

# MONROE COUNTY BOARD OF ZONING APPEALS



**Wednesday, March 1, 2023**  
**5:30 p.m.**

## **Hybrid Meeting**

### **In-person**

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

### **Virtual**

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

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

**AGENDA**  
**MONROE COUNTY BOARD OF ZONING APPEALS (BZA)**

**HYBRID MEETING**

**When:** March 1, 2023 at 5:30 PM

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

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

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

When prompted, enter the Meeting ID #: 828 9302 2439

Password: 372100

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**CALL TO ORDER**

**ROLL CALL**

**INTRODUCTION OF EVIDENCE**

**APPROVAL OF AGENDA**

**APPROVAL OF MINUTES:** December 7, 2022, January 4, 2023, February 1, 2023

**ADMINISTRATIVE BUSINESS: NONE.**

**OLD BUSINESS: NONE.**

**NEW BUSINESS:**

- 1. VAR-22-52a**      **Morical Design Standards Variance to the Environmental Constraints Overlay Area 1 from Chapter 825**
- 2. VAR-22-52b**      **Morical Design Standards Variance to the Buildable Area 15% Slope Variance from Chapter 804**  
One (1) 0.65 +/- acre parcel in Salt Creek Township, Section 35  
At 8525 E Alma ST, parcel #53-07-35-201-015.000-014  
Owner: Morical, Greg  
**Zoned SR, ECO1** Contact: [shawnsmith@co.monroe.in.us](mailto:shawnsmith@co.monroe.in.us)  
**\*\*\*WITHDRAWN BY STAFF\*\*\***
- 3. VAR-22-54**      **Wesemann Minimum Lot Size Variance to Chapter 804**  
One (1) 0.56 +/- acre parcel in Richland Township, Section 16  
At 7140 W Ratliff RD, parcel # 53-04-16-100-023.000-011  
Owner: Wesemann, Tad  
**Zoned ER.** Contact: [shawnsmith@co.monroe.in.us](mailto:shawnsmith@co.monroe.in.us)  
**\*\*\*WITHDRAWN BY STAFF\*\*\***
- 4. VAR-23-1**      **Cassady Buildable Area Variance to Chapter 804**
- 5. VAR-23-7**      **Cassady Use Variance to Detached Accessory Dwelling Unit in Chapter 802**  
One (1) 1.25 +/- acre parcel in Perry Township, Section 20 at  
4820-4830 S Rogers ST, parcel #53-08-20-400-073.000-008.  
Owner: Cassady, Randy  
**Zoned RE1.** Contact: [acrecelius@co.monroe.in.us](mailto:acrecelius@co.monroe.in.us)

**PAGE 6**

<b>6. VAR-23-2</b>	<b>Ertel &amp; Forsyth Use Variance for Detached Accessory Dwelling Unit (DADU) Use from Chapter 802</b> One (1) 2.29 +/- acre parcel in Bloomington Township, Section 36 at 4615 E State Road 45, parcel # 53-05-36-200-007.000-004. Owner: Ertel, Nicholas & Forsyth, Haley <b>Zoned RE2.5.</b> Contact: <a href="mailto:dmyers@co.monroe.in.us">dmyers@co.monroe.in.us</a>	<b>PAGE 41</b>
<b>7. VAR-23-4</b>	<b>Bloomington Self Storage Buildable Area (Special Flood Hazard Area) Variance to Chapter 804</b> One (1) 7.49 +/- acre parcel in Van Buren Township, Section 12 at 2450 S Curry PIKE, parcel #53-09-12-300-023.000-015. Owner: Curry Pike Storage LLC <b>Zoned LB.</b> Contact: <a href="mailto:dmyers@co.monroe.in.us">dmyers@co.monroe.in.us</a> ***CONTINUED BY STAFF***	
<b>8. VAR-23-5</b>	<b>Sojourn House Inc Use Variance to Group Home Class II in Chapter 802</b> One (1) 7.73 +/- acre parcel in Benton South Township, Section 33 at 7505 E Kerr Creek Road, parcel #53-06-33-200-003.000-003. Owner: Sojourn House, Inc. <b>Zoned AG/RR, ECO3.</b> Contact: <a href="mailto:jnester@co.monroe.in.us">jnester@co.monroe.in.us</a>	<b>PAGE 61</b>
<b>9. VAR-23-6</b>	<b>Taylor Minimum Lot Width Variance to Chapter 804</b> One (1) 2.5 +/- acre parcel in Richland Township, Section 21 at 2968 N Loudon RD, parcel #53-04-21-400-009.000-011. Owner: Taylor, Levi and Alexandria. <b>Zoned AG/RR.</b> Contact: <a href="mailto:shawnsmith@co.monroe.in.us">shawnsmith@co.monroe.in.us</a>	<b>PAGE 103</b>
<b>10. CDU-23-1</b>	<b>Myers Automobile Repair Services, Minor Conditional Use Request to Ch. 813</b> One (1) 6 +/- acre parcel in Richland Township, Section 11 at 8567 W Vernal Pike, parcel #53-04-32-100-005.000-011. Owner: Myers, Jerry. <b>Zoned AG/RR.</b> Contact: <a href="mailto:drbrown@co.monroe.in.us">drbrown@co.monroe.in.us</a>	<b>PAGE 110</b>
<b>11. VAR-23-8a</b> <b>12. VAR-23-8b</b>	<b>Anderson Rear Yard Setback Variance to Chapter 833</b> <b>Anderson Maximum Building Coverage Variance to Chapter 833</b> One (1) 0.53 +/- acre parcel in Perry Township, Section 1 at 4646 E Heritage Woods RD, parcel #53-08-01-100-089.000-008. Owner: Anderson, Patrick D & Sarah J <b>Zoned RE2.5.</b> Contact <a href="mailto:drbrown@co.monroe.in.us">drbrown@co.monroe.in.us</a>	<b>PAGE 123</b>
<b>13. VAR-23-9</b>	<b>Whaley Minimum Lot Size Variance to Chapter 804</b> One (1) 1.00 +/- acre parcel in Bloomington Township, Section 14 at 3000 E Bethel LN, parcel 53-05-14-300-004.000-004. Owner: Baugh Whaley Investments LLC. <b>Zoned CR.</b> Contact: <a href="mailto:drbrown@co.monroe.in.us">drbrown@co.monroe.in.us</a>	<b>PAGE 132</b>
<b>14. VAR-22-34</b>	<b>AMENDED: Arnold General Contractor Use Variance (Lot A) to Chapter 802</b>	<b>PAGE 144</b>

One (1) 5.78 +/- acre parcel in Washington Township, Section 24  
at 7850 N Wayport RD, parcel # 53-02-28-100-006.000-017.  
Owner: Ah & Sh LLC.  
**Zoned AG/RR.** Contact: [dmyers@co.monroe.in.us](mailto:dmyers@co.monroe.in.us)

**15. VAR-22-36**

**AMENDED: Arnold General Contractor Use Variance (Lot B)  
to Chapter 802**

**PAGE 144**

One (1) 6.2 +/- acre parcel in Washington Township, Section 24  
at 7854 N Wayport RD, parcel #53-02-28-100-002.000-017.  
Owner: Ah & Sh LLC.  
**Zoned AG/RR.** Contact: [dmyers@co.monroe.in.us](mailto: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](mailto:PlanningOffice@co.monroe.in.us) or by phone (812) 349-2560 for the direct web link to this virtual meeting.

Written comments regarding agenda items may only be submitted by email until normal public meetings resume. Please submit correspondence to the Board of Zoning Appeals at: [PlanningOffice@co.monroe.in.us](mailto:PlanningOffice@co.monroe.in.us) no later than March 1, 2023 at 4:00 PM.

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

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

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

The meeting will be open to the public via ZOOM.



**812-7-8:** All variance approvals shall be considered to be conditional approvals. The Board shall have the authority to impose specific conditions as part of its approval in order to protect the public health, and for reasons of safety, comfort and convenience (e.g., to insure compatibility with surroundings). Variance approval applies to the subject property and may be transferred with ownership of the subject property subject to the provisions and conditions prescribed by or made pursuant to the Zoning Ordinance.

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

- (A) The approval, including any conditions or commitments deemed appropriate, will not be injurious to the public health, safety, and general welfare of the community, because:
- (1) *It would not impair the stability of a natural or scenic area;*
  - (2) *It would not interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities;*
  - (3) *The character of the property included in the variance would not be altered in a manner that substantially departs from the characteristics sought to be achieved and maintained within the relevant zoning district. That is, the approval, singularly or in concert with other approvals - sought or granted, would not result in a development profile (height, bulk, density, and area) associated with a more intense zoning district and, thus, effectively re-zone the property; and,*
  - (4) *It would adequately address any other significant public health, safety, and welfare concerns raised during the hearing on the requested variance;*
- (B) The approval, including any conditions or commitments deemed appropriate, would not affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner, because:
- (1) *The specific purposes of the design standard sought to be varied would be satisfied;*
  - (2) *It would not promote conditions (on-site or off-site) detrimental to the use and enjoyment of other properties in the area (e.g., the ponding of water, the interference with a sewage disposal system, easement, storm water facility, or natural watercourse, etc.); and,*
  - (3) *It would adequately address any other significant property use and value concerns raised during the hearing on the requested variance; and,*
- (C) The approval, including any conditions or commitments deemed appropriate, is the minimum variance necessary to eliminate practical difficulties in the use of the property, which would otherwise result from a strict application of the terms of the Zoning Ordinance.

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

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

- (A) The approval will not be injurious to the public health, safety, and general welfare of the community;
- (B) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- (C) The need for the variance arises from some condition peculiar to the property involved;
- (D) The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and,
- (E) The approval does not interfere substantially with the Comprehensive Plan. Especially, the five (5) principles set forth in the Monroe County Comprehensive Plan:
- (1) *Residential Choices*
  - (2) *Focused Development in Designated Communities*
  - (3) *Environmental Protection*
  - (4) *Planned Infrastructure Improvements*
  - (5) *Distinguish Land from Property*



## MONROE COUNTY BOARD OF ZONING APPEALS

**Public Meeting Date:                      March 1, 2023**

<b>PETITIONER</b>	Randy Cassady	
<b>ADDRESS</b>	4830 & 4820 S Rogers ST, parcel #53-08-20-400-073.000-008	
<b>TOWNSHIP + SECTION</b>	Perry, 20	
<b>PLATS</b>	<input checked="" type="checkbox"/> Unplatted <input type="checkbox"/> Platted:	
<b>ACREAGE +/-</b>	0.648	
	<b>PETITION SITE</b>	<b>ADJACENT</b>
<b>ZONING</b>	RE1	RE1, Joseph Green PUD
<b>COMP. PLAN</b>	MCUA Open Space	MCUA Open Space, MCUA Mixed Residential
<b>USE</b>	Two - Single Family Dwellings on one lot of record	Single Family Residential, Mixed Use (currently vacant)

### OVERVIEW

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

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



## GENERAL BACKGROUND

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

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

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

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

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

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

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

812-6 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:***

Recommended conditions for VAR-23-1

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

<b>Variance Type:</b>	<input checked="" type="checkbox"/> Design <input type="checkbox"/> Use	<b>Planner:</b> Anne Crecelius
	<input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial	

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

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

Chapter 808 defines “Special Flood Hazard Area” (SFHA) as “those lands within the jurisdiction of Monroe County and the Town of Stinesville subject to inundation by the regulatory flood. The SFHAs of Monroe County and the Town of Stinesville are generally identified as such on the Monroe County, Indiana and Incorporated Areas Flood Insurance Rate Map dated December 17, 2010 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).”

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

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

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

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

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

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

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

<b>Variance Type:</b>	<input type="checkbox"/> Design <input checked="" type="checkbox"/> Use <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial	<b>Planner:</b>	Anne Crecelius
<b>VAR-23-7 Use Variance for a Detached Accessory Dwelling Unit - BACKGROUND</b>			

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

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

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

**Detached Accessory Dwelling Units**

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

The following design criteria also apply to accessory dwelling units:

Detached accessory dwelling unit (DADU) requirements:

1. A DADU is limited to 1,000 square feet of residential space.
- 2. The DADU must meet current standards of the residential, building, mechanical, electrical, energy, and environmentally critical areas codes.**
3. One off-street parking space is required for the DADU.
4. A manufactured home may not be used as an accessory dwelling unit if it was constructed prior to January 1, 1981.
- 5. A DADU must have a permanent connection to either an approved septic system or**

sewer system.

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

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

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

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

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

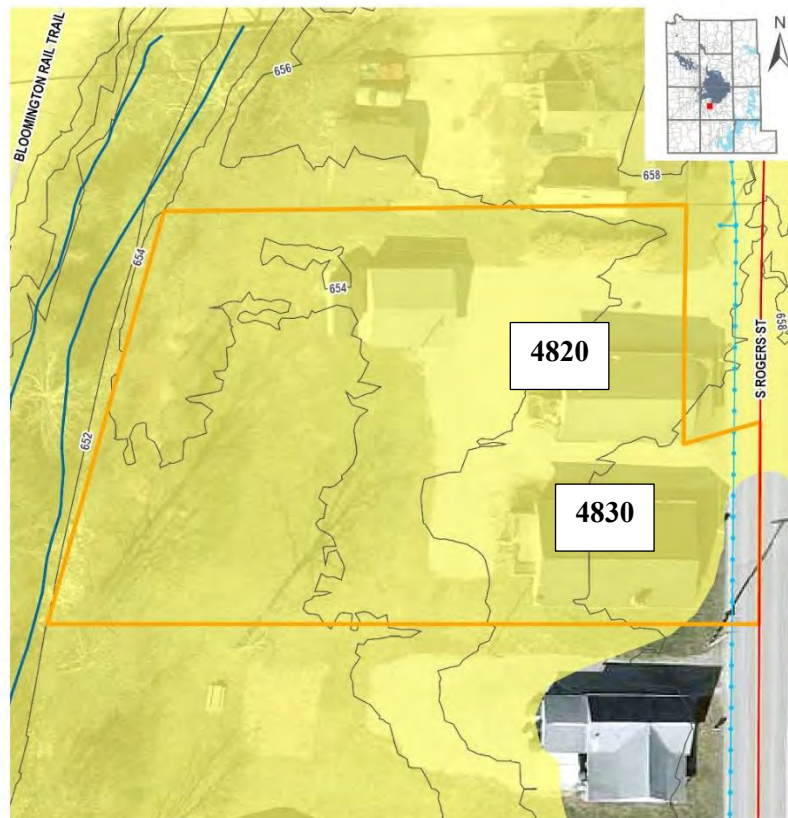
#### Site Conditions Map

- Minor Collector [60']
  - Petitioner
  - Water Pipe
  - Storm Water
  - 2-Foot Contours
  - Local Roads [50']
  - Hydrologic Features
- DNR Best Available Data**
- Flood Zone**
- AE and FLOODWAY
- Parcels**
- Critical Watersheds**
- West Fork Clear Creek/Clear Creek

0 15 30 60 Feet



Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 2/21/2023



#### EXHIBITS

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



9. Permitted Uses under RE1 per Ch 833
10. Enforcement Letter Dated November 16, 2022
11. [Drainage Board Meeting Packet – January 2023 – Clear Creek Flooding Concerns \(starting on pg 32\)](#)

<b>EXHIBIT 1: Petitioner's Letter</b>
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TO: Monroe County Planning Department

ATTN: Tammy Berhman

Re: 4830/4820 S Rogers Street

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

DNR Approval Letter

Plans - Cassady Carriage House

Certified Plot Plan

CBU Approval Letter

Approved utility plan (page 6 of 9)

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

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

Certified Plot Plan submitted from above

Aerial photo

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

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

Dear Planning Staff,

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

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

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

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

See the following page for a list of documents submitted.

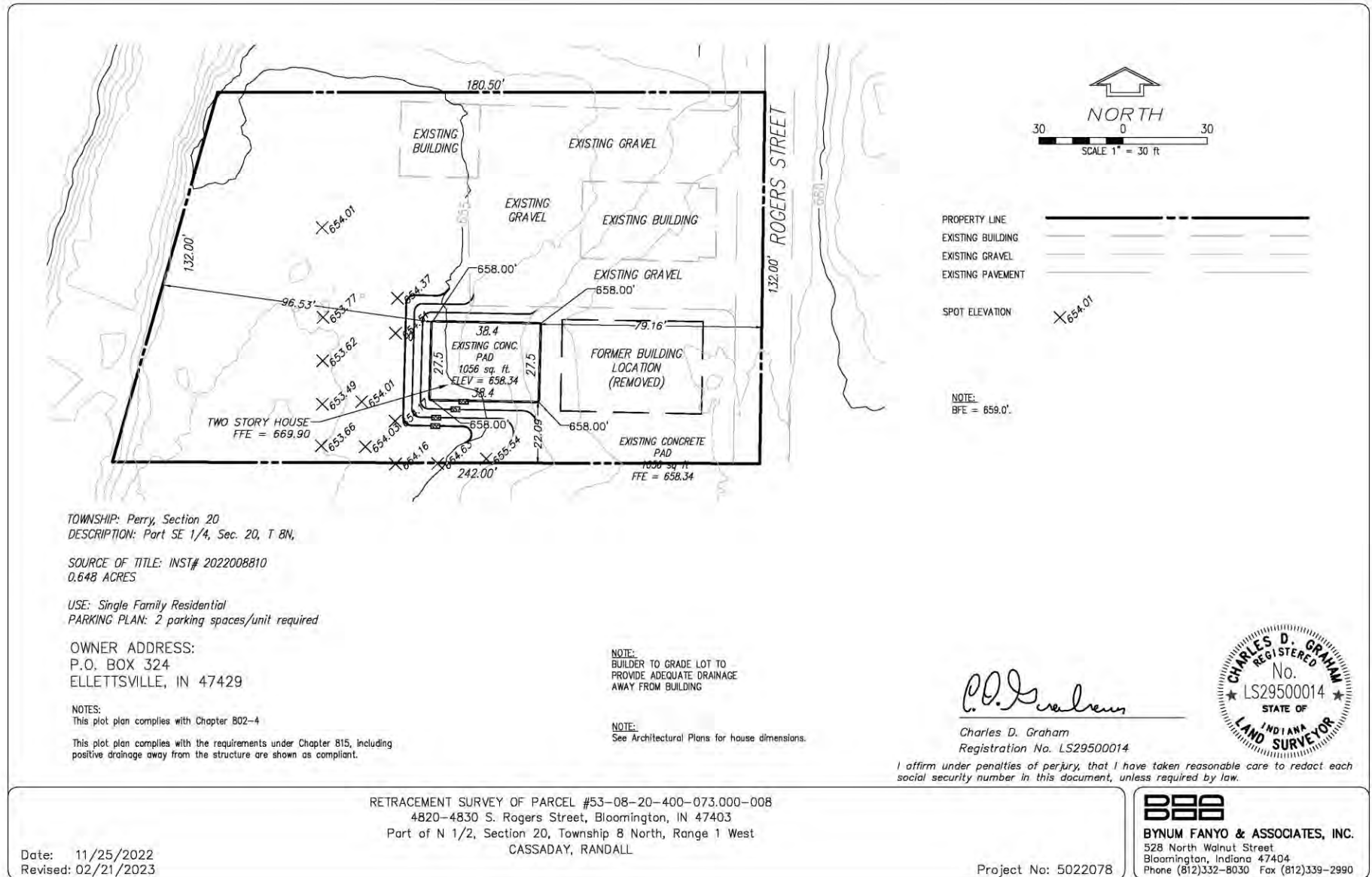
It is requested that the Monroe County Planning Department make a decision/determination to approve or deny this application in writing within 7 business days of this information being submitted to the Monroe County Planning Department.

Yours Truly,

Randy Cassady



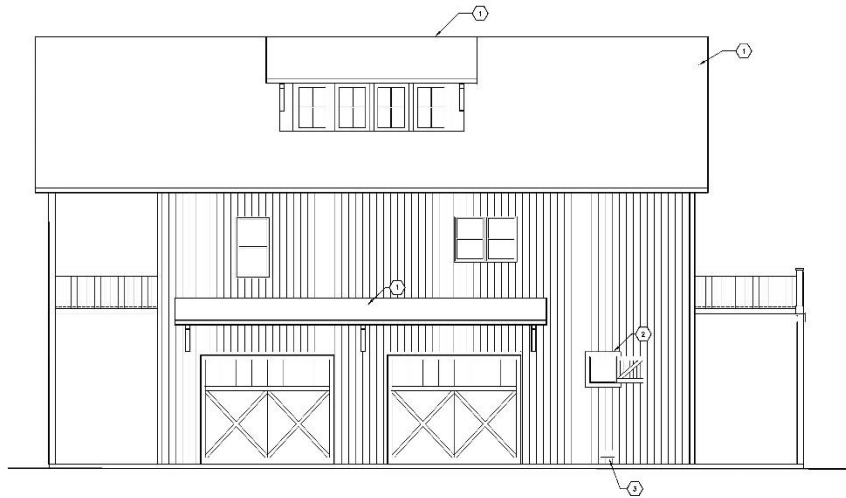
## EXHIBIT 2: Certified Plot Plan



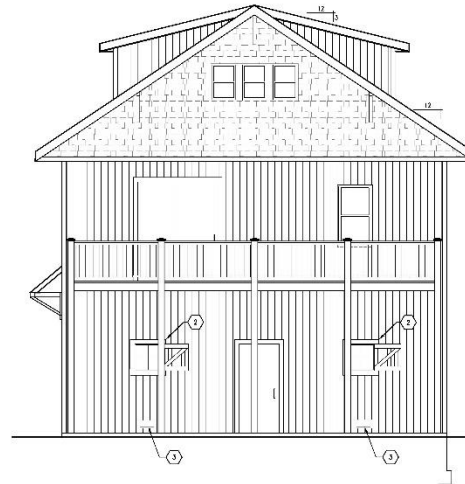
J:\CURRENT\2022\Residential\0122 - Cassidy Carriage House (TINER - Randy Cassidy)\Design\Construction\AL101 Floor Plan.dwg, AL101 R.svd, 11/17/2022 4:40:13 PM



TITLE BLOCK AND ELEVATIONS ARE THE PROPERTY OF TABOR BRUCE ARCHITECTURE & DESIGN INC. ALL RIGHTS RESERVED. NO PART OF THIS DOCUMENT MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT PERMISSION IN WRITING FROM TABOR BRUCE ARCHITECTURE & DESIGN INC.



**1** EXTERIOR ELEVATION  
NORTH SIDE  
1/4" = 1'-0"



**2** EXTERIOR ELEVATION  
WEST SIDE  
1/4" = 1'-0"

**NOTES:**

1. ABOVE OR RESIDENCE WILL BE RECONSTRUCTED OR RECONSTRUCTED WITH APPROXIMATELY 1/2" OF THE ROOF OR FLOORING MATERIALS OF THE ABOVE OR RESIDENCE INCLUDING FROM HYDROPHOBIC AND HYDROPHOBIC LAMINATE INCLUDING THE EFFECTS OF IMPACTS.
2. PORTIONS OF THE RECONSTRUCTED ABOVE OR RESIDENCE BELOW THE BASE FLOOR ELEVATION SHALL NOT BE RECONSTRUCTED WITH MATERIALS CONSISTENT TO EXISTING ABOVE.
3. ABOVE OR RESIDENCE WILL BE RECONSTRUCTED BY METHODS AND PRACTICES THAT MINIMIZE FLOOD DAMAGES.
4. ABOVE OR RESIDENCE WILL BE RECONSTRUCTED WITH ELECTRICAL, HEATING, VENTILATION, PLUMBING, AND GAS CONFORMING TO CURRENT CODES AND STANDARDS. SERVICE FACILITIES SHALL BE RECONSTRUCTED AND LOCATED IN "ROCKET" WATER FLOOD DETENTION OR HOLDING TANKS WITHIN THE CONCRETE, DURING CONSTRUCTION OF "ROCKET".

**ELEVATION KEYNOTES:**

1. DRAINAGE SYSTEM TO BE CHOSEN BY OWNER.
2. 1/2" SQUARE VENTILATION WITH CLOSURE INTENT TO BE CHOSEN BY OWNER.
3. 1/2" SQUARE VENTILATION WITH CLOSURE INTENT TO BE CHOSEN BY OWNER.



PROVISIONS

A RENOVATION PROJECT FOR THE:  
**CASSIDY CARRIAGE HOUSE**  
4830 S. ROGERS ST.  
BLOOMINGTON, INDIANA 47401

PROJECT NO.: 000000  
DATE: 05/01/2022

DRAWN BY: J. BRUCE

CHECKED BY: J. BRUCE

DATE: 05/01/2022

PROJECT NO.: 000000

PROPOSED  
EXTERIOR  
ELEVATIONS

DATE: 05/01/2022

**AE201**



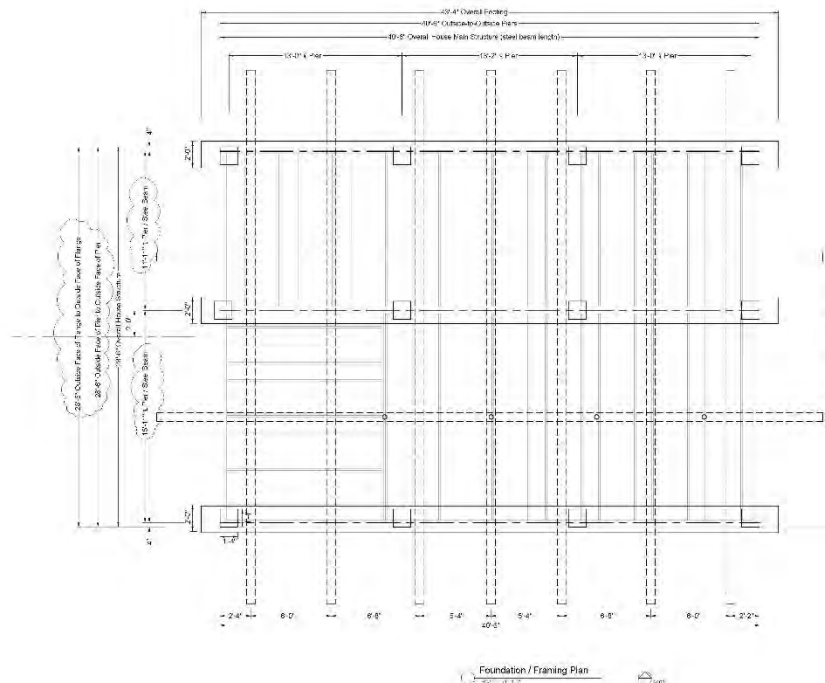
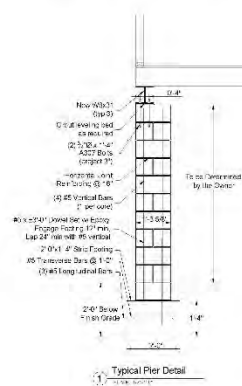
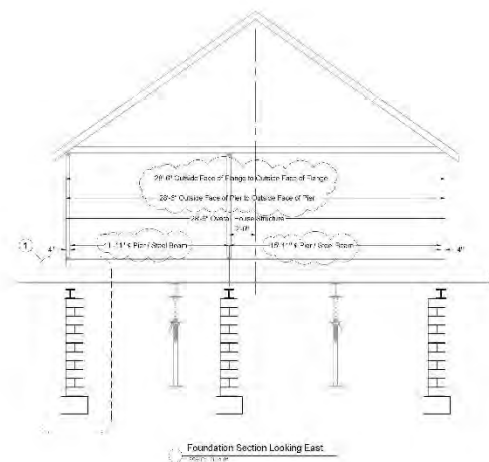
CONSTRUCTIONS

A RENOVATION PROJECT FOR THE:  
**CASSIDY CARRIAGE HOUSE**  
4830 S. ROGERS ST.  
BLOOMINGTON, INDIANA 47401

PROJECT NO. 2022  
DATE: 01/12/2022  
DRAWN BY: L. VANDERKAM  
CHECKED BY: T. HODGE  
SCALE: 1/4" = 1'-0"

PROPOSED  
EXTERIOR  
ELEVATIONS

AE202



GENERAL NOTES:  
 1. Concrete for footing to be 3000 psi.  
 2. Columns are to be 2000 psi.  
 3. All steel joists are to be 2000 psi.  
 4. All steel joists are to be 2000 psi.  
 5. All steel joists are to be 2000 psi.

revisions:  
 Change No. Description  
 01/15/2022

Drawn by: JDC

STRUCTURAL  
 ENGINEERING  
 BROWNE ENGINEERING  
 1000 S. 10th Street  
 Bloomington, IN 47403

**BROWNE**  
 BROWNE ENGINEERING, INC.

checked by:

Cassidy Residence  
 New Pier Foundation System  
 South Rogers Street  
 Bloomington, Indiana

Title: Foundation & Pier  
 Details

S1

Sheet No.:  
 project no.: 702200-MISC

**EXHIBIT 4: Enforcement Timeline**

6-1-22	The MS4 Coordinator had a conversation in with Mr. Cassady and informed him that a Waterways Inquiry would be required through IDNR.
7-8-22	Complaint came in through Building Department. Building Dept. staff called Mr. Cassady and asked them to apply for permit (submitted same day).
7-12-22	Zoning Inspector explained to Mr. Cassady through the application that a better plot plan is needed.
7-14-22	Assistant Director/ Floodplain Administrator explained through online application that an Indiana Waterways Inquiry needed to be completed due to Floodway location.
7-18-22	After receiving photo of house from Building, Planning staff decided to do a site visit as it appeared the house had been moved and elevated.
7-20-22	The Zoning Inspector and Assistant Director/Floodplain Administrator performed a site visit and spoke with Mr. Cassady. It was confirmed the home at 4830 S Rogers St was moved and altered without any permits. Afterwards, Mr. Cassady came into the Planning Office and scheduled a meeting for the following week.
7-21-22	Building Department issued a Stop Work Order.
7/25/22	Meeting with the Director, Assistant Director/Floodplain Administrator, Mr. Cassady, and two family members. Reviewed certified plot plan requirements and reviewed planning options.
7-29-22	Received certified mail from Doug Graham of Bynum Fanyo stating he would begin work on a certified plot plan on or before September 13, 2022
8/1/2022	Due to safety concerns the Building Dept. requested Mr. Cassady permanently stabilize the elevated structure.
8/29/2022	Assistant Director called Mr. Cassady to provide updates since no record of a Waterway Inquiry was found during a follow up with DNR.
11-16-22	Enforcement Letter sent requesting that following information with the deadline to respond by 11-28-2022  <b>1. What is the status of the Certified Plot Plan?</b> <b>2. What is the status of submitting a stamped design to the Building Department?</b> <b>3. Submit to Planning staff evidence that a Waterways Inquiry Request was made.</b> <b>4. Submit update on state permit EA-40447.</b> <b>5. Please inform us of your plans for sewage disposal and grey water treatment?</b>
11-22-22	Walk-in meeting between Mr. Cassady, the Director, and Assistant Director/Floodplain Administrator. Responses to 11-16-22 enforcement letter. – <b>See Exhibit 10.</b>
11-28-22	Email between Doug Wagner (IN DNR) and Mr. Cassady provided to Planning Staff. Advised on how to submit Waterway Inquiry. Provided information about structure

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

## EXHIBIT 5: Certified Plot Plan



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

12/16/2022  
Basin 21

Randy Cassady  
PO Box 324  
Ellettsville, IN 47429

Re: EA-40447, Clear Creek, Monroe County

Dear Mr. Cassady,

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

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

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

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

- The lowest floor must be built to or above the FPG of 661.0 feet, NAVD88 which is at least two (2) feet above the BFE;  
*Please be informed that recent historic flood events may show that the floodwaters in the vicinity reached a higher elevation than the BFE stated above in the second paragraph. Although the federal, state, and local regulations only require that the residence be elevated two (2) feet above the BFE in order to meet the FPG, the floodwater of recent historic flood events may have exceeded the FPG. Therefore, the Division of Water recommends the lowest floor be elevated at least to the floodwater levels of the recent historic flood event if it is higher than the FPG to minimize future flood damage to the building and personal property.*
- Any enclosure below the FPG, cannot be converted into habitable space;
- All flood vents (openings) must remain open and unobstructed at all times to allow for the automatic entry and exit of floodwaters;
- The reconstruction must not deviate from the project description summarized above and plans received at our office on October 26, 2022. Any deviation from the reviewed plans will require another review by this office.

