

# **MONROE COUNTY BOARD OF ZONING APPEALS**

**\*Continuance of the regularly scheduled meeting held on May 4, 2022\***



**Wednesday, May 11, 2022  
6:00 p.m.**

## **Hybrid Meeting**

### **In-person**

Monroe County Government Center  
501 N Morton Street, Room 100B  
Bloomington, Indiana

### **Virtual**

**Zoom Link:** <https://monroecounty-in.zoom.us/j/84992412568?pwd=Vm5yMnNRem01bmlwVnRjQ0xlME9qUT09>

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)**  
**\*Continuance of the regularly scheduled meeting held on May 4, 2022\***

**HYBRID MEETING**

**When:** May 11, 2022 at 6:00 PM

**Where:** Monroe County Government Center, 501 N Morton ST, Room 100B, Bloomington, IN 47404

Zoom link: <https://monroecounty-in.zoom.us/j/84992412568?pwd=Vm5yMnNRem01bmIwVnRjQ0xIME9qUT09>

If calling into the Zoom meeting, dial: 312-626-6799

When prompted, enter the Meeting ID #: 849 9241 2568

Password: 373168

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**CALL TO ORDER**

**ROLL CALL**

**INTRODUCTION OF EVIDENCE**

**APPROVAL OF AGENDA**

**APPROVAL OF MINUTES:**

**October 6, 2021, November 3, 2021, December 1, 2021, January 5, 2022**

**ADMINISTRATIVE BUSINESS:**

**OLD BUSINESS:**

**NEW BUSINESS:**

- |  |   |
|--|---|
| <b>10. VAR-22-12</b>   | <b>Hernly Minimum Lot Size Variance to Chapter 804</b> <b>PAGE 4</b><br>One (1) 1.01 +/- acre parcel in Indian Creek Township, Section 15 at S Rockport Rd, parcel #53-10-15-400-010.000-007.<br>Owner: Barbra Anne Wascisin Hernly Trust<br>Petitioner: Jason Minsterketter<br><b>Zoned AG/RR.</b> Contact: <a href="mailto:acrecelius@co.monroe.in.us">acrecelius@co.monroe.in.us</a>   |
| <b>11. VAR-22-13 a</b><br><b>12. VAR-22-13 b</b><br><b>13. VAR-22-13 c</b> | <b>Barker Minimum Lot Size to Variance to Chapter 804</b> <b>PAGE 8</b><br><b>Barker Front Yard Setback Variance to Chapter 804</b><br><b>804 Barker Buildable Area 15% slope Variance to Chapter 804</b><br>One (1) 0.19 +/- acre parcel in Benton North Township, Section 34 at 9390 N Derrett RD, parcel #53-01-34-100-026.000-003.<br>Owner: Scott D Barker<br><b>Zoned SR.</b> Contact: <a href="mailto:tbehrman@co.monroe.in.us">tbehrman@co.monroe.in.us</a><br><b>***REQUEST FOR CONTINUANCE BY PETITIONER***</b> |
| <b>14. VAR-22-14a</b><br><b>15. VAR-22-14b</b>                             | <b>Tichenor Front Yard Setback Variance to Chapter 804</b> <b>PAGE 23</b><br><b>Tichenor Buildable Area 15% slope Variance to Chapter 804</b><br>One (1) 0.11 +/- acre parcel in Benton North Township, Section 34 at 9343 N Derrett RD, parcel #53-01-34-100-006.000-003.<br>Owner: Tichenor, Jonathan E & Marta J; Tichenor, Timothy L & Terri D<br><b>Zoned SR.</b> Contact: <a href="mailto:tbehrman@co.monroe.in.us">tbehrman@co.monroe.in.us</a>  |

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

Written comments regarding agenda items may only be submitted by email until normal public meetings resume. Please submit correspondence to the Board of Zoning Appeals at: [PlanningOffice@co.monroe.in.us](mailto:PlanningOffice@co.monroe.in.us) no later than May 4, 2022 at 4:00 PM.

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

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

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

The meeting will be open to the public via ZOOM.



# **MONROE COUNTY BOARD OF ZONING APPEALS**

**Public Meeting Date: May 4, 2022**

| CASE NUMBER | DETAIL                        | RECOMMENDED MOTION |
|-------------|-------------------------------|--------------------|
| VAR-22-12   | Minimum Lot Size from Ch. 804 | Approval           |

812-6 Standards for Design Standards Variance Approval: In order to approve an application for a design standards variance, the Board must find favorable findings for all three (3) criteria, A, B, and C, listed after the agenda within the BZA packet.

***Recommended Motion Conditions or Reasoning:***

Legal lot of record that has contained a single family residence.

**Variance Type:**    ☒ Design ☐ Use  
                              ☒ Residential ☐ Commercial

**Planner:** Anne Crecelius

|                           |   |                 |
|---------------------------|---|-----------------|
| <b>PETITIONER</b>         | Jason Minsterketter<br>Owner: Barbara Anne Wascisin Hernly Trust                |                 |
| <b>ADDRESS</b>            | 8489 S Rockport Rd, parcel # 53-10-15-400-010.000-007                           |                 |
| <b>TOWNSHIP + SECTION</b> | Salt Creek, 08  |                 |
| <b>PLATS</b>              | <input checked="" type="checkbox"/> Unplatted <input type="checkbox"/> Platted: |                 |
| <b>ACREAGE +/-</b>        | 1.01  |                 |
|                           | <b>PETITION SITE</b>  | <b>ADJACENT</b> |
| <b>ZONING</b>             | AG/RR   | CR              |
| <b>CDO ZONE</b>           | Farm and Forest   | Farm and Forest |
| <b>USE</b>                | SFR   | SFR             |

**SUMMARY**

The petitioner is requesting a Minimum Lot Size variances from Chapter 804. The property is 1.01 acres and zoned Agricultural Rural Reserve (AG/RR) which requires a minimum of 2.5 acres. The petitioner has an approved Demolition permit to remove the existing home that is currently on the property. The petitioner also has applied for a Single Family Residential Structure Permit which is pending per this variance request. The petitioner's intent is to remove and rebuild the single family structure. The current structure is within the front setback – if this variance is approved the petitioner will make the structure more conforming with the ordinance by meeting the setback requirements.

The petitioner has discussed this idea of operating a non-profit organization off of this site but would be unable to meet all of the Zoning Ordinance requirements and Indiana commercial building code. The petitioner has stated that the proposed structure will be for residential purposes only.

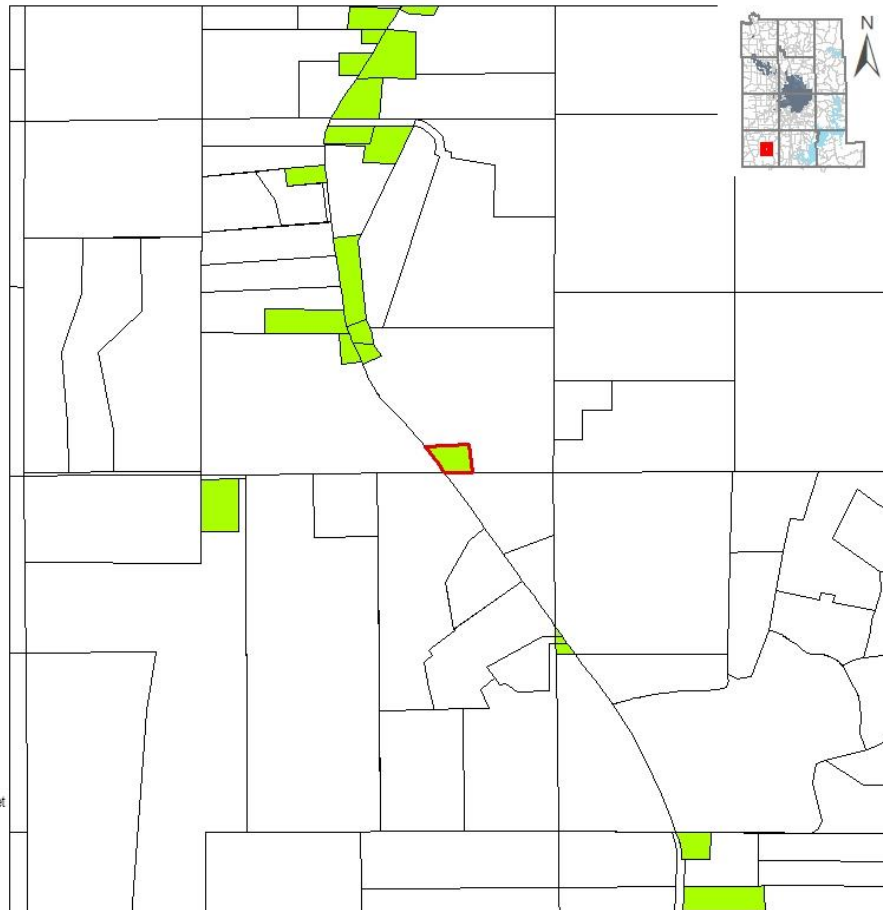
## Parcel Size Map

-  Petitioner
- Parcel Size (Acres)**
-  0.000000 - 2.500000
-  2.500001 - 620.760000

0 465 930 1,860 Feet



Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 4/22/2022



### **EXHIBITS - Immediately following report**

1. Pictometry Photo & Site Photos
2. Petitioner Letter
3. Site Plan





To the Board of Zoning Appeals,

In regards to a lot on the property of 8489 S Rockport Rd Bloomington, IN 47403. It is on the Southwest corner of the whole property and is legally defined in the deed as:

A part of the Southeast quarter of Section 15, Township 7 North, Range 2 West, Monroe County, Indiana, bounded and described as follows: Beginning at a point that is 820.15 feet West of the Southeast corner of said quarter and on the South line of said quarter and in the centerline of Rockport Road; thence running with said centerline North 34 degrees 12 minutes 25 seconds West for 191.25 feet; thence leaving said road centerline and running North 82 degrees 37 minutes 06 seconds East for 278.65 feet; thence South 12 degrees 33 minutes 31 seconds East for 197.98 feet and to the South line of said quarter; thence running with said line West for 208.50 feet and to the point of beginning. Containing in all 1.01 acres, more or less.

