



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_02_13_2018

Tuesday, February 13, 2018 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, February 13, 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

Election of Officers

-Chairperson

-Vice-Chairperson

-Pro-Tempore

Approval of Minutes - December 12, 2107

Documents: [BZA Minutes - December 12, 2107](#)

Review Rules & Procedures

ITEMS OF BUSINESS:

1802-VS-02 [PUBLIC HEARING]

18464 Idlewind Court

Andy & Stephanie Weber by Havencrest Homes

The petitioner is requesting a Variance of Standard to reduce the Minimum Rear Yard Setback to accommodate the installation of a pool on 0.39 acres +/- in the Andover PUD District (Exhibit 7 of Ordinance 03-40).

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

1712-VU-08 [PUBLIC HEARING]

1802-VU-01

Full Circle Renovation by Century 21 Scheetz

The petitioner is requesting a Variance of Use to allow a Construction Trade Office (Article 12) use within the US Highway 31 Overlay District (Article 13.2).

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Existing Site](#) | [Exhibit 4: Petitioner's 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).

REPORTS/COMMENTS:

Plan Commission Liaison

Economic and Community Development Department

ADJOURNMENT

MINUTES

Westfield-Washington Board of Zoning Appeals

Minutes of the December 12, 2017 BZA Meeting

Presented for approval: January 9, 2018

Page 1 of 4

The Westfield-Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, December 12, 2017, at Westfield City Hall.

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

Also present were Pam Howard Associate Planner; Daine Crabtree, Associate Planner; Caleb Ernest, Associate Planner; and Brian Zaiger, City Attorney.

ROLE CALL

Noted presence of a quorum.

APPROVAL OF MINUTES

Schmitz moved to approve the November 14, 2017 meeting minutes as presented.

Raines seconded, and the motion passed 5-0.

REVIEW OF RULES AND PROCEDURES

Howard reviewed BZA rules and procedures.

ITEMS OF BUSINESS

1712-VU-07

[PUBLIC HEARING]

900 East 169th Street

Presley Property Management Group by Coots, Henke & Wheeler
The Petitioner is requesting a Variance of Use to permit a Very High Intensity Retail Use on 5.85 acres +/- in the OI: Open Industrial District (Article 13.2).

Ernest presented an overview of this requested Variance of Use.

Dave Coots with Coots, Henke & Wheeler, representing the petitioner, gave an overview of this proposed 7600 square foot equipment and tool rental facility to be known as Sunbelt Rentals. He addressed petitioner's compliance with the finding of facts and the conforming uses within the OI: Open Industrial District.

Kingshill asked about types of equipment/vehicles will be stored outside.

Harold Edwards, with Sunbelt, responded that small tools, light to medium construction equipment, lawn and garden items, portable generators, etc. would be stored outside.

Smith asked about tools to be rented.

Edwards stated Sunbelt would rent mainly light tools and lawn equipment, small generators, etc.

Kingshill asked about customer base.

Edwards responded that customers would be mainly homeowners and small to medium contractors

Schmitz asked how this would compare to Allisonville location

Edwards responded that the Allisonville location carries larger pieces of equipment.

Public Hearing opened at 7:11 p.m.

No public comment.

Public Hearing closed at 7:11 p.m.

Kingshill agrees this business is consistent with surrounding area uses.

Schmitz motioned to approve 1712-VU-07 with the staff's two conditions:

- 1) Materials resemble/match existing building.
- 2) No omission of smoke, odors, or noise.

Raines seconded and the Motion passed 5-0.

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

Kingshill seconded and the Motion passed 5-0.

1712-VU-08
[PUBLIC HEARING]

227 Jersey Street
Erin O'Rear

The Petitioner is requesting a Variance of Use to permit a community arts center with a commercial component on 0.24 acres +/- in the MF1: Multi-Family Low Density District (Article 13.2).

Crabtree overviewed the details of these request for a Variance of Use. He pointed out that the Wandering Peacock is a community art center with a small retail component defined as Retail, Low Intensity per the Unified Development Ordinance (UDO) and is a pre-existing local business needing to relocate due to the continued development of the Grand Junction Plaza.

The department has received three written comments of support and those are included in the BZA member packets.

Erin O'Rear, the petitioner, presented an overview of the Wandering Peacock offerings, class times, hours of business, and vision.

Smith asked about age of students.

Erin O'Rear, the petitioner, responded that pottery students start at age eight, other students start at age three, as well as a few teenagers, and other teachers may have toddler classes.

Smith read the three recommended conditions and asked if the petitioner accepts them.

O'Rear stated she understood and accepted the conditions.

Public Hearing for 1712-VU-08 opened at 7:19 p.m.

Teresa Skelton, 547 North Union Street representing Downtown Westfield Association (DWA) and the Grand Junction Task Group (GJTG); stated the petitioner presented to GJTG and they unanimously support this petition and regard her as a valuable part of the community.

Smith asked if there is a parking issue.

Crabtree indicated there is no current problem and parking is available in the Grand Junction area as well as on-street parking.

Howard added that in the downtown (LBH), parking is not typically regulated for business.

Public Hearing for 1712-VU-08 closed at 7:21 p.m.

Kingshill motioned to approve 1712-VU-08 with staff's three 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 5. 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.

Schmitz seconded and the Motion passed 5-0.

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

Raines seconded and the Motion passed 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).

REPORTS/COMMENTS

Plan Commission Liaison Report.

Economic and Community Development Department—no report

Schmitz motioned to adjourn the meeting.

Raines seconded, and the motion passed.

The meeting adjourned at 7:29 p.m.

Chairperson
Robert Smith, Esq.

Secretary
Matthew S. Skelton, Esq., AICP
Director



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

February 13, 2018

1802-VS-02

Exhibit 1

Petition Number: 1802-VS-02

Subject Site Address: 18464 Idlewind Ct. (The "Property")

Petitioner: Andy & Stephenie Weber (The "Petitioner")

Representative: Havencrest Homes

Request: The Petitioner is requesting a Variance of Standard to modify the minimum rear yard setback from twenty-five (25) feet to seven (7) feet to accommodate an in-ground pool.

