

MONROE COUNTY BOARD OF ZONING APPEALS



**April 7, 2021
5:30 p.m.**

Held Via Zoom:

[https://monroecounty-
in.zoom.us/j/84992412568?pwd=Vm5yMnNRem01bmlwVnRjQ0xIME9qUT09](https://monroecounty-in.zoom.us/j/84992412568?pwd=Vm5yMnNRem01bmlwVnRjQ0xIME9qUT09)

If calling into the Zoom meeting, dial: 312-626-6799.
When prompted, enter the Meeting ID #: 849 9241 2568
Password: 373168

AGENDA

MONROE COUNTY BOARD OF ZONING APPEALS (BZA)

Zoom link: <https://monroecounty-in.zoom.us/j/84992412568?pwd=Vm5yMnNRem01bmlwVnRjQ0xIME9qUT09>

April 7, 2021

5:30 p.m.

REGULAR MEETING

CALL TO ORDER

ROLL CALL

INTRODUCTION OF EVIDENCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES – December 2, 2020

OLD BUSINESS:

- 1. 1812-VAR-40** **Patzner General Contractor Use Variance to Chapter 802** **PAGE 5**
One (1) 0.68 +/- acre parcel in Perry Township,
Section 28 at 5605 S Old State Road 37.
Zoned ER. Contact: jnester@co.monroe.in.us

NEW BUSINESS:

- 1. 2102-VAR-10** **Morris Minimum Lot Size Variance to Chapter 804** **PAGE 33**
2. 2102-VAR-11 **Morris Buildable Area (15% Slope) Variance to Chapter 804**
One (1) 1.41 +/- acre parcel in Perry Township, Section 34 at 1680 E Sanders
Second AVE.
Zoned CR, ECO3. Contact: acrecelius@co.monroe.in.us
- 3. 2102-VAR-12** **Burns Front Yard Setback Variance to Chapter 833** **PAGE 46**
One (1) 1.11 +/- acre parcel in Bloomington Township, Section 31 at
3519 W Vernal PIKE.
Zoned RS3.5. Contact: tberhman@co.monroe.in.us
- 4. VAR-21-16** **Curry Buildable Area (15% Slope) Variance to Chapter 804** **PAGE 69**
 Curry ECO Area 1 (12% Slope) Variance to Chapter 825
One (1) 3.59 +/- acre parcel in Bloomington Township, Section 22 at 3595 N
Hinkle RD.
Zoned RE2.5 / ECO Area 1. Contact: dmyers@co.monroe.in.us
- 5. VAR-21-17** **Patrick and Ilene Adams c/o Norbert Garvey Eco Area 1 (12% Slope)**
 Variance to Chapter 825 **PAGE 95**
One (1) 5.01 +/- acre parcel in Clear Creek Township, Section 36 at 5337 E
Prince RD.
Zoned FR, ECO 1. Contact: rpayne@co.monroe.in.us
- 6. VAR-21-18** **Elliott Minimum Lot Size Variance to Chapter 804**
One (1) 0.25 +/- acre parcel in Perry Township, Section 26 at
5785 S Handy RD.
Zoned SR. Contact: acrecelius@co.monroe.in.us

WITHDRAWN BY STAFF

- 7. CDU-21-1** **Hopwood Conditional Use to Chapter 813 for Agricultural Event Center, Small.**
 One (1) 114.31 +/- acre parcel in Clear Creek Township, Sections 07 and 08 at 620 W Chumley RD.
Zoned AG/RR. Contact: rpayne@co.monroe.in.us
 CONTINUED BY PETITIONER
- 8. VAR-21-19** **Weber Side Yard Setback Variance to Chapter 833** **PAGE 109**
 One (1) 0.64 +/- acre parcel in Bloomington Township, Section 36 at 4585 E State Road 45.
Zoned RE2.5. Contact: tbehrman@co.monroe.in.us
- 9. VAR-21-20** **Eason Minimum Lot Size Variance to Chapter 804** **PAGE 123**
Eason Front Yard Setback Variance to Chapter 804
Eason Buildable Area Variance to Chapter 804
 One (1) 0.83 +/- acre parcel in Benton North Township, Section 35 at 9155 E Southshore DR.
Zoned SR. Contact: acrecelius@co.monroe.in.us
- 10. VAR-21-21** **Shumaker Minimum Lot Size Variance to Chapter 804** **PAGE 146**
Shumaker Minimum Lot Width Variance to Chapter 804
 One (1) 2.23 +/- acre parcel in Salt Creek Township, Section 34 at 7504 E Rush Ridge RD.
Zoned FR / ECO Area 1. Contact: dmyers@co.monroe.in.us
- 11. VAR-21-23** **Perry Buildable Area (15% Slope) Variance to Chapter 804**
Perry ECO Area 3 (18% Slope) Variance to Chapter 825
 One (1) 1.33 +/- acre parcel in Perry Township, Section 13 at Parcel no. 53-08-13-100-008.000-008.
Zoned RE2.5 / ECO Area 3. Contact: dmyers@co.monroe.in.us
 CONTINUED BY PETITIONER
- 12. VAR-21-24** **Wyss Side Yard Setback Variance to Chapter 804** **PAGE 170**
 One (1) 0.5 +/- acre parcel in Benton North Township, Section 27 at 3519 W Vernal PIKE.
Zoned RS3.5. Contact: tberhman@co.monroe.in.us

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 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 no later than April 7, 2021 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, 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.

MONROE COUNTY BOARD OF ZONING APPEALS**April 7, 2021**

CASE NUMBER: 1812-VAR-40
PLANNER: Jackie Nester Jelen, AICP
PETITIONER(S): Neil Patzner
REQUEST: Chapter 802, Use Variance (General Contractor)
ADDRESS: 5605 S Old State Road 37 (Parcel #: 53-08-28-201-003.000-008 & 53-08-28-201-004.000-008)
ZONING: Estate Residential (ER)
ACRES: 0.68 +/- acres
TOWNSHIP: Perry
SECTION(S): 28
PLAT(S): Jackson Creek Station
COMP. PLAN
DESIGNATION: MCUA Mixed Residential

EXHIBITS:

1. Petitioner's Letter
2. Site Plan
3. Petitioner's Letter from the 2015 BZA case
4. Enforcement Letter – 2018
5. Minutes – BZA 1/2/2019

RECOMMENDED MOTION

Deny the use variance (General Contractor) to Chapter 802 based on the findings of fact.

NOVEMBER 4, 2021 – BOARD OF ZONING APPEALS

The BZA continued this case until 4/7/2021. Here is an update as of 3/26/2021:

The construction of the commercial building has been completed. The landscaping and paving is pending better weather; the petitioner has requested a Conditional LUC in order to receive the Building Occupancy from the Building Department. The Conditional LUC has not been issued as of 03/26/2021 due to earth moving that is still in progress.

MAY 6, 2020 – BOARD OF ZONING APPEALS

The BZA continued this case until 11/4/2020 to give Mr. Patzner more time to complete the building at 5450 S Old State Road 37. Construction is actively occurring at the site. The building permit was issued on 6/22/2020. According to Mr. Patzner, he anticipates moving into the property by December 30, 2021.

DECEMBER 4, 2019 – BOARD OF ZONING APPEALS

The BZA continued this case until 5/6/2020 to give Mr. Patzner more time to submit a site plan. Mr. Patzner did submit a site plan on 4/7/2020 for property located across the street at 5450 S Old State Road 37. The site plan is currently under review by Planning staff. Mr. Patzner will likely not be able to break ground until June 2020 at the current rate.

JULY 10, 2019 – BOARD OF ZONING APPEALS

The BZA did not take action on this case as it was continued to 12/4/2019 with a check in on 7/10/2019. At this time, the petitioner **has not** submitted for a site plan to move the business to a new location. However, in conversation with Mr. Patzner, he stated he is working with Bruce Tabor Architects for a site plan at 5450 S Old State Road 37. The petitioner did receive a front setback variance for the property at 5450 S Old State Road 37 on 11/6/2019 to move the business to this location.

JANUARY 2, 2019 – BOARD OF ZONING APPEALS

The BZA voted to continue this case to the December 4, 2019 BZA meeting with a check in on July 10, 2019. The meeting minutes (See Exhibit 5) show that the petitioner does plan on moving the business completely out of the property at 5605 S Old State Road 37 by 12/31/2019. To date, the petitioner has not filed for a site plan for the property he plans to move to, which is at 4750 S Walnut Street Pike. Staff has not filed any further enforcement action pending this BZA case action.

SUMMARY

The property 5605 S Old State Road 37 is currently used as a long term rental of the single family residential structure and for office space and storage for Riverway Plumbing in the accessory structure. The petitioner, Neil Patzner, is seeking a use variance in order to continue the non-compliant use of office and storage use for Riverway Plumbing out of the residential storage structure. In 2015, the petitioner applied for a residential permit to build a residential storage structure on the property. Prior to getting the building permit, he was required to go through the Board of Zoning Appeals for a minimum lot size variance. The petitioner letter from 2015 for the Board of Zoning Appeals stated that the intended use for the residential storage structure was so that he could store his boat, lawn mower, and other personal items on the property (See Exhibit 3). Planning issued the petitioner a permit (15-RA-46) following BZA approval in order to build the residential structure. In 2018, an appraiser called the Planning Department to inquire about the compliance of a commercial structure on the residential lot. Once the Zoning Inspector followed up with Mr. Patzner and confirmed the business use, an enforcement letter was sent requiring cease and desist (Exhibit 4) of the business. The petitioner is asking for a use variance to continue the current office and storage use.

In order for the residential storage structure to be used for non-commercial use, such as the current non-compliant use, the petitioner would have needed to receive a non-residential commercial permit. The petitioner would not have been issued an Improvement Location Permit for the structure on the property if the use was disclosed as being for his business as the owner does not live on the property and the use is best described as a General Contractor use. General Contractor use is permitted in General Business (GB), Light Industrial (LI), and Heavy Industrial (HI) zoning districts.

Business and Personal Services	i	AG	FR	CR	ER	LR	SR	MR	HR	UR	LB	GB	LI	HI	IP	ME	REC	Condition
General Contractor	M											P	P	P				15

Also per Chapter 802 of the Monroe County Zoning Ordinance, the use of “General Contractor” is defined as the following:

General Contractor. An individual who contracts to perform work or to provide supplies on a large scale, or an individual who contracts to erect buildings.

The conditions for General Contractor under #15 include:

15. The Plan Commission may attach additional conditions to its approval in order to prevent injurious or obnoxious dust, fumes, gases, noises, odors, refuse matter, smoke, vibrations, water-carried waste or other objectionable conditions and to protect and preserve the character of the surrounding neighborhood.

BACKGROUND

The petitioner went through the rezone process for another property in the Light Industrial (LI) zoning district at 4750 S Walnut Street Pike. This 5 acre parcel received approval from the County Commissioners on June 13, 2018 to allow for commercial uses, including a General Contractor use. The petitioner would be required to meet site plan improvements, but could relocate the business to this new location. The petitioner has not submitted a site plan to Planning for this property and would instead like to continue operating his office and storage use out of the residential storage structure. The petitioner would have to complete site plan improvements at either location and would be required to come back before the Board of Zoning Appeals if site improvements cannot be met. Should the use variance be denied, the petitioner would be required to cease and desist operation of the business at the residential location and apply for site plan approval at the 4750 S Walnut Street Pike property to relocate the business use.

LOCATION MAP

The petition site is located at 5605 S Old State Road 37 in Perry Township, Section 32; Parcel No. 53-08-28-201-003.000-008 & 53-08-28-201-004.000-008. The lot is in the Jackson Creek Station subdivision.

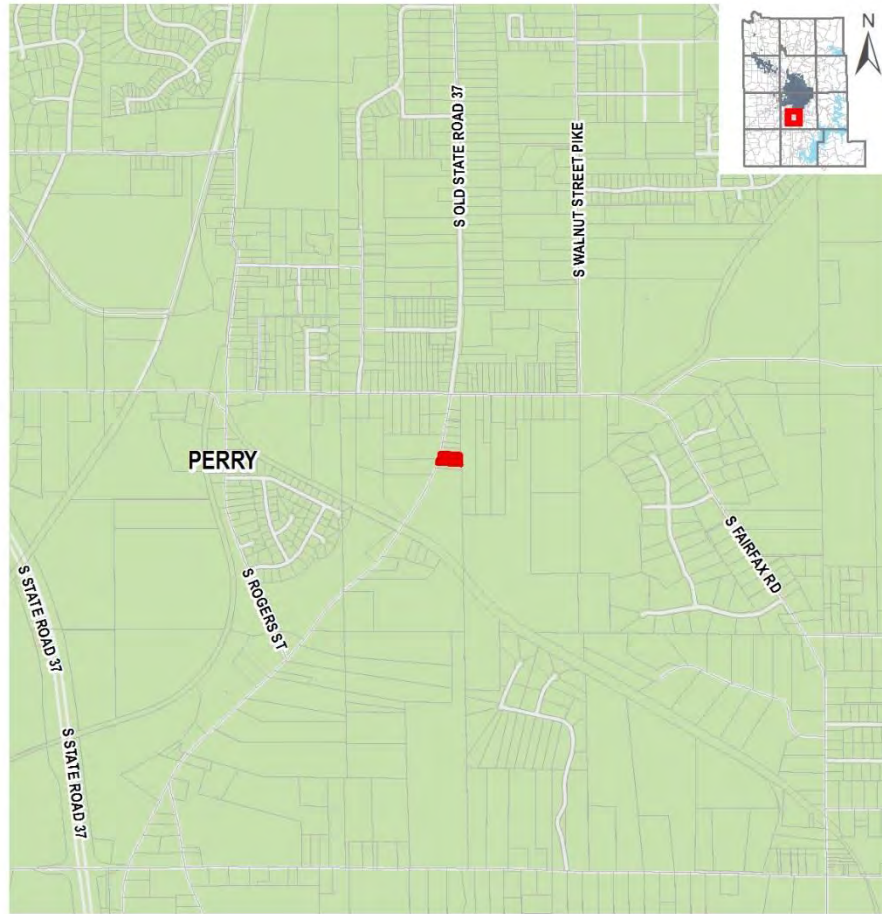
Location Map

-  Petitioner
-  Townships
-  Roads
-  Parcels

0 0.125 0.25 0.5 Miles



Monroe County
Planning Department
Source: Monroe County GIS
Date: 12/19/2018



ZONING AND LAND USE

The petition site is zoned Estate Residential (ER). The neighboring lots are zoned Estate Residential (ER) and Pre-Existing Business (PB). The neighboring uses are residential.

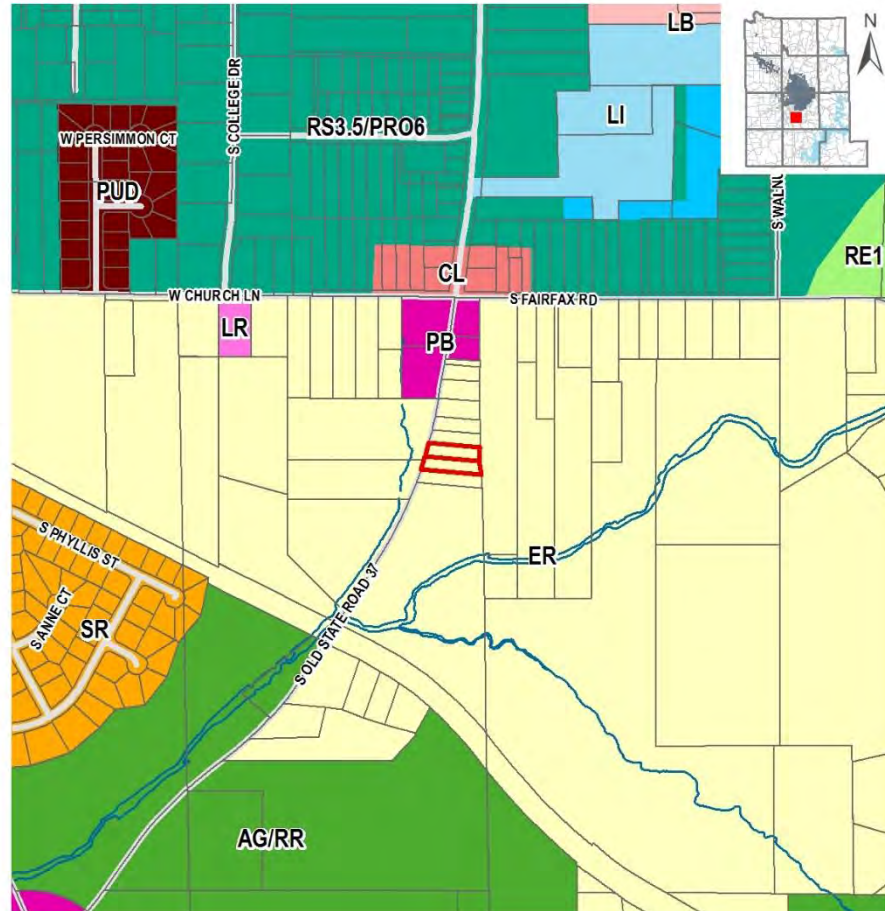
Current Zoning Map

- Petitioner
 - Parcels
 - Roads
 - Hydrologic Features
- Monroe County Zoning**
- AG/RR - Agriculture/Rural Reserve
 - CL - Limited Commercial
 - ER - Estate Residential
 - IL - Limited Industrial
 - LB - Limited Business
 - LI - Light Industrial
 - LR - Low Density Residential
 - PB - Pre-Existing Business
 - PUD - Planned Unit Development
 - RE1 - Estate Residential 1
 - RS3.5/PRO6 - Single Dwell. Res. 3.5/PRO6
 - SR - Suburban Residential

0 0.05 0.1 0.2 Miles








Monroe County
Planning Department
Source: Monroe County GIS
Date: 12/19/2018



SITE CONDITIONS

The petition site is 0.68 +/- acre parcel off of S Old State Road 37. The building used for commercial use is highlighted below in yellow.

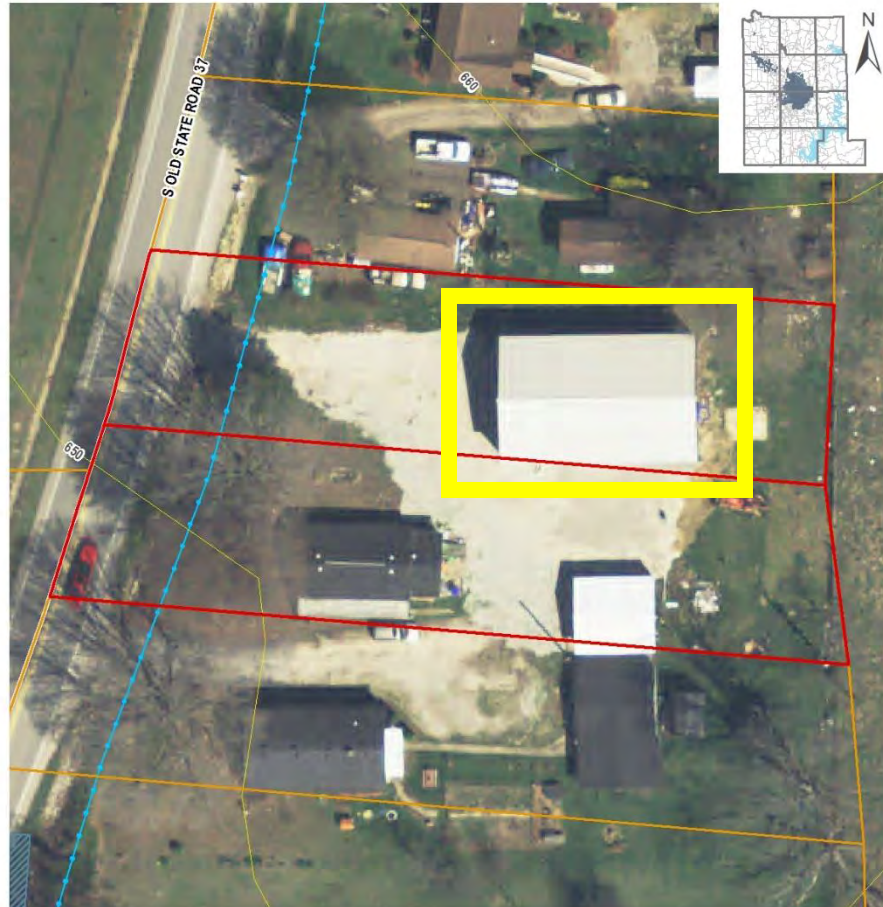
Site Conditions Map

-  Petitioner
-  Parcels
-  10-Foot Contours
-  Water Pipe
-  Roads
-  FEMA Floodplain







0 20 40 80 Feet



Monroe County
Planning Department
Source: Monroe County GIS
Date: 12/19/2018



Slope Map

-  Petitioner
-  Parcels
-  Roads
-  FEMA Floodplain
- Percent Slope (2010)**
-  0 - 15
-  > 15

0 10 20 40 60 80 Feet



Monroe County
Planning Department
Source: Monroe County GIS
Date: 12/19/2018



SITE PHOTOS



Photo 1. View of the residential home and S Old State Road 37. Facing south



Photo 2. View north on S Old State Road 37



Photo 3. View of the residential storage structure used as a business, facing east



Photo 4. View of the residential storage structure, facing east



Photo 5. View of the residential storage structure



Photo 6. View of residential property used as a rental, facing southwest



Photo 7. View of detached garage on the property



Photo 8. View of the backyard behind residential storage structure, facing east



Figure 9: View north, showing bird's eye view of the property.

COMPREHENSIVE PLAN DISCUSSION

The petition site is located within the MCUA Employment Plan designation, which states:

5.1.1 Mixed Residential

Mixed residential neighborhoods accommodate a wide array of both single-family and attached housing types, integrated into a cohesive neighborhood. They may also include neighborhood commercial uses as a local amenity.

These neighborhoods are intended to serve growing market demand for new housing choices among the full spectrum of demographic groups. Residential buildings should be compatible in height and overall scale, but with varied architectural character. These neighborhoods are often located immediately adjacent to mixed-Use districts, providing a residential base to support nearby commercial activity within a walkable or transit-accessible distance.

A. Transportation

Streets

Streets in mixed residential neighborhoods should be designed at a pedestrian scale. Like mixed-Use districts, the street system should be interconnected to form a block pattern, although it is not necessary to be an exact grid. An emphasis on multiple interconnected streets which also includes alley access for services and parking, will minimize the need for collector streets, which are common in more conventional Suburban residential neighborhoods. Cul-de-sacs and dead-ends are not appropriate for this development type. Unlike typical Suburban residential subdivisions, mixed residential development is intended to be designed as walkable neighborhoods. Most residents will likely own cars, but neighborhood design should de-emphasize the automobile.

Bike, pedestrian, and Transit modes

Streets should have sidewalks on both sides, with tree lawns of sufficient width to support large shade trees. Arterial streets leading to or through these neighborhoods may be lined with multi-use paths. Neighborhood streets should be designed in a manner that allows for safe and comfortable bicycle travel without the need for separate on-street bicycle facilities such as bike lanes. As with mixed-Use districts, primary streets in mixed residential neighborhoods should be designed to accommodate transit.

B. Utilities

Sewer and water

The majority of mixed residential areas designated in the land Use Plan are located within existing sewer service areas. Preliminary analysis indicates that most of these areas have sufficient capacity for additional development. Detailed capacity analyses will be necessary with individual development proposals to ensure existing infrastructure can accommodate new residential units and that agreements for extension for residential growth are in place.

Power

Overhead utility lines should be buried to eliminate visual clutter of public streetscapes and to minimize system disturbance from major storm events.

Communications

Communications needs will vary within mixed residential neighborhoods, but upgrades to infrastructure should be considered for future development sites. Creating a standard for development of communications corridors should be considered to maintain uniform and adequate capacity.

C. Open space

Park Types

Pocket parks, greens, squares, commons, neighborhood parks and greenways are all appropriate for mixed residential neighborhoods. Parks should be provided within a walkable distance (one-eighth to one-quarter mile) of all residential units, and should serve as an organizing element around which the neighborhood is designed.

Urban Agriculture

Community gardens should be encouraged within mixed residential neighborhoods. These may be designed as significant focal points and gathering spaces within larger neighborhood parks, or as dedicated plots of land solely used for community food production.

D. Public Realm Enhancements

Lighting

Lighting needs will vary by street type and width but safety, visibility and security are important. Lighting for neighborhood streets should be of a pedestrian scale (16 to 18 feet in height).

Street/Site furnishings

Public benches and seating areas are most appropriately located within neighborhood parks and open spaces, but may be also be located along sidewalks. Bicycle parking racks may be provided within the tree lawn/ landscape zone at periodic intervals.

E. Development Guidelines

Open Space

Approximately 200 square feet of publicly accessible open space per dwelling unit. Emphasis should be placed on creating well-designed and appropriately proportioned open spaces that encourage regular use and activity by area residents.

Parking Ratios

Single-family lots will typically provide 1 to 2 spaces in a garage and/or driveway. Parking for multi-family buildings should be provided generally at 1 to 1.75 spaces per unit, depending on unit type/number of beds. On-street parking should be permitted to contribute to required parking minimums as a means to reduce surface parking and calm traffic on residential streets.

Site design

Front setbacks should range from 10 to 20 feet, with porches, lawns or landscape gardens between the sidewalk and building face. Buildings should frame the street, with modest side setbacks (5 to 8 feet), creating a relatively continuous building edge. Garages and parking areas should be located to the rear of buildings, accessed from a rear lane or alley. If garages are front-loaded, they should be set back from the building face. Neighborhoods should be designed with compatible mixtures of buildings and unit types, rather than individual subareas catering to individual market segments.

Building form

Neighborhoods should be designed with architectural diversity in terms of building scale, form, and style. Particular architectural themes or vernaculars may be appropriate, but themes should not be overly emphasized to the point of creating monotonous or contrived streetscapes. Well-designed neighborhoods should feel as though they have evolved organically over time.

Materials

High quality materials, such as brick, stone, wood, and cementitious fiber should be encouraged. Vinyl and exterior insulated finishing Systems (eifS) may be appropriate as secondary materials, particularly to maintain affordability, but special attention should be paid to material specifications and installation methods to ensure durability and aesthetic quality.

Private Signs

Mixed residential neighborhoods should not feel like a typical tract subdivision. It may be appropriate for neighborhoods to include gateway features and signs, but these should be used sparingly and in strategic locations, rather than for individually platted subareas.

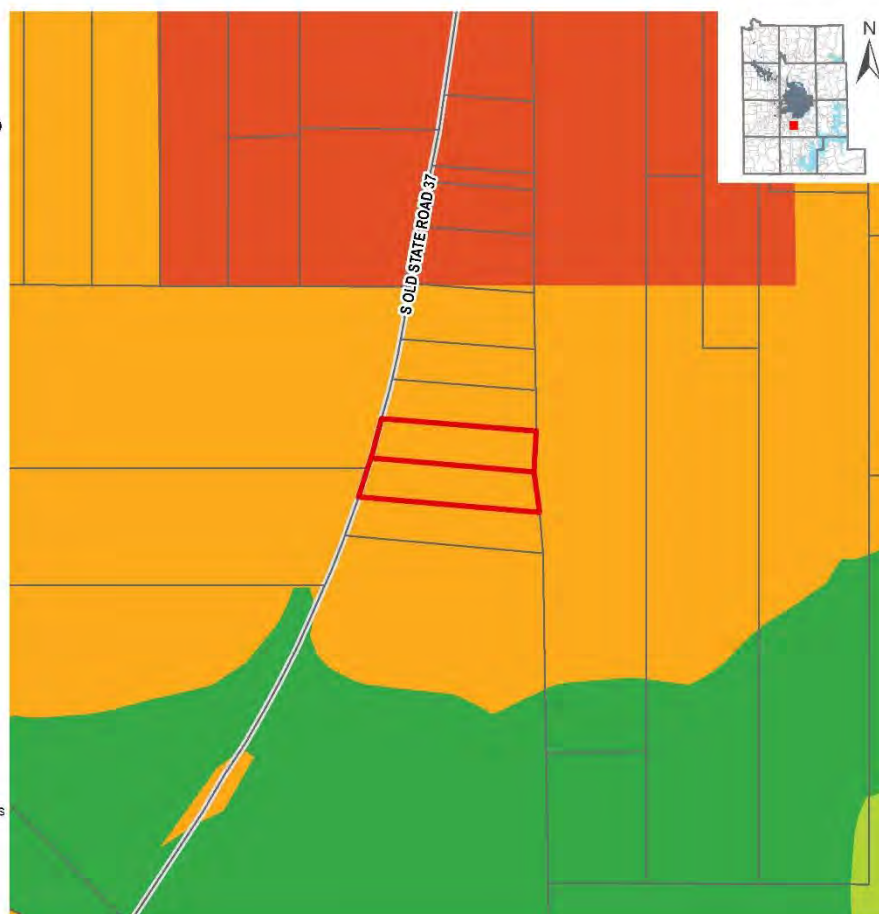
Comprehensive Plan

-  Petitioner
-  Townships
-  Monroe Co. Urbanizing Area (MCUA)
-  Parcels
-  Roads
- Comp. Plan Land Use (Updated 2015)**
-  MCUA Conservation Residential
-  MCUA Mixed Residential
-  MCUA Mixed Use
-  MCUA Open Space

0 0.0175 0.035 0.07 Miles



Monroe County
Planning Department
Source: Monroe County GIS
Date: 12/19/2018



FINDINGS OF FACT: Use Variance

812-5 Standards for Use Variance Approval: In order to approve an application for a use variance, the Board must find that:

(A) The approval will not be injurious to the public health, safety, and general welfare of the community:

Findings:

- Approval of the use variance would allow the petitioner to continue the commercial use in a residential zone without living on the property;
- The proposed use would require site plan approval in order to reach compliance;
- The property derives access from S Old State Road 37, which is a minor arterial (100' Right-of-way);
- The petition site is not located in FEMA Floodplain;
- There are no known karst areas on the lot;
- There is a rental home on the property;
- Conclusion: The approval would not be injurious to the public health, safety, and general welfare of the community.

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

Findings:

- See Findings under (A);
- Approval of the use variance would permit a filing to obtain site plan approval for the proposed General Contractor use;
- The Monroe County Public Works Department and Monroe County Planning Department review site plans to confirm uses are meeting development standards on subject property in the County;
- The effect of the approval of the use variance on property values is difficult to determine;
- The neighboring uses on S Old State Road 37 are residential in nature;
- Conclusion: The use and value of the area adjacent to the property included in the variance may or may not be affected in a substantially adverse manner.

(C) The need for the variance arises from some condition peculiar to the property involved:

Findings:

- The use of "General Contractor" is not a permitted use in the Estate Residential (ER) zoning district, thus requiring the variance to be filed;
- The Estate Residential (ER) zone permits: Historic Adaptive Reuse; Accessory Apartments; Accessory Livestock; Guest House; Historic Adaptive Reuse; Home Based Business; Home Occupation; Residential Storage Structure; Single Family Dwelling; Temporary Dwelling; Two Family Dwelling; Cemetery; Governmental Facility; Religious Facilities; Telephone and Telegraph Services; Utility Service Facility; Water Treatment Facility; Bed and Breakfast; Real Estate Sales office Or Model; Park and Recreational Services; Private Recreational Facility; or Construction Trailer;
- The site has a single family dwelling, detached garage, and residential storage structure. The 2400 square foot residential storage structure is used as residential storage, office space, and commercial storage;
- There is no substantial evidence the property cannot be utilized under one of the permitted uses listed in the Estate Residential (ER) zoning district, including the permitted use as a long term rental

- property;
- Conclusion: The need for the variance does not arise from some condition peculiar to the property involved.

(D) The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and,

Findings:

- See Findings under (C);
- General Contractor is a medium intensity use not permitted on this Estate Residential (ER) zoned lot;
- General Contractor is permitted in in the General Business (GB), Light Industrial (LI), and High Industrial (HI) Zoning Districts per Chapter 802;
- The petitioner could file for a rezone;
- Conclusion: The strict application of the terms of the Zoning Ordinance will not constitute an unnecessary hardship if applied to the property for which the variance is sought.

(E) The approval does not interfere substantially with the Comprehensive Plan. Especially, the five (5) principles set forth in the Monroe County Comprehensive Plan:

- (1) Residential Choices;**
- (2) Focused Development in Designated Communities;**
- (3) Environmental Protection;**
- (4) Planned Infrastructure;**
- (5) Distinguish Land from Property;**

Findings:

- See Findings under (A);
- The Urbanizing Area Plan designates the subject site as Mixed Residential, which is described previously in this report. The neighboring properties are also zoned Mixed Residential in the MCUA plan. Though this area calls for commercial activity, the MCUA plan specifies neighborhood amenities and not particularly general contractor uses that are typically found in the industrial zones;
- The property does not have evident environmental constraints;
- The proposed use and its “Medium” intensity classification in this area is not consistent with the Comprehensive Plan’s designation;
- The structure being used as an office was permitted under a residential accessory structure. No new development is being proposed;
- Conclusion: The approval does interfere substantially with the Comprehensive Plan.

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 finding for ALL FIVE criteria in order to legally approve a use variance.

EXHIBIT ONE: Petitioner's Letter

Board of Zoning Appeals

Address:

5605 s old st rd 37 bloomington IN 47401

Request:

Permission to have my business run from this address. My business is Riverway Plumbing. I use the building as personal storage and one office staff. I do not have people come to this address other than garbage guy once a week. My employees have trucks they take home and only come to the building to get special tools.

Neil Patzner



RECEIVED

DEC 03 2009

MONROE COUNTY PLANNING

EXHIBIT TWO: Site Plan



RECEIVED

DEC 03 2018

MONROE COUNTY PLANNING

EXHIBIT THREE: Petitioner's Letter from the 2015 BZA Case

EXHIBIT ONE: Petitioner Letter

Monroe County Planning Department

I wish to place a pole barn that can store my boat, lawn mower, and other personal items on the property. The property is 5601 and 5605 S Old State Road 37. Parcel #53-08-28-201-004.000-008 and 53-08-201-003.000-008. I want to combine the two lots to make more of a useable property. I want to remove the mobile home on the property. I want to remove two old sheds on the property. The property has two driveways, one which is not on the property. I would like to extend the driveway from mobile home to garage behind the house. I am asking for the variance to put a pole barn on the property. I feel that I would be cleaning up the lots by doing so.

