



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_11_12_2019

Tuesday, November 12, 2019 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, November 12, 2019 at 07:00 PM

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

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

OPENING OF REGULAR MEETING

Note the presence of a quorum

Approval of Minutes - October 8, 2019

Documents: [BZA October 8, 2019-MINUTES](#)

Review Rules & Procedures

ITEMS OF BUSINESS:

1911-VS-20 [PUBLIC HEARING]

19101 Centennial Road

Michael E King

The Petitioner requests Variances of Development Standard to reduce the Minimum Lot Area, Lot Frontage and Side Yard Setback in the AG-SF1: Agriculture / Single-Family Rural District. (Articles 4.2(C), (D) and (E)(2))

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

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: Proposed Floor Plan](#) | [Exhibit 5: Proposed Elevations](#) | [Exhibit 6: Application](#)

1911-VS-21[PUBLIC HEARING]

59 Spring Lake Drive

John Hile

The Petitioner requests a Variance of Development Standard to modify the Minimum Rear Yard Setback from thirty (30) feet to twenty-two (22) feet in order to accommodate a sun room and deck on 0.17 acres +/- in the SF-3: Single Family 3 Cluster District.

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

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

1911-VS-22 [PUBLIC HEARING]

20889 Anthony Road

Wayne Wheeler

The Petitioner requests a Variance of Development Standard to reduce the Side Yard Setback in the AG-SF1: Agriculture / Single-Family Rural District from thirty (30) feet to fifteen (15) feet to accommodate a barn. (Article 4.2(E)(2)).

(Planner: Pam Howard - PHoward@westfield.in.gov)

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

1911-VS-23 [PUBLIC HEARING]

15642 Little Eagle Creek Avenue

Patrick Smith

The Petitioner requests a Variance of Development Standard to reduce the Side and Rear Yard Setback and allow an Accessory Building within an Established Front Yard in the AG-SF1: Agriculture / Single-Family Rural District. (Articles 4.2(E)(2) and 6.1(D)(2) (a)).

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

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

ITEMS CONTINUED TO A FUTURE MEETING:

1803-AA-01 [CONTINUED]

16708 Dean Road (Bob's Garage)

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

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

(Planner: Pam Howard - PHoward@westfield.in.gov)

REPORTS/COMMENTS:

Plan Commission Liaison

Economic and Community Development Department

ADJOURNMENT



Westfield–Washington Township Board of Zoning Appeals
Minutes of the October 8, 2019 BZA Meeting
October 8, 2019
7:00 P.M.

The Westfield-Washington Township Board of Zoning Appeals (BZA) met at 7:00 p.m.
on Tuesday, October 8, 2019 at Westfield City Hall.

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

Members Absent: Ken Kingshill.

City staff present: Kevin Todd, Director; Daine Crabtree, Associate Planner; and Brian Zaiger, City Attorney.

APPROVAL OF MINUTES

Smith motioned to approve the September 10, 2019 meeting subject to two corrections.
Fortier seconded. Motion passed. Vote 4-0

REVIEW RULES AND PROCEDURES

Crabtree reviewed BZA rules and procedures.

ITEMS OF BUSINESS

1910-VS-18

[PUBLIC HEARING]

15354 Little Eagle Creek Avenue

Sara Scharnowske

The petitioner is requesting a Variance of Standard to reduce the Front Yard Setback from eighty (80) feet to fifty (50) feet in order to accommodate a horse stable on 12.33 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(E)(1)(b)).

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

Crabtree overviewed this request for a Variance of Development Standard. He said the department has received no public comments. He said nearly all of the Property is in the Floodplain, and most is within the Floodway. This request is necessary so that the stable is not located in the Floodway.

Public Hearing for 1910-VS-18 opened at 7:04 p.m.

No public comments.

Public Hearing for 1910-VS-18 closed at 7:05 p.m.

Schmitz asked about the depth of the building setback standard.

Crabtree replied it was likely due to the agricultural use.

Schmitz asked the petitioner, Sara Scharnowske, if the horses would be exercised on site.

Petitioner said yes.

Fortier asked if there is a house on the property.

Agendas for all City meetings are updated and available at our website.

Website: <http://www.westfield.in.gov> | Economic and Community Development Department E-mail: community@westfield.in.gov

Petitioner said no and one is not contemplated.

Crabtree explained the variance is for an accessory building.

Smith motioned to approve 1910-VS-18 with the following staff conditions:

- That all necessary Improvement Location Permits (ILP) are reviewed and approved by the Community Development Department.
- The Petitioner shall record an acknowledgement of this approval with the Hamilton County Recorder's Office and return a copy of the recorded instrument to the Economic and Community Development Department.

Raines seconded. Motion passed. Vote 4-0.

Raines motioned to adopt Staff's Findings of Fact for 1910-VS-18.

Schmitz seconded. Motion passed. Vote 4-0.

1910-VS-19
[PUBLIC HEARING]

19937 Hampton Park Drive and 19955 Hampton Park Drive

Craig Miles

The petitioner is requesting Variances of Development Standard to reduce the south Side Yard Building Setback from five (5) feet to three (3) feet at 19955 Hampton Park Drive and a modification for Building Separation Requirements from ten (10) feet to eight (8) feet at both 19937 Hampton Park Drive and 19955 Hampton Park Drive in the Chatham Hills PUD District due to a foundation error (Ord. 13-24, Section 9.1, District Sub-Area 1-H).

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

Crabtree overviewed this request for a Variance of Development Standard and explained how the foundation error came to be.

Public Hearing for 1910-VS-19 opened at 7:11 p.m.

No public comments.

Public Hearing for 1910-VS-19 closed at 7:12 p.m.

Smith motioned to approve 1910-VS-19 with the following staff condition:

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

Raines seconded. Motion passed. Vote 4-0.

Fortier motioned to adopt Staff's Findings of Fact for 1910-VS-19.

Schmitz seconded. Motion passed. Vote 4-0.

1910-VU-06
[PUBLIC HEARING]

18350 Blackburn Road

Olena Nahorna

The petitioner is requesting a Variance of Use to permit a Single-Family Residential use on 0.80 acres +/- in GB-PD: General Business/Planned Development District (Article 13.2).

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

Agendas for all City meetings are updated and available at our website.

Website: <http://www.westfield.in.gov> / Community Development Department E-mail: community@westfield.in.gov

Crabtree overviewed this request for a Variance of Use and explained that, although the Property has had commercial tenants in the past including a car dealership, it has not had one in several years largely due to Blackburn Road losing its curb cut access to US 31. He said that additionally, required setbacks of the existing zoning which US 31 Overlay use restrictions, and its proximity to the adjacent trailer park render improvements that are commercial in nature difficult. He said that because the existing structure is residential in character, its appeal as a commercial building is limited.

Public Hearing for 1910-VU-06 opened at 7:16 p.m.

No public comments.

Public Hearing for 1910-VU-16 closed at 7:16 p.m.

Raines motioned to approve 1910-VU-06 with the following staff condition:

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

Fortier seconded. Motion passed. Vote 4-0.

Smith motioned to adopt Staff's Findings of Fact for 1910-VU-06.

Raines seconded. Motion passed. Vote 4-0.

ITEMS CONTINUED TO A FUTURE MEETING:

1803-AA-01

[CONTINUED]

16708 Dean Road (Bob's Garage)

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

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

(Planner: Pam Howard - PHoward@westfield.in.gov)

REPORTS/COMMENTS:

- Plan Commission Liaison
- Community Development Department

ADJOURNMENT

Raines motioned to adjourn the meeting.

Fortier seconded. Motion passed. Vote 4-0.

The meeting adjourned at 7:24 p.m.

Chairperson
Dave Schmitz

Secretary
Kevin M. Todd, AICP
Director



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

November 12, 2019
1911-VS-20
Exhibit 1

Petition Number: 1911-VS-20

Subject Site Address: 19101 Centennial Road (the "Property")

Petitioner: Michael E. King (the "Petitioner")

Request: The Petitioner is requesting Variances of Development Standard to reduce the Minimum Lot Area, Lot Frontage and Side Yard Setback in the AG-SF1: Agriculture / Single-Family Rural District (Article 4.2(C),(D),(E)(2)).

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

Current Land Use: Agriculture / Residential

Approximate Acreage: 1.50 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. Proposed Floor Plan
5. Proposed Elevations
6. Application

Staff Reviewer: Caleb Ernest, Associate Planner

OVERVIEW

Location: The subject property is 1.50 acres +/- in size and located at 19101 Centennial Road (see **Exhibit 2**). The Property is zoned the AG-SF1: Agriculture / Single-Family Rural District. All adjacent properties are zoned the AG-SF1 District.

Variance Requests: The Petitioner is requesting variances of development standard to install a garage addition on the northside of the existing residential home, as illustrated on the site plan, floor plan and elevations (see **Exhibits 3, 4 and 5**).

SUMMARY OF VARIANCES

The Petitioner is requesting Variances of Development Standard as further described below:

- to reduce the Minimum Lot¹ Area from three (3) acres to one and one-half (1.5) acres;

¹ Chapter 12 of the UDO defines "Lot" as "A Lot of Record or a tax parcel described by metes and bounds or separately in a survey which is recorded in the Office of the Recorder of Hamilton County, Indiana."

- to reduce the Minimum Lot Frontage² from two hundred and fifty (250) feet to approximately one hundred and sixty-one (161) feet;
- to reduce the Minimum Side Yard³ Setback from thirty (30) feet to approximately twelve (12) feet.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this property within the “Rural Northwest” land use classification.

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 12, 2019, 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 the variances 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 variances.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO⁵ requires that the approval of the variances 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 variances.

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

² Chapter 12 of the UDO defines “Lot Frontage” as “The length of the Front Lot Line.”

³ Chapter 12 of the UDO Defines “Side Yard” as “A Yard extending across the full depth of the Lot, the depth of which is the least distance between the Side Lot Line and the Side Yard Building Setback Line.”

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.

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

Approval: If the Board is inclined to approve the variance, then the Department recommends the following findings:

Recommended Findings for Approval of the Variance of Development Standard:

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

Finding: It is unlikely that approving the requested variance(s) would be injurious to the public health, safety, morals, and general welfare of the community as the property and the construction of a garage addition will comply with all other standards of the Unified Development Ordinance (UDO).

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 variances should not have a negative impact on surrounding properties because the new garage addition will increase the value of and is consistent with the surrounding properties. The property and construction of a garage addition will comply with all other standards of the UDO.

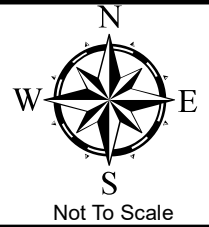
3. *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

Finding: Strict adherence to the zoning ordinance would result in the property having nonconforming standards of the UDO. These variances serve as bringing the property into full compliance.

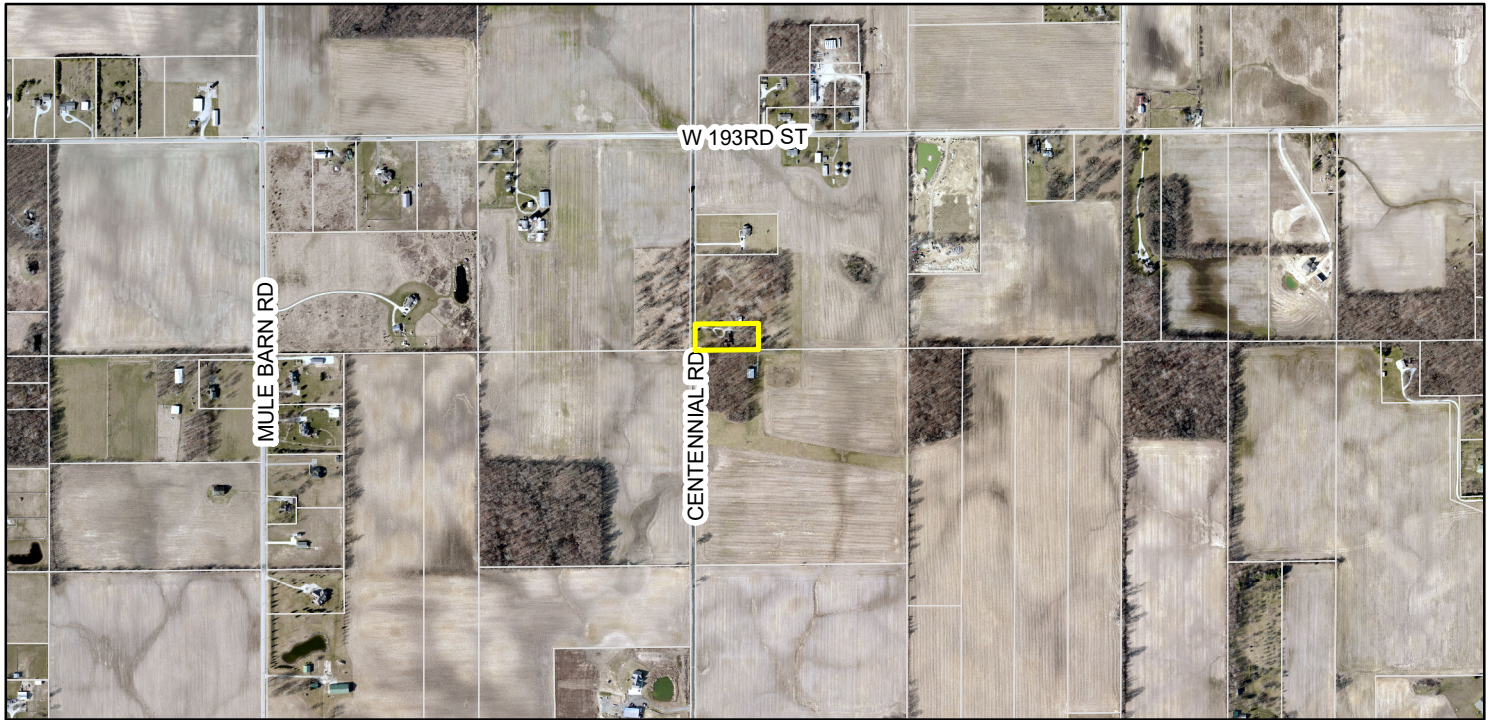
Denial: If the Board is inclined to deny either of the requested variances, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings consistent with the public hearing evidence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