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

An Equal Opportunity Employer  
Printed on Recycled Paper



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

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

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

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

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

Sincerely,



Nicholas Males  
Senior Environmental Manager, Technical Services  
Division of Water

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

Enclosure: EA-40447\_FloodplainMap

\* The word residence used in this letter refers also to an abode

\*\* Base Flood Elevation (also referred to as the BFE or regulatory flood): is based on a 1 percent chance that a flood event would equal or exceed this elevation in any year at the site

\*\*\* Applies to NFIP Participating Communities in accordance with 44CFR § 60.3(b)(5)



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

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

Map Source: FIRM

File Number: EA-40447

**Note**

This map does not reflect changes or amendments which may have been made subsequent to the effective date

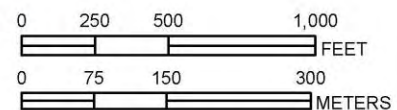


N

MAP SCALE 1" = 500'

**Legend**

- Tract Boundaries
- Floodway Zone AE
- Community Boundaries



Date: 10/28/2022

## EXHIBIT 6: January 6, 2023 Meeting Discussion Points

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

### General Planning Review Notes:

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

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

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

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



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

Floodplain Administrator Review Notes:

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

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

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

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

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

**808-5. Provisions for Flood Hazard Reduction.**

**(A) General Standards.**

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

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

- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
- (4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (9) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of “new construction” as contained in this ordinance.
- (10) Parking lots, driveways, and sidewalks within the SFHA shall be constructed with permeable materials.

The link to apply for a Design Standards Variance is located on OpenGov here:

<https://monroecountyin.viewpointcloud.com/categories/1085/record-types/6478>

The link to apply for a Residential Demolition Permit is located on OpenGov here:

<https://monroecountyin.viewpointcloud.com/categories/1083/record-types/6604>

Let me know if you need access to any of the other applications listed in the review notes.

Resources:

[https://www.fema.gov/sites/default/files/2020-08/FEMA\\_P-312.pdf](https://www.fema.gov/sites/default/files/2020-08/FEMA_P-312.pdf)



# Homeowner's Guide to Retrofitting

Six Ways to Protect Your Home From Flooding

FEMA P-312, 3<sup>rd</sup> Edition / June 2014

[https://www.fema.gov/sites/default/files/2020-07/fema\\_p-348\\_protecting\\_building\\_utility\\_systems\\_from\\_flood\\_damage\\_2017.pdf](https://www.fema.gov/sites/default/files/2020-07/fema_p-348_protecting_building_utility_systems_from_flood_damage_2017.pdf)



# Protecting Building Utility Systems From Flood Damage

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

FEMA P-348, Edition 2 / February 2017



FEMA



[https://www.fema.gov/sites/default/files/2020-07/fema\\_tb\\_2\\_flood\\_damage-resistant\\_materials\\_requirements.pdf](https://www.fema.gov/sites/default/files/2020-07/fema_tb_2_flood_damage-resistant_materials_requirements.pdf)



# Flood Damage-Resistant Materials Requirements

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

*Technical Bulletin 2 / August 2008*



**FEMA**



**EXHIBIT 7: Site Photos 2022 and 2023**



**July 2022 Photo before stabilization**



**All following photos taken February 2023 after stabilization**

























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



**State of Indiana  
Department of Natural Resources**



**PERMIT AMENDMENT APPROVAL**

**Application #: FW-30153-2**

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

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

**Amendment Issued By:**

*Nicholas J. Males*

**Mail Date:** 01/24/2023

Nicholas Males, Division of Water

**Permit Effective Date:** 06/08/2020

**Permit Expiration Date:** 05/20/2024

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**PROJECT INFORMATION:**

Waterbody: Clear Creek

County: Monroe

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

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

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

---

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

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

---



## **PERMIT CONDITIONS:**

### **DNR PROJECT SPECIFIC PERMIT CONDITIONS**

- 1.) Backfill the trench to existing ground elevations.
- 2.) Obtain the prior written approval of the Department for any additional construction, excavation or filling in or on the floodway\* beyond the scope of the project.

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

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

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

Point of Contact: Amanda McCollum, Division of Water

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

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## **RIGHT TO ADMINISTRATIVE REVIEW:**

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

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

---

## **SERVICE LIST:**

### Applicant(s):

Blind Squirrels LLC, Tamby Wikle-Cassady PO Box 605, Clear Creek, IN 47426

### Agent(s):

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

### Adjacent Landowners and Interested Parties:

Monroe County Planning Department, Larry J Wilson, 501 North Morton Street, Suite 224, Bloomington, IN 47404

Howard and Shelly Bruce, 3417 South Claybridge Drive, Bloomington, IN 47401

Abington Emerson Investments LLC, 11100 Santa Monica Blvd Suite 26, Los Angeles, CA 90025

Lonnie Baker, 4788 South Rogers Street, Bloomington, IN 47403

Thomas Bird, 4898 South Rogers Street, Bloomington, IN 47403

Glenn Goodroad, 10839 Breaking Rocks Drive, South Bend, FL 33647

J Alexander Properties LLC, 2608 East Nora Hill Drive, Bloomington, IN 47401

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

Courtesy Notification:

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

---

**ADDITIONAL PERMITTING AGENCIES:**

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

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

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

### Estate Residential 1 Permitted and Conditional Uses

Monroe County Zoning Ordinance Chapter 802 & Chapter 833

USES	RE1
Bed and breakfast	C
Cemeteries	P
Churches	C
Crops and pasturage	P
Day care centers	C
Fire stations	C
Golf courses	C
Historic adaptive reuse	C
Home occupations	C
Parks and playgrounds	P
Police stations	C
Public libraries/museums	C
Rehabilitative facilities	C
Residential care homes for developmentally disabled individuals	P
Residential care homes for mentally ill	P
Residential care homes for up to five individuals, other than the developmentally disabled	P
Schools	C
Single family detached dwellings	P
Swim clubs	C
Tennis clubs	C
Utility substations and transmission facilities	P

(i) Use Intensity  
(P) Permitted  
(C) Conditional  
(RE1) Estate Residential 1

Created December 2019

## EXHIBIT 10: Enforcement Letter Dated November 16, 2022

### MONROE COUNTY PLAN COMMISSION

and office of the

### MONROE COUNTY BOARD OF ZONING APPEALS

Monroe County Government Center, 501 N. Morton St., Suite 224

Bloomington, IN 47404

Telephone: (812) 349-2560 / Fax: (812) 349-2967

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



November 16, 2022

Randall Cassady

PO Box 324

Ellettsville, In 47429

### RE: Floodplain Violations Information Request

Dear Mr. Cassady,

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

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

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

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

Sincerely,

Tammy Behrman, AICP

Assistant Director Monroe County Planning 812.349.2560



## MONROE COUNTY BOARD OF ZONING APPEALS

Public Meeting Date:

March 1, 2023

CASE NUMBER	DETAIL	RECOMMENDED MOTION
VAR-23-2	Use Variance to allow Detached Accessory Dwelling Unit	Denial

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

*In order to approve a use variance, the Board must find that:*

- A. the approval will not be injurious to the public health, safety, and general welfare of the community;*
- B. the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;*
- C. the need for the variance arises from some condition peculiar to the property involved;*
- D. the strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and,*
- E. the approval does not interfere substantially with the Comprehensive Plan. Especially, the five (5) principles set forth in the Monroe County Comprehensive Plan:*
  - 1. Residential Choices*
  - 2. Focused Development in Designated Communities*
  - 3. Environmental Protection*
  - 4. Planned Infrastructure Improvements*
  - 5. Distinguish Land from Property*

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

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

Deny the use variance (Detached Accessory Dwelling Unit) to Chapter 802 based on the findings of fact. There is no substantial evidence the property cannot be utilized under one of the permitted uses listed in the RE2.5 zoning district, and therefore does not meet criteria 812-5(D).

<b>Variance Type:</b> <input type="checkbox"/> Design <input checked="" type="checkbox"/> Use <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial		<b>Planner:</b> Drew Myers	
<b>PETITIONER</b>	Ertel, Nicholas & Forsyth, Haley (owners & applicants)		
<b>ADDRESS</b>	4615 E State Road 45 53-05-36-200-007.000-004		
<b>TOWNSHIP + SECTION</b>	Bloomington Township, Section 36		
<b>PLATS</b>	<input checked="" type="checkbox"/> Unplatted <input type="checkbox"/> Platted:		
<b>ACREAGE +/-</b>	229 acres		
	<b>PETITION SITE</b>	<b>ADJACENT</b>	
<b>ZONING</b>	RE2.5	RE2.5 and LB	
<b>CDO ZONE</b>	MCUA Rural Transition	MCU Rural Transition; Farm and Forest	
<b>USE</b>	Single-family Residential	Single-family Residential;	



## EXHIBITS

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

## SUMMARY

The petitioner is requesting a Use Variance to establish a “Detached Accessory Dwelling Unit” at 4615 E State Road 45 on 2.29 acres. The subject property is zoned Estate Residential 2.5 (RE2.5) and currently exhibits the land use of single-family residential. The petitioner intends to remodel an existing detached outbuilding into an approximately 500 sq. ft. detached accessory dwelling unit (DADU) with an attached garage and greenhouse. The petitioner intends to connect the accessory structure to an existing septic system that will be upgraded as part of a bedroom addition to the primary residence. See WW-23-13 for more information on the septic permit.

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

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

The use of a Detached Accessory Dwelling Unit (DADU) is only permitted in the AG/RR, FR, and CR zoning districts and is subject to special conditions #53 and #55.

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

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

*The following design criteria also apply to accessory dwelling units:*

*Detached accessory dwelling unit (DADU) requirements:*

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



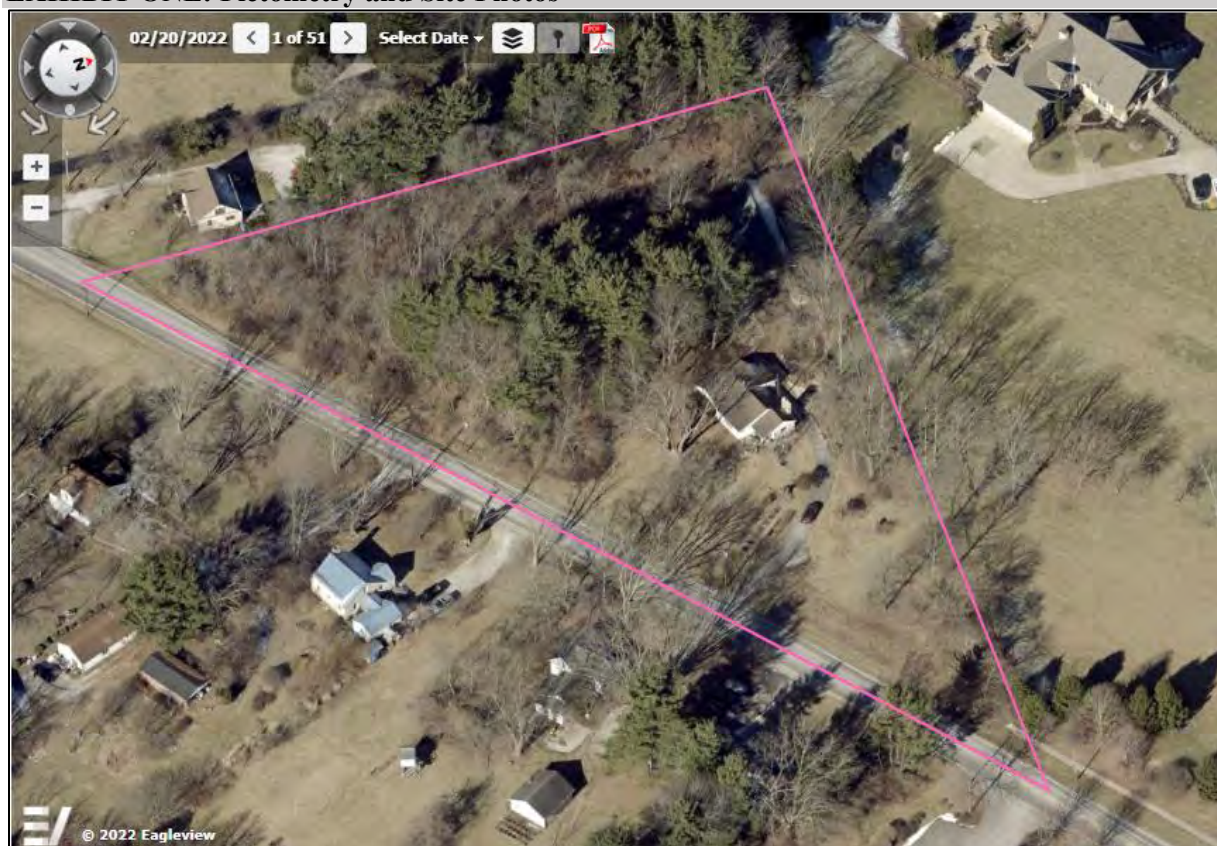
If the use variance is approved, the petitioner will be required to submit a residential building permit application and comply with all other building and zoning codes. If the use variance is approved, several design standards will require additional variance approval. For example, the subject property does not meet the minimum lot size requirement of 5 acres as required by condition #53. Additionally, the existing structure to be converted into the DADU will not meet the required side yard setback.

### **Estate Residential 2.5 (RE2.5) District**

**Estate Residential 2.5 (RE2.5) District.** The intent of this district is to required minimum lot sizes of 2.5 acres where sensitive environmental resources exist. Such environmental resources may include karst formations, wetlands, hillsides, heavily wooded land, and the lake's watersheds. The dual purposes of this district are:

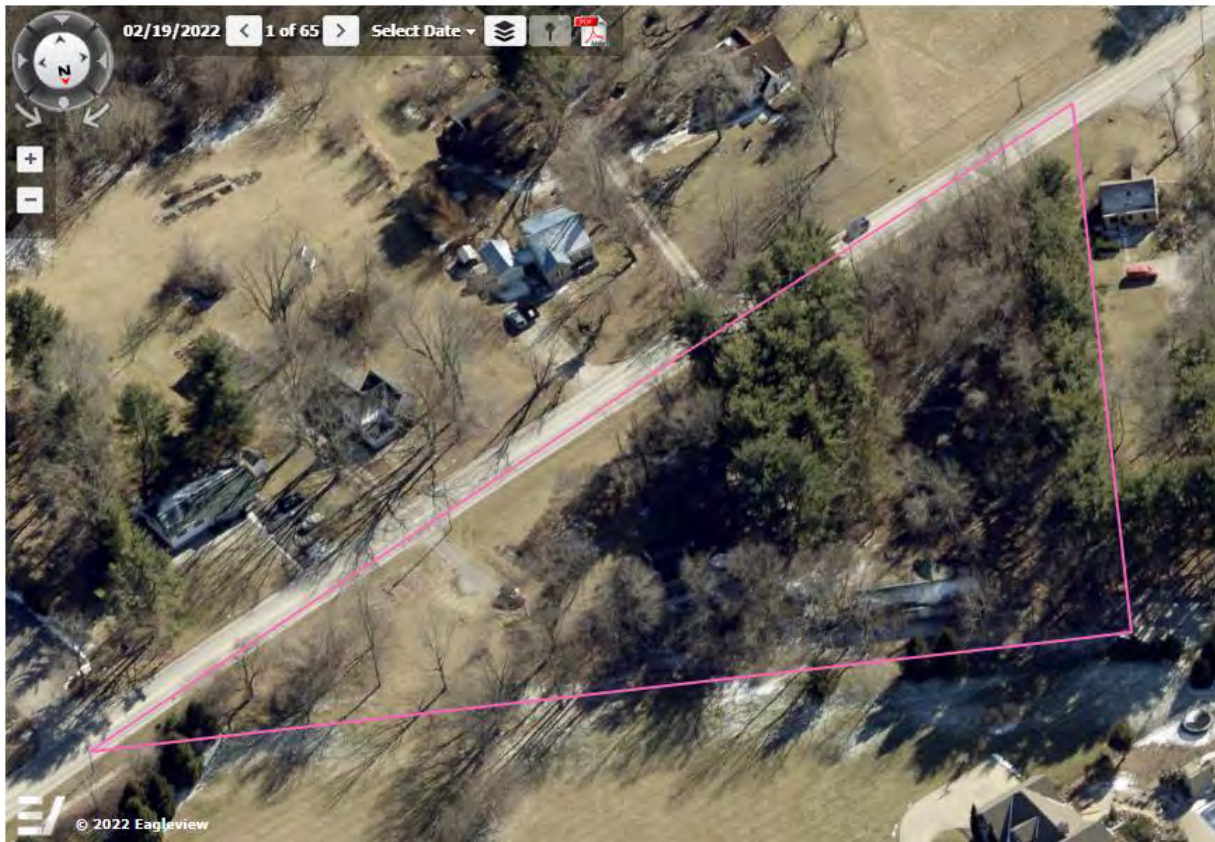
- A. To protect such sensitive environmental resources.
- B. To permit a rural level of development which will not endanger and can be used to protect these sensitive resources.

### **EXHIBIT ONE: Pictometry and Site Photos**



**Photo 1** – view from East





**Photo 2** – view from North



**Photo 3** – facing southwest; E State Road 45





**Photo 4** – facing northeast; E State Road 45



**Photo 5** – facing northwest; existing single family residence





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



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





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



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





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



**Photo 11** - facing south; proposed septic field





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



**Photo 13** – facing east; side yard setback encroachment





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

## EXHIBIT TWO: Petitioner Letter & Owner Consent

Dear Board of Zoning Appeals,

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

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

- a. *the approval will not be injurious to the public health, safety, and general welfare of the community*
- b. *the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner*

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

In regards to section c of the building codes:

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

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

In regards to section d of the building codes:

- d. *the strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought*

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

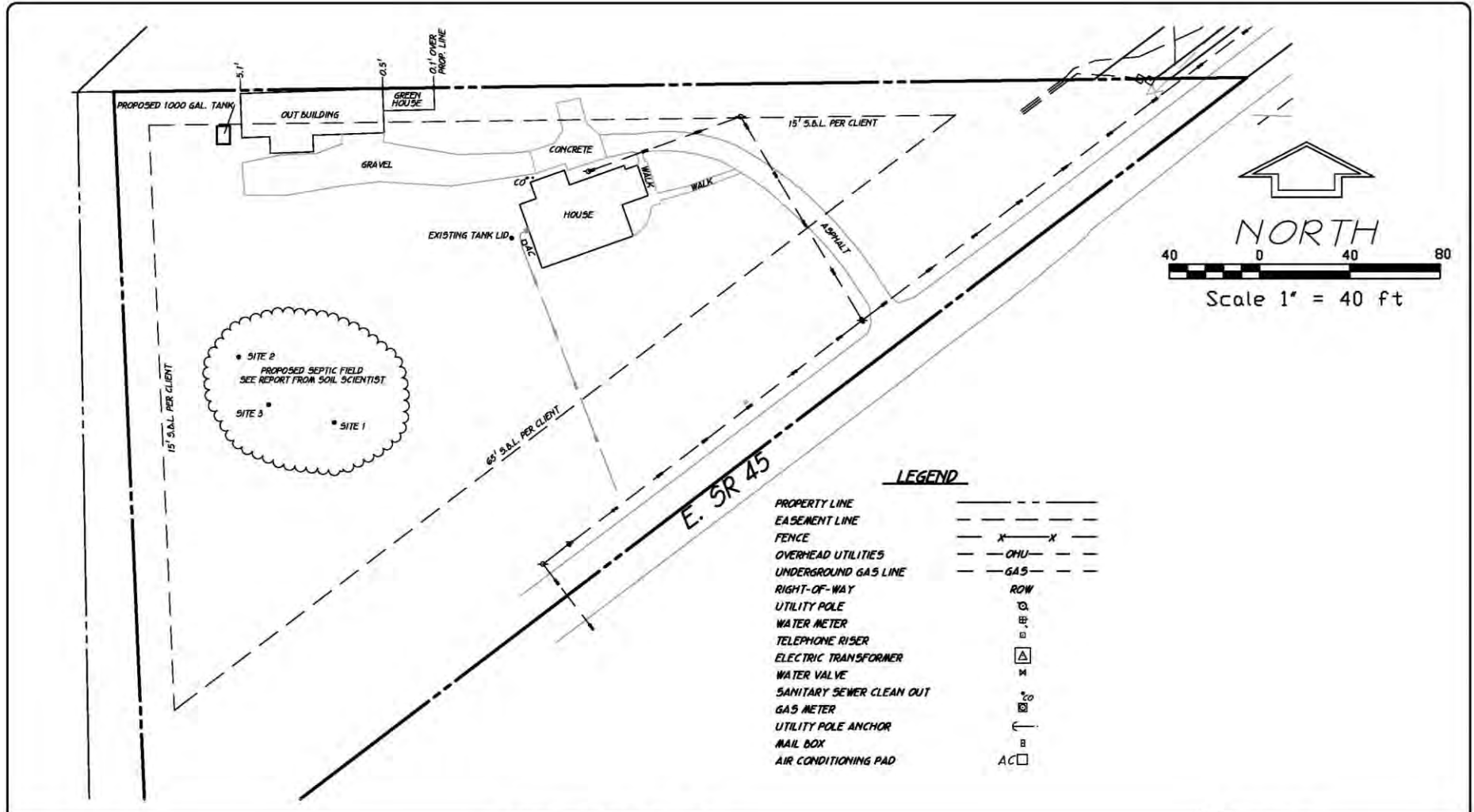
We are hoping to make this property our forever home and also the place where my mother is able to live out the rest of her life. We believe that we will be able to improve our neighborhood with our purchase of this property and prospective renovations. We greatly appreciate your time and consideration.

Thank you,

Haley Forsyth and Nicholas Ertel



# EXHIBIT THREE: Petitioner Site Plan



4615 E. STATE ROAD 45  
EXISTING SITE  
NICHOLAS ERTEL & HALEY FORSYTH  
INST. NO. 2022014934

Date: 1-10-2023

Project No: 5022120



BYNUM FANYO & ASSOCIATES, INC.  
528 North Walnut Street  
Bloomington, Indiana 47404  
Phone (812)332-9530 Fax (812)339-2990



## EXHIBIT FOUR: Letters of Support



639 South Walker Street  
Bloomington, IN 47403

January 19, 2023

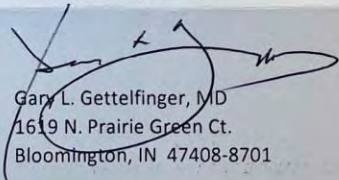
To: Monroe County Board of Zoning Appeals,

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

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

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

Thank you for your time.



Gary L. Gettelfinger, MD  
1619 N. Prairie Green Ct.  
Bloomington, IN 47408-8701

*Keeping you active is our forté.*

Scanned with CamScanner

**EXHIBIT FIVE: Permitted Use Table for RE2.5**

USES	RE2.5
Bed and breakfast	C
Cemeteries	P
Churches	C
Crops and pasturage	P
Day care centers	C
Fire stations	C
Historic adaptive reuse	C
Home occupations	C
Parks and playgrounds	P
Police stations	C
Public libraries/museums	C
Rehabilitative facilities	C
Residential care homes for developmentally disabled individuals	P
Residential care homes for mentally ill	P
Residential care homes for up to five individuals, other than the developmentally disabled	P
Schools	C
Single family detached dwellings	P
Swim clubs	C
Tennis clubs	C
Utility substations and transmission facilities	P
Wireless Communication Facility	C

## EXHIBIT SIX: Septic Permit Application WW-23-13

Septic Permit

**WW-23-13**

### **Your Submission**

Attachments

Guests (0)

### ☒ Health Department Intake Review

Health Department Fee

Health Department Section Lead

Initial Inspection

Review Before Permit Issuance

Installation Inspection

Final Inspection

Attach Elevation Sheet

### **Your submission**

Submitted Jan 18, 2023 at 6:28pm

### **Contact Information**

**Haley Forsyth**

Email address

forsythh@live.com

Phone Number

7274105881

Mailing Address

4825 West Patterson Ave. , Chicago, Illinois 60641

### Locations

1 location total

#### PRIMARY LOCATION



**4615 E State Road 45**

Bloomington, 47408-9668 IN

### Contact Information

Is the Property Owner the same as the Applicant? \*

Yes

Owner Mailing Address: \* ⓘ

4825 West Patterson Ave. Chicago, IL 60641

### Type of Service

Is this septic permit for a residential property?

Yes

Does your residential property have a habitable dwelling on site?

Yes

Are you seeking to renew/modify an already issued septic permit for a septic system that was never installed?

No

Based on your submissions, you will be applying for a Repair Septic Permit.

### Permit Information

When was the home built?

1958

Reason for septic permit application (check all that apply)

Change in bedroom count



Replacing structure

--

Remodeling a structure




Adding convenience bathroom

--

Replacing septic system due to failure


--

Purpose of Permit 

We are working to modernize a septic for our main structure because there is no record of it and we will be adding a bedroom to the main structure. We are also applying for a use variance to get a ADU built out in a existing structure on the property. There will hopefully be one bedroom/bath in that structure and they will use a gravity system to tie into the same leach field.

Number of Existing Bedrooms \*

3

Proposed Number of Bedrooms including Bedroom Equivalents \* 

5

#### **Septic Installer Information**

Septic Installer Name (if known):

Brandon Correll with Bynum Fanyo

#### **Property Information**



Water Supply

Municipal

Subdivision (if applicable) ?

N/A

Lot Number ?

N/A

---

**Construction Information**

Construction Type

Frame-built home

Property Acreage

2.29

Jetted Bathtub - 125 gallons or more \* ?

No

Plumbing Outlet Location ?

West

---

**Disclaimer**

**ALL SPECIFICATIONS OF PERMIT MUST BE INSTALLED AND APPROVED BEFORE  
CONTINUATION ON OTHER SITE AND/OR OTHER SEPTIC PROJECTS IN MONROE  
COUNTY, UNLESS APPROVED BY MONROE COUNTY HEALTH DEPARTMENT INSPECTOR.**

Signature \*

Haley Forsyth

Date Signed \*

01/18/2023

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## MONROE COUNTY BOARD OF ZONING APPEALS

**Public Meeting Date:**

**March 1, 2023**

CASE NUMBER	DETAIL	RECOMMENDED MOTION
VAR-23-5	Use Variance to Chapter 802 for Group Home Class II	Approval

812-6 Standards for Use Variance Approval: In order to approve an application for a Use Variance, the Board must find favorable findings for all five (5) criteria, A, B, C, D & E below.

