

MONROE COUNTY BOARD OF ZONING APPEALS



**Wednesday, October 5, 2022
5:30 p.m.**

Hybrid Meeting

In-person

Judge Nat U. Hill III Meeting Room
100 W. Kirkwood Avenue
Bloomington, Indiana

Virtual

Zoom Link: <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)

HYBRID MEETING

When: October 5, 2022 at 5:30 PM

Where: Monroe County Courthouse, 100 W Kirkwood Ave., Bloomington, IN 47404 Nat U Hill Room

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

CALL TO ORDER

ROLL CALL

INTRODUCTION OF EVIDENCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES: June 29, 2022, August 3, 2022

ADMINISTRATIVE BUSINESS:

- 1. CDU-21-3 Findings of Fact for CDU-21-3 Bedford Recycling at 405 W Dillman RD**

OLD BUSINESS:

- 1. VAR-22-13a Barker Minimum Lot Size to Variance to Chapter 804**
2. VAR-22-13b Barker Front Yard Setback Variance to Chapter
3. VAR-22-13c Barker Buildable Area Floodplain Variance to Chapter 804 PAGE 12
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.
Owner: Scott D Barker
Zoned SR. Contact: tbehrman@co.monroe.in.us

- 4. VAR-22-17a Sego Buildable Area Variance to Chapter 804**
5. VAR-22-17b Sego ECO Area 2 Variance to Chapter 825
One (1) 4.7 +/- acre parcel in Clear Creek Township, Section 11 at 3130 E Will Sowders RD, parcel #53-11-11-200-001.000-006.
Owner: Sego Holdings LLC
Zoned SR/ECO2. Contact: acrecelius@co.monroe.in.us
*****CONTINUED BY PETITIONER*****

NEW BUSINESS:

- 1. VAR-22-38 8482 S Fairfax Use Variance for Hotel Use PAGE 31**
Three (3) 16.63 +/- acre parcels in Clear Creek Township, Section 14 at 8482 S Fairfax RD, parcel # 53-11-14-300-026.000-006, 53-11-14-300-026.000-006, 53-11-14-300-026.000-006.
Owner: Renewing Properties LLC
Zoned AG/RR, ECO1/2. Contact: acrecelius@co.monroe.in.us

2. VAR-22-39

Gott Use Variance for General Contractor

PAGE 50

Two (2) 0.86 +/-total acre parcels in Salt Creek Township, Section 18 at 3290 S Knightsridge RD, parcels #53-07-18-100-027.000-014 and #53-07-18-100-051.000-014.

Owner: Gott, Thomas

Zoned CR/ECO3. Contact: drbrown@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 August 31, 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, 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.

812-7-8: 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.

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

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

812-5. Standards for Use Variance Approval: In order to approve 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;
- (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;
- (C) The need for the variance arises 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,
- (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 Improvements*
 - (5) *Distinguish Land from Property*

Monroe County Board of Zoning Appeals Written Findings of Fact and Conclusions on Docket Item CDU-21-3: Bedford Recycling, Inc.’s Request for Conditional Use Approval

Based on its record under Docket Item CDU-21-3, the Monroe County Board of Zoning Appeals makes the following findings and conclusions in support of its August 3, 2022 decision to revoke its September 1, 2021 approval of Bedford Recycling, Inc.’s conditional use approval request.

1. Bedford Recycling, Inc. (“BRI”), owns real property (“BRI Property”) at or near 405 W. Dillman Road, Bloomington, Indiana.

2. The BRI Property is described as Lot Number One (1) of Indiana Limestone Minor Subdivision final Plat recorded as instrument Number 2021003850, in the office of the Recorder of Monroe County.

3. Pursuant to IC 36-7-4-1020(b), the BZA takes official notice of the Monroe County Zoning Ordinance (“Zoning Ordinance”), which “shall be interpreted to include any and all other provisions of the Monroe County Code which are necessary for an understanding of [the Zoning Ordinance] and the attainment of its purposes.” Zoning Ordinance 800-5(A).

4. The BRI Property is located within the County Jurisdictional Area and is subject to the provisions of the Zoning Ordinance.

5. For purposes of the Zoning Ordinance, the BRI property is located within a Mineral Extraction Zoning District.

6. On August 4, 2021, on behalf of BRI, Andrew E. Knust, PE (“Knust”), of Bledsoe Riggert Cooper James surveyors and engineers, submitted an application (“Application”) with the Monroe County Planning Department.

7. The Application requested conditional use approval from the Monroe County Board of Zoning Appeals (“BZA”) for a Central Garbage/Rubbish Removal Facility use to be located on the BRI Property.

8. The Zoning Ordinance defines the Central Garbage/Rubbish Removal Facility use as follows:

Central Garbage/Rubbish Collection Facility. Public or private establishments contracted to remove solid waste from residential or commercial uses and transport such wastes to a locally operated public or private landfill or other waste collection facility, designated for consolidation of garbage and recycled matter.

9. The Zoning Ordinance authorizes the Central Garbage/Rubbish Collection Facility use within the Mineral Extraction districts subject to conditional use approval of the BZA.

10. The Application included a letter from Knust (“Knust Letter”).
11. The Knust Letter referenced BRI’s “Proposed Scrap Metal Recycling Facility Conditional Use Approval Request.”
12. The Application and Knust Letter sought BZA approval of a conditional use under the provisions of Zoning Ordinance Chapter 830 (i.e., 813) for a proposed scrap metal recycling facility.
13. The Knust Letter stated that the purpose of the proposed scrap metal recycling facility is to accept ferrous and non-ferrous scrap metal from the general public, to sort the collected materials at the facility, and to then ship the collected materials off-site for further processing.
14. The Application included a site plan for the proposed scrap metal recycling facility which showed an outdoor storage area.
15. The Knust Letter acknowledged the fact that the Zoning Ordinance does not include development and operational standards for the specific type of scrap metal recycling facility being proposed by BRI.
16. Because the Zoning Ordinance does not include development and operational standards for the specific type of scrap metal recycling facility being proposed by BRI, BRI requested conditional use approval under the standards for a Central Garbage/Rubbish Removal Facility.
17. In order to grant a conditional use approval for a Central Garbage/Rubbish Collection Facility use, the BZA must find, among other things, that the conditional use applicant has complied with Monroe County Code (“MCC”) Chapter 360 and Monroe County Ordinance 2007-18. See Zoning Ordinance 813-10(c)(16)(F) and Table 2-1 Condition 33(F).
18. MCC 360-2(A) states, in part, that “[n]o person shall engage in the removal of solid waste from private or public premises to a location in Monroe County other than the place or origin of such solid waste unless he possesses an unrevoked permit to engage in such activity from the Health Department.”
19. Through the Knust Letter, BRI contended that it did not need to comply with MCC 360-2(A) because “the proposed scrap metal recycling facility will not actually handle solid waste, nor operate waste hauling vehicles.”
20. A public hearing on BRI’s conditional use approval request, which was assigned hearing docket number CDU-21-3, was conducted by the BZA September 1, 2021.
21. During its September 1, 2021 hearing, the BZA incorporated the Monroe County Comprehensive Land Use Plan, the Monroe County Zoning Ordinance, the Monroe County Subdivision Control Ordinance, the BZA Rules of Procedure, and the Staff Report on docket number CDU-21-3 into the record on docket number CDU-21-3.

22. During the September 1, 2021 hearing, Knust testified, under oath, as follows:

The Conditional Use approval is for a Central Garbage/Rubbish Facility, which that particular description and definition is meant to apply to a facility that handles solid waste, which the facility that we are proposing here doesn't handle solid waste. What it does is handle ferrous and nonferrous metals for recycling. It is essentially a scrap yard. They will accept metal both ferrous and nonferrous from the general public and process it, sort it at the facility and send it on for further processing at other facilities. The only materials that will be handled there are metals. They won't be accepting like general household waste or, you know, hazardous materials or anything that meets the definitions of solid wastes.

23. No other individuals spoke in favor of BRI's conditional use approval request.

24. No individuals spoke in opposition to BRI's conditional use approval request.

25. BZA member Margaret Clements made a motion to approve BRI's conditional use approval request in the following language:

I would like to recommend that we approve case number CDU-21-3, and this is the Bedford Recycling, care of Andy Knust and I would like to recommend approval for the, it is not really Garbage/Rubbish but the scrap yard facility, I am having trouble seeing this, at the site on Dillman road. That is my motion. Subject to the Monroe County Highway and Drainage Engineer reports. East/West Dillman Road.

26. Clements's motion carried by a vote of three (3) member's in favor with one (1) abstention.

27. On December 15, 2021, the BZA met to consider adopting written findings of fact in support of its September 1, 2021 decision on BRI's conditional use approval request.

28. During the December 15, 2021 meeting, an issue was raised as to whether the BZA committed an error of law by approving BRI's proposed scrap yard facility as a Central Garbage/Rubbish Collection Facility conditional use.

29. During the December 15, 2021 meeting, BZA member Bernie Guerrettaz moved as follows:

Ok. I move that the Board schedule a public hearing on Case number CDU-21-3, giving notice to all interested parties, to determine whether the Board erred as a matter of law by concluding that use proposed by Bedford Recycling, Inc., was a Central Garbage/Rubbish Collection Facility use for which a conditional use could be granted.

30. Guerrettaz's motion carried by a unanimous vote of five (5) members in favor.

31. The BZA scheduled a public hearing for June 29, 2022, on the issue of whether it erred as a matter of law by concluding that BRI's proposed scrap yard facility was a Central Garbage/Rubbish Collection Facility use for which a conditional use could be granted.

32. The BZA conducted the June 29, 2022 hearing.

33. During the June 29, 2022 hearing, attorney Dustin L. Plummer appeared on behalf of BRI and presented the BZA with legal argument and authorities in support of the BZA's September 1, 2021 decision.

34. Because the BZA was not able to reach a majority decision regarding the legality of its September 1, 2021 decision on Docket Item CDU-21-3, the hearing was continued to August 3, 2022.

35. During the August 3, 2022, BZA hearing on the issue of whether the BZA erred as a matter of law by concluding that BRI's proposed scrap yard facility was a Central Garbage/Rubbish Collection Facility use for which a conditional use could be granted, BZA member Guy Loftman moved that based on the testimony and materials presented to the BZA during its September 1, 2021 hearing on CDU-21-3, the BZA erroneously concluded that the use of the facility proposed by BRI constituted a Central Garbage/Rubbish Collection Facility use and that the September 1, 2021 conditional use approval should be revoked.

36. BRI, as the applicant, bore the burden of establishing compliance with all of the Zoning Ordinance provisions applicable to its conditional use approval, including the elements of the Central Garbage/Rubbish Collection Facility definition.

37. The Zoning Ordinance definition of Central Garbage/Rubbish Collection Facility includes the words "or," "and," and "such." Those words are not defined in the Zoning Ordinance. Pursuant to Zoning Ordinance 801-1(A)(4), the BZA gives those words their plain and ordinary meanings as follows:

"or" is disjunctive and indicates an alternative between different or unlike things (i.e., either this or that);

"and" is conjunctive and indicates connection and addition (i.e., both this and that);

"such" means of the type previously mentioned.

38. The Zoning Ordinance definition of Central Garbage/Rubbish Collection Facility includes the word "designated" when referring to a solid waste collection facility at which both garbage and recycled matter are consolidated. Pursuant to Zoning Ordinance 801-1(A)(2) and (3), Zoning Ordinance 800-5(A), MCC 360-2(A) and (H), and Condition 33(F) of Zoning Ordinance Table 2-1, the BZA reads the word "designated" to mean approved by the Monroe

County Health Department, the Board of Commissioners of the County of Monroe, Indiana, and the Monroe County Solid Waste Management District.

39. Condition 33 of Zoning Ordinance Table 2-1 states, in part, that “[c]entral garbage and rubbish collection facilities, including recycling centers, shall be permitted subject to the following conditions . . .” The Zoning Ordinance does not define the word “including.” Pursuant to Zoning Ordinance 801-1(A)(4), the BZA gives the word its following plain and ordinary meaning: containing as a part of the whole being considered.

40. The Zoning Ordinance does not define the term “solid waste.” Pursuant to Zoning Ordinance 801-1(A)(2), the BZA applies the definition of solid waste set forth in MCC 360-1 as follows: “[s]olid waste” means the same as that term is defined in 329 IAC 10-2-174.

41. 329 IAC 10-2-174(a) states that “solid waste” has the meaning as set forth in IC 13-11-2-205(a).

42. IC 13-11-2-205(a) defines “solid waste” to include any garbage, refuse, or other discarded material, except for discarded material that is used as a commodity in a process that results in a product.

43. Scrap metal that is handled and processed for recycling purposes is a commodity intended to result in a product and, thus, is not solid waste for purposes of the Central Garbage/Rubbish Collection Facility use definition.

44. The Zoning Ordinance does not define the term “garbage.” Pursuant to Zoning Ordinance 801-1(A)(3), the BZA applies the definition of garbage set forth in IC 13-11-2-88, which reads: “Garbage”, for purposes of environmental management laws, means all putrescible animal solid, vegetable solid, and semisolid wastes resulting from the: (1) processing; (2) handling; (3) preparation; (4) cooking; (5) serving; or (6) consumption; of food or food materials.

45. The Zoning Ordinance does not define the term “rubbish.” Pursuant to Zoning Ordinance 801-1(A)(4), the BZA applies the following plain, ordinary, and usual meaning of rubbish: useless waste or rejected matter : trash.

46. By definition, the Central Garbage/Rubbish Facility use is operated for the purpose of collecting and transporting solid waste, namely garbage and trash.

47. Pursuant to MCC 360-2(A), a person is required to obtain a permit from the Monroe County Health Department prior to engaging in the collection and transportation of solid waste within Monroe County.

48. Pursuant to Zoning Ordinance 813-10(c)(16)(F) and Table 2-1 Condition 33(F), a person must obtain a permit from the Health Department pursuant to MCC 360-2(A) before applying for a Central Garbage/Rubbish Collection Facility conditional use approval.

