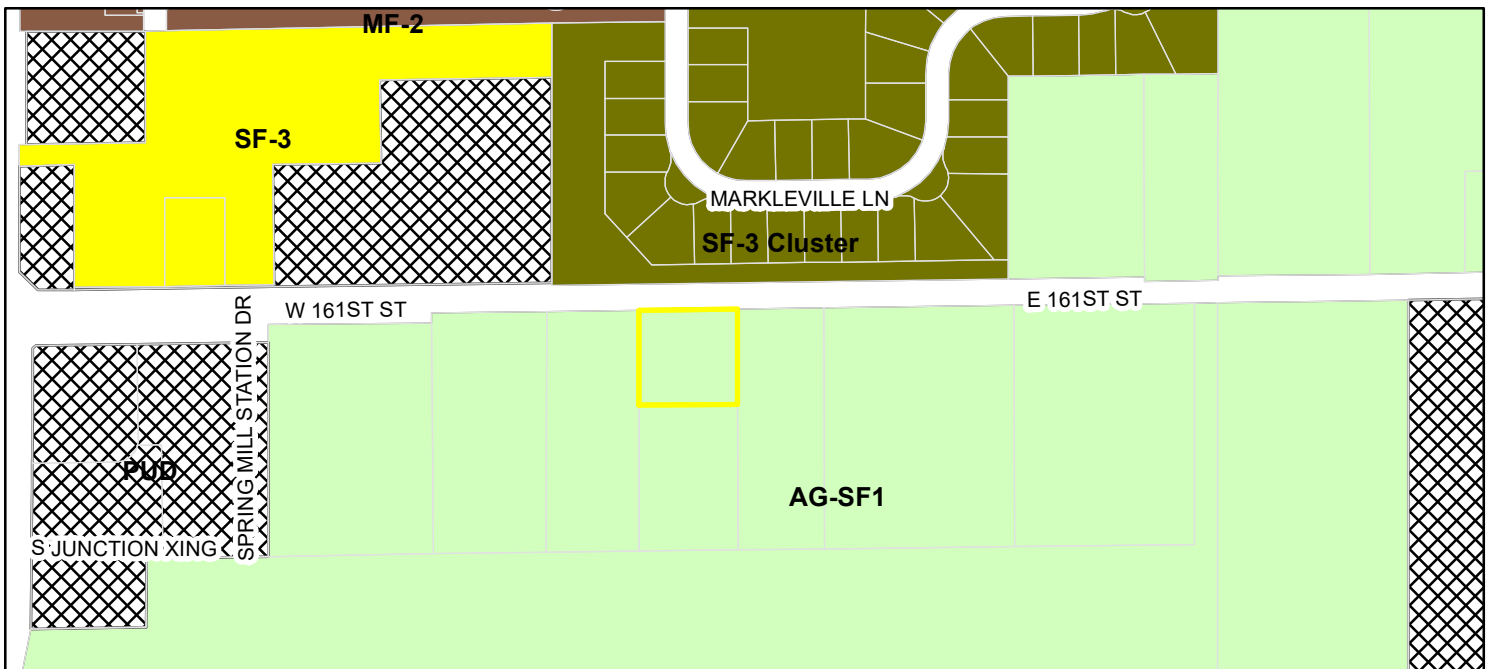
2211-VS-34



Aerial Location Map



Zoning Map



- | | | | |
|---|--|--|--|
|  SITE |  Parcel | Zoning |  PUD (Planned Unit Development) |
| |  AG-SF1 (Agriculture - Single Family - 1) |  SF-3 (Single Family - 3) | |
| |  MF-2 (Multiple Family - 2) |  SF-3 Cluster | |