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

Staff recommends approval of the Use Variance for a “Group Home Class II” with the following condition:

1. The petitioner apply for a Site Plan review to ensure the site is meeting the requirements of the Zoning Ordinance (i.e. parking, landscaping, septic capacity, etc).

**Reasoning:**

- If approved, the petitioner must comply with the requirements under the Group Home Class II use.
- State and Federal provisions require that those with disabilities and/or mental illness be provided the same accommodations as those living without disability/mental illness. In this light, the use should be considered to be in line with a Single Family Residential use and therefore the use variance shall be granted.

<b>Variance Type:</b> <input type="checkbox"/> Design <input checked="" type="checkbox"/> Use <input type="checkbox"/> Residential <input checked="" type="checkbox"/> Commercial	<b>Planner:</b> Jackie N. Jelen
--	---------------------------------

*The variance type is based upon the Permitted Land Use Table classifying this use as “Public and Semipublic” rather than “Residential”.*

<b>PETITIONER</b>	Sojourn House Inc, C/o Carissa Muncie	
<b>ADDRESS</b>	7505 E Kerr Creek Rd	
<b>TOWNSHIP + SECTION</b>	Benton South, 33	
<b>PLATS</b>	<input checked="" type="checkbox"/> Unplatted <input type="checkbox"/> Platted:	
<b>ACREAGE +/-</b>	7.73	
	<b>PETITION SITE</b>	<b>ADJACENT</b>
<b>ZONING</b>	AG/RR, ECO3	FR, AG/RR, ECO3
<b>COMP. PLAN</b>	Farm and Forest	Farm and Forest, Rural Residential
<b>USE</b>	Residential	Residential

**812-5. Standards for Use Variance Approval**

In order to approve a use variance, the Board must find that:

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

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



substantially adverse manner;

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

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

*Hardship or Unnecessary Hardship. Significant economic injury that:*

*(A) Arises from the strict application of this ordinance to the conditions of a particular, existing parcel of property;*

*(B) Effectively deprived the parcel owner of all reasonable economic use of the parcel;*

*And*

*(A) Is clearly more significant than compliance cost or practical difficulties.*

(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
- (3) Planned Infrastructure Improvements
- (5) Distinguish Land from Property

## **SUMMARY**

The petitioner, Sojourn House, Inc, is requesting use of an existing Single Family Residence as a “Group Home Class II”. Due to the zoning of the property as Agriculture/Rural Reserve (AG/RR), the use as a “Group Home Class II” is not permitted under the Monroe County Zoning Ordinance and therefore the petitioner is seeking a Use Variance.

**Group Home.** A housing unit classified further as one of the following:

**Group Home, Class II.** A facility providing 24-hour care in a protected living arrangement for not more than fifteen (15) residents. This classification includes homes for juvenile delinquents, halfway houses providing residence in lieu of institutional sentencing, halfway houses providing residence to those needing correctional and mental institutionalization. This classification also includes emergency shelter during crisis intervention for not more than fifteen (15) victims of crime, abuse, or neglect, and residential rehabilitation for alcohol and chemical dependence for 15 or fewer individuals.

## **BACKGROUND**

Sojourn House Inc requested information regarding two properties located in the County jurisdiction beginning in the Fall of 2022. Originally, staff gave the petitioner the information under the State Code, which classifies the type of use they are seeking as a “Residential Facility for Individuals with Mental Illness” (see Use Determination below). One property that we received questions for by the Sojourn House Inc for its use was 7505 E Kerr Creek Road. The petitioner submitted a use determination form on Dec 2, 2022, for 7505 E Kerr Creek and subsequently purchased the property on December 27, 2022. On December 14, 2022, staff mentioned that we believed the State Statute superceded the Monroe County Zoning Ordinance. It was based upon this information that the Sojourn House Inc purchased the property.

It was later determined that there were portions of the Monroe County Zoning Ordinance that were not superceded by the State's classification of this property as a "Residential Facility for Individuals with Mental Illness" and that a Use variance must be sought. A formal letter (Exhibit 1) was issued on January 13, 2022, which is after the petitioner purchased the property. In summary, staff determined that the use could be defined as both a "Group Home Class II" and a "Residential Facility for Individuals with Mental Illness". The Use Variance request before the BZA is only for the "Group Home Class II" use.

<b>EXHIBITS - <i>Immediately following report</i></b>
---

1. Use Determination
2. Discussion based on Use Determination
3. Location Map & Site Conditions Map
4. Petitioner's Letter to the BZA
5. Petitioner's Site Plan
6. Site Photos
7. Architectural Plans
8. Remonstrance Letters

## EXHIBIT 1:

**MONROE COUNTY PLAN COMMISSION**  
*and office of the*  
**MONROE COUNTY BOARD OF ZONING APPEALS**  
501 N. Morton Street, Suite 224  
Bloomington, IN 47404  
Telephone: (812) 349-2560 / Fax: (812) 349-2967  
www.co.monroe.in.us



Sojourn House, Inc  
7505 E Kerr Creek Rd  
Bloomington, In 47408

Dear Sojourn House, Inc:

Based on the information provided below, the use proposed at 7505 E Kerr Creek Rd falls under the "Group Home Class II" under our local Zoning Ordinance, and a "Residential Facility for Individuals with a Mental Illness" (**IC 12-28-4-7**) under the Indiana Code, which states:

"Sec. 7. (a) A zoning ordinance (as defined in IC 36-7-1-22) may not exclude a residential facility for individuals with a mental illness from a residential area solely because the residential facility is a business or because the individuals residing in the residential facility are not related. The residential facility may be required to meet all other zoning requirements, ordinances, and laws.

(b) A zoning ordinance may exclude a residential facility for individuals with a mental illness from a residential area if the residential facility will be located within three thousand (3,000) feet of another residential facility for individuals with a mental illness, as measured between lot lines."

The state further defines "**Mentally Ill**" as:

"(2) For purposes of **IC 12-28-4** and IC 12-28-5, a psychiatric disorder that:

- (A) substantially disturbs an individual's thinking, feeling, or behavior; and
- (B) impairs the individual's ability to function.

The term does not include developmental disability."

Due to Sojourn Houses' screening process (see information provided below), all clients would qualify as being "mentally ill" and therefore would fall under the "Residential Facility for Individuals with a Mental Illness." The State Statute IC 12-28-4-7 says that a Zoning Ordinance "**may not exclude** a residential facility for individuals with a mental illness from a residential area **solely because the residential facility is a business or because the individuals residing in the residential facility are not related.**"

Based on the state's definition of the "Residential Facility for Individuals with a Mental Illness", it also states that the "The residential facility **may be required to meet all other zoning requirements, ordinances, and laws.**" Therefore, the regulation of the Sojourn House, Inc use **must not** be based solely on the fact that it cannot meet the Monroe County Zoning Ordinance's definition of a "Family", and/or that it meets the definition of a "Business." Here are the local Monroe County Zoning Ordinance (Chapter 801 and 802) definitions for each use:

**Family.** A "family" consists of one or more persons each related to the other by blood, marriage, or adoption (including foster children), together with such relative or the representatives of the respective spouses who are living with the family in a single dwelling and maintaining a common



*household. A family may also be composed of not to exceed three (3) persons not so related, provided that such unrelated persons live in a single dwelling and maintain a common household and a single housekeeping unit. A family includes any domestic servants and not more than one (1) gratuitous guest residing with the family; such servants shall be included in the unrelated person limitation of this definition, and shall not be in addition thereto.*

**Business.** Any occupation, employment, or enterprise which occupies time, attention, labor and/or materials for compensation whether or not merchandise is exhibited or sold, or services are offered.

The County's definition of "Family" includes "three (3) persons not so related, provided that such unrelated persons live in a single dwelling and maintain a common household and a single housekeeping unit." According to the information provided below, Sojourn House Inc plans to have four (4) women reside in the home full-time, and would not ever exceed eight (8) women. The state's definition of a "Residential facility for individuals with a mental illness" does not include a limitation on the number of allowable residents. Though the Sojourn House Inc does provide information regarding maintaining a common single family household, there will also be other services provided to residents within the home that are outside of the scope of the definition of "Family".

The County's definition of a "Business" is fairly broad and can encompass many uses under the County's Use Table. The County defines the use "Group Home Class II" under Public and Semi-Public category as:

"Group Home. A housing unit classified further as one of the following:

(b) Group Home, Class II. A facility providing 24-hour care in a protected living arrangement for not more than fifteen (15) residents. This classification includes homes for juvenile delinquents, halfway houses providing residence in lieu of institutional sentencing, halfway houses providing residence to those needing correctional and mental institutionalization. This classification also includes emergency shelter during crisis intervention for not more than fifteen (15) victims of crime, abuse, or neglect, and residential rehabilitation for alcohol and chemical dependence for 15 or fewer individuals."

Based on the County's definition for "Group Home" and "Group Home Class II", it states that it is classified as a "housing unit" that provides care for victims of "residential rehabilitation for alcohol and chemical dependence." Similar to how a "Home Based Business" or "Home Occupation" can encompass both a residential use and business use, so does "Group Home Class II". Therefore, Sojourn House is not being excluded due to business activity, but rather there is another use that encompasses the residential environment in which a business use like Sojourn House Inc will take place.

Based on the information provided below by Sojourn House Inc, they will be applying for a state license to become a "Recovery Residence" at this location, which according to the Indiana State's Family Social Services Administration (FSSA) website is: "...an umbrella term that includes a range of alcohol and drug free living environments, including recovery homes and sober living homes, that use peer support and other supportive services, to promote addiction recovery." The classification of Sojourn House Inc as a "Group Home Class II" is from the basis that it is treating people needing "...residential rehabilitation for alcohol and chemical dependence for 15 or fewer individuals."

PUBLIC AND SEMIPUBLIC	i	AG	FR	CR	ER	LR	SR	MR	HR	UR	LB	GB	LI	HI	IP	ME	REC	Condition
Accessory Use		P	P	P	P	P	P	P	P	P	P	P	P	P				13
Airport	H													P				15
Cemetery	H	P	P	P	P	P		P	P									
Central Garbage/Rubbish	H													C	C	C		33
Charitable, Fraternal, or Social	L											P						
Community Center	L										P	P						28
Cultural Facility	L															P		
Daycare Facility	M									P	P	P	P					22,30,42
Funeral Home	M											P						
Governmental Facility	H	P	P	P	P	P		P	P	P	P			P	P			7,40
Group Home Class I	L						P	P	P	P	P	P						
Group Home Class II	L									P	P	P						

The use of “Group Home Class II” is not listed as a permitted use in the Agriculture/Rural Reserve zoning district, which is the zoning district for 7505 E Kerr Creek Rd. Based on the information provided herein, the use is described as both “Residential facility for individuals with a mental illness” from the State Statute and “Group Home Class II” from the Monroe County Zoning Ordinance.

The next step is for the Sojourn House, Inc to apply for a “Use Variance” to allow “Group Home Class II” to be permitted in the AG/RR zoning district.

### **Summary of Sojourn House use:**

#### **1. Statement of Sojourn’s House use:**

Residential program for women exiting trafficking. Four women will live in the house at a time for 24 months while they complete therapy, education, life-skills, and career building programs. During the day, staff members and volunteers will conduct these programs. The program is voluntary.

Property will be used for living space and storage of some office equipment.

#### **2. Number of Vehicles involved in operation of the business**

3 vehicles.

#### **3. Number of Employees (on-site, both full and part-time)**

3 employees.

#### **4. Number of people receiving care**

4 people.

#### **5. Do you have a screening process or a way that women qualify to live in the Sojourn House?**

Yes. We use an interview process and a screen that is specific to human trafficking experiences. In addition, we will use a series of established screens universally recognized by mental health clinicians:

- PHQ9 Assessment baseline  
(<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewih4bPr0>)

[LD8AhWjKX0KHa2dCaUQFnoECA4QAQ&url=https%3A%2F%2Fwww.uspreventiveservicestaskfor  
ce.org%2FHome%2FGetFileByID%2F218&usg=AOvVaw2yZ9TqORR-INR\\_A1Fdw8-M\)](https://www.uspreventiveservicestaskforce.org/2FHome/2FGetFileByID/2F218&usg=AOvVaw2yZ9TqORR-INR_A1Fdw8-M)

- GAD7 Baseline assessment (<https://patient.info/doctor/generalised-anxiety-disorder-assessment-gad-7>)
- ACE Screening Form (<https://www.acesaware.org/wp-content/uploads/2022/07/ACE-Questionnaire-for-Adults-Identified-English-rev.7.26.22.pdf>)
- Mental Health/suicide assessment ([https://www.nimh.nih.gov/sites/default/files/documents/research/research-conducted-at-nimh/asq-toolkit-materials/asq-tool/screening\\_tool\\_asq\\_nimh\\_toolkit.pdf](https://www.nimh.nih.gov/sites/default/files/documents/research/research-conducted-at-nimh/asq-toolkit-materials/asq-tool/screening_tool_asq_nimh_toolkit.pdf))

Each woman admitted into the residential program (this home) must:

1. qualify under one of the above assessments
2. be under the care of a mental health practitioner/clinician

**6. Are you planning on doing any type of remodel to the home, such as an increase in the number of bedrooms?**

We will not be doing any remodeling to the home. Nothing will be added, such as bedrooms or bathrooms that would change the footprint of the house or require a permit.

**7. Which agencies oversee your organization and its services**

- IDOH requires oversight we report on monthly
- Thistle Farms National Network
- We will complete the certification process with DMHA (DMHA requires 60 days of operation prior to cert. process)

**8. What licensing does Sojourn House have?**

The license we will obtain from DMHA is the Recovery Residence Certification

**9. What state reporting are you required to do?**

Our IDOH reporting goes through Division of Health Innovation Partnerships & Programs (HIPP)--Health Issues and Challenges (in relation to grant funding).

**Applicable Local Planning and Zoning Laws:**

PUBLIC AND SEMIPUBLIC	i	AG	FR	CR	ER	LR	SR	MR	HR	UR	LB	GB	LI	HI	IP	ME	REC	Condition
Accessory Use		P	P	P	P	P	P	P	P	P	P	P	P	P				13
Airport	H													P				15
Cemetery	H	P	P	P	P	P		P	P									
Central Garbage/Rubbish	H													C	C	C		33
Charitable, Fraternal, or Social	L											P						
Community Center	L										P	P						28
Cultural Facility	L																P	
Daycare Facility	M									P	P	P	P					22,30,42
Funeral Home	M											P						
Governmental Facility	H	P	P	P	P	P		P	P	P	P			P	P			7,40
Group Home Class I	L						P	P	P	P	P	P						
Group Home Class II	L									P	P	P						

RESIDENTIAL USES																		
Single Family Dwelling	n/a	P	P	P	P	P	P	P	P	P	P							1

Condition #1. Permitted on existing lots of record after the issuance of a building permit by the Building Department.

**Family.** A "family" consists of one or more persons each related to the other by blood, marriage, or adoption (including foster children), together with such relative or the representatives of the respective spouses who are living with the family in a single dwelling and maintaining a common household. A family may also be composed of not to exceed three (3) persons not so related, provided that such unrelated persons live in a single dwelling and maintain a common household and a single housekeeping unit. A family includes any domestic servants and not more than one (1) gratuitous guest residing with the family; such servants shall be included in the unrelated person limitation of this definition, and shall not be in addition thereto.

**Group Home.** A housing unit classified further as one of the following:

- Group Home, Class I.** A facility providing 24-hour care in a protected living arrangement for not more than fifteen (15) residents. This classification includes foster homes, homes for the physically and mentally impaired, homes for the developmentally disabled, congregate living facilities for persons 60 years of age and older, and maternity homes.
- Group Home, Class II.** A facility providing 24-hour care in a protected living arrangement for not more than fifteen (15) residents. This classification includes homes for juvenile delinquents, halfway houses providing residence in lieu of institutional sentencing, halfway houses providing residence to those needing correctional and mental institutionalization. This classification also includes emergency shelter during crisis intervention for not more than fifteen (15) victims of crime, abuse, or neglect, and residential rehabilitation for alcohol and chemical dependence for 15 or fewer individuals.

### Applicable State Laws:



**Indiana is a Home Rule state.** Local governments have all powers they need for effective government, except do not have the powers listed in Indiana Code 36-1-3-8(7). **One of the big carve outs is that local governments cannot regulate conduct already regulated by the state.**

The State defines “Mental Illness” as –

“IC 12-28-4-7 Zoning ordinances; residential facilities for individuals with a mental illness Sec. 7.

- (a) A zoning ordinance (as defined in IC 36-7-1-22) may not exclude a residential facility for individuals with a mental illness from a residential area solely because the residential facility is a business or because the individuals residing in the residential facility are not related. The residential facility may be required to meet all other zoning requirements, ordinances, and laws.”**

“IC 12-7-2-130”Mental illness”

Sec. 130. "Mental illness" means the following:

- (1) For purposes of IC 12-23-5, IC 12-24, and IC 12-26, a psychiatric disorder that:
- (A) substantially disturbs an individual's thinking, feeling, or behavior; and
  - (B) impairs the individual's ability to function.

The term includes intellectual disability, alcoholism, and addiction to narcotics or dangerous drugs.

- (2) For purposes of IC 12-28-4 and IC 12-28-5, a psychiatric disorder that:**

- (A) substantially disturbs an individual's thinking, feeling, or behavior; and**
- (B) impairs the individual's ability to function.**

**The term does not include developmental disability.”**

#### **IC 36-1-3-8 Powers specifically withheld**

- (7) The power to regulate conduct that is regulated by a state agency, except as expressly granted by statute.

### **Applicable Federal Laws:**

#### **Americans with Disabilities Act**

The ADA prohibits discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications. It also applies to the United States Congress.

To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability. ***An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.*** The ADA does not specifically name all of the impairments that are covered.

Title II covers all activities of State and local governments regardless of the government entity's size or receipt of Federal funding. Title II requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services, and activities (e.g. public education, employment, transportation, recreation, health care, social services, courts, voting, and town meetings).

### **Fair Housing Act**

The Fair Housing Act, as amended in 1988, prohibits housing discrimination on the basis of race, color, religion, sex, disability, familial status, and national origin. Its coverage includes private housing, housing that receives Federal financial assistance, and State and local government housing. It is unlawful to discriminate in any aspect of selling or renting housing or to deny a dwelling to a buyer or renter because of the disability of that individual, an individual associated with the buyer or renter, or an individual who intends to live in the residence. Other covered activities include, for example, financing, zoning practices, new construction design, and advertising.

The Fair Housing Act requires owners of housing facilities to make reasonable exceptions in their policies and operations to afford people with disabilities equal housing opportunities. For example, a landlord with a "no pets" policy may be required to grant an exception to this rule and allow an individual who is blind to keep a guide dog in the residence. The Fair Housing Act also requires landlords to allow tenants with disabilities to make reasonable access-related modifications to their private living space, as well as to common use spaces. (The landlord is not required to pay for the changes.) The Act further requires that new multifamily housing with four or more units be designed and built to allow access for persons with disabilities. This includes accessible common use areas, doors that are wide enough for wheelchairs, kitchens and bathrooms that allow a person using a wheelchair to maneuver, and other adaptable features within the units.

## EXHIBIT 2:

### DISCUSSION BASED ON USE DETERMINATION

The petitioner, Sojourn House Inc, has proven under Exhibit 1 that their screening process would only allow individuals that could be classified as “Mentally Ill” under the State’s definition, as well as those defined as having a “Disability” under the Americans with Disability Act. Therefore, staff is reviewing this request in light of all applicable State and Federal provisions around requiring accommodations for people with disabilities and housing arrangements.

Federal Law prohibits discrimination based on disability under the Americans with Disabilities Act and the Fair Housing Act:

Under the Americans with Disabilities Act, “An individual with a disability is defined by the ADA as **a person who has a physical or mental impairment that substantially limits one or more major life activities**, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment. The ADA does not specifically name all of the impairments that are covered.” As we see above from the screening process of Sojourn House Inc, it includes only individuals that would fall under this protection, as well as the State’s definition for “Mentally Ill”.

In addition, the Fair Housing Act, “as amended in 1988, **prohibits housing discrimination** on the basis of race, color, religion, sex, **disability, familial status**, and national origin. **Its coverage includes private housing**, housing that receives Federal financial assistance, and State and local government housing. **It is unlawful to discriminate in any aspect of selling or renting housing or to deny a dwelling to a buyer or renter because of the disability of that individual**, an individual associated with the buyer or renter, or an individual who intends to live in the residence. **Other covered activities include**, for example, financing, **zoning practices**, new construction design, and advertising.”

Under the Indiana Home Rule, local governments cannot regulate conduct already regulated by the State. For example, the state administers a license for a “Recovery Residence” which the Sojourn House Inc does plan to apply for and meet the requirements for a Level III-Supervised residence (links: [https://narronline.org/wp-content/uploads/2016/12/NARR\\_levels\\_summary.pdf](https://narronline.org/wp-content/uploads/2016/12/NARR_levels_summary.pdf) & <https://www.in.gov/fssa/dmha/recovery-residence-certification/>). The Planning Department, then, cannot implement more stringent requirements for the “Recovery Residence” than what the state provides in our ordinance. The portion of the “Recovery Residence” would be permitted under the “Group Home Class II” use, and accordingly, staff has not supplied recommended conditions to the BZA around this use in part since it will be administered and regulated by the State.

The Planning Department recognizes our ordinances are outdated and this section of the ordinance in regards to the definition of Group Home Class II and its permission under which zones it is permitted has not changed since it’s adoption in 1997. Our administration of the Monroe County Zoning Ordinance requires adaptation to applicable Federal and State law provisions. As such, we recognize that the use of Group Home Class II should be permitted in all residential districts in order to comply with “Residential Facility for Individuals with Mental Illness”, the Americans with Disabilities Act, and the Fair Housing Act. This is why the County Development Ordinance draft does include the use to be permitted in all residential districts.

Other towns and cities in Indiana do have this type of use either conditionally permitted, permitted, or permitted by special exception in every residential district. These include, but are not limited to



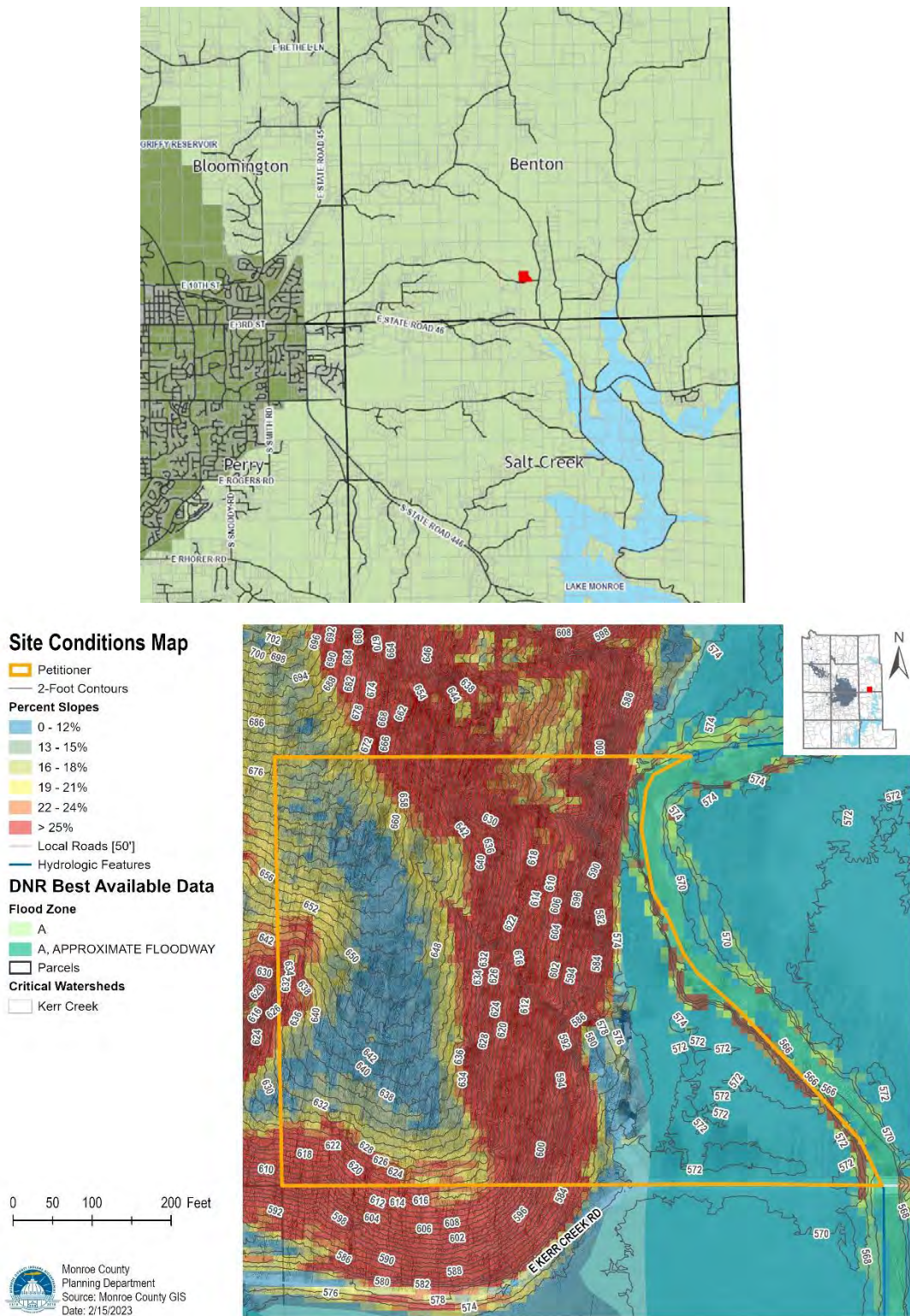
[Bartholomew County Zoning Ordinance](#) (defined as “Shared Housing Facility” and is a conditional use in the Agricultural Zones and Residential Zones), [Brown County](#) (use is permitted as in the way it defines “Family”), [Plainfield, IN](#) (Allows “Residential facility for the developmentally disabled” and “Residential facility for the mentally ill” as permitted in every residential zone), [Carmel, IN](#) (allows “Group Home” as a Special Exception in every residential zone), [Westfield, IN](#) (permits “Residential Facility” in all residential zones and the agricultural zone), [Bloomington IN](#) (allows “Group Care Home, FHAA Small” for 9 residents in every residential zone).

By having a provision for the use as a “Permitted use”, “Conditional Use”, or “Special Exception”, the ordinances in other communities set out standards that are clear and do not require a “Use Variance” for the use in residential districts. The proposed use of the 7505 E Kerr Creek property under “Group Home Class II” does meet the requirements of the definition. Staff has conditioned the use variance on application of a site plan review to ensure compliance with landscaping, parking, and other requirements of the Zoning Ordinance are being met; if some standards cannot be met, a design standards variance would be required at that time. Under Chapter 802, Group Home Class II is only permitted in the Urban Residential (UR), Limited Business (LB), and General Business (GB). The State Statute says that “a zoning ordinance may not exclude a residential facility for individuals with a mental illness from a residential area solely because the residential facility is a business or because the individuals residing in the residential facility are not related.” There are only 12 acres of property throughout the entire County zoned Urban Residential (UR), which comprises of far less than 1% of the County jurisdiction area; in addition, by allowing the use in two larger business zones (LB and GB) it is treating the facility as more of a commercial use, despite the definition stating a Group Home is a “housing unit”. The use is also in the Zoning Ordinance under the Areas that were in the Former City of Bloomington Jurisdictional Area (Administered by Ch 833 and called a “Residential care facility for mentally ill”) as permitted in every residential zone, which gives further support for the Zoning Change under the Chapter 802 table to provide accommodations for this type of use under our new County Development Ordinance.

In reviewing other ordinances throughout Indiana, it is clear that the way that this type of use is regulated has changed over time with other towns updating their ordinances. The term “Group Home” under the Indiana Administrative Code (465 Ind. Admin. Code 2-12-13) states that “As used in this rule, “group home” means a type of child caring institution licensed for ten (10) or fewer children, six (6) years of age or older, who are apart from their parents or guardian on a twenty-four (24) hour a day basis and who have demonstrated the ability to follow direction and take appropriate action for self-preservation.” The term “Group Home” then is not consistently used in other zoning ordinances to include adult facilities, and therefore makes the terminology in need of change. As seen from the review above, communities define our Group Home Class II as several other terms. One consistency, however, is that these facilities are routinely accommodated for in every residential district with clear standards. By requiring a “Use Variance”, the question then becomes is this request a undue barrier to those with disabilities to live together that would be enjoyed by others living together without disability or mental illness. Staff recognizes that this use has an impact similar to that of a Single Family Residence and should be treated as such.

## EXHIBIT 3:

### LOCATION AND SITE CONDITIONS MAP





## EXHIBIT 4:

January 27, 2023

Sojourn House  
7505 E. Kerr Creek Rd.  
Bloomington, IN 47408



Location:

7505 E Kerr Creek Rd, Bloomington, IN

003-19120-01 PT SE NW 33-9-1E 7.73A; PLAT 68

Sojourn House, Inc board of directors respectfully requests that the above stated, AG/RR zoned property be allowed for use as a Group Home Class II.