49. BRI did not obtain a solid waste collection and transportation permit for its proposed use but rather contended that a permit was not required.

50. BRI's proposed scrap yard facility use would not accept general household waste or anything that meets the definition of solid waste.

51. BRI's proposed scrap yard facility use did not include the removal of solid waste from residential or commercial uses.

52. BRI's proposed scrap yard facility use did not include the transportation of solid waste or the use of waste hauling vehicles.

53. BRI's proposed scrap yard facility use did not include transporting solid waste to a locally operated landfill.

54. BRI did not demonstrate that its proposed scrap yard facility had been designated for consolidation of both garbage and recycled matter by the Monroe County Health Department, the Board of Commissioners of the County of Monroe, Indiana, and the Monroe County Solid Waste District.

55. BRI's proposed scrap yard facility use did not include transporting solid waste to a waste collection facility, designated for consolidation of both garbage and recycled matter.

56. BRI did not satisfy its burden of demonstrating that its proposed use satisfied the elements of the Central Garbage/Rubbish Collection Facility use.

57. BRI's proposed scrap yard facility use does not satisfy the elements of the Central Garbage/Rubbish Collection Facility use.

58. BRI's proposed scrap yard facility use included the acceptance of ferrous and non-ferrous metals brought to the BRI Property by the general public and the sorting and shipping of the metals to a different facility for processing.

59. Zoning Ordinance Chapter 801, Section 2, defines the "junkyard" use as follows:

Junkyard. A junkyard is an open area where junk, waste, scrap, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, bottles, and inoperable equipment or machines or motor vehicles. A junkyard includes automobile wrecking or salvage yards, house wrecking yards, used lumber yards and places or yards for storage of salvaged house-wrecking and structural steel materials and equipment, but does not include uses established entirely within enclosed buildings or composting operations.

60. BRI's proposed scrap yard facility included an open area where scrap iron and other metals would be stored or handled and, thus, satisfies the elements of the junkyard use definition.

61. The junkyard use is not listed as a permitted or conditional use in Table 2-1 of the Zoning Ordinance and thus is not a use that may be lawfully established within the County Jurisdictional Area.

62. BRI's proposed scrap yard facility use is not within of the class of cases for which the BZA is authorized to grant a conditional use approval.

63. BRI's proposed scrap yard facility use did not satisfy the particular situations in which the BZA is authorized to grant a conditional use approval.

64. On September 1, 2021, the BZA acted beyond its legal authority, and thus committed legal error, by granting BRI's proposed scrap yard facility a conditional use approval as a Central Garbage/Rubbish Collection Facility.

65. The BZA's September 1, 2021, conditional use approval of BRI's proposed scrap yard facility was ultra vires and void.

SO FOUND AND CONCLUDED this ____ day of _____, 2022 by the Monroe County Board of Zoning Appeals.

AYES

NAYS

MARGARET CLEMENTS, Chair

MARGARET CLEMENTS, Chair

SKIP DALEY, Vice Chair

SKIP DALEY, Vice Chair

PAMELA DAVIDSON

PAMELA DAVIDSON

GUY LOFTMAN

GUY LOFTMAN

DEE OWENS

DEE OWENS

BARBARA CARTER, Secretary



MONROE COUNTY BOARD OF ZONING APPEALS

Public Meeting Date: August 3, 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 (Floodplain) 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. 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.
4. As-Built survey including an Elevation Certificate required prior to Certificate of Occupancy release.

Variance Type: ☒ Design ☐ Use
☒ Residential ☐ Commercial

Planner: Tammy Behrman

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

Location Map

Petitioner
 Roads
 Civil (Political) Townships
 Lakes
 Parcels



SUMMARY

The petitioner submitted permit R-22-337 for a 3 story home fronting Lake Lemon. The proposed structure has a 752 sf porch that encroaches 14' 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. Additionally, the floodplain limits have been delineated on the petitioner's plot 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 plot plan that all site disturbance will be above the regulatory Base Flood Elevation of 635.1' the area of development is still considered to be 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 6,061 sf would be approved.

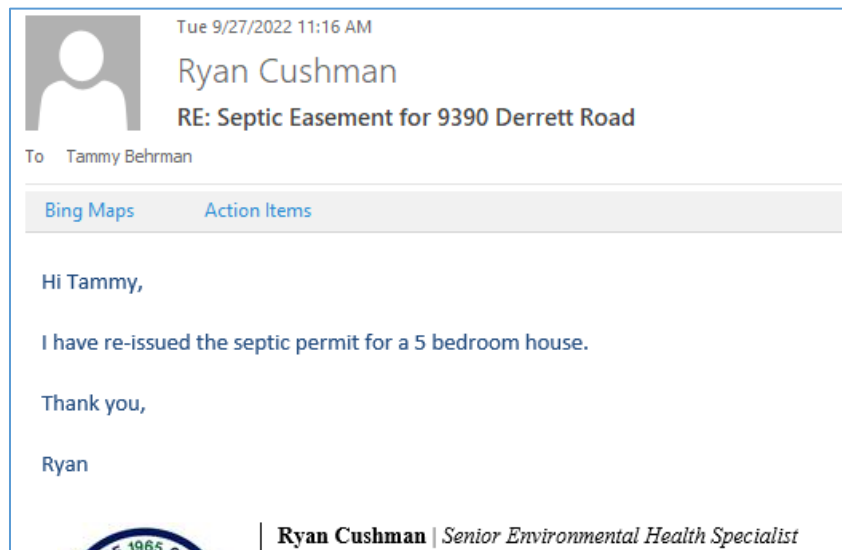
DISCUSSION

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-21-312

The septic system is proposed to be approximately 300'+ offsite to the northeast on adjacent land owned by the petitioners. The original septic was approved for a 3 bedroom structure though but after a re-submittal and review by the Health Department a permit was re-issued 9/27/2022 for a 5 bedrooms. Planning requested the Health Department to review the construction plans to confirm number of bedrooms. It was determined there were originally 6 bedrooms for this site as defined by Monroe County Code 365-1, the petitioner re-designed their floorplan to accommodate the size septic system for 5 bedrooms. No affidavit was required from the Health Department for bedroom count for this review.



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.

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'	11'	14' encroachment

*Previous design was 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.

List of modifications to proposed version 2 of plot plan submitted 8/9/2022:

1. The office has been eliminated and this space becomes the laundry room. This should eliminate 1 bedroom, per your bedroom definition.
2. The old laundry room space has been merged with the pantry to make a larger pantry.
3. The deck stairway has been eliminated. This reduces the distance the deck exceeds the water-side setback. My new variance request will be to exceed the water side setback by 14 feet, which is less than my neighbor's approved variance.
4. The left & right covered decks are now uncovered decks.

PLOT PLAN	Draft 1	Draft 2	difference
Total Buildable Area per setbacks	3,240 sf	3,240 sf	
Proposed HOME footprint	2,107 sf	2,107 sf	
Proposed PORCH footprint	874 sf	752 sf	122 sf reduction
Proposed Total Footprint	2,981 sf	2,859 sf	122 sf reduction
Total Living and Non-living Space	6,183 sf	6061 sf	122 sf reduction

Staff did evaluate the **Minimum Open Space** Requirement of 40 percent. It was confirmed they have 44 percent open space which meets the requirement. Structures, driveways and sidewalks cover 4,201 sf of the site or 66 percent 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 752 sf two story porch is entirely in the front setback and encroaches 14' in the 25' required setback. The property to the southeast was granted a front setback for 14.5'. 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 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.

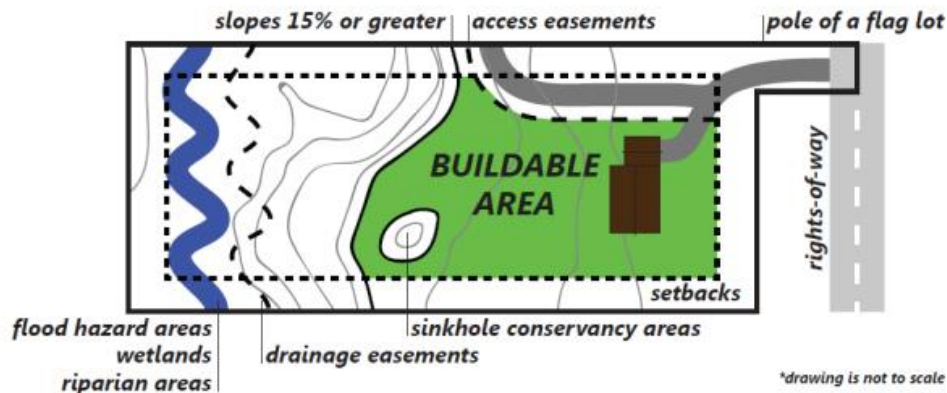
FLOODPLAIN

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 Plot Plan (version1)
5. Construction plans side view
6. Petitioners Erosion and Drainage Plan
7. Petitioner Site Plan with proposed septic location
8. Septic Permit and Easement Agreement Pages 1, 2, & 10

EXHIBIT 1

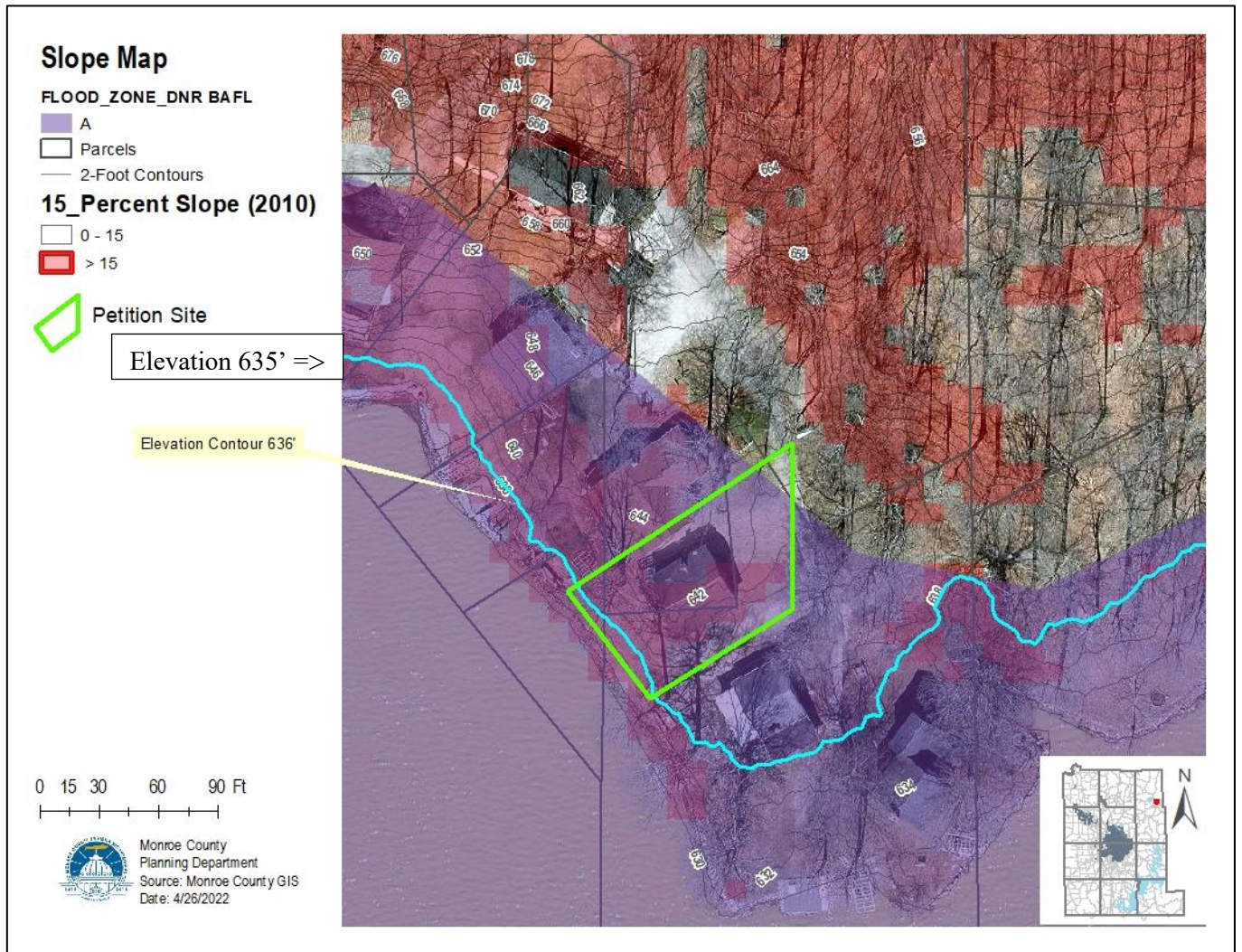


Photo 1: Looking south. Shed and house have been demolished on adjacent lot.