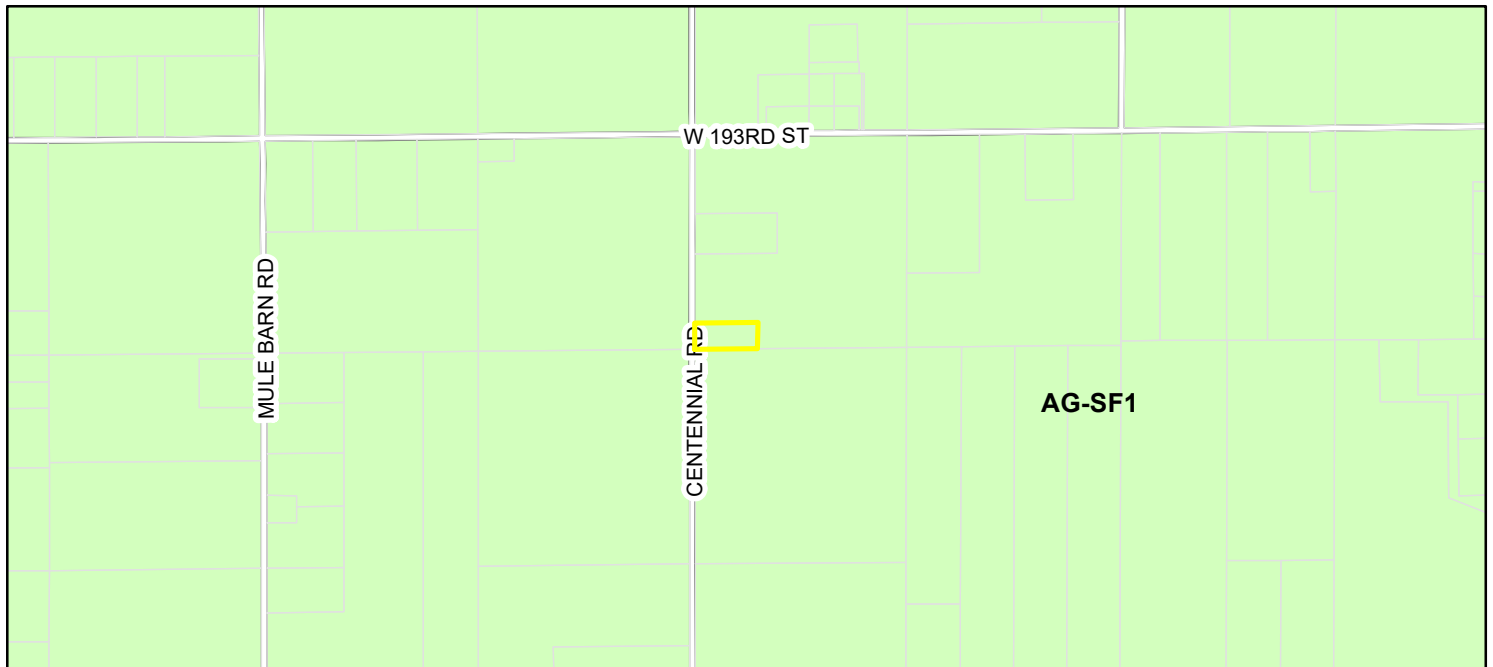
Property Location Map
19101 Centennial Road
Variance of Development Standard
1911-VS-20



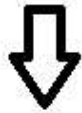
Aerial Location Map



Zoning Map



NORTH



EXISTING HOUSE

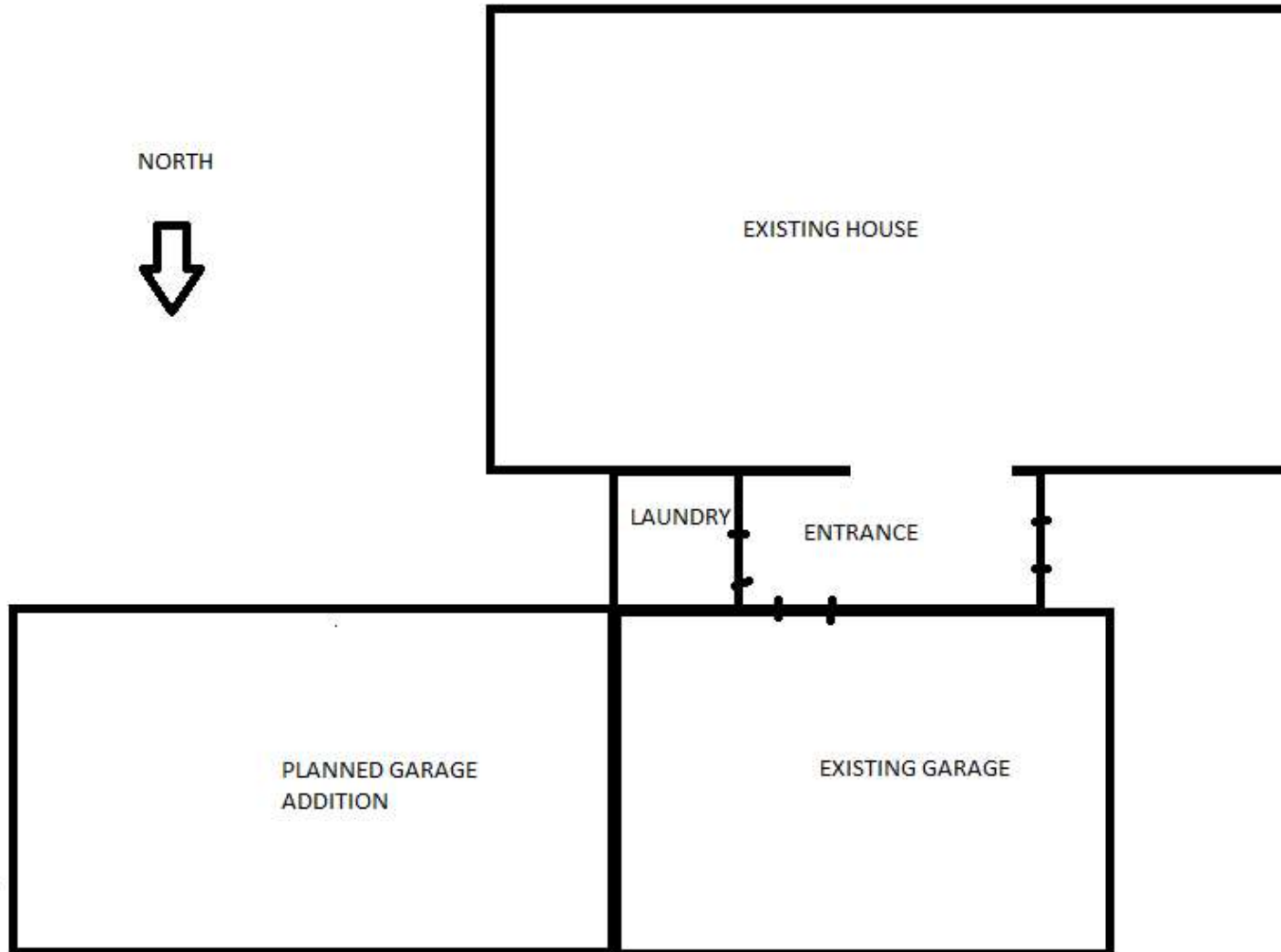
LAUNDRY

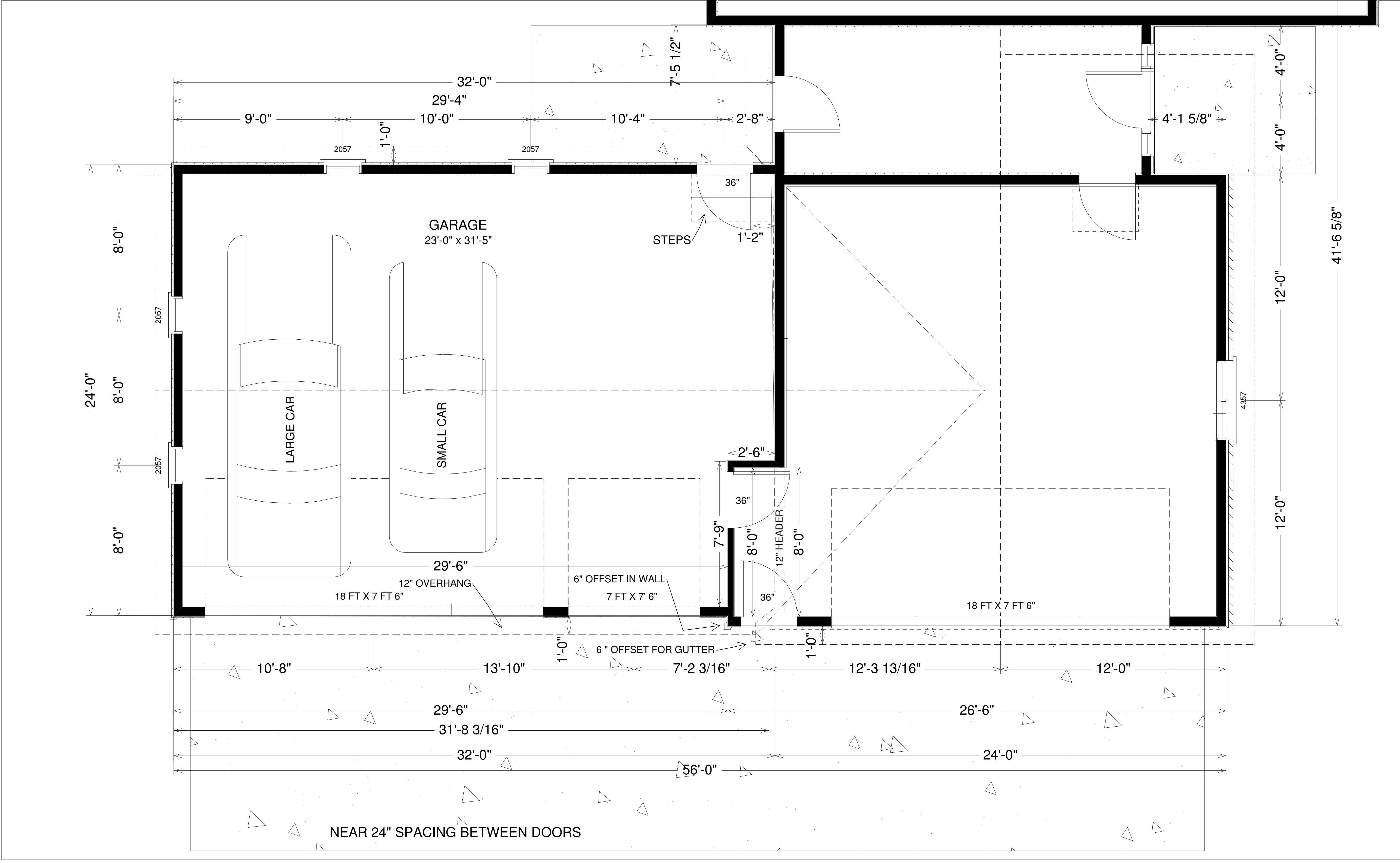
ENTRANCE


CENTENNIAL
RD.