EASEMENT

NORTH
↑

101 W
1657

PROPERTY
LINE

PROPERTY
LINE

206

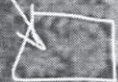
2 TREES
REMOVED

DOES NOT
EXTEND
PAST HOME

8 FEET

207

SHED
WAS MOVED
TO HERE



HOUSE

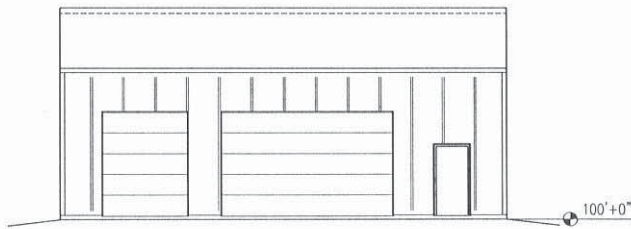
7 FT
BACK

1 TREE

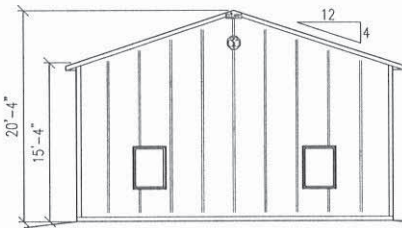
40 FT
FROM PROP.
LINE

2 TREES
REMOVED

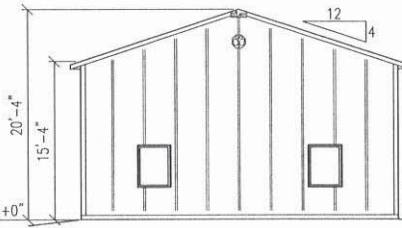
214



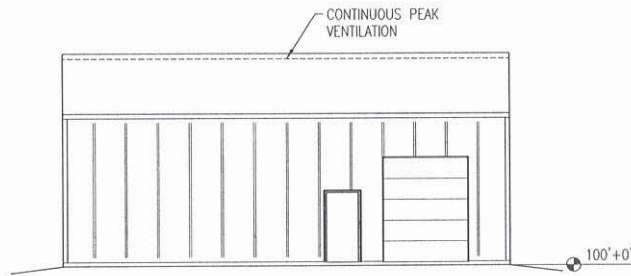
EAST ELEVATION



NORTH ELEVATION



SOUTH ELEVATION



WEST ELEVATION

GENERAL NOTES AND SPECIFICATIONS

1. The materials and labor shown on these plans that are provided by Cleary Building Corp. are limited to those materials and labor as defined by the Cleary Building Corp. contract. Additional materials or accessories that are not being provided by Cleary Building Corp. may be shown on plans for context or building code compliance.
2. All lumber, unless otherwise noted, shall be S4S #2 SPF or better.
3. Lumber embedded in, or in contact with, the ground shall be treated per AWFA standards:
Embedded in Ground: 0.6 lbs/ft³ retention
Ground Contact: 0.4 lbs/ft³ retention
4. Steel panels and flashings shall be 29 gauge, 100,000 PSI, painted galvanized.
5. All nails are to be threaded, hardened steel unless otherwise noted. Fasteners used in treated lumber shall be hot dipped galvanized stainless steel, or rated by the manufacturer for the application.
6. Soil shall be graded to provide drainage away from the building. Maintain the grade levels shown on plans around the building.
7. Fill used for concrete floor slab sub grade, if present, shall be reasonably graded granular material. Fill used in columns holes shall be the excavated soil unless noted otherwise. All fill shall be free from debris, stones over 4" and frozen material.
8. Heating, ventilating, air conditioning, plumbing, and electrical work is not a part of this set of drawings and shall be installed as per applicable codes.

TABLE OF CONTENTS

110. ELEVATIONS
120. FLOOR PLAN
125. ROOF FRAMING PLAN
130. TYPICAL SECTION
140. HEADER DETAILS - A
141. HEADER DETAILS - B
150. TRUSS DIAGRAMS



100 PACLI STREET / P.O. BOX 830220
VERONA, VA 22083 / (810) 373-5559

DRAWN BY: JENKINS

DATE DRAWN: 09/24/22

PLAN REVISIONS:

NUMBER	DATE	BY
1		
2		
3		
4		

PROJECT NAME: SANDLIN AND/OR KOTELNIKOVA, DAN AND/OR NATALYA

PROJECT SITE ADDRESS:
101 W 161ST ST
WESTFIELD, IN 46074 (HAMILTON)
BUILDING SIZE: 30' 0" x 42' 0" x 15' 4"
SHEET NAME: ELEVATIONS

PROJECT NUMBER:

2022104254

SHEET NUMBER:

110

SHEET SCALE: NONE



VARIANCE APPLICATION

OFFICE USE ONLY

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: DAINE CRABTREE (STAFF NAME) DATE: 10/7/22

PRIOR OR RELATED DOCKET NUMBERS

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

APPLICANT INFORMATION

APPLICANT'S NAME: Daniel Sandlin TELEPHONE: 317-695-8762
ADDRESS: 101 West 161st Street, Westfield, IN EMAIL: Dan@SandlinGroup.com

PROPERTY OWNER'S NAME: Daniel Sandlin TELEPHONE: 317-695-8762
ADDRESS: 101 West 161st Street, Westfield, IN EMAIL: Dan@SandlinGroup.com

REPRESENTATIVE'S NAME: Barrie Landrock TELEPHONE: 317-383-0000
COMPANY: Sandlin Law Group EMAIL: BLandrock@SandlinGroup.com
ADDRESS: 41 1st Street S.E., Carmel, IN 46032

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: Acreage 1.00, Section 11, Township 18 Range 3 (101 West 161st Street)
COUNTY PARCEL ID #(S): 0809110000022001
EXISTING ZONING DISTRICT(S): AG-SF1 EXISTING LAND USE(S): Residential

PROPERTY AND PROJECT INFORMATION

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

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY):
The minimum requirements for lots zoned AG-SF1 require a minimum road frontage of 250 feet, and a 3 acre minimum lot size.
The lot in question is 1 acre in size with a frontage of 213 feet. The home owners request is to allow a variance to these requirements
to allow the construction of a 30 foot by 40 foot garage/barn.
Applicant seeks ability to build a garage next to an existing house without having to combine parcels owned by applicant.



