

MONROE COUNTY BOARD OF ZONING APPEALS



August 4, 2021

5:30 p.m.

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

Teleconference Information

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

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

AGENDA
MONROE COUNTY BOARD OF ZONING APPEALS (BZA)

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

August 4, 2021

5:30 p.m.

REGULAR MEETING

CALL TO ORDER

ROLL CALL

INTRODUCTION OF EVIDENCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES

OLD BUSINESS:

- 1. 1812-VAR-40 Patzner General Contractor Use Variance to Chapter 802 PAGE 4**
One (1) 0.68 +/- acre parcel in Perry Township,
Section 28 at 5605 S Old State Road 37.
Owner: RWP, LLC
Zoned ER. Contact: jnester@co.monroe.in.us
- 2. VAR-21-24 Wyss Side Yard Setback Variance to Chapter 804 PAGE 33**
One (1) 0.5 +/- acre parcel in Benton North Township, Section 27 at
8188 E Northshore DR.
Owner: Wyss, Tom
Zoned SR. Contact: tberhman@co.monroe.in.us
- 3. VAR-21-42a Kennington Karst & Sinkhole Development Standards PAGE 62**
Variance to Chapter 829
- 4. VAR-21-42b Kennington Buildable Area (15% Slope) Variance to Chapter 804**
One (1) 0.39 +/- acre parcel in Van Buren Township, Section 13 at 3316 W
Jordan CT.
Owner: Kennington, Corey D
Zoned RS3.5. Contact: rpayne@co.monroe.in.us

NEW BUSINESS:

- 1. VAR-21-35a Redeemer Community Church Aisle Width Variance to Chapter 806**
- 2. VAR-21-35b Redeemer Community Church Buffer Yard Variance to Ch. 830**
- 3. VAR-21-35c Redeemer Community Church Landscaped Parking Island Variance to Ch. 830**
- 4. VAR-21-35d Redeemer Community Church Maximum Building Coverage Variance to Chapter 833**
Three (3) 0.86 +/- acre parcels in Bloomington Township, Section 31 at 111 S
Kimble DR.
Owner: Redeemer Community Church Of Bloomington Inc
Zoned RS3.5. Contact: rpayne@co.monroe.in.us
*****CONTINUED BY STAFF*****
- 9. VAR-21-43 Habig Buildable Area (15% Slope) Variance to Chapter 804**
One (1) 2.51 +/- acre parcel in Benton North Township, Section 28 at 7467 N

John Young RD.
Owner: Habig, Barbara J
Zoned AG/RR. Contact: tberhman@co.monroe.in.us
CONTINUED BY STAFF

10. VAR-21-47 Allen Minimum Lot Size Variance to Chapter 804 PAGE 72
One (1) 0.5 +/- acre parcel in Clear Creek Township, Section 29 at 9385 S
Harrodsburg RD.
Owner: Allen, Larry Brig & Cathy Jean
Zoned ER. Contact: dmyers@co.monroe.in.us

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

Written comments regarding agenda items may only be submitted by email until normal public meetings resume. Please submit correspondence to the Board of Zoning Appeals at: PlanningOffice@co.monroe.in.us no later than August 4, 2021 at 4:00 PM.

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

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

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

The meeting will be open to the public via ZOOM.

MONROE COUNTY BOARD OF ZONING APPEALS**August 4, 2021**

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

EXHIBITS:

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

RECOMMENDED MOTION

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

JULY 7, 2021– BOARD OF ZONING APPEALS

The BZA continued this case until 8/4/2021. As of 7/19/2021, the petitioner still had not made progress on the required bioretention and therefore cannot obtain certificate of occupancy or a land use certificate.

**APRIL 7, 2021– BOARD OF ZONING APPEALS**

The BZA continued this case until 7/7/2021. Here is an update as of 6/24/2021:

The new site does not yet have a certificate of occupancy or a land use certificate. When staff conducted a site visit, the petitioner stated that they had begun operating out of this location without approval for occupancy. Planning Staff notified Building and Legal for follow-up. The new site is missing stormwater

detention and has other concerns that would prevent immediate occupancy.

Staff made an additional site visit to the existing site 5605 S Old State Road 37 (subject of this variance petition). At the time, not many vehicles were present. In speaking with the petitioner on-site, I was told they are operating out of both facilities at this time.

Staff recommends the following as this case was originally filed in 2018:

1. Petitioner commits to making all final stormwater detention improvements by August 1, 2021 for the new site.
2. Petitioner work with Planning staff to schedule all landscaping required for the site and to cleanup all demolition debris immediately off the new commercial site.

We would like to require immediate cease and desist of the general contractor use at 5605 S Old State Road 37. The petitioner has been made aware of the requirements for the new site and has to date, not made adequate progress in moving towards compliance. By denying the request for a use variance, the BZA allows staff to take immediate enforcement action regarding the use of the site.

NOVEMBER 4, 2020 – BOARD OF ZONING APPEALS

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

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

MAY 6, 2020 – BOARD OF ZONING APPEALS

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

DECEMBER 4, 2019 – BOARD OF ZONING APPEALS

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

JULY 10, 2019 – BOARD OF ZONING APPEALS

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

JANUARY 2, 2019 – BOARD OF ZONING APPEALS

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

SUMMARY

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

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

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

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

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

The conditions for General Contractor under #15 include:

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

BACKGROUND

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

of Zoning Appeals if site improvements cannot be met. Should the use variance be denied, the petitioner would be required to cease and desist operation of the business at the residential location and apply for site plan approval at the 4750 S Walnut Street Pike property to relocate the business use.

