MONROE COUNTY BOARD OF ZONING APPEALS



Wednesday, April 5, 2023 5:30 p.m.

Hybrid Meeting In-person

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

<u>Virtual</u>

Zoom Link: <u>https://monroecounty-</u> in.zoom.us/j/82893022439?pwd=UVpqL204bUQ1dVhDUXcrVE8xV3NEdz09

If calling into the Zoom meeting, dial: 312-626-6799. When prompted, enter the Meeting ID #: 828 9302 2439 Password: 372100

AGENDA MONROE COUNTY BOARD OF ZONING APPEALS (BZA)

HYBRID MEETING

When: April 5, 2023 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/82893022439?pwd=UVpqL204bUQ1dVhDUXcrVE8xV3NEdz09

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CALL TO ORDER ROLL CALL INTRODUCTION OF EVIDENCE APPROVAL OF AGENDA APPROVAL OF MINUTES: None.

ADMINISTRATIVE BUSINESS:

1. Draft Findings for VAR-22-53 case

OLD BUSINESS: NONE.

NEW BUSINESS:

1. VAR-23-1	Cassady Buildable Area Variance to Chapter 804 PAG	EE 20
2. VAR-23-7	Cassady Use Variance to Detached Accessory Dwelling Unit in Chapter	802
	One (1) 0.648 +/- acre parcel in Perry Township, Section 20 at	
	4820-4830 S Rogers ST, parcel #53-08-20-400-073.000-008.	
	Owner: Cassady, Randy	
	Zoned RE1. Contact: acrecelius@co.monroe.in.us	
3. VAR-23-4	Bloomington Self Storage Buildable Area (Special Flood Hazard Area)	
	Variance to Chapter 804 PAGE	61
	One (1) 7.49 +/- acre parcel in Van Buren Township, Section 12 at	
	2450 S Curry PIKE, parcel #53-09-12-300-023.000-015.	
	Owner: Curry Pike Storage LLC	
	Zoned LB. Contact: <u>dmyers@co.monroe.in.us</u>	
4. VAR-23-10a	Legacy Homes & Farms Minimum Lot Size Variance to Chapter 804	
5. VAR-23-10b	Legacy Homes & Farms Minimum Lot Width Variance to Chapter 804	
6. VAR-23-10c	Legacy Homes & Farms Buildable Area (15% Slope) Variance to Chapt	er
	804. PAG	E 103
	One (1) 0.4 +/- acre parcel in Indian Creek Township, Section 3 and 4 at	
	7017 S Harmony RD, parcel #s: 53-10-03-200-015.000-007 & 53-10-04-100)_
	017.000-007.	
	Owner: Pendleton, James Thomas II	
	Zoned ER. Contact: dmyers@co.monroe.in.us	

7. VAR-23-11	Casey Shake Minimum Lot Width Variance to Chapter 804 One (1) 6.91 +/- acre parcel in Richland Township, Section 34 at 3144 N Smith PIKE, parcel #53-04-24-101-012.000-011. Owner: Casey Shake DVM LLC. Zoned AG/RR. Contact: <u>drbrown@co.monroe.in.us</u>	PAGE 114
8. VAR-23-12	Ronchetti /Johnson Buildable Area Variance to Ch. 804 One (1) 3.36 +/- acre parcel in Van Buren Township, Section 36 at 4465 W Tramway RD, parcel #53-09-36-300-012.000-015. Owner: Johnson, Samantha; Ronchetti, Todd Zoned AG/RR. Contact: <u>acrecelius@co.monroe.in.us</u>	PAGE 122
9. CDU-23-2	Equine Veterinary Services, Indoor Conditional Use to Ch. 813 One (1) 35.09 +/- acre parcel in Washington Township, Section 11 at 1301 E Chambers PIKE, parcel #53-02-11-400-003.000-017. Owner: Renschler, Janelle & Jason Zoned FR. Contact: <u>shawnsmith@co.monroe.in.us</u>	PAGE 142
10. VAR-23-13	Brown ECO Area 3 (18% Slope) Variance to Ch. 825 One (1) 24.02 +/- acre parcel in Benton South Township, Section 31 at 6109 E Kerr Creek RD, parcel #53-06-31-100-013.000-003. Owner: Bogdanoff, Wendy & Peter Zoned AG/RR & ECO 3. Contact: <u>acrecelius@co.monroe.in.us</u> ***WITHDRAWN BY PETITIONER***	
11. VAR-23-14a 12. VAR-23-14b	Ertel & Forsyth Variance to Condition #53 from Chapter 802 Ertel & Forsyth Side Yard Setback Variance from Chapter 833 One (1) 2.29 +/- acre parcel in Bloomington Township, Section 36 at 4615 E State Road 45, parcel # 53-05-36-200-007.000-004. Owner: Ertel, Nicholas & Forsyth, Haley Zoned RE2.5. Contact: <u>shawnsmith@co.monroe.in.us</u>	PAGE 158

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 <u>PlanningOffice@co.monroe.in.us</u> 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: <u>PlanningOffice@co.monroe.in.us</u> no later than April 5, 2023 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.

<u>812-6 Standards for Design Standards Variance Approval:</u> 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.

<u>812-5. Standards for Use Variance Approval:</u> 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 VAR-22-53: William J. Huff's and Nicole E. Huff's Request for Variance Approval

Based on its record under Docket Item VAR-22-53, the Monroe County Board of Zoning Appeals makes the following findings and conclusions in support of its February 1, 2023 decision to deny approval of William J. Huff's and Nicole E. Huff's variance request.

1. In 2017, the Petitioners William J. Huff and Nicole E. Huff ("the Huffs") purchased approximately 250 acres of real property ("the Huff Property") located between Shady Side Drive of The Shores subdivision and the shoreline of Lake Monroe.

2. Approximately 193 acres of the Huff Property was purchased from Terre Haute Realty, LLC, and 45 acres of the Huff Property was purchased from Chumley, LLC.

3. The 45 acres purchased from Chumley, LLC, adjoins the 193 acres purchased from Terre Haute Realty, LLC, to the south and is referred to as the Chumley peninsula.

4. The Huff Property is located in an AG/RR (Agriculture/Rural Reserve) zoning district and is also subject to the ECO (Environmental Constraints Overlay) zoning district regulations.

5. On lands subject to the ECO zoning district regulations, the disturbance of land on slopes greater than 12% within 1,000 feet of the Fee Take Line of Lake Monroe is prohibited.

6. The Huffs were informed of the ECO zoning district slope restrictions applicable to the Huff Property on September 2, 2016, during a phone call with a planner initiated by Joe Huff, prior to their purchase of the Huff Property.

7. The Huff Property, like most other properties along the shoreline of Lake Monroe, is characterized by steeply sloped hillsides and deep ravines that create ridge tops.

8. Drives and roadways in the area of the Huff Property are typically located along ridge tops.

9. The Huffs reconstructed and enlarged a private drive ("Private Drive") which ran from the end of Shady Side Drive, southwardly across the eastern portion of the property purchased from Terre Haute Realty, LLC, to the end of the Chumley peninsula.

10. The Private Drive is constructed on a ridge top.

11. Shortly after purchasing the Huff Property, the Huffs began logging the Huff property.

12. The Huffs used the Private Drive to move heavy equipment and logging trucks on and off the Huff Property.

13. The logging and construction on the Huff Property resulted in thousands of big trucks using the Private Drive over a period of four or five years.

14. On April 9, 2021, the Huffs met with County staff to discuss the future development of the Huff Property.

15. During the April 9, 2021 meeting, the Huffs stated that they wanted to reconstruct a portion of the existing Private Drive.

16. During the April 9, 2021 meeting, the County Staff informed the Huffs that they would need a variance from the slope restrictions of the ECO Zone before reconstructing the existing Private Drive.

17. In early 2022, the Huffs constructed an approximately 350-foot-long by 20-foot-wide drive segment ("New Drive Segment") parallel to a portion of the existing Private Drive.

18. The construction of the New Drive Segment by the Huffs took place on the Huff Property within Area 1 of the ECO Zone.

19. The construction of the New Drive Segment by the Huffs resulted in land disturbance on an area of the Huff Property that exceeded 12% slope.

20. The construction of the New Drive Segment by the Huffs resulted in the disturbance of natural vegetation beyond the twelve (12) percent slope.

21. The construction of the New Drive Segment by the Huffs resulted in cutting and filling on land that was sloped in excess of 12%.

22. The Huffs did not obtain a variance from the slope restrictions of the ECO Zone prior to constructing the New Drive Segment.

23. On December 6, 2022, the Huffs applied to the BZA for variance approval.

24. The Huffs' variance request is related to their construction of the New Drive Segment.

25. The Huffs' variance application requested "relief from the 12 percent slope restriction" applicable to land disturbance activities in the ECO Zone Area 1.

26. The ECO Zone Area 1 restriction on land disturbance activities on 12 percent slope is concerned with how land is developed rather than how land is used.

27. BZA Staff placed the Huffs' variance request on the agenda of the BZA's January 4, 2023, meeting as a design or development standards variance under Docket Item # VAR-22-53.

28. Pursuant to the BZA's Rules of Procedure, the Huffs mailed notification letters to interested parties on December 15, 2022 informing those parties that the Huffs were requesting a design standards variance from the ECO Zone Area 1 standards, which would be publicly heard by the BZA on January 4, 2023.

29. BZA Staff reviewed the Huffs' variance request and prepared a Staff Report on the Huffs' variance request.

30. The Staff Report identified the Huffs' variance request as an "after the fact" design standards variance.

31. The Staff Report included the BZA Staff's recommendation of denial and materials and proposed findings in support of the staff's recommendation to deny the Huffs' design standards variance request.

The BZA Staff sent copies of its Staff Report to the BZA and to the Huffs on December 28, 2022.

33. On the afternoon of January 3, 2023, the day before the scheduled BZA hearing on the Huffs' variance request, the Huffs requested the BZA to table its consideration of the Huffs variance request to the BZA's February 1, 2023, meeting.

³⁴ Pursuant to the BZA's Rules of Procedure, any request for tabling or continuance of a docket item submitted within seven business days of the BZA's hearing on the docket item must be approved by the BZA.

35 On January 4, 2023, after the Docket Item VAR-22-53 was called to the table, the BZA was presented with the Huffs' request for the Board to table or continue its hearing on the Huffs' variance request to the BZA's February 1, 2023, meeting.

In support of the Huffs' request to table or continue the hearing, the Huffs' legal counsel Chou-il Lee stated that the Huffs needed additional time to respond to the Staff Report because the Staff Report was forty-eight pages in length, was received by the Huffs on December 28, 2022, and the New Year's holiday occurred between the time of Staff Report receipt and the January 4, 2023, hearing.

37. The Huffs did not base their request to table or continue the hearing on the classification of their variance request as a design or development standards variance.

38. The Huffs did not object to the classification of their variance request as a design or development standards variance before or during the January 4, 2023, BZA hearing.

39. On January 11, 2023, the Huffs submitted approximately 210 pages of materials in response to the Staff Report and in support of their variance request ("the Huff Submission").

40. For the first time, through the Huff Submission, the Huffs raised an issue regarding the proper classification of their variance request.

41. The Huffs contend that the Staff Report misclassified the Huffs' December 6, 2022, variance request as a design standards variance.

42. The Huffs contend that their December 6, 2022, variance request should be classified as a use variance request.

43. Indiana Code 36-7-4-916 requires that boards of zoning appeals adopt a rule to use to determine whether a variance request is a use variance request or a design/development standards variance request.

44. Because the BZA had not adopted such a rule, BZA Staff prepared a proposed amendment to the BZA Rules of Procedure that addressed the use variance/design standards variance issue.

45. The proposed amendment incorporated the definition of "use variance" that has been established by Indiana case law.

46. The BZA Staff included the proposed amendment to the BZA Rules of Procedure in its Staff Packet for the February 1, 2023, BZA hearings ("February Staff Packet").

47. The February Staff Packet was provided to the Huffs and to the BZA on January 25, 2023, 7 days prior to the February 1, 2023 BZA meeting date.

48. Near the beginning of its February 1, 2023, meeting, the BZA adopted the proposed amendment to the BZA Rules of Procedure ("Amended Rules"), which reads in part:

2. With respect to its power to grant variances, the Board shall determine whether a variance application is for a variance of use or for a variance from the development standards of the Zoning Ordinance. For purposes of making such a determination, the Board shall apply the following criteria:

- a. A "use variance" is a variance permitting a use other than that permitted in a particular district by Zoning Ordinance.
- b. A "development standards variance" (aka, a design standards variance) is a variance permitting a physical change in the condition of real property that would not otherwise be permitted by the Zoning Ordinance, including without limitation, the design, scope, number, or location of structures or other improvements to real property (e.g., height, bulk, area, density, setbacks, etc.).

49. The Huffs did not object to the BZA's application of the Amended Rules to their variance request.

50. The Huffs did not request a continuance of the BZA's consideration of their variance request in response to the BZAs adoption of the Amended Rules.

51. As stated, the Huffs' variance request seeks relief from the 12% slope restrictions of the ECO Zone Area 1 which state, in part:

- 825-4(A)(1) The maximum land slope upon which any land disturbance involved in construction of buildings, driveways, roads, parking lots, and utilities can occur shall be twelve (12) percent. The percent slope shall be measured as a six (6) foot fall in any fifty (50) foot distance. The design should be suited to the lot to minimize the amount of cut and fill.
- 825-4(A)(2) There shall be no disturbance of natural vegetation beyond the twelve (12) percent slope.

52 As stated, the Huffs' variance request acknowledges that the 12% slope restriction is a "land disturbance" restriction.

53. A land disturbance restriction relates to a physical change in the condition of real property.

54. A variance from the 12% slope restrictions, if granted, would result in after-the-fact authority for the Huffs' location of the New Drive Segment on slopes greater or equal to 12%, i.e., it would authorize the construction of the New Drive Segment, which is a structure, in a location not otherwise permitted by the Zoning Ordinance.

55. The Huffs' variance request is a design or development standards variance request.

56. The Huffs' contention that they need use variance approval from the BZA to use the New Private Drive for both residential and agricultural purposes is incorrect.

57. Table 2-1 of Section 802-5 of the Zoning Ordinance ("Table 2-1") lists the types of land uses that are permitted in each of the Monroe County zoning districts.

58. Pursuant to Table 2-1, there are 53 permitted uses of the Huff Property, including for example, agricultural uses, residential uses, bed and breakfast uses, retail uses, and recreational and amusement uses.

59. Access drives constructed in accordance with the Zoning Ordinance (e.g., in an authorized location), may be used for any use of the Huff Property authorized by Table 2-1 (e.g., agricultural, residential, and amusement and recreational uses).

60. A design or development standards variance from the 12% slope restrictions of the ECO Zone Area 1, if granted, would place the New Drive Segment in an authorized location so that it could be used for any permitted use of the Huff Property.

61. Because agricultural and residential uses are already permitted uses of the Huff Property, the Huffs' variance request cannot, by definition, be considered as a use variance request.

62. Granting a use variance to the Huffs would not relieve the New Drive Segment of the 12% slope restrictions of the ECO Zone Area 1 regulations.

63. The BZA is not authorized to grant a variance from a Zoning Ordinance requirement that a permit be obtained.

64. The Huff Submission consisted of approximately 210 pages of materials, including an introduction of evidence statement, affidavits, public road design standards, and copies of digital photographs.

65. The BZA read and considered the Huff Submission and has weighed the testimony and exhibits set forth therein against other testimony and exhibits in the BZA's record on the Huffs' variance request.

66. The Huff Submission included public road design standards adopted by the County.

67. The public road design standards adopted by the County only apply to the portions of private drives located within 25 feet of a publicly maintained road.

68. The existing Private Drive and the New Drive Segment on the Huff Property are not located within 25 feet of a publicly maintained road.

69. The public road design standards included in the Huff Submission are not Zoning Ordinance standards and do not apply to the existing Private Drive or to the New Drive Segment, which are private drives located on private property that is more than 25 feet from a publicly maintained road.

70. The Huffs did not provide the BZA with testimony or evidence sufficient to determine whether the New Road Segment complied with the public road design standards included in the Huff Submission.

71. The Affidavit of Jared Vehling expresses concerns based on the steepness of the existing Private Drive.

72. The Affidavit of Jared Vehling does not state or demonstrate that steepness of the land on which the existing Private Drive is located is a condition that does not generally exist in the area of the Huff Property or that is peculiar to the Huff Property.

73. The Affidavit of Jared Vehling expresses concern about vehicles being able to view and pass other vehicles on the existing Private Drive in the area of the New Drive Segment.

74. The Affidavit of Jared Vehlling does not state or demonstrate that his concerns regarding visibility and passing on the existing drive arise from conditions on the Huff Property that do not generally exist in the area of the Huff Property or that are peculiar to the Huff Property.

75. The Affidavit of Jared Vehling does not state or demonstrate that measures other than the construction of the New Drive Segment, such as widening the existing Private Drive on the flat land directly to the east of the existing Private Drive and installing guardrail, could not be implemented to allow vehicles to safely view and pass one another in that area of the Huff Property.

76. The Affidavit of Jared Vehling expresses concern regarding the expense of hauling equipment up the existing Private Drive.

77. The Affidavit of Jared Vehling does not state or demonstrate that the cost of hauling equipment on the existing Private Drive arises from conditions on the Huff Property that do not generally exist in the area of the Huff Property or that are peculiar to the Huff Property.

78. The affidavit of Jared Vehling does not state or demonstrate that the cost of exclusively relying on the existing Private Drive would deprive the Huffs of all reasonable economic use of the Huff Property, including residential use and recreational and amusement uses.

79. The affidavit of Jared Vehling does not state or demonstrate that the use of the existing Private Drive has prevented or will prevent the Huffs from alienating timber resources from the Huff Property.

80. The Affidavit of Logan Freeman expresses concerns based on the steepness of the existing Private Drive and the shoulder drop off from the existing drive.

81. The Affidavit of Logan Freeman does not state or demonstrate that steepness of the land on which the existing Private Drive is located or the shoulder drop off are conditions peculiar to the Huff Property.

82. The Affidavit of Logan Freeman expresses concern about vehicles being able to view and pass other vehicles on the existing Private Drive in the area of the New Drive Segment.

83. The Affidavit of Logan Freeman does not state or demonstrate that his concerns regarding visibility and passing on the existing drive arise from conditions on the Huff Property that do not generally exist in the area of the Huff Property or that are peculiar to the Huff Property.

84. The Affidavit of Logan Freeman does not state or demonstrate that measures other than the construction of the New Drive Segment, such as widening the existing Private Drive on the flat land directly to the east of the existing Private Drive and installing guardrail, could not be implemented to allow vehicles to safely view and pass one another in that area of the Huff Property.

85. The Affidavit of Logan Freeman expresses concern regarding the expense of hauling equipment up the existing Private Drive.

86. The Affidavit of Logan Freeman does not state or demonstrate that the cost of hauling equipment on the existing Private Drive arises from conditions on the Huff Property that do not generally exist in the area of the Huff Property or that are peculiar to the Huff Property.

87. The affidavit of Logan Freeman does not state or demonstrate that the cost of exclusively relying on the existing Private Drive would deprive the Huffs of all reasonable economic use of the Huff Property, including residential use and recreational and amusement uses.

88. The affidavit of Logan Freeman does not state or demonstrate that the use of the existing Private Drive has prevented or will prevent the Huffs from alienating timber resources from the Huff Property.

89. The affidavit of Stephen L. Smith expresses concern regarding the configuration of a curve in the existing Private Drive in the area of the New Drive Segment and states that the curve needed to be reconstructed.

90. The Affidavit of Stephen L. Smith does not state or demonstrate that measures other than the construction of the New Drive Segment, such as widening the existing Private Drive on the flat land directly to the east of the existing Private Drive and installing guardrail, could not be implemented to allow vehicles to safely view and pass one another in that area of the Huff Property.

91. The Affidavit of Stephen L. Smith does not state or demonstrate that the configuration the curve arises from conditions on the Huff Property that do not generally exist in the area of the Huff Property or that are peculiar to the Huff Property.

92. The affidavit of Stephen L. Smith does not state or demonstrate that the existence of and the exclusive reliance on the curve in the existing Private Drive has or will deprive the Huffs of all reasonable economic use of the Huff Property, including residential use and recreational and amusement uses.

93. The affidavit of Stephen L. Smith does not state or demonstrate that the existence of the curve in the existing Private Drive has prevented or will prevent the Huffs from alienating timber resources from the Huff Property.

94. The Affidavit of Bennett Dillon expresses concerns based on the steepness of the existing Private Drive.

95. The Affidavit of Bennett Dillon does not state or demonstrate that steepness of the land on which the existing Private Drive is located is a condition that does not generally exist in the area of the Huff Property or that is peculiar to the Huff Property.

96. The Affidavit of Bennett Dillon expresses concern about vehicles being able to view and pass other vehicles on the existing Private Drive in the area of the New Drive Segment.

97. The Affidavit of Bennett Dillon does not state or demonstrate that his concerns regarding visibility and passing on the existing drive arise from conditions on the Huff Property that do not generally exist in the area of the Huff Property or that are peculiar to the Huff Property.

98. The Affidavit of Bennett Dillon does not state or demonstrate that measures other than the construction of the New Drive Segment, such as widening the existing Private Drive on the flat land directly to the east of the existing Private Drive and installing guardrail, could not be implemented to allow vehicles to safely view and pass one another in that area of the Huff Property.

99. The Affidavit of Bennett Dillon speculates that, depending on the weather, it would most likely be impossible for police vehicles to access the property using the original road.

100. Bennett Dillon's speculation regarding police vehicle access is not a fact and, based on testimony and exhibits provided by BZA Staff, is not supported by facts in the BZA's record on the Huffs' variance request.

101. The affidavit of Bennett Dillon does not state or demonstrate that exclusive reliance on the existing Private Drive would deprive the Huffs of all reasonable economic use of the Huff Property, including residential use and recreational and amusement uses.

102. The affidavit of Bennett Dillon does not state or demonstrate that the use of the existing Private Drive has prevented or will prevent the Huffs from alienating timber resources from the Huff Property.

103. The affidavit of Josh Tapp expresses concerns based on the steepness of the existing Private Drive

104. The Affidavit of Josh Tapp does not state or demonstrate that steepness of the land on which the existing Private Drive is located is a condition that does not generally exist in the area of the Huff Property or is peculiar to the Huff Property.

105. The Affidavit of Josh Tapp expresses concern about vehicles being able to view and pass other vehicles on the existing Private Drive in the area of the New Drive Segment.

106. The Affidavit of Josh Tapp does not state or demonstrate that his concerns regarding visibility and passing on the existing drive arise from conditions on the Huff Property that do not generally exist in the area of the Huff Property or that are peculiar to the Huff Property.

107. The Affidavit of Josh Tapp does not state or demonstrate that measures other that the construction of the New Drive Segment, such as widening the existing Private Drive on the flat land directly to the east of the existing Private Drive and installing guardrail, could not be implemented to allow vehicles to safely view and pass one another in that area of the Huff Property.

108. The Affidavit of Josh Tapp does not state or demonstrate that exclusive reliance on the existing Private Drive would deprive the Huffs of all reasonable economic use of the Huff Property, including residential use and recreational and amusement uses.

109. The Affidavit of Josh Tapp does not state or demonstrate that a large fire truck could not make it up the steeply sloped portion of the existing Private Drive.

110. The affidavit of Josh Tapp does not state or demonstrate that the use of the existing Private Drive has prevented or will prevent the Huffs from completely alienating timber resources from the Huff Property.

111. Todd Borgman of Smith Design Group spoke in favor of the variance as an agent of the Huffs.

112. Todd Borgman acknowledged that the existing Private Drive has been and may continue to be used to remove timber resources from the Huff Property.

113. Todd Borgman did not state or demonstrate that the purported need for the variance requested by the Huffs arises from arise from conditions on the Huff Property that do not generally exist in the area of the Huff Property or that are peculiar to the Huff Property.

114. Todd Borgman did not state or demonstrate that exclusive reliance on the existing Private Drive would deprive the Huffs of all reasonable economic use of the Huff Property, including residential use and recreational and amusement uses.

115. Todd Borgman did not state or demonstrate that reliance on the existing Private Drive rather than the New Drive Segment has prevented or will prevent the Huffs from completely alienating timber resources from the Huff Property.

116. The Huffs' legal counsel Chou-il Lee presented argument and testimony in favor of the variance.

117. Chou-il Lee did not state or demonstrate that the purported need for the variance requested by the Huffs arises from arise from conditions on the Huff Property that do not generally exist in the area of the Huff Property or that are peculiar to the Huff Property.

118. Chou-il Lee did not state or demonstrate that exclusive reliance on the existing Private Drive would deprive the Huffs of all reasonable economic use of the Huff Property, including residential use and recreational and amusement uses.

119. Chou-il Lee did not state or demonstrate that reliance on the existing Private Drive rather than the New Drive Segment has prevented or will prevent the Huffs from completely alienating timber resources from the Huff Property.

120. BZA Staff, through Assistant Planning Director Tammy Behrman, testified before the BZA and presented exhibits to the BZA in support of the Staff's recommendations that the BZA consider the Huffs' variance request as a design or development standards request, that the BZA deny a use variance to the Huffs, and that the BZA deny a design or development standards variance to the Huffs.

121. The steep slopes and the existing Private Drive (ridgetop access drive) are conditions on the Huff Property that generally exist on properties in the area of the Huff Property.

122. The steep slopes and the existing Private Drive (ridgetop access drive) on the Huff Property do not create or constitute relatively unique development problems.

123. The existence of the Private Drive on the Huff Property, which has been used for years to access the Huff Property and to remove timber resources from the Huff Property, belies any claim that access to the property by trucks or other vehicles is a significant development limitation.

124. There is at least one other portion ("Other Portion") of the existing Private Drive that is as steeply sloped and of the same width as the portion leading up to the New Drive Segment and for which the Huffs are seeking a variance.

125. Loaded logging trucks would be required to drive up the Other Portion in order to leave the Huff Property.

126. The Huffs do not contend that the Other Portion is a significant development limitation.

127. The Huffs do not contend that existence and use of the Other Portion deprives them of all reasonable economic use of the Huff Property.

128. The Huffs do not contend that the existence and use of the Other Portion prevents them from completely alienating timber resources from the Huff Property.

129. The Other Portion is not a significant development limitation that deprives the Huffs of all reasonable economic use of the Huff Property.

130. Michael Kane, a property owner within the Shores subdivision, expressed concern regarding sediment from the New Drive Segment running down the steep slopes and getting into Lake Monroe.

131. Perennial streams exist to the west of the New Drive Segment and the existing Private Drive.

132. Stormwater runoff and sediment from the New Drive Segment flows downhill toward the perennial streams to the west of the New Drive Segment.

