



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_03_14_2017

Tuesday, March 14, 2017 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, March 14, 2017 at 07:00 PM

MEETING PLACE: Westfield City Hall- Assembly Room

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 - February 15, 2017

Documents: [BZA Minutes - February 15, 2017](#)

Review Rules & Procedures

ITEMS OF BUSINESS:

PUBLIC HEARINGS

1703-VS-06 [PUBLIC HEARING]

16750 Glen Way

Christopher and Courtney Dipiro by Pools of Fun

The Petitioner is requesting Variances of Standard to reduce the Minimum Side and Rear Yard Building Setback Lines in the SF2: Single-Family Low Density District (Article 4.5(E)(2)(a) and Article 4.5(E)(3)(a)).

Documents: [Exhibit 1: BZA Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: Existing Conditions](#) | [Exhibit 5: Petitioner's Narrative](#)

CONTINUED

1612-VS-17 [CONTINUED]

18300 Block of Joliet Road (Parcel No. 08-05-31-00-00-004.000)

TNA Enterprises, LLC

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

1609-AA-01 [CONTINUED]

14939 Ditch Road

Indiana Structural Foundations, LLCThe 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).

REPORTS/COMMENTS:

Plan Commission Liaison

Economic and Community Development Department

ADJOURNMENT

The Westfield-Washington Township Board of Zoning Appeals met at 7:00 p.m. on Wednesday, February 15, 2017, at Westfield City Hall. Members present included Jeannine Fortier, Ken Kingshill, Martin Raines, Dave Schmitz, and Robert Smith. Also present were Kevin Todd, Senior Planner; Pam Howard, Associate Planner; Daine Crabtree, Associate Planner; Matt Pleasant, Associate Planner; and Brian Zaiger, City Attorney.

APPROVAL OF MINUTES

Schmitz moved to approve the January 10, 2017, meeting minutes as presented.

Raines seconded, and the motion passed 5-0.

ITEMS OF BUSINESS

1702-VS-03

[PUBLIC HEARING]

216 Penn Street

Jeff Beaty

The Petitioner is requesting a Variance of Standard to reduce the Minimum Front, Rear, and Side Yard Building Setback Lines in the SF4: Single-Family High Density District (Article 4.7(D)).

Pleasant presented an overview of the requested Variance of Standard, as summarized in the Department report.

Jeff Beaty, Petitioner, presented an overview of his petition and shared architectural drawings.

Schmitz inquired why petitioner, who would be building for himself, was presenting architectural renderings in lieu of actual drawings. Petitioner responded that using actual drawings did not financially make sense without an issued variance.

Kingshill asked if this petition went through TAC. Pleasant responded that Phil Sundling, City Engineer, had reviewed the driveway and its turning radius.

Schmitz stated this petition complies with the Comp Plan Addendum.

Public Hearing opened at 7:12 p.m.

No public comments.

Public Hearing closed at 7:12 p.m.

Schmitz motioned to approve the Variance of Standard reducing the Minimum Front, Rear, and Side Yard Building Setback Lines in the SF4: Single-Family High Density District (Article 4.7(D)) with the staff condition that the architectural style shall be substantially similar to what is shown on Exhibit 5.

Kingshill seconded and the Motion passed 5-0.

Smith asked Petitioner finding questions.

Schmitz moved to adopt the Department's recommended findings of fact for approval.

Kingshill seconded and the Motion passed 5-0.

1702-VS-04

[PUBLIC HEARING]

17030 Westfield Park Road

Scott Eiker (Design and Build Corporation)

The Petitioner is requesting a Variance of Standard to reduce the Minimum Side Yard Setback Line to accommodate an expansion of the existing building in the EI: Enclosed Industrial District (Article 4.24(E)).

Crabtree presented an overview of this Variance of Standard petition.

Kingshill asked if the City reviewed the minimum setback and the building separation with existing building.

Crabtree responded that there were no concerns.

Public Hearing opened at 7:21 p.m.

No public comments.

Public Hearing closed at 7:21 p.m.

Kingshill motioned to approve the Variance of Standard to allow a reduction in the Side Yard Building Setback Setback Line to accommodate an expansion of the existing building in the EI: Enclosed Industrial District (Article 4.24(E)).

Raines seconded and the Motion passed 5-0.

Smith asked Petitioner finding questions.

Schmitz moved to adopt the Department's recommended findings of fact for approval.

Kingshill seconded and the Motion passed 5-0.

