

# **MONROE COUNTY BOARD OF ZONING APPEALS**



**June 3<sup>rd</sup>, 2020  
5:30 p.m.**

**Held Via Zoom:**

[https://monroecounty-  
in.zoom.us/j/85085686266?pwd=R0l0TIY0c3k0d0RLc0xrZG5mZWV4dz09](https://monroecounty-in.zoom.us/j/85085686266?pwd=R0l0TIY0c3k0d0RLc0xrZG5mZWV4dz09)

**IF CALLING INTO THE ZOOM MEETING, DIAL: 312-626-6799.  
WHEN PROMPTED, ENTER THE MEETING ID #: 850 8568 6266.  
PASSWORD: 902111**

**AGENDA**  
**MONROE COUNTY BOARD OF ZONING APPEALS (BZA)**

Telelink:

<https://monroecounty-in.zoom.us/j/85085686266?pwd=R0I0TIY0c3k0d0RLc0xrZG5mZWV4dz09>

June 3, 2020

5:30 p.m.

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**REGULAR MEETING**

**CALL TO ORDER**

**ROLL CALL**

**INTRODUCTION OF EVIDENCE**

**APPROVAL OF AGENDA**

**APPROVAL OF MINUTES**

February 5, 2020

March 4, 2020

**ADMINISTRATIVE BUSINESS:** None.

**OLD BUSINESS:**

- 1. 2003-VAR-18            Ennis HBB Cond. No. 16 Variance from Chapter 802            PAGE 4**  
One (1) 9.87 +/- acre parcel in Richland Township, Section 15  
at 6675 W Ratliff Rd.  
**Zoned AG/RR.**

**NEW BUSINESS:**

- 1. 2003-VAR-19            Holsapple Side Yard Setback Variance from Chapter 804            PAGE 24**  
**2. 2003-VAR-19A        Holsapple Minimum Lot Width Variance from Chapter 804**  
One (1) 3.53 +/- acre parcel in Clear Creek Township, Section 17  
at 8023 S Old State Road 37.  
**Zoned AG/RR.**

- 3. 2005-VAR-25            Drewes Front Yard Setback Variance from Chapter 804**  
One (1) 0.64 +/- acre parcel in Richland Township, Section 14 at 5021 W  
Autumn Circle.  
**Zoned LR.**  
**\*\*\*CONTINUED BY STAFF\*\*\***

- 4. 2005-VAR-26            Gough Minimum Lot Size Variance            PAGE 53**  
**5. 2005-VAR-27            Gough Front Yard Setback Variance**  
One (1) 1.36 +/- acre parcel in Bean Blossom Township, Section 33 at 6879 N  
Red Hill RD.  
**Zoned AG/RR.**

- 6. 2005-VAR-28            Taylor Front Yard Setback Variance from Chapter 804            PAGE 70**  
One (1) 2.55 +/- acre parcel in Indian Creek Township, Sections 3 & 4  
at 7050 S Harmony Rd.  
**Zoned AG/RR.**

**REPORTS:**

**1. Planning:** Larry Wilson

**2. County Attorney:** David Schilling

NOTE: This is a virtual meeting via ZOOM as authorized by executive orders issued by the Governor of the State of Indiana. Please contact the Monroe County Planning Department at [PlanningOffice@co.monroe.in.us](mailto:PlanningOffice@co.monroe.in.us) or by phone (812) 349-2560 for the direct web link to this virtual meeting.

Written comments regarding agenda items may only be submitted by email until normal public meetings resume. Please submit correspondence to the Board of Zoning Appeals at: [PlanningOffice@co.monroe.in.us](mailto:PlanningOffice@co.monroe.in.us) no later than June 3, 2020 at 4:00 PM.

Said hearing will be held in accordance with the provisions of: IC 36-7-4-100 et seq.; & the County Code, Zoning Ordinance, and the Rules of the Board of Zoning Appeals of Monroe County, IN. All persons affected by said proposals may be heard at this time, & the hearing may be continued as necessary.

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of Monroe County, should contact Monroe County Title VI Coordinator Angie Purdie, (812)-349-2553, [apurdie@co.monroe.in.us](mailto:apurdie@co.monroe.in.us), as soon as possible but no later than forty-eight (48) hours before the scheduled event.

Individuals requiring special language services should, if possible, contact the Monroe County Government Title VI Coordinator at least seventy-two (72) hours prior to the date on which the services will be needed.

The meeting will be open to the public via ZOOM.

|                    |  |
|--------------------|--|
| <b>CASE NUMBER</b> | 2003-VAR-18  |
| <b>PLANNER</b>     | Anne Crecelius   |
| <b>PETITIONER</b>  | David “Josh” Ennis   |
| <b>REQUEST</b>     | Design Standards Variance: Ch. 802 Home Based Business Cond. #16 |
| <b>ADDRESS</b>     | 6675 W Ratliff Rd  |
| <b>ACRES</b>       | 10.37 +/-  |
| <b>ZONE</b>        | Agricultural/Rural Reserve                                       |
| <b>TOWNSHIP</b>    | Richland   |
| <b>SECTION</b>     | 15   |
| <b>PLATS</b>       | Unplatted  |
| <b>COMP PLAN</b>   | Comprehensive Plan: Rural Residential                            |
| <b>DESIGNATION</b> |  |

**EXHIBITS:**

- 1) Petitioner Letter
- 2) Home Based Business Application
- 3) HBB Application Site Plan
- 4) Petitioner’s Proposed Tree Locations

**BOARD OF ZONING APPEALS – MAY 6, 2020**

Board requested a site plan/map of the petitioner’s proposed locations for trees. See Exhibit 4.

**RECOMMENDED MOTION:**

**Approve** the design standard variance from the outdoor storage screening requirement of Chapter 802 of the Monroe County Zoning Ordinance based on the findings of fact and the following condition:

1. Plant five (5) native trees listed within Chapter 830 Table 30-5 or 30-6.

**SUMMARY**

The petition site is a 10.37 +/- acre lot located in Richland Township, at 6675 W Ratliff Road. The petitioner is requesting a variance from Chapter 802 Condition 18 of the Monroe County Zoning Ordinance. Condition 16 requires that Home Based Businesses (HBB) are required to screen outdoor storage from the view of neighboring properties or a public Right of Way. The definition is listed below.

**802-5 (D) (2) Home Based Business**

**Cond. 16.** Use shall be conducted within the buildings or structures on the site. Non-agricultural tools, vehicles, and equipment shall be stored so as to not be visible from the street or adjoining property. In addition, storage areas must be screened from view by an appropriate fence or similar enclosure.

This petition originally began from an anonymous compliant that started an enforcement case for a burning debris on the property. Upon investigation the Zoning Inspector identified that a commercial business was being run out of the property without the proper permitting. The petitioner meets the criteria for a Home Based Business permit but would be required to screen the outdoor storage of heavy equipment.

The Home Based Business permit has been approved but is pending a valid Land Use Certificate (LUC) based on the required screening. The petition is requesting to forgo screening based on the statement that the petition site is located on a hill and is viewable from many angles and properties. The petitioner has been compliant within the enforcement process and is willing to plant vegetation for screening in some

areas.

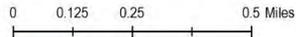
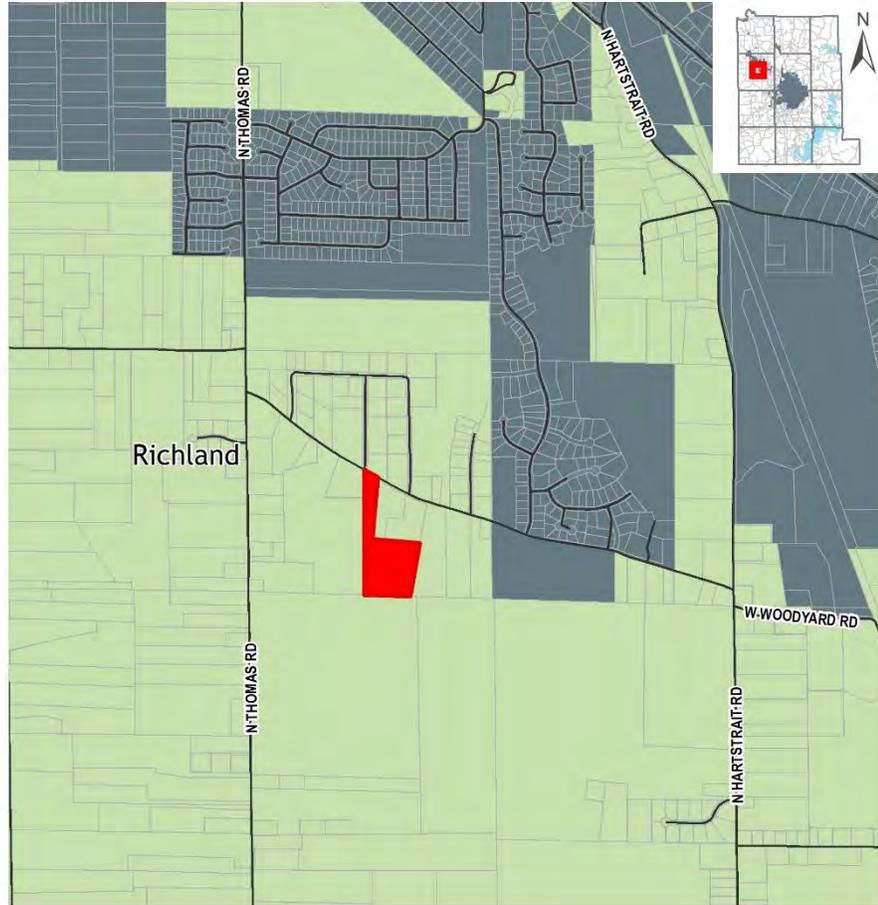
Approval of all three variances would allow the petitioner to operate his business, Ennis Tree Service and Lawn Care, out of the petition site with minimal screening.

## LOCATION MAP

The parcel is located in Richland Township, Section 15, parcel number: 53-04-15-300-049.000-011, addressed as 6675 W Ratliff Road.

### Location Map

-  Petitioner
-  Roads
-  Civil (Political) Townships
- Incorporated Areas**
-  Ellettsville
-  Parcels



 Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 3/13/2020

## ZONING AND LAND USE

The property is zoned Agricultural/Rural Reserve (AG/RR). Adjacent properties are zoned AG/RR and Estate Residential (ER).

### Current Zoning Map

-  Petitioner
-  Parcels
-  Roads
-  Hydrologic Features
- Monroe County Zoning**
-  AG/RR - Agriculture/Rural Reserve
-  ER - Estate Residential
-  N.T. - No Tag (Outside Juris.)
-  PUD - Planned Unit Development
-  Town of Ellettsville



The currently use of the property is residential and pending this variance from the Home Based Business (HBB) condition. The petition site and proposed accessory business use meets the definition for a HBB as defined in Chapter 802:

### 802-5 (D) (2)

**Home Based Business.** An accessory occupational use conducted in a residential dwelling by the inhabitants that is clearly incidental to the use of the structure for residential purposes and does not change the residential character of the site. A home based business is conducted in the primary residential structure or one accessory structure, that shall not have more than two employees living off-site, permitting on-site sales of merchandise constructed on-site or are incidental to services performed on-site, and are identified with minimal advertising signs as given in Chapter 807.

Home Based Businesses are required to meet the following condition:

**Cond. 16.** Use shall be conducted within the buildings or structures on the site. Non-agricultural tools, vehicles, and equipment shall be stored so as to not be visible from the street or adjoining property. In addition, storage areas must be screened from view by an appropriate fence or similar enclosure.

## SITE CONDITIONS & SLOPE

The petition site contains a Single Family Residence and two large parking areas. The petition site has access to water and utilizes a septic system. The property is accessed from a driveway off West Ratliff Road, a designated Local Road. There are no known karst features or FEMA floodplain. The petition site consists of mainly slopes less than 15%, making further development of this lot probable. The petition site is located on a hill, with drainage running towards the west and east.

### Site Conditions Map

-  Petitioner
-  2-Foot Contours
-  Local Roads [50']
-  Hydrologic Features
-  Parcels

0 55 110 220 330 440 Feet



Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 3/13/2020



### Slope Map

- Local Roads [50']
- Petitioner
- Parcels
- 2-Foot Contours

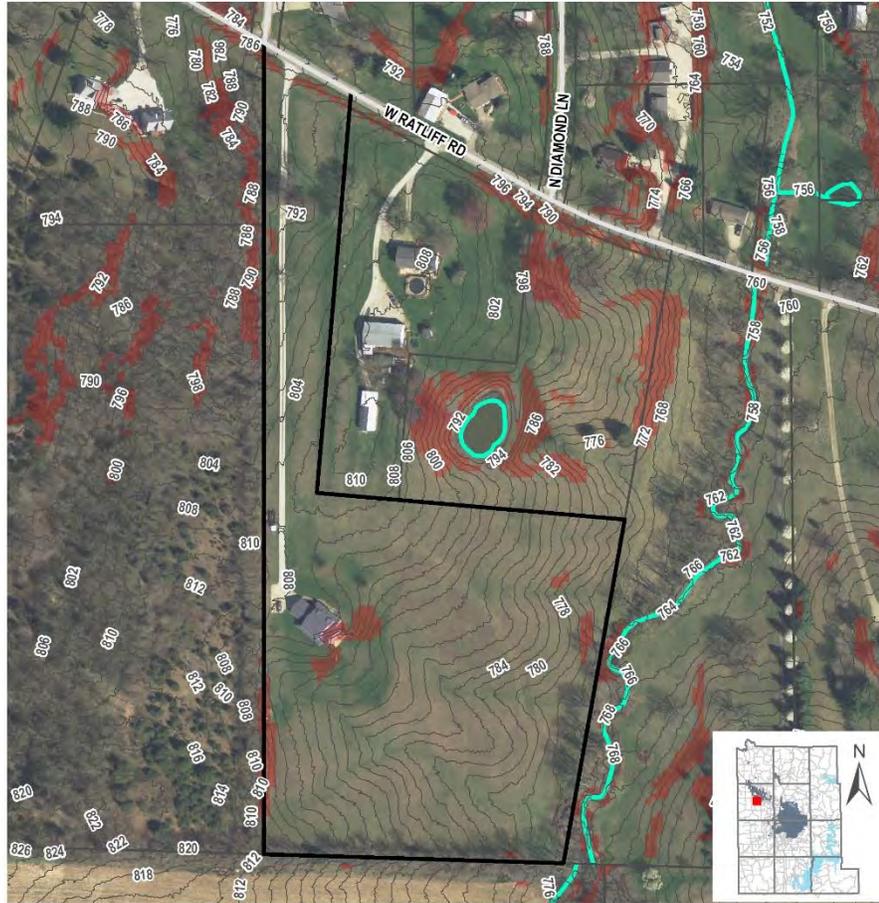
### 15\_Percent Slope (2010)

- 0 - 15
- > 15
- Hydrologic Features

0 45 90 180 270 360 Feet



Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 3/13/2020



**SITE PICTURES**



**Photo 1: Pictometry photo looking at petition site from April 2017. The expanded gravel parking is not shown.**



**Photo 2: A 2019 aerial image shows the expanded parking areas used for the Home Based Business**



**Photo 3: Looking south at the petition site.**



**Photo 4: Zoomed in version of photo 3.**



**Photo 5: Looking south at the SFR and gravel parking areas with equipment.**

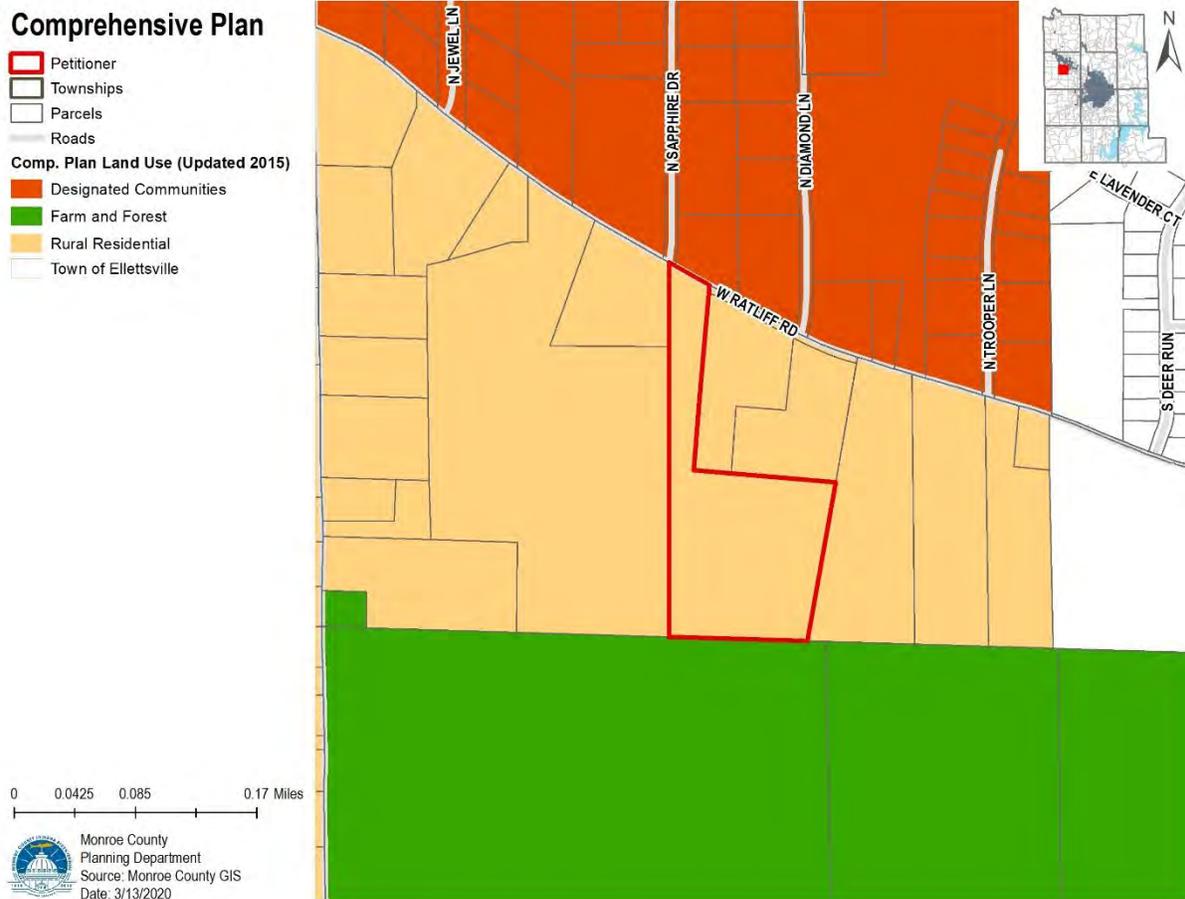


**Photo 6: Looking southeast at the second gravel parking area and SE neighbor.**

## COMPREHENSIVE PLAN DISCUSSION

The petition site is located within the Monroe County Comprehensive Plan Rural Residential zone designation.