We wish to note how we will meet the Standards for Use and will not interfere with the Monroe County Comprehensive Plan:

**The approval will not be injurious to the public health, safety, and general welfare of the community.** The house will be used as a dwelling with the supervision of trained, paid staff members. Sojourn House policy includes dismissal procedures for residents who do not comply with the curfews, sober-living, and participation in programming that each resident agrees by written contract upon intake to the program. The maximum occupancy for this residential program is 8 women. The size of the house, itself, is self-limiting due to the 4 bedrooms existing and the septic sizing compatible with that number of bedrooms.

**The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.** It may be noted that views of adjacent homes are obstructed by trees even in seasons of low foliage. In addition, this property is located at the far East end of Kerr Creek and is (by Sojourn House staff) primarily reached by way of Gettys Creek Rd, and rarely accesses the remainder of Kerr Creek Rd. Traffic patterns can be predicted by calculating the number of employees, their respective shifts, and the average number of trained and vetted volunteers who may visit the property and is predicted to be similar to that of a typical, working, family. Morning traffic, defined as hours between 7am and 9am, will include 2-3 employees/volunteers during arrival. Trips during the day will be usual per any single-family residence and would include doctor appointments, shopping trips, etc. Afternoon and evening traffic (between 4pm and 7pm) would include a shift change for the volunteer position and the departure of paid staff. Evening traffic may sometimes include the arrival and departure of one additional volunteer.

**The need for the variance arises from some condition peculiar to the property involved.** The purchase and planned use of the property was predicated on IC 12-28-4-7 and the previous county Use Determination request. Current local zoning ordinances are not yet reflective of IC 12-28-4-7 provisions.



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. The housing and recovery model Sojourn House follows prioritizes family-style, community living as part of the continuum of healing and growth. Use of single-family homes as small-scale recovery homes is not yet represented in county ordinances. The result is a critical lack of available properties that are usable for the purpose of recovery for victims of sex-trafficking. A denial of Use Variance for this property would not only require the sale of this property but would be a strong indicator for future denial of use for other houses in the county. *In short, Sojourn House would be forced to look in other counties to continue providing this unique service.*

Sojourn House currently serves over 60 survivors of sex trafficking and collaborates with many Monroe County systems of care, including the City of Bloomington DTO program. Currently, Sojourn House is the only organization in the county whose sole focus is to serve and house victims of sex trafficking.

The approval does not interfere substantially with the Comprehensive Plan. Especially, the five (5) principles set forth in the Monroe County Comprehensive Plan. This use will not increase the current (2.5) density of the area. No subdividing will occur. This property is not in one of the 5 Designated Communities. The property use will have no added impact on the environment as it is already built out and no expansion or development will occur. No natural or property boundaries will be affected.

**Other notable details.**

The model of care used by Sojourn House places high priority on the conduct of the participants (residents) and how their conduct affects the community they live in (immediately and more widely.) Each woman who chooses to live at Sojourn House must agree to the standards set forth in the Residential Handbook. This handbook includes curfews, visitation policy, program progress, and maintaining sobriety. No substances, including alcohol, are allowed on the premises. Failure to adhere to the policies listed in the Residential Handbook will be met with disciplinary action and possible dismissal from the program. Most importantly, behavior that endangers the residents of Sojourn House and its neighbors will not be tolerated.

An alarm system and security cameras will be installed in order to monitor the property and intercept misconduct from inside or outside the house. Consultation with a security company who has experience in group home settings will continue throughout installation.

We thank you for your time and service to the people of Monroe County.

Sincerely,

Carissa Muncie



President

Sojourn House

EXHIBIT 5:









**EXHIBIT 6:**



Photo 1. Pictometry of property, 2022



Photo 2. View of the home, facing northwest.





Photo 3. View of the home facing north



Photo 4. View of the front yard, facing south





Photo 5. View of the back of the home, facing SW



Photo 6. View of the creek, facing east





Photo 7. View of E Kerr Creek facing east



Photo 8. View west of the home showing lots of preserved trees, facing north



Photo 9. Intersection of the driveway and E Kerr Creek, facing west



Photo 10. Additional parking spaces provided under an existing carport, facing NE

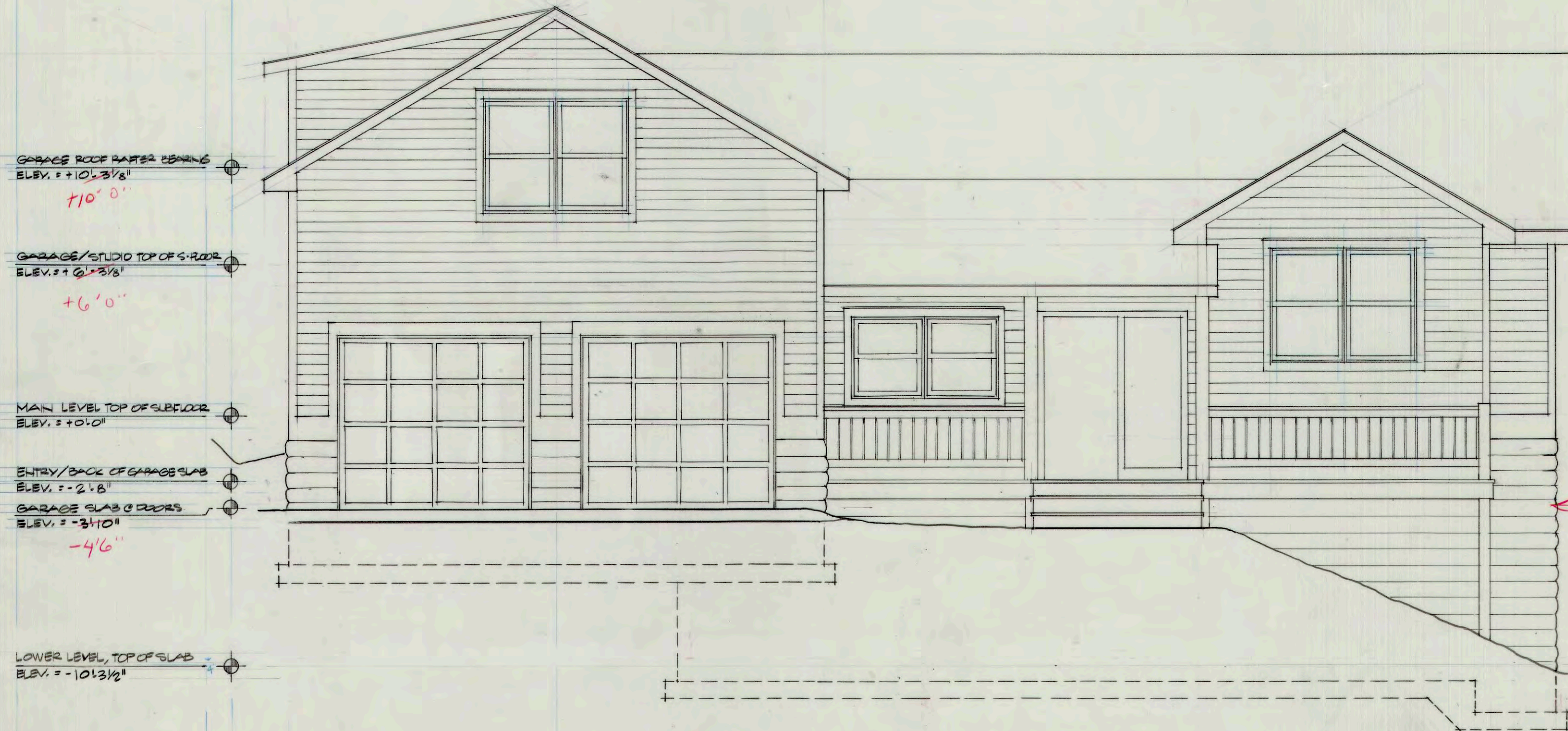




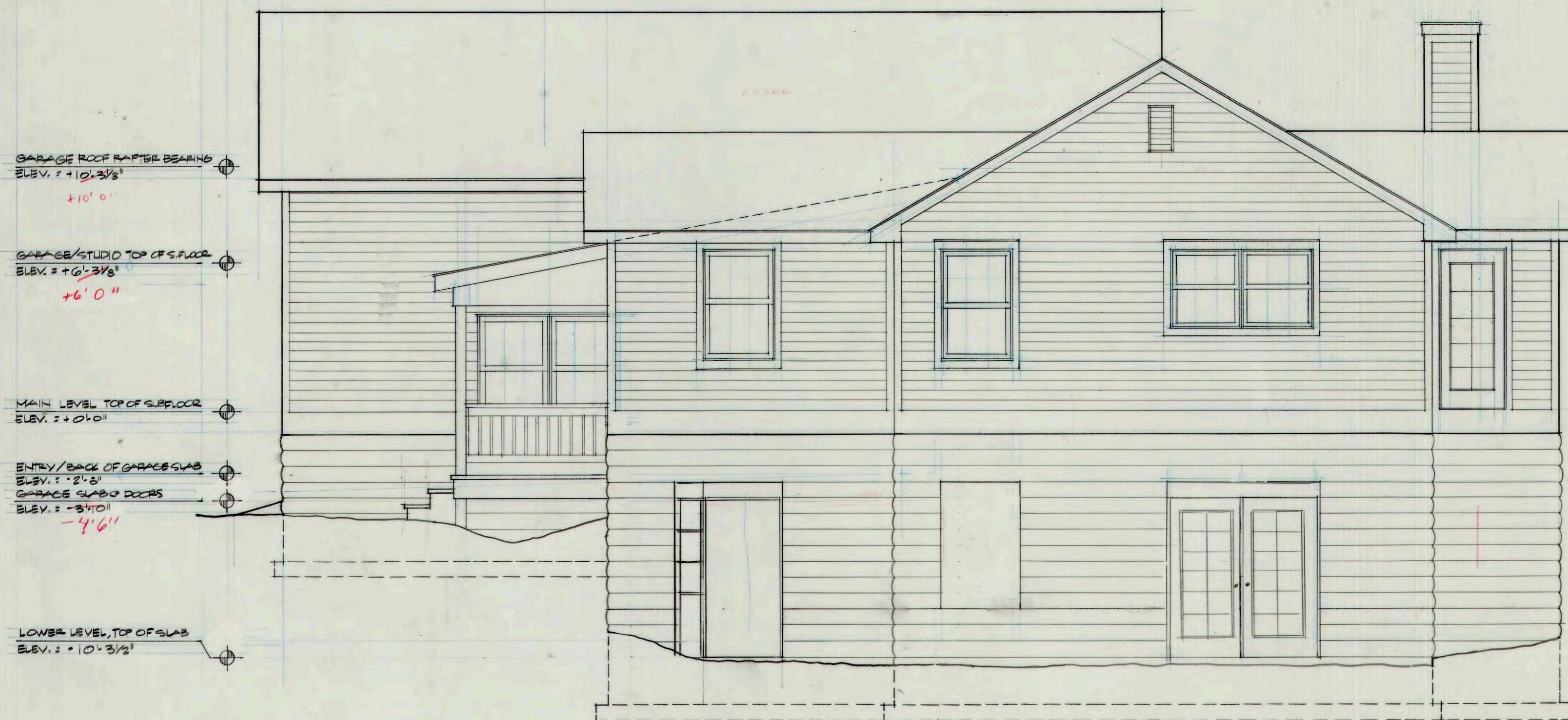
Photo 11. Additional parking space on the property, facing E



# EXHIBIT 7:



• SOUTH ELEVATION •

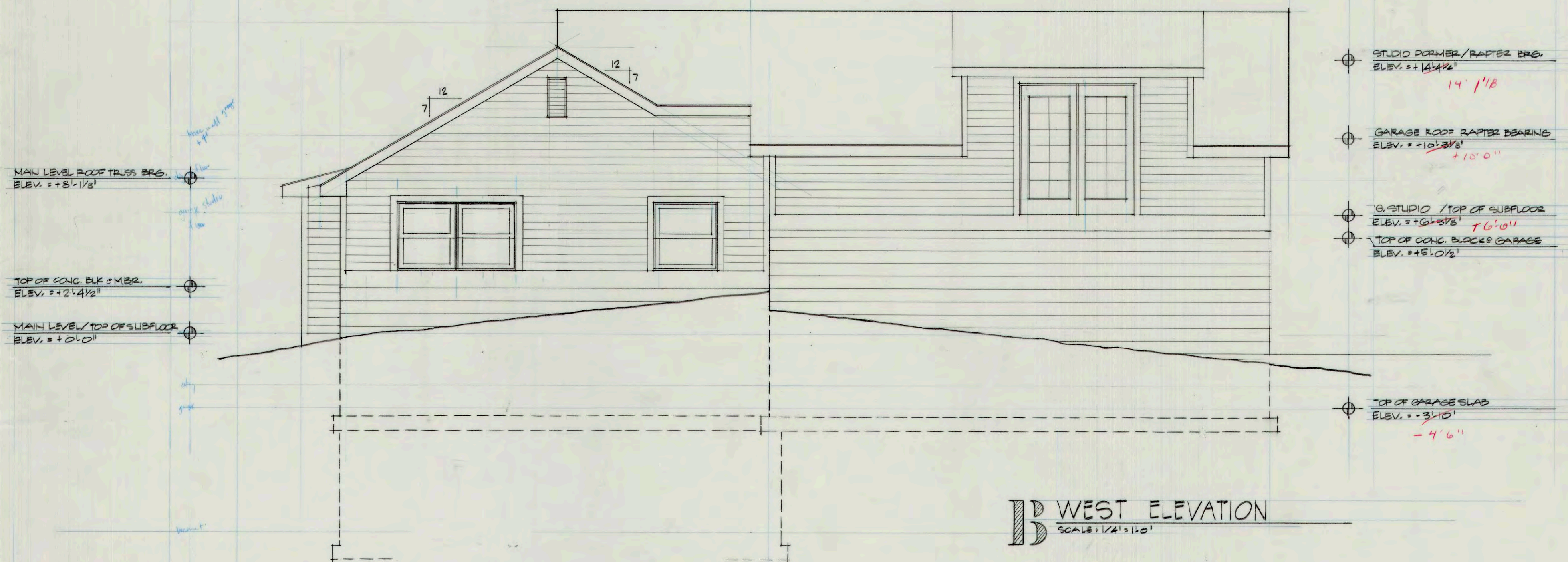
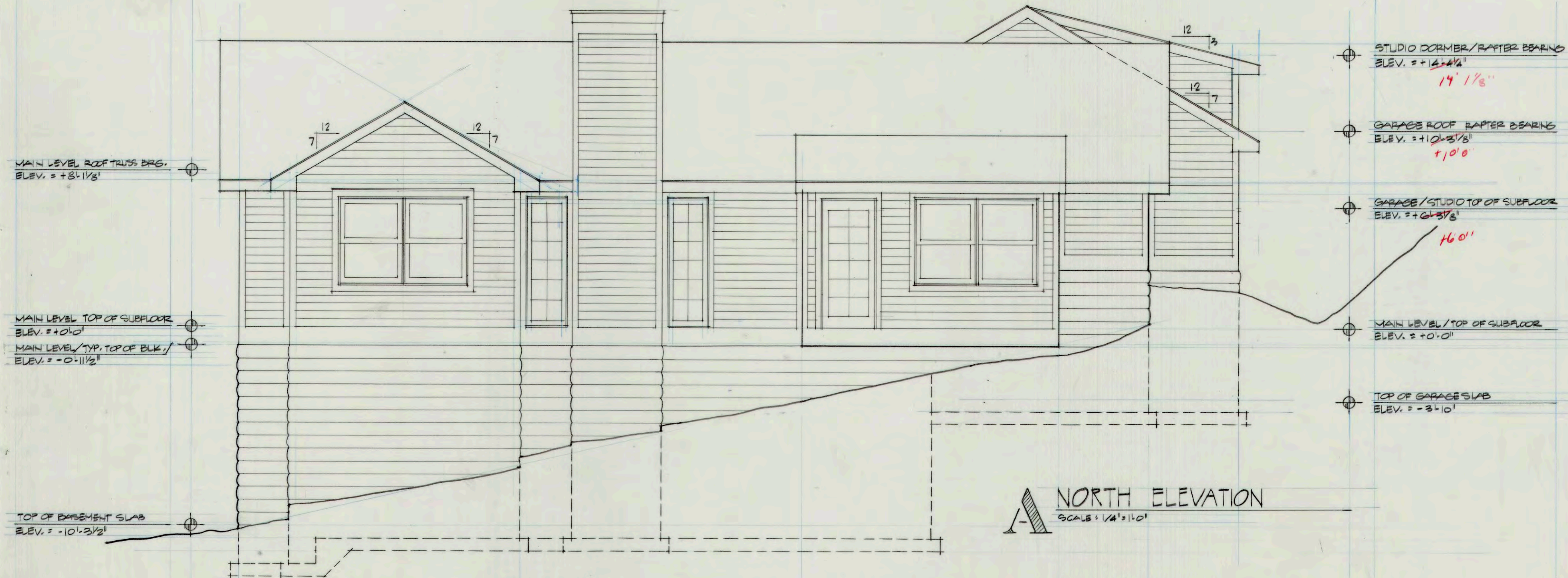


• EAST ELEVATION •

36" w/ SIDELITE







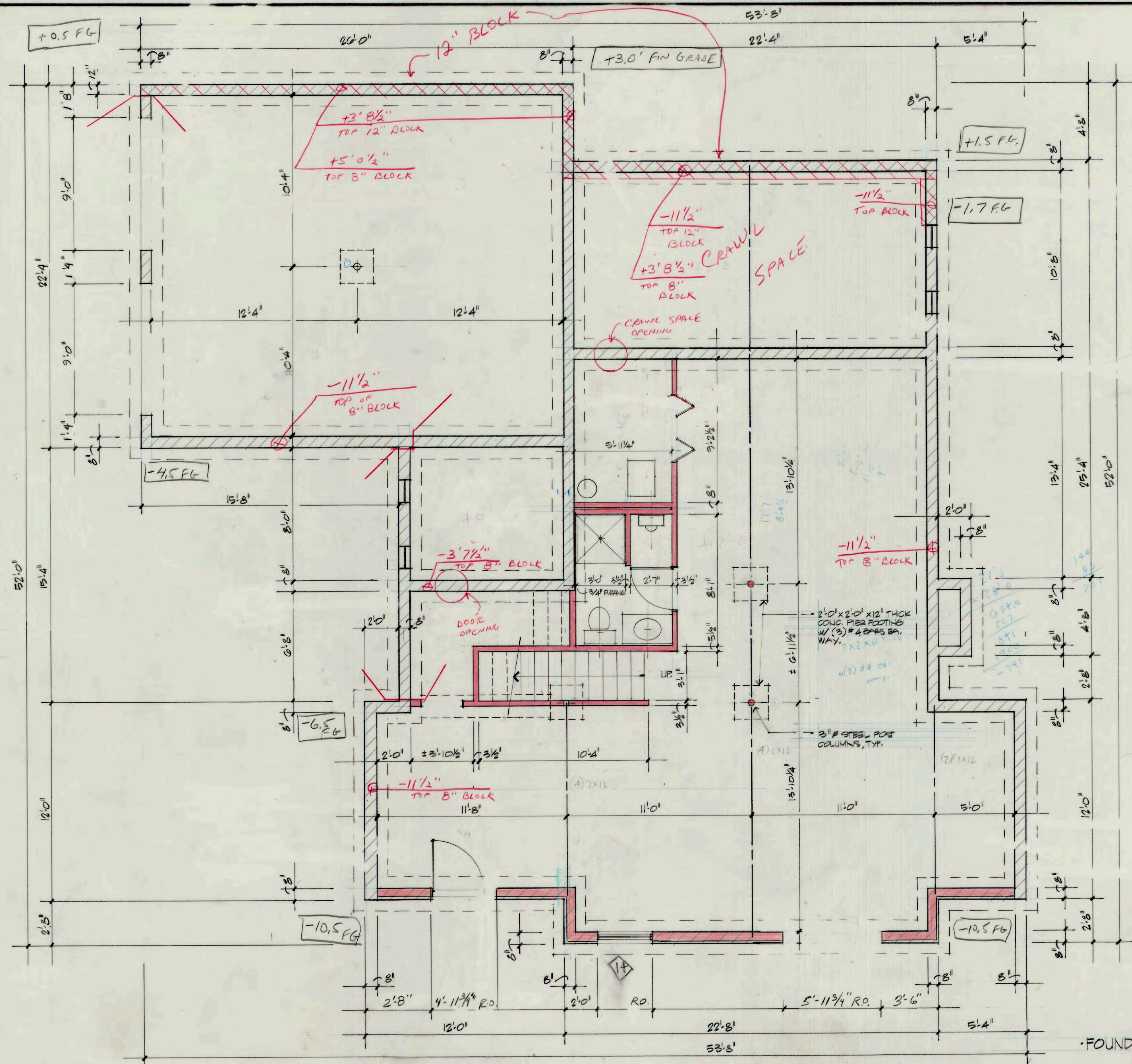












508907



title:

title:



## EXHIBIT 8:

# PETER GOULD

February 11, 2023

Monroe County Board of Zoning Appeals  
c/o Jackie Jelen  
Planning Department  
Showers Building North  
501 N Morton St  
Suite 224  
Bloomington, IN 47404

Re: VAR-23-5 - Sojourn House - 7505 E. Kerr Creek Rd. - Use Variance for Group Home Class II

Dear Members of the Board of Zoning Appeals:

I reside at 7165 E. Kerr Creek Road - the second property to the west of 7505 E. Kerr Creek Road (hereinafter referred to as "7505"). I am writing to oppose the variance to permit a Group Home Class II use of 7505. Please note that my opposition is not about the applicant's mission or their program, it is about the use of 7505 as a Group Home Class II.

The house at 7505 was built in the 1990's as a single family residence. Until the sale to Sojourn House, Inc., it had only been used as a single family residence - consistent with the surrounding area and with the permitted uses allowed in AG/RR.

As described on their website, Sojourn's residential program includes:

"Education - Tailored to each resident, an education plan will be developed to support her as she moves forward. Whether it's a GED, vocational training, a diploma, or degree, we look forward to seeing her confidence grow. Relationship skills, problem solving, life skills, and everything in between are important parts of the whole picture.

Employment - Finding a career that fits can be challenging and exciting. We'll help her explore the possibilities and create a plan that will get her there. When she's ready, she'll begin working in the field she chooses and gaining experience.

Sustainability - This is when the training wheels will start to come off. While still living at Sojourn House, she will combine all the skills she's been working on and put them to the test. The speedbumps of a new career, her own transportation, and growing relationships will be met with support and coaching in the Sojourn House community.

7505 is not an appropriate location for a program that is supposed to foster education, provide employment, encourage sustainability and help the residents become part of a community. 7505 is situated in a rural area. Kerr Creek Road is a narrow winding 2-lane road that floods periodically.



7505 has no access to public transportation, so vehicles are the only option for travel. The residents will need services, such as shopping, medical care, social services, legal services, training and employment, that are not available nearby. In fact, the nearest convenience store is 3 miles away.

Per Chapter 812-5 of our zoning ordinance, to approve a use variance, the Board must find that certain criteria are satisfied, as follows:

1. The approval will not be injurious to the public health, safety, and general welfare of the community.

7505 residents who don't comply with sober living and other Sojourn rules would jeopardize the public health, safety and general welfare of the community. Dismissal of a resident for violating these rules would only occur after the violations have occurred.

The Monroe County Sheriff's Department confirmed that there are normally 4 to 7 deputy's cars patrolling the entire county (depending on shift). The average response time for a 911 (Priority 1) call for law enforcement at 7505 is approximately 6 minutes. The Monroe Fire Protection District confirmed that the response time for fire or EMT is approximately 11 minutes. These response times could be affected if units are responding to other 911 calls already in progress.

Alarm system and security cameras are useful for monitoring a property and providing an alert. However, given the response times for law enforcement, fire and EMT services, it's likely that these systems will merely document damage after it's occurred.

Use of 7505 as a Group Home Class II will result in increased traffic on Kerr Creek Road. The majority of residents on Kerr Creek Road, as well as many residents on Gettys Creek Road use Kerr Creek Road for westbound travel to Bloomington, because it's faster than taking Gettys Creek Road south to SR 46 west to town. Despite Sojourn's statement that their staff will not be using Kerr Creek Road for westbound travel to town, that's just not realistic.

In addition to staff members and volunteers coming and going to 7505, there will be additional traffic since the residents of 7505 will need transportation to and from town for (among other things) education, training, shopping, medical services, social services and employment.

Per Sojourn's residential program description, as well as their presentation at the 5/1/2022 Monroe County Council meeting, [a] Sojourn resident could expect to obtain "her own transportation" [vehicle] as part of the program. This will add even more traffic to Kerr Creek Road.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

Use of 7505 as a Group Home Class II would insert a business use into an area that has always been exclusively residential. This could negatively affect property values in the area.

3. The need for the variance arises from some condition peculiar to the property involved.

The Plan Department Use Determination concluded that "[...] the regulation of the Sojourn House, Inc use must not be based solely [my emphasis added] on the fact that it cannot meet the Monroe County Zoning Ordinance's definition of a "Family", and/or that it meets the definition of a "Business."

Accordingly, the above factors should be used in making the variance decision - they just can't be the only factors used in arriving at the decision. Other factors to consider include: putting a Group Home Class II where services essential to the residents aren't nearby, public health and safety issues, the effect on property values in the area and the absence of "unnecessary hardship".

4. 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. Unnecessary hardship is further defined as economic injury that:
- A. Arises from the strict application of this ordinance to the conditions of a particular, existing parcel of property;
  - B. Effectively deprived the parcel owner of all reasonable economic use of the parcel; and
  - C. Is clearly more significant than compliance cost or practical difficulties.

In their variance application letter, Sojourn stated that "the purchase and planned use of the property was predicated on IC 12-28-4-7 and the previous county Use Determination request".

Planning staff have confirmed that:

- 1) Sojourn communicated with planning on 9/21/2022 about the use of another property in the county for a group home, so they were aware of zoning rules.
- 2) Sojourn requested a Use Determination for 7505 from the Monroe County Planning Department on 12/2/2022.
- 3) Sojourn purchased 7505 on 12/22/2022, without having received a Use Determination.
- 4) Sojourn received the Use Determination for 7505 on 1/13/2023, noting that a Use Variance would be required for operating a Group Home Class II at 7505.
- 5) Sojourn applied for a Use Variance on 1/27/2023.



It is unfortunate that Sojourn decided to purchase 7505 before receiving the Use Determination and without securing the required Use Variance. Before Sojourn's purchase, 7505 had been used as a single family residence, in compliance with AG/RR permitted uses. At the time of Sojourn's purchase, 7505 was being marketed as a single family residence.

If the variance is denied, 7505 could be used as a single family residence - a reasonable economic use of the parcel.

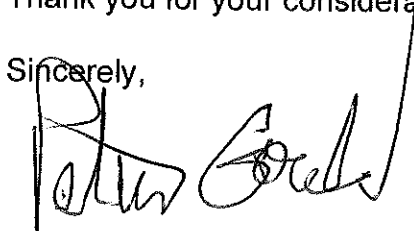
The denial of this variance would not predict denial of this use for other locations in the county, since a variance decision is based on the application of rules and regulations to the facts and circumstances of a specific parcel. It should also be noted that a Group Home Class II is a permitted use in zones UR, LB and GB in the county (without a Use Variance).

5. The approval does not interfere substantially with the Comprehensive Plan. Especially, the five (5) principles set forth in the Monroe County Comprehensive Plan:
1. Residential Choices
  2. Focused Development in Designated Communities
  3. Environmental Protection
  4. Planned Infrastructure Improvements
  5. Distinguish Land from Property

Per the Comprehensive Plan, 7505 is located in an area considered "Rural Development for areas lacking public infrastructure and services". The lack of public infrastructure and services reinforces why 7505 is not an appropriate location for a Group Home Class II.

Thank you for your consideration. Please deny this variance application.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Gould", with a long, sweeping horizontal stroke extending to the right.

Peter Gould

February 20, 2023

Dear Members of the Board of Zoning Appeals,

I am writing to voice my opposition to the granting of a zoning variance for the residence at 7505 E. Kerr Creek Road. I have owned and resided at 7165 E. Kerr Creek Road since 1990.

