



CITY OF WESTFIELD, IN
BoardofZoningAppeals_Meeting_Agenda_11_10_2020

Tuesday, November 10, 2020 at 07:00 PM

BOARD OR COMMISSION: Board of Zoning Appeals (BZA)

MEETING DATE: Tuesday, November 10, 2020 at 07:00 PM

MEETING PLACE:

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

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

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

Documents: [Viewable online at: https://www.youtube.com/user/CityofWestfieldIN](https://www.youtube.com/user/CityofWestfieldIN)

OPENING OF REGULAR MEETING

Note the presence of a quorum

BZA Minutes - October 13, 2020

Documents: [BZA Minutes - October 13, 2020](#)

Approval of 2021 BZA Schedule of Meetings and Filing Dates

Documents: [2021 BZA Schedule of Meetings and Filing Dates](#)

Review Rules & Procedures

ITEMS OF BUSINESS:

2011-VS-34 [PUBLIC HEARING]

2753 Maple Creek Drive

Clark Byrum

The Petitioner requests a Variance of Development Standard to encroach eight (8) feet into the thirty (30) foot Minimum Rear Yard Setback on 0.34 acres +/- in the SF2: Single-Family Low-Density District to accommodate a swimming pool and deck (Article 4.5(E) (3)(a)).

(Planner: Corey Harris – charris@westfield.in.gov)

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

2011-VS-25 [PUBLIC HEARING]

19501 Ethan Allen Lane

Michelle Hernandez by Webster & Garino, LLC

Michelle Hernandez by Webster & Garino, LLC

The Petitioner requests a Variance of Development Standard to permit residential development on a 0.50 acre +/- Property in the AG-SF1: Agriculture/Single-Family Residential District that is deemed to be Legal Nonconforming in nature (Article 9.4(C)).
(Planner: Daine Crabtree - dcrabtree@westfield.in.gov)

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

2011-VS-36 [PUBLIC HEARING]

540 N. Union Street

Edwin and Jennifer Skelton by Church, Church, Hittle + Antrim

The Petitioner requests a Variance of Development Standard to encroach five (5) feet into the ten (10) foot Side Yard Setback on 0.50 +/- acres in the SF3: Single-Family Medium Density District in order to accommodate a garage addition (Article 4.6(E)(2)).
(Planner: Caleb Ernest – cernest@westfield.in.gov)

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

2011-VS-38 [PUBLIC HEARING]

15702 Hidden Oaks Court

Patrick and Beth Mcilvenna

The Petitioners requests a Variance of Development Standard to encroach twenty-five (25) feet into the fifty-five (55) foot Minimum Rear Yard Setback on 0.69 acres +/- in the Briggewater PUD District to accommodate a swimming pool and deck.

(Planner: Corey Harris – charris@westfield.in.gov)

Documents: [Exhibit 1: Staff Report](#) | [Exhibit 2: Location Map](#) | [Exhibit 3: Site Plan](#) | [Exhibit 4: ARB/HOA Approval](#) | [Exhibit 5: Presentation](#) | [Exhibit 6: Proposed Conditions and Findings of Fact](#) | [Exhibit 7: Application](#)

ITEMS CONTINUED TO A FUTURE MEETING:

None

REPORTS/COMMENTS:

ADJOURNMENT



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

November 10, 2020
2011-VS-36
Exhibit 1

Petition Number: 2011-VS-36

Subject Site Address: 540 N. Union Street (the "Property")

Petitioner: Church, Church, Hittle & Antrim (the "Petitioner")

Request: The Petitioner is requesting a Variance of Development Standard to encroach five (5) feet into the ten (10) foot Side Yard Setback on 0.50 acres in the SF3: Single-family Medium Density District (Article 4.6(E)(2)).

Current Zoning: SF3 District

Current Land Use: Residential

Approximate Acreage: 0.50 acres +/-

Exhibits:

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

Staff Reviewer: Caleb Ernest, Associate Planner

OVERVIEW

Location: The subject property is 0.50 acres +/- in size and located at 450 N. Union Street (see **Exhibit 2**). The Property is zoned the SF3: Single-family Medium Density District. Adjacent properties to the north, east and south are also zoned the SF3 District. Adjacent property to the west is zoned SF3 and the Junction North Planned Unit Development (PUD) District.

Variance Request: The Petitioner is requesting a Variance of Development Standard to encroach five (5) feet into the ten (10) foot Side Yard Setback on 0.50 acres in the SF3 District (Article 4.6(E)(2)).

SUMMARY OF VARIANCE

The Petitioner is requesting a Variance of Development Standard to encroach into the Side Yard Setback for the purposes of building a new garage addition (see **Exhibit 3**). The request it to encroach five (5) feet into the ten (10) foot Side Yard Setback.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this Property within the “Downtown”¹ land use classification. Union Street in the Downtown land use classification as of right now contemplates redevelopment opportunities for residential uses into business uses, however, the areas around the Penn Street and Union Street intersection are to be preserved in the natural character of the architecture, design and buildings. Further direction on the remainder area of Union Street is reserved for future use and determination.

PROCEDURAL

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of the Variance of Development Standard. This petition is scheduled to receive its public hearing at the November 10, 2020, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals’ Rules of Procedure.

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

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

Variance 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. Variances 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;

¹ Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (p. 24).

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

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

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 condition and findings:

Condition:

1. That 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 Community Development Department.

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 would be injurious to the public health, safety, morals, and general welfare of the community because the existing proposed use of the Property is a permitted use in the zoning district and 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 variance should not have a negative impact on surrounding properties because the adjacent property owner where the Side Yard is being encroached into has given consent to the altered Setback line and the Property fully complies with the zoning district.

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 construct the garage addition to property owner's home.

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.



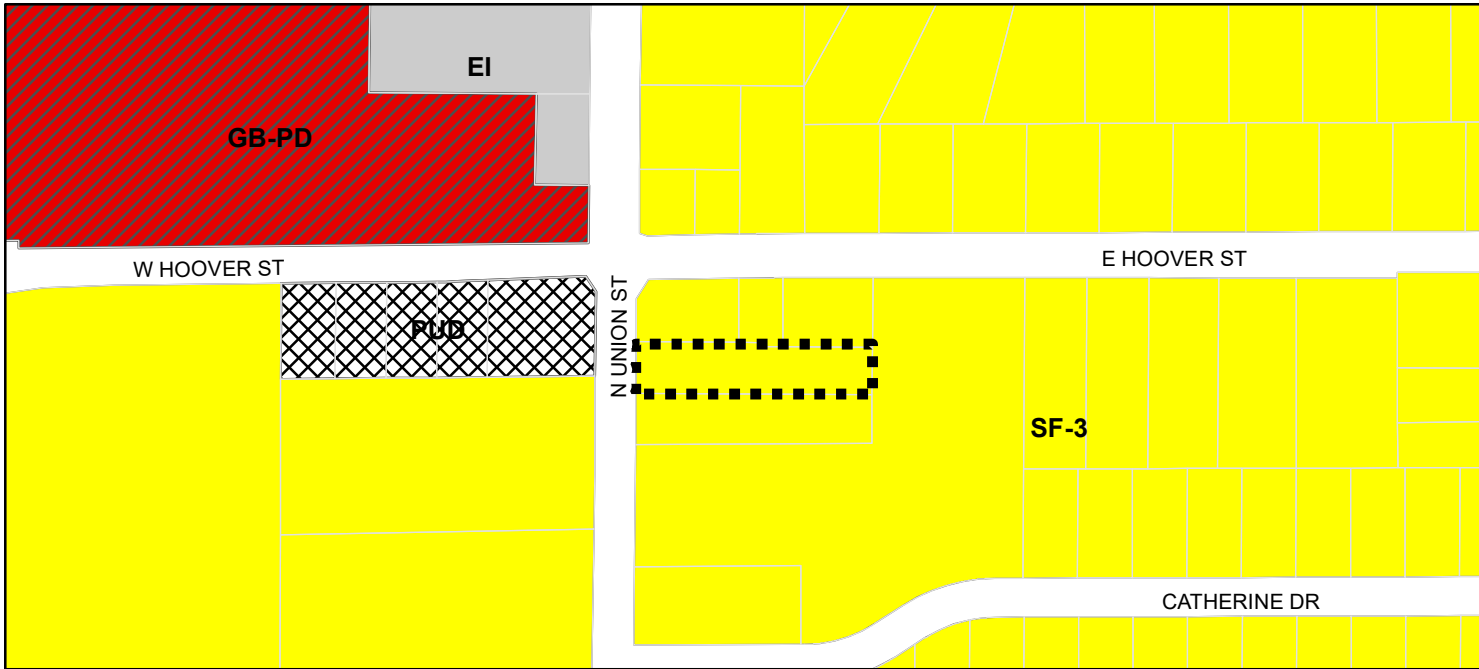
Property Location Map
540 N. Union Street
Variance of Development Standard
2011-VS-36



Aerial Location Map



Zoning Map



- Parcel
- Zoning - All**
- Zoning**
- GB-PD (General Business - Planned Development)
 - PUD (Planned Unit Development)
 - SF-3 (Single Family - 3)
 - EI (Enclosed Industrial)

SKELTON RESIDENCE

540 NORTH UNION,

WESTFIELD, INDIANA



BIGNAL DESIGN, LLC.
317.408.4436

No.	Revision/Issue	Date
1.	DESIGN DEVELOPMENT SET	09/04/20

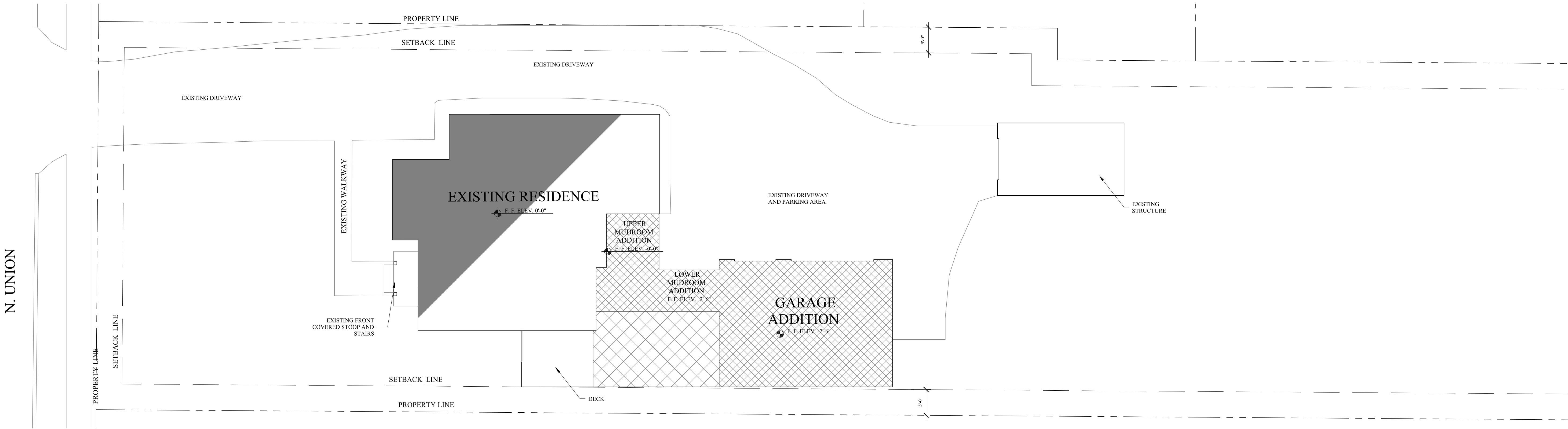
LEGEND

A101 COVER SHEET & SITE PLAN

A201 MAIN LEVEL FLOOR PLAN
A202 FOUNDATION PLAN AND ROOF PLAN

A301 EXTERIOR ELEVATIONS

SKELTON RESIDENCE
540 N. UNION
WESTFIELD, INDIANA
DESIGN DEVELOPMENT DRAWINGS



NOTE:
ALL INDICATED WALKWAYS, DRIVEWAYS
AND LANDSCAPING ARE PROPOSED AND
ARE TO BE VERIFIED AND
LOCATED DURING CONSTRUCTION.

NOTE:
SITE PLAN IS BASED ON GIS MAPS AND
VISUAL OBSERVATION. SITE INDICATED
TOPOGRAPHY, INLETS, STORM DRAIN
LOCATIONS AND OTHER CONDITIONS
ARE TO BE VERIFIED ON SITE DURING
CONSTRUCTION

1
A101

SITE PLAN
SCALE: 10' = 1"



COVER SHEET
AND
SITE PLAN

Project No.
2020.14

Date
SEPTEMBER 04, 2020

Scale
AS NOTED

Sheet No.

A101

GENERAL NOTES

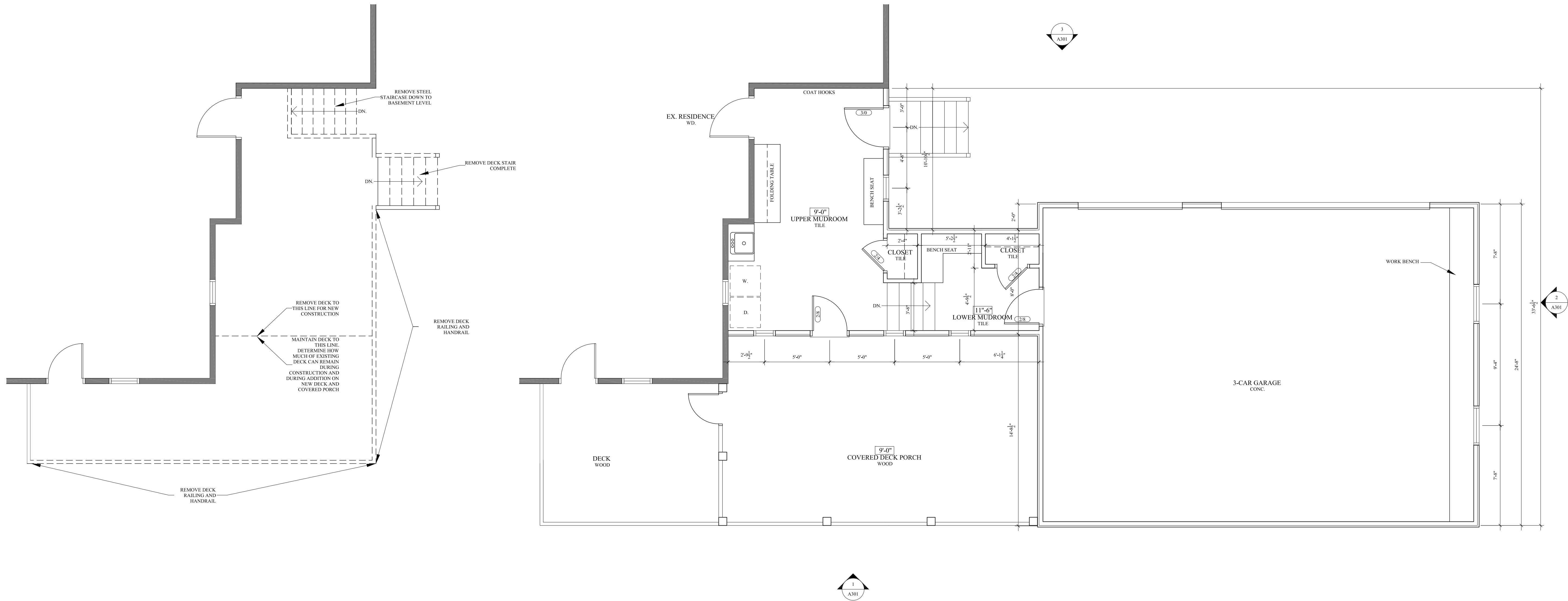
- A. ALL DIMENSIONS ARE FROM FACE OF STUD, OR FACE OF MASONRY. ANY DIMENSIONS NOT SHOWN OR DEEMED QUESTIONABLE ARE TO BE VERIFIED. DO NOT SCALE DRAWINGS.
- B. PROVIDE WOOD BLOCKING SUPPORTS AS REQUIRED FOR ALL SURFACE MOUNTED ITEMS.
- C. COORDINATE WORK OF THIS TRADE WITH OTHER TRADES.
- D. PROVIDE MISCELLANEOUS METAL SUPPORT FOR ALL CEILING SUSPENDED ITEMS.
- E. APPLY SEALANT AT ALL JUNCTURES BETWEEN DIFFERENT MATERIALS (I.E. ALUMINUM WINDOWS AND WOOD SIDING).
- F. APPLY SEALANT AT ALL PLUMBING FIXTURES AT JUNCTURE WITH WALL OR FLOOR.
- G. APPLY SEALANT AT ALL COUNTERTOPS AND BACK SPLASHES AT JUNCTURE WITH WALL.
- H. ALL EXTERIOR WALLS ARE 2X4 WOOD STUD CONSTRUCTION @ 16" O.C. UNLESS NOTED OTHERWISE.
- I. ALL INTERIOR WALLS ARE 2X4 WOOD STUDS @ 16" O.C. UNLESS NOTED OTHERWISE.
- J. ALL WALLS SHALL BE MARKED IN PLACE PRIOR TO FRAMING FOR REVIEW.
- K. FOR UNDIMENSIONED DOOR IAMs SET EDGE OF FRAME OPENING 6" FROM INSIDE CORNER, TYPICALLY.
- L. EACH CONTRACTOR TO CLEAN AREA AFTER WORK AND REMOVE ALL DEBRIS CREATED IN PREPARATION FOR FOLLOWING TRADES.
- M. CONTRACTOR TO COORDINATE INTALLATION AND PROVIDE ROUGH OPENINGS AS REQUIRED FOR FOLLOWING TRADES.
- N. NO FLEXIBLE GAS LINES PERMITTED.
- N. PEX IS A SUITABLE SUBSTITUTE FOR COPPER WATER LINES.