**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



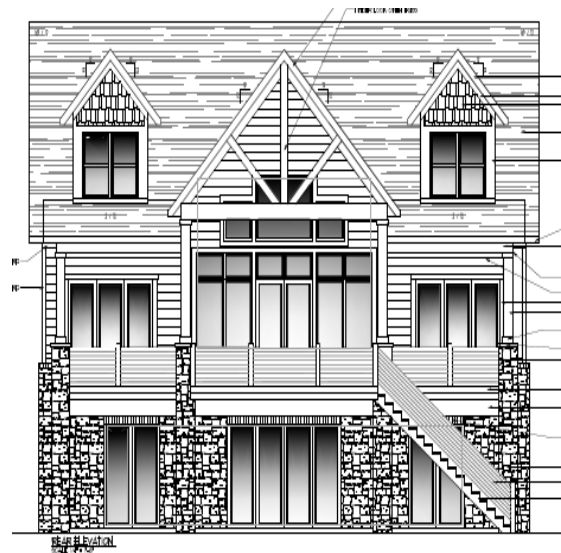
Back of Vacant House

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



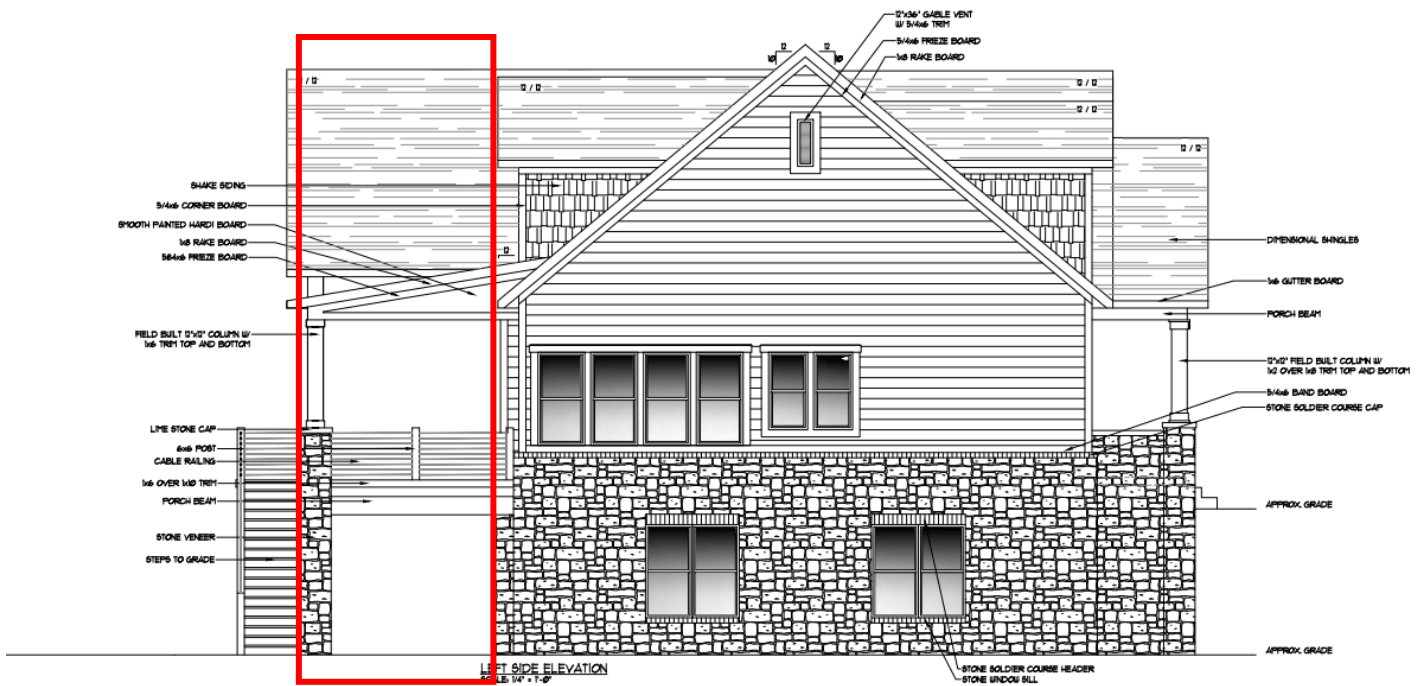
Back of New House Design

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.

[illegible]

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



Area of encroachment by 14' into the 25' setback (Stairs and part of porch roof removed ~3')

Drainage and erosion plan under review by MS4 Coordinator

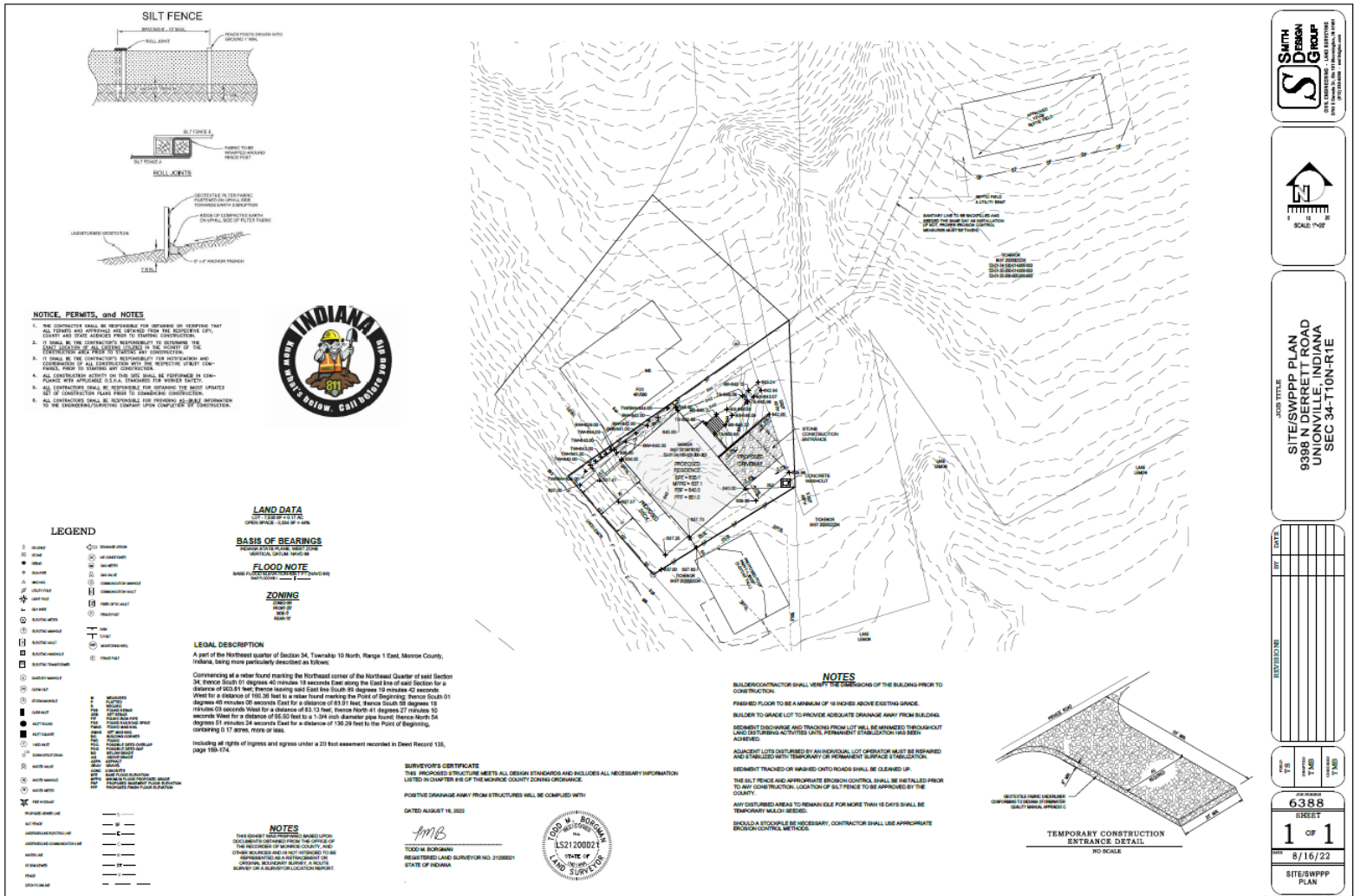
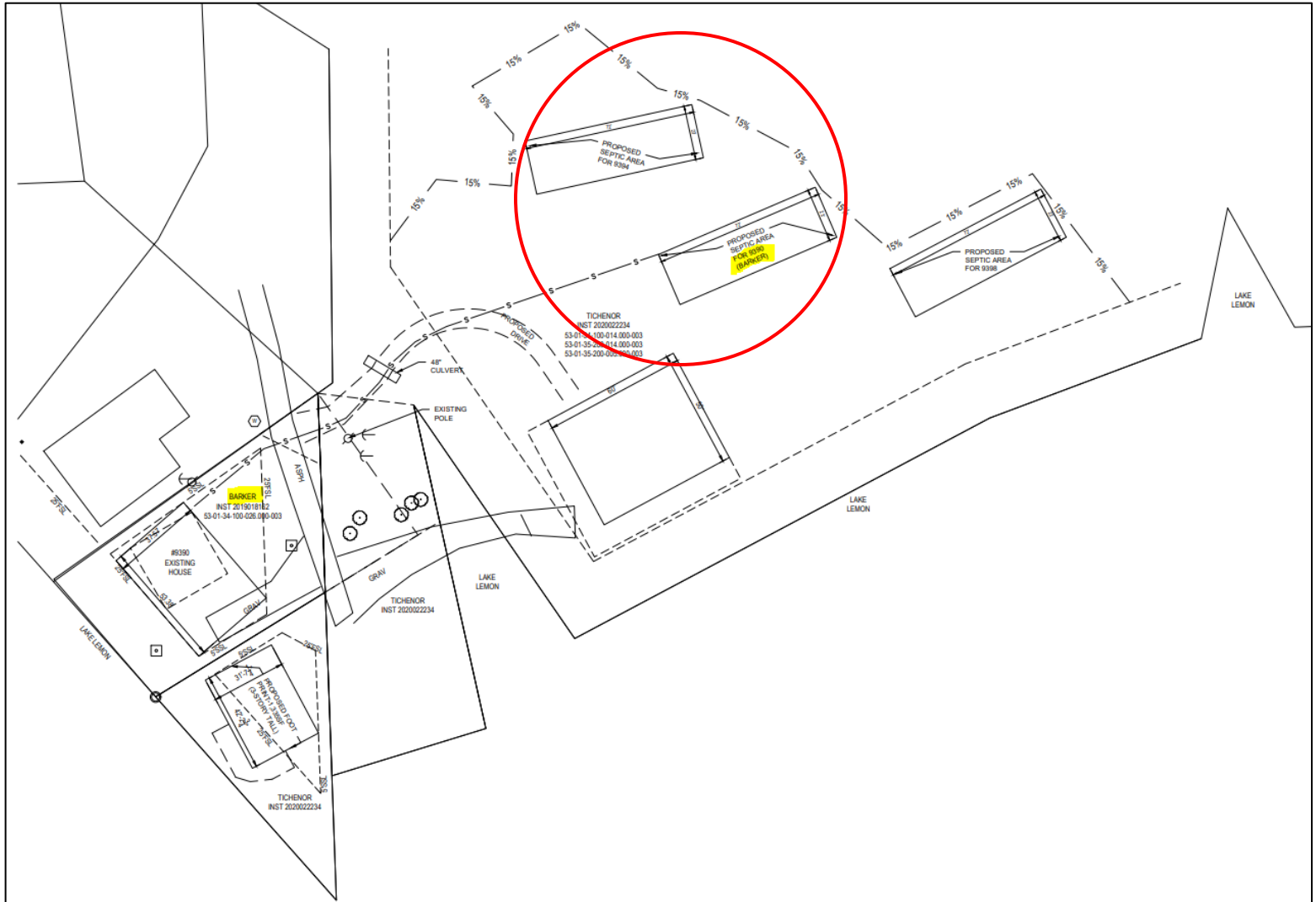


EXHIBIT 7

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



The two septic sites highlighted in red are representing the previous plan. The two septic sites have been switched to prevent the two systems from having to cross force main lines. Additionally, the northern septic is to be enlarged to 72'x28' to accommodate the 5 bedroom structure.

EXHIBIT 8: Septic Permit and Easement Agreement



Monroe County Health Department

119 W. 7th Street, Bloomington, IN 47404
Phone: (812) 349-2543 Email: wastewater@co.monroe.in.us



RENEWAL SEPTIC PERMIT

Permit ID **WW-21-312**

DATE PERMIT ISSUED: September 27, 2022

SITE INFORMATION:

Name of Applicant: Scott Barker
State Parcel #: 53-01-34-100-026.000-003
Owner Name: Barker, Scott D
Owner Address: 9378 N Derrett Rd., Unionville, IN 47468
Site Address: 9390 N Derrett RD Unionville, IN 47468-9760
Subdivision: NA
Lot #: NA
Number of Bedrooms: 5

SEPTIC SYSTEM SPECIFICATIONS:

Septic Tank Size (gal.): 1500 gallons
Pump Tank Size (gal.): 1000 gallons
Type of Septic System: Subsurface, sand-lined bed, Presby Advance Enviro-Septic pipes
Septic Field Size (ft. x ft.): 72 feet x 28 feet
Depth of cut (in.): 10 inches maximum
Min. Depth of # 23 sand (in.): 6 inches
Number of Pipes: 5
Length of each Pipe (ft.): 70 feet each
Total Linear foot of pipe: 350 linear feet
Low Vent Required: Yes
High Vent Required: Yes
Subsurface Drainage: Perimeter Drain on all sides
Depth of Subsurface Drain (in.): 40 inches

ADDITIONAL COMMENTS:

Install a 1500 gallon minimum capacity septic tank. Install a 1000 gallon minimum capacity pump tank with an effluent pump. Install a distribution box. Install a subsurface sand-lined septic absorption bed with a basal area of 72' x 28' and a maximum depth of 10". Install a minimum of 6" system sand. Install five Presby Advance Enviro-Septic pipes 70' long each. Install a low vent 12" above the final grade and a high vent 10' above the low vent opening. Install a complete perimeter drain around the absorption bed to a depth of 40" to include a hard pipe outlet and a varmint guard. Maintain 10' of separation between the perimeter drain and the absorption bed.

DISCLAIMER

By the ministerial issuance of this permit, the Monroe County Health Department does not certify the compliance of the planned residential sewage system with the applicable administrative rule of the Indiana Department of Health concerning residential onsite sewage systems.

ANY DEVIATIONS FROM THIS PERMIT MUST BE PRE-APPROVED BY THE MONROE COUNTY HEALTH DEPARTMENT.

Duration of Permit: Permit Expires 2 years from January 27, 2022

A handwritten signature in blue ink, reading "Thomas W. Sharp".

Thomas Sharp, M.D.
Monroe County Health Officer

A handwritten signature in blue ink, reading "Ryan Cushman".