Current Zoning: Andover PUD District

Current Land Use: Residential

Approximate Acreage: 0.39 acres+/-

Exhibits:

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

Staff Reviewer: Caleb Ernest, Associate Planner

OVERVIEW

Location: The subject Property is 0.39 acres +/- in size and is located at 18464 Idlewind Court (see **Exhibit 2**). The Property is currently zoned the Andover PUD. The surrounding properties are also zoned the Andover PUD.

Property History: The Secondary Plat for Andover, The Lakes at Grassy Branch, Section 2B, was recorded on December 1, 2016 (Instrument No. 2016063525).

Variance Request: The Petitioner is requesting a Variance of Standard to modify the minimum rear yard setback from twenty-five (25) feet to seven (7) feet, as further described herein.

SUMMARY OF VARIANCE

The Property is currently subject to the Andover PUD District Standards and in accordance with underlying zoning classification of SF2: Single-Family Low Density District as set forth in the PUD. The underlying zoning sets forth a minimum rear yard setback line of twenty-five (25) feet. The Petitioner is requesting this variance to modify the minimum rear yard setback line from twenty-five (25) feet to seven (7) feet to accommodate an in-ground pool, as illustrated on the Site Plan (see **Exhibit 3**) and described in the Statement of Intent on Petitioner's Application (see **Exhibit 5** application).

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan (The “Plan”) identifies the property within the “New 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 New Suburban classification is designed to accommodate detached dwellings, attached dwellings, institutional uses, recreational uses, artisan farms and equestrian uses³. 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 February 13, 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 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.

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

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

February 13, 2018

1802-VS-02

Exhibit 1

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.

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.
-

⁶ 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 (1802-VS-02), then the Department recommends the findings as set forth below, for the variance:

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 proposed improvements will otherwise comply with the applicable standards of the underlying zoning of the SF2: Single-Family Low Density District. The pool will have a permanent cover installed, will not be visible from the street, and landscaping will be installed for privacy for both homeowner and neighboring properties.

- 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 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 described in Statement of Intent on Petitioner's Application (see **Exhibit 5** application).

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.

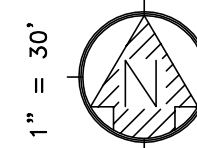
THE LAKES AT GRASSY BRANCH

SECTION 2B
INST.#2016-063525
LOT #58

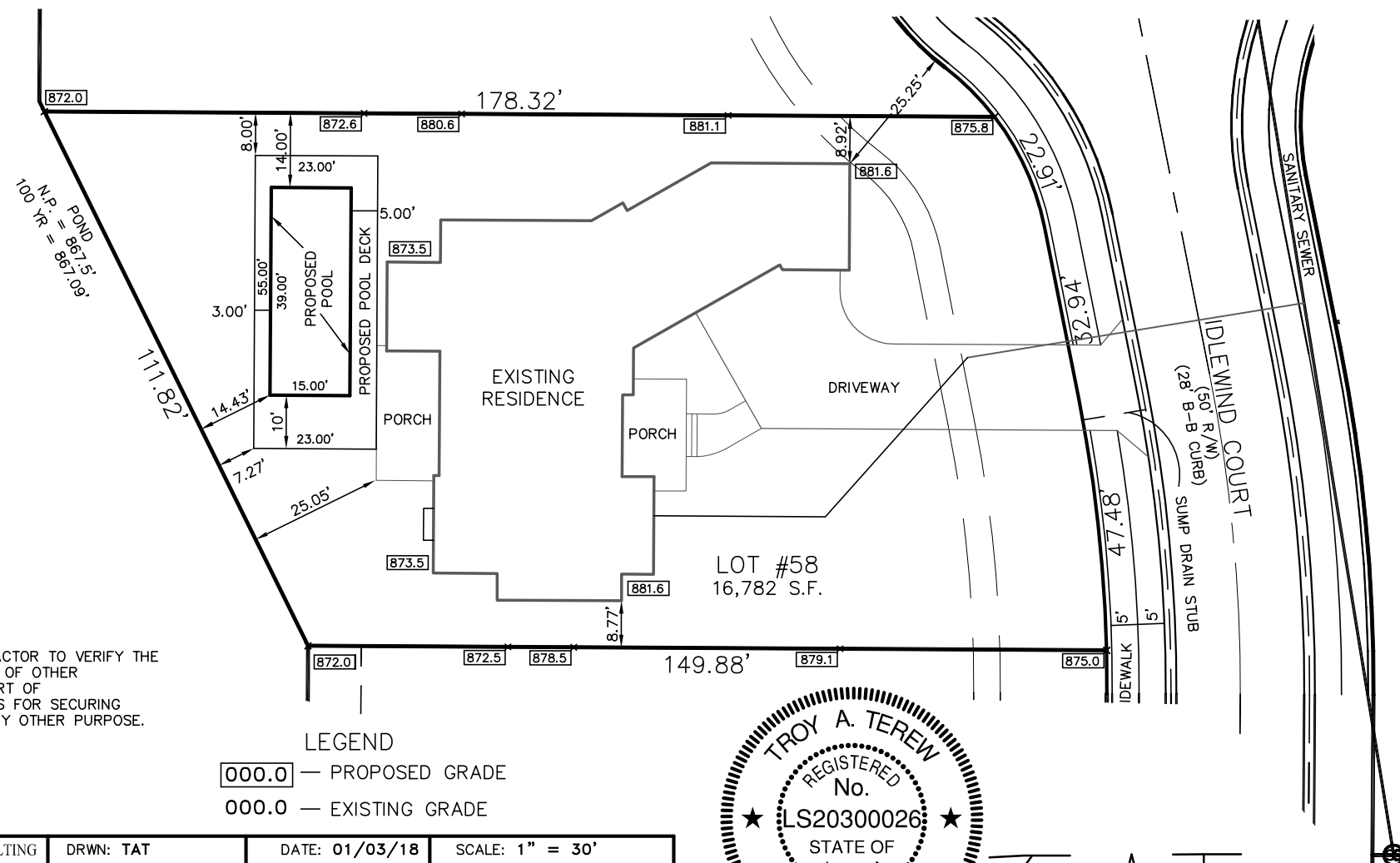
WESTFIELD, INDIANA
18464 IDLEWIND COURT

PLOT PLAN

PREPARED FOR
HAVENCREST HOMES



NOTE: BUILDER TO ENSURE POSITIVE
DRAINAGE AWAY FROM STRUCTURE(S)