Westfield Community Development
2728 E. 171st Street | Westfield, IN 46074
317.804.3170 | nwoerner@westfield.in.gov

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)

Barrie Landrock

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 28th day of September, 2022

State of Indiana, County of Marion, SS: _____

Valorie Jo Feasel

Notary Public (signature)

Valorie Jo Feasel

Notary Public (printed)

Embossed Hereon Is My
State Of Indiana Notary Public Seal
My Commission Expires February 23, 2028
VALORIE JO FEASEL

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)*

Daniel Sandlin NATALYA KOTENIKOVA

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 28th day of September, 2022

State of Indiana, County of Marion, SS: _____

Valorie Jo Feasel

Notary Public (signature)

Valorie Jo Feasel

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.

Embossed Hereon Is My
State Of Indiana Notary Public Seal
My Commission Expires February 23, 2028
VALORIE JO FEASEL

FINDINGS OF FACT (VARIANCE OF USE)

APPLICANT: DANIEL SANDLIN

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 requested variance is the construction of a simple one story garage in a grassy area of the lot. No bathrooms or drains will be built.
There will be no additional light or sound pollution created by the use of the structure.

- 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 adjacent property is a field used for grazing animals. The property to the other side will not be able to see the structure from thier property. This is the same for those in all other directions. The structure will only have windows facing the road.
There will be no physical impact on the surrounding properties. The structure will be no taller than existing structures.
The proposed structure will blend in with the existing structures as well.

- C. The need for the variance arises from some condition particular to the property involved because: _____
The lot does not have the required frontage or acreage for the proposed structure.
Additionally, the residential lot is used to maximize the use of the adjacent agricultural lots. This requires that small equipment be stored in a garage on the residential lot for which a variance is sought.

- 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: _____
Strict application of the ordinance diminishes the use of the adjacent agricultural land by prohibiting a necessary structure from being built on this residential lot.
Strict application will also prevent owner from being able to sell one of the parcels at some point in the future.

- E. The variance of use does not interfere substantially with the Comprehensive Plan because: _____
The garage structure is planned to be built next to an existing house. A house with a garage is in line with the Comprehensive Plan because it is for residential purposes.



Westfield Community Development
2728 E. 171st Street | Westfield, IN 46074
317.804.3170 | nwoerner@westfield.in.gov

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: DANIEL SANDLIN

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: _____

Same as previous "A."

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:

Same as previous "B."

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

Strict application of the terms of the ordinance diminishes the use of the adjacent agricultural land by prohibiting a necessary structure from being built on this residential lot.

Strict application will also prevent owner from being able to sell one of the parcels at some point in the future.

GENERAL INSTRUCTIONS

- A. Pre-Filing Conference:** A pre-filing conference is required for all petitions. An appointment must be made with the Community Development Department (the "Department") to discuss a petition prior to filing. An application will not be considered filed until a pre-filing conference has occurred. Applicants are encouraged to incorporate the Department's comments into the application prior to filing.
- B. Filing Petition:** A petition shall be filed with the Department by the filing deadline in accordance with the Schedule of Meeting and Filing Dates. In order to be deemed a complete petition, a petition shall include the following:
- | | |
|--|--|
| ☒ Completed Application | ☒ Legal Description |
| ☒ Draft Public Notice | ☒ List of Adjoining Property Owners (as provided by County) |
| ☒ Property Owner Consent | ☐ TAC Delivery Affidavit (if TAC is determined to be necessary) |
| ☒ Site Plan (to scale) | ☒ Copy of Property Deed |
| ☒ Statement of Intent | Elevations, photographs or other supporting information necessary to explain the nature of the requested variance(s) |
- Deemed unnecessary at pre-filing conference*
- 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.