Thank you for time

Neil Patzner

EXHIBIT FOUR: Enforcement Letter - 2018


MONROE COUNTY PLAN COMMISSION <i>and office of the</i> 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 http://www.co.monroe.in.us/tsd/Government/Infrastructure/PlanningDepartment.aspx					
Third and Final Notice					
Case File Number(s):	18-AC-117	Zoning District: ER	Case Status Ready for Legal Department:	Yes	
Zoning Inspector:	C. Griffin				
Property Owner or Builder Information: Neil Patzner IN BIZ RWP LLC Address: 8275 S. Stone Ridge Rd. Bloomington, IN 47401 Phone Contact: 812-327-8080					
Complaint Property Parcel Number:	53-08-28-201-004.000-008		Complaint Property Address:		
			5601 S. Old SR 37 Bloomington, IN 47401		
Summary of Complaint:	Applied for a residential ILP and is operating a commercial business out of the structure. Operation of a commercial plumbing business. Does not live at the residence. Prohibited land use; cease and desist.				
Monroe County Zoning Ordinance Violation(s):	802-5 (Use the table on page 3 to locate the above listed zoning violation(s) and the ordinance code)	Notice of Violation(s) Issued:	Notice of Violations # \$.00		
			Status of NOV Payment:		
Number of emails or Enforcement Letter(s) Mailed:	3	Number of Inspections:		Photograph(s) Taken: Yes, and Internet Documents 2000, 2005, 2017	

EXHIBIT FIVE: Minutes – BZA 1/2/2019

QUESTIONS FOR STAFF –1812-VAR-40 – Patzner

Johnson: Thank you. Does anyone have questions for the staff at this time? Mark?

Kruzan: This is the first time I have seen an enforcement letter in one of our packets. Is that uncommon common?

Nester: You just mean to add the enforcement letter?

Kruzan: I have not seen this document in a year, unless I have not looked carefully enough. Is this not a, I am noticing that this is third and final notice. Why is that? What happened to the first two notices?

Nester: The first two notices were basically email and conversation notices and the third and final was paper letter mailed when we didn't receive follow-up.

Kruzan: So, it is lack of follow-up that leads to a third notice. Thank you.

McNeil: When I read the packet, are you suggesting that he made an application for this building to storage boats and things like that and then turned around and turned it into a plumbing business out of that? Is that what?

Nester: The petitioner's letter from 2015 did state that he was going to use it for personal use, storing lawnmower, boat, other personal storage and the use it is being used for particularly his office and commercial store, which we would identify as General Contractor use of the storage building.

McNeil: Is there anything in that letter that said he was going to store in there? Are there any of those things in that building?

Nester: I am not sure. I guess that petitioner would have to answer that question about whether the other half is used for personal storage of those items.

McNeil: Had he requested that building to be built to run a plumbing business it would have been denied?

Nester: Correct under the current zoning, yes.

McNeil: On what grounds?

Wilson: It is not a permitted use in this zone.

Nester: It is not a permitted use in this zone.

Wilson: If you don't live in the house and there is no house here, if you don't live in the house

then it's not a Home Based Business.

McNeil: Thank you.

Johnson: Do we have any more questions for the staff at this time? Would the petitioner like to address the Board?

PETITIONER/PETITIONER'S REPRESENTATIVE – 1812-VAR-40 – Patzner

Johnson: If you will sign in and if you will state your name for the record.

Patzner: I am Neil Patzner.

Johnson: Do you swear or affirm that the information you about to give us is truthful?

Patzner: Yes.

Johnson: Thank you.

Patzner: To answer your question about the personal things, yes there is a boat. I did have a '68 mustang in there. But I have actually pulled that out. It is getting repaired. I do have a couple things in there. I really didn't want it to be a home based. I do have another 5 acres that I want, we through a whole thing about my 5 acres and it has been a long process to get this thing moving. When petitioned in 2015, I only had 3 employees, now I have 17. I didn't expect to blow up in this town and I was kind of forced to move vehicles and storage to areas that were not my house to put into a building that I had availability. I mean, did I have ultimately think that I was going to move this quickly and in this direction? No, I didn't. I goal still is to actually build my property on the 5 acres and move my business to the real area. This building is kind of like the fall back. I am hoping that by next December everything is going to be gone, everything is going to be different. But I am just filing for this variance just to get me from point A to point B. Am I in the wrong? Yeah, I am in the wrong. But I was not really, really not expecting to grow like I said I only had 4 employees when I filed. I had my office in my home. Next thing you know, I had to hire staff. I outgrew the house where I was and the reason for the variance was to try to get me from point A to point B.

Johnson: Does anyone have questions for Mr. Patzner?

McNeil: I do. In the unlikely event that you were given a Temporary Use Variance how long would it take you to remedy this issue? It sounds like you are saying you are a victim of your own success.

Patzner: I would right now I am working with Smith Brehob in developing the 5 acres and we are trying to push that as fast as through and as soon as we can break ground, I am assuming if everything goes well I thinking I would be out there by sometime next year.

McNeil: What if things don't go well?

Patzner: Everything has kind of been approved for what I am doing, so if anything doesn't go well

then I guess I would be forced to buy another building and move.

McNeil: You are saying if you had a Temporary Use Variance until next December you would get it done.

Patzner: I would get it done.

Johnson: Yes?

Kruzan: Since this is a legal body I want to make sure we get the exact. When you say December of next year, you are talking about December of this year right?

Patzner: Yes, December of 2019. I want to be moved out before 2020.

Kruzan: Pardon me?

Patzner: I want to be moved out before 2020.

Kruzan: So, you do mean 2 years?

Patzner: No. January 1st, 2020.

Kruzan: Sorry, I thought you said 12 of 2020.

Patzner: My ultimate goal is to be out there completely by December 31st before the 2020 year.

Kruan: Ok, thank you.

SUPPORTERS - 1812-VAR-40 – Patzner: None

FURTHER SUPPORTERS - 1812-VAR-40 – Patzner: None

REMONSTRATORS —1812-VAR-40 – Patzner: None

ADDITIONAL QUESTIONS FOR STAFF —1812-VAR-40 – Patzner: None

FURTHER QUESTIONS FOR STAFF - --1812-VAR-40 – Patzner

Johnson: Does anyone else have additional questions for Mr. Patzner? Seeing none. We are back to the Commission for any additional questions or comments.

McNeil: I have a question. Do we have the authority to grant a Temporary Use Variance?

Schilling: I don't believe that you do Michael. I guess in a situation like this if you felt that it was going to be resolved by December of this year that we would just hold that off as an enforcement action until then. You could table this until December of next year and see how things are going, or this year, yeah, and then dismiss it if it was resolved.

Kruzan: Could we table it until July 1st and get a status update and if it's looking like December is really going to happen hold off, continue to hold off and if it looks like nothing has changed and nothing is going to change, then we may as well just deny that at that point?

Schilling: Certainly.

Wilson: I think staff would recommend a fairly short time period. This is an Estate Residential zone and the permit went in as a residential use, not for 3 or 4 employees. It went in as a residential storage structure and it is not really fair to the other neighbors in the Estate Residential to have it turned into a Light Industrial zone, for any reason.

Clements: Have we received complaints from the neighbors?

Nester: No.

McNeil: No remonstrators?

McNeil: No.

Johnson: I have one other question. Mr. Patzner came before the Plan Commission for this rezone, correct?

Nester: Correct.

Johnson: And how far is that location from this location?

Nester: It is 4750 South Walnut Street Pike is probably not that far.

Patzner: It is a half a mile.

Johnson: I guess the reason I asked that is the Plan Commission sought fit to rezone a property that is within a stone's throw of here to be, to accommodate his plumbing business full tilt as it were, so it seems to me that giving him this opportunity of July makes sense knowing that we granted the approval to do this business just a few feet down the road.

Wilson: Actually the Plan Commission made a recommendation to the Commissioners who upon public notice passed an ordinance rezoning the property, which is different than the BZA. It is a different set of procedures.

Johnson: It is a different procedure but the outcome is the same, right?

Wilson: Well, but the whole idea is clearly he could go on this property and ask for rezone to zone it Light Industrial and it would be permitted under that use. But he is requesting a Use Variance which I think Dave would say is a different set of criteria.

Schilling: Yes.

Johnson: I guess my point is you had said something to the fact that the people that are right next to this because it's a Residential Estate have a certain expectation and therefore we need to take more of an expedited path to compliance. To me doesn't kind of really hold because just a few feet down the road we have approved a plumbing business.

Wilson: I don't have a problem with the July deadline but again, this shouldn't go on forever.

Clements: I think essentially we are just kind of approving his business plan, that it is just taking a while to get things done sometimes, right.

Nester: Just as a note, I have not received a site plan filing for the other business.

Kruzan: That is the kind of thing I would want to know. I just threw out July 1st.

Wilson: When was it a rezone to Light Industrial?

Nester: It was rezoned in the summer of 2018.

Kruzan: I appreciate what you are saying. I completely understand it and that is your job and you also are watching out for the interest of the public at large in what you are doing. I am not a big fan of that fact that it took 3 notices to get the petitioners attention apparently. I don't know if that is accurate or not but we all have our things and life gets busy. But I do feel when I used to work at the city there was times that city enforcement people would come and hand me a piece of paper with a problem in town and it was a sign ordinance violation. I would say I am going to go ahead and consider that and put it in the stack and my guess is that it's still sitting on a desk somewhere. Because no one complained and it just struck me as we are trying to make this all work. I guess that is where I am on this. I will say if someone, if a neighbor where to come forward and say, hey, look there are trucks going in and out of there, this thing is operating as a business and I don't understand why you are letting it go. I would encourage the Board to reconsider it faster than July 1st. That is not an open invitation asking people to do that but I think it is possible that it might be somebody coming out. What you are presentation says is that occasionally employees would go to pick up parts and all. They take their trucks home with them. Is that the case?

Patzner: Correct.

Kruzan: Unless all of that changes and people start to see something they really don't like and come back to us, then I think it is worth and effort to try to make this work and in that spirit, **I will move that we table this until July 1st.**

Nester: Right now on this Estate Residential lot I will say, we don't have a site plan or anything for this lot. So if something did change and this was continued to July, between now and July we would have no enforcement action basically if this is continued and he would be able to continue the business.

Kruzan: Tell me your, I am sorry I don't mean to be impolite, but tell me your point.

Nester: I am just saying if more employees started to come to house and to this storage structure and park there and there was a nuisance, then we would still not be able to enforce and we would be waiting until July. Because we don't have a site plan or approval.

Kruzan: Can this Board, David, resurrect a case that's been tabled?

Schilling: Yes.

McNeil: I have a question. What sort of, after the enforcement action was initiated what sort of penalties can you start applying to this petitioner?

Schilling: We can write citations of about \$250, I believe. Yes. But we typically hold off if there is some active attempt to bring the use into compliance.

McNeil: It seems to me that if we are going to table this there are to be contingent penalty for the petitioner if it turns out that he doesn't do anything that he is telling us he is going to do tonight. Can we do something like that or can we let you decide an appropriate?

Schilling: That would just be a matter of enforcement, asking the court to impose a fine and the court has discretion to do that based on each day of violation. About all that we can do is to continue to write citations on a weekly or daily basis. That would add up and we could wave those I suppose at the end. But typically we just wait and see.

McNeil: I think that maybe you ought to just continue to issue noncompliance and let them build up and if he does what he says he is going to do, we waive all of the penalties, if he doesn't then he has got a big penalty to pay. Is that something that you can live with?

Patzner: I can live with it as long I have it in writing that you guys are going to forget it if I have moved in a year.

Johnson: Do we have motion? Mark, yeah...

Kruzan: Technically, we are kind of violating our own rules of order here in that tabling motions aren't debatable. Boy, I don't know how, I would recommend an attorney talk to you before I would agree to that. But I have just made a **motion to postpone action until, I said July 1st but I should say until our July meeting.** I don't know when that is.

Nester: Do you want to hear from the public as well? I don't know if you have asked for public comment.

Johnson: Thank you for that reminder. Should we get a second before we move to the public?

Kruzan: Well, if you do that then we can't.

Johnson: Ok. Thank you. Do we have anyone here from the public who wishes to speak to this

petition? Seeing none. Yeah.

Clements: I **second** Mark's proposal.

Johnson: We have a motion to table the petition until our July meeting and a second. Will you please call the roll?

Wilson: Ok, the vote is on petition 1812-VAR-40, Patzner General Contractor Use Variance. The motion is to continue the Use Variance hearing until the July meeting of the BZA. A vote in favor is a vote to continue. Michael McNeil?

McNeil: Yes.

Wilson: Mark Kruzan?

Kruzan: Yes.

Wilson: Susie Johnson?

Johnson: Yes.

Wilson: Margaret Clements?

Clements: Yes.

Wilson: The petition is continued until July.

The motion in case 1812-VAR-40, Patzner General Contractor Use Variance to Chapter 802, in favor of continuing this petition until the July 2019 Board of Zoning Appeals meeting, carried unanimously (4-0).

CASE NUMBER	2102-VAR-10 - Minimum Lot Size Variance 2102-VAR-11 - Morris Buildable
PLANNER	Anne Crecelius
PETITIONER	Nicole & Eric Morris
REQUEST	Design Standards Variance: Minimum Lot Size to Chapter 804 Design Standards Variance: Morris Buildable Area to Chapter 804
ADDRESS	1680 E Sanders Second AVE
ACRES	1.41 +/-
ZONE	CR, ECO 3
TOWNSHIP	Perry
SECTION	34
PLATS	Unplatted
COMP PLAN	Designated Communities
DESIGNATION	

EXHIBITS:

- 1) Petitioner Letter
- 2) Proposed Home Location Site Plan

RECOMMENDED MOTION:

Approve the design standard variance from the Minimum Lot Size requirement of Chapter 804 of the Monroe County Zoning Ordinance based on the findings of fact and subject to County Highway and MS4 Coordinator reports.

Approve the design standard variance from the Buildable Area (15% Slope) requirement of Chapter 804 of the Monroe County Zoning Ordinance based on the findings of fact and subject to County Highway and MS4 Coordinator reports.

SUMMARY

The petition site is a 1.41 +/- acre lot located in Perry Township, at 1680 E Sanders Second Avenue. The petitioners are requesting two (2) design standard variances from the Minimum Lot Size and the Buildable Area (15% slope) requirements of Chapter 804 of the Monroe County Zoning Ordinance. The variances are requested for the purpose of demolishing the existing Single Family Residence (SFR) and rebuilding towards the center of the petition site.

BACKGROUND

The petition site contains two structures built in 1950; a 1,064 square foot single family residence and 112 sq. ft. utility shed. This variance is the minimum requirement to alter the footprint or roofline of the home.

If the Minimum Lot Size variance is approved the petitioner will be able to rebuild a SFR on the site on slopes less than 15%. If the Buildable Area (15% Slope) variance is denied, the petitioner may need a setback variance due to the proximity of the buildable area of the site to E Sanders Second Ave.

If both variances are approved the petitioner will be able to construct a new SFR in the proposed location on slopes greater than 15%. Please see Site Photo 7 for an illustration of the proposed home location in relation to buildable area.

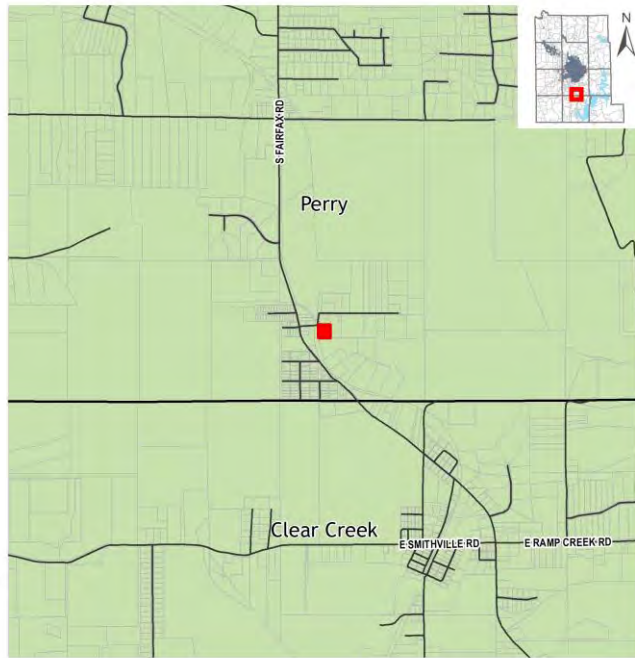
LOCATION MAP

The parcel is located in Perry Township, Section 34, addressed as 1680 E Sanders Second ST (parcel number: 53-08-34-300-037.000-008).

Location Map

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

0 0.15 0.3 0.6 Miles
Monroe County
Planning Department
Source: Monroe County GIS
Date: 3/8/2021



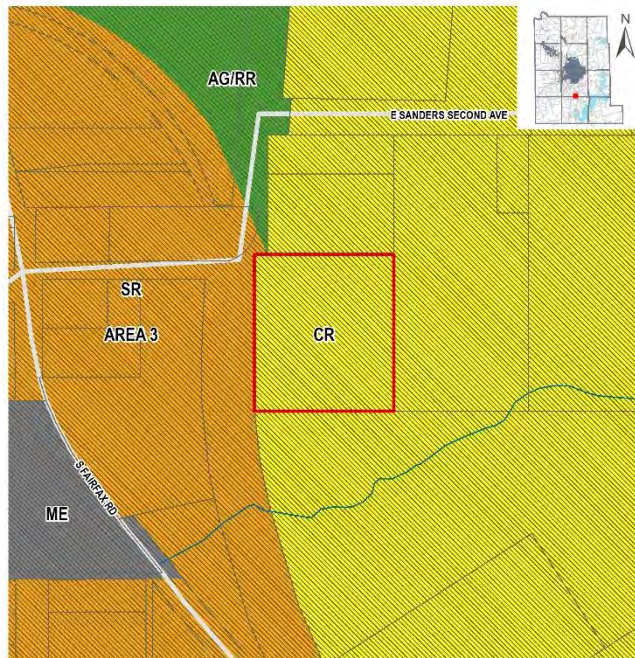
ZONING AND LAND USE

The property is zoned Conservation Residential (CR) and Environmental Constraints Overlay Area 3 (ECO 3) under Chapter 804 and Chapter 825 of the Zoning Ordinance. Adjacent properties are zoned CR, Suburban Residential (SR), and Agricultural Rural Reserve (AG/RR). The petition site is a residential use with surrounding uses that are mainly residential.

Current Zoning Map

- Petitioner
- Parcels
- Roads
- Hydrologic Features
- ECO Areas
 - Area 3
- Monroe County Zoning
 - AG/RR - Agriculture/Rural
 - CR - Conservation Residential
 - ME - Mineral Extraction
 - SR - Suburban Residential

0 0.01 0.02 0.04 Miles
Monroe County
Planning Department
Source: Monroe County GIS
Date: 3/8/2021



SITE CONDITIONS & SLOPE

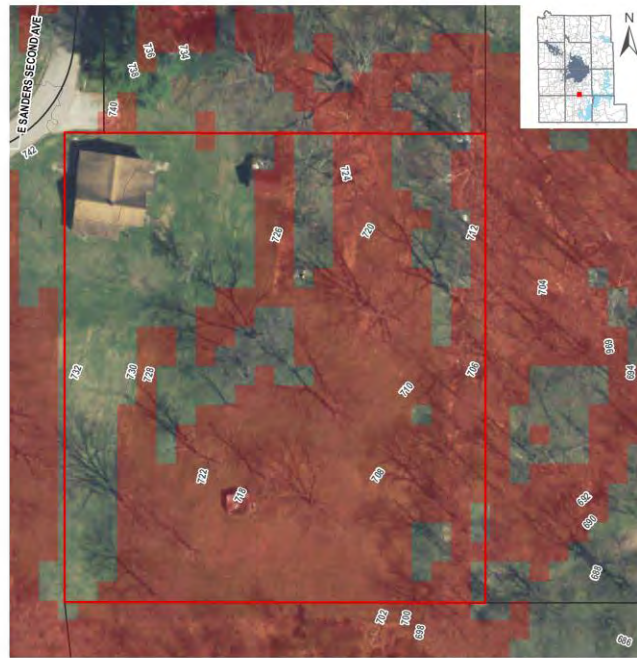
The petition site contains a 1,064 sq. ft. SFR and a 112 sq. ft. shed built in the 1950's per the property tax report. The property is accessed from E Sanders Second Ave., a designated Local Road. There are no known karst features or FEMA floodplain. The petition site consists of mainly slopes greater than 15% but does contain adequate area for a new building location.

Site Conditions Map

- Petitioner
- 2-Foot Contours
- Local Roads [50']
- 15% Slope Restriction**
- 0 - 15
- > 15
- Parcels

0 0.00375 0.0075 0.015 Miles

Monroe County
Planning Department
Source: Monroe County GIS
Date: 3/8/2021



SITE PICTURES



Photo 1: Pictometry photo looking north.



Photo 2: Pictometry photo looking west.



Photo 3: Looking west along E Sanders Second AVE.



Photo 4: Looking east at E Sanders Second AVE.



Photo 5: View of the existing porch that's proposed to be partially covered as a sunroom.



Photo 6: Looking south at the rear yard of the petition site.

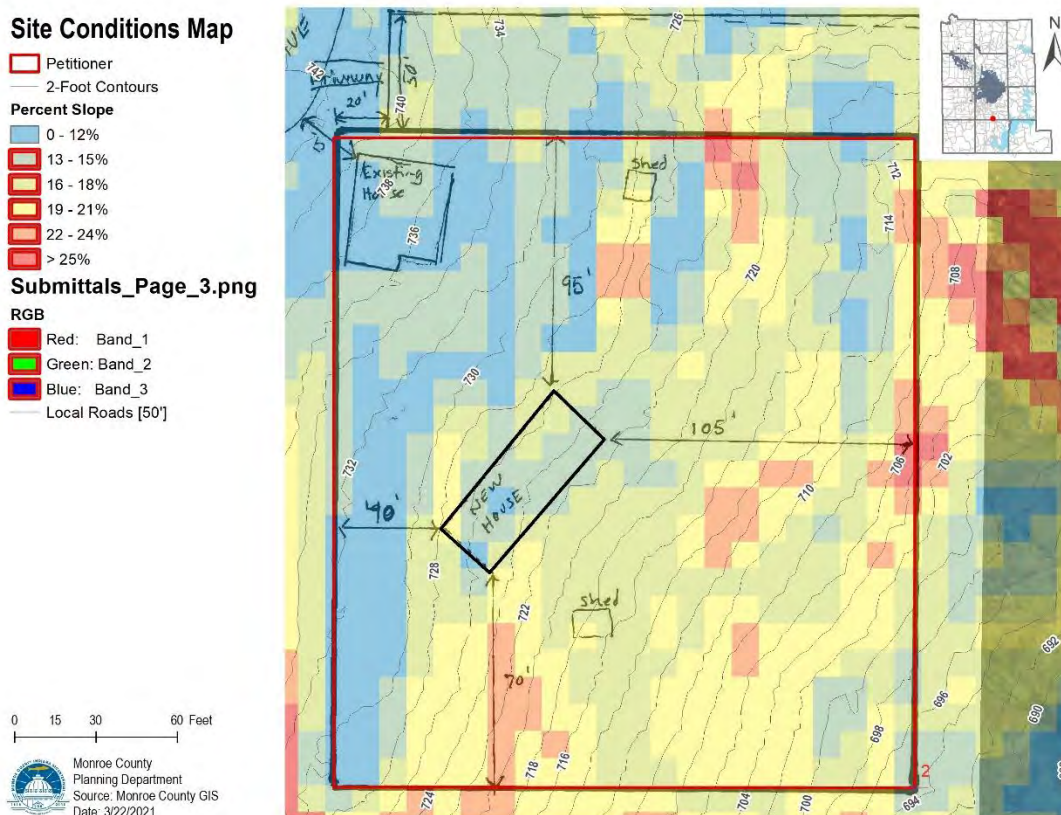


Photo 7: Staff created map of proposed location of home and buildable area.

COMPREHENSIVE PLAN DISCUSSION

The petition site is located within the “**Designated Communities**” of the 2012 Comprehensive Plan. The

plan states the following for this designation:

The central property use concept in this Plan is to focus new development into one of the following Designated Communities: Smithville-Sanders Rural Community Area.

These residential, commercial, and industrial growth areas are extensions of historical growth patterns for Bloomington, the Bloomington/Ellettsville corridor and the historic communities located throughout the County. This Plan must be closely coordinated with the property use plans and development standards in Bloomington's Growth Policies Plan and planning efforts by Ellettsville.

This plan directs concentrated residential and commercial/industrial development over the next 20 years to the Bloomington Urbanizing Area and the four Designated Communities. Public waste water treatment facilities, necessary for the protection of public health and the environment, can also be provided more cost effectively in these areas due to existing wastewater facilities as well as population densities sufficient to justify the extension of sewers. Ideally, much of the growth will not occur on undeveloped sites, but on existing underdeveloped or brownfield properties or properties in targeted business corridors.

Concentrating growth into the Designated Communities should strive to meet expectations for reasonable levels of service such as uncrowded neighborhood schools, police and fire protection, and ambulance service provided in an efficient and timely manner. These plans should be periodically reviewed and updated to reflect trends and demographic changes.

Smithville - Sanders Area Rural Community Plan

The Smithville - Sanders Area Rural Community Plan was approved by the Board of County Commissioners at the March 18, 2005 meeting.

The Smithville - Sanders Area Rural Community Plan proposes to:

- Focus new growth and development within and near the core of the existing community
- Promote dense development
- Maintain a compact form of physical development
- Capitalize on existing infrastructure
- Maintain a distinctive edge, separating urban areas from rural areas
- Provide for future growth areas
- Promote a continuation of the traditional development pattern
- Enhance the streetscape along Smithville and Strain Ridge Roads
- Interconnect streets where practical
- Establish design guidelines
- Develop alternative transportation and recreation opportunities connecting to surrounding areas

Further, the plan proposes to:

- Encourage business development along Strain Ridge Road between the Smithville School and its intersection with Smithville Road, with possible expansion to Fairfax Road along Smithville Road. These business uses should continue to focus on neighborhood-serving business enterprises.
- Focus neighborhood growth and recreational development in the vicinity of the Smithville School.

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:

- The site is 1.41 +/- acres and is zoned Conservation Residential (CR) and Environmental Constraints Overlay Area 3(ECO3);
- The CR zone requires a 5 acre minimum lot size unless previously subdivided under the Sliding Scale Subdivision process;
- The site contains a Single Family Residential structure constructed in 1950;
- There are no visible karst features on the site;
- The petition doesn't contain FEMA floodplain;
- The existing SFR structure is pre-existing non-conforming due to the close proximity (approx. 15') from E Sanders Second Ave;
- Approval of this variance would allow the home to be demolished and rebuilt, or expanded up to 25% of its current livable space under Chapter 803;
- **Conclusion:** The approval **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 site is accessed off of E Sanders Second Ave., a Local road;
- The existing SFR is approximately 15' from E Sanders Second Ave;
- Demolishing and rebuilding the SFR farther from the road would increase the conformity of the property due to setback from E Sanders Second Ave;
- The site has access to water and the petitioners are proposed to install a new 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 use of the petition site and adjacent properties are residential;
- The character of the surrounding properties consists of single family residential and commercial use to the west;
- The 2012 Comprehensive Plan identifies this area as a "Designated Community";
- The plan states that new growth and development should be focused "within and near the core of the existing community";
- **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 Minimum Lot Size variance;
- **Conclusion:** Approval of the variance would satisfy the design standard sought to be varied.

(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);
- The proposed construction would not expand the footprint of the home, therefore no change is expected to the site drainage;
- **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);
- The SFR and utility shed was constructed in 1950 per the property report card;
- This variance is the minimum required to demolished and rebuild a SFR;
- The existing home is pre-existing non-confirming within the front setback and would only be able to remodel and/or expand up to 25% of the livable space under Chapter 803;
- **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.

FINDINGS OF FACT: Buildable Area Requirement

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 1.41 +/- acres and is zoned Conservation Residential (CR) and Environmental Constraints Overlay Area 3(ECO3);
- The CR zone requires a 5 acre minimum lot size unless previously subdivided under the Sliding Scale Subdivision process;
- The site contains a Single Family Residential structure constructed in 1950;
- There are no visible karst features on the site;
- The petition doesn't contain FEMA floodplain;
- The existing SFR structure is pre-existing non-conforming due to the close proximity (approx. 15') from E Sanders Second Ave;
- Approval of this variance would allow the home to be demolished and rebuilt, or expanded up to 25% of its current livable space under Chapter 803;
- **Conclusion:** The approval **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 Section A(1);
- The site is accessed off of E Sanders Second Ave., a Local road;
- The existing SFR is approximately 15' from E Sanders Second Ave;
- Demolishing and rebuilding the SFR farther from the road would increase the conformity of the property due to setback from E Sanders Second Ave;
- **The site has access to water and 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 Section A(1);
- The use of the petition site and adjacent properties are residential;
- The character of the surrounding properties consists of single family residential and commercial use to the west;
- The 2012 Comprehensive Plan identifies this area as a "Designated Community";

- The plan states that new growth and development should be focused “within and near the core of the existing community”;
- **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 Section A(1), A(2), A(3);
- The variance from slope requirements only applies to the proposed SFR structure. Any future expansion on this site into areas greater than 15% slope would require another buildable area variance, at a minimum;
- 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 Section A(1), A(2), A(3), and B(1);
- Conclusion: It **would not** promote conditions 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:

- Property value tends to be subjective as it is difficult to anticipate adverse effects;
- 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:

- Petitioner has applied for this variance, which appears to be the minimum variance necessary to eliminate practical difficulties in the use of the property;
- The petitioner would be unable to relocate the proposed SFR in buildable area without also needing

- a setback variance due to proximity to E Sanders Second Ave;
- 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

Dear Board of Zoning Appeals,

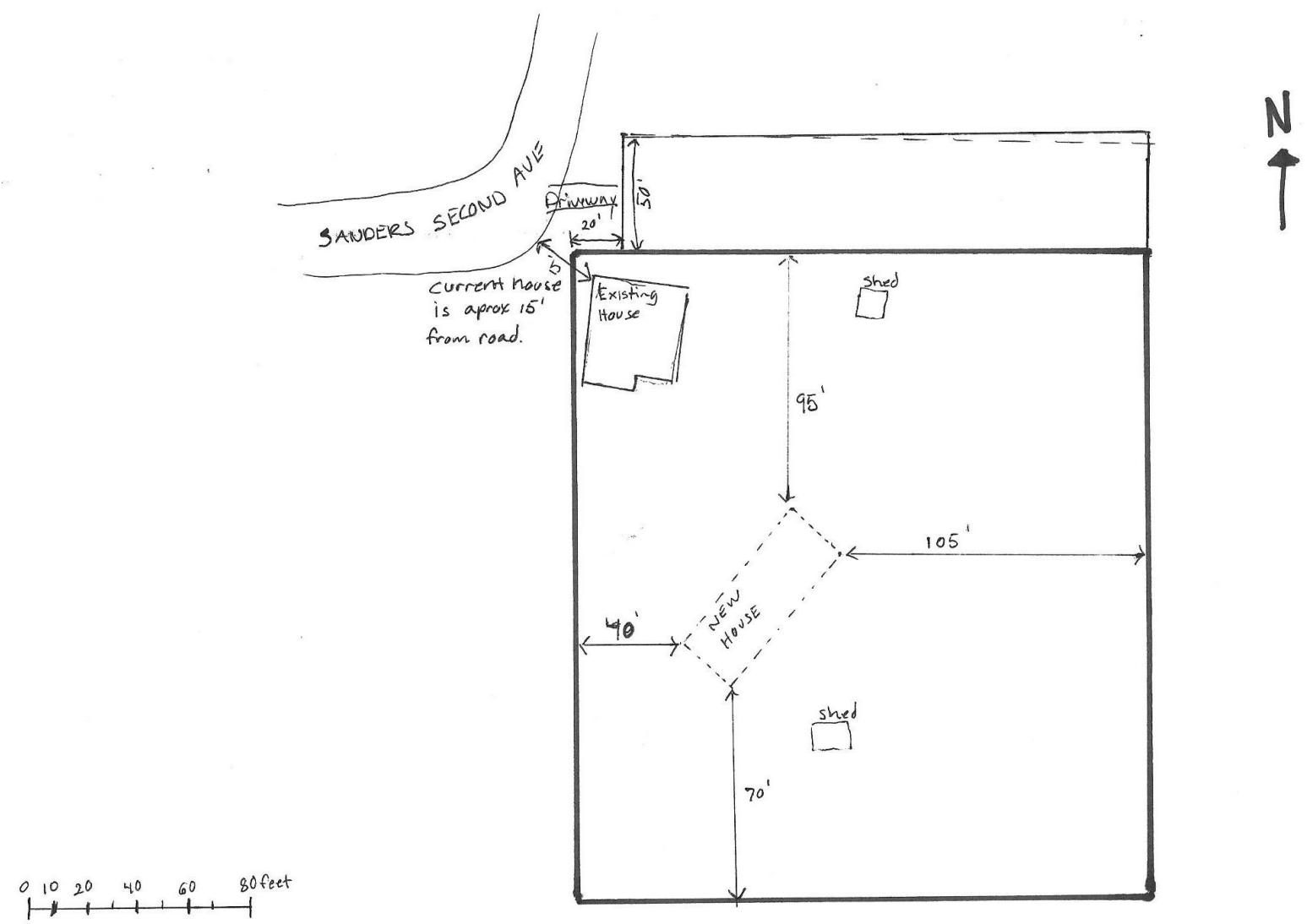
This letter is to request Minimum Lot Size and Buildable Area Variances on our property located at 1680 E Sanders Second Ave. We would like to remove the current structures on the property and build a new single-family home more centrally located on the property away from the road.

Thank you,

Eric & Nicole Morris

Eric Morris
Nicole Morris

EXHIBIT TWO: Site Plan



MONROE COUNTY BOARD OF ZONING APPEALS**March 3, 2021**

CASE NUMBER: 2101-VAR-12
PLANNER: Tammy Behrman
PETITIONER(S): Darren and Leafa Burns
REQUEST: Design Standards Variance: Chapter 833 Front Yard Setback
ADDRESS: 3519 W Vernal PIKE
ZONING: Single Dwelling Residential 3.5 (RS3.5/PRO6)
ACRES: 1.105 +/- acres
TOWNSHIP: Bloomington
SECTION(S): 31
PLAT(S): n/a
COMPREHENSIVE
PLAN DESIGNATION: MCUA Employment

EXHIBITS:

1. Petitioner's Letter
2. Petitioner's Letter with added information
3. Petitioner's Site Plan
4. Highway Department Documentation
5. Health Department Documentation
6. Estimate for Sewer Connection provided by petitioner

RECOMMENDED MOTION:

DENY the design standards variance to Chapter 833 for Front Yard Setback based on the findings of fact specifically Findings A(2), A(3) and B(2).

SUMMARY

The petitioner requests a design standards variance from the Front Yard Setback requirement of Chapter 833 for the purposes of adding 1440 sf of living space to a 1020 sf home considered pre-existing nonconforming built in 1930. The front yard setback for property in the Single Dwelling Residential 3.5 (RS3.5) zoning district with frontage to a Minor Arterial is 65' from the centerline of W Vernal Pike. The setback of the existing home is 47' from the centerline which is an 18' encroachment.

