



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_01_10_2017

Tuesday, January 10, 2017 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, January 10, 2017 at 07:00 PM

MEETING PLACE: Westfield City Hall- Assembly Room

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

OPENING OF REGULAR MEETING

Note the presence of a quorum

Election of Officers

-Chairperson

-Vice-Chairman

-Pro-Tempore

Approval of minutes - December 13, 2016

Documents: [BZA Minutes - December 13, 2016](#)

Review Rules & Procedures

ITEMS OF BUSINESS:

PUBLIC HEARINGS

1701-VS-01 [PUBLIC HEARING]

15442 Carey Road

Daniel and Denise Thompson, H & W

The petitioner is requesting Variances of Standard to allow an Accessory Building in the Established Front Yard (Article 6.1(D)(2)(a)) and to modify the Maximum Building Height (Article 6.1(F)) for an Accessory Building in the AG-SF1: Agriculture / Single-Family Rural District.

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

1702-VS-02 [PUBLIC HEARING]

2740 E. 146th Street (Freddy's Frozen Custard & Steakburgers)

Errbody Land, LLC

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

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

CONTINUED

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).

1612-VS-17 [CONTINUED]

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

TNA Enterprises, LLC

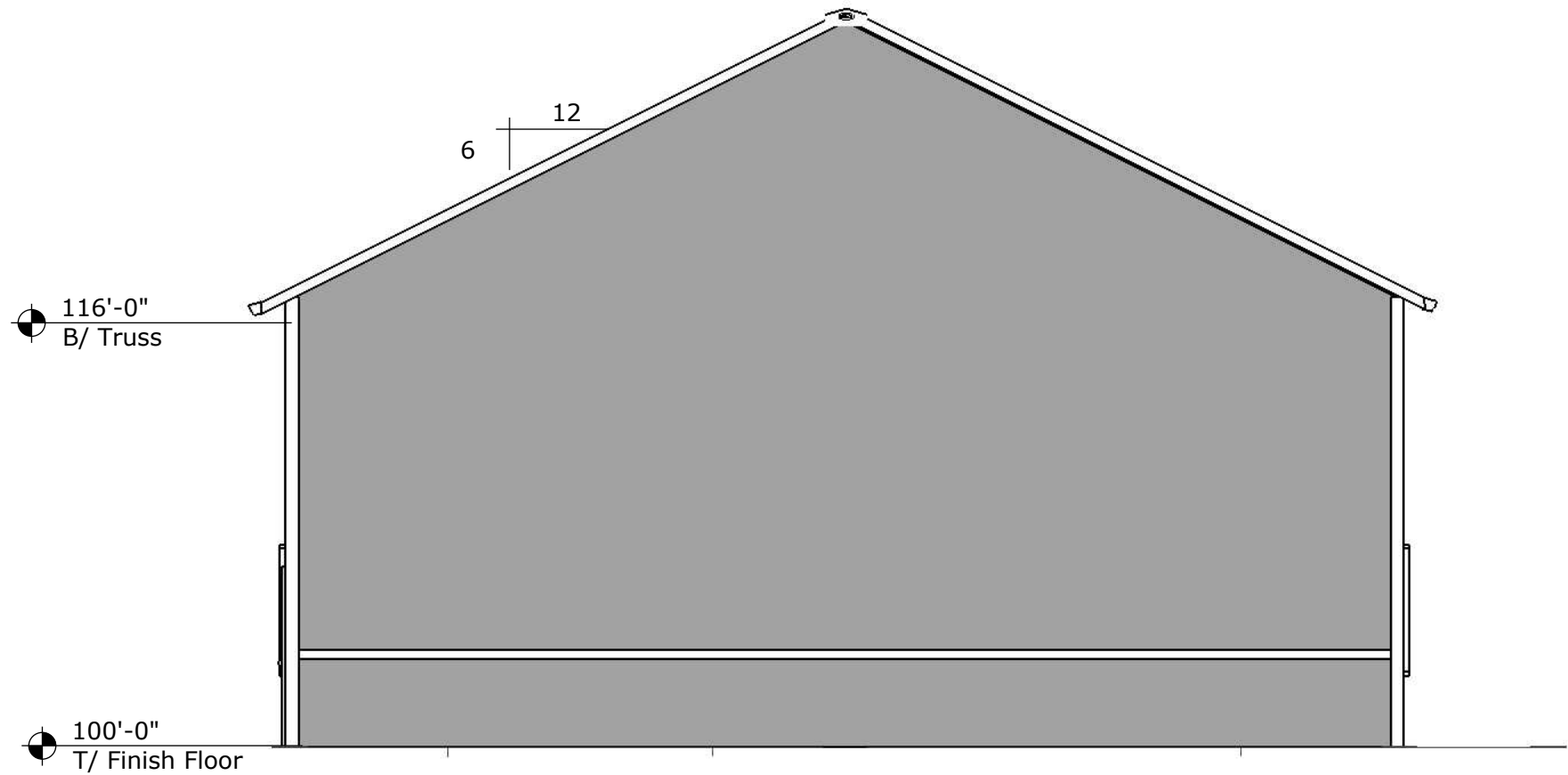
The petitioner is requesting approval of a Variance of Standard to reduce the Minimum Lot Frontage in the AG-SF1: Agriculture / Single-Family Rural District (Article 4.2(D)).

REPORTS/COMMENTS:

Plan Commission Liaison

Economic and Community Development Department

ADJOURNMENT



END ELEVATION



SIDE ELEVATION

Copyright:
Fbi Buildings, Inc.

Building may not be shown to scale.
(Colors shown may not match actual colors.
Refer to color samples for actual colors.)

X:	Purchaser Approval	Date
X:	Seller Approval	Date
	Drawing #	

Mr. Dan Thompson 15442 Carey Rd Carmel, In, 46033	Elevation Plan
---	----------------

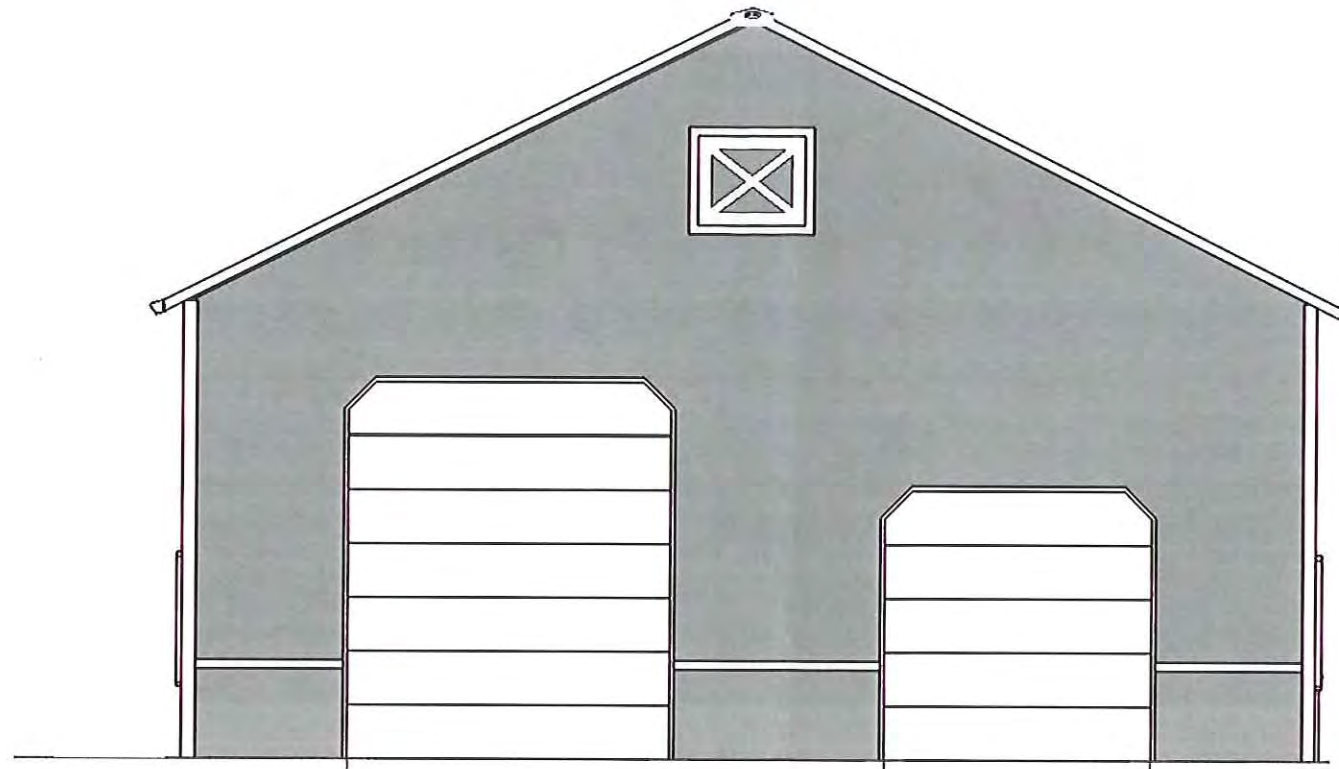


Fbi Buildings, Inc.
3823 W 1800 S
Remington, IN 47977
219-261-2157
www.fbibuildings.com