1702-VS-05

[PUBLIC HEARING]

1821 E. 151st Street (Circle K)

Karen Dodge (Municipal Resources)

The Petitioner is requesting a Variance of Standard to allow a Monument Sign to be permitted for an Outlot in the SB-PD: Special Business / Planned Development District (Article 6.17(J)(8)(b)).

Howard presented an overview of the requested Variance of Standard.

Ed Williams, representing the Petitioner, presented.

Kingshill asked about the timetable of removing the existing sign.

Howard responded that a new sign permit would not be issued on this site until the existing sign had been taken down.

Kingshill asked about review process and lighting; will these be reviewed?

Howard responded, yes, it would be reviewed.

Public Hearing opened at 7:27 p.m.

No public comments.

Public Hearing closed at 7:27 p.m.

Schmitz motioned to approve the Variance of Standard to allow a Monument Sign to be permitted for an Outlot in the SB-PD: Special Business / Planned Development District (Article 6.17(J)(8)(b)) with the staff condition that the sign be constructed in substantial compliance with the Proposed Sign Elevation Exhibit at the location shown on the Revised Proposed Sign Location Exhibit provide at the meeting.

Raines seconded and the Motion passed 5-0.

Smith asked Petitioner finding questions.

Kingshill moved to adopt the Department's recommended findings of fact for approval.

Schmitz seconded and the Motion passed 5-0.

1612-VS-17
[CONTINUED]

18300 Block of Joliet Road (Parcel No. 08-05-31-00-00-004.000)
TNA Enterprises, LLC

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

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).

REPORTS/COMMENTS

Plan Commission Liaison report by Schmitz.

Economic and Community Development Department

Kingshill motioned to adjourn the meeting.

Schmitz seconded, and the motion passed.

The meeting adjourned at 7:45 p.m.

Chairperson
Robert Smith, Esq.

Secretary
Matthew S. Skelton, Esq., AICP
Director



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

March 14, 2017

1703-VS-06

Exhibit 1

Petition Number: 1703-VS-06

Subject Site Address: 16750 Glen Way ("the Property")

Petitioner: Tyler Herman (Pools of Fun) ("the Petitioner")

Request: The petitioner requests Variances of Standard to modify the minimum rear yard setback from thirty (30) feet to twenty (20) feet and the minimum side yard setback from twelve (12) feet to eleven (11) feet to accommodate a swimming pool and deck.

Current Zoning: SF2: Single-Family Low Density

Current Land Use: Residential

Approximate Acreage: 0.47 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. Existing Conditions
5. Petitioner's Narrative

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject property is 0.47 acres +/- in size and located at 16750 Glen Way in Section 4B of the Brookside subdivision (**see Exhibit 2**) (the "Property"). The Property is zoned SF2: Single-Family Low Density. Adjacent properties are also zoned SF2.

Property History: The Secondary Plat for Brookside, Section 4B, was recorded on December 19, 2006 (Instrument No. 2006074797).

Requested Variances: the petitioner is requesting Variances of Standard to modify the minimum rear yard setback from thirty (30) feet to twenty (20) feet and the minimum side yard setback from twelve (12) feet to eleven (11) feet, as further described herein.

SUMMARY OF VARIANCE

The Property is currently subject to the SF2: Single-Family Low Density District Standards¹ of the Westfield-Washington Township Unified Development Ordinance (the "UDO"). The UDO sets

¹ Article 4.5: SF2: Single-Family Low Density District



forth a minimum rear yard setback line of thirty (30) feet and minimum side yard setback lines of twelve (12) feet.

The petitioner is requesting two (2) Variances of Standard to modify the minimum rear yard setback line from thirty (30) to twenty (20) feet and the minimum side yard setback line from twelve (12) to eleven (11) feet to accommodate a pool and deck, as generally illustrated on the Site Plan (see Exhibit 3) and described in the Petitioner's Narrative (see Exhibit 5).

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standard. This petition is scheduled to receive its public hearing at the March 14, 2017, 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 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 UDO³ requires that the approval of the variance shall be memorialized in an acknowledgement of variance instrument prepared by the Department. The acknowledgement shall: (i) specify the granted variance and any commitments made or conditions imposed in granting of the variance; (ii) be signed by the Director, Property Owner and Applicant (if Applicant is different than Property Owner); and (iii) be recorded against the subject property in the Office of the Recorder of Hamilton County, Indiana. A copy of the recorded acknowledgement shall be provided to the Department prior to the issuance of any subsequent permit or commencement of uses pursuant to the granted variance.