133. The construction of the New Drive Segment reduced the vegetative buffer area between the existing Private Drive and the perennial streams to the west of the existing drive.

134. The construction of the New Drive Segment established an additional source of stormwater runoff and sediment that is closer to the perennial streams to the west of the existing Private Drive than the existing Private Drive.

135. The Huffs did not demonstrate that runoff and sediment from the New Drive Segment would not enter the perennial stream.

136. The Huffs did not demonstrate that the runoff and sediment from the New Drive Segment would not be carried to Lake Monroe.

137. The Huffs did not demonstrate that the approval of their variance request would not be injurious to the public health, safety, and general welfare of the community.

138. The Huffs did not demonstrate that the approval of their variance request would not substantially interfere with the environmental protection principles of the Monroe County Comprehensive Plan.

139. The Huffs did not demonstrate that the approval of their variance request would not impair the stability of a natural area.

140. The Huffs did not demonstrate that the approval of their variance request would adequately address the public health, safety, and general welfare concerns raised by Michael Kane (i.e., sediment from the New Drive Segment reaching Lake Monroe) during the February 1, 2023, BZA hearing on the Huffs' variance request.

141. The existing Private Drive has been used by thousands of trucks and vehicles over the past 4 or 5 years and the Huffs have not presented the BZA with any evidence of an accident occurring on any portion of the existing Private Drive.

142. The curve on the existing Private Drive, near the New Drive Segment, is not a safety hazard.

143. Reliance on the existing Private Drive will not prevent the Huffs from the complete alienation of their timber resources on the Huff Property.

144. Because the existing Private Drive has been used for years to successfully and safely remove timber resources from the Huff Property and because it may continue to be used to

remove timber resources from the Huff Property, denial of the Huffs' variance request will not prevent the complete alienation of the Huffs' timber resources from the Huff Property.

145. The substance of the affidavits included in the Huffs' Submission is that the New Drive Segment is an easier and safer way for the Huffs, their guests, and business invitees to the Huff Property to access portions of the Huff Property located to the south and east of the New Drive Segment.

146. The substance of the affidavits included in the Huffs' Submission does not relate to the public health, safety, and general welfare of the community but rather to the personal interests of the land owner requesting variance relief.

147. The portion of the existing Private Drive near the New Drive Segment could be widened in a manner consistent with the Zoning Ordinance by expanding onto the land to the east of that portion that is sloped less than 12%.

148. The curve in the portion of the existing Private Drive near the New Drive Segment could be flattened out in a manner consistent with the Zoning Ordinance by expanding onto the land to the east of that portion that is sloped less than 12%.

149. Design options existed that would have addressed the safety concerns expressed in the Huff Submission affidavits in a manner that did not require the construction of the New Drive Segment or a variance from the terms of the Zoning Ordinance.

150. Due to the presence and historic use of the existing Private Drive on the Huff Property the subsequent construction of the of the New Drive Segment was not necessary to overcome a uniquely excessive cost imposed by the Zoning Ordinance.

151. Developed properties in the area of the Huff Property are mostly improved with single family dwellings and are mostly used for residential purposes.

152. Staff has inspected the Huff Property on more than one occasion and has traveled the existing Private Drive in cars and pickup trucks without difficulty.

153. There are a number of building sites available on the Huff Property that can be accessed by the existing Private Drive.

154. The existing Private Drive provides safe and reasonable access to the Huff Property of purposes of use and development of the property be it residential, recreational, or agricultural use and development.

155. The variance requested by the Huffs is not necessary to enable the Huffs to develop and use the Huff Property in a manner, or to the extent, enjoyed by other conforming properties in the area.

156. The variance requested by the Huffs is not necessary to eliminate a significant development limitation.

157. The Huffs have submitted multiple, partial site plans for the development of the Huff Property to the Planning Department Staff.

158. The first partial site plan ("First Partial Site Plan") received from the Huffs by the Planning Department Staff showed the existing Private Drive as the only access to multiple residential dwellings and accessory structures on the eastern portion of the Huff Property including the Chumley Peninsula.

159. The First Partial Site Plan showed a building area of 8750 square feet adjacent to the east of the existing Private Drive.

160. The New Drive Segment was not shown on the First Partial Site Plan.

161. A subsequent partial site plan ("Subsequent Partial Site Plan") received by the Planning Department Staff from the Huffs showed the proposed location of a two-story, single family dwelling with a 6256 square foot first floor footprint adjacent to the east of the existing Private Drive.

162. The Subsequent Partial Site Plan showed the proposed dwelling's first floor footprint located on (imposed over) the existing Private Drive.

163. The Subsequent Partial Site Plan showed the proposed construction of the New Drive Segment to the west of the existing Private Drive on an area of the Huff Property that exceeds 12% in slope.

164. The addition of the New Drive Segment would allow for the removal and discontinuance of use of the portion of the existing Private Drive that was located under the proposed dwelling's first floor footprint on the Subsequent Partial Site Plan while providing access to the southern portions of the Huff Property including the Chumley Peninsula.

165. The removal of the portion of the existing Private Drive that was located under the proposed dwelling's first floor footprint as shown on the Subsequent Partial Site Plan would increase the area available for the construction of the proposed dwelling.

166. The proposed dwelling shown on the Subsequent Partial Site Plan could be scaled down or reconfigured and relocated on the Huff Property in a manner that does not conflict with the existing Private Drive and in a manner that would render unnecessary the use of the New Drive Segment.

167. The location, size, and configuration of the proposed dwelling chosen by the Huffs from a number of available development sites and options does not constitute a significant development limitation imposed by the Zoning Ordinance for which a variance from the Zoning Ordinance may be sought.

168. The New Drive Segment does not resolve a significant development limitation that cannot be reasonably addressed through the redesign or relocation of the proposed dwelling shown on the Subsequent Partial Site Plan.

169. The use, slope, and configuration of the existing Private Drive does not constitute a practical difficulty for purposes of the design or development standards variance criteria.

170. The costs associated with the exclusive use of the existing Private Drive are compliance costs for purposes of the variance criteria.

171. Denying the Huffs' variance request would not deny the Huffs all reasonable economic use of the Huff Property.

172. The BZA's written findings and conclusions reflect the weight it has given to the testimony and exhibits presented to the BZA relative to the Huffs' variance request.

173. The Huffs failed to carry their burden of demonstrating that their variance request satisfied each of the use variance criteria of the Zoning Ordinance.

174. The Huffs failed to carry their burden of demonstrating that their variance request satisfied each of the design or development standards variance criteria of the Zoning Ordinance.

175. The Huffs' variance request was denied.

SO FOUND AND CONCLUDED this _____ day of _____, 2023 by the Monroe County Board of Zoning Appeals.

AYES

NAYS

MARGARET CLEMENTS, Chair

SKIP DALEY, Vice Chair

PAMELA DAVIDSON

GUY LOFTMAN

DEE OWENS

PAMELA DAVIDSON

SKIP DALEY, Vice Chair

MARGARET CLEMENTS. Chair

GUY LOFTMAN

DEE OWENS

BARBRA CARTER, Secretary



MONROE COUNTY BOARD OF ZONING APPEALS

Public Meeting Date:

April 4, 2023

PETITIONER		Randy Cassady		
ADDRESS		4830 & 4820 S Rogers ST, parcel #53-08-20-400-073.000-008		
TOWNSHIP + SECTION		Perry, 20		
PLATS		\boxtimes Unplatted \square Platted	1:	
ACREAGE +/-		0.648	.648	
	PETITION SITE		ADJACENT	
ZONING	RE1		RE1, Joseph Green PUD	
COMP. PLAN	COMP. PLAN MCUA Open Space		MCUA Open Space, MCUA Mixed	
		-	Residential	
USE	Two - Single	Family Dwellings on	Single Family Residential, Mixed Use	
	one lot of rec	ord	(currently vacant)	

OVERVIEW

This petition request includes a Design Standards Variance and a Use Variance. First, staff will review the Design Standards variance separately with the Board of Zoning Appeals. If the Design Standards variance is denied, the petitioner would no longer require a Use Variance and instead would be required to demolish 4830 S Rogers St and thereby remove the need for the Use Variance.

VARIANCE REQUEST	STRUCTURE ADDRESS
VAR-23-1 – Buildable Area – Special Flood Hazard Area as	4830 S Rogers ST
specified under Ch 808	
VAR-23-7 – Use Variance – Detached Accessory Dwelling Unit	4820 S Rogers ST



GENERAL BACKGROUND

In July 2022 the Monroe County Building Dept. received a complaint for unpermitted work at the petition site. The Building Dept. called the petitioner and requested a permit application for the work (R-22-763). The Residential Alteration Repair permit is for "lifting [the] foundation" of the structure addressed as 4830 S Rogers ST (for site photos see Exhibit 7). It was identified that the structure was moved west of the original location and raised by 11.3'. The Building Dept. issued a stop work order on 7/21/22.

The property <u>use and structures</u> were considered "pre-existing non-conforming" under Chapter 803. This status means that "the uses of land and/or structures that were both in existence and in compliance with all land use and other laws on the date of passage of these regulations, and, further, that do not conform to the use regulations set forth in this ordinance, shall be deemed to be legal, pre-existing nonconforming uses" (803-1).

Chapter 803 states that "any legal, pre-existing nonconforming use shall continue until or **unless modified** or terminated" and that "normal maintenance and repair of a building or other structure containing a nonconforming use may be performed, **provided there is no physical change** to the building or structure" or "**intensify the nonconforming use**" (803-1 H, 803-1 F).

The property is zoned Estate Residential 1 (RE1) under the authority of Chapter 833. The property contains two detached primary residences which is not a permitted use under the Zoning Ordinance. <u>The use was considered pre-existing non-conforming under Chapter 803</u>. In order for the property to come into compliance, either a use variance would be required, or removal of one of the Single Family residences be required.

The petitioner's reasoning to relocate and raise the structure is because the structure regularly floods; the property and both residential structures are within the FEMA Zone AE and Administrative Floodway (also known as Special Flood Hazard Area). Both residential structures were considered pre-existing nonconforming structures for non-compliance with county and state regulatory floodway requirements. Per Chapter 803-1A – "No legal, pre-existing nonconforming use of land and/or structure may be enlarged, moved or otherwise changed, except that such use may be changed to permitted use, unless a variance from the terms of the ordinance is obtained from the Board." Once one structure on the property was moved without permits, the use of the property as having a second dwelling lost its' pre-existing nonconforming use status and required immediate compliance. The options provided to the petitioner were to apply for a use variance, or to demolish one of the structures, as a Detached Accessory Dwelling Unit is not permitted in this zoning district.

The petitioner is a General Contractor within the County and is familiar with Zoning and Building Dept. requirements. Had the proper permits been applied for before the relocation and lifting of the structure the petitioner would have been informed that the pre-existing non-conforming status of the property and structures would be removed. Planning Staff has been consistently communicating with the petitioner and has outlined the different options available to bring the property and structures into compliance with the ordinance (see Exhibit 6). A timeline of interactions can be found in Exhibit 4.

CASE NUMBER	DETAIL	RECOMMENDED MOTION
VAR-23-1	Buildable Area to Ch. 804	Approval

812-6 <u>Standards for Design Standards Variance Approval</u>: 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:

Recommended conditions for VAR-23-1

- 1. Certified Engineered Construction plans submitted for review under R-22-763
- 2. Sewer connectivity letter and related Local Floodplain Development permit application be submitted to staff for 4830 S Rogers St
- 3. Demonstrate full compliance with Floodplain Development Permit (FP-23-1) and Building Permit R-22-763 prior to Certificate of Occupancy, including:
 - a. An affidavit for flood openings and venting per Ch 808 shall be recorded with the deed
 - b. Non-conversion agreement per Ch 808 shall be recorded with the deed
 - c. A staff reviewed elevation certificate shall be approved and recorded with the deed

Variance Type:	🛛 Design 🗆 Use	Planner:	Anne Crecelius	
	🛛 Residential 🗆 Commercial			

VAR-23-1 Buildable Area Design Standards Variance - BACKGROUND

The petitioner has applied for one *design standard* variance from the Buildable Area (Chapter 804) standards. The Buildable Area standard states that "any building or structure constructed after October 2, 2015 must be located within a buildable area. The following shall <u>not</u> be included in the buildable area: Special Flood Hazard Area as specified in Chapter 808" (804-4 E).

Chapter 808 defines "Special Flood Hazard Area" (SFHA) as "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)."

This petition site is entirely within Zone AE Floodway, which is the most restrictive for development and requires State approval. A state permit has been issued for an "elevated abode" under EA-40447 (see Exhibit 5). The Floodplain Administrator has requested an engineered plan to be reviewed for the local Floodplain Development permit application # FP-23-1 to confirm compliance with Chapter 808-5. This variance is the minimum required in order to maintain the structure addressed as 4830 on the site. The structure, as a result of the improvements, would sustain less flood damage.

If the variance is approved, the petitioner will complete their building permit R-22-763 application and proceed with all necessary permit requirements. Additionally, if approved, the petitioner is then asking for a use variance to allow a second single family home on the property as a Detached Accessory Dwelling Unit.

If the variance is denied, all applicable permits must be issued prior to the removal of 4830 S Rogers St and the residence at 4820 S Rogers St could remain without the need for a use variance and would be considered pre-existing nonconforming structure.

CASE NUMBER	DETAIL	RECOMMENDED MOTION
VAR-23-7	Use Variance for a Detached Accessory	Denial
	Dwelling Unit in Chapter 802	

812-5 <u>Standards for Use Variance Approval</u>: In order to approve a use variance, the Board must find favorable findings for all five (5) criteria, A-E, listed after the agenda within the BZA packet.

Recommended Motion Conditions or Reasoning:

- The petitioner has not demonstrated unnecessary hardship as there are several permitted uses under the RE1 Zoning District (See Exhibit 9) and therefore a denial of this use variance would not "Effectively deprive[d] the parcel owner of all reasonable economic use of the parcel."
- The request for this use variance is a self-created hardship because the petitioner did not seek out proper permits prior to initiating construction on the site.
- The petitioner has not provided any information about whether the 4820 S Rogers St structure is safe for residency; by raising the structure adjacent, it's implied that both structures on the lot are vulnerable to flooding and should be brought into compliance. If denied, the petitioner will be required to remove 4820 or 4830 S Rogers St with all necessary permits.

Variance Type:	🗆 Design 🛛 Use	Planner:	Anne Crecelius	
	\boxtimes Residential \square Commercial			
VAR-23-7 Use Variance for a Detached Accessory Dwelling Unit - BACKGROUND				

The petitioner is requesting a Use variance to allow the second single family dwelling on the property to be classified as a "Detached Accessory Dwelling Unit" (DADU) use from Chapter 802. The intent of this would be to allow the second structure addressed as 4820 to remain. A DADU is defined as:

Accessory Dwelling Units – A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an existing single-family structure.

Below are the conditions of the Detached Accessory Dwelling Unit (DADU). The items in red below would not be able to be met on the petition site and would require later design standards variances to the Board of Zoning Appeals, if this use variance is granted. The lack of compliance with the required conditions of the DADU further supports denial of the request.

Detached Accessory Dwelling Units

55. The principal dwelling unit or accessory dwelling unit (ADU) or Detached Accessory Dwelling Unit (DADU) must be occupied by the owner of the lot, the minimum lot size must be 5 acres, and must utilize a shared driveway with principal dwelling unit. Before final occupancy of the ADU or DADU, the property owner must record an affidavit and commitment stating that the property owner will reside on the property in either the principal dwelling unit or ADU or DADU. Once recorded, the affidavit and commitment (requiring owner occupancy) may not be removed or modified without Plan Commission approval. Only one accessory dwelling unit per lot of record is permitted.

The following design criteria also apply to accessory dwelling units:

Detached accessory dwelling unit (DADU) requirements:

1. A DADU is limited to 1,000 square feet of residential space.

2. The DADU must meet current standards of the residential, building, mechanical, electrical, energy, and environmentally critical areas codes.

3. One off-street parking space is required for the DADU.

4. A manufactured home may not be used as an accessory dwelling unit if it was constructed prior to January 1, 1981.

5. A DADU must have a permanent connection to either an approved septic system or

sewer system.

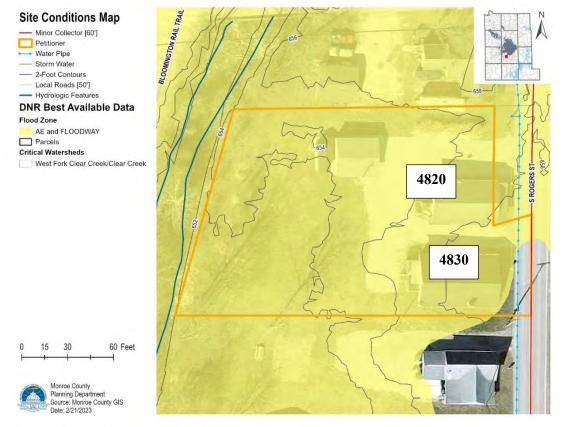
6. A Recreational Vehicle (RV) is not permitted as a DADU.

7. Each DADU lot shall have a separate buildable area for each dwelling.

8. A DADU lot or parcel of record created via the Sliding Scale subdivision option may only be constructed on the Parent Parcel Remainder.

The petitioner has not provided any information about whether the 4820 S Rogers St structure is safe for residency. The State of Indiana has not issued any documentation for this structure in the Floodway; it does not have an Elevation Certificate, nor has it been inspected for compliance with Chapter 808. Since the structure is pre-existing nonconforming, it has not had to meet the standards to date; however, the alteration of 4830 S Rogers St has initiated the discussion of compliance for the petition site.

If this variance is denied, the petitioner will be required to remove the structure from the lot by relocation or removal. <u>If removal is pursued a demolition permit through the Monroe County Building Department</u>, <u>State permits</u>, and a local Floodplain Development Permit will be required.



EXHIBITS

- 1. Petitioner's Letter to the BZA
- 2. Certified Plot Plan
- 3. Construction Plans
- 4. Enforcement Timeline
- 5. DNR EA-40447
- 6. January 6, 2023 Meeting Discussion Points
- 7. Site Photos
- 8. IDNR Permit FW-30153-2 for sanitary laterals

- 9. Permitted Uses under RE1 per Ch 833
- 10. Enforcement Letter Dated November 16, 2022
- 11. <u>Drainage Board Meeting Packet January 2023 Clear Creek Flooding Concerns (starting on pg 32)</u>
- 12. Letters of Support

EXHIBIT 1: Petitioner's Letter

TO: Monroe County Planning Department

ATTN: Tammy Berhman

Re: 4830/4820 S Rogers Street

Please accept attached information for the above address for Floodplain Development Permit Application:

DNR Approval Letter

Plans - Cassady Carriage House

Certified Plot Plan

CBU Approval Letter

Approved utility plan (page 6 of 9)

Please submit for the following variances that planning has communicated are necessary to proceed with the project:

- 1. Variance to keep both homes and garage on the lot 4830/4820 S Rogers Street
- Variance for Side Yard Setback Design Standard Variance pre-existing for nearly 100 years
- 3. Variance for buildable area 2 pre-existing homes and garage on permanent foundation

Certified Plot Plan submitted from above

Aerial photo

Randy Cassady 4820 South Rogers Street Bloomington Indiana 47403 Mailing Address PO Box 324 Ellettsville, IN 47429

Monroe County Planning Department Attn: Floodplain Administrator, Tammy Behrman 501 N Morton Street Suite 224 Bloomington, IN 47404

Dear Planning Staff,

This documentation is for obtaining approvals for improvement to the existing home at 4830 S Rogers Street. This home is to be our primary residence. It was built sometime between the 1920s and 1930s. The home is in a deteriorating state due to moisture damage from sitting on a basement that held water at all times. It is in need of a new roof and is experiencing additional water damage if repairs do not take place in the immediate future.

This plan submission is for keeping all existing structures on the lot at 4820/4830 S Rogers Street. The lot size 1.25ac in comparison to lot sizes ranging from .17ac to .67ac for adjoining lots. So, the lot is of a size that easily accommodates the number of structures present.

An application was submitted and approved to Indiana Department of Natural Resource for improving of the residence at 4830 S Rogers Street (EA-40447).

The plans submitted will nicely tie in with the existing buildings on the lot and in the Old Clear Creek Valley. Keeping both homes provides housing availability for the future that is affordable and possibly needed by a family member or caretaker.

See the following page for a list of documents submitted.

It is requested that the Monroe County Planning Department make a decision/determination to approve or deny this application in writing within 7 business days of this information being submitted to the Monroe County Planning Department.

Yours Truly,

Randy Cassady

EXHIBIT 2: Certified Plot Plan

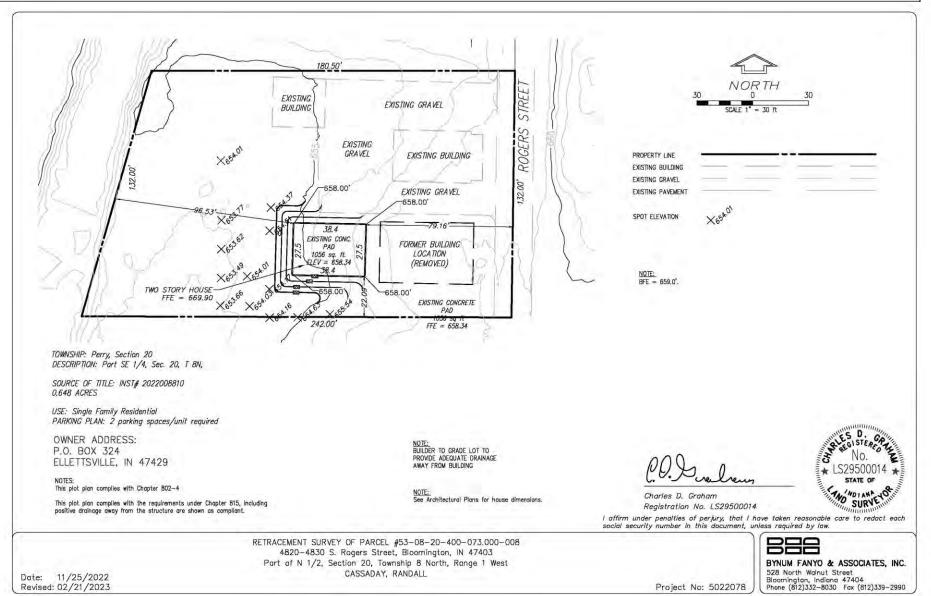
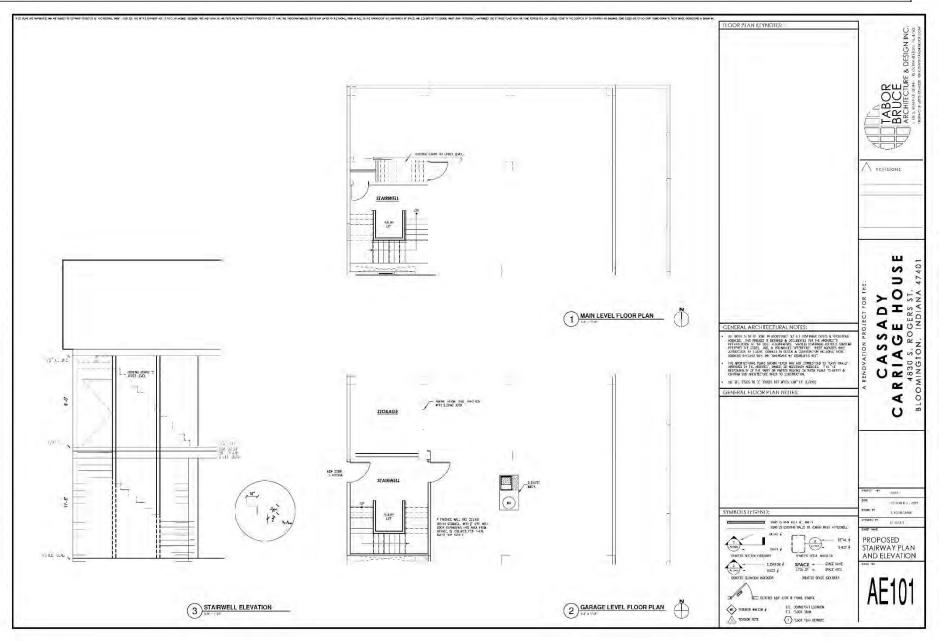


EXHIBIT 3: Construction Plans

esd, 11/1/2022 4:40:13 PM





RENT 2022 Residential 90122 - Cressely Carrage House (TJMER - Randy Cossed() (Designi Construction) AE201, Bevaloris dwg, AE201, 11/2/2022 915:59 AM



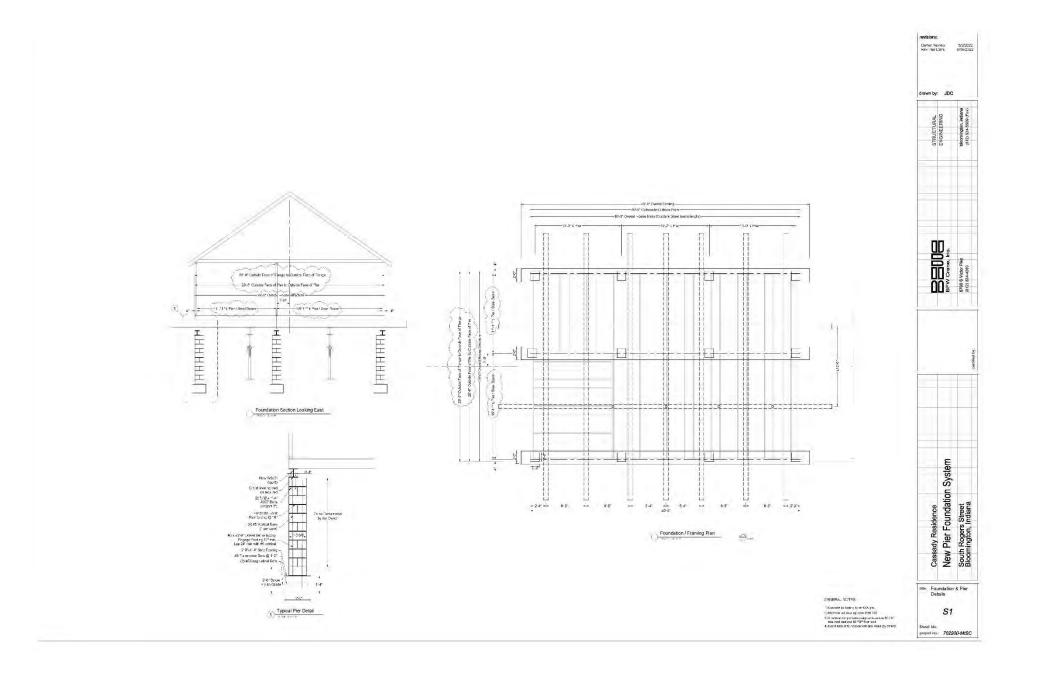


EXHIBIT 4: Enforcement Timeline

6-1-22	The MS4 Coordinator had a conversation in with Mr. Cassady and informed him that a Waterways Inquiry would be required through IDNR.
7-8-22	Complaint came in through Building Department. Building Dept. staff called Mr. Cassady and asked them to apply for permit (submitted same day).
7-12-22	Zoning Inspector explained to Mr. Cassady through the application that a better plot plan is needed.
7-14-22	Assistant Director/ Floodplain Administrator explained through online application that an Indiana Waterways Inquiry needed to be completed due to Floodway location.
7-18-22	After receiving photo of house from Building, Planning staff decided to do a site visit as it appeared the house had been moved and elevated.
7-20-22	The Zoning Inspector and Assistant Director/Floodplain Administrator performed a site visit and spoke with Mr. Cassady. It was confirmed the home at 4830 S Rogers St was moved and altered without any permits. Afterwards, Mr. Cassady came into the Planning Office and scheduled a meeting for the following week.
7-21-22	Building Department issued a Stop Work Order.
7/25/22	Meeting with the Director, Assistant Director/Floodplain Administrator, Mr. Cassady, and two family members. Reviewed certified plot plan requirements and reviewed planning options.
7-29-22	Received certified mail from Doug Graham of Bynum Fanyo stating he would begin work on a certified plot plan on or before September 13, 2022
8/1/2022	Due to safety concerns the Building Dept. requested Mr. Cassady permanently stabilize the elevated structure.
8/29/2022	Assistant Director called Mr. Cassady to provide updates since no record of a Waterway Inquiry was found during a follow up with DNR.
11-16-22	 Enforcement Letter sent requesting that following information with the deadline to respond by 11-28-2022 What is the status of the Certified Plot Plan? What is the status of submitting a stamped design to the Building Department? Submit to Planning staff evidence that a Waterways Inquiry Request was made. Submit update on state permit EA-40447. Please inform us of your plans for sewage disposal and grey water treatment?
11-22-22	Walk-in meeting between Mr. Cassady, the Director, and Assistant Director/Floodplain Administrator. Responses to 11-16-22 enforcement letter. – See Exhibit 10.
11-28-22	Email between Doug Wagner (IN DNR) and Mr. Cassady provided to Planning Staff. Advised on how to submit Waterway Inquiry. Provided information about structure

	elevation specifications. Information that local permits would be required through county.
12-16-22	DNR issued a permit for the Elevated Abode at 4830 S Rogers St
01-06-23	Meeting with the Director, Assistant Director/Floodplain Administrator, Mr. Cassady and family member. Reviewed certified site plan and reviewed planning options. – See Exhibit 6.
1-10-23	Meeting with a Planner and Mr. Cassady to assist with a variance application, VAR-23-1. The Assistant Director/Floodplain Administrator informed Mr. Cassady that a use variance could be sought for the second home as a DADU use.
1-30-22	A Planner confirmed with Mr. Cassady intent to apply for the use variance and received authority to apply on his behalf with the same materials, see VAR-23-7.