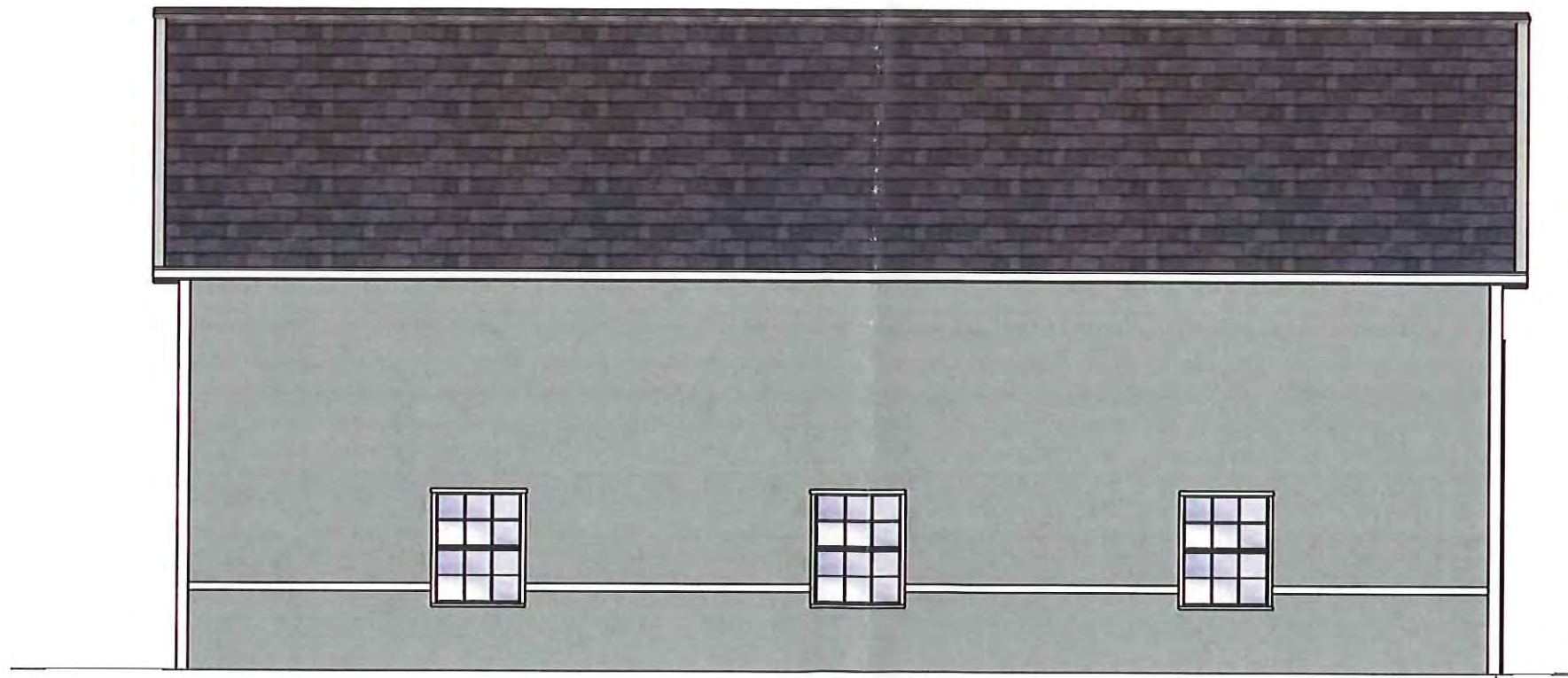
Date :	00/00/00
Name:	XXX
	Rev 0

PRELIMINARY
THESE DRAWINGS
ARE FOR
**REVIEW
ONLY**

These drawings are
not complete and
are not to be used
for construction.



END ELEVATION



SIDE ELEVATION

Copyright:
FBI Buildings, Inc.

Building may not be shown to scale.
(Colors shown may not match actual colors.
Refer to color samples for actual colors.)

X: _____	_____	Date _____
X: _____	_____	Date _____
Purchaser Approval		Seller Approval
Drawing # _____		

Mr. Dan Thompson
15442 Carey Rd
Carmel, In, 46033

Elevation Plan

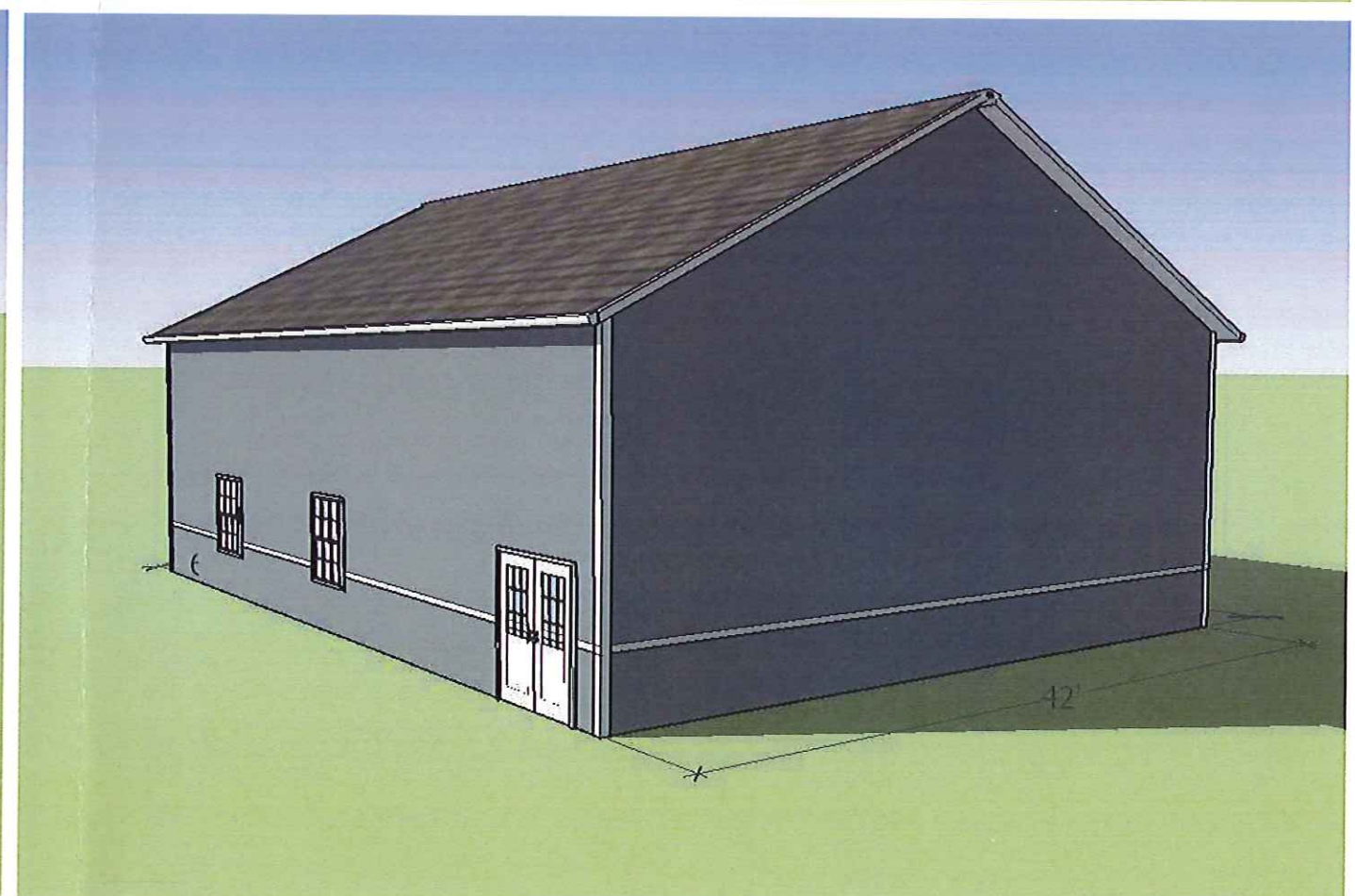
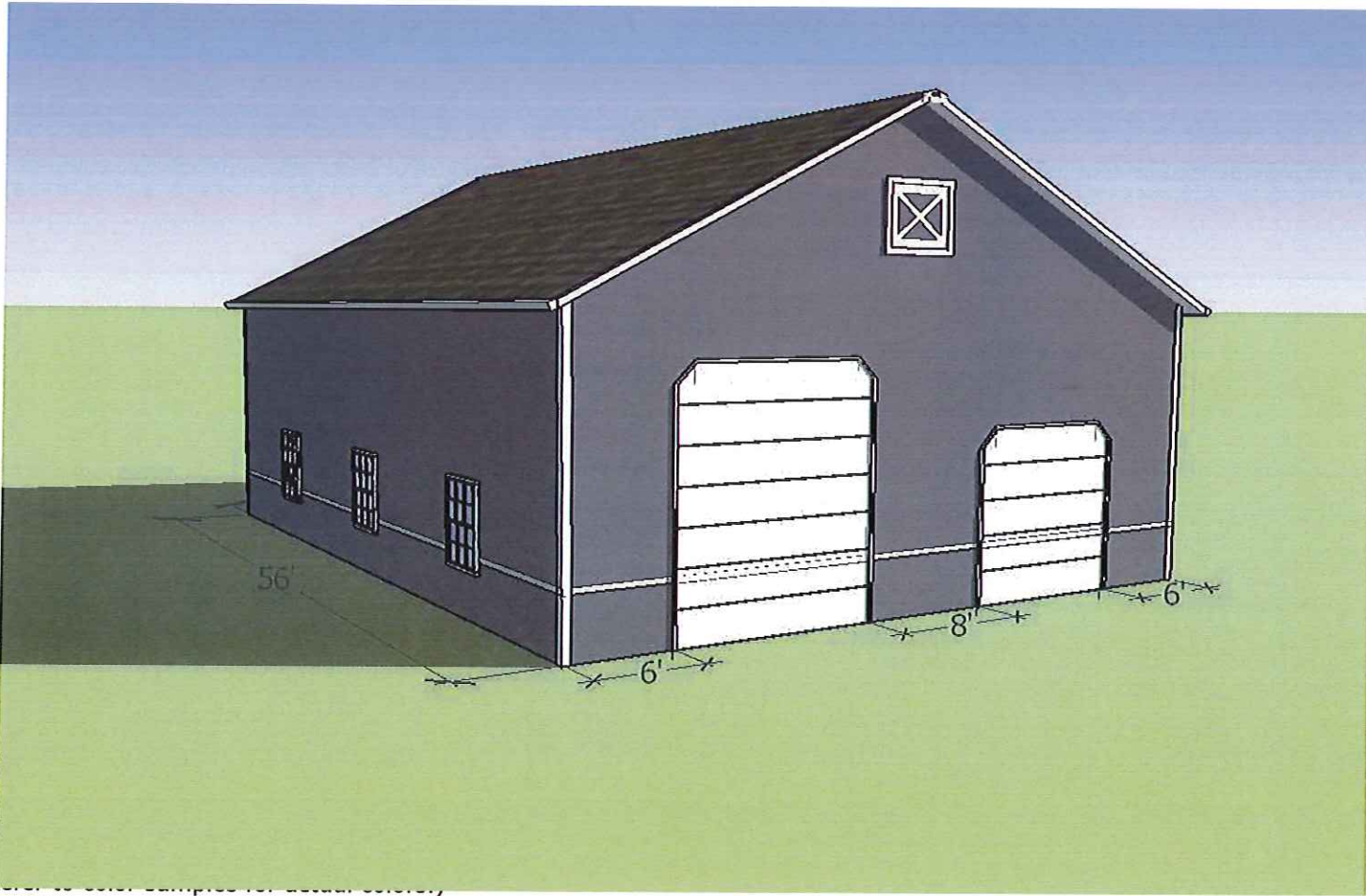
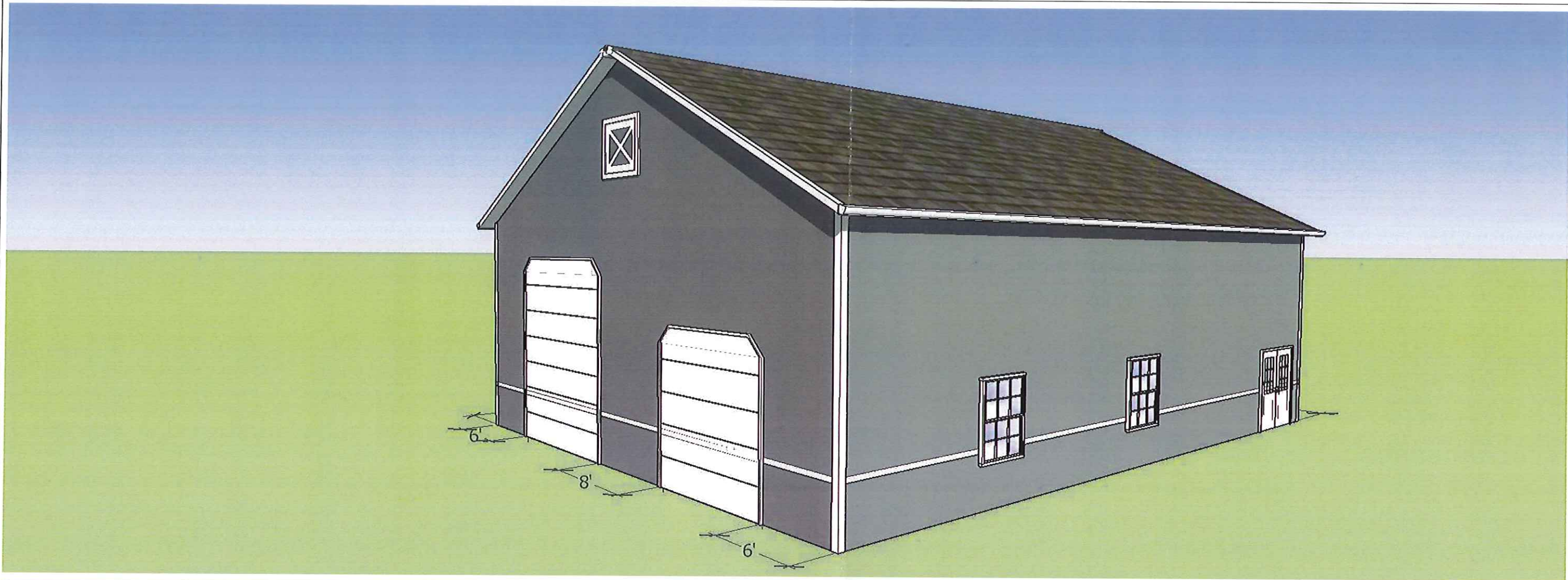
FBI
FBI Buildings, Inc.
3823 W 1800 S
Remington, IN 47977
219-261-2157
www.fbibuildings.com