Ryan Cushman
Senior Environmental Health Specialist

EASEMENT AGREEMENT

THIS INDENTURE WITNESSETH, that JONATHAN E TICHENOR AND MARTA J TICHENOR, husband and wife, and TIMOTHY L TICHENOR AND TERRI D TICHENOR, husband and wife, hereinafter collectively referred to as "Grantor" for and in consideration of (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, do hereby grant and convey to SCOTT BARKER and AMY BARKER "Grantee", a married couple, a right-of-way easement to access, maintain and operate a septic system and appurtenances necessary for the proper construction, maintenance and / or operation thereof, over, across, and under the surface of the following described real estate located in ~~Monroe~~ Monroe County, Indiana described as follows:

Monroe
by the recorder

1. Grantor owns real estate in Monroe County, Indiana with the following legal description hereinafter "Grantor's Real Estate."

See Exhibit "A"

2. Grantee owns or has an interest in real estate in Monroe County, Indiana with the following legal description ("Grantee's Real Estate"):

See Exhibit "B"

3. Grantor desires to establish, grant, transfer and convey an easement in favor of each of Grantee, its successors and assigns, a way of ingress and egress to the Real Estate for the installation, construction, operation, and maintenance of a septic/sewer system. The Easement has the following legal description (hereinafter "Easement"):

See Exhibit "C"

4. This Easement vacates and supersedes an Easement Agreement between Andrew Franklin as authorized representative of Franklin Investments, Inc. as Grantor and Scott Barker and Amy Barker, a married couple, as Grantee recorded on August 31, 2020, as Instrument Number 2020013964 in Monroe County Recorder's Office.
5. Grantee accepts from Grantor a permanent Easement for ingress and egress for the installation, operation, and maintenance of a septic system over and across Grantor's Real Estate.
6. The Easement shall run upon, over, and across the real estate more particularly described on Exhibit "A."
7. The Easement shall run in favor of the individual parcels of Grantee(s), and its successors or assigns.
8. The Easement is binding on the heirs, devisees, successors, and assigns of Grantor and Grantee.

9. It is further understood that GRANTEE shall have the right to ingress and egress for the purpose of installing, maintaining, and operating a septic system and any materials or installations shall be the sole property of GRANTEE.
10. GRANTEE shall hold GRANTOR harmless from damage occasioned by the operation or maintenance of said septic system installation on easement and shall maintain said septic system in accordance with Monroe County Health Department requirements.
11. GRANTOR shall not interfere with GRANTEE'S rights stated in this Easement.

IN WITNESS WHEREOF, JONATHAN E TICHENOR AND MARTA J TICHENOR, husband and wife, and TIMOTHY L TICHENOR AND TERRI D TICHENOR, husband and wife, AS GRANTOR(S), AND SCOTT BARKER and AMY BARKER, a married couple, AS GRANTEE(S) HAVE EXECUTED THIS EASEMENT AGREEMENT THIS ____ DAY OF _____, 2022.

GRANTOR:


JONATHAN E TICHENOR, GRANTOR

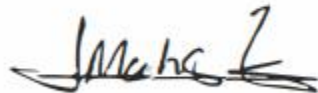
State of Indiana)
County of Monroe)

Before me, a Notary Public, in and for said County and State, personally appeared JONATHAN E TICHENOR, who acknowledged the execution of the foregoing and who, having been duly sworn, stated that any representations therein contained are true.

WITNESS my hand and seal, this 16 day of September, 2022.

My Commission expires;

Sept 24 2025

 Notary Public
resident of Marion County

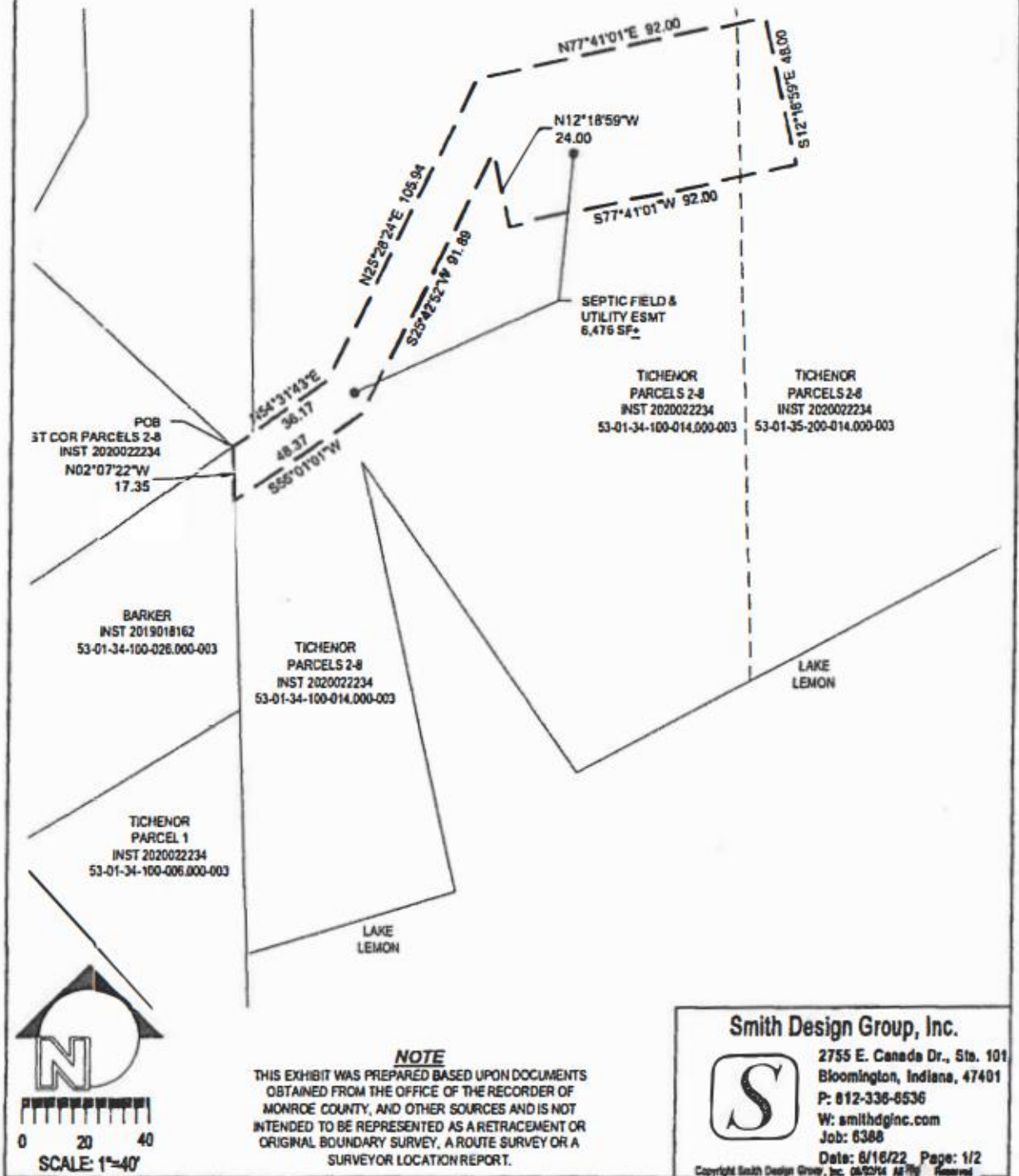

MARTA J TICHENOR, GRANTOR

State of Indiana)
County of Monroe)



EXHIBIT "C"

SEPTIC FIELD AND UTILITY EASEMENT



MONROE COUNTY BOARD OF ZONING APPEALS**October 5, 2022**

CASE NUMBER	VAR-22-38
PLANNER	Anne Crecelius
PETITIONER	Renewing Properties, LLC c/o David Gilman
REQUEST	Use Variance: Ch. 802 (Hotel)
ADDRESS	8482 S Fairfax RD, Parcel #53-11-14-300-026.000-006
ACRES	16.63 +/-
ZONE	AG/RR, ECO1, ECO2
TOWNSHIP	Clear Creek
SECTION	14
PLATS	Unplatted
COMP PLAN DESIGNATION	Rural Residential

EXHIBITS:

- 1) Petitioner Letter
- 2) Petitioner Response to Requirements
- 3) Site Plan – 2022
- 4) Site Plan from 2020
- 5) Septic Permit 2019

RECOMMENDED MOTION:

Deny the Use Variance (Hotel) to Chapter 802 of the Monroe County Zoning Ordinance, specifically the lack of findings provided by the applicant to meet the criteria for a Use Variance.

ORDINANCE REFERENCE FOR USE VARIANCES

812-5 Standards for Use Variance Approval: In order to approve an application for a design standards variance, the Board must find favorable findings for all five (5) criteria, A, B, C, D, and E listed after the agenda within the BZA packet.

In order to approve 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;*
- 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;*
- C. the need for the variance arises 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,*
- 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 Improvements*
 - 5. Distinguish Land from Property*

Hardship or Unnecessary Hardship. Significant economic injury that: (A) Arises from the strict application of this ordinance to the conditions of a particular, existing parcel of property; (B) Effectively deprived the parcel owner of all reasonable economic use of the parcel; and (C) Is clearly more significant than compliance cost or practical difficulties.

SUMMARY

The petition site is a 16.63 +/- acre lot located in Clear Creek Township, at 8482 S Fairfax RD. The petitioner is requesting a Use Variance from Chapter 802 of the Monroe County Zoning Ordinance. The petitioner is seeking this variance in order to use the Single Family Residence for “short-term lodging agreement” under the “Hotel” use within the Agricultural Rural Residential (AG/RR) zone.

If this use variance request is approved by the petitioner will be required to submit a (commercial) site plan for review that meets the design standards of the Ordinance, e.g. parking, landscaping, Stormwater, etc.

BACKGROUND

The site holds a 10,636 sq. ft. single family residence that began construction in 2000. There’s one active Building Permit/Improvement Location Permit for a deck that expires on 12/4/2022. The structure’s interior is unfinished and will require future permitting. The property was an enforcement case for grading and adding two decks without permits in 2020 but reached compliance through variances and after-the-fact permitting.

A short-Term Lodging Agreement is defined as stays shorter than 30 days. The use of a “Hotel” isn’t permitted in the AG/RR zone and is defined below. The difference between the Hotel use and the “Tourist Home or Cabin” use the petition mentions in their letter is the presence of more than 4 bedrooms. The Hotel use is only permitted in the General Business (GB) zone and requires a (commercial) site plan review and approval. The use of the property will be limited by septic capacity – an installation permit was issued in 2019 for two (2) 1,500 gallon presby systems that allows for ten (10) bedrooms.

Ch. 802. Hotel. A building, or portion thereof, in which five (5) or more guest rooms (typically accessible from an interior hallway) are furnished to the public under a short-term lodging agreement

Ch. 801. Short-Term Lodging Agreement. An agreement under which rooms are provided for a fee, rate, or rental, and are occupied for overnight lodging or habitation purposes for a period of less than thirty (30) days.

While working the petitioner’s representative we’ve communicated that there’s a difference between a use as a “Hotel” versus an “Event Center”. The petitioner has chosen to move forward with the Hotel use variance and understood that the residence could not be used or advertised for event’s that would include guests traveling to the petition site without occupying the residence for overnight lodging. An “Event Center” is defined as:

Ch. 801. Event Center. A building (which may include on-site kitchen/catering facilities) where indoor and outdoor activities such as weddings, receptions, banquets, corporate events and other such gatherings are held by appointment.

LOCATION MAP

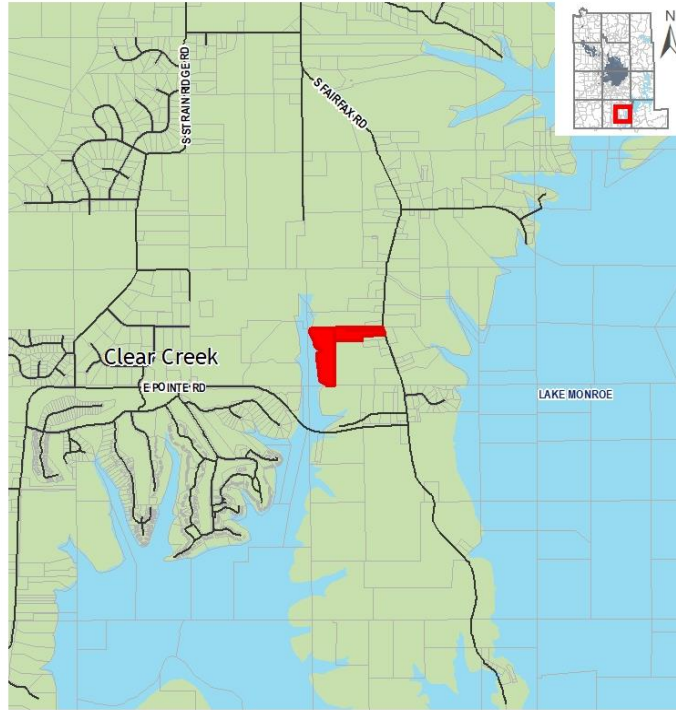
The parcel is located in Clear Creek Township, Section 14, parcel numbers 53-11-14-300-026.000-006, addressed as 8482 S Fairfax RD.

Location Map

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

0 0.2 0.4 0.8 Miles

Monroe County
Planning Department
Source: Monroe County GIS
Date: 9/26/2022



ZONING AND LAND USE

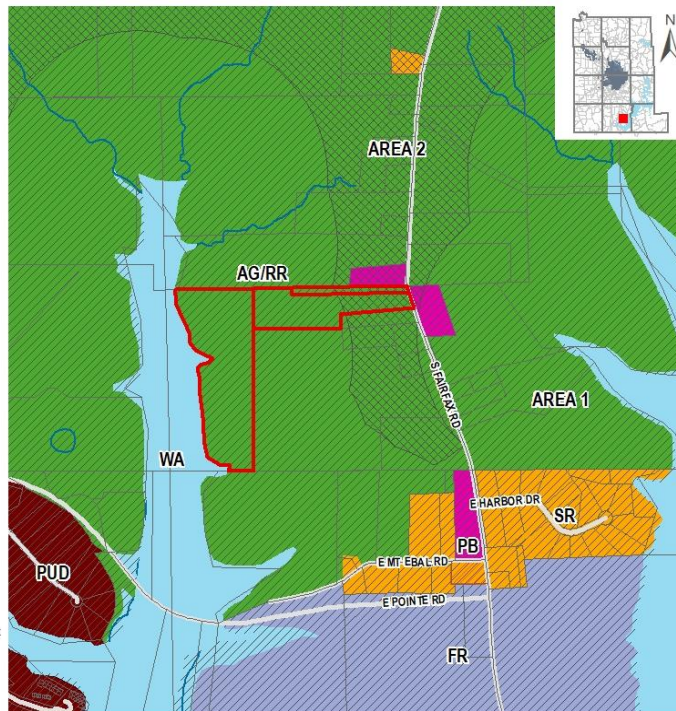
The petition site is zoned Agricultural Rural Reserve (AG/RR) and Environmental Constraints Overlay Area 1 and 2 (ECO1, ECO2). The neighboring lots are zoned AG/RR and Pre-Existing Business (PB). The neighboring uses are primarily residential with some commercial uses.