PLANNED GARAGE
ADDITION

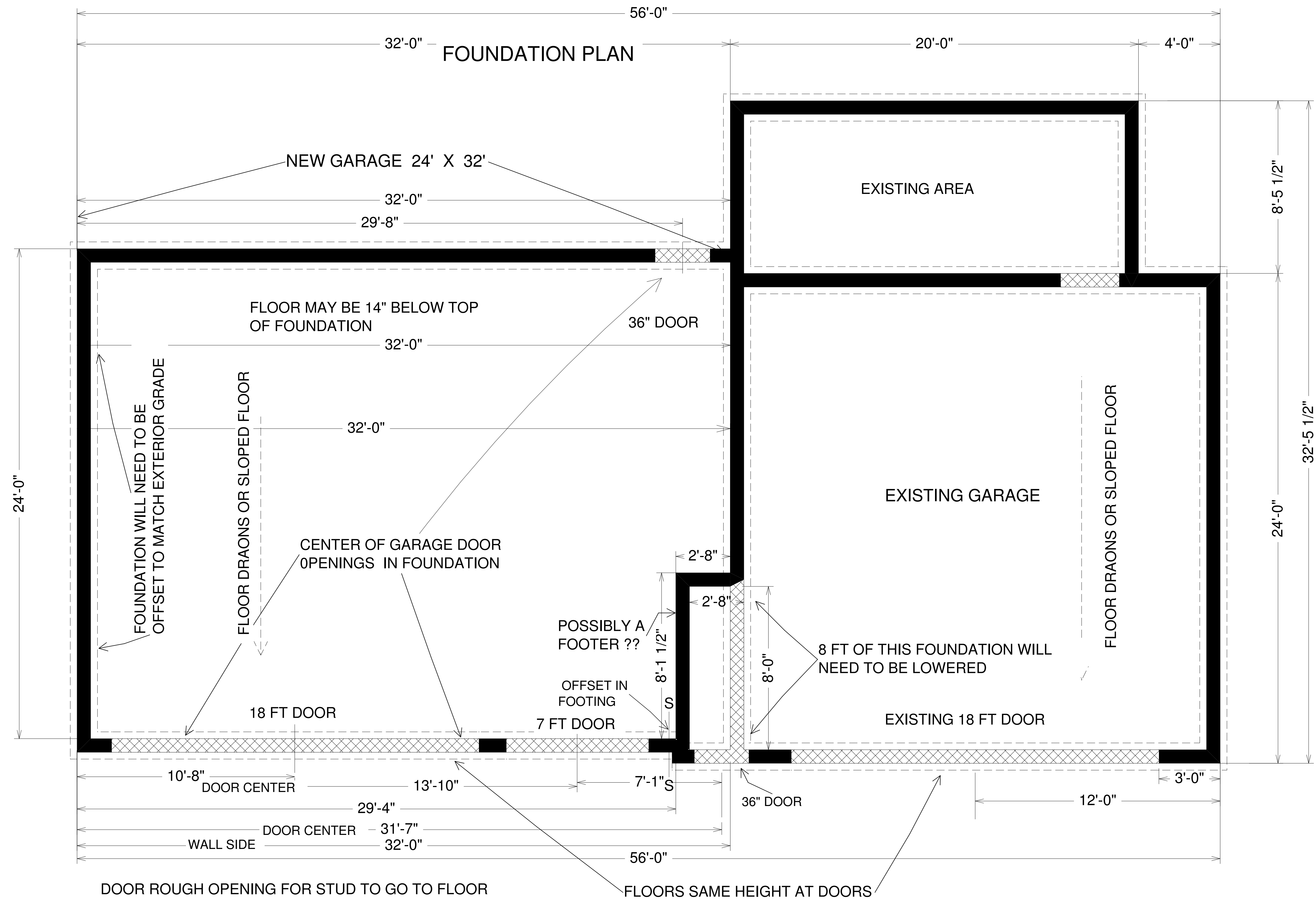
EXISTING GARAGE





SCALE	SHEET #
	21

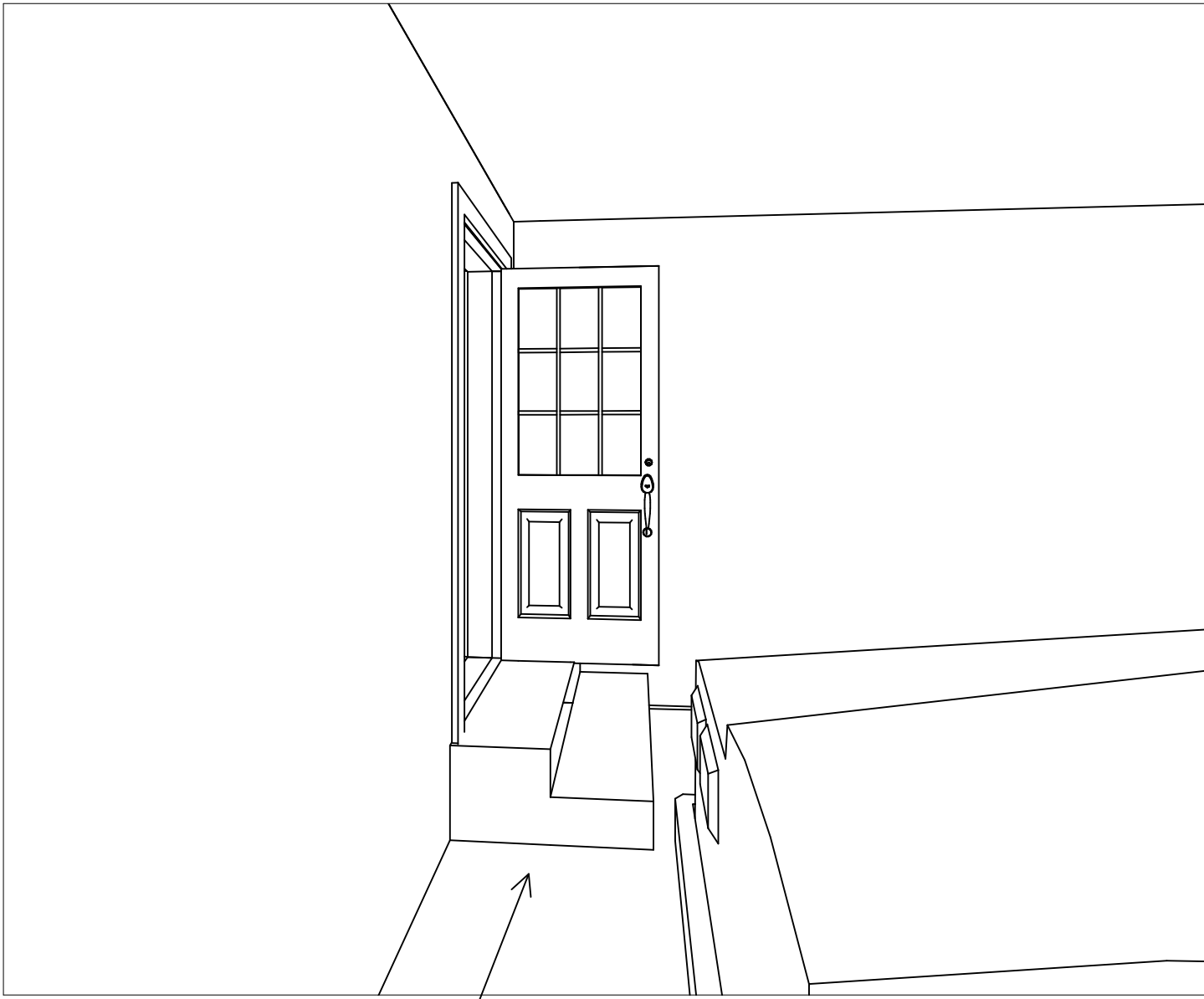
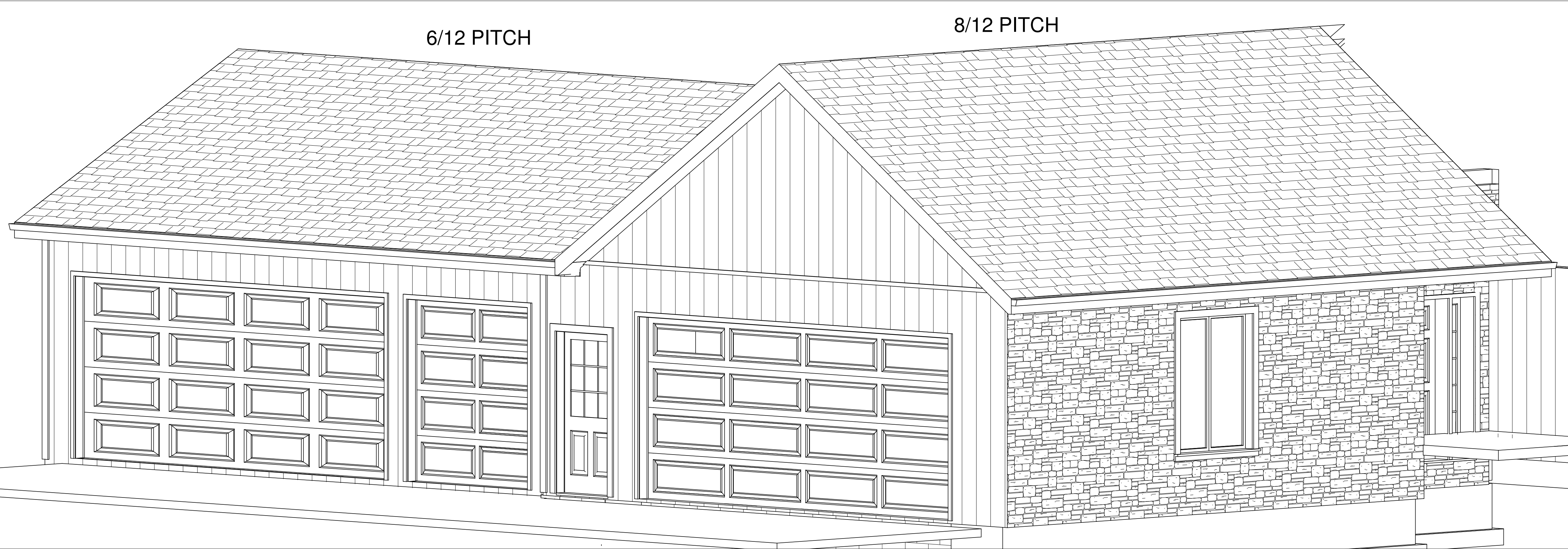
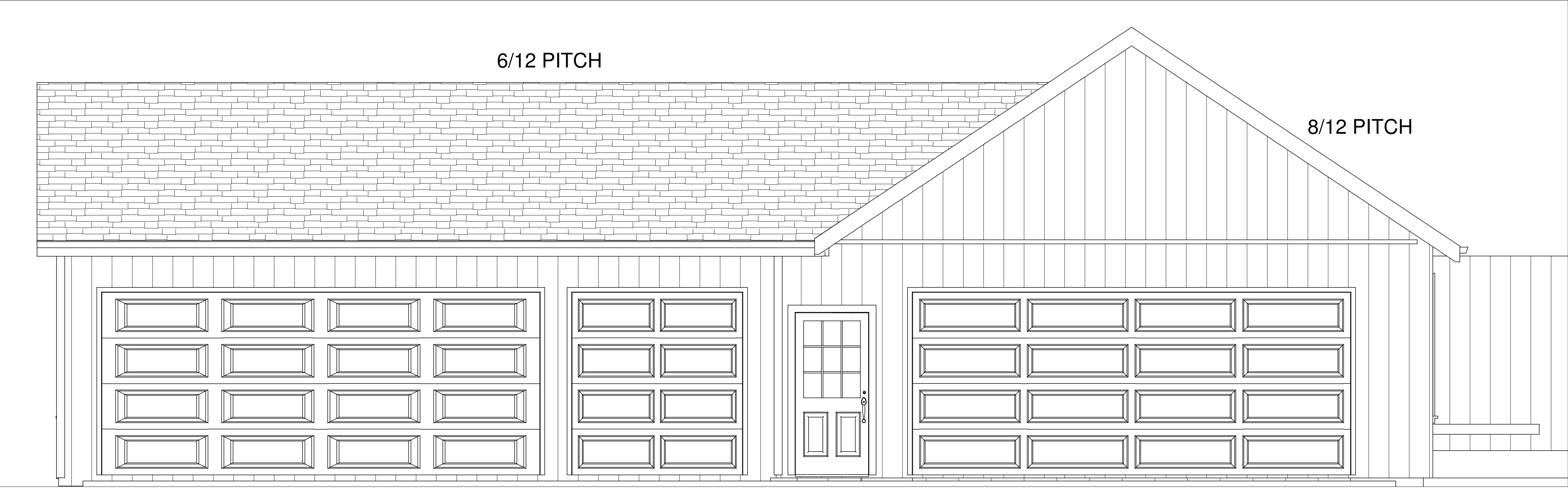
DRAWN BY LEVAUGHN GROSS
2707 W AIRPORT ROAD
PH --765-472-1265