Date : 00/00/00
Name: XXX
Rev 0

PRELIMINARY
THESE DRAWINGS
ARE FOR
REVIEW
ONLY

These drawings are
not complete and
are not to be used
for construction.

A-202



X: Purchaser Approval	Date
X: Seller Approval	Date
Drawing #	

Mr. Dan Thompson
15442 Carey Rd
Carmel, In, 46033

3D View

FBI
FBI Buildings, Inc.
3823 W 1800 S
Remington, IN 47977
219-261-2157
www.fbibuildings.com

Date : 00/00/00
Name: XXX
Rev 0

PRELIMINARY
THESE DRAWINGS
ARE FOR
REVIEW
ONLY

These drawings are
not complete and
are not to be used
for construction.

A-203



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

January 10, 2017
1701-VS-01
Exhibit 1

Petition Number: 1701-VS-01

Subject Site Address: 15442 Carey Road (the "Property")

Petitioner: Daniel and Denise Thompson, H&W (the "Petitioner")

Request: The petitioner is requesting Variances of Standard to allow an Accessory Building in the Established Front Yard (Article 6.1(D)(2)(a)) and to modify the Maximum Building Height (Article 6.1(F)) for an Accessory Building in the AG-SF1: Agriculture / Single-Family Rural District.

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

Current Land Use: Residential

Approximate Acreage: 6.56 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan Exhibit
4. Proposed Accessory Building Exhibit

Staff Reviewer: Pam Howard, Associate Planner

OVERVIEW

Location: The subject property is 6.56 acres +/- in size and located at 15442 Carey Road (see **Exhibit 2**). The Property is zoned the AG-SF1: Agriculture / Single-Family Rural District. The Property currently contains a single-family home and Accessory Building¹ (see **Exhibit 3**). The surrounding properties on the west side of Carey Road are also zoned AG-SF1, and the properties on the east side of Carey Road are zoned the Bridgewater Planned Unit Development (PUD) District.

Variance Request: The Petitioner is requesting this variance to allow an Accessory Building to be constructed, as generally illustrated on the Site Plan Exhibit (see **Exhibit 3**) and Proposed Accessory Building Exhibit (see **Exhibit 4**).

¹ Chapter 12 of the UDO defines "Building, Accessory" as "[a] subordinate building or structure, the use of which is incidental to and customary in connection with the Principal Building or use and which is located on the same Lot with such Principal Building or use and is under the same ownership. Buildings which are portable and do not have permanent foundations are also classified as Accessory Buildings, but shall not require an Improvement Location Permit."

SUMMARY OF VARIANCE

The Petitioner is requesting this variance to allow a 2,352 square foot +/- Accessory Building (42' x 56') to be constructed within the Established Front Yard² and at a Building Height³ of 22 feet +/-, as generally illustrated on the Site Plan Exhibit (see **Exhibit 3**) and Proposed Accessory Building Exhibit (see **Exhibit 4**). The existing home is not parallel to the Front Lot Line⁴. As a result of the home's orientation, the proposed Accessory Building would be considered to be within the Established Front Yard.

Accessory Buildings are subject to Article 6.1 Accessory Use and Building Standards of the UDO.

Article 6.1(D)(2)(a) Accessory Use and Building Standards; Building Location; Lots Not in Subdivisions; Front Setback: Accessory Building(s) shall be located at least seventy-five (75) feet from all Rights-of-way. No Accessory Building may be erected in the Established Front Yard of a Principal Building⁵.

Article 6.1(F) Accessory Use and Building Standards; Maximum Accessory Building Height: Eighteen (18) feet.

The requested variance is to: (i) allow the Accessory Building in the Established Front Yard; and (ii) allow a maximum Building Height of twenty-two (22) feet +/- for the Accessory Building.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this property within the "Suburban Residential" 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 January 10, 2017, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

² Chapter 12 of the UDO defines "Yard, Established Front" 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."

³ Chapter 12 of the UDO defines "Building Height" as "[t]he vertical distance measured from the lot ground level to the highest point of the roof for a flat roof (or the top of the parapet wall, if provided); to the deck line of a mansard roof; and to the mean height between eaves and ridges for gable, hip and gambrel roofs."

⁴ Chapter 12 of the UDO defines "Lot Line, Front" as "[a] Lot Line abutting a Street (public or Private Street). A Through Lot and Corner Lot will have multiple Front Lot Lines.

⁵ Chapter 12 of the UDO defines "Building, Principal" as "[a] building in which is conducted the main or primary use of the Lot on which said building is located. Where a substantial portion of an ancillary building is attached to the Principal Building in a substantial manner, as by a roof, then such ancillary building shall be counted as a part of the Principal Building and not an Accessory Building."

Conditions: The UDO⁶ 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 UDO⁷ 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.
-

⁶ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

⁷ 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 building shall be substantially similar to the elevations provided in **Exhibit 4**.

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 because the resulting improvements are generally consistent with existing improvements and will otherwise comply with or exceed the applicable standards. In addition, the requested variance is generally consistent with the side yard setbacks of the existing buildings on the property.

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 (iv) 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 Unified Development Ordinance and the proposed improvements would otherwise comply with the Unified Development Ordinance.

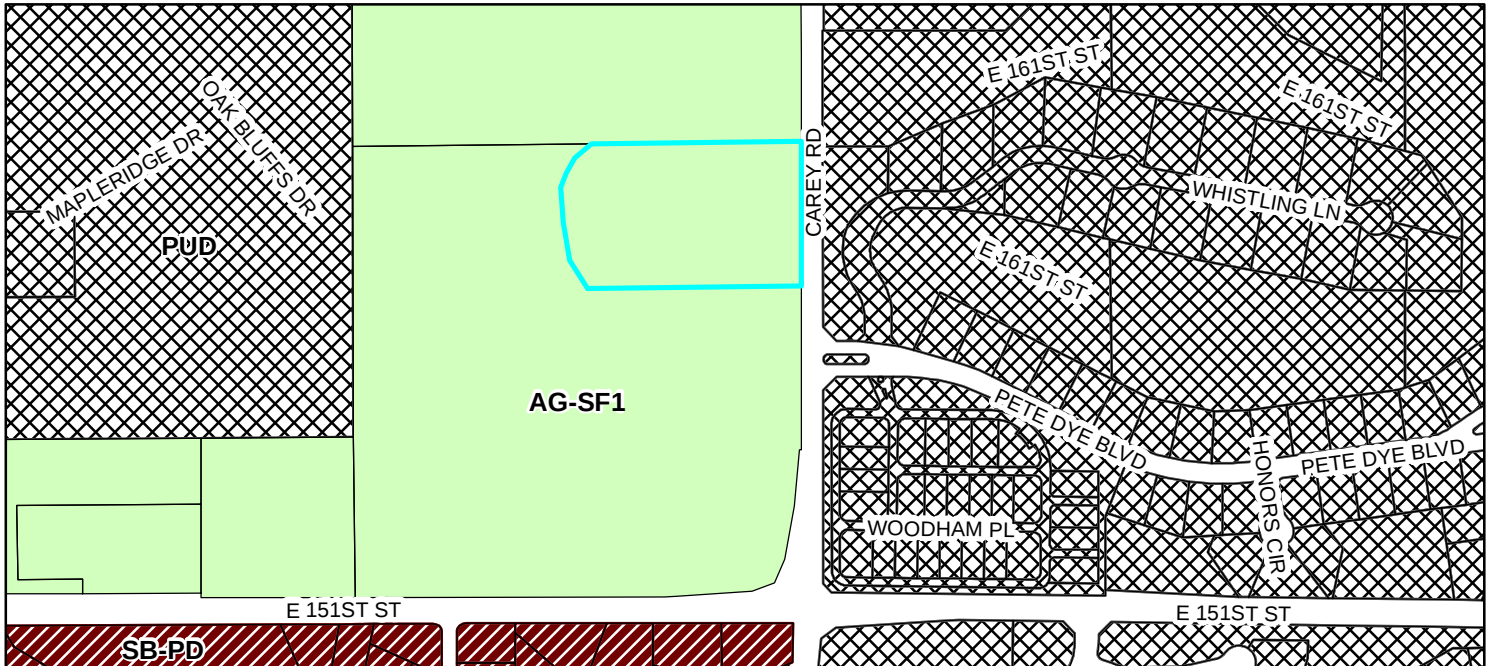
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings pursuant to the public hearing evidence and Board discussion.