LOCATION MAP

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

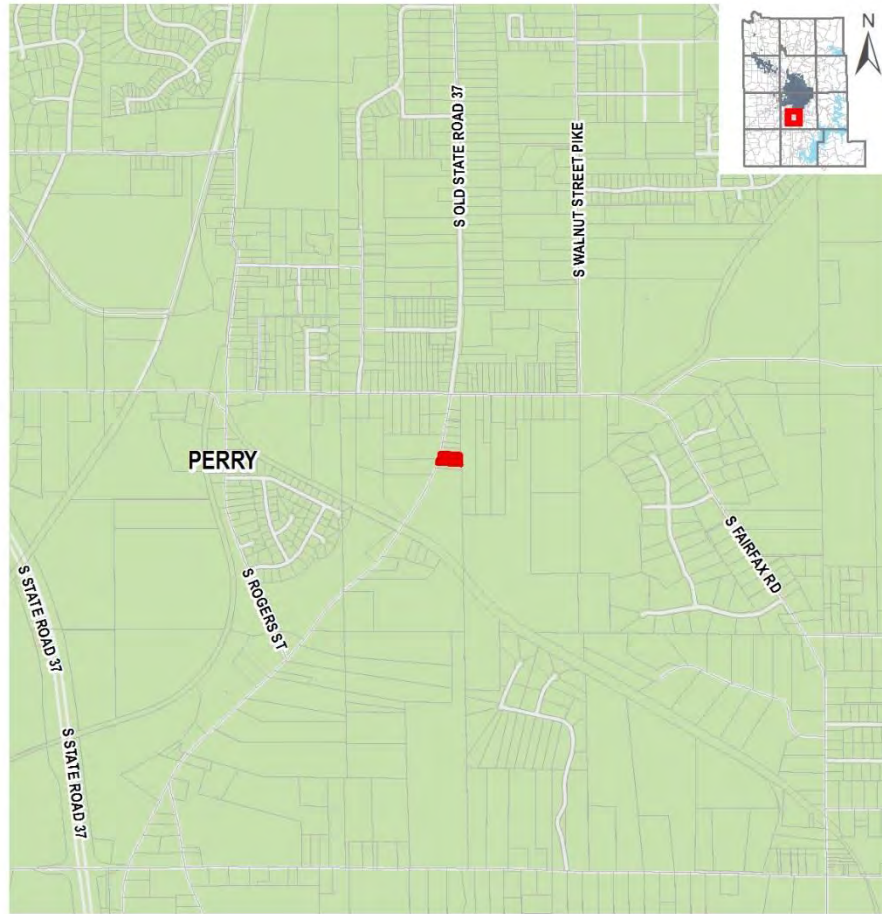
Location Map

-  Petitioner
-  Townships
-  Roads
-  Parcels

0 0.125 0.25 0.5 Miles



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



ZONING AND LAND USE

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

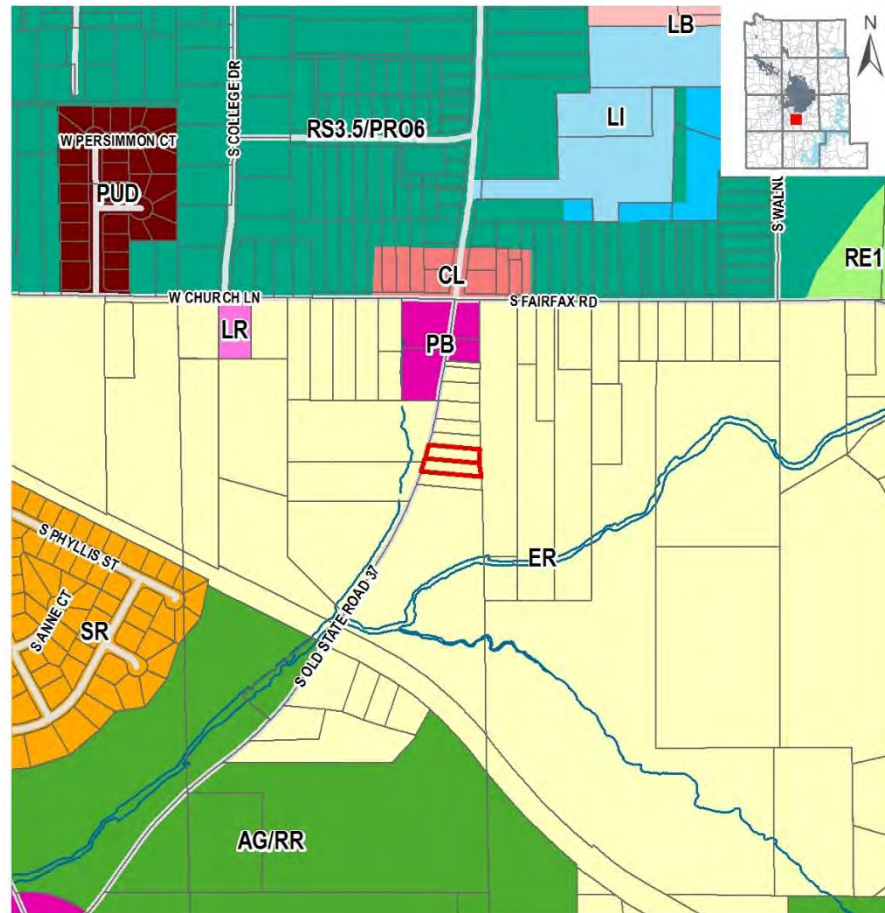
Current Zoning Map

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

0 0.05 0.1 0.2 Miles








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



SITE CONDITIONS

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

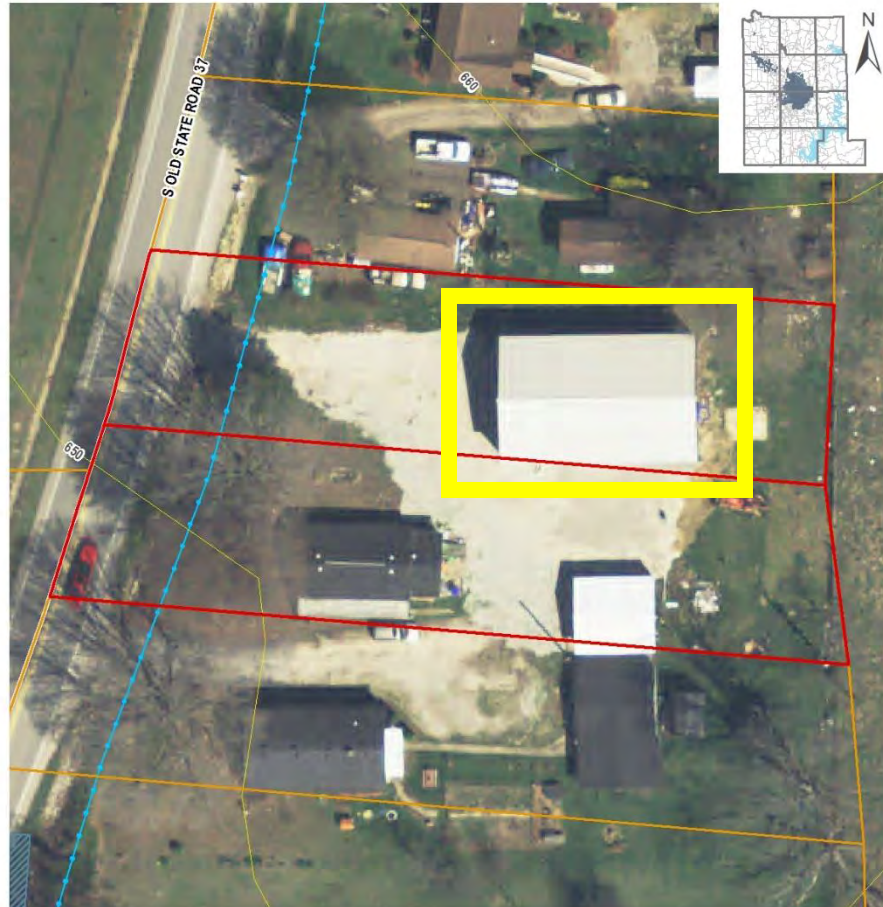
Site Conditions Map

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







0 20 40 80 Feet



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



Slope Map

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

0 10 20 40 60 80 Feet



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



SITE PHOTOS



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



Photo 2. View north on S Old State Road 37



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



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



Photo 5. View of the residential storage structure



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



Photo 7. View of detached garage on the property



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



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

COMPREHENSIVE PLAN DISCUSSION

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

5.1.1 Mixed Residential

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

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

A. Transportation

Streets

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

Bike, pedestrian, and Transit modes

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

B. Utilities

Sewer and water

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

Power

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

Communications

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

C. Open space

Park Types

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

Urban Agriculture

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

D. Public Realm Enhancements

Lighting

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

Street/Site furnishings

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

E. Development Guidelines

Open Space

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

Parking Ratios

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

Site design

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

Building form

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

Materials

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

Private Signs

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

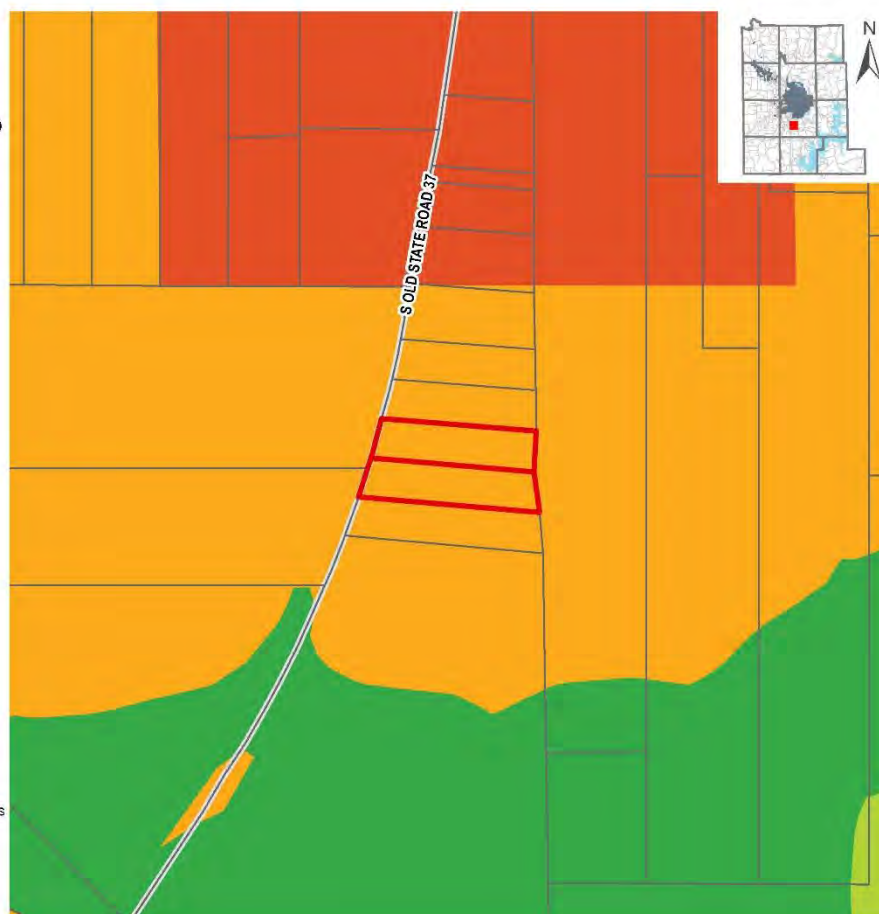
Comprehensive Plan

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

0 0.0175 0.035 0.07 Miles



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



FINDINGS OF FACT: Use Variance

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

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

Findings:

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

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

Findings:

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

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

Findings:

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

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

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

Findings:

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

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

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

Findings:

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

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

NOTE: The Board must establish favorable finding for ALL FIVE criteria in order to legally approve a use variance.

EXHIBIT ONE: Petitioner's Letter

Board of Zoning Appeals

Address:

5605 s old st rd 37 bloomington IN 47401

Request:

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

Neil Patzner



RECEIVED

DEC 03 2009

MONROE COUNTY PLANNING

EXHIBIT TWO: Site Plan



RECEIVED

DEC 03 2018

MONROE COUNTY PLANNING

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

EXHIBIT ONE: Petitioner Letter

Monroe County Planning Department

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

Thank you for time

Neil Patzner

EXHIBIT FOUR: Enforcement Letter - 2018


MONROE COUNTY PLAN COMMISSION <i>and office of the</i> MONROE COUNTY BOARD OF ZONING APPEALS Monroe County Government Center, 501 N. Morton St., Suite 224 Bloomington, IN 47404 Telephone: (812) 349-2560 / Fax: (812) 349-2967 http://www.co.monroe.in.us/tsd/Government/Infrastructure/PlanningDepartment.aspx					
Third and Final Notice					
Case File Number(s):	18-AC-117	Zoning District: ER	Case Status Ready for Legal Department:	Yes	
Zoning Inspector: C. Griffin					
Property Owner or Builder Information: Neil Patzner IN BIZ RWP LLC Address: 8275 S. Stone Ridge Rd. Bloomington, IN 47401 Phone Contact: 812-327-8080					
Complaint Property Parcel Number:	53-08-28-201-004.000-008		Complaint Property Address:		
			5601 S. Old SR 37 Bloomington, IN 47401		
Summary of Complaint:	Applied for a residential ILP and is operating a commercial business out of the structure. Operation of a commercial plumbing business. Does not live at the residence. Prohibited land use; cease and desist.				
Monroe County Zoning Ordinance Violation(s):	802-5 (Use the table on page 3 to locate the above listed zoning violation(s) and the ordinance code)	Notice of Violation(s) Issued:	Notice of Violations # \$.00		
			Status of NOV Payment:		
Number of emails or Enforcement Letter(s) Mailed:	3	Number of Inspections:		Photograph(s) Taken: Yes, and Internet Documents 2000, 2005, 2017	

EXHIBIT FIVE: Minutes – BZA 1/2/2019

QUESTIONS FOR STAFF –1812-VAR-40 – Patzner

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

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

Nester: You just mean to add the enforcement letter?

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

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

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

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

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

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

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

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

Nester: Correct under the current zoning, yes.