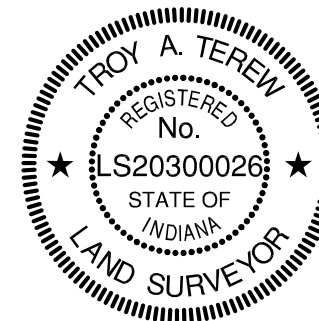
NOTE:

- IT SHALL BE THE RESPONSIBILITY OF THE BUILDER/CONTRACTOR TO VERIFY THE BUILDING DIMENSIONS, BUILDING LOCATIONS, THE LOCATION OF OTHER PERTINENT FEATURES AND ELEVATIONS PRIOR TO THE START OF CONSTRUCTION. THE INTENDED USE OF THIS PLOT PLAN IS FOR SECURING BUILDING PERMITS ONLY AND SHALL NOT BE USED FOR ANY OTHER PURPOSE.

LEGEND

000.0 — PROPOSED GRADE

000.0 — EXISTING GRADE



T. A. T.



LAND DEVELOPMENT CONSULTING
& LAND SURVEYING SERVICES
11650 Olio Road, Suite#1000-289
Fishers, Indiana 46037
Phone: (317)-841-8754
Fax: (317)-841-8762
E-mail: Troy@Truenorthindy.com

DRWN: TAT
JOB#: 17-001P

DATE: 01/03/18
REV.:

SCALE: 1" = 30'

SIDELOAD: 5' MIN/16' TOTAL
FRONTLOAD: 8' MIN./16' TOTAL
25' REAR YARD

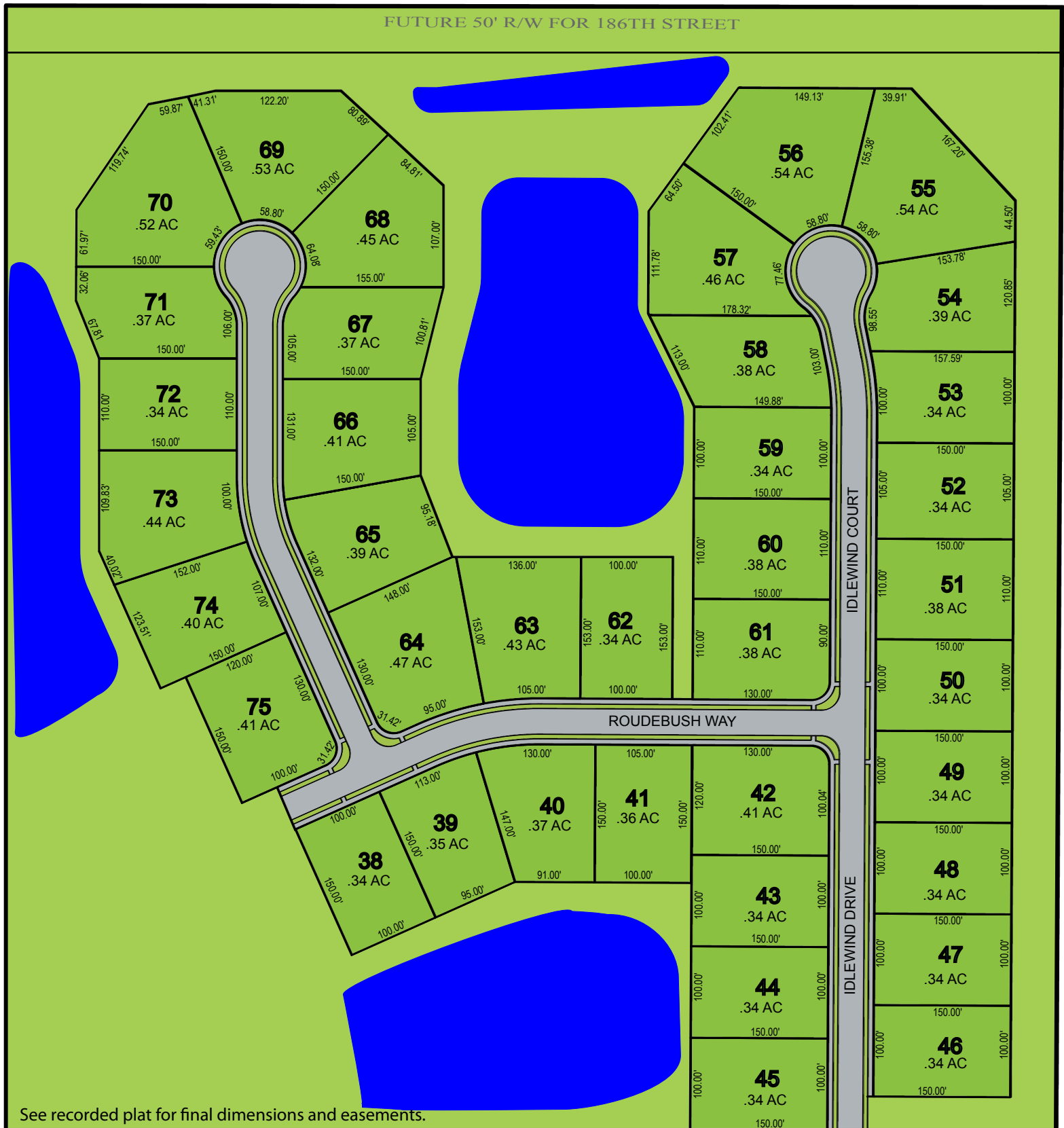
F.F.E. HSE: EXISTING
F.F.E. GAR: EXISTING
F.F.E. BSM'T: EXISTING