No.	Revision/Issue	Date
1.	DESIGN DEVELOPMENT SET	09/04/20

SKELTON RESIDENCE
540 N. UNION
WESTFIELD, INDIANA
DESIGN DEVELOPMENT DRAWINGS

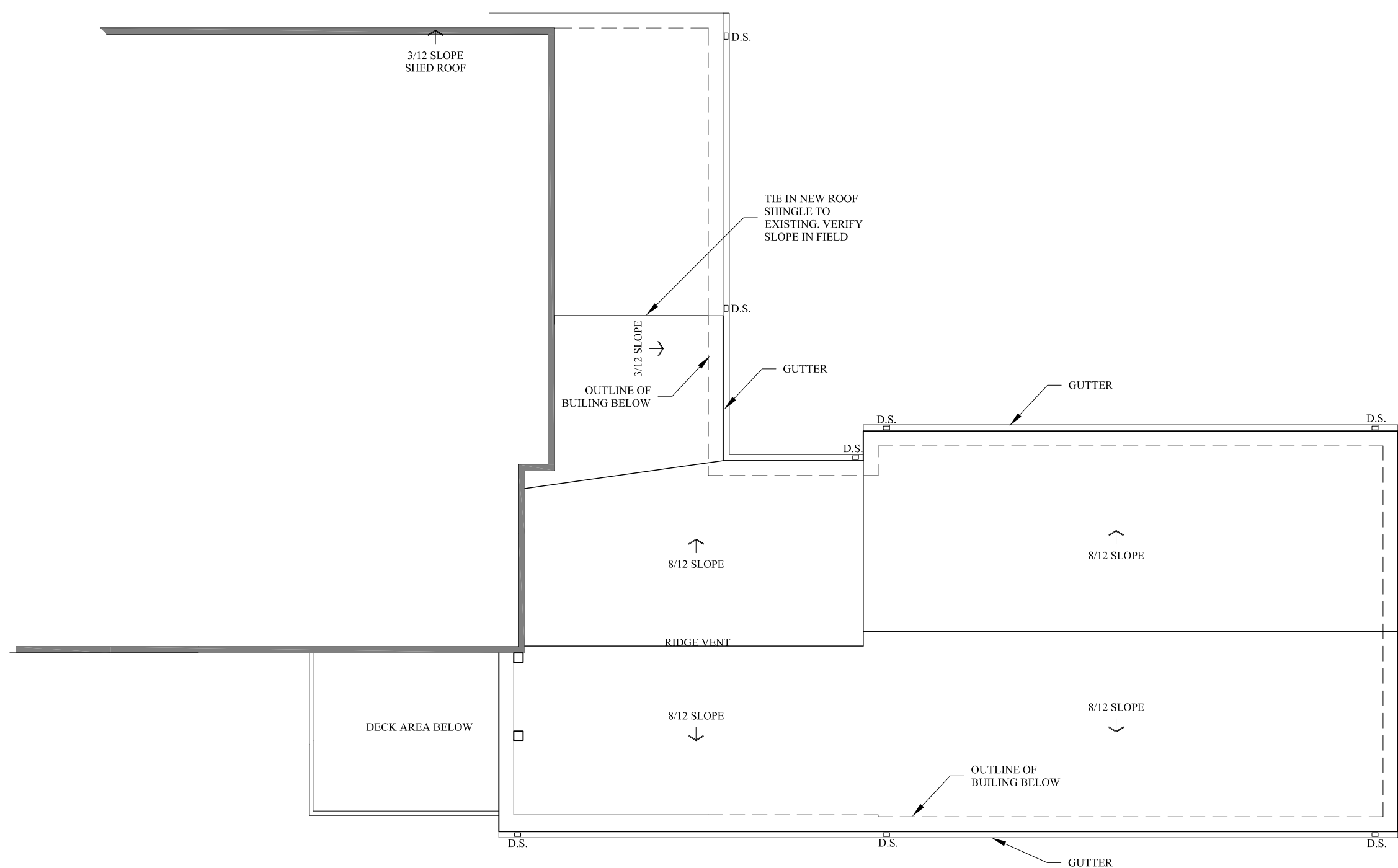
MAIN LEVEL
FLOOR PLAN AND
DEMOLITION PLAN

Project No. 2020.14	Sheet No. A201
Date SEPTEMBER 04, 2020	
Scale AS NOTED	



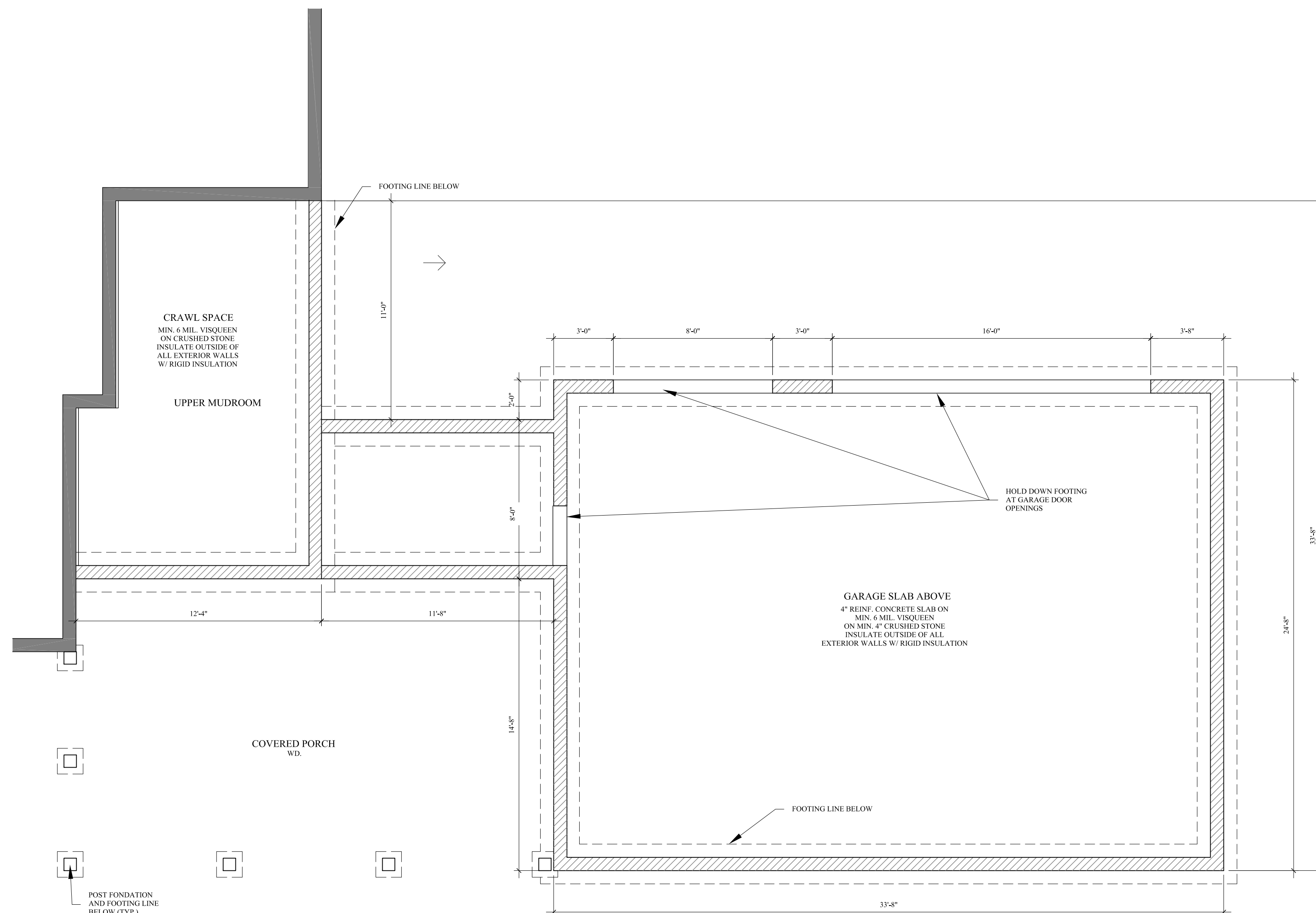
2
A201
MAIN LEVEL DEMOLITION PLAN
SCALE: 1/4" = 1'-0"
NORTH

1
A201
MAIN LEVEL FLOOR PLAN
SCALE: 1/4" = 1'-0"
NORTH



1
A201

ROOF PLAN
SCALE: 1/8" = 1'-0"



1
A201

FOUNDATION PLAN
SCALE: 1/4" = 1'-0"



Firm Name and Address



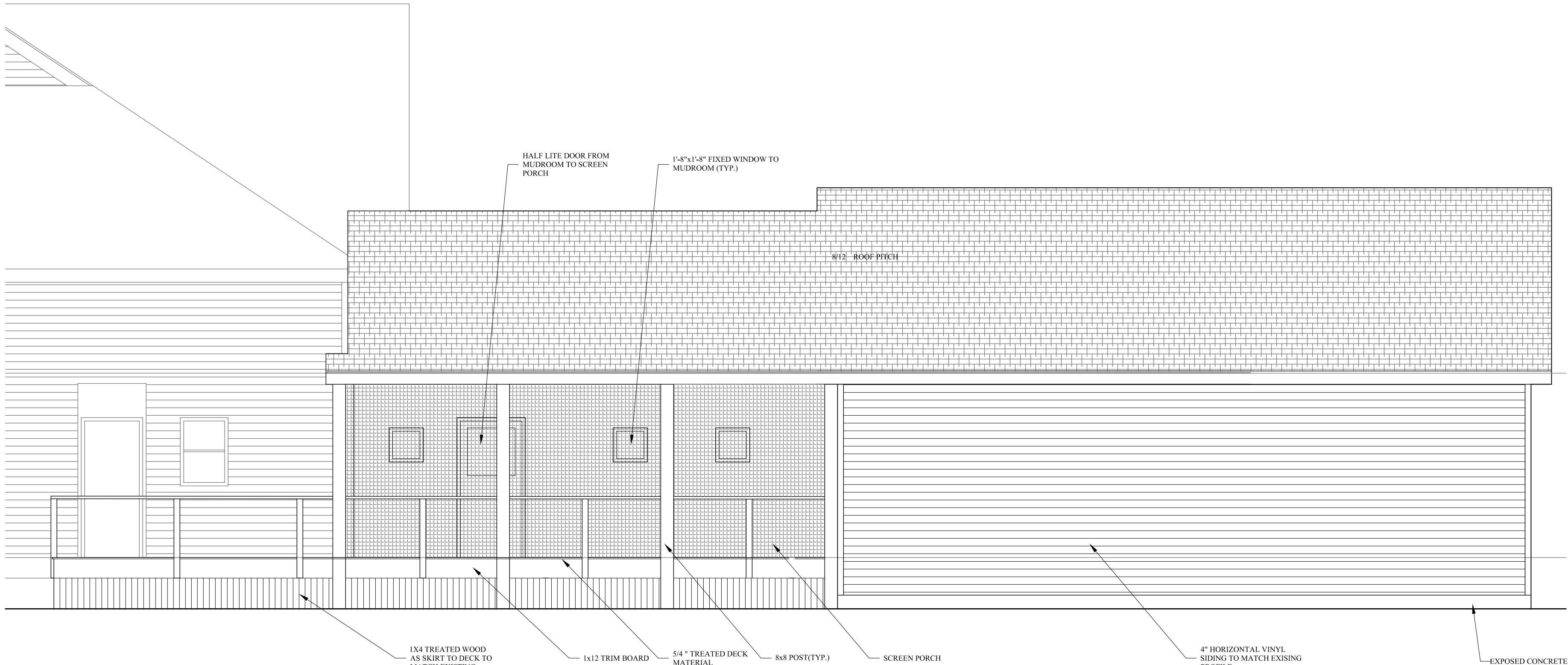
SIGNAL DESIGN, LLC.
317.408.4436

No.	Revision/Issue	Date
1.	DESIGN DEVELOPMENT SET	09/04/20

SKELTON RESIDENCE
540 N. UNION
WESTFIELD, INDIANA
DESIGN DEVELOPMENT DRAWINGS

FOUNDATION PLAN
AND ROOF PLAN

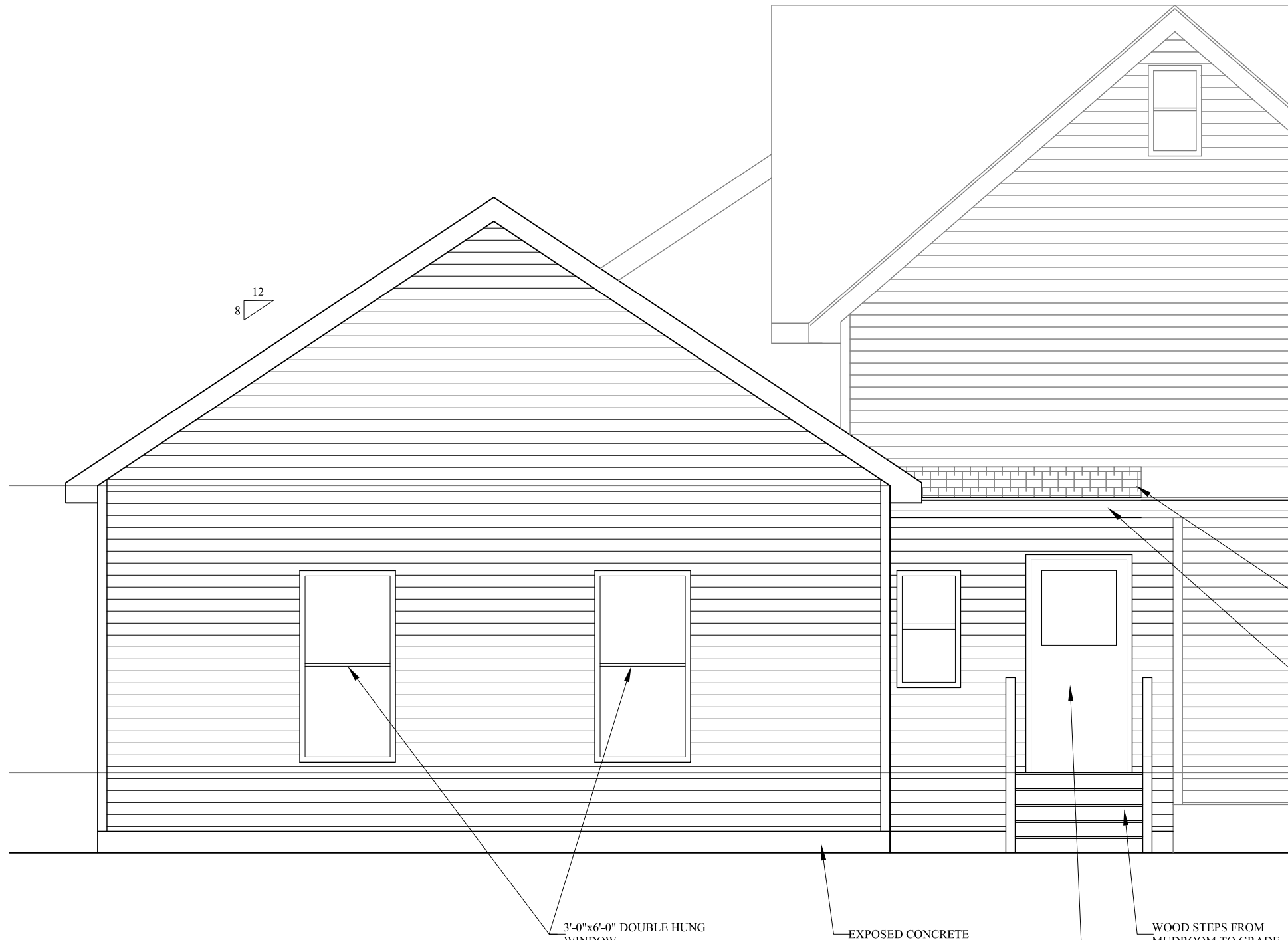
Project No. 2020.14	Sheet No. A202
Date SEPTEMBER 04, 2020	
Scale AS NOTED	