McNeil: On what grounds?

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

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

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

then it's not a Home Based Business.

McNeil: Thank you.

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

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

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

Patzner: I am Neil Patzner.

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

Patzner: Yes.

Johnson: Thank you.

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

Johnson: Does anyone have questions for Mr. Patzner?

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

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

McNeil: What if things don't go well?

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

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

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

Patzner: I would get it done.

Johnson: Yes?

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

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

Kruzan: Pardon me?

Patzner: I want to be moved out before 2020.

Kruzan: So, you do mean 2 years?

Patzner: No. January 1st, 2020.

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

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

Kruan: Ok, thank you.

SUPPORTERS - 1812-VAR-40 – Patzner: None

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

REMONSTRATORS —1812-VAR-40 – Patzner: None

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

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

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

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

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

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

Schilling: Certainly.

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

Clements: Have we received complaints from the neighbors?

Nester: No.

McNeil: No remonstrators?

McNeil: No.

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

Nester: Correct.

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

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

Patzner: It is a half a mile.

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

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

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

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

Schilling: Yes.

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

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

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

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

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

Wilson: When was it a rezone to Light Industrial?

Nester: It was rezoned in the summer of 2018.

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

Patzner: Correct.

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

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

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

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

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

Schilling: Yes.

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

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

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

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

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

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

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

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

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

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

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

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

petition? Seeing none. Yeah.

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

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

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

McNeil: Yes.

Wilson: Mark Kruzan?

Kruzan: Yes.

Wilson: Susie Johnson?

Johnson: Yes.

Wilson: Margaret Clements?

Clements: Yes.

Wilson: The petition is continued until July.

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

MONROE COUNTY BOARD OF ZONING APPEALS**August 4, 2021**

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

EXHIBITS:

1. Petitioner Statement
2. Petitioner Site Map (As-Built)
3. Recreation Easement Document
4. Additionl Letter from Petitioner
5. Remonstrance Letters
6. [Link: Septic Permit #22184 on file with Health Department for 3 bedrooms. Click the 'Files' tab to find the document 30 page document.](#)

RECOMMENDED MOTION:

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


SUMMARY

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

BOARD OF ZONING APPEALS

The Board heard this petition on May 5, 2021 [CATS TV Link 00:49:00](#). It was determined that there was information lacking from the petitioner required to make a determination and the case was continued. Staff sent the following email and OpenGov message shown on the following page. Staff received one reply response from the petitioner but as of May 26, 2021 they had not provided any further information. Additional communication has been sent Mr. Wyss (including

two of his associates) on June 1, 2021 and July 7, 2021 with no response or additional information provided.



Thu 5/13/2021 12:46 PM

Tammy Behrman

Variance Follow-up

To tom.wyss3@gmail.com; Deb Smith; 'Evan Wyss'

Tom-

The petition VAR-21-24 for side yard setback was continued by the Board of Zoning Appeals. The next meeting is scheduled for June 2, 2021 at 5:30pm. An email will be sent a week prior to the meeting with information on attending the meeting.

The Board continued your petition for lack of information on certain aspects of your site plan and design of the ADA ramp you described.

1. Update your site plan to include the dimensions of the ADA ramp. Draw these to scale on your existing site plan and upload the new version to OpenGov. Please note this ramp cannot be on the 'recreation easement.'
2. Submit the building plan design for the ADA ramp you are proposing. Include height, and slope measurements. This should meet the ADA standards and will be reviewed by the Building Department as well.
3. Please upload the septic permit and installation information that depicts the capacity of the system for 5 bedrooms as you described during the BZA hearing. County Health Department uploaded the septic information they had on file on 4/27/2021 to the petition site on OpenGov and it only is for 3 bedrooms.

Please **submit this information by May 19, 2021** to remain on the agenda and avoid continuance of your petition. Let me know if you have any questions. I will be uploading this message onto OpenGov as well.

Tammy Behrman, AICP
Senior Planner
Monroe County Planning Department

BACKGROUND

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

The residential accessory structure (accessory use) is not to be used as any of the following: residence, guest house, accessory dwelling unit, apartment, short term rental, or home based business. Any of the above uses would require a permit to convert the structure to that use.

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

Special Condition #5

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

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

The residence was issued septic permit #20164 and then was reissued septic permit #22184. The septic permit allows for 3 bedrooms. The Building Permit application has the primary residence listed as two bedrooms. The accessory structure or boat house is tied into the septic system but staff does not have a layout to the plumbing for the structure.