EXHIBIT 5: Certified Plot Plan



Eric J. Holcomb., Governor Daniel W. Bortner, Director Division of Water 402 W. Washington Street Room W264 Indianapolis, IN 46204 Phone (317) 232-4160 Toll-free (877) 928-3755 Fax (317) 233-4579 www.in.gov/dnr/water/

12/16/2022 Basin 21

Randy Cassady PO Box 324 Ellettsville, IN 47429

Re: EA-40447, Clear Creek, Monroe County

Dear Mr. Cassady,

On October 26, 2022, the Division of Water received your construction plans for the reconstruction of a residence*. Based on your description, the residence is located at 4830 South Rogers Street in Section 20, Township 8N, Range 1W, near Bloomington, Indiana, Perry Township, Monroe County.

Based on the information that you provided, your residence is located in the floodway. According to a published Flood Insurance Study, the base flood elevation (BFE)**, would reach an elevation of about 659.0 feet, North American Vertical Datum of 1988 (NAVD), at the site. Therefore, the flood protection grade (FPG) for the residence is 661.0 feet, North American Vertical Datum of 1988 (NAVD).

Project Description: An existing 28' by 40' residence was relocated slightly and elevated. The structure's main floor (habitable living space) has a finished floor elevation of 669.0 feet, NAVD88. The foundation walls will be equipped with vents to allow for the passage of floodwaters. Electrical equipment will be floodproofed and installed to at least flood protection grade.

After reviewing the material facts and documentation, Division staff has determined that your plans meet the criteria of the Flood Control Act, IC 14-28-1-24(B)(2). To ensure compliance with IC 14-28-1-24(B)(2):

The lowest floor must be built to or above the FPG of 661.0 feet, NAVD88 which is at least two (2) feet
above the BFE;

Please be informed that recent historic flood events may show that the floodwaters in the vicinity reached a higher elevation than the BFE stated above in the second paragraph. Although the federal, state, and local regulations only require that the residence be elevated two (2) feet above the BFE in order to meet the FPG, the floodwater of recent historic flood events may have exceeded the FPG. Therefore, the Division of Water recommends the lowest floor be elevated at least to the floodwater levels of the recent historic flood event if it is higher than the FPG to minimize future flood damage to the building and personal property.

- Any enclosure below the FPG, cannot be converted into habitable space;
- All flood vents (openings) must remain open and unobstructed at all times to allow for the automatic entry and exit of floodwaters;
- The reconstruction must not deviate from the project description summarized above and plans received at our office on October 26, 2022. Any deviation from the reviewed plans will require another review by this office.

For any additional construction, excavation, or filling in or on the floodway beyond the scope of the reconstruction of the residence, prior written approval from the Division of Water is required.

An Equal Opportunity Employer Printed on Recycled Paper Letter to Randy Cassady 12/16/2022 EA-40447 Page 2

This letter should be presented to the local permit official. Upon completion of the reconstruction of the residence, a completed Elevation Certificate must be submitted to the local permit official verifying that the reconstructed residence complies with federal, state, and local regulations***.

Since the residence is located in a floodway as defined by the Federal Emergency Management Agency, the current or future property owners may be required to purchase flood insurance. The determination requiring flood insurance as a condition of obtaining a mortgage is the responsibility of the lending institutions that are federally regulated or those making a federally-backed loan. Flood insurance might also be required for any direct federal assistance for this property, such as disaster aid. Depending on the lowest floor elevation, including basements, flood insurance premiums are directly influenced by the elevation of the lowest floor. Reconstructing the residence in a manner using methods and practices that minimize flood damages that are outlined in the criteria stated above should reduce your flood insurance premiums. We recommend that this matter be discussed with an insurance agent.

Please be aware that if a septic system is located at the residence, we suggest that the local Board of Health be contacted before initiating construction of the residence.

You should not construe this letter to be a building permit, approval of the proposed project, or a waiver of the provisions of local building or zoning ordinances. Additionally, this letter does not relieve you of the responsibility of obtaining permits, approvals, easements, etc. as required by other federal, state, and local agencies.

Thank you for this opportunity to be of assistance; your interest in providing safe floodplain development is appreciated. If you have any questions regarding this letter, please contact Amanda McCollum, Environmental Manager, at (317) 234-5978 or toll free at (877) 928-3755.

Sincerely,

Nichdas J. Males

Nicholas Males Senior Environmental Manager, Technical Services Division of Water

cc: Floodplain Administrator, Monroe County Planning Department Tammy Behrman, 501 North Morton Street, Suite 224, Bloomington, IN 47404

Enclosure: EA-40447_FloodplainMap

- * The word residence used in this letter refers also to an abode
- ** Base Flood Elevation (also referred to as the BFE or regulatory flood): is based on a 1 percent chance that a flood event would equal or exceed this elevation in any year at the site
- *** Applies to NFIP Participating Communities in accordance with 44CFR § 60.3(b)(5)



The Special Flood Hazard Area was derived from the digital representation of FEMA Flood Insurance Rate Maps (FIRM). While this map is provided for information, the FIRMs as published by FEMA are the authoritative documents for the National Flood Insurance Program.

Copies of those maps can be found at http://msc.fema.gov

Map Source: FIRM File Number: EA-40447

Note

This map does not reflect changes or amendments which may have been made subsequent to the effective date Indiana Department of Natural Resources



MAP SCALE 1" = 500'

Legend Tract Boundaries

Floodway Zone AE
Community Boundaries

0	250	500	1,000
	-	-	FEET
0	75	150	300
	_		METER

Date: 10/28/2022

EXHIBIT 6: January 6, 2023 Meeting Discussion Points

Review of Certified Plot Plan Floodplain Administrator, AICP 4820 – 4830 S Rogers Street Permit #R-22-763

General Planning Review Notes:

Thanks for showing all of the requirements needed per Chapter 815 of the Zoning Ordinance. During the review, the following were noted:

- The pre-existing non-conforming status of your property was removed once your structure was
 relocated per Chapter 803. The pre-existing nonconforming status <u>cannot</u> be recovered by simply
 placing the elevated structure back in its original position due to the way that Chapter 803 is
 administered. To bring the property into compliance there are possible scenarios staff has
 identified, though there may be other options.
 - Request a Demolition Permit and fully and completely demolish the home at 4820 S Rogers St prior to release of Certificate of Occupancy for the home at 4830 S Rogers St. To demolish this structure state and local flood permits would have to be issued to have a complete demolition application.
 - b. Relocation of the structure to a different lot of record with appropriate permits to a new location. This would include state and local flood permits much like a demolition. No relocation may occur prior to state and local permits being issued.
 - c. Rezone to a Chapter 802 zone which requires Commissioner Approval (minimum 4 months' timeline). Then apply for a Use Variance for Detached Accessory Dwelling Unit.
 - d. Rezone to a PUD. This involves a lengthy timeline and Commissioner approval required.
 - e. Propose a text amendment. The Ordinance Review Committee would determine if this would even be entertained to proceed to the Plan Commission for review. Should it be accepted then it would be Commissioner approval (minimum 4 months).

*****NOTE:** These are possible scenarios and no process is guaranteed. We recommend you work with a design professional and land use attorney to advise you on the way forward.

- 2. The minimum Side Yard setback is 20' plus 4' for each additional story, therefore, the minimum Side Yard setback would be 24'. This is based on the fact that your plot plan lists the structure as a 'Two Story House' and photographs confirm this. Your structure is only demonstrating 22.09' from the southern property line. There are several options staff has identified to bring the structure into compliance. There may be other options not listed below. You will want to discuss with staff the specifics of each option and the other requirements involved with each.
 - a. Apply for a Side Yard Setback Design Standards Variance
 - b. Relocate the structure through permitting
 - c. You had mentioned once that you could combine this lot with the lot you own to the south for Planning and Zoning purposes but this would likely require the removal of the home at 4848 S Rogers. Language to combine lots is found in Chapter 804-2(B)(4).
 - d. It might also be possible to shift the lot line through a Type E Subdivision but you must demonstrate compliance with the lot to the south with regards to setbacks. For this option, you must consult with a professional land surveyor.

- 3. The structure is located in a Special Flood Hazard Area, which is not considered buildable area under 804-4(E). You will need a Design Standards Variance for Chapter 804 Buildable Area Special Flood Hazard Area to bring the structure into compliance.
- 4. In the application for the permit, you state that the property has access to sewer. Prior to releasing the ILP, staff will need confirmation that sewer is present and available for connection.
- 5. Depending on your answers to the floodplain review below there may possibly require additional variances and or permits required.

Floodplain Administrator Review Notes:

DNR issued EA-40447 on 12/16/2022.

• Please file a local Floodplain Development Permit Application in OpenGov. https://monroecountyin.viewpointcloud.com/categories/1085/record-types/6593

Compliance with Chapter 808 of the Monroe County Zoning Ordinance is required. Planning staff has given you a copy of this chapter in the past. Compliance will be documented under the Floodplain Development permit application review above. Answers to the following questions will assist staff in the review of your development in the floodplain.

- 1. Show access to the home (stairs, porch, landing)
- 2. Has any fill been brought to the site? The site must meet Ch 808-5(A)(11).
- 3. Has there been any removal of materials such as gravel/concrete?
- 4. Show locations of all utilities and how they will physically connect to the structure.
- 5. Will there be any fully enclosed areas formed by foundation and other exterior walls below the flood protection grade? The letter from DNR EA-40447 "*Project Description: An existing 28' by 40' residence was relocated slightly and elevated. The structure's main floor (habitable living space) has a finished floor elevation of 669.0 feet, NAVD88. The foundation walls will be equipped with vents to allow for the passage of floodwaters. Electrical equipment will be floodproofed and installed to at least flood protection grade." What is the design of these foundation walls?*
- 6. CBU and State DNR approvals required for sewer / utility connection.

You will want to focus on the ordinance section below and provide information on the applicable parts of the ordinance.

808-5. Provisions for Flood Hazard Reduction. (A) General Standards.

In all SFHAs and known flood prone areas the following provisions are required:

(1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

(3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.

(4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

(5) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(9) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance.

(10) Parking lots, driveways, and sidewalks within the SFHA shall be constructed with permeable materials.

The link to apply for a Design Standards Variance is located on OpenGov here: <u>https://monroecountyin.viewpointcloud.com/categories/1085/record-types/6478</u> The link to apply for a Residential Demolition Permit is located on OpenGov here: <u>https://monroecountyin.viewpointcloud.com/categories/1083/record-types/6604</u> Let me know if you need access to any of the other applications listed in the review notes. Resources: https://www.fema.gov/sites/default/files/2020-08/FEMA P-312.pdf



Homeowner's Guide to Retrofitting

Six Ways to Protect Your Home From Flooding

FEMA P-312, 3rd Edition / June 2014

https://www.fema.gov/sites/default/files/2020-07/fema_p-348 protecting building utility systems from flood damage 2017.pdf



Protecting Building Utility Systems From Flood Damage

Principles and Practices for the Design and Construction of Flood Resistant Building Utility Systems

FEMA P-348, Edition 2 / February 2017



https://www.fema.gov/sites/default/files/2020-07/fema_tb_2_flood_damageresistant_materials_requirements.pdf



Flood Damage-Resistant Materials Requirements

for Buildings Located in Special Flood Hazard Areas in accordance with the National Flood Insurance Program

Technical Bulletin 2 / August 2008



EXHIBIT 7: Site Photos 2022 and 2023



July 2022 Photo before stabilization



All following photos taken February 2023 after stabilization





















EXHIBIT 8: IDNR Permit FW-30153-2 for sanitary laterals



State of Indiana Department of Natural Resources



PERMIT AMENDMENT APPROVAL

Application #: FW-30153-2

This Action is issued under the authority of the Indiana Flood Control Act, IC 14-28-1 with 312 IAC 10 as administered by the Department of Natural Resources.

Amendment Issued To: Blind Squirrels LLC, Tamby Wikle-Cassady PO Box 605, Clear Creek, IN 47426

Amendment Issued By:

ichdas J. Males

Mail Date: 01/24/2023

Nicholas Males , Division of Water

Permit Effective Date: 06/08/2020

Permit Expiration Date: 05/20/2024

PROJECT INFORMATION:

Waterbody: Clear Creek

County: Monroe

Project Description Narrative: Approximately 510' of the existing South Rogers Street roadway will be widened a maximum of 18' as part of a larger road widening project taking place outside of the floodway. Additionally, a 10' wide multi use path will extend 560' along South Rogers Street.

Amendment: Three, 6" sanitary laterals will be installed via open trench method within the floodway.

Project Location: Approximately 335' north of the West That Road and South Rogers Street intersection and continuing downstream approximately 500' near Bloomington

The Department's staff has reviewed the request to amend the project information. The change to the Project Description is shown above under Project Information.

The Department's staff has determined that if the project is followed as described in the submitted information it is approved, provided the conditions listed on the original permit and the conditions below are met.

Page 1 of 3

PERMIT CONDITIONS:

DNR PROJECT SPECIFIC PERMIT CONDITIONS

1.) Backfill the trench to existing ground elevations.

2.) Obtain the prior written approval of the Department for any additional construction, excavation or filling in or on the floodway* beyond the scope of the project.

All Conditions on the original Certificate of Approval, with any modified or additional conditions in subsequent Permit Amendments, must be met in order for the project to be in compliance with the statutes and rules listed in this Permit Amendment.

This Amendment must be displayed at the construction site with the original Certificate of Approval and any subsequent Permit Amendments issued on this project.

Attachments: FW-30153-0_CertificateOfApproval.pdf, FW-30153-1_ATSAmendment.pdf, FW-30153_FloodplainMap.pdf

Point of Contact: Amanda McCollum, Division of Water

This information in this document was prepared by the staff name listed as the Point of Contact. If you have any questions, contact that staff person at the Division of Water by email at water_inquiry@dnr.in.gov or by telephone at 317-232-4160 or toll-free at 1-877-928-3755 and select 1 during the recorded menu narrative.

RIGHT TO ADMINISTRATIVE REVIEW:

A party may appeal this Department of Natural Resources Action through the administrative review procedures found in the Administrative Orders and Procedures Act, IC 4-21.5, and the rules promulgated thereunder 312 IAC 3-1. If an appeal is filed, the final agency determination will be made by the Natural Resources Commission following a legal proceeding conducted before an Administrative Law Judge. The Department of Natural Resources will be represented by legal counsel at all stages of administrative review.

In order to obtain an administrative review, a written petition must be filed with the Division of Hearings within 18 days of the Mail Date of the Action. The petition must contain specific reasons for the appeal and indicate the portion or portions of the project to which the appeal pertains. The petition must be addressed to the Division of Hearings, Indiana Government Center North, Room N103, 100 North Senate Avenue, Indianapolis, Indiana 46204

SERVICE LIST:

Applicant(s): Blind Squirrels LLC, Tamby Wikle-Cassady PO Box 605, Clear Creek, IN 47426

Agent(s)

Smith Design Group, Inc., Kendall Knoke, 1467 West Arlington Road, Bloomington, IN 47404

Adjacent Landowners and Interested Parties:

Monroe County Planning Department, Larry J Wilson, 501 North Morton Street, Suite 224, Bloomington, IN 47404 Howard and Shelly Bruce, 3417 South Claybridge Drive, Bloomington, IN 47401 Abington Emerson Investments LLC, 11100 Santa Monica Blvd Suite 26, Los Angeles, CA 90025 Lonnie Baker, 4788 South Rogers Street, Bloomington, IN 47403 Thomas Bird, 4898 South Rogers Street, Bloomington, IN 47403 Glenn Goodroad, 10839 Breaking Rocks Drive, South Bend, FL 33647 J Alexander Properties LLC, 2608 East Nora Hill Drive, Bloomington, IN 47401

Page 2 of 3

David and Mary Williams, 4901 South Rogers Street, Bloomington, IN-47403 Anna Hortenberry, 7503 Walnut Ave, Hammond, IN 46324 Kansas City Momma LLC, 397 EMS R4 Lane, Pierceton, IN 46562

Courtesy Notification:

US Army Corps of Engineers, Louisville District, PO Box 59, Louisville, KY 40201 Monroe County SWCD, Martha Miller, 1931 South Liberty Drive, Bloomington, IN 47403 Monroe County Drainage Board, County Surveyor, Health Services Building, 2nd Floor 119 West 7th Street, Bloomington, IN 47404 Indiana Department of Natural Resources, District 6 Headquarters P.O. Box 266, Nashville, IN 47448

ADDITIONAL PERMITTING AGENCIES:

This is not a walver of any local ordinance or other state or federal law and does not relieve the permittee of any liability for the effects which the project may have upon the safety of the life or property of others.

This does not relieve the permittee of the responsibility of obtaining permits, approvals, easements, etc. under other regulatory programs administered by, but not limited to, the U.S. Army Corps of Engineers, County Drainage Board, Indiana Department of Environmental Management and local, city, or county floodplain management, planning or zoning commissions.

Page 3 of 3

EXHIBIT 9: Uses Permitted in the Estate Residential 1 Zoning District

and a set of the set o	r coming of	dinance Chapter 802 & Chapter 833
USES	RE1	(i) Use Intensity
Bed and breakfast	C	(P) Permitted
Cemeteries	P	(C) Conditional
Churches	C	(RE1) Estate Residential 1
Crops and pasturage	P	
Day care centers	C	Created December 2019
Fire stations	C	
Golf courses	C	
Historic adaptive reuse	C	
Home occupations	C	
Parks and playgrounds	P	
Police stations	C	
Public libraries/museums	C	
Rehabilitative facilities	C	
Residential care homes for developmentally disabled individuals	P	
Residential care homes for mentally ill	P	
Residential care homes for up to five individuals, other than the developmentally disabled	P	
Schools	C	
Single family detached dwellings	P	
Swim clubs	C	
Tennis clubs	C	
Utility substations and transmission facilities	P	

EXHIBIT 10: Enforcement Letter Dated November 16, 2022

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 http://www.co.monroe.in.us/tsd/Government/Infrastructure/PlanningDepartment.aspx



November 16, 2022

Randall Cassady PO Box 324 Ellettsville, In 47429

RE: Floodplain Violations Information Request

Dear Mr. Cassady,

Planning staff met with you on July 25, 2022 to discuss a pathway to compliance for work performed in the Special Flood Hazard Area at 4820-4830 S Rogers Street. There were several steps outlined in the enclosed document. Staff would like some clarification from you regarding the progress you have made.

- There is a letter on file dated 7/28/2022 from Doug Graham of Bynum Fanyo stating he would begin work on a certified plot plan on or before September 13, 2022. Staff has not seen this certified plot plan as of the date of this letter nor has there been any communication from Mr. Graham regarding. What is the status of the Certified Plot Plan? Deadline: November 28, 2022.
- After talking with the Building Department it is evident that you have not submitted any further plans for review under permit R-22-763. It is unknown if the structure is anchored properly and there are concerns regarding the stability of the structure. What is the status of submitting a stamped design to the Building Department? Deadline: November 28, 2022.
- There was never any confirmation submitted to Planning staff that an Indiana Waterways Request was submitted to the state. This step should still occur as it will communicate if additional state permits would be required for the work. Submit to Planning staff evidence that a Waterways Inquiry Request was made. Deadline: November 28, 2022.
- 4. A permit application was submitted to DNR numbered EA-40447 to elevate the abode. Planning would like an update as to if this was a complete application with the state. It seems that a certified plot plan with elevations would be required as well as a stamped design for the structure and these have not been submitted locally yet so we cannot determine if they were submitted to the state. Submit update on state permit EA-40447. Deadline: November 28, 2022.
- 5. The Monroe County Health Department has informed us that there is not septic permit or septic information in relation to either residence at 4820-4830 S Rogers Street. The City of Bloomington Utilities notified staff that there are currently no approved plans to extend sewer lines to your property. Please inform us of your plans for sewage disposal and grey water treatment? Deadline: November 28, 2022.
- Please inform staff of you intentions regarding the demolition of any structures to bring the site into compliance.

Please note that there is still a stop work order on your property until the property state and local permits can be issued. As a reminder, no work in the Special Flood Hazard Area should be occurring without all the required permits listed above. Please note that failure to comply with the required actions and deadlines in this letter may lead to a civil action being filed against the property owners in the Monroe Circuit Court. Every day a property is not in compliance with an ordinance provision constitutes a separate violation of that provision for which a civil penalty judgment may be entered.

Feel free to call the office and set up an appointment with me to discuss the update required by staff before the deadline.

Sincerely,

Tammy Behrman, AICP Assistant Director Monroe County Planning 812.349.2560

EXHIBIT 11: Letters of Support



March 20, 2023

To: Monroe County Board of Zoning Appeals And Monroe County Planning Department 501 N Morton Street Suite 224 Bloomington, IN 47404

Dear Board of Zoning Appeals,

The Cassady's are putting in every effort to make our neighborhood a better place to live. We hope that you will support their efforts to remodel their home at 4830 S Rogers; and, that you will allow them to keep the second home on the property at 4820 S Rogers. Living near an area where flooding occurs presents challenges such as State permitting, and your efforts to make local approval easier to restore buildings in the old Clear Creek area is something of great importance to all neighbors here. In the future, there may come a time that houses will flood along this strip, and the process of helping folks get their houses and businesses put back together can be facilitated by a smother administrative process and ordinance.

Sincerely,

Doug Bruce, LEED AP, NCARB

President-Architect Tabor/Bruce Architecture & Design, Inc.

1101 S Walnut St. Bloomington, IN 47401 812-332-6258 www.taborbruce.com

Dear BZA Board Members,

As a prior tenant of the house at 4830 S Rogers Street, Bloomington, IN 47403, I am in support of the Cassady house elevation and remodel project AND of their being able to keep the house next door.

The Cassady's provided me with a reasonably priced place to rent for a couple of years. However, over time, it became more and more apparent that the house was in need of repairs to the foundation. The house always had water in the basement. The sump pumps were replaced multiple times, but with the basement being about 100 years old, new pumps were not enough to handle the job. The furnace was in the basement too, which was not a good thing.

My other neighbor who lived next door in 4820 only left because of his personal health of going into assisted living. Otherwise, he would likely still be there today because it was affordable and nicely kept. My point is that you should let the Cassady's keep the second house too so that it can be available as an affordable rental again.

The Cassady's are doing the right thing elevating the house and remodeling it to make it a nice home again.

The housing situation in Clear Creek will only get better if you help the owners through the permitting process.

Sincerely,

Josiah Schroeder Monroe County Resident

J B 3/13/2023

Dear Board of Zoning Appeals,

The Cassady's are putting in every effort to make our neighborhood a better place to live. We hope that you will support their efforts to remodel their home at 4830 S Rogers; and, that you will allow them to keep the second home on the property at 4820 S Rogers. Living near an area where flooding occurs presents challenges such as State permitting, and your efforts to make local approval easier to restore buildings in the old Clear Creek area is something of great importance to all neighbors here. In the future, there may come a time that houses will flood along this strip, and the process of helping folks get their houses and businesses put back together can be facilitated by a smother administrative process and ordinance.

onnic 4788 S. Rogers St. Bloomington, IN 47403 812-360-2370

Dear Board of Zoning Appeals,

The Cassady's are putting in every effort to make our neighborhood a better place to live. We hope that you will support their efforts to remodel their home at 4830 S Rogers; and, that you will allow them to keep the second home on the property at 4820 S Rogers. Living near an area where flooding occurs presents challenges such as State permitting, and your efforts to make local approval easier to restore buildings in the old Clear Creek area is something of great importance to all neighbors here. In the future, there may come a time that houses will flood along this strip, and the process of helping folks get their houses and businesses put back together can be facilitated by a smother administrative process and ordinance.

Stella's Place 4904 So Rogers St. Robert Logsdon 4910 So Rogers St.