### Rural Residential



The Rural Residential use category includes rural property, environmentally sensitive areas, and areas adjacent to quarry operations where low densities are appropriate and desirable; however, the sparse population character of the Farm and Forest category is no longer applicable. Generally, these areas are characterized by active or potential mineral extraction operations nearby, steep slopes, and the remaining forest and/or agricultural land where roadways and other public services are minimal or not available.

The Rural Residential use category includes all property in Monroe County that is not within the Farm and Forest Residential area, Bloomington Urbanizing Area or a Designated Community, or an incorporated town or city. Approximately 52,000 acres of rural property in Indian Creek, Clear Creek, Van Buren, Bloomington, Richland, Bean Blossom, Washington, and Benton Townships are designated Rural Residential. Most often this category adjoins or is very close to the Farm and Forest Residential areas. Current Rural Residential densities are usually greater than 64 homes per section and some portions of the Rural Residential area have already been subdivided or developed at urban densities.

To maintain Rural Residential property use opportunities, an average residential density per survey section shall be established by ordinance. This average density shall preserve the rural lifestyle opportunity of this area and help protect nearby Vulnerable Lands. Where appropriate infrastructure is available, home clustering with open space dedications may be an option in this residential category. Open space can serve a variety of uses including recreational opportunities for local residents, limited accessory agricultural uses, or buffering of an adjoining use. Contiguous Resilient Land shall be available for each dwelling adequate to support either two independent conventional septic fields or one replaceable mound system. Sufficient space for buildings traditionally associated for this type of use must also be provided. In addition, public roadways shall not experience less than the Monroe County Level of Service standard existing at the time this Plan is adopted. New subdivision road traffic lanes that access County roadways shall not exceed the capacity of traffic lanes for adjoining public roadways. State highways, major collectors, or arterial roads are exempt from this requirement.

**FINDINGS OF FACT: Minimum Lot Size Standard**

812-6 Standards for Design Standards Variance Approval: In order to approve an application for a design standards variance, the Board must find that:

**(A) The approval, including any conditions or commitments deemed appropriate, will not be injurious to the public health, safety, and general welfare of the community, because:**

*(1) It would not impair the stability of a natural or scenic area;*

**Findings:**

- Approval of the variance would allow the petitioner to receive an approved Home Based Business Permit without screening of outdoor equipment;
- The site currently holds a Single Family Residence and two gravel parking areas used for the business;
- There are no designated scenic areas adjacent to the petition site;
- There is no evidence that the HBB without screening would obstruct a natural or scenic view;
- Conclusion: It would not impair the stability of a natural or scenic area.

*(2) It would not interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities;*

**Findings:**

- See findings under A (1);
- The property has access from W Ratliff Road, a designated local road;
- The proposed HBB without screening will not interfere with water lines or septic;
- Conclusion: It would not interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities.

*(3) The character of the property included in the variance would not be altered in a manner that substantially departs from the characteristics sought to be achieved and maintained within the relevant zoning district. That is, the approval, singularly or in concert with other approvals - sought or granted, would not result in a development profile (height, bulk, density, and area) associated with a more intense zoning district and, thus, effectively re-zone the property; and,*

**Findings:**

- See findings under A(1) and A(2);
- The proposed HBB would meet all use design standards except Condition 16 for outdoor storage screening;
- Condition 16 applies to all home based businesses in the County, which is permitted in many residential zones;
- Conclusion: The character of the property included in the variance would not be altered in a manner that substantially departs from the characteristics sought to be achieved and maintained within the relevant zoning district.

*(4) It would adequately address any other significant public health, safety, and welfare concerns raised during the hearing on the requested variance;*

**Findings:**

- The Board of Zoning Appeals may request the petitioner to address any other significant public health, safety, and welfare concerns raised during the hearing;

**(B) The approval, including any conditions or commitments deemed appropriate, would not**

affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner, because:

*(1) The specific purposes of the design standard sought to be varied would be satisfied;*

**Findings:**

- See findings under A (1);
- The petition site is zoned AG/RR with adjacent properties zoned AG/RR and Estate Residential (ER);
- The petition site and adjacent properties are a residential use;
- Conclusion: The specific purposes of the design standard sought to be varied **would be satisfied**.

*(2) It would not promote conditions (on-site or off-site) detrimental to the use and enjoyment of other properties in the area (e.g., the ponding of water, the interference with a sewage disposal system, easement, storm water facility, or natural watercourse, etc.); and,*

**Findings:**

- See findings under A (1);
- There is no FEMA floodplain on site;
- Drainage from the existing structures run towards the west and/or east to existing large ravines;
- Conclusion: It **would not** promote conditions (on-site or off-site) detrimental to the use and enjoyment of other properties in the area.

*(3) It would adequately address any other significant property use and value concerns raised during the hearing on the requested variance; and,*

**Findings:**

- The Board of Zoning Appeals may request the petitioner to address any other significant property use and value concerns raised during the hearing on the requested variance;

**(C) The approval, including any conditions or commitments deemed appropriate, is the minimum variance necessary to eliminate practical difficulties in the use of the property, which would otherwise result from a strict application of the terms of the Zoning Ordinance.**

**Findings:**

- The strict application of the ordinance would require the petitioner to install multiple screenings or a large structure;
- The petitioner site located on a hill and is visible from multiple surrounding properties and a public Right of Way;
- If the variance is not granted, vegetative screening or a structure would be required to receive an approved Home Based Business permit;
- The cost of the screening or structure to house the equipment would be a significant burden for a Home Based Business;
- Conclusion: There **are practical difficulties** in the use of the property as defined in Chapter 801;

All variance approvals shall be considered to be conditional approvals. The Board shall have the authority to impose specific conditions as part of its approval in order to protect the public health, and for reasons of safety, comfort and convenience (e.g., to insure compatibility with surroundings). Variance approval applies to the subject property and may be transferred with ownership of the subject property subject to

the provisions and conditions prescribed by or made pursuant to the Zoning Ordinance. **NOTE:** The Board must establish favorable findings for ALL THREE criteria in order to legally approve a design standards variance.

## **EXHIBIT ONE: Petitioner Letter**

March 3, 2020

To whom it may concern,

I, David J. Ennis, am writing this letter to explain why I am applying for a variance. I have operated out of this property for approximately 10 years and have never received a complaint until now. We had a brush fire this past year, the only time I burnt anything at all for the entire year and a neighbor complained about smoke. We try to recycle as much green waste as possible as I will explain later. The complaint was not about parking any equipment, trucks, trailers, or anything else. We are zoned agricultural which is the primary reason I bought this property off of my parents. I feel that I am in good standing with my neighbors and communicate with them regularly. My equipment, trailers, trucks, and or personal items are always parked in an orderly fashion and are close to a quarter mile off the road. My property is at the peak of one hill and can be seen from the Nazarene church and adjacent neighbor because they are on top of a hill as well which is at a much greater elevation and at a distance of a half mile. No amount of screening would ever completely block the view of my house or equipment from that perspective. I was shown an option of making a line of trees that would basically split my house in half if it were looked at from the front. This would not only be a major financial strain but also hurt the value of my home from a "curb appeal" standpoint if I were to sale my place which will more than likely happen in the next ten to fifteen years. Trees or a fence would be extremely expensive to plant/build and to remove and fix the yard when the time came to sale. This would also block my access to the back of my property where I plant a 3-4 acre plot every year for wildlife. This includes feed for everything including birds, deer, turkeys, etc... I also have a large garden that I need access to and a wood pile that I allow family and friends, including my neighbors, to cut on to heat their homes. That route is taken at all times because it is a field and not my yard which would be severely damaged by tractors for planting, trucks for wood, trucks bringing in dirt/fertilizer, etc...

The only time people can see my house and equipment are from the Nazarene church or if they were heading west on Ratliff Rd. within less than a hundred yards and half of that distance is not my property, but my neighbors which I can do nothing about. It is not visible at all for people heading East. Heading west people have to intentionally look and take their eyes off the road at the crest of a hill mind you to see it, and at that would almost have to come to a complete stop. The distance to where it is very visible is maybe 30-40 yards and I can't place trees there because that would be on my neighbors property. My water line also runs several yards to the east of my driveway which could cause issues from roots later on. Also, planting trees or a fence is a safety issue pulling out of my driveway for line of sight due to the crest of the hill just East of my driveway and the way the edge of my property abruptly drops down towards the road. You have to look from the top before you drop down to the road. I am also less than ten years from having a young driver in my oldest son with two more shortly to follow. I refuse to jeopardize my children's and wife's safety. The few people heading south on Diamond Rd. will see no matter what, with or without screening, because my driveway lines up with the road and my driveway is a straight shot to my house a quarter mile from the road. The Nazarene church is already shielded for the most part during the bulk of the year from the trees in the old creek line. It is visible through the winter months because the leaves are all off which will make no difference if I were forced to plant more.

Because of this, I am asking the county, board of planning, and neighbors to approve my variance of no screening on my property. I will be planting a couple of trees (more than likely arbor vitae) for screening on the west side of my driveway where my 2 employees park and the gravel widens.

Thank you,

David (Josh) Ennis

**EXHIBIT TWO: Home Based Business Application**



**MONROE COUNTY PLANNING DEPARTMENT**  
 Monroe County Government Center, 501 N. Morton St., Suite 224  
 Bloomington, IN 47404  
 Telephone: (812) 349-2560 / Fax: (812) 349-2967

1910-USE-46

**Use Determination Form**

*In the case where a land use is not clearly listed in Chapter 802 or Chapter 833 of the Monroe County Zoning Ordinance, the Monroe County Planning Department may issue a formal determination based on the information provided herein. This determination allows the applicant to know if a land use is permitted use or conditional use, or not permitted.*

| PROPERTY OWNER CONTACT INFORMATION         | REPRESENTATIVE CONTACT INFORMATION - if applicable |
|--|--|
| Name: <u>David (Josh) Ennis</u>            | Name: _____  |
| Address: <u>6675 W. Ratliff Rd.</u>        | Address: _____                                     |
| City, ZIP: <u>Bloomington, IN 47404</u>    | City, ZIP: _____                                   |
| Phone: <u>(812) 360-8847 cell -</u>        | Phone: _____                                       |
| Email: <u>ennis.treelandlawn@gmail.com</u> | Email: _____                                       |

Review of a Use Determination will begin only after this form is submitted to the Planning Department by the applicant.

Upon receipt of all required information, the Planning Department will review the materials and notify the applicant of the outcome by email or mail, as indicated below.

**Required property information:**

Date: 10-18-19 Notification Preference:  Email  Mail

Address for Land Use: 6675 W. Ratliff Rd.

Parcel Number or Tax ID: \_\_\_\_\_

Total acreage: 10+ Township & Section #: Richland

**Required land use information:**

Business title or Owner name: Ennis Tree and Lawn

Size of operation in total square feet or acres: 1

Number of Employees (On-site, both full-time & part-time): 3 (4 including himself)

Number of Vehicles (used in operation of industry): 5

Hours of Operation: 8am-5pm

Use, manufacture, or generation of any hazardous materials and/or waste:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(Continued on other side)

Required: Detailed description of the land use(s):

Note: The more complete this information, the more accurate the determination. It may also be necessary to request additional information.

Park vehicles overnight, employee parking ~~near~~ home residence, agricultural property.

Bucket truck.  
 F-450 Dump                      3 snowplows  
 F-550 Dump                      4 mowers  
 2 Dump trailers  
 1 Enclosed Trailer  
 1 Equipment trailer  
 1 tractor  
 1 F250 06  
 1 F250 2018

One employee drives truck home nightly.

Useful Code References:

Monroe County Zoning Ordinance: Chapters 802 & 833

-----Office Use Only-----

|   |   |
|---|---|
| Date issued:  | Additional Documents Attached: <input type="checkbox"/> Yes <input type="checkbox"/> No   |
| Zoning of Property: <b>AG/RR</b>  | Staff name: <b>ANNE</b>   |
| Current use:<br><b>RESIDENTIAL + BUSINESS</b>   | Is this a Change of Use, as defined in Chapter 801?<br><input type="checkbox"/> Yes <input type="checkbox"/> No   |
| Use Determination for Land Use:   | Chapter for Zoning and Use Table:<br><input checked="" type="checkbox"/> 802 <input type="checkbox"/> 833 <input type="checkbox"/> Bloomington UDO (2012) |
| Notes:<br><b>EMMIS TREE SERVICE</b><br><del>-HAS 1 100 manly employees</del>  |   |
| <div style="border: 1px solid black; padding: 5px; display: inline-block; color: red;">Amended – Currently has 3 employees.</div> |   |

**EXHIBIT THREE: Home Based Business Application Site Plan**

**Slope Map**

-  Local Roads [50']
-  Petitioner
-  Parcels
-  10-Foot Contours
-  Hydrologic Features

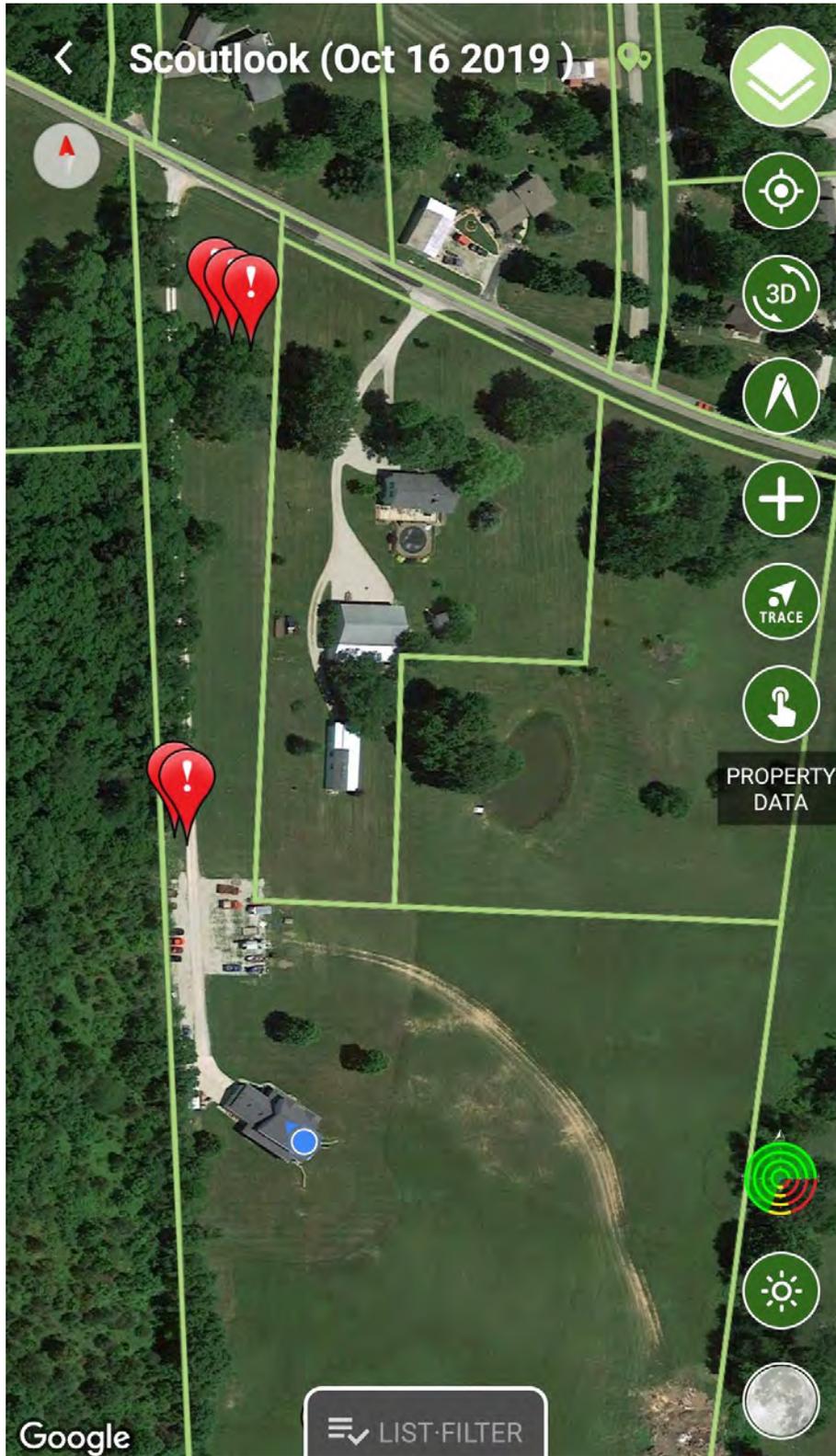


0 50 100 200 300 400 Feet



Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 10/18/2019

**EXHIBIT FOUR: Petitioner's Proposed Tree Locations**



**MONROE COUNTY BOARD OF ZONING APPEALS**

**June 3, 2020**

**CASE NUMBER:** 2003-VAR-19, 2003-VAR-19A  
**PLANNER:** Drew Myers  
**PETITIONER(S):** BLH Asset Protection Trust; C/o John D. Holsapple, Trustee  
**REQUEST:** Design Standards Variance: Chapter 804 Side Yard Setback  
 Design Standards Variance: Chapter 804 Minimum Lot Width  
**ADDRESS:** 8150 & 8023 S Old State Road 37  
**ZONING:** Agriculture/Rural Reserve (AG/RR)  
**ACRES:** 4.53 +/- acres  
**TOWNSHIP:** Clear Creek Township  
**SECTION(S):** 17  
**PLAT(S):** N/A  
**COMPREHENSIVE**  
**PLAN DESIGNATION:** Rural Residential

**EXHIBITS:**

1. Petitioner’s Letter
2. Site Survey
3. Enforcement Letter & County Commissioners’ Order
4. Proof of Decommission

**RECOMMENDED MOTION:**

**Approve** the design standards variance to Chapter 804 for Side Yard Setback based on the findings of fact and subject to the Monroe County Highway and Drainage Engineer reports.