SCALE
3/8" = 1 FT

SHEET #
23

DRAWN BY LEVAUGHN GROSS
2707 W AIRPORT ROAD
PH --765-472-1265



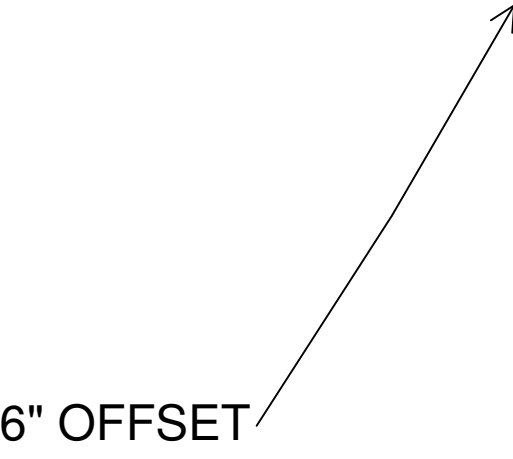
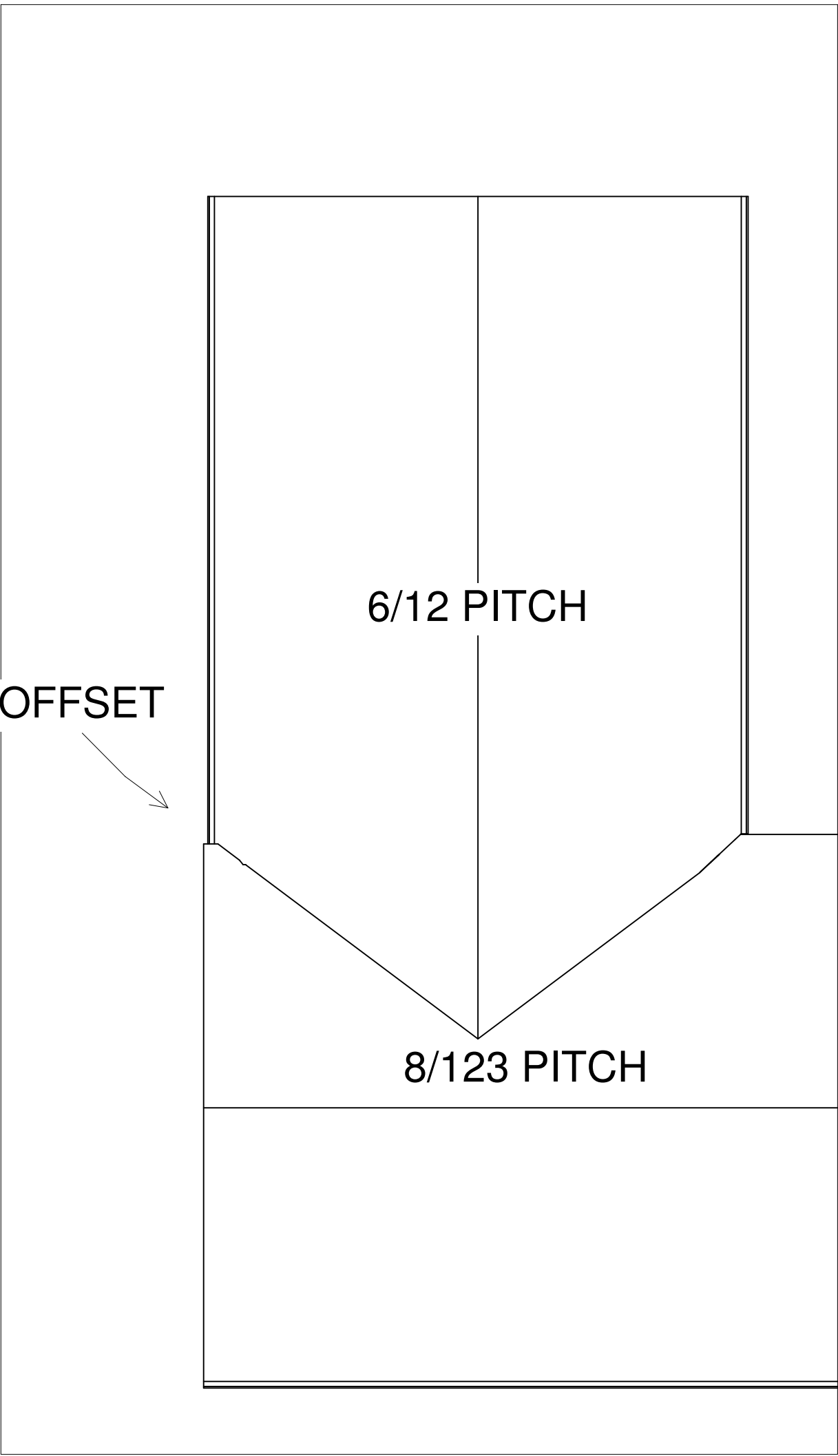
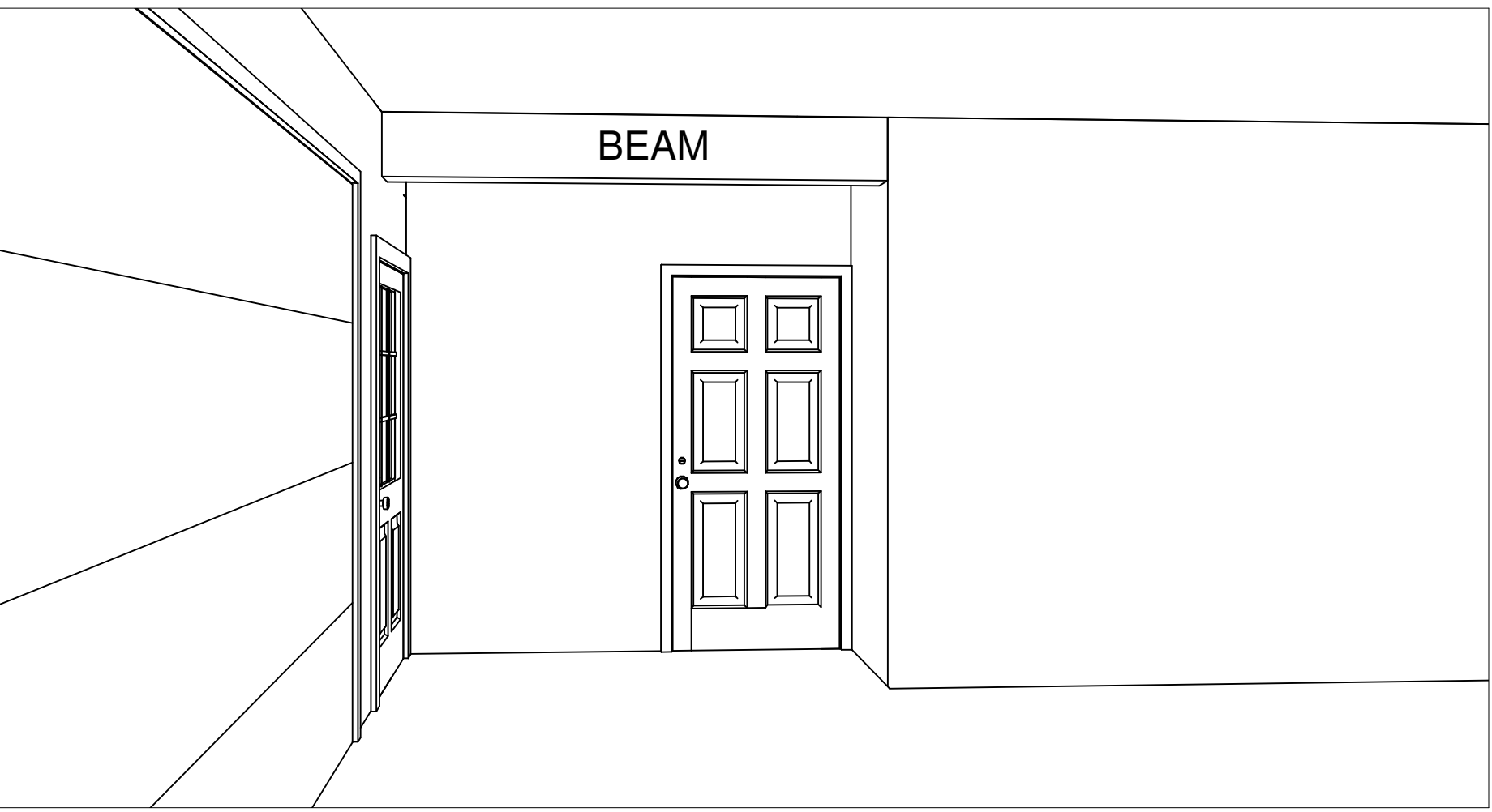
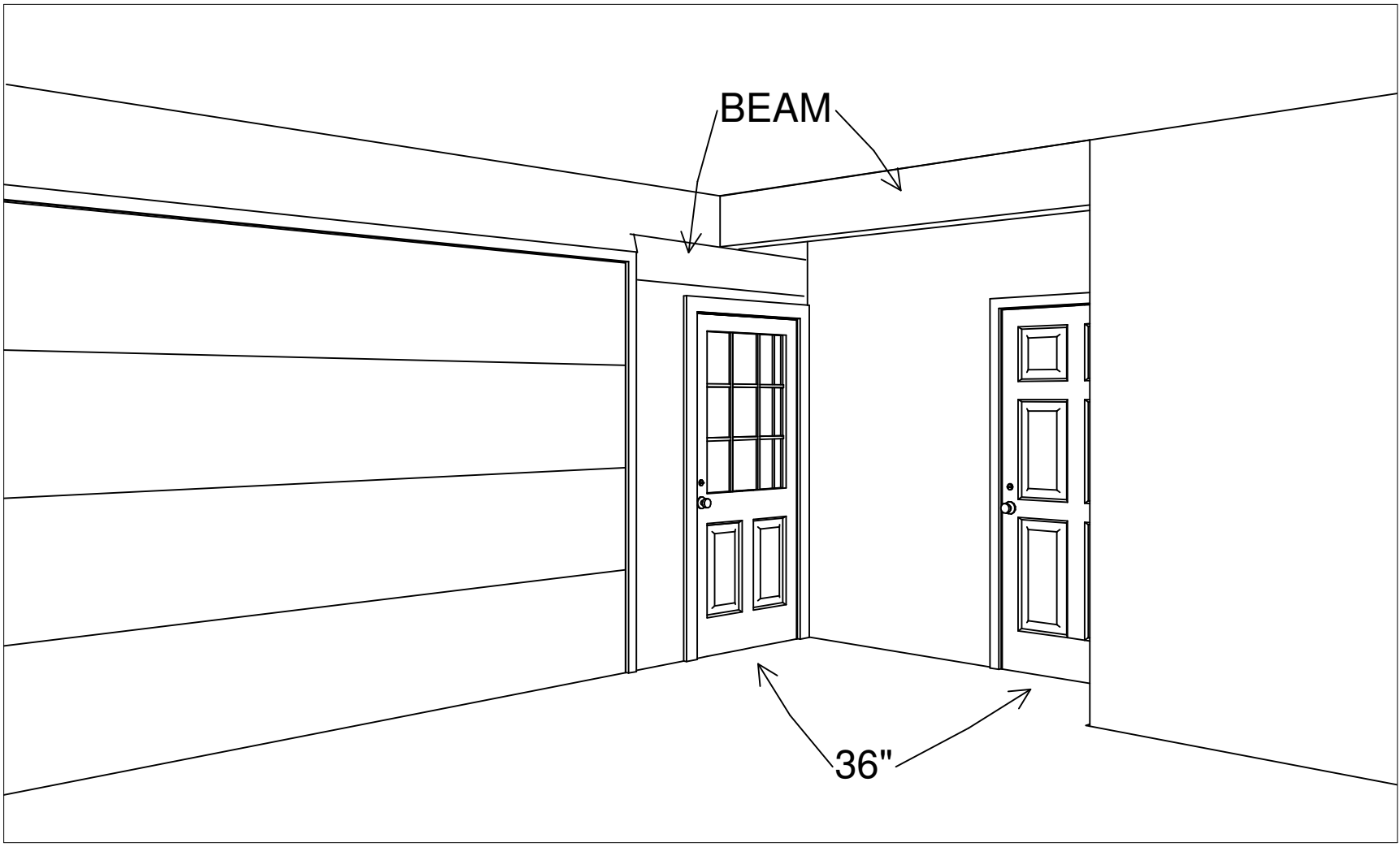
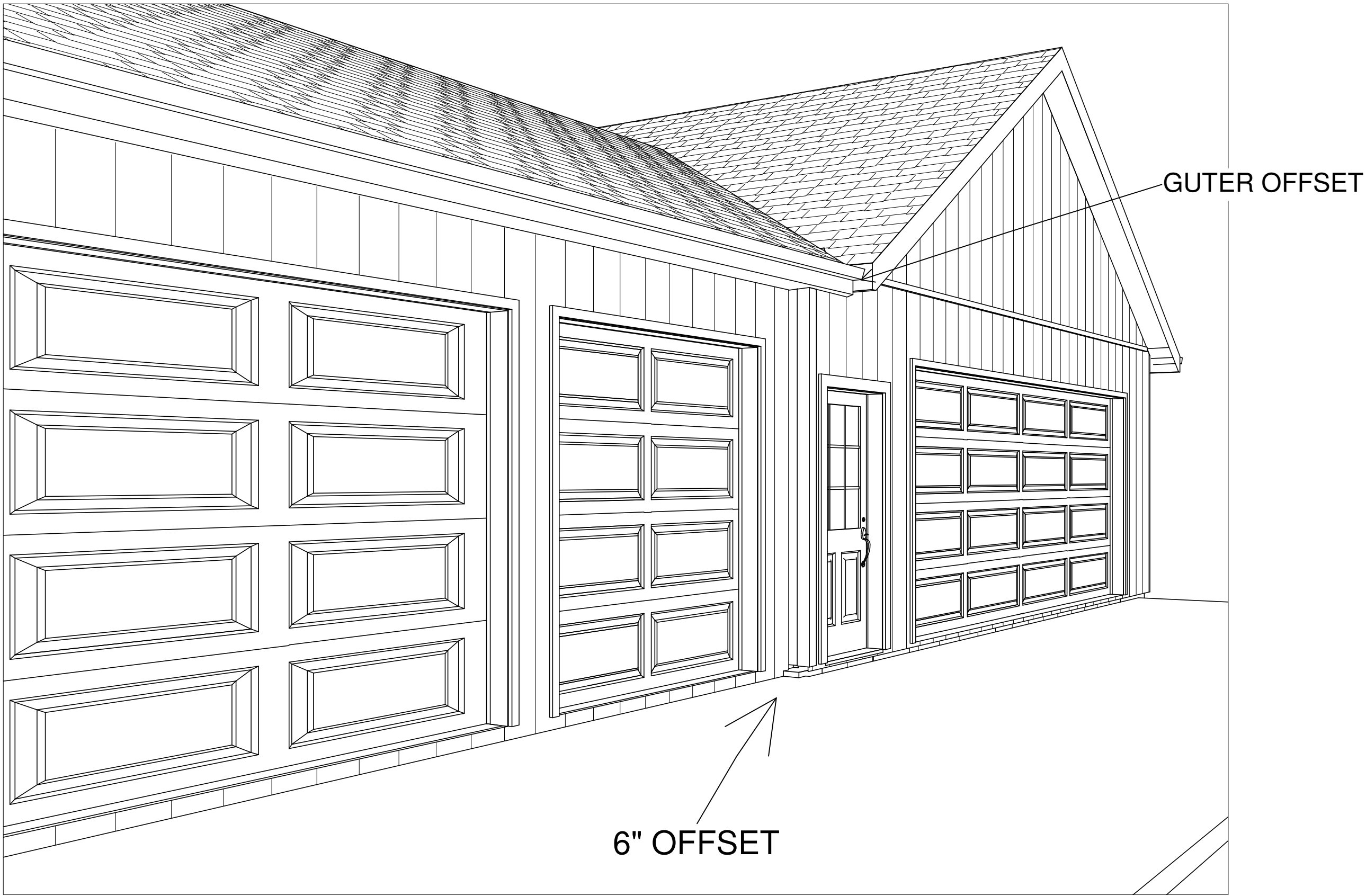
2 STEPS