Dear Board of Zoning Appeals,

The Cassady's are putting in every effort to make our neighborhood a better place to live. We hope that you will support their efforts to remodel their home at 4830 S Rogers; and, that you will allow them to keep the second home on the property at 4820 S Rogers. Living near an area where flooding occurs presents challenges such as State permitting, and your efforts to make local approval easier to restore buildings in the old Clear Creek area is something of great importance to all neighbors here. In the future, there may come a time that houses will flood along this strip, and the process of helping folks get their houses and businesses put back together can be facilitated by a smother administrative process and ordinance.

Multille + James Kerr 4878 S. Rogers St

Dear Board of Zoning Appeals,

The Cassady's are putting in every effort to make our neighborhood a better place to live. We hope that you will support their efforts to remodel their home at 4830 S Rogers; and, that you will allow them to keep the second home on the property at 4820 S Rogers. Living near an area where flooding occurs presents challenges such as State permitting, and your efforts to make local approval easier to restore buildings in the old Clear Creek area is something of great importance to all neighbors here. In the future, there may come a time that houses will flood along this strip, and the process of helping folks get their houses and businesses put back together can be facilitated by a smother administrative process and ordinance.

Julia McLain or Julia Myhain 4848 S. Rogers St. Bloomington, W 47403



MONROE COUNTY BOARD OF ZONING APPEALS

Public Meeting Date:

April 5, 2023

CASE NUMBER	DETAIL	RECOMMENDED MOTION
VAR-23-4	Buildable Area (Special Flood Hazard Area) Ch. 804	Denial

812-6 <u>Standards for Design Standards Variance Approval</u>: 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:

<u>Deny Buildable Area (Special Flood Hazard Area)</u>: The petition site's active LOMR still has an open appeal period and County Stormwater has yet to review the hydraulic calculations. Therefore, the variance does not meet criteria B(2). Upon the competition of the appeal period, this variance will not be needed.

Variance Type: 🛛 Design 🗆 Use		Planner: Drew Myers
\Box Residential \boxtimes Commercial		

PETITIONER	Curry Pike Storage		
	Joshua Rodgers, American		Location Map
	Structurepoint (appl	Petitioner Roads	
ADDRESS	2450 S Curry Pike		Civil (Political) Townships Incorporated Areas
	53-09-12-300-023.000-015		Parcels
TOWNSHIP +	Van Buren, 12		
SECTION			
PLATS	⊠ Unplatted □ Platted: N/A		
ACREAGE +/-	7.49		
	PETITION SITE	ADJACENT	
ZONING	LB	LB, GB, RE2.5,	
		RS3.5, and COB	
COMP PLAN	MCUA Mixed Use	MCUA Mixed	M
		Use; MCUA	0 0.07 0.15 0.3 Miles
		Open Space	Morrise County
USE	Convenience	Residential,	Source: Monroe County 318 Date: 2/22/223
	Storage	commercial, or	
		vacant	

Location Map Petrore Rood Boonington Parcels Parcels

SUMMARY

The petitioner is proposing to construct two convenience storage buildings totaling 32,750 square feet and 4,500 square feet, respectively, that encroaches into an area designated as FEMA Zone AE and Administrative Floodway (also known as Special Flood Hazard Area). The two structures are included in Phase II of the approved commercial site plan for the Bloomington Self Storage project. The construction of Phase II improvements was delayed accommodating the appropriate process of amending the floodplain boundaries with federal, state, and local officials. As part of the local permitting process, either a design standards variance is required to the Chapter 804 non-buildable area classification for "Special Flood Hazard Area" or a Letter of Map Revision must be effective. If the variance is approved the petitioner may submit permits for Phase 2

buildings to continue development on fill placed in a Special Flood Hazard Area at their own risk should the map be appealed. If the variance is denied then the petitioner must wait until July 5, 2023 when the maps are fully adopted or potentially longer if there is an appeal (See Exhibit 9).

By July 5, 2023, if no valid appeal is made, this variance request would become moot as the construction site will officially be listed outside of the special flood hazard area.

DISCUSSION

In July of 2020, American Structurepoint submitted a commercial site plan application to the Planning Department for the construction of a 48,750 square foot convenience storage facility. Portions of the property are designated "FEMA Zone AE and Administrative Floodway" (also known as Special Flood Hazard Area). Planning Staff communicated to the petitioner that if the developer wanted to construct any buildings or impervious cover in these designated areas, that Indiana DNR flood permits and local Floodplain Development permits would be required to place the structures on fill. Additionally, the petitioner was expected to either obtain a Letter of Map Revision for Fill (LOMR-F) demonstrating the area was no longer in a Special Flood Hazard Area due to the fill elevating the area or apply for one *design standard* variance from the Buildable Area (Chapter 804) standards. The Buildable Area standard states that "any building or structure constructed after October 2, 2015 must be located within a buildable area. The following shall <u>not</u> be included in the buildable area: Special Flood Hazard Area as specified in Chapter 808" (804-4 E).

Chapter 808 defines "Special Flood Hazard Area" (SFHA) as "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)."

On February 23, 2023 the County received Letter of Map Revision Determination Document that depicts the annotated map panel for the flood area being revised (Exhibit 9). Barring any appeal to the map, the effective date of the revision is July 5, 2023. An appeal could delay the map adoption or require changes to the flood study.

The petition site is located within the Sinking Creek Watershed and is considered a 'critical watershed' per the Stormwater Ordinance. Essentially this area is part of a large sinkhole complex (Exhibit 1) with the potential for unpredictable flooding due to blockages in the karst. The MS4 Coordinator has not yet reviewed the recently released LOMR or had a chance to provide any feedback on the proposed map changes.

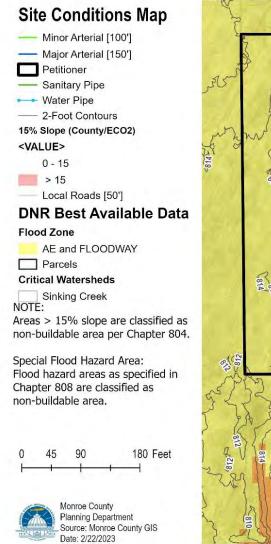
Please see below for a summary of the sequence of events that leads up to this point in time.

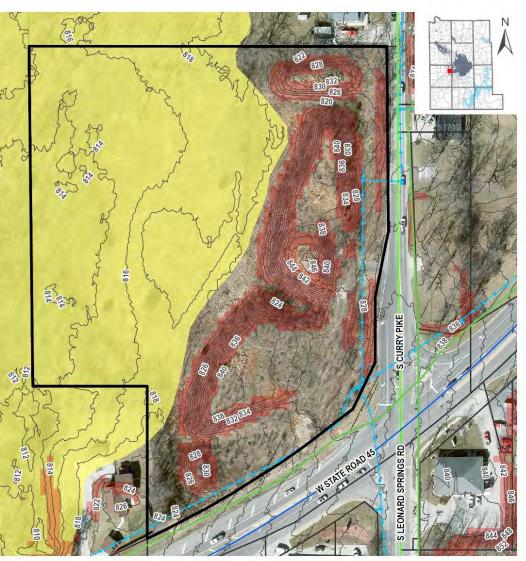
- November 19, 2020 DNR provided the petitioner a Certificate of Approval FW-30463-0 for the work to be completed in the designated floodway areas (Exhibit 6).
- March 2, 2021 Final site plan approval was issued by Planning Staff (2007-SIT-24) (Exhibit 4)
- March 12, 2021 Planning Staff issued a Floodplain Development Permit (FP-21-1).
- March 16, 2021 Planning Staff issued a Grading Permit (IG-21-5).
- March 16, 2021 Pre-construction meeting was held between the petitioner and County Stormwater.
- July 15, 2021 Planning Staff issued an Improvement Location Permit (ILP) for Phase I structures outside of the designated floodway areas.
- August 13, 2021 Petitioner submitted a LOMR application to FEMA to remove the floodway designation from the Phase II construction site based on fill.
- October 29, 2021 Planning Staff received a letter from FEMA stating that the petitioner should have submitted a CLOMR prior to any work performed in the designated floodway area. (Exhibit 7)
 - Staff learned that the petitioner was informed of the need for a CLOMR on December 16, 2020 (Exhibit 8) and did not pursue this requirement. Staff was not included in the original email correspondence between FEMA and the petitioner. Had Staff been informed, the local floodplain development permit and grading permit would not have been issued.
 - At this point, Staff halted any further permit issuances for the project site until the petitioner could provide evidence of FEMA approval.
- January 20, 2022 Petitioner submitted certified elevations of the project site to Planning Staff.
- January 24, 2023 Petitioner applied for a Design Standards Variance to Ch. 804 in order to proceed with construction in Phase II.
- February 23, 2023 Letter of Map Revision Determination Document (LOMR) was issued with an effective date of July 5, 2023. (Exhibit 10)
- February 24, 2023 Planning Staff emailed the petitioner's representative indicating that the petition is continued to the April 5th BZA meeting, citing the need for more time to coordinate with FEMA and DNR officials to confirm if Monroe County can legally issue permits.
- March 21, 2023 FEMA Region 5 official communicated to the petitioner (forwarded to Staff) that as long as all state and local permits have been obtained, development on the site may continue.

EXHIBITS - *Immediately following report*

- 1. County Site Condition Map & Critical Watershed Map
- 2. Staff Site Visit Photos
- 3. Petition Letter
- 4. Petitioner Site Plan
- 5. Indiana DNR: Floodplain Analysis and Regulatory Assessment
- 6. Indiana DNR: Certificate of Approval
- 7. Letter from FEMA
- 8. Correspondence with Indiana DNR
- 9. FEMA & DNR Approval to Continue Development on Fill
- 10. LOMR Documentation

EXHIBIT 1: County Site Conditions Map & Critical Watershed Map





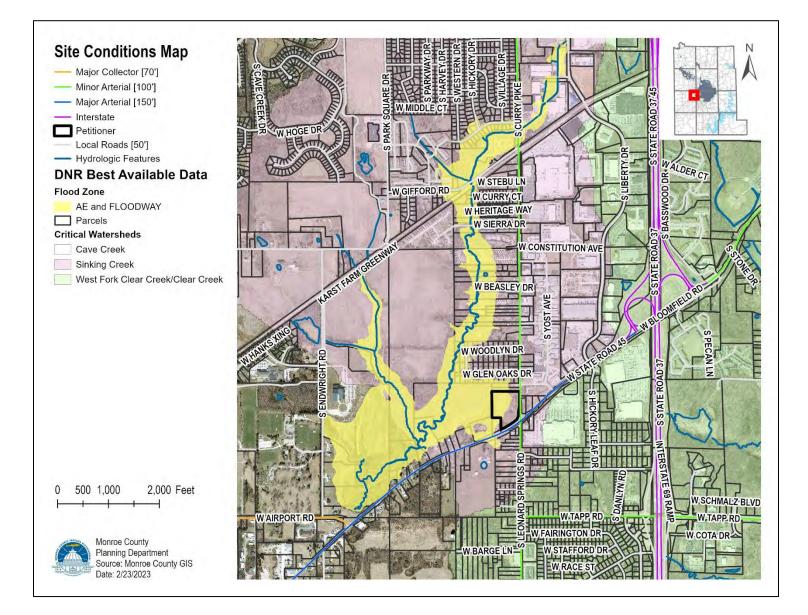


EXHIBIT 2: Staff Site Visit Photos



Photo 1



Photo 2



Photo 3



Photo 4



Photo 5



Photo 6



Photo 7



Photo 8



Photo 9



Photo 10



Photo 11



Photo 12



Photo 13



Photo 14



Photo 15



Photo 16



Photo 17



Photo 18



Photo 19



Photo 10



Photo 21



Photo 22



Photo 23



Photo 24



Photo 25



Photo 26



Photo 27



Photo 28

EXHIBIT 3: Petitioner Letter



9025 RIVER ROAD, SUITE 200 INDIANAPOLIS, INDIANA 46240 TEL 317.547.5580 FAX 317.543.0270

January 26, 2023

Board of Zoning Appeals Monroe County Planning Department Monroe County Government Center 501 North Morton Street, Suite 224 Bloomington, Indiana 47404

Re: Variance request - 2450 South Curry Pike

To the Members of the Board of Zoning Appeals:

On behalf of MHG Hotels, LLC, American Structurepoint is requesting a variance from the buildable area requirements set forth in Chapter 804-4-E of the zoning ordinance excluding Special Flood Hazard Areas from the "Buildable Area". The site is located at the northwestern corner of South Curry Pike & SR 45. The parcel number is 53-09-12-300-023.000-015.

Following the requirements for buildable area in Chapter 804 would result in significantly less buildable area for this site and would not be economical to develop. The construction plans propose minimum encroachment into the Floodway and compensatory storage has been provided to account for the floodplain fill. Furthermore, we have Indiana Department of Natural Resources (DNR) approval for Construction in a Floodway (11/19/2020) and DNR approval of a Floodplain Analysis and Regulatory Assessment (FARA) for revising the Sinking Creek floodway (2/28/2022). We are currently going through mapping with FEMA for a Letter of Map Revision (LOMR) and have finished all technical review. We expect the LOMR to be fully effective in the next few months.

Thank you for your consideration for the requested variance.

Sincerely, American Structurepoint, Inc.

Im Clayese

Joshua M. Rodgers, PE

JMR:dls

www.structurepoint.com

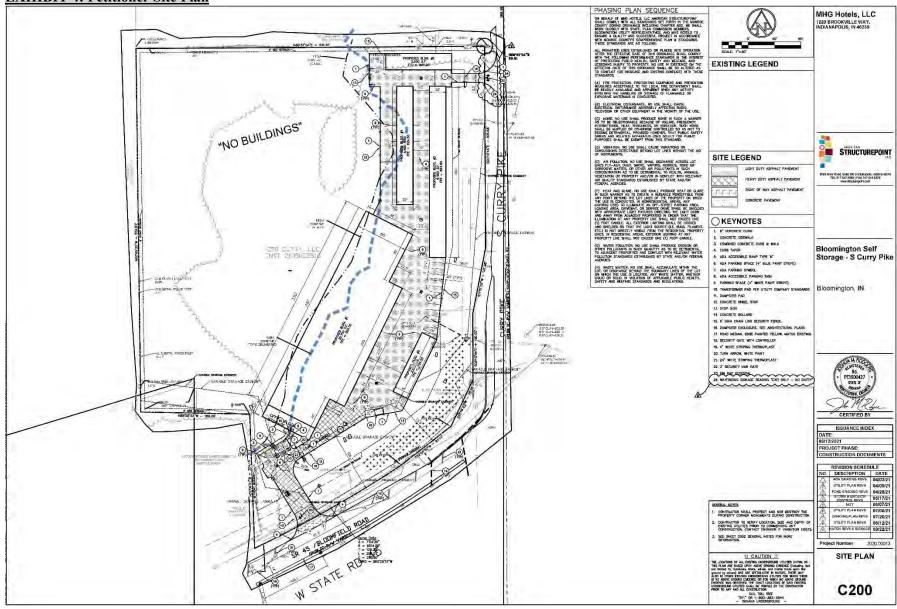


EXHIBIT 4: Petitioner Site Plan

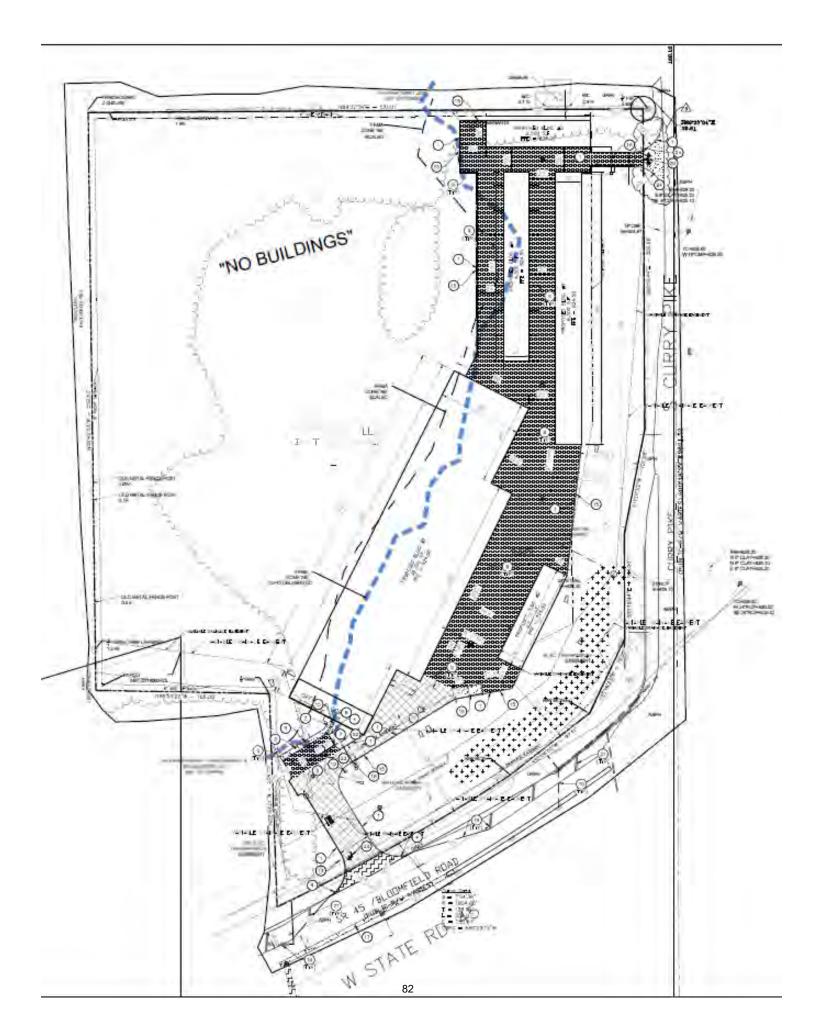


EXHIBIT 5: Indiana DNR: Floodplain Analysis and Regulatory Assessment



Indiana Department of Natural Resources

FLOODPLAIN ANALYSIS AND REGULATORY ASSESSMENT

 Issue Date:
 2/28/2022
 File #: MR-40286-1

 Waterbody:
 Sinking Creek
 County: Monroe

 Site Location:
 2450 South Curry Pike; at the northwest corner of the State Road45 and Curry Pike intersection near Bloomington

Model Review Determination

 This letter serves as the Department's approval of the proposed revisions to the floodway for this study reach. Refer to Attachments. However, the Department cannot formally recognize this floodway revision until a Letter of Map Revision is issued by the Federal Emergency Management Agency (FEMA).

This should not be construed as a local building permit, nor is it a waiver of the provisions of any local building or zoning ordinances. This does not relieve the permittee of the responsibility of obtaining permits, approvals, easements, etc. under other regulatory programs administered by, but not limited to, the U.S. Army Corps of Engineers, County Drainage Board, Indiana Department of Environmental Management and local, city, or county floodplain management, planning or zoning commissions.

Point of Contact: Danielle K Bowman, Division of Water

This information in this document was prepared by the staff name listed as the Point of Contact. If you have any questions, contact that staff person at the Division of Water by email at water_inquiry@dnr.in.gov or by telephone at 317-232-4160 or toll-free at 1-877-928-3755 and select 1 during the recorded menu narrative.

Attachments: Approved Floodway Map.pdf

Issued By:

Adam M Bales, P.E., Division of Water

Copies Provided To:

Requestor: American Structurepoint, Rachel Sparks Interested Party: Monroe County Planning Department, Tammy Behrman

Page 1 of 1

EXHIBIT 6: Indiana DNR: Certificate of Approval

Depa	e of Indiana artment of Natural Resources		Indiana Department Natural Resources
	CERTIFICATE	OF APPROVAL	
	Application #	FW-30563-0	
	roval is a Permit for Construction unde ministered by the Department of Natur		Control Act, IC 14-28-1
Approval Issued To:	MHG Hotels LLC, Neal Patel, 1220 E	rookville Way, Indianapolis, IN 462	39
Approval Issued By:	Molidas J. Males	Mail Date:	11/19/2020
	Nicholas Males, Division of Water		
Permit Effective Date	: 12/07/2020	Permit Expiration Date:	11/19/2022
construction authorize until the Permit Expira	d in this Permit prior to the Permit Effe tion Date. newed one (1) time if a written request		This Permit is only valid
construction authorize until the Permit Expira This Permit may be re	d in this Permit prior to the Permit Effe tion Date. newed one (1) time if a written request	tive Date constitutes a violation.	This Permit is only valid
construction authorize until the Permit Expira This Permit may be re Permit Expiration Date	d in this Permit prior to the Permit Effe- tion Date. newed one (1) time if a written request TION:	tive Date constitutes a violation.	This Permit is only valid
construction authorize until the Permit Expira This Permit may be re Permit Expiration Date PROJECT INFORMA [*] Waterbody: Sinking C Project Description Na Creek for the Blooming from the top of bank 1 and drive isles for the proposed slope will be proposed detention ba remainder of fill materi this project.	d in this Permit prior to the Permit Effe- tion Date. newed one (1) time if a written request TION: reek rrative: A 21,000 sq.ft. area will be fille gton Self Storage project. The fill varie 185'. The finished elevation of the fill varie 185'. The finished elevation of the fill varie sin as well as the reuse of any accepta al will be hauled on from another site.	tive Date constitutes a violation. is received at the DNR, Division of County: Monroe d in the extreme eastern portion of s in depth from a few inches to +/-1 ill be approximately 830', NGVD. T e constructed on top of the propose y. The fill material will be sourced f ble existing fill materials currently of No impacts to the stream channel of	This Permit is only valid Water, prior to the "the flood way of Sinking ". The fill will be setback he proposed structures ed fill. Only the toe of thi from the excavation of a on the site. The or bank our proposed for
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construction authorize until the Permit Expira This Permit may be re Permit Expiration Date PROJECT INFORMA Waterbody: Sinking C Project Description Na Creek for the Blooming from the top of bank 1 and drive isles for the proposed slope will be proposed slope will be proposed detention ba remainder of fill materi this project. Project Location: Beg approximately 700' no	d in this Permit prior to the Permit Effe- tion Date. newed one (1) time if a written request TION: reek rrative: A 21,000 sq.ft. area will be fills gton Self Storage project. The fill varie 185'. The finished elevation of the fill value 185'. The finished elevation of the fill value alson self Storage project will be encroaching into the existing flood wa sin as well as the reuse of any accepta al will be hauled on from another site. inning just northwest of the intersection rth at Bloomington	tive Date constitutes a violation. is received at the DNR, Division of County: Monroe d in the extreme eastern portion of s in depth from a few inches to +/-1 vill be approximately 830', NGVD. T e constructed on top of the propose y. The fill material will be sourced to the existing fill materials currently of No impacts to the stream channel of to of South Curry Pike and State Roa	This Permit is only valid Water, prior to the '. The filood way of Sinking '. The fill will be setbac he proposed structures ed fill. Only the toe of thi from the excavation of a on the site. The or bank our proposed for ad 45 and continuing
construction authorize until the Permit Expira This Permit may be re Permit Expiration Date PROJECT INFORMAT Waterbody: Sinking C Project Description Na Creek for the Blooming from the top of bank 1 and drive isles for the proposed slope will be proposed slope will be proposed detention ba remainder of fill materi this project. Project Location: Beg approximately 700' not PERMIT CONDITIONS	d in this Permit prior to the Permit Effe- tion Date. newed one (1) time if a written request TION: reek grative: A 21,000 sq.ft. area will be fille gton Self Storage project. The fill varie 185'. The finished elevation of the fill v Bloomington Self Storage project will b encroaching into the existing flood wa sin as well as the reuse of any accepta al will be hauled on from another site. inning just northwest of the intersection th at Bloomington	tive Date constitutes a violation. is received at the DNR, Division of County: Monroe d in the extreme eastern portion of s in depth from a few inches to +/-1 vill be approximately 830', NGVD. T e constructed on top of the propose y. The fill material will be sourced to the existing fill materials currently of No impacts to the stream channel of to of South Curry Pike and State Roa	This Permit is only valid Water, prior to the '. The filood way of Sinking '. The fill will be setbac he proposed structures ed fill. Only the toe of thi from the excavation of a on the site. The or bank our proposed for ad 45 and continuing

 Revegetate all bare and disturbed areas with a mixture of grasses (excluding all varieties of tall fescue) and legumes as soon as possible upon completion; low endophyte tall fescue may be used in the ditch bottom and side slopes only.
 Appropriately designed measures for controlling erosion and sediment must be implemented to prevent sediment from entering the stream or leaving the construction site; maintain these measures until construction is complete and all disturbed areas are stabilized.

3) Seed and protect all disturbed streambanks and slopes not protected by other methods that are 3:1 or steeper with erosion control blankets that are heavy-duty, biodegradable, and net free or that use loose-woven / Leno-woven netting to minimize the entrapment and snaring of small-bodied wildlife such as snakes and turtles (follow manufacturer's recommendations for selection and installation); seed and apply mulch on all other disturbed areas.

4) Do not convert the structure into a residential building/residential use

5) Do not locate any electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities below the flood protection grade (base flood elevation plus two feet).

6) If the building or plans that are approved by DNR under this Certificate of Approval are changed or modified in order to meet the local floodplain management ordinance requirements, contact the Division of Water, Technical Services Section by email at water_inquiry@dnr in gov or by telephone at 317-232-4160 or toll-free at 1-877-928-3755 and select 1 during the recorded menu narrative.

7) All work must conform with the existing bank at the upstream and downstream limits of the project site.

8) Upon completion of the project, remove all construction debris from the floodway*

9) Obtain the prior written approval of the Department for any additional construction, excavation or filling in or on the floodway* beyond the scope of the project.

10) Except for the material used as backfill as shown on the plans submitted for the permit application, place all excavated material landward of the floodway*

11) Do not leave felled trees, brush, or other debris in the floodway*.

12) * Note: For regulatory purposes, the floodway is defined on the attached Floodway Map

DNR PROJECT GENERAL PERMIT CONDITIONS

1) Any modifications or additional construction beyond what was shown on plans received at the Division of Water shall require an additional review and approval from the Department of Natural Resources

2) This Permit must be posted and maintained at the project site until the project is completed.

3) This Permit shall not be assigned or transferred without the prior written approval of the Department of Natural Resources.

4) If any prehistoric or historic archaeological artifacts or human remains are uncovered during construction, demolition, or earthmoving activities, state law (Indiana Code 14-21-1-27 and 29) requires that the discovery must be reported to the Department of Natural Resources within two (2) business days.

5) This Permit may be revoked by the Department of Natural Resources for violation of any condition or applicable statute or rule.

6) The Department of Natural Resources shall have the right to enter upon the site of the permitted activity for the purpose of inspecting the work authorized under this Permit.

Certificate of Approval Attachments: FW-30563_FloodplainMap.pdf

RIGHT TO ADMINISTRATIVE REVIEW:

Page 2 of 3

A party may appeal this Department of Natural Resources Action through the administrative review procedures found in the Administrative Orders and Procedures Act, IC 4-21.5, and the rules promulgated thereunder 312 IAC 3-1. If an appeal is filed, the final agency determination will be made by the Natural Resources Commission following a legal proceeding conducted before an Administrative Law Judge. The Department of Natural Resources will be represented by legal counsel at all stages of administrative review.