Aerial Location Map

Site



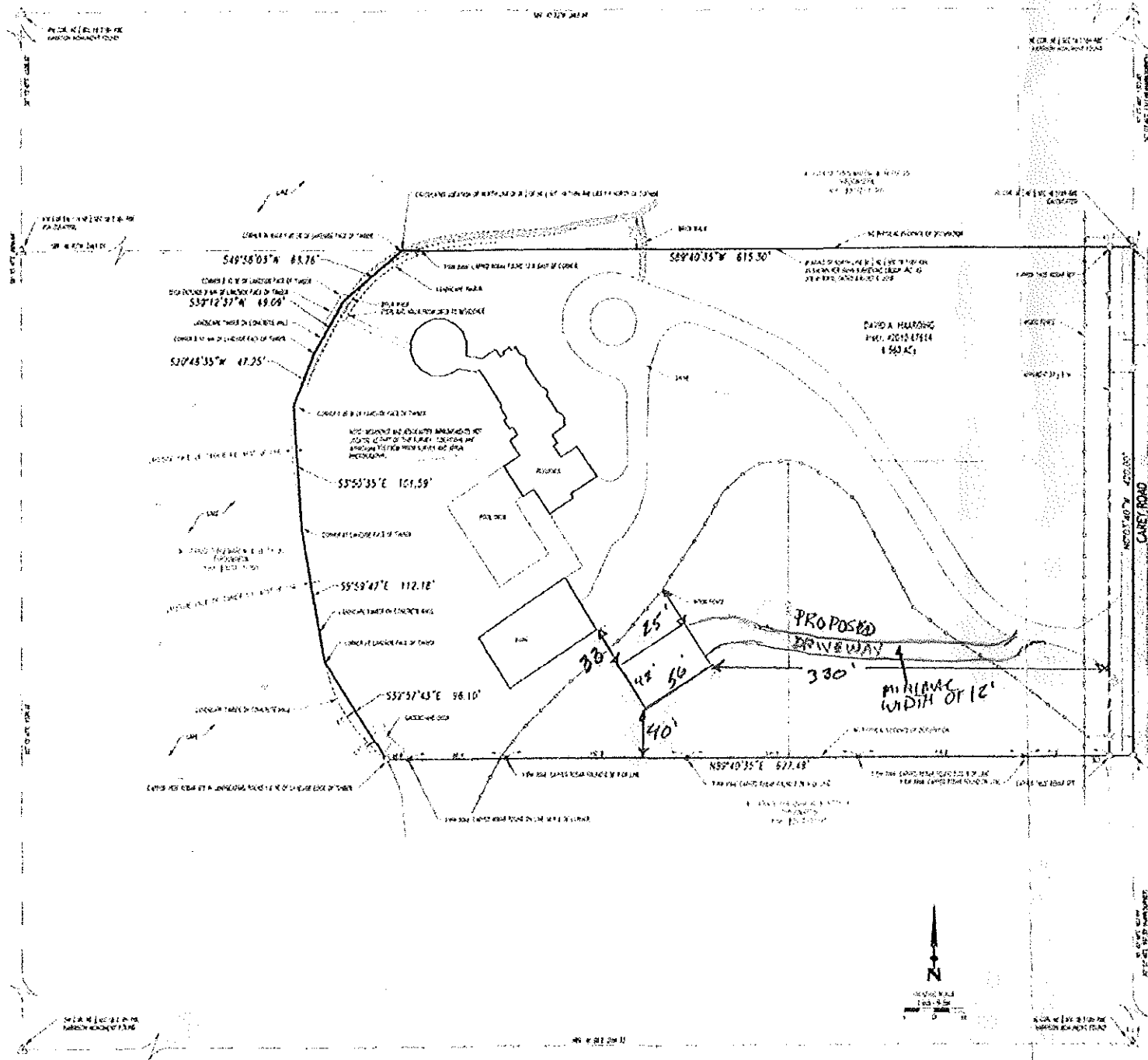
Zoning Map



Zoning

- AG-SF1 (Agriculture - Single Family - 1)
- PUD (Planned Unit Development)
- SB-PD (Special Business - Planned Development)

2010-06-20 JERRY L. 17
44-388-1218 11-12-2011
JERRY L. Kaydon
JERRY L. Kaydon
Recorded on Present
11-12-2011 11-12-2011





Copyright:
Fbi Buildings, Inc.

Building may not be shown to scale.
(Colors shown may not match actual colors.
Refer to color samples for actual colors.)



X:	Purchaser Approval	_____	Date	_____
X:	Seller Approval	_____	Date	_____
	Drawing #	_____		

Mr. or Mrs. Name	_____
Address	_____
City, St, Zip	_____
Construction Zone	_____

FBI
Fbi Buildings, Inc.
3823 W 1800 S
Remington, IN 47977
219-261-2157
www.fbibuildings.com

Date : 00/00/00
Name: XXX
Rev 0

PRELIMINARY
THESE DRAWINGS
ARE FOR
REVIEW
ONLY
These drawings are
not complete and
are not to be used
for construction.

CZ-101

The Westfield-Washington Township Board of Zoning Appeals met at 7:00 p.m. on Tuesday, December 13, 2016, at the Westfield City Hall. Members present included Ken Kingshill, Martin Raines, Dave Schmitz, Robert Smith, and Jeannine Fortier. Also present were Pam Howard, Associate Planner; Daine Crabtree, Associate Planner; Amanda Rubadue, Associate Planner; Matt Skelton, Director of Economic and Community Development; and Brian Zaiger, City Attorney.

APPROVAL OF MINUTES

Raines moved to approve the November 1, 2016, meeting minutes.

Schmitz seconded, and the motion passed 5-0.

Howard reviewed the Rules & Procedures.

ITEMS OF BUSINESS

1612-VU-07

[PUBLIC HEARING]

4225 West 156th Street

Colin & Jennifer Cunningham

The petitioner is requesting approval of a Variance of Standard to allow more than one Principal Building used for residential purposes on one Lot in the AG-SF1: Agriculture / Single-Family Rural District (Article 6.4(B)).

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

Ron Wright, attorney with Wright and Associates, on behalf of the petitioner, presented in detail the details of the proposed request.

Public Hearing opened at 7:07 p.m.

No Public Comment.

Public Hearing closed at 7:07 p.m.

Motion to approve the Variance of Standard with the following conditions:

1. The Property shall only be permitted one (1) driveway access onto 156th Street.
2. The Property shall not be permitted to be subdivided.
3. The Property and residential dwellings shall be held under the same ownership.
4. The property will be used only by the property owner and shall not be rented out to an outside party.

Motion: Raines; Second: Kingshill; Vote: Approved 5-0.

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

Raines seconded and the Motion passed 5-0.

1612-VS-16
[PUBLIC HEARING]

303 East 161st Street (Urban Vines)

Noah Herron

The petitioner is requesting approval of a Variance of Standard to allow a second Monument Sign for an Agritourism Use in the AG-SF1: Agriculture / Single-Family Rural District (Article 6.17(H)(2)).

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

-Public Hearing opened at 7:15 p.m.

No Public Comment.

Public Hearing closed at 7:16 p.m.

Motion to approve the request for a Variance of Standard with the following conditions:

1. Signs shall be installed in substantial compliance (e.g. design, size, location) with the Site Plan (Exhibit B) and Sign Elevations (Exhibit C).
2. The property shall not exceed the maximum Sign Area otherwise set forth by the Unified Development Ordinance.

Motion: Schmitz; Second: Raines; Vote: Approved 5-0.

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

Kingshill seconded and the Motion passed 5-0.

1612-VS-17
[PUBLIC HEARING]

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

TNA Enterprises, LLC

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

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

Austin Budreau, partner with TNA Enterprises, LLC, the petitioner, presented a detailed overview of the project and reason for the request of variance.

Kingshill asked about other similar projects in Indiana as well as details about the remainder of the property, the heterotrophic process, and noise.

Troy Wright, partner with TNA Enterprises, LLC, the petitioner, addressed Kingshill's questions.

Schmitz addressed that the issue before the Commission is frontage.

Public Hearing opened at 7:41 p.m.

Karen Lancaster, 17877 Joliet Road; Stated her concern that the proposed use does not fit with comprehensive plan. She requested that this variance be denied.. Also submitted written comments.

Renee Butts, 18320 Joliet Road; Stated her concern that existing drainage/flooding will be made worse if the land is developed. She requested that this variance be denied. Also submitted written comments.

Beth Moon, 19061 Joliet Road; Stated her concern about increased pollution related to the proposed use. She requested that this variance be denied. Also submitted written comments.

Julia Hoskins, 18384 Joliet Road; Stated her concern about pollution related to the proposed use and drainage issues that could be caused by an additional driveway. She requested that this variance be denied. Also submitted written comments.

Theresa Ruffner, 18465 Joliet Road; Stated her concern that the petitioners have not been honest with the neighbors and she has concerns with drainage and pollution problems. She requested that this variance be denied. Also submitted written comments.

Ed Little, 19115 Joliet Road; Stated his concern that the usable road frontage for the property is only 63' which will force the driveway too close to a neighboring property and have a negative effect on drainage. He requested that this variance be denied. Also submitted written comments.

Carri Cray, 18625 Joliet Road; Stated opposition to the project. Worried about flooding in the area.

Carey Wilmes, 18055 Joliet Road; Stated opposition to the project. She also was not contacted – this is a close knit community. She is highly allergic to shellfish.

Doug Ruffner, 18465 Joliet Road; Presented a petition against the project. Also stated concerns related to drainage, the proposed use, and possible pollution. He requested that this variance be denied. Also submitted written comments.

Joe Butts, 18320 Joliet Road; Discussed contact with Mr. Skelton and issues with the previously proposed location. Also stated concerns about road frontage, drainage, and lack of transparency

by the petitioners. He requested that this variance be denied. Also submitted written comments.

Dennis Ells, 18420 Joliet Road; Stated concern about lack of frontage due to creek and bridge, existing drainage issues, watershed, effect on property value, and pollution caused by proposed use. He requested that this variance be denied. Also submitted written comments.

Mike DiLullo, 18116 Joliet Road; Stated opposition to the project. Not contacted, other than an invite for the field trip. –Concerned about lack of frontage, drainage issues, and noise. This project doesn't fit in the area. He requested that this variance be denied.

Josh Motsinger, 18681 Joliet Road; Stated opposition to the project. He shares many of the previously stated issues as well the management of the heterotrophic process.