**Approve** the design standards variance to Chapter 804 for Minimum Lot Width based on the findings of fact and subject to the Monroe County Highway and Drainage Engineer reports.

**SUMMARY/BACKGROUND**

The petitioner requests two design standards variances, one from the Side Yard Setback requirement of Chapter 804 and another from the Minimum Lot Width requirement of Chapter 804 for the existing 2,862 sq. ft. residential accessory structure with a 612 sq. ft. deck on the property.

In June 2019, the Monroe County Planning Department contacted the petitioner with respect to violations of the Monroe County Ordinance at the petition site. At some point between 2006 and 2010, the existing pole barn on the petition site received new additions and was converted to a single-family residence without permits or approvals.

An order was obtained from the Board of Commissioners on November 27, 2019 directing the Planning Office to take all actions necessary to bring the petition site into compliance with all County ordinances.

The following actions were communicated to the petitioner to bring the use and development of the property into compliance with the County ordinances:

- Decommission the single-family residence illegally converted by February 4, 2020 as the use is not permitted. Proof of decommissioning (i.e. removal of a bedroom, bathroom, or kitchen) and required permits must be submitted to the Planning Office by February 4, 2020.
- Submit for an after-the-fact Improvement Location Permit in order to keep the addition to the accessory structure, or apply for a demolition permit and remove the unpermitted portion of the

building by February 4, 2020.

Decommission proof of the single-family residence back to a residential accessory structure was submitted to the Planning Office by the above deadline and can be found in Exhibit 4. An after-the-fact Improvement Location Permit for the additions to the residential accessory structure was also submitted to the Planning Office by the above deadline. The petitioner submitted a survey (Exhibit 2) that showed the addition to the building made without permits did not meet side setback standards, nor did the lot meet the required lot width. The petitioner was given two options based on the survey information: 1. Apply for variances, or 2. File for an administrative subdivision to fix the deed gap between this property and the adjoining property to the north. The deed gap ranges between 16.7 feet to 19.7 feet running from east to west. Since option 2 involved more survey and title work, the petitioner opted for option #1.

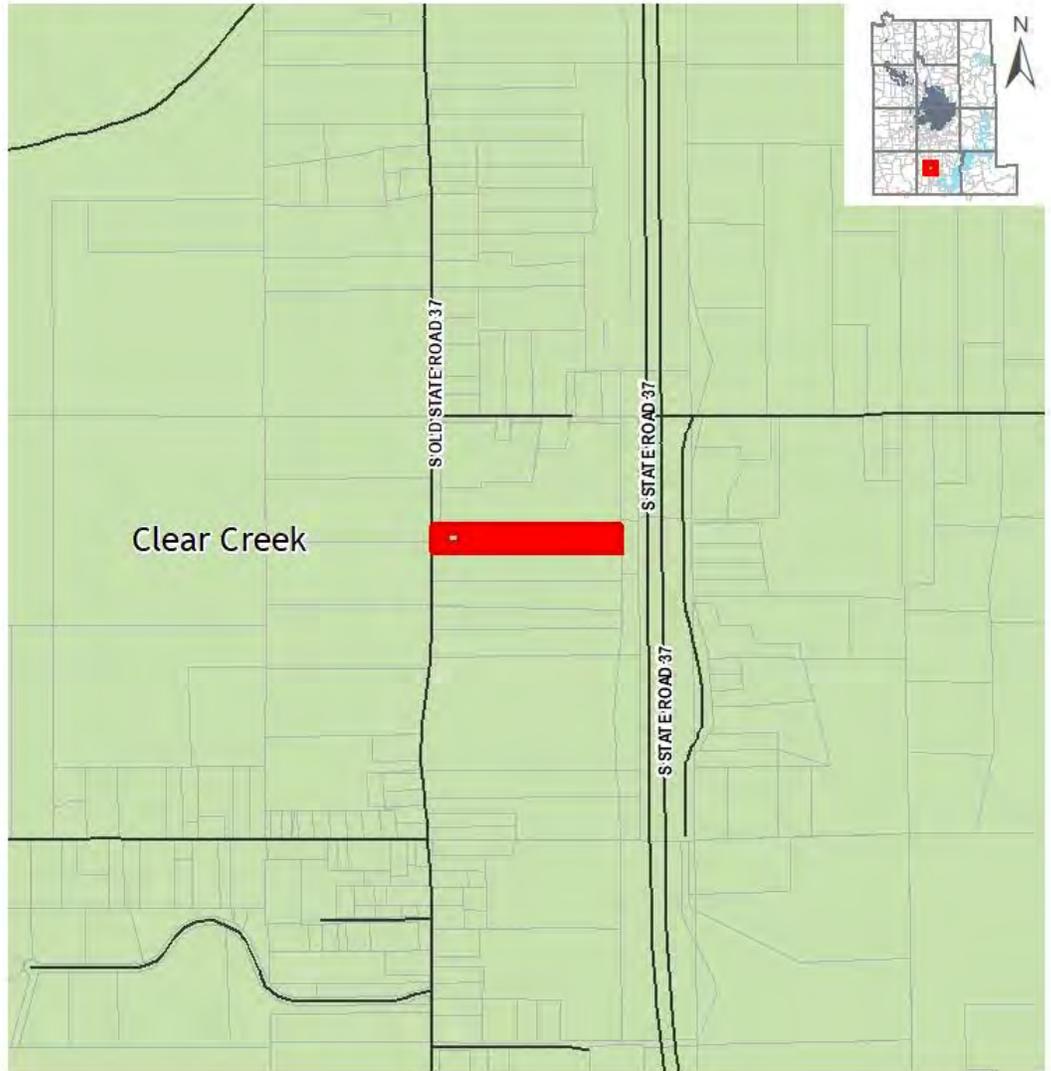
If both variances are approved, the Improvement Location Permit can be issued and the petitioner can retain the additions made to the residential accessory structure. If either variance is denied, the petitioner must decommission the additions that were made without permits or approvals or seek an administrative subdivision process to fix the deed gap and thereby comply with the minimum lot width and side setback required.

### LOCATION MAP

The site is located at 8150 and 8023 S Old State Road 37, Clear Creek Township, Section 17, parcel number 53-00-40-690-000.000-006.

#### Location Map

-  Petitioner
-  Roads
-  Civil (Political) Townships
-  Parcels



0 0.075 0.15 0.3 Miles

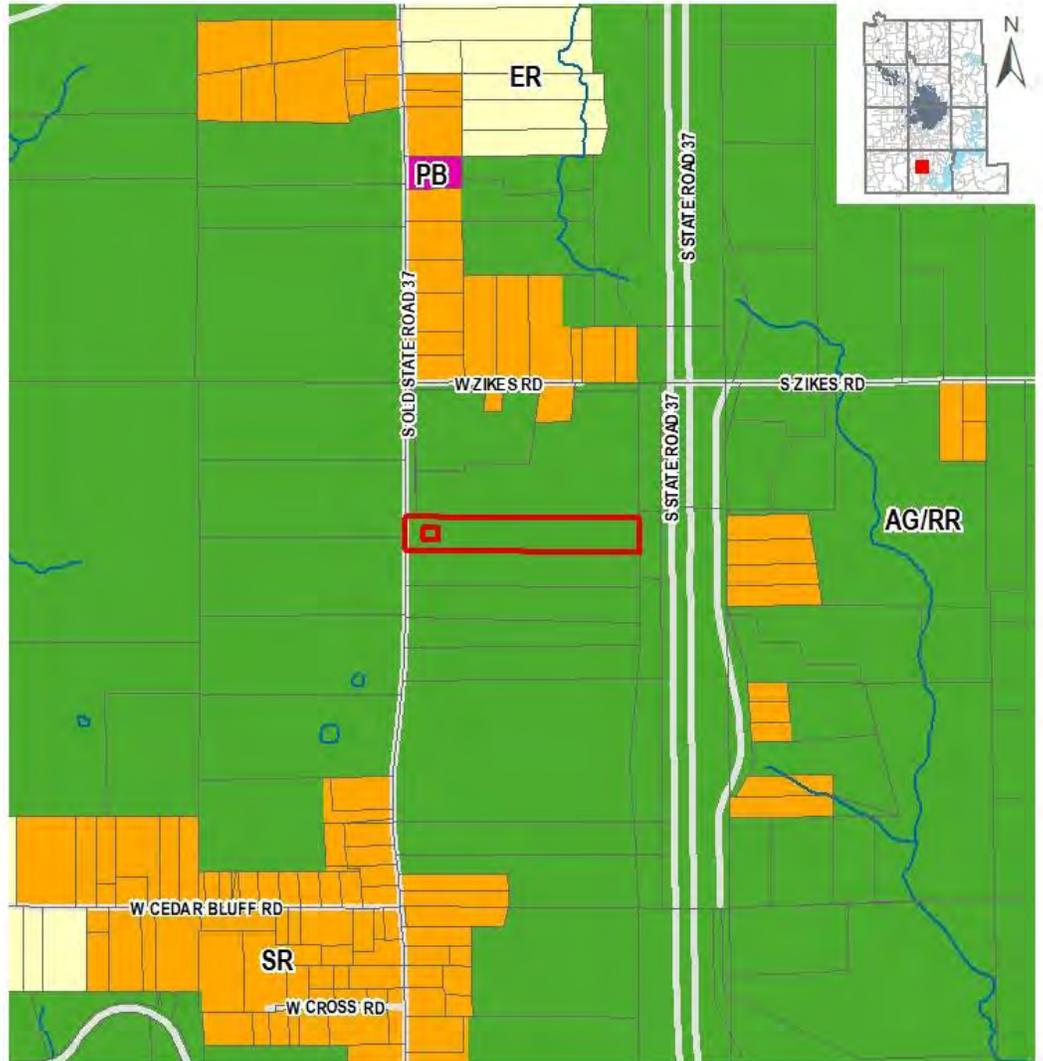
 Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 3/13/2020

**ZONING CLASSIFICATION**

The petition site is zoned Agriculture/Rural Reserve (AG/RR) along with the immediately adjacent parcels. Other zoning districts in the area include Suburban Residential (SR), Pre-existing business (PB), and Estate Residential (ER). Surrounding uses include residential, agricultural, and religious organization.

**Current Zoning Map**

-  Petitioner
  -  Parcels
  -  Roads
  -  Hydrologic Features
- Monroe County Zoning**
-  AG/RR - Agriculture/Rural Reserve
  -  ER - Estate Residential
  -  PB - Pre-Existing Business
  -  SR - Suburban Residential



0 0.05 0.1 0.2 Miles

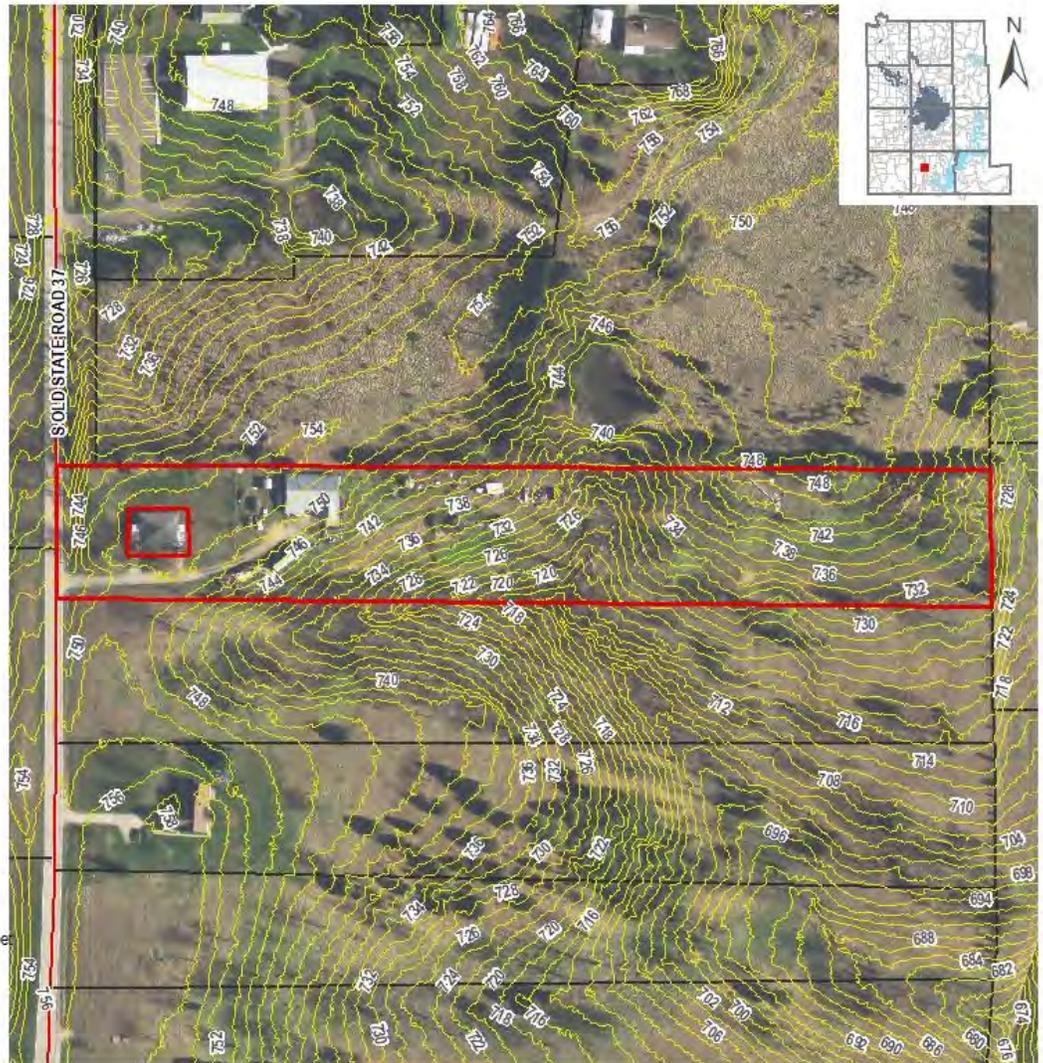
Monroe County  
 Planning Department  
 Source: Monroe County GIS  
 Date: 3/13/2020

## SITE CONDITIONS

The site has access and frontage on S Old State Road 37. The petition site consists of both parcels outlined in red. The smaller “parcel” was created for tax purposes, but both are listed as one lot of record. The smaller “parcel” contains an approx. 1,050 sq. ft. duplex. The larger “parcel” contains an approx. 2,862 sq. ft. residential accessory structure with an approx. 612 sq. ft. deck. The site does exhibit slopes greater than 15%, which are primarily located in the middle of the property. FEMA Floodplain, karst, or other unique conditions are not present at the site. The site drains east and southeast.

### Site Conditions Map

-  Minor Collector [60']
-  Petitioner
-  2-Foot Contours
-  Local Roads [50']
-  Parcels

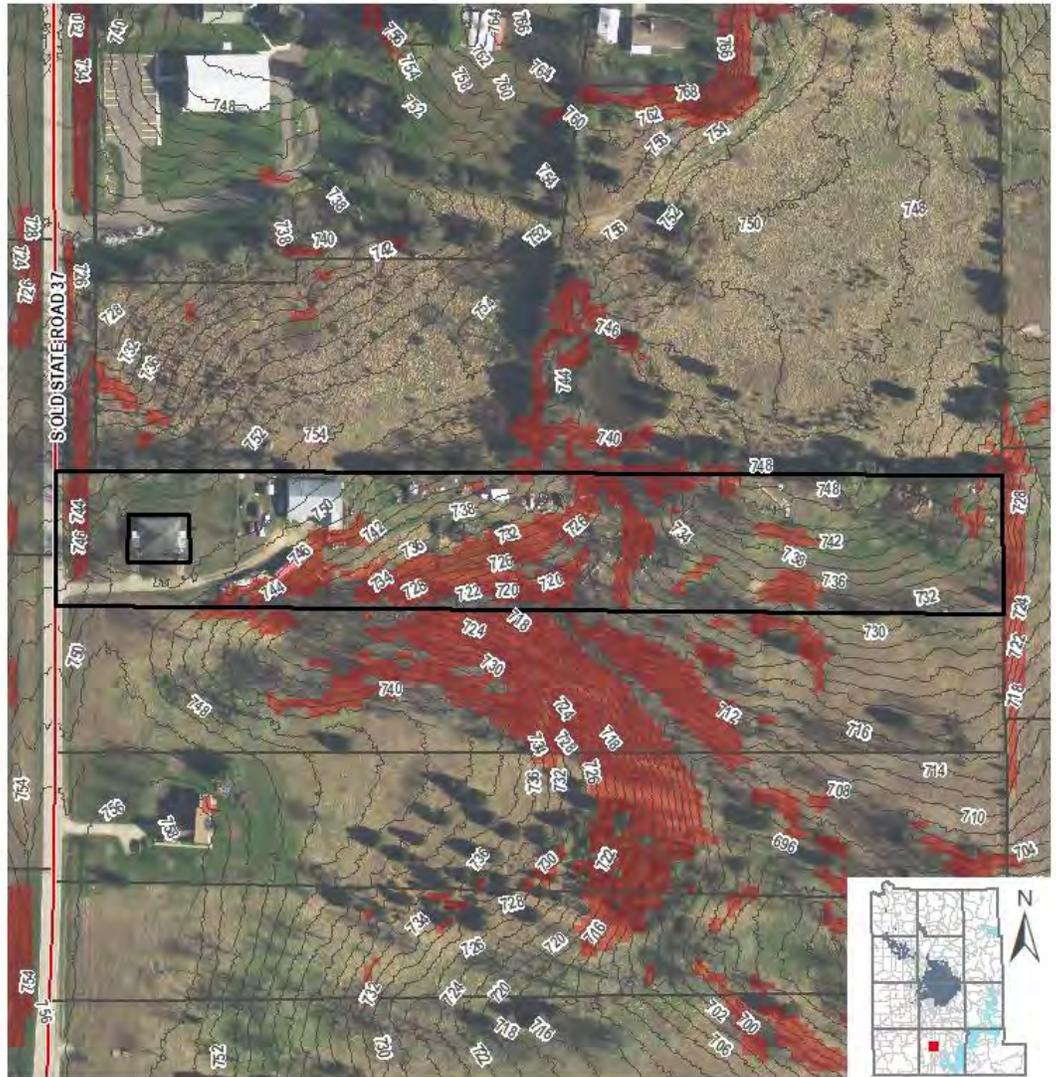


# Slope Map

-  Petitioner
-  Minor Collector [60]
-  Roads
-  Parcels
-  2-Foot Contours
- 15% Slope (2010)**
-  0 - 15
-  > 15

PARCEL #:  
53-00-40-690-000.000-006

NOTE:  
Areas > 15% slope are classified as nonbuildable area per Chapter 804.