In order to obtain an administrative review, a written petition must be filed with the Division of Hearings within 18 days of the Mail Date of the Action. The petition must contain specific reasons for the appeal and indicate the portion or portions of the project to which the appeal pertains. The petition must be addressed to the Division of Hearings, Indiana. Government Center North, Room N103, 100 North Senate Avenue, Indianapolis, Indiana 46204

SERVICE LIST:

Applicant(s):

MHG Hotels LLC, Neal Patel, 1220 Brookville Way, Indianapolis, IN 46239

Agent(s):

American Structurepoint, Joshau M Rodgers, 9025 River Road, Suite 200, Indianapolis, IN 46240.

Adjacent Landowners and Interested Parties;

Bryan Rental Inc, 1440 South Liberty Drive, Bloomington, IN 47403 Monroe County Planning Department, Tammy Behrman, 501 North Morton Street, Suite 224, Bloomington, IN 47404 Richard E Deckard Family Limited Partnership, Po Box 110, Bloomington, IN 47402 Public Investment Corporation, 3900 West Industrial Boulevard, Suite 5, Bloomington, IN 47403 Joshua L and Rachel E Knipp, 3990 West State Road 45, Bloomington, IN 47403 Robert C McCollough, 2103 South Groversnor Place, Bloomington, IN 47401 Jacobs Property Improvement & Managment LLC, 3720 West Tapp Road, Bloomington, IN 47403 Mary Jane Fleener, 8790 South Lee Philips Road, Bloomington, IN 47403 Kooshlard Properties VIII LLC, PO Box 347, Columbus, IN 47202 Jeff G Woodard and Blake A Hutchison, 5508 West State Road 48, Bloomington, IN 47404 Small Town Properties LLC, 665 North Walnut Street, Bloomington, IN 47404 2450 Curry LLC, Bob Shields, 4954 South Dunlap Road, Bloomington, IN 47404

Courtesy Notification:

US Army Corps of Engineers, Louisville District, PO Box 59, Louisville, KY 40201 Monroe County SWCD, Martha Miller, 1931 South Liberty Drive, Bloomington, IN 47403 Monroe County Drainage Board, County Surveyor, Health Services Building, 2nd Floor 119 West 7th Street, Bloomington, IN 47404 IDNR Law Enforcement District 6, 11 Durbin Street Camp Atterbury, Edinburgh, IN 46124

ADDITIONAL PERMITTING AGENCIES:

This is not a waiver of any local ordinance or other state or federal law and does not relieve the permittee of any liability for the effects which the project may have upon the safety of the life or property of others.

This does not relieve the permittee of the responsibility of obtaining permits, approvals, easements, etc. under other regulatory programs administered by, but not limited to, the U.S. Army Corps of Engineers, County Drainage Board, Indiana Department of Environmental Management and local, city, or county floodplain management, planning or zoning commissions.

Page 3 of 3

EXHIBIT 7: Letter from FEMA



Federal Emergency Management Agency Washington, D.C. 20472

October 29, 2021

Ms. Julie Thomas President, Board of Commissioners Monroe County Courthouse 100 West Kirkwood Avenue Bloomington, IN, 47404 IN REPLY REFER TO CASE NO.: 21-05-4181A Community: Monroe County, Indiana (Unincorporated Areas) Community No.: 180444 Map Panel Affected: 18105C0139D Map Effective Date: December 17, 2010

218-65-NF

Dear Ms. Thomas:

We reviewed a Letter of Map Revision Based on Fill request dated August 13, 2021. On the basis of the submitted information and the effective National Flood Insurance Program (NFIP) map, we determined that the property described below is located within the Special Flood Hazard Area (SFHA), the area subject to inundation by the base (1%-annual-chance) flood, and within the regulatory floodway for Sinking Creek, and that fill has been placed on the property since the designation of the floodway. The property is correctly shown on the effective NFIP map in an SFHA designated Zone AE, where Base Flood Elevations (BFEs) have been determined.

Property Description:	A portion of Section 12, Township 8 North, Range 2 West, as described in the Warranty Deed recorded as Document No. 2021002112, in the Office of the Recorder, Monroe County, Indiana
Street Address;	2450 South Curry Pike
Flooding Source:	Sinking Creek

We have determined that fill has been placed on the above-referenced property, portions of which lie within the regulatory floodway adopted by your community. In accordance with Subparagraph 60.3(d)(3) of the NFIP regulations, no encroachment may take place within the regulatory floodway if the encroachment would cause an increase in the BFEs. Therefore, the placement of fill on the property may be in violation of the regulations.

We have notified our Regional Office in Chicago, Illinois, of this situation. Revisions to the BFEs and/or regulatory floodway must be coordinated by community officials and submitted to our Regional Office for review and approval. Your community should contact Mr. Eric Kuklewski of the Federal Emergency Management Agency Region 5 Office, by telephone at (312) 408-5230 for guidance on the specific actions required to resolve this issue.

2

We will not continue processing this request until the issue is resolved with our Regional Office This determination is based on the flood data presently available.

Sincerely,

Patrick "Rick" F. Sacbibit, P.E., Branch Chief Engineering Services Branch Federal Insurance and Mitigation Administration

cc: Mr. Griffin Miller, American Structurepoint

EXHIBIT 8: Correspondence with Indiana DNR

From:		Wagner, Douglas A <dwagner1@dnr.in.gov></dwagner1@dnr.in.gov>			
Sent:		Tuesday, November 9, 2021 2:09 PM			
To:		Tammy Behrman			
Cc:		Larry Wilson; Jacqueline Nester Jelen			
Subjee	ct:	RE: FEMA letter			
Catego	ories:	Important			
Tamm					
		onses to coincide with the way in which they were in your email: ne change to delineating the entire floodplain as floodway was done with the development of			
the current maps (2 but do not have any		(2010). Our understanding that it was requested either by the county or City of Bloomington ny records that lead to that inclusion. There are two revisions that were done in 2015 & 2016 delineation in certain areas to floodway and fringe.			
2)	We do not have a	p showing different mapping or showing something different from what is			
	published. Project rise greater than .:	ts in the floodway are reviewed for their impact including prior projects that do not create a 14'.			
 The CLOMRs are not n that is currently at FEN 		not mentioned in the state model that has been approved however, it will be in the new mode t FEMA for approval. We have also discussed the CLOMR process in our "New Administrators ther workshops as well. In accordance with the Flood Control Act DNR will permit project if			
	· ·	nan .15' rise however, FEMA requires a zero rise in the floodway. Our staff began sending out requirement earlier this year. Unfortunately, permit FW-30563-0 had been issued before thi ited.			
If the o	community wishes to	o change the delineation to a more conventional floodway/flood fringe areas rather than all			
floodway they would need to have new studies completed to support the revisions. The studies would reviewed and approved by DNR then submitted to FEMA before they would become effective.					

From: Scott, R. Tony (DNR) [mailto:tscott@dnr.IN.gov] Sent: Wednesday, December 16, 2020 6:12 AM To: Rodgers, Josh <<u>irodgers@structurepoint.com</u>> Subject: RE: FW-30563 LOMR-F Bloomington Self Storage

Joshua,

According to the effective map the floodplain/floodway boundaries are the same. As you said everything mapped as a special hazard area is floodway. Since work has not started you may actually need to get a CLOMR-F and then a LOMR-F. I do not have a contact with FEMA but the FEMA website should have information on filing a CLOMR-F. Thank you, Tony Scott

From: Rodgers, Josh <<u>irodgers@structurepoint.com</u>> Sent: Tuesday, December 15, 2020 11:03 AM To: Scott, R. Tony (DNR) <<u>tscott@dnr.IN.gov</u>> Cc: Watts, Michael <<u>MWatts@structurepoint.com</u>>; Wilkerson, Jared <<u>jwilkerson@structurepoint.com</u>> Subject: FW-30563 LOMR-F Bloomington Self Storage Tony,

I was given your email by Jared Wilkerson in our office. He suggested I reach out to you. We received approval for the above referenced floodway application about two weeks ago (non-modeling). Monroe County Planning has informed us that they will not issue a full ILP until a LOMR-F is approved by FEMA. They are asking us to phase the project so that we can work on the areas not encroaching into the floodway but want the earthwork completed prior to submitting the LOMR-F. This is a bit unusual for us so we just want to confirm that this is the correct process. Let us know your thoughts or if there is someone else you think I should reach out to. To confirm, there is no floodplain on site, it's only floodway.

Thanks in advance for your help.

Joshua M. Rodgers, PE Project Engineer – Civil Group 9025 River Road, Suite 200 Indianapolis, IN 46240 317.547.5580 OFFICE structurepoint.com WEB

Best,

Doug Wagner, CFM

Senior Water Planner Indiana Department of Natural Resources Division of Water 402 W Washington St., Room W264 Indianapolis, IN 46204 317-232-4178 <u>DWagner1@dnr.IN.gov</u> www.dnr.IN.gov



EXHIBIT 9: FEMA & DNR Approval to Continue Development on Fill

From: Black, Sarah A <SBlack@dnr.IN.gov> Sent: Tuesday, March 7, 2023 1:07 PM To: Tammy Behrman <tbehrman@co.monroe.in.us> Subject: RE: Issued Letter of Map Revision for Monroe County, IN, Case No. 22-05-1490P Importance: High

Hi Tammy,

Thanks for checking in.

It was recommended that you should check with FEMA to see if you should issue a permit or not. The division doesn't have any issue with you moving forward with the permit if that is the direction you get from FEMA. The permit that was issued, FW-30563, was for the placement of fill and did acknowledge that buildings would be placed on top of the fill. Since the top of the fill pad was well above the BFE, the building was not a huge concern since we know the elevation requirements would be met. Therefore, the ones higher up in DNR feel the division has issued a permit for the work at the since and don't need to issue any other permit.

Please let me know if you have any questions.

Thanks,

Sarah Black Southern Water Planner Indiana Department of Natural Resources Division of Water 402 W Washington St., Room W264 Indianapolis, IN 46204 317-234-1107 sblack@dnr.in.gov www.dnr.IN.gov

From: Rosario, Mollie <<u>Mollie.Rosario@fema.dhs.gov</u>>

Sent: Monday, March 20, 2023 2:00 PM To: Reimann, Ashley <<u>ashley.reimann@fema.dhs.gov</u>>; Neal Patel (<u>npatel@mhghotelsllc.com</u>) <<u>npatel@mhghotelsllc.com</u>> Subject: FW: Case# 21-05-4181A

Hi Neal,

I am no longer the POC for Indiana in our office. That is now Ashley Reimann, copied here. I don't want to speak for her but I think she is out this week. If the LOMR was approved, that is usually FEMA's stamp of approval to move forward. And if you have obtained all the local/state permits, I would assume you are good to go.

Mollie Rosario Building Codes Coordinator | Mitigation | FEMA Region V mollie.rosario@fema.dhs.gov | Pronouns: she/her Mobile: (312) 953-2061

Federal Emergency Management Agency fema.gov From: Reimann, Ashley <<u>ashley.reimann@fema.dhs.gov</u>> Date: Tuesday, March 21, 2023 at 9:59 AM To: Neal Patel <<u>npatel@mhghotelsllc.com</u>> Subject: RE: Case# 21-05-4181A

Hi Neal,

I am out this week for a conference but checked in with the state on this request. As long as all permits have been obtained (state and local) this project is okay to move forward.

Thanks for your patience, I know your team has been working to connect with me through email/phone last week, but I was out for another conference all of last week so I'm a bit behind on correspondences.

Please let me know if you have any additional questions about this request.

Best, Ashley

Ashley Reimann FEMA Region 5 Office: 312-408-5563 Cell: 312-841-2816

EXHIBIT 10: LOMR Documentation



Federal Emergency Management Agency Washington, D.C. 20472

February 21, 2023

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Julie Thomas Commissioner - District 2 Monroe County Board of Commissioners Monroe County Courthouse 100 West Kirkwood Avenue Bloomington, IN 47404 IN REPLY REFER TO: Case No.: 22-05-1490P Community Name: Monroe County, IN Community No.: 180444 Effective Date of This Revision: July 5, 2023

Dear Commissioner Thomas:

The Flood Insurance Study Report and Flood Insurance Rate Map for your community have been revised by this Letter of Map Revision (LOMR). Please use the enclosed annotated map panel revised by this LOMR for floodplain management purposes and for all flood insurance policies and renewals issued in your community.

Additional documents are enclosed which provide information regarding this LOMR. Please see the List of Enclosures below to determine which documents are included. Other attachments specific to this request may be included as referenced in the Determination Document. If you have any questions regarding floodplain management regulations for your community or the National Flood Insurance Program (NFIP) in general, please contact the Consultation Coordination Officer for your community. If you have any technical questions regarding this LOMR, please contact the Director, Mitigation Division of the Department of Homeland Security's Federal Emergency Management Agency (FEMA) in Chicago, Illinois, at (312) 408-5500, or FEMA Mapping and Insurance eXchange (FMIX) toll free at 1-877-336-2627 (1-877-FEMA MAP). Additional information about the NFIP is available on our website at https://www.fema.gov/flood-insurance.

Sincerely,

Patrick "Rick" F. Sacbibit, P.E., Branch Chief Engineering Services Branch Federal Insurance and Mitigation Administration

List of Enclosures:

Letter of Map Revision Determination Document Annotated Flood Insurance Rate Map Annotated Flood Insurance Study Report

cc: The Honorable John Hamilton Mayor City of Bloomington

> Tammy Behrman, AICP Senior Planner Monroe County Planning Department

Elizabeth Carter Senior Zoning Compliance Planner City of Bloomington Darren Pearson, CFM State NFIP Coordinator Indiana Department of Natural Resources

Sanjay Patel CEO / President MHG Hotels, LLC

Joshua Rodgers, P.E. Civil Group Team Leader American Structurepoint, Inc.

Page 1 of 5	Issue Date: February 21, 2023	Effective Date: J	uly 5, 2023	Case No.	: 22-05-1490P	LOMR-APP
	Federa	-	ency Mana gton, D.C. 2047	-	t Agency	
	A 1945.4		P REVISION DOCUMENT	t.		30
	COMMUNITY AND REVISION INFORMATION	4	PROJECT DESCRI	PTION	BASIS OF R	EQUEST
COMMUNITY	Monroe County Indiana (Unincorporated Areas	Monroe County FILL 1D H Indiana FLCC		1D HYDRAULIC AI BASE MAP CHAN FLOODWAY UPDATED TOPOG	GES	
	COMMUNITY NO.: 180444					
IDENTIFIER	Self Storage Site Development	AS	PPROXIMATE LATITUD OURCE: Other Di	E & LONGITUE ATUM: NAD 8	E: 39.143, -86.585 3	
	ANNOTATED MAPPING ENCLOSURES		ANN	IOTATED STUD	Y ENCLOSURES	
* FIRM - Flood In	t changes to flooding sources affected by this n surance Rate Map	evision.		D 34P ABLE: 7		
		SUMMARY OF	REVISIONS			
Flooding Source	1	Effective Floodin BFEs'	•	d Flooding	Increase	
Sinking Creek		Floodway Zone AE	BFEs Floodw Zone A		YES YES YES	YES YES YES
" BFEs - Base (1-	percent-annual-chance) Flood Elevations					
		DETERMI	NATION			
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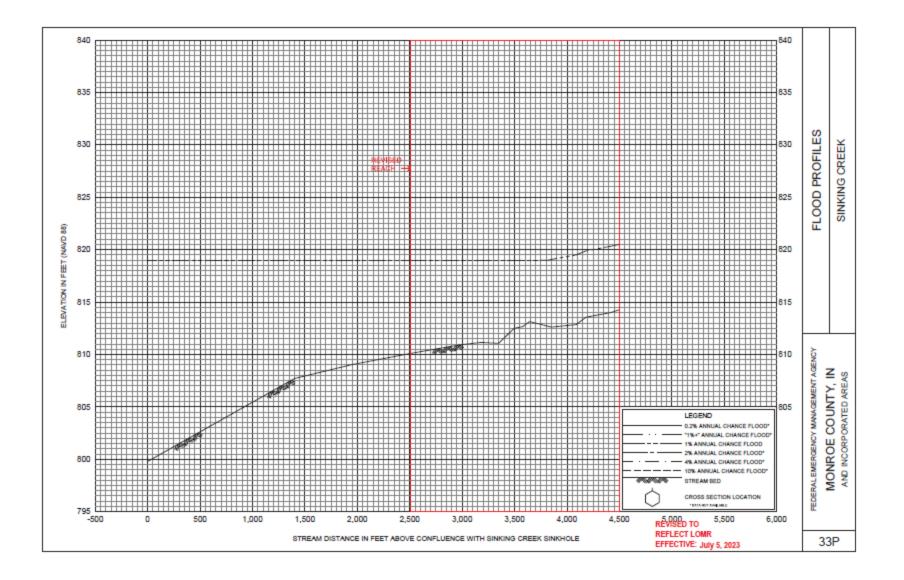
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CID Num	ber: 180169	Name:	City of Bloo	mington, Indiana	1.000	
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TYPE: FIRM	NO.: 18105C0139	D DATE: Deo	ember 17, 2010	DATE OF EFFECTIVE FL PROFILES: 33P AND FLOODWAY DATA TA		er 17, 2010
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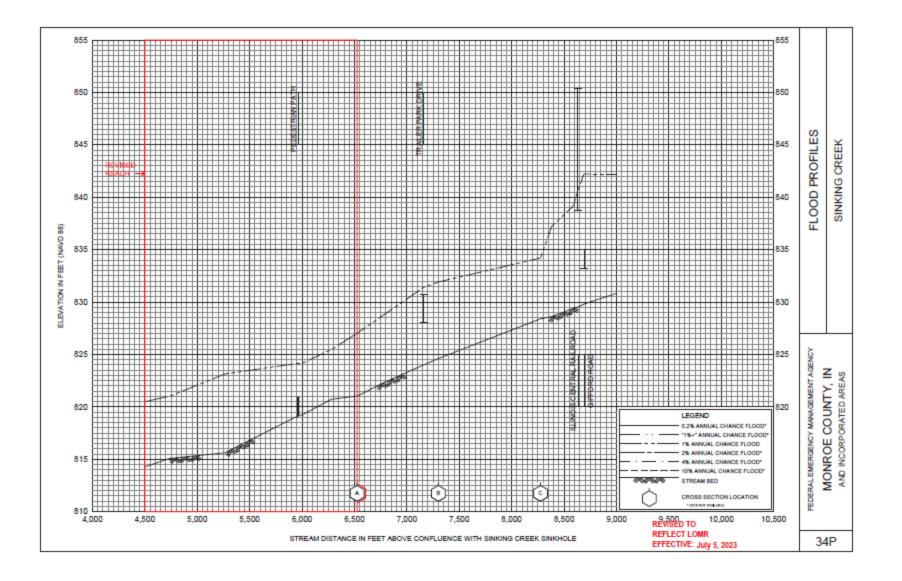
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we have desc	cribed in this letter, while	acceptable (lain development. Therefore, the flour community and adopted by appro	-
COMMUNI	ITY REMINDERS				
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			Patrick "Rick" F. Sacbibit, P.E., Branch C Engineering Services Branch		

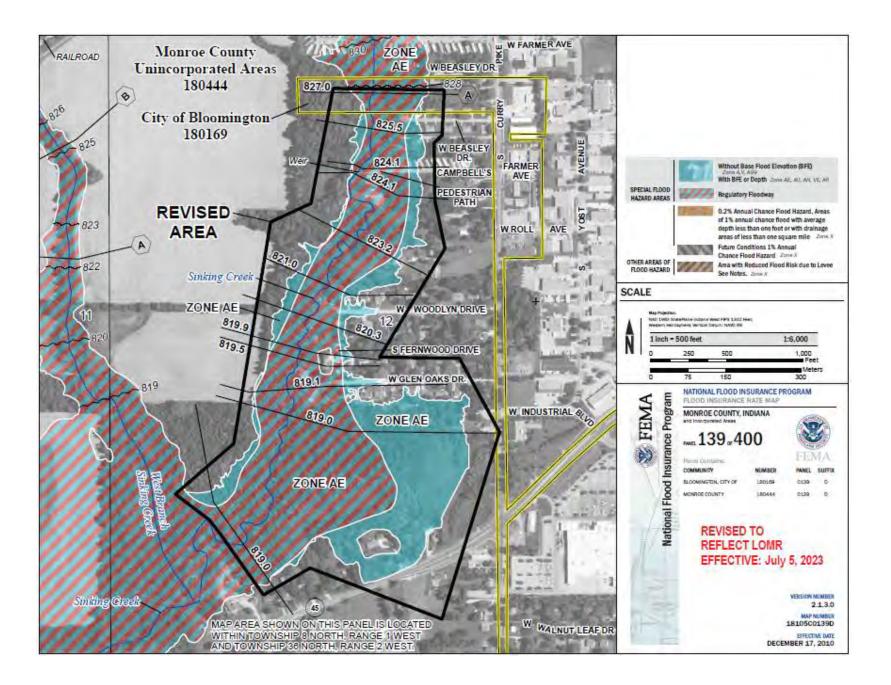
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	Fede	Mary Beth Caruso Director, Mitigation Division ral Emergency Management Agency, Re 536 South Clark Street, Sixth Floor Chicago, IL 60605 (312) 408-5500	gion V	
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Page 5 of 5	Issue Date: February	21, 2023	Effective Date: July 5, 2023	Case No.: 22-05-1490P	LOMR-APP
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LOCAL NE	N	ame: <i>The H</i> ates: Febru	<i>Terald Times</i> ary 28, 2023 and March 7, 2023		
Any request appeal perio	for reconsideration mu d has elapsed and we h	st be based o ave resolved	local newspaper, any interested party m n scientific or technical data. Therefore any appeals that we receive during this his LOMR may be changed.	, this letter will be effective only	after the 90-day
any questions addressed to t	about this document, please	contact the FE	ailable. The enclosed documents provide additi MA Mapping and Insurance eXchange (FMIX) to Avenue, Suite 500, Alexandria, VA 22304-8426.	I free at 1-877-336-2627 (1-877-FEMA M	(AP) or by letter
			Patrick 'Rick' F. Sachibit, P.E., Branch Chief		
			Engineering Services Branch Federal Insurance and Mitigation Administrati	on 22-05-14	90P 102-I-A-C

FLOODING SOURCE			FLOODWA	Y	1-PERCENT-ANNUAL-CHANCE-FLOOD WATER-SURFACE ELEVATION (FEET NAVD)				
CROSS SECTION	DISTANCE'	WIDTH (FEET)	SECTION AREA (SQUARE FEET)	MEAN VELOCITY (FEET PER SECOND)	REGULATORY	WITHOUT	WITH FLOODWAY	INCREASE	
Sinking Creek		-							
A	6525	486	1391	1.4	827.0	827.0	827.1	0.1	
B C D E F REVISED D	7300 8275 9330 10,700 12,000	473 478 711 276 353	1354 394 1772 628 422	1.2 4.1 0.8 1.7 2.5	831.8 834.3 842.1 842.8 847.3	831.8 834.3 842.1 842.8 847.3	831.8 834.3 842.1 842.8 847.3	0.0 0.0 0.0 0.0 0.0	
Feet above confluence with	Sinking Creek sinkhole	8				REVISED TO REFLECT LOM EFFECTIVE: Ju			
MONRO	GENCY MANAGEMEN	, 1N			FLOOD	DWAY DA	ТА		
AND INCO	RPORATED	AREAS	SINKING CREEK						









Variance Type:

MONROE COUNTY BOARD OF ZONING APPEALS

Public Meeting Date:

April 5, 2023

CASE NUMBER	DETAIL	RECOMMENDED MOTION
VAR-23-10a	Minimum Lot Size Chapter 804	Approval
VAR-23-10b	Minimum Lot Width Chapter 804	Approval
VAR-23-10c	Buildable Area (15% slope) Chapter 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:

Approve Minimum Lot Size: Any new development on the property would first require a minimum lot size variance. The property contained a single-family residence in the recent past.

Approve Minimum Lot Width: Any new development on the property would first require a minimum lot width variance. The property contained a single-family residence in the recent past.

Approve Buildable Area (15% Slope): Practical difficulties have been met. The remaining buildable area on the petition is needed for a new septic system and therefore cannot be utilized for the proposed residence.

	\boxtimes Residential \square Commercial			
PETITIONER		Pendleton, Jan	mes Thomas II	
		(owner)		
		Legacy Home	s & Farms Inc. c/o	
		Rick Deckard	(applicant)	
ADDRESS		7017 S Harmo	ony RD	
		53-10-03-200-	015.000-007	
		53-10-04-100-017.000-007		
TOWNSHIP +		Indian Creek Township, 3 & 4		
SECTION				
PLATS		\boxtimes Unplatted \square Platted:		
ACREAGE +/-		0.39 acres		
	PET	FITION SITE	ADJACENT	
ZONING	ER		ER, AG/RR	
COMP PLAN	Rural Residential		Rural Residential	
USE	Vac	ant	Residential,	
			vacant	

 \boxtimes Design \square Use



Planner: Drew Myers

SUMMARY

The petitioner is proposing to construct an approximately 1,400 sq. ft. single-family residence with a walk-out basement located on the subject property. Before 2015, the subject property contained a manufactured home. This structure was removed sometime between 2015 and 2016. The subject property has sat vacant since that time. The property contains 0.38 acres, which is under the minimum lot size requirement for the Estate Residential (ER) zone. Additionally, the property exhibits some slopes greater than 15%. According to Chapter 804, slopes greater than 15% are classified as non-buildable area unless a variance is approved by the Board of Zoning Appeals. Based upon the petitioner's certified plot plan, the proposed new residence will encroach into areas greater than 15% slope (See Exhibit 4).

Septic Permit – existing permit, #17036; Driveway permit – not applicable per Highway Dept.

According to the petitioner's engineer, the existing septic system needs to be retired. A new presby system is proposed to meet the needs of the new single-family residence (See Exhibit 4).

DISCUSSION

In October 2022, the petitioner (Mr. Rick Deckard) inquired about the lot limitations for the subject property with consideration to a new single-family residence. Planning Staff communicated to Mr. Deckard that the property was under the minimum lot size and under the minimum lot width for the ER zone. Staff indicated that there were areas greater than 15% and would review the applicability of a buildable area variance after the submission of a draft site plan. The petitioner submitted a variance application after the March BZA filing deadline and was placed on the April 2023 BZA agenda.

The petition site is constrained from a buildable area standpoint; however, there are other areas on the property that could accommodate a single-family residence without the need to encroach into a sloped area. As such, the slope waiver to Chapter 804 (15%) is not applicable to this type of development.