Bill Greenwood, 18340 Joliet Road; He had been contacted by the petitioner about road frontage. He has issues with drainage and the effect on the quality of the well water. Stated concerns about a negative impact on his property value and personal health issues in regard to runoff from the project. He requested that this variance be denied.

Kay Lancaster, 19069 Joliet Road; Stated concern that a residential area is not an appropriate location for the proposed use. Other shrimp farms are located in rural or business park areas. She requested that this variance be denied. Also submitted written comments.

Craig Wood, 167 East 191st Street; Stated a need for additional information about the project. Concerned that this is not an appropriate location for the proposed use. He also feels that this project would negatively affect the area. He requested that this variance be denied. Also submitted written comments.

Steve Martin, 144 Westlea; The buyer's agent when they purchased the property. He feels that the frontage issue was intentional in attempt to prohibit the sale. He requested that this variance be approved.

Ginny Kelleher, 3920 West 166th Street; She feels that a variance should not be granted to those who knew the existing problems such as the frontage. She feels it would negatively affect property values and requested that this variance be denied.

Two additional written comments were submitted; however, the submitters were not identified.

Public Hearing closed at 8:31 p.m.

The petitioner addressed many of the stated concerns. He stated that TNA wants to be a good neighbor and ecologically sustainable. He stated that they would comply and that they indeed validate the concerns of the neighbors.

Schmitz addressed the staff with drainage questions and site specific issues. Howard responded that this would undergo a public process through the Plan Commission.

R. Smith addressed the unclear direction in regard to the findings, that there is not enough evidence to make finding for approval or denial. He would also like to see the land platted prior to voting on this item.

Howard indicated that the land cannot be platted without a variance.

Schmitz stated he has a hard time getting over that the buyer/petitioner bought this with the variance issue present at the time of purchase.

Kingshill recognized the significant impact of the neighbors' issues and that the petitioner needs to do more work on this request.

The petitioner requested a continuance.

Motion: Continue the Variance of Standard.

Motion: Raines; Second: Smith: Vote 4-1

REPORTS/COMMENTS

Plan Commission Liaison

Economic and Community Development Department

Schmitz motioned to adjourn the meeting.

Kingshill seconded, and the motion passed.

The meeting adjourned at 8:56 p.m.

Chairperson
Robert Smith, Esq.

Secretary
Matthew S. Skelton, Esq., AICP
Director



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

January 10, 2017

1701-VS-02

Petition Number: 1701-VS-02

Subject Site Address: 2740 E. 146th Street

Petitioner: Errbody Land, LLC on behalf of Freddy's Frozen Custard

Request: The Petitioner is requesting a Variance of Standard to allow for the construction of a projected sign on the property (Article 6.17(J)(8)(b)) in the SB-PD: Special Business – Planned Development District.

Current Zoning: SB-PD: Special Business – Planned Development

Current Land Use: Commercial

Approximate Acreage: 0.87 acres+/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. Elevations
5. Petitioner's Application

Staff Reviewer: Matt Pleasant, Associate Planner

PETITION HISTORY

This petition will receive a public hearing at the January 10, 2017, Board of Zoning Appeals meeting.

PROPERTY INFORMATION

The subject property is 0.87 acres +/- in size and is located at 2740 E. 146th Street (see **Exhibit 2**) within the Cool Creek Village commercial center. The property is currently operating as a restaurant.

The property is zoned SB-PD: Special Business / Planned Development District. Adjacent properties are also zoned SB-PD.

VARIANCE REQUEST

The petitioner is requesting a variance to allow for the construction of a Projected Sign¹ to be permitted for an Outlot² as generally illustrated on the Site Plan Exhibit (see **Exhibit 3**) and Elevations Exhibit (see **Exhibit 4**).

Variance: Article 6.17(J)(8)(b) Sign Standards; Nonresidential Center Signs; Outlot Signage; Sign Type: “The total permitted sign area allocation may be divided between Wall, Awning, and Under Canopy Signs; however, all Sign Area shall be deducted from the total sign allocation for the Outlot. Outlots within a nonresidential center shall not be permitted Monument Signs

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 January 10, 2017, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals’ Rules of Procedure.

Conditions: The UDO³ 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 UDO⁴ 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.

¹ The UDO defines “Sign, Projecting as “[a] Sign attached to a building or wall and extending laterally more than eighteen (18) inches from the face of a wall.”

² The UDO defines “Outlot” as “[a] Lot within a Nonresidential Center that typically abuts a Street on one Lot Line and either a Street or other vehicular access (i.e. Private Street) shared with other Lots within the Nonresidential Center on another Lot Line.”

³ Article 10.14(I) Processes and Permits; Variances; Conditions of the UDO.

⁴ Article 10.14(K) Processes and Permits; Variances; Acknowledgement of Variance of the UDO.

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 the variance:

- 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 SB-PD 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 the use of the property will not change, nor the scope of the business.

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

Finding: The zoning ordinance's sign standards do not take into account the unique branding and trademark the business utilizes.

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.

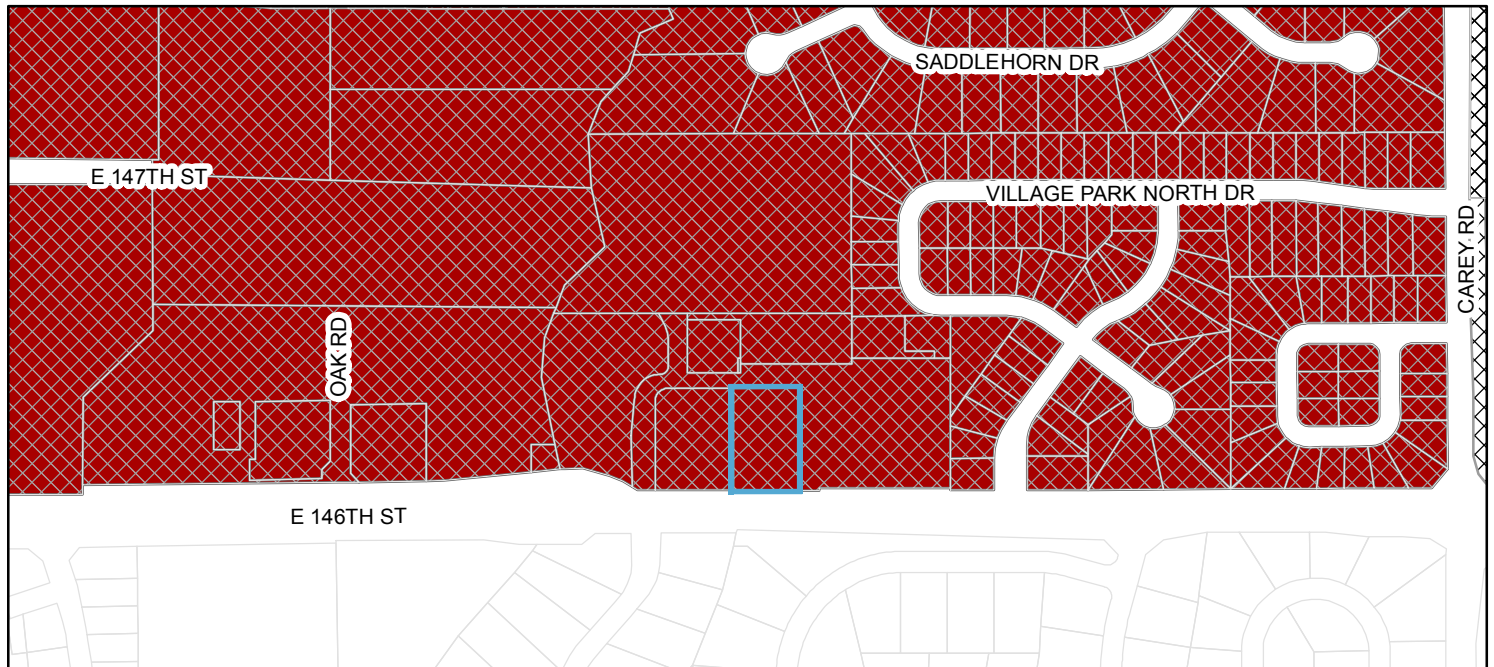
Property Location Map
Freddy's Frozen Custard
1701-VS-02



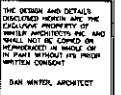
Aerial Location Map



Zoning Map



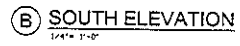
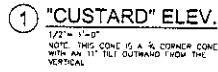
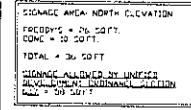
Zoning  PUD  SB-PD

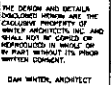


**WINTER
ARCHITECTS**
1024 EAST
FIRST STREET
WICHITA, KS.
67214
PH. 316-267-7142

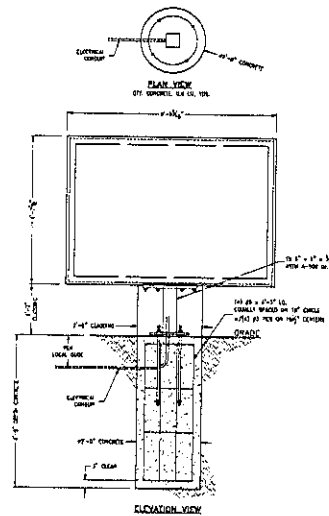
DATE 7/22/2010

SHEET NO.
A3

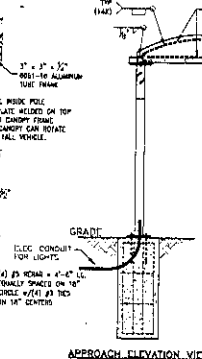
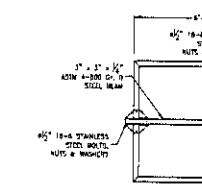
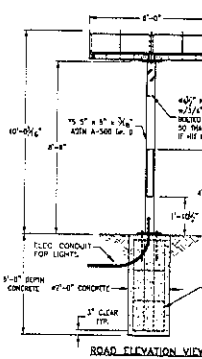
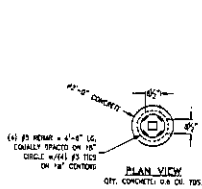
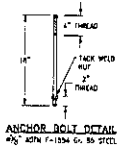
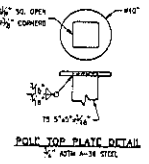
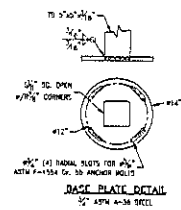