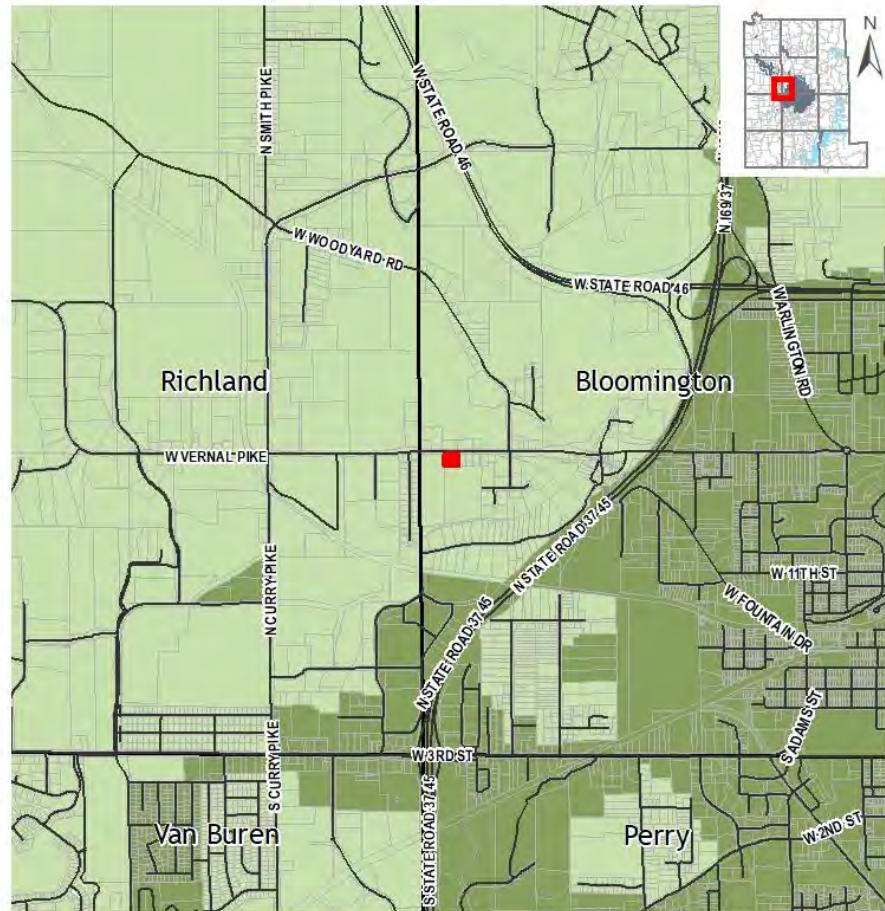
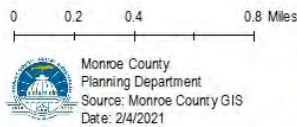
The frontage road, W Vernal Pike, was updated in the last decade and altered the driveway configuration shown currently in the site photos. Additionally, sewer was installed along the roadway during the improvements. The petitioner was offered the opportunity to connect to the sewer and they did not. The Health Department does not have a record of septic information for this property. Approval of the variance will allow for the expansion of a pre-existing nonconforming structure that is currently not connected to sewer and has questionable, safe driveway access in an area that is continuing to industrialize.

LOCATION MAP

The site is located at 3519 W Vernal Pike, Bloomington Township, Section 31, parcel number 53-05-31-200-007.000-004.

Location Map

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

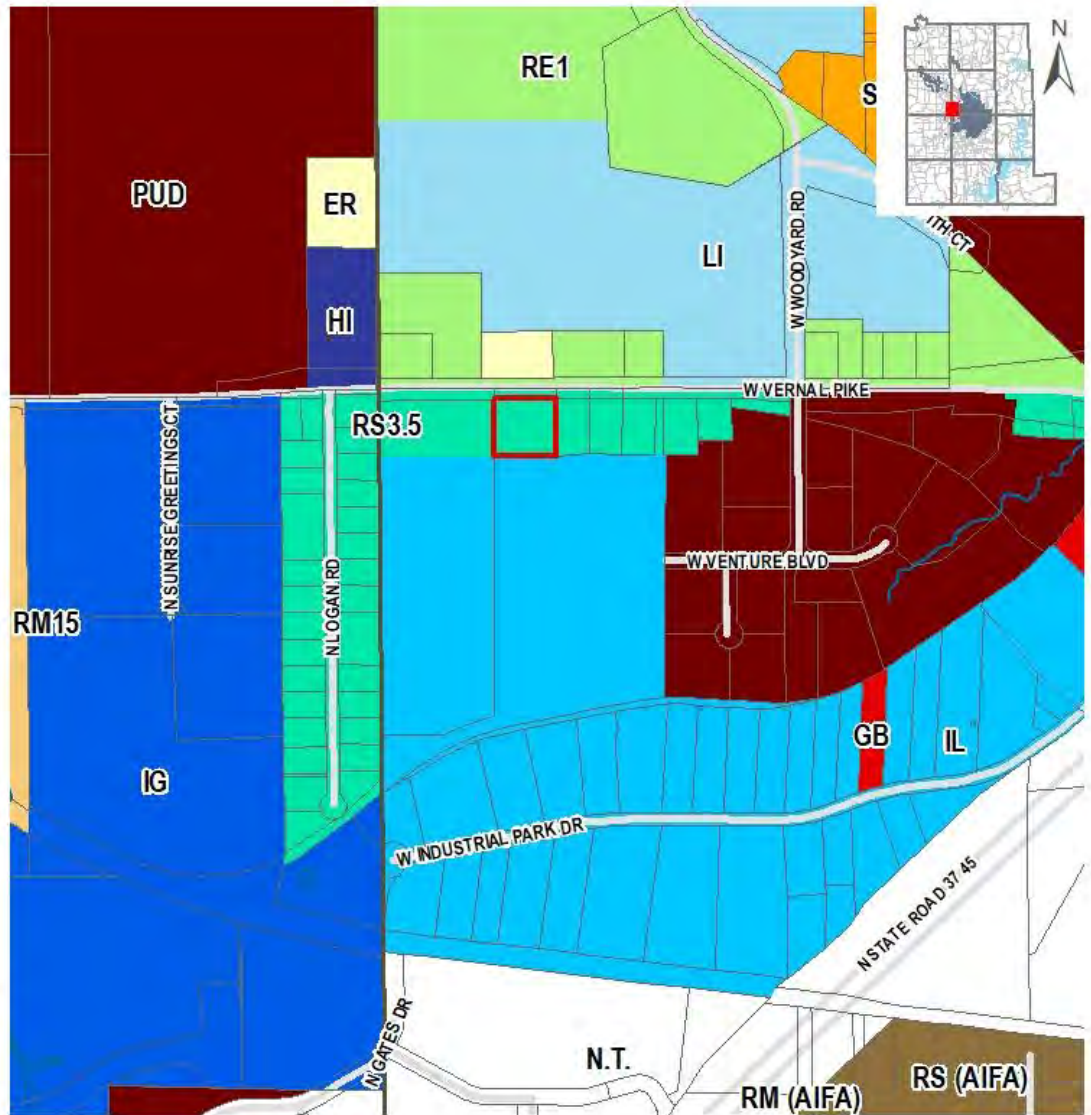
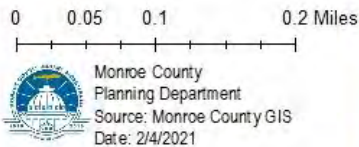


ZONING CLASSIFICATION

The petition site is zoned Single Dwelling Residential 3.5 (RS3.5) along with the properties to the east and west along W Vernal Pike. To the south is Limited Industrial (IL). The surrounding area are industrial type Planned Unit Developments (PUD) in the area, General Industrial (IG) and Light Industrial (LI) along with a strip of residential to the west. Adjacent uses are residential and industrial.

Current Zoning Map

- Petitioner
- Parcels
- Roads
- Hydrologic Features
- Monroe County Zoning**
- ER - Estate Residential
- GB - General Business
- HI - Heavy Industrial
- IG - General Industrial
- IL - Limited Industrial
- LI - Light Industrial
- N.T. - No Tag (Outside Juris.)
- PUD - Planned Unit Development
- RE1 - Estate Residential 1
- RM - Multi Dwelling Residential
- RM15 - Multi Dwelling Res. 15
- RS - Single Dwelling Residential
- RS3.5 - Single Dwelling Res. 3.5
- SR - Suburban Residential



SITE CONDITIONS

The site maintains frontage on W Vernal Pike, a Minor Arterial, and has an unconventional driveway as a result of recent road upgrades. There is a residence and shed on the property. Sewer is available to the site but the site is currently on septic which is located to the west of the house. The site drains to the south. There are no known karst features or regulated floodplain on the site. There is a sidewalk along the north property line adjacent to W Vernal Pike.

The parcel lines may be off. According to the petitioner's site plan (Exhibit 2) the current residence is located 17' from the western property line.

Site Conditions Map

- Minor Arterial [150']
- Petitioner
- Sanitary Pipe
- Water Pipe
- Storm Water
- 10-Foot Contours
- Local Roads [50']
- Parcels



0 0.0075 0.015 0.03 Miles

Monroe County
Planning Department
Source: Monroe County GIS
Date: 2/4/2021

W Vernal Pike Statistics

	<i>Vernal Pike</i>
Width	38'
ADT	5,308
Speed Limit	40 MPH
Edge of Pavement	Curb & Gutter
Accident Summary	7 Crashes reported in the last 3 years.
Functional Class	Minor Arterial

SLOPES

The proposed addition is within slopes greater than 15 percent. Under Chapter 804 the Director has the ability to issue a slope waiver since the addition is under 1000sf. The Director has stated he would use this part of the ordinance to issue the waiver should the variance be granted. There are other areas on the petition site with slopes less than 15 percent and considered buildable.

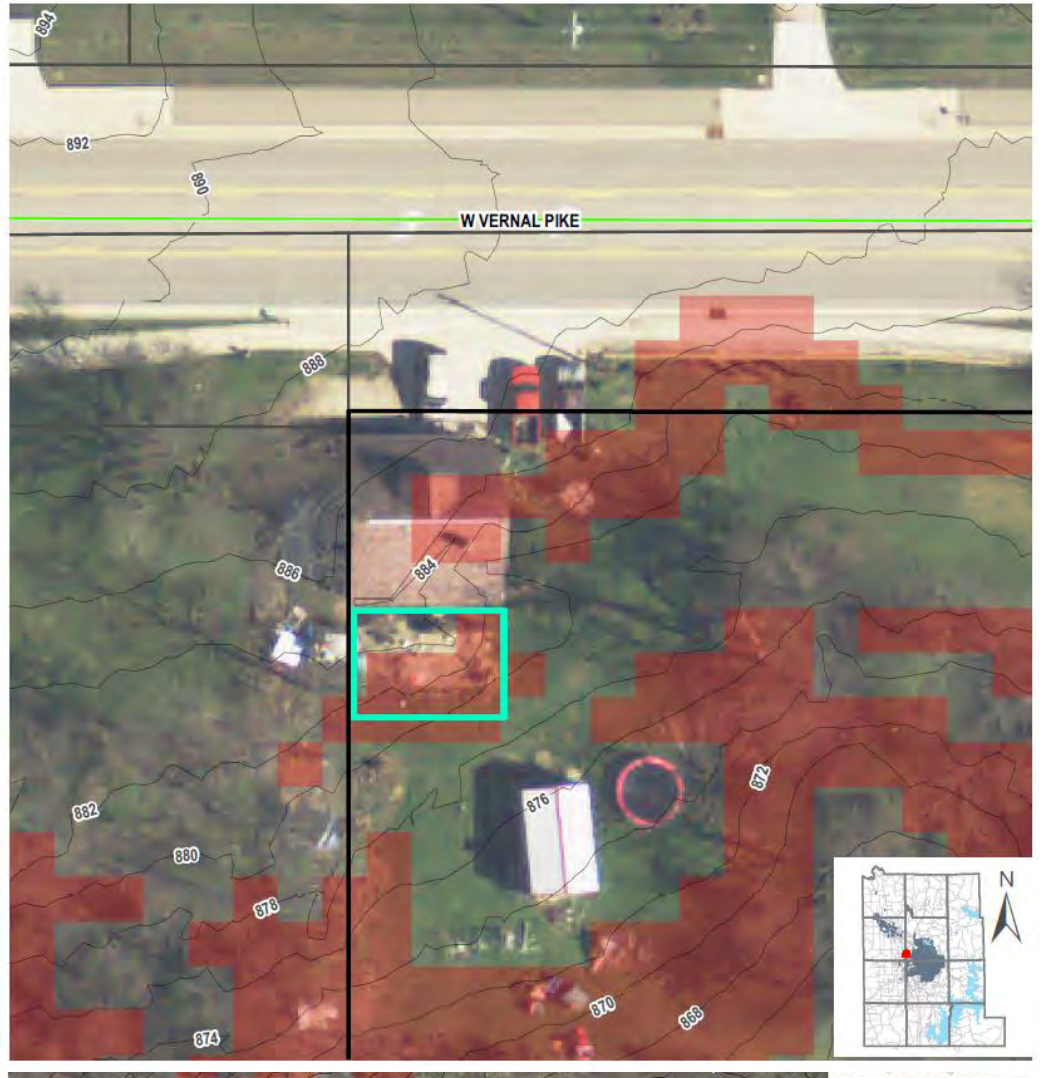
Slope Map

- Minor Arterial [150']
- Local Roads [50']
- Petitioner
- Parcels
- 2-Foot Contours
- 15_Percent Slope (2010)**
 - 0 - 15
 - > 15

0 10 20 40 60 Ft



Monroe County
Planning Department
Source: Monroe County GIS
Date: 1/12/2021



Proposed location of the two story addition. Footprint is 720 sf. (24'x30') for a total of 1440 sf expansion. The house is currently 1020 sf. This additions will increase the house by 140 percent (more than double the living space).

Site Conditions Map

- Minor Arterial [150']
- Petitioner
- Local Roads [50']
- Parcels



Above: Staff analyzed the existing residences along W Vernal Pike using the distance from the centerline of the road to the edge of the residence. Of the thirteen residences only two structures did not meet the 65' setback and the petitioner's residence was the closest at 47'.

2010 / 2020 Aerial to the right. Shows the old driveway configuration and width of road as compared to the road width currently (right side of photo).



SITE PHOTOS



Photo 1: Facing south. Gold arrow depicts where petitioner will lay additional gravel.



Photo 2: Facing north



Figure 3. Facing east:
view of W Vernal Pike
with petitioner's home on
the right. Sidewalks are
covered with snow. The
four lane road is visible to
the left.



Figure 4. Facing west:
view of W Vernal Pike
with petitioners home on
the left. Sidewalk covered
by snow.



Figure 5. Facing South: view of the western property line.



Figure 6. Facing south: view of the petitioners home on the east side. Note slopes.



Figure 7. Facing north:
view of area for
proposed addition.

COMPREHENSIVE PLAN

The petition site is located within the MCUA Employment designation which states:

Employment

Employment-oriented uses include light industrial, manufacturing and assembly, research and development facilities, flex/office space, construction trades, warehousing and other types of commercial uses that may not be easily integrated into a mixed-use environment.

These uses may require large, isolated sites for large-format facilities, or multiple facilities may be organized into coordinated campus-style or industrial park settings. This land use category is intended to accommodate the expansion and changing operations of a wide variety of companies and to foster a well-rounded and diverse economy as part of the Greater Bloomington area.

Special attention should be paid to vehicular access management, buffering and landscape aesthetics, building and parking orientation, and basic architectural design standards. Business support services are encouraged to be integrated into larger employment areas.

A. Transportation

Streets

Employment areas require special considerations in roadway design. These areas are typically accessed through arterial connections from the freeway and require accommodations for heavy

truck traffic. Arterial connections may

Include mixed-use corridors, and special attention must be paid to balance the needs of all travel modes while also facilitating industrial deliveries and commuter traffic flow. Arterial streets, such as Third Street, should not exceed five lanes in width (four travel lanes with center turn lane). local and collector streets will typically be two or three-lanes (two travel lanes with center turn lane). Street connections are encouraged to help distribute traffic, but should be balanced with access management plans to maximize safety. Center medians for select arterial roadways should be considered to improve access management and corridor aesthetics.

Freight

Appropriate routes for truck traffic to and from i-69 should be designated with thoroughfares designed accordingly. Major highway access points to employment areas west of i-69 will include Sr-46, Third Street/Sr-48, 2nd Street/Sr-45 and Tapp road. Fullerton Pike will provide access to potential employment areas to the east of i-69. A new roadway connection between That road and South Walnut Street (old Sr-37) should be considered to open land between the highway and clear creek for employment uses.

Bike, Pedestrian, and Transit modes

Commuting by automobile will likely remain the primary form of transportation to work in the larger employment centers within the Urbanizing Area. However, opportunities to expand transportation options should be provided wherever possible. Streets within employment areas should include sidewalks and/or shared-use sidepaths and encourage connections to karst farm Greenway and clear creek Trail. Opportunities to expand City of Bloomington and rural Transit service to employment areas should also be explored.

B. Utilities

Sewer and water

Employment-generating uses provide a fiscal benefit to the community that may warrant additional investments in and possible geographic expansion of sewer systems. Some areas designated for employment uses in the land Use Plan are located outside of current sewer service areas, most notably the area between Clear Creek and Sr 37. Additional studies should be undertaken to determine the potential for sewer expansion and necessary capital improvements to serve these areas. Additional studies and surveys may be required to determine the geographic restrictions within developable areas.

Power

Where possible, overhead utility lines should be buried to minimize disruption during major weather events. Care should be taken to locate underground utilities in a manner that does not interfere with site development or business expansion. Opportunities to create redundant power systems with new electrical substations should be explored.

Communications

State of the art communications systems should be prioritized in employment areas. Street infrastructure improvements should reserve space for burial of fiber-optic systems and/or other forms of high-speed internet and communications networks.

C. Open space

Park Types

Employment areas should provide open spaces primarily through the preservation of sensitive lands and creation of landscape buffers. Where opportunities exist, shared use path connections to the broader greenway network should be incorporated, providing a recreational amenity and alternative transportation option for employees, as well as linkages to the broader

Bloomington/Monroe county system.

Urban Agriculture

Community gardens and urban agricultural systems should be encouraged in near employment areas as a recreational and wellness opportunity for employees. However, soil suitability in existing industrial areas should be verified.

D. Public Realm Enhancements

Wayfinding

Regularly-located route signage for truck traffic to and from I-69 should be provided. business and industrial parks may incorporate multi-business panel signs at gateway locations to improve wayfinding, and should use high- quality materials, be aesthetically coordinated with surrounding architecture, and include attractive landscape features.

Lighting

Roadways should be lighted for safety and will typically require taller poles (± 30 feet).

Street/Site furnishings

Street furnishings will be limited in employment districts, but may include bus stops/shelters and benches.

E. Development guidelines

Open Space

Open space in employment areas should be provided on-site (with the exception of significant environmental preservation areas) and determined through maximum lot coverage requirements, with 15 to 20% of a site reserved for landscaping, buffering, stormwater management and outdoor amenities for employees.

Parking ratios

Parking needs will vary by business. In campus and business park settings, shared parking arrangements should be encouraged, although most businesses will require some amount of dedicated parking. Large industrial facilities, warehouses, and flex/r&d space will often have relatively low parking needs (e.g. 1 space per 2,000 square feet). Parking requirements should be based on the needs of individual businesses as opposed to mandatory minimum requirements.

Site Design

Buildings should be oriented toward the front of the lot to create a street presence, but will typically be set back from the front property line by 30 to 50 feet. Parking in front of the building should be avoided, and limited to small visitor-oriented parking lots with close access to the main entrance. Employee parking should be located to the rear or side of the building. Sufficient maneuvering aisles and loading spaces will be necessary for freight delivery. Loading docks and bays should be oriented away from public streets or screened with landscaping or architecturally integrated walls extending from the building.

Building form

Industrial, flex and warehouse buildings should balance economic construction with basic aesthetics. Office components and main visitor entrances should be located on the front facade, be designed as distinct elements from the rest of the building, and incorporate high amounts of window transparency. Facilities may require light-controlled environments, but where possible, high windows above eye level should be incorporated, particularly along street-facing facades. Buildings will have simple forms and flat roofs. Parapets should be used to screen rooftop mechanical units.

Materials

Acceptable primary building materials include brick, stone (natural or cultured), pre-cast concrete panels, concrete masonry units, architectural metal panels, fiber-cement siding and EIFS (exterior insulated finishing Systems). Smooth-faced and textured-faced metal panels are preferred, but corrugated or ribbed panels are also acceptable. Split-faced block may be acceptable if combined with other primary materials. Careful attention should be paid to how materials are installed, joined, and detailed, particularly at edges, corners and material transitions. Shadow lines, expression lines and variations in color and texture are encouraged to break up monolithic facades. Trees, shrubs and other vertical landscape elements should be incorporated along large, blank facades.

Private Signs

Sign designs should be coordinated with the character of the building, and may be building-mounted or ground-mounted monument signs. Pole signs should be prohibited. Monument signs should be located in landscape beds and may include exterior ground lighting. Digital and changeable copy signs are not appropriate. Sites will typically require directional signage for visitors, employees and freight delivery.

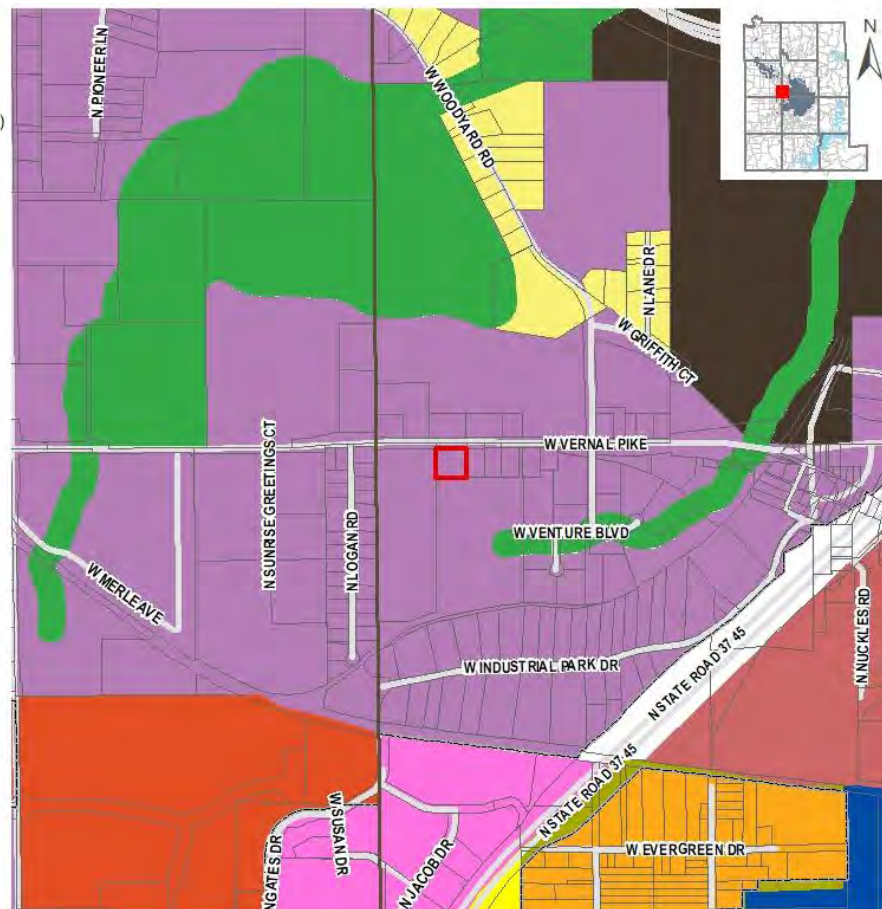
Comprehensive Plan

- Petitioner
- Townships
- Monroe Co. Urbanizing Area (MCUA)
- Parcels
- Roads
- Comp. Plan Land Use (Updated 2015)**
 - Employment
 - MCUA Employment
 - MCUA Mixed Residential
 - MCUA Mixed Use
 - MCUA Open Space
 - MCUA Quarry Landscape
 - MCUA Suburban Residential
- Bloomington Growth Policies Plan**
 - Community Activity Center
 - Employment Center
 - Public/ Semi-Public/ Institutional
 - Regional Activity Center
 - Urban Residential

0 0.075 0.15 0.3 Miles



Monroe County
Planning Department
Source: Monroe County GIS
Date: 2/4/2021



FINDINGS OF FACT: Front Yard Setback Chapter 833

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:

- 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;
- **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 on W Vernal Pike, a Minor Arterial;
- Vernal Pike was widened during the Section 5 I-69 improvements and the petitioner did receive some compensation for property converted into right of way;
- The Vernal Pike widening reconfigured the driveway to what is shown in the site photos;
- The petitioner plans to add some gravel to the west of the existing driveway to provide a modified turnaround for parked cars;
- W Vernal Pike bridges the west side of Monroe County to the east side of Monroe County and bridges over I-69;
- The speed limit along W Vernal Pike is 40 mph and is a 3 lane road;
- The site is serviced by a septic system;
- The Health Department has no septic information on record for this residence built in 1930;
- A municipal sewer line connection point is 197' from the petitioner's home;
- There is no survey on file for this property;
- There has been no septic system inspection or confirmation of location;
- This area is designated as 'MCUA Employment' in the Comprehensive Plan and the area continues to develop for employment uses;
- The petitioner has provided an estimate for connecting to the sewer;
- Chapter 806-4(C)(4) states All areas devoted to off-street parking shall be designed so that **no vehicle is required to back into a street**. Off-street parking areas that exclusively serve single-family detached and two-family dwelling units shall be exempted from this requirement **unless direct access to the dwelling unit is provided by an arterial street;**

- **Conclusion:** Approval of the variance without relocation of the parking area would 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 Single Dwelling Residential 3.5 (RS3.5);
- The use of the property is residential;
- The surrounding areas are residential or vacant;
- There are employment uses within a quarter mile of the petitioner;
- The Comprehensive Plan designates this area as MCUA Employment;
- Staff analyzed the thirteen residences along W Vernal Pike and only two did not meet the front setback requirement of 65' with the petitioner's residence measuring 47' from centerline and the neighboring home at 56';
- The proposed addition will not encroach any further into the existing setback;
- The addition will likely prolong the existence of this pre-existing nonconforming structure that encroaches into the front setback adjacent to a minor arterial road and has a questionable driveway configuration, septic system with no information in an area designated as 'MCUA Employment' by the Comprehensive Plan;
- **Conclusion:** Approval of the variance would 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 65' from the centerline of the road

is to preserve the general character of zoning district, provide a buffer between adjacent property owners, and provide an additional buffer of safety from roadways;

- W Vernal Pike was recently improved as a part of the I-69 project and sidewalks were installed;
- Sewer was installed at the time of road improvements and the petitioners were offered a reduced price connection which they refused;
- The addition will be to the south of the house away from the road;
- The addition will likely extend the lifespan of the pre-existing nonconforming structure that encroaches into the front setback by 18’;
- **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 Health Department has no information or documentation on the septic system;
- The addition will be on the south side of the house and the petitioner claims the septic tank and finger system are to the east of the house;
- No evidence has been presented by petitioner showing the existence or location of an approved on-site sewage disposal system on the site;
- If the septic system is damaged during construction either a repair permit or sewer connection would be required;
- The petition site drains to the south towards a vacant lot;
- **Conclusion:** There are foreseeable detrimental conditions to the use and enjoyment of other properties that would result from adding to the residence in the current location. Approval of the variance request without requiring the municipal sewer system or, if allowed, installation of an approved on-site sewage disposal system poses a threat to public health and may adversely impact adjacent land owners.

•

(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:

- This house was built in 1930 prior to setback standards;
- The addition would extend the life of the pre-existing non-conforming structure that is located on a minor arterial road adjacent to a growing employment district;
- The area has changed in the last 90 years from when the house was first built to a more industrialized area with heavy truck traffic along the minor arterial road;

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

For consideration by the Board of Zoning Appeals

We hereby request a variance to the front yard setback design standard in order to add a 30'x24' general use living space addition to the Rear of our home at 3519 W. Vernal pike Bloomington, IN 47404, originally constructed in 1930.

The front setback requirement is 65' from the centerline of the road per Chapter 833 for a property zoned RS3.5. W Vernal Pike is considered a Minor Arterial (aka Secondary Arterial) in the Thoroughfare Plan. The existing structure is in the setback and is considered a pre-existing nonconforming structure. Expanding a pre-existing nonconforming structure requires a variance.

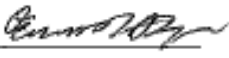
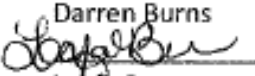
	<u>2-1-2021</u>
Darren Burns	Date:
	<u>2-1-2021</u>
Leafa Burns	Date:

EXHIBIT 2: Petitioners Letter with additional information

We are seeking approval to add a 24'x30' basement and upper floor to the south side of our existing structure. The basement will be used for exercise equipment and as a training/ practice area for our 3 children involved in wrestling, football and softball primarily. The upper floor would become a large family room with homework area. This would provide us with the space to all be together in one room for socializing, which we currently lack, and also the ability to monitor and assist with all the children's school work more easily. We have been saving for this project for over a decade and believed we had finally reached the point that we had enough money to proceed.

We contacted the planning office and began the process and one main issue has arisen which is covered below.

We currently have a permitted septic system and it has been stated that we may be required to hook to sewer in order to obtain approval for this project. We have obtained estimates for both this and the installation of a new presby septic system install to show the large difference is cost. The sewer estimate does not include the cost of raising the in home plumbing system or our gas meter and reconfiguring the gas lines inside our home which we believe to be approximately \$5,000-10,000 and \$1,000-2,000 respectively.

Due to change orders during the Vernal pike reconstruction project, our sewer hook-up was moved approximately 200' away from our home. The estimates for connecting to sewer in the planning stages of that project were based on the original plans where the sewer hook-up was approximately 40' from the house and also further underground. We were given \$6500 for this in our compensation package. The stub out placement was later moved during construction with no mention of it to us.

We would like to propose that when our current septic system fails, we be allowed to replace it with a completely new presby system which cost much less. The exorbitant cost to change to sewer would severely draw on our savings making it impossible to go forth with the home expansion. By the time we are able to save enough money to continue, our children will likely have moved out, thus negating the need for the expansion.

In closing, if it is deemed that we must connect to sewer, we would ask that we be allowed to put that off till the request for an occupancy permit is filed so that we may seek alternative options for financing the sewer connection while the original project proceeds as planned.

Respectfully,
Darren and Leafa Burns

EXHIBIT 3: Petitioner's Site Plan

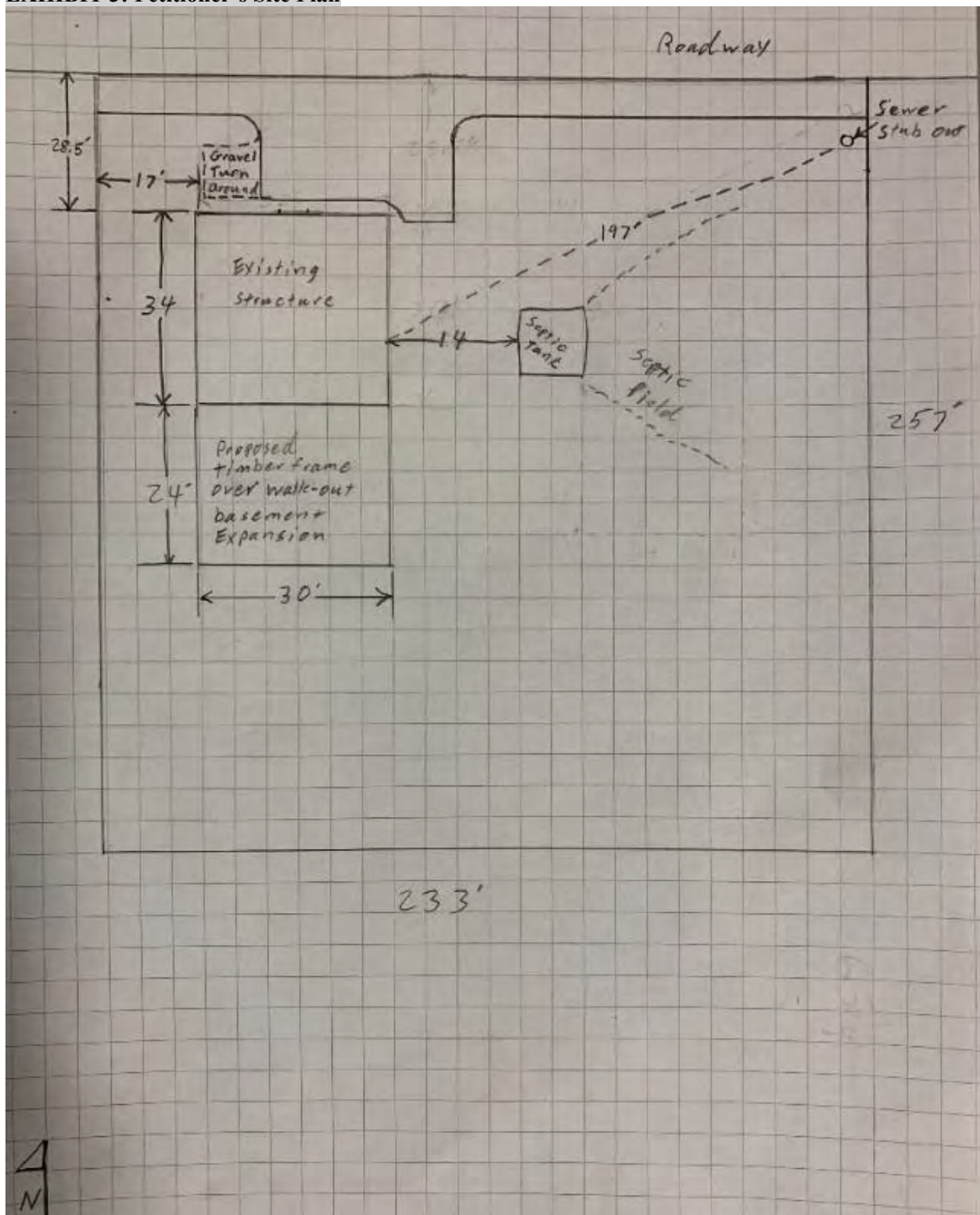


EXHIBIT 4: Highway Department Documentation



MONROE COUNTY HIGHWAY DEPARTMENT

501 NORTH MORTON STREET, SUITE 216
BLOOMINGTON, INDIANA 47404
PHONE: (812) 349-2555 FAX: (812) 349-2959
www.co.monroe.in.us

March 8, 2021

Darren & Leafa Burns
3519 West Vernal Pike
Bloomington, IN 47404

Dear Property Owner(s):

Per our conversation via email on February 24, 2021, the Highway Departments recommendation for a turnaround to be installed is only a recommendation not a requirement from this Office since no change of use or structural change to the existing driveway entrance is being proposed at 3519 West Vernal Pike.

The Highway Department is satisfied with proposed turnaround installation you have proposed to be located on the west side of your property. This will be a safer alternative for both your family and the motoring public than the present situation.

Please visit www.co.monroe.in.us/topic/index.php?topicid=33&structureid=26 for Highway Permit Information, Monroe County Code Chapter 755 including the Manual for Construction Within and Adjacent to Monroe County Right of Way and Monroe County Standard Drawings.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ben Ayers".