My name is Jason Minsterketter, and I am writing today on behalf of my wife Alex Hernly and my mother-in-law Barbara Wascisin Hernly as well. We would like to remove the two ruined buildings on this lot and replace them with a new home for Alex and myself. Barbara already lives in another lot on the property.

Anne Crecelius of the planning department has informed us that, while the lot is zoned as Ag RR, it does not meet the modern lot size requirement of 2.5 acres for the category. And so we would like to appeal to you for a variance to allow us to build a new home with new septic on that lot despite it being only 1.01 acres.

Thank you for your time and consideration,  
Jason Minsterketter





# **MONROE COUNTY BOARD OF ZONING APPEALS**

**Public Meeting Date: May 4, 2022**

| CASE NUMBER | DETAIL                                     | RECOMMENDED MOTION |
|-------------|--|--------------------|
| VAR-22-13a  | Minimum Lot Size Variance from Chapter 804 | Denial             |
| VAR-22-13b  | Front Yard Setback from Chapter 804        | Denial             |
| VAR-22-13c  | Buildable Area Variance from Ch. 804       | Approval           |

**812-6 Standards for Design Standards Variance Approval:** In order to approve an application for a design standards variance, the Board must find favorable findings for all three (3) criteria, A, B, and C, listed after the agenda within the BZA packet.

***Recommended Motion Conditions or Reasoning:***

Staff recommends **denial** of variance VAR-22-13a Minimum Lot Size Variance. Home could be redesigned to meet the setback requirements and make the lot size issue moot.

Staff recommends **denial** of variance VAR-22-13b Front Setback Variance. Home could be redesigned to meet the setback requirements.

Staff recommends **approval** of variance VAR-22-13c with the following conditions:

1. Submit grading permit to review erosion and drainage plan by the MS4 Coordinator for updated plans.
2. Submit plan for any tree preservation or removal signed off by a Certified Arborist including protection of trees as may be necessary located adjacent to the site improvements.
3. Submit a recorded easement for the septic system on property 53-01-34-100-014.000-003.
4. Prior to the start of construction, a licensed engineer/surveyor will clearly mark the construction limits with respect to the City of Bloomington property lines, base flood elevation contour 635.1' and tree conservation including drip line. Planning staff to inspect boundaries and installed erosion control measures prior to the start of construction.
5. As-Built survey including an Elevation Certificate required prior to Certificate of Occupancy release.

**Variance Type:** ☒ Design ☐ Use  
☒ Residential ☐ Commercial

**Planner:** Tammy Behrman

|                           |   |   |
|---------------------------|---|---|
| <b>PETITIONER</b>         | Scott D. Barker<br>(owner/applicant)  |   |
| <b>ADDRESS</b>            | 9390 N Derrett RD,<br>53-01-34-100-026.000-003                                      |   |
| <b>TOWNSHIP + SECTION</b> | Benton<br>34  |   |
| <b>PLATS</b>              | <input checked="" type="checkbox"/> Unplatted <input type="checkbox"/> Platted: n/a |   |
| <b>ACREAGE +/-</b>        | 0.17  |   |
|                           | <b>PETITION SITE</b>  | <b>ADJACENT</b>                         |
| <b>ZONING</b>             | SR  | SR; FR;                                 |
| <b>COMP PLAN</b>          | Rural Residential   | Rural Residential                       |
| <b>USE</b>                | Residential   | Residential;<br>Recreational;<br>Vacant |

**Location Map**  
☒ Petitioner  
 — Roads  
☐ Civil (Political) Townships  
☐ Lakes  
☐ Parcels

0 0.05 0.1 0.2 Miles  
 Monroe County  
 Planning Department  
 Source: Monroe County GIS  
 Date: 4/26/2022



## SUMMARY

The petitioner submitted permit R-22-337 for a 3 story home fronting Lake Lemon. The proposed structure has a 874 sf porch that encroaches 18' into the 25' front lake setback. If a structure on property zoned SR does not meet all setback requirements then a minimum lot size variance is also required. Suburban Residential zoning requires a 1.0 acre minimum, and the petition site is 0.17 acres. In addition, the floodplain limits have been delineated on the petitioner's site plan as 635.1' Base Flood Elevation. Under Chapter 804-4(E) structures are not allowed on land that does not meet Buildable Area and in this case there is technically mapped floodplain over the petitioner's entire property using the DNR Best Available Flood Data. Though the petitioner has demonstrated with a certified site plan that all site disturbance will be above the regulatory Base Flood Elevation of 635.1' it is still considered in a Special Flood Hazard Area as specified in Chapter 808 and therefore requires a design standards variance as well as a Floodplain Development Permit. Should the variances all be approved a residence totaling 6,183 sf would be approved but would be required to amend WW-21-121 septic permit to accommodate 6 bedrooms rather than the 3 bedroom system approved.

## DISCUSSION

### MINIMUM LOT SIZE

Under Chapter 804 Table 4-1 Minimum Lot Acres in SR is 1.0 acres with note (F) stating: *If all other development standards are met, no variance is required for a lot of record with an area less than one (1) acre.* In this case, a front setback variance is being requested and is triggering this variance.

### Septic Permit WW-21-121

The septic system is proposed to be approximately 300'+ offsite to the northeast on adjacent land owned by the petitioners. The septic was approved for a 3 bedroom structure. Planning requested the Health Department to review the construction plans to confirm number of bedrooms. It was determined there are 6 bedrooms for this site as defined by Monroe County Code 365-1. Below are the Health Department comments. See Exhibit 7 for septic location in relation to the other two permitted septic fields on the adjacent lot. There are staff concerns that the doubling the size to accommodate the 6 bedroom request will impact the locations of the other two septic field locations.

RC

Ryan Cushman

Remove Comment • Apr 26, 2022 at 1:31 pm

Monroe County Code 365-1 "Bedroom" for purposes of interpreting 410 IAC 6-8.1 means any room within a dwelling that is large enough and convenient for sleeping purposes and contains at least one window for natural light and ventilation, and emergency egress. A bedroom is none of the following: a bathroom, kitchen, living room, family room, dining room, closet, foyer, pantry, laundry room, furnace or utility room.

With this definition the following rooms would be counted as bedroom equivalents: Finished Fitness Room, Office, Sun Room, Master Bedroom, Bedroom #2, Bedroom #3.

This house would require a 6 bedroom septic system. The septic permit issued for a 3 bedroom house is insufficient to handle the hydraulic load of the house as designed.

RC

Ryan Cushman

Remove Comment • Apr 26, 2022 at 1:38 pm

At this point the Health Department does not have a recorded easement agreement allowing the septic system to be located on another owner's property.

### **Driveway permit: not required**

The site is accessed by a steep, single lane, private drive approximately 0.3 miles long with an elevation change of approximately 170'. One must honk when going around the blind curve for safety reasons.

Below is a summary table of variance requests.

|                  | Required | Petitioner | Difference       |
|------------------|----------|------------|------------------|
| Minimum Lot Size | 1 acre   | 0.17 acres | 0.83 deficit     |
| Front Setback    | 25'      | 7'         | 18' encroachment |

The current structure to be demolished is a 2 bedroom with a 1,250 sf footprint. Below is an analysis of the proposed structure.

|                                   |          |
|-----------------------------------|----------|
| Total Buildable Area per setbacks | 3,240 sf |
| Proposed HOME Footprint           | 2,107 sf |
| Proposed PORCH Footprint          | 874 sf   |
| Proposed Total Footprint          | 2,981 ft |
|                                   |          |
| Total living and non-living space | 6,183 sf |

Staff did evaluate the **Minimum Open Space** Requirement of 40 percent. It was confirmed they have 42 percent open space which meets the requirement. Structures, driveways and sidewalks cover 4,399 sf of the site or 58% coverage. No variance is needed though any addition of sidewalks or structures should be re-evaluated for compliance.

### **FRONT SETBACK**

The proposed home meets all setback requirements but footprint of the 874 sf two story porch is entirely in the front setback and encroaches 18' in the 25' required setback. The property to the southeast was granted a front setback for 14.5' in 2021 and is actually on the agenda to request an additional 2' setback for architectural features that further encroach into the setback. The home to the northwest meets their lakeside setback and is actually setback even further by about 5-7 ft.