ACKNOWLEDGEMENT OF VARIANCE

Document Cross Reference Number: **2017025970**

This ACKNOWLEDGEMENT, made this 14th Day of December, 2017, by Matthew S. Skelton, Economic and Community Development Director, City of Westfield, Indiana (the "Director") WITNESSETH:

WHEREAS, on Tuesday, December 12th, 2017, the Westfield-Washington Township Board of Zoning Appeals (the "Board") heard Petition No. 1712-VU-08 (the "Petition"), filed by Erin O'Rear (the "Petitioner") for a Variance of Use from the Westfield-Washington Township Unified Development Ordinance regarding property commonly known as 227 Jersey Street, Westfield, IN 46074 (Parcel No: 09-09-01-02-06-007.000) and more particularly described in **Exhibit A** as (the "Property");

The Petitioner requested approval of the following:

1712-VU-08 – A Variance of Use to allow a community arts center with a commercial component (Retail, Low Intensity) in the MF1: Multi-Family Low Density District (Chapter 13 of the Westfield-Washington Township Unified Development Ordinance (UDO)); and

WHEREAS, the Board voted five (5) to zero (0) to approve the Petition with the following conditions:

1. That the approval of this variance shall expire on December 31, 2022;
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, 2022;
3. The use of the Property shall be limited in scope and operation to the Petitioner's Narrative, attached hereto and incorporated herein as

Exhibit B. Any expansion or substantial alteration to the scope and operation of the Variance of Use, as determined by the Director, shall require approval by the Board of Zoning Appeals.

NOW, THEREFORE, the Director hereby declares that all the Property as it is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, or occupied and improved, is subject to the Variance of Use and Variance of Development Standard approved by the Board on November 14, 2017. Unless otherwise modified herein, this Variance of Use and Variance of Development Standard shall run with the land, and shall be binding upon the owner, heirs and assigns, and all parties having an interest in and to the Property or any part or parts thereof subject to such Variance of Use and Variance of Development Standard, and shall inure to the benefit of the owner and every one of his/her successors in title to any real estate in the Property.

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WESTFIELD ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT
"DIRECTOR"

MATTHEW S. SKELTON, DIRECTOR

Economic and Community Development Department, City of Westfield, IN

"PROPERTY OWNER"

The Property Owner, hereby acknowledges the accuracy of the information contained in this Acknowledgement of Variance and any conditions and limitations placed on the Petition and Property, as set forth herein.

IN WITNESS WHEREOF, the Property Owner has executed this instrument, on the ____ day of _____, 2017.

Rita O'Rear
Property Owner

Date

STATE OF _____)
COUNTY OF _____) SS:

Signed and acknowledged before me this ____ day of _____, 2017.
(SEAL)

Signature of Notary Public

Printed name of Notary Public

My County of Residence: _____

My Commission Expires: _____

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: Daine Crabtree

Prepared by: Daine Crabtree, Associate Planner, City of Westfield
2728 East 171st Street, Westfield, IN 46074, (317) 804-3170

EXHIBIT A

Property Address: 227 Jersey Street, Westfield, IN 46074
File No.: 17-14268

The following described Real Estate located in Hamilton County, Indiana:

A part of the Northeast Quarter of Section 1, Township 18 North, Range 3 East as follows:

Begin at an Iron Stake 869.82 feet West and 395.32 feet South of the Northeast corner of said section; thence Southerly 168.20 feet; thence Westerly 62.1 feet; thence Northerly 168.45 feet to the South line of Jersey Street; thence East 63.5 feet to the place of Beginning.

EXHIBIT B

I am creating a community art center, The Wandering Peacock, for our community in Westfield. In the ceramics room, I offer many different classes involving hand-building techniques along with one-on-one wheel-throwing classes for children 8 years of age and older. In the main room, a 6 person table will hold painting and water-color classes. In the kitchen, a 4 person table will hold soap-making, candle-making, ceramic jewelry and encaustic classes. The back yard will hold charity events, tie-dye classes as well as a community garden.

The business will be an asset to the Westfield community, allowing children to thrive due to art therapy techniques and positive creativity.

Children will be contained inside the business or outside in the fenced-in back yard. No trash, children, or art debris will affect any of the adjacent properties. There are many children who live adjacent or nearby and the Wandering Peacock is excited to inspire their creativity.