Project Engineer,
Monroe County Highway Department

Tammy Behrman

From: Ben Ayers
Sent: Monday, January 25, 2021 11:29 AM
To: Tammy Behrman
Subject: RE: Monroe County Planning Department- 3519 W Vernal Pike

Tammy,

The driveway entrance was constructed as part of the Vernal Pike. No change of use or structural change to the drive is being proposed so we will just be issuing a letter that states no permit is required. Highway would like to recommend that a turnaround be installed if allowable so that no vehicle has to back out onto Vernal Pike.

Best,

Ben

EXHIBIT 5: Health Department Documentation

Tammy Behrman

From: Randy Raines
Sent: Thursday, January 21, 2021 7:00 AM
To: Tammy Behrman
Subject: RE: 3519 W Vernal Pike - sewer connection candidate?

Yes, Nancy said sewer is available to them and they were offered sewer connection when the sewer main was installed at little or no cost and refused. Now is probably the time to require it.

Randy

Excerpt from the Acceptance email on 2/3/2021

One item that is still not resolved is the requested information on septic/sewer. There should either be a Repair Permit from the Health Department stating you can remain on septic or documentation that you are required to connect to sewer.

Please let me know if you have any questions.

Thanks,

Tammy Behrman, AICP
Senior Planner
Monroe County Planning Department



Mon 3/22/2021 10:51 AM

Ryan Kasper-Cushman

RE: 3519 W Vernal Pike

To: Tammy Behrman

You replied to this message on 3/22/2021 11:04 AM.

[Bing Maps](#)

[+ Get more a](#)

Hi Tammy,

I cannot find a septic permit for this address. It looks like this house was constructed in 1930 and my guess is that whatever septic system they have out there predates the Health Dept founding year of 1965. My desk phone is malfunctioning right now so if you can call me on my work cell phone at 812-327-7971 I'd be happy to talk.

Thank you,

Ryan



Ryan Kasper-Cushman | Wastewater Sanitarian, Section Chief
Monroe County Health Department
119 West 7th Street | Bloomington, IN 47404
Phone: [812-349-2073](tel:812-349-2073) | Fax: [812-339-6481](tel:812-339-6481)



EXHIBIT 6: Cost estimate provided by petitioner for sewer connection

FLYNN & SONS EXCAVATING & PAVING, INC.

8985 STATE ROAD 37, BEDFORD, IN 47421

Phone: 812-275-4591 / Fax: 812-275-4773

Email: gflynnandsons@gmail.com

www.flynnexcavatingandpaving.com

Representative: Kenny Whitehead

PROPOSAL #1978-A

March 18, 2021

Darren &/or Leafa Burns
3519 W Vernal Pike
Bloomington, IN 47404

812-606-2425 Leafa Cell
ddburns2000@icloud.com

Job Name & Location: Same

Description:

Scope of Work: Erect concrete retaining wall to run sewage pipe to Monroe County Sewage connection and fill in low yard surface to allow sewage drainpipe to remain underground.

- Excavate, prep and erect 175' x 8' concrete retaining wall with drainage pipes
- Footers/Foundation: 175 x 2' concrete footer with rebar
- Gravel for drainage at retaining wall
- Fill dirt to bring ground level up to road surface level to allow for slope to main.
- Sewage/Drain pipe; Sch 40 4"
- Seed & Straw

PRICE: \$32,555.76*

*Other costs to be incurred for: moving A/C unit, moving the Gas Meter and re-routing interior plumbing from under basement floor to under living quarters floor to outside of the house ready for connection, is the homeowners' responsibility.

**** This proposal must be signed and returned within 30 days to lock in pricing.*

Terms: Payment due upon completion unless other arrangements are made prior to completion.

We impose a 3% surcharge on all credit/debit card transactions.

All material is guaranteed to be as specified, unless extreme weather conditions would cause unseen or unexpected ground movement causing separation of surface. All work to be completed in a workmanlike manner according to standard practice. Any alteration or deviation from above specifications involving extra cost will be executed only upon written orders and will become an extra charge over and above original estimate. Owner is to carry fire, tornado, and other necessary insurance. Our workers are fully covered by workman's compensation insurance. Rock Clause: If rock is encountered during excavation, additional cost is possible. Customer will be advised of situation, prior to charges being incurred.

Please sign & return copy _____ Date: _____

CASE NUMBER VAR-21-16
PLANNER Drew Myers
PETITIONER Antonia Curry & Dmitri Vietze
REQUEST Design Standards Variance: Ch. 804 Buildable Area
Design Standards Variance: Ch. 825 ECO Area 1
ADDRESS 3595 N Hinkle RD
ACRES 3.59 +/- acres
ZONE Estate Residential 2.5 (RE2.5), ECO Area 1
TOWNSHIP Bloomington
SECTION 22
PLATS Unplatted
COMP PLAN Farm and Forest
DESIGNATION

EXHIBITS:

- 1) Petitioner Letter
- 2) Proposed Site Plan

RECOMMENDED MOTION:

Approve both the design standard variances from the Buildable Area (15% slope) requirement of Chapters 804 and the ECO Area 1 (12% slope) land disturbance restriction of Chapter 825 of the Monroe County Zoning Ordinance and based on the findings of fact, and subject to the following conditions:

1. Approval of a Building Permit by Monroe County Building Department
2. Proof of compliance with State and Monroe County requirements for domestic water supply and on-site sewage disposal.

SUMMARY

The petition site is a 3.59 +/- acre lot located in Bloomington Township. The petitioner is requesting two design standards variances in order to restore/renovate the existing approx. 656 square foot single-family dwelling, expand its footprint by 81 sq. ft., and construct a new elevated deck.

The existing single-family dwelling is currently classified as pre-existing nonconforming as the structure is located in an area greater than 15 percent slope as indicated by Monroe County GIS data. The restoration work proposed for the existing structure is expected to encroach into some of the areas sloped greater than 12 or 15 percent.

BACKGROUND

The first variance is from the Buildable Area 15% slope restriction of Chapter 804, and the second is from the Environmental Constraints Overlay Area 1 12% slope land disturbance restriction requirements from Chapter 825. The Buildable Area restriction pertains to structures constructed on slopes exceeding 15% but because the petition site is located within an ECO

overlay, the Buildable Area restriction is combined with the ECO Area 1 - 12% restriction, which is for any land disturbance.

LOCATION MAP

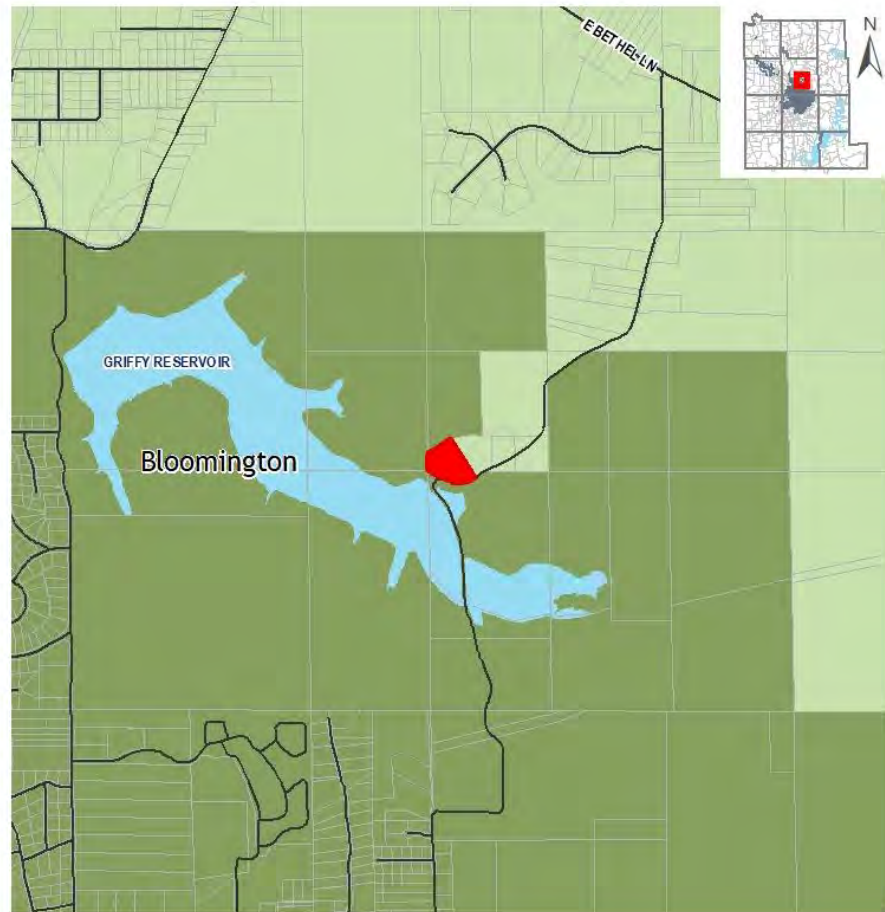
The parcel is located in Bloomington Township, Section 22, parcel no. 53-05-22-200-008.000-004, addressed as 3595 N Hinkle RD.

Location Map

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

0 0.125 0.25 0.5 Miles

Monroe County
Planning Department
Source: Monroe County GIS
Date: 3/29/2021



ZONING AND LAND USE

The property is zoned Estate Residential 2.5 (RE2.5) and is located with the Environmental Constraint Overlay Area 1 (ECO 1). Adjacent properties are either zoned RE2.5 or within the City of Bloomington's zoning jurisdiction.

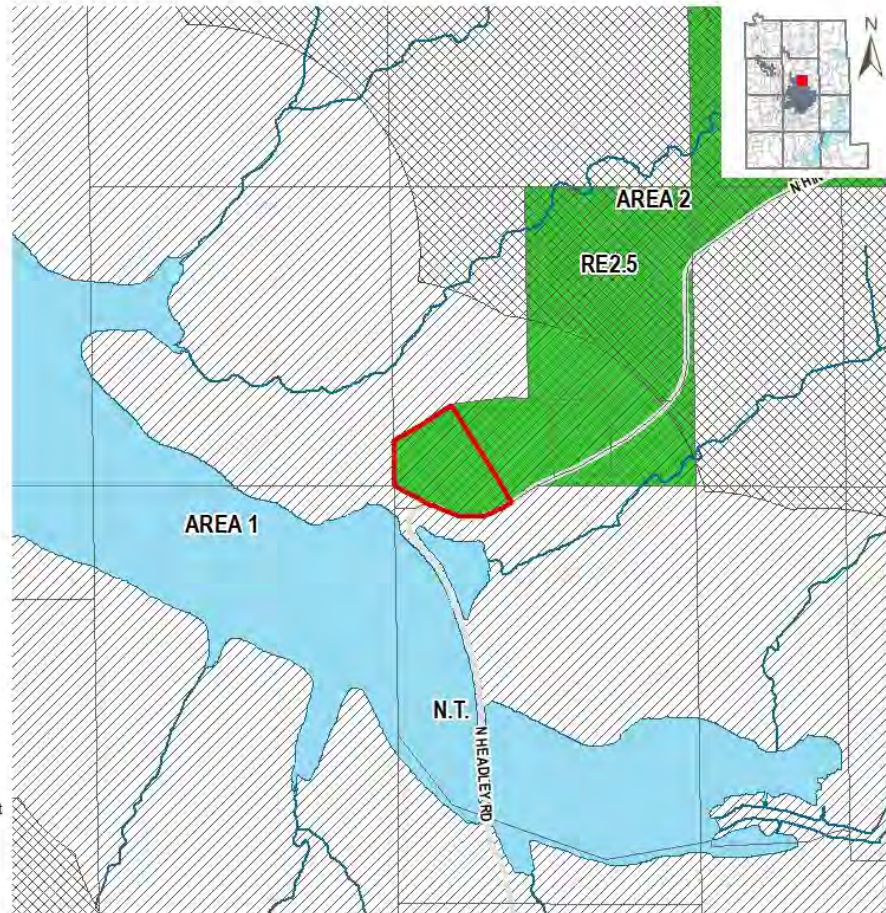
Current Zoning Map

-  Petitioner
-  Parcels
-  Roads
-  Lakes
-  Hydrologic Features
- ECO Areas**
 -  Area 1
 -  Area 2
 -  Area 3
- Monroe County Zoning**
 -  N.T. - No Tag (Outside Juris.)
 -  RE2.5 - Estate Residential 2.5

0 260 520 1,040 Feet



Monroe County
Planning Department
Source: Monroe County GIS
Date: 3/29/2021



SITE CONDITIONS & SLOPE

The petition site includes an existing ~656 sq. ft. single family dwelling. The site receives access off of N Hinkle RD, a designated local road. There is no DNR or FEMA floodplain delineated on the petition site. There are no known karst features. The petition site is located within Area 1 of the Environmental Constraints Overlay with respect to Griffy Lake. The majority of the petition site exhibits slopes greater than 12% and greater than 15%. There is an available water connection on the neighboring property to the east, but would involve an easement agreement with the neighboring property owner.

Site Conditions Map

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

0 0.0075 0.015 0.03 Miles



Monroe County
Planning Department
Source: Monroe County GIS
Date: 3/29/2021



Slope Map

Local Roads [50']

FLD_ZONE

A

Petitioner

Parcels

2-Foot Contours

FEMA Floodplain

Lakes

Hydrologic Features

All Slope - Percent (2010)

0 - 12

13 - 15

16 - 18

19 - 21

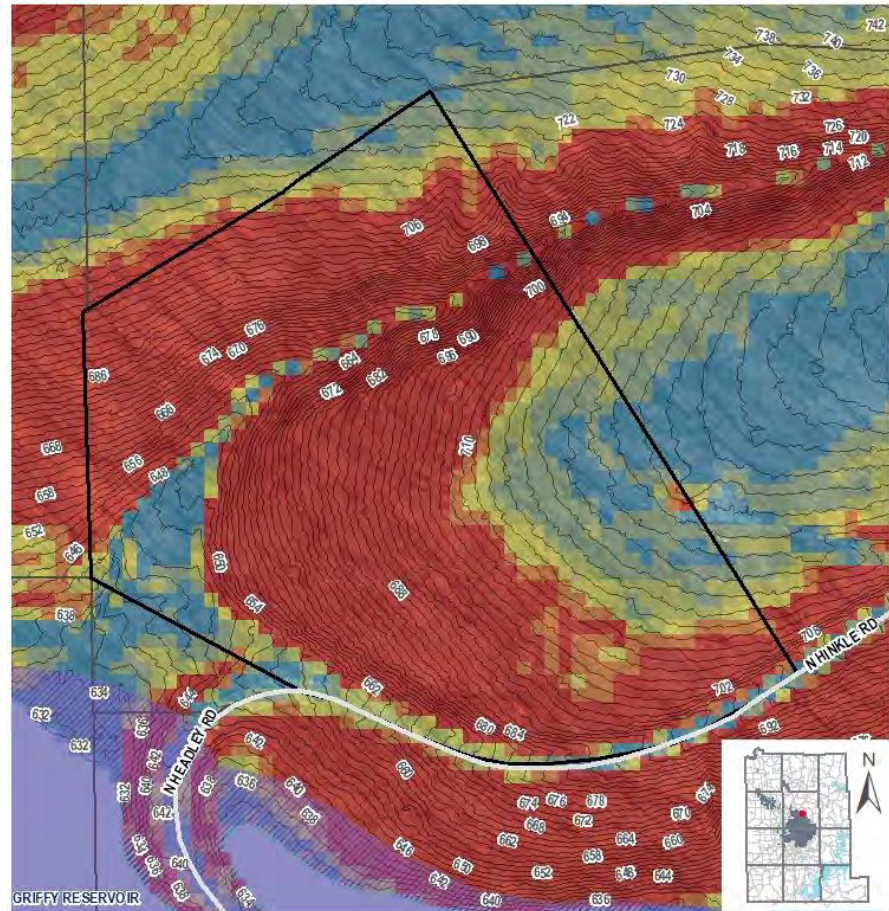
22 - 24

> 25

0 25 50 100 150 Ft



Monroe County
Planning Department
Source: Monroe County GIS
Date: 3/29/2021



SITE PICTURES



Photo 1. Driveway entrance



Photo 2. Driveway entrance



Photo 3. Driveway to existing residence



Photo 4. Existing residence



Photo 5. Existing residence



Photo 6. Existing deck and residence



Photo 7. Existing deck and residence



Photo 8. Existing deck and residence



Photo 9. Existing deck



Photo 10. Sloped areas



Photo 11. Sloped areas and Lake Griffy



Photo 12. Existing residence



Photo 13. Existing residence and sloped areas

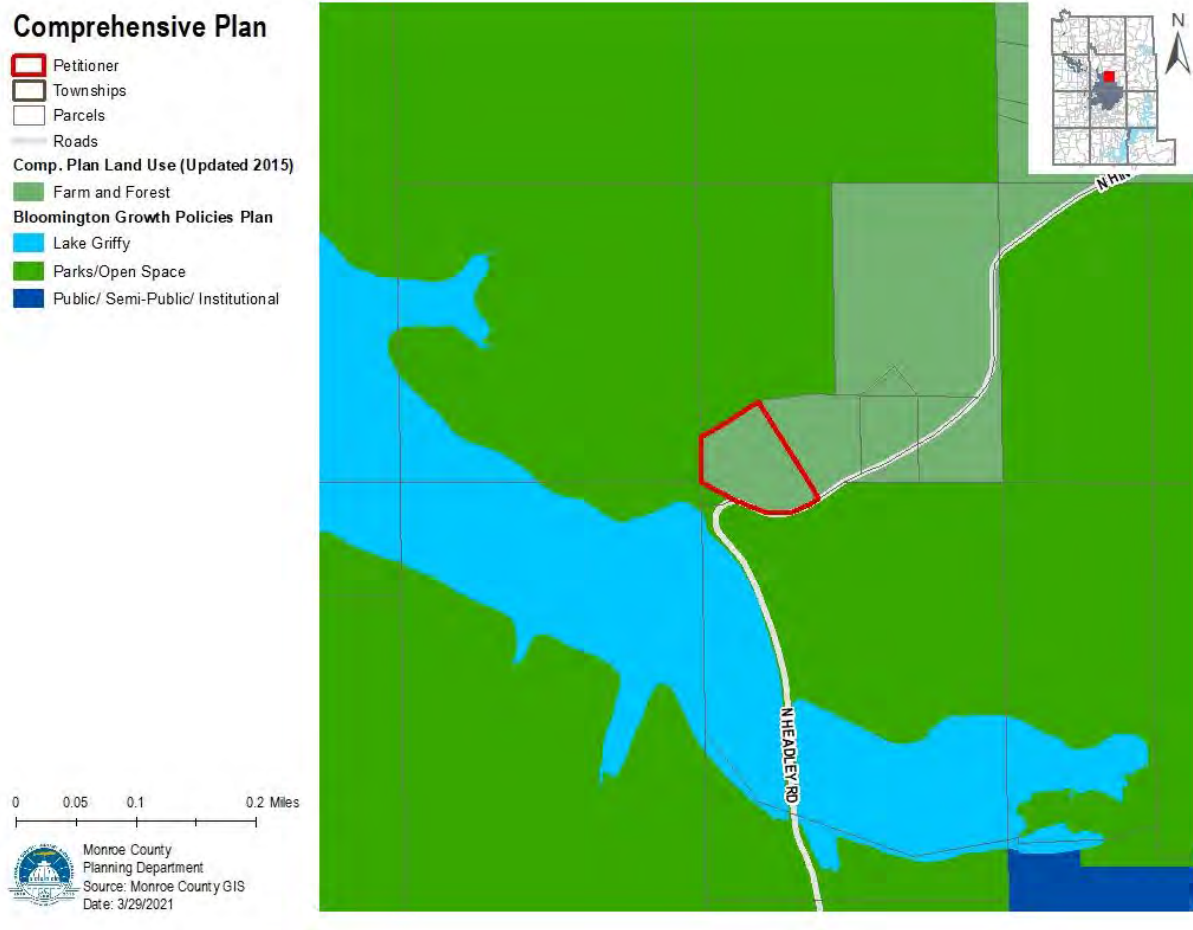


Photo 14. Existing residence

COMPREHENSIVE PLAN DISCUSSION

The petition site is located within the Monroe County Comprehensive Plan Farm and Forest Residential zone designation.

Farm and Forest



Much of Monroe County is still covered by hardwood forests, in no small part because of the presence of the Hoosier National Forest, Morgan-Monroe State Forest, Army Corps of Engineers properties, and Griffy Nature Preserve. Much of the low lying floodplains and relatively flat uplands have been farmed for well over 100 years. These areas are sparsely populated and offer very low density residential opportunities because of both adjoining Vulnerable Lands and the lack of infrastructure necessary for additional residential density. This category encompasses approximately 148,000 acres including about 40,000 acres of our best agricultural property located primarily in the Bean-Blossom bottoms and western uplands of Richland Township and Indian Creek Township. It includes private holdings within the state and federal forests.

Farm and Forest Residential also includes the environmentally sensitive watersheds of Monroe Reservoir, Lake Lemon, and Lake Griffy and several other large vulnerable natural features in Monroe County. There are approximately 78,000 acres of watershed area in this portion of the Farm

and Forest Residential category. These natural features provide a low density residential option while protecting the lakes and the water supply resources of the County. The Farm and Forest areas comprise most of the Vulnerable Land in Monroe County.

A low residential density is necessary in order to protect associated and adjoining Vulnerable Lands and to sustain particular “quality of life” and “lifestyle” opportunities for the long-term in a sparsely populated, scenic setting. With a few exceptions like The Pointe development on Monroe Reservoir, these areas do not have sanitary sewer services and have limited access on narrow, winding roadways. Those portions not already used for agriculture are usually heavily forested and have rugged topography. They offer unique and sustainable residential opportunities that cannot be replaced.

In reviewing rezoning, subdivision and site development proposals, the County Plan Commission shall consider the following:

- Public services or improvements are not expected for these areas within the horizon of this Plan because those improvements require significant investment in roadways, sanitary sewer, private utilities, and public services for which County financial resources do not exist.
- New residential density places additional stress on nearby vulnerable natural features that cannot be mitigated by sustainable practices without additional public expense.
- Low density residential opportunities and their associated lifestyle are scarce resources that are sustained only by our willingness to protect that quality of life opportunity for residents who have previously made that lifestyle choice and for future residents seeking that lifestyle.

To maintain Farm and Forest 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. The grouping of more than four residential units sharing the same ingress/egress onto a County or state roadway shall not occur on rural property in this category. All property subdivided in this category must provide for adequate contiguous Resilient Land to support either two independent conventional septic fields or one replaceable mound system, sufficient space for buildings traditionally associated with this type use must also be available. In addition, public roadways shall not experience less than the Monroe County Level of Service standard designation which exists at the time this Plan is adopted as a result of subdivision. Roadways classified as state Highways, major collectors, or local arterials are exempt from this requirement.

FINDINGS OF FACT: Buildable Area (15%) from 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 petition site is 3.59 +/- acres;
- The petition site is located within the RE2.5 Zone and Area 1 of the Environmental Constraints Overlay;
- The site currently contains a 656 sq. ft. single family residence;
- Approval of the variance would allow the petitioner to renovate/restore the existing residence, expand its footprint by 81 sq. ft., and construct a new elevated deck that will encroach into areas greater than 12 and 15 percent slope;
- Lake Griffy is adjacent to the southwest of the petition site;
- The submitted site plan proposes the removal of several trees on the property;
- 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 N Hinkle Road, a designated local road;
- A new water line is proposed to be constructed up the existing driveway;
- The connection of this proposed water line to existing services relies on an easement agreement with the adjacent neighbor;
- 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 proposal would meet all other Chapter 804 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 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 section A;
- Any proposed renovations or additions to the existing structure would likely require a buildable area variance (15% slope) and a ECO Area 1 variance (12% slope);
- The petition site and adjacent properties are a residential use or owned by the City of Bloomington;
- The adjacent properties are held to the same standards as these variance requests (Chapters 804 and 825);
- Conclusion: The use and value of the area adjacent to the property included in the variance will **not** be affected in a substantially adverse manner.

(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 Section A and B(1);
- The property drains to the north, west, and south (i.e. towards Lake Griffy);
- There is no FEMA floodplain on site;
- There are no visible karst features on the site;
- Conclusion: It **will not** promote conditions detrimental to the use and enjoyment of other properties;

(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:

- There are practical difficulties in that the existing structure is already located in non-buildable area that is greater than 12% and 15% slope. In order to construct any additions to the existing residence both a buildable area variance and ECO Area 1 variance are required. Any alternative that involves the demolition of the existing residence and reconstruction in more buildable areas on the property would likely result in more land disturbance overall;
- 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.

FINDINGS OF FACT: Environmental Constraints Overlay Area 1 (ECO 1)(12% Slope)

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 petition site is 3.59 +/- acres;
- The petition site is located within the RE2.5 Zone and Area 1 of the Environmental Constraints Overlay;
- The site currently contains a 656 sq. ft. single family residence;
- Approval of the variance would allow the petitioner to renovate/restore the existing residence, expand its footprint by 81 sq. ft., and construct a new elevated deck that will encroach into areas greater than 12 and 15 percent slope;
- Lake Griffy is adjacent to the southwest of the petition site;
- The submitted site plan proposes the removal of several trees on the property;
- 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 N Hinkle Road, a designated local road;
- A new water line is proposed to be constructed up the existing driveway;
- The connection of this proposed water line to existing services relies on an easement agreement with the adjacent neighbor;
- 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 proposal would meet all other Chapter 804 design standards;
- The ECO Area 1 Overlay restricts any land disturbance, soil or vegetation, in areas that

exceed 12% slope;

- 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 section A;
- Any proposed renovations or additions to the existing structure would likely require a buildable area variance (15% slope) and a ECO Area 1 variance (12% slope);
- The petition site and adjacent properties are a residential use or owned by the City of Bloomington;
- The adjacent properties are held to the same standards as these variance requests (Chapters 804 and 825);
- Conclusion: The use and value of the area adjacent to the property included in the variance will **not** be affected in a substantially adverse manner.

(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 Section A and B(1);
- The property drains to the north, west, and south (i.e. towards Lake Griffy);
- There is no FEMA floodplain on site;
- There are no visible karst features on the site;
- Conclusion: It **will not** promote conditions detrimental to the use and enjoyment of other properties;

(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:

- There are practical difficulties in that the existing structure is already located in non-buildable area that is greater than 12% and 15% slope. In order to construct any additions to the existing residence both a buildable area variance and ECO Area 1 variance are required. Any alternative that involves the demolition of the existing residence and reconstruction in more buildable areas on the property would likely result in more land disturbance overall;
- 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

Antonia Curry
Dmitri Vietze
801 S. Mitchell St.
Bloomington, IN 47401

February 18, 2021

Board of Zoning Appeals
% Monroe County Planning Department
501 N Morton St, Suite 224
Bloomington, IN 47404

Dear Member of the Board of Zoning Appeals:

We are writing to request a zoning variance for rebuilding our house located at 3595 N. Hinkle Rd., Bloomington, IN 47408.

The house has been in our family since the late 1960s. The current structure is a pre-existing non-conforming building, built in 1968-1969, and in need of restoration.

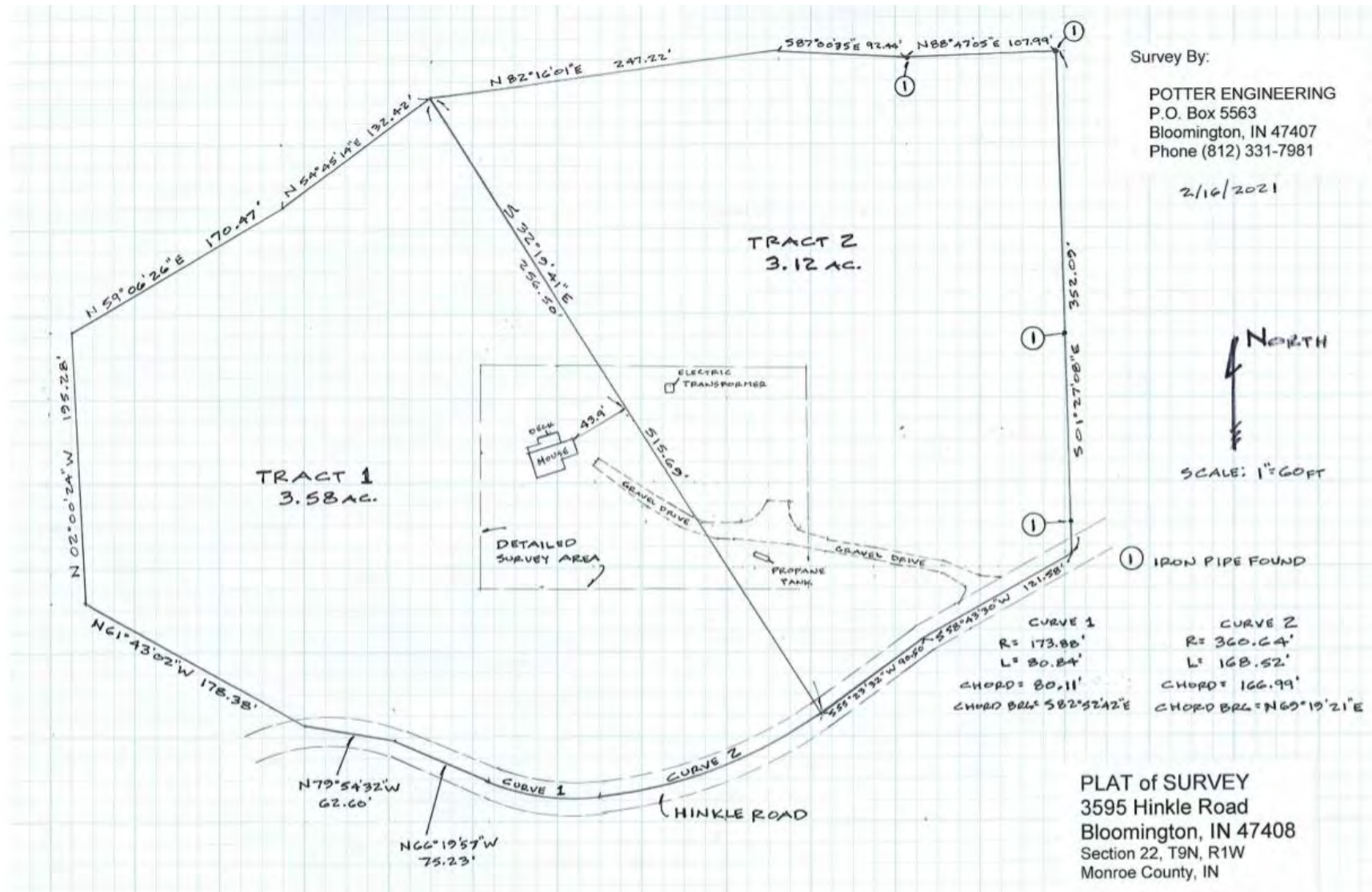
We are aware of the building restrictions within the Lake Griffy Watershed, in which our house is located, and have worked hard with Jayne York of Bloomington's Springpoint Architects, PC and Professional Engineer Kevin Potter to design a rebuild making use of the existing foundation and footprint to the extent possible. By using pylons for support and a very small addition for an internal stairway, we have tried to keep as low of an impact as possible while also making this rebuild viable.

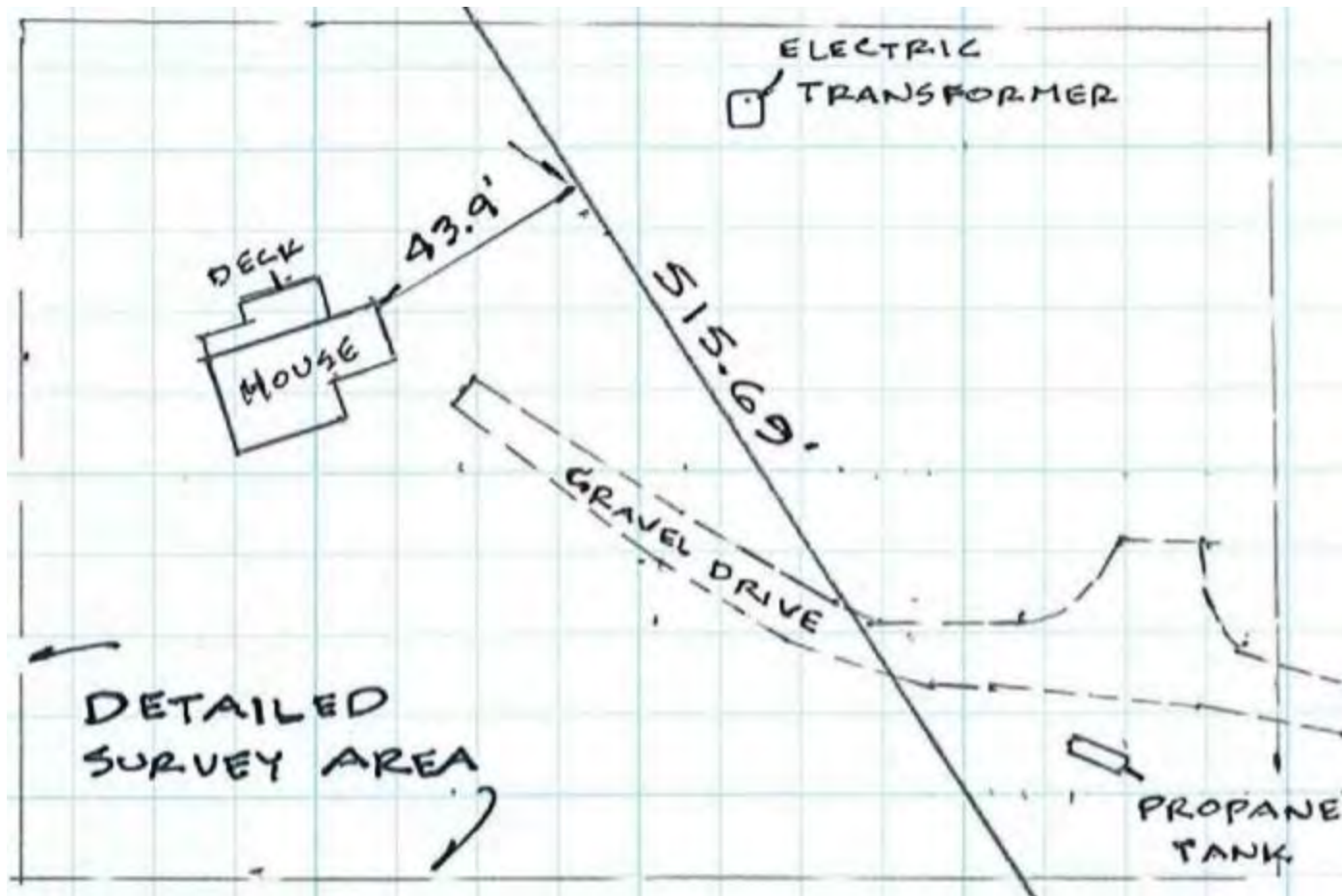
Our request requires variances for structural supports on the sloping land as indicated in the enclosed plan. We hope that you will agree that we have proceeded in the spirit of the Monroe County Comprehensive Plan to protect the Griffy watershed. We plan to be stewards of the area as we update this generation-spanning property for minimal environmental impact and continued enjoyment by our family.