THE LAKES

AT GRASSY BRANCH

Section 2



VARIANCE APPLICATION

OFFICE
USE ONLY

DOCKET #: _____ FILING DATE: _____

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: _____ (STAFF NAME) DATE: _____

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: _____ TELEPHONE: _____

ADDRESS: _____ EMAIL: _____

PROPERTY OWNER'S NAME: _____ TELEPHONE: _____

ADDRESS: _____ EMAIL: _____

REPRESENTATIVE'S NAME: _____ TELEPHONE: _____

COMPANY: _____ EMAIL: _____

ADDRESS: _____

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: _____

COUNTY PARCEL ID #(S): _____

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

VARIANCE REQUEST

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

FINDINGS OF FACT: _____ (PLEASE SEE ATTACHED)

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



APPLICANT AFFIDAVIT

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

Applicant/Representative (signature)

Applicant/Representative (printed)

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

Witness my hand and Notarial Seal this ____ day of _____, 20____.

State of _____, County of _____, SS:

Notary Public Signature

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)*

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 ____ day of _____, 20____.

State of _____, County of _____, SS:

Notary Public Signature

Notary Public (printed)

**A signature from each party having interest in the property involved in this application is required. If the Property Owner's signature cannot be obtained on the application, then a notarized statement by each Property Owner acknowledging and consenting to the filing of this application is required with the application.*

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



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. 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: _____

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

C. The need for the variance arises from some condition particular to the property involved because: _____

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: _____

E. The variance of use does not interfere substantially with the Comprehensive Plan because: _____

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: _____

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

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

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

VARIANCE APPLICATIONS



GENERAL INSTRUCTIONS

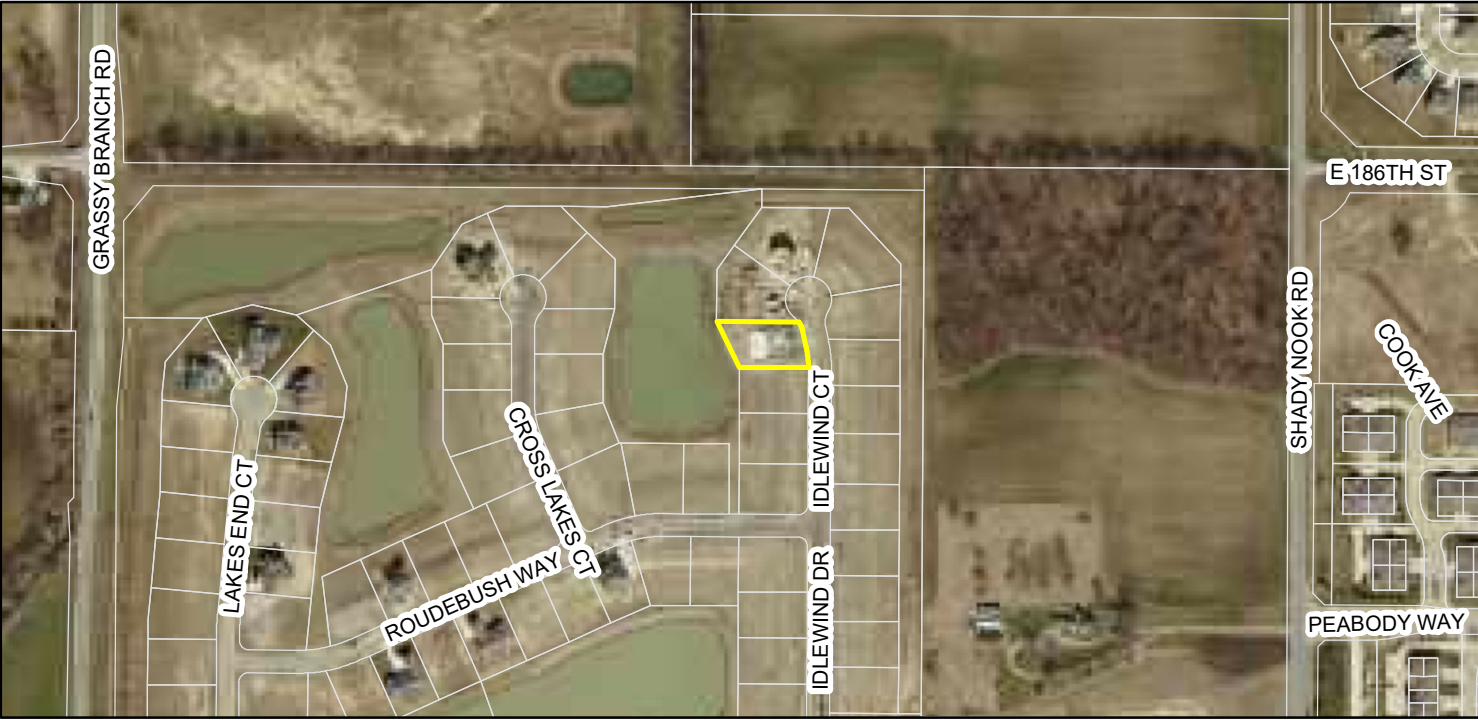
- A. **Pre-Filing Conference:** A pre-filing conference is required for all petitions. An appointment must be made with the Economic and Community Development Department (the “Department”) to discuss a petition prior to filing. An application will not be considered filed until a pre-filing conference 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) |
- 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.