3
A301

SOUTH ELEVATION

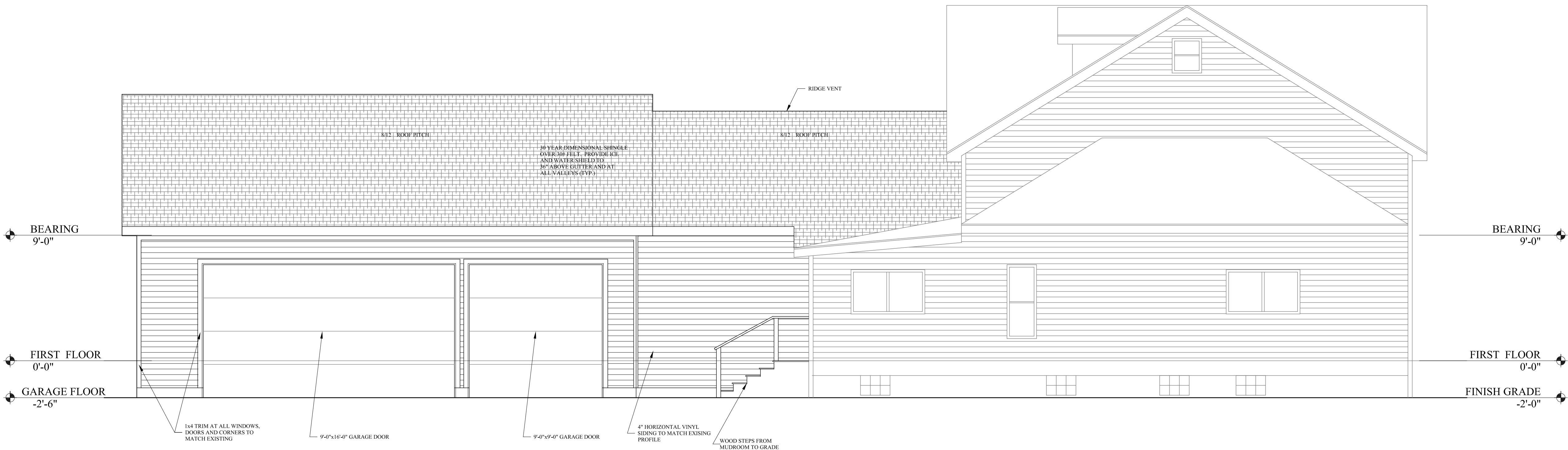
SCALE: 1/4" = 1'-0"



2
A301

EAST ELEVATION

SCALE: 1/4" = 1'-0"



1
A301

NORTH ELEVATION

SCALE: 1/4" = 1'-0"



BIGNAL DESIGN, LLC.
317.408.4436

No.	Revision/Issue	Date
1.	DESIGN DEVELOPMENT SET	09/04/20

SKELTON RESIDENCE
540 N. UNION
WESTFIELD, INDIANA
DESIGN DEVELOPMENT DRAWINGS

ELEVATIONS

Project No. 2020.14	Sheet No. A301
Date SEPTEMBER 04, 2020	
Scale AS NOTED	

VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: _____ FILING DATE: _____

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

PRE-FILING CONFERENCE

PRE-FILING CONFERENCE WITH: Caleb Ernst (STAFF NAME) DATE: 9/30/2020

PRIOR OR RELATED DOCKET NUMBERS

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

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

APPLICANT INFORMATION

APPLICANT'S NAME: Justin M. Hays

ADDRESS: 2 North Ninth Street, Noblesville, IN, 46060

TELEPHONE: 317-773-2190

EMAIL: jhays@cchalaw.com

PROPERTY OWNER'S NAME: Edwin & Jennifer Skelton

ADDRESS: 540 N. Union Street, Westfield, IN, 46074

TELEPHONE: 317-292-8780

EMAIL: edwin.skelton@anthem.com

REPRESENTATIVE'S NAME: Justin M. Hays

COMPANY: Church, Church, Hittle & Antrim

ADDRESS: 2 North Ninth Street, Noblesville, IN, 46060

TELEPHONE: 317-773-2190

EMAIL: jhays@cchalaw.com

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 540 N. Union Street, Westfield, IN 46074

COUNTY PARCEL ID #(S): 09-06-31-03-01-023.00

EXISTING ZONING DISTRICT(S): SF-3 EXISTING LAND USE(S): Single Family - Residential

PROPERTY AND PROJECT INFORMATION

☐ VARIANCE OF LAND USE CODE CITATION: _____

☒ VARIANCE OF DEVELOPMENT STANDARD(S) CODE CITATION: 4.6(E)(2) - Minimum Building Setback Lines - Side Yard

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

STATEMENT OF INTENT (EXPLANATION OF REQUEST - ATTACH SEPARATE SHEET IF NECESSARY): The property owners, Edwin & Jennifer Skelton, request a variance of development standard 4.6(E)(2) for the minimum building setback lines, specifically the side yard, for their property in the SF-3 zoning district. The minimum setback line for a side yard in the Ordinance is 10 feet and the Skelton's setback line for their proposed side yard will be 5 feet.

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.

Justin M. Hays Digitally signed by Justin M. Hays
Date: 2020.09.29 16:24:09 -04'00'

Applicant/Representative (signature)

Justin M. Hays

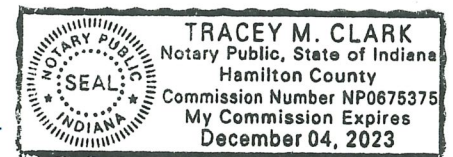
Applicant/Representative (printed)

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 29th day of September, 2020.
State of Indiana, County of Hamilton, SS: _____

Tracey M. Clark
Notary Public (signature)

Tracey M. Clark
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.

Edwin Skelton Digitally signed by Edwin Skelton
Date: 2020.09.30 16:19:52 -04'00'

Property Owner (signature)*

Edwin & Jennifer Skelton

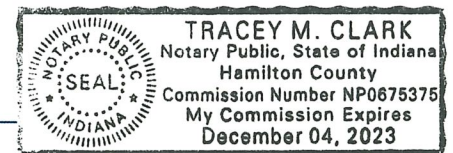
Property Owner (printed)

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 30th day of September, 2020.
State of Indiana, County of Hamilton, SS: _____

Tracey M. Clark
Notary Public (signature)

Tracey M. Clark
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: Justin M. Hays

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: _____
a variance of the minimum side yard setback line does not affect the general welfare of the community.

The only community member affected is the adjacent property owner, and he has consented to the altered side yard setback line.

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 side yard setback line will be altered by five feet and the adjacent property owner has given his consent to the altered setback line.

Adjusting the side yard setback line will not affect the adjacent property owner's use and value of his property in a substantially adverse manner.

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

the setback line must be altered in order to accommodate an addition to the property owners' home. Strictly applying the terms of the Ordinance will result in practical difficulties in constructing the addition of a garage to the property owners' home.

GENERAL INSTRUCTIONS

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

Additional Applicant & Representative

Matt Skelton

317-773-2190

2 North Ninth Street, Noblesville, IN, 46060.

mskelton@cchalaw.com



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

November 10, 2020
2011-VS-34
Exhibit 1

Petition Number: 2011-VS-34

Subject Site Address: 2753 Maple Creek Drive (the "Property")

Petitioner: Clark Byrum (the "Petitioner")

Representative: Daniel Majestic of Perma Pools (the "Representative")

Request: The Petitioner requests a Variance of Development Standard to encroach eight (8) feet into the thirty (30) foot Minimum Rear Yard Setback on 0.34 acres +/- in the SF2: Single-family Low Density District (Article 4.5(E)(3)(a)).

Current Zoning: SF2: Single-family Low Density District

Current Land Use: Residential

Approximate Acreage: 0.34 acres +/-

Exhibits:

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

Staff Reviewer: Corey Harris, Associate Planner

OVERVIEW

Location: The subject property is 0.34 acres +/- in size and located at 2753 Maple Creek Drive (see **Exhibit 2**). The Property is zoned in the SF2: Single-family Low Density District. The Property currently contains a Single-family residence. All properties surrounding are in the SF2: Single-family Low Density District.

Property History: The Secondary Plat Bent Creek, Section 2, was recorded July 01, 2019 (Instrument No. 2019028355).

Variance Request: The Petitioner is requesting a Variance of Development Standard to build a pool that encroaches into the Rear Yard Building Setback Line¹.

¹ The UDO defines a "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."



SUMMARY OF VARIANCES

The Petitioner is requesting to encroach eight (8) feet into the thirty (30) foot Minimum Rear Yard Building Setback Line² as depicted on the Site Plan (see **Exhibit 3**). The Landscape Plan (see **Exhibit 4**) proposes hardscape and landscaping encroaching into the fifteen (15) foot Drainage and Use Easement ("D.&U.E."). This proposal has been reviewed and approved by the Public Works Department with the condition that the Petitioner is responsible to remove anything placed in the easement in case of maintenance.

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this property within the "New Suburban" 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 10, 2020, 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

² Article 4.5(E)(3)(a): Rear Yard Minimum Building Setback Line is 30'.

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.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

November 10, 2020

2011-VS-34

Exhibit 1

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

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

Recommended Conditions:

1. Approval shall only be valid for the pool noted on the Site Plan (**Exhibit 3**).
2. Construction shall be substantially compliant with the Site Plan (**Exhibit 3**) and the Landscape Plan (**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. The use of the property will remain residential and the proposed improvements will be consistent in design with the existing structures.

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

November 10, 2020

2011-VS-34

Exhibit 1

of the subject property; (ii) the improvements will otherwise comply with or exceed the applicable standards; and (iii) the proposed improvements will be consistent in design with the Property.

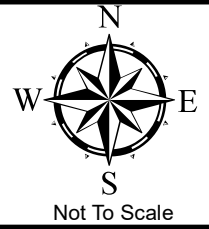
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

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 residential use of the property is otherwise permitted by 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.



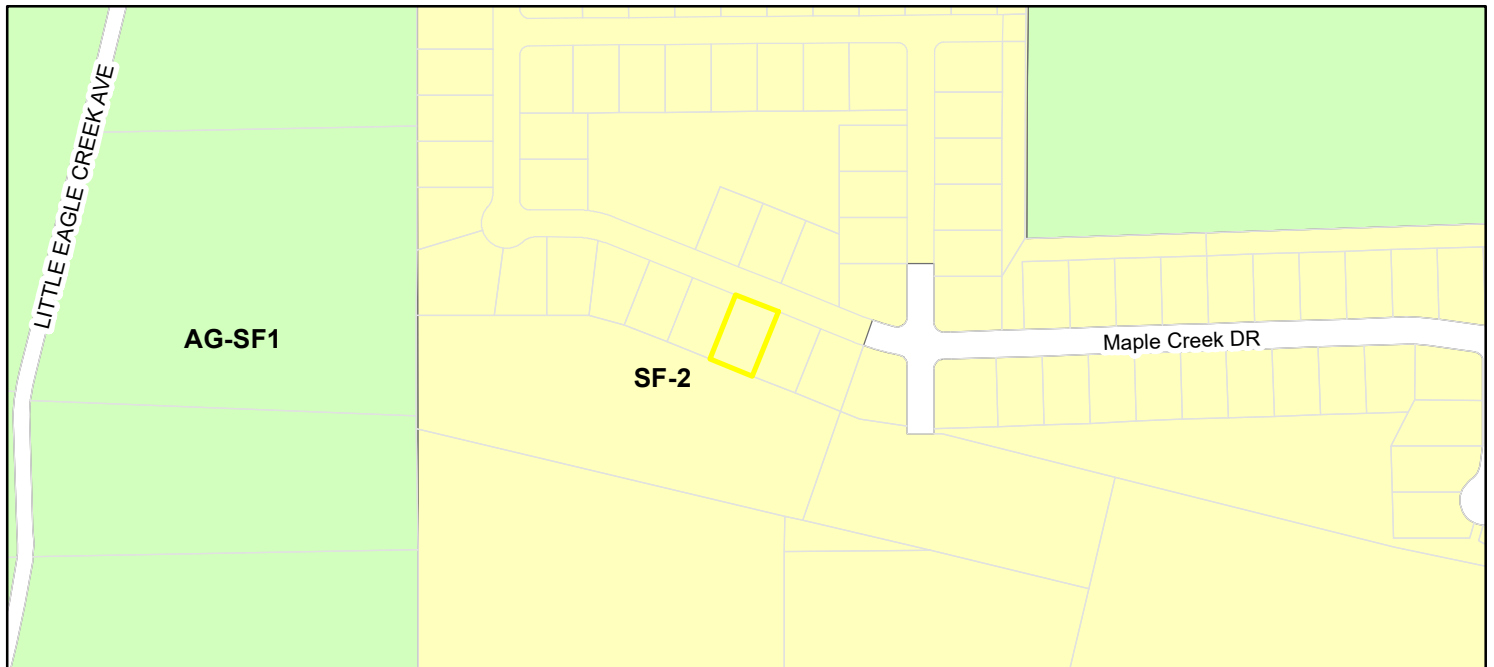
Property Location Map
2753 Maple Creek Drive
Byrum Variance
2011-VS-34



Aerial Location Map



Zoning Map



Parcel Zoning

Zoning - All AG-SF1 (Agriculture - Single Family - 1)

 SF-2 (Single Family - 2)

Exhibit 3

Site Plan



T. A. T.

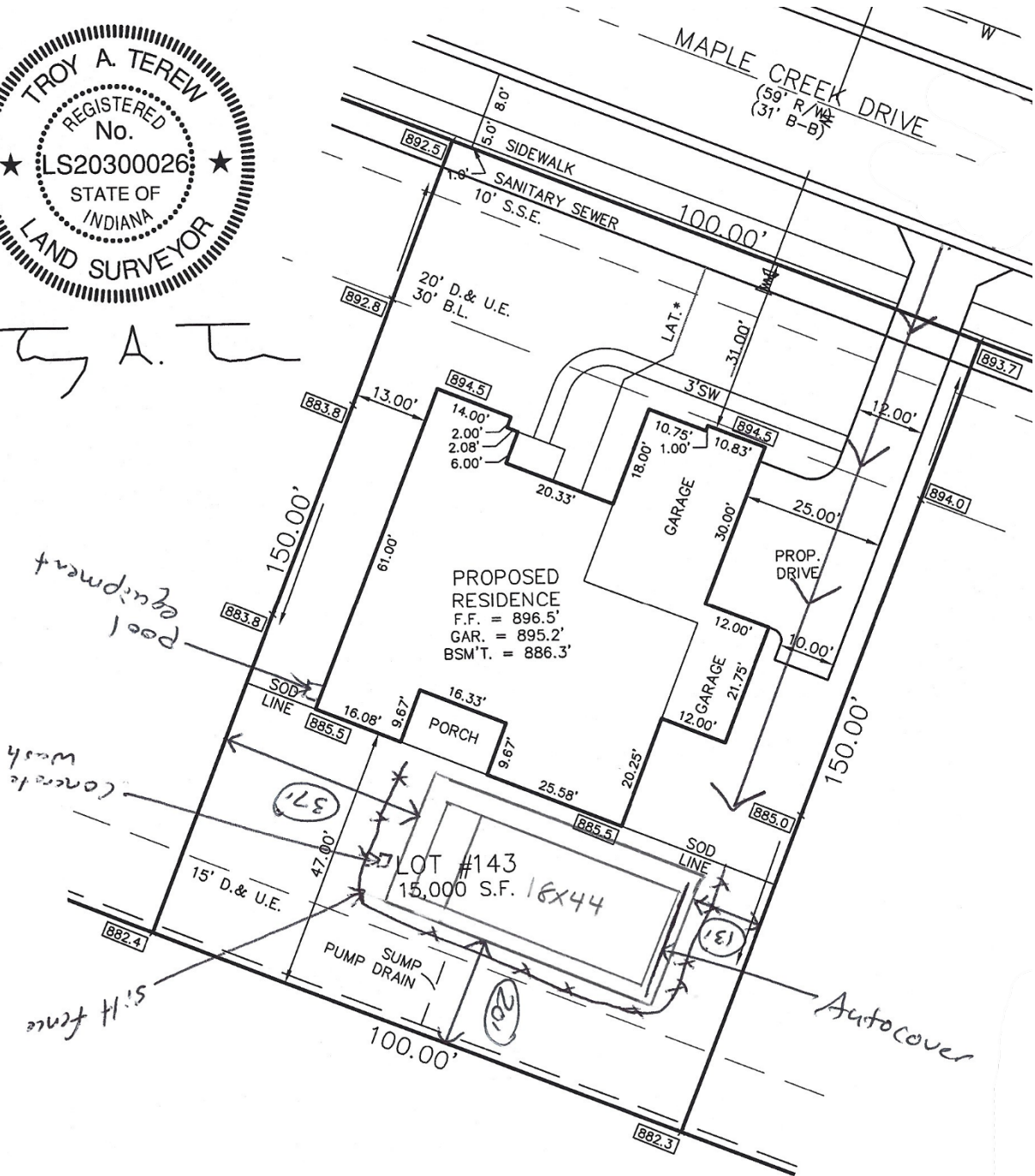
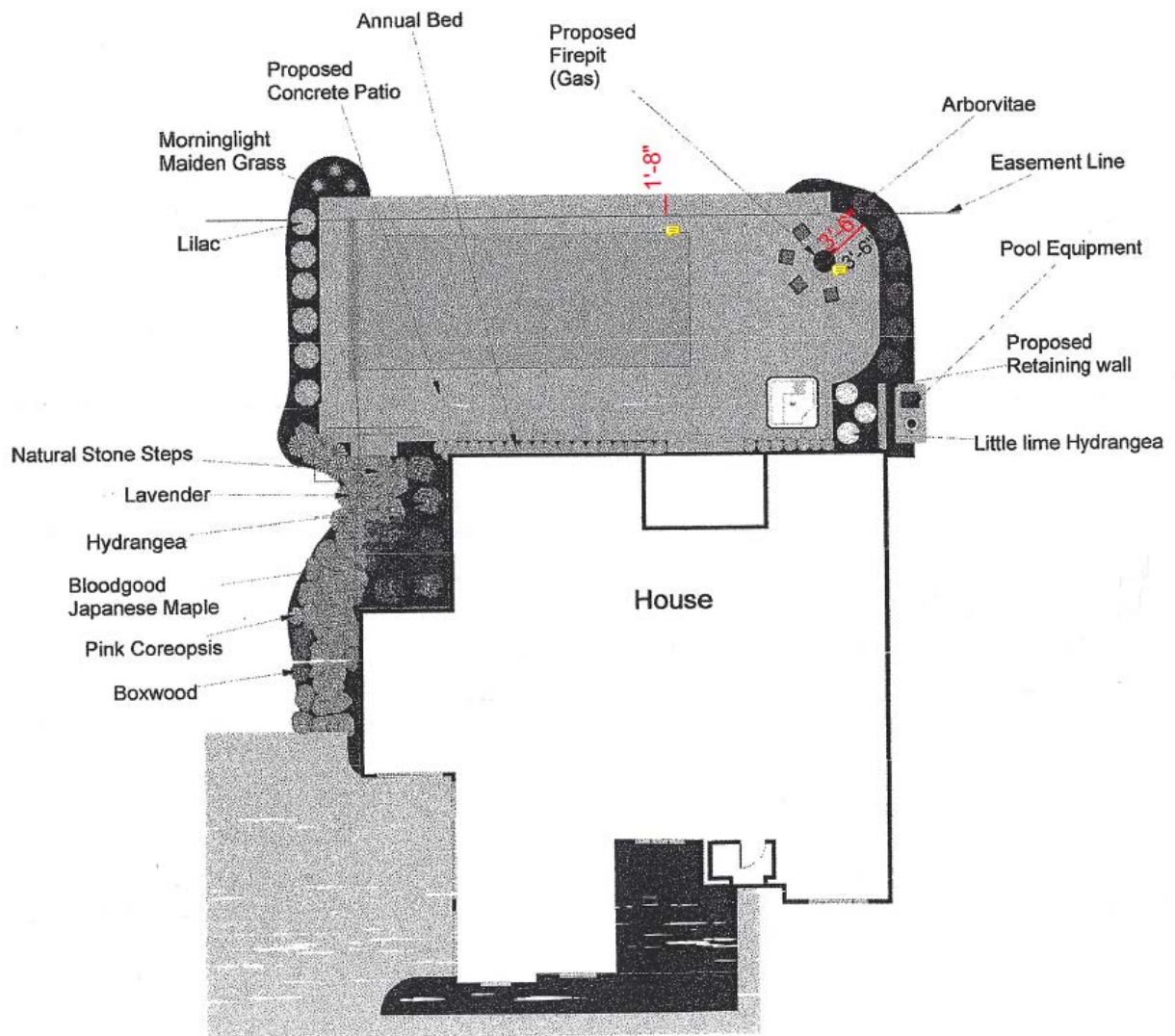