The petitioner has submitted a letter (Exhibit 3) and makes an argument that the front setback encroachment, **“will enable the back side [lakeside] of our proposed house to align with the back side of my neighbor’s houses along the shoreline,”** and demonstrates this with an illustration. Staff has included a side view of the proposed home with the encroaching two story, roofed porch /deck outlined in in red as Exhibit 5. A patio that is less than 30” tall is not considered a structure and would be allowed to encroach into setbacks and is what the neighboring property to the southeast proposed.

## **FLOODPLAIN**

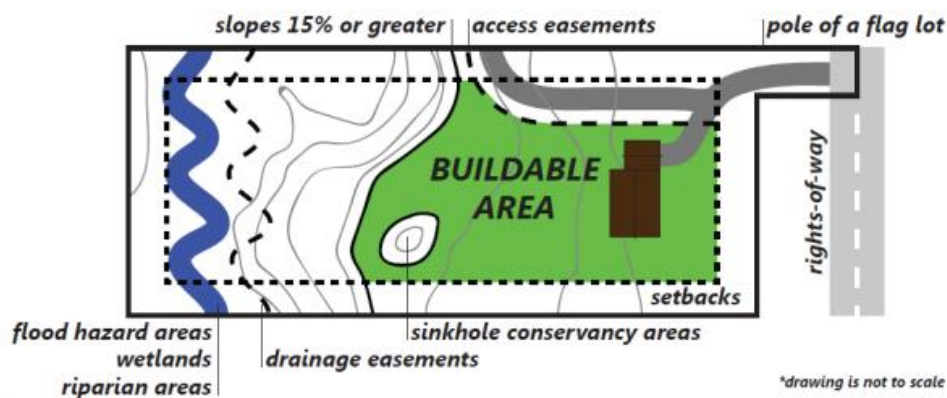
The petitions site is in a mapped Special Flood Hazard Area however all development will occur above the 635.1' Base Flood Elevation contour as shown by a certified plot plan. Lowest Floor Elevation is stated as 640' and is above the state required Flood Protection Grade of 637.1'

### Chapter 804-4(E) definition

(E) Any building or structure constructed after October 2, 2015 must be located within a buildable area. The following shall not be included in the buildable area:

- Special Flood Hazard Area as specified in Chapter 808;
- Wetlands as specified in Chapter 801;
- Slopes 15% or greater as specified in Chapter 825 Area 2 Regulations;
- Sinkhole Conservancy Areas as specified in Chapter 829;
- Drainage Easements as specified in Chapter 856;
- Riparian Conservancy Areas as specified in Chapter 801;
- Rights-of-way as specified in Chapter 801;
- Easements for access;
- Pole of a flag lot as specified in Chapter 801; and,
- Setbacks as specified by Ordinance.

Figure 4-2



### Chapter 808 definition:

**Special Flood Hazard Area (SFHA)** means those lands within the jurisdiction of Monroe County and the Town of Stinesville subject to inundation by the regulatory flood. The SFHAs of Monroe County and the Town of Stinesville are generally identified as such on the Monroe County, Indiana and Incorporated Areas Flood Insurance Rate Map dated December 17, 2010 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).



*The information provided below is based on the point of interest shown in the map above.*

County: **Monroe**

Approximate Ground Elevation: **644.3 feet (NAVD88)**

Stream Name:

Base Flood Elevation: **635.1 feet (NAVD88)**

**Lake Lemon**

Drainage Area: **Not available**

Best Available Flood Hazard Zone: **FEMA Zone A**

National Flood Hazard Zone: **FEMA Zone A**

Is a Flood Control Act permit from the DNR needed for this location? **See following pages**

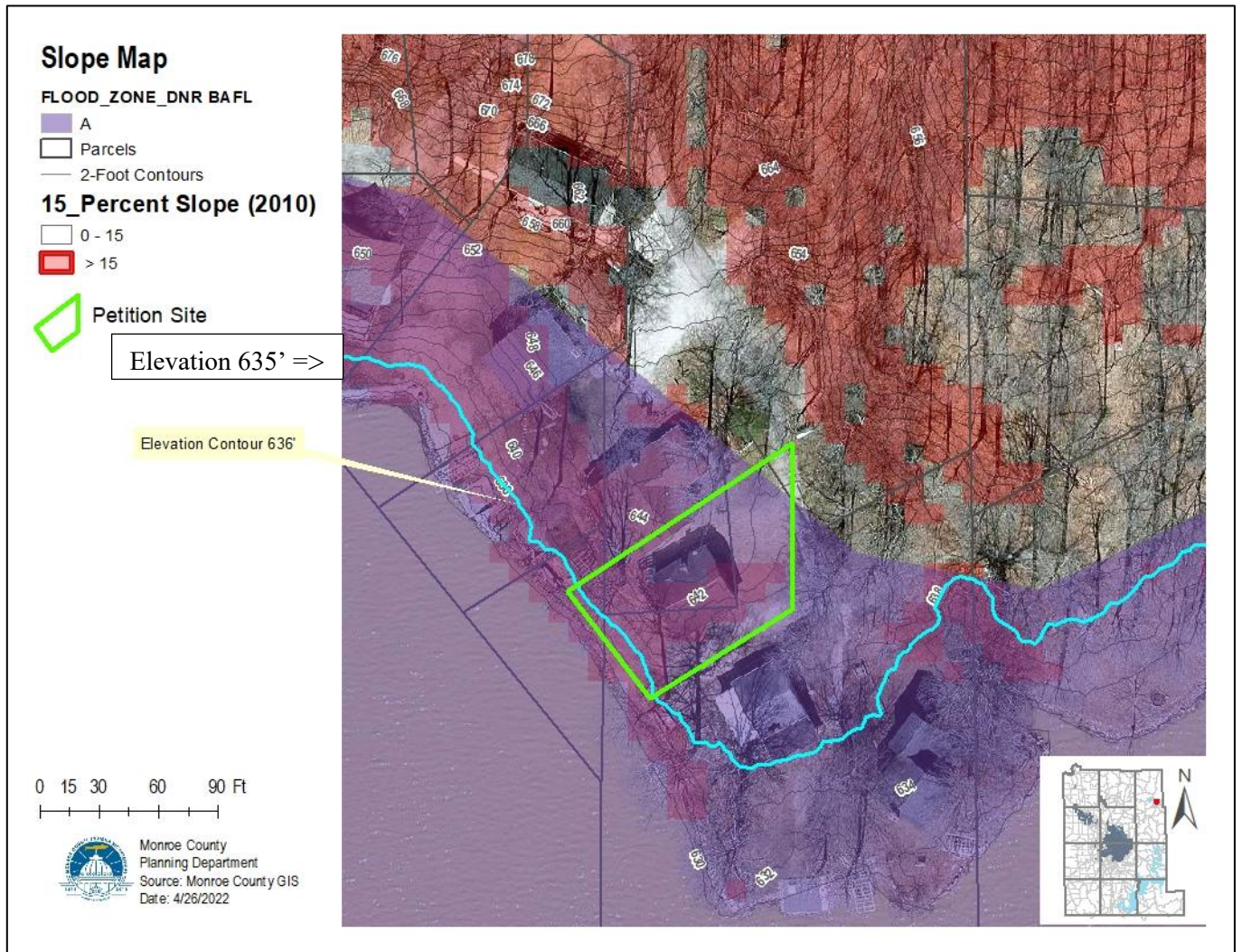
Is a local floodplain permit needed for this location? **yes-**

Floodplain Administrator: **Tammy Behrman, Senior Planner**

**EXHIBITS - Immediately following report**

1. County Slope Map 15%
2. Staff Site visit photos
3. Petition Letter
4. Petitioner Site Plan
5. Construction plans side view
6. Petitioners Erosion and Drainage Plan
7. Petitioner Site Plan with proposed septic location

## EXHIBIT 1



**Photo 1: Looking south. Shed and house have been demolished on adjacent lot.**



**Photo 2: Looking northwest;  
northwest property line along former  
house on the left.**



**Photo 3. Facing north. Red star is a  
tree of concern.**



**Photo 4. Facing north. View site of demolished home.**



**Photo 5. Facing southwest. View of a soil test site for the septic system. Petition site approx. 300+ feet on the background.**



**Red arrow is petition site. Structure with black symbol was demolished by both petitioner and CBU as it straddles the property line.**



**Aerial view 2020 depicting long access easement.**

## EXHIBIT 3: Petitioner Letter

# Monroe County Board of Zoning Appeals

Re: 9390 Derrett Road Variance Request

Dear Board of Zoning Appeals:

My wife and I have submitted a residential building permit application to tear down a vacant house on Lake Lemon in Benton township (Parcel Number 53-01-34-100-026.000-003) and build a new house.

### Existing Vacant House



Front of Vacant House



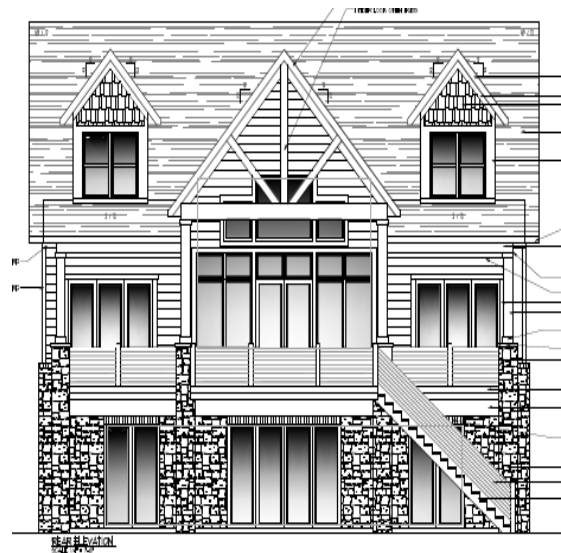
Back of Vacant House

Our new house design has a walkout basement, 3 bedrooms, 3 bathrooms, and 3,718 total living sq ft.