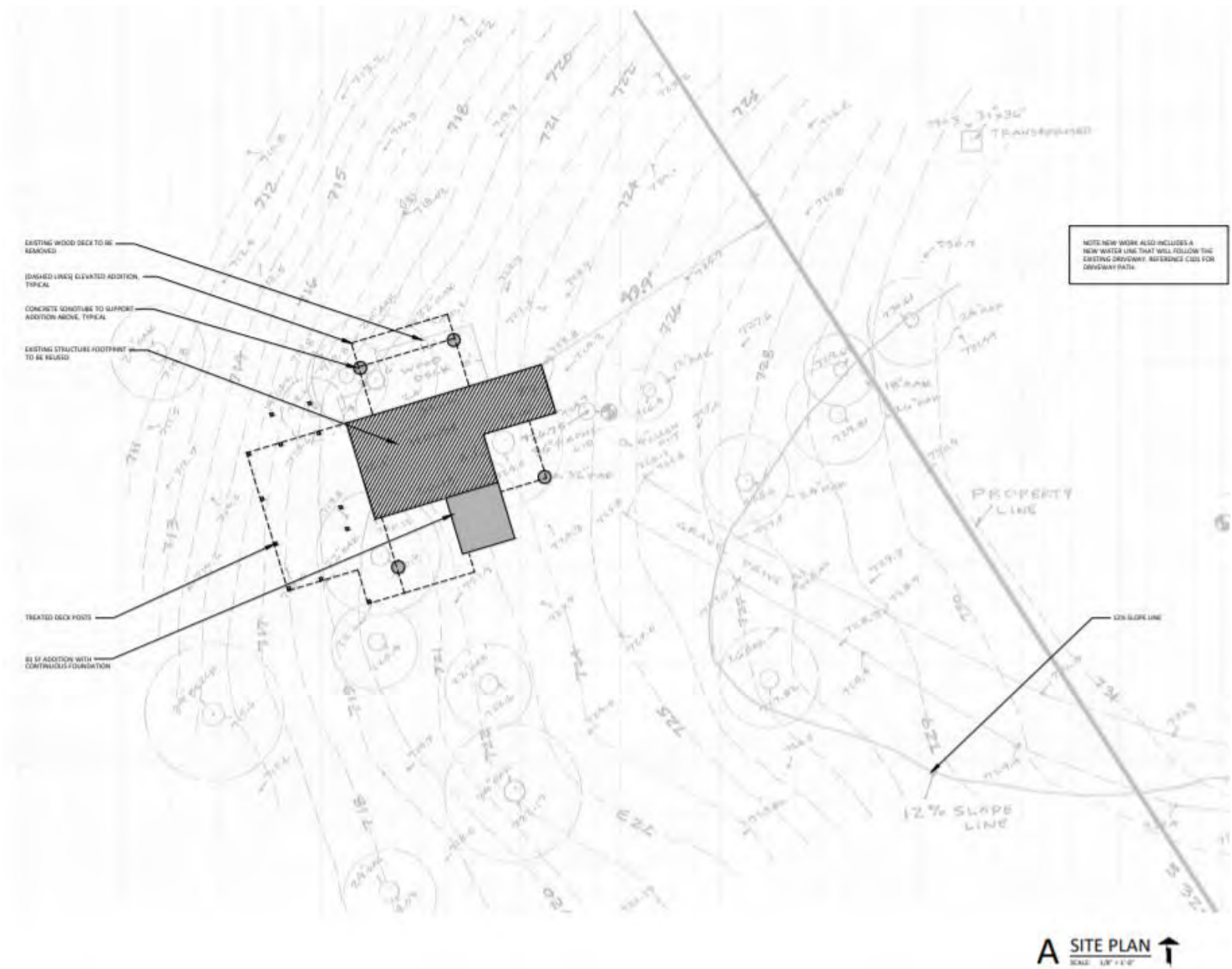
Thank you for your consideration,

Antonia Curry
Dmitri Vietze

EXHIBIT TWO: Proposed Site Plan







MONROE COUNTY BOARD OF ZONING APPEALS**April 7, 2021**

CASE NUMBER: VAR-21-17
PLANNER: Rebecca Payne
PETITIONER(S): Patrick and Ilene Adams, c/o Norbert Garvey (representative)
REQUEST: Design Standards Variance, Chapter 825-4(C) (1)
ADDRESS: 5337 E Prince RD, Heltonville IN 47436
ZONING: Forest Reserve (FR); ECO Area 1
ACRES: 5.01 acres +/-
TOWNSHIP: Clear Creek
SECTION(S): 36
PLAT(S): N/A
COMPREHENSIVE PLAN DESIGNATION: Rural Residential

EXHIBITS:

1. Petitioner Letter
2. Site Plan

RECOMMENDED MOTIONS:

Approve the Design Standards Variance to Chapter 825-4(C) (1) based on the findings of fact.

SUMMARY

The petitioner requests a design standards variance from Chapter 825-4(C) (1) of the Monroe County Zoning Ordinance, which reads as follows:

825-4. Overlay Area Regulations

In addition to the applicable regulations set forth in the Monroe County Zoning Ordinance, the following regulations shall apply to land use within the ECO Zone.

(C) Area 1 Regulations

- (1) The maximum land slope upon which any land disturbance involved in construction of buildings, driveways, roads, parking lots, and utilities can occur shall be twelve (12) percent. The percent slope shall be measured as a six (6) foot fall in any fifty (50) foot distance. The design should be suited to the lot to minimize the amount of cut and fill.
- (2) There shall be no disturbance of natural vegetation beyond the twelve (12) percent slope.
- (3) The maximum residential density that shall be allowed shall be one unit per (2.5) acres.
- (4) Each dwelling unit shall have at least one acre of total contiguous land, which is equal to or less than twelve (12) percent slope.

The following describes the intent of the Environmental Constraints Overlay Zone:

825-1. Purpose

The purpose of the Environmental Constraints Overlay Zone is to:

- (A) Protect and enhance the public health, safety and welfare by
 - (1) Preserving and enhancing the quality of the water supply for residential, industrial and public use;
 - (2) Recommending appropriate regulations for building sites, structures and land uses in the Monroe and Griffey Reservoir watersheds;
 - (3) Improving stormwater management in the watersheds;
 - (4) Preventing pollution, erosion, siltation and the loss of topsoil;
 - (5) Protecting the tax base from impairment due to unwise use of land; and
 - (6) Encouraging watershed mitigation areas.

- (B) Protect and enhance resources as recreational and tourist attractions by
- (1) Protecting water quality for fish and other aquatic life;
 - (2) Preserving shore cover and the natural beauty of the lakes and streams; and
 - (3) Enhancing and protecting forests, wildlife areas, wetlands, parks and recreational facilities for beneficial water management.

DISCUSSION

The petitioner would like to construct a detached garage on a portion of slopes greater than 12%. The detached garage would provide protected parking for an Elder Care Provider and a specialized RV. The use as proposed is a permitted use in the Forest Reserve (FR) Zoning District.

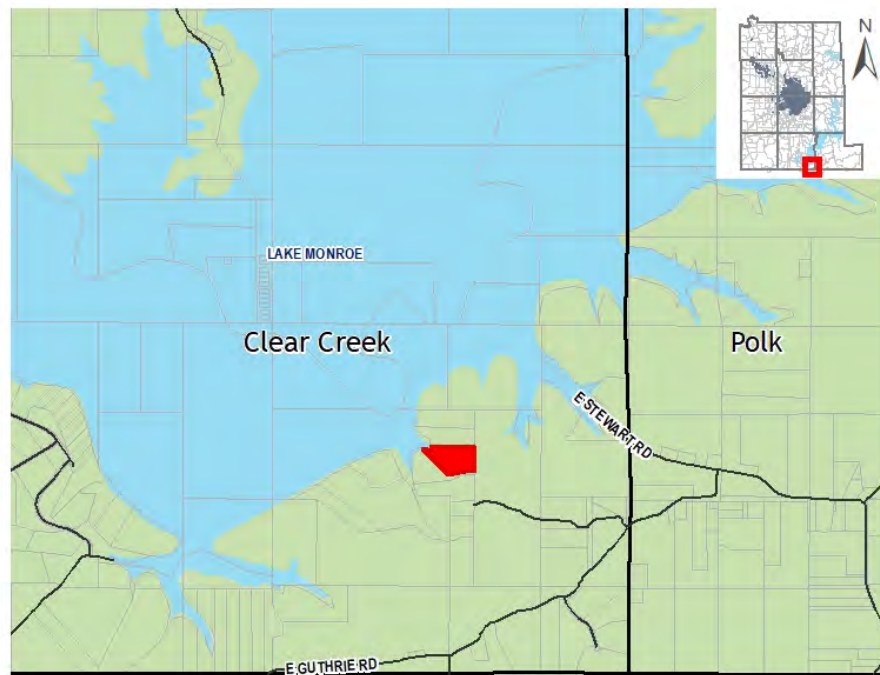
The proposed detached garage measures 36' x 30'. All other design standards are being met.

LOCATION MAP

The site is located at 5337 E Prince RD in Clear Creek Township, Section 36; parcel number: 53-11-36-100-009.000-006.

Location Map

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



0 0.175 0.35 0.7 Miles





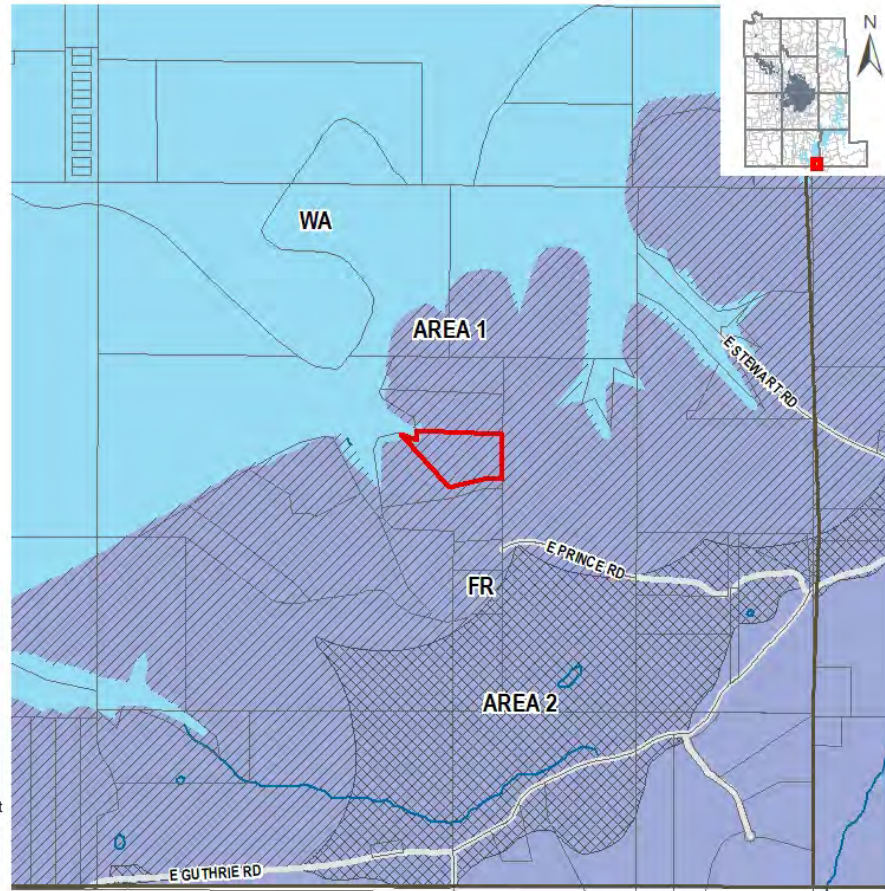
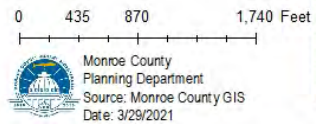
Monroe County
Planning Department
Source: Monroe County GIS
Date: 3/29/2021

CURRENT ZONING

The property is zoned Forest Reserve (FR) and falls in an Environmental Constraints Overlay (ECO) Area 1. All nearby parcels are zoned Forest Reserve (FR).

Current Zoning Map

-  Petitioner
-  Parcels
-  Roads
-  Lakes
-  Hydrologic Features
- ECO Areas**
-  Area 1
-  Area 2
- Monroe County Zoning**
-  FR - Forest Reserve
-  WA - Water

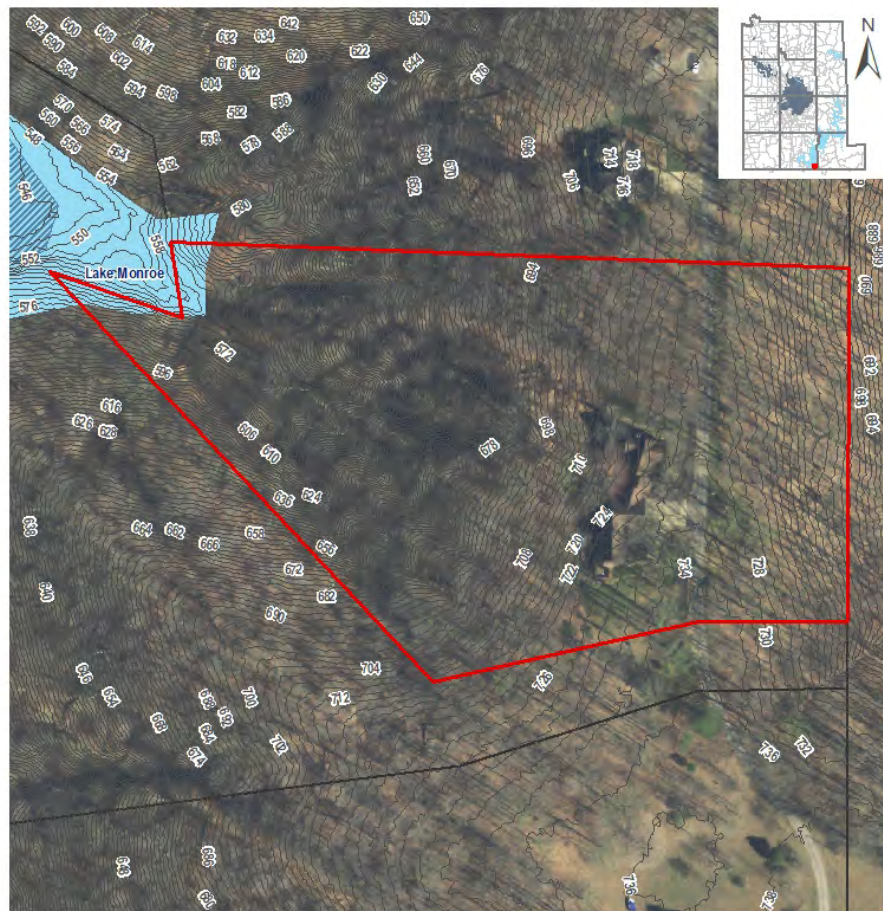


SITE CONDITIONS:

The petition site includes an existing single family dwelling. There is no DNR or FEMA floodplain delineated on the petition site. There are no known karst features. The petition site is located within Area 1 of the Environmental Constraints Overlay with respect to Lake Monroe. The majority of the petition site exhibits slopes greater than 12% and greater than 15%.

Site Conditions Map

-  Petitioner
-  2-Foot Contours
-  FEMA Floodplain
-  Lakes
-  Parcels



SLOPE MAP

Slope Map

FLD_ZONE

A

Petitioner

Parcels

2-Foot Contours

12_Percent Slope (2010)

0 - 12

> 13

15_Percent Slope (2010)

0 - 15

> 15

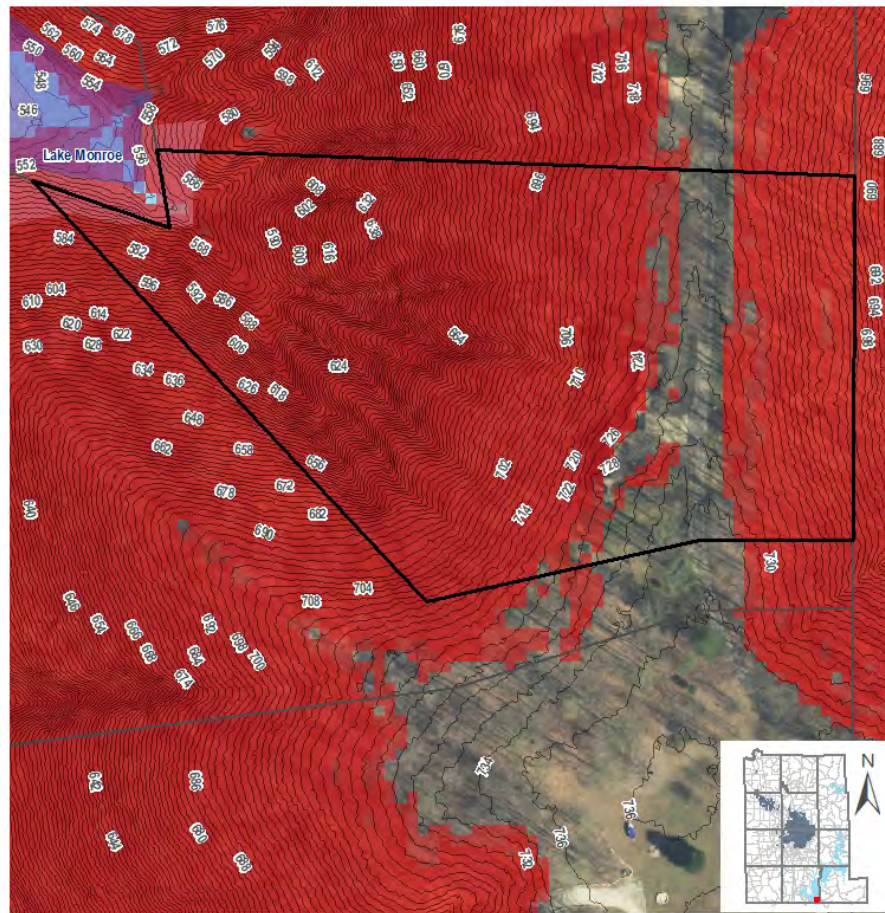
FEMA Floodplain

Lakes

0 35 70 140 210 Ft



Monroe County
Planning Department
Source: Monroe County GIS
Date: 3/29/2021



SITE PHOTOS



Figure 1: Looking north



Figure 2: Adjacent to existing house



Figure 3: Existing house



Figure 4: Looking up slope; proposed garage located pproximately where the tank is



Figure 5: Looking east



Figure 6: Property marker on E Prince RD

COMPREHENSIVE PLAN DISCUSSION

The petition site is located within the Rural Residential designation which states:

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.

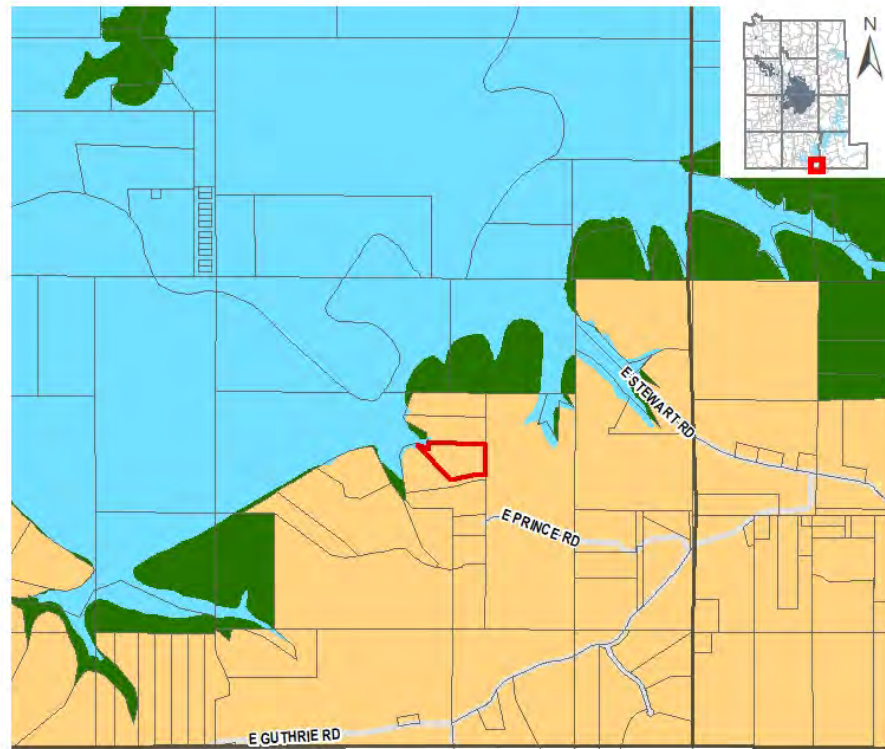
To maintain Rural Residential property use opportunities, an average residential density per survey section shall be established by ordinance. This average density shall preserve the rural lifestyle opportunity of this area and help protect nearby Vulnerable Lands. Where appropriate infrastructure is 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)

-  Managed Lands
-  Rural Residential
-  Water



0 0.125 0.25 0.5 Miles



Monroe County
Planning Department
Source: Monroe County GIS
Date: 3/29/2021

FINDINGS OF FACT:

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 construct a detached garage on a portion of slopes greater than 12% in Area 1 of the Environmental Constraints Overlay;
- Approval of the variance would allow the petitioner to remove vegetation during the construction of the garage;
- The site has no FEMA floodplain;
- The proposed new garage will measure 30' x 36';
- 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 Section A(1);
- The site gains access via E Prince RD, a paved road, classified as a local;
- E Prince is a dead-end road;
- The site maintains a septic system;
- The request does not impact transportation or utility facilities;
- 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 rezone the property; and,

Findings:

- See Findings under Section A(1);
- The site is zoned Forest Reserve (FR) and Environmental Constraints Overlay Area 1 (ECO1);
- The character of the Forest Reserve (FR) District is defined as that which is primarily intended for the preservation of forests, recreational areas, parks and greenways, limited agricultural uses and very, very low density single family residential uses. Its purposes are to permit limited single family residential development on very large lots, to discourage the development of residential subdivisions and nonresidential uses, to protect environmentally sensitive areas, such as floodplain and steep slopes and to maintain the character of the surrounding neighborhood. Development in the FR District is hindered by extreme topography, poor access and the availability of few or no public services. Therefore, the number of uses permitted in the FR District is limited. Some uses are conditionally permitted. The conditions placed on these uses are to insure their compatibility with the low-density residential and public open space uses.
- Surrounding properties are zoned Forest Reserve (FR);
- 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 Section A;
- The proposed garage would meet all other applicable requirements;
- The petitioner states that the garage is located to minimize it's disturbance of the 12% slope;
- 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 Section A and B(1);
- Conclusion: It would not promote conditions 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:

- Property value tends to be subjective as it is difficult to anticipate adverse effects;
- 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:

- Staff finds there is "practical difficulty" in the use of the property. The configuration of the lot, existing house, septic system and existing slopes create a hardship for the petitioner resulting in no other suitable place to locate the garage;
- Conclusion: Practical difficulties in the use of the property exist

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. 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.

The Board must establish favorable finding for all three criteria in order to legally approve a design standards variance.

EXHIBIT ONE: Petitioner Letter

Date: February 22, 2021

Letter to the Board of Zoning Appeals

To Whom it may concern,

This letter is to address and define a request for a Zoning Variance regards the property located at:

**5337 Prince Road
Heltonville, IN 47436**

Owned by:

Patrick F. and Ilene M. Adams

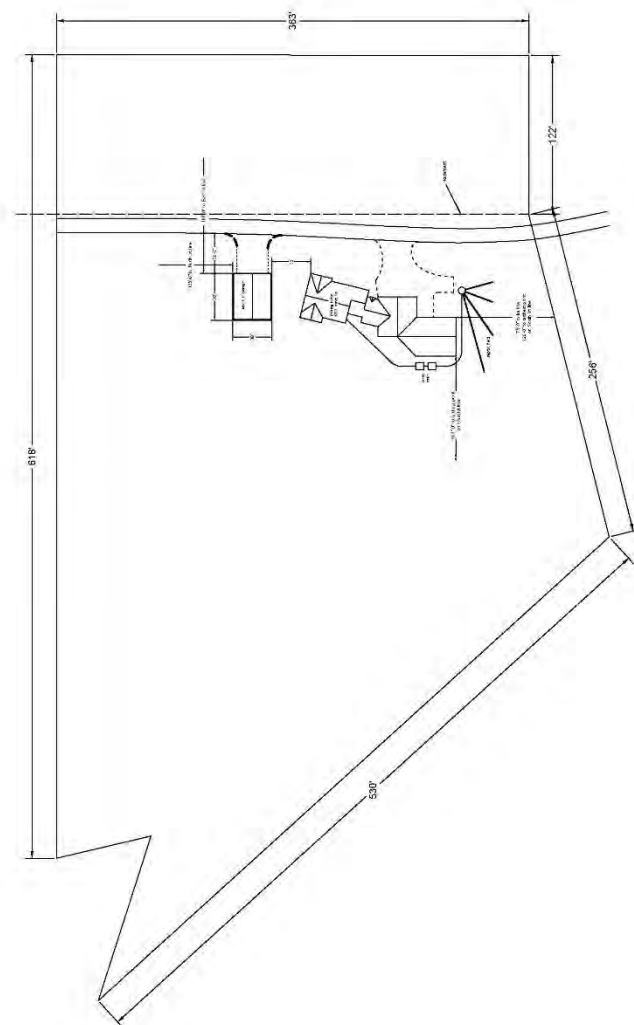
This request for a zoning variance is required due to the 12%+ slope of the proposed building site for a 30'x36' garage on the Adams' property, the proposed structure, while detached, will be directly next to their existing home. The Adams' are in their mid to early 70's and they are creating a plan for their elder years to be able to remain on their homestead for as long as they are able. They purchased an RV van for assistance in safe travel, during, but not limited to, the Covid pandemic and for other existing health needs, the plan also includes on site parking for an Elder Care provider, there is no roadside or curbside parking available, and there isn't another viable location available on their property.

The proposed building site is 12%+ grade but it is a consistent grade without immediate down slope grade change. All care and means will be taken to protect the surrounding environment and ecosystem during construction of the proposed building. Areas in the immediate surround of the proposed structure will be replaced with a natural ground cover to prevent any and all future run off.

Sincerely yours,

Norbert P. Garvey - Authorized Representative

EXHIBIT TWO: Site Plan



MONROE COUNTY BOARD OF ZONING APPEALS**April 7, 2021**

CASE NUMBER: VAR-21-19
PLANNER: Tammy Behrman
PETITIONER(S): Anthony R & Patricia L Weber c/o James Rosenbarger
REQUEST: Design Standards Variance, Chapter 833 Side Yard Setback Requirements
ADDRESS: 4585 E State Road 45
ZONING: Estate Residential 2.5 (RE2.5)
ACRES: 0.64 +/- acres
TOWNSHIP: Bloomington Township
SECTION(S): 36
PLAT(S): n/a
COMPREHENSIVE PLAN DESIGNATION: MCUA Rural Transition

EXHIBITS:

1. Petitioner Statement
2. Petitioner Site Map
3. IHSSI ([County Survey](#)) – ‘Notable’ Designation

RECOMMENDED MOTION

Staff recommends **Approval** for the side yard setback design standards variances based on the findings of fact.

SUMMARY

Petitioner requests a design standards variance from the side yard setback requirements of Chapter 833 for the purposes of requesting an 816 sf addition to the pre-existing nonconforming 780 sf residence originally built in 1925. The side yard setback for the RE2.5 zone is 30'. The existing home encroaches 20' into the setback. The proposed addition will not encroach any further into the setback than 20'. The home was restored around 2011 and a new septic system was installed under permit #19710 for a 3 bedroom structure. Additionally, the petitioner is planning to add a 416 sf garage to the west side of the property and if the design remains under 15' in height it can be 5' from the property line. The lot is approximately 66' wide which leaves only a 12' strip of land that is not within side setbacks. The proposed improvements will not exceed the 10 percent maximum building coverage.

HISTORIC BACKGROUND

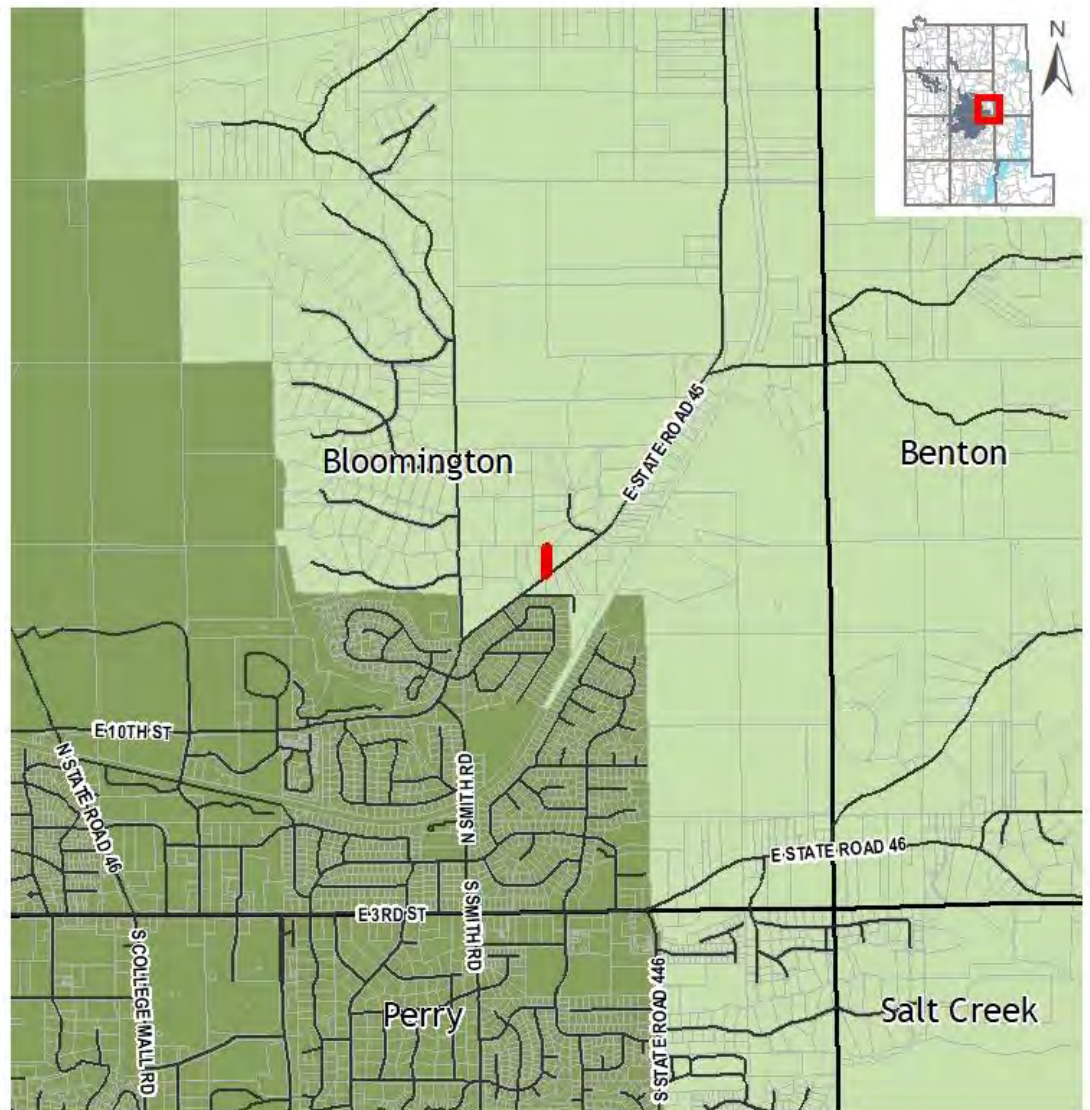
The structure is not mentioned in the 1989 Historic Sites and Structure Inventory (IHSSI) interim report. The structure was captured in the Indiana Historic Structure Inventory in 2014 after the restoration work had been completed. The petitioner has been made aware that there are certain covenants and restriction on the property. This property is not locally protected by the Historic Preservation Overlay but this petition was presented to the Historic Preservation Board as a courtesy by staff. The HP Board expressed that this was a reasonable request.

LOCATION MAP

The site is located at 4585 E State Road 45 in Bloomington Township section 36.

Location Map

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



Monroe County
Planning Department
Source: Monroe County GIS
Date: 3/15/2021

ZONING CLASSIFICATION

The petition site is zoned Estate Residential 2.5 (RE2.5) along with all surrounding properties. The property is also within the Environmental Constraints Overlay Area 3 (ECO3). The current use is residential and the surrounding uses are residential.

Current Zoning Map

- Petitioner
- Parcels
- Roads
- Hydrologic Features
- ECO Areas**
- Area 3
- Monroe County Zoning**
- LB - Limited Business
- N.T. - No Tag (Outside Juris.)
- RE1 - Estate Residential 1
- RE2.5 - Estate Residential 2.5



Monroe County
Planning Department
Source: Monroe County GIS
Date: 3/15/2021

SITE CONDITIONS

The site is approximately 0.64 acres and has a residence. The site maintains frontage on E State Road 45, a major collector. Drainage runs north. There is no FEMA Floodplain or known karst features on the lot. The site is on septic with a permit issued in 2010.

Slope Map

- Major Collector [90']
- Local Roads [50']
- Petitioner
- Parcels
- 2-Foot Contours

15_Percent Slope (2010)

- 0 - 15
- > 15

0 20 40 80 120 Ft



Monroe County
Planning Department
Source: Monroe County GIS
Date: 3/15/2021



SITE PHOTOS:



Figure 1. Facing northeast: view of the petitioner's home. Note vegetative screening for the property.



Figure 2. Facing north: view of the western lot line. Proposed 480 sf garage will be located roughly where the black vehicle is parked.



Figure 3. Facing north:
view of the eastern lot
line. The home
encroaches approximately
20' into the 30' setback.



Figure 4. Facing north: aerial view from 2020.



Figure 5. Pictometry View facing north from April 2020.

COMPREHENSIVE PLAN

The petition site is located within the MCUA Rural Transition designation area of the Comprehensive Plan: *Portions of The urbanizing area, primarily to the east and South, are not suitable for intensive development due To access, infrastructure and environmental constraints.*

These areas offer an opportunity to transition the scale and intensity of development along the urban to rural transect. Residential uses are low in density, primarily single-family, and typically are located along existing rural roadways rather than in subdivisions. Larger scale agricultural uses may occur within this area.