Chapter 804-2(E):

(E) Administrative Waiver of 15% slope provision:

- 1) For legal, pre-existing lots of record which cannot be reasonably utilized for its zoned use as a result of the buildable area requirement regarding slopes of fifteen (15%) percent or greater, an administrative waiver may be granted for the construction of a single-family residential unit. The waiver shall be only granted to the extent necessary to construct the same.
- 2) An administrative waiver may be granted to allow for the expansion of structures which existed prior to October 2, 2015 into areas with slopes of fifteen (15%) percent or greater where further expansion is limited by:
 - Existing configuration of development including infrastructure;
 - Irregular lot configuration; or
 - *Restrictions of existing topography.*

The waiver may not authorize an expansion greater than 1000 square feet.

EXHIBITS - Immediately following report

- 1. County Site Conditions Map
- 2. Staff Site visit photos
- 3. Petition Letter & Consent Letter
- 4. Petitioner Site Plan
- 5. Site Survey

EXHIBIT 1: County Site Conditions Map



EXHIBIT 2: Staff Site Visit Photos



Photo 1: Aerial view of petition site from the west



Photo 2: Aerial view of petition site from the east

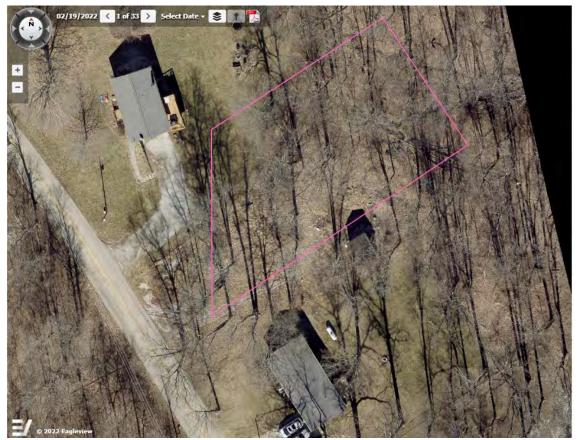


Photo 3: Aerial view of petition site from above



Photo 4: Street view of petition site



Photo 5: Street view of petition site

Letter To Apply For Small Lot Variance:

7017 S. Harmony Rd, Bloomington, In 47403

January 31, 2023

Dear Board of Zoning Appeals Members

Hello, my name is Rick Deckard, a highly experienced home builder in Bloomington since 1975. I am seeking a small lot, grade-slope variance to construct a single-family residence where once stood an aged mobile home with electric, water, and septic installations. The lot is approximately 1/3 of an acre in size. The lot size requirement of this home without the given variance is 1 acre. The typical lot size footprint for a home of the size that I would like to build is ¼ acre. In all likelihood, the home to be constructed will approximate 1400 square feet over a full walk out basement, with a garage space in the basement. The homes that border each side of the property are of comparable size and value to what my speculative home built for sale will approximate.

As the future owner of two vacant parcels which comprise the 1/3 acre site are: tax ld numbers 53- 10-04-100-017.000-007, and 53-1-03-200-015.000-007, further described as: 7017 S. Harmony Road, Bloomington, In 47403. I, together with the current owner, Mr. James Pendleton, as evidenced by signature below, with an acknowledged accepted offer to purchase agreement, do hereby request permission for Legacy Homes and Farms, Inc., Mr. Rick Deckard, builder as president and petitioner, to seek a small size lot variance, a possible variance for a grade slope greater than 15 percent, a lot width variance due to the 75' width, and also the aforementioned 1/3 acre small lot variance for the purpose of constructing a 3 bedroom structure as a single-family residence on said vacant parcels as one building lot at the subject address.

Thank you for your consideration,

Rick Deckard, Builder.

Owner Consent

James Thomas Pendleton, residing at:

715 S. Mitchell St. Bloomington, IN 47401

October 5, 2022

dotloop signature verification:

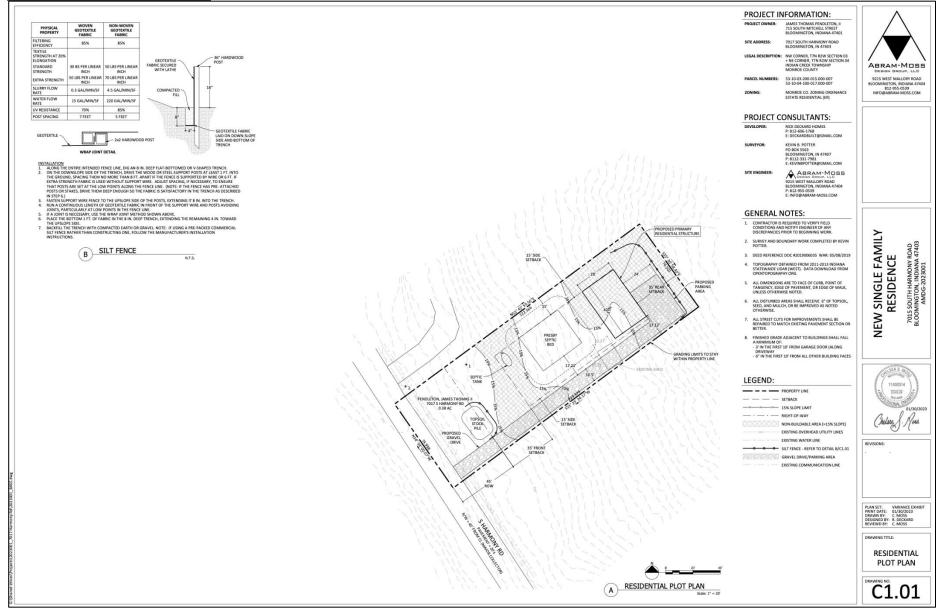
Re: Permission To Obtain Small Lot, Site Slope, and egress Variance,

I, James Thomas Pendleton, II, as owner of two vacant parcels, tax Id numbers 53-10-04-100-017.000-007, and 53-1-03-200-015.000-007, further described as: 7017 S. Harmony Road, Bloomington, In 47403 as evidenced by signature below, with an acknowledged accepted offer to purchase agreement, do hereby grant my permission to Legacy Homes and Farms, Inc., Mr. Rick Deckard, builder as president and petitioner, to seek a small size lot variance, a possible variance for a grade slope greater than 15 percent, and a driveway easement resolution serving the neighbor's driveway offer the purpose of constructing a 3 bedroom structure as a single-family residence on said vacant parcels as one building lot at the subject address.

James Pendleton	Contemporation verified 10/18/22 3:05 PM EDT RVRX-IIIL-HSCF-UECP
-----------------	--

James Thomas Pendleton, II. (date)

EXHIBIT 4: Petitioner Site Plan





GENERAL NOTES:

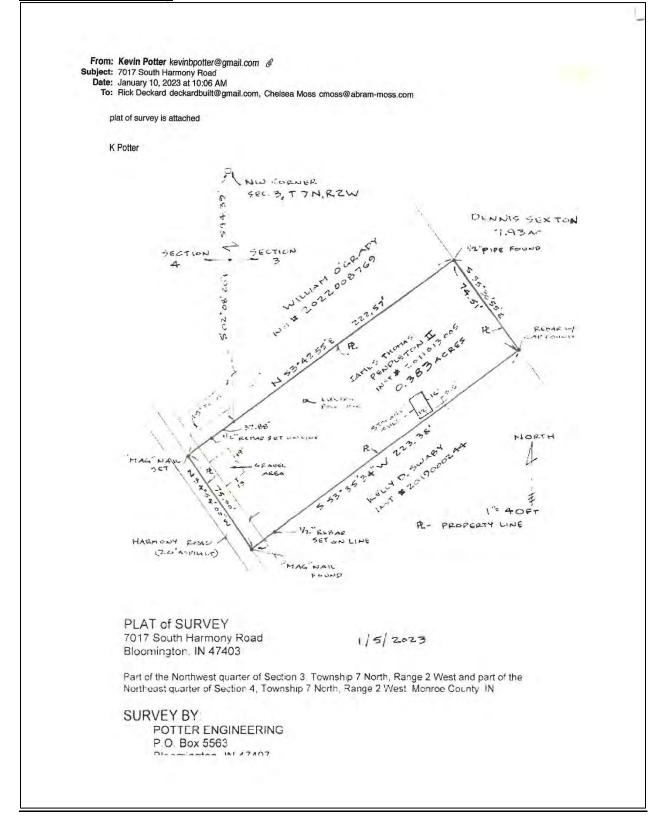
- CONTRACTOR IS REQUIRED TO VERIFY FIELD CONDITIONS AND NOTIFY ENGINEER OF ANY DISCREPANCIES PRIOR TO BEGINNING WORK.
- 2. SURVEY AND BOUNDARY WORK COMPLETED BY KEVIN POTTER.
- 3. DEED REFERENCE DOC #2019006035 WAR: 05/08/2019
- TOPOGRAPHY OBTAINED FROM 2011-2013 INDIANA STATEWAIDE LIDAR (WEST). DATA DOWNLOAD FROM OPENTOPOGRAPHY.ORG.
- ALL DIMENSIONS ARE TO FACE OF CURB, POINT OF TANGENCY, EDGE OF PAVEMENT, OR EDGE OF WALK, UNLESS OTHERWISE NOTED.
- ALL DISTURBED AREAS SHALL RECEIVE 6" OF TOPSOIL, SEED, AND MULCH, OR BE IMPROVED AS NOTED OTHERWISE.
- ALL STREET CUTS FOR IMPROVEMENTS SHALL BE REPAIRED TO MATCH EXISTING PAVEMENT SECTION OR BETTER.
- FINISHED GRADE ADJACENT TO BUILDINGS SHALL FALL A MINIMUM OF:

 -3' IN THE FIRST 10' FROM GARAGE DOOR (ALONG DRIVEWAY
 - 6" IN THE FIRST 10' FROM ALL OTHER BUILDING FACES

LEGEND:

	PROPERTY LINE
	SETBACK
174-074	15% SLOPE LIMIT
	RIGHT-OF-WAY
0.00	NON-BUILDABLE AREA (>15% SLOPE)
	EXISTING OVERHEAD UTILITY LINES
	EXISTING WATER LINE
0 0 0	SILT FENCE - REFER TO DETAIL B/C1.01
-	GRAVEL DRIVE/PARKING AREA
	EXISTING COMMUNICATION LINE

EXHIBIT 5: Site Survey





MONROE COUNTY BOARD OF ZONING APPEALS

Public Meeting Date:

April 5th, 2023

CASE NUMBER	DETAIL	RECOMMENDED MOTION
VAR-23-11	Minimum Lot Width	Denial

812-6 <u>Standards for Design Standards Variance Approval</u>: 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:

1. Staff recommends **denial** of VAR-23-11 due to the lack of practical difficulties, particularly item C, as there are other locations on the lot that meet the design standards.

Variance Type:	\boxtimes Design \square Use	Planner:	Daniel Brown	
	\Box Residential \boxtimes Commercial			

PETITIONER	ITIONER Shake, Casey			
ADDRESS	3144 N Smith PIKE; pa		3144 N Smith PIKE; parcel #53-04-24-101-012.000-011	
TOWNSHIP + SE	CTION	Bloomington; 14		
PLATS		\Box Unplatted \boxtimes Platted	1: King & Stanger Baby Farm, Lot 20A	
ACREAGE +/-	6.91 +/-			
	PETITION SITE		ADJACENT	
ZONING	Agricultural/I	Rural Reserve	Agricultural/Rural Reserve, Limited	
			Business, Medium Density Residential,	
			Planned Unit Development	
COMP. PLAN	MCUA Mixed Residential		MCUA Mixed Residential, Designated	
			Communities, MCUA Conservation	
			Residential	
USE	Single Family	y Residential	Single Family Residential, Vacant	

SUMMARY

The Variance was triggered by a Residential Agricultural Structure Permit, R-23-39. This will be an Agricultural structure with an ILP waiver and thus is exempt from the 1750 sf residential accessory structure limitation. The petitioner proposes to construct a 56-foot by 32-foot agricultural structure in the west end of the lot. However, the proposed site is in a portion of the lot where the lot width at the building line will be approximately 132 feet. This does not meet the minimum lot width for a structure in an Agricultural/Rural Reserve zone, which is 200 feet. There is area on the same lot, east of the proposed location, where the minimum lot width requirement is satisfied, though the petitioner states that it is used for hay, and they do not wish to build there. Notably, the minimum side setback of 50 feet is being met so even if the petitioner meets the lot width by moving the structure further east, they would be able to place the structure at the same distance from the northern residences.

Red box – petitioner proposed location, does not meet lot width requirements. Blue box – staff recommended location, does meet lot width requirements.



If the variance is approved, the petitioner will be allowed to construct the agricultural building in the proposed location. If the variance is denied, then the applicant will need to find another location for this proposed structure or apply perhaps for a rezone.

Chapter 801 of the Zoning Ordinance defines Practical Difficulties as follows:

"Practical Difficulties, for variance purposes, means a significant development limitation that:

(A) arises from conditions on the property that do not generally exist in the area (i.e., the property conditions create a relatively unique development problem);

(B) precludes the development or use of the property in a manner, or to an extent, enjoyed by other conforming properties in the area;

(C) Cannot be reasonably addressed through the redesign or relocation of the

development/building/structure (existing or proposed); and,

(D) May not be reasonably overcome because of a uniquely excessive cost of complying with the standard."

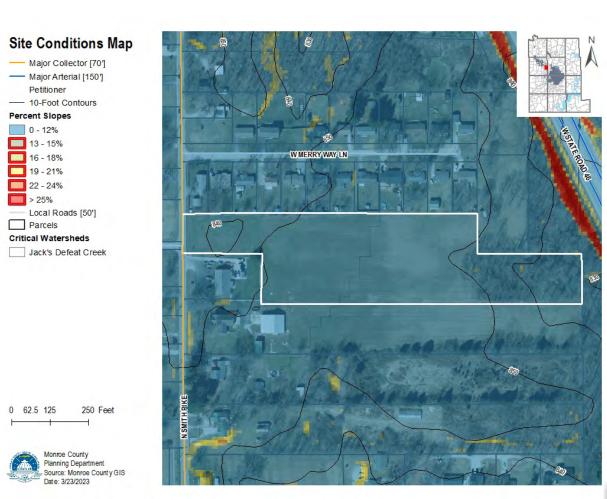
EXHIBITS - Immediately following report

- 1. Location and Slope Map
- 2. Site Photos
- 3. Petition Letter
- 4. Site Plan and Construction Plans

EXHIBIT 1: Location Map and Slope Map



Above, the location map of the petition property



Above, the slope map of the petition property

EXHIBIT 2: Site Photos



Site Photo 1: The proposed location of the agricultural structure



Site Photo 2: The wider, eastern portions of the lot



Photo 3. Aerial of the property

Casey Shake DVM LLC

2/26/2023

401 North Morton Street Bloomington, IN 47404

Dear Board of Zoning Appeals:

I am planning a proposed agricultural structure (32' x 56' pole building) at 3144 North Smith Pike. This structure will house farm equipment used on the property. I am requesting a minimum lot size variance so that the building can be erected in the narrowest part of the property, located near the west end of this particular parcel. The proposed building site does not meet the 200' minimum lot width at building line since it measures approximately 132' in the narrowest part of this tract. The widest area of this parcel is being utilized to grow hay and the narrowest part is not currently being used for hay. If the building is relocated from the proposed site to the east where the building site meets the 200' minimum lot width at the building line, then the acreage used for hay production is decreased as an offset in the hay field will be created. The current proposed building site allows for the optimal utilization of my agricultural land.

The narrowest part of this parcel, where the proposed 32' wide structure is to be constructed measures 132' wide. The building will be centered in the lot in order to accommodate the required 50' between the building edge and north & south property lines.

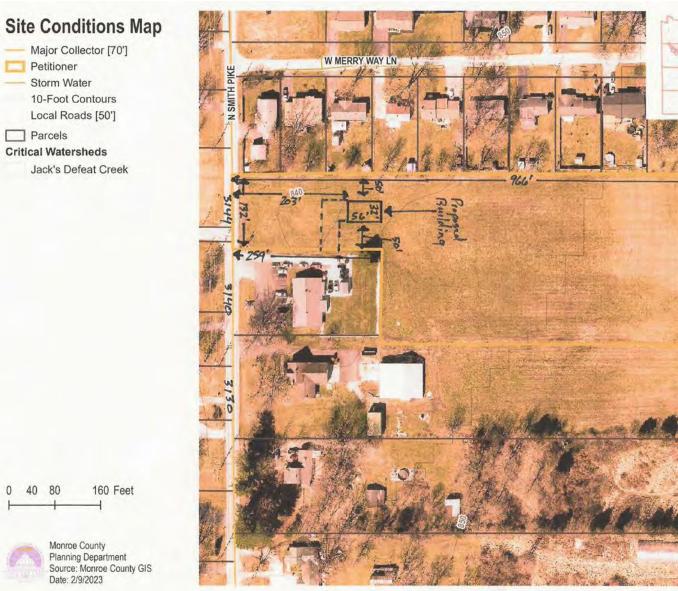
Your time and consideration in this minimum lot size variance is greatly appreciated. If you have any questions or concerns regarding this variance, please feel free to contact me.

Sincerely,

Casey R. Shake, DVM

³¹⁴⁰ NORTH SMITH PIKE, BLOOMINGTON, BV //7/104 812-332-1429

EXHIBIT 4: Site Plan



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MONROE COUNTY BOARD OF ZONING APPEALS

Public Meeting Date:

April 5, 2023

CASE NUMBER	DETAIL	RECOMMENDED MOTION
VAR-23-12	Buildable Area Variance from Ch. 804	Approval

812-6 <u>Standards for Design Standards Variance Approval</u>: 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 **approval** of variance VAR-23-12 Buildable Area Variance with the following conditions:

1. Remove or submit permits (Building and Floodplain Development) for two unpermitted sheds located in the SFHA. Removal of structures OR permit applications must be submitted before the Residential Building Permit Certificate of Occupancy (CoO) will be released.

Variance Type:	🖾 Design 🗆 Use	Planner: Anne Crecelius
	\boxtimes Residential \square Commercial	

PETITIONER	Samantha Johnson & Todd	Samantha Johnson & Todd Ronchetti	
ADDRESS	4465 W Tramway RD, 53-	4465 W Tramway RD, 53-09-36-300-012.000-015	
TOWNSHIP +	Van Buren, 36	Van Buren, 36	
SECTION			
PLATS	\Box Unplatted \boxtimes Platted: D	□ Unplatted ≥ Platted: Davies Minor Subdivision Plat, Tract 1	
ACREAGE +/-	3.58	3.58	
	PETITION SITE	ADJACENT	
ZONING	AG/RR	AG/RR, ME	
COMP PLAN	Farm and Forest	Farm and Forest, Rural Residential	
USE	Residential	Residential, Quarry	

SUMMARY

The petitioner is requesting a Buildable Area variance from Chapter 804-4(E) that prohibits structure placement on land classified as Special Flood Hazard Area (SFHA) as specified in Chapter 808. The petitioner is proposing to place a 2,280 sq. ft. manufactured home within DNR Approximate Floodplain , i.e. the Special Flood Hazard Area. The petition site is constrained by steep slopes, rocky soils, and floodplain. The proposed location is the most viable option if the petitioner can meet the standards required of the Floodplain Permit. This variance is the minimum required for the placement of a residential structure on the property.

Chapter 804-4(E) states that:

"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;"

DISCUSSION

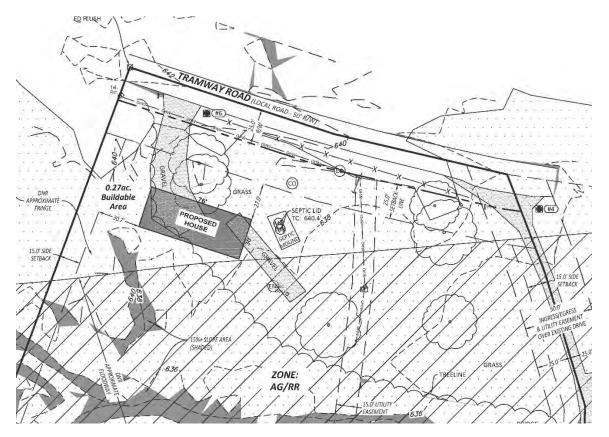
The petitioner applied for a Residential Building Permit in October 2022 to replace a manufactured home that had been recently removed from the site. The previous manufactured home was placed in 2018 and was issued an Improvement Location Permit (ILP) by the Planning Department. The Zoning Inspector that reviewed the permit and issued the ILP referred to outdated information regarding the SFHA. The petitioner purchased the property in January of 2022 and removed the 1995 mobile home with the

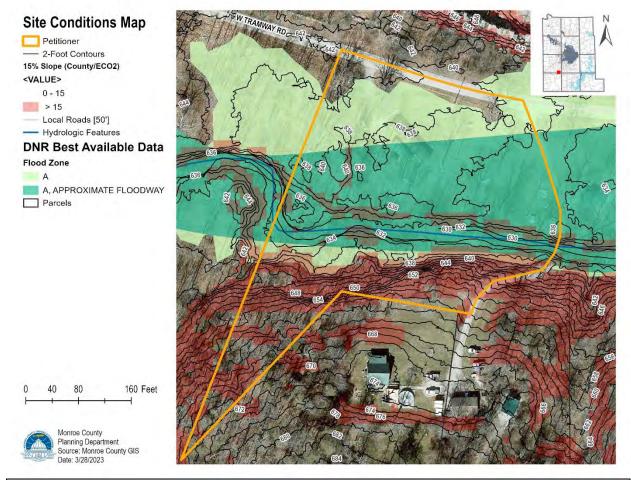
intention to place a larger manufactured home in the same location. Upon submission of a Residential Building Permit (R-22-1165) Planning staff informed the petitioner's that the original location of the previous home was within the SFHA and partially within the DNR Approximate Floodway per DNR Best Available Flood Data.

The petitioner has since obtained a certified plot plan and filed for Floodplain Development permit FP-23-2. The petitioner and their Engineer (Chris Porter, BRCJ) have proposed an alternative location for the structure that is outside of the Floodway but within the DNR Approximate Flood Fringe. The Fringe is still considered a SFHA as specified in Chapter 808 and therefore requires a design standards variance as well as a Floodplain Development Permit. The floodplain limits have been delineated on the petitioner's plot plan and states the 639.4' Base Flood Elevation (BFE). The lowest floor elevation is stated to meet the required Regulatory Flood Elevation of 641.4'.

Staff visited the site and confirmed that the petition site contains no other viable location for a residence. Structures can be built/placed within the DNR Approximate Fringe if a local Floodplain Permit is issued. Currently, permit FP-23-2 is unable to be issued and is pending the information listed below (see Exhibit 5). The petitioners will need to provide this information to demonstrate to the Floodplain Administrator that their development will meet the standards required within Chapter 808.

- 1. Installer with an active license for 'Manufactured Home Installer' under Indiana Code l.C. 25-23. 7-5-1.
- 2. Establishment of benchmark for Flood Protection Grade (2 ft. above Base Flood Elevation) by Engineer
- 3. Elevation Certificate by Engineer
- 4. Written compliance to standards of Chapter 808, specifically those listed within Exhibit 5.





EXHIBITS - Immediately following report

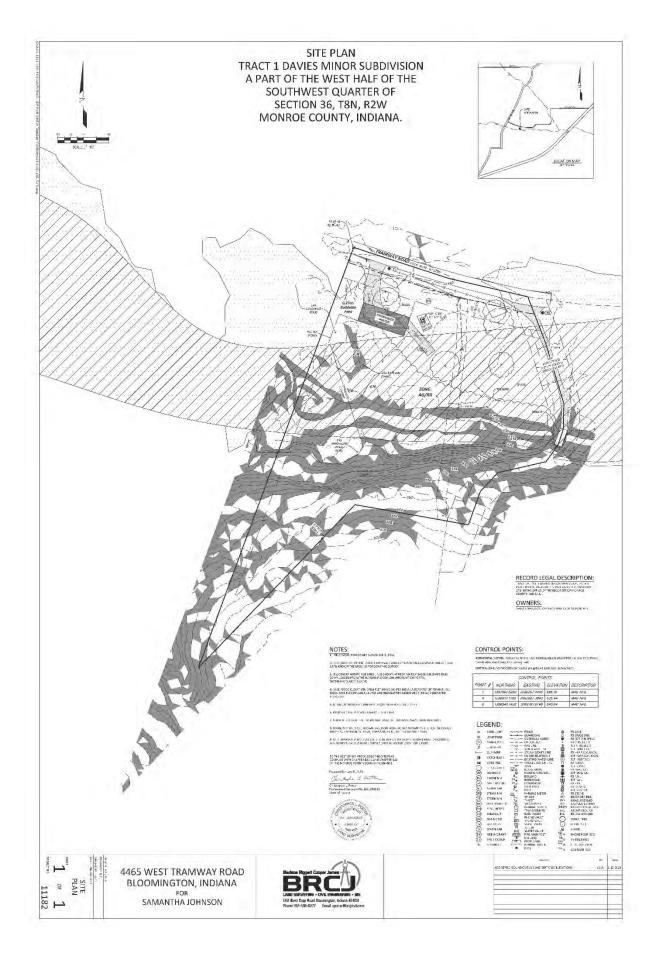
- 1. Petitioner Letter
- 2. Certified Plot Plan
- 3. Staff Site visit photos
- 4. DNR INFIP Report
- 5. Floodplain Permit Review Email 03-02-2023

Dear BZA,

My name is Todd Ronchetti and I reside at 4465 W. Tramway Rd. Bloomington IN, 47403. We have had a house at this location since 2016 and we need to upgrade our house so I am requesting a variance from Chapter 804 Building Area and Special Flood Hazard Area. The house will be built in compliance with Floodplain Management in Indiana with regards to foundation type, anchoring and proper use of flood damage resistant materials. The house will sit over two feet above the flood level along with proper installation of utilities. Please refer to the site plan for any further details.

Thank You,

Todd Ronchetti





2022 pictometry of previous manufactured home and attached shed. Looking SW.



2022 pictometry of previous manufactured home and attached shed. Looking SW.



Looking E down Tramway RD. Former dwelling footprint partially visible.



Looking SE. Former dwelling footprint visible.



Looking W at existing driveway.



Septic pipe connection to former dwelling.



Raised mound septic system.



Looking SW at debris and sheds.



Pre-fabricated shed that was attached to the former manufactured home. Shed was relocated – still within the SFHA.



Looking W.



Stream on petition site.



Looking SE at the neighbor's bridge crossing stream.



Looking N/NW at proposed building site and stream.