### New House Exterior Design



Front of New House Design



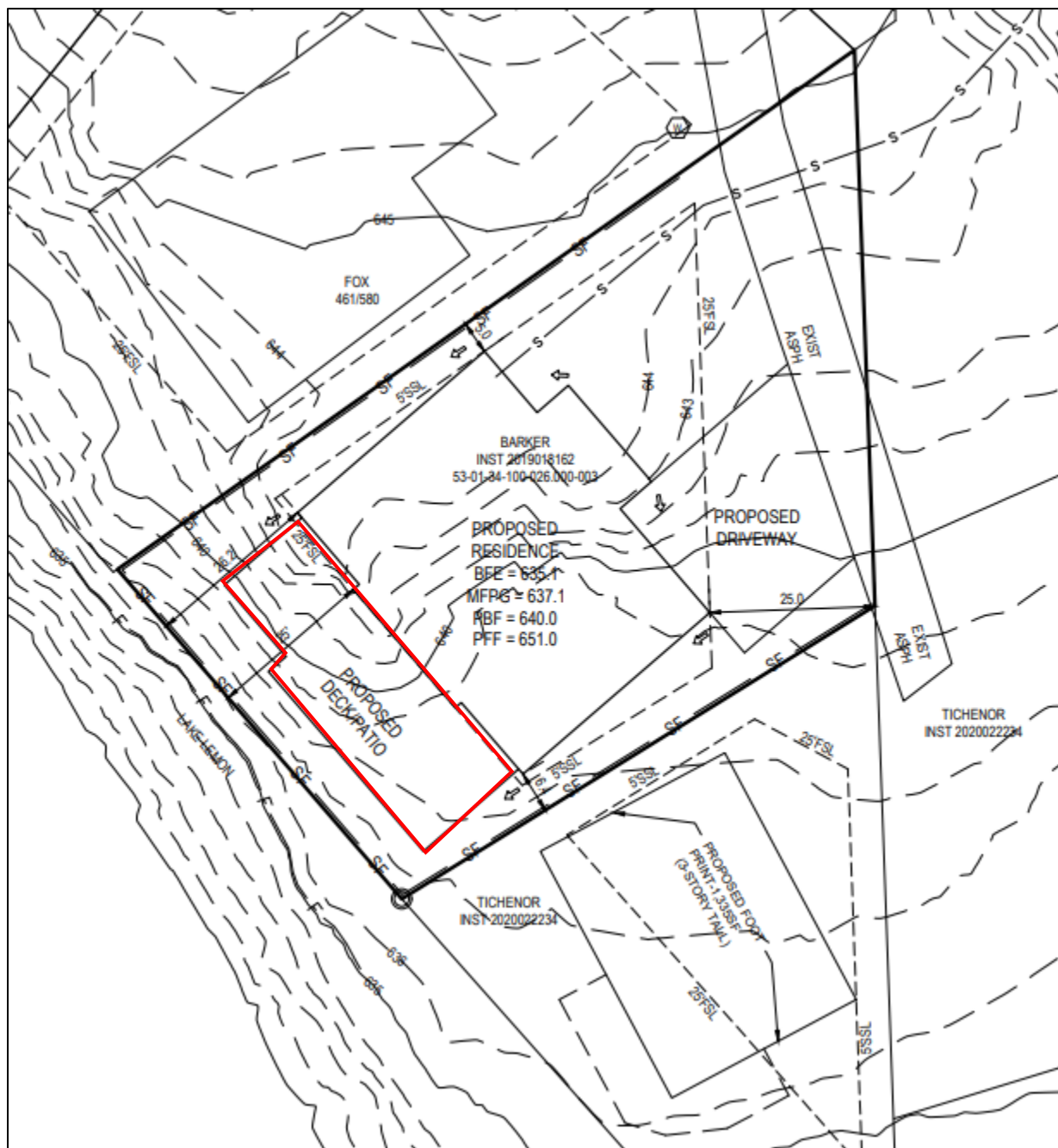
Back of New House Design

### Our Variance Request

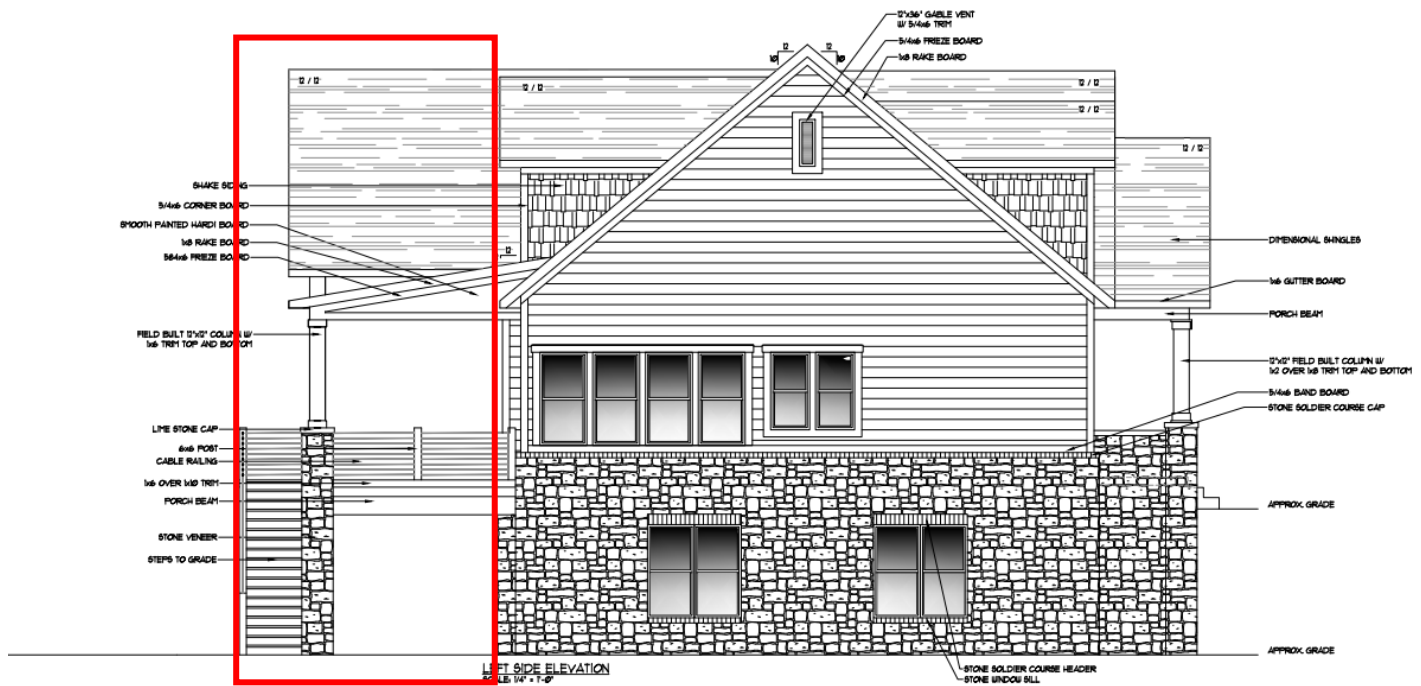
- Allow us to build our proposed Deck/Patio **outside** the property setback.
- Our entire house structure will be build **inside** the property setbacks.
- This will enable the back side our our proposed house to **align** with the back side of my neighbor's houses along the shoreline, see the **red** line below.



## EXHIBIT 4: Petitioner Site Plan

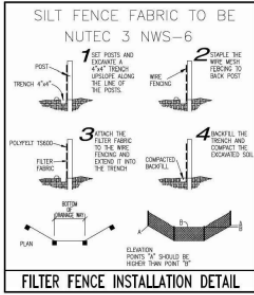


**EXHIBIT 5 Construction plans for side view of home (lakeside porch on the left)**



Area of encroachment by 18' into the 25' setback

**Drainage and erosion plan under review by MS4 Coordinator**



ALL EROSION CONTROL MEASURES SHALL BE IN COMPLIANCE WITH THE CURRENT INDIANA STORM WATER QUALITY MANUAL - PLANNING AND SPECIFICATION GUIDE FOR EFFECTIVE EROSION AND SEDIMENT CONTROL, AND POST-CONSTRUCTION WATER QUALITY.

NOTES:

-PRIOR TO ANY SITE WORK, SEDIMENT AND EROSION CONTROL MUST BE APPROVED BY COUNTY DURING AN EROSION CONTROL MEETING.

-CONCRETE WASHOUT BASIN MUST BE INSTALLED ONSITE IF ONE IS NOT ALREADY AVAILABLE.