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

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

³ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



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, then the Department recommends the findings as set forth below, for each variance:

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

Finding: It is unlikely that approving the requested variance would be injurious to the public health, safety, morals, and general welfare of the community because the existing use and proposed improvements will otherwise comply with the applicable standards of the SF2: Single-Family Low Density District. Fencing with a locked gate currently surrounds the backyard of the residence and the proposed pool will be installed with a key-operated safety locking automatic pool cover as required by the UDO⁴.

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

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

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

Finding: Strict adherence to the zoning ordinance would result in the inability to improve the property as proposed and would result in the construction of a swimming pool and deck that would not suit the needs of the Petitioner.

⁴ Article 6.4(G)(4)(d)(ii) Swimming Pools; "Access to residential pools shall be restricted by one (1) of the following means...Shall be mechanically operated such that the cover cannot be drawn open or retracted without use of a (a) key; or (b) key and switch; or (c) touch pad with a personal access code.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

March 14, 2017

1703-VS-06

Exhibit 1

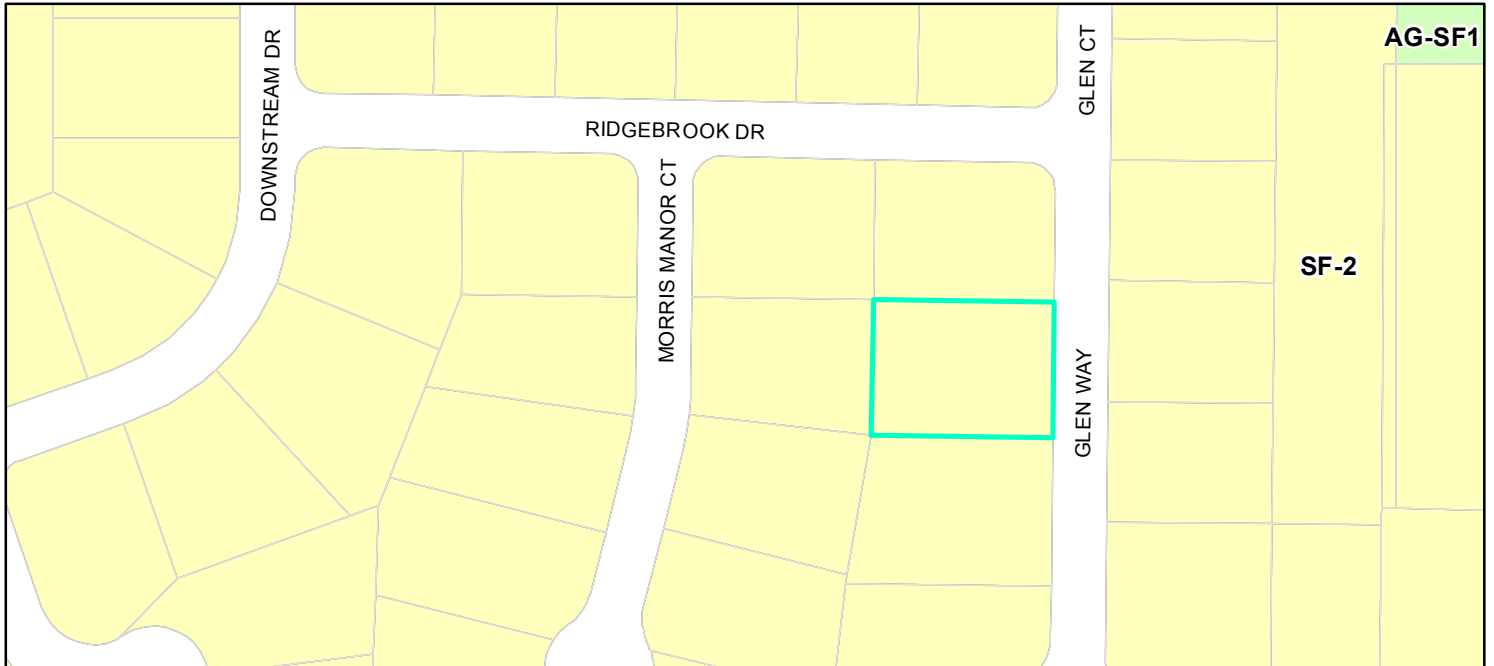
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