0 40 80 160 240 320 Feet



Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 3/13/2020

**SITE PHOTOS**



**Photo 1. Facing North – driveway cut**



**Photo 2. Facing South – driveway cut**



**Photo 3.** Facing East



**Photo 4.** Facing North



**Photo 5.** Facing East



**Photo 6.** Facing East



**Photo 7.** Facing East



**Photo 8.** Facing North



**Photo 9.** Facing Northwest



**Photo 10.** Facing West



**Photo 11.** Facing West



**Photo 12.** Aerial pictometry

## **COMPREHENSIVE PLAN**

### **Rural Residential**

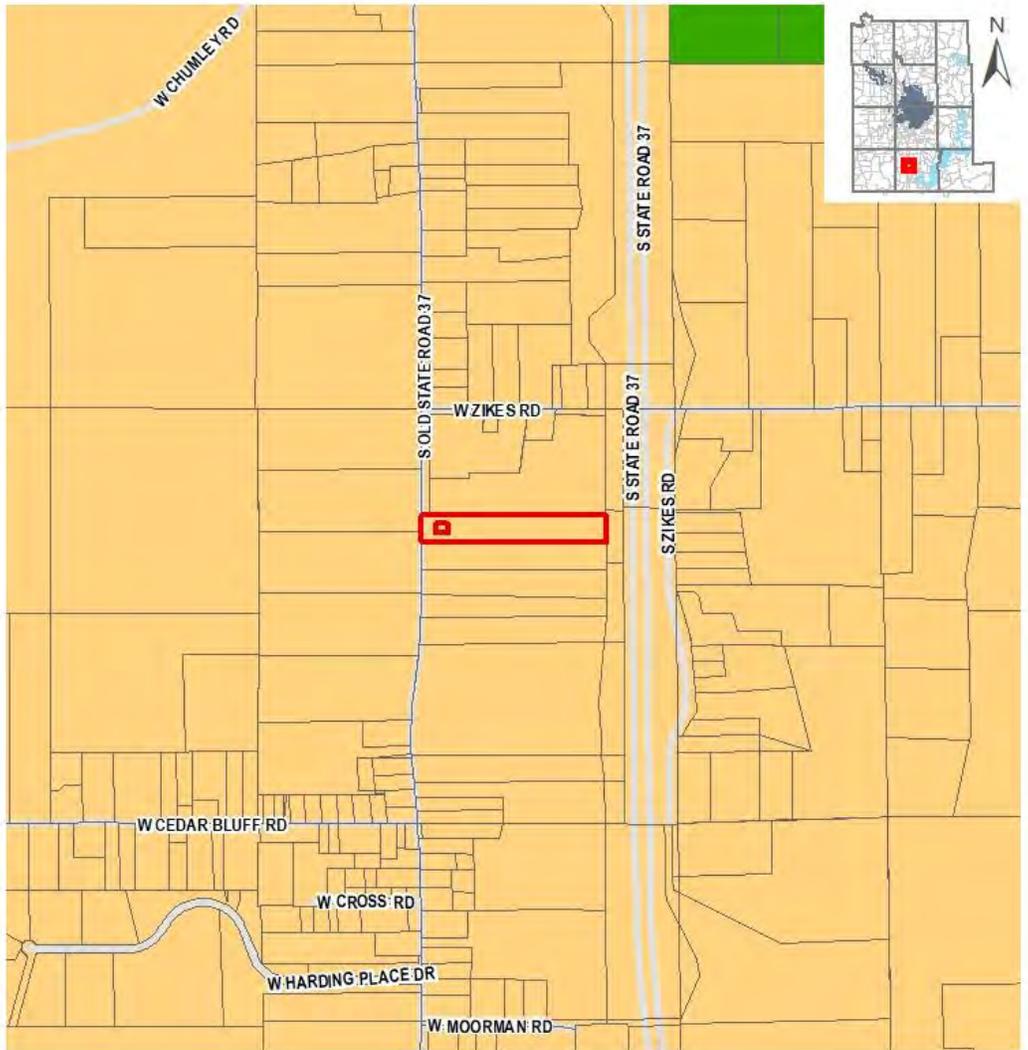
The Rural Residential use category includes rural property, environmentally sensitive areas, and areas adjacent to quarry operations where low densities are appropriate and desirable; however, the sparse population character of the Farm and Forest category is no longer applicable. Generally, these areas are characterized by active or potential mineral extraction operations nearby, steep slopes, and the remaining forest and/or agricultural land where roadways and other public services are minimal or not available.

The Rural Residential use category includes all property in Monroe County that is not within the Farm and Forest Residential area, Bloomington Urbanizing Area or a Designated Community, or an incorporated town or city. Approximately 52,000 acres of rural property in Indian Creek, Clear Creek, Van Buren, Bloomington, Richland, Bean Blossom, Washington, and Benton Townships are designated Rural Residential. Most often this category adjoins or is very close to the Farm and Forest Residential areas. Current Rural Residential densities are usually greater than 64 homes per section and some portions of the Rural Residential area have already been subdivided or developed at urban densities.

To maintain Rural Residential property use opportunities, an average residential density per survey section shall be established by ordinance. This average density shall preserve the rural lifestyle opportunity of this area and help protect nearby Vulnerable Lands. Where appropriate infrastructure is available, home clustering with open space dedications may be an option in this residential category. Open space can serve a variety of uses including recreational opportunities for local residents, limited accessory agricultural uses, or buffering of an adjoining use. Contiguous Resilient Land shall be available for each dwelling adequate to support either two independent conventional septic fields or one replaceable mound system. Sufficient space for buildings traditionally associated for this type of use must also be provided. In addition, public roadways shall not experience less than the Monroe County Level of Service standard existing at the time this Plan is adopted. New subdivision road traffic lanes that access County roadways shall not exceed the capacity of traffic lanes for adjoining public roadways. State highways, major collectors, or arterial roads are exempt from this requirement.

# Comprehensive Plan

-  Petitioner
  -  Townships
  -  Parcels
  -  Roads
- Comp. Plan Land Use (Updated 2015)
-  Farm and Forest
  -  Rural Residential



0 0.075 0.15 0.3 Miles

 Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 3/13/2020

**FINDINGS OF FACT: Side Yard Setback Chapter 804**

812-6 Standards for Design Standards Variance Approval: In order to approve an application for a design standards variance, the Board must find that:

- (A) **The approval, including any conditions or commitments deemed appropriate, will not be injurious to the public health, safety, and general welfare of the community, because:**

*(1) It would not impair the stability of a natural or scenic area;*

**Findings:**

- Approval of the variance would allow 2,862 sq. ft. residential accessory structure with 612 sq. ft. deck to remain 2.2' off the northern property line at the northwest corner and 4.1' off the northern property line at the northeast corner;
- There is a deed gap between this parcel and the property to the north that ranges in width from 16.5 feet to 19.7 feet;
- There is no FEMA floodplain on the site;
- There are no visible karst features on the site;
- There are no designated natural or scenic areas nearby;
- The petition site is not in the Environmental Constraints Overlay;
- **Conclusion:** Approval of the variance would not impair the stability of a natural or scenic area.

*(2) It would not interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities;*

**Findings:**

- See Findings A(1);
- The property contains frontage and access off S Old State Road 37 (a minor collector);
- Allowing the residential accessory structure to remain in its existing location will have no foreseeable impact on utilities;
- The existing residential accessory structure has been disconnected from the septic system; water main to the structure has been capped off; and water lines have been disconnected;
- The existing residential accessory structure maintains an electricity connection via an overhead powerline;
- The existing duplex is approx. 135' to the west and utilizes a septic system;
- **Conclusion:** Approval of the variance would not interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities.

*(3) The character of the property included in the variance would not be altered in a manner that substantially departs from the characteristics sought to be achieved and maintained within the relevant zoning district. That is, the approval, singularly or in concert with other approvals - sought or granted, would not result in a development*

*profile (height, bulk, density, and area) associated with a more intense zoning district and, thus, effectively re-zone the property; and,*

**Findings:**

- See Findings A(1) and A(2);
- The property is zoned Agriculture Rural Reserve (AG/RR);
- The required side setback for residential and residential accessory structures is 15’;
- The residential accessory structure is currently 2.2’ from the northern property line at the northwest corner and 4.1’ at the northeast corner;
- The use of the property is residential;
- The property is not in a platted subdivision;
- The vacant property adjacent to the north is Lot 2 of the Pillar of Fire Tabernacle Type “A” Administrative Subdivision;
- The surrounding areas are residential, agricultural, or religious organization;
- The Comprehensive Plan designates this area as Rural Residential;
- **Conclusion:** Approval of the variance would not alter the character of the property in a manner that substantially departs from the characteristics sought to be achieved and maintained with the relevant zoning district.

*(4) It would adequately address any other significant public health, safety, and welfare concerns raised during the hearing on the requested variance;*

**Findings:**

- The Board of Zoning Appeals may request the petitioner to address any other significant public health, safety, and welfare concerns raised during the hearing;

**(B) The approval, including any conditions or commitments deemed appropriate, would not affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner, because:**

*(1) The specific purposes of the design standard sought to be varied would be satisfied;*

**Findings:**

- See Findings A(1) and A(3);
- The purpose of the side yard setback requirement of 15’ for residential and residential accessory structures is to preserve the general character of the zoning district and provide a buffer between adjacent property owners;
- Existing deeds created a gap 16.5’ on the east end to 19.7’ on the west end between the petition site and Lot 2 of the Pillar of Fire Tabernacle Type “A” Administrative Subdivision;
- **Conclusion:** Approval of the variance would not significantly impact the purposes of the design.

*(2) It would not promote conditions (on-site or off-site) detrimental to the use and enjoyment of other properties in the area (e.g., the ponding of water, the interference with a sewage disposal system, easement, storm water facility, or natural watercourse,*

*etc.); and,*

**Findings:**

- See Findings A(1), A(3), and B(1);
- The residential accessory structure does not interfere with any easements or utilities;
- **Conclusion:** There are no foreseeable detrimental conditions to the use and enjoyment of other properties that would result from maintaining the current location of the residential accessory structure.

*(3) It would adequately address any other significant property use and value concerns raised during the hearing on the requested variance; and,*

**Findings:**

- The Board of Zoning Appeals may request the petitioner to address any other significant property use and value concerns raised during the hearing on the requested variance;

**(C) The approval, including any conditions or commitments deemed appropriate, is the minimum variance necessary to eliminate practical difficulties in the use of the property, which would otherwise result from a strict application of the terms of the Zoning Ordinance.**

**Findings:**

- The additions to the residential accessory structure were made some time between 2006 and 2010 without permits or approvals;
- Petitioner provided proof that the illegal conversion of the residential accessory structure into single-family residence was decommissioned;
- Applying for after-the-fact permits for the residential accessory structure additions and subsequent variance petitions were listed as part of the enforcement case remedy;
- Petitioner has applied for two variances, which is the minimum necessary in order to obtain an after-the-fact Improvement Location Permit for the residential accessory structure in its current configuration.

**FINDINGS OF FACT: Minimum Lot Width**

812-6 Standards for Design Standards Variance Approval: In order to approve an application for a design standards variance, the Board must find that:

**(A) The approval, including any conditions or commitments deemed appropriate, will not be injurious to the public health, safety, and general welfare of the community, because:**

*(1) It would not impair the stability of a natural or scenic area;*

**Findings:**

- Approval of the variance would allow 2,862 sq. ft. residential accessory structure with 612 sq. ft. deck to retain the structural additions made without permits or approvals;
- There is no FEMA floodplain on the site;
- There are no visible karst features on the site;
- There are no designated natural or scenic areas nearby;
- The petition site is not in the Environmental Constraints Overlay;
- **Conclusion:** Approval of the variance would not impair the stability of a natural or scenic area.

*(2) It would not interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities;*

**Findings:**

- See Findings A(1);
- The property contains frontage and access of S Old State Road 37 (a minor collector);
- Allowing the residential accessory structure to remain in its existing location will have no foreseeable impact on utilities;
- The existing residential accessory structure has been disconnected from the septic system; water main to the structure has been capped off; and water lines have been disconnected;
- The existing residential accessory structure maintains an electricity connection via an overhead powerline;
- The existing duplex is approx. 135' to the west and utilizes a septic system;
- **Conclusion:** Approval of the variance would not interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities.

*(3) The character of the property included in the variance would not be altered in a manner that substantially departs from the characteristics sought to be achieved and maintained within the relevant zoning district. That is, the approval, singularly or in concert with other approvals - sought or granted, would not result in a development profile (height, bulk, density, and area) associated with a more intense zoning district*

*and, thus, effectively re-zone the property; and,*

**Findings:**

- See Findings A(1) and A(2);
- The property is zoned Agriculture Rural Reserve (AG/RR);
- The required minimum lot width is 200’;
- The lot width measures approximately 170’ at building line;
- If the deed gap was remedied it would alleviate the need for a variance as it would meet the minimum lot width permitted;
- The use is residential with surrounding areas being residential, agricultural, and religious organization;
- The Comprehensive Plan designates this area as Rural Residential;
- This is a preexisting lot that has not changed dimensions since before the current zoning ordinance;
- **Conclusion:** Approval of the variance would not alter the character of the property in a manner that substantially departs from the characteristics sought to be achieved and maintained with the relevant zoning district.

*(4) It would adequately address any other significant public health, safety, and welfare concerns raised during the hearing on the requested variance;*

**Findings:**

- The Board of Zoning Appeals may request the petitioner to address any other significant public health, safety, and welfare concerns raised during the hearing;

**(B) The approval, including any conditions or commitments deemed appropriate, would not affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner, because:**

*(1) The specific purposes of the design standard sought to be varied would be satisfied;*

**Findings:**

- See Findings A(1) and A(3);
- The purpose of the minimum lot width is to preserve the general character of zoning district;
- **Conclusion:** Approval of the variance would not significantly impact the purposes of the design.

*(2) It would not promote conditions (on-site or off-site) detrimental to the use and enjoyment of other properties in the area (e.g., the ponding of water, the interference with a sewage disposal system, easement, storm water facility, or natural watercourse, etc.); and,*

**Findings:**

- See Findings A(1), A(3), and B(1);
- The residential accessory structure does not interfere with any easements or utilities;

- **Conclusion:** There are no foreseeable detrimental conditions to the use and enjoyment of other properties that would result from maintaining the current location of the residential accessory structure.

*(3) It would adequately address any other significant property use and value concerns raised during the hearing on the requested variance; and,*

**Findings:**

- The Board of Zoning Appeals may request the petitioner to address any other significant property use and value concerns raised during the hearing on the requested variance;

**(C) The approval, including any conditions or commitments deemed appropriate, is the minimum variance necessary to eliminate practical difficulties in the use of the property, which would otherwise result from a strict application of the terms of the Zoning Ordinance.**

**Findings:**

- Practical difficulties have been demonstrated in that the lot exists in the current configuration, which does not meet the minimum lot width for the zoning district (AG/RR);
- Petitioner has applied for two variances, which is the minimum necessary in order to obtain an after-the-fact Improvement Location Permit for the residential accessory structure in its current configuration.

All variance approvals shall be considered to be conditional approvals. The Board shall have the authority to impose specific conditions as part of its approval in order to protect the public health, and for reasons of safety, comfort and convenience (e.g., to insure compatibility with surroundings). Variance approval applies to the subject property and may be transferred with ownership of the subject property subject to the provisions and conditions prescribed by or made pursuant to the Zoning Ordinance.

**NOTE:** The Board must establish favorable findings for ALL THREE criteria in order to legally approve a design standards variance.