Exhibit 4

Landscape Plan



VARIANCE APPLICATION

DOCKET #: 2011-VS-34

FILING DATE: 9/30/20

OFFICE USE ONLY

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: Perma Pools

ADDRESS: 5245 Elmwood Ave

TELEPHONE: 317-782-9956

EMAIL: daniel@permapools.com

PROPERTY OWNER'S NAME: Clark Byrum

ADDRESS: 2753 Maple Creek Drive

TELEPHONE: 317-626-4093

EMAIL: N/A

REPRESENTATIVE'S NAME: Daniel Majestic

COMPANY: Perma Pools

ADDRESS: 5245 Elmwood Ave

TELEPHONE: 317-363-4198

EMAIL: daniel@permapools.com

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 2753 Maple Creek DR

COUNTY PARCEL ID #(S): 08-09-08-00-03-028.000

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

PROPERTY AND PROJECT INFORMATION

☐ VARIANCE OF LAND USE CODE CITATION: _____

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

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

We are apply for a variance so we can build this
pool and deck in the backyard.

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)

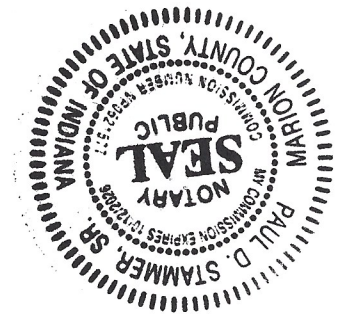
Daniel Majestic
Applicant/Representative (printed)

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 30 day of Sept, 2020
State of IN, County of Marion, SS: [Signature]

[Signature]
Notary Public (signature)

Paul Stammer
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)*

Clark Byrum
Property Owner (printed)

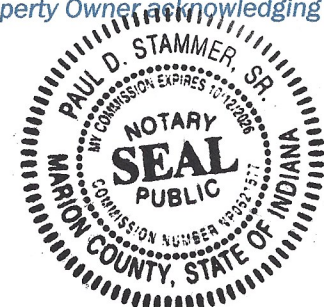
Before me the undersigned, a Notary Public in and for said County and State, personally appeared the Property Owner, who having been duly sworn acknowledged and consents to the execution of the foregoing Application.

Witness my hand and Notarial Seal this 30 day of Sept, 2020
State of IN, County of Marion, SS: [Signature]

[Signature]
Notary Public (signature)

Paul Stammer
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 DEVELOPMENT STANDARD)

APPLICANT: Perma Pools Corp 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: _____

Pools are now adding value to homes because of
the pandemic so we don't see this as a problem

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: _____

Because the pool doesn't go behind the
15ft drainage easement.

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

It will do nothing to the property.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

November 10, 2020
2011-VS-38
Exhibit 1

Petition Number: 2011-VS-38

Subject Site Address: 15702 Hidden Oaks Court (the "Property")

Petitioner: Patrick and Beth McIlvenna (the "Petitioner")

Representative: Jon Dobosiewicz of Nelson & Frankenberger, LLC (the "Representative")

Request: The Petitioner requests a Variance of Development Standard to encroach twenty-five (25) feet into the fifty-five (55) foot Minimum Rear Yard Setback on 0.69 acres +/- in the Bridgewater PUD District.

Current Zoning: Bridgewater PUD District

Current Land Use: Residential

Approximate Acreage: 0.69 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Site Plan
4. ARB/HOA Approval
5. Presentation
6. Proposed Conditions and Findings of Fact
7. Application

Staff Reviewer: Corey Harris, Associate Planner

OVERVIEW

Location: The subject property is 0.69 acres +/- in size and located at 15702 Hidden Oaks Court (see **Exhibit 2**). The Property is zoned the Bridgewater PUD District. The Property currently contains a Single-family residence. All properties surrounding are in the Bridgewater PUD District.

Property History: The Secondary Plat, The Bridgewater Club, Section F, was recorded May 11, 2005 (Instrument No. 200500028681).

Variance Request: The Petitioner is requesting a Variance of Development Standard to build a pool that encroaches into the Rear Yard Building Setback Line¹.

¹ The UDO defines a "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."



SUMMARY OF VARIANCES

The Petitioner is requesting to encroach twenty-five (25) feet into the established fifty-five (55) foot Minimum Rear Yard Building Setback Line² as depicted on the Site Plan (see **Exhibit 3**).

COMPREHENSIVE PLAN

The Westfield-Washington Township Comprehensive Plan identifies this property within the “Existing Suburban” 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 10, 2020, 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

² The Bridgewater Club, Section F, Secondary Plat establishes the Property’s Rear Yard Minimum Building Setback Line at fifty-five (55) feet.

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.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

November 10, 2020

2011-VS-38

Exhibit 1

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

Approval: If the Board is inclined to approve the variance, then the Department recommends the following conditions and findings as provided by the Representative:

Recommended Conditions:

1. That the variance is applicable to the swimming pool and hardscape as generally illustrated on the Site Plan (**Exhibit 3**). The swimming pool shall be installed in general conformance with the Site Plan as determined by the Director of the Westfield Department of Community Development.
2. The landscaping and screening be provided, at a minimum, as generally illustrated on the Site Plan (**Exhibit 3**).

Recommended Findings for Approval:

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

Finding: A swimming pool is permitted on single-family lots in the Bridgewater subdivision. All associated attributes of a pool, which is permitted on the lot, are the same regardless of the position on the lot. The characteristics of a pool in general, and the impact of a pool on areas adjacent to a property, are not the subject of the variance request.



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

November 10, 2020

2011-VS-38

Exhibit 1

The request is for a variance regarding the location of a swimming pool, which is permitted, and relates to where a swimming pool will be located in relation specifically to the rear yard of a lot internal to an existing subdivision and will have little, if any, impact on the community. The proposed site plan also provides for significant landscaping and screening including the rear of the lot along the golf course which has been reviewed and approved by the Bridgewater Master Association.

As a result, the approval of the proposed variance, allowing the reduced pool setback, 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:

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

Additionally, as noted above, a swimming pool is permitted on single-family lots in the Bridgewater subdivision. All associated attributes of a swimming pool, which is permitted of the lot, are the same regardless of the position on the lot. The characteristics of a swimming pool in general, and the impact of a swimming pool on areas adjacent to a property, are not the subject of the variance request.

The request is for a variance is regarding the location of a swimming pool, which is permitted, and relates to where a swimming pool will be located in relation specifically to the rear yard of the subject lot. While the swimming pool location will have little, if any, impact on surrounding properties the proposed plan provides for significant landscaping and screening including the rear of the lot along the golf course and abutting properties which has been reviewed and approved by the Bridgewater Master Association. The significant landscaping, and screening, otherwise not required, will arguably have a positive impact on the area adjacent to the property and benefit abutting neighbors and patrons of the golf course. Further, construction of the swimming pool, absent approval of the limited variance, may significantly reduce or in some cases eliminate landscape and other hardscape focal points of the property which benefit adjacent surrounding properties.

As a result, the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

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



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS

November 10, 2020

2011-VS-38

Exhibit 1

Finding: The request is for a variance regarding the location of a swimming pool, which is permitted, and relates to where a swimming pool will be located in relation specifically to the rear yard of the subject lot.

The strict application of the Zoning Ordinance would not permit the construction of the swimming pool, as previously described above, without site development changes that would significantly reduce or in some cases eliminate landscape and other hardscape focal points of the property. The strict application of terms of the Zoning Ordinance to the property will result in a practical difficulty because the Applicant will be unable to construct a swimming pool that, with the granting of the limited variance, allows the Applicant to provide enhanced landscaping and hardscape aesthetics than a design that could otherwise be achieved under a layout which adheres to the building setback.

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
15702 Hidden Oaks Court
McIlvenna Variance
2011-VS-38



Aerial Location Map



Zoning Map

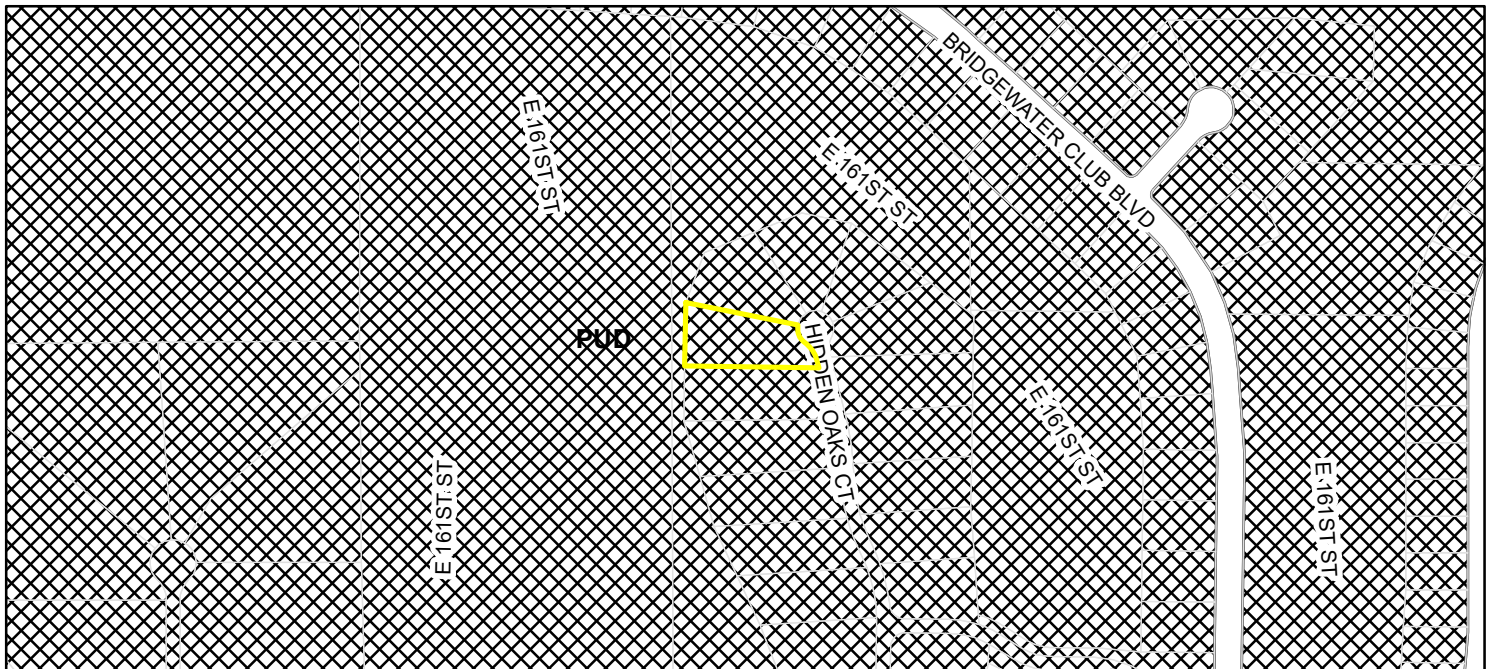
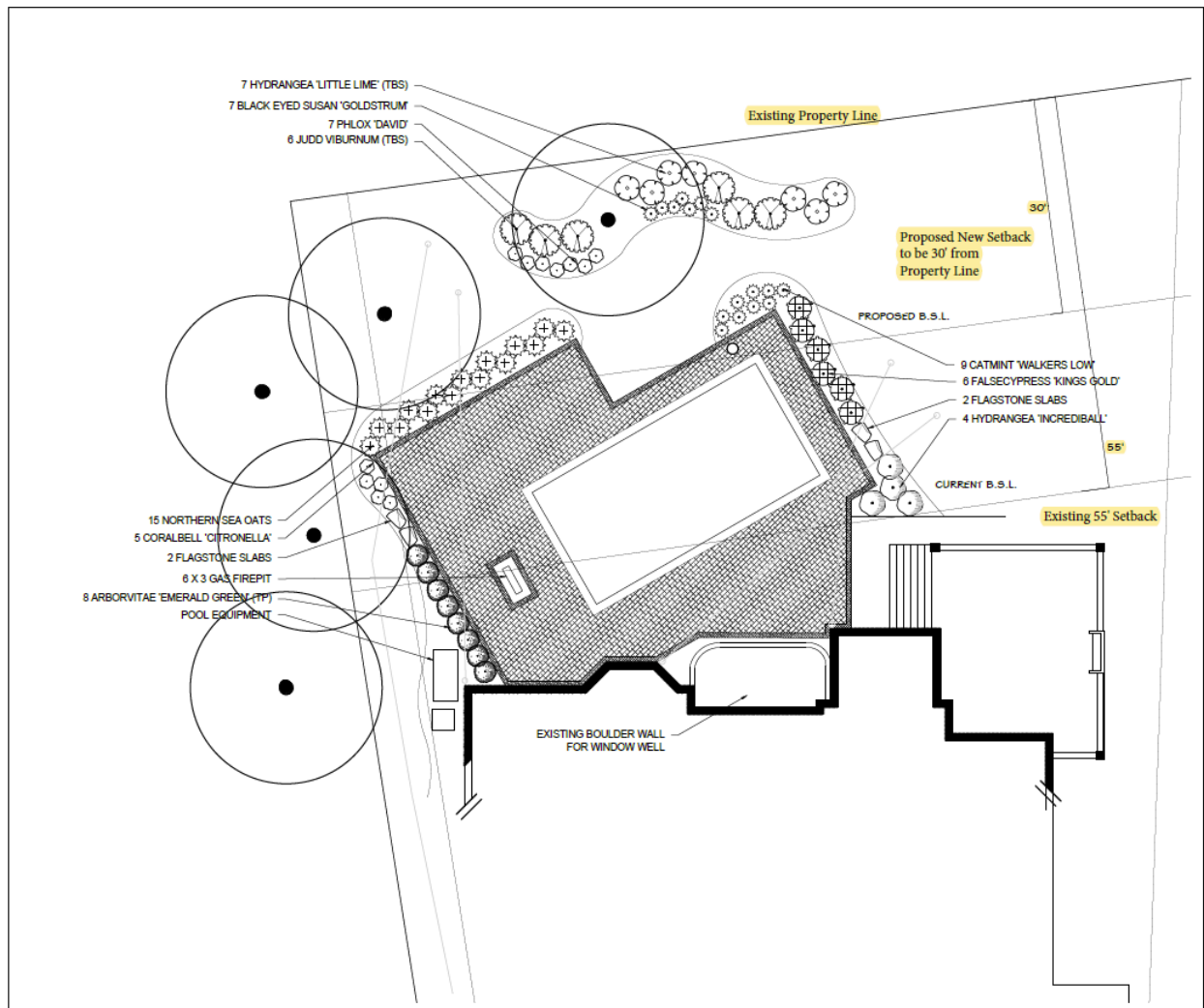


Exhibit 3

Site Plan



REQUEST FOR ARCHITECTURAL CHANGE

Please Print

1. Community: **The Bridgewater Club Master Owners Association** Lot #: _____

Name: Patrick and Beth McIlvenna Address: 15702 Hidden Oaks Court

Phone: 317-727-3671 Fax: _____ EMAIL ADDRESS: patmc@pbmws.com

FOR ALL SUBMISSIONS THE FOLLOWING ATTACHMENTS ARE REQUIRED:

- ☐ A Plot Plan or a Surveyors Location Report of your lot should have been provided at closing.
Please indicate the location of the proposed addition/improvement will be installed (on a copy).
 - ☐ Please include Elevations and Blueprints or working drawings indicating all dimensions.
 - ☐ If available, a photograph or drawing of a similar completed project.
- THE COMMITTEE MAY TAKE UP TO 30 DAYS TO REPLY – PLEASE PLAN ACCORDINGLY – THANK YOU!