Current Zoning Map

- Petitioner
- Roads
- Lakes
- Hydrologic Features
- ECO Areas
- Area 1
- Area 2
- Historic Preservation Overlay
- Monroe County Zoning**
- AG/RR - Agriculture/Rural Reserve
- FR - Forest Reserve
- PB - Pre-Existing Business
- PUD - Planned Unit Development
- SR - Suburban Residential
- WA - Water

0 325 650 1,300 Feet

Monroe County
Planning Department
Source: Monroe County GIS
Date: 9/26/2022



SITE CONDITIONS & SLOPE

The site holds an incomplete (unfinished) 10,636 sq. ft. single family residence that being construction in 2000. The site contains a mixture of building area, (under 15% slope for the construction of structures), and under 12% slope for land disturbance of any type, soil or vegetation.

Site Conditions Map

- Major Collector [70']
- Petitioner
- 10-Foot Contours
- 12% Slope (EC01)
- 0 - 12%
- > 13%
- Local Roads [50']
- Hydrologic Features

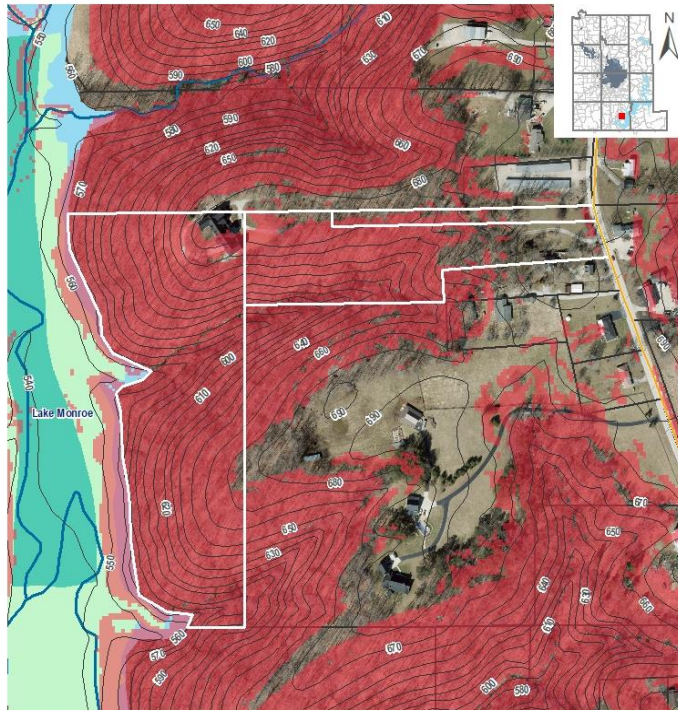
DNR Best Available Data

- FLD_ZONE, ZONE_SUBTY
- A
- A, APPROXIMATE FLOODWAY
- Lakes
- Parcels

0 95 190 380 Feet



Monroe County
Planning Department
Source: Monroe County GIS
Date: 9/26/2022



SITE PICTURES

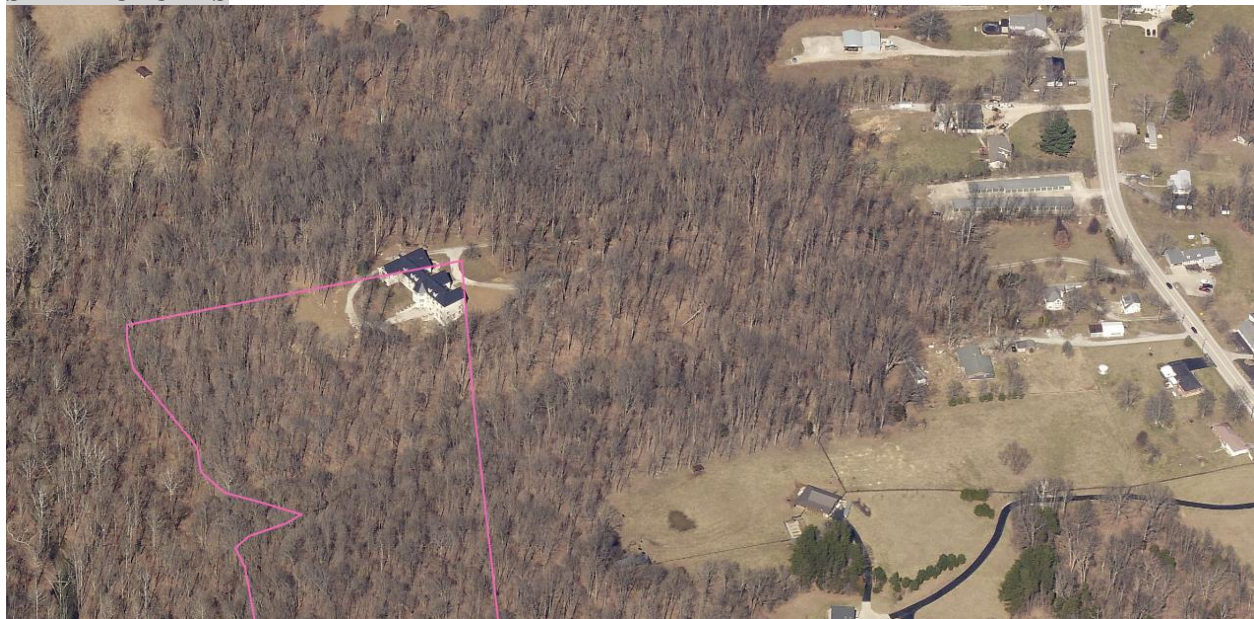


Photo 1: Pictometry photo looking north.



Photo 2: Looking west at the residence.

Photo 3: Looking south at the residence



Photo 4: Looking west at the driveway off of S Fairfax RD



Photo 5: Residence as of 9/20/2022

COMPREHENSIVE PLAN DISCUSSION

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

Rural Residential

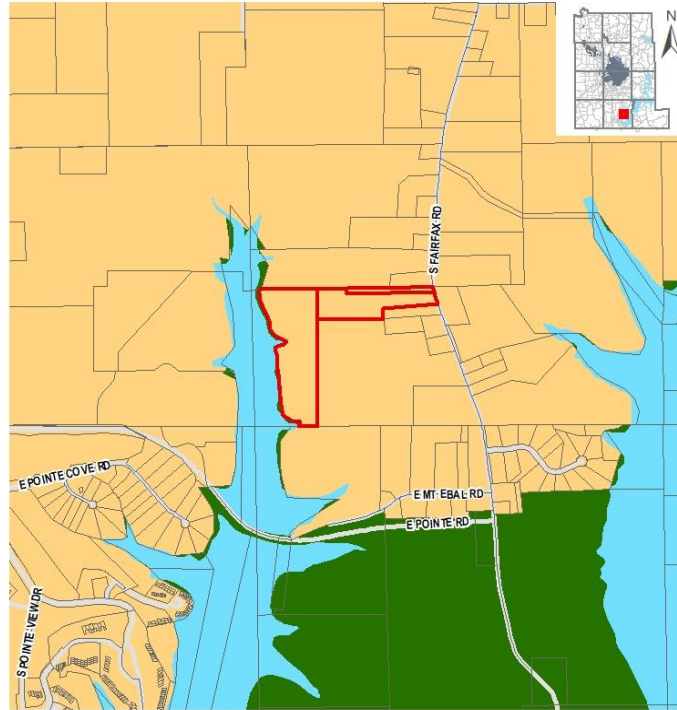
The Rural Residential use category includes rural property, environmentally sensitive areas, and areas adjacent to quarry operations where low densities are appropriate and desirable; however, the sparse population character of the Farm and Forest category is no longer applicable. Generally, these areas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

Comprehensive Plan

- Petitioner
- Townships
- Parcels
- Roads
- Comp. Plan Land Use (Updated 2015)**
- Managed Lands
- Rural Residential
- Water

0 0.075 0.15 0.3 Miles

Monroe County
Planning Department
Source: Monroe County GIS
Date: 9/26/2022



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.

EXHIBIT ONE: Petitioner Letter

Land Development Services
211 South Ritter Avenue, Ste H
Indianapolis, Indiana 46219
317-833-6331
davidgilman78@gmail.com

September 14, 2022

Monroe County Board of Zoning Appeals
501 N Morton Street, Ste 224
Bloomington, Indiana 47404

RE: Variance Petition: 8482 S. Fairfax Road

Board of Zoning Appeals:

Renewing Properties, LLC petitions the Board of Zoning Appeals to establish a 10,000 sqft, ten (10) bedroom home for short term lodging. In Chapter 802, the definition of a Tourist Home is limited to only four (4) guest rooms. The definition of a Hotel is five (5) or more guest rooms (typically accessible from an interior hallway). The distinction of the Petitioner's variance request is the lodging will be only for the entire 10-bedroom home and will not be offered for an individual room or guest.

The property is zoned AG/RR. The parcel is 16.63 acres with only the one (1) dwelling under construction. The Petitioner has retained an experienced architect to complete the interior design for the structure. At present, there are several portions of the home that are incomplete or unfinished. The Petitioner is committed to completing the required improvements and file for all the necessary permit and approvals, prior to occupancy.

The site is well buffered from adjacent residences with uninterrupted landscape yards, natural topography, and mature woodlands. The size of the home, large parcel, and expense to complete construction has made it impossible to sell and maintain as a single-family dwelling. This unfinished home is almost 22 years old and desperately needs to be completed and occupied. Conversely, the size of the home and its location make it more desirable to lease for family vacations, milestone celebrations or retreats.

A detailed Plan of Operation is included as part of the variance filing to ensure compatibility with the developed area, sensitivity to performance standards and not to be detrimental to the objectives of the Comprehensive Plan.

Your favorable consideration for the variance grant is appreciated.

David Gilman, Principal
Land Development Services

EXHIBIT TWO: Petitioner Plan of Operation

**Plan of Operation
8482 Fairfax Road
8/30/2022**

BACKGROUND

The property at 8482 S. Fairfax Road is zoned Agriculture/Rural Reserve (AG/RR) and contains 16.63 acres. The subject property has one (1) single family dwelling that has been under construction since 2000. At present, there are several portions of the interior that remain incomplete or unfinished. The Owner has retained an experienced architect to complete the design. The Owner is committed to obtain approvals for all the necessary permits, completing the required improvements and passing all required inspections in a timely manner.

Business Use

The new Owner proposes accommodations for group vacations, milestone celebrations and relaxing retreats for families or businesses. The site has over 16 acres of uninterrupted landscape yards, unique topography, and mature woodlands. The dwelling has a front setback of 1,200 feet and is not visible from Fairfax Road and may not even be visible from any adjacent residence.

Architectural Style

The residence and proposed use shall retain a residential architectural orientation and the rural characteristic of the surrounding neighborhood. A copy of the exterior elevations will be submitted to complete the required permit approvals.

Hours of Operation

The site will be available to guests for daytime, overnight or short-term leases. All organized outdoor activities will start no earlier than 8 am and conclude by 10 pm each evening.

Off-Street Parking

The site has ample areas to be designated for parking. The civil engineer will design the parking areas to be compliant with condition #48 normally required of a Tourist Home in the AG/RR district to maintain the characteristic of the surrounding area. There will be at least one (1) parking space per guest room, including an ADA van accessible space.

Clients and Customers

There will be a family and group gathering by appointment only. The entire residence will be leased to only 1 family or group per visit.

Guest Rules Performance Standards

There will be placards posted at strategic locations on the dwelling and property establishing Guest Rules for noise, parking, and the overall adherence to the Performance Standards, as established in Chapter 802.

Traffic Generation

Traffic generation will be minimal with only 10 guest rooms. The guest will typically be arriving and departing at scheduled hours. The site will have a paved entrance on Fairfax Road to the edge of the right of way line.

Signage

The entrance may have a small ground sign to easily identify the property and will have a reflective 911 address.

Lighting

Lighting will be similar to any residential environment, including, wall mounted security lights and designated accent lights.

Business Activity/Security Measures

There will be a secure gate at the entrance with kiosk for visitors and guest. The house is equipped with a security alarm system. An emergency placard will be posted at several designated locations in the residence and on the property to inform guest on how to notify management, fire, or police in case of an emergency.

Shipping and Receiving

Daily shipping and receiving will be through typical UPS, Amazon, or FedEx delivery trucks.

Waste

All waste would be picked up by private or County waste disposal service. Waste receptacles will be stored behind the existing fenced gates until day of pick-up off Fairfax Road. It is anticipated the trash service will be necessary 1 time per week and will be adjusted, as needed.

Self-Imposed Conditions

The petitioner would agree to the following self-imposed conditions:

1. All development shall follow, and be subject to, the site plan file dated August 30, 2022.
2. The use of the property shall follow, and be subject to, the Plan of Operation, file dated August 30, 2022.