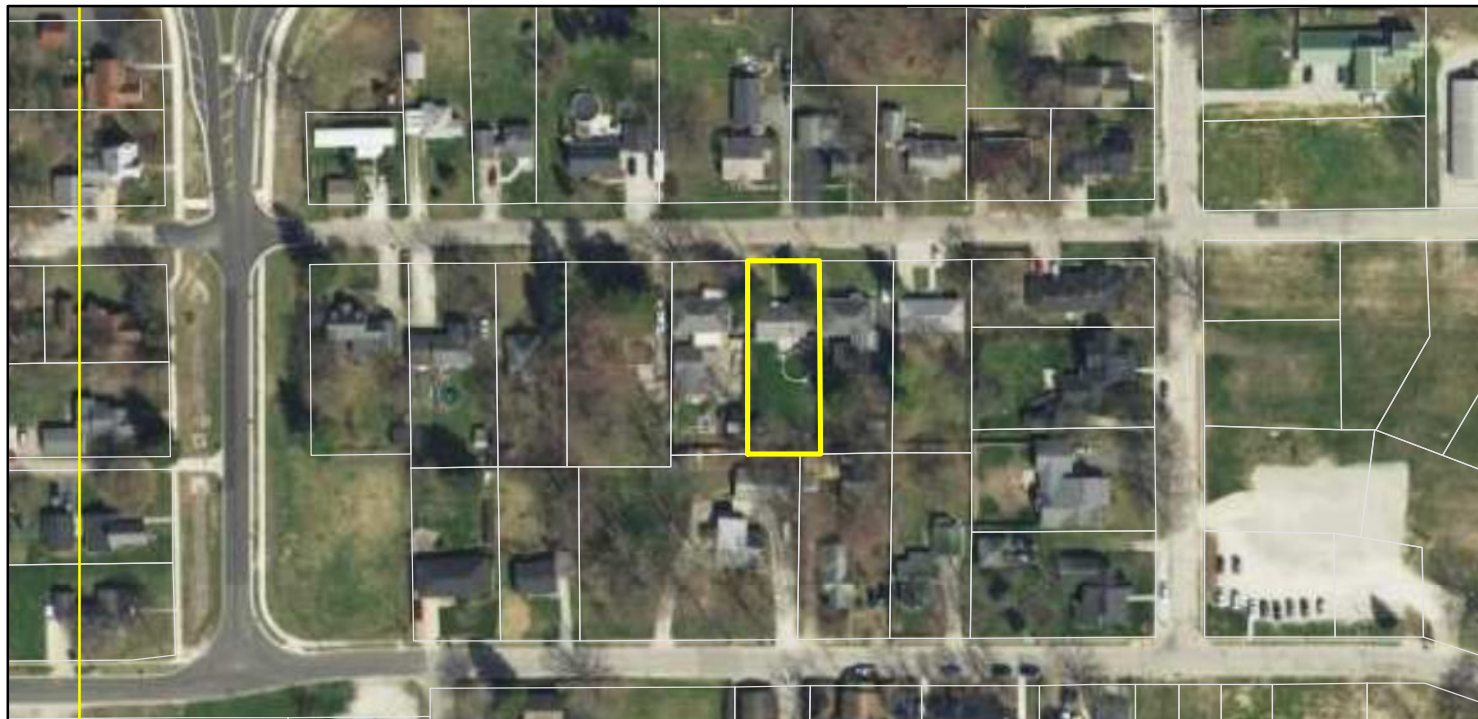
Property Location Map

227 Jersey Street

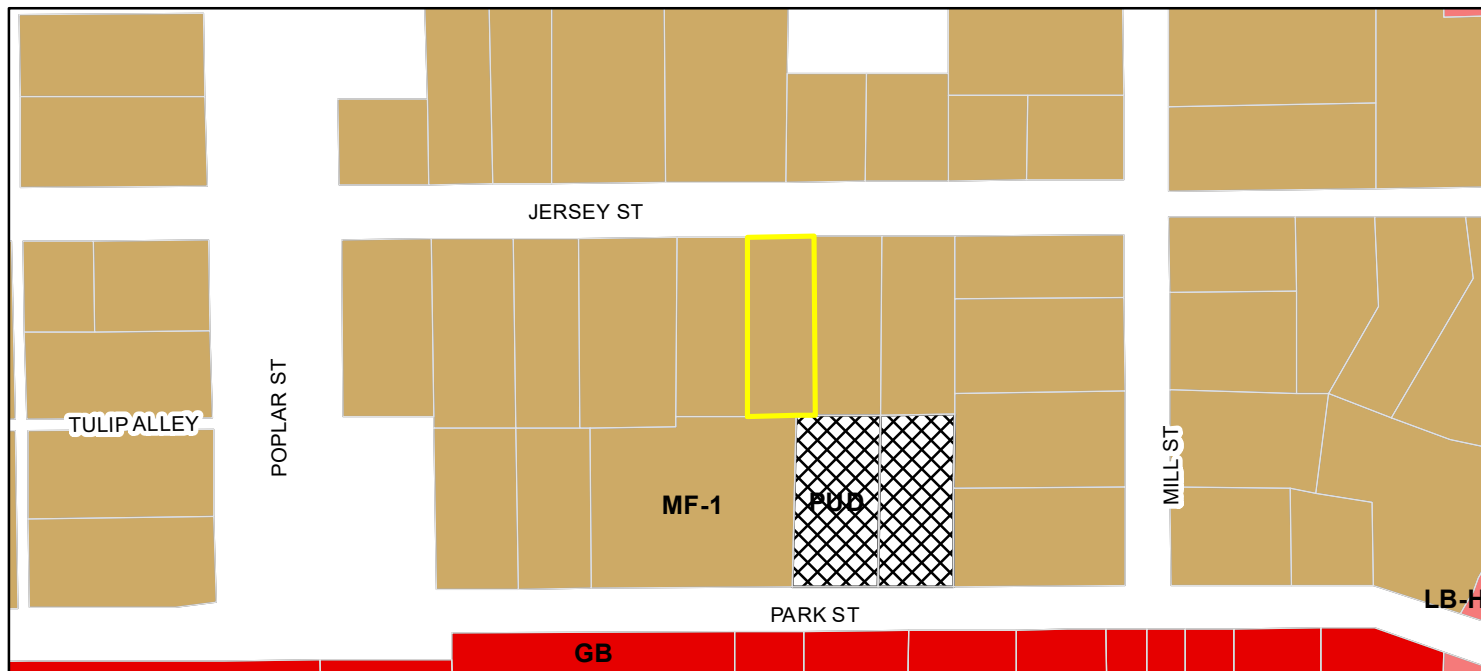
Not To Scale

Aerial Location Map

 Site

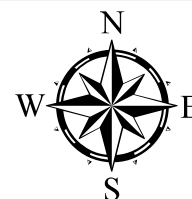


Zoning Map



Legend

-  Parcel
-  GB (General Business)
-  LB-H (Local Business - Historical)
-  MF-1 (Multiple Family - 1)
-  PUD (Planned Unit Development)





Westfield-Washington Township Board of Zoning Appeals (BZA)

Minutes of the Tuesday, October 11, 2022 BZA Meeting

Presented for approval: November 15, 2022

The Westfield-Washington Township Board of Zoning Appeals
met at 7:00 p.m. on Tuesday, October 11, 2022 at Westfield City Hall.

Active Links for this Meeting:

[October 11, 2022 BZA Agenda & Exhibits](#)

[October 11, 2022 YouTube Video](#)

OPENING OF MEETING

[YouTube Time: 0:05](#)

Roll Call

BZA Members Present In-Person: Jeff Boller, Jeannine Fortier, Noble Hatfield, and Victor McCarty.

BZA Members Present Virtually: Dave Schmitz.

BZA Members Absent: None.

City Staff Present: Pam Howard, Assistant Director; Daine Crabtree, Senior Planner; Lauren Gillingham, Senior Planner; Ryan Collingwood, Associate Planner; and Weston Rogers, Associate Planner.

City Staff Present Virtually: None

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

APPROVAL OF 2023 SCHEDULE OF BZA MEETINGS

Boller motioned to approve the 2023 Schedule of BZA Meetings.

Fortier seconded. Motion passed. Vote 5-0.

APPROVAL OF MINUTES

Fortier motioned to approve the September 13, 2022 Minutes.

Boller seconded. Motion passed. Vote 5-0.

CHANGES TO THE AGENDA

None

REVIEW RULES AND PROCEDURES

Crabtree reviewed BZA rules and procedures.

ITEMS OF BUSINESS

2210-VS-29 [PUBLIC HEARING]

[YouTube Time: 3:49](#)

1419 Beacon Way / Madison McCall