SHEET NO.
A4

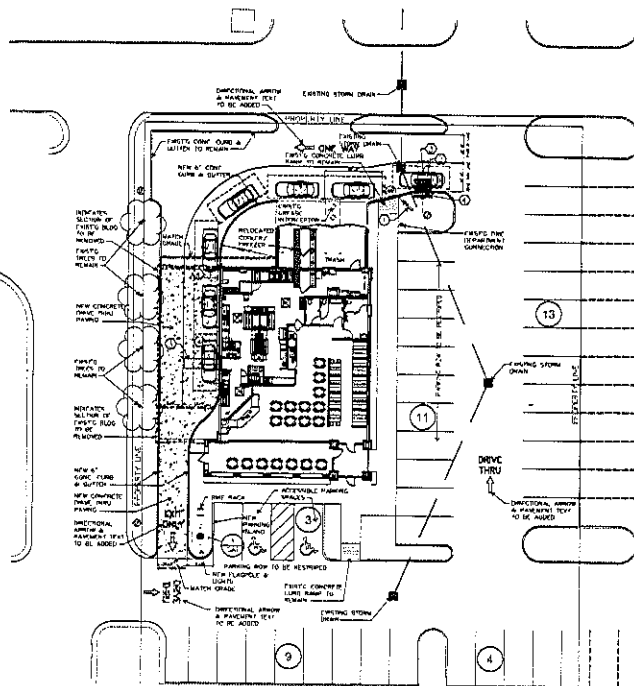


3 MENU BOARD DETAILS
SCALE: NO SCALE



- FOUNDATION DESIGN NOTES:**
- Concrete shall have a minimum compressive strength of 3000 PSI at 28 days.
 - Reinforcing steel shall be ASTM A-615 Gr. 60.
 - Reinforcing steel shall be designed using a net bearing force of 120 PSI per foot lateral.
 - If this wall condition does not exist, it is the Engineer's responsibility to prove a new wall design for the existing wall conditions by a Licensed Structural Engineer.
 - Anchor bolts shall be ASTM A-193 Gr. B steel.

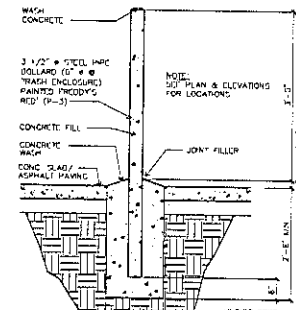
4 DRIVE-UP CANOPY DRAWINGS
SCALE: 1/2" = 1'-0"



A ARCHITECTURAL KEY PLAN
1" = 20'-0"

FREDDY'S FROZEN CUSTARD
2740 E. 146th STREET
WESTFIELD, INDIANA
FREDDY'S AREA = 3,404 SQ. FT.
SITE AREA = 37,730 SQ. FT.
PARKS = 40
ST. ADJACENT

- NEW MENU BOARD REF. 3/25/17 FOR I.D.A. D.T.C.
- NEW DRIVE-UP CANOPY 4/25/17
- DETECTOR LOOP
- NEW DOLLAR REF. 2/5/17



2 BOLLARD DETAIL
3/4" = 1'-0"



THE DESIGN AND DETAILS
INCLUDED HEREIN ARE THE
EXCLUSIVE PROPERTY OF
WINTER ARCHITECTS, INC.
AND SHALL NOT BE COPIED OR
REPRODUCED IN ANY MANNER
OR IN ANY MEDIUM WITHOUT THE
WRITTEN CONSENT OF
WINTER ARCHITECTS, INC.

FREDDY'S FROZEN CUSTARD
2740 E. 146th STREET
WESTFIELD, INDIANA

WINTER ARCHITECTS
1024 EAST
FIRST STREET
WICHITA, KS
67214
PH. 316-267-7142

**ARCHITECTURAL
SITE PLAN**

DATE
7/22/2016

DRAWN BY
RD / MD
CHECKED BY
DM

SHEET NO.
SA1



THE DESIGN AND DETAILS
ENCLOSED HEREIN ARE THE
EXCLUSIVE PROPERTY OF
WINTER ARCHITECTS, INC. AND
SHALL NOT BE COPIED OR
REPRODUCED IN WHOLE OR
IN PART WITHOUT ITS PRIOR
WRITTEN CONSENT.

DAN WINTER, ARCHITECT

FREDDY'S FROZEN CUSTARD

2740 E. 146th STREET
WESTFIELD, INDIANA

WINTER
ARCHITECTS

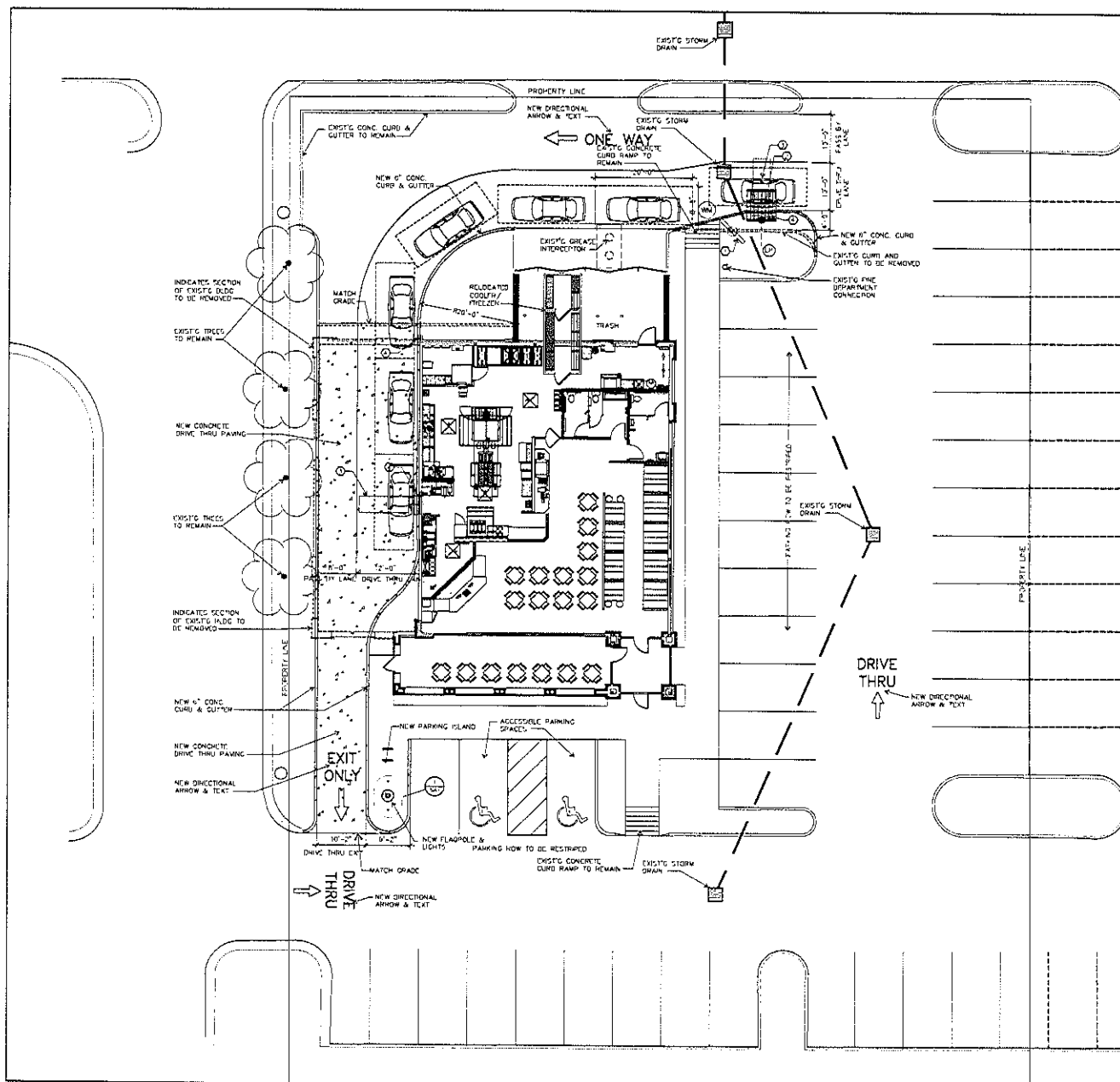
1024 EAST
FIRST STREET
WICHITA, KS.
67214
PH. 316-267-7142

ARCHITECTURAL
SITE PLAN

DATE
7/22/2016

DRAWN BY:
MT / WD
CHECKED BY:
DW

SHEET NO.
SA2



(A) ARCHITECTURAL KEY PLAN
1" = 10'-0"

FREDDY'S FROZEN CUSTARD
2740 E. 146th STREET
WESTFIELD, INDIANA
PROJECT AREA = 3,484 SQ. FT. PARKS = 40
SITE AREA = 37,726 SQ. FT. .87 ACRES

- 1 NEW MENU BO. NOT. 3/24/17 FOR FDN. BTL'S
- 2 NEW ORDER CANOPY 4/25/17
- 3 DETECTION LOOP
- 4 NEW BOLLARD RET. 2/15/17



Bartlesville, OK
August 29, 2013







Highlands Ranch, CO
July 25, 2012





Yukon, OK
January 25, 2012

RECEIVED

DEC 02 2016

WESTFIELD-WASHINGTON TOWNSHIP APPLICATION FORM

VARIANCE APPLICATION

OFFICE
USE ONLYDOCKET #: 1701-VS-02

FILING DATE: _____

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

PRE-FILING CONFERENCEPRE-FILING CONFERENCE WITH: MATT PLEASANT (STAFF NAME) DATE: 12-1-2016**PRIOR OR RELATED DOCKET NUMBERS**

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

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

APPLICANT INFORMATIONAPPLICANT'S NAME: BLAKE EPPERSON TELEPHONE: 316.617.8880ADDRESS: 4739 GRAND HAVEN LN UNIT F INDIANAPOLIS IN 46260 EMAIL: BEPPERSON@FREDDYSINDY.COMPROPERTY OWNER'S NAME: ERRBODY LAND, LLC TELEPHONE: 316.210.7999ADDRESS: 102 N FOUNTAIN WICHITA, KS 67208 EMAIL: BENJAMINHESS@HOTMAIL.COMREPRESENTATIVE'S NAME: BENJAMIN HESSE TELEPHONE: 316.210.7999COMPANY: ERRBODY LAND, LLC EMAIL: BENJAMINHESS@HOTMAIL.COMADDRESS: 102 N FOUNTAIN WICHITA, KS 67208**PROPERTY AND PROJECT INFORMATION**ADDRESS OR PROPERTY LOCATION: FREDDY'S AT 2740 E 146TH STCOUNTY PARCEL ID #(S): 08-10-18-00-00-014-323EXISTING ZONING DISTRICT(S): SD-PD 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):

FREDDY'S FROZEN CUSTARD & SPARKBURGERS REQUESTS TO ADD A PROTECTED SIGN TO ITS FRONT
ENTRANCE SIGNAGE. THIS PROTECTED SIGN WOULD BE AN EIFS FOAM, "ICE CREAM CONE" OR AS
WE CALL IT, A "FROZEN CUSTARD CONE" WALL MOUNTED, STATIONARY SHAPE. THE CONE WOULD TILT
OUTWARD AT 11 DEGREES. THIS FROZEN CUSTARD CONE IS A SYMBOL OF FREDDY'S TRADEMARK AND
BRAND IDENTITY. MUCH LIKE MCDONALDS AND ITS GOLDEN ARCHES, FREDDY'S IS RECOGNIZED
FOR ITS FROZEN CUSTARD CONE HANGING PROMINENTLY ABOVE STORE ENTRANCES. ATTACHED ARE
SEVERAL PICTURES OF FREDDY'S RESTAURANTS AND THEIR CONES.