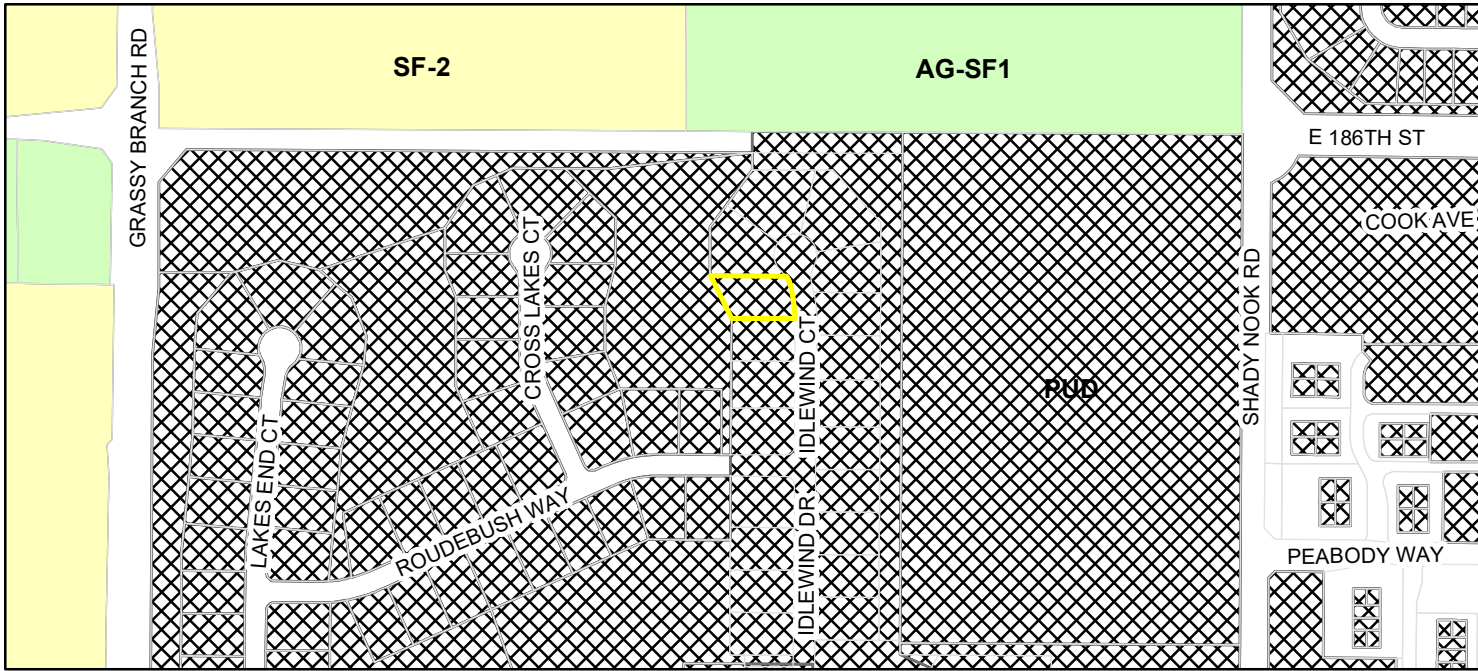
Property Location Map
Lot 58 Pool Variance
Variance of Standard
1802-VS-02



Aerial Location Map



Zoning Map



Parcel **Zoning**

Zoning - All

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

February 13, 2018

1802-VU-01

Exhibit 1

Petition Number: 1802-VU-01

Subject Site Address: 17767 Sun Park Dr. (The "Property")

Petitioner: Full Circle Renovation (The "Petitioner")

Request: The Petitioner by Century 21 Scheetz is requesting a Variance of Use to allow for Construction Trade Office (Article 12) use within the US Highway 31 Overlay District (Article 13.2).

Current Zoning: EI: Enclosed Industrial District

Current Land Use: Commercial / Industrial

Approximate Acreage: 1.63 acres+/-

Exhibits:

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

Staff Reviewer: Matt Pleasant, Associate Planner

OVERVIEW

Location: The subject Property is 1.63 acres +/- and is located at 17767 Sun Park Dr. (see **Exhibit 2**). The Property currently has an empty building for sale. The surrounding properties are zoned EI with a storage facility south of the Property, office uses to the west, warehouse and distribution uses to the north and US Highway 31 bordering the east.

Description: The type of business uses proposed on this site is generally a flooring installation service with a showroom floor (30% of building), offices (30% of building), and warehouse storage for excess flooring materials (40% of building). These uses would constitute as a Construction Trade Office¹ use and not permitted in the US Highway 31 Overlay District as defined in Article 13.2 of the Westfield-Washington Township Unified Development Ordinance (the "UDO"). The Petitioner intends to reuse the building currently established on the Property.

Variance Request: The Petitioner is requesting a Variance of Use to allow a Construction Trade Office use to permit a showroom, office, and warehouse space within the US Highway 31 Overlay District.

¹ Chapter 12 of the UDO defines "Office, Construction Trade" as: "electrical contractors, general contractors or construction offices, **home remodeling companies**, septic system contractors, heating and cooling contractors, painting contractors, landscaping contractors, and plumbing contractor offices, and the like, where such use is typically characterized to include some or all of the following aspects: **storage of product for sale or for installation, storage of materials related to the business, storage of equipment or other implements, office space**, parking of company vehicles, service areas for equipment and vehicles, **warehouse space, showroom space, and/or retail sales.**"



SUMMARY OF VARIANCES

The Petitioner is requesting the use within the definition of a Construction Trade Office on the Property to allow a showroom, warehouse, and office space. Chapter 13 of the UDO Use Table allows a Construction Trade Office use to be in zoned Enclosed Industrial and Open Industrial by right and General Business with the approval of a Special Exception. The use is specifically excluded from the US Highway 31 Overlay District thus necessity for the Variance request.

If the Board is inclined to approve this variance request, the Department recommends the conditions below:

- 1) Approve the Variance of Use with an expiration date on December 31, 2023,
- 2) Submit a compliant Landscape Plan to be reviewed and approved by the Department no later than December 31, 2018 and installed June 31, 2019,
- 3) Submit compliant building elevations to be reviewed and approved by the Department no later than December 31, 2018 and installed June 31, 2019.

COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan identifies the property within the “Employment Corridor” land use classification of the “Highway Corridor” and the “Business Park” via the Land Use Concept Map.²

The Highway Corridor contemplates uses that would encourage employment growth in Westfield, including but not limited to: “office and service uses, research and development, and retail and institutional uses that are subordinate to and supportive of the office and service uses.”³

The Business Park classification is designed to: “accommodate manufacturing, research and development, processing activities, office and service uses that provide jobs and a tax base for the community.” The plan also contemplates business parks to be within a “campus atmosphere, attractive buildings, and extensive landscaping, or on large parcels, of at least 5 acres, with access to arterial streets only from frontage roads.” Business Parks encourages the following development policies:

- Industrial uses should be removed from residential neighborhoods,
- Storage to be indoors or not within sight of major roadways,
- Require parking areas to have interior landscaping and extra landscaping along street frontages

² Page 24 of the Westfield and Washington Township Comprehensive Plan.

³ Pages 53-55 of the Westfield and Washington Township Comprehensive Plan.



- Maintain attractive and appealing business and industrial areas.⁴

The 2011 Family Sports Capital Addendum II to the Comprehensive Plan: Encourages an extended mix of uses including, but not limited to: restaurants, higher density residences, healthcare and sports medicine, hotels, and retail. The Property is contemplated as a Regional Retail & Hospitality land use designation.⁵

Thoroughfare Plan: The plan identifies Sun Park Dr. as a Local Street and expected widening of the street is not anticipated.⁶

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 February 13, 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 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 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:

⁴ Pages 56-58 of the Westfield and Washington Township Comprehensive Plan.

⁵ Pages 1-4 of the Family Sports Capital Addendum II to the Westfield and Washington Township Comprehensive Plan.

⁶ Appendix B of the Westfield Thoroughfare Plan; Resolution 11-14.

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

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

February 13, 2018

1802-VU-01

Exhibit 1

- 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

Approval: If the Board is inclined to approve the Variance of Use (1802-VU-01), then the Department recommends the Variance of Use (1802-VU-01) approval with one of the two following conditions:

- 1) Approve the Variance of Use with an expiration date on December 31, 2023,
- 2) Submit a compliant Landscape Plan to be reviewed and approved by the Department no later than December 31, 2018 and installed June 31, 2019,
- 3) Submit compliant building elevations to be reviewed and approved by the Department no later than December 31, 2018 and installed June 31, 2019.

In addition, the Department recommends the following written findings of fact related as set forth below, for the Variance of Use:

Recommended Findings for Approval:

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

Finding: It is unlikely that allowing the business to locate on the Property would alter the vision, public health and safety, and general welfare of this corridor. No actual construction will take place on site with the main impact being a retail and storage facility.

- 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 future of this area is contemplated as retail establishments. The use proposed would be a direct step in that direction.

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

Finding: The US Highway 31 Overlay District prohibits a Construction Trade Office use. In an Enclosed Industrial zoning district outside of the overlay, the business would be able to locate by right.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

February 13, 2018

1802-VU-01

Exhibit 1

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

Finding: The Petitioner is relocated their business from Indianapolis to Westfield. The denial of this variance request would result in the Petitioner not purchasing the location and potentially not relocating to Westfield.

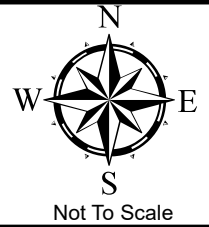
- 5) *The approval does not interfere substantially with the comprehensive plan:*

Finding: This use does not substantially alter the characteristics of the property and will be the next step toward a retail-centric corridor.

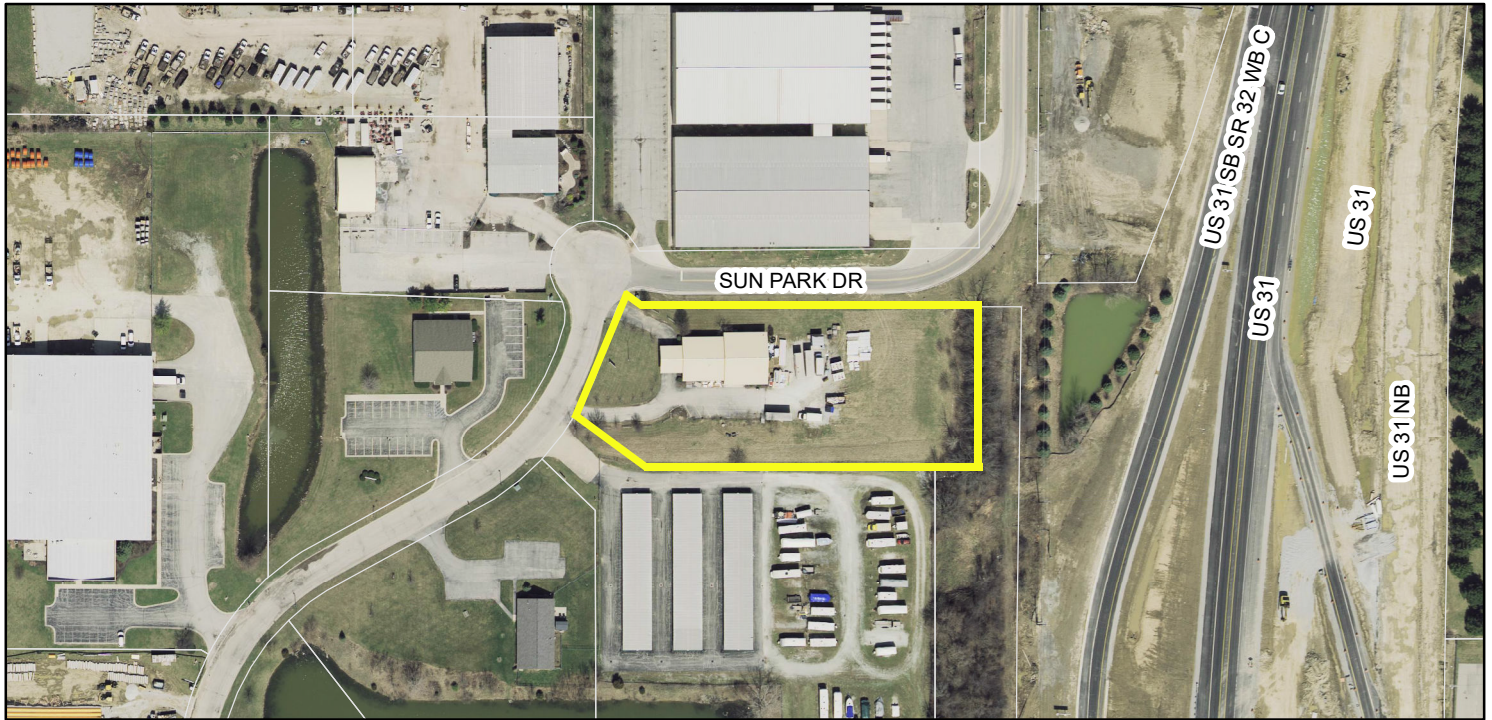
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.