SCALE

SHEET #

24

DRAWN BY LEVAUGHN GROSS
2707 W AIRPORT ROAD
PH --765-472-1265



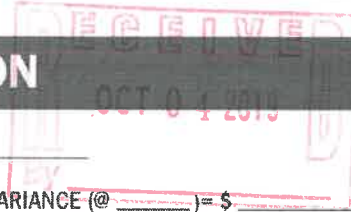
SCALE

SHEET #

25

DRAWN BY LEVAUGHN GROSS
2707 W AIRPORT ROAD
PH --765-472-1265

VARIANCE APPLICATION



OFFICE USE ONLY

DOCKET #: 1911-VS-20

FILING DATE: _____

FILING FEE: \$ _____

FEE PLUS \$ _____

PER ADDITIONAL VARIANCE (@ _____) = \$ _____

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Caleb Ernest

(STAFF NAME)

DATE: 9/17/2019

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: Michael E. King

ADDRESS: 19111 Centennial Rd. Westfield, IN 46074

TELEPHONE: 317-502-1283

EMAIL: tbirdking@aol.com

PROPERTY OWNER'S NAME: Same as above

ADDRESS: _____

TELEPHONE: _____

EMAIL: _____

REPRESENTATIVE'S NAME: Same as above

COMPANY: _____

ADDRESS: _____

TELEPHONE: _____

EMAIL: _____

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 19101 Centennial Rd. Westfield, IN 46074

COUNTY PARCEL ID #(S): 08-05-29-00-00-019.001

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: 4.2(C) and (D) and (E)(2)

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

To build an attached garage.

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.

Michael E. King
Applicant/Representative (signature)

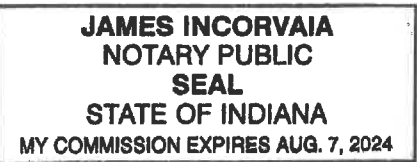
Michael E. King
Applicant/Representative (printed)

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 3 day of October, 2019
State of IN, County of Hamilton, SS: _____

James Incorvaia
Notary Public (signature)

James Incorvaia
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.

Michael E. King & Lou Ann King
Property Owner (signature)*

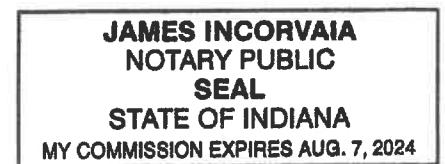
Michael E. King & Lou Ann King
Property Owner (printed)

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 3 day of October, 2019
State of IN, County of Hamilton, SS: _____

James Incorvaia
Notary Public (signature)

James Incorvaia
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.

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: _____

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: Michael E. King

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: _____
It is a garage addition and should not impact anyone else in any way.

- 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 closest residence is to the north 1/8 mile and belongs to our daughter and son-in-law.

We own the properties to the north, east and south. The property to the west is agricultural.

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

It would cause unnecessary expense and delays as we own the adjoining properties.

We built this house 42 years ago before the zoning was in effect. We purchased the property to the south in 1986 and inherited the property to the north and east in 1+995.

We own 75 1/2 acres surrounding our 1 1/2 acre house property.

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 <i>Doc Ref #</i> |
| ☐ 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.

Transfers & Mapping



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

November 12, 2019
1911-VS-22
Exhibit 1

Petition Number: 1911-VS-22

Subject Site Address: 20889 Anthony Road (the "Property")

Petitioner: Wayne Wheeler (the "Petitioner")

Request: The petitioner is requesting a Variance of Development Standard reduce the Minimum Side Yard Setback from 30 feet to 15 feet in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(E)(2)).

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

Current Land Use: Residential

Approximate Acreage: 3 acres +/-

Exhibits:

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

Staff Reviewer: Pam Howard, Senior Planner

OVERVIEW

Location: The subject property is 3 acres +/- in size and located at 20889 Anthony Road (see **Exhibit 2**). The Property is zoned the AG-SF1: Agriculture/Single-Family Rural District. The Property currently contains a single-family home. All surrounding properties are also zoned AG-SF1.

Variance Request: The Petitioner is requesting this variance to allow construction of a barn, as generally illustrated on the Site Plan (see **Exhibit 3**).

SUMMARY OF VARIANCE

The Petitioner is requesting this variance to allow a 30' x 40' barn to be constructed within the Side Yard¹ Setback², as illustrated on the Site Plan (see **Exhibit 3**).

The Property is located within the AG-SF1: Agriculture/Single-Family Rural District. The Minimum Side Yard Setback is thirty feet (30').

¹ Chapter 12 of the UDO defines "Yard, Side" as "[a] Yard extending across the full depth of the Lot, the depth of which is the least distance between the Side Lot Line and the Side Yard Building Setback Line."

² Chapter 12 of the UDO defines "Building Setback Line" as "[a] line parallel to a Right-of-way line, edge of a stream, or other Lot Line established on a parcel of land or Lot for the purpose of prohibiting construction of a building or structure in the area between such line and the Right-of-way, stream bank, or other Lot Line."

The requested variance is to allow the barn to be constructed 15 feet +/- from the south Side Lot Line³, which would place it within the Side Yard Setback.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this property within the “Rural Northwest and Northeast” land use classification.

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 November 12, 2019, 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.

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 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:

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.
-

³ Chapter 12 of the UDO defines “Lot Line, Side” as “[a] Lot Line other than a Front Lot Line or Rear Lot Line.”

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.

DEPARTMENT COMMENTS

Approval: If the Board is inclined to approve the variance, then the Department recommends the following condition and findings:

Recommended Condition:

1. The barn be constructed at the location shown on the Site Plan.

Recommended Findings for Approval:

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

Finding: It is unlikely that approving the requested variance(s) would be injurious to the public health, safety, morals, and general welfare of the community the existing use and proposed improvements would otherwise comply with the applicable standards of the AG-SF1 District.

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 surrounding properties because: (i) the proposed improvement will enhance the value of the subject property; (ii) the improvements will otherwise comply with or exceed the applicable standards; and (iii) the approval of the variance will allow for the continued use and improvement of the property in a manner substantially consistent with the quality and character of the surrounding area and Comprehensive Plan.

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, in accordance with the Unified Development Ordinance. The primary residential use of the property is otherwise permitted by the applicable ordinances and the proposed improvements would otherwise comply with the applicable ordinances.

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.



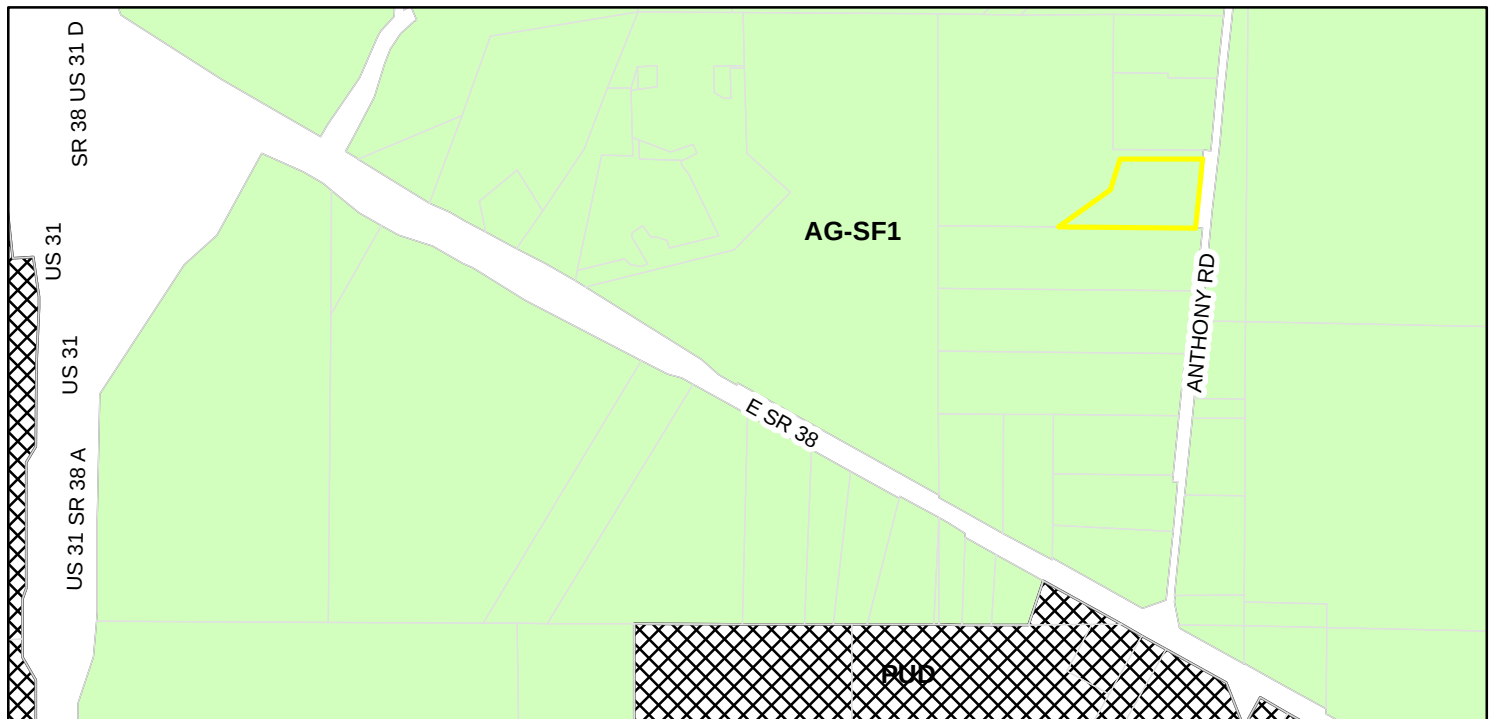
Property Location Map
20889 Anthony Road
Wheeler Variance
1911-VS-22