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)

Blake Epperson
Applicant/Representative (printed)

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

Witness my hand and Notarial Seal this 2nd day of December, 2016.

State of Indiana, County of Harrison, SS:

LAWRENCE ALEXANDER SPAULDING
NOTARY PUBLIC
SEAL
STATE OF INDIANA
MY COMMISSION EXPIRES SEPT. 20, 2023

[Signature]
Notary Public Signature
Lawrence Alexander Spaulding
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)*

Ben Hesse
Property Owner (printed)

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

Witness my hand and Notarial Seal this 2nd day of December, 2016.

State of Kansas, County of Sedgwick, SS:

 NOTARY PUBLIC - State of Kansas
ELAINE M. MOORE
My Appt Expires 12.20.17

Elaine M. Moore
Notary Public Signature
Elaine M. Moore
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 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: _____

PUBLIC HEARING NOTICE

December 1, 2016

Dear property owner(s):

The City of Westfield's Board of Zoning Appeals will conduct a Public Hearing on January 10th, 2017 at 7:00 P.M. at the City Hall Building, 130 Penn St., concerning the following proposed Zoning variance:

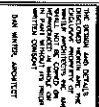
Variance of Development Standards approval for a projected "Frozen Custard Cone" sign at Freddy's Frozen Custard and Steakburgers, located at 2740 E 146th St. in the Cool Creek Village development.

All persons having an interest in these matters are invited to attend and make their views known at this time. Further information may be obtained from the Planning and Zoning Division located in the City Services building at 2728 E 171st or by calling 317-804-3150.

You can view this proposal and all others on the city's website,
www.westfield.in.gov/

Sincerely,

*Blake Epperson, Member
ICT, LLC*



2740 E. 146th STEET
WESTFIELD, INDIANA

FIRST STREET
WICHITA, KS.
67214
PH 316-267-7143

EXTERIOR ELEVATIONS

DATE _____
TIME/DATE _____

1997

LEARNER ID:
RTR / WDA
CHILDED BY

D16

A3

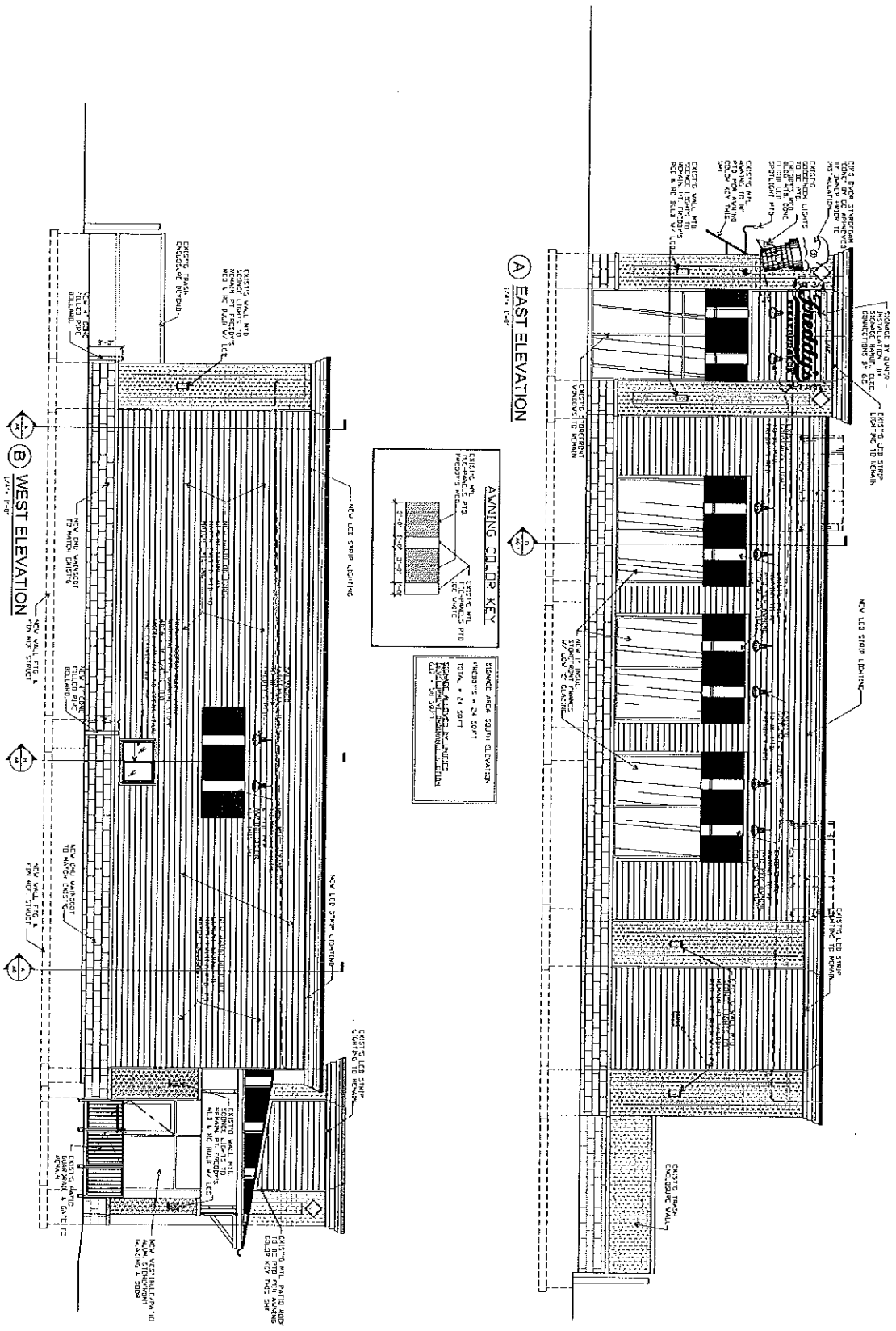


THE OWNER AND ARCHITECT
WINTER ARCHITECTS
1094 EAST FIRST STREET
WICHITA, KS 67214
PH: 316-261-7145
DATE: 7/27/2018
DRAWN BY: [blank]
CHECKED BY: [blank]
SCALE: [blank]

FREDDY'S FROZEN CUSTARD

2740 E. 146th STREET
WESTFIELD, INDIANA

SHEET NO.
A4





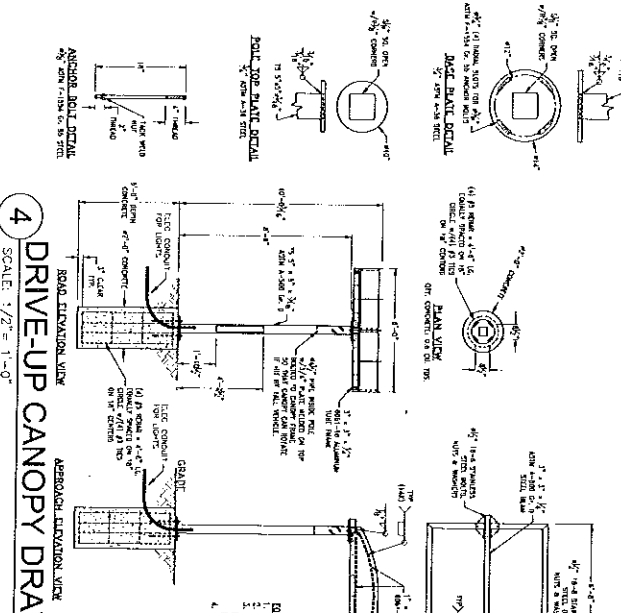
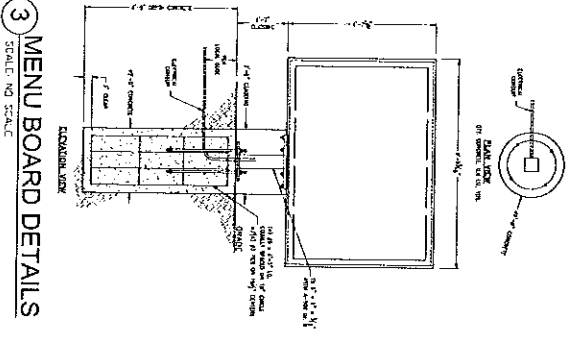
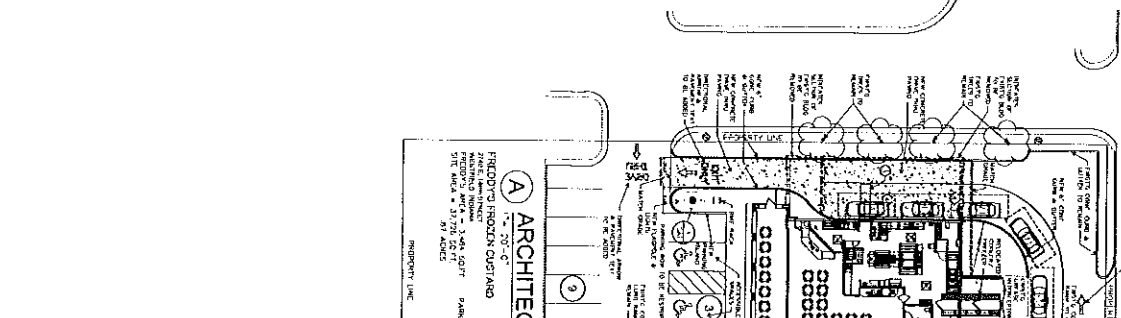
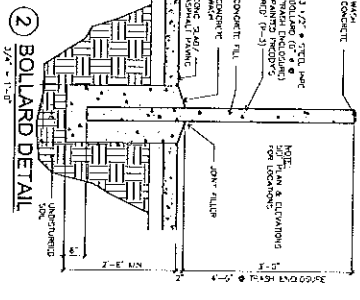
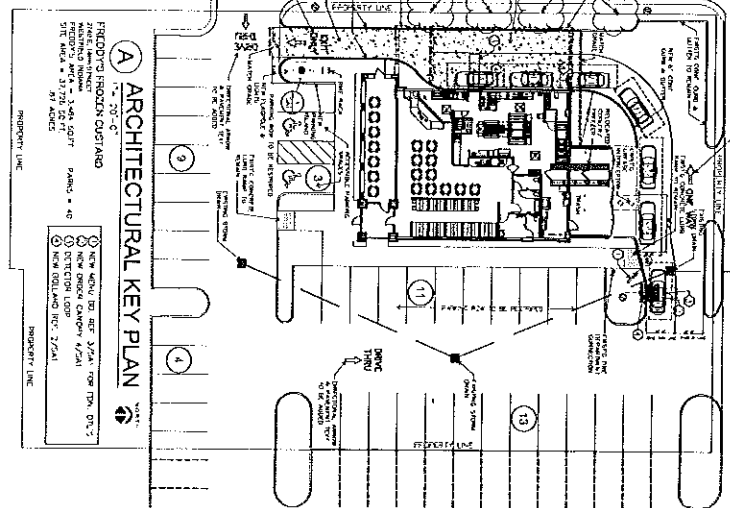
THE DESIGN AND DETAILS OF THIS PROJECT HAVE BEEN PREPARED BY THE ARCHITECT AND HIS FIRM, AND THE ARCHITECT ASSUMES RESPONSIBILITY FOR THE DESIGN AND DETAILS OF THE PROJECT.