**EXHIBIT 1: Petitioner's Letter**

March 3, 2020

BLH Asset Protection Trust  
John D. Holsapple, Trustee  
2542 Gadwall Circle  
Indianapolis, IN 46234

Monroe County Plan Commission  
and office of the  
Monroe County Board of Zoning Appeals  
Monroe County Government Center,  
501 North Morton St., Suite 224  
Bloomington, IN 47404

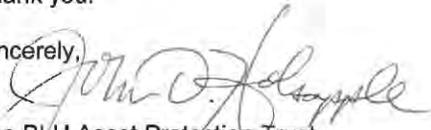
RE: Enforcement Case 19-AC-60

Dear Sirs,

The BLH Asset Protection Trust would like to proceed with the \$258.50 variance option.  
Enclosed please find the requested documents.

Thank you.

Sincerely,



The BLH Asset Protection Trust  
John D. Holsapple, Trustee

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## EXHIBIT 3: Enforcement Letter & County Commissioners' Order

MONROE COUNTY PLAN COMMISSION  
*and office of the*  
MONROE COUNTY BOARD OF ZONING APPEALS  
Monroe County Government Center, 501 N. Morton St., Suite 224  
Bloomington, IN 47404  
Telephone: (812) 349-2560 / Fax: (812) 349-2967  
<https://www.co.monroe.in.us/department/?structureid=13>



December 27, 2019

Blh Asset Protection Trust  
W/ 1% Life Estate Holsapple, John David  
2542 Gadwall Circle  
Indianapolis, IN 46234

Drew Hall  
McKinney & Malapit Law  
201 N. High St.  
Muncie, IN 47305

**RE: Enforcement Case 19-AC-60**

Dear Mr. Holsapple,

On a number of occasions, we have communicated with you, and discussed with your attorney, the ways in which your alteration and conversion of an accessory structure into a Single Family Residence on your property at 8023 S Old State Road 37 (parcel #s: 53-00-40-690-000.000-006 & 53-11-17-100-024.000-006) fails to comply with the Monroe County Zoning Ordinance and with other County ordinances. Furthermore, we have informed you of the following actions necessary to bring the use and development of your property into compliance with the County ordinances:

- Decommission the Single Family Residence illegally converted by February 4, 2020 as the use is not permitted. Proof of decommissioning (i.e. removal of a bedroom, bathroom, or kitchen) and required permits must be submitted to the Planning Office by February 4, 2020.
- Submit for an after-the-fact Improvement Location Permit (checklist attached) in order to keep the addition to the accessory structure, or apply for a demolition permit and remove the unpermitted portion of the building by February 4, 2020.

We have provided you with compliance deadlines which have not been met. On November 27, 2019, we obtained an order from the Board of Commissioners of Monroe County, IN, directing us to take all actions necessary to bring your property into compliance with all County ordinances. A copy of the order is enclosed.

The purpose of this letter is to inform you that the February 4, 2020, deadline is a final deadline by which you must have complied with the foregoing compliance actions. If you fail to meet the deadline we will initiate an enforcement action against you in the Monroe Circuit Court pursuant to the Commissioners' Order. Please note that each day a violation persists constitutes a distinct violation for which the County may seek a civil penalty.

Should you have any questions or need additional information, please feel free to contact me.

Sincerely,



Jackie Nester Jelen  
Assistant Director  
Monroe County Planning

Cc: Rachel Henry, Zoning Inspector  
Larry Wilson, Planning Director  
David Schilling, Attorney

COUNTY COMMISSIONERS' ORDER - November 27, 2019

IN RE: alleged violations of the Monroe County Zoning Ordinance.

Whereas, the Monroe County Planning Staff presented the Board of Commissioners of the County of Monroe, Indiana ("County Commissioners") with materials and information (attached hereto as "Exhibit A") regarding alleged violations of the Monroe County Zoning Ordinance occurring on property owned or controlled by BLH Asset Protection Trust ("BLH");

Whereas, the Monroe County Planning Staff presented County Commissioners with materials and information (attached hereto as "Exhibit B") regarding alleged violations of the Monroe County Zoning Ordinance occurring on property owned or controlled by Kristin Laspada ("Laspada");

Whereas, the Monroe County Planning Staff presented the County Commissioners with materials and information (attached hereto as "Exhibit C") regarding alleged violations of the Monroe County Zoning Ordinance occurring on property owned or controlled by James Mullis ("Mullis");

Whereas, the Monroe County Planning Staff presented the County Commissioners with materials and information (attached hereto as "Exhibit D") regarding alleged violations of the Monroe County Zoning Ordinance occurring on property owned or controlled by Timothy Sinclair dba TKS Detailing ("Sinclair");

Whereas, the Monroe County Attorney has conducted an investigation and has concluded that there is reasonable cause to believe that the Zoning Ordinance is being violated in the ways alleged in Exhibits A through D;

Now, therefore, the County Commissioners, hereby Order the Monroe County Attorney to take all actions necessary to achieve compliance with the Zoning Ordinance, including the initiation of ordinance enforcement actions against BLH Asset Protection Trust (8150 and 8023 S. Old SR 37), Laspada (9570 W. Ratliff Rd.), Mullis (6340 and 6505 N. Viking Ridge Rd.), and, Sinclair (8815 W. Evans Rd.), and/or those responsible for the violations alleged in Exhibits A through D, attached hereto, or other Monroe County Code violations subsequently discovered, pursuant to the authority conferred on Monroe County, Indiana, and the County Attorney by Monroe County Code Section 115-4 and Chapter 430, Indiana Code Chapter 36-1-6, Indiana Code Section 34-28-5-1, and Indiana Code Subsection 36-7-4-1013(a).

So Ordered this 27<sup>th</sup> day of November, 2019 by the Board of Commissioners of the County of Monroe, Indiana.

  
JULIE THOMAS, President

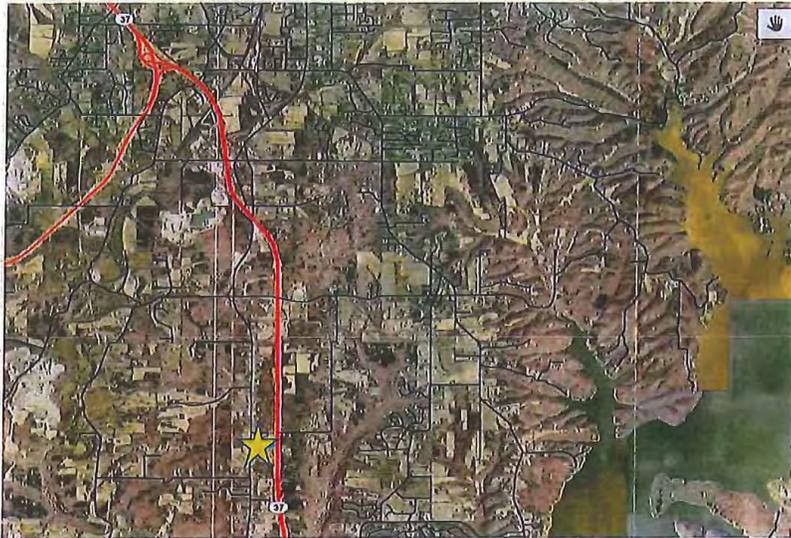
  
LEE JONES, Vice President

  
PENNY GITHENS

ATTEST:

  
Catherine Smith, Auditor

BLH Asset Protection Trust 8150 & 8023 S Old State Road 37



Brought to our attention through a Planner of the Day call about a property for sale. The property contains a duplex that is grandfathered along with an accessory structure. We found that in 2006 the accessory structure was converted into a Single Family Residence without appropriate Improvement Location Permits or Building permits, and the property has no septic information on file at the Health Department. Owner was sent a letter in June 2019 to discuss options with a planner and has not yet taken action to comply with the zoning ordinance.



EXHIBIT A

## **EXHIBIT 4: Proof of Decommission**

### Decommissioning plan:

The following deconstruction has been completed in order to remove the bathrooms and decommission the single-family residence at 8023 S. Old State Road 37, Bloomington, IN 47408:

1. Disconnect and cap off septic system from the structure.
2. Cap off water main to structure.
3. Remove toilets and cap off toilet drains.
4. Remove sinks, vanities, and shower fixture.
5. Disconnect water line to sinks, toilets, and shower fixture.

**RECEIVED**

**FEB 04 2020**

**MONROE COUNTY PLANNING**

**AFFIDAVIT OF COMPLETED WORK**

Name: BLH Asset Protection Trust  
John D. Holsapple, Trustee

I, John D. Holsapple, Trustee, swear or affirm:

That the work submitted in the Decommissioning Plan has been completed.

I SWEAR OR AFFIRM THAT THE ABOVE AND FOREGOING REPRESENTATIONS ARE TRUE AND CORRECT TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF.

|                         |                                   |
|-------------------------|-----------------------------------|
| <i>February 3, 2020</i> | <i>John D. Holsapple, Trustee</i> |
| Date                    | John D. Holsapple, Trustee        |

STATE OF INDIANA  
COUNTY OF MARION

I, the undersigned Notary Public, do hereby affirm that John D. Holsapple personally appeared before me on the 3<sup>rd</sup> day of February 2020, and signed the above Affidavit as his free and voluntary act and deed.

*Mark Scudder 2.3.2020*

MARK SCUDDER  
NOTARY PUBLIC  
**SEAL**  
MARION COUNTY, STATE OF INDIANA  
My Commission Expires  
March 1, 2022  
Commission No. 651421

**RECEIVED**

FEB 04 2020

MONROE COUNTY PLANNING



disconnect septic system



remove sink/shower fixtures  
and cap off



disconnect water main



remove toilet and cap off drain



disconnect water main



remove sink, toilet, and cap off drain

**MONROE COUNTY BOARD OF ZONING APPEALS****June 3, 2020**

**CASE NUMBER:** 2005-VAR-26, 2005-VAR-27  
**PLANNER:** Drew Myers  
**PETITIONER(S):** Garrett & Pamela Gough  
**REQUEST:** Design Standards Variance: Chapter 804 Minimum Lot Size  
 Design Standards Variance: Chapter 804 Front Yard Setback  
**ADDRESS:** 6879 N Red Hill RD  
**ZONING:** Agriculture/Rural Reserve (AG/RR)  
**ACRES:** 1.36 +/- acres  
**TOWNSHIP:** Bean Blossom Township  
**SECTION(S):** 33  
**PLAT(S):** N/A  
**COMPREHENSIVE**  
**PLAN DESIGNATION:** Rural Residential

**EXHIBITS:**

1. Petitioner's Letter
2. Petitioner's Site Plan

**RECOMMENDED MOTION:**

**Approve** the design standards variance to Chapter 804 for Minimum Lot Size based on the findings of fact and subject to the Monroe County Highway and Drainage Engineer reports.

**Approve** the design standards variance to Chapter 804 for Front Yard Setback based on the findings of fact and subject to the Monroe County Highway and Drainage Engineer reports.

**SUMMARY**

The petitioner requests two design standards variances, one from the Minimum Lot Size requirement of Chapter 804 and another from the Front Yard Setback requirement of Chapter 804 for the purposes of constructing a 960 sq. ft. pole style garage on the property.

The minimum lot size requirement for property in the Agriculture/Rural Reserve (AG/RR) zoning district is 2.5 acres. The petition site contains only 1.36 acres. The front yard setback for property in the AG/RR zoning district is 50' when there is no direct frontage. The location of the proposed pole style garage is approx. 33' from the southern property line, which would result in an encroachment of 17' into the required 50' front yard setback.

## Summary of Variance Requests

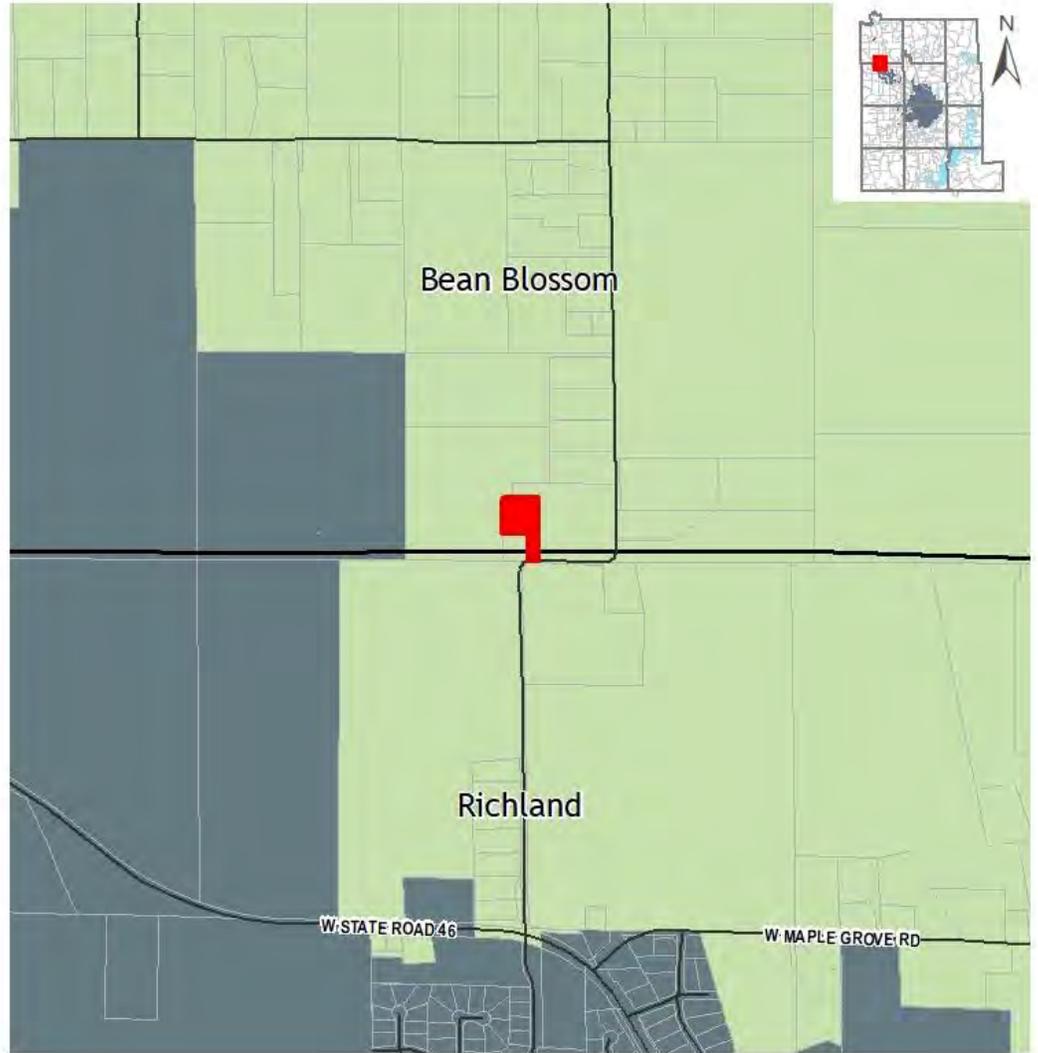
|                    | REQUIRED                    | EXISTING   |
|--------------------|-----------------------------|------------|
| Lot Size           | 2.5 acres                   | 1.36 acres |
| Front Yard Setback | 50' (if no direct frontage) | ~33'       |

**LOCATION MAP**

The site is located at 6879 N Red Hill RD, Bean Blossom Township, Section 33, parcel number 53-03-33-400-009.000-001.

**Location Map**

-  Petitioner
-  Roads
-  Civil (Political) Townships
- Incorporated Areas**
-  Ellettsville
-  Parcels



0 0.075 0.15 0.3 Miles

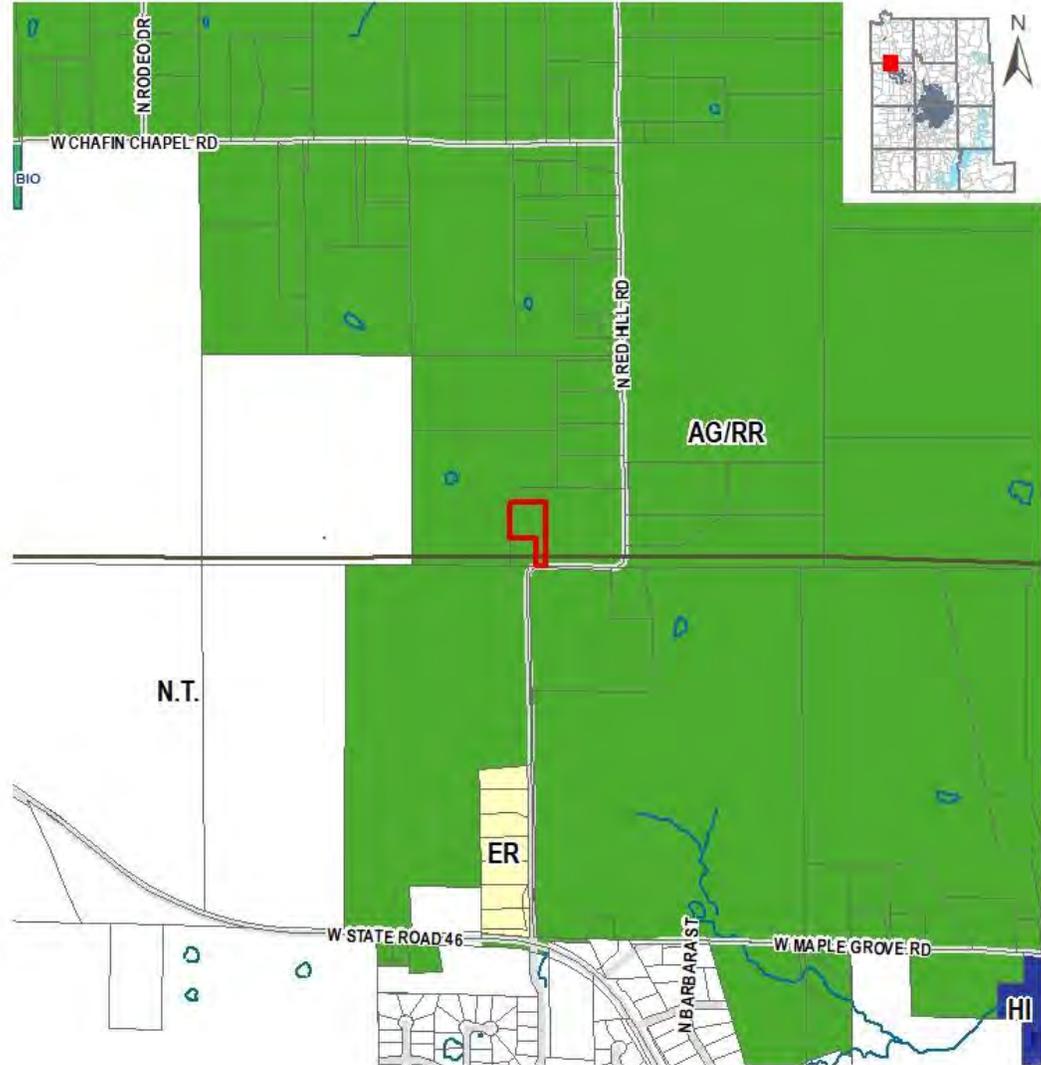
 Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 5/26/2020

## ZONING CLASSIFICATION

The petition site is zoned Agriculture/Rural Reserve (AG/RR) along with the majority of the surrounding parcels. Other zoning districts in the area include Estate Residential (ER), and the Town of Ellettsville. Adjacent uses are residential and/or agricultural.