Aerial Location Map

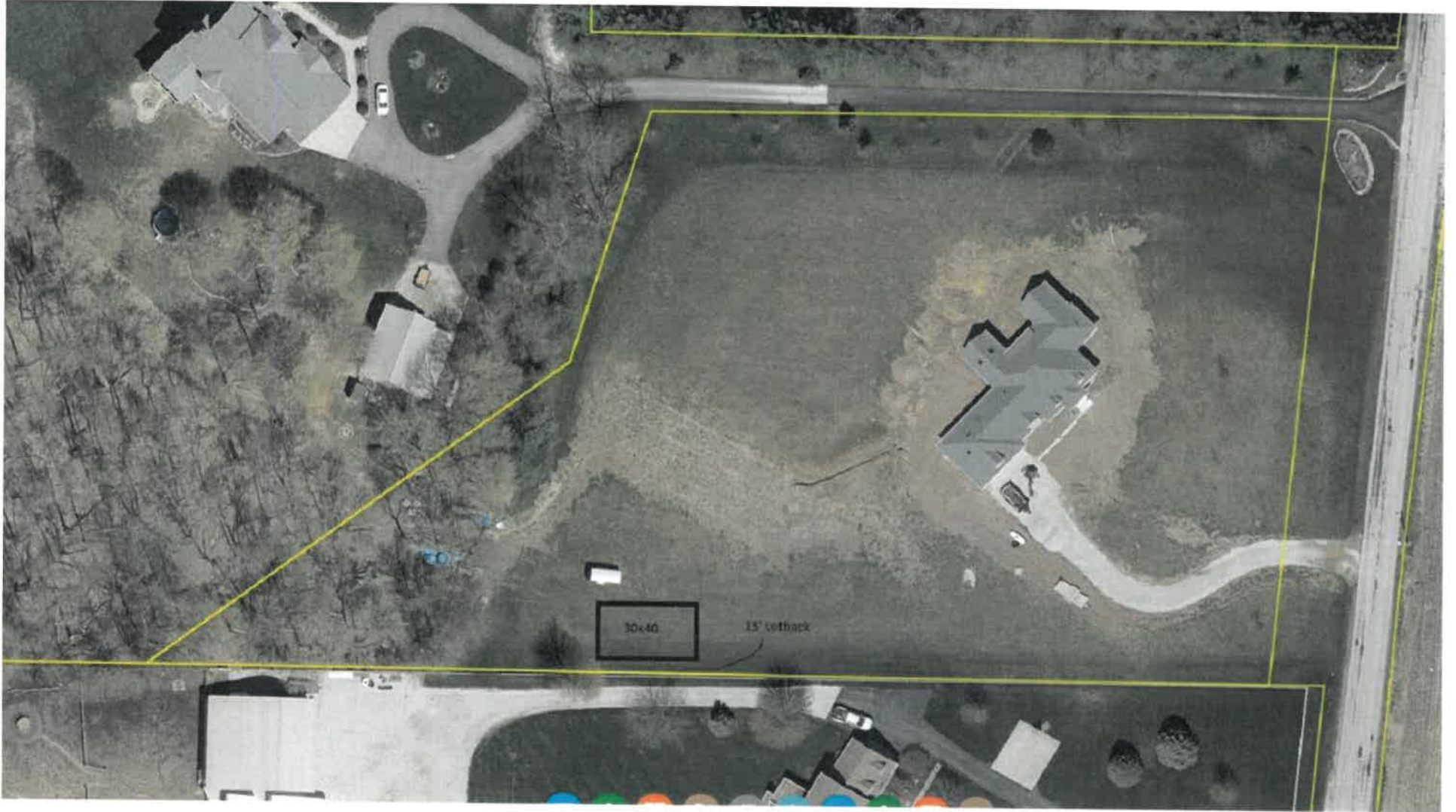


Zoning Map



Zoning

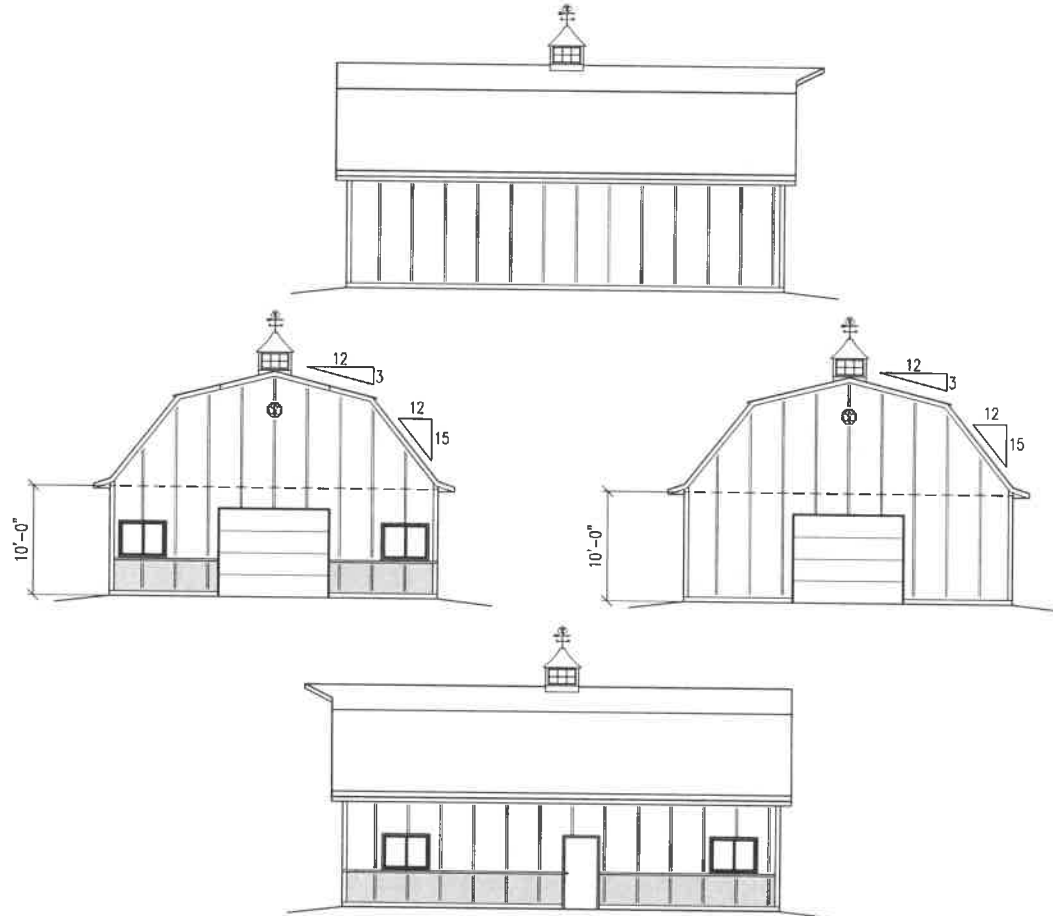
-  AG-SF1 (Agriculture - Single Family - 1)
-  PUD (Planned Unit Development)





Proposed Building for: Wayne Wheeler

30'x40' Centurian



We Protect What You Value

VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: 1911-VS-22

FILING DATE: _____

OCT 04 2019

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Pam Howard (STAFF NAME) DATE: 9.27.19

PRIOR OR RELATED DOCKET NUMBERS

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

APPLICANT INFORMATION

APPLICANT'S NAME: Wayne Wheeler TELEPHONE: 317.697.1160
ADDRESS: 20889 Anthony Rd Westfield IN 46062 EMAIL: wwheeler@reinders.com
PROPERTY OWNER'S NAME: Wayne Wheeler TELEPHONE: _____
ADDRESS: 20889 Anthony Rd Westfield IN 46062 EMAIL: _____
REPRESENTATIVE'S NAME: _____ TELEPHONE: _____
COMPANY: _____ EMAIL: _____
ADDRESS: _____

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 20889 Anthony Rd Westfield IN 46062
COUNTY PARCEL ID #(S): 08-06-18-00-00-013.112
EXISTING ZONING DISTRICT(S): AG-SF1 EXISTING LAND USE(S): single family residential

PROPERTY AND PROJECT INFORMATION

☐ VARIANCE OF LAND USE CODE CITATION: _____
☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: 4.2(E)(2)

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY):
Requesting reduction of building setback from 30' to 15' on south property line.

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)

Wayne Wheeler
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 27th day of September, 2019.

State of Indiana, County of Hamilton, SS: _____

Kristen M Sparks
Notary Public (signature)

Kristen m sparks
Notary Public (printed)



PROPERTY OWNER AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says they are the owners of the property involved in this application and that they hereby acknowledge and consent to the foregoing Application.

[Signature]
Property Owner (signature)*

Wayne Wheeler
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 27th day of September, 2019.

State of Indiana, County of Hamilton, SS: _____

Kristen M Sparks
Notary Public (signature)

Kristen m sparks
Notary Public (printed)

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



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: _____

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: Wayne Wheeler

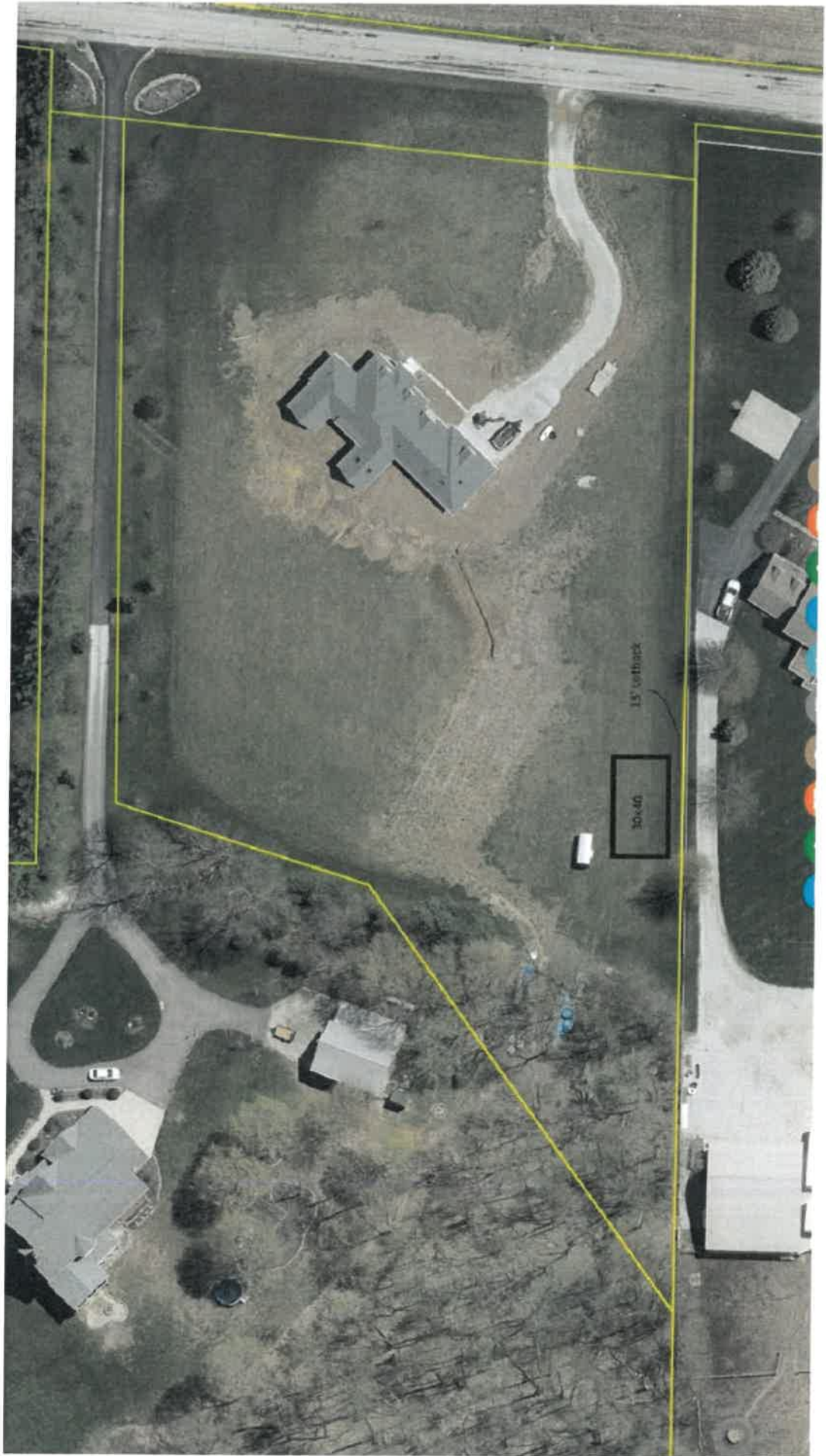
DOCKET #: _____

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: _____
This structure is located several hundred feet from any public thoroughfare or area and is situated at the back of fenced in private area. The structure matches in style and construction of surrounding buildings on neighboring properties and will be built to all current building codes.

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: _____
This structure will not deter from any neighboring property values, as it is the same style and construction type as the buildings that currently exist on the neighboring properties.

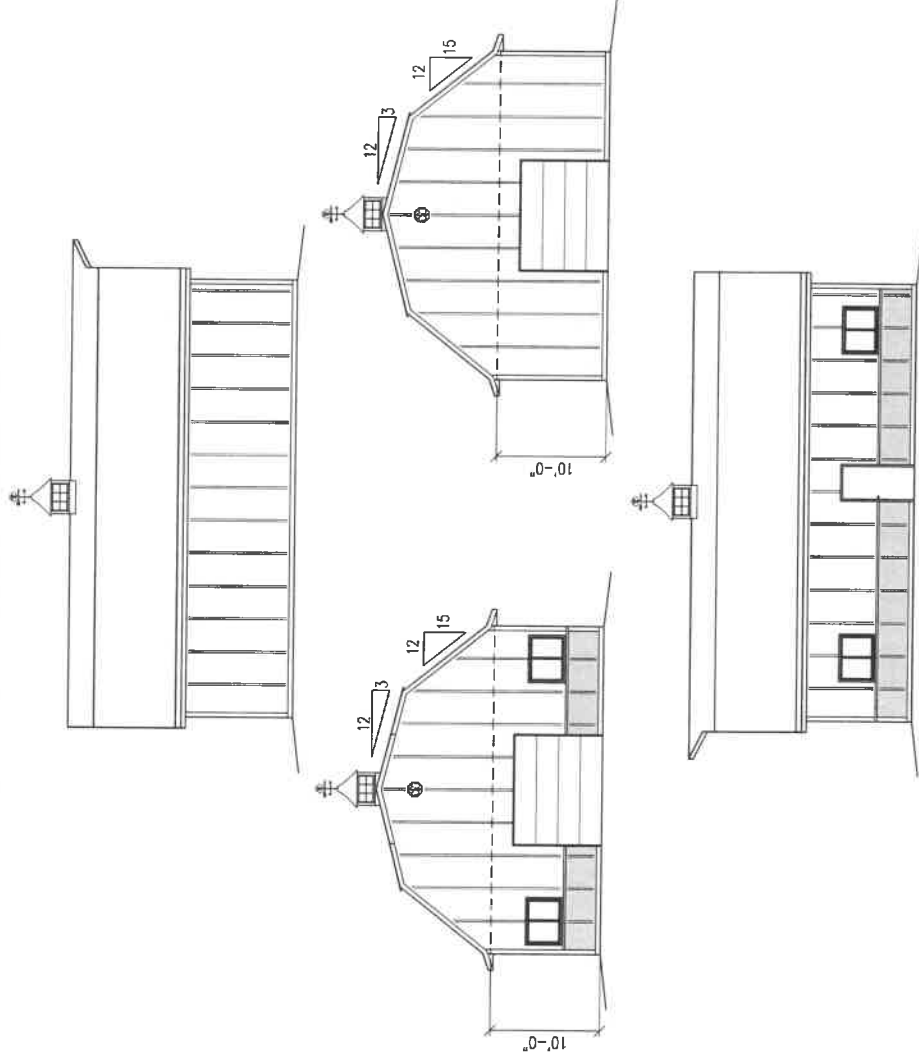
C. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property because: _____
The placement of the barn within the current allowable setback area could infringe on the perimeter of the septic field in the future, also the placement of the barn on the south property line is the only practical option to access it without driving across the existing septic field.