LOCATION MAP

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

Location Map

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



0 0.075 0.15 0.3 Miles


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


ZONING CLASSIFICATION

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


Current Zoning Map

 Petitioner


 Parcels


 Roads


 Lakes


 Hydrologic Features

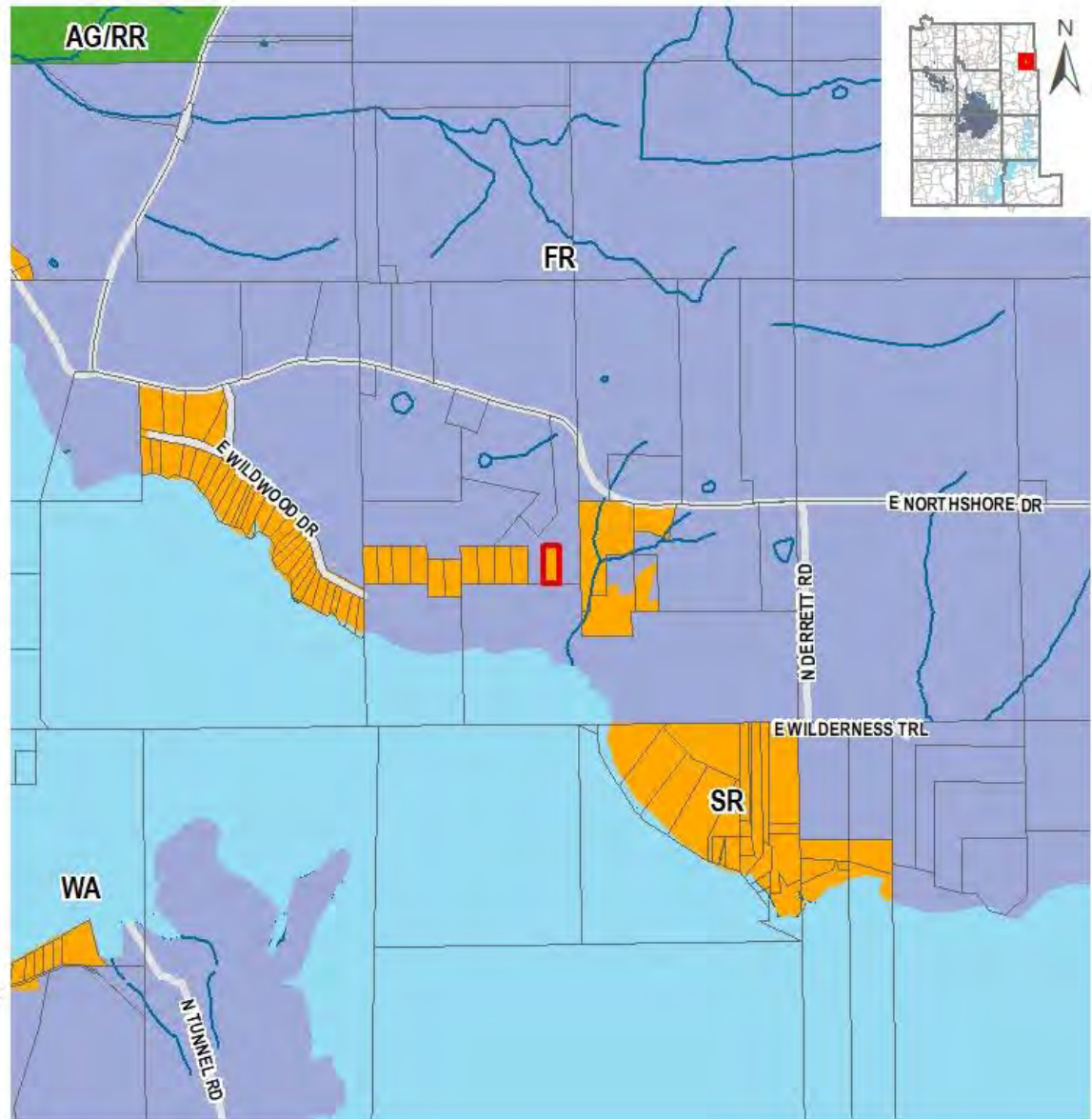
Monroe County Zoning

 AG/RR - Agriculture/Rural Reserve

 FR - Forest Reserve

 SR - Suburban Residential

 WA - Water



0 435 870 1,740 Feet



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

SITE CONDITIONS

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

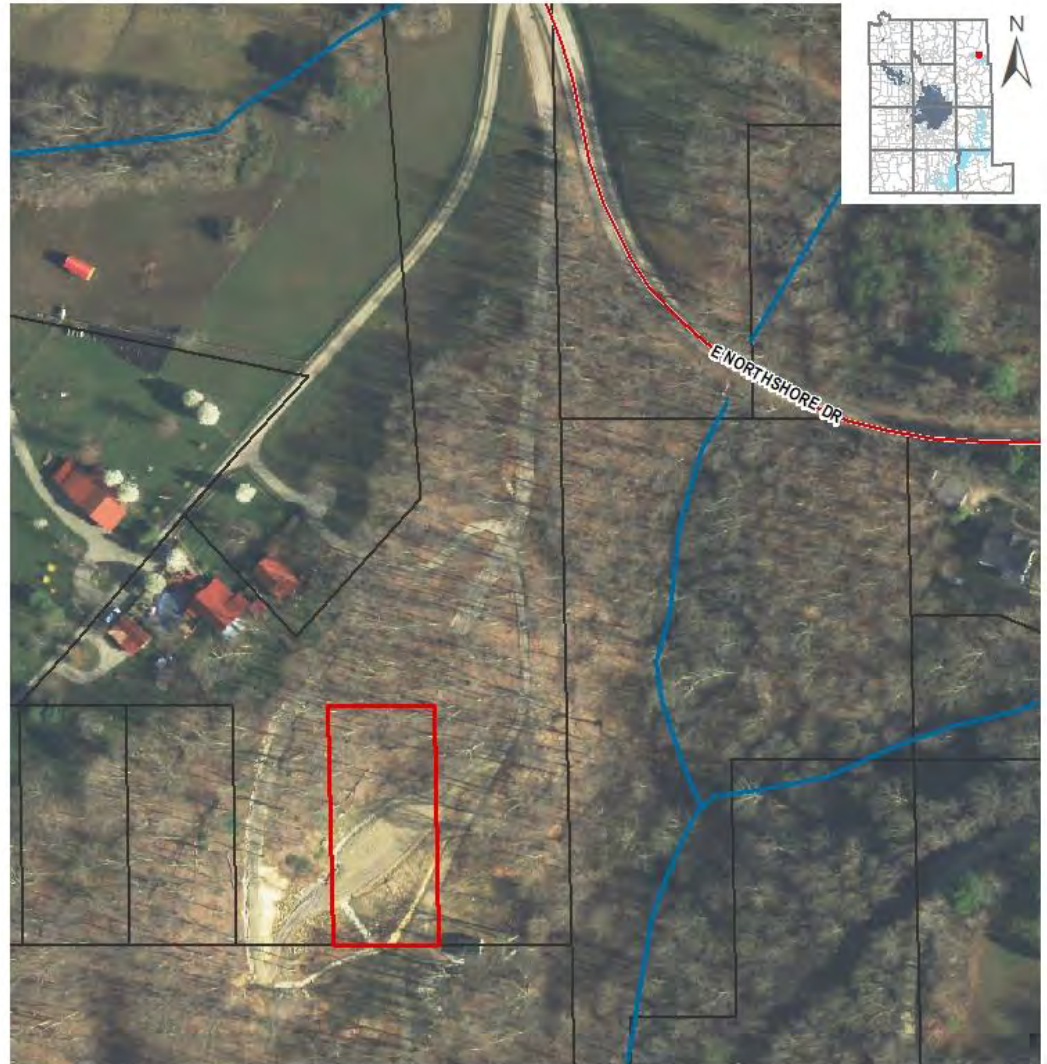
Site Conditions Map

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

0 0.01 0.02 0.04 Miles



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

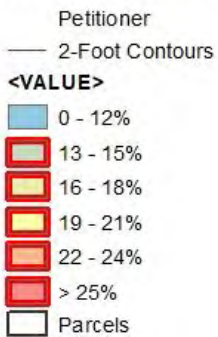


SLOPE

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

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

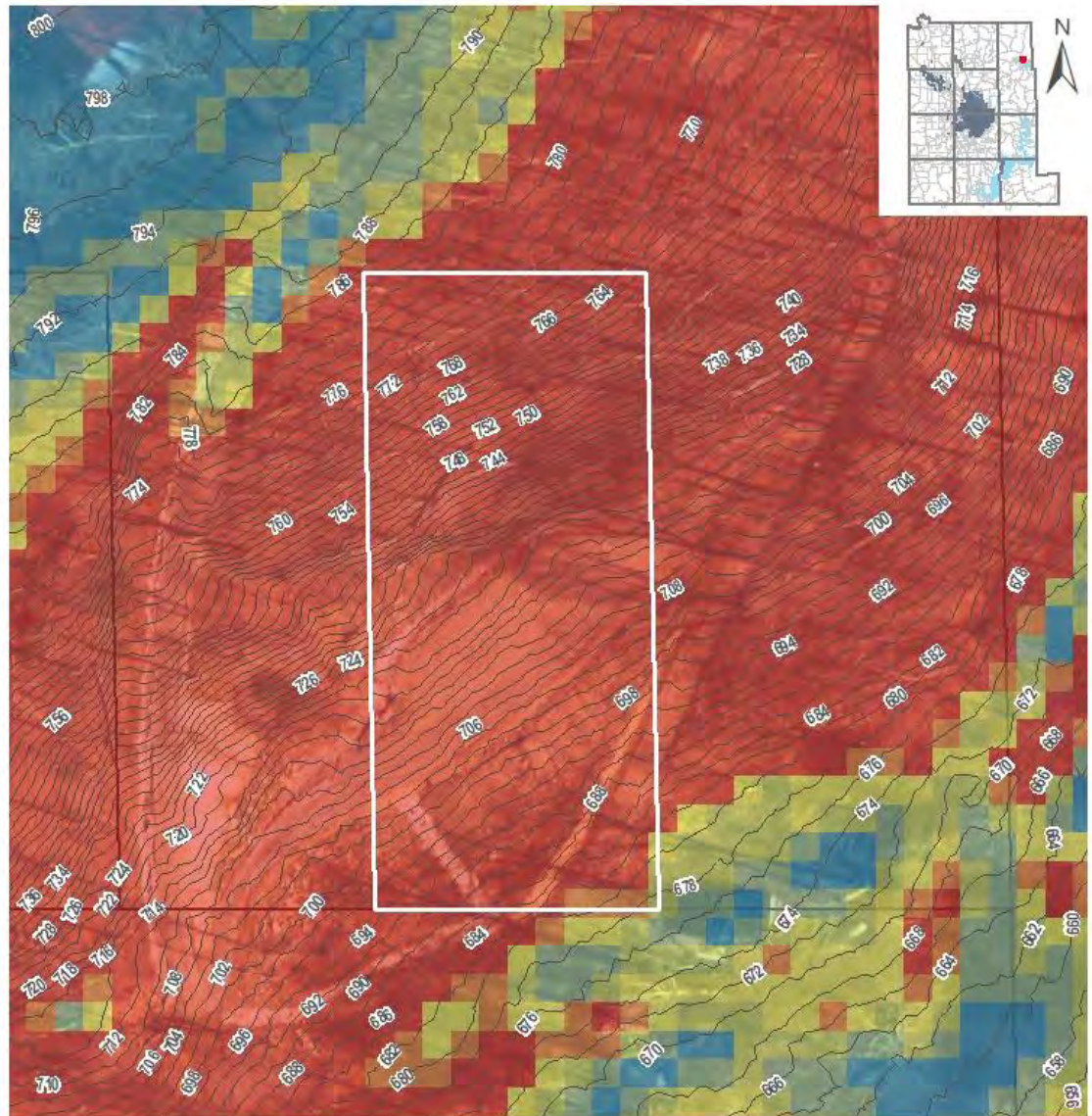
Site Conditions Map



0 0.0045 0.009 0.018 Miles



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



Aerial from 2016

SITE PHOTOS:



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



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



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



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



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



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



Figure 7. South side of accessory structure with two sets of sliding glass doors.



April 2020 Aerials of residence and accessory structure. Facing north



April 2020 Arial view facing east.



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

EXHIBIT 1: PETITIONER'S STATEMENT

3/2/2021

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

Sincerely Thomas Wyrz

8188 E North Shore Dr
Unionville, Indiana


47468
7653463126

EXHIBIT 2: Petitioner's Site Map



EXHIBIT 3: Recreational Easement Agreement

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



AMENDED RECREATIONAL EASEMENT AGREEMENT

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

RECITALS:

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

See Exhibit A

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

See Exhibit B

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

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

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

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

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

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

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

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

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

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

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

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

Dated: 11/23/, 2015


Kimberly A. Zimmerman

STATE OF INDIANA)
)SS:
COUNTY OF MONROE)

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

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



(Signature)

Tammy I. Spivey

(Printed)

Tammy I. Spivey

Notary Public

Residing in Monroe County, IN

Dated: Nov 19, 2015

Thomas Wyss
Thomas Wyss

STATE OF INDIANA)
)SS:
COUNTY OF MONROE)

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

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



Katherine L. Berry

Katherine L. Berry

Notary Public

Residing in Monroe County, IN

My Commission Expires:

March 7, 2023

3

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

William J. Beggs

This Instrument Prepared By:

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

The following described real estate in Monroe County, Indiana:

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

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

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

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

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

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

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

EXHIBIT A

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

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

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

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

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

Subject to all matters of record.

Subject to the following easements:

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

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

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

EXHIBIT B

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

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

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

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

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

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

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

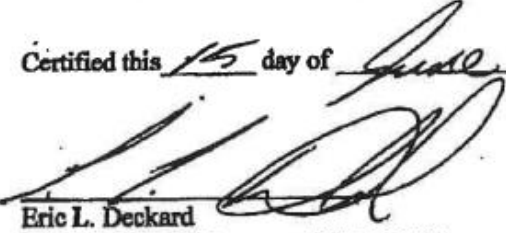
Commencing at a stone found marking the Southeast corner of the Northeast quarter of the Southeast quarter of said Section 27; thence along the east line of said quarter quarter South 01 degrees 20 minutes 20 seconds East for a distance of 278.04 feet; thence leaving said east line North 89 degrees 54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

Subject to all easements of record.

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

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

Certified this 15 day of June, 2012.


Eric L. Deckard
Registered Land Surveyor LS29900012
State of Indiana



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

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

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

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

Subject to all easements of record.

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

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

Certified this 15 day of June, 2012.



Eric L. Deckard
Registered Land Surveyor LS29900012
State of Indiana





EXHIBIT 4: Additional letter from petitioner

H P W Health 1st
805 Burwick Trace
Greenwood IN 46143
Fax 317 981 1723
Office 317 508 1248

April 20, 2021

To whom it may concern,

This letter is to recognize the property of Thomas Andrew Wyss, address 8188 East Northshore Drive, requires a handicapped ramp to be built for a medical necessity required for a member.

If you have any questions or concerns do not hesitate to contact me.