FREDDY'S FROZEN CUSTARD

2740 E. 146th STREET
WESTFIELD, INDIANA

WINTER ARCHITECTS
1024 EAST WINDYBROOK DRIVE
WESTFIELD, INDIANA 46074
PH. 317-837-7142

ARCHITECTURAL SITE PLAN
DATE: 1/27/2006
DRAWN BY: J. WINTER
CHECKED BY: J. WINTER
SCALE: 1/8" = 1'-0"



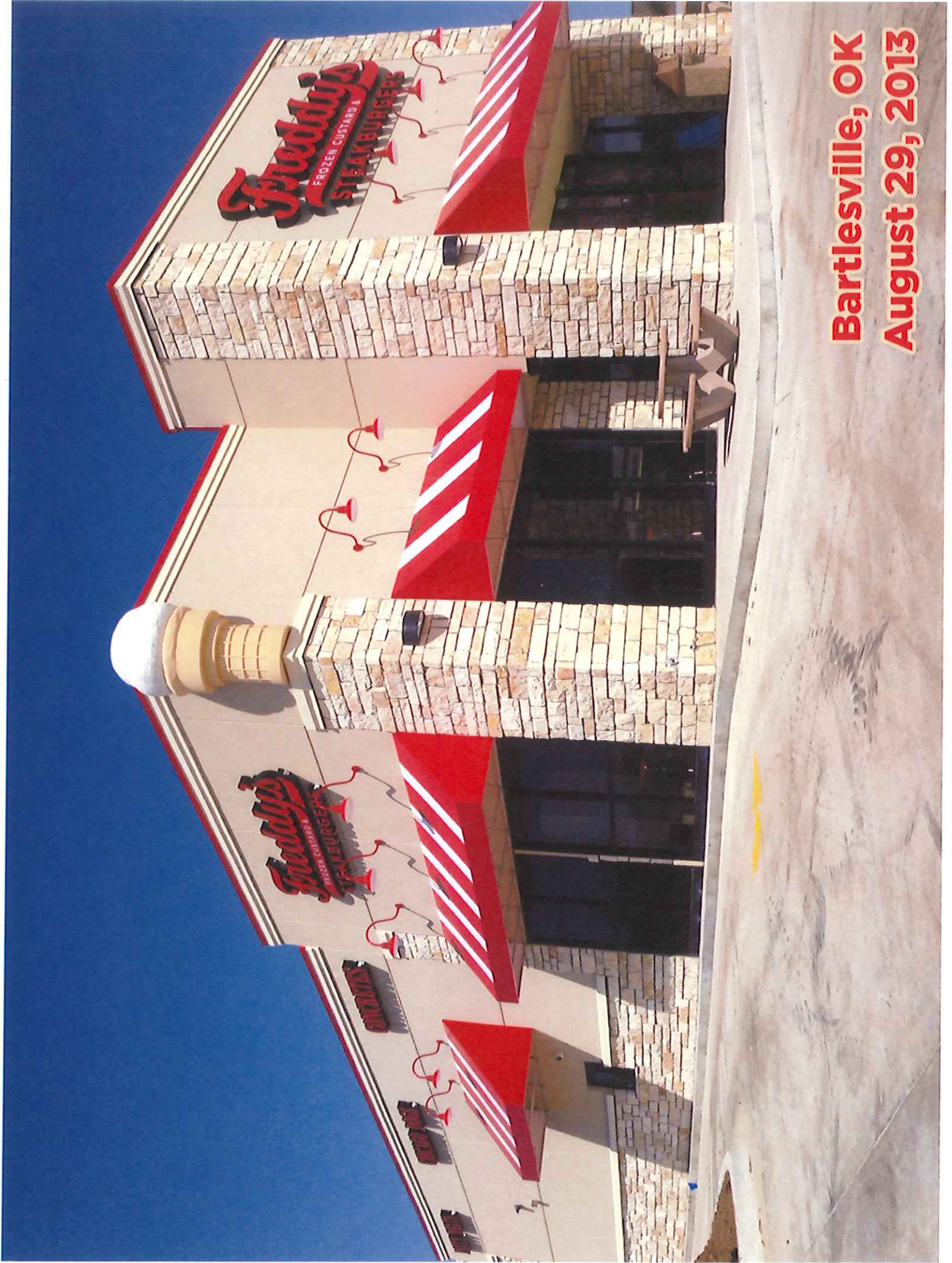
WINTER
ARCHITECTS
1024 EAST
FIRST STREET
WICHITA, KS.
07214
PH. 316-267-7142

ARCHITECTURAL
SITE PLAN

DATE
7/22/2016

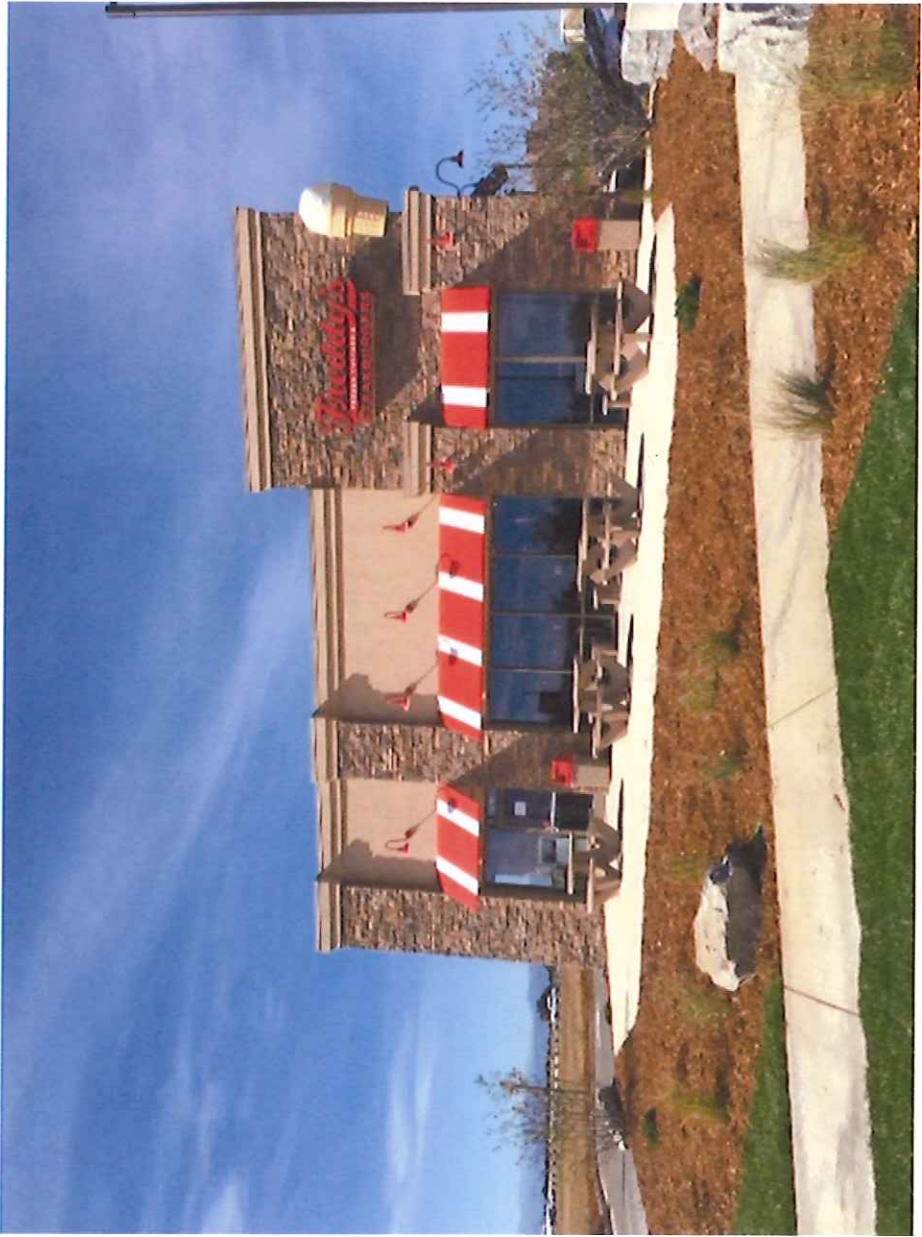
DRAWN BY
MFL / JMO
CHECKED BY
DWM

SHEET NO.
SA2



Bartlesville, OK
August 29, 2013





Freddy's
FROZEN CUSTARD &
STEAKBURGERS



Freddy's
FROZEN CUSTARD &
STEAKBURGERS

Highlands Ranch, CO
July 25, 2012





Aurora-Cornerstar, CO
April 12, 2011



Yukon, OK
January 25, 2012

RECEIPT OF PAYMENT



NAME Blake Epperson

ADDRESS Yreaddy's CITY _____ ZIP _____

DATE RECEIVED 12/02/16 ☒ CHECK # 214 ☐ CASH ☐ OTHER _____

PAYMENT RECEIVED BY AS

ACCOUNT # BZA Variance

AMOUNT PAID \$ 600.00

BLAKE T EPPERSON
7627 E 37TH ST N APT 2404
WICHITA, KS 67227-2807

244
83-7108/3011

12-1-2016 DATE

PAY TO THE ORDER OF CITY OF WESTFIELD \$ 600.00

Six Hundred & 00/100 DOLLARS  SECURITY FEATURES: DYE INK, ESCR


BANK OF AMERICA
Derby Office
300 N ROCK RD
DERBY, KS 67037-3903
1-800-488-2265

FOR BZA VARIANCE

⑆301171081⑆ 380053272⑈ 00244

123456789