The house at 7505 is not a good location for a home for the mentally ill who are trying to re-integrate into the community, for several reasons:

1. A home for the mentally ill will definitely have an adverse affect on the property values in this area. This effect was documented in a study by Colwell, Dehring and Lash. All of us who own property on E. Kerr Creek Road within a mile from 7505 are retirees who have been here for at least 30 years. If or when our health declines to the point of necessitating tapping the equity in our homes for living expenses or relocation to a care facility, our property values will have declined because, to be frank, no one wants to live near a home for the mentally ill. This situation will be detrimental to our pocketbooks and therefore to the quality of health care we can afford near the end of our lives.
2. Sojourn House received an ARPA grant of \$164,000 from Monroe County to remodel the old elementary school building in Stinesville for this use. The money has not been used for that purpose. What happened to the funds, and will they be used to pay for rezoning this single family residence for group home use rather than for the original purpose of the grant?
3. A neighbor called the president of Sojourn House, before the closing on the sale of 7505, to inform her that it would be necessary to get a use variance. Thus she had the opportunity to postpone the closing in order to look into this issue before committing to the financial obligation. She claimed that she did not need a variance and told the neighbor to tell other neighbors not to call her.
4. Sojourn House has built a fire pit with seating very close to a highly combustible wooded area. Stray sparks or fire could easily ignite the woods, endangering not only 7505, but neighbors' properties and the state forest.
5. 7505 is located in an area with no services available. There is no public transportation, no shopping, and there are no medical facilities. Response times for ambulances, the sheriff and fire departments are hampered due to distance. There are no businesses nearby that could provide jobs for the clients of this group home.
6. The property is too isolated for the clients to acclimate to living among a neighborhood community, which, as I understand it, is one of their rehab goals.
7. Personal safety is a concern because it is adjacent to state forest, with hunting and trapping season 8 months of the year. This means there are men in the woods with firearms and/or archery weapons during the hunting seasons. While walking in those woods, residents often encounter hunters, hunting dogs, tree stands, traps and cameras. It is not at all unusual for residents to encounter hunters trespassing on our own properties. In fact, DNR officers have staged stake-outs on my property in an effort to apprehend poachers, who shoot at game from their vehicles on the road at night, towards homes. We have found stray arrows and shell casings on our property.



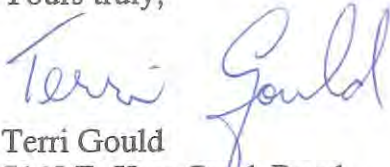
8. Another safety issue in this area is flooding. Kerr Creek floods over the road and onto our properties during wet weather. 7505 is traversed by Stephens Creek (near to the east side of the house), another flood-prone waterway. There are times when residents cannot get home from town, and cannot leave home in an emergency.

9. Power outages are common here. Power is provided to us by SCI REMC in Martinsville. We are located near the end of their line. When there are many trees down on the lines between Martinsville and our homes, it can and does take hours before our power is restored.

In summary, this is a poor location for a group home for the mentally ill due to: it's isolation, adverse natural conditions, several safety issues for the clients, the detrimental effect to property values in the area, and questions about the use of Monroe County grant funds.

Thank you for considering these concerns.

Yours truly,



Terri Gould  
7165 E. Kerr Creek Road  
Bloomington, IN 47408

February 15, 2023

Jerry Mandell and Elizabeth W Mandell  
7405 E Kerr Creek Rd  
Bloomington, IN 47408

Monroe County Board of Zoning Appeals  
c/o Jackie Jelen  
Planning Department  
Showers Building North  
501 N Morton St  
Suite 224  
Bloomington, IN 47404

Re: VAR-23-5 - Sojourn House - 7505 E. Kerr Creek Rd. - Use Variance  
for Group Home Class II

Dear Members of the Board of Zoning Appeals:

We are writing to you to oppose VAR-23-5. We do not oppose the worthwhile mission of Sojourn House, their team, or their volunteers, but instead oppose their choice of 7505 Kerr Creek Road as the location of their human trafficking rescue center.

We find it puzzling that the Variance Request Letter that we finally received on February 2, 2023 begins with these words:

"Date: January 27, 2023

To: Current Resident

This is to advise you that HUSTON, JEFF & KRISTI is requesting 1 Use Variance, including:"

The return address was from Stinesville but the name Sojourn House is not found in this request despite the fact they are the owners of the property. The date, January 27, 2023, is one month and five days after the closing on the sale of this property by the Hustons to Sojourn House.

Their Facebook page had this posting on December 22, 2022:  
Sojourn House Women



December 22, 2022  
We did it! YOU did it!  
Sojourn House is housed!

They had just closed on December 22, 2022 and had not requested a use variance.

We are next door neighbors to the Sojourn House property, hereafter referred to as "7505".

We share a 475' common border with them. We bought our home and nearly four acres of land 43 years ago when Kerr Creek Road was a quiet gravel road in an idyllic setting - quiet, low population density, rural single family homes, low traffic, and abundant wildlife. The private residence home at 7505 was not built until about twelve years later. We are concerned about many issues including increased vehicle traffic on the road.

## OUTREACH

On December 19, 2022 I called Jeff Huston to learn what was happening with the sale of their home. He told me about the imminent closing about to occur on December 22. I expressed my objections to the sale of the Huston home to Sojourn House group. He said he would put me in touch with the director of the ministry to discuss my concerns. She called the next day and explained their general plan to help women rescued from trafficking. She said no variance was required for them to open their facility.

The Sojourn House managers never reached out to the homeowners on this road. This surprises us especially because the land use changes radically from a single family home to a commercial group rescue center. They must have read the literature for people in their own field about the need to reach out the the neighbors and how important it is to have the support of the local community. Are we to think they have been hiding behind the Indiana State IC 12-28-4-7 Zoning ordinance? Expecting to set up shop without having to comply with any local ordinances?

## PROPERTY VALUES

Proximity to certain facilities and businesses can lower property values. Being close to a homeless shelter or even a hospital will lower the value of nearby properties. In this situation, values for surrounding properties are expected to drop due to the change in property use at 7505 from AG/RR single family home to a commercial Group Home rescue center. There will probably be fewer prospective home buyers interested in living next door to a commercial rescue center than living next door to a private home.

## FLOODING

Over the years we have experienced numerous flooding events. During flood events, travel along certain sections of the road becomes dangerous with flood water rushing from the creek over its banks and onto the pavement or rain water from hills crossing the road. During these flood events we have seen the driveway at 7505 sit under water for a few days.

During one flooding event, in the 1990's, Stephens Creek rose way over its banks and surged across the Stephens Creek bridge that lies 270' east of the driveway at 7505. The water was so high that debris was left to dry on the bridge railings. During that storm, large portions of the fencing owned by the Conard family was washed away along Kerr Creek Road east and west of the bridge. The yard at 7505 was flooded.

Frank Alogna, who built the house at 7505 around 1992, told us that the flood waters from Stephens Creek rose within six feet from his basement door.

## THE SOJOURN HOUSE PLAN

We sense that there are many shortcomings and unresolved questions in the details of Sojourn Houses's plan. They have not taken into account the conditions of living on this road. There is little public infrastructure available for the women to use. No regular bus service, no shopping, no restaurants, no pharmacies, no grocery stores, no



library or other services. The women (up to eight) will need transportation to go anywhere. This statement is from their website on February 16, 2023:

A beautiful home for up to 8 women at a time will offer:

- spacious bedrooms
- large outdoor setting
- an inviting kitchen and living room
- education and therapeutic spaces.

Earlier they said there would be three or four women. Now they are planning for eight women at 7505. We have heard that there is a requirement for each woman to supply her own vehicle. We were told that they will have three staff members working there most of the day. How many vehicles will be required to support all the women and staff?

There are many limitations to overcome in their choice of 7505 as a home base. Other locations around the Bloomington area would be more suitable for a group recovery home. On the west side, Ivy Tech Community College is one of the most helpful resources for education. They also offer counseling and job placement services for students. There are bus services there. However, like most other resources, Ivy Tech is far from 7505.

The 7505 location may help with healing but for a group recovery home it is poorly located if Sojourn House also wants to help people with education, job training, employment, and reengaging with society.

We do not know what to expect from a group that has changed their story several times, acted in a calculating way and appears to have found an expedient solution for a business venture.

If VAR-23-5 is approved, it should not be allowed to transfer to the next owner. This is one of our concerns. Please consider the damage the presence of this group will do to our lives.

## HUMAN TRAFFICKING

The women are witnesses to traffickers and abusers.  
Are we really safe from retaliation by abusers of the women who will  
be living at 7505? Are we safe from stalkers who come to our  
neighborhood looking for trafficked women?

Sincerely,

*Jerome Mandell*  
*Elizabeth W Mandell*

Jerome Mandell  
Elizabeth W Mandell



Monroe County Board of Zoning Appeals c/o Jackie Jelen

Re: Sojourn House - 7505 E. Kerr Creek Rd. - Use Variance for Group Home Class II

February 20, 2023

Members of the Board of Zoning Appeals:

Sojourn House's stated intent to provide services to women in need is commendable. There are many places in Monroe County where the project they envision can be pursued consistent with the County's Zoning Ordinance.

However, Sojourn House should not be granted the variance it seeks for its property at 7505 Kerr Creek Road, because the Board of Zoning Appeals cannot properly make all five of the Chapter 812-5 findings required as a predicate to approval.

First, nearby residents reasonably believe that the new use will have a substantially negative affect on both their use and enjoyment of and the value of their properties. This has been communicated to the Board of Zoning Appeals in several letters from property owner in the area adjacent to 7505 Kerr Creek. Sojourn House, on the other hand, has not shown that its proposed use will be positive or have no effect on the use and value of the properties in the area adjacent to the affected property.

Second, Sojourn House has not shown and cannot show that the need for the variance arises from some "condition peculiar" to the property. The property has no unusual features; indeed, it is arguably poorly located logistically for the proposed use. And an argument that Sojourn owns this property but not others may be answered several ways: (1) an applicant for a zoning variance cannot bootstrap its way into "condition peculiar" compliance by purchasing an ordinary property and then claiming that the peculiar condition is that they bought the property to devote to a non-conforming use; and (2) the property has, over many years, been used as a single family residence and is indisputably well-suited to that use; and (3) Sojourn House can recover its investment by selling the property and using the sale proceeds for its purposes.

Third, the application of the terms of the Zoning Ordinance for our neighborhood will not constitute an unnecessary hardship if applied to the property. On the contrary, enforcing the Ordinance will provide the area with the stability and predictability intended by a zoning ordinance, will maintain the uses many property owners want and expected when they purchased

property in the area. Application of the restrictions associated with the zoning will not in any way leave Sojourn with no economic use for the property nor prevent Sojourn House from finding a suitable site for their project. Indeed, before they purchased this property, they had apparently expected to invest in adapting a Stinesville site for their purposes.

Fourth, granting the variance has environmental implications. The site is quite close to Lake Monroe. The septic system that served a family is unlikely to be suitable for daily needs of “up to eight” live-in clients (the staff assessment of the application says four clients, but the Sojourn application says “four” up to “eight” clients) one paid staff person and several volunteers.

These specific legal considerations demand that the application be denied. But in addition, it seems clear that Sojourn House’s planning and preparation for the project is insufficient. As best as can be understood from their application, there will be no trained security personnel at the site. Given the population they intend to serve, that is a serious concern, and the concern is magnified because—again, as it appears, Sojourn House does not plan to have any paid staff at all the property overnight. Second, contrary to the best practices recommended in the state Division of Mental Health “how to” manual for recovery residences, Sojourn House has shown indifference to “building strong relationships” with neighbors and made no effort to identify and address concerns. Their position initially seems to have been that neither neighbors nor Monroe County have any cognizable stake in what happens at the site; they claimed, incorrectly, that state law overrides local zoning in this matter.

Further, one would expect the planning of a residence recovery facility to begin with a careful identification of the need to be served. While Sojourn’s application cites several sources it says will guide them in identifying clients, their public face has emphasized a legally ambiguous target population of “trafficked” individuals, while for purposes of the application the emphasis is on addicted or recovering individuals. The needs and risks associated with those groups overlap but are not coincident; the differences are important for neighbors who understandably want to be assured that the risks are well-mitigated with Sojourn procedures.

If Middle Way House and other existing facilities cannot fully serve the population in need, the residents of this area would undoubtedly support the development of such options. But any such new facilities ought to be located where the zoning contemplates such a use.

Sincerely,

W. William Weeks  
6573 E. Kerr Creek Road





# **MONROE COUNTY BOARD OF ZONING APPEALS**

**Public Meeting Date:**

**March 1, 2023**

CASE NUMBER	DETAIL	RECOMMENDED MOTION
VAR-23-6	Minimum Lot Width	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.

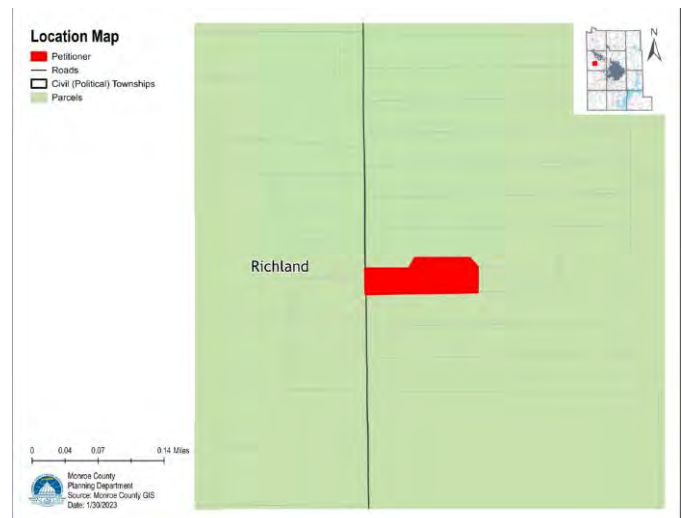
## ***Recommended Motion Conditions or Reasoning:***

Approve the design standards variance to Chapter 804 for Minimum Lot Width restrictions given that it would meet the Practical Difficulties Standards. The Minimum Lot Width cannot be reached due to the location of the pre-existing residence having been built in front of the build line delineated on the plat.

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

**Planner:** Shawn Smith

<b>PETITIONER</b>	Taylor, Levi and Alexandria (owners & applicants)	
<b>ADDRESS</b>	2968 N Loudon RD 53-04-21-400-009.000-011	
<b>TOWNSHIP + SECTION</b>	Richland; 21	
<b>PLATS</b>	<input type="checkbox"/> Unplatted <input checked="" type="checkbox"/> Platted:	
<b>ACREAGE +/-</b>	2.5 acres	
	<b>PETITION SITE</b>	<b>ADJACENT</b>
<b>ZONING</b>	AG/RR	AG/RR
<b>COMP PLAN</b>	Rural Residential	Rural Residential
<b>USE</b>	Residential	Residential



## **SUMMARY**

The petitioner is requesting a variance from the Minimum Lot Width restrictions from Chapter 804. The petitioner has on file building permit application R-22-1362, seeking to bring into compliance the addition of a 650 sq. ft. addition to the existing residence. According to Chapter 804 of the Monroe County Zoning Ordinance, the minimum lot width in the Agriculture/Rural Reserve (AG/RR) zoning district is 200 feet. The approximate lot width of the existing residence is 140 feet. The petitioners are working with the Health Department to ensure the septic capacity corresponds with the number of bedrooms within the residence. The location of the proposed addition does meet the minimum lot width, however, the original home does not meet lot width. Therefore, the variance is for the minimum lot width at the narrowest point (140 ft) whereas 200 ft is otherwise required. All other design standards show compliance. If the variance is approved, the petitioner will continue with the building application. If denied, the petitioner will not be able to conduct further development on the lot.

### EXHIBITS - Immediately following report

1. County Slope Map 15%
2. Staff site visit photos
3. Petition Letter
4. Petitioner Site Plans
5. Subdivision Plat - Marcus Siniard Minor Subdivision Final Plat

### EXHIBIT 1:

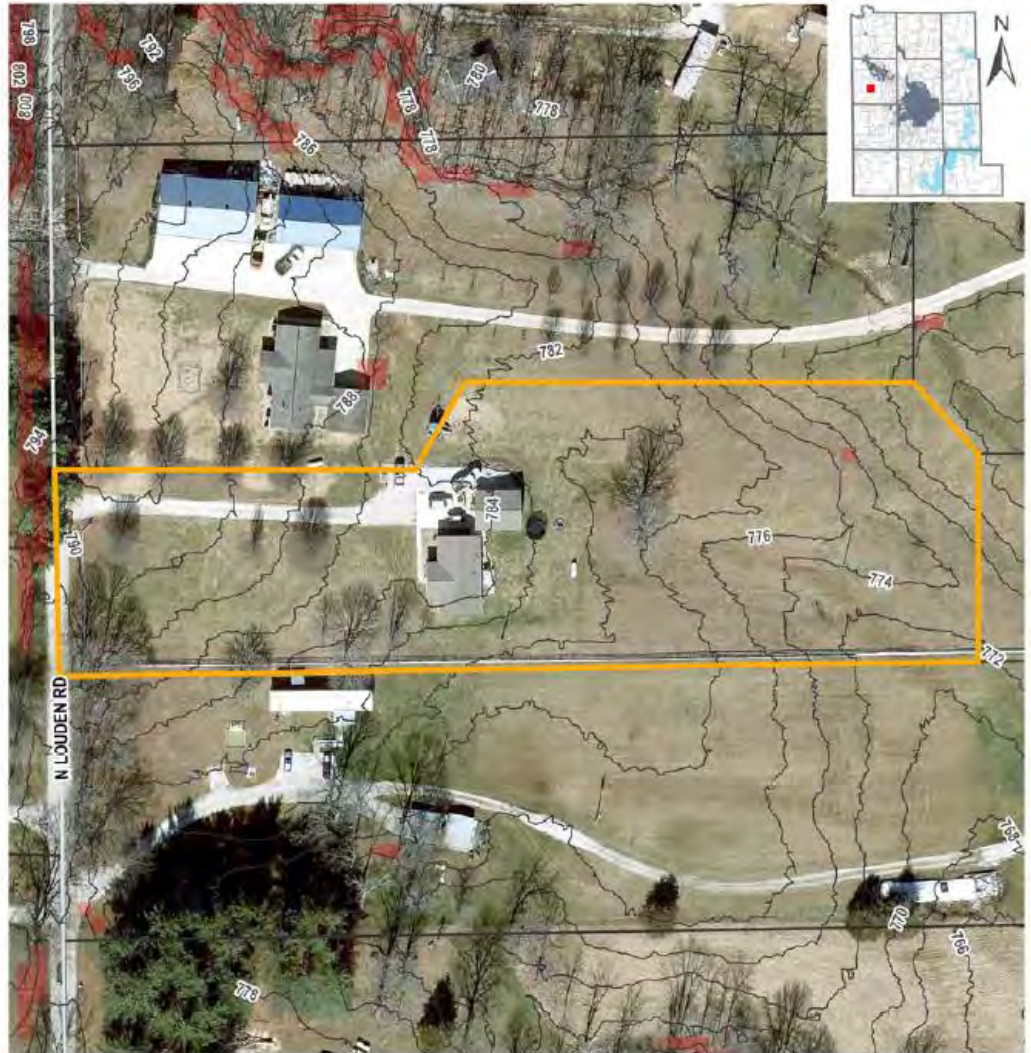
#### Site Conditions Map

-  Petitioner
-  2-Foot Contours
- 15% Slope (County/ECO2)**
- <VALUE>**
-  0 - 15
-  > 15
-  Local Roads [50']
-  Parcels

0 30 60 120 Feet



Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 1/30/2023





**EXHIBIT 2:**



**Photo 1: Facing North.**

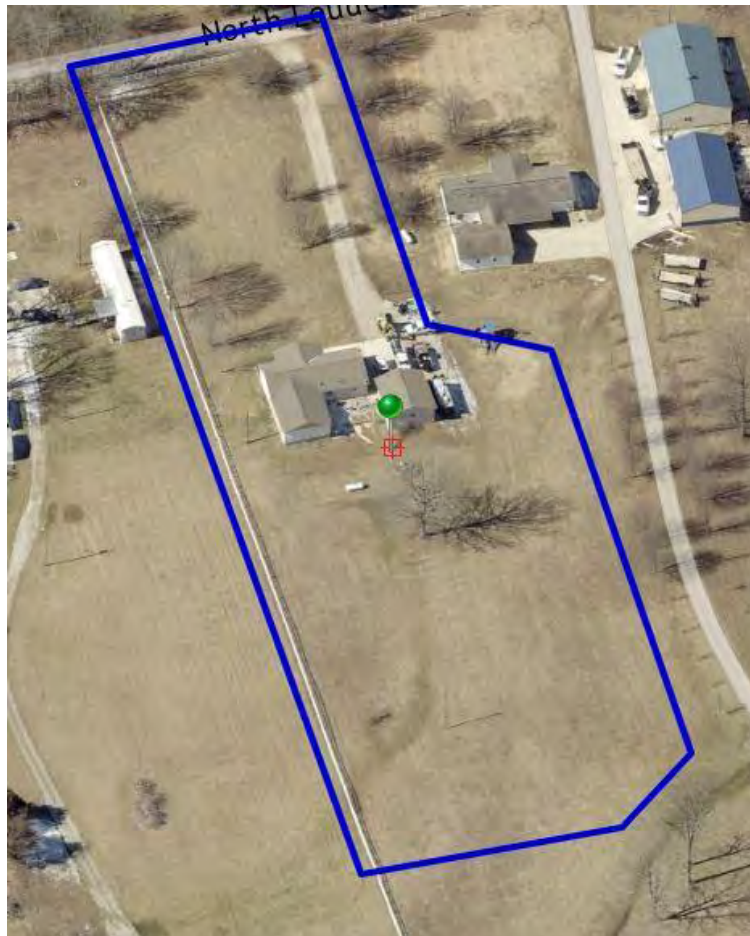


**Photo 2: Facing North (location of already built addition)**





**Photo 3: Facing East**



**Photo 4: Facing West**



**EXHIBIT 3:**

January 23, 2023

Monroe County Planning Department  
Richland Township  
501 N Morton St Suite 224  
Bloomington, IN 47404

RE: 2968 N. Loudon Rd.  
Bloomington, IN 47404

We are requesting a relaxation in property line requirements reference said property due to the home was placed in wrong location at time of placement 2005 by original owners and we were just informed while filing for a building permit for said property that it was misplaced and now it does not meet the required distance by county from property lines.

We also are in process of getting a new septic permit as well to meet the requirements for amount of bedrooms the property now has. We can not go back to original owners of property who placed the home originally due to the subjects are deceased and have been for sometime. We are not capable of moving home so that is why we are asking for relaxation in property line requirements. I am trying to receive a mortgage on property and doing everything I can to bring said property to compliance with County requirements.

I would appreciate it if I could get the variance approved for the sake of being the new owners and doing my best to be in compliance.

Thank you for your time in this matter and will appreciate any help you can offer in this matter.

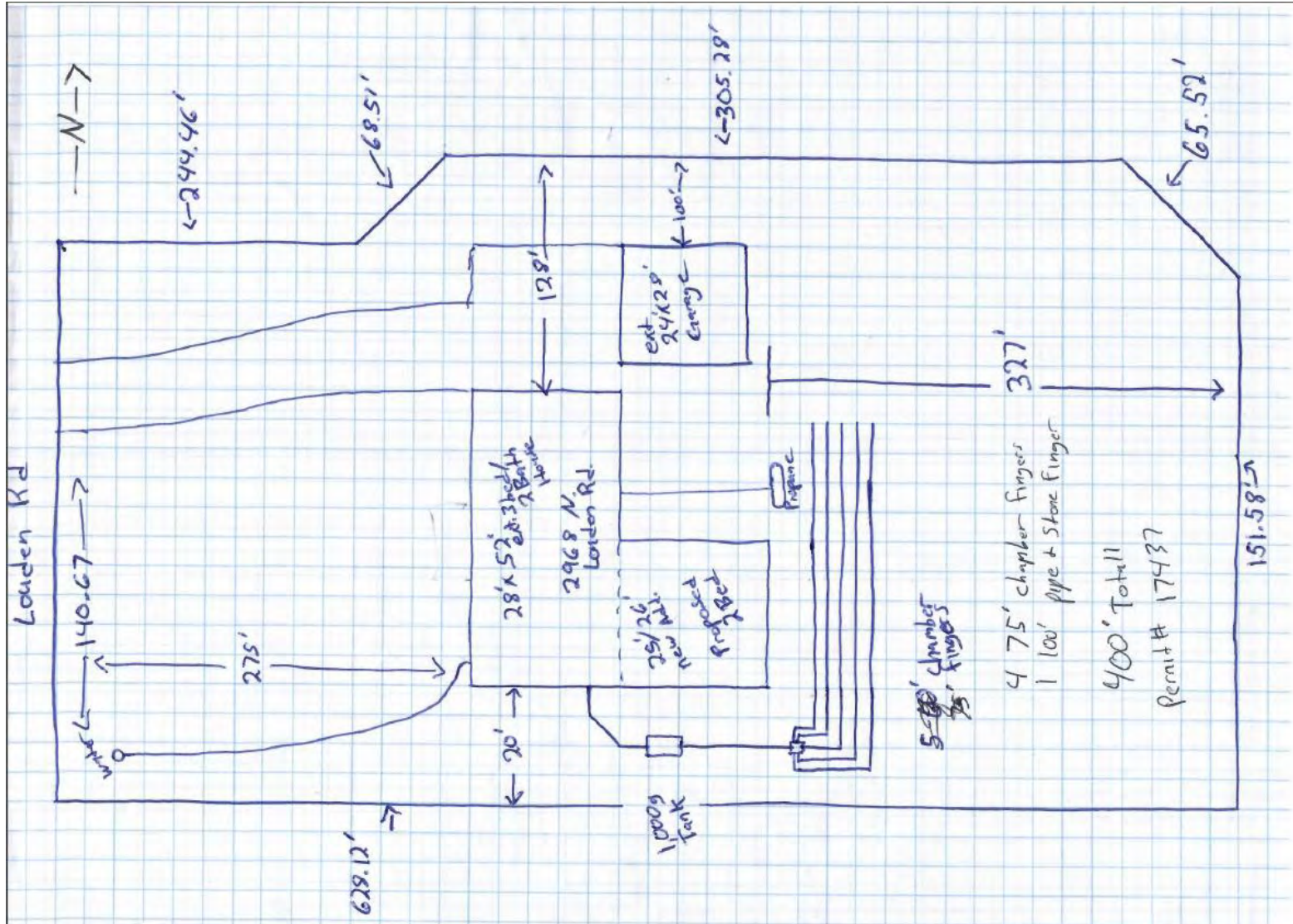
*Levi Taylor*

*Alexandra Taylor*  
Property Owner

*812-322-1915*  
Phone Number

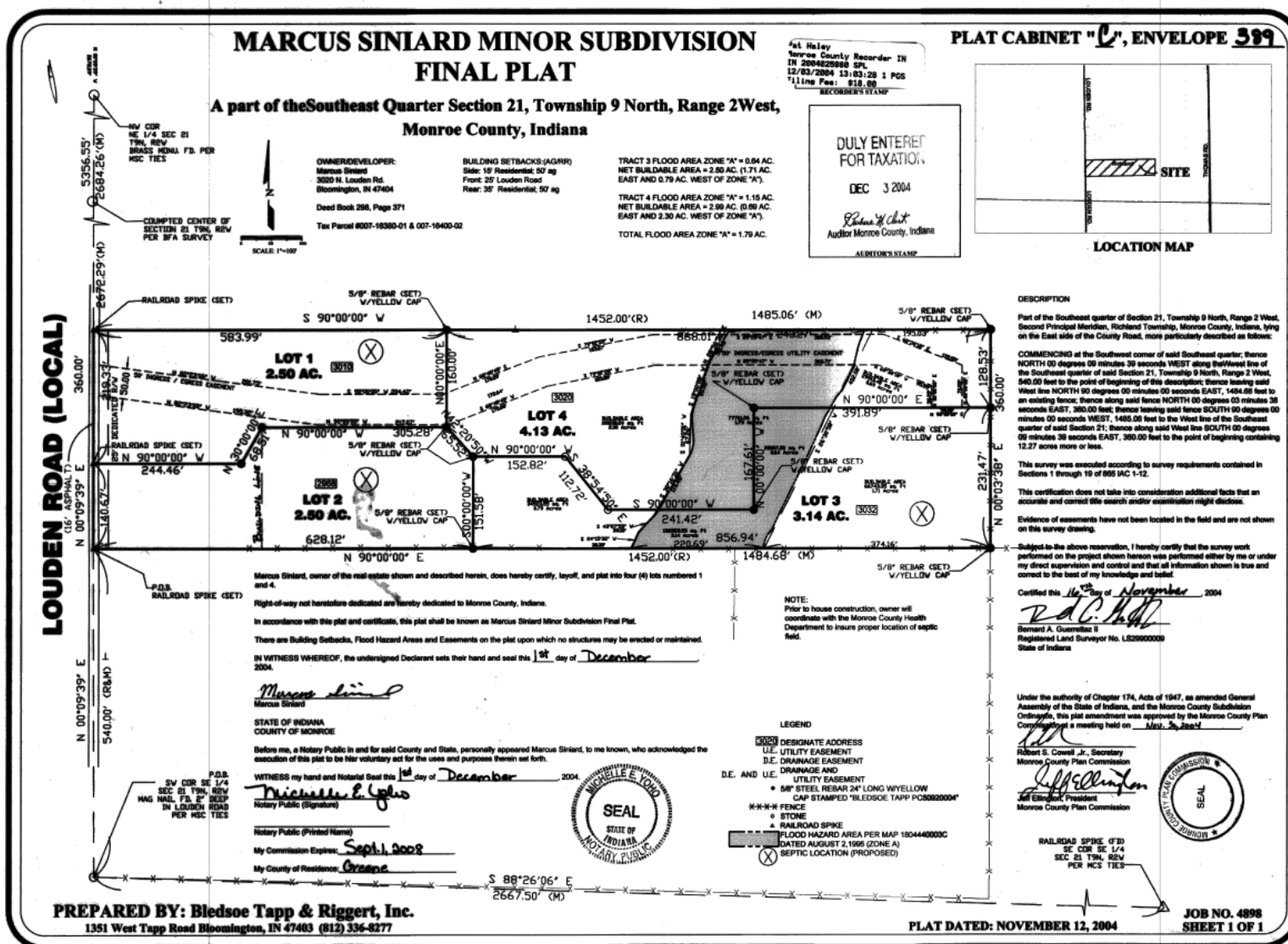
*1-29-23*  
Date

**EXHIBIT 4:**



**Site Plan**





**MONROE COUNTY BOARD OF ZONING APPEALS****March 1, 2023**

<b>CASE NUMBER</b>	CDU-23-1
<b>PLANNER</b>	Daniel Brown
<b>PETITIONER</b>	Jerry Myers (Du Wop's Hot Rod & Repair, LLC)
<b>REQUEST</b>	Ch. 813 Conditional Use for Automobile Repair Service, Minor
<b>ADDRESS</b>	8567 W Vernal Pike, Parcel #53-04-32-100-005.000-011
<b>ACRES</b>	6 +/-
<b>ZONE</b>	AG/RR
<b>TOWNSHIP</b>	Richland Township
<b>SECTION</b>	32
<b>PLATS</b>	Unplatted
<b>COMP PLAN DESIGNATION</b>	Farm and Forest

**EXHIBITS**

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

**RECOMMENDED MOTION**

Staff recommends **approval** of the conditional use petition for Automobile Repair Service, Minor of Chapter 802 and 813 based on ability to meet the conditions of the Conditional Use in Chapter 813 with one condition:

1. Petitioner applies for a Land Use Certificate for the Automobile Repair Service, Minor use on the property.

**SUMMARY**

The petition site is 6 +/- acres in Richland Township, Section 32 and is currently an unpermitted Automobile Repair Service, Minor use. The petitioner is seeking conditional use approval for an Automobile Repair Service, Minor use located in the Agricultural/Rural Reserve (AG/RR). Chapter 802 and 813 of the Zoning Ordinance state that an Automobile Repair Service, Minor use is a conditional in the AG/RR zone.