Regards

Holly Wyss NP - BC

EXHIBIT 5: Neighbor Letters

City of Bloomington

Tammy Behrman

From: Michael Carter <carterm@bloomington.in.gov>
Sent: Tuesday, April 6, 2021 1:48 PM
To: Tammy Behrman; Christopher Wheeler; Adam W. Casey
Subject: Re: FW: Board of Zoning Appeals Meeting - April 7, 2021
Attachments: WYSS (GRADING & SITE PLAN) 11-68 Layout1 (1).pdf; Wyss Existing Conditions 7-25-13.pdf

Tammy,

Thank you for sending this.

Given the 4 exterior entrances to this structure, it appears that this may be a 4 unit habitation.

Fig 6 shows the plumbing leaving the accessory bldg.

An accessory building is NOT to be used as residential in any fashion, correct?

Mr. Wyss, in the handwritten note refers to this as a "garage". It looks like in Fig. 3 there may be a garage door. However, if this is a garage with an east side load, the driveway will be crossing COB property, on the south side of the structure.

Is the current septic sized for the primary residence and this possible 4 unit structure?

Has the interior been inspected? If so, how many bedrooms and baths, and how many plumbing fixtures are included.

The driveway appears to be on the COB property and this is not allowed, and needs to be removed and the area seeded. Any boat and/or construction material being stored on COB property also requires removal.

There was a carport on COB property when inspected for tree removal in 2013-2015. At that time Mr Wyss stated that the carport was to be relocated to the approximate location of this accessory structure. See existing conditions from 7-25-2013, where I noted the proposed carport relocation.

CBU would definitely NOT be in favor of the variance, given the history of Mr. Wyss and this property. This site development appears to have multiple issues.

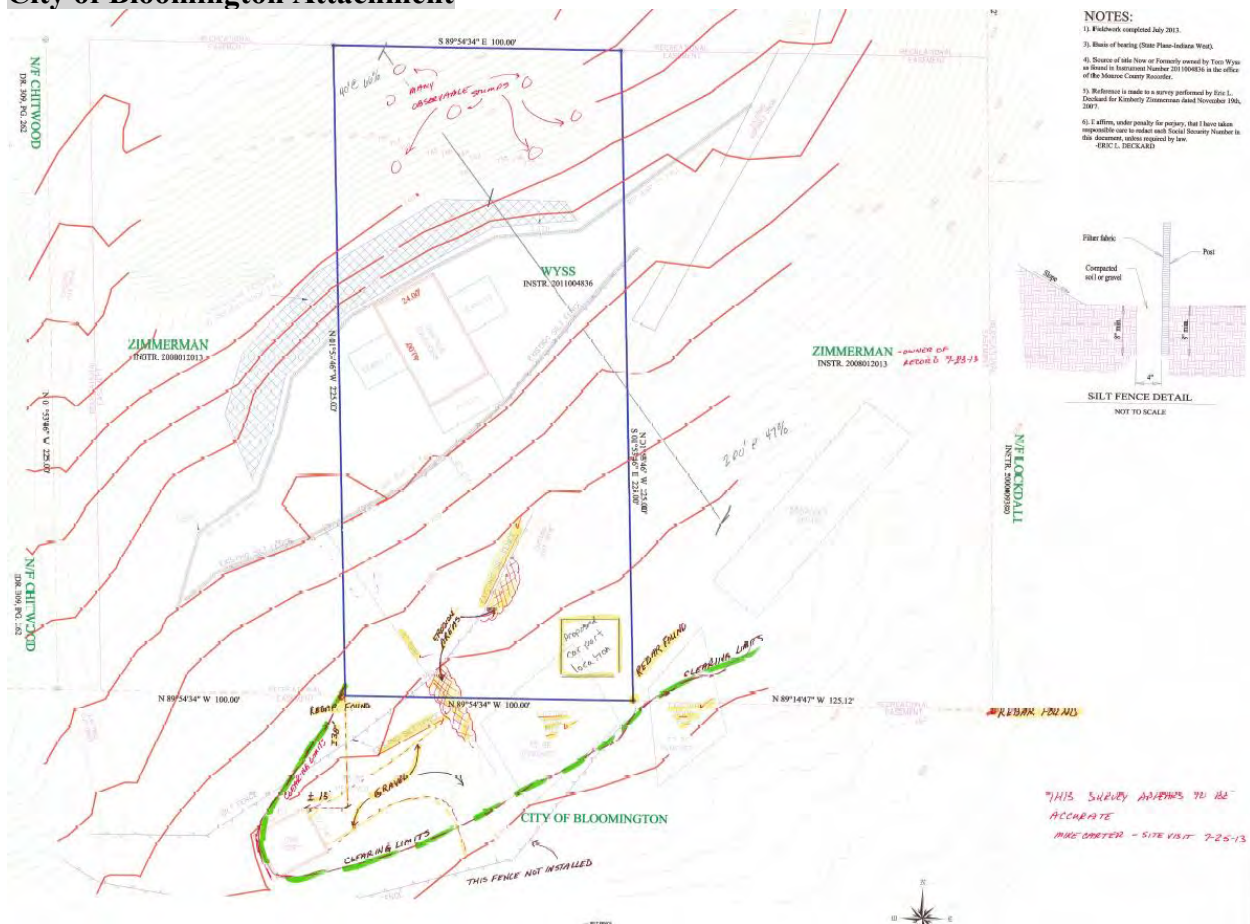
I have taken the liberty to include City Attorney Mr. Wheeler on this email, as he is somewhat familiar with the property.

Thanks again.

Respectfully,

Mike Carter

City of Bloomington Attachment



Tammy Behrman

From: kzimme1141@aol.com
Sent: Tuesday, April 6, 2021 4:46 PM
To: Tammy Behrman

I am going to try to be a part of the Zoom meeting tomorrow. If I miss it, here s my statement:

I have no intentions of doing any favors for Tom Wyss. He has used and abused my property, the city of Bloomington's property, the land and the eco system. His trash at the top of the property is an eyesore, he parks his equipment in my woods.

I will not sign anything in his favor.

Kim Zimmerman

Tammy Behrman

From: RANDY LOCKDALL <rl.lockdall@comcast.net>
Sent: Thursday, April 8, 2021 11:06 PM
To: Planning Office
Subject: Fwd: Var-21-24 Not sure if the message to Tammy Behrman went through

----- Original Message -----

From: RANDY LOCKDALL <rl.lockdall@comcast.net>
To: "tberhman@co.monroe.in.us" <tberhman@co.monroe.in.us>
Date: 04/08/2021 10:57 PM
Subject: Var-21-24

To Monroe County board of zoning appeals.

Hello Ms. Behrman

Recently I read through this variance and as the owner of an adjacent property to the east of Mr. Wyss, I've taken an interest in my neighbors property and building. It should be noted that he has knowingly or unknowingly encroached on my property when much debris etc from the driveway and other structures have been built. This area previously had been more scenic but seems to have cleared to make way for Lakeview property. The city and county's actions have also often been detrimental to our property by giving easements even ownership to specific people that have in essence blocked others like ourselves from Lake access.

A little history to the property is that John Stearns a previous owner to the South and East was able to purchase property at a very low rate of \$500 from the city which provided him with lake front property. He also purchased three other properties accept ours (because we bought it from my Wife's Great Uncle, Frank Ellis) that used the same easement. I even confirmed this prior to the purchase. We then were unwillingly or financially unable to contest his banning us from access to the easement. After our home burned found by Mr. Stearns the owner of another property Eugene Fleener offered to sell us this property (as he to felt that Stearns had intentionally and wrongfully maneuvered to get sole access) that is adjacent to Zimmerman/Wyss properties. This property does touch the City,s property slightly further south then the Wyss property. The cottage part of Stearns property was sold to James Fountain and each time it is sold/ or changes hands we must sign a Quit Claim deed as it was originally built on Fleeners property and they then swapped a small portion of that property to avoid this issue. At one time prior to Ms. Zimmerman we were able to use her father's easement. Our new neighbors have always been considerate, but I'm not certain what the legal ramifications in these areas regarding lake access really are.

I'm not in great distress with Wyss except he seems to act first and ask questions later. Although someone has dug into the creek on our property on occasion apparently in search of something. Environmentally it seems to have been a mistake to allow his building the property in such a small area on steep terrain, but that whole area has long

1

history of junk, fishing equipment and debris being dropped there apparently some before and after Lake Lemon was built. I'm in agreement that having lake access and lakeview is important to everyone. I'd always be in favor of improving the area that is apparently forest reserve on the cities property south of our and Wyss's property as was done on Stearns/Fontaine (now someone else property) . Thanks for your interest and recommendations on this current issue and taking the time to read through my points of view on this area.

Sincerely
Randy Lockdall
8282 E. Northshore Drive

EXHIBIT 6: Septic Permit information on file with the Health Department Page 1 below.

Link to the entire 30 pages is [here](#).



Monroe County Health Department

Monroe County, Indiana

Health Department

119 W. 7th Street
(812) 349-2543

Futures Family Planning Clinic

119 W. 7th Street
(812) 349-7343

Public Health Clinic

333 E. Miller Drive
(812) 353-3244

Receipt #: 24844

Septic Permit #: 22154

(PERMIT EXPIRES 2 YEARS FROM ISSUE DATE)

Issue Date: 3/10/20

RENEWAL OR MODIFICATION OF A SEPTIC PERMIT APPLICATION

Please read the following instructions.

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

Today's Date 3/10/2020

State Parcel # 53 - 01-27-400-025-000-003

Tax ID # 003 02210 00

Owner Tom Wyss

Telephone No. 765 346 3126

Mailing Address 8188 E North Shore Dr
Unionville Ind

Email: _____

Site Address 8188 E. North Shore Dr.