Proposed Building for: Wayne Wheeler

30'x40' Centurian



We Protect What You Value

NKC

DULY ENTERED FOR TAXATION
Subject to final acceptance of transfer
3rd day of February 2017 - ALC
Robin M. Miller Auditor of Hamilton County
Parcel # 08-06-18-00-00-013.

2017005294 WD \$20.00
02/03/2017 04:25:45PM 3 PGS
Jennifer Hayden
Hamilton County Recorder IN
Recorded as Presented



Tax ID Number(s):
08-06-18-00-00-013.012
of)

29-06-18-000-013.012-014 (Pt.

WARRANTY DEED

THIS INDENTURE WITNESSETH THAT

Brian Swanson and Kristina Swanson, Husband and Wife

CONVEY(S) AND WARRANT(S) TO

Wayne K. Wheeler and Christina S. Wheeler, Husband and Wife, for Ten Dollars and other valuable consideration the receipt whereof is hereby acknowledged, the following described REAL ESTATE in Hamilton County, in the State of Indiana, to wit:

SEE ATTACHED EXHIBIT "A"

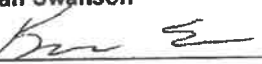
Subject to Real Estate taxes now due and payable and thereafter.

Subject to covenants, restrictions and easements of record.

IN WITNESS WHEREOF, the Grantor has executed this Deed this 3 day of Feb 2017.



Brian Swanson



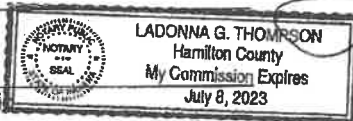
Kristina Swanson

State of Indiana, County of Hamilton ss:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named **Brian Swanson and Kristina Swanson** who acknowledged the execution of the foregoing Deed and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS, my hand and Seal this 3 day of Feb 2017.

My Commission Expires:



Printed Name of Notary Public

Ladonna G. Thompson
Signature of Notary Public

Notary Public County and State of Residence

This instrument was prepared by:

Andrew R. Drake, Attorney-at-Law
11711 N. Pennsylvania St., Suite 110, Carmel, IN 46032

Property Address:

Vacant Land, 20945 Anthony Road
Westfield, IN 46074

Grantee's Address and Mail Tax Statements To:

6831 Carters Grove Dr
Noblesville, IN 46062

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. Andrew R. Drake

EXHIBIT A

A part of the East Half of the Southeast Quarter of Section 18, Township 19 North, Range 4 East, located in Washington Township, Hamilton County, Indiana, being described as follows:

Commencing at a point (iron rod found) on the North line of the Southeast Quarter of Section 18, Township 19 North, Range 4 East, said point being on the centerline of Anthony Road, said point also being South 88°48'26" West (assumed bearing) 81.44 feet from the Northeast corner of said Southeast Quarter; thence South 04°05'16" West 635.19 feet on and along said centerline of Anthony Road to the point of beginning of this description; thence South 88°48'26" West 408.73 feet; thence South 15°46'47" West, 106.32 feet; thence South 45°41'10" West 286.46 feet to the North line of a 7.25 acre tract of real estate described in Instrument No. 9360120, said Public Records of Hamilton County, Indiana; thence North 88°48'26" East 621.36 feet on and along the North line of said 7.25 acre tract of real estate to a mag nail in the centerline of said Anthony Road; thence North 04°05'16" East 298.76 feet on and along said centerline to the point of beginning, containing 3.34 acres, more or less.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

November 12, 2019

1911-VS-21

Exhibit 1

Petition Number: 1911-VS-21

Subject Site Address: 59 Spring Lake Drive ("the Property")

Petitioner: John Hile ("the Petitioner")

Request: The Petitioner requests a Variance of Development Standard to modify the Minimum Rear Yard Setback from thirty (30) feet to twenty-two (22) feet to allow for a screen room and deck.

Current Zoning: SF-3 (Single Family 3 (Cluster))

Current Land Use: Residential

Approximate Acreage: 0.17 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject property is a 0.17 +/- acre parcel located at 59 Spring Lake Drive in the Countryside subdivision, which is zoned SF3 Cluster (see **Exhibit 2**).

Requested Variances: The Petitioner is requesting a Variance of Development Standard to modify the Minimum Rear Yard Setback from thirty (30) feet to twenty-two (22) feet.

SUMMARY OF VARIANCE

The Petitioner requests a Variance of Development Standard to modify the Minimum Rear Yard Setback from thirty (30) feet to twenty-two (22) feet to allow for the construction of a screen room and deck (see **Exhibit 3**).

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 November 12, 2019, 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.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

November 12, 2019

1911-VS-21

Exhibit 1

Conditions: The UDO¹ 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 UDO² 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:

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:

¹ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

² Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

November 12, 2019

1911-VS-21

Exhibit 1

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 SF3 Cluster zoning district.

- 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: The limitations of a 0.17 acre +/- sized parcel with a required 30 foot setback make it difficult for the home to undergo any remodel and/or additions without requiring a variance.

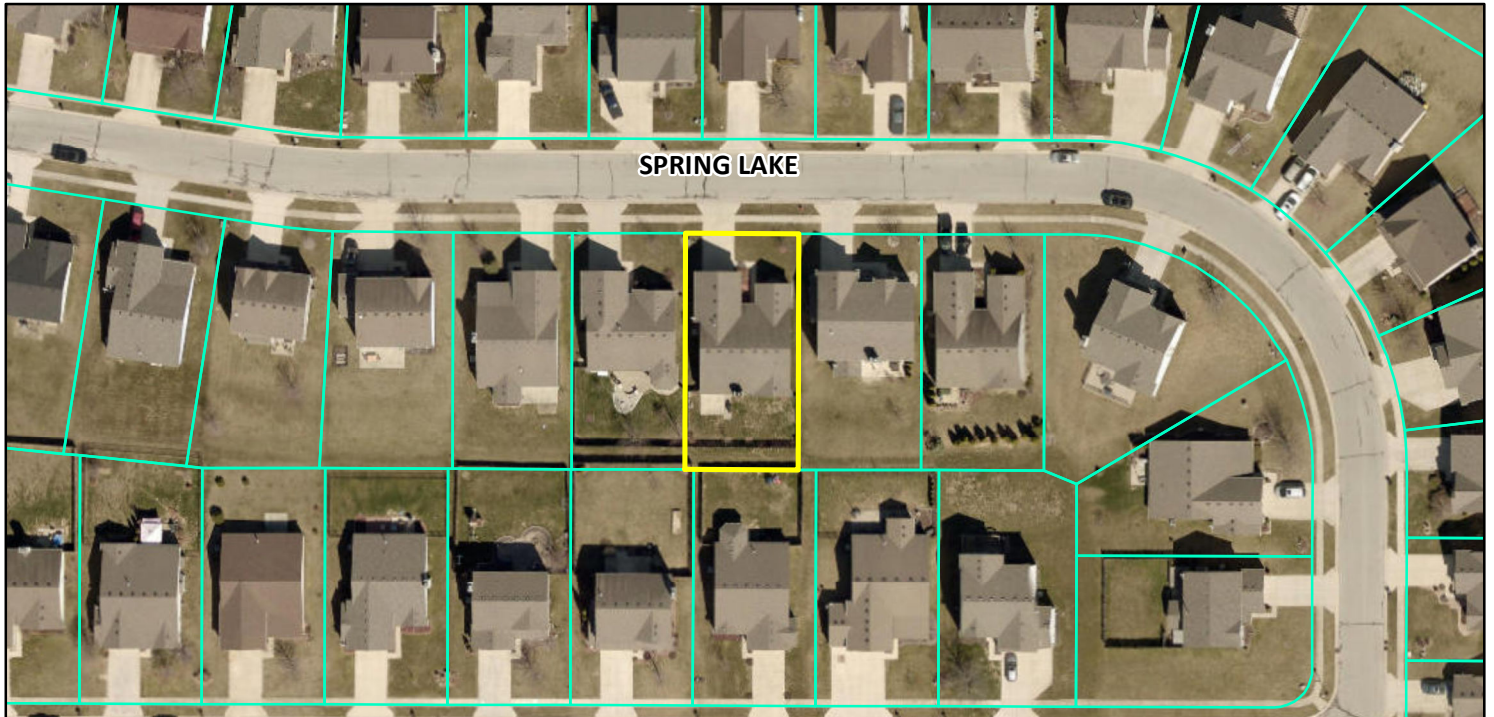
Recommended Conditions:

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

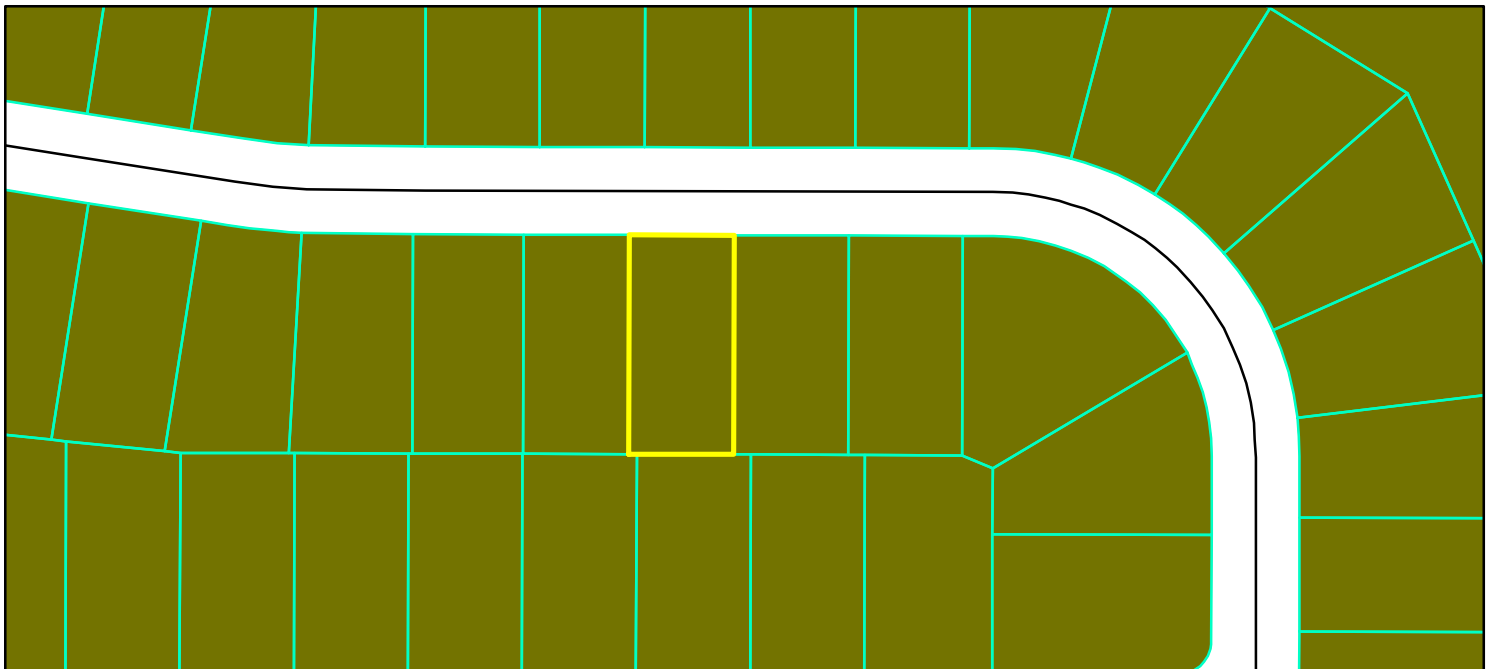
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings consistent with the public hearing evidence and Board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

Aerial Location Map

 Site



Zoning Map



 Parcel
 GIS.DBO.PW_Streets
Zoning - All
Zoning
 SF-3 Cluster

0 0.0125 0.025
Miles



PLOT PLAN **LOT NUMBER 546 IN COUNTRYSIDE SUBDIVISION SEC. 5A**

STOUFFER RESIDENCE - 59 SPRING LAKE DRIVE

HOUSE TYPE: EDINBURG

JANUARY 24, 2007

PROPERTY DESCRIPTION:

LOT NUMBER FIVE HUNDRED AND FORTY-SIX (546) IN COUNTRYSIDE SUBDIVISION SECTION 5A, A SUBDIVISION LOCATED IN HAMILTON COUNTY, INDIANA, AS PER PLAT THEREOF RECORDED AS INSTRUMENT NUMBER 200200055046 IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA.