**BACKGROUND**

The petition site is being used as a primarily Automobile Repair Service, Minor use. The use is conditional under Chapter 813 in the AG/RR zone. The use is defined by Chapter 802 below and includes conditions:

*Automobile Repair Services, Minor. The replacement of any mechanical part or repair of any mechanical part including the removal of the engine head or pan, engine transmission or differential; and upholstering service, as an accessory to a residential use.*

The Planning Department received a complaint regarding the use in January of 2023. A zoning enforcement case was opened and the petitioner was directed to submit a Use Determination Form to Planning Staff for further review. Planning staff identified the uses and directed the petitioner to apply for the conditional use application. If approved, the applicant would then be able to obtain all necessary permits for the structure to be used as a garage. In addition, the fenced in area will need to obtain any applicable permits, such as if the fence will be over 6 feet in height.



Generally, all conditional uses must follow the following standards.

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

In addition, the following use-specific conditions apply:

50. It is unlawful for any person to engage in minor vehicle repair or maintenance unless conducted in accordance with the following conditions:

- 1. Conducted inside a fully enclosed garage located on a parcel 5 acres in size or greater.
- 2. Applies to passenger automobiles and trucks not in excess of 7,000 pounds gross weight.
- 3. No more than (5) five vehicles shall be stored outside on the premises.
- 4. No vehicle may be stored beyond sixty days.
- 5. Vehicles stored outdoors must be screened from view in all directions by an appropriate fence or similar enclosure.
- 6. Vehicles intended for parts, engines, transmissions and all similar items to be used in future repairs shall be stored indoors.
- 7. The uses shall follow all home based business design standards.

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


## LOCATION MAP

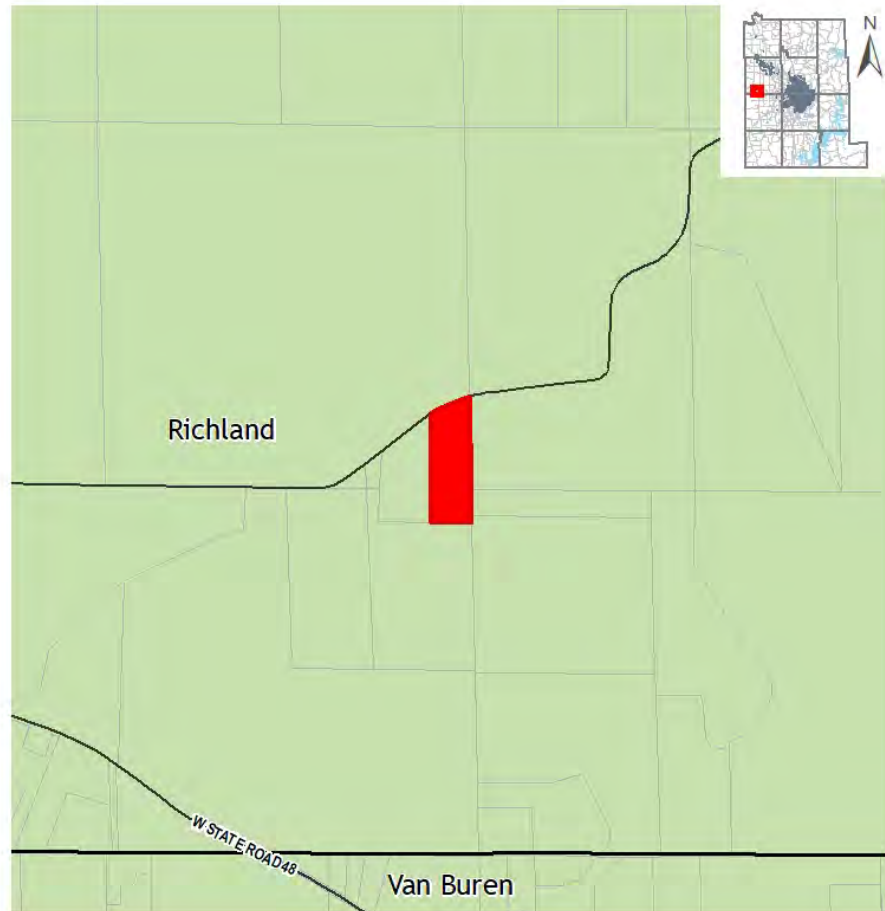
The petition site is located at 8567 W Vernal Pike, in Richland Township, Section 32.

### Location Map

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

0 0.075 0.15 0.3 Miles

 Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 2/14/2023











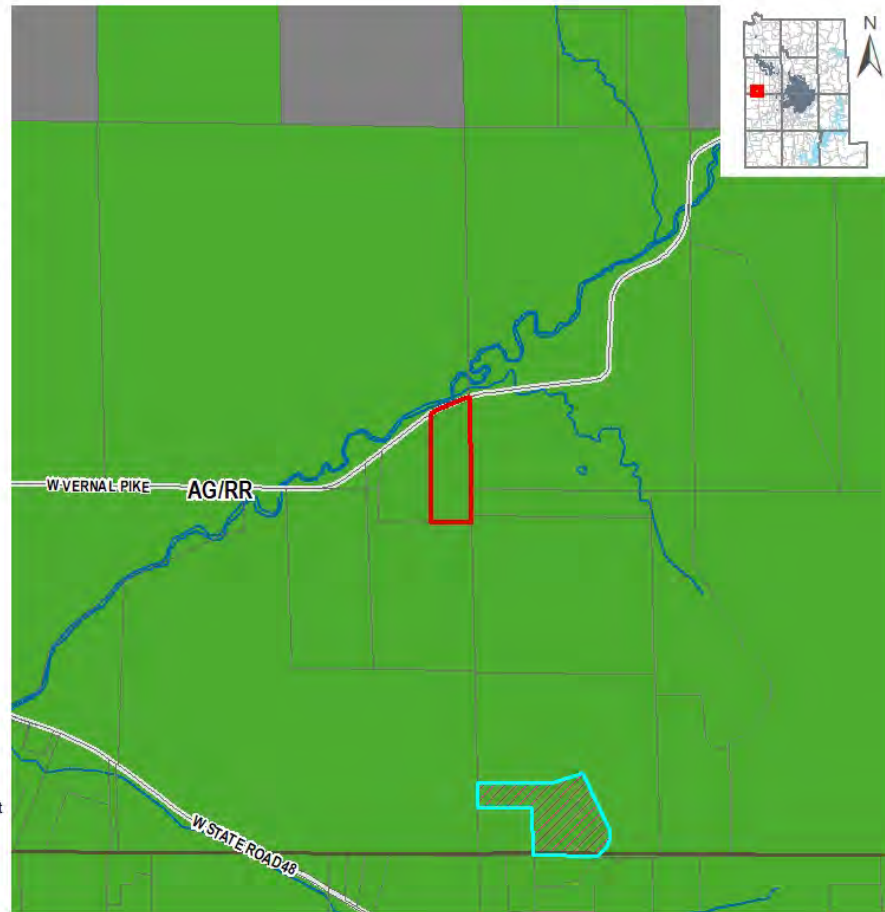
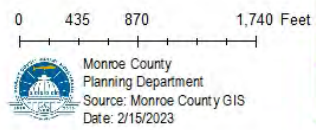


## ZONING AND LAND USE

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

### Current Zoning Map

-  Petitioner
-  Parcels
-  Roads
-  Hydrologic Features
- WCF\_OVERLA**
  -  WCF OVERLAY ON PART OF LOT
- Monroe County Zoning**
  -  AG/RR - Agriculture/Rural Reserve
  -  ME - Mineral Extraction
  -  PB - Pre-Existing Business



## SITE CONDITIONS & INFRASTRUCTURE

The petitioner site contains slopes under 15% but does exist on a slope to the north – screening of the operations may difficult under a site plan review. There are no known karst features or floodplain present on the site.

### Site Conditions Map

- Minor Collector [60']
- Petitioner
- 10-Foot Contours

#### Percent Slopes

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

- Local Roads [50']
- Hydrologic Features

#### DNR Best Available Data

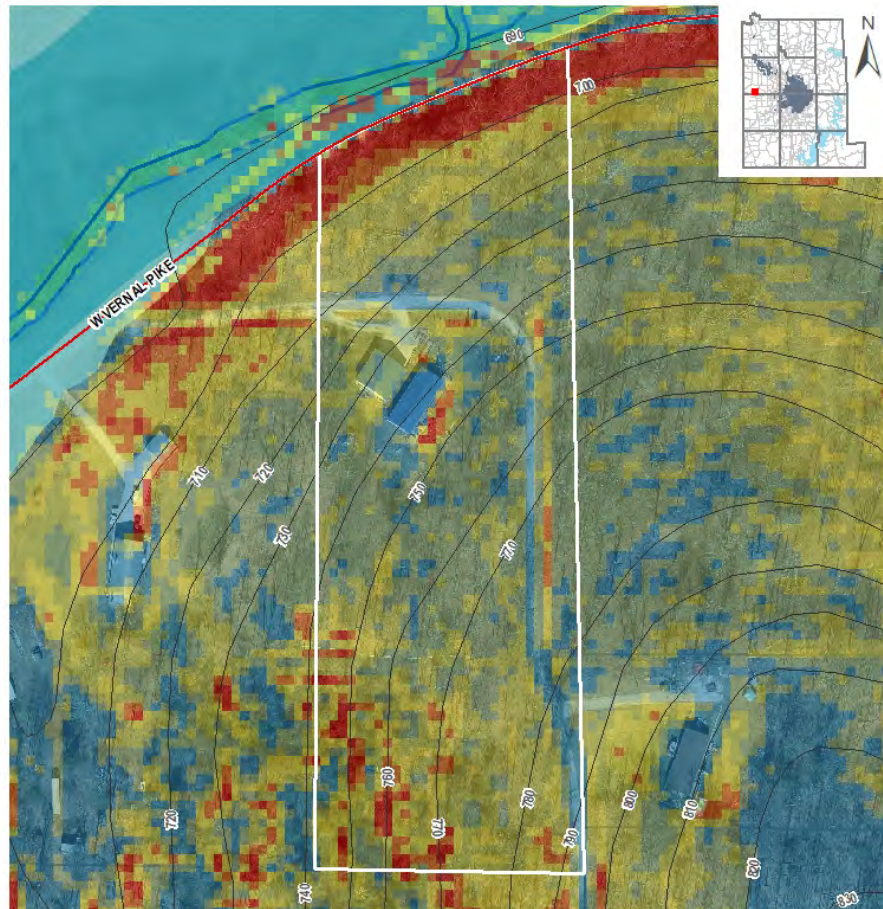
##### FLD\_ZONE, ZONE\_SUBTY

- A
- A, APPROXIMATE FLOODWAY
- Parcels

0 40 80 160 Feet



Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 2/14/2023





## COMPREHENSIVE PLAN DISCUSSION

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

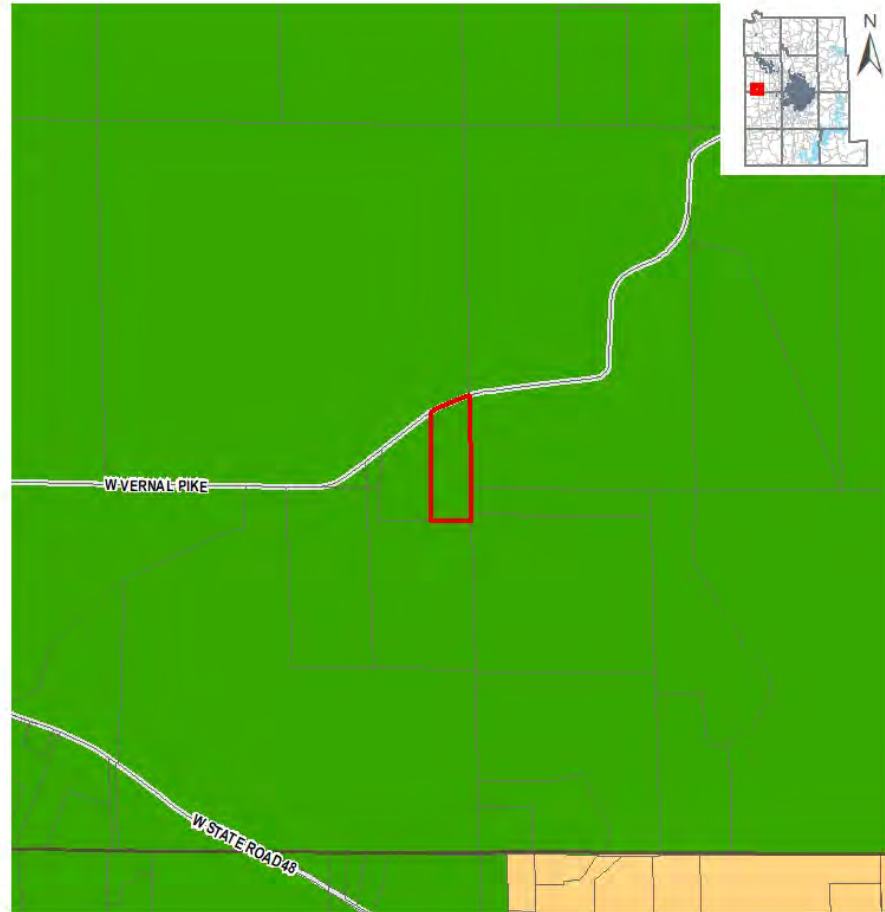
### Comprehensive Plan

-  Petitioner
-  Townships
-  Parcels
-  Roads
- Comp. Plan Land Use (Updated 2015)**
-  Farm and Forest
-  Rural Residential

0 0.075 0.15 0.3 Miles



Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 2/15/2023



**EXHIBIT 1: Site Photos**



Photo 1: A photo of the residential structure





Photo 2: A front view of the garage



Photo 3: A side view of the garage, with a sign for the non-conforming business on it



## EXHIBIT 2: Petition Letter

Monroe County Board of Zoning Appeals,

I'm requesting a Conditional Use Variance for 8567 W Vernal Pike which is my primary residential property. I am proposing to add the following conditional use:

Automobile Repair Services, Minor. The replacement of any mechanical part or repair of any mechanical part including the removal of the engine head or pan, engine transmission or differential; and upholstering service, as an accessory to a residential use.

This use has the following conditions, and I will address each below -

Condition 50. It is unlawful for any person to engage in minor vehicle repair or maintenance unless conducted in accordance with the following conditions:

1. Conducted inside a fully enclosed garage located on a parcel 5 acres in size or greater.  
Du Wop's Hot Rod & Repair is operated fully inside a detached garage.
2. Applies to passenger automobiles and trucks not in excess of 7,000 pounds gross weight.  
Du Wop's Hot Rod & Repair does not work on vehicles greater than 7,000 pounds.
3. No more than (5) five vehicles shall be stored outside on the premises.  
Du Wop's Hot Rod & Repair never has more than five vehicles outside of the premise. Personal-use vehicles are not included.
4. No vehicle may be stored beyond sixty days.  
No vehicle is stored or waiting restoration/repair for more than 60 days.
5. Vehicles stored outdoors must be screened from view in all directions by an appropriate fence or similar enclosure.  
My property is set in a wooded area from W Vernal Pike. The view of the property is somewhat obstructed from W Vernal Pike. I will construct a small, fenced area adjacent to the garage for outdoor storage of vehicles involved with Du Wop's and optionally used for my personal vehicles.
6. Vehicles intended for parts, engines, transmissions and all similar items to be used in future repairs shall be stored indoors.  
Du Wop's Hot Rod & Repair does not store vehicles used for parts.
7. The uses shall follow all home-based business design standards.  
All design standards will be followed.
53. Only permitted on lots 5 acres or greater in the AG/RR, CR, and FR zoning districts.  
The property is 6 acres in size.

Thank you for your consideration,

Jerry Myers

## EXHIBIT 2: Site Plan

### Site Conditions Map

- Minor Collector [60']
- Petitioner
- 10-Foot Contours
- Local Roads [50']
- Hydrologic Features

### DNR Best Available Data

FLD\_ZONE, ZONE\_SUBTY

- A
- A, APPROXIMATE FLOODWAY
- Parcels

1. proposed enclosed with fence & gravel area to park cars
2. all work performed here 40'x40' garage

0 20 40 80 Feet



Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 1/31/2023





## EXHIBIT 4: Use Determination

Firefox

<https://monroecountyin.viewpointcloud.io/>



### Monroe County Plan Commission and office of the Monroe County Board of Zoning Appeals

Monroe County Government Center

501 N. Morton St., Suite 224

Bloomington, IN 47404

Telephone: (812) 349-2560 / Fax: (812) 349-2967

<https://www.co.monroe.in.us/departments/structureid=13>

## USE DETERMINATION

Issued on: January 31, 2023

NOTE: Any expansion or change from the description provided to staff using this form may change the use determination. It is recommended that you file a complete application for a permit or approval to establish compliance.

**\*\*\*THIS IS NOT A PERMIT\*\*\***

<b>Use Determination:</b>	Automobile Repair Services, Minor
<b>Use Permitted or Not Permitted?:</b>	Conditional Use (see below for next steps)
<b>Date Issued:</b>	January 31, 2023
<b>Zoning of the Property:</b>	AG/RR
<b>Current Use of the Property:</b>	Residential
<b>Owner Name:</b>	Myers, Melina & Jerry Dale
<b>Considered a Change of Use:</b>	No
<b>Ordinance Reference:</b>	802
<b>Township and Section:</b>	Richland // 32
<b>Zoning/ Floodplain:</b>	AG/RR / No Floodway
<b>ECO:</b>	N/A
<b>Property Setbacks:</b>	Front setback: 25' from edge of pavement if deed doesn't contain RoW easement/dedication, if the deed does list RoW, the 25' setback would start at the edge of RoW. Side: 15' for residential uses/50' for other uses Rear: 35' for residential uses/50' for other uses
<b>Address / Parcel #:</b>	8567 W Vernal PIKE Bloomington 47404-9757 IN / 53-04-32-100-005.000-011
<b>Constraints/Notes:</b>	<p>Use is considered "Automobile Repair Services, Minor" which is a Conditional Use in the Ag/RR zone.</p> <p>Automobile Repair Services, Minor. The replacement of any mechanical part or repair of any mechanical part including the removal of the engine head or pan, engine transmission or differential; and upholstery service, as an accessory to a residential use.</p> <p>The conditions that must be followed include:</p> <p>50. It is unlawful for any person to engage in minor vehicle repair or maintenance unless conducted in accordance with the following conditions:</p> <ol style="list-style-type: none"><li>1. Conducted inside a fully enclosed garage located on a parcel 5 acres in size or greater.</li><li>2. Applies to passenger automobiles and trucks not in excess of 7,000 pounds gross weight.</li><li>3. No more than (5) five vehicles shall be stored outside on the premises.</li><li>4. No vehicle may be stored beyond sixty days.</li><li>5. Vehicles stored outdoors must be screened from view in all directions by an appropriate fence or similar enclosure.</li><li>6. Vehicles intended for parts, engines, transmissions and all similar items to be used in future repairs shall be stored indoors.</li><li>7. The uses shall follow all home based business design standards.</li></ol> <p>53. Only permitted on lots 5 acres or greater in the AG/RR, CR, and FR zoning districts.</p> <p>and</p> <p>813-5. Standards for Approval</p> <p>In order for a conditional use to be approved, the Board must find that:</p> <p>(A) the requested conditional use is one of the conditional uses listed in Chapter 813-8 (for the traditional County planning jurisdiction) or Table 33-3 (for the former Fringe) for the zoning district in which the subject property is located. In addition to the other relevant standards imposed by or pursuant to this chapter, the standards, uses and</p>

	<p>conditions set forth in Section 813-8 are hereby incorporated as standards, uses and conditions of this chapter;</p> <p>(B) all conditions, regulations and development standards required in the Zoning Ordinance shall be satisfied;</p> <p>(C) granting the conditional use shall not conflict with the general purposes of the Zoning Ordinance or with the goals and objectives the Comprehensive Plan;</p> <p>(D) the conditional use property can be served with adequate utilities, access streets, drainage and other necessary facilities;</p> <p>(E) the conditional use shall not involve any element or cause any condition that may be dangerous, injurious or noxious to any other property or persons, and shall comply with performance standards delineated in this ordinance;</p> <p>(F) the conditional use shall be situated, oriented and landscaped (including buffering) to produce a hamonious relationship of buildings and grounds with adjacent structures, property and uses;</p> <p>(G) the conditional use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood;</p> <p>(H) the conditional use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood; and,</p> <p>(I) all permits required by other Federal, State and local agencies have been obtained.</p> <p>The next step is to apply for a conditional use: <a href="https://monroecountyin.viewpointcloud.com/categories/1085/record-types/6586">https://monroecountyin.viewpointcloud.com/categories/1085/record-types/6586</a>. Owner was going to discuss with the Building department regarding any building requirements for converting and using the structure.</p>
<b>Reviewed by:</b>	Anne Crecelius
<p>Any determination is subject to an appeal per Monroe County Zoning Ordinance Chapter 821, IC 36-7-4, and the Board of Zoning Appeals Rules of Procedure:</p> <p><a href="#">USE-23-2</a></p>	<p><a href="https://www.co.monroe.in.us/egov/documents/59990883_fa90_b436_69cd_a52adf7a9902.pdf">https://www.co.monroe.in.us/egov/documents/59990883_fa90_b436_69cd_a52adf7a9902.pdf</a></p> <p>Appeals must be submitted within 30 days of the Use Determination issuance.</p>

This is an e-permit. To learn more, scan this barcode or visit [monroecountyin.viewpointcloud.com/#/records/23544](https://monroecountyin.viewpointcloud.com/#/records/23544)





## MONROE COUNTY BOARD OF ZONING APPEALS

**Public Meeting Date:**

**March 1st, 2023**

CASE NUMBER	DETAIL	RECOMMENDED MOTION
VAR-23-8a	Rear Yard Setback	Approval
VAR-23-8b	Maximum Building Coverage	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:***

1. Staff recommends **approval with a condition** of VAR-23-8a and VAR-23-8b due to the pre-existing non-conforming nature of the lot.
  - a. Petitioner applies for an after-the-fact building permit for the 192 square foot utility shed.

<b>Variance Type:</b> <input checked="" type="checkbox"/> Design <input type="checkbox"/> Use <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial	<b>Planner:</b> Daniel Brown
--	------------------------------

<b>PETITIONER</b>	Anderson, Patrick	
<b>ADDRESS</b>	4646 E Heritage Woods RD; parcel #53-08-01-100-089.000-008	
<b>TOWNSHIP + SECTION</b>	Perry; 01	
<b>PLATS</b>	<input checked="" type="checkbox"/> Unplatted <input type="checkbox"/> Platted:	
<b>ACREAGE +/-</b>	0.53 +/-	
	<b>PETITION SITE</b>	<b>ADJACENT</b>
<b>ZONING</b>	RE2.5, ECO Area 3	RE2.5, ECO Area 3
<b>COMP. PLAN</b>	MCUA Rural Transition	MCUA Rural Transition
<b>USE</b>	Single Family Residential	Single Family Residential, Other Residential Structure

### SUMMARY

This variance request has been filed in relation to a proposed detached garage with a walkway and porch; an addition, and two porches to an already existing single-story single-family residential dwelling; and an expansion of the existing driveway. However, both the proposed garage and the existing home encroach into the rear setback of the property (which is 60 feet), and the proposed structures and additions would exceed the maximum lot coverage of 10% for RE2.5 (which for the minimum lot size of 2.5 acres would be 10,890 square feet). Thus, these two variances were triggered.

While this property being only 0.53 acres, and RE2.5 has a minimum lot size of 2.5 acres, this property is exempt from a Minimum Lot Size variance, as it is subject to Table 33-5(6) in Chapter 833 of the Zoning Ordinance which states:

“Any substandard lot of record which was recorded prior to the effective date of this zoning ordinance shall be permitted to exist in its present dimensions. Such lots may have reduced side yard requirements as shown below:

In any RE district: 15 feet minimum each side

In any RS district: 6 feet minimum each side”

Furthermore, Chapter 833 also states that “Detached garages, carports, and storage sheds may be no higher than 15 feet and shall be located no closer to a property line than... [5’ for side yard

setbacks].”

Currently located on the lot are a single-family residence measuring 2,122 square feet and a utility shed measuring 192 square feet. The residence is pre-existing non-conforming, having been constructed in 1965.

If the variance is approved, then the applicant will be able to proceed with the construction of the addition and the porch as they intended. If the variance is denied, then the applicant will not be allowed to make these improvements.