2. Requesting architectural approval of the following: x Improvement _____ Addition _____ Repair/Replacement _____

Briefly describe the proposed change: Adding an inground pool and additional stamped concrete

Extending setback line 25' (needing a variance) from existing setback line to the West

Location: Rear of Home Dimensions: 18' x 36' (pool)

Please list below the major construction materials that will be used in this project. Be as specific as possible: _____

Mostly Concrete – will be Granite pool

***Requests for exterior color/materials changes MUST submit samples of color, paint, brick, etc.
(Exterior materials must conform to the original construction or be sufficiently compatible.)***

4. Project schedule:

A. The work will be performed by: Homeowner _____ or Contractor Name Mike McGee & Property Pros

B. Subsequent to the committee approval,
please indicate the projected start date November/December 2020
please indicate the projected end date June 2021

C. Please indicate all required permits (building, etc.) Variance of Setback, Building Permit

5. Will any part of the proposed improvement extend beyond your property line? Yes _____ No X

6. Will any part of the proposed improvement extend into any Common Area, any Utility, Drainage or Sewer Easement, Landscape, Preservation or Lake Easement shown on the plot plan of your lot? Yes X No _____

Will extend 25' from existing setback line to the West

ARCHITECTURAL CHANGE STANDARDS

I understand that under the Declaration and the rules and regulations, the Board will act on this request and provide me with a written response of their decision. I further understand and agree to the following provisions:

1. No work or commitment of work will be made by me until I have received written approval from the Association.
2. All work will be done at my expense and all future upkeep will remain at my expense.
3. All work will be done expeditiously once commenced and will be done in a good workman-like manner by myself and/or a licensed and insured contractor.
4. All work will be performed at a time and in a manner to minimize interference and inconvenience to other owners.
5. I assume all liability and responsibility for all damage and/or injury which may result from performance of this work.
6. I will be responsible for the conduct of all persons, agents, contractors, and employees connected with this work.
7. I understand that any and all improvements placed in a drainage, utility, sewer, landscape or other easement is at my risk. I accept the responsibility for repair and/or replacement of improvements when utility, drainage or sewer principals, developer or other authorized party removes improvements for access to the easement.
8. I will be responsible for complying with, and will comply with, all applicable federal, state and local laws, codes, the community governing documents, regulations and requirements in connection with this work, and I will obtain any necessary governmental permits and approvals for the work. I understand and agree that the Association, its Board of Directors, its Agent and/or the Committee have no responsibility with respect to such compliance and that the Board of Director's and/or its designated Committee's approval of this request shall not be understood as the making of any representation or warranty that the plans, specifications or work comply with any law, code, covenant, regulation and/or requirement

I hereby acknowledge that I have read and understand the ARCHITECTURAL CHANGE STANDARDS set forth by the Board, as well as the Declaration of Covenants and Restrictions.

Homeowner's Signature: _____

Date: _____

**NOTE: All submitted materials shall remain the property of the Association.
You may wish to make a copy for your personal records.**

For ALL Submissions
Be sure to include the requested attachments listed on the previous page.

Please return the completed documents to:

The Bridgewater Club Master Association
Attn: Architectural Review Board, David Mennel
3535 East 161st St
Carmel, IN 46033
Email: david.mennel@thebridgewaterclub.com
Phone: 317-399-2490

..... For Office Use Only

Architectural Committee Action:

Date received: _____

(☒) Approved as submitted

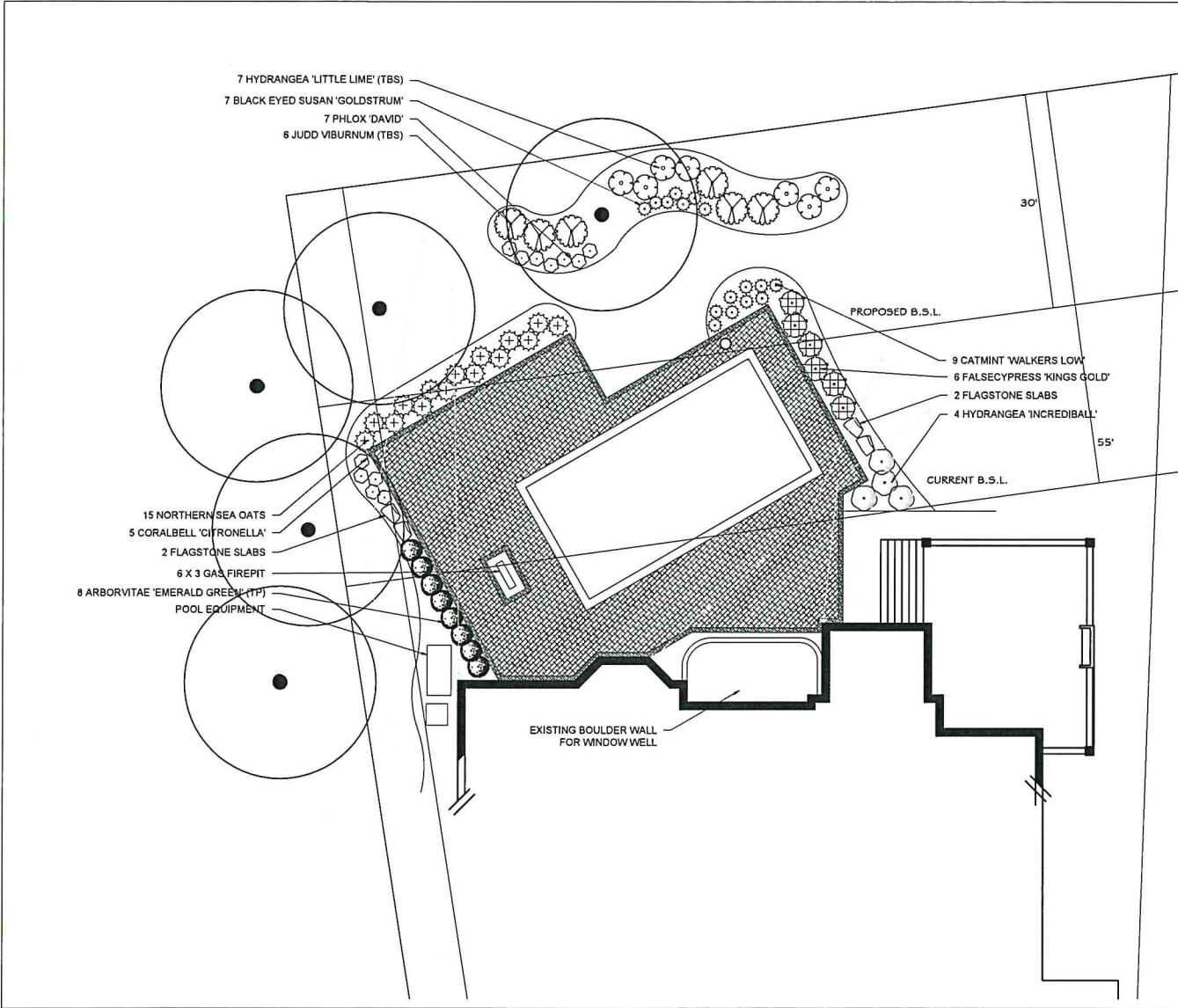
(☒) Approved with restrictions as follows: This submittal includes the landscape
as per described

() Deferred: Please supply additional information: _____

() Denied: ARB Comments: _____

Committee Signature: _____

Date: _____



PREPARED FOR:
**McIlvenna
 RESIDENCE**
 15702 Hidden Oak Court
 Carmel, IN 46033

**PROPERTY
 PROS**



ALL REAR, DESIGN, ARRANGEMENTS, AND PLANS REPRESENTED BY THIS DRAWING ARE PROPERTY OF PROPERTY PROS LAND MANAGEMENT, LLC AND WERE CREATED AND DEVELOPED FOR USE ON AND IN CONNECTION WITH THE SPECIFIED PROJECT. NONE OF THE REAR, DESIGN, ARRANGEMENTS, OR PLANS SHALL BE USED BY OR DISCLOSED TO ANY PERSON, FIRM, OR CORPORATION FOR ANY PURPOSE WITHOUT THE WRITTEN PERMISSION OF PROPERTY PROS LAND MANAGEMENT, LLC. WRITTEN DIMENSIONS ON THESE DRAWINGS SHALL HAVE PRECEDENCE OVER SCALE DIMENSIONS. CONTRACTORS SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS ON THE JOB. THE DESIGNER MUST BE NOTIFIED OF ANY VARIATIONS FROM THE DIMENSIONS AND CONDITIONS SHOWN ON THESE DRAWINGS.

ISSUED FEBRUARY 29, 2020

REVISIONS		
No.	Date	Issue

DRAWN BY: **Rumery Martinez** CHECKED BY: **Jeff Mull**

SHEET TITLE
**LANDSCAPE &
 HARDSCAPE PLAN**

SCALE IN FEET 1/8" = 1'-0"
 0' 4' 8' 24'



Dear Homeowner:

Any lot improvement made or installed within an easement is at the owner's risk regardless of the approval by the Architectural Control Committee. If for any reason repairs and or maintenance are required in the easement, any improvement(s) that are removed will not be reinstalled by the utility company or contractor.

This waiver must be signed and returned with the Request for Architectural Change, to protect you and the HOA of your community. It is to verify that you have a full understanding of the responsibilities and risk of developing an improvement into an easement.

If you are developing into an easement, it is also your responsibility to have the utilities marked prior to commencing by calling "Holey Moley" Indiana Underground Services @ 811.

EASEMENT WAIVER

This document is an acknowledgment that I/we, Patrick and Beth McIlvenna
NAME OF HOMEOWNER (S)

the owner(s) of the property located at 15702 Hidden Oaks Court, Carmel, IN.
STREET ADDRESS CITY

of the Hidden Oaks Homeowners Association Lot # _____ will be
NAME OF SUBDIVISION

installing Inground pool and additional stamped concrete

that extends into a drainage and/or utility and/or sewage easement and accepts full responsibility of any cost to replace this improvement if the utility company, developer or other authorized party needs to gain access to that area by removal of said improvement.

Patrick McIlvenna
Signature of Homeowner

9/30/20
Date

Beth McIlvenna
Signature of Homeowner

9/30/20
Date

Return all required documentation to: The Bridgewater Club Master Association
Attn: Architectural Review Board, David Mennel
3535 East 161st St
Carmel, IN 46033
Email; david.mennel@thebridgewaterclub.com
Phone; 317-399-2490

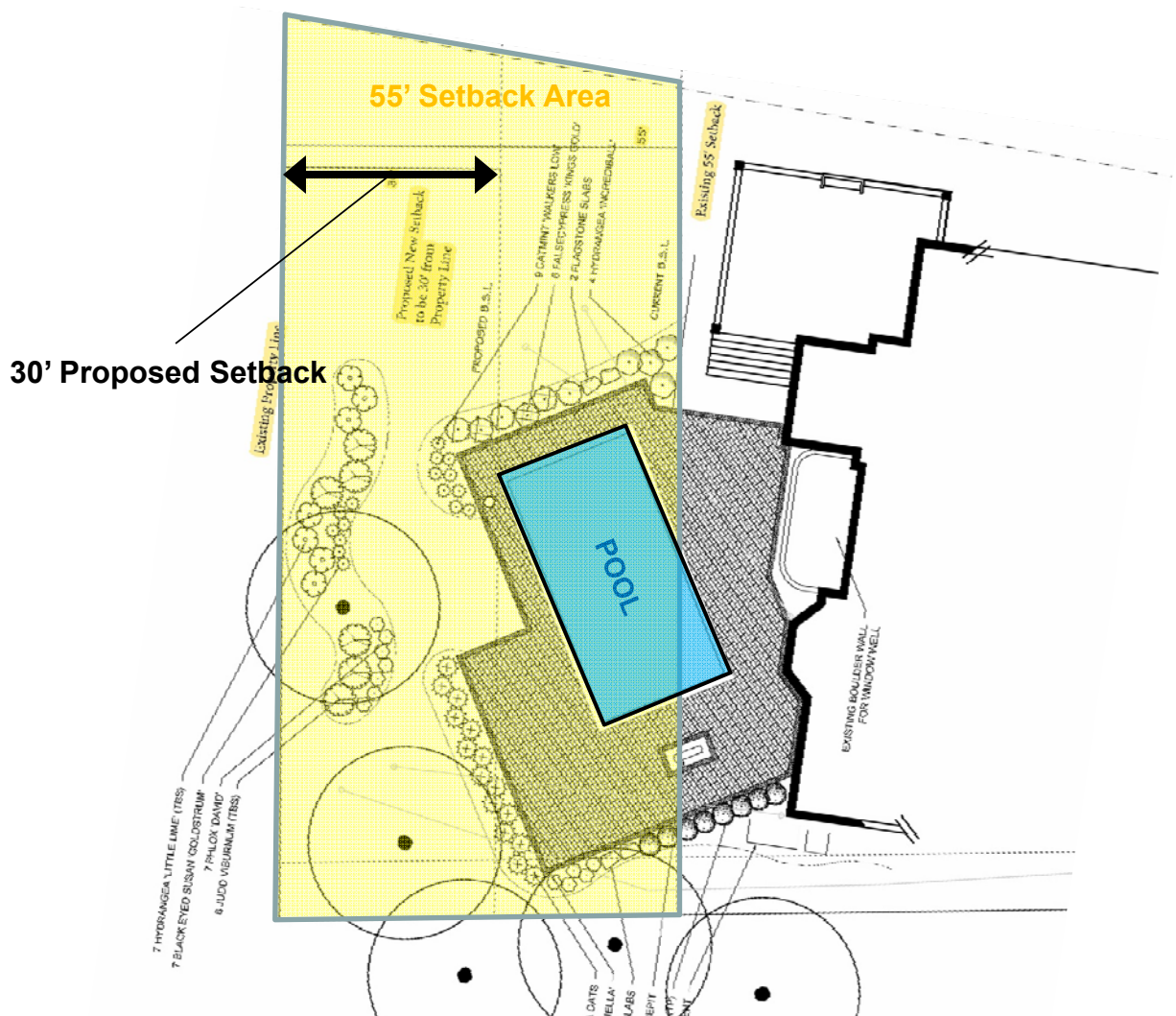








Site Location Map



McIlvenna Residence
Site Plan



ALL IDEAS, DESIGNS, ARRANGEMENTS, AND PLANS REPRESENTED BY THIS DRAWING ARE PROPERTY OF PROPERTY PROS LAND MANAGEMENT, LLC AND WERE CREATED AND DEVELOPED FOR USE ON AND IN CONNECTION WITH THE SPECIFIED PROJECT. NONE OF THE IDEAS, DESIGNS, ARRANGEMENTS, OR PLANS SHALL BE USED BY OR DISCLOSED TO ANY PERSON, FIRM, OR CORPORATION FOR ANY PURPOSE WHATSOEVER WITHOUT THE WRITTEN PERMISSION OF PROPERTY PROS LAND MANAGEMENT, LLC. WRITTEN DIMENSIONS ON THESE DRAWINGS SHALL HAVE PRECEDENCE OVER SCALE DIMENSIONS. CONTRACTORS SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS ON THE JOB. THE DESIGNER MUST BE NOTIFIED OF ANY VARIATIONS FROM THE DIMENSIONS AND CONDITIONS SHOWN BY THESE DRAWINGS.