### NOTICE, PERMITS, and NOTES

3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING OR VERIFYING THAT ALL PERMITS AND APPROVALS ARE OBTAINED FROM THE RESPECTIVE CITY, COUNTY AND STATE AGENCIES PRIOR TO STARTING CONSTRUCTION.
4. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO EXERCISE THE RIGHT OF ACCESS TO ALL NEARBY ADJACENT PROPERTIES IN THE VICINITY OF THE CONSTRUCTION AREA PRIOR TO STARTING ANY CONSTRUCTION.
5. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY FOR NOTIFICATION AND COORDINATION OF ALL CONSTRUCTION OF ANY CONSTRUCTION OF RESPECTIVE UTILITY COMPANIES PRIOR TO STARTING ANY CONSTRUCTION.
6. ALL CONSTRUCTION ACTIVITY ON THIS SITE SHALL BE PERFORMED IN COMPLIANCE WITH APPLICABLE O.S.A. STANDARDS FOR WORKER SAFETY.
7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROVIDING THE LATEST UPDATED SET OF CONSTRUCTION PLANS PRIOR TO COMMENCEMENT OF CONSTRUCTION.
8. ALL CONTRACTORS SHALL BE RESPONSIBLE FOR PROVIDING AS-BUILT INFORMATION TO THE ENGINEERING/SERVICING COMPANY UPON COMPLETION OF CONSTRUCTION.

LEGEND

- [illegible]

**LAND DATA**  
 LOT - 7, 206.56 = 0.17 AC

OPEN SPACE - 3,128 SF = 42%

**BASIS OF BEARINGS**  
INDIANA STATE PLANE, WEST ZONE

INDIAN STATE PLANE, WEST ZONE  
VERTICAL DATUM: NAVD 88

**LOAD NOT**

BASE FLOODING:       f      

## ZONING

FRONT 20  
BOX-5

NOTES

**NOTES**  
BUILDER/CONTRACTOR SHALL VERIFY  
THAT DISCONTINUOUS JOINTS ARE NOT USED.

## TO CONSTRUCTION

BUILDER TO GRADE LOT TO PROVIDE  
ADEQUATE DRAINAGE AWAY FROM  
BUILDING.

ER TO GRADE LOT 1  
ATE DRAINAGE AN

ADJACENT DRAINAGE AWAY FROM  
NEIGHBORING LOTS UNLESS THERE IS  
AN EXISTING DRAINAGE EASEMENT.

ENT DISCHARGE AS  
LOT WILL BE MINIM

THROUGHOUT LAND DISTURBING  
ACTIVITIES UNTIL PERMANENT

ENT LOT9 DISTURB

INDIVIDUAL LOT OPERATOR MUST BE  
REPAIRED AND STABILIZED WITH

## ACKNOWLEDGMENTS

SEDIMENT TRACKED OR WASHED ONTO  
ROADS SHALL BE CLEANED UP.

LT FENCE AND APP  
ON CONTROL SHALL  
LED PRIOR TO ANY

CONSTRUCTION, LOCATION OF SILT FENCE TO BE APPROVED BY THE

## NOTES

**NOTES**  
THIS EXHIBIT WAS PREPARED BASED UPON

ORDER OF MONROE  
PROCES AND IS NOT IN  
COURT AS A DISTRICT

REPRESENTED AS A RETRACEMENT OR ORIGINAL BOUNDARY SURVEY, A ROUTE SURVEY OR A SUBSEQUENT LOCATION DEPO



### LEGAL DESCRIPTION

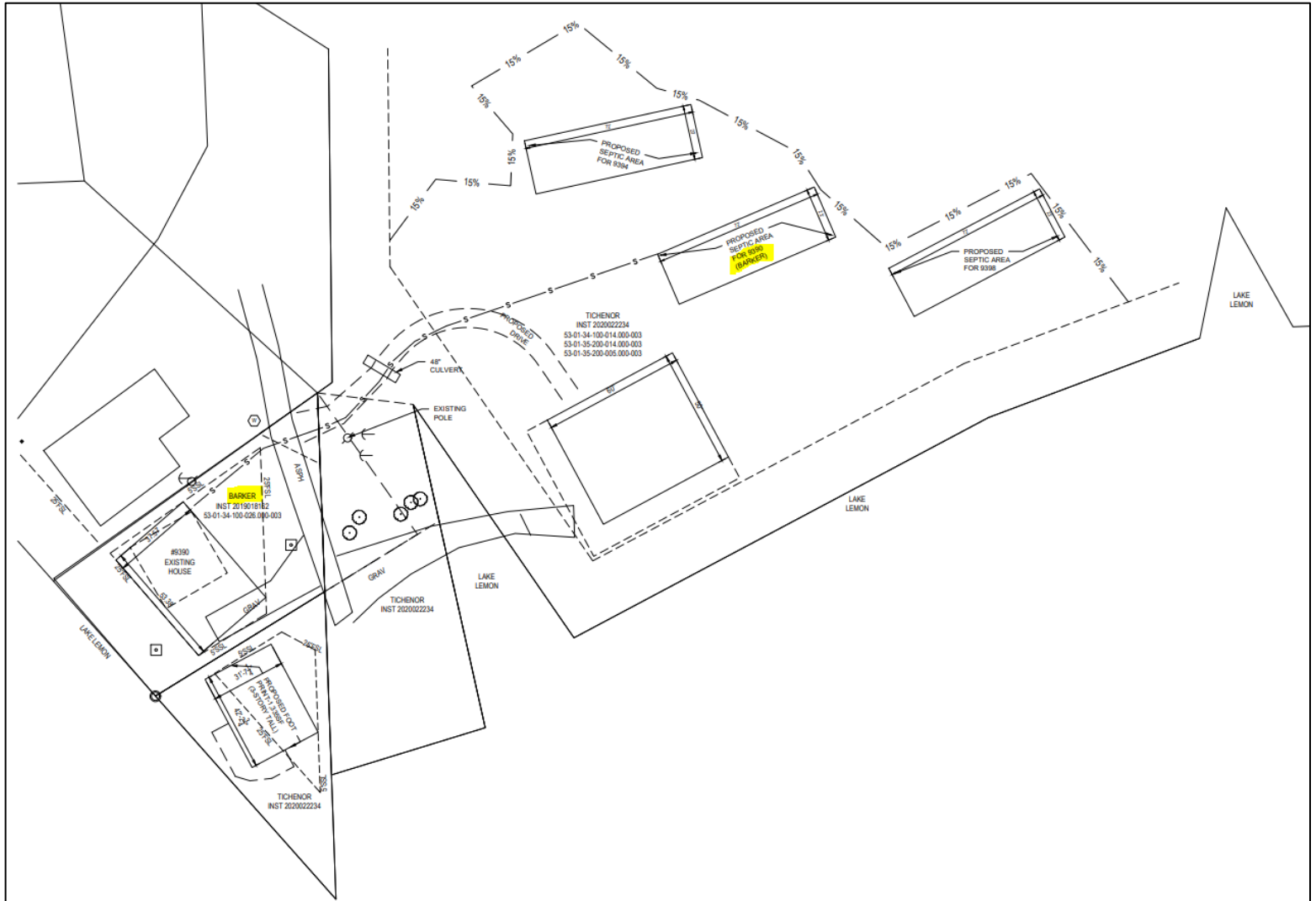
A part of the Northeast quarter of Section 34, Township 10 North, Range 1 East, Monroe County, Indiana, being more particularly described as follows:

Commencing at a rebar and marking the Northeast corner of the Northeast Quarter of said Section 34, and: thence South 01 degrees 40 minutes 18 seconds East along the East line of said Section for a distance of 903.81 feet, thence leaving said East line South 89 degrees 19 minutes 42 seconds West for a distance of 160.36 feet to a rebar found marking the Point of Beginning; thence South 01 degrees 40 minutes 18 seconds East along the East line of said Section for a distance of 903.81 feet, thence leaving said East line North 89 degrees 19 minutes 42 seconds West for a distance of 160.36 feet to a 1-3/4 inch diameter pipe found; thence North 54 degrees 51 minutes 24 seconds East for a distance of 136.29 feet to the Point of Beginning, containing 0.17 acres, more or less.

including all rights of ingress and egress under a 20 foot easement recorded in Deed Record 138 page 160, 174

## EXHIBIT 7

### Septic location on adjacent property to east Permit WW-21-312





# **MONROE COUNTY BOARD OF ZONING APPEALS**

**Public Meeting Date: May 4, 2022**

| CASE NUMBER | DETAIL                               | RECOMMENDED MOTION       |
|-------------|--------------------------------------|--------------------------|
| VAR-22-14a  | Front Yard Setback from Chapter 804  | Approval with Conditions |
| VAR-22-14b  | Buildable Area Variance from Ch. 804 | Approval                 |

812-6 Standards for Design Standards Variance Approval: In order to approve an application for a design standards variance, the Board must find favorable findings for all three (3) criteria, A, B, and C, listed after the agenda within the BZA packet.