The Petitioner requests a Variance of Development Standard to encroach eight (8) feet into the thirty (30) foot Minimum Rear Yard Setback in the SF2: Single-Family Low-Density District to accommodate a swimming pool and deck (Article 4.5(E)(3)(a)).

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

Staff presentation.

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

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

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Public Hearing for 2210-VS-29 opened at 7:04 p.m.

- No public comments.

Public Hearing for 2210-VS-29 closed at 7:05 p.m.

BZA Comments / Petitioner Response.

Boller motioned to approve 2210-VS-29 subject to the recommended conditions stated in the motion.

Fortier seconded. Motion passed. Vote 5-0.

McCarty motioned to adopt Staff's Findings of Fact for the approval of 2210-VS-29.

Fortier seconded. Motion passed. Vote 5-0.

2210-VS-30 [PUBLIC HEARING]

[YouTube Time: 8:04](#)

Seals Subdivision / *Earl & Tara Seals by Church, Church Hittle + Antrim*

The Petitioner requests a Variance of Development Standard to encroach sixty (60) feet into the eighty (80) foot Minimum Front Yard Setback for the construction of a Single-family home on 3.58 acres +/- in the AG-SF1: Agriculture / Single-Family Rural District (Article 4.2(E)(1)(b)).

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

Staff presentation / Petitioner presentation.

Public Hearing for 2210-VS-30 opened at 7:12 p.m.

- No public comments.

Public Hearing for 2210-VS-30 closed at 7:14 p.m.

BZA comments / Petitioner responses.

Fortier motioned to approve 2210-VS-30 subject to the recommended conditions stated in the motion.

Boller seconded. Motion passed. Vote 5-0.