### Current Zoning Map

-  Petitioner
-  Parcels
-  Roads
-  Hydrologic Features
-  Business Industrial Overlay
- Monroe County Zoning**
-  AG/RR - Agriculture/Rural Reserve
-  ER - Estate Residential
-  HI - Heavy Industrial
-  N.T. - No Tag (Outside Juris.)
-  Town of Ellettsville



0 0.075 0.15 0.3 Miles

Monroe County  
 Planning Department  
 Source: Monroe County GIS  
 Date: 5/26/2020

**SITE CONDITIONS**

The site is predominantly flat with access and frontage off N Red Hill RD (a local road). FEMA Floodplain, karst, or other unique conditions are not present at the site. An existing overhead powerline traverses the property in a northeast-southwest direction through the pole of this flag lot. The site drains north, northwest, and northeast.

**Site Conditions Map**

-  Petitioner
-  Local Roads [50']



# Slope Map

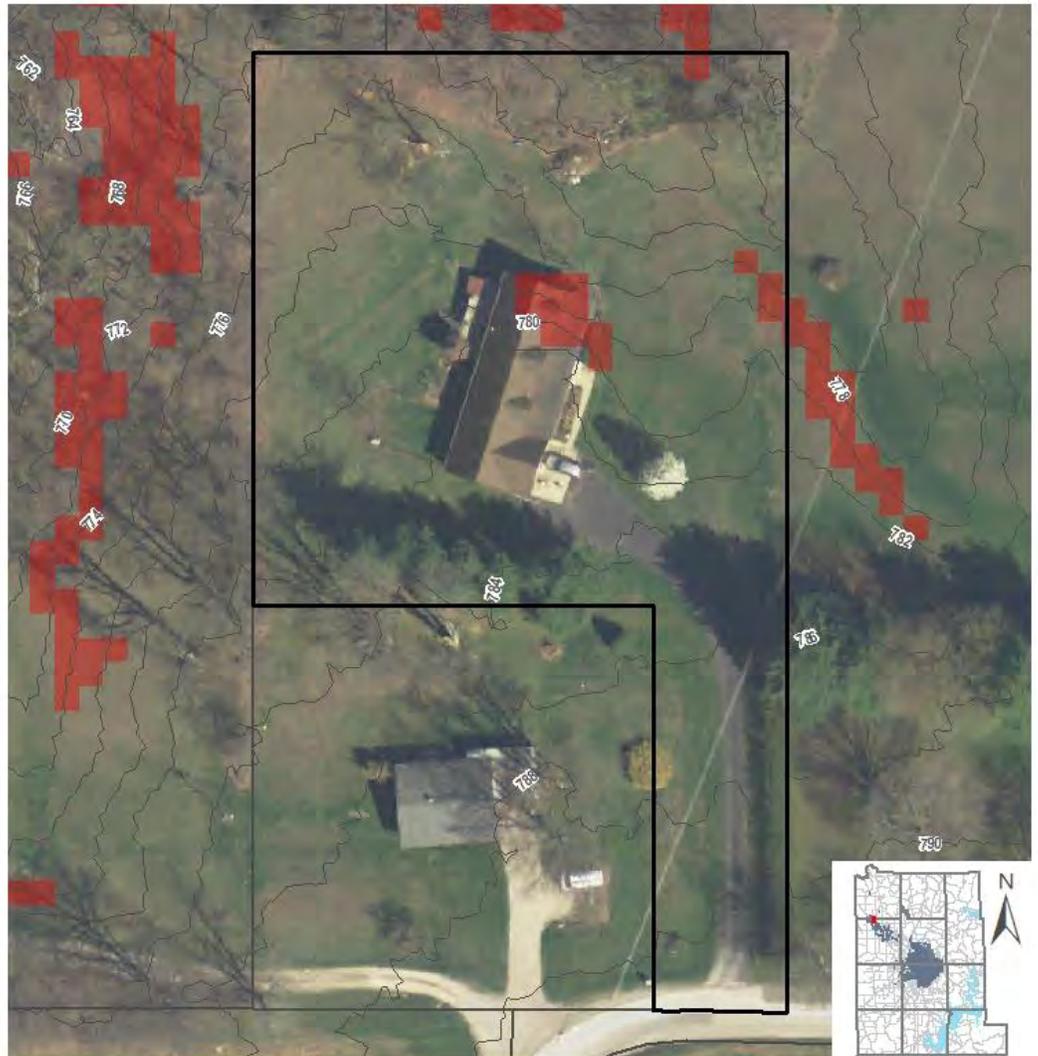
- Petitioner
- Roads
- Parcels
- 2-Foot Contours

## 15% Slope (2010)

- 0 - 15
- > 15

PARCEL #:  
53-03-33-400-009.000-001

NOTE:  
Areas > 15% slope are classified as nonbuildable area per Chapter 804.



0 12.5 25 50 75 100 Feet

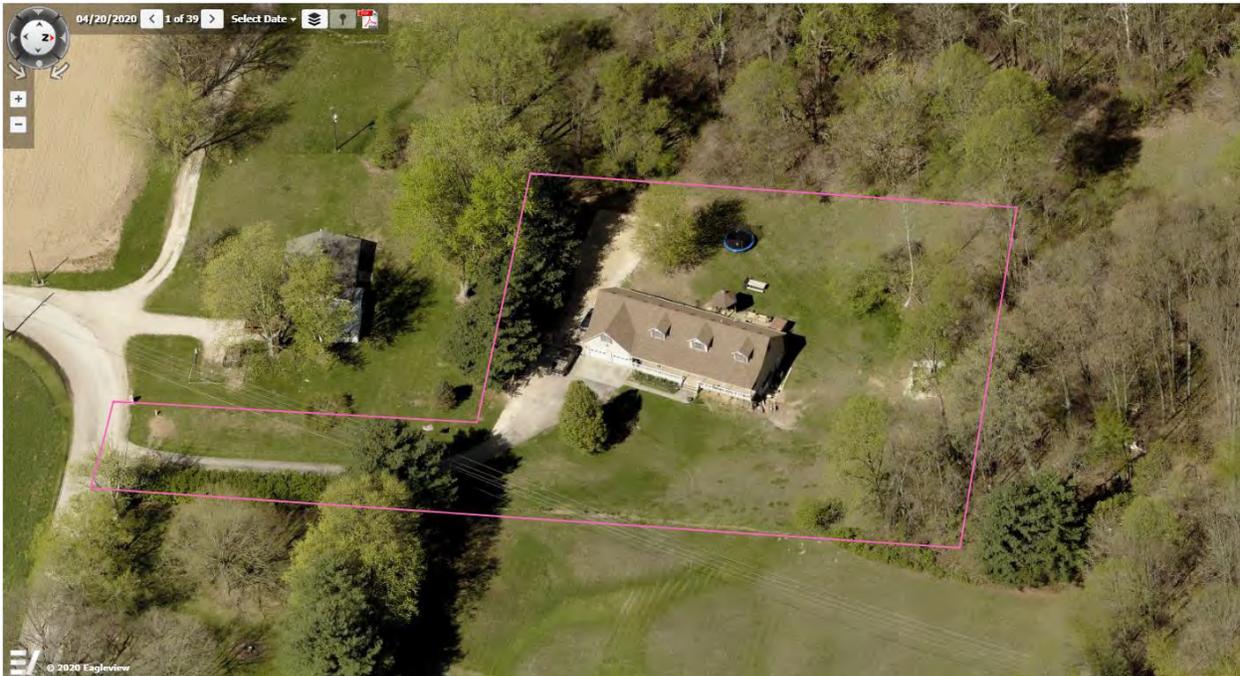


Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 5/26/2020

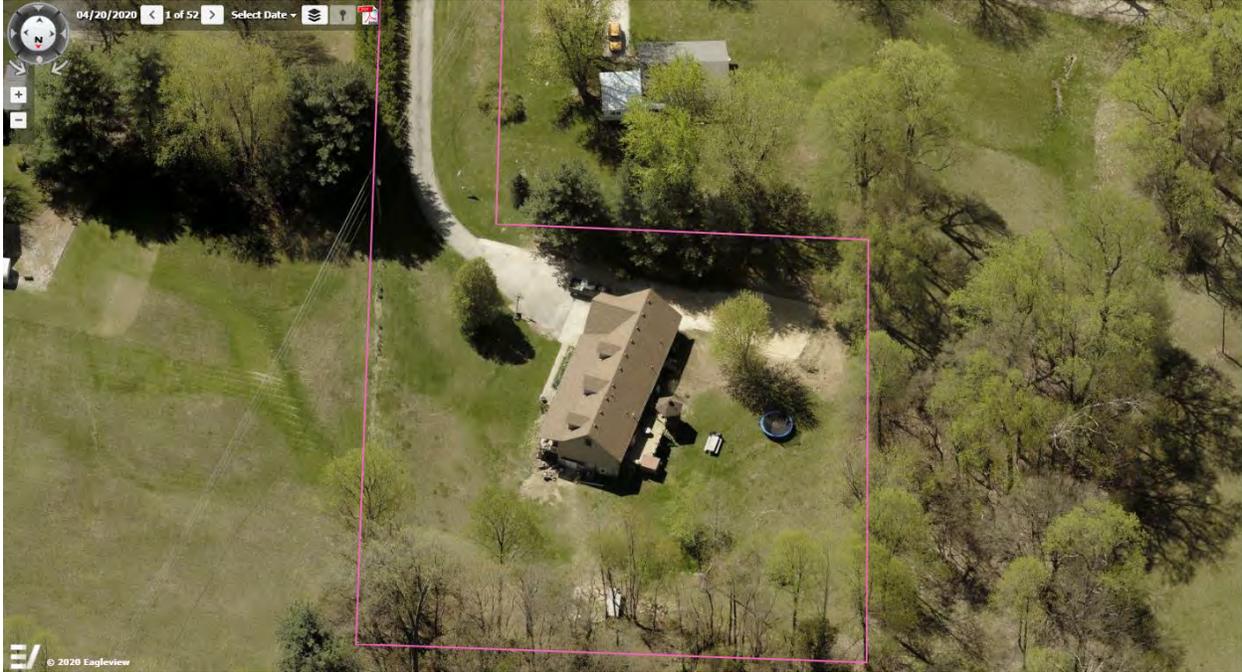
**SITE PHOTOS**



**Photo 1: Aerial Pictometry from the South**



**Photo 2: Aerial Pictometry from the East**



**Photo 3:** Aerial Pictometry from the North



**Photo 4:** Aerial Pictometry from the West

## **COMPREHENSIVE PLAN**

### **Rural Residential**

The Rural Residential use category includes rural property, environmentally sensitive areas, and areas adjacent to quarry operations where low densities are appropriate and desirable; however, the sparse population character of the Farm and Forest category is no longer applicable. Generally, these areas are characterized by active or potential mineral extraction operations nearby, steep slopes, and the remaining forest and/or agricultural land where roadways and other public services are minimal or not available.

The Rural Residential use category includes all property in Monroe County that is not within the Farm and Forest Residential area, Bloomington Urbanizing Area or a Designated Community, or an incorporated town or city. Approximately 52,000 acres of rural property in Indian Creek, Clear Creek, Van Buren, Bloomington, Richland, Bean Blossom, Washington, and Benton Townships are designated Rural Residential. Most often this category adjoins or is very close to the Farm and Forest Residential areas. Current Rural Residential densities are usually greater than 64 homes per section and some portions of the Rural Residential area have already been subdivided or developed at urban densities.

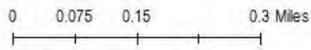
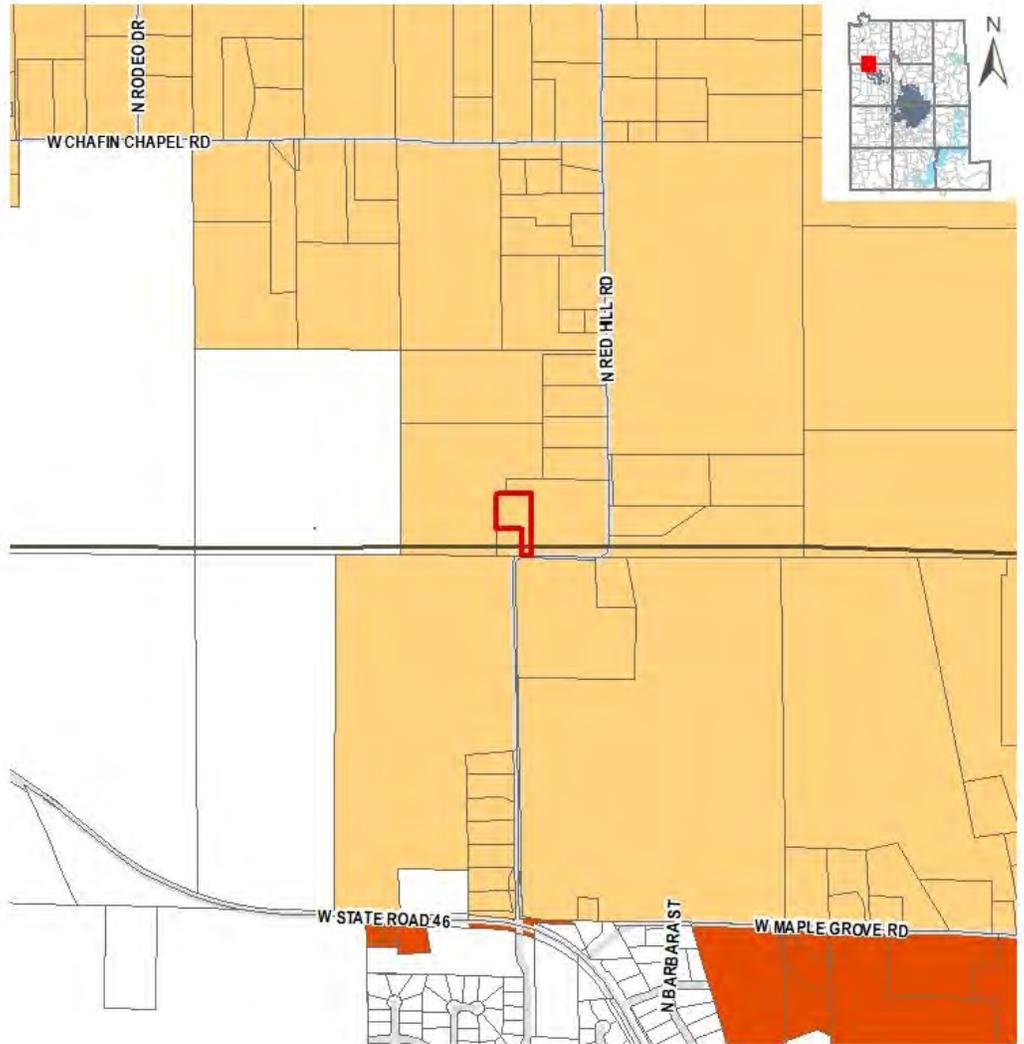
To maintain Rural Residential property use opportunities, an average residential density per survey section shall be established by ordinance. This average density shall preserve the rural lifestyle opportunity of this area and help protect nearby Vulnerable Lands. Where appropriate infrastructure is available, home clustering with open space dedications may be an option in this residential category. Open space can serve a variety of uses including recreational opportunities for local residents, limited accessory agricultural uses, or buffering of an adjoining use. Contiguous Resilient Land shall be available for each dwelling adequate to support either two independent conventional septic fields or one replaceable mound system. Sufficient space for buildings traditionally associated for this type of use must also be provided. In addition, public roadways shall not experience less than the Monroe County Level of Service standard existing at the time this Plan is adopted. New subdivision road traffic lanes that access County roadways shall not exceed the capacity of traffic lanes for adjoining public roadways. State highways, major collectors, or arterial roads are exempt from this requirement.

# Comprehensive Plan

-  Petitioner
-  Townships
-  Parcels
-  Roads

## Comp. Plan Land Use (Updated 2015)

-  Designated Communities
-  Rural Residential
-  Town of Ellettsville




 Monroe County  
 Planning Department  
 Source: Monroe County GIS  
 Date: 5/26/2020

**FINDINGS OF FACT: Minimum Lot Size**

812-6 Standards for Design Standards Variance Approval: In order to approve an application for a design standards variance, the Board must find that:

**(A) The approval, including any conditions or commitments deemed appropriate, will not be injurious to the public health, safety, and general welfare of the community, because:**

*(1) It would not impair the stability of a natural or scenic area;*

**Findings:**

- Approval of the variance would allow a 32' x 30' (960 sq. ft.) pole style garage to be constructed on the property;
- There is no FEMA floodplain on the site;
- There are no visible karst features on the site;
- There are no designated natural or scenic areas nearby;
- The petition site is not in the Environmental Constraints Overlay;
- The petitioner's site is predominately flat with the majority of the property exhibiting slopes under 15 percent.
- **Conclusion:** Approval of the variance would not impair the stability of a natural or scenic area.