Lot No. _____

Subdivision (if applicable) _____

Acreage _____

Original Septic Permit # 20164

(1) # Bedrooms/Equivalent (Required) 3

(2) IN or OUT of Watershed _____

(3) IN or OUT County MS4 Area _____

• Reinstatement or Renewal of Expired Permit - \$100

* Duplicate Permit - \$25

Give directions to property and location of proposed home:



MONROE COUNTY BOARD OF ZONING APPEALS

Public Meeting Date:

August 4, 2021

CASE NUMBER	DETAIL	RECOMMENDED MOTION
VAR-21-42a	Buildable Area (15% slope) Chapter 833	Denial
VAR-21-42b	Karst & Sinkhole Development Standards	Denial

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:

VAR-21-42a = Deny the design standards variance to the Buildable Area (15% Slope) standard in Chapter 804 of the Monroe County Zoning Ordinance based on the findings of fact. Petitioner could re-locate the shed outside of 15% slope thresholds.

VAR-21-42b = Deny the design standards variance to the Sinkhole Conservancy Area (SCA) standards in Chapter 829 of the Monroe County Zoning Ordinance based on the findings of fact. Petitioner could re-locate the shed outside of SCA setbacks.

Relocating the shed to the southeast (side yard) would eliminate the need for both variances.

Variance Type: ☒ Design ☐ Use
 ☒ Residential ☐ Commercial

Planner: Rebecca Payne

PETITIONER	Corey Kennington (owner)	
ADDRESS	3316 W Jordan CT, 53-09-13-400-055.000-015	
TOWNSHIP + SECTION	Van Buren, 13	
PLATS	<input type="checkbox"/> Unplatted <input checked="" type="checkbox"/> Platted	
ACREAGE +/-	0.39 acres	
	PETITION SITE	ADJACENT
ZONING	RS3.5	SR3.5
COMP PLAN	Rural Residential	Rural Residential
USE	Residential	Residential; commercial; vacant

Location Map

0 0.0425 0.085 0.17 Miles

 Source: Monroe County GIS
 Date: 6/21/2021



SUMMARY & DISCUSSION

The petitioner is proposing a 12' x 16' accessory structure (shed). According to Elevate GIS, the proposed shed will be located in an area greater than 15% slope (buildable area). The proposed location of the shed is delineated on the petitioner's site plan (Exhibit 4). Additionally, the proposed location of the shed does not meet the requirement of a 50' setback from the sinkhole rim for structures, per Chapter 829 of the Monroe County Zoning

Ordinance. The intent of Chapter 829 is to protect the public health, safety and welfare by requiring the development and use of environmentally constrained areas to proceed in a manner that promotes safe and appropriate storm water management and ground water quality; chapter 829-3(D)(1)(d) requires setbacks from sinkholes for residential accessory structures.

Septic Permit = N/A; Driveway permit = N/A.

EXHIBITS - Immediately following report

1. County Slope Map – Buildable Area 15%
2. Staff Site visit photos
3. Petition Letter
4. Petitioner Submitted Site Plan
5. Contour Map
6. Plat Map

EXHIBIT 1: Slope Map

Slope Map

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

15_Percent Slope (2010)

- 0 - 15
- > 15

0 10 20 40 60 Ft



Monroe County
Planning Department
Source: Monroe County GIS
Date: 6/25/2021

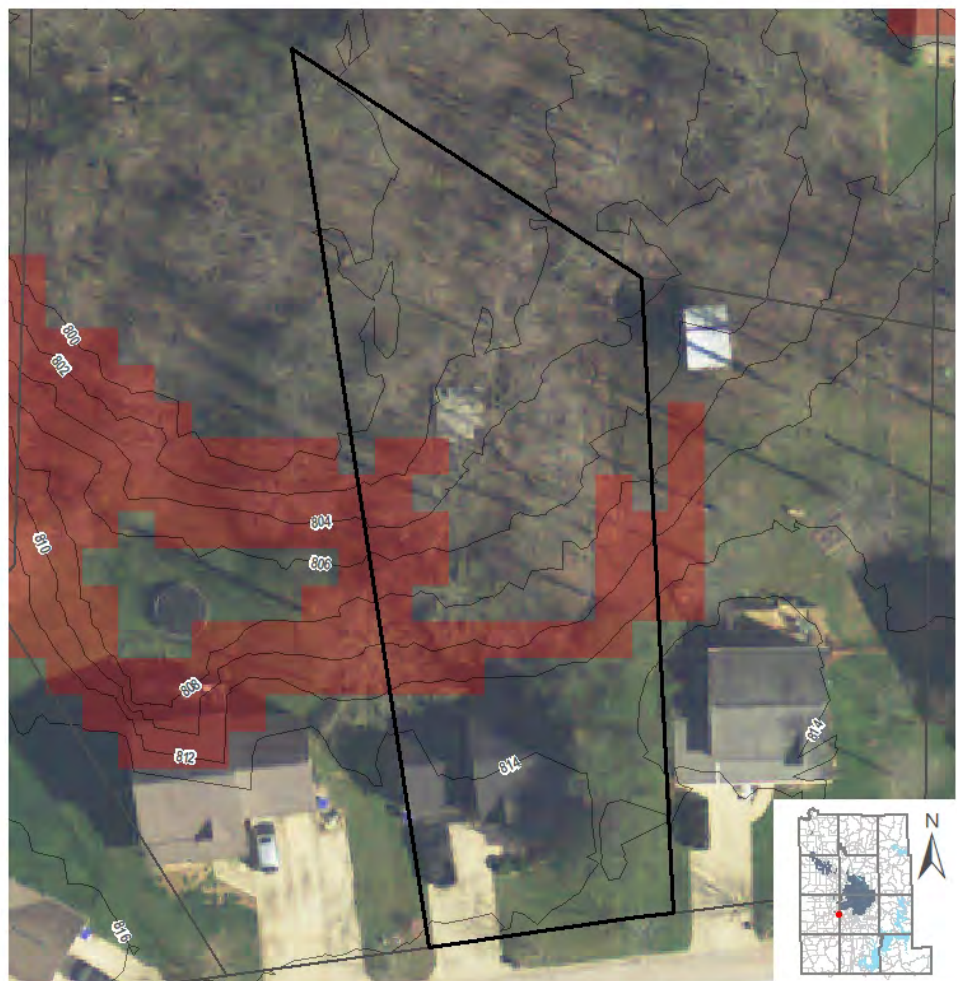


EXHIBIT 2: Site Photos



Figure 1: Property Marker Sign, facing west

Figure 2: Side yard, facing north



Figure 3: Proposed location of shed, facing west



Figure 4: Side yard, facing north

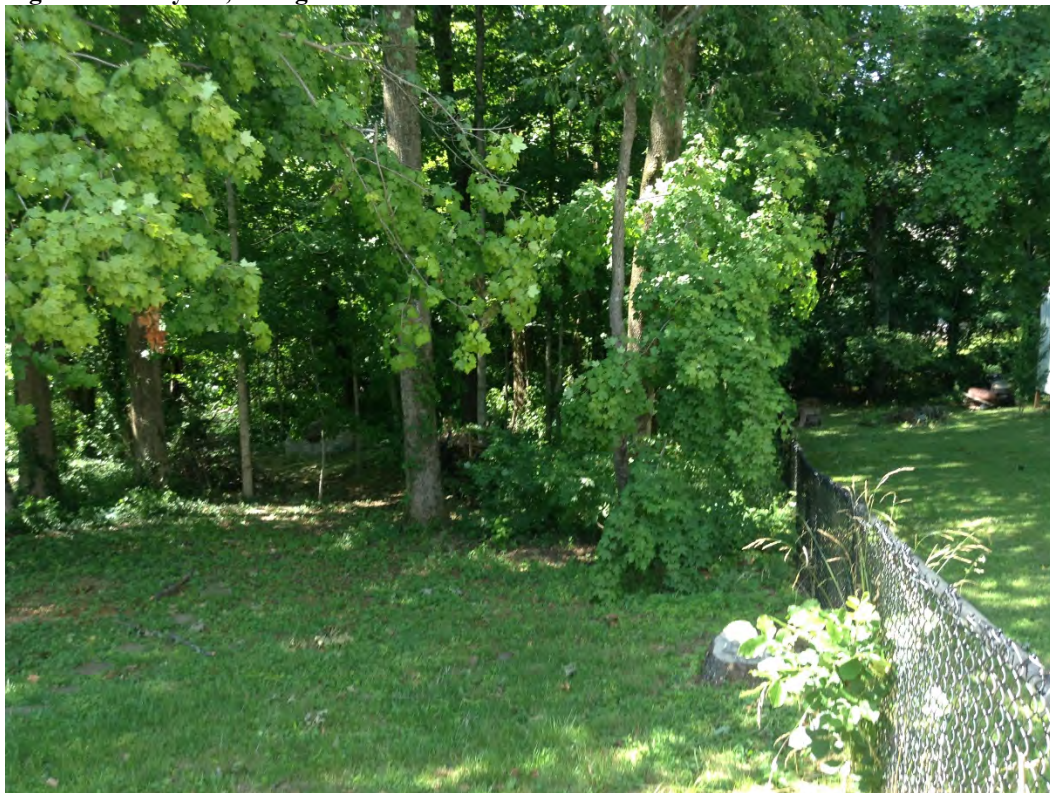


Figure 5: Back of house, facing south



Figure 6: Concrete piers, facing west



Figure 7: Front of house, east side yard, facing north



Potential shed re-location that would eliminate need for variances

Figure 8: Front of house, facing north



EXHIBIT 3: Petitioner Letter

Zoning Board,

I would like to build a small garden shed to store some yard tools and household items. I am extremely limited on locations to build this storage shed and would like to be permitted a variance to build a shed on the location shown in the site plan submitted. I need variance for building within 50ft of the rim of the sinkhole as well as building on a slope greater than 15 degrees. The location is approximately 35' from the rear of my house. I would build it closer to my house but it is a steeper slope. Any further out it would be in the sinkhole area. This area is clear and more flat then the rest of the land outside of the sinkhole area. I believe with concrete piers in the ground the building will be safe on this location.