McCarty motioned to adopt Staff's Findings of Fact for the approval of 2210-VS-30.

Hatfield seconded. Motion passed. Vote 5-0.

2210-VS-31 [PUBLIC HEARING]

[YouTube Time: 26:29](#)

4180 Westfield Park Road / *Washington Park Cemetery Association, Inc. by Church, Church, Hittle + Antrim*

The Petitioner requests Variances of Development Standard to permit Accessory Buildings within an Established Front Yard and to waive architectural standards for Accessory Buildings on 53.27 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District (Articles 5.3(H) & 5.3(K)(2)(l)).

(Planner: Lauren Gillingham – lgillingham@westfield.in.gov)

Staff presentation / Petitioner presentation.

Public Hearing for 2210-VS-31 opened at 7:29 p.m.

- Two (2) public comments.

Public Hearing for 2210-VS-31 closed at 7:33 p.m.

Petitioner responses / BZA comments.

Hatfield motioned to approve 2210-VS-31 subject to the recommended conditions stated in the motion.

McCarty seconded. Motion passed. Vote 5-0.

McCarty motioned to adopt Staff's Findings of Fact for the approval of 2210-VS-31.

Fortier seconded. Motion passed. Vote 5-0.

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2210-VS-32 [PUBLIC HEARING]

[YouTube Time: 52:07](#)

211 Park Street / Scott Wolf

Scott Wolf requests a Variance of Development Standard to permit an addition and improvement to a Building with a previous improvement in the Floodplain Overlay District (Article 5.5(H)(1)(f)).

(Planner: Pam Howard – phoward@westfield.in.gov)

Staff presentation.

Public Hearing for 2210-VS-32 opened at 7:56 p.m.

- One (1) public comment.

Public Hearing for 2210-VS-32 closed at 7:58 p.m.

BZA comments / Staff responses / Petitioner Responses.

Boller motioned to approve 2210-VS-32 subject to the recommended conditions stated in the motion.

McCarty seconded. Motion passed. Vote 5-0.

McCarty motioned to adopt Staff's Findings of Fact for the approval of 2210-VS-32.

Fortier seconded. Motion passed. Vote 5-0.

2210-VS-33 [PUBLIC HEARING]

[YouTube Time: 102:32](#)

211 Park Street / Scott Wolf

Scott Wolf requests Variances of Development Standard to exempt the Architectural Standards and required Off-Street Parking Spaces to permit expansion of an existing Building in the GB: General Business District (Articles 6.3(F) & 6.14(G)(11)).

(Planner: Pam Howard – phoward@westfield.in.gov)

Staff presentation.

Public Hearing for 2210-VS-33 opened at 8:03 p.m.

- One (1) public comment.

Public Hearing for 2210-VS-33 closed at 8:05 p.m.

BZA comments / Staff responses / Petitioner responses.

Fortier motioned to approve 2210-VS-33 subject to the recommended conditions stated in the motion.

Boller seconded. Motion passed. Vote 5-0.

McCarty motioned to adopt Staff's Findings of Fact for the approval of 2210-VS-33.

Boller seconded. Motion passed. Vote 5-0.

2210-VU-14 [PUBLIC HEARING]

[YouTube Time: 1:09:31](#)

211 Park Street / Scott Wolf

Scott Wolf requests a Variance of Use to permit an Event Center in the GB: General Business District (Article 13.2).

(Planner: Pam Howard – phoward@westfield.in.gov)

The Petitioner withdrew this petition.

2210-VU-12 [PUBLIC HEARING]

[YouTube Time: 1:10:23](#)

800 East 169th Street / Patch Development

The Petitioner requests a Variance of use to permit a Recreational Sports Facility on 5.1 acres +/- in the OI: Open Industrial District (Article 13).

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

Staff presentation / Petitioner presentation.

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Public Hearing for 2210-VU-12 opened at 8:14 p.m.

- No public comments.

Public Hearing for 2210-VU-12 closed at 8:15 p.m.

BZA comments / Petitioner responses.

Boller motioned to approve 2210-VU-12 subject to the recommended conditions stated in the motion.

Hatfield seconded. Motion passed. Vote 5-0.

McCarty motioned to adopt Staff's Findings of Fact for the approval of 2210-VU-12.

Fortier seconded. Motion passed. Vote 5-0.

2210-VU-13 [PUBLIC HEARING]

[YouTube Time: 1:16:54](#)

2728 East 146th Street / *Citizens Water of Westfield, LLC by Stevenson Legal Group, LLC*

The Petitioner requests a Variance of Use to temporarily permit the ground-mounted installation of two (2) Wireless Communication Service Facilities in the SB-PD: Special Business Planned Development District (Article 13).

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

Staff presentation / Petitioner presentation.

Public Hearing for 2210-VU-13 opened at 8:20 p.m.