DNR Indiana Department of Natural Resources

Floodplain Analysis & Regulatory Assessment (FARA)



Point of Interest
 Base Flood Elevation Point
 Flood Elevation Points

 STUDIED STREAM

 Rivers and Streams at least 1 square mile
 Drainage Area (sq. miles)

 1-10
 DNR Approximate Floodway
 DNR Approximate Fringe

Point of Interest Coordinates (WGS84) Long: -86.5899492942 Lat: 39.082413386

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

 County: Monroe
 Approximate Ground Elevation: 638.1 feet (NAVD88)

 Stream Name:
 Base Flood Elevation: 639.4 feet (NAVD88)

 Unnamed Tributary Clear Creek
 Drainage Area: Not available

 Best Available Flood Hazard Zone: DNR Approximate Fringe

 National Flood Hazard Zone: Not Mapped

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

Community Jurisdiction: Monroe County, County proper Phone: (812) 349-2560

Email: tbehrman@co.monroe.in.us

US Army Corps of Engineers District: Louisville

Date Generated: 10/13/2022

About the Floodplain Analysis and Regulatory Assessment (FARA):

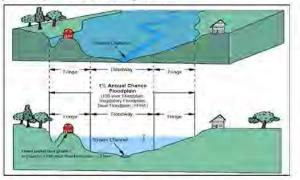
All streams have a flood plain, whether mapped or not. This FARA, and the information provided herein, is designed for sites along streams with a mapped flood plain that delineates the flood way portion of the flood plain; see the image below for a visual guide to the flood plain, flood way, and flood fringe. The information in this document was determined using an automated mapping tool. The DNR has high confidence in the tool, but there are scenarios where the flood plain information provided requires additional review from the DNR.

All streams in DNR jurisdiction (streams that have a drainage area one square mile or greater) are shown by a blue line on the map on page 1. However, a flood plain/floodway may or may not be mapped for every stream. In any of the following scenarios, or if you have more detailed flood plain information, use the link at the bottom of this page to request a staff review of the site. Please note that staff review may take several weeks to complete.

Scenarios that require additional DNR review:

- •The base flood elevation on page 1 is not available
- •The tool selects the nearest flood elevation point for a stream outside the floodplain associated with the point of interest •There is not a delineated floodway for the stream nearest your point of interest
- •The point of interest is along a stream without a mapped floodplain

•The point of interest is in a mapped floodplain of another stream, but the stream nearest the point of interest does not have a mapped floodplain with a floodway of its own



If DNR review is required, do not use this FARA for your site's determination.

If you have questions about DNR permitting requirements, you can contact DNR, Division of Water toll-free at 1-877-928-3755 and select option 1 to speak to a Technical Services staff member. You can also write to the division at water_inquiry@dnr.IN.gov or use the Indiana Waterways Inquiry Request tool at waterways.IN.gov to submit a permitting determination request to both DNR and the Indiana Department of Environmental Management at once.

We recommend keeping a copy of this FARA for your records as the DNR will not have a copy on file.

LINK:

bttps://turvey123.arg/ts.com/abare/3293526/file=453:e95615608&7bdc65/PHELD:LAT1=39.082413386&PHELD:LON1=-86.5899492942&PHELD:DNR_PERMIT=See7520fallowing? &PHELD:STREAM=UNNAMED%20TRIBUTARY%20CLBAR%20CREEK&PHELD:DNT_DATE=10/13/2022&PHELD:BPB=639.4

If the link above does not work, send a copy of this FARA to infipinguiry@dnr.IN.gov and describe the reason you are requesting a staff review. Include your name and contact information so that staff can follow-up with you. The loss of lives and property caused by floods and the damage resulting from floods is a matter of deep concern to Indiana affecting the life, health, and convenience of the people and the protection of property. The Indiana Floodplain Information Portal is designed to show flood risk associated with Indiana waterbodies and provide information specifically for local and state floodplain permitting. The information provided is based on the regulatory floodplain limits; floods exceeding the regulatory floodplain can and do occur. If you are seeking information regarding lake or dam permitting, see the corresponding section below, under the permitting information section.

Floodplain Information:

All streams have a floodplain, whether mapped or not. This FARA, and the information provided herein, is designed for sites along streams with a mapped floodplain. See page 2 for scenarios where this FARA should not be used and additional review from the DNR may be required.

The Best Available Floodplain Layer (BAFL) is the mapping developed by the DNR that provides the best flood risk information currently available. This information should be used for construction, planning, and flood risk assessment. The BAFL incorporates the National Flood Hazard Layer (NFHL) from FEMA's Flood Insurance Rate Maps (FIRMs) for AE zones. The layer has completed modeling and more detailed studies using more recent LiDAR data for areas designated as A zone on the FIRM or areas that were not identified on the FIRM. BAFL mapping exists for over 80% of streams in Indiana. BAFL mapping should not be used for insurance rating purposes or for mandatory flood insurance purchase requirements related to the National Flood Insurance Program. See the Flood Insurance Information section on the following pages for information on flood insurance requirements. Common flood hazard zones are described below; to find the flood hazard zones associated with your point of interest, see the legend on page 1.

- Floodway (FEMA Zone AE Floodway, DNR Detailed, DNR Approximate): The floodway includes the stream channel and the overbank area necessary to carry the 1% annual chance flood, also known as the base flood, which has a 1% chance of being equaled or exceeded in any given year. The water surface at this level is referred to as the Base Flood Elevation (BFE). Land in this area is considered to have a high flood risk. Construction in the floodway area requires a permit from the DNR, Division of Water. Local floodplain ordinances require local construction permits. Flood insurance is strongly recommended and may be required by FEMA. See the Permitting Information and Flood Insurance Information sections of this document for more information.
- Special Flood Hazard Area (FEMA Zone A, FEMA Zone AE without floodway, DNR Approximate without floodway): Any natural ground levels that have an elevation lower than the Base Flood Elevation are considered floodway area. The floodway includes the stream channel and the overbank area necessary to carry the 1% annual chance flood, also known as the base flood, which has a 1% chance of being equaled or exceeded in any given year. The water surface at this level is referred to as the Base Flood Elevation (BFE). Land in this area is considered to have a high flood risk. Construction in the floodway area requires a permit from the DNR, Division of Water. Local floodplain ordinances require local construction permits. Flood insurance is strongly recommended and may be required by FEMA. See the Permitting Information and Flood Insurance Information sections of this document for more information.
- Special Flood Hazard Area (FEMA Zone AH Ponding, FEMA Zone AO Sheet Flow): Land in this area is
 considered to have a high flood risk. These areas are subject to the 1% annual chance flood with average

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an existing building proposed in the Special Flood Hazard Area (SFHA) be elevated at least 2 feet above the Base Flood Elevation (BFE). Some communities in the state regulate to the additional floodplain area also known as the 0.2% chance flood. If a basement is included, the basement floor shall be considered the lowest floor. Special Flood Hazard Area (SFHA) means the land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year. The area may be designated as Zone A, AE, AH, AO, AR, A99 or VE on the Flood Insurance Rate Map (FIRM). The area may also be designated on the DNR best available floodplain layer or designated by the community as a flood prone area.

- Indiana Department of Environmental Management: You may also be required to obtain a construction stormwater general permit from the Indiana Department of Environmental Management (IDEM) if the proposed project will disturb one acre or more. Inquiries may be sent to <u>Stormwat@idem.IN.gov</u>. IDEM permits may also be required for impacts to wetlands and streams especially if any work is proposed below the ordinary high-water mark of a waterbody. Go to <u>waterways.IN.gov</u> to submit a permitting determination request, call (317) 233-8488 or (800) 451-6027, or visit the IDEM webpage at https://www.in.gov/idem/cleanwater/ for more information.
- Indiana Department of Health: The state rules which address on-site sewage systems in a floodplain are IDOH Rule 410 IAC 6-8.3-63(e), 70(c)(2), and 72(c)(2) for residential systems and 410 IAC 6-10.1-71(e), 77(c)(2), and 80(c)(2) for commercial systems. The Indiana Department of Health (IDOH) is responsible for administering 410 IAC 6-10.1 and County Health Departments are responsible for administering 410 IAC 6-10.1 and County Health Departments are responsible for administering 410 IAC 6-8.3. The Department of Natural Resources requires that all septic systems in a floodway meet IDOH requirements. Both subsurface trench systems and mound systems are prohibited in all areas below the BFE; it is highly likely that either a connection to a public sewer system or an off-site cluster system will be required. It is recommended that you contact IDOH for compliance with commercial system requirements and your County Health department for compliance with residential system requirements. If you have questions regarding the state rules, you may wish to contact:

Alice Quinn, Senior Environmental Manager Environmental Public Health Division Indiana Department of Health 100 N. Senate Ave., N855 Indianapolis, IN 46204 Telephone: (317) 518-4388 Email: alguinn@isdh.in.gov

 Indiana State Chemist: You may also be required to obtain permits from the Indiana State Chemist, especially if any work is proposed involving pesticide or fertilizer applications. To contact the Office of Indiana State Chemist call (765) 494-1492; or visit their webpage at https://www.oisc.purdue.edu/index.html for more information.

Lake Preservation Act:

The Lake Preservation Act (IC 14-26-2) requires the approval of the DNR, Division of Water for any construction or project that is proposed below the legal or normal water level, and located over, along, or lakeward of the shoreline of a public freshwater lake, or within 10 feet landward of the shoreline for construction of a wall whose lowest point is below the legal lake level. A list of public freshwater lakes can be found in the "Public Freshwater Lake List" document at https://www.in.gov/nrc/nonrule-policy-documents-npd/. Contact the DNR, Division of Water for more information on permitting requirements if working near a public freshwater lake or near or on a lake not on the Public Freshwater Lake list.

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Regulation of Dams:

- A permit under the Flood Control Act (IC 14-28-1) and Regulation of Dams (IC 14-27-7.5) is required for a
 proposed dam, or work to an existing dam, if any one of the following criteria is met:
 - o the drainage area above the dam is greater than one square mile, or;
 - the height of the dam is more than 20 feet as measured from the lowest point in the natural streambed under the centerline of the dam to the crest of the dam, or;
 - the maximum volume of water impounded by the dam to the crest (high pool level during the design storm event) is more than 100 acre-feet, or;
 - upon receiving a petition from a downstream property owner or resident, the DNR, Division of Water deems the dam a high hazard dam

If a permit is required for a proposed dam, or work to an existing dam, it will be necessary for you to obtain the services of a registered professional engineer experienced in dam design and construction to make a complete geotechnical and hydrologic/hydraulic engineering evaluation of the project, develop plans and specifications, and submit the technical documentation to the DNR, Division of Water with an application for review. Your engineer will need to work with other technical professionals (i.e. geotechnical, engineering geologists, structural engineers, etc.) to develop safe, adequate plans and specifications.

In order to expedite the permitting process, the Project Engineer should meet with the DNR, Division of Water staff to discuss details of the project before work commences on the plans, specifications, and engineering report. It is important that all survey, hydrology/hydraulic, geotechnical, structural, and mechanical engineering evaluations are complete and accurate prior to submitting the application for a permit.

If a dam does not require a permit, we would suggest the following action:

- consult with a professional engineer experienced in dams design, maintenance, and repair to develop a design that will minimize the risk to the downstream properties; the DNR, Division of Water does not offer design services.
- upon completion of the project, obtain a set of as-built plans signed and stamped by a Professional Engineer certifying that the dam was constructed in accordance with acceptable engineering standards.

For information on erosion control, proper maintenance, regulation, etc., the applicant is encouraged to follow the Indiana Dam Safety Inspection Manual and General Guidelines for New Dams and Improvements to Existing Dams in Indiana found on the DNR, Division of Water Web page at https://www.in.gov/dnr/water/dams-and-levees/.

Residential Construction in a Floodway:

New residential construction in the floodway area is prohibited under the Flood Control Act, except in the floodway of the Ohio River. New non-residential buildings proposed in the floodway area will be required to be constructed at least 2 feet above the Base Flood Elevation (BFE). If a basement is included, the basement floor shall be considered the lowest floor. New building construction, including residential and non-residential, proposed in the floodway area of the Ohio River will be required to have the lowest floor constructed at least 2 feet above the Base Flood Elevation (BFE). If a basement is included, the basement floor shall be considered the lowest floor River will be required to have the lowest floor constructed at least 2 feet above the Base Flood Elevation (BFE). If a basement is included, the basement floor shall be considered the lowest floor.

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An addition to an existing lawful residence that's located in the floodway does not require a permit from the DNR, Division of Water if the structure was constructed prior to January 1, 1973, and the cost of the addition, in combination with all other additions to the residence since the residence was originally built, does not equal or exceed 50% of the market value of the original, pre-altered residence. The cost of repair should be based on a cost of material that is equal to average retail value and labor that is based on average contractor's fees. The market value of a residence does not include the value of the land on which the residence is built.

If fill is proposed in the floodway to elevate an addition that meets the above criteria, prior approval from the DNR, Division of Water is required for the fill.

 The reconstruction of a residence in the floodway area is authorized by a general license if specific criteria of the Flood Control Act, IC 14-28-1-24(B)(2), is met. To ensure that the proposed reconstruction project fulfills these requirements, please contact the DNR, Division of Water for more details.

Flood Insurance Information:

- Under the federal regulations of FEMA, the National Flood Insurance Program (NFIP) requires the purchase of flood insurance on buildings in the FEMA mapped Special Flood Hazard Area (Zones A, AE, AH, AO, AR, A99, or VE) that have a federally backed mortgage. DNR-developed Best Available Floodplain Layer mapping should not be used for insurance rating purposes or for mandatory flood insurance purchase requirements related to the NFIP. The National Flood Hazard Zone associated with your point of interest is listed on page 1. Flooding is the most frequent and costly disaster in Indiana. The risk for flooding changes over time due to erosion, land use, weather events, and other factors. Flooding occurs not only in the high-risk Special Flood Hazard Areas, but also in low to moderate-risk areas. About 42% of flood insurance claims nationwide come from areas designated as having a low or moderate flood risk. Therefore, it is strongly recommended to obtain a flood insurance policy even if it is not federally required on your property.
- If the property owner wishes to have the federal requirement to purchase flood insurance waived, they must prove that 1) the structure or property is on natural ground levels with an elevation higher than the Base Flood Elevation (BFE); or that 2) the structure or property is located outside of a Special Flood Hazard Area (SFHA). If one of those conditions exists, the property owner can apply for a Letter of Map Amendment (LOMA) from the Federal Emergency Management Agency (FEMA). A LOMA is a letter which allows a mortgage lender to waive federal flood insurance requirements by stating that an existing structure, property, or portion of a property that has not been elevated by fill is not located in the SFHA. The final decision regarding flood insurance is left to the mortgage lending institution.

If the structure or property is located inside of the SFHA, the property owner may apply for a LOMA if it can be demonstrated that it is located on natural ground levels with an elevation higher than the Base Flood Elevation (BFE). Specific elevation information must be submitted with the LOMA application, typically documented by a licensed surveyor or engineer.

If the structure or property is located outside of the Special Flood Hazard Area (SFHA), the property owner may apply for a Letter of Map Amendment Out-As-Shown (LOMA-OAS). Elevation information is not required in this review process. If requesting a LOMA-OAS, please write "Out-As-Shown" at the top of the application form.

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Visit https://www.fema.gov/flocd-maps/change-your-flood-zone/paper-application-forms to submit a LOMA application online or to obtain the LOMA application forms and instructions. These can also be obtained by contacting FEMA toll-free at 1-877-336-2627. There is no fee for a LOMA application, although fees may be associated with hiring a surveyor to obtain the elevation information for the Elevation Certificate or LOMA application form.

If the LOMA is issued by FEMA and the mortgage lender accepts the LOMA determination, the property owner may be reimbursed up to one year of flood insurance payments. Be aware that regardless of if FEMA issues a LOMA, the mortgage lender has the final decision regarding flood insurance requirements. Finally, note that if a LOMA is issued by FEMA, flood insurance may still be purchased and is encouraged. The policy may have a lower premium and can provide coverage for events larger than the 1% annual chance flood.

Disclaimer:

This Floodplain Analysis and Regulatory Assessment (FARA) should not be construed as a local building permit, nor is it a waiver of the provisions of any local building or zoning ordinances. Additionally, this FARA does not relieve the permittee of the responsibility of obtaining permits, approvals, easements, etc. under other regulatory programs administered by, but not limited to, the U.S. Army Corps of Engineers, County Drainage Board, Indiana Department of Environmental Management, Indiana Department of Health, and local, city, or county floodplain management, planning or zoning commissions.

When using this FARA for a determination of permitting requirements, the user shall maintain a copy of the FARA for documentation purposes. The DNR, Division of Water will not have a record of this FARA.

The approximate ground elevation shown on page 1 of this FARA is based on the latest available ground elevations available to the state. This elevation is provided for your information but may not be detailed or accurate enough to be used for purposes of applying for a Letter of Map Amendment.

Last Updated: 1/4/2022

Tammy Behrman

From:	Tammy Behrman
Sent:	Thursday, March 2, 2023 4:00 PM
To:	Kamm Thompson; Chris Porter; todd.ronchetti@gmail.com; samjohnson0801@gmail.com
Cc:	Jacqueline N. Jelen; Robert LaRue; Brian Arnett; Anne Crecelius
Subject:	4465 W Tramway RD; R-22-1165; FP-23-2; VAR-23-12
Attachments:	Permit FP-23-2 Tramway Comments_1.docx

All-

I wanted to put together a comprehensive email to get everyone involved with this project on the same page.

First, I want make everyone aware that this manufactured home placement in a Special Flood Hazard Area must have an installer with an **active** license for 'Manufactured Home Installer' under Indiana Code I.C. 25-23.7-5-1. A list of licensed installers can be found at the <u>IN.gov</u> website. The Planning Department will be looking for the name of the installer to be on that licensed list and will not be able to proceed until that requirement is satisfied.

The Certified Plot Plan submitted by Chris Porter with BRCJ has been a very useful document for Planning staff. It is expected that BRCJ will continue to work with this site to establish a benchmark for the Flood Protection Grade (2 ft above Base Flood Elevation) and also for delineating the footprint of the mobile home confirming the placement is outside of the *Approximate Floodway*. An essential item required as a part of this project is the <u>Elevation Certificate</u>. Chris Porter has stated he will be a assisting with that documentation. There will likely need to be some coordination between the Building Department, Chris Porter, and the installer when confirming the Lowest Floor Elevation meets the required Flood Protection Grade so as to not have an error and have to reset the home.

As Floodplain Administrator I put forth a document within the permits R-22-1165 & FP-23-2 several weeks ago that I have again attached with items staff will need to confirm compliance and it would be helpful to have some of the following questions below answered prior to releasing any permits. Within the document is a link for **RESOURCES: FEMA P-85: Protection Manufactured Homes from Floods and Other Hazards** <u>https://www.fema.gov/sites/default/files/2020-08/fema_p85.pdf</u> This is 266 pages technical bulletin produced by FEMA. Not all is applicable and I am happy to help you navigate the document to the relevant areas. There are staff within <u>DNR Division of Water</u> that can also assist with questions of design. There are options in design so staff will need to know what choices are being made to assure a safe, compliant installation.

Questions to confirm compliance with Chapter 808-5 Standards for Developing in a Special Flood Hazard Area:

- Who will be the person overseeing the installation of the home that meets the licensing requirement under I.C. 25-23.7-5-1?
- 2. How will the manufactured home be anchored? Does this also meet requirements for resisting wind force?
- 3. What are the flood resistant materials to used?
- 4. What utilities need to be elevated above Flood Protection Grade? What is the design?
- 5. What utilities need floodproofing that will be below FPG such as water and septic pipes, electrical and telephone lines? What is the design?
- Confirm any parking, drives, sidewalks will be constructed with permeable materials (i.e. gravel or permeable pavers).
- 7. Will there be an enclosed area around the permanent foundation?
- 8. Are flood vents required or will breakaway skirting be used? See 808-5(B)(6)(a)
- The certified plot plan only shows a 76'x30' rectangular footprint. Will there be any porches/stair/landings? Those will also need to meet the Chapter 808 required standards. Please provide details.

1

10. The Building Department may have additional requirements under the Building Code specifically Section R322 Flood Resistant Construction.

There is a design standards variance requested from the Buildable Area requirements of Chapter 804 of the Zoning Ordinance. The hearing is scheduled for April 5. I am hoping there can be some additional information provided to the above questions so that we can provide that to the BZA (need by March 26) and for the floodplain development permit review. The BZA and staff will be closely considering all other building options on the property, including an area to the south of the proposed building site, which would be outside of the floodplain at higher elevation.

Please note that prior to a Certificate of Occupancy issuance from the Building Department the Flood Development Permit will require some additional information be submitted first. In addition to the Elevation Certificate, it may be applicable to provide recorded affidavits depending on the design questions answered above. Once more information is provided on the design more detail would be provided by staff.

I hope this assists with communication what staff needs to complete the permit application review and look forward to the responses to the questions above. Please note that I will be placing a copy of this email in each of the permits for documentation. It would be helpful if your responses are uploaded into the permits R-22-1165 and FP-23-2 for clear documentation. I don't think everyone on this email is included on both permits. 'Guests' can be added to each of the permits by either the applicant or County staff such as myself. Just let me know.

Thank you all for your patience in this unique review for Monroe County staff.

Tammy Behrman, AICP Assistant Director / Floodplain Administrator Morroe County Planning Department 501 N Morron Street Suite 224 Bloomington, IN 47404 thehrman@co.monroe.in.us (812) 349-22560

2

MONROE COUNTY BOARD OF ZONING APPEALS

CASE NUMBER	CDU-23-2
PLANNER	Shawn Smith
PETITIONER	Janelle Renschler
REQUEST	Ch. 813 Conditional Use for Equine Veterinary Services, Indoor
ADDRESS	1301 E Chambers PIKE, Parcel #53-02-11-400-003.000-017
ACRES	35.09 +/-
ZONE	FR
TOWNSHIP	Washington Township
SECTION	11
PLATS	Unplatted
COMP PLAN	Farm and Forest
DESIGNATION	

EXHIBITS

- 1. Site Photos
- 2. Petitioner Letter
- 3. Petitioner's Site Plan
- 4. Use Determination

RECOMMENDED MOTION

Staff recommends **approval** of the conditional use petition for Equine Veterinary Services, Indoor of based on ability to meet the conditions of the Conditional Use in Chapter 802 with two conditions:

- 1. Petitioner applies for a Commercial Site Plan.
- 2. Petitioner files a subdivision to remove the single-family home from the Veterinary Service, Indoor use.
- 3. Petitioner applies for a Right-of-Way Activity Permit.

SUMMARY

The petition site is 35.09 +/- acres in Washington Township, Section 11. The petitioner is seeking conditional use approval for a Veterinary Service, Indoor, specifically for an equine purpose, located in the Forest Reserve (FR) zone. Chapter 802 of the Zoning Ordinance states that a Veterinary Services, Indoor use is a conditional use in the FR zone.

BACKGROUND

The petition site is being proposed to be used as a primarily Veterinary Service (Indoor), use. The conditional use is defined by Chapter 802 below and includes conditions:

Veterinary Service (Indoor). An establishment of licensed practitioners primarily engaged in practicing veterinary medicine, dentistry or surgery where all services are performed or provided indoors.

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.

The Planning Department received a Use Determination for this property in April 2022. Here, it was identified that the previous owners had used this site for Equine Services, although no site plan could be located for the previous business known as "Musgrave Apple Ridge Farm". The current owner has

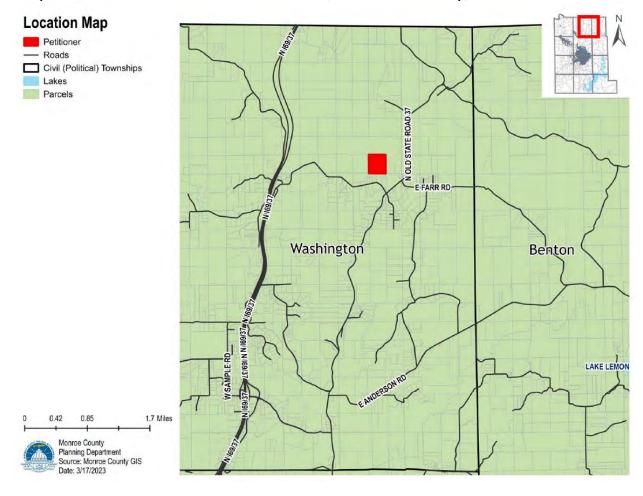
communicated that the use of the property will only be used as an equine veterinary clinic and residential. If approved, the applicant will need to file for a commercial site plan and obtain all necessary permits for the structures to be used for veterinary services, indoor.

Generally, all conditional uses must follow the following standards:

- A. the requested conditional use is one of the conditional uses listed in Chapter 813-8 (for the traditional County planning jurisdiction) or Table 33-3 (for the former Fringe) for the zoning district in which the subject property is located. In addition to the other relevant standards imposed by or pursuant to this chapter, the standards, uses and conditions set forth in Section 813-8 are hereby incorporated as standards, uses and conditions of this chapter;
- **B.** all conditions, regulations and development standards required in the Zoning Ordinance shall be satisfied;
- **C.** granting the conditional use shall not conflict with the general purposes of the Zoning Ordinance or with the goals and objectives the Comprehensive Plan;
- **D.** the conditional use property can be served with adequate utilities, access streets, drainage and other necessary facilities;
- **E.** the conditional use shall not involve any element or cause any condition that may be dangerous, injurious or noxious to any other property or persons, and shall comply with performance standards delineated in this ordinance;
- **F.** the conditional use shall be situated, oriented and landscaped (including buffering) to produce a harmonious relationship of buildings and grounds with adjacent structures, property and uses;
- **G.** the conditional use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood;
- **H.** the conditional use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood; and,
- I. All permits required by other Federal, State and local agencies have been obtained.

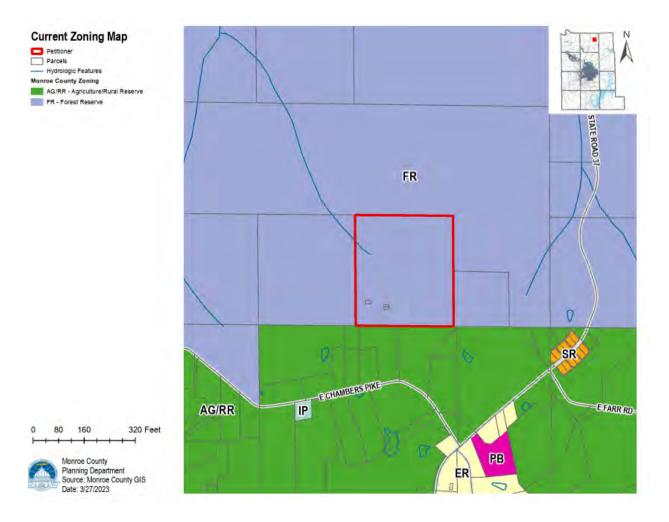
LOCATION MAP

The petition site is located at 1301 E Chambers PIKE, in Richland Township, Section 32.