	CURRENT	PROPOSED	PERMITTED
Max Building Coverage	10.02% (2314 sq ft)	20.49% (4730 sq ft)	10% (2308.68 sq feet for 0.53 acres)
Rear Yard Setback	40 feet	5 feet	60 feet

<b>EXHIBITS - <i>Immediately following report</i></b>
---

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




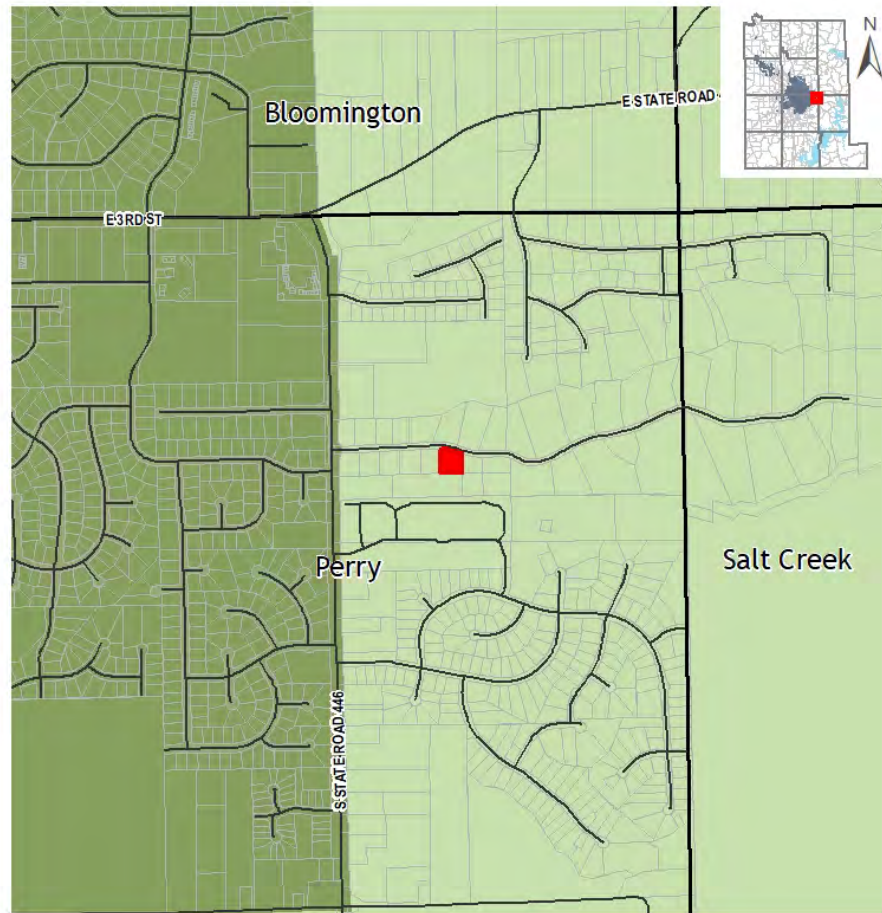
## EXHIBIT 1: Location Map and Slope Map

### Location Map

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

0 0.075 0.15 0.3 Miles

 Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 2/14/2023



Above, the location map of the petition property

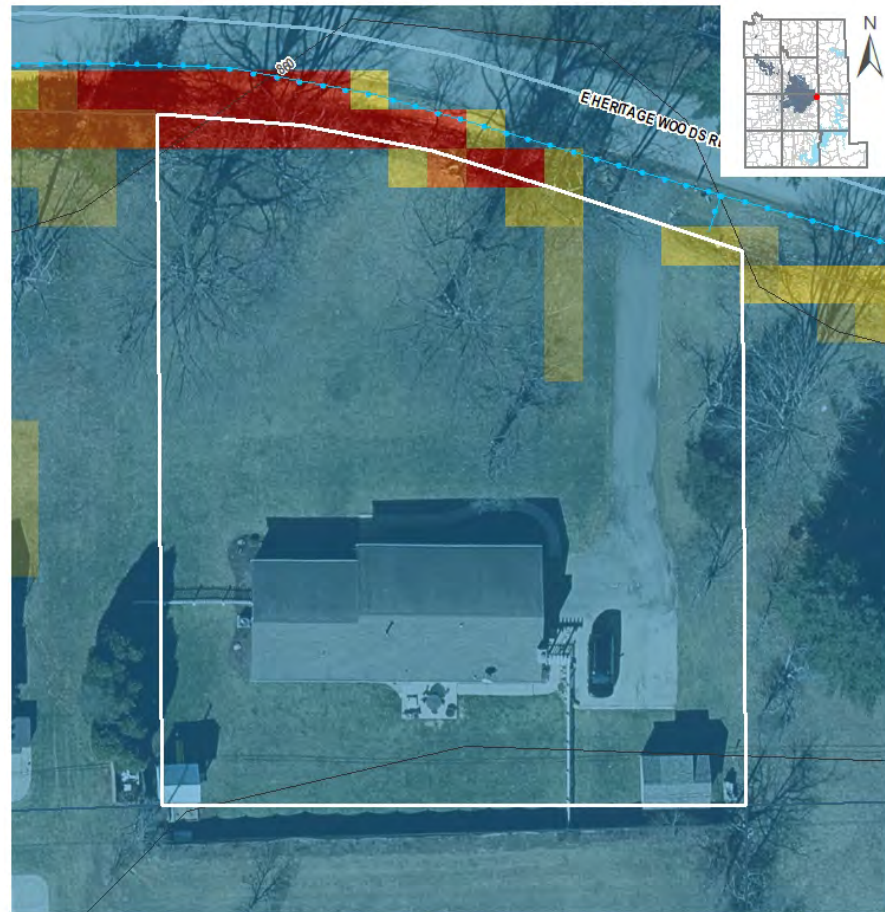
## Site Conditions Map

- Petitioner
- Water Pipe
  - 10-Foot Contours
- Percent Slopes**
- 0 - 12%
  - 13 - 15%
  - 16 - 18%
  - 19 - 21%
  - 22 - 24%
  - > 25%
- Local Roads [50']
- Parcels

0 10 20 40 Feet



Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 2/10/2023



Above, the slope map of the petition property



**EXHIBIT 2: Site Photos**



Site Photo 1: View of the existing residential structure



Site Photo 2: View of the existing utility shed that is planned to be removed from the property





Site Photo 1: View of the backyard where the proposed porch and walk will be placed

### EXHIBIT 3: Petition Letter

Dear Board Members,

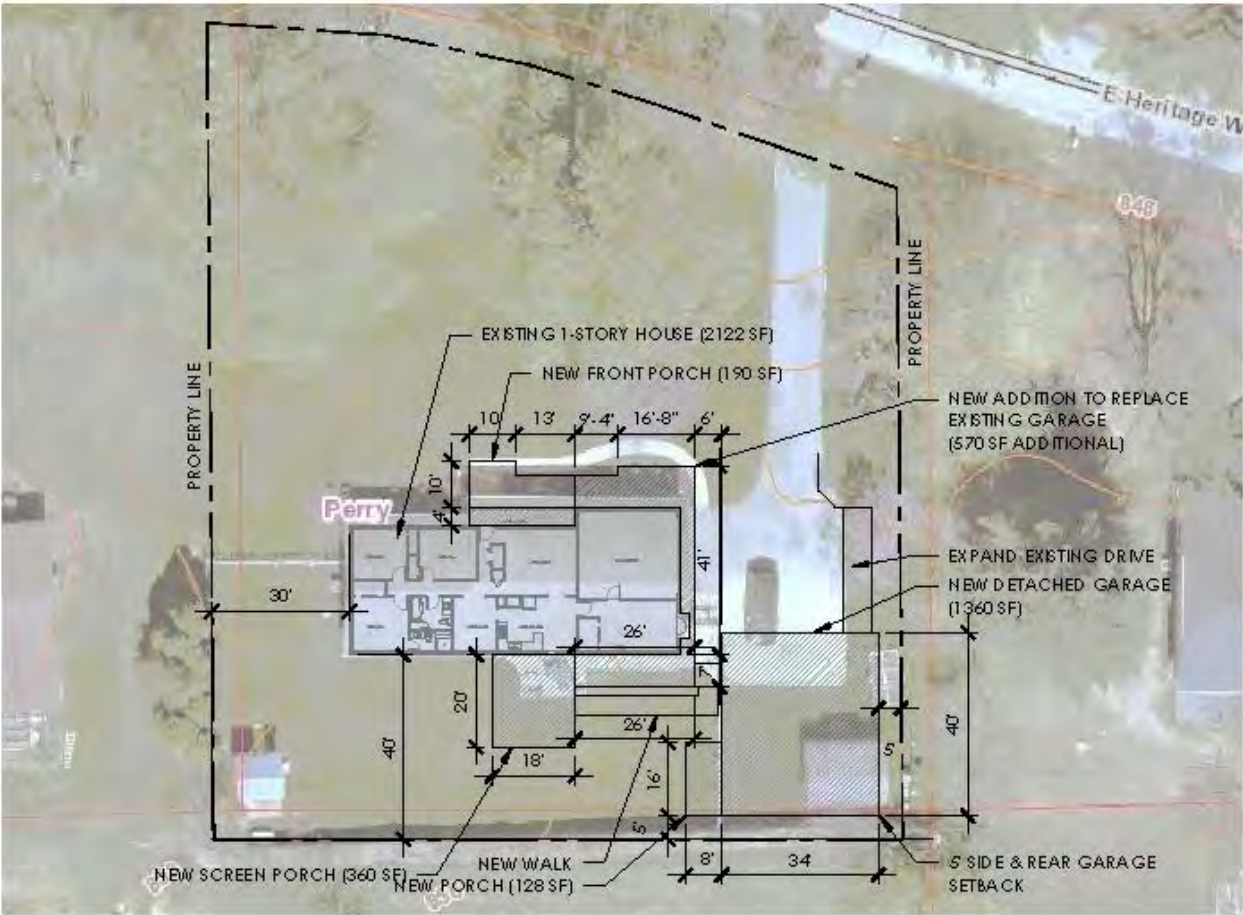
We are asking for a rear yard setback variance and maximum building coverage variance for our home at 4646 E Heritage woods Rd. We love our neighborhood and want to expand to allow us to continue raising our family here. Our proposed addition will also help us accommodate a handicapped family member. We will be required to replace our currently working septic if we proceed and that will take up most of our front yard forcing us to expand some toward the rear of the lot. A good portion of our existing house is already closer to the rear of the lot that the setback allows. Our lot is unique in that is zoned RE2.5 but only about half an acre which reduces our Maximum coverage area by a great deal. It also means our setbacks are rather large for a smaller lot.

Thank you for your time and Consideration.

Patrick & Sarah Anderson  
4646 E Heritage Woods Rd  
Bloomington, IN 47401



EXHIBIT 4: Site Plan



 **PROPOSED SITE PLAN**  
SCALE: 1" = 30'

**4646 E HERITAGE WOODS ADDITION**

01.26.2023  
**MATTE  
BLACK  
ARCHITECTURE**



## MONROE COUNTY BOARD OF ZONING APPEALS

Public Meeting Date:

March 1st, 2023

CASE NUMBER	DETAIL	RECOMMENDED MOTION
VAR-23-9	Minimum Lot Size	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:***

1. Staff recommends **approval** of VAR-23-9 due to the pre-existing non-conforming nature of the lot.

<b>Variance Type:</b>	<input checked="" type="checkbox"/> Design <input type="checkbox"/> Use <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial	<b>Planner:</b>	Daniel Brown
-----------------------	--	-----------------	--------------

<b>PETITIONER</b>	Moss, Chelsea	
<b>ADDRESS</b>	3000 E Bethel LN; parcel #53-05-14-300-004.000-004	
<b>TOWNSHIP + SECTION</b>	Bloomington; 14	
<b>PLATS</b>	<input checked="" type="checkbox"/> Unplatted <input type="checkbox"/> Platted:	
<b>ACREAGE +/-</b>	1 +/-	
	<b>PETITION SITE</b>	<b>ADJACENT</b>
<b>ZONING</b>	CR	CR, SR, RE1, RE2.5
<b>COMP. PLAN</b>	Rural Residential	Rural Residential
<b>USE</b>	Single Family Residential	Single Family Residential, Vacant

### SUMMARY

The Variance was triggered by a pre-design discussion with the petitioner regarding this lot. This lot is not within the Environmental Constraints Overlay Area, it is roughly 300 feet from the ECO Area 3 zone. The petitioner plans on constructing a single-family residence with a new septic system on this lot. However, this lot does not meet the minimum lot size for the Conservation Residential zoning district (2.5 acres) and there is severe slope in the area where the petitioner intends to build.

The petitioner proposes to grade the lot so that it no longer requires a 15% buildable area variance. Since the ordinance applies to structures and not grading activity outside of the ECO area, the petitioner has decided to proceed with the minimum variance necessary (minimum lot size). Staff requested that the petitioner to apply for both a minimum lot size and buildable area variance, but they declined. A minimum lot size variance will still be required for application for a grading permit.

Previously located on the lot was a single-family residence measuring a roughly estimated 700 square feet. The petitioner did receive a demolition permit (R-21-685) to remove the existing home.

If the variance is approved, then the applicant plans to apply for a grading permit to reduce the slope of the southern portion of the property – which is currently near the drainage area – so that a single-family residence and new septic for said residence might be built without triggering a 15% slope variance. If the variance is denied, then the applicant will not be allowed to further develop the property.



<b>EXHIBITS - <i>Immediately following report</i></b>
---


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

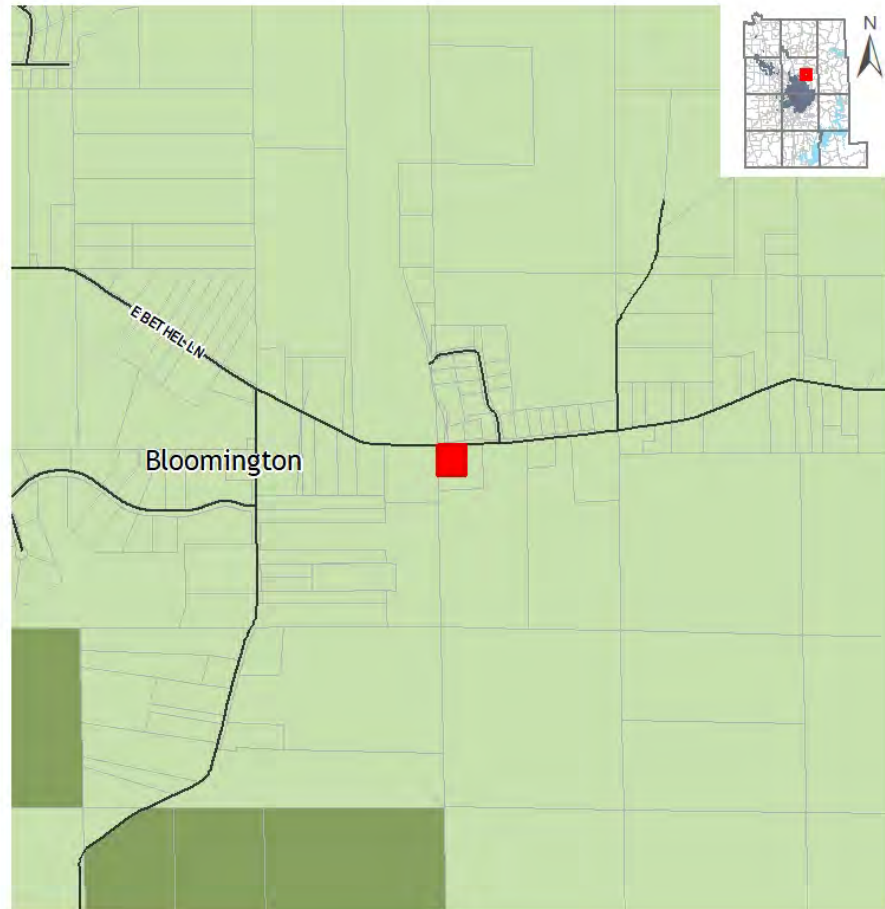
## EXHIBIT 1: Location Map and Slope Map

### Location Map

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

0 0.075 0.15 0.3 Miles

 Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 2/15/2023



Above, the location map of the petition property



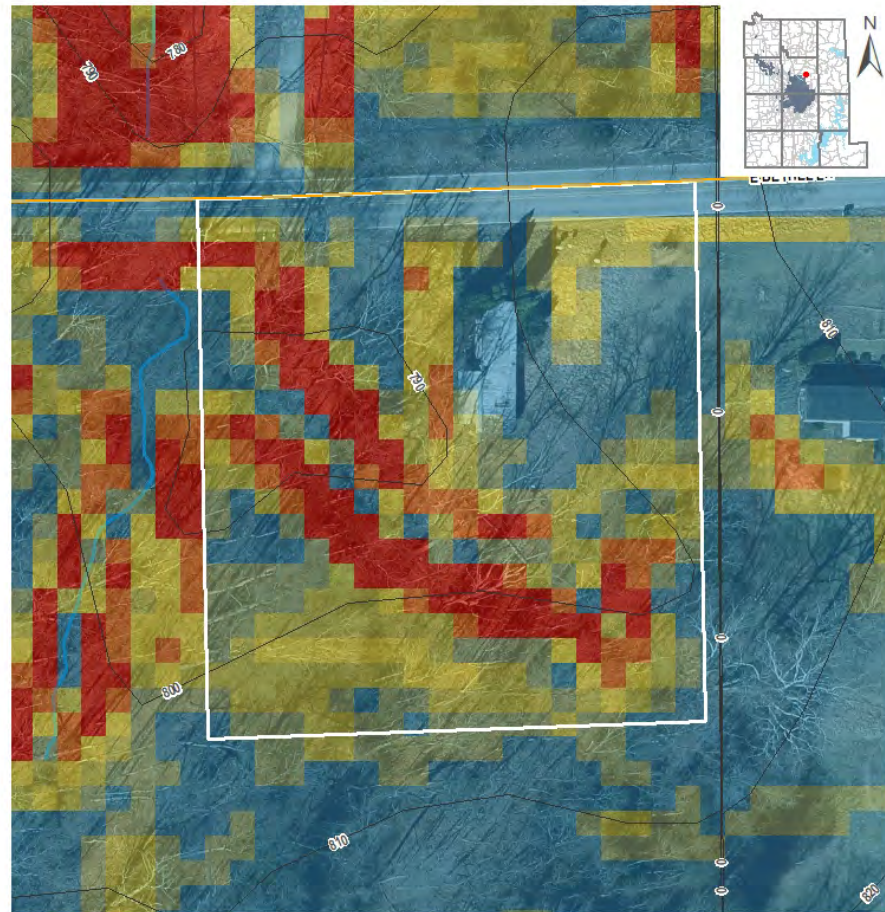
## Site Conditions Map

- Major Collector [90']
- Major Collector [70']
- Petitioner
- 10-Foot Contours
- Percent Slopes**
  - 0 - 12%
  - 13 - 15%
  - 16 - 18%
  - 19 - 21%
  - 22 - 24%
  - > 25%
- Local Roads [50']
- Hydrologic Features
- ▭ Parcels

0 15 30 60 Feet



Monroe County  
Planning Department  
Source: Monroe County GIS  
Date: 2/15/2023



Above, the slope map of the petition property

**EXHIBIT 2: Site Photos**



Site Photo 1: The property from the access point





Site Photo 2: The area where the home was formerly placed



Site Photo 3: Part of the property with threes being cut down





## EXHIBIT 3: Petition Letter



**ABRAM-MOSS**  
DESIGN GROUP, LLC

9215 West Mallory Road  
Bloomington, Indiana 47404  
812-955-0539  
info@abram-moss.com

February 1, 2023

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

RE: Request for Variance  
3000 East Bethel Lane, Bloomington, Indiana 47408  
AMDG-2022019

Board of Zoning Appeals:

On behalf of our client, David Whaley of Baugh Whaley Investment LLC, we petition the Board of Zoning Appeals for the following variance at 3000 East Bethel Lane, Bloomington, Indiana:

- **Minimum Lot Size Variance** to accommodate site grading and a new single-family residence

The subject parcel formerly contained a mobile home and septic system. The mobile home was demolished and removed from the site as it was in disrepair. Per Chapter 804 of the Monroe County Zoning Ordinance, the minimum lot area for Conservation Residential (CR) is 2.5 acres, but the subject lot is only 1.00 acres. The existing lot size is consistent with the lots along the North side of Bethel Lane and several lots on the south side as well. Many of the surrounding lots containing 1-acre or less are used for single-family residences. Without the requested variance, the owners cannot make any changes to the existing site (structure, grading, etc.). Approval of this variance will allow this property to be developed and improved in a manner consistent with the neighboring community.

Based on the above details, we request that the minimum lot size variance be granted. Please contact us if you have any questions or require additional information.

Respectfully,

Chelsea Moss, PE

---

*Innovative Solutions, Sustainable Design*  
www.abram-moss.com





## EXHIBIT 5: Pre-Design

Firefox

<https://monroecountyin.viewpointcloud.io/>



**Monroe County Planning Department**  
501 N Morton Street, Suite 224  
Bloomington, IN 47404  
812-349-2560

### Monroe County Pre-Filing Conference

Pre-filing #: PRE-250

\*\*\*Note this is not a permit\*\*\*

<b>Property Address:</b>	3000 E Bethel LN, Bloomington, 47408-9507, IN
<b>Property Owner:</b>	DEBDAY INVESTMENTS LLC
<b>Representative Name:</b>	Chelsea Moss
<b>Contact Info:</b>	cmoss@abram-moss.com /
<b>Date:</b>	December 19, 2022
<b>Planner:</b>	Daniel Brown
<b>Township and Section:</b>	Bloomington // 14
<b>Subdivision:</b>	N/A
<b>Lot:</b>	N/A
<b>Zoning:</b>	Conservation Residential (CR)
<b>Parcel #:</b>	53-05-14-300-004.000-004
<b>Type of Petition or Request/Proposed Use:</b>	Single-Family Residential

<b>Checklists Provided:</b>	Variance: <a href="https://monroecountyin.viewpointcloud.com/categories/1085/record-types/6478">https://monroecountyin.viewpointcloud.com/categories/1085/record-types/6478</a>	<b>Historic Preservation Overlay:</b>	No
<b>Setbacks:</b>	Front - 35 Feet (Measured from Right of Way Line of a Public Road in the Current Thoroughfare Plan, or 50' if no direct frontage on a road); Side - 15 feet; Rear - 35 feet	<b>Riparian Areas:</b>	Yes
<b>Floodplain:</b>	No	<b>New Address Needed:</b>	No
<b>Wetlands:</b>	No	<b>Rule 5 Required:</b>	No
<b>ECO Area:</b>	No	<b>Driveway Permit Required:</b>	No
<b>Concern about Slopes:</b>	Yes	<b>Right-of-way Dedication Required:</b>	No
<b>Karst/SCAs Required:</b>	No	<b>Septic Permits Required:</b>	Yes
<b>Easements Impact Buildable Area:</b>	No	<b>Sewer Access:</b>	No
<b>Business Industrial Overlay:</b>	No	<b>Need for Variances or Waivers:</b>	Yes
<b>Sidewalks Triggered:</b>	No	<b>Waivers or Variance Description:</b>	Minimum Lot Size and Buildable Area
<b>Street Trees Triggered:</b>	No	<b>Comp. Plan Designation:</b>	Rural Residential
<b>Road Improvements Triggered:</b>	No		

Notes: Minimum lot size variance required before any development may begin, which includes grading activity in anticipation of construction of a single-family residence. When an application is received for the variance for minimum lot size, a plot plan (can be un-certified) will be required. Staff will make note of the fact that the intent is to grade the property and not apply for a buildable area variance to the Board of Zoning Appeals. Therefore, it is recommended that a buildable



area variance be sought out at the same time.

In the event that only a minimum lot size variance is applied for and granted, you will then be able to apply for/receive a grading permit. Upon completion of the grading activity, if the site is less than 15% slope, then neither a buildable area variance nor an administrative waiver for 15% slope would be required. Grading plans may be reviewed by MS4 coordinator and revisions may be requested based on the drainage.

Certified plot plan would be required for the building permit application of a single family home.

#### Additional Information:

This information is meant to provide general assistance for filing a petitioning with the Plan Commission. **Feedback provided on/with this form is based on information presented at the time and does not constitute approval of any kind. The pre-filing conference is intended only for the above purposes; neither the developer nor the jurisdiction is bound by any decision made during a pre-application conference.** Petitioners are strongly encouraged to consult the Monroe County Zoning Ordinance, Monroe County Subdivision Control and the Comprehensive Plan where appropriate.

For Proposed Subdivisions, Predesign Conference Requirements, Purposes, Objectives and Procedures can be found in Monroe County Subdivision Control Chapter 854-4 and 854-5.

For Proposed Subdivisions, Pre-Application Conference Requirements can be found in Monroe County Zoning Ordinance Chapter 826-3.

For Proposed Plan Unit Developments, Predesign Conference Purpose and Requirements can be found in Monroe County Zoning Ordinance Chapter 811-4 and 811-5.

#### Per the Zoning Ordinance:

Staff must conduct a site visit as part of the evaluation of the petition. Site visits may be conducted at a reasonable time and without prior notification to the property owner. Plan Commission and other board members who are participating in the evaluation of the petition may also conduct site visits at a reasonable time and without prior notification to the property owner.

You may be required to consult the following County departments and resources:

Building Department	(812) 349-2580
Highway Department	(812) 349-2555
Health Department	(812) 349-2543
Recorder's Office	(812) 349-2520
Monroe County Website	<a href="https://www.co.monroe.in.us/">https://www.co.monroe.in.us/</a>
Monroe County Zoning Ordinance	<a href="#">See Our Website</a>
Monroe County Planning Department	<a href="https://www.co.monroe.in.us/departments/?structureid=13">https://www.co.monroe.in.us/departments/?structureid=13</a>

PRE-250

To learn more, scan this barcode or visit [monroecountyin.viewpointcloud.com/records/22818](https://monroecountyin.viewpointcloud.com/records/22818)





## MONROE COUNTY BOARD OF ZONING APPEALS

Public Meeting Date:

March 1, 2023

CASE NUMBER	DETAIL	RECOMMENDED MOTION
VAR-22-34	Use Variance to allow General Contractor	Denial
VAR-22-36	Use Variance to allow General Contractor	Denial

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

*In order to approve a use variance, the Board must find that:*

- A. *the approval will not be injurious to the public health, safety, and general welfare of the community;*
- B. *the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;*
- C. *the need for the variance arises from some condition peculiar to the property involved;*
- D. *the strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and,*
- E. *the approval does not interfere substantially with the Comprehensive Plan. Especially, the five (5) principles set forth in the Monroe County Comprehensive Plan:*
  1. *Residential Choices*
  2. *Focused Development in Designated Communities*
  3. *Environmental Protection*
  4. *Planned Infrastructure Improvements*
  5. *Distinguish Land from Property*

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

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

Deny the use variance (General Contractor) to Chapter 802 based on the findings of fact. There is no substantial evidence of unnecessary hardship in that the property could be utilized under one of the permitted uses listed in the AG/RR zoning district, and therefore does not meet criteria 812-5(D).

<b>Variance Type:</b> <input type="checkbox"/> Design <input checked="" type="checkbox"/> Use <input type="checkbox"/> Residential <input checked="" type="checkbox"/> Commercial		<b>Planner:</b> Drew Myers	
<b>PETITIONER</b>	Ah & Sh LLC (owner) John Arnold (applicant)		
<b>ADDRESS</b>	7850 N Wayport RD 53-02-28-100-002.000-017 & 53-02-28-100-006.000-017		
<b>TOWNSHIP + SECTION</b>	Washington, 28		
<b>PLATS</b>	<input type="checkbox"/> Unplatted <input checked="" type="checkbox"/> Platted: Worms Way Type A		
<b>ACREAGE +/-</b>	Lot B, 53-02-28-100-002.000-017 – 6.21 acres Lot A, 53-02-28-100-006.000-017 – 6.65 acres		
	<b>PETITION SITE</b>	<b>ADJACENT</b>	
<b>ZONING</b>	AG/RR	ER, AG/RR	
<b>CDO ZONE</b>	Rural Residential	Rural Residential	
<b>USE</b>	Vacant	Residential, vacant	



## EXHIBITS

1. Pictometry & Staff Visit Photos
2. Petitioner Letter & Owner Consent
3. Amended Petitioner Letters
4. Petitioner Site Plan
5. Adjacent Parking
6. Worms Way Type A Administrative Subdivision
7. AG/RR Use Table
8. Letters of Support

## SUMMARY

The petitioner is requesting a Use Variance to establish a “General Contractor” business at 7850 N Wayport Road on the 6.65 acre Lot A and the 6.21 acre Lot B of Worm’s Way Type A Plat. The petitioner, John Arnold, desires to relocate his general contractor business (currently located at 3440 S Leonard Springs RD) to the subject property. This is an amended request from their initial variance application heard and denied on August 31, 2022 by the Board of Zoning Appeals (packet: [https://www.co.monroe.in.us/egov/documents/1661371261\\_49906.pdf](https://www.co.monroe.in.us/egov/documents/1661371261_49906.pdf)). Per the Zoning Ordinance, the petitioner has requested an amended review and filed within the 6 month time period:

### **812-3. Variance Approval Procedure**

(K) If the Board of Zoning Appeals denies the application for variance approval, the applicant may file an amended application. If the amended application is filed within six (6) months of the Board's denial of the original application, the applicant shall not be charged an application fee.

The subject property is zoned Agriculture/Rural Reserve (AG/RR) and was originally developed pursuant to a 1995 Special Exception for ‘Agribusiness’ to allow for the establishment of Worms Way.

Chapter 802 defines General Contractor as follows:

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

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

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

If the use variance is approved, the petitioner will be required to file a commercial change of use site plan and comply with current site plan requirements prior to occupying the building and utilizing the property. Part of the implementation process includes upgrading the landscaping requirements to current standards and a reassessment of parking and bioretention. The petitioner has said there are no plans to expand the building footprint or parking lots / driveways at this time.

## NEED FOR USE VARIANCE

Chapter 802 has General Contractor listed as a *conditional* in the Agriculture/Rural Reserve (AG/RR) zone, but is specifically referred to as “General Contractor (Rural)”. According to Chapter 813 for Conditional Uses, one of the conditions for “General Contractor (Rural)” is for the subject property to contain a primary residence. As the petition site does not contain a primary residence, the petitioner must request a “Use Variance” to permit the use of General Contractor.

## BACKGROUND

In 1995 a ‘Special Exception’ request was made by Worms Way to both the Board of Zoning Appeals and Plan Commission for the use ‘Agribusiness and Greenhouse’. It was approved and met the permit requirements to allow for the business. According to the property report card, the building on Lot A was erected in 1995. The site plan was amended in 2001 to develop the northern parcel to accommodate the expanding business.