## ***Recommended Motion Conditions or Reasoning:***

Staff recommends **denial** of variance VAR-22-14a Front Setback Variance

Staff recommends **approval** of variance VAR-22-14b Buildable Area Variance with the following conditions:

1. Submit a drainage plan for review by the MS4 Coordinator with the Building Permit Application.
2. Submit a Stormwater Pollution Prevention Plan (SWPPP) with the Building Permit Application.
3. Submit plan for any tree preservation or removal signed off by a Certified Arborist including protection of trees as may be necessary located adjacent to the site improvements.
4. Parking, driveway and septic located on the adjacent parcel shall be included on the adjacent parcel (53-01-34-100-014.000-003) deed as a recorded commitment/easement prior to issuance of permits.
5. Prior to the start of construction, a licensed engineer/surveyor will clearly mark the construction limits with respect to the City of Bloomington property lines, base flood elevation contour 635.1' and tree conservation including drip line. Planning staff to inspect boundaries and installed SWPPP measures prior to the start of construction.
6. As-Built survey including an Elevation Certificate required prior to Certificate of Occupancy release.

**Variance Type:** ☒ Design ☐ Use  
☒ Residential ☐ Commercial

**Planner:** Tammy Behrman

|                               |  |   |
|-------------------------------|--|---|
| <b>PETITIONER</b>             | Tichenor, Jonathan E & Marta J<br>Tichenor, Timothy L & Terri D<br>(owners);<br>Tichenor, Jonathan (applicant) |   |
| <b>ADDRESS</b>                | 9394 N Derrett RD,<br>53-01-34-100-006.000-003   |   |
| <b>TOWNSHIP +<br/>SECTION</b> | Benton<br>34   |   |
| <b>PLATS</b>                  | <input checked="" type="checkbox"/> Unplatted <input type="checkbox"/> Platted: n/a                            |   |
| <b>ACREAGE +/-</b>            | 0.11   |   |
|                               | <b>PETITION SITE</b>   | <b>ADJACENT</b>                         |
| <b>ZONING</b>                 | SR   | SR; FR;                                 |
| <b>COMP PLAN</b>              | Rural Residential  | Rural Residential                       |
| <b>USE</b>                    | Residential  | Residential;<br>Recreational;<br>Vacant |

**Location Map**  
☒ Petitioner  
☐ Roads  
☐ Civil (Political) Townships  
☐ Lakes  
☐ Parcels



## SUMMARY

The petitioner was previously granted two variances by the Board of Zoning Appeals on May 5, 2021 for a Front Yard Setback Variance and a Minimum Lot Sized Variance for a proposed three story 1,335 sf footprint home on a 0.11 acre lot. The petitioner demolished the existing 648 sf home (ca.1960) to construct the new 3,600 sf home. Permit R-22-296 was reviewed by staff and found issue with the further encroachment of the structure into the front setback for the architectural features that extend 2' from the structure. The site plan shows a 16.5' encroachment into the front lakeside 25' setback after the structure was previously granted to be 14.5' encroachment variance. The floodplain limits have been delineated on the petitioner's site plan as 635.1' Base Flood Elevation. Under Chapter 804-4(E) structures are not allowed on land that does not meet Buildable Area and in this case there is technically 'mapped' floodplain over the petitioner's entire property using the DNR Best Available Flood Data. Though the petitioner has demonstrated with a certified site plan that all site disturbance will be above the regulatory Base Flood Elevation of 635.1' it is still considered in a Special Flood Hazard Area as specified in Chapter 808 and therefore requires a design standards variance as well as a Floodplain Development Permit.

Septic Permit WW-21-121; Driveway permit: not required.

The septic system is proposed to be approximately 300'+ offsite to the northeast on adjacent land owned by the petitioners. The site is accessed by a steep, single lane, private drive approximately 0.3 miles long with an elevation change of approximately 170'.

## DISCUSSION

Permit R-22-296 was submitted for the three story structure and it was discovered that there were architectural features that encroached into the allowed front setback that was previously granted at 14.5' into the required 25' lake setback. The petitioner is requesting an additional 2' encroachment into the front setback for a total of 16.5' setback encroachment.

Chapter 804-2(B)(2) normally allows for architectural features to encroach up to 3' into a setback under the exceptions section but since there was already an existing front setback encroachment staff determined the features could not be allowed to encroach further without a variance.

Chapter 804-2(B)(2) reads:

| (B) Yard, Building Setback and Open Space Exceptions.            |   |
|--|---|
| (1)  | No yard, open space or lot area required for a building or structure shall, during its life, be occupied by or counted as open space for any other building or structure. |
| (2)  | The following structures shall be allowed to project into the required yard or beyond the building setback line, subject to conditions in the following table:            |
| Projecting Use   | Horizontal Projection Allowed   |
| Architectural Features   | 3 feet  |
| Awnings and Canopies:<br>(9 ft. clearance above street or walks) | 3 feet  |
| Bay Windows and Chimneys   | 2 feet  |

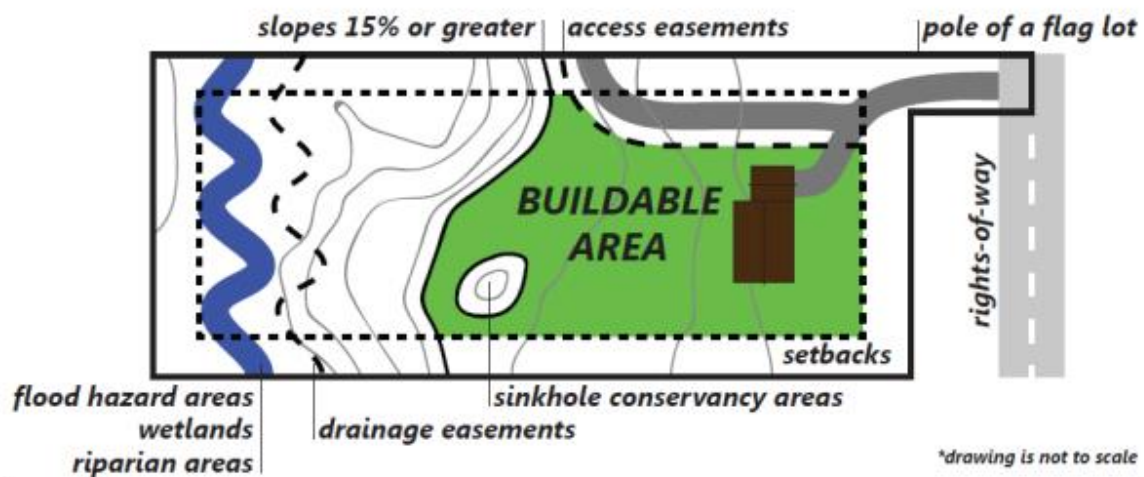
The petitions site is in a mapped Special Flood Hazard Area however all development will occur above the 635.1' Base Flood Elevation contour as shown by a certified plot plan.

Chapter 804-4(E) definition

(E) Any building or structure constructed after October 2, 2015 must be located within a buildable area. The following shall not be included in the buildable area:

- Special Flood Hazard Area as specified in Chapter 808;
- Wetlands as specified in Chapter 801;
- Slopes 15% or greater as specified in Chapter 825 Area 2 Regulations;
- Sinkhole Conservancy Areas as specified in Chapter 829;
- Drainage Easements as specified in Chapter 856;
- Riparian Conservancy Areas as specified in Chapter 801;
- Rights-of-way as specified in Chapter 801;
- Easements for access;
- Pole of a flag lot as specified in Chapter 801; and,
- Setbacks as specified by Ordinance.

Figure 4-2



Chapter 808 definition:

**Special Flood Hazard Area (SFHA)** means those lands within the jurisdiction of Monroe County and the Town of Stinesville subject to inundation by the regulatory flood. The SFHAs of Monroe County and the Town of Stinesville are generally identified as such on the Monroe County, Indiana and Incorporated Areas Flood Insurance Rate Map dated December 17, 2010 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).



*The information provided below is based on the point of interest shown in the map above.*

County: **Monroe**

Approximate Ground Elevation: **644.3 feet (NAVD88)**

Stream Name:

Base Flood Elevation: **635.1 feet (NAVD88)**

**Lake Lemon**

Drainage Area: **Not available**

Best Available Flood Hazard Zone: **FEMA Zone A**

National Flood Hazard Zone: **FEMA Zone A**

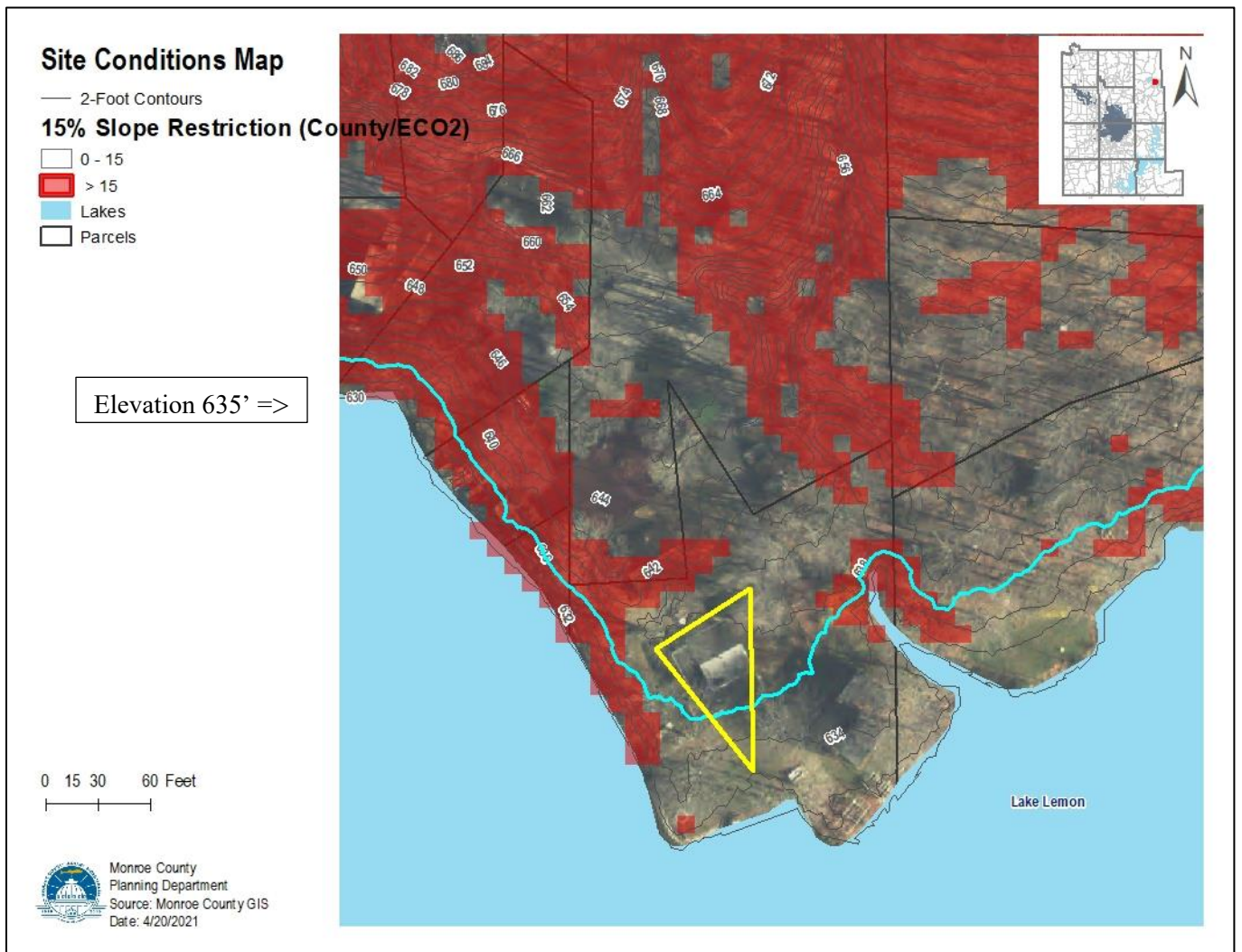
Is a Flood Control Act permit from the DNR needed for this location? **See following pages**

Is a local floodplain permit needed for this location? **yes-**

Floodplain Administrator: **Tammy Behrman, Senior Planner**

**EXHIBITS - Immediately following report**

1. County Slope Map 15%
2. Staff Site visit photos
3. Petition Letter
4. Petitioner Site Plan
5. Building permit R-22-296 floor plan and drawings
6. Petitioners Erosion and Drainage Plan
7. Petitioner Site Plan with proposed septic location
8. BRCJ Survey of the adjacent 11+/- acre lot owned by the petitioner
9. Results Letter from VAR-21-34 petition

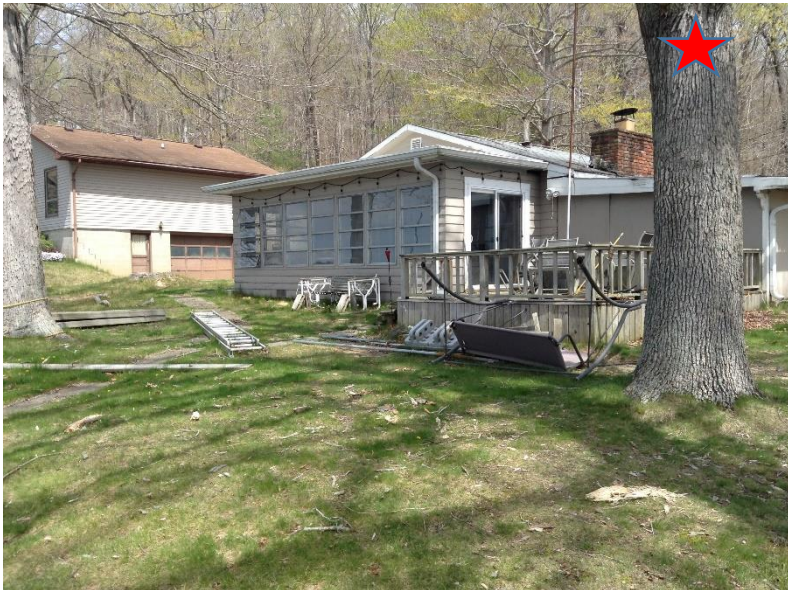


**Photo 1: Looking south. Shed and house have been demolished.**

**Photo 2: Looking west; northwest property line along former house on the left.**



**Photo 3. Facing north. Home to be demolished. Tree likely on CBU property.**



**Below is the site after demolition**





**Photo 4. Facing north. View site of demolished home.**



**Photo 5. Facing southwest. View of a soil test site for the septic system. Petition site approx. 300+ feet on the background.**



map: Auto (Oblique) ▾ Mar 2020 - Apr 2020 ▾ < image 1 of 6 > 04/02/2020

**Red arrow is petition site. Structure with black symbol was demolished by both petitioner and CBU as it straddles the property line.**



**Aerial view 2020 depicting long access easement.**

April 4, 2022

Monroe County Board of Zoning Appeals

Re: 9394 N Derrett Rd, Unionville

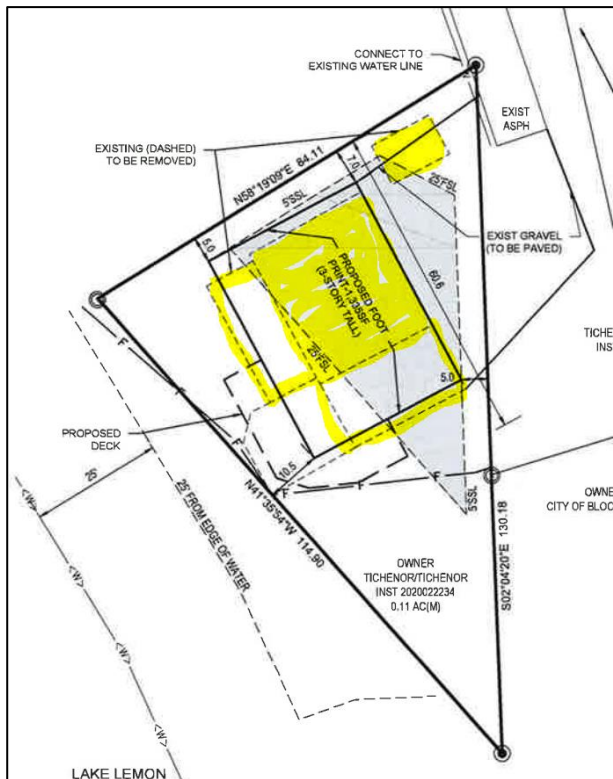
We are seeking two variances for the construction of a single family home at 9394 N Derrett Rd, Unionville.

1. A design standards variance for the 2 ft architectural features that extend from the elevation of the home. The purpose of these architectural features is to add definition and appeal to the exterior of the home instead of a flat box. Chapter 804-2 See construction elevation plans.
2. A design standards variance from a mapped Special Flood Hazard Area. 804-4(E)