EXHIBIT THREE: Site Plan

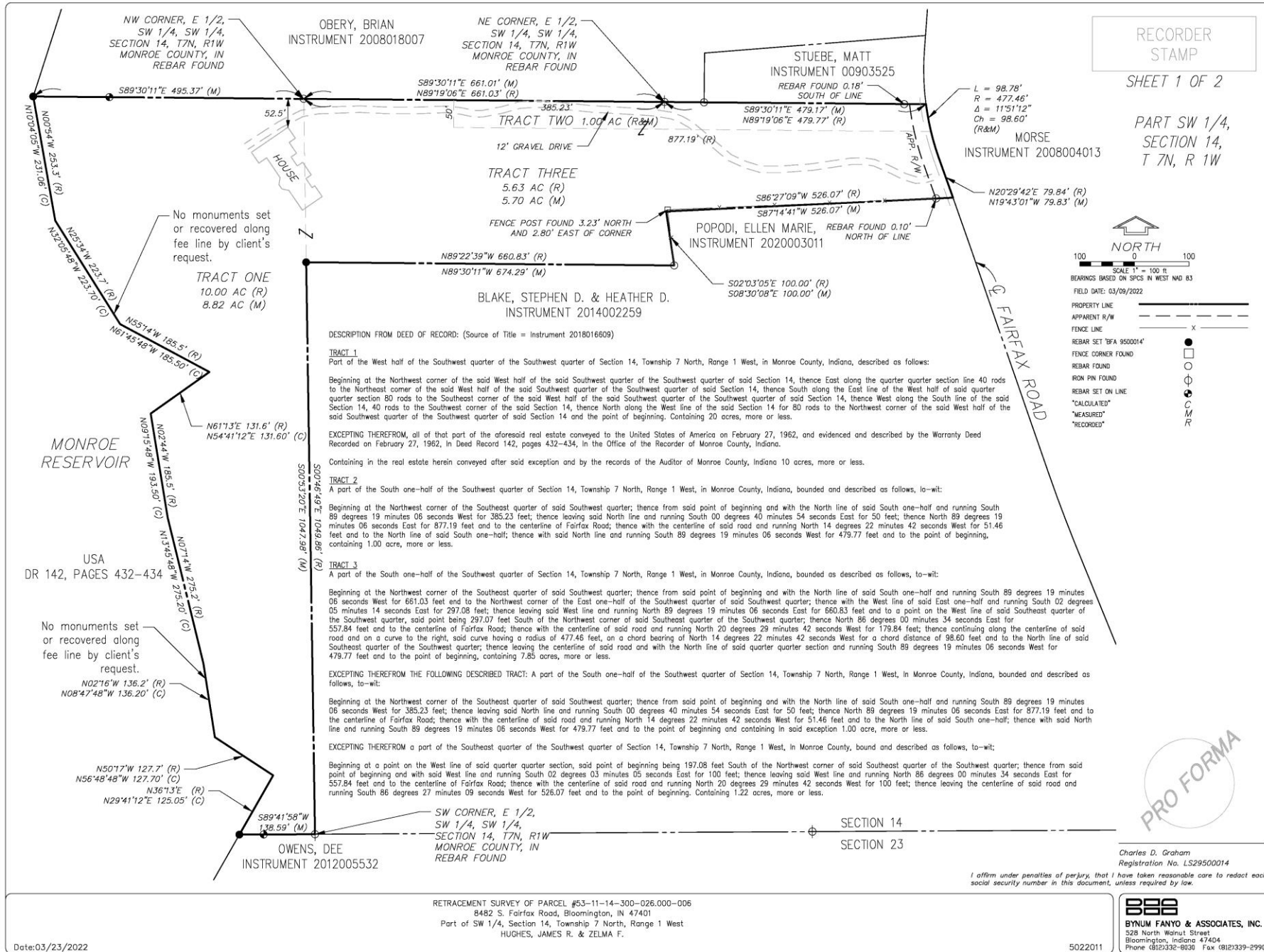


EXHIBIT 5: Septic Permit 2019



Monroe County Health Department

Monroe County, Indiana

Health Department	Futures Family Planning Clinic	Public Health Clinic
119 W. 7th Street (812) 349-2543	119 W. 7th Street (812) 349-7343	333 E. Miller Drive (812) 353-3244

Receipt #: 18689 Permit #: 21915

(PERMIT EXPIRES 2 YEARS FROM ISSUE DATE)

Issue Date # APR 18 2019

REPAIR SEPTIC PERMIT APPLICATION

Please read the following instructions.

***Inspection Charge: \$150**

1. Enter your parcel number, if known.
2. You **MUST** enter the total number of bedrooms.
3. Fee required at the time you apply.
4. Septic Inspectors will review applications at 8:00 am daily, when they are in the office.
5. An applicant may request a Septic Inspector to meet them at the site during the time of inspection.
6. All septic systems in Monroe County must be repaired, replaced, or installed by registered Monroe County installers, and inspected and approved by Monroe County Health Department Septic Inspectors.

Today's Date: 4 / 11 / 2019

MUST BE FILLED OUT FOR APPLICATION TO BE PROCESSED

State Parcel #: 53 - 11 - 14 - 300 - 026 - 000 - 006

Tax I.D. # 004-03140-00

Owner: JAMES & ZELMA HUGHES

Telephone #: 812-229-8305

Mailing Address: P.O. Box 106

FARMERSBURG, IN 47850
(ZIP CODE)

Site Address: 8482 S. FAIRFAX RD., BLOOMINGTON 47404 Lot #: _____

Subdivision (if applicable) _____ Acreage: 14+

****Private Soil Scientist must be obtained****

**** Soil Test Provided by Applicant ☐**

****Soil test will be required unless approved by MCHD Wastewater Sanitarian****

Reason Septic Permit is Needed:

Site Information:

Replacing Structure	<input type="checkbox"/>
Change in Bedroom Count	<input checked="" type="checkbox"/>
Before <u>8</u> After <u>10</u>	
Remodeling Structure	<input checked="" type="checkbox"/>
Adding a Convenience Bathroom	<input type="checkbox"/>
Replacing Septic System Due to Failure	<input type="checkbox"/>

# Bedrooms/Equivalent (Required)	<u>10</u>
IN or OUT of Watershed	<input checked="" type="checkbox"/>
IN or OUT County MS 4 Area	<u>3</u>
Water Supply: Well <input type="checkbox"/> Municipal <input checked="" type="checkbox"/>	

Purpose for Permit: (If due to failure, describe nature/location of problem)



TO BE COMPLETED BY HEALTH DEPARTMENT SEPTIC INSPECTOR:

SPECIFICATIONS:

Septic Tank Size: ☐ 1,000 gal

2 ☒ 1,500 gal

☐ 2,000 gal

☐ Other

☐ Filter on septic tank required ☐ Use existing

Pump Tank Size: ☐ 750 gal

☐ 1,000 gal

☐ 1,500 gal

☐ No Pump Needed

☐ Use standard pump package with alarm on separate electrical circuit.

☒ **PRESBY ADVANCE**

☐ **PRESBY ENVIRONMENTAL**

☐ **ATL (INFILTRATOR)**

3 Bed Size: 24 ft. X 62 ft.

Depth of cut: 18-24 inches.

3 # of Pipes 4 Length 60 ft.

Total Linear foot of pipe, 720 ft.

Minimum Depth of spec # 23 sand 6-8 inches.

10 # of Bedrooms

☒ Low vent 18 inches from ground surface

☐ High vent 10 ft. elevation difference from low vent (see plan for details).

Subsurface Drainage:

☒ Perimeter drain on ALL sides

☐ Curtain drain on upper 3 sides only

Depth: 60 inches

All subsurface drains are to be installed at a minimum 12 inches wide, to the depth stated above, and filled within 6 inches of the ground surface with a state approved material. ALL subsurface drains must have a hard outlet with critter guard.

* Seed and straw must be placed prior to approval.

Additional Comments:

Install Presby Advance (3 BEDS) 24x62w/12uhrs 60'
WAX OUT 18-24" w PERIMETERS @ 60" - ALL BEDS FEED
BY CENTRAL "D" BOX

CERTIFIED INSTALLERS: FOR ADDITIONAL BED VARIATIONS OR PRODUCT, CONTACT EITHER RANDY OR GARY.
HAVE SEPTIC PERMIT NUMBER ON HAND BEFORE CALLING.

INSPECTED BY: [Signature]

Thomas A. [Signature]
SIGNATURE OF OWNER/AGENT





Monroe County Health Department
Monroe County, Indiana

Health Department	Futures Family Planning Clinic	Public Health Clinic
119 W. 7th Street (812) 349-2543	338 S. Walnut Street (812) 349-7343	333 E. Miller Drive (812) 353-3244

MONROE COUNTY SEPTIC SYSTEM CONSTRUCTION INSPECTION

Parcel # 23114300 026 000 006

Permit # 21915

Sewer Line from House to Tank:

Date: 12/10/19 Initials: [Signature]

Septic Tank:

1000 Gal.
1500 Gal.
2000 Gal.

Make: Sexton W. [Signature]

Date: 12/10/19 Initials: [Signature]

Pump Chamber:

SEPTIC
WANE
1500 GAC
750 Gal.
1000 Gal.

Make: Sexton W. [Signature]

Date: 12/10/19 Initials: [Signature]

Drainage Field:

Presby Advance Presby Fins Mound Eljen

of Beds 2 # of Bedrooms 10

24	20 x 32	Date: <u>12/10/19</u>	Initials: <u>[Signature]</u>	2x	Date: <u>12/10/19</u>	Initials: <u>[Signature]</u>
Bed Size:				# of Pipes:		
Bed Depth:	<u>10-24</u>	<u>7/26/19</u>	<u>[Signature]</u>	Pipe Length:	<u>30</u>	<u>7/26/19</u>
Sand Depth:	<u>6-8</u>	<u>7/26/19</u>	<u>[Signature]</u>	Low Vent:	<u>✓</u>	<u>7/26/19</u>
				High Vent:	<u>1</u>	<u>1</u>

Subsurface Drainage:

 Curtain/Perimeter Drain Hard Outlet with Critter Guard
 Aggregate filled to within 6" of surface:

Date: 7/26/19 Initials: [Signature]

Contractor:

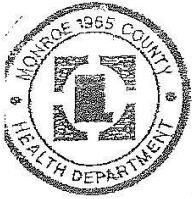
[Signature: Mike Anderson]

Notes:

MCHD Inspector:

Approved: Disapproved:

Revised: 4/1/19



Monroe County Health Department
Monroe County, Indiana

Health Department	Futures Family Planning Clinic	Public Health Clinic
119 W. 7th Street (812) 349-2543	119 W. 7th Street (812) 349-7243	333 E. Miller Drive (812) 353-3244

ELEVATIONS AS REQUIRED BY INDIANA STATE DEPARTMENT OF HEALTH

TO BE COMPLETED BY INSTALLER AT TIME OF CONSTRUCTION

Please document the elevations of all of the following that apply.

Septic Tank Manufacturer: Sexton - Wilbert Septic Tank Size: 1,500

Septic Tank Elevation: Inlet .5 Outlet .9

2 ~~Septic~~ Chamber: Inlet 5.1 Outlet 5.5

Pump Tank Manufacturer: _____ Pump Tank Size: _____

Pump: Off Float Position _____ On Float Position _____

Pump Tank Manufacturer: _____ Pump Tank Size: _____

Pump Manufacturer: _____ Pump Size: _____

Distribution Box: 6-Hole

Bed Elevations:

Bed #1
Upper Corners 20.6 & 20.6
Lower Corners 25.6 & 25.6

Bed #2
Upper Corners 20.6 & 20.6
Lower Corners 25.6 & 25.6

Bottom of Pipe: 22.6

22.6

Pipe Ends: 1. 24.6 & 24.6
2. 25.0 & 25.0
3. 25.4 & 25.4
4. 25.8 & 25.8
5. 26.0 & 26.0

1. 24.6 & 24.6
2. 25.0 & 25.0
3. 25.4 & 25.4
4. 25.8 & 25.8
5. 26.0 & 26.0

Top of Sand Over Pipe: 6" Final Cover: 9" Low Vent 25.4 High Vent Estimated 40' Above low

Final elevation for critter guard of perimeter or curtain drain: 32.0

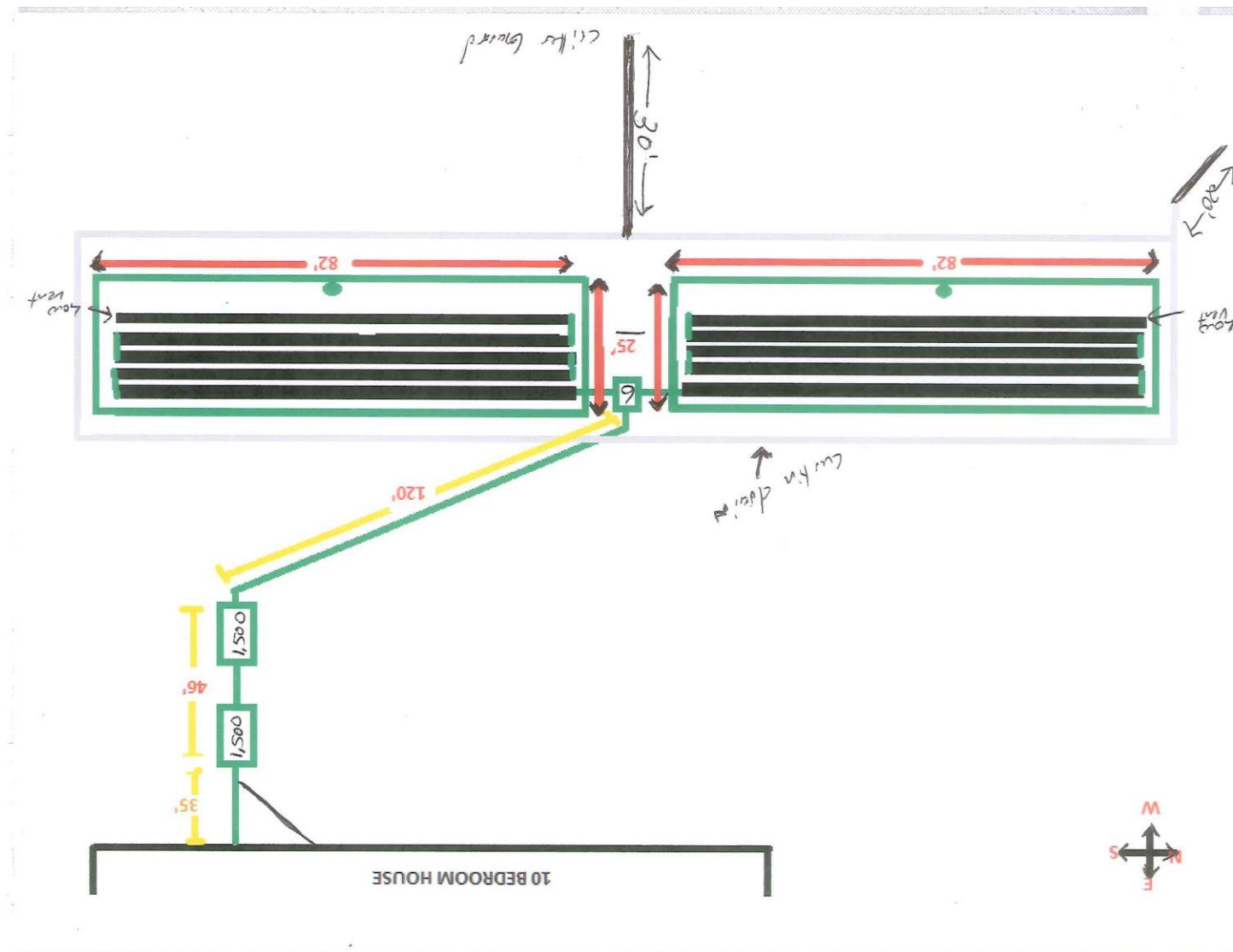
Distance in feet of perimeter or curtain drain from bed to critter guard: 30'

Installers Name: Mike Anderson Date: 12/04/19

Permit #: 21915

ATTENTION INSTALLER: DO NOT HAND-IN WITHOUT DIAGRAM ON BACK OF THIS PAGE AND SIGNATURE ON "FINAL COVER AGREEMENT".