*(2) It would not interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities;*

**Findings:**

- See Findings A(1);
- The property contains frontage and access off N Red Hill Road (a local road);
- Allowing the pole style garage to be constructed in the proposed location will have no foreseeable impact on utilities;
- The site utilizes a septic system;
- **Conclusion:** Approval of the variance would not interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities.

*(3) The character of the property included in the variance would not be altered in a manner that substantially departs from the characteristics sought to be achieved and maintained within the relevant zoning district. That is, the approval, singularly or in concert with other approvals - sought or granted, would not result in a development profile (height, bulk, density, and area) associated with a more intense zoning district and, thus, effectively re-zone the property; and,*

**Findings:**

- See Findings A(1) and A(2);
- The property is zoned Agriculture Rural Reserve (AG/RR);

- The required minimum lot size is 2.5 acres;
- The petition site is 1.36 acres;
- The use is residential with surrounding areas being residential and/or agricultural;
- The Comprehensive Plan designates this area as Rural Residential;
- This is a preexisting lot that has not changed dimensions since before the current zoning ordinance;
- **Conclusion:** Approval of the variance would not alter the character of the property in a manner that substantially departs from the characteristics sought to be achieved and maintained with the relevant zoning district.

*(4) It would adequately address any other significant public health, safety, and welfare concerns raised during the hearing on the requested variance;*

**Findings:**

- The Board of Zoning Appeals may request the petitioner to address any other significant public health, safety, and welfare concerns raised during the hearing;

**(B) The approval, including any conditions or commitments deemed appropriate, would not affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner, because:**

*(1) The specific purposes of the design standard sought to be varied would be satisfied;*

**Findings:**

- See Findings A(1) and A(3);
- The purpose of the minimum lot size is to preserve the general character of zoning district;
- In a quarter-mile radius, eight other parcels do not meet the minimum lot size requirement for the AG/RR zone;
- **Conclusion:** Approval of the variance would not significantly impact the purposes of the design.

*(2) It would not promote conditions (on-site or off-site) detrimental to the use and enjoyment of other properties in the area (e.g., the ponding of water, the interference with a sewage disposal system, easement, storm water facility, or natural watercourse, etc.); and,*

**Findings:**

- See Findings A(1), A(3), and B(1);
- The pole style garage will not interfere with any easements or utilities;
- **Conclusion:** There are no foreseeable detrimental conditions to the use and enjoyment of other properties that would result from the construction of the residential accessory structure.

*(3) It would adequately address any other significant property use and value concerns raised during the hearing on the requested variance; and,*

**Findings:**

- The Board of Zoning Appeals may request the petitioner to address any other significant property use and value concerns raised during the hearing on the requested variance;

**(C) The approval, including any conditions or commitments deemed appropriate, is the minimum variance necessary to eliminate practical difficulties in the use of the property, which would otherwise result from a strict application of the terms of the Zoning Ordinance.**

**Findings:**

- Practical difficulties have been demonstrated in that the lot exists in the current configuration, which does not meet the minimum lot size for the zoning district (AG/RR);
- The home (ca. 1996) was preexisting at the time of the zoning ordinance adoption in 1997, which required the minimum lot size of 2.5 acres;

**FINDINGS OF FACT: Front Yard Setback Chapter 804**

812-6 Standards for Design Standards Variance Approval: In order to approve an application for a design standards variance, the Board must find that:

**(A) The approval, including any conditions or commitments deemed appropriate, will not be injurious to the public health, safety, and general welfare of the community, because:**

*(1) It would not impair the stability of a natural or scenic area;*

**Findings:**

- Approval of the variance would allow a 32' x 30' (960 sq. ft.) pole style garage to be constructed 17' into the 50' **required** front setback on the property;
- There is no FEMA floodplain on the site;
- There are no visible karst features on the site;
- There are no designated natural or scenic areas nearby;
- The petition site is not in the Environmental Constraints Overlay;
- The petitioner's site is predominately flat with the majority of the property exhibiting slopes under 15 percent.
- **Conclusion:** Approval of the variance would not impair the stability of a natural or scenic area.

*(2) It would not interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities;*

**Findings:**

- See Findings A(1);
- The property contains frontage and access off N Red Hill Road (a local road);
- Allowing the pole style garage to be constructed in the proposed location will have no foreseeable impact on utilities;
- The site utilizes a septic system;
- **Conclusion:** Approval of the variance would not interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities.

*(3) The character of the property included in the variance would not be altered in a manner that substantially departs from the characteristics sought to be achieved and maintained within the relevant zoning district. That is, the approval, singularly or in concert with other approvals - sought or granted, would not result in a development profile (height, bulk, density, and area) associated with a more intense zoning district and, thus, effectively re-zone the property; and,*

**Findings:**

- See Findings A(1) and A(2);
- The property is zoned Agriculture Rural Reserve (AG/RR);

- The required front yard setback for the AG/RR zone when there is no direct frontage is 50’;
- The location of the proposed pole style garage is approx. 33’ from the southern property line, an encroachment of 17’ into the required 50’ setback;
- The use of the property is residential;
- The property is not in a platted subdivision;
- The surrounding areas are residential and/or agricultural;
- The Comprehensive Plan designates this area as Rural Residential;
- **Conclusion:** Approval of the variance would not alter the character of the property in a manner that substantially departs from the characteristics sought to be achieved and maintained with the relevant zoning district.

*(4) It would adequately address any other significant public health, safety, and welfare concerns raised during the hearing on the requested variance;*

**Findings:**

- The Board of Zoning Appeals may request the petitioner to address any other significant public health, safety, and welfare concerns raised during the hearing;

**(B) The approval, including any conditions or commitments deemed appropriate, would not affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner, because:**

*(1) The specific purposes of the design standard sought to be varied would be satisfied;*

**Findings:**

- See Findings A(1) and A(3);
- The purpose of the front yard setback requirement of 50’ when there is no direct frontage is to preserve the general character of zoning district and provide a buffer between adjacent property owners;
- **Conclusion:** Approval of the variance would not significantly impact the purposes of the design.

*(2) It would not promote conditions (on-site or off-site) detrimental to the use and enjoyment of other properties in the area (e.g., the ponding of water, the interference with a sewage disposal system, easement, storm water facility, or natural watercourse, etc.); and,*

**Findings:**

- See Findings A(1), A(3), and B(1);
- The agricultural building does not interfere with any easements or utilities;
- **Conclusion:** There are no foreseeable detrimental conditions to the use and enjoyment of other properties that would result from maintaining the current location of residential accessory structure.

*(3) It would adequately address any other significant property use and value concerns*

*raised during the hearing on the requested variance; and,*

**Findings:**

- The Board of Zoning Appeals may request the petitioner to address any other significant property use and value concerns raised during the hearing on the requested variance;

**(C) The approval, including any conditions or commitments deemed appropriate, is the minimum variance necessary to eliminate practical difficulties in the use of the property, which would otherwise result from a strict application of the terms of the Zoning Ordinance.**

**Findings:**

- The location of the proposed pole style garage is the only location on the property suitable for driveway access;
- Reducing the size of the proposed pole style garage to meet the 50' setback would significantly reduce the utility of the residential accessory structure;
- Petitioner has applied for two variances, which is the minimum necessary in order to obtain an Improvement Location Permit waiver for the residential accessory structure in its proposed configuration.

All variance approvals shall be considered to be conditional approvals. The Board shall have the authority to impose specific conditions as part of its approval in order to protect the public health, and for reasons of safety, comfort and convenience (e.g., to insure compatibility with surroundings). Variance approval applies to the subject property and may be transferred with ownership of the subject property subject to the provisions and conditions prescribed by or made pursuant to the Zoning Ordinance.

**NOTE:** The Board must establish favorable findings for ALL THREE criteria in order to legally approve a design standards variance.

**EXHIBIT 1: Petitioner's Letter**

May 1, 2020

Monroe County Board of Zoning Appeals  
501 N. Morton Street, Suite 224  
Bloomington, IN 47404

Re: 6879 N. Red Hill Road Variance Requests

We are writing to request a variance request to the front yard setback and minimum lot size to install a pole style garage at the above referenced property which is our primary residence.

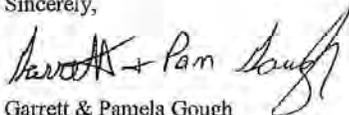
The minimum lot size for our zoning is 2.5 acre. Our lot is 1.36 acres. Additionally, we are requesting a variance for the front yard setback. The allowed front yard setback is 50' and we are proposing to have a 30' setback.

Our reason for this request is to allow us to have indoor storage for additional vehicles (we have 4 children age 10-17) and trailers as well as yard equipment.

The reason we are requesting the front yard setback variance is that as our lot is currently configured with the location of our septic field, natural drainage and the existing driveway, this is the best location to place a building such as this. Additionally, we think it should be noted that the front lot line that we are requesting the variance on does not front the roadway. There is another property that is located between where we are proposing to build the building and the roadway.

Thank you for your consideration and please feel free to contact us with any questions or concerns about this matter.

Sincerely,



Garrett & Pamela Gough  
(812)592-0173  
Gough509@gmail.com



|                    |   |
|--------------------|---|
| <b>CASE NUMBER</b> | 2005-VAR-28   |
| <b>PLANNER</b>     | Anne Crecelius  |
| <b>PETITIONER</b>  | Jennifer & Josh Taylor                                |
| <b>REQUEST</b>     | Design Standards Variance: Ch. 804 Front Yard Setback |
| <b>ADDRESS</b>     | 7050 S Harmony Rd                                     |
| <b>ACRES</b>       | 2.55 +/-  |
| <b>ZONE</b>        | Agricultural/Rural Reserve                            |
| <b>TOWNSHIP</b>    | Indian Creek  |
| <b>SECTION</b>     | 3 & 4   |
| <b>PLATS</b>       | Unplatted   |
| <b>COMP PLAN</b>   | Comprehensive Plan: Rural Residential                 |
| <b>DESIGNATION</b> |   |

**EXHIBITS:**

- 1) Petitioner Letter
- 2) Proposed Site Plan

**RECOMMENDED MOTION:**

**Approve** the design standard variance from the front yard setback requirement of Chapter 804 of the Monroe County Zoning Ordinance based on the findings of fact.

**SUMMARY**

The petition site is a 2.55 +/- acre lot located in Indian Creek Township, at 7050 S Harmony Road. The petitioner is requesting a variance from Chapter 804 Front Yard Setback of the Monroe County Zoning Ordinance. The purpose of this variance is to allow the petitioner to construct a 56' x 24' pole barn to be located with a 15' setback instead of the required 35' setback from Right of Way. South Harmony road is a Major Collector per the 2016 Thoroughfare plan with a 70' setback from centerline. The front encroachment for the property would be 20' into the setback. The petition site is restricted by slope and contains minimal buildable area near the residence. A small shed is currently in the proposed location of the pole barn. If the variance is approved the shed will be either removed or relocated with the proper permits.

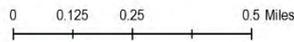
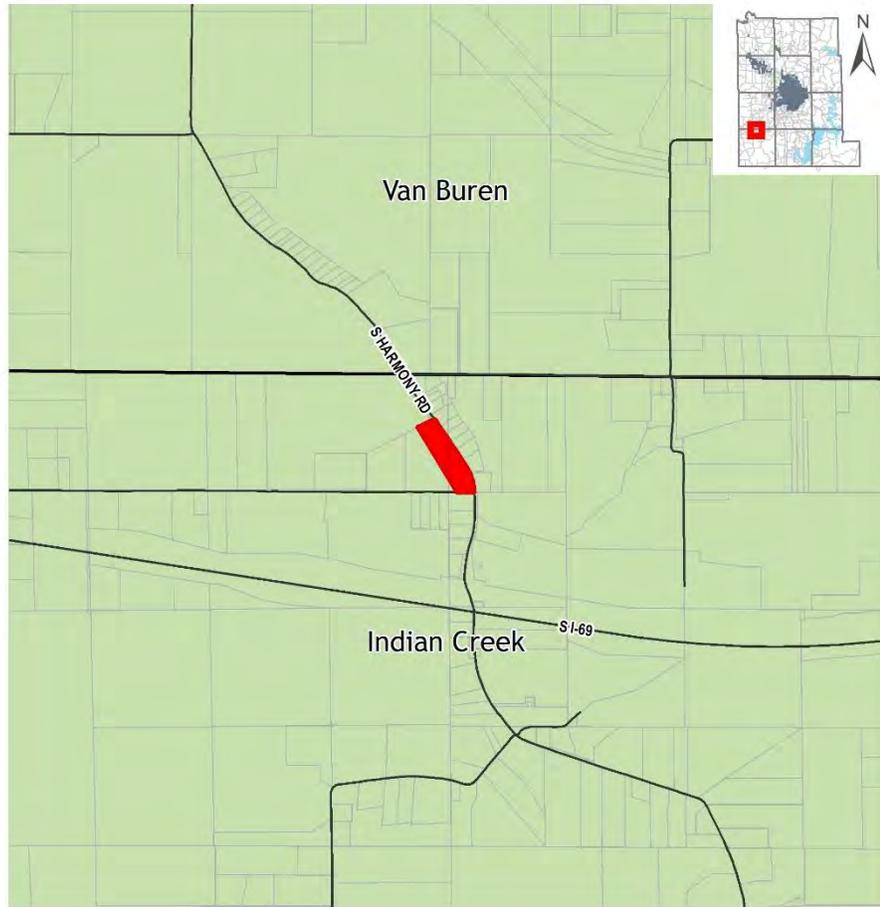
Approval of the variance would allow the construction of a pole barn with a 15' front yard setback.

**LOCATION MAP**

The parcel is located in Indian Creek Township, Sections 3 & 4, parcel numbers 53-10-03-200-018.000-007 and 53-10-04-100-020.000-007, addressed as 7050 S Harmony Road.

**Location Map**

-  Petitioner
-  Roads
-  Civil (Political) Townships
-  Parcels



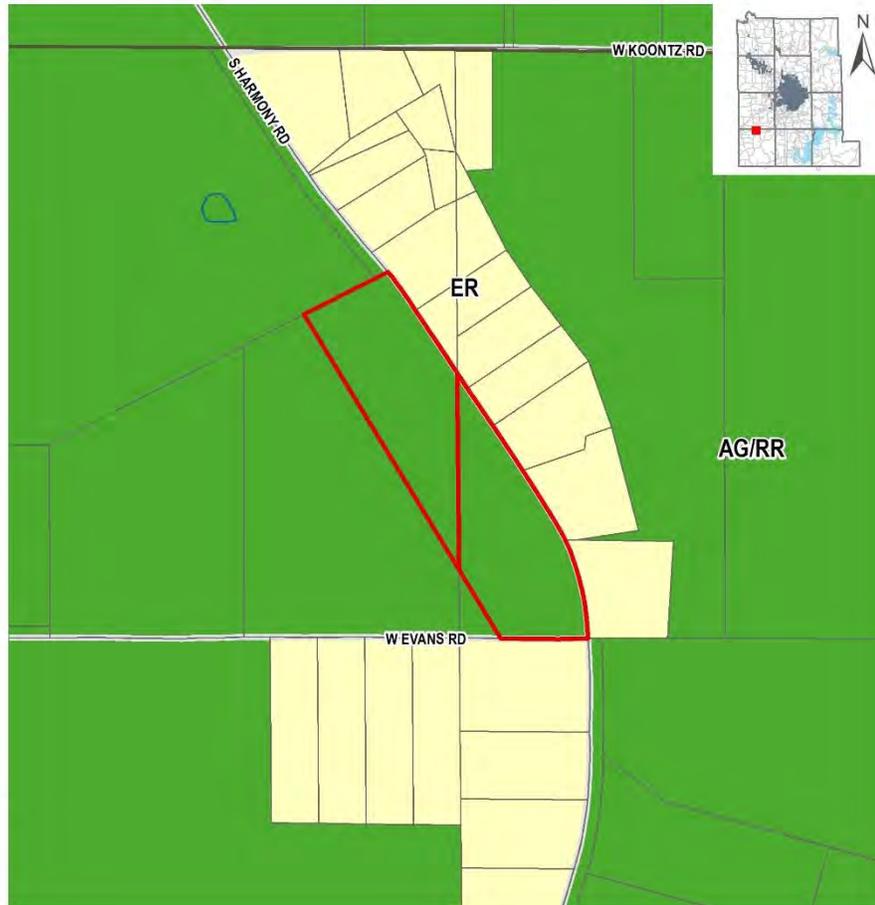
 Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 5/21/2020

## ZONING AND LAND USE

The property is zoned Agricultural/Rural Reserve (AG/RR). Adjacent properties are zoned AG/RR and Estate Residential (ER).

### Current Zoning Map

-  Petitioner
  -  Parcels
  -  Roads
  -  Hydrologic Features
- Monroe County Zoning**
-  AG/RR - Agriculture/Rural Reserve
  -  ER - Estate Residential



0 0.0225 0.045 0.09 Miles

Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 5/21/2020

### SITE CONDITIONS & SLOPE

The petition site contains a Single Family Residence and two small accessory structures. The petition site has access to water and utilizes a septic system. The property is accessed from a driveway off S Harmony Road, a designated Major Collector Road. There are no known karst features or FEMA floodplain. The petition site consists of mainly slopes less greater than 15%, making further development of this lot improbable. The petition site is location on a hill, with drainage running towards the south west.