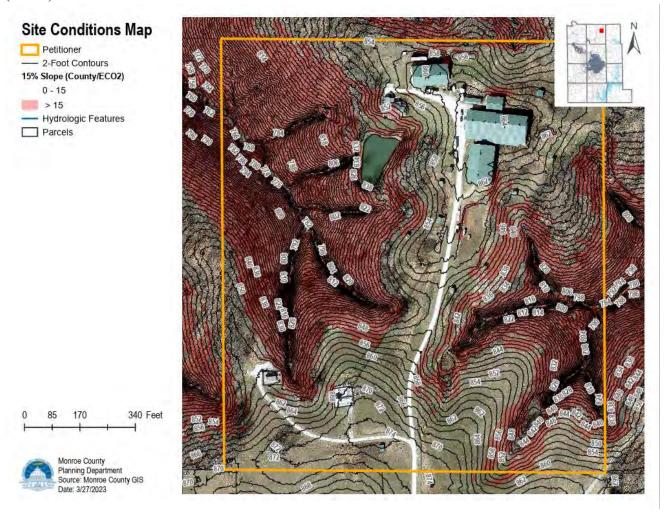
ZONING AND LAND USE

The petition site is zoned FR, adjacent properties are zoned AG/RR and FR.



SITE CONDITIONS & INFRASTRUCTURE

The petitioner site contains pre-existing buildings to be converted into the equine veterinary services (indoor) use.



COMPREHENSIVE PLAN DISCUSSION

The petition site is located within the Monroe County Comprehensive Plan "Farm and Forest" zone designation. Note managed lands and rural residential are also present in the area.

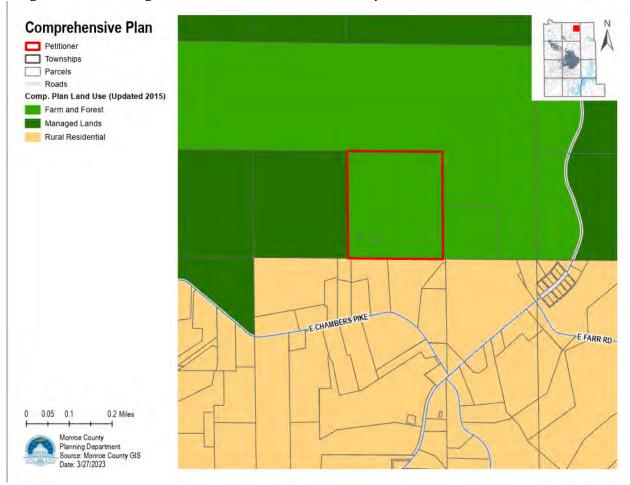


EXHIBIT 1: Site Photos



Photo 1: Entrance to the property



Photo 2: Entering Location (North)



Photo 3: View inside the main building

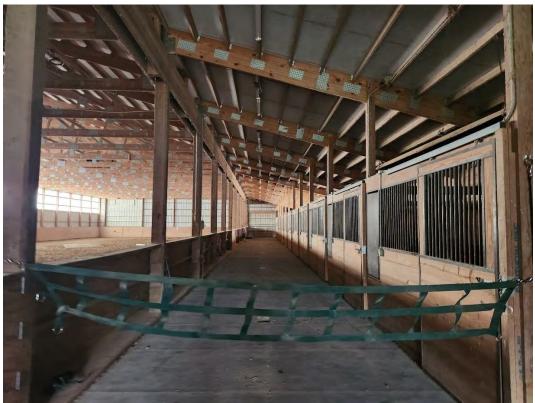


Photo 4: Stables also inside the Main Building



Photo 5: Inside an additional Building containing Stables



Photo 6: Laboratory/Office (unfinished)



Photo 7: Workspace (unfinished, TBD)



Photo 8: Pasture Facing South



Photo 9: Pasture Facing North



Photo 10: Horses on the Property



Photo 11: Petitioner lives on the property.



Photo 12: E Chambers PIKE facing East

EXHIBIT 2: Petition Letter

February 27, 2023

Margaret Clements, Chairman, and Other Members Monroe County Board of Zoning Appeals 501 N Morton Street, Suite 224 Bloomington, IN 47404

Dear Chairman and Board Members:

I am seeking a conditional use for my farm property as an equine veterinary clinic. I am a licensed veterinarian currently offering ambulatory services for horses, and my practice is limited to integrative medicine (acupuncture/osteopathy) and dentistry.

The proposed clinic area will utilize an existing area of one barn (see site plan), so no additional facilities will need to be constructed. The surrounding area is primarily state forest--with no other residential properties within sight of the barn--so the impact on the surrounding neighbors would be minimal. I will continue offering ambulatory services primarily and host haul-in clients on an occasional basis. Additionally, I do not provide any after-hours or emergency services, so clients would only be at the clinic during regular business hours.

My husband and I own this property, along with several adjacent parcels, and it houses our personal horses and livestock only. Previously the farm was a large horse boarding, training, and breeding operation, and that would have been much higher impact compared with the proposed equine clinic.

I do not anticipate any objectionable noises, gases, fumes, waste, vibrations, or other issues to detract from the character of the surrounding neighborhood. All clinic activities will take place indoors.

Thank you for your consideration.

Sincerely,

Janelle Renschler, DVM Horizon Equine Integrative Medicine 1301 E. Chambers Pike Bloomington, IN 47408

EXHIBIT 2: Site Plan

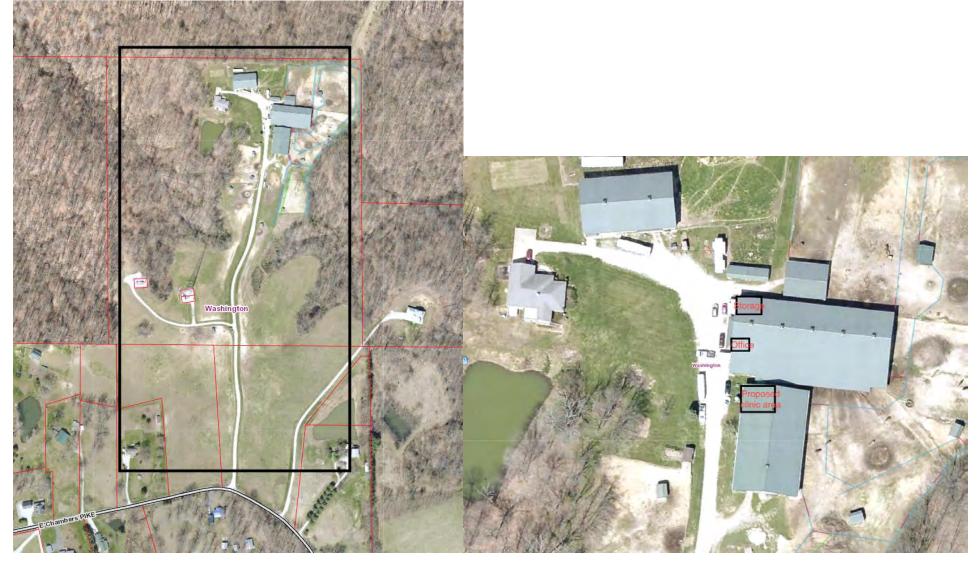


EXHIBIT 4: Use Determination



Monroe County Plan Commission and office of the Monroe County Board of Zoning Appeals Monroe County Government Center 501 N. Morton SL, Suite 224 Bicomington, JN 47404 Telephone: (812) 349-2560 / Fax: (812) 349-2967 https://www.co.monroe.m.us/deportment/?structureid=13

USE DETERMINATION

NOTE: Any expansion or change from the description provided to staff using this form may change the use determination

THIS IS NOT A PERMIT

Use Determination:	Veterinary Service (Indoor)		
Use Permitted or Not Permitted?:	Conditional Use (see below for next steps)		
Zoning of the Property:	Forest Reserve (FR)		
Current Use of the Property:	Equine Services		
Owner Name:	Janelle S Renschler		
Considered a Change of Use:	Yes		
Ordinance Reference:	Chapter 802		
Township and Section:	Washington // 11		
Zoning/ Floodplain:	Forest Reserve (FR) No Floodway		
ECO:	N/A		
Property Setbacks:	Front = 50' (no direct frontage), Side = 50' (15' for res. and res. accessory structures), Rear = 50 (35' for res. and res. accessory structures)		
Address / Parcel #:	1301 E Chambers PIKE Bloomington 47408 IN / 53-02-11-400-003.000-017		
Constraints/Notes:	Use appears to be Veterinary Services, Indoor according to the website and information provided: https://www.horizonequineintegrative.com/		
	Veterinary Service (Indoor). An establishment of licensed practitioners primarily engaged in practicing veterinary medicine, dentistry or surgery where all services are performed or provided indoors.		
	Use is conditional in the Forest Reserve (FR) zoning distric with the following condition in Ch 802:		
	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.		
	Application for Conditional Use:		
	https://monroecountyin.viewpointcloud.com/categories/108 5/record-types/6586		
Reviewed by:	Drew Myers		
Any determination is subject to an appeal per Chapter 821 and IC 36-7-			

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MONROE COUNTY BOARD OF ZONING APPEALS

Public Meeting Date:

April 5, 2023

CASE NUMBER	DETAIL	RECOMMENDED MOTION
VAR-23-14a	Condition #53 & #55 from Chapter 802	Denial
VAR-23-14b	Side Yard Setback Variance from Chapter 833	Denial

812-6 <u>Standards for Design Standards Variance Approval</u>: 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:

<u>Deny the design standards variance to Condition #53 & #55</u>: Practical difficulties are not met. There is no substantial evidence the structure cannot be utilized under one of the permitted uses listed in the RE2.5 zoning district, and therefore does not meet criteria C.

<u>Deny the side yard setback variance:</u> Practical difficulties are not met. The setback issue can be more effectively address through a relocation of the existing development/building/structure.

Variance Type: 🛛 🖂	\boxtimes Design \square Use		Planner: Shawn Smith		
\boxtimes	Residential 🗆 Commercial				
PETITIONER		Ertel, Nicholas & Forsyth, Haley (owners & applicants)			
ADDRESS		4615 E State Road 45			
		53-05-36-200-007.000-004	1		
TOWNSHIP + SECTION		Bloomington Township, Section 36			
PLATS		☑ Unplatted □ Platted:			
ACREAGE +/-		2.29 acres			
	PET	ITION SITE	ADJACENT		
ZONING	RE2.	5	RE2.5 and LB		
CDO ZONE	MCU	JA Rural Transition	MCU Rural Transition; Farm and Forest		
USE	Single-family Residential		Single-family Residenital;		
EXHIBITS					

- 1. Pictometry & staff visit photos
- 2. Petitioner Letter
- 3. Petitioner Site Plan
- 4. Petitioner Floor Plan
- 5. Letters of Support
- 6. Link to Chapter 833 Permitted uses in RE2.5
- 7. Septic Permit Application WW-23-13

SUMMARY

The petitioner is requesting two Design Standards Variances to establish a "Detached Accessory Dwelling Unit" at 4615 E State Road 45 on 2.29 acres. Chapter 833 requires structures in the RE2.5 zone to have a 30' side setback. The current detached outbuilding is approximately 0.5' from the property line. In addition, Chapter 802 requires that Detached Accessory Dwelling Units are only permitted in the AG/RR, CR, and FR zones on lots 5 acres or greater. The current property is zoned RE2.5 on 2.29 acres. The Board of Zoning Appeals approved a Use Variance (VAR-23-2) for a Detached Accessory Dwelling Unit on March 1, 2023

for the property, which permits the use of the Detached Accessory Dwelling Unit. The petitioner intends to remodel an existing detached outbuilding into an approximately 645 sq. ft. detached accessory dwelling unit (DADU) with an attached garage and greenhouse. The petitioner intends to connect the accessory structure to an existing septic system that will be upgraded as part of a bedroom addition to the primary residence. See WW-23-13 for more information on the septic permit.

Chapter 802 of the Monroe County Zoning Ordinance defines "Accessory Dwelling Unit" as:

Accessory Dwelling Units – A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an existing single-family structure.

The use of a Detached Accessory Dwelling Unit (DADU) is only permitted in the AG/RR, FR, and CR zoning districts and is subject to special conditions #53 and #55, which the petitioner does not currently meet.

53. Only permitted on lots 5 acres or greater in the AG/RR, CR, and FR zoning districts.

55. The principal dwelling unit or accessory dwelling unit (ADU) or Detached Accessory Dwelling Unit (DADU) must be occupied by the owner of the lot, the minimum lot size must be 5 acres, and must utilize a shared driveway with principal dwelling unit. Before final occupancy of the ADU or DADU, the property owner must record an affidavit and commitment stating that the property owner will reside on the property in either the principal dwelling unit or ADU or DADU. Once recorded, the affidavit and commitment (requiring owner occupancy) may not be removed or modified without Plan Commission approval. Only one accessory dwelling unit per lot of record is permitted.

The following design criteria also apply to accessory dwelling units:

Detached accessory dwelling unit (DADU) requirements:

- 1. A DADU is limited to 1,000 square feet of residential space.
- 2. The DADU must meet current standards of the residential, building, mechanical, electrical, energy, and environmentally critical areas codes
- 3. One off-street parking space is required for the DADU.
- 4. A manufactured home may not be used as an accessory dwelling unit if it was constructed prior to January 1, 1981.
- 5. A DADU must have a permanent connection to either an approved septic system or sewer system.
- 6. A Recreational Vehicle (RV) is not permitted as a DADU.
- 7. Each DADU lot shall have a separate buildable area for each dwelling.
- 8. *A DADU lot or parcel of record created via the Sliding Scale subdivision option may only be constructed on the Parent Parcel Remainder.*

If the design standards variances are approved, the petitioner will be required to submit a residential remodel permit application and comply with all other building and zoning codes, including bringing the septic into compliance. The Health Department identified the need for a new septic to be installed.

If the design standards variance to Condition #53 & #55 is denied, the petitioner will not be able to operate/remodel the structure as a Detached Accessory Dwelling Unit. They may be able to acquire enough acreage from a neighboring property and put in a different structure that meets all design standard requirements.

If the design standards variance to the side yard setback is denied, the petitioner will be required to construct a structure that meets the side setback requirements of the RE2.5 zone per Chapter 833.

EXHIBIT ONE: Pictometry and Site Photos

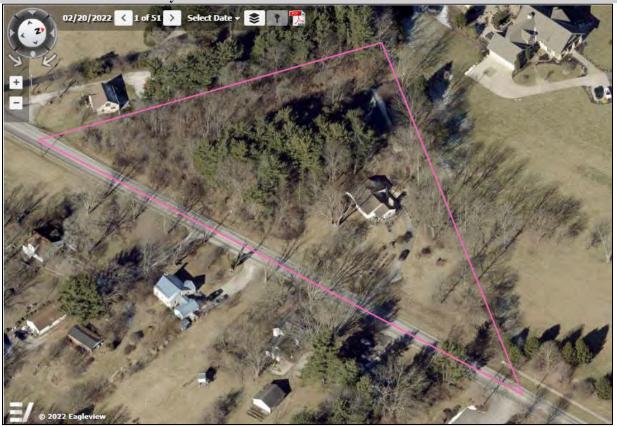


Photo 1 – view from East



Photo 3 – facing southwest; E State Road 45



Photo 4 – facing northeast; E State Road 45



Photo 5 – facing northwest; existing single family residence



Photo 6 – facing west; behind single-family residence; proposed DADU in background



Photo 7 – facing northwest; proposed DADU conversion w/ attached garage



Photo 8 – facing north; proposed DADU conversion w/ attached garage



Photo 9 – facing north; proposed DADU conversion w/ attached garage



Photo 10 – facing northeast; proposed DADU conversion w/ attached garage



Photo 11 - facing south; proposed septic field



Photo 12 – facing north; neighbor's property behind proposed DADU



Photo 13 – facing east; side yard setback encroachment



Photo 14 – facing southeast; existing single-family residence from proposed DADU

Dear Board of Zoning Appeals,

We purchased 4615 East SR 45 in October of 2022. The property itself is 2.29 acres and has been left unmanaged for over a decade. There are two structures on this triangular property, our main home that is visible from SR 45 with a driveway that runs behind it, and a four-car garage structure. The structure is half cinder block and half framed out, with a dilapidated greenhouse attached. In front of the structure is a wooded area that makes the space not visible from the highway. Behind the garage structure is 1619 N Prairie Green Ct and their backyard looks out over the structure. We are hoping to create a ~500 sq ft ADU in the left two garage openings and not alter the footprint of the existing structure at all. I have compiled some more information about how we believe that we meet the needs for a use variance for the proposed ADU.

When researching the codes there are two components of the criteria for a use variance that greatly apply to our situation;

- 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

In this particular structure, we back up to one property, are visible from two others, and this structure is quite close to a neighborhood walking trail. We had a structural engineer come and inspect the property and they found that the foundation and tuckpointing of the cinder block structure were in need of repair, as well as the attic of the garage portion. These are all safety components that are being fixed in the renovations that we are hoping to get approved. In regards to the use and value of the adjacent properties, this structure is currently extremely unattractive, in massive disrepair, and has been a frustrating component of the neighborhood in previous years. The renovation of this structure into a garage/cottage combination will do nothing but add value to the neighboring properties. Also, having someone in the property will mean that the walking trail that backs up to the home will be better maintained. Our neighbor expressed that multiple times he and other neighbors have had to come onto the property and attempt to manage falling trees and brambles that overflow into his property and neighborhood walking trails. He has also mentioned that because the structure has never been properly finished out, building materials are often flapping in the wind, causing massive annoyance for his family. Allowing an ADU construction here would provide a safer space for our family and for the neighbors.

In regards to section c of the building codes:

c. the need for the variance arises from some condition peculiar to the property involved;

We are aware that the size of our property being just over 2.29 acres does not fit the 5 acre minimum for additional structures but we do feel the layout of the property lends quite well to finishing out an ADU without changing the low density housing components that the codes were written to promote. We have very little information on when the previous owner started the construction of this structure but building materials are dated from over a decade ago. We inherited a structure that already has a foundation cleared and poured, roof, and walls. We are just hoping to make this a livable, affordable, and useful space for our family. Also I know a concern for the codes is to keep the density of homes and people to a minimum in the area, the ADU we are hoping to build in the structure will be around 500 square feet and will only comfortably house one person.

In regards to section d of the building codes:

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 There are two major hardships that would come to pass if this use variance is not granted. First, without the movement of my mother into the structure, we are not able to justify the funds needed at this time to improve the structure. The main home on the property is currently not livable and we know repairing it will be a massive undertaking, so we are hoping to make this space livable, so that a portion of the property is able to house our family. We know that the ADU project will be well over \$100,000 to create a usable and livable space for my aging mother, thankfully she has been able to save a portion of this but needs to have an actual home to put it towards. The second hardship is that we as a family will have to resume the search for affordable housing options for my aging mother. She is retiring this year and is relocating to the Bloomington area, after living cross country from us for the last decade. Before finding this property, we were looking at small, single family homes and condos in the area for her. All of the prices on homes that do not need massive amounts of work will be far higher then the cost of this ADU construction. Condos in the area have very high HOA fees and many of the affordable/quality small homes are bought up quickly for college rentals. With the death of my brother, I am now an only child and my single mother will for sure be in my care as she ages. Having her living on our property will allow this to be a much easier process, rather than trying to manage her home as well as ours.

We are hoping to make this property our forever home and also the place where my mother is able to live out the rest of her life. We believe that we will be able to improve our neighborhood with our purchase of this property and prospective renovations. We greatly appreciate your time and consideration.

Thank you,

Haley Forsyth and Nicholas Ertel

EXHIBIT THREE: Petitioner Site Plan

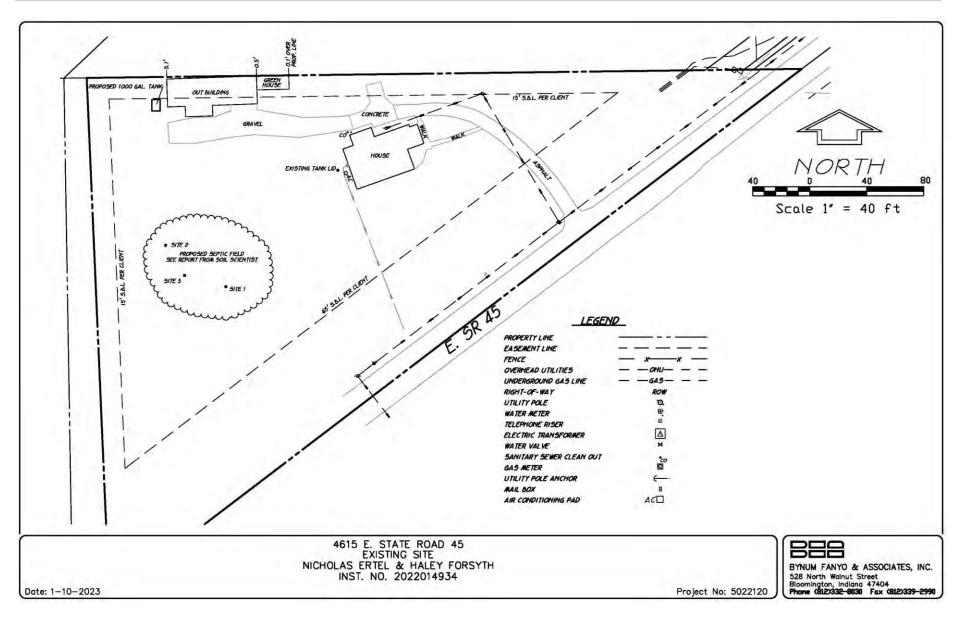


EXHIBIT FOUR: Petitioner Floor Plan

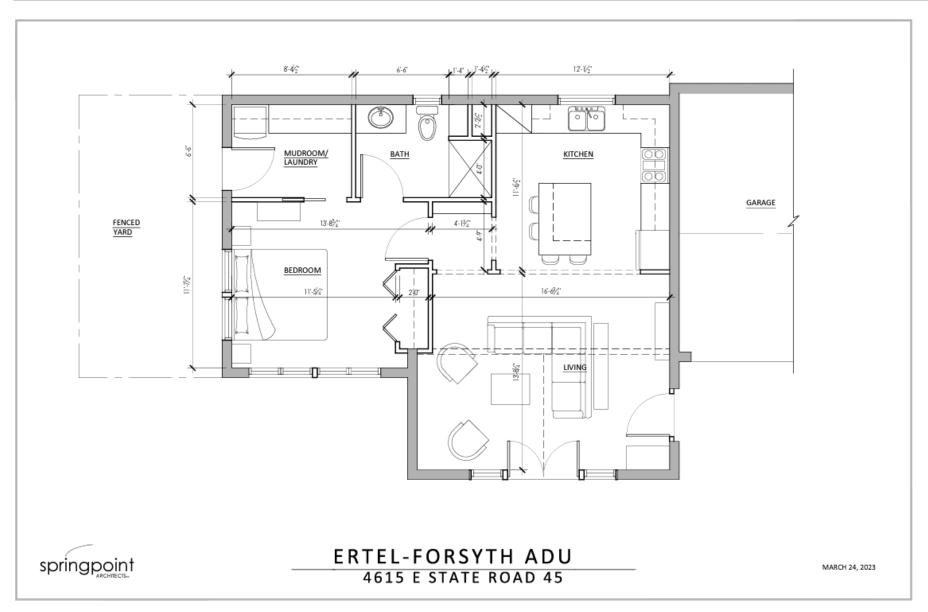


EXHIBIT FIVE: Letters of Support



639 South Walker Street Bloomington, IN 47403

January 19, 2023

To: Monroe County Board of Zoning Appeals,

I am writing to express support for our new neighbor's renovation of the dilapidated structure on their property. Since moving into our home, the property adjacent to ours has been in a state of disrepair. Since moving in, Haley and Nick have cleared dozens of disgusting plastic ponds, removed lots of brush, and are now working to improve the physical structures. We met with them and they discussed their exciting plans for this property.

The previous owner attempted to build a garage structure over a decade ago and stopped abruptly, leaving the structure with no doors or window and lots of noisy plastic sheets flapping. This is a complete eyesore in a very lovely neighborhood and is a structure we can see every day from our bedroom windows and patio. We fully support their idea to repair the structure and properly finish it out for their aging mother. We hope this addition will help increase property values of the area and it will also be an attractive structure that borders our property, as well as a footpath through the neighborhood that all of Prairie Green shares.

Please take this letter as our wholehearted support for their application.

Thank you for your time.

Gary L. Gettelfinger, MD

16.9 N. Prairie Green Ct. Bloomington, IN 47408-8701

Keeping you active is our forté.

Scanned with CamScanner

EXHIBIT SIX: Septic Permit Application WW-23-13



Monroe County Health Department 119 W. 7th Street, Bloomington, IN 47404 Phone: (812) 349-2543 Email: <u>wastewater@co.monroe.in.us</u>



REPAIR SEPTIC PERMIT

Permit ID WW-23-13

DATE PERMIT ISSUED: March 10, 2023

SITE INFORMATION:

1 00 0

5

Name of Applicant:	Haley Forsyth
State Parcel #:	53-05-36-200-007.000-004
Owner Name:	Forsyth, Haley
Owner Address:	4825 West Patterson Ave. Chicago, IL 60641
Site Address:	4615 E State Road 45 Bloomington, 47408-9668 IN
Subdivision:	N/A
Lot #:	N/A
Number of Bedrooms:	5

SEPTIC SYSTEM SPECIFICATIONS:

Septic Tank Size (gal.): 1500 gal Pump Tank Size (gal.): 1000 gal Type of Septic System: elevated, sand lined system, Presby Advanced Enviro Septic pipes Septic Field Size (ft. x ft.): 72 feet x 29 feet Depth of cut (in.): 0" maximum Min. Depth of # 23 sand (in.): 12 inches minimum Number of Pipes: Length of each Pipe (ft.): 70 feet each 350 total linear feet Total Linear foot of pipe: Low Vent Required: Yes High Vent Required: Yes Subsurface Drainage: Perimeter Drain on all sides Depth of Subsurface Drain (in.): 35 in

ADDITIONAL COMMENTS:

Install a 1500 gallon minimum septic tank and a 1000 gallon pump tank with an effluent pump. Install a distribution box. Install a sand lined septic absorption bed with a basal area of 72' x 29' and a maximum depth of 0". Furrow the original grade in accordance with 410 IAC 6-8.3-86. Install a minimum of 12" system sand. Install five Presby Advance Enviro-Septic pipes 70' long each for a total of 350 linear feet of pipe. 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 35" 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 March 10, 2023

mes W Magaro

Thomas Sharp, M.D. Monroe County Health Officer

Shian'ah Cox Senior Environmental Health Specialist

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.

<u>812-6 Standards for Design Standards Variance Approval:</u> 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