27.0 Indiana System Installation Form

Installers must complete and fax or mail a copy of this form to the local approving authority and to:
Presby Environmental, Inc., 143 Airport Rd, Whitefield, NH 03598 Fax: (603) 837-9364

Installer's Name: <u>Mike Anderson</u>		Installer's PEI Certification Number:	
Company Name: <u>Mike Anderson Excavating INC.</u>			
Street Address: <u>9410 W. County line Rd Croft</u>			
City: <u>Croft</u>		State: <u>IN</u>	Zip: <u>47453</u>
Installer's Phone Number:			
Designer's Name:		Company Name:	
Street Address:			
City:		State:	Zip:
Phone Number:			
Property Owner(s):			
Site Street Address:			
City:		State:	Zip:
System Information (check all that apply):			
<input checked="" type="checkbox"/> New Construction <input type="checkbox"/> Replacement <input type="checkbox"/> Mound <input type="checkbox"/> In-ground <input checked="" type="checkbox"/> Gravity <input type="checkbox"/> Pump to D-Box <input type="checkbox"/> Serial Distribution Number of Beds: <u>2</u> <input type="checkbox"/> Effluent Filter Used Design Flow (bedrooms or GPD): _____ Indian Soil Loading Rate (GPD/ft ²): _____			
Installation Date: <u>7/28/19</u>		System Startup Date: <u>12/30/19</u>	
State Permit Number:		Local Construction Permit Number:	
Comments: <u>2x 1500 Gallon Tanks</u> <u>2x Beds 82' x 25'</u>			

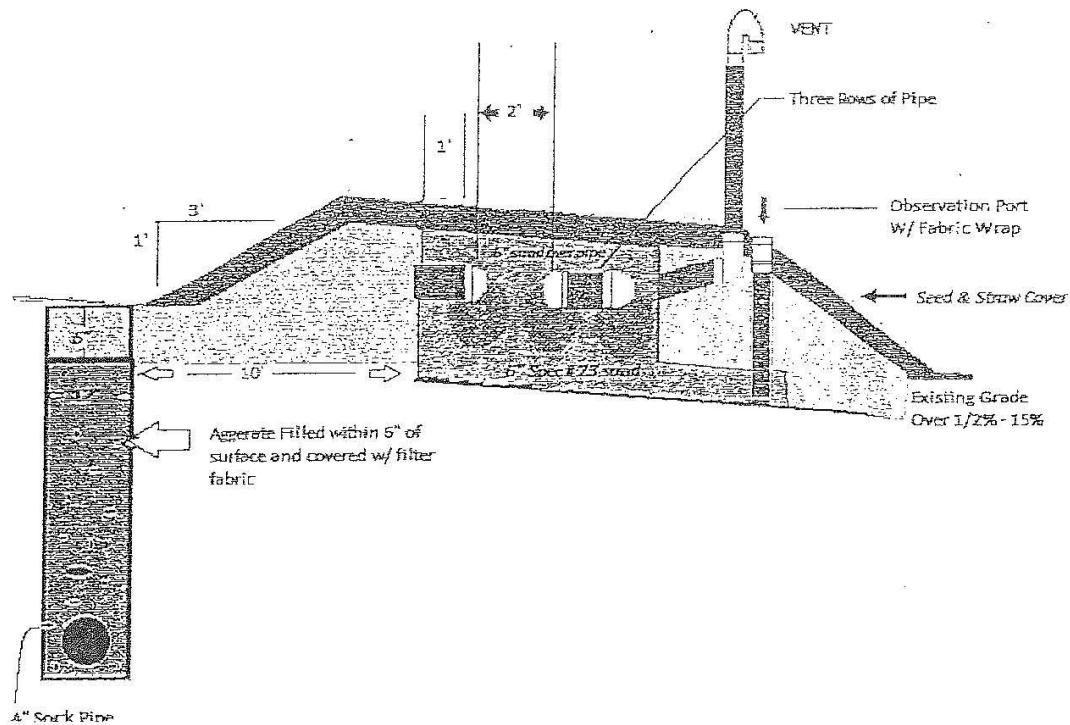


Monroe County Health Department
Monroe County, Indiana

Health Department	Futures Family Planning Clinic	Public Health Clinic
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FINAL COVER AGREEMENT

Permit # _____



410 IAC 6-8.3-74 Subsurface trench onsite sewage systems: general design and construction requirements. (y) A minimum of twelve (12) inches of cover shall be provided over the aggregate in the trenches, and any fill required to provide cover shall be crowned over the entire soil absorption system to promote surface runoff. By signing below, I acknowledge the need for a minimum of 12" of soil cover to be placed over this septic system. The person signing below shall be responsible for the proper amount of cover being placed over the system, the final grading to promote surface run-off and seeding/straw placement. These items may or may not be in the "bid" price, but are **REQUIRED** prior to approval.

Signature _____

Date _____





MONROE COUNTY BOARD OF ZONING APPEALS

Public Meeting Date:

October 5, 2022

CASE NUMBER	DETAIL	RECOMMENDED MOTION
VAR-22-39	Use Variance to allow General Contractor	Denial

812-5 Standards for Use Variance Approval: In order to approve an application for a design standards variance, the Board must find favorable findings for all five (5) criteria, A, B, C, D, and E listed after the agenda within the BZA packet.

In order to approve 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;*
- 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;*
- C. *the need for the variance arises 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,*
- 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 Improvements*
 5. *Distinguish Land from Property*

Hardship or Unnecessary Hardship. Significant economic injury that: (A) Arises from the strict application of this ordinance to the conditions of a particular, existing parcel of property; (B) Effectively deprived the parcel owner of all reasonable economic use of the parcel; and (C) Is clearly more significant than compliance cost or practical difficulties.

Recommended Motion Conditions or Reasoning:

Deny the use variance (General Contractor) to Chapter 802 based on the findings of fact. Since the property is already utilized as a Single Family Dwelling, there is not an unnecessary hardship in denying the General Contractor use.

Variance Type: <input type="checkbox"/> Design <input checked="" type="checkbox"/> Use		Planner: Daniel Brown
<input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial		
PETITIONER	Gott, Thomas	
ADDRESS	3290 S Kneightridge RD 53-07-18-100-027.000-014 & 53-07-18-100-051.000-014	
TOWNSHIP + SECTION	Salt Creek, 18	
PLATS	<input checked="" type="checkbox"/> Unplatted <input type="checkbox"/> Platted:	
ACREAGE +/-	Total of 0.86 acres +/-	
	PETITION SITE	ADJACENT
ZONING	CR	CR, FR
CDO ZONE	Rural Residential	Rural Residential
USE	Residential	Residential, vacant, Right-of-way
EXHIBITS		

1. Pictometry & staff visit photos
2. Petitioner Letter & Owner Consent
3. Remonstrance

4. Petitioner Site Plan
5. CR Use Table

SUMMARY

The petitioner is requesting a Use Variance to establish a “General Contractor” business at 3290 S Knightridge RD. The petitioner, Thomas Gott, desires this use variance so he may park construction vehicles associated with the business “Gott Tree Service” on his residence rather than at another location.

Chapter 802 defines General Contractor as follows:

General Contractor. An individual who contracts to perform building/structure construction related work or to provide supplies on a large scale, or an individual who contracts to erect buildings and/or other structures. Construction related work may include, but are not limited to, plumbing, landscaping, electrical, framing, concrete, masonry, roofing, etc.

Chapter 802 allows General Contractor in the General Business (GB), Light Industrial (LI), and Heavy Industrial (HI) zones subject to the following Special Condition:

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.

If the use variance is approved, the petitioner will be required to file a commercial site plan as this will as well as Minimum Lot Size Variance, as the property is under the minimum lot size for this zone according to Chapter 804 (2.5 acres). The petitioner has said there are no plans to expand the building footprint or parking lots / driveways at this time.

NEED FOR USE VARIANCE

Chapter 802 has General Contractor listed as a *conditional* in the Conservation Residential zone. According to Chapter 813-5(B) for Conditional Uses, one of the conditions for Conditional Use approval is for the Board to find that “all conditions, regulations and development standards required in the Zoning Ordinance shall be satisfied”. This property does not meet all conditions and development standards, hence the need for a regular Use Variance as opposed to a Conditional Use Variance.

BACKGROUND

RECENT CASES:

- 17-AC-116: Enforcement Case
 - Petitioner applied for a permit to construct an accessory structure in January of 2021. Asked to submit use determination as well which resulted in a determination of General Contractor not being allowed at that time. Cease and desist letter was sent, but use did not cease.
- AC-22-23: Enforcement Case
 - Use still occurring but now General Contractor is a Conditional Use is CR zone. Gott was required to cease and desist and then, if they wanted to pursue the business use on the property, apply for a Use Variance.

Conservation Residential (CR) District

Conservation Residential (CR) District. The character of the Conservation Residential (CR) District is

defined as that which is primarily intended to provide a residential option (planned unit or cluster development) at environmentally sound locations while protecting the environmentally sensitive watersheds of Lake Griffey and Monroe Reservoir. Its purposes are to protect the environmentally sensitive watershed, especially the floodplain and steep slopes, to permit limited single family residential development on very large lots or in subdivisions (planned unit or cluster development) at environmentally sound locations, to discourage the development of nonresidential uses, to discourage the development of sanitary sewer systems except for existing development and to maintain the character of the surrounding neighborhood. Development in the CR District is hindered by concern over the watershed environment, and, in some cases, extreme topography, poor access and the availability of few or no public services. Therefore, the number of uses permitted in the CR District is limited. Some uses are conditionally permitted. The conditions placed on these uses are to insure their compatibility with the watershed environment and low- density residential uses. The development of new residential activities proximate to known mineral resource deposits or extraction operations may be buffered by increased setback distance

EXHIBIT ONE: Pictometry and Site Photos

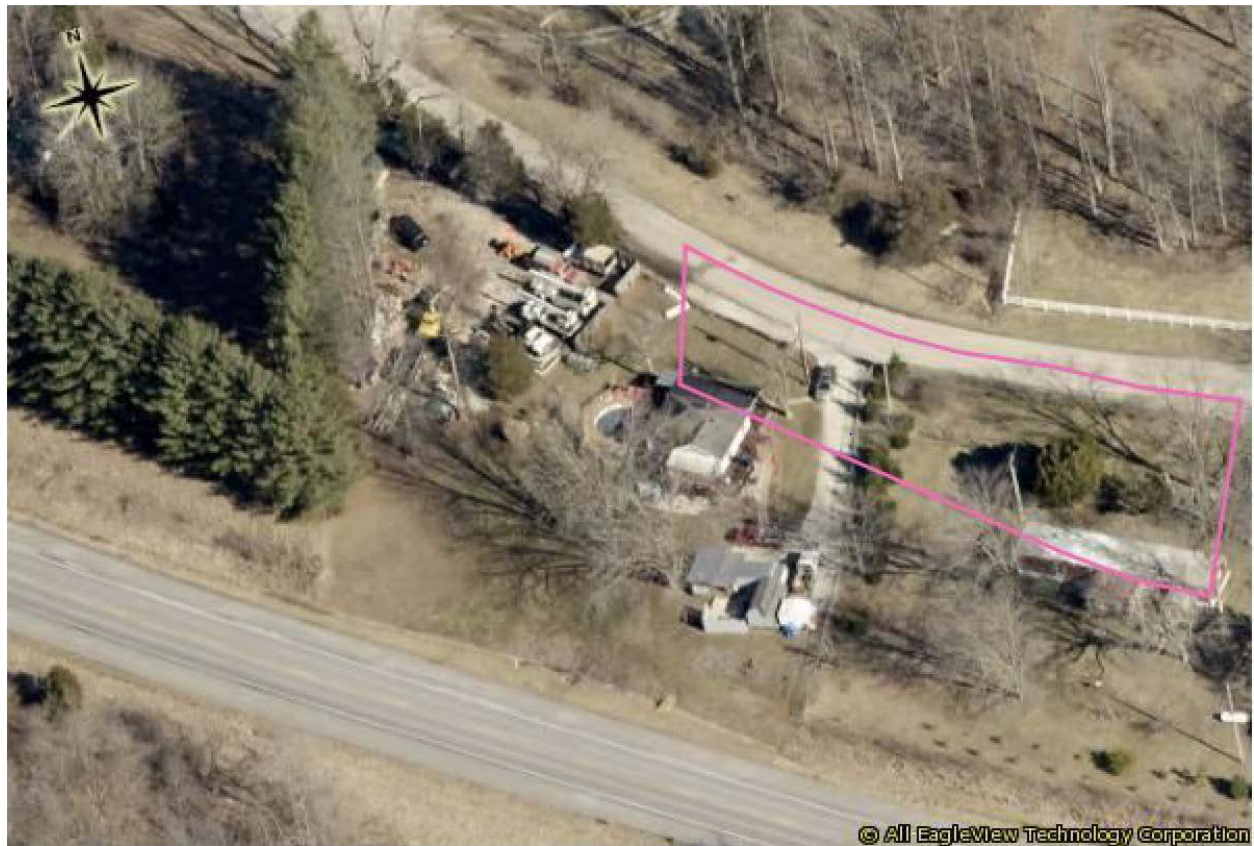














EXHIBIT TWO: Petitioner Letter

To whom it may concern,

This letter is about 3290 S. Knightridge Rd. Bloomington, IN 47401, which was previously Gott Trees Service-a 40-year business.