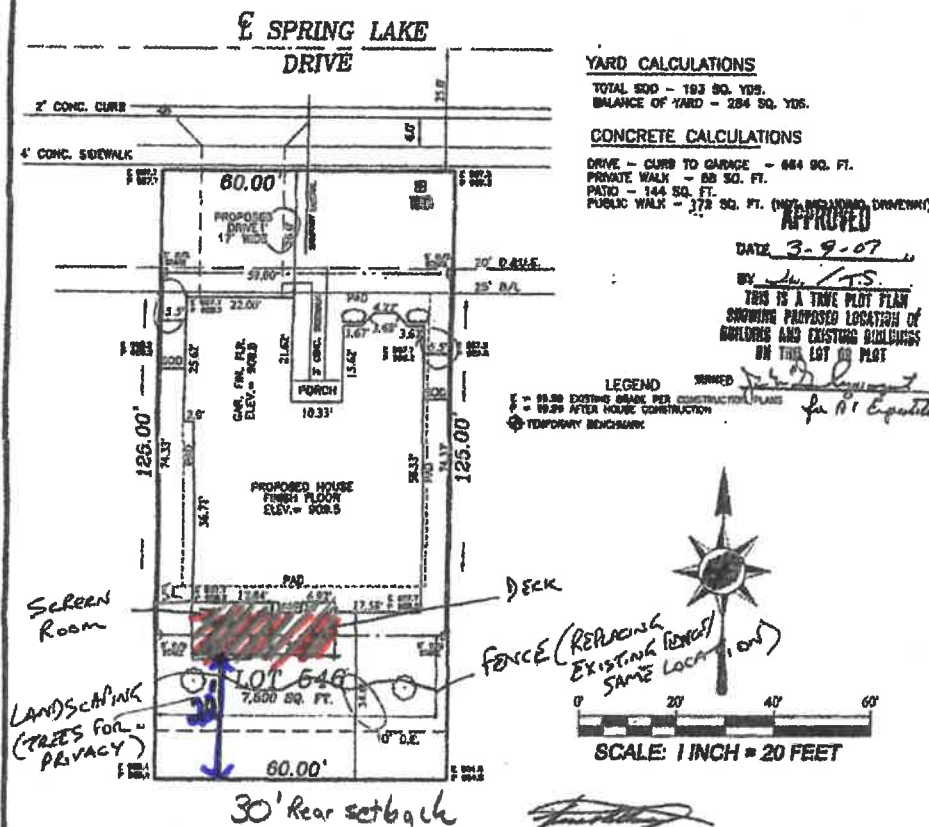
A CERTIFICATE OF CORRECTION WAS FILED TO CORRECT STREET NAMES AND IS RECORDED AS INSTRUMENT NUMBER 200200084510 IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA.

NOTES

1. WATER METER AND SANITARY SEWER LATERAL LOCATIONS ARE APPROXIMATE AND ARE TO BE FIELD VERIFIED BY THE CONTRACTOR.

2. ELEVATION AND DRAINAGE INFORMATION SHOWN ON THIS PLAN WAS OBTAINED FROM CONSTRUCTION DRAWINGS AND HAVE NOT BEEN FIELD VERIFIED. CONTRACTOR IS RESPONSIBLE FOR ASSURING POSITIVE DRAINAGE.

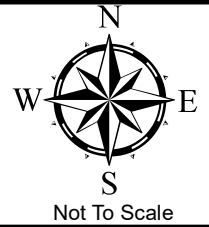
ESTIMATOR TO RELEASE PURCHASE ORDER FOR SOIL COMPACTION TEST.



PROJECT NAME: PLOT PLAN LOT 546 COUNTRYSIDE	FILE NO.: 546CS		
DATED: 1-24-07	DRAWN BY: K.J.L.		
CHECKED: _____	REVIEWED: _____		
REVISION: _____	REVISION: _____		
CLIENT OR CLIENT NAME: DAVIS HOMES		P.O. Box 234 Mooresville, IN. 46168 Ph: 317-431-7018 Holloway@HollowayEngineering.com	



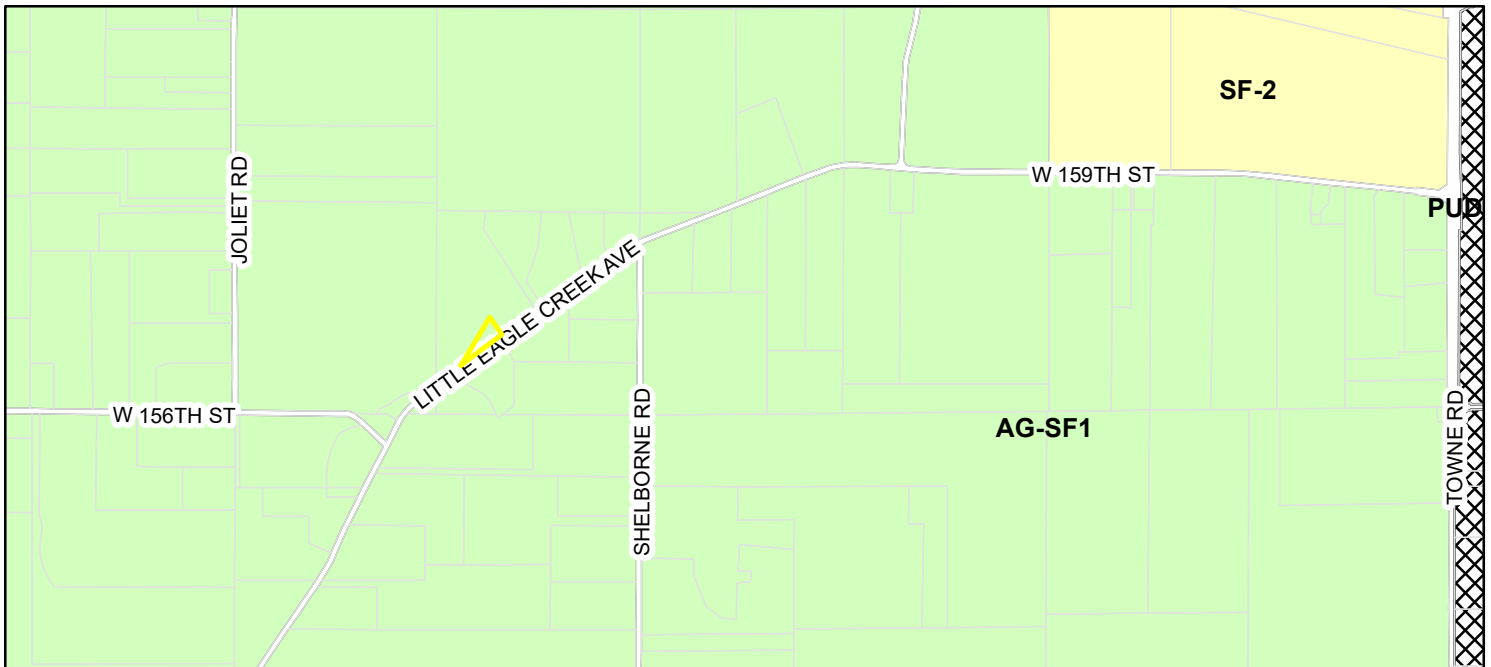
Property Location Map
15642 Little Eagle Creek Ave
Variance of Development Standard
1911-VS-23



Aerial Location Map



Zoning Map



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

830.3

20'

20' RW

298.7

71' 5 1/2"

40' 5"

57'

NEW ROOM
ADDITION

NEW GARAGE
ADDITION

STONE
DRIVE

10'

14

LITTLE EAGLE CREEK A/S

PLAT PLAN

VARIANCE APPLICATION

OFFICE
USE ONLY

DOCKET #: 1911-VU-07

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: Patrick Smith TELEPHONE: 317-752-7376

ADDRESS: 15642 Little Eagle Creek Ave EMAIL: 007mystic@comcast.net

PROPERTY OWNER'S NAME: Patrick Smith TELEPHONE: 317-752-7376

ADDRESS: 15642 Little Eagle Creek Ave EMAIL: 007mystic@comcast.net

REPRESENTATIVE'S NAME: Patrick Smith TELEPHONE: 317-752-7376

COMPANY: _____ EMAIL: _____

ADDRESS: _____

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 15642 Little Eagle Creek Ave

COUNTY PARCEL ID #(S): 08-09-07-00-00-017.001

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): Adding a Pole Barn in side yard.



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.

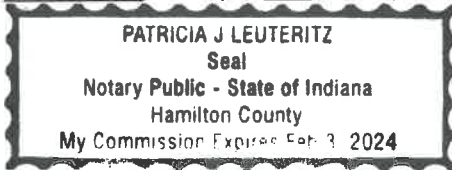
[Signature]
Applicant/Representative (signature)

Patrick Smith
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 23rd day of Sept., 2019.

State of IN, County of Hamilton SS:



[Signature]
Notary Public Signature
Patricia J. Leuteritz
Notary Public (printed)

PROPERTY OWNER AFFIDAVIT

IN WITNESS WHEREOF, the undersigned, having duly sworn, upon oath says they are the owners of the property involved in this application and that they hereby acknowledge and consent to the foregoing Application.

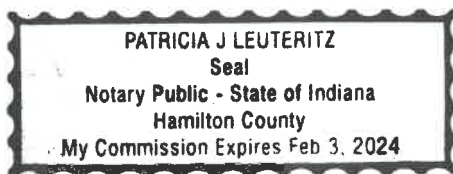
[Signature]
Property Owner (signature)*

Patrick Smith
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 23rd day of Sept., 2019.

State of IN, County of Hamilton SS:



[Signature]
Notary Public Signature
Patricia J. Leuteritz
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.

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.

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: _____

ITS a Pole Barn on my Property

- 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: *ITS a Pole Barn on my Property*

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

PROPERTY IS small



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

November 12, 2019
1911-VS-07
Exhibit 1

Petition Number: 1911-VS-23

Subject Site Address: 15642 Little Eagle Creek Avenue (the "Property")

Petitioner: Patrick Smith (the "Petitioner")

Request: The Petitioner is requesting Variances of Development Standard to reduce the Side and Rear Yard Setback and allow an Accessory Building within an Established Front Yard in the AG-SF1: Agriculture / Single-Family Rural District (Article 4.2(E)(2) and 6.1(D)(2)(a)).

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

Current Land Use: Agriculture / Residential

Approximate Acreage: 0.48 acres +/-

Exhibits:

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

Staff Reviewer: Caleb Ernest, Associate Planner

OVERVIEW

Location: The subject property is approximately 0.48 acres +/- in size and located at 15642 Little Eagle Creek Avenue (see **Exhibit 2**). The Property is zoned the AG-SF1: Agriculture / Single-Family Rural District. All adjacent properties are zoned the AG-SF1 District.

Variance Requests: The Petitioner is requesting variances of development standard to construct a pole barn west of the existing residential home, as illustrated on the site plan (see **Exhibit 3**).

BACKGROUND

Property Variances: On October 20, 2003, the Property received approval for four (4) Variances of Development Standards. The Variances are further described below:

- 0310-VS-035: reduce minimum rear yard setback from thirty (30) feet to ten (10) feet to allow additions to an existing residence.
- 0310-VS-036: reduce minimum front yard setback from eighty (80) feet to thirty-seven (37) feet to allow additions to an existing residence.
- 0310-VS-037: reduce the minimum side yard setback from thirty (30) feet to ten (10) feet to allow additions to an existing residence.

- 0310-VS-038: reduce the minimum lot size from three (3) acres to 0.48 acre to allow additions to an existing residence.

SUMMARY OF VARIANCES

The Petitioner is requesting Variances of Development Standard as further described below:

- to reduce the Minimum Side¹ and Rear Yard² Setback from thirty (30) feet to approximately ten (10) feet for an Accessory Building;
- to allow an Accessory Building³ within an Established Front⁴ Yard and reducing the Accessory Building's Front Yard Setback from seventy-five (75) feet to all Rights-of-way to approximately fifty-eight (58) feet to all Rights-of-way.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this property within the "Existing Rural Southwest" land use classification.

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 12, 2019, 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 UDO⁵ 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 the variances 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 variances.

¹ Chapter 12 of the UDO defines "Side Yard" as "A Yard extending across the full width of the Lot, the depth of which is the least distance between the Side Lot Line and the Side Yard Building Setback Line."

² Chapter 12 of the UDO defines "Rear Yard" as "A Yard extending across the full depth of the Lot, the depth of which is the least distance between the Rear Lot Line and the Rear Yard Building Setback Line."

³ Chapter 12 of the UDO defines "Accessory Building" as "A subordinate building or structure, the use of which is incidental to and customary in connection with the Principal Building or use and is under the same ownership."

⁴ Chapter 12 of the UDO defines "Established Front Yard" as "A Yard extending across the full width of the Lot between the Principal Building, as built, and the Front Lot Line, the depth of which is the least distance between the Front Lot Line and the Principal Building."

⁵ Article 10.14(l) Processes and Permits; Variances; Conditions of the UDO.

Acknowledgement of Variance: If the Board of Zoning Appeals approves this petition, then the UDO⁶ requires that the approval of the variances 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 variances.

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:

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.

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, then the Department recommends the following findings:

Recommended Findings for Approval of the Variance of Development Standard:

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

Finding: It is unlikely that approving the requested variance(s) would be injurious to the public health, safety, morals, and general welfare of the community as the property and the construction of a pole barn will comply with all other standards of the Unified Development Ordinance (UDO) and the surrounding existing structures on adjacent 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 variances should not have a negative impact on surrounding properties because the new pole barn will increase the value of and is consistent with the surrounding properties. The property and construction of a pole barn will comply with all other standards of the UDO.

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 property having nonconforming standards of the UDO. These variances serve as bringing the property into full compliance.

Denial: If the Board is inclined to deny either of the requested variances, 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 consistent with the public hearing evidence and Board discussion.