#### Site Conditions Map

-  Major Collector [70']
-  Petitioner
-  2-Foot Contours
-  Local Roads [50']
-  Parcels



0 25 50 100 150 200 Feet

 Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 5/21/2020

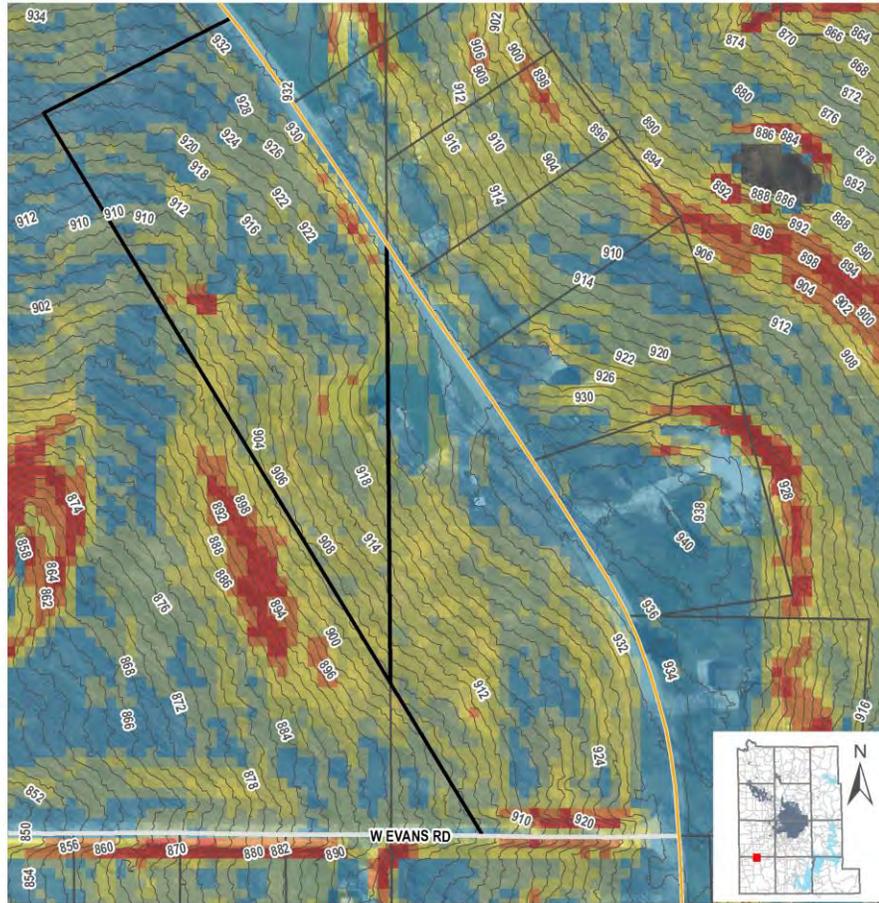
# Slope Map

-  Major Collector [70']
  -  Local Roads [50']
  -  Petitioner
  -  Parcels
  -  2-Foot Contours
- All Slope - Percent (2010)**
-  0 - 12
  -  13 - 15
  -  16 - 18
  -  19 - 21
  -  22 - 24
  -  > 25

0 25 50 100 150 200 Feet




Monroe County  
 Planning Department  
 Source: Monroe County GIS  
 Date: 5/21/2020



**SITE PICTURES**



**Photo 1: Pictometry photo looking at petition site.**



**Photo 2: Site photo looking south east at the proposed site.**



**Photo 3: Looking at the proposed building site.**

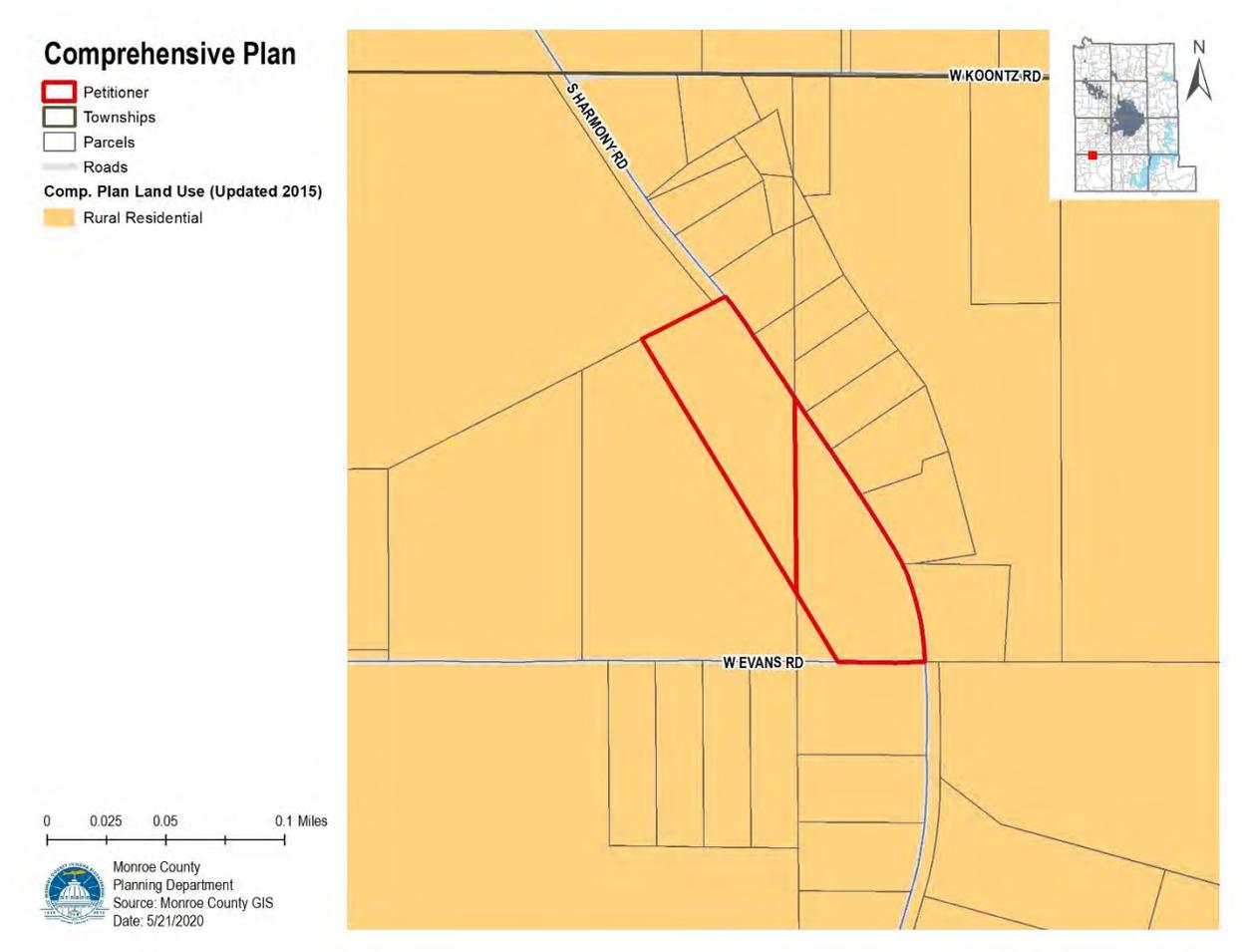


**Photo 4: Looking towards the north west and S Harmony Rd.**

## COMPREHENSIVE PLAN DISCUSSION

The petition site is located within the Monroe County Comprehensive Plan Rural Residential zone designation.

### Rural Residential



The Rural Residential use category includes rural property, environmentally sensitive areas, and areas adjacent to quarry operations where low densities are appropriate and desirable; however, the sparse population character of the Farm and Forest category is no longer applicable. Generally, these areas are characterized by active or potential mineral extraction operations nearby, steep slopes, and the remaining forest and/or agricultural land where roadways and other public services are minimal or not available.

The Rural Residential use category includes all property in Monroe County that is not within the Farm and Forest Residential area, Bloomington Urbanizing Area or a Designated Community, or an incorporated town or city. Approximately 52,000 acres of rural property in Indian Creek, Clear Creek, Van Buren, Bloomington, Richland, Bean Blossom, Washington, and Benton Townships are designated Rural Residential. Most often this category adjoins or is very close to the Farm and Forest Residential areas. Current Rural Residential densities are usually greater than 64 homes per section and some portions of the Rural Residential area have already been subdivided or developed at urban densities.

To maintain Rural Residential property use opportunities, an average residential density per survey section shall be established by ordinance. This average density shall preserve the rural lifestyle opportunity of this area and help protect nearby Vulnerable Lands. Where appropriate infrastructure is available, home clustering with open space dedications may be an option in this residential category. Open space can serve a variety of uses including recreational opportunities for local residents, limited accessory agricultural uses, or buffering of an adjoining use. Contiguous Resilient Land shall be available for each dwelling adequate to support either two independent conventional septic fields or one replaceable mound system. Sufficient space for buildings traditionally associated for this type of use must also be provided. In addition, public roadways shall not experience less than the Monroe County Level of Service standard existing at the time this Plan is adopted. New subdivision road traffic lanes that access County roadways shall not exceed the capacity of traffic lanes for adjoining public roadways. State highways, major collectors, or arterial roads are exempt from this requirement.

**FINDINGS OF FACT: Front Yard Setback Chapter 804**

812-6 Standards for Design Standards Variance Approval: In order to approve an application for a design standards variance, the Board must find that:

**(A) The approval, including any conditions or commitments deemed appropriate, will not be injurious to the public health, safety, and general welfare of the community, because:**

*(1) It would not impair the stability of a natural or scenic area;*

**Findings:**

- The site is 2.55 +/- acres and is zoned Agricultural Rural Reserve (AG/RR);
- The site is accessed off of S Harmony Rd, a Major Collector road;
- The site is not located within an environmentally sensitive area;
- There are no visible karst features on the site or FEMA floodplain;
- There are no designated natural or scenic areas nearby;
- Approval of the variance would allow the construction of a 56' x 24' pole barn that would encroach 20' into the required 35' front yard setback;
- The proposed 1344 sq. ft. pole barn will be located in an area that exhibits less than 15 percent slope;
- The pole storage barn will meet all other required design standards;
- **Conclusion:** It would not interfere with a natural or scenic area.

*(2) It would not interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities;*

**Findings:**

- See findings under A(1);
- The 2018 Thoroughfare Plan designates S Harmony Rd as a Major Collector with 70' of ROW;
- The site has access to water and a septic system;
- The pole barn proposed location isn't expected to impact utilities;
- **Conclusion:** It would not interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities.

*(3) The character of the property included in the variance would not be altered in a manner that substantially departs from the characteristics sought to be achieved and maintained within the relevant zoning district. That is, the approval, singularly or in concert with other approvals - sought or granted, would not result in a development profile (height, bulk, density, and area) associated with a more intense zoning district and, thus, effectively re-zone the property; and,*

**Findings:**

- See findings under A(1) and A(2);
- The required front yard setback is measured from ROW;
- The required front yard setback for structures is 35';
- The use of the petition site and adjacent properties is residential;
- The Comprehensive Plan designates this area as Rural Residential;
- The pole barn will meet all other design standards;

- **Conclusion:** The character of the property included in the variance would not be altered in a manner that substantially departs from the characteristics sought to be achieved and maintained with the relevant zoning district.

*(4) It would adequately address any other significant public health, safety, and welfare concerns raised during the hearing on the requested variance;*

**Findings:**

- The Board of Zoning Appeals may request the petitioner to address any other significant public health, safety, and welfare concerns raised during the hearing;

**(B) The approval, including any conditions or commitments deemed appropriate, would not affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner, because:**

*(1) The specific purposes of the design standard sought to be varied would be satisfied;*

**Findings:**

- See findings under A(1), A(2), and A(3);
- The petitioner is applying for a front yard setback variance ;
- **Conclusion:** The specific purposes of the design standard sought to be varied would be satisfied.

*(2) It would not promote conditions (on-site or off-site) detrimental to the use and enjoyment of other properties in the area (e.g., the ponding of water, the interference with a sewage disposal system, easement, storm water facility, or natural watercourse, etc.); and,*

**Findings:**

- See findings under A(1) and A(2);
- Approval of the variance would allow the petitioner to construct a pole barn that would encroach 20' into the 35' front yard setback;
- **Conclusion:** It would not promote conditions (on-site or off-site) detrimental to the use and enjoyment of other properties in the area (e.g., the ponding of water, the interference with a sewage disposal system, easement, storm water facility, or natural watercourse, etc.).

*(3) It would adequately address any other significant property use and value concerns raised during the hearing on the requested variance; and,*

**Findings:**

- The Board of Zoning Appeals may request the petitioner to address any other significant property use and value concerns raised during the hearing on the requested variance;

**(C) The approval, including any conditions or commitments deemed appropriate, is the minimum variance necessary to eliminate practical difficulties in the use of the property, which would otherwise result from a strict application of the terms of the Zoning Ordinance.**

**Findings:**

- See findings under A(1);

- There exists no other feasible alternative, within the terms of the ordinance, for the landowner to place a pole storage barn on the property;
- The proposed location within the front yard setback was selected as it is the only area remaining on the property that does not exhibit slopes greater than 15 percent;

All variance approvals shall be considered to be conditional approvals. The Board shall have the authority to impose specific conditions as part of its approval in order to protect the public health, and for reasons of safety, comfort and convenience (e.g., to insure compatibility with surroundings). Variance approval applies to the subject property and may be transferred with ownership of the subject property subject to the provisions and conditions prescribed by or made pursuant to the Zoning Ordinance.

**NOTE:** The Board must establish favorable findings for ALL THREE criteria in order to legally approve a design standards variance.

**EXHIBIT ONE: Petitioner Letter**

Variance request

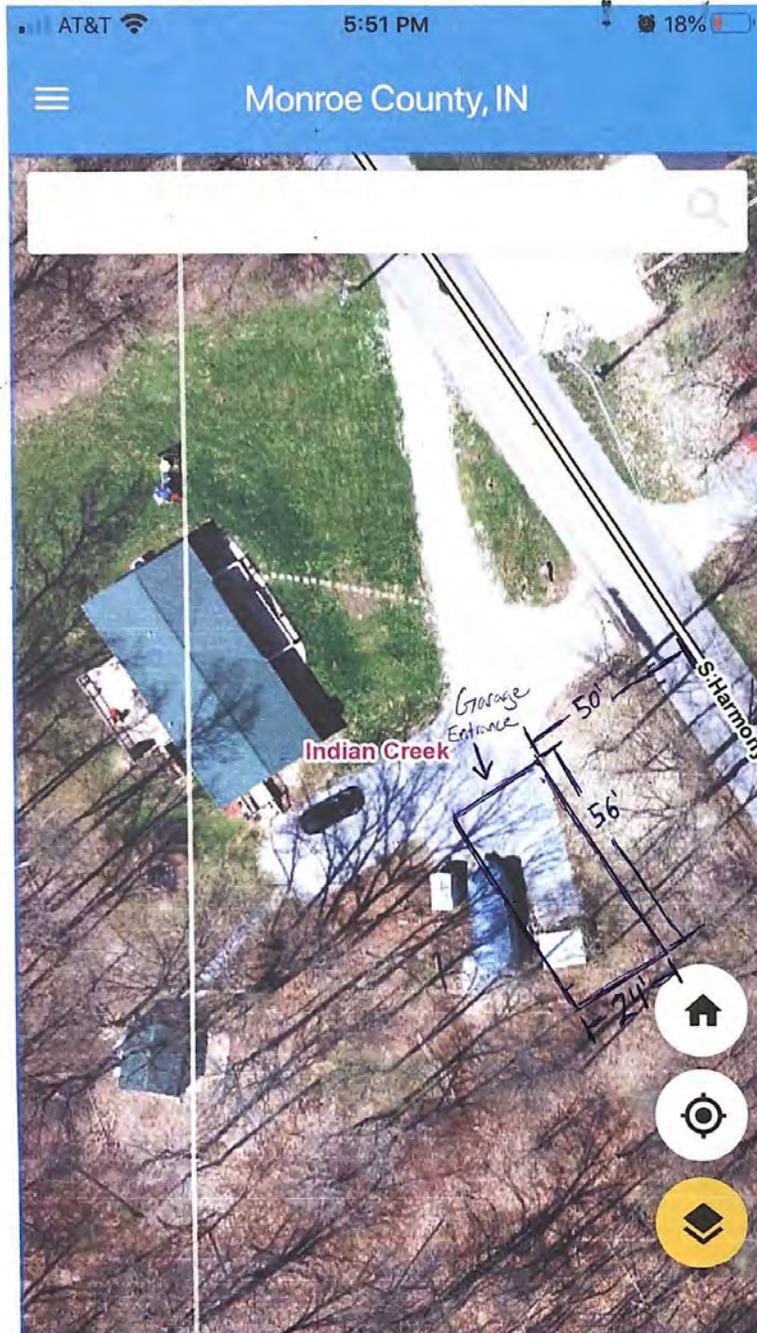
I, Jared Taylor, am requesting a variance to change the set back from the centerline of the road to the side of a proposed pole constructed building. The location is:  
7050 S Harmony Rd  
Bloomington, IN 47403

The set back from what I understand is 70' from the centerline of the road. I am requesting that the set back be changed to 50' for my particular situation. The proposed building will be 24' wide x 56' long. It will set nearly parallel to S Harmony Rd (the closest point being 50' from the centerline of the road) and the entrance would be on the north end of building. Access to the entrance of the building will be from the existing driveway). My reasoning for this location for the building is due to excessive slope on the majority of the property and/or would require the addition of another driveway.

Jared Taylor  
812-545-5271  
jrt527@yahoo.com



**EXHIBIT TWO: Proposed Site Plan**



## Slope Map

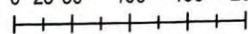
-  Major Collector [70']
-  Local Roads [50']
-  Petitioner
-  Parcels
- All Slope - Percent (2010)**
-  0 - 12
-  13 - 15
-  16 - 18
-  19 - 21
-  22 - 24
-  > 25

Entrance, Back  
24ft

Sides  
56ft

Centerline of Road  
50ft

0 25 50 100 150 200 Feet




Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 5/12/2020