I had to move my equipment to a new location due to a neighbor that had made some complaints. I have been at the 3290 location since 1997 and have had no previous complaints. This move is costing me \$1000 a month to store my equipment. This has put a financial burden on my family, especially in these hard times.

After 40 backbreaking years owning this business and serving Monroe County, due to unforeseen health issues I have decided to retire. I have sold all my equipment except for one bucket truck and chipper. I would like to store these two items on MY property for a while just in case I would ever need to restart the business should the economy get any worse.

3290 S. Knightridge Rd is NO LONGER Gotts Tree Service. This is my home; no business operations are being held here. I hope that I will be able to park this truck and chipper on my property for storage only. I just want to be in legal compliance with Monroe County and I hope this request can be granted.

Thank you,

Thomas Gott

EXHIBIT THREE: Remonstrance Link

There has been remonstrance towards this petition request. A neighbor has provided several videos and photos, which can be found at the following links:

- [Collection of Remonstrance](#)
- Additional Video and Photos can be found on our YouTube channel or are shown below.
 - [Additional Video Remonstrance](#)





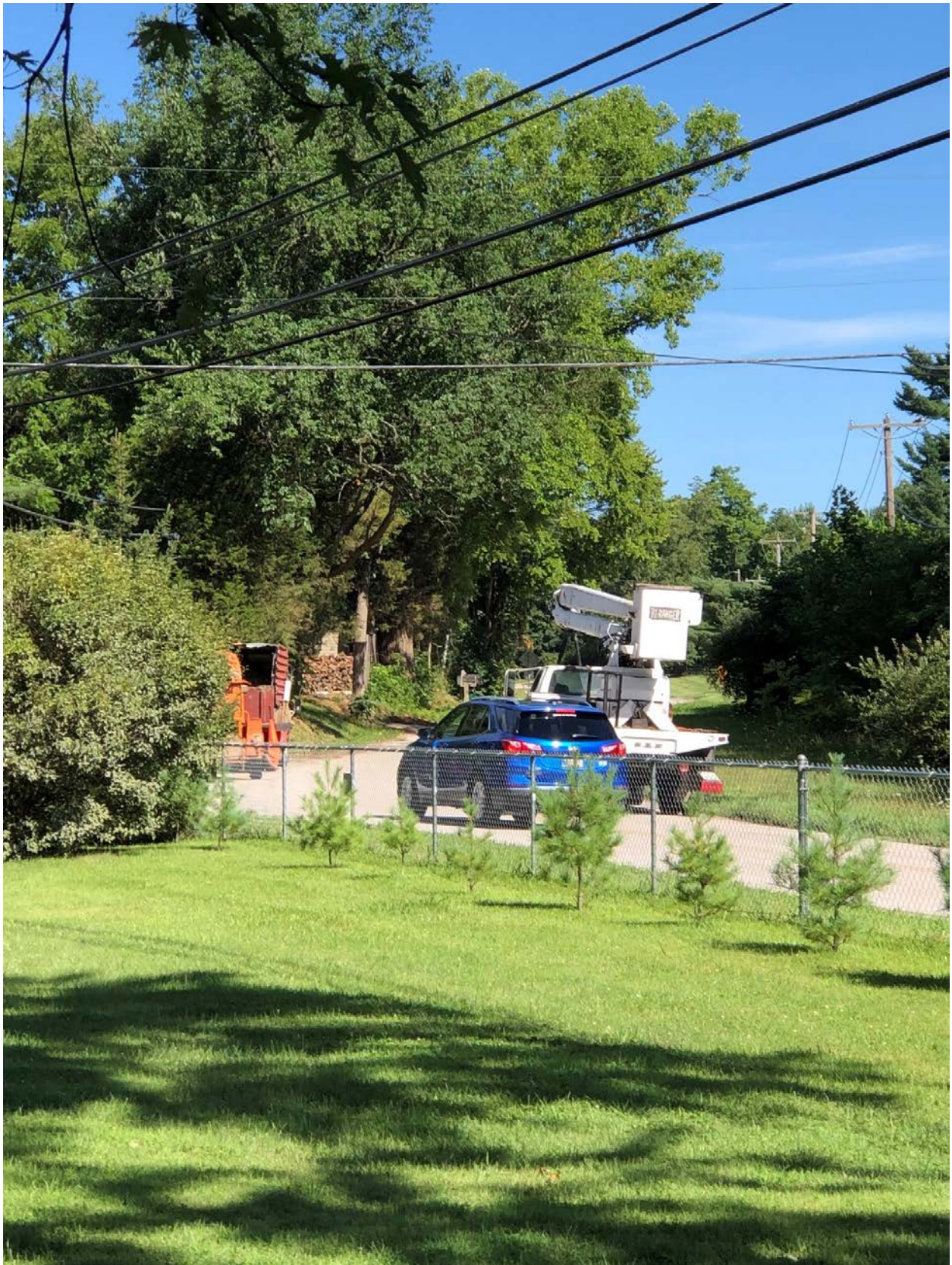














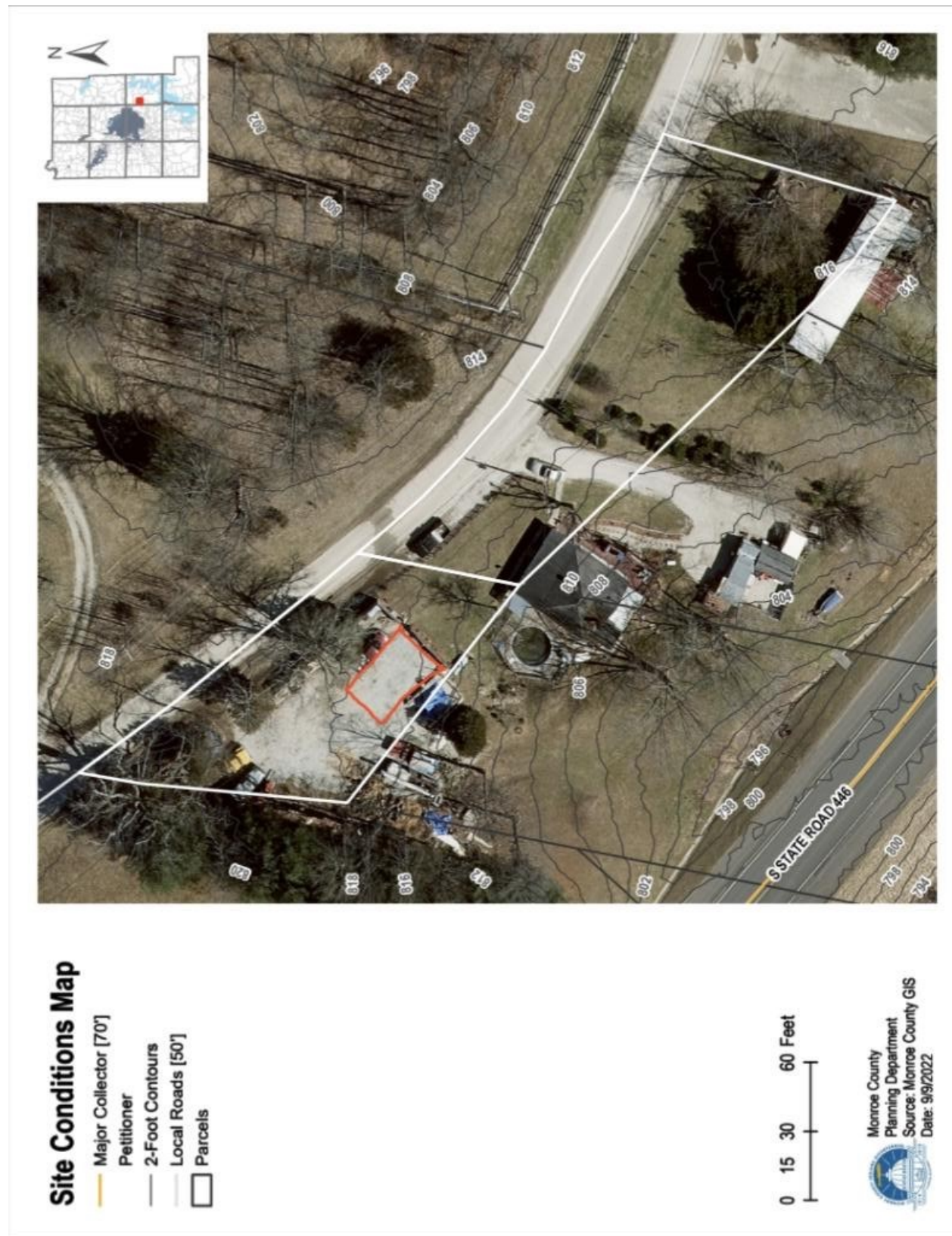








EXHIBIT FOUR: Petitioner Site Plan



The rectangular area is where the two vehicles planned to be located. Note that the property lines are off in this image.

EXHIBIT FIVE: CR Use Table

1	Agricultural Uses	(i)	CR	(C)
2	Accessory Use		P	53
3	Accessory Structures for Ag. Use	L	P	
4	Agriculture	H	P	53
8	Ag.-Related Industry	H	P	53
9	Ag. Uses-Land Animal	H	P	22; 53
10	Ag. Uses-Non Animal	H	P	22; 53
11	Agritourism / Agritainment	H	P	53
12	Aquaculture	M	P	22; 53
13	Christmas Tree Farm	H	P	53
14	Comm. facilities for the sale, repair, and service of Ag. equip., vehicles, feed, or suppl.	H	C	53
15	Comm. Non-Farm Animals	M	P	53
17	Equestrian Center	H	C	53
21	Historic Adaptive Reuse		P	15; 44
22	Horse Farm	L	P	53
23	Nursery/greenhouse	H	P	53
24	Orchard	H	P	53
25	Pick-your-own operation	H	P	53
26	Roadside farm stand, Permanent	M	P	52
27	Roadside farm stand, Temporary	L	P	51
29	Winery	H	P	53
30	Residential Uses	(i)	CR	(C)
31	Accessory Apartments	L	P	26
32	Accessory Dwelling Units	L	P	53; 55
33	Accessory Livestock	L	P	43
34	Accessory Use		P	5
37	Guest House	L	P	
38	Historic Adaptive Reuse		P	15; 44
39	Home Based Business	L	P	16
40	Home Occupation	L	P	16
43	Residential Storage Structure	L	P	15
44	Single Family Dwelling	n/a	P	1
45	Temporary Dwelling	L	P	3; 53
46	Two Family Dwelling	n/a	P	2
47	Public & Semipublic	(i)	CR	(C)
48	Accessory Use		P	13
50	Cemetery	H	P	
57	Governmental Facility	H	P	7; 40
60	Historic Adaptive Reuse		P	15; 44
65	Religious Facilities	H	P	22
66	Remote Garbage/Rubbish Removal	H	C	34
70	Telephone and Telegraph Services	L	P	32
72	Utility Service Facility	M	P	31
73	Wastewater Treatment Facility	H	C	15
74	Water Treatment Facility	H	C	
75	Wired Communication Services	M	P	32
77	Business & Personal Services	(i)	CR	(C)
78	Accessory Use		P	13
83	Artisan Crafts	M	C	15, 22, 44
86	Bed and Breakfast	L	P	8
103	Historic Adaptive Reuse		P	15; 44
119	Real Estate Sales office Or Model	L	P	9
123	Taxidermist	L	P	6
124	Temporary Seasonal Activity	M	P	46; 54
125	Tourist Home or Cabin	L	P	48
128	Veterinary Service (Indoor)	H	C	15
129	Veterinary Service (Outdoor)	M	C	10; 15
130	Retail & Wholesale Trade	(i)	CR	(C)
155	Garden Center	H	C	53
163	Historic Adaptive Reuse		P	15; 44
184	Automotive & Transportation	(i)	CR	(C)
186	Automobile Repair Services, Minor	H	C	50; 53
199	Historic Adaptive Reuse		P	15; 44
206	Amusement and Recreational	(i)	CR	(C)
207	Accessory Use		P	13
209	Camping Facility	H	P	27; 53
211	Historic Adaptive Reuse		P	15; 44
215	Park and Recreational Services	H	C	14; 20
216	Private Recreational Facility	H	C	20
218	Recreational Vehicle (RV) Park	H	C	53
222	Manufacturing, Mining	(i)	CR	(C)
240	General Contractor	M	C	15
244	Historic Adaptive Reuse		P	15; 44
268	Sawmill	H	C	15; 22
279	Wood Products	M	C	7; 15
280	Adult Oriented Business	(i)	CR	(C)
282	Multi-Use	(i)	CR	(C)

812-7-8: 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.

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

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

812-5. Standards for Use Variance Approval: In order to approve 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;
- (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;
- (C) The need for the variance arises 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,
- (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 Improvements*
 - (5) *Distinguish Land from Property*