Within the Urbanizing Area, rural Transition lands may serve as a “holding” land use category that may be converted to other uses depending on future market demands and infrastructure expansion opportunities. The most likely uses for conversion include conservation residential, Parks and open Spaces, employment uses, and Quarry expansions that are best suited for low-density, relatively isolated development contexts. The potential for conversion to other uses should be considered as part of future updates to the Urbanizing Area Plan. 39

Transportation

Streets

Development in rural Transition areas is intended to occur along existing rural roadways. These are typically designed with two travel lanes and a berm or shoulder with open drainage. New roadway construction will be minimal and will likely respond to broader safety or connectivity needs within the larger transportation system, rather than demand generated by new development within the rural Transition area. Automobile travel is necessary in rural areas. Care should be taken to avoid roadway improvements that prioritize speed and capacity at the expense of rural roadway character.

Bike, pedestrian, and Transit modes

Due to the low-density character and distance from destinations, travel by foot will be less common in rural Transition areas. However, bicycle travel should be encouraged. Opportunities to extend shared use/bicycle paths as part of a county-wide greenway system should be explored. Roadside paths may be appropriate in some cases, but care should be taken to preserve the scenic character of rural roadways. This can be accomplished through meandering alignments that provide space for landscape features such as mounding, fencing, limestone walls and naturalized plantings. Expansion opportunities for rural Transit routes should be explored to enhance accessibility of more remote areas.

Utilities

Sewer

Sewer service in rural transition areas will be limited. Residential development is expected to continue using on-site sewage disposal (septic systems), provided there is sufficient space, topography and soil conditions to meet minimum State and county installation and maintenance requirements.

Power

Overhead utility lines should be buried wherever feasible in the rural Transition area. *Communications*

Communications needs will vary within the rural transition neighborhoods, but upgrades to infrastructure need to be a key consideration for future development sites. Communications features will likely differ from all other areas of development since transportation and infrastructure improvement will be limited. Wireless towers should be located sensitively to minimize disruption to scenic viewsheds.

Open space

Park Types

Open spaces within rural Transition areas should emphasize interconnected greenway systems and preservation of environmentally sensitive lands, whether public or private. Where feasible, shared use/bicycle paths should be provided to create continuous recreational and alternative transportation connections as part of the larger Monroe county system. Opportunities for new county parks should be explored, as well as opportunities for land preservation by private non-profit organizations such as the Sycamore land Trust.

Agriculture

The rural Transition area provides an opportunity to support food production within the Urbanizing Area. Particular emphasis should be placed on encouraging small-scale, locally-operated farming operations such as hobby farms, community-Supported Agriculture (CSA), vineyards and orchards. These are vital elements of the local economy, and proximity to the City of Bloomington offers an opportunity to integrate these uses into the local farm-to-Table and farm-to-institution supply chains.

Public Realm Enhancements

Lighting

Roadway lighting should be avoided on rural roadways to preserve rural character and minimize light pollution, except where necessary for safety.

Street/Site furnishings Street and site furnishings will be limited to public parks and greenways.

Development guidelines

Open Space

Development in the rural Transition area will typically not provide public open space but will be required to protect environmentally sensitive features as development occurs. *Parking ratios*

Parking needs are typically minimal for rural businesses, and requirements should be flexible based on the specific use.

Site design

Subdivision of land along rural roadways should avoid creating “residential strips” that block scenic vistas and change the character of the roadway from rural to suburban. Building setbacks will vary based on topography, but will typically exceed 50 feet and may be much larger.

Building form

Simple building massings typical of rural places are encouraged.

Materials

High quality materials, such as brick, stone, wood, and cementitious fiber should be encouraged. Rural development will typically require a lower degree of aesthetic scrutiny than is typical of higher density development areas;

Private signs

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

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

Primary:

- ## Conclusion:

- 117

(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:

Primary:

- See Findings A(1);
- The house was restored in 2011 and a new septic system was installed (permit #19710) in the northern part of the property.
- The two septic tanks are clearly shown on the site plan and easily seen on the property;
- The site maintains frontage on E State Road 45, a major collector;
- The residence meets the front setback requirements of 65' from the centerline of the road;

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:

Primary:

- See Findings A(1) & (2);
- The property is zoned Estate Residential 2.5 (RE2.5);
- The RE2.5 zone requires a 30' setback for structures plus 4' for each additional story;
- The home and the proposed addition are only one story tall;
- The home encroaches 20' into the side setback;
- The proposed addition will encroach 20' into the side setback but no farther than the existing home;
- The lot is 66' wide and there is only a 12' strip of land that would meet the RE2.5 setback standard;
- Staff estimates six other properties in a half mile of the petition site with similar zoning that also have narrow lots with setback issues;

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:

Primary:

- See Findings A(1), A(2), and A(3);
- The purpose of the setback is to ensure adequate light, air, privacy for adjacent properties; to provide access to any structure for maintenance and emergency services; and to preserve the general character of zoning district;
- If the variance is granted a 10' side yard setback would be allowed for the existing structure and proposed addition;
- Sufficient setback would remain after the variance to allow maintenance on the structure;

Conclusion:

- Approval of the variance would 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:

Primary:

- See Findings B(1);
- There are vegetated buffer yards along the property lines;
- Drainage it to the south towards the road;
- There are not visible karst features or regulated floodplain on the site;

Conclusion:

- There are foreseeable detrimental conditions to the use and enjoyment of other properties that would result from the proposed expansion;

(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 narrow width of this lot combined with the assigned zoning leaves only a 12' strip of land that meets buildable area for this lot;
- Granting the side setback variance would bring the existing residence built in 1925 into compliance with setback requirements for the RE2.5 zone;
- There are practical difficulties deemed appropriate to grant this side yard setback variance;

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 STATEMENT

From: James Rosenbarger
1303 E. University St.
Bloomington, IN 47401
March 1, 2021

To: Monroe County Board of Zoning Appeals,

Dear Board Members,

I am requesting a zoning variance for an addition to the existing house located at 4585 E. State Road 45. A site plan has been submitted.

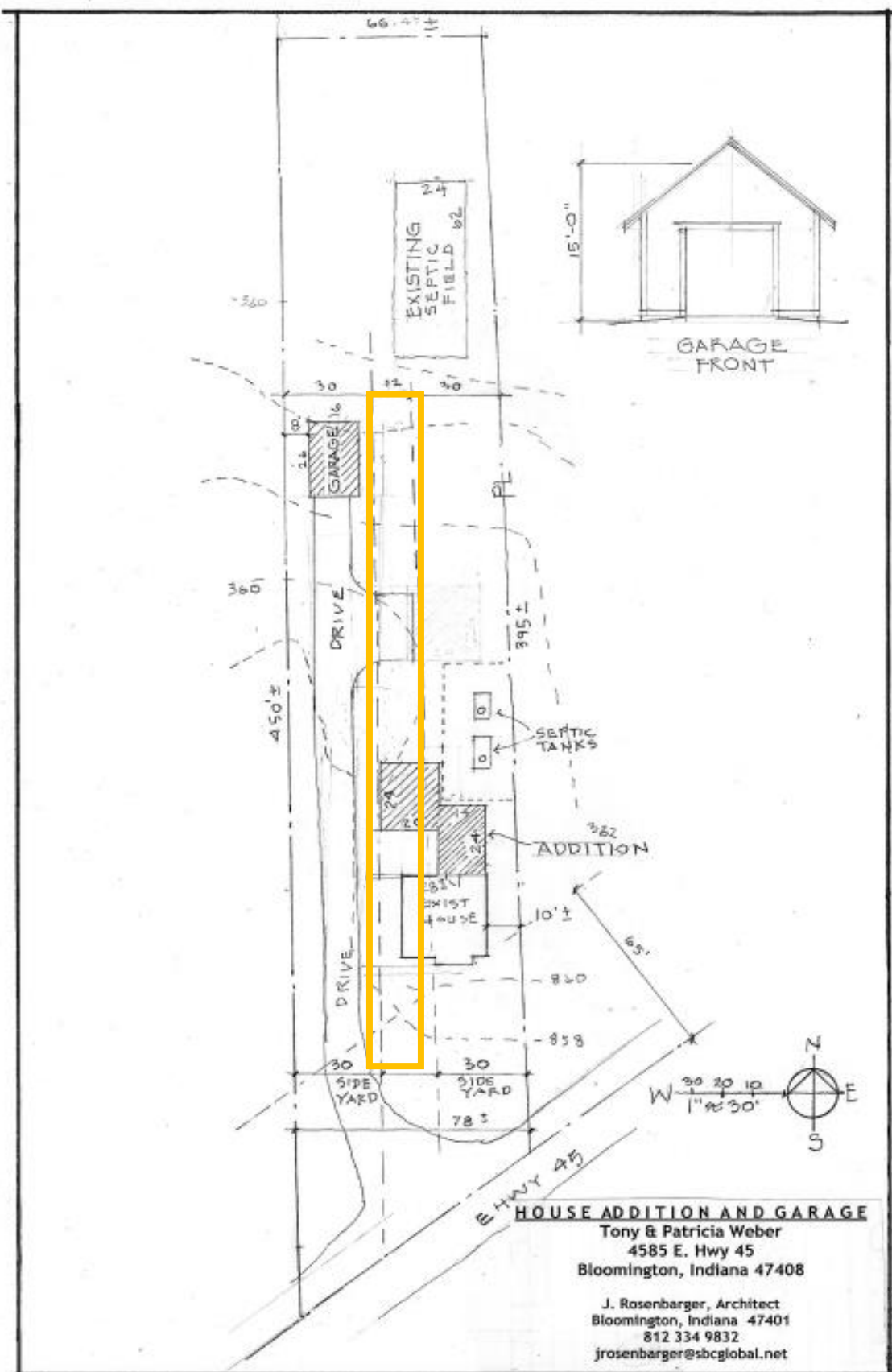
I am serving as 'petitioner' at the owners' request. Owners are Tony and Patricia Weber. Their contact information has been submitted and their letter verifying my role is forthcoming.

Sincerely,

James Rosenbarger



EXHIBIT 2: Petitioner's Site Map



 Depicts Buildable Area where setbacks are met (approximately 12' wide)

EXHIBIT 3: IHSSI ([County Survey](#)) – ‘Notable’ Designation

IN.gov

SHAARD

[Print](#)

[Close Window](#)

IHSSI (County Survey)



Survey Number: 105-639-20132

Rating: Notable

Historic Name: House

Year Dataset Compiled: 2014

National Register File
Number: -

Survey County

County	Legal Township(s)	Quad Name(s)
Monroe	Bloomington	Unionville

Address: 4585 E State Rd 45

CASE NUMBER VAR-21-20
PLANNER Anne Crecelius
PETITIONER Tina & Christopher Eason
REQUEST Design Standards Variances:
A. Front Yard Setback from Chapter 804
B. Buildable Area from Chapter 804
C. Minimum Lot Size from Chapter 804
ADDRESS 9155 & 9161 E Southshore Drive
ACRES 0.86 +/-
ZONE SR
TOWNSHIP Benton North
SECTION 35
PLATS Unplatted
COMP PLAN Rural Residential
DESIGNATION

EXHIBITS:

- 1) Petitioner Letter
- 2) Site Plan
- 3) Petitioner Flood Plain Illustration
- 4) Chapter 804 Deed Combination Language

RECOMMENDED MOTION:

Deny design standard variance (A) from the **Front Yard Setback** requirement of Chapter 804 of the Monroe County Zoning Ordinance based on the findings of fact, specifically finding (C).

Deny design standard variance (B) from the **Buildable Area** requirement of Chapter 804 of the Monroe County Zoning Ordinance based on the findings of fact, specifically finding (C).

Deny design standard variance (C) from the **Minimum Lot Size** requirement of Chapter 804 of the Monroe County Zoning Ordinance based on the findings of fact, specifically finding (C).

Conclusion: These variances are not required in order to develop the petition site with a Single Family Residence.

Note: The petitioner attempted to combine the deeds for Planning and Zoning purposed in 2020. The deed submitted doesn't meet the requirements for a combined deed. The petitioner will need to submit a combined deed with the Building Permit in order to move forward with construction plans designed for a single lot. The language for a combined deed can be found in Chapter 804, or Exhibit 4.

SUMMARY

The petition site is a 0.86 +/- acre lot located in Benton North Township, at 9155 & 9161 E Southshore Drive. The petitioner is requesting three (3) design standard variances from the (A) **Front Yard Setback**, (B) **Buildable Area**, and (C) **Minimum Lot Size** requirements of Chapter 804 of the Monroe County Zoning Ordinance. The variances requested are for the purpose of building an in-ground pool within the Front Yard setback, and FEMA Floodplain (buildable area). Chapter 804 allows an exception for lots in the SR zone that don't meet the Minimum Lot Size if the proposed changes meet all design standards; because the petitioners are requesting two variances from design standards, a Minimum Lot Size variance is required.

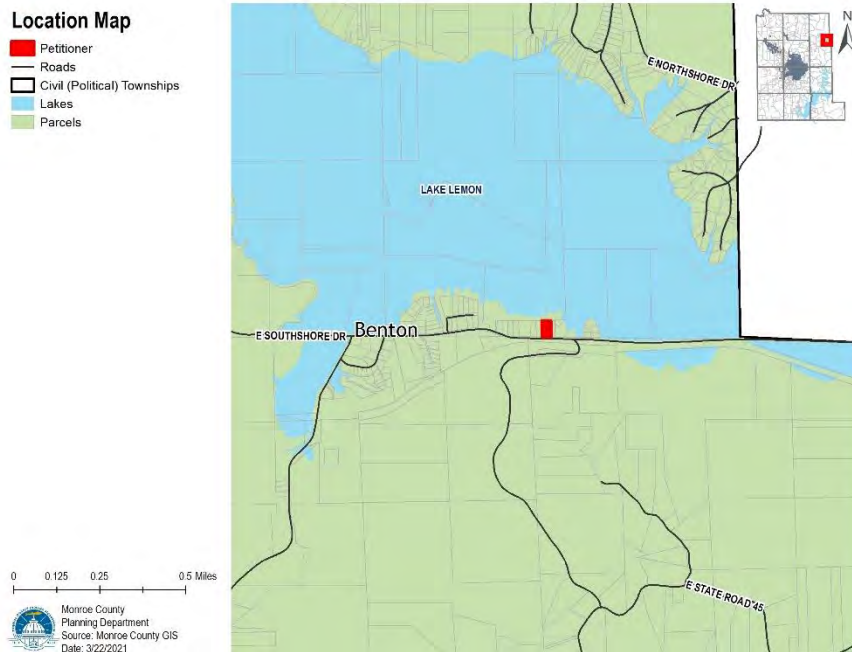
BACKGROUND

The petitioners purchased the property in 2020. The site at the time contained a small residence and garage, which was demolished in 2020. The site is now undeveloped pending the proposed construction

Approval of this variance is only required if either of the other two requested design standard variances are approved.

LOCATION MAP

The parcel is located in Benton North Township, Section 35, addressed as 9155 & 9161 E Southshore DR (parcel number: 53-01-35-300-002.000-003, 53-01-35-300-033.000-003).



ZONING AND LAND USE

The property is zoned Suburban Residential (SR), a zone that was specifically created for areas like Lake Lemon, under Chapter 802 of the Zoning Ordinance. Adjacent properties to the North of E Southshore DR are zoned SR or Limited Business (LB). Properties to the south are zoned Forest Reserve (FR). The petition site is a residential use with surrounding uses including residential and commercial.



SITE CONDITIONS & SLOPE

The petition site is undeveloped with access from E Southshore Drive, a Local road. FEMA Floodplain is present along the northern property boundary.

Site Conditions Map

- Petitioner
- 2-Foot Contours
- FEMA Floodplain
- Parcels

0 0.003 0.006 0.012 Miles

Monroe County
Planning Department
Source: Monroe County GIS
Date: 3/30/2021



SITE PICTURES

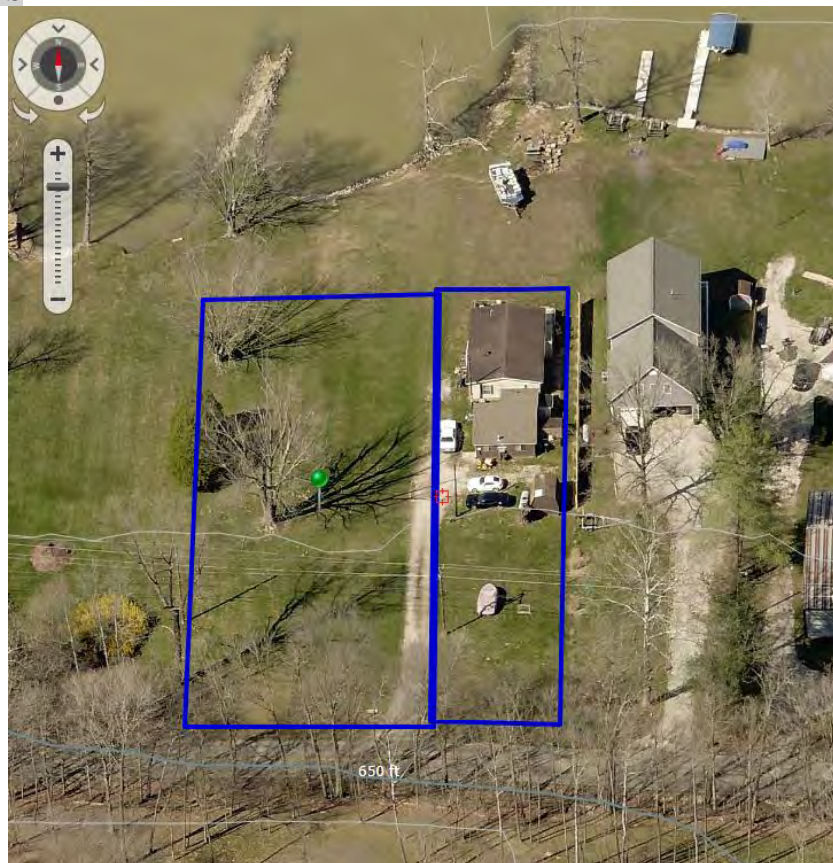


Photo 1: Pictometry photo looking north.



Photo 2: Looking north (wide angle).



Photo 3: Looking north (wide angle).



Photo 4: View of original home site.



Photo 5: Closer view of the original home site.



Photo 6: View of floodplain stakes by surveyor (staff highlighted in red).



Photo 7: Closer view, same vantage point of photo 6.



Photo 8: Floodplain and ponding



Photo 9: Looking west at dock.



Photo 10: Looking south, view of floodplain stakes by surveyor (staff highlighted in red).

COMPREHENSIVE PLAN DISCUSSION

The petition site is located within the “Rural Residential” zoning district of the Monroe County Comprehensive Plan.



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

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 0.86 +/- acres and is zoned Suburban Residential (SR);
- The petition site is a Through Lot per Chapter 804;
- The SR zone requires a 25' Front Yard setback;
- The site is undeveloped;
- The petition contains FEMA floodplain due to proximity to Lake Lemon;
- The petitioners are proposing a 15' encroachment into the Front Yard setback and FEMA Floodplain;
- If this variance is approved it would allow the petitioners to encroach into the 25' Front Yard setback by 15' (per Exhibit 2);
- Variance approval is contingent upon the approval of variance (C) Minimum Lot Size;
- If approved, it would not allow the petitioner's to build within the Floodplain;
- In order to approve the encroachment as proposed in Exhibit 2, all variances must be approved;
- **Conclusion:** The approval **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 site is accessed off of E Southshore DR, a Local road;

- The site has access to water and septic;
- The petition site is limited due to Overhead Utility lines at the southern property boundary;
- **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 character of the surrounding properties consists of single family residential;
- **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:** Approval of the variance **would satisfy** the design standard sought to be varied.

(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);
- The effects of building within the Floodplain are unable to be determined by staff;
- **Conclusion:** Staff is **unable to determine** if the variance would 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:

- Property value tends to be subjective as it is difficult to anticipate adverse effects;
- 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);
- The petition site is limited by having two frontages, FEMA Floodplain, and a large area dedicated to an Overhead Utility at the southern property boundary;
- If denied, the petition site is able to be developed with a Single Family Residence;
- **Conclusion:** There are **not 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.

FINDINGS OF FACT: Buildable Area Requirement

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 0.86 +/- acres and is zoned Suburban Residential (SR);
- The petition site is a Through Lot per Chapter 804;
- The SR zone requires a 25' Front Yard setback;
- The site is undeveloped;
- The petition contains FEMA floodplain due to proximity to Lake Lemon;
- The petitioners are proposing construction located within the FEMA Floodplain;
- FEMA Floodplain is unbuildable per Chapter 804;
- If this variance is approved it would allow the petitioners to apply for a Floodplain Development Permit (issued by the County Floodplain Administrator, Tammy Behrman);
- Upon permit approval the petitioners could build within the FEMA Floodplain;
- Approval of this variance is contingent upon the approval of variances (A) Front Yard Setback and (C) Minimum Lot Size;
- In order to approve the encroachment as proposed in Exhibit 2, all variances must be approved;
- **Conclusion:** The approval **would** 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 Section A(1);
- The site is accessed off of E Southshore DR, a Local road;
- The site has access to water and septic;
- The petition site is limited towards the south due to Overhead Utility lines;
- **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 Section A(1);
- The character of the surrounding properties consists of single family residential;
- **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 Section A(1), A(2), A(3);
- The petitioner is applying for a Buildable Area 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 Section A(1), A(2), A(3), and B(1);
- The effects of building within the Floodplain are unable to be determined by staff;
- **Conclusion:** Staff is unable to determine if the variance would 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:

- Property value tends to be subjective as it is difficult to anticipate adverse effects;
- 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 petition site is limited by having two frontages, FEMA Floodplain, and a large area dedicated to an Overhead Utility at the southern property boundary;
- If denied, the petition site is able to be developed with a Single Family Residence;
- The proposed construction could be relocated within an area that is buildable;
- Conclusion: There are not 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.

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:

- The site is 0.86 +/- acres and is zoned Suburban Residential (SR);
- The SR zone requires a Minimum Lot Size of 1 acre;
- The petition contains FEMA floodplain due to proximity to Lake Lemon;
- The petitioners are proposing a 15' encroachment into the Front Yard setback and building within un-buildable area (FEMA Floodplain);
- This variance is triggered by Chapter 804, Table 4-1 (F) states that: *If all other development standards are met, no variance is required for a lot of record with an area less than one (1) acre;*
- Approval of this variance is only required if either of the other two requested design standard variances are approved;
- **Conclusion:** The approval **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 site is accessed off of E Southshore DR, a Local road;
- The site has access to water and 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 character of the surrounding properties consists of single family residential;
- **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 Minimum Lot Size variance which is required due to the other two (2) design standard variance requests;
- **Conclusion:** Approval of the variance would satisfy the design standard sought to be varied.

(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);
- **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:

- Property value tends to be subjective as it is difficult to anticipate adverse effects;
- 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);
- This variance is not required if the petitioner was not proposing to encroach into the Front Yard setback, and build within un-buildable area of the site;
- If denied, the petition site is able to be developed with a Single Family Residence;
- **Conclusion:** There are not 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

Christopher & Tina Eason
2817 W. 100 South
Franklin, IN 46131
tina@tcelectric.us



Date March 8, 2020

Monroe County Board of Zoning Appeals
Showers Building North
501 N. Morton St.
Bloomington, IN 47404

Dear Monroe County Board of Zoning Appeals,

We would like to petition the county, for the following building design standard variances:

1. Variance from Chapter 804 front yard setback requirement of 25 feet (side of lot facing Lake Lemon).
2. Variance from Chapter 804 non-buildable area restrictions to allow a construction for a small portion of a pool in the floodplain.
3. Variance from Chapter 804 minimum lot area requirement of 1 acre in Suburban Residential (SR) Zone.

We have several obstacles to work around to be able to build on this property. One of which is the overhead power lines impeding the front of our property by approximately 67' from the edge of the road. There is a 15' right-of-way on both sides of the overhead power lines that cannot have any structures built within. Plus, we have 33' of flood zone impeding the rear/lakeside of our property. **Of our 258' of overall length, 115' of our property is non-buildable**, which is almost half of our property.

We also have a considerable amount of non-buildable property (approximately 65') between our property line and the lake that is owned by the Lake Lemon Conservancy District, which is setting us back from the lake a considerable distance.



We are seeking a variance for an encroachment of a 15' into the 25' front yard/lakeside setback for our pool and our pool surround to be built. If 15' is not acceptable, then we will settle for a 10' encroachment, but our preference is a 15' encroachment.

Apparently, this is a new setback requirement since our neighbor at 9173 built. He owns a through lot as well, and he has a 10' setback from the lakeside, not a 25' setback and he did not have to file for any variances when he built. The 25' setback requirement for both "fronts" of a through lot is not stated in Chapter 800, nor is it stated on Table 4-1 where all of the other building requirements for the SR zone is listed. On Table 4-1 the front yard setback is stated as a "Yard Fronting on any Street". A Front yard is clearly defined as being from the right-of-way, which is from the roadside where the front of our house will face. The definition of a through lot does state that you would have 2 front yards, but the definition of a front yard is from the right-of-way, not from a body of water.

Definitions from Chapter 801:

Front Yard. A yard as defined herein, encompassing the horizontal space between the nearest foundation of a building to the right-of-way line and that right-of-way line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the right-of-way line

Right-of-way. A strip of land occupied or intended to be occupied by a street, pedestrian way, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, special landscaping, or for other special uses. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, screening or special landscaping, or any other use involving maintenance by a public agency shall be dedicated to public use by the subdivider on whose plat such right-of-way is established.

Lot, Through. A lot having frontage on two parallel or approximately parallel streets. A through lot has a front yard on each abutting street, watercourse or lake.

Setback. A line parallel to and equidistant from the relevant lot line (front, back, side) or right-of-way line, between which no buildings or structures may be erected, except as expressly provided in these regulations. Setback distances are generally set forth in the height, bulk and density provisions of this ordinance.

Secondly, we would like to request a small portion, approximately 15' of one corner of our pool to be constructed in the flood zone. The intention is to try to get some southern sun exposure on most of our pool for a good portion of the day. The height of our house is going to block a great deal of the southern sunlight exposure. Since we are building a two-story home, the height of our house will cast shade on our pool if we turn the pool to run parallel with our house. The intention of turning the pool lengthwise is to try to capture as much sunlight as possible by getting most of the pool away from the house. We realize that we could move the pool down a few feet towards lot 9161 out of the flood zone. However, then the pool would not be centered with the house, which would not be aesthetically pleasing.

Lastly, since we own less than one acre, and we are requesting the above two variances, our property no longer meets the minimum lot exception rule (F) If all other development standards are met, no variance is required for a lot of record with an area less than one (1) acre. Therefore, we are required to request this variance as well.

We realize we are attempting to build a fairly large home on these lots. However, we intend to build a very nice custom home that we plan to retire in. We are improving the property immensely, and we are already meeting all of the following requirements:

1. 40% of open space
2. Not exceeding 35' of maximum height
3. 25' right of way setback from front (roadside)
4. 25' setback from the right-of-way
5. 5' side yard setbacks
6. Not building in the 15' right-of-way on either side of the overhead power lines
7. Not building anything within 10' of the septic tanks or finger system
8. Building a minimum of 2' above BFE (Base Flood Elevation) for both our pool and our home

Sincerely,



Your Name

EXHIBIT TWO: Site Plan



MAURER SURVEYING, INC.

4800 W. Smith Valley Road, Suite P, Greenwood, Indiana 46142
Office - 317-881-3898 www.MaurerSurveying.com

LAND SURVEYING, LAND DEVELOPMENT & BUILDERS SERVICES

FINISHED FLOOR ELEV. HOUSE : 643.0
FINISHED FLOOR ELEV. GARAGE : 642.0
FINISHED FLOOR ELEV. POOL DECK : 642.5

LEGAL DESCRIPTION

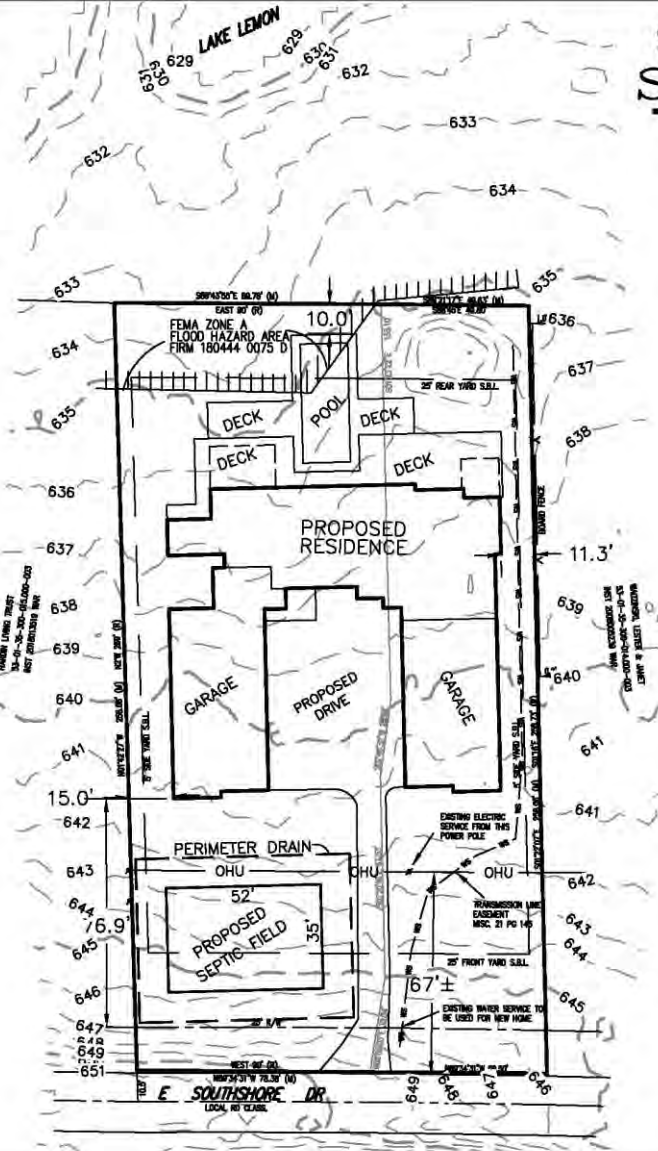
A part of the Southeast Quarter of the Southwest Quarter of Section 35, Township 10 North, Range 1 East, Monroe County Indiana as shown on the plat certified by C.D. Graham, IN LS29500014 dated August 26, 2020 under job number 2020053 for Bynum Fanyo and Associates, Inc described as follows:

Commencing at an iron pipe found in the Southwest corner of the said Quarter Quarter Section; thence along the South line of said Quarter Quarter Section South 89 degrees 34 minutes 31 seconds East (bearings based on SPCS IN West NAD 83) 1009.55 feet to the Point of Beginning; thence along said South line North 89 degrees 34 minutes 31 seconds West 78.38 feet; thence leaving said South line North 01 degree 42 minutes 27 seconds West 258.06 feet to a rebar, passing a rebar at 13.9 feet; thence South 89 degrees 43 minutes 55 seconds East 89.78 feet to an iron pipe; thence South 01 degree 23 minutes 22 seconds East, 133.10 to the East wheel tract of an existing crushed stone drive; thence along said wheel tract South 07 degrees 46 minutes 32 seconds West 25.83 feet; thence South 01 degree 20 minutes 16 seconds East 67.53 feet; thence South 08 degrees 56 minutes 03 seconds West 32.34 feet Point of Beginning. Containing in all 0.515 acres, more less.

A part of the Southeast Quarter of the Southwest Quarter of Section 35, Township 10 North, Range 1 East, Monroe County, Indiana as shown on the plat certified by C.D. Graham, IN LS29500014 dated August 26, 2020 under job number 2020053 for Bynum Fanyo and Associates, Inc described as follows:

Commencing at an iron pipe found in the Southwest corner of the said Quarter Quarter Section; thence along the South line of said Quarter Quarter Section South 89 degrees 34 minutes 31 seconds East (bearings based on SPCS IN West NAD 83) 1069.16 feet to the Point of Beginning; thence along said South line North 89 degrees 34 minutes 31 seconds West 59.50 feet to the East wheel tract of an existing crushed stone drive; thence along said wheel tract North 08 degrees 56 minutes 03 seconds East 32.34 feet; thence North 01 degree 20 minutes 16 seconds West 67.53 feet; thence North 07 degrees 46 minutes 32 seconds East 25.83 feet; thence leaving said wheel tract North 01 degree 23 minutes 22 seconds West 133.10 feet to an iron pipe; thence South 89 degrees 21 minutes 17 seconds East 49.63 feet to an iron pipe; thence South 01 degree 22 minutes 07 seconds East 258.06, passing an iron pipe at 253.9 and to the Point of Beginning. Containing in all 0.311 acres, more less.

PLOT PLAN
DRAWING NOT TO BE SCALED - DIMENSIONS PREVALENT
SCALE: 1" = 40'



9155 & 9161 E. SOUTHSORE DR.
LAKE LEMON
UNIONVILLE, INDIANA

NOTE:

- BUILDER/CONTRACTOR SHALL VERIFY THE DIMENSIONS OF THE BUILDING AS SHOWN PRIOR TO CONSTRUCTION.

- THIS DRAWING IS NOT INTENDED TO BE REPRESENTED AS A RETRACEMENT OR ORIGINAL BOUNDARY SURVEY, A ROUTE SURVEY, OR A SURVEYOR LOCATION REPORT.