Thanks,

Corey Kennington

3316 W. Jordan Ct.

Bloomington, IN 47403

317-504-5474

EXHIBIT 4: Site Plan

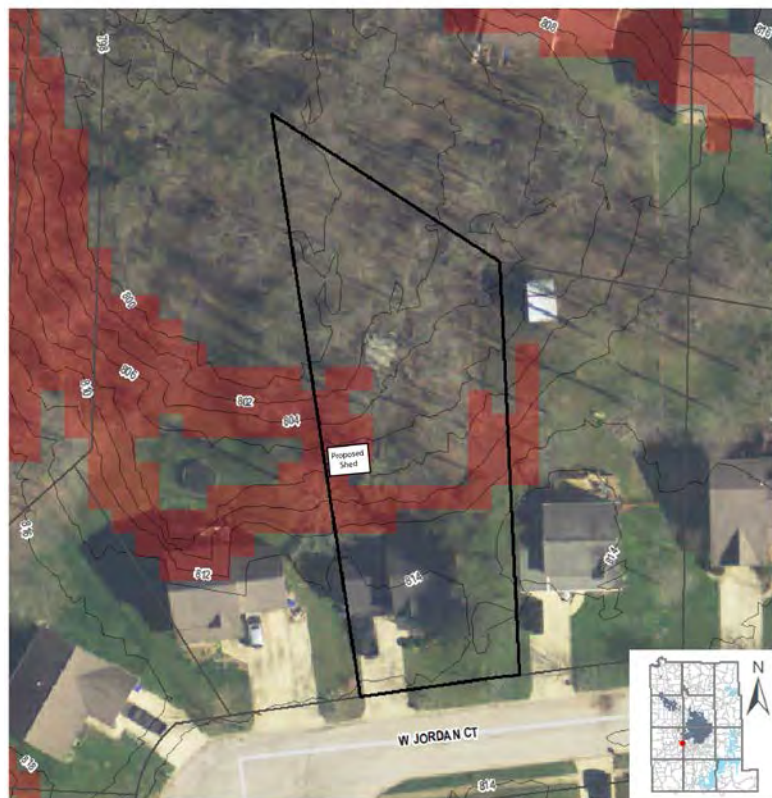
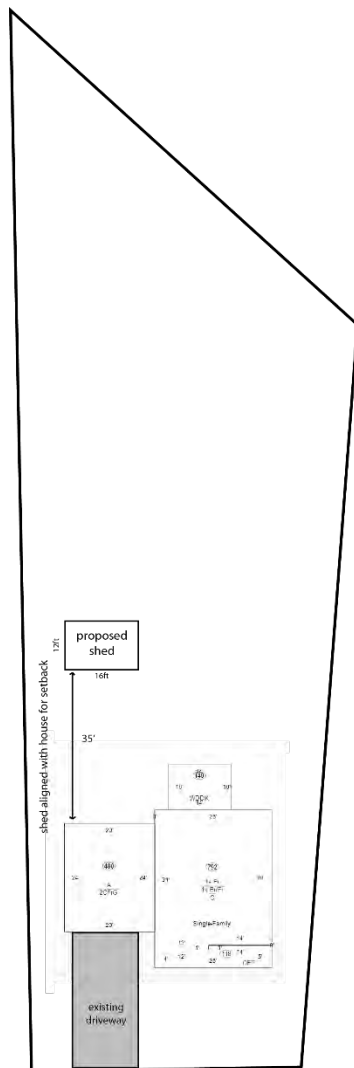
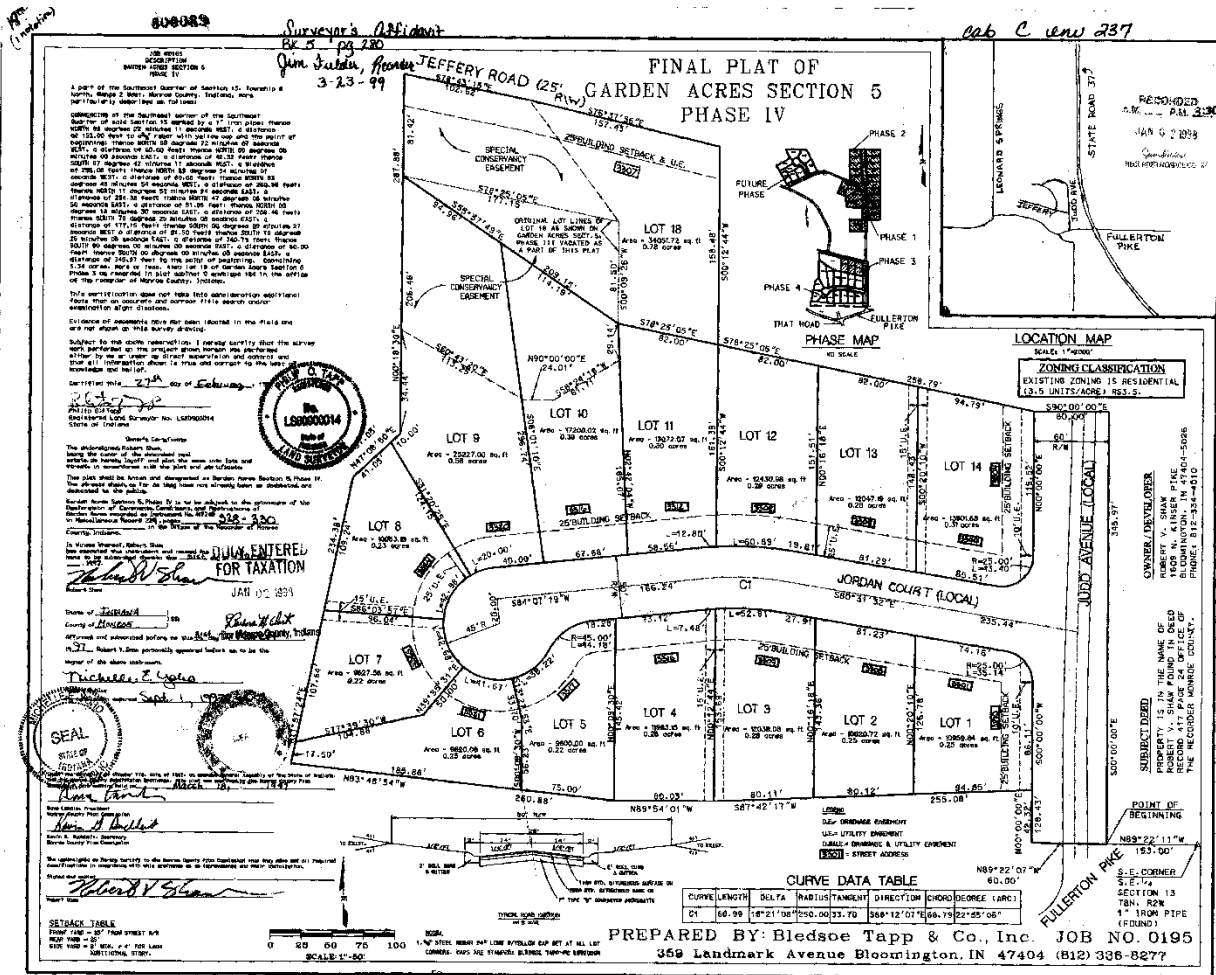


EXHIBIT 5: Contour Map



EXHIBIT 6: Plat Map





MONROE COUNTY BOARD OF ZONING APPEALS

Public Meeting Date:

August 4, 2021

CASE NUMBER	DETAIL	RECOMMENDED MOTION
VAR-21-47	Minimum Lot Size 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; any new development/construction on this property would first require a minimum lot size variance.

Variance Type: ☒ Design ☐ Use

Planner: Drew Myers

☒ Residential ☐ Commercial

PETITIONER	Allen, Larry Brig & Cathy Jean (owners & applicants)	
ADDRESS	9385 S Harrodsburg RD, 53-11- 29-400-027.000-006	
TOWNSHIP + SECTION	Clear Creek; 29	
PLATS	<input checked="" type="checkbox"/> Unplatted <input type="checkbox"/> Platted: n/a	
ACREAGE +/-	0.5	
	PETITION SITE	ADJACENT
ZONING	ER	North – UR; East – ER; South – ER; West – PUD
COMP PLAN	Designated Communities	Designated Communities
USE	Residential	North – Rsdntl; East – Vacant; South – Rsdntl; West - Vacant

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

0 0.05 0.1 0.2 Miles
 Monroe County
 Planning Department
 Source: Monroe County GIS
 Date: 7/27/2021



SUMMARY

The petitioner applied for a Residential Building Permit (R-21-234) in April 2021 to remodel 850 sq. ft. of the existing 956 sq. ft. single family residence on the property. A building permit and improvement location permit were issued for the remodel work on April 19, 2021. The petitioner then applied for a second Residential Building Permit (R-21-578) on June 23, 2021 to construct a 144 sq. ft. bathroom addition to the existing single family residence. During the Planning Department Plan Review stage, the Zoning Inspector notified the petitioner that they would need to request a minimum lot size variance as the property was less than 1.0 acres in the ER zone. The minimum lot size variance was triggered as the petitioner is now expanding the footprint of the pre-existing nonconforming residence. The proposed location of the structure has been delineated on the petitioner's site plan and will be located in an area less than 15% slope. The proposed structure will not interfere with the existing sewer connection lines. Driveway permit – not required.

DISCUSSION







The proposed 144 sq. ft. bathroom addition will not trigger the need for additional variances aside from the necessary minimum lot size variance. The use of the existing detached garage and whether or not this structure is an encroachment to on to the subject property is unknown to Planning Staff. Although the bathroom addition is not essential to the development of the lot and residential use of the property, any new development on the property would require a minimum lot size variance.