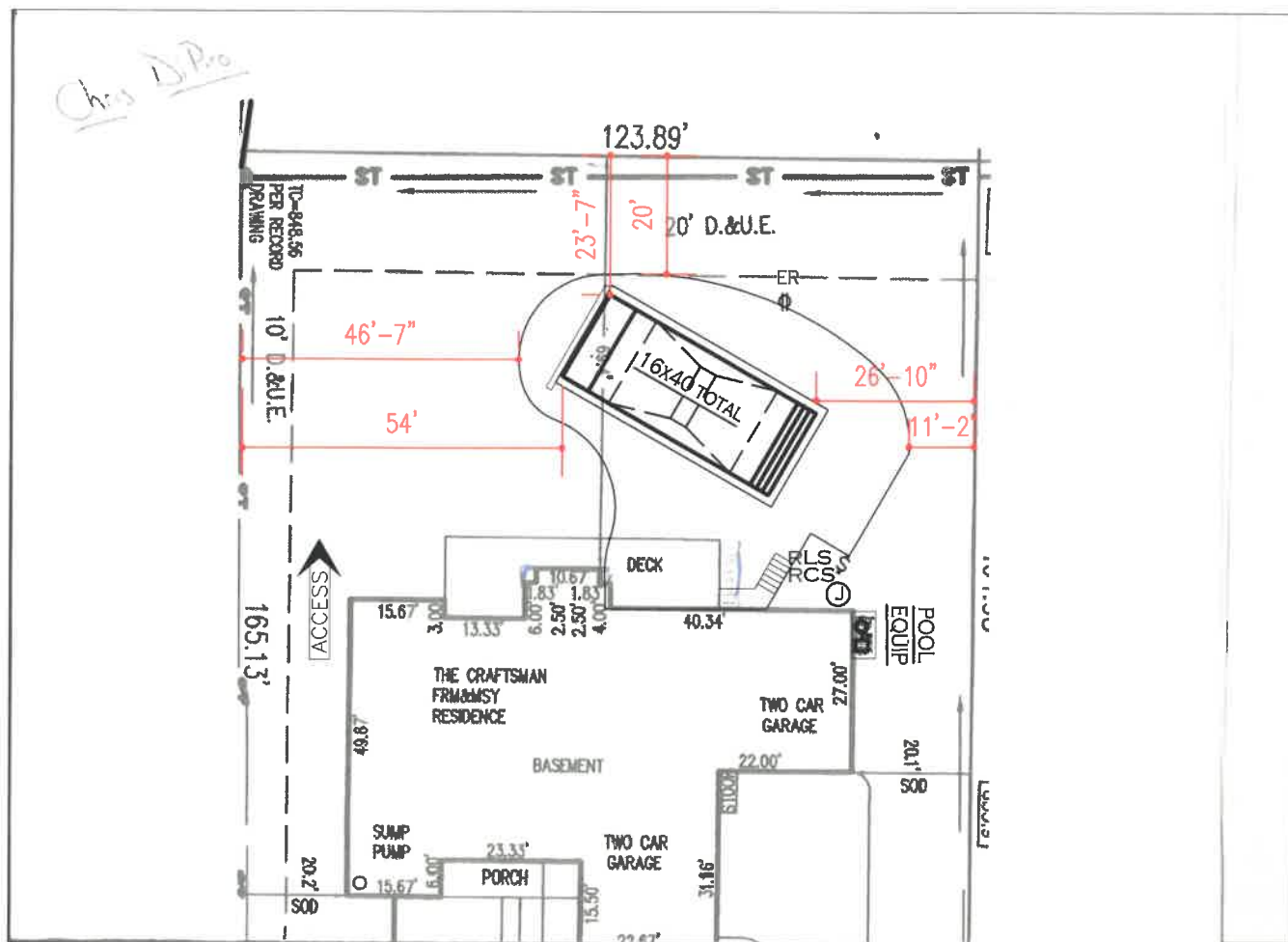
Aerial Location Map

Site



Zoning Map





A1	PLOT PLAN
SCALE: 1:30	

CHRIS DIPIRO			
PHONE	812-219-2603		
ADDRESS	16750 GLEN WAY		
CITY	NOBLESVILLE	STATE	IN ZIP 46062
ADDITION			LOT #
COUNTY	HAMILTON	TOWNSHIP	
PROJECT	MANAGER	P.O.#	



Morris Manor Ct

Glen Way

1



2



3



4



5





Petitioner's Narrative

We plan to install a 16' x 40' in-ground family swimming pool including a walkway deck around the pool. The pool will be installed with a key operated safety locking automatic pool cover. The pool deck will be installed by a registered contractor in accordance with the City of Westfield and the State of Indiana. The proposed pool will not be intrusive to adjacent property owners as the grade and elevation will remain the same after installation. The strict application of the zoning ordinance would prohibit the installation of the proposed pool, which would enhance our backyard for family recreation.