- BOUNDARY SHOWN PER SURVEY BY BYNUM FANYO & ASSOCIATES, INC, PROJECT NO: 502053

FLOOD HAZARD STATEMENT

Flood Hazard Statement: The accuracy of any Flood Hazard data shown on this report is subject to map scale uncertainty and to any other uncertainty in location or elevation on the referenced Flood Insurance Rate Map (FIRM). The within described lands lie within Zone "X" & "A", as said lands plot by scale on Community Panel No. 18105C0075 D of the Flood Insurance Rate Map for Johnson County, Indiana dated December 17, 2010

BFE PER e-FARA #GN-38867-1: 635.1

HOLEY MOLEY SIGNS
"DON'T DIG BLIND"

1-800-382-3544
CALL TOLL FREE
1-800-428-5200
FOR CALLS OUTSIDE

JOB# 2473
DATE: 3/5/21
PAGE 1 OF 1

TINA EASON
2817 W. 100 S.
FRANKLIN, IN 46131

EXHIBIT THREE: Petitioner Flood Plain Illustration

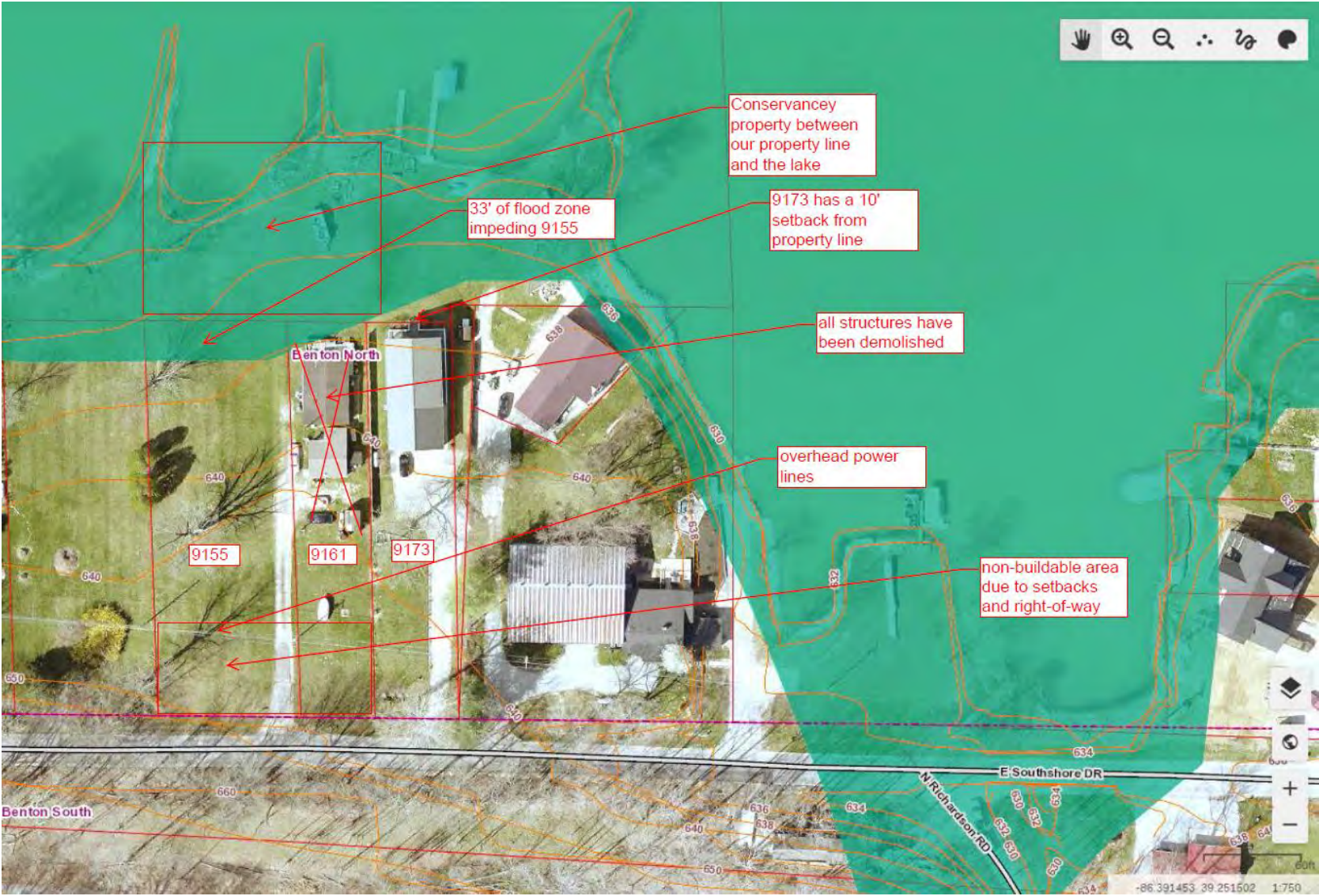


EXHIBIT FOUR: Deed Combination Language

Chapter 804-2 B (4)

For adjoining lots under single ownership, setback requirements may be determined from the perimeter of the adjoining lots, ignoring interior lot lines, as shown in Table 4-2, provided that only one main structure and its accessory structures shall be allowed within the perimeter of such adjoining lots and, the following notation is placed on the recorded deed to each such adjoining lot:

"For planning and zoning purposes, the lot described herein shall be considered as part and parcel of the adjacent lot(s) owned by [insert owner's name] pursuant to a deed (or deeds) recorded at Deed Record [#s], page [#s], in the office of the Recorder of Monroe County, Indiana. The real estate described herein shall not be considered to be a separate parcel of real estate for land use, development, conveyance or transfer of ownership, without having first obtained the expressed approval of the Monroe County Plan Commission, Monroe County, Indiana, or any successor local governmental body having land use jurisdiction over the real estate. This restriction shall be a covenant running with the land."

MONROE COUNTY BOARD OF ZONING APPEALS**April 7, 2021**

CASE NUMBER: VAR-21-21
PLANNER: Drew Myers
PETITIONER(S): Cory Pickett & Christopher Pickett, C/o Garry Shumaker: Shumaker Designs & Build Associates, LLC
REQUEST: Design Standards Variances:
1. Minimum Lot Size, Chapter 804
2. Minimum Lot Width, Chapter 804
ADDRESS: 7504 E Rush Ridge RD
ZONING: Forest Reserve (FR)
ACRES: 2.23 acres +/-
TOWNSHIP: Salt Creek
SECTION(S): 34
COMP PLAN
DESIGNATION: Rural Residential

EXHIBITS:

1. Petitioner Letter & Consent Letter
2. Proposed Site Plan

RECOMMENDED MOTIONS

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 Minimum Lot Width based on the findings of fact and subject to the Monroe County Highway and Drainage Engineer reports.

SUMMARY/DISCUSSION

The petitioner requests two design standards variances from Chapter 804 in order to remodel and construct additions to the existing residence and property. In addition to the interior remodeling and additions proposed to the existing house, the petitioner is also proposing the construction of an in-ground pool, the expansion of the existing detached garage to accommodate a guest and pool house, as well as the reconfiguration of the entry court and landscaping and terraces. The petition site currently contains an approximately 3,625 sq. ft. single family residence, a 612 sq. ft. detached garage, and a 112 sq. ft. greenhouse.

The two design standard variance requests are as follows:

Variance Request	Minimum Needed	Proposed
Minimum lot size	5 acres	2.23 acres
Minimum Lot Width	200 feet	145 feet

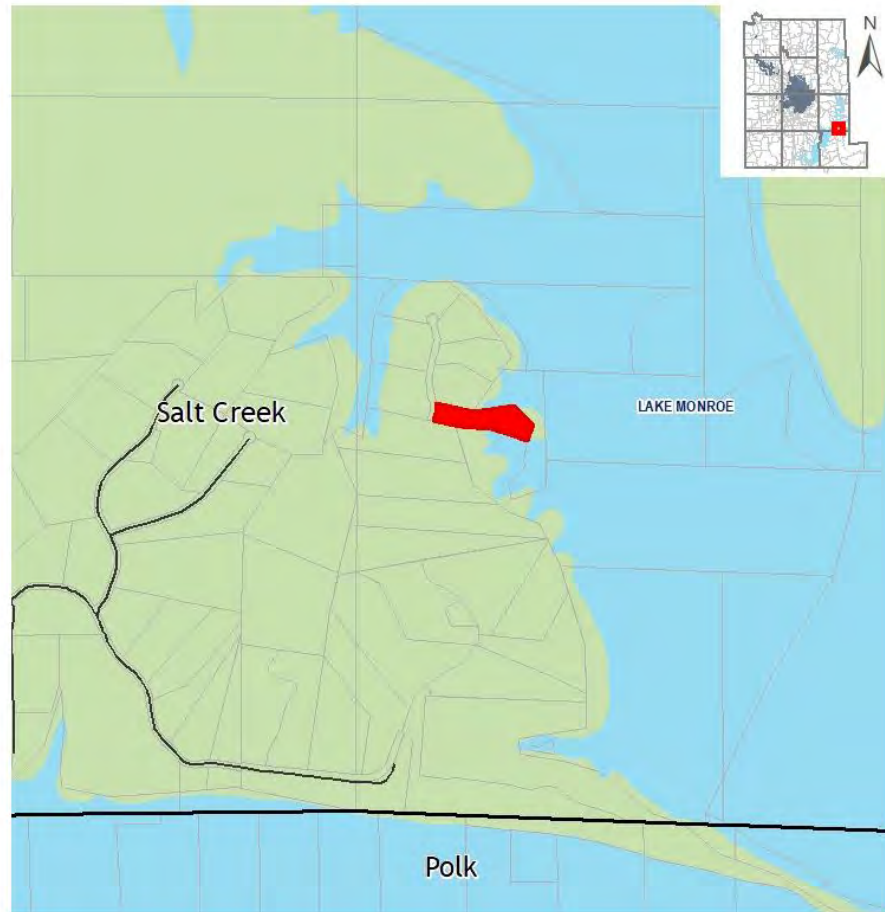
The petitioner is requesting a variance from the required 5 acre minimum lot size in order to remodel and construct additions to the existing single family residence, detached garage, and property in general. The lot also does not conform to the lot width minimum of 200 feet at building line; the lot width is approximately 160 feet at the building line according to a 2003 survey provided by the petitioner.

LOCATION MAP

The site is located at 7504 E Rush Ridge RD in Salt Township, Section 34 (parcel no. 53-07-34-200-001.000-014).

Location Map

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



0 0.075 0.15 0.3 Miles



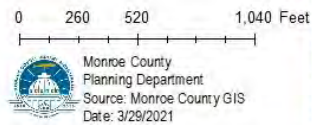
Monroe County
Planning Department
Source: Monroe County GIS
Date: 3/29/2021

ZONING AND LAND USE

The property is zoned Forest Reserve (FR). The adjoining parcels are FR. The surrounding uses are single-family residential and federally owned property.

Current Zoning Map

-  Petitioner
-  Parcels
-  Roads
-  Lakes
-  Hydrologic Features
- ECO Areas**
-  Area 1
- Monroe County Zoning**
-  FR - Forest Reserve
-  WA - Water



SITE CONDITIONS

The petition site is 2.23 +/- acres and receives access off of E Rush Ridge RD (a local road). Although the property's driveway is located within the gated community of the Land's End Subdivision the property is not a part of the existing neighborhood HOA. There are no visible karst features on the property. DNR and FEMA Floodplain designation "A" is present on the property near Lake Monroe. The existing single family residence does meet the 125' lakefront setback as required. The petition site is located in Area 1 of the Environmental Constraints Overlay. The petition site is serviced by a septic system.

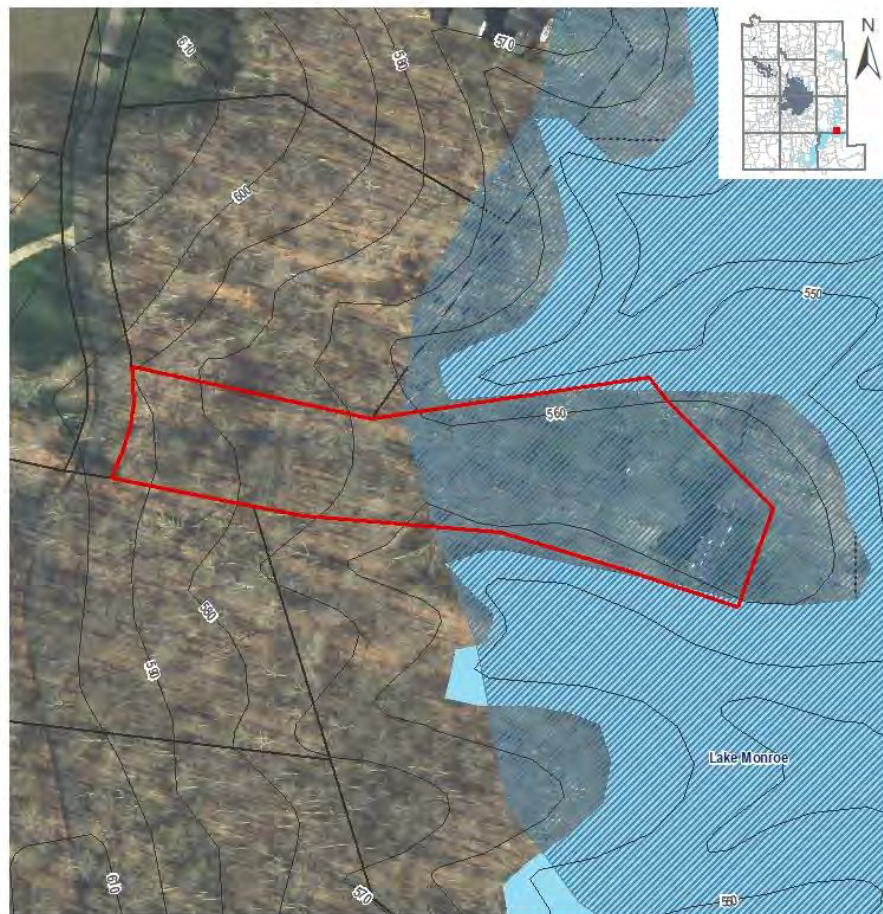
Site Conditions Map

-  Petitioner
-  10-Foot Contours
-  FEMA Floodplain
-  Lakes
-  Hydrologic Features
-  Parcels

0 0.01 0.02 0.04 Miles



Monroe County
Planning Department
Source: Monroe County GIS
Date: 3/29/2021



SLOPE

The petition site is fairly flat with slopes under 12 percent. There are some portions of the property near the driveway entrance and the lakefront that exhibit slopes greater than 12 and 15 percent. Drainage from the site flows towards Lake Monroe. The proposed remodeling and additions will be located in buildable areas less than 12 and 15 percent slope.

Slope Map

FLD_ZONE

- A
- Petitioner
- Parcels
- 2-Foot Contours
- FEMA Floodplain
- Lakes
- Hydrologic Features

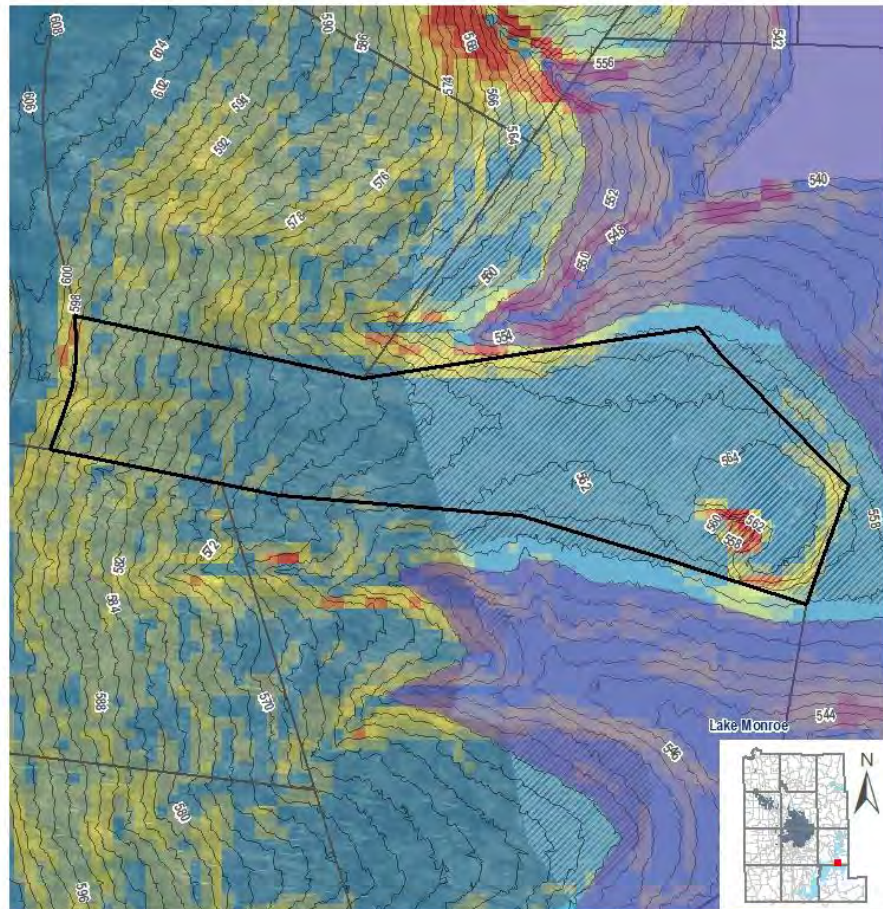
All Slope - Percent (2010)

- 0 - 12
- 13 - 15
- 16 - 18
- 19 - 21
- 22 - 24
- > 25

0 35 70 140 210 Ft



Monroe County
Planning Department
Source: Monroe County GIS
Date: 3/29/2021



SITE PHOTOS



Photo 1. Driveway entrance



Photo 2. Driveway entrance



Photo 3. Driveway to residence and detached garage



Photo 4. Existing residence



Photo 5. Existing garage attached garage



Photo 6. Existing detached garage



Photo 7. Existing attached greenhouse



Photo 8. Backyard and Lake Monroe



Photo 9. Backyard and Lake Monroe



Photo 10. Lake Monroe



Photo 11. East side of residence facing Lake Mornoe



Photo 12. East side of residence



Photo 13. North side of residence



Photo 14. Existing residence



Photo 15. Existing detached garage



Photo 16. Existing detached garage

COMPREHENSIVE PLAN

The petition site is located within the Farm and Forest Comprehensive Plan designation which states:

Farm and Forest

Much of Monroe County is still covered by hardwood forests, in no small part because of the presence of the Hoosier National Forest, Morgan-Monroe State Forest, Army Corps of Engineers properties, and Griffy Nature Preserve. Much of the low lying floodplains and relatively flat uplands have been farmed for well over 100 years. These areas are sparsely populated and offer very low density residential opportunities because of both adjoining Vulnerable Lands and the lack of infrastructure necessary for additional residential density. This category encompasses approximately 148,000 acres including about 40,000 acres of our best agricultural property located primarily in the Bean-Blossom bottoms and western uplands of Richland Township and Indian Creek Township. It includes private holdings within the state and federal forests.

Farm and Forest Residential also includes the environmentally sensitive watersheds of Monroe Reservoir, Lake Lemon, and Lake Griffy and several other large vulnerable natural features in Monroe County. There are approximately 78,000 acres of watershed area in this portion of the Farm and Forest Residential category. These natural features provide a low density residential option while protecting the lakes and the water supply resources of the County. The Farm and Forest areas comprise most of the Vulnerable Land in Monroe County.

A low residential density is necessary in order to protect associated and adjoining Vulnerable Lands and to sustain particular “quality of life” and “lifestyle” opportunities for the long-term in a sparsely populated, scenic setting. With a few exceptions like The Pointe development on Monroe Reservoir, these areas do not have sanitary sewer services and have limited access on narrow, winding roadways. Those portions not already used for agriculture are usually heavily forested and have rugged topography. They offer unique and sustainable residential opportunities that cannot be replaced.

In reviewing rezoning, subdivision and site development proposals, the County Plan Commission shall consider the following:

- ◆ Public services or improvements are not expected for these areas within the horizon of this Plan because those improvements require significant investment in roadways, sanitary sewer, private utilities, and public services for which County financial resources do not exist.
- ◆ New residential density places additional stress on nearby vulnerable natural features that cannot be mitigated by sustainable practices without additional public expense.
- ◆ Low density residential opportunities and their associated lifestyle are scarce resources that are sustained only by our willingness to protect that quality of life opportunity for residents who have previously made that lifestyle choice and for future residents seeking that lifestyle.

To maintain Farm and Forest 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. The grouping of more than four residential units sharing the same ingress/egress onto a County or state roadway shall not occur on rural property in this category. All property subdivided in this category must provide for adequate contiguous Resilient Land to support either two independent conventional septic fields or one replaceable mound system, sufficient space for buildings traditionally associated with this type use must also be available. In addition, public roadways shall not experience less than the Monroe County Level of Service standard designation which exists at the time this Plan is adopted as a result of subdivision. Roadways classified as state Highways, major collectors, or local arterials are exempt from this requirement.

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 the petitioner to perform the proposed remodeling and construct the additions to the property as described in this report and the submitted site plan;
- The portions of the site where additions will be constructed are located in buildable area and under 12% slope;
- The site contains an existing single-family residence with an detached garage and an attached greenhouse;
- The petition site is located within FEMA floodplain;
- The petition site is located in Area 1 of the Environmental Constraints Overlay;
- The submitted site plan proposes the removal of several trees on the property;
- 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:

- E Rush Ridge RD is a local road maintained by the County Highway Department for only a portion, which does not reach up to the petition site;
- The site operates on a septic system that will not be interfered with by the proposed remodeling and additions based upon its estimated location per the submitted site plan;
- New electric utility lines to be installed will be buried;
- 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 Section A(1) and A(2);
- The zoning of the surrounding adjacent properties is Forest Reserve (FR);
- The other parcels in the area that zoned FR and have under 5.0 acre lot sizes are all in platted subdivision;
- 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 Section A(1);
- Any proposed structure, addition, or significant renovation that expands the footprint of the existing structures on this lot requires a building permit would need a minimum lot size and lot width variance;
- A rezone to the Suburban Residential (SR) zone is feasible, which would permit outright the lot size of 2.23 acres and the lot widths that are measured under 200';
- Conclusion: Approval of the variance would satisfy the design standard sought to be varied.

(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 Section A(1);
- The property drains to the east, north, and south (i.e. towards Lake Monroe);
- The proposed location of the renovation and additions will not interfere with existing septic system based upon its estimated location per the submitted site plan;
- There is FEMA floodplain on the site;
- There are no visible karst features on the site;
- Conclusion: It would not promote conditions 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:

- There are practical difficulties in that the property owner cannot do any development to this pre-

existing nonconforming lot of record without first receiving a lot size and lot width variance, or petitioning a rezone. The lot was likely in existence prior to the 1997 zoning ordinance and therefore was made nonconforming by the ordinance.

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 the petitioner to perform the proposed remodeling and construct the additions to the property as described in this report and the submitted site plan;
- The portions of the site where additions will be constructed are located in buildable area and under 12% slope;
- The site contains an existing single-family residence with an detached garage and an attached greenhouse;
- The petition site is located within FEMA floodplain;
- The petition site is located in Area 1 of the Environmental Constraints Overlay;
- The submitted site plan proposes the removal of several trees on the property;
- Grading and construction on the site could lead to increased erosion and soil runoff into Lake Monroe if not performed properly;
- Conclusion: It **could** 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:

- E Rush Ridge RD is a local road maintained by the County Highway Department for only a portion, which does not reach up to the petition site;
- The site operates on a septic system that will not be interfered with by the proposed remodeling and additions based upon its estimated location per the submitted site plan;
- New electric utility lines to be installed will be buried;
- 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 Section A(1) and A(2);
- The zoning of the surrounding adjacent properties is Forest Reserve (FR);

- The other parcels in the area that are zoned FR and do not meet the minimum 200' lot width are all in platted subdivisions;
- 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 Section A(1);
- Any proposed structure, addition, or significant renovation that expands the footprint of the existing structures on this lot requires a building permit would need a minimum lot size and lot width variance;
- A rezone to the Suburban Residential (SR) zone is feasible, which would permit outright the lot size of 2.23 acres and the lot widths that are measured under 200';
- Conclusion: Approval of the variance **would satisfy** the design standard sought to be varied.

(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 Section A(1);
- The property drains to the east, north, and south (i.e. towards Lake Monroe);
- The proposed location of the renovation and additions will not interfere with existing septic system based upon its estimated location per the submitted site plan;
- There is FEMA floodplain on the site;
- There are no visible karst features on the site;
- Conclusion: It **would not** promote conditions 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:

- There are practical difficulties in that the property owner cannot do any development to this pre-existing nonconforming lot of record without first receiving a lot size and lot width variance, or petitioning a rezone. The lot was likely in existence prior to the 1997 zoning ordinance and therefore was made nonconforming by the ordinance.

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 & Consent Letter

S H U M A K E R D E S I G N + B U I L D A S S O C I A T E S

23 December 2020

Drew Arthur Myers
Planner/Planning Department
Monroe County Planning Department
501 N. Morton St., Suite 224
Bloomington, IN. 47404

Re: 7504 E. Rush Ridge Rd, Bloomington, IN.

To Whom It may concern,

Attached please find the application materials for the above referenced address.

We have been retained by the homeowners Christopher and Cory Pickett to remodel and construct additions to the existing home and property located at 7504 E. Rush Ridge Rd. In addition to the interior remodeling and additions proposed to the existing home we also propose the construction of an in-ground (gunite) swimming pool along, the expansion of the existing garage to accommodate a guest and pool house as well as the reconfiguration of the entry court and landscaping and terraces.

We have commissioned topographic survey of the property and located the applicable steep slope "no-build" zones and are not proposing any land altering or construction activities in those areas of slope greater than 12%.

We are requesting (2) variances for this property.

1. Lot size. The existing parcel is existing non-conforming and while our client currently owns the adjacent LOT #6 we do not wish to combine these at this time given the possible implications of the existing HOA in place for that sub-division.
2. Lot Width. The existing parcel is tapered along the approach drive and widest at approximately the existing garage location is approximately 208' wide. The portions of the project(s) for which we request relief are:
 - additions to the existing house are located at the narrowest portion of the lot where that width is less than the required 200' and measures 118' at the front face of the proposed addition for this portion of the project we request relief to construct the screen porch addition as shown in our submitted site plan.
 - For the guest house addition, we request relief for the west face of that proposed addition where the lot width measured at the face of the addition is 195'
 - For the proposed swimming pool, the lot width at the western end of the pool where the lot width is narrowest and measures 153' we also request relief.

SHUMAKER DESIGN + BUILD ASSOCIATES

Thank you for your consideration and please let us know if you require any further clarification or additional information.



Garry Shumaker RA, AIA, NCARB

847.864.0595 (o)

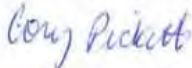
917.817.3780 (m)

Attachments:

Existing Site Plan: C1
Proposed Site Plan: C2
Copy of Owner's Deed
Owner's Letter of Consent
List of Adjacent Property Owners
Current Plat of Survey

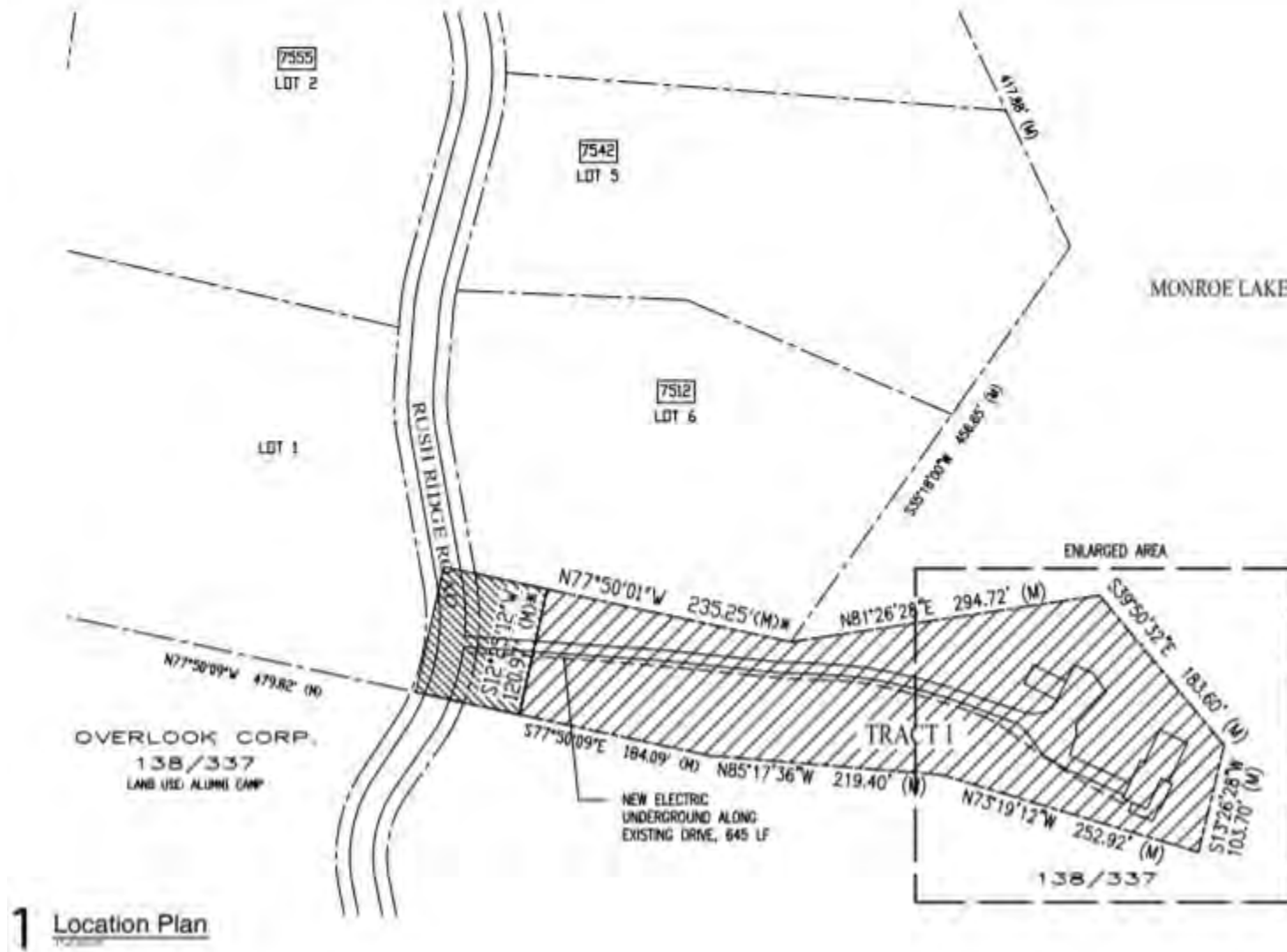
To whom it may concern,

We hereby consent and permit Shumaker Design + Build Associates LLC and Garry Shumaker to represent our interests before the Monroe County Zoning Board with regard to the variance application for the property located at 7504 E Rush Ridge Rd., Bloomington, IN.



Cory Pickett & Christopher Pickett
owners

EXHIBIT TWO: Proposed Site Plan





MONROE COUNTY BOARD OF ZONING APPEALS**April 7, 2021**

CASE NUMBER: VAR-21-24
PLANNER: Tammy Behrman
PETITIONER(S): Thomas Wyss
REQUEST: Design Standards Variance, Chapter 804 Side Yard Setback Requirements
ADDRESS: 8188 E Northshore Drive
ZONING: Suburban Residential (SR)
ACRES: 0.5 +/- acres
TOWNSHIP: Benton North Township
SECTION(S): 27
PLAT(S): n/a
COMPREHENSIVE PLAN DESIGNATION: Rural Residential

EXHIBITS:

1. Petitioner Statement
2. Petitioner Site Map (As-Built)
3. Recreation Easement Document

RECOMMENDED MOTION:

Staff recommends **Deny** the side yard setback design standards variances based on the findings of fact specifically Finding C.

SUMMARY

Petitioner requests a design standards variance from the side yard setback requirements of Chapter 804 for the purposes of allowing a deck and stairs to encroach into the required 5' side yard setback by 3.3'. The petitioner is currently building a residential accessory structure with permit 17-R1-103 that was recently renewed. Staff inspected the property on December 4, 2020 as a result of a complaint and found that the structure had decks and stairs added that were not disclosed on the original permit. As as-built survey was requested to confirm setbacks due to past history of the petitioner not abiding by property boundaries. If the variance is approved the petitioner can amend their permit to include the decks and stairs and continue with the project. If the variance is denied they would be required to remove the eastern decks and stairs and amend the application to include decking and stairs on the west side of the structure.

BACKGROUND

The petitioner purchased the then vacant lot in 2011 and secured a Recreation Easement from the neighboring property to the east and west in 2012 and amended in 2015 (Exhibit 3). The easement allow for 'liberal use' of the easement and includes allowing the petitioner's septic and utilities to be located in the easement. To be clear this is an easement an under Chapter 804 is not considered Buildable Area. Structures are not permitted in easements.

The residential accessory structure (accessory use) is not to be used as any of the following: residence, guest house, accessory dwelling unit, apartment, short term rental, or home based business without explicit approval from the Planning Department. Any of the above uses would require a permit to convert the structure to that use.

Accessory Use. A use which is customarily accessory, and clearly incidental and subordinate, to the principal residential use on the same lot. Subject to Special Condition #5

Special Condition #5

The following conditions shall apply to residential accessory buildings or structures:

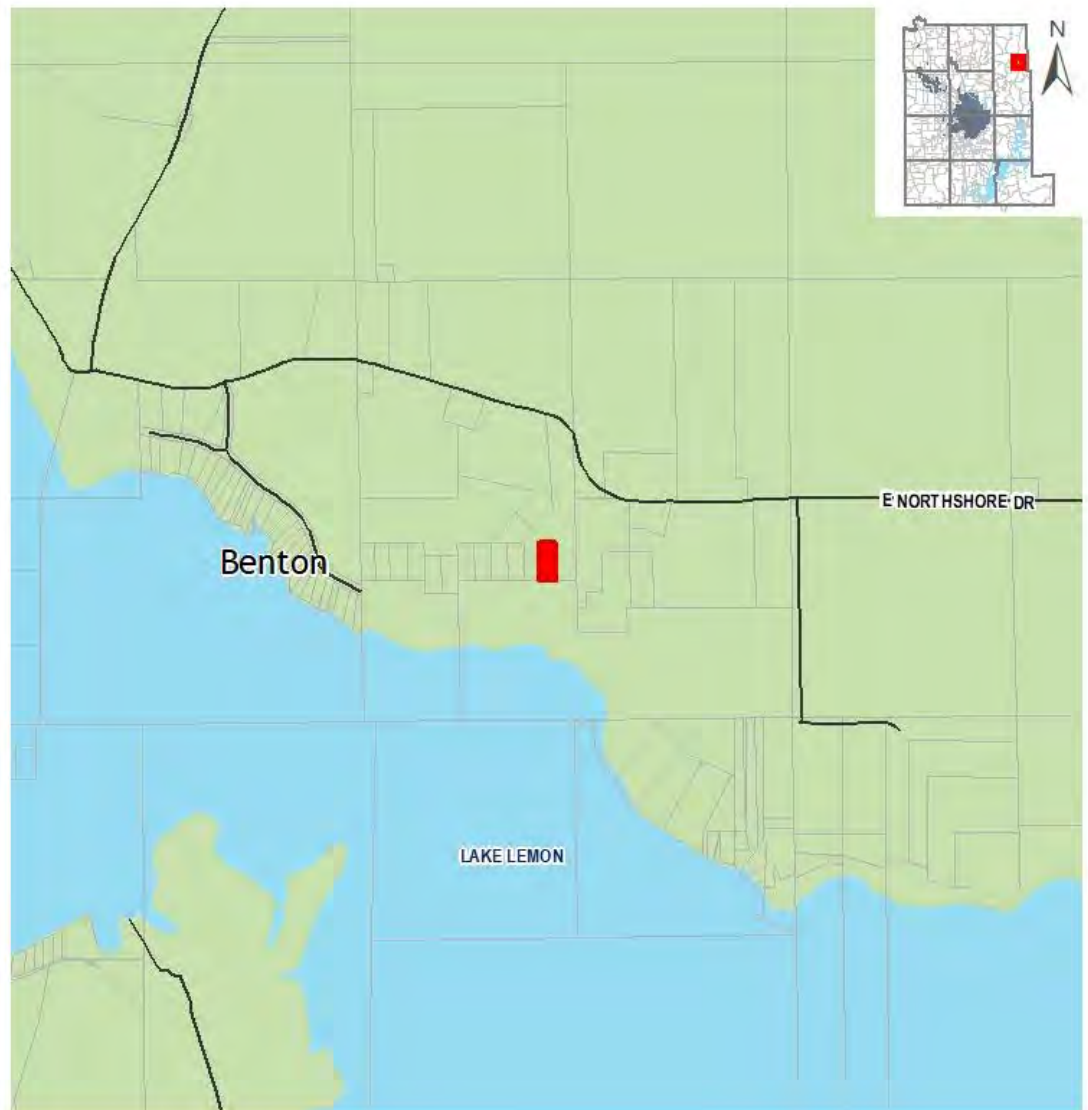
- A. No more than four (4) accessory buildings or structures shall be erected on a lot. This provision shall not apply in the AG/RR, CR, and FR zoning districts which allow a maximum lot coverage of 15,000 square feet without limitation to the number of structures.
- B. An accessory building or structure equal to or less than 15 feet in height shall be permitted within five (5) feet of rear property line(s).
- C. Accessory buildings or structures greater than 15 feet in height are subject to all applicable setbacks.