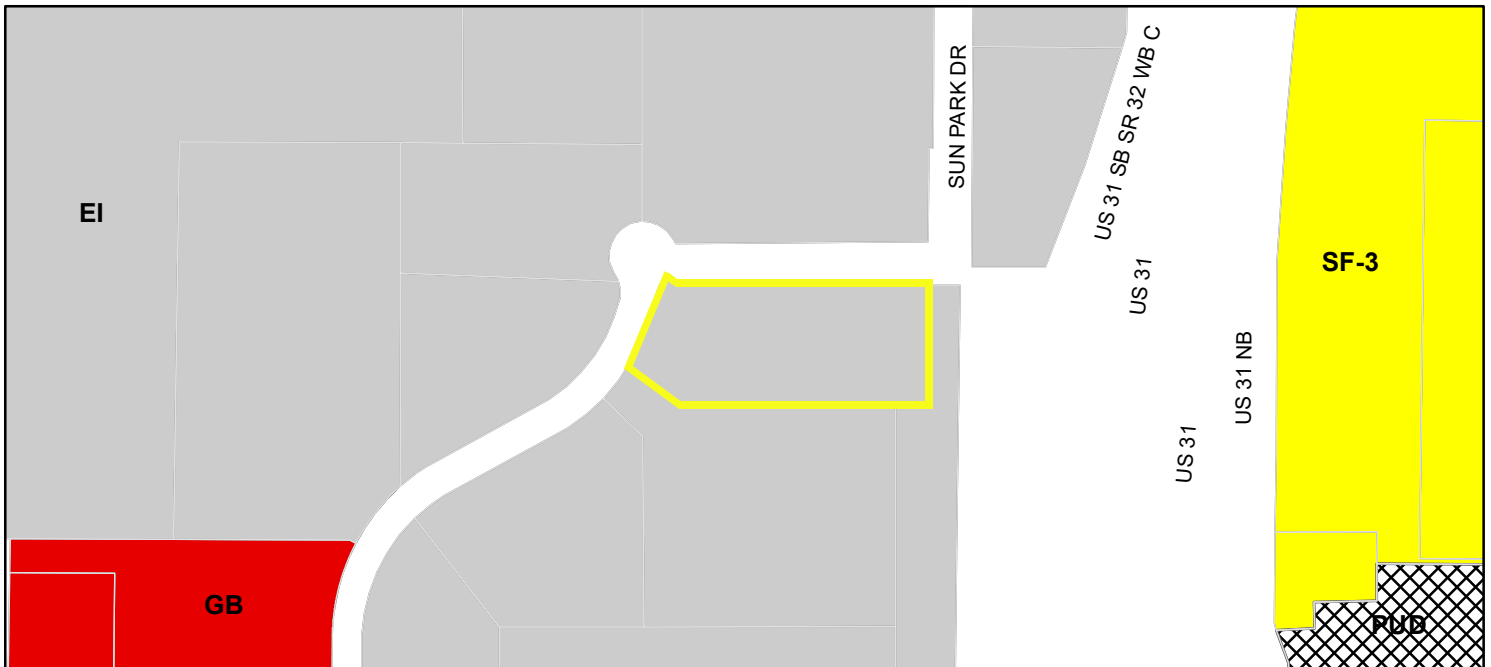
Property Location Map
1802-VU-01
Full Circle Renovation



Aerial Location Map



Zoning Map



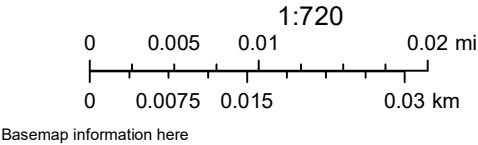
Legend

- | | |
|--------------------------|--------------------------------|
| Parcel | PUD (Planned Unit Development) |
| EI (Enclosed Industrial) | SF-3 (Single Family - 3) |
| GB (General Business) | |



January 30, 2018

 Parcels











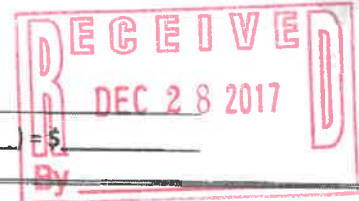
VARIANCE APPLICATION

OFFICE
USE ONLY

DOCKET #: 1802-VU-01

FILING DATE:

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



PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: (STAFF NAME) DATE:

PRIOR OR RELATED DOCKET NUMBERS

CHANGE OF ZONING: AMENDMENTS: DEVELOPMENT PLAN:

PRIMARY PLAT: SECONDARY PLAT: VARIANCE(S):

APPLICANT INFORMATION

APPLICANT'S NAME: Full Circle Renovation (Adam & Kory Henderson) TELEPHONE: 317-596-1777

ADDRESS: 8506 Evergreen Avenue Indianapolis, IN 46240 EMAIL: adam@fullcirclefloors.com

PROPERTY OWNER'S NAME: MCS Realty (Tim Martin) TELEPHONE: 317-223-8629

ADDRESS: 13936 Painter Court Carmel, IN 46032 EMAIL: timmartin@indy.rr.com

REPRESENTATIVE'S NAME: Brian Sanders TELEPHONE: 317-201-1070

COMPANY: Century 21 Scheetz EMAIL: bsanders@c21scheetz.com

ADDRESS: 4829 East 98th street Indianapolis, IN 46240

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 17767 Sun Park Drive, Westfield, IN 46074