ISSUED FEBRUARY 29, 2020

REVISIONS

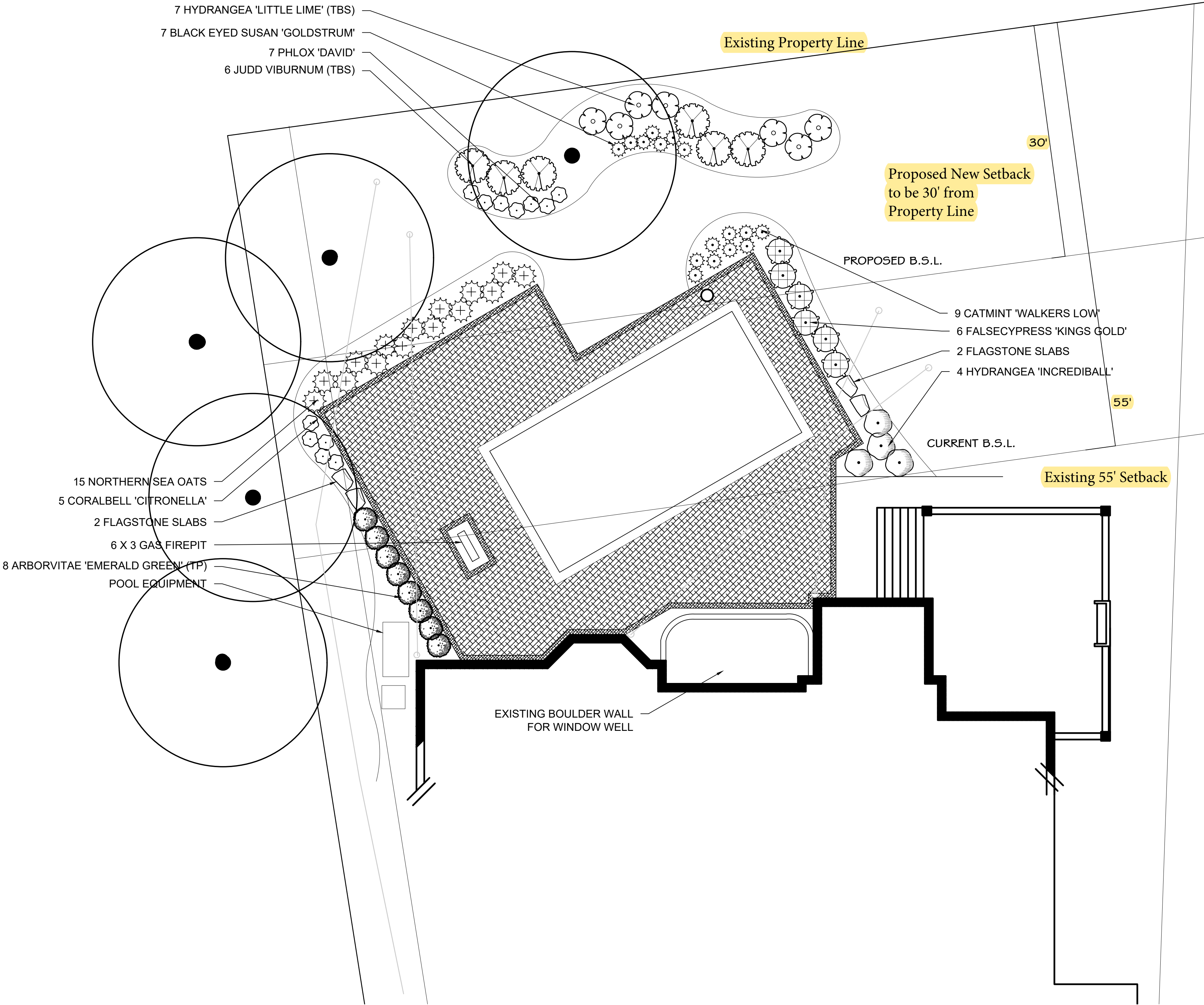
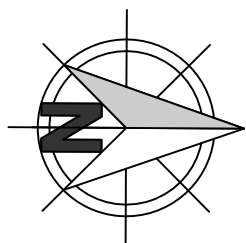
No.	Date	Issue

DRAWN BY: CHECKED BY:
Kimberly Martinez Jeff Mull

SHEET TITLE

**LANDSCAPE &
HARDSCAPE PLAN**

SCALE IN FEET 1/8" = 1'-0"
0' 4' 8' 24'





Eastern view of house from golf course

McIlvenna Residence

Pool Illustrations



McIlvenna Residence
Pool Illustrations



LOOKING SOUTH FROM POOL AREA



LOOKING EAST FROM POOL AREA



LOOKING NORTH FROM POOL AREA



LOOKING WEST FROM POOL AREA



LOOKING NORTHWEST FROM POOL AREA



LOOKING SOUTHWEST FROM POOL AREA



LOOKING EAST FROM GOLF CART PATH AT BACK OF HOME



LOOKING AT POOL AREA FROM HOUSE



LOOKING NORTHEAST AT POOL AREA



LOOKING SOUTHEAST AT POOL AREA

**WESTFIELD BOARD OF ZONING APPEALS
WESTFIELD, INDIANA**

Docket No.: 2011-VS-38

Petitioner: Patrick and Beth McIlvenna

Variance Explanation: A swimming pool is permitted on single-family lots in the Bridgewater subdivision. In this regard, the Applicant seeks approval to allow a reduction in the rear yard setback due to the positioning of the swimming pool, as noted in the variance application. The location of the swimming pool is identified on the site plan which, as illustrated, partially encroaches into the rear yard setback. The subject of the variance is the encroachment of the swimming pool into the setback and the application of the UDO as it applies to the proposed setback.

The Applicant further seeks approval of the variance subject to the following conditions and limitations:

1. That the variance is applicable to the swimming pool and hardscape as generally illustrated on the site plan. The swimming pool shall be installed in general conformance with the site plan as determined by the Director of the Westfield Department of Community Development.
2. That landscaping and screening be provided, at a minimum, as generally illustrated on the site plan.

The above conditions and limitations relating to the character, location, landscaping, and screening of the subject pool setback, are included in the request to prevent the potential of any adverse effects upon other property and improvements in the vicinity of the subject Lot. Such conditions are expressly included in the request for approval of the variance.

FINDINGS OF FACT

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

A swimming pool is permitted on single-family lots in the Bridgewater subdivision. All associated attributes of a pool, which is permitted on the lot, are the same regardless of the position on the lot. The characteristics of a pool in general, and the impact of a pool on areas adjacent to a property, are not the subject of the variance request.

The request is for a variance regarding the location of a swimming pool, which is permitted, and relates to where a swimming pool will be located in relation specifically to the rear yard of a lot internal to an existing subdivision and will have little, if any, impact on the community. The proposed site plan also provides for significant landscaping and screening including the rear of the lot along the golf course which has been reviewed and approved by the Bridgewater Master Association.

As a result, the approval of the proposed variance, allowing the reduced pool setback, 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 because:

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

Additionally, as noted above, a swimming pool is permitted on single-family lots in the Bridgewater subdivision. All associated attributes of a swimming pool, which is permitted of the lot, are the same regardless of the position on the lot. The characteristics of a swimming pool in general, and the impact of a swimming pool on areas adjacent to a property, are not the subject of the variance request.

The request is for a variance is regarding the location of a swimming pool, which is permitted, and relates to where a swimming pool will be located in relation specifically to the rear yard of the subject lot. While the swimming pool location will have little, if any, impact on surrounding properties the proposed plan provides for significant landscaping and screening including the rear of the lot along the golf course and abutting properties which has been reviewed and approved by the Bridgewater Master Association. The significant landscaping and screening, otherwise not required, will arguably have a positive impact on the area adjacent to the property and benefit abutting neighbors and patrons of the golf course. Further, construction of the swimming pool, absent approval of the limited variance, may significantly reduce or in some cases eliminate landscape and other hardscape focal points of the property which benefit adjacent surrounding properties.

As a result, the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

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

The request is for a variance regarding the location of a swimming pool, which is permitted, and relates to where a swimming pool will be located in relation specifically to the rear yard of the subject lot.

The strict application of the Zoning Ordinance would not permit the construction of the swimming pool, as previously described above, without site development changes that would significantly reduce or in some cases eliminate landscape and other hardscape focal points of the property. The strict application of terms of the Zoning Ordinance to the property will result in a practical difficulty because the Applicant will be unable to construct a swimming pool that, with the granting of the limited variance, allows the Applicant to provide enhanced landscaping and hardscape aesthetics than a design that could otherwise be achieved under a layout which adheres to the building setback.



ALL IDEAS, DESIGNS, ARRANGEMENTS, AND PLANS REPRESENTED BY THIS DRAWING ARE PROPERTY OF PROPERTY PROS LAND MANAGEMENT, LLC AND WERE CREATED AND DEVELOPED FOR USE ON AND IN CONNECTION WITH THE SPECIFIED PROJECT. NONE OF THE IDEAS, DESIGNS, ARRANGEMENTS, OR PLANS SHALL BE USED BY OR DISCLOSED TO ANY PERSON, FIRM, OR CORPORATION FOR ANY PURPOSE WHATSOEVER WITHOUT THE WRITTEN PERMISSION OF PROPERTY PROS LAND MANAGEMENT, LLC. WRITTEN DIMENSIONS ON THESE DRAWINGS SHALL HAVE PRECEDENCE OVER SCALE DIMENSIONS. CONTRACTORS SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS ON THE JOB. THE DESIGNER MUST BE NOTIFIED OF ANY VARIATIONS FROM THE DIMENSIONS AND CONDITIONS SHOWN BY THESE DRAWINGS.

ISSUED FEBRUARY 29, 2020

REVISIONS

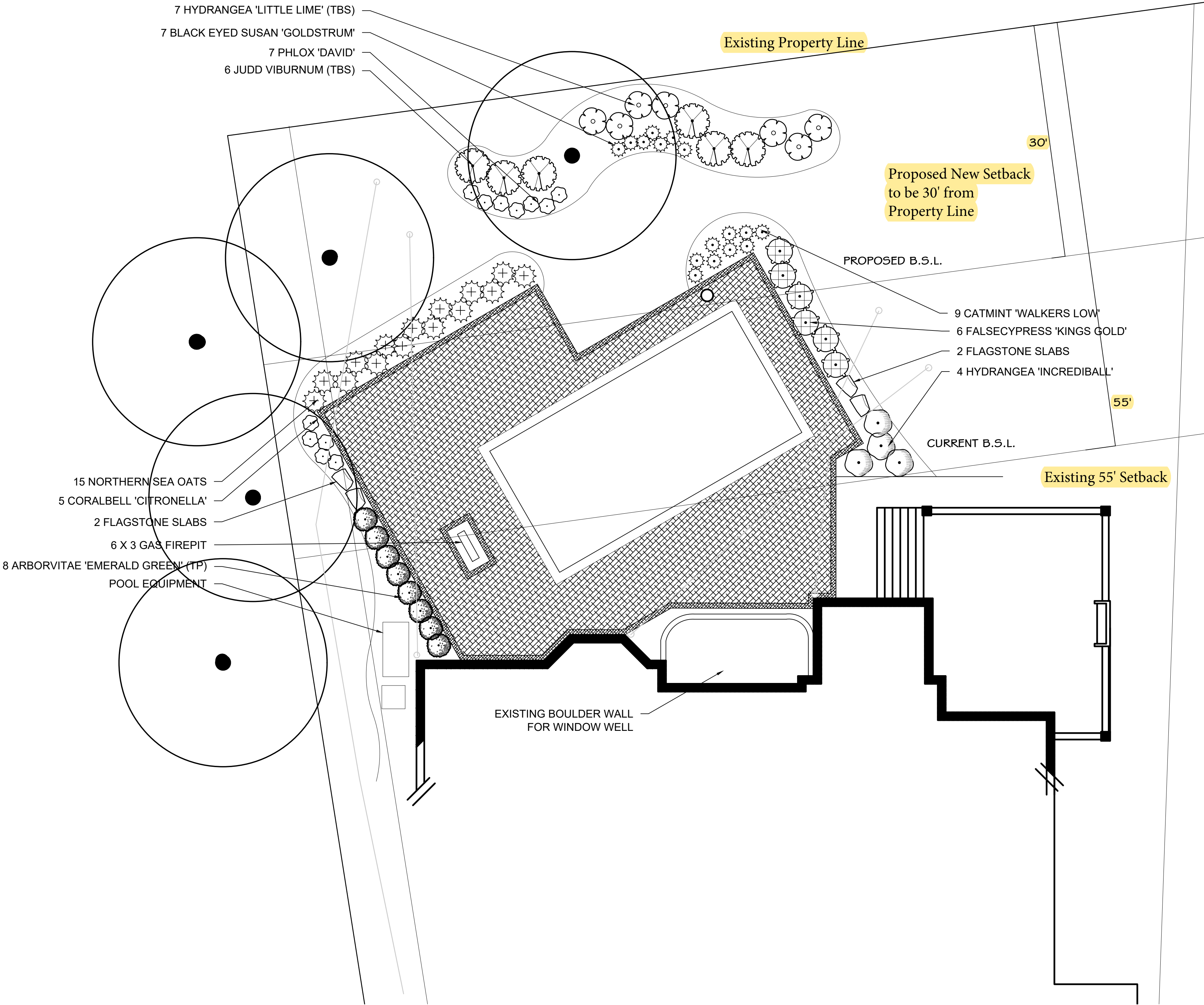
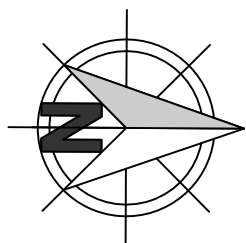
No.	Date	Issue

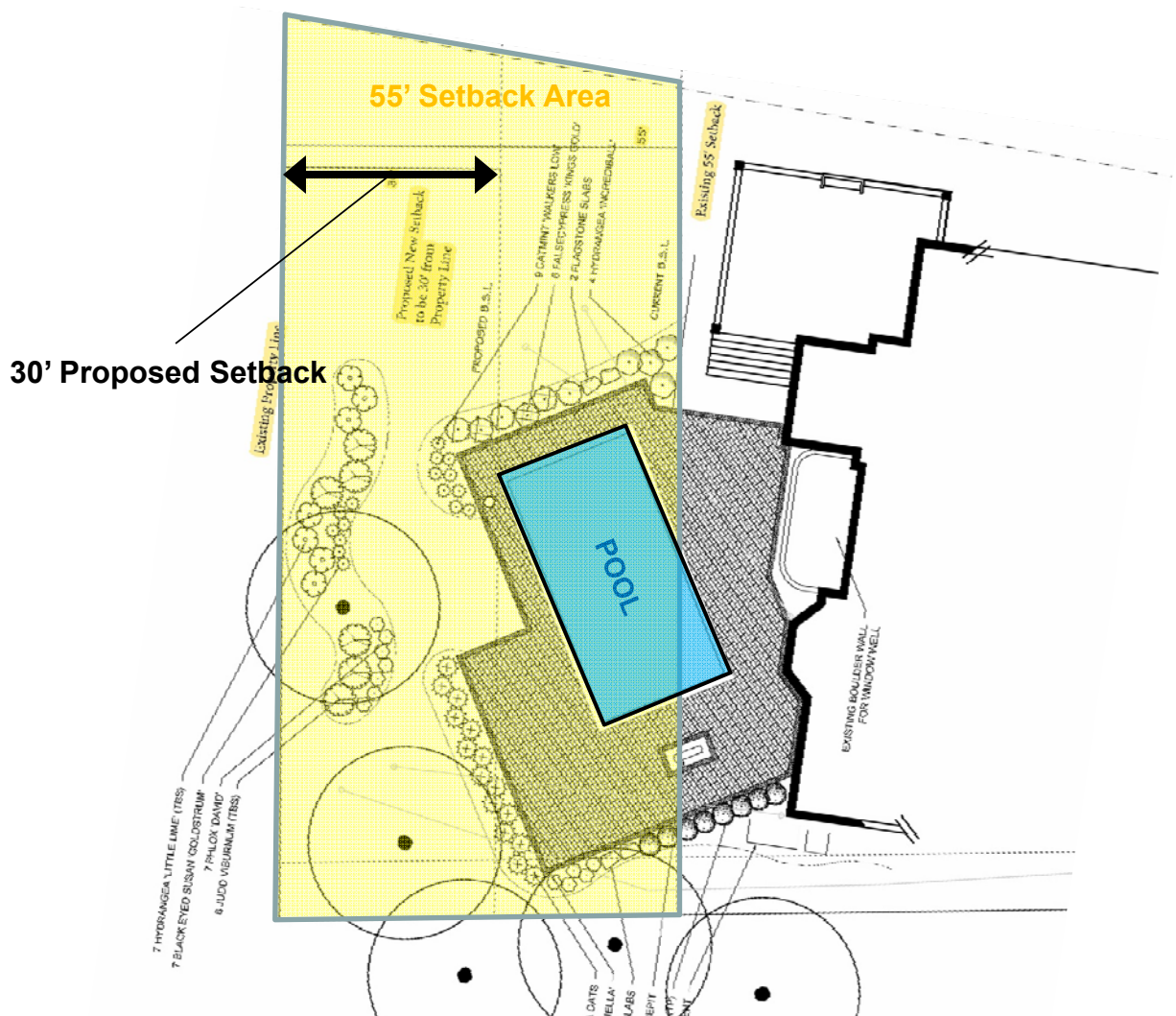
DRAWN BY: CHECKED BY:
Kimberly Martinez Jeff Mull

SHEET TITLE

**LANDSCAPE &
HARDSCAPE PLAN**

SCALE IN FEET 1/8" = 1'-0"
0' 4' 8' 24'





McIlvenna Residence
Site Plan

VARIANCE APPLICATION

OFFICE USE ONLY

DOCKET #: 2011-VS-38

FILING DATE: 10/2/20

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 & Beth McIlvenna

ADDRESS: 15702 Hidden Oaks Court, Carmel, IN 46033

TELEPHONE: 317-727-3671

EMAIL: patmc@pbmws.com

PROPERTY OWNER'S NAME: Patrick & Beth McIlvenna

ADDRESS: 15702 Hidden Oaks Court, Carmel, IN 46033

TELEPHONE: 317-727-3671

EMAIL: patmc@pbmws.com

REPRESENTATIVE'S NAME:

COMPANY:

ADDRESS:

TELEPHONE:

EMAIL:

PROPERTY AND PROJECT INFORMATION

ADDRESS OR PROPERTY LOCATION: 15702 Hidden Oaks Court, Carmel, IN 46033

COUNTY PARCEL ID #(S): 08-10-08-00-11-010.000

EXISTING ZONING DISTRICT(S): Residential

EXISTING LAND USE(S): Residential

PROPERTY AND PROJECT INFORMATION

☐ VARIANCE OF LAND USE

CODE CITATION:

☒ VARIANCE OF DEVELOPMENT STANDARD(S)

CODE CITATION:

FINDINGS OF FACT: (PLEASE SEE ATTACHED)

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

Requesting variance of setback for the setback to be 30' from West property line instead of 55' for the placement of an in ground pool.