LOCATION MAP

The site is located at 8188 E Northshore Drive in Benton North Township section 27.

Location Map

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





ZONING CLASSIFICATION

The petition site is zoned Suburban Residential (SR) and is surrounded by Forest Reserve (FR) zoning. There is other SR zoning in the vicinity. The current use is residential and the surrounding uses are residential, vacant and recreational to the south.


Current Zoning Map

 Petitioner


 Parcels


 Roads


 Lakes


 Hydrologic Features

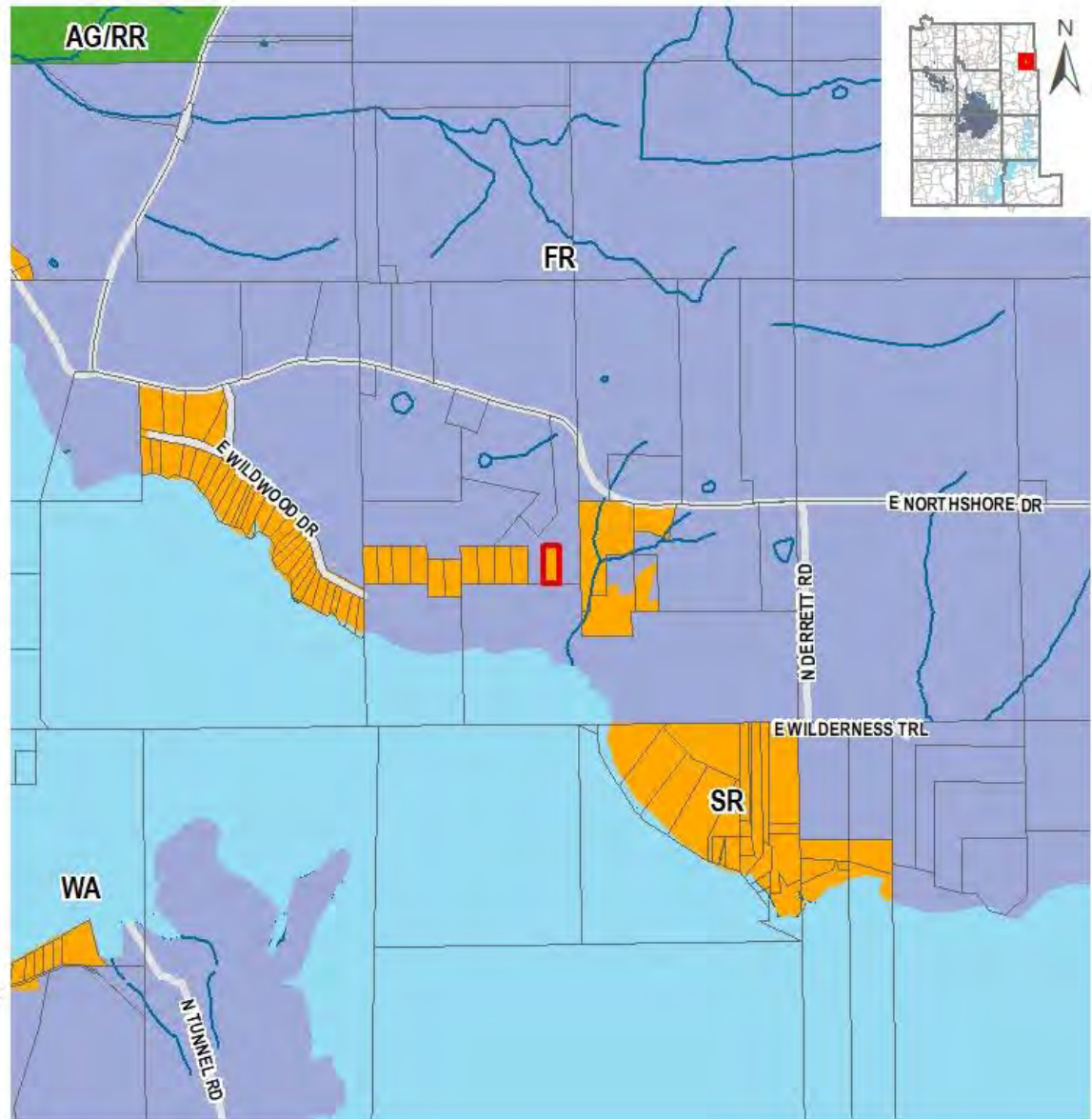
Monroe County Zoning

 AG/RR - Agriculture/Rural Reserve

 FR - Forest Reserve

 SR - Suburban Residential

 WA - Water



0 435 870 1,740 Feet



Monroe County
Planning Department
Source: Monroe County GIS
Date: 3/30/2021

SITE CONDITIONS

The site is approximately 0.5 acres and has a residence under construction and residential accessory structure under construction. The site access is via an easement that connects to e Northshore Drive, a Minor Collector. Drainage runs south towards Lake Lemon. There is no FEMA Floodplain or known karst features on the lot. The site is on septic that is located on the adjacent property to the east and is within an easement.

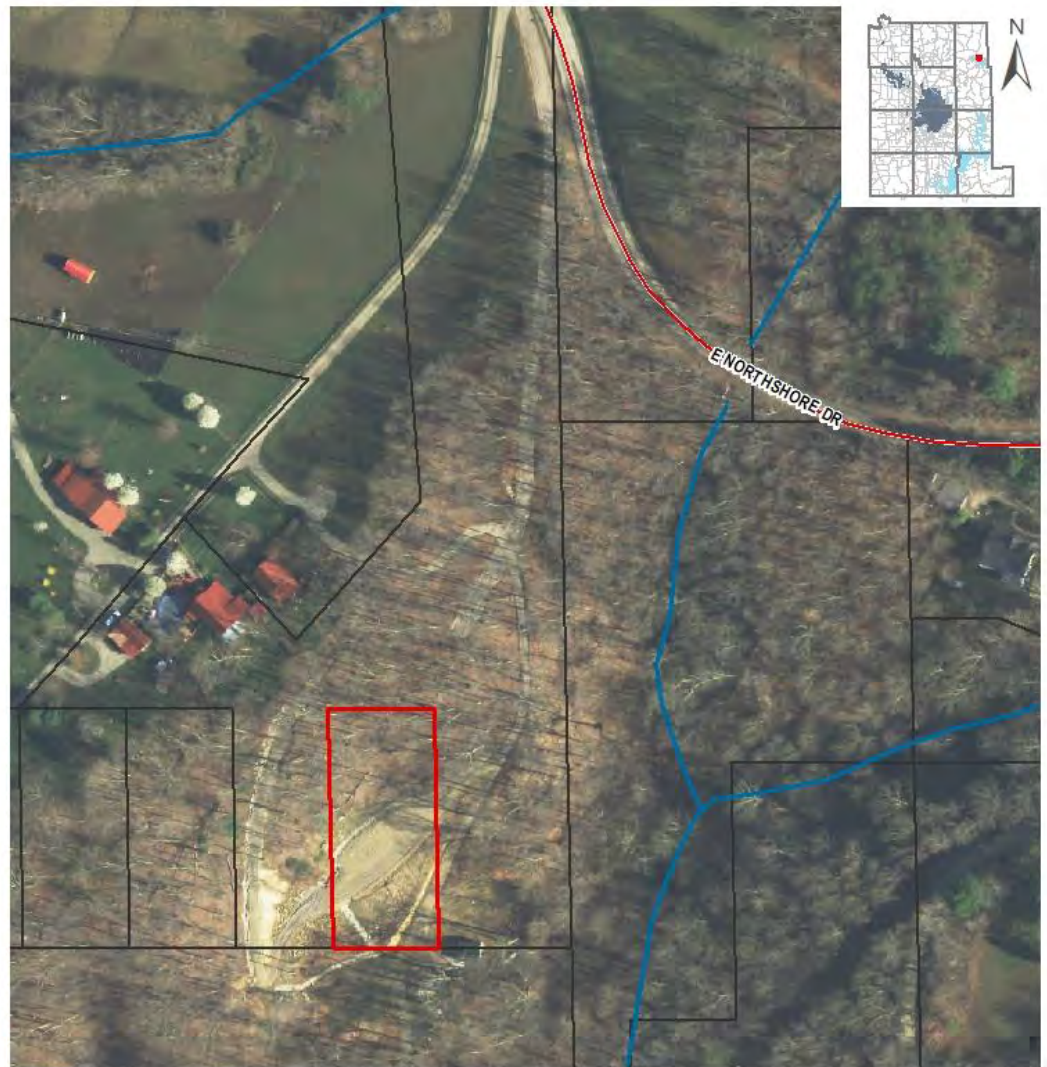
Site Conditions Map

-  Minor Collector [60']
-  Petitioner
-  Local Roads [50']
-  Hydrologic Features
-  Parcels

0 0.01 0.02 0.04 Miles



Monroe County
Planning Department
Source: Monroe County GIS
Date: 3/30/2021

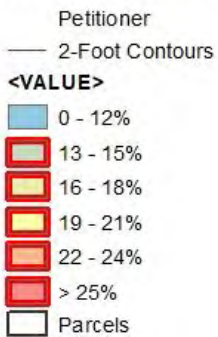


SLOPE

Slopes prior to construction on the property were over 25 percent. There are two areas that have been graded to allow building sites for the residence and the accessory structure.

Staff will note that the erosion control methods installed on the site as a result of previous enforcement action appear to have stabilized the site and there were not signs of sediment runoff at the time of the December 4, 2020 inspection.

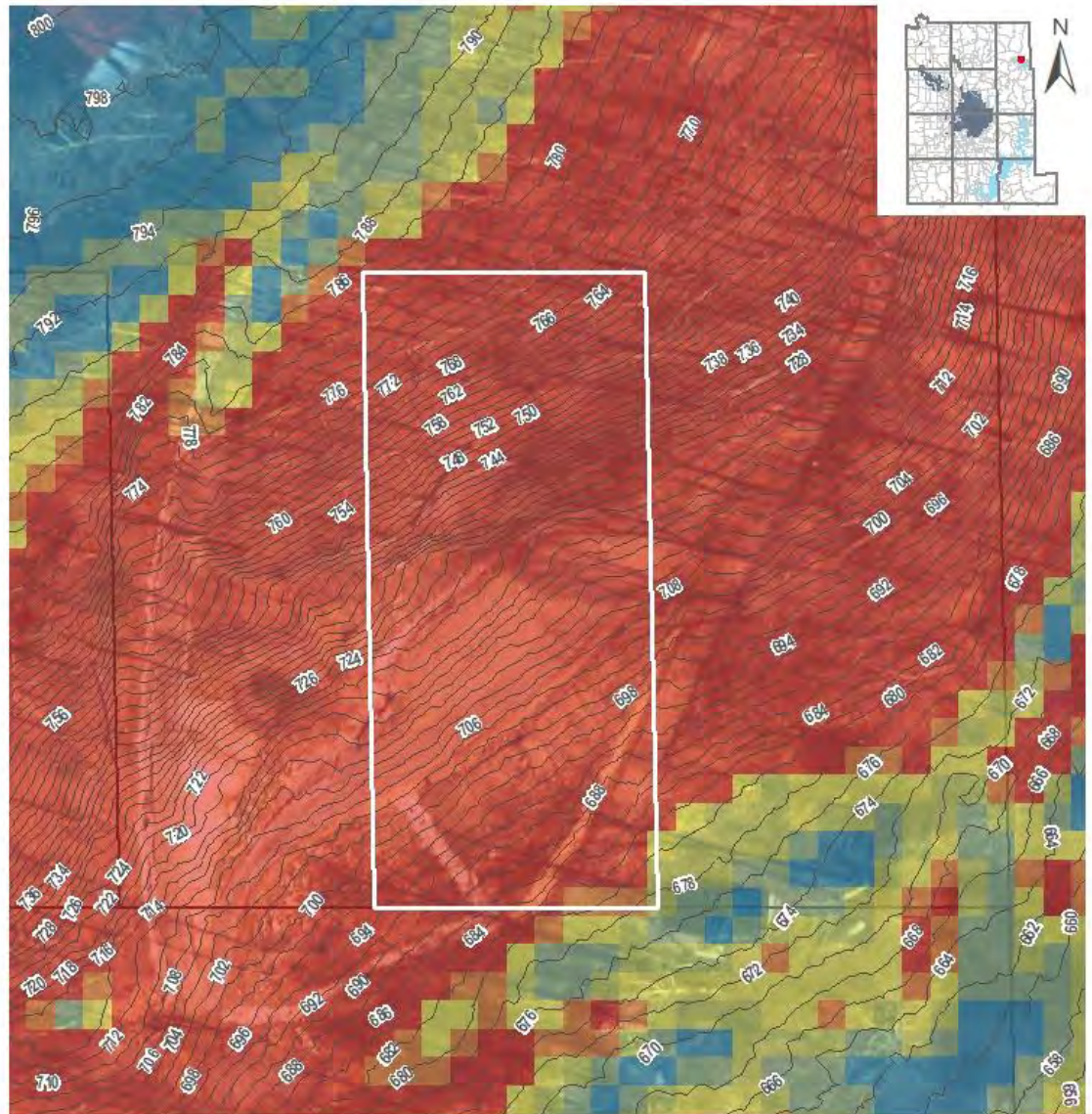
Site Conditions Map



0 0.0045 0.009 0.018 Miles



Monroe County
Planning Department
Source: Monroe County GIS
Date: 3/30/2021



Aerial from 2016

SITE PHOTOS:



Figure 1. Facing north: view of the residence on the left and the accessory structure on the right. Note door on the west and south side of the accessory structure.



Figure 2. Facing south: view of accessory structure. Note the left side of the building with the upper and lower decks.



Figure 3. Facing north: view of the east side of the accessory structure. There are a total of three entrances on this side. The upper and lower deck do not meet the side setback.



Figure 4. Facing east: the west side of the accessory structure with an upper and lower door. The lower door appears to have a zero step entry. There is a door on the south side of the deck.



Figure 5. Facing east: view of the southeast corner of the lot. The accessory structure (left) is just meeting the 10' setback. Staff has concerns the driveway and much of the building materials are on the City of Bloomington property.



Figure 6. North side of the structure with utility connections including water and septic.



April 2020 Aerials of residence and accessory structure. Facing north



April 2020 Aerial view facing east.



April 2020 aerial view facing north of the petition site and surrounding area.

COMPREHENSIVE PLAN

The petition site is located within the Monroe County Comprehensive Plan Designated Communities 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, Polk, 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
-  Managed Lands
-  Rural Residential
-  Water

0 0.075 0.15 0.3 Miles



Monroe County
Planning Department
Source: Monroe County GIS
Date: 3/30/2021



FINDINGS OF FACT: Side 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:

Primary:

- Approval of the variance would allow petitioner to amend their building permit application to add stairs and decking on an accessory structure that will encroach 3.3' into a 5' setback;
- The property abuts the City of Bloomington property to the south known as Lake Lemon;
- There are no designated scenic areas nearby;

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:

Primary:

- See Findings A(1);
- The petition site utilizes septic that is located in an easement on the property to the east;
- The easement allows the petitioner to have full, complete, and exclusive right to utilize and occupy the Easement Land without interference from the property owner;
- The petitioner accesses the property from a shared easement off of E Northshore Dr.;

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:

Primary:

- See Findings A(1);
- The property is zoned Suburban Residential (SR);
- The SR zone requires a 5' setback for structures;
- The decking and stairs are 1.7' from the property line which is a 3.3' encroachment into the setback;
- The use is residential with surrounding areas being residential and recreational;

- 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:

Primary:

- See Findings A(1), A(2), and A(3);
- The purpose of the setback is to ensure adequate light, air, privacy for adjacent properties; to provide access to any structure for maintenance and emergency services; and to preserve the general character of zoning district;
- If the variance is granted a 1.7' side yard setback exist for structure;
- Sufficient room would remain after the variance to allow maintenance for the structure due to the easement agreement;

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:

Primary:

- See Findings B(1);
- Allowing the eastern decking and stairs would not impact the use and enjoyment of other properties;
- The accessory structure is for accessory use and is not to be used as a residence;
- Drainage runs to the south towards Lake Lemon;
- The site was shown to have been stabilized and was not showing current signs of erosion;

Conclusion:

- There are foreseeable detrimental conditions to the use and enjoyment of other properties that would result from the proposed expansion;

(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:

- There are not practical difficulties deemed appropriate to grant this side yard setback variance;
- The petitioner built the eastern decks and stairs without permit disclosure and staff considers this a self-created hardship;
- The accessory structure has what appears to be a zero step entry on the western side of the structure that connects to the front porch where a second access on the south of the building exists;
- The eastern stairs and decks could be removed and the structure would meet Chapter 804 setback standards and still have two points of ground floor access;
- The second story has stairs on the west side of the building with doors on the west and south side of the structure already;

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 STATEMENT

3/2/2021

I wish to file for a variance for a wheel chair ramp on the side of the garage. The house and garage are at the legal setbacks. The wheel chair access is encroaching by a few feet on the lot next to us which we have a legal easement in Monroe County that is recorded. I'm sorry that this was a oversight by the builders and us. My sister is disabled and this would give her access to the lower lot and lake for the land is steep and hilly.

Sincerely Thomas Wyes

8188 E North Shore Dr
Unionville, Indiana

47468
7653463126

EXHIBIT 2: Petitioner's Site Map



EXHIBIT 3: Recreational Easement Agreement

2015016433 EASE \$34.00
12/02/2015 02:13:36P 12 PGS
Eric Schmitz
Monroe County Recorder IN
Recorded as Presented



AMENDED RECREATIONAL EASEMENT AGREEMENT

This Amended Recreational Easement Agreement is entered by and between Thomas Wyss ("Wyss") and Kimberly A. Zimmerman ("Zimmerman").

RECITALS:

A. Wyss is the fee simple owner of property in Monroe County, Indiana described as follows:

See Exhibit A

B. Zimmerman is the owner of adjoining and nearby real property located in Monroe County, Indiana, legally described as follows:

See Exhibit B

C. On June 23, 2012, the parties executed a Recreational Easement Agreement that was recorded in the Recorder's Office of Monroe County, Indiana as Instrument No. 2012004738 EASE.

D. Certain disputes have arisen between the parties and they wish to resolve their differences by, in part, amending their existing Recreational Easement upon the terms set forth below.

E. The parties wish to amend and modify their Recreational Easement Agreement in accordance with the terms and conditions set forth below.

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt and sufficiency of which is acknowledged by both parties, Wyss and Zimmerman hereby agree as follows:

1. Grant of Easement by Zimmerman to Wyss. Zimmerman hereby grants and conveys to Wyss, and to his successors and assigns, a Recreational Easement over and upon the real property described on Exhibits C and D (hereafter the "Easement Land") attached hereto and made a part hereof. A survey drawing depicting the Easement Land is attached hereto as Exhibit E.

2. **Exclusive Use and Benefit.** The Easement being granted and conveyed by Zimmerman to Wyss hereby shall be for the exclusive use and benefit of Wyss and his successors in interest. Zimmerman hereby grants Wyss, and his successors and assigns, the full, complete, and exclusive right to utilize and occupy the Easement Land without interference by Zimmerman, her tenants, her contract purchasers, or her successors in interest.

3. **Maintenance of Easement.** The parties agree that Wyss shall be solely obligated to maintain the Easement Land, including any improvements or structures that Wyss may hereafter place upon such land.

4. **Removal of Trees.** The parties agree that Wyss shall have the right to cut and remove trees from the Easement Land and retain such trees for his sole and exclusive use and benefit.

5. **Liberal Use.** Zimmerman hereby grants Wyss liberal latitude to utilize the Easement Land for such purposes and in such ways as Wyss sees fit and appropriate in his sole discretion. Such uses presently contemplated include, but are in no way limited to, the following: Installation, placement and maintenance of a septic field, septic tank, propane tank, generator, shed(s), fences, gates, and any and all lines, cables, pipes, or other connections necessary for their utilization.

6. **Placement of fencing and gates.** Wyss shall have the right, but not the obligation, to place and maintain fencing, gates, and a guardrail upon the Easement Land in the areas described on Exhibit F. No gate placed by Wyss in the area closest to North Shore Drive (see Exhibit F) shall be permitted to block or impede the driveway leading to Zimmerman's residence.

7. **Binding Effect.** The terms and conditions of this Amended Recreational Easement Agreement shall run with the land affected hereby, and shall be binding upon Zimmerman, Wyss, and their respective estates, successors, and assigns.

IN WITNESS WHEREOF, KIMBERLY A. ZIMMERMAN and THOMAS WYSS, do hereby execute this Amended Recreational Easement Agreement.

Dated: 11/23/, 2015


Kimberly A. Zimmerman

STATE OF INDIANA)
)SS:
COUNTY OF MONROE)

Before me, a Notary Public in and for said county and state, personally appeared Kimberly A. Zimmerman, who acknowledged execution of the foregoing Easement Agreement, and who, being duly sworn, stated the representations contained therein to be true.

WITNESS my hand and notarial seal this 23rd day of November, 2015.



(Signature)

Tammy I. Spivey

(Printed)

Tammy I. Spivey

Notary Public

Residing in Monroe County, IN

Dated: Nov 19, 2015

Thomas Wyss
Thomas Wyss

STATE OF INDIANA)
)SS:
COUNTY OF MONROE)

Before me, a Notary Public in and for said county and state, personally appeared Thomas Wyss, who acknowledged execution of the foregoing Easement Agreement, and who, being duly sworn, stated the representations contained therein to be true.

WITNESS my hand and notarial seal this 19th day of November, 2015.



Katherine L. Berry

Katherine L. Berry

Notary Public

Residing in Monroe County, IN

My Commission Expires:

March 7, 2023

3

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

William J. Beggs

This Instrument Prepared By:

William J. Beggs, Attorney at Law
Bunger & Robertson
P.O. Box 910
Bloomington IN 47402-0910

The following described real estate in Monroe County, Indiana:

A part of the Southwest Quarter of the Southeast Quarter of Section Twenty-seven (27), Township Ten (10) North, Range One (1) East, bounded and described as follows, to-wit: Beginning at a point that is Four Hundred Ninety-five (495) feet South and Ten Hundred Seventy-five (1075) feet East of the Northwest corner of the said Quarter-Quarter Section; thence running North for a distance of Two Hundred Twenty-five (225) feet; thence running East for a distance of One Hundred (100) feet; thence running South for a distance of Two Hundred Twenty-five (225) feet; thence running West for a distance of One Hundred (100) feet and to the place of beginning, containing in all Five Hundred Seventeen Thousandths (0.517) of an acre, more or less. a/k/a Tract 11. ✓

ALSO TOGETHER WITH AND SUBJECT TO: An ingress/egress and utility easement as set out in the Easement Agreement recorded March 27, 2012 as 2012004738 EASE, described as follows:

A 25 foot Ingress, Egress and Utility Easement being a part of the Southeast quarter of Section 27, Township 10 North, Range 1 East, Monroe County, Indiana, the centerline of said easement being more particularly described as follows:

Commencing at a stone found marking the Southeast corner of the Northeast quarter of the Southeast quarter of said Section 27; thence along the east line of said quarter quarter North 01 degrees 27 minutes 26 seconds West for a distance of 391.03 feet; thence leaving said east line North 39 degrees 26 minutes 48 seconds West for a distance of 84.69 feet to the Point of Beginning; thence South 06 degrees 19 minutes 26 seconds East for a distance of 184.61 feet; thence South 06 degrees 10 minutes 59 seconds West for a distance of 169.39 feet; thence South 15 degrees 36 minutes 33 seconds West for a distance of 53.79 feet; thence South 04 degrees 36 minutes 38 seconds East for a distance of 297.41 feet; thence South 17 degrees 01 minutes 04 seconds West for a distance of 48.57 feet; thence South 28 degrees 59 minutes 14 seconds West for a distance of 104.96 feet to the terminus, also being the east line of the land now or formerly owned by Wyss (Instr. 2011004836).

ALSO TOGETHER WITH AND SUBJECT TO: An existing parking easement as set out in the Easement Agreement recorded March 27, 2012 as 2012004738 EASE, described as follows:

A Parking Easement being a part of the Southeast quarter of Section 27, Township 10 North, Range 1 East, Monroe County, Indiana, being more particularly described as follows:

Commencing at a Stone found marking the Southeast corner of the Northeast quarter of the Southeast quarter of said Section 27; thence along the east line of said quarter quarter North 01 degrees 27 minutes 26 seconds West for a distance of 391.03 feet; thence leaving said east line North 39 degrees 26 minutes 48 seconds West for a distance of 84.69 feet; thence South 06 degrees 19 minutes 26 seconds East for a distance of 184.61 feet; thence South 06 degrees 10 minutes 59 seconds West for a distance of 169.39 feet; thence South 15 degrees

EXHIBIT A

36 minutes 33 seconds West for a distance of 53.79 feet; thence South 04 degrees 36 minutes 38 seconds East for a distance of 137.26 feet to the Point of Beginning; thence South 04 degrees 36 minutes 38 seconds East for a distance of 40.44 feet; thence South 33 degrees 34 minutes 46 seconds West for a distance of 65.22 feet; thence North 56 degrees 25 minutes 14 seconds West for a distance of 25.00 feet; thence North 33 degrees 34 minutes 46 seconds East for a distance of 97.00 feet to the Point of Beginning, containing 0.05 acre more or less.

The following described property in Monroe County, Indiana as shown on a Survey certified on November 19, 2007 by Eric L. Deckard as "Tract 3":

A part of the Southeast Quarter of Section 27, Township 10 North, Range 1 East, being more particularly described as follows:

Commencing at a rebar found marking the Northwest corner of the Southwest quarter of the Southeast quarter of said Section 27; thence South 01 degrees 22 minutes 06 seconds East for a distance of 269.36 feet to a rebar found; thence South 89 degrees 52 minutes 21 seconds East for a distance of 754.21 feet to a rebar stamped Deckard in the centerline of a 15 foot non-exclusive easement marking the Point of Beginning; thence the following two (2) courses along said easement; 1) North 40 degrees 07 minutes 52 seconds East for a distance of 244.54 feet; 2) North 41 degrees 51 minutes 34 seconds East for a distance of 12.34 feet to a rebar stamped Deckard; thence leaving said easement South 42 degrees 32 minutes 27 seconds East for a distance of 147.76 feet to a rebar stamped Deckard; thence North 41 degrees 51 minutes 34 seconds East for a distance of 174.48 feet to a rebar stamped Deckard; thence North 04 degrees 26 minutes 10 seconds West for a distance of 587.14 feet to a spike in the centerline of North Shore Drive; thence the following four (4) courses along said centerline: 1) South 74 degrees 22 minutes 32 seconds East for a distance of 43.51 feet; 2) South 62 degrees 33 minutes 41 seconds East for a distance of 97.75 feet; 3) South 39 degrees 24 minutes 16 seconds East for a distance of 14.15; 4) South 39 degrees 26 minutes 48 seconds East 86.70 feet to a rebar stamped Deckard; thence South 01 degrees 27 minutes 26 seconds East along the East line of the Northeast quarter of the Southeast quarter for a distance of 391.03 feet to a stone found marking the Southeast corner of the Northeast quarter of the Southeast quarter of said Section thence South 01 degrees 20 minutes 20 seconds East for a distance of 504.42 feet to a rebar found; thence North 89 degrees 14 minutes 47 seconds West for a distance of 125.12 feet to a rebar stamped Deckard; thence North 01 degrees 53 minutes 46 seconds West for a distance of 225.00 feet to a rebar stamped Deckard; thence North 89 degrees 54 minutes 34 seconds West for a distance of 100.00 feet to a rebar stamped Deckard; thence South 01 degrees 53 minutes 46 seconds East for a distance of 225.00 feet to a rebar found; thence North 89 degrees 54 minutes 34 seconds West for a distance of 100.00 feet to a rebar found; thence North 01 degrees 53 minutes 46 seconds West for a distance of 225.00 feet to a rebar found; thence North 89 degrees 52 minutes 21 seconds West for a distance of 218.68 feet to the Point of Beginning, containing in all 5.21 acres more or less.

Subject to the 25 foot right of way of North Shore Drive.

Subject to all matters of record.

Subject to the following easements:

SUBJECT TO: An ingress/egress and utility easement as set out in the Easement Agreement recorded March 27, 2012 as 2012004738 EASE, described as follows:

A 25 foot Ingress, Egress and Utility Easement being a part of the Southeast quarter of Section 27, Township 10 North, Range 1 East, Monroe County, Indiana, the centerline of said easement being more particularly described as follows:

Commencing at a stone found marking the Southeast corner of the Northeast quarter of the

EXHIBIT B

Southeast quarter of said Section 27; thence along the east line of said quarter quarter North 01 degrees 27 minutes 26 seconds West for a distance of 391.03 feet; thence leaving said east line North 39 degrees 26 minutes 48 seconds West for a distance of 84.69 feet to the Point of Beginning; thence South 06 degrees 19 minutes 26 seconds East for a distance of 184.61 feet; thence South 06 degrees 10 minutes 59 seconds West for a distance of 169.39 feet; thence South 15 degrees 36 minutes 33 seconds West for a distance of 53.79 feet; thence South 04 degrees 36 minutes 38 seconds East for a distance of 297.41 feet; thence South 17 degrees 01 minutes 04 seconds West for a distance of 48.57 feet; thence South 28 degrees 59 minutes 14 seconds West for a distance of 104.96 feet to the terminus, also being the east line of the land now or formerly owned by Wyss (Instr. 2011004836).

SUBJECT TO: An existing parking easement as set out in the Easement Agreement recorded March 27, 2012 as 2012004738 EASE, described as follows:

A Parking Easement being a part of the Southeast quarter of Section 27, Township 10 North, Range 1 East, Monroe County, Indiana, being more particularly described as follows:

Commencing at a Stone found marking the Southeast corner of the Northeast quarter of the Southeast quarter of said Section 27; thence along the east line of said quarter quarter North 01 degrees 27 minutes 26 seconds West for a distance of 391.03 feet; thence leaving said east line North 39 degrees 26 minutes 48 seconds West for a distance of 84.69 feet; thence South 06 degrees 19 minutes 26 seconds East for a distance of 184.61 feet; thence South 06 degrees 10 minutes 59 seconds West for a distance of 169.39 feet; thence South 15 degrees 36 minutes 33 seconds West for a distance of 53.79 feet; thence South 04 degrees 36 minutes 38 seconds East for a distance of 137.26 feet to the Point of Beginning; thence South 04 degrees 36 minutes 38 seconds East for a distance of 40.44 feet; thence South 33 degrees 34 minutes 46 seconds West for a distance of 65.22 feet; thence North 56 degrees 25 minutes 14 seconds West for a distance of 25.00 feet; thence North 33 degrees 34 minutes 46 seconds East for a distance of 97.00 feet to the Point of Beginning, containing 0.05 acre more or less.

DECKARD LAND SURVEYING
1604 S. Henderson St.
Bloomington IN. 47401
(812) 961-0235

**SURVEY DESCRIPTION FOR
WYSS (RECREATIONAL EASEMENT #1)
JOB NO. 11-68**

An easement for recreational purposes being a part of the Southeast quarter of Section 27, Township 10 North, Range 1 East, Monroe County, Indiana, said easement being more particularly described as follows:

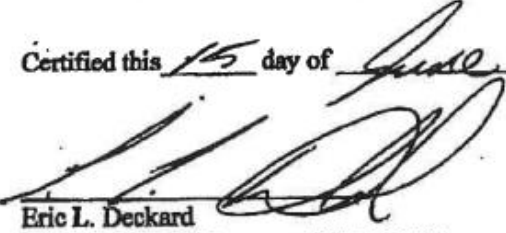
Commencing at a stone found marking the Southeast corner of the Northeast quarter of the Southeast quarter of said Section 27; thence along the east line of said quarter quarter South 01 degrees 20 minutes 20 seconds East for a distance of 278.04 feet; thence leaving said east line North 89 degrees 54 minutes 34 seconds West for a distance of 227.26 feet to the Point of Beginning; thence South 01 degrees 53 minutes 46 seconds East for a distance of 225.00 feet; thence North 89 degrees 54 minutes 34 seconds West for a distance of 85.00 feet; thence North 01 degrees 53 minutes 46 seconds West for a distance of 225.00 feet; thence South 89 degrees 54 minutes 34 seconds East for a distance of 85.00 feet to the Point of Beginning, containing 0.44 acre more or less.

Subject to all easements of record.

The within survey was performed without the benefit of source of title and is subject to any statement of facts revealed by the same.

Subject to the above reservation, the survey work shown hereon was performed either by me or under my direct supervision and control and to the best of my knowledge and belief was performed according the survey requirements in 865 IAC 1-12-1 through 19.

Certified this 15 day of June, 2012.


Eric L. Deckard
Registered Land Surveyor LS29900012
State of Indiana



DECKARD LAND SURVEYING
1604 S. Henderson St.
Bloomington IN. 47401
(812) 961-0235

**SURVEY DESCRIPTION FOR
WYSS (RECREATIONAL EASEMENT #2)
JOB NO. 11-68**

An easement for recreational purposes being a part of the Southeast quarter of Section 27, Township 10 North, Range 1 East, Monroe County, Indiana, said easement being more particularly described as follows:


Commencing at a stone found marking the Southeast corner of the Northeast quarter of the Southeast quarter of said Section 27; thence along the east line of said quarter quarter South 01 degrees 20 minutes 20 seconds East for a distance of 278.04 feet to the Point of Beginning; thence continuing along said east line South 01 degrees 20 minutes 20 seconds East for a distance of 226.38 feet; thence leaving said east line North 89 degrees 14 minutes 47 seconds West for a distance of 125.12 feet; thence North 01 degrees 53 minutes 46 seconds West for a distance of 225.00 feet; thence South 89 degrees 54 minutes 34 seconds East for a distance of 127.26 feet to the Point of Beginning, containing 0.65 acre more or less.

Subject to all easements of record.

The within survey was performed without the benefit of source of title and is subject to any statement of facts revealed by the same.

Subject to the above reservation, the survey work shown hereon was performed either by me or under my direct supervision and control and to the best of my knowledge and belief was performed according the survey requirements in 865 IAC 1-12-1 through 19.

Certified this 15 day of June, 2012.


Eric L. Deckard
Registered Land Surveyor LS29900012
State of Indiana