COUNTY PARCEL ID #(S): 09-05-36-00-00-039.009

EXISTING ZONING DISTRICT(S): Commercial/Industrial EXISTING LAND USE(S): None, vacant

VARIANCE REQUEST

☒ 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 purpose of the variance application is to grant Full Circle Renovations & Hardwoods Floors a variance for use in the building located at 17767 Sun Park Drive, Westfield IN 46074. The applicants currently have an accepted offer to purchase the subject property contingent on the variance for use of the property. The applicants intend to purchase and do business as a commercial/residential flooring contractor specializing in high end hardwood and solid surface flooring. The applicants are a very professional/reputable company (established in 2002) now currently located in the Indianapolis area known as Nora. The 17767 Sun Park Drive property will used 30% showroom for new/current customers from all over Indiana. The property will also be used for office space approximately 30% for the management team/owners. The remaining 40% of the property will be for product storage as the back of the property is warehouse space. It should be noted that construction will NOT take place at the subject property location. The applicants are asking for "variance exception" to ENCLOSED INDUSTRIAL to RETAIL/OFFICE construction trade.

FINDINGS OF FACT (VARIANCE OF USE)

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. 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 approval for VARIANCE request by Full Circle Renovation will not have any negative effect on the public health & safety of the community because no harmful containments will be contained on premises and no actual construction will be taking place to put the community in harms way. The morals of the community will not be impacted as the property will be a retail/commercial office location for residential/commercial flooring. The property be maintained at a high level both inside and outside to ensure that the company will be a positive contributing member to the Westfield Business Community.
- B. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: _____
 The requested use of the subject property will not have an adverse effect on the surrounding value. The goal of the applicants is to increase the value of the surrounding area through cosmetic improvements both interior and exterior improvements. The applicants business relies on high-end clientele so the surrounding area and aesthetics of the property are important to their overall business growth. The current surrounding area is landscape construction, storage facilities and retail warehouse space so the applicant is hopeful that the surrounding area continues to improve so that the overall value will increase in value and in client traffic count. The applicants hope to be a positive contributor to the overall curb appeal of this specific location and the overall Sun Park development.
- C. The need for the variance arises from some condition particular to the property involved because: _____
 The need for a variance from the applicants is due to the fact that the current zoning is Enclosed Industrial/Commercial. The applicants business will be Retail/Office by a construction trade. It is the applicants understanding that the area is located in the US 31 Overlay zone and this requires the future tenants to perform more due diligence on this zoning districts. The applicants also have personally met with the City of Westfield Planning Commission members and were told that a variance of use will be required.
- D. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought because: _____
 The strict application does in fact create a "hardship" for the applicants because the property will not be purchased if the variance is not granted on the subject property. If the variance is not granted the applicants will need to refocus their efforts on purchasing a property in Hamilton County either Westfield, Carmel or Fishers. They currently desire moving out of Indianapolis Nora area to get more space and provide a convenient location to their high end residential/commercial clientele. One of the partners in Full Circle Renovations is a Westfield resident and would like to build their business with Westfield, Indiana as the central headquarters. The current offer on the subject property is "contingent" on this variance request and if not granted the current enclosed Industrial/Commercial zoning will not work for the applicants business.
- E. The variance of use does not interfere substantially with the Comprehensive Plan because: _____
 The variance of use does not interfere substantially with the Comprehensive Plan in our opinion. The applicants business will be bringing more exposure to the Sun Park development and to the City of Westfield. The applicants business model will be an improvement to the Sun Park development as the current business tenants do not seem to bring any traffic other than employees and construction traffic. The applicants understand that the current zoning is Industrial and the applicants goal is to move the park into the Retail sector. The property from the outside structure and overall grounds will be improved with the hopes that other Retail businesses will start to move into the park rather than Industrial warehouses, landscaping storage facilities and furniture warehousing. This variance of use request is a step in the right direction for the Comprehensive Plan. The subject property is currently vacant and the applicants intend to occupy the space immediately upon variance approval.

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: _____
The approval for the variance request for the subject property will not be injurious to the public health, safety morals of the community in any way.
The applicants are seeking approval for zoning variance from Industrial to retail/office which is a step down in zoning requirements. The manner of business which will be taking place does not involve chemicals harmful contaminants. The manner of business is construction retail and has no adverse effect on morals or the welfare of the community. The product focus is hardwood flooring and solid surface flooring with the construction taking place off-site in residential homes or business.
- 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 use and the value of the area adjacent to the property will not be affected in a adverse way. It is the applicants and applicants Realtors opinion that the area will be positively affected through investment and property improvements. The property currently sits vacant and is surrounded by industrial warehouses and landscape construction facilities. The applicants hope to bring high clientele to the Sun Park development providing more exposure to the area.
The variance request is seeking retail/office which is an exception to the current enclosed Industrial zoning. The applicants request is a step closer in the City of Westfield's plan to make the area a destination location. This has already been stated but one of the applicants is a Westfield resident and hopes to continue investing in Westfield with the relocation of their business.
- C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: _____
If the strict application of use of the Ordinance is applied in this variance request the applicants will not move forward with the purchase of the subject property. The applicants will need to continue searching for a new business location in Hamilton County.

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) |
- 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.

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

Applicant/Representative (printed) Adam Henderson

Witness my hand and Notarial Seal this 28 day of December, 2017.

[Handwritten signature]

MY COMMISSION EXPIRES SEPT. 22, 2024

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 (printed)

Witness my hand and Notarial Seal this _____ day of _____, 20____.

State of _____, County of _____, SS: _____

Notary Public Signature

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.*

MCS Realty
13936 Painter Court
Carmel, IN 46032

January 10, 2018

Economic and Community Development

Att: Matt Pleasant

RE: 17767 Sun Park Dr.
Westfield, IN 46074

Matt,

MCS Realty, an Indiana General Partnership, is the owner of 17767 Sun Park Dr., Westfield, IN, 46074. There are only two General Partners: F Tim Martin and David M. Porter and by our signatures below we are consenting to the variance process.

Sincerely,
MCS Realty



David M. Porter



F. Tim Martin