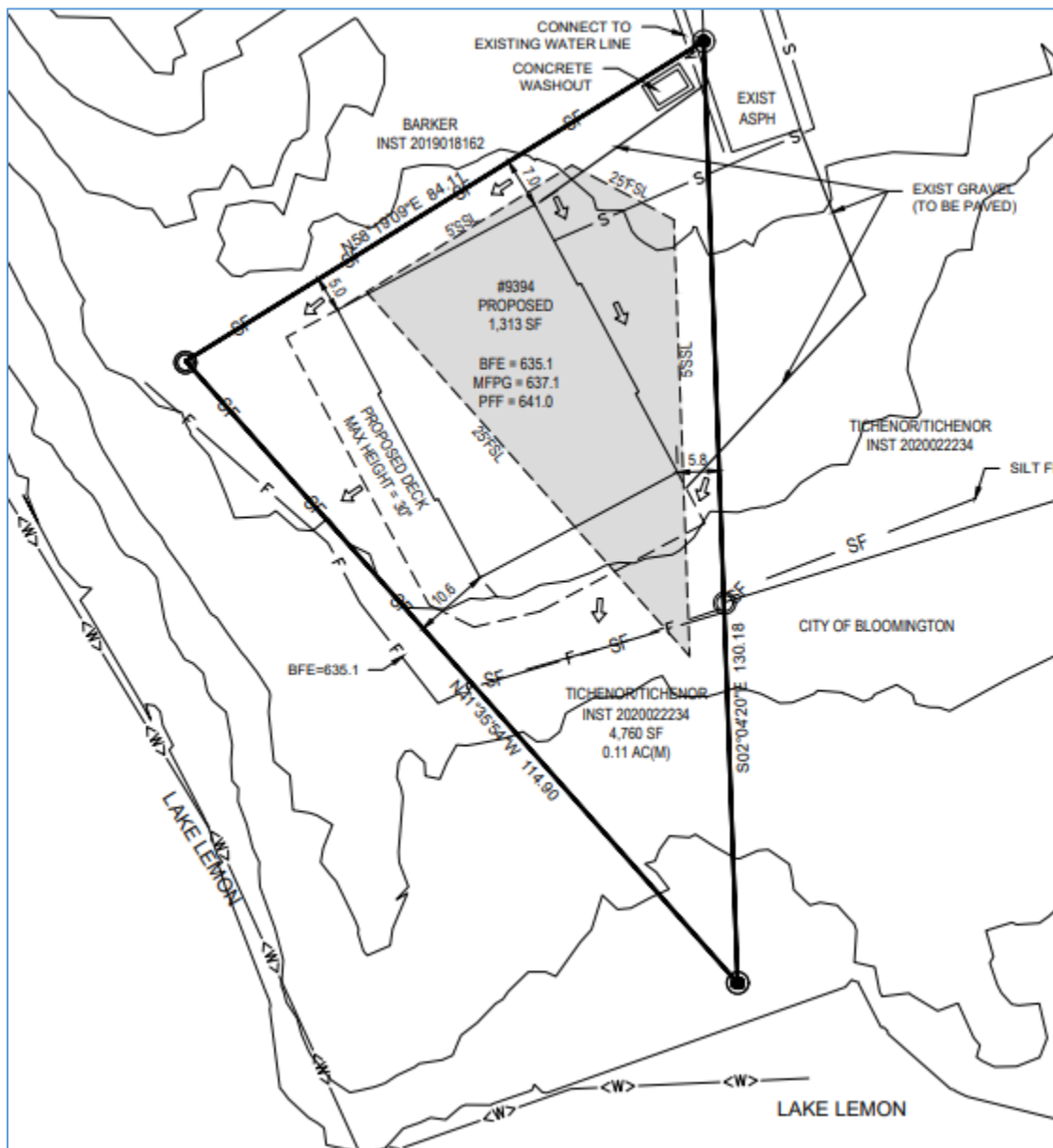
Respectfully,

*Jon Tichenor*

Jon Tichenor



Previous extent of footprint in yellow





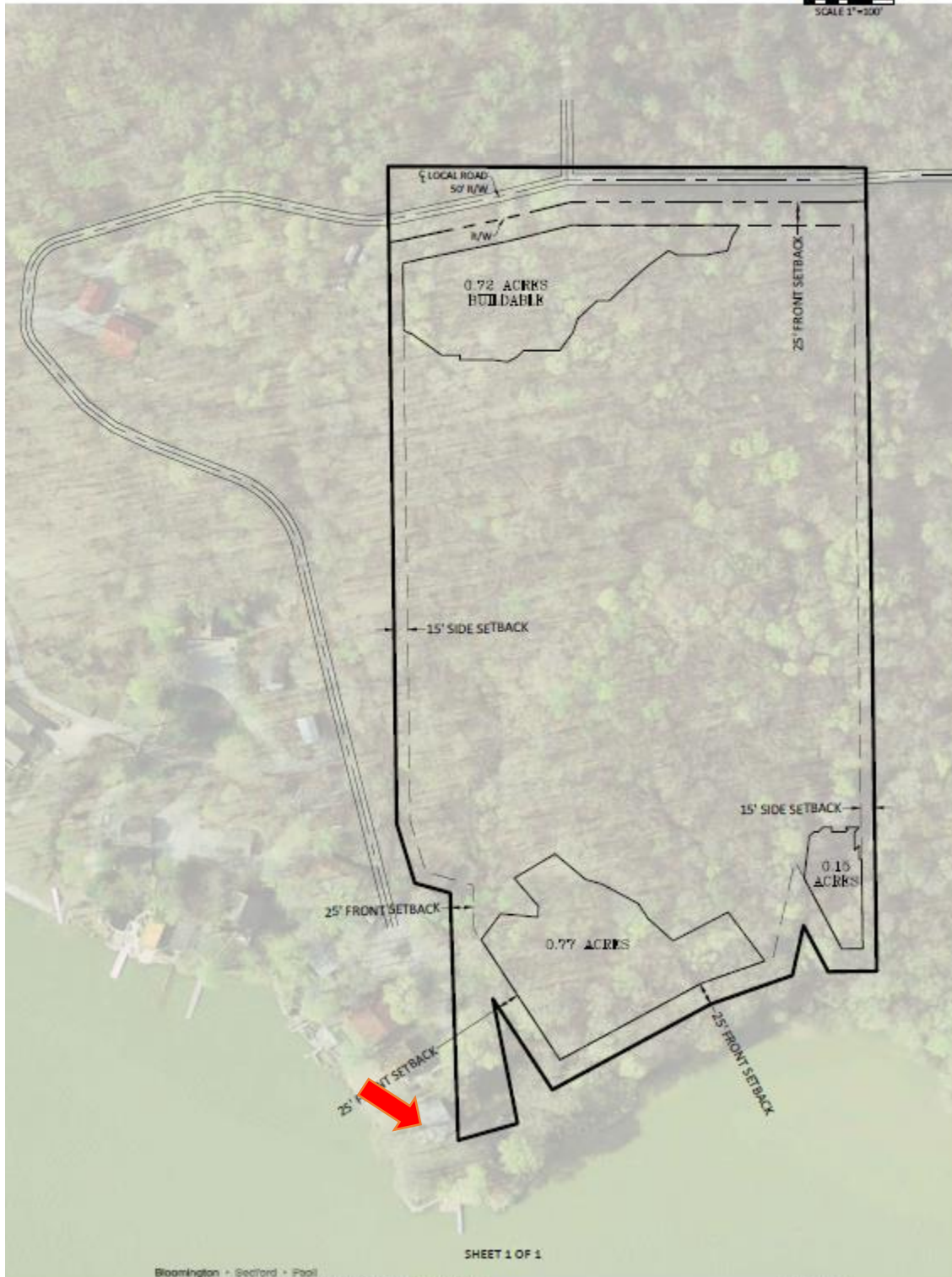
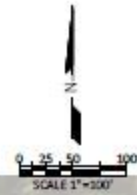
**Orange arrows depict architectural features extending 2' into front setback.**











Bloomington • Bedford • Pool  
 1351 West Tapp Road • Bloomington, Indiana 47403 • p: 812.336.8277

BRCcivil.com

S:\jobs\5001-5100\5080 LAKE LEMON BOUNDARY (LANGDON MORTGAGE CO)\2019\DRAW\5080\_CARLSON\_2019.dwg



**Monroe County Plan Commission and office of the Monroe County Board of Zoning Appeals**  
 Monroe County Government Center  
 501 N. Morton St., Suite 224  
 Bloomington, IN 47404  
 Telephone: (812) 349-2560 / Fax: (812) 349-2967  
<https://www.co.monroe.in.us/department/?structureid=13>

## Results Letter VAR-21-34

This is an e-permit. To learn more, scan this barcode or visit [monroecountyin.viewpointcloud.com/#/records/1810](http://monroecountyin.viewpointcloud.com/#/records/1810)



May 7, 2021

**Issued to:** Tichenor, Jonathan E  
 Michael L. Carmin  
[michael@carminparker.com](mailto:michael@carminparker.com)

**Location:** 9394 N Derrett RD , Unionville

**RE: Decision by the Board of Zoning Appeals for Variance(s) Request(s) on May 5, 2021:**

| Chapter from the Monroe County Zoning Ordinance: | Variance Request:  | Decision by the BZA      | The BZA vote for each variance: | Conditions of Approval, if applicable:   |
|--|--------------------|--------------------------|---------------------------------|--|
| Chapter 804                                      | Front Yard Setback | Approved with Conditions | 4-0                             | 1. Submit a drainage plan for review by the MS4 Coordinator with the Building Permit Application.<br>2. Submit a Stormwater Pollution Prevention Plan (SWPPP) with the Building Permit Application.<br>3. Submit plan for any tree preservation or removal signed off by a Certified Arborist including protection of trees as may be necessary located adjacent to the site improvements.<br>4. Parking, driveway and septic located on the adjacent parcel shall be included on the adjacent parcel (53-01-34-100-014.000-003) deed as a recorded commitment/easement prior to issuance of permits.<br>5. Prior to the start of construction, a licensed engineer/surveyor will clearly mark the construction limits with respect to the City of Bloomington property lines, base flood elevation contour 635.1' and tree conservation including drip line. Planning staff to inspect boundaries and installed SWPPP measures prior to the start of construction.<br>6. As-Built survey including an Elevation Certificate required prior to Certificate of Occupancy release. |
| Chapter 804                                      | Minimum Lot Size   | Approved with Conditions | 4-0                             | *Same six conditions as Front Setback Variance   |

Be sure to keep a copy of this letter for your records. Should you have any questions or need additional information, please feel free to contact me at the number above or by email.

When submitting for your building permit application your plans will be subject to a review that matches the submitted site plan as found in the staff report. Any changes to the footprint may warrant additional variances. Conditions 1 thru 4 should be submitted with the building application plans. Additionally, any disturbance in the floodplain with regards to fill or grading will be subject to Chapter 808 Floodplain Development standards and permitting.

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

Sincerely,  
Tammy Behrman  
Monroe County Planning Department  
501 N Morton St., Suite 224  
Bloomington, IN 47404

812-349-2560