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.

Patrick McIlvenna
Applicant/Representative (signature)

Patrick Mcilvenna
Applicant/Representative (printed)

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

Witness my hand and Notarial Seal this ____ day of _____, 20__.
State of _____, County of _____, SS: _____

Notary Public (signature)

Notary Public (printed)

PROPERTY OWNER AFFIDAVIT

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

Patrick McIlvenna
Property Owner (signature)*

Patrick Mcilvenna
Property Owner (printed)

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

Witness my hand and Notarial Seal this ____ day of _____, 20__.
State of _____, County of _____, SS: _____

Notary Public (signature)

Notary Public (printed)

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

FINDINGS OF FACT (VARIANCE OF DEVELOPMENT STANDARD)

APPLICANT: Patrick and Beth McIlvenna

DOCKET #:

In taking action on a variance request, the Board of Zoning Appeals uses the following decision criteria to approve or deny a variance, as established by Indiana Code, and the Board may impose reasonable conditions as part of its approval. The applicant must address the criteria below (if multiple variances of development standard are being requested, then this sheet should be completed separately for each requested variance). A variance of land use may be approved by the Board of Zoning Appeals only upon a determination that the Board finds all of the following to be true:

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

The variance of setback request is for the placement of an in ground pool. The variance will not be injurious as it still provides a large setback and distance to the west which is an existing golf course. The pool will be have a cover when not in use preventing people from falling in.

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 placement of the pool is consistent with other pools in the neighborhood and wont diminish values or substantially affect the other adjacent properties. It will be only located on the parent property and large amount of landscaping will be placed as a buffer.

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

Currently the property does not provide enough available space for placement of the pool without asking for the variance of setback. It is not feasible to fit the pool outside of the 55' setback.



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

November 10, 2020

2011-VS-35

Exhibit 1

Petition Number: 2011-VS-35

Subject Site Address: 19501 Ethan Allen Lane (the "Property")

Petitioner: Michelle Hernandez by Webster & Garino, LLC (the "Petitioner")

Request: The Petitioner requests a Variance of Development Standard to permit residential development on a Legal Nonconforming Property (Article 9.4(C)).

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

Current Land Use: Vacant

Approximate Acreage: 0.5 acres +/-

Exhibits:

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

Staff Reviewer: Daine Crabtree, Associate Planner

OVERVIEW

Location: The subject property is a 0.5 +/- acre parcel located at 19501 Ethan Allen Lane (see **Exhibit 2)** in the Morgan Woods subdivision.

Requested Variances: The Petitioner is requesting a Variance of Development Standard to permit development on a Legal Nonconforming Property despite the Property being less than one (1) acre in size.

SUMMARY OF VARIANCE

The Morgan Woods subdivision was laid out in two (2) sections; the first section was recorded in 1972 and the second section recorded in 1976. Both sections were platted prior to zoning being established. The entirety of the subdivision remains zoned AG-SF1: Agriculture/Single-Family Rural despite none of the lots contained within adhering to current AG-SF1 standards. Therefore, all lots within Morgan Woods are considered 'Legal, Nonconforming'.

A single-family residence was originally built on the Property between 1974 and 1976 (the "prior residence"). No building permit was found but the aforementioned was confirmed based on historic aerial photographs. A fire destroyed the prior residence on November 29, 2011. The remnants of the prior residence were demolished soon after and the Property has been vacant since at least 2013.



Section 9.4(C) of the UDO states that Legal, Nonconforming Lots not located within the geographic area identified as the Downtown Area may be (i) used as permitted by the Zoning District in which the Lot is located; and (ii) built upon, only if the Lot and improvements otherwise comply with all other standards of this Ordinance, and provided that:

1. The Property Owner of said parcel does not own, in whole or in part, sufficient adjacent land to enable the parcel to conform to the dimensional and acreage requirements of this Ordinance;
2. The Lot Width is no less than one hundred (100) feet; and
3. The Lot Area is no less than one (1) acre

Because the Property is 0.50 acres +/- in size, a Variance is necessary. The Petitioner requests a Variance of Development Standard (the "Variance") to permit residential development on this Legal Nonconforming Property.

Officially, the request would be that Section 9.4(C) of the UDO not apply to the Property as the Property is not only less than one (1) acre in size, but there are several additional aspects of the Property that do not conform with AG-SF1 standards. A condition that the development be residential in nature has been suggested.

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 10, 2020 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 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

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 10, 2020

2011-VS-35

Exhibit 1

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:

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 proposed use of the property will be consistent with the existing surrounding uses.

- 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 be consistent with the existing surrounding uses.

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



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

November 10, 2020

2011-VS-35

Exhibit 1

Finding: The Petitioner wishes to use the lot in a manner deemed appropriate by the Comprehensive Plan in terms of land use, low density, and single family residential. Strict application of the ordinance would result in the ability develop the property only in substantial compliance with the previously existing building footprint.

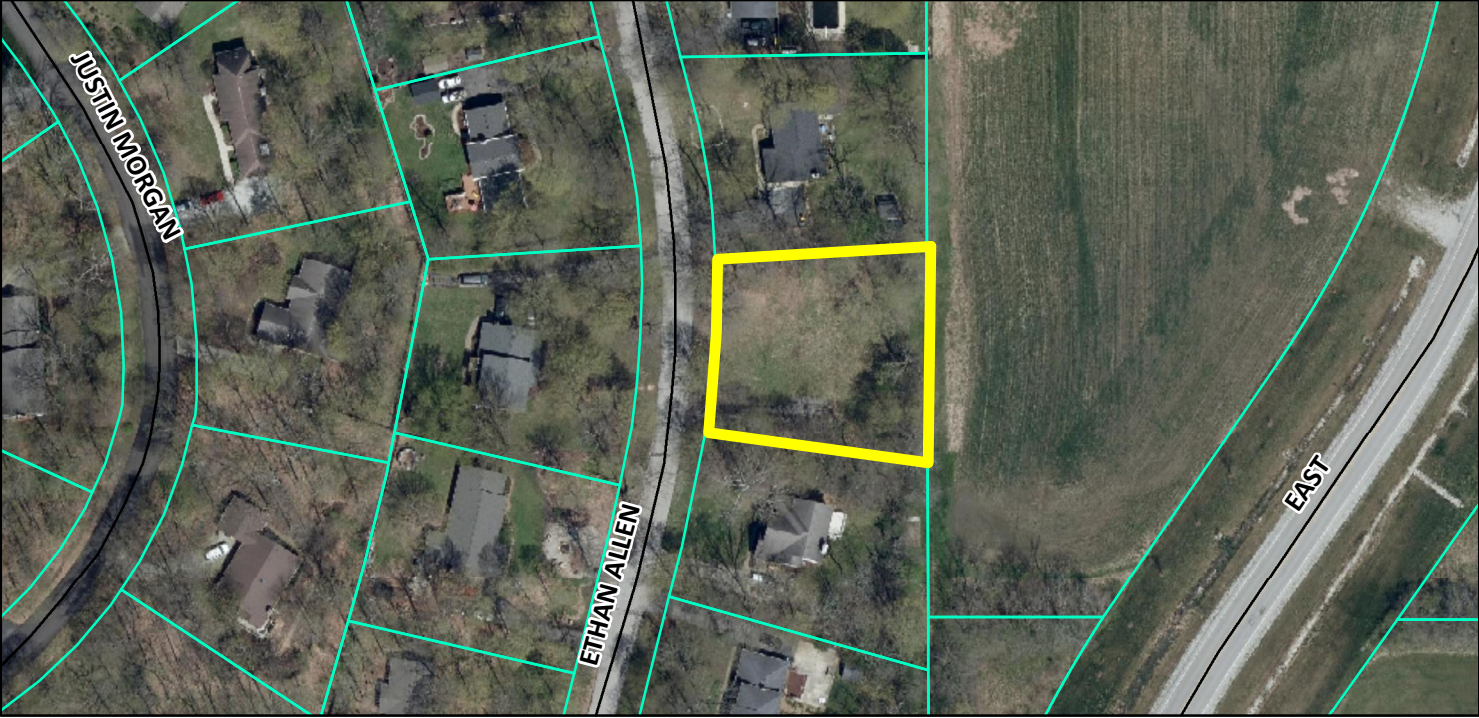
Recommended Conditions:

- The only development permitted on the Property shall be Single-Family Residential and development that could be construed as accessory to a Single-Family Residential use.
- 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.

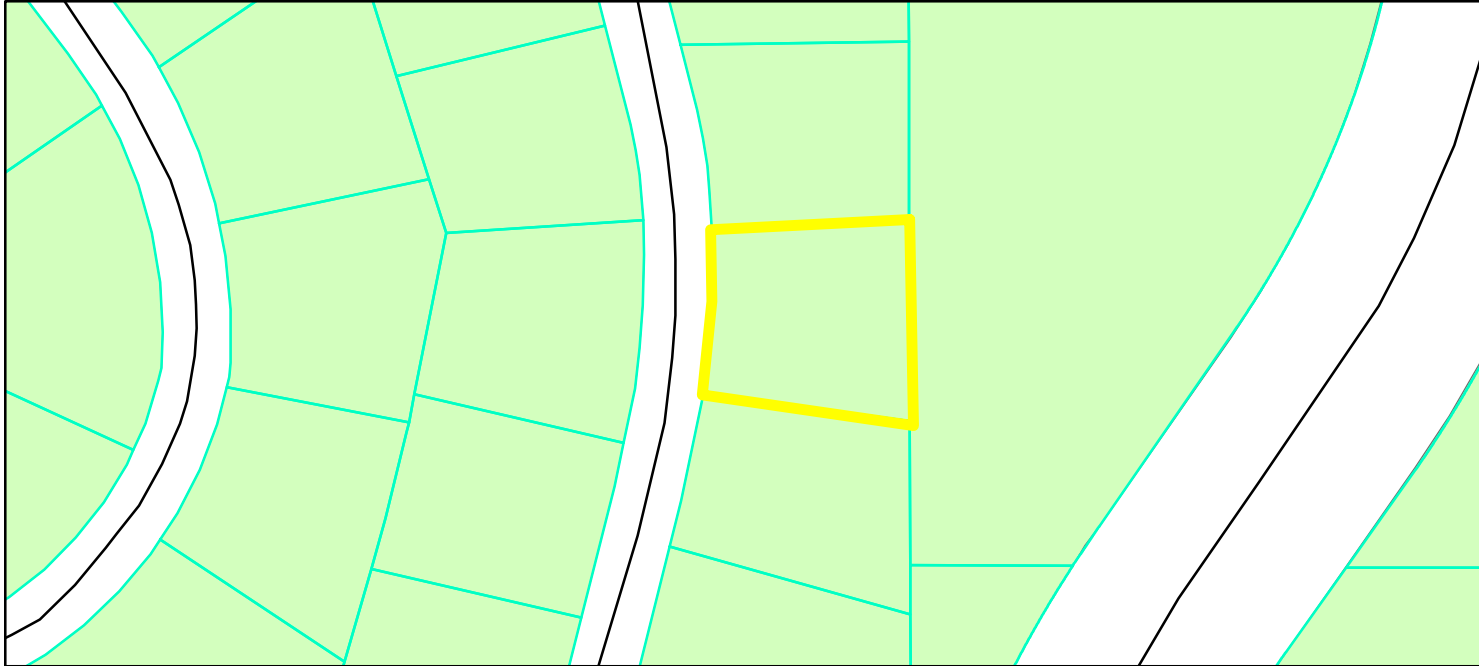
Denial: If the Board is inclined to deny the requested variance, then the Department recommends denying the variance, and then tabling the adoption of findings until the Board's next meeting with direction to the Department to prepare the findings consistent with the public hearing evidence and Board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

Aerial Location Map

 Site



Zoning Map



 Parcel
 GIS.DBO.PW.Streets
Zoning - All

Zoning
 AG-SF1 (Agriculture - Single Family - 1)

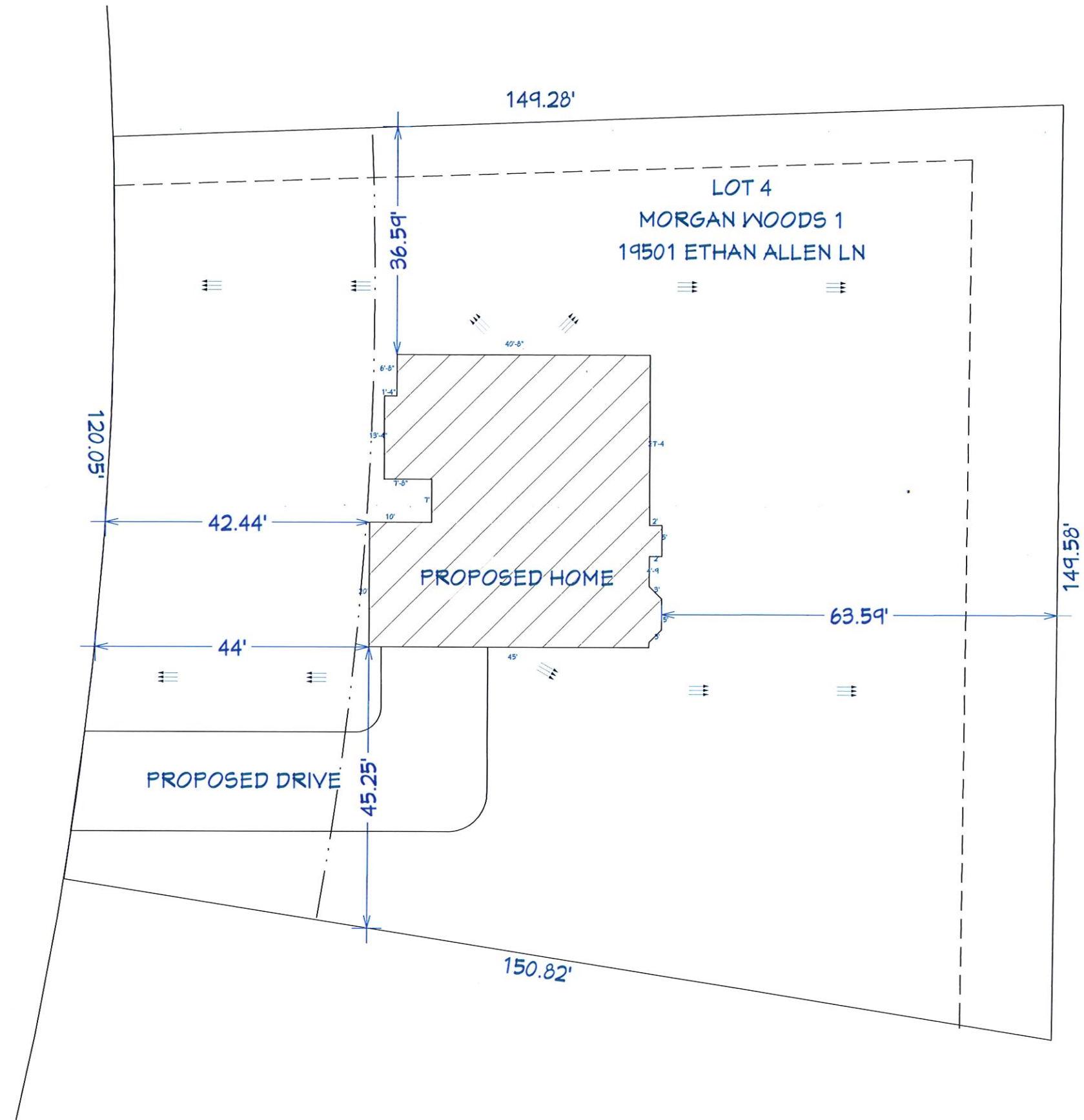
0 0.0175 0.035
Miles



THIS PRINT TO SCALE IF PRINTED ON 11" X 17" PAPER

1. PROVIDE 6" IN 10' (MIN) OF FALL AWAY FROM STRUCTURE TO NEAREST DRAIN PATH.
2. PROVIDE SILT FENCING (OR OTHER APPROVED EROSION CONTROL) AROUND DISTURBED AREA AS REQUIRED BY GOVERNING MUNICIPALITY..