## RECENT CASES:

- 1905-VAR-28: Use Variance to add “Metal Fabrication”
  - **Approved** by BZA (3-2) on June 5, 2019
  - Commercial site plan filing never submitted by property owner
  - [Link to June 5, 2019 BZA packet](#)
- REZ-21-3: Rezone from AG/RR to LI
  - Plan Commission gave positive recommendation (7-0) on October 5, 2021
  - **Denied** by County Commissioners 3-0 on October 27, 2021
  - [Link to October 5, 2021 Plan Commission Packet](#)
- **VAR-22-34 & 36**
  - Request by the Petitioner for a General Contractor Use at the property
  - **Denied** by the BZA by a vote of 3-0 at the August 31, 2022
  - [Link to the August 31, 2022 BZA packet](#)

PETITION #: VAR-22-34				PETITION: Arnold General Contractor Use Variance (Lot A)
Cue #:	Yes	No	ABS	Motion:
				<input type="checkbox"/> Approved Based on the findings
Margaret Clements	✓			<input type="checkbox"/> with the development review conditions in the staff report
Skip Daley				<input type="checkbox"/> including waivers/modifications in the staff report
Guy Loftman	✓			<input checked="" type="checkbox"/> Disapprove based on the findings
Dee Owens				<input type="checkbox"/> Disapprove / Approve with Alternate Findings
Parula D.	✓			<input type="checkbox"/> Continue to the next meeting. Date:
				<input type="checkbox"/> Motion Amendment
				<input type="checkbox"/> Other (see below)
				<input type="checkbox"/> Delegate to Secretary
OTHER: Denied 3-0				

PETITION #: VAR-22-36				PETITION: Arnold General Contractor Use Variance (Lot B)
Cue #:	Yes	No	ABS	Motion:
				<input type="checkbox"/> Approved Based on the findings
Margaret Clements	✓			<input type="checkbox"/> with the development review conditions in the staff report
Skip Daley				<input type="checkbox"/> including waivers/modifications in the staff report
Guy Loftman	✓			<input checked="" type="checkbox"/> Disapprove based on the findings
Dee Owens				<input type="checkbox"/> Disapprove / Approve with Alternate Findings
Parula D.	✓			<input type="checkbox"/> Continue to the next meeting. Date:
				<input type="checkbox"/> Motion Amendment
				<input type="checkbox"/> Other (see below)
				<input type="checkbox"/> Delegate to Secretary
OTHER: Denied 3-0				



## Agriculture/Rural Reserve (AG/RR) District

**Agriculture/Rural Reserve (AG/RR) District.** The character of the Agriculture/Rural Reserve (AG/RR) District is defined as that which is primarily intended for agriculture uses including, but not limited to, row crop or livestock production, forages, pasture, forestry, single family residential uses associated with agriculture uses and limited, very low density, rural non-farm related single family uses and not in (major) subdivisions. Its purposes are to encourage the continuation of agriculture uses, along with the associated single family residential uses, to discourage the development of residential subdivisions and non-farm-related nonresidential uses, to protect the environmentally sensitive areas, such as floodplain and steep slopes, and to maintain the character of the surrounding neighborhood. Therefore, the number of uses permitted in the AG/RR District is limited. Some uses are conditionally permitted. The conditions placed on these uses are to insure their compatibility with the agriculture-related uses. The development of new non-farm residential activities proximate to known mineral resource deposits or extraction operations may be buffered by increased setback distance.

### EXHIBIT ONE: Pictometry and Site Photos



**Pictometry 1** – view from the south





**Pictometry 2 – view from south (zoomed out)**



**Pictometry 3 – view from the north**





Photo 1 – facing north



Photo 2 – facing northeast



Photo 3 – facing northeast



Photo 4 – facing northeast





Photo 5 – facing northeast



Photo 6 – facing east



Photo 7 – facing northeast



Photo 8 – facing northeast





Photo 9 – facing east



Photo 10 – facing east



Photo 11 – facing southeast



Photo 12 – facing south





Photo 13 – facing southwest

**SITE PHOTOS ALONG THE PROPERTY LINE:**



























## EXHIBIT TWO: Petitioner Letter & Owner Consent

### To Whom It May Concern,

My name is John Arnold, and I want to apply for a variance for the two lots located at, 7850 and 7854 Wayport Rd. to move my business into this location. I want to operate Arnold Asphalt LLC, a general contractor allowed in an AG zone, but there are conditions that I am seeking variances on.

The Requested Variances are listed below:

#1. The commercial property does not lend itself to anyone living on the property.

#2. I have equipment that is over six tons.

#3. I have fifteen employees, and I want to apply for a variance. Because we are not sure where we will be in the next few years. When Worms Way occupied the property, they had 60 employees with adequate parking, and while we do not believe we will climb to that number, we would like to request a variance for at least 30 employees.

I will park my equipment at the dock doors on the East side of the C building (see photo below). The trees that line the property line prevent any view by neighbors.

I also want to park my service vehicles on the South side of B building between Building A+B (see photo). The trees that line the property line prevent any view by neighbors.

I have attached several snapshots of my intentions for this request using Adobe Photoshop mock-ups.

The parking for where I currently live and run my business and what I need are almost identical and within only a few hundred feet. Please see the attachment in the footer of your Email. I will also populate those images as attachments. To give a better perspective, I have populated the footer of this email to aid in understanding our needs to run our business and support our employee base.

I have attached all these images for your review.

Respectfully

John Arnold

Arnold Asphalt

Shop (812) 332-8307

Cell (812) 360-2477



# Consent Form

I, Martin Heydt the managing partner of AH & SH LLC, owner of property located at 7850 and 7854 North Wayport Road grant to John Arnold permission to petition the Monroe County Board of Zoning Appeals for "Use Variance" for the above described property. This consent form is not a legal binding document and does not represent a purchase agreement or contract.

Signature

Martin Heydt

Printed Name

MARTIN Heydt

Title

Managing Partner

Date

8-1-22

### EXHIBIT THREE: Amended Petitioner Letters

To the BZA:

In Regards to a zoning variance application for 7850 and 7854 Wayport Rd.

After the BZA meeting of 8-31-22 it was obvious to me that the neither the BZA board or the Windsor Private neighbors knew or understood what Arnold Asphalt LLC is and what type of work it performs.

1. **We have been in business for twelve years at our current location. We have roughly fifteen employees from April - December. When we arrive at our shop where we are now, we always leave in our equipment, perform various job task such as;**

- **On Site Estimates ✓** At the request of either residents or business owners alike, many times throughout the day our crews will arrive at their designated address and run an estimate for the customer's needs. Many of these addresses are in various parts of Monroe County and sometimes abroad spanning several counties including but not limited to Morgan, Brown, Green, Lawrence. We have worked across state lines as well.
- **Pavement Overlays ✓** At the request of either residents or business owners alike, many times throughout the day our crews will arrive at their address and perform an overlay of new blacktop over existing older blacktop. This line-extension of our business model is what we refer to as **"resurfacing"** or **"An Asphalt Overlay"**. Since we do not manufacture asphalt related asphalt materials we depart from our shop and drive and pickup what we need from an asphalt an plant who specializes in manufacturing HMA asphalt. Here in Bloomington, there is only **one** asphalt related manufacture of asphalt materials and it's called, **"E&B."** They are located at 1100 N. Oard Rd, Bloomington, IN 47404. The other plant is in Green County and is known as Milestone. They are located at 11218 IN-445, Bloomfield, IN 47424
- **Patching / Wedging ✓** At the request of either residents or business owners alike, many times throughout the day our crews will arrive to an address and perform a line extension of work that includes saw cutting out old asphalt, removing the damaged section or sections and wedging it back with new HMA Blacktop. The old, damaged blacktop that we have removed is always taken back to the closest asphalt plant for recycling.
- **New Asphalt Installation ✓** At the request of either residents or business owners alike, many times throughout the day our crews will arrive to an address and perform a line extension of work that includes cutting in a new driveway. Installing a new layer of asphalt over a gravel subbase. This requires that we excavate portions of topsoil and haul it away to a designated place that takes topsoil. We backfill those excavated areas with crushed stone and depending on the estimate we provide to the customer which at times is one lift of asphalt or two depending on the car and foot traffic needs of the establishment.



- **Seal Coating ✓** At the request of either residents or business owners alike, many times throughout the day our crews will arrive to an address and perform a line extension of work that includes cleaning and sealing their asphalt with pavement sealants.
- **Parking Lot Striping ✓** At the request of business owners who have designated parking for their customers and handicap patrons, our crews will arrive to an address and perform a line extension of work that includes repainting old and faded parking lines. Sometimes when we install asphalt this new installation will require what is called a “new layout” and is performed with equipment that sprays paint on the ground.

2. **We do not make asphalt pavement or manufacture coal tar sealants.** We keep asphalt sealant **on site in a storage tank that will be housed inside Building C.** For many years now sealant like anything else has been moving to a green and environmentally safe status with sealants now greener than ever before. **Nontoxic is the best word to describe where our industry has evolved.** I will be presenting INDOT information along with MSDS sheet with resources to inform any concerned public that sealant by itself is nontoxic. Not harmful to the environment, nor hazardous to people’s health.

3. **At the 8-31-22 BZA meeting the Windsor Private neighbors expressed concerns. Their concerns were in four general areas.**

- Environment – No evidence was produced that Arnold Asphalt LLC would harm the environment. There are two retention ponds on the property in question. The site plan will show any water flows to these retention ponds. No water flows from the property to the Windsor Private property.
- Odor – The asphalt sealer that we store on site is contained indoors in a storage tank. There are no other possible sources of odors. Please see letters from my current neighbors.
- Noise – I-69 is located nearby. Road noise from I-69 which has traffic 24/7 is far greater than our starting trucks on work day mornings and returning in the afternoon or late evenings.
- Aesthetics – I have attached a photo of my equipment parked to the South of “B” building. I do not believe these vehicles can be seen by any adjacent property owners.

Respectfully

John Arnold  
 Arnold Asphalt LLC  
 Shop (812) 332-8307  
 Cell (812) 360-2477

To the BZA:

In Regards to a zoning variance application for 7850 and 7854 Wayport Rd:

At the 8-31 BZA meeting the BZA board voted to not allow a variance for Arnold Asphalt LLC a General Contractor to relocate to 7850 and 7854 N. Wayport Road which is in an AG zone.

Comments from Windsor Private neighbors played a role in the board's decision. I have read the comments by the Windsor Private neighbors at the 8-31-22 Board meeting. I could find no evidence offered by the neighbors. There was a lot of misinformation, fear and emotion in these comments. I would like the board to know the facts before taking another vote.

Below are facts as they relate to the items the board must find to determine an approval of a use variance.

*A. the approval will not be injurious to the public health, safety, and general welfare of the community;*

The letter from John Arnold fully explains his business and exactly what they do. Despite the name, Arnold Asphalt LLC does not make, store or have on site any asphalt or coal tar at his current location nor would he at the proposed location.



Letters from Arnold Asphalt LLC current neighbors reinforce the fact that Arnold Asphalt LLC is not injurious to the public health, safety, and general welfare of the community.

No evidence was provided by various neighbors to show Arnold Asphalt LLC is 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;*

No evidence was provided that the use and value of the areas adjacent to the property which are two acres or more away from the property included in the variance.

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

And

*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,*

The property contains three commercial buildings that once were the home of Worm's Way for 22 years. In the seven years the property has been listed for sale there has been one variance for one of the two lots

accepted. This variance was for a “Metal Fabrication” business. A rezone proposal failed. There have been zero Purchase Agreements made by any of the 83 types of businesses listed in the AG zone table. It is not economically feasible for a buyer to purchase the property and not utilize the commercial buildings on site. It is clear that the property cannot be rezoned. A variance is the only option. It is clear a business will occupy the site.

When Worm’s Way occupied the property we had 60 employees on site, up to thirty semi trucks in and out a day, 4 semi trailers were parked in back of “C” building. Neighbors did not complain of noise, aesthetics or environmental damage. Fear and emotion from neighbors should not drive the decision to grant a variance for a qualified business to occupy the property.

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

The property has been listed for sale for seven years and no business type listed in the AG zone table has made an offer to purchase. A variance is the only option. As I stated at the 8-31-22 BZA meeting, I have invested over \$800,000 (over \$200,000 in property taxes alone) in the five years the property has been vacate. If this variance is not granted for Arnold Asphalt LLC, I believe it is clear that (B) above applies.

*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*



A variance granted for this property does not affect Residential Choices.

*2. Focused Development in Designated Communities*

This property has been commercially developed as has Oliver Winery to the North (scheduled to become a Limited Business zone) and the former gas station to the South (scheduled to become a Limited Business zone)

*3. Environmental Protection*

There is no Environmental impact to the Comprehensive Plan should this variance be granted.

*4. Planned Infrastructure Improvements*

There are no planned Infrastructure Improvements for Monroe County affected by a variance being granted for this property.

*5. Distinguish Land from Property*

This is vague. I rely on the BZA board to determine that by approving this variance that it would not interfere substantially with the Comprehensive Plan.

Respectfully,

Martin Heydt Owner

**EXHIBIT FOUR: Petitioner Site Plan**







Below is the gravel area that I utilize where I am located now. Measured out to 25792 tsf.

I am going to park my equipment at the dock doors of "C" building which contains the same amount of space I need now and measures out to 25689 tsf. A 103sq ft difference.



I need the space to park my vehicles between A & B building. Measured out to 7408 tsf

The space I currently use to park my vehicles is 7264 tsf. A difference of 144 tsf.



## EXHIBIT FIVE: Adjacent Parking



The area inbetween buildings A and B has sufficient parking as well ✓

There is enough room between these two buildings alone to house most of our vehicles we use for work in our community.

We have parked a few of our peices in the center as an example below.





RECEIVED

MONROE COUNTY PLANNING

EAST RIGHT-OF-WAY FOR STATE HIGHWAY 37-  
CENTERLINE OF  
—INGRESS/ EGRESS EASEMENT  
FOR LOT "B" THRU LOT "A"

LOT "A"  
289678 SQ. FT.  
6.65 ACRES

LOT "B"  
270614 SQ. FT.  
6.21 ACRES

0 100 200  
Scale 1" = 100'

WORM'S WAY  
ADMINISTRATIVE  
TYPE "A"  
SUBDIVISION

PLAT OF SURVEY

PART OF THE EAST HALF OF THE EAST HALF OF  
SECTION 28, TOWNSHIP 10 NORTH, RANGE 1 WEST  
MONROE COUNTY INDIANA


OWNER OF RECORD: MARTIN HEYDT

I, STEVE CAMPBELL, HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, LICENSED WITH THE LAWS OF THE STATE OF INDIANA, AND THAT THE ABOVE PLAT AND DESCRIPTIONS CORRECTLY REPRESENT A LAND SURVEY PERFORMED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT THE MONUMENTS SHOWN THEREON ACTUALLY EXIST AND ARE TO THE BEST OF MY KNOWLEDGE AND BELIEF ACCURATELY SHOWN. AUGUST 6TH, 2001

●=6/8 REDAR WITH CAP SET

WINDSOR  
PRIVATE  
COMMON

FOUND  
IRON PIPE

631.35'  NE COR  
SEC 28

APPROVED BY:

PROJ. NO. 205

DWG. File name: C:\WORMSUB

## REVISIONS

PROJECT
---------

## WORM'S WAY SUBDIVISION

SHT. NAME
-----------

PLAT

SHT. NO.	
----------	--

4  
OF  
4

# EXHIBIT SEVEN: AG/RR Use Table

<b>Agricultural Uses</b>	<b>( / )</b>	<b>AG</b>	<b>Residential Uses</b>	<b>( / )</b>	<b>AG</b>	<b>Business &amp; Personal Services</b>	<b>( / )</b>	<b>AG</b>
Accessory Use		P	Accessory Apartments	L	P	Accessory Use		P
Accessory Structures for Ag. Use	L	P	Accessory Dwelling Units	L	P	Artisan Crafts	M	C
Agriculture	H	P	Accessory Livestock	L	P	Bed and Breakfast	L	P
Ag. Event Center, Small	H	C	Accessory Use		P	Composting Operation	H	P
Ag. Event Center, Medium	H	C	Guest House	L	P	Greenfill	M	P
Ag. Event Center, High	H	C	Historic Adaptive Reuse		P	Historic Adaptive Reuse		P
Ag.-Related Industry	H	P	Home Based Business	L	P	Kennel, comm. animal breeding ops.	H	C
Ag. Uses-Land Animal	H	P	Home Occupation	L	P	Real Estate Sales office Or Model	L	P
Ag. Uses-Non Animal	H	P	Residential Storage Structure	L	P	Taxidermist	L	P
Agritourism / Agritainment	H	P	Single Family Dwelling	n/a	P	Temporary Seasonal Activity	M	P
Aquaculture	M	P	Temporary Dwelling	L	P	Tourist Home or Cabin	L	P
Christmas Tree Farm	H	P	Two Family Dwelling	n/a	P	Veterinary Service (Indoor)	H	C
Comm. facilities for the sale, repair, and service of Ag. equip., vehicles, feed, or suppl.	H	C	<b>Public &amp; Semipublic</b>	<b>( / )</b>	<b>AG</b>	Veterinary Service (Outdoor)	M	C
Comm. Non-Farm Animals	M	P	Accessory Use		P	<b>Retail &amp; Wholesale Trade</b>	<b>( / )</b>	<b>AG</b>
Confined Feeding Operations	H	C	Cemetery	H	P	Accessory Use		P
Equestrian Center	H	C	Governmental Facility	H	P	Agricultural Sale Barn	H	P
Equine Services	L	P	Historic Adaptive Reuse		P	Fruit Market	L	P
Feed Lot	H	P	Religious Facilities	H	P	Garden Center	H	C
Feed Mill	L	P	Remote Garbage/Rubbish Removal	H	C	Historic Adaptive Reuse		P
Historic Adaptive Reuse		P	Solar Farm	L	C	<b>Automotive &amp; Transportation</b>	<b>( / )</b>	<b>AG</b>
Horse Farm	L	P	Telephone and Telegraph Services	L	P	Automobile Repair Services, Minor	H	C
Nursery/greenhouse	H	P	Utility Service Facility	M	P	Historic Adaptive Reuse		P
Orchard	H	P	Wastewater Treatment Facility	H	C	<b>Amusement and Recreational</b>	<b>( / )</b>	<b>AG</b>
Pick-your-own operation	H	P	Water Treatment Facility	H	C	Accessory Use		P
Roadside farm stand, Permanent	M	P	Wired Communication Services	M	P	Camping Facility	H	P
Roadside farm stand, Temporary	L	P				Historic Adaptive Reuse		P
Stockyard	H	P				Park and Recreational Services	H	C
Winery	H	P				Private Recreational Facility	H	C
						Recreational Vehicle (RV) Park	H	C
						<b>Manufacturing, Mining</b>	<b>( / )</b>	<b>AG</b>
						Accessory Use		P
						General Contractor	M	C
						Historic Adaptive Reuse		P
						Sawmill	H	C
						Wood Products	M	C



## EXHIBIT EIGHT: Letters of Support

To the BZA:

In Regards to a zoning variance application for 7850 and 7854 Wayport Rd:

Hello my name is Ryan Glyly. My family and I have lived at 3428 S. Leonard Springs Rd, which is 100 feet from Arnold Asphalt LLC for 8 years.

Arnold Asphalt LLC has not been injurious to the public health, safety, and general welfare of our community.

The use and value of my property has not been affected in a substantially adverse manner.

Arnold Asphalt LLC is a great neighbor. I do not believe if he were to relocate that his business would affect the Windsor Private community in a substantially adverse manner.

Please answer the following:

While living in close proximity to Arnold Asphalt LLC :

1 - Have you noticed any unpleasant odors?

Yes \_\_\_\_\_ No ✓ Unsure \_\_\_\_\_

2 - Have you been annoyed by sounds of trucks or machinery coming specifically from Arnold Asphalt LLC?

Yes \_\_\_\_\_ No ✓

3- Have you had any health concerns about living in close proximity to Arnold Asphalt LLC?

Yes \_\_\_\_\_ No ✓

4 - Do you own a pet/s and if so have you had any concerns or has your pet has any health issues that you or a veterinarian has diagnosed to have come specifically from living in close proximity to Arnold Asphalt LLC?

Yes \_\_\_\_\_ No ☒

5 - In or around your residence, your neighbors, your neighborhood in general- would you say that you see wildlife such as birds, deer, raccoons, snakes, bees etc.

Yes ☒ No \_\_\_\_\_

6 - Would you consider Arnold Asphalt LLC to be an "eye sore"?

Yes \_\_\_\_\_ No ☒

7 - Do you have any comments that you are willing to add?

Comments: John and Sarah have been great neighbors since I moved in. There is plenty of wild life in the area, and I have several deer that graze my property daily. I have pets and they have never been in danger and in fact they love to go visit with John, Sarah, and all Arnold Asphalt employees. You would be lucky to have this business as a neighbor. Please call me directly with any questions or concerns you may have.  
574-361-3336

Signature

12/21/22

Date



To the BZA:

In Regards to a zoning variance application for 7850 and 7854 Wayport Rd:

Hello my name is Noah Snyder. My family and I have lived at 3510 S Leonard Springs Rd, which is 30 feet from Arnold Asphalt LLC for 10 years.

Arnold Asphalt LLC has not been injurious to the public health, safety, and general welfare of our community.

The use and value of my property has not been affected in a substantially adverse manner.

Arnold Asphalt LLC is a great neighbor. I do not believe if he were to relocate that his business would affect the Windsor Private community in a substantially adverse manner.

Please answer the following:

While living in close proximity to Arnold Asphalt LLC :

1 - Have you noticed any unpleasant odors?

Yes \_\_\_\_\_ No ☒ \_\_\_\_\_ Unsure \_\_\_\_\_

2 - Have you been annoyed by sounds of trucks or machinery coming specifically from Arnold Asphalt LLC?

Yes \_\_\_\_\_ No ☒ \_\_\_\_\_

3- Have you had any health concerns about living in close proximity to Arnold Asphalt LLC?

Yes \_\_\_\_\_ No ☒ \_\_\_\_\_

4 - Do you own a pet/s and if so have you had any concerns or has your pet has any health issues that you or a veterinarian has diagnosed to have come specifically from living in close proximity to Arnold Asphalt LLC?

Yes \_\_\_\_\_ No ☒

5 - In or around your residence, your neighbors, your neighborhood in general- would you say that you see wildlife such as birds, deer, raccoons, snakes , bees etc.

Yes ☒ No \_\_\_\_\_

6 - Would you consider Arnold Asphalt LLC to be an " eye sore" ?

Yes \_\_\_\_\_ No ☒

7 - Do you have any comments that you are willing to add?

Comments: *Never had a complaint. They have always been super nice and helpful neighbors.*

*Mechan Smith*  
Signature

12/22/2022  
Date



To the BZA:

In Regards to a zoning variance application for 7850 and 7854 Wayport Rd:

Hello my name is Nicole Crowe. My family and I have lived at 3510 S. Leonard Springs Rd., which is 30 feet from Arnold Asphalt LLC for 10 years.

Arnold Asphalt LLC has not been injurious to the public health, safety, and general welfare of our community.

The use and value of my property has not been affected in a substantially adverse manner.

Arnold Asphalt LLC is a great neighbor. I do not believe if he were to relocate that his business would affect the Windsor Private community in a substantially adverse manner.

Please answer the following:

While living in close proximity to Arnold Asphalt LLC :

1 - Have you noticed any unpleasant odors?

Yes \_\_\_\_\_ No ☒ Unsure \_\_\_\_\_

2 - Have you been annoyed by sounds of trucks or machinery coming specifically from Arnold Asphalt LLC?

Yes \_\_\_\_\_ No ☒

3- Have you had any health concerns about living in close proximity to Arnold Asphalt LLC?

Yes \_\_\_\_\_ No ☒

4 - Do you own a pet/s and if so have you had any concerns or has your pet has any health issues that you or a veterinarian has diagnosed to have come specifically from living in close proximity to Arnold Asphalt LLC?

Yes \_\_\_\_\_ No ☒

5 - In or around your residence, your neighbors, your neighborhood in general- would you say that you see wildlife such as birds, deer, raccoons, snakes , bees etc.

Yes \_\_\_\_\_ No ☒

6 - Would you consider Arnold Asphalt LLC to be an " eye sore" ?

Yes \_\_\_\_\_ No ☒

7 - Do you have any comments that you are willing to add?

Comments:

Nicole Crowe  
Signature

12/21/22  
Date



To the BZA:

In Regards to a zoning variance application for 7850 and 7854 Wayport Rd:

Hello my name is Bonny Snyder. My family and I have lived at 3510 S. Leonard Springs Rd. which is 30 feet from Arnold Asphalt LLC for 10 years.

Arnold Asphalt LLC has not been injurious to the public health, safety, and general welfare of our community.

The use and value of my property has not been affected in a substantially adverse manner.

Arnold Asphalt LLC is a great neighbor. I do not believe if he were to relocate that his business would affect the Windsor Private community in a substantially adverse manner.

Please answer the following:

While living in close proximity to Arnold Asphalt LLC :

1 - Have you noticed any unpleasant odors?

Yes \_\_\_\_\_ No <sup>p</sup>NO Unsure \_\_\_\_\_

2 - Have you been annoyed by sounds of trucks or machinery coming specifically from Arnold Asphalt LLC?

Yes \_\_\_\_\_ No <sup>p</sup>NO

3- Have you had any health concerns about living in close proximity to Arnold Asphalt LLC?

Yes \_\_\_\_\_ No <sup>p</sup>NO

4 - Do you own a pet/s and if so have you had any concerns or has your pet has any health issues that you or a veterinarian has diagnosed to have come specifically from living in close proximity to Arnold Asphalt LLC?

Yes \_\_\_\_\_ No NO

5 - In or around your residence, your neighbors, your neighborhood in general- would you say that you see wildlife such as birds, deer, raccoons, snakes , bees etc.

Yes Yes No \_\_\_\_\_

6 - Would you consider Arnold Asphalt LLC to be an " eye sore" ?

Yes \_\_\_\_\_ No NO

7 - Do you have any comments that you are willing to add?

Comments: My family and I lived right next door to Arnold Asphalt for 10 years I raised a good portion of my 3 children's life along with a few years of my grandchildren's lives at that residence and I have never had concerns regarding noise or health.

Signature

Date

12-21-22



To the BZA:

In Regards to a zoning variance application for 7850 and 7854 Wayport Rd:

Hello my name is Nathan Snyder. My family and I have lived at 3510 S Leonard Springs Rd, which is 30 feet from Arnold Asphalt LLC for 10 years.

Arnold Asphalt LLC has not been injurious to the public health, safety, and general welfare of our community.

The use and value of my property has not been affected in a substantially adverse manner.

Arnold Asphalt LLC is a great neighbor. I do not believe if he were to relocate that his business would affect the Windsor Private community in a substantially adverse manner.

Please answer the following:

While living in close proximity to Arnold Asphalt LLC :

1 - Have you noticed any unpleasant odors?

Yes ☐ No ☒ Unsure ☐

2 - Have you been annoyed by sounds of trucks or machinery coming specifically from Arnold Asphalt LLC?

Yes ☐ No ☒

3- Have you had any health concerns about living in close proximity to Arnold Asphalt LLC?

Yes ☐ No ☒

4 - Do you own a pet/s and if so have you had any concerns or has your pet has any health issues that you or a veterinarian has diagnosed to have come specifically from living in close proximity to Arnold Asphalt LLC?

Yes \_\_\_\_\_ No ☒

5 - In or around your residence, your neighbors, your neighborhood in general- would you say that you see wildlife such as birds, deer, raccoons, snakes , bees etc.

Yes ☒ No \_\_\_\_\_

6 - Would you consider Arnold Asphalt LLC to be an " eye sore" ?

Yes \_\_\_\_\_ No ☒

7 - Do you have any comments that you are willing to add?

Comments: I have no complaints regarding living next to Arnold Asphalt. I view them as respectable business people and good neighbors.

N. Suplee  
Signature

12/22/2022  
Date



**812-7-8:** All variance approvals shall be considered to be conditional approvals. The Board shall have the authority to impose specific conditions as part of its approval in order to protect the public health, and for reasons of safety, comfort and convenience (e.g., to insure compatibility with surroundings). Variance approval applies to the subject property and may be transferred with ownership of the subject property subject to the provisions and conditions prescribed by or made pursuant to the Zoning Ordinance.

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

- (A) The approval, including any conditions or commitments deemed appropriate, will not be injurious to the public health, safety, and general welfare of the community, because:
- (1) *It would not impair the stability of a natural or scenic area;*
  - (2) *It would not interfere with or make more dangerous, difficult, or costly, the use, installation, or maintenance of existing or planned transportation and utility facilities;*
  - (3) *The character of the property included in the variance would not be altered in a manner that substantially departs from the characteristics sought to be achieved and maintained within the relevant zoning district. That is, the approval, singularly or in concert with other approvals - sought or granted, would not result in a development profile (height, bulk, density, and area) associated with a more intense zoning district and, thus, effectively re-zone the property; and,*
  - (4) *It would adequately address any other significant public health, safety, and welfare concerns raised during the hearing on the requested variance;*
- (B) The approval, including any conditions or commitments deemed appropriate, would not affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner, because:
- (1) *The specific purposes of the design standard sought to be varied would be satisfied;*
  - (2) *It would not promote conditions (on-site or off-site) detrimental to the use and enjoyment of other properties in the area (e.g., the ponding of water, the interference with a sewage disposal system, easement, storm water facility, or natural watercourse, etc.); and,*
  - (3) *It would adequately address any other significant property use and value concerns raised during the hearing on the requested variance; and,*
- (C) The approval, including any conditions or commitments deemed appropriate, is the minimum variance necessary to eliminate practical difficulties in the use of the property, which would otherwise result from a strict application of the terms of the Zoning Ordinance.

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

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

- (A) The approval will not be injurious to the public health, safety, and general welfare of the community;
- (B) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- (C) The need for the variance arises from some condition peculiar to the property involved;
- (D) The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and,
- (E) The approval does not interfere substantially with the Comprehensive Plan. Especially, the five (5) principles set forth in the Monroe County Comprehensive Plan:
- (1) *Residential Choices*
  - (2) *Focused Development in Designated Communities*
  - (3) *Environmental Protection*
  - (4) *Planned Infrastructure Improvements*
  - (5) *Distinguish Land from Property*