EXHIBITS - Immediately following report

1. County Slope Map 15%
2. Staff site visit photos
3. Petition Letter
4. Sewer Connection Letter
5. Petitioner Site Plan

EXHIBIT 1:

Slope Map

-  Petitioner
-  Roads
-  Parcels
-  2-Foot Contours
- 15% Slope (2010)**
 -  0 - 15
 -  > 15

PARCEL #:
53-11-29-400-027.000-006

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



EXHIBIT 2:



Photo 1: Facing North



Photo 2: Facing South



Photo 3: Facing East



Photo 4: Facing West



Photo 5: Facing Northwest



Photo 6: Facing Southwest



Photo 7: Facing Northeast



Photo 8: Facing North

EXHIBIT 3:

KOCH McAULEY & BAILEY P.C.

A Professional Corporation

Eric Allan Koch *
Jason L. McAuley *
Brian E. Bailey
Attorneys
Kristen Helton
Legal Assistant
Laura Vest
Paralegal

** Registered Civil Mediator*

RECOVERY DIVISION:
Dan Arnold
Director
Morgan Hall
Legal Assistant
Veronica Szostalo
Legal Assistant

July 6, 2021

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

RE: Minimum Lot Size Variance

Dear Members of the BZA:

Cathy Jean Allen petitions the Board of Zoning Appeals for a development standards variance for the property located at 9385 S. Harrodsburg Rd., Bloomington, Indiana 47403 (the "Property"). The Property is zoned Estate Residential and has an existing single family home but the lot is only .5 acres. The minimum lot size in Estate Residential is 1 acre. Petitioner requests a variance from the required lot size to allow for the construction of a 12' by 12' one story bathroom addition to the existing home. The Property is accessed by a private drive off of Harrodsburg Road. The building footprint will be located within required set back lines.

The lots adjacent to the Property are zoned as follows: Urban Residential to the North; Estate Residential to the East and to the South; PUD and Low Density Residential to the West. There are no designated scenic areas adjacent to the Property. There are over 50 properties within one mile zoned Suburban Residential and over 30 properties within one mile zoned Medium Density Residential. The minimum lot size variance is the minimum necessary to add any structure to the Property.

The site plan for the proposed addition is submitted with this petition.

Respectfully submitted,
KOCH McAULEY & BAILEY P.C.

By: **Jason L.
McAuley**

Jason L. McAuley

jason@lawkmb.com

Digitally signed by Jason L.
McAuley
DN: cn=Jason L. McAuley, o=Koch
McAuley & Bailey P.C., ou,
email=jason@lawkmb.com, c=US
Date: 2021.07.06 16:53:27 -0400

BLOOMINGTON OFFICE: 1720 North Kinser Pike, Suite 110 • P.O. Box 1030 •
Bloomington, Indiana 47402-1030
Telephone: (812) 337-3120 • Fax: (812) 330-4305
BEDFORD OFFICE: 1801 I Street • Bedford, IN 47421 • Telephone: (812) 279-6367
www.kochmcauley.com

EXHIBIT 4:

SOUTH CENTRAL REGIONAL SEWER DISTRICT

P.O. BOX 362, BLOOMINGTON, IN 47402 - 0362

MANAGER: BYNUM FANYO UTILITIES

(812) 334 - 8871

July 14, 2021

Monroe County
Courthouse
Bloomington, Indiana 47404

Re.: 9385 S. Harrodsburg Road
Bloomington, Indiana

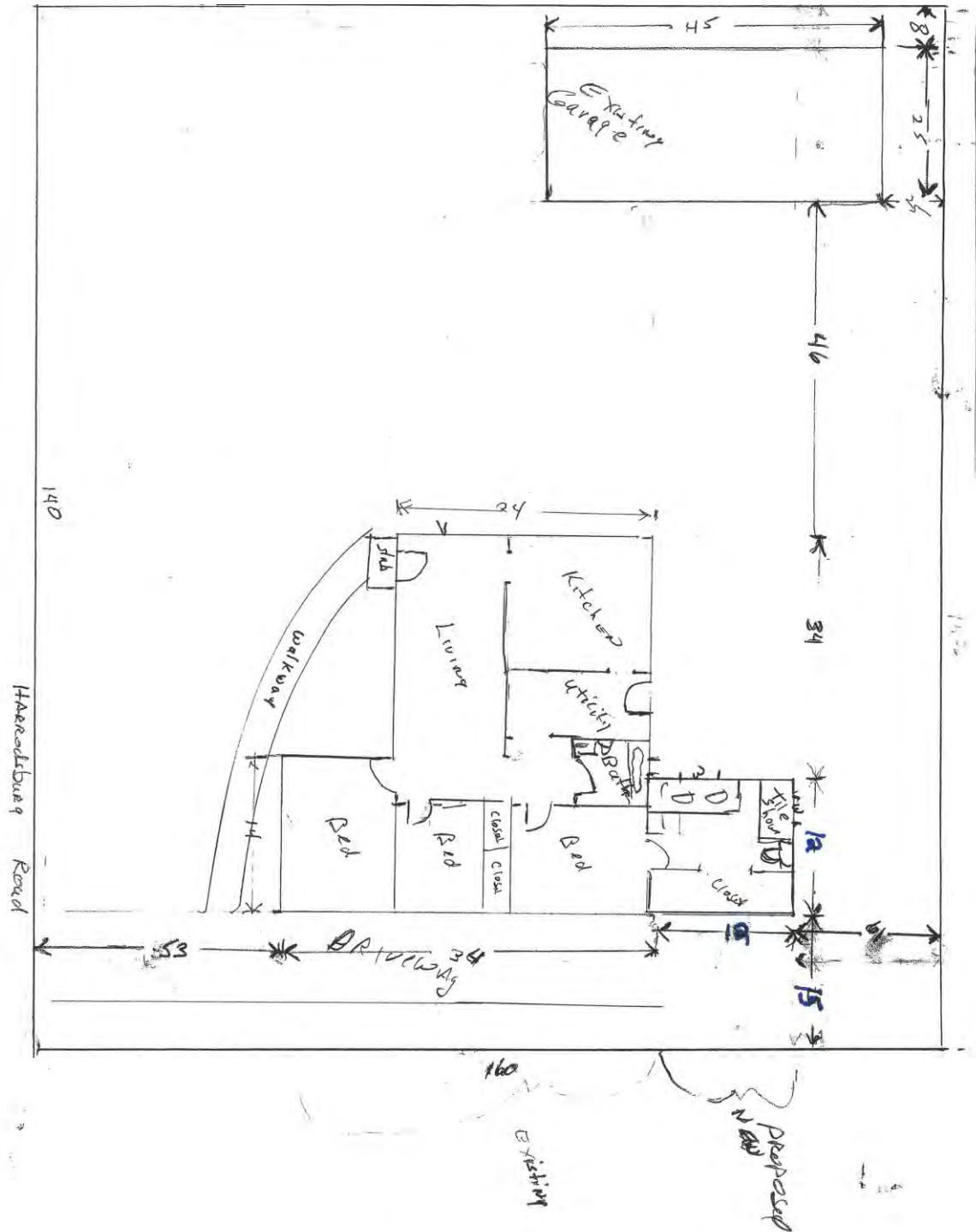
The property located at the above address is connected to the sanitary sewer system installed in the Harrodsburg area. The property was connected on March 1997 and is currently in good standing with the District.

Please contact this office if you need any additional information.

Very truly yours,

Rick Coppock
Operations Manager, SCRSD

EXHIBIT 5:

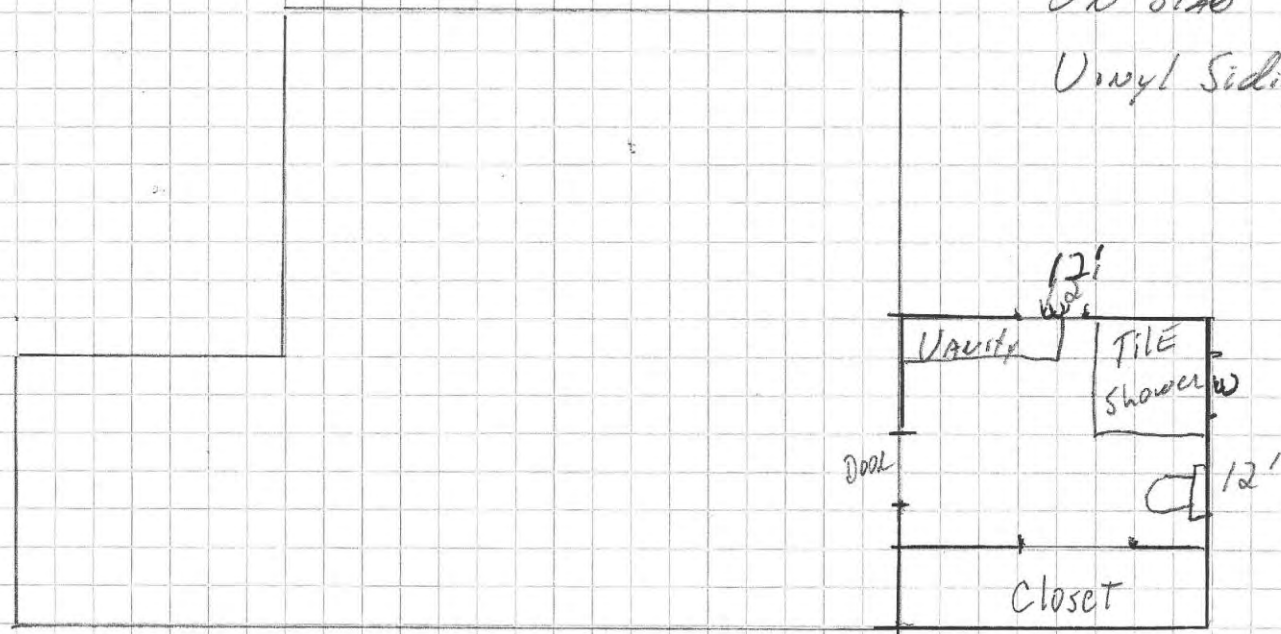


Harrodsburg House

Roof of addition
Gables into
Existing roof.

On Slab

Vinyl Siding



EXISTING HOUSE

ADDITION