DR. ETHAN ALLEN



SITE PLAN

SCALE 1"=20'

[illegible]

SHEET TITLE:

PROJECT DESCRIPTION:

1950 ETHAN ALLEN LN

INDYBLUEPRINTS
317-796-5973
WWW.INDYBLUEPRINTS.COM

DATE:

10/6/2020

SCALE:

SHEET:

A-1



Westfield–Washington Township Board of Zoning Appeals

Minutes of the October 13, 2020 BZA Meeting

Presented for approval: November 10, 2020

The Westfield-Washington Township Board of Zoning Appeals (BZA) met at 7:00 p.m. on Tuesday, October 13, 2020 at Westfield City Hall.

OPENING OF MEETING: 7:00 PM

ROLL CALL

Members Present: Jeannine Fortier, Ken Kingshill, Victor McCarty, and Dave Schmitz.

Members Absent: All present.

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

APPROVAL OF MINUTES

September 15, 2020 BZA Minutes

Kingshill motioned to approve the September 15, 2020 Minutes.

Fortier seconded. Motion passed. Vote 4-0.

REVIEW RULES AND PROCEDURES

Crabtree reviewed BZA rules and procedures.

ITEMS OF BUSINESS:

2009-VS-25

**[ADOPTION OF
FINDINGS OF FACT]**

15621 Hidden Oaks Court

Pete Davis

The Petitioner requests a Variance of Development Standard to encroach fifteen (15) feet into the fifty (50) foot Minimum Rear Yard Setback on 0.57 acres +/- in the Bridgewater PUD District to accommodate a swimming pool and deck.

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

Crabtree overviewed the status of the requests for the next three Variance of Development Standard.

Jon Dobosiewicz with Nelson & Frankenberger LLC., on behalf of the Petitioners: Davis, Buyer, Kraemer, summarized his approach to addressing each of these petitions. He addressed the encroachments of the pools into the setbacks. He said that the applicants held the requested neighbor meeting on September 28, 2020. A summary of that meeting has been provided to the Board. He said that this additional public outreach resulted in several statements of support by neighbors. He added that a local realtor and Bridgewater resident, Mike Deck, submitted a letter to the Board stating that having a pool does not decrease the property value. Dobosiewicz added that comments submitted indicated that an approval of a variance did not establish a precedent. Dobosiewicz detailed each parcel's site plan and as it related to its request and added that they would be asking for conditions to be attached to the approvals requested for each proposal. These conditions would include the following: That the variance is applicable to the swimming pool and hardscape as generally illustrated on the site plan. The swimming pool shall be installed in substantial conformance with the site plan as determined by the Director of the Westfield Department of Community Development; that swimming pool accessories shall not include the installation of a diving board or slide; and that landscaping and screening

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

be provided, at a minimum, as generally illustrated on the site plan. He provided and detailed three suggested supplements to the Findings of Facts.

Zaiger asked Dobosiewicz if he had a request on the Davis petition.

Dobosiewicz responded it was his understanding that all three petitions were to be continued to the next meeting and that the Board has the discretion to reconsider the requests.

Zaiger suggested to start with the Davis request.

Kingshill asked Dobosiewicz for details on the neighborhood meeting.

Dobosiewicz summarized the attendance of that meeting and said some written input had been received and provided to the Board.

Kingshill motioned to reconsider the motion to deny 2009-VS-25.
McCarty seconded. Motion passed. Vote 4-0.

McCarty motioned to reconsider and approve 2009-VS-25 with the conditions provided by the Petitioner:

- That the variance is applicable to the swimming pool and hardscape as generally illustrated on the site plan. The swimming pool shall be installed in substantial conformance with the site plan as determined by the Director of the Westfield Department of Community Development.
- That swimming pool accessories shall not include the installation of a diving board or slide.
- That landscaping and screening be provided, at a minimum, as generally illustrated on the site plan.

Kingshill seconded. Motion passed. Vote 4-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2009-VS-25 as supplemented by the Petitioner in writing.

Kingshill seconded. Motion passed. Vote 4-0.

2009-VS-26
[CONTINUED]

15533 Hidden Oaks Lane

Stephen and Joni Buyer

The Petitioners request a Variance of Development Standard to encroach twenty-two (22) feet into the forty-five (45) foot Minimum Rear Yard Setback on 0.46 acres +/- in the Bridgewater PUD District to accommodate a swimming pool and deck.

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

Dobosiewicz confirmed that this item had been continued to this meeting.

Schmitz confirmed that it had been continued and made note that this item had received its Public Hearing at the last meeting.

Kingshill motioned to reconsider and approve 2009-VS-26 with the conditions provided by the Petitioner:

- That the variance is applicable to the swimming pool and hardscape as generally illustrated on the site plan. The swimming pool shall be installed in substantial conformance with the site plan as determined by the Director of the Westfield Department of Community Development.
- That swimming pool accessories shall not include the installation of a diving board or slide.
- That landscaping and screening be provided, at a minimum, as generally illustrated on the site plan.

Schmitz seconded. Motion passed. Vote 4-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2009-VS-26 as supplemented by the Petitioner in writing.

McCarty seconded. Motion passed. Vote 4-0.

2009-VS-27
[PUBLIC HEARING]

15519 Hidden Oaks Lane

Paul and Kaprice Kraemer

The Petitioners request a Variance of Development Standard to encroach twenty-three (23) feet into the forty-five (45) foot Minimum Rear Yard Setback on 0.45 acres +/- in the Bridgewater PUD District to accommodate a swimming pool and deck.

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

Public Hearing for 2009-VS-27 opened at 7:50 p.m.

No public comments.

Public Hearing for 2009-VS-27 closed at 7:51 p.m.

McCarty thanked the Petitioners and their representatives for their input.

Kingshill motioned to reconsider and approve 2009-VS-27 with the conditions provided by the Petitioner:

- That the variance is applicable to the swimming pool and hardscape as generally illustrated on the site plan. The swimming pool shall be installed in substantial conformance with the site plan as determined by the Director of the Westfield Department of Community Development.
- That swimming pool accessories shall not include the installation of a diving board or slide.
- That landscaping and screening be provided, at a minimum, as generally illustrated on the site plan.

McCarty seconded. Motion passed. Vote 4-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2009-VS-27 as supplemented by the Petitioner in writing.

Fortier seconded. Motion passed. Vote 4-0.

2010-VS-28
[PUBLIC HEARING]

South of State Road 32 & Centennial Road

Tyler Eifert by Brian Cardinal

The Petitioner requests a Variance of Development Standard to modify the Minimum Lot Frontage requirement from 250 feet to 0 feet on 40 acres +/- in the AG-SF1: Agriculture/Single-Family Rural District (Article 4.2(D))

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

Crabtree overviewed this request for Variances of Development Standard which. He said two public comments of support had been received by Staff and provided to the Board.

Public Hearing for 2010-VS-28 opened at 7:55 p.m.

Schmitz asked for clarification of the condition regarding that only one single-family home be allowed.

Crabtree said that a condition could be added by the Board that a one single-family home be allowed with related accessory buildings.

Zaiger suggested that the current zoning has a variety of uses that would be consistent in incurring additional traffic.

No public comments.

Public Hearing for 2010-VS-28 closed at 7:58 p.m.

Schmitz asked the Petitioner if they would be agreeable to the condition that this variance would be for a single-family home.

Brian Cardinal, the Petitioner, agreed.

Crabtree overviewed the AG-SF 1 uses that are allowed.

Kingshill asked about the possible traffic increase as it would perhaps result from the variance.

Schmitz said his main concern is with the number of residences.

Schmitz motioned to approve 2010-VS-28 with the following Staff conditions.

- The subject property be used for only one single-family residence.

McCarty seconded. Motion passed. Vote 4-0

Schmitz motioned to adopt Staff's Findings of Fact for 2010-VS-28.

Kingshill seconded. Motion passed. Vote 4-0.

2010-VS-29
[PUBLIC HEARING]

312 Genesis Drive

Joell and Heather Grisel

The Petitioners requests a Variance of Development Standard to encroach seven (7) feet into the thirty (30) foot Minimum Rear Yard Setback on 0.34 acres +/- in the SF2: Single-Family Low Density District (Article 4.5(E)(3)(a)).

(Planner: Corey Harris – charris@westfield.in.gov)

Harris overviewed this request for a Variance of Development. He said one public comment in support had been received by Staff and provided to the Board.

Public Hearing for 2010-VS-29 opened at 8:07 p.m.

One additional comment of support was received from the Petitioner's neighbor.

Public Hearing for 2010-VS-29 closed at 8:09 p.m.

Kingshill motioned to approve 2010-VS-29 with the following two Staff conditions:

- Approval shall only be valid for the pool noted on the Site Plan (Exhibit 3).
- Construction shall be substantially compliant with the Site Plan (Exhibit 3).

Fortier seconded. Motion passed. Vote 4-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2009-VS-23.

McCarty seconded. Motion passed. Vote 4-0.

2010-VS-30
[PUBLIC HEARING]

19500 Tomlinson Road

Westfield Washington Schools by Cripe

The Petitioner requests to modify the External Street Frontage Landscaping requirements from Article 6.8(M)(2) of the UDO to match the existing landscaping for Monon Trail Elementary School and modify Detention and Retention Ponds designed with meandering edges to not designed with meandering edges in the AG-SF1: Agricultural/Single-Family Rural District (Articles 6.8(M)(2) and 6.8(I)(c)).
(Planner: Caleb Ernest – cernest@westfield.in.gov)

Ernest overviewed this request for a Variance of Development Standard. He said no public comments had been received by Staff or emailed to the Board.

Darci Pellom, with Cripe Architects & Engineers on the behalf of the Petitioner, summarized the request that would involve the proposed landscaping that was submitted to the Technical Advisory Committee (TAC).

Darcy Fowler, landscaping representative, confirmed the number of proposed landscaping.

Schmitz ask for clarification of the landscaping as it was described on the plan.

Fowler, explained the circumstances and reasoning of the proposed landscaping.

Pellom addressed the pond and the required needs for compliance.

Kevin Todd, Director of Community Development, explained that the landscaping standards had been updated since the original standards approval.

McCarty asked about the orientation of the building.

Pellom responded about the building's orientation, parking, and bus traffic.

Public Hearing 2010-VS-30 for opened at 8:23 p.m.

No public comments.

Public Hearing for 2010-VS-30 closed at 8:27 p.m.

Schmitz asked for clarification on what exactly needs to be approved.

Pellom replied that the landscaping numbers requested are 25 shade trees, 19 ornamental trees, and 53 shrubs along the entire length of the property and would replace the external street frontage landscaping language in the Unified Development Ordinance (UDO). Todd said this proposal was consistent with the Master Plan.

Kingshill said he felt comfortable with the content.

Zaiger said staff can work on the wording as well as address the retention pond.

Schmitz motioned to approve 2010-VS-30 to modify the external street frontage landscaping requirements pursuant to the Petitioner's presentation to match the existing landscaping at Monon Trail Elementary and remove the meandering edges standard in the AG-SF1 District subject to the following condition:

- That 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 Community Development Department.

McCarty seconded. Motion passed. Vote 4-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2010-VS-30.

Kingshill seconded. Motion passed. Vote 4-0.

2010-VS-31
[PUBLIC HEARING]

3860 Madeline Lane

Jason and Rebecca Ogle

The Petitioner requests Variances of Development Standard to encroach ten (10) feet into the thirty (30) foot Minimum Rear Yard Setback and one (1) foot into the Minimum Side Yard Setback on 0.28 acres +/- in the SF3: Single-Family Medium Density District to accommodate a swimming pool and deck (Article 4.6(E)(2) and Article 4.6(E)(3)).

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

Crabtree overviewed this request for a Variance of Development Standard. He said three public comments had been received by Staff and provided to the Board. Two of the comments were in support one comment in opposition.

Public Hearing for 2010-VS-31 opened at 8:39 p.m.

One additional comment of support was received from the Petitioner's neighbor.

Public Hearing for 2010-VS-31 closed at 8:40 p.m.

Kingshill said he felt comfortable with the content.

Jason Ogle, the Petitioner, responded to the comment from the neighbor that was in opposition. The issue of the opposition was related to the tree line. Once the Petitioners spoke with the neighbor and said the neighbor was more at ease.

Kingshill and McCarty addressed the tree and its root spread, and felt that was not an issue.

Schmitz addressed the Findings of Facts and asked the Petitioner to respond.

The Petitioner replied accordingly.

McCarty motioned to approve 2010-VS-31 subject to the flowing condition:

- The project be built in substantial compliance with the site plan.

Kingshill seconded. Motion passed. Vote 4-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2010-VS-31.

Fortier seconded. Motion passed. Vote 4-0.

2010-VS-32
[PUBLIC HEARING]

3650 Birkdale Drive

Jennifer Derado

The Petitioner request a Variance of Development Standard to encroach twelve (12) feet into the thirty (30) foot Minimum Rear Yard Setback on 0.37 acres +/- in the Bridgewater PUD District to accommodate a swimming pool and deck.

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

Crabtree overviewed this request for a Variance of Development Standard. He said no public comments had been received by Staff.

Public Hearing for 2010-VS-32 opened at 8:50 p.m.

David Mennel, representing The Bridgewater Master Association, confirmed that this project had gone through The Bridgewater approval process and suggested that its construction should be substantially compliant with the Site Plan and approved Bridgewater Landscaping Plans.

Public Hearing for 2010-VS-32 closed at 8:56 p.m.

Schmitz addressed the Findings of Facts and asked the Petitioner to respond.

The Petitioner replied accordingly.

Crabtree said he spoke with the Westfield Public Works Department (WPW) about this project and that WPW was fine with the project.

McCarty motioned to approve 2010-VS-32 with the following condition
The project be built in substantially compliant with the Site Plan and approved Bridgewater Landscaping Plans.

Fortier seconded. Motion passed. Vote 4-0.

Schmitz motioned to adopt Staff's Findings of Fact for 2010-VS-32.
Fortier seconded. Motion passed. Vote 4-0.

2010-VS-33
[PUBLIC HEARING]

16080 Westfield Boulevard
Pure SEP, LLC by American Structurepoint
The Petitioner requests a Variance of Development Standard to permit a dumpster enclosure in an Established Front Yard in the LB: Local and Neighborhood Business District (Article 6.1(H)(2)).
(Planner: Caleb Ernest – cernest@westfield.in.gov)

Ernest overviewed this request for a Variance of Development Standard. He said that this item had received no public comments.

Brad Schrage with American Structurepoint, on behalf of the Petitioner, summarized this request. He said the design of the dumpster would be compliant.

Public Hearing for 2010-VS-33 opened at 9:05 p.m.

No public comments.

Public Hearing for 2010-VS-33 closed at 9:06 p.m.

McCarty thank the Petitioner for preserving the trees.

Fortier motioned to approve 2010-VS-33 with the following condition:

- That 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 Community Development Department.

Kingshill seconded. Motion passed. Vote 40-0.

Schmitz motioned to approve Staff's Findings of Fact for 2010-VS-33.
Kingshill seconded. Motion passed. Vote 4-0.

McCarty, life-long resident of Westfield, thanked his wife for allowing him to be at this meeting despite it was their 1st wedding anniversary.

ITEMS CONTINUED TO A FUTURE MEETING

None

REPORTS

- Plan Commission Liaison
- Community Development Department

ADJOURNMENT

Schmitz motioned to adjourn.
Second, McCarty. Motion passed. Vote 4-0.

The meeting adjourned at 9:09 p.m.

Chairperson
Dave Schmitz

Secretary
Kevin M. Todd, AICP
Director



WESTFIELD-WASHINGTON TOWNSHIP
BOARD OF ZONING APPEALS
2021 SCHEDULE OF MEETINGS AND FILING DATES

MEETING MONTH	FILING DEADLINE	TECHNICAL ADVISORY COMMITTEE MEETING	REVISED MATERIALS DEADLINE	PUBLIC NOTICE DEADLINE	BOARD OF ZONING APPEALS MEETING
	Friday Noon	Tuesday 9:00 AM	Tuesday Noon	Friday	Tuesday 7:00 PM
FEBRUARY	12/30/20	01/19/21	01/26/21	01/29/21	02/09/21
MARCH	01/29/21	02/16/21	02/23/21	02/26/21	03/09/21
APRIL	02/26/21	03/23/21	03/30/21	04/02/21	04/13/21
MAY	04/02/21	04/20/21	04/27/21	04/30/21	05/11/21
JUNE	04/30/21	05/25/21	05/25/21	05/28/21	06/08/21
JULY	06/04/21	06/22/21	06/29/21	07/02/21	07/13/21
AUGUST	07/02/21	07/20/21	07/27/21	07/30/21	08/10/21
SEPTEMBER	07/30/21	08/24/21	08/31/21	09/03/21	09/14/21
OCTOBER	09/03/21	09/21/21	09/28/21	10/01/21	10/12/21
NOVEMBER	10/01/21	10/19/21	10/26/21	10/29/21	11/09/21
DECEMBER	10/29/21	11/16/21	11/30/21	12/03/21	12/14/21
JANUARY	12/03/21	12/21/21	12/28/21	12/31/21	01/11/22

Dates in red are scheduled for a different day due to a conflict.

A Pre-Filing Conference is required prior to filing. Please contact the Community Development Department at 317.804.3170 at least one week in advance of your targeted filing to arrange this pre-filing conference.