- No public comments.

Public Hearing for 2210-VU-13 closed at 8:21 p.m.

BZA comments / Staff responses / Petitioner responses.

Hatfield motioned to approve 2210-VU-13 subject to the recommended conditions stated in the motion.

Boller seconded. Motion passed. Vote 5-0.

McCarty motioned to adopt Staff's Findings of Fact for the approval of 2210-VU-13.

Fortier seconded. Motion passed. Vote 5-0.

ITEMS ADMINISTRATIVELY DISMISSED

2202-VU-02

2907 West SR 32 / *Alan Hodgeson*

The Petitioner requests a Variance of Use to permit a temporary Very High Intensity Retail (used vehicle sales) use on 1.50 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District.

(Planner: Caleb Ernest – cernest@westfield.in.gov)

REPORTS/COMMENTS:

[YouTube Time: 1:26:34](#)

- Plan Commission Liaison
- Community Development Department

ADJOURNMENT

Boller motioned to adjourn the meeting. Fortier seconded. Motion passed. Vote 5-0.

The meeting adjourned at 8:30 p.m.

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Signature Page for BZA Minutes for October 11, 2022

Chairperson
Dave Schmitz

Secretary
Kevin M. Todd, AICP
Director



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

November 15, 2022

2211-VU-11

Exhibit 1

Petition Number: 2211-VU-11

Subject Site Address: 227 Jersey Street

Petitioner: Erin O'Rear

Request: The Petitioner is requesting the permanent extension of an existing Variance of Use that allows a community arts center with a commercial component (Retail, Low Intensity) within the MF-1: Multi-Family Low Density District (Article 4.10).

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

Current Land Use: Residential

Approximate Acreage: 0.24 acre +/-

Exhibits:

1. Staff Report
2. Location Map
3. 1712-VU-08 Acknowledgement of Variance

Staff Reviewer: Daine Crabtree, Senior Planner

PROPERTY INFORMATION

The subject property is 0.24 acre +/- in size and located at 227 Jersey Street (the "Property") (see **Exhibit 2**). The Property is zoned MF-1: Multi-Family Low Density.

ANALYSIS

The Petitioner was granted a Variance of Use (the "Variance") permitting a community arts center with a commercial component (Retail, Low Intensity), at 227 Jersey Street, zoned MF-1: Multi-Family Low Density at the December 12, 2017 BZA meeting.

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.

¹Chapter 12 of the UDO defines "Retail, Low Intensity" as "retail businesses that have a low impact on neighboring properties, traffic generation, and public safety. Example businesses include but are not limited to: art gallery, banks and savings and loans, bakery with limited seating, barber and beauty shop, book store (small), camera store, convenience store (small), craft gallery (small), drug store (small), dry cleaning pick-up, flower shop, gift shop, jewelry store, laundromats and self-service dry cleaning, mail order stores, meat market, news dealer and stationary stores. Generally, a business under eight thousand (8,000) square feet qualifies as small for purposes of this definition."



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.”

Since the Variance’s approval, additional similar low-intensity commercial variances have been granted on Jersey Street. The Department is comfortable granting the extension of the Variance without a sunset provision as it relates to property on the south side of Jersey Street specifically.

This proposal has been reviewed by the Grand Junction Task Group and has received their support.

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 November 15, 2022, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals’ Rules of Procedure.

Conditions: The UDO² and Indiana law provide that the Board of Zoning Appeals may impose reasonable conditions and limitations concerning use, construction, character, location, landscaping, screening, and other matters relating to the purposes and objectives of the UDO upon any Lot benefitted by variance as may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the subject Lot or upon public facilities and services. Such conditions shall be expressly set forth in the order granting the variance.

Acknowledgment of the Variance: If the Board of Zoning Appeals approves this petition, then the UDO³ requires the approval of the variance shall be memorialized in an acknowledgment of variance instrument prepared by Department. The acknowledgment shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than the Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgment shall be provided to the

²Article 10.14(I) Process and Permits; Variances; Conditions of the UDO

³Article 10.14(K) Process and Permits; Variances; Acknowledgment of Variance of the UDO

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 low-intensity retail use, specifically a health and wellness business, on the Property.

If the Board is inclined to approve 2211-VU-11, The Department recommends the following condition and findings:

Recommended Condition:

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

Recommended Findings for Variance of Use (2211-VU-11):

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

Finding: It is unlikely that allowing a business defined as 'Retail, Low Intensity' 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..

- 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 Retail, Low Intensity 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.

- 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 Retail, Low Intensity 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 low-intensity community arts center.

- 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 the Property as Retail, Low Intensity of a community arts center with a small commercial component would not interfere substantially with the Comprehensive Plan.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

November 15, 2022

2211-VU-11

Exhibit 1

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.